

INCOME TAX UPDATE

**Rule 11UA: New Methods
for Valuing CCPS and
Unquoted Shares**



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The Finance Act, 2023 amended section 56(2)(viib) of the Income Tax Act, 1961 ('the Act') to bring into account the consideration received from non-residents for issuance of shares.

Now, the CBDT has notified Income-tax (Twenty-First Amendment) Rules, 2023, amending Rule 11UA to implement the amendment made to Section 56(2)(viib). The changes notified in Rule 11UA are mentioned below:

a) CBDT has separately introduced a mechanism for arriving at the fair market value of Compulsorily Convertible Preference Shares (CCPS) for investment from residents as well as non-resident residents; it also provides that the valuation of

CCPS can also be based on the fair market value of unquoted equity shares as prescribed.

b) The five new valuation methods have been provided for consideration received from the non-residents, namely: (i) Comparable Company Multiple Method, (ii) Probability Weighted Expected Return Method, (iii) Option Pricing Method, (iv) Milestone Analysis Method, and (v) Replacement Cost Method.

c) The valuation of investment received by a VC undertaking for issue of unquoted equity shares, from a VC fund or a VC company or a specified fund, the price of the equity shares at the option of VC undertaking, be taken as the fair market value of the equity shares to the extent it does not exceed the aggregate investment so received.

This would be acceptable if the investment is received by the VC undertaking within a period of 90 days of the date of issue of shares which are under valuation dispute.

d) The valuation of investment received by a company from entities notified under clause (ii) of first proviso to Section 56(2)(viib) also works in the same manner as that of investment in VC undertaking by a VC fund/ company or a specified fund.

e) The valuation report by the Merchant Banker would be acceptable if it is of a date not more than 90 days prior to the date of issue of shares, which are the subject matter of valuation.

f) Sub-rule (4) contains the 10% safe harbour, which applies to the valuation of both unquoted equity

shares and CCPS where the issue price of the shares exceeds the value of shares.

For details, please refer the CBDT notification dated 25.09.2023:

<https://egazette.gov.in/WriteReadData/2023/248994.pdf>

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