

**CLAUSES WHICH REQUIRES SPECIAL
ATTENTION WHILE FINALIZING
FORM NO. 3CD**

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CLAUSES WHICH REQUIRES SPECIAL ATTENTION WHILE FINALIZING FORM NO. 3CD

CLAUSE :- 13(d), (e) and (f)

SOURCE:- Section 145(2) & ICDS

Sub Clause (d):- Whether any adjustment is required to be made to the profits or loss for complying with the provisions of income computation and disclosure standards notified under section 145(2)

Sub Clause (e):- If answer (d) above is in the affirmative, give details of such adjustments:

Sub Clause (f):- Disclosure as per ICDS

- (i) ICDS I - Accounting Policies
- (ii) ICDS II - Valuation of Inventories
- (iii) ICDS III - Construction Contracts
- (iv) ICDS IV - Revenue Recognition
- (v) ICDS V - Tangible Fixed Assets
- (vi) ICDS VII - Governments Grants
- (vii) ICDS IX – Borrowing Costs
- (viii) ICDS X – Provisions, Contingent Liabilities and Contingent Assets

Reporting of adjustments to profit or loss for complying with the provisions of the notified ICDSs and disclosure requirements as per the ICDSs – Reporting Guideline issued by DTC

Members may also note that, last year, vide [Notification No 88/2016](#), dated 29.9.2016, the CBDT had amended Form No 3CD with effect from 1.4.2017 and substituted sub-clause (d) of clause 13 with new sub-clauses (d), (e) and (f) requiring reporting of the adjustments and disclosures mandated as per the notified income computation and disclosure standards (ICDSs). The amended clause 13(d) requires the tax auditor to report whether any adjustment is required to be made to the profits or loss for complying with the provisions of ICDSs notified under section 145(2) and if answer is in affirmative, new clause

13(e) requires reporting of the standard-wise adjustments made to the profit or loss for complying with the ICDSs notified u/s 145(2) showing clearly increase/decrease in profits as well as the net effect of such adjustments standard-wise. Further, clause 13(f) requires reporting of the standard-wise disclosures as per the ICDSs.

A mass mail has already been sent to you informing the aforesaid changes in Form 3CD.

Further we wish to inform you that the Direct Taxes Committee has recently released a publication namely "Technical Guide on Income Computation & Disclosure Standards" which is available at the link-
<http://resource.cdn.icai.org/45963dtdc36184.pdf>

Members may refer the said publication for seeking any guidance with regard to the Income Computation and Disclosure Standards.

Members may kindly note the aforesaid changes while filing the tax audit report u/s 44AB of the Income-tax Act, 1961 for the A.Y. 2017-18.

CLAUSE : - 14

SOURCE:- Section 145A

Sub Clause (a):- Method of valuation of closing stock employed in the previous year.

Sub Clause (b):- In case of deviation from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss, please furnish.

CLAUSE : - 15

SOURCE:- Section 45(2)

Give the following particulars of the capital asset converted into stock-in-trade:—

- (a) Description of capital asset;
- (b) Date of acquisition;
- (c) Cost of acquisition;
- (d) Amount at which the asset is converted into stock-in-trade.

CLAUSE :- 16

SOURCE:- Section 28, 41(1), 2(24) Special attention to grants, subsidy

Amounts not credited to the profit and loss account, being, -

- (a) the items falling within the scope of section 28;
- (b) the proforma credits, drawbacks, refund of duty of customs or excise or service tax, or refund of sales tax or value added tax where such credits, drawbacks or refunds are admitted as due by the authorities concerned;
- (c) escalation claims accepted during the previous year;
- (d) any other item of income;
- (e) capital receipt, if any.

CLAUSE :- 17

SOURCE:- Section 43CA and 50C

Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C, please furnish

CLAUSE :- 21(d)

SOURCE:- Section 40A(3), 40A(3A) and Rule 6DD

Disallowance/deemed income under section 40A(3):

(A) On the basis of the examination of books of account and other relevant documents/evidence, whether the expenditure covered under section 40A(3) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details :

(B) On the basis of the examination of books of account and other relevant documents/evidence, whether the payment referred to in section 40A(3A) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft If not, please furnish the details of amount deemed to be the profits and gains of business or profession under section 40A (3A);

Section 40A(3A):- Deduction has been claimed earlier on due basis and payment is made subsequently otherwise than by account payee cheque or draft

A special provision has been introduced to cover the above-mentioned payments under section 40A (3A) which is given below-

- i. The taxpayer had claimed deduction in respect of an expenditure in any of the earlier years.
 - ii. The amount of deduction exceeds Rs. 20,000
 - iii. Subsequent year payment is made in respect of the aforesaid liability
 - iv. The payment exceeds Rs. 20,000
 - v. The payment is made otherwise than by an account payee cheque or draft
- If above conditions are satisfied, the payment so made shall be deemed to be the business income of the previous year in which payment is made.

CLAUSE : - 21(h)

SOURCE:- Section 14A and Rule 8D

amount of deduction inadmissible in terms of section 14A in respect of the expenditure incurred in relation to income which does not form part of the total income;

CLAUSE : - 23

SOURCE:- Section 40A(2)

Particulars of payments made to persons specified under section 40A(2)(b).

CLAUSE : - 25

SOURCE:- Section 41

Any amount of profit chargeable to tax under section 41 and computation thereof.

CLAUSE :- 28

**SOURCE:- Section 56(2)(viiia) &
Rule 11UA**

Whether during the previous year the assessee has received any property, being share of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viiia), if yes, please furnish the details of the same.

CLAUSE :- 29

**SOURCE:- Section 56(2)(viib) &
Rule 11UA**

Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib), if yes, please furnish the details of the same.

CLAUSE :- 31

SOURCE:- Section 269SS & 269T

Changes in new clause 31 of Form 3CD - Reporting Guideline issued by DTC

Clause 31 of Form 3CD has been substituted to include within its fold, reporting requirements taking into consideration the amendments effected in section 269SS and 269T, including within its scope payments relating to immovable property transactions. Further, the scope of reporting in relation to section 269T, relating to repayment of loan or deposit or specified advance, has been increased to also require reporting by the **recipient** of such loan or deposit or specified advance **which has been repaid**. So far, such reporting was required only by the payer.

The last column of the following table explains the changes in new clause 31. Further the additions in New Clause 31 in column 2 have been marked in ***bold italics***.

The last column of the following table explains the changes in new clause 31. Further the additions in New Clause 31 in column 2 have been marked in ***bold italics***.

(1)		(2)		(3)
Erstwhile Clause 31		New Clause 31		Changes in New Clause 31
Reporting Requirement		Reporting Requirement		
(a)	Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year	(a)	Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year	Sub-clause (a) of new clause 31 requires reporting on whether such loan or deposit is taken by cheque, bank draft or ECS. Thereafter, if the same is by cheque or bank draft, whether the same was taken or accepted by way of account payee cheque/bank draft has to be reported. Corresponding sub-clause (a) of erstwhile clause 31 directly required reporting of whether loan or deposit was taken or accepted otherwise than by account payee cheque or bank draft.
		(b)	<i>Particulars of each specified sum in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year</i>	New reporting requirement: Consequent to substitution of section 269SS by the Finance Act 2015 including within its scope specified sum receivable in relation to transfer of an immovable property, sub-clause (b) of new clause 31 requires reporting of particulars of each specified sum in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year.

(b)	Particulars of each repayment of loan or deposit in an amount exceeding the limit specified in section 269T made during the previous year	(c)	Particulars of each repayment of loan or deposit <u>or specified advance</u> in an amount exceeding the limit specified in section 269T made during the previous year	<p>Sub-clause (c) of new clause 31 contains reporting requirement akin to sub-clause (b) of erstwhile clause 31.</p> <p>Sub-clause (c) of new clause 31 requires reporting on whether repayment is made by cheque, bank draft or ECS. Thereafter, if the same is by cheque or bank draft, then, whether the same is by way of account payee cheque/account payee bank draft has to be reported.</p> <p>Corresponding sub-clause (b) of erstwhile clause 31 directly required reporting of whether repayment was made otherwise than by account payee cheque or bank draft.</p>
(c)	Whether the taking or accepting loan or deposit or repayment of the same were made by account payee cheque or account payee bank draft based on the examination of books of account and other relevant documents	-		There is no separate sub-clause in new clause 31 in line with sub-clause (c) of erstwhile clause 31.

		<p>(d) Particulars of repayment of loan or deposit or specified advance in an amount exceeding the limit specified in section 269T received otherwise than by a cheque or bank draft or use of ECS through a bank account during the previous year.</p> <p>(i) name, address and Permanent Account Number (if available with the assessee) of the payer;</p> <p>(ii) amount of loan or deposit or any specified advance received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year.</p>	<p>New reporting requirement –</p> <p>The reporting requirement in respect of section 269T was earlier required only in case of the person making the repayment of loan or deposit or any specified advance. Under the new clause 31, reporting is also to be done by the recipient. The recipient has to furnish the name, address and PAN (if available with him) of the payer and the amount of loan or deposit or any specified advance received -</p> <p>(1) under sub-clause (d), in case the repayment is received otherwise than by a cheque or bank draft or ECS</p> <p>(2) under sub-clause (e), in case repayment is received by a cheque or bank draft, which is not an account payee cheque or account payee bank draft</p>
		<p>(e) Particulars of repayment of loan or deposit or specified advance in an amount</p>	

		<p><i>exceeding the limit specified in section 269T received by a cheque or bank draft which is not an account payee cheque or bank draft during the previous year.</i></p> <p><i>(i) name, address and Permanent Account Number (if available with the assessee) of the payer;</i></p> <p><i>(ii) amount of loan or deposit or any specified advance received by a cheque or a bank draft which is not an account payee cheque or account payee bank draft during the previous year.</i></p>	
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Section 269SS:- Mode of taking or accepting certain loans, deposits and specified sum.

No person shall take or accept from any other person (herein referred to as the depositor), any loan or deposit or any specified sum, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, if,—

(a) the amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit and specified sum; or

(b) on the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or

(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),

is twenty thousand rupees or more:

Provided that the provisions of this section shall not apply to any loan or deposit or specified sum taken or accepted from, or any loan or deposit or specified sum taken or accepted by,—

(a) the Government;

(b) any banking company, post office savings bank or co-operative bank;

(c) any corporation established by a Central, State or Provincial Act;

(d) any Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013);

(e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette:

Provided further that the provisions of this section shall not apply to any loan or deposit or specified sum, where the person from whom the loan or deposit or specified sum is taken or accepted and the person by whom the loan or deposit or specified sum is taken or accepted, are both having agricultural income and neither of them has any income chargeable to tax under this Act.

Explanation.—For the purposes of this section,—

(i) "banking company" means a company to which the provisions of the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

(ii) "co-operative bank" shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949) ;

(iii) "loan or deposit" means loan or deposit of money;

(iv) "specified sum" means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.

Section 269T:- Mode of repayment of certain loans or deposits.

No branch of a banking company or a co-operative bank and no other company or co-operative society and no firm or other person shall repay any loan or deposit made with it [or any specified advance received by it] otherwise than by an account payee cheque or account payee bank draft drawn in the name of the person who has made the loan or deposit [or paid the specified advance,] [or by use of electronic clearing system through a bank account] if—

(a) the amount of the loan or deposit [or specified advance] together with the interest, if any, payable thereon, or

(b) the aggregate amount of the loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm, or other person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such loans or deposits, [or]

[(c) the aggregate amount of the specified advances received by such person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such specified advances,]

is twenty thousand rupees or more:

Provided that where the repayment is by a branch of a banking company or co-operative bank, such repayment may also be made by crediting the amount of such loan or deposit to the savings bank account or the current account (if any) with such branch of the person to whom such loan or deposit has to be repaid :

Provided further that nothing contained in this section shall apply to repayment of any loan or deposit [or specified advance] taken or accepted from—

(i) Government;

(ii) any banking company, post office savings bank or co-operative bank;

(iii) any corporation established by a Central, State or Provincial Act;

(iv) any Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(v) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.]

Explanation.—For the purposes of this section,—

(i) "banking company" shall have the meaning assigned to it in clause (i) of the *Explanation* to [section 269SS](#);

(ii) "co-operative bank" shall have the meaning assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(iii) "loan or deposit" means any loan or deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes loan or deposit of any nature;

[(iv) "specified advance" means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place.]

Whether a change in shareholding of the company has taken place in the previous year due to which the losses incurred prior to the previous year cannot be allowed to be carried forward in terms of section 79.

Section 79:- Carry forward and set off of losses in the cases of certain companies

In the case of companies in which the public are not substantially interested, loss will not be carried forward and set off unless the shares of the company carrying not less than 51 per cent of the voting power were beneficially held by the same person(s) both on the last day of the previous year in which loss occurred and on the last day of the previous year in which brought forward loss is sought to be set off.

Exceptions - The aforesaid restriction contained in section 79 shall not be applicable if change in voting power takes place in following two cases:

1. Where a change in voting power takes place in a previous year consequent upon the death of a shareholder or on account of transfer of shares by way of gift to any relative of the shareholder making the gift.
2. Where any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one per cent shareholders of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company.

Remark:

This section is applicable to the losses and not to the unabsorbed allowances. Therefore, entire unabsorbed depreciation can be carried forward by closely held company irrespective of the change in shareholding pattern.- **CIT v. Shri Subhulaxmi Mills Ltd.** [2001] 249 ITR 795.

CLAUSE : - 32(e)

SOURCE:- Explanation to Section 73

In case of a company, please state that whether the company is deemed to be carrying on a speculation business as referred in explanation to section 73, if yes, please furnish the details of speculation loss if any incurred during the previous year.

CLAUSE : - 36

SOURCE:- Section 115-O

In the case of a domestic company, details of tax on distributed profits under section 115-O in the following form:-

- (a) total amount of distributed profits;
- (b) amount of reduction as referred to in section 115-O (1A)(i);
- (c) amount of reduction as referred to in section 115-O (1A)(ii);
- (d) total tax paid thereon;
- (e) dates of payment with amounts.

CLAUSE : - 41

SOURCE:- Excise, Service Tax, VAT Proceedings

Please furnish the details of demand raised or refund issued during the previous year under any tax laws other than Income-tax Act, 1961 and Wealth-tax Act, 1957 alongwith details of relevant proceedings.

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