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# Direct Tax Amendments for May 2019 / Nov 2019 Exams - Part 5



CA Mehul Thakker

on 02 March 2019

## Answer to the Brainstorming Problem: Direct Tax Amendments for May 2019/Nov 2019 Examinations [Article 4](#),

Gross Salary: Rs. 32,90,200 and Taxable Salary: Rs. 32,48,200.

In this article, we are going to learn the amendments relating to the head 'Profits and gains from Business or Profession'.

### (1) Section 28(ii) : Scope of taxability of compensation expanded by Finance Act, 2018 w.e.f. A.Y. 2019-20

Clause (e) has been inserted under section 28(ii) by Finance Act, 2018 which reads as under:

'Compensation or other payment received by any person at or in connection with the termination or the modification of the terms and conditions, of any contract relating to his business.'



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*The objective behind introduction of above clause under section 28(ii) has been clarified by the Memorandum explaining budget proposal 2018 is as under:*

'Under the existing provisions of the Act, certain types of compensation receipts are taxable as business income under section 28. However, the existing provisions of clause (ii) of section 28 is restrictive in its scope as far as taxation of compensation is concerned; a large segment of compensation receipts in connection with business and employment is out of the purview of taxation leading to base erosion and revenue loss. Therefore, it is proposed to amend section 28 of the Act to provide that any compensation received or receivable, **whether revenue or capital**, in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as business income.'

### **Brainstorming Practical**

The assessee, Saurashtra Cement Ltd., a cement manufacturing company, entered into an agreement with a supplier for purchase of additional cement plant. One of the conditions in the agreement was that if the supplier failed to supply the machinery within the stipulated time, the assessee would be compensated at 5% of the price of the respective portion of the machinery without proof of actual loss. The assessee received Rs. 8.50 lakhs from the supplier by way of liquidated damages on account of his failure to supply the machinery within the stipulated time.

Discuss taxability of such compensation in the hands of a company:

- (a) before the amendment made by Finance Act, 2018 in section 28 of the Act
- (b) After the amendment made by Finance Act, 2018 in the said section. **(4 Marks)**

### **(2) Section 36(1)(xviii) inserted by Finance Act, 2018 w.r.e.f. A.Y. 2017-18**

Marked to market loss or other expected loss computed in accordance with the ICDS shall be allowed while computing income under the head 'Profits and Gains from Business or Profession'

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### (3) Section 40A(13) inserted by Finance Act, 2018 w.r.e.f. A.Y. 2017-18

No deduction or allowance shall be allowed in respect of any marked to market loss or other expected loss except as allowable under section 36(1)(xviii).

#### Brainstorming Theory

Explain the meaning of marked to market loss and discuss its allowability under the Income Tax Act with reference to ICDS II, ICDS VI and ICDS VIII. **(6 Marks)**

### (4) Proviso to Section 43(5) – Certain transactions are not treated as speculative transaction- condition modified in respect of trading in agricultural commodity derivatives – w.e.f. A.Y. 2019-20.

An eligible transaction in respect of trading in commodity derivatives carried out in a recognised association, which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 shall not be regarded as speculative transaction. ***However, in respect of trading in agricultural commodity derivatives, the requirement of chargeability of commodity transaction tax under Chapter VII of the Finance Act, 2013 shall not apply w.e.f. A.Y. 2019-20.***


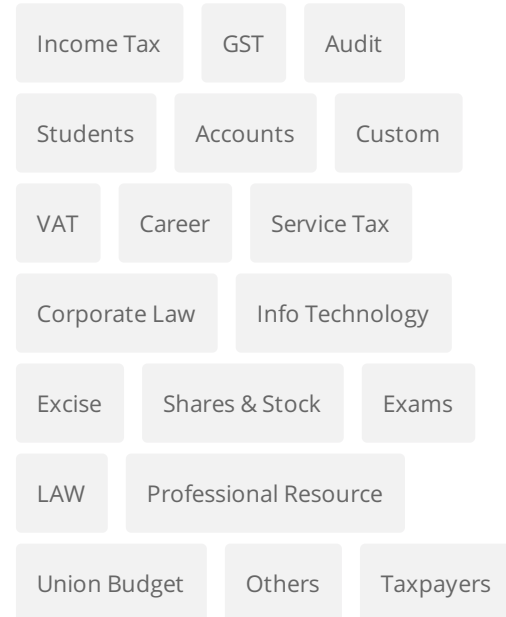
#### Brainstorming Practical

Surana Trading Pvt. Ltd. provides following information:

S.N.	Particulars	Rs.
(i)	Surplus from trading in goods (Delivery based)	4,80,000
(ii)	Surplus from trading in goods (Contracts settled without delivery)	3,22,000



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(iii)	Loss from trading in commodity derivatives carried out on a recognized association, chargeable to CTT	1,22,000
(iv)	Loss from trading in agricultural commodity derivatives carried out on a recognized association, not chargeable to CTT	2,22,000
(v)	Surplus from trading in stock derivatives carried out on a recognized stock exchange	22,000

Find out income chargeable under the head 'PGBP'. **(6 Marks)**

Be ready with your answer. I will post the correct answer in next article.

**Link of other articles on 'Direct Tax Amendments for May 2019 Students'.**

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**Part 2**

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	Deduction available	Deduction available	
Government in this behalf			
c. Payment made on account of preventive health check-up			
<b>Maximum amount of deduction</b>			
- General deduction [applicable in respect of (a), (b) and (c) given above but payment on account of preventive health check-up of self, spouse, dependent children and parents cannot exceed Rs. 5,000]	Rs.25,000	Rs.25,000	Rs.25,000
- Additional deduction (applicable only in the case of medi-claim insurance premium when policy is taken on the life of a senior citizen)			
➤ For A.Y. 2016-17 to 2018-19	Rs.5,000	Rs.5,000	Rs.5,000
➤ For A.Y. 2019-20	Rs.25,000	Rs.25,000	Rs.25,000
<b>(B) Medical Expenditure on the health</b>	Deduction available	Deduction available	



Amendments for May 19/ Nov 19 - "Intimation under section 143(1) ...  
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Selay

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194C  
1,00,00,000

CA MEHUL THAKKER

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