

JAIPUR BRANCH OF CIRC OF ICAI

# JAIPUR REFLECTION

E-NEWSLETTER



OCTOBER 2022

## Key Highlights:

- *Section 194J : Detailed Analysis*
- *New Tax Regime U/s 115BAC*
- *New Addition to Income Tax Assesseees – Improved Compliances or Pandora box of confusion?*



The Institute of Chartered Accountants of India  
(Set up by an Act of Parliament)

# From the desk of Chairman



Dear Esteemed Professional Colleagues!!!

***May the truth always win and good triumph over evil. May the Lord always bless you with wisdom and good health.***

I wish you and your family members a very Happy Dussehra and Deepavali festival.

Hope you have completed Tax Audit in a timely manner. This month is a very special month because of two major festivals Dasara and Deepavali, also we need to complete the filing of Companies Return and TP Audit Return filing.

TCome November, all roads in India leading towards Mumbai to witness the biggest event of the century for our fraternity i.e., 21st World congress of Accountants 2022 from 18th to 21st November, first time happening in India after 118 years it started. This is the best time for us to grab this opportunity to participate along with international professional colleagues.


This month we have organized CIRC Regional Level CA Students National Talent Search Program at Branch. Also, we successfully hosted the Convocation ceremony for the newly enrolled Associate Members. In this Convocation 1200 new members were awarded with Membership Certificates.


Your appreciation and valuable feedback are the biggest gift to Chairman and committee members for their efforts, if you have any suggestions and comments, I'm always a phone call or an e-mail away!

Always Best Regards,

**CA. Kuldeep Gupta**

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# From the desk of Secretary



My Dear Professional Colleagues,

All the Chartered Accountants, whether in practice or in industry, are normally busy in the month of September & October with the finalization of accounts and tax filings. With the due dates of Tax Audit, ITR & ROC filing extended, we all can now spare some time for our own self and most importantly for our family. Let us also enjoy the much-awaited festivals like Navratri, Dussehra and Deepavali.

On October 2, we will celebrate the birth anniversary of the 'Father of the Nation' – Mahatma Gandhi. There are many lessons from the Gandhian way of life that we can adopt in our lives.


The next era of profession is to the professionals who are up skilled themselves according to the evolving international market developments and opportunities. Observe your surrounding the way developments happening, appraise yourself, update, up skill, and rock in our profession. In this connection we organised Stakeholders' Meeting on Reporting and Reversal of ITC in GSTR-3B and Program on Code of Ethics: Converting Challenges into opportunities


At Last, I request to all the members who are willing to contribute for newsletter on any topic can share the same with us at [jaipur@icai.org](mailto:jaipur@icai.org)

In service of the Profession,

**CA. Ruchi Gupta**

**Secretary**

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# Section 194J : Detailed Analysis



CA Rahul Sharma

**Applicability :** Section 194 J applies to following payments made to residents :

- Fees for Professional Services;
- Fees for Technical Services;
- Royalty and
- Non compete Fees.

**Definition:**

**Professional Services (Sec 194J and 44AA):** Payment for Medical, Legal, Architectural, Engineering, Accountancy, Advertising, Interior Decorator and Technical Consultancy. CBDT can also notify professions for the purpose of 44AA and 194J. CBDT has notified following

- U/s 44AA CBDT has notified Film Artist, Company Secretary and Authorized Representative.
- U/s 194J CBDT has notified Sports Person, Commentator, Event Manager, Anchor, Umpires/Refrees, Physiotherapist, Coaches, Trainers, Team Physician and Sports Columnists.

**Technical Services :** Managerial, Technical and Consultancy Services. Where these terms mean :

- Technical Services: Services that involve technical expertise or expertise of technology.
- Managerial Service: Running and Managing the Business.
- Consultancy Services: Advisory Services where necessary advise and consultation are being provided for business.<sup>3</sup>

**As per Supreme Court's Judgment, technical services would include services provided by a human. It would not include services rendered by Machines and Robots.**

**Royalty:** As Defined under Section 9 (1) (VI) Explanation 2 as follows :-

Explanation 2.—For the purposes of this clause, "royalty" means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains") for—

- (i) the transfer of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property ;
- (ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property ;
- (iii) the use of any patent, invention, model, design, secret formula or process or trade mark or similar property ;
- (iv) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill ;
- (iva) the use or right to use any industrial, commercial or scientific equipment but not including the amounts referred to in section 44BB;
- (v) the transfer of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, but not including consideration for the sale, distribution or exhibition of cinematographic films ; or
- (vi) the rendering of any services in connection with the activities referred to in sub-clauses (i) to (iv), (iva) and (v).

Explanation 3.—For the purposes of this clause, "computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device and includes any such programme or any customized electronic data.

# Section 194J : Detailed Analysis

Here attention is invited to above mentioned Explanation 4 to 6 which were inserted by the Finance Act 2012 to bring Standard Facilities within the ambit of definition of Royalty and to nullify the decision of Supreme court in the matter of CIT Vs. Eastle Communication Pvt. Ltd. (2009) 310 ITR 2 (SC).

**Non Compete Fees :** In simple words it means any amount received in return of an agreement that restricts the person from sharing any patent, license, franchise, trademark, know how or any commercial or business right , technique or information likely to be used elsewhere for manufacture, process or provisional services.

**Thresh hold Limit :**Rs. 30000 each for Fees for Professional Services, Technical Services, Royalty and Non Compete Fees. There no such limit set for payment made to director.

**Example :** ABC limited paid 26000 as royalty and 21000 as fees for technical services to Mr. AB. Here company ABC is not liable to deduct TDS from payment made to Mr. AB. It is because Rs. 30000 is a separate limit for each item i.e. for royalty and technical services.

**Rate of Tax Deduction :**

- Technical Services – 2%
- Call Centres – 2%
- Royalty of Cinematograph Films – 2%
- All other Payments – 10%

**Example :** Mr. A has availed professional services from B Ltd in FY 2021-22. First payment was for 25000 and second payment was of Rs. 25000. Here at the time of second payment TDS shall be deducted on full amount of Rs. 50000 @ 10% i.e. Rs. 5000.

**Example :** A Hockey club has engaged Mr. X as coach at a remuneration of Rs. 12 Lacs per annum. In this case also remuneration of Mr. X is liable for TDS @ 10 % since it is a specified profession and payment is above 30000

**Example :** M/s A an advertising agency pays Rs. 500000 to Mr. Y a model is it liable to TDS. Modelling may be a profession, but it is not defined as such for the purpose of Section 194J. Hence receipts of Mr. Y do not attract TDS under section 194J unless they are part of production of cinematograph film.

Some relevant issues :

When a Hospital engaged consulting doctors and provided them with consulting chambers. Fees collected from OPD patients to the consultants each day after deducting certain amount towards rent and secretarial assistance. Hel that Neither 192 nor 194J applies [ACIT Vs. Indraprasth Medical Corpn. Ltd. (2010) 35 DTR 353(Del)]

Consultant doctors were employed in hospital in addition to resident doctors and who were providing service under contract. Tax is deductible U/s 194 J and not 192. [CIT (TDS) Vs. Apollo Hospitals Internationals Ltd. (2013) 359 ITR 78 (Guj)].

Stockist receiving commission on sale of drug of drug manufacturer is not liable for TDS under section 194 J [Piramal Health care Ltd Vs. ACIT (TDS) (2012) 21 Taxman.com 225 (Mum.)]

Payments made by News Paper company to News Paper agency is liable for TDS under Section 194 J [ ACIT Vs. Ushoday Enterprises (p). Ltd. (2012) 23 Taxman.co, 258 HYD]

Airline companies making payment to International Airport Authority of India for Navigation Facilities – Held such payment attracts 194 J. Singapore Airlines Ltd. Vs. ITO (2006) 7 SOT 84 (Chennai).

**Circular :** No. 715, dated 8-8-1995 provide guidance on various TDS matters including 194J. :

**Question :** What would be the scope of an advertising contract for the purpose of section 194C of the Act?

**Answer** The term 'advertising' has not been defined in the Act. During the course of the consideration of the Finance Bill, 1995, the Finance Minister clarified on the Floor of the House that the amended provisions of tax deduction at source would apply when a client makes payment to an advertising agency and not when advertising agency makes payment to the media, which includes both print and electronic media. The deduction is required to be made at the rate of 1 per cent. It was further clarified that when an advertising agency makes payments to their models, artists, photographers, etc., the tax shall be deducted at the rate of 5 per cent as applicable to fees for professional and technical services under section 194J of the Act.

**Question :** Whether the advertising agency would

# Section 194J : Detailed Analysis

deduct tax at source out of payments made to the media?

Answer: No. The position has been clarified in the answer to question No. 1 above.

Question : At what rate is tax to be deducted if the advertising agencies give a consolidated bill including charges for art work and other related jobs as well as payments made by them to media?

Answer: The deduction will have to be made under section 194C at the rate of 1 per cent. The advertising agencies shall have to deduct tax at source at the rate of 5 per cent under section 194J while making payments to artists, actors, models, etc. If payments are made for production of programmes for the purpose of broadcasting and telecasting, these payments will be subjected to TDS @ 2 per cent. Even if the production of such programmes is for the purpose of preparing advertisement material, not for immediate advertising, the payment will be subject to TDS at the rate of 2 per cent.

Question : Where the tax is required to be deducted at source on payments made directly to the print media/Doordarshan for release of advertisements?

Answer: The payments made directly to print and electronic media would be covered under section 194C as these are in the nature of payments for purposes of advertising. Deduction will have to be made at the rate of 1 per cent. It may, however, be clarified that the payments made directly to Doordarshan may not be subjected to TDS as Doordarshan, being a Government agency, is not liable to income-tax.

Question : Whether a contract for putting up a hoarding would be covered under section 194C or 194-I of the Act?

Answer: The contract for putting up a hoarding is in the nature of advertising contract and provisions of section 194C would be applicable. It may, however, be clarified that if a person has taken a particular space on rent and thereafter sub lets the same fully or in part for putting up a hoarding, he would be liable to TDS under section 194-I and not under section 194C of the Act.

Question : Whether payment under a contract for carriage of goods or passengers by any mode of

transport would include payment made to a travel agent for purchase of a ticket or payment made to a clearing and forwarding agent for carriage of goods?

Answer: The payments made to a travel agent or an airline for purchase of a ticket for travel would not be subjected to tax deduction at source as the privity of the contract is between the individual passenger and the airline/travel agent, notwithstanding the fact that the payment is made by an entity mentioned in section 194C(1). The provision of section 194C shall, however, apply when a plane or a bus or any other mode of transport is chartered by one of the entities mentioned in section 194C of the Act. As regards payments made to clearing and forwarding agent for carriage of goods, the same shall be subjected to tax deduction at source under section 194C of the Act.

Question : Whether a travel agent/clearing and forwarding agent would be required to deduct tax at source from the sum payable by the agent to an airline or other carrier of goods or passengers?

Answer: The travel agent, issuing tickets on behalf of the airlines for travel of individual passengers, would not be required to deduct tax at source as he acts on behalf of the airlines. The position of clearing and forwarding agents is different. They act as independent contractors. Any payment made to them would, hence, be liable for deduction of tax at source. They would also be liable to deduct tax at source while making payments to a carrier of goods.

Question : Whether section 194C would be attracted in respect of payments made to couriers for carrying documents, letters, etc.?

Answer: The carriage of documents, letters, etc., is in the nature of carriage of goods and, therefore, provisions of section 194C would be attracted in respect of payments made to the couriers.

Question : In case of payments to transporters, can each GR be said to be a separate contract, even though payments for several GRs are made under one bill?

Answer: Normally, each GR can be said to be a separate contract, if the goods are transported at one time. But if the goods are transported continuously in pursuance of a contract for a specific period or quantity, each GR will

# Section 194J :

## Detailed Analysis

not be a separate contract and all GRs relating to that period or quantity will be aggregated for the purpose of the TDS.

Question : Whether there is any obligation to deduct tax at source out of payment of freight when the goods are received on "freight to pay" basis ?

Answer: Yes. The provisions of tax deduction at source are applicable irrespective of the actual payment.

Question : Whether a contract for catering would include serving food in a restaurant/sale of eatables?

Answer: TDS is not required to be made when payment is made for serving food in a restaurant in the normal course of running of the restaurant/cafe.

Question : Whether payment to a recruitment agency can be covered by section 194C ?

Answer: Provisions of section 194C apply to a contract for carrying out any work including supply of labour for carrying out any work. Payments to recruitment agencies are in the nature of payments for services rendered. Accordingly, provisions of section 194C shall not apply. The payment will, however, be subject to TDS under section 194J of the Act.

Question : Whether section 194C would cover payments made by a company to a share registrar ?

Answer: In view of answer to the earlier question, such payments will not be liable for tax deduction at source under section 194C. But these will be liable to tax deduction at source under section 194J.

Question : Whether FD commission and brokerage can be covered under section 194C ?

Answer : No

Question : Whether section 194C would apply in respect of supply of printed material as per prescribed specifications ?

Answer: Yes.

Question : Whether tax is required to be deducted at source under section 194C or 194J on payment of commission to external parties for procuring orders for the company's product ?

Answer: Rendering of services for procurement of orders is not covered under the provisions of section 194C. However, rendering of such services may involve payment of fees for professional or technical services, in

which case tax may be deductible under the provisions of section 194J.

Question: Whether advertisement contracts are covered under section 194C only to the extent of payment of commission to the person who arranges release of advertisement, etc., or whether deduction is to be made on the gross amount including bill of media ?

Answer: Tax is to be deducted at the rate of 1 per cent of the gross amount of the bill.

Question : Whether deduction of tax is required to be made under section 194C for sponsorship of debates, seminars and other functions held in colleges, schools and associations with a view to earn publicity through display of banners, etc., put up by the organisers ?

Answer: The agreement of sponsorship is, in essence, an agreement for carrying out a work of advertisement. Therefore, provisions of section 194C shall apply.

Question : Whether deduction of tax is required to be made on payments for cost of advertisement issued in the souvenirs brought out by various organizations ?

Answer: Yes.

Question : Whether payments made to a hotel for rooms hired during the year would be of the nature of rent ?

Answer: Payments made by persons, other individuals and HUFs for hotel accommodation taken on regular basis will be in the nature of rent subject to TDS under section 194-I.

Question : Whether the limit of Rs. 1,20,000 per annum would apply separately for each co-owner of a property ?

Answer: Under section 194-I, the tax is deductible from payment by way of rent, if such payment of the payee during the year is likely to be Rs. 1,20,000 or more. If there are a number of payees, each having definite and ascertainable share in the property, the limit of Rs. 1,20,000 will apply to each of the payee/co-owner separately. The payers and payees are, however, advised not to enter into sham agreements to avoid TDS provisions.

Question : Whether the rent paid should be enhanced for national income in respect of deposit given to the landlord ?



# Section 194J : Detailed Analysis

Answer: The tax is to be deducted from actual payment and there is no need of computing notional income in respect of a deposit given to the landlord. If the deposit is adjustable against future rent, the deposit is in the nature of advance rent subject to TDS.

Question : Whether payments made by company taking premises on rent but styling the agreement as a business centre agreement would attract the provisions of section 194-I ?

Answer: The tax is to be deducted from rent paid, by whatever name called, for hire of a property. The incidence of deduction of tax at source does not depend upon the nomenclature, but on the content of the agreement as mentioned in clause (i) of Explanation to section 194-I.

Question : Whether in a case of a composite arrangement for user of premises and provision of manpower for which consideration is paid as a specified percentage of turnover, section 194-I of the Act would be attracted ?

Answer: If the composite arrangement is in essence the agreement for taking premises on rent, the tax will be deducted under section 194-I from payments thereof.

Question : Whether payments made to a hospital for rendering medical services will attract deduction of tax at source under section 194J ?

Answer: Yes.

Question : Whether commission received by the advertising agency from the media would require deduction of tax at source under section 194J of the Act ?

Answer: Yes.

Question : Whether the services of a regular electrician on contract basis will fall in the ambit of technical services to attract the provisions of section 194J of the Act? In case the services of the electrician are provided by a contractor, whether the provisions of section 194C or 194J would be applicable ?

Answer: The payments made to an electrician or to a contractor who provides the service of an electrician will be in the nature of payment made in pursuance of a contract for carrying out any work. Accordingly, provisions of section 194C will apply in such cases.

Question : Whether a maintenance contract including

supply of spares would be covered under section 194C or 194J of the Act ?

Answer: Routine, normal maintenance contracts which includes supply of spares will be covered under section 194C. However, where technical services are rendered, the provision of section 194J will apply in regard to tax deduction at source.

Question : Whether the deduction of tax at source under sections 194C and 194J has to be made out of the gross amount of the bill including reimbursements or excluding reimbursement for actual expenses ?

Answer: Sections 194C and 194J refer to any sum paid. Obviously, reimbursements cannot be deducted out of the bill amount for the purpose of tax deduction at source.

Question : Whether TDS from income in respect of units is applicable to dividend or is it applicable to capital appreciation distributed at the time of repurchase/redemption of the units ?

Answer: The provisions of section 194K regarding deduction of tax at source from income in respect of units are applicable to periodical distribution of income, which is in the nature of dividend. These provisions do not apply to capital gains arising at the time of repurchase or redemption of the units.

Question : Whether TDS on reinvestment term deposit should be made on accrual basis, which is quarterly, or once in a financial year ?

Answer: Tax has to be deducted at source at the time of credit of interest to the account of the payee or at the time of payment thereof, whichever is earlier. If credit is given to the account of the payee or payment is made to him annually, the tax may be deducted annually. It may be clarified that a credit to interest payable account or suspense account, etc., is also taken as credit to the account of the payee, even though this credit is not reflected separately in the payee's account.

Question : Whether variable deposit schemes are liable to deduction of tax at source from interest ?

Answer: Under section 194A, tax is to be deducted from interest from banks on time deposits. As variable deposits are in the nature of time deposits, tax is deductible at source from interest on such deposits.

# New Tax Regime U/s 115BAC



## CA Pradeep Kumawat

The Budget 2020 introduced section 115BAC which provides a new tax regime for individuals and HUF taxpayers and provides an option to pay income tax at lower

rates.

We will discuss the impact of New Tax Regime on different head of Income

HEAD	ALLOWED	NOT ALLOWED
SALARY	<ul style="list-style-type: none"><li>Gratuity</li><li>Leave Encashment</li><li>VRS</li><li>Any Other Exemption</li></ul>	<ul style="list-style-type: none"><li>Standard Deduction u/s 16(ia)</li><li>House Rate Allowance</li><li>Professional Tax</li><li>Entertainment Allowance</li><li>Leave Travel Allowance</li></ul>
HOUSE PROPERTY	In case of LET OUT House Property – NO CHANGE	In case of Self Occupied House Property Interest On Housing Loan is NOT allowed
BUSINESS	All Other Deduction	<ul style="list-style-type: none"><li>ADDITIONAL DEPRECIATION</li><li>Deduction U/s 32AD</li><li>Deduction U/s 35(2AB), 35CCC, 35CCD</li><li>Deduction U/Ss10AA</li></ul>
OTHER SOURCES	All Other Deduction	Deduction U/S 57(ia) i.e. FAMILY PENSION
DEDUCTIONS	80CCD(2) and 80JJA)	Any Other Deduction Under Chapter Vi-A

### 1. Tax Slabs

Income Tax Slab	Income Tax Slab
Up to Rs 2,50,000	<ul style="list-style-type: none"><li>Nil</li></ul>
Rs 2,50,001 - Rs 5,00,000	5% above Rs 2,50,000
Rs 5,00,001 – Rs 7,50,000	Rs 12,500 + 10% above Rs 5,00,000
Rs 7,50,001 – Rs 10,00,000	Rs 37,500 + 15% above Rs 7,50,000
Rs 10,00,001 – Rs 12,50,000	Rs 75,000 + 20% above Rs 10,00,000
Rs 12,50,001 – Rs 15,00,000	Rs 1,25,000 + 25% above Rs 12,50,000
Above Rs 15,00,000	Rs 1,87,500 + 30% above Rs 5,00,000

# New Tax Regime U/s 115BAC

Note : In New Tax Regime there is No separate Slab Rate For Senior Citizen Or Super Senior Citizen I.E. In New Tax Regime There Is Only One Slab

## 2. Salary

A. In case of New Tax Regime assessee is not eligible for following exemption and deduction :

- Standard Deduction u/s 16(ia)
- House Rate Allowance
- Professional Tax
- Entertainment Allowance
- Leave Travel Allowance

B. In case of New Tax Regime assessee is eligible for following exemption and deduction :

- Gratuity
- Leave Encashment
- VRS
- Any Other Exemption which is Not Specifically mentioned

## 3. House Property

In case of Self Occupied House Property Interest On Housing Loan U/s 24(b) is NOT allowed

Note : There Is No Change In Case Of Let Out House Property

## 3. Business

In case of New Tax Regime assessee is not eligible for following exemption and deduction :

- Additional Depreciation
- Deduction U/S 32AD
- Deduction U/S 35(2AB), 35CCC, 35CCD
- Deduction U/S 10AA

## 4. Other Sources

Deduction U/S 57(ia) i.e. Family Pension Deduction is NOT Allowed

## 5. Deduction Chapter VI-A

Chapter VI-A deduction is NOT Allowed

**Exception** : Sec 80CCD(2) and 80JJA i.e. Sec 80CCD(2) and 80JJA) is Allowed

## NEW TIE-UPS FOR MEMBERS BY JAIPUR BRANCH OCTOBER 2022

### Restaurants

The Yellow House Robot Restaurant  
Shyam Nagar

The Dough Craft  
C-Scheme

CLICK HERE FOR MORE : <https://jaipur-icai.org/>

# New Addition to Income Tax Assesseees – Improved Compliances or Pandora box of confusion?



**CA AKSHAT AGARWAL**

## **Executive Summary**

Finance ministry has added to the list of conditions increasing the ambit of assesseees within the fold of income tax. Broadly there have been addition in conditions for individuals, HUF, body of persons, association of persons, and an artificial juridical person with respect to gross receipts and gross turnover, sales for profession and business respectively, TCS/TDS beyond a threshold and deposits in savings bank accounts. While the increased compliance bodes well, which would help curb the generation of black money but lack of clarity opens a pandorra box of ambiguities and confusion in the midst of crucial ITR filing phase of AY 2022-23.

## **Background**

With a view to increase revenue, tax base, curbing black money, encouraging Digital India and improved compliances, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance has released a notification dated 21st April, 2022-Notification No. 37/2022/F.No. 370142/01/2020-TPL relevant for filing of ITRs in AY 2022-23.

Through the said notification, the CBDT has enlarged the scope of assesseees required to file their income tax returns declaring income during FY 2021-22 in AY 2022-23, through addition of a rule 12AB in income tax rules 1962 via powers of delegated legislation.

What does the notification entail?

As all my professional colleagues and students would be aware that it is section 139 (1) of income tax act which mandates filing of return for:

- a. Companies, LLPs, firm
- b. Other than above, viz., individual, HUF, body of persons, association of persons, and an artificial juridical person

It is for category b assesseees, that CBDT has introduced

additional conditions of filing income tax returns through addition of clause iv to 7th proviso to section 139(1):

- (i) if his total sales, turnover or gross receipts, as the case may be, in the business exceeds sixty lakh rupees during the previous year; or
- (ii) if his total gross receipts in profession exceeds ten lakh rupees during the previous year; or;
- (iii) if the aggregate of tax deducted at source and tax collected at source during the previous year, in the case of the person, is twenty-five thousand rupees or more; However for individual resident having age of 60 or more the limit is fifty-thousand rupees or
- (iv) the deposit in one or more savings bank account of the person, in aggregate, is rupees fifty lakh or more during the previous year:

## **UNDERSTANDING THE IMPLICATIONS OF THE NOTIFICATION**

What is 7th proviso to section 139(1)?

It enlists the transactions which if undertaken by individual, HUF, body of persons, association of persons, and an artificial juridical person, they shall be mandatorily required to file income tax return notwithstanding the fact that their income is not exceeding Rs. 2,50,000 in case of non-senior citizen, HUF, body of persons, association of persons, an artificial juridical person and Rs. 3,00,000 in case of senior citizens, such as:

- (i) has deposited an amount or aggregate of the amounts exceeding one crore rupees in one or more current accounts maintained with a banking company or a co-operative bank; or
- (ii) has incurred expenditure of an amount or aggregate of the amounts exceeding two lakh rupees for himself or any other person for travel to a foreign country; or

# New Addition to Income Tax Assesseees – Improved Compliances or Pandora box of confusion?

(iii) has incurred expenditure of an amount or aggregate of the amounts exceeding one lakh rupees towards consumption of electricity

(iv) fulfils such other conditions as may be prescribed

It is this iv clause of 7th proviso which gives powers to CBDT to specify additional conditions for filing ITRs.

Since the new conditions pertain to persons who may otherwise not be required to mandatorily file income tax returns but for these conditions, these conditions require further deliberations to magnify the pros and cons attached with them.

These new conditions would surely help in tightening the noose of black money but would also lead to decreased ease of doing business due to associated non clarity and increased compliance burden on small taxpayers.

First condition – turnover, sales, gross receipts exceeding Rs. 60 lakhs for business during the year

While prima facie it may appear to be without any ambiguity but doubts may arise as to which turnover,

sales or gross receipts are to be taken into account for – whether as on 31st March, 2022 or during the year if figure exceeds 60 lakhs or whether the condition for return filing would also arise on if during the year the turnover exceeds 60 lakhs but subsequently due to sales return or any other inadvertent reason the receipts fall below 60 lakhs.

Moreover, apparently this also brings into ambit those businesses having turnover entirely in cash.

Also, there is no requirement for any assessee to maintain books of account even if gross turnover/gross receipts/gross sales exceed Rs. 60 Lakhs if the assessee opts for presumptive taxation under Section 44AD.

Does the term 'total turnover, sales or gross receipts' from business coincide with and mean the same as that mentioned in Section 44AB(1) – well, the said notification is silent on this.

Let's understand this provision through following illustrations:

(Amount in Rs.)

Total turnover, sales/Gross receipts (a)	Sales Return (b)	Net Sales/ Receipts/turnover during the year ending on 31 <sup>st</sup> March 2022 (a-b)	Return filing is mandatory	Presumptive taxation under 44AD
77,00,000 (business receipts)	19,00,000	58,00,000	Yes	Yes, or Audit under 44AB
58,00,000 (business receipts)	Nil	58,00,000	No	Yes, or Audit under 44AB
53,00,000 (business receipts) + 9,00,000 received from debtors for sales in previous years	4,00,000	58,00,000	Yes	Yes, or Audit under 44AB
48,00,000 (business receipts) + 16,00,000 (advance received in lieu of sales in succeeding year)	4,00,000	58,00,000	Yes	Yes, or Audit under 44AB
45,00,000 (cash/bank- business receipts) + 20,00,000 (recorded as sales pending cash/bank receipts)	7,00,000	58,00,000	Yes	Yes, or Audit under 44AB
47,00,000 (Business receipts) + 20,00,000 (Advance received in previous year of sales of current year)	9,00,000	58,00,000	Yes	Yes, or Audit under 44AB
57,00,000 (business receipts) + 6,00,000 (recovered from bad debts of previous years)	5,00,000	58,00,000	Yes	Yes, or Audit under 44AB

# New Addition to Income Tax Assesseees – Improved Compliances or Pandora box of confusion?

## SECOND CONDITION – TOTAL GROSS RECEIPTS IN PROFESSION EXCEEDS 10 LAKHS

Since the term 'Gross receipts in profession' has not been defined comprehensively it leaves a plethora of confusions – whether only receipts from professional fees would be included or any incidental or ancillary income also needs to be counted, whether interest received on saving account has to be included or for that matter return on professional fees invested in:

- Any property (rental income) or
- Securities (dividend, interest) or
- Other business (Profit)

Moreover, apparently this also brings into ambit those businesses having turnover entirely in cash.

Also, there is no requirement for any assessee to maintain books of account even if gross receipts exceed Rs. 10 Lakhs if the assessee opts for presumptive taxation under Section 44ADA.

For ease of understanding, profession here is assumed to be as specified in Section 44AA of the income tax Act. Does the term 'gross receipts' from profession coincide with and mean the same as mentioned in Section 44AB (2) – well the said notification is silent on this as well.

Let's understand this provision through following illustrations:

(Amount in Rs.)

Sr. No.	Gross receipts (a)	Return of receipt (b)	Net Receipts for the year ending on 31 <sup>st</sup> March 2022 (a-b)	Return filing is mandatory	Presumptive taxation under 44ADA
1.	17,00,000 (professional receipts)	9,00,000	8,00,000	Yes	Yes, or Audit under 44AB
2.	8,00,000 (professional receipts)	Nil	8,00,000	No	Yes, or Audit under 44AB
3.	7,00,000 (professional receipts) + 5,00,000 (received from debtors for professional fees in previous years)	4,00,000	8,00,000	Yes	Yes, or Audit under 44AB
4.	8,00,000 (professional receipts) + 6,00,000 (advance received in lieu of professional services in succeeding year)	8,00,000	8,00,000	Yes	Yes, or Audit under 44AB
5.	7,00,000 (professional receipts) + 6,00,000 (recovered from bad debts of previous years)	5,00,000	8,00,000	Yes	Yes, or Audit under 44AB
5.	9,50,000 (professional receipts) + 4,50,000 (Professional services of this year, receipts received in previous year)	6,00,000	8,00,000	No	Yes, or Audit under 44AB
6.	7,00,000 (professional receipts) + 5,00,000 (professional services recorded pending receipts for services)	5,00,000	8,00,000	No	Yes, or Audit under 44AB

## THIRD CONDITION – AGGREGATE OF TDS OR TCS DURING THE YEAR IS 25,000 OR 50,000 AS THE CASE MAYBE

Ambiguity arises with not clarifying the extent, as to which TDS/TCS figure would be taken, whether an assessee would still be required to file returns if

TDS/TCS exceed twenty-five thousand or fifty thousand, as the case maybe but subsequently TDS/TCS are recredited effectively lowering the TDS/TCS deducted or collected during the year Non-senior citizen, HUF, body of persons, association of persons, artificial juridical person

# New Addition to Income Tax Assesseees – Improved Compliances or Pandora box of confusion?

(Amount in Rs.)

Serial No.	TDS+TCS during the year (a)	TDS+TCS deduction or collection of previous year in current year (b)	TDS+TCS deduction or collection of succeeding year in current year (c)	Gross TDS+TCS during the year ending on 31 <sup>st</sup> March, 2022 (a+b+c)	Subsequent Reversal of TDS/TCS deducted collected during the year (d)	Net TDS+TCS during the year ending on 31 <sup>st</sup> March 2022 (a+b+e-d)	Return filing is mandatory
1.	25,000	5,000	9,000	39,000	15,000	24,000	Yes
2.	20,000	8,000	Nil	28,000	4,000	24,000	Yes
3.	19,000	Nil	8,000	27,000	6,000	21,000	Yes

For senior citizens (aged 60 or more)

(Amount in Rs.)

Serial No.	TDS/TCS during the year (a)	TDS/TCS deduction or collection of previous year in current year (b)	TDS/TCS deduction or collection of succeeding year in current year (c)	Gross TDS/TCS during the year ending on 31 <sup>st</sup> March, 2022 (a+b+c)	Subsequent Reversal of TDS/TCS deducted collected during the year (d)	Net TDS/TCS during the year ending on 31 <sup>st</sup> March 2022 (a+b+c-d)	Return filing is mandatory
1.	50,000	10,000	18,000	78,000	30,000	48,000	Yes
2.	40,000	16,000	Nil	56,000	8,000	48,000	Yes
3.	38,000	Nil	16,000	54,000	12,000	42,000	Yes

Fourth Condition – Deposit of Rs. 50 lakh or more in one or more savings bank account of the person during the year

There are many instances where deposits in savings bank account are withdrawn within a day or two from deposition – so for instance a person who/which deposits 50 lakhs or more on a particular day and

subsequently due to any reason withdraws the entire amount or a part of it during the same year, whether such a person would also be covered in the extant provisions.

**Lets understand this provision with a few illustrations as follows:**

(Amount in Rs.)

Serial No.	Aggregate deposits in saving bank accounts (a)	Withdrawals during the year (b)	Net balance in saving bank account as on 31 <sup>st</sup> March 2022 (a-b)	Whether Return Filing is mandatory
1.	55,00,000	10,00,000	45,00,000	Yes
2.	55,00,000	55,00,000	Nil	Yes
3.	55,00,000	Nil	55,00,000	Yes

Another food for thought is whether such increased monitoring of savings bank account without comprehensive clarifications and increased compliances would discourage citizens from depositing their money in savings bank account, harming the banking ecosystem in the long run and disrupting the efforts at curbing black money generation.

As professionals, since we are in the phase of filing of ITRs, with not much time left, it is suggested to take a

liberal view of these additions in filing of ITRs rather than having a stricter view to prevent future chaos and confusion till the time CBDT comes out with a clarification addressing the ambiguities.

It is in this light that clients should be suitably advised to comply with the conditions.

**References:**

[https://www.pdicai.org/Docs/notification-37-2022\\_2542022113220762.pdf](https://www.pdicai.org/Docs/notification-37-2022_2542022113220762.pdf)

# ACTIVITIES BY JAIPUR BRANCH

## CIRC REGIONAL LEVEL CA STUDENTS NATIONAL TALENT(II) (REGIONAL LEVEL) - 2022 - QUIZ CONTEST & BEST PAPER PRESENTER (PPT)



Date : 2-10-2022 Guest of Honour: CA Lokesh Maheshwari (Secretary- CIRC) & CA Rajeev Gupta (Treasurer-CIRC)  
Quiz Masters: CA Akhil Pachori, CA Rajat Jain & CA Dharmendra Shaker  
Judges: CA Ravi Gupta, CA Ankit Kumar Jakhotiya & CA Sankalp Gupta  
Quiz Contest Winners: Ms. Luvnika Prihar, Mr. Siddesh Thakur  
Best Presenter (PPT) Winners: Mr. Tushar Kothari, Ms. Shubham Pinge, Mr. Ashmit Kaur Gill



# ACTIVITIES BY JAIPUR BRANCH

## STAKEHOLDERS' MEETING ON REPORTING AND REVERSAL OF ITC IN GSTR-3B



**Date :** 11-10-2022 **Chief Guest :** Dr. Ravikumar Surpur (IAS), Chief Commissioner, State Tax  
**Speakers:** Smt. Seema Sharma, Deputy Commissioner, Enforcement Wing-III,  
CA. Yash Dhadda & CA. Chirag Jain

# ACTIVITIES BY JAIPUR BRANCH

## DIWALI MILAN SAMAROH



## PROGRAM ON CODE OF ETHICS: CONVERTING CHALLENGES INTO OPPORTUNITIES



Date : 31-10-2022 Speaker: CA. Vijay Kr. Agrawal



### सीए का दीक्षांत समारोह आज

**1149 सीए मेंबर्स को मिली डिग्री, 5 साल में दोगुनी हुई महिला सीए की संख्या, पुरुष 20% कम हुए**



**पत्रिका समाचार** | गुरुवार को सीए ऑल इंडिया रैंक होटलर्स अपने माता-पिता और दादा-दादी के साथ डिग्री लेने पहुंचे 1149 सीए मेंबर्स को मिली डिग्री, 5 साल में दोगुनी हुई महिला सीए की संख्या, पुरुष 20% कम हुए।

सीए का दीक्षांत समारोह आज (गुरुवार) को सीए ऑल इंडिया रैंक होटलर्स अपने माता-पिता और दादा-दादी के साथ डिग्री लेने पहुंचे 1149 सीए मेंबर्स को मिली डिग्री, 5 साल में दोगुनी हुई महिला सीए की संख्या, पुरुष 20% कम हुए।

### 20 हजार सीए मेंबर्स को मिलेगी डिग्री दीप स्मृति ऑडिटरियम में दीक्षांत समारोह



**सिटी रिपोर्टर** | भारत के 14 शहरों को डिग्री दी जाएगी। इसमें से एक शहर जयपुर में 20 हजार सीए मेंबर्स को दीक्षांत समारोह का आयोजन किया गया।

### वार्टड एकाउंटेंट का दीक्षांत समारोह आज



जयपुर, 5 अक्टूबर (आईटी) | वार्टड एकाउंटेंट का दीक्षांत समारोह आज (गुरुवार) को वार्टड एकाउंटेंट्स ऑफ इंडिया की ओर से जयपुर में 6 अक्टूबर को आयोजित किया गया।

### सीए दीक्षांत समारोह-2022 जयपुर में 6 को



जयपुर समाचार जगत न्यूज़ | दीक्षांत समारोह का आयोजन किया गया।

### आइसीएआइ की ओर से दीक्षांत समारोह आयोजित



जयपुर, 5 अक्टूबर (आईटी) | आइसीएआइ की ओर से दीक्षांत समारोह आयोजित किया गया।

### सीए सदस्यों को प्रदान किए मेम्बरशिप सर्टिफिकेट



जयपुर, 5 अक्टूबर (आईटी) | सीए सदस्यों को प्रदान किए मेम्बरशिप सर्टिफिकेट का आयोजन किया गया।

### एक साथ 14 जगह आयोजित होगा सीए दीक्षांत समारोह



जयपुर, 5 अक्टूबर (आईटी) | एक साथ 14 जगह आयोजित होगा सीए दीक्षांत समारोह का आयोजन किया गया।

### सीए धर्मा बने साफा समिति के अध्यक्ष



जयपुर, समाचार जगत न्यूज़ | सीए धर्मा बने साफा समिति के अध्यक्ष का आयोजन किया गया।

### टैक्सपेयर्स को आईटीसी की रिपोर्टिंग और रिवर्सल के लिए किया जागरूक



सिटी रिपोर्टर | वार्षिक कर विभाग और भारतीय सीए संस्थान की कमेटी ऑफ ज्यूसटी एण्ड इन डायरेक्ट टैक्स की ओर से मंगलवार को दौड़पट्टी स्थित एक होटल में टैक्स पेयर्स को जागरूक करने के लिए सेशन का आयोजन किया गया।

### सीए स्टूडेंट्स ने मनाया दिवाली स्नेह मिलन समारोह



जयपुर, 5 अक्टूबर (आईटी) | सीए स्टूडेंट्स ने मनाया दिवाली स्नेह मिलन समारोह का आयोजन किया गया।

### विजयी छात्रों को पुरस्कार देकर किया सम्मानित



जयपुर, 5 अक्टूबर (आईटी) | विजयी छात्रों को पुरस्कार देकर किया सम्मानित का आयोजन किया गया।