

PRESENTER

MANAGING PARTNER - ACELEGAL BHARAT AGARWAL ON ANALYSIS OF BUDGET 2016-17

ACELEGAL

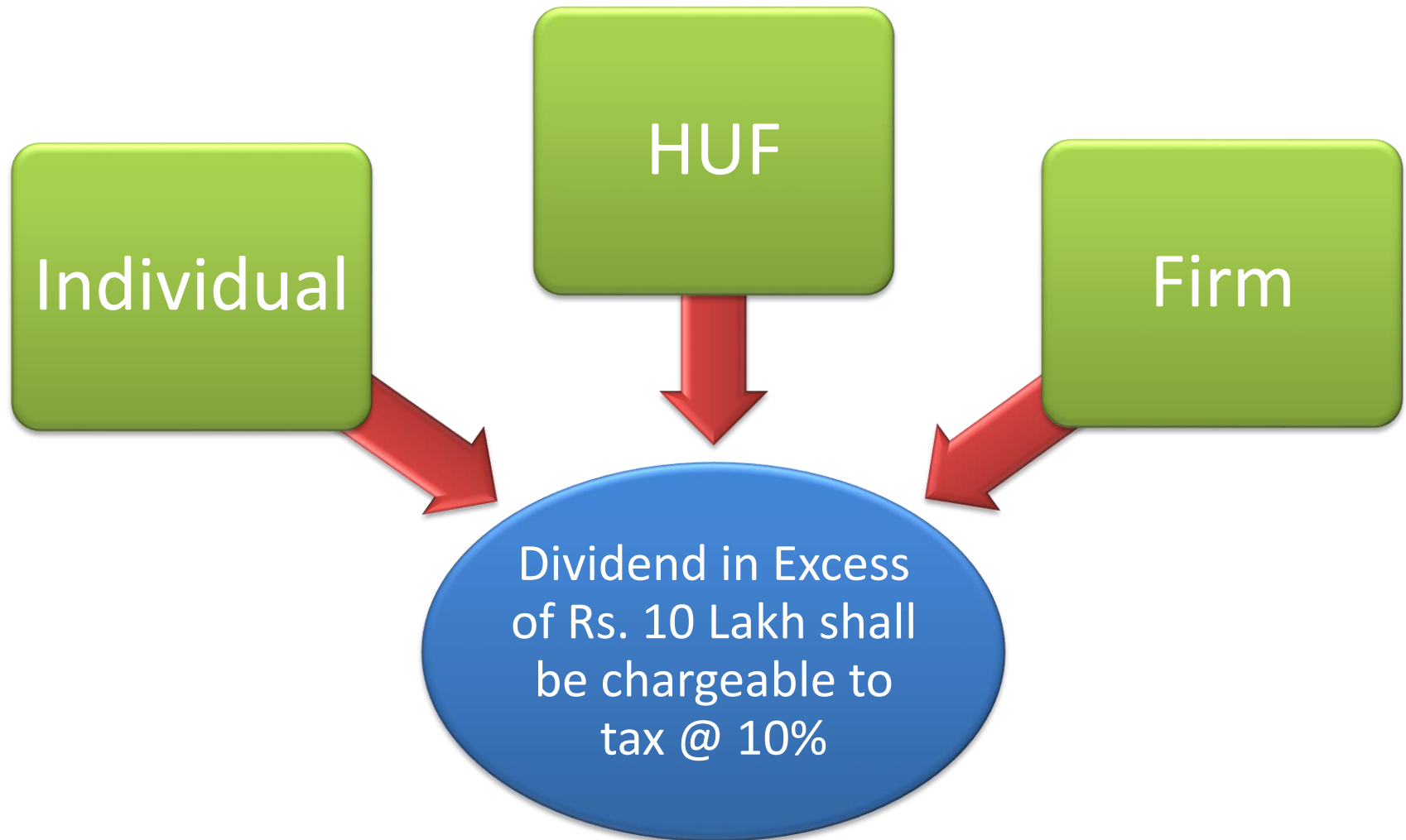
D-201, 2ND FLOOR,
TOWER No. - 3,
INTERNATIONAL INFOTECH PARK,
VASHI STATION COMPLEX,
NAVI MUMBAI – 400703.
PH: 27812781/82/0196



RATIONALISATION OF TAXATION OF INCOME BY WAY OF DIVIDEND

- Currently dividends are taxed only @ 15% u/s. 10(34) r.w.s. 115-O at the time of distribution in the hands of company.
- Governments stated this tax treatment creates vertical inequity amount taxpayer.
- Those who have high dividend income are subjected to tax only 15% whereas such income in their hands would have been chargeable to tax at the rate of 30%.

RATIONALISATION OF TAXATION OF INCOME BY WAY OF DIVIDEND (CONT.)



Rationalization of sec. 56

- Existing provision provide chargeability of IFOS in case of money, immovable property (with or without consideration) in excess of Rs. 50,000/- is received by the assessee being individual or HUF.
- The provision is also apply in case of shares received as a consequence of demerger or amalgamation of a company.
- Such transaction is not transfer if recipient is a firm or company.

Rationalization of sec. 56 (Cont..)

- To bring uniformity in tax treatment it is proposed that any shares received by an individual or HUF as consequence of demerger or amalgamation of shall not attract the provision of section 56.

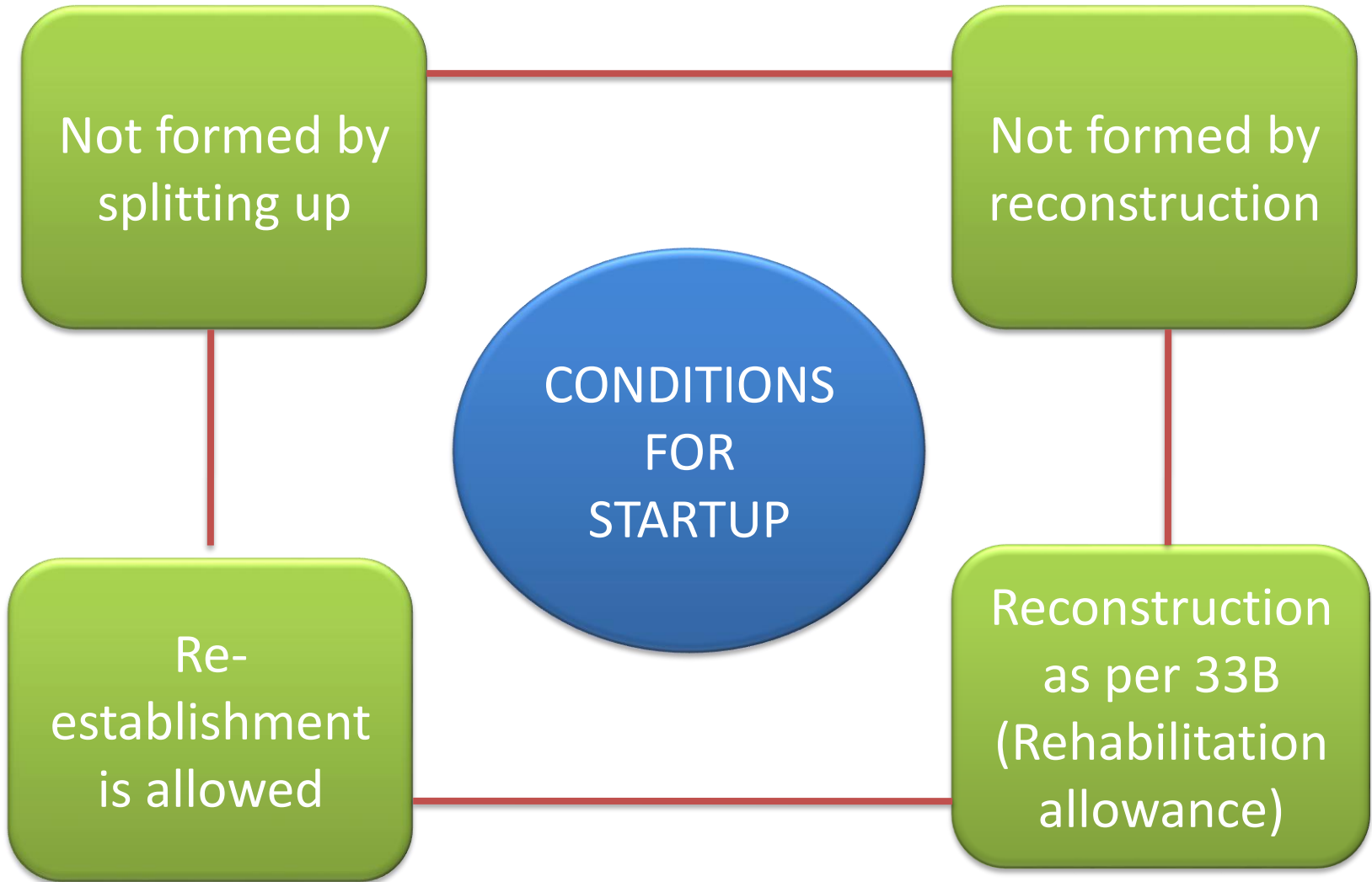
REMOVAL OF SECTION 80-IAB

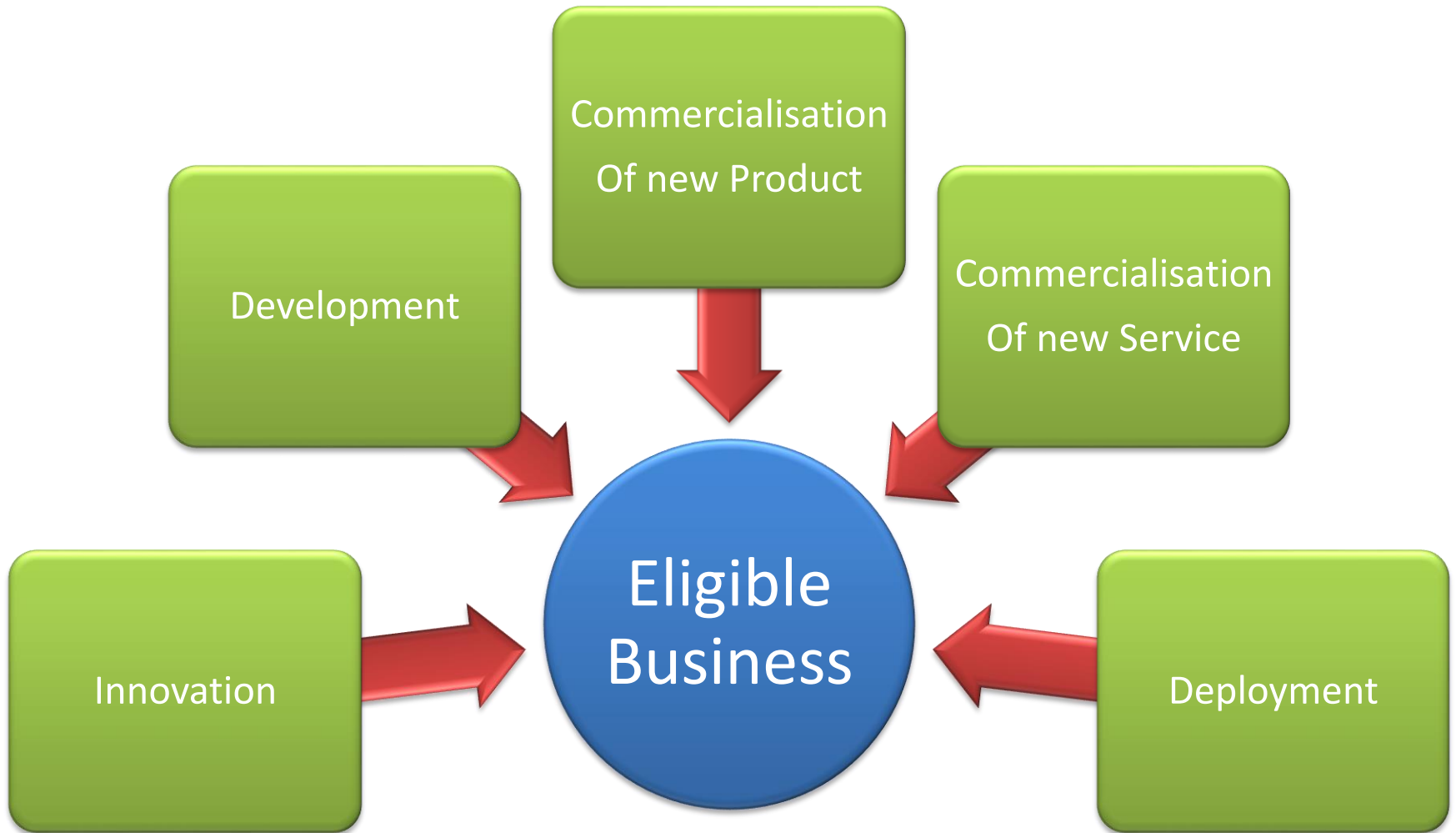
- Deduction in connection with the developing Special Economic Zone shall not be available from 1st day of April 2017.

INSERTION OF NEW SECTION 80 - IAC

- Gross 100% deduction of gains and profits earned from eligible start-up from 1st day of April 2017.

START - UP





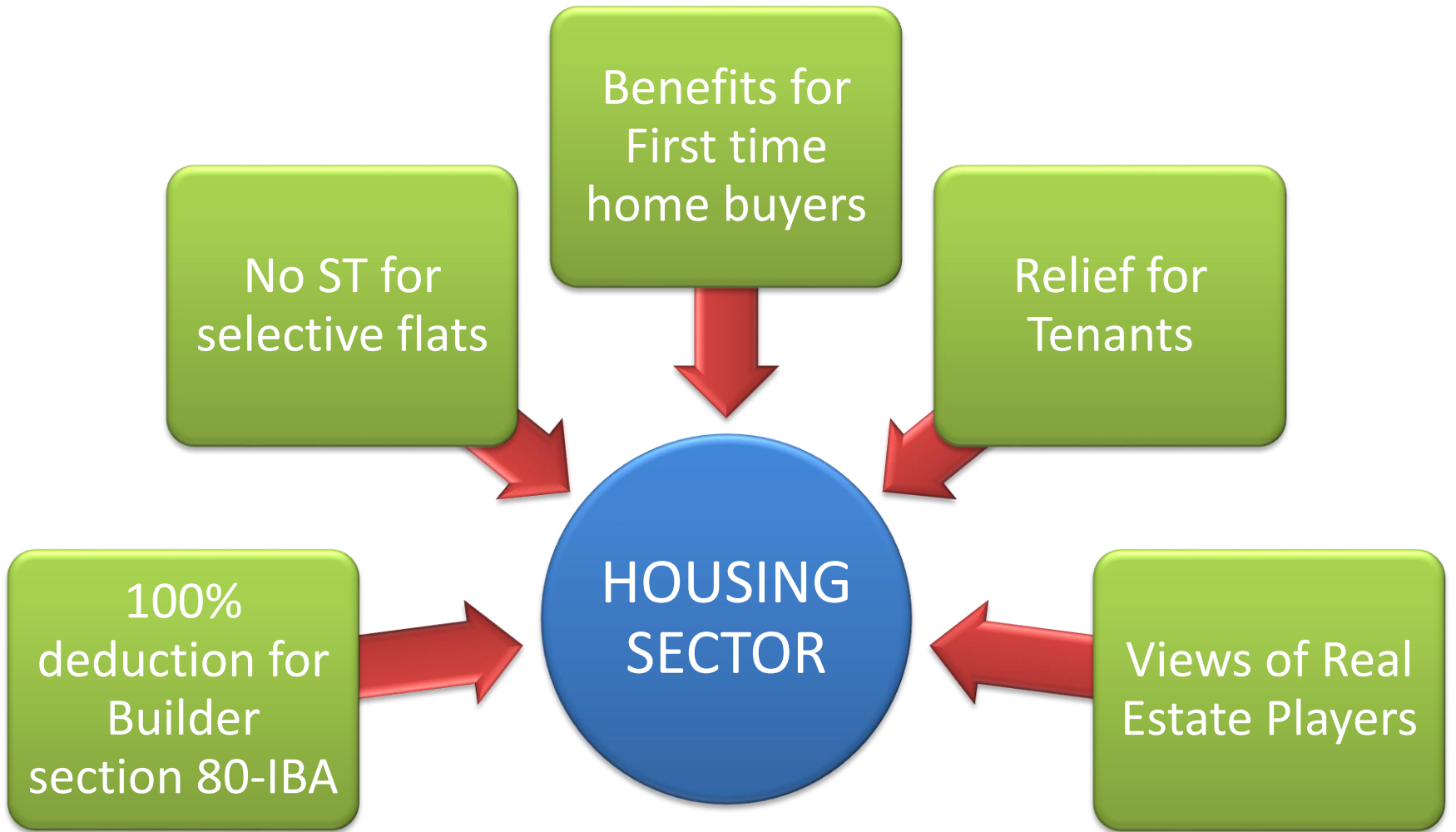
Eligible business shall be driven by technology or intellectual property.

Tax Incentives for Start-ups

- Individual or HUF willing to setup company by selling residential property to invest in shares of such co.
- Proposed to amend sec. 54GB, LTCG arising on transfer of said residential property shall not be charged to capital gain.
- Subject to condition, Individual or HUF (as the case may be) holds more than 50% of shares in such company.
- To avoid any anomaly Computers and computers software and included in the definition of “New asset” u/s. 54GB.


Budget ne Ghalib nikamma kar diya,
Ab toh start-up kholne mein bhi
log reservation mangenge.

Tax exemption for 3 years for start-ups launching this year




INSERTION OF NEW SECTION 80-IBA


Gross total income includes any profits and gains



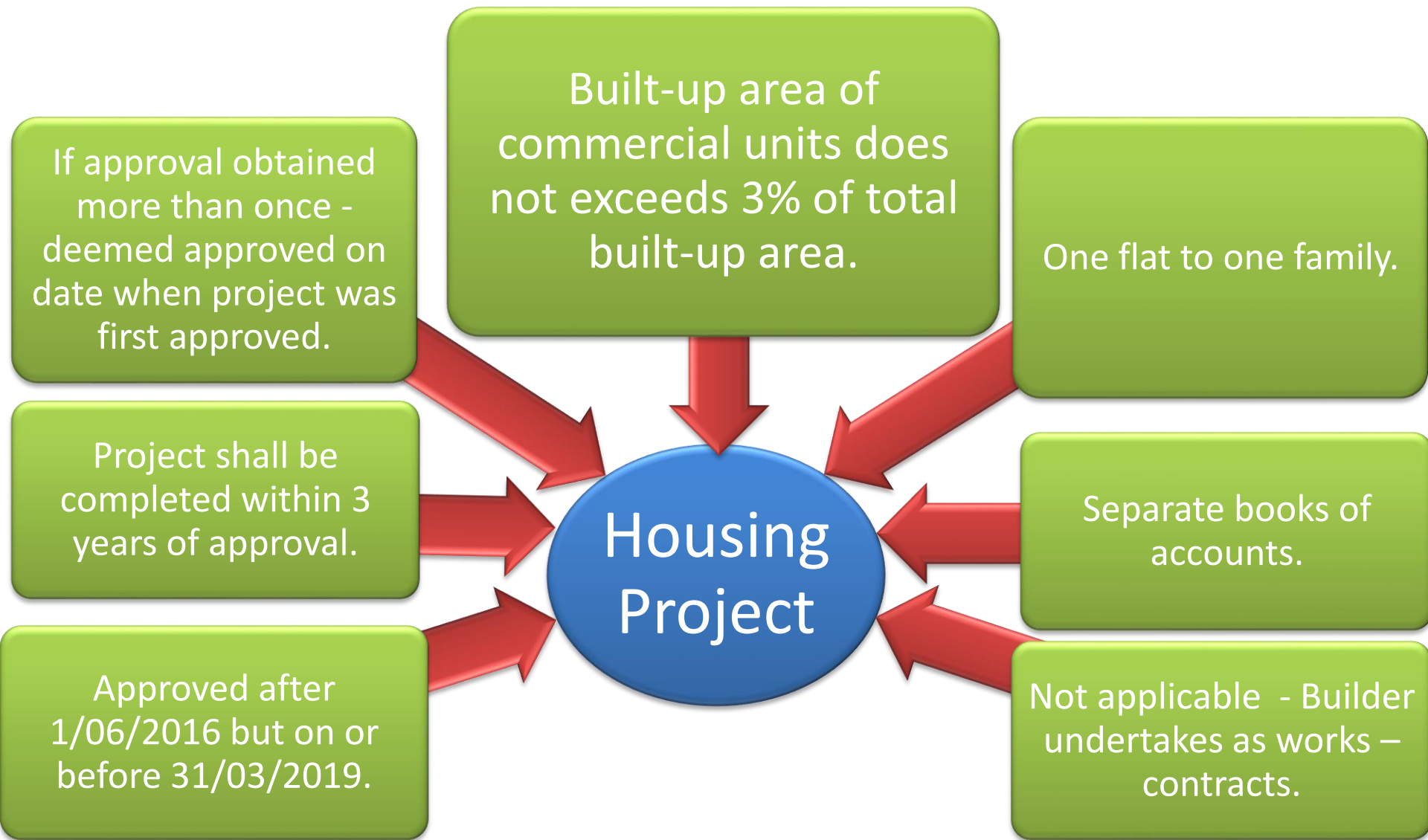
Derived from the developing and building
“Housing Projects ” approved by the competent authority before
31st March, 2019



Deduction of 100% of Profits and gains derived from such Project.



Subject to MAT provision



ADDITIONAL CONDITIONS

Not less than 1000 sq. mtrs within Metro cities

Within 25 KM from Municipal Limits

2000 Sq. Mtrs within any other Municipal jurisdiction

PROJECT ON PLOT OF LAND

Does not Exceed 30sq. mtrs within Metro cities

Does not Exceed 30sq. mtrs within Metro cities

60 Sq. Mtrs within any other Municipal jurisdiction

RESIDENTIAL UNIT

THE PROJECT UTILISES

- Not less than 90 % of the floor area ratio permissible in respect of the plot of land under the rules to be made by the CG or the SG or the local authority, as the case may be, where the project is located within Metro cities or within the area of 25 KM from the municipal limits of these cities, or
- Not less than 80 % of such floor area ratio where such project is located in any area other than the areas referred to in sub-clause (i).

PROJECT NOT COMPLETED WITHIN GIVEN TIME PERIOD

- Total amount of deduction claimed and allowed under this section in one or more PYs shall be deemed to be income of assessee.
- Total deduction shall be taxable during the PY in which the period of completion so expires.
- Income is taxable under the head of “business and profession”.

DEFINITIONS FOR THE PURPOSE OF THIS SECTION

BUILT UP AREA

Inner measurements of the residential unit at the floor level

Includes projections and balconies

Increased by the thickness of the walls

Does not include common area shared

COMPETENT AUTHORITY

Any authority approved by CG.

FLOOR AREA RATIO

Dividing the total covered area of plinth area on all the floors by the area of the plot of land

NO SERVICE TAX

PROPOSED

Construction of affordable house up to 60 Sq. mtrs. under any of CG or SG including PPP schemes.

Increased in time period for acquisition or construction of self – occupied house property for claiming deduction of interest paid u/s. 24 from 3 years to 5 years from the end of financial year in which capital was borrowed.

FIRST TIME HOME BUYER

- Deduction of ` 50,000/- p.a. for loan.
- Loan up to ` 35 lakh/- sanctioned in 2016-17.
- Cost of house does not exceeds ` 50 lakh.

RELIEF FOR TENANTS

INCREASED LIMIT OF DEDUCTION
AGAINST RENT PAID U/S. 80GG
FROM `24,000 P.A. TO `60,000.

VIEWS OF REAL ESTATE PLAYERS

The housing sector will get a push from both supply and demand side.

- Shishir Baijal.
- Knight Frank India

Exemption of Service and 50K for first time home buyers likely improve first-time home buyers' sentiment

- Jason Kothari.
- Housing.com.

Government has actually understood that ease of doing business has to become reality to spruce up the GDP.

- Getamber Anand.
- CREDAI

KRISHI KALYAN CESS

- Krishi Kalyan Cess so levied shall be addition to the Service Tax and Swachh Bharat Cess.
- This would be levied @ 0.5% on the value of all taxable services.
- For prompting and improving agriculture sector.
- Effective from 1st June, 2016.

Zahid sharaab peeney
de masjid mein baith kar,
Ya woh jagah bata jahaan
service tax nahin lagta.

Service tax raised by 0.5%

INCREASED IN THRESHOLD LIMIT U/S. 44AB

- Existing provision person carrying any profession required to get audited if total gross receipts exceed Rs. 25 Lakhs.
- In order to reduce compliance burden, government proposed to increase limit of gross receipts from Rs. 25 lakh to Rs. 50 lakh.

HANGING CARROT FOR PROFESSIONALS



Gross receipts does not exceeds 50 Lakhs sum total to 50% of gross receipt shall be deemed to be an income for the relevant year.

In case of any , assessee shall be required to maintains books of accounts as per 44AA.

INCREASED IN THRESHOLD LIMIT U/S. 44AD

- Under the existing provision scheme is available if gross receipts of businessmen does not exceeds Rs. 1 crore. (8% tax on net profit)
- In order to reduce compliance burden, government proposed to increase threshold limit from Rs. 1 crore to Rs. 2 crore.
- It is also proposed that in case of firm, salary / remuneration / interest paid to partner shall not be deductible while computing income under this section.

INCREASED IN THRESHOLD LIMIT U/S. 44AD

- Since limit is increased eligible assessee is required to pay advance tax in one instalment, to be paid before 15th March of the financial year.
- Once assessee declares profit under this section he should continue same scheme for next 5 AYs.
- In case of any deviations, assessee shall be constrained to not to declare profit under this section for next 5 years from the year of deviation.

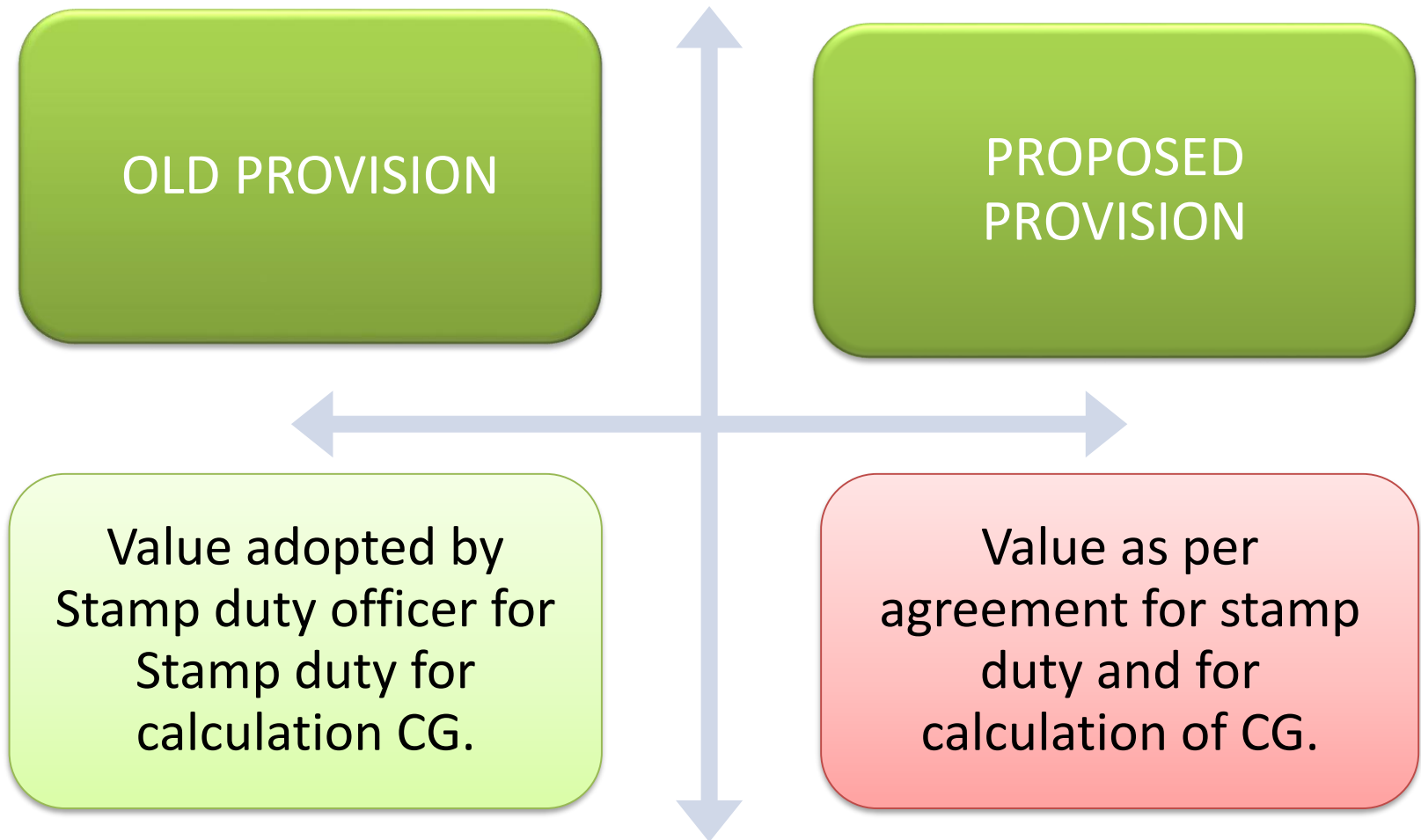
Rationalization in section 47 (Company conversion in LLP)

- Existing provision – Conversion of Private limited or unlisted public co. into LLP shall not be regarded as transfer.
- Subject to, company's gross receipts, turnover or total sales in preceding 3 years did not exceed Rs. 60 lakh.
- For availing tax-netural conversion, in addition to the existing conditions, value of total assets in books of accounts of the company in any of three years preceding to year in which conversion took place shall not exceed Rs. 5 crore.

AMENDMENT IN SECTION 50C

- Existing provision – Value adopted by the Stamp duty authority shall be taken as full value of consideration for calculating of capital gains.
- This provision does not provide any relief where seller has entered into an agreement to sell the property *much before the actual date of transfer of property and the sale consideration is fixed in such agreement.*
- Whereas similar provision exists in section 43CA of the Act. (Immovable property sold as Stock-in-trade)

CHANGES IN SECTION 50C



CONDITION TO BE FULFILLED FOR PROPOSED SECTION 50C

- Date of agreement fixing consideration and date of registration is different – DATE OF AGREEMENT IS TO BE TAKEN.
- Amount of consideration or part thereof should be made through banking channel on or before the date of agreement.

Kuch na kisi se bolenge,
tanhaai mein ro lenge,
Hum berahbaron ka kya hai,
Dilli se Bombay Shatabdi mein hi ho lenge.

Flight rates up by 6%

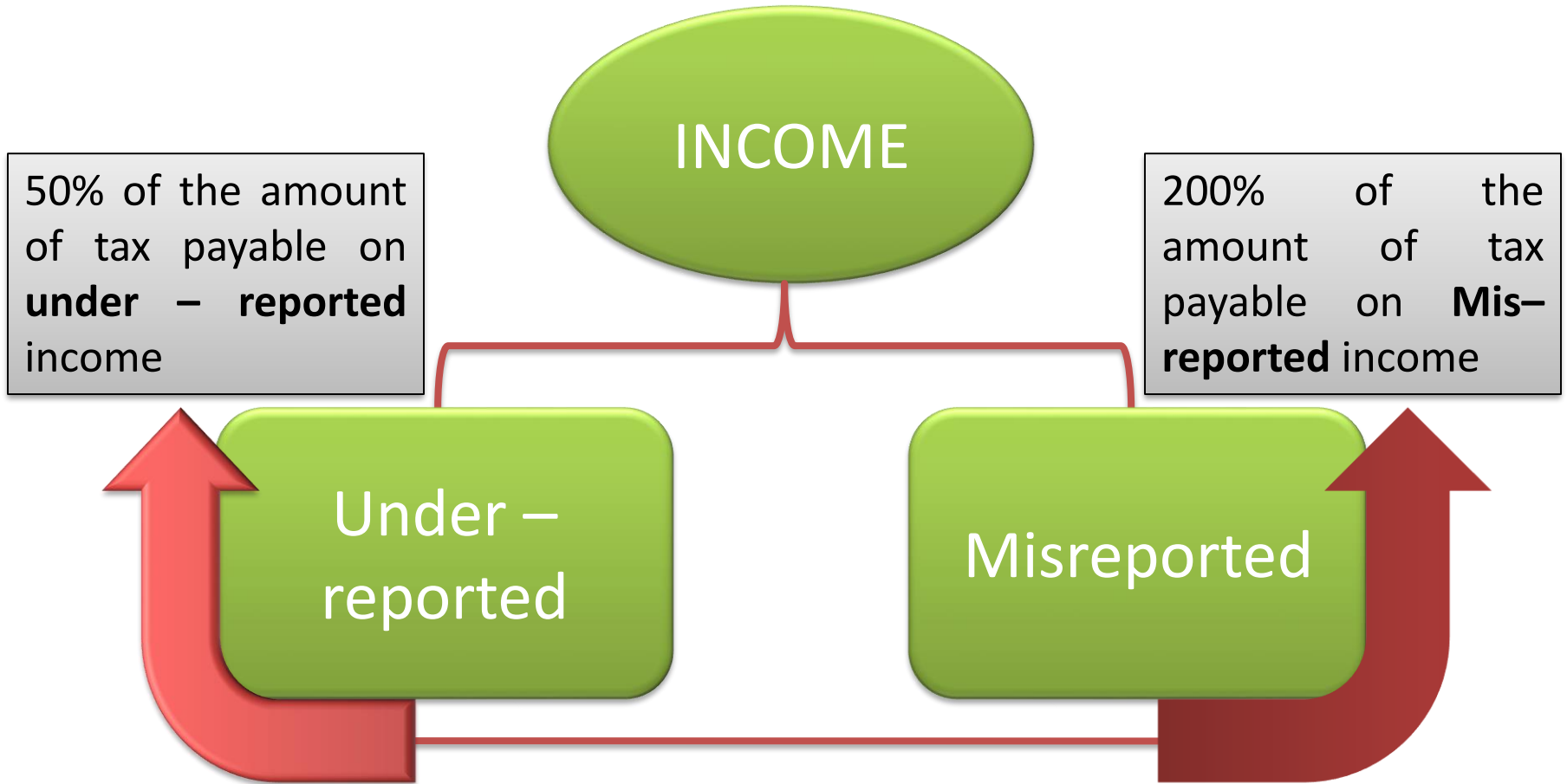
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STREAMLINE THE PENALTY PROVISIONS

Destruction of discretionary powers Officers

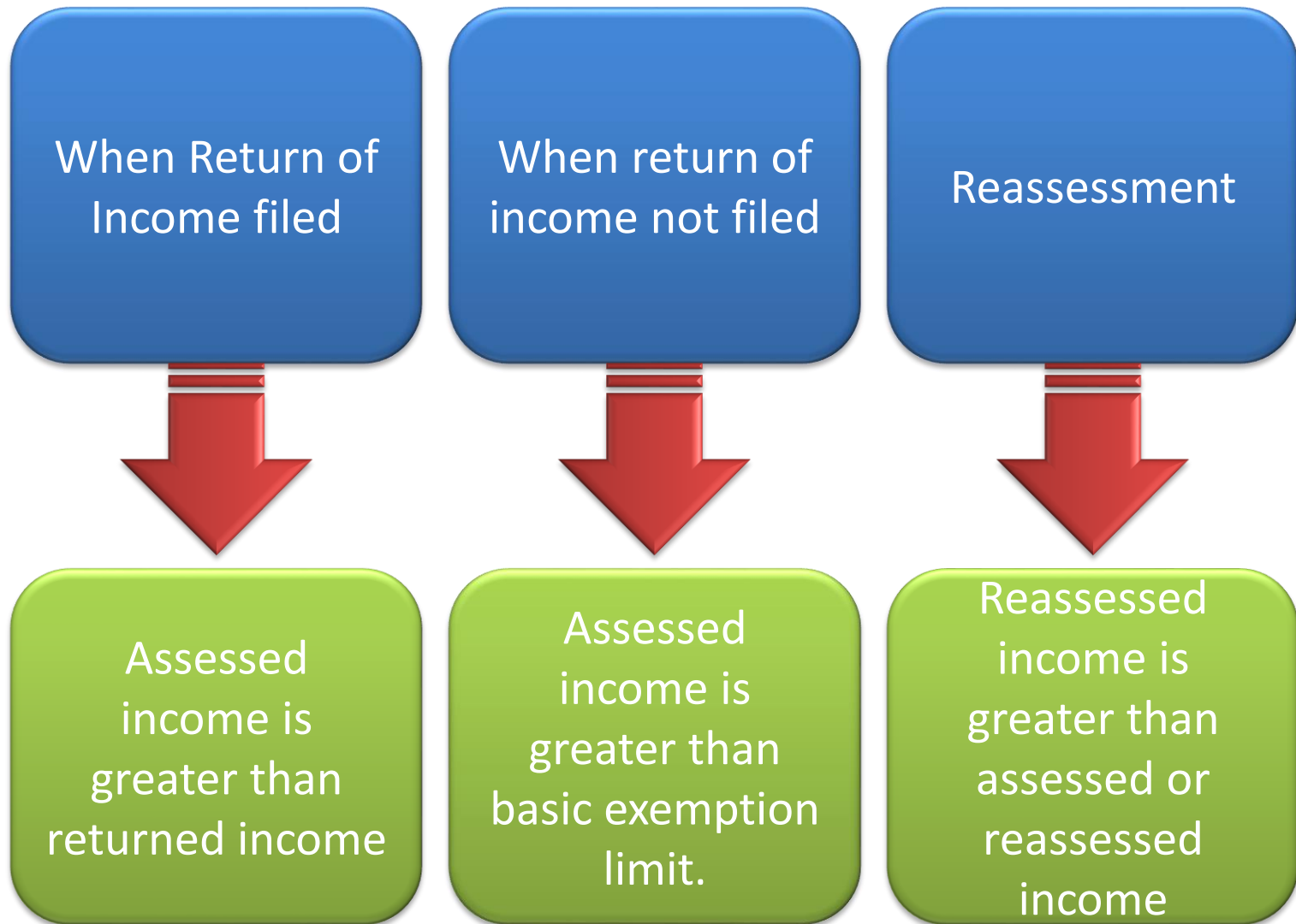
- To reduce discretionary powers of AO in imposing penalty, government proposed to delete section 271 from 1st day of April, 2017.
- Penalty will be levied under new section 270A.

SECTION 270A

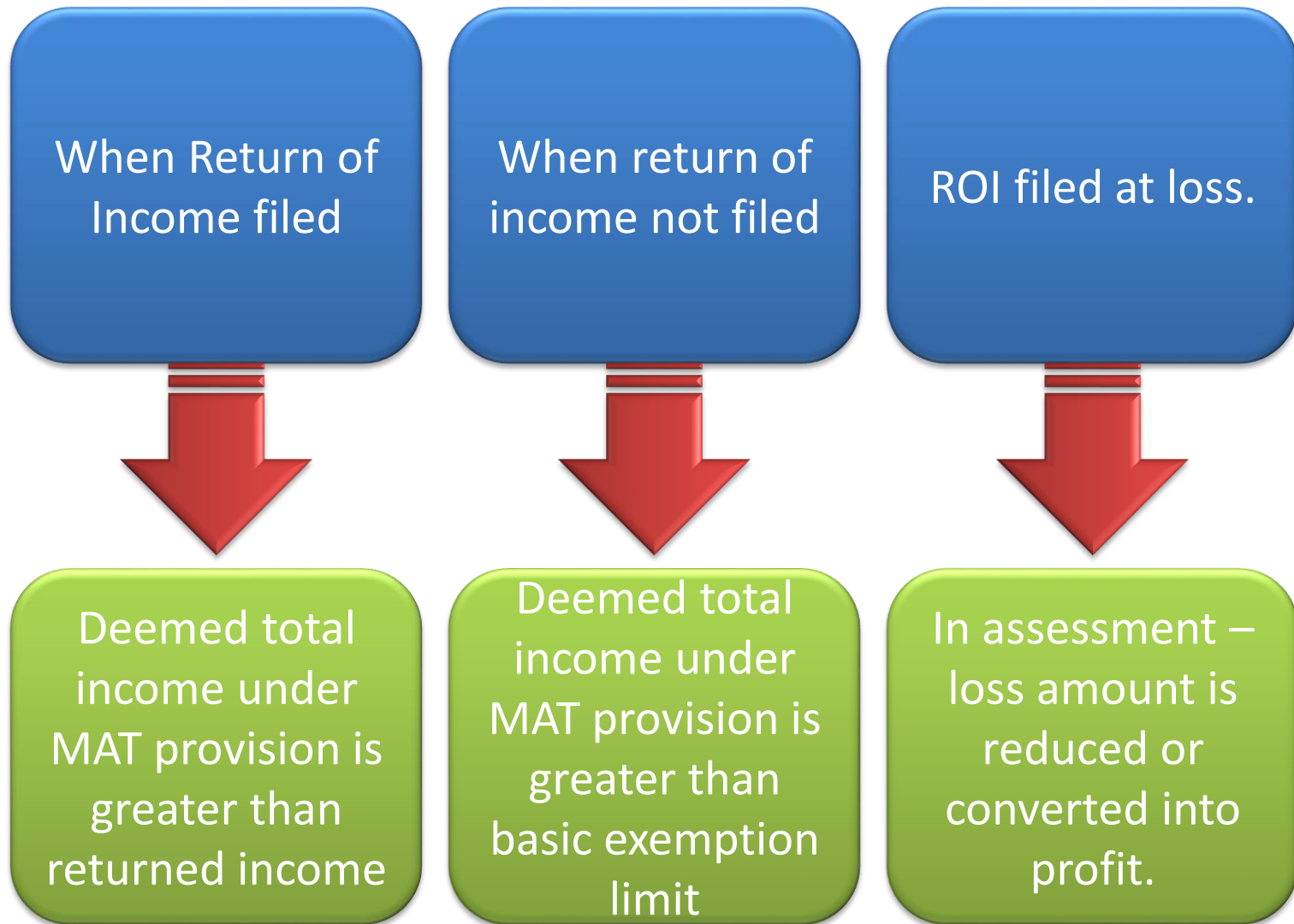


Income tax on under – reported income shall be calculated as if the under – reported income is the part total income.

CASES OF UNDER – REPORTED INCOME



CASES OF UNDER – REPORTED INCOME



EXCEPTION TO THIS SECTION

With respect to any income if assessee offer explanations



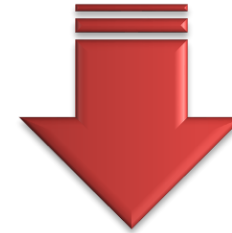
AO, CIT(A) as the case may be satisfied with the explanation provided

Estimated under reported income determined by AO



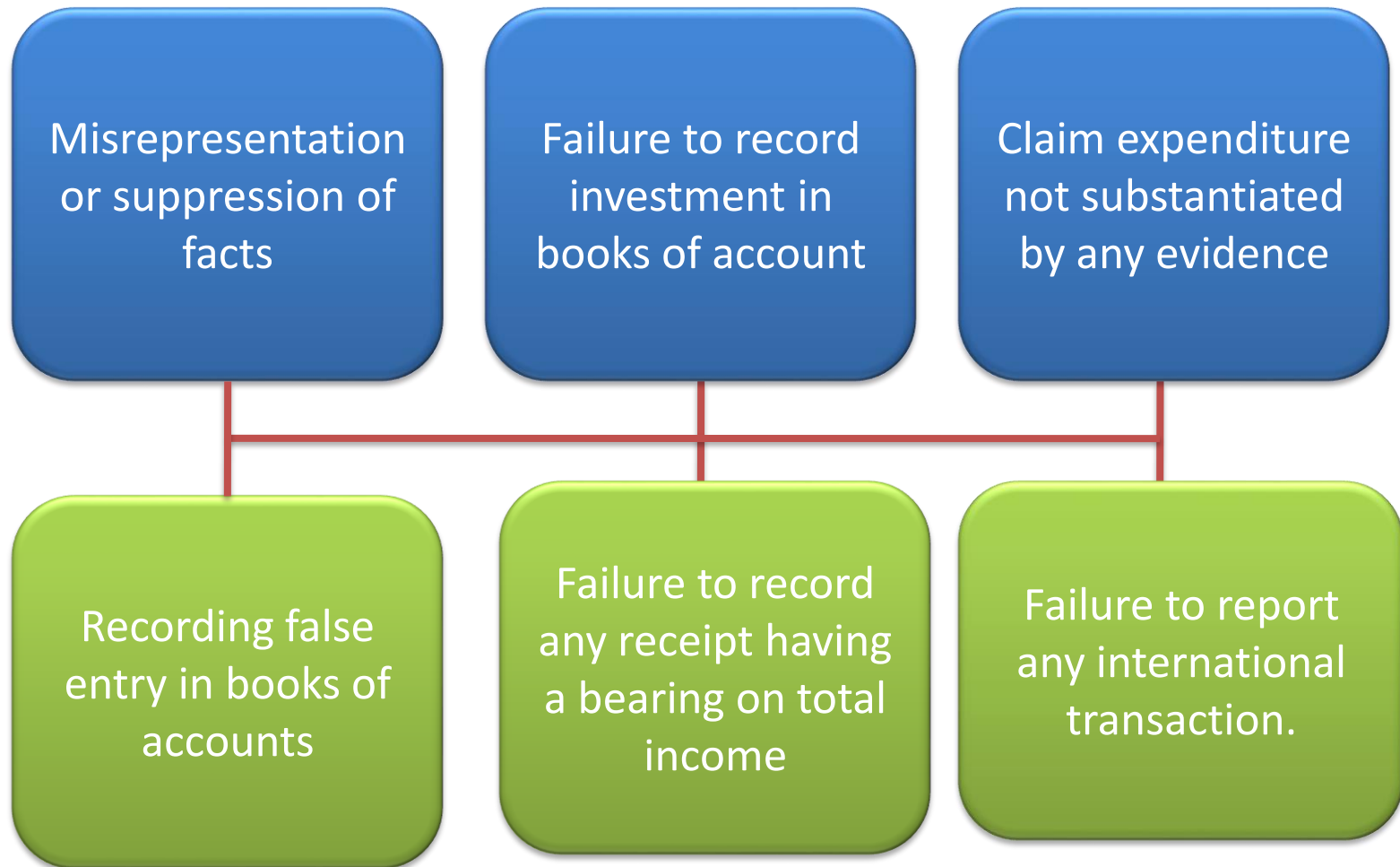
But the method employed is such that income cannot be deduced therefrom.

Estimated under reported income determined by AO



If the assessee on his own estimated lower amount of addition or disallowance and disclosed all material facts

CASES OF MISREPORTING



IMMUNITY FROM PENALTY

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graph TD; A([IMMUNITY FROM PENALTY]) --> B[If tax is paid in toto as determined by department within the period provided]; A --> C[No appeal against the order (as the case may be) has been preferred.]; B --> D[SECTION 270AA(1)]; C --> D;
```

If tax is paid in
toto as
determined by
department
within the period
provided

No appeal
against the order
(as the case may
be) has been
preferred.

SECTION 270AA(1)

EXCEPTION TO THIS SECTION

- Misrepresentation or suppression of facts.
- Failure to record investment in books.
- Claim of expenditure not substantiated by any evidence.
- Recording of any false entry.
- Failure to record any receipt in books of account.
- Failure to report ant international transaction.

AMENDMENT IN SECTION 271AAB

- Existing provision provides penalty of a sum not less 30% but shall not be more than 90% of undisclosed income for the specified year shall be levied where search has been initiated.
- To rationalise the rate and to reduce the discretion it is proposed to levy of penalty at flat rate of 60% of such undisclosed income.

AMENDMENT IN 272A

- Existing provision provides for levy of penalty of Rs. 10,000/- for each failure or default to answer the question raised by department u/s. 131(1).
- Its proposed to include levy of penalty of Rs. 10,000/- for each default or failure to comply with a notice u/s. 142(1) or u/s. 143(2).

USE OF TECHNOLOGY FOR CREATING ACCOUNTABILITY

- *A pilot was run in 2015-16 for e-assessment to obviate the requirement for tax payers to visit the Income-tax officers.*
- *I propose to expand the scope of e-assessment to all assessees in 7 mega cities in coming years.*
- *The cases selected for scrutiny will scrutinized in e-environment whereby unless the assessee himself wants to be heard or for special reasons to be recorded, the AO wants to hear the party, there will no face contact of IT Department with assessee.*

- Mr. Jaitley

INSERTION OF
SUB-SECTION 2(23C)

‘(23C) “hearing” includes communication of data and documents through electronic mode’.

Hazaaron khwahishein aisi ki
har khwahish pe dum nikale,

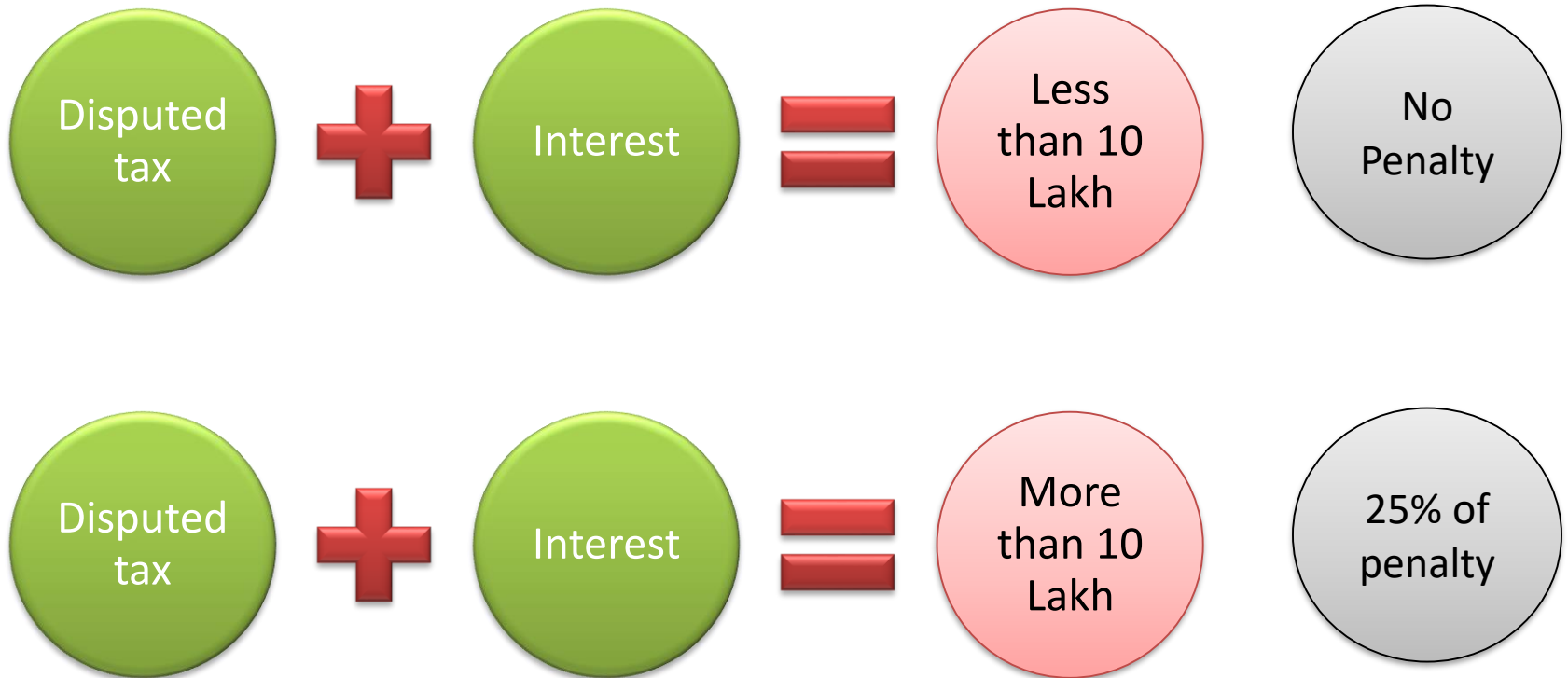
Hum chaley the Zara lene,
lekar Cantabil nikale.

Branded clothes to get costlier

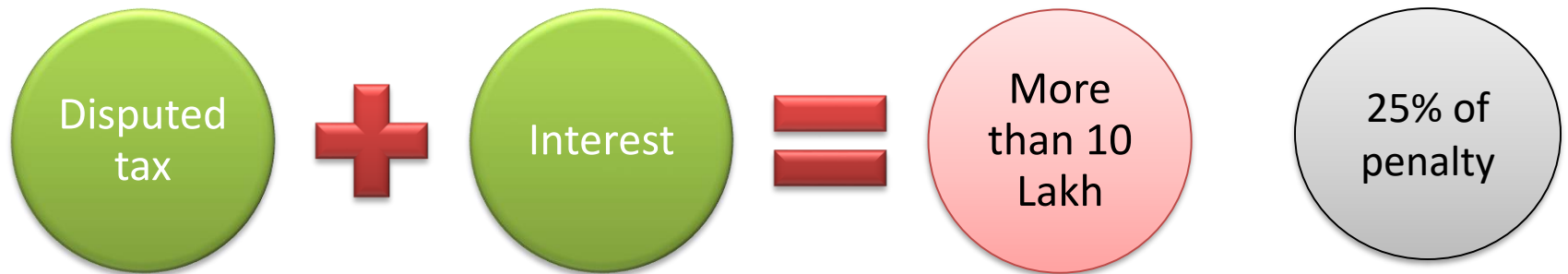
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REDUCTION IN LITIGATION AND PROVIDING CERTAINTY IN TAXATION

Appeal pending (Quantum)



Pending Penalty Appeal



STAY OF DEMAND

Notification dated 29th February 2016

- It has been reported that the field officer often insist on payment of very high proportion of the disputed demand before granting stay of balance demand. This often results in hardship for the taxpayer seeking stay of demand.

- Para no. 3 of Notification

- The income tax department is also issuing instruction issuing mandatory for AO to grant stay at payment of 15% of disputed demand.
- In case of deviation, AO has to get orders from superiors. Taxpayers is also have option to approach superior in case he doesn't agree with the conditions.

-

-Mr. Jaitley

AO IS OF VIEW THAT **MORE THAN** 15% OF TAX PAYMENT IS WARRANTED.

Addition is based on credible evidence collected in a search or survey.



Addition on same issue sustained in pervious AY



CONDITIONS



Decision of SC or Jurisdictional HC is in favour of revenue

AO IS OF VIEW THAT **LESS THAN 15%** OF TAX PAYMENT IS WARRANTED.

Addition on same issue deleted in pervious AY

Decision of SC or Jurisdictional HC is in favour of assessee

CONDITIONS

AO MAY IMPOSE FOLLOWING CONDITION IN GRANTING STAY

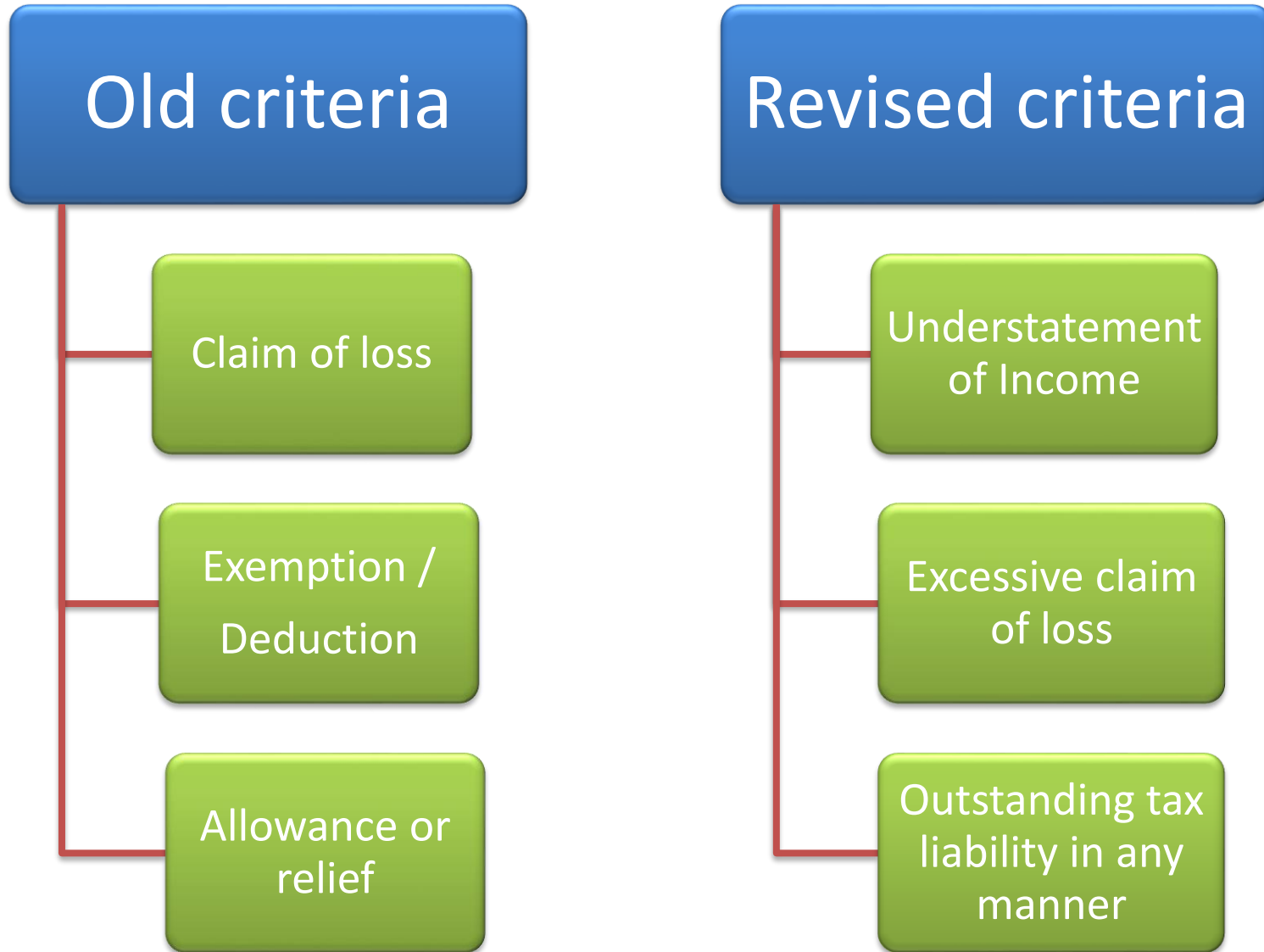
- Require an undertaking from the assessee that he will cooperate in the early disposal of appeal failing which the stay order will be cancelled.
- Reserve the right to review order passed after expiry of period. (Six Months)
- Reserve the right to adjust refunds arising to the extent of the amount required for granting stay and subject to provision of section 245.

Iss qadar toda hai mujhey
iss saal ke budget ne Ghalib,
Ab koi pyaar se cigarette dikhaye bhi toh
raakh ki tarah bikhar jaata hoon.

Pack of cigarettes to cost Rs 20 more

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REVISED SCOPE OF 143(2)



REVISION OF TIME LIMIT FOR COMPLETION ASSESSMENT AND RE-ASSESSMENT (1st June, 2016)

OLD PROVISION 153

Two years from the end of FY
in which income was first
assessable or

NEW PROVISION 153

No order u/s. 143 or 144. after the
expiry of 21 months from the end
of AY in which income was first
assessable

TIME PERIOD

One year from the end of FY
in which a return or a revised
return relating AY
commencing on the 1st day of
April 1988

No order of assessment,
reassessment or re-computation
shall be made u/s. 147 after the
expiry of 9 months from the end
of financial year in which notice
u/s. 148 was served.

WELCOMING PROVISIONS OF SECTION 153

- Order for fresh assessment in pursuance to order u/s. 254, 263 and 264 setting aside or cancelling an assessment by may be made at any time before expiry of 9 months from the date order u/s. 254, 263 and 264 is received by CIT
- Order giving effect u/s. 250, 254, 260, 263 and 264 has to passed by the AO within the period of three months from
- Where it is not possible to give effect within 3 months, the Pr. CIT or CIT on receipt of written request from AO may allow an additional period of 6 months.

Rationalisation of time limit for assessment in search cases

- 153A - From 2 years to 21 months from the end of financial year in which the last of the authorisations for search u/s. 132 was executed.
- 153C - From 2 years to 21 months from the end of financial year in which the last of the authorisations for search u/s. 132 was executed or
- From 1 year to Nine months from the end of the financial year in which the books of accounts or documents seized are handed over u/s. 153C to AO, which ever is later.

Budget se aai mehengai par matt jaa,
aye Ghalib,
Daaru log neat bhi piya karte hain.

Soft drinks to cost 3% more

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The Income Declaration Scheme, 2016

- Date of effective - 1st June 2016
- Opportunity to disclose, undisclosed income and pay, surcharge and penalty, totalling in all 45% of such undisclosed income.
- 45 % (30% Income Tax) + 25% of tax payable (Penalty) + 25% Surcharge (Krishi Kalyan Cess.)

ELIGIBILITY CASES

- Where notice have been issued u/s. 142(1), 143(2) or 148 or 153A or 153C.
- Where Search and survey has been conducted under the relevant provision of the Act not expired.
- Cases covered under Black Money, 2015.
- Person notified under Special Court Act, 1992.
- Cases covered under IPC and Narcotic Drugs and Psychotropic Substances Act, 1985.

Benefits of Scheme

- No wealth Tax.
- No prosecution.
- No Scrutiny Assessment.
- Immunity from BT (Prohibition) Act, 1988.
 - (Benami Transaction).

Acelegal

Bharat Agarwal
Managing Partner



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