INTERMEDIATE
Paper 7

DIRECT TAXATION

Study Notes
SYLLABUS 2022

The Institute of Cost Accountants of India
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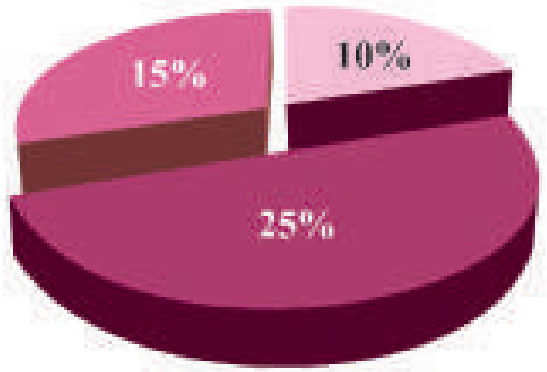
PAPER 7 : DIRECT TAXATION
SECTION - A

Syllabus Structure:

The syllabus in this paper comprises the following topics and study weightage:

Module No.	Module Description	Weight
Section A: Direct Taxation		**50%**
1	Basics of Income Tax Act	10%
2	Heads of Income	25%
3	Total Income and Tax Liability of Individuals & HUF	15%



Learning Environment

Subject Title	**DIRECT TAXATION (Section - A)**
Subject Code	**DITX**
Paper No.	**7**
Course Description	This section deals with the provisions of Income Tax Act, 1961 relating to computation of income under various heads and determination of total income and tax liability of individuals and HUFs. It also covers relevant provisions for filing of return and assessment procedure.
CMA Course Learning Objectives (CMLOs)	1. Interpret and appreciate emerging national and global concerns affecting organizations and be in a state of readiness for business management. a. Identify emerging national and global forces responsible for enhanced/varied business challenges. b. Assess how far these forces pose threats to the status-quo and creating new opportunities. c. Find out ways and means to convert challenges into opportunities 2. Acquire skill sets for critical thinking, analyses and evaluations, comprehension, syntheses, and applications for optimization of sustainable goals. a. Be equipped with the appropriate tools for analyses of business risks and hurdles. b. Learn to apply tools and systems for evaluation of decision alternatives with a 360-degree approach. c. Develop solutions through critical thinking to optimize sustainable goals. 3. Develop an understanding of strategic, financial, cost and risk-enabled performance management in a dynamic business environment. a. Study the impacts of dynamic business environment on existing business strategies. b. Learn to adopt, adapt and innovate financial, cost and operating strategies to cope up with the dynamic business environment. c. Come up with strategies and tactics that create sustainable competitive advantages. 4. Learn to design the optimal approach for management of legal, institutional, regulatory and ESG frameworks, stakeholders' dynamics; monitoring, control, and reporting with application-oriented knowledge. a. Develop an understanding of the legal, institutional and regulatory and ESG frameworks within which a firm operates. b. Learn to articulate optimal responses to the changes in the above frameworks. c. Appreciate stakeholders' dynamics and expectations, and develop appropriate reporting mechanisms to address their concerns. 5. Prepare to adopt an integrated cross functional approach for decision management and execution with cost leadership, optimized value creations and deliveries. a. Acquire knowledge of cross functional tools for decision management. b. Take an industry specific approach towards cost optimization, and control to achieve sustainable cost leadership. c. Attain exclusive knowledge of data science and engineering to analyze and create value.

Subject Learning Objectives [SLOB(s)]	**Direct Taxation** 1. To acquire application-oriented knowledge and skill for appreciating various provisions of the Income Tax Act, 1961 and attain abilities to solve problems while computing tax liabilities. (CMLO 4 a) 2. To attain abilities to apply various provisions of direct taxation laws, including assessment to identify the impacts thereof on business decisions. (CMLO 3a and b) 3. To gather knowledge of various compliance related provisions of direct taxation laws and attain abilities to ensure due compliance to avoid any eventual risks. (CMLO 4 c)
Subject Learning Outcome [SLOC(s)] and Application Skill [APS]	**SLOCs:** 1. Students will be able to appropriately apply various provisions of direct taxation laws and perform tax computation of taxable income and tax liability for different types of assessees. 2. They will be able to ensure compliance of legal provisions related to direct taxes. **APSs:** 1. Students will acquire skill to compute taxable income and tax liabilities of various person like individual, Hindu Undivided Family, Firm, Co-operative Society, Political Parties and Association of Persons & Body of Individuals. 2. Students will attain skill sets for solving computation related issues of direct taxes. 3. Students will be able to ensure compliances of direct taxation related provisions.

Module wise Mapping of SLOB(s)

Module No.	Topics and Sub-topics	Additional Resources (Research articles, case studies, blogs)	SLOB Mapped
1	Basics of Income tax Act	**Common for Modules of Direct Taxation 1,2, & 3:** Income-tax Act, 1961 (Bare Act) and the Income-tax Rules www.incometaxindia.gov.in For this Module: Refer Chapter I, II & III of the Income Tax Act.	1. To acquire application-oriented knowledge and skill for appreciating various provisions of the Income Tax Act, 1961 and attain abilities to solve problems while computing tax liabilities. 2. To attain abilities to apply various provisions of direct taxation laws, including assessment to identify the impacts thereof on business decisions. 3. To gather knowledge of various compliance related provisions of direct taxation laws and attain abilities to ensure due compliance to avoid any eventual risks.
2	Heads of income	Refer Chapter IV of the Income-tax Act, 1961 (Bare Act)	
3	Total income and tax liability of individuals and HUF	Refer Chapter V, VI & VIA of the Income-tax Act, 1961 (Bare Act)	

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1.1 Basic Concepts, Basis of Charge and Capital & Revenue Receipts

1.2 Residential Status and Scope of Total Income

1.3 Agricultural Income

1.4 Income which do not form part of Total Income

Module 2. Heads of Income 79 - 392

2.1 Salaries

2.2 Income from House Property

2.3 Profits and Gains of Business or Profession including Tax Audit u/s 44AB; and Provisions u/s 43A, 43B, 43AA, 44AD, 44ADA and 44AE (excluding Sections 42 to 44DB)

2.4 Capital Gains

2.5 Income from Other Sources

Module 3. Total Income and Tax Liability of Individuals & HUF 393 - 588

3.1 Income of Other Person included in Assesses Total Income (Clubbing of Income)

3.2 Set off and Carry Forward of Losses

3.3 Deductions, Rebate and Relief

3.4 Taxation of Individual (including AMT but excluding Non-resident) & HUF

3.5 Advance Tax

3.6 Tax Deducted at Source & Tax Collected at Source (excluding Non-resident)

3.7 Filing of Return of Income

3.8 PAN

3.9 Self-Assessment & Intimation

SECTION - A

DIRECT TAXATION

Basics of Income Tax Act 1

This Module includes

1.1 Basic Concepts, Basis of Charge and Capital & Revenue Receipts

1.2 Residential Status and Scope of Total Income

1.3 Agricultural Income

1.4 Income which do not form part of Total Income

Basics of Income Tax Act

SLOB Mapped against the Module:

1. To acquire application-oriented knowledge and skill for appreciating various provisions of the Income Tax Act, 1961 and attain abilities to solve problems while computing tax liabilities.
2. To attain abilities to apply various provisions of direct taxation laws, including assessment to identify the impacts thereof on business decisions.
3. To gather knowledge of various compliance related provisions of direct taxation laws and attain abilities to ensure due compliance to avoid any eventual risks.

Module Learning Objectives:

After studying this module, the students will be able to –

- Appreciate the various type of taxations
- Appreciate the source of tax laws
- Understand the meaning of various terms like previous year, assessment year, etc.
- Appreciate the provisions relating to residential status
- Apply the knowledge to ascertain the taxability of income in India
- Appreciate various income which are not liable to be taxed in India

Basic Concepts, Basis of Charge and Capital & Revenue Receipts

1.1

"It was only for the good of his subjects that he collected taxes from them, just as the Sun draws moisture from the Earth to give it back a thousand folds" – Kalidas in Raghuvansh eulogizing King Dalip

Income Tax has been in force in different forms for years. If we go through the history of India, we get relevant information regarding the taxation system in India. In ancient history, it is mentioned about such system which was imposed on the income, expenditure and other subject. When most of the European civilization were in hopping stage, the Maurya Empire in India had a well-developed taxation policy. Kautilya, a minister in the Maurya Empire, wrote a book (Arthashastra) on taxation around 327 B.C., is good evidence of contemporary Indian thinking on State administration, economics and fiscal policy. In modern India, income tax was introduced for the first time in 1860 by Sir James Wilson in order to meet the losses sustained by the Government on account of the Military Mutiny of 1857. The Act was replaced with the new Act from time to time and the present the Income-tax Act, 1961 comes into force from 01/04/1962.

Why Taxation

In a welfare state, the government is responsible for the welfare of its citizens, which includes healthcare, education, employment, infrastructure, social security, and other development needs. To finance these services, the government needs revenue, and its primary source of revenue is taxation. This means that the government collects taxes from the public to fund public welfare expenditures. Though nobody enjoys handing over their hard-earned money, **taxes are compulsory or enforced contributions to the government's** revenue by the public. The government may levy taxes on income, business profits, or wealth, or add it to the cost of some goods, services and transactions.

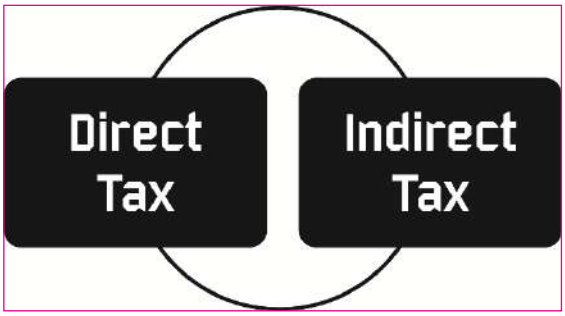
Basic Reasons to impose taxation

- **To provide basic facilities for every citizen of the country:** Whatever money is received by the government from taxation is spent by it for the welfare of the citizens of the country. Some of the services provided by the government are: health care, electricity, roads, education system, free houses for the poor, water supply, police, firefighters, judiciary system, disaster relief, taking care of bridges and other things of public welfare.

- **To finance multiple governments:** All the local governments of the state like village panchayats, block panchayats and municipal corporations receive funds from the finance commission.

- **Protection of the life:** Taxpayers receive the protection of life and wealth from the government in case of external aggression, internal armed rebellion or any other situation.

Direct Tax & Indirect Tax

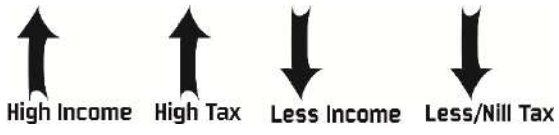


There are two types of taxes: Direct Tax and Indirect Tax

Tax, of which incidence and impact fall on the same person, is known as Direct Tax, such as Income Tax. On the other hand, tax, of which incidence and impact fall on two different persons, is known as Indirect Tax, such as GST, etc. It means, in the case of Direct Tax, tax is recovered directly from the assessee, who ultimately bears such taxes, whereas in the case of Indirect Tax, tax is recovered from the assessee, who passes such burden to another person & is ultimately borne by consumers of such goods or services.

Type of Taxation

Direct Tax	Indirect Tax
• Incidence and impact fall on the same person • Assessee, himself bears such taxes. Thus, it pinches the taxpayer. • Levied on income • E.g. Income Tax • Progressive in nature i.e., higher tax are levied on person earning higher income and vice versa.	• Incidence and impact fall on two different persons • Tax is recovered from the assessee, who passes such burden to another person. Thus, it does not pinch the taxpayer. • Levied on goods and services. Thus, this type of tax leads to inflation and have wider base. • E.g. GST, Customs Duty, etc. • Regressive in nature i.e., all persons will bear equal wrath of tax on goods or service consumed by them irrespective of their ability. • Useful tool to promote social welfare by checking the consumption of harmful goods or sin goods through higher rate of tax.



Direct tax: Progressive in nature

Indirect Tax: Regressive in nature

Constitutional Validity of Taxes

The Constitution of India is the supreme law of India. Any tax law, which is not in conformity with the Constitution, is called ultra vires the Constitution and held as illegal and void.

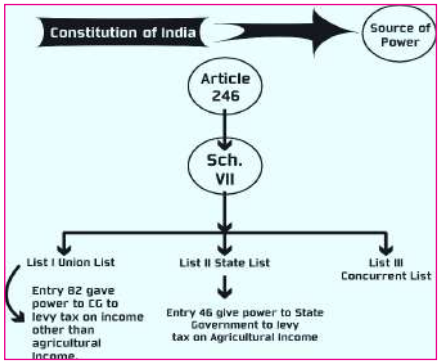
Some of the provisions of the Constitution are given below:

Article 265	No tax shall be levied or collected **(it includes collection or recovery)** except by the authority **(Article 245 and Article 123)** of law.
Article 245	Parliament may make laws for the whole or any part of the territory of India
Article 123	When Parliament is in recess, the President has the power to promulgate Ordinances
Article 270	All the taxes & duties except specified shall be levied by the Central Government & distributed between Union & State Governments in the manner specified by the President or through recommendation of the finance commission.

Article 271	Parliament may at any time increase any of the duties or taxes referred in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund India
Article 246	**Read with Schedule VII** divides the subject matter of law made by the legislature into three categories

Article 265 of the Constitution lays down that no tax shall be levied or collected except by the authority of law. It means the tax proposed to be levied must be within the legislative competence of the legislature imposing the tax*.

Article 246 read with Schedule VII divides the subject matter of law made by the legislature into three categories:



- Union list (only the Central Government has the power of legislation on subject matters covered in the list)
- State list (only the State Government has the power of legislation on subject matters covered in the list)
- Concurrent list (both Central & State governments can pass legislation on subject matters).

If a state law relating to an entry in List III is repugnant to a Union law relating to that entry, the Union law will prevail, and the state law shall, to the extent of such repugnancy, be void. **(Article 254)**.

Following major entries in the respective list enable the legislature to make law on the matter:

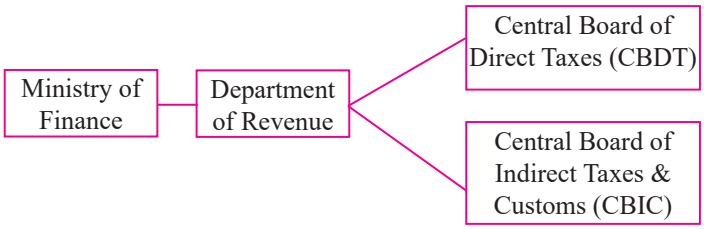
Union List (List I)	**Entry 82** - Taxes on income other than agricultural income i.e. **Income-tax**
State List (List II)	**Entry 46** - Taxes on agricultural income.

Administration of Tax Laws

The administrative hierarchy of tax law is as follows:

Taxpoint:

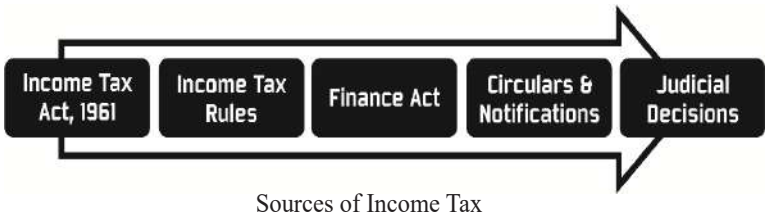
- Both of the Boards have been constituted under the Central Board of Revenue Act, 1963.
- CBDT deals with levy and collection of all direct tax whereas matters relating to levy and collection of Central indirect tax are dealt by CBIC.



Sources or Component of Income Tax Law in India

1. Income tax Act, 1961 (Amended up to date) [Provides What to do?]

The provisions of income tax extend to the whole of India and became effective from **1/4/1962** (Sec. 1). The Act contains provisions for:



Sources of Income Tax

(a) determination of taxable income;

(b) determination of tax liability;

(c) procedure for assessment, appeals, penalties and prosecutions; and

(d) powers and duties of Income-tax authorities.

Taxpoint:

- The Act has been divided into 23 chapters (covering 298 sections) and 14 schedules. Few of them are further sub-divided.
- It is extended to the whole of India
  - "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters [Sec. 2(25A)]

2. Income-tax Rules, 1962 (Amended up to date) [Provides How to do?]

(a) As per Sec. 295, the Board may, subject to the control of the Central Government, make rules for the whole or any part of India for carrying out the purposes of the Act.

(b) Such rules are made applicable by notification in the Gazette of India.

(c) These rules were first made in 1962 and are known as Income tax Rules, 1962.

(d) Rules are for implantation or execution of the Act.

Since then, many new rules have been framed or existing rules have been amended from time to time and the same has been incorporated in the aforesaid rules.

3. Annual Amendments

(a) Income-tax tax Act has undergone several amendments from the time it was originally enacted through the Union Budget*. Every year [on 1st Feb**], a Finance Bill (a part of the Union Budget) is presented before the Parliament by the Finance Minister. The Bill contains various amendments which are sought to be made in the areas of direct and indirect taxes levied by the Central Government.

(b) When the Finance Bill is approved by both the Houses of Parliament and receives the assent of the President, it becomes the Finance Act. The provisions of such Finance Act are thereafter incorporated in the Income Tax Act.

- Amendments made in the direct tax shall be effective from next year, unless specified otherwise
- In GST, amendments are expected after every GST council meeting.
- Amendments made in other indirect tax shall be effective from mid night, unless specified otherwise

(c) If on the 1st day of April of the Assessment Year, the new Finance Act has not been enacted, the provisions

* According to Article 112 of the Indian Constitution, the Union Budget of a year is a statement of the estimated receipts and expenditure of the government for that particular year. Union Budget is classified into Revenue Budget and Capital Budget. Revenue budget includes the government's revenue receipts and expenditure. There are 2 kinds of revenue receipts - tax and non-tax revenue. If revenue expenditure exceeds revenue receipts, the government incurs a revenue deficit. Capital Budget includes capital receipts and payments of the government. Loans from public, foreign governments and RBI form a major part of the government's capital receipts. Fiscal deficit is incurred when the government's total expenditure exceeds its total revenue. Budget is prepared under the Fiscal Responsibility and Budget Management Act, 2003 (FRBM Act).

** However, in the year of election, in the month of Feb, interim budget is presented by the Govt and after election final budget is presented by the new Govt.

in force in the preceding Assessment Year or the provisions proposed in the Finance Bill before the Parliament, whichever is more beneficial to the assessee, will apply until the new provisions become effective [Sec. 294]

Note: Besides these amendments, whenever it is found necessary, the Government introduces amendments in the form of various Amendment Acts and Ordinances.

4. Notification, Circulars and Clarifications

(a) U/s 119, the Board may issue certain notifications*, circulars and clarifications** from time to time, which have to be followed and applied by the Income tax authorities.

(b) Effect of circulars: These circulars or clarifications are binding upon the Income tax authorities, but the same are not binding on the assessee. However, assessee can claim benefit under such circulars.

Note: These circulars are not binding on the Income Tax Appellate Tribunal or on the Courts.

5. Judicial decision

(a) Decision of the Supreme Court: Any decision given by the Supreme Court shall be applicable as law till there is any change in law by the Parliament. Such decision shall be binding on all the Courts, Tribunals, Income tax authorities, assessee, etc.

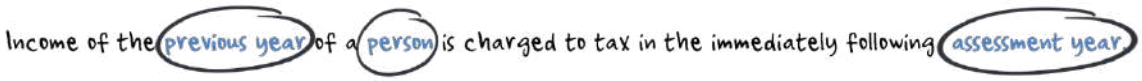
(b) Contradiction in the decisions of the Supreme Court: In case, there is apparently contradiction in two decisions, the decision of larger bench, whether earlier or later, shall always prevail. However, where decisions are given by benches having equal number of judges, the decision of the recent case shall be applicable.

(c) Decisions given by a High Court or ITAT: Decisions given by a High Court or ITAT are binding on all assessees and Income tax authorities, which fall under their jurisdiction, unless it is over ruled by a higher authority.

Basic principles for charging Income Tax [Sec. 4]

1. Income of the previous year of a person is charged to tax in the immediately following assessment year.
2. It is not a one-time tax.
3. Rate of tax is applicable as specified by the Annual Finance Act of that year. Further, though the Finance Act prescribes the rates of tax, in respect of certain income, the Income Tax Act itself has prescribed specific rates, e.g. Lottery income is to be taxed @ 30% (Sec.115BB)
4. In respect of income chargeable to tax, tax shall be deducted at source, or paid in advance (wherever applicable).

Sec. 4 is a charging section and it is the backbone of the Income Tax Act. The tax liability arises by virtue of this section and it arises at the close of a previous year. However, the finalisation of amount of tax liability is postponed to the assessment year.



Assessment Year (A.Y.) [Sec. 2(9)]

Assessment year means the period of 12 months commencing on the 1st day of April every year. It is the year (just after the previous year) in which income earned in the previous year is charged to tax. E.g., A.Y.2025-26 is a year, which commences on April 1, 2025 and ends on March 31, 2026. The income of an assessee earned in the previous year 2024-25 is assessed in the A.Y. 2025-26.

* Notification is a mode of communication system, though one way, by the department with all stakeholders

** Circulars and clarifications are internal communication systems, though one way, by the department to their subordinates.

Taxpoint:

- Duration: Period of 12 months starting from 1st April.
- Relation with Previous Year: It falls immediately after the Previous Year.
- Purpose: Income of a previous year is assessed and taxable in immediately following Assessment Year.

Previous Year [Sec.3]

Previous Year means the financial year immediately preceding the Assessment Year. Income earned in a year is assessed in the next year. The year in which income is earned is known as Previous Year and the next year in which income is assessed is known as Assessment Year. It is mandatory for all assessee to follow financial year (from 1st April to 31st March) as previous year for Income-Tax purpose.

Financial Year

According to sec. 2(21) of the General Clauses Act, 1897, a Financial Year means the year commencing on the 1st day of April. Hence, it is a period of 12 months starting from 1st April and ending on 31st March of the next year. It plays a dual role i.e. Assessment Year as well as Previous Year.

Example: Financial year 2024-25 is -

- Assessment year for the Previous Year 2023-24; and
- Previous Year for the Assessment Year 2025-26.

Determination of the first previous year in case of a newly set-up business or profession or for a new source of income

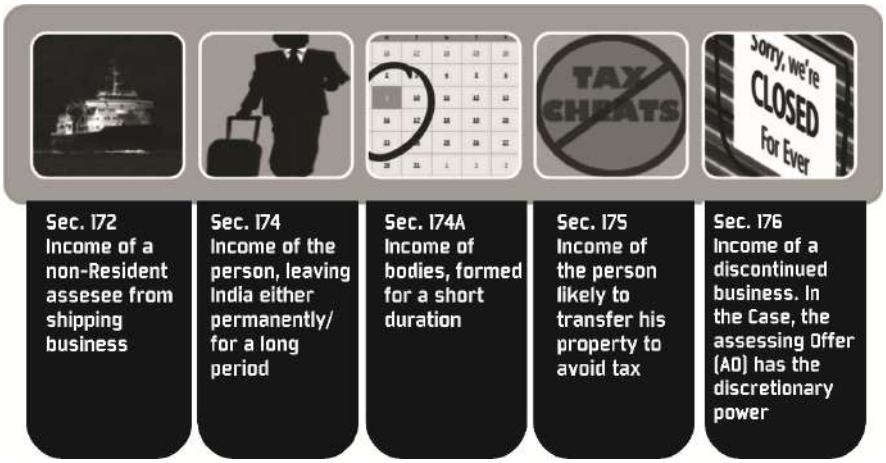
In case of	Previous year is the period
Business or profession being newly set-up	Beginning with the date of setting up of the business & ending on 31st March of that financial year.
A source of income newly coming into existence	Beginning with the date on which the new source of income comes into existence & ending on 31st March of that financial year.

Notes:

1. Above explanation signifies that the first previous year may be a period of less than 12 months but in any case it cannot exceed a period of 12 months. However, next and subsequent previous years shall always be a period of 12 months.
2. Where an assessee has an existing regular income from various sources and he earns an income from a new source during the financial year, his previous year shall commence -
   - For the existing income: From 1st April of previous year; and
   - For new income: From the date when on which the new source of income comes into existence.

   However, assessee is liable to tax on aggregate income from all the sources, therefore, all the income will be included in the previous year.

Exceptions to the general rule that income of a Previous Year is taxed in its Assessment Year



This is the general rule that income of the previous year of an assessee is charged to tax in the immediately following assessment year. However, in the following cases, income of the previous year is assessed in the same year in order to ensure smooth collection of income tax from the taxpayer who may not be traceable, if assessment is postponed till the commencement of the Assessment Year:

1. Income of a non-resident assessee from shipping business (Sec. 172)
2. Income of a person who is leaving India either permanently or for a long period (Sec. 174)
3. Income of bodies, formed for a short duration (Sec. 174A)
4. Income of a person who is likely to transfer property to avoid tax (Sec. 175)
5. Income of a discontinued business (Sec. 176). In this case, the Assessing Officer has the discretionary power i.e. he may assess the income in the same previous year or may wait till the Assessment year.

Assessee [Sec 2(7)]

"Assessee" means,

a. a person by whom any tax or any other sum of money (i.e., penalty or interest) is payable under this Act (irrespective of the fact whether any proceeding under the Act has been taken against him or not);

b. every person in respect of whom any proceeding under this Act has been taken (whether or not he is liable for any tax, interest or penalty) for the assessment of his income or loss or the amount of refund due to him;

c. a person who is assessable in respect of income or loss of another person;

d. every person who is deemed to be an assessee under any provision of this Act; and

e. a person who is deemed to be an 'assessee in default' under any provision of this Act. E.g. A person, who was liable to deduct tax but has failed to do so, shall be treated as an 'assessee in default'.

Person [Sec. 2 (31)]

The term person includes the following:

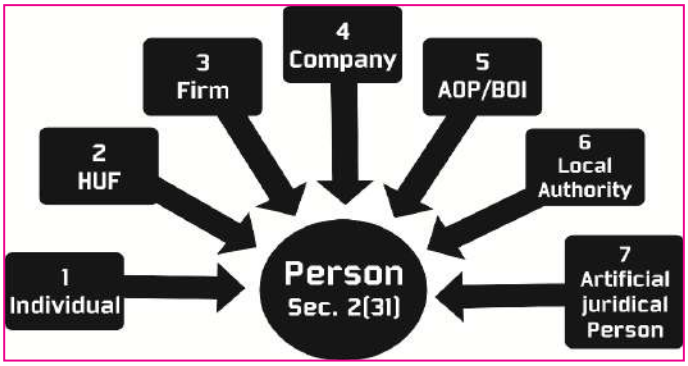
i) an Individual;

ii) a Hindu Undivided Family (HUF);

iii) a Company;

iv) a Firm;

v) an Association of Persons (AOP) or a Body of Individuals (BOI), whether incorporated or not;



vi) a Local authority; &

vii) every artificial juridical person not falling within any of the preceding categories.

Notes

1. On the basis of a well settled principle that "the Crown cannot be charged to tax", it can be said that unless otherwise specifically mentioned the Union Government cannot be taxed in India.
2. An association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains.
3. A firm includes limited liability partnership.

Individual

The word 'individual' means a natural person, i.e. human being. "Individual" includes a minor or a person of unsound mind. However, Deities are assessable as juridical person.

Trustee of a discretionary trust shall be assessed as an individual

Hindu Undivided Family (HUF)

A Hindu Undivided Family (on which Hindu law applies) consists of all persons lineally descended from a common ancestor & includes their wives & daughters.

Taxpoint:

- Only those undivided families are covered here, to which Hindu law applies. It also includes Jain and Sikh families.
- Once a family is assessed as Hindu undivided family, it will continue to be assessed as such till its partition.
- An HUF is not the creation of a contract. Its membership arises from status.

Company [Sec. 2(17)]

Company means:

a. any Indian company; or

b. any body corporate, incorporated under the laws of a foreign country; or

c. any institution, association or body which is or was assessable or was assessed as a company for any assessment year on or before April 1, 1970; or

d. any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by general or special order of the Central Board of Direct Taxes to be a company.

Indian Company [Sec. 2(26)]

An Indian company means a company formed & registered under the Companies Act, 1956 & includes

a. a company formed and registered under any law relating to companies formerly in force in any part of India other than the state of Jammu & Kashmir and the Union territories specified in (c) infra;

b. a company formed and registered under any law for the time being in force in the State of Jammu & Kashmir;

c. a company formed and registered under any law for the time being in force in the Union territories of Dadar & Nagar Haveli, Goa, Daman & Diu and Pondicherry;

d. a corporation established by or under a Central, State or Provincial Act;

e. any institution, association or body which is declared by the Central Board of Direct Taxes (CBDT) to be a company u/s 2(17).

In the aforesaid cases, a company, corporation, institution, association or body will be treated as an Indian company only if its registered office or principal office, as the case may be, is in India.

Domestic Company [Sec. 2(22A)]

Domestic company means:

i) an Indian company; or

ii) any other company, which in respect of its income liable to tax under the Act, has made prescribed arrangements for the declaration and payment of dividends (including dividend on preference share), payable out of such income, within India.

Foreign Company [Sec. 2(23A)]

Foreign company means a company which is not a domestic company.

Company in which public are substantially interested [Sec. 2(18)]

Following companies are said to be a company in which public are substantially interested:

1. Government Company;
2. A company u/s 8 of the Companies Act, 2013;
3. Mutual benefit finance company;
4. Listed company;
5. Company in which shares are held by co-operative societies;
6. Company which is prescribed by CBDT

Firm

As per sec. 4 of Indian Partnership Act, 1932, partnership means "relationship between persons who have agreed to share profits of the business carried on by all or any one of them acting for all".

Persons, who enter into such business, are individually known as partners and such business is known as a Firm. Firm is, though not having a separate legal entity, but has separate entity in the eyes of I-tax Act.

Taxpoint:

- A partnership firm is a separate taxable entity apart from its partners.
- In Income tax, a Limited liability partnership shall be treated at par (excluding sec. 44AD / 44ADA) with firm.

Association of Persons (AOP) or Body of Individuals (BOI)

AOP means a group of persons (whether individuals, HUF, companies, firms, etc.) who join together for common purpose(s). Every combination of person cannot be termed as AOP. It is only when they associate themselves in an income-producing activity then they become AOP. Whereas, BOI means a group of individuals (individual only) who join together for common purpose(s) whether or not to earn income.

Difference between AOP and BOI

- In case of BOI, only individuals can be the members, whereas in case of AOP, any person can be its member i.e. entities like Company, Firm etc. can be the member of AOP but not of BOI.
- In case of an AOP, members voluntarily get together with a common will for a common intention or purpose, whereas in case of BOI, such common will may or may not be present.

Local Authority

As per Sec. 3(31) of the General Clause Act, a local authority means a municipal committee, district board, body of Port Commissioners, Panchayat, Cantonment Board, or other authorities legally entitled to or entrusted by the Government with the control and management of a municipal or local fund.

Artificial Juridical Person

Artificial juridical person are entities -

- which are not natural person;
- has separate entity in the eyes of law;
- may not be directly sued in a court of law but they can be sued through person(s) managing them

E.g: Deities, Idols, University, Bar Council, etc.

Note: Under the Income-tax Act, such person has been provided exemption from payment of tax under separate provisions of the Act, if certain conditions mentioned therein are satisfied.

Illustration 1

Determine the status of the following:

Case	Status
a) Howrah Municipal Corporation	Local authority
b) Corporation Bank Ltd.	Company
c) Mr. Amitabh Bachchan	Individual
d) Amitabh Bachchan Corporation Ltd.	Company
e) A joint family of Sri Ram, Smt. Ram and their son Lav and Kush	HUF
f) Calcutta University	Artificial juridical person
g) X and Y who are legal heirs of Z	BOI
h) Sole proprietorship business	Individual
i) Partnership Business	Firm

Income [Sec. 2(24)]

To consider any receipt as income, following points should be kept in mind: -

Cash vs. Kind	Income may be received in cash or in kind. Income received in kind is to be valued as per the rules prescribed and if there is no specific direction regarding valuation in the Act or Rules, it may be valued at market price.

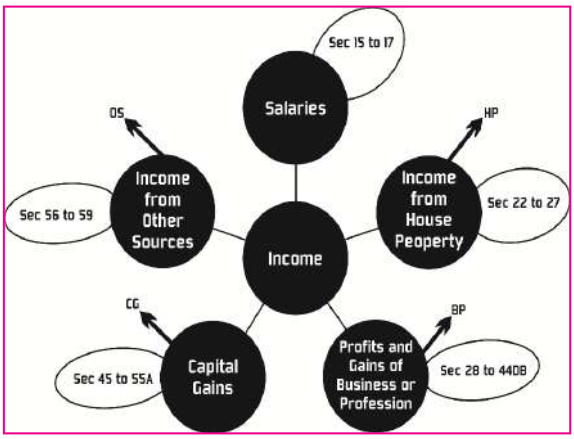
Significance of method of accounting	Method of accounting is irrelevant	In case of income under the head "Salaries", "Income from house property" and "Capital gains" method of accounting is irrelevant.
	Method of accounting is relevant	In case of income under the head "Profits & gains of business or profession" and "Income from other sources" (other than Dividend) income shall be taxable on cash or accrual basis as per the method of accountancy regularly followed by the assessee.
Notional income	A person cannot make profit out of transaction with himself. Hence, goods transferred from one department to another department at a profit, shall not be treated as income of the business.	
Source of income	Income may be from a temporary source or from a permanent source.	
Capital vs. Revenue receipt	A capital receipt is not liable to tax, unless specifically provided in the Act, whereas, a revenue receipt is not exempted, unless specifically provided in the Act.	
Loss	Income also includes negative income.	
Disputed income	In case of dispute regarding the title of income, assessment of income cannot be withheld and such income, normally, be taxed in the hands of recipient.	
Lump-sum receipt	There is no difference between income received in lump sum or in installment.	
Reimbursement	Mere reimbursement of expenses is not an income.	
Legality	The Act does not make any difference between legal or illegal income.	
Double taxation	Same income cannot be taxed twice.	
Income by mutual activity	In this regard it is to be noted that in case of mutual activities, where some people contribute to the common fund and are entitled to participate in the fund and the surplus arises which is distributed among the contributors of the fund, such surplus cannot be termed as income. **Exceptions:** ➢ Income derived by a trade, professional or similar association from rendering specific services to its members shall be taxable u/s 28(iii). ➢ Profits and gains of any insurance business carried on by a mutual insurance company or by a co-operative society. ➢ Profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members.	
Pin money	Pin money is money received by wife for her personal expenses & small savings made by a woman from money received from her husband for meeting household expenses. Such receipt is not treated as income. Note: Income on investment out of pin money shall be treated as income.	
Award	Award received, by a person related to his business or profession, shall be treated as income incidental to such business or profession. However, award received by a non-professional person is in nature of gift and/or personal testimonial, the taxability thereof is subject to other provisions of the Act	
Embezzlement	Money embezzled is a gain to the embezzler and, therefore, falls within the wider definition of income	
Contingent income	A contingent or anticipated income is not taxable.	

Subsidy	Assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assesse, e.g. LPG Subsidy*, Subsidy for establishing manufacturing unit in backward area, etc. **However**, a. subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset as per *Explanation* 10 to sec. 43(*1*) is not taxable separately. b. the subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government - shall not be taxable.

Heads of Income [Sec. 14]

According to Sec.14 of the Act, all income of a person shall be classified under the following five heads:

1. Salaries;
2. Income from house property;
3. Profits and gains of business or profession;
4. Capital gains;
5. Income from other sources.



For computation of income, all taxable income should fall under any of the five heads of income as mentioned above. If any type of income does not become part of any one of the above mentioned first four heads, it should be part of the fifth head, i.e. Income from other sources, which may be termed as the residual head.

Significance of heads of income

- Income chargeable under a particular head cannot be charged under any other head.
- The Act has self-content provisions in respect of each head of income.
- If any income is charged under a wrong head of income, the assessee may lost the benefit of deduction available to him under the correct head.

Distinguish between Heads of income and Sources of income

There are only five heads of income as per Sec. 14 of the Act, but the assessee may generate the income from various sources. Income from various sources is required to be classified into given heads (i.e., 5 heads) of income. Each head of income contains a method of computation of income under the respective head.

In the same head of income, there may be various sources of income. E.g. under the head 'Income from house property', there may be two or more house properties and each house property shall be termed as a source of income. The source of income decides under which head (among the five heads) income shall be taxable.

* Finance Ministry has clarified that LPG subsidy received by an individuals in their bank accounts will continue to be exempt from income tax.

Point	Heads of Income	Sources of Income
Number	There are 5 heads of income under the Act	There are not countable numbers of sources of income
Sequence	Source of income is categorized under respective head.	Each source of income is required to be classified under respective head.
Provision	The Act contains different code for computation of income for each head of income.	There is no code for different sources of income
Origin	It is mere classification of various source of income	It refers to the origin wherefrom income arises.

ILLUSTRATION 2

State under which Head the following incomes will be taxable:

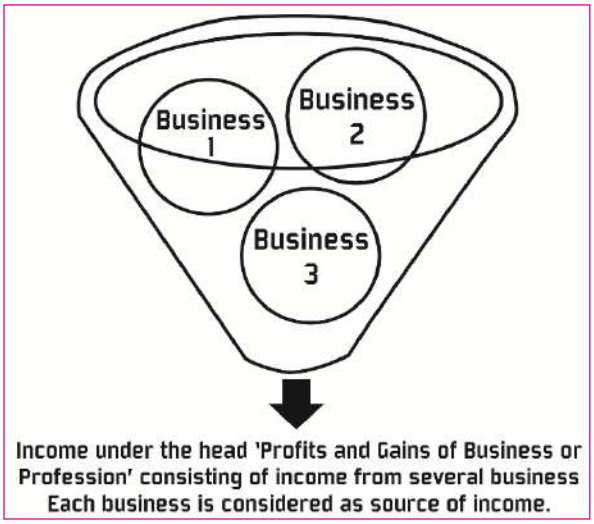
(a) Tarun received ₹ 7,200 as interest on fixed deposit with SBI.

(b) Akash made a gain of ₹ 35,000 on sale of shares held by him.

(c) ₹ 2,700 received by Atul as remuneration as an examiner from Calcutta University.

(d) Barnali, a lawyer, earned an income of ₹ 1,45,000 from her profession.

(e) Swarnli received rent of ₹ 84,000 by letting out one of her flat to a tenant.



Solution

(a) Income from Other Sources

(b) Capital Gains

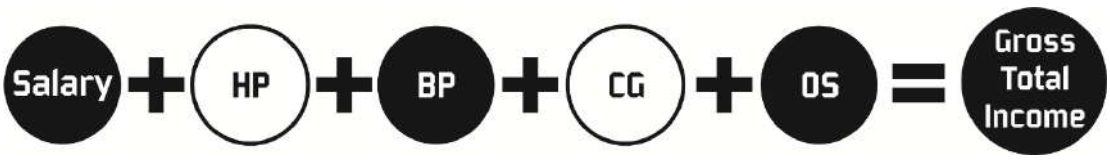
(c) Income from Other Sources

(d) Profits and Gains of Business or Profession

(e) Income from House Property

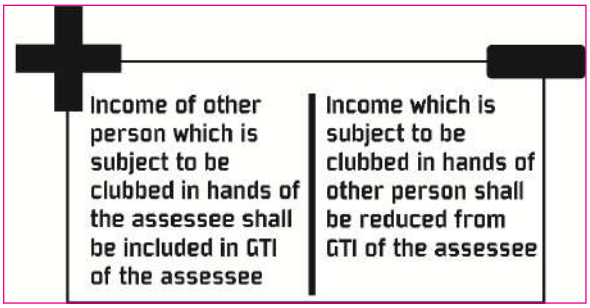
Gross Total Income (GTI) [Sec. 80B(5)]

Gross total income is the aggregate of income under all the five heads of income after adjusting the set-off & carry forward of losses. Deductions under chapter VIA is provided from GTI, to arrive at Total income or taxable income.



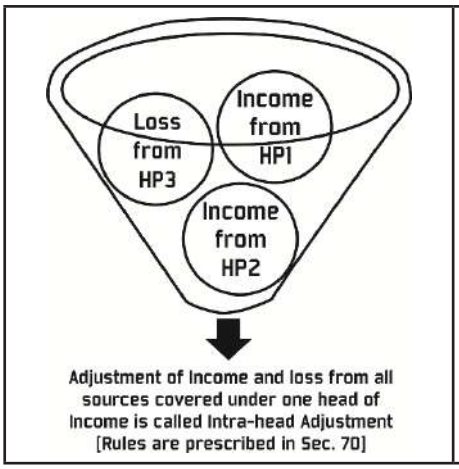
Generally, an assessee is taxed on income accruing to him only and he is not liable to tax for income of another person. However, there are certain exceptions to the above rule (mentioned u/s 60 to 64). Sec. 60 to 64 deals with the provisions of clubbing of income, under which an assessee may be taxed in respect of income accrued to other person, e.g. certain income of minor child shall be clubbed in the hands of his parents, income from asset transferred to spouse for inadequate consideration shall be clubbed in the hands of the transferor, etc. These provisions have

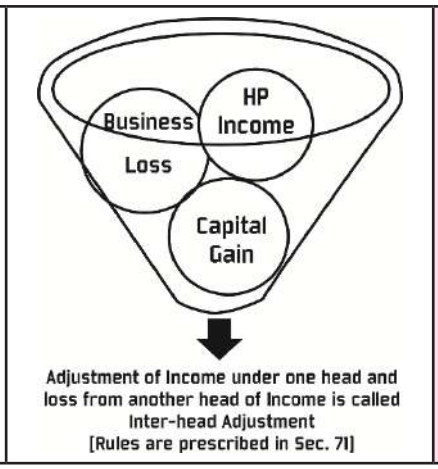
been enacted to counteract the tendency on the part of the taxpayers to dispose off their income or income generating assets to escape tax liability. Income shall be, first, computed in the hands of recipient and then clubbing shall be made head wise. Gross total income shall also include income to be clubbed in hands of assessee and, of course, income received by the assessee which is subject to be clubbed in hands of other person shall be reduced from the gross total income of the assessee.



For computation of Gross Total Income (GTI), income from various sources is computed under the five heads of income. If all the sources and heads are having positive income (i.e. profit) then the same can simply be added to compute GTI. However, if certain source(s) or certain head(s) have negative income (i.e. loss) then such loss needs to be adjusted with income of another source(s) or head(s). Set off means adjustment of loss from one source or one head against income from another source or another head.

If a negative income is not fully set off in the current year, then the unabsorbed loss shall be carried forward to subsequent years subject to certain restrictions and conditions [e.g. Income from other sources (other than losses from activity of owning and maintaining horse races) cannot be carried forward.]





Loss which could not be adjusted shall be carried forward to next year subject to certain conditions and exceptions

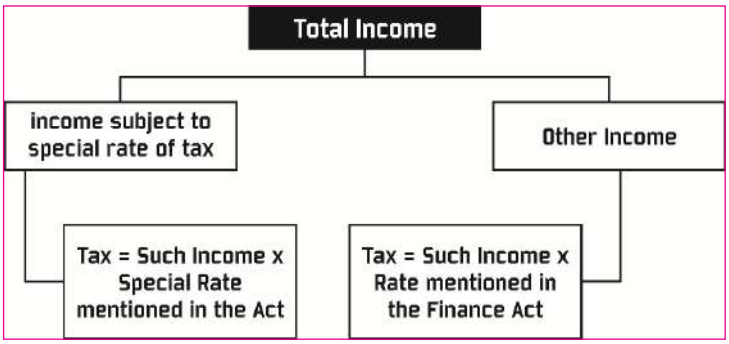
Computation of Total Income for the A.Y.___

Particulars	Amount
1. Salaries	***
2. Income from house property	***
3. Profits and gains of business or profession	***
4. Capital gains	***
5. Income from other sources	***
Gross Total Income	****
Less: Deduction u/s 80C to 80U	****
Total Income	****

Total Income (TI) [Sec. 2(45) read with section 80A(1)]

Total income means the total amount of income referred to in sec. 5, computed in the manner laid down in this Act. In other words, it means gross total income as reduced by deductions admissible under chapter VIA.

Total Income = Gross Total Income – Deduction under chapter VIA (i.e., deduction u/s 80C to 80U)



Tax is required to be computed on total income after applying provision of rounding off as provided in sec. 288A. For the purpose of computation of tax, total income may be divided into two parts viz. income on which special rate of tax is applicable and other income. Income which is subject to special rate of tax shall be taxed at special rate mentioned in the Act itself and tax on other income shall be computed considering regular rate of tax mentioned in the Finance Act.

Further, it is to be noted that tax is calculated on total income rather than aggregate of separate tax calculated on income falling under each head of income. That's why it is said that income tax is one tax and not collection of tax.

Distinguish between Gross Total Income and Total Income

Basis	Gross Total Income	Total Income
Meaning	Gross total income is the aggregate of income under all the five heads of income after adjusting the set-off & carry forward of losses	Total income means the total amount of income referred to in sec. 5, computed in the manner laid down in this Act [Sec. 2(45)]
Tax calculation	Tax is not calculated on this income	Tax is required to be calculated on this income
Rounded off	Gross total income is not required to be rounded off	Total income is required to be rounded off u/s 288A
Clubbing of Income	Gross total income includes (exclude) income which is subject to club	Total income includes (excludes) income which is subject to club
Set off of losses	Current year's losses and brought forward eligible losses shall be adjusted headwise and aggregate of income after adjusting such loss shall be considered as gross total income.	No adjustment is required again for such losses
Deductions under chapter VIA	Eligible deduction under chapter VIA shall not be considered while computing gross total income	Eligible deduction under chapter VIA shall be reduced from gross total income to derive total income

Rounding-off of total income [Sec. 288A]

The total income so computed will have to be rounded off to the nearest multiple of ₹ 10, i.e., if the last figure in the 'rupee element' is ₹ 5 or more, it should be rounded off to the next higher amount, which is a multiple of ₹ 10. The 'paise' element should be ignored.

Thus, if the total income works out to ₹ 7,41,645, it should be rounded off to ₹ 7,41,650, but if it works out to ₹ 7,41,644.98, it should be rounded off to ₹ 7,41,640.

Rounding-off of tax [Sec. 288B]

Tax calculated on the total income should be rounded off to the nearest ₹ 10. Amount of tax (including TDS or advance tax), interest, penalty, etc. and refund shall be rounded off to the nearest ₹ 10.

Provision illustrated

Tax liability actually worked out (₹)	4,876.49	6,452.50	8,738.92	5,132.75
Tax liability as rounded off (₹)	4,880	6,450	8,740	5,130

Procedure for computation of tax liability (in case of an individual)

1st Step	Determination of Residential status	Determine the residential status of the assessee.	
2nd Step	Computation of income	Compute income under several heads of income giving the effect of clubbing of income.	
3rd Step	Aggregate the income i.e., Gross Total Income	Tax is levied on the total income of the assessee, hence income under several heads is to be aggregated giving the effect of set-off and carry forward of losses.	
4th Step	Deduction under chapter VIA	Provide deductions as per several provisions (Sec. 80C to 80U) of chapter VIA from gross total income. The result is total income.	
5th Step	Total Income [Rounding off of income (u/s 288A)]	Total Income is rounded off to the nearest multiple of ₹ 10 (ignoring paise).	
6th Step	Compute tax liability considering these points	Annual-tax	Income tax is charged annually.
		Rate of tax	Rate of tax as applicable in the relevant Assessment Year.
		Rates fixed by the Finance Act	Rates of tax being fixed by the annual Finance Act are considered. However, few rates are specified in the Act itself.
		Total income and tax liability shall be calculated as per the provisions of the Act as they stand on 1st April of the Assessment Year	
7th Step	Rebate u/s 87A	Resident **individual** whose income does not exceed specified limit, is eligible for rebate from tax. Reduce the amount of rebate from tax liability calculated in step 6	
8th Step	Surcharge	If total income of the assessee exceeds the specified limit, surcharge on tax (as computed in step 6) shall be levied. Such surcharge is subject to marginal relief.	
9th Step	Health and Education cess	To the amount so derived (in step 6 less step 7 add step 8), add Health and Education Cess [@ 4% on tax liability] and ascertain total tax liability (being tax, surcharge and cess).	
10th Step	Rounding off of tax (u/s 288B)	The amount so payable (after reducing relief, TDS, TCS and Advance Tax) shall be rounded off to the nearest multiple of ₹ 10 (ignoring paise).	

Capital -vs.- Revenue

Receipts

A capital receipt is not liable to tax, unless specifically provided in the Act, whereas, a revenue receipt is not exempted, unless specifically provided in the Act. Further, capital receipts are to be charged to tax under the head "Capital Gains" and revenue receipts are taxable under other heads. The Act does not provide exhaustive definition of the income, thus, distinction between capital receipts and revenue receipts is not easily made. However, based on a number of judicial pronouncements, the following principles are worthwhile to note:

1. **Receipt in lump sum or in Instalments:** Whether any income is received in lump sum or in instalments, it will not make any difference as regards its nature, e.g., an employee is to get a salary of ₹ 10,000 p.m. Instead of this he enters into an agreement to get a sum of ₹ 3,60,000 in lump sum to serve for a period of 3 years. The receipt where it is monthly remuneration or lump sum for 3 years is a revenue receipt.
2. **Nature of receipt in the hands of recipient:** Whether a receipt is capital or revenue will be determined in the hands of the persons receiving such income. No attention will be paid towards the source from which the amount is coming. Salary even if paid out of capital by a new business will be it revenue receipt in the hands of employee.
3. **Accounting treatment:** The name given to the transaction by the parties involved or its treatment in the books of account may not alter its character as capital or revenue.
4. **Income from wasting assets:** Profits from capital which is consumed and exhausted in the process of realization, e.g. royalties from mines and quarries, is taxable as income regardless of the consumption of capital involved in the process.
5. **Magnitude of receipt:** The magnitude of the receipt, whether big or small, cannot decide the nature of the receipt.
6. **Time of receipt:** The nature of the receipt has to be determined at the time when it is received and not afterwards when it has been appropriated by the recipient.
7. **Quality of receipt:** Whether the income is received voluntarily or under a legal obligation, it will not make any difference as regards its nature.
8. **Tests as to the purpose of keeping an article:** If a person purchases a piece of sculpture to keep as decoration piece in his house, if sold later on, will bring capital receipt but if the same sculpture is sold by an art dealer it will be his revenue receipt.

Instances of transactions which are capital in nature but specifically taxable:

1. Capital gains arising from sale of capital assets being defined u/s 2(14). [Sec. 45]
2. Compensation for termination of service or modification in the terms of service [Sec. 17(3)]
3. Compensation or other payments due to or received by the persons specified u/s 28(ii)/28(va).

Expenses

Similarly, a capital expenditure is not allowable as expenses, unless specifically allowed in the Act, whereas, a revenue expenditure is allowable as expenses, unless specifically disallowed in the Act. Based on a number of judicial pronouncements, the following principles are worthwhile to note:

1. **Acquiring asset or advantage of enduring nature:** Bringing into existence an asset or advantage of enduring nature* would lead to the inference that the expenditure disbursed is of a capital nature.

* 'enduring' does not mean 'everlasting' or 'perpetual'.

2. **Capital assets belonging to third parties:** Even though a expenditure results in the creation of a capital asset, if the capital asset belongs to a third party, such expenses will be treated as revenue expenditure.
3. **Profit-earning process:** Where the outgoing expenditure is so related to the carrying on or the conduct of the business that it may be regarded as an integral part of the profit-earning process and not for acquisition of an asset or a right of a permanent character, the possession of which is a condition of the carrying on of the business, the expenditure may be regarded as revenue expenditure
4. **Object of the transaction:** The object of the transaction which has impact on the business, the nature of trade for which the expenditure is incurred and the purpose thereof, etc.
5. **Fixed capital -vs.- Circulating capital:** An item of disbursement may be regarded as of a capital nature when it is relatable to a fixed capital, whereas if it is related to circulating capital or stock-in-trade it would be treated as revenue expenditure.
6. **Expenditure on removing restriction:** Where the assessee has an existing right to carry on a business, any expenditure made by it during the course of business for the purpose of removal of any restriction or obstruction or disability would be on revenue account, provided the expenditure does not result in the acquisition of any capital asset.
7. Payment made to rival dealer to ward off competition in business would constitute capital expenditure
8. If the expenditure is a part of the working expenses in ordinary commercial trading, it is not capital but revenue expenditure.
9. If the expenditure is incurred for the initial outlay or for extension of business or substantial replacement of equipment, it is capital expenditure but if it is incurred for running the business or is laid out as part of the process of profit making, it is revenue in character.
10. If expenditure is incurred for ensuring the regular supply of raw material, maybe for period extending over several years, it is on revenue account
11. When an owner incurs expenditure on additions in a building which enhances its value the expenditure can be of a capital nature. But, if a tenant incurs an expenditure on a rented building for its renovation, he does not acquire any capital asset, because the building does not belong to him and, ordinarily, such an expenditure will be of a revenue nature.
12. Acquisition of the goodwill of the business is acquisition of a capital asset, and, therefore, its purchase price would be capital expenditure. It would not make any difference whether it is paid in a lump sum at one time or in instalments distributed over a definite period. Where, however, the transaction is not one for acquisition of the good¬will, but for the right to use it, the expenditure would be revenue expenditure
13. Expenses incurred by the assessee for the purpose of creating, curing or completing the title is capital expenditure and on the other hand if such expenses are incurred for the purpose of protecting the same, it is revenue expenditure.

Diversion & Application of Income

There is a very thin line of difference between Diversion of income & Application of income.

Diversion of income: Where by virtue of an obligation, income is diverted before it reaches to the assessee, it is known as diversion of income & it is not taxable (i.e. even if the assessee were to collect the income he does so on behalf of the person to whom it is payable).

Example: A, B and C are co-authors of a book. The publisher of the book gave the whole royalty of ₹6,00,000 to A. A paid ₹2,00,000 to B and C each. Such payment is not application of income but diversion of income.

Application of income: Whereas, application of income means to discharge an obligation (which is gratuitous or self-imposed) after such income reaches the assessee & hence it is taxable.

Annexure

TAX RATES FOR THE A.Y. 2025-26

An Individual / HUF / AOP (other than co-operative society) / BOI / AJP are required to calculate his tax liability as per following tax regime:

a. Default Tax Regime specified u/s 115BAC(1A)

In this regime, the income of the assessee shall be taxable at concessional rate. However, he is required to sacrifice certain deductions and benefits.

b. Old Tax Regime or Regular Tax Regime by exercising the option available u/s 115BAC(6)

Subject to certain conditions and exceptions, the aforesaid taxpayer is free to choose either of the tax regime

RATE OF TAX UNDER THE OLD TAX REGIME

Applicable if the assessee has exercised the option given u/s 115BAC(6)

Individual/HUF/Association of Persons/Body of Individuals/Artificial Juridical Person

In case of Super Senior citizen

Total Income Range	Rates of Income Tax
Up to ₹ 5,00,000	Nil
₹ 5,00,001 to ₹ 10,00,000	20% of (Total income – ₹ 5,00,000)
₹ 10,00,001 and above	₹ 1,00,000 + 30% of (Total income – ₹ 10,00,000)

Super Senior Citizen means an individual who is resident in India and is of at least 80 years of age at any time during the relevant previous year (i.e. any resident person, male or female, born before 02-04-1945).

The CBDT has clarified that a person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday. E.g., a resident individual whose 60th birthday falls on 1st April, 2025, would be treated as having attained the age of 60 years in the P.Y.2024-25 [Circular No. 28/2016 dated 27-07-2016]

In case of Senior citizen

Total Income Range	Rates of Income Tax
Up to ₹ 3,00,000	Nil
₹ 3,00,001 to ₹ 5,00,000	5% of (Total Income – ₹ 3,00,000)
₹ 5,00,001 to ₹ 10,00,000	₹ 10,000 + 20% of (Total income – ₹ 5,00,000)
₹ 10,00,001 and above	₹ 1,10,000 + 30% of (Total income – ₹ 10,00,000)

Senior Citizen means an individual who is resident in India and is of at least 60 years of age at any time during the relevant previous year. (i.e., a resident person, male or female, born on or after 02-04-1945 but before 02-04-1965)

In case of other Individual[1] / HUF / Association of Persons / Body of Individuals / Artificial Juridical Person

Total Income Range	Rates of Income Tax
Up to ₹ 2,50,000	Nil
₹ 2,50,001 to ₹ 5,00,000	5% of (Total Income – ₹ 2,50,000)
₹ 5,00,001 to ₹ 10,00,000	₹ 12,500 + 20% of (Total income – ₹ 5,00,000)
₹ 10,00,001 and above	₹ 1,12,500 + 30% of (Total income – ₹ 10,00,000)

1. born on or after 02-04-1965 or non-resident individual

Rebate u/s 87A

Applicable to: Resident Individual

Conditions to be satisfied: Total income of the assessee does not exceed ₹ 5,00,000.

Quantum of Rebate: **Lower** of the following:

a. 100% of tax liability as computed above; or

b. ₹ 12,500/-

Example

Compute rebate u/s 87A in the following cases:

Particulars	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
Assessee	Individual	Individual	Senior Citizen	Senior Citizen	Individual	HUF
Residential status	Resident	Resident			Non-Resident	Resident
Total Income	₹ 4,90,000	₹ 5,12,000	₹ 4,25,000	₹ 5,40,000	₹ 2,60,000	₹ 2,65,000
Tax on above	₹ 12,000	₹ 14,900	₹ 6,250	₹ 18,000	₹ 500	₹ 750
Rebate u/s 87A	₹ 12,000	Nil	₹ 6,250	Nil	Nil	Nil
Reason		Total income exceeds ₹ 5 lacs		Total income exceeds ₹ 5 lacs	Assessee is non-resident	Assessee is not an individual
Tax after rebate	Nil	₹ 14,900	Nil	₹ 18,000	₹ 500	₹ 750

Surcharge on tax after rebate u/s 87A

Surcharge at the following rate is also payable on tax as computed above after rebate u/s 87A

Total Income	Rate of Surcharge
Total income does not exceed ₹ 50 lacs	Nil
Total income exceeds ₹ 50 lacs but does not exceed ₹ 1 crore	10% of tax
Total income exceeds ₹ 1 crore but does not exceed ₹ 2 crores	15% of tax
Total income exceeds ₹ 2 crores but does not exceed ₹ 5 crores	25% of tax*
Total income exceeds ₹ 5 crores	37% of tax*

* Where the total income includes dividend, any income chargeable u/s 111A, 112 and 112A, the surcharge on the amount of income-tax computed on that part of income shall not exceed 15%. In other words, surcharge higher than 15% is applicable only on tax on income other than dividend, income covered u/s 111A, 112 and 112A. Moreover, in case of an AOP consisting of only companies as its members, the rate of surcharge on the amount of Income-tax shall not exceed 15%.

Health & Education Cess

Applicable on: All assessee

Rate of cess: 4% of Tax liability after Surcharge

Marginal Relief

Example: Compute tax liability of the assessee (52 years) whose total income is:

(Case 1) ₹ 49,90,000 (Case 2) ₹ 50,10,000; (Case 3) ₹ 60,00,000; (Case 4) ₹ 1,01,00,000

Particulars	Working	Case 1	Case 2	Case 3	Case 4
Tax liability before Rebate	₹ 2,50,000 * Nil	Nil	Nil	Nil	Nil
	₹ 2,50,000 * 5%	12,500	12,500	12,500	12,500
	₹ 5,00,000 * 20%	1,00,000	1,00,000	1,00,000	1,00,000
	Balance Income * 30%	11,97,000	12,03,000	15,00,000	27,30,000
Total		13,09,500	13,15,500	16,12,500	28,42,500
Less: Rebate u/s 87A	As income exceeds ₹ 5,00,000	Nil	Nil	Nil	Nil
Liability **[A]**		13,09,500	13,15,500	16,12,500	28,42,500
Add: Surcharge	B = [10% or 15% of (A)]	Nil	1,31,550	1,61,250	4,26,375
Tax and surcharge payable		13,09,500	14,47,050	17,73,750	32,68,875

Analysis of case (1) and case (2)

Increase in income	₹ 20,000
Liability for surcharge increased	₹ 1,31,550

To provide relaxation from levy of surcharge to a taxpayer where the total income exceeds marginally above ₹ 50 lakh or ₹ 1 crore or 2 crores or 5 crores, the concept of marginal relief is designed.

Condition: Total income exceeds ₹ 50,00,000 (or ₹ 1 crore or 2 crores or 5 crores)

Relief: Marginal relief is provided to ensure that the additional income tax payable including surcharge on excess of income over ₹ 50,00,000 or ₹ 1,00,00,000 or ₹ 2,00,00,000 or ₹ 5,00,00,000 is limited to the amount by which the income is more than ₹ 50,00,000 or ₹ 1,00,00,000 or ₹ 2,00,00,000 or ₹ 5,00,00,000

Marginal relief = [(Income tax + surcharge) on income] - [(Income tax (including surcharge, if applicable) on ₹ 50,00,000) + (Income – ₹ 50,00,000)] **(if positive)**

Similar relief shall also be provided where income exceeds marginally above ₹ 1 crore or ₹ 2 crores or ₹ 5 crores. In that case, the aforesaid equation shall be changed accordingly.

Now, computation of tax liability is made after considering marginal relief:

Particulars	Working	Case 1	Case 2	Case 3	Case 4
Liability **[A]**		13,09,500	13,15,500	16,12,500	28,42,500
Add: Surcharge	**B** = [10% of **(A)**]	Nil	1,31,550	1,61,250	4,26,375
Tax and surcharge	**C**	13,09,500	14,47,050	17,73,750	32,68,875
Less: Marginal relief	[(C)-{₹ 13,12,500 + ₹ 10,000}]	Nil	1,24,550	Nil	
	[(C)-{₹30,93,750+₹ 1,00,000}]				75,125
Effective Surcharge [D]		**Nil**	**7,000**	**1,61,250**	**3,51,250**
Liability after surcharge	**[A + D]**	13,09,500	13,22,500	17,73,750	31,93,750

Add: Health & Education cess	4% of above	52,380	52,900	70,950	1,27,750
Total	**Rounded off u/s 288B**	**13,61,880**	**13,75,400**	**18,44,700**	**33,21,500**

Taxpoint: The concept of marginal relief is not applicable in case of cess.

Default Tax Regime for Individual / HUF / AOP / BOI / AJP [Sec. 115BAC]

Applicable to

Individual / HUF / AOP (other than co-operative society) / BOI / AJP

Rate of Tax

Under this tax regime, income tax shall be computed at the option of the assessee considering the following rate:

Total income	Rate of tax
Upto ₹ 3,00,000	Nil
From ₹ 3,00,001 to ₹ 7,00,000	5%
From ₹ 7,00,001 to ₹ 10,00,000	10%
From ₹ 10,00,001 to ₹ 12,00,000	15%
From ₹ 12,00,001 to ₹ 15,00,000	20%
Above ₹ 15,00,000	30%

Taxpoint

- If a person opts for this regime, ₹ 3,00,000 shall be considered as basic exemption limit irrespective of his age. In other words, for all category of individual i.e., senior citizen, super senior citizen and others, basic exemption limit is ₹ 3,00,000
- Rebate u/s 87A is available
- Computed tax is further increased by applicable surcharge, if any, and health and education cess
- If any income is taxable at special rate u/s 110 to sec. 115BBG (except sec. 115BAC), such income shall be taxable at that special rate of tax.
- Where an assessee is computing his tax liability under this regime, then certain deductions or exemptions or benefits shall not be available to him. (Discussion regarding those deduction or exemption will be made afterwards)

➢ Where an assessee opt for old regime of taxation (or want to shift from default tax regime to alternative regime), then he should exercise the option in the prescribed manner:

Where the person not having aforesaid income	Alongwith the return of income to be furnished u/s 139(1) for a previous year relevant to the assessment year. He may choose to pay tax under default tax regime u/s 115BAC(1A) in one year and exercise the option to shift out of default tax regime in another year.

Where the person has income from business or profession	Within the due date specified u/s 139(1) for furnishing the returns of income for any previous year relevant to the assessment year **and** such option **once** exercised shall apply to subsequent assessment years. Such person who has exercised the above option of shifting out of the default tax regime u/s 115BAC(1A) for any previous year shall be able to withdraw such option **only once** and pay tax under the default tax regime u/s 115BAC(1A) for a previous year other than the year in which it was exercised. Thereafter, such person shall **never** be eligible to exercise this option, except where such person ceases to have any business income in which case, option would be available.

Rebate u/s 87A for tax computed as per sec. 115BAC

Applicable to: Resident Individual

Conditions to be satisfied: The total income of the assessee does not exceed ₹ 7,00,000.

Quantum of Rebate: **Lower** of the following:

a. 100% of tax liability as computed above; or

b. ₹ 25,000/-

Marginal relief is available even if total income exceeds ₹ 7,00,000 [available upto ₹ 7,22,220]
Marginal relief = Positive value of (Tax on income – Income in excess of ₹ 7,00,000)

Example

Particulars	Case 1	Case 2	Case 3	Case 4
Assessee	Individual	Individual	Senior Citizen	Individual
Residential status	Resident	Resident		Resident
Regime	Default	Default	Default	Default
Total Income (₹)	6,00,000	6,80,000	7,20,000	7,30,000
Tax on above	15,000	19,000	22,000	23,000
Rebate u/s 87A	**15,000**	**19,000**	**2,000**	**Nil**
Reason			[₹ 22,000 – (₹ 7,20,000 - ₹ 7,00,000)], is positive	[₹ 23,000 – (₹ 7,30,000 - ₹ 7,00,000)], is negative
Tax after rebate	Nil	Nil	20,000	23,000

Surcharge on tax after rebate u/s 87A

Surcharge at the following rate is also payable on tax as computed above after rebate u/s 87A

Total Income	Rate of Surcharge
Total income does not exceed ₹ 50 lacs	Nil
Total income exceeds ₹ 50 lacs but does not exceed ₹ 1 crore	10% of tax
Total income exceeds ₹ 1 crore but does not exceed ₹ 2 crores	15% of tax
Total income exceeds ₹ 2 crores	25% of tax*

Marginal Relief as discussed in the old regime is also available.

* Where the total income includes dividend, any income chargeable u/s 111A, 112 and 112A, the surcharge on the amount of income-tax computed on that part of income shall not exceed 15%. In other words, surcharge higher than 15% is applicable only on tax on income other than dividend, income covered u/s 111A, 112 and 112A. Moreover, in case of an AOP consisting of only companies as its members, the rate of surcharge on the amount of Income-tax shall not exceed 15%.

Health & Education Cess

Applicable on: All assessee

Rate of cess: 4% of Tax liability after Surcharge

Firm or Limited Liability Partnership (LLP)

A partnership firm (including limited liability partnership) is taxable at the rate of 30%

Surcharge: 12% of income-tax (if total income exceeds ₹ 1 crore otherwise Nil)

Marginal Relief: Available

Health & Education Cess: 4% of tax liability after surcharge

Company

Company	Rate
In the case of a domestic company	
- Where its total turnover or gross receipts during the previous year 2022-23 does not exceed ₹ 400 crore	25%
- In any other case	30%
In the case of a foreign company	35%

Surcharge

Total Income	Domestic Company	Foreign Company
If total income exceeds ₹ 10 crore	12%	5%
If income exceeds ₹ 1 crore but does not exceed ₹ 10 crore	7%	2%
If income does not exceed ₹ 1 crore	Nil	Nil

Marginal Relief: Available at both points (i.e., income exceeds ₹ 1,00,00,000 or ₹ 10,00,00,000)

Health & Education Cess: 4% of tax liability after surcharge

In few cases and subject to certain conditions, companies are liable to be taxed at different rate.

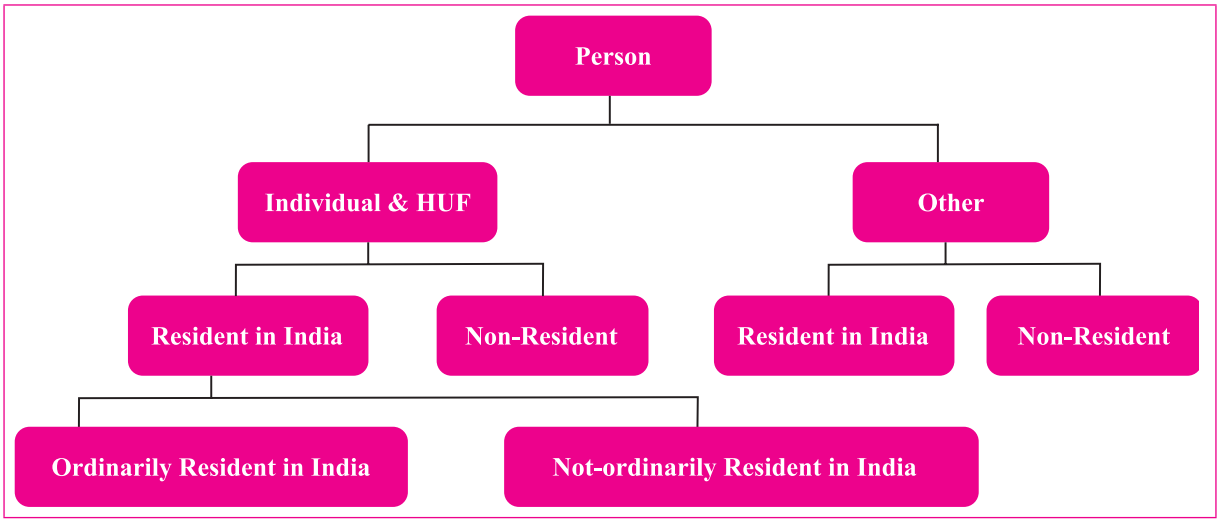
Residential Status and Scope of Total Income

1.2

Will income of Mr. Elon Musk in US taxable in India. The answer is no. One may thought that who is lia-ble to be taxed in India. Loosely, it can be said that taxability of income of a person depends on his chanc-es of utilization of Indian resources. In whose case chances of utilization of Indian resources are high, he will pay tax more and vice versa. Sec. 6 and sec. 5 of the Act provides the parameter. Section 4 of the In-come-tax Act, which is the charging section, provides that income-tax shall be charged on every person at the rates prescribed for the year by the annual Finance Act. The charge of tax shall be made on the total in-come of the assessee computed in accordance with the various provisions of the Act. Section 5 of the Act, however, provides the meaning and scope of total income in terms of residential status of an assessee.

The taxability of a person depends upon his residential status in India for any particular previous year. The term residential status must not be confused with an individual's citizenship in India. An individual may be a citizen of India but may not be a resident for a particular previous year. Similarly, a foreign citizen may be a resident of India for the purpose of income tax for a particular previous year. Residential status of an assessee determines the scope of chargeability of his income. Whether a person will be charged to a particular income or not, depends on his residential status.

Sec. 6 provides the test for residential status for the persons which can be categorized as under:



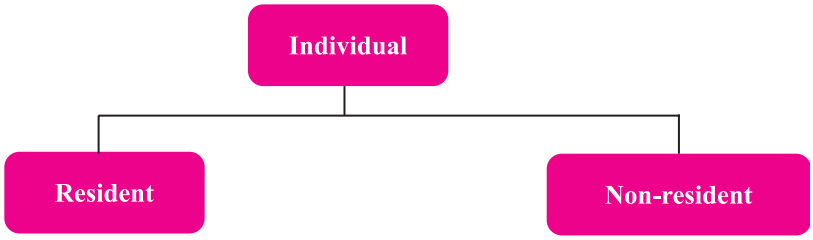
1.2.1 General points to be kept in mind regarding residential status of a person

Different for each previous year	Residential status is determined in respect of each previous year. In other words, residential status of a person may vary from one previous year to another previous year.
Single Status for each source of income	A person can have only one residential status for a previous year i.e. he cannot be a resident for one source of income and non-resident for another source.
Impact of citizenship	Citizenship and residential status are two different concepts. A citizen of India may not be a resident in India for the purpose of income-tax.
Country Specific	A person can have same residential status in more than one country.

1.2.2 Determination of Residential Status

Individual [Sec. 6(1)]

First of all, an individual is classified as resident or non-resident and again a resident individual may further be categorized as Ordinarily Resident or Not Ordinarily Resident in India.



Resident in India

An individual is said to be a resident in India, if he satisfies any one of the following conditions -

(i) He is in India in the previous year for a period of 182 days or more [Sec. 6(1)(a)]; or

(ii) He is in India for a period of 60 days or more during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year [Sec. 6(1)(c)]

Taxpoint:

- Given Conditions are alternative in nature i.e. assessee needs to satisfy any one condition.
- For the purpose of counting the number of days stayed in India, both the date of departure as well as the date of arrival are considered to be in India.
-

Sec. 6(1)(a): P.Y: Stays 182 days or more
Or
Sec/ 6(1)(c): P.Y: Stays 60 days or more
+ 4 PPY: Stays 365 days or more

Non-Resident in India

An assessee who is not satisfying sec. 6(1) shall be treated as a non-resident in India for the relevant previous year.

Illustration 3

Sam came to India first time during the P.Y. 2024-25. During the previous year, he stayed in India for (i) 50 days; (ii) 183 days; & (iii) 153 days. Determine his residential status for the A.Y. 2025-26.

Solution:

(i) Since Sam resides in India only for 50 days during the P.Y. 2024-25, he does not satisfy any of the conditions specified in sec. 6(1). He is, therefore, a non-resident in India for the P.Y. 2023-24.

(ii) Since Sam resides in India for 183 days during the previous year 2024-25, he satisfies one of the conditions specified in sec. 6(1). He is, therefore, a resident in India for the P.Y. 2024-25.

(iii) Sam resides in India only for 153 days during the previous year 2024-25. Though he resided for more than 60 days during the previous year but in 4 years immediately preceding the previous year (as he came to India for the first time), he did not reside in India. Hence, he does not satisfy any of the conditions specified in sec. 6(1). Thus, he is a non-resident for the P.Y. 2024-25.

Illustration 4

Andy, a British national, comes to India for the first time during 2020-21. During the financial years 2020-21, 2021-22, 2022-23, 2023-24 and 2024-25, he was in India for 55 days, 60 days, 80 days, 160 days and 70 days respectively. Determine his residential status for the assessment year 2025-26.

Solution:

During the previous year 2024-25, Andy was in India for 70 days & during 4 years immediately preceding the previous year, he was in India for 355 days as shown below:

Year	2020-21	2021-22	2022-23	2023-24	Total
No. of days stayed in India	55	60	80	160	355

Thus, he does not satisfy Sec.6(1) & consequently, he is a non-resident in India for the P.Y. 2024-25.

Exceptions to the above rule

A. In the following cases, condition (ii) of sec. 6(1) [i.e. sec. 6(1)(c)] is irrelevant:

1. An Indian citizen, who leaves India during the previous year for employment purpose*.
2. An Indian citizen, who leaves India during the previous year as a member of the crew of an Indian ship.

Taxpoint: The above assessee shall be treated as a resident in India only if he resides in India for 182 days or more in the relevant previous year.

B. In case of an Indian citizen or a person of Indian origin# comes on a visit to India during the previous year, modified condition (ii) of sec. 6(1) is applicable:

Case	Modified condition (ii) of sec. 6(1)
His total income, other than the income from foreign sources!, **exceeds ₹ 15 lakhs** during the previous year	He is in India for a period of **120 days** or more (but less than 182 days) during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year
His total income, other than the income from foreign sources, **does not exceed ₹15 lakhs** during the previous year	He is in India for a period of **182 days** or more during the previous year. **In short,** sec. 6(1)(c) is not applicable.

* The employment may be in India or may be outside India

Person of Indian origin: A person is deemed to be of Indian origin if he or either of his parents or grand parents were born in undivided India. Here, grand parents may be paternal or maternal.

! "Income from foreign sources" means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

C. An individual shall be deemed to be resident in India, if the following conditions are satisfied

a. He is a citizen of India

b. His total income, other than the income from foreign sources, exceeds ₹ 15 lakhs during the previous year;

c. He is not satisfying any of the basic conditions given u/s 6(1) [i.e., 182 days **or** 60 days + 365 days]; and

d. He is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature. [Sec. 6(1A)]

Taxpoint:

- However, if such individual has satisfied either of the basic conditions, then he shall be treated as resident in India u/s 6(1).
- Further note that the exception is not applicable in the case of a foreign citizen even if he is a person of Indian origin.
- If these conditions are satisfied, then such individual shall be deemed as resident irrespective of number of days of his stay in India.
- Liable to tax in relation to a person and with reference to a country means that there is an income-tax liability on such person under the law of that country for the time being in force. It shall include a person who has subsequently been exempted from such liability under the law of that country.

Rule 126
In the case of an individual, being a citizen of India and a member of the crew of a ship, the period of stay in India shall, in respect of an eligible voyage, not include the following period:

the period beginning	the period ending
Period beginning on the date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage	Period ending on the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage

Explanation:
"Eligible voyage" shall mean a voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where-

i. for the voyage having originated from any port in India, has as its destination any port outside India; &

ii. for the voyage having originated from any port outside India, has as its destination any port in India.'.

Example: In the Continuous Discharge Certificate the date of joining is recorded as 1st January 2025 and the date of ending the voyage is recorded as 31st January 2025, then the entire period of 31 days shall be excluded from his stay in India

Illustration 5

Miss Pal, an Indian citizen, left India for first time on 1st April, 2024 for joining job in Tokyo. She came to India on 11th Jan, 2025 for only 170 days. Determine her residential status for P.Y. 2024-25.

Solution:
Number of days Miss Pal stayed in India can be calculated as under:

P.Y.	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
24-25	1	-	-	-	-	-	-	-	-	21	28	31	81
25-26	30	31	30	19	-	-	-	-	-	-	-	-	110

Since she left India for employment purpose, hence for becoming resident she has to stay in India for at least 182 days. However, she is in India for only 81 days during the previous year, thus she is a non-resident for the P.Y. 2024-25.

Points to be kept in mind

(a) Stay at same place in India is not necessary.

(b) Continuous stay in India is not necessary.

(c) A person shall be deemed to reside in India, if he is on the territorial waters of India*. For instance, if an individual stays on a ship, which is in the territorial waters of India, then it shall be treated as his presence in India.

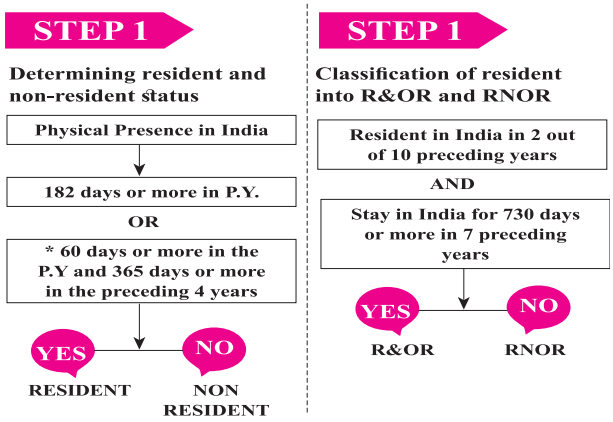
Additional conditions to test whether resident individual is 'Ordinarily resident or not' [Sec. 6(6)]

A resident individual in India can further be categorised as -

(i) Resident and ordinarily resident in India

(ii) Resident but not ordinarily resident in India

Resident and ordinarily resident



* Substituted by 182 days for (i) person leaving India for employment; (ii) person leaving India as a crew of an Indian ship; (iii) a citizen of India of PIO who comes to India on a visit during the P.Y.

If a resident individual satisfies the following two additional conditions, he will be treated as resident & ordinarily resident in India -

(a) He has been resident in India [as per sec. 6(1)] in at least 2 out of 10 previous years immediately preceding the relevant previous year; and

(b) He has resided in India for a period of 730 days or more during 7 previous years immediately preceding the relevant previous year.

Taxpoint: To be a Resident & Ordinarily resident in India, one has to satisfy at least one condition of sec. 6(1) & both the additional conditions of sec. 6(6).

Resident but not ordinarily resident

If a resident individual does not satisfy both additional conditions as given u/s 6(6), he is "Resident but not ordinarily resident in India".

Exceptions

A. An individual shall be **deemed to be resident but not ordinarily resident** in India, if following conditions are satisfied:

* Territorial water extends to 12 nautical miles (1 nautical miles = 1.1515 miles = 1.853 km) into the sea from the base line on the coast of India and include any bay, gulf, harbour, creek or tidal river

(a) He is a citizen of India

(b) His total income, other than the income from foreign sources, exceeds ₹ 15 lakhs during the previous year; and

(c) He is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

(d) He is deemed to be resident in India u/s 6(1A).

B. An individual shall be **deemed to be resident but not ordinarily resident** in India, if following conditions are satisfied:

(a) He is an Indian citizen or a person of Indian origin.

(b) He comes on a visit to India during the previous year

(c) His total income, other than the income from foreign sources, **exceeds ₹15 lakhs** during the previous year

(d) He is in India for a period of **120 days** or more (but less than 182 days) during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year.

Taxpoint: If aforesaid conditions are satisfied, then such individual shall be deemed to be resident but not ordinarily resident even though he has satisfied both conditions specified u/s 6(6).

Provision Illustrated

Determine the residential status in the following different cases:

Case	A	B	C	D	E	F	G	H
Citizenship	Foreign	India	India	India	Foreign	Foreign	India	Foreign
Is he person of Indian origin	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Total income (excluding income from foreign source) exceeds ₹ 15,00,000	Yes	No	Yes	Yes	Yes	Yes	No	No
Liable to pay tax in other country	No	No	No	Yes	No	No	No	No
Stay in India during the previous year	30	30	30	30	138	185	85	85
Stay in India during 4 years immediately preceding previous year	380	380	380	380	380	180	380	380
Are dual conditions given u/s 6(6) satisfied	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Residential Status	**NR**	**NR**	**NOR**	**NR**	**NOR**	**ROR**	**NR**	**ROR**
Note	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**

1. He is not an Indian citizen, hence sec. 6(1A) is not applicable. Further his stay in India during the previous year does not exceed 120 days.
2. His total income does not exceed ₹ 15,00,000.
3. All conditions of sec. 6(1A) are satisfied.
4. He is liable to pay tax in other country.
5. His stay in India exceeds 120 days (but does not exceed 182 days)
6. He has satisfied one condition of sec. 6(1) [i.e. 182 days criteria] and dual conditions of sec. 6(6)
7. He is not satisfying any of the condition provided in sec. 6(1)
8. He has satisfied one condition of sec. 6(1) [i.e. 182 days criteria] and dual conditions of sec. 6(6)

Illustration 6

Mr. X, aged 19 years, left India for first time on May 31, 2024. Determine his residential status for the previous year 2024-25 if:

(i) He left India for employment purpose

(ii) He left India on the world tour.

Solution:

During the previous year 2024-25, Mr. X was in India for 61 days as shown below –

P.Y.	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
24-25	30	31	-	-	-	-	-	-	-	-	-	-	61

During the previous year 2024-25, X stayed in India for 61 days. Further, he was in India for more than 365 days during 4 years immediately preceding the relevant previous year (as he left India for the first time).

(i) Since he left India for employment purpose, condition of sec. 6(1)(c) shall not be applicable on such assessee. He will be treated as resident in India, if and only if, he resided in India for at least 182 days during the previous year. Hence, Mr. X is a non-resident in India for the previous year 2024-25.

(ii) Since he left India on the world tour, which is not an exception of sec. 6(1), satisfaction of any one condition of sec. 6(1) makes him resident in India for the previous year 2024-25. As he satisfies 2nd condition of sec. 6(1) [*shown above*], he is resident in India. Further, he also satisfies dual conditions specified u/s 6(6) (since he left India for the first time). Therefore, he is an ordinarily resident for the previous year 2024-25.

Illustration 7

X came to India for first time on July 24, 2020. From July 24, 2020 to December 25, 2021 he was in India. Again, he came to India on August 5, 2024 for employment purpose & left India on November 25, 2024 permanently. Determine his residential status for the previous year 2024-25 assuming -

(a) He is a foreign citizen (b) He is an Indian citizen

Solution:

During the previous year 2024-25, X was in India for 113 days as shown below:

Year	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
24-25	-	-	-	-	27	30	31	25	-	-	-	-	113

Further, he was in India for more than 365 days during 4 years immediately preceding the previous year as shown below:

Year	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
20-21	-	-	-	8	31	30	31	30	31	31	28	31	251
21-22	30	31	30	31	31	30	31	30	25	-	-	-	269
22-23	-	-	-	-	-	-	-	-	-	-	-	-	-
23-24	-	-	-	-	-	-	-	-	-	-	-	-	-

As he satisfies condition given in sec. 6(1)(c), he is a resident in India.

Further, he was resident during 2 out of 10 years immediately preceding the relevant previous year but he was in India only for 520 days in 7 years immediately preceding the relevant previous year. As he is not satisfying dual conditions of sec. 6(6), he is a resident but not ordinarily resident in India for the previous year 2024-25.

Note: His status shall remain same in both the cases as -

(a) Foreign citizens are not covered by 'exceptions to sec. 6(1)(c)'.

(b) Coming in India for employment purpose is not covered by 'exceptions to sec. 6(1)(c)'.

Illustration 8

X, a foreign citizen, resides in India during the previous year 2024-25 for 83 days. Determine his residential status for the previous year 2024-25 assuming his stay in India during the last few previous years are as follows -

Year	Days	Year	Days	Year	Days	Year	Days
2009-10	220 days	2013-14	36 days	2017-18	137 days	2021-22	175 days
2010-11	15 days	2014-15	115 days	2018-19	265 days	2022-23	15 days
2011-12	257 days	2015-16	123 days	2019-20	310 days	2023-24	67 days
2012-13	110 days	2016-17	65 days	2020-21	121 days		

Solution:

During the previous year 2024-25, X was in India for 83 days & during 4 years immediately preceding the previous year, he was in India for 378 days as shown below:

Year	2020-21	2021-22	2022-23	2023-24	Total
No. of days stayed in India	121	175	15	67	378

Thus, he satisfies one of the conditions specified u/s 6(1) & consequently, he becomes resident in India in the P.Y. 2024-25. Further, to determine whether X is an ordinarily resident or not, he needs to satisfy both conditions laid down u/s 6(6).

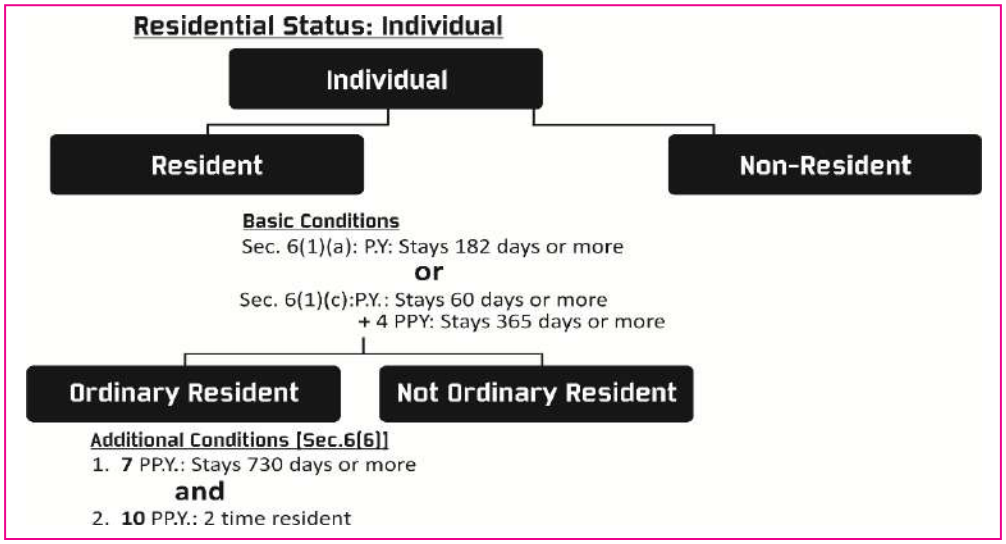
Year	Presence in India (In Days)	Resident or Non resident	Condition satisfied to become a resident
2023-2024	67	Resident	6(1)(c)
2022-2023	15	Non Resident	None
2021-2022	175	Resident	6(1)(c)
2020-2021	121	Resident	6(1)(c)
2019-2020	310	Resident	Both
2018-2019	265	Resident	Both
2017-2018	137	Non Resident	None
2016-2017	65	Resident	6(1)(c)
2015-2016	123	Resident	6(1)(c)
2014-2015	115	Resident	6(1)(c)

Condition (i) of sec. 6(6) requires that an individual should be resident in India for at least 2 out of 10 years preceding the relevant previous year. X was resident in India for 8 out of 10 years immediately preceding the previous year. Thus, he satisfies this condition.

Condition (ii) of sec. 6(6) requires that an individual should be present in India for at least 730 days during 7 years preceding to relevant previous year. X was in India for 1090 days during 2017-18 to 2023-24. Hence, he satisfies this condition also.

X satisfies condition (ii) of sec. 6(1) as well as both the conditions of sec. 6(6). Thus, he is a resident and ordinarily resident in India for the previous year 2024-25.

Residential Status, at a glance



Subject to certain exceptions

Hindu Undivided Family (HUF) [Sec. 6(2)]

An HUF can be either a resident or non-resident in India. Again, a resident HUF can further be classified as 'Ordinarily resident' and 'Not ordinarily resident'.

Resident HUF: When the control & management1 of affairs of HUF is wholly or partly situated in India during the relevant previous year, then it is treated as resident in India.

[1] Control & management means -

- controlling & directive power;
- actual control & management (mere right to control & manage is not enough);
- central control & management and not the carrying out of day to day affairs.

The place of central control & management is situated where the head, the seat & the directing power is situated.

Non-resident HUF: An HUF is non-resident in India if the control & management[1] of its affairs is *wholly* situated outside India.

Ordinarily resident in India: If the '*karta'* or manager of a resident HUF satisfies both additional conditions given u/s 6(6), HUF is said to be an ordinarily resident. If the '*karta'* or manager of a resident HUF do not satisfies both additional conditions given u/s 6(6), HUF is said to be a not-ordinarily resident.

Taxpoint: Residential status of the karta for the previous year is not important but his status for preceding 10 years is important.

Company [Sec. 6(3)]

Resident Company: An Indian company is always a resident in India.

A non-Indian company is said to be a resident in India, if its place of effective management, in that year, is in India.

"Place of effective management" means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole, are in substance made.'

Non-Resident Company: If place of effective management, in that year, is not in India, the said company is non-resident in India for the relevant previous year.

Taxpoint: In case of company, there is no sub-division like 'Ordinarily resident' or 'Not ordinarily resident'.

Firm or an Association of Persons (AOP) or Body of Individuals (BOI) [Sec. 6(4)]

Resident: A firm or an AOP or BOI is said to be a resident in India, if control & management of its affairs are wholly or partly situated in India during the relevant previous year.

Control & management is vested in hands of partners in case of firm and principal officer in case of an AOP/BOI.

Non-resident: If control & management of its affairs are situated wholly outside India, then it is a non-resident in India.

Taxpoint: In case of firm or BOI or AOP, there is no subdivision like 'Ordinarily resident' or 'Not ordinarily resident'.

Any other person

Resident: Any other assessee will be treated as resident in India if the control & management of its affairs is situated wholly or partly in India.

Non-Resident: If control & management of affairs of the assessee, are situated wholly outside India, it is a non-resident in India.

1.2.3 Incidence of Tax [Sec. 5]

The following chart highlights the provisions of tax incidence in brief:

Nature of Income	Tax incidence in the case of		
	Resident & ordinarily resident	Resident but not ordinarily resident	Non resident
Income accrued or deemed to be accrued and received or deemed to be received in India	Taxable	Taxable	Taxable
Income accrued outside India but received or deemed to be received in India.	Taxable	Taxable	Taxable
Income accrued or deemed to be accrued in India but received outside India	Taxable	Taxable	Taxable
Income accrued and received outside India from a business controlled in or profession set-up in India.	Taxable	Taxable	Not taxable
Income accrued and received outside India from a business controlled or profession set-up outside India.	Taxable	Not taxable	Not taxable

Income accrued and received outside India in the previous year (it makes no difference if the same is later remitted to India).	Taxable	Not taxable	Not taxable
Income accrued and received outside India in any year preceding the previous year and later on remitted to India in current financial year.	Not taxable	Not taxable	Not taxable
Note: In case of resident assessee like company, firm etc. (other than Individual and HUF) in which there is no classification as 'Resident but not ordinarily resident', income accrued and received outside India from a business controlled or profession setup outside India shall be taxable.			

Taxpoint

- **Explanation 1:** Income accruing or arising outside India shall not be deemed to be received in India within the meaning of sec. 5 by reason only of the fact that it is taken into account in a balance sheet prepared in India.
- **Explanation 2:** Income which has been included in the total income of a person on the basis that it has accrued or arisen or is deemed to have accrued or arisen to him shall not again be so included on the basis that it is received or deemed to be received by him in India.

Illustration 9

Ram provides the following details of income, calculate the income which is liable to be taxed in India for the A.Y. 2025-26 assuming that –

(a) He is an ordinarily resident (b) He is not an ordinarily resident (c) He is a non-resident.

Particulars	Amount
Salary received in India from a former employer of UK	1,40,000
Income from tea business in Nepal being controlled from India	10,000
Interest on company deposit in Canada (1/3rd received in India)	30,000
Profit from a business in Mumbai controlled from UK	1,00,000
Profit for the year 2022-23 from a business in Tokyo remitted to India	2,00,000
Income from a property in India but received in USA	45,000
Income from a property in London but received in Delhi	1,50,000
Income from a property in London but received in Canada	2,50,000
Income from a business in Jambia but controlled from Turkey	10,000

Solution:

Calculation of income liable to be taxed in India of Ram for the A.Y. 2025-26

Particulars	Resident & Ordinarily resident	Resident but not ordinarily resident	Non-resident
Salary received in India from a former employer of UK	1,40,000	1,40,000	1,40,000
Income from tea business in Nepal being controlled from India	10,000	10,000	Nil
Interest on company deposit in Canada -			
- 1/3rd received in India	10,000	10,000	10,000
- 2/3rd received outside India	20,000	Nil	Nil
Profit from a business in Mumbai controlled from UK	1,00,000	1,00,000	1,00,000

Past Profit from a business in Tokyo remitted to India	Nil	Nil	Nil
Income from a property in India but received in USA	45,000	45,000	45,000
Income from a property in London but received in Delhi	1,50,000	1,50,000	1,50,000
Income from a property in London but received in Canada	2,50,000	Nil	Nil
Income from a business in Jambia but controlled from Turkey	10,000	Nil	Nil
Income liable to tax in India	7,35,000	4,55,000	4,45,000

1.2.4 Income received in India

Income received in India is taxable in all cases (whether accrued in India or elsewhere) irrespective of residential status of the assessee, therefore it is significant to know the meaning of income received in India. If the place, where the recipient gets the money (on first occasion) under his control, is in India, it is said to be income received in India.

Taxpoint: Receipt is different from remittance. The receipt of income refers to the first occasion when the recipient gets the money under his control. Once the amount is received as income (at any place outside India), any subsequent remittance or transmission of the amount to India does not result to receipt in India

Example 5: Mr. X, a non-resident, received dividend from an Italian company in Japan on 15/12/2024. On 17/12/2024, he remitted such income in India. Such income shall not be taxable in India as income has neither received in India nor accrued in India.

Salary accrued to a non-resident seafarer for services rendered outside India on a foreign going ship (with Indian flag or foreign flag) shall not be included in the total income merely because the said salary has been credited in the NRE account maintained with an Indian bank by the seafarer.

1.2.5 Income deemed to be received in India

Following incomes shall be deemed to be received in India and taxable in hands of all assessee irrespective of their residential status -

a) The annual accretion in the previous year to the balance at the credit of an employee participating in a recognized provident fund, to the extent provided in Rule 6 of part A of the IV schedule i.e.-

   i) Employer's contribution to the recognised provident fund in excess of 12% of salary.

   ii) Interest credited on the above balance by a rate exceeding 9.5% [Sec. 7(i)]

b) The transferred balance in recognised provident fund, to the extent liable to income tax [Sec. 7(ii)]

c) The contribution made, by the employer in the previous year, to the account of an employee under a pension scheme notified u/s 80CCD [Sec. 7(iii)]

d) Tax Deducted at source [Sec. 198]

e) Income from undisclosed sources

1.2.6 Income deemed to accrue or arise in India [Sec. 9]

Following incomes are deemed to accrue or arise in India:

Income from connection in India	Salary earned in India	Salary from Govt. by an Indian citizen for services rendered outside India	Income from dividend paid by an Indian company	Income from interest payable by specified person	Income from royalty	Income from technical services	Deemed receipt of gift by non-resident
Sec. 9(1)(i)	Sec. 9(1)(ii)	Sec. 9(1)(iii)	Sec. 9(1)(iv)	Sec. 9(1)(v)	Sec. 9(1)(vi)	Sec. 9(1)(vii)	Sec. 9(1)(viii)

Income from connection in India [Sec. 9(1)(i)]

All income accruing or arising, whether directly or indirectly,:

a) through* or from any business connection in India; or

b) through or from any property / asset or source of income in India; or

c) through the transfer of a capital asset situated in India.

Income from business connection in India

Income, which arises outside India because of business connection (or Professional connection) in India is deemed to accrue or arise in India (subject to certain exceptions) and shall be taxable in hands of all assessee irrespective of his residential status.

Income from any property/assets or source of income in India

Following income shall be deemed to accrue or arise in India -

- Income from any assets or property in India whether tangible / intangible, movable / immovable; or
- Income from a source situated in India

Income on transfer of a capital asset situated in India

Any gain on transfer of a capital asset situated in India, shall be deemed to accrue or arise in India.

Taxpoint: The provision is applicable irrespective of the fact whether:

- The capital asset is movable or immovable, tangible or intangible;
- The place of registration of the document of transfer, etc. is in India or outside; and
- The place of payment of the consideration for the transfer is within India or outside

Salaries earned in India [Sec. 9(1)(ii)]

Salary payable for –

a) Services rendered in India; and

b) The rest period or leave period which is preceded and succeeded by the period during which services were rendered in India and forms part of the service contract of employment,

- shall be deemed to accrue or arise in India.

* The expression "through" shall mean and include "by means of", "in consequence of" or "by reason of". [Explanation 4]

Salary payable by the Government to Indian citizens for services rendered outside India [Sec. 9(1)(iii)]

Any salary -

- payable by the Government of India;
- to a citizen of India (Resident or non-resident);
- for services rendered outside India;

- shall be deemed to accrue or arise in India.

Note: In this regard it is to be noted that any allowances or perquisites paid by the Government to a citi-zen of India for services rendered outside India shall be exempted [Sec. 10(7)]

⊙ The exemption is available in both regime.

Income from dividend [Sec. 9(1)(iv)]

Any dividend paid by an Indian company outside India is deemed to accrue or arise in India.

Income from Interest [Sec. 9(1)(v)]

Following interest shall be deemed to accrue or arise in India –

Interest payable by	Condition
The Government	Nil
A resident person	Money borrowed is not used for the purpose of - • business or profession carried on by such person outside India; or • earning any income from any source outside India.
A non-resident person	Money borrowed is used for the purpose of business or profession carried on by such person in India. Taxpoint: In case money borrowed and used for the purpose of earning an income from any other source in India, interest shall not be treated as deemed to accrue or arise in India.

Income from royalty [Sec. 9(1)(vi)]

Following royalty shall be deemed to accrue or arise in India –

Royalty payable by	Condition
The Government	Nil
A resident person	The right, property, information or services are not utilized for the purpose of - • business or profession carried on by such person outside India; or • earning any income from any source outside India.
A non-resident person	*The right, property, information or services must be utilised for the purpose of -* • *business or profession carried on by such person in India; or* • *earning any income from any source in India.*

Income from technical services [Sec. 9(1)(vii)]

Following income by way of fees for technical service shall be deemed to accrue or arise in India –

Fee for technical services payable by	Condition
The Government	Nil
A resident person	Such services must not be utilised in - • business or profession carried on by such person outside India; or • earning any income from any source outside India

A non-resident person	*Such services must be utilized in -* • *business or profession carried on by such person in India; or* • *earning any income from any source in India.*

Deemed Receipts of Gift [Sec. 9(1)(viii)]

When

- a non-resident or a not ordinarily resident or a foreign company receives any sum of money referred to in sec. 56(2)(x)*
- such receipt is from a resident person
- such money is received outside India

then

- such receipt is treated as income deemed to accrue or arise in India** .

General Illustration

Illustration A

Miss Monica, a foreign national, comes India every year for 90 days since 2008-09.

a) Determine her residential status for the previous year 2024-25.

b) Will your answer differ, if she comes India for 100 days instead of 90 days every year.

Solution

a) Since Miss Monica stayed for 90 days during the previous year 2024-25 and for 360 days (90 days x 4 years) during the 4 years immediately preceding the previous year, hence, she is not satisfying any of the conditions of sec. 6(1). Thus, she is a non-resident for the previous year 2024-25.

b) Since Miss Monica stayed for 100 days during the previous year 2024-25 and for 400 days (100 days × 4 years) during the 4 years immediately preceding the previous year, hence, she is satisfying sec. 6(1)(c). Thus, she is resident for the previous year 2024-25. Further, she resided for only 700 days (100 days × 7 years) during the 7 years immediately preceding the previous year. Hence, she does not satisfy one of the conditions of sec. 6(6). Thus, she is resident but not ordinarily resident for the pre-vious year 2024-25.

Illustration B

Mr. Sid, a British national, joined XYZ Co. Ltd. as an engineer in India on 1st May, 2014. On 31st December, 2015, he went to Sri Lanka on deputation. On 1st April, 2020, he came back to India and left for Sri Lanka again on 31st May, 2020. He returned to India and joined his original post on 1st July, 2024. Determine his residential status for the A.Y. 2025-26.

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* Refer chapter "Income from Other Sources". Further, the deeming provision is applicable only in case of money and not applicable in case of movable or immovable properties.

** Subject to DTAA and exceptions provided in sec. 56(2)(x)

Solution

Number of days Mr. Sid stayed in India in past few years can be calculated as under:

SN	P.Y.	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
0	24-25	-	-	-	31	31	30	31	30	31	31	28	31	274
1	23-24	-	-	-	-	-	-	-	-	-	-	-	-	0
2	22-23	-	-	-	-	-	-	-	-	-	-	-	-	0
3	21-22	-	-	-	-	-	-	-	-	-	-	-	-	0
4	20-21	30	31	-	-	-	-	-	-	-	-	-	-	61
5	19-20	-	-	-	-	-	-	-	-	-	-	-	-	0
6	18-19	-	-	-	-	-	-	-	-	-	-	-	-	0
7	17-18	-	-	-	-	-	-	-	-	-	-	-	-	0
8	16-17	-	-	-	-	-	-	-	-	-	-	-	-	0
9	15-16	30	31	30	31	31	30	31	30	31	-	-	-	275
10	14-15	-	31	30	31	31	30	31	30	31	31	28	31	335

On the basis of data drawn, residential status of Mr. Sid in last few years can be decided as under:

Year	Previous Year	Presence in India (In days)	Resident (R) or Non resident (NR)	Condition satisfied to become a resident
1	2023-2024	0	NR	None
2	2022-2023	0	NR	None
3	2021-2022	0	NR	None
4	2020-2021	61	NR	None
5	2019-2020	0	NR	None
6	2018-2019	0	NR	None
7	2017-2018	0 = 61	NR	None
8	2016-2017	0	NR	None
9	2015-2016	275	R	6(1)(a)
10	2014-2015	335	R	6(1)(a)

Since assessee resided in India for 274 days in the previous year 2024-25, hence he satisfies sec. 6(1)(a). Therefore, he is resident in India.

Further, since he is resident in India for 2 years out of 10 years preceding the previous year (as shown in the above working), but resided in India for less than 730 days out of 7 immediately preceding years, hence he does not satisfy one of the conditions of sec. 6(6), therefore, he is resident but not ordinarily resident.

Conclusion: Resident but not ordinarily resident.

Agricultural Income

1.3

Agriculture income is exempt under the Indian Income Tax Act. The reason for exemption of agriculture income from Central Taxation is that the Constitution gives exclusive power to make laws with respect to taxes on agricultural income to the State Legislature.

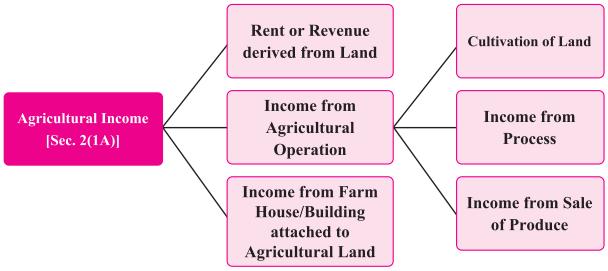
1.3.1 Meaning

By virtue of sec. 2(1A), agricultural income means -

1. Rent or Revenue: Any rent or revenue derived from a land, which is situated in India & is used for agricultural purposes$;

   Taxpoint:

   - Rent may be in cash or in kind.
   - Assessee may be the owner or tenant of such land.



2. **Cultivation of Land:** Any income derived from such land by agriculture [$]
3. **Income from Process:** Any income derived from such land by the performance by –
   (a) a cultivator;
   (b) receiver of rent in kind;

   - of any process ordinarily employed by a them to render the produce raised or received by him fit to be taken to market.
4. **Income from Sale of Produce:** Any income derived from such land by the sale by
   (a) a cultivator of the produce raised by him; or
   (b) receiver of rent-in-kind of the produce received by him;

   - in respect of which no process has been performed other than a process required to render it fit for the market.

   Taxpoint: The process must be employed only to convert 'the produce or rent in kind' in marketable form. If marketing process is performed on the 'produce or rent in kind', which can be sold in its raw form in market, then income derived from such product is partly agricultural & partly non-agricultural income. (Detail discussion is given later in this chapter)
5. **Income from Let Out of Agricultural House Property:** Any income derived from a building subject to fulfillment of the following conditions -
   (a) The building should be occupied by the cultivator or receiver of rent in kind.
   (b) The building should be on or in the immediate vicinity of the land, being situated in India and used for agricultural purposes.

(c) The building should be used as dwelling house or store-house or other out building.

(d) The land is either situated in –

(i) Rural area; or

(ii) Urban area* and assessed to land revenue / local rates.

Taxpoint:

- Where such land or building is used for non-agricultural purpose then any income derived from such land or building shall not be treated as agricultural income.
- Income derived from land being let out for storing crop shall not be agricultural income.
- Building should be owned and occupied by the land-holder if he receives rent or revenue from the land. On the other hand, in case of cultivator or receiver of rent in kind, it is enough that the building is occupied by him.

(a) **Profit on transfer of agricultural land:** Profit on transfer of agricultural land shall not be treated as agricultural income.

(b) **Nexus between agro-activity and agro-income:** There must be a close nexus between agro-activity and agro-income. Income by way of sale of commodity, being different from what is raised and processed, is not agricultural income. E.g. Assessee growing mulberry leaves to feed silkworms and to obtain silk-cocoons, income on sale of such silk-cocoons shall not be treated as agricultural income.

[$]**Agriculture or Agricultural operations or Agricultural purposes:** The Act nowhere defines the term agricultural operations or agricultural purposes. However, the Supreme Court laid down guidelines for the determination of the scope of these terms in CIT -vs.- Raja Benoy Kumar Sahas Roy. Accordingly, for the purpose, agricultural activity is divided into two parts:

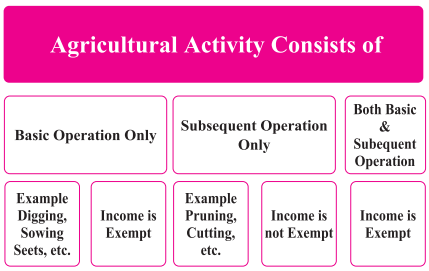
(a) **Basic Operation:** It means application of human skill & labour upon the land, prior to germination.

E.g. Tilling of land, sowing of seeds, planting, irrigation, etc.

Taxpoint: Any spontaneous growth from land itself (i.e. without any human effort) cannot be termed as agricultural operation.

(b) **Subsequent Operation:** It means operations -

- which fosters the growth and preserves the produce;



* Following is considered as urban area:

a. land which is situated within the jurisdiction of any Municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or Cantonment Board having population of 10,000 or more; or

b. in any area within the distance, measured aerially,—

Population of the municipality or cantonment board	Area within the aerial distance from the local limits of such municipality or cantonment board is treated as non-rural area
More than 10,000 but not exceeding 1,00,000	Upto 2 kilometres
More than 1,00,000 but not exceeding 10,00,000	Upto 6 kilometres
More than 10,00,000	Upto 8 kilometres

Population, according to the last preceding census of which the relevant figures have been published before the first day of the previous year, shall be considered.

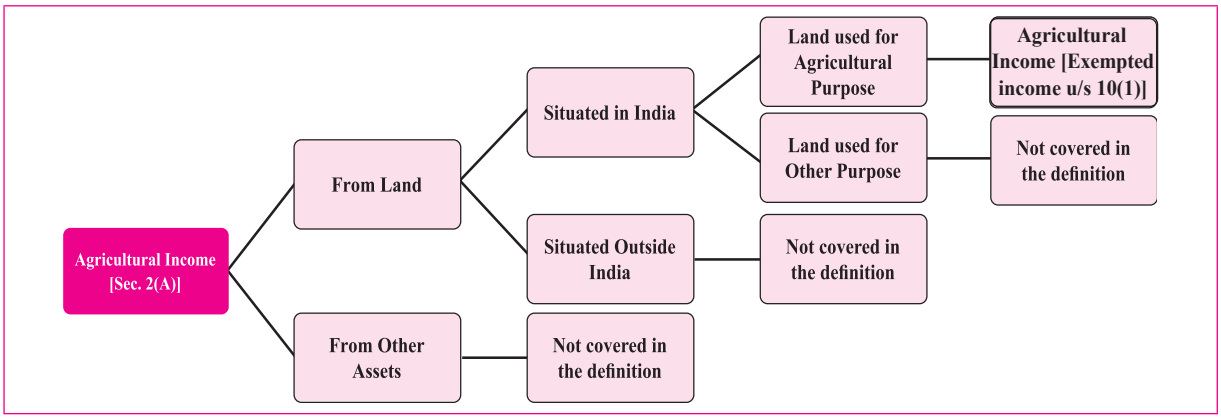
- for rendering the produce fit for sale in market; and
- which are performed after the produce sprouts from the land.

E.g. Digging the soil around the growths, removal of undesirable undergrowths, weeding, tending, pruning, cutting, harvesting, etc.

Taxpoint:

Activity	Whether treated as agricultural activity?
Mere Basic Operation	Agricultural activity
Mere Subsequent Operation	Not an agricultural activity
Subsequent operation together with basic operation	Agricultural activity

Agricultural Income, at a glance



Land must be in India

1.3.2 Instances of Agricultural (Agro) Income

1. Income from growing trade or commercial products like jute, cotton, etc. is an agro income.
2. Income from growing flowers and creepers is an agro income.
3. Plants sold in pots are an agro income provided basic operations are performed.
4. **Remuneration and interest to partner:** Any remuneration (salary, commission, etc.) received by a partner from a firm engaged in agricultural operation is an agro income.

   Interest on capital received by a partner from a firm, engaged in agricultural operation is an agro income.
5. Income arising by sale of trees grown on denuded parts of the forest after replanting and by carrying on subsequent operations, is an agro income.
6. Compensation received from insurance company for damage caused by hail-storm to the green leaf of the assessee's tea garden is agricultural income. Further, no part of such compensation consists of manufacturing income, as such compensation cannot be apportioned under Rule 8 between manufacturing income and agricultural income.
7. Any fee derived from land used for grazing of cattle, being used for agricultural operation, is an agro income.
8. Any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income.

1.3.3 Instances of Non-agricultural (Non-agro) Income

1. Salary received by an employee from any business (having agricultural income) is non-agro income.
2. Dividend received from a company engaged in agricultural operation is non-agro income.
3. Income from salt produced by flooding the land with sea-water is non-agro income.
4. Income from fisheries, poultry farming, dairy farming, butter & cheese making, etc. is non-agro income.
5. Breeding & rearing of livestock is non-agro income.
6. Interest received by a moneylender in the form of agricultural produce is non-agro income.
7. Profit on sale of standing crops after harvest, where such crops were acquired through purchase is non-agro income.
8. Royalty income from mines is non-agro income.
9. Remuneration to a Director or Managing Director from a company engaged in agricultural business is non-agro income. The provision holds good even when such remuneration is on the basis of certain percentage of net profit.
10. Income earned by a cultivator from conversion of sugarcane (raised on own land) to jaggery is non-agro income to the extent to which income is related to such conversion only. This is because sugarcane itself is marketable.
11. Interest on arrears of rent receivable in respect of agricultural land is non-agro income.
12. Income from a land situated outside India is non-agro income
13. Annuity received by a person in consideration of transfer of agricultural land, is non-agro income.
14. Income on supply of water for agricultural operation is non-agro income. The provision holds good even when such income is received in the form of agro-produce.
15. Income from sale of trees and grasses grown spontaneously (without any human effort), is non-agro income.

1.3.4 Treatment of Partly Agricultural & Partly Non-Agricultural Income

In case assessee is engaged in an integrated activity, comprising of agricultural activity as well as non- agricultural activity, then profit of such integrated activity shall be segregated into agricultural income and non-agricultural income in the following manner –

Rule	Case	Agricultural Income	Non-Agricultural Income
8	Assessee is engaged in the business of **growing and manufacturing** tea in India	60% of income	40% of income
	E.g., If an assessee earns ₹ 5 lakh (as per sec. 28) from the business of growing & manufacturing tea in India, then his business income will be ₹ 2 lakh (i.e., 40% of ₹ 5 lakh) & agro income will be ₹ 3 lakh (i.e. 60% of ₹ 5 lakh)		
7A	Assessee is engaged in the business of growing and manufacturing rubber in India	65% of income	35% of income
	Assessee is engaged in the business of growing and manufacturing Coffee in India		
7B(1)	➢ Coffee grown and cured by the seller in India	75% of income	25% of income

Rule	Case	Agricultural Income	Non-Agricultural Income
7B(1A)	➢ Coffee grown, cured, roasted and grounded by the seller in India, with or without mixing chicory or other flavouring ingredients	60% of income	40% of income
Salary and interest received by a partner from a firm growing and manufacturing tea, coffee or rubber: Such remuneration or interest shall be treated as partly agricultural income and partly business income as stated above.			

Any other case

For computing agricultural income from a business having both agricultural as well as non-agricultural income,

1. Assessee is required to prepare two Profit or Loss statements, one for agro-business & another for non agro-business
2. Agro expenses debited to Agro Profit or Loss and non agro expenses shall be debited to Non agro-business Profit or Loss

   Note: Non-apportionable expenditure, related to composite business of agriculture and non-agriculture, is fully charged to non-agricultural business.
3. Market value of any agricultural produce, which is utilised as raw material in such business, is to be treated as income for agro-business and expenditure for non agro-business.

Illustration 10

X Ltd. grows sugarcane to manufacture sugar. Details for the previous year 2024-25 are as follows:

Particulars	₹ in lacs.
Cost of cultivation of sugarcane (5,000 tons)	10
Sugarcane sold in market (1,000 tons)	3
Sugarcane used for sugar manufacturing (4,000 tons)	-
Cost of conversion	5
Sugar produced & sold in market	25

Compute income of X Ltd.

Solution:

Computation of income of X Ltd. for the A.Y. 2025-26 ₹ in lacs

Particulars	Manufacturing	Agriculture
Sale of agro product in market	-	3
Sale of manufactured product in market	25	-
Notional sale of agro product used in the process of manufacturing (4,000 ton × ₹ 3 lacs per '000 ton)	-	12
Revenue [A]	25	15
Less: Expenses incurred		
Cost of conversion	5	-

Particulars	Manufacturing	Agriculture
Market value of sugarcane used (4,000 ton × ₹ 3 lacs per '000 ton)	12	-
Cost of cultivation	-	10
Expenditure [B]	17	10
Income [A – B]	**8**	**5**

1.3.5 Impact of agricultural income on tax computation

Sec. 10(1) of the Act exempts agricultural income from tax as our Constitution does not provide power to the Parliament to levy tax on agro-income. However, since 1973 an indirect method* has been found, to levy tax on agro-income. According to this method, agricultural income is included in the total income of the assessee for deciding the tax slab of the assessee.

The way to apply higher rate of tax-slab on non-agricultural income by including agricultural income in the total income of the assessee are as under:

Conditions for including agricultural income in the total income of the assessee

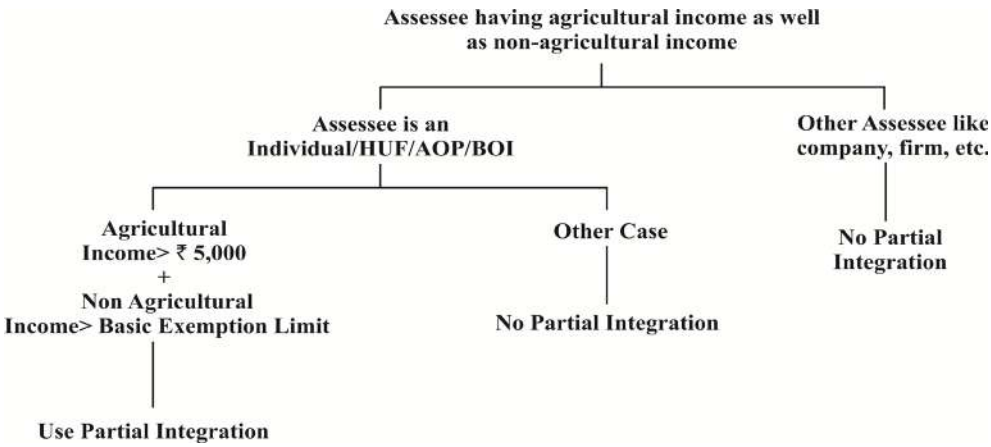
1. The assessee is an individual, a Hindu-undivided family, a body of individual, an association of person or an artificial juridical person.
2. The assessee has non-agricultural income exceeding the maximum amount of exemption (i.e. ₹ 3,00,000/- if assessee is paying tax under the default tax regime, however, if assessee is paying tax under old regime then in case of Senior citizen ₹ 3,00,000, Super Senior citizen ₹ 5,00,000 and in case of other individual/ HUF/AOP / BOI /artificial juridical person ₹ 2,50,000)
3. The agricultural income of the assessee exceeds ₹ 5,000.

Treatment

Step 1: Compute income tax on total income of assessee including Agro-income.

Step 2: Compute income tax on (Agro-income + Maximum exempted limit)

Step 3: Tax liability before cess = (Tax as per step 1) - (Tax as per step 2)



* On the recommendation of the Committee on Taxation of Agricultural Wealth and Income headed by Dr. K. N. Raj

Illustration 11

Mr. X aged 42 years has non-agro income of ₹ 7,30,000 and agro income of ₹ 3,10,000. Compute his tax liability for the A.Y. 2025-26.

How shall your answer differ if assessee has opted for old regime.

Solution

Computation of tax liability of Mr. X for the A.Y. 2025-26

Particulars	₹
Income Tax on ₹ 10,40,000 (i.e. agro income ₹ 3,10,000 + non agro ₹ 7,30,000)	56,000
Less: Tax on ₹ 6,10,000 (i.e. agro income ₹ 3,10,000 + maximum exempted limit ₹ 3,00,000)	15,500
Tax liability	40,500
Less: Rebate u/s 87A	Nil
	40,500
Add: Health & Education Cess (4% of ₹ 40,500)	1,620
Tax and cess payable (Rounded off u/s 288B)	**42,120**

Computation of tax liability of Mr. X for the A.Y. 2025-26 [If he has opted for old regime]

Particulars	₹
Income Tax on ₹ 10,40,000 (i.e. agro income ₹ 3,10,000 + non agro ₹ 7,30,000)	1,24,500
Less: Tax on ₹ 5,60,000 (i.e. agro income ₹ 3,10,000 + maximum exempted limit ₹ 2,50,000)	24,500
Tax liability	1,00,000
Less: Rebate u/s 87A	Nil
	1,00,000
Add: Health & Education Cess (4% of ₹ 1,00,000)	4,000
Tax and cess payable (Rounded off u/s 288B)	**1,04,000**

Illustration 12

Mr. Tony had estates in Rubber, Tea and Coffee. He derives income from them. He has also a nursery wherein he grows plants and sells. For the previous year ending 31.3.2025, he furnishes the following particulars of his sources of income from estates and sale of plants. Compute taxable income:

(a) Manufacture of Rubber ₹ 5,00,000.

(b) Manufacture of Coffee grown and cured ₹ 3,50,000.

(c) Manufacture of Tea ₹ 7,00,000.

(d) Sale of plants from nursery ₹ 1,00,000.

Solution:

Computation of income of Mr. Tony for the A.Y. 2025-26

Particulars	Agricultural income	Business income
Income from growing and manufacturing rubber [Rule 7A]		
65% of ₹ 5,00,000	3,25,000	
35% of ₹ 5,00,000		1,75,000
Income from growing and curing coffee# [Rule 7B(1)]		
75% of ₹ 3,50,000	2,62,500	
25% of ₹ 3,50,000		87,500
Income from growing and manufacturing tea [Rule 8]		
60% of ₹ 7,00,000	4,20,000	
40% of ₹ 7,00,000		2,80,000
Sale of plants from nursery	1,00,000	
Total	**11,07,500**	**5,42,500**

Assume the coffee grown and cured is not roasted and grounded by the seller.

Illustration 13

State the tax treatment of the following income -

(a) A is employed in an agricultural farm and entrusted with tilling of land, his remuneration being 50% of the net profits earned by the farm.

(b) C receives a dividend of ₹ 12,000 from a company whose entire income is derived from agricultural operations only.

(c) D of Kolkata earns an income of ₹ 12,000 from agricultural land owned by him and situated in Bangladesh. Such income is received in Bangladesh.

(d) F receives ₹ 600 on account of interest on loan on the mortgage of land which is used for agricultural purposes.

(e) G earns an income of ₹ 1,200 from lease of land for grazing of cattle required for agricultural operations.

(f) H receives ₹ 400 on account of interest on arrears of rent in respect of land used by tenant for agricultural operations.

(g) Income from the sale of replanted trees where the denuded parts of the forest are replanted and subsequent operation in forestry are carried out.

(h) Income from sale of trees of forest which are of spontaneous growth and in relation to which forestry operations alone are performed or Income from sale of wild grass of spontaneous growth

(i) Income from sale of tea leaf from a tea garden.

(j) Income from sale of jute produced in land situated in Bangladesh.

(k) Income from poultry farming

(l) Income from growing flowers in gardens

(m) Income from sale of tobacco leaves after being dried to make it fit for sale.

(n) Income from fisheries or poultry or dairy

(o) Income of ₹ 50,000 from agricultural land, the land is situated in Bangladesh

(p) Income of ₹ 25,000 from the land used as stone quarries.

Solution:

(a) Since Mr. A is an employee of the concern, therefore his income shall be taxable under the head 'Salaries' and shall not be treated as agricultural income. However, if Mr. A is a partner of the concern then such income shall be treated as agricultural income.

(b) Dividend received from a company (engaged in agricultural business) cannot be treated as agricultural income. Such dividend shall be taxable under the head "Income from other sources".

(c) Any income from a land situated outside India is not an agro-income and taxable under the head "Income from other sources". It is to be noted that such income shall be taxable only if the assessee is an ordinarily resident in India.

(d) Interest on loan on the mortgage of land used for agricultural purpose is not an agro-income.

(e) Any rent derived from land used for grazing of cattle, used for agricultural operation, is an agro-income.

(f) Interest on arrears of rent receivable in respect of agricultural land is non-agricultural income.

(g) Assume replantation of trees has been done with application of basic operation on land. Hence such income is agro-income.

(h) Income from sale of trees, grass grown spontaneously and without any human effort is non-agricultural income.

(i) It will be treated as agricultural income.

(j) Income from sale of jute produced in land situated in Bangladesh is not treated as agricultural income. For the purpose of this, land should be situated in India.

(k) Income from Poultry farming is not an agricultural income because such income is not derived from land.

(l) Income from growing flowers in garden is as an agricultural Income as the same is derived from a land by performing agricultural operations on it.

(m) Income from sale of tobacco leaves after being dried to make it fit for sale is an agricultural income.

(n) Income from fisheries or poultry or dairy is not considered as agricultural income as the same is not derived from land.

(o) Since the land in situated outside India, hence income is not considered as agricultural income.

(p) It is not an agricultural income as no agricultural operation has been carried on the land.

Income which do not form part of Total Income

1.4

1.4.1 Income Exempt From Tax

Sec. 10 enlists the various income which are exempt from tax i.e. does not form part of total income of the assessee. These are –

Agricultural Income [Sec. 10(1)]

Refer chapter *Agricultural income*

Member's Share in Income of HUF [Sec. 10(2)]

Any sum received by an individual as a member of a Hindu undivided family –

- Where such sum has been received out of the income of the family; or
- Where such sum has been received out of the income of an impartible estate belonging to the family.

Share of Profit from a Firm [Sec. 10(2A)]

Share in the total income of the firm is exempt in the hands of partner.

Interest Income of Non-resident [Sec. 10(4)/(4B)]

- Interest on specified securities or bonds, including premium on redemption of such bonds is exempted in the hands of a non-resident [Sec. 10(4)(i)]
- Interest on Non-Resident (External) Account in any bank in India to a person who is a resident outside India as per as defined in sec. 2*(w)* of the Foreign Exchange Management Act, 1999 or is a person who has been permitted by the Reserve Bank of India to maintain the aforesaid Account
- Interest on notified savings certificates issued before 1-6-2002 by the Central Government to a non-resident, being a citizen of India or a person of Indian origin [Sec. 10(4B)]

Interest on Rupee Denominated Bond [Sec. 10(4C)]

Interest payable to a non-resident, not being a company, or to a foreign company, is exempt if following conditions are satisfied:

a) Interest is payable by any Indian company or business trust.

b) Such interest is payable in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond, as referred to in sec. 194LC(2)(ia).

c) Such bond has been issued during 17-09-2018 and 31-03-2019.

Income received by specified fund [Sec. 10(4D)][Amended]

any income accrued or arisen to, or received by a specified fund as a result of transfer of capital asset referred to in sec. 47(viiab), on a recognised stock exchange located in any International Financial Services Centre; **and**

Where the consideration for such transaction is paid or payable in convertible foreign exchange or as a result of transfer of securities (other than shares in a company resident in India) or any income from securities issued by a non-resident (not being a permanent establishment of a non-resident in India); **and**

Where such income otherwise does not accrue or arise in India or any income from a securitisation trust which is chargeable under the head "Profits and gains of business or profession",

- to the extent such income accrued or arisen to, or is received, is attributable to units held by non-resident (not being the permanent establishment of a non-resident in India) or is attributable to the investment division of offshore banking unit, as the case may be, computed in the prescribed manner.

➢ "Specified Fund" means,—

i. a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate,—

I. a. which has been granted a certificate of registration as a Category III Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 or International Financial Services Centre Authority Act, 2019;

b. which has been granted a certificate as a retail scheme or an Exchange Traded Fund, and is regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022, made under the International Financial Services Centres Authority Act, 2019 and satisfies prescribed conditions.

II. which is located in any International Financial Services Centre; and

III. of which all the units other than unit held by a sponsor or manager are held by non-residents;

• However, this condition shall not be applicable where any unit holder(s), being non-resident during the previous year when such unit(s) were issued, becomes resident u/s 6(1) or 6(1A) in any previous year subsequent to that year, if the aggregate value and number of the units held by such resident unit holder or holders do not exceed 5% of the total units issued and fulfil such other conditions as may be prescribed.

ii. investment division of an offshore banking unit, which has been—

I. granted a certificate of registration as a Category-I foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities and Exchange Board of India Act, 1992 and which has commenced its operations on or before the 31st day of March, 2025; and

II. fulfils such conditions including maintenance of separate accounts for its investment division, as may be prescribed;

Income of IFSC [Sec. 10(4E)/(4F)]

• Any income accrued or arisen to, or received by a non-resident as a result of:

i. transfer of non-deliverable forward contracts or offshore derivative instruments or over-the-counter derivatives; or

ii. distribution of income on offshore derivative instruments,

entered into with an offshore banking unit of an International Financial Services Centre referred to in sec. 80LA(1A), which fulfils such conditions as may be prescribed

- Any income of a non-resident by way of royalty or interest, on account of lease of an aircraft or a ship in a previous year, paid by a unit of an International Financial Services Centre, if the unit has commenced its operations on or before 31-03-2025.
  - "Aircraft" means an aircraft or a helicopter, or an engine of an aircraft or a helicopter, or any part thereof;
  - "Ship" means a ship or an ocean vessel, engine of a ship or ocean vessel, or any part thereof.

Income of IFSC [Sec. 10(4G)]

Any income received by a non-resident from:

i. portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such non-resident; or

ii. such activity carried out by such person, as may be notified by the Central Government,

in an account maintained with an Offshore Banking Unit in any International Financial Services Centre, as referred to in sec. 80LA(1A), to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

Income of IFSC [Sec. 10(4H)]

Any income of a non-resident or a Unit of an International Financial Services Centre as referred to in sec. 80LA(1A), engaged primarily in the business of leasing of an aircraft, by way of capital gains arising from the transfer of equity shares of domestic company, being a Unit of an International Financial Services Centre, as referred to in sec. 80LA(1A), engaged primarily in the business of lease of an aircraft which has commenced operations on or before 31-03-2026

However, this clause shall apply for capital gains arising from the transfer of equity shares of such domestic company in a previous year relevant to an assessment year falling within the:

a. period of 10 assessment years beginning with the assessment year relevant to the previous year in which the domestic company has commenced operations; or

b. period of ten assessment years beginning with the assessment year commencing on 01-04-2024, where the period referred to in clause (a) ends before 01-04-2034.

Taxpoint: Aircraft means an aircraft or a helicopter, or an engine of an aircraft or a helicopter, or any part thereof;

Leave Travel Concession [Sec. 10(5)]

Refer chapter *Salaries*.

Remuneration to Person who is not a Citizen of India in certain cases [Sec. 10(6)]

Following remuneration to an individual who is not a citizen of India shall be exempt –

- Remuneration received by him as an official of an embassy, high commission, legation, commission, consulate, or the trade representation of a foreign state or as a staff of any of these officials provided corresponding Indian officials in that foreign country enjoy similar exemptions in their country - Sec. 10(6)(ii).
- Remuneration received as an employee of a foreign enterprise for services rendered by him during his stay in India provided -
  - **a.** the foreign enterprise is not engaged in any business or profession in India;
  - **b.** his stay in India does not exceed 90 days in aggregate; and
  - **c.** such remuneration is not liable to be deducted from the income of the employer under this Act - Sec. 10(6)(vi)

- Remuneration for services rendered in connection with his employment on a foreign ship provided his total stay in India does not exceed 90 days in the previous year - Sec. 10(6)(viii)
- Remuneration received as an employee of the Government of a foreign State during his stay in India in connection with his training in any undertaking owned by Government, Government company, subsidiary of a Government company, corporation established by any Central, State or Provincial Act and any society wholly financed by the Central or State Government – Sec. 10(6)(xi)

Tax paid by Government on Royalty or Fees for Technical Service [Sec. 10(6A)]

Tax paid by Government on Income of a Non-resident or a Foreign Company [Sec. 10(6B)]

Tax paid on Income from Leasing of Aircraft [Sec. 10(6BB)]

Tax paid by an Indian company on income arising from leasing of aircraft, etc. to the Government of a foreign state or foreign enterprise under an approved agreement entered into with such Indian company engaged in the business of operation of aircraft, provided such agreement was entered into between 1-4-1997 and 31-3-1999 or after 31-3-2007.

Taxpoint: Only tax paid on such income is exempt, however such income is taxable.

Fees for Technical Services in Project connected with Security of India [Sec. 10(6C)]

Any income arising to notified foreign company by way of royalty or fees for technical services received in pursuance of an agreement entered into with Central Government for providing services in or outside India in projects connected with security of India.

Income from service provided to National Technical Research Organisation [Sec. 10(6D)]

Any income arising to a non-resident or to a foreign company, by way of royalty from, or fees for technical services rendered in or outside India to, the National Technical Research Organisation

Allowance or Perquisite paid Outside India [Sec. 10(7)]

Any allowance or perquisite paid outside India by the Government to a citizen of India for rendering services outside India.

Death-cum-retirement-gratuity [Sec. 10(10)]

Refer chapter *Salaries*.

Commutation of Pension [Sec. 10(10A)]

Refer chapter *Salaries*.

Leave Encashment [Sec. 10(10AA)]

Refer chapter *Salaries*.

Workmen's Retrenchment Compensation [Sec. 10(10B)]

Refer chapter *Salaries*.

Compensation under Bhopal Gas Leak Disaster Act, 1985 [Sec. 10(10BB)]

Compensation for any Disaster [Sec. 10(10BC)]

Any amount received or receivable from the Central Government or a State Government or a local authority by an individual or his legal heir by way of compensation on account of any disaster, except the amount received or receivable to the extent such individual or his legal heir has been allowed a deduction under this Act on account of any loss or damage caused by such disaster.

Payment under Voluntary Retirement Scheme [Sec. 10(10C)]

Refer chapter *Salaries*.

Tax paid by Employer on behalf of Employee on Non-monetary Perquisites u/s 17(2) [Sec. 10(10CC)]

Refer chapter *Salaries*.

Sum received under a Life Insurance Policy [Sec. 10(10D)]

Any sum received under a life insurance policy including bonus on such policy is wholly exempt from tax. However, exemption is not available on -

1. any sum received u/s 80DD(3) or u/s 80DDA(3); or

2. any sum received under a Keyman insurance policy; or

3. any sum received under an insurance policy issued on or after 1-4-2012* in respect of which the premium payable for any of the years during the term of the policy exceeds 10%** of the actual capital sum assured.

4. Where any Unit Linked Insurance Policy (ULIP), is issued on or after 01-02-2021 and the premium payable for any of the previous year during the term of such policy exceeds ₹ 2,50,000

- Where the premium is payable, by a person, for more than one ULIP, issued on or after 01-02-2021, the exemption shall apply only with respect to those ULIP, where the aggregate amount of premium does not exceed the aforesaid limit in any of the previous year during the term of any of those policies.

Notes:

a. Point (3) & (4) shall not apply to any sum received on the death of a person.

b. However, exemption shall not be applicable with respect to any life insurance policy, other than a unit linked insurance policy, issued on or after 01-04-2023, if the amount of premium payable for any of the previous years during the term of such policy exceeds ₹ 5 lakh

- However, if the premium is payable by a person for more than one life insurance policy, other than unit linked insurance policy, issued on or after 01-04-2023, this clause shall apply only with respect to those life insurance policies, other than unit linked insurance policies, where the aggregate amount of premium does not exceed the aforesaid amount in any of the previous years during the term of any of those policies
- If exemption is not available in respect of life insurance, then income would be taxable under the head Income from Other Sources.
- Further, this restriction shall not apply to any sum received on the death of a person.

c. Actual capital sum assured shall mean the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy.

d. If the exemption u/s 10(10D) is not available in respect of ULIP due to point (4), income shall be taxable under the head Capital Gains u/s 45(1B) and tax liability shall be computed as per sec. 112A.

e. For calculating actual capital sum assured (for point 3), no account shall be taken for -

- the value of any premiums agreed to be returned; or
- any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

* If policy is issued between 01-04-2003 and 31-03-2012, premium payable for any of the years during the term of the policy exceeds 20% of the actual capital sum assured

** Where policy is issued on or after 01-04-2013 and Insured is disable or severe disable as per sec. 80U or suffering from disease specified u/s 80DDB – 15%

Payment from Statutory or Public Provident Fund [Sec. 10(11)]

Any payment from a provident fund to which the Provident Funds Act, 1925, applies or from any other notified provident fund set up by the Central Government is exempt

Exceptions

Interest accrued during the previous year in the account of an employee maintained by the fund shall not be exempted to the extent it relates to the following amount:

Case	Interest not exempted
Where employer is giving contribution	Interest on employee's contribution (made on or after 01-04-2021) in excess of ₹ 2,50,000 per year
Where employer is not giving contribution	Interest on employee's contribution (made on or after 01-04-2021) in excess of ₹ 5,00,000 per year

In such case, income shall be computed in such manner as may be prescribed.

Payment from Sukanya Samriddhi Account [Sec. 10(11A)]

Any payment from an account, opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873.

Payment from Recognised Provident Fund [Sec. 10(12)]

The accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in rule 8 of Part A of the Fourth Schedule is exempt

Exceptions

Interest accrued during the previous year in the account of an employee maintained by the fund shall not be exempted to the extent it relates to the following amount:

Case	Interest not exempted
Where employer is giving contribution	Interest on employee's contribution (made on or after 01-04-2021) in excess of ₹2,50,000 per year
Where employer is not giving contribution	Interest on employee's contribution (made on or after 01-04-2021) in excess of ₹5,00,000 per year

In such case, income shall be computed in such manner as may be prescribed.

Payment from National Pension Trust [Sec. 10(12A) & 10(12B)]

Any payment from the National Pension System Trust to an assessee on closure of his account or on his opting out of the pension scheme referred to in sec. 80CCD, to the extent it does not exceed 60% of the total amount payable to him at the time of such closure or his opting out of the scheme [Sec. 10(12A)]

Any payment from the National Pension System Trust to an employee under the pension scheme referred to in sec. 80CCD, on partial withdrawal made out of his account in accordance with the terms and conditions, specified under the Pension Fund Regulatory and Development Authority Act, 2013, to the extent it does not exceed 25% of the amount of contributions made by him [Sec. 10(12B)]

Payment from Approved Superannuation Fund [Sec. 10(13)]

Any payment from an approved superannuation fund made -

- on the death of a beneficiary; or
- to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement; or
- by way of refund of contributions on the death of a beneficiary; or
- by way of refund of contributions to an employee on his leaving the service (otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement) to the extent to which such payment does not exceed the contributions made prior to 1-4-1962 and any interest thereon.

- by way of transfer to the account of the employee under a pension scheme referred to in sec. 80CCD and notified by the Central Government

House Rent Allowance [Sec. 10(13A)]

Refer chapter Salaries.

Notified Special Allowances [Sec. 10(14)]

Refer chapter Salaries.

Interest on Securities [Sec. 10(15)]

1. Interest, premium on redemption or other payment on notified securities, bonds or certificates
2. Interest in the hands of an individual and Hindu undivided family on Specified Capital Investment Bonds or Specified Relief Bonds
3. Interest on specified bonds to non resident or his nominees if such bonds are purchased by a non-resident Indian in foreign exchange; and
4. The interest and principal received in respect of such bonds, whether on their maturity or otherwise, is not allowable to be taken out of India. Interest on securities held by the Issue Department of the Central Bank of Ceylon;
5. Interest payable to any bank incorporated in a country outside India and authorised to perform central banking functions in that country on any deposits made by it, with the approval of the RBI, with any scheduled bank;
6. Interest payable on a loan advanced by the Nordic Investment Bank for an approved project;
7. Interest payable to the European Investment Bank for financial co-operation agreement;
8. Interest payable by a Government, local authority, certain industrial undertakings or financial institution on money borrowed before 1/6/2001
9. Interest on securities held by the Welfare Commissioner, Bhopal Gas Victims or deposits for the benefit of the victims of the Bhopal gas leak disaster.
10. Interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015
11. Interest on specified bonds issued by a local authority or by a State Pooled Finance Entity.
12. Interest received by a non-resident or a person who is not ordinarily resident, in India on a deposit made on or after 1-4-2005 in an offshore banking unit referred in the Special Economic Zones Act, 2005
13. Interest payable to a non-resident by a unit located in an International Financial Services Centre in respect of monies borrowed by it on or after 01-09-2019

Income from Leasing of Aircraft [Sec. 10(15A)]

Any payment made, by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft or an aircraft engine (other than a payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease from the foreign Government or a foreign enterprise under an approved agreement. The agreement must not be entered into -

- between 1-4-1997 to 31-3-1999; and
- on or after 1-4-2007.

Note: "Foreign enterprise" means a person who is a non-resident.

Taxpoint: Tax paid on an agreement made between 1-4-1997 and 31-3-1999 is eligible for exemption u/s 10(6BB).

Income from lease rental of cruise ship [Sec. 10(15B)]

Any income of a foreign company from lease rentals (by whatever name called) of cruise ships, shall be exempted if the following conditions are satisfied:

Such income shall be received from a specified company which operates such ship(s) in India

Such foreign company and the specified company are subsidiaries of the same holding company; and

Such income is received or accrues or arises in India for any relevant assessment year beginning on or before 01-4-2030.

Taxpoint

- Specified company means any company, other than a domestic company which operates cruise ships in India and opts to pay tax in accordance with the provisions of sec. 44BBC
- Holding company, in relation to a foreign company or a specified company, means a company of which such companies are subsidiary companies
- Subsidiary company or "subsidiary", in relation to a holding company, means a company in which the holding company exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies;

Scholarship [Sec. 10(16)]

Scholarships granted to meet the cost of education.

Notes:

a. Cost of education also includes incidental expenses incurred for education.

b. The exemption is irrespective of actual expenditure.

Daily Allowance, etc. to MP and MLA [Sec. 10(17)]

Any income by way of -

a. Daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof;

b. Any allowance received by any person by reason of his membership of Parliament;

c. Constituency Allowance received by any person by reason of his membership of State legislature;

Awards and Rewards [Sec. 10(17A)]

Any payment made, whether in cash or in kind -

a. in pursuance of any award instituted in the public interest by the Central Government or any State Government or by any other approved body; or

b. as a reward by the Central Government or any State Government for approved purposes.

Pension to receiver of Gallantry Awards [Sec. 10(18)]

Any income by way of -

a. pension received by an individual who has been in the service of the Central or State Government and has been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or such other notified gallantry award*; or

b. family pension received by any member of the family of such individual.

Family Pension to Widow or Children of Armed Force [Sec. 10(19)]

Family pension received by the widow or children or nominated heirs, of a member of the armed forces (including para-military forces) of the Union, where the death of such member has occurred in the course of operational duties, in such circumstances and subject to such conditions, as may be prescribed.

Palace of Ex-ruler [Sec. 10(19A)]

The annual value in respect of any one palace, which is in the occupation of an ex-ruler

* Asadharan Suraksha Seva Praman Patra.

Income of Local Authority [Sec. 10(20)]

Following income of a local authority is exempt -

a. Income chargeable under the head Income from House Property, Capital Gains or Income from other Sources

b. Income from the supply of commodities (other than water or electricity) or services, within its own jurisdiction

c. Income from the supply of water services or electricity within or outside its jurisdiction

Income of Scientific Research Association [Sec. 10(21)]

Any income of a scientific research association [being approved for the purpose of Sec. 35(1)(ii)] or research association which has its object, undertaking research in social science or statistical research [being approved and notified for the purpose of Sec. 35(1)(iii)], is exempt provided such association—

a. applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established; and

b. invest or deposit its funds in specified investments.

Income of News Agency [Sec. 10(22B)]

Any income of specified news agency (Press Trust of India Ltd., New Delhi) set up in India solely for collection and distribution of news shall be exempt provided:

a. The news agency applies its income or accumulates it for application solely for collection and distribution of news; and

b. It does not distribute its income in any manner to its members.

Income of Professional Institutions [Sec. 10(23A)]

Any income (other than income chargeable under the head "Income from house property" or any income received for rendering any specific services or income by way of interest or dividends derived from its investments) of professional association shall be exempt provided -

a. Such association or institution is established in India having as its object the control, supervision, regulation or encouragement of the profession of law, medicine, accountancy, engineering or architecture or other specified profession;

b. Such association or institution applies its income, or accumulates it for application, solely to the objects for which it is established; and

c. The association or institution is approved by the Central Government.

Income of Regimental Fund [Sec. 10(23AA)]

Any income received by any person on behalf of any Regimental Fund or Non-public Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants is exempt.

Income of specified Employee Welfare Fund [Sec. 10(23AAA)]

Income of specified Pension Fund [Sec. 10(23AAB)]

Income of trust for Development of Khadi and Village Industries [Sec. 10(23B)]

Income of Khadi and Village Industries Boards [Sec. 10(23BB)]

Income of body formed for Administration of Public Religious or Charitable Trusts [Sec. 10(23BBA)]

Any income of any body established under any Central, State or Provincial Act which provides for the administration of any public, religious or charitable trusts or endowments including *Maths,* Temples, *Gurudwaras,* Wakfs, Churches or other places of public religious worship or societies for religious or charitable purposes.

Income of European Economic Community [Sec. 10(23BBB)]

Income of SAARC Fund [Sec. 10(23BBC)]

Income of ASOSAI-SECRETARIAT [Sec. 10(23BBD)]

Income of Insurance Regulatory Authority [Sec. 10(23BBE)]

Income of the Central Electricity Regulatory Commission [Sec. 10(23BBG)]

Income of the Prasar Bharati (Broadcasting Corporation of India) [Sec. 10(23BBH)]

Income of Certain Funds [Sec. 10(23C)]

Any income received by any person on behalf of

1. The Prime Minister's National Relief Fund or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND); [sec. 10(23C)(i)]
2. The Prime Minister's Fund (Promotion of Folk Art); [sec. 10(23C)(ii)]
3. The Prime Minister's Aid to Students Fund; [sec. 10(23C)(iii)]
4. The National Foundation for Communal Harmony; [sec. 10(23C)(iiia)]
5. The Swachh Bharat Kosh; [sec. 10(23C)(iiiaa)]
6. The Clean Ganga Fund; [sec. 10(23C)(iiiaaa)]
7. The Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund; [sec. 10(23C)(iiiaaaa)]
8. Any other charitable fund or institution notified by the prescribed authority (subject to condition) [sec. 10(23C)(iv)]
9. Any trust or institution wholly for public religious purposes or wholly for public religious and charitable purposes notified by the prescribed authority (subject to conditions) [sec. 10(23C)(v)]
10. Any university or other education institutions, (wholly or substantially financed by Government or having annual receipt of prescribed limit upto ₹ 5 crores) existing solely for education purposes and not for profit. [sec.10(23C)(iiiac), (iiiad) (vi)]
11. Any hospital or other institution (wholly or substantially financed by Government or having annual receipt upto ₹ 5 crores) for treatment of person suffering from illness or mental defectiveness or during convalescence or requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for profit. [sec.10(23C)(iiiac), (iiiae) and (via)]

Notes:

- Institution covered u/s 23C(iv), (v), (vi) and (via) shall get their accounts audited and upload the audit report one month prior to the due date of filing the return of income.
- For the purposes of (iiiad) and (iiiae), it is hereby clarified that if the person has receipts from university or universities or educational institution or institutions as referred to in (iiiad), as well as from hospital or hospitals or institution or institutions as referred to in (iiiae), the exemptions shall not apply, if the aggregate of annual receipts of the person from such university or universities or educational institution or institutions or hospital or hospitals or institution or institutions, exceed ₹ 5 crores;
- The calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding to the previous year;
- Income of the funds or trust or institution or any university or other educational institution or any hospital or other medical institution, shall not include income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution provided that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sec. 11(5) maintained specifically for such corpus
- Further, for the purposes of determining the amount of application:

a. application for charitable or religious purposes from the corpus as referred above, shall not be treated as application of income for charitable or religious purposes.

However, the amount not so treated as application or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sec. 11(5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or deposit; and

b. application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes:

However, the amount not so treated as application or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment.

- For the purposes of determining the amount of application, where 85% of the income is not applied wholly and exclusively to the objects for which the fund or institution or trust or any university or other educational institution or any hospital or other medical institution is established, during the previous year but is accumulated or set apart, either in whole or in part, for application to such objects, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, if the following conditions are complied with, namely:

a. such person furnishes a statement in such form and manner, as may be prescribed, to the Assessing Officer stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed 5 years;

b. the money so accumulated or set apart is invested or deposited in the forms or modes specified in sec. 11(5); and

c. such statement is furnished on or before the due date for furnishing the return of income for the previous year.

Taxpoint: In computing the period of 5 years, the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

- Any income, which:

a. is applied for purposes other than wholly and exclusively to the objects for which the fund or institution or trust or any university or other educational institution or any hospital or other medical institution is established or ceases to be accumulated or set apart for application thereto; or

b. ceases to remain invested or deposited in any of the forms or modes specified in sec. 11(5); or

c. is not utilised for the purpose for which it is so accumulated or set apart during such period; or

d. is credited or paid to any trust or institution registered u/s 12AA or 12AB or to any specified fund or institution or trust or any university or other educational institution or any hospital or other medical institution

- shall be deemed to be the income of such person of the previous year—

i. in which it is so applied or ceases to be so accumulated or set apart; or

ii. in which it ceases to remain so invested or deposited; or

iii. being the last previous year of the period, for which the income is accumulated or set apart, but not utilised for the purpose for which it is so accumulated or set apart; or

iv. in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution.

- However, where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited cannot be applied for the purpose for which it was accumulated or set apart, the Assessing

Officer may, on an application made to him in this behalf, allow such person to apply such income for such other purpose in India as is specified in the application by that person and as is in conformity with the objects for which the fund or institution or trust or any university or other educational institution or any hospital or other medical institution is established; and thereupon the aforesaid provisions shall apply as if the purpose specified by that person in this application were a purpose specified in the notice given to the Assessing Officer

However, the Assessing Officer shall not allow application of such income by way of payment or credit made to other

- Anonymous donation referred u/s 115BBC is not exempt.
- Any concern which has been approved or notified for exemption u/s 10(23C) shall not be entitled to claim any other exemption (except exemption for agricultural income) u/s 10.
- While computing business income, the provision of sec. 40(a)(ia) and 40A(3) / (3A) shall be applicable.

Income of Mutual Fund [Sec. 10(23D)]

Any income of -

a. A Mutual Fund registered under the Securities and Exchange Board of India Act, 1992 or regulation made thereunder;

b. A Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India and subject to certain notified conditions.

Income of Securitisation Trust [Sec. 10(23DA)]

Any income of a securitisation trust from the activity of securitisation.

- "Securitisation" shall have the same meaning as assigned to it,
  - **a.** in regulation 2(1)(r) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 and the Securities Contracts (Regulation) Act, 1956; or
  - **b.** in clause (z) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; or
  - **c.** under the guidelines on securitisation of standard assets issued by the Reserve Bank of India;
- "Securitisation trust" shall have the meaning assigned to it in the Explanation below sec. 115TCA

Income of Investor Protection Fund [Sec. 10(23EA)]

Income (by way of contribution received from recognized Stock exchange and members thereof) of Investor Protection Fund set up by the recognised Stock Exchanges in India as the Central Government may by notification in Official Gazette specify shall be exempt.

Income of Investor Protection Fund set up by Commodity Exchange [Sec. 10(23EC)]

Income of Investor Protection Fund of Depositories [Sec. 10(23ED)]

Any income, by way of contributions received from a depository, of notified Investor Protection Fund set up in accordance with the regulations by a depository.

However, where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with a depository, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.

Income of Core Settlement Guarantee Fund [Sec. 10(23EE)]

Any specified income of such Core Settlement Guarantee Fund, set up by a recognised clearing corporation in accordance with the regulations notified by the Central Government.

However where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with the specified person, the whole of the amount so shared shall be deemed

to be the income of the previous year in which such amount is so shared.

Income of Ventures Capital Fund or Venture Capital Company [Sec 10(23FB)]

Any income of a venture capital company or venture capital fund from investment in a venture capital undertaking.

However, w.e.f. A.Y. 2016-17, the exemption is not applicable to any income of a venture capital company or venture capital fund, being an investment fund specified in clause (*a*) of the *Explanation* 1 to sec. 115UB

Non-business income of Investment Fund [Sec. 10(23FBA)]

Any income of an investment fund other than the income chargeable under the head "Profits and gains of business or profession".

Income of Unit holder [Sec. 10(23FBB)]

Any income, referred to in sec. 115UB, to a unit holder of an investment fund, being that proportion of income which is of the same nature as income chargeable under the head "Profits and gains of business or profession".

- For the purposes of sec. 10(*23FBA*) and (*23FBB*), "investment fund" shall have the meaning assigned to it in clause (*a*) of the Explanation 1 to sec. 115UB.

Income from specified fund [Sec. 10(23FBC)]

Any income accruing or arising to, or received by, a unit holder from a specified fund or on transfer of units in a specified fund is exempt.

- "Specified fund" shall have the same meaning as assigned to it sec. 10(4D)
- "Unit" means beneficial interest of an investor in the fund and shall include shares or partnership interests

Income of Business Trust [Sec 10(23FC)]

Any income of a business trust by way of

a) interest received or receivable from a special purpose vehicle; or

b) dividend received or receivable from a special purpose vehicle

- "Special purpose vehicle" means an Indian company in which the business trust holds controlling interest and any specific percentage of shareholding or interest, as may be required by the regulations under which such trust is granted registration

Income of Real Estate Investment Trust [Sec. 10(23FCA)]

Any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust.

Distributed Income to unit holder of a Business Trust [Sec 10(23FD)]

Any distributed income, referred to in section 115UA, received by a unit holder from the business trust, not being that proportion of the income which is of the same nature as the income referred to in 10*(23FC)(a) [i.e., proportionate interest income] or 10(23FC)(b) [i.e., proportionate dividend income where the special purpose vehicle has exercised the option u/s 115BAA] or 10(23FCA) [i.e., proportionate rental income]*

Taxpoint: Such income is taxable in hands of unitholders.

Income to wholly owned subsidiary of Abu Dhabi Investment Authority and Sovereign Wealth Fund [Sec 10(23FE)]

Any income of the specified person in the nature of dividend, interest, any income referred to in sec. 56(2)(xii) or long-term capital gains arising from an investment made by it in India, whether in the form of debt or share capital or unit, if the investment:

i. is made on or after 01-04-2020 but on or before 31-03-2025;

ii. is held for at least 3 years; and

iii. is in:

a. a business trust referred to in sec. 2(13A)(i); or

b. a company or enterprise or an entity carrying on the business of developing, or operating and maintaining, or developing, operating and maintaining any infrastructure facility or other specified business; or

c. a domestic company, set up and registered on or after 01-04-2021, having minimum 75% investments in one or more of the companies or enterprises or entities referred to in item (b); or

d. a non-banking financial company registered as an Infrastructure Finance Company as referred to in notification number RBI/2009-10/316 issued by the Reserve Bank of India or in an Infrastructure Debt Fund, a non-banking finance company, as referred to in the Infrastructure Debt Fund - Non-Banking Financial Companies (Reserve Bank) Directions, 2011, issued by the Reserve Bank of India, having minimum 90% lending to one or more of the companies or enterprises or entities referred to in item (b)

e. a Category-I or Category-II Alternative Investment Fund regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, having 50% investment in one or more of the company or enterprise or entity referred above or in an Infrastructure Investment Trust referred to in sec. 2(13A)(i)

Capital Gains of Resultant Fund [Sec. 10(23FF)]

Any income of the nature of capital gains, arising or received by a non-resident or a specified fund, which is on account of transfer of share of a company resident in India, by the resultant fund or a specified fund to the extent attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) in such manner as may be prescribed, and such shares were transferred from the original fund, or from its wholly owned special purpose vehicle, to the resultant fund in relocation, and where capital gains on such shares were not chargeable to tax if that relocation had not taken place.

Income of Trade Union [Sec. 10(24)]

Any income chargeable under the heads "Income from house property" and " Income from other sources" of -

a. a registered union within the meaning of the Indian Trade Unions Act, 1926, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen.

b. an association of registered unions

Income of specified Provident Funds, etc. (e.g. RPF, Superannuation fund, Approved gratuity fund) [Sec. 10(25)]

Income of Employees' State Insurance Fund [Sec. 10(25A)]

Income of Scheduled Tribe [Sec. 10(26)]

Following income of member of a Scheduled Tribe is exempt –

a. from any source in specified areas or States; or

b. by way of dividend or interest on any securities.

– provided he resides in specified area or States.

Income of Sikkimese [Sec. 10(26AAA)]

Following income of an individual, being a Sikkimese, is exempt:

i. from any source in the State of Sikkim; or

ii. by way of dividend or interest on securities:

Note: The exemption is not available to a Sikkimese woman who, on or after 1/4/2008, marries an individual who is not a Sikkimese.

Income of an Agricultural produce Market Committee [Sec. 10(26AAB)]

Income of an agricultural produce market committee or board constituted under any law for the time being in force for the purpose of regulating the marketing of agricultural produce is exempt.

Income of Corporation for promoting the Interests of the Members of the Scheduled Castes or the Scheduled Tribe or Backward Classes [Sec. 10(26B)]

Income of Corporation for promoting Interest of Members of a Minority Community [Sec. 10(26BB)]

Income of Corporation for the Welfare and Economic Upliftment of Ex-servicemen [Sec. 10(26BBB)]

Income of a Co-operative Society for promoting the Interests of the Members of Scheduled Castes or Scheduled Tribes [Sec. 10(27)]

Income of specified Boards [Sec. 10(29A)]

Any income accruing or arising to The Coffee Board; The Rubber Board; The Tea Board; The Tobacco Board; The Marine Products Export Development Authority; The Coir Board; The Agricultural and Processed Food Products Export Development Authority and The Spices Board.

Subsidy received from Tea Board [Sec. 10(30)]

Any subsidy received from or through the Tea Board under any scheme for replantation or replacement of tea bushes or for rejuvenation or consolidation of areas used for cultivation of tea as the Central Government may specify, is exempt

Subsidy received from other Board [Sec. 10(31)]

Any subsidy received from or through the concerned Board (like Coffee Boards, Rubber Board, etc.) under any such scheme for replantation or replacement of rubber plants, coffee plants, cardamom plants or plants for the growing of such other commodity or for rejuvenation or consolidation of areas used for cultivation of rubber, coffee, cardamom or such other specified commodity is exempt.

Income of Minor [Sec. 10(32)]

Income up to ₹ 1,500 is exempt in respect of each minor child whose income is clubbed u/s 64(1A).

Income on Transfer of Units of US 64 [Sec. 10(33)]

Any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964 where such transfer takes place on or after the 1st day of April, 2002.

Income of Shareholder on Buy-back of Shares [Sec. 10(34A)]

Any income arising to an assessee, being a shareholder, on account of buy back of shares by the company, which pay additional income-tax u/s 115QA.

However, the exemption is not available if buy-back of shares by a company has been made on or after 01-10-2024.

Capital Gain on compulsory Acquisition of Urban Land [Sec. 10(37)]

Refer Chapter Capital Gains

Capital Gain on transfer under Land Pooling Scheme for Andhra Pradesh [Sec. 10(37A)]

Refer Chapter Capital Gains

Specified Income, Arising from any International Sporting Event [Sec. 10(39)]

Any specified income, arising from any international sporting event held in India, to the person(s) notified by the Central Government in Official Gazette, if such international sporting event –

a) is approved by the International body regulating the international sport relating to such event;

b) has participation by more than 2 countries;

c) is notified by the Central Government in the Official Gazette for the purpose of this clause.

Note: For the purpose of this clause "the specified income" means the income, of the nature and to the extent, arising from the international sporting event, which the Central Government may notify in this behalf.

Reconstruction or Revival of Power Generation Subsidiary Company [Sec. 10(40)]

Any income of any subsidiary company by way of grant or otherwise received from an Indian company, being its

holding company engaged in the business of generation, transmission or distribution of power, if such receipts is for the settlement of dues in connection with reconstruction or revival of an existence business of power generation.

Note: The above clause is applicable if reconstruction or revival of any existing business of power generation is by way of transfer of such business to the Indian company notified u/s 80-IA (4)(v)(a)

Income of a Non-profit Body or Authority specified by the Central Government [Sec. 10(42)]

Any specified income arising to a body or authority which -

- has been established or constituted or appointed under a treaty or an agreement enterted into by the Central Government with tow or more countries or a convention signed by the Central Government;
- is established or constituted or appointed not for the purpose of profit;
- is notified by the Central Government.

Reverse Mortgage [Sec. 10(43)]

Any amount received by an individual as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage is exempt.

New Pension Trust [Sec. 10(44)]

Any income received by any person for, or on behalf of, the New Pension System Trust is exempt

Specified Income of notified body or authority or Board or Trust or Commission [Sec. 10(46)]]

Any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) other than those covered u/s 10(46A), or a class thereof, which —

a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;

b) is not engaged in any commercial activity; and

c) is notified by the Central Government in the Official Gazette

Income of Development Authorities [Sec. 10(46A)]

Any income arising to a body or authority or Board or Trust or Commission, not being a company, which—

a. has been established or constituted by or under a Central Act or State Act with one or more of the following purposes, namely:--
   i. dealing with and satisfying the need for housing accommodation;
   ii. planning, development or improvement of cities, towns and villages;
   iii. regulating, or regulating and developing, any activity for the benefit of the general public; or
   iv. regulating any matter, for the benefit of the general public, arising out of the object for which it has been created; and

b. is notified by the Central Government;

Credit Guarantee Fund [Sec. 10(46B)]

Any income accruing or arising to,—

i. National Credit Guarantee Trustee Company Limited, being a company established and wholly financed by the Central Government for the purposes of operating credit guarantee funds established and wholly financed by the Central Government; or

ii. a credit guarantee fund established and wholly financed by the Central Government and managed by the National Credit Guarantee Trustee Company Limited; or

iii. Credit Guarantee Fund Trust for Micro and Small Enterprises, being a trust created by the Government of India and the Small Industries Development Bank of India established u/s 3(1) of the Small Industries Development Bank of India Act, 1989

Infrastructure Debt Fund [Sec. 10(47)]

Any income of notified infrastructure debt fund is exempt.

Import of Crude Oil [Sec. 10(48)]

Any income received in India in Indian currency by a foreign company on account of sale of crude oil or other notified goods or service to any person in India provided:

a. receipt of such income in India by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government;

b. having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf; and

c. the foreign company is not engaged in any activity, other than receipt of such income, in India.

Storage of Crude Oil [Sec. 10(48A)]

Any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India provided:

i. the storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and

ii. having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf.

Sale of leftover stock of crude oil [Sec. 10(48B)]

Any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from the facility in India after the expiry of the agreement or the arrangement referred to sec. 10(48A) or on termination of the said agreement or the arrangement, in accordance with the terms mentioned therein, as the case may be.

Income of Indian Strategic Petroleum Reserves Limited [Sec. 10(48C)]

Any income accruing or arising to the Indian Strategic Petroleum Reserves Ltd., being a wholly owned subsidiary of the Oil Industry Development Board under the Ministry of Petroleum and Natural Gas, as a result of arrangement for replenishment of crude oil stored in its storage facility in pursuance of directions of the Central Government in this behalf is exempt.

However, nothing contained in this clause shall apply to an arrangement, if the crude oil is not replenished in the storage facility within 3 years from the end of the financial year in which the crude oil was removed from the storage facility for the first time.

Income of certain institutions [Sec. 10(48D)/(48E)]

- Any income accruing or arising to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government for the purposes of this clause, for a period of 10 consecutive assessment years beginning from the assessment year relevant to the previous year in which such institution is set up [Sec. 10(48D)]
- Any income accruing or arising to a developmental financing institution, licensed by the Reserve Bank of India under an Act of the Parliament referred to in sec. 10(48D) and notified by the Central Government for this purposes, for a period of 5 consecutive assessment years beginning from the assessment year relevant to the previous year in which the developmental financing institution is set up

However, the Central Government may, by issuing notification, extend the period of exemption for a further period, not exceeding 5 more consecutive assessment years, subject to fulfilment of such conditions as may be specified in the said notification;

Expenditure related to Exempted Income [Sec. 14A]

For the purposes of computing the total income, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income, which does not form part of the total income under this Act. Where the AO is not satisfied with the correctness of the claim of such expenditure by assessee, he can determine the disallowable expenditure in accordance with the method prescribed by the CBDT.

- The provisions of this section shall be applicable even in a case where the income, not forming part of the total income, has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such income not forming part of the total income.

Special Provision in respect of Newly established Units in SEZ [Sec. 10AA]

Not Available under default tax regime*

***Applicable to*:** All assessee

Conditions to be satisfied

1. The assessee is an entrepreneur as defined in Sec.2(j) of SEZ Act, 2005 i.e., a person who has been granted a letter of approval by the Development Commissioner u/s 15(9) of the said Act.
2. The undertaking has begun or begins to manufacture or produce articles or things or provide services on or after 01/04/2005 but not after 31/03/2020 in any SEZ.

   However, in case where letter of approval, required to be issued in accordance with the provisions of the SEZ Act, 2005, has been issued on or before 31-03-2020 and the manufacture or production of articles or things or providing services has not begun on or before 31-03-2020 then, the date for manufacture or production of articles or things or providing services has been extended to 31-03-2021 or such other date as notified by the Central Government.
3. ***New Business*:** Business should not be formed by splitting up or reconstruction of an existing business.

   Exception:

   However, this condition is not applicable when conditions given u/s 33B are satisfied, which are as follows -

   a) The business of an industrial undertaking carried on in India is discontinued in any previous year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee being used for business purpose.

   b) Such damage was caused due to -

   i) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or

   ii) riot or civil disturbance; or

   iii) accidental fire or explosion; or

   iv) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

   c) Such business is re-established, reconstructed or revived by the assessee at any time before the expiry of 3 years from the end of previous year in which such damage was caused.
4. ***New Plant and Machinery*:** Such undertaking should not be formed by transfer of machinery or plant previously used for any purpose.

* In case of companies and co-operative societies, deduction would not be available if they opt for the special provisions u/s 115BAA/115BAB and section 115BAD/115BAE, respectively.

Exception:

a) A plant or machinery is deemed as a new asset if the following conditions are satisfied -

i) Such plant or machinery is imported into India;

ii) Depreciation on such asset has not been allowed under this Act to any person; and

iii) The assessee was the first user of such asset in India.

b) Where the total value of old plant and machinery transferred to the new business does not exceed 20% of total value of plant and machinery used in such business, then this condition is deemed to be satisfied.

Taxpoint: Usage of old plant and machinery upto 20% of total value of plant and machinery is allowed.

5. A report of a chartered accountant in specified Form must be uploaded one month prior to the due date of filing return of income.

6. Return of income is required to be furnished within due date specified u/s 139(1) and such deduction should be claimed in the return of income.

Quantum of Deduction

Period	Deduction
For first 5 years from the commencement of operation	$\frac{\text{Profits of the business of the undertaking * Export turnover}}{\text{Total turnover of the business carried on by the undertaking}}$
For next 5 years	$\frac{\text{50\% of [Profits of the business of the undertaking * Export turnover]}}{\text{Total turnover of the business carried on by the undertaking}}$
For next 5 years	$\frac{\text{50\% of [Profits of the business of the undertaking * Export turnover]}}{\text{Total turnover of the business carried on by the undertaking}}$ **Conditions:** Such profit must be credited in reserve account called "SEZ Re-investment Allowance Reserve A/c". **Utilisation of such Reserve:** • Such reserve shall be utilised for the purposes of acquiring new machinery or plant, which is first put to use before the expiry of a period of next 3 years following the previous year in which the reserve was created. • Until the acquisition of new machinery or plant, such reserve can be utilised for any purpose of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.
	• The prescribed particulars in the specified Form have been furnished by the assessee in respect of new machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use. **Misutilisation of Reserve:** Where any amount credited to such reserve - a) Has been misutilised; or b) Has not been utilised before the expiry of the specified period, – then such amount shall be deemed to be the taxable profits of the previous year in which the amount was so misutilised or after the expiry of 3 years, as the case may be.

Notes:

a) Export turnover means -

It means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in or brought into, India by the assessee in convertible foreign exchange, within a period of 6 months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

But turnover does not include:

1. Freight, telecommunication charges and insurance attributable to the delivery of the articles or things outside India;
2. Expenses incurred in foreign exchange in providing technical services outside India.

The export proceeds from sale of goods or provision of services shall be deemed to have been received in India where such export turnover is credited to a separate account maintained for that purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

b) Export means taking goods or providing services out of India from a SEZ by land, sea, air, or by any other mode, whether physical or otherwise.

c) Profits and gains derived from on-site development of computer software (including services for development of software) outside India shall be deemed to be profits and gains derived from the export of computer software outside India.

d) Business loss or loss under the head 'Capital Gains' relates to such unit shall be allowed to be carried forward.

e) The deduction shall be allowed from the total income of the assessee, computed before giving effect to the provisions of this section and the deduction under this section shall not exceed such total income of the assessee.

f) Power of Assessing Officer to re-compute profit – In the following cases, Assessing Officer may recompute profit of the undertaking –

<table>
<tr><td>Case 1: Transaction between two undertakings of the same assessee</td><td>Case 2: Transaction between two assessee</td></tr>
<tr><td colspan="2">Conditions</td></tr>
<tr><td>a. Assessee carries on at least two undertakings</td><td rowspan="4">a. Assessee has entered into business transactions with any other person

b. Business between the assessee carrying on the eligible business and any other person is so arranged that the business transacted between them produces to the assessee more than the ordinary profits, which might be expected to arise in such eligible business.</td></tr>
<tr><td>b. Out of such undertakings at least one is eligible for exemption u/s 10A and at least one is not eligible for exemption u/s 10A</td></tr>
<tr><td>c. Goods are transferred from eligible undertaking to any non eligible undertaking or vice versa</td></tr>
<tr><td>d. The consideration for such transfer does not correspond to the market value of such goods as on the date of transfer.</td></tr>
<tr><td colspan="2">Treatment</td></tr>
<tr><td>Profits & gains of eligible business shall be recomputed by the AO, as if the transfer, in either case, had been made at the market value of such goods as on that date.</td><td>The Assessing Officer shall, in computing the profits and gains of such eligible business, take the amount of profits as may reasonably be deemed to have been derived therefrom.</td></tr>
</table>

Inter-unit transfer (Sec.80A): Where -

a. Assessee carries on at least two units

b. Out of such units at least one is eligible for deduction and at least one is not eligible for exemption

c. Goods or services are transferred from eligible unit to any non eligible unit or vice versa

d. The consideration for such transfer does not correspond to the market value of such goods as on the date of transfer

e. then, deduction shall be computed as if the transfer, in either case, had been made at the market value[$] of such goods or services as on that date.

f. [$] Market value in relation to any goods or services

Case	Market value means
Sold or supplied	The price that such goods or services would fetch if these were sold by the unit in the open market, subject to statutory or regulatory restrictions, if any
Acquired	The price that such goods or services would cost if these were acquired by the unit from the open market, subject to statutory or regulatory restrictions, if any.

g) Consequences of Amalgamation or Demerger – Where any undertaking is transferred by an Indian company to another Indian company in a scheme of amalgamation or demerger -

- Amalgamating or the demerged company shall not be eligible for deduction under this section from the previous year in which the amalgamation or the demerger takes place; and
- Amalgamated or the resulting company shall be entitled to deduction under this section from the previous year in which the amalgamation or the demerger takes place in the same manner if the amalgamation or demerger had not taken place.

h) Conversion of FTZ into SEZ – Where an undertaking initially located in any free trade zone or export processing zone is subsequently located in a special economic zone by reason of conversion (i.e. such free trade zone or export processing zone into a special economic zone), the period of 10 consecutive assessment years shall be reckoned from the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software in such free trade zone or export processing zone.

i) Double deduction is not permissible.

j) Where a deduction under this section is claimed and allowed in respect of profits of any of the specified business, referred to in sec. 35AD(8)(*c*), for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year.

Exercise

Multiple Choice Questions:

Choose the correct alternative

1. Financial Year 2024-25 shall be considered as
   a. Assessment Year for the P.Y. 2023-24 and previous year for the A.Y. 2024-25
   b. Assessment Year for the P.Y. 2023-24 and previous year for the A.Y. 2025-26
   c. Assessment Year for the previous year 2024-25
   d. Previous year for the assessment year 2024-25
2. For the purpose of levying tax on income other than agricultural income, Union List contained entry
   a. 82
   b. 92C
   c. 92D
   d. None of the Above
3. Following is not a head of income:
   a. Income from House Property
   b. Salaries
   c. Income from Interest on securities
   d. None of the Above
4. If total income of a person is ₹ 2,67,888.34, it shall be rounded off to:
   a. ₹ 2,67,888/-
   b. ₹ 2,67,890/-
   c. ₹ 2,67,880/-
   d. None of the Above
5. Income tax is a:
   a. Indirect Tax
   b. Entertainment Tax
   c. Direct Tax
   d. None of the Above
6. Mr. X, partner of M/s XYZ, is assessable as
   a. Firm
   b. HUF
   c. An Individual
   d. None of the Above

7. A Hindu Undivided family is said to be resident in India if
   a. The family has a house in India where some of its members reside
   b. The member of such HUF is in India during the previous year
   c. Control and management of its affairs wholly or partly situated in India
   d. The Karta has been resident in India in at list 9 out of 10 previous years preceding the relevant previous year
8. An individual is said to be resident in India if
   a. He has a house in India
   b. He is in India in the previous year for a period of 182 days or more
   c. He is in India for a period of 30 days or more during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year
   d. His parents are Indian citizen.
9. An Indian citizen leaving India during the previous year for employment purpose is said to be resident if
   a. He has a house in India
   b. He is in India in the previous year for a period of 182 days or more
   c. He is in India for a period of 60 days or more during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year
   d. His parents are Indian citizen.
10. An individual, being foreign national, came to India first time during the previous year 2024-25 on 01-03-2025 for 200 days, his residential status for the previous year 2024-25 is.
    a. Non-resident
    b. Resident but not ordinarily resident in India
    c. Resident and ordinarily resident in India
    d. Resident in India
11. Following income of a resident and ordinarily resident is taxable in India, that is
    a. Bank interest from State Bank of India, Delhi
    b. Bank interest from Bank of America, New York Branch
    c. Rental income from house property located in London
    d. All of the above
12. Which of the following is an agriculture income?
    a. Dividend paid by a company out of its agriculture income.
    b. Share of Profit of a Partner from a firm engaged in an agriculture operation
    c. Income from supply of water by a assessee from a tank in its agriculture land.
    d. Interest received by a money lender in the form of agricultural produce.

13. Which of the following incomes received by an assessee are exempt under section 10 of the Income Tax Act?
    a. Agriculture Income
    b. Salary of a partner from a firm
    c. Salary received by a member of a ship's crew.
    d. All of (a), (b) and (c) above
14. In case of an individual or HUF, agricultural income is
    a. Exempted
    b. Exempted but included in the total income for the rate purpose
    c. Fully taxable provided it is earned from India
    d. Taxable at flat rate of 10%
15. In case of an assessee engaged in the business of manufacturing of tea, his agricultural income is:
    a. 60% of total receipt of the business
    b. 60% of income of the business
    c. Nil
    d. Total business income
16. Remuneration to partner of a firm engaged in the business of growing and manufacturing rubber in India is:
    a. Partly agricultural income and partly non-agricultural income
    b. Agricultural income
    c. Non-Agricultural income
    d. None of the above
17. Following activity shall be considered as agricultural activity:
    a. Subsequent operation on the agricultural land
    b. Basic operation on the agricultural land
    c. Basic and subsequent operation on the agricultural land
    d. Both (b) and (c)

Answer:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
b	a	c	b	c	c	c	b	b	a	d	b	a	b	c	a	d

Fill in the blanks:

1. Receipts from TV serial shooting in farm house _____agricultural income.
2. Any payment received from an account opened under Sukanya Samriddhi Account Rules, 2014 is _____.
3. A company incorporated outside India is said to be resident in India, if place of effective management is _____in India.
4. A foreign company is liable to surcharge at 5%, if the total income exceeds _____.
5. A partnership firm will be treated as non-resident, only if the _____ of the control and management of its affairs is situate outside India.
6. Amount received under Keyman Insurance Policy including bonus thereon is _____(income/ exempted income) under the Income-tax Act, 1961.
7. A _____ means a company which is not a domestic company.

Answer:

1	is non	2	exempt
3	situated / located	4	₹ 10 crore
5	Whole	6	Income
7	Foreign company		

State whether the following statements are true or false:

1. Where a person does basic operations on lands and later sells the saplings grown by him in a nursery owned by him, the same will be agricultural income. If the basic operations are not done by the assessee and the saplings are sold in his nursery, the same will still be regarded as agricultural income.
2. Profit from growing and manufacturing tea in India is fully exempted from income tax under section 10(1) of the Income-tax Act.
3. Prize given to Suresh by the Government of Madhya Pradesh on account of higher crop yield is an agricultural income.

Answer:

1	2	3
True	False	True

Short Essay Type:

1. Who is termed as person?
2. What do you mean by the previous year?
3. What do you mean by the assessment year?

➢ Comprehensive Numerical Problems

Problem 1:

Mr. X is an Indian Citizen. He went to Japan on 1.1.2022 for employment in a Japanese Company for 3 years. On 1.10.2023, he came to India for a visit of 45 days. After the completion of the tenure of his service, he came back to India permanently from Japan on 03.01.2025. Determine his residential status for the A.Y. 2025-26.

[Hints: Resident and Ordinarily Resident]

Problem 2:

Ms. Rajnita Bose is 60 years old and furnished the following information for the previous year 2024–25. Compute her taxable income for the Assessment year 2025–26.

- Income from growing and manufacturing Tea ₹ 1,20,000.
- Income from growing and manufacturing Rubber ₹ 2,00,000.

[Hints: ₹ 1,18,000]

Case Let - Solved

Arun, a citizen of India residing in Germany for the past 10 years, came back to India for the first time during January, 2025. During the financial year 2024-25, he received the following income:

- He works in a company in Germany and earns a salary of Euro 1000 p.m.
- He owns agricultural land near Bangalore and a residential house in Delhi, which has been let out. While the agricultural income is being remitted to his account in Germany every year, the rental income of ₹ 84000 is being deposited in his bank account at Delhi; and
- He also owns shares in various Indian companies and receives dividend every year, which has been regularly deposited in his bank account at Delhi. During the year ₹ 22,000 has been credited on account of dividend

He seeks your advice in relation to the following:

a. What will be his residential status for the previous year 2024-25?

b. What will be his taxable income

Solution:

a. During the relevant previous year, Mr. Arun neither satisfies sec.6(1)(a) (i.e. not resided for 182 days in India) nor satisfies sec.6(1)(c) (i.e. not resided in India for 365 days or more during 4 years immediately preceding the previous year), hence he is non resident.

b. Computation of income of Arun is as follow:

Particulars	Working	Amount
Salary	As neither earned nor received in India	Nil
Agricultural income	Exempt u/s 10(1)	Nil
Income from let out Indian house property	As reduced by standard deduction @ 30%	58,800
Dividend		22,000
Total Income		80,800

Case Let - Unsolved

Parikshit (aged 25 years) is engaged in growing and manufacturing tea in India. His profit for the previous year 2024-25 amounts to ₹ 10,00,000 which includes profit of ₹ 2,00,000 from sale of green leaves plucked in his own garden. He has no other income during the year.

On the basis of aforesaid information, you are requested to answer the following:

a. What would be his agricultural income?

b. What would be his tax liability for the relevant assessment year

[Hints: (a) ₹ 6,80,000; (b) ₹ 1,560]

➢ **References:**

https://www.incometaxindia.gov.in/

https://www.incometax.gov.in/

https://www.indiabudget.gov.in/

Heads of Income 2

This Module includes

2.1 Salaries

2.2 Income from House Property

2.3 Profits and Gains of Business or Profession

2.4 Capital Gains

2.5 Income from Other Sources

Heads of Income

SLOB Mapped against the Module:

1. To acquire application-oriented knowledge and skill for appreciating various provisions of the Income Tax Act, 1961 and attain abilities to solve problems while computing tax liabilities.
2. To attain abilities to apply various provisions of direct taxation laws, including assessment to identify the impacts thereof on business decisions.
3. To gather knowledge of various compliance related provisions of direct taxation laws and attain abilities to ensure due compliance to avoid any eventual risks.

Module Learning Objectives:

After studying this module, the students will be able to –

- Appreciate the provisions of computing income under different heads of income
- Appreciate the point of time when income is taxable in respective heads
- Apply the knowledge to ascertain the gross total income of the person
- Understand the various compliances like tax audit, etc.

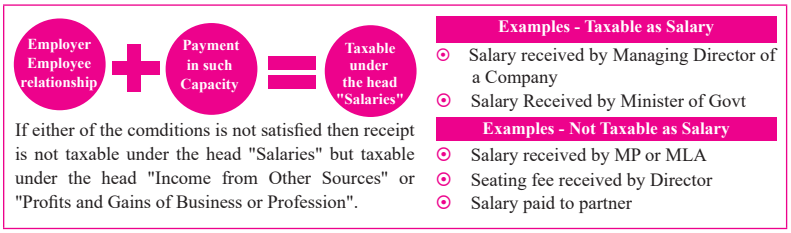
Salaries

2.1

"Salary is the recompense or consideration given to a person for the pains he has bestowed upon another's business" – Stroud's Judicial Dictionary

2.1.1 Basic Elements of Salary

- Payer and payee must have employer and employee (or Master & Servant) relationship; and
- Payment must have been made by the employer in such capacity.



Employer-employee relationship

A payment can be construed as salary only if the payer is the employer and the payee is the employee of the payer.

- **Criteria for employer-employee relationship:** The key criteria to hold this relationship is that, employee is always bound to work as per the direction and supervision of the employer.
- **Payment in employer's capacity:** To treat any payment as salary it is necessary that the payer, being the employer, must have made the payment in such (employer's) capacity.
- **Contract of service vs contract for service:** In "contract of service", the employer can direct and control the duties and the manner of performance of the employee hence employer-employee relationship exists in such contract. However, in case of "contract for service" the contractee can simply decide and quote the object or target to be achieved but cannot decide or direct the manner of performance.
- **Agent and Principal:** If a person is acting as an agent for his principal, any commission or remuneration earned by the agent is not taxable under the head "Salaries". This is because, an agent is not the employee of his principal.
- **Salary received by a partner** from its firm shall not be taxable as salary, because there is no employer-employee relationship between the firm and the partner. Such salary shall be taxable under the head "Profits & gains of business or profession".
- **Salary received by proprietor from his proprietorship firm** is not an income. As proprietor and proprietorship firm are the same person and *no one can earn from himself.*
- **Remuneration to director** from his company can be treated as salary only if the director is employee of the company, otherwise the same shall be taxable under the head "Income from other sources".

Note : Directors' sitting fee is taxable under the head "Income from other sources".

- **Pension received by the widow** or legal heir of deceased employee is not taxable as salary as no employer-employee relationship exists between the payer and the payee. However, such amount shall be taxable under the head "Income from other sources".
- **Remuneration received by Judges** is taxable under the head "Salaries" even though they are not having any employer.

Concluding the above discussions, a payment received for services rendered, from a person other than employer, is not taxable under the head "Salaries" but may be taxed under the head "Profits & gains of business or profession" or "Income from other sources".

Illustration 1 :

State whether the following receipts should be treated as salary or not?

- A teacher receives emoluments in kind from school in which he teaches.

  Yes, it is immaterial whether salary has been received in cash or in kind.

- A teacher of a college receives fees from an University for checking answer sheets.

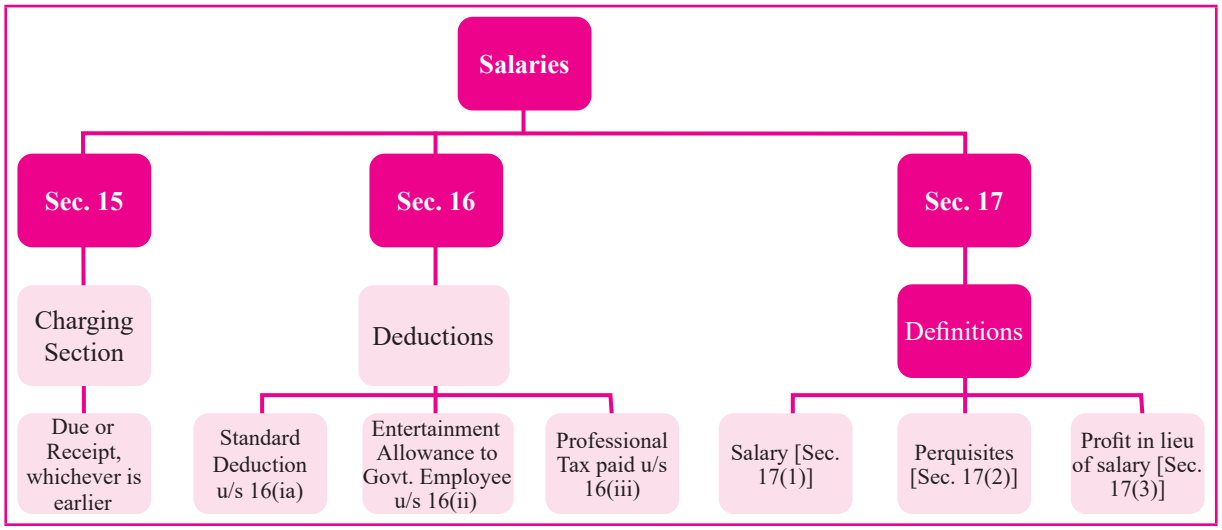
  No, as employer – employee relationship does not exist between payer and payee. (College-teacher is not the employee of the University). Such receipt shall be taxable under the head 'Income from other sources'.

- A payment made to the Member of the Parliament or the State legislature.

  No, as employer-employee relationship does not exist.

  A member of the Parliament or the State legislature is not treated as employee of the Government. Payment received by them shall be taxable under the head "Income from other sources".

2.1.2 Section-wise Scheme



2.1.3 Definition of Salary [Sec. 17(1)]

As per sec. 17(1) of the Income-tax Act, 1961, salary includes the following :

a) Wages;

b) Any annuity or pension;

c) Any gratuity;

d) Any fees, commission, perquisite or profits in lieu of or in addition to any salary or wages;

e) Any advance of salary;

f) Any payment received in respect of any period of leave not availed of by the assessee;

g) The portion of the annual accretion in any previous year to the balance at the credit of an employee, participating in recognised provident fund, to the extent it is taxable;

h) Transferred balance in a Recognised Provident Fund to the extent it is taxable.

i) Contribution made by the employer in the previous year, to the account of an employee under a pension scheme referred to in sec. 80CCD [National Pension Scheme and Atal Pension Yojana]

j) Contribution made by the Central Government in the previous year, to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme referred to in sec. 80CCH.

2.1.4 General Notes

- **Salary & Wages** are identical in the Income-tax Act
- **Voluntary Payments:** The Act does not make any difference between voluntary and contractual payment. Both are taxable as salary.
- **Remuneration for Extra Work:** Where an employee gets extra payment from his employer (in such capacity) for work performed outside the duties of his office and thus, such payment shall be taxable as salary.
- **Salary from more than one source:** If an individual receives salary from more than one employer during the same previous year, salary from each employer shall be accumulated and taxable under the head "Salaries".
- **Salary from former, present or prospective employer** is chargeable to tax under the head "Salaries". E.g. Pension from a former employer and advance salary from prospective employer shall be taxable under the head "Salaries".
- **Salary paid tax-free:** If tax on salary is paid by the employer, then it is termed as 'salary paid tax-free'. In such case, to compute the income under the head 'Salaries' the amount of tax paid by the employer (on behalf of employee) has to be added to the amount received by the employee. However, tax paid by the employer should be subtracted from tax liability of the employee.

  Further, as per sec. 10(10CC), the income-tax paid by the employer on non-monetary perquisites on behalf of the employee would be exempt in the hands of the employee
- **Foregoing of salary:** Once salary has been earned by an employee, its subsequent waiver does not make it exempt from tax liability. Such waiver shall be treated as application of the income.

  Note: However, where an employee opts to surrender his salary to the Central Government u/s 2 of Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961, the salary so surrendered shall not be taxable.

2.1.5 Basis of Charge [Sec. 15]

Salary is chargeable to tax either on 'due' basis or on 'receipt' basis, whichever is earlier. Hence, taxable salary includes:

a) **Advance salary** (on 'receipt' basis): Salary paid in advance is taxable under the head 'Salaries' in the year of receipt.

   Note: Such advance salary shall not be included again in the total income when the salary becomes due.

b) **Outstanding salary** (on 'due' basis): Salary falling due is taxable under the head 'Salaries' in the year in which it falls due.

Note: Such due salary shall not be included again in the total income when it is received.

c) **Arrear salary**: Any increment in salary with retrospective effect which have not been taxed in the past, such arrears will be taxed in the year in which it is allowed. Arrear salary are taxable on receipt basis

Provision Illustrated:

Mr. X joined A Ltd. for a salary of ₹ 25,000 p.m. on 1/4/2022. In the year 2023-24, his increment decision was pending. On 1/12/2024, his increment was finalized as for 2023-24: ₹ 5,000 p.m. and for 2024-25 ₹ 7,500 p.m. Such arrear salary received on 5/12/2024. Find Gross taxable salary. Further, salary of April 2025 has also been received in advance on 15/03/2025.

Solution :

Gross taxable salary for the previous year 2024-25 shall be calculated as under :

Particulars	Workings	Amount
Salary for 2024-25	(25,000 + 5,000 + 7,500) x 12	4,50,000
Arrear salary for 2023-24	(5,000) x 12	60,000
Advance salary for April 2025	(25,000 + 5,000 + 7,500)	37,500
Gross total salary		**5,47,500**

Taxpoint : Method of accounting followed by the employee is irrelevant.

Salary due vs Salary accrued

Salary due is different from salary accrued.

Example: Mr. X joined an organisation for ₹ 40,000 p.m. on 1st Dec. 2024, in which salary falls due on 1st day of every next month. In such case taxable salary for the previous year 2024-25 shall be ₹ 30,000 calculated as under:

Month	Amount of Salary	Due date of salary	Taxable in the P.Y.
December 2024	40,000	1/1/2025	2024-25
January 2025	40,000	1/2/2025	2024-25
February 2025	40,000	1/3/2025	2024-25
March 2025	40,000	1/4/2025	2025-26

Advance salary vs Advance against salary

'Advance salary' is taxable u/s 17(1)(e) whereas 'Advance against salary' is treated as loan hence, not taxable under the head "Salaries".

Place of accrual of salary

Salary which is received in India or earned in India shall be taxable in hands of all assessee whether resident or non resident in India. Salary is deemed to be earned in India provided -

(a) The service is rendered in India;

(b) The rest period or leave period, which is preceded and succeeded by the service rendered in India and forms part of the service contract of employment.

Exceptions: Salary paid to a Government employee, being a citizen of India, is deemed to accrue in India, irrespective of place of work [Sec. 9(1)(iii)].

Taxpoint: Salary is earned at the place where service is rendered.

Employee	Employer	Place of service	Salary received	Taxable
Any	Any	India	Any where	Yes
Any	Any	Any where	In India	Yes
Ordinarily resident in India	Any	Any where	Any where	Yes
Indian citizen	Government	Outside India	Any where	Yes
Not ordinarily resident/Non resident	Any	Outside India	Outside India	No

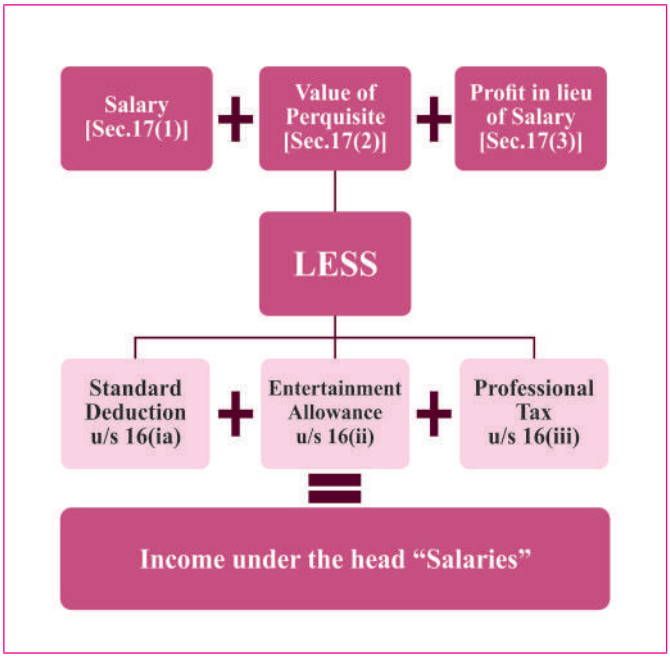
Computation of Salary, at a glance

Computation of income under the head "Salaries" of ….. for the A.Y. ……

Particulars	Details	Amount
Basic Salary		*****
Fees		*****
Commission		*****
Bonus		*****
Gratuity		*****
Leave Encashment		*****
Pension		*****
Retrenchment Compensation		*****
Compensation received under Voluntary Retirement Scheme		*****
Allowances:		
Dearness Allowance (DA) /Dearness Pay (DP)	*****	
House Rent Allowance	*****	
Children Education Allowance	*****	
Children Hostel Allowance	*****	
Entertainment Allowance	*****	
Medical Allowance	*****	
Conveyance Allowance	*****	
City Compensatory Allowance	*****	
Uniform Allowance	*****	
Professional Development Allowance	*****	
Transport Allowance	*****	
Other Allowances	*****	*****
Perquisites u/s 17(2)		
Accommodation	*****	
Any Obligation of Employee paid by Employer	*****	

Particulars	Details	Amount
Shares and securities issued under ESOP	*****	
Gas, Electricity & Water	*****	
Medical Facility	*****	
Other fringe benefits	*****	*****
Leave Travel Concession		*****
Employer's contribution to Provident Fund		*****
Interest on Recognised Provident Fund		*****
Any other item		*****
Gross Salary		*****
Less: Deduction u/s 16		
(ia) Standard Deduction	****	
(ii) Entertainment Allowance [Available only if assessee opts for old regime]	****	
(iii) Tax on employment/Professional tax [Available only if assessee opts for old regime]	****	****
Taxable Salary		*****

- **Basic Salary :** It is the sum paid by employer to employee as salary and shall be fully taxable.
- **Pay-Scale (Grade system)**: It is a system of payment where increment scale is pre-known to employee. E.g. Basic salary is given as 5,000 – 1,000 – 8,000 – 2,000 – 12,000. The above data indicates the increment schedule. As per this schedule initial payment is ₹ 5,000 p.m. which will increased by ₹ 1,000 every year until salary reaches to ₹ 8,000 p.m. Once salary reaches to ₹ 8,000 then increment will be ₹ 2,000 every year till salary reaches the scale of ₹ 12,000. Accordingly, basic salary is calculated.
- **Dearness Allowance (DA) or Dearness Pay (DP)**: It is an extra amount given to an employee to meet the burden of inflation or increased cost of living. This is fully taxable.

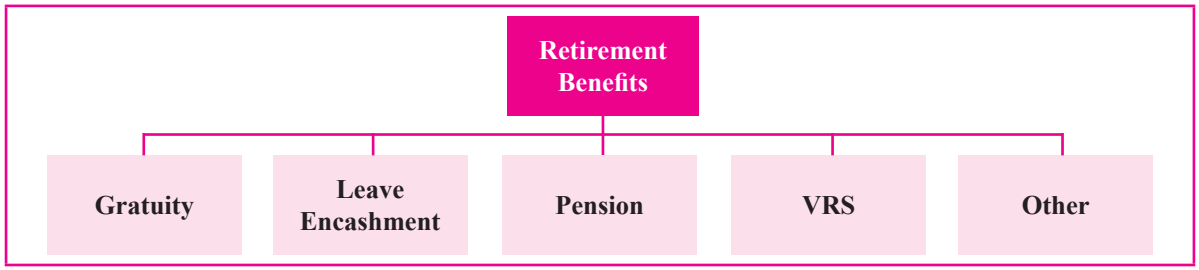


Note : Sometimes, it is given that DA/DP is not forming a part of retirement benefit (Leave encashment, Pension, Provident Fund, etc.). In such case, DA/DP itself shall be fully taxable. However, for calculating taxable Leave encashment, Pension, HRA, etc., DA/DP will be included in 'salary' only if it forms a part of the retirement benefit.

- **Fees :** An employee may be given apart from basic salary, extra remuneration for doing specific job under the terms of employment. Such extra remuneration is termed as fee and shall be fully taxable.

- **Commission :** It may be as a percentage of turnover or as a percentage of profit. In either case, it is taxable.
- **Bonus**: Bonus may be contractual or voluntary. In either case, it is fully taxable.
  (i) Contractual bonus is taxable as bonus whereas voluntary bonus is taxable as perquisite.
  (ii) It is taxable in the year of receipt.
  (iii) If arrear bonus is received, assessee can claim relief u/s 89(1).

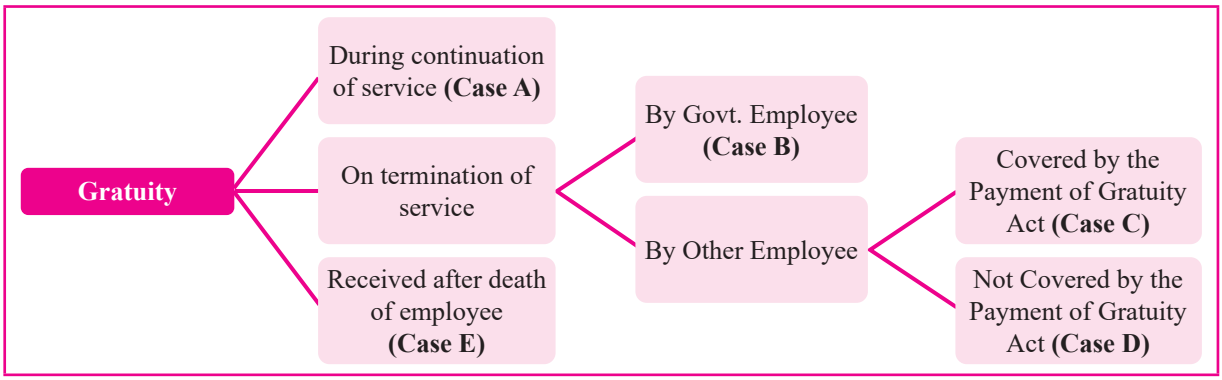
Retirement Benefits



2.1.6 Gratuity

Gratuity is a retirement benefit given by the employer to the employee in consideration of past services. Sec. 10(10) deals with the exemptions from gratuity income. Such exemption can be claimed by a salaried assessee. Gratuity received by an assessee other than employee shall not be eligible for exemption u/s 10(10). E.g. Gratuity received by an agent of LIC of India is not eligible for exemption u/s 10(10) as agents are not employees of LIC of India.

Treatment :



Case A: Gratuity received during continuation of service

Gratuity received during continuation of service is fully taxable in the hands of all employees (whether Government or non-Government employee).

Case B: Gratuity received at the time of termination of service by Government employee

Gratuity received at the time of termination of service by Government employee is fully exempt from tax u/s 10(10)(i).

Taxpoint: Government employee, here, includes employee of the Central or the State Government or local authority but does not include employee of statutory corporation.

Case C: Gratuity received at the time of termination of service by non–government (including foreign government) employee, covered by the Payment of Gratuity Act

In such case, minimum of the following shall be exempted from tax u/s 10(10)(ii):

1. Actual Gratuity received;
2. ₹ 20,00,000; or
3. 15 working days salary for every completed year of service

   [Arithmetically, $\frac{15}{26}$ × Completed year of service × Salary p.m.]

Notes:

a) Completed year of service includes any fraction in excess of 6 months. (e.g. 7 years 9 months will be treated as 8 years; 7 years 5 months will be treated as 7 years and 7 years 6 months will be treated as 7 years).

b) Salary here means Basic + DA, last drawn

In case of an employee of a **seasonal establishment**: 15 days shall be replaced by 7 days. (i.e., $\frac{7}{26}$ × Completed year of service × Salary p.m.)

In case of a **piece-rated employee**: 15 days salary would be computed on the basis of average of total wages (excluding wages paid for over time) received for a period of 3 months immediately preceding the termination of his employment.

Illustration 2 :

Ashok, an employee of ABC Ltd., receives ₹ 8,05,000 as gratuity under the Payment of Gratuity Act, 1972. He retires on 10th September, 2024 after rendering service for 35 years and 7 months. The last drawn salary was ₹ 32,700 per month. Calculate the amount of gratuity chargeable to tax.

Solution :

Computation of taxable gratuity of Mr. Ashok for the A.Y. 2025-26 :

Particulars	Details	Amount
Gratuity received		8,05,000
Less : Minimum of the following is exempted as per Sec 10(10)(ii) :		
a) Actual gratuity received	8,05,000	
b) Statutory Amount	20,00,000	
c) $\frac{15}{26}$ × completed year of service × salary p.m. [$\frac{15}{26}$ × 36 × ₹ 32,700]	6,79,154	6,79,154
Taxable Gratuity		**1,25,846**

Case D : Gratuity received at the time of termination of service by non-government employee (including foreign government employee) not covered under the Payment of Gratuity Act

Gratuity received at the time of termination of service by non-government employee being not covered under the Payment of Gratuity Act shall be exempted from tax u/s 10(10)(iii) to the extent of lower of the following:

1. Actual Gratuity received;
2. ₹ 20,00,000; and
3. $^1/_2$ × Completed year of service × Average Salary p.m.

Notes:

a) While calculating completed year of service *ignore* any fraction of the year. (e.g. 7 years 9 months will be treated as 7 years only)

b) Average Salary here means, Basic + DA[#] + Commission (being a fixed percentage on turnover) being last 10 months average salary, immediately preceding the month of retirement. (E.g. If an employee retires on 18/11/2024 then 10 months average salary shall be a period starting from Jan' 2024 and ending on Oct' 2024).

[#] If DA is not forming a part of retirement benefit then the same shall not be included in salary for above purpose. However, DA itself shall be fully taxable.

Illustration 3 :

Mr. Oldman retired from his job after 29 years 6 months and 15 days of service on 17/12/2024 and received gratuity amounting ₹ 18,00,000. His salary at the time of retirement was basic ₹ 60,000 p.m., dearness allowance ₹ 10,200 p.m., House rent allowance ₹ 12,000, Commission on turnover 1%, Commission on profit ₹ 50,000. He got an increment on 1/4/2024 of ₹ 5,000 p.m. in Basic. Turnover achieved by assessee ₹ 10,00,000 p.m. Calculate his taxable gratuity if he is a —

a. Government employee

b. Non-Government employee, covered by the Payment of Gratuity Act;

c. Non-Government employee not covered by the Payment of Gratuity Act

Solution :

a) Government employee: Taxable amount: Nil as per section 10(10)(i).

b) Other cases:

Computation of taxable gratuity of Mr. Oldman for the A.Y. 2025-26

Particulars	Case (b)		Case (c)	
	Details	Amount	Details	Amount
Gratuity received		18,00,000		18,00,000
Less : Min. of the following is exempted u/s 10(10)				
– Actual gratuity received	18,00,000		18,00,000	
– Statutory Amount	20,00,000		20,00,000	
– $\frac{15}{26}$ × completed year of service × salary p.m. [$\frac{15}{26}$ × 30 × 70,200]	12,15,000	12,15,000		
– ½ × completed year of service × salary p.m. [½ × 29 × 79,200]			11,48,400	11,48,400
Taxable Gratuity		**5,85,000**		**6,51,600**

Workings for case (b):

1. Completed year of service is 30 years.

2. Salary here means (Basic + Dearness Allowance) last drawn. i.e. (₹ 60,000 + ₹ 10,200) = ₹ 70,200

Workings for case (c):

1. Completed year of service is 29 years.
2. Salary here means Basic + Dearness Allowance + Commission on turnover, being last 10 months average just preceding the month of retirement, as shown below:

Particulars	1	2	3	4	5	6	7	8	9	10	Total
	Feb'24	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	
Basic	55,000	55,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	5,90,000
D.A.	10,200	10,200	10,200	10,200	10,200	10,200	10,200	10,200	10,200	10,200	1,02,000
Commission	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	1,00,000
Total											**7,92,000**
Average salary = ₹ 7,92,000 / 10 months											**79,200**

Note :

1. Gratuity may be paid in the case of retirement, resignation, termination or death.
2. While claiming the statutory amount (i.e. ₹ 20,00,000) any amount earlier claimed as deduction u/s 10(10) shall be reduced from ₹ 20,00,000.

   Example: An assessee left a job in the year 2001-02 and claimed a deduction of ₹ 40,000 for gratuity in that year. He joined another organisation, left the same in the year 2024-25, and received a gratuity of ₹ 19,80,000. While calculating exemption for gratuity for the assessment year 2025-26, statutory amount of ₹ 20,00,000 shall be reduced by earlier deduction claimed i.e. ₹ 40,000. Hence, statutory deduction limit for the assessee in the A.Y. 2025-26 will be ₹ 19,60,000 only.
3. **Where gratuity is received from more than one employer:** Where gratuity is received from more than one employer in the same previous year, the aggregate amount exempt from tax shall not exceed statutory deduction.

Case E : Gratuity received after death of employee

The Act is silent on treatment of gratuity received after death of employee. However, on following grounds, it can be concluded that gratuity received by a legal heir shall not be taxable in the hands of the recipient -

- A lump sum payment made gratuitously to widow or legal heir of employee, who dies while in service, by way of compensation or otherwise is not taxable under the head "Salaries". [Circular No.573, Dated 21.08.1990]
- Unutilised deposit under the capital gains deposit account scheme shall not be taxable in the hands of legal heir. [Circular No.743 dated 6/5/1996]
- Legal representative is not liable for payment of tax on income that has not accrued to the deceased till his death.
- Leave salary paid to the legal heir of deceased employee is not taxable as salary. [Circulars Letter No. F.35/1/65-IT(B), dated 5/11/1965]. Further, leave salary by a legal heir of the Government employee who died in harness is not taxable in the hands of the recipient [Circulars No.309, dated 3/7/1981].

Taxpoint: If gratuity becomes due before the death of the assessee (no matter when and by whom received), it shall be taxable in the hands of employee. Whereas if gratuity becomes due after the death of assessee, it shall not be taxable (even in the hands of legal heir of the assessee).

Illustration 4 :

Mrs. X is working with ABC Ltd. since last 20 years 9 months. Her salary structure is as under:

Basic ₹ 35,000 p.m. Dearness allowance ₹ 13,000 p.m.

On 15/12/2024, she died. State the treatment of gratuity in following cases:

Case 1: Mrs. X retired on 10/12/2024 & gratuity ₹ 8,00,000 received by her husband (legal heir) as on 18/12/2024.

Case 2: Husband of Mrs. X received gratuity on 18/12/2024 falling due after death of Mrs. X.

Mrs. X is covered by the Payment of Gratuity Act.

Solution :

In **Case 1**, Computation of taxable gratuity in hands of Mrs. X for the A.Y. 2025-26

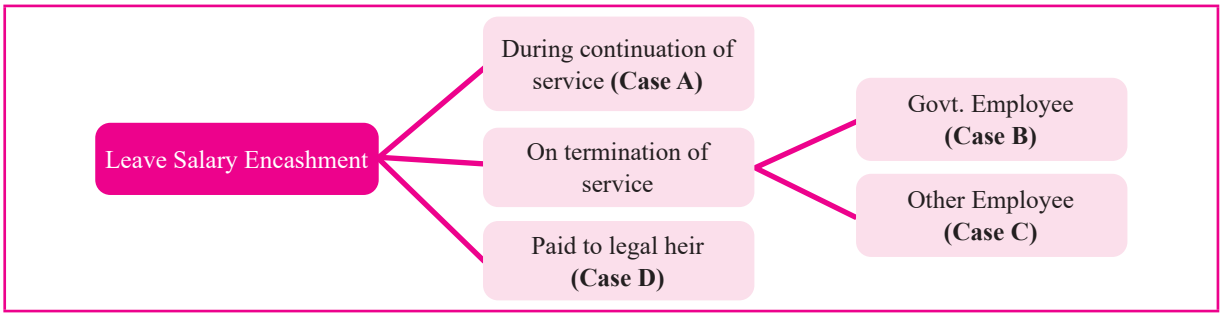
Particulars	Details	Amount
Total Gratuity received		8,00,000
Less : Minimum of the following is exempted as per Sec 10(10)(ii):		
a) Actual gratuity received	8,00,000	
b) Statutory Amount	20,00,000	
c) $\frac{15}{26}$ × completed year of service x salary p.m. [$\frac{15}{26}$ × 21 × ₹ 48,000]	5,81,538	5,81,538
Taxable Gratuity		**2,18,462**

In **Case 2**, Since gratuity falls due after the death of Mrs. X hence the same is not taxable in hands of Mrs. X. The said gratuity is not taxable even in hands of husband of Mrs. X.

2.1.7 Leave Salary Encashment

As per service contract and discipline, normally, every employee is allowed certain period of leave (with pay) every year. Such leave may be availed during the year or accumulated by the employee. The accumulated leave lying to the credit of an employee may be availed subsequently or encashed. When an employee receives an amount for waiving leave lying to his credit, such amount is known as leave salary encashment.

Treatment :



Case A : Leave salary received during continuation of service

Leave salary during continuation of service is fully taxable in the case of the Government employee as well as other employees [Sec. 17(1)(va)].

Case B: Leave salary received by Government employee on termination of service

At the time of termination of service, leave salary received by the Central or State Government employee is fully exempted u/s 10(10AA)(i).

Taxpoint: Government employee here does not include employee of local authority or public sector undertaking or foreign Government employee.

Case C: Leave salary received by non-Government employee on termination of service

At the time of termination of service, leave salary received by a non-Government employee (including employee of foreign Government, local authority, public sector undertaking) is exempted to the minimum of the following u/s 10(10AA)(ii):

a) Actual amount received as leave salary

b) ₹ 25,00,000/-

c) 10 × Average salary p.m.

d) To the maximum of 30 days (normally taken as 1 month) average salary[1] for every completed year of service[2], subject to deduction for actual leave availed during the tenure of service.

Academically: [{(1 x completed year of service) – leave actually taken in terms of month} x average salary p.m.]

1. Average salary means Basic + DA# + Commission (as a fixed percentage on turnover) being last 10 months average salary ending on the date of retirement or superannuation. (e.g. if an employee retires on 18/11/2024 then 10 months average salary shall be a period starting from 19th Jan' 2024 and ending on 18th Nov' 2024).

   # If DA is not forming a part of retirement benefit then the same shall not be included in salary for the above purpose. However, DA itself shall be fully taxable.

2. While calculating completed year of service, ignore any fraction of the year. E.g. 10 years 9 months shall be taken as 10 years.

Notes :

a. **Leave encashment received from more than one employer**: Where leave encashment is received from more than one employer in the same previous year, the aggregate amount exempt from tax shall not exceed the statutory deduction i.e. ₹ 25,00,000.

b. **Earlier deduction claimed for leave encashment**: While claiming the statutory amount (i.e. ₹ 25,00,000) any deduction claimed earlier as leave encashment shall be reduced from ₹ 25,00,000.

Illustration 5 :

a. Mr. Bhanu is working in Zebra Ltd. since last 25 years 9 months. The Company allows 2 months leave for every completed year of service to its employees. During the job, he had availed 20 months leave. At the time of retirement on 10/8/2024, he got ₹ 7,50,000 as leave encashment. As on that date, his basic salary was ₹ 35,000 p.m., D.A. was ₹ 20,000 p.m., Commission was 5% on turnover + ₹ 2,000 p.m. (Fixed p.m.). Turnover effected by the assessee during last 12 months (evenly) ₹ 50,00,000. Bhanu got an increment of ₹ 10,000 p.m. from 1/1/2024 in basic and ₹ 5,000 p.m. in D.A. Compute his taxable leave encashment salary.

b) How shall your answer differ if the assessee had taken 2 months leave instead of 20 months, during his continuation of job.

Solution :

Working :

1. Completed year of service: 25 years 9 months = 25 years
2. As per sec. 3(35) of the General Clauses Act, 1897, month shall mean a month reckoned according to the British calendar e.g. the period commencing from 7th September & end on 6th October shall be a month.
3. Salary here means Basic + Dearness Allowance + Commission on turnover (last 10 months average from the date of retirement)

Particulars	Oct' 23 (21 days)	Nov	Dec	Jan' 24	Feb	Mar	April	May	June	July	Aug 10 Days	Total
Basic	16,935	25,000	25,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	11,290	3,23,225
D.A.	10,161	15,000	15,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	6,452	1,86,613
Commission	50,00,000 × 5% × 10/12											2,08,333
Total												7,18,171
Average salary i.e. ₹ 7,18,171 / 10 months												71,817

Monthly fixed commission is irrelevant. Commission as fixed percentage of turnover is to be considered.

Computation of taxable leave encashment salary of Mr. Bhanu for the A.Y.2025-26

Particulars	Case (a)		Case (b)	
	Details	Amount	Details	Amount
Leave encashment received		7,50,000		7,50,000
Less: Min. of the following is exempted u/s 10(10AA)(ii):				
a) Actual amount received	7,50,000		7,50,000	
b) Statutory Amount	25,00,000		25,00,000	
c) 10 months x Av. Salary p.m. (10 × 71,817)	7,18,170		7,18,170	
d) [{1×completed year of service -Leave taken}×salary p.m.]				
^[{1 × 25 – 20} × 71,817] #[{1 × 25 – 2} × ₹ 71,817]	3,59,085^	3,59,085	16,51,791#	7,18,170
Taxable Leave Encashment		**3,90,915**		**31,830**

Illustration 6 :

Mr. Das retired on 31/3/2025. At the time of retirement, 18 months leave was lying to the credit of his account. He received leave encashment equivalent to 18 months Basic salary ₹ 1,26,000. His employer allows him 1½ months leave for every completed year of service. During his tenure, he availed of 12 months leave. At the time of retirement, he also gets D.A. ₹ 3,000. His last increment of ₹ 1,000 in basic was on 1/4/2024. Find taxable leave encashment.

Solution :

Working :

1. **Calculation of completed year of service:** Employee has received 18 months leave encashment on termination of service as well he had enjoyed leave of 12 months during his tenure. That means he had received a leave benefit of 30 months. Since leave allowed by employer is 1½ months for every completed year of service, this signifies that Mr. Das had completed 20 years (being 30/1½) of service.

2. Salary here means, Basic + DA + Commission, being last 10 months average from the date of retirement. There is no increment in last 10 months (last increment was on 1/4/2024) and there is no commission, hence Average Salary = ₹ 7,000 (i.e. ₹ 1,26,000/18) + ₹ 3,000 = ₹ 10,000 p.m.

Computation of taxable leave encashment of Mr. Das for the A.Y. 2025-26 :

Particulars	Details	Amount
Leave Encashment received		1,26,000
Less: Minimum of the following is exempt u/s 10(10AA)(ii):		
a) Actual amount received	1,26,000	
b) Statutory Amount	25,00,000	
c) 10 months × Av. Salary p.m. (10 × 10,000)	1,00,000	
d) {1 × completed year of service - Leave taken} × Avg. salary p.m. [{1 x 20 – 12} × ₹ 10,000]	80,000	80,000
Taxable Leave Encashment		**46,000**

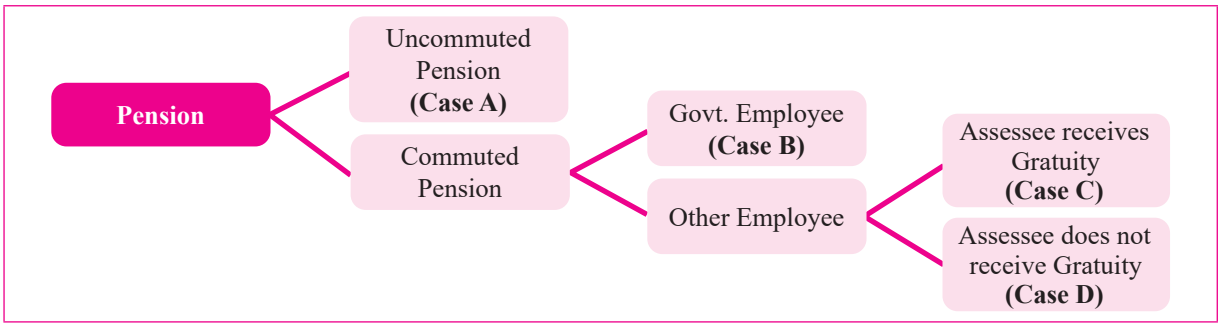
Case D: Leave salary paid to the legal heir

Leave salary paid to the legal heir of deceased employee is not taxable. [Circulars Letter No. F.35/1/65-IT(B), dated 5/11/1965]. Further, leave salary received by a legal heir of the Government employee who died in harness is not taxable in the hands of the recipient [Circulars No.309, dated 3/7/1981].

2.1.8 Pension [Sec. 10(10A)]

Pension means a periodical payment received by an employee after his retirement. On certain occasions, employer allows to withdraw a lump sum amount as the present value of periodical pension. When pension is received periodically by employee, it is known as Uncommuted pension. On the other hand, pension received in lump sum is known as Commuted pension. Such lump sum amount is determined considering factors like the age and health of the recipient, rate of interest, etc.

Treatment :



Case A: Uncommuted pension

Uncommuted pension is fully taxable in the hands of all employees whether Government or Non –Government employee.

Case B: Commuted pension received by a Government employee

Commuted pension received by a Government employee is fully exempt from tax u/s 10(10A)(i).

Note: Government employee here includes employee of the Central or State Government, Local authority as well as employee of Statutory corporation. Judges of the High Court and the Supreme Court are also entitled to the exemption [Circular No.623 dated 6/1/1992]

Case C: Commuted pension received by an employee who also received gratuity [Sec. 10(10A)(ii)]

One third of total pension (which assessee is normally entitled for) commuted is exempt.

Taxpoint: It is immaterial whether the employee is covered by the Payment of Gratuity Act or not.

Case D: Commuted pension received by an employee who does not receive gratuity [Sec. 10(10A)(ii)]

One half of total pension (which assessee is normally entitled for) commuted is exempt.

Notes:

a) Pension received by a widow or legal heir of a deceased employee shall not be taxable as salary but taxable u/s 56 as income from other sources (further refer chapter "Income from other sources".)

b) Where commuted pension is taxable, relief u/s 89 is available.

c) Pension received from United Nations Organisation is not taxable. Further, pension received by a widow of the United Nations ex-officials from UN Joint Staff Pension Fund is also exempt.

Illustration 7 :

Mr. Amit has retired from his job on 31/3/2024. From 1/4/2024, he was entitled to a pension of ₹ 3,000 p.m. On 1/8/2024, he got 80% of his pension commuted and received ₹ 1,20,000. Compute taxable pension if he is:

Case a) Government employee; Case b) Non-Government employee & not receiving gratuity

Case c) Non-Government employee (receiving gratuity, but not covered by the Payment of Gratuity Act)

Solution :

Computation of taxable pension of Mr. Amit for the A.Y.2024-25:

Particulars	Case a		Case b		Case c	
	Details	Amount	Details	Amount	Details	Amount
Uncommuted Pension						
- 1/4/2024 to 31/7/2024 (₹ 3,000x4)	12,000		12,000		12,000	
- 1/8/2024 to 31/3/2025 (₹ 600 x 8)	4,800	16,800	4,800	16,800	4,800	16,800
Commuted Pension	1,20,000		1,20,000		1,20,000	
Fully exempted u/s 10(10A)(i)	1,20,000	Nil				
Exempted u/s 10(10A)(ii) (½ of ₹ 1,50,000#)			75,000	45,000		
Exempted u/s 10(10A)(ii) ($^1/_3$ of ₹ 1,50,000#)					50,000	70,000
Taxable Pension		**16,800**		**61,800**		**86,800**

Commuted Amount for 80% of pension = ₹ 1,20,000. Commuted amount for 100% of pension = ₹ 1,50,000

2.1.9 Retrenchment Compensation

Retrenchment means cancellation of contract of service by employer.

Tax Treatment [Sec. 10(10B)]: Any compensation received by a worker at the time of retrenchment is exempted to the extent of minimum of the following:

a) Actual amount received;

b) ₹ 5,00,000; or

c) An amount calculated in accordance with the provisions of sec. 25F(b) of Industrial Dispute Act, 1947 (Under the said Act a workman is entitled to retrenchment compensation equivalent to 15 days' average pay, for every completed year of service or any part thereof in excess of 6 months).

Notes :

a) In case, where the compensation is paid under any scheme approved by the Central Government nothing shall be taxable.

b) Compensation received by a workman at the time of closing down of the undertaking in which he is employed is treated as compensation received at the time of his retrenchment.

2.1.10 Compensation Received at the time of Voluntary Retirement [Sec. 10(10C)]

If an employee accepts retirement willingly in lieu of compensation then such retirement is known as Voluntary Retirement. Voluntary retirement compensation *received or receivable* by an employee is eligible for exemption subject to the following conditions-

Conditions for exemption

1. Compensation is received from specified employer[#]
2. Compensation is received as per Voluntary Retirement Scheme (VRS) framed in accordance with prescribed guidelines*

Amount of exemption

Exemption shall be minimum of the following -

a) Actual amount received as per guidelines; or

b) ₹ 5,00,000.

***Guidelines [Rule 2BA]**

1. Scheme (VRS) must be applicable to all employees (other than director) who have either completed age of 40 years or has completed 10 years of service. (This condition is, however, not applicable in the case of an employee of a public sector company)
2. Such scheme must be framed to reduce the number of employees.
3. The vacancy caused by VRS is not to be filled up.
4. The retiring employee is not to be employed in another company or concern belonging to the same management.
5. The amount of compensation does not exceed
   - the amount equivalent to 3 months salary for each completed year of service; or
   - salary at the time of retirement multiplied by the balance month of service left.

   Note: Salary here means [Basic + DA (if forms a part of retirement benefit) + fixed percentage of commission on turnover], last drawn.

[#] Specified Employer

Any company; or An authority established under Central, State or Provincial Act; or A local authority; or A Co-operative society; or A specified University; or An Indian Institute of Technology (IIT); or Any State Government; or The Central Government; or Notified Institution of Management (IIM Ahmedabad, IIM Banglore, IIM Calcutta, IIM Lucknow, and the Indian Institute of Foreign Trade New Delhi); or Notified Institution.

Taxpoint: Voluntary retirement compensation received from the employer being an individual, firm, HUF, AOP, etc. is fully taxable in the hands of employee.

Note:

- Where exemption is allowed to an assessee under this section in any assessment year then no deduction is allowed in any subsequent assessment years. It means deduction under this section is allowed **once in life** of an assessee.
- Where any relief has been allowed to an assessee u/s 89 in respect of voluntary retirement, no exemption shall be allowed under this section

2.1.11 Annuity [Sec. 17(1)(ii)]

Annuity means a yearly allowance, income, grant of an annual sum, etc. for life or in perpetuity.

Treatment :

Case	Treatment
Annuity payable by a present employer, whether voluntarily or contractual.	Fully taxable as salary
Annuity received from an ex-employer	Fully taxable as 'profit in lieu of salary' u/s 17(3)(ii).
Annuity received from a person other than employer e.g. from insurer, etc.	Taxable as per provision of Sec. 56 as 'Income from other sources'.

2.1.12 Salary received in lieu of notice period

When an employer retrenches an employee then he has to give a proper notice. If an employer fails to do so then he will have to pay salary equivalent to notice period, apart from retrenchment compensation. Such amount is known as salary received in lieu of notice period and it is fully taxable.

2.1.13 Profits in lieu of salary [Sec. 17(3)]

Following receipts are taxable as profits in lieu of salary:

1. The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the (a) termination of his employment, (b) modification of the terms and conditions of employment.
2. Any payment due to or received by an assessee from his employer or former employer except the following:
   - Gratuity exempted u/s 10(10);
   - House rent allowance exempted u/s 10(13A);
   - Commuted pension exempted u/s 10(10A);
   - Retrenchment compensation exempted u/s 10(10B);
   - Payment from an approved Superannuation Fund u/s 10(13);
   - Payment from statutory provident fund or public provident fund;
   - Payment from recognised provident fund to the extent it is exempt u/s 10(12).

3. Any payment from unrecognised provident fund or such other fund to the extent to which it does not consist of contributions by the assessee or interest on such contributions.
4. Any sum received by the employee under the Keyman Insurance Policy including the sum allocated by way of bonus on such policy.
5. Any amount due to or received by the employee (in lump sum or otherwise) prior to employment or after cessation of employment.

2.1.14 Allowances

Allowance means fixed quantum of money given regularly in addition to salary to meet particular requirement. The name of particular allowance may reveal the nature of requirement, e.g. House Rent Allowance, Tiffin Allowance, Medical Allowance etc.

Allowances at a glance :

Sec.	Particulars	Taxability	
		Old Regime	New Regime
10(13A)	House Rent Allowance	Amount received by the employee in excess of specified limits will be taxable.	No exemption
10(14)(i)	Special allowance or benefit, not being in the nature of a perquisite, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit. Following allowances are covered		No Exemption
	Cat A a. Travel or Tour or Transfer* Allowance b. Daily Allowance c. Conveyance Allowance	i. Actual allowance received; or ii. Actual amount spent for the purpose, - whichever is less would be exempt	
	Cat B d. Helper Allowance e. Uniform Allowance f. Research or Training Allowance	i. Actual allowance received; or ii. Actual amount spent for the purpose, - whichever is less would be exempt	
10(14)(ii)	Special allowances granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides or to compensate him for the increased cost of living E.g., City Compensatory Allowance, Tiffin Allowance, Medical Allowance, Servant Allowance, Transport Allowance, etc.	Amount received by the employee in excess of specified limits [specified under rule 2BB(2)] will be taxable. **Taxpoint**: Deduction is available irrespective of actual expenditure	Partial exemption is available only in respect of transport allowance to employee who is blind / deaf and dumb / orthopaedically handicapped

* Allowance granted to meet the cost of travel on transfer includes any sum paid in connection with transfer, packing and transportation of personal effects on such transfer.

Tax treatment of various allowances are as follows

Following allowances are fully taxable:

Allowances	Meaning
City Compensatory Allowance	An allowance to meet personal expenses, which arise due to special circumstances, or to compensate extra expenditure by reason of posting at a particular place.
Tiffin Allowance	An allowance to meet the expenditure on tiffin, refreshment etc.
Medical Allowance	An allowance to meet the expenditure on medical treatment etc.
Servant Allowance	An allowance to meet the expenditure of servant for personal purpose.
Non-practicing Allowance	Allowance given to professionals to compensate them for restriction on private practice.
Warden or Proctor Allowance	Allowances given to employees of educational institutions for working as warden of the hostel or working as proctor in the institutions.
Deputation Allowance	Allowances given to an employee, when he is sent on deputation for a temporary period from his permanent place of service.
Entertainment Allowance	It is an allowance to meet expenditure on entertainment, by whatever name called. Government employee can claim deduction u/s 16(ii) discussed later in this chapter.

House rent allowance (HRA) [Sec. 10(13A) and rule 2A]

An allowance to meet the expenses in connection with the rent of the house, by whatever name called.

Tax Treatment: Minimum of the following is exempted from tax (Available only if assessee opts for old regime):

a. Actual HRA received.

b. An amount equal to 50% of salary[1] (when *house is situated* in a metro city) **or** 40% of salary[1] (when house is situated in any other place) for the relevant period

c. The excess of rent paid over 10% of salary[1]. [Arithmetically, (Rent Paid – 10% of Salary)]

[1.] Salary here means: Basic + D.A. (if it forms a part of retirement benefit) + Commission as a fixed % on turnover.

Notes :

a) Salary shall be determined on due basis for the period for which the employee occupies rented accommodation in the previous year and gets HRA.

b) Exemption is not available if employee lives in his own house, or in a house for which he does not pay any rent.

c) For criteria of 50% or 40% of salary as deduction, place of employment is not significant but place where the house is situated is important.

d) Deduction from HRA depends on Salary of the employee, Amount of HRA, place of residence (not place of employment), rent paid by the employee.

Illustration 8:

X, a resident of Ajmer, receives ₹ 11,48,000 as basic salary during the previous year 2024-25. In addition, he gets ₹ 1,14,800 as dearness allowance forming part of basic salary, 7% commission on sales made by him (sale made by X during the relevant previous year is ₹ 10,86,000) and ₹ 1,16,000 as house rent allowance. He, however, pays ₹ 2,15,800 as house rent. Determine the quantum of exempted house rent allowance, if he opts for old regime.

Solution :

Computation of taxable house rent allowance of X for the A.Y. 2025-26:

Particulars	Details	Amount
House Rent Allowance Received		1,16,000
Less: Minimum of the following being exempted u/s 10(13A)		
a) Actual Amount Received	1,16,000	
b) 40% of Salary (Note)	5,35,528	
c) Rent paid – 10% of salary [[₹ 2,15,800 – ₹ 1,33,882]	81,918	81,918
Taxable House Rent Allowance		**34,082**

Note: Salary for the purpose of HRA

Basic salary	₹ 11,48,000
Dearness Allowance	₹ 1,14,800
Commission (7% of ₹ 10,86,000)	₹ 76,020
Total	₹ 13,38,820

Hence, exemption u/s 10(13A) is Nil.

However, if the assessee is under default tax regime, entire house rent allowance shall be taxable.

Illustration 9 :

Compute the taxable house rent allowance of Mr. Abhijeet (opts for old regime) from the following data:

- Basic Salary ₹ 50,000 p.m., D.A. ₹ 20,000 p.m., HRA ₹ 40,000 p.m., Rent paid ₹ 40,000 p.m. in Pune.
- On 1/07/2024, there is an increment in Basic salary by ₹ 10,000.
- On 1/10/2024, employee hired a new flat in Kolkata at the same rent as he was posted to Kolkata.
- On 1/01/2025, employee purchased his own flat and resides there.

Solution :

Computation of taxable house rent allowance of Mr. Abhijeet for the A.Y. 2025-26:

Particulars	Details	Amount	Amount
House Rent Allowance Received (from 1.4.2024 to 30.6.2024)		1,20,000	
Less: Minimum of the following being exempted u/s 10(13A)			
a) Actual Amount Received	1,20,000		
b) 40% of Salary [(₹ 50,000 + ₹ 20,000) x 3]	84,000		
c) Rent paid – 10% of salary (₹ 1,20,000 – ₹ 21,000)	99,000	84,000	36,000
House Rent Allowance Received (from 1.7.2024 to 30.9.2024)		1,20,000	
Less: Minimum of the following being exempted u/s 10(13A)			
a) Actual Amount Received	1,20,000		
b) 40% of Salary [(₹ 60,000 + ₹ 20,000) x 3]	96,000		

c) Rent paid – 10% of salary (₹ 1,20,000 – ₹ 24,000)	96,000	96,000	24,000
House Rent Allowance Received (from 1.10.2024 to 31.12.2024)		1,20,000	
Less: Minimum of the following being exempted u/s 10(13A)			
a) Actual Amount Received	1,20,000		
b) 50% of Salary [(₹ 60,000 + ₹ 20,000) x 3]	1,20,000		
c) Rent paid – 10% of salary (₹ 1,20,000 – ₹ 24,000)	96,000	96,000	24,000
House Rent Allowance Received (from 1.1.2025 to 31.3.2025)			
(Fully taxable as assessee resides in his own house)			1,20,000
Taxable House Rent Allowance			**2,04,000**

Special allowance exempt u/s 10(14)

Allowances, deduction from which depends on actual expenditure [Sec. 10(14)(i)]

Allowance	Meaning
Travel or transfer Allowance	An allowance, by whatever name called, to meet the cost of travel on tour. Cost of travel includes any sum paid in connection with transfer, packing and transportation of personal effects on such transfer.
Daily Allowance	An allowance, by whatever name called, granted on tour (or for the period of journey in connection with transfer) to meet the ordinary daily charges incurred by employee on account of absence from his normal place of duty.
Conveyance Allowance	Any allowance granted to meet the expenditure on conveyance in performance of duties of the office, provided free conveyance is not provided by the employer. **Taxpoint:** Expenditure for covering the journey between office and residence is not treated as expenditure in performance of duties of office and consequently not covered under this allowance. (Refer Transport allowance)
Helper / Assistant Allowance	Any allowance (by whatever name called) to meet the expenditure of assistant or helper, provided such helper is appointed for the performance of duties of an office. **Taxpoint:** Servant allowance is fully taxable.
Research Allowance	Any allowance, by whatever name called, granted to encourage academic, research and other professional pursuits. This allowance may also be termed as Professional Development / Academic allowance
Uniform Allowance	Any allowance, by whatever name called, to meet the expenditure on purchase or maintenance of uniform wear, during the performance of duties of an office. **Taxpoint:** Uniform allowance is different from Dress allowance. Dress allowance is fully taxable.

Tax Treatment of aforesaid allowances :

Minimum of the following shall be exempted:

a) Actual amount received; or

b) Actual expenditure incurred for such purpose.

Taxpoint: Under default regime, aforesaid exemption is available only in respect of Travel or transfer Allowance, Daily Allowance and Conveyance Allowance. In other words, under default regime, exemption is not available from Helper Allowance, Research Allowance and Uniform Allowance..

Allowances, deduction from which do not depend on actual expenditure [Sec. 10(14)(ii)] [No benefit is available under default tax regime except for transport allowance]

Children Education Allowance [Available if opts for old regime]

An allowance to meet the expenses in connection with education of children, by whatever name called.

Treatment: Minimum of the following is exempted from tax -

a) ₹ 100 per month per child (to the maximum of two children)

b) Actual amount received for each child (to the maximum of two children)

Children Hostel Allowance [Available if opts for old regime]

An allowance to meet the hostel expenses of children, by whatever name called.

Treatment: Minimum of the following is exempted from tax -

a) ₹ 300 per month per child (to the maximum of two children)

b) Actual amount received for each child (to the maximum of two children)

Notes for Children Education Allowance and Hostel Allowance:

a) Child includes adopted child, step-child but does not include illegitimate child and grandchild.

b) Child may be major or minor child.

c) Deduction is available irrespective of actual expenditure incurred on education of child.

Illustration 10 :

Mr. Laloo Singh, received education allowance of ₹ 80 p.m. for his 1st child, ₹ 90 p.m. for his 2nd child and ₹ 120 p.m. for his 3rd child. He also received hostel allowance of ₹ 1,000 p.m. None of his children are studying. Find taxable Children Education Allowance and Hostel allowance if he opts for old regime.

Solution :

Computation of taxable children education allowance for Mr. Laloo Singh for the A.Y. 2025-26:

Particulars	Details	Amount
Hostel allowance	12,000	
Less: Exempted (₹ 300 x 2 x 12)	7,200	4,800
Children Education allowance [(₹ 80 x 12) + (₹ 90 x 12) + (₹ 120 x 12)]	3,480	
Less: Exempted {(₹ 100 + ₹ 90) x 12}	2,280	1,200
Taxable Allowance		**6,000**

Note: Education allowance is allowed for any two children of assessee therefore education allowance of first child (which is the lowest one i.e. ₹ 80 only) is not considered, to avail higher deduction.

If the assessee is under default tax regime, no exemption shall be available in respect of children hostel allowance and children education allowance.

Illustration 11 :

Mr. & Mrs. X have three children and two of them are not studying. Both Mr. & Mrs. X are working in A Ltd. and getting children education allowance ₹ 500 per month and hostel allowance ₹ 1,000 per month. Compute taxable children education allowance and hostel allowance, if they opt for old regime.

Solution :

Computation of taxable allowance of Mr. & Mrs. X for the A.Y. 2025-26:

Particulars	Mr. X		Mrs. X	
	Details	Amount	Details	Amount
Education allowance (₹ 500 × 12)	6,000		6,000	
Less: Exemption (₹ 100 × 12 × 2)	2,400	3,600	2,400	3,600
Hostel Allowance (₹ 1,000 × 12)	12,000		12,000	
Less: Exemption (₹ 300 × 12 × 2)	7,200	4,800	7,200	4,800
Taxable Allowance		**8,400**		**8,400**

Truck Driver's Allowance [Available if opts for old regime]

Any allowance (by whatever name called) granted to an employee working in any transport system to meet his personal expenditure during his duty performed in the course of running of such transport (from one place to another place), provided such employee is not in receipt of daily allowance.

Treatment: Minimum of the following shall be exempted:

a) 70% of allowance.

b) ₹ 10,000 p.m.

Taxpoint: If assessee is in receipt of Daily allowance then above allowance shall be fully taxable.

Transport Allowance [Available under both regime]

An allowance, by whatever name called, to meet the expenditure for the purpose of travelling between the place of residence and the place of duty.

Available to: Assessee is blind / deaf and dumb / orthopaedically handicapped.

Treatment: Minimum of the following shall be exempted:

a. Actual amount received; or

b. ₹ 3,200 p.m.

Taxpoint: No exemption is available to the assessee other than specified above.

Allowance to Government employees outside India [Available under both regime]

As per sec. 10(7), any allowance or perquisite allowed outside India by the Government to an Indian citizen for rendering services outside India is wholly exempt from tax.

Taxpoint:

1. Assessee must be -

   a) Government employee b) Citizen of India; and c) Working outside India

2. Any allowance or perquisite to such employee shall be exempted u/s 10(7)

Allowance received from UNO (United Nations Organisation) [Available under both regime]

Basic salary or Allowance paid by the UNO to its employees are not taxable.

Compensatory allowance under Article 222(2) of the Constitution [Available under both regime]

It is fully exempt from tax.

Allowance to judges of the High Court or the Supreme Court [Available under both regime]

Any allowance paid to Judges of the High Court u/s 22A(2) and sumptuary allowance u/s 22C of the "High Court Judges (Conditions of Service) Act, 1954" is not taxable. Allowance to the Supreme Court Judges u/s 23B of the "Supreme Court Judges (Conditions of Service) Act, 1958" is also exempt.

Special allowances as prescribed in rule 2BB(2) [Available if assessee opt for old regime]

The following special allowances are notified by the Government as exempt u/s 10(14)(ii):

Name of allowance	Place	Exemption
1. Any special compensatory allowance in the nature of special compensatory (hilly area) allowance or high altitude allowance or uncongenial climate allowance or snow bound area allowance or avalanche allowance.	a. Specified area of Manipur, Arunachal Pradesh, Sikkim, Uttar Pradesh, Himachal Pradesh, Jammu & Kashmir	₹ 800 p.m.
	b. Siachen area of Jammu & Kashmir.	₹ 7,000 p.m.
	c. All places located at a height of 1,000 meters or more above the sea level, other than places specified above.	₹ 300 p.m.
2. Any special compensatory allowance in the nature of Border Area Allowance or Remote Locality allowance or Difficult Area Allowance or Disturbed Area Allowance. [no exemption is available if exemption is claimed against any allowance referred to in point 8, 9 and 10]	1. Specified area of Little Andaman, Nicobar & Narcondum Islands, North and Middle Andamans, Throughout Lakshadweep Minicoy Islands, All places or north of the demarcation line, Himachal Pradesh, Mizoram, Jammu & Kashmir, UP, Sikkim	₹ 1,300 p.m.
	2. Installations in the Continental Shelf of India & the Exclusive Economic Zone.	₹ 1,100 p.m.
	3. Specified area of: a. Throughout Arunachal Pradesh other than areas covered by point (3) above. b. Throughout Nagaland c. South Andaman (including Port Blair)	₹ 1,050 p.m.

Name of allowance	Place	Exemption
	d. Throughout Lunglei District (excluding areas beyond 25 km, from Lunglei town) of Mizoram. e. Dharmanagar, Kailasahar, Amarpur and khowai in Tripura. f. Jammu and Kashmir & Himachal Pradesh	
	4. Specified area of Throughout Aizawal district of Mizoram, Tripura, Manipur, Himachal Pradesh, Jammu & Kashmir	₹ 750 p.m.
	5. Jog falls in Shimoga district in Karnataka.	₹ 300 p.m.
	6. Specified area of Himachal Pradesh, Assam & Meghalaya.	₹ 200 p.m.
3. Tribal area/Schedule Areas/Agency Areas allowance	Specified area of (a) Madhya Pradesh; (b) Tamil Nadu; (c) Uttar Pradesh; (d) Karnataka; (e) Tripura; (f) Assam; (g) West Bengal; (h) Bihar; (i) Orissa.	₹ 200 p.m.
4. Any allowance in the nature of high altitude granted to the member of Arm force operating in high altitude.	**(a)** For altitude of 9000 to 15000 ft. **(b)** For altitude above 15000 ft.	₹ 1,060 p.m. ₹ 1,600 p.m.
5. Under Ground Allowance to an employee who is working in uncongenial, unnatural climate in underground mines.	Whole of India	₹ 800 p.m.
6. Compensatory field Area Allowance	Specified area of Arunachal Pradesh, Manipur & Nagaland, Sikkim, Himachal Pradesh, Uttar Pradesh, Jammu & Kashmir	₹ 2,600 p.m.
7. Compensatory Modified field area allowance	Specified area of Punjab, Rajasthan, Haryana, Himachal Pradesh, Arunachal Pradesh, Assam, Mizoram, Tripura, Uttar Pradesh, Jammu & Kashmir, Sikkim & West Bengal	₹ 1,000 p.m.
8. Any allowance in the nature of counter insurgency allowance granted to the members of armed forces operating in areas away from their permanent locations	Whole of India	₹ 3,900 p.m.
9. Compensatory highly active field area allowance granted to Armed forces.	Whole of India	₹ 4,200 p.m.
10. Island (duty) allowance to armed force	Andaman & Nicobar & Lakshadweep Islands	₹ 3,250 p.m.

Illustration 12 :

Mr. Mugal joined Star Ltd. on 1/4/2024. Details regarding his salary are as follows:

Particulars	Amount
Basic	75,000 p.m.
Dearness Allowance	2,000 p.m. (50% considered for retirement benefit)
Education Allowance	1,000 p.m. (he has 1 son and 3 daughters)
Hostel Allowance	2,000 p.m. (none of the children is sent to hostel)
Medical Allowance	1,000 p.m. (total medical expenditure incurred ₹ 3,000)
Transport Allowance	1,800 p.m. (being used for office to residence & vice versa)
Servant Allowance	1,000 p.m.
City compensatory Allowance	2,000 p.m.
Entertainment Allowance	1,000 p.m.
Assistants Allowance	3,000 p.m. (paid to assistant ₹ 2,000 p.m.)
Professional Development Allowance	2,000 p.m. (actual expenses for the purpose ₹ 8,000 p.m.)
Bonus	2,40,000 p.a.
Commission	9,000 p.a.
Fees	5,000 p.a.

Compute his gross taxable salary for the assessment year 2025-26, assuming he has opted for old regime

Solution :

Computation of gross taxable salary of Mr. Mugal for the A.Y.2025-26:

Particulars	Details	Amount	Amount
Basic Salary			9,00,000
Bonus			2,40,000
Commission			9,000
Fees			5,000
Allowances			
Dearness Allowance		24,000	
Education Allowance	12,000		
Less: Exemption (₹ 100 x 2 x 12)	2,400	9,600	
Hostel Allowance	24,000		
Less: Exemption (₹ 300 x 2 x 12)	7,200	16,800	
Medical Allowance		12,000	
Transport Allowance	21,600		
Less: Exemption	Nil	21,600	
Servant Allowance		12,000	
City Compensatory allowance		24,000	
Entertainment Allowance		12,000	
Assistance Allowance	36,000		
Less: Exemption (Being actual expenditure)	24,000	12,000	
Professional development allowance	24,000		

Less: Exemption (Actual expenditure max. of amount received)	24,000	Nil	1,44,000
Gross Taxable Salary			**12,98,000**

However, if the assessee is under default tax regime, computation are as under:

Particulars	Details	Amount	Amount
Basic Salary			9,00,000
Bonus			2,40,000
Commission			9,000
Fees			5,000
Allowances			
Dearness Allowance		24,000	
Education Allowance	12,000		
Less: Exemption	Nil	12,000	
Hostel Allowance	24,000		
Less: Exemption	Nil	24,000	
Medical Allowance		12,000	
Transport Allowance	21,600		
Less: Exemption	Nil	21,600	
Servant Allowance		12,000	
City Compensatory allowance		24,000	
Entertainment Allowance		12,000	
Assistance Allowance	36,000		
Less: Exemption	Nil	36,000	
Professional development allowance	24,000		
Less: Exemption	Nil	24,000	2,01,600
Gross Taxable Salary			**13,55,600**

Illustration 13 :

Miss Sonal, being a citizen of India and a Government employee has the following salary details :

(Amount in ₹)

Basic Salary	52,000 p.m.
Dearness Allowance	23,000 p.m.
Dearness Pay	1,000 p.m.
Fees	50,000 p.a.
House Rent Allowance	15,000 p.m. (Rent paid for Kolkata house ₹ 20,000 p.m.)
Children Education allowance	3,000 p.m. (She is having one adopted child)
Children allowance	1,000 p.m.
Hostel allowance	2,000 p.m.
Dress Allowance	5,000 p.m. (Actual expenditure ₹ 10,000 p.m.)
Uniform Allowance	2,000 p.m. (Actual expenditure ₹ 1,000 p.m.)
Tiffin Allowance	1,000 p.m.
Education Allowance for her own education	2,000 p.m. (Actual expenditure ₹ 1,500 p.m.)

Compute her gross salary for the assessment year 2025-26, assuming she has opted for old regime.

Solution :

Computation of gross taxable salary of Miss Sonal for the A.Y.2025-26 :

Particulars	Details	Amount	Amount
Basic Salary			6,24,000
Fees			50,000
Allowances			
Dearness Allowance		2,76,000	
Dearness Pay		12,000	
House Rent Allowance	1,80,000		
Less: Minimum of the following u/s 10(13A)			
a) Actual Amount Received ₹ 1,80,000			
b) 50% of Salary i.e. 50% of (6,24,000+2,76,000+12,000) = ₹4,56,000			
c) Rent Paid – 10% of Salary (2,40,000 – 91,200) = ₹ 1,48,800	1,48,800	31,200	
Children Education Allowance	36,000		
Less: Exemption (₹ 100 × 1 × 12)	1,200	34,800	
Children Allowance		12,000	
Hostel Allowance	24,000		
Less: Exemption (₹ 300 × 1 × 12)	3,600	20,400	
Dress Allowance (fully taxable)		60,000	
Uniform Allowance	24,000		
Less: Exemption (₹ 1,000 × 12)	12,000	12,000	
Tiffin Allowance		12,000	
Education allowance for own study	24,000		
Less: Exemption (₹ 1,500 × 12)	18,000	6,000	4,76,400
Gross Taxable Salary			**11,50,400**

Illustration 14 :

In the above illustration, how shall your answer differ if Miss Sonal is working outside India and rent paid for the house in Japan.

Solution :

Computation of gross taxable salary of Miss Sonal for A.Y.2025-26 :

Particulars	Amount
Basic Salary	6,24,000
Fees	50,000
Gross Taxable Salary	**6,74,000**

Note: Since, Miss Sonal, being Government-employee and citizen of India, is working outside India. Hence, all allowances paid to her by the Government are exempted u/s 10(7).

2.1.15 Perquisite [Sec. 17(2)]

Meaning and Chargeability

In common parlance, perquisite means, any casual emoluments or benefits attached to an office or position, in addition to salary or wages, which is availed by an employee. In other words, perquisites are the benefits in addition to normal salary.

As per sec. 17(2) of the Income tax Act, Perquisite includes -

i. Value of rent-free accommodation provided by the employer.

ii. Value of concession in rent in respect of accommodation provided to the assessee by his employer.

iii. The value of any benefit or amenity granted or provided free of cost or at a concessional rate to a 'specified employee'.

iv. Amount paid by an employer in respect of any obligation which otherwise would have been payable by the employee.

Taxpoint: Any obligation of the employee met by the employer shall be taxable on cash basis i.e. in the year in which the amount is paid by the employer.

Example: Employer has paid employees' professional tax liability pertaining to the period 2024-25 in April 2025, such perquisite shall be taxable in the previous year 2025-26.

v. Sum payable by an employer, whether directly or through a fund other than recognised provident fund or approved superannuation fund or deposit-linked insurance fund*, to effect an assurance on the life of the assessee or to effect a contract for an annuity.

Taxpoint: Such sum shall be taxable on accrual basis.

vi. The value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.

vii. The amount or the aggregate of amounts of any contribution made to the account of the assessee by the employer:

(a) in a Recognised Provident Fund (RPF);

(b) in the scheme referred to in sec. 80CCD(1) [i.e., NPS]; and

(c) in an approved superannuation fund,

- to the extent, it exceeds ₹ 7,50,000 in a previous year.

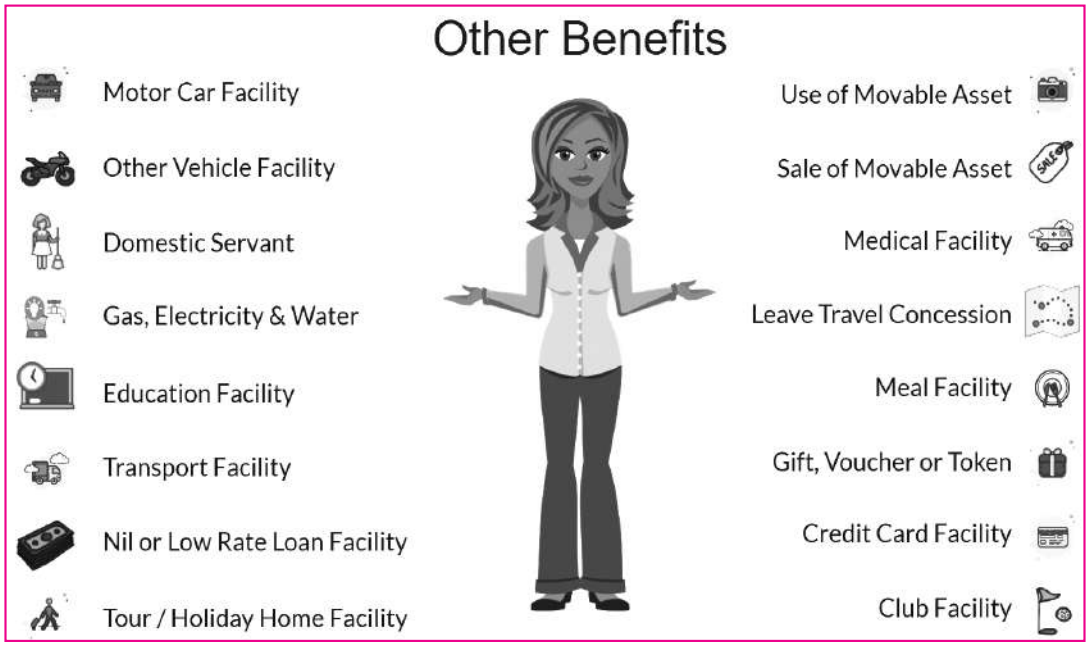
Taxpoint: There is combined upper limit of ₹ 7,50,000 in respect of employer's contribution in a year to NPS, superannuation fund and recognised provident fund and any excess contribution is taxable.

viii. The annual accretion (like interest, dividend, etc.) during the previous year to the balance at the credit of the aforesaid fund or scheme to the extent it relates to the contribution referred above.

Taxpoint: Such accretion shall be included in the total income and shall be computed in such manner as may be prescribed.

ix. the value of any other fringe benefit or amenity as may be prescribed.

* established under the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 or Employees' Provident Fund and Miscellaneous Provisions Act, 1952



Notes:

a) Perquisites are taxable under the head "Salaries" only if, they are:

- Allowed by an employer to his employee or *any member of his household*.
- Resulting in the nature of personal advantage to the employee.
- Derived by virtue of employee's authority.

b) Perquisite may be contractual or voluntary. However, an unauthorized advantage taken by an employee without his employer's sanction cannot be considered as a perquisite under the head salary (but it shall be taxable as income from other sources).

c) Perquisite may be received from the former, present or prospective employer

d) Member of household includes:

- Spouse (whether dependent or not)
- Parents (whether dependent or not);
- Servants; and
- Children and their spouse (whether dependent or not);
- Dependents.

[$] Specified employees [Sec. 17(2)(iii)]

Specified employee means:

1. A director employee.

   Note: It is immaterial -

a) whether he is a nominee of the workers, financial institutions, etc. on the board;

b) whether the employee is full time director or a part time; and

c) whether he was a director throughout the previous year or not.

Taxpoint:

- A director-employee shall be treated as specified employee of that company only.

Example: If Manu is working with X Ltd. as director-employee and with Y Ltd. as employee only, she will be treated as specified employee only for X Ltd. and not for Y Ltd.

- Director even for a day is construed as specified employee of such company.

2. An employee who has substantial interest in the employer company.

Substantial interest means the employee who beneficially holds 20% or more voting power in the employer company.

Taxpoint:

- Such employee shall be treated as specified employee of that company only.
- The main criteria is beneficial ownership and not the legal ownership.
- Substantial interest must be held by the assessee individually, and not together with relative.

Example: Mr. Mohan holds 18% equity share of X Ltd. and his wife holds 7% equity share of the same company. In such case Mr. Mohan will not be treated as specified employee.

3. An employee whose aggregate salary from all employers together exceeds ₹ 50,000 p.a.

For computing the sum of ₹ 50,000, following are to be excluded/deducted:

a) All non-monetary benefits;

b) Non-taxable monetary benefits;

c) *Deduction u/s 16(ia), 16(ii) and 16(iii) [Discussed later in this chapter]; and

d) Employer's contribution to Provident Fund.

Taxpoint:

- Where salary is received from two or more employers, the aggregate salary from all employers shall be considered for calculation of above ceiling. And if aggregate salary exceeds ₹ 50,000 p.a. the employee shall be treated as specified employee of all employers.

  Example: Mr. Rohan is working with X & Co. and Y Ltd. His taxable monetary salary from X & Co. is ₹ 36,000 p.a. and from Y Ltd. is ₹ 45,000 p.a. Since the aggregate salary is more than ₹ 50,000 p.a. Mr. Rohan will be treated as specified employee for both the employer i.e. X & Co. and Y Ltd.

- Even 'DA not forming a part of salary for retirement benefit' shall be included in salary, while determining the above limit of ₹ 50,000 p.a.

Exempted Perquisites

The following perquisites are exempted in hands of employee:

* Such payments are not regarded as perquisite as the employees have only an expectancy of the benefit in such schemes.

1. **Tea or snacks:** Tea, similar non-alcoholic beverages and snacks provided during working hours.
2. **Food**: Food provided by employer in working place.
3. **Recreational facilities**: Recreational facilities extended to a group of employees.
4. **Goods sold to employee at concessional rate**: Goods manufactured by employer and sold by him to his employees at concessional (not free) rates.
5. **Conveyance facility**: Conveyance facility provided -
   - to employees for journey between office and residence and vice versa.
   - to the judges of High Court and Supreme Court
6. **Training**: Amount spent on training of employees including boarding & lodging expenses for such training.
7. **Services rendered outside India:** Any perquisite allowed outside India by the Government to a citizen of India for rendering services outside India.
8. **Contribution in some specified schemes***
   - Employer's contribution to a pension or deferred annuity scheme.
   - Employer's contribution to staff group insurance scheme.
   - Annual premium paid by the employer on personal accident policy affected by him in respect of his employee.
9. ***Loans**
   - Loan given at nil or at concessional rate of interest by the employer provided the aggregate amount of loan does not exceed ₹ 20,000.
   - Interest free loan for medical treatment of the diseases specified in Rule 3A.
10. ***Medical facility**: A provision of medical facility at office is exempt. Reimbursement of medical expenses for treatment of Covid-19 is exempt

    Note: However, medical allowance is fully taxable.
11. **Periodicals and journals**: Periodicals and journals required for discharge of work.
12. **Privilege passes and privilege ticket**: Privilege passes and privilege ticket orders granted by Indian Railways to its employees is exempt
13. **Telephone, mobile phones**: Expenses for telephone, mobile phones actually incurred on behalf of employee by the employer whether by way of direct payment or reimbursement.
14. ***Free education facility**: Free education facility to the children of employee in an institution owned or maintained by the employer provided cost of such facility does not exceed ₹ 1,000 p.m. per child.

    Note: Such facility is not restricted to two children as in case of Children Education allowance.
15. **Computer or Laptop**: Computer or Laptop provided whether to use at office or at home (provided ownership is not transferred to the employee).
16. ***Movable assets**: Sale or gift of any movable asset (other than car and electronic items) to employee after being used by the employer for 10 or more years.

* Such payments are not regarded as perquisite as the employees have only an expectancy of the benefit in such schemes.

17. ***Leave Travel Concession**: Leave Travel Concession (LTC) subject to few conditions. [Exemption is available only if assessee has opted for the old regime]

18. **Rent-free accommodation**

    - Rent-free official residence provided to a Judge of a High Court or the Supreme Court.
    - Rent-free furnished residence (including maintenance thereof) to Official of Parliament, a Union Minister or a Leader of opposition in Parliament.

19. ***Accommodation**: Accommodation provided -

    - on transfer of an employee in a hotel for a period not exceeding 15 days in aggregate.
    - in a remote area to an employee working at a mining site or an onshore exploration site or a project execution site or a dam site or a power generation site or an offshore site.

20. **Tax on non-monetary perquisite** paid by employer on behalf of employee. With effect from A.Y. 2003-04 a new sec. 10(10CC) has been inserted which provides that income tax paid by employer on behalf of employee on income, being non-monetary perquisite, is not a taxable perquisite.

21. **Health club, Sports club** facility

[*] Discussed later in this chapter

2.1.16 Valuation of Perquisites

Valuation of Rent-free unfurnished accommodation (RFA) [Rule 3(1)]

Rent-free accommodation is taxable in the hands of all employees (except the Judges of High Court or Supreme Court and Official of the Parliament or Union Minister and a leader of Opposition).

Accommodation here includes fixed as well as floating structure.

Fixed Structure	A house, flat, farm house (or a part there of), accommodation in hotel, motel, service apartment, a guest house, etc.
Floating Structure	A caravan, mobile home, ship etc.

For the purpose of valuation, employees are divided into two categories:

a. Employees of the Central or State Government or of any undertaking under the control of the Government;

b. Other employees

I) Central and State Government Employee (including military person)

Where the accommodation is provided by the Central Government or any State Government to the employees either holding office or post in connection with the affairs of the Union or of such State, the value of perquisite in respect of such accommodation is equal to the licence fee, which would have been determined by the Central or State Government in accordance with the rules framed by the Government.

{**Academically**, the taxable value of the perquisite will be mentioned in the problem}

Taxpoint: Employees of a local authority or a foreign government are not covered under this category.

II) Other Employees (residual category)

The value of perquisite is determined as per the following table:

City in which accommodation is provided	Accommodation is owned by the employer	Accommodation is not owned by the employer
Having population exceeding 40 lacs as per 2011 census	10% of salary for the period during which the employee occupied the said accommodation.	Rent paid or payable by the employer or 10% of salary, whichever is lower.
Having population exceeding 15 lacs but not exceeding 40 lacs as per 2011 census	7.5% of salary for the period during which the employee occupied the said accommodation.	
Any other city	5% of salary for the period during which the employee occupied the said accommodation.	

Notes :

a) **Salary for the purpose of Rent free accommodation**: Salary here means:

Basic + Dearness allowance/pay (if it forms a part of retirement benefit) + Bonus + Commission + Fees + All other taxable allowances (only taxable amount) + Any other monetary payment by whatever name called (excluding **perquisites** and **lump-sum payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, severance pay leave encashment, voluntary retrenchment benefits, commutation of pension and similar payments**)

Taxpoint :

- Salary shall be determined on due basis.
- Where an assessee is receiving salary from two or more employers, the aggregate salary for the period during which accommodation has been provided (by any of the employer) shall be considered.
- Monetary payments, which are not in the nature of perquisite, shall be considered. E.g. Leave encashment received during the continuation of service shall be included in salary for this purpose. However, if such pay leave is received at the time of retirement, then such receipt shall not be considered.
- Here salary does not include employer's contribution to Provident Fund of the employee.

b) **Cap on Valuation in subsequent year(s):** W.e.f. 01-09-2023, where the same accommodation is continued to be provided to the same employee for more than one previous year, the aforesaid calculation shall be restricted to the amount calculated as per the following formula:

$$\text{Amount calculated for the first P.Y.} \times \frac{\text{CII for the P.Y. for which the amount is calculated}}{\text{CII for the P.Y. in which the accommodation was initially provided to the employee}}$$

- CII – Cost Inflation Index as notified for the purpose of sec. 48
- First previous year means the previous year 2023-24, or the previous year in which the accommodation was provided to the employee, whichever is later.

Provision Illustrated

Particulars	P.Y.2023-24	P.Y.2024-25
Cost Inflation Index (CII)	348	363
Salary	₹ 20,00,000	₹ 28,00,000
Valuation of RFA, say 10% of salary [a]	₹ 2,00,000	₹ 2,80,000
Valuation after applying inflation linked capping [b]	₹ 2,00,000 As it is first P.Y.	₹ 2,12,644 i.e., ₹ 2,00,000 × 363 / 348
Valuation to be taken [Lower of (a) and (b)]	**₹ 2,00,000**	**₹ 2,08,621**

Exemption of 90 days in case of allotment of two houses: Where an employee is transferred from one place to another and he is provided with an accommodation at new place also, the value of perquisite shall be taken for only one such house having lower value for a period not exceeding 90 days. Thereafter, the values of both such houses are taxable.

c) Any accommodation provided to an employee working at a mining site; or an on-shore oil exploration site; or a project execution site; or a dam site; or a power generation site; or an off-shore site, which

   a. being of a temporary nature and having plinth area not exceeding 1000 sq. ft is located not less than 8 kms away from the local limits of any municipality or a cantonment board; or

   b. is located in a remote area.

   "Remote area", means any area other than an area which is located:

   i. within the local limits of; or

   ii. within a distance, measured aerially, of 30 kilometers from the local limits of,

   any municipality or a cantonment board having a population of 1,00,000 or more based on the 2011 census

d) Where the accommodation is provided by the Central Government or any State Government to an employee who is serving on deputation with any body or undertaking under the control of such Government:

   i. the employer of such an employee shall be deemed to be that body or undertaking where the employee is serving on deputation; and

   ii. the value of perquisite of such an accommodation shall be the amount calculated as per residual category (II) considering as if the accommodation is owned by the employer.

Illustration 15 :

Mr. Chauhan has the following salary structure:

a) Basic Salary	₹ 75,000 p.m.	b) Entertainment Allowance	₹ 1,000 p.m.
c) Education Allowance	₹ 500 p.m. (he has 3 children)	d) DA	₹ 3,000 p.m.
e) Fees	₹ 5,000 p.a.	f) Bonus	₹ 10,000 p.a.
g) Professional tax of employee paid by employer		₹ 2,000 for the year	

He has been provided a rent-free accommodation in Chennai.

h) 60% of DA only forms part of retirement benefits

Compute the taxable value of accommodation in the hands of Mr. Chauhan in the following cases:

i) The employer owns such accommodation.

ii) The employer hires such accommodation at a monthly rent of ₹ 7,900.

Assume that he has opted for the old regime

Solution :

Taxable value of rent-free accommodation for the A.Y. 2025-26 :

Particulars	Basis of determination	Taxable Perquisite
i) Owned by employer	10% of Salary (Working)	₹ 95,220
ii) Hired by employer	10% of Salary or Actual rent paid by employer, whichever is lower	₹ 94,800

Working: Salary for the purpose of Rent-free accommodation:

Particulars	Details	Amount	Amount
Basic Salary			90,000
Bonus			10,000
Fees			5,000
Allowances			
Dearness allowance	₹ 36,000 × 60%	21,600	
Entertainment Allowance		12,000	
Education Allowance	₹ 6,000 – ₹ 2,400	3,600	37,200
Gross Taxable Salary			**9,52,200**

Note: Professional tax paid on behalf of employee is a perquisite; hence the same shall not be included in salary for the aforesaid purpose.

Illustration 16 :

In above illustration, how shall answer differ if the property is situated in a city where population is only 24,60,000.

Solution :

Taxable value of rent free accommodation for the A.Y.2025-26:

Particulars	Basis of determination	Taxable value of Perquisite
Owned by employer	7.5% of Salary (as per the above working)	₹ 71,415
Hired by employer	10% of Salary or Actual rent paid by employer, whichever is lower	₹ 94,800

Illustration 17 :

Miss Stuti has the following salary structure:

		₹
a)	Basic salary	15,000 p.m.
b)	Dearness Allowance	5,000 p.m. (not forming part of retirement benefit)
c)	Hostel Allowance	1,000 p.m. (does not have any child)

d)	Tiffin Allowance	500 p.m.
e)	Transport Allowance	200 p.m.
f)	Bonus	20,000 p.a.
g)	Commission	15,000 p.a.
h)	Free refreshment in office worth	5,000 p.a.
i)	Mobile phone facility by employer	900 p.m.
j)	Computer facility worth	10,000 p.a.

She has been provided a Rent-free Accommodation (owned by employer) in Kolkata. The house was allotted to her with effect from 1/5/2024 but she could occupy the same only from 1/6/2024. Find her gross taxable salary.

Solution :

Computation of gross taxable salary of Miss Stuti for the A.Y. 2025-26 :

Particulars	Details	Amount	Amount
Basic Salary			1,80,000
Bonus			20,000
Commission			15,000
Allowances:			
Dearness Allowance		60,000	
Hostel Allowance (Fully taxable as she has no child)		12,000	
Tiffin Allowance		6,000	
Transport Allowance		2,400	80,400
Perquisite u/s 17(2):			
Free Refreshment (not taxable)		Nil	
Mobile or telephone facility		Nil	
Computer facility		Nil	
Rent Free Accommodation	Working	19,617	19,617
Gross Salary			**3,15,017**

Working : Salary for the purpose of rent-free accommodation :

Basic Salary	1,80,000
Bonus	20,000
Commission	15,000
Allowances	
Dearness allowance	Nil
Hostel Allowance	12,000
Tiffin Allowance	6,000
Transport Allowance	2,400
Total	2,35,400
Value of Rent-Free Accommodation (being 10% × ₹ 2,35,400 × 10/12)	19,617

Illustration 18 :

Miss Khushi has the following salary details:

i)	Basic salary	₹ 6,000 p.m.
ii)	DA	₹ 3,000 p.m.
iii)	Academic development allowance	₹ 1,000 p.m., expenditure incurred ₹ 700 p.m.
iv)	Entertainment allowance	₹ 500 p.m.

She has been provided with a rent-free accommodation in Purulia. On 1/7/2024, she was posted to Kolkata. A new house further allotted to her on same date. But she surrendered her Purulia house only on 31/12/2024. Rent paid by employer for Purulia House ₹ 500 p.m. while Kolkata house is owned by the employer. Find her gross taxable salary, assuming she has opted for the old regime.

Solution :

Computation of gross taxable salary of Miss Khushi for the A.Y. 2025-26 :

Particulars	Details	Amount	Amount
Basic Salary			72,000
Allowances:			
Dearness Allowance		36,000	
Academic Development Allowance	12,000		
Less: Exempted to the extent of actual expenditure	8,400	3,600	
Entertainment Allowance		6,000	45,600
Perquisite u/s 17(2):			
Rent Free Accommodation	Working		10,380
Gross Taxable Salary			**1,27,980**

Working: Since Miss Khushi has been transferred from Purulia to Kolkata and she is provided with an accommodation at Kolkata also, the value of perquisite shall be taken for only one such house having lower value for a period not exceeding 90 days. Thereafter, the value of both such houses is taxable.

Valuation of rent-free accommodation:

Period	Particulars	Purulia house	Kolkata house	Taxable Amount
1/4/2024 - 30/6/2024	She is having only Purulia house	10% of (₹ 1,17,600 x 3/12) or Rent paid by employer (₹ 500 x 3) whichever is lower	Not applicable	1,500
1/7/2024 - 30/9/2024	She has both house but the house having lower value shall be taxable	₹ 1,500 (as calculated above)	10% of Salary[1] i.e. ₹ 2,940	1,500
1/10/2024 - 31/12/2024	She has both house and both shall be taxable	₹ 1,500 (as calculated above)	₹ 2,940 (as above)	4,440 (Note b)
1/1/2025 - 31/3/2025	She has only Kolkata house	Not applicable	₹ 2,940 (as above)	2,940
Taxable perquisite				**10,380**

Note:

a. For the sake of simplicity, 3 months have been taken as equivalent to 90 days.

b. After 90 days, value of both houses shall be considered.

[1.] Salary for valuation of rent- free accommodation:

Basic Salary	72,000
Allowances	
Dearness allowance	36,000
Entertainment allowance	6,000
Academic development Allowance	3,600
Total	**1,17,600**

Valuation of Rent-free furnished accommodation

Furnished accommodation means Accommodation + Furniture.

Value of Furnished accommodation = Value of accommodation + Value of furniture

Valuation of Accommodation: As discussed above.

Valuation of Furniture: As per the following table

Case	Taxable value
Furniture owned by the employer	10% of original cost of furniture
Furniture hired by the employer	Actual hire charges paid/payable by the employer

Notes:

1. "Furniture" here, includes refrigerator, television, radio, air-conditioner and other household appliances, etc.
2. The above rule is applicable to Government as well as Non-Government Employees.

Illustration 19 :

Sri Ashutosh has been provided with a furnished accommodation in a city having population of 44,00,000 as per last census. Municipal Value of the house (owned by employer) is ₹ 80,000 whereas the Fair rent of the house is ₹ 1,00,000. His salary details are as under:

Basic	25,000 p.m.
Allowance for increased cost of living	5,000 p.m.
Children Education allowance	3,000 p.m. [He has one son and two married daughters]

Furniture details as under:

Furniture	Hired by the employer (Hire charge)	Owned by the employer (Original Cost)
T.V.	2,000 p.a.	-
Refrigerator	-	10,000
Washing Machine	-	5,000
Other furniture	1,000 p.m.	20,000

Calculate gross taxable salary of Sri Ashutosh for the A.Y. 2025-26, assuming he has opted for the old regime.

Solution :

Computation of gross taxable salary of Sri Ashutosh for the A.Y. 2025-26 :

Particulars	Amount	Amount
Basic Salary		3,00,000
Dearness allowance (Allowance for increased cost of living)		60,000
Children Education Allowance	36,000	
Less: Exemption (₹ 100 × 2 × 12)	2,400	33,600
Rent Free Furnished Accommodation		
Value of Accommodation (10% of Salary[1])	39,360	
Value of furniture[2]	17,500	56,860
Gross Taxable Salary		**4,50,460**

[1.] Salary for valuation of rent- free accommodation:

Basic Salary	3,00,000
Dearness allowance	60,000
Education Allowance	33,600
Total	**3,93,600**

[2.] Valuation of taxable perquisite for furniture:

Furniture	Perquisite for hired furniture	Perquisite for owned furniture	Total Taxable value of furniture
T.V.	2,000	-	2,000
Refrigerator	-	10% of 10,000	1,000
Washing Machine	-	10% of 5,000	500
Other furniture	12,000	10% of 20,000	14,000
Total			17,500

Municipal value and Fair rent are irrelevant.

Valuation of accommodation provided at concessional rent

Valuation will be made as if the rent-free accommodation is provided and the amount so computed will be reduced by the rent payable by the employee.

Value of Rent free accommodation as usual	*****
Less: Rent payable by employee to employer for the above facility	****
Taxable value of perquisite	****

Taxpoint:

- The above rule of valuation shall be applicable in case of the Government employee also.
- Accommodation shall be deemed to have been provided at a concessional rate, if the value of accommodation computed in such manner as may be prescribed, exceeds the rent recoverable from, or payable by, the assessee

Accommodation provided in a hotel

In this case, value of perquisite shall be minimum of the following:

a) 24% of salary for the period such accommodation is provided; or

b) Actual charges paid or payable to such hotel.

However, if the following conditions are satisfied then nothing is taxable -

- Such accommodation is provided for a period not exceeding in aggregate 15 days; and
- Such accommodation is provided on transfer of employee from one place to another place.

Note: If the employee pays any rent, the value so determined shall be reduced by the rent actually paid or payable by the employee

Taxpoint:

- Salary here has the same meaning as in the case of rent-free accommodation.
- Above rule shall be applicable whether the assessee is a Government or a Non-Government employee.
- If the facility is provided for more than 15 days, then the perquisite is exempt for first 15 days and thereafter taxable. E.g. if facility has been provided for 45 days then taxable perquisite shall be only for last 30 days.
- Hotel includes licensed accommodation in the nature of motel, service apartment or guest house.

2.1.17 Insurance premium payable by employer

As per sec. 17(2)(v), following sums payable by an employer shall be taxable perquisite in the hands of all employees, whether it is paid directly or through a fund (other than recognised provident fund or approved superannuation fund or deposit-linked insurance fund),

- to effect an assurance on the life of the assessee; or
- to effect a contract for an annuity

Note: Employee can claim deduction u/s 80C (if opted for old regime) for LIC premium paid by employer

2.1.18 Valuation of sweat equity shares allotted or transferred to the assessee

Meaning:

- Specified security means the securities as defined in sec.2(h) of the Securities Contracts (Regulation) Act, 1956 and, where employees' stock option has been granted under any plan or scheme therefore, includes the securities offered under such plan or scheme.

  As per sec.2(h) of the Securities Contracts (Regulation) Act, 1956, securities includes:

  a. shares, scripts, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

  b. derivative;

  c. units or any other instrument issued by any collective investment scheme to the investors in such schemes;

  d. security receipt as defined in sec. 2(zg) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

  e. units or any other such instrument issued to the inves¬tors under any mutual fund scheme;

f. any certificate or instrument (by whatever name called), issue to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;

g. Government securities;

h. such other instruments as may be declared by the Central Government to be securities; and

i. rights or interest in securities.

- Sweat equity shares means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.

Taxpoint: If such shares are allotted or transferred not for above reasons (i.e., for providing know-how, etc.), then it is not taxable as perquisite. E.g., if such option is granted to the employee against acquisition of immovable property by the company, then such benefit shall not be considered as perquisite. However, employee is liable to pay tax, if any, under the head 'Capital Gain'

Perquisites :

Value of any specified security or sweat equity shares shall be considered as perquisites in hands of employee if the following conditions are satisfied:

a. Such security or sweat equity shares are allotted or transferred on or after 01-04-2009

b. Such security or sweat equity shares are allotted or transferred by the employer (former or present) directly or indirectly.

c. Such security or sweat equity shares are allotted or transferred free of cost or at concessional rate to the assessee

Valuation :

Value of such perquisite shall be computed as under:

Particulars	Amount
The fair market value of the specified security or sweat equity shares, as the case may be, on the date on which the option is exercised by the assessee	***
Less: The amount actually paid by, or recovered from the assessee in respect of such security or shares	***
Value of perquisite	***

Notes:

Option means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price.

Tax on perquisite of specified securities and sweat equity shares is required to be paid in the year of exercising of option. However, where such shares or securities are allotted by the current employer, being an eligible start-up, the perquisite is taxable in the year

- after the expiry of 48 months from the end of the relevant assessment year
- in which sale of such security or share are made by the assessee
- in which the assessee ceases to be the employee of the employer,

whichever is earlier.

Illustration 20 :

A company 'X' grants option to its employee 'R' on 1st April, 2019 to apply for 100 shares of the company for making available right in the intellectual property to the employer-company at a pre-determined price of ₹ 50 per share with date of vesting of the option being 1st April, 2020 and exercise period being 1st April, 2020 to 31st March, 2025. Employee 'R' exercises his option on 31st March, 2024 and shares are allotted/transferred to him on 3rd April, 2024.

Fair market value of such share on different dates are as under:

01-04-2019	01-04-2020	31-03-2024	03-04-2024
₹ 100	₹ 180	₹ 440	₹ 470

Compute taxable perquisite, if any, in hands of Mr. R for A.Y. 2025-26.

Solution :

Since shares are allotted by the company after 31-03-2024 (even though it is exercised by the employee on 31-03-2024), hence, it is taxable in A.Y. 2025-26. Value of the perquisite is as under:

Particulars	Amount
The FMV of shares on the date on which the option is exercised [₹ 440 × 100 shares]	44,000
Less: The amount actually paid by assessee in respect of such shares [₹ 50 × 100 shares]	5,000
Value of perquisite	**39,000**

Note: For the purpose of computing capital gain on the transfer of these shares by Mr. R, ₹ 44,000 (i.e. ₹ 440 per share) shall be considered as cost of acquisition of such shares.

2.1.19 Valuation of perquisites in respect of Motor Car [Rule 3(2)]

Motor-car facility provided by an employer is taxable in the hands of employee on the following basis:

Car is owned by	Car is Maintained by	Used by employee for	Taxable value	Who is Chargeable
Employer		Office purpose[5]	Not a perquisite	Not applicable
		Personal purpose	M[1] + D[2]	Specified Employee
		Both purpose	₹ 1800 or ₹ 2400 p.m.[3]	
Employer	Employee	Office purpose[5]	Not a perquisite	Not applicable
		Personal purpose	D	Specified employee
		Both purpose	₹ 600 / ₹ 900 p.m.[4]	
Employee	Employer	Office purpose[5]	Not a perquisite	Not applicable
		Personal purpose	M	All employee
		Both purpose	Actual expenditure incurred by the employer as reduced by ₹1800 / ₹2400 p.m.[3] (further deduction of ₹900 p.m. for driver) or a higher deduction if prescribed conditions are satisfied[5]	
Employee		Any purpose	Not a perquisite	Not applicable

1. M =Maintenance cost

2. D = Depreciation @ 10% of actual cost of the car. However, if the car is not owned by employer then actual hire charge incurred by employer shall be considered.

3. ₹ 2400 p.m. in case of higher capacity car[#] and ₹ 1800 p.m. for lower capacity car.

4. ₹ 900 p.m. in case of higher capacity car[#] and ₹ 600 p.m. for lower capacity car.

[#]Higher capacity car means a car whose cubic capacity of engine *exceeds* 1.6 litres.

5. Conditions to be fulfilled for claiming higher deductions or establishing that the car is used for office purpose:

- The employer has maintained complete details of journey undertaken for official purpose, which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon; and
- The employer gives the certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

Chauffeur / Driver

If chauffeur is also provided, then salary of chauffeur is further to be added to the value of perquisite (as computed above). However, if car is used for both i.e. official and personal purpose then ₹ 900 p.m. (irrespective of higher or lower capacity of car) is to be taken as value of chauffeur perquisite.

Notes :

a) If motor car is provided at a concessional rate then charges paid by employee for such car, shall be reduced from the value of perquisite. However, where statutory value (₹ 1,800 or ₹ 2,400 and ₹ 600 or ₹ 900) is taken as taxable value of perquisite then amount charged from employee shall not be subtracted.

b) The word "month" denotes completed month. Any part of the month shall be ignored.

c) When more than one car is provided to the employee, otherwise than wholly and exclusively for office purpose, the value of perquisite for -

- One car shall be taken as car is provided partly for office and partly for private purpose i.e. ₹ 1,800 or ₹ 2,400 p.m. (plus ₹ 900 p.m. for chauffeur, if provided); and
- For other car(s), value shall be calculated as car(s) are provided exclusively for private purpose.

d) Conveyance facility to the judges of High Court or Supreme Court is not taxable.

e) Use of any vehicle provided to an employee for journey from residence to work place or vice versa is not a taxable perquisite.

Illustration 21 :

Sonam, has been provided a car (1.7 ltr.) by his employer Vikash Ltd. The cost of car to the employer was ₹ 3,50,000 and maintenance cost incurred by the employer ₹ 30,000 p.a. Chauffeur salary paid by the employer ₹ 3,000 p.m. Find value of perquisite for Sonam for the A.Y.2025-26, if the car is used for:

a) Office purpose. b) Personal purpose. c) Both purposes.

In case (b) and (c), employee is being charged ₹ 15,000 p.a. for such facility.

Solution :

a) Nil, as car is used for office purpose.

b) Taxable value of car facility:

Particulars	Details	Amount
Depreciation of Car	10% of ₹ 3,50,000	35,000
Maintenance cost	Actual	30,000
Driver's salary	Actual	36,000
Total		1,01,000
Less: Amount charged from employee		15,000
Taxable Perquisite		**86,000**

c. ₹ 2,400 p.m. for car facility + ₹ 900 p.m. for driver facility = ₹ 3,300 p.m.

Taxable value of perquisite ₹ 3,300 × 12 = ₹ 39,600.

Note: Whenever statutory value (₹ 1,800 or ₹ 2,400 and ₹ 600 or ₹ 900) is taken as taxable value of perquisite then amount charged from employee shall not be subtracted.

Illustration 22 :

Mr. Piyush has been provided a car (1.5 ltr.) on 15/7/2024. The cost of car to the employer was ₹ 6,00,000 and maintenance cost incurred by employer ₹ 20,000 p.a. Chauffeur salary paid by employer (Mr. Ratan) ₹ 4,000 p.m. The car is 40% used for office and 60% for personal purpose. Charges paid by employee for such facility ₹ 5,000 p.a. Find taxable value of perquisite.

Solution :

Taxable value of perquisite

Particulars	Details	Amount
Car	₹ 1,800 × 8	14,400
Driver	₹ 900 × 8	7,200
Taxable Perquisite		**21,600**

1. A part of a month shall not be considered for this purpose.
2. Whenever statutory value is taken as the taxable value of perquisite then the amount charged from employee shall not be subtracted.

Illustration 23 :

Mr. Vikram being a Government employee has a car (1.7 ltr.) used for office as well as for personal purpose. During the year, he incurred ₹ 40,000 on maintenance and ₹ 20,000 on driver's salary. The entire cost is reimbursed by employer. Find taxable perquisite.

Solution :

Taxable perquisite in the hands of Mr. Vikram

As the car is owned by the assessee & maintained by the employer, taxable value of perquisite shall be -

Actual expenditure incurred by the employer as reduced by ₹ 2,400 p.m. (in case of 1.7 ltr.) and ₹ 900 p.m. for driver's salary. Hence, taxable amount shall be -

Amount reimbursed by employer (₹ 40,000 + ₹ 20,000)	₹ 60,000
Less: Deduction for the amount used for office purposes (₹ 2,400 + ₹ 900) x 12	₹ 39,600
Taxable amount	₹ 20,400

Illustration 24 :

Wasim has a car (1.5 ltr.) used for office as well as for personal purpose. During the year car is used 80% for business purpose being certified by the employer. During the year, he incurred ₹ 50,000 on maintenance and running of such car. The entire cost is reimbursed by the employer. Find taxable perquisite if assessee wish to claim higher deduction, when – (a) A proper log book is maintained; (b) A proper log book is not maintained.

Solution :

a) **When log book is maintained**

Taxable perquisite in the hands of Wasim

Actual expenditure incurred by the employer is reduced to the extent it is used for office purpose, as a proper record is kept and duly certified by employer.

Amount reimbursed by the employer	₹ 50,000
Less: Deduction (80% of ₹ 50,000)	₹ 40,000
Taxable amount	**₹ 10,000**

b) **When log book is not maintained**

Taxable perquisite in the hands of Wasim

Actual expenditure incurred by the employer is reduced to the extent of ₹ 1,800 p.m. even though it is used for office purposes but a proper record is not kept.

Amount reimbursed by the employer	₹ 50,000
Less: Deduction (₹ 1,800 × 12)	₹ 21,600
Taxable amount	**₹ 28,400**

Illustration 25 :

Amit is provided with two cars, to be used the official & personal work, by his employer Raj. The following information is available from the employer records for computing the taxable value of perk (assuming car 1, is exclusively used by Amit).

Particulars	Car 1	Car 2
Cost of the car	6,00,000	4,00,000
Running and maintenance (borne by the company)	40,800	28,000
Salary of driver (borne by the company)	24,000	24,000

Solution :

Valuation of perquisite for Mr. Amit

Particulars	Workings	Details	Amount
Valuation of perquisite in respect of Car 1			
- Depreciation of car	10% of ₹ 6,00,000	60,000	
- Maintenance		40,800	
- Driver salary		24,000	1,24,800
Valuation of perquisite in respect of Car 2 (assumed capacity of engine does not exceed 1.6 cc)	(₹ 1,800 + ₹ 900) × 12		32,400
Value of car perquisite			**1,57,200**

Illustration 26 :

Mr. Vijay, manager, has been provided the following car facilities by Kishan Ltd. (his employer) -

Particulars	Car A	Car B	Car C
Owned by	Employer	Employer	Employer
Used for	Office as well as personal purpose		Personal purpose
Cost of car	3,00,000	5,00,000	2,00,000
Maintenance expenditure incurred by employer	50,000	60,000	-
Maintenance expenditure incurred by employee			40,000
Capacity of car	1.8 ltr.	1.4 ltr.	1.6 ltr.

Find taxable value of car facility.

Case a) Mr. Vijay holds 17% of equity share capital and 30% of preference share capital of Kishan Ltd. and his wife holds 13% equity share capital of the same company. Assume his total salary during the year other than perquisite is ₹ 40,000;

Case b) Mr. Vijay holds 25% equity share capital of the employer company.

Solution :

Case a) Since Mr. Vijay is not a specified employee & employer owns all cars therefore car facility shall not be taxable.

Case b) Since Mr. Vijay holds substantial interest in employer-company hence he is a specified employee.

As employee has been provided 2 cars, used for office as well as for personal purpose, therefore he will have to opt one car as for 'office as well as personal purpose' & the other car for personal purpose. In the given case, assessee has two options -

Option 1) Car A is used for office as well as personal purpose and car B is used for personal purpose.

Option 2) Car A is used for personal purpose and car B is used for office as well as personal purpose.

In any case, Car C is used for Personal purpose.

Particulars	Workings	Option 1			Option 2		
		Car A	Car B	Car C	Car A	Car B	Car C
Car used for		Both	Personal	Personal	Personal	Both	Personal
Valuation	₹ 2,400 × 12	28,800					
	10% of ₹ 5,00,000 + ₹ 60,000		1,10,000				
	10% of ₹ 2,00,000			20,000			20,000
	10% of ₹ 3,00,000 + ₹ 50,000				80,000		
	₹ 1,800 × 12					21,600	
Total				**1,58,800**			**1,21,600**
As option 2 has lesser taxable value, hence assessee will opt for option 2 & taxable value shall be ₹ 1,21,600.							

2.1.20 Valuation of Perquisite in respect of Vehicle other than Motor Car

The facility provided by employer is taxable in the hands of employee on the following basis:

Owned by	Maintained by	Used for	Taxable Value of perquisite	Who is Chargeable
Employer		Office purpose[1]	Nil	Not Applicable
		Personal purpose	Actual Maintenance + Depreciation @ 10% of Original cost	Specified employee
		Both purpose	Reasonable proportion of (Maintenance + Depreciation @ 10% of Original cost)	
Employee	Employer	Office purpose[1]	Nil	Not Applicable
		Personal purpose	Actual Maintenance	All employee
		Both purpose	Actual expenditure incurred by the employer as reduced by ₹ 900 p.m. or as reduced by higher sum if prescribed conditions (see note 1) are satisfied.	

[1] Conditions to be fulfilled for claiming higher deductions or establishing that the car is used for office purpose:

- The employer has maintained complete details of journey undertaken for official purpose, which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon; and
- The employer gives the certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

2.1.21 Valuation of perquisite in respect of Free Domestic Servants [Rule 3(3)]

Value of perquisite is determined as under:

Servant appointed by	Taxable value of perquisite	Taxable in hands of
Employer	Actual cost to the employer is taxable as perquisite	Specified employee
Employee		All employee

Notes :

a) If rent-free accommodation (owned by the employer) is provided with gardener then gardener's salary and maintenance cost of garden shall not be taxable. [Circular No.122 dated 19/101973]

b) Any amount charged from the employee for such facility shall be reduced from above value.

c) Domestic servant allowance given to employee is fully taxable.

d) Reimbursement of servant-salary by the employer shall be taxable in hands of all employee.

Illustration 27 :

Sri Bhagawan, has been provided with the following servants by his employer:

Servant	Appointed by	Salary of Servant
Watchman	Employer	12,000 p.m.
Cook	Employee's wife	3,000 p.m.
Maid servant	Employer	1,000 p.m.
Sweeper	Employee	500 p.m.
Gardener	Employer	1,000 p.m.

Sri Bhagawan has also been provided a rent-free accommodation, which is owned by the employer. Find taxable value of servant facility if - Case a) He is a specified employee. Case b) He is a non-specified employee.

Solution :

Computation of taxable value of perquisite for A.Y. 2025-26

Servant	Taxable Amount	
	Case a	Case b
Watchman	1,44,000	Nil
Cook	36,000	36,000
Maid servant	12,000	Nil
Sweeper	6,000	6,000
Gardener (since Rent free accommodation, owned by employer, is provided)	Nil	Nil
Taxable Perquisite	**1,98,000**	**42,000**

2.1.22 Gas, electricity or water facility [Rule 3(4)]

It is taxable on the following basis:

Case	Taxable value of perquisite		Taxable in the hands of
	Facility is provided from own sources	Facility is provided from other agency	
Facility is in name of employee	Manufacturing cost to the employer	Prices paid to such agency	All employees
Facility is in name of employer			Specified employees

Note: Where the employee is paying any amount for such facility, the amount so paid by employee shall be reduced from the value determined above.

2.1.23 Valuation of perquisite in respect of free education [Rule 3(5)]

Taxable value of perquisite is as follows:

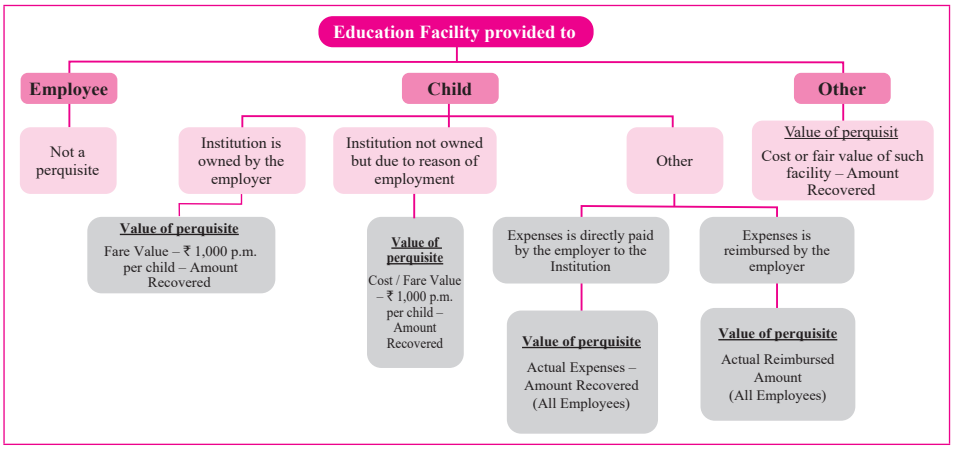
Case	Taxable Value
Facility provided to employee	Not taxable
Facility provided to family member	
Facility provided in an institution owned by the employer	**Child of the assessee:** Cost of such education in similar institution subject to an exemption of ₹ 1,000 p.m. per child shall be taxable*. **Other family member:** Cost of such education in similar institution shall be taxable.
Facility provided in any institution (not owned by the employer) by reason of his being in employment.	
Reimbursement of education expenditure to employee or direct payment of the fee by the employer to the school	Actual reimbursement shall be taxable.

Who is chargeable

Case	Taxability in the hands of
In case of reimbursement; or School fee of family member of the employee paid by the employer directly to school	All employee
In any other case	Specified employee

* However, Hon'ble Punjab & Haryana High Court in the case of CIT –vs.- Director, Delhi Public School (2011) 202 Taxman 318 has held that if value of perquisite exceeds ₹ 1,000/-, then entire amount shall be taxable.

Notes :



a) ₹ 1,000 per month per child shall be exempted without any restriction on number of children.

b) Child includes adopted child, stepchild of the assessee, but does not include grandchild or illegitimate child.

c) Any amount charged from the employee for such facility shall be reduced from the above value.

d) Contribution made under an Educational Trust, created for the children of particular group of employees, is not taxable.

2.1.24 Valuation of perquisite in respect of Free Transport [Rule 3(6)]

The facility provided by employer is taxable in the hands of employee on the following basis:

Case	Treatment
If employer is engaged in the business of transportation of goods or passengers	Amount charged from public for such facility is taxable in the hands of specified employee.
In any other case	Actual cost of employer for such facility is taxable in the hands of all employees.

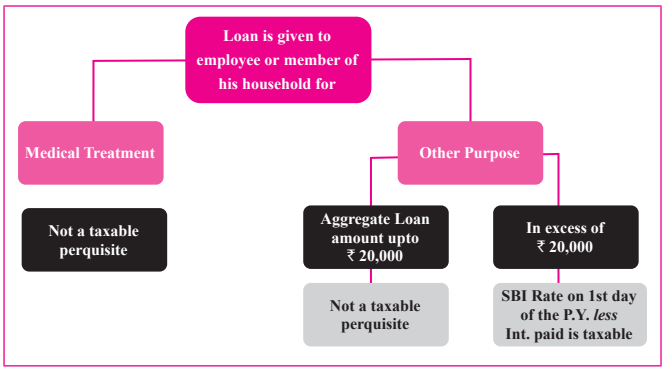
Notes :

a) In case above facility is provided to employees of Railways & Airlines, nothing shall be chargeable to tax.

b) Any amount charged from the employee for such facility shall be reduced from the above value.

c) Conveyance facility provided to the employee for journey between office and residence is not taxable.

2.1.25 Valuation of perquisite in respect of interest free loan or concessional rate of interest [Rule 3(7)(i)]



Perquisite in respect of interest free loan or loan at concessional rate of interest to the employee or any member of his household by the employer or any person on his behalf, is not taxable if aggregate amount of loan given by the employer (or any other person on his behalf) does not exceed ₹ 20,000. The taxable value of such perquisite shall be determined as per the rate as on the 1st day of the relevant previous year charged by the State Bank of India in respect of loans for the same purpose advanced by it.

Notes :

a) **Maximum outstanding monthly balance**: Interest is calculated on the maximum outstanding monthly balance. Maximum outstanding monthly balance means the aggregate outstanding balance for each loan as on the last day of each month.

b) **Loan for medical treatment:** Nothing is taxable if loan is given for medical treatment of the employee or any member of his household *in respect of diseases specified in rule 3A*. However, such exempted loan will not include the amount that has been reimbursed by an insurance company under any medical insurance scheme.

c) **Concessional interest**: Any interest paid by the employee to the employer for such loan shall be reduced from the above computed value. If rate of interest charged by the employer is higher than the above rate, nothing is taxable as perquisite.

d) **Amount on which interest shall be calculated**: If loan amount is more than ₹ 20000, interest shall be levied on total loan amount, rather than the excess amount.

e) **Treatment of outstanding loan taken earlier:** Interest on loan, taken before insertion of this provision, shall also be treated as taxable perquisite. [*Circular No.15/2001dated 12/12/2001*]

2.1.26 Travelling / Touring / Holiday Home expenditure on Holiday [Rule 3(7)(ii)]

Valuation of perquisite in respect of travelling, touring, holiday home or any other expenses paid for or borne or reimbursed by the employer for any holiday availed of by the employee or any member of his household is taxable in the hands of all employees as per the following table:

Case	Taxable value of perquisite
Where such facility is maintained by employer and is not available uniformly to all employee	Notional cost of such facility. In other words, value at which such facilities are offered by other agencies to the public.
Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him	The amount of expenditure so incurred for the accompanying member of his household.
Where any official tour is extended as a vacation	The value will be limited to the expenses incurred in relation to such extended period of stay or vacation.
In any other case	Amount incurred by the employer.

Notes :

a) Any amount charged from employee shall be reduced from the above determined value.

b) The above provisions are not applicable in case of Leave Travel Concession (discussed earlier)

2.1.27 Valuation of perquisite in respect of free meals [Rule 3(7)(iii)]

The facility provided by employer is taxable in the hands of employee on the following basis:

Case	Tax Treatment
Tea, snacks or other non-alcoholic beverages in the form of light refreshment provided during office hours (including over-time)	Nil
Free meals provided during office hours in: ➢ Remote area (as discussed while valuation of RFA); or ➢ An offshore installation	Nil

Free meals and non-alcoholic beverages provided by the employer during office hours: ➢ At office or business premises; or ➢ Through paid vouchers which are not transferable and usable only at eating joints.	Expenditure on free meals in excess of ₹ 50 per meal shall be taxable perquisite to the extent of excess amount in hands of all employees. [Available only under old regime] E.g. Free meal given to employee worth ₹ 70 per meal through non-transferable coupon for 300 times in a year. Taxable perquisite in such case shall be ₹ 6,000 {being ₹ (70 – 50) x 300}. An alternate view is possible that where value exceeds ₹ 50, then entire value shall be taxable. In that case value of perquisite would be ₹ 21,000
In any other case	The actual expenditure incurred by employer as reduced by amount charged from employee for such lunch or meal shall be taxable in the hands of all employees. i.e. [Actual expenditure to employer – Amount charged from employee]

2.1.28 Gift, voucher or token given by employer [Rule 3(7)(iv)]

The value of any gift, voucher, or token (in lieu of which any gift may be received) given to the employee (or any member of his household) on ceremonial occasion or otherwise by the employer shall be taxable in the hands of all employees. However, gift, voucher or token upto ₹ 5,000, in aggregate, during the previous year, shall be exempted.

Notes :

a) Where worth of gift is in excess of ₹ 5,000 then amount in excess of ₹ 5,000 shall be taxable.

b) No such exemption (₹ 5,000) is available on gift made in cash or convertible into money.

Illustration 28 :

Determine taxable perquisite in the following cases:

1. Miss Shradha received a wrist-watch of ₹ 3,000 on 17/7/2024 and a golden chain worth ₹ 12,000 on 18/8/2024 from her employer, Mr. Raju.
2. Miss Rakhi received ₹ 11,000 cash–gift from her employer, Dipu Ltd.
3. Mr. Anirudha is working with X & Co. a partnership firm. During the year, the employer firm gifted a diamond ring worth ₹ 80,000 to wife of Mr. Anirudha.

Solution :

1. Taxable perquisite in the hands of Shradha shall be ₹ 10,000 (being ₹ 3,000 + ₹ 12,000 – ₹ 5,000)

   An alternate view is possible that where value of the gift exceeds ₹ 5,000, then entire value shall be taxable. In that case value of perquisite would be ₹ 15,000
2. Taxable perquisite in the hands of Rakhi shall be ₹ 11,000.
3. Taxable perquisite in the hands of Mr. Anirudha shall be ₹ 75,000.

An alternate view is possible that where value of the gift exceeds ₹ 5,000, then the entire value shall be taxable. In that case value of the perquisite would be ₹ 80,000.

2.1.29 Credit Card [Rule 3(7)(v)]

Expenditure incurred by an employer in respect of credit card facility to employee shall be treated as under:

Case	Tax Treatment
Where such credit card is used wholly and exclusively for office purpose and specified conditions[#] are satisfied.	Nil
Where expenses (including membership and annual fees) are incurred by the employee or any member of his household, which is charged to a credit card (including any add-on card) provided by the employer or otherwise, are paid or reimbursed by the employer.	**If directly paid by the employer** Any amount incurred by the employer as reduced by amount charged from the employee shall be taxable in the hands of all employees **If amount reimbursed by the employer** Any amount reimbursed by the employer shall be taxable in the hands of all employees.

[#] Specified conditions to be fulfilled to claim that expenses have been incurred wholly and exclusively for office purpose:

a. Complete details in respect of such expenditure are maintained by the employer which may, *inter-alia,* include the date of expenditure and the nature of expenditure; and

b. The employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duty.

2.1.30 Club Expenditure [Rule 3(7)(vi)]

Expenditure incurred by employer in respect of club facility to employee shall be treated as under:

Case	Tax Treatment
Where such expenses are incurred wholly and exclusively for office purpose and specified conditions[#] are satisfied.	Nil
Where health club, sports and similar facilities are provided uniformly to all employees by the employer.	Nil
Where the employer has obtained corporate membership of the club and the facility is enjoyed by the employee or any member of his household	Amount incurred by employer for such facility shall be taxable perquisite in the hands of all employees. However, initial fees paid for obtaining corporate membership shall not be a taxable perquisite.
Any payment or reimbursement by the employer of any expenditure incurred (including the amount of annual or periodical fee) in a club by employee or any member of his household	**If directly paid by the employer** Any amount incurred by the employer as reduced by amount charged from the employee shall be taxable in the hands of all employees. **If amount reimbursed by the employer** Any amount reimbursed by the employer shall be taxable in the hands of all employees.

[#] Specified conditions to be fulfilled to claim that expenses have been incurred wholly and exclusively for office purpose:

a. Complete details in respect of such expenditure is maintained by the employer which may, *inter alia*, include the date of expenditure, the nature of expenditure and its *business expediency*; and

b. The employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duty;

2.1.31 Valuation of perquisite in respect of use of movable assets [Rule 3(7)(vii)]

If employee (or any member of his household) uses any movable asset (other than the assets for which provisions have been made) belonging to employer, then such facility is taxable in the hands of all employees. The value of such benefit is determined as per the following table:

If the asset is owned by the employer	10% of the original cost of such asset.
If the asset is hired by the employer	Charges paid or payable by the employer

Notes :

a) Any sum charged from the employee shall be reduced from the value determined as above.

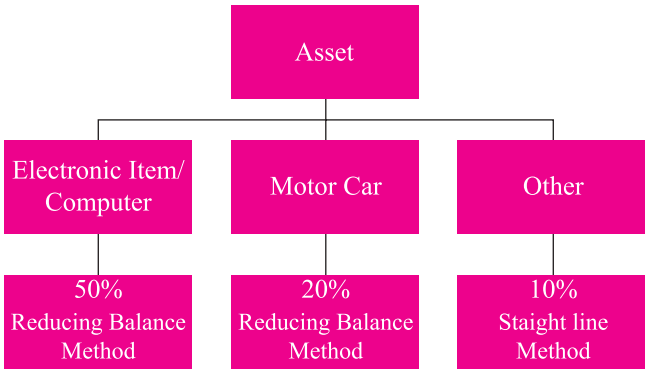
b) Use of computer, laptop, etc. (as discussed earlier) is exempted perquisite.

c) Here movable assets do not include car.

2.1.32 Valuation of the perquisite in respect of movable assets sold by an employer [Rule 3(7)(viii)]

If the sale price is less than the written down value (calculated as per method and rate mentioned below) then the difference would be treated as perquisite and taxable in the hands of all employees.

Rates and methods of depreciation for different types of assets are as follow:



Types of asset	Rate of depreciation	Method of depreciation
Electronic items[#]/Computer	50%	Reducing balance
Motor car	20%	Reducing balance
Any other	10%	Straight line

[#] Electronic items here means data storage and handling devices like computer, digital diaries and printers. They do not include household appliances like washing machines, microwave ovens, mixers, etc.

Mathematically, taxable perquisite is as under:

Original cost to the employer	*****
Less: Accumulated depreciation for each completed year during which such asset is used by the employer	****
Written down value	****
Less: Amount charged from employee	***
Value of Perquisite (if positive)	*****

Taxpoint: No depreciation shall be charged for a part of the year.

Illustration 29 :

X Ltd. has sold the following assets to its employee, Mr. Amit. Compute taxable perquisite.

Assets	Date of purchase	Purchase value	Date of sale	Sale price
Computer	1/7/2021	2,00,000	18/8/2024	20,000
Car	1/4/2022	3,00,000	1/3/2025	50,000
Television	1/4/2019	50,000	1/4/2024	2,000
Sofa set	1/4/2009	80,000	1/7/2024	5,000

Solution :

Computation of taxable value of perquisite in hands of Mr. Amit for the A.Y.2025-26 :

Assets	Written down value	Sale value	Taxable perquisite
Computer	25,000[1]	20,000	5,000
Car	1,92,000[2]	50,000	1,42,000
Television	25,000[3]	2,000	23,000
Sofa set	Nil[4]	5,000	Nil
Taxable Perquisite			**1,70,000**

1. Calculation of WDV of Computer :

Particulars	Amount
Purchase value	2,00,000
Less: Depreciation from 1/7/2021 to 30/6/2022 @ 50%	1,00,000
WDV as on 1/7/2022	1,00,000
Less: Depreciation from 1/7/2022 to 30/6/2023 @ 50%	50,000
WDV as on 1/7/2023	50,000
Less: Depreciation from 1/7/2023 to 30/6/2024 @ 50%	25,000
WDV as on 1/7/2024	25,000
Less: Depreciation from 1/7/2024 to 18/8/2024 (as not being a complete year)	Nil
WDV as on the date of sale	25,000

2. Calculation of WDV of Car :

Particulars	Amount
Purchase value	3,00,000
Less: Depreciation from 1/4/2022 to 31/3/2023 @ 20%	60,000
WDV as on 1/4/2023	2,40,000
Less: Depreciation from 1/4/2023 to 31/3/2024 @ 20%	48,000
WDV as on 1/4/2024	1,92,000
Less: Depreciation from 1/4/2024 to 1/3/2025 (as not being a complete year)	Nil
WDV as on date of sale	1,92,000

3. Calculation of WDV of television :

Particulars	Amount
Purchase value	50,000
Less: Depreciation from 1/4/2019 to 31/3/2024 @ 10%	25,000
WDV as on the date of sale	25,000

4. Depreciation on sofa set is charged @ 10% as per straight-line method. Since the asset is used for more than 10 years, hence its WDV will be Nil.

2.1.33 Medical Facility [Proviso to Sec. 17(2)]

Medical facility is taxable as under**:**

a) Medical facility provided in India

	Case	Treatment
1	Medical facility provided to the employee or his family in a hospital, clinic, dispensary or nursing home maintained by the employer.	Fully Exempted
2	Reimbursement of medical bill of the employee or his family of - ➢ Any hospital maintained by Government or Local Authority; or ➢ Any hospital approved by the Government for its employee.	Fully exempted
3	Payment/reimbursement by employer of medical expenses incurred by an employee on himself/his family in a hospital, which is approved by the CCIT, for the prescribed diseases (like Cancer, TB, AIDS, etc.) Employee must attach with the return of income - ➢ a certificate from the approved hospital specifying the prescribed disease or ailment for which hospitalisation was required; and ➢ a receipt for the amount paid to the hospital.	Fully exempted
4	Approved [by CG or Insurance Regulatory Development Authority (IRDA)] Group medical insurance (i.e. Mediclaim) obtained by the employer for his employees.	Fully Exempted
5	Any reimbursement by employer of any insurance premium paid by the employee, for insurance of his health or the health of any member of his family under any scheme approved by the Central Government or the IRDA	Fully Exempted
6.	Reimbursement of medical bill of the employee or his family in respect of any illness relating to Covid 19 provided the employee submits the following documents to the employer, – a. the COVID-19 positive report of the employee or family member, or medical report if clinically determined to be COVID-19 positive through investigations, in a hospital or an in-patient facility by a treating physician of a person so admitted; b. all necessary documents of medical diagnosis or treatment of the employee or his family member for COVID-19 or illness related to COVID-19 suffered within 6 months from the date of being determined as COVID-19 positive; and c. a certification in respect of all expenditure incurred on the treatment of COVID-19 or illness related to COVID-19 of the employee or of any member of his family.	Fully Exempted

b) Medical facility provided outside India

Case	Treatment
Medical Expenditure	Exempted to the extent permitted by RBI.
Cost of stay abroad (Patient + One Attendant/Care taker)	Exempted to the extent permitted by RBI.

Cost of travel (Patient + One Attendant/Care taker)	Exempted only when **gross total Income** of the employee excluding this (cost of travel) perquisite, does not exceed ₹ 2,00,000 p.a. **Taxpoint:** In calculation of gross total income ceiling, taxable value of medical treatment perquisite and cost of stay perquisite shall be included.

Notes :

a. Hospital includes a dispensary, a clinic or a nursing home.

b. For this purpose 'family' means:
   - Spouse, children of the individual; and
   - Parents, brothers, sisters of the individual, wholly or mainly dependent on him.

c. Fixed Medical Allowance is fully taxable.

d. The expenditure on medical treatment by the employer may be by way of payment or reimbursement.

e. The perquisite is taxable in the hands of specified employee, however if the bills are issued in the name of employee and reimbursed by the employer, then it shall be taxable in the hands of all employees.

Illustration 30.

Find taxable amount of perquisite in the following cases:

1. Y has been allowed a fixed medical allowance of ₹ 2,000 p.m.
2. Apart from reimbursement of petty medical bills of ₹ 25,000, Z and his family get medical treatment in a dispensary maintained by the employer. Value of facility provided to Z and his family members during the previous year are as follows:

Particulars	Amount
a. Z	2,000
b. Mrs. Z	5,000
c. Major son of Z (independent)	8,000
d. Minor daughter of Z	25,000
e. Dependent younger brother of Z	8,000
f. Independent younger sister of Z	10,000
g. Dependent sister-in-law	5,000

Solution :

1. Medical allowance is fully taxable, hence the taxable amount is ₹ 24,000
2. Taxable perquisite in hands of Mr. Z is as under:

Particulars	Amount
a. Z	Nil
b. Mrs. Z	Nil
c. Major son of Z (independent)	Nil
d. Minor daughter of Z	Nil
e. Dependent younger brother of Z	Nil
f. Independent younger sister of Z	10,000
g. Dependent sister-in-law	5,000
h. Reimbursement of medical bill	25,000
Taxable Perquisite	**40,000**

Illustration 31.

Himalaya Ltd. reimburses the following expenditure on medical treatment of the son of an employee Karan. The treatment was done at UK:

1. Travelling expenses ₹ 1,15,000.
2. Stay expenses at the UK permitted by RBI ₹ 45,000 (Actual expenses ₹ 70,000).
3. Medical expenses permitted by RBI ₹ 50,000 (Actual expenses ₹ 70,000).

Compute the taxable perquisites for the assessment year 2025-26 in the hands of Karan, if his annual income from salary before considering medical facility perquisite was (i) ₹ 1,50,000; (ii) ₹ 2,00,000.

Solution :

Taxable value of perquisite in hands of Mr. Karan is as under:

Particulars	Workings	Details	Case 1	Case 2
Medical expenditure	Amount paid in excess of RBI permission and actual expenditure shall not qualify for exemption.	₹70,000 – ₹ 50,000	₹ 20,000	₹ 20,000
Stay cost	Stay cost in excess of RBI permission and actual expenditure shall not qualify for exemption.	₹70,000 – ₹ 45,000	₹ 25,000	₹ 25,000
Travel cost	Travel cost (Note)		Nil	₹ 1,15,000
Total taxable perquisite			**₹45,000**	**₹ 1,60,000**

Note: Travel cost shall be eligible for exemption only if gross total income of the assessee does not exceed ₹ 2,00,000, which can be evaluated as under:

Particulars	Case 1	Case 2
Salaries		
Annual income from salary other than foreign medical perquisites	1,50,000	2,00,000
Add: Medical facility		
Medical expenditure perquisite	20,000	20,000
Stay cost perquisite	25,000	25,000
Gross Total Income for the purpose of foreign travel medical facility	1,95,000	2,45,000

2.1.34 Leave Travel Concession [Sec. 10(5)] [Available only under old regime]

If an employee goes on travel (on leave) with his family and traveling cost is reimbursed by the employer, then such reimbursement is fully exempted.

Notes :

1) Journey may be performed during service or after retirement.

2) Employer may be present or former.

3) Journey must be performed to any place within India.

4) In case, journey was performed to various places together, then exemption is limited to the extent of cost of journey from the place of origin to the farthest point reached, by the shortest route. E.g., if you want to go Goa from Kolkata, you cannot go Manali first and then Goa.

5) Employee may or may not be a citizen of India.

6) Stay cost is not exempt.

Exemption: Exemption is limited to the amount actually incurred on the travel to the extent as under:

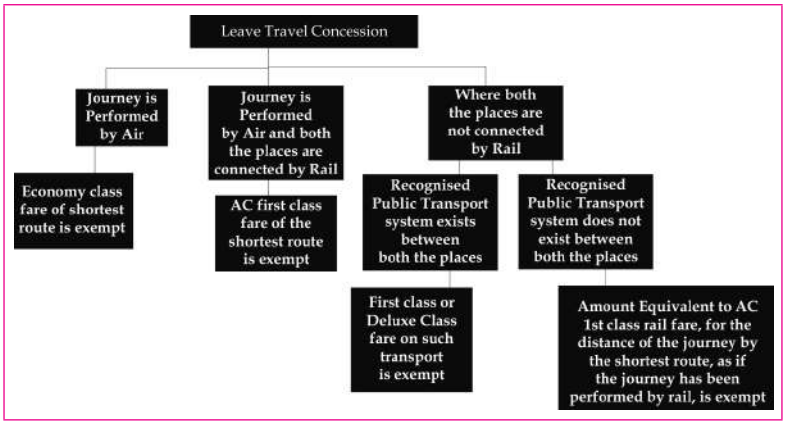
Journey performed	Maximum exempted fare
By Air	Air economic class fare of shortest route
By Rail	Air conditioned 1st class fare of shortest route
When the place of origin and destination is connected by rail but journey is performed by any other mode of transport	Same as above
When the place of origin and destination is not connected by rail:	
Where a recognised public transport system exists	First class or deluxe class fare, as the case may be, on such transport.
Where no recognised public transport system exists	Amount equivalent to air-conditioned 1st class rail fare, for the distance of the journey by the shortest route, as if journey had been performed by rail.

Notes :

a) No exemption can be claimed without performing journey and incurring expenses thereon.

b) **Block-period**: Exemption is available in respect of 2 journeys performed in a block of 4 **calendar** years commencing from 1st January 1986.

Academically, for the A.Y. 2025-26, the relevant block is Jan 2022 to Dec. 2025.



c) **Carry-forward facility**: Where concession is not availed during the preceding block (whether on one occasion or both), then any one journey performed in the first calendar year of the immediately succeeding block will be additionally exempted (i.e. not counted in two journey limit)

d) **Family**: Family here means -

- Spouse and children of the individual; and
- Parents, brothers and sisters of the individual, who are wholly or mainly dependent on him.

e) **Restriction on number of children**: Exemption can be claimed for any number of children born on or before 30/9/1998. In addition, exemption is available only for 2 surviving children born on or after 1/10/1998.

However, children born out of multiple birth, after the first child, will be treated as one child only.

f) **Fixed Leave travel allowance**: Fixed amount paid to employees by way of leave travel allowance shall not be exempt.

g) Value of Leave travel concession provided to the High Court judge or the Supreme Court Judge and members of his family are completely exempt without any conditions under both regime.

h) The exemption u/s 10(5) is for travel cost and does not include stay cost or other cost.

2.1.35 Other Perquisites

The value of any other facilities, benefits, amenities, services, rights or privileges (which is not discussed earlier) provided by the employer shall be determined on the basis of cost to the employer under an arms length transaction, as reduced by the employee's contribution, if any.

Taxability of perquisites at a glance

Rule / Section	Perquisites	Whether it is taxable in the hands of	
		Specified employee	Non-specified employee
Rule 3(1)	Rent-free residential accommodation	Yes	
	- Unfurnished		
	- Furnished		
	- Concessional		
	- Hotel accommodation		
Rule 3(2)	Motor car		
	- If car is owned by employer	Yes	No
	- If car is owned by employee	Yes	Yes
Rule 3(3)	Free domestic servant		
	- Appointed by employer	Yes	No
	- Appointed by employee	Yes	Yes
Rule 3(4)	Gas, electricity or water facility		
	- If facility is in the name of employer	Yes	No
	- If facility is in the name of employee	Yes	Yes
Rule 3(5)	Free education		
	- In case of reimbursement	Yes	Yes
	- In any other case	Yes	No
Rule 3(6)	Free transport		
	- If employer is engaged in transport business	Yes	No
	- In any other case	Yes	Yes

Rule / Section	Perquisites	Whether it is taxable in the hands of	
		Specified employee	Non-specified employee
Rule 3(7)	Other fringe benefits or amenities	Yes	
- (i)	- Interest free loan or concessional rate of interest		
- (ii)	-Traveling / Touring / Holiday Home expenditure		
- (iii)	- Meals / Refreshments		
- (iv)	- Gift, voucher or token		
- (v)	- Credit card		
- (vi)	- Club membership		
- (vii)	- Use of movable assets		
- (viii)	- Movable assets sold by employer to its employee		
Rule 3(8) & (9)	Fair market value of the specified security or sweat equity shares allotted to the employee	Yes	
Sec. 10(5)	Leave travel concession	No	No
Sec.10(10CC)	Income tax paid by employer on -		
	- Non-monetary perquisite	No	No
	- In any other case	Yes	Yes
Proviso to Sec. 17(2)	Medical facility		
	- In case of reimbursement	Yes	Yes
	- In any other case	Yes	No
Sec. 17(2)(iv)	Any obligation of employee paid by employer (unless otherwise specifically exempted)	Yes	Yes
Sec.17(2)(vi)	Allotment/transfer of specified securities or sweat equity shares	Yes	Yes
Sec.17(2)(vii)	Contribution to superannuation fund	Yes	Yes

2.1.36 Provident Fund

Provident fund scheme is a saving device in the hands of salaried class. It is a retirement benefit scheme. Under this scheme, a stipulated sum is regularly deducted from the salary of the employee as his contribution towards the fund. The employer also, generally, contributes a similar amount out of his pocket to the fund. The employer's and employee's contribution are together invested in such fund. Interest earned thereon is also credited to the fund of the employee. Thus, provident fund scheme is a great media to initiate and mobilise small savings to a large scale. On termination of service or retirement, employee receives the whole accumulated fund, subject to certain conditions. Hence, provident fund has four components i.e. Employer's contribution; Employee's contribution; Interest on employer's contribution; and Interest on employee's contribution

Provident fund is of four types, viz:

a) **Statutory Provident Fund (SPF)**: Statutory provident fund is set up under the provisions of the Provident Funds Act, 1925. Government and Semi-Government organisations, local authorities, railways, Universities and recognised educational institutions maintain Statutory Provident Fund.

b) **Recognised Provident Fund (RPF)**: The provident fund scheme is framed under the Employee's Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred as PF Act). Further, if an employer creates his own scheme for provident fund then he can do so subject to recognition from the Commissioner of Income tax. It is governed by Part A of Schedule IV to the Income-tax Act, 1961. This schedule contains various rules regarding the following:

(i) Recognition of the fund

(ii) Employee's and employer's contribution to the fund

(iii) Treatment of accumulated balance etc.

c) **Unrecognised Provident Fund (URPF)**: If a provident fund scheme is created by an employer, which is not recognised by the Commissioner of Income tax, then such fund is known as an Unrecognised provident fund.

d) **Public Provident Fund (PPF)**: The Central Government has established a fund for the benefit of public to mobilise personal savings. Any member of the public (on his own behalf or on behalf of a minor of whom he is a gurdian), whether salaried or self-employed, can contribute to the fund by opening a provident fund account at any branch of the State Bank of India or its subsidiaries or other specified bank or post offices. Even a salaried employee can simultaneously become a member of employee's provident fund (whether statutory, recognised or unrecognized) and public provident fund. For getting a deduction u/s 80C (available only under old regime), a member is required to contribute to the PPF a minimum of ₹ 500 in a year. The maximum amount that may qualify for deduction on this account is ₹ 1,50,000 as per PPF rules. Interest is credited every year but payable only at the time of maturity. Interest earned on this fund is exempt from tax u/s 10(11).

Tax Treatment

Particulars	SPF	RPF	URPF	PPF
Employer's Contribution	Not taxable	Exempted up to 12% of Salary (here, salary means Basic + DA[#] + Commission as a fixed percentage on turnover	Not taxable	Not Applicable
Employee's Contribution	Eligible for deduction u/s 80C [only under the old regime]	Eligible for deduction u/s 80C [only under old regime]	Not eligible for deduction u/s 80C	Eligible for deduction u/s 80C [only under the old regime]
Interest on employer's contribution	Not Taxable u/s 10(11)	Exempted @ 9.5% p.a. u/s 10(12), any excess interest will be taxable as salary.	Not taxable	Not Applicable
Interest on employee's contribution	Not Taxable u/s 10(11) (Subject to Note 1)	Exempted @ 9.5% p.a. u/s 10(12), any excess interest will be taxable as salary. (Subject to Note 1)	Not Taxable	Not taxable
Lump Sum withdrawal	Exempt u/s 10(11)	Exempt u/s 10(12) (Subject to Note 3)	Note 2	Exempt u/s 10(11)

[#] D.A., forming part of retirement benefit, only to be considered.

Notes :

1. As per sec. 10(11)/(12), w.e.f. 01-04-2021, interest accrued during the previous year in the account of an employee maintained by the fund shall not be exempted to the extent it relates to the following amount:

Case	Interest not exempted
Where employer is giving contribution	Interest on employee's contribution (made on or after 01-04-2021) in excess of ₹ 2,50,000 per year
Where employer is not giving contribution	Interest on employee's contribution (made on or after 01-04-2021) in excess of ₹ 5,00,000 per year

Calculation of taxable interest relating to contribution in a provident fund or RPF, exceeding specified limit [Rule 9D]

For this purpose, separate accounts within the provident fund account shall be maintained during the P.Y. 2021-22 and all subsequent previous years for taxable contribution and non-taxable contribution made by a person and the interest accrued during the previous year in the taxable contribution account shall not be exempt.

Taxpoint :

- Non-taxable contribution account shall be the aggregate of the following:
  - i. closing balance in the account as on 31-03-2021;
  - ii. any contribution made by the person in the account during the P.Y. 2021-22 and subsequent previous years, which is not included in the taxable contribution account; and
  - iii. interest accrued on aforesaid balances

as reduced by the withdrawal, if any, from such account;

- Taxable contribution account shall be the aggregate of the following:
  - i. contribution made by the person in a previous year in the account during the previous year 2021-22 and subsequent previous years, which is in excess of the threshold limit (₹ 2,50,000 / ₹ 5,00,000); and
  - ii. interest accrued on that,

as reduced by the withdrawal, if any, from such account

2. Lump sum amount withdrawn from URPF

Particulars	Tax treatment
Accumulated employer's contribution	Fully taxable under the head Salaries
Accumulated employee's contribution	Not taxable
Accumulated interest on employer's contribution	Fully taxable under the head Salaries
Accumulated interest on employee's contribution	Fully taxable as income from other sources

3. Lump sum amount withdrawn from RPF

a) Amount withdrawn from RPF is not taxable, if

i. Employee retires or terminates job after 5 years of continuous service; or

ii. Employee has resigned before completion of 5 years and joins another organization (who also maintains recognized provident fund and his fund balance with current employer is transferred to the new employer).

iii. The entire balance standing to the credit of the employee is transferred to his account under New Pension Scheme as referred u/s 80CCD

iv. Employee retires or terminates job before 5 years of continuous service -

- by reason of ill health; or
- by reason of contraction or discontinuance of employer's business; or
- any other reason beyond the control of employee.

b) In any other case, amount withdrawn shall be taxable as in the case of URPF. [Refer Note 2].

Illustration 32 :

Mr. X has the following salary structure –

Basic pay	₹ 10,000 p.m.	Commission (fixed)	₹ 2,000
DA	₹ 1,000 p.m.	Entertainment allowance	₹ 2,000 p.m.

X contributes ₹ 20,000 to provident fund. Employer also makes a matching contribution. Compute gross salary of if –

a) Mr. X is a Government employee and such provident fund is a statutory provident fund.

b) Mr. X is an employee of Y Ltd. and such fund is a recognized fund.

c) Mr. X is an employee of Z Ltd. and such fund is an unrecognized fund.

Solution :

Computation of taxable salary of Mr. X for the A.Y. 2025-26

Particulars	Case A		Case B		Case C	
	Details	Amount	Details	Amount	Details	Amount
Basic		1,20,000		1,20,000		1,20,000
Commission		2,000		2,000		2,000
Allowances						
Dearness allowance	12,000		12,000		12,000	
Entertainment allowance	24,000	36,000	24,000	36,000	24,000	36,000
Employer's contribution to PF	20,000		20,000		20,000	
Less: Exempted	20,000[1]	Nil	15,840[2]	4,160	20,000[1]	Nil
Gross Salary		**1,58,000**		**1,62,160**		**1,58,000**

Notes :

1. Contribution to statutory and unrecognised provident fund is fully exempted.
2. Contribution to recognised provident fund is exempt upto 12% of salary. Salary for such purpose –

Particulars	Amount
Basic	1,20,000
Commission (as fixed)	Nil
Dearness allowance	12,000
Total	**1,32,000**

Illustration 33:

Sri Ramprasad retired on 1/7/2024. On retirement, he received from his provident fund ₹ 3,00,000 as lump sum consisting of:

Employer's contribution	₹ 1,25,000
Employee's contribution	₹ 1,25,000

Mention the treatment of amount so received if –

1) The Provident Fund is Unrecognised Provident Fund
2) The Provident Fund is Recognised Provident Fund and

a) Employee retired after 23 years 7 months service.

b) Employee retired after 4 years 7 months service due to his blindness.

c) Employee retired after 3 years 7 months service and joined another company having RPF and the old RPF balance has been transferred to new employer's RPF.

d) Employee retired after 3 years 10 months service and started his own business.

Solution :

1) Lump sum received from URPF is taxable as under:

Employer's contribution	₹ 1,25,000 taxable as salary
Employee's contribution	₹ 1,25,000 not taxable
Interest on employer's contribution	₹ 25,000 taxable as salary
Interest on employee's contribution	₹ 25,000 taxable as income from other sources

Note: Total amount received is ₹ 3,00,000. Employer's and employee's contribution together is ₹ 2,50,000. So, the balance ₹ 50,000 is interest. As employer and employee contributed equal amount hence the interest is also divided equally.

2. (a) Since employee retires after five years of service hence lump sum amount received from RPF is fully exempted – Sec. 10(12)

(b) Since employee retires due to his incapability to work, hence lump sum received from RPF is fully exempted - Sec. 10(12)

(c) Though employee left the job before five years of service but joined another organisation maintaining RPF and did not withdrew the amount but transferred the balance in RPF account with new organisation, hence the same will be treated as continuation of service and lump sum from RPF is fully exempted - Sec. 10(12)

(d) Since employee left the job before five years of service, hence amount received shall be taxable as in case of URPF [discussed above in (1)].

Points to be remembered

1. Employer's Contribution to the New pension System (as specified u/s 80CCD) is fully taxable under the head 'Salaries'. However, deduction is available u/s 80CCD.

   Deduction u/s 80CCD(2) in respect of employer's contribution would be available to an assessee irrespective of the regime under which he pays tax. However, deduction u/s 80CCD(1)/(1B) in respect of employee's contribution would be available to an assessee only if he opts for old regime

2. Central Government's contribution to Agniveer Corpus Fund account would form part of salary.

   Deduction u/s 80CCH(2) in respect of Central Government's contribution would be available to an assessee irrespective of the regime under which he pays tax. However, deduction u/s 80CCH(1) in respect of employee's contribution would be available to an assessee only if assessee opts for old regime

3. The amount or the aggregate of amounts of any contribution made to the account of the assessee by the employer:

   (a) in a Recognised Provident Fund (RPF);

   (b) in the scheme referred to in sec. 80CCD(1) [i.e., NPS]; and

   (c) in an approved superannuation fund,

   - in excess of ₹ 7,50,000 in a previous year shall be taxable

   Taxpoint: There is combined upper limit of ₹ 7,50,000 in respect of employer's contribution in a year to NPS, superannuation fund and recognised provident fund and any excess contribution is taxable.

4. The annual accretion (like interest, dividend, etc.) during the previous year to the balance at the credit of the aforesaid fund or scheme to the extent it relates to the contribution referred above shall be taxable

Payment from Approved Superannuation Fund [Sec. 10(13)]

Any payment from an approved superannuation fund made -

- on the death of a beneficiary; or
- to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement; or
- by way of refund of contributions on the death of a beneficiary; or
- by way of refund of contributions to an employee on his leaving the service (otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement) to the extent to which such payment does not exceed the contributions made prior to 1-4-1962 and any interest thereon.
- by way of transfer to the account of the employee under a pension scheme referred to in sec. 80CCD and notified by the Central Government

- is exempt

Transferred Balance (Conversion of URPF to RPF) [Rule 11(4) of Part A of the Fourth schedule]

An organisation maintaining URPF, may later get recognition from Commissioner of Income tax. In such case, the accumulated balance under URPF shall be converted to RPF. Tax treatment of such transferred balance will be as under:

Calculation is made of all sums comprised in the transferred balance that would have been liable to income tax if the recognition of the fund had been in force from the date of institution of the fund. However, in case of serious accounting difficulty, the Commissioner may make a summary calculation of such aggregate.

Such aggregate sum is deemed to be the income received by the employee in the previous year in which the recognition of the fund takes effect.

Note: On taxability of such conversion, assessee cannot claim relief u/s 89(1).

Illustration 34 :

Mr. Sharma has been appointed as an accountant of ABC Ltd as on 1/4/2022, since then he is working with the same company. The salary structure and increment details are as under:

Basic ₹ 5000 - 1000 - 8000 -1500 - 14000

D.A. ₹ 3000 – 500 – 5000 – 1000 - 10000

He and his employer contribute to URPF 14% of basic and DA.

Every year 9% interest is credited to such fund. As on 1/4/2024, the fund gets recognition. Hence, the accumulated balance in URPF was transferred to RPF. Comment on tax treatment of such transferred balance.

Solution :

Statement showing treatment of transferred balance:

Year	Employer's contribution to fund	Exempted amount considering the fund as RPF	Difference
2022-2023	14% of (60,000 + 36,000) i.e. ₹ 13,440	12% of ₹ 96,000 i.e. ₹ 11,520	₹ 1,920
2023-2024	14% of (72,000 + 42,000) i.e. ₹ 15,960	12% of ₹ 1,14,000 i.e. ₹ 13,680	₹ 2,280
Total			**₹ 4,200**

Current year (i.e. 2024-25) contribution shall be treated as RPF and the taxable amount will be ₹ 2,640 [being (14 -12)% of (₹ 84,000 + ₹ 48,000) i.e. 2% of ₹ 1,32,000].

Since the interest rate is less than the exempted limit (i.e. 9%), hence interest portion is not taxable.

Total taxable salary on account of provident fund for the A.Y. 2025-26 is ₹ 6,840 (being ₹ 4,200 + ₹ 2,640).

Deduction from Gross Salary [Sec. 16]

2.1.37 Standard Deduction [Sec. 16(ia)]

Lower of the following shall be allowed as standard deduction to all employee:

a. ₹ 50,000

b. Amount of gross salary

From gross salary, Standard Deduction is available to the following extent:

If assessee has opted for the old (or regular) tax regime	If assessee is under default tax regime
Lower of the following shall be allowed as standard deduction to all employee:	Lower of the following shall be allowed as standard deduction to all employee:
a. ₹ 50,000	a. ₹ 75,000
b. Amount of gross salary	b. Amount of gross salary

2.1.38 Entertainment Allowance [Sec. 16 (ii)] [Available only in old regime]

Entertainment allowance is initially included in taxable allowances as fully taxable. Thereafter, a deduction is allowed under this section from gross taxable salary. However, deduction u/s 16(ii) shall be available to the Government employee only.

Deduction for Entertainment allowance being minimum of the following:

a. Actual Entertainment Allowance

b. ₹ 5,000/-

c. 20% of **Basic** Salary.

Taxpoint:

- Deduction allowed shall be irrespective of actual expenditure incurred, whether for office or personal purpose.
- No deduction is available under this section to a Non-government employee.

Illustration 35 :

Compute taxable Entertainment allowance & net salary of Sri Hanuman Prasad from the following data:

Basic salary ₹ 8,000 p.m. D.A. ₹ 2,000 p.m. Taxable perquisite ₹ 35,000, Entertainment Allowance ₹ 4,000 p.m. Out of such allowance ₹ 20,000 is expended and balance amount is saved. Assuming he is:

a. Government employee, opts for old regime b. Non-Government employee, opts for old regime

How shall your answer differ if the assessee has not opted for the old tax regime

Solution :

Under old tax regime

Computation of taxable income of Sri Hanuman Prasad for the A.Y. 2025-26

Particulars	Government Employee		Non-Government Employee	
	Details	Amount	Details	Amount
Basic Salary		96,000		96,000
Dearness Allowance		24,000		24,000
Entertainment Allowance		48,000		48,000
Taxable perquisite		35,000		35,000
Gross Taxable Salary		2,03,000		2,03,000
Less: Deduction u/s				
16(ia) Standard Deduction	50,000		50,000	
16(ii) Entertainment allowance[#]	5,000	55,000	Nil	50,000
Net Taxable Salary		**1,48,000**		**1,53,000**

[#] Entertainment Allowance is exempted to the extent of minimum of the following:

a. Actual Entertainment Allowance	₹ 48,000
b. 20% of Basic Salary	₹ 19,200
c. Statutory amount	₹ 5,000

Under the default tax regime

Computation of taxable income of Sri Hanuman Prasad for the A.Y.2025-26

Particulars	Government Employee		Non-Government Employee	
	Details	Amount	Details	Amount
Basic Salary		96,000		96,000
Dearness Allowance		24,000		24,000
Entertainment Allowance		48,000		48,000
Taxable perquisite		35,000		35,000
Gross Taxable Salary		**2,03,000**		**2,03,000**
Less: Deduction u/s				
16(ia) Standard Deduction	75,000		75,000	
16(ii) Entertainment allowance	Nil	75,000	Nil	75,000
Net Taxable Salary		**1,28,000**		**1,28,000**

2.1.39 Tax on employment or professional tax [Sec. 16(iii)] [Available only in old regime]

Tax on employment, profession, trade, etc. levied by a State under Article 276 of the Constitution will be allowed as deduction on cash basis, whether paid by employee or by employer (on behalf of employee) from gross taxable salary.

Note: If employer (on behalf of employee) pays Professional tax then:

a. Firstly, it is to be included as taxable perquisite; and

b. Further, it is allowed as deduction u/s 16(iii).

Illustration 36 :

Mr. Rohit a non-Government employee has the following salary details:

a.	Basic Salary	₹ 5,000 p.m.	b.	D.A.	₹ 2,000 p.m.
c.	Entertainment Allowance	₹ 300 p.m.	d.	Professional tax paid by employee	₹ 600
e.	LIC Premium paid by employer	₹ 3,600	f.	Income tax paid by employee	₹ 2,000
g.	Professional tax paid by employer on behalf of employee				₹ 1,600

Find his taxable salary, if he opt for the old regime.

Solution :

Computation of taxable salary Mr. Rohit for the A.Y.2025-26 :

Particulars	Details	Amount
Basic Salary		60,000
Allowances		
Dearness Allowance	24,000	

Entertainment Allowance	3,600	27,600
Taxable perquisite		
Professional tax paid by employer	1,600	
LIC Premium paid by employer	3,600	5,200
Gross Taxable Salary		92,800
Less: Deduction u/s		
16(ia) Standard Deduction	50,000	
16(ii) Entertainment allowance (Assessee is a Non-government employee)	Nil	
16(iii) Professional Tax (₹ 1,600 + ₹ 600)	2,200	52,200
Taxable Salary		**40,600**

Notes :

A. **Conversion of Net Salary into Gross Salary**

Sometimes net basic salary is given after deduction of TDS, Loan repayment, PF deduction etc that needs to be grossed up as under:

Net Salary = Gross Salary – Employee's contribution to provident fund – TDS – loan repayment by employee – other deduction from salary (if any).

Examples: Find basic salary of Mr. Singh having the following salary structure:

a. Net Basic Salary received ₹ 1,00,000
b. Deduction from salary 10% of basic salary as contribution to RPF
c. TDS ₹ 9,000
d. Repayment of earlier loan ₹ 35,000

In this case, Basic Salary shall be computed as under:

Net basic salary = Basic salary – TDS – Loan repayment – Contribution to RPF

Let the basic salary be X

1,00,000 = X – 9,000 – 35,000 – 0.1X

1,44,000 = 0.9X

X = 1,60,000. Hence, basic salary for the year is ₹ 1,60,000.

B. Meaning of Salary for different purposes

For Retirement benefit	
Gratuity (covered by the Payment of Gratuity Act)	(Basic + DA) last drawn
Gratuity (not covered by the Payment of Gratuity Act)	(Basic +DA[1] + Commission[2]) being average of last 10 months preceding the month of retirement.
Leave encashment	(Basic +DA[1] + Commission[2]) being average of last 10 months immediately from the retirement.
Voluntarily retirement	(Basic +DA[1] + Commission[2]) last drawn

For regular benefit	
Rent Free Accommodation	(Basic + DA[1] + Commission[2] + Bonus + Fees + Any other taxable allowance + Any other monetary benefits excluding perquisite)
Specified employee	(Basic + DA + Commission[2] + Bonus + Fees + Any other taxable allowance + Any other monetary benefits – Deduction u/s 16)
Entertainment Allowance	Basic only
Any other case	**(Basic +DA[1] + Commission[2])**

[1.] DA only if it forms a part of retirement benefit. [2.] Commission as a fixed percentage on turnover.

Illustration 37 :

Mr. Bharat of Siliguri is offered an employment by Vimal & Co. Ltd., Kolkata on a basic salary of ₹ 5,500 p.m. Other allowances are dearness allowance (not forming part of salary for retirement benefits) ₹ 4,000 p.m., medical allowance ₹ 1,000 p.m. and bonus being 1 month's basic salary. The company gives an option to him either to take a rent-free accommodation in Kolkata of the fair rental value of ₹ 1000 p.m. or to accept a cash house rent allowance of ₹ 1,000 p.m. He decides to accept house rent allowance and takes a house in Kolkata at a monthly rent of ₹ 1,000. He has opted for old regime

Do you think he has made a wise choice from tax advantage view? State reasons.

Solution :

Computation of Gross Taxable Salary of Mr. Bharat for the A.Y.2025-26

Particulars	Amount	When he takes HRA		When he takes RFA	
		Amount	Amount	Amount	Amount
Basic			66,000		66,000
Bonus			5,500		5,500
Dearness allowance			48,000		48,000
Medical allowance			12,000		12,000
HRA		12,000			
Less: Minimum of the following					
a) Actual amount received	12,000				
b) 50% of salary	33,000				
c) Rent paid over 10% of salary	5,400	5,400	6,600		Nil
Rent free accommodation (being 10% of salary)			Nil		8,350
Gross Taxable Salary			1,38,100		1,39,850

Note: Salary for the purpose:

Particulars	Accommodation	HRA
Basic salary	66,000	66,000
Medical Allowance	12,000	--
Bonus	5,500	--
Total	**83,500**	**66,000**

Comment :

The above computation indicates that if the assessee chooses rent-free accommodation, then his gross taxable salary increases by ₹ 1,750 (being ₹ 1,39,850 – ₹ 1,38,100), which may increase his tax bill. Hence, assessee has taken right decision.

Illustration 38 :

Following are the particulars of income of Mrs. S. Choudhury for the Previous Year 2024-25:

(a) Basic salary @ ₹ 15,000 per month.

(b) Dearness Allowance @ 60% of salary.

(c) Medical Allowance @ 600 per month (Actual expenditure ₹ 5,000).

(d) House Rent Allowance received @ ₹ 6,000 per month and she pays rent of ₹ 7,200 per month for her house in Durgapur.

(e) City compensatory allowance ₹ 1,500 per month.

(f) She owns a car which she is using for official purposes. Her employer reimburses her @ ₹ 3,000 per month.

(g) She is contributing ₹ 2,100 per month towards a recognized provident fund. The employer is also contributing the same amount. Interest credited to R.P.F @ 11% ₹ 2,200.

(h) She paid ₹ 1,800 as professional tax during the year.

Compute income from salary of Mrs. Choudhury for the assessment year 2025-26, if he opts for old regime.

Solution :

Computation of Taxable Salary of Mrs. S Choudhury for the A.Y. 2025-26

Particulars	Working	Details	Amount	Amount
Salaries				
Basic				1,80,000
Allowances				
Dearness allowance	60% of basic		1,08,000	
Medical Allowance			7,200	
City compensatory allowance			18,000	
House rent allowance		72,000		
Less: Exempted u/s 10(13A) Minimum of the following:				
a. Actual HRA	72,000			
b. 40% of (Basic + DA)	1,15,200			
c. Rent paid – 10% (Basic + DA)	57,600	57,600	14,400	1,47,600
Perquisites u/s 17(2):				

Particulars	Working	Details	Amount	Amount
Car facility			-	-
Employer's contribution to RPF		25,200		
Less: Exempted u/s 10(12)	12% of (Basic + DA)	25,200	-	
Interest on RPF		2,200		
Less: Exempted	Upto 9%	1,800	400	400
Gross taxable salary				3,27,600
Less: Deduction u/s				
16(ia) Standard Deduction			50,000	
16(iii) Professional tax			1,800	51,800
Taxable Salary				**2,75,800**

Income from House Property

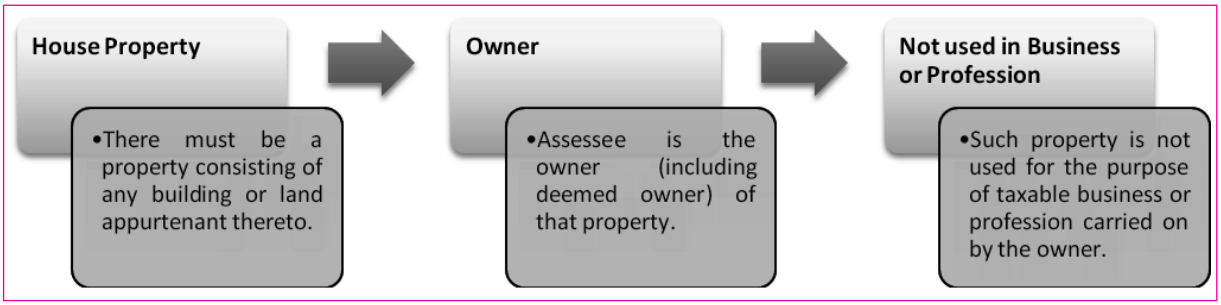
2.2

As per sec. 22, the annual value of property consisting of any building or land appurtenant thereto of which assessee is the owner, other than such portion of such property as he may occupy for the purposes of any business or profession carried on by him shall be chargeable to income tax under the head "Income from house property."

It is an exceptional feature of this head that rather than actual income from house property, earning capacity of house property is taxable. As stated u/s 22 that "annual value" of the property is taxable rather than actual income of the property. (Annual value being discussed in later part of this chapter)

2.2.1 Chargeability [Sec. 22]

Annual value of the property shall be taxable under the head "Income from house property" subject to the following :



Condition 1 : Building or land appurtenant thereto

The term 'house property' is not defined in the Income tax Act. However, various judicial interpretation has construed the term house property as -

- any land surrounded by wall having roof or not; and
- any land appurtenant to a building.

Notes :

a. Building includes an enclosure of bricks, stone work or even mud walls

b. Building includes residential as well as commercial houses.

c. Vacant land is not a house property. Hence, income from letting of vacant land is not taxable under this head but taxed as business income or as income from other sources.

d. Roof is not necessary for a non-residential house property. A large stadium or a open air swimming pool is also considered as building

e. It should be a permanent structure meant for a useful purpose.

f. If a building consists of several flats, then each flat is considered as a separate house property.

g. An incomplete, a ruined or demolished house cannot be termed as house property.

h. Land appurtenant to a building includes car parking area, approach roads, backyards, courtyards, etc. attached to such building.

Condition 2 : Owner

Annual value of a property is assessed to tax only in the hands of the owner even if he is not in receipt of any income. Any person other than the owner, even though he is in receipt of rent shall not be liable to tax under this head. That is why, income from sub-letting is not taxable under this head but under the head 'Income from other sources'. E.g. Mr. X being a tenant of a house property acquired it at a monthly rent of ₹ 10,000 from Mr. Y (owner of such house property). Mr. X sublets the property to Mr. Z for a monthly rent of ₹ 12,000. Income from subletting being ₹ 2,000 p.m. is taxable as business income or as income from other sources.

Owner includes legal owner, beneficial owner and deemed owner.

Legal owner : Legal owner means a person who has the legal title of the property as per the Transfer of Property Act, Registration Act, etc.

Beneficial owner : For income tax purpose it is not necessary that the property must be registered in the name of the assessee. If the assessee is enjoying the property as an owner to full extent he will be treated as a beneficial owner of such property and will be charged under the head 'Income from house property'.

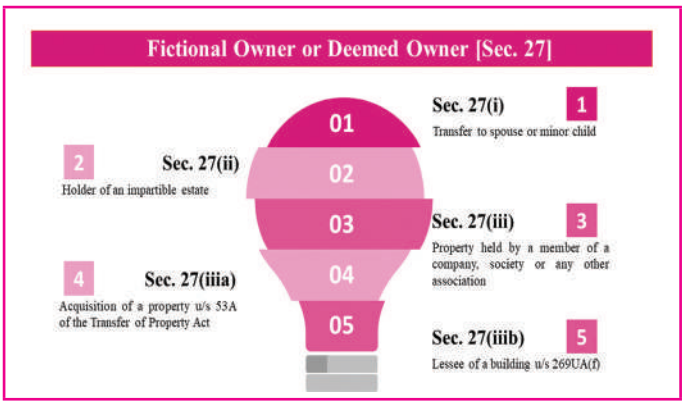
Fictional owner or Deemed owner [Sec. 27]

U/s 27, in the following cases, a person shall be treated as deemed owner of the property and liable to tax (in such case legal owner or beneficial owner shall not be further liable to tax)

1. **Transfer to spouse or minor child [Sec. 27(i)] :** When an individual transfer a house property to -

   - his or her spouse (not being a transfer in connection with an agreement to live apart); or
   - a minor child (not being a married daughter)

     - without adequate consideration, then transferor shall be treated as deemed owner of such property.



E.g. : Mr. X transfers his house property worth ₹ 5,00,000 to Mrs. X out of love and affection. In such case, though Mrs. X is the legal owner but Mr. X will be liable to tax as deemed owner of such property.

Note : In case of transfer to spouse, marriage should subsist on both the days i.e., on the day of transfer as well as on the day when income arises.

Taxpoint :

- Transferee must be spouse or minor child other than married daughter.
- Transfer must be without adequate consideration.
- Transferred property must be a house property. E.g. Mr. X transfers cash of ₹ 5,00,000 to Mrs. X and

Mrs. X purchases a house property from such cash, then such transfer of cash and subsequent purchase of property shall not attract provision of sec. 27(i). However, the income from such property shall be clubbed in the hands of Mr. X as per the provision of sec. 64(1)(iv) [For detail refer chapter Clubbing of Income].

2. **The holder of an impartible estate [Sec. 27(ii)] :** The holder of an impartible estate (property which is not legally divisible) is treated as deemed owner of house property. Impartible estate is an estate to which the assessee has succeeded by grant or covenant.

3. **Property held by a member of a company, society or any other association [Sec. 27(iii)] :** Property held by a member of a company, co-operative society or other association of persons to whom a building or a part thereof is allotted or leased under House Building Scheme of the company or association, is treated as deemed owner of that building or a part thereof.

   Taxpoint :

   - Assessee is the member of a company, co-operative society or other AOP.
   - He has been allotted or leased a building on account of such membership.
   - Though he is not the legal owner of such property, still he will be liable to tax.

4. **A person who acquired a property u/s 53A of the Transfer of Property Act [Sec. 27(iiia)] :** A person who is allowed to take or retain possession of any building (or part thereof) in part performance of a contract u/s 53A of the Transfer of Property Act, 1882, is deemed as the owner of that building (or part thereof).

   Taxpoint :

   - Assessee has taken the possession of the property.
   - He has partly performed or promised to perform the contract i.e., he has paid (or is ready to pay) a part of the consideration.
   - The contract must be in writing. Though sale-deed might not be executed in favour of the buyer, still certain other document like 'power of attorney' or 'agreement to sell' has been executed.

5. **Lessee of a building u/s 269UA(f) [Sec. 27(iiib)] :** A person who acquires any right u/s 269UA(f) in or with respect to any building or part thereof, by way of lease agreement for a period not less than 12 years is deemed as the owner of that building (or part thereof).

   Notes :

   a. Lease period should not be less than 12 years [as per sec. 269UA(f)] including extension period.

   b. Above provision does not include any right by way of lease from month to month or for a period not exceeding 1 year.

      E.g. : X lets out a property to Miss Y on a lease of 9 years. However, Miss Y has a right to renew the lease for further period of 3 years. In such case, Miss Y shall be deemed as an owner of the property u/s 27. However, if such right of renewal of lease (for 3 years) is subject to condition that at each occasion it will be renewed for a period of 11 months, then X will be owner of the property and liable to tax u/s 22.

Condition 3: Property is not used for business or profession carried on by the assessee

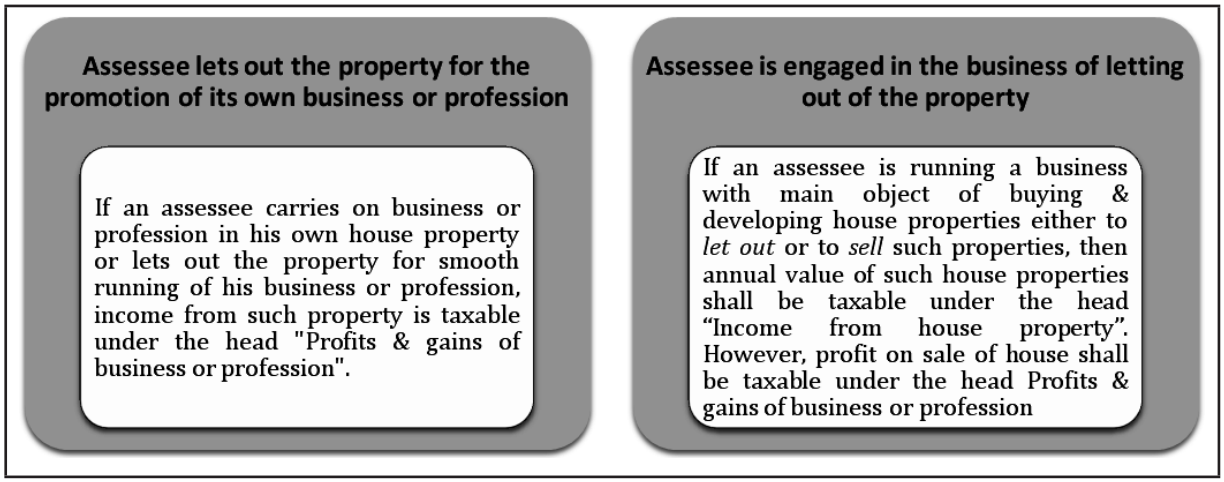
When a person carries on business or profession in his own house property, annual value thereof is not taxable u/s 22 provided income of such business is chargeable to tax.

Incidences thereof

- **Letting out to employees:** If an assessee lets out the property to his employee, where such letting out supports smooth flow of his business, then such letting out shall be deemed to be incidental to business and such rent shall be chargeable under the head "Profits & gains of business or profession".

- **Letting out to Government Agencies:** Where an assessee let out his property to any Government agency for locating branch of a nationalized bank, police station, post office, excise office, railway staff quarters, etc. for the purpose of running the business of assessee more efficiently, such letting out shall be deemed to be incidental to business and such rent shall be chargeable under the head "Profits & gains of business or profession".
- **Letting out to ancillary units:** Where an assessee lets out its property to ancillary units, which manufactures components required by the assessee. Income from such letting out shall be taxable under the head "Profits & gains of business or profession".

Letting out property for promotion of own business –vs.- Business of letting out the property :



*However where the assessee is engaged in the business of letting out of commercial properties, income therefrom would be chargeable under the head Profits and Gains of Business or Profession.

2.2.2 Some special cases

Foreign property

If house property is situated abroad, then annual value of such property shall be taxable as :

Assessee	Condition for taxability
Ordinarily resident	Always taxable
Not ordinarily resident or Non resident	Income must be received in India

Note: The annual value of such property would be computed as if the property is situated in India.

Disputed ownership

Merely, due to dispute regarding the title of property, assessment cannot be postponed. In such case, person who is in receipt of income or who enjoys the possession of the property is assessable to tax.

Composite rent

Together with rent of the building, if the owner gets charges for other services or rent of other assets provided in the building (e.g. furniture, machinery, etc.), amount so received is termed as 'composite rent'.

Composite Rent = Rent for building + Rent for assets / Charges for various services

* Rayala Corporation -vs.- ACIT (2016) 386 ITR 500 (SC) read with amendment made through Finance (No. 2) Act, 2024

Tax treatment of composite rent is as follows :

- **Rent including charges for amenities or services like garden facility, food, lighting, etc. or other separable assets (like machinery, plant, furniture):** If the owner of house property gets composite rent for both property as well as for services rendered or other separable asset, such composite rent shall be treated as under :

Particulars	Taxable under the head
Sum received for the use of building.	'Income from house property'.
Sum received for other amenities or other separable assets.	'Profits & gains of business or profession'; or 'Income from other sources'

However, if segregation of composite rent is not possible, then the whole amount will be taxed either under the head 'Profits & gains of business or profession' or 'Income from other sources'.

Taxpoint : Rent from paying guest is, generally, taxable under the head 'Income from other sources'.

- Letting of building with other inseparable assets (like machinery, plant, furniture): If letting of only building is not possible or not acceptable to the other party, then sum received as rent from the properties is chargeable as business income or income from other sources even if the composite rent is segregable. E.g., letting out of hotel rooms, auditoriums, etc.

Co-ownership [Sec. 26]

If two or more persons own a house property jointly, then they are known as co-owners. If individual share of each co-owner is definite and ascertainable then the share of each such person shall be taxable as his income from house property.

Tax treatment :

1. Share of each co-owner in the income from the property as computed in accordance with sec. 22 to 25 shall be included in his total income.
2. Where the house property is owned by co-owners and is occupied by each of the co-owner then all of them can claim benefit u/s 23(2)(a) and interest on loan shall be allowed to all the co-owners to the extent of ₹ 30,000 / ₹ 2,00,000 as the case may be.

Note : Provision of Sec. 26 is mandatory and not optional.

Partner's property used by the firm

The business carried on by the firm should be regarded as carried on by all the partners. Thus, annual letting value of a property belonging to the assessee which is in occupation of the firm in which assessee is the partner, is not includible in income of the assessee-partner u/s 22

Property held as stock-in-trade [Sec. 23(5)]

Where house property is held as stock-in-trade & not let out during any part of the previous year, then annual value of such property shall be computed as under :

Period	Annual Value
Up to 2 year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority	Annual value of such property shall be taken to be nil.
After the completion of aforesaid period	Annual value of such property shall be computed as per other provisions. (Discussed later)

2.2.3 Exempted properties

Income from the following house properties are exempted from tax :

1. Any one palace or part thereof of an ex-ruler, provided the same is not let out [Sec. 10(19A)].

   Taxpoint : If the ex-ruler has a house property and the part of which is self-occupied and remaining let out then only the self occupied part of the house property shall be exempted.

2. House property of a local authority [Sec. 10(20)].
3. House property of an approved scientific research association [Sec. 10(21)].
4. House property of an educational institution [Sec. 10(23C)].
5. House property of a hospital [Sec. 10(23C)].
6. House property of a person being resident of Ladakh [Sec. 10(26A)]
7. House property of a political party [Sec. 13A]
8. House property of a trade union [Sec. 10(24)]
9. A farm house [Sec. 10(1)]
10. House property held for charitable purpose [Sec. 11]
11. House property used for own business or profession [Sec. 22].

2.2.4 Computation of Income

The chapter is divided into the following categories for the purpose of computation:

- Let out property [Sec. 23(1)]
- Self-occupied property [Sec. 23(2)(a)].
- Deemed to be let out property [Sec. 23(4)].
- Property not actually occupied by the owner [Sec. 23(2)(b)]
- Partly let out and partly self occupied property [Sec. 23(3)]
- Recovery of arrears of rent and unrealized rent [Sec. 25A]

2.2.5 Let out property [Sec. 23(1)]

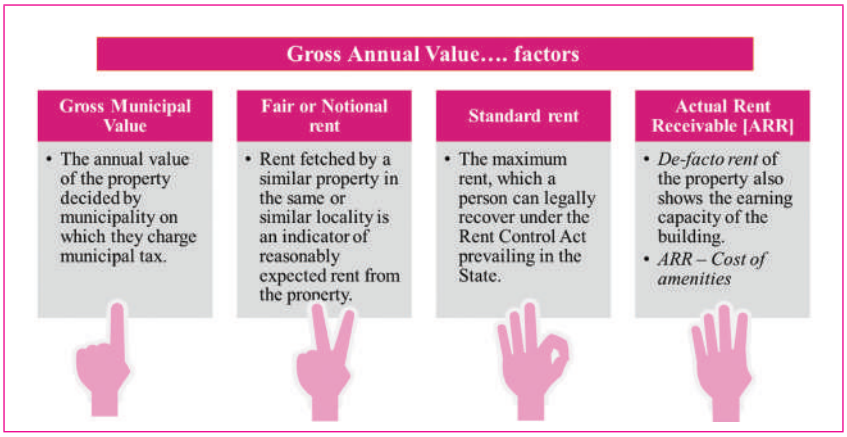
Computation at a glance

Computation of Income from house property of ……. for the Assessment Year …….

Particulars	Details	Amount
Gross Annual Value (GAV)		****
Less : Municipal tax		****
Net Annual Value (NAV)		****
Less : Deductions u/s		
24(a) Standard deduction [30% of NAV]	****	
24(b) Interest on borrowed capital	****	****
Income from house property		****

Gross Annual Value (GAV) :

Normally, income tax is charged on income, but under the head 'Income from house property', tax is not charged on the rent earned from house property but on the inherent earning capacity of the house property. Such earning capacity is termed as Annual Value. Annual value is determined considering the following factors :



A. Actual Rent Receivable [ARR]

Any sum receivable as rent of the house property for the previous year is an evidence for determining the earning capacity of the building. Such actual rent receivable is to be computed on accrual basis. However, where tenant pays rent, which is influenced by benefits provided by the owner of the property, such rent must be disintegrated to determine actual rent i.e. De-facto rent of the property.

De facto rent = ARR – Cost of amenities.

Taxpoint:

- While computing actual rent receivable, outstanding rent shall be considered but advance rent received during the financial year is not to be considered.
- Municipal tax paid by the tenant should not be considered while computing de-facto rent.
- Similarly, de-facto rent shall not be increased by notional interest on deposit received by the owner from the tenant.

B. Gross Municipal Value

It means the annual value of the property decided by municipality on which they charge municipal tax. Such valuation may also be taken as evidence of earning capacity of a property.

In metro cities (i.e. Chennai, Delhi, Kolkata, Mumbai), municipal authorities charge tax on Net Municipal Value after giving a deduction for repairs (being 10% of Gross Municipal value) and an allowance for service taxes (like sewerage tax, water tax etc. as a % of Net Municipal value). Hence, the relation between Gross Municipal Value and Net Municipal Value can be concluded as under -

In metro cities	NMV = GMV – 10% of GMV – Sewerage/Water Tax etc. (as a % of NMV)
In non-metro cities	GMV = NMV

C. Fair or Notional rent of the property

Fair or notional rent of a property means rent fetched by a similar property in the same or similar locality. Though two properties might not be exactly similar still it is an indicator of rent reasonably expected from the property. An inflated or deflated rent due to emergency, relationship and such other conditions need to be adjusted to determine fair rent.

For instance, a property was let out to a friend for a monthly rent of ₹ 2,000 which might be let out to another person at the rate of ₹ 2,500 p.m. In such case, fair rent of the property shall be ₹ 2,500 p.m.

D. Standard rent under the Rent Control Act

Standard rent is the maximum rent, which a person can legally recover from his tenant under the Rent Control Act prevailing in the State in which the property is situated. A landlord cannot reasonably expect to receive from a tenant any amount more than Standard Rent. Accordingly, it can be concluded that if the property is covered by the Rent Control Act then Reasonable Expected Rent (RER) cannot exceed Standard Rent.

Taxpoint : Reasonable Expected Rent cannot exceed Standard Rent but can be lower than Standard Rent

Computation of Gross Annual Value

Step 1 : Calculate reasonable expected rent (RER) of the property being higher of the following:

a. Gross Municipal Value.

b. Fair Rent of the property.

Note : RER cannot exceed Standard Rent.

* Reasonable Expected Rent (RER) is also known as Annual Letting Value (ALV).

Step 2 : Calculate Actual Rent Received or Receivable (ARR) for the year less current year unrealised rent (UR) subject to certain conditions[#].

[#]Unrealised Rent [Rule 4]: Unrealised Rent of current year shall be deducted in full from Actual Rent Receivable, provided the following conditions are satisfied :

i) The tenancy is bona fide;

ii) The defaulting tenant has vacated the property or steps have been taken to compel him to vacate the property;

iii) The defaulting tenant is not in occupation of any other property of the assessee;

iv) The assessee has taken all reasonable steps to institute legal proceeding for the recovery of the unpaid rent or has satisfied the Assessing Officer that legal proceedings would be worthless.

Step 3 : Compare the values calculated in step 1 and step 2 and take the higher one.

Step 4 : Where there is vacancy and owing to such vacancy the 'ARR – UR' is less than the RER, then 'ARR - UR' computed in step 2 will be treated as GAV.

In nutshell, GAV shall be computed as under :

Steps	Particulars	Amount
1st	Compute Reasonable Expected Rent [RER]	
	Gross Municipal Value (a)	****
	Fair Rent (b)	****
	Higher of the (a) and (b) **[A]**	****
	Standard Rent **[B]**	****
	Reasonable Expected Rent [Lower of (A and B)] **[C]**	****
2nd	Actual Rent Received or Receivable (ARR) – Unrealised Rent of the current year (UR) **[D]**	****
3rd	**Gross Annual Value**	
4th	Higher of C and D shall be considered as GAV	****
	However, where 'ARR – UR' is lower due to vacancy, then 'ARR - UR' computed in step 2 will be treated as GAV.	****

Illustration 39 : [Computation of Reasonable Expected Rent]

Calculate Reasonable Expected Rent from the following details :

Particulars	House 1	House 2	House 3	House 4	House 5
Gross Municipal Value (a)	10,000	12,000	12,000	18,000	16,000
Fair Rent (b)	8,000	16,000	16,000	10,000	17,000
Higher of the [(a) and (b)] **[A]**	10,000	16,000	16,000	18,000	17,000
Standard Rent as per Rent Control Act **[B]**	10,000	14,000	N.A	8,000	20,000
Reasonable Expected Rent [Lower of [(A) & (B)]	**10,000**	**14,000**	**16,000**	**8,000**	**17,000**

Illustration 40 : [When there is neither unrealised rent nor vacancy period]

Calculate Gross Annual Value for the following house properties. **(₹ in '000)**

Particulars	H1	H2	H3	H4	H5	H6
Gross Municipal value for the whole year	120	130	140	150	160	180
Fair rent for the whole year	105	115	135	155	175	168
Standard rent (for the whole year)	NA	100	135	180	165	144
Actual rent receivable	100	110	135	175	200	100
Period of the previous year (in months)	12	12	12	12	12	10

Solution :

Computation of Gross annual value (GAV) **(₹ in '000)**

Step	Particulars	H1	H2	H3	H4	H5	H6
	Calculation of RER						
	Gross Municipal Value (a)	120	130	140	150	160	150[1]
	Fair Rent (b)	105	115	135	155	175	140[1]
	Higher of the [(a) and (b)] **[A]**	120	130	140	155	175	150
	Standard Rent **[B]**	NA	100	135	180	165	120[1]
1st	RER [Lower of (A) and (B)]	120	100	135	155	165	120
2nd	ARR	100	110	135	175	200	100[1]
3rd	**Gross Annual Value**	120	110	135	175	200	120

[1]. In case of H6, previous year period is of 10 months, which denotes that construction or acquisition of such house property was completed on 1st of June of the previous year, therefore, Municipal Value, Fair Rent and Standard Rent has been proportionately reduced.

Illustration 41 : [When there is unrealised rent but no vacancy period]

Find out the gross annual value in case of the following properties let out throughout the previous year for the assessment year 2025-26 : **(₹ in '000)**

Particulars	H1	H2	H3	H4	H5
Municipal annual value	90	500	30	100	315
Fair rent	300	300	300	300	300
Standard rent under the Rent Control Act	50	800	240	250	500
Actual rent receivable p.a.	120	600	180	360	150
Unrealised rent of the P.Y. 2024-25 (in terms of months)	2	3	1	3	2

Solution :

Computation of gross annual value : **(₹ in '000)**

Steps	Particulars	H1	H2	H3	H4	H5
	Calculation of RER					
	Gross Municipal Value	90	500	30	100	315
	Fair Rent	300	300	300	300	300
	Higher of the above **[A]**	300	500	300	300	315
	Standard Rent **[B]**	50	800	240	250	500
	Reasonable Expected Rent [lower of A and B] **[C]**	50	500	240	250	315
	Calculation of (ARR – Unrealised Rent)					
	Actual rent receivable p.a.	120	600	180	360	150
	Unrealised rent	20	150	15	90	25
	ARR – Unrealised Rent **[D]**	100	450	165	270	125
	Gross Annual Value (being higher of step 1 and step 2)	100	500	240	270	315

Assume, conditions prescribed under Rule 4 being satisfied.

Illustration 42 : [When there is vacancy period but no unrealised rent]

Find out the Gross annual value in case of the following properties : **(₹ in 000)**

Particulars	H1	H2	H3	H4	H5	H6
Gross Municipal Value p.a.	200	300	400	500	300	300
Fair rent p.a.	300	600	750	180	200	400
Standard rent under the Rent Control Act p.a.	300	180	280	225	250	240
Actual rent p.a.	600	900	300	240	216	240
Property remains vacant (in number of month)	1	3	2	1	2	1

Solution :

Computation of Gross Annual Value : **(₹ in '000)**

Step	Particulars	Working	H1	H2	H3	H4	H5	H6
1st	Calculation of RER	Higher of GMV and FR (RER cannot exceed SR)	300	180	280	225	250	240
2nd	ARR	For the period actually let out	550	675	250	220	180	220
3rd	Higher of above	Higher of Step 1 & Step 2	550	675	280	225	250	240
4th	**Gross Annual Value**		**550**[1]	**675**[1]	**250**[2]	**220**[2]	**250**[3]	**220**[4]

1. In H1 and H2 Actual rent receivable is already higher than RER therefore vacancy period is not making any impact (i.e. step 4 of computation discussed earlier in theory) on GAV.
2. In H3 & H4, ARR is less than RER due to vacancy (otherwise ARR would have been ₹ 3,00,000 & ₹ 2,40,000 respectively). Therefore, GAV will be the ARR computed in step 2.
3. In H5, ARR is less than RER not only due to vacancy but also due to other factors. In such case, value of RERshall be taken as GAV.
4. In H6, ARR is less than RER due to vacancy period otherwise ARR would have been equal to RER.

Illustration 43 :

X owns a house property in Pune, details relating to which are Municipal value ₹ 2,00,000 p.a., Fair rent ₹ 1,80,000 p.a., Standard rent ₹ 2,10,000 p.a. It is let out throughout the previous year (rent ₹ 10,000 p.m. up to 15/10/2024 and ₹ 12,000 p.m. thereafter). The property is transferred by X to Y on February 28, 2025. However, Y failed to recover rent for March, 2025. Find gross annual value of the property in the hands of X and Y for the A.Y. 2025-26

Solution :

Since the property being sold to Y on last day of February 2025 hence previous year period for X is 11 months and for Y is 1 month, accordingly gross annual value shall be:

Steps	Particulars	X (11 months)	Y (1 month)
	Fair rent (FR)	1,65,000	15,000
	Municipal Value	1,83,333	16,667
	Higher of the above **[A]**	1,83,333	16,667
	Standard Rent (SR) **[B]**	1,92,500	17,500
1st	RER [Lower of A and B] **[C]**	1,83,333	16,667
2nd	ARR – Unrealised Rent **[D]**	1,19,000#	Nil[1]
3rd	**Gross Annual Value** [Higher of C and D]	1,83,333	16,667

Calculation of Rent Receivable for 11 months

[(₹ 10,000 * 6.5 months) + (₹ 12,000 * 4.5 months)] = ₹ 1,19,000

1. ₹ 12,000 – ₹ 12,000

Illustration 44 : [When there is unrealised rent as well as vacancy period]

Find out the gross annual value in respect of the following properties for the A.Y. 2025-26 : **(₹ in '000)**

Particulars	H1	H2	H3
Gross Municipal value	150	180	120
Fair rent	140	140	240
Standard rent	120	240	300
Actual rent if property is let out throughout the previous year 2024-25	180	300	150
Unrealised rent of the previous year 2024-25	25	40	20
Unrealised rent of the year prior to the previous year 2023-24	30	50	60
Period when the property remains vacant (in number of months)	3	1	-

Solution :

Working: Calculation of ARR – Unrealised Rent

H1 : [{(1,80,000/12) * 9} – 25,000] = ₹ 1,10,000

H2 : [{(3,00,000/12) * 11} – 40,000] = ₹ 2,35,000

H3 : [1,50,000 – 20,000] = ₹ 1,30,000

Computation of Gross Annual Value : **(₹ in '000)**

Step	Particulars	Working	H1	H2	H3
1st	Calculation of RER	Higher of GMV and FR (RER cannot exceed SR)	120	180	240
2nd	ARR less current year unrealized rent (for let out period only)	Working 1	110	235	130
3rd	Higher of above	Higher of Step 1 & Step 2	120	235	240
4th	**Gross Annual Value**		**110**[1]	**235**	**240**[2]

[1] In H1, till step 3 ARR is less than RER due to vacancy [otherwise ARR would have been ₹ 1,55,000 (being ₹ 1,80,000 – ₹ 25,000). Therefore, GAV will be the ARR computed in step 2.

[2] In H3 there is no vacancy hence step 3 gives GAV.

Illustration 45 :

Find out the gross annual value in the following cases for the A.Y. 2025-26 :

Particulars	H1 (₹)	H2 (₹)
Situated at	Chandigarh	Amritsar
Municipal value p.a.	60,000	60,000
Fair rent p.a.	70,000	70,000
Standard rent under the Rent Control Act p.a.	80,000	50,000
Actual rent p.m.:		
From April 1, 2024 to July 31, 2024	5,000	6,000
From October 1, 2024 to February, 2025	9,000	8,500

For the remaining period properties were vacant.

Solution :

Working 1) Actual rent

For H1 [(5,000 * 4) + (9,000 * 5)] = ₹ 65,000 **For H2** [(6,000 * 4) + (8,500 * 5)] = ₹ 66,500

Computation of gross annual value

(₹ in '000)

Step	Particulars	Working	H1	H2
1st	RER	Higher of GMV and FR (RER cannot exceed SR)	70	50
2nd	ARR	Working 1	65	66.5
3rd	Higher of above	Higher of Step 1 & Step 2	70	66.5
4th	**Gross Annual Value**		**65**[1]	**66.5**[2]

[1] In H1, ARR is less than RER due to vacancy [otherwise ARR would have been ₹ 86,667 {being (₹ 65,000/9) × 12}]. Therefore, GAV will be the ARR computed in step 2.

[2] In H2, Actual rent receivable is not less than RER, therefore vacancy period is not making any impact (i.e. step 4 of computation discussed earlier in theory) on GAV.

Illustration 46 :

Find out the gross annual value in respect of the following properties : **(₹ in thousands)**

Particulars	H1	H2	H3
Value determined by the Municipality for determining Municipal tax	500	800	600
Rent of the similar property in the same locality	400	900	600
Rent determined by the Rent Control Act	700	720	700
Actual rent receivable	350	540	600
Unrealised rent of the previous year 2024-25	10	Nil	150
Period when the property remains vacant (in number of months)	5	3	2

Solution :

Computation of Gross Annual Value : **(₹ in thousands)**

Step	Particulars	Working	H1	H2	H3
1st	RER	Higher of GMV and FR (RER cannot exceed SR)	500	720	600
2nd	ARR less Unrealised rent		340	540	450
3rd	Higher of above	Higher of Step 1 & Step 2	500	720	600
Working	(ARR less Unrealised rent) if there would have been no vacancy	[{ARR/(12 – vacancy period)} * 12] - Unrealised rent	590	720	570
	Is value of Step 2 less than step 1 due to vacancy		Yes	Yes	No
4th	**Gross Annual Value**	If yes than step 2 will be GAV otherwise step 3 shall be GAV	**340**	**540**	**600**

Test Yourself

1. Find out the Gross Annual value in respect of the following properties for the A.Y. 2025-26

(₹ in thousands)

Particulars	H1	H2	H3
Gross Municipal value	150	180	120
Fair rent	140	140	240
Standard rent	120	240	300
Actual rent if the property is let out throughout the previous year 2024-25	180	300	150
Unrealised rent of the previous year 2024-25	25	40	20
Unrealised rent of the previous year 2022-23	30	50	60
Period when the property remains vacant (in number of months)	3	1	-

Hints

1. H1: ₹ 1,10,000; H2: ₹ 2,35,000; H3: ₹ 2,40,000

2.2.6 Taxes levied by local authority (Municipal Tax) [Proviso to Sec. 23(1)]

Tax levied by the municipality or local authority is deductible from Gross Annual Value (GAV). As per sec. 27(vi), taxes levied by a local authority in respect of any property shall include service taxes levied by such local authority in respect of such property. Municipal tax includes Service taxes like fire tax, water tax, etc. levied by a local

authority.

Such taxes shall be computed as a % of Net Municipal Value and allowed as deduction subject to the following conditions :

1. It should be actually paid during the previous year.\
2. It must be paid by the assessee.

   Taxpoint : Unpaid municipal tax or municipal tax paid by tenant shall not be allowed as deduction.
3. It must be related to the previous year or any year preceding the previous year.

Taxpoint :

Tax paid to foreign local authority	If property is situated in a foreign country, tax paid to foreign local authority shall be allowed as deduction
Tax exceeds GAV (Negative NAV)	In case municipal tax paid includes tax paid for several past years and the total amount of tax so paid by the owner exceeds GAV, then Net Annual Value (NAV) can be negative.
Refund of tax	Refund of Municipal tax paid for a property is not taxable u/s 22.
Advance Municipal Tax paid by the assessee	Municipal tax paid in advance is not allowed, as the Act provides that "the taxes levied by any local authority in respect of property shall be deducted, irrespective of the previous year in which the liability to pay such taxes was incurred by the owner." [Proviso to sec. 23 of Income tax Act, 1961] As per the above language it is construed that for claiming deduction in respect of municipal tax, such tax must have already been levied by the local authority. Hence payment of municipal tax in advance (liability in respect of which has not yet incurred) shall not be allowed as deduction in the year of payment.

Illustration 47 :

Compute net annual value with the following details for the A.Y. 2025-26 :

Particulars	H1	H2	H3	H4	H5	H6
Situated at	Patna	Anand	Hyderabad	Balurghat	Jodhpur	Etawa
Municipal Value	₹ 1,00,000	₹ 2,00,000	₹ 3,00,000	₹ 4,00,000	₹ 4,25,000	₹ 6,00,000
Gross Annual Value	₹ 1,00,000	₹ 2,50,000	₹ 1,80,000	₹ 5,00,000	₹ 8,00,000	₹ 5,00,000
Municipal tax for P.Y.	₹ 5,000	10%	5%	20%	12%	10%
Sewerage tax	-	5%	₹ 1,000	3%	₹ 3,750	₹ 1,000
Water Tax	-	3%	5%	2%	5%	-

Additional information :

a. In case of H3, municipal tax paid for the financial year 2000-01 to 2023-24 is ₹ 2,00,000.

b. In case of H4, municipal tax paid for the financial year 2025-26 is ₹ 3,000.

c. In case of H6, all taxes charged by municipality are paid to the extent of 80% (50% by owner and 30% by tenant).

Solution :

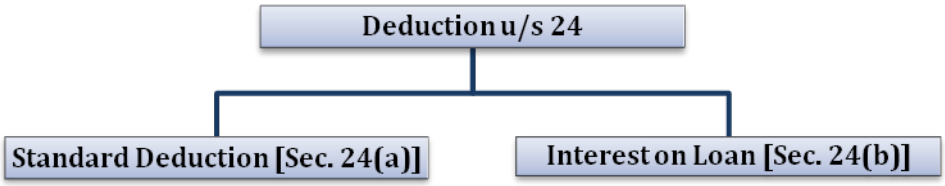
Computation of Net Annual Value for A.Y. 2025-26 : **(Amount in ₹)**

Particulars	H1	H2	H3	H4	H5	H6
Gross Annual Value (a)	1,00,000	2,50,000	1,80,000	5,00,000	8,00,000	5,00,000
Less : (i) Municipal Tax	5,000	20,000	2,15,000[3]	80,000[1]	51,000	30,000[2]
(ii) Sewerage tax	-	10,000	1,000	12,000	3,750	500[2]
(iii) Water Tax	-	6,000	15.000	8,000	21,250	-
Total (b)	5,000	36,000	2,31,000	1,00,000	76,000	30,500
Net Annual Value [(a) – (b)]	**95,000**	**2,14,000**	**(-), 51,000**	**4,00,000**	**7,24,000**	**4,69,500**
Municipal tax is calculated on municipal value.						

Notes :

1. Though municipal tax is allowed on cash basis (only if paid by owner) but advance municipal tax is not allowed.
2. Municipal tax paid by tenant is not allowed as deduction.
3. ₹ 2,00,000 (being municipal tax of past years paid during the year) + 5% of ₹ 3,00,000 (municipal tax of current year paid during the year).

2.2.7 Deductions u/s 24



The list of deduction u/s 24 is exhaustive i.e., no deduction can be claimed in respect of expenditures which are not specified under this section e.g., no deduction is allowed for repairs, collection charges, insurance, ground rent, land revenue, etc.

1. Standard deduction u/s 24(a)

30% of the net annual value is allowed as standard deduction in respect of all expenditures (other than interest on borrowed capital) irrespective of the actual expenditure incurred.

Note : Where NAV is negative or zero, standard deduction u/s 24(a) is not available.

Test Yourself

1. Calculate standard deduction available in the following cases **(₹ in '000)**

Particulars	H1	H2	H3	H4	H5
Gross Annual Value	80	60	30	20	50
Municipal Tax paid	10	20	10	00	10
Repair Charges	2	20	-	5	-
Rent Collection Charges	5	10	2	20	-

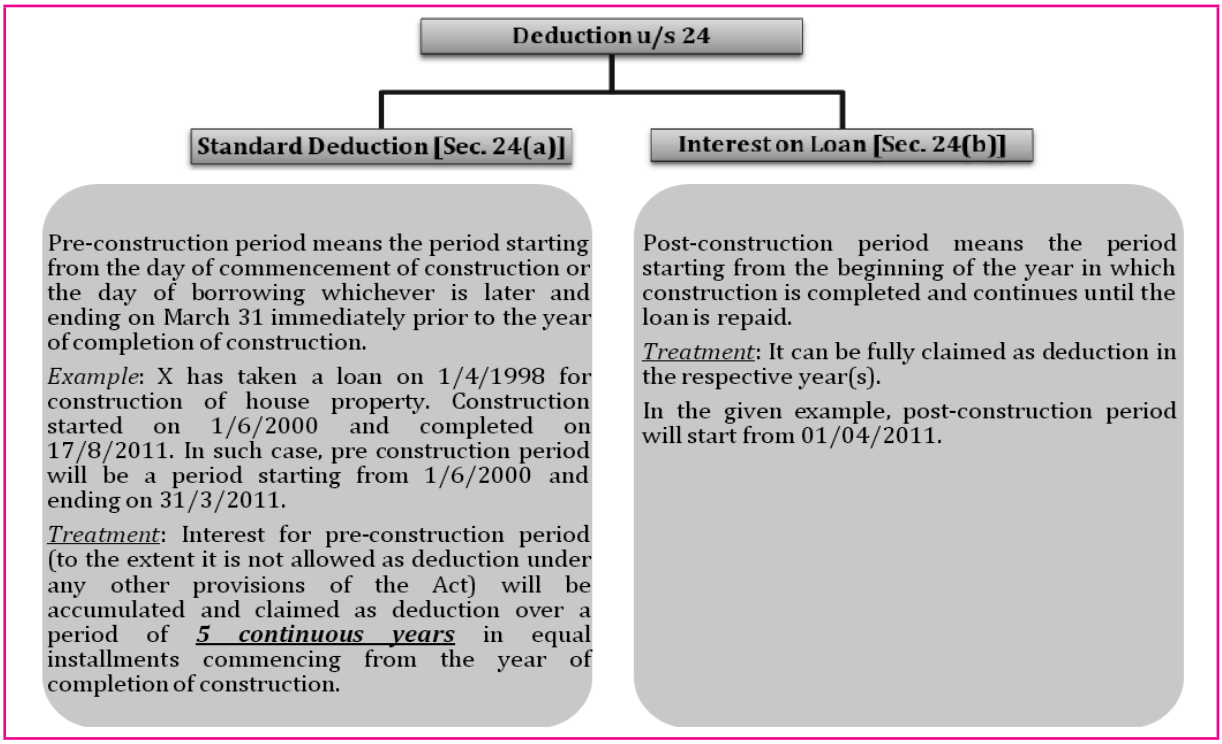
Hints

1. H1: ₹ 21,000; H2: ₹ 12,000; H3: ₹ 6,000; H4: ₹ 6,000; H5: ₹ 12,000

2. Interest on loan or borrowed capital u/s 24(b)

Interest payable on amount borrowed for the purpose of purchase, construction, renovation, repairing, extension, renewal or reconstruction of house property can be claimed as deduction on accrual basis.

For the purpose of calculation, interest on loan is divided into two parts :



In nutshell, tax treatment is as under :

Particulars	Pre-construction period	Post-construction period
Starts from	The day of commencement of construction or the day of borrowing, whichever is later	The first day of the previous year in which construction is completed
Ends on	March 31 immediately prior to the year of completion of construction	When loan is fully paid
Tax treatment	The interest incurred during aforesaid period shall be accumulated and allowed as deduction in 5 equal installments from the year of completion of construction.	The interest expenses for the year (on accrual basis) shall be allowed as deduction in the respective year.

Other Points :

a. Interest on borrowed capital is allowed on accrual basis even if the books of account are kept on cash basis.

b. Interest paid on fresh loan, which is taken to repay the original loan (being taken for above-mentioned purpose) shall be allowed as deduction.

c. Interest on new loan, taken for paying outstanding interest on old loan, is not deductible

d. Amount paid as brokerage or commission, for arrangement of the loan, is not deductible.

e. Interest on loan taken for payment of municipal tax, etc. is not allowed as deduction.

Amount not deductible from Income from house property [Sec. 25]

Any interest chargeable under this Act which is payable outside India, is not allowed as deduction if :

- on such interest, tax has not been deducted at source and paid as per the provision of chapter XVIIB; and
- in respect of such interest there is no person in India who may be treated as an agent u/s 163.

Illustration 48 :

Following information are provided by an assessee for his house properties for computing interest on loan allowed u/s 24(b) :

Particulars	HP1	HP2	HP3	HP4	HP5
a) Interest on loan taken for repair of H.P.	20,000	30,000	10,000	15,000	25,000
b) Interest on loan taken for purchasing H.P. (50% paid)	20,000	25,000	30,000	17,000	18,000
c) Interest on new loan taken for repaying old loan which was taken for purchasing H.P.	10,000	12,000	13,000	14,000	16,000
d) Interest on loan taken for payment of interest on earlier loan	10,000	10,000	10,000	10,000	10,000
e) Interest on loan for payment of Municipal tax	2,000	2,000	2,000	2,000	2,000
f) Interest on loan by mortgaging HP3 for business purpose	--	--	5,000	--	--
g) Interest on loan for reconstruction of HP1 paid outside India without deducting tax at source	20,000	--	--	--	--
h) Interest on loan for reconstruction of HP2 payable outside India on which TDS has not been deducted and no payment yet been made	--	20,000	--	--	--
i) Interest on loan on mortgage of HP1 for renovation of HP2	10,000	--	--	--	--

Solution :

Calculation of 'Interest on loan' allowed u/s 24(b) : **(₹ in '000)**

Particulars	Note	HP1	HP2	HP3	HP4	HP5
a) Interest on loan taken for repair of H.P.	Allowed	20	30	10	15	25
b) Interest on loan taken for purchasing H.P.	1	20	25	30	17	18
c) Interest on new loan taken for repaying old loan which was taken for purchasing H.P.	Allowed	10	12	13	14	16
d) Interest on loan taken for payment of interest on earlier loan	Not Allowed	-	-	-	-	-

Particulars	Note	HP1	HP2	HP3	HP4	HP5
e) Interest on loan for payment of Municipal tax	Not Allowed	-	-	-	-	-
f) Interest on loan by mortgaging HP3 for business purpose	2	-	-	-	-	-
g) Interest on loan for reconstruction of HP1 paid outside India without deducting tax at source	3	-	-	-	-	-
h) Interest on loan for reconstruction of HP2 payable outside India on which TDS has not been deducted, and no payment yet made.	4	-	-	-	-	-
i) Interest on loan on mortgage of HP1 for renovation of HP2	5	-	10	-	-	-
Interest on loan allowed u/s 24(b)		**50**	**77**	**53**	**46**	**59**

Notes :

1. Interest on loan is allowed on accrual basis.
2. The purpose of loan must be repair, renovation, construction or purchase of property.
3. As per sec. 25, any payment outside India without deduction of tax at source and when the payee has no agent in India is not allowed as deduction. It is assumed that the payee has no agent in India.
4. Interest payable outside India without TDS whether paid or unpaid is not allowed as deduction. It is assumed that the payee has no agent in India.
5. Since loan is utilised for renovation of HP2 hence deduction shall be allowed from income of HP2. Mortgage of HP1 is irrelevant.

Illustration 49 :

Calculate interest on loan allowed for assessment year 2020-21 to 2025-26 from the following information :

Loan was taken on 1/1/2016 ₹ 5,00,000 @ 12% p.a.

Construction commenced on 1/8/2016. Construction completed on 31/3/2021. Repayment made as under :

On 1/4/2017	On 1/4/2020	On 1/4/2023	On 1/7/2024
₹ 1,00,000	₹ 1,00,000	₹ 1,00,000	₹ 1,00,000

Solution :

Since construction started on 1/8/2016, hence pre-construction period starts from 1/8/2016 and since construction was completed on 31/3/2021, hence pre construction period ends on 31/3/2020 and post construction period starts from the year 2020-21. Finally, pre construction period is from previous year 2016-17 to previous year 2019-20 and post construction period is from previous year 2020-21 onwards. Thus, pre-construction period interest are as under :

Previous Year	Amount	Month	Interest @ 12%
2016-17	5,00,000	8	40,000
2017-18	4,00,000	12	48,000
2018-19	4,00,000	12	48,000
2019-20	4,00,000	12	48,000
Total interest for pre-construction period			**1,84,000**

Total interest for pre-construction period is ₹ 1,84,000 which shall be allowed in 5 equal installments i.e., ₹ 36,800 p.a. from P.Y. 2020-21 to 2024-25.

Computation of interest :

Assessment Year	Previous Year	Pre-construction period Interest	Post-construction period Interest	Total Interest
2020-21	2019-20	--	--	--
2021-22	2020-21	36,800	36,000[1]	72,800
2022-23	2021-22	36,800	36,000[1]	72,800
2023-24	2022-23	36,800	36,000[1]	72,800
2024-25	2023-24	36,800	24,000[2]	60,800
2025-26	2024-25	36,800	15,000[3]	51,800

[1.] ₹ 3,00,000 * 12%

[2.] ₹ 2,00,000 * 12%

[3.] On ₹ 2,00,000 @ 12% for 3 months ₹ 6,000

On ₹ 1,00,000 @ 12% for 9 months ₹ 9,000

Total **₹ 15,000**

Test Yourself

1. As on 1/1/2019, Mr. Fantoosh borrowed ₹ 5,00,000 @ 10% p.a. from State Bank of India, to be repaid in two equal installments on 1/4/2024 and 1/4/2028. Construction completed on 17/6/2022. Due to liquidity problem, he borrowed ₹ 3,50,000 @ 8% from his friend on 1/4/2024 and paid 1st installment of previous loan. Calculate interest on loan allowed for assessment year 2025-26.

Hints

1. ₹ 77,500

Illustration 50 :

Mr. Rajesh owns two house properties both of which are let out. Compute his income from the following details :

Particulars	H1	H2
Situated at	Gaya	Mumbai
Gross Municipal value	1,00,000	2,00,000
Fair rent	95,000	2,10,000
Standard rent	90,000	2,00,000

Actual rent receivable	1,00,000	1,80,000
Unrealised rent of the current year	8,000	2,000
Municipal tax	10%	1,000
Fire insurance	2,000	1,200
Repairs	Nil	2,000
Interest on loan for construction (@ 12%)	10,000	Nil

Other Information :

a. Loan taken for construction is still unpaid.

b. Municipal tax of H1 is still unpaid, while, that of H2 is half paid by tenant.

Solution :

Computation of income from house property of Mr. Rajesh for the A.Y. 2025-26 :

Particulars	Details	Amount	Amount
H1: Let out			
Gross Annual Value#		92,000	
Less : Municipal tax		Nil	
Net Annual Value		92,000	
Less : Deduction u/s 24			
a. Standard deduction (30% of NAV)	27,600		
b. Interest on loan	10,000	37,600	54,400
H2: Let out			
Gross Annual Value#		2,00,000	
Less : Municipal tax		500	
Net Annual Value		1,99,500	
Less : Deduction u/s 24			
a. Standard deduction (30% of NAV)	59,850		
b. Interest on loan	Nil	59,850	1,39,650
Income from House Property			**1,94,050**

Note : Unpaid municipal tax and municipal tax paid by tenant is not allowed.

#. Computation of Gross Annual Value :

Particulars	Details	H1	H2
Reasonable Expected Rent	Higher of GMV or FR subject to SR	90,000	2,00,000
Actual Rent Receivable – Unrealised Rent		92,000	1,78,000
Gross Annual Value	Higher of above	92,000	2,00,000

2.2.8 Self-occupied property / Unoccupied Property [Sec. 23(2)]

As per sec. 23(2)(a), a house property shall be termed as self occupied property where such property or part thereof :

- is in the occupation of the owner for the purposes of his own residence;
- is not actually let out during the whole or any part of the previous year; and
- no other benefit there from is derived by the owner.

Where an assessee has a residential house (kept for self-occupation) and it cannot actually be occupied by the owner owing to his employment, business or profession carried on at any other place and hence he has to reside at that place in a building not belonging to him, such house shall be termed as unoccupied property.

Treatment : The annual value of such house or part of the house shall be taken to be nil.

If an assessee occupies more than **two** house properties as self-occupied, he is allowed to treat only two houses as self-occupied at his option. The remaining self-occupied house property(ies) shall be treated as 'Deemed to be let out'. [Treatment of 'deemed to be let out' property is discussed later in this chapter.]

Taxpoint : In the light of the above provision :

Combination	Treated as
Fully self occupied	Self occupied property
Partly self occupied & partly vacant	Self occupied property
Partly self occupied & partly let out	Partly self occupied & partly let out (discussed later)
Partly self occupied & partly use for business purpose	Self occupied to the extent used for self occupation

Note :

Available to	Benefit u/s 23(2)(a) can be claimed by an Individual and HUF. The benefit is not available to other assessee like company, firm, etc.
When owner want to change his option	It is not necessary that once a house property is treated as self-occupied it shall be continuously treated as self-occupied. Such option may be changed every year without any permission.
When owner occupies a house in some other capacity	When the assessee occupies his house but not in the capacity of owner then benefit under this section cannot be claimed. E.g. Owner let out the house to his employer & gets back the property as rent free accommodation. In such case, though the owner himself occupies the property but as an employee of the tenant & not as an owner. In such case, property shall be treated as let-out & not self-occupied.
When more than one house property used in a combined form	If an assessee has a house property, which consist of two or more residential units & all such units are self-occupied used in a combined form, the annual value of the entire house shall be taken as nil as there is only one property, though it has more than one residential unit.

Computation of taxable income of self-occupied property

Net annual value of self-occupied property shall be taken as nil. As a consequence, deduction u/s 24(a) (standard deduction) shall also be nil. Interest on loan u/s 24(b) shall be allowed, subject to certain ceiling.

Computation at a glance :

Particulars	Amount
Net Annual Value	Nil
Less : Interest on borrowed capital u/s 24(b) [Available only if assessee opt for old regime]	***
Income from house property	**(***)**
Standard deduction u/s 24(a) is not available	

Net Annual value :

Net Annual value of two self-occupied house properties, at the choice of the assessee, is taken as nil. He can choose those house properties as self-occupied through which tax liability can be reduced.

Normally (but not always) house property with higher gross annual value is treated as self-occupied property but it is advised to calculate total income under the head 'Income from house property' by applying each option separately and then choose the option which reduces total income.

Interest on loan u/s 24(b) [Available only if assessee opts for old regime]

Interest on loan taken for construction, acquisition, repair, renovation or extension is allowed according to the following table :

Conditions	Maximum Interest allowed in aggregate
Where loan is taken on or after 1/4/1999 and following conditions are satisfied - 1. Loan is utilized for construction or acquisition of house property on or after 1-4-1999; 2. Such construction or acquisition is completed within 5 years from the end of the financial year in which the capital was borrowed; and 3. The lender certifies that such interest is payable in respect of the loan used for the acquisition or construction of the house or as refinance of the earlier loan outstanding (principal amount) taken for the acquisition or construction of the house.	₹ 2,00,000
In any other case	₹ 30,000
Taxpoint : In any case, deduction in respect of interest on loan on self-occupied properties cannot exceed ₹ 2,00,000 in a year.	

Notes :

a. Calculation and deduction of interest for the period of pre and post-construction, acquisition, etc. is same as discussed in the case of let out house property.

b. Assessee shall always have nil income or loss upto ₹ 2,00,000 from properties u/s 23(2)(a).

In nutshell, treatment of interest on loan is as under :

Nature of property	When loan was taken	Purpose of loan	Allowable (Maximum limit)[2, 3]
Self-occupied	On or after 01/04/1999	Construction or purchase of house property[1]	₹ 2,00,000
Self-occupied	On or after 01/04/1999	For Repairs of house property	₹ 30,000
Self-occupied	Before 01/04/1999	Construction or purchase of house property	₹ 30,000
Self-occupied	Before 01/04/1999	For Repairs of house property	₹ 30,000
Let-out	Any time	Construction or purchase of house property	No maximum limit

1. Subject to other two other conditions. If other two conditions are not fulfilled, then maximum limit is restricted to ₹ 30,000.
2. Including interest for pre-construction period.
3. Aggregate limit for all house properties treated as self-occupied.

Illustration 51 :

Mr. Pandey, owner of three houses in Chennai, furnished the following information. Compute his income from house property for the assessment year 2025-26 :

Particulars	House No. 1	House No. 2	House No. 3
	Self occupied	Self occupied	Self occupied
Standard rent under Rent Control Act	1,50,000	15,00,000	18,00,000
Municipal value	2,00,000	13,00,000	13,50,000
Fair rent	2,50,000	16,00,000	19,00,000
Municipal tax (10% of municipal value) paid			
Interest on loan taken for purchases of houses	90,000	1,70,000	1,65,000
(Loan taken in P.Y. 2021-22)			

Assume that the assessee has opted for old regime.

Solution :

Computation of Income from House property of Mr. Pandey for the A.Y. 2025-26 :

Particulars	Details	Details	Amount
House 1: **Deemed to be Let out**			
Gross Annual Value (Working)		1,50,000	
Less : Municipal Tax (10% of ₹ 2,00,000)		20,000	
Net Annual Value (NAV)		1,30,000	
Less : Deduction u/s			
24(a) Standard Deduction (30% of NAV)	39,000		
24(b) Interest on loan	90,000	1,29,000	1,000

House 2 & 3 : **Self occupied**			
Net Annual Value		Nil	
Less : Deduction u/s			
24(b) Interest on loan [(₹1,70,000 + ₹ 1,65,000), subject to max. of ₹ 2,00,000]		2,00,000	(2,00,000)
Income from House Property			**(1,99,000)**

Working :

Computation of Gross Annual Value of House 1 :

Particulars	House 1
Municipal Value (A)	2,00,000
Fair Rent (B)	2,50,000
(C) = Higher of (A) and (B)	2,50,000
Standard Rent (D)	1,50,000
Gross Annual Value [Lower of (C) and (D)]	**1,50,000**

Illustration 52 :

Sri Jayram has a house property used for own residence for 9 months and for remaining 3 months of the previous year, it was unused. Gross Municipal value of the property ₹ 6,00,000 p.a. Fair Rent ₹ 5,00,000, Standard Rent ₹ 4,00,000. He incurred repair expenditure of ₹ 10,000 & paid municipal tax ₹ 5,000 during the year. Compute income from house property in the following cases for the A.Y. 2025-26 (assuming he has opted for the old regime):

1. He borrowed ₹ 1,00,000 @ 12% (simple interest) on 17/8/1998 for purchase of the house property and such amount as well as interest is still unpaid.
2. He borrowed ₹ 10,00,000 @ 12% (simple interest) on 17/8/1998 for purchase of the house property and such amount as well as interest is still unpaid.
3. He borrowed ₹ 5,00,000 @ 12% (simple interest) on 17/8/1999 for construction of the house property, construction of which was completed on 31/3/2000 and such amount is still unpaid.
4. He borrowed ₹ 20,00,000 @ 18% (simple interest) on 17/8/1999 for construction of the house property, construction of which was completed on 31/3/2000 and such amount is still unpaid.
5. He borrowed ₹ 1,80,000 @ 15% on 1/4/1998 and further borrowed ₹ 10,00,000 @ 10% on 17/8/1999 for construction of the house property and such amount is still unpaid. Construction completed on 1/2/2000.
6. He borrowed ₹ 5,00,000 @ 12% on 1/4/2001 for repairs of the house property.
7. He borrowed ₹ 1,80,000 @ 15% on 1/4/1998 and further borrowed ₹ 20,00,000 @ 14% on 17/8/1999 for construction of the house property and such amount is still unpaid. Construction completed on 1/2/2000.

Solution :

Computation of income from house property in different cases :

Particulars	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6	Case 7
Net Annual Value	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Less : Deduction u/s 24(b) Interest on Loan	12,000	30,000	60,000	2,00,000	1,27,000	30,000	2,00,000
Income from House Property	(12,000)	(30,000)	(60,000)	(2,00,000)	(1,27,000)	(30,000)	(2,00,000)
Notes	-	1	2	3	4	5	6

Notes :

1. As loan was taken before 1/4/1999 hence, the maximum ceiling is ₹ 30,000.

2. As loan was taken on or after 1/4/1999 for the construction of house property, which is completed within 5 years from the end of financial year in which such loan was taken, hence the maximum ceiling is enhanced to ₹ 2,00,000. It is assumed that required certificate has been furnished.

3. Maximum ceiling is ₹ 2,00,000.

4. If loan was taken before 1/4/1999 as well as on or after 1/4/1999 then the total interest allowed in aggregate cannot exceed ₹ 2,00,000. However, the limit for interest allowed in respect of loan taken prior to 1/4/1999 shall be ₹ 30,000. Since the first loan is taken on 1/4/1998 and construction completed on 1/2/2000. Hence the pre-construction period is 1998-99, for which interest ₹ 27,000 (i.e. ₹ 1,80,000 * 15%) shall be allowed in 5 equal installments i.e. ₹ 5,400 every year. However, such pre-construction period interest is allowed only for 5 years i.e. from 1999-2000 to 2003-2004, therefore such interest shall not be allowed in subsequent year. Total eligible interest on first loan is ₹ 27,000 (i.e. Pre-construction period interest Nil + Post construction period interest ₹ 27,000). Further eligible interest on second loan is ₹ 1,00,000 (i.e. 10% of ₹ 10,00,000). Hence the total allowable interest u/s 24(b) shall be ₹ 1,27,000.

5. The enhanced limit is only for construction or acquisition of house property, here the loan is taken for repair purpose for which maximum ceiling is ₹ 30,000.

6. If loan was taken before 1/4/1999 as well as on or after 1/4/1999 then the total interest allowed in aggregate cannot exceed ₹ 2,00,000. However, the limit for interest allowed in respect of loan taken prior to 1/4/1999 shall be ₹ 30,000. Since the first loan is taken on 1/4/1998 and construction completed on 1/2/2000. Hence the pre-construction period is 1998-99, for which interest ₹ 27,000 (i.e., ₹ 1,80,000 * 15%) shall be allowed in 5 equal installments i.e. ₹ 5,400 every year. However, such pre-construction period interest is allowed only for 5 years i.e. from 1999-2000 to 2003-2004, therefore such interest shall not be allowed in subsequent years. Total eligible interest on first loan is ₹ 27,000 (i.e., Pre-construction period interest Nil + Post construction period interest ₹ 27,000), i.e. within the ceiling of ₹ 30,000. Further eligible interest on second loan ₹ 2,80,000 (i.e. 14% of ₹ 20,00,000). However, the total ceiling of interest in case of self occupied property cannot exceed ₹ 2,00,000, hence the total allowable interest u/s 24(b) shall be ₹ 2,00,000.

Illustration 53 : [Rent free accommodation –vs.- Self occupied house property]

Miss Anjali owns a house property, which is let out, to her employer company for a monthly rent of ₹ 20,000. The company allotted the same house to Miss Anjali as rent-free accommodation. Municipal tax paid ₹ 20,000, interest on loan paid ₹ 90,000. Comment on tax treatment under the head income from house property.

Solution :

Though Miss Anjali owns the house and uses it for self-occupation as well, still she cannot treat the said house property as self occupied. This is because she uses the property not as an owner but as an employee.

Hence, rent received by her from the employer shall be taxable as under :

Particulars	Details	Amount
Gross Annual Value (20,000 × 12)		2,40,000
Less : Municipal tax		20,000
Net Annual Value		2,20,000
Less : Deduction u/s		
24(a) Standard deduction	66,000	
24(b) Interest on loan	90,000	1,56,000
Income from house property		**64,000**

Note: Since the assessee receives the benefit of rent-free accommodation hence she will be further taxed under the head 'Salaries' for perquisite being rent-free accommodation.

2.2.9 Deemed to be let-out house property [Sec. 23(4)]

Where the assessee occupies more than two house properties as self-occupied or has more than two unoccupied properties, then for any two of them, benefit u/s 23(2) can be claimed (at the choice of the assessee) and remaining property or properties shall be treated as 'deemed to be let out'.

Treatment :

1. Gross Annual value: Since assessee does not let out such property & do not receive rent, therefore GAV will be determined from Step 1 only. Step 2, 3 & 4 of calculation GAV are irrelevant.

   Taxpoint : GAV of deemed to be let out property will be the 'Reasonable expected rent (RER)'of the property.

2. Municipal taxes and deduction u/s 24(a) and 24(b) shall be available as in the case of let out house property.

Illustration 54 :

Compute income under the head 'Income from house property' of Sri from the following information :

Particulars	H1	H2	H3	H4
Used for	Self occupied	Self occupied	Self occupied	Own Business
Situated at	Mumbai	Abu	Kolkata	Hyderabad
Gross Municipal Value	3,00,000	2,00,000	7,00,000	3,00,000
Fair Rent	2,00,000	2,00,000	6,00,000	1,20,000
Standard Rent	3,00,000	2,40,000	7,00,000	2,00,000

Municipal Tax	15%	15%	15%	15%
Repairs	13,000	4,000	8,000	8,000
Ground Rent	20,000	Nil	Nil	6,000
Land Revenue	Nil	10,000	Nil	Nil
Interest on Loan	40,000	10,000	2,10,000	20,000
Loan taken on	1998-99	1998-99	2021-22	1999-00

Further, how shall your answer differ if he has opted for old regime.

Solution :

In the given case, there are two options :

Option 1 : Take H1 & H3 as Self-Occupied (S/O) and H2 as Deemed to be Let-Out (DLO)

Option 2 : Take H1 as Deemed to be Let-Out (DLO) and H2 & H3 as Self-Occupied (S/O)

Option 3 : Take H3 as Deemed to be Let-Out (DLO) and H1 & H2 as Self-Occupied (S/O)

Under default tax regime u/s 115BAC

Total income under the head house property shall be computed applying each option separately and then the option, which yields least income under this head, shall be opted.

Particulars	Option1		Option2		Option 3	
	H1 & H3 S/O	H2 DLO	H1 DLO	H2 & H3 S/O	H3 DLO	H1 & H2 S/O
Gross Annual Value	Nil	2,00,000	3,00,000	Nil	7,00,000	Nil
Less: Municipal Tax (15% of Municipal value)	Nil	30,000	45,000	Nil	1,05,000	Nil
Net Annual Value (A)	Nil	1,70,000	2,55,000	Nil	5,95,000	Nil
Less: Deduction u/s						
24(a) Standard deduction (30% of NAV)	Nil	51,000	76,500	Nil	1,78,500	Nil
24(b) Interest on loan	NA	1,00,000	40,000	NA	2,10,000	NA
Total deduction (B)	Nil	1,51,000	1,16,500	Nil	3,88,500	Nil
Income from house property [(A) – (B)]	Nil	19,000	1,38,500	Nil	2,06,500	Nil
Income from house property	**19,000**		**1,38,500**		**2,06,500**	

Computation of Income from house property of Sri for the A.Y.2025-26 (as per default regime)

Particulars	Details	Details	Amount
H1 & H3: Self-occupied u/s 23(2)(a)			
Net Annual Value		Nil	
Less: Deduction u/s			
24(b) Interest on loan		NA	Nil
H2: Deemed to be let out u/s 23(4)			
Gross Annual Value		2,00,000	

Less: Municipal Tax		30,000	
Net Annual Value		1,70,000	
Less: Deduction u/s			
24(a) Standard Deduction (30% of NAV)	51,000		
24(b) Interest on loan	1,00,000	1,51,000	19,000
Income from house property			**19,000**

If he opt out of default tax regime

Total income under the head house property shall be computed applying each option separately and then the option, which yields least income under this head, shall be opted.

Particulars	Option1		Option2		Option 3	
	H1 & H3 S/O	H2 DLO	H1 DLO	H2 & H3 S/O	H3 DLO	H1 & H2 S/O
Gross Annual Value	Nil	2,00,000	3,00,000	Nil	7,00,000	Nil
Less: Municipal Tax (15% of Municipal value)	Nil	30,000	45,000	Nil	1,05,000	Nil
Net Annual Value (A)	Nil	1,70,000	2,55,000	Nil	5,95,000	Nil
Less: Deduction u/s						
24(a) Standard deduction (30% of NAV)	Nil	51,000	76,500	Nil	1,78,500	Nil
24(b) Interest on loan	2,00,000[2]	1,00,000	40,000	2,00,000[2]	2,10,000	30,000[1]
Total deduction (B)	2,00,000	1,51,000	1,16,500	2,00,000	3,88,500	30,000
Income from house property [(A) – (B)]	(-) 2,00,000	19,000	1,38,500	(-) 2,00,000	2,06,500	(-) 30,000
Income from house property	**(-) 1,81,000**		**(-) 61,500**		**1,76,500**	

Notes:

1. In case of H1 & H2 loan was taken prior to 1/4/1999.
2. Since loan was taken for construction on or after 1/4/1999.
3. Since H4 is used for own business purpose so it is not taxable under this head.

Total income under the head Income from house property as per option 1 is (-) ₹ 1,81,000

Computation of Income from house property of Sri for the A.Y.2025-26 (if opted for old regime)

Particulars	Details	Details	Amount
H1 & H3: Self-occupied u/s 23(2)(a)			
Net Annual Value		Nil	
Less: Deduction u/s			
24(b) Interest on loan			
- For H1 (Max Limit)	30,000		
- For H2 (Max Limit)	2,00,000		
Subject to maximum of ₹ 2,00,000	2,30,000	2,00,000	(2,00,000)

H2: Deemed to be let out u/s 23(4)			
Gross Annual Value		2,00,000	
Less: Municipal Tax		30,000	
Net Annual Value		1,70,000	
Less: Deduction u/s			
24(a) Standard Deduction (30% of NAV)	51,000		
24(b) Interest on loan	1,00,000	1,51,000	19,000
Income from house property			**(1,81,000)**

2.2.10 Partly self-occupied and partly let-out [Sec. 23(3)]

Where a house or part of the house, which is self-occupied, is let out during any part of the previous year, such property is termed as 'Partly self-occupied and partly let out'. Further, such division may be made in the following ways :

1) Area wise division **2) Time wise division** **3) Area as well as Time wise division**

Case 1) Area wise Division

In this case, a house property consists of two or more independent units and one or more of which are self-occupied and remaining units are let out.

Treatment :

- **Self-occupied portion & let out portion shall be treated as two separate house (i.e. Unit A & Unit B);**
- **Common value like municipal value, fair rent, standard rent, municipal tax and interest shall be proportionately divided;**
- Income of both units shall be computed separately.

Illustration 55 :

Miss Paro has a house property having two separate residential units (unit A covering 40% of total area and unit B covering 60% of the total area). Unit A is self-occupied by the assessee and unit B is let out to Sri Devdas for a monthly rent of ₹ 3,000. With the following further information, compute her taxable income from house property (Assume that he has opted for the old regime) :

Municipal Value	₹ 1,00,000	Municipal Tax	10%
Fair Rent	₹ 1,20,000	Interest on Loan	₹ 30,000
Standard Rent	₹ 2,00,000	Annual charge	₹ 5,000

Solution :

Computation of Income from house property of Miss Paro for the A.Y. 2025-26 :

Particulars	Working	Unit A		Unit A	
		Details	Amount	Details	Amount
Gross Annual Value	1		Nil		72,000
Less : Municipal Tax			Nil		6,000

Net Annual Value			Nil		66,000
Less : Deduction u/s					
24(a) Standard Deduction		Nil		19,800	
24(b) Interest on loan	40:60	12,000	12,000	18,000	37,800
Income from house property			**(-) 12,000**		**28,200**
Income under the head 'Income from house property'		**16,200**			

Working 1 : Computation of Gross Annual Value (GAV) :

Steps	Particulars	Working	Unit A	Unit B
	Municipal Value	40:60	40,000	60,000
	Fair Rent	40:60	48,000	72,000
	Standard Rent	40:60	80,000	1,20,000
1.	RER	Higher of MV & FR (RER cannot exceed SR)	NIL (As S/O)	72,000
2.	ARR	₹ 3,000 * 12	-	36,000
3.	Gross Annual Value	Higher of Step 1 & 2	-	72,000

(Case 2) Time wise division - In such case, the house property is self occupied by the assessee for a part of the year and let out for remaining part of the year.

Treatment :

In such case, assessee will not get deduction for the self-occupied period and income will be computed as if the property is let out throughout the year. In this regard, it is to be noted that the reasonable expected rent (RER) shall be taken for the full year but the actual rent receivable (ARR) shall be taken only for the let-out period.

Illustration 56 :

Mr. Rana used his house property for self-occupation till 1/8/2024 and let out the same for remaining period for rent of ₹ 6,000 p.m. Compute his income from house property from the following details:

Municipal value ₹ 1,00,000, Fair Rent ₹ 80,000, Standard Rent ₹ 96,000, Municipal tax 16%, Interest on loan ₹ 10,000 [Assume that he has opted for old regime].

Solution :

Computation of income from house property of Mr. Rana for the A.Y. 2025-26 :

Particulars	Working	Details	Amount
Municipal Value		1,00,000	
Fair Rent		80,000	
Standard Rent		96,000	

Particulars	Working	Details	Amount
Reasonable Expected Rent	Higher of MV & FR (RER cannot exceed SR)	96,000	
Actual Rent Receivable	₹ 6,000 * 8	48,000	96,000
Gross Annual Value	Higher of RER and ARR		16,000
Less : Municipal Tax	16% of Municipal Value		80,000
Net Annual Value			
Less : Deduction u/s			
24(a) Standard deduction	30% of NAV	24,000	
24(b) Interest on loan		10,000	34,000
Income from house property			**46,000**

Illustration 57 :

How shall your answer differ if in the above illustration, property is let out to tenant from 1/4/2024 to 1/12/2024 and from 1/12/2024 to 1/3/2025, it was self-occupied. Standard rent of such property is ₹ 50,000. [Assume that he has opted for old regime]

Solution :

Computation of Income from house property of Mr. Rana for the A.Y. 2025-26 :

Particulars	Working	Details	Amount
Municipal Value		1,00,000	
Fair Rent		80,000	
Standard Rent		50,000	
Reasonable Expected Rent	Higher of MV & FR (RER cannot exceed SR)	50,000	
Actual Rent Receivable	₹ 6,000 * 8	48,000	
Higher of RER and ARR		50,000	
However, ARR is less than RER due to vacancy period [otherwise ARR would have been ₹ 54,000 (being ₹ 6,000 * 9)] therefore ARR shall be treated as GAV.			
Gross Annual Value			48,000
Less : Municipal Tax	16% of MV		16,000
Net Annual Value			32,000
Less : Deduction u/s			
24(a) Standard Deduction	30% of NAV	9,600	
24(b) Interest on Loan		10,000	19,600
Income from house property			**12,400**

Illustration 58 :

Miss Rani used her house property for self-occupation till 1/9/2024 and let out the same for remaining period for rent of ₹ 6,000 p.m. Municipal tax paid ₹ 5,000, interest on loan accrued ₹ 10,000. Compute her taxable income from house property.

Solution :

Computation of income from house property of Miss Rani for the A.Y. 2025-26 :

Steps	Particulars	Working	Details	Amount
	Fair Rent (Note)	₹ 6,000 * 12	72,000	
1.	Reasonable Expected Rent	Fair Rent	72,000	
2.	Actual Rent Receivable	₹ 6,000 * 7	42,000	
3.	Gross Annual Value	Higher of RER and ARR		72,000
	Less : Municipal Tax			5,000
	Net Annual Value			67,000
	Less : Deduction u/s			
	24(a) Standard Deduction	30% of NAV	20,100	
	24(b) Interest on Loan		10,000	30,100
	Income from house property			**36,900**

Note : Since the property has been let out for 7 months @ ₹ 6,000 p.m., therefore fair rent of the property is ₹ 72,000 (being ₹ 6,000 × 12).

Case 3) Area as well as Time wise Division

Merger of Case 1 and Case 2

Illustration 59 :

Mr. Ajnabi has a house property in Cochin. The house property has two equal dimension residential units. Unit 1 is self occupied throughout the year and unit 2 is let out for 9 months for ₹ 10,000 p.m. and for remaining 3 months it was self-occupied. Compute his taxable income from the following details assume that he has opted for the old regime :

Municipal value ₹ 2,00,000, Fair Rent ₹ 1,60,000, Standard rent ₹ 3,00,000, Municipal tax 10% (60% paid by assessee), Interest on loan ₹ 40,000, Expenditure on repairs ₹ 20,000.

Solution :

Working

1. Computation of Gross Annual Value (GAV)

Particulars	Working	Unit 1	Unit 2
Municipal Value	1:1	1,00,000	1,00,000
Fair Rent	1:1	80,000	80,000
Standard Rent	1:1	1,50,000	1,50,000
Reasonable Expected Rent	Higher of MV & FR (RER cannot exceed SR)	Nil	1,00,000
Actual Rent Receivable	₹ 10,000 * 9	-	90,000
Gross Annual Value	Higher of Step 1 & 2	Nil	1,00,000

2. Municipal tax = 10% of ₹ 2,00,000 = ₹ 20,000 being divided in the ratio 1:1 between Unit 1 and Unit 2. Out of such Municipal tax only 60% is paid, therefore, Municipal tax allowed as a deduction in case of Unit 2 is only ₹ 6,000 [i.e. ₹ 20,000 * ½ * 60%].

3. Interest on loan is divided in unit A and unit B in 1:1 as both units are of equal dimension.

Computation of income from house property of Mr. Ajnabi for the A.Y. 2025-26

Particulars	Working	Unit 1		Unit 2	
		Details	Amount	Details	Amount
Gross Annual Value	1		Nil		1,00,000
Less : Municipal Tax	2		Nil		6,000
Net Annual Value			Nil		94,000
Less : Deduction u/s					
24(a) Standard Deduction		Nil		28200	
24(b) Interest on loan	3	20,000	20,000	20000	48,200
Income from house property			**(-) 20,000**		**45,800**

Conclusion : Income under the head Income from house property is ₹ 25,800 (being ₹45,800 – ₹20,000).

2.2.12 Recovery of Unrealized Rent and Arrears Rent [Sec. 25A]

Applicability

The assessee has received arrears of rent received from a tenant or the unrealised rent realised subsequently from a tenant

Tax Treatment :

The amount so received shall be taxable under the head 'Income from house property' in the year of receipt after deducting standard deduction @ 30% of such amount.

Arithmetically, taxable amount shall be -

70% × [Recovery of Arrear Rent or Unrealised Rent]

Taxpoint :

- No other deduction shall be allowed from such income except standard deduction i.e. 30% of such receipt. (even legal expenditure shall not be allowed as deduction)
- The income is taxable on cash basis.

Note : Such receipt shall be chargeable as income from house property although the assessee is not the owner of such property in the year of receipt.

Illustration 60 :

Mr. Lucky Ali owns a house property let out since 1/4/2020 to a school for monthly rent of ₹ 10,000. There was no change in rent till 31/3/2024. On 1/4/2024, as per court decision rent was increased to ₹ 12,000 p.m. with retrospective effect from 1/4/2022 and duly paid by school in the same year. Legal expenditure for such suit has been incurred by Mr. Ali ₹ 30,000. Discuss tax treatment u/s 25A.

Solution :

Arrears rent belongs to the period 1/4/2022 to 31/3/2024 i.e., for 24 months.

Arrears rent received = ₹ 2,000 × 24 months = ₹ 48,000

Such rent is taxable in the year of receipt as under :

Particulars	Amount
Arrears of rent received	48,000
Less : Standard deduction u/s 24(a) equal to 30% of such rent	14,400
Income from house property u/s 25A	33,600

Note: Legal expenditure is not deductible.

Illustration 61 :

X Ltd. has two residential house properties both of which are vacant. Municipal value of 1st house property is ₹ 1,00,000 and that of 2nd is ₹ 80,000. It has computed income from house property as under :

Particulars	Details	Amount
HP1: Self occupied [Sec. 23(2)(a)]		
Net Annual Value (NAV)	Nil	
Less : Interest on loan u/s 24(b)	Nil	
Income from HP1		Nil
HP2: Deemed to be let out [Sec. 23(4)]		
Gross Annual Value (GAV)	80,000	
Less : Municipal tax	Nil	
Net Annual Value (NAV)	80,000	
Less : Standard deduction u/s 24(a) @ 30% of NAV	24,000	56,000
Income from house property		56,000

Do you agree with the computation of income from house property of the assessee.

Solution :

In the above computation, X Ltd. Has claimed benefit of self-occupation, whereas, such benefit can be claimed only by an individual or HUF. A company form of assessee cannot claim such benefit. Hence, income under the head Income from house property will be as under :

Computation of income from house property of X Ltd. For the A.Y. 2025-26 :

Particulars	Details	Amount
HP1: **Deemed to be let out** [Sec. 23(4)]		
Gross Annual Value (GAV)	1,00,000	
Less : Municipal tax	Nil	
Net Annual Value (NAV)	1,00,000	
Less : Standard Deduction u/s 24(a) @ 30% of NAV	30,000	70,000
HP2: **Deemed to be let out** [Sec. 23(4)]		
Gross Annual Value (GAV)	80,000	
Less : Municipal tax	Nil	
Net Annual Value (NAV)	80,000	
Less : Standard Deduction u/s 24(a) @ 30% of NAV	24,000	56,000
Income from house property		**1,26,000**

Illustration 62 :

Mr. Abul Hasan owns three houses at Ranchi. He furnishes the following particulars for the previous year 2024-25 :

House No. I : The house was constructed in 2024 and let out to a friend at a monthly rent of ₹ 10,000 upto 31.1.2025 and thereafter, it was let out at its fair rent of ₹ 15,000 per month. He has paid ₹ 15,000 as municipal taxes @ 10% of Municipal Value. He has also paid fire insurance premium of ₹ 2,000.

House No. II : Ground floor is let out @ ₹ 20,000 p.m. first floor, identical to ground floor, is occupied by him for his residence. Municipal taxes paid @ 20% amounted to ₹ 80,000.

House No. III : The house was constructed in 2012 and is used for his business. The annual value of this house is ₹ 1,00,000 and he spent ₹ 5,000 as municipal taxes and ₹ 2,000 for repairs.

Other information :

A loan of ₹ 40,00,000 has been taken on 01-6-2022 for construction of House No. II. Construction of the house was completed on 01-6-2023. He repaid the entire loan on 31-12-2024. Interest on loan is payable @ 12% p.a. Compute his income from house property for the A.Y. 2025-26 assume that he has opted for old regime.

Solution :

Computation of Income from House Property of Mr. Abul Hasan for the A.Y. 2025-26 :

Particulars	Details	Details	Amount
House 1 : Let out			
Gross Annual Value		1,80,000	
Less : Municipal Tax		15,000	
Net Annual Value		1,65,000	
Less : Deduction u/s			
24(a) Standard Deduction	49,500		
24(b) Interest on loan	Nil	49,500	1,15,500
House 2 : Ground Floor (Let out)			
Gross Annual Value		2,40,000	
Less : Municipal Tax [50%]		40,000	
Net Annual Value		2,00,000	
Less : Deduction u/s			
24(a) Standard Deduction	60,000		
24(b) Interest on loan	2,20,000	2,80,000	(80,000)
House 2 : First Floor (Self occupied)			
Net Annual Value		Nil	
Less : Deduction u/s			
24(b) Interest on loan		2,00,000	(2,00,000)
House 3 : Used in own business			Nil
Income from House Property			**(1,64,500)**

Workings :

[1] **Fair Rent :** Since 1st house is let out by assessee to his friend @ ₹ 10,000 p.m. and the same property is let out to other tenant @ ₹ 15,000 p.m., this signifies that 2nd house has fair rent ₹ 15,000 * 12 = ₹ 1,80,000.

[2] **Calculation of Interest to be deducted in A.Y. 2025-26**

Previous Year	Month	Interest
Pre-construction Interest		
2020-21	10	4,00,000
1/5th of pre-construction (a)		80,000
Post-construction interest (b) [₹ 40,00,000 × 12% x 9/12]	9	3,60,000
Total interest charged (a) + (b)		4,40,000
50% for Ground Floor		2,20,000

Illustration 63 :

Sarju Middey is the owner of 2 houses in Kolkata. From the following particulars of the houses, compute his income from house property for the assessment year 2025-26 assuming he has opted for old regime :

House A : Let-out to an employee of the business of Sarju @ ₹ 5,000 p.m. which is necessary for the purpose of business. Municipal tax paid ₹ 3,000 and interest on loan taken for purchasing the house amounted to ₹ 9,000.

House B : The house consists of 3 identical flats. First flat is used by him for his own business. Second flat is used by him for his own residence. The third flat is let out at a monthly rent of ₹ 15,000. Municipal taxes paid @ 5% amounted to ₹ 20,250.

Other information :

a. Unrealised rent for the P.Y. 2024-25 relating to third flat of House B amounted to ₹ 10,000.

b. A loan of ₹ 20,00,000 was taken on 01.07.2021 for construction of the House B. Construction of House B was completed on 01.06.2023. Interest on loan is 12% p.a. No repayment was made.

Solution :

Computation of Income from House Property of Sarju Middey for the A.Y. 2025-26

Particulars	Details	Details	Amount
Flat III : **Let out**			
Gross Annual Value (Working 1)		1,80,000	
Less : Municipal Tax	20,250/3	6,750	
Net Annual Value		1,73,250	
Less : Deduction u/s			
24(a) Standard Deduction	51,975		
24(b) Interest on loan [₹ 3,24,000 / 3]	1,08,000	1,59,975	13,275
Flat II : **Self occupied**			
Net Annual Value		Nil	
Less : Deduction u/s			
24(b) Interest on loan [₹ 3,24,000 / 3]		1,08,000	(1,08,000)
Income from House Property			**94,725**

Working 1 : Computation of Gross Annual Value

Steps	Particulars	Working	Unit 3
	Municipal Value	(₹ 20,250 / 5%) / 3	1,35,000
	Fair Rent	₹ 15,000 × 12	1,80,000
	Standard Rent		-
1	Reasonable Expected Rent	Higher of MV & FR (RER cannot exceed SR	1,80,000
2	Actual Rent Receivable	₹ 15,000 × 12 – ₹ 10,000	1,70,000
3	Gross Annual Value	Higher of Step 1 & 2	1,80,000

Working 2 : Calculation of Interest to be deducted in respect of House 2

Previous Year	Month	Interest
Pre-construction Interest		
2021-22	9	1,80,000
2022-23	12	2,40,000
Total		4,20,000
1/5th of pre-construction (a)		84,000
Post-construction interest (b)	12	2,40,000
Total interest (a) + (b)		3,24,000

Illustration 64: (Co-ownership)

Ram and Shyam are co-owners of a house property (individual share being Ram 75%, Shyam 25%). The property is self-occupied by the co-owners. Interest on capital borrowed to purchase the property is ₹ 4,00,000 (loan taken on 17/10/2020). Find income from house property of Ram and Shyam for the A.Y. 2025-26.

Solution:

Computation of Income from House Property of Ram and Shyam for the A.Y. 2025-26

Particulars	Ram	Shyam
Net annual Value	Nil	Nil
Less: Interest on loan (Note)	2,00,000	1,00,000
Income from House Property	(-) 2,00,000	(-) 1,00,000

Note: Interest on loan divided as under:

Particulars	Working	Share of int.	Maximum limit	Allowed interest
In case of Ram	4,00,000 * 75%	3,00,000	2,00,000	2,00,000
In case of Shyam	4,00,000 * 25%	1,00,000	2,00,000	1,00,000

Illustration 65: (Co-ownership)

Ram and Balram are co-owners of a house property (individual share being Ram 60%, Balram 40%). The property has been let out for a rent of ₹ 10,000 p.m. Interest on borrowed capital ₹ 80,000, fire insurance premium paid for the building ₹ 10,000, municipal tax paid ₹ 5,000. Compute income from house property of Ram and Balram for the A.Y. 2025-26.

Solution:

Computation of Income from House Property of Ram and Balram for the A.Y. 2025-26

Particulars	Ram		Balram	
	Details	Amount	Details	Amount
Gross Annual Value		72,000		48,000
Less: Municipal Tax		3,000		2,000
Net Annual Value		69,000		46,000
Less: Deduction u/s				
24(a) Standard deduction @ 30% of NAV	20,700		13,800	
24(b) Interest on loan	48,000	68,700	32,000	45,800
Income from House Property		300		200

Profits and Gains of Business or Profession

2.3

2.3.1 Meaning of Business & Profession

Business [Sec. 2(13)]

Business includes –

- any trade, commerce or manufacture; or
- any adventure or concern in the nature of trade, commerce or manufacture.

Generally, business means recurring economic activity, but for income tax purpose an isolated activity may be termed as business depending upon facts and circumstances. Following elements shall be considered to judge a transaction as business transaction:

- Nature of commodity
- Intention of the party
- Efforts applied in transaction
- Periodicity of transaction
- Nature of transaction (whether incidental to a business or not)

Profession [Sec. 2(36)]

Profession includes vocation. Profession requires purely intellectual skill or manual skill on the basis of some special learning and qualification gathered through past training or experience e.g. chartered accountant, doctor, lawyer etc. Professional skill can be acquired only after patient study (in a particular system either a college, university or institute) and application (i.e. experience)

Vocation implies natural ability of a person to do some particular work e.g. singing, dancing, etc. The term "vocation" is different from the term "hobby". Vocation must have the earning feature. It can be treated as an earning means by which a man passes his life. Unlike profession, vocation does not require a degree or special learning.

Notes

1. **Profit Motive:** If the motive of an activity is pleasure only, it shall not be treated as business activity.
2. **Business vs Profession:** An income arising out of trade, commerce, manufacture, profession or vocation shall have the same treatment in Income tax Act. However, a little segregation is required to be made between business and profession while applying sec. 44AA, sec. 44AB, sec. 40AD, sec. 44ADA, etc. (discussed later in this chapter).

2.3.2 Income chargeable under the head Profits & gains of business or profession [Sec. 28]

Sec. 28 enlists the incomes, which are taxable under the head 'Profits & gains of business or profession':

1. **Profits & gains of any business or profession [Sec. 28(i)]:** Any income from business or profession including income from speculative transaction shall be taxable under this head.

2. **Compensation to Management agency [Sec. 28(ii)]:** Any compensation/other payment due to or received -

By	In connection with
Any person managing the affairs of an Indian company	Termination or modification of terms and conditions of his appointment
Any person managing the affairs of any company in India	
Any person holding an agency in India for any part of the activities relating to the business of any other person	Termination of agency or the modification of terms and conditions in relation thereto
Any person	The vesting in the Government or in any corporation owned/controlled by the Government, of the management of any property or business.
Any person	The termination or the modification of the terms and conditions, of any contract relating to his business

3. **Income of trade or professional association's [Sec. 28(iii)]:** Income derived by a trade, professional or similar association from rendering specific services to its members shall be taxable under this head.

   Note: This is an exception to the general principle that a surplus of mutual association cannot be taxed.

4. **Export incentive [Sec. 28(iiia) (iiib) & (iiic)]:** An export incentive in form of -

   - Profit on sale of import license or duty entitlement pass book. [Sec. 28(iiia)/(iiid)/(iiie)]
   - Cash assistance received/receivable by an exporter under a scheme of the Government of India [Sec. 28(iiib)]
   - Duty draw back (received/receivable) for export e.g. duty drawback, etc. [Sec. 28(iiic)]

5. **Perquisite from business or profession [Sec. 28(iv)]:** The value of any benefit or perquisite arising from business or the exercise of a profession, whether:

   a. convertible into money or not; or

   b. in cash or in kind or partly in cash and partly in kind

   Examples: If an authorized dealer of a company receives a car (over and above his commission) from the company on achieving sale-target then market value of such car shall be taxable under the head 'Profits & gains of business or profession'.

6. **Remuneration to partner [Sec. 28(v)]:** Any interest salary, bonus, commission or remuneration received by a partner from the firm (or Limited Liability Partnership) shall be taxable as business income in the hands of the partner to the extent allowed in hands of firm (or Limited Liability Partnership) u/s 40(b).

7. **Amount received or receivable for certain agreement [Sec. 28(va)]:** Any sum, whether received or receivable in cash or in kind, under an agreement for -

   - not carrying out any activity in relation to any business or profession; or
   - not sharing any know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provisions for services.

Exceptions: The aforesaid provision is not applicable in respect of the following:

a. any sum received or receivable in cash or in kind on account of transfer of the right to manufacture, produce or process any article or thing; or right to carry on any business or profession, which is chargeable under the head Capital gains;

b. any sum received as compensation from the multilateral fund of the Montreal Protocol on Substances that Deplete the Ozone Layer under the United Nation Environment Programme, in accordance with the terms of agreement (whether or not in writing, whether or not intended to be enforceable by legal proceedings) entered into with the Government of India

8. **Keyman Insurance Policy [Sec. 28(vi)]:** Any sum received under a Keyman Insurance Policy including bonus on such policy. As per sec. 10(10D) *Keyman insurance policy* is a life insurance policy taken by a person on the life of another person who is or was -

   - an employee of the first mentioned person; or
   - in any manner whatsoever connected with the business of the first mentioned person.

   and includes such policy which has been assigned to a person, at any time during the term of the policy, with or without any consideration

9. **Conversion of stock into capital asset [Sec. 28(via)]:** The fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset. (Discussed later in the chapter)

10. **Recovery against certain capital assets covered u/s 35AD [Sec. 28(vii)]:** Any sum received or receivable (in cash or kind) on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction u/s 35AD (Discussed later in this chapter).

General Points

1. **Chargeability:** As per sec. 145(1), income chargeable under the head "Profits & gains of business or profession" or "Income from other sources", shall subject to the provision of sec. 145(2), is to be computed in accordance with the method of accounting (i.e. either on cash or on accrual basis) regularly followed by the assessee. However, there are certain expenditures specified u/s 43B, which shall be deductible only on cash basis.

   As per sec. 145(3), where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or has not been regularly followed by the assessee, or income has not been computed in accordance with the notified standards, the Assessing Officer may make an assessment in the manner provided u/s 144 i.e. Best Judgment Assessment.

2. **Speculative transaction:** Explanation 2 to section 28 specifically provides that where an assessee carries on speculation business, that business of the assessee must be deemed as distinct and separate from any other business.

   Taxpoint

   - Speculative transaction means a transaction in which contract for purchase and sale of any commodity including stock and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scripts. [Sec. 43(5)]
   - Further, as per explanation to sec. 73, where any part of the business of a company consists of purchase and sale of shares of other companies, such company shall be deemed to be carrying on speculation business to the extent of purchase and sale of shares. However, this rule is not applicable in case of companies -

a) of which gross total income mainly consists of income which is chargeable under the head "Income from house property", "Capital gains", and "Income from other sources"; or

b) of which principal business is the business of trading in shares or banking or granting of loans and advances.

Above explanation covers only transactions of purchase and sale of shares. Debentures, units of UTI or of Mutual Funds are not covered by this explanation.

Transactions not deemed to be speculative transactions

1. **Hedging Contract:**
   - Contracts in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery.
   - Contracts in respect of stocks and shares entered into by a dealer or investor in stocks and shares to guard against loss in his holdings through price fluctuations.
   - Contracts entered into by members of forward markets and stock exchanges in the course of any transactions in the nature of jobbing or arbitrate to guard against losses which may arise in the ordinary course of their businesses
2. **Derivative Trading:** An eligible transaction in respect of trading in derivative referred to in sec.2(ac) of the Securities Contracts (Regulation) Act, 1956 carried out in a recognised stock exchange shall not be treated as speculative transaction. Similarly, an eligible transaction in respect of trading in commodity derivatives carried out in a recognised stock exchange (and liable for Commodities Transaction Tax in case of trading in commodity derivatives other than agricultural commodity derivatives) shall not be treated as speculative transaction.

   However, in respect of trading in agricultural commodity derivatives, the requirement of chargeability of commodity transaction tax is not applicable.

3. **Negative income:** Income includes negative income i.e. loss.
4. **Notional profit:** A person cannot do business with himself, hence notional profit is not taxable. E.g. If proprietor withdraws goods costing ₹ 10,000 for personal use at an agreed value of ₹ 12,000 then profit of ₹ 2,000 shall not be taxable.
5. **Anticipated profit or loss:** Anticipated or potential profit or loss, which may or may not arise in future are not considered for deriving taxable income.
6. **Legality of business:** There is no difference between legal or illegal business from income tax point of view. Even income of illegal business shall be taxable. However, expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law would not be allowable as deduction while computing profits of such business
7. **Voluntary receipts:** Voluntary payment made by persons who were under no obligation to pay anything at all would be income in the hands of the recipient, if they were received in the course of a business or by the exercise of a profession or vocation.
8. **Compilation of income of all business or profession:** If an assessee carries on several business or profession, then income from all business or profession shall be merged together.
9. **Business or profession must be carried on during the previous year.** Income is chargeable under the head "Profits & gains of business or profession" only if the business is carried on by the assessee during the previous year. It is not necessary that the business should continue throughout the year or till the end of previous year.

Exceptions

However, in the following cases, income may be charged under the head Profits & gains of business or profession even though the business is not carried on during the previous year:

Sections	Details
176(3A)/(4)	Applicability: Where any business or profession is discontinued in any year and any sum received after the discontinuance. Treatment: The sum so received shall be deemed to be the income of the recipient & charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance
*41(1)	Recovery of any amount earlier allowed as deduction
*41(2)	Balancing charge in case of power sector unit
*41(3)	Sale of an asset used for scientific research
*41(4)	Bad debt recovery which was earlier allowed as deduction
*41(4A)	Amount withdrawn from a reserve created u/s 36(1)(viii)
* Discussed later in this chapter	

2.3.3 Incomes not taxable under the head Profits and gains of business or profession

Following incomes are though in the nature of profits and gains of business or profession, shall not be taxable under this head:

1. **Rent from residential house property** is taxable u/s 22 under 'Income from house property' even though -
   - the assessee is engaged in the business of letting out properties on rent; or
   - such property is held as stock in trade
2. **Dividend on shares** is taxable u/s 56(2)(i) under the head 'Income from other sources' even though the assessee deals in shares and such shares are held as stock in trade. The provision is not applicable in case of interest on securities held as stock in trade.
3. **Winning from lotteries, races etc.** are taxable under the head 'Income from other sources' even if such income is derived through regular business activity.

   Treatment of lottery ticket held as stock in trade: However, where an assessee deals in lottery tickets and some of the lottery tickets remained unsold, any winning from such unsold lottery ticket shall be treated as incidental to business and taxed under the head 'Profits and gains of business or profession
4. **Exempted income** by virtue of sec. 10, 11 or 13A.
5. **Sum taxable under the head 'Capital gains' for the purpose of sec. 28 (va)** shall not be taxable under this head. E.g. profit on sale of route permit shall not be taxable under the head 'Profits & gains of business or profession'.

2.3.4 Expenditures allowed as deduction

General Notes

1. **Capital -*vs.*- Revenue expenditure:** Capital expenditures are not allowed as deduction, unless & until expressly allowed whereas revenue expenditures are allowed as deduction until & unless expressly disallowed under the Income tax Act.

2. **Expenditure of non-assessable business:** Any expenditure of a non-assessable business is not allowed as deduction. For instance, expenditure for earning agricultural income is not allowed as deduction from income of an assessable business.

3. **Expenditure must relate to the business of the assessee:** Expenditure must have been incurred by the assessee for its business.

   Note: In case where the assessee incurs expenditure for its own business, the mere fact that the benefit of such expenditure is enjoyed by some other person, cannot deny the admissibility of the expenditure.

4. **Anticipated loss or expenditure:** Subject to certain exceptions, no deductions are allowed for anticipated losses. *E.g.* provision for bad & doubtful debts.

5. **Notional expenditure:** No one can earn income from himself/herself. For instance, rent paid to a sole proprietor, salary to proprietor, interest on capital to proprietor, etc. are not income in the hands of the proprietor. Hence, it is not deductible from the income of business as expenditure.

6. **Onus to proof:** Onus to proof lies with the assessee. It is the responsibility of the assessee to prove that a particular expenditure is to be allowed as deduction in his case.

2.3.5 Specific Deductions

As per sec. 29, income under this head will be computed considering the provisions of sec. 30 to 43DB, which decides the admissibility of expenditures for computing income under this head.

2.3.6 Rent, rates, taxes, repairs & insurance for building [Sec. 30]

Rent, rates, taxes, repairs & insurance for premises used for the purpose of business or profession shall be allowed under this section. Points to be noted in this regard:

1. **Use of building:** The building is to be used for the purpose of business or profession. However, if the building is not exclusively used for the purpose of business or profession then deduction shall be restricted to a fair proportion of above expenditure which the Assessing Officer may determine [Sec. 38(2)].

2. **Notional Rent:** Rent paid to proprietor is disallowed but rent paid by firm to its partner for using his premises is an allowed expenditure.

3. **Current repair vs Capital repair:** Only current repairs are allowed as deduction. Capital repairs are not allowed as deduction whether the assessee occupies the building as a tenant or as a landlord.

   Current repair (irrespective of the amount involved) means -

   - a repair incurred to preserve and maintain an existing asset; and
   - a repair which does not result in a new or fresh advantage.

   Current repairs connote repairs which are attended to when the need for them arises and which are not allowed to be accumulated.

4. **Municipal taxes:** Rates & taxes (for e.g. land revenue, municipal tax, etc) are deductible on cash basis [Sec. 30 read with sec. 43B]

2.3.7 Repairs & insurance of machinery, plant & furniture [Sec. 31]

Repairs & insurance of plant, machinery & furniture are allowed as deduction. Points to be noted in this regard:

1. **Use of asset:** The asset must be used for the purpose of business or profession. However, if the asset is not exclusively used for the purpose of business or profession then deduction shall be restricted to a fair proportion of above expenditure, which the Assessing Officer may determine [Sec. 38(2)].
2. **Current repair vs Capital repair:** Only current repairs are allowed as deduction.
3. **Rent for furniture, plant or machinery:** Only repairs & insurance of machinery, plant & furniture is covered under this section. Rent paid for use of such assets is deductible u/s 37(1).

2.3.8 Depreciation [Sec. 32]

Sec. 32 provides for depreciation on -

Tangible assets	Building, Machinery, Plant and Furniture.
Intangible assets	Know how, Copyright, Trade Mark, Patent, Licence, Franchise, or any other business or commercial right of the similar nature acquired on or after 1/4/1998 However, it does not include goodwill

Conditions for claiming depreciation

Depreciation is allowed provided the following conditions are satisfied:

Condition 1: Asset must be **owned** by the assessee.	**Condition 2:** Asset must be **used** for the purpose of business or profession during the previous year.
Notes	
➢ **Beneficial owner:** Assessee need not be a registered owner, even a beneficial owner can claim depreciation. ➢ **Co-owner:** In case of joint ownership, depreciation is allowed on proportionate basis.	➢ **Passive use -vs.- Active use:** Use includes active use as well as passive use. Active use means actual use of the property for the purpose of business or profession. Whereas passive use includes "ready to use". It means, if a property was not actually used for business or profession but was ready to use in the previous year, in such case, assessee can claim depreciation on such assets
➢ **Property acquired on hire purchase:** In case of hire purchase, the buyer can claim depreciation even though he does not get legal title of the asset till he pays the last instalment.	➢ **Partly used for business or profession:** As per sec. 38, if an asset is partly used for business or profession and partly used for personal purpose, then proportionate depreciation (as determined by the Assessing Officer) shall be allowed.
➢ **Capital expenditure on a property by the lessee:** Where an assessee being a lessee of a property incurs any capital expenditure by way of improvement, extension, super construction, etc. on a building being used for his business or profession, he is entitled to depreciation in respect of such capital expenditure. ➢ **Sec. 53A of Transfer of Property Act:** Possessor of an immovable property u/s 53A of Transfer of Property Act can claim depreciation even though he is not the registered owner of the property.	➢ **House property let out to tenant for smooth running of the business:** If an assessee lets out a property to his employee and where such letting-out supports smooth flow of his business, then rent received from employee shall be chargeable under the head "Profits & gains of business or profession" and such property shall be eligible for depreciation u/s 32. Similarly, where an assessee makes available his property to any Government agency for locating branch of a nationalized bank, police station, post office, tax office, railway staff quarters, etc. for the purpose of running the business of assessee more efficiently, then such letting out shall be deemed to be incidental to business and depreciation on such building shall be allowed u/s 32.

Method of computing depreciation (other than power units)

The method of computing depreciation as per Income tax Act is entirely different from accountancy method. For Income tax purpose, assets are categorised into Block of Assets.

Block of Assets [Sec. 2(11)]

Block of assets means a group of *assets of same nature*, in respect of which *same rate of depreciation* is charged. In other words, to fall in the same block, the following two conditions are to be satisfied:

- Assets must be of same nature;

  Tangible assets being building, machinery, plant or furniture, and

  Intangible assets, being know-how, patents, copy-rights, trade marks, licenses, franchises or any other business or commercial rights of similar nature acquired on or after 1-4-1998 (it does not include goodwill);
- Rate of depreciation on such asset must be same.

Method of Depreciation

Depreciation shall be allowed on written down value method at the rates prescribed.

Calculation of depreciation (at a glance)

Particulars	Amount
W.D.V of the block at the beginning of the previous year	***
Add: Assets (falling within the block) acquired during the previous year	***
	ABC
Less: Money payable* alongwith scrap value in respect of that asset (falling within the block) which is sold, discarded, demolished or destroyed during the previous year [$subject to max. of ABC]	(DE)$
Written Down Value [# XYZ cannot be negative]	XYZ#
Less: Depreciation (as a % on XYZ)	(***)
Opening WDV for 1st day of next year	****

When depreciation is not charged

Depreciation is not charged in the following two cases:

1. When 'DE' (Sale proceeds) exceeds ABC, the excess shall be treated as short term capital gain.
2. When 'XYZ' (Value of block before depreciation) is positive but the block does not have any asset. In such case, such positive value shall be treated as short term capital loss.

Significance of date of purchase (Effect of time on depreciation)

Where -

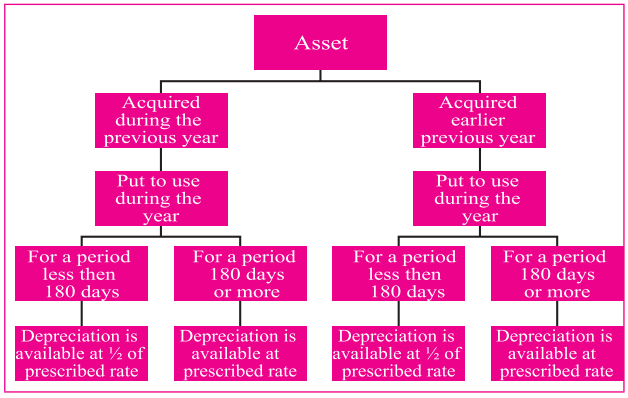
a. an asset is acquired by the assessee during the previous year; and

b. is put to use in the same previous year for less than 180 days,

   - the depreciation in respect of such asset is restricted to 50% of the normal depreciation.

   Except above, date of purchase has no relevance.

Taxpoint: There is no significance of date of sale for computation of depreciation.



* As per explanation to sec. 41, money payable in respect of any building, machinery, plant or furniture includes:
(a) any insurance, salvage or compensation moneys payable in respect thereof;
(b) where the building, machinery, plant or furniture is sold, the price for which it is sold.
The word 'money' has to be interpreted only as actual money or cash, and not as any other thing or benefit which could be evaluated in terms of money [CIT -vs.- Kasturi & Sons Ltd. (SC).]
Gross amount shall be deducted, expenses on transfer may be allowed as deduction u/s 37(1).

Extract of depreciation-rate

Block		Nature of Asset
Buildings[1]	5%	Residential building other than hotels and boarding
Buildings	10%	Non residential building, godown, office, factory, etc. including hotels and boarding
Buildings	40%	Temporary construction
Furniture	10%	Any furniture including electrical fittings
Plant/Machinery	20%	Ocean going ships, vessels, speed boats
Plant/Machinery	30%	Motor car (including lorries and buses) used for hiring purposes
Plant/Machinery	40%	Computer including computer software Books owned by a professional
Plant/Machinery	40%	Air or water pollution control equipment
Plant/Machinery	15%	Oil Wells
Plant/Machinery	15%	In general (if nothing is mentioned regarding nature of plant & machinery and including motor car not used for hiring purpose)
Intangible assets[3]	25%	Acquired after 31/3/98

[1.] Buildings include roads, bridges, culverts, wells (excluding oil wells) and tube wells.

[2.] Plant does not include tea bushes or live stocks or buildings or furniture & fittings.

[3] Patent, Know-how, Copy-rights, Trade-mark, Licences, Franchises and other business or commercial right of similar nature (it does not include goodwill)

Illustration 66:

M/s Anita Enterprises has written down value in furniture block (depreciation rate 10%) as on 1/4/2024 ₹ 80,000. The block consists of two furniture X and Y.

Compute depreciation u/s 32 for the A.Y. 2025-26 in the following cases:

Case A	Furniture X sold for ₹ 20,000 on 1/5/2024
Case B	Furniture X sold for ₹ 1,00,000 on 1/1/2025
Case C	Furniture X sold for ₹ 1,00,000 and Furniture S purchased for ₹ 35,000 as on 1/7/2024
Case D	Furniture X sold for ₹ 10,000 and Furniture S purchased for ₹ 40,000 as on 1/7/2024
Case E	Furniture X sold for ₹ 10,000 and Furniture S purchased for ₹ 40,000 as on 11/11/2024
Case F	Furniture X sold for ₹ 2,00,000 and Furniture S purchased for ₹ 40,000 as on 11/11/2024
Case G	Furniture X and Furniture Y both sold for ₹ 10,000 and ₹ 35,000 respectively.
Case H	Furniture X and Furniture Y both sold for ₹ 10,000 and ₹ 35,000 respectively as on 11/11/2024. New Furniture T purchased for ₹ 5,000 as on 1/7/2024.
Case I	Furniture Z purchased for ₹ 40,000 on 1/7/2024 and the same being put to use on 11/11/2024.
Case J	Furniture Q purchased for ₹ 50,000 on 1/7/2024 but put to use on 1/11/2025.
Case K	Furniture R purchased for ₹ 30,000 on 1/7/2023 but put to use on 11/11/2024.
Case L	Furniture S purchased for ₹ 10,000 on 1/7/2024 but put to use on 11/11/2024 and Furniture X and Y sold for ₹ 10,000 and ₹ 6,000 respectively.
Case M	Furniture R purchased for ₹ 30,000 on 1/7/2024 and sold the same for ₹ 40,000 on 11/11/2024.
Case N	Sold Furniture X and Y for ₹ 95,000 on 1/7/2024 & purchased Furniture R for ₹ 30,000 on 11/11/2024

Case O	Sold Furniture X for ₹ 90,000 on 11/7/2024 and following Furniture put to use - ➢ Furniture A on 18/12/2024, purchased on 17/12/2024 for ₹ 30,000; ➢ Furniture B on 18/2/2025, purchased on 15/8/2024 for ₹ 50,000; ➢ Furniture Z on 18/4/2024, purchased on 17/7/2023 for ₹ 60,000; ➢ Furniture P on 8/12/2024, purchased on 17/5/2023 for ₹ 10,000; ➢ Furniture Q on 1/4/2025, purchased on 31/3/2025 for ₹ 20,000.

Assume in all cases new furniture is charged to deprecation @ 10%

Solution :

Computation of depreciation for the A.Y. 2025-26

Particulars	Case A	Case B	Case C	Case D	Case E	Case F	Case G	Case H
Block: Furniture (10%)								
W.D.V. as on 1/4/2024	80,000	80,000	80,000	80,000	80,000	80,000	80,000	80,000
Add: Purchase	Nil	Nil	35,000	40,000	40,000	40,000	Nil	5,000
	80,000	80,000	1,15,000	1,20,000	1,20,000	1,20,000	80,000	85,000
Less: Sale Proceeds	20,000	80,000#	1,00,000	10,000	10,000	1,20,000#	45,000	45,000
	60,000	Nil	15,000	1,10,000	1,10,000	Nil	35,000	40,000
Depreciation	6,000	Nil	1,500	11,000	9,000[1]	Nil	Nil	4,000
Short term capital gain		20,000				80,000		
Short term capital Loss							(35,000)	

Sale Proceeds cannot exceed Opening WDV as increased by actual cost of asset acquired during the previous year. Excess, if any, shall be considered as short-term capital gain.

Computation of depreciation for the A.Y. 2025-26

Particulars	Case I	Case J	Case K	Case L	Case M	Case N
Block: Furniture (10%)						
W.D.V. as on 1/4/2024	80,000	80,000	80,000	80,000	80,000	80,000
Add: Purchase	40,000	Nil	30,000	10,000	30,000	30,000
	1,20,000	80,000	1,10,000	90,000	1,10,000	1,10,000
Less: Sale Proceeds	Nil	Nil	Nil	16,000	40,000	95,000
	1,20,000	80,000	1,10,000	74,000	70,000	15,000
Depreciation	10,000[2]	8,000	11,000[3]	6,900[4]	7,000	750[5]
Short term capital gain						
Short term capital Loss						

[1](₹ 70,000 * 10%) + (₹ 40,000 * 10% * ½) [2](₹ 80,000 * 10%) + (₹ 40,000 * 10% * ½)

[3] Though the asset was put to use for less than 180 days but since it was not acquired in the current year hence provision for ½ year depreciation shall not be applicable

[4] (₹ 10,000 * 10% * ½) + (₹ 64,000 * 10%) [5](₹ 15,000 * 10% * ½)

Case O: Computation of depreciation for the A.Y. 2025-26

Particulars	Details	Amount
Block: Furniture (10%)		
W.D.V. as on 1/4/2024		80,000
Addition during the year:		
– Furniture A (eligible for ½ year depreciation)	30,000	
– Furniture B (eligible for ½ year depreciation)	50,000	
– Furniture Z	60,000	
– Furniture P	10,000	1,50,000
		2,30,000
Less: Sale Proceeds		90,000
		1,40,000
Depreciation [{₹ 80,000 * 10% * ½} + {₹ 60,000 i.e. (₹ 1,40,000 – ₹ 80,000) * 10%)]		10,000
Since, furniture Q was put to use on 1/4/2025, therefore depreciation shall not be charged in the P.Y.2024-25.		

Illustration 67:

Mr. X, a grower and manufacturer of tea, purchased machinery (15%) on 10-04-2022 for ₹ 10 lakh. He computed depreciation for A.Y. 2025-26 as given below; needs your comment on his working:

Particulars	Amount
Opening W.D.V. as on 1/4/2023	Nil
Add: Assets purchased during the year	10,00,000
	10,00,000
Less: Depreciation for the P.Y. 2023-24 [₹ 10,00,000 * 15% * 40%]	60,000
(As he is engaged in the business of growing and manufacturing tea; hence 60% is considered as part of agricultural income)	
Opening W.D.V. as on 1/4/2024	9,40,000
Less: Depreciation for the P.Y. 2024-25 [₹ 9,40,000 * 15% * 40%]	56,400
Opening W.D.V. as on 1/4/2025	8,83,600

Further, compute his business income for A.Y. 2024-25 assuming that his income before depreciation and without reducing element of agricultural income is ₹ 8,00,000/-

Solution :

The method of computation of depreciation followed by Mr. X is not correct as Expl. 7 to sec.43(6) provides that:

"Where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire income

is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act."

The correct computation of depreciation is as follow:

Particulars	Amount
Opening W.D.V. as on 1/4/2023	Nil
Add: Assets purchased during the year	10,00,000
	10,00,000
Less: Depreciation for the P.Y. 2023-24 [₹ 10,00,000 * 15%]	
(Considering the entire income as taxable income)	1,50,000
Opening W.D.V. as on 1/4/2024	8,50,000
Less: Depreciation for the P.Y. 2024-25 [₹ 8,50,000 * 15%]	1,27,500
Opening W.D.V. as on 1/4/2025	**7,22,500**

Computation of business income of Mr. X for A.Y. 2025-26

Particulars	Amount
Income before depreciation and without reducing element of agricultural income	8,00,000
Less: Depreciation	1,27,500
	6,72,500
Less: Agricultural Income being 60% of above	4,03,500
Profits and Gains of Business or Profession	**2,69,000**

2.3.9 Additional depreciation [Sec. 32(1)(iia)] Available only in Old Regime

Applicability

Additional depreciation is applicable on all assessee engaged in the business of *manufacture or production* of any article or thing or in the business of generation, transmission or distribution of power

Conditions to be satisfied

1. Assessee must be an industrial undertaking, which manufactures or produces any article or thing or in the business of generation, transmission or distribution of power.
2. Assessee *acquired and installed* after 31st March, 2005, a new plant or machinery, other than the following:
   - Ships and air crafts; or
   - Any plant or machinery which was used either within or outside India by any other person before such installation; or
   - Any plant or machinery installed in office premises or any residential accommodation or guest house; or
   - Any office appliances or road transport vehicle; or

- Any plant or machinery, which is allowed for 100% deduction (whether by way of depreciation or otherwise) in the previous year.

Taxpoint: Additional depreciation shall be available only on plant and machinery and not on other asset like furniture, building, etc.

Rate of additional depreciation

Rate of additional depreciation is 20% of actual cost of such plant or machinery.

- Where, if the asset is acquired and put to use for less than 180 days then additional depreciation @ 10% (i.e., 50% of 20%) of actual cost shall be allowed in that previous year and the deduction for the balance 10% shall be allowed in the immediately succeeding previous year.

Taxpoint

1. Additional depreciation shall be reduced while computing the closing WDV of the respective block.
2. Additional depreciation is not available if the new plant or machinery is sold in the year of acquisition.
3. Additional depreciation is not available if the power unit is claiming depreciation under straight line method i.e. u/s 32(1)(i)
4. The business of printing or printing and publishing amounts to manufacture or production of an article or thing and is, therefore, eligible for additional depreciation [Circular No. 15/2016 dt 19-05-2016]

Provision Illustrated

B Ltd., a newly formed manufacturing concern, has furnished you the following details to compute Depreciation allowed for the A.Y. 2024-25 and 2025-26:

Assets	Date of Acquisition	Cost of Acquisition	Rate of depreciation
Plant A	02/04/2023	5,00,000	15%
Plant B	07/05/2023	3,00,000	15%
Plant C	15/12/2023	2,00,000	15%
Plant D	05/05/2024	1,00,000	15%

Solution:

Computation of Additional Depreciation

Assets	Rate	Cost	Additional depreciation	
			A.Y. 2024-25	A.Y. 2025-26
Plant A	20%	5,00,000	1,00,000	Nil#
Plant B	20%	3,00,000	60,000	Nil#
Plant C	10%	2,00,000	20,000	20,000
Plant D	20%	1,00,000	Nil	20,000
Total			**1,80,000**	**40,000**

Calculation of Depreciation u/s 32 of Plant (15%) for the A.Y.2024-25 and 2025-26

Particulars	Details	Amount
W.D.V. as on 1/4/2023		-
Add: Purchase during the year		10,00,000
		10,00,000
Less: Sale during the year		Nil

		10,00,000
Depreciation (normal) [(₹ 8,00,000 * 15%) + (₹ 2,00,000 * 15% * ½)]	1,35,000	
Additional depreciation (as computed above)	1,80,000	3,15,000
W.D.V. as on 1/4/2024		6,85,000
Add: Purchase during the year		1,00,000
		7,85,000
Less: Sale during the year		Nil
		7,85,000
Depreciation (normal) [₹ 7,85,000 *15%]	1,17,750	
Additional depreciation (as computed above)	40,000	1,57,750
W.D.V. as on 1/4/2025		**6,27,250**

Illustration 68:

An industrial undertaking, which commenced the manufacturing activity with effect from 1st September, 2024 has acquired the following assets during the previous year 2024-25:

Assets	Date of acquisition	Date when put to use	Cost of acquisition
Factory building	4-4-2024	1-9-2024	50,00,000
Plant & Machinery			
Machinery A	5-5-2024	1-9-2024	2,00,000
Machinery B	7-6-2024	1-9-2024	5,00,000
Machinery C	30-8-2024	1-9-2024	10,00,000
Machinery D	1-9-2024	31-10-2024	4,00,000
Machinery E	1-1-2025	28-2-2025	3,00,000
Machinery F (second hand)	11-1-2025	13-1-2025	2,00,000
Motor car	1-2-2025	1-2-2025	5,00,000
Air-conditioner (installed in the office)	1-2-2025	2-2-2025	1,00,000

Compute the depreciation allowable for the assessment year 2025-26 and the written down value as on 1st April 2025.

Solution :

Computation of depreciation allowable for the A.Y. 2025-26

Particulars	Building	Plant & Machinery[1]
Rate	10%	15%
W.D.V. as on 1-4-2024	Nil	Nil
Add: Purchase during the year	50,00,000	32,00,000
	50,00,000	32,00,000
Less: Sale proceeds	Nil	Nil
	50,00,000	32,00,000
Depreciation on above	5,00,000	7,77,500
W.D.V. as on 1-4-2025	**45,00,000**	**24,22,500 (Note)**

[1] Block consists of Machinery A to Machinery F, Motor Car & Air-conditioner.

[2] Depreciation on plant and machinery

- Normal	[(₹ 17,00,000 * 15%) + (₹ 15,00,000 * 15% * ½)]	3,67,500
- Additional (on Machinery A to E)	[(₹ 17,00,000 * 20%) + (₹ 7,00,000 * 20% * ½)]	4,10,000
Total Depreciation		7,77,500

Note :

1. Asset which was put to use for less than 180 days is eligible for ½ year depreciation. However, additional depreciation of ₹ 70,000/- (i.e. ₹ 7,00,000 * 20% * ½) shall be available in the A.Y. 2025-26.
2. Additional depreciation is not available on following assets:

Asset	Reason
Factory building	As it is not plant and machinery
Machinery-F	As it is a second hand machinery
Motor car	As it is a road transport vehicle
Air conditioner	As it is installed in office

2.3.10 Treatment of Slump sale

Slump sale [Sec. 2(42C)]: It means transfer of undertaking(s) for a lump sum consideration without assigning values to the individual assets of such undertaking(s).

Computation of written down value of block of assets in case of slump sale

Particulars	Amount
W.D.V of the block at the beginning of the previous year	***
Add: Purchase during the previous year	***
	MNO
Less: Sale consideration for assets sold (to the maximum of MNO)	(****)
	PQR
Less: WDV (Note) of the asset sold under slump sale	(ABC)
[Value of deduction at this stage i.e. abc cannot exceed PQR]	
	XYZ
Less: Depreciation (as a % on XYZ)	(***)
WDV of the block at the end of year	****

Note: Written down value of the asset sold under slump sale

Particulars	Amount
Original cost of asset sold under slump sale	***
Less: Depreciation (actual) allowed on such asset in respect of any previous year commencing before 1987-88	(***)
Less: Depreciation (notional) that would have been allowable from the previous year 1987-88 onwards as if the asset is only asset in the relevant block.	(***)
Written down value of the asset sold under slump sale	***

2.3.11 Depreciation in case of Power Units

An undertaking engaged in the business of generation or generation and distribution of power may charge depreciation (in respect of asset acquired after 31/3/1997) at its choice under -

- Written-down value method as followed by all other assessee (usual); or
- Straight-line method at the prescribed rate in 'Appendix IA' of the Income Tax Rules on actual cost of asset* (not the block value of asset)

However, such option shall be exercised before the due date of furnishing return of income. Further, it may be noted that once the option is exercised, it shall be applicable for all subsequent assessment years.

Note: Additional depreciation is not available to the assessee who claims depreciation as per Straight-Line Method.

Terminal Depreciation and Balancing Charge

Applicable to	Assessee engaged in generation or generation and distribution of power.	
Conditions	1. Assessee must follow the straight-line method of depreciation at specified rates. 2. The asset is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use).	
Meaning	**Terminal Depreciation**	**Balancing Charge**
	Loss on transfer of such asset is treated as terminal depreciation. **Taxpoint:** ➢ Terminal depreciation = + ve value of [WDV of assets – (Sale value or Scrap value)] ➢ Terminal depreciation is written off in the books of accounts.	Profit on transfer of such asset to the maximum of accumulated depreciation shall be treated as balancing charge. The difference between sale price and actual cost shall be treated as capital gain. **Taxpoint:** **Balancing Charge** = - ve value of [WDV of assets – (Sale value + Scrap value)] However, balancing charge cannot exceed accumulated depreciation claimed on such asset.
Treatment	Terminal depreciation is fully allowed as deduction as a business loss.	As per sec. 41(2), balancing charge is fully taxable *as business income* in the previous year in which such income falls due. The provision holds good even if the business does not exist in that year.

Illustration 69:

Important Ltd. is a power-generating unit. On 1-4-2022, it purchased a plant of ₹ 50,00,000 eligible for depreciation @ 15% on SLM. Compute balancing charge or terminal depreciation assuming the plant is sold on 21/4/2024 for:

A) ₹ 7,50,000 B) ₹ 30,00,000 C) ₹ 45,00,000 D) ₹ 55,00,000

* Where asset is acquired during the previous year and put to use for less than 180 days, depreciation @ 50% of the prescribed rate shall be available.

Solution :

Computation of capital gain or balancing charge or terminal depreciation for the A.Y.2025-26

Particulars	Note	Amount			
		A	B	C	D
Written down value as on 1/4/2024	1	35,00,000	35,00,000	35,00,000	35,00,000
Less: Sale Proceeds		7,50,000	30,00,000	45,00,000	55,00,000
Balance		27,50,000	5,00,000	(-) 10,00,000	(-) 20,00,000
Terminal depreciation		27,50,000	5,00,000	Nil	Nil
Balancing Charge	2	Nil	Nil	10,00,000	15,00,000
Short term capital gain	2	Nil	Nil	Nil	5,00,000

Notes :

1. Computation of Written down value as on 1/4/2024

Particulars	Amount
Original cost	50,00,000
Less: Depreciation for the year 2022-23	7,50,000
WDV as on 1/4/2023	42,50,000
Less: Depreciation for the year 2023-24	7,50,000
WDV as on 1/4/2024	35,00,000

2. Balancing charge cannot exceed accumulated depreciation claimed on such asset. The total negative balance in case D is ₹ 20,00,000 but the accumulated depreciation is ₹ 15,00,000 only. Hence, balancing charge is restricted to ₹ 15,00,000 & the balance i.e. ₹ 5,00,000 shall be treated as short-term capital gain.

Test Yourself

1. Taj Electric Supply Company Ltd. which was charging depreciation on straight line method and whose actual cost of the asset was ₹ 20,00,000 and written down value ₹ 18,72,300 sold the said asset during 2024-25 after 2 years. What will be the tax treatment for assessment year 2025-26 if the asset is sold for:

   i. ₹ 30,000;

   ii. ₹ 18,72,300;

   iii. ₹ 19,80,000;

   iv. ₹ 21,00,000

Hints

(i) ₹ 18,42,300 Terminal Depreciation (ii) Nil (iii) ₹ 1,07,700 Balancing Charge (iv) ₹ 1,27,700 Balancing charge and ₹ 1,00,000 Short Term Capital Gain

In all the cases, no further depreciation is allowable to the assessee in respect of such asset.

2.3.12 Actual cost of assets [Sec. 43(1)]

In calculation of actual cost, apart from cost price of the asset, following expenditure incurred relating to such asset shall be included:

- Expenses directly related to acquisition of the asset including travelling expenditure incurred for acquiring asset.
- Expenses necessary to bring the asset to site, installation, and to make it ready to use, e.g. carriage inward, loading and unloading charges, installation cost, trial run cost, etc.
- Expenses incurred to increase the capacity of the asset or to make it fit prior to its use.

Actual cost means the actual cost of the assets to the assessee, as reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority. Eg.: If an asset is purchased for ₹ 5,00,000 and Government grant received for the same ₹ 1,00,000, then the actual cost of the asset for tax purpose shall be ₹ 4,00,000.

Following points, given by way of explanation to sec. 43(1), shall be considered -

Particulars	Actual cost of acquisition	
Assets acquired against cash	In respect of acquisition of any asset or part thereof: a) payment or aggregate of payments made to a person in a day is made otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing‡ system through a bank account or through other prescribed electronic mode; and b) such payment exceeds ₹ 10,000 Such payment shall be ignored for the purposes of determination of actual cost.	
Asset used for business after it ceases to be used for scientific research [Explanation 1]	The actual cost to the assessee Less: Any deduction allowed u/s 35	
Asset acquired by way of gift or inheritance [Explanation 2]	Actual cost to the previous owner: Less: Amount of depreciation that would have been allowable to the assessee, as if the asset was the only asset in the relevant block. Further, any expenditure incurred by the assessee such as expenditure on freight, installation etc. of such asset would also be includible in the actual cost	
Interest treatment in case of asset acquired out of borrowed fund [Explanation 8]	Before asset is put to use	Interest to be added to actual cost
	After asset is put to use	Interest is allowed u/s 36(1)(iii)
Any subsidies received from the Government or any other authority for purchase of an asset [Explanation 10]	Grant or subsidies will be subtracted from cost of acquisition of such asset.	
GST included in the invoice [Read with Explanation 9]	Actual cost of asset shall be reduced by the amount of input tax credit taken against GST(or any other indirect tax)	

‡ The prescribed electronic modes include credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay [Notification No. 8/2020 dated 29-01-2020]

Particulars	Actual cost of acquisition
Second hand asset [Explanation 3]	Where, before the date of its acquisition by the assessee, the asset was at any time used by any other person for the purposes of his business or profession, and the Assessing Officer is satisfied that the main purpose of the transfer of the asset directly or indirectly to the assessee was the reduction of liability of income-tax directly or indirectly to the assessee (by claiming depreciation with reference to an enhanced cost) the actual cost to the assessee shall be taken to be such an amount which the Assessing Officer may, with the previous approval of the Joint Commissioner, determine, having regard to all the circumstances of the case In nutshell, actual cost to be determined by the AO with the prior permission of Joint Commissioner
Reacquisition of transferred asset [Explanation 4]	WDV at the time of first transfer or the price paid for reacquisition, whichever is lower
Asset acquired by an assessee from another person and given on lease to the same person who had earlier claimed depreciation on such asset [Explanation 4A]	WDV of the asset to the transferor Taxpoint: Explanation 4A overrides Explanation 3.
Building used for personal purpose subsequently brought into business [Explanation 5]	Cost of purchase or construction of the building as reduced by the notional depreciation by applying the rate applicable on the date of such conversion
Asset, which was acquired outside India, is brought by a non-resident assessee to India and used for the purposes of his business or profession [Explanation 11]	Actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition by the assessee
Any capital asset transferred by a holding company to its 100% subsidiary company or vice versa where transferee company is an Indian company.	Actual cost to the transferee company shall be taken to be the same as it would have been if the transferor company had continued to hold the capital asset for the purpose of its business
Any capital asset transferred by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company	Actual cost to the amalgamated company shall be taken to be the same as it would have been if the amalgamating company had continued to hold the capital asset for the purpose of its own business
Any capital asset transferred by the demerged company to the resulting company where the resulting company is an Indian company	Actual cost to the resulting company shall be taken to be the same as it would have been if the demerged company had continued to hold the capital asset for the purpose of its own business
Capital asset is acquired by the assessee under a scheme for corporatisation of a recognised stock exchange in India	Actual cost of the asset shall be deemed to be the amount which would have been regarded as actual cost had there been no such corporatisation

Particulars	Actual cost of acquisition
Where an assessee was not required to compute his total income under Income tax Act for any previous year(s) preceding the relevant previous year	Actual cost shall be reduced by the total amount of depreciation on such asset, provided in the books of account (as adjusted by amount attributable to the revaluation of assets) of the assessee in respect of such previous year(s) preceding the relevant previous year
The actual cost of any capital asset on which deduction is allowable u/s 35AD [Explanation 13]	Actual cost of the asset shall be taken as nil. (Discussed later in this chapter) Taxpoint: ➢ If such asset is transferred to other person as gift, etc., actual cost of asset shall be taken as Nil in hands of transferee. ➢ However, where an asset, in respect of which deduction is claimed and allowed u/s 35AD is deemed to be the income of the assessee in accordance with the provisions of sec. 35AD(7B) (on account of asset, being used for a purpose other than specified business u/s 35AD), the actual cost of the asset to the assessee shall be **Actual cost to assessee** Less: The amount of depreciation allowable had the asset been used for the purpose of business, calculated at the rate in force, since the date of its acquisition [Proviso to Explanation 13 to section 43(1)].
Conversion of inventory into capital asset [Explanation 1A]	Where inventory is converted into capital asset and such converted asset is used for the purposes of business or profession, the actual cost of such asset to the assessee shall be the fair market value of the inventory as on the date of its conversion into capital asset

Illustration 70:

Dr. R purchased a house property on 1-12-2022 for ₹ 10,00,000. Till 1-12-2024, the same was self-occupied as a residence. On this date, the building was brought into use for the purpose of his medical profession. What would be the depreciation allowable for the assessment year 2025-26?

Solution :

In case a building is used for personal purpose subsequently brought into business, the cost of acquisition shall be the purchase or construction cost of the building as reduced by the notional depreciation by applying the rate applicable on the date of such conversion. In the given case cost of asset for the business shall be computed as under:

Particulars	Building
Rate of depreciation	10%
Cost of building on 1.12.2022	10,00,000
Less: Depreciation (Being used for less than 180 days hence, depreciation charged 50% of normal depreciation i.e. ₹ 10,00,000 * 50% * 10%)	50,000
WDV on 31.3.2023	9,50,000

Less: Depreciation	95,000
WDV on 31.3.2024	8,55,000

Computation of depreciation u/s 32

Cost of building on 1/4/2024	8,55,000
Depreciation for the year 2024-25	85,500
WDV on 01.04.2025	**7,69,500**

Illustration 71:

Roshan started a business of designing on 01-04-2023. He acquired a laptop on 01-04-2023 for ₹ 50,000 for his business use. Since his gross total income for the previous year 2023-24 is only ₹ 55,000/-, he did not file his return of income. During the previous year 2024-25, his business income before depreciation u/s 32 is ₹ 5,60,000. Since he is required to file his return of income for the assessment year 2025-26, he seeks your advice for computing depreciation. Please compute depreciation on his behalf assuming that:

a. He is maintaining books of account from 01-04-2023 but did not provide any depreciation on laptop.

b. He is maintaining books of account from 01-04-2023 and provided depreciation ₹ 8,000 on laptop.

c. He is maintaining books of account from 01-04-2024.

Solution :

Computation of depreciation in various cases:

Particulars	Case (a) & (c)	Case (b)
Cost of Laptop as on 01-04-2023	50,000	50,000
Less: Depreciation for the P.Y. 2023-24 provided in the books of account	Nil	8,000
WDV on 31.3.2024	50,000	42,000
Less: Depreciation for the P.Y. 2024-25 @ 40%	20,000	16,800
WDV on 31.3.2025	**30,000**	**25,200**

Illustration 72:

A car was purchased by S on 10.8.2020 for ₹ 3,25,000 for personal use is brought into the business of the assessee on 01.12.2024, when its market value is ₹ 1,50,000. Compute the actual cost of the car and the amount of depreciation for the Assessment year 2025-26 assuming the rate of depreciation to be 15%.

Solution :

Computation of depreciation on car for the A.Y. 2025-26

Particulars	Amount
Cost of the car (Note 1)	3,25,000
Less: Depreciation @ 15% (Note 2)	48,750
Closing W.D.V.	**2,76,250**

1. As per explanation 5 to Sec. 43(1), where any building used for personal purpose subsequently brought into business, then the cost of purchase or construction of the building as reduced by the notional depreciation by applying the rate applicable on the date of such conversion shall be taken as actual cost of such building. However, such provision is applicable only in case of building.
2. Where an asset is acquired by the assessee during the previous year and is put to use in the same previous year for less than 180 days, the depreciation in respect of such asset is restricted to 50% of the normal depreciation. However, in the case, car was not acquired in the P.Y. 2024-25, hence such provision is not applicable.

Illustration 73:

Compute depreciation u/s 32 for the A.Y. 2025-26 from the following information:

a. W.D.V. of plant and machinery (15%) as on 01-04-2024 ₹ 10,00,000

b. Plant D acquired on 10-07-2024 for ₹ 5,00,000/-. ₹ 1,00,000 has been paid in cash to the vendor and balance amount has been paid through an account payee cheque. Such plant was put to use on the same day.

c. The assessee is engaged in the business of manufacturing of industrial paints and has opted for the old tax regime.

Solution :

Computation of depreciation for A.Y. 2025-26

Particulars	Amount	Amount
WDV as on 01-04-2024		10,00,000
Add: Actual cost of Plant D acquired during the year [₹ 5,00,000 – ₹ 1,00,000]		4,00,000
		14,00,000
Less: Depreciation for the P.Y. 2024-25 [₹ 14,00,000 x 15%]	2,10,000	
Less: Additional Depreciation for the P.Y. 2024-25 [₹ 4,00,000 x 20%]	80,000	2,90,000
WDV on 01-04-2025		**11,10,000**

2.3.13 Consequence of changes in rate of exchange of currency [Sec. 43A]

Conditions

1. Assessee has acquired any asset in any previous year from a country outside India;
2. In consequence of a change in the rate of exchange during any previous year after the acquisition of such asset, there is an increase or reduction in the liability of the assessee (as compared to the liability existing at the time of acquisition of the asset) at the time of making payment -
   a. towards the whole or a part of the cost of the asset; or
   b. towards repayment of the whole or a part of the moneys borrowed by him from any person, directly or indirectly, in any foreign currency specifically for the purpose of acquiring the asset along with interest.

Treatment

The amount by which such liability is increased or reduced at the time of making the payment (irrespective of the method of accounting adopted by the assessee) shall be added to or deducted from the actual cost (as reduced by depreciation already claimed) of the asset

Taxpoint

- If such increase or decrease arises after the depreciable asset is transferred (but block exists), then such increase or decrease shall be adjusted in the WDV. If, however, block is cease to exist, then such amount shall be treated as capital receipt or expenditure.

- Where the whole or any part of the liability aforesaid is met, not by the assessee, but, directly or indirectly, by any other person or authority, the liability so met shall not be taken into account for the purposes of this section.

Illustration 74:

Narang Textiles Ltd. purchased a machinery from Germany for Euro 1,00,000 on 03-09-2023 through a term loan from Fortune Bank Ltd. The exchange rate on the date of acquisition was ₹ 65. The assessee took a forward exchange rate on 05-10-2024 when the rate specified in the contract was ₹ 67 per USD. Compute depreciation for the assessment years 2024-25 and 2025-26. Ignore additional depreciation.

Solution :

Computation of Depreciation

Particulars	Amount
Opening W.D.V. as on 1/4/2023	Nil
Add: Assets purchased during the year [Euro 1,00,000 * 65]	65,00,000
	65,00,000
Less: Depreciation for the P.Y. 2023-24 [₹ 65,00,000 * 15%]	9,75,000
Opening W.D.V. as on 1/4/2024	55,25,000
Add: Difference in Conversion rate [Euro 1,00,000 * 2]	2,00,000
	57,25,000
Less: Depreciation for the P.Y. 2024-25 [₹ 57,25,000 * 15%]	8,58,750
Opening W.D.V. as on 1/4/2025	48,66,250

2.3.14 Taxation of foreign exchange fluctuation [Sec. 43AA]

Any gain (or loss), being computed in accordance with the ICDS, arising on account of any change in foreign exchange rates shall be treated as income (or loss).

Taxpoint:

- Such gain or loss shall arise in respect of all foreign currency transactions, including those relating to:
  i. monetary items and non-monetary items;
  ii. translation of financial statements of foreign operations;
  iii. forward exchange contracts;
  iv. foreign currency translation reserves*
- The provision of sec. 43AA is not applicable in respect of cases covered u/s 43A (like computation of actual cost of the asset, etc)

2.3.15 Unabsorbed depreciation [Sec. 32(2)]

Depreciation which could not be fully deducted from profits and gains of current year of business or profession (due to insufficient profit), is termed as unabsorbed depreciation.

Treatment: The unabsorbed depreciation can be deducted from income under any other head (except with Casual income and Salaries) of the same assessment year.

If depreciation still remains unabsorbed, it can be carried forward for indefinite period and can be set off against any income (except with Casual income and Salaries) of the assessee.

* ICDS is not dealing with foreign currency translation reserves

Notes

1. It is not necessary that the same business should be continued.
2. For set-off purpose following order is to be followed:
   - Current year depreciation;
   - Brought forward business loss;
   - Unabsorbed depreciation
3. Unabsorbed depreciation shall be (subject to sec. 72 and sec. 73) added to the amount of the depreciation for the following previous year and deemed to be the depreciation-allowance for that previous year, and so on for the succeeding previous years.
4. Unabsorbed depreciation shall be allowed to be carried forward for any number of years and such carried forward unabsorbed depreciation may be set off against any income, other than salary income and winning from lotteries, cross word puzzles, etc.
5. Unabsorbed depreciation can be carried forward even return of income has not been filed.
6. In a case where the assessee is paying tax under default tax regime u/s 115BAC and there is a depreciation allowance in respect of a block of asset from an earlier assessment year attributable to additional depreciation, which has not been given full effect to prior to A.Y. 2024-25 and which is not allowed to be set-off in the A.Y.2024-25, corresponding adjustment shall be made to the WDV of such block of assets as on 1.4.2023 in the prescribed manner i.e., the WDV as on 1.4.2023 will be increased by the unabsorbed additional depreciation not allowed to be set-off

2.3.16 Mandatory provision of Depreciation

From the A.Y. 2002-03, if all conditions of sec. 32 are satisfied, depreciation shall be available whether the assessee has claimed the same or not.

2.3.17 Depreciation in case of amalgamation, demerger or succession

In the year of -

- Amalgamation;
- Demerger;
- Succession [referred in sec. 47(xiii), (xiiib) & (xiv) or sec. 170]

depreciation u/s 32 shall be apportioned between –

- the amalgamating company and the amalgamated company
- the demerged company and the resulting company
- the predecessor and the successor

- in the ratio of number of days for which the asset was used by them

2.3.18 Special deduction for assessee engaged in Tea, Coffee or Rubber growing & manufacturing business [Sec. 33AB and Rule 5AC][Available only under the old regime]

Applicable to	All assessee carrying on business of growing and manufacturing of the followings in India: **a. Tea; b. Coffee; or c. Rubber**
Conditions to be satisfied	1. **Deposit of amount:** Assessee must deposit (hereinafter referred to as special account) an amount in: ➢ National Bank for Agriculture & Rural Development (NABARD) in an account maintained by him in accordance with, and for the purpose specified in the scheme approved by Tea Board, Coffee Board or Rubber Board, as the case may be; or ➢ An account in accordance with, and for the purpose specified in a scheme approved by Tea Board or Coffee Board or Rubber Board, as the case may be, with prior approval of the Central Government. 2. **Time of deposit:** The amount must be deposited within 6 months from the end of the previous year or before the due date of furnishing the return of income, whichever is earlier. 3. **Audit of accounts:** Accounts of assessee should be audited by a chartered accountant & the report of an auditor in Form 3AC is required to be uploaded one month prior to the due date of filing of return **Note:** In case, where the assessee is required under any other law to get his accounts audited, it shall be sufficient compliance if such assessee gets the accounts audited under such law and furnishes the report in Form 3AC.
Quantum of Deduction	Minimum of the following - a. Amount so deposited (as discussed above); or b. 40% of the profit of such business computed under the head "Profits & gains of business or profession" before allowing any deduction u/s 33AB and before adjusting brought forward business loss.

Other points

1. Excess Deposit: Any excess deposit made during a previous year is not treated as deposit made for the next year(s).
2. Restriction on utilisation of amount for certain purposes: No deduction shall be allowed in respect of any amount, being credited in special account, utilised for the purpose of:
   - ➢ Purchase of plant or machinery to be installed in any office premises / residential accommodation / accommodation in the nature of guest-house.
   - ➢ Purchase of any office appliances (other than computer)
   - ➢ Purchase of any plant or machinery, the entire cost of which is allowed as deduction in form of depreciation or otherwise in any one previous year.
   - ➢ Purchase of any plant or machinery to be installed in an industrial undertaking for constructing, manufacturing or producing any items specified in Schedule XI of the Act.

   Note: If any amount is so utilised, then the whole of such amount so utilised shall be deemed to be the profits and gains of business of the previous year in which such misutilisation takes place.

3. Withdrawal from account:

During continuation of business: The amount credited to such special account shall be withdrawn only for the purpose(s) specified in respective schemes.

If the amount so withdrawn is not utilised for the specified purpose *in the same previous year* then the amount not so utilised shall be treated as income of the year.

On closure of business: Apart from the specified purpose(s) of scheme, the amount deposited may be withdrawn in the following circumstances: -

Case	Tax Treatment
Closure of business[#]	Fully taxable
Dissolution of firm[#]	Fully taxable
Death of the tax payer [$]	Not taxable
Partition of Hindu Undivided Family [$]	Not taxable
Liquidation of company [$]	Not taxable

[#] The amount withdrawn shall be taxable under the head "Profits & gains of business or profession" as if the business is continued or the firm had not been dissolved.

[$] It is not taxable even though the amount has not been utilised for any of the purposes specified in the scheme.

4. Double deduction is not permissible

- Where an amount standing to the credit of the assessee in the special account is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme, then such expenditure shall not be allowed in computing the income chargeable under the head 'Profit and gains of business or profession'.
- Where the assessee is a firm, AOP or BOI, then deduction under this section shall not be allowed in computation of income of any partner/member.
- Where any deduction in respect of an amount deposited in any special account has been allowed in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

5. Restriction on sale of new asset: If any asset is acquired as per the scheme, then such asset cannot be sold or transferred within 8 years from the end of the previous year in which it was acquired. If such asset is sold or otherwise transferred, then such part of the cost of such asset as is relatable to the deduction allowed earlier under this section will be treated as profit.

However, in the following cases, above provision shall not be applicable -

- Sale or transfer to the Government, local authority, statutory corporation or Government company.
- Sale or otherwise transfer, in connection with the succession of a firm by a company, provided the following conditions are satisfied –
  a. All assets & liabilities of firm (immediately before succession) become the assets & liabilities of the company.
  b. All shareholders of the company were partners of the firm immediately before the succession.
  c. The scheme continues to apply to the company in the manner applicable to the firm.

6. Calculation of taxable income

Nature of Business	Calculation of Income
Tea growing & manufacturing business (Rule 8)	40% of [Income from business – Deduction u/s 33AB]
Coffee growing & manufacturing business (Rule 7B)	25% / 40% of [Income from business – Deduction u/s 33AB]
Rubber growing & manufacturing business (Rule 7A)	35% of [Income from business – Deduction u/s 33AB]

2.3.19 Site Restoration Fund [Sec. 33ABA & Rule 5AD]

[Available only under the old regime]

Applicable to	All assessee engaged in the business of - ➢ Prospecting for petroleum or natural gas; or ➢ Extraction or production of petroleum or natural gas; or ➢ Both - in India.
Conditions to be satisfied	1. Agreement with the Central Government: The Central Government has entered into an agreement with the assessee for such business. 2. Deposit of amount: The assessee must deposit an amount - ➢ With the State Bank of India in an account (herein after referred to as special account) maintained ➢ in an account (hereinafter referred as Site Restoration Account) opened by the assessee - in accordance with and for the purposes specified in a scheme approved by the Government of India in the Ministry of Petroleum & Natural Gas. **Treatment of interest:** Any amount credited in the special account or site restoration account by way of interest shall be deemed to be a deposit. 3. **Time of deposit:** Such amount must be deposited before the end of the previous year. 4. **Audit of books of account:** Accounts must be audited & auditor's report should be filed in Form 3AD is required to be uploaded one month prior to the due date of filing of return **Note:** In case, where the assessee is required under any other law to get his accounts audited, it shall be sufficient compliance if such assessee gets the accounts audited under such law and furnishes the report of audit required under such other law and a report in Form 3AD.
Quantum of Deduction	Minimum of the following: a. Amount so deposited (as discussed above); or b. 20% of the profit of such business computed under the head "Profits & gains of business or profession" before allowing deduction under this section and before adjusting brought forward business loss.

Other points

1. **Excess Deposit:** Any excess deposit made during a previous year is not treated as deposit made for the next year(s).
2. **Restriction on utilisation of amount for certain purposes:** No deduction shall be allowed in respect of any amount, being credited in special account or site restoration account, utilised for the purpose of -
   - Purchase of plant and machinery to be installed in any office premises / residential accommodation / accommodation in the nature of guest-house.
   - Purchase of office appliances (other than computer)
   - Purchase of a plant or machinery, the entire cost of which is allowed as deduction in the form of depreciation or otherwise in computation of business income of any one previous year.
   - Purchase of a plant or machinery to be installed in an industrial undertaking for constructing, manufacturing or producing any items specified in Schedule XI of the Act.

   Note: If any amount is so utilised, then the whole of such amount shall be deemed to be the profit and gains of business of the previous year in which such mis-utilisation takes place
3. **Withdrawal from account**

   During continuation of business: The amount credited to such special account or the site restoration account shall be withdrawn only for the purpose(s) specified in respective scheme.

   If the amount withdrawn in a year is not utilised for the specified purpose in the same previous year then the amount not so utilised shall be treated as income of the year.

   On closure of account: Where any amount standing to the credit of the assessee in the special account or in the site restoration account is withdrawn on closure of the account during any previous year, the following amount shall be deemed to be the profits & gains of business or profession (whether business is continued or not) -

Particulars	Amount
Amount so withdrawn from the account	****
Less: Amount, if any, payable to the Central Government by way of profit or production share as provided in the agreement u/s 42	(****)
Taxable amount	****

   Note: In case of closure of business, the amount stated above shall be taxable as if the business is in existence.
4. **Double deduction is not permissible**
   - Where any amount standing to the credit of the assessee in the special account or site restoration account is utilised by the assessee for the purpose of any expenditure in connection with such business in accordance with the scheme, then such expenditure shall not be allowed in computing the income chargeable under the head 'Profit and gains of business or profession'.
   - Where the assessee is a firm, AOP or BOI, the deduction under this section shall not be allowed in the computation of the income of any partner/member.
   - Where any deduction in respect of any amount deposited in any special account or site restoration account has been allowed in any previous year, then no deduction shall be allowed in respect of such amount in any other year.
5. **Restriction on sale of such asset:** If any asset is acquired as per the scheme, then such asset cannot be sold or transferred within 8 years from the end of the previous year in which it was acquired. If such asset is sold

or otherwise transferred, then such part of the cost of the asset as is relatable to the deduction allowed shall be treated as taxable profit under the head "Profits & gains of business or profession", in the year in which the asset is transferred. However, in the following cases, the provision shall not be applicable -

- Sale or otherwise transfer to the Government, local authority, statutory corporation or Government Company.
- Sale or otherwise transfer, in connection with the succession of a firm by a company, subject to following conditions:
  a. All assets and liabilities of the firm, immediately before the succession became assets and liabilities of the company.
  b. All the shareholders of the company were the partners of the firm immediately before succession.
  c. The scheme continues to apply to the company in the manner applicable to the firm

2.3.20 Scientific Research [Sec. 35]

Scientific research means any activity for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries [Sec. 43(4)]

Such research can be categorised either as -

a. In-House research : Research done by the assessee himself (in connection with his business)

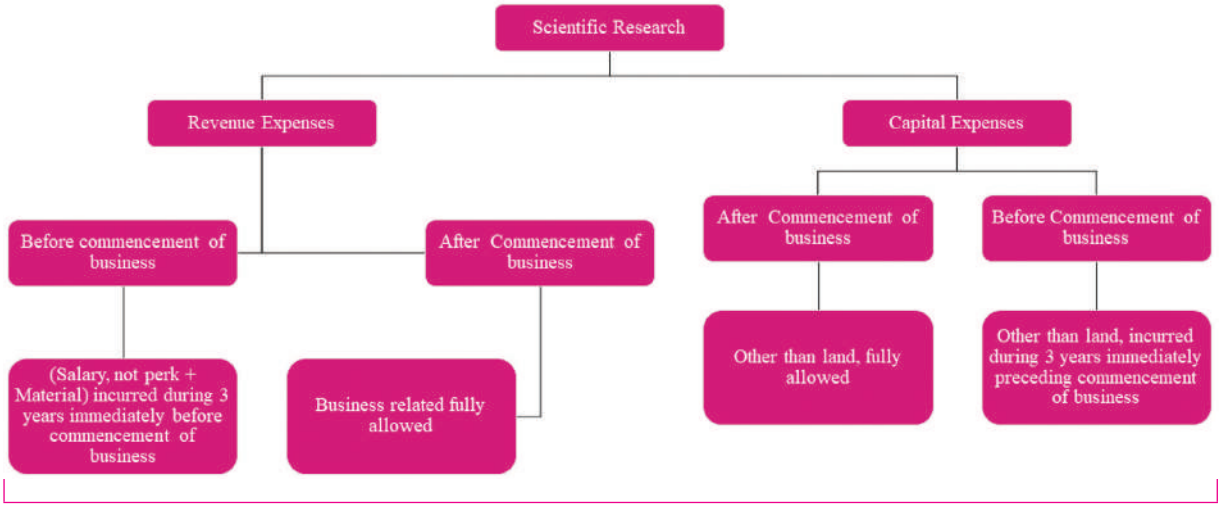
b. Research through outside institutions [Available only under old regime] : Any sum paid to outside agencies, engaged in scientific research, to be used for scientific research

In-House research

Revenue expenditure sec. 35(1)(i)	After commencement of business	Where the assessee himself carries on scientific research related to his business and incurs revenue expenditure, such expenses are allowed as deduction in the year in which such expenditure is incurred by the assessee.
	Before commencement of business	Following revenue expenditures (certified by the prescribed authority) incurred during 3 years immediately before commencement of business, shall be allowed as deduction in the year of commencement of business – ➢ Payment of salary to an employee engaged in scientific research (excluding perquisite). ➢ Purchase of materials used for scientific research.
Capital Expenditure sec.35(1)(iv) /sec.35(2)	After commencement of business	Any capital expenditure incurred (other than land) for scientific research, related to the business of the assessee, will be allowed as deduction in full. 100% deduction shall be allowed for such capital expenditure, in the year in which the expenditure is so incurred.
	Before commencement of business	Any capital expenditure incurred (other than land) during 3 years immediately preceding the year of commencement of business shall be deemed to have been incurred in the year in which the business commenced and is allowed as deduction in that year.
	Note: Where a deduction is allowed in any previous year in respect of any capital expenditure for scientific research, no deduction u/s 32 shall be allowed on such assets. [Sec. 35(2)(iv)]	

Taxpoint:

- In-house research for a purpose not related to the business of the assessee shall not be allowed as deduction.
- Capital expenditure incurred on scientific research which cannot be absorbed by the business profits of the relevant previous year can be carried forward to the immediately succeeding previous year and shall be treated as the allowance for that year. In effect, this means that there is no time bar on the period of carry forward. It shall be accordingly allowable for that previous year against any head of income other than salaries [Sec. 35(4)].



Research through outside institutions [Available only under the old regime]

100% deduction shall be allowed in respect of contributions made to the following:

Institution	Purpose
Any payment to National Laboratory[1] or a University or Indian Institute of Technology or a specified person. [Sec. 35(2AA)]	Scientific research undertaken under programme approved by the prescribed authority (whether related to business or not)
Any payment made to a notified (by the Central Government) research association or to an approved university, college or other institutions[3] [Sec. 35(1)(ii)]	Scientific research (whether related to business or not)
Any payment made to a notified (by the Central Government) research association, university, college or other institution[3] [Sec. 35(1)(iii)].	Research in Social science or Statistical Research (whether related to business or not)
Any payment to an approved Indian company (main object of whom is scientific research & development)[3] [Sec. 35(1)(iia)]	Scientific research (whether related to business or not)

[1.] National laboratory means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research, the Council of Scientific and Industrial Research, the Defence Research and Development Organisation, the Department of Electronics, the Department of Bio-Technology or the Department of Atomic Energy and which is approved as National Laboratory by the prescribed authority.

[2] Such association, University, college or institution must be approved in accordance with prescribed guidelines and must be notified by the Central Government.

[3] The deduction in respect of any sum paid to the research association, university, college or other institution or company shall be allowed on the basis of a certificate issued by the donee.

Other points

1. Such association, University, college or institution must be approved in accordance with prescribed guidelines and must be notified by the Central Government.
2. **Withdrawal of approval:** Deduction shall not be denied merely on the ground that subsequent to the payment made by the assessee, the approval granted to the association, university, IIT, etc. has been withdrawn.
3. **Carry forward of unabsorbed scientific research expenditure:** Unabsorbed capital expenditure can be carried forward for unlimited years and set off in any subsequent assessment year(s) like unabsorbed depreciation.
4. **Effect of amalgamation [Sec. 35(5)]:** Provisions of sec. 35 shall apply to the amalgamated company, as it would have been applied to the amalgamating company, if the latter had not transferred such asset.

Illustration 75:

Dynamic India & Co. commences production on 16/8/2024. It incurred the following expenses related to scientific research, find deduction u/s 35 for the P.Y. 2024-25.

Date	Particulars	Amount	Purpose
18/8/2024	Paid to an Approved University for research in Social science	50,000	Non- business
15/10/2024	Paid to a scientist (not the employee of the company)	30,000	Business
18/11/2024	Paid to approved National laboratory	60,000	Non- business
15/12/2024	Purchase of land & building for in house research (cost of land ₹ 1,50,000)	5,00,000	Business
18/12/2024	Purchase of car to carry research-workers	2,00,000	Business
16/8/2021 to 15/8/2024	Capital expenditure (including cost of land ₹ 1,00,000)	5,00,000	Business
"	Purchase of material	3,00,000	Business
"	Payment of salary (other than Perquisites)	2,00,000	Business
"	Perquisites provided to research-personnel	1,00,000	Business
"	Other revenue expenditure	80,000	Business
1/4/2020 to 15/8/2021	Capital expenditure (other than land)	9,00,000	Business
"	Payment of salary (other than Perquisites)	50,000	Business
1/4/2019 to 31/3/2021	Capital expenditure	80,000	Business
"	Revenue expenditure	30,000	Business

Solution :

Computation of deduction u/s 35 to Dynamic India & Co. for the A.Y. 2025-26

Date	Particulars	Section	Amount	Deduction (Regime)	
				Old	Default
1/4/2019 to 31/3/2021	Capital expenditure	NA[1]	80,000	Nil	Nil
	Revenue expenditure	NA[1]	30,000	Nil	Nil
1/4/2020 to 15/8/2021	Capital expenditure (other than land)	NA[1]	9,00,000	Nil	Nil
	Payment of salary (other than Perquisites)	NA[1]	50,000	Nil	Nil
16/8/2021 to 15/8/2024	Capital expenditure (excluding cost of land ₹ 1,00,000)	35(2)	5,00,000	4,00,000	4,00,000
	Payment of salary (other than Perquisites)	35(1)(i)	2,00,000	2,00,000	2,00,000
	Perquisites provided to research-personnel	NA[2]	1,00,000	Nil	Nil
	Purchase of material	35(1)(i)	3,00,000	3,00,000	3,00,000
	Other Revenue expenditure	NA[2]	80,000	Nil	Nil
18/8/2024	Paid to an Approved University for research in Social science	35(1)(iii)	50,000	50,000	Nil
15/10/2024	Paid to a scientist (not the employee of the company)	35(1)(i)	30,000	30,000	30,000
18/11/2024	Paid to approved National laboratory	35(2AA)	60,000	60,000	Nil
15/12/2024	Purchase of land & building (excluding cost of land ₹ 1,50,000)	35(2)	5,00,000	3,50,000	3,50,000
18/12/2024	Purchase of car to carry research-workers	35(2)	2,00,000	2,00,000	2,00,000
Total amount of deduction				15,90,000	14,80,000

Note :

[1] Expenditure (whether revenue or capital) incurred before 3 years immediately preceding the year of commencement of business shall not be allowed as deduction.

[2] Expenditure incurred within 3 years prior to commencement of business: Only material and salary (other than perquisite) of research personnel shall be allowed as deduction

Sale of asset used for scientific research [Sec. 41(3)]

Without having been used for other purpose	Sale consideration to the extent of cost of such asset shall be taxable as business income in the year of sale. The excess of sale consideration over original cost (or indexed cost of acquisition) is taxable as capital gain u/s 45. This is applicable even if the business is not in existence in that year)
After being used for other purposes	Sale consideration shall be subtracted from relevant block of assets. It is to be noted that at the time of conversion of scientific research asset into normal business asset, the cost of acquisition shall be taken as nil in the relevant block.

Illustration 76:

Awishkar Enterprises purchased machinery for ₹ 5,00,000 as on 18/8/2023 for scientific research.

On 17/7/2024, the research work being completed. On 31/3/2025, the machinery being sold for -

Case 1) ₹ 1,00,000

a. After using the same for business purpose other than scientific research. The WDV of the respective block is ₹ 4,80,000. Depreciation rate 15%.

b. Without using the same for any other purpose

Case 2) ₹ 7,00,000

a. After using the same for business purpose other than scientific research. The WDV of the respective block is ₹ 4,80,000. Depreciation rate 15%.

b. Without using the same for any other purpose

State tax implications

Solution :

Tax impact in case 1(a) and 2(a)

Particulars	Case 1(a)	Case 2(a)
Opening WDV of the block	4,80,000	4,80,000
Add: Addition during the year being machinery earlier used for scientific research	Nil	Nil
Less: Sale value of the machinery [# Max. to the extent of (Opening WDV + Addition made)]	(1,00,000)	(4,80,000)#
Written down value before charging depreciation	3,80,000	Nil
Less: Depreciation @ 15%	(57,000)	Nil
Written down value after charging depreciation	3,23,000	Nil
Short term capital gain [@ Excess sale proceeds]	Nil	2,20,000@

Tax impact in case 1(b) and 2(b)

Particulars	Case 1(b)		Case 2(b)	
	Details	Amount	Details	Amount
Profits & gains of business or profession				
Being minimum of the following				
• Earlier deduction claimed	5,00,000		5,00,000	
• Surplus i.e. {Sale consideration – (Cost of assets – Earlier deduction allowed in respect of such asset)}	1,00,000	1,00,000	7,00,000	5,00,000
Capital gains				
Sale consideration		NA[1]		7,00,000
Less: Cost of acquisition		NA[1]		(5,00,000)
Short-term capital gain (loss)		NA[1]		2,00,000

[1]Capital gain shall arise only if the sale price exceeds the cost of the asset held for scientific research [CIT –vs.- Artex Mfg. Co. (SC)]

2.3.21 Deduction in respect of expenditure on specified business [Sec. 35AD]

In case of an individual/HUF/AoP/BoI carrying on specified business, deduction u/s 35AD would be available only if they are paying tax under old regime. On the other hand, a company would not be eligible for deduction u/s 35AD, if it opts for the special provisions of sec. 115BAA/115BAB.

Applicable to	Specified assessee engaged in the business of: a. setting up and operating a cold chain facility##; b. setting up and operating a warehousing facility for storage of agricultural produce; or c. laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network **Note:** The project has been approved by the Petroleum and Natural Gas Regulatory Board and being notified by the Central Government. d. building and operating, anywhere in India, a hotel of two-star or above category as classified by the Central Government; e. building and operating, anywhere in India, a hospital with at least 100 beds for patients; f. developing and building a notified housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government (or a State Government) g. developing and building a notified housing project under a scheme for affordable housing framed by the Central Government (or a State Government) h. production of fertilizer in India; i. setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962; j. bee-keeping and production of honey and beeswax; k. setting up and operating a warehousing facility for storage of sugar l. laying and operating a slurry pipeline for the transportation of iron ore m. setting up and operating a semi-conductor wafer fabrication manufacturing unit, and which is notified by the Board in accordance with such guidelines as may be prescribed n. developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility by an Indian company (or consortium thereof)/authority/board/ corporation having agreement with Central Government or State Government or local authority or any statutory body

Date of commencement of business (on or after)

<table>
<tr><td rowspan="2">Warehousing facility for storage of agricultural produce 01-04-2009</td><td>Hotel 01-04-2010</td><td>Slum redevelopment 01-04-2010</td><td>Fertilizer 01-04-2011</td><td>Inland container depot 01-04-2012</td><td rowspan="3">Warehousing facility for storage of Sugar 01-04-2012</td></tr>
<tr><td>Hospital 01-04-2010</td><td>Affordable housing 01-04-2011</td><td>Cold chain facility 01-04-2009</td><td>Bee-keeping 01-04-2012</td></tr>
<tr><td colspan="2">Slurry pipeline for transportation of iron-ore 01-04-2014</td><td colspan="2">semi-conductor wafer fabrication manufacturing unit 01-04-2014</td><td>Infrastructure facility 01-04-2017</td></tr>
</table>

Conditions to be satisfied		Cross-country oil pipeline	Other Business
	Owned by	An Indian company or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central/State Act	Any assessee
	Date of commencement of business	On or after 01-04-2007	On or after date given in Note* below
	Restriction on usage	It has made not less than such proportion of its total pipeline capacity as specified by the Petroleum and Natural Gas Regulatory Board[β] available for use on common carrier basis by any person other than the assessee or an associated person[#].	No Restriction
	New Business	Such business should not be set up by splitting up, or the reconstruction, of a business already in existence.	
	New Plant Machinery	Such business should not be set up by the transfer to the specified business of machinery or plant previously used for any purpose **Exceptions** i. A plant or machinery is deemed as new asset if: a. Such plant or machinery is imported into India; b. Depreciation on such asset has not been allowed under this Act to any person; and c. The assessee was the first user of such asset in India. ii. Where the total value of old plant and machinery transferred to the new business does not exceed 20% of total value of plant and machinery used in such business, then this condition is deemed to be satisfied.	
	Audit	Books of account should be audited by a Chartered Accountant	
Quantum of deductions	100% of capital expenditure incurred during the previous year, wholly and exclusively, for the purposes of any specified business. **Capital Expenditure shall not include the following:** a. Any expenditure incurred on the acquisition of any land or goodwill or financial instrument b. Any expenditure in respect of which the payment (or aggregate of payments made to a person in a day), otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through other prescribed electronic mode, exceeds ₹ 10,000		
	Pre-commencement expenditure: Where the expenditure is incurred prior to the commencement of its operations which has been capitalised in the books of account of the assessee on the date of commencement of its operations, shall be allowed as deduction in the previous year in which the assessee commences such business.		

Other Points

- **Option:** The deduction under this section is optional in nature. For claiming deduction under this section, assessee is required to claim the same.
- **No Double Deduction:** No deduction for such expenditure shall be allowed to the assessee under any other section in any previous year or under this section in any other previous year. Further, the assessee shall not be allowed any deduction u/s 10AA or 80HH to 80RRB in respect of the specified business for the same or any other assessment year.
- **Restriction of use of the asset:** Any asset in respect of which a deduction is claimed and allowed under this section shall be used only for the specified business, for a period of 8 years beginning with the previous year in which such asset is acquired or constructed.

  Consequences of usage of asset otherwise than for specified purpose: Where such asset is used for a purpose other than the specified business during that period, then following amount shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the asset is so used:

The total amount of deduction so claimed and allowed in one or more previous years	***
Less: Depreciation allowable in accordance with the provisions of section 32, as if no deduction under this section was allowed	***
Deemed Income	***

  However, the provision of reversal of deduction shall not be applied to a company which has become a sick industrial company u/s 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985, during that period.
- **Actual cost of asset for depreciation:** The actual cost of any capital asset for the purpose of computing depreciation, on which deduction has been allowed to the assessee u/s 35AD, shall be treated as 'nil'.
- **Treatment of Realisation:** If the whole of the expenditure on capital asset has been allowed as a deduction u/s 35AD, any sum received or receivable (in cash or kind) on account of such capital asset being demolished, destroyed, dis¬carded or transferred shall be taxable as business income.
- **Carry forward and set off of losses [Sec. 73A]:** Any loss, computed in respect of such specified business shall be set off only against profits and gains, if any, of any other specified busi¬ness. Further, if there is no such profit or such loss is not fully adjusted with such profit, the unabsorbed loss shall be carried forward for set off against the profits and gains, if any, of any specified business in the next assessment year and so on. [Further Refer Chapter 'Set-off and Carry Forward]
- **Transfer of operation:** Where the assessee builds a hotel of two-star or above category as classified by the Central Government and subsequently, while continuing to own the hotel, transfers the operation thereof to another person, the assessee shall be deemed to be carrying on the specified business.
- **Inter-unit transfer:** Where -

  1. Assessee carries on at least two units

	2. Out of such units at least one is eligible u/s 35AD and at least one is not eligible for exemption 3. Goods or services are transferred from eligible unit to any non eligible unit or vice versa 4. The consideration for such transfer does not correspond to the market value of such goods as on the date of transfer then, deduction shall be computed as if the transfer, in either case, had been made at the market value$ of such goods or services as on that date.

An "associated person", in relation to the assessee, means a person:

a. who participates, directly or indirectly, or through one or more intermediaries in the management or control or capital of the assessee;

b. who holds, directly or indirectly, 26% of equity share capital of the assessee;

c. who appoints 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 assessee (it is to be noted that appointing power does not suffice the purpose); or

d. who guarantees not less than 10% of the total borrowings of the assessee;

"Cold chain facility" means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce.

$ Market value in relation to any goods or services

Case	Market value means
Sold or supplied	The price that such goods or services would fetch if these were sold by the unit in the open market, subject to statutory or regulatory restrictions, if any
Acquired	The price that such goods or services would cost if these were acquired by the unit from the open market, subject to statutory or regulatory restrictions, if any.

β The Petroleum and Natural Gas Regulatory Board has specified following conditions for common carrier:

Particulars	Following proportion of total pipeline capacity should available for use on common carrier basis by any person other than the assessee or an associated person
Natural gas pipeline network	1/3rd of total pipeline capacity
Petroleum product pipeline network	1/4th of total pipeline capacity

"Infrastructure facility" means:

i. road including toll road, a bridge or a rail system;

ii. highway project including housing or other activities being an integral part of the highway project;

iii. water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;

iv. port, airport, inland waterway, inland port or navigational channel in the sea

2.3.22 Amortisation of telecom-licence fee [Sec. 35ABB]

<table>
<tr><th>Applicable to</th><th colspan="2">All assessee</th></tr>
<tr><td>Conditions to be satisfied</td><td colspan="2">a. Assessee has incurred capital expenditure for acquiring any right to operate telecommunication services.
b. Payment for such expenditure has actually been made.
Notes
1. Such expenditure may be incurred before or after commencement of business.
2. Revenue expenditure incurred relating to telecom licence fee shall not be eligible for deduction u/s 35ABB. However, assessee can claim deduction u/s 37(1) for such expenditure.</td></tr>
<tr><td rowspan="4">Deduction u/s 35ABB(1)</td><td colspan="2">Actual expenditure incurred and paid shall be allowed as deduction in equal installments over the period for which the license remains in force starting from the year as under -</td></tr>
<tr><td>Case</td><td>Period starts from</td></tr>
<tr><td>Where the license-fee is paid before the commencement of business.</td><td>The previous year in which such business commenced.</td></tr>
<tr><td>When license is acquired after commencement of business
In any other case</td><td>The previous year in which license fee has been actually paid.</td></tr>
<tr><td colspan="3">Note: No depreciation is allowed on such capital expenditure.</td></tr>
</table>

Where such license is sold in full u/s 35ABB(2) & (3)

- Loss on sale shall be deductible as business loss in the year of sale.
- Profit on sale, to the extent of aggregate of deduction allowed in preceding year(s) shall be treated as business income.

Capital gain treatment: The excess of sale consideration over original cost (or indexed cost of acquisition) is taxable as capital gain u/s 45.

Where such licence is transferred in a scheme of amalgamation or demerger
The amalgamated company or resulting company (being Indian company) as the case may be shall be entitled to claim deduction u/s 35ABB for the residual period as if the amalgamating or demerged company had not transferred the licence.

Similar, deduction is also available u/s 35ABA for capital expenditure incurred for acquiring any right to use spectrum for telecommunication services

Illustration 77:

Telefast Ltd., a company providing telecommunication services, obtain a telecom licence on 20-4-2024 for a period of 10 years which ends on 31-3-2034 (licence fee being ₹ 18 lakh). Find out the amount of deduction u/s 35ABB of the Income Tax Act, 1961, if:

(a) the entire amount is paid on 6-5-2024; (b) the entire amount is paid on 1-4-2025;

(c) the entire amount is paid in equal installments on 30-4-2024; 30-4-2025 and 30-4-2026

Solution :

Tax consequence u/s 35ABB in several previous years

Particulars	Case (a)	Case (b)	Case (c)
Deduction u/s 35ABB(1) in previous year:			
2024-25	1,80,000	NA	60,000[2]
2025-26	1,80,000	2,00,000[1]	1,26,667[2]
2025-26 to 2033-34	1,80,000	2,00,000	2,01,667[2]

1. In case (b), though licence was acquired in the previous year 2024-25 but payment was made in the previous year 2025-26, hence deduction shall be available u/s 35AAB(1) in 9 years (10 year – 1 year) starting from the previous year 2025-26. Amount of deduction shall be ₹ 18,00,000 / 9 = ₹ 2,00,000.

2. In case (c), payment has been made in three installments. Hence deduction u/s 35ABB(1) shall be available as under:

Particulars	1st Installment	2nd Installment	3rd Installment	Total
Amount of installment	6,00,000	6,00,000	6,00,000	
Remaining life (in years)	10	9	8	
Deduction available in				
- P.Y.: 2024-25	60,000	-	-	60,000
- P.Y.: 2025-26	60,000	66,667	-	1,26,667
- P.Y.: 2026-27 to 2033-34	60,000	66,667	75,000	2,01,667

Illustration 78:

Twinkle Enterprises has acquired a telecom licence. Details in respect of such licence are as under:

Particulars		Particulars	
Acquisition cost	₹ 1,00,000	Life of licence	10 years
Date of purchase	16/8/2023	Licence sold	100%
Payment terms	Lump sum	Date of sale of licence	15/3/2026
Date of first payment	16/8/2023	Sale value	₹ 1,20,000

State the tax consequence in the several previous years up to 2025-26 related to such transactions.

Solution :

Tax consequence u/s 35ABB in several previous years up to 2025-26

Particulars	Licence A
Deduction u/s 35ABB(1) in previous year:	
2023-24	10,000
2024-25	10,000
2025-26	Nil[1]
Business income on sale of licence u/s 35ABB(3) in the P.Y.2025-26	20,000[2]
Capital gain on sale of licence in the P.Y.2025-26	20,000[2]

[1]. No deduction is available in the previous year in which licence is 100% sold or otherwise transferred.

[2]. Sale of licence

Particulars	Details	Amount
Profits & Gains of Business or Profession		
Being minimum of the following		
• Earlier deduction claimed for the P.Y. 2023-24 and 2024-25	20,000	
• Surplus i.e. {Sale proceeds – (Cost of assets - Earlier deduction allowed in respect of such asset)} [1,20,000 – (1,00,000 – 20,000) = 40,000]	40,000	20,000
Capital gains		
Sale consideration		1,20,000
Less: Cost of acquisition		1,00,000
Short-term capital gain (as asset is not held for more than 3 years)		20,000

Illustration 79:

Tweety Enterprises has acquired telecom licence. Details in respect of this licence are as under:

Particulars		Particulars	
Acquisition cost	₹ 3,00,000	Life of licence	7 years
Date of purchase	14/7/2021	Licence sold	40%
Payment terms	Lump sum	Date of sale of licence	12/12/2024
Date of first payment	14/7/2022	Sale value	₹ 1,20,000

State the tax consequence in the several previous years up to 2024-25 related to such transactions.

Solution :

Tax consequence u/s 35ABB in several previous years up to 2024-25

Particulars	Amount
Deduction u/s 35ABB(1) in previous year:	
2021-22	Nil[1]
2022-23	50,000[1]
2023-24	50,000[1]
2024-25	20,000[2]
Business income on sale of licence u/s 35ABB(3) in the P.Y.2024-25	Nil
Capital gain on sale of licence in the P.Y.2024-25	Nil

1. Though licence was acquired in the previous year 2021-22 but payment was made in the previous year 2022-23, hence deduction shall be available u/s 35AAB(1) in 6 years (7 year – 1 year) starting from the year 2022-23. Amount of deduction will be ₹ 3,00,000/6 = ₹ 50,000.

2. Sale of part of licence B

Particulars	Details	Amount
Balance of licence as on 1/4/2024	₹ 3,00,000 – ₹ 1,00,000	2,00,000
Less: Sale of licence		1,20,000
Balance value		80,000
Balance life	4 years	
Deduction in the previous year 2024-25	₹ 80,000 / 4	20,000

2.3.23 Payment to associations and institutions for carrying out rural development programmes [Sec. 35CCA]

Where an assessee incurs any expenditure by way of payment of any sum—

a. to an association or institution, which has as its object the undertaking of any programme of rural development, to be used for carrying out any programme of rural development approved by the prescribed authority and the assessee furnishes a certificate from such association or institution ; or

b. to an association or institution, which has as its object the training of persons for implementing programmes of rural development and the assessee furnishes a certificate from such association or institution; or

c. the National fund for rural development; or

d. to the National Urban Poverty Eradication Fund set up and notified by the Central Government in this behalf,

the assessee shall, be allowed a deduction of the amount of such expenditure incurred during the previous year.

Double deduction is not permissible: Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure, deduction shall not be allowed in respect of such expenditure u/s 80G or any other provision of this Act.

Withdrawal of approval: Deduction shall not be denied merely on the ground that subsequent to the contribution made by the assessee, the approval granted to such programme, etc. has been withdrawn.

2.3.24 Expenditure on agricultural extension project [Sec. 35CCC] [Old regime]

Where an assessee incurs any expenditure on notified agricultural extension project, such expenditure is fully allowed.

Double deduction is not permissible: Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure, deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.

2.3.25 Expenditure on skill development project [Sec. 35CCD]

Where a company incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any notified skill development project, such expenditure is fully allowed.

Double deduction is not permissible: Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure, deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.

2.3.26 Amortisation of preliminary expenses [Sec. 35D & Rule 6AB]

Meaning: Following expenses are known as preliminary expenses -

1. Expenses in connection with –
   - Preparation of project report;
   - Preparation of feasibility report;
   - Conducting market survey or any other survey necessary for the business;
   - Engineering services related to the business.

   Note: The assessee shall furnish a statement containing the particulars of aforesaid expenditure within such period, to such income-tax authority, in such form and manner, as may be prescribed.

2. Legal charges for drafting any agreement between the assessee and any other person for any purpose related to the setting up or conduct of business of the assessee.
3. Legal charges for drafting & printing of Memorandum of Association & Articles of Association (in case of company-assessee only).
4. Registration fees under provisions of the Companies Act, 1956 (in case of company-assessee only).
5 Expenses in connection with public issue of shares in or debentures of the company being underwriting commission, brokerage & charges for drafting, typing, printing & advertisement of the prospectus (in case of company-assessee only).
6. Any other prescribed expenditure.

Tax Treatment

Applicable to	An Indian company or a resident non-corporate assessee. **Taxpoint:** A foreign company, which is resident in India, is not covered under this section.	
Conditions	1. Assessee has incurred certain amount as preliminary expense.	
	2. **Purpose of expense** ➢ Where such expense is incurred before commencement of business then expense must be incurred for setting up a new undertaking or business. ➢ Where such expense is incurred after commencement of business then expense must be incurred in connection with extension of any undertaking or in connection with setting up a new unit.	
	3. **Report of a chartered accountant:** In the case of a non-corporate assessee, an audit report from a chartered accountant should be submitted one month prior to the due date of filing of return relating to the year in which such expenditure was first claimed.	
Total preliminary expense (maximum amount) eligible for deduction	In case of non-corporate resident assessee	5% of the 'cost of project[1]'.
	In case of Indian company	5% of the 'cost of project[1]' or 'capital employed[2]' whichever is higher
Amount of deduction	1/5th of the total eligible preliminary expense is allowed in 5 equal annual installments starting from the year in which the business commences or unit expanded or the new unit commences production or operation.	
Effect of amalgamation or demerger	In case of transfer of undertaking under the scheme of amalgamation or demerger, the amalgamated company or resulting company (being Indian company) shall be entitled to claim deduction u/s 35D for the residual period as if the amalgamation or demerger had not taken place [Sec. 35D(5) & (5A)]. **Note:** In the year of amalgamation or demerger, deduction shall be available to amalgamated company or resulting company as the case may be.	

[1] Cost of Project

In case of new business: Actual cost of fixed assets (being land, buildings, leaseholds, plant machinery, furniture, fittings and railway sidings) which are shown in the books of the assessee as on the last day of the previous year in which the business commences.

In case of an existing business: Actual cost of fixed assets (being land, building, leaseholds, plant, machinery, furniture, fittings and railway-sidings) which are shown in the books of the assessee as on the last day of the previous year in which the extension of industrial undertaking is completed or new industrial undertaking commences production or operation, in so far as such fixed assets have been acquired or developed in connection with the extension of the industrial undertaking or setting up of the new industrial unit.

[2] Capital employed

In case of new business: The aggregate of issued share capital, debentures & long-term borrowings as on the last day of the previous year in which the business commences.

In case of existing business: The aggregate of the issued share capital, debentures and long term borrowings as on the last day of the previous year in which the extension is completed so far as such capital etc. have been issued or obtained in connection with the extension of the business.

Illustration 80:

Jardine Ltd. is an existing Indian company, which sets up a new industrial unit. It incurs the following expenditure in connection with the new unit:

Particulars	Amount
Preparation of project report	4,00,000
Market survey	5,00,000
Legal and other charges for issue of additional capital required for the new unit	2,00,000
Total	11,00,000

The following further data is given:

Particulars	Amount
Cost of project	30,00,000
Capital employed in the new unit	40,00,000

What is the deduction admissible to the company u/s 35D?

Solution :

Calculation of admissible preliminary expenditure

Particulars	Amount
Cost of project (A)	30,00,000
Capital employed (B)	40,00,000
Eligible preliminary expenditure being minimum of the following:	
a) Actual expenditure	11,00,000
b) 5% of (A) or (B) whichever is higher (i.e. ₹ 40,00,000 * 5%)	2,00,000
Amount eligible for amortization	2,00,000
Amount of deduction u/s 35D for current year (till 5 years) being 1/5th of ₹ 2,00,000	40,000

2.3.27 Deduction of expenses incurred in case of amalgamation or demerger [Sec. 35DD]

Applicable to: An Indian company

Conditions

1. Assessee has incurred certain expenditure wholly & exclusively for the purpose of amalgamation or demerger.
2. No deduction has been claimed for such expenses under any other section.

Quantum of deduction: 1/5th of expenses so incurred for a period of 5 years commencing from the year in which amalgamation or demerger takes places.

2.3.28 Amortisation of expenditure incurred under VRS [Sec. 35DDA]

Applicable to: All assessee

Condition: Assessee has incurred any expenditure, by way of compensation to employees in connection with their voluntary retirement.

Quantum of deduction: 1/5th of expenditure so paid for a period of 5 years commencing from the year in which such expenditure was paid.

Effect of amalgamation or demerger: In case of transfer of undertaking under the scheme of amalgamation or demerger, the amalgamated company or resulting company (being Indian company) as the case may be, shall be entitled to claim deduction u/s 35DDA for the residual period as if the amalgamation or demerger had not taken place.

Effect of succession of business: Where there has been eductibledn of business, whereby a firm or proprietary concern is succeeded by a company fulfilling the conditions laid down in sec. 47 (xiii) & (xiv) or a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in sec. 47 (xiiib), the provisions of this section shall apply to the successor concern, as they would have applied to the predecessor, if eductibledn of business had not taken place. Further, it is to be noted that:

a. No deduction shall be allowed to amalgamating company, demerged company, a firm, proprietary or other concern in the previous year in which amalgamation, demerger or succession, as the case may be, takes place.

b. No deduction shall be allowed in respect of such expenditure under any other provisions of the Act.

A comparative study of Sec. 10(10C) {under the head "Salaries"} and Sec. 35DDA {under the head "Profits & gains of business or profession"}

- Exemption u/s 10(10C) for "Compensation for voluntary retirement" is not available to employee of the partnership firm, HUF, proprietorship firm, etc. Deduction u/s 35DDA can be claimed by all assessee.
- Exemption u/s 10(10C) for "Compensation for voluntary retirement" is available only if the scheme is approved by the Board. Deduction can be claimed u/s 35DDA even if the scheme is not approved by the Board.

2.3.29 Amortisation of expenditure on prospecting etc. for development of minerals [Sec. 35E]

Applicable to	Any Indian company and any other resident assessee.
Conditions to be satisfied	1. Assessee is engaged in operations relating to prospecting for or extraction or production of mineral specified in Seventh Schedule. 2. Expenditure has been incurred by the assessee on – a. Prospecting for any mineral specified in Seventh Schedule; or b. Development of a mine or other natural deposit of any such mineral. **Period during which expenditure is incurred:** Expenditure incurred during following period shall qualify for deduction – ➢ In the previous year in which commercial production commences; and ➢ At any time during the period of 4 years preceding the year in which commercial production commences. **Expenditures which are not qualified for deduction:** Following expenditures do not qualify for deduction: ➢ Expenditure on acquisition of site or any right in or over such site; or ➢ Expenditure on acquisition of deposits of mineral or any rights in or over such deposits; ➢ Expenditure of capital nature (being building, plant, machinery or furniture) in respect of which depreciation allowance is admissible u/s 32. ➢ Any expenditure which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realized by the assessee in respect of any property or rights brought into existence as a result of the expenditure shall be excluded. 3. In case of a non-corporate assessee, accounts of the assessee, for the year(s) in which the expenditure is incurred, have been audited by a chartered accountant and the audit report in Form 3AE (electronically) must be uploaded one month prior to the due date of filing of the return of income of the first year in which deduction is claimed.
Quantum of Deduction	Total eligible expenditure shall be allowed in 10 equal installments from the year of commercial production. However, deduction in a previous year cannot exceed income (before making deduction under this section) of the previous year arising from the commercial exploitation of *any* mine(s) **Treatment of unabsorbed amount:** The unabsorbed amount of installment relating to any previous year can be carried forward and added to the installment of the succeeding year. In this manner, unabsorbed amount can be carried forward maximum up to the 10th previous year commencing from the year when commercial production starts.

Taxpoint

⊙ In case of transfer of undertaking (of an Indian company) in a scheme of amalgamation or demerger, the amalgamated company or resulting company (being Indian company) shall be entitled to claim deduction u/s 35E for the residual period as if no amalgamation or demerger had taken place.

No deduction shall be allowed to amalgamating company or demerged company in the previous year in which amalgamation or demerger takes place.

- No deduction shall be allowed in respect of such expenditure under any other provisions of this Act.

2.3.30 Insurance premium for stocks & stores [Sec. 36(1)(i)]

Any amount paid as insurance premium against risk of damage or destruction of stocks & stores, used for the purpose of business or profession is allowable as deduction in full.

Paid means actually paid or incurred according to the method of accounting upon the basis of which the profits and gains of business are computed. [Sec. 43(2)]

2.3.31 Insurance premium for life of cattle [Sec. 36(1)(ia)]

Any amount paid as insurance premium by a federal milk co-operative society on the lives of cattle owned by the members of a primary milk co-operative society affiliated to it, is allowed as deduction in full.

2.3.32 Insurance premium for health of employees [Sec. 36(1)(ib)]

Any premium paid (other than by cash) by the assessee as an employer to effect or to keep in force an insurance on the health of his employees under a scheme framed in this behalf by—

- the General Insurance Corporation of India & approved by the Central Government
- any other insurer and approved by the Insurance Regulatory and Development Authority

- shall be allowed as deduction.

2.3.33 Bonus or commission to employees [Sec. 36(1)(ii)]

Any bonus or commission (other than in lieu of profit or dividend) *paid*[1] to employees shall be allowed as deduction.

Such amount must have been actually paid before the due date of furnishing return [Sec. 43B]

2.3.34 Interest on borrowed capital [Sec. 36(1)(iii)]

Amount of interest paid in respect of capital borrowed for the purposes of business or profession shall be allowed as deduction.

Conditions

To claim deduction under this section following conditions must be satisfied -

a. The assessee must have borrowed money.

b. The money so borrowed must have been used for the purpose of business or profession during the previous year.

c. The assessee must have incurred interest on the borrowed amount.

Other points

1. **Interest paid to another person:** Interest should be paid to another person. Hence, interest on capital to proprietor is disallowed expenditure. However, interest on capital to partners is allowed u/s 40(b) [to be discussed in the chapter 'Firm Assessment']
2. Interest paid by one unit of the assessee to another unit is not deductible.
3. **Interest paid to relative** is allowed as deduction subject to sec. 40A(2) i.e. if the interest paid is in excess of market rate then excess portion shall be disallowed.

4. **Need of borrowed capital:** Whether borrowed money is needed or not, is at the discretion of the assessee and income tax authority cannot examine the same. It is sufficient that money has been borrowed and applied in the business and the need of such borrowings cannot be challenged by the Assessing Officer
5. **Interest on share capital** is not allowed
6. Interest on borrowings made for acquiring & installing assets:

Interest for the period	Treatment of interest
Prior to commencement of business	Interest is to be added to actual cost of the asset
After commencement of business but before asset is put to use	
After asset is put to use	Interest is allowed u/s 36(1)(iii)

7. **Borrowed money used partly for business purpose:** If borrowed money is utilised in earning non assessable income, interest on such borrowing shall not be allowed as deduction.
8. **Interest on money borrowed to pay income tax** is not allowed

   Note: Interest on money borrowed for payment of sales tax is allowed as deduction.
9. **Interest paid outside India** without deducting tax at source is not allowed.
10. **Revenue vs Capital expenditure:** Amount borrowed may be applied for the purpose of revenue expenditure or capital expenditure.
11. **Interest on money borrowed for investing as capital in partnership firm** is allowed as deduction. **Brokerage & Commission for arranging loan** paid to an agent is not allowed under this section but allowed u/s 37(1).
12. **Other interest:** Interest other than interest on borrowed capital e.g. interest on deferred payment for purchased of asset, interest on delayed payment of electricity charges, interest on purchase price of raw-material, etc. shall not be allowed under this section but can be claimed u/s 37(1)

2.3.35 Discount on issue of Zero Coupon Bonds (ZCB) [Sec. 36(1)(iiia)]

Meaning: As per Sec.2(48) "Zero Coupon Bond" means a bond—

- issued by any infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank on or after 1/6/2005;
- in respect of which no payment and benefit is received or receivable before maturity or redemption from the issuer; and
- which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Treatment: Discount on issue of Zero Coupon Bonds shall be allowed on pro rata basis having regard to the period of life of such bond.

Infrastructure capital company [Sec.2(26A)] means

Such company which makes investment by way of acquiring shares or providing long term finance to any enterprise or undertaking wholly engaged in the following business:

- Business referred u/s 80IA or 80IAB;
- Any undertaking developing and building a housing project referred u/s 80IB(10);
- A project for constructing a hotel for not less than 3 star category;
- Project for constructing a hospital with at least 100 beds for patients.

Infrastructure capital fund [Sec.2(26B)] means

Such fund operating under a trust deed established to raise money by the trustees for investment by way of acquiring shares or providing long term finance to any enterprise or undertaking wholly engaged in the following business:

- Business referred u/s 80IA, 80IAB
- Any undertaking developing and building a housing project referred u/s 80IB(10)
- A project for constructing a hotel for not less than 3 star category.
- Project for constructing a hospital with at least 100 beds for patient

2.3.36 Contribution towards RPF & Superannuation Fund [Sec. 36(1)(iv)]

Any sum paid[1], by the employer towards recognised provident fund or an approved superannuation fund as per rules specified in the fourth schedule of the Act is allowed as deduction in full.

[1.] Such amount must have been actually paid before the due date of furnishing return [Sec. 43B]

Taxpoint:

- Contribution towards unrecognised provident fund is not allowed as deduction.
- Contribution towards statutory provident fund is allowed as deduction u/s 37(1).

2.3.37 Contribution towards Notified Pension Scheme U/s 80CCD [Sec. 36(1)(iva)]

Any sum paid by the assessee, as an employer, by way of contribution towards a pension scheme, as referred to in section 80CCD, on account of an employee is allowed as a deduction.

Maximum Limit: Such contribution should not exceed 14% of the salary of the employee in the previous year.

"Salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites

2.3.38 Contribution towards approved gratuity fund [Sec. 36(1)(v)]

Any sum paid[1] as employer's contribution towards an approved gratuity fund created by him exclusively for the benefit of his employees under an irrevocable trust is allowed as deduction.

[1.] Such amount must have been actually paid before the due date of furnishing return [Sec. 43B]

2.3.39 Employee's contribution towards staff welfare scheme [Sec. 36(1)(va)]

Any sum received by an employer from his employees as contribution towards -

- Provident Fund; or
- Superannuation Fund; or
- Any other fund set up under the provision of the Employee's State Insurance Act, 1948; or
- Any other fund for the welfare of such employees

- is treated as an income of the employer. Subsequently, when such sum is credited by the employer to the employee's account in the relevant fund on or before the due date of crediting such contribution prescribed under the relevant Act[#], then deduction is allowed.

[#] **Example:** As per the provisions Employee State Insurance Act, 1948 (ESI), all the contributions under this Act are to be deposited within 21 days of the following month. Similarly, all contributions under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 must be deposited within 15 days of the following month.

Taxpoint

If employees contribution is deposited by the employer on or before the due date[1]	No treatment.
If employees contribution is not deposited by the employer on or before the due date[1]	Taxable as business income.

[1] Due date means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or notification issued there under or under any standing order, award, contract of service or otherwise

As per the Employees Provident Funds Scheme, 1952, the amounts under consideration in respect of wages of the employees for any particular month shall be paid within 15 days of the close of every month.

2.3.40 Allowance in respect of dead or useless animals [Sec. 36(1)(vi)]

Sec. 36(1)(vi) provides for deduction in respect of animals used for the purpose of business or profession.

Conditions

a. Animals are used for the purpose of business or profession.

b. Such animals are not held as stock-in-trade.

c. Such animals have died or become permanently useless for such purpose.

Quantum of deduction

Difference between actual cost of the animals to the assessee and the amounts realised, if any, in respect of carcasses or sale of animals is allowed as deduction.

2.3.41 Bad Debts [Sec. 36(1)(vii)]

Any debt or part thereof, which becomes bad shall be allowed as deduction.

Taxpoint: It is the assessee, who decides whether a debt has become bad or not and the Assessing Officer can never insist the assessee for production of proof that the debt had became bad.

Conditions

1. Debt must be incidental to the business or profession of the assessee. There must be a close nexus between the debt and the business of the assessee.

   Example 11: Bad debt arising out of advances made by a lawyer to his client to assist him in purchasing properties is not admissible as bad debt. As it is not the business of lawyer to provide loans. Such loss is not allowed in any provision of the Act

2. The debt has been considered as income of the assessee of that previous year or of earlier previous years.

   Example 12: Advance given to supplier for purchase of raw-material later forfeited, is not allowed as deduction under this section, this is because the same has never been a part of income. However deduction can be claimed u/s 37(1).

   Exception: Bad debt arising due to insolvency of borrower is allowed as deduction provided money has been lent in ordinary course of money lending business (even though such money lent had never been a part of income)

3. **It must have been written** off in the accounts of the assessee.

Taxpoint: Provision for bad debt is not allowed as deduction.

- Exception: Where the amount of such debt has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt becomes irrecoverable or of an earlier previous year on the basis of notified Income Computation and Disclosure Standards (ICDS) without recording the same in the accounts, then, such debt shall be allowed in the previous year in which such debt becomes irrecoverable and it shall be deemed that such debt has been written off as irrecoverable in the accounts.

4. **Business must be carried on during the previous year** or any part of the previous year.

   Taxpoint: Bad debt of a discontinued business is not allowed as deduction even though the assessee has any other business continued.

5. **It must be of a revenue nature**

   Taxpoint: Bad debt arising due to insolvency of a debtor for sale of an asset (not goods) is not allowed as deduction.

Notes

a. Bad debt is not allowed as deduction to the assessee who maintains accounts on cash basis.

b. Bad debts are also allowed in the hands of successor of the business.

Recovery of bad debts [Sec. 41(4)]

As per sec. 41(4), where a deduction has been allowed in respect of a bad debt or part of debt u/s 36(1)(vii), then, if the amount subsequently recovered on any such debt or part thereof is greater than the difference between the debt or part of debt and the amount so allowed, the excess shall be deemed to be profits and gains of business or profession.

Mathematically

Particulars	Amount
Amount recovered	******
Less: Bad debt claimed – Bad debt allowed as deduction	******
Taxable bad debt recovery	******

Note: Such recovery shall be taxable irrespective of the fact whether the business is continued or not.

2.3.42 Provision for Bad Debts [Sec. 36(1)(viia)]

In the case of following person, provision for bad debts shall be allowed to the extent of specified amount:

Person	To that extent PBDD is allowed
A. Scheduled bank [not being a foreign bank] or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank	8.5% of the total income (computed before making any deduction under this section and Chapter VIA)
Additional Deduction for the Person covered under (A) a. 10% of the aggregate average advances made by the rural branches of such bank. b. Further, at its option, further deduction shall also be allowed for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government provided such income has been disclosed in the return of income under the head "Profits and gains of business or profession"	

Person	To that extent PBDD is allowed
B. foreign bank or Public financial institution or State financial corporation or State industrial investment corporation or Non-banking financial company	5% of the total income (computed before making any deduction under this section and Chapter VIA)

Notes :

- In case of person covered under this section, the deduction for bad debts u/s 36(1)(vii) shall be limited to an amount by which such debts exceed the credit balance in the provision for bad and doubtful debts. If the actual bad debt during the previous year is less or equal to the provision for doubtful debts, no deduction for bad debt shall be allowed.
- Rural branch means a branch of a scheduled bank or a non-scheduled bank situated in a place which has a population of not more than 10000 according to the last preceding census of which the relevant figures have been published before the first day of the previous year.

2.3.43 Deduction is respect of Special Reserve [Sec. 36(1)(viii)]

Deduction is allowed in respect of any special reserve created and maintained by a specified entity in respect of reserve created from the specified business. The amount of deduction shall be least of the following:

a. Amount transferred to the reserve account during the previous year; or

b. 20% of the profits derived from the specified business of providing long-term finance; or

c. twice the amount of the paid-up share capital and the general reserve.

Notes :

Meaning of specified entity and specified business

Specified Entity	Specified Business means the business of providing long-term finance for
A financial corporation u/s 2(72) of the Companies Act, 2013 or a financial corporation which is a public sector company or a banking company or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank	a. industrial or agricultural development; b. development of infrastructure facility in India; or c. development of housing in India
A housing finance company	Construction or purchase of houses in India for residential purposes.
Any other financial corporation including a public company	Development of infrastructure facility in India
Long-term finance means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than 5 years.	

Treatment on withdrawal from Special Reserve Account

As per sec. 41(4A), if a deduction has been allowed in respect of any special reserve created under this section, any amount subsequently withdrawn from such special reserve shall be deemed to be profits or gains of business or profession and shall be taxable in the year of such withdrawal. The above rule holds good even if the business is no longer in existence in the year of such withdrawal.

2.3.44 Expenditure on promotion of family planning among employees [Sec. 36(1)(ix)]

Applicable to: Company only

Purpose of such expenditure: Such expenditure must have been incurred for promotion of family planning among its employees.

Quantum of Deduction

- Revenue expenditure is fully allowed as deduction.
- Capital expenditure shall be allowed in 5 equal installments commencing from the previous year in which it is incurred.

  Note: Where deduction is allowed in respect of any expenditure under this section then no deduction shall be allowed u/s 32 or any other provisions of this Act.

  Treatment of unabsorbed capital expenditure: As in case of unabsorbed depreciation.

  Sale of assets acquired for family planning: Treated in the same manner as in case of sale of assets used for scientific research.

2.3.45 Expenditure incurred by a corporation or a body corporate [Sec. 36(1)(xii)]

Any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,—

a. it is constituted or established by a Central, State or Provincial Act;

b. such corporation or body corporate, having regard to the objects and purposes of the respective Act is notified by the Central Government in the Official Gazette for the purposes of this clause; and

c. the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;

- shall be allowed as deduction.

2.3.46 Credit Guarantee Fund Trust [Sec. 36(1)(xiv)]

Any sum paid by a public financial institution by way of contribution to specified credit guarantee fund trust for small industries shall be allowed as deduction.

2.3.47 Securities Transaction Tax [Sec. 36(1)(xv)]

Any amount of Securities Transaction Tax (STT) paid by the assessee during the previous year shall be allowed as deduction provided income arising from such transactions is included in the income computed under the head "Profits and gains of business or profession.'

2.3.48 Commodities Transaction Tax [Sec. 36(1)(xvi)]

Any amount of Commodities Transaction Tax (CTT) paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year shall be allowed as deduction provided income arising from such transactions is included in the income computed under the head "Profits and gains of business or profession.'

Taxpoint:

- A 'taxable commodities transaction' means a transaction of sale of commodity derivatives or sale of commodity derivatives based on prices or indices of prices of commodity derivatives or option on commodity derivatives

or option in goods in respect of commodities, other than agricultural commodities, traded in recognised stock exchange.

- A "commodity derivative" means –
  1. A contract for delivery of goods which is not a ready delivery contract
  2. A contract for differences which derives its value from prices or indices of prices -
     i. of such underlying goods; or
     ii. of related services and rights, such as warehousing and freight; or
     iii. with reference to weather and similar events and activities having a bearing on the commodity sector.

2.3.49 Purchase of Sugarcane [Sec. 36(1)(xvii)]

The amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government shall be allowed.

2.3.50 Loss as per ICDS [Sec. 36(1)(xviii)]

Marked to market loss or other expected loss as computed in accordance with the ICDS shall be allowed.

2.3.51 General deductions [Sec. 37(1)]

Any expenditure which is not specifically provided in any provisions (discussed earlier) of the Act and fulfills following conditions, shall be allowed as deduction under this section -

1. It must be real and not notional, fictitious or in lieu of distribution of profit.
2. It must be expended wholly & exclusively for the purpose of business or profession carried on by the assessee.
3. It must have been incurred in the previous year.
4. It must not be a personal expenditure.
5. It must not be a capital expenditure.
6. It must be lawful and not have been incurred for any purpose, which is an offence or prohibited, under any law.

- It also includes the expenditure incurred by an assessee:
  i. for any purpose which is an offence or prohibited by any law for the time being in force, in India or outside India; or
  ii. to provide any benefit or perquisite to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person [see Taxpoint 3 given below]; or
  iii. to compound an offence under any law for the time being in force, in India or outside India; or
  iv. to settle proceedings initiated in relation to contravention under such law

Taxpoint:

1. Corporate Social Responsibility: Any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.

However, the Explanatory Memorandum to the Finance (No.2) Bill, 2014 clarifies that CSR expenditure, which is of the nature described in sec. 30 to 36, shall be allowed as deduction under those sections subject to fulfillment of conditions, if any, specified therein

2. **Expenditure incurred on Keyman Insurance Policy:** The premium paid on the Keyman Insurance Policy is allowed as business expenditure [Circular No. 762/1998 dated 10-02-1998]. In case of a firm, premium paid by the firm on the Keyman Insurance Policy of a partner, to safeguard the firm against a disruption of the business, is an admissible expenditure u/s 37 – Circular no. 38/2016.

3. The claim of any expense incurred in providing any Gift, Travel facility, Hospitality, Cash or monetary grant or similar freebees in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 shall be inadmissible u/s 37(1) of the Income Tax Act being an expense prohibited by the law. This disallowance shall be made in the hands of such pharmaceutical or allied health sector Industries or other assessee which has provided said freebees and claimed it as a deductable expense in its accounts against income. Further, the sum equivalent to value of freebees enjoyed by the aforesaid medical practitioner or professional associations is also taxable as business income or income from other sources as the case may be. [Circular 05/2012 dated 01-08-2012]

2.3.52 Advertisement in souvenir etc. of a political party [Sec. 37(2B)]

Expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or like, published by a political party is disallowed.

2.3.53 Disallowed Expenditure [Sec. 40]

Whereas sec. 30 to 37(1) deals with the expenditure, which are allowed, the Act also lists certain expenditures which are specifically disallowed. Sec. 40 states that, notwithstanding anything to the contrary in sec. 30 to 38, certain amounts shall not be deducted in computing the income chargeable under the head "Profits & gains of business or profession". Such provisions are discussed below:

Following expenditures are expressly disallowed **u/s 40(a):**

a. **Interest, royalty, fees for technical services payable to a non-resident or outside India [Sec.40(a)(i)]**

Any interest, royalty, fees for technical services or other sum chargeable under this Act, which is payable ,—

- outside India; or
- in India to a non resident (not being a company) or to a foreign company,

  - on which tax is deductible at source under Chapter XVIIB; and

  such tax -

- has not been deducted; or
- after deduction, has not been paid within the due date of submission of return of income u/s 139(1).

Taxpoint:

- Where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date of submission of return of income u/s 139(1), such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.
- Where an assessee fails to deduct the whole or any part of the tax on any sum but is not deemed to be an assessee in default under the first proviso to sec. 201(1), then, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the payee.

Notes

1. Since the date of furnishing the return of income by the payee is taken to be the date on which the payer has deducted tax at source and paid the same, such expenditure/payment in respect of which the payer has failed to deduct tax at source shall be disallowed u/s 40(a)(i) in the year in which the said expenditure is incurred. However, such expenditure will be allowed as deduction in the subsequent year in which the return of income is furnished by the payee, since tax is deemed to have been deducted and paid by the payer in that year.
2. He shall not be deemed as assessee in default under the first proviso to sec. 201(1) by reason that such payee:
   a. has furnished his return of income u/s 139
   b. has taken into account such sum for computing income in such return of income;
   c. has paid the tax due on the income declared by him in such return of income; and
   d. The payer furnishes a prescribed certificate to this effect from a chartered accountant
3. Royalty shall have the same meaning as in sec. 9(1)(vi).
4. Fees for technical services shall have the same meaning as in sec. 9(1)(vii).

b. **Any sum payable to a resident on which TDS provision is applicable [Sec. 40(a)(ia)]**

30% of any sum payable (or paid during the year*) to a resident on which tax is deductible at source under Chapter XVII-B if:

Such tax:

- has not been deducted; or
- after deduction, tax has not been paid on or before the due date of furnishing return of income

Notes :

1. Where such tax has been deducted in any subsequent year, or tax has been paid after the due date of furnishing return of relevant assessment year, then the amount disallowed earlier (i.e., 30% portion) shall be allowed as deduction in the following assessment year

Where such tax has been deducted in any subsequent year	Disallowed amount shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid
Where such tax has been deducted in the relevant financial year but tax has been paid after the due date of furnishing return of relevant assessment year	

2. Where an assessee fails to deduct the whole or any part of the tax but is not deemed to be an assessee in default under the first proviso to section 201(1), then, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee.
   - This relaxation is not available where the payer has deducted tax but fails to deposit such tax to the credit of the Central Government.
   - As per first proviso to sec.201(1), the payer is not deemed as an assessee in default:
     i. Such resident recipient has furnished his return of income u/s 139
     ii. Such resident recipient has taken into account such sum for computing income in such return of income; and
     iii. Such resident recipient has paid the tax due on the income declared by him in such return of income,
     iv. The payer furnishes a prescribed certificate to this effect from a chartered accountant

* Circular No. 10/2013 dated 16-12-2013. However, some judicial authorities have held that the provision is applicable only on the amount which is payable on the last date of the relevant previous year and would not be invoked to disallow the amount which had actually been paid during the previous year without deduction of tax at source. Thus, the said circular is not operative in the area falling the jurisdiction of the relevant High Court.

3. Since the date of furnishing the return of income by the payee is taken to be the date on which the payer has deducted tax at source and paid the same, 30% of such expenditure/payment in respect of which the payer has failed to deduct tax at source shall be disallowed u/s 40(a)(ia) in the year in which the said expenditure is incurred. However, 30% of such expenditure will be allowed as deduction in the subsequent year in which the return of income is furnished by the payee, since tax is deemed to have been deducted and paid by the payer in that year.
4. Commission or brokerage includes any payment received or receivable by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing, not being securities.

Illustration : 81

Details in respect of interest expenditure is given here-in-below. Determine the year of allowability.

Status of Deductee	Date on which tax is supposed to be deducted	Actual date of TDS	Due date of depositing TDS	Actual date of depositing TDS	Allowability
Resident	20-7-2024	20-7-2024	7-8-2024	7-8-2024	100% allowed in the A.Y. 2025-26
Resident	20-7-2024	20-7-2024	7-8-2024	2-9-2024	
Resident	20-7-2024	20-7-2024	7-8-2024	3-4-2025	
Resident	20-7-2024	20-7-2024	7-8-2024	30-06-2025	
Resident	20-7-2024	20-7-2024	7-8-2024	12-12-2025	30% of such sum shall be disallowed (70% shall be allowed) in the A.Y. 2025-26 but allowed in the A.Y. 2026-27
Resident	20-7-2024	20-7-2024	7-8-2024	3-4-2026	30% of such sum shall be disallowed (70% shall be allowed) in the A.Y. 2025-26 but allowed in the A.Y. 2027-28
Resident	17-6-2024	17-6-2024	7-7-2024	Not deposited	30% of such sum shall be disallowed (70% shall be allowed) in the A.Y. 2025-26 but allowed in the A.Y. relevant to the P.Y. in which tax is paid
Resident	10-11-2024	Not deducted	7-12-2024	Not deposited	
Non-Resident	20-7-2024	20-7-2024	7-8-2024	7-8-2024	100% allowed in the A.Y. 2025-26
Non-Resident	20-7-2024	20-7-2024	7-8-2024	2-9-2024	
Non-Resident	20-7-2024	20-7-2024	7-8-2024	3-7-2024	
Non-Resident	16-2-2025	16-2-2025	7-3-2025	10-12-2025	100% of such sum shall be disallowed in the A.Y. 2025-26 but allowed in the A.Y. 2026-27

c. Income tax (Indian or foreign) [Sec. 40(a)(ii)]

Even, income tax paid by the assessee on income of predecessor is not deductible. The term "tax" includes any surcharge or cess, by whatever name called, on such tax.

Taxpoint: Professional tax is an allowed expenditure [Circular No. 16 & 18 dated 18/9/69]

d. Wealth-tax [Sec. 40(a)(iia)]

e. Royalty, licence fees, etc. payable by State Government Undertaking [Sec. 40(a)(iib)]

Any amount

a. paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or

b. which is appropriated, directly or indirectly, from,

a State Government undertaking by the State Government.

Note: State Government undertaking includes—

i. a corporation established by or under any Act of the State Government;

ii. a company in which more than 50% of the paid-up equity share capital is held by the State Government;

iii. a company in which more than 50% of the paid-up equity share capital is held by the entity referred to in above clauses (whether singly or taken together);

iv. a company or corporation in which the State Government has the right to appoint the majority of the directors or to control the management or policy decisions, directly or indirectly, including by virtue of its shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

v. an authority, a board or an institution or a body established or constituted by or under any Act of the State Government or owned or controlled by the State Government;

f. Any payment which is chargeable under the head "Salaries", if it is payable—

(i) outside India; or (ii) to a non-resident,

and if the tax has not been paid in India thereon nor deducted therefrom [Sec. 40(a)(iii)]

g. Any payment to a provident fund or any other fund established for the benefit of employees of the assessee in respect of whom the assessee has not made effective arrangement to secure that tax shall be deducted at source from any payment made from the fund, which are taxable under the head 'Salaries' [Sec. 40(a)(iv)]; and

h. Any tax on non-monetary perquisite [which is exempt in the hands of employee u/s 10(10CC)] actually paid by employer on behalf of employee [Sec. 40(a)(v)].

2.3.54 Payment made to relatives in excess of requirement [Sec. 40A(2)]

Any payment made by an assessee to a related person[1] shall be disallowed to the extent it is excess or unreasonable[2] as per the Assessing Officer.

1. **Related person:** Sec. 40A(2)(b) deals with the related person. Before explaining the provision, it is imperative to understand the meaning of the terms "Relative" and "Person having substantial interest"

Relative u/s 2(41) means the spouse, brother, sister or any lineal ascendant or descendant of that individual.

Person having substantial interest: A person is deemed to have substantial interest in the business or profession, if

i. in a case, where the business or profession is carried on by a company, such person is at any time during the previous year, the beneficial owner of equity share carrying not less than 20% of voting power;

ii. in any other case, such person is at any time during the previous year, the beneficially entitled to not less than 20% of the profits of such business or profession.

List of related persons in case of different assessee

For the assessee	Related Person means
An Individual	Relative
	A person in whose business or profession the individual has substantial interest.
A Company	Director of the company or any relative of the director
	A person in whose business or profession the company or any of its director or relative of such director has substantial interest.
	Any other company carrying on business or profession in which the aforesaid company has substantial interest. E.g. X Ltd. holds 20% equity shares in Y Ltd., the assessee. Further, X Ltd. also holds 20% equity shares in Z Ltd. Z Ltd. shall also be considered as relative for Y Ltd. provided Z Ltd. is carrying on business or profession.
A Firm	Partner of the firm or relative of partner
	A person in whose business or profession the firm or any of its partner or relative of such partner has substantial interest.
An AOP	A member of the Association or a relative of the member.
	A person in whose business or profession the AOP or any of its member or relative of such member has substantial interest.
An HUF	A member of the family or relative of such person
	A person in whose business or profession the HUF or any of its member or relative of such member has substantial interest.
Any assessee	➢ An individual who has a substantial interest in the business or profession of the assessee or the relative of such individual. ➢ A company, which has a substantial interest in the business or profession of the assessee or the director of such company or relatives of such a director. ➢ A Firm/HUF/AOP etc., which has a substantial interest in the business or profession of the assessee or the partner/member of such firm/HUF/AOP or relatives of such partner/member. ➢ A company, one of whose director has a substantial interest in the business or profession of the assessee or directors of such company or any relative of such directors. ➢ Firm, AOP, HUF, one of whose partner/member has a substantial interest in the business or profession of the assessee or any partner/member of such Firm/AOP/HUF or any relative of such person.

2. **Excessive or unreasonable:** Whether any expenditure is in excess or unreasonable is to be decided after considering the fair market value of the goods, services or facilities for which payment is made or the legitimate need of the business or profession of the assessee or the benefit arising to the assessee therefrom.

3. Where an assessee sells his goods at a lower rate, there is no expenditure incurred by him, hence sec. 40A(2) shall not be invoked.

2.3.55 Consequences of payment exceeding ₹ 10,000/- otherwise than by account payee cheque or demand draft [Sec. 40A(3)/(3A)]

Applicability: Any expenditure in respect of which payment has been made in excess of ₹ 10,000 in a day otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through other prescribed electronic modes[Sec. 40A(3)]

Treatment: 100% of such payment shall be disallowed.

Exception: In the case of payment made for plying, hiring or leasing goods carriages (hereinafter referred to as Road Transport), the limit of ₹ 10,000 has been increased upto ₹ 35,000.

Taxpoint: The monetary limit for attracting sec.40A(3) are as follows:

Case	Monetary Limit
Payment made for plying, hiring or leasing goods carriages	₹ 35,000
Payment made for other expenses	₹ 10,000

Other points

- Where:
  a. an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure; and
  b. subsequently during any previous year the assessee makes any payment in violation of this provision,

  then, the payment so made shall be deemed to be the profits and gains of business or profession of such subsequent year [Sec. 40A(3A)]
- If an assessee makes payment of two different bills (none of them exceeds ₹ 10,000 / ₹ 35,000) at the same time in cash to the same person, provision of sec. 40A(3) is not attracted.
- If an assessee makes payment of a single bill (exceeding ₹ 10,000 / ₹ 35,000) on different days to the same person in cash, provision of sec. 40A(3) is not attracted, provided any of the payment does not exceed ₹ 10,000 / ₹ 35,000.
- Where payment is made over ₹ 10,000 (or ₹ 35,000) at a time, partly by account payee cheque & partly in cash but the payment in cash alone at one time does not exceed ₹ 10,000 (or ₹ 35,000), assessee is not attracted by sec. 40A(3).
- The provision of sec. 40A(3) is attracted only when such expenditure is claimed as deduction u/s 30 to 37.
- Loan transactions are not covered under this section.

Exceptions [Rule 6DD]

Under the following circumstances as prescribed under Rule 6DD, provision of Sec.40A(3) is not attracted even the payment in excess of ₹ 10,000 (or ₹ 35,000) has been made otherwise than by a account payee cheque or account payee bank draft or other prescribed modes –

a. Where the payment is made to—
   - The Reserve Bank of India or any banking company

- The State Bank of India or any subsidiary bank
- Any co-operative bank or land mortgage bank;
- Any primary agricultural credit society or any primary credit society
- The Life Insurance Corporation of India

b. Where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;

c. Where the payment is made by—

- Any letter of credit arrangements through a bank;
- A mail or telegraphic transfer through a bank;
- A book adjustment from any account in a bank to any other account in that or any other bank;
- A bill of exchange made payable only to a bank;

d. Where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee i.e., Book Adjustment;

e. Where the payment is made for the purchase of

- Agricultural or forest produce; or
- The produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or
- Fish or fish products; or
- The products of horticulture or apiculture,

- to the cultivator, grower or producer* of such articles, produce or products;

f. Where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;

g. Where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;

h. Where any payment is made to an employee of the assessee or the heir of any such employee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heir does not exceed ₹ 50,000;

i. Where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Act, and when such employee -

i. is temporarily posted for a continuous period of 15 days or more in a place other than his normal place of duty or on a ship; and

ii. does not maintain any account in any bank at such place or ship;

j. Where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person;

k. Where the payment is made by an travelers or dealer or a money changer against purchase of foreign currency or travelers cheques in the normal course of his business.

* The 'producers' of fish or fish products for the purpose of Rule 6DD(e) would include, besides the fishermen, any headman of fishermen, who sorts the catch of fish brought by fishermen from the sea, at the sea shore itself and then sells the fish or fish products to traders, exporters etc

Example 13:

Points to be kept in mind	Examples
If an assessee makes payment to Mr. X against a bill of ₹ 50,000 on a same day but at different time but each time the amount of payment does not exceed ₹ 10,000.	Entire ₹ 50,000 shall be disallowed u/s 40A(3)
If an assessee makes payment of two different bills (none of them exceeds ₹ 10,000) at the same time to the same person in cash, provision of sec. 40A(3) is not attracted.	X paid to Y ₹ 12,000 in cash against his Bill No.482 of ₹ 7,000 and Bill No.572 of ₹ 5,000. Nothing shall be disallowed under this section.
If an assessee makes payment of a single bill (exceeding ₹ 10,000) on different days to the same person in cash, provision of sec. 40A(3) is not attracted, provided any of the payment does not exceed ₹ 10,000.	X paid to Y in cash (against bill 421) of ₹ 23,000 as follows - On 7/12/2024: ₹ 8,000 On 8/12/2024: ₹ 9,000 On 9/12/2024: ₹ 6,000 Nothing shall be disallowed.
Where payment is made over ₹ 10,000 at a time, partly by account payee cheque & partly in cash but the payment in cash alone at one time does not exceed ₹ 10,000, assessee is not attracted by sec. 40A(3).	X paid to Y (against bill 712) of ₹ 50,000, in form of account payee cheque ₹ 42,000, bearer cheque ₹ 3,000 and in cash ₹ 5,000. Nothing shall be disallowed.
If part of the expenditure is already disallowed under any provision of this Act, then disallowance shall be calculated on the allowed portion of the expenditure.	X purchased goods from his brother of ₹ 14,000 (market value of which is ₹ 8,000) and paid in cash. ₹ 6,000 shall be disallowed u/s 40A(2) and nothing shall be disallowed u/s 40A(3) as allowed expenditure does not exceed ₹ 10,000.
The monetary limit for payment to Road Carrier is ₹ 35,000	Mr. X made following payment in cash to a road transport operator for their respective bills: - ₹ 23,000 to Mr. A on 10-05-2024 against his Bill No. 540 - ₹ 32,000 to Mr. B on 10-12-2024 against his Bill No. 770 - ₹ 37,000 to Mr. C on 10-01-2025 against his Bill No. 992 Payment made to Mr. C shall be disallowed fully u/s 40A(3)
Where an allowance has been made in the assessment year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year the assessee makes any payment in respect thereof in a sum exceeding ₹ 10,000 otherwise than by a account payee cheque or account payee bank draft, the allowance originally made shall be considered as income of the previous year in which such payment has been made.	Mr. X purchased goods on credit on 7/7/2024 for ₹ 60,000 and claimed the expenditure as deduction in the A.Y. 2025-26. On 7/7/2026 he paid to creditor ₹ 60,000 in cash. Since amount has been paid in cash in excess of ₹ 10,000, therefore the allowance originally made shall be considered as income of the previous year in which such payment has been made i.e. P.Y.2026-27.

2.3.56 Provision for Gratuity [Sec. 40A(7)]

No deduction shall be allowed in respect of any provision (by whatever name called) made by the assessee for the payment of gratuity to his employees.

Exceptions: Any provision made by the assessee for the purpose of payment of a sum -

- by way of any contribution towards an approved gratuity fund; or
- for the purpose of payment of any gratuity, that has become payable during the previous year;

- shall be allowed as deduction.

2.3.57 Certain contributions not deductible [Sec. 40A(9)]

No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards setting up or formation of, or as contribution to, any fund, trust, company, AOP, BOI, society or other institution for any purpose.

Exception: Where such sum is paid by way of contribution towards approved superannuation fund, recognised provident fund, approved gratuity fund, NPS as per the requirements under any law, then such sum is allowed.

Taxpoint: Contribution to unrecognized provident fund is disallowed.

2.3.58 Expenditures allowed on cash basis [Sec. 43B]

Category A

Deduction in respect of following expenses are allowed only if payment is made on or before the due date for furnishing return of income u/s 139(1)[1] of the previous year in which such liability is incurred:

1. Any sum payable[2] by way of tax, duty, cess, fee, by whatever name called, under any law for the time being in force.
2. Any sum payable as bonus or commission to employees for services rendered.
3. Any sum payable as interest on loan or borrowing from any
   - public financial institutions;
   - a State financial corporation; or
   - State industrial investment corporation.
4. Any sum payable by the assessee as interest on any loan or borrowing from notified class of non-banking financial companies, in accordance with the terms and conditions of the agreement governing such loan or borrowing
5. Any sum payable as interest on any loans and advances from a scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank in accordance with the terms and conditions of the agreement governing such loan or advances.
6. Any sum payable by an employer in lieu of any leave at the credit of employee (i.e. leave encashment).
7. Any sum payable by an employer by way of contribution to any provident fund, superannuation fund, gratuity fund or any other fund for the welfare of employees.
8. Any sum payable by the assessee to the Indian Railways for the use of railway assets

Taxpoint:

- If payment is not made before the date mentioned above, then no allowance shall be allowed in respect of the outstanding liability. Deduction can, however, be claimed in the year of payment.
- The method of accounting followed by the assessee is irrelevant.
- Sec.43B is applicable only on those expenditure which are allowed under the provisions of this Act, if an expenditure is already disallowed under the provision of this Act, payment of such expenditure within time shall not be sufficient to make it an allowed expenditure. E.g. Income tax paid ₹ 5,000 before due date of filing of return, is not allowed as deduction.

[1]. In general, due date for furnishing return of income u/s 139(1)

- Where audit of books of account is compulsory under any law : 31st October† of the A.Y.

- In any other case : 31st July of the A.Y.

[2]. Any sum payable means a sum for which the assessee incurred liability in the previous year even though such sum might not have been payable within that year under the relevant law i.e. liability must have been accrued whether falls due or not.

Notes :

1. Sec.43B is applicable only if the assessee is following mercantile system of accounting. However, if an assessee follows cash basis of accounting, deduction shall be allowed only in the year in which payment is made, even though the payment has been made on or before due date of filing of return.
2. The provision that "for claiming deduction, payment must be made on or before the due date of filing of return" shall be applied only for the relevant previous year in which such liability is incurred. If payment is made afterwards, deduction shall be allowed in the previous year in which payment is actually made, without considering the due date of filing of return.

   Example: Mr. X paid professional tax ₹ 10,000 related to previous year 2021-22 on 7/5/2025. Deduction for such expenditure shall be allowed in the P.Y 2025-26 and not in P.Y.2024-25.
3. Where outstanding interest on loan (taken from Banks, NBFC, PFIs, etc.) is converted into loan debenture or any other instrument by which the liability to pay is deferred to a future date, then such interest is not deemed as interest paid.
4. Where a deduction in respect of the aforesaid expenditure is allowed in an earlier year on accrual basis the same will not again be allowed as deduction under this section on payment basis.
5. As per sec. 36(1)(va), any sum received by an employer from his employees as contribution towards provident fund, superannuation fund, any other fund set up under the provision of the ESI Act, 1948 or any other fund for the welfare of such employees, is treated as an income of the employer. Subsequently, when such sum is credited by the employer to the employee's account in the relevant fund on or before the due date of crediting such contribution prescribed under the relevant Act, then deduction is allowed. If such contribution is not deposited within time allowed as per the provisions of the relevant Act, the deduction shall never be allowed, i.e. not now then never.

Illustration 82 :

Debit side of the profit and loss account of Mayank Ltd. Shows the following expenses, which have been due but are outstanding as on 31-3-2025

Payment outstanding on 31-3-2025		First payment		Second payment	
Particulars	Amount	Date	Amount paid	Date	Amount paid
Leave encashment expenses	65,000	01-06-2025	15,000	25-12-2025	50,000
Interest payable to Bank	14,000	10-06-2025	3,000	13-12-2025	11,000
Bonus payable to employees	87,000	02-05-2025	30,000	30-09-2025	57,000
Interest payable to LIC loan	75,000	13-05-2025	50,000	10-01-2026	25,000

Due date for filing return of income is 31-10-2025

Find out the previous years in which the aforesaid payments are deductible. The company maintains books of accounts on the basis of mercantile system of accounting.

† 30th November, in case of assessee required to furnish Audit Report u/s 92E

Solution :

As per provision of sec. 43B following payment shall be allowed.

Particulars	Amount paid	Deduction allowed in the assessment year	
		2025-26	2026-27
Leave encashment expenses	65,000	15,000	50,000
Interest payable to Bank	14,000	3,000	11,000
Bonus payable to employees	87,000	87,000	-
Interest payable to LIC loan	75,000	50,000	25,000

Category B

Any sum payable by the assessee to a micro or small enterprise (other than a trading unit) beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 would be allowed as deduction only in that previous year in which such sum is actually paid.

Sec. 15 of the Micro, Small and Medium Enterprises Development Act, 2006 mandates payment of goods or services to supplier, being a micro or small enterprises by the buyer on or before:

Where written agreement exists between parties	the date agreed upon between them in writing i.e., as per the written agreement. However, in any circumstance such date cannot be more than 45 days from the day of acceptance or the day of deemed acceptance of any goods or services by a buyer from a supplier.
Where there is no such written agreement	the payment shall be made before the appointed day i.e., within 15 days.

Availability of deduction

Where the payment has been made within the aforesaid date	The deduction can be claimed on accrual basis if mercantile method of accounting is followed by the assessee.
In other case	The deduction would be allowed in the previous year in which it is actually paid.

Taxpoint

- The provision is applicable only in case where payee is micro or small enterprise. That means the provision is not applicable in case of medium enterprises
- For this clause, due date of furnishing return is not relevant.
- Meaning of micro and small enterprise

Enterprise	Investment in Plant & Machinery (applicable for industrial unit)	Investment in equipment (applicable for service provider)
Micro	Investment ≤ ₹ 25 lakhs	Investment ≤ ₹ 10 lakhs
Small	₹ 25 lakhs < Investment ≤ ₹ 5 crore	₹ 10 lakhs < Investment ≤ ₹ 2 crore

For calculating investment in plant and machinery, the cost of pollution control, research and development, industrial safety devices and such notified items shall be excluded

Example :

Type of Liability	Liability Accrued on	Payment made on	Applicability of sec. 43B	Allowed in the A.Y.
Micro and Small enterprise related	29/03/2025	02/04/2025	No	A.Y. 2025-26
Micro and Small enterprise related	29/03/2025	30/12/2025	Yes	A.Y. 2026-27
Micro and Small enterprise related	29/03/2025	30/06/2025	Yes	A.Y. 2026-27
Bonus to employee	31/03/2025	30/06/2025	Yes	A.Y. 2025-26

2.3.59 Deemed profit chargeable to tax as business Income

The following receipts are chargeable to tax as business income even if the business to which such receipt is related is not in existence during the previous year.

Section	Contents
41(1)	Recovery against any deduction (given below)
41(2)	Balancing charge (discussed earlier)
41(3)	Sale of asset used for scientific research (discussed earlier)
41(4)	Recovery of Bad debts (discussed earlier)
41(4A)	Withdrawal from special reserve created by financial corporation u/s 36(1)(viii)
176(3A) & (4)	Recovery after discontinuance of business or profession (given below)

Recovery against any deduction [Sec. 41(1)]

Conditions

1. Where an allowance or deduction is allowed in any assessment year in respect of loss, expenditure, or trading liability incurred by the assessee; and
2. Subsequently during any previous year such assessee has obtained, whether in cash or in any other manner any amount in respect of such loss, expenditure, or any benefit in respect of such trading liability by way of remission or cessation thereof.

Treatment: The amount obtained or benefit accrued shall be deemed to be the profits & gains of business or profession and chargeable to income tax as income of the previous year in which such benefit is obtained.

Notes :

1. The provision holds good, whether the business or profession in respect of which such allowance or deduction has been made is in existence in that year or not.
2. The remission or cessation of trading liability may be unilateral act of the assessee by way of writing off such liability in his accounts
3. The first and the most necessary ingredient for the application of sec. 41(1) is that an allowance or deduction must have been made previously while computing the taxable income
4. Where benefit has been obtained by the successor in business, such benefit shall be taxable in hands of successor.
   - Successor in business means:
     i. where there has been an amalgamation of a company with another company, the amalgamated company;
     ii. where a firm carrying on a business or profession is succeeded by another firm, the other firm;

iii. in any other case, where one person is succeeded by any other person in that business or profession, the other person;

iv. where there has been a demerger, the resulting company.

Recovery after discontinuance of business or profession [Sec. 176(3A) and (4)]

Condition: Business or profession is discontinued in any year due to death or retirement of the person carrying on such business or profession.

Treatment: Any sum received after such discontinuance shall be deemed to be the income of the recipient and chargeable to tax in the year of receipt.

2.3.60 Maintenance of books of account [Sec. 44AA & Rule 6F]

Case	Person falling under this category	Turnover or income criteria		Maintenance of Accounts
		Existing business	New business	
A	Persons carrying on specified professions[1]	Gross receipts in the profession exceeds ₹ 1,50,000 in all of the three years immediately preceding the previous year.	Gross total receipts in the profession for that year is likely to exceed ₹ 1,50,000.	Maintain such books of account and other documents as prescribed by Rule 6F[2]
B		Gross receipts in the profession does not exceed ₹ 1,50,000 in any one of the three years immediately preceding the previous year.	Gross total receipts in the profession for that year is not likely to exceed ₹ 1,50,000.	Maintain such books of account and other documents as may enable the Assessing Officer to compute their taxable income under the Income-tax Act.
C	Persons carrying on a "non-specified profession or any business":	Profit from such profession or business exceeds ₹ 1,20,000 (in case of individual & HUF ₹ 2,50,000); or The total sales or turnover or gross receipts thereof is in excess of ₹ 10,00,000 (in case of individual & HUF ₹ 25,00,000), - in any of the 3 years immediately preceding the P.Y.	Income/ total sales, etc. is likely to exceed the said amount.	Maintain such books of account and other documents as may enable the Assessing Officer to compute their taxable income under the Income-tax Act.
D		Aforesaid limit does not exceed in all of the 3 years immediately preceding the P.Y.	Income is not likely to exceed said limit and total sales, turnover or gross receipt is not likely to exceed said limit.	Not required to maintain any books of account.
E	An assessee (covered u/s 44AE, 44BB or 44BBB) who claims income from such business to be lower than the deemed income computed in accordance with the respective sections.			Maintain such books of account & other documents as may enable the AO to compute his taxable income under the Income-tax Act.
F	Where the provision of sec. 44AD(4) is applicable and income of the assessee exceeds the maximum amount which is not chargeable to income-tax (i.e. basic exemption limit)			

[1] Specified Profession: Legal, medical, engineering, architectural profession or profession of accountancy, technical consultancy, interior decoration, information technology, company secretary, authorised representative, film artist or any other profession as is notified by the Board in the Official Gazette.

[2] Following books of account are required to be maintained as per Rule 6F

a. Cash book;

b. Journal, if mercantile system of accounting is followed;

c. Ledger;

d. Carbon copies of machine numbered bills, exceeding ₹ 25, issued by the person; and

e. Original bills wherever issued to the person and receipts in respect of expenditure incurred by the person or, where such bills and receipts are not issued and expenditure incurred does not exceed ₹ 50, payment vouchers prepared and signed by the person.

f. Assessee engaged in medical profession are required to maintain two more books -

- Daily Case Register in Form 3C.
- Inventory records of drugs, medicines and other consumable accessories used in the profession.

Notes :

1. **Period for which books of account is to be maintained [Rule 6F(5)]:** The books of account and other documents shall be kept and maintained for a period of 6 years from the end of the relevant assessment year.

2. **Place at which books to be kept and maintained:** The books of account and other documents [other than those relating to a previous year which has come to an end] shall be kept and maintained by the person at the place where he is carrying on the profession or, where the profession is carried on in more places than one, at the principal place of his profession. However if he keeps and maintains separate books of account in respect of each place of his profession, such books of account and other documents may be kept and maintained at the respective places

3. **Penalty:** Where an assessee fails to comply with the provision of sec 44AA, he shall be liable to pay penalty u/s 271A of ₹ 25,000.

4. As per sec. 2(12A), books or books of account includes ledgers, day-books, cash books, account-books and other books, whether kept in the written form or in electronic form or in digital form or as print-outs of data stored in such electronic form or in digital form or in a floppy, disc, tape or any other form of electro-magnetic data storage device.

2.3.61 Tax Audit [Sec. 44AB]

Following assessee are required to get their accounts audited by a chartered accountant and to furnish (electronically) the audit report in a specified form one month[**] prior to the due date of filing of return of income:

1. An assessee carrying on business

   Condition: Total sales, turnover or gross-receipts of business for the previous year exceeds ₹ 1 crore.

   Exception 1: Where a person:

   - Declares profits and gains for the previous year u/s 44AD; and
   - His total sales / turnover / gross receipts in business does not exceed ₹ 2 crore in the previous year,

   - then, the provision of tax audit is not applicable.

   Exception 2: Where a person:

[**] In general, tax audit report is required to be filed by 30th September of the assessment year. However, in case where transfer pricing audit u/s 92E is applicable, then the date for filing report is 31st Oct of the assessment year

- Declares profits and gains for the previous year u/s 44AD; and
- His total sales / turnover / gross receipts in business does not exceed ₹ 3 crore in the previous year; and
- Aggregate of all amounts received during the previous year in cash does not exceed 5% of the total turnover or gross receipt of such previous year,

- then, the provision of tax audit is not applicable.

Exception 3: If the following conditions are satisfied, then the higher threshold limit of ₹ 10 crore shall be applicable for a person carrying on business:

a. aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed 5% of the said amount; and

b. aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed 5% of the said payment.

Taxpoint: The payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the payment or receipt, as the case may be, in cash

In nutshell, applicability of tax audit in case of business assessee are as under:

Case	Applicability
Turnover exceeds ₹ 10 crore	Applicable
Turnover does not exceed ₹ 2 crore and assessee is covered u/s 44AD	Not applicable
Turnover does not exceed ₹ 3 crore and his cash receipt does not exceed 5% of total turnover and assessee is covered u/s 44AD	Not applicable
Turnover does not exceed ₹ 10 crore and aforesaid conditions are satisfied	Not applicable
Turnover does not exceed ₹ 10 crore but exceed ₹ 1 crore and aforesaid conditions are not satisfied (assessee is not covered u/s 44AD)	Applicable

2. An assessee carrying on profession

Condition: Gross receipts of profession for the previous year exceeds ₹ 50 lacs.

Exception: Where a person:

- Declares profits and gains for the previous year u/s 44ADA; and
- His gross receipts from profession does not exceed ₹ 75 lakhs in the previous year; and
- Aggregate of all amounts received during the previous year in cash does not exceed 5% of the gross receipt of such previous year,

- then, the provision of tax audit is not applicable.

3. An assessee covered u/s 44AE, 44BB or 44BBB

Condition: Assessee has claimed that his income from such business is lower than the deemed income computed in accordance with the respective section.

4. An assessee covered u/s 44ADA

Condition: Assessee has claimed that:

a. his income is lower than the presumptive income (computed u/s 44ADA); and

b. his income exceeds the maximum amount which is not chargeable to income-tax (i.e. basic exemption limit)

5. An assessee covered u/s 44AD(4) and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year

Penalty*:* If any assessee does not upload such audit report one month prior to the due date of filing of return of income, then he is liable to pay penalty being lower of the following:

- ½ percent of turnover or gross receipt; or
- ₹ 1,50,000.

2.3.62 Special provision in case of income of public financial institutions, etc. [Sec. 43D]

Notwithstanding anything to the contrary to any other provision of the Act following shall be applicable:

In case of	Nature of income	Tax treatment
A public financial institution, a scheduled bank, a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, a State financial corporation or a State industrial investment corporation, a deposit taking non-banking financial company, a systemically important non-deposit taking non-banking financial company	Income by way of interest in relation to such categories of prescribed (as per guidelines issued by the Reserve Bank of India) categories of bad or doubtful debts	Chargeable to tax in the previous year in which - • it is credited to the profit and loss account; or • it is actually received. - whichever is earlier

2.3.63 Method of accounting in certain cases [Sec. 145A]

Valuation of stock

- The valuation of inventory shall be made at lower of actual cost or net realisable value computed in accordance with the ICDS.
- The valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation. Such tax, duty, etc. shall include all such payment notwithstanding any right arising as a consequence to such payment.
- The inventory being securities not listed on a recognised stock exchange, or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual cost initially recognised in accordance with the ICDS.
- The inventory being securities other than above, shall be valued at lower of actual cost or net realisable value in accordance with the ICDS
- The inventory being securities held by a scheduled bank or public financial institution shall be valued in accordance with the ICDS after taking into account the extant guidelines issued by the Reserve Bank of India in this regard.
- The comparison of actual cost and net realisable value of securities shall be made category-wise.

2.3.64 Taxability of certain income [Sec. 145B]

- **Interest received on compulsory acquisition:** The interest received by an assessee on any compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the previous year in which it is received.

- **Export incentives:** Any claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realisation is achieved.
- **Subsidy:** Assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) shall be deemed to be the income of the previous year in which it is received, if not charged to income-tax in any earlier previous year.

Computation of income on basis of estimation

To give relief to small taxpayers from maintenance of books of account and from getting the accounts audited, the Income-tax Act has framed the presumptive taxation scheme u/s 44AD, 44ADA and 44AE.

Computation of Business Profit on Presumptive Basis [Sec. 44AD]

<table>
<tr><td>Applicable to</td><td colspan="2">A resident individual, resident Hindu undivided family or a resident partnership firm
<u>Note</u>: The provision is not applicable in case of the following:
➢ Limited liability partnership firm
➢ A person carrying on profession as referred to u/s 44AA
➢ A person earning income in the nature of commission or brokerage; or
➢ A person carrying on any agency business
➢ A person carrying on the business of plying, hiring or leasing goods carriages referred to in sec. 44AE</td></tr>
<tr><td>Conditions</td><td colspan="2">a. Eligible Business: Assessee must be engaged in any business other than the business referred above
b. Maximum Turnover:
Option 1
Total turnover or gross receipts in the previous year of eligible business should not exceed ₹ 2 crore.
Or
Option 2
Where aggregate amounts received during the previous year, in cash, does not exceed 5% of the total turnover or gross receipts of such previous year, then total turnover or gross receipts in the previous year of eligible business should not exceed ₹ 3 crore.
Taxpoint: Where receipt by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.
c. Restriction on claiming deductions: The assessee has not claimed any deduction u/s 10AA or 80HH to 80RRB in the relevant assessment year.</td></tr>
<tr><td rowspan="3">Estimated income</td><td>➢ Where amount of turnover or gross receipts is received by an account payee cheque or account payee bank draft or use of ECS or through other prescribed electronic modes† during the previous year or before the due date of filing return of income</td><td>6% of such turnover or receipts</td></tr>
<tr><td>➢ In any other case</td><td>8% of such turnover or receipts</td></tr>
<tr><td colspan="2">However, a taxpayer can voluntarily declare a higher income in his return.</td></tr>
</table>

† Credit card, debit card, net banking, IMPS, UPI, RTGS, NEFT and BHIM Aadhar Pay

Notes :

1. **No Deduction in respect of expenses:** The estimated income is comprehensive and no further deductions relating to expenses shall be allowed.
2. **Depreciation:** Depreciation is deemed to have been already allowed. The written down value of asset will be calculated, as if depreciation has been allowed.
3. **Deductions:** The above estimated income is aggregated with other income of the assessee, from any other business or under any other heads of income. Further deduction under chapter VIA (other than those mentioned above) shall be available to the assessee as usual.
4. **Brought forward loss:** Brought forward loss (if any) shall be subtracted from such estimated income as per provisions of this Act.
5. **Provision is not applicable [Sec. 44AD(4)]:** Where an eligible assessee:
   a. declares profit for any previous year in accordance with the provisions of this section (i.e., specified percentage of the turnover); **&**
   b. declares **lower** profit (i.e., less than specified percentage of the turnover) for **any** of the **5 assessment years** relevant to the previous year succeeding aforesaid previous,

   then, he shall not be eligible to claim the benefit of the provisions of this section for 5 assessment years subsequent to the assessment year relevant to the previous year in which he has declared lower profit.

   E.g. an assessee claims to be taxed on presumptive basis u/s 44AD for A.Y. 2024-25. For A.Y. 2025-26 and 2026-27, he offers income on the basis of presumptive taxation scheme. However, for A.Y. 2027-28, he did not opt for presumptive taxation Scheme. In this case, he will not be eligible to claim benefit of presumptive taxation scheme for next 5 A.Y.s, i.e. from A.Y. 2028-29 to 2032-33.
6. **Effect on the assessee if sec. 44AD(4) is applicable:** An assessee to whom provision of sec. 44AD(4) is applicable and whose total income exceeds the maximum amount which is not chargeable to tax (i.e., basic exemption limit), he shall be required:
   - To maintain books of account and other documents as required u/s 44AA; and
   - To get his accounts audited and furnish a report of such audit as prescribed u/s 44AB

In nutshell

The applicability of sec. 44AD and sec. 44AB are enumerated here in below:

Turnover of the assessee	Applicability of Sec. 44AD	Applicability of Tax Audit
Upto ₹ 1crore	Yes	Not required even if income is not offered u/s 44AD provided he is not covered by sec. 44AD(4)
₹ 1 crore^{+} - ₹ 2 crore	Yes	Not required if income is offered u/s 44AD, else required
₹ 2 crore^{+} - ₹ 3 crore	Yes, subject to certain rider	Not required if income is offered u/s 44AD, else required
₹ 2 crore^{+} (if conditions are not satisfied) / ₹ 3 crore^{+} - ₹ 10 crore	No	Not required if certain conditions are satisfied
₹ 10 crore^{+}	No	Required

Illustration 83 :

X Co., a firm, is engaged in the business of trading of cloth (turnover of 2024-25 being ₹ 1,57,80,000, out of which ₹ 25,00,000 has been received in account payee cheque). It wants to claim the following deductions:

Particulars	Amount
Salary and interest to partners [as permitted by sec. 40(b)]	60,000
Salary to employees	4,90,000
Depreciation	2,70,000
Cost of materials used	1,20,90,000
Other expenses	13,45,000
Total	**1,42,55,000**
Net profit (₹ 1,57,80,000 – ₹ 1,42,55,000)	15,25,000

Determine the net income of X & Co. for the assessment year 2025-26 assuming that (i) taxable interest income is ₹ 90,000; (ii) Long term capital gain is ₹ 1,40,000; and (iii) the firm is eligible for a deduction of ₹ 15,000 under sec. 80G.

Solution :

Since turnover from business does not exceed ₹ 2 crore, hence sec. 44AD is applicable. However, income computed as per provision other than provision of sec. 44AD is less than estimated income, hence, the firm may be assessed for such lesser income provided following conditions are satisfied –

a. Maintain books of account as prescribed u/s 44AA; and

b. Get accounts audited u/s 44AB.

Where it maintains accounts and gets it audited

Computation of total income of X & Co. for the A.Y. 2025-26

Particulars	Amount
Profits and gains of business or profession: Income from cloth business	15,25,000
Capital gains: Long term capital gain	1,40,000
Income from Other Sources: Interest Income	90,000
Gross Total Income	**17,55,000**
Less: Deduction u/s 80G	15,000
Total Income	**17,40,000**

It is assumed that all the expenditures are allowed.

Where it does not maintain account or fails to get accounts audited

Computation of total income of X & Co. for the A.Y.2025-26

Particulars	Details	Amount
Profits and gains of business or profession		
Income from cloth business (being 6% of ₹ 25,00,000)	1,50,000	
Income from cloth business (being 8% of ₹ 1,32,80,000)	10,62,400	12,12,400
Capital gains: Long term capital gain		1,40,000
Income from Other Sources: Interest Income		90,000

Gross Total Income		**14,42,400**
Less: Deduction u/s 80G		15,000
Total Income		**14,27,400**

2.3.65 Computation of Professional Income on Presumptive Basis [Sec. 44ADA]

Applicable to	Any resident individual and resident firm (other than LLP)
Conditions	**a. Engaged in Profession**: Assessee must be engaged in any profession referred to in sec. 44AA (i.e., Legal, medical, engineering, architectural profession or profession of accountancy, technical consultancy, interior decoration, etc.) **b. Maximum Receipts**: **Option 1** Gross receipts of the assessee in the previous year should not exceed ₹ 50 lakh. Or **Option 2** Where aggregate amounts received during the previous year, in cash, does not exceed 5% of the gross receipts of such previous year, then gross receipts in the previous year should not exceed ₹ 75 lakh. **Taxpoint:** Where receipt by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.
Estimated income	50% of the gross receipts. However, a taxpayer can voluntarily declare a higher income in his return.

Notes :

1. **Deduction u/s 30 to 38**: The estimated income is comprehensive and no further deductions u/s 30 to 38 shall be allowed.
2. **Depreciation**: Depreciation is deemed to have been already allowed. The written down value of asset will be calculated, as if depreciation has been allowed.
3. **Deductions**: The above estimated income is aggregated with other income of the assessee, from any other business or under any other heads of income. Further deduction under chapter VIA shall be available to the assessee as usual.
4. **Brought forward loss**: Brought forward loss (if any) shall be subtracted from such estimated income as per provisions of this Act.
5. **Effect if assessee declares lower income**: An assessee can declare his income lower than the estimated income as per provision of this section. In such case he will have to:
   - Maintain books of account and other documents as required u/s 44AA if his total income exceeds the maximum exemption limit; and
   - Get his accounts audited and furnish a report of such audit as prescribed u/s 44AB (irrespective of amount of turnover or gross receipts) if his total income exceeds the maximum exemption limit.

Note: Assessee can change his option from year to year

2.3.66 Business of plying, leasing or hiring goods carriage [Sec. 44AE]

<table>
<tr><td>Applicable to</td><td colspan="2">All assessee engaged in the business of plying, hiring or leasing goods carriage.</td></tr>
<tr><td>Condition</td><td colspan="2">Number of carriages: Assessee must not own more than 10 goods carriages at any time during the previous year.

Owner of carriages includes a buyer under hire purchase or installment system even if the whole amount is unpaid.

Goods carriage means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods;</td></tr>
<tr><td rowspan="4">Estimated income</td><td colspan="2">Income from each goods carriage shall be</td></tr>
<tr><td>Type of Goods Carriage</td><td>Presumptive Income (Per month or part of a month)</td></tr>
<tr><td>Heavy</td><td>₹ 1,000 per ton of gross vehicle weight or unladen weight</td></tr>
<tr><td>Other</td><td>₹ 7,500</td></tr>
<tr><td colspan="2">1. Income shall be calculated from the month when assessee acquired the property whether it has been put to use or not.

2. An assessee can declare higher income.</td></tr>
</table>

Notes:

1. **Heavy goods vehicle** means any goods carriage, the gross vehicle weight of which exceeds 12000 kilograms
2. **Deduction u/s 30 to 38:** The estimated income is comprehensive and no further deductions u/s 30 to 38 shall be allowed.
3. **Deduction u/s 40(b):** In the case of a firm, deduction in respect of remuneration and interest to partner u/s 40(b) shall be further deductible from income so computed.
4. **Depreciation**: Depreciation is deemed to have been already allowed. The written down value of asset will be calculated, as if depreciation has been allowed.
5. **Deductions**: The above estimated income is aggregated with other income of the assessee, from any other business or under any other heads of income. Further deduction under chapter VIA shall be available to the assessee as usual.
6. **Brought forward loss**: Brought forward loss (if any) shall be adjusted from such estimated income.
7. **Maintenance of books of account and audit**: An assessee, who estimates income from such business as per section 44AE, or a higher income, is not required to -
   - Maintain books of account u/s 44AA; and
   - Get his accounts audited u/s 44AB

   - in respect of his income from such business.

   However, he has to comply with the requirements of both sec. 44AA and 44AB in respect of his other businesses. Further to note that in computing the monetary limits u/s 44AA and 44AB, the gross receipts or income from the said business shall be excluded.
8. **Effect if assessee declares lower income:** An assessee can declare his income lower than the estimated income as per provision of this section. In such case he will have to
   - Maintain books of account and other documents as required u/s 44AA; and
   - Get his accounts audited and furnish a report of such audit as prescribed u/s 44AB irrespective of amount of turnover or gross receipts.

   Note: Assessee can change his option from year to year.

Illustration 84:

Mr. Sukhvinder is engaged in the business of plying goods carriages. On 1st April, 2024, he owns 10 trucks (out of which 6 are heavy good vehicles of (unladen weight of each is 20 ton)). On 2/5/2024, he sold one of the heavy goods vehicles & purchased a light goods vehicle on 6th May, 2024. This new vehicle could however be put to use only on 15-6-2024.

Compute the total income of Mr. Sukhvinder for the A.Y. 2025-26, taking note of the following data:

Particulars	Amount	Amount
Freight Charges collected		1,08,70,000
Less: Operational expenses	99,25,000	
Depreciation as per Sec. 32	1,85,000	
Other Office expenses	15,000	1,01,25,000
Net Profit		7,45,000
Other business and non-business income		70,000

Solution

Alternative 1) Direct estimation of income u/s 44AE

Vehicle	No. of vehicle	Details	Amount
Light	4	₹ 7,500 × 4 vehicles × 12 months	3,60,000
Heavy	5	₹ 1,000 × 5 vehicles × 12 months × 20 ton	12,00,000
Heavy	1	₹ 1,000 × 1 vehicle × 2# months × 20 ton	40,000
Light	1	₹ 7,500 × 1 vehicles × 11# months	82,500
Income from business of plying goods carriage			16,82,500
Add: Other business and non-business income			70,000
Total Income			**17,52,500**

Income shall be calculated from the month when assessee acquired the property whether it has been put to use or not. For this purpose, any fraction of the month shall be considered as month.

Alternative 2) Computation of income as per the provision of sec. 28 to 38

Particulars	Amount	Amount
Freight charges collected		1,08,70,000
Less: Expenditure related to business		
Operational expenses	99,25,000	
Depreciation u/s 32	1,85,000	
Other office expenses	15,000	1,01,25,000
Income from business of plying goods carriage		7,45,000
Add: Other business and non-business income		70,000
Total Income		**8,15,000**

Since Mr. Sukhvinder has lower taxable income in alternative 2 hence his total income is ₹ 1,15,000. But to claim such lower income than the estimated income (computed in alternative 1) as per provision of section 44AE, he will have to —

- Maintain books of account as required u/s 44AA; and
- Get his accounts audited.

2.3.67 Computation of income from construction and service contracts [Sec. 43CB]

The profits and gains arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method in accordance with the ICDS.

Taxpoint:

- Profits and gains arising from a contract for providing services:

Case	Method
Contract for providing services with duration of not more than 90 days	Project completion method
A contract for providing services involving indeterminate number of acts over a specific period of time	Straight line method

- For the purpose of percentage of completion method:
  - the contract revenue shall include retention money;
  - the contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gains.

2.3.68 Consequences of undisclosed income or investment

Following undisclosed income shall be charged to tax –

Section	Conditions	Tax Treatment
Sec. 68 Cash Credit	a. Any sum credited in the books of account of the assessee; and b. Assessee offers no explanation about the nature and source thereof (or the explanation offered by him is not satisfactory in the opinion of the Assessing Officer)	The sum so credited may be charged to tax as the income of the assessee of that previous year.
	Notes ➢ Where the assessee is a company, (not being a company in which the public are substantially interested) and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless: – the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and – such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory: ➢ Where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by such assessee shall be deemed to be not satisfactory, unless,— – the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and – such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory	

Section	Conditions	Tax Treatment
	However, if the person, in whose name the sum (share application or loan or borrowing) referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in sec.10(23FB), then the aforesaid notes are not applicable.	
Sec. 69 Unexplained investments	a. In a previous year the assessee has made investments which were not recorded in the books of account; and b. Assessee offers no explanation about the nature and source of the investments (or the explanation offered by him is not satisfactory in the opinion of the assessing officer)	Value of the investment may be deemed to be the income of the assessee for such previous year.
Sec. 69A Unexplained money, etc.	a. In a previous year the assessee is found to be the owner of any money, bullion, jewellery, or other valuable article; b. Such money, bullion, jewellery, or other valuable article is not recorded in the books of account; and c. The assessee offers no explanation about the nature and source of acquisition of such assets (or the explanation offered by him is not satisfactory in the opinion of the Assessing Officer)	The money and the value of such assets may be deemed to be the income of the assessee for such previous year.
Sec. 69B Amount of Investments, etc., not fully disclosed in books of account	a. In a previous year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article; b. Assessing Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee; and c. The assessee offers no explanation about such excess amount (or the offered explanation is not satisfactory in the opinion of the AO)	The excess amount may be deemed as income of the assessee for such previous year.
Sec. 69C Unexplained expenditure etc.	a. In a previous year an assessee had incurred any expenditure; and b. Assessee offers no explanation about the source of such expenditure or part thereof (or the explanation, if any, offered by him is not satisfactory in the opinion of the Assessing Officer)	Amount incurred on such expenditure or part thereof, may be deemed to be the income of the assessee for such previous year.
	Note: The proviso to sec. 69C provides that notwithstanding anything contained in any other provisions of the Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction in any year under any head of income.	

Section	Conditions	Tax Treatment
Sec. 69D Amount borrowed or repaid on hundi	Any amount is borrowed on a hundi from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque.	Amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount for the previous year in which the amount was borrowed or repaid as case may be.
	Notes ➢ For avoiding double taxation, if in any case any amount borrowed on a hundi has been taxed under this section, such person shall not be liable to tax again in respect of such amount on repayment of such amount. ➢ Amount repaid shall include the amount of interest paid on the amount borrowed.	
Tax Rate	Income referred to in sec. 68 to sec. 69D shall be taxable @ 60% (+ SC @ 25% + cess) without giving effect to any deduction in respect of any expenditure or allowance or set off of any loss. [Sec. 115BBE]	

2.3.69 Firm Assessment

Introduction

1. Under Income Tax Act, a partnership firm has a separate identity apart from its partner. It is taxed as a separate entity at a flat rate of 30% + applicable surcharge + Health & Education cess @ 4%.

   Taxpoint: Unless and until otherwise mentioned, a partnership firm shall include limited liability partnership. Further, the word 'Partner' includes partner of a limited liability partnership.

2. The share of partner (member) in the income of the firm is not taxable in the hands of partners [Sec. 10(2A)].

3. As in case of any other assessee, income of the firm (including LLP) is also assessed under heads of income i.e. 'Income from house property', 'Profits & gains of business or profession', 'Capital gains' and 'Income from other sources'.

   Taxpoint:

   ➢ A firm cannot have income under the head 'Salaries'

   ➢ Registration of firm is not compulsory to assess a firm as such for income tax purpose.

Deduction u/s 40(b)

In case of computation of income under the head "Profits & gains of business or profession" a partnership firm shall, apart from all deductions discussed in the said chapter, be further allowed deduction u/s 40(b) in respect of -

⊙ interest to partner; and

⊙ remuneration to partner.

Conditions: As per sec. 185, to claim deduction u/s 40(b), the firm shall have to fulfil the following conditions as laid down u/s 184.

1. The partnership must be evidenced by an instrument [Sec. 184(1)(i)].

2. A certified copy of the instrument of partnership shall accompany the return of income of the year in which assessment as a firm is first sought [Sec. 184(2)].

3. The individual shares of the partners must be specified in the instrument. [Sec. 184(1)(ii)]
4. There is no failure as specified u/s 144 on part of the firm

Effect of non-fulfilment of above conditions: As per sec. 185, where a firm does not comply with the provisions of sec. 184 for any assessment year, then no deduction by way of interest to partner or remuneration to partner shall be allowed

Interest to partner

Interest to partners whether on capital or on loan is allowed as deduction.

Conditions

1. **Interest must be authorised by the partnership deed.**
2. Payment must pertain to a period after the partnership deed.

Deduction: Minimum of the following is allowed as deduction -

a. Actual interest given to partner as per deed.
b. 12% p.a. simple interest.

Illustration 85 :

Case	Interest on capital as per books of account	Rate of interest allowed to partner	Interest allowed as per partnership deed	Workings	Disallowed amount
A	20,000	10%	10%		Nil
B	30,000	15%	12%	(₹ 30,000/15) * 3	6,000
C	30,000	15%	Deed is silent	Interest must be given as per deed	30,000
D	30,000	20%	18%	(₹ 30,000/20) * 8	12,000
E	30,000	15%	10%	(₹ 30,000/15) * 5	10,000
F	30,000	30%	30%	(₹ 30,000/30) * 18	18,000

Applicability of sec. 40(A)(2): Interest to partner paid at a rate higher than the normal market rate of interest shall be governed by sec. 40(A)(2) and excess interest shall be disallowed.

Interest to representative partner

Meaning: Where an individual is a partner in a firm on behalf of or for the benefit of any other person, he is termed as a representative partner.

Treatment: Interest to representative partner –

1. **Governed by sec. 40(b):** Interest paid by the firm -
   - to such individual as partner in a representative capacity; and
   - to the person so represented.

   - shall be governed by sec. 40(b).
2. **Not governed by sec. 40(b):** Interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be governed by sec. 40(b) but by sec. 36(1)(iii).

Interest on drawings: Interest on drawings, charged by the firm from its partner(s), shall be treated as taxable income.

Remuneration to partner

Remuneration to a partner includes salary, fees, commission, bonus, etc.

Conditions: Remuneration is allowed subject to fulfilment of the following conditions:

1. Partner must be a working partner.
2. Remuneration must be authorised by the partnership deed.
3. Payment must pertain to a period after the partnership deed.

Working partner means an individual who is actively engaged in conducting the affairs of the business or profession of the firm. 'Time devotion' is not the key factor for deciding the status of partner as a working partner.

Deduction: Remuneration (in total) is allowed to the minimum of the following:

a. Actual remuneration allowed to all partners.

b. Maximum permissible limit u/s 40(b)(v) as discussed under:

Maximum permissible limit

Amount of book-profit[1]	Maximum remuneration allowed
In case of loss	₹ 3,00,000
In case of profit	
First ₹ 6,00,000	90% of book profit or ₹ 3,00,000, whichever is higher
On balance book-profit	60% of next book profit

[1.] **Computation of Book Profit**

Step 1: Find out the net profit of the firm as per Profit & Loss A/c

Step 2: Make adjustment as per sec. 28 to 44DB (including adjustment for interest on partner's capital)

Step 3: Add remuneration to partner, if debited to the Profit & Loss A/c

Step 4: Subtract unabsorbed depreciation but do not subtract brought forward business losses. The resultant figure is book profit.

Note: Due to subtraction of unabsorbed depreciation the residual profit should not be less than the brought forward losses, which are to be set-off in the current year.

Notes :

- Income from house property, Income from other sources and Capital gains do not form part of book profit.
- Deduction under chapter VIA (i.e. 80C to 80U) shall be ignored for this purpose.

Illustration 86 :

Uttar and Dakshin, partners of PP Traders, furnishes the following details –

Profit and loss account for the year ended 31-3-2025

Particulars	Amount	Particulars	Amount
Bonus paid to employee	50,000	Gross Profit	20,00,000
Interest on loan taken from bank	45,000	Interest on drawings	
Other Expenses	40,000	Uttar	2,000

Salary to partners		Dakshin	3,000
Uttar	4,88,000		
Dakshin	9,76,000		
Interest on capital @ 15%			
Uttar	4,500		
Dakshin	6,000		
Depreciation	40,000		
Net profit	3,55,500		
	20,05,000		**20,05,000**

Additional information

1. Depreciation for the year allowed u/s 32 is ₹ 30,000.
2. During the last year, firm has incurred loss of ₹ 17,00,000 (which includes unabsorbed depreciation of ₹ 1,00,000).
3. Interest on loan taken from bank is yet to be paid. Compute total income of firm.

Solution :

Working 1 Computation of remuneration allowed to the partners

Particulars	Details	Amount
Profits and gains of business or profession		
Net profit as per Profit & loss account		3,55,500
Add: Expenditure disallowed but debited in P/L A/c		
Salary to partners	14,64,000	
Interest on capital (in excess of 12%) [(₹ 4,500 + ₹ 6,000)/15 × 3]	2,100	
Depreciation	40,000	
Interest on loan taken from bank is disallowed u/s 43B	45,000	15,51,100
		19,06,600
Less: Expenditure allowed but not debited in P/L A/c		
Depreciation		30,000
		18,76,600
Less: Unabsorbed Depreciation (allowed to the extent that the remaining book profit is not less than brought forward business losses)		1,00,000
Book profit		**17,76,000**
Remuneration paid to the partners (being minimum of the following)		
- Actual remuneration	14,64,000	
- Maximum remuneration u/s 40(b) [₹ 6,00,000 × 90% + ₹ 11,76,600 × 60%]	12,45,960	12,45,960

Computation of total income of PP Traders for A.Y. 2025-26

Particulars	Amount
Book Profit before adjusting unabsorbed depreciation	18,76,600
Less: Salary to partner (as computed above)	12,45,960
	6,30,640

Less: Brought forward business loss	6,30,640
Total Income	**Nil**
Remaining brought forward loss ₹ 10,69,360 & unabsorbed depreciation ₹ 1,00,000 shall be carried forward.	

Illustration 87 :

How shall your answer differ if brought forward loss is ₹18 lacs (which includes unabsorbed depreciation of ₹2 lac)

Solution :

Computation of remuneration allowed to the partners

Particulars	Amount	Amount
Net profit as per profit and loss account		3,55,500
Add: Expenditure disallowed but debited in P/L Account		
Salary to partners	14,64,000	
Interest on capital (in excess of 12%) [(₹ 4,500 + ₹ 6,000)/15 * 3]	2,100	
Depreciation	40,000	
Interest on loan taken from bank as disallowed u/s 43B	45,000	15,51,100
		19,06,600
Less: Expenditure allowed but not debited in P/L Account		
Depreciation		30,000
		18,76,600
Less: Unabsorbed Depreciation (allowed to the extent that the remaining book profit is not less than brought forward business losses)		76,600
Book profit		**18,00,000**
Remuneration paid to the partners (being minimum of the following)		
- Actual remuneration	14,64,000	
- Maximum remuneration u/s 40(b) [₹ 6,00,000 * 90% + ₹ 12,00,000 * 60%]	12,60,000	12,60,000

Computation of total income of PP Traders for A.Y. 2025-26

Particulars	Amount
Book Profit before adjusting unabsorbed depreciation	18,76,600
Less: Salary to partner (as computed above)	12,60,000
	6,16,600
Less: Brought forward business loss	6,16,600
Total Income	**Nil**
Remaining brought forward loss ₹ 11,83,400 & unabsorbed depreciation ₹ 2,00,000 shall be carried forward.	

Remuneration to a representative partner

Remuneration to a representative partner shall be taxable in the hands of such partner and not in hands of organization so represented. However, provision of sec. 40(b) will be applicable.

Treatment in the hands of partner

Share of profit: Partners' share in the total income of the firm is exempt in the hands of partner [Sec. 10(2A)]. Income of a firm shall be taxed in hands of firm only and the same can under no circumstances be taxed in hands of its partners. The entire profit credited to the partner's account in the firm would be exempt from tax in hands of such

partners, even if the income chargeable to tax becomes Nil in the hands of the firm on account of any exemption of deduction as per provisions of the Income-tax Act.

Interest and remuneration to partner: Interest and remuneration to partner shall be taxable in the hands of partner, to the extent it is exempted in the hands of firm.

Example: A, B & C are partners in ABC & Co. Interest on capital allowed @ 16% to A ₹ 16,000, B ₹ 8,000 and C ₹ 32,000. Interest treatment in the hands of firm is as under –

Partner	Allowed @ 12%	Remaining Disallowed	Business Income of the Partner
A	12,000	4,000	12,000
B	6,000	2,000	6,000
C	24,000	8,000	24,000

Example: A, B & C are partners in ABC & Co which has sustained a loss of ₹ 4,00,000 during the previous year. Remuneration paid to A ₹ 1,50,000, B ₹ 2,00,000 and C ₹ 1,00,000. Since the firm is running in loss hence the maximum remuneration allowed to the firm is ₹ 1,50,000. In such case, taxable amount in hands of partner shall be the proportionate amount of remuneration allowed in hands of firm, calculated as under:

Partner	Workings	Taxable remuneration
A	1,50,000 / 4,50,000 × 3,00,000	1,00,000
B	2,00,000 / 4,50,000 × 3,00,000	1,33,333
C	1,00,000 / 4,50,000 × 3,00,000	66,667

General note related to firm Assessment

Effect of registration of firm: Registration of firm is not compulsory to assess a firm as such for income tax purpose.

Change in constitution or profit share ratio: As per sec.184(3), a firm shall be assessed as firm for the purposes of this Act, if there is no change in -

- the constitution of the firm[1].
- profit sharing ratio.

Where any such change had taken place in the previous year, the firm shall furnish a certified copy of the revised instrument of partnership (partnership deed) along with the return of income of the relevant assessment year [Sec. 184(4)].

Note: In case of mere change in remuneration to partner or interest to partner, the revised instrument should be submitted to claim benefit u/s 40(b). However, if the revised instrument has not been filed then the interest and remuneration shall be allowed as per the old instrument.

1. Change in the constitution of the firm means —
   - one or more of the partners cease to be partner(s); or
   - one or more new partners are admitted

Carry forward & Set-off of loss of Firm on change in constitution of firm [Sec.78]: Where a change occurs in the constitution of firm, on account of retirement or death of a partner, the proportionate loss of the retired or deceased partner shall not be carried forward. However, this section shall not apply in case of unabsorbed depreciation.

General Illustrations

Illustration 88:

Mr. Sunil is a practicing Chartered Accountant. He also runs a private coaching institute. His bank accounts for the year ended 31/3/2025 is given below:

Receipts	₹	Payments	₹
To Balance b/f	20,000	By Office expenses	18,000
To Audit fees	22,00,000	By Municipal tax on property	800
To Income from other professional work	1,00,000	By Coaching expenses	800
To Coaching fees	1,200	By Personal expenses	5,000
To Interest on Investment	2,000	By Membership fees	500
To Examiner's fees	1,000	By Life insurance premium	13,000
To Rent from property	5,000	By Income tax	5,000
		By Motor Car purchased	1,80,000
		By Motor Car expenses	10,200
		By Insurance of property	1,600
		By Balance c/d	20,94,300
	23,29,200		**23,29,200**

Additional Information

a. 20% of motor car expenses is in respect of profession.

b. Depreciation allowance for motorcar is ₹ 27,000, if wholly used for profession.

c. Outstanding fees on 31-3-2025 ₹ 2,000. Whereas ₹ 500 receivable from Mita is considered as bad.

d. Outstanding fees of P.Y. 2021-22 ₹ 10,000 received during the year, which is included in the audit fees.

e. Office expenses include payment of ₹ 2,000 incurred during the previous year 2023-24.

Compute his gross total income for the A.Y. 2025-26 assuming he maintains accounts on cash basis.

Solution :

Computation of total income of Mr. Sunil for the A.Y. 2025-26

Particulars	Workings	Details	Details	Amount
Income from house property				
Gross Annual Value	Rent received		5,000	
Less: Municipal tax			800	
Net Annual Value			4,200	
Less: Deduction u/s				
24(a) Standard Deduction	30% of NAV	1,260		
24(b) Interest on loan		Nil	1,260	2,940

Particulars	Workings	Details	Details	Amount
Profits & gains of business or profession				
Audit fees		22,00,000		
Income from other professional work		1,00,000	23,00,000	
Less: Expenses allowed				
Office expenses		18,000		
Membership fees		500		
Motor car expenses	20% of expenses [2]	2,040		
Depreciation on motor car	20% of depreciation [2]	5,400	25,940	22,74,060
Income from other sources				
Interest on investment			2,000	
Coaching fees		1,200		
Less: Coaching expenses		800	400	
Examiners' fees			1,000	3,400
Gross Total Income				**22,80,400**

Notes :

1. Insurance premium on property is not deductible from income from house property.
2. As 20% use of motor car is related to professional purpose, hence as per sec. 38 expenditure and depreciation is apportioned.
3. Payment of LIC premium is a personal expense. However, deduction u/s 80C is available.
4. Income tax is specifically disallowed u/s 40(a).
5. As per sec. 145, income chargeable under the head "Profits & gains of business or profession" shall be computed only in accordance with the method of accounting regularly followed by the assessee. In this case, assessee follows cash system of accounting.

Illustration 89:

From the following particulars of Shri Khote for the year ending 31st March, 2025, find out his taxable income from business for the assessment year 2025-26:

Particulars	₹	Particulars	₹
To Opening Stock	1,20,000	By Sales	2,14,20,000
To Purchases	2,10,00,000	By Profit on sale of import licence	5,000
To Salaries	25,000	By Gift received	24,000
To Legal Expenses	10,000	By Closing Stock	2,00,000
To Bad Debts	5,000		
To Rent	50,000		
To Interest on loan	2,500		

Particulars	₹	Particulars	₹
To Depreciation	15,000		
To Income tax paid	2,000		
To Outstanding Customs Duty	25,000		
To Advertisement	2,000		
To Legal expenses	12,000		
To Contribution towards URPF	5,000		
To General expenses	17,500		
To Traveling expenses	1,00,000		
To Net Profit	2,58,000		
	2,16,49,000		2,16,49,000

In computing the income, the following facts are to be taken into consideration:

1. Interest on loan is paid to brother of Shri Khote for loan taken for payment of advance income tax.
2. During the previous year 2020-21, assessee had claimed ₹45,000 as bad debt out of which only ₹ 35,000 was allowed. During the previous year, he recovers ₹ 25,000.
3. Contribution towards unrecognised provident fund was paid within time.
4. Legal expenses include ₹ 2,000 paid for preparation of income tax return.
5. Stock is undervalued by 10%.
6. Gift received was given by a supplier for achieving target sale.
7. Outstanding customs duty has been paid on 31-12-2025.
8. During the previous year, he comes to know that his former employee had embezzled cash of ₹5,000 on 31-3-2024, which was not accounted for.
9. Traveling expenses include ₹ 50,000 being cost of trip to Singapore by an employee for 10 days. However, only 8 days of trip is useful to business and 2 days has been allowed as holiday to employee.
10. Rent includes expenditure on extension of shed on rented building ₹ 26,000. However, such extension was completed on 1-5-2025 with total cost of ₹ 50,000.
11. General expenses includes –
    - Salary of ₹1,200 paid to domestic servant.
    - Compensation of ₹ 2,000 paid for retrenchment of an employee.

Compute his business income for the A.Y. 2025-26

Solution :

Computation of Profits and gains of business or profession of Shri Khote for the A.Y. 2025-26

Particulars	Notes	Details	Amount
Net profit as per Profit and Loss A/c			2,58,000
Add: Expenditure disallowed but debited in P/L A/c			
Income tax paid	1	2,000	
Outstanding Customs Duty	2	25,000	
Contribution towards unrecognised provident fund	3	5,000	
Interest on loan	4	2,500	
Expenditure on extension of building shed	5	26,000	
Salary paid to domestic servant	6	1,200	
Add: Income taxable but not credited to P/L A/c			
Recovery of bad debts [₹ 25,000 – (₹ 45,000 – ₹ 35,000)]	7	15,000	76,700
			3,34,700
Less: Expenditure allowed but not debited to P/L A/c			
Embezzlement by employee	8		5,000
			3,29,700
Adjustment for valuation of stock			
Add: Under valuation of closing stock	12	22,222	
Less: Under valuation of opening stock	13	13,333	8,889
Profits and gains of business or profession			**3,38,589**

Notes :

1. Income tax is specifically disallowed u/s 40(a).
2. Customs Duty paid after due date of filing of return shall not be allowed as deduction [Sec. 43B]
3. Contribution to unrecognised provident fund is disallowed.
4. Interest on loan taken for payment of advance tax is disallowed.
5. Extension of building shed is an expenditure of capital nature, hence disallowed u/s 30.
6. Any expenditure of personal nature is disallowed.
7. As per sec. 41(4), where a deduction has been allowed in respect of bad debt or part of debt u/s 36(1)(vii), then if the amount subsequently recovered on any such debt or part is greater than the difference between the debt or part of debt and the amount so allowed, the excess shall be deemed to be profits and gains of business or profession.
8. Loss by embezzlement of cash by employee is allowed as deduction in the year in which such fact was known to the assessee.

9. Legal expenditure for preparation of income tax return is allowed expenditure u/s 37(1).
10. Gift received for achieving target-sale is perquisite related to business and shall be taxable u/s 28.
11. Traveling expenditure shall be fully allowed as deduction, as trip was for 10 days out of which 8 days spent for business purpose and remaining 2 days trip shall be treated as staff welfare expenditure being allowed u/s 37(1).
12. **Under valuation of closing stock**

    Actual value of closing stock (₹ 2,00,000/90%) = ₹ 2,22,222

    Under valuation of closing stock is 10% of ₹ 2,22,222 = ₹ 22,222
13. **Under valuation of opening stock**

    Actual value of opening stock (₹ 1,20,000/90%) = ₹ 1,33,333

    Under valuation of opening stock is 10% of ₹1,33,333 = ₹ 13,333

Illustration 90:

During the previous year 2024-25, profit and loss account of Shri Raj, proprietor of Raj Enterprises engaged in the business of readymade garments, shows profits of ₹ 1,50000. With the following information, compute his taxable income from business –

a. Interest on capital ₹ 5,000
b. Purchases include goods of ₹12,000 from his younger brother in cash. However, market value of such goods is ₹ 9,000.
c. Interest paid outside India ₹ 1,00,000 without deducting tax at source.
d. Penalty paid to Government for non-filing of GST return ₹ 5,000
e. Penalty paid to customer for non-fulfilling of order within time ₹ 10,000
f. Bad debts ₹ 1,00,000. Money has been advanced for purchase of Building.
g. Revenue expenditure on promoting family planning among employees ₹10,000.
h. Premium paid on health of employees ₹ 6,000 in cash
i. Premium paid on health of his relatives ₹ 6,000 in cheque
j. Employer's contribution to RPF ₹ 12,000. One-half of the amount is paid after due date as per relevant Act but before 31-7-2025.
k. Employees contribution to RPF ₹ 10,000. ½ of the amount is paid after due date as per relevant Act.
l. Interest on late payment of professional tax ₹ 1,000 (yet to be paid)
m. Interest on loan from State Bank of India ₹ 10,000 (₹ 5,000 is not paid till due date of filing of return)
n. Interest on late refund from income tax department ₹ 500
o. Sale includes sale to Raj ₹ 10,000. (Cost of such goods ₹ 8,000; Market value of such goods ₹ 12,000)
p. He received ₹ 80,000 from a debtor at a time in cash.
q. Recovery of bad debt ₹ 10,000 (out of which ₹ 8,000 was allowed as deduction during A.Y.2020-21)
r. Depreciation (being not debited in accounts) ₹ 20,000 allowed as deduction u/s 32

Solution :

Computation of Profits and gains of business or profession of Shri Raj for the A.Y. 2025-26

Particulars	Note	Details	Amount
Net profit as per Profit and Loss account			1,50,000
Add: Expenditure disallowed but debited in P/L A/c			
Interest on capital	1	5,000	
Payment to relative in excess of market value of goods	2	3,000	
Interest paid outside India without deducting tax at source	3	1,00,000	
Penalty paid to government for non-filing of GST return	4	5,000	
Bad debt	6	1,00,000	
Premium paid on health of employees in cash	8	6,000	
Premium paid on health of his relatives in cheque	9	6,000	
Employees contribution to RPF	11	5,000	
Interest on loan from State Bank of India	13	5,000	
Cost of goods sold to himself	14	8,000	2,43,000
			3,93,000
Less: Expenditure allowed but not debited in P/L A/c			
Depreciation u/s 32		20,000	
Less: Income not taxable but credited to P/L A/c			
Sales to himself (goods withdrawn for personal purpose)	14	10,000	
Recovery of bad debts	15	2,000	
Less: Income taxable under other head but credited to P/L A/c			
Interest on late refund from income tax department	16	500	32,500
Profits and gains of business or profession			**3,60,500**

Notes :

1. Interest on capital to proprietor is not allowed as no one can earn from a transaction with himself.

2. Any unreasonable payment to relative is disallowed u/s 40A(2). Hence, ₹ 3,000 is disallowed. Since cash payment towards allowed expenditure (i.e. ₹ 9,000) does not exceed ₹ 10,000, hence provision of sec. 40A(3) is not applicable.

3. Interest paid outside India without deducting tax at source is disallowed u/s 40(a).

4. Any payment made for infringement of law is disallowed.

5. Payment made for non-fulfilling of contract is not a payment for infringement of law. Hence, allowed u/s 37(1).

6. Bad debt is allowed only when such debt has been taken into account as income of previous year or any earlier previous year(s) [Sec. 36(1)(vii)]. Since, the debt is in respect of purchase of a building, which was not considered as income of any previous year, hence it is disallowed.

7. Any expenditure for promoting family planning is allowed to company assessee [Sec. 36(1)(ix)]. However, such expenditure (revenue in nature) incurred by assessee other than company shall be allowed u/s 37(1).

8. Payment of insurance premium on health of employees in cheque is allowed u/s 36(1)(ib).

9. Payment of insurance premium on health of relative is not related to business, hence disallowed.

10. Employer's contribution towards RPF is allowed if payment is made before due date of filing of return irrespective of fact that such payment was made after due date prescribed in the relevant Act.

11. Any sum received from employees as their contribution towards RPF is allowed only when such sum has been credited to such fund within the due date prescribed in the relevant Act [Sec. 36(1)(va)].

12. Interest on late payment of professional tax is not a penalty but compensatory in nature. Hence, it is allowed u/s 37(1). Further such interest is not governed by the provisions of sec. 43B.

13. Any interest payable to any scheduled bank is allowed on cash basis [Sec. 43B]. Hence, unpaid amount is disallowed.

14. Any expenditure of personal nature is not allowed. Further, no one can earn from a transaction with himself. Hence, sale made to himself is not treated as income.

15. Bad debt recovery is treated as income in the year of recovery to the extent of bad debt allowed in the earlier year [Sec. 41(4)]

16. Interest on late refund of income tax is taxable under the head 'Income from other sources'.

17. Receipt from debtor ₹ 80,000 in cash is not attracted by provision of sec. 40A(3).

Capital Gains

2.4

As per sec. 45(1), profits or gains arising on transfer of a capital asset shall be chargeable under the head "Capital Gains".

Taxpoint: Following are the essential conditions to be satisfied to charge any income under the head "Capital Gains":

a. There must be a capital asset.

b. The assessee transfers such capital asset.

c. There must be profit or gain (including negative profit or gain) on such transfer.

The transferred asset should be a capital asset at the time of transfer.

2.4.1 Basis of Charge

Capital gain shall be taxable in the previous year in which the asset is transferred.

However, in some cases, capital gain is taxable in the previous year in which consideration is received rather than in the previous year in which transfer took place e.g. compulsory acquisition by the Government (discussed later in this chapter).

2.4.2 Capital Asset [Sec. 2(14)]

Capital asset means –

- any kind of property held by an assessee, whether or not in connection with his business or profession;
- any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992;
- any unit linked insurance policy to which exemption u/s 10(10D) does not apply due to the applicability of the fourth and fifth provisos thereof*

  Note: Capital asset may be movable or immovable or tangible/corporeal (furniture, jewellery, etc.) or intangible/incorporeal (goodwill, tenancy right, copy right, etc.)

"Property" includes any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever

- but does not include the following:

* Fourth and fifth proviso provides that

- Where any unit linked insurance policy (ULIP), is issued on or after 01-02-2021 and the premium payable for any of the previous year during the term of such policy exceeds ₹ 2,50,000
- Where the premium is payable, by a person, for more than one ULIP, issued on or after 01-02-2021, the exemption shall apply only with respect to those ULIP, where the aggregate amount of premium does not exceed the aforesaid limit in any of the previous year during the term of any of those policies.

1. **Stock in trade**

Stock in trade, consumable stores or raw materials held for business or profession.

However, any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 shall not be treated as stock-in-trade

Treatment of profit on sale of stock

Such profit shall be taxable under the head "Profits & gains of business or profession"

2. **Personal effect**

Personal effect means any *movable property* held for personal use of the assessee or for any dependent member of his family but excludes the followings:

A. jewellery[#]	B. archaeological collections	C. drawings
D. paintings	E. sculptures; or	F. any work of art

Taxpoint

- An immovable property and aforesaid assets held for personal use are not personal effect and hence are capital assets. E.g. a house property even though used for personal purpose cannot be treated as personal effect and shall fall within the definition of capital assets.
- Securities are not personal effect.
- Personal effect includes wearing apparel, furniture, car, cycle, scooter used by the assessee for personal purpose.
- Intangible asset does not have personal effect.

[#] **Jewellery** includes –

- ornaments made of gold, silver, platinum, any other precious metal or any alloy containing one or more of such precious metals. It is immaterial whether or not such ornaments contain any precious or semi-precious stones and whether or not such ornaments are worked or sewn into any wearing apparel;
- precious or semi precious stones whether or not set in any furniture utensil or other article or worked or sewn in any wearing apparel. E.g. loose diamond shall be treated as jewellery.

⊙ **Treatment of profit on sale of personal effect**

Any income on transfer of personal effect shall not be treated as capital gain. Such income is in the nature of capital receipt and hence shall not be taxed under any head.

3. **Agricultural land in rural area**

Agricultural land in India is not a capital asset except the following –

a. land which is situated within the jurisdiction of any Municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or Cantonment Board having population of 10,000 or more; or

b. in any area within the distance, measured aerially,—

Population of the municipality or cantonment board	Area within the aerial distance from the local limits of such municipality or cantonment board is non-rural area
More than 10,000 but not exceeding 1,00,000	Upto 2 kilometres
More than 1,00,000 but not exceeding 10,00,000	Upto 6 kilometres
More than 10,00,000	Upto 8 kilometres

Notes

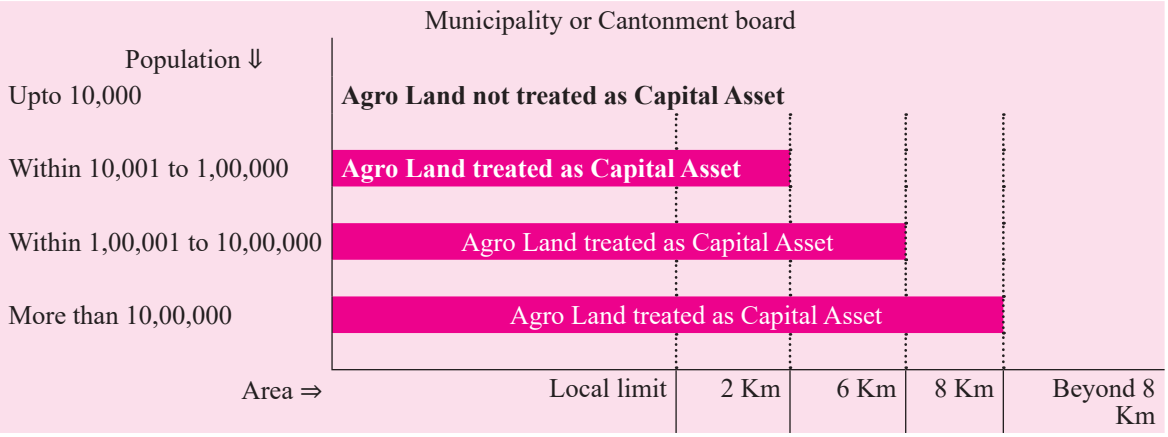
i. Population, according to the last preceding census of which the relevant figures have been published before the first day of the previous year, shall be considered.

ii. If such land is not agricultural land, it will be treated as capital asset irrespective of its location.

iii. If agricultural land is located outside India, it will be treated as capital asset.

Treatment of profit on sale of agricultural land in rural area of India

Profit on sale of agricultural land in rural area shall not be treated as capital gain. Such income is in the nature of capital receipt and hence shall not be taxed under any head.



4. Gold Bonds

Following gold bonds issued by the Central Government are not capital asset:

- 6.5% Gold Bond, 1977
- 7% Gold Bonds, 1980; and
- National Defence Gold Bond, 1980

5. Special Bearer Bond

Special Bearer Bond, 1991 issued by the Central Government are not capital asset.

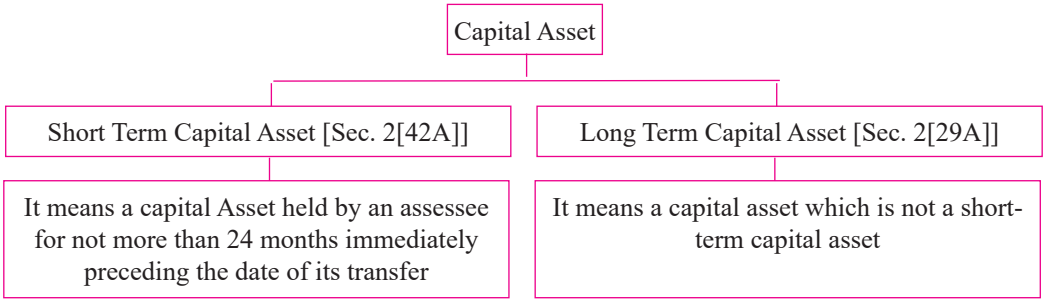
Note: It is not necessary that the assessee should be the initial subscriber.

6. Gold Deposit Bonds

Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 notified by the Central Government are not capital asset.

Note: Interest on aforesaid bonds or deposits are exempt [Sec. 10(15)]

2.4.3 Types of Capital Asset



Exceptions

W.e.f. 23-07-2024, in the following cases, an asset will be termed as a short-term capital asset if it is held for not more than 12 months immediately before the date of transfer:

- Security (listed in India)
  - ➢ Securities includes
    - shares, scrips stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or a pooled investment vehicle or other body corporate;
    - derivative;
    - units or any other instrument issued by any collective investment scheme to the investors in such schemes;
    - Government securities
    - units or any other instrument issued by any pooled investment vehicle

  However, securities shall not include any unit linked insurance policy or scrips or any such instru-ment or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer
- A unit of an equity oriented fund* (whether quoted or not)
- Zero-Coupon Bonds (whether quoted or not)
- Units of Debt Oriented Fund (listed) or Units of Business Trust (listed)

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* "Equity Oriented Fund" means a fund set up under a scheme of a mutual fund specified u/s 10(23D) or under a scheme of an insurance company comprising unit linked insurance policies to which exemption u/s 10(10D) does not apply on account of the applicability of the fourth and fifth provisos thereof and:

i. in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange,:
   A. a minimum of 90% of the total proceeds of such fund is invested in the units of such other fund; and
   B. such other fund also invests a minimum of 90% of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and

ii. in any other case, a minimum of 65% of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange.

Taxpoint:

➢ The percentage of equity shareholding or unit held in respect of the fund, as the case may be, shall be computed with ref-erence to the annual average of the monthly averages of the opening and closing figures.

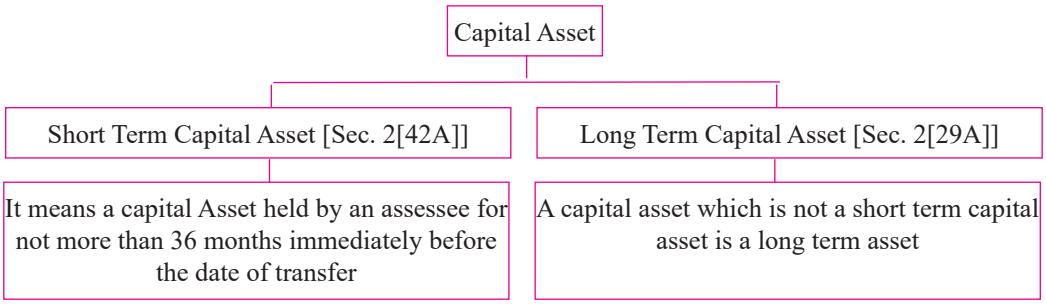
➢ In case of a scheme of an insurance company comprising ULIP to which exemption u/s 10(10D) does not apply on ac-count of the applicability of the fourth and fifth provisos thereof, the minimum requirement of 90% or 65%, as the case may be, is required to be satisfied throughout the term of such insurance policy.

Short-term capital gain (STCG) arises on the transfer of short-term capital assets (STCA) and long-term capital gain (LTCG) arises on the transfer of long-term capital assets (LTCA).

Exception

- Any gain on transfer of an asset on which depreciation is allowed as per WDV method u/s 32(1)(ii) shall be taxable as short-term capital gain (irrespective of their period of holding) [Sec. 50].
- Capital gains arising from the transfer of market-linked debentures and units of a specified mutual fund would always be capital gains arising from the transfer of short-term capital assets irrespective of the period of holding of such assets [Sec. 50AA]
  - ➢ Market Linked Debenture means a security by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices and include any security classified or regulated as a market linked debenture by the SEBI;
  - ➢ Specified Mutual Fund means a Mutual Fund by whatever name called, where not more than 35% of its total proceeds is invested in the equity shares of domestic companies.

Where any capital asset is transferred before 23-07-2024, the provision are as under:



Exceptions:

In the following cases, an asset shall be termed as a short-term capital asset (STCA) if it is held for not more than following period before the date of transfer:

12 months	24 months
Equity or preference share in a company (listed in India)	Equity or preference share in an unlisted company
Any security e.g. debenture, Government securities, etc. (listed in India) [Other than market linked debentures and units of specified mutual fund]	Immovable property being land or building or both
A unit of an equity oriented fund (whether quoted or not)	
Zero-Coupon Bonds (whether quoted or not)	
Units of UTI (whether quoted or not)	

2.4.4 Period of holding

While computing the period of holding of any capital asset, the following points are to be considered to decide the nature of asset, whether short term or long term –

Case	Period of Holding
Shares held in a company in liquidation	The period after the date of commencement of liquidation is to be excluded
Date of transfer	For calculating the period of holding of a capital asset, the date on which the asset is transferred is to be excluded.
Conversion of preference shares into equity shares	Period of holding includes the period for which the preference shares were held by the assessee.
In case Electronic Gold Receipt is issued by a Vault Manager in respect of gold deposited [Conversion of gold into Electronic Gold Receipt as referred to in sec. 47(viid)]	The period for which such gold was held by the assessee prior to conversion into the Electronic Gold Receipt shall be included
In case gold is released in respect of an Electronic Gold Receipt [Conversion of Electronic Gold Receipt into gold as referred to in sec. 47(viid)]	The period for which such Electronic Gold Receipt was held by the assessee prior to its conversion into gold

Provision Illustrated

The assets can be classified as under –

Items	Period of holding	Nature of Asset
Jewellery	From 1/07/2019 to 7/03/2025 i.e. more than 24 months	LTCA
Listed Shares	From 7/07/2022 to 15/04/2024 i.e. more than 12 months	LTCA
Shares in Y Pvt. Ltd.	From 7/07/2022 to 15/09/2024 i.e. more than 24 months	LTCA
Residential houseHouse	From 17/07/1978 to 15/04/2024 i.e. more than 24 months	LTCA
Units of UTI	From 15/05/2024 to 1/01/2025 i.e. less than 12 months	STCA
Zero coupon bonds	From 6/06/2024 to 11/11/2025 i.e. more than 12 months	LTCA
Drawings	From 1/01/2015 to 12/12/2024 i.e. more than 24 months	LTCA
Unlisted Shares	From 7/10/2022 to 15/09/2024 i.e. less than 24 months	STCA

2.4.5 Transfer [Sec. 2(47)]

Transfer in relation to a capital asset includes:

a. Sale, Exchange & Relinquishment of the asset;

b. Extinguishment of any right in an asset;

c. Compulsory acquisition of an asset under any law;

d. Conversion of asset into stock-in-trade by the owner;

e. Any transaction of immovable property u/s 53A of the Transfer of Property Act, 1882;

f. Any transaction which has the effect of transferring or enabling the enjoyment of any immovable property.

g. Maturity or redemption of a zero coupon bond

Taxpoint:

- Above definition is indicative and not exhaustive
- Above definition is applicable only in relation to capital assets and not otherwise.
- *It also includes
  - disposing of or parting with an asset or any interest therein, or
  - creating any interest in any asset in any manner whatsoever,

  directly or indirectly, absolutely or conditionally, voluntarily or involuntarily, by way of an agreement (whether entered into in India or outside India) or otherwise, notwithstanding that such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India.

Exchange

Exchange includes barter which means mutual transfer of ownership of one thing for the ownership of another

Notes: In case of exchange though there is only one transaction the tax liability arises on both the parties. The sale consideration shall be taken as the fair market value of assets received.

Relinquishment of the asset

Relinquish literally means 'to withdraw from' or 'to abandon' or 'to give up any thing or any right' or 'to cease to hold' or 'to surrender'. Hence, relinquishment means act of surrendering. In other words, it means interest of a person in a property is either given up, abandoned, or surrendered but the property in which right is relinquished continues to exist.

Taxpoint:

- Right of the assessee in the asset is given up or abandoned;
- Asset itself continues to exist after such relinquishment and becomes the property of someone else.
- There must be mutual consent of the parties. A unilateral action of writing off the claim in the books of account cannot be treated as relinquishment.

Extinguishment of any right in an asset

Extinguishment literally means 'to put a total end to' or 'total destruction' or 'blot out of existence' or 'annihilation'. Extinguishment does not mean extinguishment of asset itself but to extinguishment of holder's right to the asset and such right cannot be held by someone else

Incidences of extinguishments –

- **Reduction of share capital:** When a part of the share capital is paid to the shareholder by a company, such reduction of share capital shall be treated as extinguishment of proportionate right in the shares and such shareholder shall be liable to capital gain.

  When there is a reduction of capital by a company and amounts are distributed to shareholder, such amount has two components –

  - Distribution attributable to accumulated profits i.e. chargeable as deemed dividend u/s 2(22)(d);
  - Distribution attributable to capital i.e. subject to tax u/s 45

* The Apex Court in the case of Vodafone International Holdings B.V. –vs.- UOI [2012] 204 Taxman 408 has held that the transfer of shares of the foreign holding company do not results in an extinguishment of the foreign company control of the Indian company and it also does not constitute an extinguishment and transfer of an asset situated in India. Transfer of the foreign holding company's share off-shore, cannot result in an extinguishment of the holding company right of control of the Indian company nor can it be stated that the same constitutes extinguishment and transfer of an asset/ management and control of property situated in India.

To **nullify** the decision of the Apex Court, Finance Act, 2012 has inserted the said explanations w.r.e.f. 01-04-1962.

- **Forfeiture of share:** Forfeiture or surrender of shares indicates extinguishment or relinquishment of right of shareholder in such shares, which have been forfeited by the company. As in CIT vs Vania Silk Mills Pvt. Ltd it was held that the term extinguishment includes all possible transactions which results in the destruction, annihilation, termination, cessation or cancellation of any right in an asset whether corporeal or incorporeal. Though there is no consideration in case of share forfeiture or surrender, still such transaction shall be treated as transfer and liable to capital gain.

Compulsory acquisition of an asset under any law

Normally, sale means a mutual will full agreement between two or more parties. But for the purpose of sec. 2(47), transfer includes compulsory acquisition of any property under any law in force.

Conversion of asset into stock in trade by the owner

Generally, a transfer requires two or more parties, but in Income tax Act even one party's involvement may constitute transfer. As per sec. 2(47)(iv) where an asset is converted by the owner into or treated by him as 'stock in trade' of the business carried on by him, such conversion or treatment shall constitute transfer.

Any transaction of immovable property u/s 53A of the Transfer of Property Act

Any transaction of immovable property in which possession is allowed against part performance of the contract shall be treated as transfer [Sec. 53A of the Transfer of Property Act, 1882].

Any transaction which has enabled the enjoyment of any immovable property

Any transaction which has the effect of transferring or enabling the enjoyment of any immovable property whether by way of becoming a member of, or acquiring shares in a co-operative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner, is treated as transfer.

Property held by a member of a company, co-operative society or other association of persons to whom a building or a part thereof is allotted or leased under House Building Scheme of the company or association, is treated as deemed owner of that building or a part thereof.

Under the scheme of owning flats in co-operative housing societies, the legal ownership in the flats can be said to vest in the individual members themselves and not in the co-operative societies. Therefore for all purposes including attachment and recovery of tax, etc. the individual member should be regarded as the legal owner.

Taxpoint

- Assessee is a member of a company, co-operative society or other AOP.
- He has been allotted or leased a building on account of such membership.

2.4.6 Computation of Capital Gains [Sec. 48]

Short-term Capital Gain means the gain arising on transfer of short-term capital asset [Sec. 2(42B)].

Long-term Capital Gain means the gain arising on transfer of long-term capital asset [Sec. 2(29B)].

Computation of Capital Gain

At a glance, computation of capital gain of _____ for the Assessment Year ……..

Particulars	Details	Amount
Sale consideration (Full value of consideration)		****
Less: Expenses on transfer		****
Net sale consideration		****
Less: i) Cost of acquisition	****	

ii) Cost of improvement	****	****
Short Term Capital Gain / Long Term Capital Gain		****
Less: Exemption u/s 54, 54B, 54D, etc.		(****)
Taxable Short Term Capital Gain / Taxable Long Term Capital Gain		*****

Taxpoint:

- No deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax.
- In case of long-term capital gain, the aforesaid computation is applicable where such asset is trans-ferred on or after 23-07-2024*
- Subject to certain exceptions, long-term capital gain is taxable @ 12.5% and short-term capital gain is taxable at the applicable rate [e.g. in the case of an individual, short-term capital gain shall be taxable at applicable slab rate]

The meaning of terms used in the computation:

i. **Sale consideration (full value of consideration)**

It refers to sale value of the asset (in the form of money or money's worth).

Consideration in installments: In case, consideration is receivable in installment in different years, the entire value of the consideration shall be taxable in the year of transfer.

Fair market value deemed to be full value of consideration in certain cases [Sec. 50D]: Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined, then, for the purpose of computing income chargeable to tax as capital gains, the fair market value** of the said asset on the date of transfer shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.

ii. **Expenses on transfer**

It means any expenditure incurred wholly and exclusively in connection with such transfer such as, brokerage or commission incurred for securing buyer, cost of stamp and registration fee by the vendor, traveling expenses, etc. It is reduced from sale consideration to get net sale consideration.

Notes

a. Expenditure must be necessary to affect the transaction and should not be vague
b. Expenditure on transfer may be incurred prior to or after completion of transfer
c. If expenditure has been allowed as deduction under any other heads of income then the same cannot be claimed as deduction u/s 48.
d. STT is not deductible.

iii. **Cost of Acquisition [Sec. 55(2)]**

Cost of acquisition includes expenditure incurred for acquiring the asset or completing the title of the asset. For instance –

- Sum paid for discharge of mortgage debt to clear charge over the property (created by previous owner) is a part of cost of acquisition.
- Litigation expenditure incurred by a shareholder to get the shares registered in his name will form part of cost of acquisition of shares.

* For long term capital gain before 23-07-2024, the computation method is discussed in the subsequent para

** Fair market value means the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date and where such price is not ascertainable, the price as may be determined in accordance with the rules made under this Act.

However, the following shall not form part of the cost of acquisition:

- The cost of acquisition of the asset or the cost of improvement thereto would not include the de-ductions claimed on interest u/s 24(b) or under the provisions of Chapter VI-A.
- No deduction in respect of STT

iv. **Cost of Improvement [Sec. 55(1)(b)]**

Cost of improvement means an expenditure incurred to increase the productive quality of the asset. It includes all expenditures of a capital nature incurred in making any additions or alterations to the capital asset.

Notes: Any expenditure which is deductible in computing the income chargeable under any other head of income (or deduction under chapter VIA) shall not be treated as cost of improvement.

Treatment of assets acquired before 1/4/2001

Cost of acquisition	If an asset is acquired before 1/4/2001 then its cost of acquisition shall be higher of the following: a) Actual cost of acquisition (ignoring cost of improvement incurred before 1/4/2001); or b) Fair market value* of the asset as on 1/4/2001 [Sec. 55] Note: In case of a capital asset, being land or building or both, the fair market value of such asset on 01-04-2001 shall not exceed the stamp duty value, wher-ever available, of such asset as on 01-04-2001. Exception: The option is not available in case of – • Asset on which depreciation is allowed u/s 32(1)(ii); • Self generated assets (other than bonus share)
Cost of improvement	Any cost of improvement incurred by the assessee or the previous owner before 1/4/2001 shall not be considered.

Illustration 91

Mr. Divesh had purchased a golden ring as on 17/8/2023 for ₹ 20,000. On 1/05/2024, he has sewn a diamond on it costing ₹ 25,000. On 1/08/2024, he sold such ring for ₹ 80,000 and incurred brokerage for arranging customer ₹ 5,000. Compute capital gain.

Solution :

Computation of capital gain of Mr. Divesh for the A.Y. 2025-26

Particulars	Details	Amount
Sale consideration		80,000
Less: Expenses on transfer		5,000
Net sale consideration		75,000
Less: i) Cost of acquisition	20,000	
ii) Cost of improvement	25,000	45,000
Short Term Capital Gain		**30,000**

* Fair market value means the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date and where such price is not ascertainable, the price as may be determined in accordance with the rules made under this Act.

2.4.7 Computation of Long-Term Capital Gain (LTCG) prior to 23-07-2024

Where long-term capital gain arises before 23-07-2024, capital gain shall be computed as under:

Particulars	Details	Amount
Sale consideration (Full value of consideration)		****
Less: Expenses on transfer		****
Net sale consideration		****
Less: i) Indexed cost of acquisition	****	
ii) Indexed cost of improvement	****	****
Long Term Capital Gain		****
Less: Exemption u/s 54, 54B, 54D, 54EC, 54F, etc.		****
Taxable Long Term Capital Gain		****

Note: No deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax.

The meaning of terms used in the computation:

i. **Indexed cost of acquisition**

"Indexed cost of acquisition" means the 'cost of acquisition' (as discussed in case of short term capital gain) adjusted according to the price level of the year of sale. As per explanation to sec.48, "Indexed cost of acquisition" is an amount which bears to the 'cost of acquisition' the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on 1/4/2001, whichever is later.

Taxpoint: Indexed cost of acquisition = Cost of acquisition × $\frac{\text{Index of the year of transfer}}{\text{Index of the year of acquisition}}$

ii. **Indexed cost of improvement**

"Indexed cost of improvement" means the 'cost of improvement' (as discussed in case of short term capital gain) adjusted according to the price level of year of sale. As per explanation to sec. 48, "indexed cost of any improvement" is an amount, which bears to the cost of improvement the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset took place

$$\text{Indexed cost of improvement} = \text{Cost of improvement} \times \frac{\text{Index of the year of transfer}}{\text{Index of the year of improvement}}$$

iii. **Cost Inflation Index**

Cost inflation index, in relation to a previous year, means such Index as the Central Government may, having regard to 75% of average rise in the Consumer Price Index (urban) for the immediately preceding previous year to such previous year, by notification in the Official Gazette, specify, in this behalf. Cost Inflation Index for different financial years is as follows:

Financial Year	Index	Financial Year	Index	Financial Year	Index
2001-02	100	2011-12	184	2021-22	317
2002-03	105	2012-13	200	2022-23	331
2003-04	109	2013-14	220	2023-24	348

2004-05	113	2014-15	240	2024-25	363
2005-06	117	2015-16	254		
2006-07	122	2016-17	264		
2007-08	129	2017-18	272		
2008-09	137	2018-19	280		
2009-10	148	2019-20	289		
2010-11	167	2020-21	301		

Note:

- Indexed cost of acquisition has to be ascertained with reference to the date of acquisition and not with reference to the date when such asset became a capital asset.
- Where an asset is acquired before 1/4/2001, then indexation benefit shall be available from the year 2001-02.

Illustration 92

On 23rd June, 2024, Rajat sold gold, the sale consideration of which was ₹ 15,00,000. He had acquired this gold on 20th August, 2000 for ₹ 4,00,000. Fair market value of that gold on 1st April, 2001 was ₹ 3,60,000. Find out the amount of capital gain chargeable to tax for the assessment year 2024-25.

How shall your answer differ if such asset was transferred by him on 23-12-2024.

Solution :

When capital asset is transferred prior to 23-07-2024

Computation of capital gains of Rajat for the A.Y. 2025-26

Particulars	Working	Amount
Sale consideration		15,00,000
Less: Expenses on transfer		Nil
Net Sale consideration		15,00,000
Less: Indexed cost of acquisition	₹ 4,00,000[1] × 363/100	14,52,000
Long term capital gain		**48,000**
Tax before surcharge and cess [₹ 48,000 × 20%]		**9,600**

1. If an asset is acquired before 1/4/2001 then its cost of acquisition will be higher of the following:
   a) Actual cost of acquisition; or b) Fair market value of the asset as on 1/4/2001

When capital asset is transferred on or after 23-07-2024

Computation of capital gains of Rajat for the A.Y. 2025-26

Particulars	Working	Amount
Sale consideration		15,00,000
Less: Expenses on transfer		Nil
Net Sale consideration		15,00,000
Less: Cost of acquisition		4,00,000
Long term capital gain		**11,00,000**
Tax before surcharge and cess [₹ 11,00,000 × 12.5%]		**1,37,500**

2.4.8 Exception to Computation of Tax on Long-Term Capital Gain (LTCG)

Where -

a) The transferor is a resident individual or resident HUF;

b) Long term capital gain arises on the transfer of long-term capital asset being land, building or both;

c) Such asset may be residential or commercial or used for any other purpose;

d) Such asset was acquired before 23-07-2024; and

e) Such asset is transferred on or after 23-07-2024

then, the assessee has the option to pay tax:

Option 1 – Pay tax @ 12.5% without considering index benefit

Option 2 – Pay tax @ 20% after considering index benefit.

Taxpoint: The option is for computing tax liability on long-term capital gain but there is no option for computing long-term capital gain. In other words, long-term capital gain shall be computed without considering index benefit, however for the purpose of computing tax on long-term capital gain on an aforesaid capital asset, the assessee has options.

Illustration 93:

Mr. Anand, resident, has purchased a house property as on 17/08/2002 for ₹ 5,00,000. On 1/05/2004, he constructed a new floor on the same house at a cost of ₹ 2,50,000. On 1/10/2024, he sold such house for ₹ 18,00,000 and incurred brokerage @ 2% for arranging customer. Compute capital gain.

Solution :

Where resident individual or resident HUF has transferred on or after 23-07-2024, a long-term capital asset being land, building or both being acquired before 23-07-2024, then, the assessee has the option to pay tax:

Option 1 – Pay tax @ 12.5% without considering index benefit

Option 2 – Pay tax @ 20% after considering index benefit.

Computation of capital gain of Mr. Anand for the A.Y. 2025-26

Particulars	Working	Option 1		Option 2	
		Details	Amount	Details	Amount
Sale consideration			18,00,000		18,00,000
Less: Expenses on transfer	2% of ₹ 18,00,000		36,000		36,000
Net sale consideration			17,64,000		17,64,000
Less: i) Indexed cost of acquisition	₹5,00,000× (363/105)	5,00,000		17,28,571	
ii) Indexed cost of improvement	₹2,50,000 × (363/113)	2,50,000	7,50,000	8,03,097	25,31,668
Long Term Capital Gain			**10,14,000**		**(7,67,668)**
Tax on above before surcharge and cess			**1,26,750**		**Nil**

However, in either option long-term capital gain shall be ₹ 10,14,000 but the tax liability is

- Under Option 1 is ₹ 1,26,750
- Under Option 2 is Nil

Thus, his tax liability on this can be reduced to zero. However, loss of ₹ 7,67,668/- shall not be carried forward as his long-term capital gain shall be ₹ 10,14,000/- and tax on the said gain is nil

2.4.9 Transactions not regarded as transfer (Sec. 46 & 47)

By virtue of sec. 46(1) and sec. 47 the following transactions do not constitute transfer for the purpose of capital gain -

Section	Transaction
46(1)	Any distribution of capital assets in the event of liquidation by a company to its share-holders shall not be treated as a transfer in the hands of company.
47(i)	Any distribution of capital assets on the total or partial partition of an HUF.
47(iii)	Any transfer of a capital asset by an individual or a HUF, under a gift or will or an irrevocable trust. Exception: Gift of shares acquired through Employees Stock Option Plan (ESOP) shall be treated as Transfer
47(iv)	Any transfer of a capital asset by a 100% holding company to its Indian subsidiary company. However, where capital asset is transferred as stock, then this exemption is not available
47(v)	Any transfer of a capital asset by a 100% subsidiary company to its Indian holding company However, where capital asset is transferred as stock, then this exemption is not available.
47(vi)	Any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company. **Taxpoint** ➢ Transfer must be in a scheme of amalgamation. ➢ Transferee company must be an Indian company.
47(via)	Any transfer, in a scheme of amalgamation, of a capital asset being a share or shares held in an Indian company, by the amalgamating foreign company to the amalgamated foreign company, if – a. At least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and b. Such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated **Taxpoint** ➢ Such transfer is in a scheme of amalgamation by the amalgamating foreign company to the amalgamated foreign company. ➢ Transferred asset must be a capital asset being a share or shares held in an Indian company. ➢ At least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company. ➢ Such transfer does not attract tax on capital gain in the country, in which the amalgamating company is incorporated.
47(viaa)	Any transfer of a capital asset by a banking company to a banking institution in a scheme of amalgamation of such banking company with such banking institution sanctioned and brought into force by the Central Government u/s 45(7) of the Banking Regulation Act, 1949.
47(viab)	Any transfer, in a scheme of amalgamation, of a capital asset, being a share of a foreign company, (referred to in the Explanation 5 of sec.9(1)(i)), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, if: a. at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and b. such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated.

Section	Transaction
47(viiac) & (viiad)	➢ Any transfer, in a relocation, of a capital asset by the original fund to the resulting fund; ➢ Any transfer by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being a share or unit or interest held by him in the original fund in con-sideration for the share or unit or interest in the resultant fund. **Taxpoint** ➢ Original fund means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions: a) the fund is not a person resident in India; b) the fund is a resident of a country or a specified territory with which an agreement referred to in sec. 90 or 90A has been entered into; or is established or incorporated or registered in a notified country or a specified territory; c) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident; and d) fulfils such other conditions as may be prescribed; ➢ Relocation means transfer of assets of the original fund, or of its wholly owned spe-cial purpose vehicle, to a resultant fund on or before 31-03-2023, where consideration for such transfer is discharged in the form of share or unit or interest in the resulting fund to,— a. shareholder or unit holder or interest holder of the original fund, in the same pro-portion in which the share or unit or interest was held by such shareholder or unit holder or interest holder in such original fund, in lieu of their shares or units or in-terests in the original fund; or b. the original fund, in the same proportion as referred above, in respect of which the share or unit or interest is not issued by resultant fund to its shareholder or unit holder or interest holder; ➢ Resultant fund means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership, which— a. has been granted a certificate of registration as a Category I or Category II or Cat-egory III Alternative Investment Fund, and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 or International Fi-nancial Services Centre Authority Act, 2019; and b. is located in any International Financial Services Centre as referred to in sec. 80LA(1A)
47(viiae)	Any transfer of capital asset by India Infrastructure Finance Company Ltd to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government.
47(viiaf)	Any transfer of capital asset, under a plan approved by the Central Government, by a public sector company to another notified public sector company or to the Central Government or to a State Government
47(vib)	Any transfer, in a scheme of demerger, of capital asset by the demerged company to the resulting company, if the resulting company is an Indian company.

Section	Transaction
47(vic)	Any transfer, in a scheme of demerger, of a capital asset, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if – a. The shareholders holding not less than three-fourths in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and b. Such transfer does not attract tax on capital gain in the country, in which the demerged foreign company is incorporated: **Taxpoint:** ➢ Such transfer is in a scheme of demerger by the demerged foreign company to the resulting foreign company. ➢ Transferred asset must be a capital asset being a share or shares held in an Indian company. ➢ Shareholders holding not less than 75% in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company ➢ Such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated
47(vica)	any transfer in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank or to the converted banking company
47(vicb)	Any transfer by a shareholder, in a business reorganisation, of a capital asset being a share or shares held by him in the predecessor co-operative bank if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank or to the converted banking company
47(vicc)	Any transfer in a demerger, of a capital asset, being a share of a foreign company (referred to in the Explanation 5 of sec. 9(1)(i)), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company, if: a. the shareholders, holding not less than 3/4th in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and b. such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated. **Provided** that the provisions of sections 391 to 394 of the Companies Act, 1956 shall not apply in case of demergers referred above.
47(vid)	Any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company if the transfer or issue is made in consideration of demerger of the undertaking.
47(vii)	Any transfer by a shareholder, in a scheme of amalgamation, of share(s) held by him in the amalgamating company, if – a. The transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company except where the shareholder itself is the amalgamated company, and b. The amalgamated company is an Indian company.
47(viia)	Any transfer of a capital asset, being foreign currency convertible bonds or Global Depository Receipts referred to in sec. 115AC(1), made outside India by a non-resident to another non-resident. **Taxpoint:** ➢ Transferred asset must be either 'foreign currency convertible bonds' or 'Global Depository Receipts'. ➢ Transfer has been made by a non-resident to another non-resident. ➢ Transfer has been made outside India.

Section	Transaction
47(viiaa)	Any transfer, made outside India, of a capital asset being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident **Taxpoint:** In case of non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company held by him, shall be ignored for the purposes of computation of full value of consideration under this section
47(viiab)	Any transfer of a capital asset, being— a. bond or Global Depository Receipt referred to in sec. 115AC(1); or b. rupee denominated bond of an Indian company; or c. derivative, or d. other notified securities made by a non-resident on a recognised stock exchange located in any International Financial Services Centre provided the consideration for such transaction is paid or payable in foreign currency.
47(viib)	Any transfer of a capital asset, being a Government Security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident
47(viic)	Redemption of Sovereign Gold Bond issued by the RBI under the Sovereign Gold Bond Scheme, 2015, by an assessee being an individual.
47(viid)	Any transfer of a capital asset, being conversion of gold into Electronic Gold Receipt is-sued by a Vault Manager, or conversion of Electronic Gold Receipt into gold
47(ix)	Any transfer of a capital asset being a work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to the Government or a University or the National Museum, National Art Gallery, National Archives or any such other public museum or institution as may be notified by the Central Government in the Official Gazette to be of national importance or to be of renown throughout any State or States.
47(x)	Any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form of a company into shares or debentures of that company.
47(xa)	Any transfer by way of conversion of bonds referred to in sec. 115AC(1)(a) into shares or debentures of any company
47(xb)	Any transfer by way of conversion of preference shares of a company into equity shares of that company
47(xii)	Any transfer of a land of a sick industrial company, made under a scheme prepared and sanctioned u/s 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 where such sick industrial company is being managed by its workers' co-operative. Such transfer must have been made during the period commencing from the previous year in which the said company has become a sick industrial company and ending with the previous year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

Section	Transaction
47(xiii)	Any transfer of a capital asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm subject to following conditions: a. All assets and liabilities of the firm relating to the business immediately before the succession become the assets and liabilities of the company. b. All the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of succession. c. The partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and d. The aggregate of the shareholding in the company of the partners of the firm is not less than 50% of the total voting power in the company and their shareholding continues to be as such for a period of 5 years from the date of succession. **Taxpoint** ➢ Transfer must have taken place as a result of succession of the firm to a company. ➢ All assets and liabilities related to the business must have been transferred. ➢ All the partners become the shareholders of the company in their capital ratio (as on the date of the succession) ➢ The whole consideration shall be paid by allotment of shares in the company ➢ Partners (altogether) must hold atleast 50% of the total voting power of the company ➢ Lock in period for above share is 5 years from the date of succession.
	Any transfer of a capital asset to a company in the course of demutualisation or corporatisation of a recognized stock exchange in India as a result of which an association of persons or body of individuals is succeeded by such company, subject to the following conditions – a. All assets and liabilities of the AOP or BOI relating to the business immediately before the succession become the assets and liabilities of the company; b. The demutualisation or corporatisation of a recognized stock exchange in India is carried out in accordance with a scheme for demutualisation or corporatisation which is approved by the SEBI
47(xiiia)	Any transfer of a membership right of a recognized stock exchange in India for acquisition of shares and trading or clearing rights in that recognized stock exchange in accordance with a scheme for demutualisation or corporatisation which is approved by SEBI
47(xiiib)	Any transfer of - a. a capital asset or intangible asset by a private company or unlisted public company (hereafter referred to as the company) to a limited liability partnership (LLP); or b. a share(s) held in the company by a shareholder as a result of conversion of the company into a limited liability partnership (LLP) shall not regarded as a transfer, if following conditions are satisfied: i. All the assets and liabilities of the company immediately before the conversion become the assets and liabilities of the LLP;

Section	Transaction
	ii. All the shareholders of the company immediately before the conversion become the partners of the LLP and their capital contribution and profit sharing ratio in the LLP are in the same proportion as their shareholding in the company on the date of conversion; iii. The shareholders of the company do not receive any consideration or benefit other than by way of share in profit and capital contribution in the LLP; iv. The aggregate of the profit sharing ratio of the shareholders of the company in the LLP shall not be less than 50% at any time during the period of 5 years from the date of conversion; v. The total sales, turnover or gross receipts in business of the company in any of the 3 previous years preceding the previous year in which the conversion takes place does not exceed ₹ 60 lakh; vi. The total value of the assets as appearing in the books of account of the company in any of the 3 previous years preceding the previous year in which the conversion takes place does not exceed ₹ 5 crore; and vii. No amount is paid (directly or indirectly) to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of 3 years from the date of conversion.
47(xiv)	Where a sole proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary concern sells or otherwise transfers any capital asset to the company, subject to following conditions – a. All assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company; b. Proprietor holds not less than 50% of the total voting power in the company and his shareholding continues to remain as such for a period of 5 years from the date of succession; and c. The sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company. **Taxpoint** ➢ Transfer must have taken place as a result of succession of the proprietorship concern to a company. ➢ All assets and liabilities related to the business must have been transferred. ➢ The whole consideration shall be paid by allotment of shares in the company. ➢ Proprietor must hold at least 50% of the total voting power of the company. ➢ Lock in period for above share is 5 years from the date of succession. **Note:** Sec. 47(xiii) & (xiv) exempts the capital gain on transfer of capital asset and not stock in trade. Therefore, if stock is transferred at profits, it will be taxable as business income.
47(xv)	Any transfer in a scheme for lending of any securities under an agreement or arrangement, which the assessee has entered into with the borrower of such securities and which is subject to the guidelines issued by the SEBI or the RBI.
47(xvi)	Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government Further, sec. 10(43), further, provides that the amount received by the senior citizen as a loan, either in lump sum or in installments, in a transaction of reverse mortgage would be exempt from income-tax.

Section	Transaction
47(xvii)	Any transfer of a capital asset, being share of a special purpose vehicle (referred to in sec. 10(23FC)) to a business trust in exchange of units allotted by that trust to the transferor.
47(xviii)	Any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund. The exemption is available only the consolidation of two or more schemes of equity oriented fund or of two or more schemes of a fund other than equity oriented fund. ➢ "Consolidated scheme" means the scheme with which the consolidating scheme merges or which is formed as a result of such merger. ➢ "Consolidating scheme" means the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund in accordance with the Secu-rities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992. ➢ In the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in this clause, period of holding shall includes the period for which the unit or units in the consolidating scheme of the mu-tual fund were held by the assessee.
47(xix)	Any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund.

2.4.10 Deemed or Notional Cost of Acquisition [Sec. 49(1)]

A. In certain cases (stated below) cost of acquisition of the previous owner[1] of the property shall be deemed to be the cost of acquisition for the assessee:

a. Assets received on total or partial partition of HUF [Sec. 49(1)(i)].

b. Assets received under a gift or will [Sec. 49(1)(ii)].

c. Assets received by succession, inheritance or devolution [Sec. 49(1)(iii)(a)].

d. Assets received on dissolution of a firm, BOI or AOP [Sec. 49(1)(iii)(b)].

e. Assets received on liquidation of a company [Sec. 49(1)(iii)(c)].

f. Assets received under a trust (whether revocable or irrevocable) [Sec. 49(1)(iii)(d)].

g. Assets received under business reorganization subject to certain conditions [Sec. 49(1)(iii)(e)] e.g., assets received by a 100% Indian subsidiary company from its holding company or received by an Indian holding company from its 100% subsidiary company or received by an amalgamated Indian company from the amalgamating company, asset received on conversion of a company into LLP, etc.

h. Asset (being a self-acquired property of a member) received by an HUF from its member [Sec. 49(1)(iv)].

B. In certain cases (stated below) cost of acquisition of the capital asset shall be:

(a) Where capital asset, being equity share of a company, became the property of the assessee on conversion of preference shares into equity shares of that company, the cost of acquisition of corresponding preference shares shall be considered as cost of acquisition of such converted equity shares [Sec. 49(2AE)]. Similarly, cost of units in the consolidating plan of the scheme of the mutual fund shall be deemed to be the cost of units in a consolidated plan of a mutual fund scheme.

(b) Where the capital gain arises from the transfer of such property which has been subject to tax u/s 56(2)(x) [i.e., Gift Provision], cost shall be the value taken into account for the purposes of sec-tion 56(2)(x).

(c) Where the capital gain arises from the transfer of a capital asset which was used by the assessee as inventory earlier before its conversion into capital asset, the cost would be the fair market val-ue of the inventory as on the date on such conversion determined in the prescribed manner

(d) Where a capital asset, being an Electronic Gold Receipt issued by a Vault Manager became the property of the person as consideration for transfer of gold, the cost would be the cost of gold in the hands of the person in whose name Electronic Gold Receipt is issued

(e) Similarly, where gold is released against an Electronic Gold Receipt, which became the property of the person as consideration for transfer of Electronic Gold Receipt, the cost would be the cost of the Electronic Gold Receipt in the hands of such person.

Various aspects of Sec.49(1) discussed below:

<table>
<tr><td rowspan="2">Cost of acquisition of an asset</td><td>Where cost of acquisition of previous owner is ascertainable.</td><td>Cost of acquisition of the previous owner.</td></tr>
<tr><td>Where cost of acquisition of previous owner is unascertainable</td><td>The fair market value of the asset on the date on which the previous owner had acquired the same shall be deemed to be the cost of acquisition.</td></tr>
<tr><td>Improvement expenditure</td><td colspan="2">Where a capital asset became the property of the assessee by any of the modes specified in sec. 49(1), cost of improvement includes improvement expenditure incurred by the previous owner.</td></tr>
<tr><td>Period of holding</td><td colspan="2">Period of holding of the previous owner shall be considered for classifying the asset into short term or long-term capital asset.</td></tr>
<tr><td>Indexation benefit on cost of acquisition</td><td colspan="2">Indexation benefit shall be available from the year when the assessee / previous owner first held the property.
However, in case of CIT –vs.- Manjula J Saha 16 Taxmann 42 (Bombay), the Hon’ble Bombay High Court has held that index benefit is available from the year in which as-set was acquired by the previous owner or for the year beginning on the 1st day of April, 1981 (now 2001), whichever is later.
In our computation, we will follow the decision of the Hon’ble Court.
Taxpoint: The index benefit is available only in case when long term capital asset is transferred before 23-07-2024 or a resident individual (or resident HUF) has opted for option 2 to pay tax on LTCG</td></tr>
<tr><td colspan="3">**Taxpoint:** Indexed cost of acquisition = Cost of acquisition × $\frac{\text{Index of the year of transfer}}{\text{Index of the year in which the asset was first held by the assessee / previous owner}}$</td></tr>
<tr><td>Indexation benefit on cost of improvement</td><td colspan="2">Indexation benefit shall be available from the year when the improvement expenditure incurred whether by current owner or by the previous owner.
Taxpoint: The index benefit is available only in case when long term capital asset is transferred before 23-07-2024 or a resident individual (or resident HUF) has opted for option 2 to pay tax on LTCG</td></tr>
<tr><td colspan="3">**Taxpoint:** Indexed cost of improvement = Cost of improvement × $\frac{\text{Index of the year of transfer}}{\text{Index of the year of improvement}}$</td></tr>
<tr><td colspan="3">**Previous owner** means the last owner who acquired such asset through a mode other than the modes mentioned above.</td></tr>
</table>

Illustration 94:

Mrs. Parminder has jewellery, being gifted on 1/04/2005 by her brother Jitendar. Jitendar acquired such asset for ₹ 60,000 as on 1/07/1995. On 1/07/2002, Jitendar has sewn a diamond worth ₹ 25,000 in such jewellery. On 1/04/2009, Mrs. Parminder incurred polish expenditure on such jewellery costing ₹ 5,000. As on 1/04/2024, Mrs. Parminder sold such jewellery for ₹ 12,00,000. Brokerage @ 1% of sale value was paid by her. The fair market value of the jewellery as on –

1/04/2001 is ₹ 2,00,000; 1/04/2005 is ₹ 5,00,000; and 1/04/2024 is ₹ 7,50,000.

Compute capital gain in hands of Mrs. Parminder for the A.Y. 2025-26.

How shall your answer differ, if she transferred such asset on 01-11-2024

Solution :

Computation of capital gain in the hands of Mrs. Parminder for the A.Y. 2025-26

Particulars	Working	Details	Amount
Sale consideration			12,00,000
Less: Expenses on transfer	1% of ₹ 12,00,000		12,000
Net sale consideration			11,88,000
Less: i) Indexed cost of acquisition	₹ 2,00,000 * 363/100	7,26,000	
ii) Indexed cost of improvement	₹ 25,000 * 363/105	86,429	8,12,429
Long Term Capital Gain			**3,75,571**

Notes:

1. Fair market value as on 1/04/2005 and 1/04/2024 are irrelevant.
2. Cost of acquisition shall be taken as cost of acquisition in the hands of the previous owner or fair market value as on 1/04/2001, whichever is higher. However, indexation benefit shall be available from the year in which the assessee acquired the property.
3. Benefit of indexation in case of cost of improvement shall be available when the actual improvement expenditure was incurred.
4. Polish expenditure on jewellery does not amount to improvement as such expenditure is not a capital expenditure and does not increase value of the asset.

When such capital asset has been transferred on or after 23-07-2024

Computation of capital gain in the hands of Mrs. Parminder for the A.Y. 2025-26

Particulars	Working	Details	Amount
Sale consideration			12,00,000
Less: Expenses on transfer	1% of ₹ 12,00,000		12,000
Net sale consideration			11,88,000
Less: i) Cost of acquisition		2,00,000	
ii) Cost of improvement		25,000	2,25,000
Long Term Capital Gain			9,63,000

Notes:

1. Fair market value as on 1/04/2005 and 1/04/2024 are irrelevant.
2. Cost of acquisition shall be taken as cost of acquisition in the hands of the previous owner or fair market value as on 1/04/2001, whichever is higher.
3. Polish expenditure on jewellery does not amount to improvement as such expenditure is not a capital expenditure and does not increase value of the asset.

In nutshell

1. If an asset is acquired before 1/04/2001 then its cost of acquisition will be higher of a) Actual cost of acquisition or b) Fair market value of the asset as on 1/04/2001.
2. Any cost of improvement before 1/04/2001 shall not be considered.
3. In order to find out whether an asset is short term or long term capital asset, the period of holding of previous owner shall be considered

Cases where indexation benefit is not available even on transfer of long term capital asset

Applicable only when transfer has taken place before 23-07-2024

- **Debenture or Bonds:** In case of transfer of bonds and debentures other than capital indexed bonds issued by the Government or Sovereign Gold Bond issued by the RBI under the Sovereign Gold Bond Scheme, 2015 [Sec. 48].
- **Slump Sale:** Transfer of an undertaking or division in a slump sale [Sec. 50B].
- **Virtual Digital Asset:** Transfer of crypto currency [Sec. 115BBH] (Discussed later in this chapter)
- **Equity shares and equity oriented fund referred to in sec. 112A** (Discussed later in this chapter)
- In case of depreciable assets, unit of a specified mutual fund and marked linked debenture (discussed later), there will be no indexation and the capital gains will always be short-term capital gains.

Illustration 95:

Miss Isha has 1,000 10% Debentures of X Ltd. acquired on 17/04/2009 for ₹ 120 each. As on 1/02/2025, she sold such asset for ₹ 1,45,000. Brokerage @ ½ % of sale value was paid by her. Compute capital gain.

Solution :

Computation of capital gain in the hands of Miss Isha for the A.Y. 2025-26

Particulars	Working	Details	Amount
Sale consideration			1,45,000
Less: Expenses on transfer	½ % of ₹ 1,45,000		725
Net sale consideration			1,44,275
Less: i) Cost of acquisition	1,000 Debentures @ ₹ 120 each	1,20,000	
ii) Cost of improvement		Nil	1,20,000
Long Term Capital Gain			24,275
Note: Though the asset sold is long term capital asset still indexation shall not be applicable as indexation benefit is not available on transfer of debentures.			

2.4.11 Notional sale consideration

In some cases, notional sale value is considered rather than actual sale value e.g.

Section	Case	Deemed value of consideration
45(1A)	Insurance claim received on damage or destruction of capital asset	Compensation received in cash or fair market value (as on date of receipt) of assets received as compensation.

45(2)	Conversion of capital assets into stock in trade	Fair market value of the asset as on date of such conversion.
45(3)	Transfer of capital assets by a partner/ member to firm/AOP/BOI as capital contribution	The amount recorded in books of account of the firm/AOP/BOI, as value of such assets.
46(2)	Assets received by shareholders on liquidation	Money so received or the market value of other assets on the date of distribution, as reduced by the amount assessed as dividend u/s 2(22)(c)
Fifth proviso to sec. 48	Shares debentures or warrants transferred by the employee by way of gift or under an irrevocable trust.	Market value of the asset as on date of such transfer
50C	Transfer in case of land or building or both	Value determined for payment of stamp duty (if consideration declared by the assessee is less)
Detail study shall be made in respective sections, later in this chapter. Further, aforesaid list is not exhaustive.		

2.4.12 Treatment of Advance money received and forfeited [Sec. 51]

W.e.f. A.Y. 2015-16*, any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset shall be taxable as 'Income from Other Sources', if,—

(a) such sum is forfeited; and

(b) the negotiations do not result in transfer of such capital asset [Sec. 56(2)(ix)]

Taxpoint: Where any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset, has been included in the total income of the assessee for any previous year as per sec. 56(2)(ix), then, such sum shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.

2.4.13 Treatment of compensation paid by the transferor

If transferor commits default and transferee receives any compensation (apart from refund of advance money), then compensation received by the transferee shall be treated as sale consideration against transfer of (relinquishment of) purchasing right and charged to capital gain.

Taxpoint: Treatment of compensation paid by the transferor shall be as under –

Nature of asset transferred	Right to purchase
Nature of transfer	Relinquishment
Cost of acquisition	Nil
Sale consideration	Amount of compensation

* Where any capital asset has previously undergone negotiation for its transfer, any advance or other money received and retained by the assessee (not by the previous owner) on or before 31-03-2014 in respect of such negotiation shall be deducted from the cost for which the asset was acquired or the WDV or the fair market value, as the case may be.

Computation of capital gain in certain cases

2.4.14 Capital gain in case of insurance claim [Sec. 45(1A)]

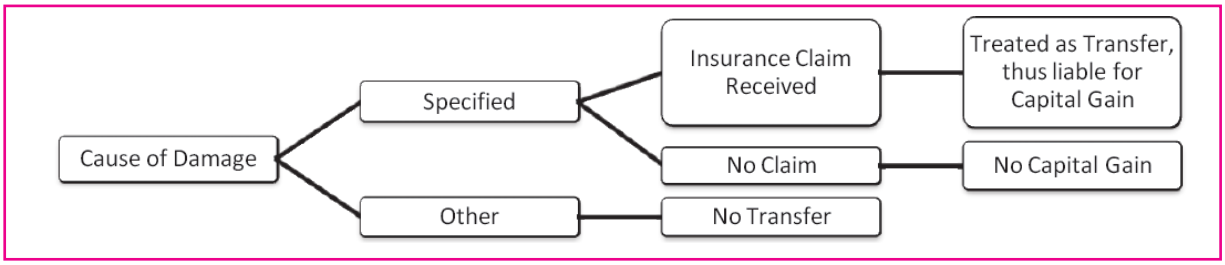
As per the Supreme Court in CIT vs Vania Silk Mills (P) Ltd., any compensation received as insurance claim for loss of capital assets shall not be taxable. However, w.e.f. A.Y. 2000-2001, sec. 45(1A) has been inserted, which nullify the impact of the above case law (to some extent).

As per provision of this section, any compensation received from an insurance company for the specified damages[#] is treated as transfer. Such transfers are liable to capital gain in the year of receipt of compensation.

 # Specified damages

Damages caused due to –

- Flood, typhoon, hurricane, cyclone, earthquake or other natural calamities; or
- Riot or civil disturbance; or
- Accidental fire or explosion; or
- Action by an enemy and an action taken in combating an enemy (whether with or without a declaration of war)



For computation of capital gain, various terms to be interpreted as under:

Sale consideration	If compensation received is in cash	Compensation so received
	If compensation received is in kind	Fair Market value (as on date of receipt) of assets received as compensation.
Cost of acquisition / Cost of improvement / Expense on transfer	As usual	
Indexation benefit available (if any)	Till the year of destruction [available only in 2 specified situ-ations, as discussed above]	
Taxable	In the year of receipt of compensation	
Tax rate	As applicable in the year of receipt of compensation	

Note: Compensation received for damage of machinery shall be treated u/s 41(1) to the extent expenditure incurred on repair and renovation of damaged machinery and such repair and renovation expenditure shall be allowed u/s 31. However, compensation in excess of repair & renovation expenditure shall be treated as capital receipt and shall not be liable to tax. Sec. 45(1A) shall not be applicable as there is no transfer of capital asset.

Compensation received for any other damages to capital asset: Compensation received for any other damages of capital asset (e.g. loss of capital assets due to theft, road accident or sunk of ship due to technical error, etc.) shall be treated as a capital receipt and shall not be taxable.

Compensation received for any damages to non-capital asset: A revenue receipt may be chargeable u/s 28 or 56. E.g. compensation received on theft of stock in trade shall be taxable as business income.

Destruction of asset without insurance: Where an asset is destroyed and there is no insurance or insurance compensation is not received, neither sec. 45(1A) nor sec. 45 shall be attracted and destruction of asset shall not be treated as transfer. Cost of such asset destroyed is not an allowable loss under the Income Tax Act.

Example: Mr. X acquired a residential building for self occupation on 5/5/2022 for ₹ 90 lacs. On 7/4/2024, the property caught fire. No insurance was made. Such loss of ₹ 90 lacs is not an allowable loss under the Income tax Act.

Illustration 96:

Lucky has a house property acquired on 18/08/2009 for ₹ 6,00,000. He used the house for his own residential purpose. On 18/08/2012 he incurred capital expenditure on re-construction of house ₹ 3,00,000. On 15/05/2024, he brought office goods (inflammable) worth ₹ 1,00,000 at home to be delivered to a party staying near to his home. At the night of that day accidental fire took place and damaged the whole house property, furniture worth ₹ 5,00,000 and business stock.

Insurance claim received on 18/08/2024 –

1. for the house ₹ 1,00,000 in cash & a new house allotted to him (fair market value of which is ₹ 44,00,000 on 18/08/2024);
2. for house-hold furniture ₹ 2,00,000; and
3. for stock ₹ 80,000.

State –

– Tax-treatment under the head Capital gains.

– How shall your answer differ if such compensation is received by the assessee on 15/04/2025.

Solution :

As the damage occurred due to accidental fire, such case is governed by the provision of sec. 45(1A)

Computation of capital gain in the hands of Lucky for the A.Y. 2025-26

Particulars	Workings	Details	Amount
Sale consideration of house	₹ 1,00,000 + ₹ 44,00,000		45,00,000
Less: Expenses on transfer			Nil
Net sale consideration			45,00,000
Less: i) Indexed cost of acquisition	₹ 6,00,000 * 363/148	14,71,622	
ii) Indexed cost of improvement	₹ 3,00,000 * 363/200	5,44,500	20,16,122
Long Term Capital Gain			**24,83,878**
For Furniture: No capital gain liability arises as furniture is a personal asset of the assessee and hence not a capital asset. Compensation received on loss of furniture shall be treated as capital receipt and hence not liable to tax.			
For Stock: Compensation received on loss of stock shall be liable to tax u/s 28. In the given case, loss of ₹ 20,000 (₹ 1,00,000 – ₹ 80,000) shall be allowed under the head "Profits & gains of business or profession"			

In case such compensation is received on 15/04/2025 then the capital gain of ₹ 24,83,878 as computed above shall be taxable in the Assessment year 2026-27.

In this case, the transfer has taken place before 23-07-2024, hence index benefit is available.

2.4.15 Capital gain on ULIP [Sec. 45(1B)]

Situation

Any person receives at any time during any previous year any amount under a unit linked insurance policy, to which exemption u/s 10(10D) does not apply on account of the applicability of the fourth and fifth provisos thereof (i.e. excess premium paid then prescribed limit), including the amount allocated by way of bonus on such policy

Treatment

Any profits or gains arising from receipt of such amount by such person shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the previous year in which such amount was received and the income taxable shall be calculated in such manner as may be prescribed.

2.4.16 Capital gain on conversion of capital assets into stock in trade [Sec. 45(2)]

For computation of capital gain, various terms to be interpreted are as under:

Sale consideration	Fair Market value as on date of such conversion.
Cost of acquisition/Cost of improvement/ Expenditure on transfer	As usual
Indexation benefit available (if any)	Till year of conversion [available only in 2 specified situations, as discussed above]
Taxable	In the year in which such stock is actually sold
Tax rate	As applicable in the year of actual sale of such stock
Treatment of difference of actual sale value and Fair market value as on date of conversion	[Actual sale value – FMV as on date of conversion – Expenditure on transfer] shall be treated as business Income.

Illustration 97:

Ali has 10,000 shares of X (P) Ltd. acquired on 15/05/2000 for ₹ 12 each. On 1/05/2007, he converted 2,000 of such shares into stock in trade. On such date, the market value of the share was ₹ 30 each. On 17/02/2025, he sold all shares for ₹ 225 each. Brokerage incurred 2%. State tax treatment. Fair market value of such shares as on 01-04-2001 was ₹ 16/-

Solution :

In the given case, shares held by Ali can be divided into two categories –

Category A: 2,000 shares being converted into stock in trade as on 1/05/2007: As per sec. 45(2), such conversion shall be deemed to be transfer u/s 2(47) and shall be liable to tax in the year of actual sale. For this purpose, fair market value as on the date of conversion (₹ 30 each) shall be treated as sale consideration and fair market value on 01-04-2001 shall be considered as cost of acquisition. The difference between actual sale value (₹ 225) and fair market value as on the date of conversion (₹ 30 each) shall be treated as busi-ness income.

Category B: 8,000 shares (remaining) held as investments: Transfer of such share shall be liable to capital gain. Com-putation of capital gain in the hands of Ali for the A.Y. 2025-26.

Particulars	Category A		Category B	
	Details	Amount	Details	Amount
Sale consideration	2,000 × ₹ 30	60,000	8,000 × ₹ 225	18,00,000
Less: Expenses on transfer		Nil	2% of ₹ 18,00,000	36,000
Net Sale Consideration		60,000		17,64,000

Less: i) Indexed cost of acquisition	2,000×16×129/100	41,280		
Cost of acquisition			8000 × 16	1,28,000
ii) Indexed cost of improvement		Nil		Nil
Long Term Capital Gain		**18,720**		**16,36,000**

Computation of Profits & gains of business or profession in the hands of Ali for the A.Y. 2025-26

Particulars	Category A	
	Details	Amount
Sale consideration	2,000 × ₹ 225	4,50,000
Less: Expenses on transfer	2% of ₹ 4,50,000	9,000
Net Sale Consideration		4,41,000
Less: Cost of goods sold	₹ 30[1] × 2,000	60,000
Profits & gains of business or profession		**3,81,000**

1. Fair market value of share on conversion of such asset into stock in trade.

2.4.17 Computation of Capital gain in case of depreciable assets [Sec. 50]

Meaning	The capital asset which forms a part of a block of assets* in respect of which depreciation has been allowed u/s 32(1)(ii) as per WDV method.
	E.g. a residential house property being not used for business purpose, on which no depreciation is allowed under Income tax Act shall be treated as a non-depreciable asset. Whereas if the same house is used for the residence of employee of the business and depreciation has been claimed under I.T. Act then it shall be treated as depreciable asset.
Nature of Capital gain	Capital gain arising on transfer of depreciable asset shall always be a short-term capital gain.
Benefit of indexation	Indexation benefit cannot be claimed on such asset.
Computation	For computation of capital gain on transfer of such asset, refer Depreciation (u/s 32) of the chapter "Profits & gains of business or profession"
Note: Depreciable asset itself may be a long-term capital asset or short-term capital asset depending upon the period of holding (whether held for more than 36 months or not), however, gain on transfer of afore-said depreciable asset shall always be short-term capital gain.	

2.4.18 Transfer of security by depository [Sec. 45(2A)]

An assessee may have security in form of a physical script or in dematerialized form. The securities held in dematerialized form shall be dealt as per sec. 45(2A) and for computation of capital gain, various terms to be interpreted are as under:

Cost of acquisition	Cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first-out method (FIFO)#.
Period of holding	
Sale consideration	As usual [Index benefit is available only in case where transfer has taken place be-fore 23-07-2024]
Benefit of indexation	
Expenditure on transfer	

* Block of asset does not include goodwill of business or profession

[#] In this connection, CBDT vide Circular No. 768, dated 24/6/1998 has clarified that:

- In case of assessee who has securities partly in physical form and partly in dematerialized form, FIFO method will be applied only in respect of the dematerialized holding. This is because in case of sale of dematerialized securities, the securities held in physical form are not considered as they continue to remain in the possession of the investor and are identifiable separately.
- An assessee may have more than one account in case of depository system and in such case FIFO technique shall be applied for each account separately.
- For deciding FIFO technique the date of entry in 'De-Mat Account' is significant and the date of purchase of security is irrelevant.

2.4.19 Capital gain on transfer of capital assets by a partner/member to Firm/AOP/BOI as capital contribution [Sec. 45(3)]

Where a partner or member (whether existing or new) transfers any of its capital assets to firm, AOP or BOI of which he is a member by way of capital contribution, the same shall be treated as transfer. Tax treatment of such transfer shall be as under:

Sale consideration	The amount recorded in books of account of the firm/AOP/BOI, as value of such assets.
Cost of acquisition/Cost of improvement/Expenditure on transfer	As usual
Taxable	In the year of such transfer
Indexation benefit	As usual

Note: Fair market value of such asset is irrelevant to decide sale consideration.

Illustration 98:

ABC & Co. has three partners A, B and C sharing profit or loss in the ratio 5:3:2. They admitted D as a new partner on 31/03/2024 for 1/5th share and D is to bring ₹ 2,00,000 as his capital which he brought in form of furniture (earlier used in his home) ₹ 50,000 immediately & further brought jewellery of which fair market value is ₹ 2,00,000 on 2/08/2024 (however such assets was recorded in the books at ₹ 1,80,000). D had acquired such jewellery for ₹ 45,000 on 7/07/2001. Compute capital gain in the hands of Mr. D.

Solution :

In the given case, Mr. D brought two assets:

a. Furniture, being a personal effect, is not a capital asset and hence, not liable to capital gain.

b. Jewellery being a capital asset, hence liable to capital gain as under –

Computation of capital gain in the hands of Mr. D for the A.Y. 2025-26

Particulars	Details	Amount
Sale consideration		1,80,000
Less: Expenses on transfer		Nil
Net sale consideration		1,80,000
Less: i) Cost of acquisition	45,000	
ii) Cost of improvement	Nil	45,000
Long Term Capital Gain		**1,35,000**
Sale consideration shall be the amount recorded in books of account of the firm and market value of such asset is irrelevant.		

2.4.20 Capital gain on transfer of capital assets by a firm/AOP/BOI to partner/member by way of distribution on its dissolution [Sec. 45(4) r.w.s 9B]

Situation

Where a specified person receives during the previous year any money or capital asset or both from a specified entity in connection with the reconstitution of such specified entity,

- "Specified entity" means a firm or other association of persons or body of individuals (not being a company or a co-operative society);
- "Specified person" means a person, who is a partner of a firm or member of other association of persons or body of individuals (not being a company or a co-operative society) in any previous year.
- "Reconstitution of the specified entity" means, where—
  a. one or more of its partners or members, as the case may be, of such specified entity ceases to be partners or members; or
  b. one or more new partners or members, as the case may be, are admitted in such specified entity in such circumstances that one or more of the persons who were partners or members, as the case may be, of the specified entity, before the change, continue as partner or partners or member or members after the change; or
  c. all the partners or members, as the case may be, of such specified entity continue with a change in their respective share or in the shares of some of them;

Treatment

In the hands of specified entity u/s 9B

Any profits and gains arising from such deemed transfer of capital asset or stock in trade or both, as the case may be, by the specified entity shall be:

- deemed to be the income of such specified entity of the previous year in which such capital asset or stock in trade or both were received by the specified person; and
- chargeable to income-tax as income of such specified entity under the head "Profits and gains of business or profession" or under the head "Capital gains"
- for aforesaid purposes, fair market value of the capital asset or stock in trade or both on the date of its receipt by the specified person shall be deemed to be the full value of the consideration received or accruing as a result of such deemed transfer of the capital asset or stock in trade or both by the specified entity.

In the hands of specified entity u/s 45(4)

Any profits or gains arising from such receipt by the specified person shall be chargeable as income of such specified entity under the head "Capital gains".

- It shall be deemed to be the income of such specified entity of the previous year in which such money or capital asset or both were received by the specified person.
- Transfer of stock in trade shall be treated as business profit

Method of computation of profits or gains

Such profits or gains shall be determined in accordance with the following formula:

$$A = B + C - D$$

where,

A = Income chargeable as capital gains of the specified entity

- If the value of "A" is negative, its value shall be deemed to be zero.

B = Value of any money received by the specified person from the specified entity on the date of such receipt;

C = Fair market value of the capital asset received by the specified person from the specified entity on the date of such receipt.

D = Balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution.

- The balance is to be calculated without taking into account the increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset.
- "Self-generated goodwill" and "Self-generated asset" mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

Taxpoint

- When a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity, this provision shall operate in addition to the provisions of sec. 9B and the taxation under the said provisions thereof shall be worked out independently.

2.4.21 Capital gain on transfer by way of compulsory acquisition [Sec. 45(5)]

Sec. 45(5) is applicable on the following cases –

- When the transfer of a capital asset (other than urban agro-land) is by way of compulsory acquisition under any law; or
- When a capital asset is transferred and the consideration of transfer is to be determined or approved by the Central Government (not by a State Government) or the Reserve Bank of India.

Tax treatment of initial compensation received [Sec. 45(5)(a)]

Sale consideration	Total compensation or consideration received or receivable
Cost of acquisition / Cost of improvement	As usual
Expenditure on transfer	Legal expenditure incurred to recover claim shall be allowed as deduction.
Taxable	In the year when such compensation / consideration (or part thereof) is *first* received.
Indexation benefit available	Till the year of compulsory acquisition [available only in 2 specified situations, as discussed above]

Tax treatment of enhanced compensation [Sec. 45(5)(b)]

Where the assessee has received enhanced compensation, then such enhanced compensation shall be taxable under this section as under:

Sale consideration	Total enhanced compensation or consideration received [See Note]. **Taxpoint**: Such compensation shall be taxable in the year of receipt only. If a part installment received then only part amount shall be taxable and not the entire amount.

Expenditure on transfer	As usual Litigation expenses for getting the enhanced compensation are deductible as expenses on transfer sec. 45(5)(b).
Cost of acquisition/Cost of improvement	Nil
Taxable	In the year when such enhanced compensation or consideration is received.
Nature of gain on enhanced compensation (whether STCG or LTCG)	As in case of initial compensation or consideration.
Interest on enhanced compensation (if any)	Taxable as 'Income from other sources'

Note:

- Any amount of compensation received in pursuance of an interim order of a court, Tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the previous year in which the final order of such court, Tribunal or other authority is made.
- Where by reason of the death of the person who made the transfer, or for any other reason, the enhanced compensation or consideration is received by any other person, the gain so computed in case of enhanced compensation or consideration shall be deemed to be the capital gain, of such other person.

Tax treatment of reduced compensation [Sec. 45(5)(c)]

Where in any assessment year, such compensation or consideration (whether original or enhanced) referred above is reduced by any court, tribunal or other authority, then capital gain of that year shall be recomputed considering the compensation or consideration so reduced by such court, Tribunal or other authority.

Illustration 99:

Sunil has a house property acquired on 7/07/1995 for ₹ 3,00,000. He incurred improvement expenditure on such property ₹ 70,000 on 16/08/2000 and ₹ 50,000 on 17/07/2010. Market value of such property as on 1/04/2001 is ₹ 4,50,000. On 16/08/2020, such property is compulsorily acquired by the Government and compensation decided at ₹ 21,50,000. 20% of the compensation received on 31/03/2025 and bal-ance on 2/06/2025.

On further appeal, on 16/08/2025 enhanced compensation is declared by the Government ₹ 2,00,000. Expenditure incurred to get enhanced compensation is ₹ 11,000. Such compensation is received on 18/08/2026. Compute income under the head Capital Gains of Sunil for the assessment year 2025-26, 2026-27 and 2027-28.

Solution :

Computation of capital gains of Sunil for the A.Y. 2025-26

Particulars	Working	Details	Amount
Sale consideration			21,50,000[1]
Less: Expenses on transfer			Nil
Net sale consideration			21,50,000
Less: i) Indexed cost of acquisition	₹ 4,50,000[2] × 301[4]/100	13,54,500	
ii) Indexed cost of improvement[3]	₹ 50,000 × 301[4]/167	90,120	14,44,620
Long Term Capital Gain			**7,05,380**

1. The initial compensation (i.e. ₹ 11,50,000) decided by the Government shall be treated as sale consideration.
2. Cost of acquisition is the original cost of acquisition (i.e. ₹ 3,00,000) or Fair market value as on 1/04/2001 (i.e. ₹ 4,50,000) whichever is higher.
3. Cost of improvement incurred before 1/04/2001 is to be completely ignored.
4. Though the property was compulsorily acquired by the Government in the P.Y 2020-21 but the compensation was received in the P.Y.2024-25, therefore the amount shall be taxable in the P.Y. 2024-25, however indexation benefit shall be available till the previous year 2020-21 as transfer has taken place before 23-07-2024.

Computation of capital gains of Mr. Sunil for the A.Y. 2026-27: As the assessee has not received en-hanced compensation during the P.Y.2025-26, hence nothing shall be taxable in the A.Y. 2026-27.

Computation of capital gains of Mr. Sunil for the A.Y. 2027-28

Particulars	Working	Details	Amount
Sale Consideration	Enhanced Compensation		2,00,000
Less: Expenses on transfer			11,000
Net Sale Consideration			1,89,000
Less: i) Indexed cost of acquisition		Nil	
ii) Indexed cost of improvement		Nil	Nil
Long Term Capital Gain			**1,89,000**

In case of enhanced compensation, the cost of acquisition shall be taken as nil and the nature of capital gain shall be same as that of initial compensation.

Exemption in case of certain compulsory acquisition [Sec. 10(37)]

Applicable to: An individual or an HUF

Conditions

1. Assessee has transferred urban agricultural land (being a capital asset).
2. Such land was used for agricultural purposes by such HUF or individual or his parents during the period of 2 years immediately preceding the date of transfer.
3. Such land is transferred –
   - by way of compulsory acquisition under any law, or
   - for a consideration to be determined or approved by the Central Government or the RBI.
4. The compensation or consideration for such transfer is received by such assessee on or after 1/04/04.

Treatment: Income on such transfer shall be exempted.

Exemption in case of transfer under Land Pooling Scheme [Sec. 10(37A)]

Applicable to: An individual or an HUF

Conditions

1. Assessee is the owner of asset being land or building or both on 02-06-2014
2. Such asset is transferred under the Land Pooling Scheme covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 made under the provisions of the Andhra Pradesh Capital Region Development Authority Act, 2014

Treatment: In that case, capital gain on the following transfer shall be exempted:

a. Transfer of land or building or both under the scheme;
b. Transfer of land pooling ownership certificate issued under the scheme to the assessee in respect of transfer referred in (a);

c. Transfer of reconstituted plot or land received by the assessee against transfer mentioned in (a) within 2 years from the end of the financial year in which the possession of such plot or land was handed over to him.

Taxpoint: Where such reconstituted plot or land is not transferred within said 2 years, the cost of acquisition of such capital asset shall be deemed to be its stamp duty value as on the last day of the 2nd financial year after the end of the financial year in which the possession of the said capital asset was handed over to the assessee.

2.4.22 Capital gain on Joint Development Agreement [Sec. 45(5A)]

Situation

- The assessee is an individual or a HUF
- Such assessee transfer capital asset being land or building or both under a specified agreement to another person
  - Specified agreement means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash

Treatment

Sale consideration	Stamp duty value on the date of issue of completion certificate of his share being land or building or both in the project + The consideration received in cash, if any.
Cost of acquisition	Proportionate cost of the asset transferred
Benefit of indexation	Available upto the year in which the completion certificate is issued [available only in 2 specified situations, as discussed above]
Taxable	In the year in which completion certificate for the whole or part of the project is issued by the competent authority

Taxpoint

- The cost of acquisition of capital asset, being share in the project, in the form of land or building or both, (covered under aforesaid provisions), shall be the amount which is deemed as full value of consideration while computing capital gain u/s 45(5A).
- Competent authority means the authority empowered to approve the building plan by or under any law for the time being in force.
- Where the assessee transfers his share in the project on or before the date of completion certificate, in that case, aforesaid provision is not applicable and the capital gains shall be taxable in the previous year in which such transfer takes place. Further, capital gain shall be computed as per other provisions.

2.4.23 Capital gain on distribution of assets by companies in its liquidation [Sec. 46]

On liquidation of a company, after payment of all its outside liabilities, remaining assets are disposed off in any of the following two manners:

1. Remaining assets are sold in the market and sale proceeds are distributed among shareholders.
2. Remaining assets themselves are distributed among shareholders.

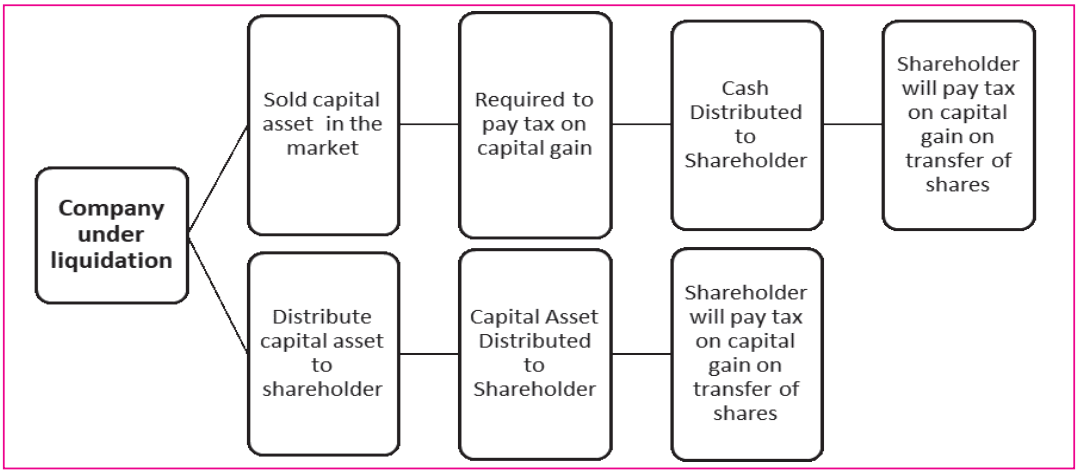
Above transaction shall be treated as under for computation of capital gain.

Tax Treatment in the hands of Company [Sec. 46(1)]

At the time of liquidation of company, any transfer by way of distribution of assets among its shareholder is not treated as transfer for the purpose of capital gain. Hence, in case 2 when assets are directly distributed among shareholders, nothing shall be charged to tax under the head 'Capital gains'.

On the other hand, in case 1, when assets are sold in the market (thereafter sale proceeds is distributed among shareholders), then such sale of assets by the company in the market shall be treated as transfer and chargeable under the head 'Capital gains' as under:

Sale consideration	As usual
Cost of acquisition/improvement/Expense on transfer	As usual
Taxable	In the year when such assets are sold.
When the company does not distribute the assets directly to shareholders but sells it in market (referred as 1st transfer) & distributes the proceeds among shareholders then, though such 1st transfer shall be liable to capital gain, but distribution of proceeds among shareholder shall not be liable to capital gain.	



Tax treatment in the hands of the shareholders [Sec. 46(2)]

When a shareholder receives money or other assets at the time of liquidation of the company then such receipts [excluding the amount of dividend u/s 2(22)(c)] shall be liable to capital gain as under –

Sale consideration	Total amount (or market value of assets) received on Liquidation by the shareholder	****
	Less: Amount of deemed dividend u/s 2(22)(c)	(****)
	Sale consideration	****
	Deemed dividend [Sec. 2(22)(c)]: Any distribution of assets by a company, at the time of liquidation, is treated as deemed dividend to the extent of accumulated profit at the time of liquidation of company.	
Cost of acquisition/Cost of improvement	As usual	

Notes

a. When distribution is made by liquidator, and the amount of distribution is less than the total amount of

Shareholders' Fund, the distribution is deemed to take place in proportion of share capital and accumulated profit as appears immediately before the distribution in the books of account of the company. [Refer Dividend in chapter "Income from other sources"]

b. **Payment in installments by the liquidator to shareholders:** In case payment is received by the shareholder in installments then the cost of acquisition shall be deducted from the earlier installment(s). Once the cost of acquisition is absorbed by the earlier installment then subsequent installment (less expenditure on transfer) shall be fully taxable.

c. The distributed asset may not be a capital asset, still provision of sec. 46(2) shall be attracted. E.g. if on liquidation, company distributed its rural agricultural land (not being a capital asset) to its shareholder. Such shareholder shall be liable to capital gain, as the transferred asset (on the part of shareholder) is share in the company

Illustration 100 :

Balance sheet of Purva India (P) Ltd. as on 31/12/2024

Liabilities	Amount	Assets	Amount
Equity Share capital of ₹ 10 each	8,00,000	Land	6,00,000
Preference Share capital	1,00,000	Building (WDV as per IT Act)	3,00,000
Reserves	2,00,000	Machinery (WDV as per IT Act)	4,00,000
Loan	6,00,000	Current Asset	10,00,000
Creditors	6,00,000		
	23,00,000		23,00,000

Additional information

Company went into liquidation on the balance sheet date and all current assets and building realized at book value. The realized money was applied in payment of outside liabilities and preference shareholder. Utkarsh is a holder of 10% equity share and 20% preference share of the company. Equity shares were originally acquired by him on 16/08/2002 at face value. However, he subscribed to preference share on 1-04-2024, which was issued at par. He received a part of land (MV ₹ 5,00,000) and cash (for preference share) ₹ 20,000. Compute capital gain in hands of company & Utkarsh.

Solution :

Computation of capital gain for the A.Y. 2025-26 in the hands of Purva India (P) Ltd

As per sec. 46(1), at the time of liquidation of company, any transfer by way of distribution of assets to its shareholders is not treated as transfer for the purpose of capital gain. However, if any asset is sold in the market the same shall be liable to capital gain.

In the given case, only one capital asset is sold i.e. building and the same being sold at book value, hence no capital gain liability arises in the hands of company.

Computation of capital gain for the A.Y.2025-26 in the hands of Utkarsh

Particulars	Working	Details	Amount
In case of equity share			
Sale consideration			4,80,000[1]
Less: Expenses on transfer			Nil
Net Sale Consideration			4,80,000
Less: i) Cost of acquisition	(10% of ₹ 8,00,000)	80,000	
ii) Cost of improvement		Nil	80,000
Long Term Capital Gain			4,00,000

Particulars	Working	Details	Amount
In case of Preference share			
Sale consideration			20,000
Less: Expenses on transfer			Nil
Net Sale Consideration			20,000
Less: i) Cost of acquisition	20% of ₹ 1,00,000	20,000	
ii) Cost of improvement		Nil	20,000
Short Term Capital Gain			Nil
[1] Market value of land received			₹ 5,00,000
Less: Dividend u/s 2(22)(c) being 10% of accumulated profit (10% of ₹ 2,00,000)			₹ 20,000
Sale consideration			₹ 4,80,000

2.4.24 Capital Gain on buy back of own securities [Sec. 46A]

Buy back of specified securities (other than shares) is a transfer for its holder and shall be treated as under:

Sale consideration	W.e.f. 01-10-2024, it is deemed to be nil
Cost of acquisition/Cost of improvement	As usual
Taxable	In the year when such securities are purchased by the company.

Taxpoint:

- W.e.f. 01-10-2024, money received by a shareholder on account of the buyback of shares shall be treated as dividend income in the hands of the shareholder and taxable under the head "Income from Other Sources". However, the company is required to deduct TDS u/s 194.
- Now, the assessee may have nil or negative income under the head Capital Gains on buy back of shares. Such loss can be adjusted with capital gain and unabsorbed capital loss shall be carry forward u/s 74
- Prior to 01-10-2024, domestic company (listed or unlisted) itself is liable to pay additional tax @ 20% (+SC + Cess) u/s 115QA. However, in the hands of shareholder, the receipt was exempt.

2.4.25 Transfer in case of total or partial partition of HUF [Sec 47(i) & 49(1)]

As per sec. 47(i), any distribution of capital assets *in kind* by HUF on its total or partial partition is not treated as transfer u/s 47(i). However, when such assets is further transferred by its member then tax treatment shall be as under:

Sale consideration	As usual
Cost of acquisition	Cost of assets in the hands of HUF
Index benefit on cost of acquisition shall be applicable from	When HUF holds such assets [available only in 2 specified situations, as discussed above]
Index benefit on cost of improvement shall be applicable from	When the actual improvement expenditure was incurred. [available only in 2 specified situations, as discussed above]
Determination of the nature of asset	For determination of LTCA or STCA, period of holding of the HUF shall be considered.

2.4.26 Capital gain on conversion of debentures into shares [Sec. 49(2A)]

Conversion of debentures (including debenture stock and deposit certificate) into shares or debentures are not treated as a transfer.

Tax impact on sale of such converted shares shall be as under:

Cost of acquisition of new asset	Cost of old asset (convertible debentures) shall be taken as cost of acquisition of new asset (converted share).
Holding Period	Starts from the date of acquisition of such debenture [Rule 8AA]
Indexation benefit	Benefit of indexation shall be available from the date of allotment of new asset (converted share) [Available only if transfer takes place before 23-07-2024]
Note: Indexation benefit is not applicable in case of debenture	

2.4.27 Zero Coupon Bond

As per Sec. 2(48) "Zero Coupon Bond" means a bond—

- issued by any infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank;
- in respect of which no payment and benefit is received or receivable before maturity or redemption from the issuer; and
- which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Determination of nature of asset: A Zero Coupon Bond shall be treated as Long term capital asset if it is held by the transferor for more than 12 months.

Treatment: Redemption or maturity or sale of such bond shall be treated as transfer.

Taxpoint:

Tax impact on sale or redemption or maturity of Zero coupon Bond shall be as under:

Sale consideration	Redemption price, Maturity value or sale proceeds as the case may be.
Cost of acquisition of new asset	As usual
Determination of nature of asset	Long term capital asset if held for more than 12 months.
Indexation benefit	Benefit of indexation shall not be available.

Notes:

1. **Tax rate:** Long term capital gain on such bond shall be taxed at 10% without indexation.
2. **Tax treatment in hands of issuing company:** Discount (i.e. the difference between the amount receivable by the issuing company and the amount payable by such company on maturity or redemption of such bond) shall be allowed as deduction u/s 36(1)(iiia) on pro rata basis during the life of the bond.

2.4.28 Employee Stock Option Plan (ESOP) [Sec. 49(2AA)]

When shares or securities are issued (directly or indirectly) by employer-company to its employees, then tax treatment shall be as under:

If such shares are issued in any previous year (upto P.Y. 2008-09 but other than P.Y. 1999-00)	
Tax treatment under the head 'Salaries'	Nothing shall be taxable as perquisite.

Tax treatment under the head 'Capital Gains' when such assets are sold by employee	Sale consideration	As usual
	Cost of acquisition	**If shares are allotted before 1/4/2007** Actual cost of acquisition i.e. price at which such shares are issued to employee. **If shares are allotted on or after 1/4/2007 but before 1/4/2009** Value of such shares on the date on which the option vests with the employee (i.e., Value which has been taken while computing value of Fringe Benefit).
Tax treatment under the head 'Capital Gains' when such assets are transferred by the employee by way of gift or under an irrevo-cable trust. [Such gift or transfer is not exempted] – fourth proviso to sec. 48	Sale consideration	Market value of the asset as on date of such transfer by way of gift, etc.
	Cost of acquisition	**If shares are allotted before 1/4/2007** Actual cost of acquisition i.e. price at which such shares are issued to employee. **If shares are allotted on or after 1/4/2007 but before 1/4/2009** Value of such shares on the date on which the option vests with the employee (i.e., Value which has been taken while computing value of Fringe Benefit).

If such shares were issued in previous year 1999-00 or on or after 01-04-2009

Tax treatment under the head 'Salaries'	Difference between the fair market value of shares as on the date of exercise of option and cost at which it is offered to employee, is treated as taxable perquisite.	
Tax treatment under the head 'Capital Gains' when such assets are sold by employee	Sale consideration	As usual
	Cost of acquisition	Fair market value on the date of exercise of option (as considered for calculating above perquisite)
Tax treatment under the head 'Capital Gains' when such assets are transferred by the employee by way of gift or under an irrevo-cable trust [Such gift or transfer is not exempted] – fourth proviso to sec. 48	Sale consideration	Market value of the asset as on date of such transfer by way of gift, etc.
	Cost of acquisition	Fair market value on the date of exercise of option (as considered for calculating above perquisite)

Illustration 101:

T Ltd. grants option to its employee Rajat on 1st April, 2020 to apply for 100 shares of the company for making available right in the intellectual property to the employer-company at a pre-determined price of ₹ 150 per share with date of vesting of the option being 1st April, 2022 and exercise period being 1st April, 2022 to 31st March, 2025. Mr. Rajat exercises his option on 31st May, 2024 and shares are allot-ted/transferred to him on 13th June, 2024. Fair market value of such share on different dates are as under:

01-04-2020	01-04-2022	31-05-2024	13-06-2024
₹ 470	₹ 890	₹ 1,250	₹ 1,470

On 31-12-2024, Mr. Rajat gifted 25 shares to his brother and sold balance shares at market value of ₹ 2,180 per share. Compute taxable value of perquisite, if any, and capital gain in hands of Mr. Rajat for A.Y. 2025-26.

Solution

Computation of taxable value of perquisite for A.Y. 2025-26

Particulars	Amount
The fair market value of the such shares on the date on which the option is exercised [₹ 1,250 * 100 shares]	1,25,000
Less: The amount actually paid by assessee in respect of such shares [₹ 150 * 100 shares]	15,000
Value of perquisite	1,10,000

Computation of Capital Gain

Computation of capital gain in the hands of Mr. Rajat for the A.Y. 2025-26

Particulars	Working	Details	Amount
Full Value of Consideration	₹ 2,180 * 100[$]		2,18,000
Less: Expenses on transfer			Nil
Net Sale Consideration			2,18,000
Less: i) Cost of acquisition	₹ 1,250 * 100[$]	1,25,000	
ii) Cost of improvement		Nil	1,25,000
Short term Capital gain			**93,000**

[$] Even gift of shares received through ESOP shall be considered as transfer.

2.4.29 Capital gains in case of Market Linked Debentures [Sec. 50AA]

Where capital asset being -

- Unit of a Specified Mutual Fund acquired on or after 01-04-2023; or
- Unit of a Market Linked Debenture; or
- Unlisted bond or an unlisted debenture (which is transferred or redeemed or matures on or after 23-07-2024)
- is transferred, capital gain shall be computed as under:

Full value of consideration received or accruing on transfer or redemption or maturity of such debenture or unit or bond or debenture	xxx
Less: Expenses on Transfer (STT is not allowed)	xx
Net Consideration	xxx
Less: Cost of acquisition of the debenture or unit	xx
Short Term Capital Gain (irrespective of period of holding)	xxx

Taxpoint:

- No deduction shall be allowed in computing the "Capital gains" in respect of STT
- Such gain shall be taxable at regular rate.
- Market Linked Debenture means a security by whatever name called, which has an underlying princi-pal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices and include any security classified or regulated as a Market Linked Debenture by the SEBI

- Specified Mutual Fund means a Mutual Fund by whatever name called, where not more than 35% of its total proceeds is invested in the equity shares of domestic companies. The percentage of equity shareholding held in respect of the Specified Mutual Fund shall be computed with reference to the annual average of the daily closing figures.

  W.e.f. A.Y. 2026-27, specified mutual fund means,—

  (a) a Mutual Fund by whatever name called, which invests more than 65% (on annual average of the daily closing figures basis) of its total proceeds in debt and money market instruments; or

  (b) a fund which invests 65% (on annual average of the daily closing figures basis) or more of its total proceeds in units of the aforesaid fund

  Debt and money market instruments shall include any securities, by whatever name called, classified or regulated as debt and money market instruments by the SEBI.

2.4.30 Valuation of consideration in case of land or building or both [Sec. 50C]

Conditions

a. Capital asset being land or building or both is transferred.

b. Value adopted or assessed or assessable by the stamp valuation authority exceeds 110% of actual consideration.

Tax treatment

Full value of consideration shall be the value adopted or assessed or assessable[#] by any authority of a State Government (i.e. Stamp Valuation authority) for the purpose of payment of stamp duty.

[#] Assessable means the price which the stamp valuation authority would have adopted or assessed, if it were referred to such authority for the purposes of the payment of stamp duty.

Taxpoint: Where value adopted or assessed or assessable by the stamp valuation authority does not exceed 110% of actual consideration or where such value is less than actual consideration, then actual consideration shall be considered as full value of consideration.

Provision Illustrated

Mr. Raj has a self-occupied house property acquired 10 months ago for ₹ 5,00,000. He sold such property for ₹ 6,00,000 to Rajshree.

Case (a): Stamp duty authority for the purpose of levying stamp duty adopted value of ₹ 6,25,000.

Case (b): Stamp duty authority for the purpose of levying stamp duty adopted value of ₹ 6,75,000.

Compute capital gain on such transfer.

Solution

Computation of capital gain

Particulars	Case (a)	Case (b)
Sale consideration		
- Actual Consideration	6,00,000	6,00,000
- Value adopted for stamp duty	6,25,000	6,75,000
Value adopted for stamp duty (i.e. ₹ 6,25,000) does not exceed 110% of actual consideration (i.e., ₹ 6,60,000 being 110% of ₹ 6,00,000)	6,00,000	
Value adopted for stamp duty (i.e. ₹ 6,75,000) exceeds 110% of actual consideration (i.e., ₹ 6,60,000 being 110% of ₹ 6,00,000)		6,75,000
Less: Cost of acquisition	5,00,000	5,00,000
Short Term Capital Gain	**1,00,000**	**1,75,000**

Reference to Valuation Officer

The Assessing Officer can refer the case to the Valuation Officer (as appointed under Wealth Tax Act) for the purpose of valuation of asset transferred if following conditions are satisfied:

- Assessee claims before any Assessing Officer that the value adopted or assessed or assessable by such authority (i.e. Stamp Valuation authority) exceeds the fair market value of the property as on the date of transfer; &
- The value so adopted or assessed or assessable by the stamp valuation authority has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court.

Consequences where the value is determined by the Valuation Officer

Case	Result
If the value determined by the Valuation Officer exceeds the value adopted or assessed or assessable for the purpose of stamp duty	Value adopted or assessed or assessable for the purpose of stamp duty shall be taken as full value of consideration.
If the value determined by the Valuation Officer does not exceed the value adopted or assessed or assessable for the purpose of stamp duty	Value determined by the Valuation Officer shall be taken as full value of consideration.

Taxpoint: Where the valuation is referred to the Valuation Officer, sale consideration of the asset shall be taken as minimum of the following –

- Value adopted or assessed or assessable for the purpose of stamp duty;
- Value determined by the Valuation Officer.

Difference in date of agreement and date of registration

Situation

Where:

a. the date of the agreement fixing the amount of consideration; and

b. the date of registration for the transfer of the capital asset

are not the same.

Condition

The amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through specified electronic modes, on or before the date of the agreement for transfer.

Treatment

the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer.

Revision of value of such asset: If the value adopted for stamp duty purposes is revised in any appeal, revision or reference, the assessment earlier made shall be amended to re-compute the capital gains by taking the revised value as sale consideration [Sec. 155]

Provision Illustrated

Mr. Rajesh has a self-occupied house property acquired on 15/11/2023 for ₹ 6,00,000. He sold such property for ₹ 5,00,000 to Jayshree as on 18/08/2024. Stamp duty authority for the purpose of levying stamp duty adopted value of ₹ 10,00,000.

Assessing Officer for computing capital gain on such transfer is taking sale consideration ₹ 10,00,000 u/s 50C. On request of Mr. Raj, the matter being referred to Valuation Officer and value determined by the Valuation Officer is ₹ 9,00,000. Compute capital gain on such transfer.

Solution

Computation of capital gains in the hands of Mr. Raj for the A.Y. 2025-26

Particulars	Details	Amount
Sale consideration		9,00,000
Less: Expenses on transfer		Nil
Net Sale Consideration		9,00,000
Less: Cost of acquisition	6,00,000	
Less: Cost of improvement	Nil	6,00,000
Short Term Capital Gain		3,00,000

Illustration 102:

Mr. A, who transfers land and building on 2-01-2025, furnishes the following information:

a. Net consideration received ₹ 10 lakhs;

b. Value adopted by stamp valuation authority, which was not contested by Mr. A ₹ 12 lakhs;

c. Value ascertained by Valuation Officer on reference by the Assessing Officer ₹ 13 lakhs;

d. This land was distributed to Mr. A on the partial partition of his HUF on 1-04-2001. Fair market value of the land as on 1-04-2001 was ₹ 1,00,000.

e. A residential building was constructed on the above land by Mr. A at a cost of ₹ 2,00,000 (construction completed on 1-12-2004) during the Financial Year 2004-05.

Compute capital gain.

Solution :

Where resident individual or resident HUF has transferred on or after 23-07-2024, a long-term capital asset being land, building or both being acquired before 23-07-2024, then, the assessee has the option to pay tax:

Option 1 – Pay tax @ 12.5% without considering index benefit

Option 2 – Pay tax @ 20% after considering index benefit.

Computation of capital gain of Mr. A for A.Y. 2025-26

Particulars	Option 1		Option 2	
	Amount	Amount	Amount	Amount
Sale Consideration (Higher of following)				
- Actual consideration	10,00,000		10,00,000	
- Value as per Valuation Officer (max. of value adopted for stamp valuation)	12,00,000	12,00,000	12,00,000	12,00,000
Less: Indexed / Cost of acquisition				
- Land [₹ 1,00,000 * 348/100]	1,00,000		3,48,000	
- Building [₹ 2,00,000 * 348/113]	2,00,000	3,00,000	6,15,929	9,63,929
Long term capital gain		**9,00,000**		**2,36,071**
Tax (before surcharge and cess) on above		**1,12,500**		**47,214**

Long term capital gain is ₹ 9,00,000 and tax on it shall be ₹ 47,214/-

2.4.31 Valuation of consideration in case of unquoted shares [Sec. 50CA]

Where capital asset, being share of a company other than a quoted share, is transferred for a consideration which is less than the fair market value of such share, the fair market value shall be deemed to be the full value of consideration.

"Quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.

The provision is not applicable to any consideration received or accruing as a result of transfer by prescribed class of persons.

2.4.32 Capital gain in the case of self-generated assets [Sec. 55(2)(a)]

Cost of acquisition and cost of improvement of following self-generated asset shall be treated as Nil:

Cost of Acquisition	Cost of Improvement
• Goodwill of a business or profession; or • Trademark or brand name associated with a business or profession or any other intangible asset; or • Right to manufacture, produce or process any article or thing; or • Right to carry on any business or profession, • Tenancy rights, • Stage carriage permits; and • Loom hours or any other right	• Goodwill or any other intangible asset of a business; or • Right to manufacture, produce or process any article or thing; or • Right to carry on any business or profession; or • Any other right.

However, where aforesaid capital assets are not self-generated, then cost of acquisition shall be deter-mined as under –

Case	Cost of acquisition
Acquisition of such asset by purchase	Purchase price
In the case falling u/s 49(1)(i) to (iv) and where such asset was acquired by the previous owner by purchase	Purchase price of such previous owner

Treatment of self-generated asset generated before 1/4/2001: If aforesaid assets are developed or pur-chased before 1/4/2001, the option of adopting fair market value shall not be applicable and even in such case the cost of acquisition shall be computed as per the above table.

Depreciable Asset: Where the capital asset, being goodwill of a business or profession, in respect of which a deduction on account of depreciation u/s 32(1) has been obtained by the assessee upto assess-ment year 2020-21, the cost of acquisition (being purchase price) shall be reduced by the depreciation obtained by the assessee.

Illustration 103

Liza transferred the following assets on 2-08-2023, determine capital gain for the A.Y. 2025-26

Particulars	Cost	FMV 1/04/2001	Sale value
Land acquired in 1976	25,000	1,00,000	30,00,000
Goodwill of business [Business commenced on 1-05-1995]	Nil	40,000	2,00,000
Tenancy right	Nil	30,000	3,00,000

Brokerage paid on transfer @ 2%

Solution

Computation of capital gains in the hands of Liza for the A.Y. 2025-26

Particulars	Workings	Land	Goodwill of business	Tenancy right
Sale consideration		30,00,000	2,00,000	3,00,000
Less: Expenses on transfer	2% of above	60,000	4,000	6,000
Net Sale Consideration		29,40,000	1,96,000	2,94,000
Less: Cost of acquisition		1,00,000	-	-
	As per sec. 55(2)(a)	-	Nil	Nil
Less: Cost of improvement		Nil	Nil	Nil
Long Term Capital Gain		**28,40,000**	**1,96,000**	**2,94,000**

2.4.33 Capital gain in case of bonus share [Sec. 55(2)(aa)(iiia)]

As per sec. 55(2)(aa)(iiia), the cost of acquisition of financial asset, being allotted on the basis of holding of any other financial asset to the assessee without any payment, shall be taken to be nil. Hence, cost of acquisition of bonus share shall be taken as *nil*. However, if such asset is acquired before 1/4/2001 then its cost of acquisition shall be taken as fair market value as on 1/4/2001.

Taxpoint: Tax treatment on transfer of bonus shares shall be as under:

Sale consideration	As usual	
Expenditure on transfer	As usual	
Period of holding	Starts from the date of allotment of such share	
Cost of acquisition	If bonus shares are allotted before 1/4/2001	Fair market value of such share as on 1/4/2001
	If bonus shares are allotted on or after 1/4/2001	Nil

Taxpoint: In case of listed shares cost is subject to fair market value as on 31-01-2018 (Detail discussion is made u/s 112A, later in this chapter)

Illustration 104:

Mr. Rocky purchased 1,000 shares of Azad (P) Ltd @ ₹ 12 per share as on 1/08/1998. Company de-clared one bonus share for every two shares held on 31/03/2000. As on 7/07/2006, Rocky got 500 shares of the same company as gift from his friend Rakesh (Rakesh acquired such share on 1/04/2001 @ ₹ 14 per share). As on 1/03/2024, company further declared one bonus share for every five shares held. On 1/01/2025, Rocky sold all the shares @ ₹ 50 each. Find capital gain of Mr. Rocky.

Solution :

Number of shares held by Mr. Rocky

Particulars	No. of shares	Total number of shares to the date
Original share	1,000	1,000
Bonus share declared on 31/03/2000 [1,000 shares/2]	500	1,500
Share received as gift from Rakesh as on 7/07/2006	500	2,000
Bonus share declared on 1/03/2023 2024 [2,000 shares/5]	400	2,400

Computation of capital gains in the hands of Mr. Rocky for the A.Y. 2025-26

Particulars	Workings	Original share	Bonus share acquired before 1/4/2001	Gifted shares	Bonus share acquired after 1/4/2001
No of shares held		1,000	500	500	400
Cost of acquisition per share	Note	₹ 14	₹ 14	₹ 14	Nil
Sale consideration	Shares held × ₹ 50	50,000	25,000	25,000	20,000
Less: Expenses on transfer		Nil	Nil	Nil	Nil
Net Sale Consideration		50,000	25,000	25,000	20,000
Less: Cost of acquisition	1,000 × ₹ 14	14,000	-	-	-
	500 × ₹ 14	-	7,000	-	-
	500 × ₹ 14	-	-	7,000	-
Less: Cost of acquisition		-	-	-	Nil
Less: Cost of improvement		Nil	Nil	Nil	-
Less: Cost of improvement		-	-	-	Nil
Long Term Capital Gain		36,000	18,000	18,000	-
Short Term Capital Gain		-	-	-	20,000

Note: Cost of acquisition in case of -

Original share	Higher of Original Cost (₹12) or fair market value as on 1/04/2001 (₹14)
Bonus share acquired before 1/04/2001	Fair market value as on 1/04/2001 (₹ 14)
Gifted share	Actual cost of the previous owner (₹ 14)
Bonus share acquired after 1/04/2001	Nil

2.4.34 Bonus Stripping [Sec. 94(8)]

Conditions for applicability

Where—

a. any person buys or acquires any securities or units[$] within a period of 3 months prior to the record date[#];

b. such person is allotted additional securities or units without any payment on the basis of holding of such securities or units on such date;

c. such person sells or transfers all or any of the original securities or original units within a period of 9 months after such date, while continuing to hold all or any of the additional securities or units referred to in clause (b).

Tax treatment

a. Loss, if any, arising to him on account of such purchase and sale of all or any of such securities or units shall be ignored for the purposes of computing his income chargeable to tax; and

b. Notwithstanding anything contained in any other provision of this Act, the amount of loss so ignored shall be deemed to be the cost of purchase or acquisition of such additional securities or units referred to in clause (b) as are held by him on the date of such sale or transfer.

[$] Unit shall mean:

a. a unit of a business trust defined u/s 2(13A);

b. a unit defined in the Explanation to sec. 115AB i.e., unit of mutual fund specified u/s 10(23D) or of Unit Trust of India; or

c. beneficial interest of an investor in an Alternative Investment Fund, defined in regulation 2(1)(b) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992, and shall include shares or partnership interests

[#] Record date means such date as may be fixed by –

a. a company;

b. a Mutual Fund or the Administrator of the specified undertaking or the specified company referred to in the Explanation to sec. 10(35); or

c. a business trust defined in sec. 2(13A); or

d. an Alternative Investment Fund defined in regulation 2(1)(b) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992,

for the purposes of entitlement of the holder of the securities or units, as the case may be, to receive dividend, income, or additional securities or units without any consideration, as the case may be

Illustration 105 :

Mr. A purchased 5,000 units of a mutual fund as on 10/10/2024 @ ₹ 80. On 1/11/2024, the fund de-clares 4 bonus units for every 5 units held. The record date for declaring bonus is 01/11/2024.

On 01/12/2024, Mr. A sold 2,500 original units @ ₹ 20.

On 10/01/2025, Mr. A sold 1,000 bonus units @ ₹ 25.

On 12/02/2025, Mr. A sold remaining 2,500 original units @ ₹ 30.

On 14/03/2025, Mr. A sold remaining 3,000 bonus units @ ₹ 45.

All units sold to his friend. Compute capital gain.

Solution :

Computation of capital gain of Mr. A for the A.Y.2025-26

Particulars	Workings	Amount
Capital gain on transfer of 2,500 original units on 1/12/2024		
Sale consideration	2,500 units @ ₹ 20	50,000
Less: Cost of acquisition	2,500 units @ ₹ 80	2,00,000
Cost of bonus units as per provision of Sec. 94(8)		(1,50,000)
Taxable short term capital gain		**Nil#**
# As per Sec. 94(8), the above loss shall be ignored for the purposes of computing his income, and the amount of loss so ignored shall be deemed to be the cost of acquisition of the such bonus unit. Hence, the cost of 4,000 bonus units (5,000 units / 5 * 4) is ₹ 1,50,000 i.e. cost of each bonus units is ₹ 37.5 (₹ 1,50,000 / 4,000 units).		
Capital gain on transfer of 1,000 bonus units on 10/01/2025		
Sale consideration	1,000 units @ ₹ 25	25,000
Less: Cost of acquisition	1,000 units @ ₹ 37.5 as per Sec. 94(8)	37,500
Short term capital gain		**(12,500)**
Capital gain on transfer of 2,500 original units on 12/02/2025		
Sale consideration	2,500 units @ ₹ 30	75,000
Less: Cost of acquisition	2,500 units @ ₹ 80	2,00,000
Cost of remaining bonus units as per provision of sec. 94(8)		(1,25,000)
Taxable short term capital gain		**Nil#**
# As per Sec. 94(8), above loss shall be ignored for the purposes of computing his income, and the amount of loss so ignored shall be deemed to be the cost of acquisition of remaining bonus unit. Hence, the cost of 3,000 bonus units (4,000 units – 1,000 units) shall be as under: Loss on transfer of original units on 1/12/2024 ₹ 37.50 per unit Loss on transfer of original units on 12/02/2025 ₹ 1,25,000 / 3,000 units ₹ 41.67 per unit ₹ 79.17 per unit		
Capital gain on transfer of 3,000 bonus units on 14/03/2025		
Sale consideration	3,000 units @ ₹ 45	1,35,000
Less: Cost of acquisition	3,000 units @ ₹ 79.17 as per sec. 94(8)	2,37,510
Short term capital gain		**(1,02,510)**

2.4.35 Capital gain in case of transfer of right share and right entitlement [Sec. 55(2)(aa)]

Right Share: Where, by virtue of holding a share or any other security, (hereinafter this clause referred to as the financial asset), the assessee becomes entitled to subscribe to any additional financial asset, then such additional financial asset can be termed as right share [Sec. 55(2)(aa)]. The cost of acquisition of such right share shall be the amount actually paid by him for acquiring such right share.

Right Entitlement: An assessee can endorse his right to acquire additional financial asset (as stated above) in favour of other person. Such endorsement of right is termed as right renouncement. Cost of acquisition of such right entitlement shall be taken as nil.

Tax treatment of right issue and right entitlements shall be as under:

Case	Right shares	Right Entitlement	Shares acquired by Right Renouncee
Cost of Acquisition	Right issue price	Nil	Amount paid for acquisition of right entitlements + Amount paid to company for right share
Period of holding starts from	The date of allotment of such shares	The date of declaration of such right by the company	The date of allotment of such shares
Sale consideration	Amount charged from transferee	Amount charged from transferee	Amount charged from transferee

Illustration 106:

Mr. Raunak purchased 1,000 shares of Zey (P) Ltd @ ₹ 12 per share as on 1/08/2023. As on 1/05/2024, company declared one right share for each share held @ ₹ 15 each. Mr. Raunak renounced 40% of such right in favour of Miss Rani @ ₹ 2 per share and for balance, he subscribed to the company. On 1/07/2024, Mr. Raunak and Miss Rani sold all the shares to one of their friend @ ₹ 50 each. Find capital gain of both the assessee.

Solution :

Working: Details of shares and right entitlements transferred

Date	Particulars	No. of shares	Rate	Cost of acquisition
1/08/2023	Original shares	1,000	12	12,000
1/05/2024	Right shares	600	15	9,000
1/05/2024	Right entitlement	400	Nil	Nil

Computation of capital gain in the hands of Mr. Raunak for the A.Y. 2025-26

Particulars	Workings	Original share	Right share	Right entitlement
No. of shares held		1,000	600	400
Sale consideration	Shares held × ₹ 50	50,000	30,000	-
	Shares renounced × ₹ 2	-	-	800
Less: Expenses on transfer		Nil	Nil	Nil
Net Sale Consideration		50,000	30,000	800
Less: Cost of acquisition	As calculated above	12,000	9,000	Nil
Less: Cost of improvement		Nil	Nil	Nil
Short Term Capital Gain		**38,000**	**21,000**	**800**

Computation of capital gain in the hands of Miss Rani for the A.Y. 2025-26

Particulars	Details	Amount
Sale Consideration	400 * ₹ 50	20,000
Less: Expenses on transfer		Nil

Particulars	Details	Amount
Net Sale Consideration		20,000
Less: Cost of acquisition	400 * ₹ 17#	6,800
Less: Cost of improvement		Nil
Short Term Capital Gain		13,200
No. of shares acquired		400 shares
# Cost of acquisition of each such shares		
Amount paid for acquisition of such share entitlements	₹ 2	
Amount paid to company for such right shares	₹ 15	₹ 17

2.4.36 Conversion of inventory into capital assets

Where inventory is converted into, or treated as, a capital asset, the fair market value of such inventory as on the date of such conversion is considered as business income u/s 28(via). If such capital asset is transferred then it will be treated as under:

Sale consideration	As usual
Cost of acquisition	Fair Market Value taken as income u/s 28(via)
Period of holding	Starts from the date of such conversion or treatment
Benefit of indexation	Available from the year of such conversion or treatment

2.4.37 Capital Gain on Virtual Digital Assets [Sec. 115BBH r.w.s 2(47A)]

As per sec. 2(47A), virtual digital asset means:

a. any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;

b. specified non-fungible token or any other token of similar nature, by whatever name called;

c. any other notified digital asset

Taxpoint:

- The Central Government may exclude any digital asset from the definition of virtual digital asset as non-fungible token within the meaning of sec. 2(47A)(a) but shall not include a non-fungible token whose transfer results in transfer of ownership of underlying tangible asset and the transfer of owner-ship of such underlying tangible asset is legally enforceable.
- Vide Notification No. 74/2022 dated 30/06/2022, the Central Government has notified following virtual digital assets which shall be excluded from the definition of virtual digital asset:
  i. Gift card or vouchers, being a record that may be used to obtain goods or services or a discount on goods or services;
  ii. Mileage points, reward points or loyalty card, being a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services;
  iii. Subscription to websites or platforms or application.

Tax Treatment

Rate of tax

Any income from the transfer of any virtual digital asset (VDA) shall be taxable @ 30%.

Computation of income on transfer of such assets

While computing such income:

a. Deduction in respect of any expenditure (other than cost of acquisition, if any) or allowance or set off of any loss shall not be allowed to the assessee.

b. Set off of loss from transfer of the virtual digital asset shall not be allowed against other income

c. Loss from transfer of the virtual digital asset shall not be allowed to be carried forward to succeeding assessment years.

d. Index benefit is not allowed.

In nutshell,

Cost of acquisition	✓	Allowed (without index)
Other expenditure (like improvement expenses, expenses on transfer, etc.)	×	Not allowed
Loss on transfer of VDA	×	No adjustment with other income
Loss from other activities	×	No adjustment with income on transfer of VDA
Carry forward of loss on transfer of VDA	×	Not allowed

Taxpoint: Where VDA has been held as investment, the income on transfer shall be taxable under the head Capital Gains, however, if VDA has been held for trading purpose, the income may be taxable as business income. However, in either of the case, computation shall be made as per aforesaid provision and rate of tax will be 30%.

Deduction from Capital gain

From capital gain so computed, several deductions are allowed as per provisions of sections 54, 54B, 54D, 54EC, 54EE, 54F, 54G, 54GA and 54GB. Provisions of these sections are discussed as under:

2.4.38 Deduction from capital gain on sale of residential house property [Sec. 54]

Applicable to	Individual or HUF
Conditions	1. Assessee has transferred a long-term residential house, income of which is taxable under the head "Income from house property". 2. Assessee must acquire one new residential house within prescribed time limit. **Alternate Option** **When Available:** Where the amount of the capital gain does not exceed ₹ 2 crore. **Option:** The assessee may, at his option, purchase or construct two residential houses in India **Restriction:** Where during any assessment year, the assessee has exercised this option, he shall not be subsequently entitled to exercise the option for the same or any other assessment year. That means, the option is available once in lifetime of the assessee. 3. The new residential house should be in India.

<table>
<tr><th>Applicable to</th><th colspan="2">Individual or HUF</th></tr>
<tr><td></td><td colspan="2">Taxpoint:
➢ Capital asset must be a long term capital asset.
➢ Property must be a residential house whether let-out or self occupied.
➢ Income of such property must be taxable u/s 22.
➢ Land transferred appurtenant to a house property (assessable u/s 22) together with such house property, also qualifies for deduction u/s 54.
➢ The new residential house(s) may not be taxable u/s 22. e.g. a new house acquired for the residence of employees shall be eligible for deduction.</td></tr>
<tr><td rowspan="4">Time limit for acquisition of new assets</td><td>For Purchase</td><td>Within a period of ‘1 year before, or 2 years after, the date of transfer’
Example: If a property is transferred on 17/8/2023, then the new house property may be purchased at any time between 17/08/2022 to 17/8/2025.</td></tr>
<tr><td>For Construction</td><td>Within a period of 3 years after the date of transfer.
Construction may start at any time but must be completed within stipulated time</td></tr>
<tr><td>Scheme of deposit</td><td>Applicable [Refer ‘Capital Gains Account Scheme’ given below].</td></tr>
<tr><td colspan="2">In case of compulsory acquisition of such capital asset by the Government, the time limit shall start from receipt of compensation or part thereof.</td></tr>
<tr><td>Deduction</td><td colspan="2">Minimum of the following:
➢ Investment in the new asset(s); or
However, where the cost of a new asset exceeds ₹ 10 crore, the amount exceed-ing ₹ 10 crore shall not be taken into account
➢ Capital gain</td></tr>
<tr><td>Revocation of benefit</td><td colspan="2">If the newly acquired residential house is transferred within 3 years from the date of acquisition of new assets, then the benefit availed earlier shall be revoked. Such revoked income shall be reduced from cost of acquisition of new asset.
If the amount held in Capital Gains Deposit Account Scheme (1988) is unutilized, then such amount shall be taxable as long-term capital gain in the previous year in which the period of 3 years from the date of transfer expires.</td></tr>
</table>

Notes

1. **Legal title of the house:** Holding of legal title is not necessary. It is sufficient that assessee has made the full (or substantial) payment within the time limit even though the transfer deed has not been registered and the possession is given after stipulated time.
2. **Transfer of part of house:** Exemption u/s 54 is available on sale of part of the house if the same is an independent unit.
3. **Treatment of Land:** The cost of land is integral part of the residential house.
4. **Treatment in hands of legal heir:** The benefit of sec. 54 is also available to the legal heir of deceased assessee provided he fulfills conditions of sec. 54.

Capital Gains Accounts Scheme, 1988

Introduction	If the new asset is not acquired till the due date of submission of return of income#, then the taxpayer will have to deposit the money* in 'Capital Gains Deposit Account' with a nationalized bank. The proof of deposit should be submitted along with the return of income. On the basis of actual investment and the amount deposited in the deposit account, exemption will be given to the taxpayer. #. **Due date of filing of return being 31st October (where audit is required) & 31st July (in any other case)
Utilisation of amount	The taxpayer is to acquire a new asset by withdrawing from the deposit account. New asset must be acquired within specified time, provided in the relevant section.
If deposit amount remains unutilized	The unutilized amount will become chargeable to tax in the previous year in which the specified time limit expires. Chargeable amount shall be – For sec. 54, 54B, 54D, 54G, 54GA: Unutilised amount
	For sec. 54F & 54GB: Unutilised amount × Capital gain [Capital gain in excess of ₹ 10 crore is not considered] / Net sale consideration [excess of ₹ 10 crore is not considered]
Nature of gain	It will be taxable as short term or long-term capital gain depending upon the status of the original capital gain.

Notes

a. The unutilized amount can be withdrawn by the taxpayer after the expiry of the aforesaid time limit.

b. The unutilized amount in Capital Gain Account Scheme (1988), in hands of legal heir of deceased individual, cannot be taxed. [Circular No.743 dated 6/5/1996]

Illustration 107:

Mr. Sidhartha has a residential house property taxable u/s 22. Such property is acquired on 12/08/2021 for ₹2,00,000. The property is sold on 1/03/2025 for ₹ 25,00,000. He acquired another residential house on 31/03/2025 for ₹ 17,00,000 for self-occupation. On 1/03/2026, he sold such new residential house for ₹ 30,00,000 and acquired another residential house of ₹ 35,00,000 on 10/03/2026. Compute his capital gain for the A.Y. 2025-26 and 2026-27.

Solution :

Computation of capital gain of Mr. Sidhartha for the A.Y. 2025-26

Particulars	Details	Amount
Sale consideration		25,00,000
Less: Expenditure on transfer		Nil
Net sale consideration		25,00,000

* For sec. 54, maximum deposit in CGDS: lower of (a) capital gain or (b) ₹ 10 crore; as reduced by the amount invested in acquiring new asset till due date of filing return of income. E.g. If the LTCG is ₹ 14 crore and the assessee has already incurred ₹ 7 crore in construction of new resi-dential house upto due date of filing return of income, then, he can deposit the difference of ₹ 3 crore [₹ 10 crore (being lower of capital gain and ₹ 10 crore) - ₹ 7 crore i.e., amount already invested in new asset) in CGAS for claiming exemption u/s 54.

** In some cases, 30th November

Less: Cost of acquisition		2,00,000
Less: Cost of improvement		Nil
Long term capital gain		23,00,000
Less: Exemption u/s 54		17,00,000
Taxable Long term Capital gain		**6,00,000**

Computation of capital gain of Mr. Sidhartha for the A.Y. 2026-27

Particulars	Amount	Amount
Sale consideration		30,00,000
Less: Expenditure on transfer		Nil
Net sale consideration		30,00,000
Less: Cost of acquisition	17,00,000	
Less: Earlier exemption claimed u/s 54	(17,00,000)	Nil
Short term capital gain		**30,00,000**

Deduction u/s 54 is not available against the new house acquired on 10/03/2026 as it is a short term capital gain.

2.4.40 Deduction from capital gain on transfer of agro land [Sec. 54B]

Applicable to	Individual or HUF	
Conditions	1. Assessee must have transferred a capital asset being an agricultural land (whether long term or short term). **Taxpoint:** A rural agricultural land is not a capital asset hence on transfer of rural land no capital gain arises. 2. Such agricultural land must have been used by the individual or his parents or by such HUF for agricultural purposes for at least 2 years, prior to its transfer. **Notes** a) An agricultural land, acquired for a period of less than 2 years before the date of transfer and used for agricultural purpose from the date of acquisition, shall not be eligible for deduction. b) Where the assessee obtains land on partition of HUF, the above condition is satisfied if the assessee and HUF taken together have used the land for agricultural purpose for at least 2 years immediately before the transfer. c) Where an assessee was using the property as a tenant and later on purchased the said property, then while calculating the period of 2 years (as stated above), the period during which assessee was using the property as tenant shall also be included. 3. Assessee must purchase a new land for agricultural purpose. The new land may be in urban area or rural area.	
Time limit for acquisition of new assets	Within 2 years after the date of transfer.	
	Scheme of deposit	Applicable [Refer 'Capital Gains Account Scheme'].
Deduction	Minimum of the following: ➢ Investment in the new asset; or ➢ Capital gain	

Revocation of benefit and its treatment	**If the newly acquired agricultural land is transferred** within 3 years from the date of acquisition of new assets, then the benefit availed earlier shall be revoked. Such revoked income shall be reduced from cost of acquisition of new asset. **If the amount held in Capital Gains Deposit Account Scheme (1988) is unutilized,** then such amount shall be taxable as short term or long-term capital gain (depending on the nature of gain on original transfer) in the previous year in which the period of 2 years from the date of transfer expires.
Case	**Case:** Assessee sold an urban agricultural land and invested the capital gain in rural agricultural land (to claim deduction under this section) and immediately sold such newly acquired rural agricultural land. **Effect:** Since new agricultural land sold before 3 years, therefore exemption shall be revoked and benefit claimed earlier shall be subtracted from cost of acquisition of new asset. However, the new agricultural land is not liable to capital gain as it is not a capital asset (being a rural agricultural land).
Exemption u/s 10(37)	Subject to certain conditions, in case of compulsory acquisition of urban agro-land by the Government, income shall be exempted u/s 10(37).

2.4.41 Deduction from capital gain on compulsory acquisition of land and building forming part of industrial undertaking [Sec. 54D]

Applicable to	All assessee	
Conditions	1. Assessee must have transferred a capital asset being a land or building or any right therein, forming part of an industrial undertaking. **Taxpoint:** Asset may be a short term or long-term capital asset. 2. Such capital asset has been compulsorily acquired under any law for the time being in force. 3. Such capital asset was used for industrial purpose by the assessee for at least 2 years prior to its transfer. **Notes** a) A land or building acquired for a period of less than 2 years and used for industrial purpose from the date of acquisition, shall not be eligible for deduction. b) Where the assessee obtains such capital asset on partition of HUF, the above condition is satisfied if the assessee and HUF taken together have used the asset for industrial purpose for at least 2 years immediately before the transfer c) Where an assessee was using the property as a tenant and later on purchased the said property then while calculating the period of 2 years (as stated above), the period during which assessee was using the property as tenant shall also be included. 4. Assessee must purchase any other land or building or construct a building, for the purpose of shifting or reestablishing the said undertaking or setting up another industrial undertaking	
Time-limit for acquiring assets	Within 3 years after the date of receipt of compensation or any part thereof.	
	Scheme of deposit	Applicable [Refer 'Capital Gains Account Scheme'].

Deduction	Minimum of the following: ➢ Investment in the new asset; or ➢ Capital gain
Revocation of benefit and its treatment	**If the newly acquired land or building is transferred** within 3 years from the date of acquisition of new assets, then the benefit availed earlier shall be revoked. Such revoked income shall be reduced from cost of acquisition of new asset. **If the amount held in Capital Gains Deposit Account Scheme (1988)** is unutilized, then such amount shall be taxable as short term or long-term capital gain (depending on the nature of gain on original transfer) in the previous year in which the period of 3 years from the date of receipt of compensation expires.

Illustration 108:

X Ltd. has a building acquired on 17/08/2023 for ₹ 5,00,000. The assessee, as a tenant, earlier used the building, for industrial purpose since last 7 years and even after purchase it is continuously used for in-dustrial purpose. Such building is compulsorily acquired by Government at an agreed value of ₹ 12,00,000 as on 15/07/2024. The compensation was received on 1/03/2025. The written down value of the block (consist of 3 buildings) as on 1/04/2024 is ₹ 7,50,000.

The company acquired a new building for industrial purpose for ₹ 2,00,000 as on –

Case A) 31/03/2025; Case B) 2/04/2025. Determine his taxable capital gain.

Solution :

X Ltd. purchased the building on 17/8/2023 and transfer took place on 15/07/2024, i.e. after acquisition of ownership, asset is used for industrial purpose for less than 2 years. However, the assessee was using the same building for industrial purpose as a tenant before acquisition, for a period of 7 years hence it can claim the benefit of sec. 54D.

Computation of capital gain in the hands of X Ltd. for the A.Y. 2025-26

Particulars	Case A	Case B
Written Down Value as on 1/04/2023	7,50,000	7,50,000
Add: Acquisition of new asset during the year	2,00,000	-
	9,50,000	7,50,000
Less: Sale value of asset (compensation received from Government)	12,00,000	12,00,000
Short Term Capital gain	2,50,000	4,50,000
Less: Exemption u/s 54D	2,00,000	2,00,000
Taxable Short Term Capital Gain	**50,000**	**2,50,000**

2.4.42 Deduction from capital gain on acquisition of certain bonds [Sec. 54EC]

Applicable to	All assessee
Conditions	1. Assessee must have transferred any long-term capital asset being land or building or both. 2. Assessee acquires 'long term specified assets'. Long-term specified asset means any bond redeemable after 5 years, issued by a. the National Highways Authority of India (NHAI); b. the Rural Electrification Corporation Ltd.; c. Power Finance Corporation Limited; d. Indian Railway Finance Corporation Limited; e. any other bond being notified by the Central Government

Applicable to	All assessee
Time limit for acquisition of new assets	Within 6 months after the date of transfer In case of compulsory acquisition, time limit starts from the date of receipt of compensation. In case of conversion of capital asset into stock in trade, the time limit of 6 months for making investme nts in specified assets should be taken from the date of actual sale of stock in trade and not from the date when capital asset is converted into stock. [Circular No.791 dated 2/6/2000]
Amount of Deduction	Minimum of the following: ➢ Investment in the new asset; or ➢ Capital gain **Taxpoint:** ➢ The investment made by an assessee in the long-term specified asset, from capital gains arising from transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed ₹ 50 lakhs
Revocation of benefit	Earlier benefit shall be revoked if such bond is transferred or converted into money within 5 years of its acquisition or a loan is taken on security of the new asset within the said period. **Taxpoint:** In case where an assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have converted such specified asset into money on the date on which such loan or advance is taken.
Treatment of revoked income	Such revoked income shall be treated *as long-term capital gain* in the year of transfer of new asset.
Scheme of deposit	Not applicable

Notes

1. Benefit u/s 54EC on depreciable asset: In the case 'CIT -vs.- Dempo Company Ltd. (2016) 387 ITR 354 (SC)' it was decided that benefit u/s 54EC shall be available on depreciable asset held by the as-sessee for more than specified months.
2. The investment made for availing benefit u/s 80C shall not be further eligible for deduction u/s 54EC.

2.4.43 Deduction from capital gain on transfer of capital assets other than residential house property [Sec. 54F]

Applicable to	Individual or HUF
Conditions	1. Assessee must have transferred a long-term capital asset other than a residential house property. 2. Assessee must acquire **one** residential house within prescribed time limit, income of which is taxable u/s 22. 3. Such new house should be situated in India. 4. Assessee does not own more than one residential house property, income of which is taxable u/s 22 (other than new house), on the date of transfer. 5. Assessee does not purchase, within 2 years, or construct, within 3 years of transfer of the original asset, any other residential house, income of which is taxable u/s 22.

Time limit for acquisition of new assets	For Purchase	Within a period of '1 year before, or 2 years after, the date of transfer'.
	For Construction	Within a period of 3 years after the transfer Construction may start at any time but must be completed within stipulated time
	Scheme of deposit	Applicable [Refer 'Capital Gains Account Scheme'] Maximum deposit in CGDS: Lower of (a) Net consideration; or (b) ₹ 10 crore; as reduced by the amount invested in acquiring new asset till due date of filing return of income. E.g. If the Net consideration is ₹ 9 crore and LTCG is ₹ 4.5 crore and the assessee has already incurred ₹ 5 crore in construction of new residential house upto due date of filing return of income, then, he can deposit the difference of ₹ 4 crore [₹ 9 crore (being lower of net consideration and ₹10 crore) - ₹ 5 crore i.e., amount already invested in new asset) in CGAS for claiming exemption u/s 54F.
	Note: In case of compulsory acquisition the time limit starts from the date of initial receipt of compensation.	
Amount of Deduction	Minimum of the following: ➢ $\frac{\text{Investment in the new asset} \times \text{Capital gain}}{\text{Net Sale consideration}^{\#}}$ However, where the cost of new asset exceeds ₹ 10 crore, the amount exceed-ing ₹ 10 crore shall not be considered. ➢ Capital gain [#] Net sale consideration = Sale consideration – Expenditure on transfer	
Revocation of benefit and its treatment	1. **If the newly acquired residential house is transferred** within 3 years after the date of its acquisition, benefit availed earlier shall be revoked. 2. **If another residential house is purchased** (apart from newly acquired residential house property) by the assessee within 2 years or constructed within 3 years after the date of transfer of original asset, benefit availed earlier shall be revoked. **Taxpoint:** The time limit shall be determined from the date of transfer of original asset even in the case when asset is compulsory acquired by the Government. 3. **If the amount, held in Capital Gains Deposit Account Scheme (1988), is unutilized,** benefit availed earlier shall be revoked.	
Treatment of revoked income	➢ **Revocation due to case 1 & 2 above** Such revoked income (exemption) shall be taxable *as long-term capital gain* in the year of revocation of condition. ➢ **Revocation due to case 3 above** Chargeable amount shall be – $\frac{\text{Unutilised amount for which benefit u/s 54F is availed} \times \text{Original capital gain}}{\text{Net sale consideration (excess of ₹ 10 crore is not considered)}}$ - taxable as long term capital gain of the previous year in which 3 years from the date of transfer of asset expires.	

Notes: Refer notes of sec. 54. Further, benefit u/s 54F is available if assessee has transferred a plot of land.

Illustration 109:

Sonu has jewellery acquired on 17/07/2010 for ₹ 5,00,000. On 18/08/2013 Sonu incurred improvement expenditure on such jewellery by adding diamond to it worth ₹ 3,00,000. On 18/08/2024, he transferred such jewellery to his friend Monu for ₹ 40,00,000.

Sonu already has a self-occupied house property in Lucknow, however on 17/03/2025 he purchased an-other residential house property for ₹ 30,00,000 for the purpose of letting out.

As on 5/08/2025, his friend offered him a house worth ₹ 25,00,000 (Value for Stamp duty purpose is on-ly ₹ 14,00,000/-) for ₹ 15,00,000 only & Sonu purchased the same.

On 7/04/2026, Sonu sold the new house acquired from his friend for ₹ 19,00,000. Value determined for the purpose of stamp duty purposes ₹ 22,00,000 and market value as on the date of transfer is ₹ 26,00,000. Compute capital gain in hands of Sonu for several years.

Solution :

Computation of capital gain of Sonu for the A.Y. 2025-26

Particulars	Details	Amount
Sale consideration for Jewellery		40,00,000
Less: Expenditure on transfer		Nil
Net sale consideration		40,00,000
Less: Cost of acquisition	5,00,000	
Less: Cost of improvement	3,00,000	8,00,000
Long term capital gain		32,00,000
Less: Exemption u/s 54F [₹ 30,00,000 / ₹ 40,00,000 x ₹ 32,00,000]		24,00,000
Taxable Long term capital gain		**8,00,000**

Computation of capital gain of Sonu for the A.Y.2026-27: Since the assessee acquired another house property therefore the earlier exemption availed u/s 54F shall be revoked and shall be liable to long term capital gain. Hence taxable long-term capital gain for the A.Y.2026-27 is ₹ 24,00,000.

Computation of capital gain of Sonu for the A.Y.2027-28

Particulars	Details	Amount
Sale consideration	Value determined for Stamp duty [Sec. 50C]	22,00,000
Less: Expenditure on transfer		Nil
Net sale consideration		22,00,000
Less: Cost of acquisition	15,00,000	
Less: Cost of improvement	Nil	15,00,000
Short term capital gain		7,00,000

Illustration 110:

Mr. X has sold the following assets during the year 2024-25

Items	Cost of acquisition	Sale consideration	Year of acquisition
Land	₹ 10 lacs	₹ 150 lacs	2021-22
Jewellery	₹ 30 lacs	₹ 120 lacs	2008-09

On 31/03/2025, he has purchased a residential house of ₹ 70,00,000 for self occupation as he had no other house till date. Compute capital gain.

Solution :

Computation of capital gains in the hands of Mr. X for the A.Y. 2024-25

Particulars	Land	Jewellery
Sale Consideration	1,50,00,000	1,20,00,000
Less: Expenses on transfer	Nil	Nil
Net Sale Consideration		
1,50,00,000	1,20,00,000	
Less: Cost of Acquisition	10,00,000	30,00,000
Less: Cost of improvement	Nil	Nil
Long Term Capital Gain	1,40,00,000	90,00,000
Less: Exemption u/s 54F [Working 1]	65,33,333	Nil
Long Term Capital Gain	**74,66,667**	**90,00,000**

Working 1

In the given case assessee can claim benefit u/s 54F, for any of the LTCG (land or jewellery).

A Comparative study is made under to decide from which LTCG such deduction should be claimed –

Particulars	Working	Land	Jewellery
Long Term Capital Gain	A	1,40,00,000	90,00,000
Net sale consideration	B	1,50,00,000	1,20,00,000
Benefit u/s 54F	A/B x ₹ 70,00,000	65,33,333	52,50,000
Since the deduction is higher in the case of Land hence the deduction u/s 54F is ₹ 65,33,333			

2.4.44 Deduction from capital gain on transfer of capital assets in case of shifting of industrial undertaking from urban areas [Sec. 54G]

Applicable to	All assessee
Conditions	1. Assessee must have transferred a capital asset, being – ➢ A machinery or plant or building or land; or ➢ Any rights in building or land, ➢ used for the purposes of the business of an industrial undertaking situated in an urban area. 2. Such transfer is effected in the course of shifting of such industrial undertaking to any area other than an urban area. 3. Assessee has within a period of 1 year before, or 3 years after, the date of transfer — a. purchased new machinery or plant for the purpose of business of the industrial undertaking in the area to which the said undertaking is shifted; b. acquired building or land or constructed building for the purposes of his business in the said area; c. shifted the original asset and transferred the establishment of such undertaking to such area; and d. incurred expenses on such other purpose as may be specified in a scheme framed by the Central Government for the purposes of this section.

Time limit for acquiring new asset.	Within 1 year before, or 3 years after, the date of transfer.	
	Scheme of deposit	Applicable [Refer 'Capital Gains Account Scheme'].
Amount of Deduction	Minimum of the following: ⊙ Amount expended for the above purposes [as stated in (a) to (d) above]; ⊙ Capital gain	
Revocation of benefit and its Treatment	If the newly acquired assets are transferred within 3 years from its date of acquisition, then the benefit availed earlier shall be revoked. Such revoked income shall be subtracted from cost of acquisition of newly acquired assets. If the amount held in Capital Gains Deposit Account Scheme (1988) is unutilized, then such amount shall be taxable as short term or long-term capital gain (depending on the nature of gain on original transfer) in the previous year in which the period of 3 years from the date of transfer expires.	
Note: Urban area means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this section.		

Illustration 111 :

X Ltd. is shifting its undertaking from Jaipur to Napasar (other than urban area). In this regard it sold its 4 machineries and 2 sets of furniture during the previous year 2024-25 as under –

Machinery	Depreciation Rate	Book Value	Sold for	Furniture	Depreciation Rate	Book value	Sold for
A	15%	2,00,000	3,00,000	X	10%	1,00,000	2,00,000
B	15%	3,00,000	8,00,000	Z	10%	60,000	90,000
C	15%	5,00,000	6,00,000				
D	30%	6,00,000	5,00,000				

WDV of the block of asset as under –

Name of the Block	Block consist of	WDV as on 1/04/2024
Machinery 15%	A, B & C	11,00,000
Machinery 30%	D & E	9,00,000
Furniture 10%	X & Z	1,50,000

X Ltd. is seeking whether the transaction shall be taxable as slump sale or not and compute capital gain.

On 7/04/2025, assessee further purchased machineries worth ₹ 3,70,000 and land of ₹ 1,00,000 for the purpose of new industrial undertaking. Compute capital gain.

Solution :

In the given case though assessee has transferred a group of assets still the transaction cannot be taxed as slump sale because value has been assigned to individual asset. The tax treatment shall be as under:

Particulars	Details	Amount
On sale of Machinery A, B & C		
Block: Machinery (Rate 15%)		
W.D.V. as on 1/04/2024	11,00,000	
Add: Purchase during the year	Nil	
	11,00,000	
Less: Sale during the year	17,00,000	
Short Term Capital Gain		6,00,000
On sale of Machinery D		
Block: Machinery (Rate 30%)		
W.D.V. as on 1/04/2024	9,00,000	
Add: Purchase during the year	Nil	
	9,00,000	
Less: Sale during the year	5,00,000	
WDV before depreciation	4,00,000	
Less: Depreciation @ 30%	1,20,000	
WDV after depreciation	2,80,000	
Short Term Capital Gain		Nil
On sale of Furniture X & Z		
Block: Furniture (Rate 10%)		
W.D.V. as on 1/04/2024	1,50,000	
Add: Purchase during the year	Nil	
	1,50,000	
Less: Sale during the year	2,90,000	
Short Term Capital Gain		1,40,000
Total Short Term Capital Gain		7,40,000
Less: Exemption u/s 54G		4,70,000
Taxable Short Term Capital Gain		**2,70,000**

Illustration 112:

Raj Ltd. has an industrial undertaking operating in an urban area. During the year 2024-25, it sold its two machineries for ₹ 2,00,000 and ₹ 3,80,000 in course of shifting its industrial undertaking from urban area to rural area. The written down value of the block (consists of 4 machineries) as on 1/04/2024 was ₹ 3,50,000.

The company incurred ₹ 20,000 expenses on other purposes as specified in a scheme framed by the Central Government for the purposes of this section. Determine its taxable capital gain, if the company acquired new machinery for industrial purpose for ₹ 50,000 as on –

Case A) 28/03/2025; Case B) 12/04/2025

Solution :

Computation of capital gain in the hands of Raj Ltd. for the A.Y. 2025-26

Particulars	Case A	Case B
Written Down Value as on 1/04/2024	3,50,000	3,50,000
Add: Acquisition of new asset during the year	50,000	Nil
	4,00,000	3,50,000
Less: Sale value of assets	5,80,000	5,80,000
Short Term Capital gain	1,80,000	2,30,000

Particulars	Case A	Case B
Less: Exemption u/s 54G – for new machinery purchased	50,000	50,000
- for expenditure incurred	20,000	20,000
Taxable Short Term Capital Gain	**1,10,000**	**1,60,000**

2.4.45 Deduction from capital gain on transfer of capital assets in case of shifting of industrial undertaking from urban areas to Special Economic Zone [Sec. 54GA]

Applicable to	All assessee
Conditions	1. Assessee must have transferred a capital asset, being – ➢ A machinery or plant or building or land; or ➢ Any rights in building or land, – used for the purposes of the business of an industrial undertaking situated in an urban area. 2. Such transfer is effected in the course of shifting of such industrial undertaking to Special Economic Zone (SEZ). **Note:** The SEZ may be developed in any urban area or any other area. 3. Assessee has within a period of 1 year before, or 3 years after, the date of transfer - i. purchased new machinery or plant for the purpose of business of the industrial undertaking in the SEZ to which the said undertaking is shifted; ii. acquired building or land or constructed building for the purposes of his business in the SEZ; iii. incurred expenditure on shifting the original asset and transferred the establishment of such undertaking to such SEZ; and iv. incurred expenses on such other purpose as may be specified in a scheme framed by the Central Government for the purposes of this section.
Time limit for acquiring new asset.	Within 1 year before, or 3 years after, the date of transfer.
	Scheme of deposit: Applicable [Refer 'Capital Gains Account Scheme'].
Amount of Deduction	Minimum of the following: ➢ Amount expended for the above purposes [as stated in (a) to (d) above]; ➢ Capital gain
Revocation of benefit and its Treatment	If the newly acquired assets are transferred within 3 years from its date of acquisition, then the benefit availed earlier shall be revoked. Such revoked income shall be subtracted from cost of acquisition of newly acquired assets. If the amount held in Capital Gains Deposit Account Scheme (1988) is unutilized, then such amount shall be taxable as short term or long-term capital gain (depending on the nature of gain on original transfer) in the previous year in which the period of 3 years from the date of transfer expires.
Note: Urban area means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this section.	

2.4.46 Exemption under more than one provision

An assessee can claim exemption under more than one section (from sec. 54 to 54GA) if conditions of the respective sections are fulfilled. E.g. An assessee deriving long term capital gain on sale of a residential house can claim benefit u/s 54 by investing a part of the capital gain in acquisition of a new residential house property and as well as claim benefit u/s 54EC by investing remaining part of the capital gain in acquisition of specified securities.

2.4.47 Extension of time for acquiring new asset or depositing or investing amount of capital gain [Sec. 54H]

Applicability	➢ Where the transfer of the original asset is by way of compulsory acquisition under any law; and ➢ Amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer.
Treatment	The period for acquiring the new asset or the period available to the assessee for depositing the amount of capital gain in relation to such compensation as is not received on the date of the transfer, shall be reckoned from the date of receipt of such compensation.

Notes

a. It is irrespective of anything contained in sec. 54, 54B, 54D, 54EC and 54F.

b. **Enhanced Compensation:** In case of enhanced compensation, the period for acquiring the new asset shall commence from the date of receipt of such enhanced compensation.

2.4.48 Tax on Capital Gain

Tax on short term capital gain (STCG)

Tax on STCG on transfer of certain assets on which Security transaction tax has been charged [Sec. 111A]

STCG, in certain cases, shall be taxed @ 20*% + surcharge (if applicable) + Health and Education Cess.

Applicable to

All assessee

Conditions to be satisfied

1. **Nature of asset:** A short-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust.
2. **Securities transaction tax:** Such transaction is chargeable to securities transaction tax.

Tax rate

Such short-term capital gains shall be taxed @ 20% + surcharge + Health and Education Cess.

Notes

1. Concessional rate shall be applicable on short term capital gain arises from a transaction undertaken in a foreign currency on a recognised stock exchange located in any International Financial Services Centre even though STT is not applicable on such transaction
2. No deduction under chapter VIA can be claimed from such short term capital gain.
3. In the case of an individual or an HUF being a resident, where the total income as reduced by such short-term capital gains is below the exempted ceiling, then such short-term capital gains shall be reduced by the amount by which the total income so reduced falls short of such exempted ceiling and the tax on the balance of such short-term capital gains shall be computed @ 20%.

* 15% - if such short-term capital gain has taken place before 23-07-2024

Taxpoint: Where the total income as reduced by such short-term capital gains is below the exempted ceil-ing, then tax on such short-term capital gains shall be –

20% of [Such STCG – (Exempted ceiling – Total income excluding such STCG)].

Illustration 113

Short term capital gain on (15-10-2024) transfer of shares on which STT is paid ₹ 1,30,000

Other income ₹ 2,16,000

Calculate tax of Mr. X aged 45 years?

Solution

Computation of tax for the A.Y.2025-26

Particulars	Other income	STCG
Income	₹ 2,16,000	₹ 1,30,000
Exemption limit on which no tax is charged i.e. ₹ 3,00,000	₹ 2,16,000	₹ 84,000
	Nil	₹ 46,000
Tax rate	Nil	20%
Tax		₹ 9,200
Less: Rebate u/s 87A		₹ 9,200
Tax after Rebate u/s 87A		Nil
Add: Health & Education Cess		Nil
Tax Liability (Rounded off)	Nil	Nil

Short-term capital gain in any other case: In any other case, short-term capital gain is to be taxed as per usual rates, as applicable to any other income.

Tax on long term capital gain in certain cases [Sec. 112A]

Applicable to: All assessee

Conditions:

a) The total income of the assessee includes income chargeable under the head "Capital gains";

b) The capital gains arise from the transfer of a long-term capital asset being an equity share (including bonus shares) in a company or a unit of an equity-oriented fund or a unit of a business trust;

c) Securities Transaction Tax (STT) has been levied:

Capital Asset	STT has been paid
Equity share in a company	STT has been paid on acquisition and transfer of such capital as-set. **Exception:** In the following cases, condition of levying STT on **acquisition** is not applicable: a) Equity share acquired before 01-10-2004 b) The nature of acquisition which is notified (like IPO, ESOP, etc.) [Notification No. 60/2018 dated 01-10-2018]
Unit of an equity-oriented fund or a unit of a business trust*	STT has been paid on **transfer** of such capital asset

* Unit of business trust shall be treated as LTCA, if holding period is more than36 months

Taxpoint: The condition of payment of STT in either case is not applicable in case where transfer has been undertaken on a recognised stock exchange located in any International Financial Services Centre provided the consideration for such transfer is received or receivable in foreign currency.

Treatment

Such long-term capital gain shall be taxable as under:

Case	Rate of Taxation
A. Where the transaction has taken place prior to 23-07-2024 and	
- such long term capital gain does not exceed ₹ 1,00,000**	Nil
- such long term capital gain exceeds ₹ 1,00,000	10%* on income exceeding ₹ 1,00,000
B. Where the transaction has taken place on or after 23-07-2024 and	
- such long term capital gain does not exceed ₹ 1,25,000**	Nil
- such long term capital gain exceeds ₹ 1,25,000	12.5%* on income exceeding ₹1,25,000

Taxpoint:

- Rabate u/s 87A is not available from tax on aforesaid long term capital gain.
- In the case of resident individual or resident Hindu undivided family, where the total income as re-duced by such long-term capital gains is below the maximum amount which is not chargeable to in-come-tax, then, the long-term capital gains, shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax [See Example 1 & 2 below]

Computation of cost of acquisition of such capital assets in certain cases

The cost of acquisition for the long-term capital asset acquired on or before 31st of January, 2018 will be higher of the following:

a. the actual cost of acquisition of such asset;

b. the lower of –

   A. the fair market value of such asset as on 31/01/2018***;

   B. the full value of consideration received or accruing as a result of the transfer of the capital asset

Taxpoint:

- No Index benefit is available
- The holding period will be counted from the date of acquisition
- Loss is allowed to be carried forward.
- The cost of acquisition of bonus shares acquired before 31st January, 2018 will be determined as per aforesaid rule. Therefore, the fair market value of the bonus shares as on 31st January, 2018 will be taken as cost of acquisition (except in some situations explained in the following examples).

Examples

Scenario 1 – An equity share is acquired on 1st of January, 2017 at ₹ 100, its fair market value is ₹ 200 on 31st of January, 2018 and it is sold on 1st of April, 2024 at ₹ 250.

As the actual cost of acquisition is less than the fair market value as on 31st of January, 2018, the fair market value of ₹ 200 will be taken as the cost of acquisition and the long-term capital gain will be ₹ 50 (₹ 250 – ₹ 200).

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* + Applicable Surcharge and Cess

** The aggregate amount cannot exceed ₹1.25 lakhs for the Previous Year 2024 - 25.

*** The highest price of the capital asset quoted on such exchange on 31/01/2018 shall be considered as fair market value

Scenario 2 – An equity share is acquired on 1st of January, 2017 at ₹ 100, its fair market value is ₹ 200 on 31st of January, 2018 and it is sold on 1st of April, 2024 at ₹ 150.

In this case, the actual cost of acquisition is less than the fair market value as on 31st of January, 2018. However, the sale value is also less than the fair market value as on 31st of January, 2018. Accordingly, the sale value of ₹150 will be taken as the cost of acquisition and the long-term capital gain will be NIL (₹ 150 – ₹ 150).

Scenario 3 – An equity share is acquired on 1st of January, 2017 at ₹ 100, its fair market value is ₹ 50 on 31st of January, 2018 and it is sold on 1st of April, 2024 at ₹ 150.

In this case, the fair market value as on 31st of January, 2018 is less than the actual cost of acquisition, and therefore, the actual cost of ₹ 100 will be taken as actual cost of acquisition and the long-term capital gain will be ₹ 50 (₹ 150 – ₹ 100).

Scenario 4 – An equity share is acquired on 1st of January, 2017 at ₹ 100, its fair market value is ₹ 200 on 31st of January, 2018 and it is sold on 1st of April, 2024 at ₹ 50.

In this case, the actual cost of acquisition is less than the fair market value as on 31st January, 2018. The sale value is less than the fair market value as on 31st of January, 2018 and also the actual cost of acquisition. Therefore, the actual cost of ₹ 100 will be taken as the cost of acquisition in this case. Hence, the long-term capital loss will be ₹50 (₹ 50 – ₹ 100) in this case.

Tax on Long term capital gain on transfer of Zero coupon Bonds [First proviso to Sec. 112(1)]

Tax on long term capital gain arising on transfer of zero coupon bonds shall be calculated @ 12.5%* + applicable Surcharge + Health & Education cess without indexation.

Tax on Long term capital gain on transfer of unlisted securities by non-resident [Sec. 112(1)(c)(iii)]

Applicable to: Non-resident (not being a company) or a foreign company

Conditions:

a. Long-term capital gains arises on transfer of a capital asset, being unlisted securities or shares of a company, not being a company in which the public are substantially interested

b. Such gain is computed without giving effect to the First proviso of sec.48 (i.e., provision relating to computation of capital gain in foreign currency and then reconversion into Indian currency)

c. Such gain is computed without giving effect to the Second proviso of sec.48 (i.e., index benefit)

Treatment

Long term capital gain shall be taxable @ 12.5%** + Surcharge + Health & Education cess

In any other case [Sec. 112(1)]

Long term capital gain is taxed @ 12.5***%‡ + Surcharge (if applicable) + Health & Education cess

Tax Computation

a) In the case of an individual or a Hindu undivided family [a resident]—

Where [Total Income - Long-term capital gains] > Exempted ceiling	
Tax on LTCG	@ 12.5%
Tax on [Total income - such long-term capital gains]	As per the slab

* 10%, where the transaction takes place before 23-07-2024

** 10%, where the transaction takes place before 23-07-2024

*** 20%, where the transaction takes place before 23-07-2024

‡ In case long-term capital gain being covered u/s 115AB, 115AC, 115AD or 115E, special rate of tax is applicable.

Where [Total Income - Long-term capital gains] < Exempted ceiling	
Tax on LTCG – [Exempted ceiling – (Total Income - Long-term capital gains)]	@ 12.5%
Tax on [Total income - Long-term capital gains]	Nil

Taxpoint: Above method of computation is not applicable in case of non-resident.

Example: Mr. Janardan, a resident aged 52 years, has other income of ₹ 2,20,000 and LTCG ₹ 90,000. He shall be liable to tax as follows –

Computation of tax liability

Particulars	LTCG	Other income	Total
Taxable income	90,000	2,20,000	3,10,000
Exempted up to ₹ 3,00,000 #(₹ 3,00,000 – ₹ 2,20,000)	80,000#	2,20,000	3,00,000
Balance	10,000	Nil	10,000
Tax rate	12.5%	Slab	
Tax liability before rebate	**1,250**	**Nil**	**1,250**
Less: Rebate u/s 87A			**1,250**
Tax payable			**Nil**

Example: Mr. Nishith, a resident aged 40 years, has other income of ₹ 1,20,000 and LTCG on 15-10-2024 u/s 112A ₹ 3,65,000. He shall be liable to tax as follows –

Computation of tax liability

Particulars	LTCG u/s 112A	Other income	Total
Taxable income	3,65,000	1,20,000	4,85,000
Exempted up to ₹ 3,00,000 #(₹ 3,00,000 – ₹ 1,20,000)	1,80,000#	1,20,000	3,00,000
Balance	1,85,000	Nil	1,85,000
Tax rate @ applicable on income in excess of ₹ 1,25,000	12.5% @	Slab	
Tax liability before rebate	**7,500**	**Nil**	**7,500**
Less: Rebate u/s 87A			NA
Tax after rebate			7,500
Add: Health & Education Cess			300
Tax and Cess Payable			**7,800**

Example: Joseph, a non-resident has LTCG ₹ 1,00,000. He shall be liable to tax @ 12.5% on LTCG, i.e. ₹ 12,500 (₹ 1,00,000 × 12.5%) (plus cess), even total income does not exceed the maximum exempted limit.

Deduction under chapter VIA [Sec. 112(2)]: No deduction under chapter VIA (i.e. u/s 80C to 80U) is available against LTCG.

Analysis of Tax Rates in case of a Resident Individual & Resident HUF

Nature of Income	Rate of Tax	Benefit of Deficiency in Basic Exemption Limit	Availability of Rebate u/s 87A	Deduction u/ch VIA
Lottery income	30%	×	√	×
LTCG covered u/s 112A	Upto 22-07-2024 Upto ₹ 1,00,000 – 0% Balance – 10% On or after 23-07-2024 Upto ₹ 1,25,000 – 0% Balance – 12.50%	√	×	×
Other LTCG	Upto 22-07-2024 10%/20% On or after 23-07-2024 12.50%	√	√	×
STCG covered u/s 111A	Upto 22-07-2024 15% On or after 23-07-2024 20%	√	√	×
Other STCG	**Slab**	√	√	√
Other Income	Slab	√	√	√

2.4.49 Reference to Valuation Officer [Sec. 55A]

With a view to ascertaining the fair market value of a capital asset for the purposes of this chapter [e.g. sec. 45(1A), 45(2), 45(4), 46(2), 55 and 2(47)] the Assessing Officer may refer the valuation of capital asset to a Valuation Officer.

Cases where reference to Valuation Officer can be made

Case	Condition
Where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer.	If the Assessing Officer is of opinion that the value so claimed is at variance with its fair market value
In any other case	If the Assessing Officer is of the opinion— 1. That the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than ➢ 15% of the value of the asset as so claimed; or ➢ by more than ₹ 25,000 whichever is less. 2. That having regard to the nature of the asset and other relevant circumstances, it is necessary to do so.

Valuation Officer has the same meaning, as in sec. 2 (r) of the Wealth-tax Act, 1957.

General Illustrations

Illustration 114.

During the previous year 2024-25, Jay exchanges his agricultural land (being acquired on 1-12-2021 for ₹ 40,000) against the agricultural land of Vijay (being acquired on 1-02-2024 for ₹ 90,000). Fair market value of such properties on the date of transfer is ₹ 3,00,000. Compute capital gain assuming that both the land is situated in urban area.

Solution

Computation of capital gain for A.Y. 2025-26

Particulars	Working	Jay	Vijay
Sale consideration		3,00,000	3,00,000
Less: Expenses on transfer		Nil	Nil
Net sale consideration		3,00,000	3,00,000
Less: Cost of acquisition		40,000	90,000
Less: Cost of improvement		-	Nil
Long Term Capital Gain		2,40,000	-
Short Term Capital Gain		-	2,10,000
Less: Exemption			
U/s 54B		2,40,000	Nil[1]
Taxable Long Term Capital Gain		**Nil**	**-**
Taxable Short Term Capital Gain		**-**	**2,10,000**

[1.] Since Vijay has not used such land for 2 years, hence he is not eligible for exemption u/s 54B.

Income from Other Sources

2.5

As per sec. 56(1), any income, which is not specifically exempted and not chargeable under any other heads of income, shall be chargeable under the head "Income from other sources". This is the last and residuary head of income.

Taxpoint:

A receipt shall be taxable under this head if the following conditions are satisfied:

- Such receipt shall be a taxable income; and
- Such income does not specifically fall under any one of the other four heads of income (i.e. 'Salaries', 'Income from house property', 'Profits and gains of business or profession' or 'Capital gains').

Sec. 56(2) lays down a list of incomes, which are taxable under this head. Such list is not exhaustive. Apart from the income stated in sec. 56(2) any other income, which is fulfilling all the above conditions, shall be taxable under this head.

Sec. 56(2) lays down the list of incomes, which are specifically taxable under this head:

Income absolutely chargeable under this head

1. Dividends [Sec. 56(2)(i)] [discussed later]
2. Casual income e.g. Winning from lotteries, etc. [Sec. 56(2)(ib)] [discussed later]
3. Gift [Sec. 56(2)(x) [discussed later]
4. Income by way of interest received on compensation or on enhanced compensation [Sec.56(2)(viii)] [discussed later]
5. Sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if:
   a. such sum is forfeited; and
   b. the negotiations do not result in transfer of such capital asset [Sec. 56(2)(ix)] [Discussed in Capital Gain]
6. Any specified sum received by a unit holder from a business trust during the previous year, with respect to a unit held by him at any time during the previous year. [Sec. 56(2)(xii)]
7. Any sum received under a life insurance policy [Sec. 56(2)(xiii)] [discussed later]

Income chargeable under this head if not charged under the head 'Profits and gains of business or profession'

8. Any sum received by the assessee from his employees as contribution to provident fund, etc. [Sec. 56(2)(ic)]
9. Interest on securities [Sec. 56(2)(id)] [discussed later]
10. Income from letting of machinery, plant or furniture [Sec. 56(2)(ii)] [discussed later]

11. Composite Rent [Sec. 56(2)(iii)] [discussed later]

Income chargeable under this head if not charged under the head 'Profits and gains of business or profession' or under the head 'Salaries'-

12. Any sum (including bonus) received under a Keyman Insurance Policy [Sec. 56(2)(iv)] Keyman Insurance Policy means a life insurance policy taken by a person on the life of another person, who is either the employee or is connected in any manner with the business of the former person [Explanation to Sec. 10(10D)]
13. Any compensation or other payment, due to or received by any person, in connection with the termination of his employment or the modification of the terms and conditions relating thereto. [Sec. 56(2)(xi)]

Apart from above, the following incomes are also chargeable under this head by virtue of sec. 56(1). In this regard it is to be noted that the following list is merely indicative and not exhaustive.

1. Income from sub-letting of a house property.
2. Interest on bank deposits.
3. Interest on company deposits, interest on loans, etc.
4. Remuneration received from a person other than his employer for evaluation of answer scripts. However, if such remuneration is received from employer, then the same will be taxable under the head "Salaries".
5. Rent from a vacant land.
6. Insurance commission.
7. Income from undisclosed sources
8. Income from private tuition.
9. Interest on income tax refund.

   Taxpoint: Income tax refund itself is not an income.
10. Family pension received by the family members of a deceased employee [discussed later]
11. Dividend received from a co-operative society.
12. Directors' sitting fee for attending Board Meetings.
13. Income from activity of owning and maintaining race-horses.
14. Stipend to trainee.
15. Interest on employee's contribution towards unrecognized provident funds at the time of payment of lump sum amount

2.5.1 Basis of chargeability [Sec.145]

Income under this head shall be chargeable on 'accrual' or 'cash' basis depending on the method of accounting regularly followed by the assessee (i.e. either mercantile or cash system of accounting).

Exception: Dividend is charged as per the method specified in sec. 8 (discussed later in this chapter)

2.5.2 Casual Income: Winning from lotteries, crossword puzzles, etc. [Sec. 56(2)(ib)]

Winnings from -

1. Lotteries;
2. Crossword puzzles;
3. Races including horse races;

4. Gambling and betting of any nature or form; or
5. Online gaming; or
6. Card games, game show or entertainment program on television or electronic mode and any other game of any sort,

- are taxable under this head.

Lottery includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called.

Card game and other game of any sort includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game.

Exemption/deduction [Sec. 58(4)]: Such income shall be fully taxable & no deduction shall be allowed.

Tax rate [Sec. 115BB]: Tax is charged at a flat rate of 30% + applicable surcharge + HEC @ 4%.

Notes

a. **Income of jockey:** Income of jockey from such profession is not treated as winning from horse races.
b. **Winning from a motor car rally:** Winning from a motor car rally is a return for skill and effort and cannot be treated as casual income but taxable as normal income
c. **Lottery held as stock in trade:** Winning from lottery to an agent or trader out of its unsold stock (tickets) shall be treated as incidental to business and taxed under the head "Profits & gains of business or profession"
d. **Expenditure to be deducted:** No deduction can be claimed from such income even if such expenditure is incurred exclusively and wholly for earning such income.
e. **Deduction:** Deduction u/s 80C to 80U is not available from such income.
f. Benefit of unexhausted basic exemption limit: Not available
g. Winnings from any online game would not be taxed under this section

Method of grossing up of income / Conversion of income received into gross income in case of casual income

Sometime in the problem, lottery income received is given rather than lottery income. In such case, students are required to gross up the lottery income received. Relation between lottery income earned and lottery income received is as under -

Lottery income received = Lottery income earned – Tax deducted at source on such income[#]

[#] **Tax deducted at source:** By virtue of sec. 194B & 194BB, tax is deductible at sources @ 30% on payment in respect of winning from lotteries, etc.

Procedure of grossing up, in case of resident individual or HUF, are as follow-

Lottery Income Received = Gross Lottery Income – TDS @ 30% on Gross Lottery Income.
Lottery Income Received = 70% of Gross Lottery Income
$\text{Gross Lottery Income} = \frac{\text{Lottery Income Received}}{70\%}$

Note: Tax is not deducted in following cases, hence, there is no need of grossing up.-

a. If the amount of winning from lottery etc. or horse race is not more than ₹ 10,000.
b. In case of winning from gambling, betting, on-line gaming and racing other than horse race e.g. camel races, etc.

2.5.3 Income from machinery, plant or furniture let on hire [Sec. 56(2)(ii)]

Income from letting of machinery, plant or furniture on hire is charged to tax under this head, if such income is not chargeable under the head "Profits and gains of business or profession".

Notes

a. Any income by way of letting out an asset as a part of business activity or as commercial asset shall be taxable under the head "Profits & gains of business or profession".

b. In case of temporary discontinuance of business due to any reason without any intention of the assessee to part with or close the business, if the business assets are leased out for a certain period, then such lease rent shall be taxed under the head "Profits & gains of business or profession".

2.5.4 Income from machinery, plant or furniture let on hire along with building (Composite Rent) [Sec. 56(2)(iii)]

Generally, income from letting of building is taxable under the head Income from house property; but if such letting is inseparable from letting of machinery, plant or furniture, then income from such letting is charged to tax under the head "Income from other sources" if not taxed under the head "Profits & gains of business or profession". [Further refer the chapter "Income from house property"].

Notes

1. If letting of such building alone is acceptable, then income from letting of building is taxable under the head 'Income from house property'.
2. Mere knowledge of rent charged against each asset does not make it separable, unless and until the property is separately letable.

2.5.5 Deductions allowed against income u/s 56(2)(ii) & 56(2)(iii) [Sec. 57(ii) & (iii)]

By virtue of sec. 57(ii) and (iii), following expenditures are deductible from such income:

1. Current repairs shall be allowed as deduction [as per sec. 30(a)(ii) or 31(i)].
2. Insurance premium paid for machinery, plant, furniture or building [as per sec. 30(c) or 31(ii)]
3. Depreciation and unabsorbed depreciation (as per sec. 32).
4. Any other revenue expenditure expended, during the previous year, wholly and exclusively for earning such income.

2.5.6 Family pension

Meaning: Family pension means a regular monthly amount payable by the employer to a person belonging to the family of a deceased employee (e.g. widow or legal heirs of a deceased employee)

Tax Treatment: It is taxable under the head "Income from other sources" after allowing standard deduction.

Standard Deduction [Sec. 57(iia)]

Minimum of: 1/3rd of such pension; or ₹ 15,000 [However, if the assessee is under default tax regime, ₹ 25,000].

Relief u/s 89 on arrears of family pension

Relief is available on arrears of family pension received by the family member of a deceased employee, as in case of arrears/advance salary.

Notes

a. Lump-sum payment made gratuitously or by way of compensation or otherwise to the widow or other legal heirs of an employee, who dies while still in service, is non-taxable income.

b. Ex-gratia payment made to the widow or other legal heir of an employee, who dies while still in active service would not be taxable as income provided it is paid by the Central Government or State Government or local authority or Government or public sector undertaking.

Illustration 115:

Sunder died on 31st July 2024 while being in Central Government service. In terms of rules governing his service, his widow Mrs. Sunder is paid a family pension of ₹ 10,000 p.m. and dearness allowance of 40% thereof. State whether the amount of family pension is assessable in her hands, and if so, under what head of income. Can she claim any relief/deduction on such receipt? Compute taxable income for the assessment year 2025-26 and tax thereon.

Solution :

Computation of gross total income of Mrs. Sunder for the A.Y.2025-26

Particulars	Old Regime		Default Regime	
	Details	Amount	Details	Amount
Income from other sources				
Family pension [(₹ 10,000 + ₹ 4,000) x 8] [From 01-08-2024 to 31-03-2025]		1,12,000		1,12,000
Less: Standard deduction being minimum of the following:				
a) 1/3rd of the pension	37,333		37,333	
b) Statutory limit	15,000	15,000	25,000	25,000
Total Income		97,000		87,000
Tax on above		Nil		Nil

It is assumed that other income of Mrs. Sunder is nil.

2.5.7 Gift [Sec. 56(2)(x)]

Cash | Immovable Property | Immovable Property at concessional value | Movable asset | Movable asset at concessional value

Following receipts by any person shall be considered as his income:

Category	Nature of Receipt	Conditions to be satisfied for considering income	Extent of Income	Remarks
A	Any sum of money	a. During the previous year, such person has received any sum of money (cash, cheque, draft, etc.) from one or more persons b. Such sum is received without consideration c. The aggregate value of such receipt during the previous year exceeds ₹ 50,000	The whole of the aggregate value of such sum shall be considered as income of that previous year.	Aggregate amount of cash gift received during the period shall be considered.

Category	Nature of Receipt	Conditions to be satisfied for considering income	Extent of Income	Remarks
B	Any immovable property	a. During the previous year, such person has received immovable property b. Such immovable property is received without consideration. c. The stamp duty value of such property exceeds ₹ 50,000 d. Such asset is a capital asset in hands of recipient.	The stamp duty value of such property shall be considered as income of that previous year.	The limit of ₹ 50,000/- is applicable per incidence
C	Any immovable property	a. During the previous year, such person has received immovable property b. Such immovable property is received for a consideration c. Stamp duty value of such property exceeds such consideration d. Such excess is more than the higher of the following: – ₹ 50,000; or – 10% of the consideration **Note:** Where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken. This benefit is available only in a case where the amount of consideration or a part thereof, has been paid by of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account or through other prescribed electronic modes*, on or before the date of the agreement for the transfer of such immovable property.	The stamp duty value of such property *Less* consideration paid, shall be considered as income of the previous year.	The limit (₹ 50,000/- or 10%) is applicable per incidence.
D	Any movable property	a. During the previous year, such person has received movable property from one or more persons b. Such movable property is received without consideration c. The aggregate fair market value of such receipts during the previous year exceeds ₹ 50,000 d. Such asset is a capital asset in hands of recipient.	The whole of the aggregate fair market value of such property shall be considered as income of the previous year.	Aggregate amount of gift received during the period shall be considered.

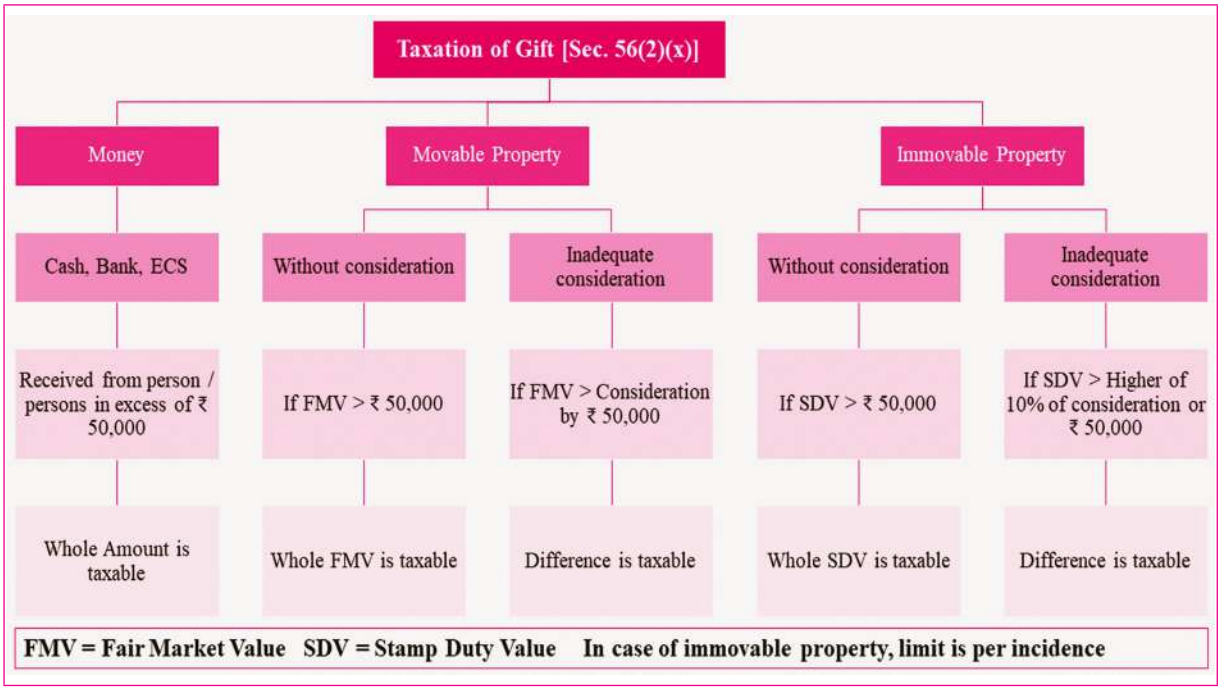
* Credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay as other electronic modes of payment [CBDT Notification No. 8/2020 dated 29.01.2020].

Category	Nature of Receipt	Conditions to be satisfied for considering income	Extent of Income	Remarks
E	Any movable property	a. During the previous year, such person has received movable property from one or more persons b. Such movable property is received for a consideration. c. Such consideration is less than the aggregate fair market value of the property by an amount exceeding ₹ 50,000 d. Such asset is a capital asset in hands of recipient.	The aggregate fair market value of such property *Less* consideration paid, shall be considered as income of the previous year.	Aggregate amount of gift received during the period shall be considered.

Taxpoint:

a. The limit of ₹ 50,000/- is also for per category. In other words, one may receive cash gift of ₹ 35,000 and gift in kind of ₹ 36,000 without attracting any tax.

b. In case of dispute in stamp duty valuation: Refer section 50C discussed in chapter 'Capital Gains'



Provisions Illustrated

Cash Gift

a. Mr. Anand received cash gift of ₹ 1,00,000 from his friend Mr. Lathi as on 10-10-2024

₹ 1,00,000 shall be considered as income of Mr. Anand for A.Y. 2025-26

b. As on 12-11-2024, Mr. Ajay received cash gift of ₹ 25,000 each from his 3 friends (one of them is a non-resident)

Since aggregate amount of gift exceeds ₹ 50,000, hence, entire amount of gift i.e., ₹ 75,000 shall be considered as income of Mr. Ajay for A.Y. 2025-26

Gift of immovable property

a. As on 10-01-2025, Mr. Pati received a piece of land (stamp duty value is ₹ 75,000) from his friend Mr. Raja without any consideration. Such land was acquired by Raja in 2001-02 for ₹ 10,000.

Consequence of such gift in hands of Mr. Pati

i. Since stamp duty value of the property exceeds ₹ 50,000, hence ₹ 75,000 shall be considered as income of Mr. Pati u/s 56(2)(x) for A.Y. 2025-26.

ii. By virtue of amended provisions of sec.49(4), cost of acquisition of such land in hands of Mr. Pati shall be ₹ 75,000. Suppose as on 03-06-2026, Mr. Pati sold such land for ₹ 2,00,000 (stamp duty value as on that date is ₹ 2,00,000), computation of capital gain in hands of Mr. Pati for A.Y. 2027-28 are as under:

Particulars	Amount
Sale Consideration	2,00,000
Less: Expenses on transfer	Nil
	2,00,000
Less: Cost of acquisition[$]	75,000
Short term capital gain[#]	**1,25,000**

[$] Since the transferred capital assets has been subject to income tax u/s 56(2)(x) in the A.Y.2025-26, the cost of acquisition of such asset shall be deemed to be the value which has been taken into account for the purpose of sec.56(2)(x) i.e., ₹ 75,000 – Sec.49(4). Further, it is to be noted that sec. 49(1) (i.e., in case of gifted assets, cost of previous owner shall be considered as cost of acquisition in hands of the assessee) is not applicable.

[#] As per explanation 1 to sec. 2(42A), while determining holding period of capital asset, being asset acquired through gift, period of holding of previous owner shall also be included. However, this rule is not applicable in case where such gift is subject to income tax u/s 56(2)(x).

Reason for non-applicability of said explanation

The explanation 1 to sec. 2(42A), inter-alia, provides the following:

"(*b*) in the case of a capital asset which becomes the property of the assessee in the circumstances mentioned in sub-section (1) of section 49, there shall be included the period for which the asset was held by the previous owner referred to in the said section."

Since the said explanation is applicable only in circumstances covered u/s 49(1). However, assets taxable u/s 56(2)(x) is covered u/s 49(4).

Consequence of such gift in hands of Mr. Raja

Mr. Raja has transferred the capital asset by way of gift, which is not considered as transfer (sec. 47), hence no tax is required to be paid by him. The segregation of gift u/s 49(1) or u/s 49(4) is applicable only for determining cost of acquisition in the hands of transferee. However, sec. 47 (which provides the list of transaction do not constitute transfer) does not provide any segregation.

b. On 10-07-2024, Dipak received a piece of land at Napasar from his friend Vikash (stamp duty value ₹ 46,000) as a gift. Such land was acquired by Mr. Vikash in 2001 for ₹ 5,000/-. Further, as on 01-11-2024, Dipak also received another piece of land at Bikaner (stamp duty value ₹ 30,000) without any consideration from Anil (acquired in 2023-24 for ₹ 10,000/-)

On 31-03-2025, Mr. Dipak sold land at Napasar to Kedar for ₹ 30,000/- and land at Bikaner to Nath for ₹ 90,000/-. Stamp duty value of such land as on the date of sale is ₹ 50,000/- (Napasar) and ₹ 85,000/- (Bikaner).

Consequence of such gift in hands of Mr. Dipak

1. **Applicability of sec.56(2)(x):** Nothing shall be taxable as stamp duty value (at the time of gift) of property at each occasion does not exceed ₹ 50,000/-.
2. **Cost of acquisition:** Since the value of the asset is not subject to income-tax u/s 56(2)(x), hence cost of acquisition of previous owner shall be considered as cost of acquisition of such assets in hands of Dipak. Consequently, cost of acquisition of land at Napasar is ₹ 5,000/- and that of land situated in Bikaner is ₹ 10,000/-
3. **Period of Holding:** Since the value of the asset is not subject to income-tax u/s 56(2)(x), hence period of holding of previous owner shall also be included in the holding period of Dipak.
4. **Computation of capital gain on transfer:** Computation of capital gain in hands of Dipak are as under:

Particulars	Land at	
	Napasar	Bikaner
Sale Consideration (Being higher of the following – Sec.50C)		
- Actual Consideration	30,000	90,000
- Stamp duty value	50,000	85,000
	50,000	90,000
Less: Expenses on transfer	Nil	Nil
	50,000	90,000
Less: Indexed Cost of acquisition [₹ 5,000 × 363 / 363]	5,000	-
Less: Cost of acquisition	-	10,000
Long term capital gain	**45,000**	**-**
Short term capital gain	**-**	**80,000**

Consequence of such gift in hands of Mr. Vikash and Mr. Anil

Mr. Vikash and Mr. Anil has transferred the capital asset by way of gift, which is not considered as transfer (sec. 47), hence no tax is required to be paid by him.

Acquisition of immovable property at concessional amount

a. As on 10-01-2025, Tipu purchased a piece of land (stamp duty value is ₹ 75,000) from his friend Mr. Uday against consideration of ₹ 30,000. Mr. Uday has acquired such land for ₹ 25,000 in F.Y. 2006-07. On 10-04-2026, Tipu sold such land for ₹ 1,75,000 (stamp duty value ₹ 1,60,000/-).

Consequences in hands of Mr. Tipu

1. **Applicability of sec.56(2)(x):** Since the difference between stamp duty value of the land (as on 10-01-2025) and actual consideration does not exceed ₹ 50,000, hence, the provision of sec. 56(2)(x) is not applicable.
2. **Cost of acquisition:** ₹ 30,000 shall be considered as cost of acquisition of such land in hands of Tipu.

* Alternatively, index benefit may be taken from the date of acquisition of such land by Vikash. Further, he may calculate long-term capital gain without considering index benefit, in that case, the rate of tax on such long-term capital gain would be 10%

3. **Capital Gain:** Computation of Capital gain for A.Y. 2027-28 are as under.

Particulars	Amount
Sale Consideration (Higher of ₹ 1,75,000 and ₹ 1,60,000 – Sec.50C)	1,75,000
Less: Expenses on transfer	Nil
	1,75,000
Less: Cost of acquisition	30,000
Short term capital gain#	**1,45,000**

It is to be noted that this is not the case of gift, hence period of holding commenced from 10-01-2025.

Consequences in hands of Mr. Uday

Computation of capital gain in hands of Mr. Uday for A.Y. 2025-26

Particulars	Amount
Sale Consideration (Higher of ₹ 75,000 and ₹ 30,000 – Sec.50C)	75,000
Less: Expenses on transfer	Nil
	75,000
Less: Indexed cost of acquisition [₹ 25,000 × 363 / 122]	74,385
Long term capital gain	**615**

Alternatively, LTCG may be claculated without considering index benefit.

b. As on 10-02-2025, Mundhra Services Pvt Ltd purchased a piece of land (stamp duty value is ₹ 7,50,000) from one of the friend, Mita, of the Director, against consideration of ₹ 3,90,000. Mita has acquired such land for ₹25,000 in 2000 (Fair Market Value as on 1-4-2001 was ₹ 32,000). On 10-04-2026, the company has sold such land for ₹ 10,75,000 (stamp duty value ₹ 12,50,000/-).

Consequences in hands of Mundhra Services Pvt Ltd

1. **Applicability of sec.56(2)(x):** Since the difference between stamp duty value of the land (as on 10-02-2025) and actual consideration exceeds ₹ 50,000, hence, the provision of sec. 56(2)(x) is applicable. Consequently, ₹ 3,60,000/- shall be considered as 'Income from Other Sources' in hands of the company in the A.Y.2025-26.
2. **Cost of acquisition:** ₹ 7,50,000 shall be considered as cost of acquisition of such land in hands of the company.
3. **Capital Gain:** Computation of Capital gain for A.Y. 2027-28 are as under

Particulars	Amount
Sale Consideration (Higher of ₹ 10,75,000 and ₹ 12,50,000 – Sec.50C)	12,50,000
Less: Expenses on transfer	Nil
	12,50,000
Less: Cost of acquisition	7,50,000
Short term capital gain#	**5,00,000**

It is to be noted that this is not the case of gift, hence period of holding commenced from 10-02-2025.

Consequences in hands of Mita

Computation of capital gain in hands of Mita for A.Y. 2025-26

Particulars	Amount
Sale Consideration (Higher of ₹ 7,50,000 and ₹ 3,90,000 – Sec.50C)	7,50,000
Less: Expenses on transfer	Nil
	7,50,000
Less: Cost of acquisition	32,000
Long term capital gain	**7,18,000**

Alternatively, Capital gain may be computed after considering index benefit.

c. On 10-10-2024, Suresh purchased a piece of land from his friend Anuj (stamp duty value ₹ 46,000) for ₹ 30,000. Further, as on 01-11-2024, he also purchased house property (stamp duty value ₹ 1,50,000) from Ajay for ₹ 1,00,000. Further, as on 01-01-2025, his another friend Jitu give him a house property without any consideration (stamp duty value ₹ 35,000). Jitu purchased such property on 10-04-2001 for ₹ 5,000/-

Consequences in hands of Suresh

1. **Applicability of sec.56(2)(x):** Nothing shall be taxable as the difference between stamp duty value of property and actual consideration at **each** occasion does not exceed ₹ 50,000/-.
2. **Cost of acquisition and period of holding:** Since the value of the asset is not subject to income-tax u/s 56(2)(x), hence cost of acquisition and period of holding thereof are as under:

Property	Cost of acquisition	Period of holding commenced from
Land purchased from Anuj	₹ 30,000	10-10-2024
House purchased from Ajay	₹ 1,00,000	01-11-2024
House received from Jitu	Cost of previous owner i.e. ₹ 5,000	10-04-2001

Consequences in hands of Anuj, Ajay and Jitu

- **Anuj and Ajay:** Capital gain shall be computed. Provision of sec.50C is applicable.
- **Jitu:** No treatment

d. On 10-10-2024, Sonam purchased a piece of land from her friend Shweta (stamp duty value ₹ 12,54,000) for ₹ 12,00,000.

Consequences in hands of Sonam

i. **Applicability of sec.56(2)(x):** Since the difference between actual consideration and stamp duty value does not exceed 10% of actual consideration (being ₹ 1,20,000 i.e., 10% of ₹ 12,00,000), hence nothing shall be taxable u/s 56(2)(x) even though the difference between actual consideration and stamp duty value exceeds ₹ 50,000.

ii. **Cost of acquisition**: ₹ 12,00,000

Consequences in hands of Shweta

Similarly, ₹ 12,00,000 being actual consideration shall be considered as full value of consideration.

e. On 10-10-2024, Priya purchased a piece of land from her friend Monica (stamp duty value ₹ 4,45,000) for ₹ 4,00,000.

Consequences in hands of Priya

1. **Applicability of sec.56(2)(x):** Nothing shall be taxable as the difference between stamp duty value of the property and actual consideration does not exceed ₹ 50,000/-.
2. **Cost of acquisition:** ₹ 4,00,000

Consequences in hands of Monica

₹ 4,45,000 being stamp duty value shall be considered as full value of consideration as stamp duty value exceeds 110% of actual consideration.

- Actual consideration ₹ 4,00,000
- 110% of above ₹ 4,40,000
- Stamp duty value ₹ 4,45,000

Provision of sec. 50C do not have criteria like the minimum difference should be ₹ 50,000.

Gift of movable property

a. As on 10-01-2025, Narendra received gold necklace (fair value is ₹ 1,85,000) from Vivek without any consideration.

Consequences in hands of Narendra

i. **Applicability of sec. 56(2)(x):** Since fair market value of gift exceeds ₹ 50,000, hence the provision is applicable and consequently ₹ 1,85,000 shall be taxable as income from other sources in A.Y. 2025-26.

ii. **Cost of acquisition of such necklace:** ₹ 1,85,000/- being the value taken for computing income u/s 56(2)(x)

iii. **Period of holding:** Period of holding will be commenced from 10-01-2025.

Consequences in hands of Vivek

Gift is not considered as transfer; hence nothing shall be taxable in his hands.

b. On 10-10-2024, Mohan received shares from his friend Uttam (fair value ₹ 36,000 and not acquired through ESOP) as a gift. Further, as on 01-11-2024, he also received gold chain (fair value ₹ 30,000) without any consideration from another friend.

Consequences in hands of Mohan

i. **Applicability of sec. 56(2)(x):** Since aggregate fair market value of both gifts exceeds ₹ 50,000, hence the provision is applicable and consequently ₹ 66,000 shall be taxable as income from other sources in A.Y. 2025-26.

It is to be noted that in case of immovable property, limit of ₹ 50,000/- is applicable on per incidence. However, in case of movable property (and cash), the limit of ₹ 50,000/- is applicable for all gift received during the previous year.

ii. **Cost of acquisition of such necklace:** ₹ 36,000/- (for shares) and ₹ 30,000 (for gold chain) being the value taken for computing income u/s 56(2)(x)

iii. **Period of holding:** Period of holding will commence from 10-10-2024 (for shares) and 01-11-2024 (for gold chain)

Consequences in hands of Friends

Gift is not considered as transfer, hence nothing shall be taxable in their hands.

Acquisition of movable property at concessional amount

a. On 10-10-2024, Kamal purchased jewellery from Kishore (fair value ₹ 46,000) for ₹ 30,000. Kishore has acquired such jewellery in 10-04-2024 for ₹ 25,000

Consequences in hands of Kamal

i. **Applicability of sec. 56(2)(x):** Since fair market value of jewellery does not exceed ₹ 50,000, hence the provision is not applicable.

ii. **Cost of acquisition of such necklace:** ₹ 30,000/- (for jewellery) being the actual consideration.

iii. **Period of holding:** Period of holding will commence from 10-10-2024

Consequences in hands of Kishore: Computation of capital gain in hands of Kishore are as under:

Particulars	Kishore
Sale Consideration	30,000#
# Sec. 50C is not applicable in case of movable property	
Less: Expenses on transfer	Nil
	30,000
Less: Cost of acquisition	25,000
Short term capital gain	**5,000**

b. On 10-10-2024, Janak purchased jewellery from his friend Giri (fair value ₹ 66,000) for ₹ 30,000. Further, as on 01-11-2024, he also purchased silver utensil (fair value ₹ 1,00,000) from another friend for ₹ 75,000.

Consequences in hands of Janak

Applicability of sec. 56(2)(x): The difference between fair market value and actual consideration are as follow:

Particulars	Amount	Amount
Fair Market Value of		
- Jewellery		66,000
- Silver utensil		1,00,000
		1,66,000
Less: Actual consideration		
- Jewellery	30,000	
- Silver utensil	75,000	1,05,000
Difference between fair market value and actual consideration		61,000
The aforesaid value exceeds ₹ 50,000 hence, sec. 56(2)(x) is applicable, consequently ₹ 61,000 shall be taxable		
Cost of acquisition of such assets shall be fair market value considered for aforesaid computation.		

Consequences in hands of Friends

Capital gain shall be computed. However, it is to be noted that sec. 50C is not applicable on movable asset

Exceptions

This section shall not apply to any sum of money or any property received

1. from any relative[#].

[#] Relative here means—

In case of an individual

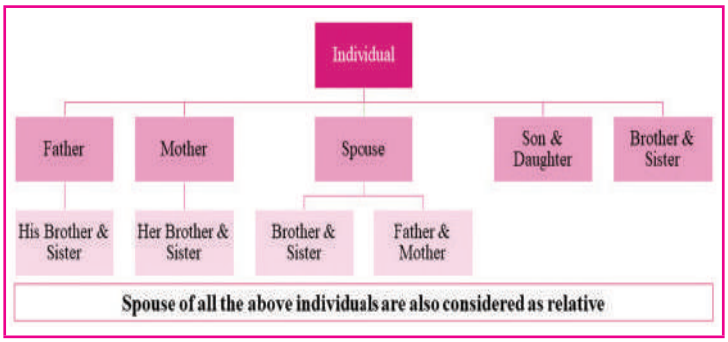
i. spouse of the individual;

ii. brother or sister of the individual;

iii. brother or sister of the spouse of the individual;

iv. brother or sister of either of the parents of the individual;

v. any lineal ascendant or descendant of the individual;



vi. any lineal ascendant or descendant of the spouse of the individual;

vii. spouse of the person referred to in clauses (ii) to (vi).

In case of HUF: Any member thereof

Example 1: Relatives means: Suppose Mr. Vikash is an assessee

1. Wife of Mr. Vikash.
2. Brother or sister of Mr. Vikash.
3. Brother or sister of wife or Mr. Vikash.
4. Brother or sister of father of Mr. Vikash. Brother or sister of mother of Mr. Vikash.
5. Great grandfather, grandfather and father of Mr. Vikash.
6. Son, grandson and great grandson of Mr. Vikash.
7. Great grandfather, grandfather and father of wife of Mr. Vikash.
8. a Brother's wife or sister's husband of Mr. Vikash.
   b. Brother's wife or sister's husband of wife of Mr. Vikash.
   c. Brother's wife or sister's husband of father of Mr. Vikash.
   d. Brother's wife or sister's husband of mother of Mr. Vikash.
   e. Great grandmother, grandmother and mother of Mr. Vikash.
   f. Son's wife, great grandson's wife, great grandson's wife of Mr. Vikash.
   g. Great grandmother, grandmother, and mother of wife of Mr. Vikash.

2. on the occasion of the marriage of the individual (whether gift is received from relative or outsiders).
3. under a will or by way of inheritance.
4. in contemplation of death of the payer or donor.
5. from local authority

6. by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19 subject to prescribed conditions (as specified vide Notification No. 91/2022 dated 05-08-2022)

   - The individual has to keep a record of the following documents:-

     a. the COVID-19 positive report of the individual or his family member, or medical report if clinically determined to be COVID-19 positive through investigations in a hospital or an in-patient facility by a treating physician for a person so admitted;

     b. all necessary documents of medical diagnosis or treatment of the individual or family member due to COVID-19 or illness related to COVID-19 suffered within 6 months from the date of being determined as a COVID-19 positive;

   - The details of the amount so received in any financial year has to be furnished in the prescribed form to the Income-tax Department within 9 months from the end of such financial year.

7. by a member of the family of a deceased person,—

   A. from the employer of the deceased person (without limit); or

   B. from any other person or persons (aggregate upto ₹ 10 lakh),

   where

   i. the cause of death of such person is illness related to COVID-19*

   ii. the payment is received within 12 months from the date of death of such person; and

   iii. any other prescribed conditions are satisfied [medical / death report, statement of money received, etc.]

   Vide Notification No. 92/2022 dated 5.8.2022, following are specified conditions:

   1. The death of the individual should be within 6 months from the date of testing positive or from the date of being clinically determined as a COVID-19 case, for which any sum of money has been received by the member of the family;
   2. The family member of the individual has to keep a record of the following documents,
      a. the COVID-19 positive report of the individual, or medical report if clinically determined to be COVID-19 positive through investigations in a hospital or an inpatient facility by a treating physician;
      b. a medical report or death certificate issued by a medical practitioner or a Government civil registration office, in which it is stated that death of the person is related to corona virus disease (COVID-19).
   3. The details of such amount received in any financial year has to be furnished in the prescribed form to the Assessing Officer within 9 months from the end of such financial year.

   Taxpoint: Family here means -

   - Spouse and children of the individual; and
   - Parents, brothers and sisters of the individual, who are wholly or mainly dependent on him.

8. from or by any fund or foundation or university or other educational institutions or hospital or other medical institutions or any trust or institution referred u/s 10(23C), provided it is not received by any person referred to in sec. 13(3).

9. from or by any trust or institution registered u/s 12AA or 12AB, provided it is not received by any person referred to in sec. 13(3).

* The death of the individual should be within 6 months from the date of testing positive or from the date of being clinically determined as a COVID-19 case, for which any sum of money has been received by the member of the family

10. from an individual by a trust created or established solely for the benefit of relative of the individual.
11. by way of distribution at the time of total or partial partition covered u/s 47(i)
12. by way of transactions in the nature of amalgamation or demerger covered u/s 47(iv) or (v) or (vi) or (via) or (viaa) or (vib) or (vic) or (vica) or (vicb) or (vid) or (vii) or (viiac) or (viiad) or (viiae) or (viiaf).
13. from such class of persons and subject to such conditions, as may be prescribed.

Other Points

1. Fair market value of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed;
2. Property (including virtual digital assets) means the following capital asset of the assessee, namely

a. Immovable property being land or building or both		b. Shares & securities	
c. Archaeological collections	d. Paintings	e. Jewellery	f. Drawings
g. Sculptures	h. Any work of art	i. Bullion	

Taxpoint:

- Property includes virtual digital asset like crypto currency.
- As per sec. 2(47A), virtual digital asset means:
  a. any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;
  b. a non-fungible token or any other token of similar nature, by whatever name called;
  c. any other digital asset, as the Central Government may, specify.

  However, Central Government may exclude any digital asset from the definition of virtual digital asset subject to such conditions as may be specified therein.
- Property does not include furniture, clothes, etc. (provided it does not fall in the definition of Jewellery).
- If an assessee receives aforesaid assets without consideration (or against inadequate consideration in some cases) as stock in trade, the provision of this section shall not apply.

3. Stamp duty value means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property.

2.5.8 Income by way of interest received on compensation or on enhanced compensation [Sec.56(2)(viii)]

Interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is *received*.

Tax Treatment: It is taxable under the head "Income from other sources" after allowing standard deduction of 50% of such income.

E.g., During the previous year 2024-25, Mr. X received ₹ 65,000 (₹ 45,000 pertaining to the previous year 2023-

24) as interest on delayed compensation. Such interest after allowing standard deduction shall be considered as an income of the previous year 2024-25 (irrespective of previous year to which such interest pertains). Thus, ₹ 32,500 (i.e., ₹ 65,000 – ₹ 32,500 being standard deduction @ 50%) shall be considered as income of the previous year 2024-25.

2.5.9 Employee's contribution towards staff welfare fund or scheme [Sec. 56(2)(ic)]

Any amount received or deducted by an employer from employee towards any -

- Provident Fund;
- Superannuation Fund;
- Fund set up under the provisions of Employee's State Insurance Act, 1948; or
- Other fund set up for the welfare of such employees,

shall be treated as income of the employer under this head if not taxable under the head "Profits & gains of business or profession". Subsequently, when such sum is credited by the employer to the employee's account in the relevant fund on or before the due date prescribed under the relevant Act, then deduction of equal amount is available.

Taxpoint

➢ If employee's contribution taken and deposited within time	No treatment
➢ If employee's contribution taken and not deposited within time	Taxable as income from other source if not taxable as business income.

2.5.10 Interest on Securities [Sec. 56(2)(id)]

As per sec. 2(28B), "interest on securities" means -

a. Interest on any security of the Central Government or a State Government;

b. Interest on debentures or other securities issued by or on behalf of -

- ➢ a local authority; or
- ➢ a company; or
- ➢ a corporation established by a Central, State or Provincial Act.

Tax treatment

Case	Treatment
When the securities are held as stock-in-trade	Interest on securities is charged to tax under the head 'Profits & gains of business or profession'
When the securities are held otherwise than as stock-in-trade.	Interest on such securities is charged to tax under the head 'Income from other sources'

Chargeability: It is taxable as per cash basis or due basis, depending on the method of accounting regularly followed by the assessee. However, where no method of accountancy is followed, then it shall always be taxable on *due basis*.

Due date of interest: Interest shall be taxable when such interest falls due. Interest on securities shall not accrue on day-to-day basis. It accrues on the due date of interest as prescribed by the issuing authority. Entire interest shall

be charged in the hands of assessee who holds security on such date (irrespective of the date of acquisition of such security). E.g. Mr. X acquired debenture of A Ltd. as on 7/9/2022. Due date of interest on debenture is 31st March every year. Interest on such debenture shall be taxable in hands of Mr. X for the whole year.

Taxpoint: *In case of death of assessee before the due date, the income of the whole year shall be taxable in the hands of recipient of income.*

Grossing-up of interest if it is given net of TDS: Sometime in the problem, *Interest income received* is given rather than *Interest earned*. In such case, students are required to gross up the interest income received. Relation between interest income earned and interest income received is as under:

Interest income received = Interest income earned – Tax deducted at source on such income#

Accordingly, Gross income from interest = [Interest received * 100/ (100 - TDS rate i.e.10%)]

Tax is required to be deducted @ 10%. However, in certain cases, tax is not required to be deducted (For further details refer to Chapter Tax Deducted at Source)

Expenditure allowed as deductions

By virtue of sec. 57(i) and (iii), the following expenditure are deductible from interest income:

a. Collection expenditure

b. Interest on loan

c. Any other expenditure

Taxpoint: However, any expenses covered u/s 58 shall not be allowed

Avoidance of tax by certain transaction in securities [Sec. 94]

1. **Bond Washing Transactions [Sec. 94(1)]:** Interest on securities shall not accrue on day-to-day basis. It accrues on the due date of interest as prescribed by issuing authority. Entire interest shall be charged in the hands of assessee who holds security on such date (irrespective of the date of acquisition of such security). Tax liability may be evaded by transferring securities just before the due date of interest (interest includes dividend) to any person (like friend or relative who has low income) and reacquiring the same, after the interest is received by the transferee. With this practice, income, which should have been charged at higher rate, shall be charged at lower rate or nil rates. To avoid these practices, sec. 94(1) provides that -

   where an assessee transfers the securities before the due date of interest and reacquires the same, then the interest received by the transferee will be deemed to be the income of the transferor.

   E.g: Mr. X transferred 1,000 10% debentures (due date of interest of such debenture is 31st March every year), to his brother Mr. Y on 27/03/2024 to evade tax. Such security is repurchased by him on 5/04/2024. Interest for the previous year 2023-24, though received by Mr. Y shall be taxable in hands of Mr. X due to sec. 94(1).

2. **Transaction relating to securities resulting into less or no income:** Sec. 94(2) provides that -

   - Where a person has had at any time during the previous year any beneficial interest in securities; &
   - The result of any transaction relating to such securities is that, either no income is received by him or the income received by him is less than the income from such securities on day to day basis,

   - then the income from such securities for such year shall be deemed to be the income of such person.

Exceptions to sec. 94(1) & 94(2)[Sec. 94(3)]

However, nothing provided in sec. 94(1) and (2) shall be applicable, if the owner of securities satisfies the AO that -

i. There has been no avoidance of income tax or the avoidance of income tax is exceptional and not systematic; and

ii. There was not any avoidance of income tax u/s 94 during 3 years preceding the previous year.

Note: The Assessing Officer may (by notice in writing) require any person to furnish within such time (not less than 28 days), such particulars as he considers necessary in respect of all securities -

- of which such person was the owner; or
- in which he had a beneficial interest at any time during the period specified in the notice [Sec. 94(6)]

2.5.11 Sum received under a Life Insurance Policy [Sec. 56(2)(xiii)]

Where the following conditions are satisfied, then any sum received, including bonus, at any time during a previous year, under a life insurance policy shall be taxable under the head Income from Other Sources.

a. Such receipt is not exempt u/s 10(10D)

b. Such sum is not received under a unit linked insurance policy

c. Such sum is not received under a keyman insurance policy

Computation of income

Sum Received during the previous year	less	Aggregate of the premium paid, during the term of such life insurance policy, and not claimed as deduction under any other provision of this Act

Taxpoint

As per sec. 10(10D), in the following cases, sum received under a life insurance policy is exempt:

<table>
<tr><th>Policy</th><th colspan="3">Condition(s)</th><th>If Taxable, then</th></tr>
<tr><td colspan="5">Life insurance policy</td></tr>
<tr><td>Sum is received on the death of a person</td><td colspan="3">-</td><td>Exempt</td></tr>
<tr><td rowspan="7">Sum is received on maturity</td><td colspan="3">The premium payable for any year does not exceed the following % of actual capital sum assured:</td><td rowspan="7">If conditions are not satisfied, then it shall be taxable as Income from Other Sources</td></tr>
<tr><td>Policy issued</td><td>Insured is disable* or suffering from disease specified u/s 80DDB</td><td>Insured is any other person</td></tr>
<tr><td>Upto 31-03-2003</td><td colspan="2">No Restriction</td></tr>
<tr><td>During 01-04-2003 to 31-03-2012</td><td>20%</td><td>20%</td></tr>
<tr><td>During P.Y. 2012-13</td><td>10%</td><td>10%</td></tr>
<tr><td>During 01-04-2013 to 31-03-2023</td><td>15%</td><td>10%</td></tr>
<tr><td>On or after 01-04-2023</td><td>15%</td><td>10%</td></tr>
<tr><td colspan="3">Aggregate amount of premium does not exceed ₹ 5 lakh in any of the previous years during the term of any of those policies</td><td></td></tr>
</table>

* Disable or severe disable as referred to in sec. 80U
** Circular no 02 of 2022 dated 19-01-2022 has been issued in this regard
*** Disable or severe disable as referred to in sec. 80U

<table>
<tr><td colspan="5">Unit linked Insurance Policies</td></tr>
<tr><td>Sum is received on the death of a person</td><td colspan="3">-</td><td>Exempt</td></tr>
<tr><td rowspan="6">In other case</td><td colspan="3">The premium payable for any year does not exceed the following % of actual capital sum assured:</td><td rowspan="6">If conditions are not satisfied, then it shall be taxable u/s 45(1B) [i.e., capital gains]
Where it is a LTCA, tax is required to calculated u/s 112A, without taking index benefit**</td></tr>
<tr><td>Policy issued</td><td>Insured is disable*** or suffering from disease specified u/s 80DDB</td><td>Insured is any other person</td></tr>
<tr><td>During 01-04-2003 to 31-03-2012</td><td>20%</td><td>20%</td></tr>
<tr><td>During P.Y. 2012-13</td><td>10%</td><td>10%</td></tr>
<tr><td>During 01-04-2013 to 31-01-2021</td><td>15%</td><td>10%</td></tr>
<tr><td>On or after 01-02-2021</td><td>15%</td><td>10%</td></tr>
<tr><td colspan="4">Aggregate amount of premium does not exceed ₹ 2,50,000 in any of the previous year during the term of any of those policies</td></tr>
<tr><td colspan="5">Keyman Insurance Policies</td></tr>
<tr><td>Any circumstances</td><td colspan="3"></td><td>Taxable as salary or business income or IFOS, as the case may be</td></tr>
<tr><td colspan="5">Sum referred to in sec. 80DD(3)</td></tr>
<tr><td colspan="5">Where the dependent disabled, in respect of whom an individual or the member of the HUF has paid or deposited any amount in any scheme of LIC or any other insurer, predeceases the individual or the member of the HUF, the amount so paid or deposited shall be deemed to be the income of the assessee of the previous year in which such amount is received. Such amount would not be exempt u/s 10(10D)</td></tr>
</table>

2.5.13 Dividend [Sec. 2(22)]

Dividend, in general, means the amount received by a shareholder (whether in cash or in kind) in proportion to his shareholding in a company whether out of past or present income; or taxable or exempted income; or revenue or capital income. However, the Income-tax Act gives an inclusive definition of dividend.

As per sec. 2(22), the following payments or distributions by a company to its shareholders are deemed as dividends to the extent of accumulated profits of the company:

a. Any distribution of accumulated profits (whether capitalized or not), which results in the release of assets of the company [Sec. 2(22)(a)]

Notes

1. **Treatment of bonus share:** Bonus share declared by the company to its equity share-holders shall not be treated as dividend as there is no release of asset.

2. **Valuation:** In case of release of asset other than cash, the market value of the asset and not the book value shall be considered as deemed dividend in the hands of shareholder.
3. **Exception:** Above provision is not applicable in case of amalgamation

b. Any distribution of -

- Debenture, debenture-stock, deposit certificates in any form whether with or without interest to its shareholders (equity as well as preference); and
- Shares to preference shareholders by way of bonus,

- to the extent to which company possess accumulated profit (whether capitalized or not) [Sec. 2(22)(b)]

Taxpoint:

- Such distribution shall be treated as dividend in the hands of recipient even there is no release of assets of the company.
- *The market value of such bonus shares is deemed as dividend in the hands of the preference shareholder.*
- *In the case of debentures, debenture stock etc., their value is to be taken at the market rate and if there is no market rate they should be valued according to accepted principles of valuation.*
- *Bonus shares given to equity shareholders are not treated as dividend.*

c. Distribution made on liquidation to the extent to which company possess accumulated profit immediately before liquidation (whether capitalized or not) [Sec. 2(22)(c)]

Notes

1. **Payment to preference shareholder:** Any distribution of asset made in respect of preference share (issued for full cash consideration) shall not be treated as dividend.
2. **Distribution out of profits earned after liquidation:** Any distribution made out of profits earned after the date of liquidation shall not be treated as dividend u/s 2(22)(c).
3. **Exception:** Above provision is not applicable in case of amalgamation

d. Distribution made on reduction of capital of the company to the extent it possesses accumulated profit (whether capitalized or not) [Sec. 2(22)(d)]

Exception: Any distribution in respect of preference share shall not be treated as dividend.

e. Any payment (whether in cash or in kind) by a company in which public are not substantially interested to the extent of accumulated profit (excluding capitalized profit) -

i. by way of loan or advance to its equity shareholder, who is beneficial owner of the shares, holding not less than 10% of voting power in the company (hereinafter referred as *specified shareholder*);

Taxpoint

The shareholder should have atleast 10% voting power as on the date of when loan is given.

ii. by way of loan or advance to a concern (whether HUF, Firm, AOP, BOI or a Company) of which such specified shareholder is a member or partner at the time of such payment and has substantial interest[#] in such concern; or

[#]Substantial interest: A person shall be deemed to have substantial interest in a concern, if he is beneficially

entitled to not less than 20% of income of such concern (20% of voting power in case of company) at any time during the previous year.

Taxpoint:

- The clause is applicable where –
  a. Such shareholder holds at least 10% voting right in the payer company as on the date when loan is given;
  b. Such specified shareholder is a member or partner in the payee concern as on the date of loan; and
  c. Such shareholder should have atleast 20% share in profit / voting power in the payee concern at any time during the previous year.

iii. by way of loan or advance to any person on behalf of or for the benefit of such specified shareholder [Sec. 2(22)(e)]

Notes

a. **No exemption on repayment of such loan:** Loan to a specified-shareholder is treated as deemed dividend even if such loan or any part of such loan was refunded before the end of previous year.

b. **Advance** means an advance given in the nature of loan (with or without interest), which shall be refunded to the company. Trade advances which are in the nature of commercial transactions would not fall within the ambit of the word 'advance' in sec. 2(22)(e).

Exceptions

a. **Set-off of loan with forthcoming declaration of dividend:** In case the loan granted to member is adjusted with the forthcoming dividend, then such dividend (newly declared) shall not be taxable in the hands of shareholder who adjusted such loan.

b. **Advance or loan in the ordinary course of business:** Sec. 2(22)(e) is not applicable if an advance or loan is made by a company in the ordinary course of its business, where the lending of money is substantial part of the business of the company.

c. Trade Advance: the CBDT has, vide Circular No. 19/2017 dated 12-06-2017, clarified that trade advances, which are in the nature of commercial transactions, would not fall within the ambit of the word 'advance' in section 2(22)(e) and therefore, the same would not to be treated as deemed dividend.

f) Any payment by a company on purchase of its own shares from a shareholder i.e., buy back of shares

Meaning of Accumulated profit

For the purpose of dividend u/s 2(22), accumulated profit shall be:

Case	Accumulated profit
Company which is not in liquidation	Up to the date of distribution or payment
Company which is in liquidation	Up to the date of liquidation
Dividend u/s 2(22)(e)	Up to the date of grant of such loan or advance.

Taxpoint: In the case of an amalgamated company, the accumulated profits, whether capitalised or not, or loss, as the case may be, shall be increased by the accumulated profits, whether capitalised or not, of the amalgamating company on the date of amalgamation.

Tax treatment

Dividend (from foreign company, domestic company or co-operative society) is taxable in the hands of the shareholder.

Basis of charge [Sec. 8]

Dividend is not taxable on the basis of accounting method, but charged as per the following schedule -

Case	Year of taxability
Normal Dividend	Year in which it is declared by the company
Interim Dividend	Year in which amount of dividend is unconditionally made available
Deemed Dividend	Year in which it is distributed or paid by the company

Place of accrual [Sec. 9(1)(iv)]

Dividend shall be deemed to accrue or arise in India, if it is declared by an Indian company.

Deduction available from dividend income [Sec. 57]

No deduction shall be allowed from the dividend income, or income in respect of units of a Mutual Fund other than deduction on account of interest expense. Further, in any previous year such deduction shall not exceed 20% of the dividend income, or income in respect of such units, included in the total income for that year. However, such deduction is not available from dividend u/s 2(22)(f) [i.e., buy back of shares]

Taxpoint:

- *Apart from interest expenses (max. upto 20% of dividend income), no deduction shall be allowed from dividend income.*
- *No deduction shall be allowed in case of dividend u/s 2(22)(f) [i.e., buy back of shares]*

Provision Illustrated

During the year 2024-25, Mr. Ratnam received dividends from Sun Pharma Ltd. (Indian Company) ₹ 11,00,000. He has invested in the shares by taking loan. During the year he is liable to pay interest of ₹ 3,00,000 on such loan. Further, he has incurred collection charges ₹ 50,000. Compute taxable dividend income of Mr. Ratnam.

Solution

Computation of taxable dividend income of Mr. Ratnam for the A.Y. 2025-26

Particulars	Details	Amount	Amount
Dividend			11,00,000
Less: Interest Expenditure being lower of the following			
Actual Interest Expenses	3,00,000		
20% of dividend	2,20,000	2,20,000	
Less: Collection Charges		Nil	2,20,0000
Taxable Dividend			**8,80,000**

Apart from interest (upto 20% of dividend), other expenditure like collection charges, bank charges, etc. shall not be allowed.

2.5.13 Tax on Winning from Online Games [Sec. 115BBJ]

Tax treatment are as follows:

Meaning	Online game means a game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device
Tax Rate	30% + Surcharge, if applicable + HEC @ 4%
Expenditure	No expenditure or allowance can be allowed from such income
Deduction u/ch VIA	Not available
Benefit of unexhausted basic exemption limit	Not available
Taxpoint	Internet means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that transmits information based on a protocol for controlling such transmission

2.5.14 Specific disallowance [Sec. 58]

Following expenditures shall not be deducted from any income under this head:

1. Any personal expenses of the assessee. [Sec. 58(1)(a)(i)]
2. Any interest which is payable outside India on which tax has not been deducted at source. [Sec. 58(1)(a)(ii)]
3. Any salary payable outside India on which tax has not been deducted at source. [Sec. 58(1)(a)(iii)]
4. 30% of any payment made to a resident on which TDS provision is applicable without deducting TDS as referred u/s 40(a)(ia)
5. Any amount paid as Wealth tax or Income tax. [Sec. 58(1A)]

   Taxpoint: Interest paid on amounts borrowed for meeting tax liability is not deductible.
6. Any amount specified u/s 40A like -
   - payment to relative in excess of requirement; or
   - payment in excess of ₹ 10,000 otherwise than an account payee cheque/draft/specified electronic modes [Sec.58(2)]
7. No deduction in respect of any expenditure shall be allowed in computing the income by way of any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or form, gambling or betting of any form or nature, etc. taxable under the head "Income from other sources". [Sec. 58(4)]

   Note: Above provision shall not apply in computing the income of an assessee, being the owner of horses maintained by him for running in horse races, from the activity of owning and maintaining such horses.

2.5.15 Deemed Profits [Sec. 59]

Sec. 59 provides that where -

a. An allowance or deduction has been allowed for any year in respect of loss, expenditure or trading liability incurred by the assessee; and

b. Subsequently, any amount is obtained, as revocation of such loss, expenditure or remission of liability, whether in cash or in any other manner, during any previous year,

- then such amount received or amount remitted shall be charged to tax.

Note: Above provision holds good even in case of succession or inheritance.

General Illustrations

Illustration 116:

Compute taxable income under the head Income from other sources of Mrs. X from the following data:

Particulars	Amount
Private tuition fee received	10,000
Winning from lottery	2,000
Award from KBC (a TV show) [Gross]	3,20,000
Pension from employer of deceased husband	25,000
Interest on bank deposit	25,000
Directors fee (Gross)	5,000
Letting out of vacant land	25,000
Remuneration for checking the examination copy of employer's school	10,000
Remuneration for checking the examination copy of C.A	10,000
Income tax refund	5,000
Interest on income tax refund	100
Composite rent (related expenditures are ₹ 5,000)	10,000
Rent on sub-letting of house property (rent paid to original owner ₹ 12,000)	20,000
Income tax paid	2,000
Payment made for personal expenses	18,000
Payment made to LIC as premium	2,000

Solution :

Computation of income of Mrs. X under the head Income from other source for the A.Y. 2025-26

Particulars	Details	Amount
Private tuition fee received		10,000
Casual income		
Winning from lottery		2,000
Award from KBC (a TV show) [Gross]		3,20,000
Pension	25,000	
Less: Standard deduction		
1)1/3rd of amount received (i.e. ₹ 8,333)		
2)₹ 15,000	8,333	16,667
Interest on bank deposit		25,000
Director's fee		5,000
Letting out of vacant land		25,000
Remuneration for checking the examination copy of employer school	Taxable as Salary	---

Remuneration for checking examination copy of CA		10,000
Income tax refund	Not an income	---
Interest on income tax refund		100
Composite rent	10,000	
Less: Expenditure	5,000	5,000
Rent on sub-letting of house property	20,000	
Less: Rent paid to original owner	12,000	8,000
Income from Other Source		**4,26,767**

Note: Payment of income tax and personal expenses is not deductible in any case.

Illustration 117:

Shri Anil follows cash basis of accounting and has furnished the Receipts & Payment A/c of previous year 2024-25 for computing his income:

Particulars	Receipts	Payments
Interest on listed debenture of A Ltd.	18,000	
Letting of building & machinery @ ₹ 15,000 p.m. under a composite lease	1,50,000	
Collection charges		1,000
Repairs		5,000
Capital repairs		16,000
Interest paid outside India without deducting tax on loan taken for construction of building		8,000
Gift from father	6,000	
Ground rent received (related to financial year 2023-24)	600	

The following additional information are also provided -

Allowable depreciation on Building and Machinery - ₹ 4,000
Fire Insurance on Building and Machinery (not paid) - ₹ 1,000

Solution :

Computation of income from other sources of Anil for A.Y.2025-26

Particulars	Details	Details	Amount	Amount
Interest on debenture of A Ltd.	₹ 18,000 / 90%			20,000
Interest received on letting of assets			1,50,000	
Less: Expenses paid				
Collection charges		1,000		
Repair		5,000		
Capital repairs[3]		Nil		
Depreciation		4,000	10,000	1,40,000
Gift from father [As received from relative]				Nil
Ground rent received				600
Income from other source				**1,60,600**

Notes

1. Since assessee follows cash basis of accounting, hence, income shall be chargeable and expenditure shall be allowed on cash basis.
2. Debenture income required to be grossed up.
3. Capital repairs are not allowed.
4. Interest paid outside India without deducting tax at source shall not be deductible expenditure.

Exercise

Multiple Choice Questions:

Choose the correct alternative

1. Which of the following is not taxable under head 'Salaries'?
   a. Remuneration paid to the lecturer of a college for setting a question paper by a university.
   b. Salary received by a member of the Parliament.
   c. Commission received by an employee director of a company.
   d. Both (a) and (b) above
2. The maximum amount of leave salary not chargeable to tax as specified by the Government in case of a non-Government employee is
   a. ₹ 3,00,000
   b. ₹ 5,00,000
   c. ₹ 20,00,000
   d. ₹ 25,00,000
3. Standard deduction u/s 16(ia) is
   a. ₹ 75,000
   b. Lower of (i) ₹ 75,000; and (ii) Gross Salary
   c. ₹ 40,000
   d. Nil
4. Employer's contribution to unrecognized provident fund
   a. Is exempt from tax
   b. 10% of Salary of employee is taxable
   c. Is exempted subject to maximum of 2/5 of salary of the employee
   d. Is fully taxable
5. If a domestic servant is engaged by the employer and salary is paid by him, the perquisite is
   a. Taxable in the hands of all employees
   b. Not taxable in the hands of both specified and non-specified employers
   c. Taxable in the hands of specified employees only
   d. Taxable to the extent of ₹ 120 per person in the hands of all employees.
6. Which of the following is taxable under the head 'salaries'?
   a. Salary received by a Member of State Legislature.
   b. Commission received by an employee director of a company.
   c. Family pension received
   d. Both (a) and (b) above

7. Who among the following is a specified employee?
   a. A director of a company
   b. An employee drawing a salary of ₹ 15,000 p.m.
   c. A person who is an owner of equity shares carrying 10% voting power in the employer company.
   d. Both (a) and (b) above
8. Rate of Interest accruing to a particular employee by virtue of his employer's contribution to Recognized Provident Fund is 12.5% p. a. In such a case
   a. Total Interest accrued is taxable
   b. Total Interest accrued is exempt
   c. Only 10% Interest is taxable
   d. Only 3% of interest is taxable
9. Statutory limit u/s.16(ii) for deduction of entertainment allowance in case of a non-Government employee is
   a. ₹ 5,000
   b. 12.5% of employees' salary
   c. 20% of employees' salary
   d. NIL
10. Taxable value of perquisite being sweat equity shares allotted by the employer is:
   a. The fair market value of such shares as on the date when such option is exercised by the employee as reduced by the amount paid
   b. The fair market value of such shares as on the date when such option is vested to the employee as reduced by the amount paid
   c. Fair market value subject to standard deduction of ₹ 50,000
   d. Not taxable in hands of employee.
11. Net Annual Value of a self-occupied property treated as such is:
   a. Fair Rent
   b. Nil
   c. Reasonable Expected Rent as reduced by municipal tax paid during the previous year.
   d. None of the Above
12. One out of the following house properties are not exempted, which is:
   a. House property of a political party
   b. House property let out for the purpose of own business of tenant.
   c. House property of a local authority
   d. None of the Above

13. A house property located outside India is:
    a. Taxable in hands of all assessee
    b. Taxable in hands of non resident assessee
    c. Taxable in hands of resident and ordinarily resident assessee
    d. Exempted from tax in India.
14. Deduction u/s 24(a) is
    a. 30% of net annual value of the house property
    b. 30% of gross annual value of house property
    c. 30% of actual rent received
    d. None of the Above
15. Interest relating to pre-construction period is allowable:
    a. In 5 equal installments from the year in which it was incurred.
    b. In the year in which it was incurred
    c. In the year in which house property was constructed
    d. None of the Above
16. Following assessee(s) can considered a house property as self occupied:
    a. Individual & HUF
    b. All assessee
    c. All assessee other than company
    d. All assessee other than firm
17. For the purpose of claiming higher deduction u/s 24(b), while computing income (under the old tax regime) of a self-occupied property, assessee is required to take:
    a. Loan on or before 01-04-1999
    b. Loan on or after 01-04-1999
    c. Loan after 01-04-1999
    d. Loan on 01-04-1999
18. Income from sub-letting is:
    a. Taxable under the head 'Income from House Property'
    b. Taxable under the head 'Income from Other Sources'
    c. Exempted
    d. None of the above

19. Deduction u/s 24(a) is not available when:
    a. Net annual value is zero
    b. Net annual value is positive
    c. Net annual value is zero or negative
    d. None of the above
20. Which of the following deductions is /are not allowed in case of a deemed to be let-out house?
    a. New construction allowance
    b. Repairs
    c. Vacancy allowance
    d. All of the above
21. Which of the following is not allowed as a deduction for computation of business Income?
    a. Loss incurred due to theft in factory after working hours
    b. Anticipated future losses
    c. Loss caused by white ants
    d. Loss due to accidental fire in stock-in-trade
22. Preliminary expenses are incurred in every business. What are the expenses that qualify for deduction u/s.35D?
    a. Expenses for drafting memorandum and articles of association
    b. Payment of duty at the office of Registrar of Companies
    c. Expenditure incurred in preparation of project report
    d. All of the above
23. Expenditure incurred by a company for the purpose of promoting family planning among its employees, being of a capital nature
    a. Is not allowed as a deduction
    b. Allowed as deduction in 4 equal installments in 4 years
    c. 1/5 of expenditure is allowed as deduction in the previous year
    d. 4/5 of expenditure is allowed as deduction in 4 equal installments in 4 years after the previous year
24. The preliminary expenses that can be amortized under the Income Tax Act, 1961 has to be restricted to _____ of the cost of project.
    a. 3%
    b. 5%
    c. 8%
    d. 20%

25. Expenditure on promotion of family planning is an allowance as deduction u/s. 36(1)(ix) of the Income Tax Act, 1961 in case of

    a. Individual

    b. Firm

    c. HUF

    d. Company

26. Deduction u/s 35AD is available in respect of expenditure on specified business, one of them is:

    a. Setting up and operating a cold chain facility

    b. Setting up and operating a power plant

    c. Setting up and operating an industrial unit

    d. All of the above

27. Deduction u/s 35AD is available in respect of expenditure on specified business provided such business commenced its operation on or after 01-04-2009 subject to an exception that:

    a. Business of industrial undertaking may be commenced at any time on or after 01-04-2007

    b. Business of laying and operating a cross-country natural gas pipeline network may be commenced at any time on or after 01-04-2007

    c. Business of cold chain facility may be commenced at any time on or after 01-04-2007

    d. All of the above

28. In case of loss, a partnership firm may claim deduction in respect of remuneration to partner to the extent of:

    a. ₹ 3,00,000/-

    b. ₹ 3,00,000/- or actual remuneration, whichever is lower

    c. ₹ 3,00,000/- or 90% of book profit, whichever is lower

    d. Nil

29. Block of asset is required to be increased by an amount which is the actual cost of the asset being covered u/s 35AD that amount is:

    a. Actual expenditure

    b. Nil

    c. 50% of actual expenditure

    d. None of the above.

30. A payment of ₹ 25,000 is made to the road transport-operator on 20-02-2025 in cash, consequently, amount disallowed u/s 40A(3) is

    a. Nil

    b. ₹ 25,000

    c. ₹ 5,000

    d. None of the above

31. U/s 54, the capital gain will be allowed as an exemption if the house property under transfer is held for
    a. Less than 12 months preceding the date of transfer
    b. More than 12 months preceding the date of transfer
    c. Less than 36 months preceding the date of transfer
    d. More than 24 months preceding the date of transfer
32. Capital gain on Slump sale is
    a. always short-term capital gain
    b. always long-term capital gain
    c. Depends on period of period of holding of capital asset being undertaking transferred
    d. Not taxable
33. While computing capital gain on sale of immovable property, full value of consideration shall be:
    a. Actual consideration
    b. Actual consideration less expenses on transfer
    c. Actual consideration or stamp duty value of the property transferred, whichever is higher, subject to certain restriction
    d. Stamp Value of the property transferred.
34. Cost of acquisition of capital asset being immovable property acquired through gift covered u/s 49(4) is:
    a. Actual cost of acquisition to the previous owner
    b. Nil
    c. Stamp duty value of the property as considered while computing income u/s 56(2)
    d. Actual cost of acquisition to the assessee.
35. Personal effect do not cover the followings
    a. Immovable property
    b. Drawings
    c. Jewellery
    d. All of the above
36. Profit on sale of rural agricultural land is
    a. Not taxable as it is agricultural income
    b. Not taxable under the head 'Capital gains' but under the head 'Income from Other Sources'
    c. Not taxable as rural agricultural land is not considered as a capital asset
    d. Taxable if it is compulsorily acquired.

37. Short term capital gain on sale of equity share through stock exchange

    a. is exempt u/s 10(38)

    b. is exempt u/s 10(37)

    c. is covered u/s 111A, hence liable to tax @ 20%

    d. is taxable @ 15% and @ 10% if index benefit is not claimed.

38. Caution money forfeited by the assessee is:

    a. Taxable in the year of forfeiture under the head "Income from Other Sources"

    b. Exempt fully

    c. Taxable in the year of forfeiture under the head "Capital Gain"

    d. Considered as casual income and liable to tax @ 30%.

39. Gift of a capital asset is not considered as transfer, however exception is:

    a. Shares acquired under the Employees Stock Option Plan

    b. Jewellery

    c. Immovable property

    d. Nil

40. Cost of acquisition of self-generated asset is nil, the exception is:

    a. Goodwill

    b. Route permit

    c. Bonus shares acquired before 01-04-2001

    d. Loom hours

41. Interest on delayed compensation or enhanced compensation is taxable:

    a. On accrual basis

    b. On receipt basis

    c. Exempt from tax

    d. As per method of accounting of the assessee.

42. While computing taxable interest on delayed compensation, a standard deduction is allowed @

    a. 50%

    b. 30%

    c. 15%

    d. Nil

43. An individual purchased a painting on 01-11-2024 for ₹5,00,000 though fair market value of the asset is ₹5,25,000. Income taxable u/s 56(2)(x) is:

    a. ₹ 25,000 i.e., difference between market value and actual consideration

    b. Nil as this is not gift

    c. Nil as difference between market value and actual consideration does not exceed ₹ 50,000

    d. The provision of sec. 56(2)(x) is not applicable for any transaction entered during P.Y. 2024-25.

44. The provision of sec.56(2)(x) is applicable on

    a. All assessee

    b. Only on corporate assessee

    c. On an individual only

    d. On an individual and HUF only

45. Tax is deducted at source on winning from lottery, the rate for such deduction in case of resident individual deductee is:

    a. 30.9%

    b. Maximum marginal rate of tax

    c. 30% if such winning exceeds ₹ 10,000

    d. 33.99%

46. While computing income from other sources, deduction is not allowed to the assessee for:

    a. Personal expenditure

    b. Direct tax

    c. Interest payable outside India without TDS

    d. All of the above

47. Gift received by an individual in certain circumstances is not taxable, one of them is:

    a. Any gift received from family friend

    b. Any gift received on the occasion of any marriage in the family

    c. Any gift received on the occasion of the marriage of the individual-assessee

    d. All of the above

48. Following expenses are allowed from dividend income:

    a. Interest on borrowed capital (to a certain extent)

    b. Collection Charges

    c. Both (a) and (b)

    d. None of the above

49. One of the following receipt is taxable under the head 'Income from Other Sources':
    a. Uncommuted pension received from ex-employer
    b. Income from racing establishment
    c. Rental income from house property
    d. Income on transfer of rural agro land

Answer:

1	2	3	4	5	6	7	8	9	10
d	d	b	a	c	b	d	d	d	a
11	12	13	14	15	16	17	18	19	20
b	b	c	a	d	a	b	b	c	d
21	22	23	24	25	26	27	28	29	30
b	a	c	b	d	a	b	b	b	a
31	32	33	34	35	36	37	38	39	40
d	c	c	c	d	c	c	a	a	c
41	42	43	44	45	46	47	48	49	
b	a	c	a	c	d	c	a	b	

Fill in the blanks:

1. Monetary limit for exemption in the case of encashment of earned leave on superannuation received by private sector employees is ₹ _____.
2. When unrealized rent of ₹ 50,000 in respect of a let-out property is realized subsequently, the amount liable to tax would be ₹ _____.
3. Interest on enhanced compensation received by Mr. A, a resident individual is ₹ 4,00,000 of which 75% pertains to earlier financial year The amount of such interest to be included in the total income under the head 'income from other sources' is ₹ _____.
4. A Zero coupon bond is a long-term capital asset, if it is held for more than ___ months before transfer.
5. An employee of a partnership firm is treated as "specified employee" if the income under the head "Salaries", excluding non-monetary perquisites exceeds ₹_____
6. Interest payable to a partner by a firm shall not exceed_____(18% /12%) per annum.
7. In case of slump sale of any undertaking indexation benefit is_____(allowed/not allowed) for the purpose of computation of capital gain.
8. Exemption u/s. 10(32) in respect of income of minor child included in the hands of assesses under Section 64(1A) is restricted to ₹ _____ per child.
9. Salary foregone is _____ in computing the income from salaries in the hands of the concerned employee.
10. The monetary ceiling limit for exemption for gratuity received under the Payment of Gratuity Act, 1972 is _____

11. Fixed medical allowance of ₹ 2,000 per month paid by an employer is _____ in the hands of the employee.
12. An individual can avail the benefit of exemption in respect of leave travel concession offered by his employer _____ in a block of four years.
13. Interest received on delayed payment of enhanced compensation shall be deemed to be _____ (income/not an income /interest relating to the concerned year alone is income) of the year in which it is received.
14. Salary paid to a working partner of a firm is chargeable to income-tax in the hands of such partner under the head _____
15. Total tax payable on a lottery income of ₹ 3,00,000 as per section 115BB is _____

Answer:

1	₹ 25,00,000	2	₹ 35,000
3	₹ 2,00,000	4	12
5	50,000	6	12%
7	Not allowed	8	₹ 1,500
9	Taxable	10	₹ 20,00,000
11	Taxable	12	Twice
13	Income	14	Profits and Gains of Business or Profession
15	₹ 90,000 + applicable surcharge and cess		

State whether the following statements are true or false:

1. Short-term capital gains arising from sale of listed shares through a recognized stock exchange, for which security transaction tax has been paid, will be charged to tax at a concessional rate of 20%.
2. Share of a private limited company held for 10 months before its sale is a long-term capital asset.
3. Capital gain arising from compulsory acquisition of a property under law is taxable in the year of receipt of compensation or part thereof.
4. It is not possible to have negative income under the head 'income from house property'.
5. Reasonable expected rent can not exceed standard rent.
6. Leave encashment received while in service is taxable.
7. Indexation of cost of acquisition is necessary for short term capital gain
8. Cash gift of ₹ 1,00,000 from uncle's son is not taxable.
9. Zero-coupons bonds shall be treated as 'short-term capital asset' if held for more than 12 months but not more than 36 months
10. Expenses of purchasing lottery tickets are deducted out of winning from lottery under the head income from other sources.

Answer:

1	2	3	4	5	6	7	8	9	10
True	False	True	False	True	True	False	False	False	False

Short Essay Type:

1. Write short notes on deemed owner of house property.
2. What are the house properties, income from which is not at all taxable?
3. Explain how free car provided to employee both for private and office purpose of which all expenses are borne by the employer is valued under I.T. Act
4. What do you mean by 'balancing charge'? Explain with an example.
5. Define capital assets
6. Explain the provision of taxability of gift as referred u/s 56(2)(x).

➢ Comprehensive Numerical Problems

Problem 1:

Following is the Receipts & Payments Account of D Mohanty, a practicing cost accountant for the year ended 31st March, 2025.

Receipts	₹	Payments	₹
Balance b/f	1,50,000	Rent	1,80,000
Professional receipts	8,20,000	Electric charges	12,000
Fees from other accounting works	65,000	Remuneration to audit clerk	80,000
		Salary to office staff	1,20,000
Salary from a college as guest lecturer	1,20,000	Life Insurance Premium	15,000
Gift from client	25,000	Misc. office expenses	8,000
(For appreciation of service)		Purchase of Motor Car (01.04.24)	3,50,000
Examiner's remuneration from lCMAI	40,000	Motor car expenses	75,000
Interest on deposit	70,000	Membership fee of ICMAI	1,500
		Donation to an University	10,000
		Household expenses	56,000
		Purchase of professional journals	10,000
		Balance c/f	3,72,500
	12,90,000		12,90,000

Other information:

(a) 1/5th of the motor car expenses related to personal use.

(b) The rent and electric charges are in respect of a house, of which half the portion is used for self-residence and remaining half portion is used for the office of his profession.

Compute income from Profession for the A.Y. 2025-26

[Hints: ₹ 4,78,500]

Problem 2:

Compute the total depreciation allowance for the year ending 31.3.2025:

a. Original cost of motor car as on 31.3.2024 ₹ 12,00,000.

b. Depreciation allowed up to 31.3.2024 ₹ 3,00,000.

c. Addition made during the year on 5.12.2024 ₹ 3,00,000.

d. Sale during the year: Original cost ₹ 15,00,000; Depreciation charged upto 31.8.2024 ₹ 37,500; Selling price ₹ 2,00,000.

Rate of depreciation is 15%.

[Hints: ₹ 1,27,500]

Problem 3:

Shri Ansh furnishes the following particulars of his incomes for the previous year 2024-25. Compute his income under the head "Income from other sources".

	₹
Dividend on equity shares	600
Dividend on preference shares	3,200
Income from letting on hire of building & machinery under composite lease	17,000
Interest on Bank Deposits	2,500
Directors sitting fees received	1,200
Ground rent received	600
Income from undisclosed sources	10,000
Income from lotteries received	70,000
The following deductions are claimed by him:	
Collection charges of dividend	20
Allowable depreciation on building and machinery	4,000
Fire insurance on building and machinery	100

[Hints. ₹ 1,31,000]

Case Let - Solved

Mr. Balaji, employed as Production Manager in Beta Ltd., furnishes you the following information for the year ended 31-03-2025:

(i) Basic salary upto 31-10-2024 ₹ 50,000 p.m.

Basic salary from 01-11-2024 ₹ 60,000 p.m.

Note : Salary is due and paid on the last day of every month.

(ii) Dearness allowance @ 40% of basic salary.

(iii) Bonus equal to one month salary. Paid in October 2024 on basic salary plus dearness allowance applicable for that month.

(iv) Contribution of employer to recognized provident fund account of the employee @ 16% of basic salary.

(v) Profession tax paid ₹ 3,000 of which ₹ 2,000 was paid by the employer.

(vi) Facility of laptop and computer was provided to Balaji for both official and personal use. Cost of laptop ₹ 45,000 and computer ₹ 35,000 were acquired by the company on 01-12-2024.

(vii) Motor car owned by the employer (cubic capacity of engine exceeds 1.60 litres) provided to the employee from 01-11-2024 meant for both official and personal use. Repair and running expenses of ₹ 45,000 from 01-11-2024 to 31-03-2025, were fully met by the employer. The motor car was self-driven by the employee.

(viii) Leave travel concession given to employee, his wife and three children (one daughter aged 7 and twin sons – aged 3). Cost of air tickets (economy class) reimbursed by the employer ₹ 30,000 for adults and ₹ 45,000 for three children. Balaji is eligible for availing exemption this year to the extent it is permissible in law.

Compute

a. Gross salary chargeable to tax in the hands of Mr. Balaji for the assessment year 2025-26 assuming he has opted for the old tax regime.

b. Taxable salary chargeable to tax in the hands of Mr. Balaji for the assessment year 2025-26.

Solution:

Computation of taxable salary of Mr. Balaji for the A.Y.2025-26

Particulars	Working	Amount	Amount
Basic	₹ 50,000 x 7 + ₹ 60,000 x 5		6,50,000
Bonus	₹ 50,000 + 40% of ₹ 50,000		70,000
Allowances			
Dearness allowance	₹ 6,50,000 x 40%		2,60,000
Perquisites u/s 17(2)			
Car facility	₹ 2,400 x 5	12,000	
Laptop Facility	Exempt	Nil	
Leave Travel Concession	Exempt	Nil	
Professional Tax paid by employer		2,000	14,000
Employer's contribution to RPF	₹ 6,50,000 x 16%	1,04,000	
Less: Exempted	12% (₹ 6,50,000 + ₹ 2,60,000)	1,09,200	Nil
Gross Salary			9,94,000
Less: Standard Deduction u/s 16(ia)		50,000	
Less: Deduction u/s 16(iii): Professional Tax		3,000	53,000
Taxable Salary			9,41,000

Case Let - Unsolved

Mr. Bose is an Indian resident and employed in a company. During 2024–25 financial year his income was as under:

(i) Basis salary ₹ 50,000 per month.

(ii) Dearness allowance 30% of basic salary (50% of which forms part of salary for retirement purpose)

(iii) Medical allowance ₹ 500 per month (Actual expenses for the year was ₹ 4,000)

(iv) He and his employer both contributes @ 15% of salary towards a Recognised Provident Fund and interest credited to RPF @ 12.5% p.a. amounted to ₹ 5,000 during the previous year.

(v) He is provided with a furnished accommodation in Kolkata. The company owns the house and cost of furniture provided is ₹ 50,000.

(vi) He is also given a 1.6 liters cubic capacity self driven car for both personal and office use. Entire expenses are borne by the company

(vii)He is provided by his employer with free gas and electricity costing ₹ 12,000 for private use.

(viii)He paid ₹ 1,600 towards professional tax and his employer paid ₹ 12,000 as insurance premium on his life.

(ix) He contributed ₹ 12,000 towards medical insurance premium, ₹ 25,000 towards PPF and ₹ 10,000 towards Prime Minister's Drought Fund

(x) He has also earned interest on saving bank deposits ₹ 15,000

On the basis of aforesaid information, you are requested to answer the following:

a. What would be his taxable allowances?

b. What would be the value of taxable perquisite in his hands?

c. What would be his total income?

[Hints: (a) ₹ 1,86,000; (b) ₹ 1,20,200; (c) ₹ 8,68,100]

➢ **References:**

https://www.incometaxindia.gov.in/

https://www.incometax.gov.in/

https://www.indiabudget.gov.in/

Total Income and Tax Liability of Individuals & HUF

3

This Module includes

3.1 Income of Other Person included in Assesses Total Income (Clubbing of Income)

3.2 Set off and Carry Forward of Losses

3.3 Deductions, Rebate and Relief

3.4 Taxation of Individual (including AMT but excluding Non-resident) & HUF

3.5 Advance Tax

3.6 Tax Deducted at Source & Tax Collected at Source (excluding Non-resident)

3.7 Filing of Return of Income

3.8 PAN

3.9 Self-Assessment & Intimation

Total Income and Tax Liability of Individuals & HUF

SLOB Mapped against the Module:

1. To acquire application-oriented knowledge and skill for appreciating various provisions of the Income Tax Act, 1961 and attain abilities to solve problems while computing tax liabilities.
2. To attain abilities to apply various provisions of direct taxation laws, including assessment to identify the impacts thereof on business decisions.
3. To gather knowledge of various compliance related provisions of direct taxation laws and attain abilities to ensure due compliance to avoid any eventual risks.

Module Learning Objectives:

After studying this module, the students will be able to –

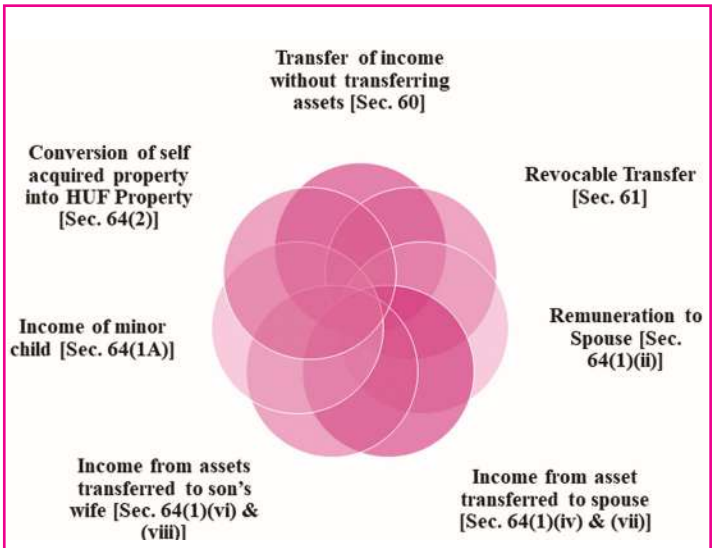
- Identify the applicability of the provisions relating to clubbing of income
- Understanding the relationship between various sources of income and heads of income
- Appreciate the provision relating to carry forward of losses
- Appreciate the provisions relating to various compliances.

Income of Other Person included in Assesses Total Income (Clubbing of Income)

3.1

3.1.1 Introduction

Generally, an assessee is taxed on income accruing to him only and he is not liable to tax for income of another person. However, there are certain exceptions to the above rule (mentioned u/s 60 to 64). Sec. 60 to 64 deals with the provisions of clubbing of income, under which an assessee may be taxed in respect of income accrued to other person, e.g. certain income of minor child shall be clubbed in the hands of his parents, income from asset transferred to spouse for inadequate consideration shall be clubbed in the hands of the transferor, etc. These provisions have been enacted to counteract the tendency on the part of the taxpayers to dispose off their income or income-generating assets to escape tax liability



3.1.2 General rules

- **Computation of income to be clubbed**

  The income, which is to be clubbed, shall be first computed in the hands of recipient and all expenditure related to such income shall be allowed as per the respective provisions of the Act and thereafter the net income shall be clubbed.

  E.g.: Standard deduction u/s 24(a) from Income from house property shall be allowed in the hands of the recipient and thereafter the net income shall be clubbed.

- **Clubbing Head**

  Income shall be, first, computed in the hands of recipient and then clubbing shall be made head wise.

  E.g.: Bank interest of minor child shall be clubbed under the head "Income from other sources" of parent.

- **Deduction under chapter VIA**

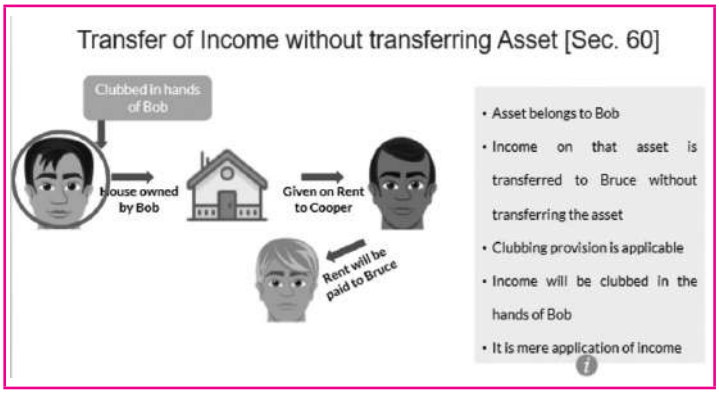
  If the clubbed income is eligible for deduction u/s 80C to 80U, then such deduction shall be allowed to the

assessee in whose hands such income is clubbed. E.g. If interest on saving bank account of the minor is clubbed in the hands of parent u/s 64(1A) then parent can claim deduction u/s 80TTA.

- **Clubbing of negative income**

  As per explanation 2 to sec. 64, clubbing of income includes clubbing of negative income i.e. where an income is liable to be clubbed, loss from the same source shall also be clubbed. Clubbing provisions is mandatory and shall be applied even in those cases where the application of such provision causes loss of revenue to the Income tax department.

3.1.3 Transfer of income without transferring assets [Sec. 60]



Where an income is transferred without transferring the asset yielding such income, then income so transferred shall be clubbed in the hands of the transferor.

The above provision holds good -

- whether the transfer is revocable or not; or
- whether the transaction is effected before or after the commencement of this Act.

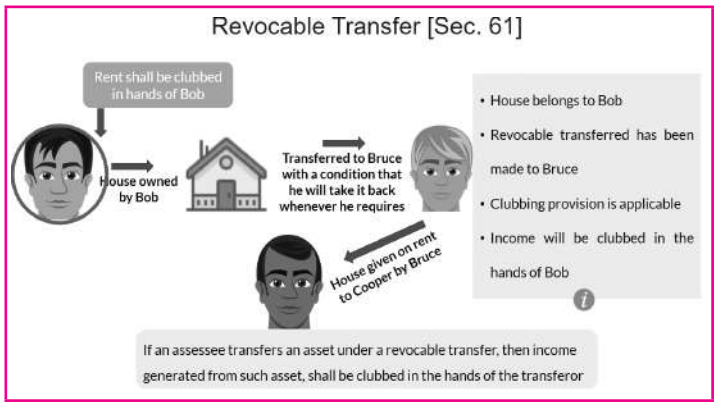
3.1.4 Revocable Transfer [Sec. 61]

If an assessee transfers an asset under a revocable transfer, then income generated from such asset, shall be clubbed in the hands of the transferor.

Revocable transfer

As per sec. 63(a), a transfer shall be deemed to be revocable if -

- It contains any provision for the retransfer (directly or indirectly) of any part or whole of the income/assets to the transferor; or
- It, in any way, gives the transferor a right to re-assume power (directly or indirectly) over any part or whole of the income/assets.



Exceptions [Sec. 62]

As per sec. 62(1), the provision of sec. 61 shall not apply to an income arising to a person by virtue of -

i. A transfer by way of creation of a trust which is irrevocable during the lifetime of the beneficiary;

ii. Any transfer which is irrevocable during the lifetime of the transferee;

In any case, the transferor must not derive any benefit (directly or indirectly) from such income.

Note: As per sec. 62(2), income, in any of the above exceptional case, shall be taxable as under -

Situation	Taxable in hands of
When the power to revoke the transfer arises (whether such power is exercised or not)	Transferor
When the power to revoke the transfer does not arise	Transferee

Illustration 1

Discuss the tax treatment in the following cases:

Case	Answer
a) Harish has transferred certain securities owned by him to a trust for his married sister, Harsha, as on 1/7/2024. He has the power to revoke the trust at his desire. On 31/3/2026, he revoked such trust. Income accrued for the previous year 2024-25 and 2025-26 are ₹ 1,20,000 and ₹ 1,50,000 respectively and such income is received and enjoyed by Harsha.	Since the asset has been transferred under a revocable clause, hence, by virtue of sec. 61, income accrued on securities during the previous year 2024-25 ₹ 1,20,000 and 2025-26 ₹ 1,50,000, though received by Harsha, shall be taxable in the hands of Harish.
b) Raja transferred his property on 1/4/2024 to Rani with a clause that, he will take property back from Rani whenever he requires. Raja was in need of money on 1/4/2025 and he took back property from Rani. The property yields annual income of ₹ 2,00,000.	Since asset has been transferred under a revocable clause, hence, by virtue of sec. 61, income accrued on such property shall be chargeable in hands of Raja for previous year 2024-25 as well as for 2025-26. This is because all income arising to the transferor by virtue of any revocable transfer shall be chargeable in hands of the transferor as and when the power to revoke the transfer arises whether or not such power has been exercised. Since Raja had the power of revocation from beginning therefore income shall be clubbed in his hand from the date of transfer.
c) Seema transferred on 1/4/2024 her property to Neema for the life time of Neema with a clause that after death of Neema, property shall be back to Seema. Neema died on 1/4/2025. Seema has not taken back the property till 31/3/2026. Property yields annual income of ₹ 1,00,000.	Since asset has been transferred which is irrevocable during the lifetime of the transferee hence, by virtue of sec. 62, income accrued on such property shall be chargeable in hands of Neema for the P.Y. 2024-25. However, income for the P.Y. 2025-26 shall be chargeable in hands of the Seema as because after death of Neema, Seema got the power to revoke the transfer and when the power to revoke the transfer arises, income is clubbed in hands of transferor even the power has not been exercised.

3.1.5 Remuneration to Spouse [Sec. 64(1)(ii)]

The total income of an individual shall include income arising (directly or indirectly) to the spouse by way of salary, commission, fees or any other remuneration (whether in cash or in kind) from a concern in which such individual has **substantial interest**[1].

Taxpoint: Any other income, which is not specified above, even if it accrues to spouse from the concern in which the assessee has substantial interest, shall not be clubbed.

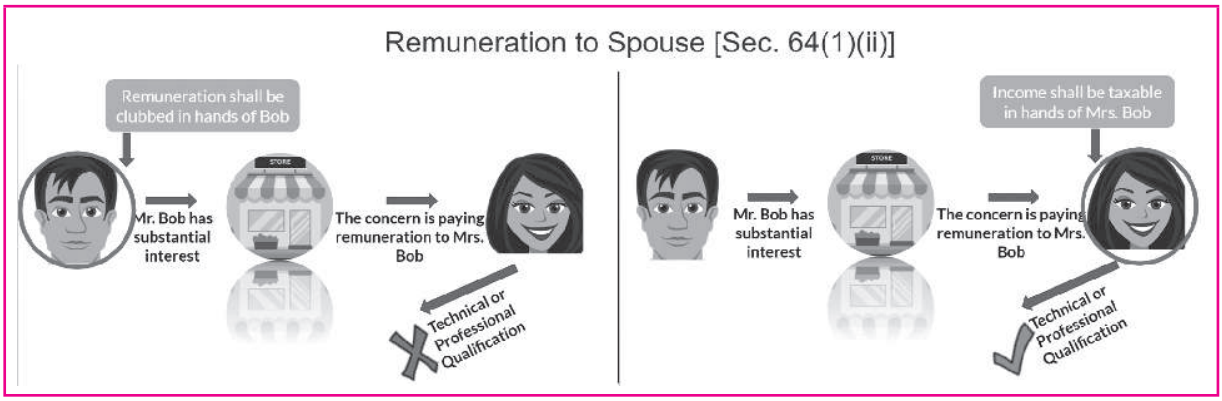
[1] **Substantial interest:** An individual shall be deemed to have substantial interest in a concern if —

In case of company	He beneficially holds not less than 20% of its *equity* shares **at any time** during the previous year. Such share may be held by the assessee **or** partly by assessee **and** partly by one or more of his relatives.
Other concern	He is entitled to not less than 20% of the profits of such concern **at any time** during the previous year. Such share of profit may be held by the assessee himself **or** together with his relatives.
Relative here includes spouse, brother or sister or any lineal ascendant or descendant of that individual [Sec. 2(41)].	

Exception

Income generated through technical or professional qualification[#] of the spouse is not to be clubbed in the total income of the individual.

[#] **Technical or professional qualification:** The term technical or professional qualification must be construed in a liberal manner as the term has not been defined in the Act. It does not necessarily relate to technical or professional qualification acquired by obtaining a certificate, diploma or degree or in any other form, from a recognised body like University or Institute. It can be treated as fitness to do a job or to undertake an occupation requiring intellectual skill and also includes technicality generated through experience, skill etc. Technical qualification includes specialization in a particular subject (e.g. accountancy, management, commerce, science, technology etc.).



Notes

Where both, husband and wife, have substantial interest in a concern When both, husband and wife, have substantial interest in a concern and both are drawing remuneration from that concern without possessing any specific qualification.	Remuneration from such concern will be included in the total income of husband or wife, whose total income excluding such remuneration, is higher. Where such income is once included in the total income of either of the spouse, then such income arising in any subsequent years cannot be included in the total income of the other spouse unless the Assessing Officer is satisfied that it is necessary to do so. However, Assessing Officer will do so only after giving to the other spouse an opportunity of being heard.

When both, husband and wife, are not having any other income When both, husband and wife, have substantial interest in a concern and both are drawing remuneration from that concern without possessing any specific qualification and both are not having any other income apart from the said remuneration.	Remuneration from such concern will not be clubbed.
Computation of salary, fee, commission, remuneration etc	Income prescribed in sec. 64(1)(ii) shall be first computed (allowing all deductions from the respective income) in the hands of recipient and thereafter net income shall be clubbed in the hands of the other spouse. E.g. salary, remuneration, etc shall be first calculated as per provisions of sec. 15 to 17, in the hands of recipient and thereafter, net taxable salary shall be clubbed in the hands of the other spouse.

Illustration 2:

Ram and Mrs. Ram hold 20% and 30% equity shares in Anand Ltd. respectively. They are employed in Anand Ltd. (taxable salary being ₹ 12,40,000 p.a. and ₹ 13,60,000 p.a. respectively) without any technical or professional qualification. Other incomes of Ram and Mrs. Ram are ₹ 70,000 and ₹ 1,00,000 respectively. Find out the net income of Ram and Mrs. Ram for the assessment year 2025-26.

Solution :

When both husband and wife have substantial interest in a concern & both are drawing remuneration from that concern without possessing any specific qualification, then remuneration from such concern will be included in the total income of husband or wife, whose total income excluding such remuneration, is higher. In the given case, Since Mrs. Ram has higher income therefore salary of Mr. Ram will be clubbed in hands of Mrs. Ram.

Computation of gross total income of Ram and Mrs. Ram for the A.Y. 2025-26

Particulars	Mr. Ram	Mrs. Ram
Salaries	12,40,000	13,60,000
Clubbing of income as per sec. 64(1)(ii)	(12,40,000)	12,40,000
Income from other sources	70,000	1,00,000
Gross Total Income	**70,000**	**27,00,000**

Illustration 3:

Mr. & Mrs. Om both are working in A Ltd. without possessing any technical or professional qualification. From the following details compute their income for the A.Y. 2025-26:

Particulars		Mr. Om	Mrs. Om
Taxable Salary from A Ltd.		₹ 12,20,000	₹ 170,000
Other income		₹ 50,000	₹ 80,000
Share of holdings:	Case 1	15%	6%
	Case 2	3%	17%
	Case 3	18%	1%

Solution :

Computation of gross total income of Mr. Om and Mrs. Om for the A.Y. 2025-26

Particulars	Case 1		Case 2		Case 3	
	Mr. Om	Mrs. Om	Mr. Om	Mrs. Om	Mr. Om	Mrs. Om
Taxable Salary of Mr. Om		12,20,000		12,20,000	12,20,000	
Taxable Salary of Mrs. Om		1,70,000		170,000		170,000
Other Income	50,000	80,000	50,000	80,000	50,000	80,000
Gross Total income	**50,000**	**14,70,000**	**50,000**	**14,70,000**	**12,70,000**	**2,50,000**

Notes

1. Substantial interest means assessee beneficially holds (whether individually or partly by assessee and partly by one or more of his relatives) not less than 20% of equity shares of company.
2. When both, husband and wife, have substantial interest in a concern and both are drawing remuneration from that concern without possessing any specific qualification, remuneration from such concern will be included in the total income of husband or wife, whose total income excluding such remuneration, is higher.
3. In case 3, since none of the spouse has substantial interest in the concern hence provision of sec. 64(1)(ii) shall not be attracted.

Illustration 4:

Mr. & Mrs. X working in A Ltd. without possessing any qualification. From the following details compute their income for the A.Y. 2025-26:

Particulars	Mr. X	Mrs. X
Share of holdings	15%	6%
Taxable salary from A Ltd.	₹ 11,20,000	₹ 1,60,000
Case 1) Other income	₹ 50,000	₹ 80,000
Case 2) Other income	₹ 90,000	₹ 65,000
Case 3) Other income	Nil	Nil

Solution :

Computation of gross total income of Mr. X and Mrs. X for the A.Y. 2025-26

Particulars	Case 1		Case 2		Case 3	
	Mr. X	Mrs. X	Mr. X	Mrs. X	Mr. X	Mrs. X
Salary of Mr. X	-	11,20,000	11,20,000	-	11,20,000	-
Salary of Mrs. X	-	1,60,000	1,60,000	-	-	1,60,000
Other Income	50,000	80,000	90,000	65,000	Nil	Nil
Gross Total income	**50,000**	**13,60,000**	**13,70,000**	**65,000**	**11,20,000**	**1,60,000**

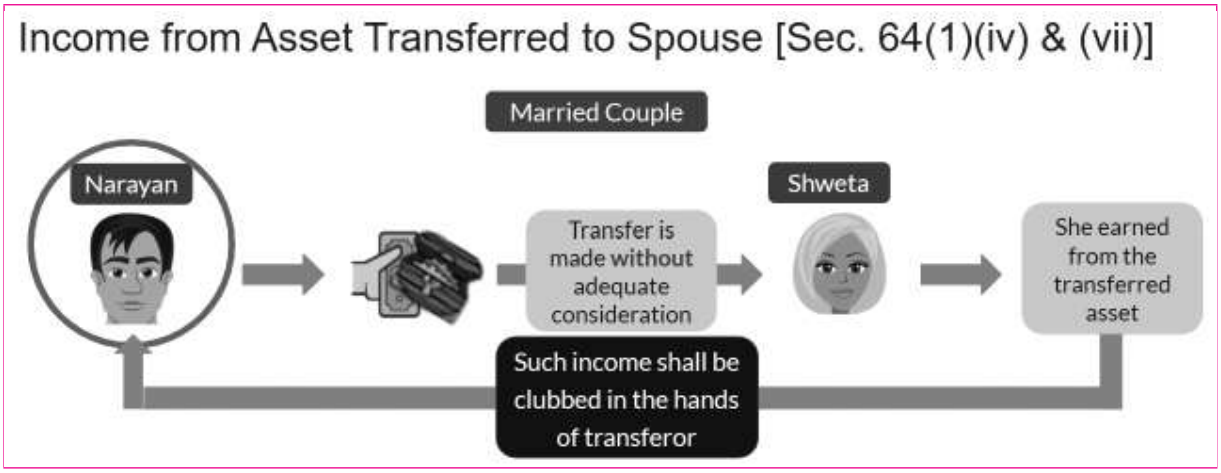
Notes

1. When both, husband and wife, have substantial interest in a concern and both are drawing remuneration from that concern without possessing any specific qualification, remuneration from such concern will be included in the total income of husband or wife, whose total income excluding such remuneration, is higher.
2. In case 3, when both husband and wife have substantial interest in a concern and both are drawing remuneration from that concern without possessing any specific qualification and both are not having any other income apart from said remuneration, then clubbing shall not be made.

3.1.6 Income from asset transferred to spouse [Sec. 64(1)(iv) & (vii)]

Asset transferred to Spouse [Sec. 64(1)(iv)]

In computing the total income of an individual [subject to the provisions of sec. 27(i)], income arising from assets transferred to spouse without adequate consideration, shall be included in the income of that individual.



Taxpoint: In the following cases clubbing provision shall not be attracted on transfer of property to spouse -

- When such transfer is for adequate consideration; or
- The transfer is under an agreement to live apart; or
- Where the asset transferred is house property (as such transfer will be governed by Sec. 27)

Notes

Marital relationship	The relationship of husband and wife must subsist on the date of transfer of assets as well as on the date of accrual of income i.e. no clubbing provision shall be attracted if - ➢ transfer is made before marriage; or ➢ on the date of accrual of income, transferee is not the spouse of transferor.

Pin money	Income from assets acquired by spouse out of pin money or household savings is not subject to clubbing
Sec. 27(i) -vs.- Sec. 64(1)(iv) in case of transfer of house property	Where such transferred asset is a house property then the same will not be covered by sec. 64(1)(iv) but governed by sec. 27(i) [Deemed owner in case of Income from house property]. In this regard following instances are notable - ➢ Mr. X transferred his house property (worth ₹ 15,00,000) in favour of Mrs. X out of love and affection without any consideration. Income generated from such property is ₹ 1,00,000 shall be taxable in the hands of Mr. X by virtue of sec. 27(i) without attracting provision of sec. 64(1)(iv). ➢ Capital gain generated on transfer of such property shall be first computed in the hands of Mrs. X and then shall be clubbed in hands of Mr. X by virtue of sec. 64(1)(iv). ➢ Mr. X gifted Mrs. X ₹ 15,00,000 out of love and affection. Mrs. X purchased a house property from such gifted money. Income generated from such house property is ₹ 1,00,000. Such income shall be first computed in hands of Mrs. X and then shall be clubbed in the hands of Mr. X by virtue of sec. 64(1)(iv).

Notes applicable to Sec. 64(1)(iv), (vi), (vii) & (viii)

Nature of consideration	Consideration must be measurable in terms of money. Therefore, natural love and affection, spiritual or religious benefit cannot be treated as adequate consideration.	
Inadequate consideration	If property has been transferred to spouse or son's wife directly or indirectly for a consideration which is inadequate, then only the part of income which is referable to transfer for inadequate consideration, shall be clubbed.	Mr. X transferred 1000 10% debentures of ₹ 100 each (Market value ₹ 100 each) to Mrs. X for ₹ 25,000. Income earned at the end of the year on such debenture ₹ 10,000. **Treatment:** ₹ 2,500 (i.e. ₹10,000 * ₹25,000 / ₹ 1,00,000) shall be taxable in hands of Mrs. X and remaining ₹ 7,500 (i.e. ₹ 10,000 – ₹ 2,500) shall be clubbed in the hands of Mr. X.
Form of Asset	The asset so transferred need not remain in its original form.	Mr. X transferred to Mrs. X securities worth ₹ 5,00,000. Mrs. X exchanged such securities for a house property. Income from such property shall also be liable to clubbing u/s 64(1)(iv).
Accretion of asset	Income arising to the transferee from the accretion of such property shall not be clubbed in the total income of the transferor.	Mr. X transferred to Mrs. X shares of a foreign company worth ₹ 5,00,000. Mrs. X received bonus share on such shares. Dividend on original shares shall be clubbed in the hands of Mr. X but dividend on bonus shares shall not be clubbed and taxable in the hands of Mrs. X.
Capital gain	Profit on the sale of property, which is gifted to the spouse or son's wife, shall be clubbed in hands of the transferor.	

<table>
<tr><td>Income on income</td><td>Income arising to the transferee from the accumulated income of such property is not to be clubbed.</td><td>Mr. X transferred to Mrs. X shares worth ₹ 5,00,000. Mrs. X sold such shares for ₹ 6,00,000 (i.e. earned a profit of ₹ 1,00,000) and acquired 12% Debentures of another company.

Capital gain of ₹ 1,00,000 and interest on debenture of ₹ 60,000 (i.e. 12% of ₹ 5,00,000) shall be clubbed in hands of Mr. X u/s 64(1)(iv). However, interest on debenture of ₹ 12000 (i.e. 12% of ₹ 1,00,000) shall not be clubbed and taxable in the hands of Mrs. X.</td></tr>
<tr><td>Asset transferred under a trust</td><td colspan="2">Where an asset is transferred under a trust for the benefit of spouse or son's wife the provision of sec. 64(1) shall be applicable. It does not make any difference even if the assessee appoints himself as a trustee.</td></tr>
<tr><td>Treatment after death</td><td colspan="2">After the death of either husband or wife clubbing provision of Sec. 64(1)(iv) will not be attracted, as a widow or widower is not a spouse.</td></tr>
<tr><td>Cross Gift</td><td>If the Assessing Officer is convinced that some gifts are inter-related with each other in a circuitous way, and there is an intention to evade provisions of sec. 64(1), he may apply the provisions of sec. 64(1).</td><td>Mr. A gifted his property to Mrs. X and Mr. X gifted equivalent another property to Mrs. A.

Treatment In such case it is apparent that such transactions are interrelated and are parts of the same transaction. In such case income from such property of Mrs. A and Mrs. X shall be clubbed in hands of Mr. A and Mr. X respectively.</td></tr>
<tr><td>Asset invested in the business</td><td colspan="2">If assets so transferred, is invested in business then tax treatment shall be as under:

<table>
<tr><th>Type of business</th><th>Income to be clubbed</th></tr>
<tr><td rowspan="2">Proprietary</td><td>Income of such business * Value of such assets as on the 1st day of the P.Y.</td></tr>
<tr><td>Total investment in the business by the transferee as on the same day</td></tr>
<tr><td rowspan="2">Partnership</td><td>Interest on capital * Value of such assets as on the 1st day of the P.Y.</td></tr>
<tr><td>Total investment in the firm by the transferee as on the same day</td></tr>
<tr><td colspan="2">Taxpoint: Profit from the firm shall not be clubbed as it is exempted u/s 10(2A).</td></tr>
</table>
</td></tr>
</table>

Illustration 5:

Mr. X gifted 1,000 shares of a non-domestic company worth ₹ 6,00,000 (acquired on 15/3/2024) to Mrs. X out of natural love and affection as on 15/4/2024.

On 31/1/2025, Mrs. X received dividend ₹ 60,000 on such shares in India.

On 1/2/2025, Mrs. X sold such shares for ₹ 10,00,000 and received consideration in India.

Show tax treatment, if on 1/2/2025, Mrs. X invested ₹ 10,60,000 in -

Case A A house property from which rent accrued in the previous year 2024-25 is ₹ 53,000.

Case B A newly formed partnership firm and contributed initial capital. Interest received (taxable portion) on such contribution ₹ 13,250 and share of profit ₹ 20,000.

Case C A newly started proprietorship business & contributed capital, profit accrued for the year is ₹ 42,400.

Solution :

Statement showing treatment of provision of sec. 64(1)(iv) in hands of Mr. X for the A.Y. 2025-26

Particulars	Case A		Case B		Case C	
	Mr. X	Mrs. X	Mr. X	Mrs. X	Mr. X	Mrs. X
Dividend from non-domestic company	60,000	-	60,000	-	60,000	-
Short term Capital gain (Note 1)	4,00,000	-	4,00,000	-	4,00,000	-
Income from house property (Note 2)	21,000	16,100	-	-	-	-
Interest on capital in partnership firm (Note 3)	-	-	7,500	5,750	-	-
Share of profit in firm [Exempted u/s 10(2A)]	-	-	-	-	-	-
Profit from proprietorship business (Note 3)	-	-	-	-	24,000	18,400
Total	**4,81,000**	**16,100**	**4,67,500**	**5,750**	**4,84,000**	**18,400**

Note 1: Computation of capital gain and its treatment

Particulars	Amount
Sale consideration	10,00,000
Less: Cost of acquisition	6,00,000
Short term capital gain	4,00,000
Treatment: Since the shares have been gifted by Mr. X to Mrs. X the provision of sec. 64(1)(iv) shall be applicable and such gain shall be taxable in hands of Mr. X.	

Note 2: Computation of Income from house property of Mrs. X for the A.Y. 2025-26

Particulars	Amount
Gross Annual Value	53,000
Less: Municipal tax	Nil
Net Annual value	53,000
Less: Deduction u/s 24(a) [being 30% ₹ 53,000]	15,900
Income from house property	**37,100**

Note 3: Statement showing the distribution of income between Mr. X & Mrs. X

Since the new investment has been acquired out of -	
Gifted money (equivalent)	₹ 6,00,000
Capital gain	₹ 4,00,000
Dividend income	₹ 60,000
Hence, income shall be clubbed in hands of Mr. X to the extent of 600/1060 and in hands of Mrs. X 460/1060 **Taxpoint:** Income arising to the transferee from the accretion of such property or from accumulated income of such property is not to be clubbed in the total income of the transferor.	

Case	In hands of Mr. X	In hands of Mrs. X
A	(₹ 37,100 × 600) / 1,060 = ₹ 21,000	(₹ 37,100 × 460) / 1,060 = ₹ 16,100

B	(₹ 13,250 × 600) / 1,060 = ₹ 7,500	(₹ 13,250 × 460) / 1,060 = ₹ 5,750
C	(₹ 42,400 × 600) / 1,060 = ₹ 24,000	(₹ 42,400 × 460) / 1,060 = ₹ 18,400
Note: In case of new source of income, previous year starts from the date when such new source of income comes into existence.		

Assets transferred to AOP or other person for the benefit of spouse [Sec. 64(1)(vii)]

In case an asset is transferred to other person or an association of persons, otherwise than for adequate consideration, for immediate or deferred benefit of spouse, then income on asset so transferred shall be clubbed in the hands of the transferor (to the extent income from such asset is for the immediate or deferred benefit of his or her spouse).

Income from assets transferred to son's wife [Sec. 64(1)(vi) & (viii)]

The provisions are enumerated here-in-below:

Transfer to son's wife [Sec. 64(1)(vi)]	In computing the total income of an individual, income arising (directly or indirectly) from assets transferred to son's wife (after 31.5.1973), without adequate consideration, shall be included in income of that individual. Aforesaid relationship must subsist on the date of transfer of assets as well as on the date of accrual of income.
Transfer to AOP or other person for the benefit of son's wife [Sec. 64(1)(viii)]	In case an asset is transferred to other person or an association of persons (after 31.5.1973), otherwise than for adequate consideration, for immediate or deferred benefit of son's wife, then income on asset so transferred shall be clubbed in the hands of the transferor (to the extent income from such asset is for the immediate or deferred benefit of son's wife). *See notes given below sec. 64(1)(iv)*

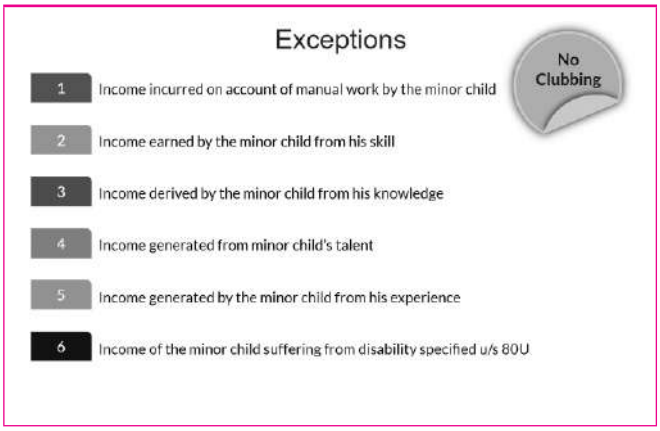
3.1.7 Income of minor child [Sec. 64(1A)]

Income of a minor child shall be clubbed with income of the parent whose total income (excluding this income) is **higher.**

Exceptions

The above clubbing provision shall not apply in the following cases -

1. The income arises or accrues to the minor child due to any manual work done by him; or
2. The income arises or accrues to the minor child due to his **skill**, **talent**, **specialised knowledge** or **experience**; or
3. The minor child is suffering from any disability of nature specified u/s 80U.



Be careful, there is no exception for minor married daughter like an exception to sec. 27 (Deemed Owner)

Exemption [Sec. 10(32)] [Available only under old regime]

In case income of a minor child is clubbed in hands of the parent as per provision of sec. 64(1A), the assessee (parent) can claim exemption of an amount being minimum of the following -

a. ₹ 1,500; or

b. Income so clubbed

Taxpoint: Such exemption shall be available for each child (irrespective of the number of children) whose income is so clubbed.

When marriage does not subsist between parents

In case marital relationship does not subsist at the time of accrual of income to the minor child, income of minor child shall be clubbed with income of that parent who maintains the minor child during the previous year.

Taxpoint: Income of the minor child shall be clubbed in hands of parent in the following manner -

Relation between parents	Tax treatment
When marriage subsists	With the income of that parent whose total income excluding this income is higher
When marriage does not subsist	With the income of that parent who maintains the minor child in the previous year

Notes

Clubbing in subsequent year(s)	Where any such income is once clubbed with the total income of either parent, then any such income arising in any subsequent years shall not be clubbed with the total income of the other parent, unless the Assessing Officer is satisfied. However, the Assessing Officer will do so only after giving an opportunity of being heard to the other spouse.
Child	Child in relation to an individual includes a stepchild & adopted child but does not include a grandchild [Sec. 2(15B)]
Income of married daughter	Though sec. 27(i) [Deemed owner of house property] specifically excludes married daughter but sec. 64(1A) does not have this exception, hence income arising to minor married daughter shall be clubbed in the hands of parent.
When neither of the parent is alive	Income of minor child cannot be added with the income of the guardian if the guardian is not the parent of the minor.
Capital gain	Profit on sale of the property, which is gifted to minor child, shall be clubbed in hands of parent as per the provision of sec. 64(1A)
Income of the year when minor attains majority	Income of that year shall be treated as under:

Income arose to the period	Clubbing provision
When child does not attain age of majority	Such income shall be clubbed in hands of parent
When child attains the age of majority and afterwards	Such income shall not be clubbed and taxable in hands of assessee himself (i.e. child)

Illustration 6:

Mr. & Mrs. Mantri have income under the head "Profits & gains of business or profession" of ₹ 13,00,000 and ₹ 14,00,000 respectively. They have 7 children. From the following details compute taxable income of Mr. and Mrs. Mantri for the A.Y. 2025-26 (old regime):

- 1st child (aged 26 years) is a chartered accountant. His annual income from profession is ₹ 24,00,000. His income from house property for the P.Y. 2024-25 is ₹ 1,30,000. He has a son (4 years old) who has earned interest on fixed deposit of ₹ 5,000.
- 2nd child (aged 17 years being a married daughter) who is a stage singer, earned income of ₹ 1,00,000 during the P.Y. 2024-25. She earned interest on fixed deposit ₹ 8,000. Such fixed deposit has been made out of such singing income.
- 3rd child (aged 16 years) is suffering from disability specified u/s 80U (to the extent 55%) blind. He has received interest income of ₹ 40,000 for loan given to a private firm. He is dependent on Mrs. Mantri.
- 4th child (aged 14 years) has earned income of ₹ 45,000 during the P.Y. 2024-25 out of his physical and mental effort. Expenditure incurred to earn such income is ₹ 15,000. His loss from house property is ₹ 30,000.
- 5th child (aged 12 years) is a partner in a partnership firm from which he earned interest income (taxable) of ₹ 40,000 and share of profit of ₹ 35,000. Other two partner of the firm are Mr. & Mrs. Mantri.
- 6th child (aged 9 years) has 1,000 debentures of ₹ 100 each of a public sector company acquired through will of his Grand father. Interest income on such debenture is ₹ 10,000. Expenditure incurred to collect such interest is ₹ 200. Such debenture was sold and long-term capital gain earned ₹ 25,000.
- 7th child (aged 7 years) has earned interest on fixed deposit ₹ 500.

Solution :

Computation of total income of Mr. and Mrs. Mantri for the A.Y. 2025-26

Particulars	Mr. Mantri		Mrs. Mantri	
	Details	Amount	Details	Amount
Income from house property				
Income of 4th Child: Loss from house property				(30,000)
Profits & gains of business or profession				
Business income		13,00,000	14,00,000	
Add: Income of 5th Child				
Interest from partnership firm			40,000	
Share of profit [Exempt u/s 10(2A)]			Nil	
Less: Exemption u/s 10(32)			(1,500)	14,38,500
Capital gains				
Income of 6th Child				
Long term capital gain [#Deduction can be claimed once]				25,000#
Income from other sources				
Income of 2nd Child				
Interest income			8,000	
Less: Exemption u/s 10(32)			(1,500)	6,500

Particulars	Mr. Mantri		Mrs. Mantri	
	Details	Amount	Details	Amount
Income of 6th Child				
Interest on debenture [₹ 10000 – ₹ 200]			9,800	
Less: Exemption u/s 10(32)			(1,500)	8,300
Income of 7th Child				
Interest on Fixed Deposit			500	
Less: Exemption u/s 10(32)			(500)	Nil
Gross Total Income		**13,00,000**		**14,48,300**
Less: Deduction u/s 80DD		Nil		75,000
Total Income		**13,00,000**		**13,73,300**

Notes

a. Income of the first child shall not be clubbed with the income of Mrs. Mantri as he is a major. The income of grandchild (son of first child) will be clubbed with the income of his parent.

b. The clubbing provision of sec. 64(1A) shall not apply where -
   - the income arises or accrues to the minor child due to any manual work done by him; or
   - the income arises or accrues to the minor child due to his skill, talent, specialised knowledge or experience; or
   - the minor child is suffering from any disability of nature as specified u/s 80U.

c. Income shall be first computed head wise in the hands of recipient and then clubbing shall be carried out head wise.

3.1.8 Conversion of self acquired property into HUF Property [Sec. 64(2)]

Applicability

An individual, being a member of an HUF, has converted[1] a property[2] after 31/12/1969 (being self acquired asset of the individual) into property of HUF of which he is a member, otherwise than for adequate consideration.

Tax-Treatment

For the purpose of computation of total income of such individual for any assessment year commencing on or after 1/4/1971, the income derived from such converted property (property so converted or transferred by individual to HUF) or any part thereof shall be deemed to arise to the individual and not to the family.

Where the converted property has been the subject matter of partition (whether partial or total) amongst the members of the family, the income derived from such converted property as is received by the spouse shall be clubbed in the hands of transferor.

Taxpoint:

- Asset was originally self acquired property of the individual
- Such asset is transferred directly or indirectly to HUF hotch-pot for inadequate consideration.
- Treatment is as under -

Case	Income to be clubbed in hands of transferor
Before partition	The entire income from such property
After partition	Income from the assets attributable to the spouse of transferor.

[1] Such conversion can be made by: a) the act of impressing such separate property with the character of property belonging to the family; or b) throwing it into the common stock of the family.

[2.] Property here includes any interest in property whether movable or immovable; the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale thereof; and where the property is converted into any other property by any method, such other property.

Note: Asset need not be in its original form.

Illustration 7:

Mr. Todi is a member of HUF. It consists of Mr. Todi, Mrs. Todi, Mr. Todi's major son (Mr. A) & Mr. Todi's minor son (B)

On 1/4/2023, Mr. Todi transferred his house property acquired through his personal income to the HUF without any consideration.

On 1/7/2024, HUF is partitioned and such property being divided equally.

Net annual value of the property for the P.Y. 2023-24 is ₹ 80,000 & that for the P.Y. 2024-25 is ₹ 1,00,000. State tax treatment for both the years.

Solution :

Computation of income from house property in the hands of Mr. Todi for the A.Y. 2024-25

Particulars	Details	Amount
Net Annual Value (NAV)		80,000
Less: Standard deduction u/s 24(a)	30% of NAV	24,000
Income from house property		**56,000**
Tax treatment for the A.Y.2024-25: Since Mr. Todi transferred his house property acquired out of personal income to his HUF without adequate consideration, therefore income generated from such house property i.e. ₹ 56,000 shall be clubbed in hands of Mr. Todi as per provision of sec. 64(2).		

Tax treatment for the A.Y.2025-26: In the previous year 2024-25, partition took place on 1/7/2024; hence the treatment shall be as under:

Particulars	Details	Amount
Net Annual Value (NAV)		1,00,000
Less: Standard deduction u/s 24(a)	30% of NAV	30,000
Income from house property		**70,000**
Income earned till partition from April' 2024 to June' 2024 i.e. ₹ 17,500 [(₹ 70,000/12) × 3] shall be clubbed in hands of Mr. Todi and income earned after partition i.e. ₹ 52,500 [(₹ 70,000/12) × 9] shall be divided among the family members. However, as per provision of sec. 64(2) income of Mrs. Todi shall be clubbed in hands of Mr. Todi.		

Particulars	Mr.Todi	Mrs.Todi	Mr. A	B
Income from house property before partition clubbed in hands of Mr. Todi as per sec. 64(2)	17,500	-	-	-
Share of Income from house property ₹ 52,500/4	13,125	13,125	13,125	13,125

Income clubbed as per provision of sec. 64(2)	+ 13,125	(13,125)	-	-
Income clubbed as per provision of sec. 64(1A)[1]	+ 13,125	-	-	(13,125)
Less: Exemption u/s 10(32)	(1,500)	-	-	-
Total income from house property	**55,375**	**Nil**	**13,125**	**Nil**

[1.] It is assumed that Mrs. Todi has no other income.

3.1.9 Liability of the transferee [Sec. 65]

Applicability

Where, by reason of the -

- provisions contained in this Chapter; or
- provisions contained in sec. 27(i)

the income from any asset (or from membership in a firm) of a person other than the assessee, is included in the total income of the assessee.

Impact

On the service of a notice of demand by the Assessing Officer in this behalf, the person in whose name such asset stands (or who is a member of the firm) shall be liable to pay that portion of the tax levied on the assessee which is attributable to the income so included.

Notes

(a) Such liability cannot exceed the value of assets so transferred.

(b) Where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay the tax which is attributable to the income from the assets so included.

Taxpoint: After application of provisions of clubbing (on transfer of property without adequate consideration as discussed above in several sections), income is taxable and tax liability arises in the hands of the transferor. But sec. 65 empowers the income tax authorities to serve demand notice (in respect of tax on clubbed income) upon transferee.

3.1.10 Important general notes

TDS	Where an income is includible u/s 64 and tax has been deducted at source from such income, the credit of tax deducted at source shall be given to the person in whose hands the income is taxable [Sec. 199].
Advance Tax	The advance tax paid by the income earner (say spouse or minor child) with reference to such income is not eligible for adjustment towards the tax liability of the individual in whose hands such income has been clubbed. In such case, it is open to the payer of advance tax (i.e. spouse or the minor child) to apply for refund of advance tax so paid.
Mode of Clubbing cannot be changed for the benefit of the revenue	Unless there are compelling circumstances the modes of clubbing cannot be changed by the ITO. Merely, for the benefit of the revenue such mode cannot be changed.

Illustration 8:

A proprietary business was started by Smt. Sonam Mundhra in the year 2022. As on 1.4.2023 her capital in business was ₹ 3,00,000.

Her husband, Shri Vikash Mundhra, gifted ₹ 2,00,000, on 10.04.2023, which amount Smt. Sonam invested in her business on the same date. Smt. Sonam earned profits from her proprietary business for the financial years 2023-24, ₹ 1,50,000 and financial year 2024-25 ₹ 3,90,000. Compute the income, to be clubbed in the hands of Sonam's husband for the A.Y. 2025-26.

Solution :

Where asset transferred to spouse is invested in the proprietary business then proportionate share being calculated in following manner shall be clubbed in the hands of transferor:

$$\frac{\text{Income of such business} * \text{Value of such assets as on the 1st day of the P.Y.}}{\text{Total investment in the business by the transferee as on the 1st day of the P.Y.}}$$

= ₹ 3,90,000 * ₹ 2,00,000 / ₹ 6,50,000[1] = ₹ 1,20,000

Hence, ₹ 1,20,000 shall be clubbed in the hands of husband of Smt. Sonam

[1.] Computation of total investment in the business on 1-4-2024

Particulars	Amount
Investment as on 1-4-2023	₹ 3,00,000
Add: Investment of gift from husband on 10-4-2023	₹ 2,00,000
Add: Net profit earned during the year 2023-24 (assumed reinvested in the business)	₹ 1,50,000
Total investment in the business as on 1-4-2024	**₹ 6,50,000**

Income arising from accretion to transferred asset shall not be liable to clubbing.

Assume, Net profit earned during the year 2023-24 is retained in the business.

Alternatively, one can assume that net profit earned during the year 2023-24 is withdrawn. In such case income to be clubbed shall be computed as under:

$$\frac{\text{Income of such business} * \text{Value of such assets as on the 1st day of the P.Y}}{\text{Total investment in the business by the transferee as on the 1st day of the P.Y.}}$$

= ₹ 3,90,000 * ₹ 2,00,000 / ₹ 5,00,000 = ₹ 1,56,000

Hence, ₹ 1,56,000 shall be clubbed in the hands of husband of Smt. Sonam

[1.] Computation of total investment in the business on 1-4-2024

Particulars	Amount
Investment as on 1-4-2023	₹ 3,00,000
Add: Investment of gift from husband on 10-4-2023	₹ 2,00,000
Total investment in the business as on 1-4-2024	**₹ 5,00,000**

Illustration 9:

Mr. Singh is a trader. Particulars of his income and those of the members of his family are given below. These incomes relate to the previous year ended 31st March, 2025:

Particulars	Amount
Income from business (Mr. Singh's)	8,90,000
Salary derived from an educational institution by Mrs. Singh. She is the principal of the institution	8,50,000
Interest on company deposits derived by Master Deep Singh (minor son). These deposits were made in the name of Deep Singh by his father's father about 6 years ago.	12,000
Receipts from sale of paintings and drawings made by minor Dipali Singh (minor daughter of Mr. & Mrs. Singh and noted child artist)	60,000
Income by way of lottery earnings by Master Dipindar Singh (minor son of Mr. Singh)	6,000

Discuss whether the above will form part of the assessable income of any individual and also compute the assessable income of Mr. Singh (old regime).

Solution :

Computation of Total Income for the A.Y. 2025-26

Particulars	Details	Amount		
		Mr. Singh	Mrs. Singh	Minor Daughter
Salaries				
Salary of Mrs. Singh			8,50,000	
Profits and gains of business or profession				
Business income		8,90,000		
Sale of paintings & drawings (made by daughter)				60,000
Income from other sources				
Interest income of 1st minor son	12,000			
Less: Exemption u/s 10(32)	1,500	10,500		
Lottery Income of 2nd minor son	6,000			
Less: Exemption u/s 10(32)	1,500	4,500		
Gross Total Income		9,05,000	8,50,000	60,000
Less: Deduction under Chapter VI A		Nil	Nil	Nil
Total Income		**9,05,000**	**8,50,000**	**60,000**

Illustration 10:

Balu is the Karta of a HUF, whose members derive income as given below:

Particulars	Amount
Income from Balu's own business	5,50,000
Mrs. Balu a dermatologist (taxable salary)	5,80,000
Minor son Deepak (earning interest on fixed deposits with ABC Ltd., which were gifted to him by his grandfather)	15,000
Minor daughter Priya gave a dance performance and received remuneration	1,00,000
Deepak got winnings from lottery (gross)	2,00,000

Explain how the above will be taxed (old regime).

Solution :

Computation of Total Income for the A.Y. 2025-26

Particulars	Details	Balu	Mrs. Balu	Priya
Salaries				
Salary of Mrs. Balu		-	5,80,000	-
Profits & gains of business & profession		5,50,000	-	-
Income from other sources				
Interest on fixed deposit	15,000	-	-	-
Less: Exemption u/s 10(32)	1,500	-	13,500	-
Winning from lotteries		-	2,00,000	-
Remuneration from dance performance		-	-	1,00,000
Gross Total Income		5,50,000	7,93,500	1,00,000
Less: Deduction under Chapter VI A		Nil	Nil	Nil
Total Income		**5,50,000**	**7,93,500**	**1,00,000**
Note: Interest income of minor son Deepak will be taxable in the hands of his parent and not in the hands of his grand father.				

Illustration 11:

Ram & Mrs. Ram submit the following particulars of their income relevant for the assessment year 2025-26:

1. Mrs. Ram receives a salary of ₹ 8,30,000 (computed) and taxable allowance of ₹ 22,500 from G Ltd. in which her father-in-law holds 25% of equity share capital and she herself holds 10% of equity capital.

2. Ram receives a salary of ₹ 8,11,340 (computed) from S Ltd., in which Mrs. Ram, her sisters and brother hold 21% of equity share capital.

3. Ram is a (10% share) partner in EFG, a partnership firm, which is engaged in the business identical to G Ltd. and receives ₹ 75,000 as salary and interest from the firm during the relevant previous year. None of the relatives of Ram has any interest in the firm.

4. Mrs. Ram is employed by the firm EFG on a salary of ₹ 9,000 p.a. (computed)

5. Interest of minor daughter of Ram from a partnership firm is ₹ 43,500

6. Mrs. Ram transferred ₹ 1,00,000 on 20-5-1973 and ₹ 70,000 on 15-6-1973 to her daughter-in-law, who invested the aforesaid fund in a partnership firm at 12% p.a. Out of interest income, her daughter-in-law has purchased debentures in an Indian companies and during the previous year she receives ₹ 2,000 as interest.

Find out taxable income of Mr. and Mrs. Ram on the following assumptions:

a. That Ram is not a beneficial shareholder in G Ltd. throughout the previous year.

b. That Ram holds 10 shares in G Ltd. only during 15 days of the previous year.

c. Both has opted for old tax regime

Solution :

Computation of total income for A.Y. 2025-26

Particulars	Case a		Case b	
	Mr. Ram	Mrs. Ram	Mr. Ram	Mrs. Ram
Salary from G Ltd. (computed)		8,52,500	8,52,500	
Salary from S Ltd. (computed)		8,11,340		8,11,340
Business income (salary and interest from EFG)	75,000		75,000	
Salary from EFG (computed)		9,000		9,000
Interest income of son's wife (int. on deb.)[#]		8,400		8,400
Income of minor daughter (₹ 43,500 – ₹ 1,500) [sec. 10(32)]		42,000	42,000	
Total Income	**75,000**	**17,23,240**	**9,69,500**	**8,28,740**

[#]for transfer before 31-5-1973 clubbing is not applicable

Set off and Carry Forward of Losses

3.2

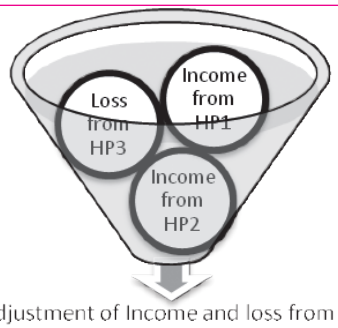
3.2.1 Introduction

For computation of Gross Total Income (GTI), income from various sources is computed under the five heads of income.

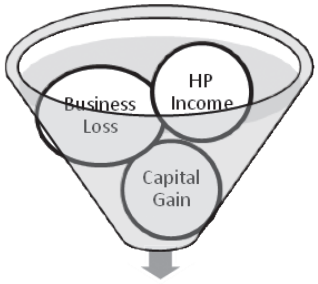
Intra Head Adjustment (Inter Source Adjustment)[Sec. 70] → Intra Head Adjustment [Sec, 71] → Carry Forward of Loss

If all the sources and heads are having positive income (i.e. profit) then the same can simply be added to compute GTI. However, if certain source(s) or certain head(s) have negative income (i.e. loss) then such loss needs to be adjusted with income of another source(s) or head(s). Set off means adjustment of loss from one source or one head against income from another source or another head.

If a negative income is not fully set off in the current year, then the unabsorbed loss shall be carried forward to subsequent years subject to certain restrictions and conditions [e.g. Income from other sources (other than losses from activity of owning and maintaining horse races) cannot be carried forward.]



Adjustment of Income and loss from all **sources covered under one head** of Income is called Intra-head Adjustment [Rules are prescribed in Sec. 70]



Adjustment of **Income under one head and loss from another head** of Income is called Inter-head Adjustment [Rules are prescribed in Sec. 71]

Loss which could not be adjusted shall be carried forward to next year subject to certain conditions and exceptions

3.2.2 Inter Source adjustment (Intra-Head adjustment) [Sec. 70]

Intra Head Adjustment Restriction [Sec. 70]

- Long Term Capital Loss
- Loss of a speculation business
- Loss from a business specified u/s 35AD
- Loss incurred in activity of owning and maintaining race horses

When the net result of any source of income is loss, it can be set off against income from any other source under the same head. Sec. 70 deals with the set off of loss from one source against income from another source under the same head of income, subject to the following exceptions –

a. **Long term capital loss** can be set off only against long term capital gain [Sec. 70(3)]. However, short-term capital loss can be set off against short term as well as long term capital gains [Sec. 70(2)].

Example : Computation of Income under the head "Capital gains" of Mr. X for the A.Y. 2025-26

Particulars	Case A	Case B
Short term capital gain	80,000	(90,000)
Long term capital gain	(40,000)	1,20,000
Income under the head "Capital gains"	**80,000**	**30,000**

b. **Loss of a speculation business** can be set off only against the profits of a speculation business, under the head 'Profits and gains of business or profession'. However, loss from a non-speculative business can also be set off against income from speculation business [Sec. 73(1)]

Example : Computation of "Profits & gains of business or profession" of Mr. X for the A.Y. 2025-26

Particulars	Case A	Case B
Speculation business	80,000	(90,000)
Non speculation business	(40,000)	1,00,000
Profits & gains of business or profession	**40,000**	**1,00,000**

c. **Loss of a specified business covered u/s 35AD** can be set off only against the profits of other specified business. However, loss from a non-specified business can be set off against income from specified business. [Deduction u/s 35AD is available only if assessee has opted out from sec. 115BAC]

d. **Loss incurred in activity of owning and maintaining race horses** can be set off against income from such activity only [Sec. 74A]

Example : Computation of "Income from other sources" of Mr. X for the A.Y. 2025-26

Particulars	Case A	Case B
Activity of owning and maintaining race-horses	80,000	(90,000)
Rent from land	(20,000)	1,30,000
Income from other sources	**60,000**	**1,30,000**

Taxpoint: Above provisions provides restriction on losses, however income from aforesaid source (i.e. a to d) is available for setting off any loss from any other source under the same head.

e. **Loss from a source, income of which is exempt u/s 10**, cannot be set off against any income.

f. **No loss can be set off against winning from lotteries,** crossword puzzles, races, card games, gambling or betting, etc. [Sec. 58(4) & 115BB]. Similarly, set off of losses is not permissible against unexplained income, investment, money, etc. chargeable u/s 68 / 69A / 69B / 69C / 69D [Sec. 115BBE]

Example : Computation of "Income from other sources" of Mr. X for the A.Y. 2025-26

Particulars	Case A	Case B
Activity of owning and maintaining race-horses	10,000	(90,000)
Lottery income	20,000	1,30,000
Losses on letting out furniture not related to business	(40,000)	(50,000)
Income from other sources	**20,000**	**1,30,000**

Illustration 12:

Compute gross total income of Mr. X in following cases -

Source of income	Case I	Case II
Income from house property (A)	30,000	40,000
Income from house property (B)	(10,000)	(25,000)
Speculation income	80,000	(70,000)
Business income	(30,000)	50,000
Income from activity of owning and maintaining race-horses business (A)	(50,000)	10,000
Income from activity of owning and maintaining race-horses business (B)	20,000	(6,000)
Income from agricultural business	(25,000)	10,000
Short term capital gain (transaction A)	30,000	(20,000)
Short term capital gain (transaction B)	(10,000)	5,000
Long term capital gain (transaction A)	(30,000)	45,000
Long term capital gain (transaction B)	10,000	(2,000)
Income from lottery	3,40,000	-
Income from horse races	10,000	25,000
Income on card games	(5,000)	(3,000)
Interest on securities	20,000	10,000

Solution :

Computation of gross total income of Mr. X for the A.Y. 2025-26

Particulars	Case I		Case II	
	Details	Amount	Details	Amount
Income from House Property				
House Property A	30,000		40000	
House Property B	(10,000)	20,000	(25000)	15,000
Profits & Gains of Business or Profession				
Speculation income	80,000		(70000)	Nil[3]
Other business	(30,000)	50,000		50,000
Income from agricultural business (Exempted)	Nil			Nil
Capital Gains				
Short term capital gain				
Transaction A	30,000		(20000)	
Transaction B	(10,000)	20,000	5000	
Long term capital gain				
Transaction A	(30,000)		45000	
Transaction B	10,000	Nil[2]	(2000)	28,000
Income from other sources				
Casual income				
Income from lottery	3,40,000		-	
Income from horse races	10,000		25000	
Income on card games (losses not to be considered)	Nil	3,50,000	Nil	25,000

Particulars	Case I		Case II	
	Details	Amount	Details	Amount
Income from activity of owning & maintaining race-horses				
Business (A)	(50,000)		10000	
Business (B)	20,000	Nil[1]	(6000)	4,000
Other income				
Interest on securities		20,000		10,000
Gross Total Income		**4,60,000**		**1,32,000**
Losses to be carried forward				
[1.] Loss from activity of owning & maintaining race horse		(30,000)		-
[2.] Long term capital loss		(20,000)		-
[3.] Speculation loss		-		(70,000)

3.2.3 Inter head adjustment [Sec. 71]

Inter Head Adjustment Restriction [Sec. 71]

- Loss under the head Capital Gains
- Loss of a speculation business
- Loss from a business specified u/s 35AD
- Loss incurred in activity of owning and maintaining race horses
- No adjustment of business or professional loss with salary
- Max. loss of ₹ 2,00,000 u/h IFHP can be adjusted with other heads of income

Where in respect of any assessment year, the net result of any head of income is a loss, the same can be set off against the income under any other heads for the same assessment year, subject to the following exceptions:

a. **Capital gains:** Loss under the head 'Capital gains' cannot be set off against income under any other head. However, loss under any other head, e.g. business loss, shall be allowed to be set off against income under the head 'Capital gains'

Example : Computation of "Gross total income" of Mr. X for the A.Y. 2025-26

Particulars	Case A	Case B
Long term capital gain	80,000	(90,000)
Short term capital gain	(60,000)	(30,000)
Income from house property	(20,000)	1,30,000
Gross total income	**Nil**	**1,30,000**

b. **Loss of a speculation business:** Loss under the head 'Profits and gains of business or profession' due to speculation business cannot be set off against any other income except profits of speculation business. However, loss under any other head, e.g. loss from house property, shall be allowed to be set off against income of a speculation business.

c. **Loss of a specified business covered u/s 35AD*** cannot be set off against income taxable under other head. However, loss from other head can be set off against income from specified business.

d. **Loss from activity of owning and maintaining race-horses:** Loss under the head 'Income from other sources' due to activity of owning and maintaining race-horses cannot be set off against any other income except profit from activity of owning and maintaining race-horses [Sec. 74A]. However, loss under any other head, e.g. business loss, shall be allowed to be set off against income from activity of owning and maintaining race-horses.

Taxpoint: Above provisions provides restriction on losses, however income from aforesaid source (i.e. a to d) is available for setting off any loss from any other head of income.

* Deduction u/s 35AD is available only if assessee has opted for old regime.

e. **Loss under the head 'Income from house property':** Loss in excess of ₹ 2,00,000 under the head 'Income from house property' cannot be set off with income under other heads of income.

However, **if assessee is under default tax regime, loss under the head 'Income from House Property' cannot be adjusted with any income under other heads.**

Example : Computation of "Gross total income" of Ms. M for the A.Y. 2025-26, if she has opted for the old tax regime

Particulars	Case A	Case B
Profit and gains of business or profession	2,80,000	2,80,000
Income from house property	(20,000)	(2,30,000)
Gross total income	**2,60,000**	**80,000**

Example: Computation of "Gross total income" of Ms. L for the A.Y. 2025-26, if she is paying tax under default tax regime

Particulars	Case A	Case B
Profit and gains of business or profession	2,80,000	2,80,000
Income from house property	(20,000)	(2,30,000)
Gross total income	**2,80,000**	**2,80,000**

f. **Loss under the head Profits and Gains of Business or Profession:** Loss under the head "Profits and gains of business or profession" cannot be set off from income under the head "Salaries".

g. **Loss from a source, income of which is exempt u/s 10**: Such loss cannot be set off against any taxable income.

h. **Income from winning from lotteries, etc.:** Any loss cannot be set off against winning from lotteries, crossword puzzles, races, card games, gambling, betting, etc. [Sec. 58(4) & 115BB]. Similarly, set off of losses is not permissible against unexplained income, investment, money, etc. chargeable u/s 68 / 69A / 69B / 69C / 69D [Sec. 115BBE]

Example : Computation of "Gross total income" of Mr. X for the A.Y. 2025-26

Particulars	Case A	Case B
Salaries	1,20,000	1,20,000
Profits and gains of business or profession	(50,000)	(30,000)
Income from house property	20,000	(20,000)
Gross total income	**1,20,000**	**1,00,000**

Illustration 13 :

Compute the gross total income (old regime) of Mr. Jacky from following data -

Source of income	Amount
Income under the head 'Salaries'	2,60,000
Income from house property (A)	60,000
Income from house property (B)	(2,80,000)
Speculation income	20,000
Business income	(1,30,000)
Income from activity of owning and maintaining race-horses	(1,50,000)
Income from agricultural business	(1,25,000)
Short term capital gain	30,000
Long term capital gain	(1,00,000)

Income from lottery	10,000
Income from horse races	1,70,000
Interest on securities after adjusting interest expenses and other expenses	(70,000)

Solution :

Computation of gross total income of Mr. Jacky for the A.Y. 2025-26

Particulars	Details	Amount	Amount
Salaries		2,60,000	
Income from house property			
House property A	60,000		
House Property B [#Max. limit, balance shall be carried forward] **[Further, loss from house property cannot be adjusted with income under other heads, if assessee is under default regime]**	(2,80,000)	(2,00,000)#	
Profits & gains of Business or Profession			
Speculation income	20,000		
Other business income	(1,30,000)		
Income from agricultural business [exempted u/s 10(1)]	Nil	(1,10,000)	
Capital Gains			
Short term capital gain		30,000	
Long term capital gain	(1,00,000)	Nil	
Long term capital loss cannot be set off against any income & shall be carried forward			
Income from Other Sources			
Casual income			
Income from lottery	10,000		
Income from horse races	1,70,000		1,80,000
As no loss can be set off against such income.			
Income from activity of owning and maintaining race-horses	(1,50,000)	Nil	
Loss from activity of owning and maintaining race-horses cannot be set off against any income & shall be carried forward			
Other income			
Interest on securities		(70,000)	
Gross Total Income		**(90,000)**[1]	**1,80,000**

Conclusion

From salary income, losses under the head income from other sources ₹ 70,000 is adjusted first and then loss under the head 'Income from house property' considering following:

- Loss under the head 'Profits and gains of business or profession' cannot be set-off against salary income; and
- Loss under the head income from other sources, if any, cannot be carried forward.

Thereafter, loss under the head 'Income from house property' of ₹ 10,000 and losses under the head 'Profits & gains of business or profession' up to ₹ 20,000 is adjusted against Short term capital gain of ₹ 30,000 and remaining losses under the head Profits and gains of business or profession ₹ 90,000 and loss under the head 'Income from house property' ₹ 20,000 (including loss over and above ₹ 2,00,000) shall be carried forward.

Alternatively, loss under the head Income from house property of ₹ 30,000 and loss under the head Profits & gains of business or profession of ₹ 80,000 can be carried forward

Test Yourself

1. Compute Gross Total Income for the assessment year 2025-26 and losses to be carried forward.

Particulars	Amount
Net Profit from cotton business	1,60,000
Net loss from automobile business	(90,000)
Loss from house property in Kolkata	(75,000)
Income from house property in Mumbai	80,000
Loss from Speculative business	(1,20,000)
Income from Salary	72,000
Short term capital loss on jewellery	(1,20,000)
Long term capital gain on Shares	90,000

2. From the following information, compute income of Ms. Tewari for the P.Y. 2024-25:

Particulars	Amount (₹)
Income from house 1 (let out)	2,00,000
Loss from house 2 (self-occupied)	50,000
Salary Income	5,00,000
Loss from non-speculative Business	3,00,000
Income from speculative Business	1,00,000
Short Term Capital Loss	60,000
Long term Capital gain	50,000

Hints

1. Gross Total Income: ₹ 1,47,000; 2. ₹ 5,00,000

3.2.4 General notes

1. **Sec. 70 vs Sec. 71:** First, intra head set-off shall be made, thereafter inter head set-off shall be made. In other words, sec. 71 will be applicable after application of sec. 70.

Illustration 14:

Smart has computed his tax liability under the old regime as under –

Particulars	Details	Amount
Income from business A		4,50,000
Long term capital gain	20,000	
Less: Income from business B u/s 71	(10,000)	10,000
Income from other sources		50,000
Gross Total Income		5,10,000
Less: Deduction u/s 80C to 80U		-
Total Income		**5,10,000**
Tax liability		**15,080**

Comment on the above computation.

Solution :

Computation made by Smart is incorrect, as because first intra head set-off shall be made, thereafter inter head set-off can be made. The correct computation is shown below -

Computation of total income and tax liability of Smart under old regime for the A.Y. 2025-26

Particulars	Details	Amount
Profits & Gains of Business or Profession		
Income from business A	4,50,000	
Income from business B u/s 70	(10,000)	4,40,000
Capital Gains		
Long term capital gain		20,000
Income from other sources		50,000
Gross Total Income		5,10,000
Less: Deduction u/s 80C to 80U		-
Taxable Income		**5,10,000**
Tax liability		**16,640**

2. **Priority of set off u/s 71**: The Act does not lay any priority relating to set off of losses, hence, losses which cannot be carried forward should be adjusted first.

Illustration 15 :

Mr. Bhola has furnished you the following data –

Income from house property	(₹ 1,30,000)
Salaries (Net)	₹ 80,000
Income from other sources	(₹ 90,000)
Income from lotteries	₹ 3,50,000

Mr. Bhola is seeking your advice relating to set off and carry-forward, if he has opted for old regime.

Solution :

Statement showing application of sec. 71

Particulars	Amount
Salaries	80,000
Income from house property	(1,30,000)
Income from other sources	
Winning from lotteries	3,50,000
Other income	(90,000)
Gross total income	**3,50,000**
Conclusion	
Casual income shall be fully taxable as no loss can be set off against such income.	**3,50,000**
Losses to be carried forward	
a) Loss under the head "Income from house property"	(1,30,000)
b) Loss under the head "Income from other sources", as such loss cannot be carried forward.	Nil
Income under the head 'Salaries' is first adjusted with the loss under the head 'Income from other sources' as the same cannot be carried forward. Though loss under the head 'Income from other sources' is ₹ 90,000 and such loss could be adjusted with income under the head 'Salaries' only to the extent of ₹ 80,000 still the remaining loss of ₹ 10,000 cannot be carried forward.	

3. **Mandatory feature of sec. 70 and 71:** Assessee is bound to follow sec. 70 and 71, there is no choice or option whether to set off the loss or not. Even partial set off is not permissible when entire loss can otherwise be set off.

Illustration 16:

Mr. Tej Singh has the following income details –

	₹
Income from house property	(30,000)
Salaries	6,80,000
Income from other sources	30,000

He has computed his Gross total income for the A.Y. 2025-26 as under

Particulars	Amount
Income from house property	(10,000)
Salaries	6,80,000
Income from other sources	30,000
Gross total income	7,00,000
Carry forward of loss under the head income form house property	20,000

– Comment

Solution :

Assessee is bound to follow sec.70 and 71 and there is no choice or option whether to set off the loss or not. Even partial set off is not permissible when full loss can otherwise be set off. Hence in the given case income of Mr. Tej Singh shall be ₹ 6,80,000 (carry forward of loss shall not be permissible) as computed under:

Particulars	Amount
Income from house property	(30,000)
Salaries	6,80,000
Income from other sources	30,000
Gross total income	**6,80,000**

4. **Set-off of clubbed income:** From the clubbed income, one can set off the losses.

3.2.5 Carry Forward of Loss

In case where the income of an assessment year is insufficient to set off the losses of the year then such losses (which could not be set off) can be carried forward to subsequent assessment year(s) for set off against income of such subsequent year(s). However, all losses cannot be carried forward, e.g. losses under the head 'Income from other sources' (other than loss from 'Activity of owning and maintaining race-horses') cannot be carried forward. Following losses can be carried forward:

1. Loss under the head 'Income from house property' [Sec. 71B]
2. Loss under head "Profits and gains of business or profession" other than speculation loss [Sec. 72]
3. Loss from speculation business [Sec. 73]
4. Loss from specified business covered u/s 35AD [Sec. 73A]
5. Loss under the head 'Capital gains'. [Sec. 74]
6. Loss from 'Activity of owning and maintaining race horses'. [Sec. 74A]

3.2.6 Loss under the head 'Income from House Property' [Sec. 71B]

Loss under the head 'Income from house property' can be carried forward and can be set off against income under the same head only.

Period for which carry-forward shall be allowed: 8 assessment years immediately succeeding the assessment year in which such loss is first computed.

Filing of return: Loss under the head 'Income from house property' can be carried forward even when a belated return is filed [as sec. 80 and 139(3) are not applicable to sec. 71B].

Illustration 17:

Compute Gross total income of Mrs. Shikha from following details for the A.Y. 2025-26	₹
Income from house property A	60,000
Income from house property B	(1,50,000)
Income from house property C	1,00,000
Income from other sources	1,00,000
Losses u/s 22 for the A.Y. 2024-25	(30,000)
Losses u/s 56 for the A.Y. 2024-25	(45,000)

Solution :

Computation of gross total income of Mrs. Shikha for the A.Y. 2025-26

Particulars	Details	Details	Amount
Income from house property			
House property A	60,000		
House property B	(1,50,000)		
House property C	1,00,000	10,000	
Loss u/s 22 for the A.Y. 2024-25		(10,000)	Nil
Income from other sources			1,00,000
Gross Total Income			**1,00,000**

Notes

1. Remaining unabsorbed loss relevant to the A.Y. 2024-25 ₹ 20,000 (i.e. ₹ 30,000 – ₹ 10,000) shall be carried forward to subsequent assessment years (maximum up to A.Y. 2032-33).
2. Loss under the head 'Income from other sources' cannot be carried forward.
3. Sec. 71 shall apply only after application of sec. 70. Hence, current year loss of house property B cannot be set off against income from other sources.

3.2.7 Carry forward & set off of business loss other than speculation loss [Sec. 72]

Loss under the head "Profits and gains of business or profession" (other than speculation loss) can be carried forward and set off against income under the same head.

Note: For this purpose business profit includes profits derived from a business activity but assessable under the heads other than 'Profit and gains of business or profession', e.g. Dividend income when shares are held as stock, though taxable under the head 'Income from other sources' but business loss can be set off against such income.

Period for which carry-forward shall be allowed: 8 assessment years immediately succeeding the assessment year in which such loss is first computed.

Academic note: In the assessment year 2025-26, losses prior to the assessment year 2017-18 cannot be set off.

Exceptions to the above period

1. **Closure of business due to specified reasons [Sec. 33B]**

   Situation: Where any loss remains unabsorbed of a business undertaking, which is discontinued due to damages caused by -

   i. flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or

   ii. riot or civil disturbance; or

   iii. accidental fire or explosion; or

   iv. action by an enemy or action taken in combating an enemy (whether with / without a declaration of war)

   Condition: Such business is re-established, reconstructed or revived by the assessee, within a period of 3 years from the end of the previous year in which such mishap took place.

   Treatment: Losses of such business [including the past eligible losses (to be carried forward)] shall be adjusted with profit of the year in which business is so revived and if the loss cannot be wholly setoff, then it shall further be allowed to be carried forward for 7 years.

2. **Set off of losses relating to the year of closure of business against deemed profit [Sec. 41(5)]**

   Situation: Where any part of loss (not being a speculation loss), which arose during the previous year remains unabsorbed in the previous year in which business ceased to exist.

   Treatment: Such loss shall be allowed to be carried forward for any number of years (without restriction of 8 years) against income chargeable to tax u/s 41(1); (3); (4); (4A).

   Taxpoint: Such loss can be set off even if the return of loss is not submitted in time.

Notes

1. **Business need not be continued:** The business losses can be carried forward, even the business in respect of which the loss was originally computed, is not carried on during the previous year.
2. **Filing of return in time:** As per sec. 80, the business loss cannot be carried forward unless it is determined in pursuance of a return filed by the assessee u/s 139(3), *within time* as prescribed u/s 139(1).
3. **Treatment of unabsorbed depreciation, etc.:** Unabsorbed depreciation, unabsorbed scientific research expenditure and unabsorbed family planning expenditure are not covered by sec. 72. Such losses can be carried forward for any number of years.
4. **Order of set off:** In case of insufficient profit, losses shall be set off in the following order:
   a. Current year's depreciation [Sec. 32(1)], capital expenditure on scientific research [Sec. 35(1)] and capital expenditure on family planning [Sec. 36(1)(ix)];
   b. Brought forward business or profession losses [Sec. 72(1)],
   c. Unabsorbed depreciation [Sec. 32(2)], unabsorbed expenditure on family planning [Sec. 36(1)(ix)], unabsorbed capital expenditure on scientific research [Sec. 35(4)]
5. **Loss from specified business covered u/s 35AD** (i.e, cold chain facility, cross-country natural gas pipeline, etc.) shall be adjusted only from profit from specified business [Further refer sec.73A].
6. **Assessee must be same who incurred the loss:** Business losses can be carried forward and set off against the

profits of the assessee who incurred the loss i.e. assessee must be same to carry forward the loss. However, this rule has the following exceptions –

a. **Amalgamation:** Business losses and unabsorbed depreciation of an amalgamating company can be set-off against the income of the amalgamated company if the amalgamation is within the meaning of sec. 72A of the Income tax Act. (Discussed later in this chapter).

b. **Succession:** Business losses and unabsorbed depreciation of a proprietary concern or a partnership firm or a specified company succeeded by a company or limited liability partnership as per sec. 47(xiii), (xiiib) and (xiv), can be carried forward by succeeded company or limited liability partnership.

c. **Inheritance:** As per sec. 78(2), where the assessee acquires the business through inheritance, losses of such business may be carried forward for balance number of years.

d. **Demerger:** In case of demerger, loss of demerged company shall be carried forward and set-off by resulting company. (Discussed later in this chapter).

Note: In following case losses cannot be carried forward

i. Business, of an HUF where the business of the HUF is taken over by the Karta of HUF;

ii. Proprietorship business taken over by a firm in which proprietor is one of the partner;

iii. A firm being succeeded by another firm;

iv. A firm where the business of the firm is taken over by one of the partner of the firm,

3.2.8 Set off and Carry forward of unabsorbed depreciation

Set off and carry forward of unabsorbed depreciation shall be governed by sec. 32(2) and not by sec. 72. Depreciation, which could not be fully absorbed in any previous year, owing to -

- there being no profits or gains chargeable for that previous year; or
- the profits or gains chargeable being less than the amount of depreciation.

Tax treatment: Allowance or the part of the allowance of depreciation which remains unabsorbed shall be (subject to sec. 72 and sec. 73) added to the amount of the depreciation for the following previous year and deemed to be the depreciation-allowance for that previous year, and so on for the succeeding previous years.

Taxpoint: Unabsorbed depreciation shall be allowed to be carried forward for any number of years and such carried forward unabsorbed depreciation may be set off against any income, other than -

- Income under the head "Salaries"
- Winning from lotteries, cross word puzzles, etc.

Notes

1. **Continuation of business:** Unabsorbed depreciation can be carried forward even if the business in respect of which the loss was originally computed, is not carried on during the previous year.
2. **Filing of return:** Unabsorbed depreciation can be carried forward even if the return of income has not been filed within time.

Illustration 18:

Mr. Arun has been running several businesses since last so many years. From the following details, compute his taxable business income:

Nature of business	Current year income	Brought forward (b/f) loss	Year to which b/f loss relates	Whether business continued	Year of disc-ontinuation of business
Readymade garments	1,00,000	2,30,000	2018-19	Yes	NA
Retail of cosmetics	80,000	1,70,000	2004-05	Yes	NA
		50,000 Unabsorbed depreciation	2019-20		
Whole sale of soft-toys	Nil	80,000	2021-22	No	2022-23
Wholesale of fruits	30,000 being bad debt recovery	70,000	2007-08	No	2007-08
Optical	30,000 Bad debt recovery	70,000	2006-07	No	2007-08
Investment business	90,000	-	-	Yes	NA
	15,000 Dividend from foreign company	-	-	Yes	NA
Medicines	40,000 Bad debt recovery	-	-	No	1999-00
Manufacturing of school uniform	-	40,000	2020-21 no return filed	No	2022-23

Solution :

Computation of gross total income of Mr. Arun for the A.Y. 2025-26

Particulars	Details	Amount
Profits & gains of business or profession		
Readymade garments Current year income	1,00,000	
Less: Brought forward loss	(2,30,000)	(1,30,000)
Retail of cosmetics Current year income		80,000
Whole sale of soft-toys Current year income	Nil	
Less: Brought forward loss	(80,000)	(80,000)
Wholesale of fruits Current year income being bad debt recovery	30,000	
Less: Brought forward loss	(30,000)[1]	Nil
Optical-business Current year income being bad debt recovery		30,000[1]
Investment-business		90,000
Medicine-business Current year income (being bad debt recovery)		40,000
Manufacturing of school uniform Current year income		Nil[2]
		30,000
Income from other sources: Dividend income		15,000
		45,000
Less: Unabsorbed depreciation of retail of cosmetics business		(45,000)[#]
Gross total income		**Nil**

[#] Though unabsorbed depreciation is ₹ 50,000 still only ₹ 45,000 is claimed to be set off and remaining to be carried forward for unlimited years, as there is insufficient profit.

Particulars	Details	Amount
Notes 1. Losses from wholesale of fruits business which arose during the P.Y. 2007-08, being the year in which business ceased to exist and which could not be set off against any other income of that previous year or any subsequent years can be set off against income chargeable to tax u/s 41(4) i.e. bad debt recovery. Such loss is allowed to be carried forward for any number of years (without restriction of 8 years). However, in case of Optical business, brought forward loss relates to P.Y. 2006-07 whereas business ceases to exist in P.Y. 2007-08, therefore such loss cannot be set off against income chargeable u/s 41(4). 2. As per sec. 80, business loss cannot be carried forward unless it is determined in pursuance of a return filed by the assessee u/s 139(3), within time as prescribed u/s 139(1).		

3.2.9 Carry forward and Set off of Speculation loss [Sec. 73]

1. Speculative transaction means a transaction in which contract for the purchase and sale of any commodity including stock and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scripts. [Sec. 43(5)]

2. As per explanation to sec. 73, where any part of the business of *a company* consists of purchase and sale of shares of other companies, such company shall be deemed to be carrying on speculation business to the extent of purchase and sale of shares. However, this rule is not applicable in case of companies -

   a. of which gross total income mainly consists of income which is chargeable under the head "Income from house property", "Capital gains", and "Income from other sources"; or

   b. of which principal business is the business of trading in shares or banking or granting of loans and advances.

   Notes: Above explanation covers only transactions of purchase and sale of shares. Debentures, units of UTI or of Mutual Funds are not covered by this explanation.

Treatment

Losses from speculative transactions or business can be carried forward and set off against income from speculative business only.

Period for which carry forward shall be allowed: 4 assessment years immediately succeeding the assessment year in which such loss is first computed.

Academic note: In the assessment year 2025-26, losses prior to the assessment year 2021-22 cannot be set off.

As per sec. 73(3) in respect of allowance on account of depreciation or capital expenditure on scientific research, the provisions of sec. 73 shall not apply it can be carried forward to any number of years.

Notes

1. **Continuity of business:** It is not necessary that the same speculation business must be continued in the year of carry forward and set off of the losses.

2. **Filing of return:** As per sec. 80, the loss cannot be carried forward unless it is determined in pursuance of a return filed by the assessee u/s 139(3), within time as prescribed u/s 139(1)

3. **Derivative Trading:** An eligible transaction in respect of trading in derivative referred to in sec.2(ac) of the Securities Contracts (Regulation) Act, 1956 carried out in a recognised stock exchange shall not be treated as speculative transaction. Similarly, an eligible transaction in respect of trading in commodity derivatives carried out in a recognised stock exchange (and liable for Commodities Transaction Tax in case of trading in commodity derivatives other than agricultural commodity derivatives) shall not be treated as speculative transaction.

   Taxpoint: In respect of trading in agricultural commodity derivatives, the requirement of chargeability of commodity transaction tax is not applicable.

4. **Losses of illegal speculative business:** Loss arising from illegal speculative business cannot be carried forward to the subsequent years for set off against the profits of another speculative business.

Illustration 19:

Compute total income of X Ltd. under following cases –

Business A: Business of Ice cream

Business B: Business consists of purchase and sale of shares of other companies (being treated as speculative business as per explanation of sec. 73)

Particulars	Case 1		Case 2		Case 3		Case 4	
	A	B	A	B	A	B	A	B
Income of P.Y. 2024-25	80,000	20,000	75,000	85,000	(56,000)	1,50,000	3,00,000	(50,000)
B/f loss of P.Y. 2023-24	70,000	65,000	85,000	50,000	90,000	65,000	30,000	90,000
Unabsorbed depreciation	-	-	-	-	-	-	-	20,000

Solution :

Computation of total income of X Ltd. for the A.Y. 2025-26

Particulars	Case 1		Case 2		Case 3		Case 4	
	A	B	A	B	A	B	A	B
Income of P.Y. 2024-25	80,000	20,000	75,000	85,000	(56,000)	1,50,000	3,00,000	(50,000)
Income after sec. 70	80,000	20,000	75,000	85,000	-	94,000	3,00,000	(50,000)

Particulars	Case 1		Case 2		Case 3		Case 4	
	A	B	A	B	A	B	A	B
B/f loss of P.Y. 2023-24	70,000	65,000	85,000	50,000	90,000	65,000	30,000	90,000
Unabsorbed depreciation	-	-	-	-	-	-	-	20,000
	10,000	(45,000)	(10,000)	35,000	(90,000)	29,000	2,50,000[1]	(50,000)
Taxable income after application of sec. 72 & 73 for the A.Y. 2025-26	10,000		25,000		Nil		2,50,000	
Loss to be carried forward to next assessment year	-	P.Y. 2023-24 (45,000)			P.Y. 2023-24 (61,000)	-	-	P.Y.24-25 (50,000) P.Y.23-24 (90,000)
Unabsorbed depreciation to be carried forward	-	-	-	-	-	-	-	-

[1] After adjusting unabsorbed depreciation of business B.

3.2.10 Carry forward & set off of loss from specified business covered u/s 35AD [Sec.73A]

Losses from specified business covered u/s 35AD can be carried forward and set off against income from other specified business (whether eligible for deduction u/s 35AD or not).

Period for which carry-forward shall be allowed: No time limit is prescribed.

Filing of return: As per sec. 80, the loss cannot be carried forward unless it is determined in pursuance of a return filed by the assessee u/s 139(3), within time as prescribed u/s 139(1).

Illustration 20:

MNP Ltd. commenced operations of the business of a new four-star hotel in Chennai on 1-4-2024. The company incurred capital expenditure of ₹ 40 lakh during the period January, 2024 to March, 2024 exclusively for the above business, and capitalized the same in its books of account as on 1st April, 2024. Further, during the Previous Year 2024-25, it incurred capital expenditure of ₹ 2.5 crore (out of which ₹ 1 crore was for acquisition of land) exclusively for the above business. Compute the income under the heading "profits and gains of business or profession" for the assessment year 2025-26, assuming that MNP Ltd. has fulfilled all the conditions specified for claim of deduction u/s 35AD and has not claimed any deduction under Chapter VI-A under the heading "C.-Deductions in respect of certain incomes". The profits from the business of running this hotel (before claiming deduction u/s 35AD) for the A.Y. 2025-26 is ₹ 80 lakhs. Assume that the company also has another existing business of running a four-star hotel in Kanpur, which commenced operations 5 years back, the profits from which was ₹ 130 lakhs for assessment year 2025-26.

Solution :

Computation of business income of MNP Ltd. for A.Y. 2025-26

Particulars	₹ in lakhs
Income from specified business covered u/s 35AD [Working 1]	(110)
Income from another hotel business	130
Profit and gains of business or profession	**20**

Working 1: Computation of income from specified business u/s 35AD

Particulars	₹ in lakhs	₹ in lakhs
Net profit from specified business before deduction u/s 35AD		80
Less: Deduction u/s 35AD being capital expenses incurred		
- Capital expenditure incurred in earlier year	40	
- Capital expenditure incurred in the previous year less cost of acquisition of land	150	190
Income from specified business covered u/s 35AD		110

3.2.11 Carry forward and set off of capital loss [Sec. 74]

Losses under the head 'Capital gains' can be carried forward and set off against income under the same head, subject to the restriction that the loss on transfer of long-term capital assets can be set off only against long term capital gain.

Taxpoint: Loss on transfer of short-term capital assets can be set off against any income under the head capital gain (whether short-term or long-term). Further long term capital loss covered u/s 112A can also be carried forward.

Period for which carry-forward shall be allowed: 8 assessment years immediately succeeding the assessment year in which such loss is first computed.

Academic note: In the assessment year 2025-26, losses prior to the assessment year 2017-18 cannot be set off.

Filing of return: As per sec. 80, the loss cannot be carried forward unless it is determined in pursuance of a return filed by the assessee u/s 139(3), *within time* as prescribed u/s 139(1).

Illustration 21:

Compute taxable income under following cases for the A.Y. 2025-26:

Particulars	Case 1		Case 2		Case 3		Case 4	
	STCG	LTCG	STCG	LTCG	STCG	LTCG	STCG	LTCG
Income of the P.Y. 2024-25	1,00,000	(30,000)	(30,000)	1,00,000	1,00,000	(20,000)	(30,000)	1,00,000
B/f loss of P.Y. 2023-24	50,000	-	-	50,000	60,000	50,000	10,000	20,000

Solution :

Computation of taxable income for the A.Y. 2025-26

Particulars	Case 1		Case 2		Case 3		Case 4	
	STCG	LTCG	STCG	LTCG	STCG	LTCG	STCG	LTCG
Income of the P.Y.2024-25	1,00,000	(30,000)	(30,000)	1,00,000	1,00,000	(20,000)	(30,000)	1,00,000
Taxable income after application of sec. 70	1,00,000	(30,000)	-	70,000	1,00,000	(20,000)	-	70,000
Brought forward loss of P.Y.2023-24	50,000	-	-	50,000	60,000	50,000	10,000	20,000
	50,000	(30,000)	-	20,000	40,000	(70,000)	-	40,000
Taxable income after application of sec. 74 for the A.Y. 2025-26	50,000		20,000		40,000		40,000	
Loss to be carried forward to next assessment year	-	P.Y. 24-25 (30,000)	-	-	-	PY 24-25 **(20,000)** **PY 23-24** (50,000)	-	-

3.2.12 Carry forward and set off of losses from activity of owning and maintaining race horses [Sec. 74A]

In case of an assessee, being the owner of horses maintained by him for running in horse races (race horses), the amount of loss incurred by the assessee in the activity of owning and maintaining race horses in any assessment year shall be set off only against income from the activity of owning and maintaining race horses.

Period for which carry forward shall be allowed: 4 assessment years immediately succeeding the assessment year in which such loss is first computed.

Notes

1. **Continuity of activity:** Activity of owning and maintaining race horses must be carried on by the assessee in the previous year in which set off is claimed.
2. **Treatment of other race animals:** Sec. 74A states only about losses from activity of owning and maintaining race horses, other race animals are governed by sec. 72.
3. **Filing of return:** To claim benefit of carry forward, return of loss u/s 139(3) must be filed *within time* as per sec. 139(1).
4. **Horse Race:** Horse race means a race upon which wagering or betting on horses may be lawfully made.
5. **Amount of loss incurred by the assessee in the activity of owning and maintaining race horses** means—

Particulars	₹
Amount of expenditure (not being in the nature of capital expenditure) laid out or expended by him wholly and exclusively for the purposes of maintaining race horses	***
Less: Income by way of stake money	***
Loss incurred in the activity of owning and maintaining race horses	***
'Income by way of stake money' means the gross amount of prize money received on a race horse by the owner thereof.	

3.2.12A Carry forward & Set-off of loss of Firm on change in constitution of firm [Sec.78]

Where a change occurs in the constitution of firm, on account of retirement or death of a partner, the proportionate loss of the retired or deceased partner shall not be carried forward.

Note: This section shall not apply in case of change in profit sharing ratio or admission of partner.

Illustration 21A

P, Q and R are partners in a firm sharing profits and losses in the ratio of 1:1:2, provide the following information. Find firm's net income assuming that salary and interest are not paid to partners:

(i) Net income of the firm in assessment year 2024-25 is (-) ₹ 1,20,000, out of which unadjusted depreciation is ₹ 40,000.

(ii) On 31.05.2024, R retires from the firm and the other partners carry on the same business.

(iii) The firm's income for the Assessment Year 2025-26 before adjusting the aforesaid loss and depreciation is ₹ 1,20,000.

Solution:

Where a change occurs in the constitution of firm, on account of retirement or death of a partner, the proportionate loss of the retired or deceased partner shall not be carried forward. However, this section shall not apply in case of unabsorbed depreciation. Accordingly,

Computation of total income for A.Y. 2025-26

Particulars	Details	Amount	Amount
Income before adjusting brought forward loss and depreciation			1,20,000
Less: Brought forward loss (excluding unabsorbed depreciation)	80,000		
Less: Loss which cannot be set off (Working)	30,000	50,000	
Less: Unabsorbed depreciation		40,000	90,000
Total Income			30,000

Working: Computation of share of R in brought forward loss and loss which cannot be set off

Particulars	Amount
Total unabsorbed brought forward loss	1,20,000
Less: Unabsorbed depreciation	40,000
Brought forward loss excluding depreciation	80,000
Share of R in aforesaid loss [(₹ 80,000 / 4) * 2]	40,000
Less: Share of R in current profit before adjusting brought forward loss & depreciation [(₹ 1,20,000 / 12 * 2) * 2 / 4]	10,000
Loss which cannot be set-off	30,000

Test Yourself

1. From the following information, compute Mr. Rahaman's total income and the amount of loss to be carried forward for the assessment year 2025-26:

		₹
a.	Income from house – 1	40,000
b.	Loss from house – 2	30,000
c.	Income from garment business	50,000
d.	Loss from Jute business	25,000
e.	Loss from speculative business	15,000
f.	Long term capital gain	30,000

From the assessment year 2024-25, the balance of following losses were brought forward:

a.	Loss from the garment business	₹ 10,000
b.	Long-term capital loss	₹ 10,000
c.	Loss from house property	₹ 10,000

Hints

1. ₹ 35,000

Deductions, Rebate and Relief

3.3

DEDUCTIONS

From Gross Total Income (being aggregate of income under five heads), assessee can claim several deductions as specified in chapter VIA on fulfillment of prescribed conditions as laid down in the respective section. After allowing these deductions, total income of the assessee is arrived & tax is charged on it at the prescribed rates.

Taxpoint: Under default regime, deduction under following sections are available:

- 80CCD(2)
- 80CCH(2); and
- 80JJAA,

and deductions under other sections are not available.

3.3.1 Basic Rules

1. **Deductions not available from:** Deductions under chapter VIA are not available from -
   - long-term capital gain;
   - short term capital gain covered u/s 111A (i.e., STCG on which STT is charged); and
   - casual income like winning from lotteries, races, etc.
2. **Limit of deduction:** The aggregate amount of deduction under chapter VIA cannot exceed *Gross Total Income* of the assessee excluding -
   - long term capital gain;
   - short term capital gain covered u/s 111A;
   - casual income like winning from lotteries, card-games, horse races, etc.; and
   - income referred in Sec.115A, 115AB, 115AC, 115ACA, etc.
3. **Deduction must be claimed:** Deduction under chapter VIA – Part C (i.e., profit based deduction) and sec. 10AA shall be available only if the assessee claims for it in the return of income.
   - The amount of deduction cannot exceed the profits and gains of the undertaking or unit or enterprise or eligible business.
   - Return of income should be filed within due date of filing return of income.
4. **Double deduction not permissible:** Where deduction under any section of chapter VIA has been claimed then the same shall not qualify for deduction in any other section.

   The following table shows the position of deduction in the computation of total income and gross tax liability

Particulars	Details	Details	Details	Details	Amount
Salaries					***
Income from house property					***
Profits & gains of business or profession					***
Capital gains					***
Income from other sources					***
Gross Total Income (GTI)					***
Sub division of Gross Total Income	STCG covered u/s 111A	LTCG	Casual income e.g. lottery etc.	Remaining income of GTI	Total
Less: Deductions u/s 80C to 80U	-	-	-	(***)	(***)
Total Income (TI)	***	***	***	***	****
Apply tax rate	15%/20%	12.5%/20%/10%/0%	30%	slab rate	
Gross tax liability	****	****	****	****	****

3.3.2 Deduction u/s 80C in respect of LIC premium, contributions to PF, etc.

Not available under the default tax regime

Applicable to
An Individual or a Hindu Undivided Family (whether resident or non-resident)
Condition to be satisfied
Assessee has made a deposit or an investment in any one or more of the listed items (as given below) during the previous year.

<table>
<tr><th>Particulars</th><th>Notes</th></tr>
<tr><td colspan="2">Category A</td></tr>
<tr><td colspan="2">Applicable to Individual & HUF both</td></tr>
<tr><td>1. Life insurance premium paid by a person to effect or to keep in force an insurance policy (life policy or endowment policy) [Sec. 80C(2)(i)]</td><td>1. Insurance policy can be taken on life of the following:
a. In case of an individual: Himself, spouse and child (whether major or minor) of such individual;
b. In case of HUF: Any member of the HUF.
2. Maximum limit: Premium on insurance policy in excess of following % of the actual sum assured shall be ignored.
<table>
<tr><th>Policy issued</th><th>Insured is disable* or suffering from disease specified u/s 80DDB</th><th>Insured is any other person</th></tr>
<tr><td>Upto 31-03-2012</td><td>20%</td><td>20%</td></tr>
<tr><td>During P.Y. 2012-13</td><td>10%</td><td>10%</td></tr>
<tr><td>On or after 01-04-2013</td><td>15%</td><td>10%</td></tr>
</table>
3. Actual capital sum assured in relation to a life insurance policy shall mean the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account:
i. the value of any premium agreed to be returned; or
ii. any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.</td></tr>
</table>

* Disable or severe disable as referred to in sec. 80U

Particulars	Notes
2. Contribution made towards Public provident fund (PPF). [Sec. 80C(2)(v)]	1. Subscription should be in the name of following persons: a. **In case of individual:** Such individual, his spouse and child (whether major or minor); b. **In case of HUF:** Any member of HUF. 2. Contribution must not be in form of repayment of loan
3. Any subscription to National Savings Certificates, VIII Issue [Sec. 80C(2)(ix)]	1. If contribution is made in joint names, the person who has contributed the money is eligible to claim deduction. 2. An individual can claim deduction in respect of certificates purchased in the name of his spouse or minor child. 3. **Treatment of accrued interest:** Deduction is also available on accrued interest which is reinvested. i.e., interest upto penultimate year of lock-in-period is eligible for deduction.
4. Contribution for participating in the Unit-linked Insurance Plan (ULIP) of Unit Trust of India (UTI) or ULIP of LIC Mutual fund u/s 10(23D). [Sec.80C(2)(x)]	Contribution can be made in the names of following persons: **In case of individual:** Such individual, spouse and child (major or minor) of such individual; **In the case of HUF:** Any member of HUF.
5. Sum paid to effect or keep in force a contract for notified annuity plan of the LIC or any other insurer. [Sec. 80C(2)(xii)]	E.g., New Jeevan Dhara and New Jeevan Akshay, New Jeevan Dhara I and New Jeevan Akshay I, II and III
6. Subscription to notified units of a specified Mutual fund u/s 10(23D)/ administrator or the specified company as referred in sec. 2 of UTI. [Sec. 80C(2)(xiii)]	Eligible scheme: Equity Linked Saving Scheme, 2005.
7. Any sum paid as subscription to Home Loan Account Scheme or notified pension fund of the National Housing Bank. [Sec 80C(2)(xv)]	National Housing Bank (Tax Saving) Term Deposit Scheme, 2008
8. Any sum paid as subscription to a notified deposit scheme. [Sec. 80C(2)(xvi)]	Such deposit scheme shall be of - ⊙ Public sector companies engaged in providing long-term finance for construction or purchase of houses in India for residential purpose; or ⊙ Any authority constituted in India for the purpose of satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns, villages or for both.

Particulars	Notes
9. Any payment for purchase or construction of a residential house property (the income from which is chargeable to tax under the head "Income from house property), by way of -	# Specified person includes - i. the Central or State Government; or ii. any bank, including a co-operative bank; or iii. the National Housing Bank; or iv. Life Insurance Corporation; or v. any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes; or
a. any instalment due under any self-financing or other scheme of any development authority, housing board or other authority engaged in the construction and sale of house property on ownership basis; or b. any instalment due to any company or co-operative society of which the assessee is a shareholder or member towards the cost of the house property allotted to him; or c. repayment of the amount borrowed by the assessee from specified person# d. stamp duty, registration fee and other expenses for the purpose of transfer of such house property to the assessee [Sec. 80C(2)(xviii)]	vi. any company in which the public are substantially interested or any co-operative society, where such company or co-operative society is engaged in the business of financing the construction of house; or vii. the assessee's employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act; viii. the assessee's employer where such employer is a public company or public sector company, or a university established by law or a college affiliated to such university or local authority or co-operative society. **Notes:** ⊙ Any expenditure in respect of which deduction is allowable u/s 24 is not eligible for deduction. ⊙ Repayment of loan borrowed for acquiring commercial property are not entitled for deduction. ⊙ Repayment of loan taken for repair, alteration, renovation, addition are not eligible for deduction
10. Any amount invested in - a. Debentures of or equity shares in an eligible issue of capital; or b. Eligible issue of capital of any public financial institution. [Sec. 80C(2)(xix)]	Eligible issue of capital means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilized wholly and exclusively for the purpose of any business referred to in sec. 80IA(4).
11. Subscription to units of any mutual fund u/s 10(23D) provided amount of subscription to such units is subscribed only in the eligible issue of capital [Sec. 80C(2)(xx)]	

Particulars	Notes
12. Investment as term deposit for a period of 5 years or more with a scheduled bank. [Sec. 80C(2)(xxi)]	Such term deposit scheme shall be framed and notified by the Central Government.
13. Notified Bonds issued by the National Bank for Agriculture and Rural Development (NABARD) [Sec. 80C(2)(xxii)]	
14. Senior Citizens Savings Scheme Rules, 2004 [Sec. 80C(2)(xxiii)]	
15. 5 year time deposit in an account under the Post Office Time Deposit Rules, 1981 [Sec. 80C(2)(xxiv)]	
Applicable to Individual only	
1. Payment by an individual in respect of non-commutable deferred annuity. [Sec. 80C(2)(ii)]	1. Annuity may be taken in the name of the individual, spouse and any child of such individual. 2. Such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity
2. Any sum deducted from salary of a Government employee for the purpose of securing to him a deferred annuity or making provision for his wife or children. [Sec. 80C(2)(iii)]	**Maximum limit:** 20% of salary of the employee
3. Contribution made towards statutory provident fund and recognised provident fund. [Sec. 80C(2)(iv)& (vi)]	Contribution must not be in form of repayment of loan
4. Contribution made towards an approved superannuation fund. [Sec. 80C(2)(vii)]	
5. Subscription to any notified Government security or any notified deposit scheme (i.e., Sukanya Samriddhi Account Scheme) [Sec. 80C(2)(viii)]	Subscription should be in the name of following persons: - Such Individual or any girl child of that individual, or - any girl child for whom such person is the legal guardian, if the scheme so specifies Further, the interest accruing on deposits in, and withdrawals from any account under the said scheme would be exempt u/s 10(11A)
6. Contribution to any notified pension fund set up by a Mutual Fund u/s 10(23D) or by the administrator or the specified company referred u/s 2 of the UTI [Sec. 80C(2)(xiv)]	

Particulars	Notes
7. Any payment by way of tuition fees to any university, college, school or other educational institution situated within India for the purpose of full-time education. [Sec. 80C(2)(xvii)] **Restriction on number of child:** Deduction shall be allowed in respect of maximum 2 children.	**Admission fee:** Tuition fees may be at the time of admission or thereafter **Donation to school, etc:** Such payment does not include any payment towards any development fees or donation or payment of similar nature. **Private tuition fee** is not covered.
8. Contribution to a specified account (i.e., NPS Tier-II account) of the notified pension scheme referred to in sec. 80CCD for a fixed period of not less than 3 years by an employee of the Central Government	
Notes 1. **Deduction not available in certain cases:** Deduction is not available from short-term capital gain covered u/s 111A and long-term capital gain. 2. **Cash basis:** For the purpose of Deduction u/s 80C, amount paid, invested or deposited shall be considered on payment basis. Payments, which have become due during the previous year but not paid till the end of the previous year, shall not be eligible for deduction. Above rule holds good, even though the assessee follows mercantile system of accounting.	

Quantum of deduction

Deduction under this section shall be minimum of the following:

- Aggregate of the eligible contributions, expenditure or investments (discussed above)
- ₹ 1,50,000

Illustration 22:

Calculate the amount of deduction u/s 80C: **₹ in '000**

Particulars	A	B	C	D
Gross total income	520	150	90	- 30
Amount invested/contributed /expended in specified items	175	70	100	50
Deduction u/s 80C	**150**	**70**	**90**	**Nil**

Illustration 23:

Calculate the amount of deduction u/s 80C from following data **₹ in '000**

Particulars	A	B	C	D	E	F	G
Payment of LIC premium	5	8	6	8	4	-	10
LIC policy amount	80	70	50	40	50	-	40
NSC purchased	20	15	18	17	35	85	20

Particulars	A	B	C	D	E	F	G
Repayment of housing loan	20	25	10	-	12	-	80
Contribution to Unit linked insurance plan	10	5	-	-	3	2	3
School fee paid for one child	10	15	6	18	3	5	-
Amount deposited in PPF	5	40	10	6	7	9	-
Notified units of Mutual fund	50	80	60	10	40	100	Nil
Gross Total Income	370	180	320	190	160	540	75
Total income consists of income under the head "Profit and gains of business or profession" only.							

Solution :

Calculation of deduction u/s 80C **(₹ in '000)**

Particulars	A	B	C	D	E	F	G
Aggregate of investment u/s 80C(2)							
Payment of LIC premium *(to the maximum of 10% of policy amount)	5	7*	5*	4*	4	-	4*
NSC purchased	20	15	18	17	35	85	20
Repayment of housing loan	20	25	10	-	12	-	80
Contribution to ULIP	10	5	-	-	3	2	3
School fee paid for one child	10	15	6	18	3	5	-
Notified units of Mutual fund	50	80	60	10	40	100	Nil
Deposit in PPF	5	40	10	6	7	9	-
Total	120	187	109	55	104	201	107
Gross Total Income	370	180	320	190	160	540	75
Deduction u/s 80C	**120**	**150**	**109**	**55**	**104**	**150**	**75**

Lock in period

Lock in period in following cases -

Life Insurance Policy: The Life insurance policy (point 1) cannot be surrendered unless premium for 2 years on such policy has been paid.

Housing Loan: The house acquired (point 9) cannot be transferred before 5 years from the end of financial year in which the possession of such property is obtained by assessee.

Unit Linked Insurance Plan: The participation in plan (point 5) cannot be ceased before contribution in respect of such participation has been paid for 5 years.

Shares or debentures of infrastructure company or power company or mutual fund: Equity shares, debentures, etc. (point 10) cannot be sold or otherwise transferred within 3 years from the date when name of the assessee for those shares or debentures has been entered in the register of member or debenture holder by the company or the Mutual fund.

Investment in Senior Citizen Saving Scheme / Post office Time Deposit: Such amount, including interest accrued thereon, shall not be withdrawn by the assessee from his account, before the expiry of 5 years from the date of its deposit. However, any amount received by the nominee or legal heir of the assessee, on the death of such assessee, shall not be included.

Consequence in case of violation of lock in period

If the above lock in period is violated, then entire amount of deduction allowed earlier in any previous year, shall be treated as taxable income in the year in which default is made.

3.3.3 Deduction u/s 80CCC in respect of contribution to Pension Fund

Not available under the default tax regime

Applicable to

An individual (irrespective of residential status or citizenship of the individual)

Condition to be satisfied

1. **Amount paid under an annuity plan:** During the previous year, assessee has *paid or deposited* a sum under an annuity plan of the Life Insurance Corporation of India (LIC) or any other insurer for receiving pension from the fund referred to in Sec. 10(23AAB).
2. **Payment out of taxable income:** The amount must be paid out of income which is chargeable to tax. However, it is not necessary that such income relates to the current year.

   Quantum of deduction

   Minimum of the following -

   a. Amount deposited; or

   b. ₹ 1,50,000

   Other Points

   a. **Treatment of Interest or Bonus accrued:** Interest or bonus accrued or credited as per the scheme to the assessee's account shall not be eligible for deduction.

   b. **Withdrawal from such fund [Sec. 80CCC(2)]:** Any amount received by the assessee or his nominee as pension; or on surrender of such annuity is taxable in the hands of recipient in the year of receipt.

      Note: Interest or bonus received from such fund shall also be taxable.

   c. **Deduction u/s 80C [Sec. 80CCC(3)]:** Deduction u/s 80C will not be available for the amount paid or deposited and for which deduction has been claimed u/s 80CCC.

3.3.4 Deduction u/s 80CCD in respect of contribution to pension scheme

Sec. 80CCD(1) and 80CCD(1B): Not available under default tax regime

Sec. 80CCD(2): Available under both tax regimes

Applicable to

An individual

Condition to be satisfied

During the previous years, the assessee has paid or deposited any amount in his account under a pension scheme notified by the Central Government (Atal Pension Yojna).

Quantum of Deduction

Deduction u/s 80CCD(1) [Not available under default tax regime]	
A. In case of salaried individual	
Lower of the following	₹
⊙ Amount so paid or deposited	***
⊙ 10% of his salary[1] in the previous year	***
	***
Deduction u/s 80CCD(2) [Available under both tax regimes] **Add:** Whole of the contribution made by the employer to such account to the maximum of 10% (**14%** where such contribution is made by the Central or State Govt.) of his salary[1] in the previous year. However, where assessee is under default tax regime, employer's contribution to the extent of 14% of salary is available as deduction. **Taxpoint:** The maximum deduction limit u/s 80CCD(2) are as under:	***
Amount of Deduction	***
B. In case of other individual [Not available under default tax regime]	
Lower of the following ⊙ Amount so paid or deposited ⊙ 20% of his gross total income in the previous year	
Additional Deduction u/s 80CCD(1B) for contribution to National Pension System [Not available under default tax regime]	
Lower of the following shall also be eligible for deduction	₹
⊙ Contribution to the National Pension System by any individual [Other than amount claimed and allowed as deduction u/s 80CCD(1)]	***
⊙ ₹ 50,000	***

Regime	**Maximum Deduction u/s 80CCD(2)**	
	Government Employee	**Non-Government Employee**
Default regime	14% of salary	14% of salary
Old regime	14% of salary	10% of salary

Other Points

1. "Salary" here means Basic + Dearness allowance, if the terms of employment so provide.
2. Where any amount standing to the credit of the assessee in his account, (in respect of which a deduction has been allowed), together with the amount accrued thereon is received by the assessee or his nominee, whether –
   a. on account of closure or his opting out of the pension scheme; or
   b. as pension received from the annuity plan purchased or taken on such closure or opting out,

   - shall be deemed to be the income of the assessee or his nominee, as the case may be, in the previous year in which such amount is received, and shall accordingly be charged to tax.

   Exemption

   i. As per sec. 10(12A), in case of withdrawal from the NPS by an assessee on closure of account or on his opting out of the pension scheme, 60% of the total amount payable to him at the time of such closure or his opting out of the scheme shall be exempt. i.e., 40% shall be taxable.

ii. As per sec. 10(12B), partial withdrawal upto 25% of the amount contributed by the employee under the pension scheme, shall be exempted fully.

iii. Where amount withdrawn is used for purchasing an annuity plan in the same previous year (i.e. year of withdrawal), such receipt shall not be taxable.

iv. Amount received on account of closure or opting out of the pension scheme by the nominee, on the death of the assessee, shall be exempted in hands of the nominee.

3. Where any amount paid or deposited by the assessee has been allowed as a deduction, no deduction with reference to such amount shall be allowed u/s 80C.

3.3.5 Deduction u/s 80CCE: Limit on deductions u/s 80C, 80CCC and 80CCD

The **aggregate** amount of deductions under section 80C, section 80CCC and section 80CCD [other than deduction in respect of employer's contribution and additional deduction u/s 80CCD(1B)] shall **not exceed ₹ 1,50,000**.

Taxpoint: An assessee can claim deduction u/s 80C, 80CCC & 80CCD:

Particulars	Amount
Deduction u/s 80C	****
Deduction u/s 80CCC	****
Deduction u/s 80CCD [Other than deduction in respect of Employer's Contribution u/s 80CCD(2) and additional deduction u/s 80CCD(1B)]	****
Total [Restricted to maximum of ₹ 1,50,000 u/s 80CCE]	*****
Add: Contribution to the pension scheme by any individual allowable u/s 80CCD(1B) [Sub. to a maximum of ₹ 50,000/-]	****
Add: Employer's contribution to Pension System referred to in Sec. 80CCD(2) [Subject to max. of 10% or 14% of salary]	****
Deduction available u/s 80C, 80CCC & 80CCD	*****

Illustration 24:

X completed his studies on 1-04-2024 and was immediately employed by X Ltd. on the following terms:

Basic Salary	₹ 20,000 p.m.
DA	₹ 5,000 p.m. (forming a part of retirement benefit)
Bonus	₹ 50,000

During the year, his employer contributed ₹ 45,000 to the pension scheme being notified u/s 80CCD of the Income Tax Act, 1961. X also contributed similar amount. His income from house property is ₹ 50,000. During the year he contributed ₹ 15,000 to pension plan of LIC, to PPF ₹ 1,00,000 and paid LIC premium of ₹ 16,000 (Policy value ₹1,20,000). Compute his total income if he opts for Old Regime..

Solution :

Computation of total income of X for the A.Y.2025-26

Particulars	Amount	Amount	Amount
Salaries			
Basic (₹ 20,000 * 12)		2,40,000	
Bonus		50,000	
Dearness allowances (₹ 5,000 * 12)		60,000	
Contribution to pension scheme		45,000	
Gross Salary		3,95,000	

Particulars	Amount	Amount	Amount
Less: Standard Deduction u/s 16(ia)		50,000	3,45,000
Income from house property			50,000
Gross Total Income			3,95,000
Less: Deduction u/s			
80C - LIC premium to maximum of 10% of Policy value (i.e. 10% of ₹ 1,20,000)	12,000		
- Contribution in PPF	1,00,000	1,12,000	
80CCC (Pension plan of LIC)		15,000	
80CCD (Notified pension scheme)			
- Own contribution being lower of:			
a) Amount contributed i.e. ₹ 45,000			
b) 10% of (Basic and DA forming part of retirement benefit), i.e., 10% of (₹ 2,40,000 + ₹ 60,000)		30,000	
		1,57,000	
As per sec.80CCE, total deduction u/s 80C + 80CCC + 80CCD (other than employer's contribution) cannot exceed ₹ 1,50,000		1,50,000	
80CCD(1B): Contribution to NPS (Amount not claimed above subject to max. of ₹ 50,000/-)		15,000	
80CCD(2): Employer contribution			
a) Amount contributed i.e. ₹ 45,000			
b) 10% of (Basic and DA forming part of retirement benefit), i.e., 10% of (₹ 2,40,000 + ₹ 60,000)		30,000	1,95,000
Total Income			**2,00,000**

However, if assessee is under default tax regime, then the computation would be:

Particulars	Amount	Amount	Amount
Gross Salary		3,95,000	
Less: Standard Deduction u/s 16(ia)		75,000	3,20,000
Income from house property			50,000
Gross Total Income			3,70,000
Less: Deduction u/s			
80C [Not available]		NA	
80CCC [Not available]		NA	
80CCD(1) [Not available]		NA	
80CCD(1B): Contribution to NPS [Not available]		NA	
80CCD(2): Employer contribution			
a) Amount contributed i.e. ₹ 45,000			
b) 14% of (Basic and DA forming part of retirement benefit), i.e., 14% of (₹ 2,40,000 + ₹ 60,000)		42,000	42,000
Total Income			**3,28,000**

Deduction u/s 80CCH in respect of Contribution to Agnipath Scheme

80CCH(1): Not Available under the default tax regime

80CCH(2): Available under both tax regimes

Applicable to

Individual assessee

Conditions

- Such individual is enrolled in the Agnipath Scheme‡ and subscribing to the Agniveer Corpus Fund.
- During the previous year, he and / or Central Government has contributed any amount in his account in the said Fund

Deduction

Particulars	Old Regime	Default Regime
Own contribution to the corpus	Amount so contributed	Not available
Contribution by Central Government	Amount so contributed	Amount so contributed
Deduction u/s 80CCH	***	***

Taxpoint

- The entire Central Government's contribution to the Agniveer Corpus Fund would be included in the salary of the assessee. However, deduction u/s 80CCH(2) would be available for the same.
- Any payment from the Agnipath Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee would be exempt from tax u/s 10(12C)
- Agnipath scheme is a Central Government scheme launched in 2022 for enrolment of Indian youth in the Indian Armed Forces.
- Agniveer Corpus Fund means a fund in which consolidated contributions of all the Agniveers and matching contributions of the Central Government along with interest on both these contributions are held.

3.3.6 Deduction u/s 80D in respect of Medical Insurance Premium

Not Available under the default tax regime

Applicable to

An individual or an HUF (irrespective of residential status or citizenship)

Conditions to be satisfied

1. **Payment for health insurance or medical check-up:** The assessee has made payment for health insurance of the following person:

‡ Feature of the Agniveer Scheme: Each Agniveer is to contribute 30% of his monthly customized Agniveer Package to the individual's Agniveer Corpus Fund. Further, the Government will also contribute a matching amount to the 'Agniveer Corpus Fund'. The Government will also pay to the subscriber interest as approved from time to time on the contributions standing in his account

Category	Assessee	Nature of Payment	Expenditure on behalf of	Quantum of Deduction
1	Individual	a. Payment of Mediclaim insurance premium[#]; or b. Contribution to the Central Government Health Scheme or any other notified Health Scheme* c. Preventive health check up expenditure	Himself/herself, spouse or dependent children	Lower of the following: a. Aggregate of – Premium paid; or – Contribution made; or – Preventive health check up (upto ₹ 5,000) b. ₹ 25,000 p.a. **Senior Citizen** Where the person, for whom such premium (**not** for payment made for preventive health check up) is paid, is a senior citizen, then maximum limit of deduction shall be increased to ₹ 50,000 instead of ₹ 25,000.
2	Individual	a. Payment of Mediclaim insurance premium[#] b. Preventive health check up expenditure	Parents (whether dependent or not)	Lower of the following: a. Aggregate of – Premium paid; or – Preventive health check up (upto ₹ 5,000) – ₹ 25,000 p.a. b. **Senior Citizen** Where the person, for whom such premium (**not** for payment made for preventive health check up) is paid, is a senior citizen, then maximum limit of deduction shall be increased to ₹ 50,000 instead of ₹ 25,000.
	Note: The deduction for payment made for preventive health check up (for self, spouse, dependent children and parents) for category 1 & 2 does not exceed in the aggregate ₹ 5,000 subject to overall limit of ₹ 25,000/- or ₹ 50,000/-			
3	HUF	Payment of Mediclaim insurance premium[#]	Any member of the family.	Lower of the following: a. Premium Paid; or b. ₹ 25,000 **Senior Citizen** Where the person, for whom such premium is paid, is a senior citizen, then maximum limit of deduction shall be increased to ₹ 50,000 instead of ₹ 25,000.

* Contributory Health Service Scheme of the Department of Atomic Energy

Category	Assessee	Nature of Payment	Expenditure on behalf of	Quantum of Deduction
4	Individual / HUF	Amount paid on account of medical expenditure provided mediclaim insurance is not paid on the health of such person	Expenditure incurred for any of the following person who is a **senior citizen**: In case of Individual a. Himself/herself, spouse; or b. dependent children; or c. Either or both of the parents In case of HUF: a. Any member of the family	Lower of the following: ⊙ Medical Expenditure incurred; or ⊙ ₹ 50,000
	Note: The deduction for category 4 is available only from the overall limit of category 1 or category 2 or category 3 respectively. In other words, maximum deduction under category 1, 2, 3 and 4 are as under: **Category** — **Maximum Deduction** Category 1 & 4 — ₹ 50,000/- Category 2 & 4 — ₹ 50,000/- Category 3 & 4 — ₹ 50,000/-			

Dependent children: Children are said to be dependant if their own resources are not sufficient enough to support them.

[#] Such mediclaim insurance policy should be in accordance with the scheme framed in this behalf by -

- **General Insurance Corporation of India (GIC) & approved by the Central Government (i.e. Mediclaim insurance policy); or**
- **Any other insurer who is approved by the Insurance Regulatory and Development Authority.**

2. **Mode of payment:** The premium or medical expenditure must be paid by any mode other than cash. However, payment shall be made by any mode, including cash, in respect of any sum paid on account of preventive health check-up.

3. **Payment out of taxable income:** The amount must be paid out of income, which is chargeable to tax. However, it is not necessary that such income relates to current year.

Taxpoint:

- ⊙ Where lumpsum health insurance premium is paid (single premium) covering insurance for more than a year, then, deduction is available on proportionate basis (Total premium paid / Number of years).
- ⊙ For claiming higher deduction of ₹ 50,000, payer need not be a senior citizen but person insured must be a senior citizen.

- Senior citizen means an individual resident in India who is of the age of 60 years or more at any time during the relevant previous year

Illustration 25:

X, 40 years old, paid following sums by cheque -

Person Insured	Amount
Mediclaim Insurance premium for X	18,000
Mediclaim Insurance premium for Mrs. X (not dependant on X)	5,000
Contribution to the Central Government Health Scheme for Dependant Daughter	3,000
Mediclaim Insurance premium for Son (not dependant on X)	3,000
Contribution to the Central Government Health Scheme for Brother (dependant on X)	1,000
Mediclaim Insurance premium for Mother-in law (dependant on X age 70 years)	900
Mediclaim Insurance premium for Mother (dependant on X age 59 years)	26,500
Mediclaim Insurance premium for Grand parents (dependant on X)	1,600
Mediclaim Insurance premium for Father (not dependant on X age 61 years)	32,000
Contribution to the Central Government Health Scheme for Father	2,000
Total	**68,000**

Compute deduction available to Mr. X u/s 80D.

Solution :

Computation of deduction u/s 80D available to Mr. X

Person Insured	Notes	Amount	Amount
X	Himself		18,000
Mrs. X	Spouse		5,000
Daughter	Dependent		3,000
Son	Not dependent		Nil
Brother	Not eligible		Nil
Mother in law	Not eligible		Nil
Grand parents	Not eligible		Nil
Qualifying amount			26,000
Restricted to the maximum limit			25,000
Add: Additional deduction for parents			
Mother		26,500	
Restricted to the maximum limit		25,000	
Add: Additional deduction for insurance of Father (a Senior Citizen)		32,000	
Add: Contribution to the Central Government Health Scheme for Father (Not eligible)		Nil	
Qualifying amount		57,000	
Restricted to the maximum limit		50,000	50,000
Deduction u/s 80D			**75,000**

Taxpoint: However, if the assessee is under the default tax regime, the deduction u/s 80D is not available to him.

Illustration 26:

Mr. Ram (38 years) has incurred following expenses:

Particulars	₹
Mediclaim Insurance premium paid for himself	9,000
Mediclaim Insurance premium paid for spouse	8,000
Mediclaim Insurance premium paid for dependent children	6,000
Mediclaim Insurance premium paid for father (62 years)	18,000
Preventive health-check up expenditure for father	6,000
Preventive health-check up expenditure for himself (paid in cash)	4,000

Compute deduction available to Mr. Ram u/s 80D.

Solution :

Computation of deduction u/s 80D available to Mr. Ram

Particulars		Amount	Amount
Mediclaim Insurance premium paid for himself			9,000
Mediclaim Insurance premium paid for spouse			8,000
Mediclaim Insurance premium paid for dependent children			6,000
Qualifying amount **(A)**			23,000
Add: Additional deduction for parents			
Mediclaim Insurance premium paid for father (B)			18,000
Add: Expenditure incurred for preventive health check up	Incurred	**Max. Limit**	
Preventive health-check up expenditure for father ! Max. limit	6,000	5,000!	
Preventive health-check up expenditure for himself # [₹25,000 – (A)]	4,000	2,000#	
		7,000	
Restricted to overall maximum limit for preventive health check ups **(C)**			5,000
Deduction u/s 80D (A + B + C)			**46,000**

Taxpoint: However, if the assessee is under the default tax regime, the deduction u/s 80D is not available to him.

Illustration 27:

Mr. Shyam (40 years) has incurred following expenses:

Particulars	₹
Mediclaim Insurance premium paid for himself	12,000
Mediclaim Insurance premium paid for spouse	11,000
Mediclaim Insurance premium paid for dependent children	6,000
Mediclaim Insurance premium paid for mother (76 years)	18,000
Preventive health-check up expenditure for mother	8,000
Medical expenditure incurred for father (78 years)	39,000

Compute deduction available to Mr. Shyam u/s 80D.

Solution :

Computation of deduction u/s 80D available to Mr. Shyam

Particulars		Amount	Amount
Mediclaim Insurance premium paid for himself			12,000
Mediclaim Insurance premium paid for spouse			11,000
Mediclaim Insurance premium paid for dependent children			6,000
Deductible amount (A) [Maximum]			**25,000**
Add: Additional deduction for parents			
Mediclaim Insurance premium paid for mother (B)			**18,000**
Add: Expenditure incurred for preventive health check up	Incurred	**Max.**	
Preventive health-check up expenditure for mother ! Max. limit	8,000	5,000!	
Restricted to overall maximum limit for preventive health check ups (C)			**5,000**
Add: Medical expenditure incurred for father being senior citizen (D) @[₹50,000 – (B) – (C)]	39,000	27,000@	**27,000**
Deduction u/s 80D (A + B + C + D)			**75,000**

Taxpoint: However, if the assessee is under the default tax regime, the deduction u/s 80D is not available to him.

Illustration 28:

Mr. Rahim (55 years) has incurred following expenses:

Particulars	₹
Mediclaim Insurance premium paid for himself	10,000
Mediclaim Insurance premium paid for spouse	10,000
Mediclaim Insurance premium paid for dependent children	5,000
Mediclaim Insurance premium paid for mother (76 years)	9,000
Mediclaim Insurance premium paid for father (82 years)	39,000
Preventive health-check up expenditure for father	6,000
Medical expenditure incurred for father	14,000

Compute deduction u/s 80D.

Solution :

Computation of deduction u/s 80D available to Mr. Rahim

Particulars	Amount	Amount
Mediclaim Insurance premium paid for himself		10,000
Mediclaim Insurance premium paid for spouse		10,000
Mediclaim Insurance premium paid for dependent children		5,000
Deductible amount **(A)**		**25,000**
Add: Additional deduction for parents		
Mediclaim Insurance premium paid for mother		9,000

Mediclaim Insurance premium paid for father			39,000
Deductible amount **(B)**			**48,000**
Add: Expenditure incurred for preventive health check up	**Incurred**	**Max. Limit**	
Preventive health-check up expenditure for father [₹50,000 – (B)] (C)	6,000	2,000	**2,000**
Add: Medical expenditure incurred for father being super-senior citizen (D)			**Nil**
(As mediclaim insurance premium is paid on the health of father)			
Deduction u/s 80D (A + B + C + D)			**75,000**

Taxpoint: However, if the assessee is under the default tax regime, the deduction u/s 80D is not available to him.

3.3.7 Deduction u/s 80DD in respect of maintenance of dependant disable relative

Not Available under the default tax regime

Applicable to

A resident individual (irrespective of citizenship) or a resident HUF

Conditions to be satisfied

1. **Assessee has a dependant disable relative:**
   a. **Dependant Relative**

In the case of	Relative includes
Individual	Spouse, children, parents, brothers and sisters of the individual
HUF	Any member of the Hindu Undivided Family
Dependant Relative: A relative is said to be dependant if he wholly or mainly depends on such individual or HUF for his support and maintenance.	

   b. **Disability** shall have the meaning assigned to it in Sec. 2(i) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and includes "autism", "cerebral palsy" and "multiple disability" referred to in sec. 2(a), 2(c) and 2(h) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

   Person with disability means a person as referred to in Sec. 2(f) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 or sec. 2(j) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (i.e., a person suffering with 40% or more of one or more 'disabilities' as certified by a medical authority).

   Disability includes blindness, low vision, leprosy-cured, hearing impairment, locomotor disability, mental retardation, mental illness.

3. **No benefit u/s 80U to disable relative:** The disable individual has not claimed benefit u/s 80U.

4. **Expenditure on disable relative:** Assessee has -

   - incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability; or
   - paid or deposited any amount in an approved scheme for the maintenance of a disable dependant being framed by the Life Insurance Corporation or any other insurer or the Administrator[#] or Unit Trust of India.

   Taxpoint

   The scheme shall provide for payment of annuity or lump sum amount for the benefit of a dependant, being a person with disability,—

i. in the event of the death of the individual or the member of the HUF in whose name subscription to the scheme has been made; or

ii. on attaining the age of 60 years or more by such individual or the member of the HUF, and the payment or deposit to such scheme has been discontinued.

Note: Though assessee needs to fulfill the above condition, the amount of deduction shall not be affected by the actual expenditure incurred on the above two purposes.

4. **Medical certificate:** Assessee shall furnish a copy of the certificate issued by the medical authority[$] along with the return of income in respect of the assessment year for which the deduction is claimed.

[$] Medical authority means medical authority as per Sec. 2(p) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" referred to in sec. 2(a), 2(c), 2(h), 2(j) and 2(o) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (i.e., specified hospital or institution.)

Quantum of deduction

Relative is suffering from severe disability	**₹ 1,25,000**
Relative is suffering from disability but not severe disability	₹ 75,000
Taxpoint: Deduction shall be irrespective of actual expenditure incurred i.e. deduction is statutory in nature.	
Person with severe disability means ➢ a person with 80% or more of one or more disabilities, as referred to in sec. 56(4) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; or ➢ a person with severe disability referred to in sec. 2(o) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.	

Other points

a. **Revision of medical certificate**

Condition: Where the extent of disability requires reassessment after a period stipulated in the medical certificate.

Treatment: After the expiry of previous certificate, deduction under this section shall be allowed only if a new certificate is obtained from the medical authority and a copy thereof is furnished along with the return of income.

b. **Treatment when handicapped person predeceases [Sec. 80DD(3)]**

Condition: Where the assessee has deposited any amount in annuity plan of LIC or UTI, etc. for the benefit of disabled person and such person predeceases.

Treatment: Any amount received from such annuity plan shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee.

However, nothing shall be taxable where amount is received by the dependant, being a person with disability, before his death, by way of annuity or lump sum on attaining the age of 60 years or more by such individual or the member of the HUF, and the payment or deposit to such scheme has been discontinued.

Illustration 29:

Compute total income as per old regime of Sri Bhandari from following information:

Taxable salary (Net)	₹ 75,000
Income from other sources	₹ 20,000
Agricultural income	₹ 4,000

He deposited in LIC annuity plan ₹ 18,000

He paid medical insurance premium by cheque for his dependant blind mother (certified as severe disable person), aged 68 years, ₹ 20,000.

Solution:

Computation of Total income of Sri Bhandari for the A.Y. 2025-26

Particulars	Details	Amount
Salaries		75,000
Income from Other Sources		20,000
Gross Total Income		95,000
Less: Deduction u/s		
80CCC (Paid in LIC annuity plan)	18,000	
80D (Medical insurance premium for mother being senior citizen)	20,000	
80DD (Dependant severely disabled relative)	1,25,000	
(Subject to maximum of gross total income)		95,000
Total Income		**Nil**

3.3.8 Deduction u/s 80DDB in respect of medical treatment

Not Available under default tax regime

Applicable to

A resident individual (irrespective of citizenship) or a resident HUF

Conditions to be satisfied

1. **Expenditure incurred on the medical treatment of relative:** The assessee has, during the previous year, actually paid any amount for the medical treatment of a specified disease or ailment as prescribed in rule 11DD. Expenditure is incurred for treatment of the assessee himself or for a dependant relative[#].

   [#] Dependant Relative

In the case of	Relative
Individual	Spouse, children, parents, brothers and sisters of the individual.
HUF	Any member of the HUF
Dependant Relative: A relative is said to be dependant if he wholly or mainly depends on such individual or HUF for his support and maintenance.	

2. **Medical Prescription:** Assesse should obtained the prescription for such medical treatment from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed.

Quantum of deduction

Minimum of the following -

a. Actual expenditure incurred by the assessee; or

b. ₹ 40,000

Deduction for senior citizen: If such expenditure is incurred for a senior citizen[#], then the maximum amount of deduction shall be enhanced to ₹ 1,00,000.

Taxpoint: For claiming higher deduction of ₹ 1,00,000/-, payer need not be a senior citizen but person for whom such expenditure has been incurred must be a senior citizen.

Treatment of Mediclaim or amount reimbursed by the employer: Deduction under this section shall be reduced by the amount received, if any -

- under an insurance from an insurer; or
- reimbursed by an employer,

  - for the medical treatment of the person.

Taxpoint:

Quantum of Deduction	
Patient	**Deduction shall be minimum of the following**
Senior citizen	➢ [(Actual expenditure incurred by assessee) – (Amount reimbursed by employer or medi-claim received)] ➢ [₹ 1,00,000 – (Amount reimbursed by the employer or mediclaim received)]
Other	➢ [₹ 40,000 – (Amount reimbursed by the employer or mediclaim received)] ➢ [(Actual expenditure incurred by assessee) – (Amount reimbursed by employer or mediclaim received)]
Note: In any case, the total deduction cannot exceed ₹ 1,00,000	

Specified diseases as per rule 11DD are -

1) Neurological disease: (a) Dementia (b) Dystonia Musculorum Deformans (c) Motor Neuron Disease (d) Ataxia (e) Chorea (f) Hemiballismus (g) Aphasia (h) Parkinson's Disease (all neurological disease must have disability of 40%and above);

2) Cancer; **3)** Full Blown Acquired Immuno Deficiency Syndrome (AIDS); **4)** Chronic Renal Failure; **5)** Hemophilia; and **6)** Thalassaemia.

Illustration 30:

Find the amount of deduction u/s 80DDB for the following cases:

Name of the Assessee	P	Q	R	S	T
Residential status of the assessee	Ordinarily resident	Not ordinarily resident	Non Resident	Resident but not an Indian Citizen	Resident
Expenditure incurred for medical treatment (specified disease) of dependant brother	₹ 6,000	₹ 80,000	₹ 1,00,000	₹ 72,000	₹ 80,000

Name of the Assessee	P	Q	R	S	T
Age of Brother	28	63	68	88	52
Residential status of dependant	Resident	Non resident	Resident	Resident	Resident
Medical Insurance claim received.	-	-	-	-	₹ 8,000

Solution :

Amount of deduction available u/s 80DDB shall be as under:

Particulars	P	Q	R	S	T
Deduction u/s 80DDB	6,000	40,000 [1]	- [2]	72,000[3]	32,000 [4]

Notes

1. As the brother is non-resident, therefore, senior citizen benefit is not available.
2. As the assessee himself is a non-resident, hence no deduction u/s 80DDB is available.
3. As the brother is resident having age of 88 years, hence he is a senior citizen. However, actual expenditure incurred by the assessee is less than ₹ 1,00,000, therefore deduction shall be restricted to actual expenditure incurred.
4. As the medical insurance claim is received, hence the amount of deduction (i.e. ₹ 40,000) shall be reduced by the amount of claim received.

Taxpoint: However, if the assessee is under the default tax regime, the deduction u/s 80DDB is not available to him.

3.3.9 Deduction u/s 80E in respect of repayment of loan for higher education

Not Available under default tax regime

Applicable to

An Individual (irrespective of residential status and citizenship of the individual).

Conditions to be satisfied

1. **Loan from specified institution**: The assessee had taken a loan from -
   - a financial institution; or

     Financial Institution means a banking company to which the Banking Regulation Act, 1949 applies (including any banking institution referred to in sec. 51 of that Act) or any other specified financial institution.

   - an approved charitable institution

     Approved Charitable Institution means an institution established for charitable purposes and approved by the prescribed authority u/s 10(23C) or an institution referred to in Sec. 80G(2)(a)

2. **Purpose of loan:** The loan must have been taken for the purpose of pursuing higher education of himself/ herself or for any other following persons:

   a. Spouse b. Children (dependent or not); or c. the student for whom the individual is the legal guardian

   "Higher education" means any course of study pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognised by the Central Government or State Government or local authority or by any other authority authorised by the Central Government or State Government or local authority to do so

4. **Payment of interest:** The assessee pays interest on such loan.
5. **Payment out of taxable income:** The amount must be paid out of income chargeable to tax. However, it is not necessary that such income relates to the current year.

Quantum of deduction

Amount paid during the year by way of payment of interest.

Maximum permissible period for which deduction is available [Sec.80E(2)]

Deduction under this section shall be allowed for the initial assessment year and 7 assessment years immediately succeeding the initial assessment year[$] or until interest is paid by the assessee in full, whichever is earlier.

[$] Initial Assessment Year means the assessment year relevant to the previous year, in which the assessee starts repaying the loan or interest thereon.

Taxpoint

- The deduction is available for a maximum period of 8 consecutive years.
- The period starts from the year in which the assessee starts paying the interest on such loan.

3.3.10 Deduction u/s 80EE in respect of interest on loan taken for residential house property

Not Available under the default tax regime

Applicable to

Individual (resident or non-resident)

Conditions to be satisfied

1. Loan: The assessee has taken loan for acquisition of the residential house property
2. Sanction of Loan: The loan has been sanctioned by the financial institution[*] during the Previous Year 2016-17.
3. Amount of Loan: The amount of loan sanctioned for acquisition of the residential house property does not exceed ₹ 35 lakhs.
4. Value of Residential Property: The value of the residential house property does not exceed ₹ 50 lakhs.
5. No other residential property: The assessee does not own any residential house property on the date of sanction of the loan.

Quantum of Deduction

Minimum of the following:

a. Interest on loan payable for the previous year

b. ₹ 50,000

Other Points

Double deduction is not available: Where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.

Taxpoint: It is irrelevant whether such interest pertains to pre-construction period or post construction period.

[*] "Financial institution" means a banking company to which the Banking Regulation Act, 1949 applies including any bank or banking institution referred to in sec. 51 of that Act or a housing finance company.
"Housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.

Provision Illustrated

Compute deduction u/s 80EE in the following cases: **(₹ in lakh)**

	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6	Case 7
Assessee	**P**	**Q**	**R**	**S**	**T**	**U**	**X (HUF)**
Date of Sanction of Loan	01-10-16	01-10-16	01-10-16	01-10-16	01-10-16	01-10-15	01-10-16
Amount of loan	₹ 30	₹ 20	₹ 40	₹ 20	₹ 10	₹ 20	₹ 20
Value of the property	₹ 40	₹ 55	₹ 50	₹ 35	₹ 35	₹ 35	₹ 35
Other residential property owned by the Assessee on the date of sanction	No	No	No	Yes	No	No	No
Interest for the P.Y.	₹ 1.20	₹ 1.20	₹ 1.80	₹ 1.20	₹ 0.40	₹ 1.00	₹ 1.20
Deduction u/s 80EE	**₹ 0.50**	**Nil**	**Nil**	**Nil**	**₹ 0.40**	**Nil**	**Nil**
Notes	1	2	3	4	5	6	7

1. Assessee can claim ₹ 70,000 being excess interest, as deduction u/s 24(b)
2. As value of the property exceeds ₹ 50 lac hence, deduction u/s 80EE is not available. However, assessee can claim deduction u/s 24(b)
3. As amount of loan exceeds ₹ 35 lac hence, deduction u/s 80EE is not available. However, assessee can claim deduction u/s 24(b).
4. As assessee owns other residential house property on the date of sanction of loan, hence, deduction u/s 80EE is not available. However, assessee can claim deduction u/s 24(b)
5. Assessee can claim ₹ 40,000 as deduction u/s 80EE
6. Loan was not sanctioned during the previous year 2016-17
7. The deduction u/s 80EE is not available to HUF, however, assessee can claim deduction u/s 24(b).

Taxpoint: However, if the assessee is under the default tax regime, the deduction u/s 80EE is not available to him.

3.3.11 Deduction u/s 80EEA in respect of interest on loan taken for certain house property

Not Available under the default tax regime

Applicable to

Individual (resident or non-resident) not eligible for deduction u/s 80EE

Conditions to be satisfied

1. Loan: The assessee has taken loan for acquisition of the residential house property from any financial institution.
2. Sanction of Loan: The loan has been sanctioned by the financial institution (as defined u/s 80EE) during 01-04-2019 to 31-03-2022.
3. Value of Residential Property: The stamp duty value of the residential house property does not exceed ₹ 45 lakhs.
4. No other residential property: The assessee does not own any residential house property on the date of sanction of the loan.
5. No deduction u/s 80EE: The assessee is not eligible for deduction u/s 80EE.

Quantum of Deduction

Minimum of the following:

a. Interest on loan payable for the previous year

b. ₹ 1,50,000

Other Points

Double deduction is not available: Where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.

Provision Illustrated

Compute deduction u/s 80EEA in the following cases:

(₹ in lakh)

	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
Assessee	**A**	**B**	**C**	**D**	**E**	**F (HUF)**
Date of Sanction of Loan	01-10-21	01-10-21	01-10-21	01-10-21	01-10-18	01-10-20
Amount of loan	₹ 30	₹ 30	₹ 40	₹ 30	₹ 20	₹ 20
Stamp Duty Value of the property	₹ 40	₹ 55	₹ 45	₹ 35	₹ 35	₹ 35
Other residential property owned by the Assessee on the date of sanction	No	No	No	Yes	No	No
Interest for the P.Y. 2024-25	₹ 2.20	₹ 1.20	₹ 1.20	₹ 1.20	₹ 1.00	₹ 1.20
Deduction u/s 80EEA	**₹ 1.50**	**Nil**	**₹ 1.20**	**Nil**	**Nil**	**Nil**
Notes	1	2	3	4	5	6

1. Assessee can claim ₹ 70,000 being excess interest, as deduction u/s 24(b)
2. As value of the property exceeds ₹ 45 lac hence, deduction u/s 80EEA is not available. However, assessee can claim deduction u/s 24(b)
3. Deduction cannot exceed interest on loan.
4. As assessee owns other residential house property on the date of sanction of loan, hence, deduction u/s 80EEA is not available. However, assessee can claim deduction u/s 24(b)
5. Loan was not sanctioned during the specified time
6. The deduction u/s 80EEA is not available to HUF, however, assessee can claim deduction u/s 24(b).

Taxpoint: However, if the assessee is under the default tax regime, the deduction u/s 80EEA is not available to him.

3.3.12 Deduction u/s 80EEB in respect of purchase of electric vehicle

Not Available under the default tax regime

Applicable to

Individual (resident or non-resident)

Conditions to be satisfied

1. Loan: The assessee has taken loan for purchase of an electric vehicle from any financial institution.
   - Electric vehicle means a vehicle which is powered exclusively by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle and has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy.
   - Financial institution means a banking company to which the Banking Regulation Act, 1949 applies, or any bank or banking institution referred to in sec. 51 of that Act and includes any deposit taking non-banking financial company or a systemically important non-deposit taking non-banking financial company as defined u/s 43B.

2. Sanction of Loan: The loan has been sanctioned by the financial institution during 01-04-2019 and 31-03-2023.

Quantum of Deduction

Minimum of the following:

a. Interest on loan payable for the previous year

b. ₹ 1,50,000

Other Points

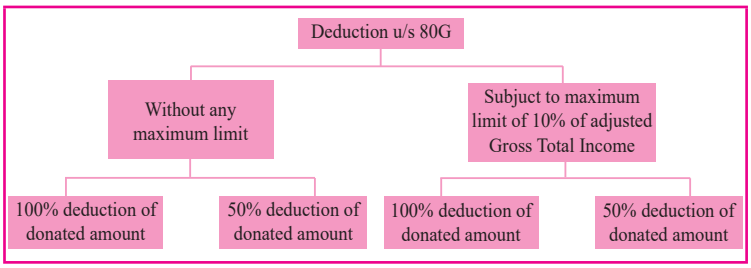
Double deduction is not available: Where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.

3.3.13 Deduction u/s 80G in respect of donations to certain funds, etc.

Not Available under the default tax regime‡‡

Applicable to

All assessee (irrespective of residential status and citizenship of the assessee).



Conditions to be satisfied

1. **Donation:** Assessee must donate (not in kind) to specified Funds or Organisations (as listed below).

   Taxpoint: Donation in kind shall not qualify for deduction

2. **Mode of donation:** Donation in excess of ₹ 2,000 shall be made by any mode (but not in kind) other than cash.

   Taxpoint: Cash donation upto ₹ 2,000 shall qualify for deduction.

3. **Proof of donation:** Proof of donation, in original, should be attached with the return of income.

Other Points

a. **Specified funds or organizations:** Specified Funds or Organisations are divided into two categories:

   ii. On which limit is not applicable (Item No.1 to 23 given in the list) (hereinafter referred as Category A Organisation).

   iii. On which limit is applicable (Item No.24 to 30 given in the list) (hereinafter referred as Category B Organisation).

b. **Double deduction is not permissible:** Where deduction under this section has been allowed, the same shall not qualify for deduction under any other section for the same or any other Assessment Year

c. **Risk Verification:** Claim of the assessee for a deduction in respect of any donation made to an institution or fund to which the provisions of sec. 80G(5) apply [organizations on which limit is applicable with 50% deduction], shall be allowed on the basis of information relating to said donation furnished by the institution or fund to the prescribed income-tax authority or the person authorised by such authority, subject to verification in accordance with the risk management strategy formulated by the Board from time to time.

   Taxpoint:

   - The limit is applicable only on category B organizations or funds.
   - The limit is applicable on qualifying amount of donation and not on deduction.
   - The limit is not on individual donation but on aggregate donation.

‡‡ In case of companies and co-operative societies, deduction would not be available if they opt for the special provisions u/s 115BAA/115BAB and section 115BAD/115BAE, respectively.

Computation of quantum of deduction

Particulars	Amount
100% or 50% of donation to category A organizations or funds	***
Add: 100% or 50% of donation to category B organizations or funds (subject to the Limit#)	***
Deduction u/s 80G	***

Limit: 10% of Adjusted Gross total income (hereinafter referred as Adj. GTI)

Adjusted GTI = Gross total income – Long term capital gain – Short term capital gain covered u/s 111A - All deductions u/s 80C to 80U other than deduction u/s 80G - Income referred u/s 115A, 115AB, 115AC, etc.

Taxpoint: While calculating Adjusted GTI, casual income like winning from lotteries, etc. shall be included.

List of specified organizations or funds

Donee	Maximum limit	Deduction (as a % of net qualifying amount)
1. National defence fund set up by the Central Government	NA	100%
2. Prime Minister's Drought Relief Fund	NA	50%
3. Prime Minister's National Relief Fund	NA	100%
4. Prime Minister Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)	NA	100%
5. Prime Minister's Armenia Earthquake Relief Fund	NA	100%
6. Africa (Public Contributions- India) Fund	NA	100%
7. National Children's Fund	NA	100%
8. National Foundation for Communal Harmony	NA	100%
9. An approved university or educational institution of national eminence	NA	100%
10. The Chief Minister's Earthquake Relief Fund, Maharashtra.	NA	100%
11. Any fund set up by the Government of Gujarat for providing relief to victims of earthquake in Gujarat	NA	100%
12. Zila Saksharta Samiti	NA	100%
13. National or State Blood Transfusion Council	NA	100%
14. Fund set up by a State Government for medical relief to the poor	NA	100%
15. Army Central Welfare Fund or Air Force Central Welfare Fund or Indian Naval Benevolent fund	NA	100%
16. Andhra Pradesh Chief Minister's Cyclone Relief Fund	NA	100%
17. National Illness Assistance Fund	NA	100%
18. Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund	NA	100%

Donee	Maximum limit	Deduction (as a % of net qualifying amount)
19. National Sports Fund or National Cultural Fund or Fund for Technology Development and Application set up by the Central Government	NA	100%
20. National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities	NA	100%
21. Swachh Bharat Kosh*	NA	100%
22. Clean Ganga Fund (Only for resident donor)**	NA	100%
23. National Fund for Control of Drug Abuse	NA	100%
24. Any other fund or any institution which satisfies conditions mentioned in Sec 80G(5)	Limit	50%
25. Government or any local authority to be utilised for any charitable purpose other than the purpose of promoting family planning	Limit	50%
26. An authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns & village, or for both	Limit	50%
27. Any corporation specified in section 10(26BB) for promoting the interest of minority community	Limit	50%
28. Government or any approved local authority, institution or association to be utilised for the purpose of promoting family planning	Limit	100%
29. Any temple, mosque, gurdwara, church or other place notified as historic, archaeological or artistic importance or to be a place of worship by the Central Government (for renovation or repair)	Limit	50%
30. The Indian Olympic Association or to any notified institute for development of infrastructure for sports and games or sponsorship of sports and games in India (only donation by a company)	Limit	100%

Illustration 31:

Compute total income for the A.Y.2025-26 of Miss Dipika, a resident individual, from the following details:

Particulars	Amount
Profits and gains of business or profession	80,000
Income from Other Sources	10,000
Long-term Capital Gains	5,00,000

* The sum is eligible u/s 80G only if the amount is not spent as Corporate Social Responsibility u/s 135(5) of the Companies Act, 2013.
** The sum is eligible u/s 80G only if the amount is not spent as Corporate Social Responsibility u/s 135(5) of the Companies Act, 2013.

Payment of medical insurance premium on own life	5,000
Donation to National Foundation for communal harmony	4,000
Donation to the fund set up by the Gujarat Govt. for providing Relief to victims of earthquake in Gujarat	5,000
Donation to Prime Minister's Drought Relief Fund	5,000
Donation to Approved Charitable Institution	12,000
Donation to Central Government for promotion of family planning	3,000
Donation to a poor boy for higher education	10,000
Donation of cloth to an approved institution worth	12,000
Donation to charitable institution for construction of home for a particular community	8,000

Solution :

Computation of total income of Miss Dipika for the A.Y. 2025-26

Particulars	Details	Amount
Profits & gains of business or profession		80,000
Capital gains: Long term capital gains		5,00,000
Income from Other Sources		10,000
Gross Total Income		5,90,000
Less: Deduction under chapter VIA		
Sec. 80D (Assumed premium is paid by cheque)	5,000	
Sec. 80G (Donation)	17,250[$]	22,250
Total Income		**5,67,750**

[$] Statement showing amount of deduction u/s 80G:

Donation made to	Amount	Rate	Deduction
Donation to National Foundation for Communal Harmony	4,000	100%	4,000
Donation to the fund set up by the Gujarat Government for providing relief to victims of earthquake in Gujarat	5,000	100%	5,000
Donation to Prime Minister's Drought Relief Fund	5,000	50%	2,500
Donation to the Central Government for promotion of family planning	3,000[*]	100%	3,000
Donation to approved charitable institution	5,500[*]	50%	2,750
Total amount of donation u/s 80G			**17,250**

[*] Calculation of Deduction for donation on which limit is applicable:

Computation of limit		
Adjusted GTI	GTI – LTCG – Deductions other than deduction u/s 80G	₹ 5,90,000 – ₹ 5,00,000 – ₹ 5,000 = ₹ 85,000
Limit	10% of Adj. GTI	10% of ₹ 85,000 = ₹ 8,500
Application of limit: There is restriction on amount of donation qualifying under this section. If assessee opts to adjust qualifying amount with donation made to approved charitable institution, then he is eligible for deduction to the extent of 50% only. So, it is beneficial for him to adjust qualifying amount, first, with donation made to the 'Central Government for promotion of family planning' as it is eligible for 100% deduction. Hence, donation shall be restricted -		

Donation to Central Government for promotion of family planning	3,000
Donation to approved charitable institution (₹ 8,500 – ₹ 3,000)	5,500
Total	**8,500**

Donations which are not eligible for deduction u/s 80G are stated below:

Donation	Reason
Donation to a poor boy for higher education	Donation has not been given to a specified organization
Donation of cloth to an approved institution	Donation has been made in kind
Donation to charitable institution for construction of home for particular community	Amount donated is for the benefit of a particular community

Taxpoint: However, if the assessee is under the default tax regime, the deduction u/s 80G is not available to him.

3.3.14 Deduction u/s 80GG in respect of house rent paid

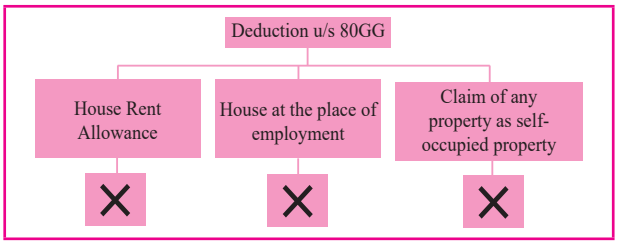
Not Available under the default tax regime

Applicable to

An Individual (irrespective of the residential status and citizenship of the individual)

Conditions to be satisfied

1. **No House rent allowance:** Assessee is not receiving exempted House Rent Allowance (HRA).



2. **No house at the place of employment:** He or his spouse or minor child or HUF of which he is a member, should not own any residential house at a place where the assessee resides, perform the duties of his office, or employment or carries on his business or profession.

3. **No claim for the benefit of self-occupied house property:** Assessee should not treat any residential house situated at other places as self-occupied property u/s 23(2)(a) or 23(4)(a).

4. **Proof for payment of rent:** A declaration in Form 10BA should be filed for expenditure incurred by him towards payment of rent.

   Taxpoint: Rent must be paid for a residential house property whether furnished or unfurnished.

   Quantum of deduction

   Minimum of the following:

   i. ₹ 5,000 per month;

   ii. 25% of Adjusted Gross total income for the year (referred as Adj. GTI); or

   iii. The excess of actual rent paid for accommodation over 10% of Adjusted Gross total income.

   Arithmetically, [Rent paid - 10% of Adj. GTI]

Note

Adjusted GTI = Gross total income – Long term capital gain – STCG taxable u/s 111A - All deduction u/s 80's other than sec. 80GG – Income u/s 115A, 115AB, 115AC, etc.

Taxpoint: While calculating Adjusted GTI, casual income like winning from lotteries etc. shall be included.

Treatment in case of accommodation at concessional rent provided by employer

Where an assessee has been provided an accommodation by his employer at concessional rent, then rent paid by him shall be:

- deducted while valuing such perquisite; and
- eligible for deduction u/s 80GG.

Illustration 32:

Compute total income of Sri Bajaj of Delhi from the following data:

Particulars	Amount
Profits & gains of business or profession	8,00,000
Income from house property (let-out and situated at Kolkata)	40,000
Income from other sources	10,000
Rent paid for office	8,000
Rent paid for residential house	1,20,000

Solution :

Calculation of total income of Sri Bajaj for the A.Y. 2025-26

Particulars	Amount
Profits & gains of business or profession	8,00,000
Income from house property	40,000
Income from other sources	10,000
Gross Total Income	8,50,000
Less: Deduction u/s 80GG[#]	35,000
Total Income	**8,15,000**

[#] Computation of deduction u/s 80GG

Particulars	Working	Details	Amount
Least of the following shall be deductible:			
1. ₹ 5,000 per month	₹ 5,000 * 12	60,000	
2. 25% of Adjusted Gross total income	25% of ₹ 8,50,000[#]	2,12,500	
3. Excess of rent paid over 10% of Adj. GTI	₹ 1,20,000 - (10% of ₹ 8,50,000[#])	35,000	35,000

[#] Adjusted GTI = Gross total income – Long term capital gain – Short term capital gain covered u/s 111A - All deduction under 80's other than section 80GG – Income u/s 115A, etc. = ₹ 8,50,000

Note: Rent paid for office is irrelevant for the purpose of Sec. 80GG.

Taxpoint: However, if the assessee is under the default tax regime, the deduction u/s 80GG is not available to him.

3.3.15 Deduction u/s 80GGA in respect of donations for scientific research, etc.

Not Available under the default tax regime

Applicable to

An assessee, who is not having any income under the head "Profits & gains of business or profession".

Conditions to be satisfied

1. During the previous year, assessee paid any sum -

Purposes	Amount paid to
For Rural development	➢ Approved association or institution, being engaged in any approved programme of rural development, to be used for carrying any rural development programme provided the assessee furnishes a certificate as referred in sec. 35CCA(2); ➢ Approved association or institution engaged in training the persons for implementing programme of rural development provided that the assessee furnishes a certificate referred in sec. 35CCA(2A); ➢ Notified Rural Development Fund for the purpose of sec. 35CCA(1)(c)
For poverty eradication	Notified National Urban Poverty Eradication Fund setup and notified by the Central Government for the purpose of sec. 35CCA(1)(d).
For Scientific research	Research association, university, college or to other institution as approved u/s 35(1)(ii) to be used for scientific research.
For social science or statistical research	Research association which has as its object the undertaking of research in social science or statistical research or to a university, college or other institution approved u/s 35(1)(iii) to be used for research in social science or statistical research.
For other purpose	A public sector company or a local authority or an association or institution approved by the National Committee for carrying out any eligible project or scheme, provided a certificate is obtained from such company etc. as mentioned u/s 35AC(2)(a).

3. **Mode of Payment:** Payment in excess of ₹ 2,000 to aforesaid purpose shall be made by any mode other than cash.

Quantum of deduction

Amount actually paid is fully deductible.

Other Points

Withdrawal of approval: Deduction shall not be denied merely on the ground that subsequent to the contribution made by the assessee, the approval granted (or notification notifying eligible projects) has been withdrawn.

Risk Verification: Claim of the assessee for a deduction in respect of any sum referred to in sec. 80GGA(2), shall be allowed on the basis of information relating to said sum furnished by the payee to the prescribed income-tax authority or the person authorised by such authority, subject to verification in accordance with the risk management strategy formulated by the Board from time to time.

3.3.16 Deduction in respect of contributions to political parties [Sec. 80GGB]

Applicable to

An Indian company (not opting for sec. 115BAA or 115BAB)

Condition

Assessee has contributed any sum (**by any mode other than cash**), in the previous year, to any political party or an electoral trust.

Quantum of deduction

100% of such contribution made in the previous year.

Taxpoint

- Contribute means

  a. a donation or subscription or payment given by a company to a person for carrying on any activity which is likely to effect public support for a political party shall also be deemed to be contribution for a political purpose;

  b. the expenditure incurred, directly or indirectly, by a company on advertisement in any publication (being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like) by or on behalf of a political party or for its advantage shall also be deemed to be a contribution to such political party or a contribution for a political purpose to the person publishing it.

- It may be noted that there is a specific disallowance u/s 37(2B) in respect of expenditure incurred on advertisement in a brochure of a political party. Therefore, the expenditure on advertisement would be disallowed while computing business income/gross total income. However, the said expenditure incurred by an Indian company is allowable as a deduction from gross total income u/s 80GGB.

3.3.17 Deduction in respect of contributions given by any person to political parties [Sec. 80GGC]

For individual/HUF/AOP/BOI: Not Available under the default tax regime

For co-operative societies: Not available if opts for sec. 115BAD or sec. 115BAE

Applicable to

All assessee except local authority and every artificial juridical person wholly or partly funded by the Government

Condition

Assessee has contributed any sum (**by any mode other than cash**), in the previous year, to any political party or an electoral trust.

Quantum of deduction

100% of such contribution made in the previous year.

3.3.18 Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc. [Sec. 80-IA]

Deduction under this section is available for industrial undertaking engaged in the following business–

- Infrastructure Facility
- Industrial parks or special economic zone;
- Power generation, transmission and distribution

Infrastructure facility

Applicable to

Indian Company or any consortium (combination) of such company or by an authority or a board or a corporation or any other body established or constituted under any Central or State Act.

Conditions to be satisfied

1. **Nature of business:** The enterprise should carry on the business of -

   a. Developing; or

   b. Operating and maintaining; or

* In case of companies and co-operative societies, deduction would not be available if they opt for the special provisions u/s 115BAA/115BAB and section 115BAD/115BAE, respectively.

c. Developing, operating and maintaining,

- any infrastructure facility.

Infra-structure facility means —

a. A road including toll road, a bridge or a rail system;

b. A highway project including housing or other activities being an integral part of the highway project;

c. A water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;

d. A port, airport, inland waterway or inland port or navigational channel in the sea.

2. **Agreement:** Assessee has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for -

i. developing; or

ii. operating and maintaining; or

iii. developing, operating and maintaining

- a new infrastructure facility.

3. Commencement of business: It has started or starts operating & maintaining the facility on or after the 1-4-1995 but before 01-04-2017.

Quantum of Deduction

Case	Quantum of Deduction	Period of deduction
For infrastructure facility being -		
A port, airport, inland waterway or inland port or navigational channel in the sea	100% of the profit derived from such business	For any 10 consecutive years out of 15 years commencing from the year in which the undertaking begins to operate.
Any housing and other development activities which are an integral part of the highway project	100% of the profit derived from such business	For any 10 consecutive years out of 20 years commencing from the year in which the undertaking begins to operate subject to certain other conditions[#]
Any other facility	100% of the profit derived from such business	For any 10 consecutive years out of 20 years commencing from the year in which the undertaking begins to operate.

The conditions for claiming deduction in respect of any profit derived from housing and other development activities, which are an integral part of the highway project are as follows -

i. Profit of such undertaking shall be computed in prescribed manner.

ii. Such profit has been transferred to special reserve account;

iii. The reserve shall be utilised for highway project excluding housing and other activities before the expiry of 3 years following the previous year in which such amount was transferred; &

iv. Every assessee shall maintain separate accounts for such activities & shall submit a certificate in Form 10CCC from an accountant, specifying the amount credited to the reserve account and the amount utilised during the relevant previous year for the highway project.

Notes

a. **Method of computation of profit of housing or other activities, which are an integral part of the highway project**

In a case where the annual profits can be arrived at in accordance with the regular method of accounting followed	The profits computed as per provisions of the Act
In any other case	The profits based on the percentage of completion of such activities during the previous year.

c. **Consequence when reserve is not so utilized:** Where any reserve is not so utilised or unutilized, then such amount shall be taxable as income of the previous year in which transfer to reserve took place.

Industrial Park or Special Economic Zone

Applicable to

All assessee

Condition to be satisfied

1. Nature of business: **Such undertaking should be engaged in the business of -**

- Developing; or
- Developing and operating or maintaining; or
- Operating,

  - industrial park or special economic zone notified by Central Government.

2. Commencement of business: **Such undertaking develops, develops and operates or maintains and operates such park or zone for the following period -**

In case of	Period
Industrial park	1-4-1997 to 31-3-2011
Special Economic Zone	1-4-2001 to 31-3-2006

Quantum of Deduction

100% of profit derived from such business for any 10 consecutive years out of 15 years commencing from the year in which the undertaking begins to operate.

From the date of application of sec. 80-IAB, no deduction shall be available u/s 80-IA for SEZ notified on or after 1-4-2005.

Power generation, transmission and distribution

Applicable to

All assessee

Conditions to be satisfied

1. **Nature of business:** Such undertaking is set up in *India* for the generation or generation and distribution of power.
2. **Commencement of business:** Such undertaking commences business during the following time schedule:

In case of	Period
Generation of power	1-4-1993 to 31-3-2017
Transmission or distribution by laying a network of new transmission or distribution lines	1-4-1999 to 31-3-2017

Substantial renovation and modernization[1] of the existing transmission or distribution lines	1-4-2004 to 31-3-2017

[1] "Substantial renovation and modernisation" means an increase in the plant and machinery in the network of transmission or distribution lines by at least 50% of the book value of such plant and machinery as on the 1-4-2004.

3. **New Business:** Business should not be formed by splitting up or reconstruction of an existing business.

   Exception

   However, this condition is not applicable in the following cases:

   - In case of reconstruction, splitting up or reorganization of State Electricity Board;
   - In case when conditions given u/s 33B are satisfied, which are as follows -

     a. The business of an industrial undertaking carried on in India is discontinued in any previous year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee being used for business purpose.

     b. Such damage was caused due to -

        i. flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or

        ii. riot or civil disturbance; or

        iii. accidental fire or explosion; or

        iv. action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

     c. Such business is re-established, reconstructed or revived by the assessee at any time before the expiry of 3 years from the end of previous year in which damage was caused.

4. **New Plant & Machinery:** Such undertaking should not be formed by transfer of machinery or plant previously used for any purpose.

   Exception

   i. In case of reconstruction, splitting up or reorganization of State Electricity Board;

   ii. A plant or machinery is deemed as new asset if the following conditions are satisfied -

      a. Such plant or machinery is imported into India;

      b. Depreciation on such asset has not been allowed under this Act to any person; and

      c. The assessee was the first user of such asset in India.

   iii. Where the total value of old plant and machinery transferred to the new business does not exceed 20% of total value of plant and machinery used in such business, then this condition is deemed to be satisfied.

Quantum of Deduction

100% of profit derived from such business for any 10 consecutive years out of 15 years commencing from the year in which the undertaking begins to operate.

Note: In case of undertaking engaged in transmission or distribution by laying a network of new transmission or distribution lines, deduction shall be limited to the extent of profit derived from laying of such network of new lines.

Undertaking set-up for re-construction or revival of a power generating unit

Applicable to

Indian company

Conditions to be satisfied

a. Such company is formed before 30-11-2005 with majority equity participation by public sector companies for the purpose of enforcing the security interest of the lenders to the company owning the power generating plant.

b. Such company is notified before 31-12-2005 by the Central government.

c. An undertaking must be set up for reconstruction or revival of a power generating plant.

d. Such undertaking begins to generate or transmit or distribute power before 31-3-2011

Quantum of Deduction

100% of profit derived from such business for any 10 consecutive years out of 15 years commencing from the year in which the undertaking begins to operate.

Other points for all eligible undertaking u/s 80-IA

1. Return of income is required to be furnished within due date of filing of return as specified u/s 139(1).
2. Certificate in Form 10CCB from a chartered accountant is required to be furnished one month prior to the due date of submission of the return of income.
3. In the following cases, Assessing Officer may recompute profit of the undertaking –

<table>
<tr><td>Case 1: Transaction between two undertakings of the same assessee</td><td>Case 2: Transaction between two assessee</td></tr>
<tr><td colspan="2">Conditions</td></tr>
<tr><td>a. Assessee carries on at least two undertakings</td><td rowspan="3">a. Assessee has entered into business transactions with any other person
b. Business between the assessee carrying on the eligible business and any other person is so arranged that the business transacted between them produces to the assessee more than the ordinary profits, which might be expected to arise in such eligible business</td></tr>
<tr><td>b. Out of such undertakings at least one is eligible for exemption and at least one is not eligible for exemption</td></tr>
<tr><td>c. Goods are transferred from eligible undertaking to any non eligible undertaking or vice versa
d. The consideration for such transfer does not correspond to the market value of such goods as on the date of transfer</td></tr>
<tr><td colspan="2">Treatment</td></tr>
<tr><td>Profits and gains of eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date.</td><td>The Assessing Officer shall, in computing the profits and gains of such eligible business, take the amount of profits as may reasonably be deemed to have been derived there from.</td></tr>
<tr><td colspan="2">However, in case the aforesaid arrangement involves a specified domestic transaction referred to in sec. 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in sec. 92F(ii).</td></tr>
</table>

4. Inter-unit transfer (Sec.80A): Where -

   a. Assessee carries on at least two units

   b. Out of such units at least one is eligible for deduction and at least one is not eligible for exemption

   c. Goods or services are transferred from eligible unit to any non eligible unit or vice versa

   d. The consideration for such transfer does not correspond to the market value of such goods as on the date of transfer

   then, deduction shall be computed as if the transfer, in either case, had been made at the market value$ of such goods or services as on that date.

   $ Market value in relation to any goods or services means:

   i. Where the transfer of such goods or services is a specified domestic transaction referred to in section 92BA the arm's length price as defined in sec. 92F(ii);

   ii. The price that such goods or services would ordinarily fetch in the open market

5. Double deduction is not allowed

   a) Where any deduction is allowed under this section, then deduction shall not be allowed under other provisions; and

   b) Deduction, in any case, cannot exceed the profits and gains of eligible business of undertaking.

6. The profits and gains of an eligible business shall for the purpose of determining the quantum of deduction for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, be computed as if such eligible business was the only source of income of the assessee during the previous year relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made.

7. No deduction shall be allowed if the deduction has not been claimed in the return of income.

8. No benefit is available in relation to a specified business which is in the nature of a works contract awarded by any person (including the Central or State Government) and executed by the undertaking or enterprise.

3.3.19 Deduction in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone [Sec. 80-IAB]

Applicable to

All assessee

Conditions to be satisfied

1. It must be engaged in the business of developing a Special Economic Zone (SEZ).

2. Such SEZ shall be notified on or after 1-4-2005 under the Special Economic Zones Act, 2005

3. Such development has begun before 01-04-2017.

Quantum of deduction

100% of profit derived from such business for 10 consecutive assessment years out of 15 years commencing from the year in which such SEZ has been notified.

Other Points

a. Where a developer transfers the operation and maintenance of such SEZ to another developer, then such other developer shall claim deduction for remaining period.

b. From the date of application of this section, no deduction shall be available u/s 80-IA for SEZ notified on or after 1-4-2005.

c. Where any deduction is allowed under this section, then deduction shall not be allowed under any other provisions.

d. Return of income in time: Refer sec. 80-IA

e. Audit report: Refer sec. 80-IA

f. Power of Assessing Officer to recompute profit: Refer sec. 80-IA

g. No deduction shall be allowed if the deduction has not been claimed in the return of income.

h. Profit from such business is only source of income: Refer sec. 80-IA

3.3.20 Deduction in respect of eligible start-up [Sec. 80-IAC]

Applicable to

An eligible start-up

- Eligible start-up means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions:
  a. it is incorporated on or after 01-04-2016 but before 01-04-2025;
  b. the total turnover of its business does not exceed ₹ 100 crore in the previous year relevant to the assessment year for which deduction is claimed; and
  c. it holds a certificate of eligible business from the notified Inter-Ministerial Board of Certification.
- Eligible business means a business carried out by an eligible start up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation.

Conditions to be satisfied

1. **Eligible Business:** The assessee should be engaged in the eligible business
2. **New Business:** Business should not be formed by splitting up or reconstruction of an existing business.

   Exception

   However, this condition is not applicable when conditions given u/s 33B are satisfied, which are as follows -

   - The business of an industrial undertaking carried on in India is discontinued in any previous year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee being used for business purpose.
   - Such damage was caused due to -
     i. flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or
     ii. riot or civil disturbance; or
     iii. accidental fire or explosion; or

iv. action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

- Such business is re-established, reconstructed or revived by the assessee at any time before the expiry of 3 years from the end of previous year in which damage was caused.

3. **New Plant and Machinery:** Such undertaking should not be formed by transfer of machinery or plant previously used for any purpose.

Exception

i. A plant or machinery is deemed as new asset if the following conditions are satisfied -

   a. Such plant or machinery is imported into India;

   b. Depreciation on such asset has not been allowed under this Act to any person; and

   c. The assessee was the first user of such asset in India.

ii. Where the total value of old plant and machinery transferred to the new business does not exceed 20% of total value of plant and machinery used in such business, then this condition is deemed to be satisfied.

Quantum of deduction

100% of profit derived from such business for 3 consecutive assessment years out of 10 years commencing from the year in which such eligible start-up is incorporated.

Other Points

a. Where any deduction is allowed under this section, then deduction shall not be allowed under any other provisions.

b. Audit report: Refer sec. 80-IA

c. Return of income in time: Refer sec. 80-IA

d. Power of Assessing Officer to recompute profit: Refer sec. 80-IA

e. No deduction shall be allowed if the deduction has not been claimed in the return of income.

f. Profit from such business is only source of income: Refer sec. 80-IA

3.3.21 Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings [Sec. 80-IB]

Processing, preservation and packaging of fruits or vegetables, meat or integrated business of handling, storage & transportation of foodgrains [Sec.80-IB (11A)]

Applicable to

All assessee

Conditions to be satisfied

1. The undertaking shall be engaged in -

   - the business of processing, preservation and packaging of fruits or vegetables; or
   - the business of processing, preservation and packaging of meat and meat products or poultry or marine or dairy products; or
   - the integrated business of handling, storage and transportation of foodgrains.

2. Commencement of operations: The aforesaid business begins to operate on or after following period:

Nature of business	Business begins to operate
Processing, preservation and packaging of meat and meat products or poultry or marine or dairy products	On or after 01-04-2009
Other specified business	On or after 01-04-2001

Quantum of deduction

Period of deduction	Percentage of deduction
First 5 years	100% of profit from such business
For next 5 years	25% (30% in case of company) of profit from such business

Other Points applicable on any undertaking covered by Sec. 80IB

For followings, refer sec. 80-IA

1. Return of income in time
2. Audit Report
3. Power of Assessing Officer to recompute profit
4. Double deduction is not allowed
5. Computation of profit of eligible business
6. Deduction must be claimed in the return of income

3.3.22 Deduction in respect of profits and gains from Housing Projects [Sec. 80-IBA]

Applicable to

All assessee

Conditions to be satisfied

1. Housing Project or Rental Housing Project: The assessee is engaged in the business of
   a. developing and building housing projects; or
   b. developing and building rental housing project.

   Housing project shall be a project which fulfils the following conditions:
   a. The project is approved by the competent authority after 01-06-2016, but on or before 31-03-2022.
   b. The project is completed within a period of 5 years from the date of approval by the competent authority.
      - Where the approval in respect of a housing project is obtained more than once, the project shall be deemed to have been approved on the date on which the building plan of such housing project was first approved by the competent authority;
      - The project shall be deemed to have been completed when a certificate of completion of project as a whole is obtained in writing from the competent authority.
   c. The carpet area of the shops and other commercial establishments included in the housing project does not exceed 3% of the aggregate carpet area.
   d. The project should satisfy the following measuring criteria:

Location of the plot	Minimum Size of plot of land	Maximum Size of carpet area of the residential unit	Minimum utilisation of Floor Area Ratio
Within the metropolitan cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurugram, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region)	1,000 sq. meters	60 sq. meters	90%
Any other place	2,000 sq. meters	90 sq. meters	80%

e. The project is the only housing project on such plot of land;

f. The stamp duty value of a residential unit in the housing project does not exceed ₹ 45 lakh.

g. Where a residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to the individual or the spouse or the minor children of such individual;

h. The assessee maintains separate books of account in respect of the housing project.

Quantum of Deduction

100% of the profits derived from such business.

Other Points

- Deduction is not available to any assessee who executes the housing project as a works-contract awarded by any person (including the Central Government or the State Government).
- Where the housing project is not completed within the specified period, then deduction has been claimed and allowed earlier, shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the period for completion so expires.
- Double deduction is not available.
- Return of income in time: Refer sec. 80-IA
- Competent authority means the authority empowered to approve the building plan by or under any law for the time being in force.
- Floor Area Ratio means the quotient obtained by dividing the total covered area of plinth area on all the floors by the area of the plot of land.
- Housing project means a project consisting predominantly of residential units with such other facilities and amenities as the competent authority may approve subject to the provisions of this section.
- Rental housing project means a project which is notified by the Central Government on or before 31-03-2022 and fulfils such conditions as may be specified in the said notification.
- Residential unit means an independent housing unit with separate facilities for living, cooking and sanitary requirements, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.
- Carpet area means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment.

3.3.23 Special provisions in respect of certain undertakings in North-Eastern States [Sec. 80-IE]

Applicable to

All assessee

Conditions to be satisfied

1. **Time and Nature of business:** The assessee begins following activity during 01-04-2007 and 31-03-2017:
   a. manufacture or production of any eligible article or thing; or

      Eligible article or thing means the article or thing other than the following:
      i. Tobacco and manufactured tobacco substitutes;
      ii. Pan masala;
      iii. Plastic carry bags of less than 20 microns as specified by the Ministry of Environment and Forests; and
      iv. Goods produced by petroleum oil or gas refineries.

   b. undertakes substantial expansion; or

      Substantial expansion means increase in the investment in the plant and machinery by at least 25% of the book value of plant and machinery (before taking depreciation in any year), as on the first day of the previous year in which the substantial expansion is undertaken.

   c. carry on any eligible business.
      i. hotel (not below two star category);
      ii. adventure and leisure sports including ropeways;
      iii. providing medical and health services in the nature of nursing home with a minimum capacity of 25 beds;
      iv. running an old-age home;
      v. operating vocational training institute for hotel management, catering and food craft, entrepreneurship development, nursing and para-medical, civil aviation related training, fashion designing and industrial training;
      vi. running information technology related training centre;
      vii. manufacturing of information technology hardware; and
      viii. Bio-technology
2. **Location:** Such activity takes place in any of the North-Eastern States.
   North-Eastern States means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura.
3. **New Business:** It is not formed by splitting up, or the reconstruction, of a business already in existence
   Exception: Refer sec. 80-IAC
4. **New Plant & Machinery:** It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.
   Exception: Refer sec. 80-IAC
5. Return of income is required to be furnished within due date.
6. A report of audit from chartered accountant (certifying that the deduction has been correctly claimed) shall be furnished one month prior to the due date of filing of the return of income.

Quantum of deduction

100% of the profits and gains of such business for a period of 10 consecutive assessment years, beginning from the assessment year relevant to the previous year in which such undertaking begins to manufacture or produce articles or things, or completes substantial expansion.

Other Points

a. Double deduction is not available.

b. Power of Assessing Officer to recomputed profit: Refer sec. 80-IA

c. Profit from such business is only source of income: Refer sec. 80-IA

d. No deduction shall be allowed if the deduction has not been claimed in the return of income.

3.3.24 Deduction u/s 80JJA in respect of profits and gains of business of collecting and processing of bio-degradable waste

Applicable to

All assessee

Conditions to be satisfied

Assessee is engaged in business of collecting and processing or treating of bio-degradable waste for –

a) generating power; or b) producing bio-fertilizers, bio-pesticides or other biological agents; or c) producing bio-gas; or d) making pellets or briquettes for fuel; or e) organic manure.

Quantum of deduction

100% of the profit derived from such business for a period of 5 consecutive years from the year of commencement of such business.

Other Points

a. Double deduction is not allowed.

b. Inter-unit transfer: Refer sec. 80-IA

c. Return of income in time: Refer sec. 80-IA

d. No deduction shall be allowed if the deduction has not been claimed in the return of income.

3.3.25 Deduction u/s 80JJAA in respect of employment of new workmen

Available under both tax regimes

Applicable to

Any assessee subject to tax audit under sec. 44AB

Conditions to be satisfied

1. **New Business:** Business is not formed by splitting up, or the reconstruction, of an existing business.

   Exception:

   However, this condition is not applicable when conditions given u/s 33B are satisfied, which are as follows -

   - The business of an industrial undertaking carried on in India is discontinued in any previous year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee being used for business purpose.
   - Such damage was caused due to -
     i. flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or
     ii. riot or civil disturbance; or
     iii. accidental fire or explosion; or
     iv. action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

- Such business is re-established, reconstructed or revived by the assessee at any time before the expiry of 3 years from the end of previous year in which damage was caused.

2. **No business reorganization:** Business is not acquired by the assessee by way of transfer from any other person or as a result of any business reorganization.
3. **Audit:** Books of account should be audited and report thereof should be submitted one month prior to the due date of the filing of the return of income.
4. **Claimed in the return:** No deduction shall be allowed if the deduction has not been claimed in the return of income.

Quantum of deduction

30% of additional employee cost incurred in the course of such business in the previous year, for 3 assessment years including the assessment year relevant to the previous year in which such employment is provided

Other Points

- Return of income is required to be furnished within due date of filing of return as specified u/s 139(1).
- Additional employee cost means the total emoluments paid or payable to additional employees employed during the previous year.
  - In the case of an existing business, the additional employee cost shall be nil, if:
    a. there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year;
    b. emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through other specified electronic modes###.
  - In the first year of a new business, emoluments paid@@@ or payable to employees employed during that previous year shall be deemed to be the additional employee cost.
- Additional employee means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year, but does not include:
  a. an employee whose total emoluments are more than ₹ 25,000 per month; or
  b. an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; or
  c. an employee employed for a period of less than 240 days (150 days in case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products) during the previous year; or

  Taxpoint: Where an employee is employed during the previous year for a period of less than 240 days (or 150 days), but is employed for a period of 240 days (or 150 days) in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year.
  d. an employee who does not participate in the recognised provident fund.

  Taxpoint: Casual employees don not participate in RPF.
- Emoluments means any sum paid or payable to an employee in lieu of his employment by whatever name called, but does not include:
  a. any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee under any law for the time being in force; and

In case of companies and co-operative societies, deduction would not be available if they opt for the special provisions u/s 115BAA/115BAB and section 115BAD/115BAE, respectively.

@@@ In case of companies and co-operative societies, deduction would not be available if they opt for the special provisions u/s 115BAA/115BAB and section 115BAD/115BAE, respectively.

b. any lump-sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.

Provision Illustrated

ABC Ltd., an existing company appoints the following employees during the F.Y. 2024-25.

Case	No. of employees	Date of appointment	Salary (in ₹ per person per month)
1	10	02-May-2024	25,000
2	15	01-June-2024	28,000
3	20	01-March-2025	24,500

Compute deduction u/s 80JJAA

Solution

Computation of deduction u/s 80JJAA

Case	Total salary (in ₹)	Amount of deduction
1	27,50,000	₹ 8,25,000 i.e., 30% of ₹ 27,50,000
2	42,00,000	Nil as salary exceeds ₹ 25,000 p.m.
3	4,90,000	Nil as employees are not employed for the required number of days during the previous year

Provision Illustrated

ABC Ltd., an existing company appoints 50 employees during the F.Y. 2024-25, details are as under

No. of Employees	Salary p.m.	No. of days employed	Participation in RPF	Mode of payment
25	20,000	Out of 25, 2 were employed for less than 240 days	5 employees do not participate in RPF	Through Electronic mode
25	30,000	Out of 25, 5 were employed for less than 240 days	2 employees do not participate in RPF	Out of 25, salary to 2 employees paid in cash

Compute deduction u/s 80JJAA

Solution

Calculation of number of eligible additional employees

Particular	No. of Employees
Total no. of employees	50
Less: Employees whose emoluments are more than ₹ 25,000/-	(25)
Less: Employees who do not participate in RPF (out of those whose salary is ₹ 20,000/-)	(5)
Less: Employees who employed less than 240 days (out of those whose salary is ₹ 20,000/-)	(2)
No. of eligible additional employees	**18**

Deduction u/s 80JJAA = 30% of [₹ 20,000 × 18 × 12] = ₹ 12,96,000.

3.3.26 Deduction u/s 80LA in respect of certain incomes of Offshore Banking Units

Applicable to

- A scheduled bank owning an offshore banking unit in a Special Economic Zone (SEZ); or
- Any other bank incorporated by or under the laws of a country outside India and having an Offshore banking unit in SEZ.
- Unit of an International Financial Services Center.

Offshore Banking Unit means a branch of a bank in India located in the SEZ and has obtained the permission u/s 23(1)(a) of the Banking Regulation Act, 1949.

International Financial Services Center means an International Financial Services Center which has been approved by the Central Government u/s 18(1) of the Special Economic Zones Act, 2005.

Taxpoint:

- Assessee must be a scheduled bank;
- It has a branch in India located in SEZ

Conditions to be satisfied

1. **Certificate of a chartered accountant:** Assessee must furnish along with the return of income, a report of a chartered accountant in Form 10CCF, certifying that the deduction has been correctly claimed.
2. **Submission of permission:** A copy of the permission obtained u/s 23(1)(a) of the Banking Regulation Act, 1949 or copy of permission or registration obtained under the International Financial Services Centre Authority Act, 2019 is required to be furnished along with the return of income.

Quantum of deduction

In case of Unit of an International Financial Services Center	
– For any 10 consecutive assessment years, at the option of the assessee, out of 15 years, beginning with the assessment year relevant to the previous year in which the permission, u/s 23(1)(a) of the Banking Regulation Act, 1949 or permission or registration under the Securities and Exchange Board of India Act, 1992 or permission or registration under the International Financial Services Centre Authority Act, 2019 was obtained.	100% of the income
In any other case	
– For first 10 consecutive years beginning with the year in which the permission u/s 23(1)(a) of the Banking Regulation Act, 1949 was obtained or permission or registration under the SEBI Act, 1992 or any other relevant law was obtained.	100% of the income
Income here means – (a) Income from an offshore banking unit in a SEZ; (b) Income from the business referred in Sec. 6(1) of the Banking Regulation Act, 1949 with an undertaking located in a SEZ or any other undertaking which develops or develops and operates or operates and maintains a SEZ;	

@@ Includes payment made through credit card, debit card, net banking, IMPS (Immediate Payment Services), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Fund Transfer), BHIM (Bharat Interface for Money) Aadhar Pay].

@@@ Paid through an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through other specified electronic modes

(c) Income from any Unit of the International Financial Services Centre from its business for which it has been approved for setting up in such a Centre in a Special Economic Zone;

(d) Income from the transfer of an asset, being an aircraft or a ship, which was leased by such unit to a person, subject to the condition that the unit has commenced operation on or before 31-03-2025.

Other Points

a. Double deduction is not allowed

b. Inter-unit transfer: Refer sec. 80-IA

c. Return of income in time: Refer sec. 80-IA

d. No deduction shall be allowed if the deduction has not been claimed in the return of income.

3.3.27 Deduction in respect of inter-corporate dividend [Sec. 80M]

Applicable to

Domestic Company

Conditions to be satisfied

a. **Dividend Income:** Gross total income of the assessee includes any income by way of dividends from any other domestic company or a foreign company or a business trust.

b. **Dividend Distribution:** Assessee distributes dividend among its shareholder within due date

- Due date means the date one month prior to the due date for furnishing the return of income.

Quantum of Deduction

Minimum of the following:

- Dividend so received by the assessee; or
- Dividend distributed by the assessee within due date

Other Points

No Double Deduction: Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

3.3.28 Deduction u/s 80QQB in respect of royalty income of authors of books

Not Available under the default tax regime

Applicable to

A resident individual (irrespective of his citizenship)

Conditions to be satisfied

1. **Profession of assessee:** Assessee is an author or joint author of a book.
2. **Nature of book:** The book should be a work of literary, artistic or scientific nature. It shall not include brochures, commentaries, diaries, guides, magazines, journals, newspapers, pamphlets, text-books for school, tracts and other publications of similar nature, by whatever name called.
3. **Nature of income:** Gross total income of the assessee includes any income by way of –

a. any lump sum consideration for the assignment or grant of any of his interest in the copyright of book; or

b. royalty or copyright fees (whether receivable in lump sum or otherwise) in respect of the book. earned in India or earned from any source outside India.

Taxpoint: Consideration includes advance receipt of such nature, which is not returnable.

However, when such income is earned from a source outside India then –

- **Remittance:** Such receipts should be brought into India by the assessee in convertible foreign exchange[#] within 6 months from the end of the previous year or within such further period as the competent authority[*] may allow in this behalf; and
- **Certificate in Form 10H:** The assessee must furnish a certificate in the Form 10H (obtained from the prescribed authority) along with his return of income.

[#] Convertible foreign exchange means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purpose of the Foreign Exchange Regulation Act, 1973 and any rules made thereunder.

Competent authority means the Reserve Bank of India or such other authority as is authorized under any law for the time being in force for regulating payments and dealings in foreign exchange.

4. **Report:** Assessee must furnish a certificate along with the return of income in Form 10CCD duly verified by the person responsible for making such payment to the assessee.

Quantum of deduction

1. Deduction in case of lump sum royalty in lieu of all rights of the assessee in the book :-

   Minimum of the following –

   a. 100% of such income; or

   b. ₹ 3,00,000

2. Deduction in other case –

Case 1	Case 2
Royalty or fee is not more than 15% of value of the book	Royalty or fee is more than 15% of value of the book
Minimum of the following – ⊙ 100% of such income; or ⊙ ₹ 3,00,000	Minimum of the following – ⊙ 100% of such income considering the royalty as 15% of value of book sold; or ⊙ ₹ 3,00,000

Taxpoint: In case of royalty or copyright fees i.e. not a lump sum consideration, deduction shall be restricted to 15% of the value of books (before allowing expenses attributable to such income) sold during the previous year.

Computation of deduction

Income	Deduction
Income received in Lump sum	
Income earned in India	Minimum of the following – a. 100% of such income (Receipts – Expenditure relating to such income) b. ₹ 3,00,000

Income earned outside India	Minimum of the following – a. Money brought into India in convertible foreign exchange within time limit – Expenditure incurred relating to such income b. ₹ 3,00,000
Income received in a mode other than lump sum	
Income earned in India	Minimum of the following - a. 100% of income (Receipts – Expenditure relating to such income) b. 15% of sale value of the book – Expenditure relating to such income c. ₹ 3,00,000
Income earned outside India	Minimum of the following - a. Money brought in India in convertible foreign exchange within time limit– Expenditure incurred relating to such income b. 15% of sale value of the book – Expenditure incurred relating to such income c. ₹ 3,00,000

Other point

a. Double deduction is not allowed

b. Return of income in time

c. No deduction shall be allowed if the deduction has not been claimed in the return of income.

3.3.30 Deduction u/s 80RRB in respect of royalty on patents

Not Available under the default tax regime

Applicable to

A resident individual (irrespective of citizenship of the individual), being a patentee (i.e. owner or co-owner of a patent)

Patentee means a person(s) who is true and first inventor of the invention and whose name is entered on the Patent register as the patentee (as owner or co-owner of a patent) in accordance with the Patent Act, 1970.

Conditions to be satisfied

1. **Nature of income:** Assessee has earned income (either in India or outside India) by way of royalty in respect of patent registered on or after 1-4-2003 under the Patents Act, 1970.

   Taxpoint:

   - Royalty, in respect of a patent, means consideration (including any lump sum consideration) for—
     i. the transfer of all or any rights (including the granting of a licence) in respect of a patent; or
     ii. the imparting of any information concerning the working of, or the use of, a patent; or
     iii. the use of any patent; or
     iv. the rendering of any services in connection with the activities referred above.
   - It includes advance royalty, which is not refundable.
   - It does not include -
     a. any capital sum received for sale of patent, which is chargeable under the head Capital gains

b. consideration for sale of product manufactured with the use of patented process or of the patented article for commercial use .

However, when such income is earned from a source outside India, then –

- **Remittance:** Such receipts should be brought into India by the assessee in convertible foreign exchange[#] within 6 months from the end of the previous year or within such further period as the competent authority[*] may allow in this behalf; and
- **Certificate in Form 10H:** The assessee must furnish a certificate in the Form 10H from the prescribed authority along with his return of income

[#] Convertible foreign exchange means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purpose of the Foreign Exchange Regulation Act, 1973 and any rules made there under.

* Competent authority means the Reserve Bank of India or such other authority as is authorized under any law for the time being in force for regulating payments and dealings in foreign exchange.

2. **Certificate to be attached:** Assessee must furnish a certificate in Form 10CCE duly signed by the prescribed authority along with the return of income.

Prescribed authority here means Controller u/s 1(b) of the Patent Act, 1970

Quantum of deduction

Case	Deduction
Income earned in India	Minimum of the following - ➢ 100% of such income; or ➢ ₹ 3,00,000
Income earned outside India	Minimum of the following - ➢ Income in respect of money brought into India in convertible foreign exchange within prescribed time limit; or ➢ ₹ 3,00,000
Deduction should not exceed the royalty amount as per licence: Where a compulsory licence is granted in respect of any patent under the Patents Act, 1970, the income by way of royalty for the purpose of allowing deduction under this section shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act.	

Notes

a. **Revocation of patent**

Situation: Where the patent is revoked by the Controller or the High Court and the assessee is subsequently disqualified as patentee.

Treatment: Earlier deduction allowed under this section shall be deemed to be wrongly allowed and Assessing Officer has the power to rectify the assessment-order within 4 years from the end of the previous year in which such order of the High Court or the Controller was passed

b. Double deduction is not permissible

c. Return of income in time

d. No deduction shall be allowed if the deduction has not been claimed in the return of income.

3.3.31 Deduction in respect of interest on deposits in savings account [Sec. 80TTA]

Not Available under the default tax regime

Applicable to

An individual (other than senior citizen covered u/s 80TTB) or a Hindu Undivided Family

Conditions to be satisfied

Gross total income of an assessee includes any income by way of interest on deposits (not being time deposits*) in a savings account with:

– a banking company;

– a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or

– a Post Office

Quantum of deduction

Minimum of the following

a. Interest on such deposits in saving account

b. ₹ 10,000

Other Points

- As per Notification No. 32/2011 dated 03-06-2011, interest on Post Office Saving Bank is exempt u/s 10(15(i) to the extent of the interest of ₹ 3,500 (in case of single account) and ₹ 7,000 (in case of joint account)
- Where such income is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any individual of the body.

3.3.32 Deduction in respect of interest on deposits in case of senior citizens [Sec. 80TTB]

Not Available under the default tax regime

Applicable to

Senior Citizen

Conditions to be satisfied

Gross total income includes any income by way of interest on deposits with:

– A banking company applies;

– A co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or

– A Post Office

Quantum of deduction

Minimum of the following

a. Interest on such deposits

b. ₹ 50,000

* "Time deposits" means the deposits repayable on expiry of fixed periods.

Other Point

- Where such income is derived from any deposit held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed.

3.3.33 Deduction u/s 80U in respect of person with disability

Not Available under the default tax regime

Applicable to

A resident individual (irrespective of citizenship of the individual)

Conditions to be satisfied

1. **Assessee is a disable-individual:** Assessee, at any time during the previous year, is certified by the medical authority to be a person with disability.
2. **Report:** Assessee must furnish a copy of the certificate issued by the medical authority in the prescribed form along with the return of income, in respect of the assessment year for which the deduction has been claimed.

Quantum of Deduction

Assessee is suffering from severe disability (i.e. disability to the extent of 80% or more)	**₹ 1,25,000**
Assessee is suffering from disability but not severe disability (i.e. disability to the extent of 40% or more but less than 80%)	₹ 75,000
Deduction under this section is irrespective of actual expenditure incurred i.e. deduction is statutory.	

Disability, Person with disability and Person with severe disability: Refer Sec.80DD

Other points

Revision of medical certificate

Condition: Where the extent of disability requires reassessment after a period stipulated in the aforesaid certificate.

Treatment: After the expiry of previous certificate, deduction under this section shall be allowed only if a new certificate is obtained from the medical authority and a copy thereof is furnished along with the return of income.

Note: Deduction u/s 80U is for disable-assessee whereas deduction u/s 80DD is for dependant disable-relative

Illustration 33:

Mr. X, is suffering from low-vision (certified as severe disability). He has the following incomes details -

Net Salary	₹ 1,45,000
Short term capital gain	₹ 45,000
Long term capital gain	₹ 1,50,000

Mrs. X, suffering from leprosy (certified as 50% disable), is fully dependant on Mr. X. Compute his total income, if he opts for old tax regime.

Solution :

Since Mr. X is suffering from severe disability, he can claim deduction u/s 80U of ₹ 1,25,000. Further, Mrs. X is also a person with disability & dependant on Mr. X, therefore, Mr. X can also claim deduction u/s 80DD of ₹ 75,000.

Computation of total income of Mr. X for the A.Y. 2025-26

Particulars	Details	Amount
Salaries		1,45,000
Capital gains		
Short term capital gains	45,000	
Long term capital gains	1,50,000	1,95,000
Gross Total Income		3,40,000
Less: Deduction u/s		
80DD (Relative with disability)	75,000	
80U (Assessee is a person with severe disability)	1,25,000	1,90,000[1]
Total Income		**1,50,000**

[1.] Total deduction u/s 80C to 80U cannot exceed GTI excluding LTCG, STCG covered u/s 111A, and casual income like winning from lotteries, etc.

Illustration 34:

Preeti furnished the following details -

Particulars	Amount
Income from Business	
Business A (Readymade garments)	4,50,000
Business C (Processing bio-degradable wastes) (started 10 years ago)	25,000
Long term capital gain	25,000
Short term capital gain	65,000
Saving Bank interest	2,000
Interest on deposits with IDBI	1,000
Interest paid on loan taken for deposits in IDBI	1,200
Interest on NSC (including last year interest ₹ 1,500)	4,200
Investment in NSC	500
LIC premium paid on the life of dependent blind mother (Sum assured ₹ 1,00,000)	12,000
Investment in LIC annuity plan	8,000
Donation to National Defence Fund	12,500

Compute her total income, if she opts for the old tax regime, and tax liability.

Solution :

Computation of total income of Preeti for A.Y.2025-26

Particulars	Amount	Amount	Amount
Profits and gains of business or profession			
Business A		4,50,000	
Business C		25,000	4,75,000
Capital gains			

Long term capital gain		25,000	
Short term capital gain		65,000	90,000
Income from other sources			
Saving Bank interest		2,000	
Interest on deposit with IDBI	1,000		
Less: Interest paid on loan	1,200	(200)	
Interest on NSC		4,200	6,000
Gross Total Income			5,71,000
Less: Deduction u/s			
80C[$]		3,200	
80CCC (Deposit in LIC annuity plan)		8,000	
80DD (Dependent blind mother)		75,000	
80G (Donation to National Defence Fund)		12,500	
80JJA (Business of processing bio-degradable wastes)		25,000	
80TTA (Saving Bank Interest)		2,000	(1,00,700)
Total Income			**4,70,300**

Note: Tax liability is nil as total income is within exempted limit.

[$] Calculation of deduction u/s 80C

Interest on NSC (excluding last year interest i.e. ₹ 4,200 – ₹ 1,500)	₹ 2,700
Investment in NSC	₹ 500
LIC premium paid on the life of mother (Premium paid for policy taken on life of parents)	Nil
Total	**₹ 3,200**

Illustration 35:

Vikash has the following salary structure –	₹
Basic salary	80,000 p.m.
Dearness allowance	10,000 p.m.
Entertainment allowance	500 p.m.
Children education allowance (for 3 children)	1,000 p.m.
Contribution to RPF by his employer	12,000 p.m.
Own contribution to RPF	12,000 p.m.

His employer also provides rent-free furnished accommodation at Kolkata for which his employer paid ₹ 32,000 p.m. (₹ 2,000 for furniture and ₹ 30,000 for accommodation). However, he is charged ₹ 1,000 p.m. for accommodation and ₹ 1,000 p.m. for furniture.

He also supplied the following details for computing total income –

a. Fixed Deposit interest ₹ 52,000
b. Rent received ₹ 1,50,000 from a house at Mumbai
c. Income from royalty on a book (artistic nature) @ 20% ₹ 3,20,000
d. He contributed ₹ 5,000 to approved scientific research association
e. He contributed ₹ 10,000 to a political party
f. Interest on Government securities ₹ 14,000
g. Investment in PPF ₹ 25,000

h. His date of birth is 7-9-1979.

Compute total income, if he opts for the old regime.

Solution :

Computation of total income of Vikash for the A.Y.2025-26

Particulars	Amount	Amount	Amount	Amount
Salaries				
Basic			9,60,000	
Allowances				
Dearness Allowance		1,20,000		
Entertainment Allowance		6,000		
Children Education Allowance	12,000			
Less: Exempted (₹ 100 × 12 × 2)	2,400	9,600	1,35,600	
Perquisites				
Rent free furnished accommodation				
- For accommodation, lower of 10% of salary[1] or rent paid		1,09,560		
- For furniture		24,000		
		1,33,560		
Less: Rent paid for accommodation and furniture		24,000	1,09,560	
Employer's contribution to RPF		1,44,000		
Less: Exempted (12% of salary[1])		1,29,600	14,400	
			12,19,560	
Less: Standard Deduction u/s 16(ia)			50,000	11,69,560
Income from house property				
Gross Annual Value (being rent received)			1,50,000	
Less: Municipal tax paid			Nil	
Net Annual Value (NAV)			1,50,000	
Less: Deduction u/s				
24(a) Standard Deduction @ 30% of NAV		45,000		
24(b) Interest on loan		Nil	45,000	1,05,000
Income from other sources				
Fixed Deposit interest			52,000	
Royalty income			3,20,000	
Interest on Government securities			14,000	3,86,000
Gross Total Income				16,60,560
Less: Deduction u/s				
80C: Own contribution to RPF		1,20,000		
Contribution to PPF		25,000	1,45,000	
80GG (House rent paid) being minimum of -				
a) ₹ 5,000 p.m. × 12		60,000		
b) 25% of Adjusted GTI[2]		3,15,140		
c) Rent paid over 10% of Adjusted GTI[2]				
(₹ 12,000 – ₹ 1,26,056)		Nil	Nil	

Particulars	Amount	Amount	Amount	Amount
80GGA: Donation to scientific research association			5,000	
80GGC: Contribution to political party			10,000	
80QQB: Royalty income being minimum of -				
a) 100% of income		3,20,000		
b) 15% of sale value of the book [(3,20,000/20) × 15]		2,40,000		
c) Statutory amount		3,00,000	2,40,000	4,00,000
Total Income				**12,60,560**

Note

Salary for the purpose of –

Particulars	Accommodation	RPF
Basic salary	9,60,000	9,60,000
Dearness allowance	1,20,000	1,20,000
Entertainment allowance	6,000	-
Children Education allowance	9,600	-
Total	**10,95,600**	**10,80,000**

[2] Adjusted GTI = Gross taxable income – Long term capital gain – STCG being covered by sec. 111A - All deduction under 80's other than sec. 80GG – Income u/s 115A, etc.

= ₹ 16,60,560 – ₹ (1,45,000 + 5,000 + 10,000 + 2,40,000) = ₹ 12,60,560

RELIEF

When an assessee is charged for -

- Arrear or Advance salary; or
- Gratuity, Commuted pension, etc.
  - then he may fall under higher rate of tax (of progressive tax-slab) e.g. instead of 20% he may have to pay tax @ 30%. To compensate aggrieved assessee from such higher rate, sec. 89(1) provides for 'Relief'.

3.3.34 Relief [Sec. 89]

Applicable to: An assessee, who is in receipt of –

a) Arrear salary or Advance salary or in any other way is in receipt, in any one financial year, of salary for more than 12 months; or

b) Profit in lieu of salary u/s 17(3) e.g. gratuity, commuted pension, etc.; or

c) Family pension, being paid in arrears.

Note: An assessee, who receives leave encashment during continuation of his service, can also claim relief u/s 89.

Conditions to be satisfied

Charged at higher rate: Due to above receipt, total income of the assessee is assessed at a rate higher than that at which it would otherwise have been assessed.

Apply to Assessing Officer: Assessee has made an application in this behalf to the Assessing Officer.

Quantum of Relief: As computed by method provided in Rule 21A

Method of calculation of relief [Rule 21A]

Relief when salary is paid in arrears or in advance, etc

Where any portion of salary/family pension is received in arrears or in advance (hereinafter referred as additional salary), following steps are to be followed for calculating relief –

Step	Particulars
1	Calculate the tax payable for the previous year in which such additional salary is received, on: 1(a) Total income including additional salary 1(b) Total income excluding additional salary
2	Calculate the tax payable for the previous year to which such additional salary relates, on – 2(a) Total income including additional salary 2(b) Total income excluding additional salary
3	a) Add tax calculated on 1(a) and 2(b) = Tax on receipt basis b) Add tax calculated on 1(b) and 2(a) = Tax on accrual basis
4	Relief u/s 89 = Tax on receipt basis – Tax on accrual basis

Illustration 36:

Mr. Sai, an employee, furnishes the following particulars for previous year ending on 31-3-2025:

a)	Salary income as computed (after all deduction) for the year	₹ 15,07,000
b)	During the year, arrear of bonus were received (not included above) related to F.Y. 2018-19	₹ 50,000
c)	Assessed income of financial year 2018-19 (consists of salary only)	₹ 9,56,000
d)	On 25-3-2025, amount deposited in PPF A/c	₹ 50,000
e)	Income from other sources for the P.Y. 2024-25	₹ 50,000

You are requested to compute relief u/s 89(1) in terms of tax payable. The rates for the A.Y. 2019-20 are:

On first ₹ 2,50,000 - Nil
On next ₹ 2,50,000 - 5%
On next ₹ 5,00,000 - 20%
On balance - 30%
4% HEC is also applicable

Solution:

Computation of total income and tax liability

Particulars	Previous Year 2024-2425		Previous Year 2018-19	
	Including arrear bonus	Excluding arrear bonus	Including arrear bonus	Excluding arrear bonus
	Col. 1(a)	Col. 1(b)	Col. 2(a)	Col. 2(b)
Salary	15,07,000	15,07,000	9,56,000	9,56,000
Arrear salary	50,000	-	50,000	-

Particulars	Previous Year 2024-2425		Previous Year 2018-19	
	Including arrear bonus	Excluding arrear bonus	Including arrear bonus	Excluding arrear bonus
	Col. 1(a)	Col. 1(b)	Col. 2(a)	Col. 2(b)
Taxable salary	15,57,000	15,07,000	10,06,000	9,56,000
Other income	50,000	50,000	Nil	Nil
Gross Total income	16,07,000	15,57,000	10,06,000	9,56,000
Less: Deduction u/s 80C	NA	NA	Nil	Nil
Total income	16,07,000	15,57,000	10,06,000	9,56,000
Tax (including cess)	1,78,984	1,63,384	1,18,872	1,07,848

Computation of relief u/s 89

Particulars	Amount	Amount
Tax on receipt basis		
Tax calculated in Col. 1(a)		1,78,984
Tax calculated in Col. 2(b)		1,07,848
		2,86,832
Less: Tax on accrual basis		
Tax calculated in Col. 1(b)	1,63,384	
Tax calculated in Col. 2(a)	1,18,872	2,82,256
Relief u/s 89(1)		**4,576**

Hence, tax liability for A.Y.2025-26 is ₹ 1,74,408 (i.e. ₹ 1,78,984 – ₹ 4,576). i.e., ₹ 1,74,410 (after rounding off u/s 288B)

Relief when payment is in the nature of taxable gratuity

Where past services extend over a period of fifteen years

	Particulars
1	Calculate total income and tax liability considering taxable gratuity of the relevant previous year.
2	Calculate total income and tax on total income in respect of each of the 3 previous years immediately preceding the relevant previous year, adding 1/3rd of the taxable gratuity in each of the 3 years.
3	Calculate average rate of tax for each year. Average rate of tax (in %) = $\frac{\text{Tax, surcharge and cess after rebate of respective year * 100}}{\text{Total Income}}$
4	Calculate average of "average rate of tax" of 3 previous years immediately preceding the relevant previous year.
5	Calculate tax on taxable gratuity by applying average rate of tax of the relevant previous year.
6	Calculate tax on taxable gratuity by applying average of average rate of tax (as computed in step 4)
7	Relief u/s 89 = Tax as per Step 5 – Tax as per Step 6

Illustration 37:

During the previous year, Shri Prajapati received from his employer ₹ 2,00,000 as gratuity, out of which ₹ 1,10,000 is exempt u/s 10. His relevant data of last few previous years are as follows:

	P.Y.2024-25	P.Y.2023-24	P.Y.2022-23	P.Y.2021-22
Basic salary	₹ 13,46,000	₹ 8,70,000	₹ 7,70,000	₹ 6,65,000
Income from House property	₹ 41,000	₹ 18,000	₹ 20,000	₹ 20,000
Regime	Default	Old	Old	Old

Compute relief u/s 89.

Solution

Computation of Relief u/s 89 and tax liability for A.Y.2025-26

Particulars	Amount	Amount
Tax liability after cess but before relief u/s 89		1,25,216
Less: Relief u/s 89		
Tax on taxable gratuity @ Average rate of tax of P.Y.2024-25 (₹ 90,000 * 8.93%1)	8,037	
Tax on taxable gratuity @ Average of average tax of last 3 P.Y. (₹ 90,000 * 8.81%1)	7,929	(108)
Tax liability (Rounded off u/s 288B)		1,25,110

[1] Working:

Particulars	P.Y.2024-25	P.Y.2023-24	P.Y.2022-23	P.Y.2021-22
Basic	13,46,000	8,70,000	7,70,000	6,65,000
Taxable Gratuity	90,000	30,000	30,000	30,000
Gross salary	14,36,000	9,00,000	8,00,000	6,95,000
Less: Standard Deduction	75,000	50,000	50,000	50,000
Taxable Salary	13,61,000	8,50,000	7,50,000	6,45,000
Income from house property	41,000	18,000	20,000	20,000
Gross total income	14,02,000	8,68,000	7,70,000	6,65,000
Less: Deduction	-	-	-	-
Total income	14,02,000	8,68,000	7,70,000	6,65,000
Tax on above	1,20,400	86,100	66,500	45,500
Less: Rebate u/s 87A	Nil	Nil	Nil	Nil
Tax after Rebate	1,20,400	86,100	66,500	45,500
Add: Cess	4,816	3,444	2,660	1,820
Tax liability	1,25,216	89,544	69,160	47,320
Average tax on total income				
(Tax liability / Total income)	8.93%	10.32%	8.98%	7.12%
Average of average tax of last three P.Y.			8.81%	

Where past services extend over a period of 5 years but does not exceed 15 years

In this case, the calculation of relief u/s 89 is same as in case of service extending over 15 years, with only exception that instead of taking average of tax-rate of 3 years, take average tax-rate of 2 years. Similarly, taxable gratuity shall be divided in past 2 years rather than 3 years. Further, following table can be referred:

	Particulars
1	Calculate total income and tax on total income considering taxable gratuity of the relevant previous year.
2	Calculate total income and tax on total income in respect of each of the 2 previous years immediately preceding the relevant previous year, adding 1/2 of the taxable gratuity in each of the 2 years.
3	Calculate average rate of tax for each year. Average rate of tax (in %) = $\frac{\text{Tax, surcharge and education cess after rebate of respective year * 100}}{\text{Total Income}}$
4	Calculate average of "average rate of tax" of 2 previous years immediately preceding the relevant previous year.
5	Calculate tax on taxable gratuity by applying average rate of tax of the relevant previous year.
6	Calculate tax on taxable gratuity by applying average of average rate of tax (as computed in step 4)
7	Relief u/s 89 = Tax as per Step 5 – Tax as per Step 6

Where past services do not extend over five years

Relief u/s 89 is not applicable.

Relief when payment is in the nature of compensation on termination of employment

Any compensation received by the assessee from his employer on termination of his employment is eligible for relief u/s 89 subject to following conditions –

a. Employment is terminated after continuous service for not less than 3 years; and

b. The unexpired portion of term of employment is also not less than 3 years.

Method of calculating relief: In this case, calculation of relief u/s 89 is same as in case of gratuity (where service extends over 15 years).

However, where assessee claims exemption u/s 10(10C), relief u/s 89 is not available to the assessee for such compensation.

Relief when payment is in the nature of commutation of pension

In this case, calculation of relief u/s 89 is same as in case of gratuity (where service extends over 15 years).

Relief in case of other payments

In any other case, the Board may grant relief after examining circumstances of the case.

Taxation of Individual (including AMT but excluding Non-resident) & HUF

3.4

3.4.1 Computation of Total Income & Tax Liablity of Individual

Computation of Total Income requires the complete knowledge of all heads of income and deduction under Chapter VIA.

Computation of Total Income of…….. for the A.Y. 2025-26

Particulars	Amount
Salaries	***
Income from house property	***
Profits and gains of business or profession	***
Capital gains	***
Income from other sources	***
Gross Total Income	****
Less: Deductions u/s 80C to 80U (subject to Max. of GTI before casual income, STCG covered u/s 111A& LTCG) [Deductions are subject to regime]	***
Total Income / Taxable Income (Rounded off u/s 288A)	****

Computation of Tax Liability of Mr. X …….. for the A.Y. 2025-26

Particulars	Rate	Details	Amount
Total Income other than STCG u/s 111A, LTCG & casual income [as per regime]			***
Add: Tax on casual income	30%		***
Add: Tax on LTCG	12.5% / 20% / 10% / 0%		***
Add: Tax on STCG covered u/s 111A	15% / 20%		***
Total tax liability before rebate and cess			**PQR**
Less: Rebate u/s 87A			**
			STY
Add: Surcharge			**
			ABC
Add: Health and Education cess @ 4%			**
Tax liability after cess			***

Particulars	Rate	Details	Amount
Less: Relief u/s 86, 89, 90 & 91			**
Tax liability			***
Less: Advance Tax		***	
Less: Tax Deducted / Collected at Source		***	
Less: Any other prepaid tax		***	***
Tax Payable (if + ve) or Refundable (if – ve) (Rounded of u/s 288B)			***

General Illustrations:

Illustration 36:

Determine the tax liability of Mr. Ratan under the old tax regime, who is a handicapped, for the A.Y.2025-26:

Particulars	Amount
Net salary	2,85,000
Annual value of let-out house property	60,000
Lottery income	50,000
Taxable business & profession income	50,000
He paid LIC premium	10,000
Mr. Ratan deposited in LIC annuity plan ₹ 12,000 & paid medical insurance premium ₹ 5,000.	

Solution :

Computation of Total Income of Mr. Ratan for the A.Y. 2025-26

Particulars	Details	Amount
Salaries		
Net salary		2,85,000
Income from house property		
Annual value of let-out house property	60,000	
Less: Standard deduction u/s 24(a)	18,000	42,000
Profits & gains of business or profession		50,000
Income from other sources		
Lottery income		50,000
Gross Total Income		4,27,000
Less: Deduction u/s		
80C (LIC Premium)	10,000	
80CCC (Deposit in LIC annuity plan)	12,000	
80D (Medical insurance premium paid)	5,000	
80U (Assessee is handicapped)	75,000	1,02,000
Total Income		3,25,000

Computation of Tax liability of Mr. Ratan for the A.Y. 2025-26

Particulars	Rate	On	Details	Amount
Casual income (Note) ₹ 50,000	30%			15,000
Other Income (Note)				
Upto ₹ 2,50,000	-		-	
From ₹ 2,50,001 to ₹ 2,75,000	5%	25,000	1,250	1,250
Tax Liability				16,250
Less: Rebate u/s 87A				12,500
				3,750
Add: Health & Education cess	4% of ₹ 3,750			150
Tax and cess payable				3,900

Note: Taxable income can be divided as follows:

– Casual income ₹ 50,000 on which tax @ 30% is applicable, and

– Income other than casual income ₹ 2,75,000 (being ₹ 3,25,000 – ₹ 50,000) on which slab is applicable.

Illustration 37:

Compute taxable income and tax liability (under the old tax regime) of Sri Dev from the following information:

a. He is working with X Ltd. for a basic of ₹ 24,000 p.m. and dearness allowance ₹ 2,000 p.m. Bonus ₹ 50,000

b. He and his employer contribute to RPF @ 6% of salary.

c. His income from business & profession is ₹ 52,000

d. During the year, interest on fixed deposit ₹ 5,000

e. LIC premium paid ₹ 4,000

Solution :

Computation of Total Income of Sri Dev for the A.Y. 2025-26

Particulars	Details	Amount
Salaries		
Basic	2,88,000	
Bonus	50,000	
Dearness allowance	24,000	
Employer's contribution to RPF (as less than 12% of salary)	Nil	
Gross Salary	3,62,000	
Less: Standard Deduction u/s 16(ia)	50,000	3,12,000
Profits & gains of business or profession		52,000
Income from other sources		
Interest on Fixed deposit		5,000
Gross Total Income		3,69,000
Less: Deduction u/s 80C[1]		22,720
Total Income		3,46,280

Computation of Tax Liability for the A.Y. 2025-26

Income	Rate	On	Tax
Upto ₹ 2,50,000	-		-
From ₹ 2,50,001 to ₹ 3,46,280	5%	96,280	4,814
Tax liability			4,814
Less: Rebate u/s 87A			4,814
			Nil
Add: Health and Education cess			Nil
Tax and cess payable			Nil

1. Computation of deduction u/s 80C

Particulars	Amount
LIC premium paid	4,000
Employees contribution to RPF (6% of basic and DA)	18,720
Total	**22,720**

Illustration 38:

Anil (aged 67 years) is an employee of a Government organisation at Burdwan. During the year ending 31.3.2025, he received the following income from his employer:

	₹
Salary	20,000 p.m.
Dearness allowance	4,000 p.m.
Entertainment allowance	6,500 p.m.
Annual bonus	20,000

Rent-free unfurnished accommodation of which licence fee is ₹ 30,000 whereas fair rental value is ₹ 1,00,000.

Find his taxable income and tax liability, under the old tax regime, for the assessment year 2025-26 on the basis of the following further information:

a. His own contribution to a Provident Fund is ₹ 30,000 and his employer's contributed the same amount.

b. He pays life insurance premium ₹ 30,000 p.a.

Solution :

Computation of Total Income of Anil for the A.Y. 2025-26

Particulars	Details	Amount	Amount
Salaries			
Basic salary			2,40,000
Bonus			20,000
Allowances:			
Dearness allowance		48,000	
Entertainment allowance		78,000	1,26,000
Perquisite u/s 17(2):			
Rent free accommodation	Licence fee		30,000
Employer's contribution to PF	Contribution to SPF		Nil
Gross Taxable Salary			4,16,000

Particulars	Details	Amount	Amount
Less: Deduction u/s			
16(ia) Standard Deduction		50,000	
16(ii) Entertainment allowance (Least of the followings): - 20% of basic 48,000 - Maximum limit 5,000 - Actual amount 78,000	He is a Government employee	5,000	45,000
Gross Total Income			3,61,000
Less: Deduction u/s			
80C	Note 1		60,000
Total Income			**3,01,000**

Computation of Tax Liability of Mr. Anil for the A.Y.2025-26

Income	Rate	On	Tax
Upto ₹ 3,00,000	-		-
From ₹ 3,00,001 to ₹ 3,01,000	5%	50	50
Tax liability before cess			50
Less: Rebate u/s 87A			50
Tax and cess payable			Nil

1. Computation of Deduction u/s 80C

Particulars	Amount
Insurance premium	30,000
Employee's own contribution to SPF	30,000
Total	60,000

Illustration 39:

Mrs. Ria (age 46 years), a professor in a college furnishes the following particulars of her income for the previous year 2024–25:

	₹
a. Income from salary	3,51,000
b. Income from House Property	
i. Rent Received	24,000
ii. Municipal Tax	2,000
c. Income from other sources	
iii. Bank interest on fixed deposit	12,000
iv. Dividend from Indian Company	10,000
v. Examiner's remuneration from Calcutta University	5,700
c. Deposited in P.P.F.	40,000
d. Own Contribution to R.P.F.	12,000
e. Paid premium on insurance on own health	16,000
f. Donated ₹ 10,000 to National Relief Fund and ₹ 15,000 to a trust registered u/s 80G(5)	

From the above information, compute total income and tax liability (under the old tax regime) of Mrs. Ria for the assessment year 2025–26, if she has opted for old tax regime.

Solution :

Computation of total income of Mrs. Ria for the A.Y. 2025-26

Particulars	Amount	Amount	Amount
Salaries			3,51,000
Income from house property			
Gross Annual Value being Rent Received		24,000	
Less: Municipal Tax paid		2,000	
Net Annual Value (NAV)		22,000	
Less: Standard Deduction u/s 24(a) [30% of NAV]		6,600	15,400
Income from other sources			
Bank Interest on fixed deposit		12,000	
Dividend from Indian companies		10,000	
Examiner's Remuneration		5,700	27,700
Gross Total Income			**3,94,100**
Less: Deductions			
- u/s 80C			
Own Contribution to RPF	12,000		
Deposit in PPF	40,000	52,000	
- u/s 80D (Mediclaim)		16,000	
- u/s 80G			
Donation to National Defence Fund		10,000	
Donation to Trust (50%#)		7,500	85,500
Total Income			**3,08,600**
Tax on above [(₹ 2,50,000 x 0%) + (58,600 x 5%)]			2,930
Less: Rebate u/s 87A			2,930
Tax Payable			**Nil**

As payment is within the limit

Illustration 40:

Sri Chandan Saha furnished the following information for the previous year 2024-25:

	₹
Income from salary (net)	6,00,000
Income from house property	1,40,000
Short-term capital loss	15,000
Long-term capital gain on 20-06-2024	40,000
Interest on bank fixed deposit	25,000
Dividend from Indian Company	10,000

He made the following payments:

i. Life insurance premium on own life ₹ 25,000 (sum assured ₹ 2,00,000 taken on 15.10.2024)
ii. Deposit in Public Provident Fund ₹ 1,40,000
iii. Own contribution to Recognised Provident Fund ₹ 20,000
iv. Medical insurance premium on own health ₹ 10,000 and on the health of spouse ₹ 8,000 paid by cheque.

Compute his income and tax payable (under the old tax regime) for the assessment year 2025-26.

Solution :

Computation of total income of Sri Chandan Saha for the A.Y. 2025-26

Particulars	Amount	Amount	Amount
Income from salary			6,00,000
Income from house property			1,40,000
Capital Gains			
Long term capital gain		40,000	
Less: Short term capital loss		15,000	25,000
Income from other sources			
Interest on bank fixed deposit		25,000	
Dividend from Indian companies		10,000	35,000
Gross Total Income			**8,00,000**
Less: Deductions			
- u/s 80C			
LIC (Max. upto 10% of sum assured)	20,000		
Deposit in PPF	1,40,000		
Own contribution to RPF	20,000		
Max. Limit	1,80,000	1,50,000	
- u/s 80D (Mediclaim)		18,000	1,68,000
Total Income			**6,32,000**

Computation of Tax liability of Sri Chandan Saha for the A.Y. 2025-26

Particulars	Rate	On	Details	Amount
LTCG of ₹ 25,000	20%			5,000
Other Income (Note)				
Upto ₹ 2,50,000	-		-	
From ₹ 2,50,001 to ₹ 5,00,000	5%	2,50,000	12,500	
From ₹ 5,00,001 to ₹ 6,07,000	20%	1,07,000	21,400	33,900
Tax Liability				38,900
Less: Rebate u/s 87A				-
				38,900
Add: Health and Education cess	4% of ₹ 38,900			1,556
Tax and cess payable				**40,456**
Rounded off u/s 288B				40,460

3.4.2 Alternate Minimum Tax (AMT) [Sec. 115JC]

Applicable to

All assessee (other than company) who has claimed any deduction under:

- Sec. 80H to Sec. 80RRB (other than sec. 80P); or
- Sec.10AA
- Sec.35AD

Exception:

The provisions shall not apply to an individual or a HUF or an AOP or a BOI, whether incorporated or not, or an artificial juridical person, if the adjusted total income of such person does not exceed ₹ 20 lakh.

Taxpoint:

- The exception is not applicable in case of Firm and Limited Liability Partnership. That means, AMT is applicable on LLP / Firm (claiming deduction under aforesaid section) even though adjusted total income does not exceed ₹ 20 lakh.
- The provisions of this section shall apply to a person who has exercised the option referred to in sec. 115BAC or 115BAC(6) In other words, the provision of AMT is applicable only if the assessee is taxable under old tax regime. However, if the assessee is taxable under default tax regime, the provision of AMT is not applicable.
- Further, the provision of AMT is not applicable in case of co-operative society paying tax as per provision of sec. 115BAE(5)
- The provision is not applicable to the specified fund referred to in clause (c) of the Explanation to sec. 10(4D).

Scheme of Alternate Minimum Tax (AMT)

Step 1	Compute regular income tax liability (before Cess) of the assessee covered under these provisions		**A**	****
Step 2	Compute Adjusted Total income of the assessee i.e.			*****
	Total income of the assessee	****	**B**	
	Add:			
	⊙ Deduction claimed u/s 80H to sec. 80RRB (other than sec. 80P)	***	**C**	
	⊙ Deduction claimed u/s 35AD *less* Depreciation u/s 32	***	**D**	
	⊙ Deduction u/s 10AA	***	**E**	
	Adjusted Total Income	****	**F**	
	Note: i. If 'C', 'D' and 'E' is zero, then these provisions are not applicable to any assessee. ii. if 'F' does not exceed Rs.20 lakh, then these provisions are not applicable in case of an Individual / HUF / AOP / BOI / Artificial juridical person. However, the provision is applicable on LLP / Firm.			
Step 3	Compute Alternate Minimum Tax (AMT) [Being 18.5% of Adjusted Total Income]		**G = F * 18.5%**	****

Step 4	Income Tax liability	**Higher of A & G**	****
	Add: Health & Education Cess		**
	Tax liability after Cess		****

Impact where AMT is applicable i.e., case where value of Step 3 is higher than value of Step 1

a. Adjusted total income (as computed in step 2) shall be deemed as total income of the assessee.

b. Tax liability of the assessee shall be 18.5% (+ surcharge + cess) of adjusted total income of the assessee.

Exceptions

- In case of a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, AMT shall be computed considering 9% (instead of 18.5%) of adjusted total income.
- In case of co-operative society, AMT shall be computed considering 15% (instead of 18.5%) of adjusted total income.

Taxpoint: Rate of AMT are as under:

Assessee	Rate of AMT
Unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange	9%
Co-operative society	15%
Other	18.5%

a. A report in Form 29C from a chartered accountant is required to be upload one month prior to the due date of furnishing of return of income u/s 139(1).

b. All other provisions of the Act, like advance tax, interest, etc. is applicable to such assessee.

Provision Illustrated

Compute tax of the following assessee:

Particulars	Mr. W	Mr. X	Mr. Y	A LLP	B LLP
Gross Total Income being Business Income	15,00,000	25,00,000	27,00,000	32,00,000	8,00,000
Deduction u/s 80C	1,00,000	1,00,000	1,00,000	Nil	Nil
Deduction u/s 80G	25,000	1,00,000	Nil	1,00,000	1,00,000
Deduction u/s 80IE	7,75,000	Nil	8,00,000	Nil	2,00,000
Total Income	**6,00,000**	**23,00,000**	**18,00,000**	**31,00,000**	**5,00,000**
Regular Tax	32,500	5,02,500	3,52,500	9,30,000	1,50,000
Adjusted Total Income	13,75,000	23,00,000	26,00,000	31,00,000	7,00,000
Whether sec. 115JC is applicable or not [1] As adjusted total income does not exceed ₹20 lakh [2] As no deduction is claimed u/s 80H to 80RRB (other than sec. 80P) or u/s 10AA	No[1]	No[2]	Yes	No[2]	Yes
Alternate Minimum Tax (AMT) u/s 115JC [18.5% of adjusted total income]	NA	NA	4,81,000	NA	1,29,500

Tax (Higher of Regular Tax and AMT)	**32,500**	**5,02,500**	**4,81,000**	**9,30,000**	**1,50,000**
Add: Health & Education Cess	1,300	20,100	19,240	37,200	6,000
Tax and Cess Liability (Rounded off)	**33,800**	**5,22,600**	**5,00,240**	**9,67,200**	**1,56,000**

Tax credit for alternate minimum tax [Sec. 115JD]

- The excess of alternate minimum tax paid over the regular income-tax payable of that year shall be allowed as tax credit.
- Mathematically, tax credit available = Tax paid u/s 115JC – Regular Tax payable
- However, no interest shall be payable on the tax credit allowed.
- The amount of tax credit determined shall be carried forward and set off but such carry forward shall not be allowed beyond the 15th assessment year immediately succeeding the assessment year in which tax credit becomes allowable.
- The tax credit shall be allowed set-off in a year when regular tax becomes payable by the assessee.
- Set off in respect of brought forward tax credit shall be allowed for any assessment year to the extent of the difference between the alternate minimum tax payable u/s 115JC for that assessment year and the balance of the tax credit, if any, shall be carried forward. In other words, after setting off of AMT credit, tax liability of the year cannot be less than AMT for that year.
- The amount of tax credit in respect of any income-tax paid in any country or specified territory outside India u/s 90 or 90A or 91, allowed against the alternate minimum tax payable, exceeds the amount of the tax credit admissible against the regular income-tax payable by the assessee, then, while computing the amount of credit u/s 115JD, such excess amount shall be ignored.
- If the amount of regular income-tax or the AMT is reduced or increased as a result of any order passed under this Act, the amount of tax credit allowed under this section shall also be varied accordingly.
- Where the assessee is computing his tax liability as per provision of sec. 115BAC(1A) [i.e., default tax regime] or u/s 115BAE , brought forward credit of AMT cannot be adjusted.

Examples:

(a) Tax liability u/s 115JC (AMT) 500
Regular Tax liability 1,000
Difference 500
₹ 500 cannot be treated as credit because liability u/s 115JC (AMT) is not greater than regular tax liability.

(b) Year 1
Liability u/s 115JC (AMT) 2,000
Regular Tax Liability 1,000
1,000 It can be carried forward

Year 2
Liability u/s 115JC (AMT) 2,500
Regular Tax Liability 5,000
Difference 2,500
Now regular liability is more than liability u/s 115JC (AMT), the credit carried forward can be set off to the extent of the difference *i.e.,* ₹ 2,500

In year 2, tax payable shall be as under:

Regular Tax Liability	5,000
Less: Set off of AMT credit	1,000
Tax payable (before surcharge and cess)	4,000

In the above example, if the credit carried forward was ₹ 3,500, then tax payable in year 2 would be calculated as under:

Regular Tax Liability	5,000
Less: Set off of AMT credit	2,500
Tax payable (Credit available ₹ 3,500 but restricted to ₹ 2,500)	2,500

Here ₹ 1,000 (being balance credit left i.e., ₹ 3,500 – ₹ 2,500) is carried forward to the next year.

In other words, the excess of regular tax over AMT u/s 115JC is the amount of maximum set off permissible.

3.4.3 Alternative Tax Regime for Individual / HUF [Sec. 115BAC(IA)]

Applicable to

Individual / HUF/AOP/BOI/AJP

Conditions

a. Total income of the assessee shall be computed:

i. Without any exemption or deduction under following provisions

Deduction not available under following section	Details
10(5)	Leave Travel Concession
10(13A)	House Rent Allowance
10(14)	Special Allowances **Exception:** Few prescribed allowances
10(17)	Allowance to MPs/MLAs
10(32)	Exemption in respect of clubbing of minor child
10AA	Special Economic Zone
16	Deduction under the head Salaries - Deduction for Entertainment allowance and Deduction for professional tax **Taxpoint:** Standard deduction upto ₹ 75,000/- is allowed
24(b) in respect of self occupied property	Interest on borrowed capital in respect of self-occupied property Taxpoint: Deduction is available in respect of other properties like let out, deemed to be let out
32(1)(iia)	Additional Depreciation
32AD	Investment Allowance
33AB	Tea / Coffee / Rubber Development Allowance
33ABA	Site Restoration Fund
35(2AA) or 35(1)(ii) / (iia) / (iii)	Scientific Research through outside institution
35AD	Capital Expenditure in respect of specified business
35CCC	Agriculture Extension Project
Deduction under chapter VIA	**Exception:** a) Deduction in respect of employer's contribution to NPS u/s 80CCD(2); b) Deduction in respect of Government's Contribution to Agniveer Corpus Fund u/s 80CCH(2); c) Deduction u/s 80JJAA; and d) Deduction u/s 80LA, - is avaialble

ii. without set off of any loss:

a. carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred above;

b. under the head "Income from house property" with any other head of income;

iii. by claiming the depreciation, if any, u/s 32 [except additional depreciation], determined in prescribed manner; and

iv. without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force.

b. The assessee is required to exercise the option (in prescribed manner) to avail the benefit of this section.

Rate of Tax

Under this tax regime, income tax shall be computed at the option of the assessee considering the following rate:

Total income	Rate of tax
Upto ₹ 3,00,000	Nil
From ₹ 3,00,001 to ₹ 7,00,000	5%
From ₹ 7,00,001 to ₹ 10,00,000	10%
From ₹ 10,00,001 to ₹ 12,00,000	15%
From ₹ 12,00,001 to ₹ 15,00,000	20%
Above ₹ 15,00,000	30%

Taxpoint

- If a person opts for this regime, ₹ 3,00,000 shall be considered as basic exemption limit irrespective of his age. In other words, for all category of individual i.e., senior citizen, super senior citizen and others, basic exemption limit is ₹ 3,00,000
- Rebate u/s 87A is available to a resident individual if his total income does not exceed ₹ 7,00,000. However, where his income is marginally exceeds the limit of ₹ 7,00,000, he is entitle for the rebate u/s 87A [Please refer illustration given in the chapter Basic Concepts]
- Computed tax is further increased by applicable surcharge, if any, [subject to maximum of 25%] and health and education cess
- If any income is taxable at special rate u/s 110 to sec. 115BBG [except sec. 115BAC(1A)], such income shall be taxable at that special rate of tax.

Other Points

- **Full effect of loss and depreciation:** The loss and depreciation referred above shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year. Where there is a depreciation allowance in respect of a block of assets which has not been given full effect to prior to the assessment year 2021-22, corresponding adjustment shall be made to the written down value of such block of assets as on 01-04-2020 in the prescribed manner (if the option is exercised for a previous year relevant to the assessment year 2021-22).

- **Exercise of option:** The provision of this section shall not apply unless an option is exercised in the prescribed manner by the person:

Where the person has income from business or profession	Within the due date specified u/s 139(1) for furnishing the returns of income for any previous year relevant to the assessment year **and** such option **once** exercised shall apply to subsequent assessment years
Where the person not having aforesaid income	Alongwith the return of income to be furnished u/s 139(1) for a previous year relevant to the assessment year

- **Option to opt for old tax regime [Sec. 115BAC(6)]:** Where an assessee opts for the old regime of taxation (or wants to shift from old tax regime to the default tax regime), then he should exercise the option in the prescribed manner:

Where the person not having aforesaid income	Alongwith the return of income to be furnished u/s 139(1) for a previous year relevant to the assessment year. He may choose to pay tax under default tax regime u/s 115BAC(1A) in one year and exercise the option to shift out of default tax regime in another year.
Where the person has income from business or profession	Within the due date specified u/s 139(1) for furnishing the returns of income for any previous year relevant to the assessment year and such option once exercised shall apply to subsequent assessment years. Such person who has exercised the above option of shifting out of the default tax regime u/s 115BAC(1A) for any previous year shall be able to withdraw such option only once and pay tax under the default tax regime u/s 115BAC(1A) for a previous year other than the year in which it was exercised. Thereafter, such person shall never be eligible to exercise this option, except where such person ceases to have any business income in which case, option would be available.

- **Alternate Minimum Tax:** In case, the person is computing his tax as per provision of sec. 115BAC(1A), the provision of alternate minimum tax (AMT) u/s 115JC is not applicable. Consequently, any credit of AMT cannot be adjusted against tax liability computed u/s 115BAC(1A).

Example 8:

Akhil, 35 years, has provided following details relating to his income for the previous year 2024-25:

a. Income from business ₹ 15,00,000

b. Income from saving bank interest ₹ 12,000

c. Interest on PPF ₹ 36,000

d. Investment in PPF ₹ 1,50,000

You are requested to compute his tax liability and advise him whether he should opt for the old tax regime by exercising option given u/s 115BAC(6).

Solution :

Computation of Income and tax liability of Mr. Akhil for A.Y. 2025-26

Particulars	Old Tax Regime	Default Tax Regime
Business Income	15,00,000	15,00,000
Interest on saving bank deposit	12,000	12,000
Interest on PPF	Exempt	Exempt
Gross Total Income	15,12,000	15,12,000
Less: *Deduction*		
U/s 80C (PPF Contribution)	1,50,000	NA
U/s 80TTA (Interest on Saving Bank Interest)	10,000	NA
Total Income	**13,52,000**	**15,12,000**
Tax on above	2,18,100	1,43,600
Less: Rebate u/s 87A (As income exceeds ₹ 5,00,000)	NA	NA
Tax after rebate	2,18,100	1,43,600
Add: Surcharge	Nil	Nil
Tax and surcharge	2,18,100	1,43,600
Add: Health & Education cess	8,724	5,744
Tax liability (Rounded off u/s 288B)	**2,26,820**	**1,49,340**

In the instant case, tax liability under default tax regime is lower, hence it is advisable to not to opt for option available u/s 115BAC(6).

HINDU UNDIVIDED FAMILY

3.4.4 Meaning of HUF

The term Hindu Undivided Family (or Joint Hindu Family) is not defined in the Income-tax Act. The term HUF has the same meaning as in Hindu law. A Hindu Undivided Family (HUF) consists of all persons lineally descended from a common ancestor including their wives and unmarried daughters.

Taxpoint: Only those undivided families are covered here, to which Hindu law applies.

Notes

1. An HUF is not the creation of a contract. Its membership arises from status.
2. Jain families are also treated as Hindu undivided family for the purpose of Income-tax Act. However, Muslim undivided family cannot be treated as HUF.
3. Once a family is assessed as Hindu undivided family, it will continue to be assessed as such till its partition.

3.4.5 Essential requirements of an HUF

An assessee shall be assessed as HUF if the following conditions are satisfied:

1. **Joint family property:** There should be a joint family property, which consists of either ancestral property or any property acquired with the aid of ancestral property.

   Ancestral property: It is a property, which a man inherits from any of the three immediate male ancestors i.e. -

   - His father;
   - His grand father; and
   - His great grand father

Notes

a. Property inherited from any other person (e.g. father in law, uncle, etc.) is not an ancestral property.

b. In the following cases income of ancestral property is taxable as income of HUF -

- Family of widow-mother and sons (minor or major)
- Family of husband and wife having no child.
- Family of two or more brothers.
- Family of uncle and nephew.
- Family of mother, son and son's wife.
- Family of a male and his late brother's wife.

2. **Coparcener:** There should be a coparcener. Coparcener means any person who satisfies two tests:

- He/she acquires by birth an interest in joint family property; and
- He/she has right to enforce partition.

Member of HUF vs Coparcener

i. Coparcener must be a member of the family but a member may or may not be the coparcener of the family.

Taxpoint: All coparcener must be the member of the family but all members need not be coparcener of the family.

ii. Coparcener acquires interest in the property of the HUF by birth. A person may acquire membership in HUF otherwise than by birth.

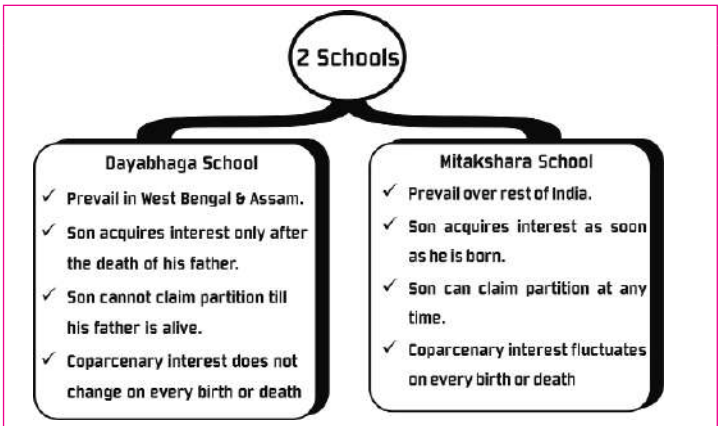
iii. Member of the family who is not a coparcener of the family has no right to claim partition.

Taxpoint: A child in the womb of his mother is entitled to share of HUF property, on partition.

3.4.6 School of Hindu Law

There are two schools of Hindu law -

1. Dayabhaga School of Hindu Law; and
2. Mitakshara School of Hindu Law



Law	Dayabhaga School of Hindu Law	Mitakshara School of Hindu Law
Applicable to	Rules of Dayabhaga school prevails in the State of West Bengal and Assam	Rules of Mitakshara school prevail over rest of India.
Features		
Interest in property	As per this thought, a son acquires interest in ancestral property only after the death of his father. **Taxpoint:** A son does not acquire interest in the ancestral property mere by birth.	As per this thought, a son acquires interest in ancestral property as soon as he is born. **Taxpoint:** A son acquires an equal interest in the ancestral property with his father mere by birth.
Right to claim partition	Since son has no interest in ancestral property, he cannot claim partition till his father is alive. **Taxpoint:** Father enjoys an absolute right to dispose of the property of the family.	Since son acquires interest in ancestral property by his birth, therefore he can claim partition at any time.
Fluctuation in coparcenary interest	The coparcenary interest does not fluctuate on every birth or death of a male member. It fluctuates only on death of the father.	The coparcenary interest fluctuates on every birth or death of a male member.
Note: After Hindu Succession (Amendment) Act 2005, the daughter (in the same manner as the son) of a coparcener shall by birth become a coparcener in her own right. The female heir can demand the partition of coparcenary property.		

3.4.7 Computation of total income and tax liability of HUF

There is no specific provision in Income-tax Act for computation of total income of HUF. Total income and tax liability of HUF shall be computed in same manner as in case of an individual.

Taxpoint:

Tax rate, health & education cess	: As in case of an individual
Residential Status	: Refer chapter "Residential Status"
Computation of income under various heads	: As usual, however, HUF cannot have any income under the head 'Salaries'.
Clubbing of income	: As usual. Sec. 64(1) & (1A) are not applicable in case of an HUF as it is specifically applicable to individual. Specially refer sec. 64(2).
Setoff & Carry forward of losses	: As usual
Deductions	: Refer chapter "Deductions & Relief" [As per regime]
Return and Assessment	: As usual
Advance tax	: As in case of an individual
Tax Regime u/s 115BAC(1A)/(6)	: Applicable

Following points shall be considered –

1. **Remuneration to member of HUF due to investment of HUF fund:** Where joint fund is invested in a company or a firm, fees or remuneration received by any member of HUF as a director or partner from such company or firm by virtue of such investment shall be treated as income of the HUF. On the other hand, where such remuneration or fees is received by virtue of service rendered by such member (in his personal capacity) then such amount shall be taxable in hands of such member

2. **Income from ancestral property may not be taxed in the hands of HUF in certain cases:** As per Dayabhaga school, son has no right in the property during the life time of father, hence income arising from ancestral property to father, having no brother as coparcener, shall be treated as income of father and not of HUF.
3. **Remuneration to Karta:** Any genuine (not excessive) remuneration paid to the *Karta* for conducting business of the HUF is allowed expenditure in the hands of the HUF provided such remuneration is paid under a bonafide agreement and is in the interest of the family business.
4. **Personal income of the members:** Income of the member of HUF acquired in his personal capacity shall not be taxable in the hands of HUF.

   Taxpoint: '*Stridhan' is an absolute property of a woman, income therefrom is not taxable in the hands of HUF.*
5. **Income from impartible estate:** Though the impartible estate belongs to the family, income arising therefrom is taxable in the hands of the holder of the 'estate' and not in the hands of the HUF.

3.4.8 Partition of HUF [Sec. 171]

Partition means—

Case	Partition
Where the property admits of a physical division	A physical division of the property. **Taxpoint:** Mere physical division of the income without a physical division of the property producing the income shall not be deemed to be a partition.
Where the property does not admit of a physical division	Such division as the property admits of. **Taxpoint:** Mere severance of status shall not be deemed to be a partition.

Partial Partition means a partition, which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both.

Person entitled to share on partition

Following persons can claim share on partition:

Case	Persons who can claim share on partition
Any	Coparceners
Any	A child in the womb of his mother at the time of partition
Partition between sons after the death of father	Mother – gets an equal share to that of son
Partition between father and sons	Wife - gets an equal share to that of a son (apart from that of husband)

3.4.9 Assessment after partition of a Hindu undivided family

An HUF assessed as such shall be deemed (for the purposes of this Act) to continue to be an HUF, except where a finding of partition has been given under this section [Sec. 171(1)]

1. **Inquiry by Assessing Officer:** Where, at the time of making assessment, it is claimed by or on behalf of any member of an HUF that a partition (whether total or partial), has taken place among the members of such family, the Assessing Officer shall make an inquiry after giving notice of the inquiry to all the members of the family [Sec. 171(2)]
2. **Record of findings:** On the completion of the inquiry, the Assessing Officer shall record his findings as to whether there has been a total or partial partition of the HUF and if there has been such a partition, the date on which it has taken place [Sec. 171(3)]

3. **Assessment upto the period of partition:** Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition has taken place during the previous year —

   - the total income of the HUF in respect of the period up to the date of partition shall be assessed as if no partition had taken place; and
   - each member shall be jointly and severally[#] liable for tax on the income so assessed. [notwithstanding anything contained in sec.10(2)] [Sec. 171(4)]

   [#] The liability of any member or group of members shall be computed according to the portion of the joint family property allotted to him or it at the partition [Sec. 171(7)]

4. **Partition after the expiry of previous year:** Where the finding of total or partial partition has been recorded by the Assessing Officer and the partition took place after the expiry of the previous year, the total income of the previous year of the joint family shall be assessed as if no partition had taken place. [Sec. 171(5)]

5. **Notice of partition after assessment:** If the Assessing Officer finds after completion of the assessment of HUF, that the family has already effected a partition (whether total or partial) the Assessing Officer shall proceed to recover tax from every person who was a member of the family before the partition, and every such person shall be jointly and severally liable for tax on the income so assessed. [Sec. 171(6)]

6. **Collection of penalty, interest, fine, etc.:** The provisions of this section shall apply in relation to the levy and collection of penalty, interest, fine or other sum (if any) in respect of any period up to the date of the partition, whether total or partial, as they apply in relation to the levy and collection of tax. [Sec.171(8)]

Treatment in case of partial partition taken place after 31-12-1978 [Sec. 171(9)]

Where a partial partition has taken place among the members of an HUF after 31-12-1978, then -

- no claim that such partial partition has taken place shall be inquired into u/s 171(2)
- no finding regarding partition shall be recorded u/s 171(3).
- such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place;
- each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally[1] liable for any tax, penalty, interest, fine or other sum payable under this Act by the family.

  [1]. Liability of any member or group of members aforesaid shall be computed according to the portion of the joint family property allotted to him or it at such partial partition.

  Taxpoint: Even though such tax, penalty etc. relates to the period, before or after such partial partition.

Advance Tax

3.5

Generally, tax on the income earned in the previous year is paid in the respective assessment year, but in certain cases, an assessee may be required to pay tax during the previous year itself, as Advance tax. The scheme of advance tax is based on the concept "Pay as you earn". Under this scheme assessee needs to estimate its income and tax liability of the previous year and pay tax on basis of such estimation in the previous year itself. For instance, an assessee is required to pay tax on income earned during the previous year 2024-25 is in the assessment year 2025-26, however under the scheme of Advance tax, assessee is required to pay tax on the estimated income of the previous year 2024-25 in the previous year itself.

Applicable to

All assessee irrespective of his residential status and citizenship

Scheme of Advance tax [Sec.208]

Where the advance tax liability# of the assessee is ₹ 10,000 or more, the assessee should pay such tax in the previous year itself within the due date$.

 # Advance tax liability [Sec. 209]

Particulars	Amount
Estimated Gross Total Income	****
Less: Deduction under chapter VIA as per regime opted by the assessee	****
Estimated Total Income	****
Gross tax liability on Estimated Total Income	****
Less: Rebate u/s 87A as per regime opted by the assessee	**
Tax liability after Rebate	****
Add: Surcharge (if applicable)	****
Tax and surcharge payable	****
Add: Health & Education cess	****
Tax liability after cess	****
Less: Tax deducted or collected at source / other Rebate & Relief	****
Advance tax liability	****

$ Due date for payment of advance tax [Sec. 211]

Assessee	Due date of installment (of previous year)	Minimum amount payable
An eligible assessee in respect of an eligible business referred to in sec. 44AD or 44ADA	On or before March 15	100% of advance tax liability
Other Assessee	On or before June 15	Upto 15% of advance tax liability
	On or before September 15	Upto 45% of advance tax liability
	On or before December 15	Upto 75% of advance tax liability
	On or before March 15	Upto 100% of advance tax liability

Notes

a. Any amount paid u/s 211 on or before 31st March of the previous year, shall be treated as advance tax paid during the financial year.

b. Where an assessee is a senior citizen (or super senior citizen) and does not have any income chargeable under the head "Profits and gains of business or profession", provision of advance tax is not applicable. In other words, senior citizen not having business income is not liable to pay advance tax.

c. Every income including capital gain, winning from lotteries, dividend, etc. is subject to advance tax. However, it is not possible to estimate capital gain, casual gain or dividend or where income under the head "Profits and gains of business or profession" accrues or arises for the first time, therefore, where the assessee has paid the whole of the amount of tax payable in respect of such income -

   i. As part of the remaining installments of advance tax which were due; or

   ii. Where no installments were due, by March 31 of the financial year immediately preceding the assessment year,

   - then it is deemed that all the provisions are complied.

d. While calculating advance tax, net agricultural income shall also be taken into consideration for computing tax liability.

e. If any assessee does not pay any installment within due date he shall be deemed to be an assessee in default in respect of such installment [Sec. 218]

f. Any sum, other than a penalty or interest, paid by an assessee as advance tax shall be treated as a payment of tax and credit for such shall be given to the assessee in the regular assessment [Sec. 219]

3.5.1 Procedure to pay Advance Tax

a. **On assessee's own motion [Sec. 210(1)]**

Procedure for 1st installment

1. Make an estimate of current year's income, considering brought-forward losses, after deducting all allowable deductions under chapter VIA, if any.

Note: The estimate is not required to be filed with the tax authorities.

2. Compute the tax liability on above estimated income at the rates in force during the financial year and reduce rebate, If any.
3. Add surcharge (if applicable).
4. Add Health and Education cess.
5. Deduct tax deducted or collected at source.
6. The amount so derived is the advance tax payable.

Where the advance tax payable is ₹ 10,000 or more, an appropriate percentage thereof should be deposited.

Procedure for subsequent installments

i. Check if estimate of income made earlier requires revision.
ii. If not, deposit appropriate amount of second, third or fourth installment of advance tax.
iii. If estimate of income needs revision, then make a revised estimate and compute tax liability thereon.
iv. Determine advance tax payable in subsequent installments after deducting amount paid in earlier installments.
v. Deposit such advance tax.

b. **On receipt of order from the Assessing Officer [Sec. 210(3) or (4)]**

The A.O. may pass an order and issue a notice of demand u/s 156 requiring the assessee to pay advance tax.

Conditions to be satisfied for issuing such order

- The assessee has already been assessed by way of a regular assessment in any previous year.
- The Assessing Officer is of opinion that such person is liable to pay advance tax.
- Such order can be passed at any time during the financial year but not after last day of February.
- Such order must be made in writing.
- Such order also specifies the amount of advance tax and the installments thereof to be paid by the assessee.

  Note: Such order can be issued even if assessee has paid any installment of advance tax during the year, which is, in the opinion of the Assessing Officer, not as per provision of sec. 211.

Determination of advance tax by the Assessing Officer

The amount determined by the Assessing Officer shall be the higher of the following –

- Tax on latest assessed income as per regular assessment; or
- Tax on income declared by the assessee in the return relating to the previous year subsequent to the previous year for which regular assessment has been made.

Procedure to be followed by assessee on receipt of such order

Case	Advance tax to be paid by the assessee	Whether intimation to AO is required
Where income estimated by the Assessing Officer is correct	On the basis of the order of the Assessing Officer	No
Where assessee estimates his current income to be higher than that estimated by the Assessing Officer	On the basis of his own estimate	No

Case	Advance tax to be paid by the assessee	Whether intimation to AO is required
Where assessee estimates his current income to be lower than that estimated by the Assessing Officer	On the basis of his own estimate	Yes, assessee shall submit his own estimate of current income to the Assessing Officer (in Form 28A)

Note: As per sec. 210(4), Assessing Officer can revise his order to pay advance tax at any time before 1st March of the relevant previous year.

Interest on non-payment of advance tax

Where an assessee fails to pay advance tax or defers the payment of advance tax on specified date, he shall be liable to pay interest u/s 234B & 234C.

General Illustrations:

Illustration 41:

Find out the amount of advance tax payable by Mr. A on specified dates under the Income tax Act, 1961 for the financial year 2024-25:

Business income	₹ 14,85,000
Long term capital gain on 31-5-2024	₹ 60,000
Winning from lotteries on 12-6-2024	₹ 50,000
Interest on loan	₹ 10,000
Other income	₹ 5,000
Investment in PPF	₹ 10,000
Tax deducted at source:	
Case 1	₹ 1,70,000
Case 2	₹ 23,680

Solution :

Computation of total income of Mr. A for the previous year 2024-25

Particulars	Details	Amount
Profits and gains of business or profession		14,85,000
Capital gains: Long term capital gains		60,000
Income from other sources		
Winning from lotteries	50,000	
Interest on loan	10,000	
Other income	5,000	65,000
Gross Total Income		16,10,000
Less: Deduction u/s 80C		NA
Total Income		**16,10,000**

Computation of tax liability of Mr. A for the previous year 2024-25

Income	Case 1	Case 2
Long term capital gain (₹ 60,000 @ 20%)	12,000	12,000

Income	Case 1	Case 2
Winning from lotteries (₹ 50,000 @ 30%)	15,000	15,000
Balance income (₹ 15,00,000)	1,40,000	1,40,000
Tax	1,67,000	1,67,000
Less: Rebate u/s 87A	Nil	Nil
	1,67,000	1,67,000
Add: Health & Education cess	6,680	6,680
	1,73,680	1,73,680
Less: Tax Deducted at Source	1,70,000	23,680
Total Advance tax payable	**3,680**	**1,50,000**

Advance tax to be paid on specified dates –

Case 1: Since amount of advance tax payable is less than ₹ 10,000, assessee is not liable to pay advance tax.

Case 2:

Date	Alternate 1		Alternate 2	
	Working	Amount	Working	Amount
15-06-2024	15% of ₹ 1,50,000	22,500	15% of ₹ 1,50,000	22,500
15-09-2024	30% of ₹ 1,50,000	45,000	[(45% of ₹ 1,50,000) – ₹ 22,500]	45,000
15-12-2024	30% of ₹ 1,50,000	45,000	[(75% of ₹ 1,50,000) – (₹22,500 + ₹ 45,000)]	45,000
15-03-2025	25% of ₹ 1,50,000	37,500	[100% of ₹ 1,50,000 – (₹ 22,500 + ₹ 45,000 + ₹45,000)]	37,500
Total		**1,50,000**	**Total**	**1,50,000**

Illustration 42:

Find out the amount of advance tax payable by ABC Ltd. on specified dates for the F.Y. 2024-25:

Business income	₹ 1,75,000
Long-term capital gain on 16-7-2024	₹ 2,50,000
Bank interest	₹ 10,000
TDS on business income	₹ 20,550

Solution :

Computation of total income of ABC Ltd. for the previous year 2024-25

Particulars	Amount
Profits and gains of business or profession	1,75,000
Capital gains: Long term capital gains	2,50,000
Income from other sources: Bank Interest	10,000
Total Income	**4,35,000**

Computation of tax liability of ABC Ltd. for the previous year 2024-25

Particulars	Long term capital gain	Other income
Income	2,50,000	1,85,000
Tax rate	20%	30%
Tax on above	50,000	55,500
Add: Surcharge	Nil	Nil
Tax and surcharge payable	50,000	55,500
Add: Health & Education cess	2,000	2,220
Tax and cess payable	52,000	57,720
Less: TDS	-	20,550
Advance tax payable	**52,000**	**37,170**

Advance tax to be paid on specified dates – Alternate 1

Date	Advance tax on LTCG		Advance tax on income other than LTCG		Total (a + b)
	Working	Amount (a)	Working	Amount (b)	
15-06-2024	As LTCG occurred on 16/7/2024	Nil	15% of ₹ 37,170	5,576	5,576
15-09-2024	45% of ₹ 52,000	23,400	30% of ₹ 37,170	11,151	34,551
15-12-2024	30% of ₹ 52,000	15,600	30% of ₹ 37,170	11,151	26,751
15-03-2025	25% of ₹ 52,000	13,000	25% of ₹ 37,170	9,292	22,292
Total		**52,000**		**37,170**	**89,170**

Advance tax to be paid on specified dates – Alternate 2

Date	Advance tax on LTCG		Advance tax on income other than LTCG		Total (a + b)
	Working	Amount (a)	Working	Amount (b)	
15-06-2024	As LTCG occurred on 16/7/2024	Nil	15% of ₹ 37,170	5,576	5,576
15-09-2024	(45% of ₹ 52,000) – Nil	23,400	(45% of ₹ 37,170) – (₹5,576)	11,151	34,551
15-12-2024	(75% of ₹ 52,000) – (₹ 23,400)	15,600	(75% of ₹ 37,170) – (₹ 5,576 + ₹ 11,151)	11,151	26,751
15-03-2025	(100% of ₹ 52,000) – (₹ 23,400 + ₹ 15,600)	13,000	(100% of ₹ 37,170) – (₹ 5,576 + ₹ 11,151 + ₹ 11,151)	9,292	22,292
Total		**52,000**		**37,170**	**89,170**

Illustration 43:

Find out the amount of advance tax payable by A on specified dates for the financial year 2024-25:

Business income (Tax of ₹ 14,272 is deducted at source)	₹ 8,25,000
Agricultural income	₹ 86,000

Solution :

Computation of tax liability of A for the previous year 2024-25

Particulars	₹
Tax on ₹ 9,11,000 (i.e. agricultural income ₹ 86,000 + non-agricultural income ₹ 8,25,000)	41,100
Less: Tax on ₹ 3,86,000 (i.e. agro income ₹ 86,000 + maximum exempted limit ₹ 3,00,000)	4,300
Tax liability	36,800
Less: Rebate u/s 87A	Nil
	36,800
Add: Health & Education cess	1,472
Tax and cess payable	38,272
Less: TDS	14,272
Advance tax payable	**24,000**

Advance tax to be paid on specified dates –

Date	Alternate 1		Alternate 2	
	Working	Amount	Working	Amount
15-06-2024	15% of ₹ 24,000	3,600	15% of ₹ 24,000	3,600
15-09-2024	30% of ₹ 24,000	7,200	[(45% of ₹ 24,000) – ₹ 3,600]	7,200
15-12-2024	30% of ₹ 24,000	7,200	[(75% of ₹ 24,000) – (₹ 3,600 + ₹ 7,200)]	7,200
15-03-2025	25% of ₹ 24,000	6,000	[100% of ₹ 24,000 – (₹ 3,600 + ₹ 7,200 + ₹ 7,200)]	6,000
Total		**24,000**	**Total**	**24,000**

Tax Deducted at Source & Tax Collected at Source

3.6

TAX DEDUCTED AT SOURCE (TDS)

3.6.1 Meaning

It is a measure, in which person who are making payment of income are responsible to deduct tax from such income (at specified rates) and pay only net amount. Tax so deducted (called TDS) shall be deposited with the Government's treasury within the stipulated time. The payer will issue a certificate in Form 16 or 16A* to the payee and the payee will get credit for TDS and his tax liability shall be reduced to that extent. In nutshell, the provisions are merely a mode of collection of income tax and a check on tax evasion through proper control and information.

Objects

- Quicker realisation of tax.
- Effective realisation of tax.

There are several provisions in the Act for TDS**, being discussed infra:

3.6.2 TDS on salary [Sec.192]

Who is responsible to deduct tax:

Any person responsible for paying any income chargeable under the head "Salaries" (i.e. employer) is required to deduct tax at source.

When tax shall be deducted:

Tax shall be deducted at the time of payment of such income.

Rate of TDS:

Tax shall be deducted at the average rate of tax, computed on basis of prescribed rates in force for the financial year in which payment to employee is made.

Other Points:

Following points shall be kept in mind by the person responsible to deduct tax at source u/s 192 -

1. **Maximum exempted limit:** Tax shall not be deducted if taxable salary is less than basic exemption limit.
2. **Payment of tax by the employer:** The employer paying any income in the nature of non-monetary perquisite may pay, at his option, tax on such income without making any deduction therefrom at the time when such tax

* All deductors (including Government deductors who deposit TDS in the Central Government Account through book entry) shall issue TDS certificate generated through TIN central system and which is downloaded from the TIN website with a unique TDS certificate number.

** As per provision of sec.206AA, if resident payee fails to provide his PAN, tax is required to be deducted at the rate mentioned in respective section or 20%, whichever is higher. [The sec.206AA is discussed later in the chapter]

was otherwise deductible. For this purpose, tax shall be determined at the average of income-tax computed on the basis of the rates in force for the financial year, on the income chargeable under the head "Salaries". It is to be noted that tax paid on non-monetary perquisites by the employer shall not be considered as income of the employee.

3. **Particulars of perquisites:** The employer shall furnish a statement to the employee (whose salary exceeds ₹ 1,50,000) giving correct and complete particulars of perquisites or profits in lieu of salary provided to employee and the value thereof in Form 12BA provided salary of such employee exceeds ₹ 2,00,000.

4. **Salary from more than one source:** As per Sec. 192(2), where assessee is working simultaneously with more than one employer, he may furnish to any one employer at his choice, details (in Form No. 12B) of income taxable under the head "Salaries" due to or received by him from other employer(s) and such employer shall deduct tax on aggregate salary.

5. **Treatment of other income:** As per Sec. 192(2B), where an assessee who receives any income chargeable under the head "Salaries" has, in addition, any income chargeable under any other head of income for the same financial year, he may (or may not) furnish to employer the particulars (in plain paper) of—

   - such other income (only income and not loss)
   - any tax deducted (or collected) reported by the employee.
   - the loss, if any, under the head "Income from house property" (Losses under any other head are not to be considered)

   Tax deducted u/s 192 shall be higher of the following:

   - Tax deductible from income, that would be so deductible, if loss under the head 'Income from House Property', other income (only income) and the tax deducted (or collected) had been taken into account.
   - Tax deductible from income under the head "Salaries", that would be so deductible (after adjusting loss under the head Income from house property), if the other income (or loss) had not been taken into account.

6. **Evidence of claim:** The responsible person shall, for the purposes of estimating income of the assessee or computing tax deductible, obtain the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) from the assessee in such form and manner as may be prescribed.

7. **TDS on ESOP:** ESOPs have been a significant component of the compensation for the employees of start-ups, as it allows the founders and start-ups to employ highly talented employees at a relatively low salary amount with balance being made up via ESOPs. ESOPs are taxed as perquisites u/s 17(2). The taxation of ESOPs is split into two components:

   i. Tax on perquisite as income from salary at the time of exercise.

   ii. Tax on income from capital gain at the time of sale.

   The tax on perquisite is required to be paid at the time of exercising of option which may lead to cash flow problem as this benefit of ESOP is in kind. In order to ease the burden of payment of taxes by the employees of the eligible start-ups or TDS by the start-up employer, it is provided that for the purpose of deducting or paying tax, a person, being an eligible start-up [u/s 80-IAC], responsible for paying any income to the assessee being such perquisite, deduct or pay, as the case may be, tax on such income within 14 days:

   a. after the expiry of 48 months from the end of the relevant assessment year; or

   b. from the date of the sale of such specified security or sweat equity share by the assessee; or

   c. from the date of which the assessee ceases to be the employee of the person;

– whichever is the earlier.

The tax shall be deducted or paid at the rates in force of the financial year in which the said security or sweat equity share is allotted or transferred.

Similar provision is applicable, in case, employee is paying tax directly (in case tax is not deducted).

Provision Illustrated

Mr. X working in Y Ltd. furnishes the following, compute the tax to be deducted at source by Y Ltd.

Taxable salary	₹ 5,50,000
Loss from House Property	₹ 5,000
Loss from Business	₹ 10,000
Gross Interest Income (TDS ₹ 5,000)	₹ 60,000
Investment in PPF	₹ 10,000
Tax Regime declared by Mr. X	Old

Solution

Computation of tax to be deducted at source by Y Ltd

Particulars	Tax on income including other income	Tax on income excluding other income
Salary income	5,50,000	5,50,000
Loss from House Property	(5,000)	(5,000)
Interest Income	60,000	Nil
Gross Total Income	6,05,000	5,45,000
Less: Deduction u/s 80C [Investment in PPF]	10,000	10,000
Total Income	5,95,000	5,35,000
Tax on above	31,500	19,500
Less: Rebate u/s 87A	Nil	Nil
Tax after rebate	31,500	19,500
Add: Health & Education cess @ 4%	1,260	780
Tax and cess payable	32,760	20,280
Less: Tax deducted at source on other income	5,000	5,000
Balance	27,760	15,280
Tax to be deducted by Y Ltd. (Higher of ₹ 27,760 or ₹ 15,280)	27,760	

Exemption or relaxation from the provision

When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorizing the payer to deduct no tax or deduct tax at lower rate. [Refer sec.197]

3.6.3 TDS on Payment from Employees Provident Fund [Sec. 192A]

Who is responsible to deduct tax: The trustees of the Employees' Provident Fund Scheme, 1952, framed u/s 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees.

When tax shall be deducted: At the time of making of payment.

Tax is deducted on: The accumulated balance due to an employee participating in a recognised provident fund includible in his total income owing to the not applicability of the provisions of rule 8 of Part A of the Fourth Schedule.

Rule 8 of Part A of the Fourth Schedule provides the accumulated balance due and becoming payable to an employee participating in a recognised provident fund shall be exempted:

a. if he has rendered continuous service with his employer for a period of 5 years or more; or

b. if, though he has not rendered such continuous service, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business or other cause beyond the control of the employee; or

c. if, on the cessation of his employment, the employee obtains employment with any other employer, to the extent the accumulated balance due and becoming payable to him is transferred to his individual account in any recognised provident fund maintained by such other employer.

Taxpoint: If the accumulated balance paid to the assessee is exempt then tax is not required to be deducted.

Rate of TDS: 10%

- Any person entitled to receive any amount on which tax is deductible shall furnish his Permanent Account Number (PAN) to the person responsible for deducting such tax, failing which tax shall be deducted at 20%.

When TDS is not applicable: Aggregate amount of such payment to the payee is less than ₹ 50,000.

3.6.4 TDS on Interest on Securities [Sec 193]

Who is responsible to deduct tax: Any person responsible for payment of interest on securities (other than interest on Government securities and certain specified securities) to any resident person.

Note: In the following cases tax is not required to be deducted:

1. Interest payable to a resident-individual or a resident HUF on debentures is not subject to TDS provided following conditions are satisfied –
   a. Such debentures are issued by a company in which the public are substantially interested;
   b. Such debentures may be listed or unlisted
   c. The interest is paid by the company by an account payee cheque; and
   d. The amount of such interest payable during the financial year to such individual does not exceed ₹ 5,000.
2. Any interest payable on any security of the Central or State Government. (However, tax is required to be deducted on interest payable on 8% Savings (Taxable) Bonds, 2003 or Floating Rate Savings Bonds, 2020 (Taxable) or 7.75% Savings (Taxable) Bonds, 2018, if the amount of interest in a financial year exceeds ₹ 10,000).
3. Any interest payable to a "business trust", as defined u/s 2(13A), in respect of any securities, by a special purpose vehicle referred to in the Explanation to sec. 10(23FC)
4. Any interest payable on securities beneficially held by Life Insurance Corporation of India or General Insurance Corporation of India or any of the 4 companies formed by virtue of the scheme framed u/s 16(1) of the General Insurance Business (Nationalisation) Act, 1972 or any other insurer.
5. Any interest payable to Regimental Fund or non-Public Fund established by Armed Force [income of whose is exempt u/s 10(23AA).

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Taxpoint: Where any amount is credited to any account (for e.g. "Interest payable account" or "Suspense account") instead of Payee account, such crediting shall be deemed to be credit of such income to the account of the payee.

Rate of TDS: 10% (No surcharge, health and education cess)

Exemption or relaxation from the provision:

- When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorizing the payer to deduct tax at lower rate or deduct no tax; [Refer sec.197]
- When a declaration in Form 15G (in duplicate) is furnished by the assessee to the payer [Refer sec.197A]

3.6.5 TDS on Dividends [Sec. 194]

Who is responsible to deduct tax: The principal officer of a *domestic company* paying dividend* u/s 2(22) to any *resident shareholder*.

Note: In the following cases, tax is not required to be deducted:

A. Dividend is paid to an insurance company

B. Dividend is paid to a business trust [as defined u/s 2(13A)], by a special purpose vehicle referred to in the Explanation to sec. 10(23FC);

C. Dividend paid to an individual shareholder, if:

   i. the dividend is paid by the company by any mode other than cash; and

   ii. the amount of such dividend or the aggregate of the amounts of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, does not exceed ₹ 5,000:

D. Dividend paid to any other notified person

When tax shall be deducted: At the time of payment

Rate of TDS: 10% (No surcharge, health and education cess) on dividend considered u/s 2(22)

Exemption or relaxation from the provision:

- When the recipient applies to the Assessing Officer in Form No. 13 and gets a certificate authorizing the payer to deduct tax at lower rate or deduct no tax [Refer sec.197]
- When a declaration in Form 15G (in duplicate) is furnished by the assessee to the payer [Refer sec.197A]

3.6.6 TDS on Interest other than interest on securities [Sec. 194A]

Who is responsible to deduct tax

Following person are responsible to deduct tax at source on interest other than interest on securities to a resident person -

- Any person, other than Individual or HUF; or
- An individual or a HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ **1 crore** in case of **business** or ₹ **50 lakh** in case of **profession** during the financial year immediately preceding the financial year in which such interest is credited or paid.

* Money received by the shareholder on buy back of share is also treated as dividend, hence the provision of sec. 194 is applicable

Note: No tax shall be deducted at source if during the financial year, interest payable by the payer to payee does not exceed ₹ 5,000.

However, following persons are responsible to deduct tax at source on interest other than interest on securities paid or payable to a resident person if during the financial year, interest paid/payable exceeds ₹ 40,000 (₹ 50,000 in case payee is a senior citizen):

- A banking company;
- Co-operative society engaged in carrying on the business of banking;
- Post office in respect of notified scheme

Taxpoint: In case of interest payable by banking company or co-operative society or housing company, such limit shall be computed with reference to branch. However, where payer has adopted Core Banking Solution (CBS), the aforesaid limit shall be computed with reference to entity and not branch.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 10% (No surcharge, health and education cess)

Taxpoint: The Central Government may notify that the deduction of tax shall not be made or shall be made at such lower rate, from payment made to specified person.

Other points

Following interests are not subject to TDS -

- Interest payable to -
  a. Banking company; or
  b. Co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank); or
  c. Financial corporation established by or under a Central, State or Provincial Act; or
  d. The Life Insurance Corporation of India; or
  e. The Unit Trust of India; or
  f. Any company or co-operative society carrying on the business of insurance; or
  g. Such other notified institution, association or body [No notification shall be issued after 31-03-2020].
- Interest credited or paid by a firm to a partner of the firm;
- Interest credited or paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society
- Interest on deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;
- Interest on deposits (other than time deposits) with a co-operative society, other than a co-operative society or bank referred above, engaged in carrying on the business of banking

  Exception [in case of co-operative society]

  Aforesaid co-operative society shall be liable to deduct tax, if:

a. the total sales, gross receipts or turnover of the co-operative society exceeds ₹ 50 crore during the financial year immediately preceding the financial year in which the interest is credited or paid; **and**

b. the aggregate of the amounts of such interest, credited or paid, during the financial year is more than ₹ 50,000 in case of payee being a senior citizen (₹ 40,000 in other cases).

- Interest credited or paid in respect of deposits under any notified scheme like NSC, Indira Vikas Patra, Kisan Vikas Patra and Post office Monthly Income Account.
- Interest credited or paid in respect of deposits (other than time deposits and recurring deposit) with a banking company.
  - TDS is also required to be deducted on Recurring Deposits.
- Interest credited on the compensation amount awarded by the Motor Accidents Claims Tribunal;
- Interest paid on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed ₹ 50,000
- Interest credited or paid by the Central Government under any provision of the Income Tax Act or the Wealth-tax Act, 1957
- Income which is paid or payable by an infrastructure capital company or infrastructure capital fund or infrastructure debt fund or a public sector company or scheduled bank in relation to a Zero Coupon Bond issued on or after 1-6-2005 by such company or fund.
- Income by way of interest referred to in sec. 10(*23FC*)
- Interest on FDRs, made in the name of the Registrar General of the Court or the depositor of the fund on the directions of the Court, will not be subject to TDS till the matter is decided by the Court. However, once the Court decides the ownership of the money lying in the fixed deposit, the provisions of section 194A will apply to the recipient of the income

Exemption or relaxation from the provision

- When the recipient applies to the assessing officer in Form No. 13 and gets a certificate authorizing the payer to deduct tax at lower rate or deduct no tax. [Refer sec.197]
- When a declaration in Form 15G is furnished by the assessee to the payer [Refer sec.197A]

Adjustment for short-deduction

The person responsible to deduct tax may at the time of making any deduction, increase or reduce the amount to be deducted for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.

3.6.7 TDS on Winning from lotteries or cross word puzzles, etc. [Sec. 194B]

Who is responsible to deduct tax: Any person responsible for paying to any person any income by way of winning from any lottery or crossword puzzle or card game and other game of any sort or from gambling or betting of any form or nature whatsoever, exceeding ₹ 10,000 (in aggregate during the financial year).

Taxpoint: If income is more than ₹ 10,000 in aggregate (say ₹ 12,000), then tax shall be deducted on the whole amount (i.e. ₹ 12,000).

Rate of TDS: 30% (in case of non-resident payee, applicable surcharge, health and education cess shall also be considered)

Payee	Rate of TDS as a % of amount paid or payable
Resident Person	30%
Non-Resident	30% + Surcharge + Health and Education cess

When tax shall be deducted: At the time of *payment*.

Other Points

- If prize is given partly in cash and partly in kind then tax on whole prize (i.e. aggregate of cash and value of prize in kind) shall be deducted from the cash prize.
- If prize is given in kind only (or cash prize is not sufficient), then payer should ensure that tax has been paid on such income before releasing such prize.
- Where a certain percentage has to be forgone either in favour of Government or an agency conducting lotteries, then such portion is not subject to deduction of tax at source.
- Where an agent receives the prize money on unsold ticket or becomes entitled to an unclaimed prize, it shall form part of his business income and therefore not liable for tax deduction u/s 194B
- If prize money is paid in instalments, then tax shall be deducted at the time of payment of each instalment.
- Tax shall be deducted on payment of commission, etc. to the lottery agent u/s 194G and not u/s 194B.
- In case of winning from online gaming, TDS shall be deducted u/s 194BA.

3.6.8 TDS on winning from Online Gaming [Sec. 194BA]

Who is responsible to deduct tax: Any person responsible for paying to any person any income by way of winnings from any online game during the financial year

Threshold limit: Nil i.e., there is no threshold limit for deducting TDS under this section

Rate of TDS: See sec. 194B (TDS on Winning from lotteries or cross word puzzles or card games, etc.)

Taxpoint: In a case where the net winnings are wholly in kind or partly in cash, and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings

When tax shall be deducted:

Case	TDS
Where there is a withdrawal from user account during the financial year	Tax shall be deducted at the time of such withdrawal on the net winnings comprised in such withdrawal Further, on the remaining amount of net winnings in the user account tax shall be deducted at the end of the financial year
In other case	TDS of net winnings in the user account shall be deducted at the end of the financial year

Other Points

1. "Online gaming intermediary" means an intermediary that offers one or more online games;

2. "User" means any person who accesses or avails any computer resource of an online gaming intermediary;

3. "User account" means account of a user registered with an online gaming intermediary.

3.6.9 TDS on winning from Horse races [Sec. 194BB]

Who is responsible to deduct tax: Any person[1] responsible for paying to any person any income by way of winning from horse races, exceeding ₹ 10,000 (or in aggregate during the financial year).

Rate of TDS: See sec. 194B (TDS on Winning from lotteries or cross word puzzles or card games, etc.)

When tax shall be deducted: At the time of *payment*.

Other Points

1. Any person, here means a book-maker or a person to whom a licence has been granted by the Government for horse racing or arranging for wagering, betting in any race course.

2. Race-income other than horse races like camel races etc is not covered by this section.

3.6.10 TDS on payment to Contractor [Sec. 194C]

Who is responsible to deduct tax :

Any specified person[1] responsible for paying any sum to any resident-contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract.

[1.] Following are the **specified person** -

a. The Central Government or any State Government; or

b. Any local authority; or

c. Any corporation established by or under a Central, State or Provincial Act; or

d. Any company; or

e. Any co-operative society;

f. Any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

g. Any society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India; or

h. Any trust; or

i. Any University established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a University u/s 3 of the University Grants Commission Act, 1956; or

j. Any Government of a foreign State or a foreign enterprise or any association or body established outside India; or

k. Any firm; or

l. Individual or a HUF or an association of persons or a body of individuals (if not covered by aforesaid cases), has total sales, gross receipts or turnover from business or profession carried on by him exceeding ₹ 1 crore in case of business or ₹ 50 lakh in case of profession during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor.

Note: However, no individual or a HUF shall be liable to deduct income-tax where amount is credited or paid exclusively for personal purposes of such individual or any member of HUF.

When tax cannot be deducted:

- **Case 1**

  When following conditions are satisfied then tax cannot be deducted:

  i. Any sum credited or paid in pursuance of any contract, the consideration for which does not exceed ₹ 30,000; **and**

  Taxpoint: The limit of ₹ 30,000 is on individual contract.

  ii. Where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year does not exceed ₹ 1,00,000

- **Case 2**

  When following conditions are satisfied then tax cannot be deducted:

  a. Amount is paid or payable to a resident contractor during the course of plying, hiring or leasing goods carriage (here-in-after referred to as transport operator).

  b. Such operator furnishes his Permanent Account Number (PAN) to the payer.

  c. Where such contractor owns 10 or less goods carriages at any time during the previous year and furnishes a declaration to that effect along with his PAN to the person paying or crediting such sum.

  Taxpoint: *Tax is not required to be deducted even if amount of payment exceeds Rs. 1,00,000/-*

When tax shall be deducted: At the time of payment or crediting the party, whichever is earlier.

Rate of TDS:

Payee	Rate as a % of amount paid or payable
Individual or HUF	1%
Other Payee	2%

Exemption or relaxation from the provision

When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax. [Refer sec.197]

Other Points

- Contract shall include sub-contract.
- "Work" shall include —
  a. advertising;
  b. broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
  c. carriage of goods and passengers by any mode of transport other than by railways;
  d. catering.
  e. manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee u/s 40A(2)(b),

but does not include

- manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of such customer; or
- any sum on which provision of sec. 194J is applicable

⊙ Where any sum is paid or credited for carrying out any work mentioned in (*e*), tax shall be deducted at source:

(i) on the invoice value excluding the value of material, if such value is mentioned separately in the invoice; or

(ii) on the whole of the invoice value, if the value of material is not mentioned separately in the invoice.

3.6.11 TDS on Insurance Commission [194D]

Who is responsible to deduct tax: Any person responsible for paying to a resident person any income by way of remuneration or reward (i.e. commission etc.) for soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance.

Note: Tax shall not be deducted if the aggregate amounts of remuneration or reward credited or paid during the financial year to the payee does not exceed ₹ 15,000.

When tax shall be deducted: At the time of payment or crediting the party whichever is earlier.

Rate of TDS:

Payee	Rate of TDS
Domestic Company	10%
Other Payee	5% [w.e.f 01-04-2025, 2%]

Exemption or relaxation from the provision

⊙ When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorizing the payer to deduct tax at lower rate or deduct no tax; [Refer sec.197]

⊙ When a declaration in Form 15G (in duplicate) is furnished by the assessee to the payer [Refer sec.197A]

3.6.12 TDS on Payment in respect of Life Insurance Policy [194DA]

Who is responsible to deduct tax: Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy other than the amount not includible in the total income u/s 10(10D).

⊙ TDS is not required to be deducted on any payment which is exempt u/s 10(10D).

⊙ Tax shall not be deducted if the aggregate amounts of payments to the payee during the financial year is **less than ₹ 1,00,000.**

When tax shall be deducted: At the time of payment

Rate of TDS: 5% [w.e.f 01-10-2024, 2%] (No surcharge, health and education cess) on the income comprised therein.

3.6.13 TDS on payment to non-resident sportsman or sports associations [Sec. 194E]

Who is responsible to deduct tax: Any person who is responsible to pay the following income –

Payee	Income by way of
Sportsman (including an athlete) or an entertainer being non-resident foreign citizen	1. Participation in India in any game (excluding card game or gambling) or sport 2. Advertising 3. Contribution of articles relating to any game or sports in any newspaper, magazine or journal.
Sports association being non-resident	Any game (other than card game) or sports organised in India

Rate of TDS: 20% (+ Surcharge + health and education cess)

When tax shall be deducted: At the time of payment or crediting the party whichever is earlier.

3.6.14 Payments in respect of deposits under National Savings Scheme, etc.[Sec. 194EE]

Who is responsible to deduct tax: Any person [i.e. post office] responsible for paying an amount (either principal or interest) referred to in sec. 80CCA(2)(a) [i.e. National Saving Scheme, 1987]

Note: Tax shall not be deducted at source if the aggregate amount of such payments to the payee during the financial year is less than ₹ 2,500.

When tax shall be deducted: At the time of *payment*.

Rate of TDS:

Payee	Rate of TDS as a % of amount paid or payable
Resident	10%
Non-Resident	10% (+ Surcharge + Health and Education cess)

Exemption or relaxation from the provision

a. Where the payment is made to the heirs of the deceased assessee.

b. When a declaration in Form 15-G (in duplicate) is furnished by the assessee to the payer.

3.6.15 TDS on Commission on sale of lottery tickets [Sec. 194G]

Who is responsible to deduct tax: Any person responsible for paying any income by way of commission, remuneration or prize (by whatever name called) on lottery tickets to any person, who is stocking, distributing, purchasing or selling such tickets.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS:

Payee	Rate of TDS as a % of amount paid or payable
Resident	5% [w.e.f 01-10-2024, 2%]
Non-Resident	5% [w.e.f 01-10-2024, 2%] (+ Surcharge + Health & Education cess)

When TDS cannot be made

Where amount of commission, etc. on such tickets *does not exceed ₹ 15,000.*

Exemption or relaxation from the provision

When the recipient applies to the assessing officer in Form 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax. [Refer sec.197]

3.6.16 TDS on commission, etc. other than insurance commission [Sec. 194H]

Who is responsible to deduct tax: Following persons are responsible to deduct tax at source on commission or brokerage (other than commission on insurance) to a resident person -

- Any person, other than individual or HUF; &
- Individual or HUF whose total sales, gross receipts or turnover from business or profession carried on by him exceeding ₹ 1 crore in case of business or ₹ 50 lakh in case of profession during the financial year immediately preceding the financial year in which such sum is credited or paid.

Note:

1. No tax shall be deducted if the aggregate amounts of commission or brokerage credited or paid during the financial year to the payee does not exceed ₹ 15,000.
2. No deduction shall be made on any commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 5% [w.e.f 01-10-2024, 2%]

Exemption or relaxation from the provision

When the recipient applies to the Assessing Officer in Form No. 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax [Refer sec.197]

When commission is retained by an agent

Where commission or brokerage is retained by the consignee/agent while remitting the sale consideration, the consignor/principal will have to deposit the tax deductible on the amount of such retained commission - [Circular No.619]

Other Points: Commission or brokerage includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing, not being securities.

3.6.17 TDS on Rent [Sec. 194-I]

Who is responsible to deduct tax: Following persons are responsible to deduct tax at source on rent to a resident person -

- Any person, other than individual or HUF; &
- Individual or HUF whose total sales, gross receipts or turnover from business or profession carried on by him exceeding ₹ 1 crore in case of business or ₹ 50 lakh in case of profession during the financial year immediately preceding the financial year in which such sum is credited or paid

Note: Tax shall not be deducted if the aggregate amounts of rent credited or paid during the financial year to the payee *does not exceed ₹ 2,40,000*.

Taxpoint: Where the share of each co-owner is known, the limit of ₹ 2,40,000 is applicable to each co-owner separately.

"Rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any, -

a) Land	b) Building (including factory building)	c) Land appurtenant to a building (including factory building)
d) Machinery	e) Plant	
f) Furniture	g) Fittings	h) Equipment
- whether or not any or all of the above are owned by the payee.		

When tax shall be deducted: At the time of payment or crediting the account of payee, whichever is earlier.

Rate of TDS:

Nature of Assets	Rate
Machinery or plant or equipment	2%
Land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings	10%

When TDS cannot be made

- Where the payee is the Government, local authorities u/s 10(20) and statutory authorities u/s 10(20A), then TDS cannot be made - [Circular No. 699, dated 30-1-1995].
- Where rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in sec. 10(23FCA), owned directly by such business trust

Exemption or relaxation from the provision

- When a declaration in Form 15G (in duplicate) is furnished by the assessee to the payer [Refer sec.197A]
- When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax. [Refer sec.197]

Other Points

- **Payment by an individual reimbursed by the company:** Where an employee or an individual representing a company (like a consultant, auditor, etc.) makes a payment for hotel accommodation directly to the hotel, the question of tax deduction at source would not normally arise (except where he is covered u/s 44AB). This is because, it is the employee or such individual who makes the payment and the company merely reimburses the expenditure. [Circular No. 5/2002, dated 30-7-2002]
- **Lump sum lease premium or one-time upfront lease charges,** which are not adjustable against periodic rent, paid or payable for acquisition of long-term leasehold rights over land or any other property are not payments in the nature of rent within the meaning of sec. 194-I. Therefore, such payments are not liable for TDS u/s 194-I [Circular 35/2016 dated 13-10-2016]

3.6.18 TDS on transfer of certain immovable property other than agricultural land [Sec. 194-IA]

Who is responsible to deduct tax: Any person, being a transferee, responsible for paying (other than the person referred to in sec. 194LA) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than rural agricultural land)

- "Immovable property" means any land (other than rural agricultural land) or any building or part of a building.
- "Rural agricultural land" – as discussed in Chapter '*Capital Gain*'

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 1% of such consideration or stamp duty value of such property, whichever is higher.

When TDS cannot be made: Where both the consideration for the transfer of an immovable property and stamp duty value of the property are less than ₹ 50 lakh.

- Consideration for transfer of any immovable property shall include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property;
- Where there is more than one transferor or transferee in respect of any immovable property, then the aggregate consideration paid or payable by all the transferees to all the transferors for the transfer of such immovable property shall be considered

Other Points:

The deductor is not required to obtain Tax Deduction Account Number as required u/s 203A.

3.6.19 TDS on Payment of rent by certain individual / HUF [Sec. 194-IB]

Who is responsible to deduct tax: Any person, being an individual or a Hindu undivided family (other than those referred to in sec. 194-I), responsible for paying to a *resident* any rent.

- "Rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or both

When tax shall be deducted: At the time of credit of rent for the last month of the previous year (or the last month of tenancy, if the property is vacated during the year) to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier

Rate of TDS: 5% [w.e.f 01-10-2024, 2%]

When TDS cannot be made: Where rent for a month or part thereof does not exceed ₹ 50,000

Other Points:

- The deductor is not required to obtain Tax Deduction Account Number as required u/s 203A.
- As per provision of sec. 206AA, if payee fails to provide his PAN, TDS is required to be deducted @ 20%. However, deduction under this section shall not exceed the amount of rent payable for the last month of the previous year (or the last month of the tenancy).

3.6.20 TDS on Payment under Joint Development Agreement [Sec. 194-IC]

Who is responsible to deduct tax: Any person, responsible for paying any consideration referred to in sec. 45(5A) [i.e., Joint Development Agreement] to a *resident* person.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 10%

3.6.21 Fees for Professional or Technical Services [Sec. 194J]

Who is responsible to deduct tax: Following persons are responsible to deduct tax at source for paying fees for professional or for technical service or royalty or any sum referred to in sec.28(va) (i.e., fees for non-competence) or director fees (which is not covered u/s 192) to a resident person -

- Any person, other than individual or HUF; &
- Individual or HUF, whose total sales, gross receipts or turnover from business or profession carried on by him exceeding ₹ 1 crore in case of business or ₹ 50 lakh in case of profession during the financial year immediately preceding the financial year in which such sum is credited or paid.

Note: Tax cannot be deducted if the aggregate amount of such fees credited or paid during the financial year to the payee does not exceed:

Nature of Payment	Amount
Professional fees	₹ 30,000
Fees for technical service	₹ 30,000
Royalty	₹ 30,000
Any sum referred to in sec.28(va)	₹ 30,000
Director fees by whatever name called, (which is not covered u/s 192)	Nil

Note: ₹ 30,000 limit is not on individual transaction. If several professional bills in a year together exceed the amount of ₹ 30,000, tax shall be deducted, even though any individual bill amount does not exceed ₹ 30,000.

Taxpoint: U/s 194C limit of ₹ 30000 was on individual transaction, whereas u/s 194J limit of ₹ 30,000 is applicable on all transactions together made during the year.

No threshold limit is provided for director fees. i.e., TDS is applicable even amount is less than ₹ 30,000.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS:

Case	Rate of Tax
Payee is engaged only in the business of operation of call centre	2%
Fees for technical services (other than professional services)	
Royalty where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films	
other	10%

When TDS cannot be made

1. Individual or HUF shall not be liable to deduct income-tax on fees which is credited or paid exclusively for personal purposes of such individual or any member of HUF.
2. **Fees paid by non-resident:** Any fees paid through regular banking channels to any professional who is resident in India by the non-resident who does not have any agent or business connection or permanent business establishment in India, may not be subject to this provision [*Circular No.726 dated 16-10-1995*].

Exemption or relaxation from the provision

When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax. [Refer sec. 197]

Other Points

"Professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising (i.e. Model, photographer, artist providing service to advertising agency) or such other profession as is notified by the Board for the purposes of section 44AA or of this section;

"Fees for technical services" means any consideration (including any lump sum consideration) for rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head "Salaries".

3.6.22 TDS on income in respect of units [Sec. 194K]

Who is responsible to deduct tax: Any person responsible for paying to a resident any income in respect of:

a. units of a Mutual Fund specified u/s 10(23D); or

b. units from the Administrator of the specified undertaking; or

c. units from the specified company

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 10%

When TDS cannot be made: In the following cases tax shall not be deducted:

a. If the aggregate amounts of income credited or paid during the financial year to the payee does not exceed ₹ 5,000

b. If the income is of the nature of capital gains.

Exemption or relaxation from the provision

- When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorizing the payer to deduct tax at lower rate or deduct no tax; [Refer sec.197]
- When a declaration in Form 15G (in duplicate) is furnished by the assessee to the payer [Refer sec.197A]

3.6.23 TDS on payment of compensation on acquisition of certain immovable property [Sec. 194LA]

Who is responsible to deduct tax: Any person responsible for paying to a resident any sum, being compensation or the enchanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition of any immovable property (other than agricultural land)

When tax shall be deducted: At the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

Rate of TDS: 10%

When TDS cannot be made

Where the amount of such payment or the aggregate amount of such payments to a resident during the financial year does not exceed ₹ 2,50,000.

Exemption or relaxation from the provision

When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax [Refer sec. 197]

Other points

1. Agricultural land means agricultural land in India.
2. Immovable property means any land (other than agricultural land) or any building or part of a building.

3. Deduction shall not be made where payment is made in respect of any award or agreement which has been exempted from levy of income-tax u/s 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

3.6.24 Payment of certain sums by certain individuals or Hindu undivided family [Sec. 194M]

Who is responsible to deduct tax: An individual or a Hindu undivided family (other than those who are required to deduct income-tax as per the provisions of sec. 194C, 194H or 194J) responsible for paying following sum during the financial year:

i. any sum to any resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract,

ii. any sum to any resident by way of commission (not being insurance commission referred to in section 194D) or brokerage or

iii. any sum to any resident by way of fees for professional services

Note: Tax cannot be deducted if the aggregate amount of such sum credited or paid to a resident during the financial year does not exceed ₹ 50 lakh

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 5% [w.e.f 01-10-2024, 2%]

Other Point: The payer is not required to obtain TAN. He shall deposit the tax deducted under this section by using his PAN.

Exemption or relaxation from the provision

When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax [Refer sec. 197]

3.6.25 Payment of certain amounts in cash [Sec. 194N]

Who is responsible to deduct tax: Every person, being,—

i. a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act);

ii. a co-operative society engaged in carrying on the business of banking; or

iii. a post office,

who is responsible for paying cash (in aggregate) in excess of ₹ 1 crore (₹ 3 crore in case of co-operative society) during the previous year, to any person from one or more accounts maintained by the recipient with it.

However, where payee is defaulter, the limit is ₹ 20 lakhs

Defaulter means the recepient who has not filed the returns of income for all of the 3 assessment years relevant to the 3 previous years, for which the time limit to file return of income u/s 139(1) has expired, immediately preceding the previous year in which the payment of the sum is made to him

When tax shall be deducted: At the time of payment

Rate of TDS:

Case	Rate
Where payee is co-operative society	
- In case of defaulter	
- Aggregate payment exceeds ₹ 20 lakh but does not exceed ₹ 3 crore	2%
- Aggregate payment exceeds ₹ 3 crore	5%
In any other case	2%
Where payee is other than co-operative society	
- In case of defaulter	
- Aggregate payment exceeds ₹ 20 lakh but does not exceed ₹ 1 crore	2%
- Aggregate payment exceeds ₹ 1 crore	5%
- In any other case	2%

Example

A payee withdrew ₹ 3,50,00,000 (on different dates) in cash from his bank account, TDS would be deducted as under:

Nature of Payee	Defaulter or Not	TDS	Working
Co-operative society	No	₹ 1,00,000	₹ 50 lakh × 2%
Co-operative society	Yes	₹ 8,10,000	₹ 2.80 crore × 2% + ₹ 50 lakh × 5%
Other person	No	₹ 5,00,000	₹ 2.50 crore × 2%
Other person	Yes	₹ 14,10,000	₹ 80 lakh × 2% + ₹ 2.50 crore × 5%

Exception

The provision is not applicable if payment is made to:

a. the Government;

b. any banking company or co-operative society engaged in carrying on the business of banking or a post office;

c. any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the guidelines issued in this regard by the Reserve Bank of India under the Reserve Bank of India Act, 1934;

d. any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007;

e. such other person or class of persons, which the Central Government may, by notification in the Official Gazette, specify in consultation with the Reserve Bank of India.

f. Other notified person

Other Point: Tax deducted u/s 194N is not considered as deemed receipt of income.

3.6.26 TDS on payment of certain sums by e-commerce operator to e-commerce participant [194-O]

Who is responsible to deduct tax: Where sale of goods or provision of services of an e-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform (by whatever name called), such e-commerce operator shall deduct tax.

Note: If following conditions are satisfied, TDS shall not be deducted:

a. e-commerce participant is an individual or Hindu undivided family.

b. The gross amount of such sale or services or both during the previous year does not exceed ₹ 5,00,000

c. Such e-commerce participant has furnished his Permanent Account Number or Aadhaar number to the e-commerce operator.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 1% [w.e.f 01-10-2024, 0.1%] of the gross amount of such sales or services or both [if e-commerce participant does not intimate his PAN to eCommerce operator, then rate of TDS is 5%]

Taxpoint: Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, shall be deemed to be the amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included in the gross amount of such sale or services for the purpose of deduction of tax

Other Points

- A transaction in respect of which tax has been deducted by the e-commerce operator (or which is not liable to deduction due to threshold limit), shall not be liable to TDS under any other provisions. However, any amount received is or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with the sale or services, other provision relating to TDS, if any, is applicable.
- "Electronic commerce" means the supply of goods or services or both, including digital products, over digital or electronic network;
- "e-Commerce operator" means a person who owns, operates or manages digital or electronic facility or platform for electronic commerce;
- "e-Commerce participant" means a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce;
- "Services" includes "fees for technical services" and fees for "professional services", as defined in sec. 194J
- E-auction services carried out through an electronic portal [Circular No. 20/2021 dated 25-11-2021]
- In case of purchase of goods through the digital or electronic facility or platform, every e-commerce operator, facilitating the sale of goods or provision of services of an e-commerce participant through its digital or electronic facility or platform, is required to deduct tax at source u/s 194-O.
- In an e-auction, the e-auctioneer is only responsible for the price discovery, and the transaction of purchase/sale is carried out directly by the purchase & seller. Further, the price so discovered can be negotiated between parties without the knowledge of the e-auctioneer. Thus, the CBDT has clarified that section 194-O shall not apply in relation to e-action activities carried out by e-auctioneers if the prescribed conditions have been satisfied.

Exemption or relaxation from the provision

When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax [Refer sec. 197]

3.6.27 TDS in respect of certain specified senior citizen [Sec. 194P]

Who is responsible to deduct tax: Specified Bank

When tax shall be deducted: In case of a specified senior citizen, the specified bank shall, after giving effect to the deduction allowable under Chapter VI-A and rebate allowable u/s 87A, compute the total income of such specified senior citizen for the relevant assessment year and deduct income-tax on such total income on the basis of the rates in force (i.e. slab rates).

Taxpoint:

- Such specified senior citizen is not required to file his return of income for the assessment year relevant to the previous year in which the tax has been deducted.
- Specified bank means notified banking company
- Specified senior citizen means an individual, being a resident in India:
  a. who is of the age of 75 years or more at any time during the previous year;
  b. who is having income of the nature of pension and no other income except the interest income received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and
  c. has furnished a declaration to the specified bank containing such particulars, in such form and verified in such manner, as may be prescribed.

3.6.28 TDS on certain sums for purchase of goods [Sec. 194Q]

Who is responsible to deduct tax: Any person, being a buyer who is responsible for paying any sum to any resident seller for purchase of any goods of the value or aggregate of such value exceeding ₹ 50 lakhs in any previous year.

- "Buyer" means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ₹ 10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out. However, buyer does not include certain notified person provided they satisfied specified conditions.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Taxpoint: Where any amount is credited to any account (for e.g. "Suspense account" or by any other name) instead of seller account, such crediting shall be deemed to be credit of such sum to the account of the seller.

Rate of TDS: 0.1% of such sum exceeding ₹ 50 lakhs. In case where seller do not have PAN, then rate of TDS shall be 5%

Taxpoint

- TDS u/s 194Q shall be deducted on the taxable value i.e. exclusive of GST component (or other indirect tax component). However, on the amount paid as advance, TDS shall be deducted on entire amount since GST component cannot be separately identified. [Circular 13/2021 dated 30-06-2021]
- The provision is not applicable where seller is Central or State Government. The exemption is not applicable where seller is public sector undertaking or corporation. [Circular 20/2021 dated 25-11-2021]
- Purchase Return: The tax is required to be deducted at the time of payment or credit, whichever is earlier. Thus, before purchase return happens, the tax must have already been deducted u/s 194Q on that purchase. If that is the case and against this purchase return the money is refunded by the seller, then this tax deducted may be adjusted against the next purchase against the same seller. No adjustment is required if the purchase return is

replaced by the goods by the seller as in that case the purchase on which tax was deducted u/s 194Q has been completed with goods replaced.

- The provisions of this section shall not apply to a transaction on which:
- tax is deductible under any of the provisions of this Act; and
- tax is collectible u/s 206C other than a transaction to which sec. 206C(1H) applies.
- 194O -vs.- 194Q: If tax has been deducted by the e-commerce operator on a transaction u/s 194-O [including transactions on which tax is not deducted on account of 194-O(2)], that transaction shall not be subjected to tax deduction u/s 194Q.
- Though sec. 206C(IH) provides exemption from TCS if the buyer has deducted tax at source on goods purchased by him, to remove difficulties it is clarified that this exemption would also cover a situation where instead of the buyer the e-commerce operator has deducted tax at source on that transaction of sale of goods by seller to buyer through e-commerce operator.
- 194O -vs.- 206C(1H): Similarly, if a transaction is both within the purview of section 194-O as well as sec. 206C(1H), tax is required to be deducted u/s 194-O. The transaction shall come out of the purview of sec. 206C(1H) after tax has been deducted by the e-commerce operator on that transaction. Once the e-commerce operator has deducted the tax on a transaction, the seller is not required to collect the tax u/s 206C(1H) on the same transaction. It is clarified that here primary responsibility is on e-commerce operator to deduct the tax u/s 194-O and that responsibility cannot be condoned if the seller has collected the tax u/s 206C(1H). This is for the reason that the rate of TDS u/s 194-O is higher than rate of TCS u/s 206(1H).
- 194Q -vs.- 206C(1H): If a transaction is both within the purview of sec. 194-Q as well as sec. 206C(1H), the tax is required to be deducted u/s 194-Q. The transaction shall come out of the purview of sec. 206C(1H) after tax has been deducted by the buyer on that transaction. Once the buyer has deducted the tax on a transaction, the seller is not required to collect the tax u/s 206C(1H) on the same transaction. However, if, for any reason, tax has been collected by the seller before the buyer could deduct tax u/s 194-Q on the same transaction, such transaction would not be subjected to tax deduction again by the buyer. This concession is provided to remove difficulty, since tax rate of deduction and collection are same in section 194Q and sec. 206C(1H).
- The provision is not applicable in case of following transactions:

  a. Transaction in securities and commodities traded through recognised stock exchange

  b. Transaction in electricity, renewable energy certificate and energy saving certificate through power exchanges [Circular 13/2021 dated 30-06-2021]

Exemption or relaxation from the provision

When the recipient applies to the Assessing Officer and gets a certificate authorising the payer to deduct tax at a lower rate or deduct no tax [Refer sec. 197]

3.6.29 TDS on benefit or perquisite in respect of business or profession [Sec. 194R]

Who is responsible to deduct tax: Any person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession, by such resident.

- However, tax is not required to be deducted where provider of such facility is an individual or a Hindu undivided family, whose total sales, gross receipts or turnover does not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession, during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided by such person

- Person responsible for providing means the person providing such benefit or perquisite, or in case of a company, the company itself including the principal officer thereof

When tax shall be deducted: Before providing such benefit or perquisite to a resident.

Rate of TDS: 10% of the value or aggregate of value of such benefit or perquisite

When TDS is not applicable: Where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to such resident during the financial year does not exceed ₹ 20,000

Taxpoint

Where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax required to be deducted has been paid in respect of the benefit or perquisite

3.6.30 TDS on Payment on transfer of virtual digital asset [Sec. 194S]

Who is responsible to deduct tax: Any person responsible for paying to any resident any sum by way of consideration for transfer of a virtual digital asset.

When tax shall be deducted: At the time of credit of such sum to the account of the resident or at the time of payment of such sum by any mode, whichever is earlier

Where any sum is credited to any account, whether called "Suspense Account" or by any other name, in the books of account of the person liable to pay such sum, such credit of the sum shall be deemed to be the credit of such sum to the account of the payee

Rate of TDS: 1%

When TDS is not applicable: No tax shall be deducted in a case, where:

Consideration is payable by	Value
A specified person	The value or aggregate value of such consideration does not exceed ₹50,000 during the financial year
Any person other than a specified person	The value or aggregate value of such consideration does not exceed ₹ 10,000 during the financial year

- Specified person means a person,
  a. being an individual or a HUF, whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed ₹ 1 crore in case of business or ₹ 50 lakh in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred;
  b. being an individual or a Hindu undivided family, not having any income under the head "Profits and gains of business or profession

Taxpoint

- The provisions of sections 203A and 206AB shall not apply to a specified person.
- In case of a transaction to which sec. 194O are also applicable along with the provisions of this section, then, tax shall be deducted u/s 194S.
- Where the consideration for transfer of virtual digital asset is:

a. wholly in kind or in exchange of another virtual digital asset, where there is no part in cash; or

b. partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such transfer,

the person responsible for paying such consideration shall, before releasing the consideration, ensure that tax required to be deducted has been paid in respect of such consideration for the transfer of virtual digital asset.

3.6.31 TDS on Payment on Remuneration/Interest to Partner [Sec. 194T][w.e.f. 01-04-2025]

Who is responsible to deduct tax: Firm, responsible for paying any sum in the nature of salary, remuneration, commission, bonus or interest to a partner of the firm.

When tax shall be deducted: At the time of credit of such sum to the account of the partner (including the capital account) or at the time of payment of such sum, whichever is earlier

Rate of TDS: 10%

When TDS is not applicable: Where aggregate of such sums credited or paid or likely to be credited or paid to the partner of the firm does not exceed ₹ 20,000 during the financial year.

Taxpoint:

- Tax u/s 194T is not required to be deducted during the financial year 2024-25.
- Tax is required to be deducted on the entire remuneration/interest even though such remuneration or interest is not taxable in the hands of the partner.

3.6.32 Other Provisions

TDS on sums payable to Government, Reserve Bank or certain corporations [Sec. 196]

No deduction of tax shall be made from any sums payable to following person:

i. the Government, or
ii. the Reserve Bank of India, or
iii. a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income, or
iv. a Mutual Fund specified u/s 10(23D),

Tax deducted is income received [Sec. 198]

- All sums deducted [including income-tax paid outside India, by way of deduction, in respect of which an assessee is allowed a credit against the tax payable under this Act] shall, for the purpose of computing the income of an assessee, be deemed to be income received. E.g., If Mr. X received interest of ₹ 18,000 (after deduction of tax ₹ 2,000), then interest income of Mr. shall be considered as ₹ 20,000/-.

  Exception: The sum being the tax paid, u/s 192(1A) [i.e., tax paid by employer on non-monetary perquisite] and u/s 194N for the purpose of computing the income of an assessee, shall not be deemed to be income received.

- Where any income is paid 'net of tax' (i.e., tax chargeable on such income shall be borne by the payer), then for the purpose of deducting tax, such income is required to be grossed up [Sec. 195A]. However, grossing up is not required in case of tax on non-monetary perquisite paid by the employer.

Credit for tax deducted [Sec. 199]

- Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made. If such income is assessable in the hands of other person, credit shall be given to such other person.
- Any sum referred to in sec. 192(1A) and paid to the Central Government shall be treated as the tax paid on behalf of such employee.
- The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred above and also the assessment year for which such credit may be given.

Certificate for deduction at lower rate [Sec. 197]

- Where the Assessing Officer, on an application (Form 13) made by a person, is satisfied that existing and estimated tax liability of a person justifies the deduction of tax at lower rate or no deduction of tax, as the case may be, the Assessing Officer shall issue a certificate for deduction of tax at such lower rate or no deduction of tax.
- The certificate shall be valid for such period of the previous year as may be specified in the certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.
- The certificate shall be valid only with regard to the person responsible for deducting the tax and named therein.
- The certificate shall be issued direct to the person responsible for deducting the tax under advice to the person who made an application for issue of such certificate

Computation of lower rate [Rule 28AA]

The existing and estimated liability shall be determined by the Assessing Officer after taking into consideration the following:

i. tax payable on estimated income of the previous year relevant to the assessment year;

ii. tax payable on the assessed or returned income, as the case may be, of the last 3 previous years;

iii. existing liability under the Income-tax Act,1961 and Wealth-tax Act,1957;

iv. advance tax payment for the assessment year relevant to the previous year till the date of making application;

v. tax deducted / collected at source for the assessment year relevant to the previous year till the date of making application

In nutshell, the Assessing Officer may issue a certificate for deduction of tax at source at lower rate calculated in the manner specified below:

Calculate estimated total income of the current year	A
Calculate tax payable thereon	B
Examine the advance tax already paid or tax already deducted for the current year	C
Reduce advance tax already paid or tax already deducted from the current year estimated tax liability	D=B-C
Calculate average rate of tax	E = D / A * 100
Calculate average of the average rate of tax of preceding 3 years	F

Rate of TDS for Certificate	Higher of E and F

No deduction to be made in certain cases [Sec. 197A]

- No deduction shall be made under any section from any payment made to New Pension System Trust referred to in sec. 10(44).
- No deduction of tax shall be made u/s 194 (Dividend) and 194EE (NSS),
  a. The payee is a resident individual;
  b. The aggregate amount of income paid or credited does not exceed basic exemption limit
  c. Such individual furnishes to the payer, a declaration in writing in duplicate in the Form 15G (Form 15H in case of senior citizen).
  d. Such declaration states that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be nil.
- No deduction of tax shall be made u/s 192A (payment of the accumulated balance of provident fund) or 193 (interest on securities) or 194A (other interest) or 194D (insurance commission) or 194DA (payment in respect of life insurance policy) or 194-I (rent),
  a. The payee is a person other than a company or a firm.
  b. The aggregate amount of income paid or credited does not exceed basic exemption limit.
  c. Such person furnishes to the payer a declaration in writing in duplicate in the form 15G (Form 15H in case of senior citizen).
  d. Such declaration states that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be nil.
- No deduction of tax shall be made, or deduction of tax shall be made at such lower rate, from such payment to such notified person or class of persons, including institution, association or body or class of institutions, associations or bodies.

3.6.33 Duty of person responsible for deducting tax at source

Deposit of TDS within Time-Limit [Sec. 200 read with Rule 30]

Tax deducted by the deductor shall be deposited electronically through internet banking facility to the credit of the Central Government within following time limit –

TDS	Time limit
a) Tax is deducted on behalf of the Government	
➢ Where the tax is paid without production of an income-tax challan	On the same day
➢ Where the tax is paid with production of an income-tax challan	On or before 7 days from the end of the month in which tax is deducted
b. When the Assessing Officer (after obtaining prior approval from Joint Commissioner) permits quarterly payment of tax:	
➢ Where deduction is made u/s 192, 194A, 194D or 194H	Within July 7 (for Quarter ending on June 30), October 7 (for Quarter ending on September 30), January 7 (for Quarter ending on December 31) & April 30 (for Quarter ending on March 31)

TDS	Time limit
c. In any other case	
➢ For the month of March	Within forthcoming 30th April
➢ For the months other than month of March	Within 7 days from the end of the month in which tax is deducted at source.
Exception: Where tax is deducted u/s 194-IA or 194-IB, tax shall be paid to the credit of the Central Government within a period of 30 days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No. 26QB (for sec. 194-IA) / 26QC (for sec. 194-IB)	

Issuance of certificate to payee

Any person responsible for deducting tax, shall require to issue a certificate (electronically generated) to the payee -

Nature of payment	Certificate	Time-limit
Salary	16	Annual certificate shall be issued on or before June 15 of the financial year following the financial year in which tax is deducted.
Others	16A	Quarterly certificate shall be issued within 15 days from the due date of furnishing quarterly TDS return

Furnishing of statement in respect of payment of any income to residents without deduction of tax [Sec. 206A]

- Any banking company or co-operative society or public company referred to in sec. 194A(3) responsible for paying to a resident any income not exceeding ₹ 40,000 , where the payer is a banking company or a co-operative society, and ₹ 5,000 in any other case by way of interest (other than interest on securities), shall prepare such statement in such form, containing such particulars, for such period, verified in such manner and within such time, as may be prescribed, and deliver or cause to be delivered the said statement to the prescribed income-tax authority or to the person authorised by such authority.
- The Board may require any person, other than above, responsible for paying to a resident any income liable for deduction of tax at source under Chapter XVII, to prepare such statement in such form, containing such particulars, for such period, verified in such manner and within such time, as may be prescribed, and deliver or cause to be delivered the said statement to the income-tax authority or the authorised person referred above.
- The person responsible for paying to a resident any of the aforesaid income may also deliver to the income-tax authority, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered in such form and verified in such manner, as may be prescribed.

Duty to furnish statement

Any person after paying the tax collected to the credit of the Central Government prepare following quarterly statements:

Particulars	Form No.
Tax is deducted from salary u/s 192	24Q
Tax is deducted from payment made to non-resident, foreign company or not-ordinarily resident	27Q
In other cases	26Q

Note: The person may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be specified by the authority. However, w.e.f. 01-04-2025, no correction statement shall be delivered after the expiry of 6 years from the end of the financial year in which the statement is required to be delivered.

Due date of furnishing quarterly statement

Particulars	Due date of submission of quarterly return
For quarter ending on 30 June	July 31 of the financial year
For quarter ending on 30 September	October 31 of the financial year
For quarter ending on 31 December	January 31 of the financial year
For quarter ending on 31 March	May 31 of the forthcoming financial year

Processing of statements of tax deducted at source [Sec. 200A]

- The aforesaid statement (including correction statement) shall be processed in the following manner:
  a. the sums deductible shall be computed after making the following adjustments:
     i. any arithmetical error in the statement; or
     ii. an incorrect claim, apparent from any information in the statement[#];
  b. the interest, if any, shall be computed on the basis of the sums deductible as computed in the statement.
  c. the fee, if any, shall be computed in accordance with the provisions of sec. 234E;
  d. the sum payable by, or the amount of refund due to, the deductor shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid u/s 200 or 201 or 234E and any amount paid otherwise by way of tax or interest or fee;
  e. an intimation shall be prepared or generated and sent to the deductor specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and
  f. the amount of refund due to the deductor in pursuance of the determination under clause (d) shall be granted to the deductor
- **Time Limit:** Such intimation shall not be sent after the expiry of 1 year from the end of the financial year in which the statement is filed.
- For the purposes of processing of statements, the Board may make a scheme for centralised processing of statements of tax deducted at source to expeditiously determine the tax payable by or refundable to the deductor.

[#] An incorrect claim apparent from any information in the statement shall mean a claim, on the basis of an entry, in the statement:
  i. of an item, which is inconsistent with another entry of the same or some other item in such statement;
  ii. in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of this Act;

3.6.34 Tax deduction and collection account number [Sec. 203A]

Every person, deducting tax or collecting tax, who has not been allotted a tax-deduction account number or tax-collection account number, shall within specified time, apply to the Assessing Officer for the allotment of a "tax-deduction and collection-account number" in Form 49B. Where such number has been allotted to a person, such person shall quote such number—

a. in all challans for the payment of tax deducted or collected;

b. in all certificates furnished u/s 203 or sec. 206C(5);

c. in all the statements prepared and delivered u/s 200(3) or 206C(3);

d. in all the returns delivered u/s 206 or 206C(5A) or (5B) to any income-tax authority; and

e. in all other documents pertaining to such transactions as may be prescribed in the interests of revenue.

Note: The section is not applicable to the person deducting tax u/s 194-IA or 194-IB

3.6.35 Requirement to furnish Permanent Account Number [Sec. 206AA]

- Any person entitled to receive any sum or income or amount, on which tax is deductible (hereafter referred to as deductee) shall furnish his Permanent Account Number (PAN) to the person responsible for deducting such tax (hereafter referred to as deductor), failing which tax shall be deducted at the **higher** of the following rates:
  - i. at the rate specified in the relevant provision of this Act; or
  - ii. at the rate or rates in force; or
  - iii. at the rate of 20%
- In case of non-PAN case covered u/s 194-O or 194-Q, rate of TDS shall be 5%.
- No declaration u/s 197A shall be valid unless the person furnishes his Permanent Account Number in such declaration.
- In case any declaration becomes invalid, the deductor shall deduct the tax at source accordingly.
- No certificate u/s 197 shall be granted unless the application made for the purpose contains the Permanent Account Number of the applicant.
- The deductee shall furnish his Permanent Account Number to the deductor and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.
- Where the Permanent Account Number provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished his Permanent Account Number to the deductor.
- In the case of a non-resident, not being a company, or a foreign company and not having PAN, the provisions of sec. 206AA shall not apply in respect of payments in the nature of interest, royalty, fees for technical services and payments on transfer of any capital asset, if the deductee furnishes the specified details and the documents to the deductor [Notification 53 dated 24-06-2016]

3.6.36 TDS for non-filers of ITR [Sec. 206AB]

Where tax is required to be deducted at source under aforesaid provisions, other than sec. 192, 192A, 194B, 194BB, 194-IA, 194-IB, 194LBC, 194M or 194N on any sum or income or amount paid, or payable or credited, by a person (hereafter referred to as deductee) to a specified person, the tax shall be deducted at the higher of the following rates, namely:—

a. at twice the rate specified in the relevant provision of the Act; or

b. at twice the rate or rates in force; or

c. at the rate of 5%.

Taxpoint

- Specified person means
  - a person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income u/s 139(1) has expired; and

- the aggregate of TDS and TCS in his case is ₹ 50,000 or more in the said previous year

However, specified person shall not include

a. a non-resident who does not have a permanent establishment in India.

Permanent establishment includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.

b. a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government

- If the provisions of sec. 206AA is applicable to a specified person, in addition to the provision of this section, the tax shall be deducted at higher of the two rates provided in this section and in sec. 206AA.

3.6.37 Electronic-payment of tax [Rule 125]

The following persons shall pay tax electronically:

i. a company; and

ii. a person (other than a company), to whom provisions of section 44AB (tax audit) are applicable.

Taxpoint:

- Pay tax electronically shall mean, payment of tax by way of:
  (i) internet banking facility of the authority bank; or
  (ii) credit or debit cards;
- For the purpose of this rule, tax includes interest, penalty and payment of any amount by a deductor by way of Tax Deducted at Source (TDS) or Tax Collected at Source (TCS).
- An assessee can make electronic payment of taxes also from the account of any other person. However, the challan for making such payment must clearly indicate the Permanent Account Number (PAN) of the assessee on whose behalf the payment is made. It is not necessary for the assessee to make payment of taxes from his own account in an authorized bank.

3.6.38 Direct payment [Sec. 191]

- In the case of income in respect of which:
  - Provision is not made for deducting income-tax at the time of payment;
  - Income-tax has not been deducted in accordance with the provisions of this Chapter,

  tax shall be payable by the assessee direct.
- If any person, including the principal officer of a company,—

  a. who is required to deduct any sum in accordance with the provisions of this Act; or

  b. referred to in sec. 192(1A), being an employer,

  does not deduct, or after so deducting fails to pay, or does not pay, the whole or any part of the tax, as required by or under this Act, then, such person shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default. [Sec. 201(1)].

  Exception

  First proviso to sec. 201(1) states that the payer is not deemed as an assessee in default:

i. Such resident recipient has furnished his return of income u/s 139

ii. Such resident recipient has taken into account such sum for computing income in such return of income; and

iii. Such resident recipient has paid the tax due on the income declared by him in such return of income,

iv. The payer furnishes a prescribed certificate [Form No. 26A] to this effect from a chartered accountant

- **Penalty:** No penalty shall be charged u/s 221 from such person, principal officer or company unless the Assessing Officer is satisfied that such person or principal officer or company, as the case may be, has without good and sufficient reasons failed to deduct and pay the tax. [Second Proviso to Sec. 201(1)]
- **Other Point:** Relaxation in case of tax on perquisite in respect of allotment of ESOP shares [Refer sec. 192]

3.6.39 Deduction only one mode of recovery [Sec. 202]

The power to recover tax by deduction under *the foregoing provisions of this Chapter* is only one mode for recovery of tax. However, the Assessing Office can use any other prescribed methods of recovery in addition to TDS.

3.6.40 TDS is to be deducted on amount excluding GST component

Wherever in terms of the agreement/contract between the payer and the payee, the GST component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid/payable without including such GST component

TAX COLLECTION AT SOURCE (TCS)

Apart from TDS, another device applied for quicker collection of tax is Tax collection at source (TCS) u/s 206C.

3.6.41 Applicability of Sec. 206C

1. Every seller[1], shall collect tax from the buyer[2] of any specified goods[3], at the time of -
   - Debiting the amount payable by the buyer to the account of the buyer; or
   - Receipt of such amount from the buyer,

   - whichever is earlier.
2. Every person, who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest in -
   - any parking lot; or
   - toll plaza; or
   - mine or quarry excluding mines or quarrying of mineral oil (mineral oil includes Petroleum and Natural gas),
   - to another person (other than a public sector company) for the use of such parking lot or toll plaza or mine or quarry for the purpose of business shall collect tax from the licensee or lessee at the time of:
   - Debiting the amount payable by the licensee or lessee to the account of the licensee or lessee; or
   - Receipt of such amount from the licensee or lessee,

   - whichever is earlier.

3. Every person -

   a. being an authorised dealer, who receives an amount, for remittance out of India from a buyer, being a person remitting such amount out of India under the Liberalised Remittance Scheme of the Reserve Bank of India;

   b. being a seller of an overseas tour program package, who receives any amount from a buyer, being the person who purchases such package

   shall collect from the buyer at the time of

   - Debiting the amount payable by the buyer; or
   - Receipt of such amount from the said buyer

   - whichever is earlier,

   Taxpoint

   - The provision shall not be applicable to a person (being a buyer) who is a non-resident and who does not have a permanent establishment in India.
   - Authorised dealer means a person authorised by the Reserve Bank of India u/s 10(1) of the Foreign Exchange Management Act, 1999 to deal in foreign exchange or foreign security;
   - Overseas tour programme package means any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

   Exception

   i. The authorised dealer shall not collect the sum, if aggregate of the amounts being remitted by a buyer is less than ₹ 7,00,000 in a financial year and is for a purpose other than purchase of overseas tour program package.

      Taxpoint: If remittance is more than ₹ 7,00,000 (say ₹ 8,00,000), then tax shall be collected on excess amount (i.e. ₹ 1,00,000).

   ii. The authorised dealer shall not collect the sum on an amount in respect of which the sum has been collected by the seller.

   iii. The provision is not applicable, if the buyer is:

      a. liable to deduct tax at source under any other provision of this Act and has deducted such amount;

      b. the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority as defined in the Explanation to sec. 10(20) or any other notified person

4. Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding ₹ 50,00,000 in any previous year shall at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1% of the sale consideration exceeding ₹ 50,00,000 [Sec. 206C(1H)]

   Exception

   - The provision is not applicable in case of goods being exported out of India or motor vehicle or any goods covered in point 3 above.
   - If the buyer has not provided the Permanent Account Number or the Aadhaar number to the seller, tax shall be collected @ 1%
   - The provisions shall not apply, if the buyer is liable to deduct tax at source under any other provision of this Act on the goods purchased by him from the seller and has deducted such amount.

Taxpoint: For the purposes of this:

a. Buyer means a person who purchases any goods, but does not include:
   i. the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or
   ii. a local authority; or
   iii. a person importing goods into India or any other notified person

b. Seller means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ₹ 10 crore during the financial year immediately preceding the financial year in which the sale of goods is carried out, but does not include notified person

Meaning of important terms [for points 1 to 3]

1. **"Seller"** means -
   a. The Central Government; or
   b. State Government; or
   c. Local authority; or
   d. Statutory corporation; or
   e. Authority established by or under a Central, State or Provincial Act; or
   f. Company; or
   g. Firm; or
   h. Co-operative society; or
   i. An individual or a HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ **1 crore** in case of **business** or ₹ **50 lakh** in case of **profession** during the financial year immediately preceding the financial year in which such goods are sold.
2. **"Buyer"** (for specified goods other than motor car) means a person who obtains in any sale (by way of auction, tender or any other mode) specified goods or the right to receive any such goods but does not include, —
   i. A public sector company, the Central Government, a State Government and an embassy, a High Commission, Legation, Commission, consulate and the trade representation, of a foreign state and a club; or
   ii. A buyer in the retail sale of such goods purchased by him for personal consumption.
   - Buyer in case of motor car means a person who obtains in any sale, motor care, but does not include:
     a. the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or
     b. a local authority; or
     c. a public sector company which is engaged in the business of carrying passengers
3. "Specified goods" includes:
   i. Alcoholic Liquor for human consumption
   ii. Tendu leaves;
   iii. Timber;
   iv. Any forest-produce;
   v. Scrap.
   vi. Specified minerals i.e., coal, lignite and iron-ore
   vii. Motor car or any other specified goods, value of which exceeds ₹ 10 lakhs

Rate of TCS

Particulars	Rate as a % of the amount payable by the buyer or licensee or lessee*
1. Alcoholic liquor for human consumption	1%
2. Tendu leaves	5%
3. Timber obtained under a forest lease	2.5%
4. Timber obtained by any mode other than under a forest lease	2.5%
5. Any other forest produce (not being timber or tendu leaves)	2.5%
6. Scrap	1%
7. Specified minerals	1%
8. Motor car or other specified goods, value of which exceeds ₹10 lakh	1%
9. Parking lot, toll plaza, mining and quarrying	2%
10. In case of point 3	
a. if the amount being remitted out is a loan obtained from any financial institution as defined in sec. 80E, for the purpose of pursuing any education	0.5% (after threshold limit of ₹ 7 lakhs)
b. Remittance for education (Otherthan above) or for medical purpose	5% (after threshold limit of ₹ 7 lakhs)
c. Overseas tour program package	- Upto ₹ 7 lakhs – 5% - Above ₹ 7 lakhs – 20%
d. In other case	20% (after threshold limit of ₹ 7 lakhs)
11. In case of point 4	0.1%

* However, where the purchaser or licensee or lessee is a non-resident non-corporate assessee or a non-domestic company, then surcharge (if any applicable), health and education cess is also required to be deducted alongwith aforesaid rates.

Note: "Scrap" means waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons.

Requirement to furnish PAN by collectee [Sec. 206CC]

- Any person paying any sum, on which tax is collectible at source shall furnish his PAN to the person responsible for collecting such tax, failing which tax shall be collected at the higher of the following rates:
  - i. at twice of the specified TCS rate; or
  - ii. at the rate of 5%.
- Where the PAN provided is invalid or does not belong to the collectee, it shall be deemed that the collectee has not furnished his PAN to the collector.

Exception

- The provisions of higher rate shall not be applicable to a non-resident who does not have permanent establishment in India.
- In case of point 4, if the buyer has not provided the Permanent Account Number or the Aadhaar number to the seller, tax shall be collected @ 1%

Special provision for TCS for non-filers of ITR [Sec. 206CCA]

Where tax is required to be collected at source under the aforesaid provisions, on any sum or amount received by a person from a specified person, the tax shall be collected at the higher of the following rates:

- at twice the rate specified in the relevant provision of the Act; or
- at the rate of 5%.

Taxpoint

- If the provisions of sec. 206CC is applicable to a specified person, in addition to the provisions of this section, the tax shall be collected at higher of the two rates provided in this section and in sec. 206CC.
- Specified person means

  a. a person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be collected, for which the time limit for furnishing the return of income u/s 139(1) has expired; and

  b. the aggregate of TDS and TCS in his case is ₹ 50,000 or more in the said previous year

  However, the specified person shall not include:

  a. a non-resident who does not have a permanent establishment in India.

     Permanent establishment includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.

  b. a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government

Filing of Return of Income

3.7

3.7.1 Filing of Return

As per provisions of sec. 139(1), following persons need to file a return of income in the prescribed form and within the prescribed time -

Section	Assessee	Size of income
139(1)(a)	A company or a firm	Irrespective of size of income (even where there is a loss)
139(4A)	Trust	Discussed later in this chapter
139(4B)	Political party	
139(4C)	Scientific research association; News agency; etc.	
139(4D)	Any University / College / other institution referred to on Sec. 35(1)(ii) or (iii)	Irrespective of size of income (even where there is a loss)
139(4E)	Business Trust	
139(4F)	Investment Fund referred to in sec. 115UB	
139(1)(b)	Any other person	Where income before giving effect to sec. 54, 54B, 54D, 54EC, 54F, 54G, 54GA, 54GB and chapter VIA (i.e., deduction u/s 80C to 80U) exceeds the maximum amount which is not chargeable to income tax.

However, the Central Government may exempt any class or classes of persons from the requirement of furnishing a return of income having regard to such conditions as may be specified in that notification – Sec.139(1C)

Compulsory filing of return: Any person, being resident other than not ordinarily resident, shall furnish, a return, within due date, in respect of his income or loss for the previous year irrespective of the fact that his total income does not exceed basic exemption limit or does not have any taxable income, if he:

(i) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or

(ii) is a beneficiary of any asset (including any financial interest in any entity) located outside India.

Exception: An individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India where, income, if any, arising from such asset is includible in the income of the person referred above in accordance with the provisions of this Act.

- "Beneficial owner" in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.
- "Beneficiary" in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.

Mandatory furnishing of return in case of high value transactions [7th proviso to sec. 139(1)]

A person (other than firm and company), who is not required to furnish a return as per aforesaid provision, and who during the previous year:

a. has deposited an aggregate amount exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or

b. has incurred expenditure of an aggregate amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country; or

c. has incurred expenditure of an aggregate amount exceeding ₹ 1 lakh towards consumption of electricity; or

d. fulfils such other conditions as may be prescribed,

The following are prescribed [Rule 12AB]:

- If his total sales, turnover or gross receipts, as the case may be, in the business exceeds ₹60 lakhs during the previous year; or
- If his total gross receipts in profession exceeds ₹ 10 lakh during the previous year; or
- If the aggregate of TDS and TCS during the previous year, in the case of the person, is ₹ 25,000 or more (in case of senior citizen ₹ 50,000); or
- The deposit in one or more savings bank account of the person, in aggregate, is ₹ 50 lakh or more during the previous year

shall furnish a return of his income on or before the due date in such form and verified in such manner and setting forth such other particulars, as may be prescribed.

Illustration 44:

Whether following assessee is compulsorily required to file return of income–

Assessee	Taxable Income before deduction	Required to file return or not
Mr. X	5,00,000	Yes
Mr. Y	30,000	No*
A Ltd.	10,000	Yes
B Ltd	(-) 20,000	Yes

* Assessee can file a return of income voluntarily irrespective of it's size of income.

3.7.2 Scheme for submission of return through Tax Return Preparers (TRP) [Sec. 139B]

As per TRP Scheme,2006, an individual who has been issued a "Tax Return Preparer Certificate" and a "unique identification number" under this Scheme by the Partner Organisation to carry on the profession of preparing the returns of income in accordance with the Scheme.

A TRP has been authorized to prepare and furnish returns of income of any specified class(es) of person1. The scheme framed under the above provision shall specify:

- The manner in which and the period for which the TRP shall be authorised
- The educational and other qualifications to be possessed
  - An individual, who holds a bachelor degree from a recognised Indian University or institution, or has passed the intermediate level examination conducted by the ICAI or the ICSI or the ICMAI, shall be eligible to act as Tax Return Preparer

- The training and other conditions required to be fulfilled, by a person to act as a TRP,
- The code of conduct for the TRP,
- Duties and obligation of the TRP
- The circumstances under which the authorisation given to a TRP may be withdrawn; &
- Any other matter.

Note: The TRP shall also affix his signature on such return.

[1] Any person (resident individual and resident HUF) other than a company or a person whose accounts are required to be audited u/s 44AB (tax audit) or under any other existing law, who is required to furnish a return of income under the Act. Further, an eligible person cannot furnish a revised return of income for any assessment year through a TRP unless he has furnished the original return of income for that assessment year through such or any other TRP

Person not eligible to become TRP

- An accountant
- Any legal practitioner who is entitled to practice in any civil court in India.
- Any officer of a scheduled bank cannot be the TRP of the assessee who maintains a Current account or has other regular dealing with such bank.
- An employee of the specified class or classes of persons
  - Employees of companies and persons whose accounts are required to be audited u/s 44AB or any other law for the time being in force (since they are not falling in the category of specified class or classes of persons), are eligible to act as TRP

3.7.3 Forms – Return of income

Rule 12 provides following Form for filing return of income for different assessee:

ITR - 1 (Sahaj)	For ordinarily resident Individuals having Income from Salaries, one house property (does not have any brought forward loss), other sources [Interest (does not have any loss under the head) etc. but except winnings from lottery or income from race horses] and having total income upto ₹ 50 lakh However, the form is not to be used for an individual who is either a Director in a company or has invested in unlisted equity shares or has any brought forward / carried forward loss under the head 'Income from House Property' or has to furnish return under seventh proviso to section 139(1) of the Income Tax Act
ITR - 2	For Individuals and HUFs not carrying out business or profession under any proprietorship
ITR - 3	For individuals and HUFs having income from a proprietary business or profession
ITR - 4 (Sugam)	For presumptive income from Business & Profession
ITR - 5	For person other than (i) Individual; (ii) HUF; (iii) Company; & (iv) Person filing Form ITR-7
ITR - 6	For Companies other than companies claiming exemption u/s 11
ITR - 7	For persons including companies required to furnish return u/s 139(4A) or 139(4B) or 139(4C) or 139(4D) or 139(4F)
ITR - V	Income Tax Return Verification Form [Where the data of the aforesaid Return of Income has transmitted electronically without digital signature]

3.7.4 Mode of furnishing Income-tax Return

a. Paper Return

b. Electronic Return with Digital Signature

c. Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V

d. Transmitting the data electronically in the return under electronic verification code

Notes

1. **Compulsory E-Return:**

Person	Condition	Mode
Company	-	Electronically with digital sign
Political Party	-	
Firm or LLP	Audit u/s 44AB required	
Individual or HUF	Audit u/s 44AB required	- Electronically with digital sign - Transmitting the data electronically in the return under EVC
Individual	Where total income assessable during the previous year of a person, being an individual of the age of 80 years or more at any time during the previous year, and who furnishes the return in Form number SAHAJ (ITR-1) or Form number SUGAM (ITR-4)	Any of the given mode
Any other person		Any mode other than paper mode

2. A resident Individual (other than not-ordinarily resident) or a resident HUF (other than not-ordinarily resident) must file the return of income electronically (with or without digital sign) if he/it has:
   a. assets (including financial interest in any entity) located outside India; or
   b. signing authority in any account located outside India.
3. Further, any person who has claimed any relief u/s 90 or 90A or 91, is required to file return electronically.
4. Where an assessee is required to furnish a report of audit specified u/s 10(23C)(iv), (v), (vi) or (via), sec. 10A, sec. 12A(1)(b), sec. 44AB, sec. 80-IA, sec. 80-IB, sec. 80-IC, sec. 80-ID, sec. 80JJAA, sec. 80LA, sec. 92E or sec. 115JB, he shall furnish the same electronically. Apart from said report, the return shall paper less.
5. In respect of any electronic transmission of return data, the return should be verified through e-verification or submission of ITR-V. Such verification should be done within 30 days from the date of transmitting/uploading the data of return of income electronically.
6. Further, where ITR data is electronically transmitted and e-verified/ITR-V submitted within 30 days of transmission of data - in such cases the date of transmitting the data electronically shall be considered as the date of furnishing the return of income. However, where ITR data is electronically transmitted but e-verified or ITR-V submitted beyond the time-limit of 30 days of transmission of data - in such cases the date of e-verification/ITR-V submission shall be treated as the date of furnishing the return of income and all consequences of late filing of return under the Act shall follow.

3.7.5 Time limit for filing return of income [Explanation 2 to Sec. 139(1)]

A return should be filed on or before the following due date (of respective assessment year):

Assessee	Due date
➢ Where the assessee (including the partners of the firm) is required to furnish a report in Form 3CEB u/s 92E pertaining to international transaction(s)	30th November
➢ Where the assessee is a partner* in a firm and the said firm is required to furnish report in Form 3CEB u/s 92E pertaining to international transaction(s)	30th November
➢ Where the assessee is a company not having international transaction(s)	31st October
➢ Any other assessee	
– Where accounts of the assessee are required to be audited under any law	31st October
– Where the assessee is a partner* in a firm and the accounts of the firm are required to be audited under any law	31st October
– In any other case	31st July

3.7.6 Fee for default in furnishing return of income [Sec. 234F]

Where a person required to furnish a return of income u/s 139, fails to do so within the due date, he shall pay fee of:

Case	Fee
Total income does not exceed ₹ 5 lakh	₹ 1,000
Total income exceeds ₹ 5 lakh	₹ 5,000

3.7.7 When a return of loss should be filed [Sec. 139(3)]

An assessee, other than few, is not compulsorily required to furnish return of loss. However, the following losses cannot be carried forward if the return of loss is not submitted within the time allowed u/s 139(1) -

a. Business loss (speculative or otherwise);

b. Capital loss;

c. Loss from the activity of owning and maintaining race horses

d. Loss from business specified u/s 35AD

Notes

a. Loss declared in belated return cannot be carried forward. However, set-off of losses of current year is not prohibited while computing the total income, even if the return of loss is filed after the due date.

b. Delay in filing the return of loss may be condoned in certain cases

c. Unabsorbed depreciation u/s 32 and loss under the head "Income from house property" can be carried forward even if the loss return is filed after the due date u/s 139(1).

d. Although the loss of the current year cannot be carried forward unless the return of loss is submitted before the due date but the loss of earlier years can be carried forward if the return of loss of that year was submitted within the due date.

* Also spouse of such partner if the provisions of section 5A applies to such spouse

3.7.8 Belated Return [Sec. 139(4)]

If an assessee fails to file return within the time limit allowed u/s 139(1) or within the time allowed under a notice issued u/s 142(1), he can file a belated return.

Time limit: Assessee may file such return -

- On or before 31st December of the relevant assessment year; or
- before the completion of assessment (u/s 144),

  - whichever is earlier.

However, if an assessee files a belated return, he would be liable to fee u/s 234F and interest u/s 234A.

Further, certain profit-based deductions are not available and current year losses are not allowed to be carried forward.

3.7.9 Return of income of Charitable Trust [Sec. 139(4A)]

Every person who is in receipt of –

- income from property held under the trust or other legal obligation wholly or partly for charitable or religious purpose; or
- income by way of voluntary contribution on behalf of such trust or institution,

and if such income before allowing exemption u/s 11 or 12 exceeds the maximum amount which is not chargeable to tax, must file a return before the due date as per sec.139(1).

Penalty: Where an assessee fails to file return of income under this section, within the time limit, it shall be liable to pay a penalty of ₹ 100 per day during which such failure continues [Sec. 272A(2)].

3.7.10 Return of income of Political Party [Sec. 139(4B)]

The chief executive officer (whether such chief executive officer is known as Secretary or by any other designation) of any political party is required to furnish a return in respect of income of such political party, if the amount of gross total income before allowing exemption u/s 13A exceeds the maximum amount not chargeable to tax.

3.7.11 Return of income of scientific research association, etc. [Sec. 139(4C)]

Every -

- Research Association referred to in sec. 10(21);
- News agency referred to in sec. 10(22B);
- Association or institution referred to in sec. 10(23A) or sec. 10(23B);
- Specified Employee Welfare Fund referred to in sec. 10(23AAA);
- Any university or other educational institution referred to in sec. 10(23C)(iiiad) or (iiiab);
- Any hospital or other medical institution referred to in sec. 10(23C)(iiiae) or (iiiac);
- Fund or institution referred to in sec. 10(23C)(iv);
- Trust or institution referred to in sec. 10(23C)(v);
- Any university or other educational institution referred to in sec. 10(23C)(vi);
- Any hospital or other medical institution referred to in sec. 10(23C)(via);

- Mutual Fund referred to in sec. 10(23D);
- Securitisation trust referred to in sec. 10(23DA);
- Investor Protection Fund referred to in sec. 10(23EC) or sec. 10(23ED);
- Core Settlement Guarantee Fund referred to in sec. 10(23EE);
- Venture Capital Company or Venture Capital Fund referred to in sec. 10(23FB);
- Trade union or an association of such union referred to in sec. 10(24);
- Body or authority or Board or Trust or Commission referred to in sec. 10(46) or 10(29A);
- Infrastructure debt fund referred to in sec. 10(47),

must file a return, if the total income without giving effect to the provisions of sec. 10, exceeds the maximum amount which is not chargeable to income-tax.

Penalty: Where an assessee fails to file return of income under this section, within the time limit, it shall be liable to pay a penalty of ₹ 100 per day during which such failure continues [Sec. 272A(2)].

3.7.12 Return of income by a University/ College etc. [Sec. 139(4D)]

Every University, college or other institutions referred to in sec. 35(1)(ii) or (iii) is required to furnish a return in respect of income or loss irrespective of size of income or loss.

3.7.13 Return of income of a Business Trust [Sec. 139(4E)]

Every business trust, which is not required to furnish return of income or loss under any other provisions of this section, shall furnish the return of its income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply if it were a return required to be furnished u/s 139(1).

3.7.14 Return of income of Investment Fund [Sec. 139(4F)]

Every investment fund referred to in sec. 115UB, which is not required to furnish return of income or loss under any other provisions of this section, shall furnish the return of income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished u/s 139(1)

3.7.15 Revised Return [Sec. 139(5)]

If an assessee discovers any omission or wrong statement (bonafide in nature) in the return filed, he can revise his return u/s 139(5).

Time limit: Assessee may file the revised return -

- On or before 31st December of the relevant assessment year; or
- before completion of regular assessment,

  - whichever is earlier.

Notes

a. **Replacement of original return:** Once a revised return is filed, it replaces the earlier return. This signifies that the revised return should be complete in itself and not merely an accessory to the original return.

b. **Revision of revised return:** A revised return can again be revised i.e. a second revised return can be filed u/s 139(5) for correcting any omission or wrong statement made in the first revised return within specified time.

c. **Revision of belated return:** A belated return u/s 139(4) can be revised.

d. **Revision of loss return:** A loss return can be revised

e. Return filed pursuant to notice u/s 142(1) cannot be revised.

3.7.16 Defective Return [Sec. 139(9)]

Under this section, the AO has the power to call upon the assessee to rectify a defective return.

Where the Assessing Officer considers that the return of income furnished by the taxpayer is defective, he may intimate the defect to the taxpayer and give him an opportunity to rectify the defect(s).

Time limit for rectification: The assessee must rectify the error within a period of 15 days from the date of intimation (served on the assessee) or within such extended time as allowed by the AO on application being made to him. Where the taxpayer rectifies the defect after the expiry of the period of 15 days or such extended period but before the assessment is completed, the AO can condone such delay.

Consequence when defect is not rectified: If defect is not rectified within the time limit (or extended time), the AO shall treat the return as an invalid return and provisions of the Act will apply as if the taxpayer had failed to furnish the return at all. Where, however, the assessee rectifies the defect after the expiry of 15 days or the further extended period, but before the assessment is made, the AO may condone the delay and treat the return as a valid return.

Taxpoint

- A return of income would be regarded as defective unless the annexures, statements and columns therein relating to computation of income chargeable under each head of income, gross total income and total income have been duly filled in.
- A return of income u/s 139 would also be regarded as defective if it is not accompanied by proof of payment of taxes, whether by way of advance tax or self-assessment tax.

3.7.17 Verification of Return [Sec. 140]

The return of income is required to be verified:

Assessee	Case	Verified by
Individual	In general	Individual himself
	Where the individual concerned is absent from India	Individual himself or by the duly authorized person of such individual
	Where the individual is mentally incapacitated	Guardian of such individual or any other person competent to act on his behalf
	Where by any other reason it is not possible for the individual to verify the return.	Any person duly authorised by him
	Note: When return is verified by any authorised person in that case the return should be accompanied with power of attorney. (Now a days, it is not required to be accompany the return)	
HUF	In general	Karta
	Where the 'karta' is absent from India or is mentally incapacitated	Any adult member of the family.
Firm	In general	Managing partner
	If due to any reason it is not possible for managing partner to verify or where there is no managing partner	Any adult partner

Assessee	Case	Verified by
Limited liability partnership	In general	Designated partner
	If due to any unavoidable reason such designated partner is not able to verify the return, or where there is no designated partner as such	Any partner or any other prescribed person
Local authority	Principal Officer	
Political party	Chief Executive Officer	
Company	In general	Managing Director (MD)
	If due to any reason it is not possible for MD to verify or where there is no MD	Any director or any other prescribed person
	Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Insolvency and Bankruptcy Code, 2016	Insolvency professional appointed by such Adjudicating Authority
	Non-resident company	A person holding a valid power of attorney. Copy of such power of attorney must be attached with the return.
	Company in process of winding up	Liquidator of the company
	Where the management of the company has been taken over by the Central or State Government.	Principal officer
Any other association	Any member or principal officer	
Any other person	Such person or any other person competent to act on its behalf.	

The CBDT has, vide Notification No. 93/2021 dated 18.8.2021, specified that "any other person" referred to in section 140(c) and 140(cd) for company and LLP, respectively, shall be the person, appointed by the Adjudicating Authority (i.e., National Company Law Tribunal constituted under section 408 of the Companies Act, 2013) for discharging the duties and functions of an interim resolution professional, a resolution professional, or a liquidator, as the case may be, under the Insolvency and Bankruptcy Code, 2016 and the rules and regulations made thereunder.

3.7.18 Updated Return [Sec. 139(8A)]

Who can file updated return: Any person, whether or not he has furnished a return u/s 139(1) or (4) or (5), for an assessment year, may furnish an updated return of his income or the income for the previous year relevant to such assessment year, in the prescribed form, verified in such manner and setting forth such particulars as may be prescribed.

Taxpoint

- An updated return cannot be filed, if the updated return:
  a. is a return of a loss; or
  b. has the effect of decreasing the total tax liability determined on the basis of return already furnished u/s 139(1) or (4) or (5) [in nutshell, a person cannot reduce his tax liability by filing updated return]; or

c. results in refund or increases the refund due on the basis of return furnished u/s 139(1) or (4) or (5), of such person for the relevant assessment year.

- No updated return shall be furnished by any person for the relevant assessment year, where:
  a. an updated return has already been furnished by him for the relevant assessment year; or
  b. any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant assessment year in his case; or
  c. he is such person or belongs to such class of persons, as may be notified by the Board in this regard.

  There are other circumstances also in which updated return cannot be furnished for the relevant assessment year. For example, where prosecution proceedings are initiated under the relevant provisions of the Income-tax Act, 1961. Those circumstances will be dealt with at Final level

- If any person has sustained a loss in any previous year and has furnished a return of loss in the prescribed from within the time allowed u/s 139(1) and verified in the prescribed manner and containing such other particulars as may be prescribed, he shall be allowed to furnish an updated return where such updated return is a return of income.
  - If the loss or any part thereof carried forward or unabsorbed depreciation carried forward or tax credit carried forward u/s 115JAA or u/s 115JD is to be reduced for any subsequent previous year as a result of furnishing of updated return for a previous year, an updated return shall be furnished for each such subsequent previous year.

Time limit for filing updated return: At any time within 24 months from the end of the relevant assessment year.

Taxpoint: The updated return is accompanied by the proof of payment of tax as required u/s 140B

3.7.19 Tax on updated return [Sec. 140B]

A. **Where assessee has not furnished return earlier**

Where no return of income u/s 139(1) or (4) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee, after taking into account:

i. the amount of tax, if any, already paid as advance tax;
ii. TDS or TCS;
iii. any relief u/s 89;
iv. any relief u/s 90 or 91 on account of tax paid in a country outside India;
v. any relief u/s 90A on account of tax paid in any specified territory outside India; and
vi. any tax credit claimed to be set off in accordance with the provisions of sec. 115JAA or 115JD,

the assessee shall be liable to pay such tax together with interest and fee payable for any delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of **additional income-tax**, before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

Taxpoint: In a case, where no earlier return has been furnished, the interest payable u/s 234A has to be computed on the amount of the tax on the total income as declared in the updated return, in accordance with the provisions of sec. 140A.

B. **Where assessee has furnished return earlier**

Where, return of income u/s 139(1) or (4) or (5) (referred to as earlier return) has been furnished by an assessee and tax is payable on the basis of updated return to be furnished by such assessee

a. after taking into account:
   i. the amount of relief or tax referred to in sec. 140A(1), the credit for which has been taken in the earlier return;
   ii. TDS or TCS on any income which is taken into account in computing total income and which has not been included in the earlier return;
   iii. any relief claimed u/s 90 or 91 on account of tax paid in a country outside India on such income which has not been included in the earlier return;
   iv. any relief claimed u/s 90A on account of tax paid in any specified territory outside India on such income which has not been included in the earlier return;
   v. any tax credit claimed, to be set off in accordance with the provisions of sec. 115JAA or 115JD, which has not been claimed in the earlier return; **and**

b. as increased by the amount of refund, if any, issued in respect of such earlier return,

the assessee shall be liable to pay such tax together with interest for any default or delay in payment of advance tax along with the payment of additional income-tax as reduced by the amount of interest paid in the earlier return, before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

Taxpoint

- Interest payable u/s 234C, where an earlier return has been furnished, has to be computed after taking into account the total income furnished in the updated return as returned income
- In a case where an earlier return has been furnished, interest payable u/s 234B has to be computed on the assessed tax.

  "Assessed tax" means the tax on the total income as declared in the updated return to be furnished u/s 139(8A), after taking into account the following:
  i. the amount of relief or tax referred to in section 140A(1), the credit for which has been taken in the earlier return, if any;
  ii. the tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return;
  iii. any tax credit claimed, to set-off in accordance with the provisions of sec. 115JD, which has not been claimed in the earlier return,; and

  the aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return.

Computation of Additional Income Tax

The additional income-tax payable at the time of furnishing the updated return shall be:

if such return is furnished after expiry of the time available u/s 139(4) or (5) **and** before completion of the period of 12 months from the end of the relevant assessment year	25% of aggregate of tax (+ surcharge + cess) and interest payable (as reduced by interest paid in earlier return) on tax calculated above
if such return is furnished after the expiry of 12 months from the end of the relevant assessment year but before completion of the period of 24 months from the end of the relevant assessment year	50% of aggregate of tax (+ surcharge + cess) and interest payable (as reduced by interest paid in earlier return) on tax calculated above

PAN

3.8

Permanent Account Number (PAN) is an alpha-numeric (ten characters) code given to a person by income tax department for the purpose of identification of the assessee. A person can have only one PAN.

3.8.1 Allotment of PAN

A. **On Application**

Compulsory application for allotment of PAN

As per sec. 139A & rule 114, following persons are under statutory obligation to apply for PAN within the time limit stated as under:

Who is to apply for PAN	When to apply for PAN
Any person whose total income exceeds maximum exempted limit.	On or before 31st May of the relevant assessment year.
Any resident person other than an individual, which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a financial year	
Any person who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred above or any person competent to act on behalf of the person referred above or who intends to enter into prescribed transactions	
Any person whose sales or turnover or gross receipts are likely to exceed ₹ 5,00,000 in any previous year	On or before the end of the relevant financial year
Any person who is required to furnish return u/s 139(4A) i.e. trust and charitable institution	
Any person who is entitled to receive any sum or income, on which tax is deductible under in any financial year	
Any person who requires export-import code	Before making any export or import.
Assessee under the GST	Before making application for registration under GST.
Any person intends to enter into specified transactions*	7 days before entering into such transactions
Any other class or classes of person as notified by the CG	Within such time as may be prescribed

* Following are specified transactions (further PAN or Aadhar number is required to be quote on any document pertaining to such transactions)

1. Cash deposit or deposits aggregating to ₹ 20 lakh or more in a financial year, in one or more account of a person with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies or a Post Office;
2. Cash withdrawal or withdrawals aggregating to ₹ 20 lakh or more in a financial year, in one or more account of a person with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies or a Post Office;
3. Opening of a current account or cash credit account with a banking company or a co-operative bank or a Post Officee

However, the rule is not applicable in case of the Central Government, the State Government or the Consular Office

Penalty [Sec. 272B]

Penalty provisions are as under:

Default	Penalty
Failure to apply for PAN	₹10,000
Failure to quote PAN/Aadhar Number on prescribed documents or authentic such number	₹10,000 for each such default
Failure to ensure that PAN/Aadhar Number are duly authenticated	
Knowingly quoting or intimating a number which is false	

Voluntary application for allotment of PAN [Sec. 139A(3)]

The section empowers a person to apply for a PAN, even though, the person does not fall under any of the categories as mentioned above. However, a person, who has been already allotted a PAN under new series, shall not apply for another PAN.

Interchangeability of PAN and Aadhar [Sec. 139A(5E)]

Every person who is required to furnish or intimate or quote his PAN, and who,—

a. has not been allotted PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of the PAN, and such person shall be allotted a PAN in such manner as may be prescribed;

b. has been allotted a PAN, and who has intimated his Aadhaar number in accordance with provisions of sec. 139AA, may furnish or intimate or quote his Aadhaar number in lieu of the PAN.

Accordingly, the CBDT has, vide Notification No. 59/2019, dated 30.8.2019, provide that any person, who has not been allotted a PAN but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the PAN, shall be deemed to have applied for allotment of PAN and he shall not be required to apply or submit any documents.

Further, any person, who has not been allotted a PAN but possesses the Aadhaar number may apply for allotment of the PAN under section 139A(1)/(1A)/(3) by intimating his Aadhaar number and he shall not be required to apply or submit any documents.

Whom to apply (either compulsory or voluntary)

The application is to be made to the Assessing Officer or any other person who has been assigned the function of allotment of PAN. However, where no such Assessing Officer or other person has been assigned such function then application shall be made to the Assessing Officer having jurisdiction over the person.

Form of application* – The prescribed forms are as under:

Case	Form
For Indian Citizen / Indian Company / Entities incorporated in India / Unincorporated entities formed in India	49A
In other cases	49AA

b. **Suo-moto allotment of PAN**

- As per sec 139A(1B) for the purpose of collecting any information which may be useful for the purposes of the Act, the Central Government may, by way of notification, specify any class of person to apply within prescribed time to the AO for allotment of PAN.
- Section 139A(2) empowers the Assessing Officer to allot a PAN to any person other than the person falling under the categories mentioned above.

* Specified applicant may apply for allotment of PAN through a common application form notified by the Central Government [At the time of incorporation of the Company: SPICe+ and At the time of incorporation of the LLP: FiLLiP]

3.8.2 Importance of PAN

A. **PAN or Aadhar Number must be quoted in all documents and challans [Sec. 139A(5)]**

a. A person to whom a PAN or Aadhar is allotted, is required to quote that number in -

- All his returns to; or
- Any correspondence with; or
- Any other documents to,

  - Income-tax authority.

b. A person to whom a PAN or Aadhar is allotted, is required to quote that number in challans for payment of any sum due under this Act.

B. **PAN or Aadhar Number must be quoted in documents pertaining to certain prescribed transactions [Sec. 139A(5)(c) & Rule 114B]**

Every person shall quote its PAN or Aadhar in all documents pertaining to following transactions entered into by him –

1. *Transactions relating to sale or purchase of a motor vehicle (other than two wheeled vehicles), which requires registration.
2. *Opening an account [other than a time-deposit and a Basic Savings Bank Deposit Account] with a banking company or a co-operative bank
3. Making application for issue of a credit card or debit card.
4. *Opening of a demat account
5. Payment in cash exceeding ₹ 50,000 to a hotel or restaurant against a bill or bills at any one time
6. Payment in cash exceeding ₹ 50,000 in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time
   - Payment in connection with travel included payment towards fare, or to a travel agent or a tour operator, or to an authorized person as defined in sec. 2(c) of the FEMA, 1999
   - Travel agent or tour operator a person who makes arrangements for air, surface or maritime travel or provides services relating to accommodation, tours, entertainment, passport, visa, foreign exchange, travel related insurance or other travel related services either severally or in
7. *Payment exceeding ₹ 50,000 to any mutual fund for purchase of its units.
8. *Payment exceeding ₹ 50,000 to a company or an institution for acquiring debentures or bonds issued by it
9. Payment exceeding ₹ 50,000 to RBI for acquiring bonds issued by it.
10. *Deposit in cash exceeding ₹ 50,000 during any one day with a banking company or a co-operative bank
    - As per Rule 114BB, PAN or aadhar is required to quote in case of cash withdrawal or withdrawals aggregating to ₹ 20 lakh or more in a financial year, in one or more account of a person with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies or a Post Office
11. Purchase of bank drafts or pay orders or banker's cheques from a banking company or a co-operative bank in cash for an amount exceeding ₹ 50,000 during any one day
12. *A time deposit of an amount exceeding ₹ 50,000 or aggregating to more than ₹ 5 lakh during a financial year with: (i) a banking company or a co-operative bank; or (ii) a Post Office; or (iii) a Nidhi referred to in section 406 of the Companies Act, 2013; or (iv) a non-banking financial company
    - Time deposit means any deposit which is repayable on the expiry of a fixed period.

13. Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than ₹ 50,000 in a financial year for one or more pre-paid payment instruments, as defined in the policy guidelines for issuance and operation of pre-paid payment instruments issued by Reserve Bank of India u/s 18 of the Payment and Settlement Systems Act, 2007, to a banking company or a co-operative bank
14. *Payment aggregating to more than ₹ 50,000 in a financial year as life insurance premium to an insurer
15. *A contract for sale or purchase of securities (other than shares) where transaction value exceeds ₹ 1 lakh
16. *Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange where transaction value exceeds ₹ 1 lakh
17. *Sale or purchase of any immovable property where amount exceeds ₹ 10 lakh or stamp value exceeds ₹ 10 lakh
18. Sale or purchase, by any person, of goods or services of any nature other than those specified above where transaction value exceeds ₹ 2 lakh

Note

i. Where a person, entering into any of the aforesaid transaction, is a minor and who does not have any income chargeable to tax, he shall quote the PAN of his father or mother or guardian, as the case may be, in the document pertaining to the said transaction

ii. Any person (other than company and firm) who does not have a PAN and who enters into any of the aforesaid transaction, he shall make a declaration in Form No.60 giving therein the particulars of such transaction.

iii. The provisions of this rule shall not apply to the following class or classes of persons, namely:

- the Central Government, the State Governments and the Consular Offices;
- the non-residents in respect of the transactions other than a transaction referred above with *.

C. **PAN or Aadhar Number on TDS & TCS Certificate**

a. **On TDS:** Every person is required to intimate his PAN to the person who has deducted the tax at source [Sec. 139A(5A)].

Exceptions

This provision is not applicable to an assessee who furnishes to the payer a declaration in writing in the prescribed form (Form 15G or 15H) and manner to the effect that the tax on his estimated total income is nil or he is not required to obtain PAN.

The person deducting tax at source is required to quote –

- PAN of the payee;
- PAN of himself;
- Tax Deduction Account Number (TAN) of himself,
  - in all statements, certificates furnished u/s 200(3) or 203 or 206 [Sec. 139A(5B)].

b. **On TCS:** Every person responsible for collecting tax in accordance with the provisions of sec.206C shall quote PAN of every buyer or licensee or lessee in all certificates furnished in accordance with the provisions of sec. 206C(3) or 206C(5) and in all returns prepared u/s 206C(5A)/(5B) to the Income-tax authority [Sec. 139A(5D)]

Every buyer or licensee or lessee is required to intimate his PAN to the seller who has collected the tax at source [Sec. 139A(5C)]

Other Point

- Every person entering into such transaction shall quote his PAN or Aadhaar number in the documents pertaining to such transactions and also authenticate such PAN or Aadhaar number [Sec. 139(6A)]
- Every person receiving any document relating to such transactions shall ensure that PAN or Aadhaar number has been duly quoted in such document and also ensure that such PAN or Aadhaar number is so authenticated [Sec. 139(6B)]
  - Authentication means the process by which the PAN or Aadhaar number alongwith demographic information or biometric information of an individual is submitted to the income-tax authority or such other authority or agency as may be prescribed for its verification and such authority or agency verifies the correctness, or the lack thereof, on the basis of information available with it.

3.8.3 Intimation for any change

Every person shall intimate the Assessing Officer, in the prescribed manner, any change in his address or in the name & nature of his business on the basis of which PAN was allotted to him [Sec. 139A(5)(d)]

3.8.4 Quoting of Aadhaar number [Sec. 139AA]

Every person who is eligible to obtain Aadhaar number shall quote Aadhaar number:

a. in the application form for allotment of permanent account number;

b. in the return of income:

Note:

- Every person who has been allotted PAN before 01-07-2017 and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority by 31-03-2022. W.e.f., 01-04-2019, it is mandatory to quote and link Aadhaar number while filing the return of income, either manually or electronically, unless specifically exempted. In case of failure to intimate the Aadhaar number or link, the PAN allotted to the person shall be made inoperative from 01-07-2023.
- **Consequence if PAN became inoperative [w.e.f. 01-07-2023]:** A person, whose PAN has become inoperative, would be liable for the following further consequences from 01-07-2023 till the date it becomes operative –
  a. no refund of any amount of tax or part thereof, due under the provisions of the Act;
  b. interest would not be payable on such refund for a period beginning from 01-07-2023 and ending with the date on which it becomes operative;
  c. where tax is deductible at source in case of such person, such tax shall be deducted at higher rate, in accordance with provisions of sec. 206AA;
  d. where tax is collectible at source in case of such person, such tax shall be collected at higher rate, in accordance with provisions of sec. 206CC
- **Fee for default relating to intimation of Aadhaar number [Sec. 234H]:** Where a person fails to intimate his aadhaar number on or before prescribed date, he shall be liable to pay such fee, as may be prescribed, not exceeding ₹ 1,000, at the time of making intimation after the said date. And after this, his PAN would become operative within 30 days from the date of intimation of Aadhaar number.

- The provisions of this section shall not apply to notified persons or State
  - Accordingly, the Central Government has, vide Notification No. 37/2017 dated 11.05.2017 effective from 01.07.2017, notified that the provisions of sec. 139AA relating to quoting of Aadhaar Number would not apply to an individual who does not possess the Aadhaar number or Enrolment ID and is:
    a. residing in Assam, Jammu & Kashmir and Meghalaya;
    b. a non-resident as per Income-tax Act, 1961;
    c. of the age of 80 years or more at any time during the previous year;
    d. not a citizen of India

Self-Assessment & Intimation

3.9

Assessment means to assess the income of the assessee i.e. to decide the income and tax liability of the assessee on the basis of return filed, information gathered or to the best of judgment of income tax department. It begins with self-assessment i.e. assessment by the assessee himself.

3.9.1 Self-Assessment [Sec. 140A]

In self-assessment, assessee itself is responsible to determine its taxable income, tax liability and to pay tax accordingly. Provision of sec. 140A is as follows -

a. Where any tax is payable (after deducting relief, rebate, advance payment of tax or tax deducted or collected at source or MAT or AMT credit, if any, or any tax or interest payable u/s 191(2)) on the basis of return furnished the assessee is required to pay such tax before filing the return.

   Taxpoint: A return furnished without paying self-assessment tax & interest, if any, shall be treated as defective return.

b. If any interest is payable for delayed filing of return (u/s 234A) or default in payment of advance tax (u/s 234B) or for deferment of advance tax (u/s 234C) or fee (u/s 234F) is payable for filing return after due date, then such interest or fee should be paid along with self-assessment tax.

   Note: While calculating above interest for the purpose of self-assessment, tax on the total income declared in the return shall be considered.

c. Where the amount paid by the assessee falls short of the aggregate of tax, interest and fee, the amount so paid shall first be adjusted towards fee and thereafter towards interest payable and the balance, if any, shall be adjusted towards tax payable.

d. After assessment, any amount paid under this section shall be deemed to have been paid towards such assessment.

e. If an assessee fails to pay whole or any part of such tax or interest or both in accordance with the provisions of sec. 140A, he shall be deemed to be an assessee in default.

Illustration 46:

Mr. Gambhir Mitra paid ₹ 42,000 together with return. Show the treatment u/s 140A from following data:

Tax liability	₹ 82,000
Interest payable u/s 234A (as per returned income)	₹ 750
Interest payable u/s 234B (as per returned income)	₹ 3,730
Interest payable u/s 234C	₹ 1,660
Fee u/s 234F	₹ 5,000
Advance tax paid	₹ 1,500
TDS	₹ 6,000

Solution :

Amount payable together with filing return for the A.Y.2025-26

Particulars	Amount	Amount
Tax liability		82,000
Add: Fee payable u/s 234F	5,000	
Interest payable u/s 234A	750	
Interest payable u/s 234B	3,730	
Interest payable u/s 234C	1,660	11,140
Total		93,140
Less: Advance tax paid	1,500	
TDS	6,000	7,500
Amount payable		85,640
Treatment of amount paid: Amount paid i.e. ₹ 42,000 shall be first adjusted with fee payable i.e., ₹ 5,000 and then with interest payable i.e. ₹ 6,140 and the balance amount i.e. ₹ 30,860 shall be adjusted towards tax liability. Finally, tax yet to be paid is ₹ 43,640 (i.e. ₹ 85,640 – ₹ 42,000).		

3.9.2 Intimation or Assessment by Income tax department

After submission of return or on non-submission of return by the assessee, assessment is made by the Income tax department. The Assessing Officer can assess the income of the assessee in any of the following manner:

1. Intimation u/s 143(1);
2. Scrutiny Assessment u/s 143(3);
3. Best Judgment Assessment u/s 144;
4. Income Escaping Assessment u/s 147

For making assessment, the Assessing Officer can make an inquiry. Provision relating to inquiry before assessment are as under:

3.9.3 Inquiry before assessment

1. Issue of notice to the assessee [Sec. 142(1)]
   - to submit a return [Sec. 142(1)(i)]
   - to produce accounts, documents etc. [Sec. 142(1)(ii) & (iii)]
2. Making inquiry [Sec. 142(2)]
3. Giving direction to get books of account audited / valuation of inventory [Sec. 142(2A) to (2D)]
4. Opportunity of being heard [Sec. 142(3)]
5. Estimate by Valuation Officer in certain cases [Sec. 142A]

Issue of notice to the assessee [Sec. 142(1)]

For the purpose of making assessment, the Assessing Officer (or any prescribed income-tax authority) may serve a notice on any person -

- who has submitted a return u/s 139; or
- in whose case the time allowed u/s 139(1) for furnishing the return has expired.

Such notice may relate to any of the following matter -

1. **Notice to submit a return [Sec. 142(1)(i)]:** If the assessee has not submitted a return of income within specified time, the Assessing Officer (or prescribed income tax authority) may require him to submit a return in the prescribed form on or before the date specified in the notice.

   Taxpoint: In case assessee has not furnished the return of income, it is not mandatory for the Assessing Officer to issue notice u/s 142(1)(i) if he wishes to make best judgment assessment.

2. **Notice to produce accounts, documents etc. [Sec. 142(1)(ii)]:** The Assessing Officer may ask the assessee to produce such documents or accounts as he may require.

   Exception: Assessing Officer shall not require the production of any accounts pertaining to a period more than 3 years prior to the previous year.

3. **Notice to furnish information [Sec. 142(1)(iii)]:** Assessing Officer may require the assessee to furnish in writing information in such form and on such points or matters as he may require (including a statement of all assets and liabilities of the assessee, whether included in the accounts or not). However, prior approval of the Joint Commissioner shall be obtained before requiring the assessee to furnish a statement of all assets and liabilities not included in the accounts.

Taxpoint: Notice u/s 142(1)(i) can be served only if return has not been submitted where as notice u/s 142(1)(ii) & (iii) can be served whether return has been furnished or not.

Making inquiry [Sec. 142(2)]

For the purpose of obtaining full information in respect of the income (or loss) of any person, the Assessing Officer may make such inquiry, as he considers necessary.

Taxpoint: U/s 142(1) Assessing Officer collects information from the assessee, however u/s 142(2) Assessing Officer has the power to collect information from any source.

Giving direction to get books of account audited / valuation of inventory [Sec. 142(2A) to (2D)]

The Assessing Officer (after giving reasonable opportunity to the assessee) having regard to the -

- nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee; and
- interest of revenue.

may direct the assessee if he is of the opinion that it is necessary to do so

- to get his accounts audited by an accountant; or
- to get the inventory valued by a cost accountant

Notes

a. Direction can be issued to get audit or get inventory valued or both

b. Such direction can be issued even if the accounts of the assessee have already been audited u/s 44AB or any other law for the time being in force

c. Such direction can be issued only with the prior approval of the Principle Chief Commissioner / Principle Commissioner / Chief Commissioner / Commissioner.

d. The Principle Chief Commissioner / Principle Commissioner / Chief Commissioner / Commissioner nominates such accountant / cost accountant.

e. Such order can be issued at any stage of the proceedings before the Assessing Officer. However, no such order shall be issued after the completion of assessment/reassessment.

Time Limit for report: The report shall be furnished by the assessee within the period specified by the Assessing Officer. The Assessing Officer has power to extend such period on an application made by the assessee or suomotu. However, the aggregate period (fixed originally and extended) shall not exceed 180 days from the date on which such direction is received by the assessee.

Form of report: The nominated accountant or cost accountant shall submit the report in Form 6B to the assessee. Thereafter such report is to be submitted by the assessee to the Assessing Officer within such period as allowed by the Assessing Officer.

Fees: The remuneration or fees and incidental expenditure shall be determined by the Principle Chief Commissioner / Principle Commissioner / Chief Commissioner / Commissioner (which shall be final) and paid by the Central Government.

Consequences of failure: In case assessee fails to follow the direction, it -

- will be liable to Best Judgment Assessment u/s 144; and
- attracts penalty and prosecution.

Note: Penalty etc. are attracted only if there is a default by the assessee. If the nominated accountant refuses to audit the accounts, the assessee cannot be held responsible

Opportunity of being heard [Sec. 142(3)]

The assessee must be given an opportunity of being heard in respect of any material gathered on the basis of any inquiry u/s 142(2) or any audit u/s 142(2A) and is proposed to be utilised for the purpose of the assessment.

Note: Sec. 142(3) shall not be applicable in case of assessment u/s 144.

Estimation by Valuation Officer in certain cases [Sec. 142A]

- The Assessing Officer may, for the purposes of assessment or reassessment, make a reference to a Valuation Officer to estimate the value, including fair market value, of any asset, property or investment and submit a copy of report to him.
  - "Valuation Officer" has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957
- The Assessing Officer may make a reference to the Valuation Officer whether or not he is satisfied about the correctness or completeness of the accounts of the assessee.
- The Valuation Officer, on a reference made, shall, for the purpose of estimating the value of the asset, property or investment, have all the powers that he has under section 38A of the Wealth-tax Act, 1957.
- The Valuation Officer shall, estimate the value of the asset, property or investment after taking into account such evidence as the assessee may produce and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.

- The Valuation Officer may estimate the value of the asset, property or investment to the best of his judgment, if the assessee does not co-operate or comply with his directions.
- The Valuation Officer shall send a copy of the report of the estimate made to the Assessing Officer and the assessee, within a period of 6 months from the end of the month in which a reference is made.
- The Assessing Officer may, on receipt of the report from the Valuation Officer, and after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

3.9.4 Faceless inquiry or Valuation [Sec. 142B]

- The Central Government may notify a scheme for the purposes of issuing notice u/s 142(1) or making inquiry before assessment u/s 142(2), or directing the assessee to get his accounts audited u/s 142(2A) or estimating the value of any asset, property or investment by a Valuation Officer u/s 142A, so as to impart greater efficiency, transparency and accountability by:

  a. eliminating the interface between the income-tax authority or Valuation Officer and the assessee or any person to the extent technologically feasible;

  b. optimising utilisation of the resources through economies of scale and functional specialisation;

  c. introducing a team-based issuance of notice or making of enquiries or issuance of directions or valuation with dynamic jurisdiction.

3.9.5 Intimation / Assessment by Assessing Officer

The Assessing Officer makes the following order:

Intimation [Sec. 143(1)]

On the basis of return filed; or

Regular assessment

- On the basis of further evidence gathered by him [Scrutiny Assessment u/s 143(3)]
- On the basis of best of his judgement [Best Judgement Assessment u/s 144]

3.9.6 Intimation [Sec. 143(1)]

Where a return has been made u/s 139 or in response to a notice u/s 142(1), such return shall be processed in the following manner, namely:—

a. the total income or loss shall be computed after making the following adjustment:

   i. any arithmetical error in the return;

   ii. an incorrect claim, if such incorrect claim is apparent from any information in the return;

   iii. disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished after the due date;

   iv. disallowance of expenditure or increase in income indicated in the audit report but not taken into account in computing the total income in the return;

   v. disallowance of deduction claimed u/s 10AA or under any of the provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes", if the return is furnished after the due date;

b. the tax, interest and fee, if any, shall be computed on the total income computed above;

c. the sum payable by (or the amount of refund due to), the assessee shall be determined after adjustment of the tax, interest and fee, if any, by any TDS, TCS, advance tax paid, any relief, tax paid on self-assessment and any amount paid otherwise by way of tax, interest or fee;

d. an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee; and

e. the amount of refund due to the assessee in pursuance of the determination shall be granted to the assessee.

f. An intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax or interest or fee is payable by, or no refund is due to, him.

Time limit for intimation: No intimation shall be sent after the expiry of 12 months from the end of the financial year in which the return is made. The period of limitation will run from the date of filing of latest revised return.

Notes

- An incorrect claim apparent from any information in the return shall mean a claim, on the basis of an entry, in the return,—
  - a. of an item, which is inconsistent with another entry of the same or some other item in such return;
  - b. in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or
  - c. in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;
- The acknowledgment of the return shall be deemed to be intimation where either no sum is payable by the assessee or no refund is due to him.
- In case, where refund becomes due to the assessee u/s 143(1) and the Assessing Officer is of the opinion, having regard to the fact that a notice has been issued u/s 143(2) in respect of such return, that the grant of the refund is likely to adversely affect the revenue, he may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, as the case may be, withhold the refund up to the date on which the assessment is made [Sec. 241A]

Exercise

Multiple Choice Questions:

Choose the correct alternative

1. A person is deemed to have a substantial interest in a company if he is
   a. The owner of at least 20% of the equity capital of the company
   b. The owner of at least 25% of the equity capital of the company
   c. Entitled to 10% of profits of the concern
   d. An employee director
2. Income of minor is clubbed however the clubbing provision is not applicable if
   a. Minor is a married daughter
   b. Minor is handicapped as specified u/s 80U
   c. Parents are separated
   d. None of the above
3. As per sec.60, income is clubbed if
   a. Asset yielding income is transferred as revocable transfer
   b. Income is transferred without transferring asset yielding income
   c. Asset yielding income is transferred as irrevocable transfer
   d. None of the above
4. Any income from an asset transferred to spouse without adequate consideration is clubbed in the hands of the transferor if:
   a. Such asset is hold by the spouse as on the last day of the previous year
   b. Relationship between them exist as on the date of accrual of income
   c. Transferee is not a senior citizen
   d. None of the above
5. For the purpose of sec. 64, an individual have a substantial interest in a company if he holds 20% of voting right alongwith his relative. Here, relative do not include:
   a. Spouse
   b. Father
   c. Father-in-law
   d. None of the above

6. When income of a minor is clubbed, assessee will get deduction u/s 10(32) of :
   a. ₹ 1,500 per child
   b. Income clubbed subject to maximum of ₹ 1,500 per child
   c. Such deduction is not available u/s 10(32) but u/s 10(33)
   d. ₹ 2,000 per child
7. Unabsorbed business losses cannot be carried for more than
   a. 7 assessment years
   b. 8 assessment years
   c. 10 assessment years
   d. 12 assessment years
8. Long term capital loss can be adjusted against
   a. Any income excluding winning from lottery
   b. Any capital gain
   c. Any long term capital gain
   d. Any speculative business income
9. Loss from Derivative trading is
   a. Short-term Capital Loss
   b. Speculative business loss
   c. Non-speculative business loss
   d. Loss u/h 'Income from Other Sources'
10. Loss from specified business covered u/s 35AD can be adjusted against
    a. Any other business income
    b. Any income other then salary
    c. Income from other specified business
    d. Cannot be adjusted
11. Unabsorbed depreciation can be carried forward for
    a. Any number of years
    b. 8 years
    c. 4 years
    d. 7 years

12. Deduction u/s 80CCC allowed to an individual for the amount paid by him in an annuity plan of LIC is restricted to
    a. ₹ 5,000
    b. ₹ 7,500
    c. ₹ 1,50,000
    d. ₹ 12,500
13. Deduction under the section 80E is allowed in respect of
    a. Donations to charitable institutions
    b. Medical treatment of handicapped person
    c. Interest on loan taken for education
    d. Profits earned from exports
14. 80GGA available for donations made to
    a. Charitable Institutions
    b. Educational Institutions
    c. Research Associations
    d. Religion organizations
15. Deduction u/s. 80JJA is available if the assessee
    a. Is engaged in scientific research
    b. Sets up an industrial unit in a backward area
    c. Is engaged in agriculture business
    d. Is engaged in the business of collecting and processing biodegradable waste.
16. On donation to whom of the following a 50% deduction is allowable u/s 80G?
    a. National Defence Fund
    b. Prime Ministers National Relief Fund
    c. Draught Relief Fund
    d. National Foundation for Communal Harmony
17. Section 80QQB of the Income Tax Act, 1961, deals with
    a. Interest on debentures of a govt. company
    b. Royalty Income of authors
    c. Royalties from textbooks
    d. Profits from export of computer software

18. Third due date for payment of advance tax in case of an individual is …… of the previous year

    a. 15-Dec

    b. 15-June

    c. 15-Sept

    d. 15-Mar

19. Advance tax is required to be paid by all assessee only if estimated advance tax liability is

    a. ₹ 5,000 or more

    b. ₹ 10,000 or more

    c. More than zero

    d. ₹ 50,000 or more

20. While computing advance tax, the following income shall not be considered:

    a. Agricultural income

    b. Long term capital gain

    c. Speculative profit

    d. None of these

21. Tax is required to be deducted at …….. from payment made to a resident on winning from lottery

    a. 30%

    b. 30% + Surcharge + HEC

    c. 30% + HEC

    d. 31%

22. Tax is required to be deducted at …… from payment made to a road transport operator who declares that he does not own more than 10 goods carriage.

    a. Nil

    b. Nil if he furnished the PAN

    c. 1%

    d. 2%

23. Tax is required to be deducted at …… from rent payable on plant and machinery to a resident (Assuming PAN details are available)

    a. Nil

    b. 15%

    c. 1%

    d. 2%

24. Tax is required to be deducted at ……..... from interest payable to a resident. (Assuming PAN details are available)
    a. 10%
    b. 20% if payee is domestic company else 10%
    c. 10% + Surcharge (if any) + HEC
    d. 20%
25. Tax is required to be collected on sale of:
    a. Scrap
    b. Tendu Leaves
    c. Alcoholic Liquor
    d. All of the above
26. TDS is not required to be deducted u/s 194A if the amount of interest on loan does not exceed:
    a. ₹ 5,000
    b. ₹ 2,500
    c. ₹ 7,500
    d. ₹ 20,000
27. On salary, tax is required to be deducted at the time of:
    a. Payment or crediting the employee, whichever is earlier
    b. Crediting the employee
    c. Payment
    d. Retirement of employee
28. Where the karta of a HUF is absent from India, the return of income can be signed by:
    a. any member of the family
    b. any male member of the family
    c. any other adult member of the family
    d. any member holding power of attorney
29. Where assessment has not been completed, belated income tax return for assessment year 2025-26 can be filed upto:
    a. 31.12.2025
    b. 31.01.2026
    c. 31.03.2026
    d. 31.12.2026

30. Following form number is to be used for filing the return of income by an individual having business income?
    a. Form No. 1
    b. Form No. 2
    c. Form No. 5
    d. Form No. 3
31. Quoting 'Permanent Account Number' (PAN) is compulsory in the following transaction –
    a. Payment to LIP exceeding ₹ 50,000 in a financial year
    b. Sale or purchase of any immovable property valued at ₹ 4,00,000
    c. Time deposit upto ₹ 35,000 with a bank
    d. None of the above
32. When assessment has not been completed, revised return can be filed within _____ from the end of the relevant previous year.
    a. 9 months
    b. 6 months
    c. 12 months
    d. 2 years

Answer:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
a	b	b	b	c	b	b	c	c	c	a	c	c	c	d	c	b
18	18	20	21	22	23	24	25	26	27	28	29	30	31	32		
a	b	d	a	b	d	a	d	a	c	c	a	d	a	a		

Fill in the blanks:

1. The maximum amount deductible u/s 80TTA in respect of interest on savings bank account is ₹ _____.
2. Medical expenditure of ₹ 40,000 was incurred by Mr. A on his mother (being a senior citizen). The amount eligible for deduction under section 80D would be ₹ _____.
3. Assessee's own contribution to the National Pension Scheme is eligible for a maximum deduction of ₹ _____.
4. In the case of a payee not having PAN for whom tax is to be deducted at source u/s 194A, the rate applicable is _____
5. Chapter VI-A deduction_____(shall/shall not) be allowed in respect of income from long term capital gain.
6. Z awarded three contracts for repair work of ₹ 21,000, ₹ 23,000 and ₹ 30,000 respectively to L. Ltd. Z. is _____(required/ not required) to deduct tax at source u/s 194C

7. Loss from non-speculation business _____ be set off against profits derived from speculation business.
8. There are two schools of Hindu Law ,one is Mitakshara and the other is_____.
9. The Alternate Minimum Rate u/s 115JC shall be _____ % of adjusted total income [Basic rate excluding surcharge, cess, etc.]
10. Unabsorbed loss under the head 'Capital gains' shall be carried forward for a period of _____ assessment years immediately following the assessment year in which such loss was incurred.

Answer:

1	₹ 10,000	2	₹ 40,000
3	₹ 50,000	4	20%
5	Shall not	6	Not required
7	Can	8	Dayabhaga
9	18.5%	10	8

State whether the following statements are true or false:

1. A return of income filed without payment of self-assessment tax is a defective return.
2. Tax is required to be deducted at source from salary at the time of payment and not at the time of crediting salary to the account of the employee.
3. Loss in speculation as well as non-speculation business can be carried forward to a maximum of four consecutive assessment years immediately succeeding the assessment year for which loss was first computed.
4. A partnership firm incurring loss need not to file return of income.
5. For adjusting brought forward business loss with current year business income, one of the conditions is that such business must be continued during the current year.
6. Loss on account of owning and maintaining race horses can be carried forward upto 8 assessment years.
7. Income arising from the accretion of transferred property shall not be clubbed.
8. No tax is required to be deducted from winning from race-horse, if such winning does not exceed ₹ 10,000
9. The income of minor child will always be included in the income of his/her parents.

Answer:

1	2	3	4	5	6	7	8	9
True	True	False	False	False	False	True	True	False

Short Essay Type:

1. Discuss the provisions under IT Act in respect of clubbing of remuneration of spouse
2. Discuss whether long term capital loss can be adjusted against STCG
3. State the provision relating to deduction u/s 80D
4. Who is liable to pay advance tax?
5. Who is liable to file return of income mandatorily?

➢ **Comprehensive Numerical Problems**

Problem 1:

From the following incomes and losses for the Previous Year 2024-25, compute Gross Total Incomes of Mr.

Sen: **Particulars**	**Amount (₹)**
Income from Business A	2,00,000
Loss from Business B	1,20,000
Long term Capital Gain	50,000
Short term Capital Loss	35,000
Bank Interest on fixed deposit	10,000
Brought forward loss of the year 20202022-21 23 are as follows:	
Loss from Business B	40,000
Long term Capital Loss	20,000

[Hints: ₹ 50,000]

Problem 2:

Mrs. R Mukherjee furnished the following information for the previous year 2024-25:

Particulars	**Amount (₹)**
Donation to Prime Minster's National Relief Fund	15,000
Donation to Jawaharlal Nehru Draught Memorial Relief Fund	10,000
Donation to a notified temple	30,000
Donation of cloth worth ₹ 10,000 to Bharat Sevashram Sangha to be distributed among Ayla typhoon victims	
Donation to an approved University	2,000
Gross Total Income	3,00,000
Payment of life insurance premium on the life of her daughter ₹ 20,000 (Policy value ₹ 2,00,000)	

Compute total income if she has opted for old tax regime

[Hints: ₹ 2,44,000]

Case Let - Solved

For the Assessment year 2025-26, the Gross Total Income of Mr. Chaturvedi was ₹ 1,68,240 which includes long-term capital gain of ₹ 45,000 and Short-term capital gain of ₹ 8,000. The Gross Total Income also includes interest income from fixed deposits with banks of ₹ 12,000. Mr. Chaturvedi has invested in PPF ₹ 60,000 and also paid a medical insurance premium ₹ 11,000. Mr. Chaturvedi also contributed ₹ 15,000 to Public Charitable Trust eligible for deduction under section 80G.

State

a. What will be the amount of deduction available u/s 80C?

b. What will be the amount of deduction available u/s 80D?

c. What will be the amount of deduction available u/s 80G?

d. What will be his total income, if he has opted for the old tax regime?

Solution:

Computation of total income of Mr. Chaturvedi for A.Y. 2025-26

Particulars	Details	Amount
Gross total income		1,68,240
Less: Deduction u/s		
80C (for contribution to PPF)	60,000	
80D (for payment of Medical insurance premium)	11,000	
80G (for Donation to Public Charitable Trust) [Note]	2,612	73,612
Total Income (Rounded off u/s 288A)		94,630

Note: Computation of deduction u/s 80G

Computation of Adjusted GTI:

Adj. GTI = GTI – Long-term capital gain - Deduction u/s 80C to 80U other than 80G

= ₹ 1,68,240 – ₹ 45,000 – ₹ 11,000 – ₹ 60,000 = ₹ 52,240

Qualifying amount for donation = 10% of Adjusted GTI = 10% of ₹ 52,240 = ₹ 5,224

Deduction: In case of donation to public charitable trust, rate of deduction is 50% of qualifying amount. Hence, deduction u/s 80G shall be ₹ 2,612 (being 50% of ₹ 5,224).

Case Let - Unsolved

Shri Mayur has two minor children named Lakshmi (age 10) and Sarath (age 14). Following details pertain to the minor children for the year ended 31.03.2025:

i. Minor Lakshmi won Carnatic music competition in TV channel and was awarded cash prize of ₹ 2,00,000.

ii. Minor Lakshmi received cash gifts from friends of Mayur ₹ 43,000. No single gift exceeded ₹ 10,000.

iii. Minor Sarath received gift of gold chain whose fair market value was ₹ 80,000 from his maternal uncle on the occasion of his 14th birthday. He also received cash gift of ₹ 12,000 from friends of Mayur on his birthday.

iv. Out of accumulated savings of daughter Lakshmi, one vacant land was acquired. The stamp duty value of the land ₹ 3,60,000. The documented value of the land ₹ 3,20,000.

On the basis of aforesaid information, you are requested to answer the following assuming he has opted for old tax regime:

a. What will be the income liable to be clubbed in hands of Shri Mayur on account of Lakshmi?

b. What will be the income liable to be clubbed in hands of Shri Mayur on account of Sarath?

c. What will be the income liable to be taxed in the hands of Lakshmi?

[Hints: (a) ₹ 41500; (b) ₹ 10,500; (c) ₹ 2,00,000]

➢ **References:**

https://www.incometaxindia.gov.in/

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