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Rule 11UB - Fair market value of assets in certain cases

(1) The fair market value of asset, tangible or intangible, as on the specified date, held directly or indirectly by a company or an entity registered or incorporated outside India (hereafter referred to as "foreign company or entity"), for the purposes of clause (i) of sub-section (1) of section 9, shall be computed in accordance with the provisions of this rule.

(2) Where the asset is a share of an Indian company listed on a recognised stock exchange on the specified date, the fair market value of the share shall be the observable price of such share on the stock exchange:

Provided that where the share is held as part of the shareholding which confers, directly or indirectly, any right of management or control in relation to the aforesaid company, the fair market value of the share shall be determined in accordance with the following formula, namely:

Fair market value = (A+B)/C

Where;

A = the market capitalisation of the company on the basis of observable price of its shares quoted on the recognised stock exchange;
B = the book value of liabilities of the company as on the specified date;
C = the total number of outstanding shares:

Provided further that where, on the specified date, the share is listed on more than one recognised stock exchange, the observable price of the share shall be computed with reference to the recognised stock exchange which records the highest volume of trading in the share during the period considered for determining the price.

(3) Where the asset is a share of an Indian company not listed on a recognised stock exchange on the specified date, the fair market value of the share shall be its fair market value on such date as determined by a merchant banker or an accountant in accordance with any internationally accepted valuation methodology for valuation of shares on arm’s length basis as increased by the liability, if any, considered in such determination.

(4) Where the asset is an interest in a partnership firm or an association of persons, its fair market value shall be determined in the following manner, namely:

(i) the value on the specified date of such firm or association of persons, shall be determined by a merchant banker or an accountant in accordance with any internationally accepted valuation methodology as increased by the liability, if any, considered in such determination;

(ii) the portion of the value computed in clause (i) as is equal to the amount of its capital shall be allocated among its partners or members in the proportion in which capital has been contributed by them and the residue of the value shall be allocated among the partners or members in accordance with the agreement of partnership firm or association of persons for distribution of assets in the event of dissolution of the firm or association, or, in the absence of any such agreement, in the proportion in which the partners or members are entitled to share profits and the sum total of the amount so allocated to a partner or member shall be
(5) The fair market value of the asset other than those referred to in sub-rules (2), (3) and (4) shall be the price it would fetch if sold in the open market on the specified date as determined by a merchant banker or an accountant as increased by the liability, if any, considered in such determination.

(6) The fair market value of all the assets of a foreign company or an entity shall be determined in the following manner, namely:

(i) where the transfer of share of, or interest in, the foreign company or entity is between the persons who are not connected persons, the fair market value of all the assets owned by the foreign company or the entity as on the specified date, for the purpose of such transfer, shall be determined in accordance with the following formula, namely:

\[
\text{Fair market value of all assets} = A + B
\]

Where;

\(A\) = Market capitalisation of the foreign company or entity computed on the basis of the full value of consideration for transfer of the share or interest;

\(B\) = Book value of the liabilities of the company or the entity as on the specified date as certified by a merchant banker or an accountant;

(ii) in any other case, if, —

(a) the share of the foreign company or entity is listed on a stock exchange on the specified date, the fair market value of all the assets owned by the foreign company or the entity shall be determined in accordance with the following formula, namely:

\[
\text{Fair market value of all the assets} = A + B
\]

Where;

\(A\) = Market capitalisation of the foreign company or entity computed on the basis of the observable price of the share on the stock exchange where the share of the foreign company or the entity is listed;

\(B\) = book value of the liabilities of the company or the entity as on the specified date:

Provided that where, as on the specified date, the share is listed on more than one stock exchange, the observable price in the aforesaid formula shall be in respect of the stock exchange which records the highest volume of trading in the share during the period considered for determining the price;

(b) the share in the foreign company or entity is not listed on a stock exchange on the specified date, the value of all the assets owned by the foreign company or the entity shall be determined in accordance with the following formula, namely:

\[
\text{Fair market value of all the assets} = A + B
\]

Where;

\(A\) = fair market value of the foreign company or the entity as on the specified date as determined by a merchant banker or an accountant as per the internationally
accepted valuation methodology;

\[ B = \text{value of liabilities of the company or the entity if any, considered for the determination of fair market value in A.} \]

(7) Where fair market value has been determined on the basis of any interim balance sheet referred to in the first proviso to clause (ix) of the Explanation, then the fair market value shall be appropriately modified after finalisation of the relevant financial statement in accordance with the applicable laws and all the provisions of this rule and rules 11UC and 114DB shall apply accordingly.

(8) For determining the fair market value of any asset located in India, being a share of an Indian company or interest in a partnership firm or association of persons, all the assets and business operations of the said company or partnership firm or association of persons shall be taken into account irrespective of whether the assets or business operations are located in India or outside.

(9) The rate of exchange for the calculation in foreign currency, of the value of assets located in India and expressed in rupees shall be the telegraphic transfer buying rate of such currency as on the specified date.

Explanation: For the purposes of this rule and rule 11UC,—

(i) "accountant" means an accountant referred to in the Explanation to sub-section (2) of section 288 and for the purposes of sub-rule (6) includes any valuer recognised for undertaking similar valuation by the Government of the country where the foreign company or the entity is registered or incorporated or any of its agencies, who fulfils the following conditions, namely:—

(a) if he is a member or partner in any entity engaged in rendering accountancy or valuation services then,—

(i) the entity or its affiliates has presence in more than two countries; and

(ii) the annual receipt of the entity in the year preceding the year in which valuation is undertaken exceeds ten crore rupees;

(b) if he is pursuing the profession of accountancy individually or is a valuer then,—

(i) his annual receipt in the year preceding the year in which valuation is undertaken, from the exercise of profession, exceeds one crore rupees; and

(ii) he has professional experience of not less than ten years.

(ii) "connected person" shall have the meaning as assigned to it in clause (4) of section 102;

(iii) "right of management or control" shall include the right to appoint majority of the directors or to control the management or policy decision exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

(iv) "telegraphic transfer buying rate" shall have the meaning as assigned to it in the Explanation to rule 26;

(v) "observable price" in respect of a share quoted on a stock exchange shall be the higher of the following:—
(a) the average of the weekly high and low of the closing prices of the shares quoted on the said stock exchange during the six months period preceding the specified date; or

(b) the average of the weekly high and low of the closing price of the shares quoted on the said stock exchange during the two weeks preceding the specified date;

(vi) "book value of the liabilities" means the value of liabilities as shown in the balance-sheet of the company or the entity as the case may be, excluding the paid-up capital in respect of equity shares or members’ interest and the general reserves and surplus and security premium related to the paid up capital;

(vii) "specified date" shall have the meaning as assigned to it in clause (d) of Explanation 6 to clause (i) of sub-section (1) of section 9;

(viii) the terms "merchant banker" and "recognised stock exchange" shall have the meaning as assigned to them in rule 11U;

(ix) "balance sheet",—

(a) in relation to an Indian company, means the balance-sheet of such company (including the notes annexed thereto and forming part of the accounts) as drawn up on the specified date which has been audited by the auditor of the company appointed under the laws relating to companies in force; and

(b) in any other case, means the balance-sheet of the company or the entity (including the notes annexed thereto and forming part of the accounts) as drawn up on the specified date and submitted to the relevant authority outside India under the laws in force of the country in which the foreign company or the entity is registered or incorporated:

Provided that where the balance-sheet as on the specified date is not drawn up, pending finalisation of accounts, as mentioned in clauses (a) and (b), the balance-sheet shall mean an interim balance-sheet drawn up as on the specified date and approved by the board of directors of the company or an equivalent body in case of any other entity:

Provided further that where the specified date is the date referred to in sub-clause (ii) of clause (d) of Explanation 6 to clause (i) of sub-section (1) of section 9, the balance-sheet means the balance-sheet as drawn up on the specified date and certified by an accountant.

Rule 11UC- Determination of Income attributable to assets in India.

(1) The income from transfer outside India of a share of, or interest in, a company or an entity referred to in clause (i) of sub-section (1) of section 9, attributable to assets located in India, shall be determined in accordance with the following formula, namely:

\[
\frac{B}{A \times C}
\]

Where;

\( A \) = Income from the transfer of share of, or interest in, the company or the entity computed
in accordance with the provisions of the Act, as if, such share or interest is located in India;

B = Fair Market Value of assets located in India as on the specified date, from which the share or interest referred to in A derives its value substantially, computed in accordance with rule 11UB;

C = Fair Market Value of all the assets of the company or the entity as on the specified date, computed in accordance with rule 11UB:

Provided that if the transferor of the share of, or interest in, the company or the entity fails to provide the information required for the application of the aforesaid formula then the income from the transfer of such share or interest attributable to the assets located in India shall be determined in such manner as the Assessing Officer may deem suitable.

(2) The transferor of the share of, or interest in, a company or an entity that derives its value substantially from assets located in India, shall obtain and furnish along with the return of income a report in Form No.3CT duly signed and verified by an accountant providing the basis of the apportionment in accordance with the formula and certifying that the income attributable to assets located in India has been correctly computed.
ANNEXURE – 2

Rule 115 - Rate of exchange for conversion into rupees of income expressed in foreign currency

(1) The rate of exchange for the calculation of the value in rupees of any income accruing or arising or deemed to accrue or arise to the assessee in foreign currency or received or deemed to be received by him or on his behalf in foreign currency shall be the telegraphic transfer buying rate of such currency as on the specified date.

Explanation: For the purposes of this rule,—

(1) "telegraphic transfer buying rate" shall have the same meaning as in the Explanation to rule 26;

(2) "specified date" means—

(a) in respect of income chargeable under the head "Salaries", the last day of the month immediately preceding the month in which the salary is due, or is paid in advance or in arrears;

(b) in respect of income by way of "interest on securities", the last day of the month immediately preceding the month in which the income is due;

(c) in respect of income chargeable under the heads "Income from house property", "Profits and gains of business or profession" not being income referred to in clause (d) and "Income from other sources" (not being income by way of dividends and "Interest on securities"), the last day of the previous year of the assessee;

(d) in respect of income chargeable under the head "Profits and gains of business or profession" in the case of a non-resident engaged in the business of operation of ships, the last day of the month immediately preceding the month in which such income is deemed to accrue or arise in India;

(e) in respect of income by way of dividends, the last day of the month immediately preceding the month in which the dividend is declared, distributed or paid by the company;

(f) in respect of income chargeable under the head "Capital gains", the last day of the month immediately preceding the month in which the capital asset is transferred:

Provided that the specified date, in respect of income referred to in sub-clauses (a) to (f) payable in foreign currency and from which tax has been deducted at source under rule 26, shall be the date on which the tax was required to be deducted under the provisions of the Chapter XVII-B.

(2) Nothing contained in sub-rule (1) shall apply in respect of income referred to in clause (c) of the Explanation to sub-rule (1) where such income is received in, or brought into India by the assessee or on his behalf before the specified date in accordance with the provisions of the Foreign Exchange Regulation Act, 1973 (46 of 1973).

Rule 26 - Rate of exchange for the purpose of deduction of tax at source on income payable in foreign currency

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For the purpose of deduction of tax at source on any income payable in foreign currency, the rate of exchange for the calculation of the value in rupees of such income payable to an assessee outside India shall be the telegraphic transfer buying rate of such currency as on the date on which the tax is required to be deducted at source under the provisions of Chapter XVIIB by the person responsible for paying such income.

Explanations: For the purposes of this rule, "telegraphic transfer buying rate", in relation to a foreign currency, means [the rate or rates of exchange] adopted by the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), for buying such currency, having regard to the guidelines specified from time to time by the Reserve Bank of India for buying such currency, where such currency is made available to that bank through a telegraphic transfer.
Rule 37BB - Furnishing of information for payment to a non-resident, not being a company, or to a foreign company.

(1) The person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum chargeable under the provisions of the Act, shall furnish the following, namely:

(i) the information in Part A of Form No.15CA, if the amount of payment or the aggregate of such payments, as the case may be, made during the financial year does not exceed five lakh rupees;

(ii) for payments other than the payments referred in clause (i), the information,—

(a) in Part B of Form No.15CA after obtaining,—

(I) a certificate from the Assessing Officer under section 197; or

(II) an order from the Assessing Officer under sub-section (2) or sub-section (3) of section 195;

(b) in Part C of Form No.15CA after obtaining a certificate in Form No. 15CB from an accountant as defined in the Explanation below sub-section (2) of section 288.

(2) The person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum which is not chargeable under the provisions of the Act, shall furnish the information in Part D of Form No.15CA.

(3) Notwithstanding anything contained in sub-rule (2), no information is required to be furnished for any sum which is not chargeable under the provisions of the Act, if,—

(i) the remittance is made by an individual and it does not require prior approval of Reserve Bank of India as per the provisions of section 5 of the Foreign Exchange Management Act, 1999 (42 of 1999) read with Schedule III to the Foreign Exchange (Current Account Transaction) Rules, 2000; or

(ii) the remittance is of the nature specified in column (3) of the specified list below:
### SPECIFIED LIST

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Purpose code as per RBI</th>
<th>Nature of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>S0001</td>
<td>Indian investment abroad - in equity capital (shares)</td>
</tr>
<tr>
<td>2</td>
<td>S0002</td>
<td>Indian investment abroad - in debt securities</td>
</tr>
<tr>
<td>3</td>
<td>S0003</td>
<td>Indian investment abroad - in branches and wholly owned subsidiaries</td>
</tr>
<tr>
<td>4</td>
<td>S0004</td>
<td>Indian investment abroad - in subsidiaries and associates</td>
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<tr>
<td>5</td>
<td>S0005</td>
<td>Indian investment abroad - in real estate</td>
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<tr>
<td>6</td>
<td>S0011</td>
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</tr>
<tr>
<td>7</td>
<td>S0101</td>
<td>Advance payment against imports</td>
</tr>
<tr>
<td>8</td>
<td>S0102</td>
<td>Payment towards imports - settlement of invoice</td>
</tr>
<tr>
<td>9</td>
<td>S0103</td>
<td>Imports by diplomatic missions</td>
</tr>
<tr>
<td>10</td>
<td>S0104</td>
<td>Intermediary trade</td>
</tr>
<tr>
<td>11</td>
<td>S0190</td>
<td>Imports below Rs.5,00,000 - (For use by ECD offices)</td>
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<td>12</td>
<td>SO202</td>
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<td>13</td>
<td>SO208</td>
<td>Operating expenses of Indian Airlines companies operating abroad</td>
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<td>14</td>
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<tr>
<td>15</td>
<td>S0301</td>
<td>Remittance towards business travel</td>
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<tr>
<td>16</td>
<td>S0302</td>
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<tr>
<td>17</td>
<td>S0303</td>
<td>Travel for pilgrimage</td>
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<tr>
<td>18</td>
<td>S0304</td>
<td>Travel for medical treatment</td>
</tr>
<tr>
<td>19</td>
<td>S0305</td>
<td>Travel for education (including fees, hostel expenses etc.)</td>
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<td>20</td>
<td>S0401</td>
<td>Postal services</td>
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<td>21</td>
<td>S0501</td>
<td>Construction of projects abroad by Indian companies including import of goods at project site</td>
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<td>22</td>
<td>S0602</td>
<td>Freight insurance - relating to import and export of goods</td>
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<td>23</td>
<td>S1011</td>
<td>Payments for maintenance of offices abroad</td>
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<td>24</td>
<td>S1201</td>
<td>Maintenance of Indian embassies abroad</td>
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<td>25</td>
<td>S1202</td>
<td>Remittances by foreign embassies in India</td>
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<td>26</td>
<td>S1301</td>
<td>Remittance by non-residents towards family maintenance and savings</td>
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<td>27</td>
<td>S1302</td>
<td>Remittance towards personal gifts and donations</td>
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<td>28</td>
<td>S1303</td>
<td>Remittance towards donations to religious and charitable institutions abroad</td>
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<tr>
<td>29</td>
<td>S1304</td>
<td>Remittance towards grants and donations to other Governments and charitable institutions established by the Governments</td>
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<tr>
<td>30</td>
<td>S1305</td>
<td>Contributions or donations by the Government to international institutions</td>
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<td>31</td>
<td>S1306</td>
<td>Remittance towards payment or refund of taxes</td>
</tr>
<tr>
<td>32</td>
<td>S1501</td>
<td>Refunds or rebates or reduction in invoice value on account of exports</td>
</tr>
<tr>
<td>33</td>
<td>S1503</td>
<td>Payments by residents for international bidding.</td>
</tr>
</tbody>
</table>

(4) The information in Form No. 15CA shall be furnished,—

(i) electronically under digital signature in accordance with the procedures, formats and standards specified by the Principal Director General of Income-tax (Systems) under sub-rule (8) and thereafter printout of the said form shall be submitted to the authorised dealer, prior to remitting the payment; or

(ii) electronically in accordance with the procedures, formats and standards specified by the Principal Director General of Income-tax (Systems) under sub-rule (8) and thereafter signed printout of the said form shall be submitted to the authorised dealer, prior to remitting the payment.

(5) An income-tax authority may require the authorised dealer to furnish the signed printout of Form No. 15CA referred to in clause (ii) of sub-rule (4) for the purposes of any proceedings under the Act.
(6) The certificate in Form No. 15CB shall be furnished and verified electronically in accordance with the procedures, formats and standards specified by the Principal Director-General of Income-tax (Systems) under sub-rule (8).

(7) The authorised dealer shall furnish a quarterly statement for each quarter of the financial year in Form No. 15CC to the Principal Director General of Income-tax (Systems) or the person authorised by the Principal Director General of Income-tax (Systems) electronically under digital signature within fifteen days from the end of the quarter of the financial year to which such statement relates in accordance with the procedures, formats and standards specified by the Principal Director General of Income-tax (Systems) under sub-rule (8).

(8) The Principal Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing and verification of Form 15CA, Form 15CB and Form 15CC and shall be responsible for the day-to-day administration in relation to the furnishing and verification of information, certificate and quarterly statement in accordance with the provisions of sub-rules (4), (6) and (7).

Explanation.— For the purposes of this rule 'authorised dealer' means a person authorised as an authorised dealer under sub-section (1) of section 10 of the Foreign Exchange Management Act, 1999 (42 of 1999).
Rule 114DB - Information or documents to be furnished under section 285A

(1) Every Indian concern referred to in section 285A shall, for the purposes of the said section, maintain and furnish the information and documents in accordance with this rule.

(2) The information shall be furnished in Form No.49D electronically under digital signature to the Assessing Officer having jurisdiction over the Indian concern within a period of ninety days from the end of the financial year in which any transfer of the share of, or interest in, a company or entity incorporated outside India (hereafter referred to as “foreign company or entity”) referred to in Explanation 5 to clause (i) of sub-section (1) of section 9 has taken place:

Provided that where the transaction in respect of the share or the interest has the effect of directly or indirectly transferring the rights of management or control in relation to the Indian concern, the information shall be furnished in the said Form within ninety days of the transaction.

(3) The Indian concern shall maintain the following along with its English translation, if the documents originally prepared are in foreign languages and produce the same when called upon to do so by any income-tax authority in the course of any proceeding to substantiate the information furnished under sub-rule (2), namely:

   (i) details of the immediate holding company or entity, intermediate holding company or companies or entity or entities and ultimate holding company or entity of the Indian concern;

   (ii) details of other entities in India of the group of which the Indian concern is a constituent;

   (iii) the holding structure of the shares of, or the interest in, the foreign company or entity before and after the transfer;

   (iv) any transfer contract or agreement entered into in respect of the share of, or interest in, any foreign company or entity that holds any asset in India through, or in, the Indian concern;

   (v) financial and accounting statements of the foreign company or entity which directly or indirectly holds the assets in India through, or in, the Indian concern for two years prior to the date of transfer of the share or interest;

   (vi) information relating to the decision or implementation process of the overall arrangement of the transfer;

   (vii) information in respect of the foreign company or entity and its subsidiaries, relating to,—

      (a) the business operation;

      (b) personnel;

      (c) finance and properties;

      (d) internal and external audit or the valuation report, if any, forming basis of the consideration in respect of shares, or the interest;

   (viii) the asset valuation report and other supporting evidence to determine the place of location of the share or interest being transferred;

   (ix) the details of payment of tax outside India, which relates to the transfer of the share or interest;
(x) the valuation report in respect of Indian asset and total assets duly certified by a merchant banker or accountant with supporting evidence;

(xi) documents which are issued in connection with the transactions under the accounting practice followed.

(4) Where there are more than one Indian concerns that are constituent entities of a group, the information may be furnished by any one Indian concern, if,—

(i) the group has designated such Indian concern to furnish information on behalf of all other Indian concerns that are constituent of the group, and

(ii) the information regarding the designated Indian concern has been conveyed in writing on behalf of the group to the Assessing Officer:

Provided that nothing contained in this sub-rule shall have effect if the designated Indian concern fails to furnish the information in accordance with the provisions of this rule.

(5) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for electronically filing of Form No.49D and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the information so furnished under this rule.

(6) The information and documents specified in sub-rule (3) shall be kept and maintained for a period of eight years from the end of relevant assessment year.

Explanation: For the purposes of this rule,—

(i) "constituent entity" shall have the meaning as assigned to it in clause (d) of sub-section (9) of section 286;

(ii) "group" shall have the meaning as assigned to it in clause (e) of sub-section (9) of section 286;

(iii) "intermediate holding company or entity" means a company or an entity that has controlling interest in another company or entity and is itself controlled by, or is subsidiary of, another company or entity;

(iv) "immediate holding company or entity" means the company or the entity that directly maintains the controlling interest in the Indian concern;

(v) "ultimate holding company or entity" means a company or an entity that has ultimate control of the Indian concern directly or indirectly and such company or entity is not itself controlled by, or is subsidiary of, any other company or entity.
Rule 128 - Foreign Tax Credit

(1) An assessee, being a resident shall be allowed a credit for the amount of any foreign tax paid by him in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India, in the manner and to the extent as specified in this rule:

Provided that in a case where income on which foreign tax has been paid or deducted, is offered to tax in more than one year, credit of foreign tax shall be allowed across those years in the same proportion in which the income is offered to tax or assessed to tax in India.

(2) The foreign tax referred to in sub-rule (1) shall mean,—

(a) in respect of a country or specified territory outside India with which India has entered into an agreement for the relief or avoidance of double taxation of income in terms of section 90 or section 90A, the tax covered under the said agreement;

(b) in respect of any other country or specified territory outside India, the tax payable under the law in force in that country or specified territory in the nature of income-tax referred to in clause (iv) of the Explanation to section 91.

(3) The credit under sub-rule (1) shall be available against the amount of tax, surcharge and cess payable under the Act but not in respect of any sum payable by way of interest, fee or penalty.

(4) No credit under sub-rule (1) shall be available in respect of any amount of foreign tax or part thereof which is disputed in any manner by the assessee:

Provided that the credit of such disputed tax shall be allowed for the year in which such income is offered to tax or assessed to tax in India if the assessee within six months from the end of the month in which the dispute is finally settled, furnishes evidence of settlement of dispute and an evidence to the effect that the liability for payment of such foreign tax has been discharged by him and furnishes an undertaking that no refund in respect of such amount has directly or indirectly been claimed or shall be claimed.

(5) The credit of foreign tax shall be the aggregate of the amounts of credit computed separately for each source of income arising from a particular country or specified territory outside India and shall be given effect to in the following manner:—

(i) the credit shall be the lower of the tax payable under the Act on such income and the foreign tax paid on such income:

Provided that where the foreign tax paid exceeds the amount of tax payable in accordance with the provisions of the agreement for relief or avoidance of double taxation, such excess shall be ignored for the purposes of this clause;

(ii) the credit shall be determined by conversion of the currency of payment of foreign tax at the telegraphic transfer buying rate on the last day of the month immediately preceding the month in which such tax has been paid or deducted.

(6) In a case where any tax is payable under the provisions of section 115JB or section 115JC, the credit of foreign tax shall be allowed against such tax in the same manner as is allowable against any
tax payable under the provisions of the Act other than the provisions of the said sections (hereafter referred to as the "normal provisions").

(7) Where the amount of foreign tax credit available against the tax payable under the provisions of section 115JB or section 115JC exceeds the amount of tax credit available against the normal provisions, then while computing the amount of credit under section 115JAA or section 115JD in respect of the taxes paid under section 115JB or section 115JC, as the case may be, such excess shall be ignored.

(8) Credit of any foreign tax shall be allowed on furnishing the following documents by the assessee, namely:—

(i) a statement of income from the country or specified territory outside India offered for tax for the previous year and of foreign tax deducted or paid on such income in Form No.67 and verified in the manner specified therein;

(ii) certificate or statement specifying the nature of income and the amount of tax deducted therefrom or paid by the assessee,—

(a) from the tax authority of the country or the specified territory outside India; or

(b) from the person responsible for deduction of such tax; or

(c) signed by the assessee:

Provided that the statement furnished by the assessee in clause (c) shall be valid if it is accompanied by,—

(A) an acknowledgement of online payment or bank counter foil or challan for payment of tax where the payment has been made by the assessee;

(B) proof of deduction where the tax has been deducted.

(9) The statement in Form No.67 referred to in clause (i) of sub-rule (8) and the certificate or the statement referred to in clause (ii) of sub-rule (8) shall be furnished on or before the due date specified for furnishing the return of income under sub-section (1) of section 139, in the manner specified for furnishing such return of income.

(10) Form No.67 shall also be furnished in a case where the carry backward of loss of the current year results in refund of foreign tax for which credit has been claimed in any earlier previous year or years.

Explanation.—For the purposes of this rule 'telegraphic transfer buying rate' shall have the same meaning as assigned to it in Explanation to rule 26.
Press Note dated 20th September, 2019

The Government has brought in the Taxation Laws (Amendment) Ordinance 2019 to make certain amendments in the Income-tax Act 1961 and the Finance (No. 2) Act 2019. This was announced by the Union Minister for Finance & Corporate Affairs Smt Nirmala Sitharaman during the Press Conference in Goa today. The Finance Minister elaborated further, the salient features of these amendments, which are as under:-

a. In order to promote growth and investment, a new provision has been inserted in the Income-tax Act with effect from FY 2019-20 which allows any domestic company an option to pay income-tax at the rate of 22% subject to condition that they will not avail any exemption/incentive. The effective tax rate for these companies shall be 25.17% inclusive of surcharge & cess. Also, such companies shall not be required to pay Minimum Alternate Tax.

b. In order to attract fresh investment in manufacturing and thereby provide boost to ‘Make-in-India’ initiative of the Government, another new provision has been inserted in the Income-tax Act with effect from FY 2019-20 which allows any new domestic company incorporated on or after 1st October 2019 making fresh investment in manufacturing, an option to pay income-tax at the rate of 15%. This benefit is available to companies which do not avail any exemption/incentive and commences their production on or before 31st March, 2023. The effective tax rate for these companies shall be 17.01% inclusive of surcharge & cess. Also, such companies shall not be required to pay Minimum Alternate Tax.

c. A company which does not opt for the concessional tax regime and avails the tax exemption/incentive shall continue to pay tax at the pre-amended rate. However, these companies can opt for the concessional tax regime after expiry of their tax holiday/exemption period. After the exercise of the option they shall be liable to pay tax at the rate of 22% and option once exercised cannot be subsequently withdrawn. Further, in order to provide relief to companies which continue to avail exemptions/incentives, the rate of Minimum Alternate Tax has been reduced from existing 18.5% to 15%.

d. In order to stabilise the flow of funds into the capital market, it is provided that enhanced surcharge introduced by the Finance (No.2) Act, 2019 shall not apply on capital gains arising on sale of equity share in a company or a unit of an equity oriented fund or a unit of a business trust liable for securities transaction tax, in the hands of an individual, HUF, AOP, BOI and AJP.

e. The enhanced surcharge shall also not apply to capital gains arising on sale of any security including derivatives, in the hands of Foreign Portfolio Investors (FPIs).
f. In order to provide relief to listed companies which have already made a public announcement of buy-back before 5th July 2019, it is provided that tax on buy-back of shares in case of such companies shall not be charged.

g. The Government has also decided to expand the scope of CSR 2 percent spending. Now CSR 2% fund can be spent on incubators funded by Central or State Government or any agency or Public Sector Undertaking of Central or State Government, and, making contributions to public funded Universities, IITs, National Laboratories and Autonomous Bodies (established under the auspices of ICAR, ICMR, CSIR, DAE, DRDO, DST, Ministry of Electronics and Information Technology) engaged in conducting research in science, technology, engineering and medicine aimed at promoting SDGs.

The total revenue foregone for the reduction in corporate tax rate and other relief estimated at Rs. 1,45,000 crore.