

Transactions with Related Party Taxation and Other Laws

By

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Importance of Related Party transactions

- Governance
- Tax and Other compliance / reporting for the entity
- Right of the Government to fair share of tax
- Responsibility of the auditor
- Opportunities of tax planning
- Role of Regulators
- Recent issues faced by entities and auditors

Approach to the subject

- Subject of RP is very vast within one Law as well as over various legislations
- Attempt is to look into the definitions of RP and RP transactions from the point of view of income, clubbing, tax savings, disallowances, transfer pricing under the Income Tax Act
- Similarly under Corporate Laws – an attempt has been made to look into concepts and definitions of the Companies Act, SEBI Regulations, Accounting Standards / Standards on Auditing / CARO reporting etc.

Approach to the subject

- Aim of this presentation is not to go into the nuances of RP transactions but to touch upon the important points contained therein
- Compliance of RP transactions is always looked upon as deterrent ... but there are beneficial provisions as well as planning opportunities
- An effort has been made that this presentation should have reference value for the participants – in order to get all or near all provisions of the subject of RP (as per the Laws covered) at one place

Coverage of RP and RP transactions in this presentation

1. Income Tax Act
2. The Companies Act
3. SEBI Listing and Disclosure Regulations
4. Accounting Standards (AS/INDAS)
5. Standards on Auditing
6. Audit Report under CARO
7. GST Law

RELATED PARTY TRANSACTIONS UNDER THE INCOME TAX ACT

Income Tax Act – Summary of RP related sections

No	Particulars	No	Particulars
2(15B)	Child	80C	Deductions related to investments
2(22)	Dividend	80DD	Deduction of medical expenses for dependants
2(32)	Substantial interest	80DDB	Deduction of medical expenses for specified ailments
2(41)	Relative	80E	Deduction of interest on loan taken for higher education
13	Denial of benefit of section 11	80GG	Deduction in respect of rent
40(b)	Amounts not deductible	92A	Associated Enterprises
40A	Expenses not deductible	92BA	Specified domestic transactions
44C	Deduction of HO expenses	92D & 286	TP documentation / Country by Country reporting
47(iv)& (v)	Transactions not regarded as transfer	99	GAAR
49(1)	Cost of acquisition	102	Definition of Connected persons
56(x)	Income from other sources	115BBD	Tax on dividend received from foreign company
64	Clubbing		
80D	Deduction of health insurance premia		

Income Tax Act - Definitions

- **Section 2(15B)**

"child", in relation to an individual, includes a step-child and an adopted child of that individual

- **Section 2(22)(e)**

- “dividend” to include any payment by a company, not being a company in which the public are substantially interested, of any sum made after the 31st day of May, 1987, by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than ten per cent of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (entitled to 20% voting power or income) of or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits (*exception - any advance or loan made to a shareholder or the said concern by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company*)

Income Tax Act - Definitions

- **Section 2(32)**

"person who has a substantial interest in the company", in relation to a company, means a person who is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits, carrying not less than 20% of the voting power

- **Section 2(41)**

"relative", in relation to an individual, means the husband, wife, brother or sister or any lineal ascendant or descendant of that individual

- Lineal means straight unbroken line upward or downward in case of an individual
- It can also extend horizontally to brother or sister but not beyond the same

(Definitions of relatives differ in Sec. 2(41) / 13 / 56(vii) / 64 etc.)

Section 13 – Denial of exemptions given in Section 11

- **Section 11**

deals with “Income from property held for charitable or religious purposes”

- **Section 13**

gives situations where the provisions of section 11 will not operate (to mean the exemption will be denied partly or fully)

- **13 (1)(c)(i) & (ii)**

if any part of income of the trust enures or if any part of income or property of the trust is used or applied directly or indirectly (such situations are defined in sub-section (2))

- for the benefit of persons referred to in sub-section (3)

Section 13(2) situations of related party transactions

- (a) if any part of the income or property of the trust or institution is, or continues to be, lent to any person referred to in sub-section (3) for any period during the previous year without either adequate security or adequate interest or both;
- (b) if any land, building or other property of the trust or institution is, or continues to be, made available for the use of any person referred to in sub-section (3), for any period during the previous year without charging adequate rent or other compensation;
- (c) if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;

Section 13(2) situations of related party transactions

- (d) if the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation;
- (e) if any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (3) during the previous year for consideration which is more than adequate;
- (f) if any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (3) during the previous year for consideration which is less than adequate;

Section 13(2) situations of related party transactions

(g) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3):

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property, so diverted does not exceed one thousand rupees;

(h) if any funds of the trust or institution are, or continue to remain, invested for any period during the previous year (not being a period before the 1st day of January, 1971), in any concern in which any person referred to in sub-section (3) has a substantial interest.

Section 13 (3) - Related parties in the context of a trust

- (a) the author of the trust or the founder of the institution;
- (b) any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds fifty thousand rupees;
- (c) where such author, founder or person is a Hindu undivided family, a member of the family;
- (cc) any trustee of the trust or manager (by whatever name called) of the institution;
- (d) any relative of any such author, founder, person, member, trustee or manager as aforesaid;
- (e) any concern in which any of the persons referred to above has a substantial interest.

Section 13 –definition of relatives

- (i) spouse of the individual;
- (ii) brother or sister of the individual;
- (iii) brother or sister of the spouse of the individual;
- (iv) any lineal ascendant or descendant of the individual;
- (v) any lineal ascendant or descendant of the spouse of the individual;
- (vi) spouse of a person referred to in (ii), (iii), (iv) (v)
- (vii) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual

Section 13 – definition of substantial interest

- (i) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than 20% of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of the other persons referred to in sub-section (3);

- (ii) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in sub-section (3) are entitled in the aggregate, at any time during the previous year, to not less than 20% of the profits of such concern.

Profits & Gains of Business or Profession – Section 40(b)

Amounts not deductible In case of a firm

- salary, bonus, commission or remuneration paid to a non-working partner
- remuneration or interest which is not in accordance with the Partnership Deed
- In excess of limits defined

Up to Rs. 3 lacs book profit or loss	Rs. 1.50 lacs or 90% of the book profit whichever is higher
On the balance of the book profit	60%

- simple interest on capital account balance in excess of 12% p.a.

Profits & Gains of Business or Profession 40A(2)(b)

Expenses or payments not deductible in certain circumstances.

- (1)** Section has overriding effect over all other sections relating to Computation of Income from Business or Profession

- (2)** It Relates to Expenditure (in respect of which payment has been or is to be made) to any person referred to in clause (b) and the Assessing Officer is of opinion that such expenditure is excessive or unreasonable having regard to the
 - fair market value of the goods, services or facilities for which the payment is made or
 - the legitimate needs of the business or profession of the assessee or
 - the benefit derived by or accruing to him therefrom,

Profits & Gains of Business or Profession 40A(2)(b)

Type of Assessee	Type of Other Person
Cases where other persons are having substantial interest in the business of the assessee	
Individual	his / her relative
Company, Firm, AOP or HUF	director, partner, member or their relative
Any assessee	any individual or his/her relative who has a substantial interest
Any assessee	a company, firm, AOP or HUF having a substantial interest in the business of the assessee or any director, partner or member or any relative of such director, partner or member or any other company (carrying on business or profession) in which the first mentioned company has substantial interest

Profits & Gains of Business or Profession 40A(2)(b)

Type of Assessee	Type of person
Any assessee	a company, firm, AOP or HUF of which a director, partner or member, as the case may be, has a substantial interest in the business of assessee or any director, partner or member of such company, firm, AOP or HUF or any relative thereof
Cases where assessee is having substantial interest in the business of the other Person	
Individual	Where such Individual or his / her relative has substantial interest in the business or profession of that person
Company, firm, AOP or HUF	any director, partner or member of such Company, firm, AOP or HUF, or any relative thereof, has a substantial interest in the business or profession of that person

Profits & Gains of Business or Profession 40A(2)(b)

What is substantial interest?

- In case of a Company, beneficial ownership of shares carrying voting power of not less than 20%
- In any other case, beneficial entitlement to not less than 20% of profits

Profits & Gains of Business or Profession – Section 44C

Deduction of head office expenditure in the case of non-residents

- Where the assessee is a non-resident carrying on business or profession in India
- Head office expenditure should be restricted to 5% of the adjusted total income OR actual expenditure attributable to Indian business or profession whichever is less
- Where adjusted total income is a loss, then 5% of average adjusted total income of previous 1/2/3 years

Profits & Gains of Business or Profession – Section 44C

- Adjusted and Average Adjusted total income has been defined in the section
- HO expenses of general and administrative nature mean:
 - rent, rates taxes of premises situated outside India
 - salary, wages, annuity, pension, fees, bonus, commission, gratuity, perquisites of any employee
 - travelling by any employee
 - Any other expense of general and administrative nature as may be prescribed

Capital Gains- Section 47(iv) & (v)

Transactions not regarded as transfer:

(iv) any transfer of a capital asset by a company to its wholly owned Indian subsidiary

(v) any transfer of a capital asset by a wholly owned subsidiary to its Indian holding company

Provided that nothing contained in clause (iv) or clause (v) shall apply to the transfer of a capital asset made after the 29th day of February, 1988, as stock-in-trade

Capital Gains- Section 49(1)(iii)(a)

Cost with reference to certain modes of acquisition:

Where the capital asset became the property of the assessee by succession, inheritance or devolution the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be

Income from other sources - Section 56(X)

Where any person receives from any person or persons:

- Sum of money in excess of Rs. 50,000 without consideration
- Immovable property having stamp duty value in excess of Rs. 50,000 without or for inadequate consideration
- any property, other than immovable property having fair market value in excess of Rs. 50,000 without or for inadequate consideration

It is treated as Income from other sources **EXCEPT IN THE FOLLOWING CASES**

Income from other sources - Section 56(X)

it is received from relative

Term relative has been defined in explanation(e) to section 56(vii)

"relative" means,—

(i) in case of an individual:

(A) spouse of the individual;

(B) brother or sister of the individual;

(C) brother or sister of the spouse of the individual;

(D) brother or sister of either of the parents of the individual;

(E) any lineal ascendant or descendant of the individual;

(F) any lineal ascendant or descendant of the spouse of the individual;

(G) spouse of the person referred to in items (B) to (F); and

(ii) in case of a Hindu undivided family, any member thereof

Clubbing - Section 64(1)

- It is applicable to an Individual
- It seeks to include incomes arising to the spouse, minor child etc. of the individual in certain situations...
 - (ii) salary, commission, fees or any other form of remuneration whether in cash or in kind accruing to the spouse from a concern in which such individual has a substantial interest unless the spouse possesses technical or professional qualifications and the income is solely attributable to it

Section 64(1)

- (iv) assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart
- (vi) assets transferred directly or indirectly on or after the 1st day of June, 1973, to the son's wife by such individual otherwise than for adequate consideration;
- (vii) assets transferred directly or indirectly to any person or AOP where income will accrue immediately or in future to spouse

Income Tax Act – Clubbing - Section 64(1)

- (viii) assets transferred directly or indirectly to any person or AOP where income will accrue immediately or in future to son's wife
- Explanation 3 to the section specifies methods to compute income arising from transfer of assets (for the purpose of sub-section (iv) and (vi) in case the asset is invested as capital in the firm by spouse or son's wife – proportionate interest on capital
OR income in proportion to assets in other cases

Clubbing - Section 64(1A)

- Section seeks to include all income arising to the minor child
- Child suffering from any disability of the nature specified in section 80U is excluded
- If the income is arising from manual labour or application of skill, talent or specialised knowledge and experience - such income is not to be included
- The income gets clubbed in the income of that parent whose income is greater or the parent who maintains the child in case the parents are separated

Clubbing - Section 64(2)

- Section applies to an individual who is a member of HUF
- Who converts / throws into the common pool of HUF or transfers a property to HUF otherwise than for adequate consideration
- Income accruing to HUF shall be clubbed in the income of individual
- On partition, income accruing to the spouse of such individual will be treated in accordance with 64(1) – indirect transfer

Deductions - Section 80C(4)

- Applicable to individual or HUF
- Payment of Life Insurance Premium, contribution to PF, contribution to the Unit-linked Insurance Plan of UTI or LIC Mutual Fund is eligible deduction for self or following:
 - i)* in the case of an individual, the individual, the wife or husband and any child of such individual, and
 - (ii)* in the case of a HUF, any member thereof

Deductions - Section 80C(4)

- Applicable to individual. Deduction available in respect of Contribution to annuity plan for self or the wife or husband and any child of such individual
- Subscription to any scheme or security Specified by Central Government for girl child
- Tuition fees to any university, college, school or other educational institution situated within India in respect of two children of an individual

Deductions - Section 80D

- Deduction in respect of health insurance premium for self and family (spouse & dependant children) - Rs.25,000/-*
 - Deduction in respect of health insurance premium for parents Rs.25,000/-*
- (* Rs. 50,000 in respect of senior citizen)
- Deduction in respect of medical expenditure for self and family (Rs.50,000/-)
 - Deduction in respect of medical expenditure for parents (Rs.50,000/-)

Deductions - Section 80D

- Deduction in respect of health insurance premium for member of HUF Rs.25,000/-*
(* Rs. 50,000 in respect of senior citizen)
- Deduction in respect of medical expenditure for member of HUF - Rs.50,000/-

Deductions - Section 80DD

- Applicable to individual or HUF, who is a resident in India
- In respect of any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability
- paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator or the specified company for the maintenance of a dependant, being a person with disability

Deductions - Section 80DD

- Deduction is restricted to Rs. 75,000 for disability and Rs. 1,25,000 for severe disability
- Dependant is defined as
 - in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them;
 - in the case of a HUF, a member thereof

Deductions - Section 80DDB

- Deduction to a resident individual or HUF in respect of medical treatment of specified diseases
- Spent for dependants or members of HUF
- Deduction is restricted to Rs. 40,000 (Rs. 1,00,000/- for senior citizen)
- Dependant is defined as
 - in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them;
 - in the case of a Hindu undivided family, a member of the Hindu undivided family

Deductions - Section 80E

- Applicable to individual
- Any amount of interest on loan taken by him from any financial institution or any approved charitable institution for the purpose of pursuing his higher education or for the purpose of higher education of self or his/her relative
- For 8 years or payment of interest in full whichever is earlier
- "relative", in relation to an individual, means the spouse and children of that individual or the student for whom the individual is the legal guardian.

Deductions - Section 80GG

- Deductions in respect of rents paid by an assessee
- On any expenditure incurred by him in excess of ten per cent of his total income towards payment of rent to the extent to which such excess expenditure does not exceed five thousand rupees per month or twenty-five per cent of his total income for the year, whichever is less
- Not applicable if the residential accommodation is owned by the assessee or by his spouse or minor child or, where such assessee is a member of a Hindu undivided family, by such HUF

Transfer Pricing – Chapter X

- Transfer Pricing aims at arriving “arms length price” (ALP) of an international transaction or specified domestic transaction entered into with an Associated Enterprise (AE) – related party
- Chapter X:
 - Defines AEs
 - Provides for various methods to arrive at ALP
 - Prescribes documentation to be maintained
 - Provides for Safe Harbour Mechanism
 - Provides for Advance Pricing Arrangement APA
 - Transfer Pricing Audit, adjustments etc.

Transfer Pricing – Section 92A - Associated Enterprises

- Our aim today is to focus on AEs – Related Parties
- Section 92A has two sub-sections (1) and (2)
- Sub-section (1) defines AE
- Sub-section (2) goes into deeming provisions which would make two entities as AEs
- Both the sub-sections have to be read concurrently

Transfer Pricing – Section 92A(1) - Associated Enterprises

- direct or indirect participation or through one or more intermediaries, by an enterprise in the management or control or capital of the other enterprise
- one or more persons participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital, of both the enterprises

Transfer Pricing – Section 92A(2) - Deemed to be Associated Enterprises

- (a) direct or indirect ownership of shares carrying not less than twenty-six per cent of the voting power
- (b) direct or indirect ownership of shares carrying not less than twenty-six per cent of the voting power by any person or enterprise in each of such enterprises
- (c) a loan advanced by one enterprise to the other enterprise constitutes not less than fifty-one per cent of the book value of the total assets of the other enterprise;
- (d) one enterprise guarantees not less than ten per cent of the total borrowings of the other enterprise;

Transfer Pricing – Section 92A(2)

Deemed Associated Enterprises

- (e) Appointment of more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the other enterprise
- (f) Appointment of more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of each of the two enterprise by the same person or persons;

Transfer Pricing – Section 92A(2)

Deemed Associated Enterprises

(g)

- the manufacture or processing of goods or articles or business carried out by one enterprise is wholly dependent
- on the use of know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process,
- of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights;

Transfer Pricing – Section 92A(2)

Deemed Associated Enterprises

(h)

- ninety per cent or more of the raw materials and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, are supplied by the other enterprise, or by persons specified by the other enterprise
- and the prices and other conditions relating to the supply are influenced by such other enterprise

(i)

- the goods or articles manufactured or processed by one enterprise, are sold to the other enterprise or to persons specified by the other enterprise
- and the prices and other conditions relating thereto are influenced by such other enterprise; or

Transfer Pricing – Section 92A(2)

Deemed Associated Enterprises

- (j) where one enterprise is controlled by an individual, the other enterprise is also controlled by such individual or his relative or jointly by such individual and relative of such individual
- (k) where one enterprise is controlled by a HUF, the other enterprise is controlled by a member of such HUF or by a relative of a member of such HUF or jointly by such member and his relative;
or

Transfer Pricing – Section 92A(2)

Deemed Associated Enterprises

- (l) Ownership of not less than ten per cent interest by one enterprise in another firm, association of persons or body of individuals
- (m) there exists between the two enterprises, any relationship of mutual interest, as may be prescribed

When an enterprise enters into international transaction or Specified Domestic Transaction (SDT) with an AE, provisions relating to TP get triggered

Transfer Pricing – Section 92BA

Specified Domestic Transactions

- any transaction referred to in section 80A;
- any transfer of goods or services referred to in sub-section (8) of section 80-IA;
- any business transacted between the assessee and other person as referred to in sub-section (10) of section 80-IA;
- any transaction, referred to in any other section under Chapter VI-A or section 10AA, to which provisions of sub-section (8) or sub-section (10) of section 80-IA are applicable; or
- *any business transacted between the persons referred to in sub-section (6) of section 115BAB (special rate of tax on new manufacturing domestic companies);* which are covered by DTP

These are essentially transactions between two undertakings or two enterprises where one of them is an eligible business to which some concessions or benefits are available

Transfer Pricing – Section 92D(1)(ii) - Master File Maintenance

- A constituent entity of an international group has to maintain information and documents prescribed in rule 10DA:
 - if consolidated group revenue exceeds 500 crores rupees and
 - The aggregate value of the international transactions
 - a) during the accounting year, as per the books of account, exceeds fifty crore rupees **or**
 - b) In respect of purchase, sale, transfer, lease or use of intangible property during the accounting year, as per the books of accounts, exceeds ten crore rupees.
- Such constituent entity has to file form 3CEAA before the due date of furnishing the return of income

Transfer Pricing – Section 92D(1)(ii) - Master File Maintenance

- Form 3CEAA has two parts – Part A and Part B
- Part A is applicable to all constituent entities while part B is applicable to those constituent entities who meet the threshold
- Part A includes names and addresses of the assessee, the international group, the constituent entities - which is a very basic information

Transfer Pricing – Section 92D(1)(ii)

Master File Maintenance

- Part B requires detailed information like:
 1. List of all entities in the group
 2. Description of business, intangibles, important agreements for intangibles, cost contributions, research and services
 3. Transfer pricing policies, FAR analysis of constituent entities
 4. Business acquisitions, divestments, restructuring
 5. Financing policies and arrangements within the group
 6. copy of the annual consolidated financial statement of the international group etc. (not an exhaustive list)

Transfer Pricing – Section 286 - Country by country reporting

- Every constituent entity resident in India has to notify whether it is alternate reporting entity or the details of the parent or alternate reporting entity of the international group and country
- Such constituent entity has to furnish the report in Form 3CEAD if the parent is not obliged to file such report in its tax jurisdiction OR with which India does not have agreement for exchange OR there is a systematic failure of such tax jurisdiction
- Every parent entity or the alternate reporting entity, resident in India to furnish the report in respect of international group of which it is constituent in Form 3CEAD

Transfer Pricing – Section 286 - Country by country reporting

- However if alternate reporting entity has furnished such report in it's tax jurisdiction (and subject to other conditions in sub-section (5)), Indian constituent entity need not furnish the report
- Section 286 is applicable if the Consolidated Group Revenue is ₹ 5500 crores or more
- Form 3CEAD requires furnishing of information of allocation of income, taxes and business activities of Multinational Group by Tax Jurisdictions (part A) and information of all constituent entities aggregated per Tax Jurisdiction (part B)

Chapter XA – GAAR- Section 99

- GAAR speaks of impermissible avoidance agreements which lack commercial substance and resultant consequences
- Section 99(1) says that connected persons may be treated as one and the same person
- Section 102 defines connected person to mean any person who is connected directly or indirectly to another person and includes...

Chapter XA – GAAR- Section 102(4)

- a) In case of an individual – relative
- b) In case of company – director or relative of director
- c) In case of firm, AOP or BOI – partner or member or relative of partner or member
- d) In case of HUF – member or relative of member
- e) In case of any person – individual or relative having substantial interest in the business of the person

Chapter XA – GAAR- Section 102

- (f) In case of any person – company, firm, AOP, BOI, HUF having substantial interest in the business of the person OR any director, partner member thereof or their relatives
- (g) In case of any person – company, firm, AOP, BOI, HUF whose director, partner member or their relatives having substantial interest in the business of the person

Chapter XA – GAAR- Section 102

- (h)(i) the person being an individual or his / her relative is having substantial interest in the business of the other person
- (ii) the person being a company, firm, AOP, BOI, HUF, or whose director, partner member or their relatives are having substantial interest in the business of the other person
- For the purpose of this section the term relative will have the same meaning as defined in 56(2)(vi)
- The term “substantial interest” would mean 20% or more ownership of shares or entitlement to profits

Tax on certain dividends received from foreign companies. Sec. 115BBD

- Where Indian company holds twenty-six per cent or more in nominal value of the equity share capital of a foreign company
- the income-tax payable shall be the aggregate of—
 - (a) the amount of income-tax calculated on the income by way of such dividends, at the rate of 15%; and
 - (b) the amount of income-tax with which the assessee would have been chargeable had its total income been reduced by the aforesaid income by way of dividends

Responsibilities of Tax Auditor

Section 44AB – Rule 6G – Forms 3CA/3CB/3CD

- Tax Auditor carries tremendous responsibility in certifying the particulars of form 3CD to be “true & correct”
- To safeguard the interests of members ICAI has issued Guidance Note on Tax Audit
- For Clause 23 – (Payments made to persons specified under 40A(2)(b) Para 40.2 of the Guidance Note says:
 - d. The following steps may be taken by the tax auditor in this connection:
 - (a) Obtain full list of specified persons as contemplated in this section.
 - (b) Obtain details of expenditure/payments made to the specified persons.
 - (c) Scrutinise all items of expenditure/payments to the above persons.

Responsibilities of Tax Auditor

- Para 40.3 recommends to maintain the information in tabular format as working paper containing:
 - Name of the related party
 - PAN of related person
 - Relation
 - Date
 - Payment made (Amount)

Income Tax Act – Responsibilities of Tax Auditor

- Clause 30A – Details of primary adjustments to transfer price (sec. 92CE). Whether money available with AE are repatriated into India, if not whether imputed interest income thereon has been repatriated or not
- Clause 30C – Details of Impermissible Avoidance Arrangement (Sec. 96)
- Clause 43 – Details of report furnished by assessee or its parent or alternate reporting entity (Sec. 286- CBCR)

Responsibilities of Transfer Pricing Auditor

- Sec. 92E – prescribes audit of every person who has entered into an international transaction or specified domestic transaction
- There is no threshold prescribed for audit in 92E – Rule 10E (unlike for maintenance of TP documentation in Sec. 92D – Rule 10D)
- Transfer Pricing Auditor carries tremendous responsibility in certifying the particulars of form 3CEB to be “true & correct”
- To safeguard the interests of members ICAI has issued Guidance Note on Report under Sec. 92E
- It contains detailed discussion on all aspects of Transfer Pricing – International & Specified Domestic Transactions, Associated Enterprises, ALP and methods, documentation, penalties etc.

Sr No	SECTIONS OF THE INCOME TAX ACT								
	Relative	2(41)	13	40A(2)(a)	56(2)	64(1)	80DD	92A	ESOP
1	Father	Y	Y	Y	Y		Y	Y	Y
2	Mother	Y	Y	Y	Y		Y	Y	Y
3	Husband	Y	Y	Y	Y	Y	Y	Y	Y
4	Wife	Y	Y	Y	Y	Y	Y	Y	Y
5	Son	Y	Y	Y	Y		Y	Y	Y
6	Son's wife		Y		Y	Y			Y
7	Daughter	Y	Y	Y	Y		Y	Y	Y
8	Daughter's Husband		Y		Y				Y
9	Brother	Y	Y	Y	Y		Y	Y	Y
10	Brother's Wife		Y		Y				
11	Brother's Son		Y						
12	Brother's Daughter		Y						
13	Sister	Y	Y	Y	Y		Y	Y	Y
14	Sister's Husband		Y		Y				
15	Sister's Son		Y						
16	Sister's Daughter		Y						
17	Husband's Brother (Jeth/Dewar)		Y		Y				
18	Husband's Brother's Son		Y		Y				

Sr No	SECTIONS OF THE INCOME TAX ACT								
	Relative	2(41)	13	40A(2)(a)	56(2)	64(1)	80DD	92A	ESOP
12	Brother's Daughter		Y						
13	Sister	Y	Y	Y	Y		Y	Y	Y
14	Sister's Husband		Y		Y				
15	Sister's Son		Y						
16	Sister's Daughter		Y						
17	Husband's Brother (<i>Jeth/Dewar</i>)		Y		Y				
18	Husband's Brother's Wife		Y		Y				
19	Husband's Sister (<i>Nanand</i>)		Y		Y				
20	Husband's Sister's Husband		Y		Y				
21	Wife's Brother (<i>Sala</i>)		Y		Y				
22	Wife's Brother's Wife		Y		Y				
23	Wife's Sister (<i>Sali</i>)		Y		Y				
24	Wife's Sister's Husband		Y		Y				
25	Father's Brother (<i>Chacha</i>)				Y				
26	Father's Brother's Wife				Y				

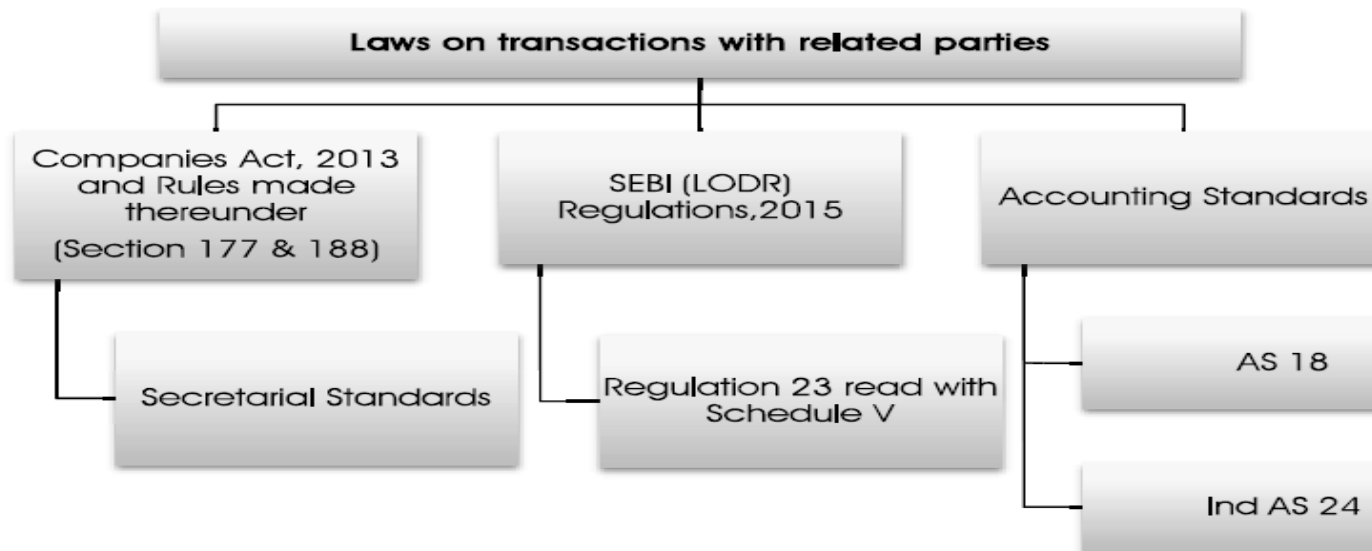
Sr No	SECTIONS OF THE INCOME TAX ACT								
	Relative	2(41)	13	40A(2)(a)	56(2)	64(1)	80DD	92A	ESOP
18	Husband's Brother's Wife		Y		Y				
19	Husband's Sister (<i>Nanand</i>)		Y		Y				
20	Husband's Sister's Husband		Y		Y				
21	Wife's Brother (<i>Sala</i>)		Y		Y				
22	Wife's Brother's Wife		Y		Y				
23	Wife's Sister (<i>Sali</i>)		Y		Y				
24	Wife's Sister's Husband		Y		Y				
25	Father's Brother (<i>Chacha</i>)				Y				
26	Father's Brother's Wife (<i>Chachi</i>)				Y				
27	Father's Sister (<i>Bua</i>)				Y				
28	Father's Sister's Husband (<i>Fufa</i>)				Y				
29	Mother's Brother (<i>Mama</i>)				Y				
30	Mother's Brother's Wife (<i>Mami</i>)				Y				

Sr No	SECTIONS OF THE INCOME TAX ACT								
	Relative	2(41)	13	40A(2)(a)	56(2)	64(1)	80DD	92A	ESOP
32	Mother's Sister's Husband				Y				
33	Great Grand Father	Y	Y	Y	Y			Y	
34	Grand Father	Y	Y	Y	Y			Y	
35	Great Grand Mother	Y	Y	Y	Y			Y	
36	Grand Mother	Y	Y	Y	Y			Y	
37	Grand Son's Son	Y	Y	Y	Y			Y	
38	Grand Son	Y	Y	Y	Y			Y	
39	Grand Daughter's Daughter	Y	Y	Y	Y			Y	
40	Grand Daughter	Y	Y	Y	Y			Y	
41	Husband's Father (<i>Sasur</i>)		Y		Y				
42	Husband's Grand Father		Y		Y				
43	Husband's Great Grand Father		Y		Y				
44	Husband's Mother (<i>Saas</i>)		Y		Y				
45	Husband's Grand Mother		Y		Y				

Sr No	SECTIONS OF THE INCOME TAX ACT								
	Relative	2(41)	13	40A(2)(a)	56(2)	64(1)	80DD	92A	ESOP
47	Husband's Brother's Son		Y						
48	Husband's Sister's Son		Y						
49	Wife's Father (<i>Sasur</i>)		Y		Y				
50	Wife's Grand Father		Y		Y				
51	Wife's Great Grand Father		Y		Y				
52	Wife's Mother (<i>Saas</i>)		Y		Y				
53	Wife's Grand Mother		Y		Y				
54	Wife's Great Grand Mother		Y		Y				
55	Wife's Brother's Son		Y						
56	Wife's Brother's Daughter		Y						

**RELATED PARTY TRANSACTIONS
UNDER THE CORPORATE LAWS**

Related Party – Under the Companies Act 2013 / SEBI Regulations



Important Definitions- Section 2

(6) **associate company:**

in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company

(27) **control:**

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

Important Definitions- Section 2

(46) **holding company**:

in relation to one or more other companies, means a company of which such companies are subsidiary companies

(87) **subsidiary company**:

in relation to any other company (that is to say the holding company), means a company in which the holding company

- (i) controls the composition of the Board of Directors; or
- (ii) exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies:

Important Definitions- Section 2

(51) **Key Managerial Personnel (KMP):**

in relation to a company, means—

- (i) the Chief Executive Officer or the Managing Director or the Manager;
- (i) the Company Secretary;
- (ii) the Whole-time Director;
- (iii) the Chief Financial Officer; and
- (iv) such other officer, not more than one level below the directors who is in the whole time employment, designated as KMP by the Board and
- (v) such other officer as may be prescribed;

Important Definitions- Section 2

(76) **related party**:

with reference to a company, means—

- (i) a director or his relative;
- (ii) a key managerial personnel or his relative;
- (iii) a firm, in which a director, manager or his relative is a partner;
- (iv) a private company in which a director or manager or his relative is a member or director;
- (v) a public company in which a director or manager is a director and holds along with his relatives, more than 2% of its paid-up share capital;

Important Definitions- Section 2

- (vi) any body corporate whose Board of Directors, Managing Director or Manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;
- (vii) any person on whose advice, directions or instructions a Director or Manager is accustomed to act
Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;
- (viii) any company which is— (A) a holding, subsidiary or an associate company of such company; (B) a subsidiary of a holding company to which it is also a subsidiary; or (C) an investing company or the venturer of the Company

Important Definitions- Section 2

(ix) such other person as may be prescribed;

Rule 4 of the Companies Specification of Definitions Rules (2014) prescribes the same as Director (other than Independent Director) or Key Managerial Personnel of the Holding Company or his relative

(77) **Relative** -

with reference to any person, means any one who is related to another, if—

(i) they are members of a Hindu Undivided Family;

(ii) they are husband and wife; or

(iii) one person is related to the other in such manner as may be prescribed;

Prescribed in rule 4 of the Companies Specification of Definitions Rules (2014)

Important Definitions- Rule 4

- persons who shall be deemed to be the relative of another, if he or she is related to another in the following manner, namely:-
- Father: includes step-father
- Mother: includes the step-mother
- Son: includes the step-son
- Son's wife
- Daughter
- Daughter's husband
- Brother: includes the step-brother
- Sister: includes the step-sister

Important terms not defined in the Act, covered by ICSI in the Guidance Note

- **Arrangement**

is included in the definition of “agreement” under the Competition Act 2002 to include any arrangement. Such arrangement may be formal or informal, oral or written and may also be a concerted practice

- **Ordinary Course of business**

would include transactions which are entered into in the normal course of the business pursuant to or for promoting or in furtherance of the company’s business objectives

- **Arms Length transaction** - Explanation to sub-section (1) of Section 188 of the Act defines the term ‘arm’s length transaction’ as a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest

- **Goods & Services** – The Guidance Note suggests to use the definition under Sale of Goods Act and CGST Act

Important terms not defined in the Act, covered by ICSI in the Guidance Note

Office or the place of profit :

- if the director holding it receives from the company anything by way of remuneration over and above the remuneration to which he is entitled as director, by way of salary, fee, commission, perquisites, any rent-free accommodation, or otherwise
- An individual other than a director or any firm, private company or other body corporate where any of these parties receives from the company anything by way of remuneration, salary, fee, commission, perquisites, any rent-free accommodation, or otherwise.

Important Sections related to “Related Party”

Sec. 177

Audit Committee – which has powers to approve transactions with related parties

Sec. 184

Disclosure of interest by a Director

Sec. 188

Related Party Transactions – which is the master section for the said purpose

Sec. 189

Register of contracts or arrangements in which Directors are interested

Related Party – SEBI – LISTING REGULATIONS

Related Party (Regulation 2(1)(zb))

means

- a related party defined under section 2(76) of the Companies Act or
- under the applicable accounting standards provided that any person or entity belonging to the promoter

Provided that promoter group of the listed entity and holding 20% or more of shareholding in the listed entity shall be deemed to be a related party.”

Related Party – AS18

- As18 **applies** to the financial statements of each reporting enterprise and also to consolidated financial statements presented by a holding company
- AS - 18 applies to the following related party relationships:
 - (a) Enterprises that directly, or indirectly, through one or more intermediaries, control, or are controlled by, or are under common control with, the reporting enterprise (this includes holding companies, subsidiaries and fellow subsidiaries)
 - (b) Associates and joint ventures of the reporting enterprise and the investing party or venturer in respect of which the reporting enterprise is an associate or a joint venture;

Related Party – AS18

- (c) Individuals owning, directly or indirectly, an interest in the voting power of the enterprise that give them significant influence or control over the enterprise or their relatives
- (d) Key management personnel and relatives of such personnel; and
- (e) Enterprises over which any person described in (c) or (d) is able to exercise significant influence. This includes enterprises owned by directors or major shareholders of the reporting enterprise and enterprises that have a member of key management in common with the reporting enterprise.

Related Party – INDAS24

- A related party is a person or entity that is related to the entity which is preparing its financial statements
 - (a) A person or a close member of that person's family is related to a reporting entity if that person:
 - (i) has control or joint control over the reporting entity;
 - (ii) has significant influence over the reporting entity or
 - (iii) is a member of the key management personnel of the reporting entity or of a parent of the reporting entity.

Related Party – IND AS24

- (b) An entity is related to a reporting entity if any of the following conditions applies:
 - (i) The entity and the reporting entity are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others).
 - (ii) One entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of a group of which the other entity is a member).
 - (iii) Both entities are joint ventures of the same third party.

Related Party – IND AS24

- (iv) One entity is a joint venture of a third entity and the other entity is an associate of the third entity.
- (v) The entity is a post-employment benefit plan for the benefit of employees of either the reporting entity or an entity related to the reporting entity. If the reporting entity is itself such a plan, the sponsoring employers are also related to the reporting entity
- (vi) The entity is controlled or jointly controlled by a person identified in (a).
- (vii) A person identified in (a)(i) has significant influence over the entity or is a member of the key management personnel of the entity (or of a parent of the entity).
- (viii) The entity, or any member of a group of which it is a part, provides key management personnel services to the reporting entity or to the parent of the reporting entity.

Related Party **Transactions** under the Companies Act 2013

Related party transactions mean:

- (a) sale, purchase or supply of any goods or materials;
- (b) selling or otherwise disposing of, or buying, property of any kind;
- (c) leasing of property of any kind;
- (d) availing or rendering of any services;
- (e) appointment of any agent for purchase or sale of goods, materials, services or property;
- (f) such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and
- (g) underwriting the subscription of any securities or derivatives thereof, of the company

Related Party **Transactions** under SEBI Listing regulations

Regulation 2(1)(zc)

The term 'related party transaction' means a transfer of resources, services or obligations between a listed entity and a related party, regardless of whether a price is charged and a transaction with a related party shall be construed to include a single transaction or a group of transactions in a contract.

23(1) Explanation

A transaction with a related party shall be considered **material** if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds **10%** of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.

Related Party **Transactions** under SEBI Listing regulations

23(1A)

With effect from July 01, 2019 a transaction involving payments made to a related party with respect to brand usage or royalty shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceed 5 % of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity

Related Party **Transactions** under AS18 and INDAS 24

- **As AS18**

‘Related Party Transaction’ is a transfer of resources or obligations between related parties, regardless of whether or not a price is charged

- **As per INDAS 24**

Related party transaction means transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged

Although the term services is not included in RPT definition in AS18 it is intended to be covered

Legal Mechanism under the Companies Act

- **Sec. 177** - All related party transactions need Audit Committee approval except:
 - Transactions between holding and subsidiary company
- **Sec. 188** All related party transactions need Board approval except:
 - Transactions between holding and subsidiary company
 - Transaction is in the ordinary course of business and on arm's length basis
- **Rule 15** of the Companies (Meetings of the Board and its Powers) Rules, 2014 prescribes threshold per "class of transactions" wherein transaction or transactions or set of transactions would require approval of shareholders

Legal Mechanism under the Companies Act

- **Sale, purchase or supply** of any goods or material amounting to 10% or more of the turnover of the Company or ₹ 100 crore whichever is lower
- **Selling or disposing off or buying of property** amounting to 10% or more of the net worth of the Company or ₹ 100 crore whichever is lower
- **Leasing** of property of any kind amounting to 10% or more of the net worth of the Company or ₹ 100 crore whichever is lower
- Availing or rendering of any **services** amounting to 10% or more of the turnover of the Company or ₹ 100 crore whichever is lower
- Appointment to any office or place of profit in the company, subsidiary or associate @ a monthly remuneration exceeding ₹ 2.50 lacs

Legal Mechanism under the Companies Act

Section 188 (RP Transactions) of the Act is applicable to all public and private companies, including listed companies.

Section 177 (Audit Committee) is only applicable to:

- listed public companies
- and other public companies having:
 - paid up share capital of 10 crore rupees or more; or
 - having turnover of 100 crore rupees or more; or
 - Which have, in aggregate, outstanding loans, debentures and deposits, exceeding 50 crore rupees

Legal Mechanism under SEBI Listing Regulations

- The Listing Regulations provide for an approval mechanism – approval of the **Audit Committee** is necessary in all cases except with respect to transactions between a listed company and its wholly owned subsidiary.
- Approval of the **shareholders** is necessary to be obtained in case of a material related party transaction (Regulation 23) – (where transactions exceeds 10% or 5% of the annual consolidated turnover of the listed entity)

Related Party reporting under CARO 2020 (applicable from FY 2020-21)

Clause (iii) - whether during the year the company has made investments in, provided any guarantee or security or granted any loans or advances in the nature of loans, secured or unsecured, to companies, firms, Limited Liability Partnerships or any other parties?

If Yes, the auditor has to comment on:

- (i) the aggregate amount during the year, and balance outstanding in respect of subsidiaries, JVs and Associates
- (ii) Whether the terms are prejudicial to Company's interest
- (iii) Whether the schedule of repayment is stipulated and followed
- (iv) Amount overdue for more than 90 days and steps taken*

Related Party reporting under CARO 2020 (applicable from FY 2020-21)

- (v) Renewal or extension of existing loans or fresh loans granted to settle the overdue of existing loans given to same parties (Ever-greening??)*
- (vi) Loans repayable on demand or given without specifying any terms or period of repayment (to promoters, related parties as per Sec. 2(76))*
- (vii) Whether provisions of Sec. 185 (loans to Directors) and 186 (Loans and Investments by Company) have been complied with, details if not..

Related Party reporting under CARO 2020 (applicable from FY 2020-21)

Clause (ix)

- (e)** whether the company has taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures, if so, details thereof with nature of such transactions and the amount in each case*
- (f)** whether the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies, if so, give details thereof and also report if the company has defaulted in repayment of such loans raised;*

Related Party reporting under CARO 2020 (applicable from FY 2020-21)

Clause (xiii)

whether all transactions with the related parties are in compliance with sections 177 and 188 of Companies Act where applicable and the details have been disclosed in the financial statements, etc., as required by the applicable accounting standards

Related Party reporting under CARO 2020 (applicable from FY 2020-21)

Clause (xxi)

whether there have been any qualifications or adverse remarks by the respective auditors in the Companies (Auditor's Report) Order (CARO) reports of the companies included in the consolidated financial statements, if yes, indicate the details of the companies and the paragraph numbers of the CARO report containing the qualifications or adverse remarks*

Related Party and Standards on Auditing – SA550 (Sec. 143(9) & (10))

“Related Parties”

A party that is either:

- (i) A related party as defined in the applicable financial reporting framework ; or
- (ii) Where the applicable financial reporting framework establishes minimal or no related party requirements:
 - a. A person or other entity that has control or significant influence directly or indirectly through one or more intermediaries, over the reporting entity
 - b. Another entity over which the reporting entity has control or significant influence, directly or indirectly through one or more intermediaries; or

Related Party and Standards on Auditing – SA550

- c. Another entity that is under common control with the reporting entity through :
 - i. Common controlling ownership;
 - ii. Owners who are close family members; or
 - iii. Common key management

“Arm’s length transaction”

A transaction conducted on such terms and conditions as between a willing buyer and a willing seller who are unrelated and are acting independently of each other and pursuing their own best interests.

Related Party and Standards on Auditing

- The key aspects of SA 550 which would be relevant for reporting on this clause are:
 - (i) Identify significant related party transactions outside the entity's normal course of business, (para A38 to A41)
 - (ii) Assertions that related party transactions were conducted on terms equivalent to those prevailing in an arm's length transaction, (para A42 to A45)
 - (iii) Evaluation of the accounting for and disclosure of identified related party relationships and transactions, (para A46 to A47)

Sr No	Relative	Companies Act		Income Tax Act	Accounting Standard		GST
		2(77)	2(41)	56(2)(vii)	AS-18	Ind AS-24	
1	Husband/ Wife/ Spouse	Covered	Covered	Covered	Covered	Covered	Covered
2	Father	Covered	Covered (Lineal Ascendant)	Covered (Lineal Ascendant)	Covered	Not Covered	Covered (If Dependent)
3	Step Father	Covered	Not Covered	Not Covered	Not Covered	Not Covered	Not Covered
4	Mother	Covered	Covered (Lineal Ascendant)	Covered (Lineal Ascendant)	Covered	Not Covered	Covered (If Dependent)
5	Step Mother	Covered	Not Covered	Not Covered	Not Covered	Not Covered	Not Covered
6	Son	Covered	Covered (Lineal Descendant)	Covered (Lineal Descendant)	Covered	Not Covered	Covered
7	Step Son	Covered	Not Covered	Not Covered	Not Covered	Not Covered	Not Covered
8	Daughter	Covered	Covered (Lineal Descendant)	Covered (Lineal Descendant)	Covered	Not Covered	Covered
9	Step Daughter	Not Covered	Not Covered	Not Covered	Not Covered	Not Covered	Not Covered
10	Brother	Covered	Covered	Covered	Covered	Not Covered	Covered (If Dependent)

Sr No	Relative	Companies Act		Income Tax Act	Accounting Standard		GST
		2(77)	2(41)	56(2)(vii)	AS-18	Ind AS-24	
17	Grandson	Not Covered	Covered (Lineal Descendant)	Covered (Lineal Descendant)	Not Covered	Not Covered	Not Covered
18	Grand Daughter	Not Covered	Covered (Lineal Descendant)	Covered (Lineal Descendant)	Not Covered	Not Covered	Not Covered
19	Grand Father	Not Covered	Covered (Lineal Ascendant)	Covered (Lineal Ascendant)	Not Covered	Not Covered	Not Covered
20	Grand Mother	Not Covered	Covered (Lineal Ascendant)	Covered (Lineal Ascendant)	Not Covered	Not Covered	Not Covered
21	Liner Ascendant/Descendant of Spouse (Including their Spouse)	Not Covered	Not Covered	Covered	Not Covered	Not Covered	Not Covered
22	Spouse's Brother/Sister	Not Covered	Not Covered	Covered	Not Covered	Not Covered	Not Covered
23	Spouse of Liner Ascendant	Not Covered	Not Covered	Covered	Not Covered	Not Covered	Not Covered
24	Spouse of Liner Descendant	Not Covered	Not Covered	Covered	Not Covered	Not Covered	Not Covered
25	Spouse of Spouse's Brother/	Not Covered	Not Covered	Covered	Not Covered	Not Covered	Not Covered

GST Law – Definition of related person

Section 15(5) – (a) persons shall be deemed to be “related persons” if—

- (i) such persons are officers or directors of one another’s businesses;
- (ii) such persons are legally recognised partners in business;
- (iii) Such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;

GST Law – Definition of related person

- (vi) both of them are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person; or
 - (viii) they are members of the same family;
- (b) the term “person” also includes legal persons;
- (c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related

GST Law also defined “Associated Enterprise” as the one defined in Section 92A of the Income Tax Act

Related Party Transactions – Key Takeaways

1. Related Party and Related Party transactions are in the limelight of the Regulators – Domestic as well as International
2. If you are an auditor – study of the legal framework of the entity is extremely important. If unsure, obtain legal opinions through the entity
3. If you are an auditor – adherence to SAs and working papers to support the Audit Report **is a must. Nothing else or nobody else can save you in case of an issue. SAY NO WHEN YOU WANT TO SAY NO !**
4. If you are a consultant – you may use beneficial provisions for tax planning. Keep in mind the deterrent provisions to safeguard the client. Don't forget reporting provisions as the client could face the consequences

THANK YOU

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