

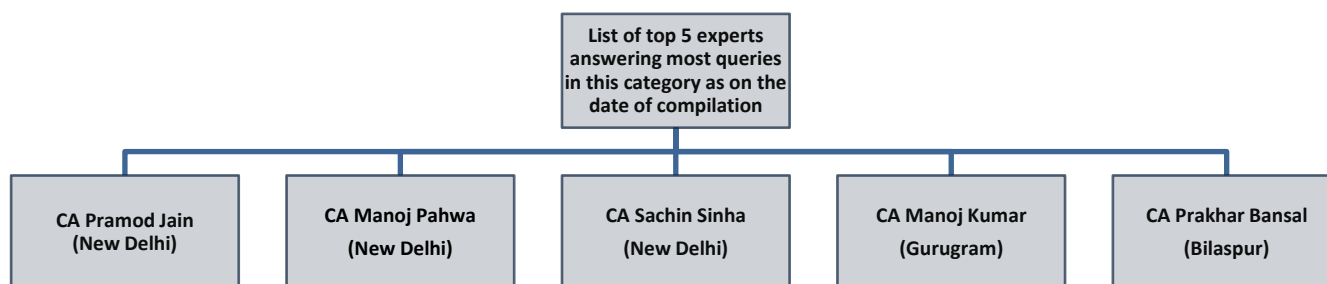


Concept by
CA. Pramod Jain

COMPILATION OF FAQ ON INCOME TAX – SERIES – 25

Below is a compilation of few selective questions asked by different persons on www.expertspanel.in and answered by various Experts empaneled thereon. The same is being shared as a knowledge sharing process for the benefit of all.

Compiled by
CA Tisha Aggarwal
12th May 2023



Query No. 25.1		Question	Answer
Date	3-03-2023	Earlier 31.03.23 was limitation date for starting manufacturing process for availing 115 BAB benefit. In Budget 2023-24, whether time is extended or not?	For commencement of manufacturing or production is 31.03.2024.
Question asked by	CA Rakesh Garg, Ludhiana		
Responded by	CA Vinay Jain, Delhi		

Query No. 25.2		Question	Answer
Date	2-03-2023	Dear Sir, a belated ITR was erroneously filed for AY 2022-23 opting for section 115BAC under which most of the deductions under chapter VIA cannot be claimed. The 143(1) order however has been received by treating ITR under normal tax provisions as the itr was filed	For AY 2022-23 old tax regime was the default regime and the assessee had to opt for new regime before expiry of due date u/s139(1). In this case try to file rectification u/s154.
Question asked by	CA Bansal Dalmia & Co., Delhi		
Responded by	CA Rajguru Bishnoi, Gurugram		

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		late and the demand for the tax difference has been raised. Please guide is there any way of claiming deductions under chapter VIA under normal tax provisions now, for the itr filed under new scheme without claiming these deductions and the assessment having been completed under the old scheme?	
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Query No. 25.3		Question	Answer
Date	2-03-2023	A new Company was registered on 1.10.2022 & manufacturing will start from next year i.e. 01.10.2023, the query is whether from 10-ID will be filed for AY 2023-24 or 2024-25.	Form 10 ID is optional and to be filed for the year in which you want to take benefit of concessional rate of Tax.
Question asked by	CA Ashok Madaan, Ambala		
Responded by	CA Rajguru Bishnoi, Gurugram		

Query No. 25.4		Question	Answer
Date	25-02-2023	Assessee maintained a private hospital sec 44ab tax audit filed Gross receipts Rs. : 2 crores above yearly. Question: Assessee MSME registration mandatory for hospital.	MSME registration is not mandatory for any one.
Question asked by	Kollipara Sundaraiah, Ponnur		
Responded by	CA Vinay Jain, Delhi.		

Query No. 25.5		Question	Answer
Date	21-02-2023	Under budget proposal 2023, section 43B covers payments to micro and small enterprises. I have question regarding above: 1. Whether is it necessary to register as micro or small enterprises, or is it okay if it covers under the definition of micro and small enterprises as per MSMED Act, 2006. It is no where mentioned in proposed section to register in Udyam portal, but everywhere it is said that to	Registration is mandatory. Traders are allowed to be registered as msme but only for limited purpose of priority sector lending, so Traders won't be covered for sec 43B disallowance on actual payment basis. as regard benefits for traders either retailer or wholesaler it is limited to only giving loan as priority sector. extract of relevant order is as
Question asked by	CA Rupesh Kumar Jain, Bhilai		
Responded by	CA Vinay Jain, Delhi CA Asha K Sharma, Gurgaon		

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		cover under 43B of Income Tax Act, 1961, they have to register. 2. Whether Traders, retail and wholesale, will cover under micro and small enterprises.	The Government has received various representations and it has been decided to include Retail and wholesale trades as MSMEs and they are allowed to be registered on Udyam Registration Portal. However, benefits to Retail and Wholesale trade MSMEs are to be restricted to Priority Sector Lending only.
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Query No. 25.6		Question	Answer
Date	17-02-2023	Trust as per deed is Religious and Charitable. Both are there in object Applied for 12A registration - Ticked "Religious cum Charitable" But in final exemption order it is mentioned as "Religious" Dont know whether officer purposefully selected " Religious " or whether in order " cum charitable " is hidden and not visible outside. For eg in ITRV, some time in the last part if the assessee name is very lengthy some end portion may not be visible. MY QUESTION. Whether any bar is doing charitable activity (since deed permits both religious and charitable)	If the deed permits both religious and charitable done as per the objects of the deed, the trust can do the same.
Question asked by	CA Sivaraman A.R.		
Responded by	CA Pramod Jain, Delhi		

Query No. 25.7		Question	Answer
Date	16-02-2023	A NRI has sold property of India but paid capital gain tax thereon in USA. He had not filed his income tax return in India nor any TDS deducted in India by the buyer. Now, income tax issue a notice and raise demand. How to claim tax credit paid in USA of capital gain tax ?	Buyer should have deducted the tax at source, so one violation and another violation by client by not declaring income in india as capital gain from property in India is taxable in India. FEMA violation also check if he taken money to USA
Question asked by	CA Akshay Jain, Indore		
Responded by	CA Vinay Jain, Delhi CA Manoj Pahwa, Delhi		

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Query No. 25.8		Question	Answer
Date	14-02-2023	Sir, Can we change Karta of a HUF in normal course without partition of HUF?	NO, karta is eldest male member of family and if eldest is not male than it can be eldest of all coparcener. could be female also
Question asked by	CA Manish Galav, Delhi		
Responded by	CA Vinay Jain, Delhi		

Query No. 25.9		Question	Answer
Date	06-01-2023	A long term rural agriculture land converted into Non Agriculture land in February 2022, whether any capital gain tax exemption available or not?	Status is to be seen at the time of transfer. At the time of transfer, it is non-agriculture land. Therefore, taxable
Question asked by	CA Neha Prafulbhai Mistry, Anand		
Responded by	CA Susheel Kumar Gupta, Delhi		

Query No. 25.10		Question	Answer
Date	27-12-2022	Where an Assesee has filed Form 10IE in FY 2020-21 and in FY 2021-22 he is filing belated return. Whether same can be filed under 115 BAC? As Sec 115BAC talks about opting in within 139(1) due date and in this he is already opted in preceeding year. No where it is mentioned that ITR should also be filed withing 139(1) due date. As in some cases demand is being raised by the department by calculating tax liability as per old regime in such cases.	Dear Abhay Sood ji Your understanding is right , Sec 115BAC(5) specifies time limit for filing of prescribed form only upto due date u/s 139(1). In case any demand is being raised by CPC then rectification should be applied.
Question asked by	CA Abhay Sood, Solan		
Responded by	CA Asha K Sharma, Gurgaon		

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