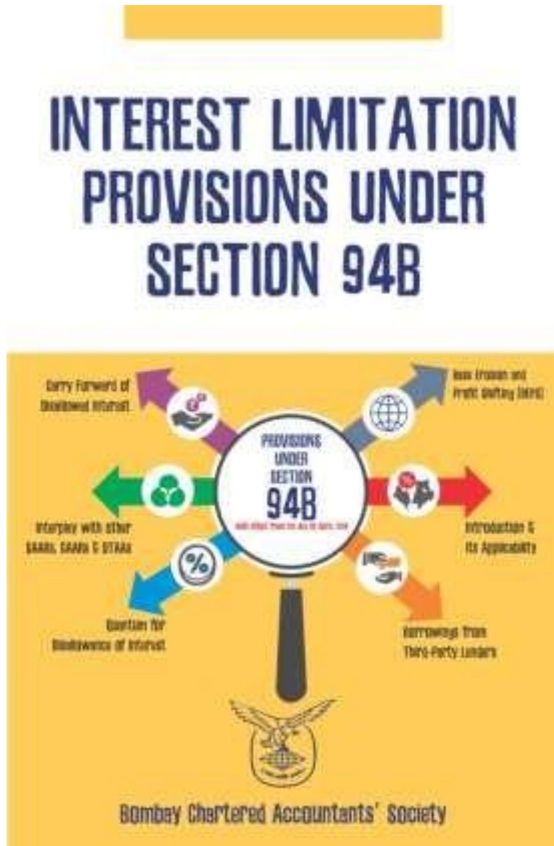
Bombay Chartered Accountants' Society

BCAS KNOWLEDGE RESOURCE UPDATE



Title:	**Interest Limitation Provisions under Section 94 B**
Features:	Thin capitalization has distinct advantages for Multi-National Enterprises (MNEs). It helps in reducing tax liability and provides flexibility of withdrawal of capital without tax consequences. However, it significantly reduces tax collection and results in Base Erosion and Profit Shifting (BEPS) due to which BEPS Action Plan 4 was formulated to counter the ill effects of Thin Capitalization. BEPS Action Plan 4 suggests measures to limit base erosion involving interest deduction and other financial payments. It suggests a "fixed ratio" rule for interest deduction in the source State, i.e. the State wherein the interest

	payment are claimed as a deductible expense. Further, it suggests limits of deductions on account of interest payment in the range of 10 per cent to 30 per cent of Earnings before Interest, Taxes, Depreciation and Amortization (EBITDA). The Finance Act, 2017 introduced Section 94B in the statute with effect from 1st April, 2018 limiting interest deduction to 30% of EBITDA in respect of interest payment exceeding rupees one crore by an Indian company or an Indian Permanent Establishment (PE) of a non-resident being the borrower to its non-resident lender who is an AE. There are a host of issues arising out of the new provision such as the composition of EBITDA to be considered as per books of account (as per Ind-As) or as per tax laws (ICDs); whether the limit of 30 per cent of EBITDA to be considered at the entity level or only in respect of payment to non-resident AEs etc. This publication attempts to throw light on these and many other related issues.
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