



CS EXECUTIVE CHART BOOK QUICK REVISION GUIDE

TAX LAWS AND PRACTICE

MODULE - II

Summarised Tabular
Chart Format for
revising the subject
matter in an easy-to-
learn format

Point-wise
Summaries of each
chapter are provided
in a nutshell

Full-coverage
of the New
Syllabus for
CS-Executive
Exams

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DIRECT TAX

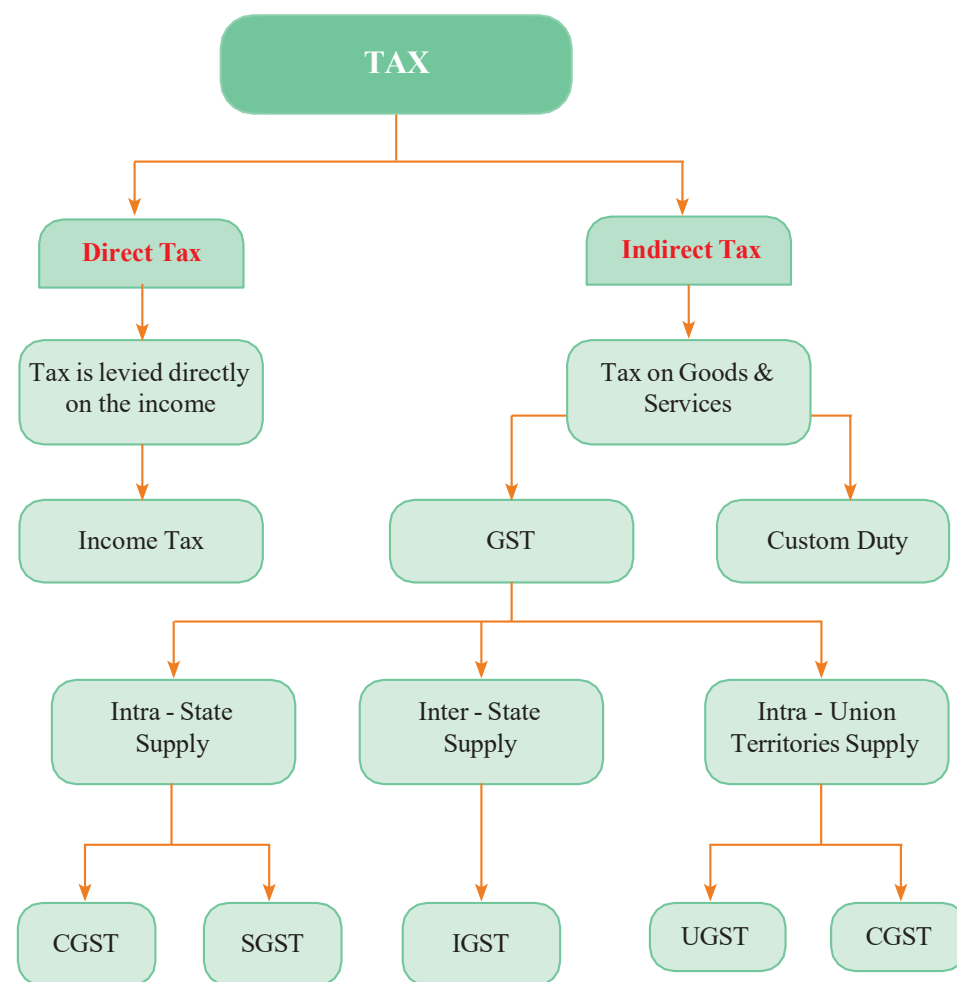


MEANING OF TAX

- ❖ A tax is a compulsory financial charge or some other type of levy imposed on a taxpayer (an individual or legal entity) by a governmental organization in order to fund government spending and various public expenditures (regional, local, or national).
- ❖ Taxes are considered to be the “cost of living in a society”.

CLASSIFICATION OF TAX

Taxes are usually classified into two categories. These are direct tax and indirect tax.

**Direct Taxes**

Taxes which are directly levied on Income of the person and its burden cannot be shifted. It is the payment made by assessee directly to the government after income is received.

For example: Income Tax, Gift Tax etc.

Indirect Taxes

Indirect taxes are imposed on price of goods or services. Person paying the indirect tax can shift the incidence to another person.

For example: GST or Customs duty.

DIRECT VS. INDIRECT TAX**Differences between Direct Tax and Indirect Tax**

Point of Difference	Direct Tax	Indirect Tax
Meaning	Direct tax is a tax wherein the levy of tax is made on a person and the responsibility of paying such tax is fixed on that person.	In this the levy of tax is made on one person and the responsibility of paying the tax to the Government is fixed on some other person.
Levy	Direct tax is levied on income and wealth.	Indirect tax is levied on goods and services.
Transfer of Tax Burden	The burden of direct tax cannot be transferred to other person.	The burden of indirect tax can be transferred to the end users.
Effect	The purpose of direct tax is to redistribute the wealth of a nation.	Indirect tax increases the price of goods or services.
Example	Income Tax.	Goods and Services Tax.
Penalty	It is levied on the Assessee.	It is levied on supplier of goods & Services.

MERITS AND DEMERITS**Merits of Direct Tax**

1. Equity
2. Elasticity and productivity
3. Certainty
4. Reduce inequality
5. Good instrument in the case of inflation.
6. Simplicity

Demerits of Direct Tax

1. Evasion
2. Uneconomical
3. Little incentive to work and save
4. Not suitable to a poor country
5. Arbitrary

CENTRAL BOARD OF DIRECT TAXES (CBDT)

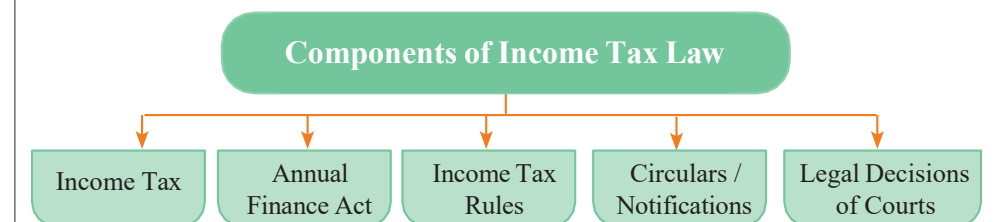
- ❖ The CBDT is a statutory authority functioning under the Central Board of Revenue Act, 1963.

INCOME TAX DEPARTMENT

The Income Tax department functions under the department of Revenue in Ministry of Finance.

Income Tax Department is responsible for administering following direct taxation acts passed by parliament.

- ❖ Income Tax Act, 1961
- ❖ Various Finance Acts (Passed every Year in Budget Session)

COMPONENTS OF INCOME TAX LAW**Income-Tax Act, 1961**

- ❖ The levy of income-tax in India is governed by the Income-tax Act, 1961.
- ❖ This Act came into force on 1st April, 1962.
- ❖ It extends to the whole of India.
- ❖ It contains sections 1 to 298 and schedules I to XIV.

Annual Finance Act

- ❖ Every year Budget is presented before the parliament by the Finance Minister
- ❖ One of the important components of the Budget is the Finance Bill.
- ❖ When the Finance Bill is passed by both the houses of the Parliament and gets the assent of the President, it becomes the Finance Act.

Income-Tax Rules, 1962

- ❖ For implementation of the Act and for administration of the direct taxes, Central Board of Direct Taxes (CBDT) is empowered to frame these rules from time to time.
- ❖ These rules are collectively called as the Income-tax Rules, 1962.
- ❖ Rules also have sub-rules, provisos and Explanations.

Circulars/Clarifications

- ❖ Circulars and clarifications are issued by the CBDT
- ❖ Clarify the doubts regarding the scope and meaning of certain provisions of the law and
- ❖ Provide guidance to the Income Tax officers.
- ❖ These circulars are binding on the Income Tax Authorities but not on the assessee however an assessee can take benefit of these circulars.

Notifications

- ❖ Notifications are issued either by the Central Government or by CBDT to take care of the procedural aspects of the Act from time to time.
- ❖ These notifications are binding on everyone, i.e., on Income Tax Authorities as well as on the assessees.

Judicial Decisions (Case Laws)

- ❖ Decisions pronounced by the Supreme Court become Judicial Precedent and are binding on all the courts, Appellate Tribunal, Income Tax Authorities and on assessees.
- ❖ High Court decisions are binding on assessees and Income Tax Authorities which come under its jurisdiction unless it is overruled by a higher authority.
- ❖ The decision of a High Court cannot bind other High Court.

CHARGING SECTION (SECTION 4)

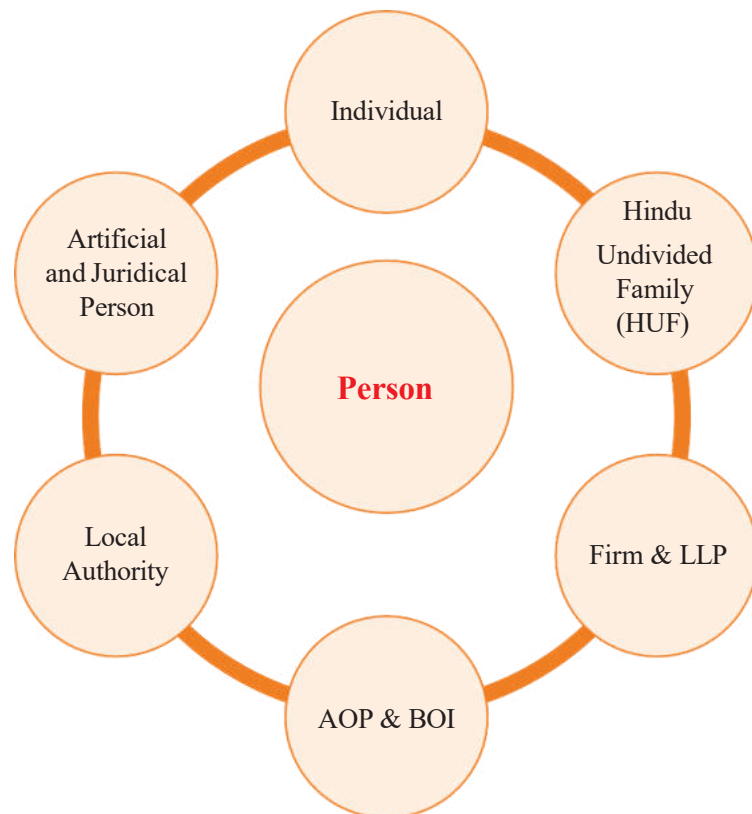
Sec. 4 of the Income Tax Act provides that the tax shall be charged –

1. For any Assessment Year (AY), at the rate(s) specified in the annual Finance Act for that year, and
2. In respect of the total income of the previous year of every person.

IMPORTANT DEFINITIONS

1. Person (Section 2(31))

Income-tax is charged in respect of the total income of the previous year of every person. As per Section 2(31) Person includes-



2. Assessee [Section 2(7)]

- ❖ “Assessee” means a person by whom any tax or any other sum of money is payable under this Act.

3. Previous Year [Section 3]:

- ❖ Income Tax is payable on the Income which is earned during the Previous Year and it is assessed in the immediately succeeding financial year which is called an Assessment Year.
- ❖ In accounts, we call it as financial year.
- ❖ As per income tax act, previous year begins on 1st of April and ends on 31st March of the subsequent year.
- ❖ Business or profession newly set up during the financial year - In such a case, the previous year shall be the period beginning on the date of setting up of the business or profession and ending with 31st March of the said financial year.

4. Assessment Year [Section 2(9)]:

- ❖ Assessment Year means the period of twelve months commencing on 01st April every year.
- ❖ As per income tax act, assessment year begins on 1st of April and ends on 31st March of the year following the P.Y.
- ❖ It means in the previous year we earn income & in the assessment year we calculate income & tax.
- ❖ Income of the P.Y. is assessed in the A.Y.

General Rule

Income of a previous year is assessed in the assessment year following the previous year

Exceptions to the General Rule

In the following cases, the Income of previous year of an assessee is assessed in the previous year itself.

1. **Income of Non Resident from Shipping (Sec. 172)**
2. **Income of Persons leaving India either permanently or for long duration (Sec.174)**
3. **Income of bodies formed for short duration (Sec.174A)**
4. **Persons likely to transfer property to avoid tax (Sec. 175)**
5. **Discontinued business (Sec. 176)**

TAX RATE & SLAB

Components of Tax are:



1. **For Resident Individual of age below 60 years, Non Resident Individual, HUF, AOP, BOI, Artificial Juridical Person**

Total Income (Rs.)	Tax Rate	Tax liability (Rs.)
Upto 2,50,000	Nil	Nil
2,50,001 - 5,00,000	5%	5% of (Total Income - 2,50,000)
5,00,001 - 10,00,000	20%	20% of (Total Income - 5,00,000) + 12,500
Above 10,00,000	30%	30% of (Total Income - 10,00,000) + 1,12,500

2. **For Senior Citizen (Resident Individual of age 60 years or more in PY but less than 80 years)**

Total Income (Rs.)	Tax Rate	Tax liability (Rs.)
Upto 3,00,000	Nil	Nil
3,00,001 - 5,00,000	5%	5% of (Total Income - 3,00,000)
5,00,001 - 10,00,000	20%	20% of (Total Income - 5,00,000) + 10,000
Above 10,00,000	30%	30% of (Total Income - 10,00,000) + 1,10,000

3. **For Super Senior Citizen (Resident Individual of age 80 years or more in PY)**

Total Income (Rs.)	Tax Rate	Tax liability (Rs.)
Upto 5,00,000	Nil	Nil
5,00,001 - 10,00,000	20%	20% of (Total Income - 5,00,000)
Above 10,00,000	30%	30% of (Total Income - 10,00,000) + 1,00,000

4. **For Firm and Local Authorities**

Types of Person	Tax Rate
Firms (including LLP)	30% of total Income
Local Authorities	30% of total Income

5. **For Company**

Domestic Company	Assessment Year
❖ Where it opted for Section 115BA	25%
❖ Where it opted for Section 115BAA [This benefit shall be available when total income of the company is computed without claiming specified deductions, incentives, exemptions and additional depreciation available under the Income-tax Act.]	22%
❖ Where it opted for Section 115BAB [This regime shall be available only for the manufacturing companies incorporated in India on or after 01-10-2019 & commences manufacture of article or thing before 31.3.2024. Hence, old companies will not be able to take the benefit of this section.]	15%
❖ Where it has not opted for Section 115BAA and the Total Turnover or Gross receipts of the company in the previous year 2022-23 does not exceeds 400 crore rupees.	25%
❖ Any other domestic company	30%
Foreign Company	35%

6. **For Co-operative Society**

	Income Slabs	Tax Rates
i.	Where the taxable income does not exceed Rs. 10,000/-	10% of the income
ii.	Where the taxable income exceeds Rs. 10,000/- but does not exceed Rs. 20,000/-	Rs. 1,000/- + 20% of income in excess of Rs. 10,000/-

iii.	Where the taxable income exceeds Rs. 20,000/-	Rs. 3,000/- + 30% of the amount by which the taxable income exceeds Rs. 20,000/-
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SURCHARGE

Surcharge is an additional tax imposed on certain cases. It is imposed over the basic tax rate calculated on the income.

S.N.	Types of person	Income	Surcharge Rates
i.	Individuals, HUF, AOP, BOI	If Income exceeds Rs. 50 lakhs but does not exceed Rs. 1 crore	10% of income tax
		If Income exceeds Rs. 1 crore but does not exceed Rs. 2 crore	15% of income tax
		If Income exceeds Rs. 2 crore but does not exceed Rs. 5 crore	25% of income tax
		If total income exceeds Rs. 5 crore	37% of income tax
ii.	Firm / Local Authority / Co-operative Society	If income exceeds Rs. 1 crore	12% of income tax
iii.	Domestic Companies	If income exceeds Rs. 1 crore but does not exceed Rs. 10 crores	7% of income tax
		If income exceeds Rs. 10 crore	12% of income tax
iv.	Companies other than a domestic company	If income exceeds Rs. 1 crore but does not exceed Rs. 10 crores	2% of income tax
		If income exceeds Rs. 10 crore	5% of income tax

MARGINAL RELIEF

- ❖ Marginal relief is calculated only if assessee is liable to pay surcharge.
- ❖ It is applicable for all assessee where the increase in tax is more than the increase in income.
- ❖ Marginal relief is allowed after surcharge but before education cess.
- ❖ Marginal relief = Increase in tax – Increase in income. (Above the limit of surcharge)

HEALTH AND EDUCATION CESS

- ❖ Health and education cess–4%
- ❖ It is calculated on the amount of income tax & surcharge.

REBATE [SECTION 87A]

UNDER OLD REGIME

- ❖ Rebate is allowed only to resident individual if income is upto ₹ 5,00,000.
- ❖ Rebate is allowed against basic tax before education cess.
- ❖ Amount of rebate shall be lower of:-
 - Amount of tax
 - ₹ 12,500

UNDER NEW REGIME

- ❖ Rebate is allowed only to resident individual if income is upto ₹ 7,00,000.
- ❖ Rebate is allowed against basic tax before education cess.
- ❖ Amount of rebate shall be lower of:-
 - Amount of tax
 - ₹ 25,000

SECTION 115 BAC

APPLICABILITY: Individual/HUF/AOP/BOI/AJP

Total Income	Rate
Upto 3,00,000	NIL
From 3,00,001 to 7,00,000	5%
From 700,001 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%

Surcharge: Surcharge is levied on the amount of Income-tax at following rates if total income of an assessee exceeds specified limits:

Rs. 50 Lakhs to Rs. 1 Crore	Rs. 1 crore to Rs. 2 Crore	Exceeding Rs. 2 Crores excluding dividend & income u/s 111A, 112, 112A
10%	15%	25%

Note: Marginal relief is available from surcharge.

Health and Education Cess: Health and Education Cess is levied at the rate of 4% on the amount on income-tax plus surcharge.

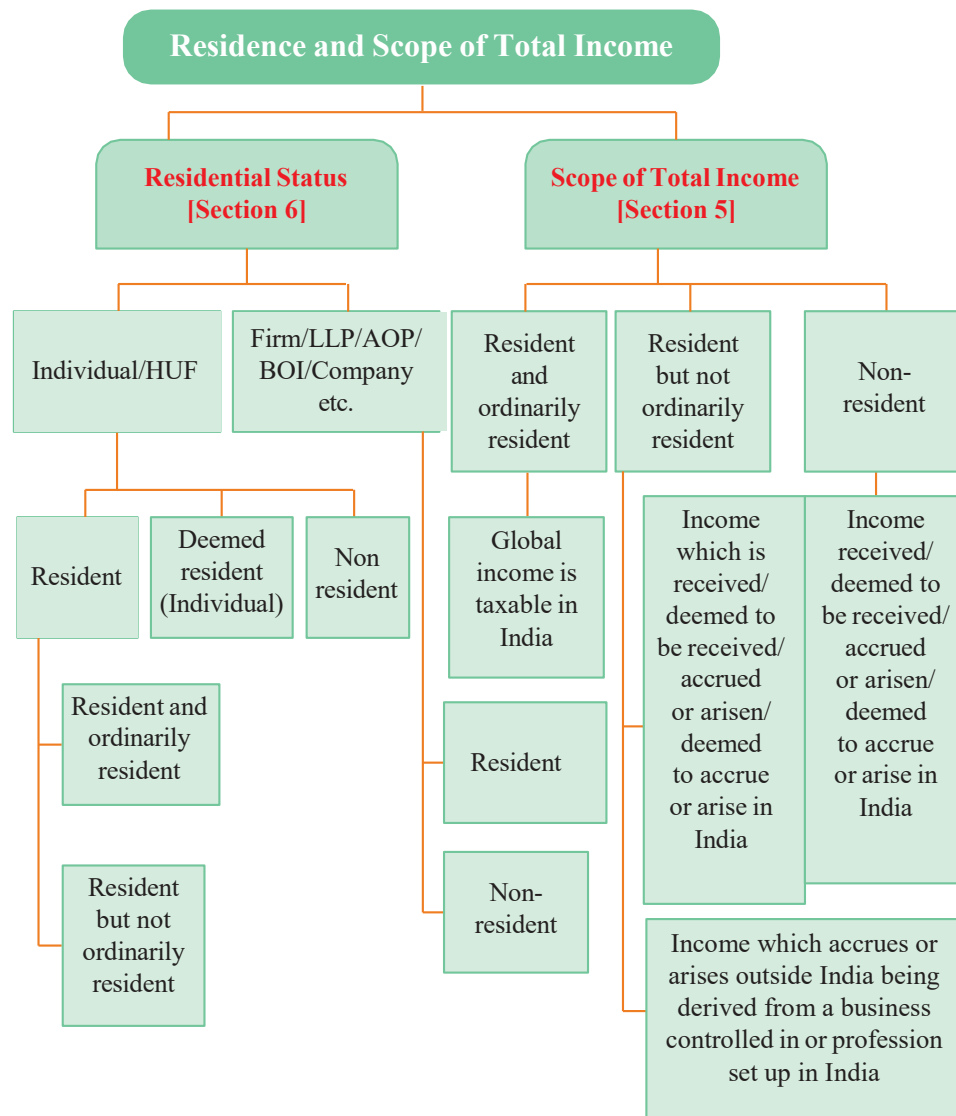
COMPUTATION OF TOTAL INCOME AND TAX LIABILITY OF AN ASSESSEE

For calculation of income, amount received is classified under 5 heads of income; it is then to be adjusted with reference to the provisions of the Income Tax laws in the following manner

Particulars	Amount (Rs.)
Income under the head:	
+ Income from Salaries	XXX
+ Income from House Property	XXX
+ Profits and gains of Business or Profession	XXX
+ Capital gains	XXX
+ Income from other sources	XXX
Adjustment in respect of:	
+ Clubbing of Income	XXX
- Set off and carry forward of losses	(XXX)
= Gross Total Income	XXX
- Deductions under section 80C to 80U (or Chapter VIA)	(XXX)
= Total Income	XXX



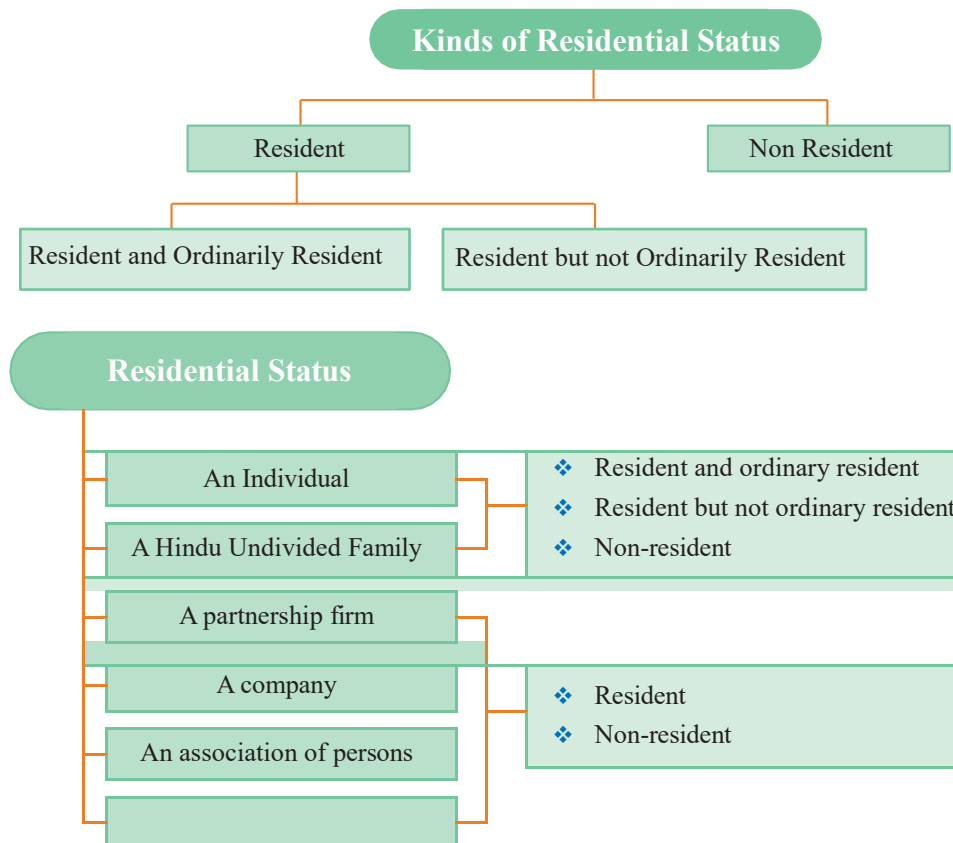
INTRODUCTION



RESIDENTIAL STATUS (SECTION 6)

- ❖ It is important for the Income Tax Department to determine the residential status of a tax paying individual or company. In fact, this is one of the factors based on which a person's taxability is decided.
- ❖ The taxability of an individual in India depends upon his residential status in India for any particular financial year.
- ❖ An individual may be a citizen of India but may end up being a non-resident for a particular year. Similarly, a foreign citizen may end up being a resident of India for income tax purposes for a particular year.

HOW TO DETERMINE RESIDENTIAL STATUS?



RESIDENTIAL STATUS OF INDIVIDUALS

Basic Condition

Residential status on the basis of number of days of stay in India –

Under section 6(1), an individual is said to be resident in India, if he satisfies any one of the following two conditions:

1. He has been in India during the previous year for a total period of 182 days or more,
- Or
2. He has been in India for at least 60 days or more in the relevant previous year and 365 days or more during the 4 years immediately preceding previous year.

Exceptions to Residential Status

The following categories of individuals will be treated as resident in India only if the period of their stay during the relevant previous year amounts to 182 days or more

- ❖ Indian citizen, who leaves India during the relevant previous year as a member of the crew of an Indian ship,

- ❖ Indian citizen, who leaves India during the relevant previous year for purposes of employment outside India,
- ❖ Indian citizen or person of Indian origin who, being outside India comes on a visit to India during the relevant previous year.

However, in case of Indian citizen or person of Indian origin having total income, other than the income from foreign sources exceeding Rs.15 lakhs during the previous year the period of 182 days shall be replaced by 120 days.

Deemed Resident

An Individual will be considered as Deemed Resident in the below case:

1. Individual being a Citizen of India,
- AND
2. Having Total Income in excess 15 lakhs in the Previous Year (Other than foreign Source)
- AND
3. Not liable to tax in any other country/territory, by reason of domicile, residence or any similar criteria.

NON-RESIDENT

An individual failing to satisfy the condition of stay in India for:

- ❖ 182 days or more in the previous year
- Or
- ❖ 60 days or more in the previous year and 365 days in the 4 years preceding previous years

will be considered as a Non-Resident for that financial year.

ADDITIONAL CONDITION

Resident and ordinarily resident/Resident but not ordinarily resident

An individual He will be an ROR if he meets both of the following conditions:

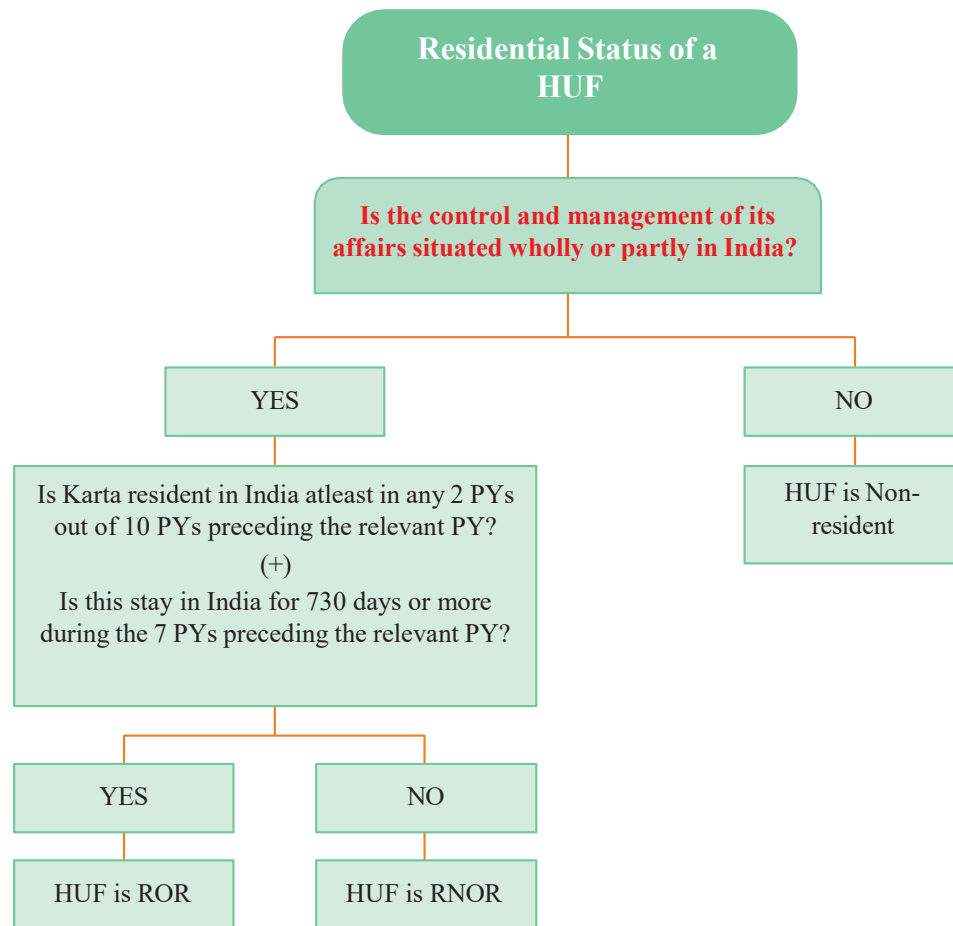
1. Has been a resident of India in at least 2 out of 10 immediately previous years
- And
2. Has stayed in India for at least 730 days in 7 immediately preceding years

NOTES: If assessee fulfills both of the above conditions then he becomes ROR otherwise RNOR.

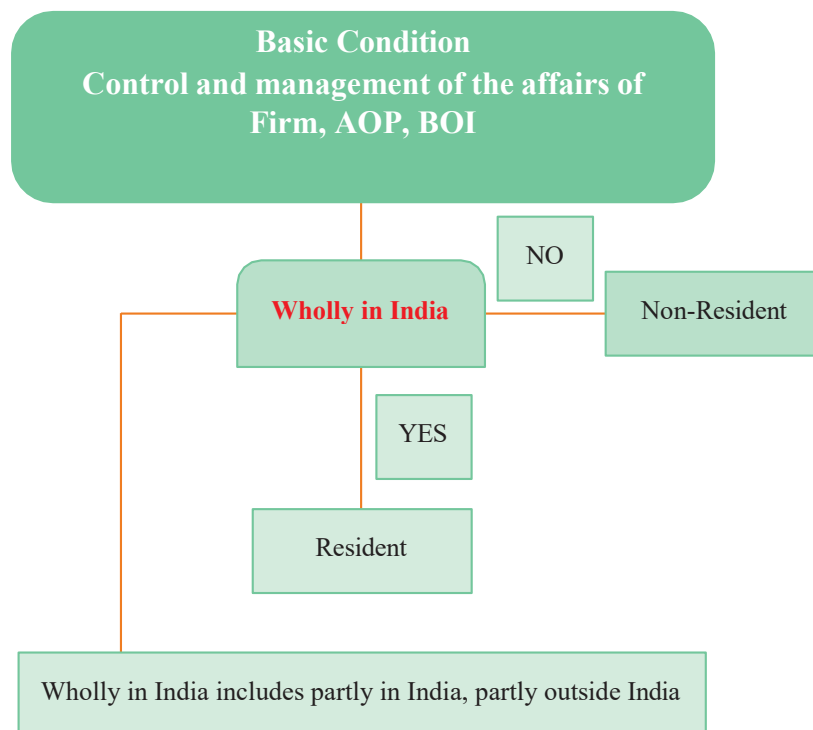
Therefore, there are 3 situations in which an individual is said to be RNOR

- ❖ If any individual fails to satisfy either or none of the above-mentioned conditions.
- ❖ If an individual is an Indian citizen or person of Indian origin having a total income more than exceeding Rs.15 lakhs (excluding foreign income), who has been in India for 120 days or more but less than 182 days during that previous year.
- ❖ If an individual is deemed to be a resident in India, by default, he will be considered as a Resident and Not Ordinarily Resident.

RESIDENTIAL STATUS OF HUF



RESIDENTIAL STATUS OF FIRM AOP/BOI

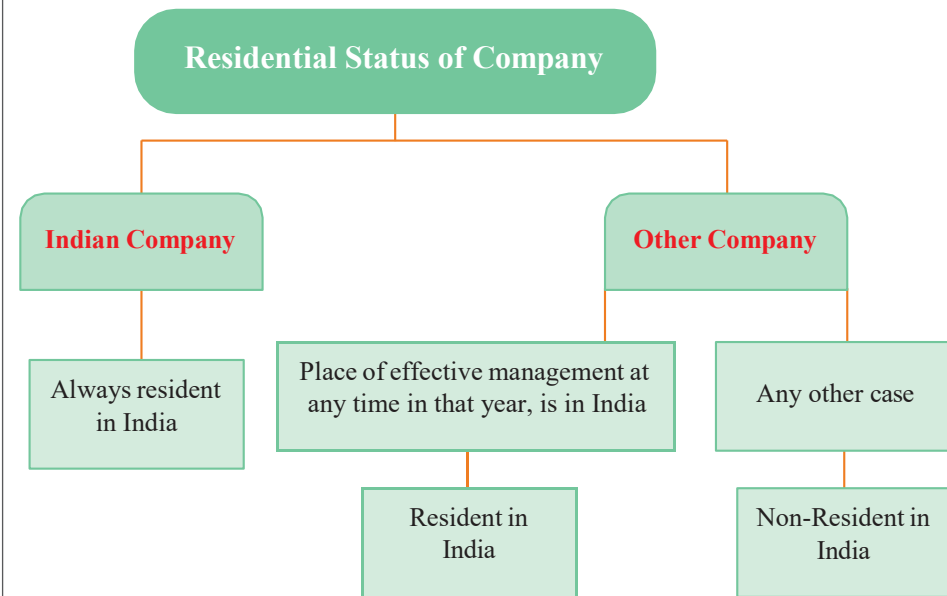


RESIDENTIAL STATUS OF COMPANY

A company would be resident in India in any previous year, if-

1. It is an Indian company;
- Or
2. Its place of effective management, in that year, is in India.

“Place of effective management” to mean 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



“PLACE OF EFFECTIVE MANAGEMENT” (POEM)

Criteria

As per the POEM guidelines, a company shall be said to be engaged in “active business outside India” if the passive income is not more than 50% of its total income and

1. less than 50% of its total assets are situated in India;
- And
2. less than 50% of total number of employees are situated in India or are resident in India;
- And
3. the payroll expenses incurred on such employees is less than 50% of its total payroll expenditure.

Determination of Poem will be a two stage process:

First Stage:

Identification or ascertaining the person or persons who actually make the key management and commercial decision for conduct of the company business as a whole.

Second Stage:

Determination of place here these decisions are in fact being made.

Note: The place where these management decisions are taken would be more important than the place where such decisions are implemented.

RESIDENTIAL STATUS OF LOCAL AUTHORITIES AND ARTIFICIAL JURIDICAL PERSONS

Resident:

Local authorities and artificial juridical persons would be resident in India if the control and management of its affairs is situated wholly or partly in India.

Non-resident:

Where the control and management of the affairs is situated wholly outside India, they would become non-residents.

SCOPE OF TOTAL INCOME (SECTION 5)

Section 5 provides the scope of total income in terms of the residential status of the assessee because the incidence of tax on any person depends upon his residential status.

The scope of total income of an assessee depends upon the following three important considerations:

1. The residential status of the assessee;
2. The place of accrual or receipt of income, whether actual or deemed; and
3. The point of time at which the income had accrued to or was received by or on behalf of the assessee.

The ambit of total income of the three classes of assessee would be as follows:

1. RESIDENT AND ORDINARILY RESIDENT

According to Sub-section (1) of Section 5 of the Act, The total income of a resident and ordinarily resident assessee would consist of:

- i. Income received or deemed to be received in India during the previous year;
- ii. Income which accrues or arises or is deemed to accrue or arise in India during the previous year;
- iii. Income which accrues or arises outside India even if it is not received or brought into India during the previous year.

In simpler terms, a resident and ordinarily resident has to pay tax on the total income accrued or deemed to accrue, received or deemed to be received in or outside India during the relevant previous year.

2. RESIDENT BUT NOT ORDINARILY RESIDENT

Under section 5(1), total income of resident but not ordinarily resident would consist of

- i. Income received or deemed to be received in India during the previous year;
- ii. Income which accrues or arises or is deemed to accrue or arise in India during the previous year;
- iii. Income derived from a business controlled in or profession set up in India, even though it accrues or arises outside India.

Note: All other income accruing or arising outside India which is not received or deemed to be received or deemed to accrue or arise in India would not be included in his total income.

3. NON-RESIDENT

A non-resident’s total income under section 5(2) includes:

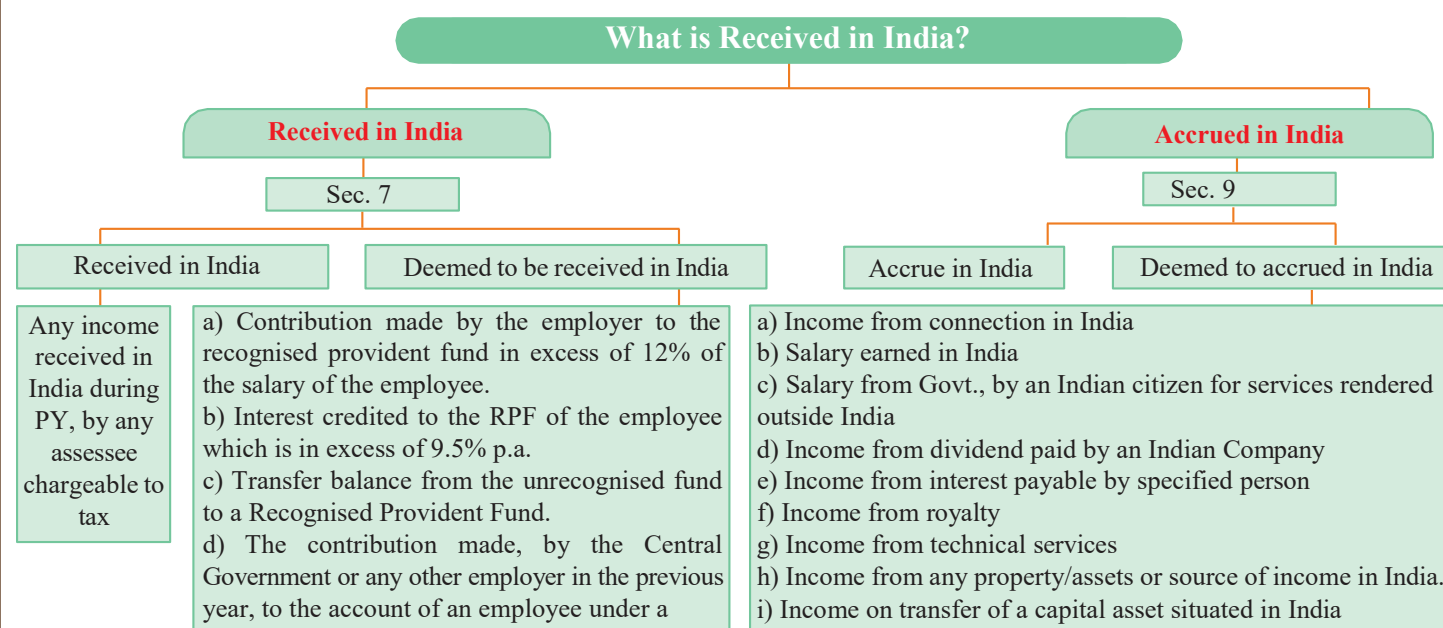
- i. Income received or deemed to be received in India in the previous year; and
- ii. Income which accrues or arises or is deemed to accrue or arise in India during the previous year.

Note: All assessee, whether resident or not, are chargeable to tax in respect of their income accrued, arisen, received or deemed to accrue, arise or to be received in India whereas a resident alone (resident and ordinarily resident in the case of individuals and HUF) is chargeable to tax in respect of income which accrues or arises outside India.

RULE OF TAXATION BASED ON RESIDENTIAL STATUS

Nature of Income	ROR	RNOR	NR
Income received in India (Whether accrued in our outside India)	Taxed	Taxed	Taxed
Income deemed to be received in India (Whether accrued in or outside India)	Taxed	Taxed	Taxed
Income accruing or arising in India (Whether received in India or outside India)	Taxed	Taxed	Taxed
Income deemed to accrue or arise in India (Whether received in India or outside India)	Taxed	Taxed	Taxed
Income received and accrued outside India from a business controlled or a profession set up in India	Taxed	Taxed	Not Taxed
Income received and accrued outside India from a business controlled from outside India or a profession set up outside India	Taxed	Not Taxed	Not Taxed
Income earned and received outside India but later on remitted to India (Whether tax incidence arises at the time of remittance)	Not Taxed	Not Taxed	Not Taxed

INCOME DEEMED TO BE RECEIVED IN INDIA (SECTION 7) AND INCOME DEEMED TO ACCRUE OR ARISE IN INDIA (SECTION 9)



INTRODUCTION**Exemption:**

- ❖ Exemptions are claimed on the basis of the source of income.
- ❖ The exempted income is not included in the total income of the assessee for computing Gross Total Income

Deduction:

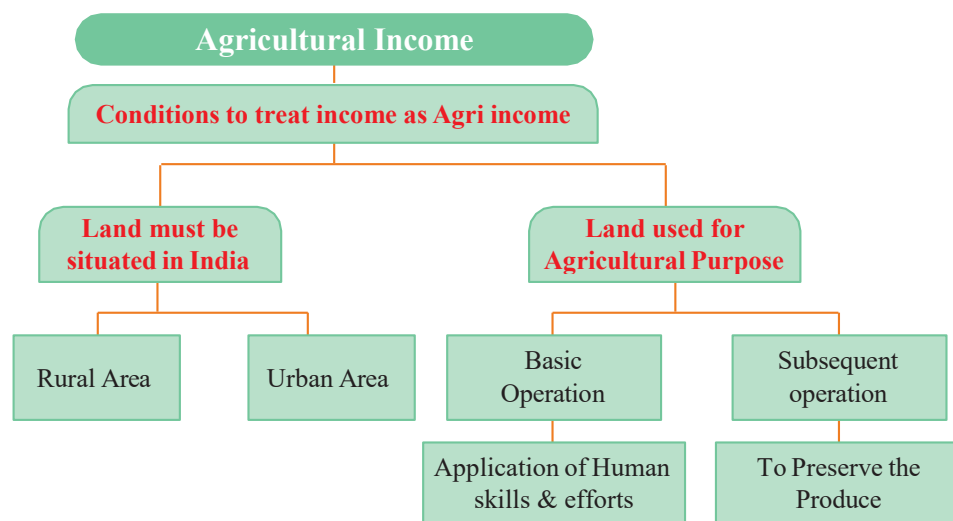
- ❖ Deductions are allowed on the basis of the payments/investments made during the year.
- ❖ The tax deductions are allowed under different heads of income as well as from the gross income.

Rebate:

- ❖ Rebate is a percentage amount reduced from the total Income tax payable.
- ❖ Tax rebate is allowed as a reduction to the total tax payable.

EXEMPTIONS UNDER SECTION 10 The incomes which are exempt under section 10 will not be included for computing total income.

DEDUCTIONS UNDER CHAPTER VI-A Income from which deductions are allowable under Chapter VI-A will first be included in the gross total income (GTI) and then the deductions will be allowed from GTI

INCOMES NOT INCLUDED IN TOTAL INCOME [SECTION 10]**Agricultural Income [Section 10(1)]****DEFINITION OF AGRICULTURAL INCOME [SECTION 2(1A)]**

- Any rent or revenue derived from a land, which is situated in India and is used for agricultural purposes.
 - ♦ Rent may be in cash or in kind.
 - ♦ Assessee may be the owner or tenant of such land.
- Any income derived from such land by agricultural operation.
- Any income derived from such land by
 - ♦ The cultivator by processing the agricultural produce raised;
 - ♦ The receiver of rent in kind by processing the agricultural produce received; so as to render it fit for sale in market.
- Any income derived from such land on sale made by
 - ♦ The cultivator of the agricultural produce raised;
 - ♦ The receiver of rent in kind of the agricultural produce received. Without carrying on any process, other than the process required to render it fit for the market.
- Any income derived from a building subject to fulfilment of the following conditions
 - ♦ The building should be occupied by the cultivator or receiver of rent in kind.
 - ♦ The building should be on or in the immediate vicinity of the land, being situated in India and used for agricultural purposes.
 - ♦ The building should be used as dwelling house or store-house or other out building.

In addition to the above conditions any one of the following two conditions should also be satisfied

- The land should either be assessed to land revenue in India or be subject to a local rate assessed and collected by the officers of the government as such or;
- Where the land is not so assessed to land revenue in India or is not subject to local rate:
 - It should not be situated in any area as comprise within the jurisdiction of a municipality or a cantonment board and which has a population not less than 10,000, Or
 - It should not be situated in any area within such distance, measured aerially, in relation to the range of population as shown hereunder –

SL. NO	Shortest aerial distance from the local limits of a municipality or cantonment board referred to in item a.	Population according to the last preceding census of which the relevant figures have been published before the first day of the previous year
(i)	≤ 2 Kilometers	> 10,000 ≤ 1,00,000
(ii)	≤ 6 Kilometers	> 1,00,000 ≤ 10,00,000
(iii)	≤ 8 Kilometers	> 10,00,000

Note: Profit on transfer of agricultural land: Profit on transfer of agricultural land shall not be treated as agricultural income.

STEPS FOR AGGREGATION OF AGRICULTURAL INCOME

Step 1: Calculate basic tax on agricultural income and non-agricultural income

Step 2: Calculate tax on Agricultural income + Basic exemption

Tax Liability = Step 1 – Step 2

[Add Surcharge and Health and Education Cess, as applicable.]

Note: The concept of aggregation is applicable only for individuals & HUF.

AGRICULTURE INCLUDES 2 OPERATIONS**Basic Operations:**

Those operations by agriculturists which are absolutely necessary for the purpose of effectively raising produce from the land are the basic operations.

Subsequent Operations:

Operations to be performed after the produce sprouts from the land (e.g., weeding, digging etc.) are subsequent operations. These subsequent operations would be agricultural operations only when taken in conjunction with and as a continuation of the basic operations.

RULE 7

Where income is partially agricultural income and partially income chargeable to income-tax as business income, the market value of any agricultural produce so raised by the assessee, which has been further utilised such business shall be deducted.

Determination of market value - There are two possibilities here:

- The agricultural produce is capable of being sold in the market either in its raw stage or after application of any ordinary process to make it fit to be taken to the market. In such a case, the value calculated at the average price at which it has been so sold during the relevant previous year will be the market value.
- It is possible that the agricultural produce is not capable of being ordinarily sold in the market in its raw form or after application of any ordinary process. In such case the market value will be the total of the following:—
 - ♦ The expenses of cultivation;
 - ♦ The land revenue or rent paid for the area in which it was grown; and
 - ♦ Such amount as the Assessing Officer finds having regard to the circumstances in each case to represent at reasonable profit.

Summary Chart

Natural of Income	Income tax Rule applicable	Amount of agricultural Income	Amount of non-agricultural Income
Income from growing and manufacturing of rubber	Rule 7A	65% of such income	35% of such income
Income derived from sale of coffee grown and manufactured India	Rule 7B(1)	75% of such income	25% of such income
Income derived from sale of coffee grown, cured, roasted and grounded in India	Rule 7B(1A)	60% of such income	40% of such income
Income from sale of tea manufactured or grown in India	Rule 8	60% of such income	40% of such income

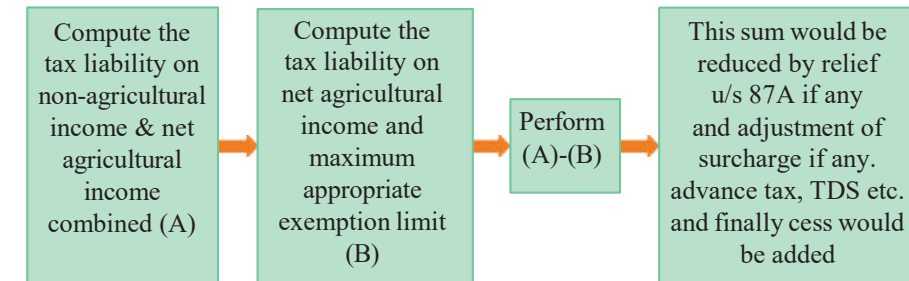
COMBINATION OF AGRICULTURAL AND NON AGRICULTURAL INCOME

This is applicable to Individuals, HUF, AOP, BOI, and artificial juridical person.

Two conditions which need to be satisfied for partial integration of agricultural income with non-agricultural income are:

1. The net agricultural income must be > INR 5000 p.a.;
- And**
2. The non-agricultural income must be > the maximum amount not chargeable to tax
(Which is INR 250,000 for all individuals / HUF's; INR 300,000 for senior citizens and INR 500,000 for very senior citizens)

The manner of computation of Income in such cases would be as under:



INTRODUCTION

The provisions pertaining to Income under the head “Salaries” are contained in section 15, 16 and 17 in the following manner.

Chargeability [Section 15]

Deduction [Section 16]

Constituents [Section 17]

BASIC OF CHARGE (SECTION 15)

- ❖ Salary is taxable on due or receipt basis whichever is earlier.
- ❖ Advance salary is taxable on receipt basis
- ❖ Advance salary V/s. Advance against salary; Advance salary is taxable/s 17(1) (e) whereas Advance against salary’ is treated a loan hence not taxable
- ❖ Arrears of salary (means any increment with salary on retrospective effect) is taxable on Receipt basis, if the same has not been subjected to tax earlier on due basis.
- ❖ Even if any part of salary is foregone by the employee voluntarily, still it will be taxable in his hands.

COMPUTATION OF SALARY INCOME

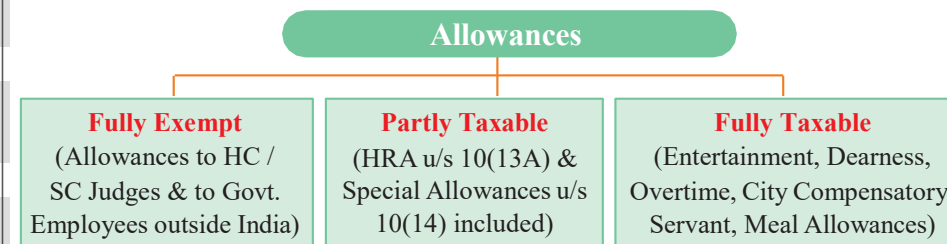
Particulars	(Rs.)
Income from Salary	
Salary	xxxxx
Allowances received (taxable allowances)	xxxxx
Taxable value of perquisite	xxxxx
Gross Salary	xxxxx
Less: Deduction under section 16	
Standard Deduction	(xxxxx)
Professional Tax	(xxxxx)
Entertainment allowance	(xxxxx)
Income from Salary	xxxxxxx

CONSTITUENTS OF SALARY (SECTION 17)

Section 17(1), defined the term “Salary”. It is an inclusive definition and includes monetary as well as non-monetary items.

ALLOWANCES

Allowance can be defined as a fixed amount either in the form of money or otherwise, given regularly in addition to salary for the purpose of meeting a particular requirement connected with the services rendered by the employee or as a compensation for unusual / peculiar conditions of that service.

**FULLY TAXABLE**

- ❖ Dearness Allowance, Additional Dearness Allowance and Dearness Pay
- ❖ Fixed Medical Allowance
- ❖ Tiffin/Lunch/Dinner Allowance
- ❖ Servant Allowance
- ❖ Non-practicing Allowance
- ❖ Hill Allowance
- ❖ Warden Allowance and Proctor Allowance
- ❖ Deputation Allowance
- ❖ Overtime Allowance
- ❖ Other Allowance

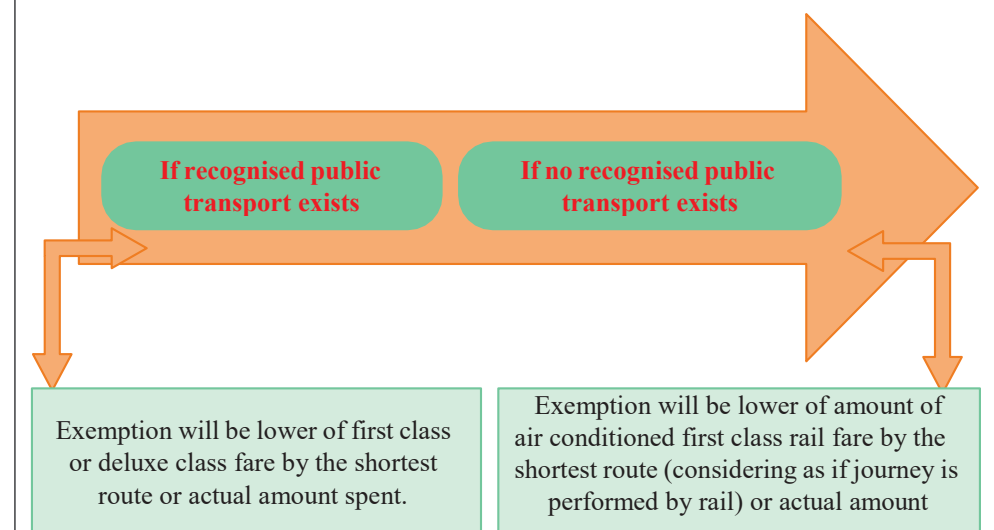
PARTLY TAXABLE ALLOWANCE**Leave Travel Concession (Section 10(5))**

- ❖ This clause exempts leave travel concession (LTC) received by employees from their employers for proceeding to any place in India,
- ❖ The benefit is available for assessee, spouse, children and (dependent) parents/brother/sister.
- ❖ Exemption will be available in respect of 2 journeys performed in a block of 4 calendar years. The block applicable for the current period is calendar year 2022-25
- ❖ Where such travel concession or assistance is not availed by the individual during any block of 4 calendar years, one such unavailed LTC will be carried forward to the immediately succeeding block of 4 calendar years and will be eligible for exemption if used in the first year of the block.
- ❖ The exemption referred to shall not be available to more than two surviving children of an individual on or after 1.10.1998. This restrictive sub-rule shall not apply in respect of children born before 1.10.1998 and also in case of multiple births after one child.

Other provisions to be kept in mind in this regard are as follows:

Where journey is performed by air	Where journey is performed by rail	Where journey is performed by any other mode and the place of origin of journey and destination are connected by rail.
Amount of exemption will be lower of amount of economy class air fare of the National Carrier by the shortest route or actual amount spent.	Amount of exemption will be lower of amount of air-conditioned first-class rail fare by the shortest route or actual amount spent.	Same rule will apply

Where the place of origin and destination are not connected by rail and journey is performed by any mode of transport other than by air. The exemption will be as follows:

**HOUSE RENT ALLOWANCE (SECTION 10(13A))**

House Rent Allowance (HRA) received by an employee is exempt to the extent of least of the following.

1. An amount equal to 50% of salary, if residential house is situated at Mumbai, Delhi, Kolkata or Chennai & 40% of salary where residential house in other place,
2. House Rent Allowance actually received by the employee
3. Rent paid minus 10% of salary.

Note: Salary for the purpose of HRA = Basic + DA (If forming part of salary/retirement benefit) + Commission as a fixed % of Turnover.

SPECIAL ALLOWANCES (SECTION 10(14))

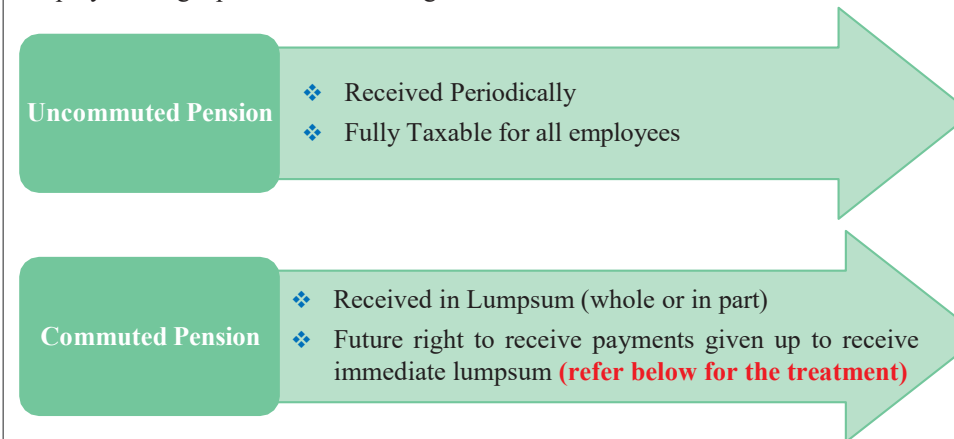
Allowances prescribed for the purposes of section 10(14)(ii)

Allowances	Exemption Limit
Children Education Allowance	Rs.100 per month per child upto a maximum of two children.
Hostel Expenditure Allowance	Rs.300 per month per child upto a maximum of two children.
Transport Allowance granted to an employee to meet expenditure on commuting between place of residence and place of duty. Consequent to introduction of Standard Deduction under section 16, exemption of transport allowance of Rs.1600 p.m. is withdrawn.	Only Rs. 3,200 per month for blind, handicapped, deaf and dumb employee is exempt
Any allowance granted to an employee working in any transport system to meet his personal expenditure during his duty performed in the course of running such transport from one place to another, provided that such employee is not in receipt of daily allowance	Least of the following in exempt: 70% of such allowance or Rs. 10,000 per month
Conveyance Allowance granted to meet the expenditure on conveyance in performance of duties of an office	Exempt to the extent of expenditure incurred for official purpose
Traveling Allowance to meet the cost of travel on tour or on transfer for official purpose	Exempt to the extent of expenditure incurred for official purpose
Daily Allowance to meet the ordinary daily charges incurred by an employee on account of absence from his normal duty	Exempt to the extent of expenditure incurred for official purpose
Helper/Assistant Allowance	Exempt to the extent of expenditure incurred for official purpose
Research Allowance granted for encouraging the academic research and other professional pursuits.	Exempt to the extent of expenditure incurred for official purpose
Uniform Allowance	Exempt to the extent of expenditure incurred for official purpose
Special Compensatory Allowance (Hilly Areas) (Subject to certain conditions and locations)	Amount exempt from tax varies from Rs. 300 to Rs.7,000 per month.
Border area, Remote locality or Disturbed area or Difficult area Allowance (Subject to certain conditions and locations)	Amount exempt from tax varies from Rs. 200 to Rs.1,300 per month.
Tribal area allowance in Madhya Pradesh, Tamil Nadu, U.P, Karnataka, Tripura, Assam, West Bengal, Bihar, Orissa	Rs. 200 month.
Allowances	Exemption Limit
Compensatory Field Area Allowance. If this exemption is taken, employee cannot claim any exemption in respect of border area allowance (Subject to certain conditions and locations)	Up to Rs. 2,600 per month

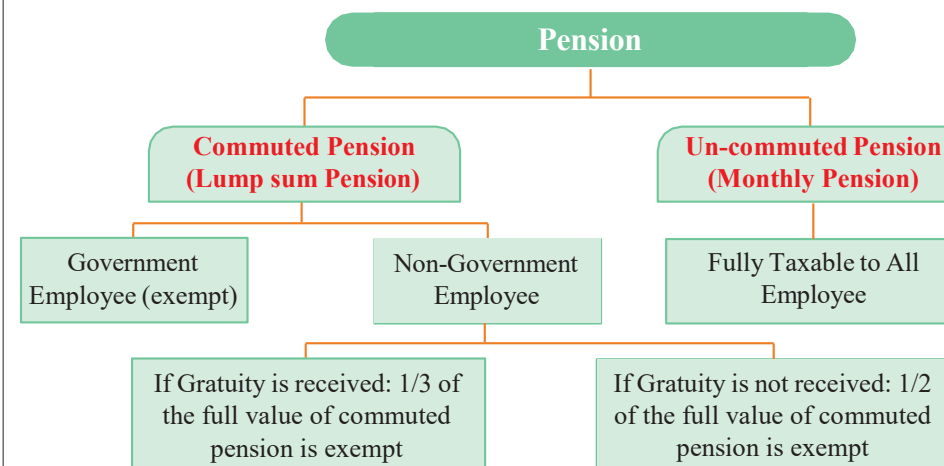
Compensatory Modified Area Allowance. If this exemption is taken, employee cannot claim any exemption in respect of border area allowance (Subject to certain conditions and locations)	Up to Rs. 1,000 per month
Counter Insurgency Allowance granted to members of Armed Forces operating in areas away from their permanent locations. If this exemption is taken, employee cannot claim any exemption in respect of border area allowance (Subject to certain conditions and locations)	Up to Rs. 3,900 per month
Underground Allowance to employees working in uncongenial, unnatural climate in underground mines	Up to Rs. 800 per month
High Altitude Allowance granted to armed forces operating in high altitude areas (Subject to certain conditions and locations)	(a) Up to Rs. 1,060 per month (for altitude of 9,000 to 15,000 feet) (b) Up to Rs. 1,600 per month (for altitude above 15,000 feet)

ANNUITY/PENSION

Pension is a periodical payment in consideration of past services of the retired employees. The pension is payable for the remaining life of the employee. In case of family pension, it is even paid to the surviving spouse of the deceased employee. Employee can get pension in following two forms.



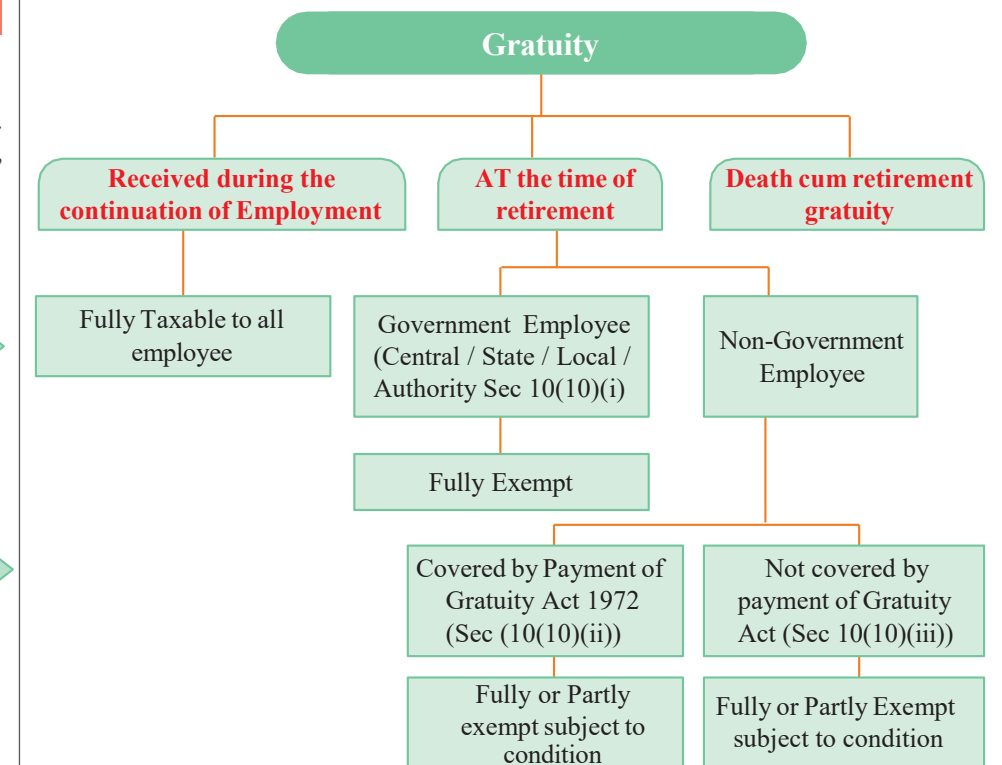
COMMUTED PENSION



Tax Treatment

Pension	Govt. Employee (Central / State / Local authority / statutory corporation)	Non Govt. Employee
Uncommuted	Fully taxable	Fully taxable
Commuted	Fully exempt u/s 10(10A)(i)	If Gratuity is received: 1/3 of the full value of commuted pension is exempt If Gratuity is not received: 1/2 of the full value of commuted pension is exempt

GRATUITY (SECTION 10(10))



Tax Treatment

S.NO.	Cases	Tax Treatment
1	Gratuity received during continuation of service	Fully taxable for all employee [Govt. + Non Govt.]
2	Received at the time of Termination of service/Death by government employees	The Gratuity received by employees of Central or State Government or Local Authority is fully exempt [Sec.10(10)(i)]

3	Received at the time of Termination of service/Death by non-government employees. [Covered by payment of Gratuity Act 1972]	In case of employees covered by Payment of Gratuity Act, 1972, the amount of exemption is the least of the following Gratuity actually received; Amount specified Rs. 20,00,000 $15/26 \times \text{last drawn salary} \times \text{No. of years of completed service}$. Note: 1. Here Salary means (Basic + DA) 2. Completed year means: More than 6 months = 1 year
4	Received at the time of Termination of service/Death by non-government employees. [Not Covered by payment of Gratuity Act 1972]	In case of employees not covered by Payment of Gratuity Act, 1972, the amount of exemption is the least of the following Gratuity actually received; Amount specified Rs. 20,00,000 $1/2 \times \text{average salary of last 10 months} \times \text{number of completed years of service}$ (fraction to be ignored). Here salary would mean Basic Salary + DA (Only to the extent of forming part of the retirement benefits) + % based commission on turnover

3	Other employees. In case of the non-Government employees (including local authority or public sector employees)	Leave salary is exempt to the extent of least of the following: Rs. 25,00,000 Leave encashment actually received. 10 month's Salary on the basis of average Salary drawn in the last 10 months Cash equivalent of leave standing to the credit of the employee at the time of retirement/death, based on last 10 month's average salary drawn. Earned leave entitlement per year cannot exceed 30. Note: Here Salary would mean Basic+ DA (only to the extent of forming part of the retirement benefits) + Commission as a % of Turnover and number of days in the month to be taken at 30.
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COMPENSATION ON VOLUNTARY RETIREMENT (SECTION 10(10 C))

Exemption u/s 10(10C)

Types of Employee	<ul style="list-style-type: none"> Employees of Central or State government or local Authority or Statutory Corporation Company or Co-operative Society Declared university, IIT, notified IIM or notified institutions Public Sector Company or any other Company
Conditions to be satisfied	<ul style="list-style-type: none"> Compensation received on Voluntary Retirement and The scheme of Voluntary Retirement should be as per rule 2BA
Amount of exemption least of following	<ul style="list-style-type: none"> Actual Compensation received/receivable Rs. 5,00,000 3 months Total Salary x Completed years of service (Part of the service to be ignored) Current Salary per month x Balance months of service left. <p>Salary = Basic + DA (retirement Benefits) + commission % of turnover</p>

PERQUISITES (SECTION 17(2))

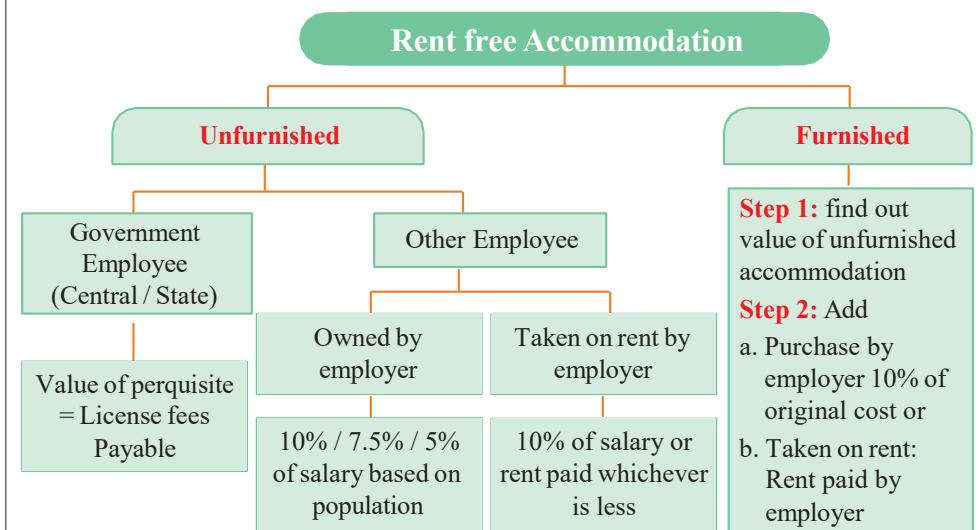
Perquisites are taxable under the head 'Salaries' only if they are:

- Allowed by an employer to his employees;
- Allowed during the continuance of employment.
- Directly dependent upon service;
- Resulting in the nature of personal advantage to the employee; &
- Derived by virtue of employee's authority.
- Perquisite is taxable if value is positive.

It is not necessary that a recurring and regular receipt alone is a perquisite. Even a casual and non-recurring receipt can be perquisite if the aforesaid conditions are satisfied.

TAXABLE PERQUISITES

RENT FREE RESIDENTIAL ACCOMODATION



Central and State: The value of perquisite is equal to license fee which would have been determined as payable by the concerned employee.

Government employees: In accordance with the rules framed by the Government for allotment of houses to its officers.

Private Sector Employees or Other Employees

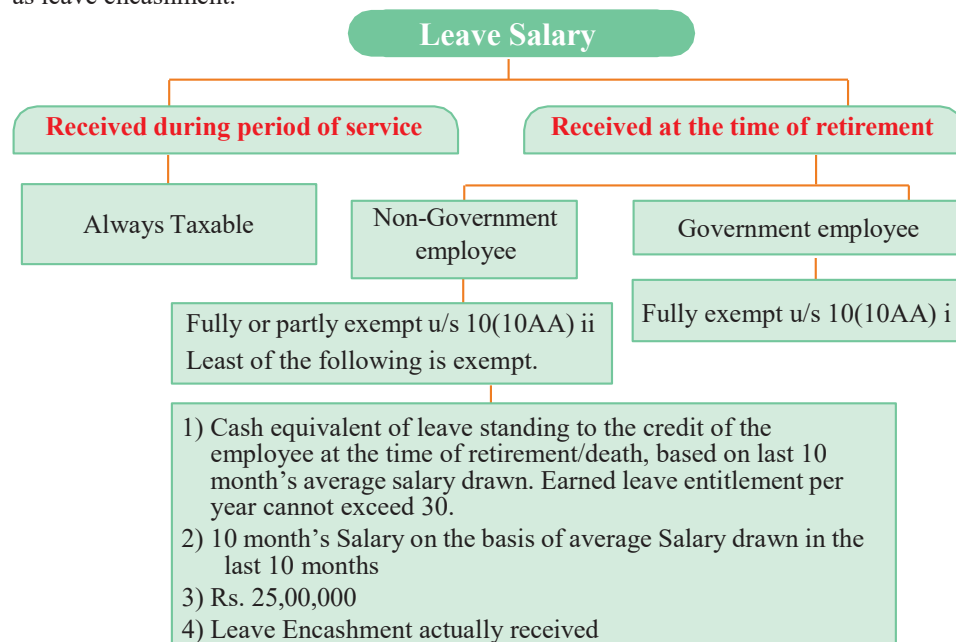
City	Where the accommodation is owned by the employer	Where the accommodation is taken on lease or rent by the employer
Having population exceeding 40 lakhs.	10% of salary in respect of the period during which the accommodation is occupied by the employee	Amount of lease rent paid or payable or 10% of salary, whichever is lower.
Having population exceeding 15 lakhs but not exceeding 40 lakhs.	7.5% of salary in respect of the period during which the accommodation is occupied by the employee	Same as above.
Population less than 15 lakhs	5% of salary in respect of period during which the accommodation is occupied by the employee	Same as above.

VALUATION OF RENT-FREE FURNISHED ACCOMMODATION

Particulars	Rs
Value of unfurnished accommodation as calculated above	xxx
Add: Value of furniture -	
If owned by employer, = 10% pa of original cost of furniture	xxx
if hired from third party, = Actual Hire Charges	xxx
[If the furniture is provided for a part of the year, valuation will be proportionate]	
Value of furnished accommodation	xxx

LEAVE ENCASHMENT (SECTION 10(10AA))

Encashment of leave by surrendering leave standing to the credit of employee is known as leave encashment.



TAX TREATMENT

S.NO.	Cases	Tax Treatment
1	Leave encashment received during the continuity of employment	Fully taxable for all employee
2	Received at the time of termination of service by government employees [Central + State]	Fully Exempt

Note:

- ❖ Furniture includes TV sets, radio, refrigerator, other household appliance, AC plant or equipment
- ❖ Value of furniture is same for government and non-government employees.

Valuation of Accommodation Provided in Hotel

The value of perquisite is lower of the following:

1. 24% of salary for the period during which accommodation was provided during PY OR
2. Actual amount paid to hotel.

If accommodation is provided for less than 15 days & provided to an employee for transfer from one place to another, perquisite is not chargeable to tax.

SWEAT EQUITY SHARES

Valuation of Specified Security or Sweat Equity Shares Allotted or Transferred to The Assessee

Meaning: 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.

Condition:

Value of any specified security or sweat equity shares shall be considered as perquisites in hands of employee if the following conditions are satisfied:

- ❖ Such security or sweat equity shares are allotted or transferred on or after 01-04-2011.
- ❖ Such security or sweat equity shares are allotted or transferred by the employer (former or present) directly or indirectly.
- ❖ Such security or sweat equity shares are allotted or transferred free of cost or at concessional rate to the assessee.

VALUATION OF MOTOR CAR FACILITY

Car is owned by	Car is Maintained by	Used by employee For	Taxable value
Employer	Employer	Office Purpose	Not a perquisite
		Personal purpose	Maintenance +Depreciation (Note 1 & 2)
		Both purpose	Rs.1800 or Rs.2400 pm depending upon capacity of car (Note 3)
Employer	Employee	Office Purpose	Not a perquisite
		Personal purpose	Depreciation
		Both purpose	Rs. 600/Rs. 900 pm depending upon capacity of car [Note 4]

Employee	Employer	Office Purpose	Not a perquisite
		Personal purpose	Maintenance
		Both purpose	Actual expenditure incurred by the employer as reduced by Rs. 1800/2400pm. Depending upon capacity of car or a higher deduction if prescribed conditions are satisfied [Note 5]
Employee	Employee	Any purpose perquisite	Not applicable

Chauffeur/ Driver Facility

1. Provided with the car facility

If car is used for office purpose.	Not taxable
If car is used for personal purposes	Driver– Salary is to be added to the value of perquisite (as computed above).
If car is used for both personal as well as office purposes	900 p.m. (irrespective of higher or lower capacity of car) is to be added as value of chauffeur perquisites

2. Only driver is provided without car facility

Then driver facility shall be treated as servant facility and shall be fully taxable to the extent is costs to the employer

NOTES:

1. Maintenance = Maintenance cost includes repairs, petrol, driver salary etc.
2. Depreciation = 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. Valuation of Car = Rs. 2400 pm in case of higher capacity car [above 1600 CC] and Rs. 1800 pm for lower capacity car [below 1600 CC].
4. Valuation of Car = Rs. 900 pm in case of higher capacity car and Rs. 600 pm for lower capacity car, Conditions to be fulfilled for claiming higher deductions.
5. Higher Deduction = 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.

VALUATION OF PERQUISITE IN RESPECT OF VEHICLE OTHER THAN MOTOR CAR

Owned by	Maintained by	Used for	Taxable value of perquisites	Who Is chargeable
Employer		Office Purpose	Nil	Not Applicable

Employee	Employer	Personal purpose	Actual Maintenance + Depreciation @ 10% of original cost	Specified employee
		Both purpose	Reasonable proportion of (Maintenance + Depreciation @ 10% of original cost)	
		Office Purpose	Nil	Not Applicable
Employee	Employer	Personal purpose	Actual maintenance	All employee
		Both purpose	Actual expenditure incurred by the employer as reduced by Rs. 900 p.m. or as reduced by higher sum if prescribed conditions (as discussed in case of car facility) are satisfied	
		Office Purpose	Nil	

FREE DOMESTIC SERVANTS [RULE 3(3)]

If the employee is getting a fixed servant allowance, it is fully taxable irrespective of whether the employee is incurring any expenditure on servants or not.

If an employee has been-provided a rent free accommodation (owned by the employer), then the expenses incurred on maintenance of garden and ground attached to the house including salary paid to the gardener is not taxable separately.

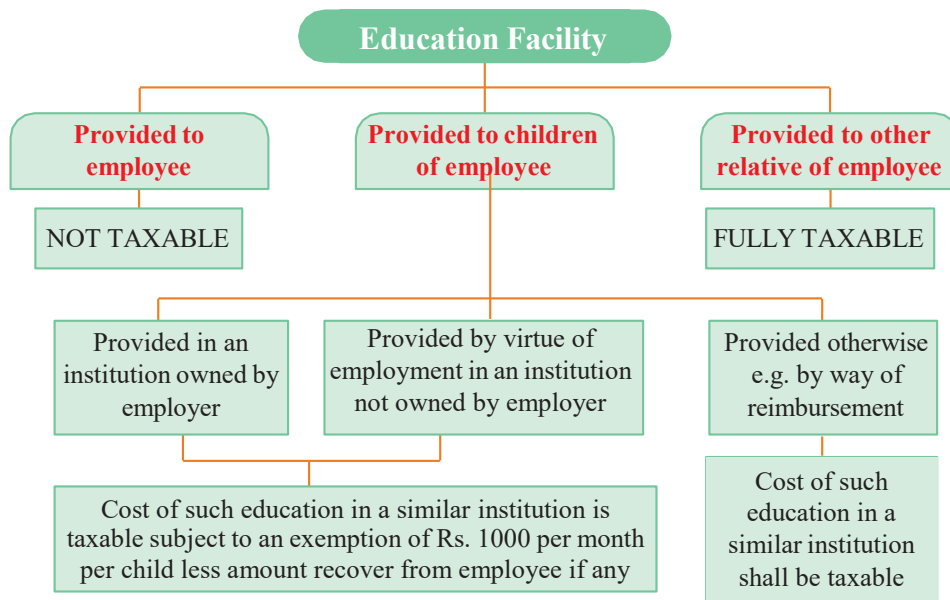
Servant Appointed by	Value of Perquisite	Taxable in the hands of
Employer	Cost to the employer	Specified employee
Employee	Cost to the employer	All employee

GAS/ WATER/ ELECTRICITY/ FACILITY

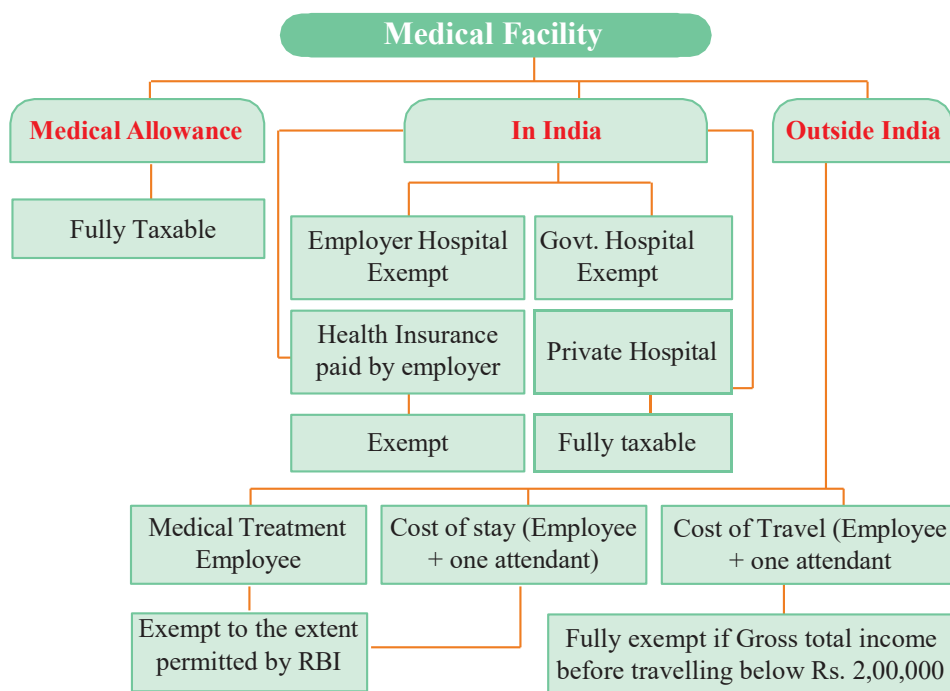
Case	Own Source	Outside Agency	Taxable in the hands of
Facility in the Name of Employee	Manufacturing cost to the employer	Prices paid to such agency	Specified employee
Facility in the Name of Employer			All employee

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.

FREE OR CONCESSIONAL EDUCATIONAL FACILITIES [RULE 3(5)]



MEDICAL FACILITIES SEC. 17 (2)



Medical Facility Provided in India

S.No.	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

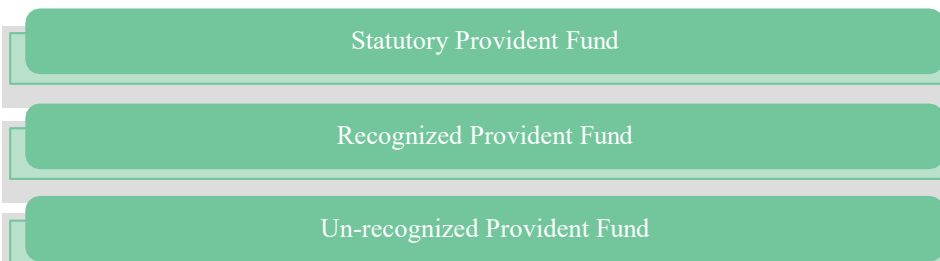
3.	Payment / reimbursement by employer of medical expenses incurred by an employee on himself/his family in a hospital, which is approved by the CCIT, for the prescribed diseases (like Cancer, TB, AIDS, etc.) Employee must attach with the return of Income: A certificate from the approved hospital specifying the prescribed disease or ailment for which hospitalization was required, and A receipt for the amount paid to the hospital.	Fully Exempted
4.	Group medical insurance (i.e. Medi claim) 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.	Fully Exempted
6.	Reimbursement of any medical bill whether for employee or for his family member.	(FA 18)

Medical Facility Provided Outside India

Case	Treatment
Medical Expenditure	Exempted to the extent permitted by RBI
Case of stay abroad (Patient + One Attendant / Care taker)	Exempted to the extent permitted by RBI
Case 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 Rs.200000 p.a. Tax Point: In calculation of gross total income ceiling, taxable value of medical treatment perquisite and cost of stay perquisite shall be included.

PROVIDENT FUND

For the purpose of Income Tax, provident funds are grouped under three heads as follow: Provident fund is a retirement benefit scheme. Under the provident fund scheme, a stipulated amount is deducted from the salary of an employee as his contribution towards the fund. The employer also puts his own contribution. This money is invested in the gilt-edged securities; interest earned is also credited to the fund account. The accumulated balance is paid to the employee at the time of his retirement.



Statutory Provident Fund: This fund is maintained by Government and semi-government organizations, local authorities, railways, universities and recognized educational institutions.

Recognized Provident Fund: A provident fund scheme to which the Employee's Provident Fund and Miscellaneous Provisions Act, 1952 apply is called as a Recognised Provident Fund. Any establishment employing 20 or more employees is covered by the Act.

Unrecognized Provident Fund: In case, if the scheme mentioned above is not approved by the Commissioner of Income Tax, the same is called as Unrecognised.

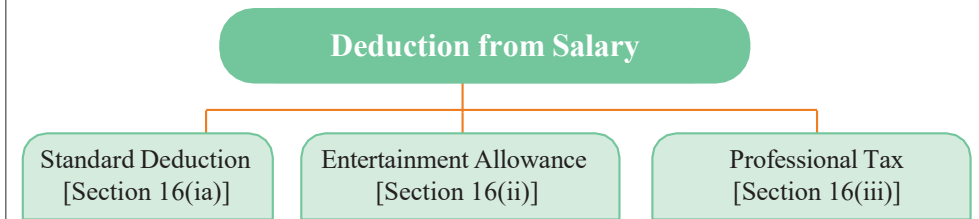
RELIEF UNDER SECTION 89

Tax is calculated on total income earned or received during the year. If any portion received 'salary in arrears or in advance', or have received a family pension in arrears, assessee is allowed some tax relief under section 89(1) of the Income Tax Act, 1961

Relief under section 89(1) for arrears of salary are available in the following cases:

- ❖ Salary received in advance or as arrears
- ❖ Gratuity
- ❖ Compensation or Termination of employment
- ❖ Commutation of pension

DEDUCTION FROM SALARY (SECTION 16)



STANDARD DEDUCTION [SEC. 16(IA)]

Standard deduction is available as follows –

Standard deduction of Rs. 50,000 (fifty thousand) or the amount of the salary, whichever is less is allowed as deduction in computing the Income under the head Salary.

However, in case of an assessee paying tax u/s 115BAC, Standard Deduction of Rs. 75,000 or the amount of salary whichever is less is allowed as deduction in computing the Income under the head Salary. [Amendment vide Finance Act, 2024]

In simple terms.

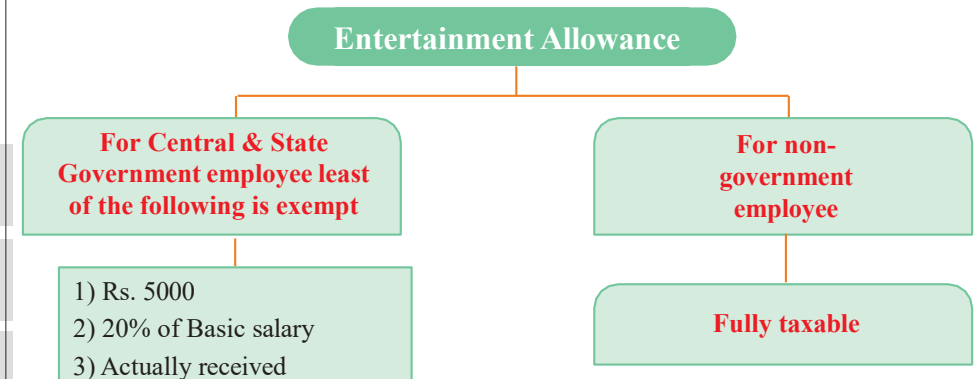
Old regime - Rs.50,000 & Default Regime (Section 115 BAC) – Rs. 75,000

ENTERTAINMENT ALLOWANCE [SEC. 16(II)]

Fully taxable in case of Non-Government Employees

In case of Government Employees, the deduction is available which would be lower of Actual Entertainment Allowance

- ❖ Rs. 5000/-
- ❖ 20% of Basic salary.
- ❖ Actual Entertainment allowance received.



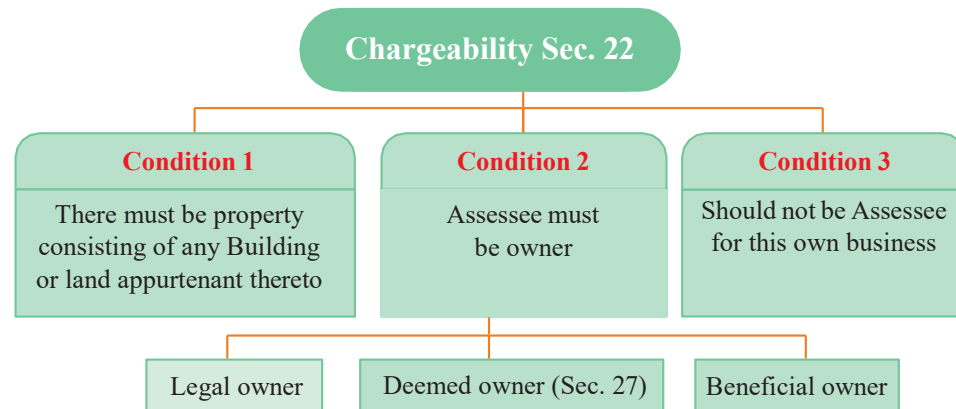
PROFESSIONAL TAX [SEC. 16(III)]

Allowed as a deduction when paid by the employee (recovered from salary) during the previous year.

[If paid by employer, it is firstly added to salary and then deducted]

Note: The deduction under section 16(ii), 16(iii) are not available for assesses opted for section 115BAC of the Income Tax Act, 1961

BASIC OF CHARGE (SECTION 22)



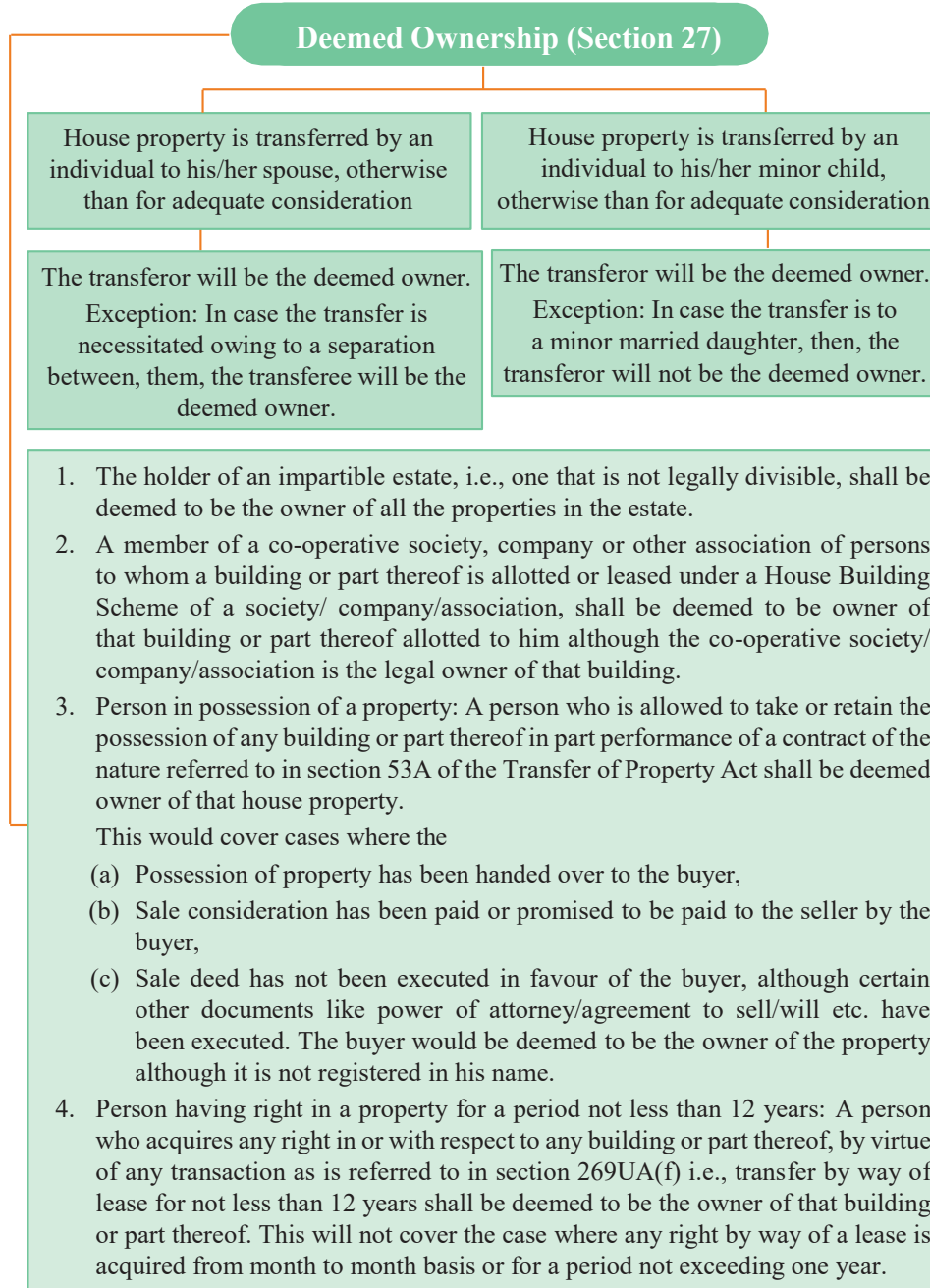
Exception

- ❖ Income from letting out of vacant land is chargeable to tax under the head 'Income from Other Sources'
- ❖ Income earned by an assessee who is engaged in the business of letting out properties on rent, would be chargeable to tax under the head "Profits/Gains from Business/Profession"

SUMMARY OF COMPUTATION OF INCOME FROM HOUSE PROPERTY

A) Computation of Income in case of Let out Property	Amount (Rs.)
Gross Annual Value	xxx
Less: Deduction u/s 23(1) for Municipal Taxes (to the extent actually paid and borne by the owner during previous year)	(xxx)
Net Annual Value	xxx
Less: Standard Deduction u/s 24(a)-@ 30% of NAV	(xxx)
Deduction for Interest on Borrowed Capital u/s 24(b)	(xxx)
Income From House Property	xxx
B) Computation of Income in case of Self Occupied Property	
Gross Annual Value	xxx
Less: Deduction for Municipal Taxes (even if paid and borne by the owner during previous year)	(xxx)
Net Annual Value	xxx
Less: Deduction u/s 24(a) Standard Deduction	(xxx)
Less: Deduction u/s 24(b) for Interest on Borrowed Capital	(xxx)
Income/Loss from House Property	xxx

DEEMED OWNERSHIP (SECTION 27)



PROPERTY HELD AS STOCK IN TRADE (SECTION 23(5))

Where the building or land appurtenant thereto is held as stock in trade and the property or any part of the property is not let during the whole or any part of the previous year, the

annual value of such property or part of the property, for the period up to two 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, shall be taken to be NIL.

Exceptions

1. Letting out is a supplementary to the main business.
2. Sublets receipts
3. Assessee's property used for his partnership firm

COMPOSITE RENT

Meaning: The owner of a property may sometimes receive rent in respect of building as well as –

- i. Other assets like say, furniture, plant and machinery.
- ii. For different services provided in the building, for e.g., –
 - ♦ Lifts;
 - ♦ Security;
 - ♦ Power backup;

The amount so received is known as "composite rent".

Tax Treatment of Composite Rent

Where rent of property and rent of services / assets can be separated		Where rent of property and rent of services / assets cannot be separated
Rent of letting of property	Rent of service, assets	Taxable under Other sources or Business income
Taxable under House property	Taxable under Other sources	

IMPACT OF SECTION 115 BAC UNDER THE HEAD HOUSE PROPERTY

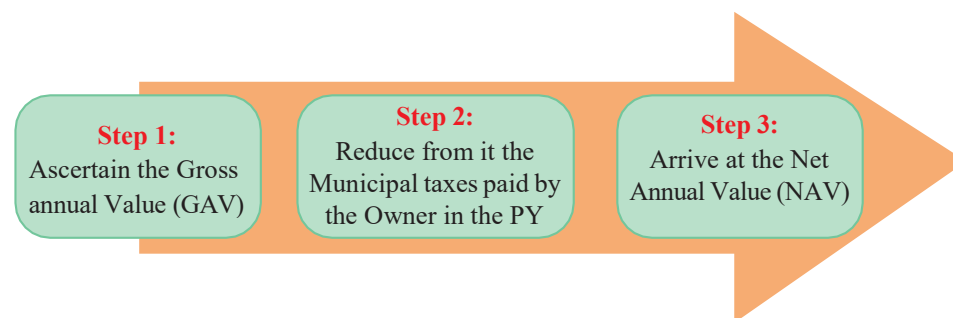
The below exemptions / deduction will not be allowed to the assessee (I.e., individual or Hindu undivided family or association of persons (other than a co-operative society), or body of individuals, whether incorporated or not, or an artificial juridical person) paying tax as per section 115 BAC of the Income tax Act, 1961.

S.No.	Nature of Exemption / Deduction Relating to House Property	New System of Tax Section 115 BAC	Existing System of Tax
1.	Deduction of Municipal Tax from GAV	Allowed	Allowed
2.	Standard Deduction u/s 24(a) from NAV	Allowed	Allowed
3.	Interest Deduction u/s 24(b) from NAV		
	a) Let out properties u/s 23(1)	Allowed	Allowed
	b) Self-occupied Property u/s 23(2)	Not Allowed	Allowed
	c) Property which is stock in trade u/s 23(5)	Allowed	Allowed

4.	Set off of brought forward House Property losses & brought forward Depreciation from Current year House Property Income	Not Allowed If related to disallowed deduction & exemptions	Allowed
5.	Set off current year House Property loss from other Heads	Not Allowed	Allowed

DETERMINATION OF ANNUAL VALUE

The process of determination of Annual Value is exhibited below:



Some Important Terms

1. Municipal Value:

This is value as determined by the municipal authorities for levying municipal taxes on house property. Municipal authorities normally charge house tax/municipal taxes on the basis of annual letting value of such house property, which is determined by it based upon many consideration.

2. Fair Rent:

Fair rent is the rent which a similar property can fetch in the same or similar locality, with same facilities.

3. Standard Rent:

The standard rent is the maximum rent which can be collected by the landlord. This is fixed under Rent Control Act, the owner cannot be expected to get a higher rent than the Standard Rent fixed under Rent Control Act.

4. Unrealised Rent:

The amount of rent which the owner cannot realise shall be equal to the amount of rent payable but not paid by a tenant of the assessee and so proved to be lost and irrevocable only if following conditions under Rule 4 are satisfied:

- ♦ tenancy is bonafide;
- ♦ the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;
- ♦ the defaulting tenant is not in occupation of any other property of the assessee;
- ♦ the assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfied the Assessing Officer that legal proceedings would

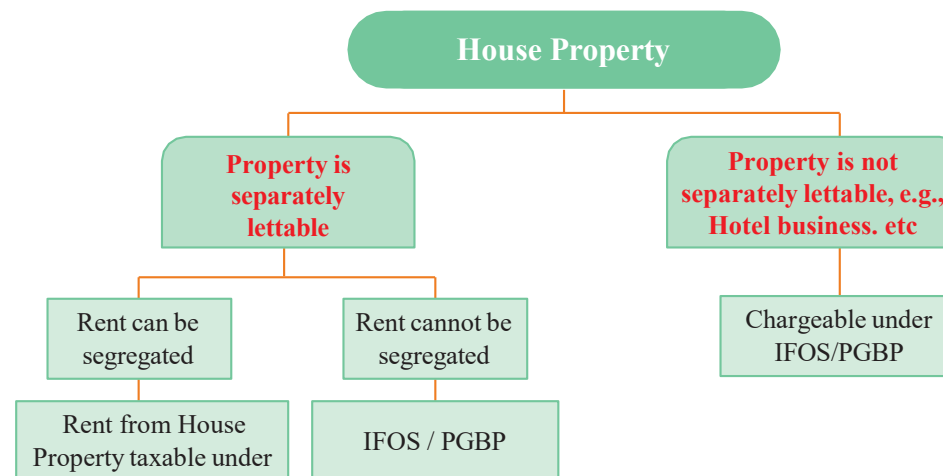
5. Vacancy Allowance:

Period for which house remain vacate.

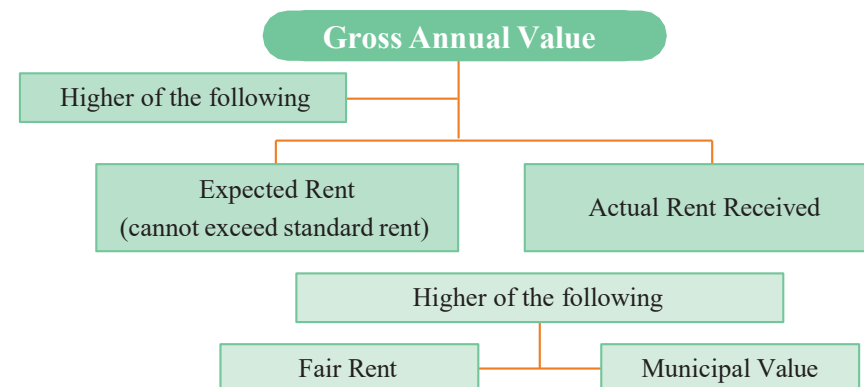
6. Actual Rent Receivable:

It is the rent charged for the property during the period the property is actually let out while, computing ARR,

Outstanding rent should be included whereas advance rent should be excluded. It does not include vacancy period rent.



WHEN THE PROPERTY IS LET OUT FOR THE WHOLE YEAR (SECTION 23(1))



Where the property is let out for the whole year, then the GAV would be the higher of –

- ❖ Expected Rent (ER) and
- ❖ Actual rent received or receivable during the year

Note: The Expected Rent (ER) is the higher of fair rent (FR) and municipal value (MV), but restricted to standard rent (SR)

HOW TO CALCULATE GAV

Steps	Particulars	Amount
1st	Find out reasonable expected rent (RER)	
	Gross Municipal Value (a)	xxx
	Fair Rent (b)	Xxx
	Higher of the [(a) and (b)] [A]	Xxx
	Standard Rent as per Rent Control Act [B]	Xxx
	Reasonable Expected Rent [Lower of [(A) and (B)]	Xxx
2nd	Actual rent received / receivable [ARR]	
	Rent received / Receivable - unrealised Rent	Xxx
3rd	GAV = Higher of 1 or 2	Xxx
4th	If GAV is lower due to vacancy allowance then GAV shall be ARR	

MUNICIPAL TAX

Taxes levied by local authority can be summarized through the following -

1. It includes municipal tax, Sewerage tax, any other tax charged by local authority on the building.
2. It is allowed as deduction from GAV
3. It shall be compute of a percentage of net municipal value
4. It must be paid during the P.Y., i. e. it is allowed in the year in which it is paid.

Note: Outstanding municipal tax shall not be allowed as deduction.

5. It must be paid by the assessee.

Note: Tax paid by the tenant shall not be allowed as deduction

Even tax paid on property to foreign local authority shall be allowed as deduction from the gross annual value

Points To Ponder

Deduction for municipal tax can exceed GAV i.e. it can turn NAV negative, e.g., municipal tax is paid for several past years and the total tax paid exceeds GAV, then Net annual value (NAV) can be negative.

Advance municipal tax: Whether Advance Municipal Tax Paid by the assessee shall be allowed as deduction u/s 23(1) is a debatable issue. A through study of the language of the act is required.

So property: No deduction of shall be allowed on account of municipal tax paid as GAV is taken as NIL. (Income is exempt)

WHEN LET OUT PROPERTY IS VACANT FOR PART OF THE YEAR (SECTION 23(1))

Where let out property is vacant for part of the year and owing to vacancy, the actual rent is lower than the ER, then the actual rent received or receivable will be the GAV of the property.

WHEN PROPERTY IS SELF-OCCUPIED/UNOCCUPIED (SECTION 23(2))

- ❖ Where the property consists of a house or part of a house in the occupation of the owner for his own residence, and is not actually let out during any part of the previous year and no other benefit is derived therefrom by the owner, the annual value of such a house or part of the house shall be taken to be nil.
- ❖ The only deduction available in respect of such house is towards interest on borrowed capital but subject to a ceiling of Rs. 30,000 or Rs. 2,00,000 as the case may be. In other words, to this extent there could be a loss from such house.

Concession for Two Houses Only

Where the assessee has occupied more than two houses for the purposes of residence for himself and family members, he has to make a choice of two houses only in respect of which he would like to claim exemption.

Other self-occupied houses will be treated as if they were let out and their annual value will be determined In the same manner as we have discussed in the case of let out property.

- ❖ Annual Value would be taken as Nil
- ❖ It is imperative that the property is self-occupied OR unoccupied for the whole year
- ❖ This benefit is for two houses
- ❖ This benefit is for Individual / HUF only
- ❖ No deduction is allowed for Municipal Taxes for such property.

Note: The Deduction of Rs. 30,000 / Rs. 2,00,000 with respect to Interest paid on borrowed capital u/s 24(b) not allowed in case of Self occupied Property, if assessee opted for section 115 BAC of the Income Tax Act, 1961.

WHEN PROPERTY IS PARTLY LET OUT AND PARTLY SELF-OCCUPIED DURING PY (SECTION 23(3))

Property Let Out Partially

When a portion of the house is self-occupied for the full year and a portion is let-out for whole year, the annual value of the house shall be determined as under:

- i. From the full annual value of the house, the proportionate annual value for self-occupied portion for the whole year shall be deducted.
- ii. The balance under (i) shall be the annual value for let out portion for a part of the year.

House Let Out During Any Part of The Previous Year and Self-Occupied For the Remaining Part of The Year

In this case, the benefit of Section 23(2) is not available and the income will be computed as if the property is let out.

More than one sop

- ❖ Assessee can claim benefit of SOP only for any 2 self-occupied properties.
- ❖ Other properties shall be deemed to be let-out properties.
- ❖ Assessee has the option to decide which property is to be treated as SOP.

That option is selected in which:

Income is least or Loss is highest

House Property					
Let out property			Self-occupied		
Particulars	Details	Amount	Particulars	Details	Amount
Gross Annual Value (GAV)		xxxx	Gross Annual Value (GAV)		Nil
Less: Municipal tax		xxxx	Less: Municipal tax		Nil
Net Annual Value (NAV)		xxxx	Net Annual Value (NAV)		Nil
Less: Deductions u/s			Less: Deductions u/s		
24(a) Standard deduction [30% of NAV]	xxxx		24(a) Standard deduction [30% of NAV]	Nil	
24(b) Interest on borrowed capital	xxxx	xxxx	24(b) Interest on borrowed capital	(xxx)	(xxx)
Income from house property		xxxx	Income from house property		(xxx)

DEEMED TO BE LET – OUT HOUSE PROPERTY (SECTION 23(4))

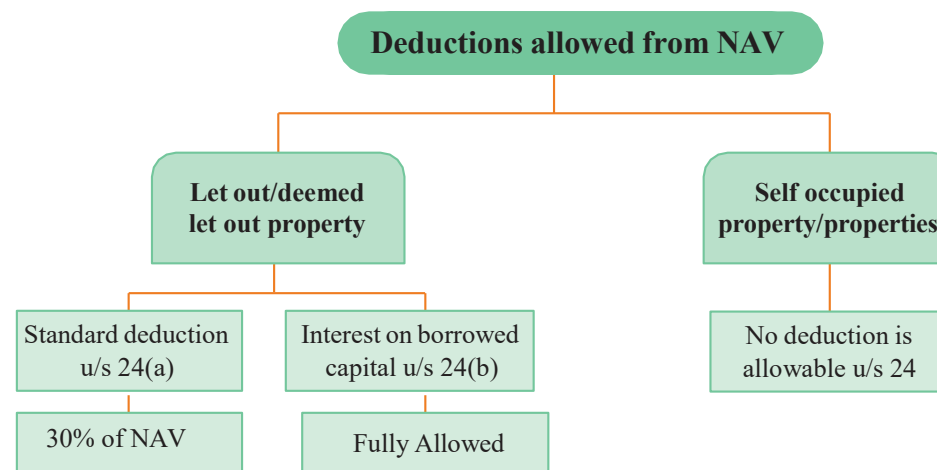
Where the assessee occupies more than two house property as self-occupied or has more than two unoccupied property, then for any two of them, benefit u/s 23(2) can be claimed (at the choice of the assessee) and remaining property or properties shall be treated as 'deemed to be let out'.

GAV = EXPECTED RENT

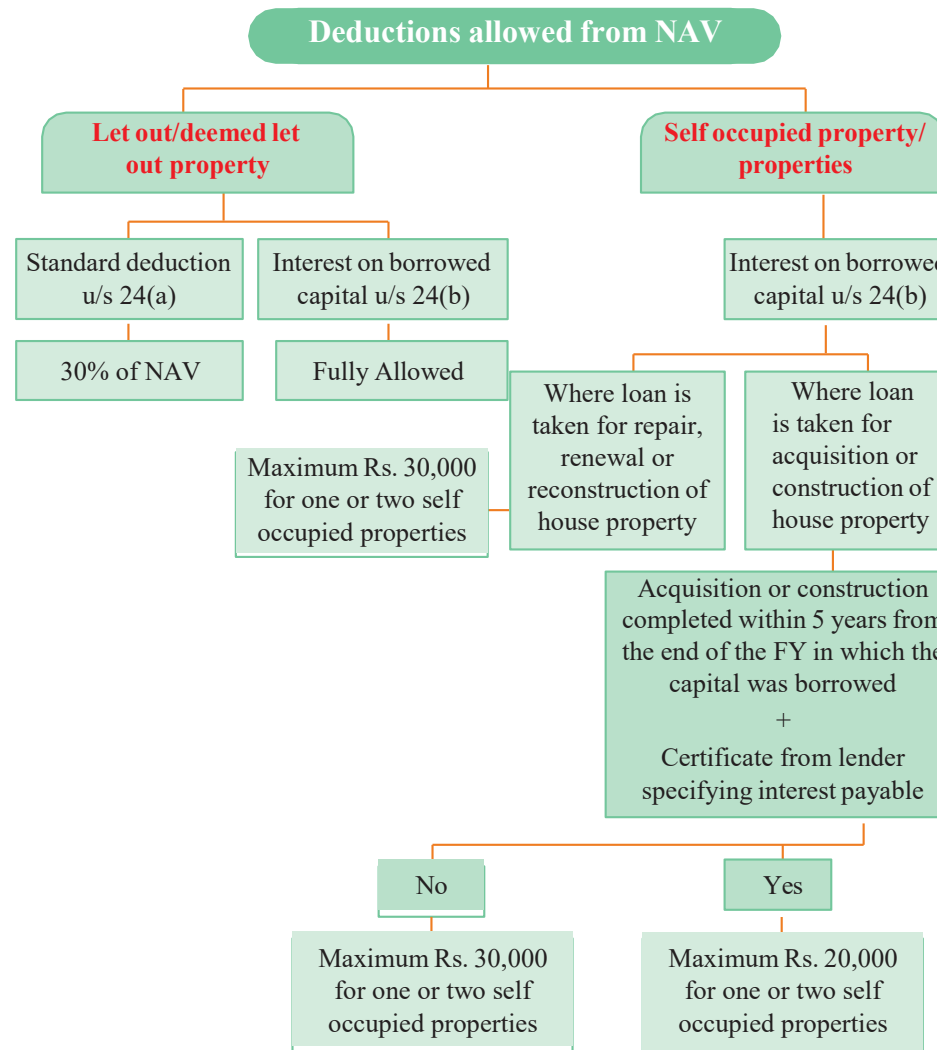
(Municipal tax paid by the owner for the whole year is allowed as deduction)

DEDUCTION FROM NET ANNUAL VALUE (SECTION 24)

DEDUCTION FROM NET ANNUAL VALUE UNDER DEFAULT TAX REGIME UNDER SECTION 115BAC



Deduction From Net Annual Value Under Optional Tax Regime [Normal Provisions of The Act]



Pre-Construction Period

It is a period commencing on

The date of commencement of construction or the day of borrowing whichever is later and ending on

- (a) 31st March immediately prior to the date of completion of construction
Or
- (b) Date of repayment of loan whichever is earlier.

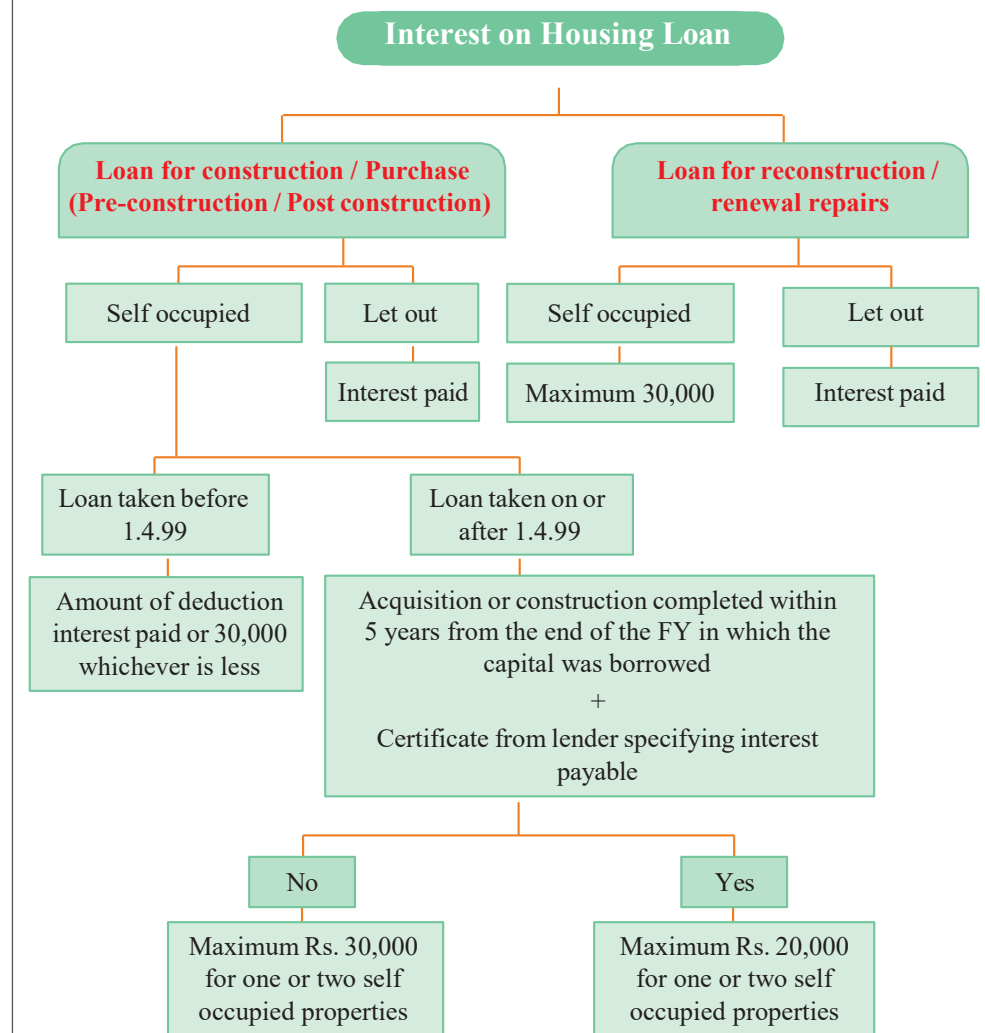
Pre-Construction Interest

Pre-construction interest is deductible in 5 equal installments commencing from the previous year in which the house is acquired or constructed.

Post-Construction Interest

If the loan is outstanding even after construction then interest of each such year is known as post-construction interest & is allowed on accrual basis in the same year.

ANALYSIS OF DEDUCTION U/S 24B



Nature of Property	When loan was taken	Purpose of Loan	Allowable Maximum (limit)
Self-occupied	On or after 1/4/99	Construction or purchase of house property	Rs. 2,00,000
Self-occupied	On or before 31/3/99	For Repairs of house property	Rs. 30,000

Self-occupied	On or Before 31/3/99	Construction or purchase of house property	Rs. 30,000
Self-occupied	After 1/4/99	For Repairs of house property	Rs. 30,000
Let-out	Any time	Construction or purchase of house property	No Maximum Limit

Key Notes

- ❖ In any case, deduction of interest on loan of self-occupied property cannot exceed Rs. 2,00,000 in a year
- ❖ Interest is allowed as deduction on accrual basis.
- ❖ Interest on unpaid interest is not deductible.
- ❖ No deduction is allowed for any brokerage for arranging loan.
- ❖ Interest on afresh loan, taken to pay the original loan is allowed a deduction.
- ❖ Interest payable out of India is allowed as deduction if tax is deducted at source
- ❖ If loan is taken by mortgaging one house property for the construction for another house property, then the interest on such loan shall be eligible for deduction from the income of the second house, since the purpose for which the loan amount is used is taken into consideration.

Deductions for Principal and Interest Repayment

Nature	Loan from	Allowability
Principal	Specified person under section 80C	Allowed as a deduction under section 80C
	Any other Person	Not allowed as a deduction u/s 80C
Interest	Any Person	Allowed as a deduction under section 24(b)

INADMISSIBLE DEDUCTIONS [SECTION 25]

Interest chargeable under this Act which is payable outside India shall not be deducted if—

- ❖ Tax has not been paid or deducted from such interest and
- ❖ In respect of which there is no person in India who may be treated as an agent.

RECOVERY OF UNREALISED RENT AND RECOVERY OF ARREARS OF RENT [SECTION. 25A]

Meaning

Where any Unrealised rent is subsequently realized, then such recovery shall be taxable under the head 'income from house property'.

Where the rent is increased by landlord (either suo-moto or due to the court instruction) retrospectively, then the increased rent shall be treated as Arrear rent.

Tax Treatment

Recovery shall be taxable after a standard deduction of 30%

Features

- ❖ It shall be taxable on cash basis
- ❖ It shall be taxable under the head 'Income from house property' whether assessee owns such house in the year of recovery or not.

CO-OWNERSHIP [SECTION 26]

Meaning

If a house is owned by more than one owner than they are known as co-owners.

Tax Treatment

Each co-owner shall be taxable separately for his share of income from house property. Where the house property is used for self-occupation by co-owners then all of them can claim benefit u/s 23(2) and interest on loan u/s 24(b) shall be to all the co-owner to the extent of Rs. 30000/ Rs. 2,00,000 Separately.

Key Notes

- ❖ It is mandatory for the co-owners to apply the provisions of sec. 26.
- ❖ Normally co-owners are taxed as an Association of persons or body of Individual but for the purpose of this section co-owners of a house are taxed separately as

an individual (not as AOP) for their respective share of income. This is another exceptional feature of this chapter.

HOUSE PROPERTY INCOME – EXEMPTED FROM TAX

- Rent from Farm buildings around Agriculture Land - 10(1)
- Income from HP of Local Authorities - 10(20)
- Income from HP of Political Parties - 10(13A)
- Property belonging to an approved scientific research association - 10(21)
- Educational organizations, medical institutions - 10(23C)
- Property subjected to charitable or religious purpose - 11
- Certified trade union - 10(24)
- Annual value of one palace possessed by an ex-ruler of Indian states where other places comes under taxation - 10(19A)
- NAV of 2 SOP's - 23(2)
- Property used for own's business or profession - 22



SEC 28 - CHARGING SECTION**Following income shall be taxable under the head PGBP.**

- Any profit or gain of any Business/Profession.
- Profit on sale of import entitlement license.
- Cash compensatory support or duty drawback.
- Any amount received under Key-Man insurance policy.
- Any gift/benefit/perquisite arising due to business or profession, whether convertible into money or not or in cash or in kind or partly in cash & partly in kind.
- Any interest, salary, bonus, commission received by partner from partnership firm [to the extent allowed u/s 40(b) to firm].
- Non-compete Fees [not carrying out any activity in relation to any business or profession or not sharing any know-how, patent, copyright, trade-mark etc.].

SEC 29 - HOW TO COMPUTE PGBP

PGBP are to be computed in accordance with the provisions contained in sections 30 to 43D.

SEC 30 - RENT, RATES, TAXES, REPAIRS & INSURANCE OF BUILDING

	Rent	Rates & Taxes	Insurance	Revenue Repair	Capital Repair
Owner	Not allowed	Allowed	Allowed	Allowed	Not allowed
Tenant	Allowed	Allowed	Allowed	Allowed	Not allowed

SEC 31 - INSURANCE & REPAIR OF PLANT & MACHINERY AND FURNITURE

	Rent	Insurance	Revenue Repair	Capital Repair
Owner	Not allowed	Allowed	Allowed	Not allowed
Tenant	Allowed	Allowed	Allowed	Not allowed

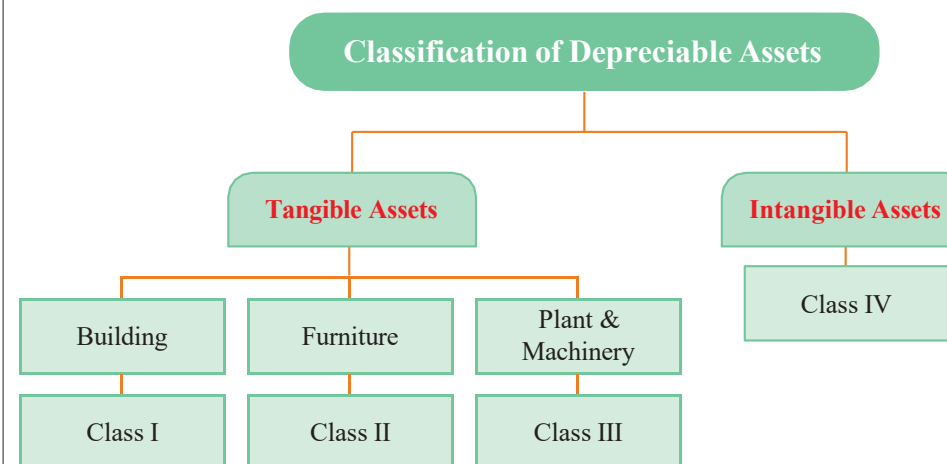
Notes:

- Expenses u/s 30 & 31 allowed only if asset used for business or profession.
- Capital repair not allowed as deduction as it will be added to cost of asset.
- Capital repair incurred by tenant is treated as Deemed Building & depreciation is allowed to Tenant.

SEC 32 - DEPRECIATION**A. Conditions**

- Asset should be used for business/profession purposes (active or passive).
- Assessee should be Owner of such asset (wholly or partly).

- Asset must be used in the relevant previous year
- In case of stand by machinery and emergency spares, the depreciation shall be allowed even if they are ready for use & not put to use.
- If payment made other than by account payee cheque /draft, bank etc. exceeds 10000 Rs. Such payment cannot be eligible for depreciation.

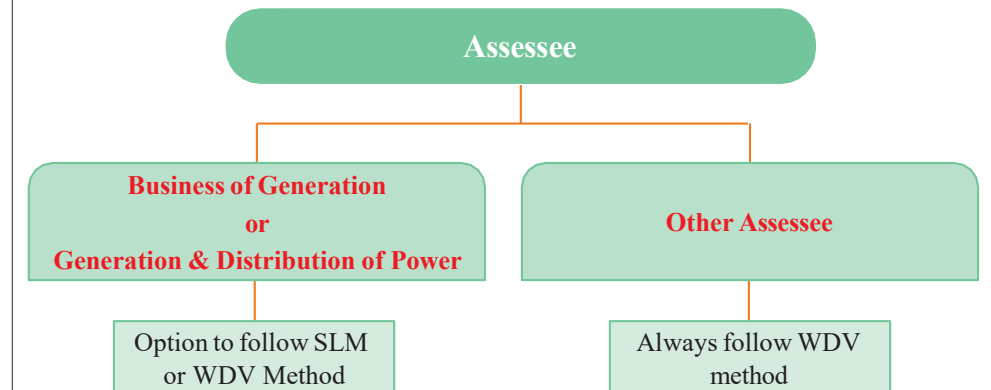
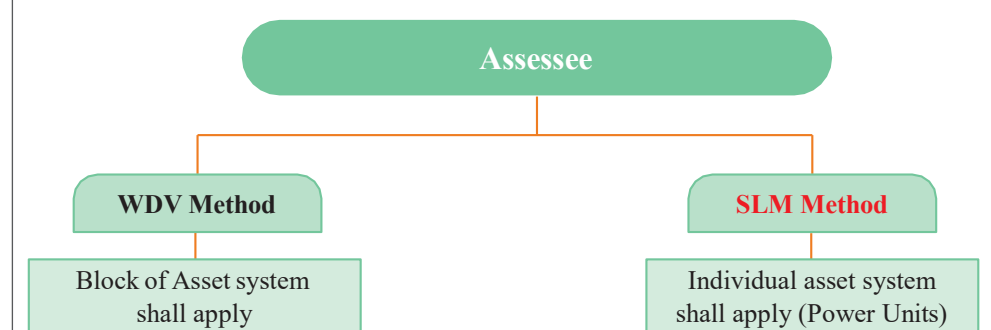
B. Classification of Depreciable assets**C. Rates of Depreciation (WDV Method) (Block of Asset System)**

S. No.	Assets	Rate
1.	Building (includes roads, bridges, wells and tubewells) (i) Residential use (except hotels) (ii) Other Use (iii) Temporary or Wooden Structure	5% 10% 40%
2.	Furniture & Fittings (include electrical fittings like fans, wires, switches etc.)	10%
3.	Plant & Machinery (i) Motor Vehicles- Acquired & put to use between 23.08.19 to 31.03.20 (ii) Motor Vehicles (Lorries, buses, taxi) used in Hire Business- Acquired & put to use between 23.08.19 to 31.03.20 (iii) Ships, Vessels, Speed Boats	15% 30% 30% 45% 20%

S. No.	Assets	Rate
	(iv) Aero-planes, Aeroengines	40%
	(v) Computer & Computer software	40%
	(vi) Books (include annual publication or used in libraries)	40%
	(vii) Pollution Control Equipment's	40%
	(viii) Renewable Energy Devices (include E-Vehicles)	40%
	(ix) Oil wells	15%
	(x) Other P&M	15%
4.	Intangible Assets	25%

Notes:

- Mandatory to claim depreciation for all assessee.
- Depreciation rate for computers accessories is 40% i.e. UPS, printer, scanners etc.

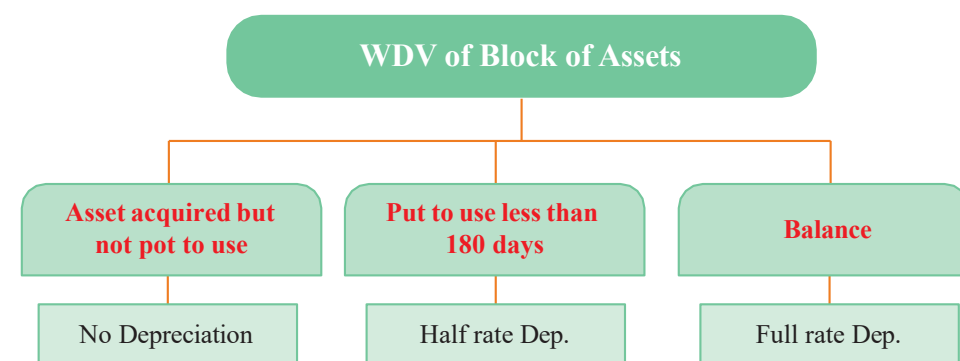
Method of Depreciation**System of Depreciation****Block of Asset**

- Means Group of assets having Same Rate of dep within the Same Class of Asset?
- Block Of Asset = Same Rate + Same Class

Calculation of Depreciation (Block of Asset/ WDV Method)

Particulars	Amount
Opening WDV of block	xx
Add: Actual cost of asset acquired during PY	
❖ Put to use 180 days or more (upto 4 th Oct)	xx
❖ Put to use less than 180 days (on or after 5 th Oct).	xx
❖ Acquired but not put to use	xx
Less: Money payable [selling price of asset]	xx
Less: WDV of assets transferred in Slump sale (compute WDV of asset assuming this is only asset in block)	(x)
** WDV of Block for the purpose of Depreciation	xx
Less: Depreciation Actually Allowed	(x)
Closing WDV of Block	xx

WDV of Block of Assets



Notes:

Money payable means:

Sale price or insurance compensation in respect of asset sold, discarded, demolished or destroyed during the PY and the amount of scrap value.

Important note

Block can be Nil but Never Negative.

ADDITIONAL DEPRECIATION

- Eligible Assessee– engaged in the business of manufacture of any article or generation transmission or distribution of power.
- Additional depreciation @ 20% allowed on Plant & Machinery, excluding:
 - Second hand P&M.
 - Any P&M installed in office premises or residential accommodation.
 - Ships, aircraft & transports vehicles.
 - P&M on which 100% deduction allowed.
- Additional depreciation is allowed only in the First year in which it is put to use. If put to use for less than 180 days then 10% dep shall be allowed in current year and remaining 10% in next year.
- Add. dep. is allowed only if assessee opt WDV method. It is not allowed to Power units if they opt SLM method.

Sec 43(1) Actual Cost

Particular	₹
Cost of asset (purchase price)	xx
Add: Installation charges	x
Transportation expenses for asset	x
Trial run/test run expenses	x
Taxes & duties (if ITC not available)	x
Interest on loan taken for acquisition of asset (upto the date of asset put to use)	x
Less: Amount recd. on sale of trial run product	xx
Subsidy/Govt Grants recd. for acquisition of assets	(x)
	(x)
Actual Cost	

Note:

If assessee incurs any exps. for acquisition of any asset & payment made to single person in single day, otherwise than by an a/c payee cheque/DD or ECS exceeds 10,000, such expenditure shall not form part of actual cost of such asset.

EXPLANATION TO SEC 43(1)- ACTUAL COST IN SPECIAL CASES

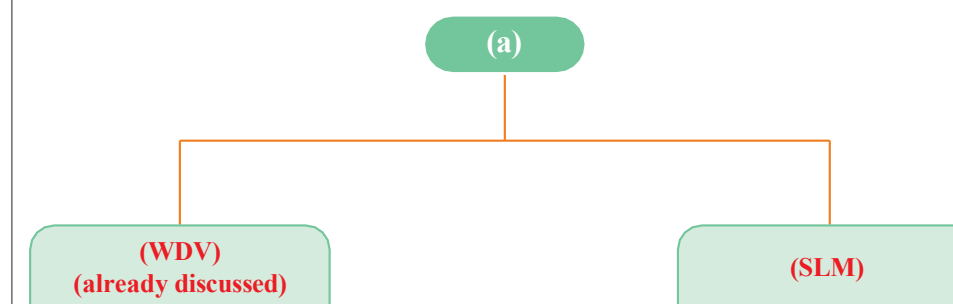
S. No.	Case	Actual Cost
1.	Asset previously used for Scientific Research brought into regular business	Actual cost = NIL (because deduction already claimed u/s 35)
2.	Stock converted into Capital asset and used for Business or Profession	FMV on the date of conversion
3.	Asset acquired by way of gift/ Will/ Inheritance	Actual cost to the previous owner less dep already allowed to him
4.	Asset acquired with an intention to claim higher depreciation	Amt. determined by A.O., with the approval of Joint Commissioner (JC) (Normally AO take FMV of such asset)
5.	Re-acquisition of asset sold (lower)	(i) WDV at the time of sale xx (ii) Reacquisition cost xx
6.	Asset Purchased & Leased back to the same person	WDV of the previous owner (Lessee)
7.	Building was used for other purpose now brought into business.	Original cost xx (-) Notional depreciation till at current depreciation rate xx Actual cost xx

S. No.	Case	Actual Cost
8.	Asset brought into India by NR for use in his Business or Profession	Actual Cost xx (-) Depreciation Calculated at the rate in force xx as if the asset was used in India from date of acquisition

EXPLAIN 7 OF SEC. 43(6)

Depreciation for Power Units

Power Generator and Distributing units



- If sale price less than WDV dep = [WDV – S.P]
- If sale price more than WDV least of the following shall be taxable under head P.G.B.P
 - [Actual cost – WDV]
 - [S.P – WDV]
- If sale price more than actual cost [Capital gain will arise] [S.P – Actual Cost]

SEC. (32 (2))

Unabsorbed Depreciation

EXPLAIN 7 OF SEC. 43(6)

- Where, in any PY the PGBP is not sufficient to give full effect to the dep.,
- The unabsorbed dep. shall be added to the dep allowance for next PY and shall be deemed to be part of that allowance.
- Thus, the unabsorbed dep. shall be c/f indefinite no. of years till it is fully set off.

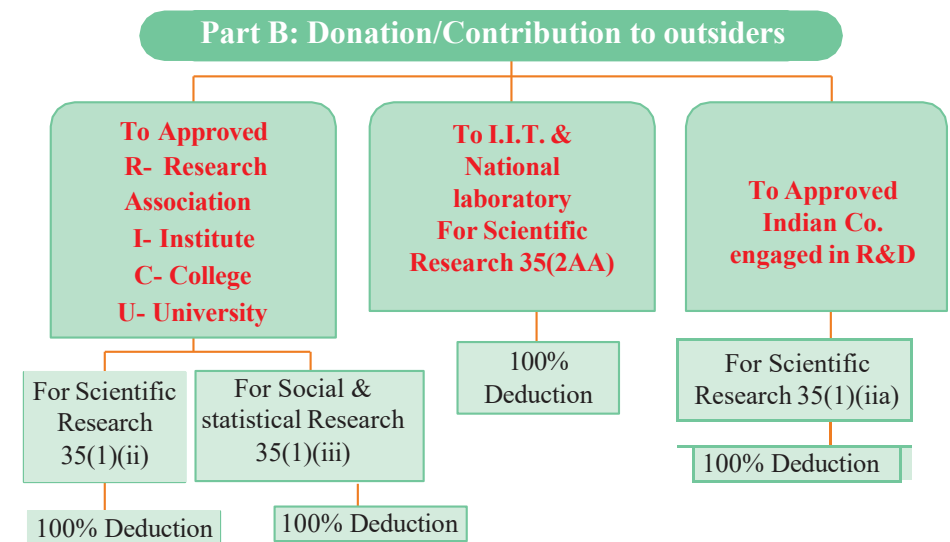
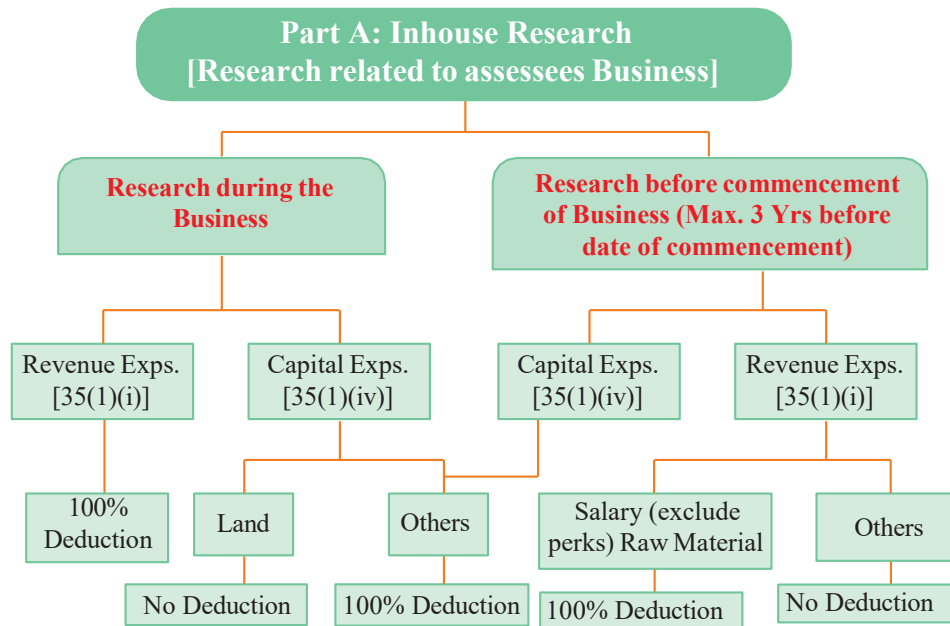
How it can be set off:

- It can be set-off against the income of any other head except “Salaries”.
- It can be setoff even if the business to which it relates does not exists.

Priority to set off from current year profit:

- Order of setoff will be: C.Y. dep → B/F business loss unabsorbed dep.

SEC 35: SCIENTIFIC RESEARCHER



Notes:

- The deduction u/s 35(1)(ii)/(iia)/(iii)/35(2AA) shall not be denied if approval of such institution has been withdrawn after payment of sum by assessee.
- No depreciation allowed on assets if deduction u/s 35 claimed.
- If L&B purchased through a composite agreement then the cost of L&B shall be bifurcated on the basis of FMV because cost of land is not allowed as deduction.
- Unabsorbed research capital expenditure can be set off & c/f same as un-absorbed depreciation.

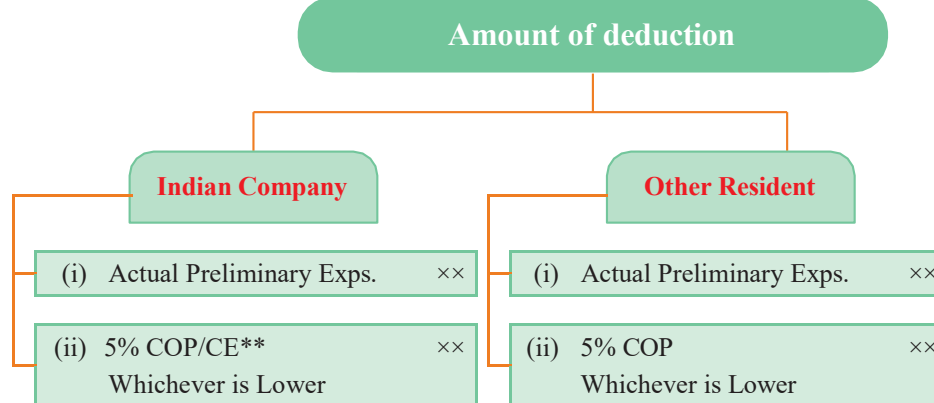
SEC 35D - PRELIMINARY EXPENSES

Meaning:

- Preparation of feasibility study/project report
- Market survey
- Engineering services

- Drafting & printing of MOA/ AOA.
- Legal fees
- Expenses related to public issue of shares & Debenture
- Other expenses may be notified by CBDT.

Deduction allowed to Resident Assessee who incurs preliminary exps before commencement of business or after commencement for extension or for setting up a new unit.



** COP or CE, whichever is Higher

Notes:

- Above deduction is allowed in 5 equal instalments.
- COP Cost of project [Amount invested in fixed asset of new project or extension or setup new unit as per books as on last day of P.Y.]
- CE Capital employed [share capital + debentures + long term borrowing for new project or extension or setup new unit as per books as on last day of P.Y.]
- Reserve and surplus (including security premium) shall not be part of CE.

SEC 35AD – SPECIFIED BUSINESS

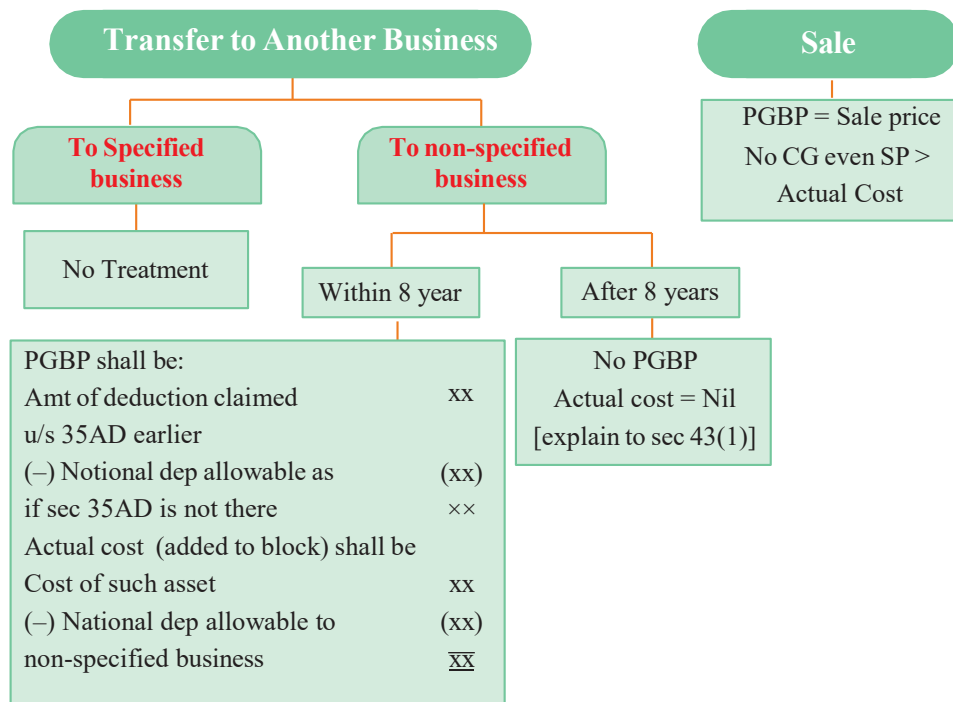
No.	Business	Commencement on or after
Under this section ded. @100% allowed for Capital Expenses and this section is optional for assessee.		
1.	Setting up & Operating a Cold Chain Facility	01/04/2009
2.	Setting up & Operating a warehousing facility for agriculture produce	01/04/2009
3.	Laying & Operating cross country pipeline for distribution of petroleum oil, natural gas.	Natural Gas. 1/4/07 Petrol 1/4/09
4.	Building & Operating a Hotel of 2 star or above	01/04/2010
5.	Building & Operating a Hospital with minimum 100 patient beds	01/04/2010
6.	Developing & Building a Housing Project under Slum Development scheme	01/04/2011
7.	Developing & Building a housing Project under affordable housing scheme	01/04/2011
8.	Production of Fertilizers in India	01/04/2011
9.	Setting up & Operating inland container depot or container freight station	01/04/2012

No.	Business	Commencement on or after
Under this section ded. @100% allowed for Capital Expenses and this section is optional for assessee.		
10.	Bee keeping and production of bee's Honey & Wax	01/04/2012
11.	Setting up & Operating a warehousing facility for sugar	01/04/2012
12.	Laying & Operating a slurry pipeline for transportation of Iron ore	01/04/2014
13.	Setting up & Operating a Semi-conductor wafer fabrication manufacturing unit	01/04/2014
14.	Developing or maintaining and operating or developing, maintaining and operating a New Infrastructure Facility	01/04/2017

Conditions & Notes

- Not formed by splitting or reconstruction of existing business means business should be New.
- P&M should be New
Exception:
 - Imported old P&M (P&M on which dep. not claimed under IT Act.)
 - 20% of total P&M can be old (Second Hand)
- Deduction allowed on all Capital expenses except (a) Land (b) Goodwill (c) Financial instruments. Further, any exps. for which payment made to a person of an amount exceeding 10,000 in a day otherwise than by a/c payee cheque or DD or ECS would not be eligible for deduction.
- Depreciation not allowed if deduction claimed u/s 35AD.
- Loss of specified business can be carried forward indefinitely.
- If asset (on which deduction claimed u/s 35AD is allowed) sold, then the entire sales price shall be taxable as PGBP [Section 28].
- Loss of specified business can be set off only against specified business income irrespective of whether the latter is eligible for deduction u/s 35AD.
- Infrastructure facility means:
 - A road including toll road, a bridge or a rail system.
 - A highway project including housing or other activities being an integral part of the highway project.
 - Water supply project, water treatment system, irrigation project, sanitation and sewage system or solid waste management system.
 - A port, airport, inland waterway, inland port or navigational channel in the sea.
- Business of cross-country pipeline and new infrastructure facility should be owned by Indian Company or consortium of such companies or by an authority or a board or corporation or any other body established or constituted under any Central or State Act.
- Business of cross-country pipeline should be approved by the Petroleum and Natural Gas Regulatory Board and notified by the CG. Under New infrastructure facility entity should have entered into an agreement with the CG/SG/Local Authority or any other Govt body.
- Asset (on which deduction claimed u/s 35AD) should be exclusively used for specified business for minimum 8 years of acquisition.

ASSET OF SPECIFIED BUSINESS U/S 35AD



SEC 36- CERTAIN DEDUCTION U/S 36

Sec. 36(1) (i): Premium for insurance of stock-in-trade

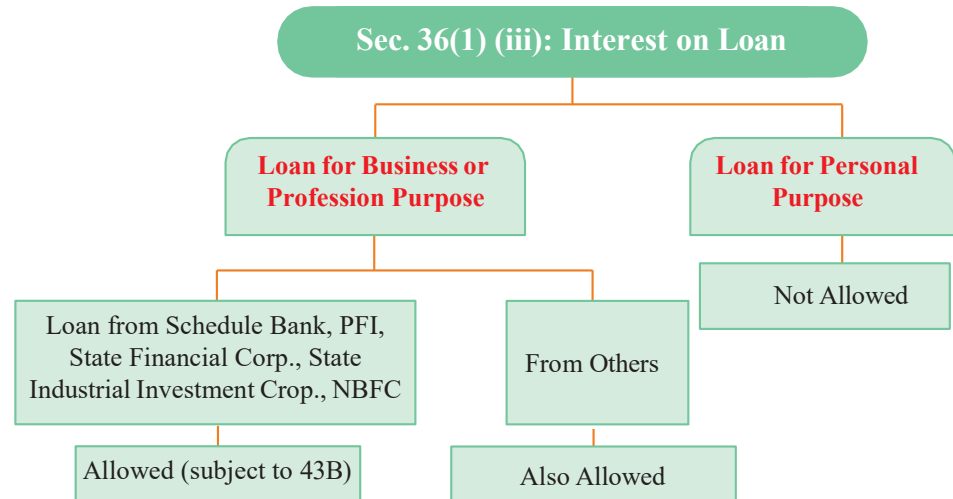
It is allowed as deduction.

Sec. 36(1) (ib): Health premium for employees

It is allowed as deduction if premium paid in any mode other than cash.

Sec. 36(1) (ii): Bonus or commission to employees

It is allowed as deduction subject to Sec.43B.



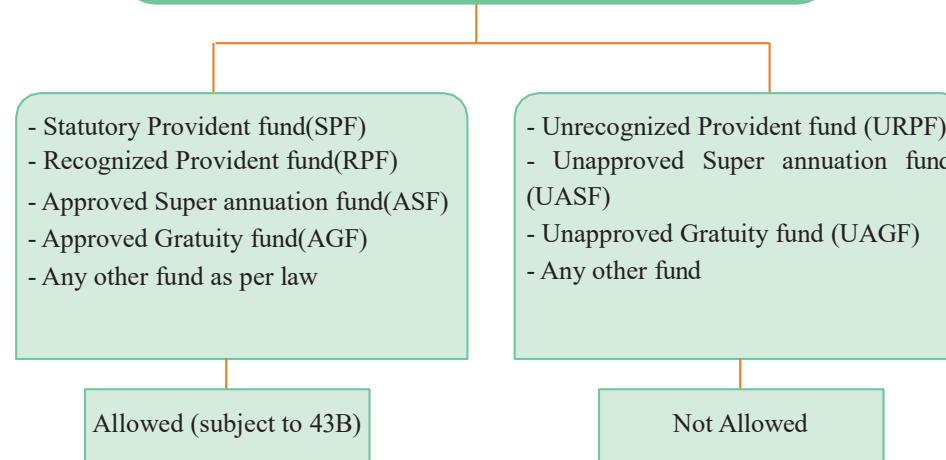
Sec. 36(1)(iiiia): Discount on Zero Coupon Bonds (ZCB)

Pro-rata amount of discount shall be amortized over the life (calendar months) of ZCB.

Note:

If any calendar month part is 15 days or more, it shall be increased to one calendar month & if such part is less than 15 days it shall be ignored.

Sec. 36(1)(iv)/(v) : Employer's contribution for the benefit of the Employee

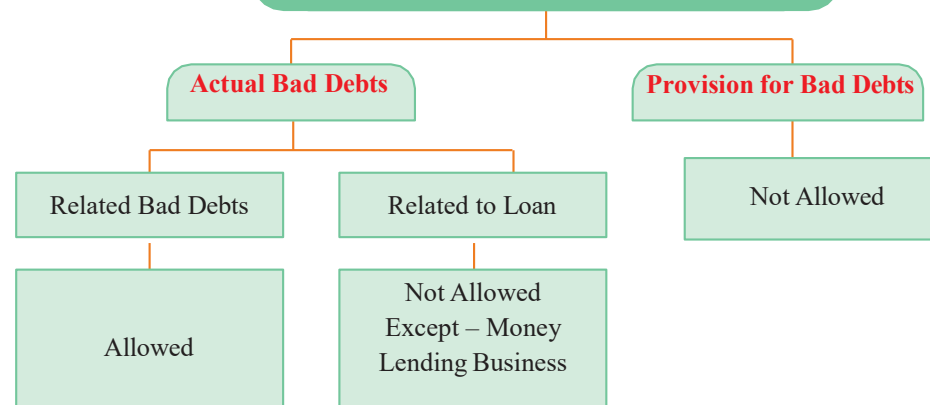


Sec. 36(1)(iva): Employer contribution towards Pension scheme referred u/s 80CCD

Deduction allowed to employer [Subject to sec 43B]

- (i) Actual contribution
- (ii) 14% of salary [Basic + DA (If the terms of employment provide.)] Whichever is lower.

Sec. 36(1)(vii): Bad Debts



Notes:

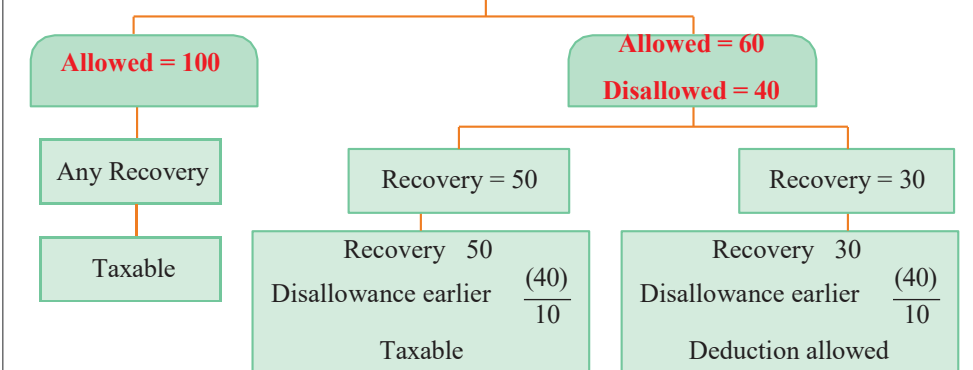
1. Bad debts should be written off in the books of A/c's of Assessee in the P.Y. in which deduction is claimed.
2. No need to prove that the debts have become bad.

Sec. 41(4): Bad-Debts Recovery

Where deduction has been allowed in respect of bad debts, recovery shall be taxable as PGBP in the year of recovery.

This shall apply even if the business or profession is not in existence in the PY in which recovery has been made.

Bad Debt Claimed = 100



Sec. 36(1)(ix): Expenses on Promotion of Family Planning of employees

Assessee: Only Company

Revenue Exps: 100% deduction allowed

Capital Exps: Allowed in 5 equal Installments

Sec. 36(1)(xv)/(xvi): Securities Transaction Tax (STT)/Commodities Transaction Tax (CTT)

It is allowed as deduction if assessee held shares/Units/Commodities as stock-in-trade.

SEC 37: GENERAL DEDUCTION

Any expenditure [other than covered u/s 30 to 36] shall be allowed as deduction if following conditions are satisfied:

1. Expenses should be incurred Wholly or Exclusively for the purpose of Business or Profession.
2. Expenses should be Revenue in nature.
3. Expenses should be Legal (It should not be illegal like Hafta, Bribes, secret commission, etc.)

Corporate social Responsibility (CSR) expenses

It is not treated as Business expense, so not allowed.

Allowability of some expenses-

- (a) Advertisement in brochure, souvenir, newspaper, pamphlet published by political party - Not allowed
- (b) Gift to employee - Allowed
- (c) Customary expenses (Puja at the time of new year, Diwali) - Allowed
- (d) Expenses incurred by CA's for attending CPE seminars - Allowed
- (e) Dividend - Not Allowed
- (f) Taxes, Interest & Penalties

	Tax	Interest	Penalty
Direct Tax (Tax, Surcharge & Cess.)	Not allowed	Not allowed	Not Allowed
Indirect Tax (GST)	Allowed	Allowed	Not Allowed

Penalty of Breach of law - Not Allowed

Breach of Contract (Contract of Revenue Nature) - Allowed

(g) Freebies (gifts, travel facility) provided by Pharmaceutical company to doctors - illegal expenses -Not allowed.

(h) Interest on loan taken for payment of income tax - Not allowed

(i) Premium paid by the firm on the Keyman Insurance policy of a partner- Allowed

SEC 40: AMOUNT SPECIFICALLY NOT DEDUCTIBLE

Sec. 40(a)(i):

Payment made to Non-Resident

Amount paid or credited to Non-resident or foreign Co. & if:

- TDS has not been deducted in P.Y. or,
- TDS deducted but not paid to Govt. up to due date of return filing- then such sum (100%) shall not be allowed as deduction in current P.Y.

Sec. 40(a)(ia):

Payment made to Resident

Any amount paid or credited to Resident & if:-

- TDS has not been deducted in P.Y. or,
- TDS deducted but not paid to Govt upto due date of return filing-then 30% of such sum shall not be allowed as deduction in current P.Y.

Notes:

- If TDS deducted in subsequent year or deducted in P.Y. but paid to Govt. after due date of return filing then such sum (100% NR) / (30% Resident) shall be allowed as a deduction in the P.Y. in which such TDS has been paid to Govt.

2. Exception to Sec. 40(a)(ia) & 40(a)(i)

If any amount paid/credited to payee without deduction of TDS but such payee

- Furnishes his ROI.
- Takes into account such amount in total income.
- Has paid the tax due on such income
- Payer furnishes a certificate in FORM 26A from CA to this effect then it shall be deemed that the payer has deducted TDS & paid to Govt on date of furnishing of return by payee & deduction of such expenditure shall be allowed accordingly. [30%/100% disallowed in current year and will be allow in the year in which payee file his ROI]

Sec. 40(a)(iii) TDS on salary payable outside India or NR

Any salary payable outside India or to NR in India and if;

- TDS not deducted or,
- TDS deducted but not paid to Govt upto due date of TDS payment, -then such sum shall not be allowed as deduction.

Note: If TDS deposited late even by one day, the salary shall not be allowed as deduction.

Sec. 40(a)(v): Tax on Non-Monetary Perquisite

If employer offers some Non-Monetary perquisite to the employee, then tax on such Non-Monetary perquisite is the responsibility of the employee. But instead of employee, if employer decides to pay tax on such Non-Monetary perquisite from his pocket, then that Tax is Not Allowed as deduction because its Exempt in hand of Employee u/s 10(10CC).

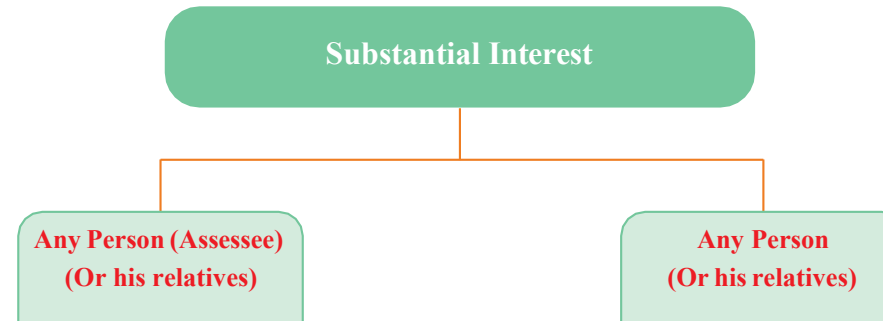
SEC 40A(2): PAYMENTS TO SPECIFIED PERSONS (RELATIVES)

If payment of expenditure made to relative then A.O can disallow excessive or unreasonable amount.

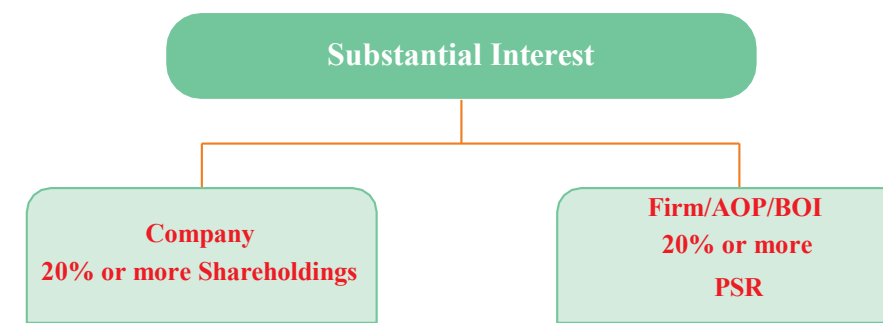
- Specified Person (Relatives) for Sec 40A(2)

Assessee	Relatives
Individual	Spouse, Mother, Father, Bro, Sis, LA, LD
HUF	Members & their Relatives
FIRM/LLP	Partners & their Relatives
Company	Directors & their Relatives
AOP/BOI	Members & their Relatives

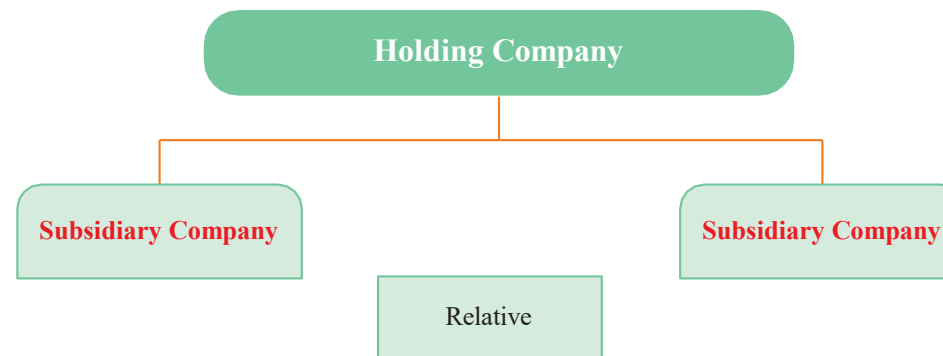
1.



2.



3.



SEC 40: AMOUNT SPECIFICALLY NOT DEDUCTIBLE

Sec 40A(3): Cash payment > ₹10,000 to single person in a single Day

If assessee makes payment for any expenditure to any single person otherwise than by A/c Payee Cheque or Demand Draft or which is more than ₹ 10,000 in a single day then such expenditure shall be disallowed.

Notes:

- If payment made to transporter then limit is ₹ 35,000.
- If the expenditure is claimed as deduction in earlier year on accrual basis & if such expenses is subsequently paid in cash or bearer cheque then deduction allowed earlier shall be withdrawn & taxable as PGBP [40A(3A)].
- If expenditure paid by Cross cheque then also deduction not allowed.

Exceptions of Sec. 40A(3) [Rule 6DD]

- Payment made to RBI/LIC/Banks/Govt.
- Payment made through NEFT/RTGS/Debit card/ECS/credit card/UPI/BHIM.
- Payments by book entry (adjustment).
- Payment to producers of agriculture product, forest product, poultry product, fish product, live-stock etc.
- Payment of Retirement benefits, provided such payment is upto ₹ 50000.
- Payment of salary to an employee who is posted to any other place or ship for 15 days or more other than his normal place of duty.
- Payment made where Banking facility not available.
- 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.
- Payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.
- Payment for purchase of product manufactured or processed without aid of power in a cottage industry, to the producer of such product.

Interest/Remuneration to Partner of Firm [Section 40b]

Interest to partners whether on capital or on loan is allowed as deduction

CONDITIONS

- Interest must be authorized by the partnership deed.
- Payment must pertain to a period after the partnership deed.

DEDUCTION

Minimum of the following is allowed as deduction

- Actual interest given to partner as per deed.
- Max. 12% p.a. simple interest.

Remuneration to Partner

Remuneration to partner includes salary, fees, commission, bonus, etc

CONDITIONS

Remuneration is allowed subject to fulfillment of the following conditions

- Partner must be a working partner,
- Remuneration must be authorized by the partnership deed.
- Payment must pertain to a period after the partnership deed.

DEDUCTION

Remuneration (in total) is allowed to the minimum of the following

- Actual remuneration allowed to all partners.
- Maximum permissible limit u/s. 40(b) (v) as discussed under.

MAXIMUM PERMISSIBLE LIMIT:

Amount of book-profit	Maximum remuneration allowed
In case of loss	Rs. 150000
In case of profit First Rs. 300000	90% of book profit or Rs. 150000, whichever is higher
On balance book-profit	60% of next book profit.
Taxpoint	The above slab indicates that in any case remuneration to the minimum of Rs. 150000 is allowed

COMPUTATION OF BOOK PROFIT

STEP 1:

Find out the net profit of the firm as per Profit and 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

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

SEC 43B: EXPENSES ALLOWED ON PAYMENT BASIS

Sec 43B: Allowed Deductions Only on Actual Payment Basis

Certain business expenses can **only be claimed as deductions when actually paid**, not just when they become due. This applies even if accounts are maintained on a mercantile basis.

Expenses Allowed Only on Actual Payment:

- 1. Taxes & Duties:** Any tax, duty, cess, or fee payable under any law.
- 2. Bonus/Commission:** Payable to employees.
- 3. Loan Interest:** On loans/borrowings from notified NBFCs, as per agreement.
- 4. Leave Encashment:** Paid to employees.
- 5. Provident/Other Employee Welfare Funds:** Contributions by the employer.
- 6. Railway Payments:** Amounts payable to Indian Railways.
- 7. Payments to MSMEs:** Payments to micro/small enterprises must be made within the time limit in Section 15 of the MSME Development Act, 2006.

SEC 44AA: COMPULSORY MAINTENANCE OF BOOKS OF ACCOUNTS

Specified Profession:

- ❖ if Gross Receipt is more than Rs. 1,50,000
- ❖ in all 3 years preceding the PY or
- ❖ likely to exceed if the profession is newly setup then,

assessee is required to maintain books of accounts as per Rule-6F, otherwise he is required to maintain such books of accounts or documents from which AO is able to complete the assessment.

Specified Profession means

1. Medical
2. Engineering
3. Technical consultant
4. IT professional
5. Accountancy
6. Company secretary
7. Legal
8. Authorised representative
9. Architect
10. Interior decorator
11. Film artists

Prescribed books as per Rule 6F:

1. Cash Book
2. Journal (in case of mercantile system)
3. Ledgers
4. Carbon copies of bills issued by the assessee serially numbered for an amt > ₹ 25.
5. Original bills issued to the assessee for expenditure > ₹ 50.
6. In case of medical profession, additional books i.e., daily case register and inventory register has to be maintained.

Other Assessee (Business):

- ❖ if PGBP is more than ₹ 1,20,000/- or
- ❖ Total Sales /Gross receipt is more than 10,00,000/-
- ❖ in any of the 3 years preceding the PY or
- ❖ likely to exceeding in case of newly setup business/profession,

then assessee is required to maintain any books of accounts or documents from which AO is able to complete the assessment otherwise the assessee is not required to maintain any books of accounts.

In case of Individual & HUF,

- ❖ limit will be ₹ 2,50,000 for PGBP and
- ❖ 25,00,000 for Turnover or Gross Receipts.

Special Cases:

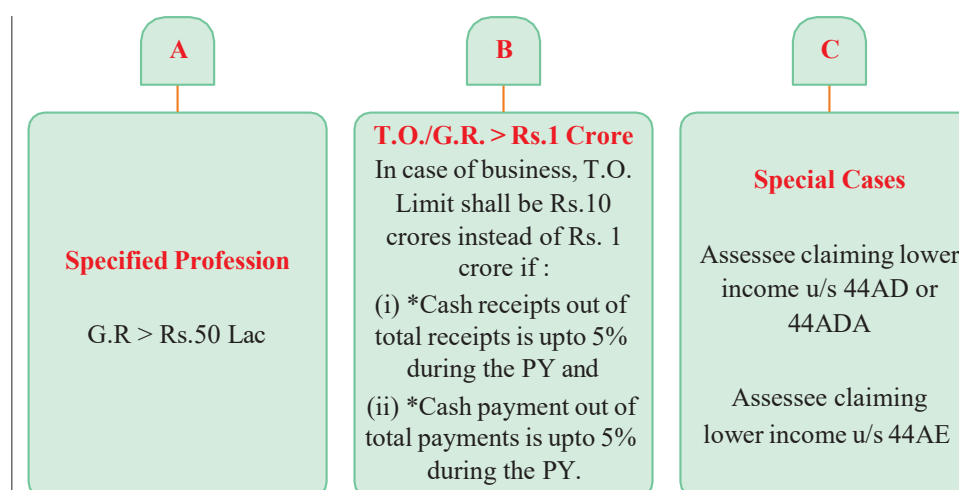
- ❖ Assessee declared lower income u/s 44AD/44ADA
- ❖ Assessee claiming lower income u/s 44AE

Notes:

- ❖ Period: The prescribed BOA shall be kept and maintained for a period of 6 years from the end of the AY.
- ❖ Penalty u/s 271A: Failure to maintain BOA shall attract a penalty of ₹ 25,000.

SEC 44AB: COMPULSORY AUDIT OF BOOKS OF ACCOUNTS

Following persons are required to furnish audit report by 1 month before the due date of filing ROI u/s 139(1) in a prescribed form (3CA/3CB/3CD):



* Cheque/DD, which is not account payee, shall be treated as Cash.

Non-applicability of Sec 44AB:

Person declaring income u/s 44AD or 44ADA.

Penalty u/s 271B:

if assessee fails to get accounts audited:

- (i) 0.5% of T.O. or G.R. or
 - (ii) ₹ 1,50,000
- Whichever is lower

SEC 44AD: PROFIT & GAINS OF BUSINESS ON PRESUMPTIVE BASIS

Eligible Assessee:

- ❖ Resident Individual
- ❖ Resident HUF
- ❖ Resident Firm (excluding LLP)

Who has not claimed deduction u/s 10AA or 80IA to 80RRB.

This section is applicable for any Business except

- ❖ Sec. 44AE Business,
- ❖ Agency Business,
- ❖ Commission & Brokerage business; and Turnover/Gross Receipts is upto 2 crore.

Note:

- ❖ Where the amounts received during the PY in *cash does not exceed 5% of the total turnover or gross receipts of such PY then limit of T/O Rs.3 crore apply instead of Rs. 2 crore.
- ❖ how to calculate presumptive PGBP income = income Turnover/Gross receipt × 8%
- ❖ "If Turnover / Gross Receipts realized by Account Payee Cheque / DD / ECS upto due date of Return Filing then PGBP = T/O × 6%"
- ❖ If assessee declares income as per Sec. 44AD or higher income and whose T/O is up to 2Cr/3Cr then assessee is not required to maintain books of account & get it audited.
- ❖ If assessee declares income for any P.Y as per 44AD & he doesn't declare income as per 44AD in any of the five consecutive P.Y.s, then he shall not eligible to claim benefit of sec. 44AD for 5 years subsequent to the year in which assessee did not declare income as per Sec. 44AD.

SEC 44ADA: PROFIT & GAINS OF PROFESSION ON PRESUMPTIVE BASIS

- (a) **Eligible Assessee:** Resident Individual or resident firm (excluding LLP) engaged in profession as referred in Sec.44AA.
- (b) This section is applicable if Gross Receipt is upto 50 lakhs.
- (c) PGBP Income = Gross receipt \times 50%.

Note:

Where the amounts received during the PY in *cash does not exceed 5% of the gross receipts of such PY then limit of GR 75 lakhs apply instead of 50 lakhs.

- (d) If assessee declares income as per Section 44ADA or higher then, he is not required to maintain books of accounts & get it audited.

Common notes for 44AD and 44ADA

- 1. Deduction u/s 30-38 shall not be allowed. (Assume its deemed to be already allowed).

- 2. WDV is to be calculated considering notional dep every P.Y.
- 3. Partners' remuneration & interest are not allowed from deemed PGBP.
- 4. 100% Advance Tax can be paid by 15th march of P.Y.

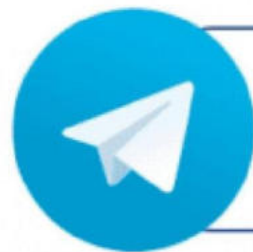
SEC 44AE: PROFIT & GAINS OF TRANSPORTER ON PRESUMPTIVE BASIS

If assessee engaged in the business of plying, hiring, leasing such goods carriage then PGBP will be-

- ❖ Heavy goods Vehicle: ₹ 1,000 per ton of gross vehicle weight for every month or part of a month
- ❖ Other Vehicle: ₹7,500 for every month or part of a month.

Notes:

- 1. The assessee can also declare a higher amount in his return of income. In such case, the latter will be considered to be his income.
- 2. This section is applicable if assessee owns Max 10 vehicles. If assessee owns more than 10 vehicles at any time during the P.Y. then this section shall not apply.
- 3. Income calculated even vehicle not put to use but own by assessee.
- 4. Partners remuneration, salary, interest etc as per 40(b) shall be deductible while computing income u/s 44AE
- 5. Heavy goods vehicle means any goods carriage, the Gross Vehicle Weight of which exceeds 12,000 kilograms (12 tons)
- 6. However, where an Assessee wishes to declare income lesser than as computed u/s 44AE, he is required to mandatorily maintain books of account and get the same audited.
- 7. Deduction u/s 30-38 shall not be deemed. (Assume its deemed to be already allowed).



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CHARGEABILITY (SECTION 45)

As per section 45(1) profits or gain arising on transfer of a capital asset shall be chargeable under the head capital gains.

The taxability of Capital Gain shall satisfy the following conditions:

- ❖ There must be a capital Asset
- ❖ The Capital Assets must have been transferred
- ❖ Such transfer takes place during the previous year
- ❖ There must be gain arising on such transfer of a Capital Asset

EXCEPTION TO THE ABOVE PROVISION

1. Insurance Receipts [Section 45(1A)]
2. Unit Linked Insurance Policy Receipts [Section 45(1B)]
3. Conversion or treatment of a capital asset as stock-in-trade [Section 45(2)]
4. Transfer of beneficial interest in securities [Section 45(2A)]
5. Introduction of Capital Asset as capital contribution [Section 45(3)]
6. Receipt of money or capital assets or stock-in trade by partner on dissolution or reconstitution of AOP/BOI/Firm
7. Compensation on compulsory acquisition [Section 45(5)]

CAPITAL ASSETS [SECTION 2(14)]

According to Section 2(14), a capital asset means-

- a) Property of any kind held by an assessee, whether or not connected with his business or profession
- b) Any securities held by a Foreign Institutional investor which has invested in such securities as per SEBI Act, 1992.
- c) Any unit linked insurance policy (ULIP) to which exemption under section 10(10D) does not apply. (i.e. Payment/aggregate payment of premium > Rs. 250000 made in any PY in case of ULIP issued on or after 1.12.2021. (w.e.f AY 2021-22)

HOWEVER IT DOES NOT INCLUDE FOLLOWING CAPITAL ASSET

1. Any stock-in-trade, consumable stores or raw material held for the purposes of business or profession.
2. Personal effect means any movable property (including wearing apparels and furniture) held for personal use of the assessee or for any dependent member of his family but excludes.
 - ♦ Jewellery
 - ♦ Archaeological Collection
 - ♦ Drawings.
 - ♦ Paintings
 - ♦ Sculptures
 - ♦ Any work of art.
3. Rural agriculture land in India
4. 6.5% gold bonds, 1977, 7% gold bonds, 1980 or National defence gold bonds, 1980 issued by the central government.

5. Special bearer bonds 1991 issued by the central government.
6. Gold deposit bonds issued under the gold deposit scheme 1999.

URBAN AREA

- (a) Any area (municipality (M)/ cantonment board (CB) etc) which has a population of 10,000 or more.
- (b) In the following areas within the distance, measured aerially

Shortest distance from area referred in point (a)	Population according to last census
Upto 2 kms	>10,000 upto 1,00,000
Upto 6 kms	>1,00,000 upto 10,00,000
Upto 8 kms	>10,00,000

Note: rural area means an area which is not a urban area.

TYPE OF CAPITAL ASSETS**SHORT-TERM CAPITAL ASSET**

As per section 2(42A), short-term capital asset means a capital asset held by an assessee for not more than 36 months immediately preceding the date of its transfer.

However, w.e.f. 23.7.2024, a capital asset will be a short-term capital asset if it is held by an assessee for not more than 24 months immediately preceding the date of its transfer.

LONG-TERM CAPITAL ASSET

As per section 2(29A), long-term capital asset means a capital asset which is not a short term capital asset. Thus, a capital asset held by an assessee for more than 36 months immediately preceding the date of its transfer is a long-term capital asset.

Capital Asset	STCG, if held for	LTCG, if held for
In case transfer takes place before 23.7.2024		
<ul style="list-style-type: none"> ❖ Security (other than unit) listed in a recognized stock exchange ❖ Unit of equity oriented fund/unit of UTI ❖ Zero Couponbond 	≤ 12 months immediately preceding the date of its transfer	> 12 month immediately preceding the date of its transfer
<ul style="list-style-type: none"> ❖ Unlisted shares ❖ Land or building or both 	≤ 24 months immediately preceding the date of its transfer	> 24 month immediately preceding the date of its transfer
<ul style="list-style-type: none"> ❖ Listsed units of a busines trust ❖ Unlisted securities other than shares ❖ Other captial assets 	≤ 36 months immediately preceding the date of it transfer	> 36 month immediately preceding the date its tranfer

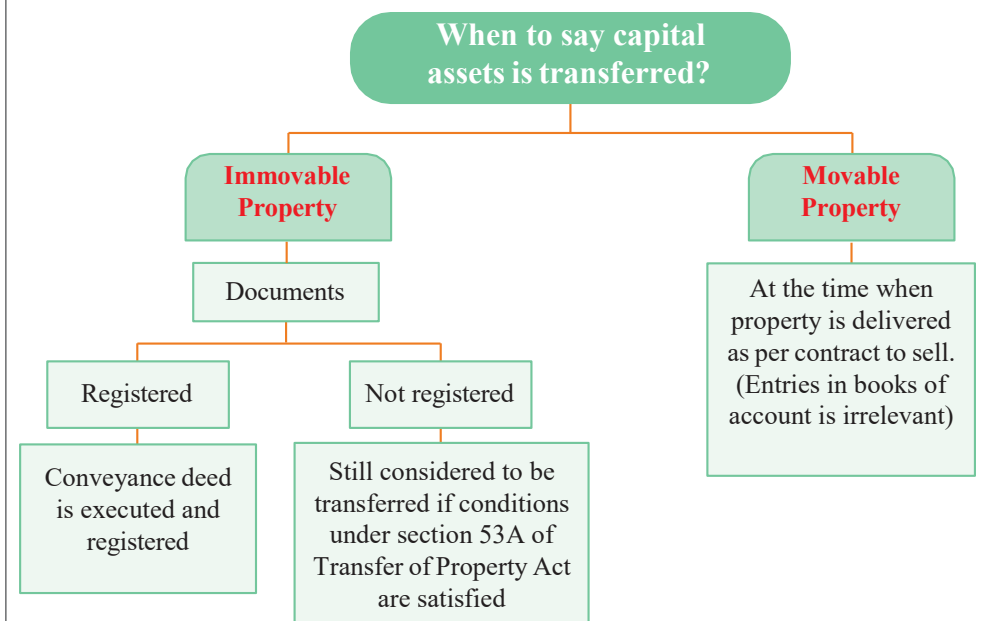
In case transfer takes place on or after 23.7.2024

<ul style="list-style-type: none"> ❖ Security listed in a recognized stock exchange including listed units of a business trust ❖ Unit of equity-oriented fund/unit of UTI ❖ Zero Coupon bond 	≤ 12 months immediately preceding the date of its transfer	>12 months immediately preceding the date of its transfer
<ul style="list-style-type: none"> ❖ Other capital assets 	≤ 24 months immediately preceding the date of its transfer	> 24 months immediately preceding the date of its transfer

TRANSFER [SECTION 2(47)]

The Act contains an inclusive definition of the term 'transfer'. Accordingly, transfer in relation to a capital asset includes the following types of transactions—

- ❖ The sale, exchange or relinquishment of the asset; or
- ❖ The extinguishment of any rights therein; or
- ❖ The compulsory acquisition thereof under any law; or
- ❖ The owner of a capital asset may convert the same into the stock-in-trade of a business carried on by him. Such conversion is treated as transfer; or
- ❖ The maturity or redemption of a zero coupon bond; or
- ❖ Part-performance of the contract: sometimes, possession of an immovable property is given in Consideration of part-performance of a contract.

WHEN TO SAY CAPITAL ASSET IS TRANSFERRED

COMPUTATION OF CAPITAL GAIN [SECTION 48]

COMPUTATION OF SHORT-TERM CAPITAL GAIN:

Particular	Rs.
Full value of consideration	XXX
(-) Expenditure on transfer	XXX
= Net sale consideration	XXX
(-) Cost of acquisition	XXX
(-) Cost of improvement	XXX
= Short term capital gain	XXX
(-) Exemption	XXX
Taxable STCG	XXX

COMPUTATION OF LONG-TERM CAPITAL GAIN

Particular	Rs.
Full value of consideration	XXX
(-) Expenditure on transfer	XXX
= Net sale consideration	XXX
(-) Indexed Cost of acquisition (Indexation if applicable)	XXX
= Long term capital gain	XXX
Exemption	XXX
Taxable LTCG	XXX

NOTE: No deduction will be allowed in respect payment of securities transaction tax in computing income under the head "Capital Gain".

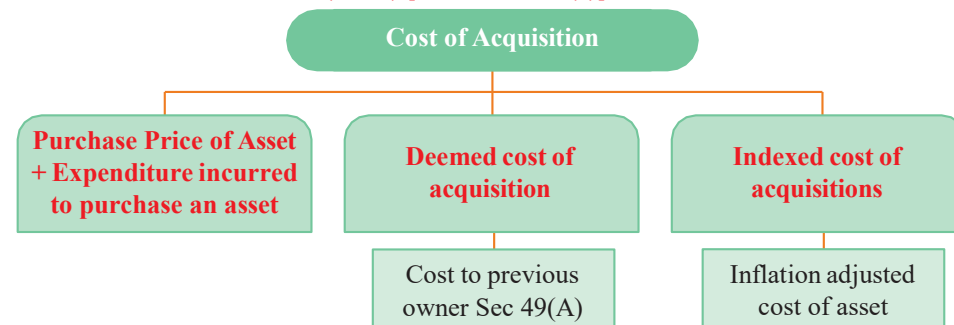
FULL VALUE OF CONSIDERATION

- It is a full value of consideration received or receivable by the transferor.
- If consideration is received in kind then the fair market value of the asset is considered as full value of consideration.
- Even if a consideration is received in installments in different years, the full value of consideration is important.

EXPENSES ON TRANSFER

- Expenses on transfer include any expenditure incurred whether directly or indirectly for the purpose of transfer like advertisement expenses, brokerage, and stamp duty. Registration fees, legal expenses etc.
- However any expenses which have been claimed as a deduction under any other provision of the act cannot be claimed as a deduction under this clause.

COST OF ACQUISITION (COA) [SECTION 55(2)]



Cost of acquisition Includes expenditure Incurred for acquiring the asset or completing the title of the Asset. It includes the following:

- Interest on borrowed capital for purchase of assets.
- Expenses on amendment of AOA and a part of shares.
- Litigation expense on registration of shares etc.
- Advocate fees, brokerage in relation to acquisition of property.

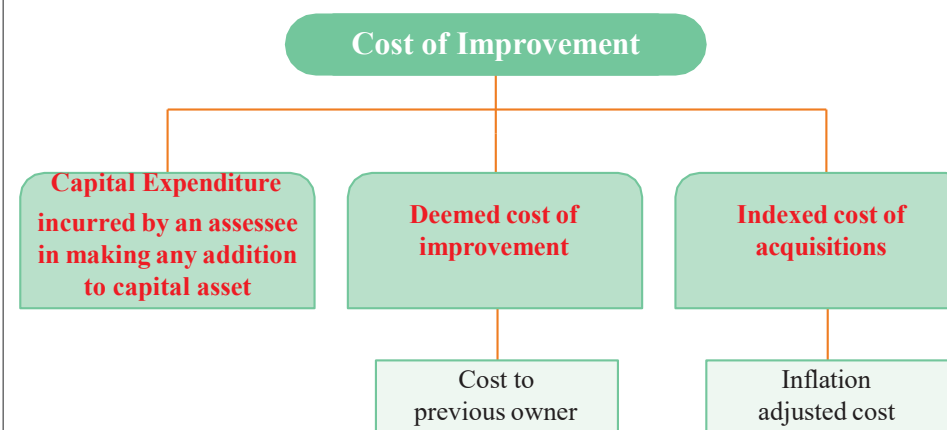
Cost of Improvement (Coi) [Section 55(1)(B)]

- Cost of improvement means 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.
- Any improvement took place before 1.4.2001 shall be ignored.
- Any Capital Expenditure (CAPEX) incurred by the previous owner shall also be considered as Cost of improvement if assets acquired after 1.4.2001.
- Capital assets such as Goodwill or any other intangible assets of business or right to manufacture, produce or process any article or thing or right to carry on business or profession or any other right (Self-Generated), cost improvement shall be NIL.
- Capital assets such as Goodwill of business or profession or right to manufacture, produce or process any article or thing or right to carry on business or profession (Self-Generated), cost improvement shall be NIL.

Indexed Cost of Acquisition (ICOA)

- The COA is indexed on the basis of certain % of Consumer Price Index (CPI) keeping in mind inflation.
- Base year for Indexation is PY 2001-02, hence CII for 2001-02=100
- Cost of acquisition x $\frac{\text{Index for the year of transfer}}{\text{Index for the year of acquisition}}$

Indexed Cost of Improvement (ICOI)



- The COI is indexed on the basis of certain % of Consumer Price Index (CPI) keeping in mind Inflation.
- Any improvement took place before 1.4.2001 shall be ignored.
- Cost of Improvement x $\frac{\text{Index for the year of transfer}}{\text{Index for the year of Improvement}}$

ASCERTAINMENT OF COST IN SPECIFIED CIRCUMSTANCES [SECTION 49]

Deemed Cost of Acquisition [Section 49(1)]

- On the distribution of the assets on total / partial partition of Hindu Undivided Family.
- Under a gift or will.
- By succession, inheritance or devolution;
- On any distribution of assets on the liquidation of a company;
- Under a transfer to a revocable or irrevocable trust;
- On a transfer by a wholly owned Indian subsidiary company to its holding company or vice versa;
- On any transfer in a scheme of amalgamation of two Indian companies subject to certain conditions u/s. 47(vi)
- On any transfer in a scheme of amalgamation of two foreign companies subject to certain conditions.
- On any transfer of a capital asset by the banking company to the banking institution in a scheme of amalgamation of a banking company with a banking institution;
- On conversion of self-acquired property of a member of a Hindu Undivided Family to the joint family property.

INDEXED COST OF ACQUISITION (EXPLANATION (III) TO SECTION 48)

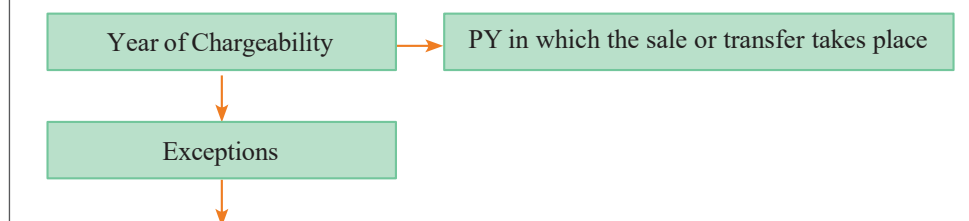
Cost inflation index for any year such index as the Central Government may specify after considering 75% of the average rise in the consumer price index for urban non – manual employee it will be computed on the basis of Consumer Price Index (Urban) for the immediately preceding previous year to such previous year by notification in the Official Gazette.

NOTE:

Indexed cost of acquisition has to be ascertained with reference to the date

YEAR OF CHARGEABILITY AS "CAPITAL GAINS"

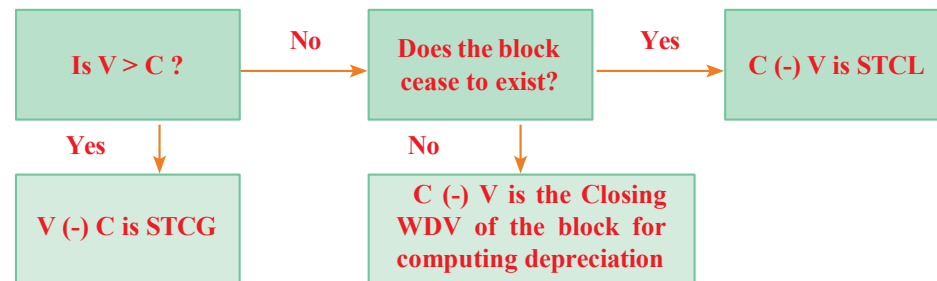
Capital Gains shall be chargeable in the previous year in which the transfer takes place even if the consideration is received or realized in a later year. Some exceptions to the Rule are as under-



- Insurance Receipts [Section 45(1A)]
- Amount received under a Unit Linked Insurance Policy Receipts [Section 45(1B)]
- Conversion or treatment of a capital asset as stock-in-trade [Section 45(2)]
- Transfer of beneficial interest in securities [Section 45(2A)]
- Introduction of Capital Asset as capital contribution [Section 45(3)]
- Receipt of money or capital assets from specified entity
- Compensation on compulsory acquisition [Section 45(5)]
- Taxability of capital gain in case of specified agreement [Section 45(5A)]

CAPITAL GAINS FOR DEPRECIABLE ASSETS [SECTION 50 & 50A]

Transfer of depreciable assets : Tax consequences



Symbol	Description
V	Full value of consideration
C	Opening WDV of Block (+) Actual Cost of Asset acquired in the Block during the P.Y. (+) Expenses in connection with transfer of asset
STCG	Short Term Capital Gain
STCL	Short Term Capital Loss
WDV	Written Down Value

Transfer of Power Sector Assets [Section 50a]

With respect to the power sector, in case of depreciable assets referred to in section 32(1) (i), the provisions of sections 48 and 49 shall apply subject to the modification that the WDV of the asset [as defined in section 43(6)], as adjusted, shall be taken to be the cost of acquisition.

CAPITAL GAINS IN THE CASE OF SLUMP SALE [SECTION 50B]

Slump sale means the transfer of one or more undertakings for a lump sum consideration without assigning values to the individual assets and liabilities in such sales.

Undertaking: It shall include any part of an undertaking or a unit or division of an undertaking or a business activity taken as a whole but does not include individual assets or liabilities or any combination thereof not constituting a business activity.

Transfer: Meaning assigned to it in section 2(47) [It would include sale, exchange, relinquishment of capital asset, extinguishment of any rights therein, compulsory acquisition under any law etc.,]

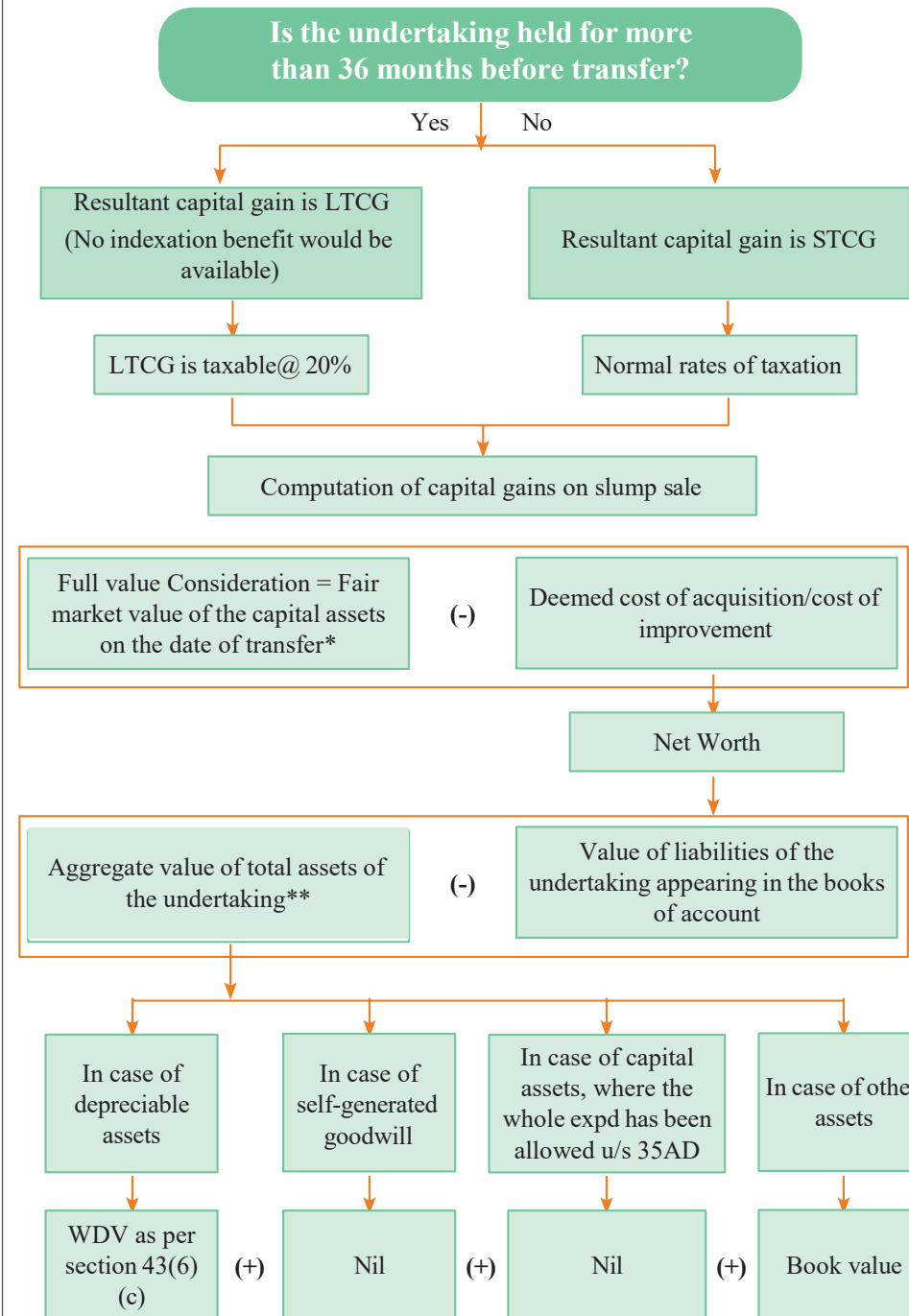
TAX TREATMENT

- Cost of Acquisition or improvement:** Net worth of the undertaking
- Indexation Benefit:** Not available
- Nature of gain whether short term or long term:** If undertaking is owned and held by the assessee for not more than 36 months, then capital gain shall be deemed to be short term capital gain otherwise long-term capital gain.

Net Worth Shall Be the

Particulars	Rs.
Aggregate value of total assets of the undertaking	XXX
Less: Value of liabilities of such undertaking as appearing in the books of account.	XXX
Net worth	XXX

Note: In case of slump sale, no profit under the head 'Profit & gains of business or profession' shall arise even if the stock of the said undertaking is transferred along with other assets.



COMPUTATION OF CAPITAL GAIN IN REAL ESTATE TRANSACTION [SECTION 50C]

Applicability of section: Capital asset (being land or building or both is transferred)

Taxability:

- Value adopted/assessed/assessable by the stamp valuation authority
 - 110% of actual consideration
- If A > B: Sale Consideration = Value adopted/assessed/assessable by the stamp authority
If A < B: Sale Consideration = Actual consideration

CAPITAL GAIN ON TRANSFER OF UNLISTED SHARES IN A COMPANY [SECTION 50CA]

This Section is applicable if an assessee transfers shares in a company (other than quoted shares) at less than the fair market value of such share determined in accordance with prescribed manner.

In such a case, the FMV of such shares shall be deemed to be the full value of consideration for the purpose of computation of capital gain provided that the provisions of this section shall not apply to such transactions undertaken by certain class of persons and subject to such conditions as may be prescribed by CBDT.

Full value of consideration = FMV on the date of transfer.

Quoted Share: For the purpose of this section, "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.

FAIR MARKET VALUE TO BE FULL VALUE OF CONSIDERATION IN CERTAIN CASES [SECTION 50D]

Capital gains are calculated on transfer of a capital asset, as:

Sale Consideration - Cost Of Acquisition

Section 50D has been inserted to provide that fair market value of the asset on the date of transfer shall be deemed to be the full value of consideration if actual consideration is not attributable or determinable.

REFERENCE TO VALUATION OFFICER (SECTION 55A)

With a view to ascertaining the fair market value of a capital asset for the purpose of this chapter (e.g. section 45(1A), 45(2), 45(4), 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:

- 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:
 - 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 Rs. 25,000

[whichever is less]

- b) That having regard to the nature of the asset and other relevant circumstances, it is necessary to do so.

ADVANCE MONEY RECEIVED & FORFEITED [SECTION 51]

- ❖ Where any capital asset, was on any previous occasion, the subject of negotiations transfer, any advance or other money received and retained by the assessee in respect of such negotiations, shall 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.
- ❖ If advance money is received before 31-3-14 then it is to be reduced from the cost of acquisition and if it is received on or after 1-4-14 then it shall be taxable as income from other source.

Advance money received by:

Current owner: Subtracted from the cost of acquisition

Previous owner: Not to be subtracted

Advance money received & forfeited before 31-03-14: Subtracted from the cost of Subtracted from the cost of acquisition

POINTS TO PONDER

- ❖ In case, advance money received exceeds cost of acquisition, the excess will be a capital receipt, hence not taxable.
- ❖ Forfeiture of advance money by the transferor due to default of transferee is not allowed as capital loss in the hands of transferee.

EXEMPTIONS FROM CAPITAL GAIN

Section 10(37) exempts the capital gains arising to an Individual/HUF from transfer of agricultural land by way of compulsory acquisition

Sections 54, 54B, 54D, 54EC, 54EE, 54F, 54G, 54GA, 54GB and 54H of the Act provides exemption on capital gains arising from the transfer of certain capital assets under certain circumstances as explained below

Only if such land has been used for agricultural purposes for immediately preceding 2 years by such individual / HUF

<p>CAPITAL GAIN ARISING FROM THE TRANSFER OF RESIDENTIAL HOUSE PROPERTY [SEC. 54]</p>	<p>Eligibility: An individual or a HUF can claim exemption</p> <p>Conditions to be fulfilled</p> <ul style="list-style-type: none"> ❖ There should be a transfer of residential house (buildings or lands appurtenant thereto) ❖ It must be a long-term capital asset ❖ Income from such house should be chargeable under the head “Income from house property” <p>Where the amount of capital gains exceeds Rs.2 Crore Where the amount of capital gain exceeds Rs.2 crore, one residential house in India should be –</p> <ul style="list-style-type: none"> ❖ Purchased within 1 year before or 2 years after the date of transfer (or) ❖ Constructed within a period of 3 years after the date of transfer.
	<p>Where the amount of capital gains does not exceed Rs.2 crore Where the amount of capital gains does not exceed Rs.2 crore, the assessee i.e., individual or HUF, may at his option,</p> <ul style="list-style-type: none"> ❖ Purchase two residential houses in India within 1 year before or 2 years after the date of transfer (or) ❖ Construct two residential houses in India within a period of 3 years after the date of transfer. <p>Quantum of Exemption</p> <ul style="list-style-type: none"> ❖ If cost of new residential house or houses, as the case may be \geq long-term capital gains, entire long-term capital gains is exempt. ❖ If cost of new residential house or houses, as the case may be $<$ long-term capital gains, long-term capital gains to the extent of cost of new residential house is exempt <p>However, if the cost of new residential house(s) exceeds Rs.10 crores, the amount exceeding Rs.10 crore would not be taken into account for exemption. It means the maximum exemption that can be claimed by the assessee u/s 54 is Rs.10 crore.</p>
<p>CAPITAL GAINS ON TRANSFER OF AGRICULTURAL LAND [SECTION 54B]</p>	<p>Eligible assessee: Individual & HUF</p> <p>Conditions to be fulfilled</p> <ul style="list-style-type: none"> ❖ There should be a transfer of urban agricultural land. ❖ Such land must have been used for agricultural purposes by the assessee, being an individual or his parent, or a HUF in the 2 years immediately preceding the date of transfer. ❖ He should purchase another agricultural land (urban or rural) within 2 years from the date of transfer.

	<ul style="list-style-type: none"> ❖ If such investment is not made before the date of filing of return of income, then the capital gain has to be deposited under the CGAS. Amount utilised by the assessee for purchase of new asset and the amount so deposited shall be deemed to be the cost of new asset. <p>Quantum of exemption</p> <ul style="list-style-type: none"> ❖ If cost of new agricultural land \geq capital gains, entire capital gains is exempt. ❖ If cost of new agricultural land $<$ capital gains, capital gains to the extent of cost of new agricultural land is exempt. <p>If the new agricultural land is transferred before 3 years from the date of its acquisition, then cost of the land will be reduced by capital gains exempted earlier</p>
<p>COMPULSORY ACQUISITION OF LAND AND BUILDINGS [SECTION 54D]</p>	<p>Eligible assessee: Any assessee</p> <p>Conditions to be fulfilled</p> <ul style="list-style-type: none"> ❖ There must be compulsory acquisition of land and building or any right in land or building forming part of an industrial undertaking. ❖ The land and building should have been used by the assessee for purposes of the business of the industrial undertaking in the 2 years immediately preceding the date of transfer. ❖ The assessee must purchase any other land or building or any right in land or building or construct any building (for shifting or re-establishing the existing undertaking or setting up a new industrial undertaking) within 3 years from the date of transfer. ❖ If such investment is not made before the date of filing of return of income, then the capital gain has to be deposited under the CGAS Amount utilised by the assessee for purchase of new asset and the amount so deposited shall be deemed to be the cost of new asset. <p>Quantum of exemption</p> <ul style="list-style-type: none"> ❖ If cost of new asset \geq Capital gains, entire capital gains is exempt. ❖ If cost of new asset $<$ Capital gains, capital gains to the extent of cost of new asset is exempt. <p>If the new asset is transferred before 3 years from the date of its purchase or construction, then cost of the asset will be reduced by capital gains exempted earlier for computing capital gains.</p>
<p>CAPITAL GAINS NOT CHARGEABLE ON INVESTMENT IN CERTAIN BONDS [SECTION 54EC]</p>	<p>Eligible assessee: Any assessee</p> <p>Conditions to be fulfilled</p> <ul style="list-style-type: none"> ❖ There should be transfer of a long-term capital asset being land or building or both. ❖ Such asset can also be a depreciable asset being a building held for more than 34 months.

	<ul style="list-style-type: none"> The capital gains arising from such transfer should be invested in a long-term specified asset within 6 months from the date of transfer. Long-term specified asset means specified bonds, redeemable after 5 years, issued on or after 1.4.2018 by the National Highways Authority of India (NHAI) or the Rural Electrification Corporation Limited (RECL) or any other bond notified by the Central Government in this behalf. <p>Quantum of exemption Capital gains or amount invested in specified bonds, whichever is lower.</p> <p>Ceiling limit for investment in long-term specified asset The maximum investment which can be made in notified bonds or bonds of NHAI and RECL, out of capital gains arising from transfer of one or more assets, during the previous year in which the original asset is transferred and in the subsequent financial year cannot exceed Rs. 50 lakhs.</p>
TAX INCENTIVES FOR START-UPS [SECTION 54EE]	<p>Eligible assessee: Any assessee Asset transferred: Any LTCA Qualifying asset: Unit issued before the 1st April, 2019 of specified fund as notified by the CG Time limit for purchase/ Construction: Purchase within 6 months after the date of such transfer Amount of exemption: Capital gain or amount invested in notified units of specified fund, whichever is lower. Maximum permissible investment in such units out of capital gains arising in any F.Y. is Rs. 50 lakh, whether such investment is made in the current F.Y. or subsequent F.Y. or both</p>
CAPITAL GAIN ON THE TRANSFER OF CERTAIN ASSETS NOT TO BE CHARGED IN CASE OF INVESTMENT IN RESIDENTIAL HOUSE [SECTION 54F]	<p>Asset transferred: Industrial land or building or plant or machinery for shifting to SEZ Assessee: Any Holding Period of Original Assets: Short and long term Asset to be acquired: Industrial land or building or plant or machinery Time limit for acquisition: Within 1 year before, or 3 years after the date of transfer Quantum: The amount of gains, or the aggregate cost of new asset and shifting expenses, whichever is lower. However, if the cost of new residential house(s) exceeds Rs.10 crores, the amount exceeding Rs.10 crore would not be taken into account for exemption. It means the maximum exemption that can be claimed by the assessee u/s 54 is Rs.10 crore.</p>

EXEMPTION OF CAPITAL GAINS ON TRANSFER OF ASSETS IN CASES OF SHIFTING OF INDUSTRIAL UNDERTAKING FROM URBAN AREA TO ANY SEZ [SEC. 54GA]	<p>Eligibility: Any person Asset is qualified for exemption: Land, Building, plant or machinery in order to shift an industrial undertaking from urban area to SEZ. Capital asset is eligible for exemption: Short term / Long term Which asset should be purchased to claim exemption: Land, Building, plant or machinery in order to shift an industrial undertaking to SEZ. Time limit for acquiring the new asset: For purchase: 1 year backward or 3 year forward from the date of transfer. Exemption: Amount invested or capital gains whichever is lower. Exemption will be taken back: If new asset is transferred within 3 years from the date of its acquisition.</p>
	<p>What will be tax treatment if exemption is taken back: In such case, the capital gain on transfer of the new agricultural land will be calculated as follows Sale consideration of new land.</p>
DEDUCTION FROM CAPITAL GAIN ON TRANSFER OF RESIDENTIAL PROPERTY FOR INVESTMENT IN ELIGIBLE COMPANY [SEC. 54GB]	<p>Eligibility: Individual and HUF Capital gains eligible for exemption: Long-term Capital gains arising from transfer of: Residential property (house or a plot of land) if transfer takes place between 01-04-2012 to 31-03-2017 Assets to be acquired for exemption: Subscription in equity shares in an eligible company. The eligible company should utilize this amount for purchase of new assets (i.e. plant and machinery except vehicle, office appliances, etc.) Time limit for acquiring the new assets: <ul style="list-style-type: none"> Investment by the Assessee -Before due date for furnishing of return under Sec. 139(1). Investment by the company -within 1 year from date of subscription. </p>
EXTENSION OF TIME FOR ACQUIRING NEW ASSET OR DEPOSITING OR INVESTING AMOUNT OF CAPITAL GAIN [SECTION 54H]	<p>This section states that where the transfer of the original asset is by way of compulsory acquisition under any law and the amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period of acquiring the new asset by the assessee referred to in Sections 54, 54B, 54D, 54EC and 54F or for depositing or investing the amount of capital gain shall be extended. This extended period shall be reckoned from the date of receipt of such compensation.</p>

TAX RATE

Short Term Capital Gains (STCG) [Section 111A]

- Short term capital gains arising on transfer of other short term capital assets would be chargeable at normal rates of tax.
- Short term capital gains (STCG) on
 - Equity shares or
 - Units of equity-oriented fund
 - Unit of business trust on which STT is paid at the time of transfer, are taxable @ 20% under section 111A.

No deduction under Chapter VI-A

Slab adjustment for resident individuals and HUF

(In case of sale on a RSE in International Financial Service Centre in SEZ, payment of STT is not required, if consideration is in foreign currency)

Long Term Capital Gains (LTCG)

Asset Type	STCG (Earlier)	STCG (Revised)	Holding Period	LTCG (Earlier)	LTCG (Revised)
Listed Stocks and Equity MF/ETFs	15%	20%	1 2 months	10%	12.50%
Unlisted Shares	Slab rate	Slab rate	2 4 months	20% with indexation	12.50%
Foreign Shares	Slab rate	Slab rate	2 4 months	20% with indexation	12.50%
Debt Mfs and ETFs	Slab rate	Slab rate	NA	Slab rate	Slab rate
Listed Bonds	Slab rate	Slab rate	1 2 months	10%	12.50%
REITs and InvITs	15%	20%	1 2 months	10%	12.50%
Physical Real Estate	Slab rate	Slab rate	2 4 months	20% with indexation	12.50%
Gold/Silver ETFs	Slab rate	Slab rate	1 2 months	Slab rate	12.50%
Gold (in Physical form)	Slab rate	Slab rate	2 4 months	20% with indexation	12.50%

Section 112

- LTCG on any asset (STT not applicable) is taxable @ 20%
 - No deduction under Chapter VI-A
 - Slab adjustment for resident individuals and HUF
- LTCG on listed securities (other than a unit) STT not paid is taxable @ 20% after indexation, or @ 12.5% without indexation.
 - No deduction under Chapter VI-A
 - Slab adjustment for resident individuals and HUF

Section 112A

- Tax @ 10% on long-term capital gains exceeding Rs. 1,00,000 on the transfer of long-term capital asset.
- No deduction under Chapter VI-A
- Slab adjustment for resident individuals and HUF

NOTE: No deduction will be allowed in respect payment of securities transaction tax in computing income under the head "Capital Gain".

REGULATORY FRAMEWORK

Section	Income Tax Act, 1961
Section 56	Basic of charge of income from other sources
Section 56 (2)(IB)	Casual Income
Section 52 (iia)	Income from Family Pension
Section 57	Deduction allowable in computing Income from other sources
Section 58	Inadmissible Deduction
Section 59	Deemed Income

BASIC OF CHARGE OF INCOME FROM OTHER SOURCES
[SECTION 56]

Any income is taxable under this head if following conditions are satisfied:

There is an Income

Such income is not exempt under any provisions of the Income Tax Act

Such income is not taxable under First four heads of income

Section 56(1):

As per Section 56(1) covers all the residual incomes which are not covered by first four heads of Income.

If any income is neither covered by first four heads of income nor it falls under Section 56(2) then it is taxable under Section 56(1)

Examples:

- ❖ Income from subletting;
- ❖ Interest on bank deposits and loans;
- ❖ Income from royalty (if it is not an income from business/profession);
- ❖ Directors fee;
- ❖ Ground rent;
- ❖ Agricultural income from a place outside India;
- ❖ Director's commission for standing as a guarantor to bankers;
- ❖ Director's commission for underwriting shares of new company;
- ❖ Examination fees received by a teacher from a person other than his employer;
- ❖ Rent of plot of land;
- ❖ Insurance commission;

- ❖ Mining and royalties;
- ❖ Casual income;

Section 56(2):

This section lays down a list of incomes, which are taxable under this head. However this list is not exhaustive. Apart from the income stated in section 56(2) any other income, which is fulfilling all the above conditions, shall be taxable under this head.

Following incomes in particular shall be chargeable to tax under the head income from other sources only

- ❖ Dividend
- ❖ Winning from Lotteries
- ❖ Employee's contribution towards staff welfare scheme
- ❖ Interest from securities
- ❖ Rental income of Machinery, Plant and furniture
- ❖ Rental income of letting out of plant machinery or furniture along with letting out of building and the two lettings are not separable
- ❖ Sum received under Keyman insurance policy
- ❖ Interest on compensation or enhanced compensation
- ❖ Gift

Any Sum of Money or Value of Property Received Without Consideration or For Inadequate Consideration to Be Subject to Tax in The Hands of The Recipient [Section 56(2)(X)]

Applicability:

The provisions of section 56(2)(x) would apply only to the specified property which is the nature of a capital asset of the recipient and not stock-in trade, raw material or consumable stores of any business of the recipient.

Therefore, only transfer of a specified capital asset, without consideration or for inadequate consideration would attract the provisions of section 56(2)(x).

The table below summarizes the scheme of taxability of gifts –

S.No.	Nature of Assets	Taxable Value
1.	Money	The whole amount if the same exceeds ` 50,000
2.	Movable Property	<p>(i) Without consideration: The aggregate fair market value of the property, if it exceeds ` 50,000.</p> <p>(ii) Inadequate consideration: The difference between the aggregate fair market value and the consideration, if such difference exceeds ` 50,000</p>

3.	Immovable Property	<p>(i) Without consideration: The stamp value of the property, if it exceeds ` 50,000</p> <p>(ii) Inadequate consideration: The difference between the stamp duty value and the consideration, if such difference is more than the higher of ` 50,000 and 10% of consideration.</p>
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Non-applicability of section 56(2) (x):

Section 56(2)(x) shall not apply to any sum of money or any property received:

- i. From any relative; or
- ii. On the occasion of the marriage of the individual; or
- iii. Under a will or by way of inheritance; or
- iv. In contemplation of death of the payer or donor, as the case may be; or
- v. From any local authority as defined in the Explanation to section 10(20); or
- vi. From any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in section 10(23C); or
- vii. From or by any trust or institution registered under section 12A or section 12AA or section 12AB; or
- viii. By any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in Section 10(23C)(iv)/(v)/(vi)/(via).
- ix. By way of transaction not regarded as transfer under section 47(i)/(iv)/(v)/(vi)/(via)/(viaa)/(vib)/(vic)/(vica)/(vicb)/(vid)/(vii)/(viiac)/(viiad)/(viiac)/(viiad)/(viiac)/(viiad).
- x. From an individual by a trust created or established solely for the benefit of relative of the individual
- xi. Any compensation or other payment, due to or received by any person, by whatever name called.
- xii. From such class of persons and subject to prescribed condition.

Important Terms

Property:

- ❖ A capital asset of the assessee, namely,-
- ❖ Immovable property being land or building or both,
- ❖ Shares and securities,
- ❖ Jewellery,
- ❖ Archaeological collections,
- ❖ Drawings,
- ❖ Paintings,

- ❖ Sculptures,
- ❖ Any work of art or bullion.

It also includes virtual digital assets.

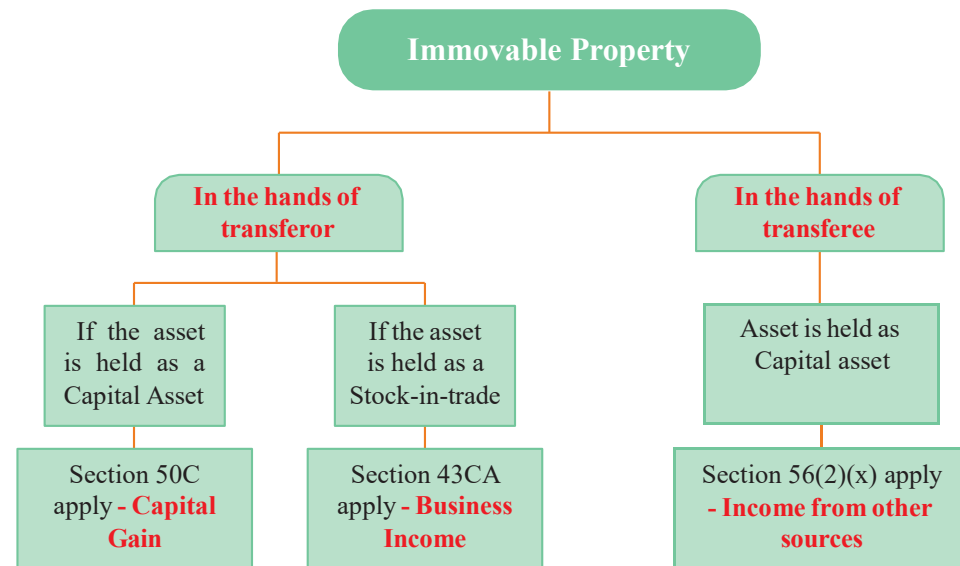
Relative:

- In case of an individual –
 - ❖ Spouse of the individual;
 - ❖ Brother or sister of the individual;
 - ❖ Brother or sister of the spouse of the individual;
 - ❖ Brother or sister of either of the parents of the individual;
 - ❖ Any lineal ascendant or descendant of the individual;
 - ❖ Any lineal ascendant or descendant of the spouse of the Individual;
 - ❖ Spouse of any of the persons referred to above.
- In case of Hindu Undivided Family, any member thereof.

Family:

Family, in relation to an individual means:

- ❖ The spouse and children of the individual; and
- ❖ The parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.



CASUAL INCOME [SECTION 56(2) (IB)]

Casual income means income in the nature of winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, gambling, betting etc. Such winnings are chargeable to tax at a flat rate of 30% under the head ‘Income from other sources’

However, following Incomes are not chargeable under the head ‘Income from other sources’

- ❖ Lottery held as stock in trade
- ❖ Income of jockey
- ❖ Winning from a motor car rally

TAX RATES

- ❖ As per Sec. 115BB, casual income shall be taxable at a flat rate of 30% + Surcharge + Education Cess
- ❖ **TDS on casual income:** As per Sec. 194B lottery income in subject to TDS @ 30% + Surcharge + cess if it exceeds Rs. 10,000 and as per Sec. 194BB Winning from horse race is subject to TDS @ 30% + Surcharge + Cess if it exceeds Rs. 10,000.

Note:

No deduction or exemption is provided in respect of the casual income.

No deduction can be claimed from such income even if such expenditure is incurred exclusively and wholly for earning such Income.

Further, deduction under section 80C to 80U is also not available from such income.

INCOME FROM FAMILY PENSION [SECTION 52 (IIA)]

Family pension is the pension received by the family members after the death of employee and is taxable under the head “Income from other sources”

Received by family member of Armed Forces: Fully exempt

Received by family member of employee other than Armed Forces:

Exemption is least of the following:-

- ❖ 1/3rd of pension received
- Or
- ❖ ₹ 15,000 (in case of optional regime) or ₹ 25,000 (in case of default regime),

Family pension:

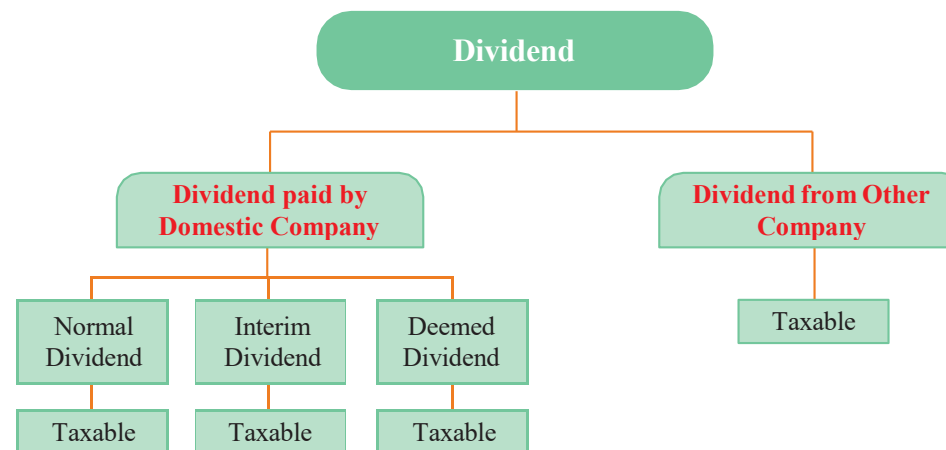
Family pension means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death.

Note:

From AY 2024-25, this deduction is allowable both under the default tax regime u/s 115BAC and under the optional tax regime i.e., normal provisions of the Act

TAXATION OF DIVIDENDS

Dividend shall be taxable under the head “Income from other sources”, even when shares are held by the assessee as stock in trade. The term ‘dividend’ as used in the Act has a wider scope and meaning than under the general law.

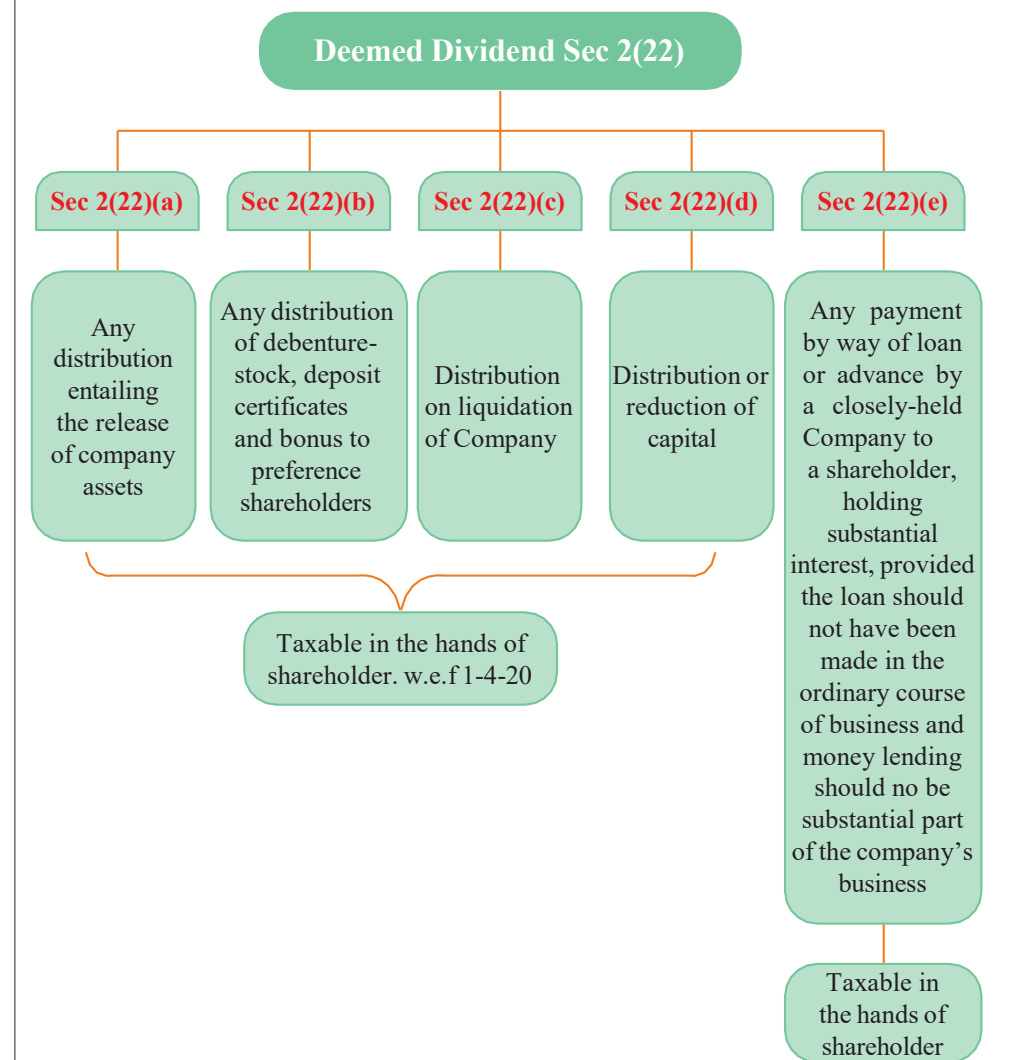


Dividend from a domestic company including dividend u/s. 2(22)(e): Taxable in the hands of shareholder

Dividend from a non-domestic company: Taxable in the hands of recipient.

Dividend from a co-operative society: Taxable in the hands of recipient.

DEEMED DIVIDEND [SECTION 2(22)]



- Distribution that entails the release of the assets of the company
- Distribution of debentures, debenture stock or deposit certificates in any form, and any bonus to preference shareholders to the extent it possesses accumulated profits.
- Distribution on the liquidation of the co. to the extent to which it is attributable to accumulated profits.
- Distribution by a company on reduction of its capital to the extent to which it possesses accumulated profits.
- Any payment by a closely held co. of any sum by way of loan or advance
 - ❖ To a shareholder being the beneficial owner of shares holding not less than 10% of the voting power or
 - ❖ To any concern in which such a shareholder is a member or a partner and in which he has substantial interest (20% share in income or 20% voting power in co) or
 - ❖ To any person on behalf or for the individual benefit of such a shareholder
 - ❖ To the extent to which the co possesses accumulated profits.

Note: Any income by way of dividends received from a company, whether domestic or foreign, is taxable in the hands of a resident shareholder at normal rates of tax.

Points to Ponder

Income by way of dividend is taxable in the hands of shareholders under section 56 under the head "Income from other sources". There is no special treatment of dividend income from the assessment year 2021-22.

However the following points should be noted:

- ❖ If the shareholder is a domestic company deduction is available under the section 80M
- ❖ If the shareholder is a is an individual HUF / AOP / BOI artificial judicial person surcharge or income tax on dividend income cannot exceed 15%

Tax Treatment

Normal Dividend: Taxable in the Year in which it is declared by the company

Interim Dividend: Taxable in the Year in which amount of dividend is unconditionally made available

Deemed Dividend: Taxable in the Year in which it is distributed or paid by the company.

Tax rate on dividend income: Any income by way of dividend received by a resident from a company, whether domestic or foreign, is taxable in the hands of shareholder at normal rates of tax.

DEDUCTION ALLOWABLE IN COMPUTING INCOME FROM OTHER SOURCES [SECTION 57]

S.No.	Sections	Nature of Income	Deductions Allowed
1.	57(i)	Dividend or Interest on securities	Any reasonable sum paid by way of commission or remuneration to banker or any other person for purpose of realizing dividend or interest on securities

2.	57(ia)	Employee's contribution towards Provident Fund, Superannuation Fund, ESI Fund or any other fund setup for the welfare of such employees	If employees contribution is credited to their account in relevant fund on or before the due date
3.	57(ii)	Rental income letting of plant, machinery, furniture or building	Rent, rates, taxes, repairs, insurance and depreciation etc
4.	57(ia)	Family Pension	1/3rd of family pension subject to maximum of Rs. 15,000 (in case of optional regime) or Rs. 25,000 (in case of default regime).
5.	57(iii)	Any other income	Any other expenditure (not being capital expenditure) expended wholly and exclusively for earning such income
6.	57(iv)	Interest on compensation or enhanced compensation	50% of such interest (subject to certain conditions)
7.	58(4) Provison	Income from activity of owning and maintaining race horses	All expenditure relating to such activity

AMOUNT NOT DEDUCTIBLE [SECTION 58]

Section	Details
58(1)(a)(i)	Personal Expenses
58(1)(a) (ii)	Interest chargeable to tax which is payable outside India on which tax has not been paid or deducted at source
58(1)(a)(iii)	'Salaries' payable outside India on which no tax is paid or deducted at source
58(1A)	Wealth-tax 30% of the sum payable to a resident, on which no tax is paid or deducted at source.
58(2)	Expenditure of the nature specified in section 40A

58(4)	Expenditure in connection with winnings from lotteries, crossword puzzles, races, games, gambling or betting. The prohibition however will not apply in respect of income of an assessee who is owner of horses maintained for running in horse races [Section 58(4)]. Further the amount spent in buying of infructuous tickets is not deductible as the gross amount will be taxed.
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DEEMED INCOME [SECTION 59]

The provisions of section 41(1) are made applicable, so far as may be, to the computation of income under this head.

Accordingly, where a deduction has been made in respect of a loss, expenditure or liability and subsequently any amount is received or benefit is derived in respect of such expenditure incurred or loss or trading liability allowed as deduction, then it shall be deemed as income in the year in which the amount is received or the benefit is accrued.

COMPUTATION OF INCOME UNDER THE HEAD "INCOME FROM OTHER SOURCES"

As per section 145 income taxable under this head is to be computed in accordance with the method of accounting regularly followed by assessee.

- ❖ If books of accounts are regularly maintained on "Cash system" then income shall be computed on "receipt basis" and
- ❖ If books are regularly maintained on "Mercantile system" then Income shall be computed on "accrual basis".

Computation of Income from Other Sources

Particular	Rs
Income taxable under Section 56 & 59	XXXX
Less: Expenditure allowed as deduction under Section 57	(XXXX)
Income taxable under the head "Income From Other Sources"	XXXX



INTRODUCTION

When an assessee is liable for Income earned by others it is called as clubbing of Income. Section 60 to 64 deals with such incomes.

Section 60: Transfer of income without transfer of asset

Section 61: Revocable transfer of asset

Section 62: Transfer irrevocable for a specified period

Section 63: Definition of transfer & revocable transfer

Section 64: Income of spouse, minor child etc. to be included in income of individual

Section 65: Liabilities of a person in respect of Income included in the income of another person.

TRANSFER OF INCOME WITHOUT TRANSFERRING ASSETS [SECTION 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.

Conditions:-

- ❖ Assessee owns the asset.
- ❖ Assessee does not transfer the ownership of the asset.
- ❖ The income from such asset is transferred to any person under a Settlement, Trust, Covenant, Agreement or arrangement.

If conditions are not satisfied: Income shall be clubbed in the hands of the transferor.

REVOCABLE TRANSFER OF ASSET [SECTION 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.

As per sec. 62(2), income, in any of the above exceptional case, shall be taxable as under:

- ❖ When the power to revoke the transfer arises (whether such power is exercised or not) it shall be Taxable in hands of Transferor
- ❖ When the power to revoke the transfer does not arise it shall be Taxable in hands of Transferee

TRANSFERS NOT REGARDED AS REVOCABLE [SECTION 62]

Section 61 will not apply to any income arising to any person if there is –

- ❖ Transfer to trust which is not revocable to the life time of beneficiary
- ❖ Transfer which is not revocable during the lifetime of transferee
- ❖ Transfer prior to 01.04.1961 and the transfer is not revocable for a period exceeding 6 years.

DEFINITION OF REVOCABLE TRANSFER [SECTION 63]

Transfer is deemed to be revocable if—

1. It contains any provision for the retransfer, directly or indirectly, of the whole or any part of the income or assets to the transferor, or
2. It gives, in any way to the transferor, a right to reassume power, directly or indirectly, over the whole or any part of the income or the assets.

CLUBBING IN RESPECT OF REMUNERATION RECEIVED BY SPOUSE [SECTION 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.

Note: 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

Meaning of Substantial Interest

In case of Company

Beneficiary 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.

Note:

Substantial interest need not to be held throughout the year. Even if it was held for a day during the previous year, clubbing provision would be attracted.

Relatives:

Relatives here include spouse, brother or sister or any lineal ascendant or descendant of that individual [Sec. 2(41)].

CASE 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.

TAX TREATMENT

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 spouses, 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, the Assessing Officer will do so only after giving the other spouse an opportunity of being heard.

CASE 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 and both are not having any other income apart from the said remuneration.

TAX TREATMENT

Remuneration from such concern will not be clubbed.

CASE 3:

Income prescribed in sec. 64(1)(ii) shall be first computed (allowing all deductions from the respective income) in the hands of the recipient and thereafter net income shall be clubbed in the hands of the other spouse.

TAX TREATMENT

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.

CLUBBING IN RESPECT OF INCOME FROM ASSETS TRANSFERRED TO SPOUSE [SECTION 64(1)(IV)]**CONDITIONS**

1. The taxpayer is an Individual.
2. The taxpayer has transferred an asset other than House Property to his / her spouse.
3. Further such transfer may be direct or indirect.
4. The transfer is otherwise than –
 - ♦ For adequate consideration or
 - ♦ In connection with an agreement to live apart.
5. The asset may be held by the transferee in the same form or different form.

CONSEQUENCES IF CONDITIONS ARE SATISFIED

Any income arising from the transferred asset or substituted asset shall be chargeable to tax as the income of the transferor and shall be included in his total income.

CLUBBING IN RESPECT OF INCOME FROM ASSETS TRANSFERRED TO SPOUSE [SECTION 64(1)(VI)]**CONDITIONS**

1. The taxpayer is an Individual.
2. He/She has transferred an asset to his/her son's wife on or after 1.6.1973.

3. The transfer may be direct or indirect.
4. The transfer is otherwise than for adequate consideration
5. The asset may be held by the transferee in the same form or different form.

CONSEQUENCES IF CONDITIONS ARE SATISFIED:

Any income from the transferred asset or substituted asset shall be chargeable to tax as the income of the transferor and shall be included in his total income.

CLUBBING IN RESPECT OF INCOME FROM ASSETS TRANSFERRED FOR BENEFIT OF SPOUSE [SEC 64(1)(VII) OR SONS WIFE SEC 64(1)(VIII)]

Where an individual transfers directly or indirectly, otherwise than for adequate consideration, certain assets to another person or association of persons, the income arising out of such transferred assets or substituted assets shall be included in the transferor's total income, to the extent to which such income is for the immediate or deferred benefit of the transferor's spouse.

INCOME OF MINOR CHILD [SEC. 64(1A)]

- ❖ Income of a minor child (not being a minor child suffering from any disability of the nature specified in Sec. 80U) shall be clubbed with income of the parent whose total income (excluding this income) is higher.
- ❖ 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, after giving that parent an opportunity of being heard, that it is necessary to do so

- ❖ In case of divorce, income shall be clubbed in the hands of that parent who maintains the child.

EXCEPTION

The following income of minor child shall not be included in the income of the parent –

- ❖ Income from manual work done by him.
- ❖ Income from activity involving application of his skill, talent or specialized knowledge and experience.
- ❖ The minor child is suffering from any disability of nature specified u/s. 80U.

Exemption [Sec. 10(32)]

In case income of a minor child is clubbed in hands of parent as per provision of Sec. 64(1A), the assessee (parent) can claim exemption of an amount being minimum of the following:

- ❖ Rs. 1500; or
- ❖ Income so clubbed.

Such exemption shall be available for each child (irrespective of the number of children) whose income is so clubbed.

POINTS TO PONDER

- ❖ Child in relation to an individual includes a stepchild & adopted child but does not include a grandchild [Sec. (14B)]

- ❖ 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.
- ❖ Income of minor child cannot be added with the income of the guardian if the guardian is not the parent of the minor.

CONVERSION OF SELF ACQUIRED PROPERTY INTO JOINT HINDU FAMILY PROPERTY [SEC.64 (2)]

- ❖ Where an individual (being a member of HUF)
 1. Converts (after 31st December 1969) his self-acquired property into property belonging to the HUF family.
 2. Throws the property into common stock or otherwise transfers his individual property to the family, otherwise than for adequate consideration.
- ❖ When such an Individual transfers his self-acquired property, directly or indirectly to the family otherwise than for adequate consideration.

TAX TREATMENT

Before Partition: The entire income shall be taxable in the hands of transferor

After Partition: Income from the assets attributes to the spouse of transferor.

RECOVERY OF TAX [SECTION 65]

The income tax officer has the authority to recover the amount of tax from the actual recipient of income irrespective of the fact in whose hand the income is clubbed.



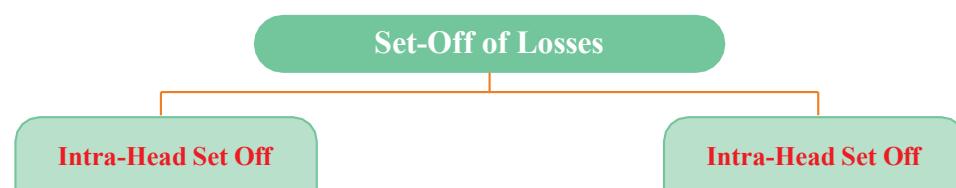
SET OFF AND CARRY FORWARD OF LOSSES

When there is a Loss in one or more sources under one or more heads of income, the provisions of set off and carry forward are applicable as under:

- ❖ Inter Source Adjustment (Sec. 70)
- ❖ Inter head Adjustment (Sec. 71)
- ❖ Carry forward of losses.

SET-OFF OF LOSSES

Set off of losses means making adjustments in losses which shall be against the profit of the same financial year. If it is not possible to set off the losses against profit in the same year then it will be carried forward to next year. A set off can be of two types which is intra-head set off and an inter-head set off.



INTRA-HEAD SET OFF:

The process of adjustment of loss from a source under a particular head of income against income from other source under the same head of income is called intra-head adjustment.

RESTRICTION TO BE KEPT IN MIND WHILE MAKING INTRA-HEAD ADJUSTMENTS

S.No.	Nature of Loss	Set off Available
1.	Loss from Speculative business	Profit from speculative business
2.	Non-speculative business loss	Profit from speculative and non-speculative business.
3.	Long term capital loss	Long term capital gain
4.	Short term capital loss	Long term & short term capital gain
5.	Winning from lotteries. Crossword puzzles, card games, gambling or betting.	Cannot be set off against any income.

6.	Loss from the business of owning and maintaining race horses	Income from business of owning and maintaining race horses.
7.	Loss of Specified Business under Section 35AD	Income of Specified Business Section 35AD.

INTER-HEAD SET OFF

After making intra-head adjustment (if any) the next step is to make inter-head adjustment. If in any year, the taxpayer has incurred a loss under one head of Income and is having Income under other head of income, then he can adjust the loss from one head against income from the other head.

Restriction To Be Kept in Mind While Making Inter-Head Adjustments

1.	Loss from speculation business can be set-off only against profits from another speculation business. However non speculative business loss can be set off against income from speculative business.
2.	Loss under the head "Capital gains" cannot be set-off against income under any other head.
3.	No loss can be set off against Income from winning from lotteries, crossword puzzles, race including horse race, card game, and any other game of any sort or from gambling or betting of any form or nature
4.	Loss from the activity owning and maintaining race horses cannot be set-off against income under any other head.
5.	Loss under the head "Profits and gains of business or profession" cannot be set off against income under the head "salaries".
6.	Loss from specified business under section 35AD cannot be set-off against any other income.
7.	Loss under the head 'House Property' shall be allowed to be set-off against any other head of income only to the extent of Rs. 2,00,000 for any assessment year.
8.	Unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years as per existing provision of section 71B

CARRY FORWARD OF LOSSES

If loss cannot be set off as per provision of sec. 70 & sec. 71 then it is to be carry forward under the act. The following losses can be carried forward.

- ❖ Business Loss (Non-Speculative)
- ❖ Business Loss (speculative)
- ❖ Loss under Capital Gain (Short term and Long term)
- ❖ Losses from the activity of owning and maintaining race horses.
- ❖ House Property loss.

Section	Nature of Loss to be Carried Forward	Income against which the brought forward loss can be set-off	Maximum Period (from the end of the relevant A.Y.) for carry forward of losses	Filing of Return
32(2)	Unabsorbed Depreciation	Income under any head other than salaries.	Indefinite Period	Belated return allowed
71B	Unabsorbed loss from house property	Income from House Property	8 Assessment Years	Belated return allowed
72	Unabsorbed business loss	Profits and Gains from business or profession	8 Assessment Years	Belated return not allowed
73	Loss from Speculation business	Income from any Speculation business	4 Assessment Years	Belated return not allowed
73A	Loss from specified business u/s 35AD	Profit from any specified business	Indefinite Period	Belated return not allowed
74	Long-term capital loss	Long-term capital gains	8 Assessment Years	Belated return not allowed
	Short-term capital loss	Short-term/long-term capital gains	8 Assessment Years	Belated return not allowed

74A	Loss from the activity of owning and maintaining race horses	Income from the activity of owning and maintaining race horses	4 Assessment Years	Belated return not allowed
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PRIORITY FOR SET-OFF OF LOSSES

Current Year Losses

Section 35(1): Current Scientific research Capital Expenditure

Section 32(1): Current Depreciation

Section 36(1)(ix): Current year Expenditure on Family planning to the extent allowed

Section 72(1): Unabsorbed business losses of previous years

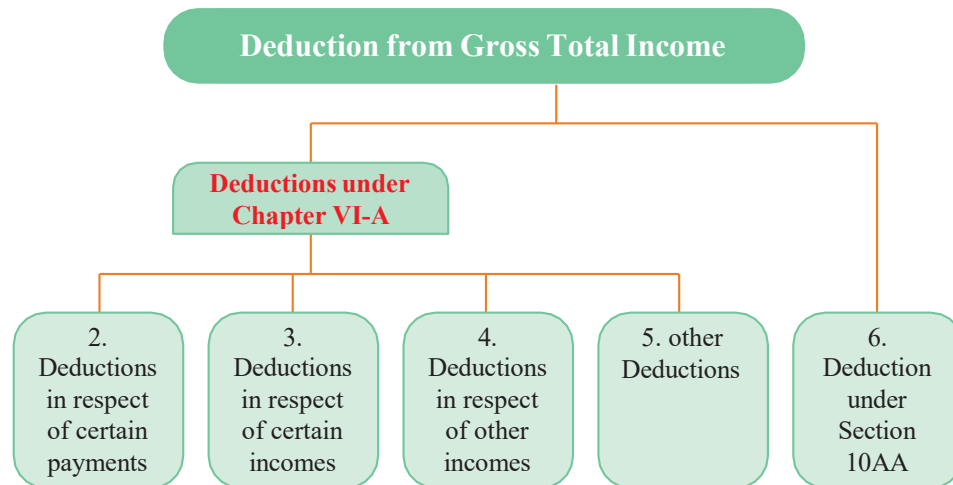
Section 32(2): Unabsorbed depreciation of previous years

Section 35(4): Unabsorbed Identified research capital expenditure of previous years

Section 36(1)(ix): Unabsorbed family planning promotion expenditure of previous year



DEDUCTIONS FROM GTI



SECTION 80C

Eligibility: Individual & HUF

Eligible Payment:

Contribution to PPF, Payment of LIC premium, etc.

Sums paid or deposited in the previous year by way of:-

- ❖ Life insurance premium
- ❖ Contribution to PPF/SPF/RPF and approved superannuation fund
- ❖ Repayment of housing loan taken from govt., bank, LIC, specified employer, etc.
- ❖ Tuition fees to any Indian university, college, school for full-time education of any two children
- ❖ Term deposit for a fixed period of not less than 5 years with scheduled bank
- ❖ Subscription to notified bonds of NABARD.
- ❖ 5 year post office time deposit
- ❖ Senior Citizen's Savings Scheme Account, etc.

Permissible Deduction:

Sum paid or deposited, subject to a maximum of ₹ 1,50,000

SECTION 80CCC

Eligibility: Individual

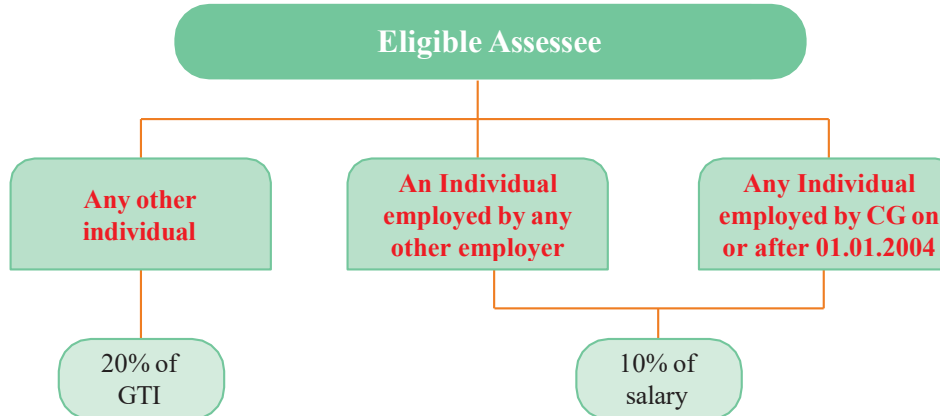
Eligible Payment:

Contribution to certain pension fund of LIC of INDIA or any other insurer

Permissible Deduction:

Maximum permissible deduction under section 80C, 80 CCC, 80 CCD (1) is ₹ 1,50,000

SECTION 80CCD



SECTION 80 CCH

Eligibility: Individual & HUF

Eligible Payment:

Contribution to Agniveer Corpus Fund

Permissible Deduction:

Individual's Contribution: Whole of the amount paid or deposited

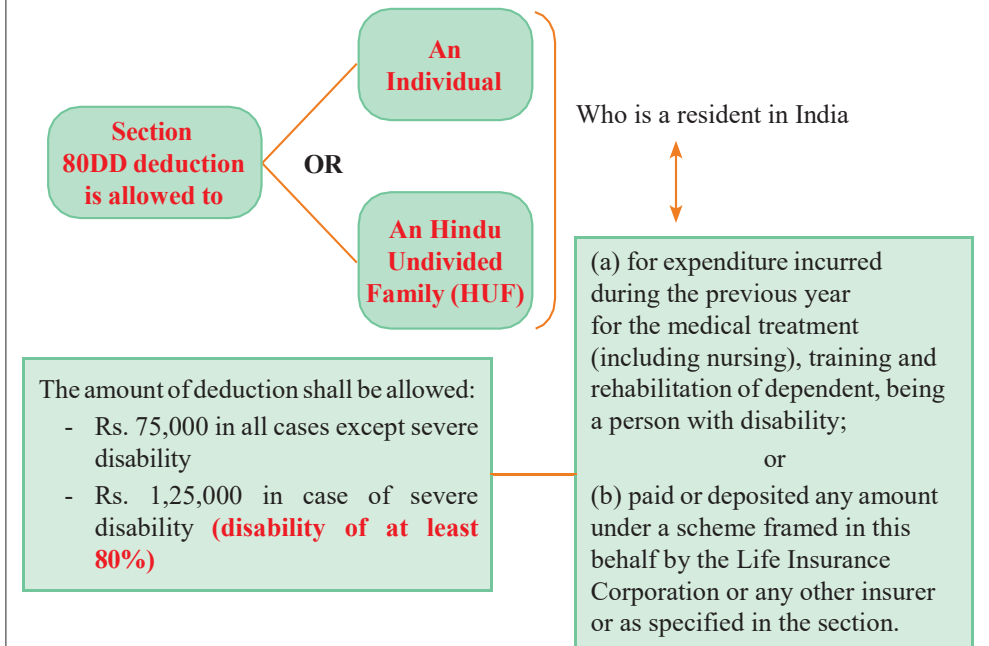
Central Government's Contribution: The entire Central Government's contribution to the Agniveer Corpus Fund would be included in the salary of the assessee. Thereafter, deduction u/s 80CCH(2) would be available for the same.

SECTION 80D

Description	Section 80D Medical Insurance Premium paid in respect of		Total Deduction u/s 80D
	Self, Spouse & Dependent Children	Parents (whether dependent or not)	
No-one has attained the age of 60 years	₹ 25,000	₹ 25,000	₹ 50,000
Assessee and his family is less than 60 years & parents are above 60 years of age	₹ 25,000	₹ 50,000	₹ 75,000
Assessee and his parents have attained the age of 60 years and above	₹ 50,000	₹ 50,000	₹ 1,00,000

Deduction for medical check-up expense is allowed to the extent of ₹ 5,000 per group which is inclusive in the above limit.

SECTION 80DD



SECTION 80DDB

Eligibility: Individual & HUF

Eligible Payment:

Deduction for medical treatment of specified diseases or ailment

Amount paid for specified diseases or ailment

In case the assessee is an individual	For himself or his dependent spouse, children, parents, brothers, or sisters
In case the assessee is a HUF	For any member of his family

Permissible Deduction:

Actual sum paid or ₹ 40,000 (₹ 1,00,000, if the payment is for medical treatment of a senior citizen) whichever is less

Minus

The amount reimbursed from the insurance company or the employer

SECTION 80E

Eligibility: Individual

Eligible Payment:

Interest on loan taken for higher education

Interest on loan should be taken from any financial institutions or approved charitable

institutions. Such loan is taken for pursuing his higher education or higher education of his or her relative i.e. spouse or children of the individual

Permissible Deduction:

The deduction is available for interest payment in the initial assessment year (year of commencement of interest payment) and 7 assessment years immediately succeeding the initial assessment years

OR

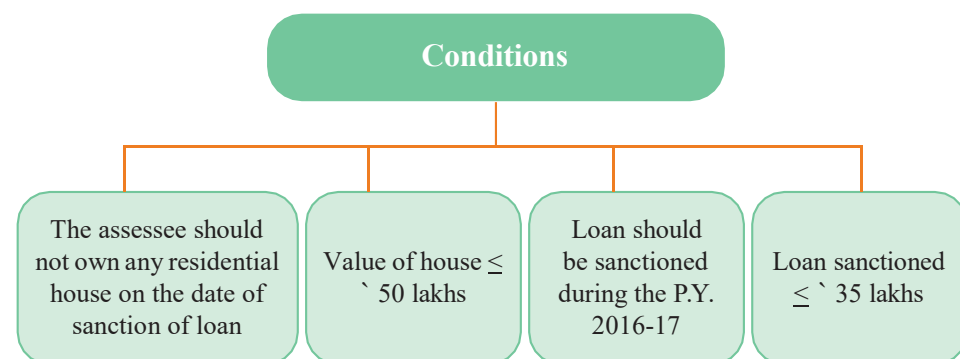
Until the interest is paid in full by the assessee.

(Whichever is earlier)

SECTION 80EE

Eligibility: Individual

Condition:



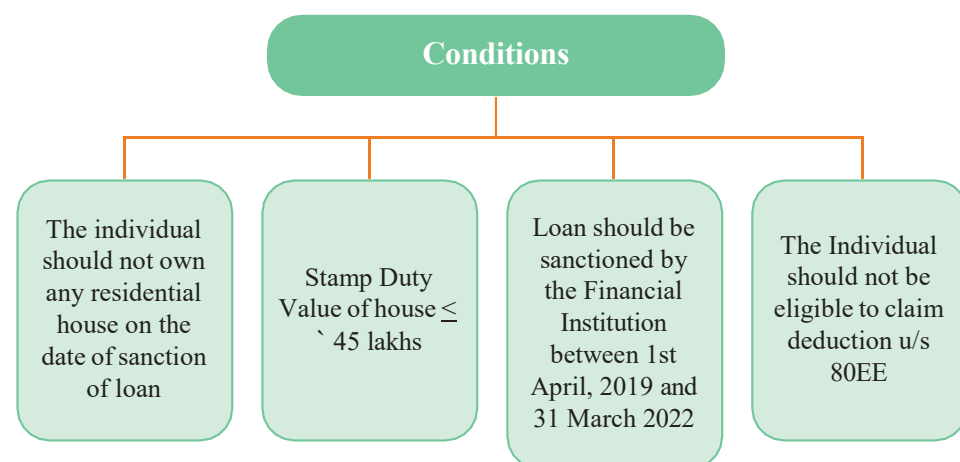
Permissible Deduction:

The maximum deduction allowable is Rs.50,000. The deduction of upto Rs. 50,000 under section 80EE is over and above the deduction of upto Rs. 2,00,000 available under section 24 for interest paid in respect of loan borrowed for acquisition of a self-occupied property.

SECTION 80EEA

Eligibility: All Assessee

Condition:



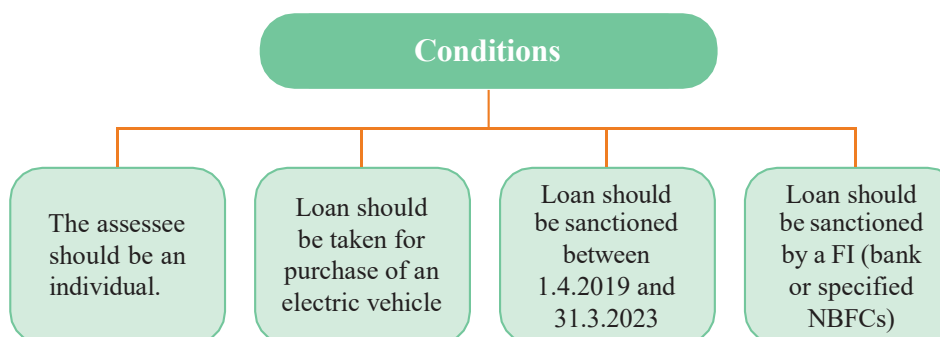
Permissible Deduction:

The maximum deduction allowable is Rs. 1,50,000. The deduction of upto Rs. 1,50,000 under section 80 EEA is over and above the deduction available under section 24(b) in respect of interest payable on loan borrowed for acquisition of a residential house property

SECTION 80 EEB

Eligibility: All Assessee

Condition:



Permissible Deduction:

Interest payable subject to a maximum of Rs. 1,50,000

SECTION 80G

Section 80G		
Eligible Assessee	Eligible Payment	Permissible Deduction
All assessee	<p>Donation to certain funds, charitable institutions etc</p> <ul style="list-style-type: none"> Prime Ministers National Relief Fund Prime Ministers Drought Relief fund National Children Fund Government or any approved local authority, institution for promotion of family planning Certain funds/institutions <p>Qualifying amount is calculated as under:-</p> <p>Step 1: Compute adjusted total income.</p> <p>Step 2: Calculate 10% of adjusted total income</p> <p>Step 3: Calculate the actual donation, which is subject to qualifying amount</p> <p>Step 4: Lower of Step 2 or Step 3 is the maximum permissible deduction</p> <p>Step 5: The said deduction is given first for donation qualifying for 100% deduction and thereafter, the balance for donation qualifying for 50% deduction</p>	<p>There are four categories of deductions</p> <ol style="list-style-type: none"> 100% deduction of amount donated, without any qualifying limit 50% deduction of amount donated without any qualifying limit 100% deduction of amount donated subject to qualifying limit 50% deduction of amount donated subject to qualifying limit <p>No Deduction shall be allowed for donation in excess of 2,000 if paid in cash</p>

SECTION 80GG

Eligibility: Resident Individual

Eligible Payment:

Rent actually paid for residential accommodation by individual (other than those receiving HRA)

Permissible Deduction:

Lower of the following:-

- a) ₹ 5,000 p.m.
- b) 25% of total income
- c) Rent paid –10% of ATI

SECTION 80GGA

Eligibility: All Assessee

Eligible Payment:

Deduction in respect of certain donations for scientific research or rural development

Permissible Deduction:

- ❖ 100% of the sums so paid
- ❖ No deduction shall be for donation in excess of Rs. 10,000, if paid in cash

SECTION 80GGB

Eligibility: Indian Company

Eligible Payment:

Deduction in respect of contributions given by companies to political parties

Permissible Deduction:

- ❖ 100% of the amount so contributed
- ❖ No deduction shall be allowed under this section in respect of any sum contributed by way of cash

SECTION 80GGC

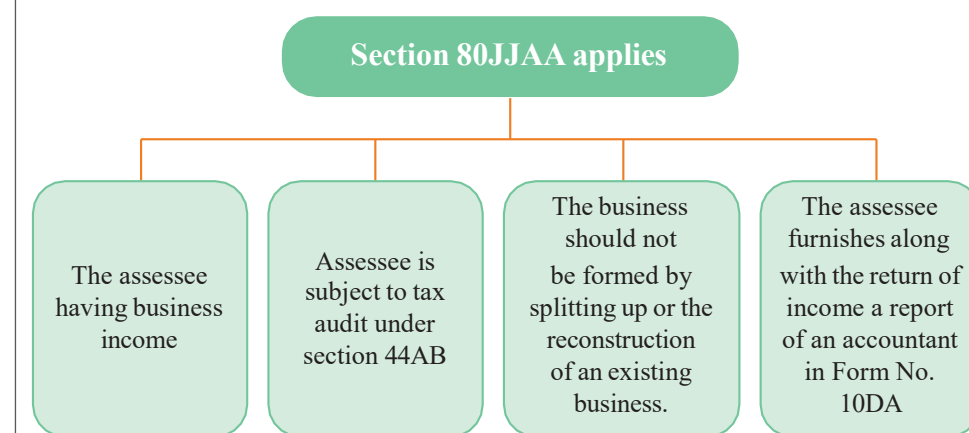
Eligibility: Any person other than Indian company, LA, AJP wholly or partly funded by govt.

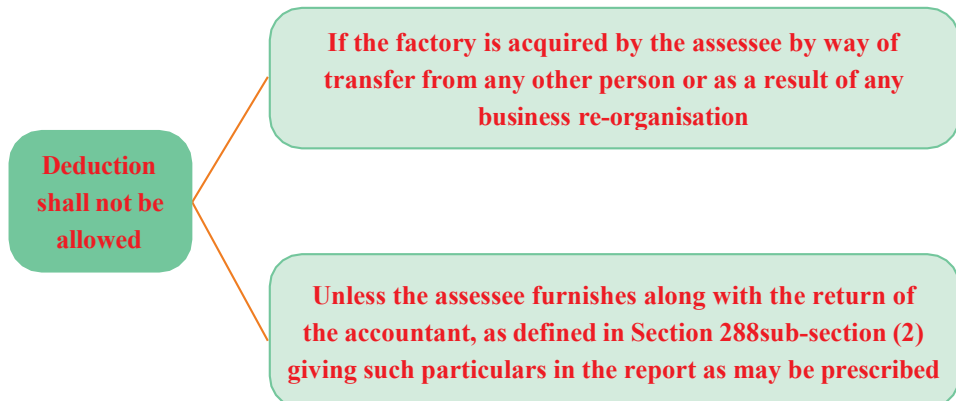
Eligible Payment: Deduction in respect of contributions given by any person to political parties

Permissible Deduction:

- ❖ 100% of the amount so contributed
- ❖ No deduction shall be allowed under this section in respect of any sum contributed by way of cash

SECTION 80JJAA





Permissible Deduction:
Interest on deposits in savings bank accounts (up to Rs. 10,000 per year).

SECTION 80TTB

Eligibility:
Senior Citizen Individuals

Permissible Deduction:
Interest on deposits in case of senior citizens upto Rs. 50,000.

SECTION 80U

Eligibility:
Resident individuals who, at any time during the previous year, is certified by the medical authority to be a person with disability

Permissible Deduction:
Deduction of Rs. 75,000,
In the case of a person with severe disability, allowable deduction is Rs. 1,25,000.

SECTION 80AC

FURNISHING RETURN OF INCOME ON OR BEFORE DUE DATE MANDATORY FOR CLAIMING DEDUCTION UNDER CHAPTER VI-A UNDER THE HEADING "C. – DEDUCTIONS IN RESPECT OF CERTAIN INCOMES"

Section	Deduction
80-IA	Deductions in respect of profits and gains from undertakings or enterprises engaged in infrastructure development/ operation/ maintenance, generation/ transmission/ distribution of power etc.
80-IAB	Deduction in respect of profits and gains derived by an undertaking or enterprise engaged in development of SEZ

80-IAC	Deduction in respect of profits and gains derived by an eligible start-up from an eligible business
80-IB	Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings
80-IBA	Deduction in respect of profits and gains from housing projects/rental housing projects
80-IE	Deduction in respect of profits and gains from manufacture or production of eligible article or thing, substantial expansion to manufacture or produce any eligible article or thing or carrying on of eligible business in North-Eastern States
80JJA	Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste
80JJAA	Deduction in respect of employment of new employees
80LA	Deduction in respect of certain income of Offshore Banking Units and International Financial Services Centre
80M	Deduction in respect of certain inter-corporate dividends
80P	Deduction in respect of income of co-operative societies
80PA	Deduction in respect of certain income of Producer Companies
80QQB	Deduction in respect of royalty income, etc., of authors of certain books other than text books
80RRB	Deduction in respect of royalty on patents

SECTION 80QQB

Eligibility:
Resident Individual - Author

Permissible Deduction:
Royalty income of author of certain specified category of books (up to Rs. 3,00,000).

SECTION 80RRB

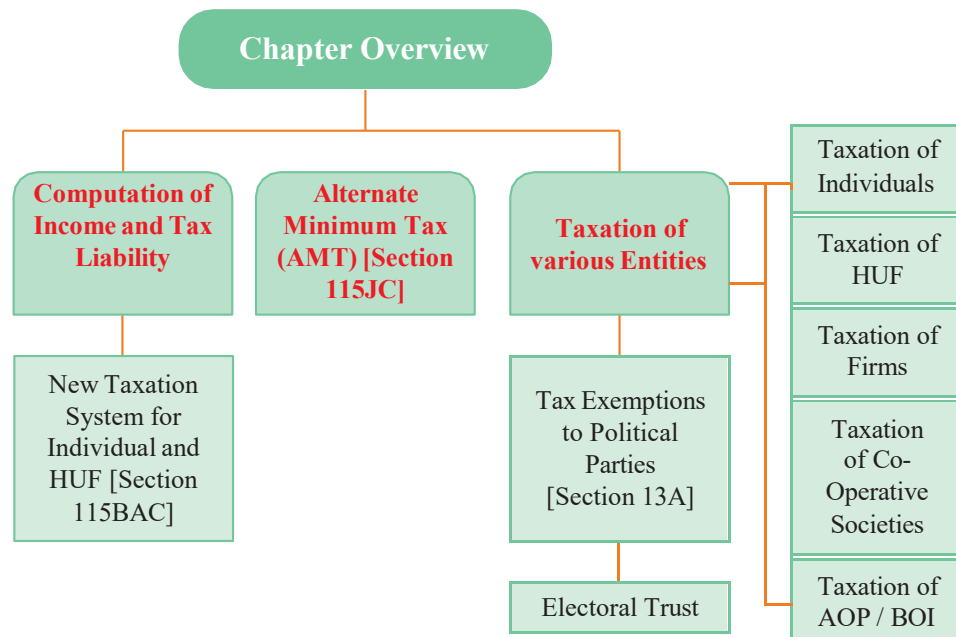
Eligibility:
Resident individuals who is a patentee and is in receipt of income by way of royalty in respect of a patent registered on or after 1-4-2003

Permissible Deduction:
Royalty on patents up to Rs. 3,00,000

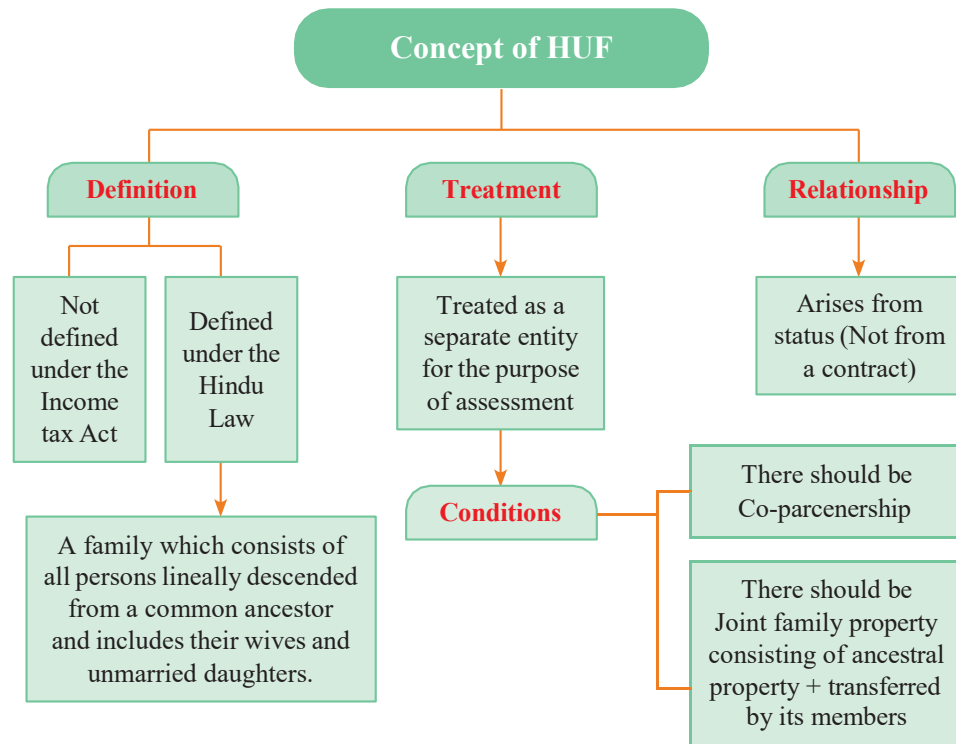
SECTION 80TA

Eligibility:
Individual & HUF

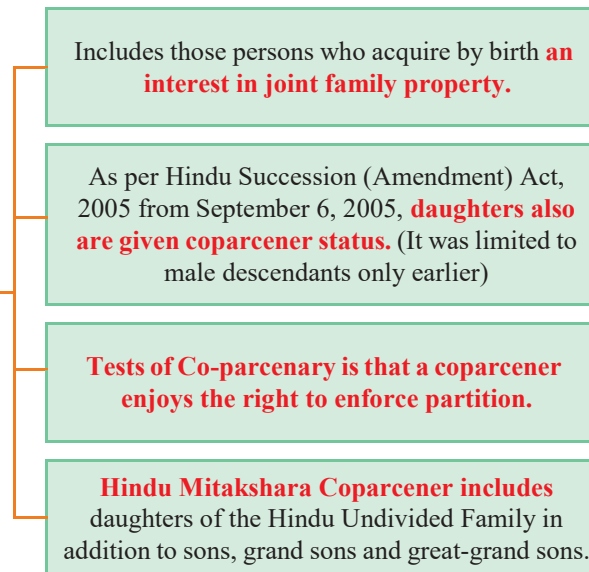
INTRODUCTION



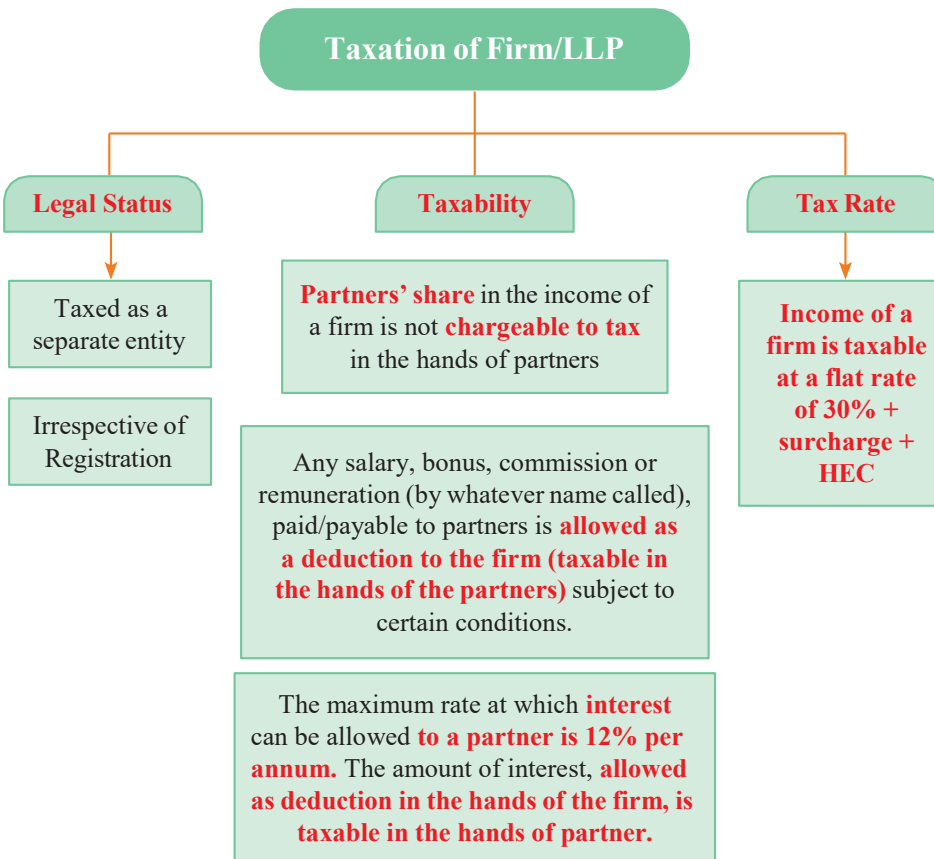
TAXATION OF HINDU UNDIVIDED FAMILIES [HUF]



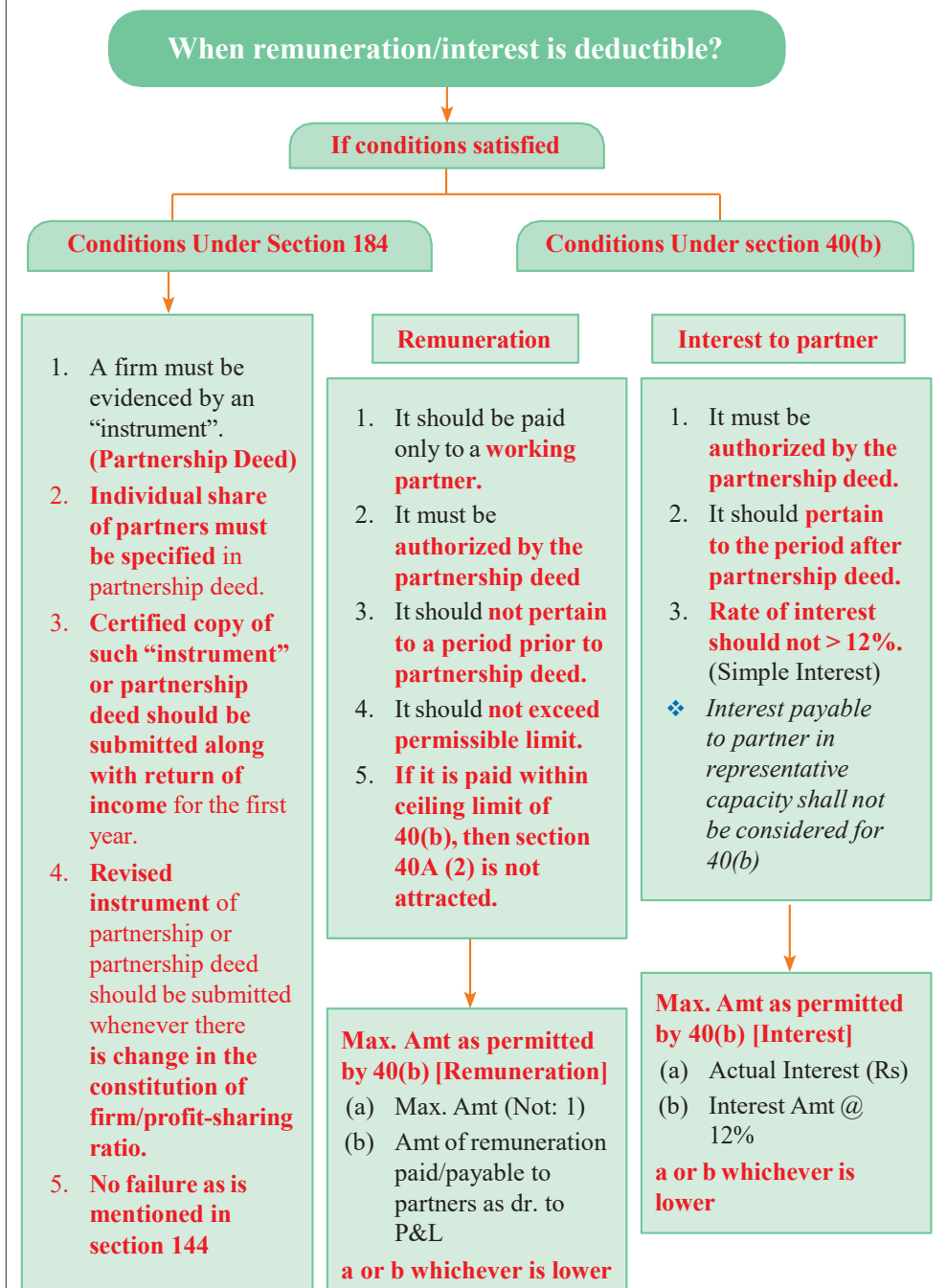
Hindu Coparcenary



TAXATION OF FIRMS



Uniform limits for both Professional Firms and Non-Professional Firms	
On the first Rs. 3,00,000 of the book-profit or in case of a loss.	Rs. 1,50,000 or 90% of the book-profit, whichever is more.
On the balance of the book-profit	60% of the book profits



ALTERNATE MINIMUM TAX [SECTION 115 JC]

Applicability:

The provisions shall be applicable to a person, other than a company, whose regular income-tax payable for a previous year is less than the alternate minimum tax payable.

- Adjusted total income to be deemed income and tax payable shall be 18.5% of adjusted total income.
- Adjusted total income shall be the total income as increased by –
 - deductions claimed u/s 80IA to 80RRB (other than section 80P); and
 - deduction under section 10AA.
 - deduction claimed U/s 35AD
- Provisions applicable when adjusted total income exceeds ₹ 20 lakhs.
- Report to be obtained from a Chartered Accountant certifying such alternate minimum tax.
- Tax Credit for alternate minimum tax
= Alternate minimum tax paid -regular income-tax payable.
 - The tax credit so allowed shall be carried forward and set-off during 15 subsequent assessment years and utilised when regular income tax payable exceeds alternate minimum tax.
 - No interest shall be payable on tax credit so allowed.

CALCULATION OF ADJUSTED TOTAL INCOME

Particulars	Amt (₹)
Taxable Income (A)	XXX
Add: Deduction claimed if any under chapter VI-A from 80H to 80RRB except 80P(B)	XXX
Add: Deduction claimed if any under section 10AA(C)	XXX
Add: Deduction claimed if any under Section 35AD reduced by regular depreciation allowed (D)	XXX
Adjusted total income (E) = (A)+(B)+(C)+(D)	XXX
AMT –18.5% of (E)	XXX

ASSESSMENT OF AOP/BOI

In case of AOP/BOI income will be determined as under:

- If any, salary, bonus, commission or remuneration is paid by AOP/BOI to its members, it will not be deductible [Sec. 40(ba)]
- Any interest paid by AOP/BOI to its members on loan, capital or borrowings by whatever name called is not deductible. [Sec. 40(ba)]
- Total income of the AOP/BOI is taxable either.
 - At the rate applicable to an Individual or
 - At the maximum marginal rate or (30% + SC + H & EC)
 - At the rate higher than the maximum marginal rate. (40% + SC + H & EC)

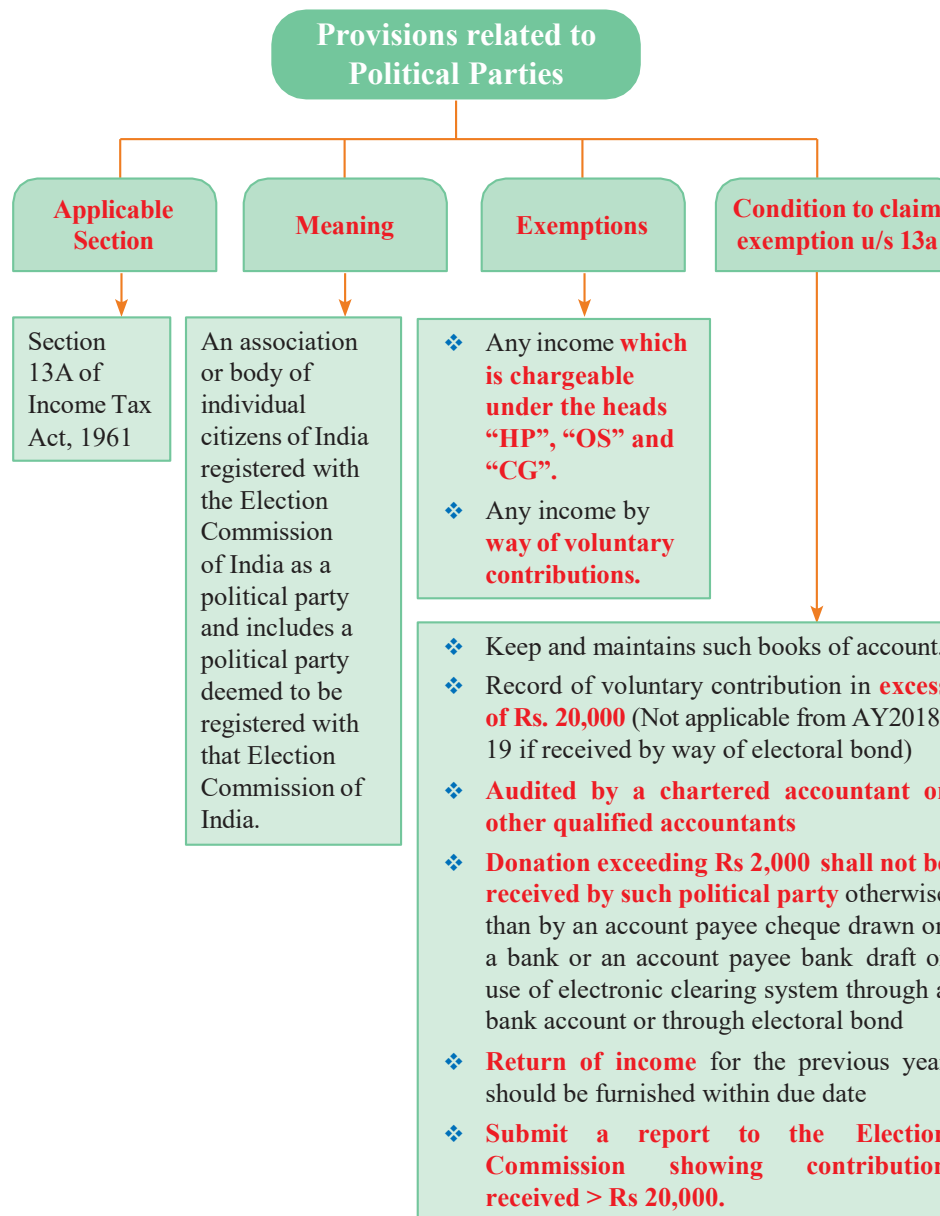
TAX RATE ON CO-OPERATIVE SOCIETY

1. Where the total income does not exceed Rs. 10,000	10% of total income
2. Where the total income exceeds Rs. 10,000 but total income does not exceed Rs. 20,000	Rs. 1,000 plus 20% of the amount by which income exceeds Rs. 10,000
3. Where the total income exceeds Rs. 20,000	Rs. 3,000 plus 30% of the amount by which income exceeds Rs. 20,000

TAX EXEMPTION TO POLITICAL PARTIES

Political Party:

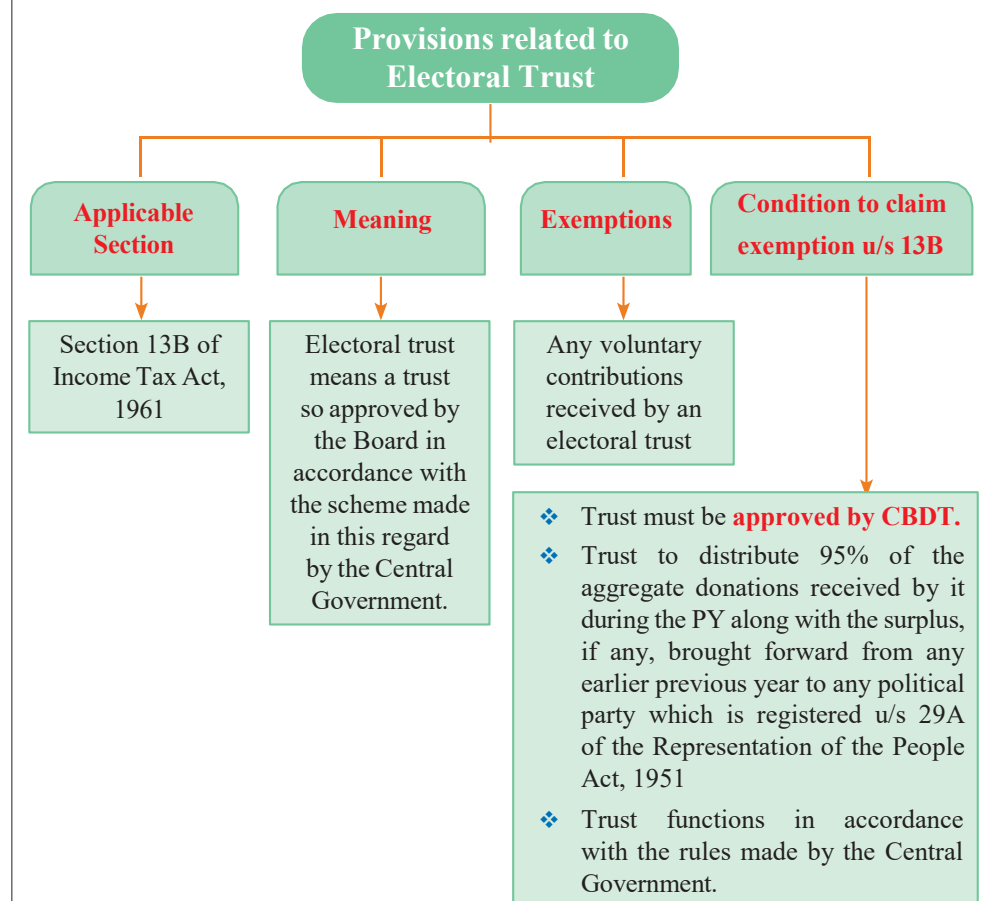
'Political Party' means an association or body of individual citizens of India registered with the Election Commission of India as a political party and includes a political party deemed to be registered with that Election Commission of India.

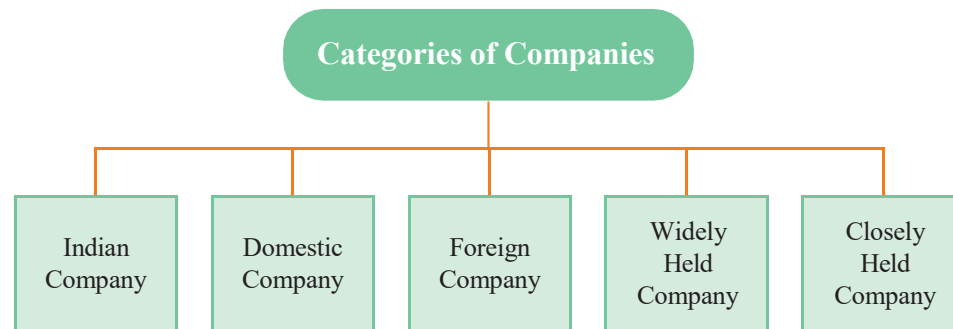


ELECTORAL TRUST

Electoral Trust:

'Electoral Trust' means a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government.



CATEGORIES OF COMPANY**MINIMUM ALTERNATE TAX (MAT)**

MAT is calculated u/s 115JB of the IT Act. Every company should pay higher of the tax calculated under the following two provisions:-

1. Tax liability as per the normal provisions of income tax act (tax rate 30% + 4% education cess + surcharge if applicable)
2. Tax liability as per the MAT provisions are given in Sec 115JB (15% of book profits + 4% education cess + surcharge if applicable)

MAT is equal to 15% of book profits (plus surcharge and cess as applicable).

MAT to be levied @ 9% in case of unit located in International Financial Services Centre [Section 115] B(7):

Where the assessee company is a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, instead of 15% of book profits, MAT shall be levied @ 9% of book profits.

MEANING OF BOOK PROFIT

Book profit means the net profit as shown in the profit and loss account for the year as increased and decreased by the following:-

Add: Following items (if they are debited to the statement of profit and loss)

1. Income-tax paid/payable and the provision thereof
2. Amounts carried to any reserves (Other than reserve specified under Section 33AC)
3. Provisions for unascertained liabilities
4. Provisions for losses of subsidiary companies
5. Dividends paid/proposed
6. Expenditure related to incomes which are exempt under section 10 [other than section 10(38)] section 11 and section 12
7. Amount of expenditure relating to, income, being share of the assessee in the income of an AOP or BOI, on which no income-tax is payable in accordance with the provision of section 86

8. The amount of expenditure accruing or arising to a taxpayer being a foreign company, from:

- ♦ The capital gains arising on transactions in securities; or
- ♦ The interest, dividend royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII

If the income-tax payable on above income is less than the rate of MAT

9. The amount representing
 - ♦ Notional loss on transfer of a capital asset, being share or a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in clause (xvii) of section 47 or
 - ♦ The amount representing notional loss resulting from any change in carrying amount of said units or
 - ♦ The amount of loss on transfer of units referred to in clause (xvii) of section 47
10. Expenditure relating to income by way of royalty in respect of patent chargeable to tax under section 115BBF
11. Amount of depreciation debited to P & L A/c
12. Deferred tax and the provision thereof
13. Provision for diminution in the value of any asset
14. The amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such an asset if not credited to statement of profit and loss
15. The amount of gain on transfer of units referred to in clause (xvii) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through statement of profit and loss as the case may be

Less: Following items (if they are credited to the statement of profit and loss)

1. Amount withdrawn from any reserve or provision
2. Incomes exempt under section 10 [other than section 10(38)] section 11 and section 12
3. Amount of depreciation debited to statement of profit and loss (excluding the depreciation on revaluation of assets)
4. Amount withdrawn from revaluation reserve and credited to statement of profit and loss to the extent it does not exceed the amount of depreciation on revaluation of assets
5. The amount of income, being the share of the taxpayer in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86, if any such amount is credited to the statement of profit and loss.
6. The amount of income accruing or arising to a taxpayer being a foreign company, from:
 - ♦ the capital gains arising on transactions in securities; or

- ♦ the interest, dividend royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII

If such income is credited to the statement of profit and loss and the income-tax payable on above income is less than the rate of MAT.

7. The amount (if any, credited to the statement of profit and loss) representing
 - ♦ notional gain on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in clause (xvii) of section 47; or
 - ♦ notional gain resulting from any change in carrying amount of said units; or
 - ♦ gain on transfer of units referred to in clause (xvii) of section 47,
8. The amount representing notional gain on transfer of units referred to in clause (xvii) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through statement of profit and loss, as the case may be.
9. Income by way of royalty in respect of patent chargeable to tax under section 115BBF
10. Aggregate amount of unabsorbed depreciation and loss brought forward in case of:
 - ♦ A company and its subsidiary and the subsidiary of such subsidiary, where, the Tribunal, on an application moved by the Central Government under Section 241 of the Companies Act, 2013 has suspended the Board of Directors of such company and has appointed new directors who are nominated by the Central Government under Section 242 of the said Act;
 - ♦ A company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Section 7 or Section 9 or Section 10 of the Insolvency and Bankruptcy Code, 2016
11. Amount of brought forward loss or unabsorbed depreciation, whichever is less as per books of account (in case of a company other than the company undergoing insolvency proceedings)
12. Profits of a sick industrial company till its net worth becomes zero/positive
13. Deferred tax, if credited to statement of profit and loss

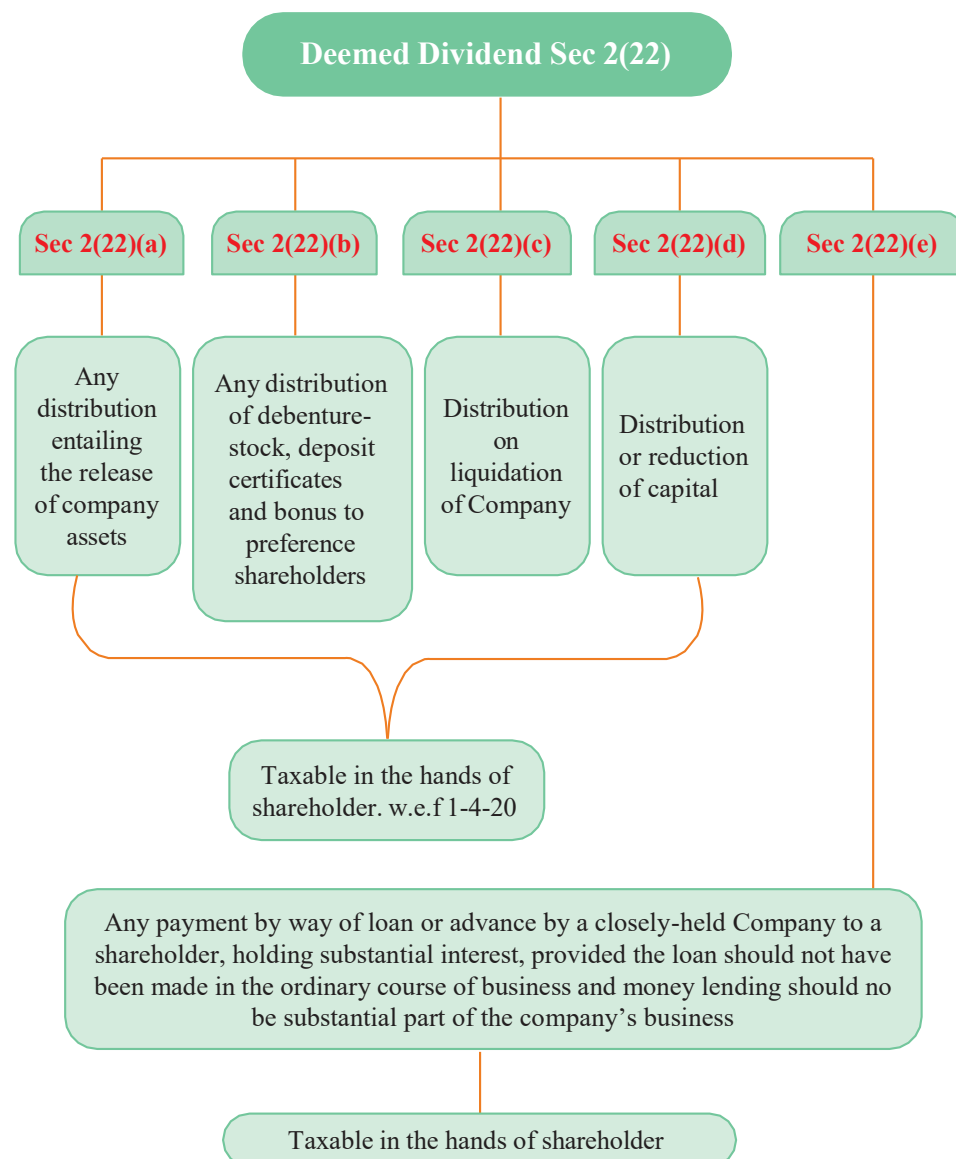
MAT CREDIT: SECTION 115-JAA

Tax credit becomes available in the assessment year in which the assessee pays minimum alternate tax in accordance with provisions of section 115JB.

MAT Credit to be set off in an AY = Regular Income Tax – Minimum Alternate Tax Carried Forward of MAT Credit

- ❖ The amount of tax credit shall be carried forward for 15 Assessment Years succeeding the assessment year in which the credit became allowable.
- ❖ In case of conversion of a company into LLP, MAT Credit available in the hands of company shall not be allowed

TAXATION OF DIVIDEND



INTER CORPORATE DIVIDEND RELIEF

Section 80M:
Deduction in respect of certain Inter Corporate Dividend (ICD)

Meaning of ICD:

When a company receives a dividend by virtue of its shareholding in another company is known as ICD.

Applicability:

To domestic companies who have declared dividends and are also in receipt of the dividend from another domestic company.

Coverage (Period):

Dividend distributed on or after the 1st of April 2020 (AY 2021-22 onwards).

Amount of Deduction (Rs.):

- A. Amount of dividend received from domestic companies
- B. Amount of dividend distributed 1 month prior to the due date of filing return

Amount of Deduction = A or B Whichever is lower

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.

CARBON CREDIT [SECTION 115 BBG]

Meaning of Carbon Credit:

- ❖ "Carbon credit" in respect of one unit shall mean reduction of one ton of carbon dioxide emissions or emissions of its equivalent gases which is validated by the United Nations Framework on Climate Change and which can be traded in market at its prevailing market price.
- ❖ It is a tradable permit or certificate to an industrial undertaking for reduction of the emission keeping in mind of global warming.

Coverage and Applicability:

- ❖ Where the total income of an assessee includes any income by way of transfer of carbon credits.

Tax Rate:

- ❖ Concessional rate of 10% (+SC+HEC) on the gross amount of such income.
- ❖ No expenditure or allowance in respect of such income shall be allowed.

BUY-BACK OF SHARES

Tax Provisions in Respect of Buy Back

	I	II	III	IV
Taxability in the hands of		Buyback of shares (listed or unlisted) by domestic companies	Buyback of shares by a company, other than a domestic company	Buyback of specified securities by any company
Company		Subject to additional income-tax @ 23.296%	Not subject to tax in the hands of the company.	Not subject to tax in the hands of the company.
Shareholder/holder of specified securities		Income arising to shareholders exempt under section 10(34A)	Income arising to shareholder taxable as capital gains u/s 46A	Income arising to holder of specified securities taxable as capital gains u/s 46A.

Taxability in Case of Buyback of Shares

Applicability:

- ❖ Buy Back of shares by domestic Company (Listed or Unlisted)
- ❖ Redemption of preference shares also amounts to buyback of shares.

Nature of Tax:

In addition to Income Tax

Tax Rate:

20% (+ surcharge @ 12% + HEC @ 4%) = 23.296%

No credit or deduction shall be claimed by the company or any person in respect of such tax paid.

Tax Levied on Distributed Income:

The consideration paid by the company on buy-back of shares	xx
Less: Amount received by the company for issue of such shares (Including Premium)	xx
Distributed Income	xx

Taxability in the hands of:

Company: Domestic Company is liable to pay tax @23.296% of Distributed Income U/S 115QA

Shareholders: Exempted u/s 10(34A) in the hands of shareholders.

Tax payment to Govt.:

Tax should be paid to the credit of the Central Government within 14 days from the date of payment of any consideration for such buyback to the shareholder

Consequences in case of default:

- ❖ **Who is liable to pay?**
The principal officer of the domestic company and the company
- ❖ **Liability**
Simple interest on leviable @ 1% for every month or part of the month on such amount of tax not paid / short paid.
- ❖ **Period of Interest**

From: The date immediately after the last date on which such tax was payable

To: The date when it was actually paid.

EQUALISATION LEVY

Person responsible for deduction of equalization levy:

- ❖ Every person being a resident in India, who carries out business / profession, or
- ❖ A non-resident who has a permanent establishment in India

Shall deduct equalization levy from the amount paid / payable to a non-resident in respect of the specified service.

Rate:

- ❖ 6% of the amount of consideration for a specified service, received / receivable by a non-resident, not having permanent establishment in India, from a resident in India, who carries out business / profession, or from a non-resident who has a permanent establishment in India, rounded off to the nearest ten rupees.
- ❖ 2% on Consideration received or receivable by E-Commerce supply of services

Threshold:

Equalization Levy is deductible if the aggregate amount of consideration for a specified service in a previous year exceeds INR 100,000.

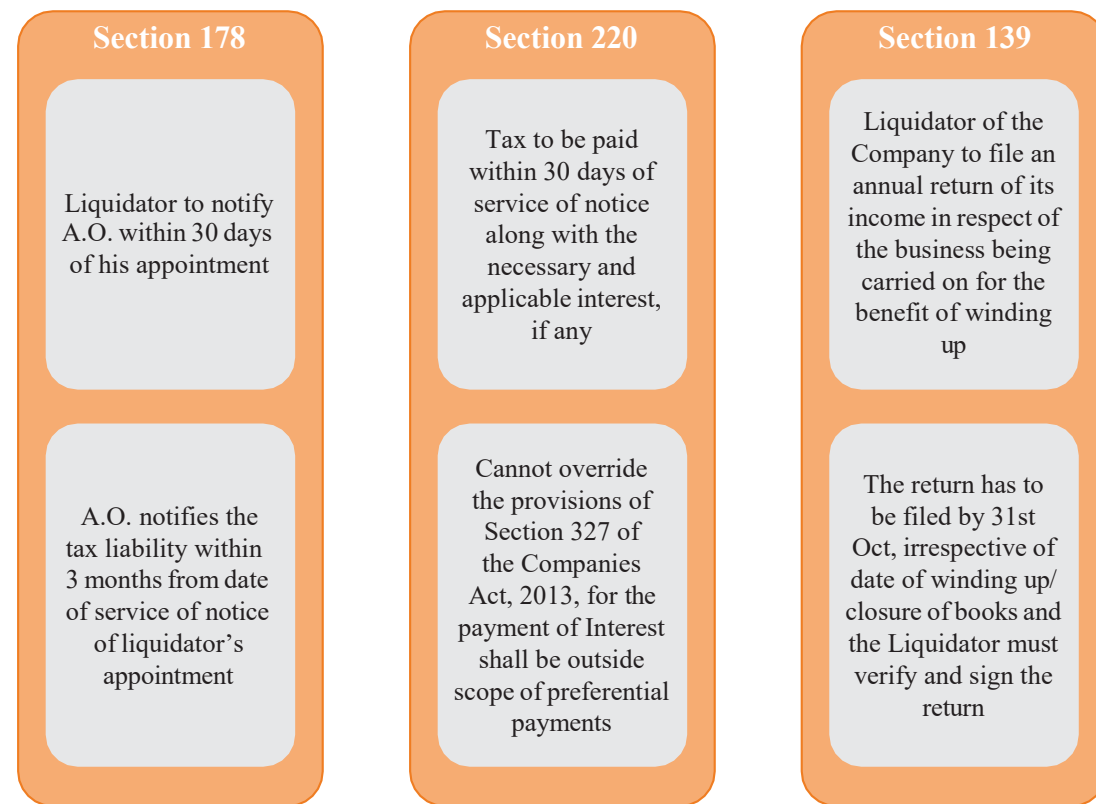
Time-period:

The Equalization Levy so deducted during any calendar month shall be paid by every assessee to the credit of the Central Government by the 7th of following month.

Consequence of failure:

Any assessee who fails to deduct, would anyway continue to be liable to pay to the credit of the Central Government, the Equalization Levy by 7th of the following month.

TAX LIABILITY OF COMPANIES IN THE EVENT OF LIQUIDATION



Taxation in case of Liquidation

In the hands of Company:

- ❖ Distribution made to the shareholders of the company on liquidation is treated as "Deemed Dividend" u/s 2(22) (c)
- ❖ If the assets of a company are distributed in the event of liquidation, then such distribution shall not be considered as "Transfer". Hence, Capital Gain shall not be applicable to the company.

In the hands of Shareholders:

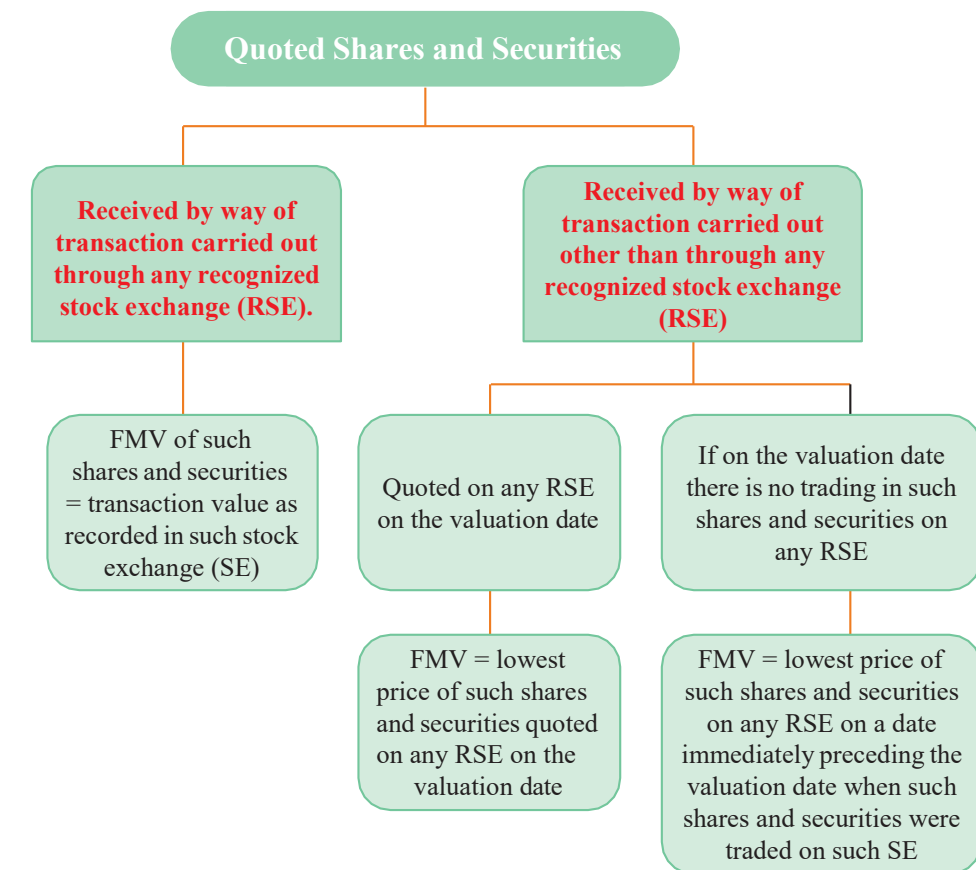
If the money or other sums received by shareholders on liquidation, then capital gain is applicable to shareholders in the year of receipt of assets and computed below:

Particulars	Amount
Consideration received	xx
Add: Fair Market Value of the assets received on date of distribution	xx
Less: Amount assessed as dividend u/s 2(22) (c)	xx
Sale Consideration	xx
Less: Cost of Acquisition of shares or Indexed Cost of Acquisition of shares	xx
Capital Gain (Short Term/Long Term)	xx

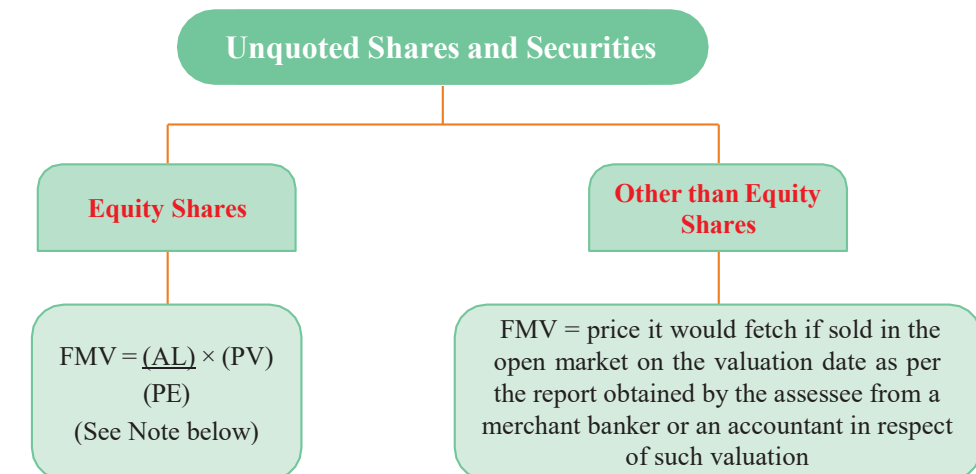
Note: Cost of Acquisition of assets shall be Fair Market Value of assets on the date of distribution u/s 55.

TAXATION OF SHARE PREMIUM

Quoted Shares And Securities



Unquoted Shares and Securities



Note:

A = Book value of the assets in the Balance Sheet as reduced by certain amounts specified in Rule 11UA(c)(b).

L = Book value of liabilities shown in the Balance Sheet but not including amounts stated in (i) to (vii) in Rule 11 UA(c)(b)

PE = Total amount of paid up equity share capital as shown in Balance Sheet

PV = the paid up value of such equity shares

TAX DEDUCTED AT SOURCE (TDS)



TDS CHART

CATEGORY A – IN CASE OF PERSON OTHER THAN COMPANY
WHEN RECIPIENT IS RESIDENT

Nature of payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
Section 192 - Payment of salary : Normal slab rates are applicable + Surcharge as applicable+ HEC @ 4%	
Section 192A - Payment of taxable accumulated balance of provident fund	10%
Section 193 - Interest on securities : a) Any debentures/securities for money issued by or on behalf of any local authority/ statutory corporation b) listed debentures of a company c) any security of the Central or State Government d) any other interest on securities (including interest on non-listed debentures)	10%
Section 194 - Dividend	10%
Section 194A - Interest other than interest on securities	10%
Section 194B - Winnings from lottery or crossword puzzle or card game or other game of any sort	30%
Section 194BA - Income by way of winning from any online game	30%
Section 194BB - Winnings from horse races	30%
Section 194C - Payment or credit to a resident contractor/sub-contractor a) payment/credit to an individual or a Hindu undivided family b) payment/credit to any person other than an individual or a Hindu undivided family	1% 2%

Nature of payment	TDS
Section 194D - Insurance commission	5%
Section 194DA - Payment in respect of life insurance policy	2%
Section 194EE - Payment in respect of deposits under National Savings Scheme, 1987	10%
Section 194F - Payment on account of repurchase of units of MF or UTI	20%
Section 194G - Commission on sale of lottery tickets	2%
Section 194H - Commission or brokerage	2%
Section 194I – Rent a) rent of plant and machinery b) rent of land or building or furniture or fitting.	2% 10%
Section 194IA - Payment/credit of consideration to a resident transferor for transfer of any immovable property (other than rural agricultural land) -	1%
Section 194IB - Payment of rent by an individual or HUF not subjected to tax audit under Section 44AB	2%
Section 194IC - Payment under Joint Development Agreement to a resident individual or HUF who transfers land or building as per such agreement	10%
Section 194J - Professional fees, royalty or remuneration to a director (2% if payee is engaged in the business of call center) i) sum paid or payable towards fees for technical services ii) sum paid or payable towards royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films;	10% 2% 2%
Section 194K – Income on units other than Capital Gains	10%
Section 194LA - Payment of compensation on acquisition of certain immovable property	10%
Section 194LBA(1) - Payment of the nature referred to in section 10(23FC) or section 10(23FC) (a) (with effect from June 1, 2016) or section 10(23FCA) by business trust to resident unit holders	10%
Section 194LBB - Payment in respect of units of investment fund specified in section 115UB	10%
Section 194LBC(1) - Payment in respect of an investment in a securitisation trust specified in clause (d) of the Explanation occurring after section 115TCA (with effect from June 1, 2016) - ❖ if recipient is an individual or a Hindu undivided family ❖ if recipient is any other person	25% 30%
Section 194 LC – Interest to Non Resident	5%

Nature of payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
Section 194 LD – Interest on RDB and Government securities	5%
Section 194 M – Payment to Contractor by Individual / HUF (Non TAN based)	2%
Section 194N : Cash withdrawal from one or more account maintained by a person with a banking company, co-operative society engaged in business of banking or a post office: i) in excess of Rs. 1 crore# ii) in excess of Rs. 20 lakhs* * for those persons who have not filed return of income (ITR) for three previous years immediately preceding the previous year in which cash is withdrawn, and the due date for filing ITR under section 139(1) has expired. The deduction of tax under this situation shall be at the rate of: a) 2% from the amount withdrawn in cash if the aggregate of the amount of withdrawal exceeds Rs. 20 lakhs during the previous year; or b) 5% from the amount withdrawn in cash if the aggregate of the amount of withdrawal exceeds Rs. 1 crore during the previous year. # The threshold limit of Rs. 1 crore is increased to Rs. 3 crores if the withdrawal of cash is made by co-operative society.	2% 2% or 5%
Section 194 O – Payment to e- commerce Participant by e-commerce operator	0.1%
Section 194 P – Deduction of tax by specified bank in case of Senior Citizen having age of 75 or more	Tax on Total income @ in force
Section 194 Q – Payment of certain sum for Purchase of Goods aggregate value exceeding Rs. 50 lakhs Note: TDS is deductible on sum exceeding Rs. 50 lakhs	0.1%
Section 194 R – Deduction of tax in case any benefit or perquisite is provided and aggregate value of such benefit/perquisite exceeds Rs. 20,000 Note: Benefit or perquisite should be arising from business or the exercise of a profession by such resident.	10%
Section 194 S – Payment on transfer of Virtual Digital Asset Note: No tax shall be deducted under this provision in the following circumstance: ❖ If the consideration is payable by any person (other than a specified person) and its aggregate value does not exceed Rs. 10,000 during the financial year ❖ If the consideration is payable by a specified person and its aggregate value does not exceed Rs. 50,000 during the financial year	1%

Nature of Payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
Specified person means:	
a) An individual or a HUF, whose total sales, gross receipts or turnover does not exceed Rs. 1 crore in case of business or Rs. 50 lakhs in case of a profession, during the financial year immediately preceding the financial year in which virtual digital asset is transferred	
b) An individual or a HUF who does not have any income under the head profits and gains of business or profession	
Any Other Income	10%

WHEN RECIPIENT IS NON-RESIDENT

Nature of Payment	TDS
Section 192 - Payment of salary : Normal slab rates are applicable + Surcharge as applicable+ HEC @ 4%	
Section 192A - Payment of taxable accumulated balance of provident fund	10%
Section 194B - Winnings from lottery or crossword puzzle or card game or other game of any sort	30%
Section 194BA - Winning from any online game	30%
Section 194BB - Winnings from horse races	30%
Section 194E - Payment to non-resident sportsmen/sports association	20%
Section 194EE - Payment in respect of deposits under National Savings Scheme, 1987	10%
Section 194F - Payment on account of repurchase of units of MF or UTI	20%
Section 194G - Commission on sale of lottery tickets	5%
Section 194LB - Payment of interest on infrastructure debt fund	5%
Section 194LBA(2) - Payment of the nature referred to in Section 10(23FC)(a)	5%
Section 194LBA(2) - Payment of the nature referred to in Section 10(23FC)(b)	10%
Section 194LBA(3) - Payment of the nature referred to in section 10(23FCA) by business trust to unit holders	30%
Section 194LBB - Investment fund paying an income to a unit holder [other than income which is exempt under Section 10(23FBB)].	30%

Nature of Payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
Section 194LBC - Income in respect of investment made in a securitisation trust (specified in Explanation of section 115TCA)	30%
Section 194 LC – Payment of interest by an Indian Company or a business trust in respect of money borrowed in foreign currency under a loan agreement or by way of issue of long- term bonds (including long-term infrastructure bond)	5%
In case where interest is payable in respect of Long-term Bond or Rupee Denominated Bond listed on recognised stock exchange located in IFSC	4%
Where money borrowed from a source outside India by issuing a long-term bond or rupee- denominated bond on or after 01-04-2023, which is listed only on a recognised stock exchange located in an IFSC	9%
Section 194 LD – Payment of interest on rupee denominated bond of an Indian Company or Government securities to a Foreign Institutional Investor or a Qualified Foreign Investor	5%
Section 195 - Payment of any other sum to a Non-resident	
a) Income in respect of investment made by a Non-resident Indian Citizen	20%
b) Income by way of long-term capital gains referred to in Section 115E in case of a Non- resident Indian Citizen	10%
c) Income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-Section (1) of Section 112	10%
d) Income by way of long-term capital gains as referred to in Section 112A	10%
e) Income by way of short-term capital gains referred to in Section 111A	15%
f) Any other income by way of long-term capital gains [not being long-term capital gains referred to in clauses 10(33), 10(36) and 112A	20%
g) Income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in Section 194LB or Section 194LC)	20%
h) Income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a license) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of Section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of Section 115A of the Income-tax Act, to a person resident in India	10%
i) Income by way of royalty [not being royalty of the nature referred to point h) above] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10%

Nature of Payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
j) Income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10%
k) Any other income	30%
Section 196B - Income from units (including long-term capital gain on transfer of such units) to an offshore fund	10%
Section 196C - Income from foreign currency bonds or GDR of an Indian company (including long-term capital gain on transfer of such bonds or GDR)	10%
Section 196D - Income of foreign Institutional Investors from securities (not being dividend or capital gain arising from such securities) Note: Tax shall be deducted at the rate provided under DTAA if same is lower than the existing TDS rate of 20%.	20%

CATEGORY B – IN CASE OF A DOMESTIC COMPANY

Nature of Payment	TDS
Section 193 - Interest on securities :	10%
a) Any debentures/securities for money issued by or on behalf of any local authority/ statutory corporation	
b) listed debentures of a company	
c) any security of the Central or State Government	
d) any other interest on securities (including interest on non-listed debentures)	
Section 194 - Dividend	10%
Section 194A - Interest other than interest on securities	10%

Nature of Payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
Section 194B - Winnings from lottery or crossword puzzle or card game or other game of any sort	30%
Section 194BA - Winning from any online game	30%
Section 194BB - Winnings from horse races	30%

Nature of Payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
Section 194C - Payment or credit to a resident contractor/sub- contractor a) payment/credit to an individual or a Hindu undivided family b) payment/credit to any person other than an individual or a Hindu undivided family	1% 2%
Section 194D - Insurance commission	10%
Section 194DA - Payment in respect of life insurance policy	2%
Section 194EE - Payment in respect of deposits under National Savings Scheme, 1987	10%
Section 194F - Payment on account of repurchase of units of MF or UTI	20%
Section 194G - Commission on sale of lottery tickets	2%
Section 194H - Commission or brokerage	2%
Section 194-I – Rent a) rent of plant and machinery b) rent of land or building or furniture or fitting	2% 10%
Section 194IA - Payment/credit of consideration to a resident transferor for transfer of any immovable property (other than rural agricultural land)	1%
Section 194IC - Payment under Joint Development Agreement to a resident individual or HUF who transfers land or building as per such agreement	10%
Section 194J - Professional fees, royalty or remuneration to a director (2% if payee is engaged in the business of call center) i) sum paid or payable towards fees for technical services ii) sum paid or payable towards royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films iii) Any Other sum	10% 2% 2% 10%
Section 194K – Income in respect of units payable to resident person	10%
Section 194LA - Payment of compensation on acquisition of certain immovable property	10%

Nature of Payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
Section 194LBA(1) - Business trust shall deduct tax while distributing, any interest received or receivable by it from a SPV or any income received from renting or leasing or letting out any real estate asset owned directly by it, to its unit holders	10%

Nature of Payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
Section 194LBB - Payment in respect of units of investment fund specified in section 115UB	10%
Section 194LBC(1) - Payment in respect of an investment in a securitization trust specified in clause (d) of the Explanation occurring after section 115TCA (with effect from June 1, 2016) - ❖ if recipient is an individual or a Hindu undivided family ❖ if recipient is any other person	25% 30%
Section 194 M – Payment of commission (not being insurance commission), brokerage, contractual fee, professional fee to a resident person by an Individual or a HUF who are not liable to deduct TDS under section 194C, 194H, or 194J Tax shall be deducted under Section 194M with effect from 1/09/2019 when aggregate of sum credited or paid during a financial year exceeds Rs. 50 lakh	2%
Section 194N: Cash withdrawal from one or more account maintained by a person with a banking company, co-operative society engaged in business of banking or a post office: i) in excess of Rs. 1 crore ii) in excess of Rs. 20 lakhs* * for those persons who have not filed return of income (ITR) for three previous years immediately preceding the previous year in which cash is withdrawn, and the due date for filing ITR under section 139(1) has expired. The deduction of tax under this situation shall be at the rate of: a) 2% from the amount withdrawn in cash if the aggregate of the amount of withdrawal exceeds Rs. 20 lakhs during the previous year; or b) 5% from the amount withdrawn in cash if the aggregate of the amount of withdrawal exceeds Rs. 1 crore during the previous year. # The threshold limit of Rs. 1 crore is increased to Rs. 3 crores if the withdrawal of cash is made by co-operative society.	2% 2% or 5%
Section 194 O – Payment to e- commerce Participant by e-commerce operator	0.1%
Section 194 P – Deduction of tax by specified bank in case of Senior Citizen having age of 75 or more	Tax on Total income @ in force
Section 194 Q – Payment of certain sum for Purchase of Goods aggregate value exceeding Rs. 50 lakhs Note: TDS is deductible on sum exceeding Rs. 50 lakhs	0.1%
Section 194 R - Deduction of tax in case any benefit or perquisite is provided and aggregate value of such benefit/perquisite exceeds Rs. 20,000 Note: Benefit or perquisite should be arising from business or the exercise of a profession by such resident	10%

Nature of Payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
Section 194 S- Payment on transfer of Virtual Digital Asset Note: No tax shall be deducted under this provision in the following circumstance: ❖ If the consideration is payable by any person (other than a specified person) and its aggregate value does not exceed Rs. 10,000 during the financial year ❖ if the consideration is payable by a specified person and its aggregate value does not exceed Rs. 50,000 during the financial year Specified person means: a) An individual or a HUF, whose total sales, gross receipts or turnover does not exceed Rs. 1 crore in case of business or Rs. 50 lakhs in case of a profession, during the financial year immediately preceding the financial year in which virtual digital asset is transferred b) An individual or a HUF who does not have any income under the head profits and gains of business or profession	1%
Section 194T: TDS on payment of salary, remuneration, interest, bonus or commission by partnership firm to partners. Threshold Limit : Rs.20,000 during financial year	10%
Any other Income	10%

CATEGORY C – IN CASE OF A NON-DOMESTIC COMPANY

Nature of Payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
Section 194B - Winnings from lottery or crossword puzzle or card game or other game of any sort	30%
Section 194BA - Winning from any online game	30%
Section 194E - Payment to non-resident sports association	20%
Section 194G - Commission on sale of lottery tickets	5%
Section 194LB- Payment of interest on infrastructure debt fund	5%
Section 194LBA(2): - Payment of the nature referred to in Section 10(23FC)(a)	5%
Section 194LBA(2): Payment of the nature referred to in Section 10(23FC)(b)	10%
Section 194LBA(3): Business trust shall deduct tax while distributing any income received from renting or leasing or letting out any real estate asset owned directly by it to its unit holders.	40%

Nature of Payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
Section 194LBB: Investment fund paying an income to a unit holder [other than income which is exempt under Section 10(23FBB)].	40%
Section 194LBC: Income in respect of investment made in a securitization trust (specified in Explanation of section 115 TCA)	40%
Section 194LC: Payment of interest by an Indian Company or a business trust in respect of money borrowed in foreign currency under a loan agreement or by way of issue of long-term bonds (including long-term infrastructure bond) * In case where interest is payable in respect of Long-term Bond or Rupee Denominated Bond listed on recognised stock exchange located in IFSC [rate will be 4%] Where money borrowed from a source outside India by issuing a long-term bond or rupee-denominated bond on or after 01-04-2023, which is listed only on a recognised stock exchange located in an IFSC	5%
Section 194LD: Payment of interest on rupee denominated bond of an Indian Company or Government securities to a Foreign Institutional Investor or a Qualified Foreign Investor	5%
Section 195- Payment of any other sum to a Non-resident	
a) Income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-section (1) of Section 112	10%
b) Income by way of long-term capital gains as referred to in Section 112A	10%
c) Income by way of short-term capital gains referred to in Section 111A	15%
d) Any other income by way of long-term capital gains [not being long-term capital gains referred to in clauses 10(33), 10(36) and 112A	20%
e) Income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in Section 194LB or Section 194LC)	20%
f) Income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of Section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of Section 115A of the Income-tax Act, to a person resident in India	10%

Nature of payment	TDS (SC : Nil, EC : Nil, SHEC : Nil)
Income by way of royalty [not being royalty of the nature referred to in point f) above] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy – where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 where the agreement is made after the 31st day of March, 1976	50% 10%
Income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy— where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 where the agreement is made after the 31st day of March, 1976	50% 10%
k) Any other income	40%
Section 196B: Income from units (including long-term capital gain on transfer of such units) to an offshore fund	10%
Section 196C: Income from foreign currency bonds or GDR of an Indian company (including long-term capital gain on transfer of such bonds or GDR)	10%
Section 196D: Income of foreign Institutional Investors from securities (not being dividend or capital gain arising from such securities) Note: Tax shall be deducted at the rate provided under DTAA if same is lower than the existing TDS rate of 20%.	20%

* The rate of TDS shall be increased by applicable surcharge and Health & Education cess.

TIME LIMIT FOR DEPOSITING OF TDS

Sr. No.	Month	Non-Govt. Deductors	Government Deductors
1.	April to February	7th of the next month in which TDS is deducted	<ul style="list-style-type: none"> Same day in cases TDS deposited without challan no. ITNS 281. 7th of the next month in which TDS is deducted in cases TDS deposited with challan

Sr. No.	Month	Non-Govt. Deductors	Government Deductors
2.	March	30th April of next financial year	<ul style="list-style-type: none"> Same day in cases TDS deposited without challan no. ITNS 281. 7th of the next month in which TDS is deducted in cases TDS deposited with challan

DUE DATE FOR ISSUE OF TDS CERTIFICATE

Form 16: 31st May of the Next Financial year in which tax is deducted.

Form 16A: Within 15 days from due date for furnishing the statement of tax deducted under rule 31A

Quarter ended	Due date of Form 16A
30th June	15th August
30th September	15th November
31st December	15th February
31st March	15th June

Form 16B: Within 15 days from the due date for furnishing the challan cum statement in Form 26QB.

Form 16C: Within 15 days from the due date for furnishing the challan cum statement in Form 26QC.

TDS FORMS & RETURNS

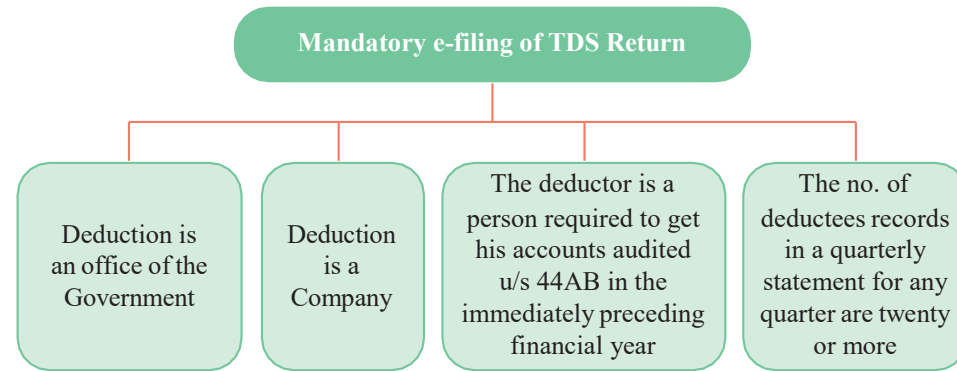
Form No.	Particulars
Form 24Q	Statement for tax deducted at source from salaries and Section 194P
Form 26Q	Statement for tax deducted at source on all payments except salaries (other than Section 194P)
Form 27Q	Statement for deduction of tax from interest, dividend, or any other sum payable to non-residents
Form 26QB	For section 194IA separate return is not required, challan cum return to be filed on Form 26QB to be deposited within a period of 30 days from the end of the month in which the deduction is made
Form 26QC	TDS on Rent

TDS RETURN

Quarter ended	Due Date for Form 24Q & Form 26Q	Form 27Q	Form 26QB / 26QC
April to June	31st July	31st July	30 days from the end of the month in which TDS is deducted
July to Sept	31st Oct	31st Oct	
Oct to Dec	31st Jan	31st Jan	
Jan to March	31st May	31st May	

Note: 'Nil' TDS return is not mandatory, however to facilitate the deductors and update data, the government has provided a facility for declaring nil TDS return.

E-TDS RETURN



Other than the above, any deductor may also opt to file their TDS Return electronically.

TAX COLLECTION AT SOURCE (TCS) [SECTION 206C]

Tax collection at source is a tax collected by the seller which he collects from the buyer at the time of sale. The specified percentage for collection of tax at source is as follows:

S.No.	Particulars	Rate of TCS
1.	Alcoholic liquor for human consumption	1%
2.	Indian made foreign liquor	1%
3.	Tendu leaves	5%
4.	Timber obtained under a forest lease	2.5%
5.	Timber obtained by any mode other than under a forest lease	2.5%
6.	Any other forest produce not being timber or tendu leaves	2.5%
7.	Scrap	1%
8.	Minerals, being coal or lignite or iron ore	1%
9.	Parking lot, toll plaza, mining and quarrying	2%
10.	Motor car of value exceeding 10 Lakhs	1%

REQUIRED TO FURNISH PAN BY COLLECTEE [SECTION 206CC]

Notwithstanding anything contained in any other provisions of this Act, any collectee shall furnish his PAN to the collector, failing which tax shall be collected at the higher of the following rates, namely: -

- ❖ At twice the normal rate specified in the relevant provision of this Act; or
- ❖ At the rate of 5%

Subject to a maximum of 20%

TDS / TCS FOR NON-FILERS OF INCOME TAX RETURN [SECTION 206AB / 206CCA]

Section 206AB and Section 206CCA has been inserted to provide for a higher rate of withholding tax / collection of tax for taxpayers not furnishing / filing return of income. The withholding tax rate shall be higher of the below:

- ❖ At twice the rate specified in the relevant provision of the Act; or

- ❖ At twice the rate or rates in force; or
- ❖ At the rate of 5%.

Section 206CCA will be applied on any sum or amount received by a collectee from a specified person. The tax collection rate in the said Section shall be higher of the following:

- ❖ Twice the rate specified in the relevant provision of the Act; or
- ❖ The rate of 5%.

ADVANCE TAX

Where the advance tax liability of the assessee is Rs. 10,000 or more, the assessee should pay such tax in the previous year itself within the due date.

DUE DATE FOR PAYMENT OF ADVANCE TAX:

Particulars	In case of all assessee	Eligible assessee carrying on eligible business u/s 44AD or 44ADA
On or before June 15	15 % of such advance tax	
On or before Sep 15	45% of Advance Tax Payable	
On or before Dec 15	75% of Advance Tax Payable	
On or before March 15	100% of Advance Tax Payable	100% of Advance Tax Payable

SELF-ASSESSMENT TAX (SAT)

Self-assessment tax means tax paid by the assessee on the basis of self-assessment before filing of return of Income.

The total tax payable is calculated on the total income of the assessee after considering the following amount:

- ❖ The amount of tax already paid under any provision of this Act;
- ❖ Any tax deducted or collected at source;
- ❖ Any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;
- ❖ Any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and
- ❖ Any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD.

Self-assessment tax shall also include interest for delay and fee for delay under section 234F.

DUE DATE FOR FILING RETURN OF INCOME

Status of the Tax Payer	Due Date
Any company other than a company who is required to furnish a report in Form No. 3CEB under section 92E	31st October of the assessment year
Any person [including the partners of the firm or the spouse of such partner (if the provisions of section 5A applies to such spouse)], being such assessee who is required to furnish a report in Form No. 3CEB under section 92E	30th November of the assessment year

Status of the Tax Payer	Due Date
Any person (other than a company) whose accounts are to be audited under the Income-tax Law or under any other law	31st October of the assessment year
A working partner of a firm whose accounts are required to be audited under this Act or under any other law or the spouse of such partner if the provisions of section 5A applies to such spouse	31st October of the assessment year
Any other assessee	31st July of the assessment year

RETURN OF LOSS [SECTION 139(3)]

Following assessee need to file return of income irrespective of income or loss.

- ❖ A Company.
- ❖ A firm, and
- ❖ A University College / other institution referred to on Sec. 35(1)(ii) or (iii).

An assessee other than above 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).

- Business loss (speculative or otherwise).
- Capital loss.
- Loss from the activity of owning and maintaining race

BELATED RETURN [SECTION 139(4)]

If return is not filed within the specified time, the assessee may file a belated return u/s 139 (4), at any time before

- ❖ Three months prior to the end of the relevant assessment year

OR

- ❖ Completion of the assessment

Whichever is earlier

FILING OF RETURN

Section	Assessee	Size of Income
139(4A)	Trust	Must file return if income before exemption u/s. sec. 11 or 12 exceeds maximum amount not chargeable to tax.
139(4B)	Political party	Must file return if GTI before exemption u/s 13A exceeds maximum amount not chargeable to tax.
139(4C)	Scientific research association; News agency; etc.	Must file return if income before giving effect u/s. 10 exceeds maximum amount not chargeable to tax.

Section	Assessee	Size of Income
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)

REVISED RETURN [SECTION 139(5)]

Return filed u/s 139(1) or u/s 139(4) can be revised u/s 139(5), if any omission or any wrong statement is discovered by the assessee, at any time before

- ❖ End of the relevant assessment year
- OR
- ❖ Completion of the assessment

Whichever is earlier

UPDATED RETURN [SECTION 139(8A)]

Any person may furnish an updated return of his for the previous year relevant to such assessment year. The provisions given below pertaining to updated return are applicable from April 1, 2023 –

- ❖ Updated return under section 139(8A) can be submitted at any time within 24 months from the end of the relevant assessment year. For instance, updated return for the assessment year 2023-24 can be submitted on or before March 31, 2025.
- ❖ Updated return can be submitted by any person whether (or not) he has furnished a return under section 139(1)/(4)/(5) for an assessment year

FEE AND INTEREST

INTEREST FOR DEFAULT IN FURNISHING RETURN OF INCOME [SEC. 234A]

Condition:

Where a person, who is required to furnish return of Income:

- ❖ Fails to furnish a return; or
- ❖ Furnish it after the due date specified u/s. 139(1).

Rate of Interest:

Simple interest @ 1% per month or part thereof.

INTEREST FOR DEFAULT IN PAYING ADVANCE TAX [SEC. 234B]

Condition:

Where a person, who is required to pay advance tax, fails to pay:

- ❖ Advance tax at all; or
- ❖ 90% of assessed tax as advance tax.

Rate of Interest:

Simple interest @ 1% per month or part thereof

FOR DEFERMENT OF ADVANCE TAX [SEC. 234C]

Condition:

Payment of advance tax is to be made as per the schedule. In case assessee fails to pay the

amount or pays lesser amount as required by the schedule, then assessee will have to pay interest u/s.234C for such deferment.

Specified % of tax for calculation of interest under this section:

All assessee other than 44AD

On or before June 15	Not less than 15% of tax
On or before Sept. 15	Not less than 45% of tax as reduced by the amount paid in the earlier instalment
On or before December 15	Not less than 75% of tax as reduced by the amount paid in the earlier instalments.
On or before March 15	The whole amount of tax as reduced by the amount paid in the earlier instalments.

FEEES FOR DELAY IN FURNISHING RETURN OF INCOME [SECTION 234F]

Situation	Fees
If return is furnished after due date specified under section 139(1)	Rs. 5,000
In cases where the total income does not exceed Rs 5,00,000 then the fees shall not exceed	Rs. 1,000



INDIRECT TAX (GST & CUSTOM)

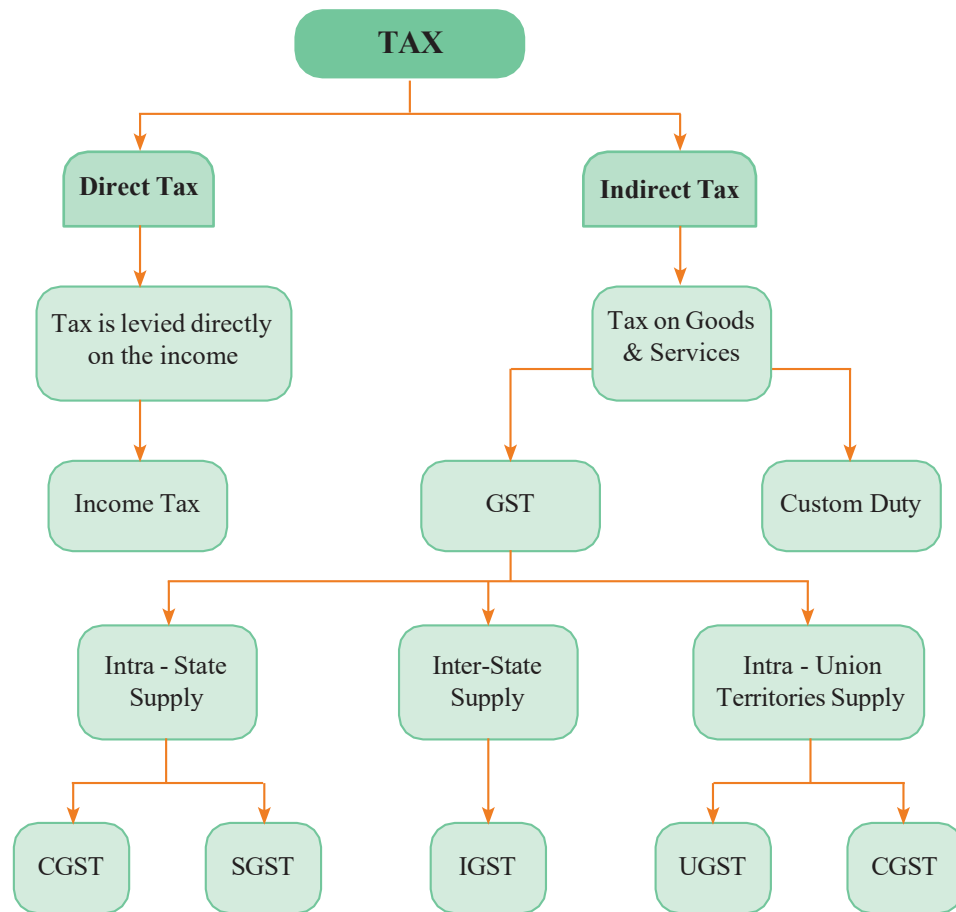


MEANING OF TAX

- A tax is a compulsory financial charge or some other type of levy imposed on a taxpayer (an individual or legal entity) by a governmental organization in order to fund government spending and various public expenditures (regional, local, or national).
- Taxes are considered to be the “cost of living in a society”.

CLASSIFICATION OF TAX

Taxes are usually classified into two categories. These are direct tax and indirect tax.



Direct Taxes: Taxes which are directly levied on Income of the person and its burden cannot be shifted. It is the payment made by the assessee directly to the government after income is received.

For example: Income Tax, Gift Tax etc.

Indirect Taxes: Indirect taxes are imposed on the price of goods or services. Person paying the indirect tax can shift the incidence to another person.

For example: GST or Customs duty.

DIRECT VS. INDIRECT TAX

Differences between Direct Tax and Indirect Tax

Point of Difference	Direct Tax	Indirect Tax
Meaning	Direct tax is a tax wherein the levy of tax is made on a person and the responsibility of paying such tax is fixed on that person.	In this the levy of tax is made on one person and the responsibility of paying the tax to the Government is fixed on some other person.
Levy	Direct tax is levied on Income and wealth.	Indirect tax is levied on goods and services.
Transfer of Tax Burden	The burden of direct tax cannot be transferred to other person.	The burden of indirect tax can be transferred to the end users.
Effect	The purpose of direct tax is to redistribute the wealth of a nation.	Indirect tax Increases the price of goods or services.
Example	Income Tax.	Goods and Services Tax.
Penalty	It is levied on the Assessee.	It is levied on supplier of Goods & Services.

OBJECTIVE OF TAXATION

Objectives of taxes have been developed when the functions of the Government are developed. The Objectives of taxation in brief are as under:-

- Source of Revenue to Government
- Redistribution of Income and Wealth
- Social welfare
- Safety of society from bad and injurious customs
- Economic significance of Taxes
- Economic growth:
- Enforcing government policy
- Economic stability

IMPORTANT TERMS:

Income tax:

Income tax is a tax charged on the annual income of an individual or business earned in a financial year. The Income Tax system in India is governed by The Income Tax Act, 1961, which lays out the rules and regulations for income tax calculation, assessment, and collection.

Goods and Services Tax (GST):

The goods and services tax (GST) is a tax on goods and services sold domestically for consumption. The tax is included in the final price and paid by consumers at point of sale and passed to the government by the seller. The GST is usually taxed as a single rate across a nation.

Custom:

Customs duty refers to the tax imposed on goods when they are transported across international borders. In simple terms, it is the tax that is levied on import and export of goods. The government uses this duty to raise its revenues, safeguard domestic industries, and regulate movement of goods.

ERSTWHILE INDIRECT TAXATION IN INDIA

The following diagram summarizes the erstwhile indirect taxation in India

Tax	Tax Law	Taxable Event	Tax Collection authority	VII Schedule-Constitution of India
Customs Duty	Customs Act, 1962	Import/Export	Central Govt.	83
Central Excise	Central Excise Act, 1944	Manufacture Production	Central Govt.	84
Central Sales	Central Sales Tax Act, 1956	Interstate	State Govt.	92
Service Tax	Finance Act, 1994	Taxable service	Central Govt.	97
VAT	State VAT Act	Sale within the State	State Govt.	54 of state list

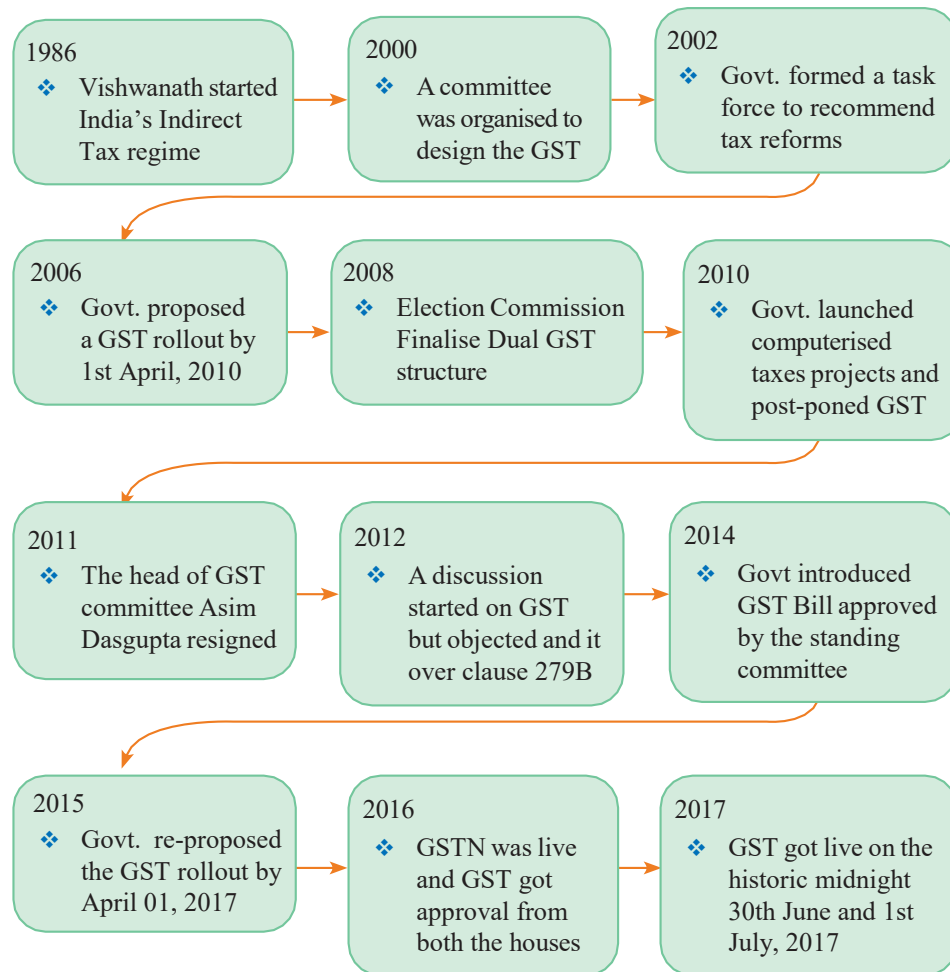
PROBLEMS UNDER EARLIER LAW

Major reasons for implementation of a new indirect tax regime were problems of Previous regime. Some of these are listed below.

- Multiple Tax
- Multiple Taxable event
- Cascading effect
- No Uniformity
- Classification issue
- Different department for different types of taxes
- Higher compliance, etc.

HISTORY OF GST IN INDIA

The following diagram summarizes the history of GST in India.



ACTS UNDER GST

Gst Consist of the Following Acts

- i. Central Goods and Services Tax Act, 2017
- ii. State Goods and Services Tax Act, 2017
- iii. Integrated Goods and Services Tax Act, 2017
- iv. Union Territory Goods and Services Tax Act, 2017
- v. Goods and Services (Compensation to States) Act, 2017.

Dual Gst Model

- ❖ The Dual GST Model refers to a concept where both the Centre and States simultaneously levy taxes on the supply of goods and services while the administration is run separately.
- ❖ India has adopted a dual GST model, i.e., where the tax is imposed concurrently by the Centre and the States.
- ❖ For an intra-State sale, the GST is equally divided between the Centre and the State (CGST + SGST), and for inter-State sales, the GST is collected by the Centre (IGST). Sections 7 and 8 of the IGST Act deal with the criteria for determining whether a supply is inter-State or intra-State in nature.
- ❖ Considering the federal nature of Indian Constitution, dual model of GST was required
- ❖ GST model is adopted from Canada.
- ❖ Currently Brazil & Canada also follows dual GST Model.
- ❖ In India, GST is uniformly applicable all over India including the State of Jammu and Kashmir.

Note: GST was launched on July 1, 2017.

MATTERS KEPT OUTSIDE THE PURVIEW OF GST

- ❖ **The following subject matters are kept outside the purview of GST**
 - ♦ Alcohol for human consumption

♦ Petroleum Products:

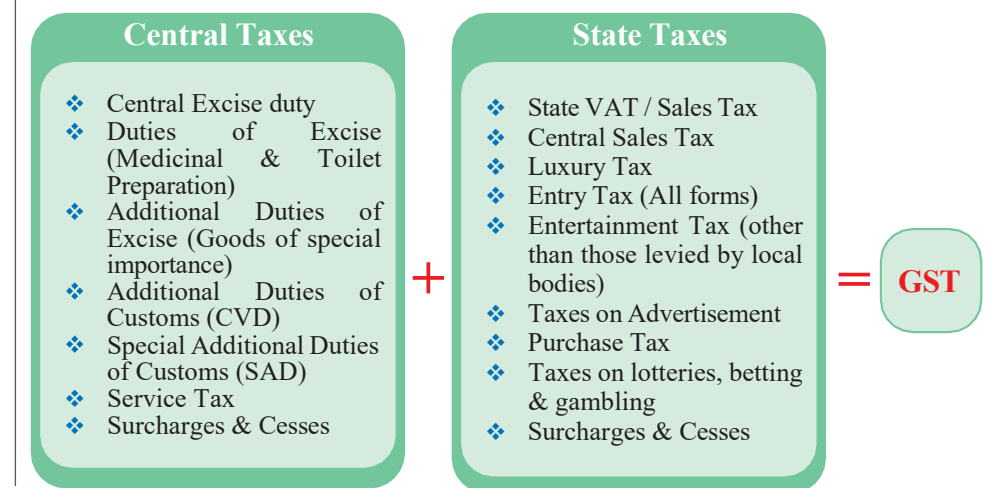
- Petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel
- ♦ Electricity
- ♦ Property taxes, such as stamp duty
- ♦ Motor vehicles tax
- ♦ Entertainment tax collected by local bodies.

Notes:

- i. Tobacco and tobacco products would be subject to GST. In addition, the Centre would have the power to levy Central Excise duty on these products
- ii. Though, electricity has not been explicitly excluded from GST but it is considered as Nil rated in GST and continues to be charged with pre-GST taxes, i.e., electricity duty by the State Governments

TAXES SUBSUMED WITHIN GST

The following taxes have been subsumed within GST



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GST IN INDIA

- ❖ GST is implemented with an intention for supporting the Make in India initiative.
- ❖ GST is a consumption-based tax which is levied on the basis of “Destination principle.”
- ❖ The essence of GST is in removing the cascading effects

CONSTITUTIONAL POWERS OF TAXATION

Power to levy and collect taxes whether, direct or indirect emerges from the Constitution of India. In case any tax law, be it an act, rule, notification or order is not in conformity with the Constitution, it is called ultra vires the constitution and is illegal and void.

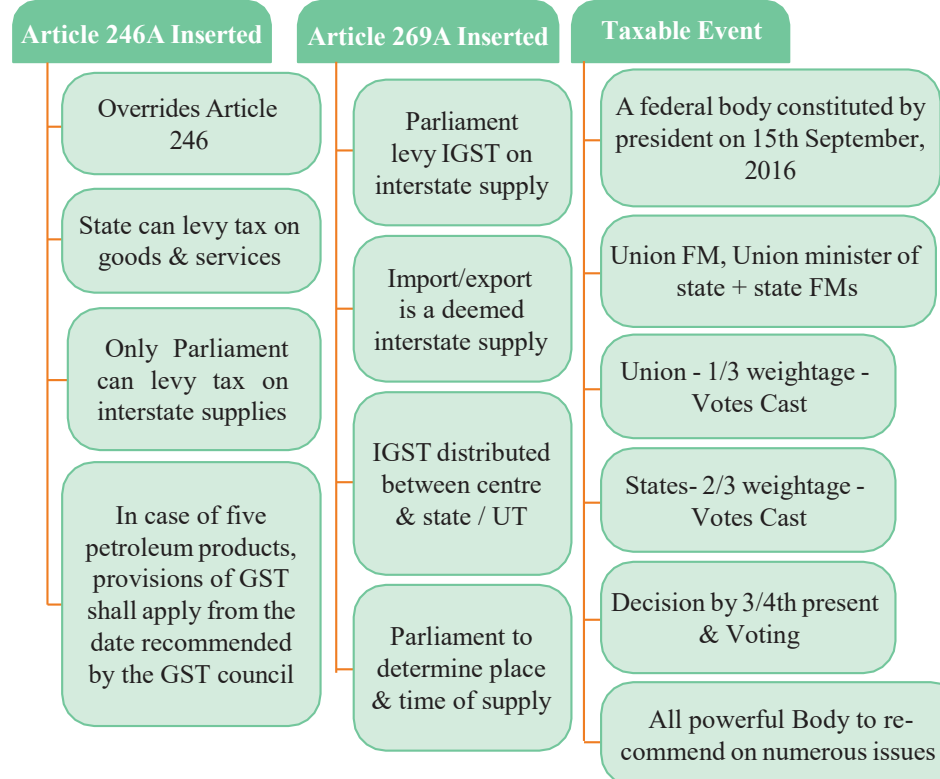
SIGNIFICANT PROVISION OF CONSTITUTION RELATING TO TAXATION

ARTICLE 265	<ul style="list-style-type: none"> ❖ Prohibits arbitrary collection of tax. ❖ No tax shall be levied or collected except by authority of law”. The term “authority of law.”
ARTICLE 246	<ul style="list-style-type: none"> ❖ Parliament may make laws for the whole of India or any part of the territory of India, ❖ The State Legislature may make laws for whole or part of the State. ❖ It gives the respective authority to Union and State Governments for levying tax.

SEVENTH SCHEDULE TO ARTICLE 246:

Schedule VII- Enumerates powers under three lists

List I - Union List	Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule.
List II - State List	The Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule.
List III - Concurrent List	Parliament or the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule.



Article 279A	<p>1. GST Council would consist of the following members –</p> <ol style="list-style-type: none"> The Chairperson of the council would be the Union Finance Minister of the country. The Union Minister of State would be a member of the GST Council. He/she would be in charge of Revenue of Finance. The members of the GST Council would be the minister who is in charge of finance or taxation or any other minister as nominated by the respective State Governments. Each State Government would nominate 1 minister to act as a member of the GST Council. <p>2. GST Council is the Key decision making body.</p> <p>3. While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonized structure of goods and services tax and for the development of a harmonized national market for goods and services.</p>
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	<p>4. GST Council shall make recommendations on –</p> <ol style="list-style-type: none"> Taxes, cesses and surcharges levied & subsumed, exemptions, principles of levy, apportionment, place of supply, threshold limit of turnover, rates. Special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand. Date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel. <p>5. Quorum – ½ (Half or 50%)</p> <p>6. The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute –</p> <ol style="list-style-type: none"> between the Government of India and one or more States; or between the Government of India and any State or States on one side and one or more other States on the other side; or Between two or more States, arising out of the recommendations of the Council or implementation thereof.
Article 366	<ul style="list-style-type: none"> ❖ GST: Tax on Goods or Services Except alcoholic liquor for human consumption ❖ Service: Anything other than Goods. ❖ State: States includes territory with legislature

IMPORTANT DEFINITION

1. GOODS [SECTION 2(52)]:

Section 2(52) of CGST Act defines Goods wherein Goods means any kind of “Movable Property”

Excludes-

- ♦ Money and
- ♦ Securities

Includes-

- ♦ Actionable Claims,

- ♦ growing crops,
- ♦ grass and
- ♦ Things attached to or forming part of the land

which are agreed to be severed before supply or under a contract of supply.

2. SERVICE [SECTION 2(102)]:

Section 2(102) of CGST Act defines Service wherein Service means anything

Excludes-

- ♦ Goods,
- ♦ Money and
- ♦ Securities

Includes -Activity relating to use of money where separate consideration is charged.

3. MONEY [SECTION 2(75)]

Section 2(75) defines Money wherein money means

- ♦ Indian legal tender
- ♦ Foreign currency

- ♦ Cheque
- ♦ Draft
- ♦ Promissory notes/ Bill of exchange etc.

Does not include: Any currency that is held for its numismatic value (Face Value not equal to Market Value)

SPECIAL CATEGORY STATES UNDER GST IN INDIA

There are the 11 states in India which have the status of special category states under GST:

- ❖ Arunachal Pradesh
- ❖ Assam
- ❖ Himachal Pradesh
- ❖ Manipur
- ❖ Meghalaya
- ❖ Mizoram
- ❖ Nagaland

- ❖ Sikkim
- ❖ Tripura
- ❖ Uttarakhand
- ❖ Telangana

UNION TERRITORY

“Union territory” means the territory of,—

- The Andaman and Nicobar Islands;
- Lakshadweep;
- Dadar & Nagar Haveli and Daman & Diu
- Chandigarh;
- Ladakh.

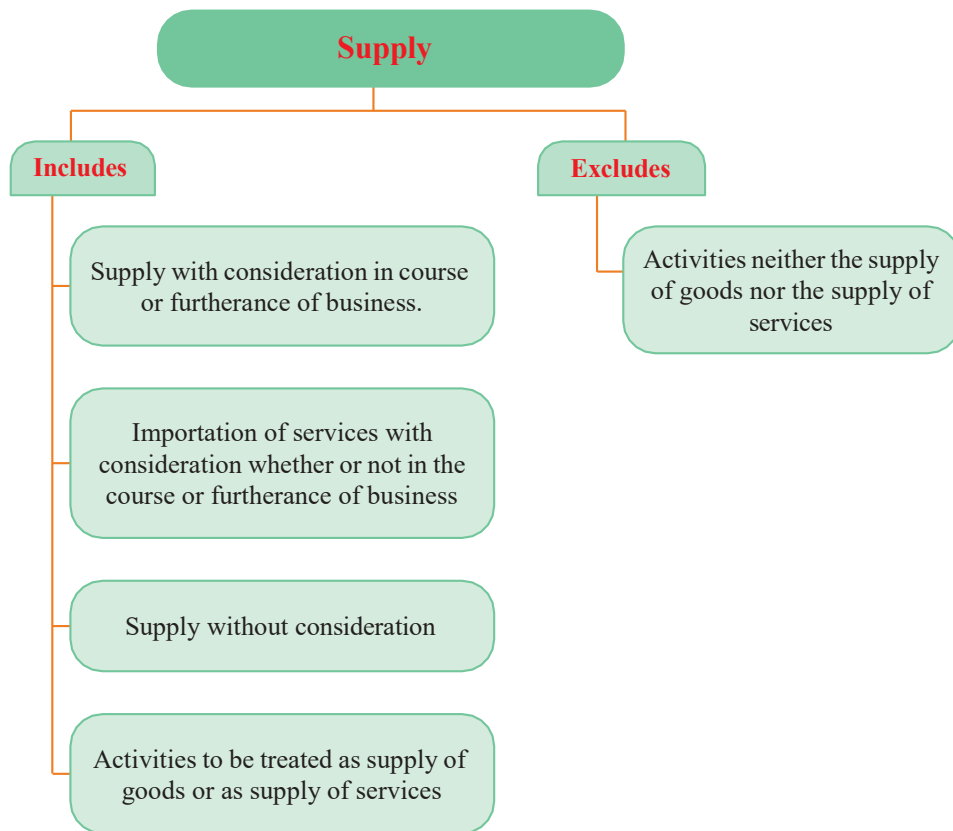
Explanation.— For the purposes of this Act, each of the territories specified in sub clauses (i) to (vi) shall be considered to be a separate Union territory;



REGULATORY FRAMEWORK

Section 7	Meaning and scope of supply
Section 8	Taxability of composite and mixed supplies
Schedule I	Activities to be treated as supply even if made without consideration
Schedule II	Activities or transactions to be treated as supply of goods or as supply of services
Schedule III	Activities or transactions which shall be treated neither as supply of goods nor as supply of services.

MEANING AND SCOPE OF SUPPLY [SECTION 7]



SECTION 7(1) (a):

All forms of supply of goods or service or both such as sale, transfer, barter, exchange, licence, rental, lease, or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

SECTION 7(1) (aa):

The activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

SECTION 7(1) (b):

Importation of service for a consideration whether or not in the course of furtherance of Business.

SECTION 7(1) (c):

The activities specified in schedule 1 made or agreed to be made without a consideration.

SECTION 7(2):

Notwithstanding anything contained in sub-section (1)

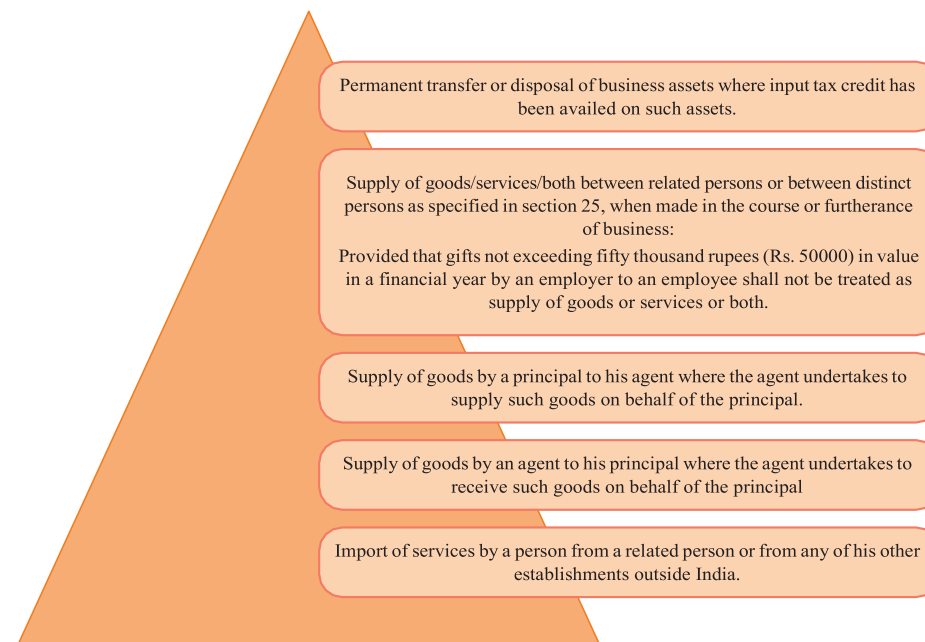
- (a) Activities or transactions specified in Schedule III; or
- (b) Such activities or transactions undertaken by the Central Government, a State Government or any Local Authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

SECTION 7(3):

Subject to the provisions of subsections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as –

- (a) A supply of goods and not as a supply of services; or
- (b) A supply of services and not as a supply of goods.

SCHEDULE I: ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION



SCHEDULE II: ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR AS SUPPLY OF SERVICES

Treated as Goods

1. If goods forming part of assets transferred or disposed of so as no longer to form part of those assets, whether or not for consideration, is supply of goods;
2. If person forming part of assets deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless business is transferred as going concern to another person; or business is carried on by a personal representative who is deemed to be a taxable person.
3. Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

Treated as Service

1. Any lease, tenancy, easement, licence to occupy land is a supply of services.
2. Any lease or letting out of building a commercial, industrial or residential complex for business or commerce, either wholly or partly is a supply of services.
3. Any treatment or process which is applied to another person's goods is a supply of services.
4. Goods held or used for purposes of business put to any private use or are used, or made available to any person for use, for any purpose other than purpose of business, whether or not for consideration, is a supply of services;
5. Renting of immovable property;
6. Construction of complex, building, civil structure or part thereof, including complex or building intended for sale to buyer, wholly or partly, except where entire consideration received after issuance of completion certificate, by competent authority or after its first occupation, whichever is earlier.
7. Temporary transfer or Permitting the use or enjoyment of any intellectual property right;
8. Development, design, Programming customization, adaptation, up gradation, enhancement, implementation of information technology software;
9. Agreeing to obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; &
10. Transfer of right to use any goods for any purpose for cash, deferred payment or other consideration

11. Composite Supply:

Following composite supplies treated as a supply of services

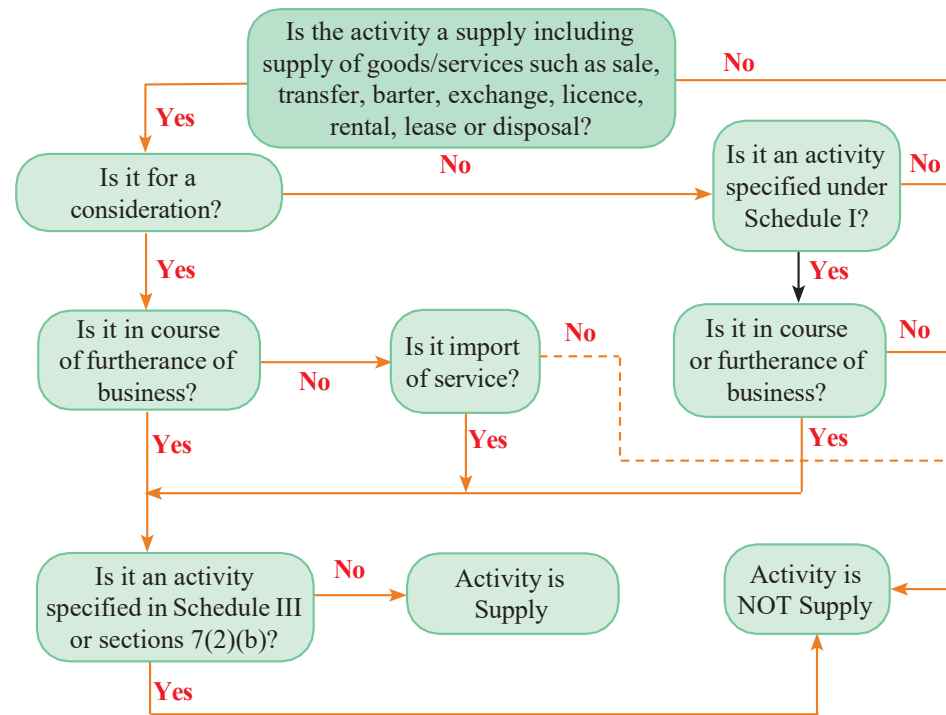
- (a) Works contract as defined in clause (119) of Section, 2; &
- (b) Supply by way of or as art of any service, of goods, being food or other article for human consumption or any drink [other than alcoholic liquor], for cash, deferred payment or other consideration.

SCHEDULE III: ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS SUPPLY OF GOODS NOR AS SUPPLY OF SERVICES

Schedule III in the CGST Act is akin to the negative list under the service tax regime. This schedule specifies transactions/ activities which shall be neither treated as supply of goods nor as supply of services.

1. Services by employee to employer
2. Services by any court or tribunal
3. Functions performed by the Members of Parliament etc.
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
6. Actionable claims other than specified actionable claims.
7. Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.
8. Supply of warehoused goods to any person before clearance for home consumption.
9. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.

SUMMARY



COMPOSITE AND MIXED SUPPLIES [SECTION 8]

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

Composite Supply	Mixed Supply
<ul style="list-style-type: none"> ❖ Consist of two or more supplies. ❖ Naturally bundled ❖ In conjunction with each other ❖ One of which is principal supply ❖ Tax liability shall be rate of principal supply ❖ Example: Charger supplied alongwith mobile phones. 	<ul style="list-style-type: none"> ❖ Consist of two or more supply ❖ Not naturally bundled ❖ Though can be supplied independently, still supplied together ❖ Tax liability shall be the rate applicable to the supply that attracts highest rate of tax ❖ Example: A gift pack comprising of chocolates, candies, sweets and balloons.

TAXABLE EVENT

Taxable Event refers to the point at which tax would be levied i.e. "Supply"

LIABILITY TO PAY GST**Forward Charge Mechanism**

Forward charge or direct charge is the mechanism where the supplier of goods/services is liable to pay tax.

Reverse Charge Mechanism

Reverse Charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply.

LEVY AND COLLECTION [SECTION 9 OF CGST ACT, 2017]**General [Section 9(1)]**

Subject to the provisions of sub-section (2)

- ❖ there shall be levied a tax called the Central Goods and Services Tax
- ❖ on all intra-state supply of
- ❖ Goods or services or both
- ❖ Except on Alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption
- ❖ On value determined u/s 15 paid by Taxable person
- ❖ At rate not exceeding 20%

Tax on Petroleum Etc. [Section 9(2)]

The central shall on the supply of

- ❖ Petroleum Crude,
- ❖ High Speed Diesel,
- ❖ Motor Spirit (Petrol)
- ❖ Natural Gas &
- ❖ Aviation Turbine Fuel

Shall be levied with effect from such date as may be notified by the Government on the recommendation of the Council.

Reverse Charge on Notified Services [Section 9(3)]

- ❖ Recipient Pay GST on notified categories of supply of goods or services.
- ❖ All provisions of the GST Act apply to the recipient, as if he is a person liable to pay Tax.

Reverse Charge in Case of Specified Category of Supplies Received From Unregistered Persons As May Be Notified By The Government [Section 9(4)]

Registered Person Pay GST on supply of taxable goods/ services received from unregistered supplier

Tax on E-Commerce Operator (Eco) [Section 9(5)]

GST paid by e-commerce operator (ECO)

- ❖ Supplied through E-Commerce Operator
- ❖ Hotel , Restaurant Service, Housekeeping, cab and any other *motor vehicle except omnibus (More than 6 excluding driver i.e. minimum 8 seater)*
- ❖ *Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company.*

Notified under Reverse Charge under Section 9(3) by Notification No. 4/2017-Central Tax (Rate)

S. No.	Description of supply of Goods	Supplier of goods	Recipient of supply
1.	Cashew Nuts, not shelled or peeled	Agriculturist	Any registered person
2.	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3.	Tobacco leaves	Agriculturist	Any registered person
3A.	Following essential oils other than those of citrus fruit: <ul style="list-style-type: none"> ❖ Of peppermint (Mentha Piperita) ❖ of other mints: Spearmint oil (ex mentha spicata), Water mint- oil (exenta aquatic), Horsemint oil (exmenthasylvestries), Bergament oil (exmentha citrate) 	Any unregistered person	Any registered person
4.	Silk Yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
4A.	Raw cotton	Agriculturist	Any registered person
5.	Supply of lottery	State Government, Union Territory or any Local Authority	Lottery distributor or selling agent.
6.	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union Territory or a Local Authority	Any registered person
7.	Priority Sector Lending Certificate	Any registered person	Any registered person

Services under reverse charge is covered under section 9(3) of the CGST Act, 2017 and Section 5(3) of the IGST Act, 2017

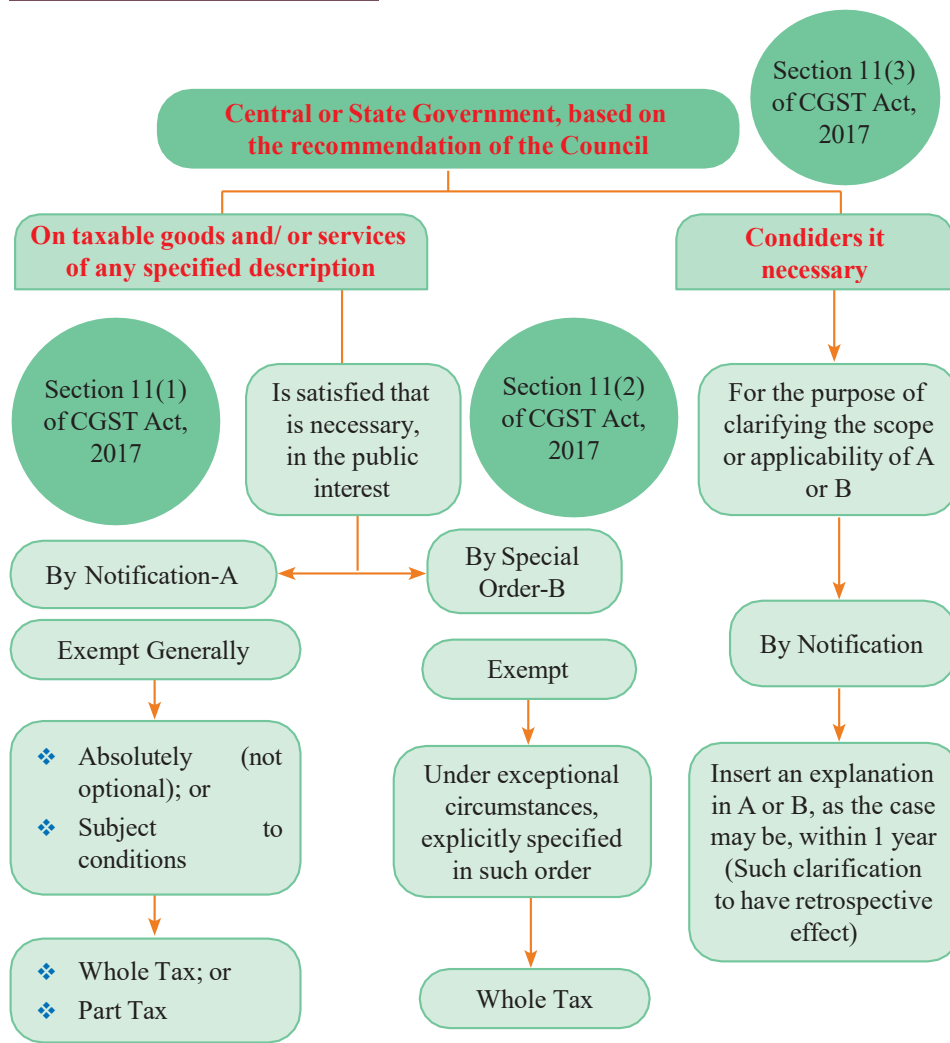
S. No.	Category of Supply of Services	Supplier of service	Recipient of Service
1.	Supply of Services by a Goods Transport Agency (GTA) who has not paid integrated tax at the rate of 12% in respect of transportation of goods by road to – <ul style="list-style-type: none"> (a) Any factory registered under or governed by the factories Act, 1948; or (b) Any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) Any co-operative society established by or under any law; or (d) Any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) Anybody corporate established, by or under any law; or (f) Any partnership firm whether registered or not under any law including association of persons 	Goods Transport Agency (GTA)	<ul style="list-style-type: none"> (a) Any factory registered under or governed by the factories Act, 1948; or (b) Any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) Any co-operative society established by or under any law; or (d) Any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) Anybody corporate established, by or under any law; or (f) Any partnership firm whether registered or not under any law including association of persons; or (g) Any casual taxable person; located in the taxable territory.

2.	“Services provided by an individual Advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.	An individual advocate including a senior advocate or Firm of advocates.	Any business entity located in the taxable territory.
3.	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4.	Services provided by way of sponsorship to anybody corporate or partnership firm.	Any person	Anybody corporate or partnership firm located in the taxable territory.
5.	Services supplied by the Central Government, State Government, Union Territory or Local Authority to a business entity excluding- 1. Renting of immovable property, and 2. Services specified below - i. Services by the department of posts and the Ministry of Railways (Indian Railways) ii. Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; iii. transport of goods or passengers.	Central Government, State Government, Union Territory or Local Authority	Any business entity located in the taxable territory.
5A.	Services supplied by the Central Government excluding the Ministry of Railways (Indian Railways), State Government, Union Territory or Local Authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017.	Central Government, State Government, Union Territory or Local Authority	Any person registered under the Central Goods and Services Tax Act, 2017 read with clause (v) of section 20 of Integrated Goods and Services Tax
5B.	Services supplied by any person by way of Transfer of Development Rights (TDR) or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter.

5C.	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter.
6.	Services supplied by the director to the company/body corporate. ❖ Applies to services provided in the director’s professional/ official capacity. ❖ Excludes personal services like renting of immovable property (not under RCM).	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
7.	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8.	Services supplied by a recovery agent to a banking company or a financial institution or a non banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9.	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory
9A.	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.	Author	Publisher located in the taxable territory:

10.	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India.
11.	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non banking financial company (NBFCs)	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm	A banking company or a non-banking financial company, located in the taxable territory.
12.	Services provided by Business Facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory.
13.	Services provided by an agent of Business Correspondent (BC) to Business Correspondent (BC)	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory.
14.	Security services (services provided by way of supply of security personnel) provided to a registered person	Any person other than a body corporate	A registered person, located in the taxable territory.
15.	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging integrated tax at the rate of 12 per cent. to the service recipient	Any body corporate located in the taxable territory.
16.	Services of lending of securities under Securities Lending Scheme, 1997 (“Scheme”) of Securities and Exchange Board of India (“SEBI”), as amended	Lender	Borrower

EXEMPTION UNDER GST



LIST OF SERVICES EXEMPT FROM GST

Exempt Services	
Services related to charitable and religious activities	Charitable activities BY an entity registered under section 12AA/12AB of Income-tax Act.
	Services by a person by way of- (a) conduct of any religious ceremony; (b) renting of precincts of a religious place meant for general public, owned/managed by institutions/entities/trusts, registered under section 12AA/12AB/10(23C)(v) of the Income tax Act or body/authority covered under section 10(23BBA) of the said Act, except where- i. charges for renting of rooms \geq 1,000 per day; ii. charges for renting of premises, community halls, kalyanmandapam, open area, etc. are \geq 10,000 per day; iii. charges for renting of shops/spaces for business/commerce are \geq 10,000 per month.
	Services by a specified organisation [KMVN/Haj Committee] in respect of a religious pilgrimage [Haj and Kailash Mansarovar Yatra].

	Training/coaching in (a) recreational activities relating to arts/culture, by an individual or (b) sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act.
Agriculture related services	Loading, unloading, packing, storage or warehousing of rice. Warehousing of minor forest produce. Services by way of storage/ warehousing of cereals, pulses, fruits & vegetables. Artificial insemination of livestock (other than horses). Carrying out an intermediate production process as job work in relation to cultivation of plants & rearing of animals[except horses], for food, fibre, fuel, raw material or other similar products or agricultural produce. Services relating to cultivation of plants & rearing of animals[except horses], for food, fibre, fuel, raw material or other similar products or agricultural produce by way of – (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour; (c) processes carried out at an agricultural farm including tending, pruning, etc. and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market; (d) renting or leasing of agro machinery or vacant land without a structure incidental to its use; (e) loading, unloading, packing, storage or warehousing of agricultural produce; (f) agricultural extension services; (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale/purchase of agricultural produce.
Education services	Services provided BY an educational institution (EI): ❖ to its students, faculty and staff; ❖ by way of conduct of entrance examination against consideration in form of entrance fee Services provided TO an EI, by way of,- i. transportation of students, faculty and staff; ii. catering, including any mid-day meals scheme sponsored by the Central Government (CG), State Government (SG) or Union Territory(UT); iii. security/cleaning/housekeeping services performed in such EI; (These exemptions are only applicable to an institution providing services by way of preschool education & education up to higher secondary school or equivalent). services relating to admission to, or conduct of examination by, such EI; Supply of online educational journals or periodicals. This exemption is only applicable to an institution providing services by way of education as part of a law for time being in force.

Health care services	❖ Health care services BY a clinical establishment/authorized medical practitioner/ para-medics However, nothing in this entry shall apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/ Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding Rs.5000 per day to a person receiving health care services. ❖ Transportation of a patient in an ambulance BY any person other than specified above. Service BY a veterinary clinic in relation to Health care of animals/birds
Services provided by Government	Services by Governmental Authority (GA) by way of any activity in relation to any function entrusted to a Municipality / Panchayat under article 243W/ 243G of Constitution Services by the CG/SG/UT/Local Authority (LA) excluding following services— (a) services by Department of Posts and the Ministry of Railways (Indian Railways) (b) services in relation to an aircraft/a vessel, inside/outside precincts of a port/airport; (c) transport of goods/passengers; or (d) any service, other than 'specified services' above, provided to business entities. (a) to (c) hereinafter referred as 'specified services' Services by the Department of Posts by way of post card,inland letter, book post and ordinary post (envelopes weighing less than 10 grams). Services provided by CG/SG/UT/LA to a business entity (BE) with an aggregate turnover of up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017. This exemption is not applicable to specified services and renting of immovable property service. Services provided by CG/SG/UT/LA to another CG/SG/UT/LA. This exemption is not applicable to specified services. Services provided by CG/SG/UT/LA where consideration for such services does not exceed Rs. 5,000. This exemption is not applicable to specified services**. **In case of continuous supply of service*, the exemption shall apply only where the consideration charged for such service does not exceed Rs. 5,000 in a FY.
	Services by an old age home run by CG/SG/an entity registered under section 12AA/12AB of Income-tax Act to its resident (aged \geq 60 years) against consideration upto Rs.25,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance. Services provided by CG/SG/UT/LA by way of issuance of passport, visa, driving license, birth certificate or death certificate.

	<p>Services provided by CG/SG/UT/LA by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to CG/SG/UT/LA under such contract.</p> <p>Services provided by CG/SG/UT/LA by way of assignment of right to use natural resources to an individual farmer for cultivation of plants & rearing of all life forms of animals [except horses], for food, fibre, fuel, raw material or other similar products.</p>				
Construction services	<p>Pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana.</p> <p>Services supplied by Electricity Distribution Utilities by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer/agriculturalist for agricultural use.</p> <p>Pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex.</p>	Goods transportation services	<p>Services by way of transportation of goods-</p> <p>(a) by road except the services of—</p> <p>(i) a goods transportation agency (GTA);</p> <p>(ii) a courier agency;</p> <p>(b) by inland waterways.</p> <p>Exempt transportation of goods by rail/ vessel/ by GTA in a goods carriage</p> <ul style="list-style-type: none"> ❖ Agricultural produce ❖ milk, salt and food grain including flours, pulses and rice ❖ organic manure ❖ newspaper or magazines registered with the Registrar of Newspapers ❖ Defence/ military equipments ❖ relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap <p>Services provided by a GTA to an unregistered person, including an unregistered casual taxable person, except following recipients, namely: -</p> <p>(a) a factory registered under Factories Act,</p> <p>(b) society registered under Societies Act,</p> <p>(c) Co-operative society,</p> <p>(d) body corporate and</p> <p>(e) partnership firm including AOP;</p> <p>(f) registered casual taxable person.</p> <p>Services provided by a GTA, by way of transport of goods in a goods carriage, to,</p> <p>(a) a Department or Establishment of the CG/SG/UT; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies, which has taken registration only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.</p>	Partnership firm of advocates or an individual as an advocate other than a senior advocate by way of legal services	BE with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act
Services of transport of passengers (with/ without accompanied belongings)	<p>Such services provided by –</p> <p>(a) air in economy class, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;</p> <p>(b) non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or</p> <p>(c) stage carriage other than air- conditioned stage carriage. However, nothing contained in items (b) and (c) above shall apply to services supplied through an ECO, and notified under section 9(5) of the CGST Act.</p> <p>Such services provided by—</p> <p>(a) railways in a class other than first class/an air conditioned coach;</p> <p>(b) metro, monorail or tramway;</p> <p>(c) inland waterways;</p> <p>(d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and</p> <p>(e) metered cabs or auto rickshaws (including e-rickshaws). However, nothing contained in item (e) above shall apply to services supplied through an ECO, and notified under section 9(5) of the CGST Act</p>	Banking and financial	<p>Services by way of—</p> <p>(a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);</p> <p>(b) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.</p> <p>Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).</p>	Senior advocate by way of legal services	CG/SG/UT/LA/GA/GE
		Pension schemes	<p>Services by way of collection of contribution under:</p> <ul style="list-style-type: none"> ❖ Atal Pension Yojana ❖ any pension scheme of SG 	Legal services	<p>Service provided by</p> <p>Arbitral tribunal</p> <p>To</p> <p>any person other than BE</p>
				Sponsorship of sports events	<p>Sponsorship of sporting events organised –</p> <p>(a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;</p> <p>(b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;</p> <p>(c) by the Central Civil Services Cultural and Sports Board;</p> <p>(d) as part of national games, by the Indian Olympic Association; or</p> <p>(e) under the Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme.</p>
				Skill Development services	<p>Services provided by, _</p> <p>(a) National Skill Development Corporation (NSDC) set up by GoI;</p> <p>(b) Sector Skill Council (SSC) approved by NSDC;</p> <p>(c) assessment agency approved by SSC/NSDC</p> <p>(d) a training partner approved by SSC/NSDC in relation to-</p> <p>(i) the National Skill Development Programme implemented by NSDC; or</p> <p>(ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or</p> <p>(iii) any other Scheme implemented by NSDC.</p>
				Performance by an artist	<p>Services by an artist by way of a performance in folk or classical art forms of music/ dance/ theatre, if the consideration charged for such performance is not more than Rs. 1,50,000.</p> <p>This exemption shall not apply to service provided by such artists as a brand ambassador.</p>

ZERO RATED, NIL RATED, EXEMPT & NON-GST

Supply Name	Description
Zero Rated	Exports Supplies made to SEZ or SEZ Developers. ITC can be availed.
Nil Rated	Supplies that have a declared rate of 0% GST. ITC cannot be availed. Example: Salt, Grains etc.
Exempt	Supply which attracts Nil rate of tax or which are specifically exempt from GST through government notification and uncludes non-taxable supply. ITC cannot be availed. Example: Fresh Milk, Fresh Fruits, Curd, Bread etc.
Non-GST	These supplies do not come under the purview of GST law. ITC cannot be availed. Example: Alcohol for human consumption, Petrol etc.

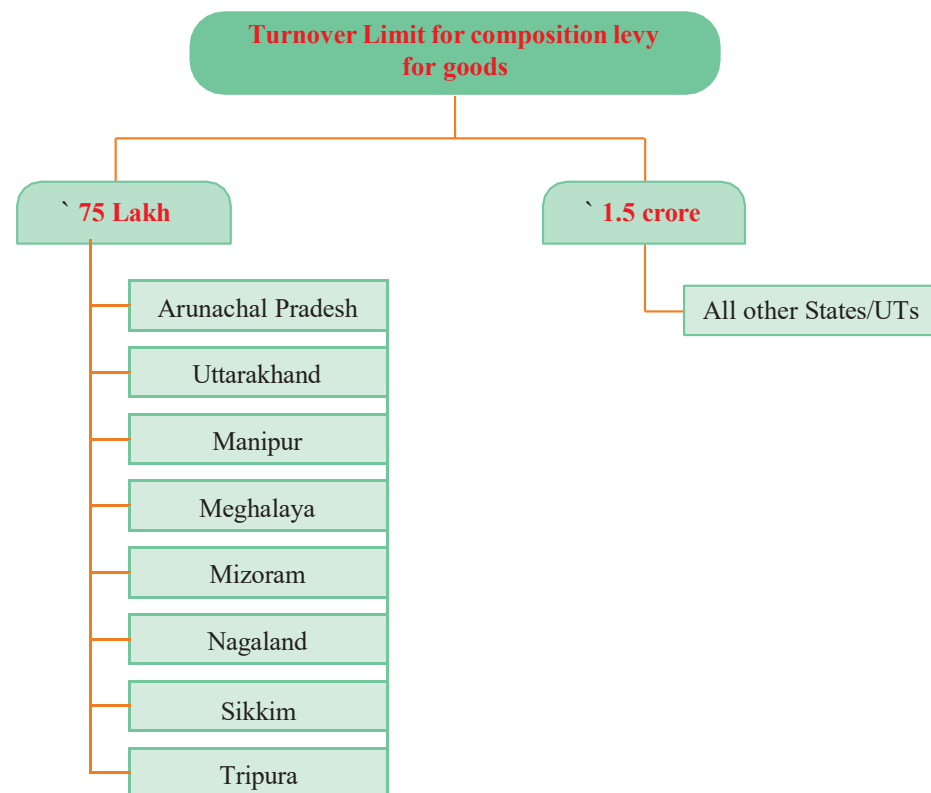
COMPOSITION SCHEME [SECTION 10]

ELIGIBILITY FOR COMPOSITION SCHEME SEC 10(1)

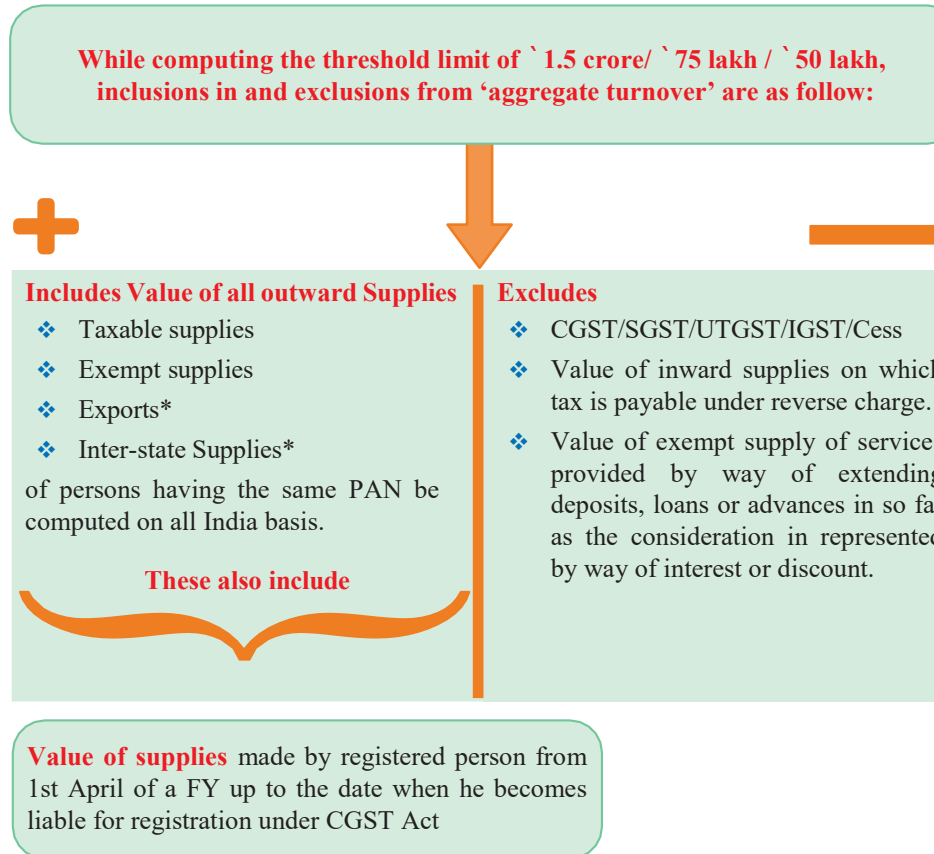
Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub sections (3) and (4) of section 9,

- ❖ a registered person,
- ❖ whose aggregate turnover in the preceding financial year
- ❖ did not exceed 1.5 Crore & 75 lakhs for Special Category states,
- ❖ may opt to pay, in lieu of the tax payable by him,
- ❖ an amount calculated at such rate as may be prescribed under Rule 7 of the CGST Rules, 2017

THE SPECIAL CATEGORY STATES ARE:



AGGREGATE TURNOVER



RATE OF TAXES

Composition scheme	Category of registered persons	Rate
For goods	Manufacture	1% (½% CGST + ½% SGST/UTSGT) of turnover
	Restaurant service	5% (2½% CGST + 2½% SGST/UTGST) of turnover
	Trader	1% (½% CGST + ½% SGST/UTGST) of turnover of taxable supplies
For services		6% (3% CGST + 3% SGST/UTGST)

ELIGIBILITY TO OPT UNDER COMPOSITION SCHEME [SECTION 10(2)]

The registered person shall be eligible to opt under sub section (1), if

- He is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II
- He is not engaged in making any supply of goods or service which are not leviable to tax under this Act;
- He is not engaged in making any inter – State outward supplies of goods or service;
- He is not engaged in making any supply of goods or service through an electronic commerce operator who is required to collect tax at source under section 52; and

- He is not manufacturer of such goods as may be notified by the Government on the recommendations of the Council

The list includes:

- ❖ Ice cream and other edible ice, whether or not containing cocoa
- ❖ Pan Masala
- ❖ Aerated water
- ❖ All goods, i.e. Tobacco and manufactured tobacco substitutes
- ❖ Manufacturers of fly ash bricks/blocks, building bricks, bricks of fossil meals, earthen/roofing tiles, etc.

COMPOSITION SCHEME FOR SUPPLIER OF SERVICES

[Section 10(2A)]

A registered person who is not eligible to opt to pay under Composition Scheme meant primarily for supplier of goods and whose aggregate turnover in the preceding financial year did not exceed Rs. 50 Lacs.

Rate of GST (CGST + SGST) 3% + 3% = 6% of value of all outward supplies of goods or services or both notwithstanding any other notification issued u/s 9(1) or u/s 11 of the CGST Act.

[Section 10(3)]

The option availed by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).

[Section 10(4)]

A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

INTIMATION FOR COMPOSITION LEVY [RULE 3]

Electronic Filing of Intimation [Rule 3(1)]

- ❖ Those who have opted for provisional registration after implementation of GST need to make an application to opt for composition scheme within 30 days from the specified date.
- ❖ Application is to be made in form GST CMP –01.
- ❖ After making an application, the registered dealer is not permitted to collect tax and shall issue bill of supply.

Deemed Intimation [Rule 3(2)]

- ❖ In case of newly started businesses, the option of composition can be availed in the application of registration while submitting FORM GST REG –01.

Intimation for Opting Composition Scheme in Subsequent Years [Rule 3(3)]

- ❖ Intimation to be given electronically in FORM GST CMP –02 before the start of the financial year.
- ❖ Details of ITC outstanding at the beginning shall be furnished in FORM GST ITC –03 within 60 days from the beginning of the financial year.

Details of Stock [Rule 3(4)]

- ❖ Details of stock outstanding on a day prior to the day from which composition scheme is availed shall be furnished electronically in FORM GST CMP –03.
- ❖ Form is to be submitted within 60 days from the date of availing the option.

Single Intimation [Rule 3(5)]

- ❖ One intimation is sufficient for all the places covered under same PAN whether located in one or different states or union territories

EFFECTIVE DATE FOR COMPOSITION LEVY [RULE 4]

Effective Date For Composition Levy [Rule 4(1)]

- ❖ Effective date in case of Rule 3(3) shall be the 1st day of financial year.
- ❖ Effective date in case of 3(1) shall be the date on which application is filed under 3(1).

Effective Date [Rule 4(2)]

- ❖ Effective date shall be the specified date decided by the officer which shall fall after the date of granting registration.

CONDITION AND RESTRICTION FOR COMPOSITION LEVY [RULE 5]

Conditions for Opting Composition Scheme [Rule 5(1)]

- ❖ The dealer shall not be a non-resident and casual taxable person.
- ❖ The goods which are held in stock shall not be received by way of an inter-state transaction.
- ❖ The goods in stock shall not be purchased from an Unregistered supplier. If purchase is from Unregistered supplier, tax shall have been paid under reverse charge.
- ❖ Cases covered under section 9(3) & 9(4) –Tax should have been paid on such purchases.
- ❖ Should not be the manufacturer of specified goods in the preceding financial year.
- ❖ Should mention the words ‘Composition taxable person’ on his bill of supply
- ❖ Should mention the words ‘Composition taxable person’ on every notice & signboard & shall be displayed at a prominent place at every place of his business.

No Intimation Required in Subsequent Years [Rule 5(2)]

- ❖ A dealer who had opted for composition scheme in the preceding year need not file a fresh intimation every year.

VALIDITY OF COMPOSITION LEVY [RULE 6]

Validity of Composition Levy [Rule 6(1)]

- ❖ Composition option is valid only till the date of fulfilling conditions under section 10.

Intimation by the Dealer [Rule 6(2)]

- ❖ The dealer shall intimate in FORM GST CMP -04 within 7 days from the date on which the event occurs (turnover crosses the limit).
- ❖ The dealer can start issuing tax invoice and can collect GST at normal rates immediately from the occurrence of such an event.

Application For Withdrawal of Scheme [Rule 6(3)]

- ❖ The dealer needs to make an application in FORM GST CMP –04 before withdrawing the option for composition scheme.

Show Cause Notice [Rule 6(4)]

- ❖ The proper officer issues show cause notice in following cases:-
 - a) Registered dealers are not entitled for option u/s 10.
 - b) Contravened the conditions of section/rules.
 1. In the above cases, notice shall be given in FORM GST CMP-05.
 2. Reply shall be given within 15 days.

Reply of Show Cause Notice [Rule 6(5)]

- ❖ Reply for notice under Rule 6(4) is to be given by the dealer in FORM GST CMP –06.
- ❖ Acceptance/rejection order to be issued by officer in FORM GST CMP –07 within 30 days.
- ❖ The rejection order is effective from the date of crossing turnover limit or from the date of contravention of conditions.

Furnishing Details of Stock [Rule 6(6)]

- ❖ Details of stock on the date of opting out of the composition scheme shall be given in FORM GST ITC –01.
- ❖ The form shall be filed within 30 days from the date of withdrawing from the option.

Any intimation Applicable to all Other Places Also [Rule 6(7)]

- ❖ One intimation for all branches under same PAN

LIST OF FORMS

Form No.	Description
GST CMP-01	Intimation to pay tax under section 10 (composition levy) (Only for persons registered under the existing law migration on the appointed day)
GST CMP-02	Intimation to pay tax under section 10 (composition levy) (For persons registered under the Act)
GST CMP-03	Intimation of details of stock on date of opting for composition levy (Only for persons registered under the existing law migrating on the appointed day)
GST CMP-04	Intimation/Application for withdrawal from composition Levy
GST CMP-05	Notice for denial of option to pay tax under section 10
GST CMP-06	Reply to the notice to show cause
GST CMP-07	Order for acceptance/rejection of reply to show cause notice.

TIME OF SUPPLY

The time of supply fixes the point when the liability to charge GST arises. It also indicates when a supply is deemed to have been made. The CGST/SGST Act provides separate time of supply for goods and services.

TIME OF SUPPLY OF GOODS [SECTION 12 OF CGST ACT, 2017]

TIME OF SUPPLY OF GOODS [SEC. 12(1)]

The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.

TIME OF SUPPLY IN CASE OF FORWARD CHARGE MECHANISM [SEC. 12(2)]

The time of supply of goods shall be the earlier of the following dates, namely:

- a) The date of issue of invoice by the supplier;
- Or**
- b) The last date on which he is required, under section 31, to issue the invoice with respect to the supply;
- Or**
- c) The date on which the supplier receives the payment with respect to the supply

EXPLANATION

Supply” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

For the purposes of clause (b), “the date on which the supplier receives the payment” shall be

- ❖ The date on which the payment is entered in his books of account
 - Or**
 - ❖ The date, on which the payment is credited to his bank account,
- (Whichever is earlier)**

INVOICE DUE DATE AS PER SECTION 31(1)

TAX INVOICE IN CASE OF GOODS

S. No.	Description	Invoice must be issued
1.	Where the supply involves movement of the goods	On/before at the time of removal of the goods
2.	Where the supply doesn't involve the movement of the goods	On/before the delivery of the goods to the recipient
3.	In case of a continuous supply of goods	Before or at the time of issuance of periodical statement/receipt of periodical payment
4.	Goods supplied on approval for sale/return basis	Before or at the time of supply or 6 months from the date of removal, whichever is earlier

Note: As per Notification No. 66/2017 CT dated 15.11.2017

All taxpayers under forward charge (except composition suppliers) are not required to pay GST at the time of receipt of advance in relation to supply of goods. The entire GST shall become payable only when the invoice for the supply of such goods is issued or ought to have been Issued.

Thus, time of supply of goods for the purpose of payment of tax is the date of issue of invoice or the last date when the invoice ought to have been issued under section 31.

TIME OF SUPPLY IN CASE OF REVERSE CHARGE MECHANISM [SEC. 12(3)]

In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:

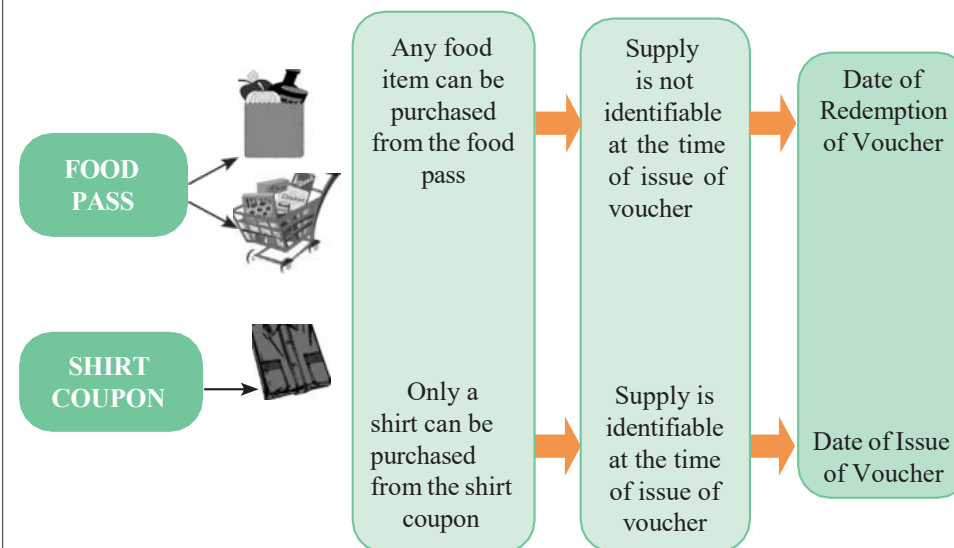
- (a) The date of the receipt of goods;
- Or**
- (b) The date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier;
- Or**
- (c) The date immediately following 30 days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply

TIME OF SUPPLY IN CASE OF VOUCHER [SEC. 12(4)]

In case of supply of vouchers by a supplier, the time of supply shall be–

- (a) The date of issue of voucher, if the supply is identifiable at that point;
- Or**
- (b) The date of redemption of voucher, in all other cases



Residual [SEC. 12(5)]

Where it is not possible to determine the time of supply under the provisions of subsection (2) or sub-section (3) or sub-section (4), the time of supply shall–

- a) In a case where a periodical return has to be filed, be the date on which such return is to be filed;
- Or**
- b) In any other case, be the date on which the tax is paid.

Value Addition After Sale i.e Interest, Late Fees, Penalty [SEC. 12(6)]

The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

TIME OF SUPPLY OF SERVICES [SECTION 13 OF CGST ACT, 2017]

Time of Supply Of Service [SEC. 13(1)]

The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.

Time of Supply of Service In Case of Forward Charge Mechanism [Sec. 13(2)]

- (a) In cases where the invoice has been issued on time, as per Section 31, earlier of the-
 - ◆ Date of invoice
 - OR**
 - ◆ The date of receipt of payment
- (b) In cases where the invoice has not been issued on time, per Section 31, earlier of the-
 - ◆ Date of provision of service
 - OR**
 - ◆ The date of receipt of payment
- (c) Date of receipt of payment would be the earlier of the following in a case where the provisions of clause (a) or clause (b) do not apply-
 - ◆ Date of credit in the bank account
 - OR**
 - ◆ The date of entry in the books of account,

(whichever is earlier.)

TIMELINE FOR ISSUING INVOICE UNDER SECTION 31

- ❖ Section 31 mandates that the time limit for issue of invoice is that the invoice must be issued either before the provision of service, or within 30 days from the date of supply of service (45 days for BFSI companies & NBFCs).
- ❖ In case of insurance companies/banking companies/financial institutions including NBFCs/telecom companies/notified supplier of services making taxable supplies between distinct person as specified in section 25, invoice may be issued before or at the time of recording such supply in the books of account or before the expiry of the quarter during which supply is made

ADVANCE UPTO RS. 1,000

Provided that where the supplier of taxable service receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such the date of issue of invoice relating to such excess amount.

Time of Supply of Service in Case of Reverse Charge Mechanism [Sec. 13(3)]

The time of supply of services under the reverse charge mechanism would be the earliest of:

- Date of payment, which is the earlier of the date of debit in the bank account as reflected in the bank statement and the date of recording the payment in the books of account, by the recipient.
- The date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier, in cases where invoice is required to be issued by the supplier; or
- The date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c)], the time of supply shall be the date of entry in the books of account of the recipient of supply

ASSOCIATED ENTERPRISES [SEC. 2(12)]

TIME OF SUPPLY IN CASE OF ASSOCIATES ENTERPRISE

In case of transactions between 'associated enterprises' where the supplier of service is located outside India, The Time of Supply shall be:

- The date of recording the supply in the books of the recipient
Or
- The date of payment
(Whichever is earlier)

Time of Supply of Services in Case of Voucher [Sec. 13(4)]

The time of supply of vouchers that are exchangeable for services, is as under:

- If the supply is identifiable at the point of issue, the date of issue of voucher
OR
- The date of redemption of voucher in all other cases.

Time of Supply of Services in Case of all Other Instances [SEC. 13(5)]

In all other instances, the time of supply as per Section 13(5) is fixed as under:

- Due-date for filing periodic returns
Or
- In other cases, the date of payment of GST.

Time of Supply For Recovery of Interest, Late Fee, Etc. [SECTION 13(6)]

The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

TIME OF SUPPLY IN CASE OF CHANGE IN RATE OF TAX [SECTION 14 OF CGST ACT, 2017]

Supplied Before The Change In Rate [SEC. 14 (A)]

- After change invoice issued and payment received:**
Earlier of the following:-
Date of invoice
Or

Payment

- Invoice before change but payment received after change:** Date of invoice.
- Payment received before change but invoice after change:** Date of Payment.

SUPPLIED AFTER THE CHANGE IN RATE [SEC. 14 (B)]

In case the goods or services or both have been supplied after the change in rate of tax,–

- Invoice before change but payment received after change:** Date of Payment.
- Before change invoice issued and Payment received:**

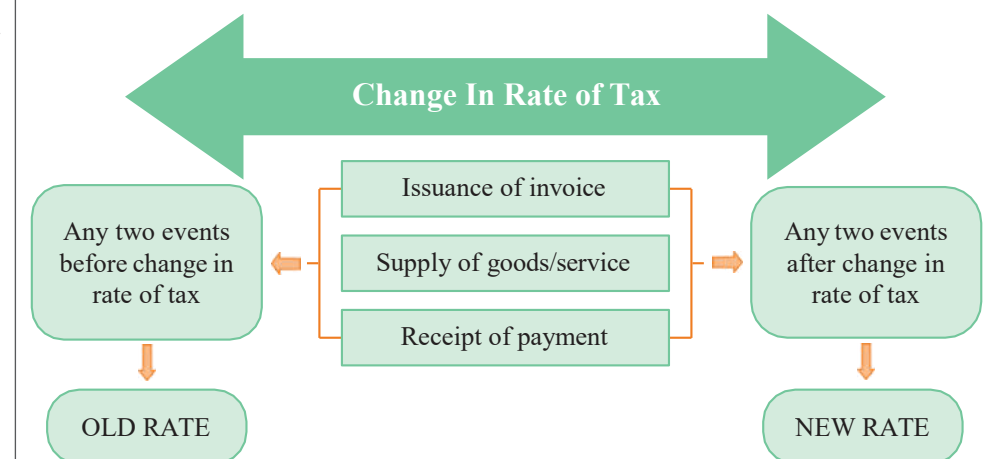
Earlier of the following:-

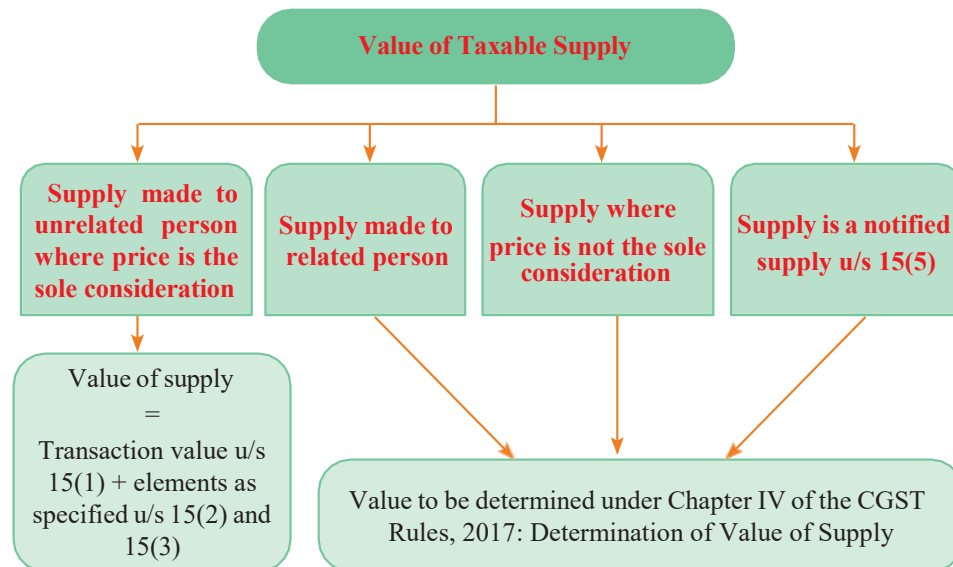
Date of invoice

Or

Payment

- Payment received before change but invoice after change:** Date of invoice.



VALUE OF SUPPLY [SECTION 15]**Transaction Value [Sec. 15(1)]**

The value of a supply of goods or services or both

- ❖ Shall be the transaction value,
- ❖ Which is the price actually paid or payable for the said supply of goods or services or both
- ❖ Where the supplier and the recipient of the supply are not related and
- ❖ The price is the sole consideration for the supply

Inclusion in Determination of Value of Supply [Sec. 15(2)]

Below is a list of few elements which have been mandated to be included in the transaction value, if not already included.

1. Any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier
2. Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both.
3. Incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services.
4. Interest or late fee or penalty for delayed payment of any consideration for any supply and

5. Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Exclusion in Determination of Value of Supply [Sec. 15(3)]

The value of the supply shall not include

1. any discount which is given before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and
2. after the supply has been effected, if–
 - ❖ Such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
 - ❖ Input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

Where Value Cannot Be Determined Under Above Provision [SEC. 15(4)]

Where the value of the supply of goods or services or both cannot be determined under subsection (1), the same shall be determined in accordance with the rules as may be prescribed.

VALUATION RULES – CGST RULES, 2017**Value of Goods or Service Where Consideration Is Not Wholly In Money [Rule 27 Of Cgst Rules, 2017]**

Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall,

- (a) be the open market value of such supply;
- (b) if the open market value is not available under clause (a), be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money if such amount is known at the time of supply;
- (c) if the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;
- (d) If the value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by the application of rule 30 or rule 31 in that order.

Supply Between Distinct or Related Persons [Rule 28 of Cgst Rules, 2017]

The value of the supply of goods or services or both between distinct persons as specified in sub-sections (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall,

- (a) be the open market value of such supply;
- (b) if the open market value is not available, be the value of supply of goods or services of like kind and quality;
- (c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order

- ❖ Provided further that where the recipient is eligible for full input tax credit, [INVOICE Value = OMV] [Mandatory]
- ❖ If the recipient makes further supply to non-relative [90% of resale value.]

Value of Supply of Goods Made or Received Through an Agent [Rule 29 of Cgst Rules, 2017]

The value of supply of goods between the principal and his agent shall,—

- (a) be the open market value of the goods being supplied, or at the option of the supplier, be 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient
- (b) the value as determined by the application of rule 30 or rule 31, in that order

Value Based on Cost [Rule 30 of Cgst Rules, 2017]

The value shall be:

110% of the cost of production

Or

110% of the cost of manufacture

Or

110% of the cost of acquisition of such goods

Or

110% of the cost of provision of such services.

Residual Method [Rule 31 of CGST Rules, 2017]

Value shall be determined using reasonable means consistent with the principles and the general provisions of section 15 and the provisions of this chapter.

Note: Provided that in the case of supply of services, the supplier may opt for this rule, ignoring rule 30

Value of Supply In Case of Lottery, Betting, Gambling And Horse Racing [Rule 31a of Cgst Rules, 2017]

1. The value of supply of lottery shall be deemed to be 100/128 of the higher of the following:
 - ♦ Face value of ticket
 - Or**
 - ♦ The price as notified in the Official Gazette by the organising State
2. The value of supply of actionable claim [betting, gambling or horse racing in a race club] shall be:
 - ♦ 100% of the face value of the bet
 - Or**
 - ♦ The amount paid into the totalisator.

Value in Respect of Certain Specific Supplies [Rule 32]**PURCHASE/SALE OF FOREIGN CURRENCY:****1st Method:**

- ❖ Value = [Buying/Selling rate – RBI reference rate at that time]
- ❖ If no RBI reference rate,
- ❖ Value = 1% of INR received/provided
- ❖ If the currencies exchanged are not in INR,
- ❖ Value = lesser of the two amounts that would have been received by converting any of the currencies into INR at RBI reference rate.

OR

2nd Method:

Currency	Value
Upto Rs.1,00,000	1% OR Rs.250 whichever is higher
From Rs.1,0001 to Rs.10,00,000	Rs.1000 + 0.5%
From Rs.10,00,001	Rs.5,500 + 0.1% subject to maximum of Rs.60,000

VALUE OF SUPPLY OF SERVICES IN RELATION TO AIR TRAVEL AGENT

Domestic booking Value = Basic fare X 5%

International Booking Value = Basic fare X 10%

VALUE OF SUPPLY OF SERVICES IN RELATION TO LIFE INSURANCE BUSINESS

- ❖ If amount allocated for investment is intimated;
Value = Gross amount less amount allocated for investment.
Risk cover + Investment policy (if such amt. is intimated) (Value = Gross amt. – investment)
- ❖ Single premium annuity policies where amount allocated for investment is not

intimated

Single premium policy Value = Single premium × 10%

- ❖ Other Policy Value = First year premium × 25% or Value = Subsequent year premium × 12.5%

- ❖ Provided that nothing contained in this sub-rule shall apply where the entire premium paid by the policyholder is only towards the risk cover in life insurance.

Policy only towards risk cover – Value = Entire Premium

VALUE OF SECOND HAND GOODS

Value of second hand goods

Value = Sale price-purchase price (Ignore if value is negative)

Purchase value of goods repossessed from unregistered borrower = Purchase Price – 5% per quarter or part thereof from date of purchase till the date of disposal by the person making possession

COUPON/VOUCHER

Value = Money value of supplies redeemable against such voucher/coupon.

NOTIFIED SERVICES BETWEEN DISTINCT PERSON WITHOUT CONSIDERATION

Value = Nil, if ITC is available

Value of Supply of Services in Case of Pure Agent [Rule 33]

The expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely:-

- ❖ The supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorization by such recipient.
- ❖ The payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- ❖ The supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account

Rate of Exchange for Determination of Value [Rule 34]

Goods: Rate notified by CBEC under Customs Act on the date of time of supply of such goods

Services: Rate as per GAAP on the date of time of supply of such services.

Value Inclusive of All Taxes [Rule 35 of CGST Rules, 2017]

Value of supply inclusive of integrated tax, Central tax, State tax, Union territory tax
Where the value of supply is inclusive of integrated tax or, as the case may be, Central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely-

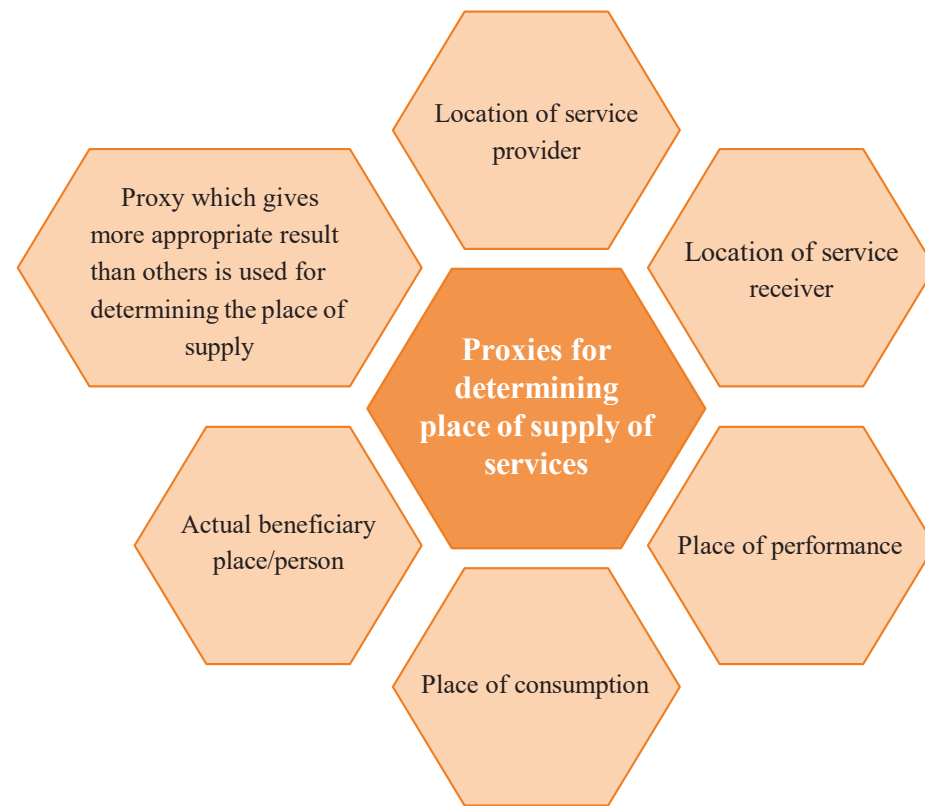
Tax amount = (Value inclusive of taxes X Tax rate in % of IGST/CGST/SGST/UTGST) / (100 + sum of tax rates)



PLACE OF SUPPLY

Place of Supply Provisions have been framed for goods and services considering the destination/Consumption principle

ELEMENTS USED FOR DEFINING PLACE OF SUPPLY OF SERVICE ARE:



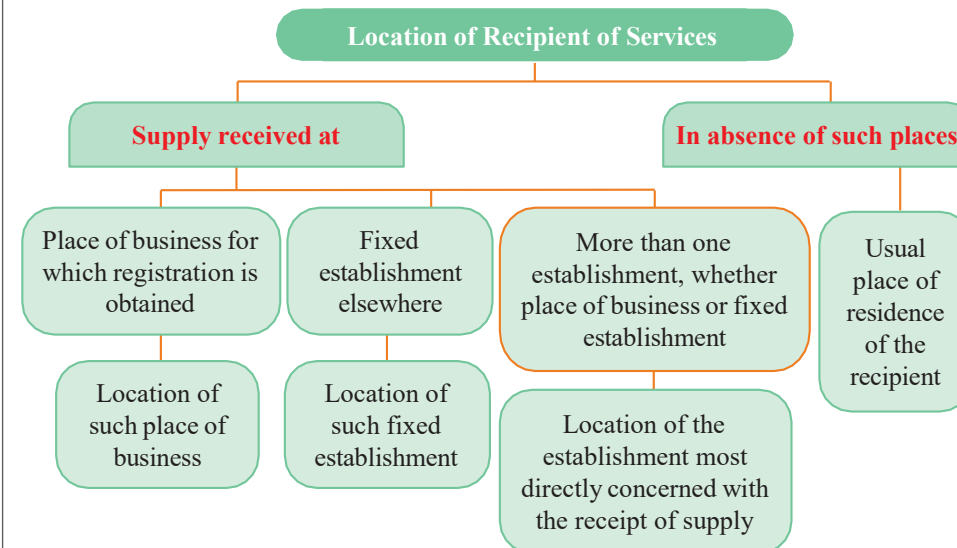
SEPARATE RULES FOR DETERMINING PLACE OF SUPPLY IN RESPECT OF B2B AND B2C TRANSACTIONS

B2B means business to business transaction. In such type of transactions, the recipient is also a registered supplier and hence, takes ITC.

B2C means business to consumer transaction. In such type of transactions, the recipient is consumer or unregistered and hence, will not take or cannot take ITC.

IMPORTANT TERMS

LOCATION OF RECIPIENT OF SERVICE



SECTION 9 - SUPPLIES IN TERRITORIAL WATERS

Notwithstanding anything contained in this Act

- (a) where the location of the supplier is in the territorial waters, the location of such supplier;
- Or
- (b) where the place of supply is in the territorial waters, the place of supply, Shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

Note:

1 Nautical Mile = 1.853KM Approx.

PLACE OF SUPPLY OF GOODS OTHER THAN SUPPLY OF GOODS IMPORTED INTO, OR EXPORTED FROM INDIA [SECTION 10 OF IGST ACT, 2017]

S.No.	Situation	Place of Supply of Goods
(a)	When supply involves movement of goods whether by the supplier or the recipient or by any other person	Location of goods at the time at which the movement of goods terminates for delivery to the recipient
(b)	Where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise	place of supply of such goods shall be the Principal place of business of third party

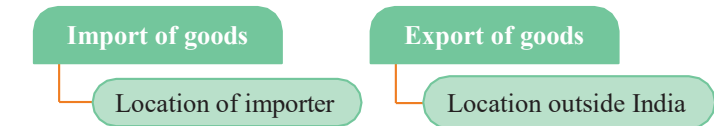
(c)	When supply does not involve movement of goods, whether by the supplier or the recipient	Location of goods at the time of delivery to the recipient
(d)	Where the supply of goods is made to a person other than a registered person, the place of supply shall	Notwithstanding anything contained in clause (a) or clause (c), be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice
(e)	When Goods are assembled or installed at site	Place of such installation /assembly
(f)	Supply on board a conveyance including a vessel, an aircraft, a train or a motor vehicle	Location where goods are taken on Board.

Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.

PLACE OF SUPPLY OF GOODS IMPORTED INTO, OR EXPORTED FROM INDIA: SECTION 11 OF IGST ACT, 2017

Provides that the place of supply of goods,–

- ❖ Imported into India shall be the location of the importer;
- ❖ Exported from India shall be the location outside India.



PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER AND RECIPIENT IS IN INDIA: SECTION 12 OF IGST ACT, 2017

Section	Activity Done	Place Of Supply
12(2) (a)	place of supply of services made to a registered person	location of such person
12(2) (b)	Place of supply of services made to any person other than a registered person	the location of the recipient where the address on record exists and the location of the supplier of services in other cases
12(3)	place of supply of services, directly in relation to an immovable property, Exception/Special cases – (a) Directly related to immovable property (Architects, designers, agents etc.)	(a) Where the immovable property is situated. (b) If the location of immovable property is outside India, Place of Supply will be Location of recipient.

	<p>(b) Lodging accommodation (hotel, inn, guest house, camp site etc.)</p> <p>(c) Accommodation in immovable property for marriage, business events, social, religious activities etc.)</p> <p>(d) Ancillary services to above</p>	(c) If immovable property is located at more than one state value be taken proportionately as per contract/ Rules
12(4)	Beauty parlor, fitness, restaurant and catering services plastic cosmetic surgery etc.	Location where the services are actually performed.
12(5)	place of supply of services in relation to training and performance appraisal to, <p>(a) a registered person</p> <p>(b) a person other than a registered person</p>	<p>(a) the location of such person.</p> <p>(b) location where the services are actually performed.</p>
12(6)	Admission to cultural, artistic, sporting, educational entertainment, amusement event etc. and ancillary services	where the event is held or where the park or such place is located
12(7)	place of supply of services provided by way of organizing an event to <p>(a) a registered person</p> <p>(b) person other than a registered person</p>	<p>(a) location of such person</p> <p>(b) place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.</p>
12(9)	On board a conveyance while in transit. Conveyance may be a ship, air craft, train, vehicle etc.	Location of first, scheduled point of departure of that conveyance for the journey.
12(10)	place of supply of tele- communication services including data transfer, broadcasting, cable and direct to home television services to any person <p>(a) in case of fixed line</p> <p>(b) in case of mobile connection</p> <p>(c) mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis</p>	<p>(a) location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;</p> <p>(b) location of billing address of the recipient of service</p>

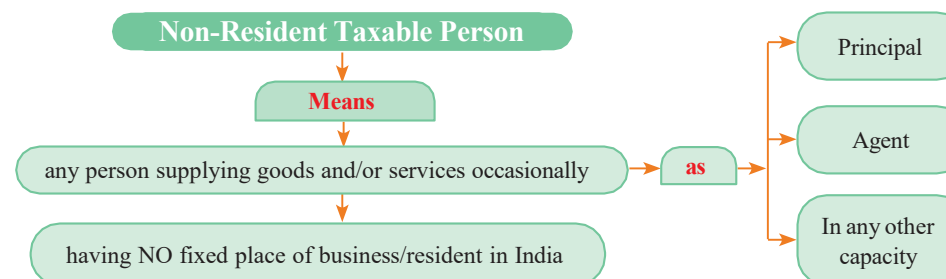
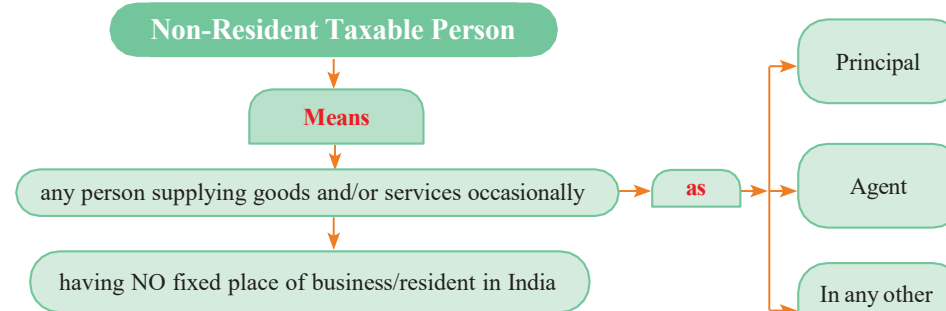
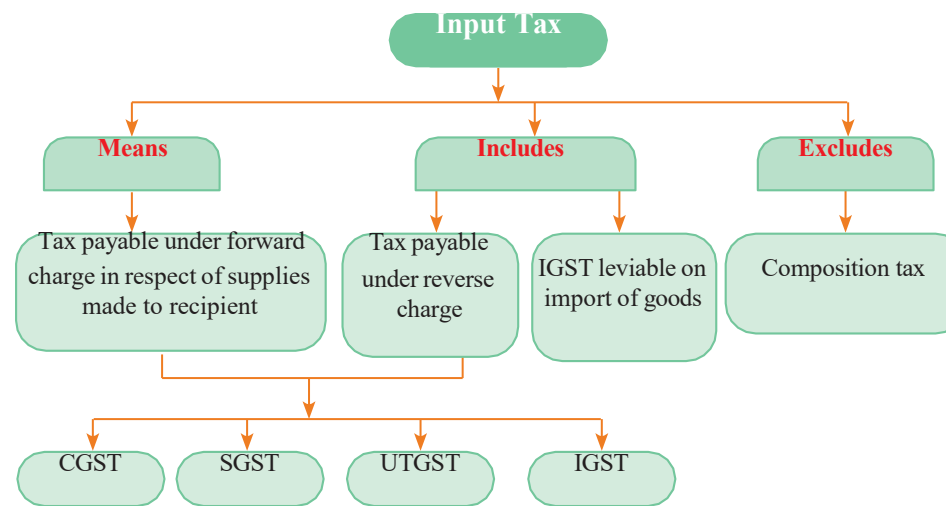
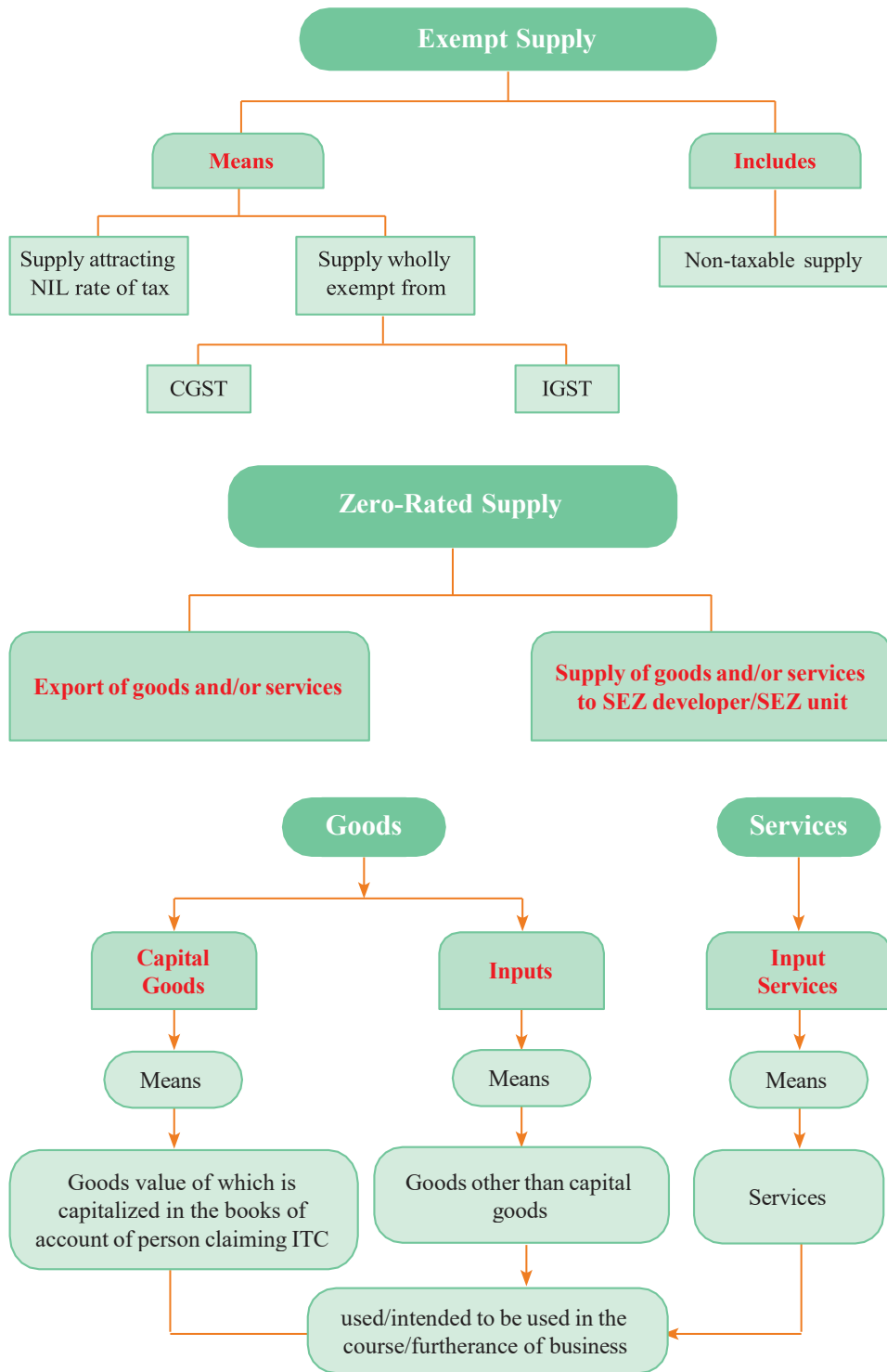
	<p>(i) through a selling agent</p> <p>(ii) By any person to the final subscriber</p>	(c) (i). be the address of the selling agent (ii). location where such prepayment is received or such vouchers are sold;
12(11)	place of supply of banking and other financial service	location of the recipient of services on the records of the supplier of services
12(12)	place of supply of insurance services <p>(a) to a registered person,</p> <p>(b) to a person other than a registered person</p>	<p>(a) location of such person;</p> <p>(b) location of the recipient of services on the records of the supplier of services.</p>
12(13)	place of supply of advertisement services to Govt/Local Bodies	shall be taken as being in each of such States or Union territories

PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER OR LOCATION OF RECIPIENT IS OUTSIDE INDIA: SECTION 13 OF IGST ACT, 2017

Nature of Supply of Service	Place of Supply
Section 13(2): General	Location of recipient or If location of recipient is not available - Location of Supplier
Section 13(3): Specific cases	Where, service is in relation to goods required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the service: location of actual performance Where the service in relation to goods is provided from a remote location through electronic means – location where the goods are actually situated.

	Where, service is in relation to an individual represented either as the recipient of services or a person acting on behalf of the recipient, which requires physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services. – location of actual performance
Section 13(4): Immovable Property	location of such Immovable property
Section 13(5): Admission to/organization of events etc.	location where event is actually held
Section 13(6): Multi location	Services covered under Section 13(3), Section 13(4) and Section 13(5) provided at multiple locations and one or more location falls in taxable territory - Location falling in taxable territory
Section 13(7): Multi locations involving more than one State/UT	Proportional to value in each State/UT
Section 13(8): Banking, or Financial Institutions NBFC'c to customers, intermediary and hiring of means of transport including Yatch but excluding aircraft or vessel up to a period of one month	location of supplier
Section 13(10): services on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board	first scheduled point of departure of that conveyance for the journey
Section 13(11): online info, database access or retrieval services etc.	location of recipient
Section 13(12): In order to prevent double taxation or no-taxation of the supply of a service or for the uniform application of rules the Government shall have the power to notify any description of service or circumstance in which the place of supply shall be the place of effective use and enjoyment	

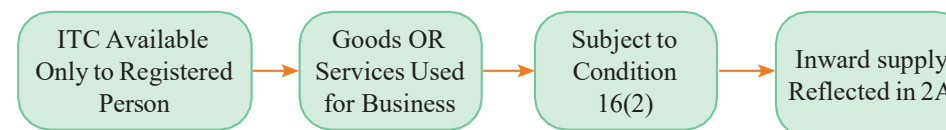
DEFINITION OF KEY TERMS



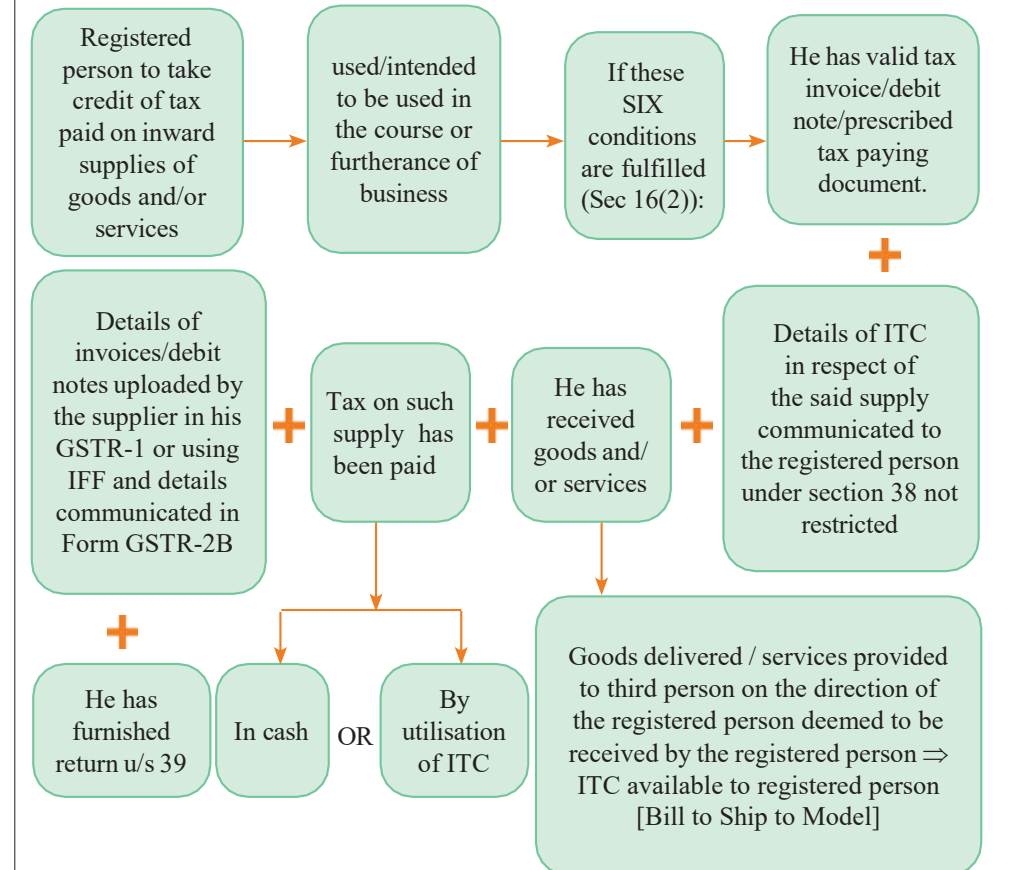
SECTION NO. 16

Conditions For ITC

Scheme of ITC - At a Glance



Provisions of section 16 relating to eligibility and conditions for taking ITC read with relevant rules are summarized below:



Details of ITC in respect of the said supply communicated to the registered person under section 38 not restricted

- ❖ who is a new registrant.
- ❖ who has defaulted in payment of tax
- ❖ whose output tax payable as exceeds the output tax paid
- ❖ who has availed ITC of an amount that exceeds the credit that can be availed
- ❖ who has defaulted in discharging his tax liability
- ❖ other specified classes of persons.

If depreciation claimed on tax component, ITC not allowed.

Goods received in lots ITC allowed upon receipt of last lot

Time limit for availing ITC – ITC pertaining to a particular FY can be availed by 30th November of next FY or filing of annual return, whichever is earlier.
Exception: Re-availment of ITC reversed earlier.

Proportionate ITC to be reversed/paid with interest if whole/part of value + tax of goods and /or services is not paid within 180 days of the issuance of invoice.
On payment, the ITC could be re-availed without any time limit.

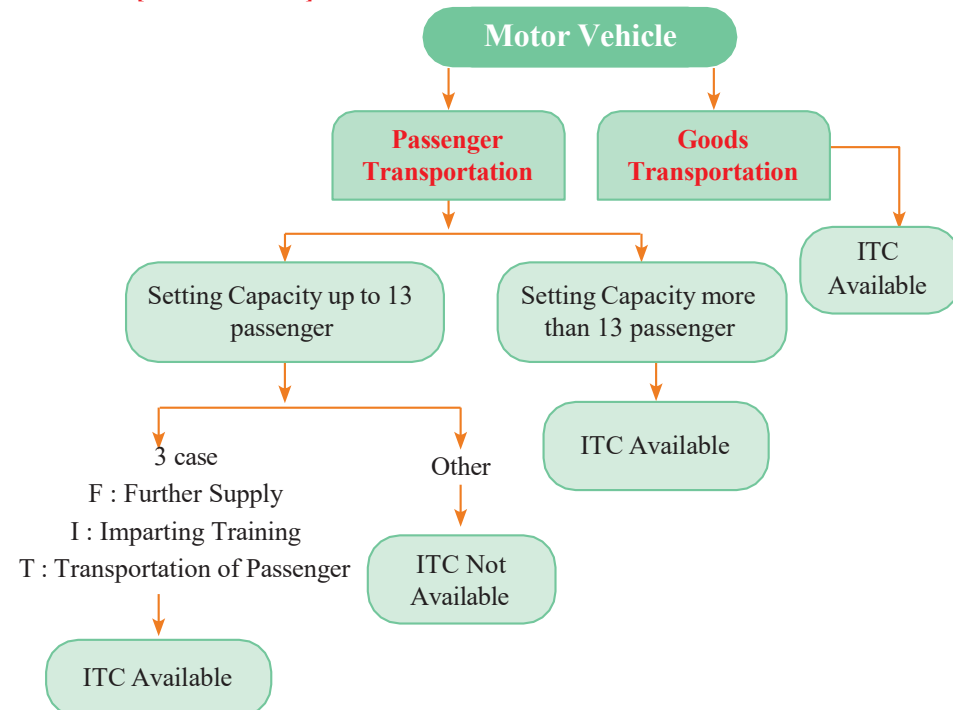
EXCEPTIONS

- ❖ Reverse charge supplies
- ❖ Deemed supplies without consideration
- ❖ Additions made to value of supplies on account of supplier's liability being incurred by the recipient of the supply.

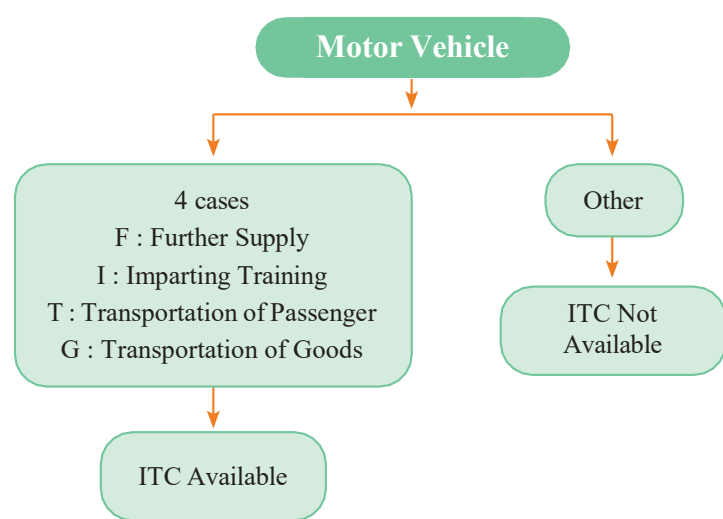
SECTION NO. 17

Blocked Credits

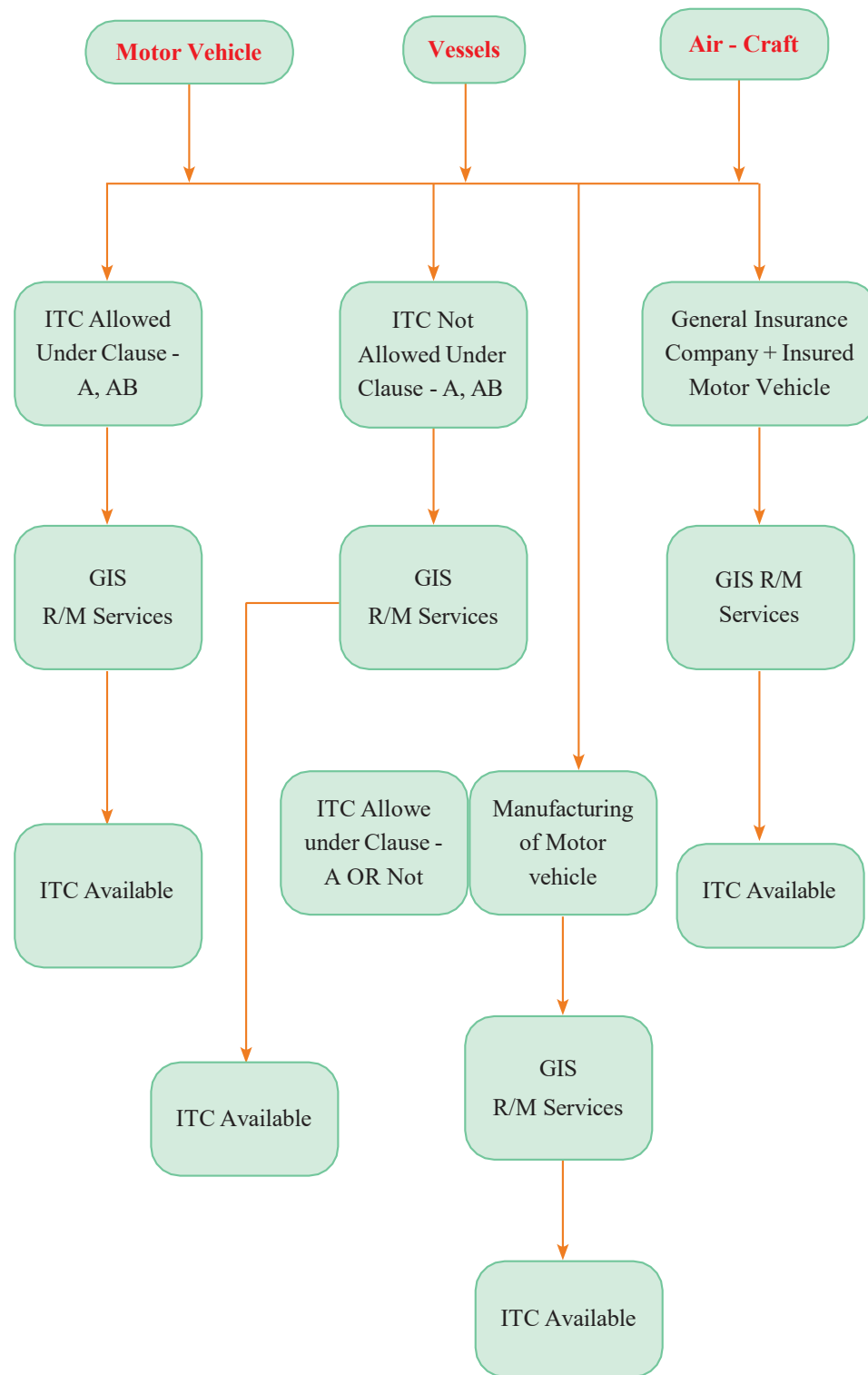
Clause - A [Motor Vehicle]



Clause AA: [Vessels and Aircraft]



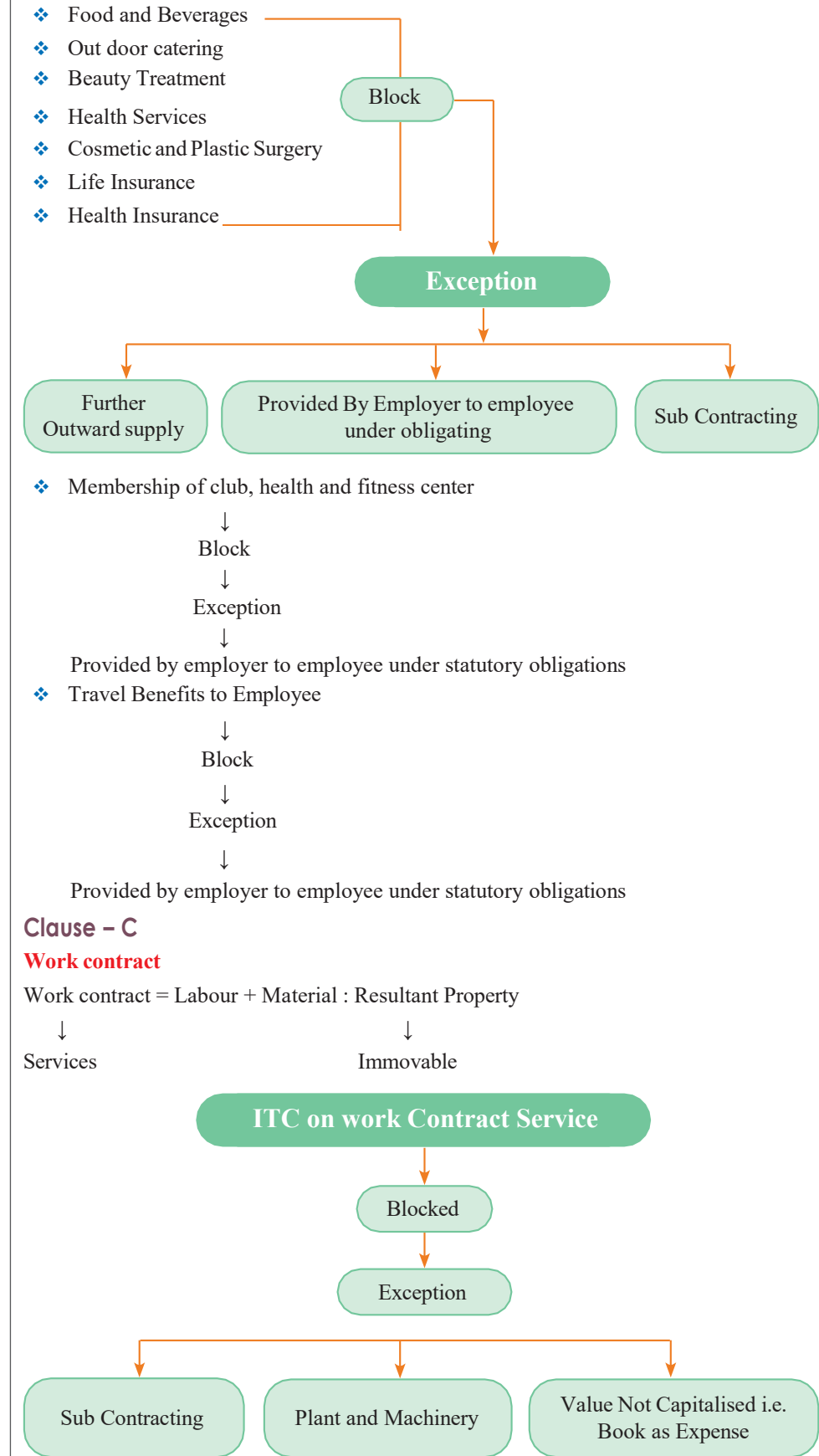
Clause AB: General Insurance Repair and maintenance services



Example

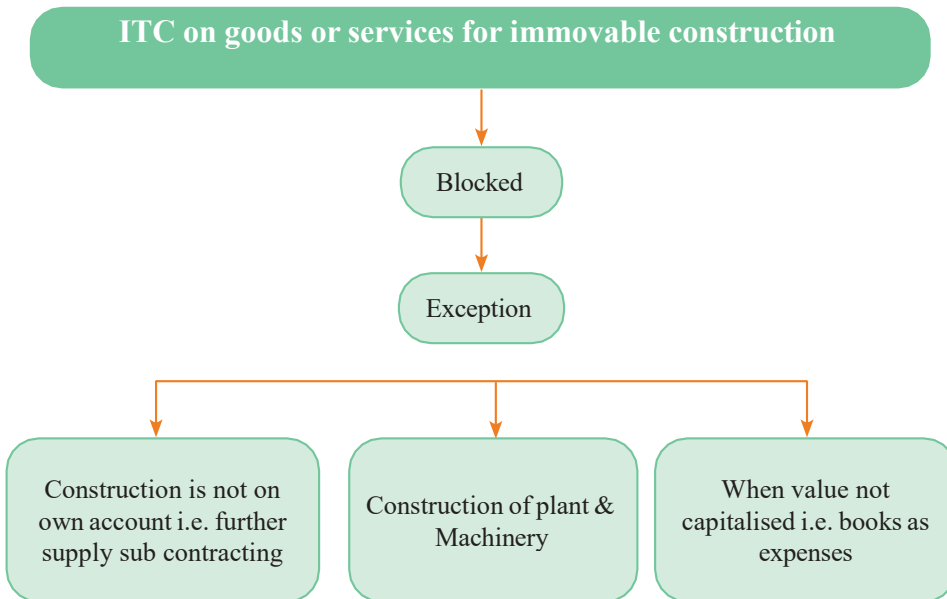
1. ITC on cars purchased by a manufacturing company for official use of its employees is blocked.
2. ITC on cars purchased by a car dealer for sale to customers is allowed.
3. ITC on cars purchased by a company engaged in renting out cars for transportation of passengers is allowed.

Special Cases Where Proportionate ITC Shall Be Available



- ❖ **Here immovable property means:** Land, Building civil structure, telecommunications tower and pipeline laid outside the factory premises
- ❖ **Here plant and machinery means:** Apparatus, Equipment, and Machinery
If fixed to the Earth by foundation or structure supports.

Clause - D



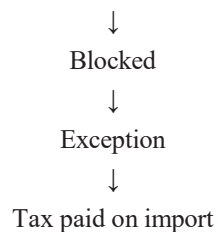
Immovable property and plant and machinery meaning same as clause - c

Clause - E

Composition scheme → ITC Blocked

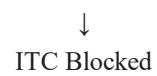
Clause - F

Supply Receive by non-resident taxable person



Clause - G

Inward supplies used for personal consumption



Clause - H

- ❖ Goods that are disposed of by way of gift
- ❖ Goods that are disposed by way of free samples
- ❖ Lost goods
- ❖ Stolen goods
- ❖ Destroyed goods
- ❖ Goods that are return off

Blocked

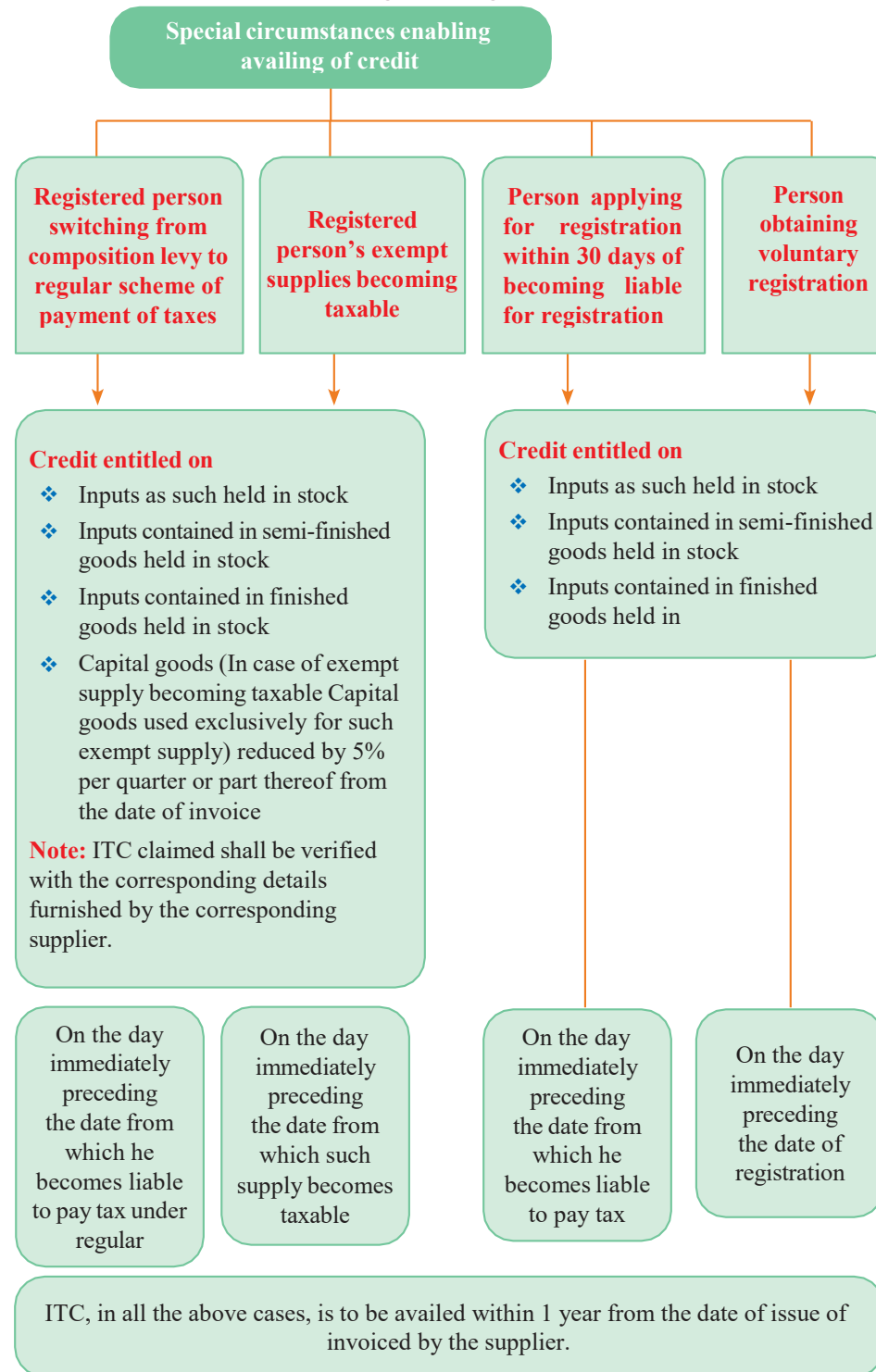
Clause - I

- ❖ Tax paid in fraud cases
- ❖ Tax paid in detention cases
- ❖ Tax paid in confiscation cases

Blocked

SECTION NO. 18

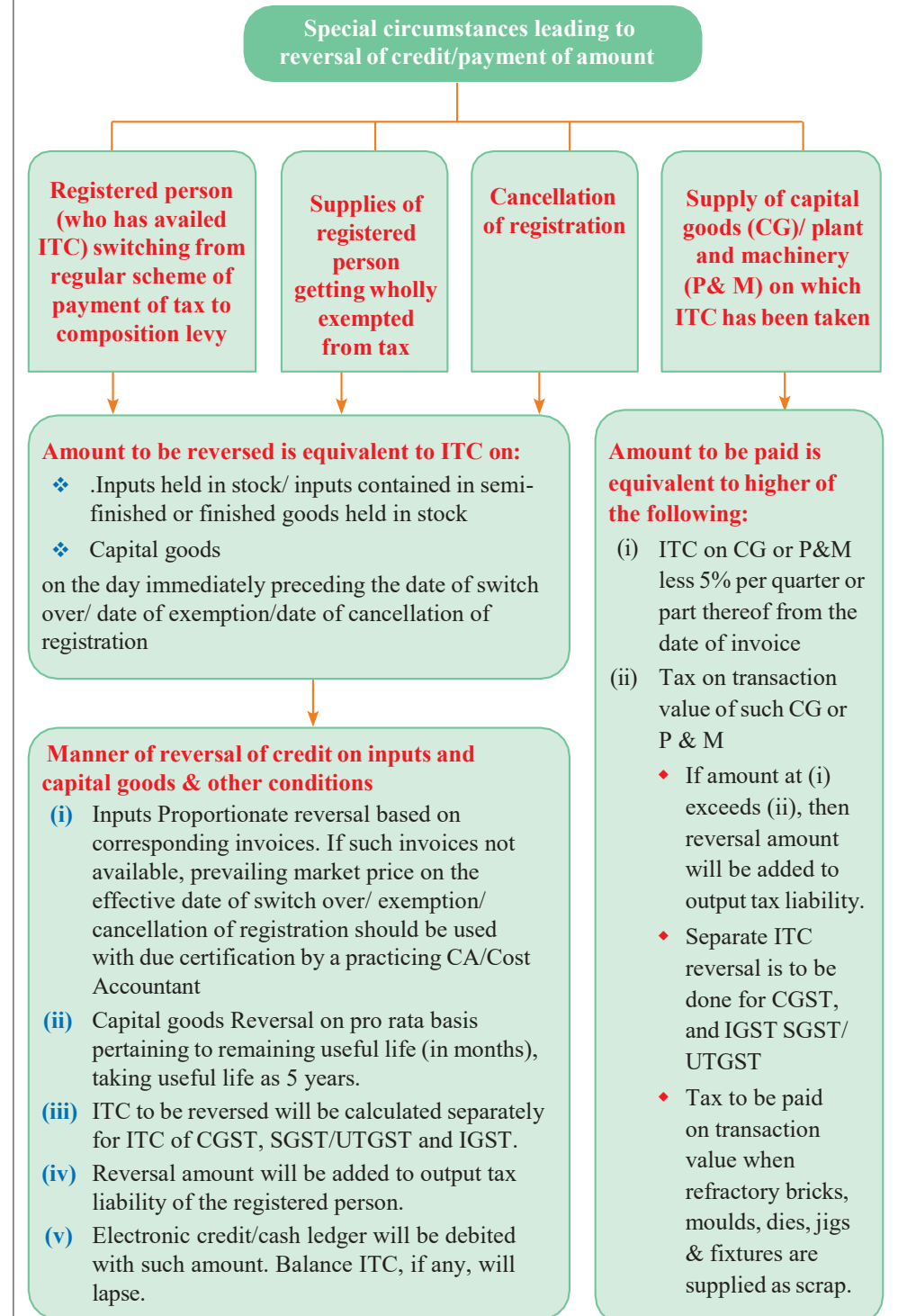
Special Circumstances Enabling Availing Credit



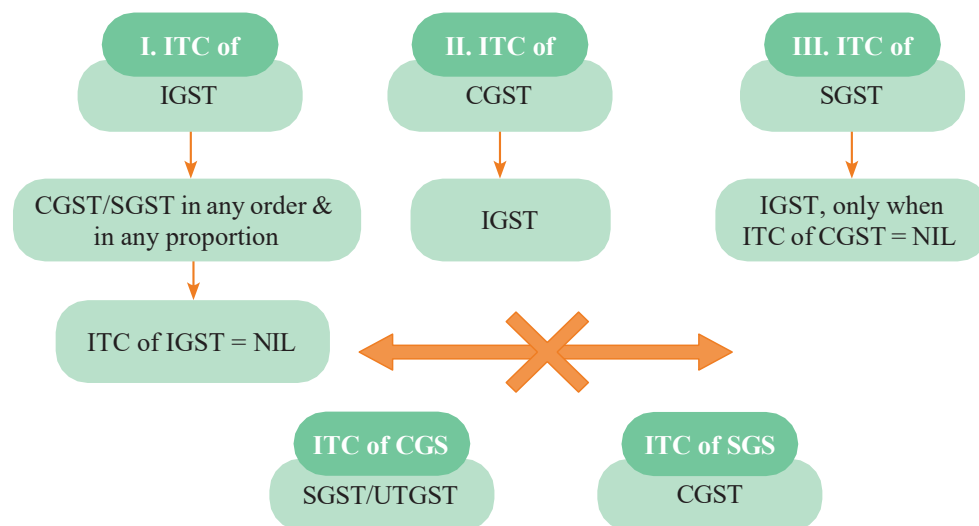
Conditions for availing above credit:

1. Filing of electronic declaration giving details of inputs held in stock/contained in semi-finished goods and finished goods held in stock and capital goods on the days immediately preceding the day on which credit becomes eligible.
2. Declaration has to be filed within 30 days from becoming eligible to avail credit.
3. Details in (i) above to be certified by a CA/Cost Accountant if aggregate claim of CGST, SGST/IGST credit is more than ₹ 2,00,000.

B. Special circumstances leading to reversal of credit/payment of amount



Provisions relating to utilization of ITC are summarized as under:



TAKING ITC IN RESPECT OF INPUTS & CAPITAL GOODS SENT FOR JOB WORK U/S. 19 OF CGST ACT

1. Notwithstanding anything contained in clause (b) of sub section (2) of Section 16, the “principal” shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job work without being first brought to his place of business.
2. Where the inputs sent for job work are not received back by the “principal” after completion of job work or otherwise or are not supplied from the place of business of the job worker in accordance with clause (a) or clause (b) of sub section (1) of section 143 within one year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.

Provided That

Where the inputs are sent directly to a job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker and 3 years in case of capital goods.

MANNER OF DISTRIBUTION OF CREDIT BY INPUT SERVICE DISTRIBUTOR U/S. 20 OF CGST ACT

ISD SHALL DISTRIBUTE CREDIT OF CGST AS CGST OR IGST & IGST AS IGST OR CGST , BY WAY OF ISSUE OF DOCUMENT , U/S.20(1)

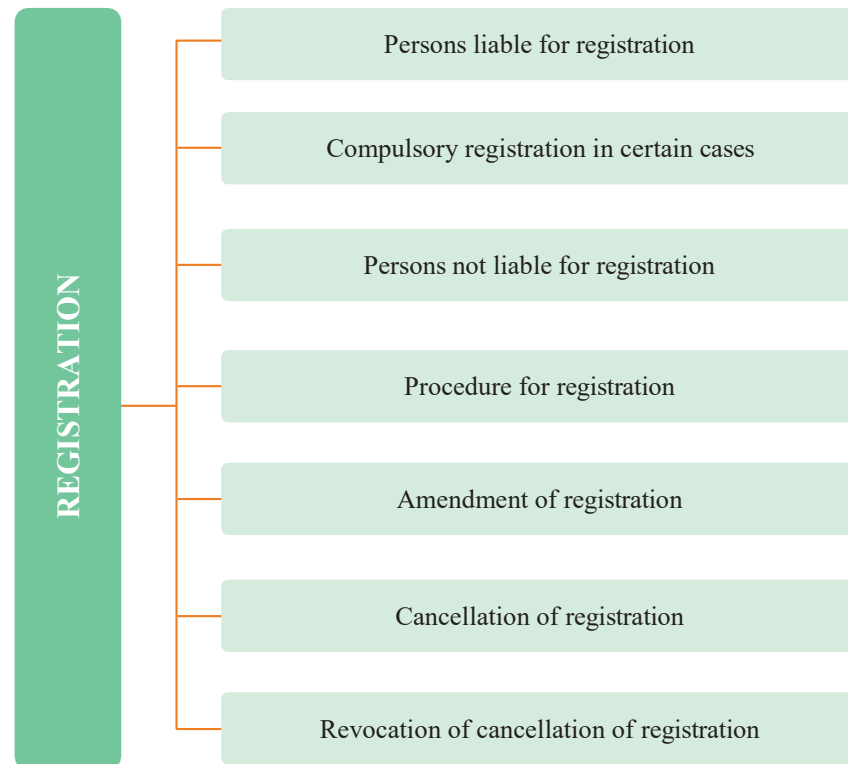
Containing amount of ITC being distributed in such manner as may be prescribed

Conditions For Distributing ITC By ISD

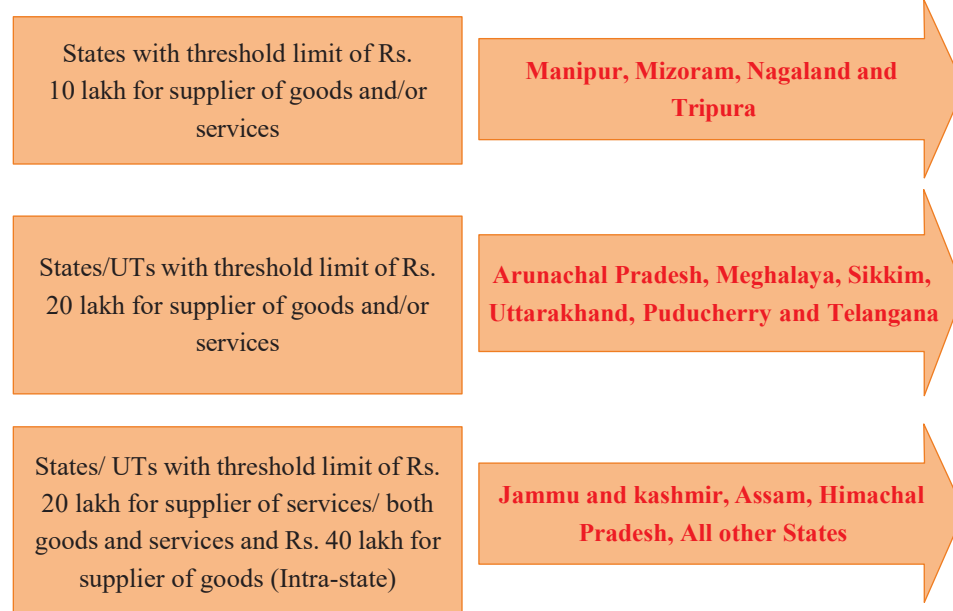
- ❖ ISD shall issue a separate invoice to allow credit to its branches.
- ❖ Credit shall be allowed to the respective branches who have consumed the service.
- ❖ In case service has been consumed by more than one branch with same PAN then credit shall be distributed in proportion to sales effected by each such branch.
- ❖ The amount of credit distributed shall not exceed the amount of credit available for distribution.



CHAPTER OVERVIEW



PERSON LIABLE FOR REGISTRATION [SECTION 22]



PERSON NOT LIABLE FOR REGISTRATION [SECTION 23]

1. FOLLOWING PERSONS SHALL NOT BE LIABLE TO REGISTRATION U/S. 23(1)

- ♦ Person engaged in supplying goods or services or both that are not liable to tax or wholly exempt from tax under CGST Act or IGST Act;
- ♦ Agriculturist to the extent of supply of produce out of cultivation of land

2. GOVT. MAY, ON RECOMMENDATIONS OF COUNCIL, BY NOTIFICATION U/S. 23(2)

- ♦ Specify category of persons who may be exempted from obtaining registration under this Act.

Following category of persons has been notified:

- (a) Persons making only reverse charge supplies.
- (b) Job workers engaged in making inter-State supply of services to a registered person, except the following:
 - ♦ A job worker who is otherwise required to take registration if his turnover crosses the threshold limits in the normal course i.e. Rs. 20 Lacs/ Rs. 10 Lacs.
 - ♦ A job worker who opts to take registration voluntarily under section 25(3).
 - ♦ A job worker who is involved in making supply of services in relation to the jewellery, 'goldsmith and silversmith' articles (Chapter 71) wares and other Articles.
- (c) Persons making inter-State supplies of taxable services in a financial year (except in case of special category States of Mizoram, Tripura, Manipur and Nagaland the limit is Rs. 10,00,000).
- (d) Persons making inter-State taxable supplies of notified handicraft goods until their turnover does exceed the threshold as applicable to them under section 22(1).
- (e) Persons making supplies of services through an E-Commerce Operator upto 20 Lakh/ 10 lakh.
- (f) Casual Taxable person making inter-State taxable supplies of notified handicraft goods in a financial year (except in case of special category States of Mizoram, Tripura, Manipur and Nagaland the limit is Rs. 10,00,000).

COMPULSORY REGISTRATION IN CERTAIN CASES [SECTION 24]

- (i) Persons making any inter-state taxable supply (exempt upto 20/10 lakhs for SCS except J&K);
EXCEPT
 - ♦ Interstate service
 - ♦ Handicraft goods supplier
 - ♦ Job worker

- (ii) Casual taxable persons making taxable supply;
EXCEPT
 - ♦ Handicraft goods supplier
- (iii) Persons who are required to pay tax under reverse charge;
- (iv) Persons who are Required to pay tax u/s. 9(5);
- (v) Non-resident Taxable persons making taxable supply;
- (vi) Persons who are required to deduct tax u/s. 51, whether or not separately registered under this Act.
- (vii) Person who makes taxable supply on behalf of other taxable persons whether as agent or otherwise.
- (viii) ISD whether or not separately registered under this act;
- (ix) Persons who makes supply other than supplies specified u/s. 9(5), through such electronic commerce operator who is required to collect tax at source u/s. 52; (exempt upto 20 lakhs)
- (x) Every electronic commerce operator;
- (xi) Every person supplying online information & database access or retrieval services from a place outside India to person in India, other than a registered person;
- (xii) Every person supplying online money gaming from a place outside India to a person in India and;
- (xiii) Such other person or class of persons as may be notified by Govt. on recommendations of the Council.

PROCEDURE FOR REGISTRATION [SECTION 25]

WHERE AND BY WHEN TO APPLY FOR REGISTRATION

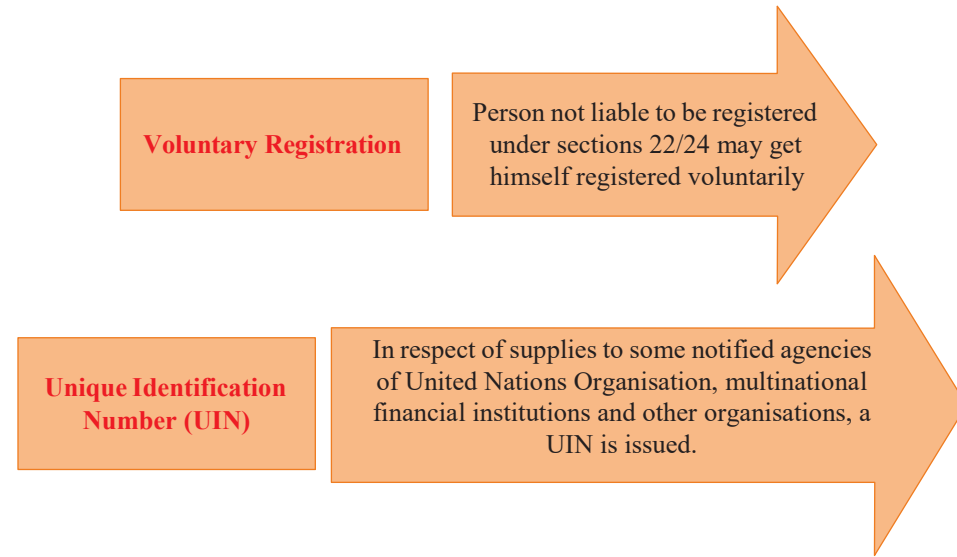
Person who is liable to be registered under section 22 or 24

A casual taxable person or a non-resident taxable person

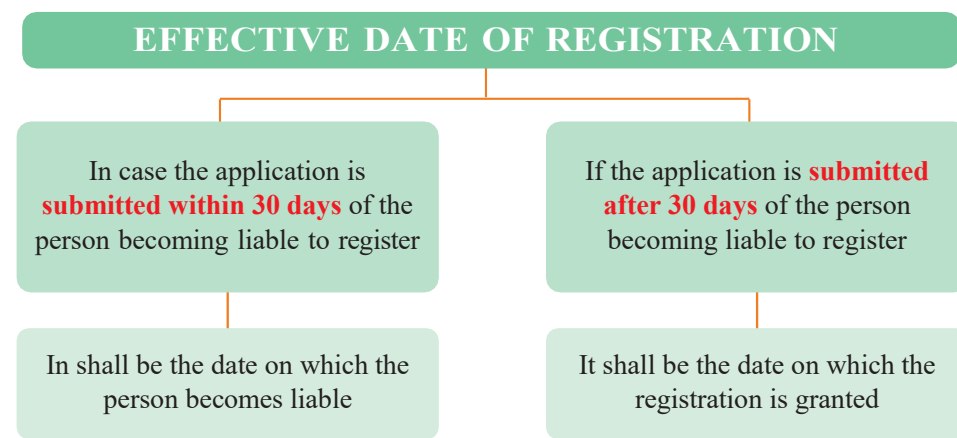
- ❖ in every such state/UT in which he is so liable.
- ❖ Within 30 days from the date on which he becomes liable to registration.

- ❖ in every such state/UT in which he is so liable.
- ❖ At least 5 days prior to the commencement of business.

VOLUNTARY REGISTRATION AND UIN



EFFECTIVE DATE OF REGISTRATION



PROCEDURE FOR REGISTRATION

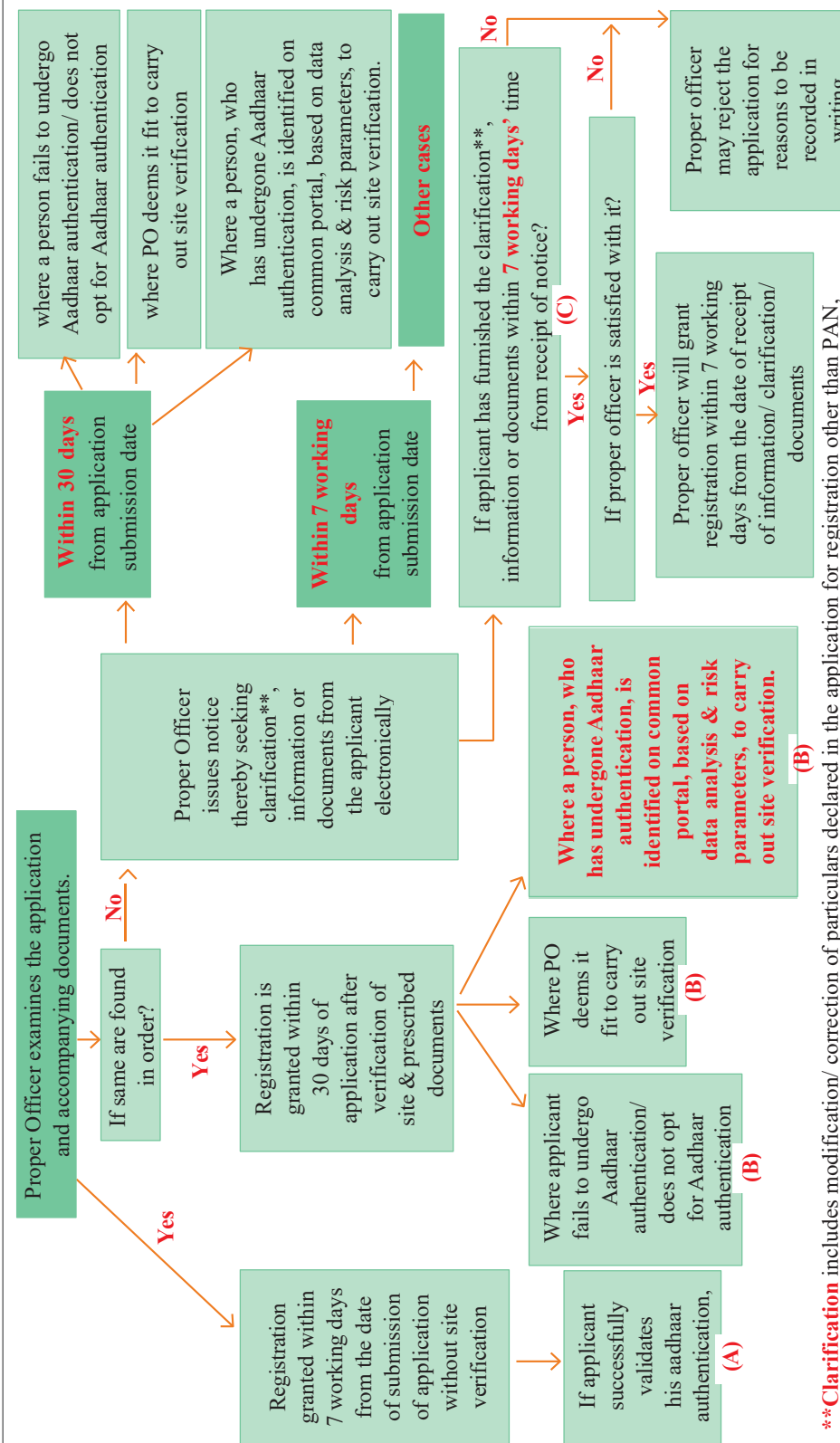
Part-1

- Every person liable to get registered and person seeking voluntary registration shall, before applying for registration, declare his Permanent Account Number (PAN) and State/UT in Part A of FORM GST REG-01 on GST Common Portal.
- PAN is validated online by Common Portal from CBDT database and is also verified through separate OTPs sent to the PAN linked mobile number and email address.
- Temporary Reference Number (TRN) is generated and communicated to the applicant on the validated mobile number and e-mail address.
- Using TRN, applicant shall electronically submit application in Part B of application form, along with specified documents at the Common Portal.
- Part B of application contains the details, such as, constitution of business, jurisdiction, option for composition, date of commencement of business, reason to obtain registration, address of PPOB and nature of activity carried out therein, details of APoB, details of bank account(s), details of authorized signatory, aadhaar authentication, etc.
- On receipt of such application, an acknowledgement in the prescribed form shall be issued to the applicant electronically. A Casual Taxable Person (CTP) applying for

registration gets a TRN for making an advance deposit of tax in his electronic cash ledger and an acknowledgement is issued only after said deposit.

- Application shall be forwarded to the Proper Officer.

The Procedure After Receipt of Application By The Proper Officer Is Depicted In Part II



**Clarification includes modification/ correction of particulars declared in the application for registration other than PAN, State Mobile no. & E-mail address.

DEEMED REGISTRATION [SECTION 26]

GRANT OF REGISTRATION OR UIN UNDER SGST ACT OR UTGST ACT U/S. 26(1)

- Deemed to be grant or registration or UIN subject to the condition that application for registration or UIN has not been rejected within the time specified u/s. 25(10).

NOTWITHSTANDING ANYTHING CONTAINED U/S. 25(10), U/S. 26(2)

- Any rejection of application for registration or UIN under SGST Act or UTGST Act shall be deemed to be a rejection of application for registration under this Act.

SPECIAL PROVISIONS RELATING TO CASUAL TAXABLE PERSON AND NON-RESIDENT TAXABLE PERSON [SECTION 27]

Certificate of Registration Issued to A Casual Taxable Person or A Non-Resident Taxable Person U/S. 27 (1)

- Valid for the period specified in application for registration or 90 days from date of registration, whichever is earlier & such person shall make taxable supplies only after issuance of certificate of registration.
- Proper officer may, on sufficient cause being shown by said taxable person, extend the said period of 90 days by a further period not exceeding 90 days.

Casual or Non-Resident Taxable Person at The Time of Submission of Application For Registration U/S. 25(1), U/S. 27(2):

- Make advance deposit of tax in amount equivalent to estimated tax liability of such person for the period for which the registration is sought.
- If any extension of time is sought, such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.

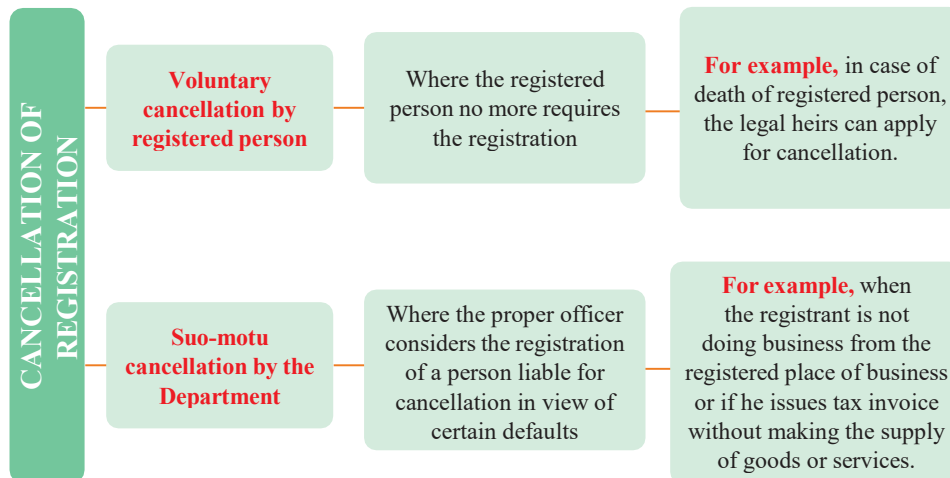
Amount Deposited Under Sub-Section (2), U/S. 27(3):

- Credited to electronic cash ledger of such person & shall be utilized in the manner provided u/s. 49.

AMENDMENT OF REGISTRATION [SECTION 28]

- Except for the changes in some core information in the registration application, a taxable person shall be able to make amendments without requiring any specific approval from the tax authority.
- In case there is change in core fields of information, the taxable person will apply for amendment within 15 days of the event necessitating the change.
- The Proper Officer, then, will approve the amendment within the next 15 days.
- For changes in non-core fields, no approval of the Proper Officer is required, and the amendment can be affected by the taxable person on his own on the common portal.

CANCELLATION OR SUSPENSION OF REGISTRATION [SECTION 29]



REVOCATION OF CANCELLATION OF REGISTRATION [SECTION 30]

Subject To Such Conditions as May Be Prescribed U/S. 30 (1) With Rule 23

- ❖ Registered person whose registration is cancelled by proper officer on his own motion, may apply to such officer for revocation of cancellation of registration in FORM GST REG-21 within 30 days from date of service of cancellation order.
- ❖ No application for revocation shall be filed if registration is cancelled for failure of registered person to furnish returns, unless such returns furnished & any amount due as tax, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.

Proper Officer May, In Such Manner & Within Such Period As Prescribed U/S. 30 (2)

- ❖ By order either revoke cancellation of the registration or reject the application.

- ❖ Application for Revocation of cancellation of registration shall not be rejected unless applicant has been given opportunity of being heard.

Revocation of Cancellation of Registration Under Sgst Act or Utgst Act U/S. 30 (3)

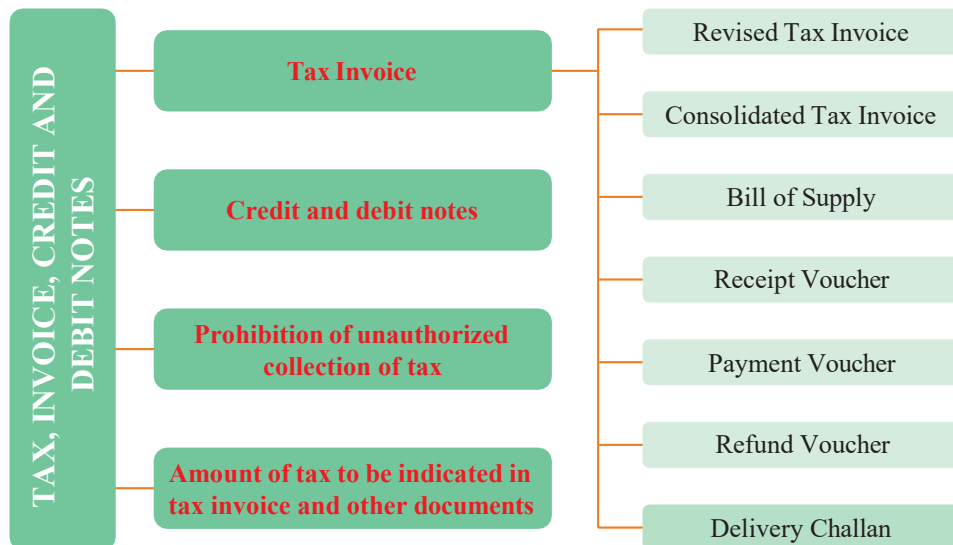
- ❖ Deemed to be a revocation of cancellation of registration under this Act.

GST REGISTRATION FORMS

GST REG-01	Form for application
GST REG-02	Acknowledgement on submission of application
GST REG-03	Intimation for demanding additional information
GST REG-04	Reply by dealer against intimation received
GST REG-05	Rejection order in case of unsatisfactory reply
GST REG-06	Registration certificate in case of acceptance of application or satisfactory reply



INTRODUCTION

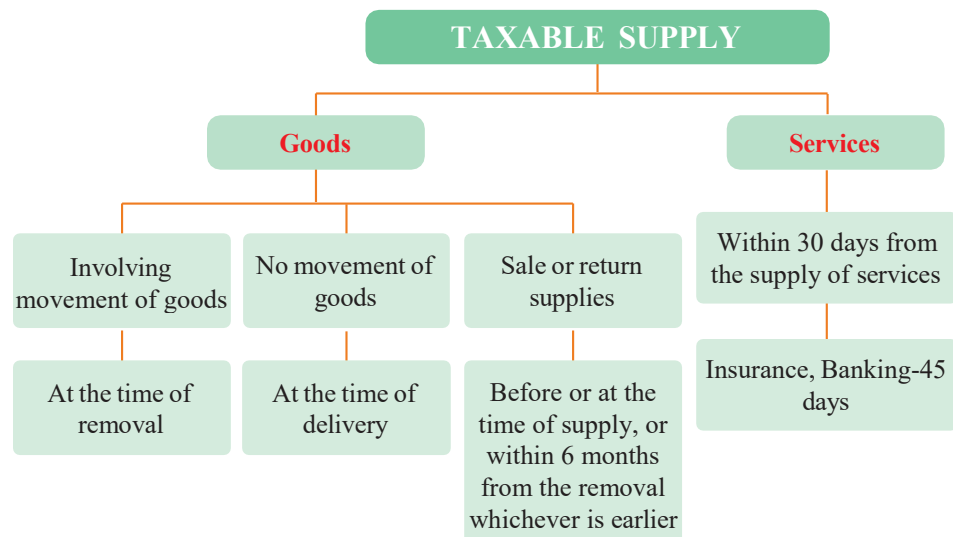


ELIGIBILITY FOR RAISING TAX INVOICE

Registered Person

- ❖ Supplying taxable goods or services
- ❖ Receiving taxable goods or services

TIME LIMIT FOR ISSUANCE OF TAX INVOICE



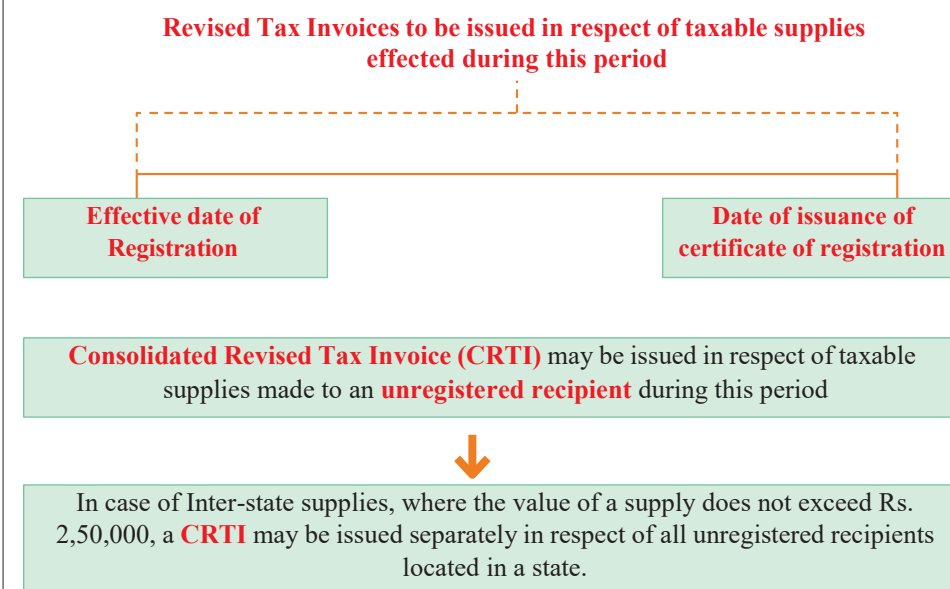
In Case of Continuous Supply of Goods

before/at the time each successive statements of accounts is issued or each successive payment is received

In Case of Continuous Supply of Services

due date of payment is ascertainable from the contract	on/before due date of payment
not so ascertainable	before/at the time of receipt of payment
payment is linked to the completion of an event	on/before the date of completion of that event

REVISED TAX INVOICE



CONTENTS OF TAX INVOICE

1. Name, address & GSTIN of supplier
2. Consecutive Serial Number & date of issue
3. Name, address & GSTIN of recipient, if registered
4. Name & address of recipient alongwith delivery address , name & State code, if not registered
5. HSN
6. Description of goods or services
7. Quantity in case of goods
8. Total Value of supply
9. Taxable Value of supply
10. Tax rate – Central tax & State tax or Integrated tax, cess
11. Amount of tax charged
12. Place of supply

13. Address of delivery where different than place of supply
14. Tax payable on reverse charge basis
15. Signature of supplier or authorised signatory - not req. if e-invoice issued as per IT Act, 2000
16. QR code having embedded IRN in it - in case if e-invoice issued

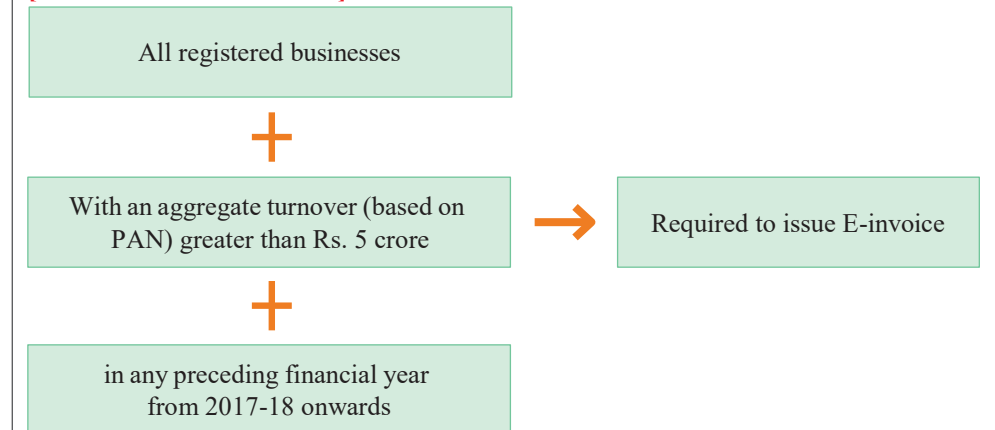
MANNER OF ISSUING OF INVOICE

Supply of Goods	Supply of services
Triplicate	Duplicate
Original copy for recipient Duplicate copy for transporter; and Triplicate copy for supplier	Original copy for recipient; and Duplicate copy for supplier

The serial number of invoices issued during a month/quarter shall be furnished electronically in FORM GSTR-1.

E-INVOICING

CLASS OF PERSONS MANDATORILY REQUIRED TO ISSUE E-INVOICE [NOTIFIED TAXPAYERS]



ADVANTAGES OF E-INVOICING

- ❖ Auto-reporting of invoices into GST return
- ❖ Auto-generation of e-way bill
- ❖ Substantial reduction in transcription errors
- ❖ Early payment
- ❖ Cost reduction
- ❖ Improved efficiency of business
- ❖ Reduction of tax evasion
- ❖ Elimination of fake invoices

APPLICABILITY AND NON APPLICABILITY OF E-INVOICES

Applicable

- ❖ Supply of goods and/or services to a registered person by notified person [B2B supplies]
- ❖ Exports by notified persons
- ❖ Supplies made by notified person, tax on which is payable under reverse charge under section 9(3)

Not Applicable

- ❖ B2C supplies by notified persons
- ❖ Invoices issued by Input Service Distributor
- ❖ Where specified category of supplies are received by notified persons from unregistered persons [attracting reverse charge under section 9(4)] or through import of services
- ❖ Import of goods (Bills of Entry)

EXEMPTION FROM E-INVOICING

- ❖ Special Economic Zone units
- ❖ Insurer/banking company/financial institution including NBFC
- ❖ GTA supplying services in relation to transportation of goods by road in a goods carriage
- ❖ Supplier of passenger transportation service
- ❖ Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- ❖ Government Department and local authority

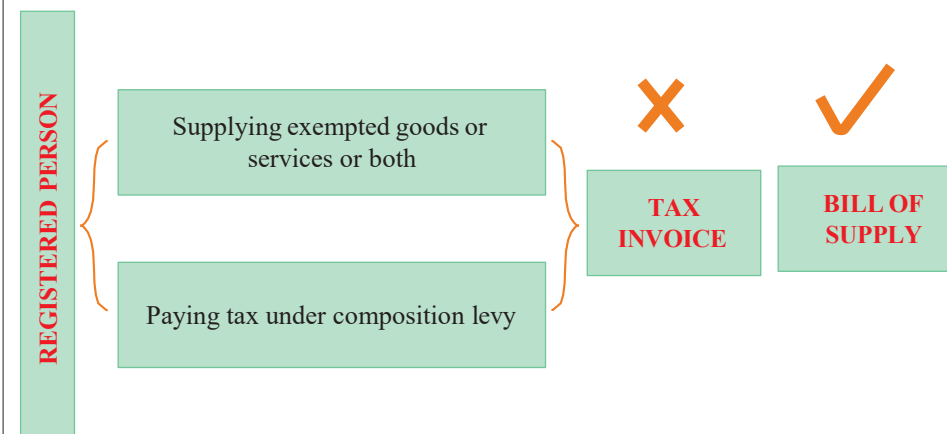
CONSOLIDATED TAX INVOICE

Tax invoice is not required to be issued in the following cases.

1. Value of supply < Rs. 200
2. Recipient is unregistered
3. Recipient does not require such invoice

Consolidated Tax Invoice shall be issued for such supplies at the close of each day in respect of all such supplies

BILL OF SUPPLY



CREDIT NOTES

Where one or more tax invoices have been issued for supply of any goods or services or both and

↓

Taxable value in invoice > Taxable value in respect of such supply

Tax charged in invoice > Tax payable in respect of such supply

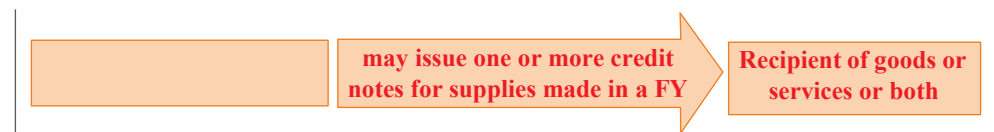
OR

Where the goods supplied are returned by the recipient

OR

Where goods or services or both supplied are found to be deficient.

↓



Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than:

- ❖ 30th November following the end of the financial year in which such supply was made,
- OR
- ❖ The date of furnishing of the relevant annual return, **whichever is earlier.**

The tax liability shall be adjusted in such manner as may be prescribed.

However, no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

DEBIT NOTES

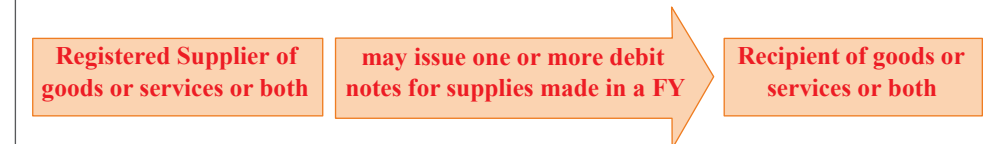
Where one or more tax invoices have been issued for supply of any goods or services or both

↓

Taxable value in invoice < Taxable value in respect of such supply

Tax charged in invoice < Tax payable in respect of such supply

↓



- ❖ Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued.
- ❖ The tax liability shall be adjusted in such manner as may be prescribed.

ACCOUNTS AND OTHER RECORDS U/S. 35 OF CGST ACT**Section 35(1)**

REGISTERED PERSON SHALL KEEP & MAINTAIN, AT PRINCIPAL PLACE OF BUSINESS, MENTIONED IN CERTIFICATE OF REGISTRATION, U/S. 35 (1):

A true & correct account of:

- ❖ production or manufacture of goods,
- ❖ inward & outward supply;
- ❖ stock of goods;
- ❖ ITC availed,
- ❖ output tax payable & paid, &
- ❖ Such other particulars as prescribed.

If more than one place of business specified in certificate of registration, the accounts relating to each place of business shall be kept at such places of business

Section 35(2)

EVERY OWNER OR OPERATOR OF WAREHOUSE OR OTHER PLACE USED FOR STORAGE OF GOODS & EVERY TRANSPORTER, SHALL, U/S. 35(2):

- ❖ Maintain records of consigner,
- ❖ Maintain records of consignee &
- ❖ Other relevant of goods in such manner as prescribed.

Section 35(5)

EVERY REGISTERED PERSON WHO'S TURNOVER DURING FY EXCEEDS PRESCRIBED LIMIT SHALL, U/S. 35 (5):

- ❖ Get his accounts audited by a CA or a cost accountant & shall submit a copy of audited annual accounts, reconciliation statement u/s. 44(2) & such other documents in such form & manner as prescribed.

MAINTENANCE OF ACCOUNTS BY REGISTERED PERSONS RULE 56 OF CGST RULES

REGISTERED PERSON SHALL KEEP & MAINTAIN, AT PRINCIPAL PLACE OF BUSINESS, MENTIONED IN CERTIFICATE OF REGISTRATION, U/S. 35 (1):

- ❖ A true & correct account of goods or services imported or exported or of supplies on reverse charge along with relevant documents,

- ❖ including invoices,
- ❖ bills of supply,
- ❖ delivery challans,
- ❖ credit notes,
- ❖ debit notes,
- ❖ receipt vouchers,
- ❖ payment vouchers &
- ❖ Refund vouchers.

EVERY REGISTERED PERSON, OTHER THAN PERSON PAYING TAX U/S. 10, SHALL MAINTAIN, RULE 35(2):

- ❖ Accounts of stock for goods received & supplied, &
- ❖ opening balance,
- ❖ receipt,
- ❖ supply,
- ❖ goods lost, stolen, destroyed, written off or disposed of,
- ❖ gift or free sample &
- ❖ Balance of stock.

PERIOD OF RETENTION OF ACCOUNTS U/S. 36 OF CGST ACT

REGISTERED PERSON REQUIRED TO KEEP & MAINTAIN BOOKS OF ACCOUNT OR OTHER RECORDS IN ACCORDANCE WITH U/S. 35 (1):

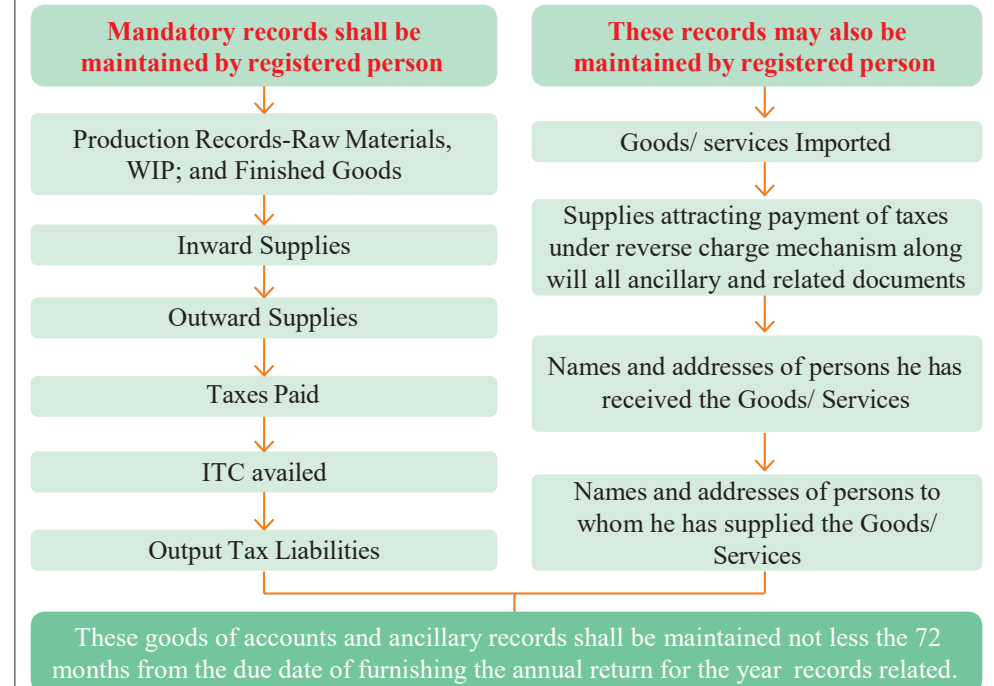
- ❖ SHALL Retain them until expiry of 72 months from the due date of furnishing of annual return pertaining to accounts.

REGISTERED PERSON, WHO IS A PARTY TO APPEAL OR REVISION OR OTHER PROCEEDINGS BEFORE ANY APPELLATE AUTHORITY OR REVISIONAL AUTHORITY OR APPELLATE TRIBUNAL OR COURT, WHETHER FILED BY HIM OR BY COMMISSIONER, OR UNDER INVESTIGATION FOR OFFENCE UNDER CHAPTER XIX, SHALL

- ❖ Retain books of account & other records pertaining to subject matter of such appeal or revision or proceeding or investigation for a period of 1 year after final disposal of such appeal or revision or proceedings or investigation,

OR

- ❖ 72 months from due date of furnishing of annual return for the year pertaining to such accounts and records

Whichever is Later**FAILURE TO MAINTAIN THE ACCOUNTS****Failure to maintain the accounts:**

- ❖ PO shall determine the tax payable on the unaccounted goods and/or services, as if the same had been supplied by such person
- ❖ Provisions of section 73/74 shall, mutatis mutandis, apply for determination of such tax

HOW THE ACCOUNTS AND RECORDS WILL BE MAINTAINED?

- ❖ Records in electronic form be authenticated by a digital signature
- ❖ Proper electronic back-up of records be maintained and preserved
- ❖ Such records need to be produced, on demand, in hard copy or in any electronically readable format
- ❖ Details of files, their passwords and explanation for codes, and any other info required for access
- ❖ Records in electronic form
(Books of account include any electronic form of data stored on any electronic device.)

MOVEMENT OF GOODS

1. If a supplier is registered and undertakes to transport the goods, movement of goods is caused by the supplier.
2. If the recipient arranges transport, movement would be caused by him.
3. If goods are supplied by an unregistered supplier to a registered recipient (known at time of commencement of movement of goods), movement shall be caused by such recipient.

INFORMATION TO BE FURNISHED IN E-WAY BILL

Part A: to be furnished by the registered person who is causing movement of goods. However, information in Part-A may be furnished:

- ❖ By the transporter if authorised or
- ❖ By the e-commerce operator/courier agency, if authorised, where the goods are supplied through them.

Contents: Part A mainly comprise of basic invoice information containing the following fields.

Part A	Particulars	Remarks
A.1	GSTIN of Supplier	GSTIN of the person generating e-way bill
A.2	Place of Dispatch	Self-explanatory/ It is relevant especially where the Place of dispatch is different from the place of the consignor
A.3	GSTIN of Recipient	Self-explanatory. However, where the recipient is unregistered, it is not required and in such cases the option 'URP' shall be ticked
A.4	Place of Delivery	Self-explanatory
A.5	Document Number	Tax Invoice no/ Bill of Supply No. / Delivery Challan No. as the case may be
A.6	Document Date	Date corresponding to the underlying document
A.7	Value of Goods	As per invoice/ bill of supply/ delivery challan [inclusive of taxes]
A.8	HSN Code	As per the underlying document
A.9	Reason for Transportation	In common portal, the following reasons have been made available for generation of e Way Bill viz. Supply, Export, Import, Job Work, SKD or CKD, Recipient not known, Line Sales, Sales Return, Exhibition or Fairs, For own use and Others

Part B: to be furnished by the person who is transporting the goods.

The filling up of Part B finally culminates the process with the generation of e way bill.

Contents - Part B mainly comprise of transportation details as below;

Part B	Particulars	Remarks
B.1	Vehicle No. [for Road]	To be taken from the transporter
B.2	Transport Document No. / Defence Vehicle No. / Temporary Vehicle Registration No. / Nepal or Bhutan Vehicle Registration No.	LR/RR No.

Details of Conveyance May not be Furnished in Part-B

In case of intra-State movement of goods upto 50 km distance:

1. From place of business (PoB) of consignor to PoB of transporter for further transportation or
2. From PoB of transporter finally to PoB of the consignee.

Transfer of Goods to Another Conveyance

In such cases, the transporter or generator of the e-way bill shall update the new vehicle number in Part B of the EWB before such transfer and further movement of goods.

CONSOLIDATED E-WAY BILL IN CASE OF ROAD TRANSPORT

After e-way bill has been generated, where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in **Form GST EWB-02** may be generated by him on the said common portal prior to the movement of goods.

Where the consignor/consignee has not generated the e-way bill in **Form GST EWB-01** and the aggregate of the consignment value of goods carried in the conveyance is more than Rs. 50,000, the transporter shall generate individual **Form GST EWB-01** on the basis of invoice or bill of supply or delivery challan and may also generate a consolidated e-way bill in Form GST EWB-02 prior to the movement of goods.

CANCELLATION OF E-WAY BILL

E-way bill can be cancelled

- ❖ If either goods are not transported or
- ❖ Are not transported as per the details furnished in the e-way bill.

The e-way bill can be cancelled within 24 hours from the time of generation.

VALIDITY PERIOD OF E-WAY BILL/CONSOLIDATED E-WAY

Validity of E-Way Bill - The Validity of E-Way Bill is Stated as Under

Sr. No.	Vehicle Dimensions	Distance	Validity Period
1.	In cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship	Upto 200 KM	1 day
2.	In cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship	For Every 200 KM or part thereof	1 additional day
3.	In case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship	Upto 20 KM	1 day
4.	In case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship	For every 20 KM or part thereof	1 additional day

ACCEPTANCE/REJECTION OF E-WAY BILL

1. The details of e-way bill generated shall be made available to the supplier or recipient as the case may be if registered, on the common portal, who shall communicate his acceptance or rejection of the consignment covered by the e-way bill.
2. In case, the supplier/ recipient does not communicate his acceptance or rejection within earlier of the following:
 - ♦ 72 hours of the details being made available to him on the common portal,

Or

 - ♦ Time of delivery of goods,

It shall be deemed that he has accepted the said details.

DOCUMENTS/ DEVICES TO BE CARRIED BY A PERSON-IN-CHARGE OF A CONVEYANCE

1. Invoice or Bill of supply or Delivery challan
2. Copy of the e-way bill in physical form or The e-way bill number in electronic form Or mapped to a RFID embedded on to the conveyance except in case of Movement of goods by rail or by air or vessel

Verification of Documents and Conveyances

- ❖ Commissioner or an officer empowered by him in this behalf may authorise the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form or electronic form for all inter-State and intra-State movement of goods.
- ❖ Physical verification of a specific conveyance can also be carried out by any officer, on receipt of specific information on evasion of tax, after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

INSPECTION AND VERIFICATION OF GOODS

1. A summary report of every inspection of goods in transit shall be recorded online on the common portal
 - ♦ By the proper officer
 - ♦ Within 24 hours of inspection and
 - ♦ The final report shall be recorded within 3 days of such inspection.
2. Once physical verification of goods being transported on any conveyance has been done during transit at one place within the State or in any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently.
3. Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information on the common portal.

RESTRICTION ON FURNISHING OF INFORMATION IN PART A OF FORM GST EWB-01

No person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in Part A of Form GST EWB-01, in respect of any outward movement of goods of a registered person, who –

- ❖ Being a composition supplier has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, or
- ❖ Being a person paying tax under regular scheme has not furnished the returns for a consecutive period of 2 tax periods, or
- ❖ Being a person paying tax under regular scheme has not furnished GSTR-1 for any 2 months or quarters, as the case may be, or
- ❖ Being a person whose registration has been suspended.

However, the Commissioner (jurisdictional commissioner) may, on sufficient cause being shown and for reasons to be recorded in writing, allow furnishing of the said information in Part A of Form GST EWB-01, subject to prescribed conditions and restrictions.

EXEMPTION TO GENERATE E-WAY BILL

In the following cases, e-way bill shall not be required to be generated;

1. Where, the value of goods does not exceed Rs. 50,000/-.
2. Where the goods are being transported in a non-motorized conveyance.

3. Where empty cargo containers are being transported.
4. Where the goods are being transported from customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs.
5. Where the goods are being transported under bond from inland container depot or a container freight station to customs port, airport, air cargo complex and land customs station or from one customs station or customs port to another customs station or customs port.
6. Where the goods are being transported under customs supervision or under customs seal.
7. Where the goods are being transported as transit cargo from or to Nepal or Bhutan.
8. Where any movement is caused by defence formation under the Ministry of Defence.
9. Where the goods being transported are petroleum crude, high speed diesel, motor spirit/ petrol, natural gas or aviation fuel.
10. Where the consignor of goods is the Central Government, Government of any State or local authority for transport of goods by rail.
11. Where the goods are being transported upto a distance of twenty (20) kilometres from the place of the business of the consignor to a weighbridge for weightment or vice-versa. However, the movement of goods in such cases shall be accompanied by a delivery challan.



FURNISHING DETAILS OF OUTWARD SUPPLIES [SECTION 37 READ WITH RULE 59]

Details of Outward supply (Form GSTR-1) of Goods and Services to be filed by:

All registered persons including Casual registered person

Exclusions:

- ❖ Input Service Distributor (ISD)
- ❖ Non-resident taxable person
- ❖ Composition taxpayer
- ❖ Person deducting tax at source
- ❖ Person collecting tax at source
- ❖ Supplier of OIDAR services located in non-taxable territory providing services to non-taxable online recipient

FURNISHING DETAILS OF INWARD SUPPLIES [SECTION 38 READ WITH RULE 60]

- Auto-generated Statement**
- (A) Details of inward supplies in respect of which **ITC may be available** to the recipient
 - (B) Details of supplies in respect of which such ITC cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37
- (i) By any registered person within such period of taking registration as may be prescribed
 - (ii) By any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed
 - (iii) By any registered person, the output tax payable by whom in accordance with GSTR-1 furnished by him during such period, as may be prescribed, exceeds the output tax paid by him during the said periods by such limit as may be prescribed**
 - (iv) By any registered person who, during such period as may be prescribed, has available ITC of an amount that exceeds the credit that can be availed by him in accordance with (A) by such limit as may be prescribed
 - (v) By any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of section 49(12) subject to such conditions and restrictions as may be prescribed; or
 - (vi) By such other class of persons as may be prescribed

The details of outward supplies furnished by the registered persons under section 37(1) and of such other supplies as may be prescribed, and an Auto-Generated Statement containing the details of ITC shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.

FURNISHING OF RETURNS UNDER SECTION 39

Return forms under section 39:
GSTR-3B (For all registered persons)

- GSTR-4(For Composition Taxpayers)
- GSTR-5 (For Non-Resident Taxable Persons)
- GSTR-7 (For Tax Deducted at Source)

Excluding:

- ❖ Input Service Distributor (ISD)
- ❖ Non-resident taxable person
- ❖ Composition taxpayer
- ❖ Person deducting tax at source
- ❖ Person collecting tax at source
- ❖ Supplier of OIDAR services located in non-taxable territory providing services to non-taxable online recipient

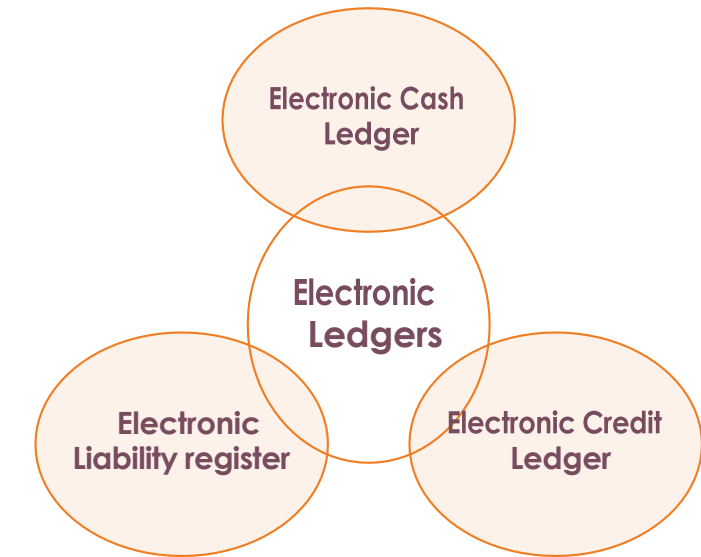
LEVY OF FEE [SECTION 47]

Class of registered persons	Quantum of late fee	
	Rs. 200 (Rs. 100 under CGST & Rs. 100 under SGST/UTGST) for every day during which such failure continues.	} Whichever is lower
	Rs. 10,000 (Rs. 5,000 under CGST & Rs. 5,000 under SGST/UTGST)	
Registered persons having aggregate turnover ≤ Rs. 5 crores in the relevant FY.	Rs. 50 per day (Rs. 25 CGST + Rs. 25 SGST/UTGST)	} Whichever is lower
Registered persons having following aggregate turnover: Rs. 5 Crores < aggregate turnovers ≤ Rs. 20 crores in the relevant FY	0.04% of turnover in the state or union territory (0.02% CGST + 0.02% SGST/UTGST)	
Registered persons having aggregate turnover > Rs. 20 crores in the relevant FY	Rs. 100 per day (Rs. 50 CGST + Rs. 50 SGST/UTGST)	} Whichever is lower
	0.04% of turnover in the state or union territory (0.02% CGST + 0.02% SGST/UTGST)	
	Rs. 200 for every day during which such failure continues (Rs. 100 CGST + Rs 100 SGST/UTGST)	} Whichever is lower
	0.50% of the turnover of the registered person in the state/ union territory (0.25% CGST + 0.25% SGST/UTGST)	

Delayed Filing of Annual return

Class of registered persons	Quantum of late fee	
Registered persons having aggregate turnover ≤ Rs. 5 crores in the relevant FY.	Rs. 50 per day (Rs. 25 CGST + Rs. 25 SGST/UTGST)	} Whichever is lower
Registered persons having following aggregate turnover: Rs. 5 Crores < aggregate turnovers ≤ Rs. 20 crores in the relevant FY	0.04% of turnover in the state or union territory (0.02% CGST + 0.02% SGST/UTGST)	
Registered persons having aggregate turnover > Rs. 20 crores in the relevant FY	Rs. 100 per day (Rs. 50 CGST + Rs. 50 SGST/UTGST)	} Whichever is lower
	0.04% of turnover in the state or union territory (0.02% CGST + 0.02% SGST/UTGST)	
	Rs. 200 for every day during which such failure continues (Rs. 100 CGST + Rs 100 SGST/UTGST)	} Whichever is lower
	0.50% of the turnover of the registered person in the state/ union territory (0.25% CGST + 0.25% SGST/UTGST)	

ELECTRONIC LEDGERS/REGISTER



ELECTRONIC CASH LEDGER

- ❖ It will reflect all deposits made in cash, and TDS/TCS made on account of the tax payer.
- ❖ This ledger can be used for making **ANY PAYMENT** towards tax, interest, penalty, fees or any other amount on account of GST.

Electronic Credit Ledger

- ❖ It will reflect Input Tax Credit as self-assessed in monthly returns.
- ❖ The credit in this ledger can be used to make payment of **ONLY TAX** i.e. output tax and no other amounts such as interest, penalty, fees etc.

Electronic Liability Ledger

- ❖ Electronic Liability Register will reflect the total tax liability of a taxpayer (after netting) for the particular month.

PAYMENT OF TAX

Electronic Credit Ledger

Debit Amount (DR)	Credit Amount (CR)
<ul style="list-style-type: none"> ❖ Credit amount of this ledger may be used for payment of output tax viz IGST, CGST, SGST, UTGST, CESS 	<ul style="list-style-type: none"> ❖ Input Tax credit as self-assessed in the return in the form of IGST, CGST, SGST, UTGST, CESS

Electronic Cash Ledger

Debit Amount (DR)	Credit Amount (CR)
<ul style="list-style-type: none"> ❖ Credit amount of this ledger may be used for payment of tax, interest, fees etc. ❖ Remaining credit balance amount after payment of above tax etc can be claimed as refund by taxable person 	<ul style="list-style-type: none"> ❖ Any deposit made towards tax, interest, penalty, late fee etc. via internet banking, RTGS, IMPS, fund transfer etc. ❖ TDS/TCS claimed

Electronic Liability Ledger

Debit Amount (DR)	Credit Amount (CR)
<ul style="list-style-type: none"> ❖ Amount payable towards tax, interest, fees etc. ❖ Tax or interest payable ❖ Any other dues 	<ul style="list-style-type: none"> ❖ Electronic cash ledger
Amount payable towards output tax	Electronic credit ledger

CREDIT LEDGER

The newly inserted section 49A of the CGST Act provides that the input tax credit of Integrated tax has to be utilized completely before input tax credit of Central tax/state tax can be utilized for discharge of any tax liability.

Further, as per the provisions of section 49 of the CGST Act, credit of Integrated tax has to be utilized first for payment of Integrated tax, then Central tax and then state tax in that order mandatorily.

This led to a situation, in certain cases, where a taxpayer has to discharge his tax liability on account of one type of tax (say state tax) through electronic cash ledger, while the input tax credit on account of other type of tax (say Central tax) remains un-utilized in electronic credit ledger.

Accordingly, Rule 88A inserted in the Central Goods and services Tax Rules, 2017 in exercise of the powers under section 49B of the CGST Act vide notification No. 16/2019- Central Tax, dated 29th March, 2019.

Section	Order/Rank preference	Credit	GST liability
49A	Ist	IGST	I-IGST II-CGST III-SGST > In any proportion and in any manner
Proviso of 49(5)	IInd	CGST	I-CGST II-IGST
Proviso of 49(5)	IIIrd	SGST	I-SGST II-IGST

FORMS

Forms	Particulars
GST PMT-01	Electronic Liability Register of Registered Person
GST PMT-02	Electronic Credit Ledger of Registered Person
GST PMT-03	Order for re-credit of the amount to cash or credit ledger on rejection of refund claim
GST PMT-04	Application for intimation of discrepancy in Electronic Credit Ledger/ Cash Ledger/ Liability Register
GST PMT-05	Electronic Cash Ledger
GST PMT-06	Challan for deposit of goods and services tax
GST PMT-07	Application for intimating discrepancy relating to payment
GST PMT-09	Transfer of amount from one account head to another in electronic cash ledger

QRMP SCHEME

- ❖ Optional return filing scheme
- ❖ Quarterly Return
- ❖ Monthly payment

Eligibility

Taxpayers having aggregate turnover of up to Rs. 5 crore in the preceding financial year

Condition to be Fulfilled for Becoming Eligible

Taxpayer must have furnished the last return, as due on the date of exercising such option

Manner of Exercising Option

Taxpayers can opt in for any quarter from 1st day of 2nd month of preceding quarter to the last day of the first month of the quarter for which the option is being exercised

Validity of Option once Exercised

Taxpayers are not required to exercise their option every quarter. Where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the said option.

OPTING OUT OF QRMP SCHEME

Taxpayers opting out of the QRMP Scheme

- ❖ Aggregate turnover has exceeded Rs. 5 crore in the financial Year.

Availability of facility of opting out of QRMP Scheme for a quarter

- ❖ Available from 1st day of 2nd month of preceding quarter to the last day of the first month of the quarter

LIST OF STATEMENTS/RETURNS UNDER GST

Form/Return	Description	Frequency	Due Date
GSTR-1	Details of outward supply (sales) filed monthly	Monthly	11th of the next month
		Quarterly (if opted under QRMP Scheme)	13th of the month succeeding the quarter
IFF (Optional by taxpayers under the QRMP scheme)	Details of B2B supplies of taxable goods and/or services affected.	Monthly (for the first two months of the quarter)	13th of the next month.
GSTR-3B	Simple Return in which summary of outward supplies along with Input Tax Credit is declared and payment of tax is affected by taxpayer	Monthly	20th of the next month
		Quarterly (if opted under QRMP Scheme)	22nd or 24th of the month succeeding the quarter
GSTR-4	Return for a taxpayer registered under the composition levy		30th April following the end of financial year

PRINCIPAL FOR UTILIZATION OF BALANCE IN ELECTRONIC

GSTR-5	Return for a Non-Resident foreign taxable person	13th day of the next month or within 7 days after expiry of registration, whichever is earlier
GSTR-5A	Registered person providing OIDAR services from a place outside India to a non-taxable online recipient	20th day of the next month
GSTR-6	Return for an Input Service Distributor	13th of the next month
GSTR-7	Return for authorities deducting tax at source.	10th of the next month
GSTR-8	Details of supplies effected through e-commerce operator and the amount of tax collected	10th of the next month
GSTR-9	Annual Return for a Normal Taxpayer	31st December of next financial year
GSTR-9A	Annual Return for a taxpayer registered under the composition levy anytime during the year	31st December of next financial year

GSTR-9B	E-commerce operator required to collect tax at source	31st December of next financial year
GSTR-9C	Registered person whose aggregate turnover during a financial year exceeds Rs. 2 crore	To be submitted along with the annual return [GSTR9]
GSTR-10	Final return (closure of business)	Within 3 months of the date of cancellation or date of cancellation order, whichever is later.
GSTR-11	Details of inward supplies to be furnished by a person having UIN and claiming a refund	28th of the month following the month for which statement is filed.

FINAL RETURN U/S. 45 OF CGST ACT, 2017

Registered Person Who is Required to Furnish A Return U/S. 39 (1) & Whose Registration Cancelled

- ❖ Furnish a final return within 3 months of date of cancellation or date of order of cancellation, whichever is later.

QUARTERLY RETURN MONTHLY PAYMENT (QRMP) SCHEME

Eligibility for the scheme

- ❖ Quarterly Return Monthly Payment (QRMP) Scheme QRMP Scheme is an optional return filing scheme, introduced for small taxpayers having aggregate annual turnover (PAN based) of upto ₹ 5 crore in the current and preceding financial year to furnish their Form GSTR-1 and Form GSTR3B on a quarterly basis while paying their tax on a monthly basis through a simple challan.
- ❖ Opting of QRMP scheme is GSTIN wise. Distinct persons can avail QRMP scheme option for one or more GSTINs. It implies that some GSTINs for a PAN can opt for the QRMP scheme and remaining GSTINs may not opt for the said scheme.

Sl. No.	Class of Registered Person	Deemed Option
1.	Registered persons having aggregate turnover of up to 1.5 crore rupees, who have furnished FORM GSTR-1 on quarterly basis in the current financial year	Quarterly return
2.	Registered persons having aggregate turnover of up to 1.5 crore rupees, who have furnished FORM GSTR-1 on monthly basis in the current financial year	Monthly return
3.	Registered persons having aggregate turnover more than 1.5 crore rupees and up to 5 crore rupees in the preceding financial year	Quarterly return

INTRODUCTION

- ❖ Refund refers to an amount that is due to the tax payer from the tax administration.
- ❖ Provisions of Refunds under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

REFUND OF TAX [SECTION 54]

According to section 54 of the CGST Act, 2017, any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date.

REFUND MAY BE CLAIMED IN FOLLOWING SITUATIONS

- ❖ Goods/services / both are exported/supplied to a SEZ on payment of IGST and a refund of such IGST so paid is claimed;
- ❖ Refund claim for accumulated unutilised ITC, in case of supplies to a SEZ/exports of goods/services/both;
- ❖ Refund claim for accumulated unutilised ITC, in case of supplies on account of an inverted duty structure;
- ❖ Refund of any balance in the electronic cash ledger after payment of tax /interest/ penalty; and on finalization of provisional assessment if tax becomes refundable to the assessee.

REFUND OF UNUTILISED INPUT TAX CREDIT

Section 54(3) of CGST Act, 2017 states that, subject to the provisions of section 54(10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period.

Section 54(10) provides for recovery of any penalty, tax or interest from any refund due.

REFUND ALLOWED IN FOLLOWING CASES

- ❖ Zero rated supplies made without payment of tax or
- ❖ Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies other than nil rated or fully exempt supplies.

REFUND NOT ALLOWED IN FOLLOWING CASES:

- ❖ Goods exported out of India are subjected to export duty
- ❖ If the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

REFUND IN CERTAIN CASES [SECTION 55]

- ❖ A specialised agency of the United Nations organisation or
- ❖ Any Multilateral Financial Institution and organisation notified under the United Nations (Privileges and Immunities) Act, 1947,

- ❖ Consulate or Embassy of foreign countries or
- ❖ Any other person or class of persons, as notified under section 55,

Entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such FORM and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received

- ❖ Central Government has allowed the persons notified under section 55 to file refund application before the expiry of eighteen months from the last date of the quarter in which such supply was received.

The refund of tax paid by the said retail outlet shall be available if-

1. The inward supplies of goods were received by the said retail outlet from a registered person against a tax invoice;
2. The said goods were supplied by the said retail outlet to an outgoing international tourist against foreign exchange without charging any tax;
3. Name and Goods and Services Tax Identification Number of the retail outlet is mentioned in the tax invoice for the inward supply; and
4. Such other restrictions or conditions, as may be specified, are satisfied.

PRESCRIBED FORMS FOR REFUND

Form Number	Content
GST RFD-01	Refund Application form – Annexure 1 Details of Goods – Annexure 2 Certificate by CA
GST RFD-02	Acknowledgement
GST RFD-03	Notice of Deficiency on Application for Refund
GST RFD-04	Provisional Refund Sanction Order
GST RFD-05	Payment Order
GST RFD-06	Refund Sanction/Rejection Order
GST RFD-07	Order for Complete adjustment of sanctioned Refund
GST RFD-08	Notice for rejection of application for refund
GST RFD-09	Reply to show cause notice
GST RFD-10	Application for Refund by any specialized agency of UN or any Multilateral Financial Institution and Organization, Consulate or Embassy of foreign countries, etc.
GST RFD-10B	Application for refund by Duty Free Shops/Duty Paid Shops (Retail outlets)
GST RFD-11	Furnishing of bond or Letter of Undertaking for export of goods or services

INTEREST ON DELAYED REFUNDS [SECTION 56]**Interest on Amount Refundable Consequent to Order Passed by Proper Officer Under Section 54(5)**

- ❖ Where any tax ordered to be refunded under section 54(5) to any applicant is not refunded within 60 days from the date of receipt of application under section 54 (1), interest shall be payable to the applicant.
- ❖ Interest is payable on such refund @ 6% p.a.
- ❖ Interest is payable to the applicant for the period of delay beyond

60 days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed [Section 56].

Interest on Amount Refundable Consequent to Order Passed in an Appeal or Further Proceedings

- ❖ Where any claim of refund arises from an order passed by an Adjudicating Authority or Appellate Authority or Appellate Tribunal or Court which has attained finality and the same is not refunded within 60 days from the date of receipt of application filed consequent to such order, interest shall be payable on such refund.
- ❖ Interest is payable on such refund @ 9% p.a.
- ❖ Interest is payable from the date immediately after the expiry of 60 days from the date of receipt of application till the date of refund. [Proviso to Section 56].

Order Sanctioning Interest on Delayed Refunds [Rule 94]

- ❖ Where any interest is due and payable to the applicant under section 56, the proper officer shall make an order along with a payment order in prescribed form.
- ❖ Such interest shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund

REFUND AMOUNT**Formula to claim refund of credit in case of zero rated supplies:**

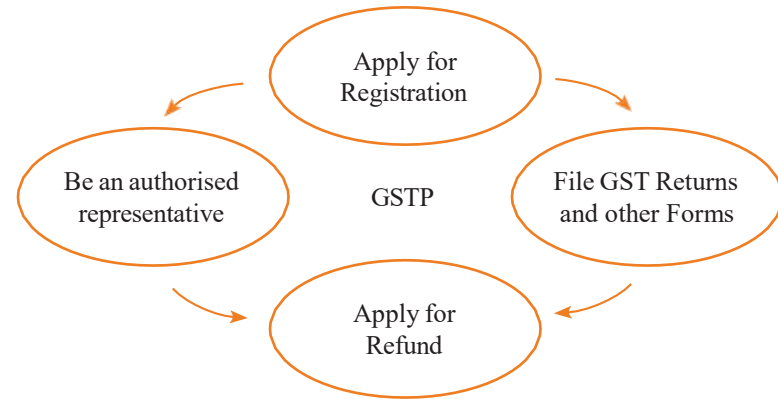
Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) × Net ITC ÷ Adjusted Total Turnover

Formula to claim refund of credit in case of inverted rate structure:

Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) × Net ITC ÷ Adjusted Total Turnover} – “{tax payable on such inverted rated supply of goods and services × (Net ITC ÷ ITC availed on inputs and input services)}”.

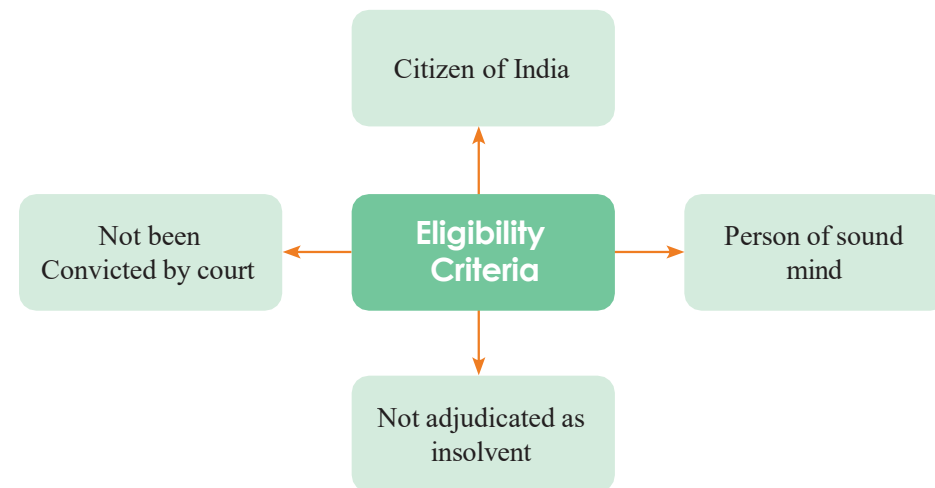
GST PRACTITIONERS

Company Secretaries are eligible to apply for GST Practitioner and can become GST Practitioner after fulfilling conditions mentioned in Section 48 of CGST Act, 2017.



ELIGIBILITY CRITERIA FOR BECOMING GST PRACTITIONER

Any person can apply for registration as a GST Practitioner under Rule 83(1) of CGST Act, 2017, if he qualifies as per following criteria:



GSTP

- ❖ can furnish the details of outward
- ❖ can furnish monthly, quarterly, annual or final return
- ❖ can make deposit for credit into the electronic cash ledger
- ❖ can file a claim or refund
- ❖ can file an application for amendment or cancellation of registration
- ❖ can furnish information for generation of e-way bill
- ❖ can furnish details of challan in FORM GST 11C-04
- ❖ can file an application for amendment or cancellation of enrollment under rule 58
- ❖ can file an intimation to pay tax under the composition scheme or withdraw from the said scheme

PRESCRIBED FORMS FOR GST PRACTITIONER

Form Number	Content
Form GST PCT-01	Application for enrollment as GST practitioner
Form GST PCT-02	Enrollment certificate for GST practitioner
Form GST PCT-03	Show cause notice for disqualification
Form GST PCT-04	Order for disqualification to function as GST practitioner
Form GST PCT-05	Authorization / Withdrawal of authorization to GST practitioner



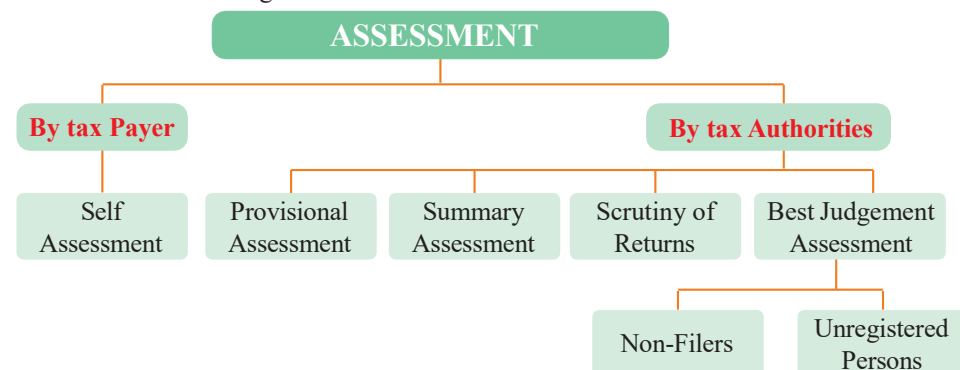
REGULATORY FRAMEWORK

Section	Deals with
Section 59	Self-Assessment
Section 60	Provisional Assessment
Section 61	Scrutiny of Returns
Section 62	Assessment of non-filers of returns
Section 63	Assessment of unregistered persons
Section 64	Summary Assessment in certain special cases

ASSESSMENT

According to Section 2(11) of the CGST Act, 2017 “assessment” means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment.

It has been further categorized as below:

**SELF ASSESSMENT**

Every registered taxable person shall themselves assess their taxes payable and furnish a return for each tax period. The GST law operates similar to the Excise, VAT and Service Tax laws and continues to promote self-assessment.

PROVISIONAL ASSESSMENT

An assessee can request the officer for provisional assessment if he is unable to determine value or rate. Unable to determine value due to difficulty in –

- ❖ Calculating the transaction value
- ❖ Understanding whether certain receipts should be included or not

Unable to determine rate of tax due to difficulty in –

- ❖ Classifying the goods/services
- ❖ Identifying whether any notification is applicable or not

Provisions of Provisional Assessment:

- ❖ Requests for provisional assessments will be given in writing.

- ❖ The proper officer can allow paying tax on a provisional basis, at a rate or on a value specified by him.
- ❖ Order will be passed within 90 days from date of request.
- ❖ The taxable person has to issue a bond with a security promising to pay the difference between provisionally assessed tax and final assessed tax.
- ❖ Provisional assessments will be followed by final assessments. The proper officer can ask for information before the final assessment.

INTEREST PAYABLE FOR PROVISIONAL ASSESSMENT

- ❖ If in any case the taxpayer is liable to pay more tax after final assessment than paid at the time of provisional assessment, the person is liable to pay interest at a specified rate on such tax payments.
- ❖ The interest to be paid by the taxpayer is calculated from the actual due date of tax till the actual tax payment made.
- ❖ The interest will be charged maximum at the rate of 18%.

REFUND UNDER PROVISIONAL ASSESSMENT

- ❖ If the tax as per final assessment is less than provisional assessment then the taxable person will get a refund. He will also get interest on refund.
- ❖ The rate of interest paid will be maximum 6%.

TIME LIMIT FOR FINAL ASSESSMENTS

- ❖ The final assessment will be done within 6 months of the provisional assessment.
- ❖ The time limit can be extended for 6 months by the Joint or Additional Commissioner.
- ❖ The commissioner can even extend this time period to 4 years if required.

SUMMARY ASSESSMENT

- ❖ This type of assessment is stated under Section 64.
- ❖ The authorized office is required to obtain prior permission of additional commissioner or joint commissioner to take this assessment.
- ❖ To protect the interest of revenue, a GST officer can proceed to assess the tax liability of a person showing a tax liability with any evidence.
- ❖ The officer can also issue an assessment order if he has proof that the delay in assessment can adversely affect the interest of revenue.

SCRUTINY OF RETURNS

Under scrutiny, the proper officer may scrutinize a return to verify its correctness. If any discrepancies are observed, then the officer may ask for an explanation.

When Explanation is Satisfactory

If the officer finds the explanation satisfactory then the taxable person will be informed and no further action will be taken.

When Explanation is not Satisfactory

The proper officer will take action-

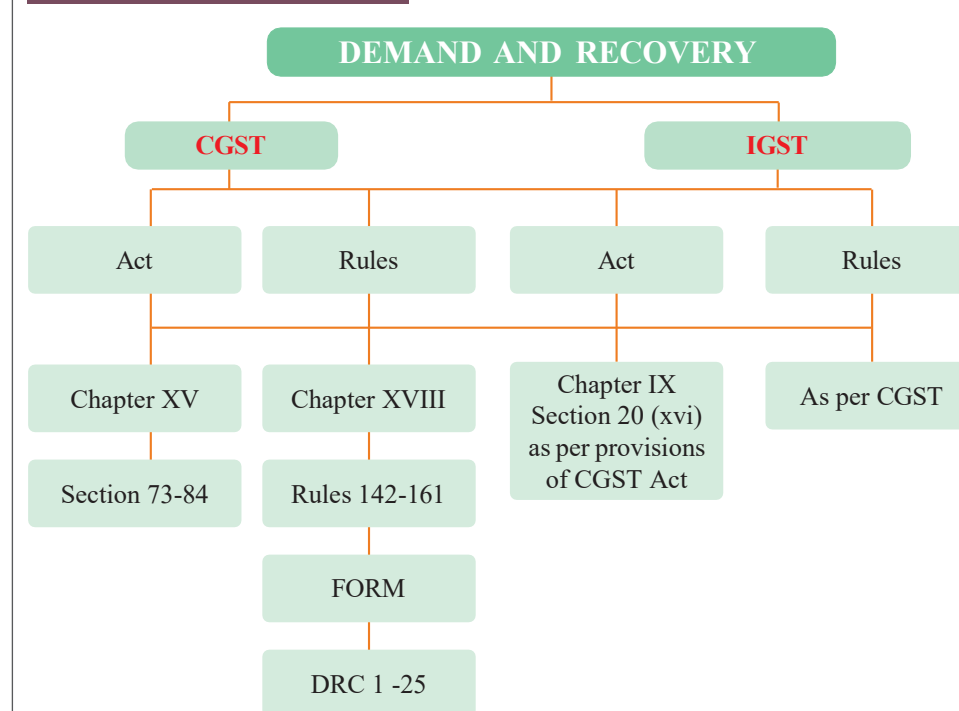
- ❖ If the taxable person does not give a satisfactory explanation within 30 days
- Or
- ❖ He does not rectify the discrepancies within a reasonable time

The officer may-

- ❖ Conduct audit of the taxpayer u/s 65
- ❖ Start Special Audit procedure u/s 66
- ❖ Inspect and search the places of business of the taxpayer
- ❖ Initiate demand and recovery provisions

BEST JUDGEMENT ASSESSMENT

- ❖ In the case of best judgement assessment, an assessing officer assesses based on their reasoning and using the information available.
- ❖ The assessment will be made without having any bias.
- ❖ Under GST, best judgement assessment becomes applicable in 2 situations-
 - ♦ When a taxable person has not filed their return
 - ♦ When a person has not registered under GST even though they are liable to be registered.

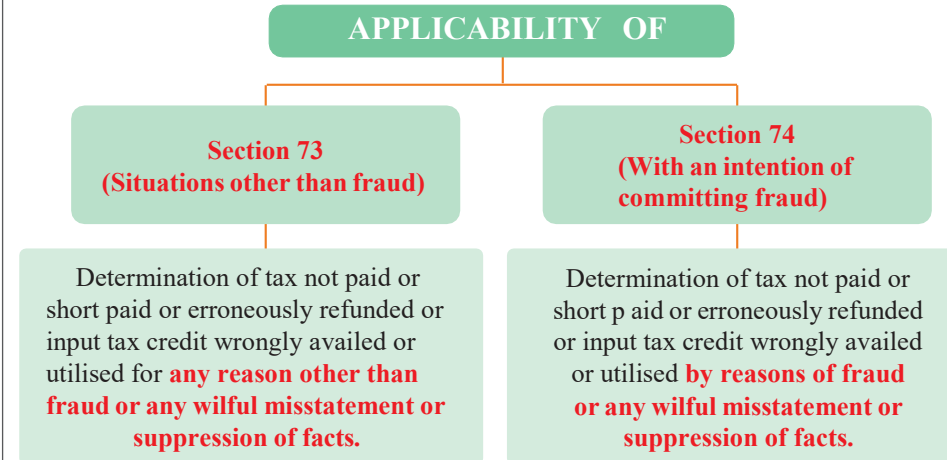
DEMAND AND RECOVERY

DEMAND AND RECOVERY FORMS PRESCRIBED

Forms	Deals with
GST DRC 01A	Communication of the details of tax, interest or penalty ascertained by the proper officer in Part A and response thereto by the assessee in Part B
GST DRC 01	Summary of Show Cause Notice
GST DRC 02	Summary of Statement
GST DRC 03	Intimation of payment made voluntarily or made against the Show Cause Notice (SCN) or statement
GST DRC 04	Acknowledgement of acceptance of payment made voluntarily
GST DRC 05	Intimation of Conclusion of Proceedings
GST DRC 06	Reply to the Show Cause Notice
GST DRC 07	Summary of the Order
GST DRC 08	Summary of rectification or withdrawal of the Order
GST DRC 07A	Summary of Order issued under existing Laws
GST DRC 08A	Summary of Rectification, Modification or Quashing of Order issued under existing Laws
GST DRC-09	Order for recovery through specified officer under section 79
GST DRC-10	Notice for Auction of Goods under section 79 (1) (b) of the Act
GST DRC-11	Notice to Successful Bidder
GST DRC-12	Sale Certificate
GST DRC-13	Notice to a third person under section 79(1) (c)
GST DRC-14	Certificate of Payment to a Third Person
GST DRC-15	Application before the civil court requesting execution for a decree
GST DRC-16	Notice for attachment and sale of Immovable/Movable Goods/Shares under section 79
GST DRC-17	Notice for Auction of Immovable/Movable Property under section 79(1) (d)
GST DRC-18	Certificate action under clause (e) of sub-section (1) section 79
GST DRC-19	Application to the Magistrate for Recovery as Fine
GST DRC-20	Application for Deferred Payment/ Payment in Installments
GST DRC-21	Order for acceptance/rejection of application for deferred payment / payment in installments
GST DRC-22	Provisional attachment of Property under section 83
GST DRC-23	Restoration of Provisionally attached Property / Bank Account under section 83
GST DRC-24	Intimation to Liquidator for Recovery of Amount
GST DRC-25	Continuation of Recovery Proceedings

SECTION 73 & 74

A brief overview of the applicability of Section 73 / Section 74 of the CGST Act, 2017 has been represented hereunder:



PROCEDURE

Flow Diagram:

1. Where notice is served

Proper Officer- to serve notice under section 52 and section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 and section 127 or section 129 or section 130 - in **FORM GST DRC - 01**

Statement - specifying details of amount payable u/s 73(3) / 74(3) in **FORM GST DRC - 02**

Where the person chargeable with tax makes payment of tax and interest u/s 73(8)/74(8) within 30 days of the service of a notice under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 or section 129 or section 130 sub-rule (1), or where the person concerned makes payment of the amount referred to section 129(1) within 7 days of the notice issued under section 129(3) but before the issuance of order under the said sub-section (3) - Intimation in **FORM GST DRC-03**

Proper Officer - to acknowledge receipt & to issue an order in **FORM GST DRC 05** to conclude proceedings

2. Where notice is not served but the taxpayer pays voluntarily

Where the person chargeable to tax makes payment of tax and interest u/s 73(5) / 74(5) before serving of notice / statement - declare & make payment in **FORM GST DRC - 03**

Proper Officer - to acknowledge receipt in **FORM GST DRC - 04**

PENALTY

Payment of Penalty	Amount of Penalty
Dues paid before issuance of show cause notice.	No penalty
Dues paid within 30 days of issuance of show cause notice.	No penalty
Dues paid after 30 days of issuance of Order.	10% of tax dues or INR 10,000 Whichever is higher.
Any other case	10% of tax dues or INR 10,000 Whichever is higher.

TIME LIMIT FOR ISSUE OF NOTICE, PENALTY AND ADJUDICATION UNDER SECTION 74

Payment of Penalty	Amount of Penalty
Dues paid before issuance of show cause notice.	15% of tax amount due
Dues paid within 30 days of issuance of show cause notice.	25% of tax amount due
Dues paid after 30 days of issuance of Order.	50% of tax amount due
Any other case.	100% of tax amount due

MONETARY LIMITS FIXED BY THE BOARD FOR ISSUANCE OF SHOW CAUSE NOTICES AND ORDERS UNDER SECTION 73 AND 74 OF THE ACT

CGST Officer	Monetary limit of CGST Act, 2017	Monetary limit of the IGST Act, 2017	Monetary limit of CGST Act, 2017 and IGST Act, 2017
Superintendent of Central tax	Not exceeding Rupees 10 lacs	Not exceeding Rupees 20 lacs	Not exceeding Rupees 20 lacs
Deputy or Assistant Commissioner of Central tax	Above Rupees 10 lacs and not exceeding Rupees 1 crore	Above Rupees 20 lacs and not exceeding Rupees 2 crores	Above Rupees 20 lacs and not exceeding Rupees 2 crores
Additional or Joint Commissioner of Central tax	Above Rupees 1 crore without any limit	Above Rupees 2 crores without any limit	Above Rupees 2 crores without any limit

SECTION 75 OF THE CGST ACT, 2017

Section 75 of the CGST Act, 2017 deals with the general provisions relating to determination of tax and demand under GST.

The following are some of the important provisions under Section 75 of GST Act.

- ❖ Stay of Notice, the period of stay will be excluded in computing the period 3 years or 5 years – the time limit for issue of notice or adjudication.
- ❖ No Fraud or Wilful Misrepresentation
- ❖ Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order should be issued within 2 years from the date of communication of the said direction.
- ❖ An opportunity for being heard should be granted.
- ❖ Adjudgment will be allowed for maximum of 3 times.

- ❖ The officer, in his order, should set out the relevant facts and the basis of his decision.
- ❖ The amount of tax, interest and penalty demanded in the order should not be in excess of the amount specified in the notice and no demand can be confirmed on the grounds other than the grounds specified in the notice.
- ❖ The interest on the tax short paid or not paid should be payable whether or not specified in the order determining the tax liability.

SECTION 79: RECOVERY OF TAX

Rules pertaining to recovery of tax

Rule	Provision	Forms
143	Recovery by deduction from any money owed	GST DRC-09
144	Recovery by sale of goods under the control of proper officer	GST DRC-10
		GST DRC-11
		GST DRC-12
145	Recovery from a third person	GST DRC-13
		GST DRC-14
146	Recovery through execution of a decree, etc.	GST DRC-15

SECTION 80: PAYMENT OF TAX AND OTHER AMOUNT IN INSTALMENTS

Rule	Provision	Forms	Relates to
158	Payment of tax and other amounts in instalments	GST DRC-20	Application to be filed electronically by the taxable person
		GST DRC-21	Grant of permission & issue of order

SECTION 81: CASES WHERE THE TRANSFER OF PROPERTY IS VOID

Situations / cases – Valid	Situations / Cases – Void
Made for adequate consideration	Creates a charge on ; or
Without notice of the pendency of proceeding	Parts with the property; or
Without notice of such tax or other sum payable by the said person	Belonging to the tax payer; or
With previous permission of the proper officer	In the possession of the tax payer, by way of sale, mortgage, exchange or any other mode of transfer whatsoever of any of his properties.

SECTION 82: TAX TO BE FIRST CHARGE ON PROPERTY

Rule	Provision	Forms	Deals with
147	Recovery by sale of moveable or immoveable property	GST DRC-16	Proper officer shall prepare a list of moveable and immoveable property, issue an order of attachment and a notice for sale prohibiting any transaction in relation thereto
		GST DRC-17	Notice for auction including e- auction indicating the property to be sold and the purpose of sale
		GST DRC- 11	Proper officer to inform successful bidder requesting him to pay the amount within 15 days
		GST DRC -12	Issue a Certificate after payment indicating date of transfer, details of property, details of bidder, amount paid, rights, title, interest on the property
151	Attachment of Debts and Shares, etc.	GST DRC -16	Proper officer to issue written order
152	Attachment of property in custody of courts or Public officer	–	Copy of attachment to be sent to courts or public officer requesting property, interest receivable or any other income be held
153	Attachment of interest in Partnership	–	Charge may be created by the Proper Officer to recover dues by issuing attachment order of interest in partnership property and profits
154	Disposal of proceeds of sale of goods and moveable or immoveable property	–	Amount recovered be appropriated towards recovery expenses and then towards principal recovery amount
155	Recovery through land revenue authority	GST DRC-18	The proper officer shall send a certificate to the Collector or Deputy Commissioner of the district or any other officer authorised in this behalf in FORM GST DRC-18 to recover from the person concerned, the amount specified in the certificate as if it were an arrear of land revenue.

156	Recovery through Court	GST DRC-19	Where an amount is to be recovered as if it were a fine imposed under the Code of Criminal Procedure, 1973, the proper officer shall make an application before the appropriate Magistrate in accordance with the provisions of clause (f) of sub- section (1) of section 79 in FORM GST DRC- 19 to recover from the person concerned, the amount specified thereunder as if it were a fine imposed by him.
157	Recovery from surety	–	Where any person has become surety for the amount due by the defaulter, he may be proceeded against under this Chapter as if he were the defaulter
160	Recovery from company in liquidation	GST DRC-24	Where the company is under liquidation as specified in section 88, the Commissioner shall notify the liquidator for the recovery of any amount representing tax, interest, penalty or any other amount due under the Act in FORM GST DRC -24.

SECTION 83: PROVISIONAL ATTACHMENT TO PROTECT REVENUE IN CERTAIN CASES

Rule	Provision	Forms	Relates to
159	Provisional attachment of property	GST DRC- 22	Commissioner to pass an order detailing property including bank account to be attached
		GST DRC- 23	Release of property to the taxable person if he pays the lower of amount due or equal to the market value of the property

SECTION 84: CONTINUATION AND VALIDATION OF CERTAIN RECOVERY PROCEEDINGS

- ❖ Deals with continuation of proceedings, where a notice is already served;
- ❖ Refers to any notice of demand in respect of Government dues served on taxable person;
- ❖ Any appeal, revision application is filed or other proceedings are initiated with reference to recovery of such Government dues;
- ❖ Continue recovery proceedings for the reduction or enhancement of any demand in FORM GST DRC- 25.



INTRODUCTION

1. Customs duty is an indirect tax imposed under customs act on import and export of goods.
2. The act extends to whole of India.
3. Customs law comprises of
 - ♦ Customs act, 1962
 - ♦ Customs Tariff Act, 1975
 - ♦ Rules & Regulations
 - ♦ Notifications
 - ♦ Circulars

CUSTOMS TARIFF ACT, 1975

The act specifies rates of customs duty on goods imported into and exported from India. The rates are mentioned in following schedules:-

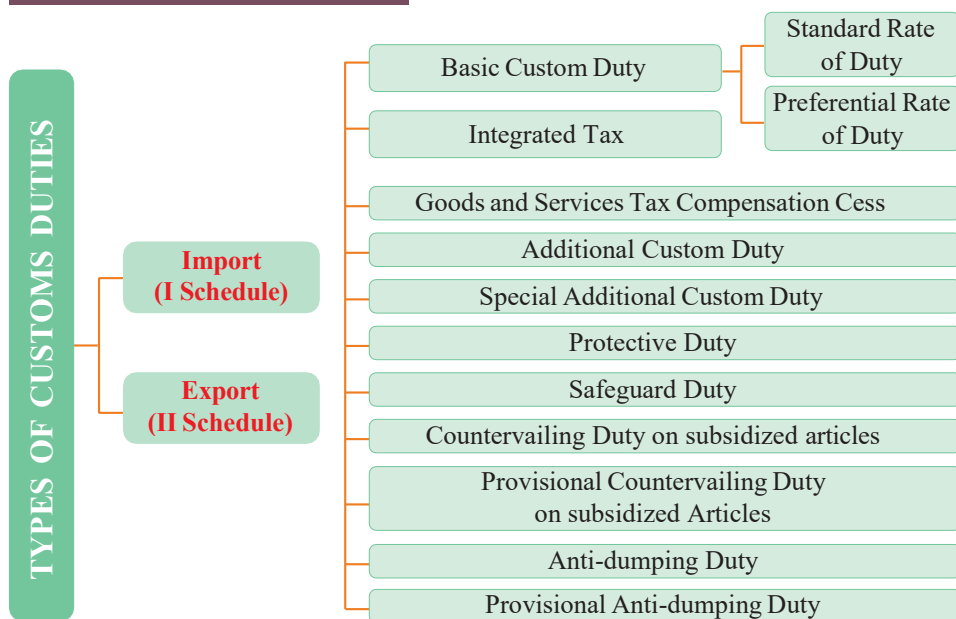
SCHEDULES UNDER CUSTOMS TARIFF ACT, 1975

Schedule I: Tariff Rates for imported Goods known as Import Tariff

Schedule II: Tariff Rates for Exported Goods known as Export Tariff

LEVY AND COLLECTION [SECTION 12]

- ❖ **Imported goods:** Duty is levied when the goods are imported into India & bill of entry for home consumption is filed
- ❖ **Exported goods:** Duty is levied when the bill of export is filed

TYPES OF CUSTOM DUTIES**BASIC CUSTOMS DUTY**

- ❖ Levied as a percentage of value as determined u/s 14(1)
- ❖ General basic rate of Basic Custom Duty is 10%
- ❖ Could be levied at “Standard” OR “Preferential Rates” (where imported from a preferential area as may be specified by the Government)
- ❖ Onus is on the person (owner) to substantiate with the supporting evidence that the Goods are chargeable with a preferential rate of duty.

$$\text{BCD} = \text{Assessable Value} \times \text{Rate}$$

ADDITIONAL DUTY / SPECIAL ADDITIONAL DUTY (SAD)

- ❖ It used to be levied to offset the Sales Tax / VAT
- ❖ However, this has now been subsumed under GST and as such is leviable only on imported goods for which GST is not applicable (Example : Petroleum Products)

PROTECTIVE DUTY

- ❖ Protective duties are intended to give protection to indigenous industries.
- ❖ The protective duties should not be very stiff so as to discourage imports.
- ❖ It should be sufficiently attractive to encourage imports to bridge the gap between demand and supply of those articles in the market.

ADDITIONAL CUSTOMS DUTY/ COUNTERVAILING DUTY

- ❖ It is equivalent to the amount of excise duty on like goods manufactured / produced in India
- ❖ Under the GST regime, this duty is subsumed under GST and additional duty / IGST is payable on assessable value plus basic customs duty
- ❖ In case of alcoholic liquor for human consumption is imported into India, the same is still under state excise which has not been subsumed under GST. Therefore, IGST is not leviable under Import
- ❖ In case inward taxable supplies are in the nature of Imported Goods, which have been taxed and have been consumed in the manufacture of outward taxable supplies, Input Tax Credit is available to the extent of IGST paid

SAFEGUARD DUTY

- ❖ A safeguard duty is a type of customs duty imposed by emergency action under the WTO Agreement on Safeguards.
- ❖ It is designed to prevent harm and injury to a domestic industry that would face intense competitive pressure from the continued importation of a particular good.

ANTI-DUMPING DUTY

- ❖ Anti-dumping duties are taxes imposed on imported goods in order to compensate for the difference between their export price and their normal value, if dumping causes injury to producers of competing products in the importing country.
- ❖ **Computation of anti-dumping duty:** Anti-dumping duty is:
 - Margin of dumping
 - OR
 - Injury margin
 (whichever is lower)

CLASSIFICATION RULES

- ❖ This classification is based on the concept of Harmonised System of Nomenclature (HSN).
- ❖ HSN is an internationally accepted coding system and the same was formulated and thereby enunciated under the General Agreement on Tariffs & Trade (GATT).

Interpretation Rules under Custom Tariff Act, 1975**Rule 1 –General Rule:**

If there is ambiguity in classification as per headings or subheadings then classification shall be done as per Rule 2-6

Rule 2 -Unfinished Articles & Mixtures:

- (a) Unfinished articles
Unfinished articles are to be classified under the headings of finished articles
Example: Car without tyres or without seats shall be classified as car
- (b) Mixtures
Mixtures shall be classified with reference to its material substance
Example: Orange flavoured tea shall be classified tea.

Rule 3 –Articles Classified Under More Than One Head:

- (a) Specific identification
Example: old newspapers shall be classified as paper.
- (b) Essential character principle
Composite goods shall be classified on the basis of essential character.
Example: liquor gift set which includes liquor, glasses, etc. shall be classified as liquor.
- (c) Latter the better
Where a and b is not applicable, the rule which appears latter shall be followed.

Rule 4 –Akin Principle:

Where rule 1, 2 & 3 is not applicable then the goods shall be classified under the heading applicable to the like and similar goods

Example: Plastic Jars, plastic glasses are classified under utensils made of plastic.

Rule 5 –Cases/Containers Used For Packing:

Cases/containers used for packing shall be classified under the goods in which such material is used.

Rule 6 –Sub Heading:

Only sub-heading under the same head are comparable.

VALUATION AS PER CUSTOMS ACT**Tariff value:**

Value prescribed under customs tariff act

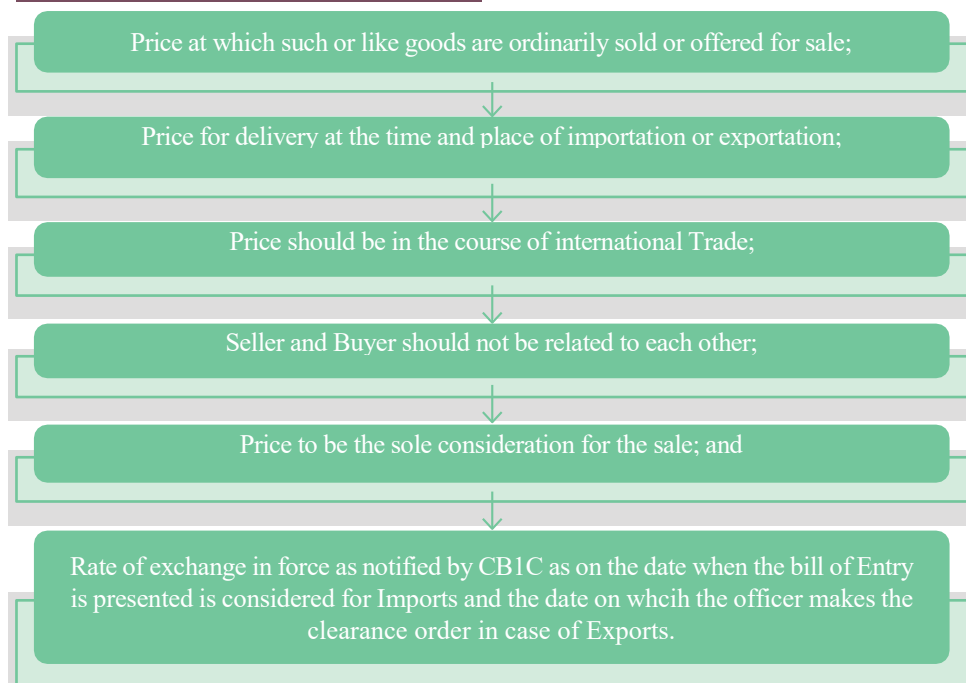
Transaction value:

- Transaction value is the value at which the goods are imported
 - For delivery at the time & place of importation.
 - Buyer & seller are not related.
 - Price is the sole consideration.
- Transaction value is subject to adjustment mentioned in rule 10
- Transaction value will be rejected if conditions of rule 3(1) are not satisfied

Valuation rules:

- If buyer & seller are related
- Price is not the sole consideration
- Transactions notified by CG

CRITERIA FOR DECIDING VALUE



TRANSACTION VALUE

- In case of imported goods, transaction value = C.I.F value + adjustment as per Rule 10.
- C.I.F. Value = F.O.B. Value + Freight + Insurance
- If actual transport cost is not ascertainable, it shall be considered @ 20% of F.O.B.
- C.I.F. = F.O.B. + Cost of Transport (Freight) and Insurance.
- Freight to be taken at actuals, if ascertainable. If not ascertainable, it shall be calculated at 20% of FOB Value. However, it shall be capped at maximum of 20% of FOB [even ascertainable], if goods are imported by air.
- Insurance to be taken at actuals, if ascertainable. If insurance cost is not ascertainable, it shall be calculated at 1.125% of FOB Value.
- The cost of transport of the imported goods includes the ship demurrage charges on chartered vessels, lighterage or barge charges.
- In the case of goods imported by sea or air and transhipped to another customs station in India, the cost of insurance, transport, loading, unloading, handling charges associated with such transhipment shall be excluded.
- Transaction Value (T.V.) = C.I.F.
- Exchange rate as applicable on date of presentation of a shipping bill or bill of export, as determined by CBIC or ascertained in manner determined by CBIC should be considered of the valuation as above cannot be determined, then sequentially, the following rules will be applied.

Rule 3: Priority to Transaction Value

Rule 3(1): Value of Imported Goods shall be the Transaction Value adjusted in accordance with provisions of rule 10.

Rule 3(2): The transaction value can be accepted if

- No restrictions are placed on buyer relating to disposal
- Sale is not subject to conditions which affect value
- No further consideration for which value cannot be determined.
- Unrelated buyer and seller

Rule 4: Transaction Value of Identical Goods

Subject to rule 3, value of imported goods shall be:-

Transaction value of identical goods sold for export to India at or about the same time.

If more than one TV is available, consider lowest value

Rule 5: Transaction Value of Similar Goods

Subject to rule 3, value of imported goods shall be:-

Transaction value of similar goods sold for export to India at or about the same time.

If more than one TV is available, consider lowest value

Rule 6: Residual Method

If value cannot be determined as per rule 3, 4, and 5, value shall be determined by applying rule 7 or rule 8.

At the request of importer, rule 7 or 8 can be interchanged.

Rule 7: Deductive Value

- If value cannot be determined as per rule 3, 4, and 5, value of the imported goods shall be based on the unit selling price at which imported goods or identical or similar goods are sold in greatest aggregate quantity to a buyer in India.
- The rule is not applicable if the goods are sold in India after further processing.

Rule 8: Computed Value

- If value cannot be determined as per rule 7, value of the imported goods shall be sum of cost of material and overheads employed in producing goods + Profit and general expenses upto the place of importation.
- The above costs are to be reckoned in the country of production and not in India.

ADDITION OF COST OF FREIGHT IN CASE OF IMPORTS

Mode of Transportation	By Air	Any other mode
If Actual Freight Ascertainable	Actual Freight; or 20% of FOB value of the goods, Whichever is less	Actual Freight
If Actual Freight Not Ascertainable	20% of FOB value of the goods	20% of FOB value of the goods

Addition of Cost of Insurance In Case of Imports

If Actual cost of Insurance available	Actual cost of Insurance
If Actual cost of Insurance not available	1.125% of the FOB value of the goods

relevant Date for Rate of Duty on-Imported Goods [Sec 15]

Section	Types of Goods	Relevant Date
15(1)(a)	Goods cleared for home consumption under Section 46	Rate prevailing on the: a. date of presentation of bill of entry; or b. date of entry inwards of the vessel/ aircraft/vehicle whichever is later.
15(1)(b)	Goods cleared from a warehouse under Section 68	Rate prevailing on the date of presentation of Ex-Bond bill of Entry for home consumption.
15(1)(c)	In case of any other goods	Rate prevailing on the date of payment of duty.

Relevant Date for Rate of Duty On-Exported Goods [Section 16]

Section	Types of Goods	Relevant Date
16(1)(a)	Goods entered for export under Section 50	Rate prevailing on the date on which proper officer makes an order permitting clearance and loading of the goods for exportation under Section 51.

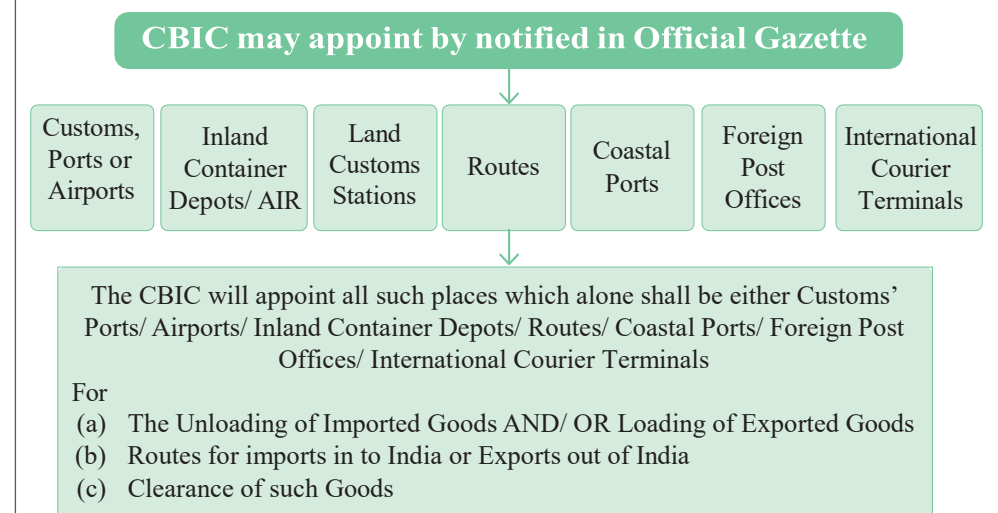
Exemptions Under The Customs Act

If the Central Government is satisfied that it is necessary in the public interest to do so, it may, by notification in the Official Gazette, exempt generally or subject to such conditions as may be specified in the notification, which would need to be fulfilled before / after clearance, goods of the specified description from the whole or any part of the duty of customs.

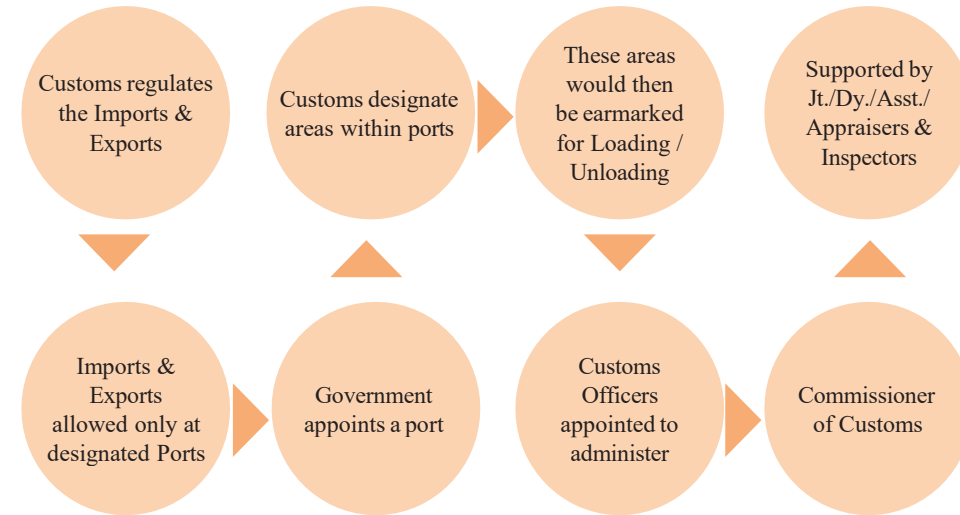
Powers of Customs Officer

- Declare warehousing stations
- Allow setting up warehouses (Public/Private)
- Power to search any vessel/conveyance/person
- Power of seizure of goods
- Power to arrest

Establishment Under Customs



Administration



TYPES OF PORTS

- ❖ Sea ports
- ❖ Airports
- ❖ Land customs stations (LCS)
- ❖ Inland Container Depots (ICD)
- ❖ Container Freight Stations (CFS) attached to ports

IMPORT AND EXPORT PROCEDURE UNDER CUSTOMS LAW

Person In Charge

Vessel	Master
Aircraft	Commander or pilot
Train	Conductor, guard or any other person having the chief direction of the train
Any other conveyance	Driver or any other person in charge of the conveyance

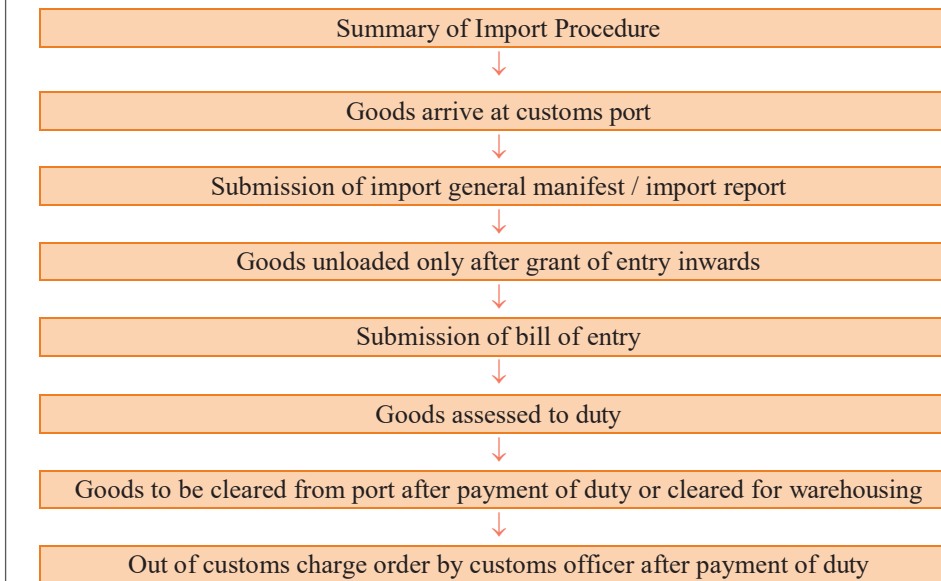
RESPONSIBILITIES OF A PERSON IN CHARGE (PIC)

- Submitting the Import/Export Manifest
- Ensuring that the conveyance comes through the proper route
- Ensuring that the conveyance lands at the appropriate place
- Ensure that the Goods are loaded/ unloaded only after proper permissions/ orders

Import Manifest

- ❖ Import manifest is a document containing details of all the goods and passengers on vehicle, vessel and aircraft.
- ❖ It shall be submitted by the person-in-charge to the customs officer before crossing customs area
 - ♦ **In case of vessel and aircraft:** Before arrival
 - ♦ **In case of vehicle:** Within 12 hours post arrival

Import Procedure



Export Procedure



TRANSIT AND TRANSHIPMENT

TRANSIT	TRANSHIPMENT
Goods remain in the same vessel at the intermediate port	Goods are transferred to a different vessel at the intermediate port
Only import manifest has to be submitted for entry	Bill of Transhipment/ declaration is also required to be submitted
No supervision is required at the Intermediate Port	Transhipment process is conducted under the supervision of the Customs Officer
The same vessel reaches the destination port	A different vessel reaches the destination port

WAREHOUSING

Warehouses allow goods to be stored in the customs area without payment of duty.

Types of warehouses:-

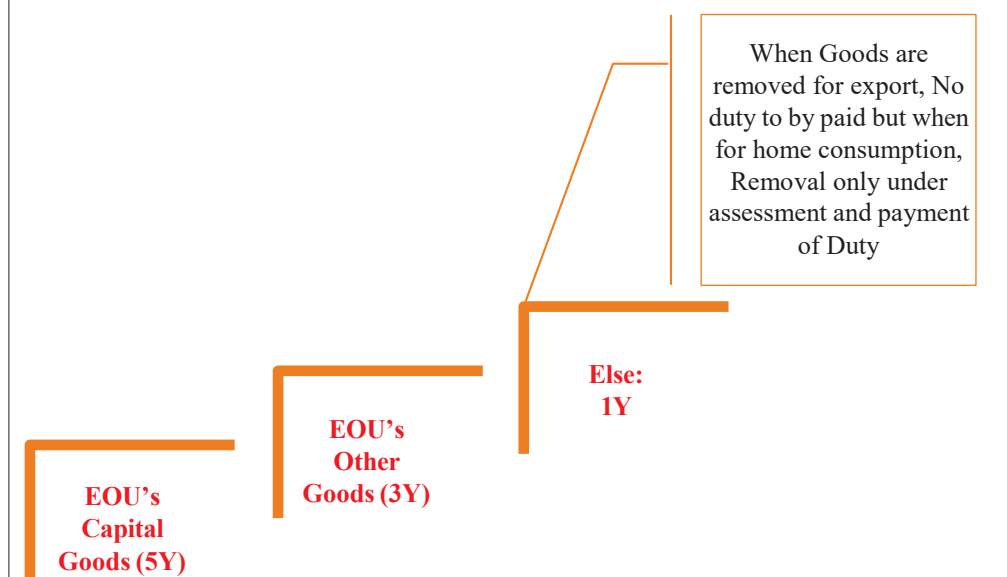
Public bonded warehouse

- ❖ These are owned and managed by government/government bodies/agencies
- ❖ Only dutiable goods can be warehoused therein
- ❖ Availability of space certificate from the warehouse keeper would be required.
- ❖ A double duty bond would also be required to be furnished for deposit of goods.
- ❖ Also, the person seeking warehousing would need to pay rental/warehousing charges to the warehouse keeper.

Private bonded warehouse

- ❖ These are owned and managed by private entities.
- ❖ These aren't generally allowed where the public bonded warehouses are available.
- ❖ Only dutiable goods can be warehoused therein
- ❖ Availability of space certificate from the warehouse keeper would not be required in this case.
- ❖ Customs officer would need to be posted at the expenses of the warehouse.

PERIOD OF WAREHOUSE



BAGGAGE RULES

The term Baggage has not been defined as such. However following may be noted:

- ❖ Baggage means all dutiable articles, imported by passenger or a member of a crew in his baggage
- ❖ Un-accompanied baggage, if dispatched previously or subsequently within prescribed period is also covered
- ❖ Baggage does not include motor car, alcoholic drink (beyond certain limit) and goods imported through courier
- ❖ Baggage does not include articles imported under an import licence for his own or on behalf of others.

Baggage Rules, 2016 provide for duty free clearance, up to a certain limit, of articles such as used personal effects, travel souvenirs and other articles when carried on the person or in the accompanying baggage of the passenger arriving in India.

Duty free Baggage Allowances of Dutiable and Non-Prohibited Articles

Rule	Passenger	Passenger arriving from countries	Amount of Duty Free Baggage Allowance
Rule 3	An Indian resident or a foreigner residing in India or tourist of Indian origin	Other than Nepal, Bhutan or Myanmar	Rs. 50,000
Proviso to Rule 3	Tourist of foreign origin	Other than Nepal, Bhutan or Myanmar	Rs. 15,000
Rule 5	Any passenger residing abroad for more than one year	Any country	Gold Jewellery: a. Gentlemen 20 grams with a value cap of Rs. 50,000 b. Lady 40 grams with a value cap of Rs. 1 lac

DUTY DRAWBACK

Section 74

Drawback on imported goods which are re-exported

Re-export without use: Drawback equal to 98% of duty paid if re-export within 2 years

Re-export after use:

Sl. No	Period of Use	Percentage of Drawback
1	Upto 3 months	95%
2	More than 3 months to 6 months	85%
3	More than 6 months to 9 months	75%
4	More than 9 months to 12 months	70%
5	More than 12 months to 15 months	65%
6	More than 15 months to 18 months	60%
7	More than 18 months	Nil

Re-export after personal use:

	Use per quarter during	Percentage of Reduction
1.	1st Year	4%
2.	2nd Year	3%
3.	3rd Year	2.5%
4.	4th Year	2%

If re-exportation is after 4 years no drawback shall be allowed

No drawback if used Following articles:

- ❖ Wearing apparel
- ❖ Tea chests
- ❖ Exposed cinematography films
- ❖ Unexposed photographic films, paper, plates & x-ray films

SECTION 75

Drawback on inputs consumed in the manufacture of exported goods

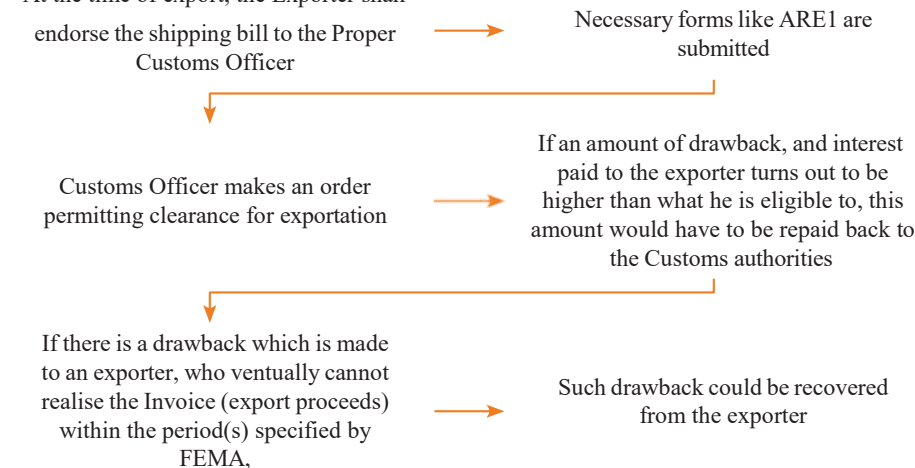
SECTION 76

Conditions:

- ❖ The Duty Drawback amount is less than ₹ 50/-.
- ❖ The Duty Drawback amount exceeds 1/3rd of the market price of the export product.
- ❖ The Duty Drawback amount is less than 1% of FOB value of export (except where the amount of Duty Drawback per shipment exceeds ₹ 500/-).

- ❖ Where value of export goods is less than the value of imported material used in their manufacture. If necessary, certain minimum value addition over the value of imported materials can also be prescribed by Govt.

At the time of export, the Exporter shall



DEMAND OF DUTY

- ❖ The notice of demand, must be served in writing, mentioning the reasons, and providing the party an opportunity of being heard.
- ❖ Show Cause Notice, should be served within 1 year from the relevant date. (1 year from the date of assessment / payment of duty)
- ❖ Where the duty or interest is not paid, or short paid, by reason of collusion, wilful suppression of facts, or misstatement, then the notice could be served within a period of 5 years.
- ❖ The demand of duty provisions also calls for attachment of property for upto 6 months, for protection of interest of revenue and that could be extended for another period of 6 months, but
- ❖ The attachment period cannot exceed 2 years.

REFUND

REFUND OF EXPORT DUTY:

Where on the export of goods; any duty has been paid, such duty shall be refunded to the person by whom or on whose behalf it was paid, if –

- The goods are returned to such person otherwise than by way of re-sale;
 - The goods are re-imported within 1 year from the date of exportation; and
- An application for refund of such duty is made within 6 months from the date on which the proper officer makes an order for the clearance of the goods when they are imported back.

REFUND OF IMPORT DUTY:

Where on the import of any goods, duty has been paid upon clearance for home consumption, such duty can be refunded to the person by whom or on whose behalf it was paid, if –

- The goods are found to be defective or not in conformity with the specifications
- The importer does not claim any duty draw back with respect to these goods
- If the goods are exported back / importer relinquishes his title to the goods / they are destroyed in the presence of the proper officer

An application for refund of duty is to be made within 6 months from the relevant date, i.e.,

- The date when the proper officer makes an order for clearance of goods when they are exported back
- Date of relinquishment if the importer relinquishes his title to the goods
- Date of destruction, where the goods are destroyed

Moreover, for all general refunds of duty, apart from the ones covered above, have a limitation period of 1 year, that is, the refund application must be filed within 1 year from the date of payment of such duty.

PROHIBITIONS

Central Government may prohibit, either absolutely or subject to such conditions specified in the notification, the import / export of goods of the specified description, for:

- ❖ Maintenance of national security
- ❖ Maintenance of public order / decency
- ❖ Prevention of smuggling
- ❖ Conservation of exchange
- ❖ Safeguarding the balance of payments
- ❖ Protection of human lives / animals
- ❖ Protection of national treasures
- ❖ Protection of Patents & Trade Marks
- ❖ Prevention of contravention of any laws or in the interest of the public

OFFENCE

- ❖ Mis-declaration
- ❖ Violation of allied acts
- ❖ Landing at unauthorized place

This may result into criminal liabilities and civil liabilities.

CRIMINAL LIABILITIES:

- ❖ Duty evasion –more than ₹ 50 lakhs
- ❖ Fraudulent Duty drawback –exceeding ₹ 50 lakhs
- ❖ Dealing in prohibited goods

Punishment

- ❖ Non-bailable offence
- ❖ Punishment upto 7 years

CIVIL LIABILITIES:

- ❖ Duty short paid/not paid
- ❖ Interest/penalties not paid
- ❖ Confiscation of goods/conveyance involves in smuggling
- ❖ Documents forged

Punishment

- ❖ 200% of duty –unaccounted goods
- ❖ 5 times of value –forged documents
- ❖ Prosecution upto 1 year which may extend upto 5 year in case of fraud

ADVANCE RULING

- ❖ If an exporter/importer has a question of law or question of fact regarding liability to pay duty, he may make an application in quadruplicate.
- ❖ The applicant has to pay prescribed fees and can withdraw the application within 30 days.
- ❖ Matters pending with tribunal/court are not admissible
- ❖ The ruling shall be given within 90 days.
- ❖ The decision given by the advance ruling is binding on all.

SETTLEMENT COMMISSION

- ❖ The cases can be referred by applicants with the Commission. However, no application for determining the classification can be fled. Even outright fraud cases cannot be referred.
- ❖ Once the case is submitted before it, it enjoys exclusive jurisdiction over it and then can consequently perform the functions of a customs officer, and thereafter the customs officer cannot investigate, adjudicate or issue notice / corrigendum.
- ❖ The application will be disposed effectively and suitable orders would be issued by the Commission.
- ❖ The orders of the Commission are non –appealable, however, amenable to writ jurisdiction of High Court.
- ❖ The appellants can also take the route of Tribunal / High Court and Supreme Court under the litigation mode.