

प्रेषक,

**जे. एस. मिश्र**

सचिव आवास

उत्तर प्रदेश शासन।

सेवा में,

**1. आवास आयुक्त,**

उत्तर प्रदेश आवास एवं विकास परिषद्,

104 महात्मा गाँधी मार्ग,

लखनऊ।

**2. उपाध्यक्ष,**

समस्त विकास प्राधिकरण,

उत्तर प्रदेश।

आवास अनुभाग-1

लखनऊ: दिनांक-24 सितम्बर, 2002

**विषय : उ0प्र0 आवास एवं विकास परिषद् तथा प्रदेश के सभी विकास प्राधिकरणों के आयकर दाताओं की श्रेणी में आने से सम्बन्धित।**

महोदय,

आयकर अधिनियम में संशोधन के फलस्वरूप उ0प्र0 आवास एवं विकास परिषद् तथा प्रदेश के सभी विकास प्राधिकरण जो कि अब तक आयकर दाताओं की श्रेणी में नहीं थे अप्रैल, 2002 से आयकर दाताओं की श्रेणी में आ गये हैं। उक्त स्थिति में अब इन अभिकरणों के वित्तीय नियोजन तथा प्रबन्धन में जरा सी भी असावधानी भारी टैक्स देयता का कारण बन सकती है।

उपरोक्त परिपेक्ष्य में शासन द्वारा सम्यक विचारोपरान्त इन अभिकरणों के वित्तीय प्रबन्धन एवं संयोजन हेतु गाइड-लाइन्स बनाई गई है जिसकी प्रति संलग्न करते हुए मुझे आपको यह निर्देशित करने की अपेक्षा की गई है कि आप अपने अभिकरण के वित्तीय प्रबन्धन तथा संयोजन को इन गाइड लाइन्स के अनुसार संशोधित कराने का कष्ट करें।

इसी सम्बन्ध में मुझे यह भी निर्देशित करने की अपेक्षा की गयी है कि :-

1. भविष्य में इस संदर्भ में आयकर विभाग द्वारा समय-समय पर जारी किये जाने वाले समस्त निर्देशों का अनुपालन कड़ाई से सुनिश्चित किया जाए।
2. आयकर विभाग द्वारा उक्त विषय में समय-समय पर जारी समस्त निर्देश उत्तर प्रदेश आवास एवं विकास परिषद् में लागू लेखा नियमों तथा प्राधिकरणों हेतु लागू प्राधिकरण वित्त एवं लेखा मैनुअल 2002 का अंग माने जायेंगे।
- 3 प्राधिकरण, वित्त एवं लेखा मैनुअल-2002 के सुसंगत अंश संलग्न गाइड लाइन्स में उल्लिखित प्राविधानों की सीमा तक तदानुसार संशोधित माने जाएंगे।

कृपया उपरोक्त आदेशों का अनुपालन तत्कालिक प्रभाव से सुनिश्चित किया जाए।

भवदीय,

**जे. एस. मिश्र**

सचिव।

**संख्या : 4390 / 9-आ-1-आयकर / 2002 तद्दिनांक ।**

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. अध्यक्ष, समस्त विकास प्राधिकरण, म0प्र0 ।
2. अधिशाषी निदेशक, आवास बन्धु ।
3. आवास विभाग उ.प्र. शासन के समस्त अनुभाग ।

आज्ञा से,

**संजय भूसरेड्डी**

विशेष सचिव ।

संलग्नक : उपरोक्तानुसार

## **RECOMMENDATIONS OF TAXATION COMMITTEE**

A Taxation Committee was constituted vide G.O. No. 6050/9-Aa-1-Income Tax/2002 dated 29-04-2002 by Government of Uttar Pradesh to examine all relevant issues arising as a consequent of omission of Section 10(20A) of Income Tax Act 1961 where by all the Development Authorities and Housing Boards have come with in the ambit of Income Tax Act w.e.f. F.Y.2002-03 relevant to Asstt. year 2003-2004 and also to convey its recommendations to Government of Uttar Pradesh through Executive Director Awas Bandhu Lucknow.

The members of committee were :

1. Sh. Srishnakar Tripathi, F.C., U.P. Awas Evam Vikas Parishad
2. Sh. K.B. Saxena, Cost Accountant.
3. Sh. S.K. Bhargava, Chartered Accountant.
4. Sh. D. Ganguly, Chartered Accountant
5. Sh. Rajeev Agarwal, Chartered Accountant
6. Sh P.C. Mehrotra, Advisor Awas Bandhu (Secretary Coordinator)

The Committee held its meetings between 19.6-02 to 31-08-02 at several occasions in the office of Awas Bandhu Lucknow.

The points/issues addressed by the aforesaid G.O. were duly discussed. After discussions the Committee is privileged to make the following recommendations for the kind consideration of Government of Uttar Pradesh and due compliance there of.

### **1. Status of the Development Authorities /Housing Board viz-a-viz Rate of Income Tax.**

The Development Authorities/Housing Board have the status of local authorities therefore they shall be charged to tax at the following rates (relevant for the a.y. 2002-03 and 2003-04)

<b>Asstt. year</b>	<b>Rate of IT</b>	<b>Surcharge</b>
2002-03 (Current Tax)	30%	2%
2003-04 (Advance Tax)	30%	5%

### **2. Permanent Account Number**

All Development Authorities/ Housing Boards should immediately apply for allotment of Permanent Account No. on Form No. 49 A if not applied till date and also make efforts to obtain the same at the earliest.

### **3. Tax Deduction No. (TAN)**

All Development Authorities /Housing Board should apply immediately for Tax deduction No. (TAN) for various types of TDS if not yet obtained. The prescribed Form is 49 B.

### **4. Payment of Advance Tax (Section 207 to Section 211)**

Development Authorities / Housing Boards who may have taxable income during the financial year 2002-03 should comply with provisions of payment of advance tax (section 207 to section 211);

#### **Due dates for Payment      In case of Development Authorities**

##### **/Housing Boards**

On or before 15th Sep.	Not less than 30% of Advance Tax
On or before 15th Dec.	Not less than 60% of Advance Tax Less amount, if any, paid in the Earlier installment.
On or before 15th March.	Whole amount of Advance Tax Less amount (s), if any, paid in the earliest Installment (s)

### **5. Tax Deduction at Source**

Strict compliance of various Tax Deduction at Source provisions as laid down in the I.T. Act shall be made as per the details given vide **Annexure 'A'**. It is categorically mentioned here that the value of Taxable perks in the case of eligible salaried persons should be determined for deduction of Tax at source. Such perks would entail housing facility, Car facility, Telephone facility at house, domestic servant facility, subsidized housing/conveyance, loans, children education allowance etc. The modalities for determination of value of perks are given vide **Annexure 'B'**.

### **6. Non Deduction Tax Certificate**

Non deduction Tax certificate from the I.T. Department particularly in case of TDS from FDR/Other deposits kept by Development Authorities/Housing Boards with various banks/financial institutions after the withdrawal of exemption u/s 10 (20A) of I.T. Act w.e.f. 31-03-2002 should be procured on priority basis.

Development Authorities/ Housing Boards which are running in losses or are likely to incur the loss in the current financial year should apply for obtaining certificate of Non deduction of Tax on interest from the I.T. Department. The Development Authorities / Housing Boards are advised to prepare their Previous Financial Statement for the satisfaction of the I.T. Authorities.

### **7. Provisions for Depreciation on Fixed Assets.**

The provision for depreciation on fixed assets may be made as per the rates provided in the Income Tax rules relevant to each assessment year.

## **8. Compliance of Section 43 B and 40 A of Income Tax Act.**

Strict compliance of provisions of 43B and 40 A of I.T. Act shall be made to avoid disallowance of expenditure/imposition of penalty, particularly in the following areas;

### **Section 43 B**

(a) Allowance of interest on term loans payable to banks and financial institutions will be made only on actual payment basis till the due date of filing of I.T. Return for that Assessment Year.

(b) Allowance of Leave Salary expense /Gratuity will be made on actual payment to employees or to any trust if created for the purpose.

(c) Allowance of Provident fund expenses will be made on the actual payment to the trust if any provided for that purpose or to the PF department upto due date.

(d) Payment of Govt. dues or Taxes will be allowed on actual payment basis.

### **Section 40 A**

(e) Payment for expenses exceeding Rs. 20,000 at any time will be allowed only if they are made by Account payee Cheque/Draft. Even the adjustment of Advances to employees should be checked for the same.

## **9. Treatment of Land acquired meant for Development and Sale in Books of Account**

As per the provisions of Section 2 (14) of IT Act, the fixed Assets (Land meant for development and sale) of Development Authorities/Housing Board falls under the definition of Capital Assets. Further, as per the provisions of Section 45 (2) of IT Act, Capital Gain would arise on transfer by way of conversion of Capital Asset into Stock-in-trade within meaning of Section 2(47) of the Act but the same would be taxed in the year of sale of such stock.

The finance & Accounts Manual of the Development Authorities provides that the Land purchased even for the purposes of development and sale would initially be shown under the head fixed Assets. It shall be transferred to Current.

Assets only when it is decided to develop and sell the same to public. It is apprehended that this method attract Capital Gain. It is therefore recommended that any land purchased for the purpose of development and sale by way of plotting and/or construction of houses/flats shall be shown directly as Current.

Assets in the books of accounts as the object of Development Authorities / Housing Board is trading in land and houses/flats, to avoid any Capital gain tax liability as a matter of abundance precaution. The Finance & Accounts

Manual may be amended to this extent.

## **10. Tax Audit by a Chartered Accountant as per the Provisions of Section 44 AB of IT Act 1961**

All Development Authorities / Housing Board shall also get their Accounts audited (Tax Audit) by a Chartered Accountant as per the provisions of Section 44 AB of IT Act 1961. The audit report is required to be furnished by the specified date of filing IT Return e.g. In case of Financial year ending 31-03-2002 relevant to A.Y. 2002-03 the specified date of filing of IT Return shall be 31-10-2002 hence the audit report u/s 44 AB is required to be filed by 31-10-2002.

## **11. Benefit of Section 801B (10) of Income Tax Act for undertaking for Development and Building Housing Projects.**

The benefit of section 801 B (10) which applies to undertakings for developing and building housing projects income under the Income Tax Act should be availed off.

The section is summarized below :-

- (a) The deduction under this section is available to all types of assesses. In case of Development Authorities /Housing Boards it will apply to their on going specified Development and Housing Project.
- (b) Assessee is engaged in developing and building housing projects approved earlier by the local authority and commenced or commences developing or construction of the housing projects on or after 1-10-1998 and completes the same before 31-03-2003.
- (c) The housing project is of the size of a plot of land which has a minimum area of one acre i.e. 43560 square feet.
- (d) The single residential unit has a maximum build up area of 1500 square feet (relevant under the present context).
- (e) The procedural conditions contain in points F,H,I,J,K & L of the section 801 A of Income Tax Act shall be duly adhered to.
- (f) The deduction shall be 100% of the profit derived from the business of Housing projects.

Immediate exercise for identification of eligible housing project(s) should be undertaken at Development Authorities/ Housing Boards level and separate books of Accounts and Records should be maintained for identification of such projects in order to work out the profits derived from such projects and exemptions may be availed of.

## **12. Accounting Standards u/s 145 (2) of Income Tax Act and Accounting Standards made mandatory by Institute of Chartered Accountants of India.**

Development Authorities /Housing Boards should ensure that the Accounting Standards u/s 145 (2) of I.t. Act are duly complied with. These are;

1. Disclosure of Accounting Policy

## 2. Disclosure of Prior period and extra ordinary items and changes in Accounting Policies

Besides, the Accounting Standards as made mandatory by ICAI applicable to Development Authorities /Housing Boards should also be taken care of while preparing the Accounts for Financial year 2001-02 onwards particularly:

F Valuation of Inventory (AS2),

F Accounting and Treatment of Government grants (AS12),

F Revenue Recognition (AS 9),

F Recognition of revenue in case of Contract Work (AS7)

F Accounting for retirement benefits of employees (AS15),

### **13. Preparation of Balance Sheet and Profit and Loss Account and Provision For all Known Liabilities and Assets**

Preparation of Balance Sheet and Profit and Loss Account for the y.e. 31-03-2002 should be done with utmost care so that all the known liabilities and assets till that date have been duly provided for and all the incomes and expenditures have been taken in to account. Provided further if any liability /assets comes to light in subsequent year (s) it shall be accounted for in that year.

### **14. Accounting Policies for the Valuation of closing Stock and Unsold Properties**

Accounting Policies on the issues such as valuation of closing stocks including Stocks of Stores and unsold properties, determination of income from ongoing projects should be such at the time of finalisation of accounts for the year 2001-02 so that benefits of continuity / consistency in policies are derived in the ensuing financial year. Provided further the valuation of properties shall be made as per **Annexure 'C'** enclosed and Closing Stock other than property shall be at cost or market price which ever is lower.

### **15. Liability on a/c of Pensionary Contribution / CPF**

As the Pension Scheme for the Employees of Development Authorities / Housing Board is still under process, no provision for liability could be accurately determined and provided for at present. Therefore any liability on this count shall be contingent in nature. Hence a suitable note is required to be incorporated in the Final Accounts by each Development Authorities/Housing Boards. The specimen of not may be as under. " Amount for the Pensionary Contribution/ CPF has not been provided for as per the existing rules. Liability under this head amounts to Rs....."

### **16. Temporary Advances to Employees and Others**

It is recommended that temporary advances for at least last 10 years shall be scrutinized to ensure that all assets and Stores purchased against by adjustment of temporary advances has been duly capitalised and adjusted accordingly and entered into a Fixed Assets Register.

## **17. Benefit of Brought Forward Losses/Depreciation**

Section 10 (20A) of IT Act has been withdrawn w.e.f. 01-04-2002 therefore all Development Authorities/ Housing Board have come under the ambit of IT Act from the F/Y 2002-03 relevant to the A/Y 2003-04. Consequently, any income arising during the F/Y 2002-03 would be taxable at the hands of Development Authorities /Housing Board. However, the IT Act is silent whether the Development Authorities/Housing Board would be entitled to the benefit of brought forward losses/depreciation and set off in the subsequent years (s).

This matter may be taken up with the competent authority insisting upon them that the brought forward losses/depreciation of earlier year (s) are allowed to be set off from the A/Y 2003-04 as per the provisions of IT Act Section 70 to 80.

## **18. Survey, Identification and Valuation of Fixed Assets/Current Assets**

The exercise of survey, identification and valuation of all the Fixed Assets/ Current Assets should be under taken to ensure that the same are duly accounted for in the books of accounts. If any item of Fixed Assets/Current Assets is found unrecorded it should be appropriately valued and accounted for in the books of accounts of the current year.

## **19. Penalties/Prosecution in Income Tax Act**

The Income Tax provides various Penalties/Prosecution on failure to make due compliances of the Provisions of Income Tax Act. These Penalties and Prosecutions are given vide Annexure D. It should be ensured that strict compliances of the Provisions of Income Tax Act as are applicable to Development Authorities and Housing Boards are made so that the Penalties and Prosecutions are not imposed.

Though the Committee has taken all due care to ensure that all the point/ issues which came up in discussions had been suitably addressed, however the changes in the Income Tax Act, Issuance of Circulars and Notifications from time to time and multifarious activities undertaken by Development Authorities /Housing Boards may have impact on the recommendations so made and the same may be dealt be as and when they arise.

(Krishnakar Tripathi) (K.B. Saxena) (S.K. Bhargava)  
 (D.Ganguly) (Rajeev Agarwal) (P.C. Mehrotra)

**CIRCULAR date 06-05-2002**  
 (For Private Circulation only)

**TAX DEDUCTION AT SOURCE (TDS)**  
 As applicable for Financial Year 2002-2003

Within 7 days of such payments  
 No filing of return of income u/s 139(4A) i.e. return of trust, etc. or delay in filing of the said return of income (or u/s)

Name of Depar tment	Person Resp onsibl e to deduc t Tax	When subject to TDS/Exempti on limit	Time of deduc tion of TDS	Time of deposit of TDS	Certificate of TDS (see Note 10)	Annual Return of TDS (along with copies of receipted Challans and copies of TDS Certificates issued) Section-197 (Note-1)	ITO's Certificat es for deduct ion at lower rate or non-deduction (see Note-)	If Payees declaration for non-deduction admissible (valid for the specified previous year) (Section 197A)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Salaty Sectio n 192	All Asses ses	Estimated Salary income exceeds Rs. 50,000	At the time of paym ent	Within 7 days of such paym ents	Form no. 16 and 12BA by 30.04.2003 (see note-3)	In Form no. 14 on or before May 31, 2003	Yes. Applicatio n in Form No. 13. Certificat e issued in Form No. 15AA	No
Intere st on securi ties Sectio n 193	All Asses ses	Exempt Categories listed. Monetary limits laid down in certain categories for exemption. Otherwise no minimum	At the time of Paym ent or credit which is earlie r (see	By the 7th of the next month (see Note 4	Form 16A within one month from the end of the month during which tax has been deducted (see Note 5	In Form No. 25; on or before June 30, 2003	yes, Applicati on in Form no. 13. Certificat e issued in Form No. 15AA	Yes. by person other than Company or firm in firm No. 15H (see Note 6)

			Note 4)							
Devid ends Section 194	Dome any	All cases irrespective of amount; except in case of an individual where it exceeds Rs. 1,000 in a financial year (see Note 9)	At the time of payment or distribution	Within 7 days of such deduction	-do-	In Form No. 26; on or before April 30, 2003	Yes, Application in Form No. 13; Certificate issued in Form No. 15	Yes, by an individual in Form No. 15G (see Note 6)		
Interest Other Than interest on Securities (Section 194A)	All Assessee except Individual and HUF (see Note 7)	Barring exceptions listed; Otherwise exceeding Rs. 5,000 in all cases	At the time of payment or credit which ever is earlier (see Note 4)	By the 7th of the next month (see Note 4)	-do-	In Form No. 26A; on or before June 30, 2003	Yes, Application in Form No. 13; Certificate issued in Form No. 15AA	Yes. By person other than Company or firm in Form No. 15H (see Note 6)		
Payment to Contractor subcontractor (Section 194C)	-do-			Exceeds Rs.20,000 per contract value/consideration (see Note 11)	-do-	-do-	-do-	In Form No. 26C; on or before June 30, 2003	Yes. Application in Form No. 13C; Form of issue of Certificate not prescribed	No
Commission or Brokerage (Section 194H)	-do-			Exceeds Rs. 2,500 in a financial year	-do-	-do-	-do-	In Form No. 26I; on or before June 30, 2003	Yes, Application in Form No. 13; Certificate issued in Form No. 15AA	No
Rent (Section 194I)	-do-			Exceeds Rs. 1,20,000 in a financial	-do-	-do-	-do-	In Form No. 25J; on	Yes, Application in Form No 13;	No

					or before June 30, 2003	Certificate issued Form No. 15AA		
Fee For Professional or Technical Services (Section 194J)	-do-	Exceeds Rs. 20,000 in a financial year	-do-	-do-	-do-	In Form No. 26K; on or before June 30, 2003	Yes Application in Form No. 13E; Form of issue of Certificate not prescribed	No
Payment to Non-Resident (Section 195)	All Assesseees	Taxable minimum	-do-	-do-	-do-	Annual Return in Form No. 27; to be filed within 14 days from the end of quarter (see Note 8)	Yes, Application in Form No; Certificate in Form No. 15AA	No

**RATES FOR TDS**  
(Financial year 2002-2003)

1. Salary to an employee:	Regular rates
Upto Rs. 50,000	Nil
Rs. 50,000-60,000	10% of the amount by which the total income exceeds Rs. 50,000
Rs. 60,6000-1,50,000	Rs. 1000 plus 20% of the amount by which the total income exceeds Rs. 60,000
Above Rs. 1,50,000	Rs. 19,000 plus 30% of the amount by which the total income exceeds Rs. 1,50,000

Surcharge: 5% Income Tax payable. Surcharge is calculated after allowing rebates u/s 88,88B, & 88C but before allowing relief u/s 89(1).

2. Status of Payee

Nature of Payment	Resident other than a	Domestic Company	Non Resident other than	Non Resident Company (See Note 2)
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		Company		a Comany (See Note 1 & 2	
		%	%	%	%
i)	Interest on Debentures or Security	10.50	21	31.50	42
ii)	Divident	10.50	10.50	10.50	10.50
iii)	a) Interest other than interest on security	10.50	21		
	b) Interest on:				
	- Money borrowed or debt incurred in foreign currency	--	--	21	21
	Otherwise	--	--	31.50	42
iv)	Payment to:				
	- Contractor	2.10	2.10	31.50	42
	- Sub-contractor	1.05	1.05	31.50	42
	- Advertising Contractor	1.05	1.05	31.50	42
v)	Rent				
	- To an Individual or an HUF	15.75	--	15.75	--
	- To others	21	21	21	21
vi)	Fees for Professional or Technical Services	5.25	5.25	31.50	31.0/2@ (see Note 3 & 4)
vii)	Commission or Brokerage	10.50	10.50 (5.25 w.e.f. 01.06.2002)	31.50	42

Notes:

1. Tax is to be deducted at the rate specified above, or at regular rate if such income had been the total income whichever is higher.
2. Tax is to be deducted at source under section 195 at the above rate, or at the rate specified in DTAA entered into by the Central Government u/s 90, whichever is lower.
3. Where Agreement is made between 01-04-76 to 31-05-97 :31.50 (30%+Surcharge)  
Where Agreement is made on or after 01-06-97 :21.00 (20%+ Surcharge)
4. With respect to agreement entered into on or after 01-06-2002, tax paid by Indian concern on royalty or fees for technical services paid under an agreement will be included in computing the total income of the person on whose behalf the tax is paid [section 10 (6A)].

Notes:

1. The Annual Returns can also be filed on a computer media accompanied with Form No. 27A (Rule 37B).
2. Certificates issued u/s 197 (1) in Form 15AA (valid for the assessment year as specified) will be applicable only in respect of credit or payments, as the case may be, subject to TDS. Made on or after the date of such certificate. Therefore, no certificate issued after the amounts subject to TDS stand credited or paid, whichever is earlier will be taken cognizance of.

3. To also furnish statement giving correct and complete particulars of perquisites or profits in lieu of salary and the value thereof in Form 12BA. Form 16 is not to be issued in case tax at source is not deductible/deducted by virtue of claims of exemptions and deductions.
4. Where the amount is credited on the last day of accounting (31.03.2003), the tax amount thereon is to be deposited within 31.05.2003. Certificate of TDS in such case is to be issued by 7th June, 2003; this separate certificate will be in addition to the TDS certificate (s) issued under Note 5. Where interest/income is credited to any account, whether called interest account, suspense account or by any other name in the books of account of the person liable to pay to pay such income. Such crediting shall be deemed to be credit of such income to the account of the payee.
5. The person responsible for deducting tax may (on request of Payee) issue one consolidated certificate for tax deducted during the whole of the financial year by 30.04.2003.
6. 6.1 One copy of Form 15G/15H to be delivered by the Payer to CIT on or before 7th of the following month in which declaration is furnished. Where payments are to be made to the same person more than once in a year. The declaration may be furnished before the first payment in a year become due.  
6.2 W.e.f. 01.06.2002, furnishing of such declaration by the individual to the payer will not be allowed, if the aggregate the amount of such income credited, paid or likely to be credited or paid during the previous year in which such income is to be included exceeds the maximum amount which is not chargeable to tax (i.e. Rs. 50,000).
7. W.e.f. 01.06.2002 individuals and/or HUF who are covered under Section 44AB (a) and (b) i.e. whose gross turnover/receipts exceed Rs. 40,00,000 (assessee carrying on business)/Rs. 10,00,000 (assessee carrying on profession) as the case may be, during the financial year immediately preceding the financial year in which the income is to be credited or paid, are also required to deduct tax at source. However, for Section 194C, it will be applicable only in case of sub-contractor.
8. May also enclose copy of bank advice/statement for foreign remittance with proof of foreign currency conversion rate, and copy of NOC, if any. Where amount is credited to the account of the Payee on the last day of the accounting year (31.03.2003), the return in Form No. 27 may be sent within 14th June, 2003. The CBDT has clarified that in all cases of deduction of tax at source, the payer is under legal obligation to furnish a certificate in Form 16A for the tax deducted at source to the payee within the prescribed time, even if tax is borne by the payer.
9. No tax shall be deductible in case of a shareholder, being an individual, where the dividend is paid by account payee cheque, and the aggregate amounts of dividend during the financial year does not exceed Rs. 1000.
10. Section 139 (9) has been amended with effect from June 01, 2002 to provide that where the return is not accompanied by proof of the tax, if any, claimed to have been deducted at source (i.e., Form No. 16 or 16A), the return of income shall not be regarded as defective if such certificate was not furnished (in Form No. 16 or 16A) under section 203 to the person furnishing his return of income and such person produces the certificate within a period of 2 year specified under section 155 (14), i.e. within 2 year from end of the assessment year in which the income is assessable.
11. ITAT-Mumbai Branch in the matter of ITO vs. Manav Greys Exim Pvt. Ltd. held that for the purposes of Section 194C, total payments to each party during the financial year should be taken into consideration for determining whether the assessee was liable to deduct tax at source, particularly where there are regular dealings with the persons; as

the regularity of work would be an implied contract.

### TAXABILITY OF PERQUISITES AT A GLANCE

	It is taxable if the employee is a		Section	Rule
	Specified employee	Non-specified employee		
Rent-free/concessional accommodation	Yes	Yes	17 (2) (i)/(ii)	3 (1)
<b>Car/Conveyance</b>				
- If car/conveyance is owned by employee and bills are paid by employer	Yes	Yes	17 (2) (iv)	3 (2)
- Otherwise	Yes	No	17 (2) (iii)	3 (2)
<b>Domestic Servant (watchman, Gardner, sweeper, personal attendant)</b>				
- If domestic servant is engaged by employee and salary is paid by employer	Yes	Yes	17 (2) (iv)	3 (3)
- Otherwise	Yes	No	17 (2) (iii)	3 (3)
<b>Supply of gas, electricity or water for household consumption.</b>				
- If connection is the name of employee and bills are paid by employer	Yes	Yes	17 (2) (iv)	3 (4)
- Otherwise	Yes	No	17 (2) (iii)	3 (4)
<b>Education facility</b>				
- If bills are issued in the name of employee but paid by employer	Yes	Yes	17 (2) (iv)	3 (5)
- Otherwise	Yes	No	17 (2) (iii)	3 (5)
Transport facility allowed by transport undertakings	Yes	No	17 (2) (iii)	3 (6)
Interest-free or concessional loans	Yes	Yes	17 (2) (vi)	3 (7) (i)
Holiday home facility	Yes	Yes	17 (2) (vi)	3 (7) (ii)
Free meals during working hours	Yes	Yes	17 (2) (vi)	3 (7) (iii)
Gifts on ceremonial occasions or otherwise	Yes	Yes	17 (2) (vi)	3 (7) (iv)
Credit card facility (including add-on-card)	Yes	Yes	17 (2) (vi)	3 (7) (v)
Club facility	Yes	Yes	17 (2) (vi)	3 (7) (vi)
Use of employer's Computer/laptop	No	No	17 (2) (iii)	3 (7) (vii)
Use of employer's other movable assets	Yes	Yes	17 (2) (vi)	3 (7) (vii)
Transfer of employer's movable assets	Yes	Yes	17 (2) (vi)	3 (7) (viii)
Telephone (including mobile phone)	No	No		

Medical facility

-	If bills are issued in the name of employee but paid by employer	Yes	Yes	17 (2) (vi)
-	Otherwise	Yes	No	17 (2) (iii)
Leave travel concession		No	No	10 (5)
Stock Option		No	No	17 (2)(iii) Proviso

Any other perquisite

-	If bills are issued in the name of employee but paid by employer	Yes	Yes	17 (2) (vi)	3 (8)
-	Otherwise	Yes	No	17 (2) (iii)	3 (8)

**PERQUISITS WHICH ARE TAXABLE ONLY IN THE HAND OF SPECIFIED EMPLOYEES**

1. A director-employee. It covers an employee who is a director in the employer-company. It is immaterial whether the employee is a full-time director or a part director.
2. An employee who has substantial interest in the employer-company. It covers employee who is a beneficial owner of equity shares in the employer-company carrying 20 percent or more voting power.
3. Employee drawing in excess of Rs. 50,000/=. It covers an employee [not covered by (1) and (2) above], whose income chargeable under the head "Salaries" (exclusive of the value of all benefits or amenities not provided by way of monetary payment) exceeds Rs. 50,000/=. For computing this limit all non-monetary payments, salary exempt under the provision of section 10, and amount deductible under section 16 (i.e. standard deduction, deduction on account of entertainment allowance and professional tax), are to be excluded.  
  
The aforesaid limit of Rs. 50,000/= will apply in relation to aggregate salary due to, or received by employee from one or more employers.

**VALUATION OF PERQUISITES**

1. **VALUATION OF RENT FREE UNFURNISHED ACCOMMODATION:** Employees of a Local Authority are covered under the category of Private Sector or Other employees. The valuation of the perquisite in their hands will be as follows:

City	Where the accommodation is owned by the employer	Where the accommodation is taken on lease or rent by the employer
Having population exceeding 4 lakh as per 1991 census	10 percent of salary in respect of the period during which the accommodation is occupied by the employee.	Amount of lease rent paid or payable or 10 percent of salary whichever is lower.
Any other city	7.5 percent of salary in respect of the period during which the accommodation is occupied by the employee.	Same as above.

Salary for the purpose of valuation of perquisite in respect of rent free accommodation

includes:

- a. Basis salary
- b. Dearnes allowance/pay, if terms of employment so provide
- c. Bonus
- d. Commission
- e. Fees
- f. All other taxable allowances, and
- g. Any monetary payment (by whatever name called)

For this purpose salary does not include the following:

- i. Dearness allowance/pay, if not taken into account while calculating retirement benefits, like provident fund, gratuity etc., or if terms of employment does not so provide;
- ii. Employers contribution to provident fund account of an employee;
- iii. All allowances which are exempt from tax
- iv. Value of perquisites.

**2. VALUATION OF RENT FREE FURNISHED ACCOMMODATION:**

To the valuation of unfurnished accommodation as arrived at above add:

- a. 10 percent (per annum) of the original cost of furniture, if furniture is owned by the employer,
- b. actual hire charges payable (whether paid or payable), if furniture is hired by the employer.

**3. VALUATION OF PERQUISITES IN RESPECT OF MOTOR CAR:**

Situation Valuation of the perquisite from April, 2001

**WHEN CAR IS OWNED OR HITRED BY EMPLOYER:**

Where maintenance and running expenses are met or reimbursed by the employer.

a. If the car is wholly used for official purposes

No value added if the following conditions are satisfied:

- a. The employer has maintained complete details of journey undertaken for official purpose which may include date of journey, destination, mileage, and amount of expenditure incurred thereon.
- b. The employee gives a certificate that the expenditure was incurred wholly and exclusively for the performance of his official duties and
- c. The supervising authority of the employee, wherever applicable, gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

b. If the car is wholly used for private purposes of the employee or any member of his household.

Actual amount of expenditure incurred by the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the driver as increased by the amount representing normal wear and tear of the motor car (i.e. 10% per annum of cost of the car to the employer)

- c. If the car is wholly used for private purposes of the employer or any member of his household Rs. 1,200,.00 per month where the cubic capacity of the engine does not exceed 1.6 liters or Rs. 1,600.00 per month if such capacity exceeds 1.6 liters; if driver is provided Rs. 600.00 per month will be added.

Note: other scenarios have not been detailed as all the Development authorities follow the above system of providing cars to their employees.

- 4. VALUATION OF PERQUISITE IN RESPECT OF GAS, ELECTRICITY OR WATER SUPPLY PROVIDED FREE OF COST:**  
The value of the venefit employee resulting from the supply of the aforesaid benefits for his household consumption shall be determined as the sum equal to the amount paid on that account by the employer to the agency supplying the facility.
- 5. VALUATION OF PERQUISITES IN RESPECT FREE DOMESTIC SERVANTS:**  
The actual cost incurred by the employer in this regard.

**ANNEXURE-C**

## **VALUATION OF PROPERTY**

(Only for Balance Sheet and Income Tax Purposes)

### **1. Valuation of Raw Land:**

If development work has been carried out, the valuation of land shall be done as under:

- I. Acquisition cost, as per award declared by SLAO/ADM(L.A.)
- II. Overhead charges.
- III. Interest on Loan, as paid to the loaning agency.

If the land has been taken by mutual negotiation, the total amount as paid shall be treated as value of land, but the amount as per above SI. (II) and (III) shall be added. Apart from this, if any increased amount of compernsation has been paid/to be paid by judgement of any court, the same shall also be added to the value of the land.

### **1. Valuation of Development Land:**

The valuation of developed land shall be done as per pricing formula given in 'Finance and Accounts Mannual' under the chapter 'Costing and Pricing Procedure'.

### **2. Valuation of Vacant Property (Built up):**

The following methods are suggested:

S.No.	Particulars	Methods of Valuation
I	Condition of Property good and infrastructure available	(a) Latest Sale Price (b) Interest of Loan, as actually paid.
II	Condition of Property not good or incomplete Property	(a) Valuation of existing construction at current UPPWD (b) schedule of rates: (c) Interest on loan as actually paid Original land cost
III	More houses incomplete (to	(a) Valuation of existing construction at current UPPWD (b) schedule of rates:

be sold on 'As is (c) Interest on loan as actually paid  
where is Basis') Original land cost as per initial registration

Thus the minimum value of above type of property shall be arrived at which may be kept as minimum reserve price and the property should be auctioned. But the above price should not be less than the present rate of land.

#### ANNEXURE-D

<b>Penalties and Prosecutions</b>						
<b>SI. N.</b>	<b>Penalty Section</b>	<b>Default under Section</b>	<b>Nature of Default</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>	<b>No Penalty for reasonable cause</b>
1.	158BFA (2)	158BC	Failure to submit the return/or delay in filing such return.	100% of tax so leviable in respect of the undisclosed income determined under sec. 158BC (c)	300% of the tax leviable in respect of the undisclosed income determined u/s 158BC (c)	Yes
2.	158BFA (2)	158BC	Failure to disclose full income of the block period in the return	100% of the tax leviable on excess of the assessed undisclosed income over the returned undisclosed income	300% of the tax leviable on excess of the assessed undisclosed income over the returned undisclosed income	No
3.	221(1)	140A (3)	Failure to pay the whole or any part of self assessment tax or interest or both in accordance with the provision of section 140A (1)	Such amount as assessing Officer may impose for default or continuing default	Amount of tax and in arrears	Yes
4.	221 (1)	220	Failure in making the payment of tax, interest or any demand within the prescribed time-limit (Penalty is	Such amount as assessing Officer may impose for default or continuing default	Amount of demand in arrears.	Yes

			imposable even though the tax has been paid before the levy of such penalty is made)			
5.	271 (1) (b)	142 (1) 143 (2), 142 (2A)	Failure to comply with a notice under section 142 (1) or 143 (2) or failure to comply with a direction regarding getting of accounts audited under section 142 (2A)	Rs. 1,000 for each such default  (Fixed at Rs. 10,000 w.e.f. 1.6.2001)	Rs. 25,000 for each such default	Yes
6.	271(1)(c)		Concealing particulars of income or furnishing inaccurate particulars of such income	100% of the amount of tax sought to be evaded	300% of the amount of tax sought to be evaded.	No
7.	271 (4)		Where profits of the registered firm have been distributed otherwise than in accordance with the partnership deed on the basis of which the firm is registered and as a result of which any partner has returned his income below his real income	Such amount as income-tax authority may direct on the partner.	150% ( of tax on assessed income of the partner less tax on returned income of the partner.	Yes
8.	271 A	44AA	Failure to keep, maintain or retain books of account, documents, etc. as required under Section 44AA and rules thereunder	Rs. 2,000  (Fixed at Rs. 25,000 w.e.f. 1.6.2001)	Rs. 1,00,000	Yes
9.	271AA w.e.f. 92D A.Y. 2002-03		Failure to keep and maintain any such information and document as required under section 92D (1) &	2% of the value of each international transaction	Same as minimum	Yes

10.	271B	44AB	(2) Failure to get accounts audited or to furnish a report such audit as required u/s 44AB	1/2% of total sales, turnover or gross receipts, as the case may be.	Rs. 1,00,000	Yes
11.	271BA (w.e.f. A.Y. 2002-03)	92E	Failure to furnish report from an account as required under section 92E	Fixed at Rs. 1,00,000		Yes
12.	271C	Chapter XVIIB, i.e. provisions of TDS	(a) Failure to deduct the whole or any part of tax as required under Chapter XVIIB. (b) Failure to pay the whole or any part of the tax as required u/s 115-O or 194B (Second Proviso)	Amount equal to tax which has not been deducted.	Same as minimum -do-	Yes Yes
13.	271D	269SS	Any loan or deposit taken or accepted in contravention section 269SS	Amount equal to the loan or deposit taken or accepted.	-do-	Yes
14.	271E	269T	Any deposit which is repaid in contravention of section 269T	Amount equal to the deposit which is re-paid	-do-	Yes
15.	271F	139(1)	Failure to furnish a return of income as required by section 139(1) before the end of the relevant assessment year	Rs. 1,000 w.e.f. 1999-2000 (Raised to Rs. 5,000 w.e.f. 1.6.2001)	-do-	Yes
		First proviso to 139 (1)	Failure to furnish a return of income as required by the first proviso to section 139(1) on or before the due date (As per Finance Act, 2002, w.e.f. 1.6.2002, instead	Rs. 500 (Raised to Rs. 5,000 w.e.f. 1.6.2001)	-do-	Yes

			of the words "due date" is will be "end of the relevant assessment year")			
16.	271G (w.e.f. A.Y. 2002-03)	92D(3)	Failure to furnish information document as required u/s 92D(3)	2% of the value of the international transaction for each such failure	Same as minimum	Yes
17.	272A(1) (a) & (b)		Failure to state the truth of any matter touching the subject of assessment or to answer any question or to sign any statement demanded by the income tax authority.	Rs. 500 for each such failure or default (Fixed at Rs. 10,000 for each such default, w.e.f. 1.6.2001)	Rs. 10,000 for each such failure or default	No
18.	272A(1)(c)	131(1)	Failure to comply with the summons issued u/s 131(1) as to attend or to produce books or documents at a certain place and time.	Rs. 500 for each such failure or default (Fixed at Rs. 10,000 for each such default w.e.f. 1.6.2001)	Rs. 10,000 for each such failure or default.	Yes
19.	272A(1) (d) (Omitted and substituted by new section 272B w.e.f. 1.6.2002)	131A	Failure to apply for allotment of permanent account number u/s 139A or to quote such number in challan, correspondence, returns, etc.	Rs. 500 for each such failure or default (Fixed at Rs. 10,000 for each such default, w.e.f. 1.6.2001)	Rs. 10,000 for each such failure or default	Yes
20.	272A(2)	94(6)	Failure to comply with a notice issued u/s 94(6) regarding furnishing of information of securities, etc.	Rs. 100 for every day during which each such failure continues.	Rs. 100 for every day during which each such failure continues.	Yes
		176(3)	Failure to give notice of discontinuance of business or profession u/s 176(3)	-do-	-do-	

133,206 206C, 285B	Failure to furnish -do- in due time nay of the returns, statements or particulars mentioned in section 133, 206, 206C or 285B		For default u/s 206 & 206C penalty cannot exceed the amount of tax deductible or collectible, as the case may be.
134	Failure to allow -do- inspection of any register of the company as per Section 134 to allow copies of such register		Same as minimum
139(4A)	No filing of return -do- of income u/s 139(4A) i.e. return of trust, etc. or delay in filing of the said return of income (or u/s)		Same as minimum
139(4C)	139(4C) i.e. return of certain funds and institutions covered under various clauses of section 10)		
197A	Failure to deliver -do- or cause to be delivered in die time a copy of the declaration mentioned in section 197A		Cannot exceed tax deductible/ collectible
203, 206C	Failure to furnish -do- a cetificate of TDS/collection at source u/s 203 or u/s 206C		-do-
226(2)	Failure to deduct and pay tax as required by section 226(2)		

		192(2C) w.e.f. A.Y. 2002-03	Failure to furnish a statement as required under section 192 (2C)	-do-	-do-	
21.	272AA	133B	Failure to comply with the provisions of Section 133B regarding the powers of collecting certain information from the place of business or profession.	Such amount as the income-tax authority may direct.	Rs. 1,000	Yes
22.	272B	139A	Failure to apply for or quote PAN or quote PAN which is false	Fixed at Rs. 10,000		Yes
23.	272BB	203A	Where a person has failed to get tax deduction account number or order to quote such number in challans, certificates, returns, etc.	Such amount as the Assessing Officer may order (Fixed at Rs. 10,000 w.e.f. 1.6.2001)	Rs. 5,000	Yes
24.	272BBB	206A	Failure to comply with provisions of section 206A relating to obtaining and quoting TCAN	Fixed at Rs. 10,000		Yes