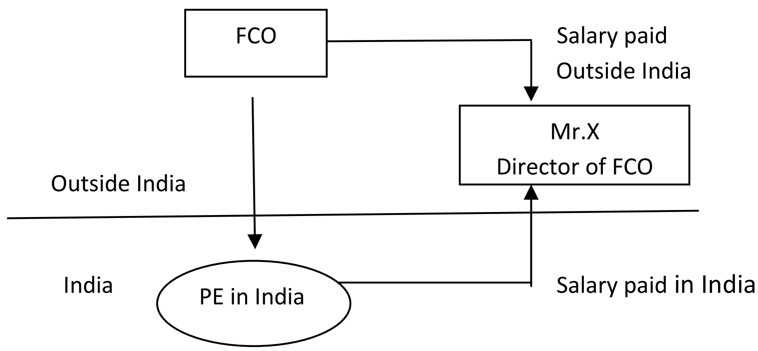
Case Study 1: Applicability of SDT to transactions between non-residents



Facts:

- Mr. X is director of FCO which has a PE in India
- Mr. X was deputed to work for PE in India from 1 November 2012 during FY 2012-13.
- For services rendered upto October 2012, Mr. X was paid salary outside India. For services rendered post 1 November 2012, he is paid salary in India.
- PE is liable to tax on net basis in India. Mr. X's status is non-resident for FY 2012-13.
- PE claims salary paid to Mr. post 1 November 2012 as deductible expenditure from its income.

Issue:

- Whether salary paid to Mr. X is subject to Domestic TP considering that both FCO (and hence its PE) as also Mr. X are non-residents?

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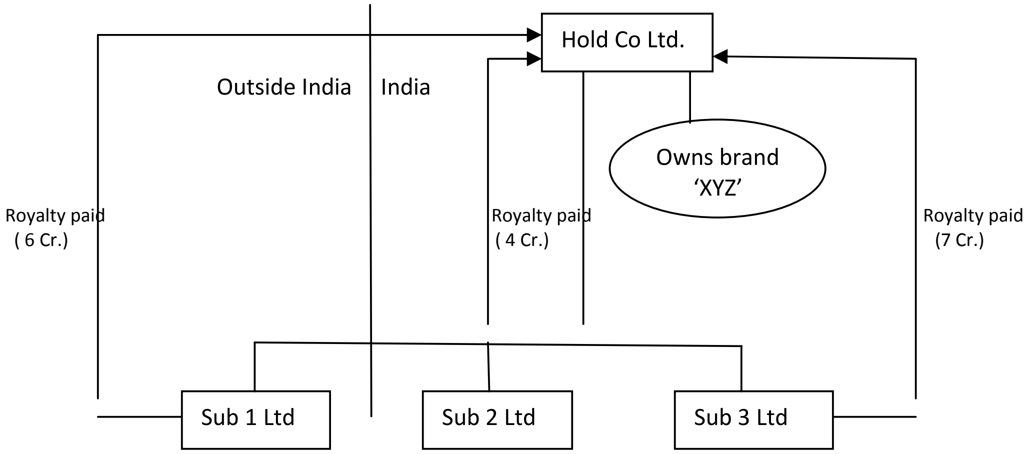
Case Study 2 – Applicability of TP for royalty paid by Indian and foreign subsidiaries to Indian parent



Facts:

- Hold Co is an Indian company.
- Sub 1 is a foreign subsidiary. Sub 2 and Sub 3 are Indian subsidiaries.
- Hold Co. owns valuable brand 'XYZ' which is self generated for Hold Co.
- Hold Co is not eligible for any profit linked tax holiday
- The subsidiaries are engaged in manufacturing and distribution of diverse products.
- The subsidiaries sell their products under brand name of 'XYZ'.
- The subsidiaries pay royalty to Hold Co. for use of brand name.
- Sub 1 has no presence in India and is not liable to tax in India.
- Sub 2 pays royalty of Rs.4 Cr to Hold Co. Sub 3 pays royalty of Rs.7 Cr to Hold Co. Both Sub 2 and Sub 3 are not entitled to any profit linked tax holiday.

Issue:

- Whether Hold Co. is liable for Domestic TP for royalty received from subsidiaries?
- Whether subsidiaries are liable to Domestic TP?

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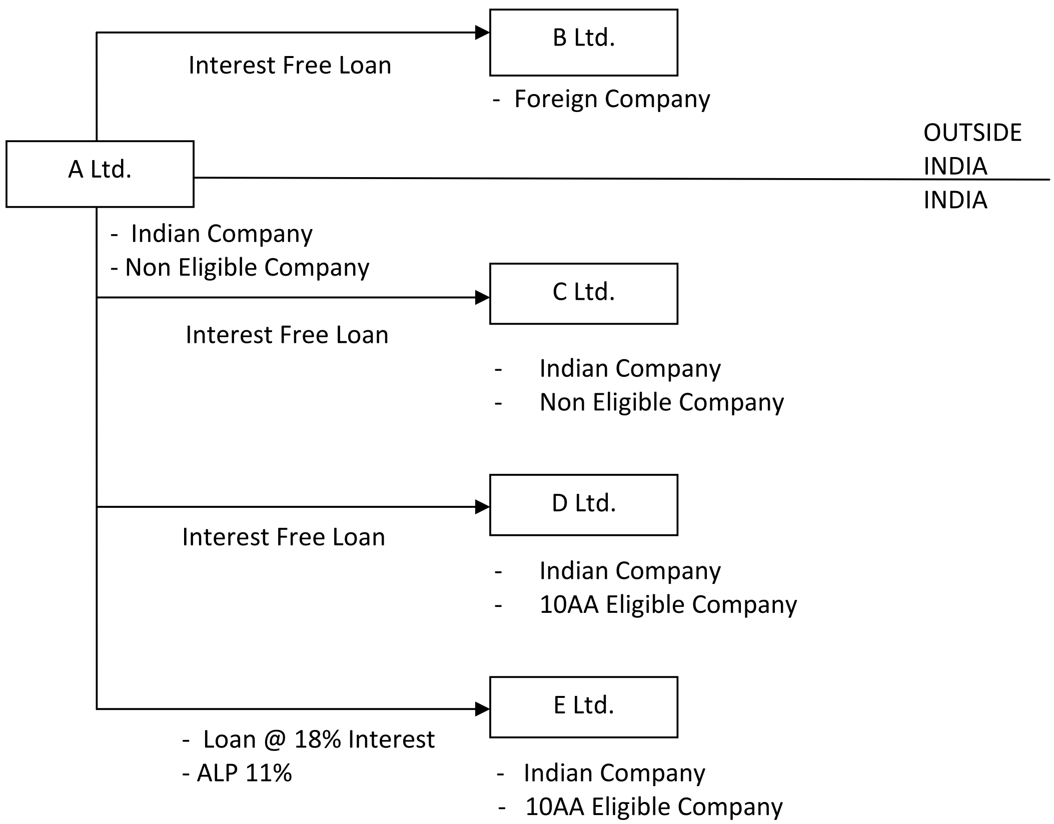
CASE STUDY 3



CASE STUDY 2

Facts

- A Ltd. is an Indian company and not eligible for any tax-holiday
- B Ltd. is a foreign company located in U.S.A. and 100% subsidiary of A Ltd.
- C Ltd. is an Indian company, 100% subsidiary of A Ltd., and not eligible for tax-holiday
- D Ltd. and E Ltd. are Indian companies, 100% subsidiaries of A Ltd. and eligible for deduction u/s. 10AA
- A Ltd. granted interest free loans to B Ltd., C Ltd. and D Ltd.
- A Ltd. granted loan to E Ltd. at interest rate of 18% p.a.

Issue

- What is the effect of Domestic TP in the hands of A Ltd., B Ltd., C Ltd., D Ltd., and E Ltd.?

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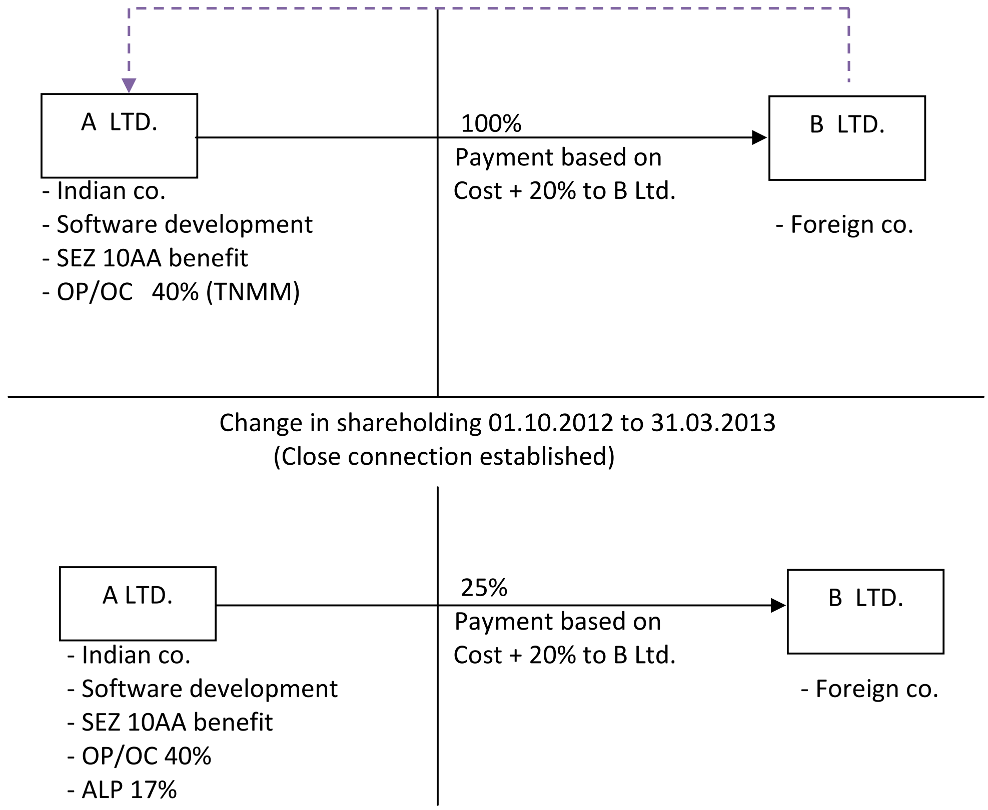
CASE STUDY 4

For the period of 01.04.2012 to 30.09.2012
R&D Services



CASE STUDY 5

Facts

- A Ltd. is an Indian company engaged in software development and eligible for section 10AA benefit
- B Ltd. is a wholly owned subsidiary of A Ltd. situated in China and provides R & D services to A Ltd.
- B Ltd. charges cost plus 20% mark-up for providing R & D services to A Ltd.
- With effect from 01.10.2012, shareholding of A Ltd. in B Ltd. was reduced to 25%
- A Ltd. has earned OP/OC of 40% from 01.04.2012 to 30.09.2012 as well as from 01.10.2012 to 31.03.2013. Arm's length OP/OC is 17%

Issues

- During F.Y. 2012-13, whether A Ltd. will be subject to International TP or Domestic TP or both?
- In Domestic TP, whether transactions will be covered u/s. 40A(2) or 80-IA(10) or both?
- Whether any upward adjustment can be made for A Ltd. by the AO under Domestic TP Provisions even though there is **mere change in the shareholding without any change in the pricing mechanism of transactions with related party?**

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