VIDYASTUDY

CENTRE FOR PROFESSIONAL EXCELLENCE

Question Bank

Vol-1

Direct Tax

राम बाण

TAXATION

Vishal Somai

CA, CS, LL.M

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Dedication:

This book is dedicated to My Parents

Sh. Chandra Kumar Somai; and

Smt. Godawari Somai

Acknowledgement:

I am also indebted to my beloved wife Mrs. Priya Somai for her all-time support.

Prayer:

May the blessing of Maa Sarawati and Lord Shiva persist on us.

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- **Applicable for the Assessment Year-2024-25 (Financial Year-2023-24)**
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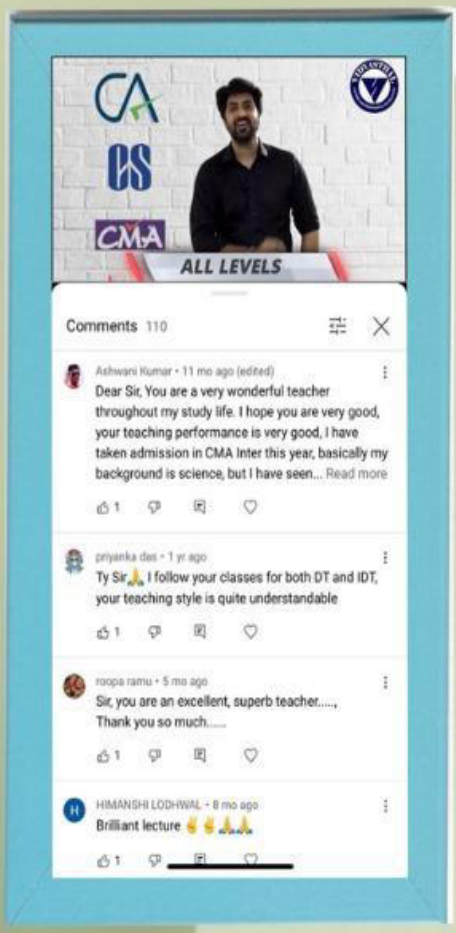
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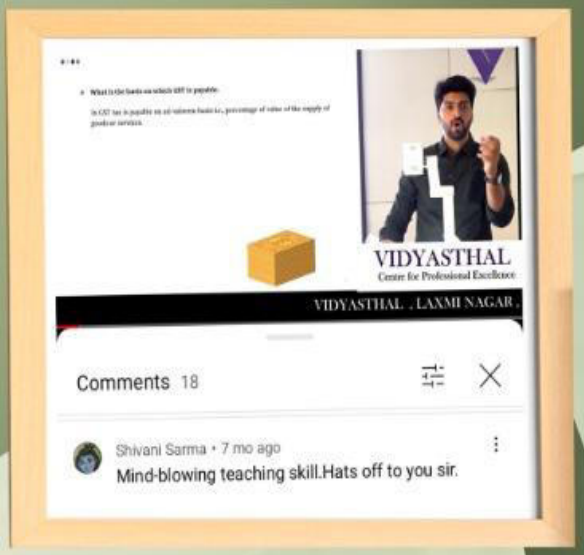
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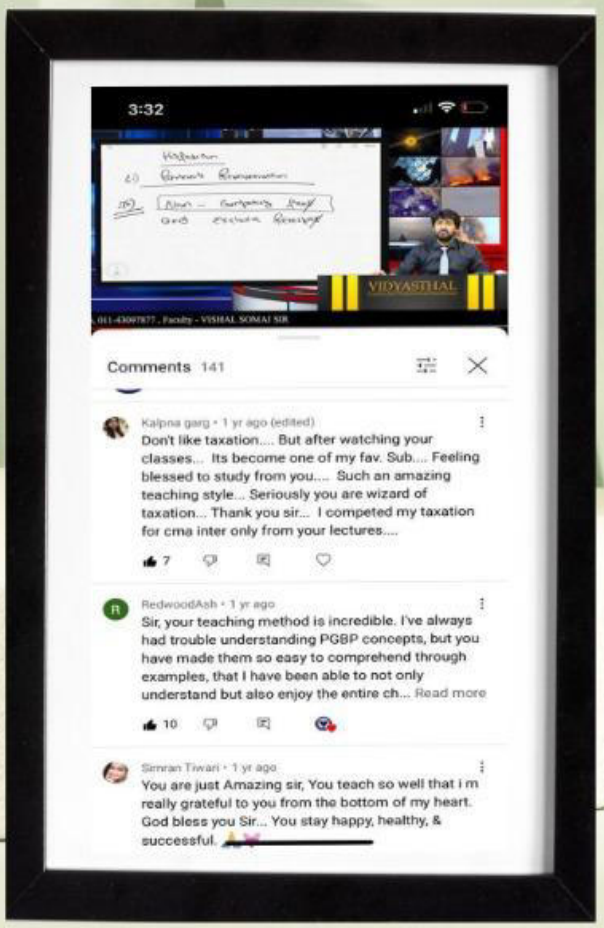
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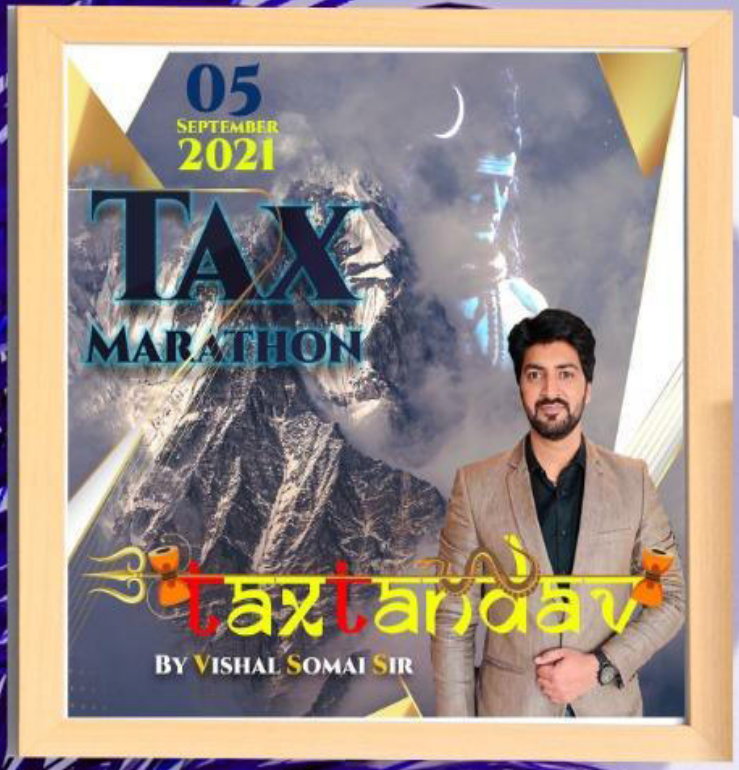
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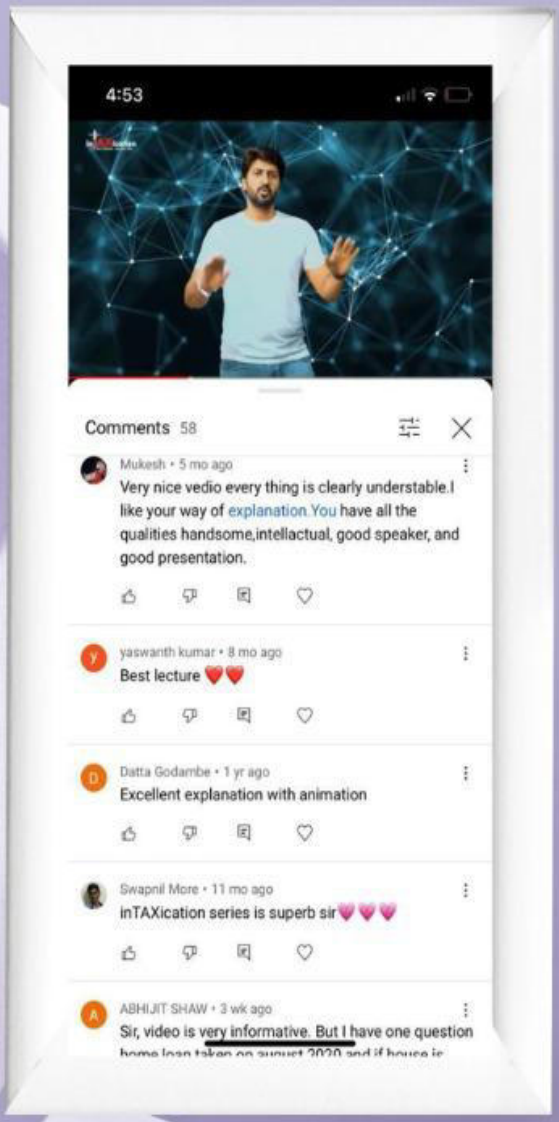
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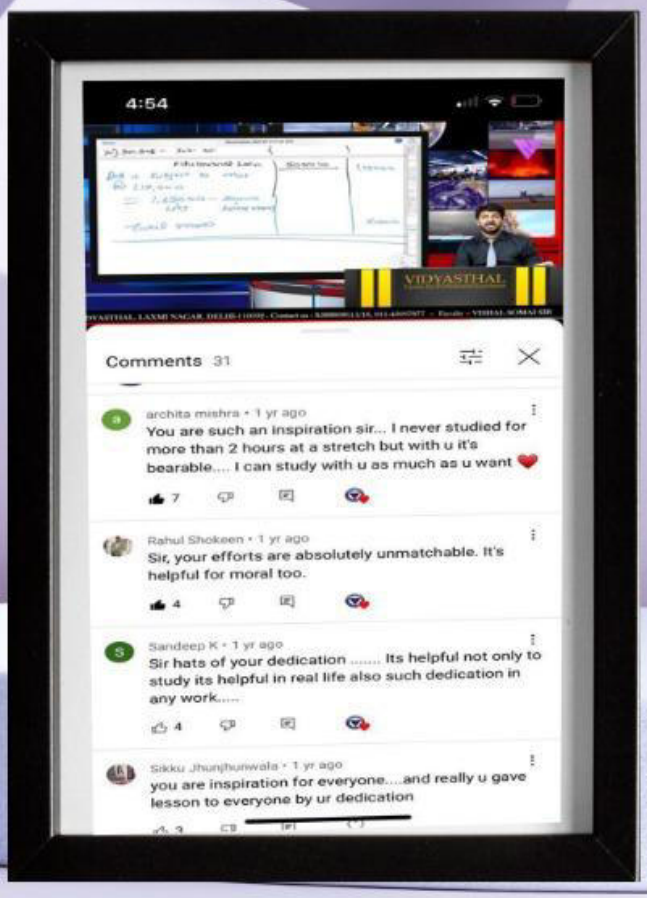
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BASIC CONCEPTS

Illustrations

Illustration 1— Person when regarded as an 'Assessee': A single letter of enquiry was issued by the income tax department to Mr. Shoumik of Pune. In this letter there was no specific mention of any provision of the Income-tax Act, 1961. Can Mr. Shoumik be treated as 'assessee' under the Income Tax Act, 1961?

Solution: A person is treated as an 'assessee' only when any proceeding is initiated in his respect under the Income Tax Act, 1961. In the given case, the letter was issued to Mr. Shoumik only for an enquiry and not for any assessment. Further, such an issuance of letter cannot be regarded as proceeding without any specific reference to the provisions of the Act.
Therefore, Mr. Shoumik is not an 'assessee' under the Act.

Illustration 2 - Ascertainment of previous year: Ascertain the previous year in the following situations -
(a) Mr. X set up his new business on 27-08-2023.
(b) Mr. Y's new source of income came into existence on 25-02-2024.

Solution:
(a) The previous year for Mr. X shall be 27-08-2023 to 31-03-2024.
(b) The previous year for Mr. Y shall be 25-02-2024 to 31-03-2024.

Illustration 3 - Exceptions to Charging Section: Mr. X a resident, aged 56 years, till recently was a successful businessman filing his return of incomes regularly and promptly ever since he obtained PAN card. During the COVID Pandemic period his business suffered severely and he incurred huge losses. He was not able to continue his business and finally on 1st January, 2024 he decided to wind-up his business which he also promptly intimated to the jurisdictional Assessing Officer about the closure of his business.
The Assessing Officer sent him a notice to tax income of A.Y. 2024-25 during the A.Y. 2024-25 itself. Does the Assessing Officer have the power to do so? Are there any exceptions to the general rule "Income of the previous year is assessed in the assessment year following the previous year"? (4 Marks, Nov. 2022)

Solution: Yes, he has the power to do so. Since the business of Mr. X is discontinued on 1st January, 2024, the income of the period from 1-4-2023 to 1-1-2024 may, at the discretion of the Assessing Officer, be charged to tax in A.Y. 2024-25 itself.

Following are the other exceptions to the general rule "Income of the previous year is assessed in the assessment year following the previous year" i.e., the income of the previous year is assessed in the previous year itself.

(i) Shipping business of non-resident
(ii) Persons leaving India with no present intention of returning
(iii) AOP/BOI/Artificial Juridical Person formed for a particular event or purpose and likely to be dissolved
(iv) Persons likely to transfer property to avoid tax.

Illustration 4 - Marginal relief and tax liability - Individual assessee : Compute the tax liability of Mr. X resident individual 40 years of age wherein his total income is Rs. 51,00,000 assuming that there is no income in the nature which is chargeable to special rate of tax and he has not opted for the provisions of Section 115BAC of the Act.

Solution:
Tax on total income of Rs. 51,00,000 (including surcharge @ 10%) = Rs. 1476750
Tax on Rs. 50,00,000 = Rs. 1312500
Marginal Relief = Rs. 14,76,750- (Rs. 13,12,500 + Rs. 1,00,000) = Rs. 64250
Tax liability = (Rs. 14,76,750 - Rs. 64,250) + 4% of Rs. 14,12,500 = Rs. 1469000

Illustration 5 - Marginal relief and tax liability - Individual assessee : Compute the tax liability of Mr. X a resident individual 40 years of age wherein his total income is Rs. 1,00,50,000 assuming that there is no income in the nature which is chargeable to special rate of tax and he has not opted for the provisions of Section 115BAC of. the Act

Solution:
Tax on total income of Rs. 1,00,50,000 (including surcharge @ 15%) = Rs. 3251625
Tax on Rs. 1,00,00,000 (including surcharge @ 10%) = 3093750
Marginal Relief = Rs. 32,51,625 - (Rs. 30,93,750 + Rs. 50,000) = Rs. 107875
Tax liability = (Rs. 32,51,625 - Rs. 1,07,875) + 4% of Rs. 3143750= Rs. 3269500

Illustration 6 - Marginal relief and tax liability - Individual assessee ; Compute the tax liability of Mr. X a resident individual 40 years of age wherein his total income is Rs. 2,00,50,000 assuming that there is no income in the nature which is chargeable to special rate of tax and he has not opted for the provisions of Section 115BAC of the Act.

Solution:
Tax on total income of Rs. 2,00,50,000 (including surcharge @ 25%) = Rs. 7284375
Tax on Rs. 2,00,00,000 (including surcharge @ 15%) = 6684375
Marginal Relief = Rs. 72,84,375 - 66,84,375 + Rs. 50,000) = Rs. 550000
Tax liability = (Rs. 72,84,375 - Rs. 5,50,000) + 4% of Rs. 6734375= Rs. 7003750

Illustration 7 - Marginal relief and tax liability - Individual assessee : Compute the tax liability of Mr. X a resident individual 40 years of age wherein his total income is Rs. 5,00,50,000 assuming that there is no income in the nature which is chargeable to special rate of tax and he has not opted for the provisions of Section 115BAC of the Act.

Solution: Tax on total income of Rs. 5,00,50,000 (including surcharge @ 37%) = Rs. 20313675

Tax on Rs. 5,00,00,000 (including surcharge @ 25%) = 18515625
Marginal Relief = Rs. 2,03,13,675 - (Rs. 1,85,15,625 + Rs. 50,000) = Rs. 1748050
Tax liability = (Rs. 2,03,13,675 - Rs. 17,48,050) + 4% of Rs. 18565625= Rs. 19308250

Illustration 8 - Tax liability: Compute the tax liability in the following cases –

	Assessee	Status	Total income (in Rs.)
(a)	Mr. Mohan	Resident Individual of 40 years	4,90,000
(b)	Mrs. Swati	Non-resident Individual of 65 years	2,75,000
(c)	Mr. Bansal	Resident Individual of 25 years	5,50,000
(d)	Mrs. Priyanka	Resident Individual of 21 years	15,10,000
(e)	Mrs. Resham	Resident individual of 60 years	12,00,000
(f)	Mrs. Radliika	Resident Individual of 80 years	18,00,000
(g)	Mr. Ganshyam	Resident Individual of 40 years	50,00,000
(h)	Ms Madhuri	Resident Individual of 21 years	2,50,000

Solution: The computation of tax liability is given below –

Assessee	Total income (Rs.)	Income-tax	Rebate u/s 87 A	Income tax after rebate	HEC @ 4%	Total Tax	Total Tax (rounded off)
(a) Mr. Mohan	4,90,000	12,000	12,000	-	-	-	-
(b) Mrs. Swati	2,75,000	1,250	-	1,250	50	1,300	1,300
(c) Mr. Bansal	5,50,000	22,500	-	22,500	900	23,400	23,400
(d) Mrs. Priyanka	15,10,000	2,65,500	-	2,65,500	10,620	2,76,120	2,76,120
(e) Mrs. Resham	12,00,000	1,70,000	-	1,70,000	6,800	1,76,800	1,76,800
(f) Mrs. Radhika	18,00,000	3,40,000	-	3,40,000	13,600	3,53,600	3,53,600
(g) Mr. Ganshyam	50,00,000	13,12,500	-	13,12,500	52,500	13,65,000	13,65,000
(h) Ms Madhuri	2,50,000	-	-	-	-	-	-

Illustration 9— Compute the tax liability in the following cases –

Assessee	Status	Total income (in Rs.)	
a)	Mr. X	Resident Individual of 40 years	1,01,00,000
b)	Mr. Y	Resident Individual of 50 years	1,110,00,000
c)	Mr. Z	Resident Individual of 55 years	1,00,00,000
d)	Mr. A	Resident Individual of 55 years	51,00,000
e)	Mr. B	Resident Individual of 55 years	2,00,00,000
f)	Mr. C	Resident Individual of 25 years	2,01,00,000
g)	Mr. D	Resident Individual of 30 years	5,00,00,000
h)	Mr. E	Resident Individual of 40 years	5,01,00,000

Solution: The computation of tax liability is given below -

Assessee	Total income (Rs.)	Tax	Surcharge @ 37%/ 25%/15 %/ 10%	Tax incl surcharge	Marginal relief	Balance tax	HEC @ 4%	Total tax (rounded off)
Mr. X	1,01,00,000	28,42,500	4,26,375	32,68,875	75,125	31,93,750	1,27,750	33,21,500
Mr. Y	1,10,00,000	31,12,500	4,66,875	35,79,375	-	35,79,375	1,43,175	37,22,550
Mr. Z	1,00,00,000	28,12,500	2,81,250	30,93,750	-	30,93,750	1,23,750	32,17,500
Mr. A	51,00,000	13,42,500	1,34,250	14,76,750	64,250	14,12,500	56,500	14,69,000
Mr. B	2,00,00,000	58,12,500	8,71,875	66,84,375	-	66,84,375	2,67,375	69,51,750
Mr. C	2,01,00,000	58,42,500	14,60,625	73,03,125	5,18,750	67,84,375	2,71,375	70,55,750
Mr. D	5,00,00,000	1,48,12,500	37,03,125	1,85,15,625	-	1,85,15,625	7,40,625	1,92,56,250
Mr. E	5,01,00,000	1,48,42,500	54,91,725	2,03,34,225	17,18,600	1,86,15,625	7,44,625	1,93,60,250

Illustration 10 - Tax liability: Compute the tax liability of Mr. B (aged 51) under the default tax regime, having total income of Rs. 1,01,00,000 for the Assessment Year 2024-25. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit.

Solution :The computation of tax liability is given below –

Assessee	**Total income (Rs.)**	**Tax**	**Surcharge @15%**	**Tax incl surcharge**	**Marginal relief**	**Balance Tax**	**HEC @14%**	**Total Tax (rounded off)**
Mr.B	1,01,00,000	27,30,000	4,09,500	31,39,500	69,500	30,70,000	1,22,800	31,92,800

Computation of marginal relief :

Particular	**Rs.**
Income-tax computed on total income of 1.1 crore including surcharge @ 15%	31,39,500
Income-tax computed on total income of Increase in tax liability 1 crore (1,50,000 plus 25,50,000) plus surcharge @ 10%	29,70,000
Increase in tax liability	1,69,500
Marginal Relief (1,69,500-1,00,000, being the amount of income in excess of ₹ 1,00,00,000)	**69,500**

Residential Status

Illustrations

Illustration 1 - Determination of Residential status : Mr. X, an Indian citizen, is employed in XYZ Ltd. He was sent on deputation in US on 15-07-2023.
Determine his residential status for assessment year 2024-25.

Solution: In the given case,- Mr. X was sent on deputation to US during the previous year 2023-24 i.e. he is leaving India for employment outside India. It is irrelevant that he is employed in India before leaving India for employment outside India. For him basic condition number 2 is not applicable.
His total stay in India during the previous year = 30 + 31 + 30 + 15 = 106 days.
Since Mr. X does not satisfy the first basic condition applicable to him, therefore he is a non-resident for the Assessment Year 2024-25.

Illustration 2 - Determination of residential status : In the year 2023-24, a sailor has remained on a ship for a private company owning ocean-going ships as follows :

- Outside the territorial waters of India for 182 days;
- Inside the territorial waters of India for 183 days;

Is he considered to be a resident for the assessment year 2024-25 ? (Nov. 2002)

Solution: An individual is an Indian resident if he is in India for period of 182 days or more during the previous year. India includes territorial waters of India. Since the sailor remained inside the territorial waters of India for 183 days, he is regarded as resident in India for the assessment year 2024-25.

Illustration 3 - Determination of residential status : Mr. Ram an Indian citizen left India on 22-9-2023 for the first time to work as an officer of a company in Germany. Determine the residential status of Ram for the assessment year 2024-25 and explain the conditions to be fulfilled for the same under the Income-tax Act, 1961.
(5 Marks, PCC Nov. 2010)

Solution: Mr. Ram is an Indian Citizen who left India during the previous year for employment outside India. For him basic condition no. 2 is not applicable. Hence, for being resident in India, he should be in India for 182 days or more during the previous year.

In this case, Mr. Ram was in India only for 175 days during the previous year (01-04-2023 to 22-9-2023 = 30 + 31 + 30 + 31 + 31 + 22 = 175 days).

Since he does not satisfy the minimum criteria of residence of 182 days during the previous year, hence, he is a non-resident for assessment year 2024-25.

Illustration 4 - Determination of residential status : Teji, a citizen of India, is an export manager of Arjun Overseas Ltd., an Indian company since 1st May, 2019. He has been regularly visiting USA for export promotion. He spent the following days in USA during the last 5 years :

Previous year ended	Number of days spent in USA
31-03-2020(Leap year)	320 days
31-03-2021	150 days
31-03-2022	270 days
31-03-2023	310 days
31-03-2024	295 days

Determine his residential status for assessment year 2024-25 assuming that prior to 1st May, 2019 he had never travelled abroad.

(5 Marks, Executive CS Dec. 2004)

Solution: During the previous year 2022-23, Teji was in India for 70 days (365 days - 295 days in USA) and during the immediately preceding previous year, he was in India for 411 days as shown below,-

Year	**2019-20 (leap year)**	**2020-21**	**2021-22**	**2022-23**	**Total**
No. of days spent in USA	320	150	270	310	1050
No. of days stayed in India	46	216	95	55	412

Thus, he satisfies one basic condition and thus, he is a resident in India for the previous year 2023-24. He does not satisfy any of the additional conditions, hence Mr. Teji is a resident & ordinarily resident.

Illustration 5 - Determination of residential status : A, a British national, comes to India for first time during 2019-20. During financial years 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24, he was in India for 65 days, 60 days, 80 days, 160 days and 70 days respectively. Determine his residential status for assessment year 2024-25.

Solution: During the previous year 2023-24, a was in India for 70 days and during 4 years immediately preceding the previous year, he was in India for 365 days as shown below,-

Year	**2019-20**	**2020-21**	**2021-22**	**2022-23**	**Total**
No. of days stayed in India	65	60	80	160	365

Thus, he satisfies the second basic condition and is, therefore, resident in India for the previous year 2019-20. Further, he satisfies additional conditions as follows,-

(a) He was non resident in India in all of the last 10 preceding years;

(b) He resided in India only for 365 days during the 7 preceding previous years.

Accordingly, he is 'Not Ordinarily Resident in India' for the previous year 2023-24.

Illustration 6 - Determination of residential status : Mrs. Karuna Kapoor, is a Hollywood actress. Her passport reveals the following information about her stay in India.

2023-24	From April 3rd	to	July 11th
2022-23	From June 22nd	to	July 11th
2021-22	From February 10th	to	March 26th
2020-21	From September 7th	to	March 26th
2019-20	From May 17th	to	September 30th
2018-19	From April 3rd	to	July 11th
2017-18	From April 3rd	to	July 11th
2016-17	From April 3rd	to	July 11th
2015-16	From April 3rd	to	July 11th

Find out her residential status for the assessment year 2024-25.

(5 Marks, May 2018)

Solution: An individual is said to be a Resident in India in any previous year if he satisfies one or both of the basic conditions as given under section 6(1).

(i) Basic conditions:

- He must be in India for a period of 182 days or more during the previous year; or
- He must be in India for a period of 60 days or more during the previous year and 365 days or more during the four years preceding the previous year.

(ii) If he does not satisfy either of these conditions, he would be a non resident.

During the previous year 2023-24, Mrs. Karuna Kapoor was in India for 100 days (April: 28 + May. 31 + June: 30 + July : 11) and during the immediately preceding 4 previous years, she was in India for 404 days as shown below,-

Year	**2019-20 (leap year)**	**2020-21**	**2021-22**	**2022-23**	**Total**
No. of days stayed in India	137	202	45	20	404

Thus, she satisfies one basic condition and thus, she is a resident in India for the previous year 2023-24.

As per Section 6(6), a person will be "Not ordinarily Resident" in India in any previous year, if such person:

(i) Has been a non-resident in 9 out of 10 previous years preceding the relevant previous year; or

(ii) Has during the 7 previous years immediately preceding the relevant previous year been in India for 729 days or less.

(iii) a citizen of India, or a person of Indian origin, having total income, other than the income from foreign sources, exceeding Rs. 15 lakh during the previous year, and he comes to India for the purpose of visit to India during the relevant previous year and he has been in India for a period or periods amounting in all to 120 days or more but less than 182 days; or

(iv) a citizen of India who is deemed to be resident in India under section 6(1A).

Year	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	Total

				(Leap Year)				
No. of days stayed in India	100	100	100	137	202	45	20	704

She also satisfies the second additional condition, hence she is resident but not ordinarily resident.

Illustration 7 - Determination of residential status : Ms. Bindu, a non-resident, residing in New York since 1991, came back to India on 19-02-2022 for permanent settlement in India. Explain her residential status of Ms. Bindu for the Assessment Year 2024-25 in accordance with the various provision of Indian Income-tax Act. (4 Marks, May 2015)

Solution: Ms. Bindu is a resident in assessment year 2024-25 since she has stayed in India for a period of 365 days (more than 182 days) during the Previous Year 2023-24, respectively.
As per section 6(6), a person will be "Not ordinarily Resident" in India in any previous year, if such person:

(i) has been a non-resident in 9 out of 10 previous years preceding the relevant previous year; or
(ii) has during the 7 previous years immediately preceding the relevant previous year been in India for 729 days or less.
(iii) a citizen of India, or a person of Indian origin, having total income, other than the income from foreign sources, exceeding Rs. 15 lakh during the previous year, and he comes to India for the purpose of visit to India during the relevant previous year and he has been in India for a period or periods amounting in all to 120 days or more but less than 182 days; or
(iv) A citizen of India who is deemed to be resident in India under section 6(1A).
If he does not satisfy any of these conditions, he would be a resident and ordinarily resident.

In the instant case, applying the above provision, the status of Ms. Bindu for the previous year 2023-24 (A.Y. 2024-25) would be Resident but not ordinarily resident since she was non-resident in 9 out of 10 previous years immediately preceding the previous year and also had stayed for less than 729 days in 7 previous years immediately preceding the previous year.
Therefore her status for A.Y. 2024-25 - "Resident but not ordinarily resident".

Illustration 8 - Determination of residential status of crew member of ship : Mr. Rohan is an Indian citizen and a member of the crew of a London bound Indian ship engaged in carriage of passengers in international traffic departing from Mumbai port on 10th August, 2023. From the following details for the P.Y. 2023-24, determine the residential status of Mr. Rohan for A.Y. 2024-25, assuming that his stay in India in the last 4 previous years (preceding P.Y. 2023-24) is 380 days and last seven previous years (preceding P.Y. 2023-24) is 780 days: (Similar: 4 Marks, May 2017)

Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Rohan	10th August, 2023
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Rohan	13th February, 2024

Solution: As per Section 6, where an Indian citizen leaves India as a member of crew of an Indian ship or for the purpose of employment outside India, he will be resident only if he stayed for 182 days during the previous year. In this case, the voyage is undertaken by an Indian ship engaged in the carriage of passengers in international traffic, originating from a port in India (i.e., the Mumbai port) and having its destination at a port outside India (i.e., the London port) is an eligible voyage and therefore the period beginning on the date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage and ending on the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage shall not be counted for stay in India.

Therefore, the period beginning from 10th August, 2023 and ending on 13th February, 2024, being the dates entered into the Continuous Discharge Certificate in respect of joining the ship and signing off from the ship by Mr. Rohan, has to be excluded for computing the period of his stay in India. Accordingly, 188 days [22 (August) + 30 (September) + 31 (October) + 30 (November) + 31 (December) + 31 (January) + 13 (February)] have to be excluded from the period of his stay in India.

Consequently, Mr. Rohan's period of stay in India during the P.Y. 2023-24 would be 177 days [i.e., 365 days - 188 days]. Since his period of stay in India during the P.Y. 2023-24 is less than 182 days, he is a non-resident for A.Y. 2024-25.

Note : Since the residential status of Mr. Rohan is "non-resident" for A.Y. 2024-25 consequent to his number of days of stay in P.Y. 2023-24 being less than 182 days, his period of stay in the earlier previous years become irrelevant.

Illustration 9 - Determination of residential status : Mrs. X, is an Indian citizen. Currently she is in employment with an overseas company located in Dubai. Her passport reveals the following information about her stay in India.

2023-24	From April 3th	to	May 11th
2022-23	From June 22nd	to	July 11th
2021-22	From February 10th	to	March 26th
2020-21	From September 7th	to	March 26th
2019-20	From May 17th	to	September 30th
2018-19	From April 3rd	to	July 11th
2017-18	From April 3rd	to	July 11th
2016-17	From April 3rd	to	July 11th
2015-16	From April 3rd	to	July 11th

Find out her residential status for the assessment year 2024-25 if Mrs. X is not taxable in Dubai or any other country or territory by reason of her domicile or residence.

Income of Mrs. X in India for previous year 2023-24 (other than income from foreign sources) is Rs. 20,00,000.

Solution: An individual is said to be a Resident in India in any previous year if he satisfies one or both of the basic conditions as given under section 6(1).

(i) Basic conditions:

- He must be in India for a period of 182 days or more during the previous year; or
- He must be in India for a period of 60 days or more during the previous year and 365 days or more during the four years preceding the previous year.

(ii) If he does not satisfy either of these conditions, he would be a non resident unless his case falls u/s 6(1 A). According to section 6(1A) of the Act, an individual shall be deemed to be resident in India if he fulfills the following conditions:

(1) He must be citizen of India.

(2) His total income, other than the income from foreign sources, must exceed Rs. 15 lakh during the previous year; and

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

If these conditions are satisfied he is deemed to be Not Ordinarily resident in India as per Section 6(6)(d). During the previous year 2023-24, Mrs. X was in India for 39 days (April: 28 + May: 11) Thus, she does not satisfy any of the basic condition as per Section 6(1) of the Act. However, she satisfies the conditions of Section 6(1A) read with Section 6(6) (d), hence she is resident but not ordinarily resident in India.

Illustration 10 - Determination of Residential status: Mrs. Shruti is an Indian citizen, is currently in employment with an overseas company located in UAE. During the previous year 2023-24, she comes to India for 157 days. She is in India for 200 days, 100 days, 76 days and 45 days in the financial years 2019-20, 2020-21, 2021-22 and 2022-23, respectively. Her annual income for the previous year 2023-24 is as follows:

Particulars	**Amount(Rs).**
Income from salary earned and received in UAE	2,00,000
Income earned and received from a house property situated in UAE	5,00,000
Income deemed to be accrued and arise in India	5,00,000
Income from retail business (accrued and received outside India, controlled from India)	10,00,000
Income accrued and arise in India	3,00,000
Life insurance premium paid by cheque in India	1,50,000

Determine the residential status of Mrs. Shruti for the assessment year 2024-25. (Support your Answer with computation) (4 Marks, May 2022)

Solution: Mrs. Shruti is an Indian citizen in employment in UAE. She comes on a visit to India during the P.Y. 2023-24 for 157 days.

Her stay in India in the four immediately preceding previous years is as follows:

P.Y.	No. of days
P.Y. 2019-20	200
P.Y. 2020-21	100
P.Y. 2021-22	76
P.Y. 2022-23	45
Total	**421**

Computation of Total Income of Mrs. Shruti (excluding income from foreign sources) (amount in):

Income from salary earned and received in UAE (income from a foreign source, hence, to be excluded)	-
Income earned and received from a house property situated in UAE (income from a foreign source, hence, to be excluded)	-
Income deemed to accrue or arise in India	5,00,000
Income from retail business *(to be included since the business is controlled from India, even though such income accrues and is received outside India)*	10,00,000
Income accrued and arising in India	3,00,000
	18,00,000
Less: Deduction u/s 80C *(LIC premium paid by cheque in India)* - Assuming other conditions are fulfilled	1,50,000
Total income (excluding income from foreign sources)	**16,50,000**

Mrs. Shruti, an Indian citizen visiting India in the P.Y. 2023-24, would be a resident in India for A.Y. 2024-25, if she satisfies either of the following conditions –

(i) She is in India for 182 days or more during the P.Y. 2023-24; or
(ii) She is in India for a period of 120 days or more during the P.Y. 2023-24 and her stay in India in the four immediately preceding previous years is 365 days or more. [This condition will apply to her since she comes on a visit to India during the previous year 2023-24 and her total income (excluding income from foreign sources) is 16.50 lakhs, which exceeds the threshold of 15 lakhs]

This first condition is not satisfied since she is in India only for 157 days during the P.Y. 2023-24. The second condition is satisfied, since she has stayed in India for 157 days during the P.Y. 2023-24 and 421 days in the four immediately preceding previous years. Since she has become resident in India for A.Y. 2024-25 by satisfying this condition, by default, she would be treated as resident but not ordinarily resident.
Conclusion: Mrs. Shruti's residential status for A.Y. 2024-25 is resident but not ordinarily resident.

Note: The provisions of section 6(1A) deeming an Indian citizen to be a resident but not ordinarily resident, irrespective of the period of her stay in India in the relevant previous year, if she is not liable to tax in any other country would not apply to Shruti, since she is a resident as per the provisions of section 6(1).

Illustration 11 – Determination of Residential status: Mr. Jai Chand (an Indian citizen) left India for employment in country X on 5th June, 2015. He regularly visited India and stayed for 60 days in every previous year since then. However, in the financial year 2023,24, he did not come to India at all. He owns a commercial building in Delhi

which is let out. He has also set a retail store in India which is controlled by his brother from India. He provides the following information to you regarding his income for the financial year 2023-24:

- Income from commercial building in Delhi - 12,00,000 (computed as per the provisions of the Act).
- Income from the retail store - ₹4,50,000 (computed as per the provisions of the Act)
- Country X does not tax any individual on their income as there is no personal income-tax regime there.
- Determine the residential status of Mr. Jai Chand for the Assessment year 2024-25.
- Will your answer change if he is a citizen of Country X? (3 Marks, May 2023)

Solution: Determination of residential status of Mr. Jai Chand for A.Y. 2024-25:

Since Mr. Jai Chand, an Indian citizen employed in Country X, did not come to India at all during the P.Y. 2023-24, he would not be a resident for A.Y. 2024-25 as per section 6(1). However, since he is an Indian citizen

- having total income (excluding income from foreign sources) of ₹ 16,50,000 [₹ 12,00,000, being income from commercial building in India + India 4,50,000, being Income from retail store in India], which exceeds the threshold of 15 lakhs during the previous year, and
- not liable to tax in Country X,

he would be deemed resident in India for the P.Y. 2023-24.

A deemed resident is always a resident but not ordinarily resident in India (RNOR).

Yes, in case Mr. Jai Chand is a citizen of Country X, he would be non-resident in India for the P.Y. 2023-24, since the provisions of deemed resident are applicable only to an Indian citizen

Illustration 12 - Determination of Residential status : Mr. X, Karta of HUF, claims that the HUF is non-resident as the business of HUF is transacted from UK and all the policy decisions are taken there. (2 Marks, PCC June, 2009)

Solution: True since the business of the HUF is transacted from UK and policy decisions are taken there, therefore, the 'Control and Management' of its affairs is wholly situated outside India.

Illustration 13 - Determination of Residential status : XYZ Inc is incorporated in Cayman Island. Its key management and commercial decisions are taken in Board meetings held in Mumbai during financial year 2023-24. Determine its residential status for assessment year 2024-25.

Solution: As per section 6(3), A company is said to be resident in India in any previous year, if its place of effective management, in that year, is in India. In this case though the company is incorporated outside India, it will be regarded as resident in India as its place of effective management during the relevant financial year is in India since its key management and commercial decisions are taken in its board meetings held in Mumbai.

Illustration 14 - Determination of Residential status : Lotus Inc., a US company headquartered at New York, not having a permanent establishment in India, has set up a liaison office in Delhi in April, 2023 in compliance with RBI guidelines to look after its day to day business operations in India, spread awareness about the company's products and explore further opportunities. The liaison office takes decisions relating to day to day routine operations and performs support functions that are preparatory and auxiliary in nature. The significant management and commercial decisions are, however, in substance made by the Board of Directors at New York. Determine the residential status of Lotus Inc. for A.Y. 2024-25.

Solution: In the case of Lotus Inc., its place of effective management for P.Y. 2023-24 is not in India, since the significant management and commercial decisions are, in substance, made by the Board of Directors outside India in New York. Lotus Inc. has only a liaison office in India through which it looks after its routine day to day business operations in India. The place where decisions relating to day to day routine operations are taken and support functions that are preparatory or auxiliary in nature are performed are not relevant in determining the place of effective management. Hence, Lotus Inc., being a foreign company is a non-resident for A.Y. 2024-25, since its place of effective management is outside India in the P.Y. 2023-24.

Illustration 15 - Taxability of interest income : Mr. A, a citizen of India, left for USA for the purposes of employment on 01-5-2023. He has not visited India thereafter. Mr. A borrows money from his friend Mr. B, who left India one week before Mr. A's departure, to the extent of Rs.10 lakhs and buys shares in X Ltd., an Indian company. Discuss the taxability of the interest charged @ 10% in B's hands where the same has been received in New York.

(4 Marks, PCC May 2006)

Solution: In this case,—

(a) Mr. A and Mr. B are non-resident in India during the previous year 2023-24;
(b) the purpose of borrowal by Mr. A is not 'carrying on of any business of profession in India' but for the purpose of investment in India i.e. earning any source of income in India.

Hence, the provisions of section 9(1)(v) relating to deeming fiction of accrual is not applicable in this case. Accordingly the interest does not accrue or arise in India and is, therefore, not taxable in India.

Illustration 16 - Taxability of fees for technical services : Miss Vivitha paid a sum of 5000 USD to Mr. Kulasekhara, a management consultant practising in Colombo, specializing in project financing. The payment was made in Colombo. Mr. Kulasekhara is a non-resident. The consultancy related to a project in India with possible Ceylonese collaboration. Is this payment chargeable to tax in India in the hands of Mr. Kulasekhara, since the services were used in India?. (4 Marks, IPCC May 2011)

Solution: A non-resident is chargeable to tax in respect of income received outside India only if such income accrues or arises or is deemed to accrue or arise to him in India. The income deemed to accrue or arise in India under section 9 comprises, inter alia, income by way of fees for technical services, which includes any consideration for rendering of any managerial, technical or consultancy services. Therefore, payment to a management consultant relating to project financing is covered within the scope of "fees for technical services".

According to explanation to section 9, income by way of, fees for technical services, from services utilized in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, whether or not such services were rendered in India.

In the instant case, since the services were utilized in India, the payment received by Mr. Kulasekhara, a non-resident, in Colombo is chargeable to tax in his hands in India, as it is deemed to accrue or arise in India.

Illustration 17 - Residential Status and its effect on tax incidence : Mr. Soham, an Indian Citizen left India on 20-04-2019 for the first time to setup a software firm in Singapore. On 10-04-2023, he entered into an agreement with LK Limited, an Indian Company for the transfer of technical documents and designs to setup an automobile factory in Faridabad. He reached India along with his team to render the requisite services on 15-05-2023 and was able to complete his assignment on 20-08-2023. He left for Singapore on 21-08-2023. He charged Rs. 50 lakhs for his services from LK Limited. Determine the residential status of Mr. Soham for the Assessment Year 2024-25 and explain as to the taxability of the fees charged from LK limited as per the Income-tax Act, 1961. (6 Marks, Nov. 2015)

Solution: As per Section 6 an Indian citizen or a person of Indian origin, who being outside India, comes on a visit to India shall be resident in India if he is in India for a period of 182 days or more during the previous year or he comes on a visit to India in the previous year for a period of more than 120 days and was in India for a period of 365 days or more during 4 years preceding the previous year and having total income, other than the income from foreign sources, exceeding Rs. 15 lakh rupees during the previous year.

In this case Mr. Soham came to India on 15-05-2023 and left for Singapore on 21-08-2023, hence he was in India for a period of 99 days during previous year 2023-24. Hence, he is non resident in India.

According to Section 9(1) (vi), Income by way of royalty shall be deemed to accrue or arise in India in hands of recipient (Mr. Soham) if it is payable by a person who is resident (LK Limited), except where the royalty are payable in respect of services utilised in a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India. Hence, the income of Rs. 50,00,000 shall be deemed to accrue in India. The income of a non-

resident shall be deemed to accrue or arise in India under section 9(1) (vi) and shall be included in the total income of the non-resident, whether or not, —

(i) the non-resident has a residence or place of business or business connection in India; or

(ii) the non-resident has rendered services in India.

Hence, sum of Rs. 50,00,000 will be taxable in hands of Mr. Soham.

Illustration 18 - Scope of total Income : Following incomes are derived by Mr. Krishna Kumar during the year ended 31-3-2023:

Particulars	**Amount (Rs.)**
Pension received from the US Government	3,20,000
Agricultural income from lands in Malaysia	2,70,000
Rent received from let out property in Colombo, Sri Lanka	4,20,000

Discuss the taxability of the above items where the assessee is (i) Resident, (ii) Non-resident. (6 Marks, Nov. 2018-NS)

Solution: Computation of Gross total income (amount in Rs.):

Particulars	Resident	Non Resident
Pension received from the US Government [Net of standard deduction of Rs. 50,000]	2,70,000	-
Income from agriculture land situated in Malaysia	2,70,000	-
Rent received from let out property in Colombo, Sri Lanka [WN]	2,94,000	-
Gross Total Income	8,34,000	Nil

It has been assumed that the above incomes has been received outside India. If the same is received in India, then the said amounts will also be taxable even if Krishna Kumar is non resident.

Working Note : It has been assumed that the rental income is the gross annual value of the property. Therefore, deduction @ 30% under section 24, has been provided and the net income so computed is taken into account for determining the total income of a resident and ordinarily resident.

(amount in Rs.)

Rent received (assumed as gross annual value)	4,20,000
Less: Deduction under section 24 (30% of Rs. 4,20,000)	1,26,000
Income from house property	2,94,000

Illustration 19 - Scope of total Income: Explain with reasons whether the following transactions attract income-tax in India in the hands of recipients?.

(i) Salary (Computed) paid to Mr. David, a citizen of India Rs. 15,00,000 by the Central Government for the services rendered in Canada.

(ii) Legal charges of Rs. 7,50,000 paid to Mr. Johnson, a lawyer of London, who visited India to represent a case at the Supreme Court.

(iii) Royalty paid to Rajeev, a non-resident by Mr. Kukesh, a resident for a business carried on in Sri Lanka.

(iv) Interest received of Rs. 1,00,000, on money borrowed from France, by Ms. Dyana, a non-resident for the business at Bangalore. (4 Marks, May 2015)

Solution:

	Taxable / Not Taxable	**Amount liable to tax (Rs.)**	**Reason**
(i)	Taxable	15,00,000	As per Section 9(1) (iii), salaries payable by the Government to a citizen of India for service rendered outside India shall be deemed to accrue or arise in India. Therefore, salary paid by Central Government to Mr. David for services rendered outside India would be deemed to accrue or arise in India since he is a citizen of India.
(ii)	Taxable	7,50,000	Legal charges paid to Mr. Johnson, a lawyer of London, who visited India to represent a case at the Supreme Court, since it accrues or arises in India.
(iii)	Not taxable		Royalty paid by a resident to a non-resident in respect of a business carried outside India would not be taxable in the hands of the non-resident provided the same is not received in India. This has been provided as an exception to deemed accrual mentioned in Section 9(1) (vi) (b).
(iv)	Taxable	1,00,000	As per Section 9(1)(v)(c), interest payable by a non-resident on moneys borrowed and used for the purposes of business carried on by such person in India shall be deemed to accrue or arise in India in the hands of the recipient.

Illustration 20 - Computation of total income : Determine the taxability of income of US based company Heli Ltd., in India on entering following transactions during the financial year 2023-24:

(i) Rs. 5 lacs received from an Indian domestic company for providing technical know how in India.

(ii) Rs. 6 lacs from an Indian firm for conducting the feasibility study for the new project in Finland.

(iii) 4 lacs from a non-resident for use of patent for a business in India.

(iv) Rs. 8 lacs from a non-resident Indian for use of know how for a business in Singapore.

(v) Rs. 10 lacs for supply of manuals and designs for the business to be established in Singapore. Explain the rate of tax applicable on taxable income for US based company, Heli Ltd., in India.(7 Marks, PCC Nov. 2009) (Similar: 4 Marks, May 2017)

Solution: A non resident is chargeable to tax in India in respect of following incomes :

(i) Income received or deemed to be received in India.

(ii) Income accruing or arising or deemed to accrue or arise in India.

In view of the above provisions, taxability of income is determined in following manner :

S.No.	**Particulars**	**Rs.**

(i)	Amount received from an Indian domestic company for providing technical know how in India is from Business Connection in India, therefore taxable in India.	5,00,000
(ii)	Conducting the feasibility study for the new project in Finland for the Indian firm is not taxable in India as done for the business outside India.	Nil
(iii)	The income from business set up in India is taxable in India. Therefore, money received from a non resident for use of patent for a business in India is taxable in India.	4,00,000
(iv)	Money received from a non resident India for use of know-how for a business in Singapore is for the business outside India, therefore non taxable in India.	Nil
(v)	Payment made for supply of manuals and designs for the business to be established in Singapore is not taxable in India.	Nil
	Total Income taxable in India	**9,00,000**

Tax rate applicable to Heli Ltd.: In respect of foreign companies, certain specified income such as Royalty and fees for technical service is taxable @ 10% + Surcharge + Health and education cess. The rates are also depends on Double Taxation Avoidance Agreement, if any, entered into between India and the respective country of the foreign company, whichever is more beneficial to the assessee. The basic normal rate applicable for the US based company who is a foreign company is 40%. In case the taxable income is more than Rs. 1 crore but upto Rs. 10 crores in the previous year, the surcharge @ 2% is applicable. If Total income exceeds Rs. 10 crores surcharge of 5% is applicable. The Health and education cess is payable @ 4%. The effective rate of tax in case of foreign companies in India is 42.432%/ 43.68% respectively.

Illustration 21 - Computation of total income : From the following particulars of Income furnished by Mr. Anirudh pertaining to the year ended 31-03-2024, compute the total income for the assessment year 2024-25, if he is :

(i) Resident and ordinary resident;
(ii) Resident but not ordinarily resident;
(iii) Non-resident: (10 Marks, IPCC May 2010)

	Particulars	**Amount (Rs.)**
(a)	Profit on sale of shares in Indian Company received in Germany	15,000
(b)	Dividend from a Japanese Company received in Japan	10,000
(c)	Rent from property in London deposited in a bank in London, later on remitted to India through approved banking channels	75,000
(d)	Dividend from RP Ltd., an Indian Company	6,000
(e)	Agricultural income from lands in Gujarat	25,000

Solution: The total income, in each case, is computed herein below (amounts in Rs.) -

Particulars	**Resident & ordinarily resident**	**Resident but not ordinarily resident**	**Non-resident**
Profit on sale of shares in Indian company received in	15,000	15,000	15,000

Germany			
Dividend from Japanese company, received in Japan	10,000	-	-
Rent from property in London deposited in a bank in London [WN-1]	52,500	-	-
Dividend from RP Ltd. an Indian company [WN-2]	6,000	6,000	6,000
Agricultural income from lands in Gujarat [WN-3]	-	-	-
Total Income	**83,500**	**21,000**	**21,000**

Working Notes:

(1) It has been assumed that the rental income is the gross annual value of the property. Therefore, deduction @ 30% under section 24, has been provided and the net income so computed is taken into account for determining the total income of a resident and ordinarily resident.

Particulars	**Rs.**
Rent received (assumed as gross annual value)	75,000
Less: Deduction under section 24 (30% of Rs. 75,000)	22,500
Income from house property	52,500

(2) Dividend from Indian company is exempt under section 10(34).

(3) Agricultural income is exempt under section 10(1).

Illustration 22 - Computation of total income : Mrs. Geetha and Mrs. Leena are sisters and, they earned the following income during the Financial Year 2023-24. Mrs. Geetha is settled in Malaysia since 1988 and visits India for a month every year. Mrs. Leena is settled in fndore since her marriage in 1996. Compute the total income of Mrs. Geetha and Mrs. Leena for the assessment year 2024-25 :

	Particulars	**Mrs. Geetha**	**Mrs. Leena**
1.	Income from Profession in Malaysia, (set up in India) received there	15,000	-
2.	Profit from business in Delhi, but managed directly from Malaysia	40,000	-
3.	Rent (computed) from property in Malaysia deposited in a Bank at Malaysia, later on remitted to India through approved banking channels.	1,20,000	
4.	Dividend from I'QR Ltd. an Indian Company	5,000	9,000
5.	Dividend from a Malaysian, company received in Malaysia	15,000	8,000
6.	Cash gift received from a friend on Mrs. Leena's 50th birthday	-	51,000
7.	Agricul tural income from land in Maharashtra	7,500	4,000
8.	Past foreign untaxed income brought to India	5,000	-
9.	Fees for technical services rendered in India received in Malaysia	25,000	-
10.	Income from a business in Pune (Mrs. Geetha receives 50% of the income in India)	12,000	15,000
11.	Interest on debentures in an Indian company (Mrs. Geetha received the same in Malaysia)	18,500	14,000

12.	Short-term capital gain on sale of shares of an Indian company	15,000	25,500
13.	Interest on savings account with SBI	12,000	8,000
14.	Life insurance premium paid to LIC	-	30,000

(Similar PCC May 2012,12 Marks) (Similar IPCC May 2013, 8 Marks) (8 Marks, Nov. 2014)

Solution: Computation of total income of Mrs. Geetha and Mrs. Leena (amount in Rs.) :

	Particulars	**Geetha**	**Leena**
1.	Income from Profession in Malaysia, (set up in India) received there[WN-3]	-	-
2.	Profit from a business in Delhi, but managed directly from Malaysia	40,000	-
3.	Rent (computed) from property in Malaysia deposited in a Bank at Malaysia, later on remitted to India through approved banking channels .(Remittance in India is not taxable)	-	-
4.	Dividend from PQR Ltd. an Indian Company [Taxable in hands of shareholder]	5,000	9,000
5.	Dividend from a Malaysian company received in Malaysia	-	8,000
6.	Cash gift received from a friend on Mrs. Leena's 50th birthday	-	51,000
7.	Agricultural income from land in Maharashtra[WN-4]	-	-
8.	Past foreign untaxed income brought to India [It is not taxable]	-	-
9.	Fees for technical services rendered in India, but received in Malaysia[WN-2]	25,000	-
10.	Income from a business in Pune (Mrs. Geetha receives 50% of the income in India)	12,000	15,000
11.	Interest on debentures in an Indian company (Mrs. Geetha received the same in Malaysia)	18,500	14,000
12.	Short-term capital gain on sale of shares of an Indian company	15,000	25,500
13.	Interest on savings account with SBI	12,000	8,000
	Gross Total Income	**1,27,500**	**1,30,500**
	Less: Deduction u/s 80C in respect of Life insurance premium paid	-	-30,000
	Less: Deduction u/s 80TTA in respect of Interest on deposits in saving A/c [WN-5]	-10,000	-8,000
	Total Income	**1,17,500**	**92,500**

Working Notes:

(1) Mrs. Geetha is a non-resident since she has been living in Malaysia since 1988. Mrs. Leena, who is settled in Indore, is a resident.

(2) In case of a resident, his global income is taxable as per section 5(1). However, as per section 5(2), in case of a nonresident, only the following income are chargeable to tax:

(a) Income received or deemed to be received in India; and

(b) Income accruing or arising or deemed to accrue or arise in India.

Therefore, fees for technical services rendered in India would be taxable in the hands of Mrs. Geetha, even though she is a non-resident. The income referred to

in SI. No. 10, 11, 12 and 13 are taxable in the hands of both Mrs. Geetha and Mrs. Leena since they accrue or arise in India.

(3) Income from Profession in Malaysia, (set up in India) received there by Mrs. Geetha is not taxable since it accrues and received outside India.

(4) Agricultural income from a land situated in India is exempt under section 10(1) in the case of both non-residents and residents.

(5) Interest on savings bank deposit is eligible for deduction u/ s 80TTA subject to maximum limit of Rs. 10,000.

Illustration 23 - Computation of GTI: Mr. Rajnesh, a citizen of India, serving in the Ministry of Finance in India and transferred to High Commission of Australia on 15th March 2024. He did not come to India during the financial year 2023-24. His income during the financial year 2023-24 is given here under :

Particulars	**Rs.**
Salary from Government of India	7,20,000
Foreign Allowances from Government of India	6,00,000
Rent from a house situated at London, received in London	3,60,000
Interest accrued on National Saving Certificate during the year 2023-24	45,000

Compute the Gross Total Income of Mr. Rajnesh for the Assessment Year 2024-25.
(4 Marks, Nov. 2016)

Solution: Mr. Rajnesh did not visited India during Financial Year 2023-24, hence he is non resident in India. Since Mr. Rajnesh is an Indian citizen being government employee his salary income is deemed to accrue or arise in India and is taxable in India. Thus even if he is non resident in India, the salary income will be taxable in India. Computation of Gross Total Income (amounts in Rs.) :

Income under the head Salaries		
Salary	7,20,000	
Foreign Allowances from Government of India [Such allowance is exempt u/s 10(7)]	Nil	
Gross Salary	**7,20,000**	
Less: Standard deduction u/ s 16(ia)	50,000	6,70,000
Income from House property		
Rent from house property situated in London, received in India [It will not be taxable, since he is non resident]		Nil
Income from other sources		
Interest accrued on National Saving Certificate during the year 2023-24		45,000
Gross Total Income		**7,15,000**

Illustration 24 - Determination of residential status and scope of total income : DAISY Ltd., a foreign company, incorporated in USA and engaged in the manufacturing and distribution of diamonds, set up a branch office in India in June 2024. The branch office was required to purchase uncut and un-assorted diamonds from dealers of Mumbai and export them to USA. During the Previous Year 2023-24, profit from such export amounted to Rs. 75 lakhs. Out of 20 shareholders of DAISY Ltd., 12 shareholders

are non-resident in India. All the major decisions were taken through Board Meetings held at USA.

(i) Determine the residential status of DAISY Ltd. for the Assessment Year 2024-25.

(ii) Discuss the tax treatment of profit from export business.(5 Marks, Nov. 2017)

Solution:

(i) Residential Status of Daisy Ltd.: According to Section 6(3) of the Income tax Act, 1961, a foreign company is said to be resident in India in any previous year, if its place of effective management, in that year, is in India.

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

Since in case of Daisy Ltd., all the major decisions were taken through Board Meetings held at USA, hence it will be non resident in India.

(ii) According to Explanation 1(b) to Section 9(1) (i), in the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export. Thus, export profits of Rs. 75 lakhs shall not be taxable in India in hands of DAISY Ltd.

Illustration 25 - Computation of GTI: Compute the Gross Total Income in the hands of an individual, if he is —

(a) a resident and ordinary resident; and

(b) a non-resident for the A.Y. 2024-25.

S.No.	Particulars	Amount (Rs.)
(i)	Interest from German Derivatives Bonds (1/3rd received in India)	21,000
(ii)	Income from agriculture land situated in Malaysia, remitted to India	51,000
(iii)	Income earned from business in Dubai, controlled from India (Rs. 20,000 received in India)	75,000
(iv)	Profit from business in Mumbai, controlled from Australia	1,75,000
(v)	Interest received from Mr. Ashok (NRI) on loan provided to him for business in India	35,000
(vi)	Dividend from Brown Ltd., an Indian Co.	30,000
(vii)	Profit from business in Canada controlled from Mumbai (60% of profits deposited in a bank in Canada and 40% remitted to India)	60,000
(viii)	Amount received from an NRI for the use of know-how for his business in Singapore	8,00,000
(ix)	Dividend received from foreign company in India	25,000
(x)	Past years untaxed foreign income brought to India	50,000

Solution: Computation of Gross total income (amount in Rs.):

S.No.	Particulars	Resident	Non Resident
(i)	Interest from German Derivatives Bonds (1/3rd received in India) [WN-1]	21,000	7,000
(ii)	Income from agriculture land situated in Malaysia, remitted to India [WN-1 & 3]	51,000	-

(iii)	Income earned from business in Dubai, controlled from India (Rs.20,000 received in India) [WN-1]	75,000	20,000
(iv)	Profit from business in Mumbai, controlled from Australia [WN-1]	1,75,000	1,75,000
(v)	Interest received from Mr. Ashok (NRI) on loan provided to him for business in India [WN-1]	35,000	35,000
(vi)	Dividend from Brown Ltd., an Indian Co. [Taxable in hands of shareholder]	30,000	30,000
(vii)	Profit from business in Canada controlled from Mumbai (60% of profits deposited in a bank in Canada and 40% remitted to India) [WN-3]	60,000	-
(viii)	Amount received from an NRI for the use of know-how for his business in Singapore [WN-4]	8,00,000	-
(ix)	Dividend received from foreign company in India [WN-2]	25,000	25,000
(x)	Past years untaxed foreign income brought to India	-	-
	Gross Total Income	**12,72,000**	**2,92,000**

Working Notes :

(1) In case of a resident, his global income is taxable as per Section 5(1). However, as per Section 5(2), in case of a nonresident, only the following income are chargeable to tax:

(i) Income received or deemed to be received in India; and

(ii) Income accruing or arising or deemed to accrue or arise in India

The income referred to in SI. No. (iv), and (v) are taxable in India whether assessee is resident or non resident since they accrue or arise in India.
Interest on German derivatives Bonds would be fully taxable in case of resident, whereas only 1/3rd which is received in India is taxable in the hands of Non resident.

(2) Dividend received from foreign company in India will be taxable in both cases since it is received in India.

(3) In case of non resident, Receipt in India is chargeable to tax and not remittance. Hence, Profit from business in Canada controlled from Mumbai and Agricultural Income from land situated in Malaysia will not be taxable in case of non resident. No exemption will be available in respect of agricultural income form Malaysia, since agricultural income from land situated in India is exempt from tax under Section 10(1).

(4) In case use of know how is outside India, Income from it does not accrue or arise in India. Hence, it will not be taxable in case of non resident.

Illustration 26 - Computation of GTI: The following are the incomes of Shri Subhash Chandra, a citizen of India for the previous year 2023-24:

(i) Income from business in India Rs. 2,00,000. The business is controlled from London and Rs. 60,000 were remitted to London.

(ii) Profits from business earned in Japan Rs. 70,000 of which Rs. 20,000 were received in India. This business is controlled from India.
(iii) Untaxed income of Rs. 1,30,000 for the year 2020-21 of a business in England which was brought in India on 3rd March, 2024.
(iv) Royalty of Rs. 4,00,000 received from Shri Ramesh, a resident for technical service provided to run a business outside India.
(v) Agricultural income of Rs. 90,000 in Bhutan.
(vi) Income of Rs. 73,000 from house property in Dubai, which was deposited in bank at Dubai.

Compute Gross total income of Shri Subhash Chandra for the A.Y. 2024-25, if he is —
(a) A Resident and Ordinary Resident, and
(b) A Resident and Not Ordinarily Resident (7 Marks, May 2019-NS)

Solution: Computation of Gross total income of Shri Subhash Chandra (amount in Rs.) :

	Particulars	**Resident**	**NOR**
(i)	Income from business in India	2,00,000	2,00,000
(ii)	Profits from business earned in Japan controlled from India	70,000	70,000
(iii)	Untaxed income from business in England	-	-
(iv)	Royalty received from resident for technical services provided to run a business outside India (Income is deemed to accrue or arise outside India)	4,00,000	-
(v)	Agricultural income in Bhutan	90,000	-
(vi)	Income from house property in Dubai which was deposited in Dubai Bank[Rs. 73,000 less standard deduction 30% of Rs. 73,000]	51,100	-
	Gross total income	**8,11,100**	**2,70,000**

Illustration 27 - Scope of total income. : Mr. Thomas, a non-resident and citizen of Japan entered into following transactions during the previous year ended 31-03-2024. Examine the tax implications in the hands of Mr. Thomas for the Assessment Year 2024-25 as per Income-tax Act, 1961. (Give brief reasoning)
(1) Interest received from Mr. Marshal, a non-resident outside India (The borrowed fund is used by Mr. Marshal for investing in Indian company's debt fund for earning interest).
(2) Received Rs. 10 lakhs in Japan from a business enterprise in India for granting license for computer software (not hardware specific).
(3) He is also engaged in the business of running news agency and earned income of Rs. 10 lakhs from collection of news and views in India for transmission outside India.
(4) He entered into an agreement with SKK & Co., a partnership firm for transfer of technical documents and design and for providing services relating thereto, to

set up a Denim Jeans manufacturing plant, in Surat (India). He charged Rs. 10 lakhs for these services from SKK & Co. (5 Marks, Nov. 2020)

Solution:

(1) Not taxable, since interest payable by a non-resident to another non-resident would be deemed to accrue or arise in India only if the borrowed fund is used for the purposes of business or profession carried on by him. in India. In this case, it is used for investing in Indian company's debt fund for earning interest and not for the purposes of business or profession. Hence, it is not taxable in India.

(2) Royalty includes, inter alia, consideration for grant of license for computer software. Hence, the amount of Rs. 10 lakhs payable by a resident (business enterprise in India) for grant of license for computer software would be royalty which is deemed to accrue or arise in India in the hands of Mr. Thomas, a non-resident, since it is for the purpose of business in India. Hence, the royalty is taxable in India.

(3) No income shall be deemed to accrue or arise to Mr. Thomas through or from activities which are confined to the collection of news and views in India for transmission outside India. Hence, Rs. 10 lakhs is not taxable in India in the hands of Mr. Thomas.

(4) Rs. 10 lakhs is deemed to accrue or arise in India to Mr. Thomas, a non-resident, since it represents royalty/fees for technical services paid for services utilized in India, in this case, for setting up a Denim Jeans manufacturing plant in Surat. Hence, the same would be taxable in India in the hands of Mr. Thomas.

Illustration 28 – Scope of total income: Examine the tax implications of the following transactions for the A.Y. 2024-25 : (Give brief reason)

(i) Government of India has appointed Mr. Rahul as an ambassador in Japan. He received salary of ₹7,50,000 and allowances of 2,40,000 during the previous year 2023-24 for rendering his services in Japan. He is an Indian citizen having status of non-resident in India for the previous year 2023-24.

(ii) Ms. Juhi, a non-resident in India is engaged in operations which are confined to purchase of goods in India for the purpose of export. She has earned 2,50,000 during the previous year 2023-24.

(iii) Mr. Naveen, a non-resident in India, has earned 3,00,000 as royalty for a patent right made available to Mr.Rakesh who is also a non-resident. Mr. Rakesh has utilized patent rights for development of a product in India and 50% royalty is received in India and 50% outside India.

(iv) Mr. James, a NRI, borrowed 10,00,000 on 01-04-2023 from Mr. Akash who is also a non-resident and invested such money in the shares of an Indian Company. Mr. Akash has received interest @ 12% per annum.(7 Marks, Dec. 2021)

Solution:

(i) As per section 9(1)(iii), salaries (including, inter alia, allowances) payable by the Government to a citizen of India outside India shall be deemed to accrue or arise in India.

Thus, salary received from Government by Mr. Rahul, being a non-resident of 7,50,000 for rendering services in Japan would be taxable in his hands, after allowing standard deduction of 50,000.

However, any allowance or perquisites paid or allowed outside India by the Government to a citizen of India for rendering services outside India will be fully exempt u/s 10(7). Hence, 2,40,000, being the allowance would be exempt.

(ii) In the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export. Thus, income of Rs.2,50,000 arising in the hands of Ms. Juhi would not be taxable in her hands in India, since her operations are confined to purchase of goods in India for the purpose of export.

(iii) Royalty payable by a non-resident would be deemed to accrue or arise in India in the hands of the recipient only when such royalty is payable in respect of any right, property or information used for the purposes of a business or profession carried on by such non-resident in India or earning any income from any source in India.

In the present case, since Mr. Rakesh, a non-resident, paid the royalty of 3,00,000 for a patent right used for development of a product in India, the same would be taxable in India in the hands of the recipient, Mr. Naveen, a non-resident, irrespective of the fact that only 50% of the royalty is received in India.

(iv) Interest payable by a non-resident on the money borrowed for any purpose other than a business or profession in India, would not be deemed to accrue or arise in India.

In the present case, since Mr. James, a non-resident borrowed the money for investment in shares of an Indian company, the interest on such borrowing of 1,20,000 (10,00,000 × 12%) payable to Mr. Akash, a non-resident would not be deemed to accrue or arise to him in India. Hence, the same would not be taxable in India in the hands of Mr. Akash.

Illustration 29-Determination of Residential Status and Computation of Total Income: Mr. Prashant (aged 35 years) is an Australian citizen who is settled in Australia and visits India for 125 days in every financial year since past 11 years. During the F.Y. 2023-24, he visited India for a total period of 200 days. The purpose of his visit was to meet his family members who are settled in India and also for managing his family members who are settled in India and also for managing his business in Sri Lanka through his office in Chennai, India.

During the P.Y. 2023-24, he has the following incomes:

- Income from business in Australia controlled form Australia-20,00,000
- Income from business in Sri Lanka controlled form Chennai - 16,00,000
- Short-term capital gains on sale of shares of an Indian company received in Australia - 50,000. The shares were sold online from Australia.

- Income from agricultural land in Australia, received there and then brought to India - 2,00,000

Find out the residential status of Mr. Prashant and compute his total income for A.Y. 2024-25. (4 Marks, May 2023)

Solution: Determination of Residential Status of Mr. Prashant :

Mr. Prashant is an Australian citizen who comes on a visit to India for 125 days in every financial year since the past 11 years. During the P.Y. 2023-24, he visited India for 200 days. Since he stayed in India for 182 days or more during the P.Y. 2023-24, he would be resident in India for the A.Y. 2024-25.

An individual is said to be **"Resident but not ordinarily resident [RNOR]"** in India in any previous year, if he satisfies any one of the following conditions:

- He is a non-resident in at least 9 out of 10 previous years preceding the relevant previous year; or
- His stay in India in the last 7 years preceding the relevant previous year is 729 days or less.

Mr. Prashant does not satisfy either of the above conditions on account of being resident in more than 1 year out of 10 years and stay in India for 875 days in the 7 years preceding the P.Y. 2023-24. Hence, he is a Resident and Ordinarily Resident in the P.Y. 2023-24.

Computation of Total Income of Mr. Prashant for A.Y . 2024-25:

Particulars	**Amount Rs.**
Income from business in Australia	20,00,000
Income from business in Sri Lanka	16,00,000
Short-term capital gains on sale of shares of an Indian company	50,000
Income from agricultural land in Australia [would not be exempt, since it is not from an agricultural	2,00,000
Total Income	**38,50,000**

Illustration 30 - Determination of Residential Status and its effect on Tax incidence: Mr. Sarthak, an individual and Indian citizen living abroad (Dubai), a tax haven, since year 2005 and never came to India for a single day since then, earned the following incomes during previous year 2023-24:

Particulars	**Amount Rs.**
Income accrued and arisen in Dubai not taxable in Dubai (being tax haven)	20,00,000
Income accrued and arisen in India	5,00,000

Income deemed to accrue and arise in India	8,00,000
Income arising in Dubai from a profession set up in India	10,00,000

I. Determine the residential status of Mr. Sarthak and taxable income for the previous year 2023-24 (assuming no other income arise during the previous year).
II. What would be your answer if income arising in Dubai from a profession set up in India is 2 lakhs instead of 10 lakhs?
III. What would be your answer, if Mr. Sarthak born in Dubai and his parents were born in India?

Solution :

(I) Mr. Sarthak is an Indian citizen living in Dubai since 2005 who never came to India for a single day since then, he would not be a resident in India for the P.Y. 2023-24 on the basis of number of days of his stay in India as per section 6(1).

However, since he is an Indian citizen -

- having total income (excluding income from foreign sources) of 23 lakhs, which exceeds the threshold of 15 lakhs during the previous year; and
- not liable to tax in Dubai, he would be deemed resident in India for the previous year 2023-24 by virtue of section 6(1A).

A deemed resident is always a resident but not ordinarily resident in India (RNOR).

Computation of Total Income for A.Y. 2024-25:

Particulars	**Amount Rs.**
Income accrued and arisen in Dubai (not taxable in case of an RNOR)	-
Income accrued and arisen in India (taxable)	5,00,000
Income deemed to accrue or arise in India (taxable)	8,00,000
Income arising in Dubai from a profession set up in India would be taxable in case of RNOR	10,00,000
Total income	**23,00,000**

(II) If income arising in Dubai from a profession set up in India is 2 lakhs instead of 10 lakhs, his total income (excluding income from foreign sources) would be only 15 lakhs. Since the same does not exceed the threshold limit of 15 lakhs, he would not be deemed resident. Accordingly, he would be non-resident in India for the P.Y. 2023-24 and hence, his total income would be only 13 lakhs (aggregate of (ii) and (iii) above i.e., 5 lakhs + 8 lakhs).

(III) If Mr. Sarthak is born in Dubai and his parents were born in India, he would not be an Indian citizen, but he may qualify as person of Indian origin. In such case, the provisions relating to deemed resident would not apply to him. Accordingly, he would be non-resident in India during the P.Y. 2023-24 and his total income would be 13 lakhs.

Note: In sub-part III., it is inferred that he is not a citizen of India since he is not born in India. It is assumed that he has not applied for citizenship by fulfilling the other specified eligibility conditions.

Salaries

Illustrations

Illustration 1 - Accrual of salary: Rajesh Kumar, an Indian citizen, is posted in the Indian High commission at London during the previous year 2023-24. His emoluments consist of basic pay of Rs. 1,40,000 per month and overseas allowance of Rs. 40,000 per month. Besides, he is entitled to airfare for going from and coming to India and also to free use of Government's car at London. He has no taxable income except salary income stated above. His employer did not deduct tax at source. Rajesh Kumar argues that -

(i) he is not liable to pay tax on salary earned and received outside India since he is a non-resident during the previous year 2023-24, and

(ii) even if any tax is due, it is the duty of his employer to deduct tax at source and as such he has no responsibility to pay the tax.

Discuss whether his contention is correct.

Will it make any difference if Rajesh Kumar is a Foreign citizen?. Give reasons. (Nov. 1998)

Solution:

(i) **If Rajesh is an Indian Citizen :** The argument of Rajesh Kumar is not correct. Since he is an Indian citizen being government employee his salary income is deemed to accrue or arise in India and is taxable in India. In case if employer does not deduct tax at source, the tax is to be paid directly by employee. The computation of Taxable Salary is as under (amounts in Rs):

Salary (Rs. 1,40,000 x 12)	16,80,000
Overseas Allowance (Rs. 40,000 x 12) & Perquisites shall be exempt u/s 10(7)	Nil
Gross Salary	16,80,000
Less: Standard deduction u/ s 16(ia)	50,000
Income under the head Salaries	16,30,000

(ii) **If Mr. Rajesh is a foreign citizen :** In case Rajesh Kumar is foreign citizen, then salary income shall not be deemed to accrue or arise in India, and hence not taxable in India.

Illustration 2 - Computation of exempted House rent allowance : Arun, a resident of Meerut, receives Rs. 38,000 per annum as basic salary. In addition, he gets Rs. 12,000 p.a. as dearness allowance, which does not form part of basic salary, 5% commission on turnover achieved by him (turnover achieved by him during the relevant previous year is Rs. 6,00,000) and Rs. 7,000 per annum as house rent allowance. He, however, pays Rs. 8,000 per annum as house rent.

Determine the quantum of house rent allowance exempt from tax if assessee has opted out of the provisions of Section 115BAC

Solution: HRA is exempt to the extent least of the following (amount in Rs.)-

(1)	Actual HRA received	7,000
(2)	Rent paid - 10% of salary (Rs. 8,000 - 10% of Rs. 68,000)	1,200
(3)	40% of the salary (40% of Rs. 68,000)	27,200
	Exempted HRA	1,200

Note : Salary = Rs. 38,000 + 5% of Rs. 6,00,000 = Rs. 68,000 for the year.

Illustration 3 - Computation of Taxable HRA and Gross salary: Mr. Mohit is employed with XY Ltd. on a basic salary of Rs. 10,000 p.m. He is also entitled to Dearness allowance @ 100% of basic salary, 50% of which is included in salary as per terms of employment. The company gives him house rent allowance of Rs. 6,000 p.m., which was increased to Rs. 7,000 p.m. with effect from 01-01-2024. He also got an increment of Rs. 1,000 p.m. in his basic salary with effect from 01-02-2024. Rent paid by him during the previous year 2023-24 is as under :

April and May, 2023 — Nil, as he stayed with his parents.

June to October, 2023 — Rs. 6,000 p.m for an accommodation in Ghaziabad.

November, 2023 to March, 2024 — Rs. 8,000 p.m for an accommodation in Delhi.

Compute his gross salary for assessment year 2023-24.

Solution: Computation of HRA exempt (amount in Rs.):

Period	**01-04-2023 to 31-05-2023**	**01-06-2023 to 31-10-2023**	**01-11-2023 to 31-12-2023**	**01-01-2024 to 31-01-2024**	**01-02-2024 to 31-03-2024**
Number of months	2	5	2	1	2
Basic Salary per month	10,000	10,000	10,000	10,000	11,000
Dearness allowance, to the extent it forms part of salary (@ 100% of basic salary, 50% of which is included in salary as per terms of employment)	5,000	5,000	5,000	5,000	5,500
Salary for the purpose of HRA exemption	**15,000**	**15,000**	**15,000**	**15,000**	**16,500**
Rent paid per month	-	6,000	8,000	8,000	8,000
HRA received	6,000	6,000	6,000	7,000	7,000
HRA is exempt per month upto least of following -					
(a) HRA received	6,000	6,000	6,000	7,000	7,000
(b) Rent paid - 10% of salary	-	4,500	6,500	6,500	6,350
(c) 40% of salary (50% of salary, for Delhi w.e.f. 1-11-	6,000	6,000	7,500	7,500	8,250

2023)					
HRA exempt p.m. = Least of the above three (a), (b)	-	4,500	6,000	6,500	6,350
or (c)					
Taxable HRA p.m.	6,000	1,500	-	500	650
Total taxable HRA	12,000	7,500	-	500	1,300
Total taxable HRA		**21,300**			

Computation of gross salary (Rs.)

Basic Salary [Rs. 10,000 x 10 + Rs. 11,000 x 2]	1,22,000
Dearness Allowance @ 100% of basic pay	1,22,000
House Rent Allowance	21,300
Gross Salary	**2,65,300**

Illustration 4 - Transport Allowance to employee of transport system : Examine with brief reasons, whether the following is chargeable to income-tax and the amount liable to tax with reference to the provisions of the Income-tax Act, 1961: Allowance received by an employee Mr. Ram working in a transport system at Rs. 12,000 p.m. which has been granted to meet his personal expenditure while on duty. He is not in receipt of any daily allowance from his employer. (2 Marks, Nov. 2018-NS)

Solution: Under section 10(14), any allowance granted to an employee working in a transport system to meet his personal expenditure during his duty is exempt provided he is not in receipt of daily allowance. The exemption is 70% of such allowance (i.e., Rs. 8,400 per month, being 70% of Rs. 12,000) or Rs. 10,000 per month, whichever is less.

Hence, Rs. 8,400 p.m. is allowable as exemption u/s 10(14); and the balance Rs. 3,600 p.m. shall be taxable. Hence taxable allowance will be Rs. 3,600 x 12 = Rs. 43,200.

Illustration 5 - Computation of Gross Salam: Mr. M is an area manager of M/s. N. Steels Co. Ltd. During the previous year 2023-24 he gets following emoluments from his employer:

Basic salary	**Rs. 40,00,000**
Dearness Allowance [50% of basic salary forming part of retirement benefits)	Rs. 20,00,000
Contribution to recognized provident fund	12% of basic salary and D.A.
Contribution to superannuation fund	Rs. 2,00,000

Determine his gross salary for the Assessment Year 2024-25.

Solution: Computation of income from salary of Mr. M (amount in Rs.):

Basic salary		40,00,000

Dearness Allowance		20,00,000
Employer's contribution to RPF [12% of salary (i.e., 12% of Rs. 50,00,000)	6,00,000	
Contribution to approved superannuation fund	2,00,000	
Aggregate contribution to RPF and Approved superannuation fund	8,00,000	
Less: Exempt	7,50,000	50,000
Gross salary		**60,00,000**

Illustration 6 - Valuation of rent free accommodation in hotel: Calculate the value of perquisite, if any, chargeable to tax in respect of free accommodation provided by the employer in a hotel to an. employee,-

(1) for 10 days when he was transferred from Delhi to Mumbai.

(2) throughout the year as per contract of employment.

Solution:

(1) When the employee is provided accommodation in a hotel for a period not exceeding 15 days on account of his transfer from one place to another, then the value of such perquisite shall be nil. In this case, since the period of hotel accommodation doesn't exceed 15 days and the same has been provided on the transfer of employee from Delhi to Mumbai, the same shall be exempt.

(2) When hotel accommodation is provided throughout the year as per contract of employment –

The taxable value shall be Lower of -

(i) the actual charges paid/payable to such hotel; or

(ii) 24% of salary;

Any amount recovered from the employee shall be reduced.

Illustration 7 - Rent free accommodation : Compute the value of perquisite in respect of rent-free furnished house, if Ashok stays in a city with a population of-

(i) not exceeding 15 lakh;

(ii) exceeding 15 lakh but not exceeding 40 lakh; and

(iii) exceeding 40 lakh.

Ashok is in receipt of the following amounts from his employer during the previous year —

- Basic pay : Rs. 1,80,000;
- Dearness allowance : 25% of basic pay;
- Commission: 5% of basic pay; and
- Bonus : Rs. 8,000.

His employer has paid income tax of Rs. 5,000 and professional tax of Rs. 1,500 on his behalf.

Besides, his employer provided refrigerator and television costing Rs. 24,000 and paid Rs. 500 per month towards rent of other furniture provided. The accommodation and refrigerator and television is provided w.e.f. 01-10-2023.

Solution: Taxable value of Rent Free furnished Accommodation (amount in Rs.) :

Particulars	**Cities having population**		
	Not exceeding 10	Exceeding 10 lakhs	Exceeding 25

	lakh	but not exceeding 25 lakh	lakh
Valuation of rent free accommodation	5% of salary	7.5% of salary	10% of salary
Perquisite value of RFA [WN]	6,050	9,075	12,100
Add: Furniture (10% p.a. of original cost of furniture)	1,200	1,200	1,200
Rent of furniture (Rs. 500 x 6)	3,000	3,000	3,000
Taxable value of furnished accommodation	10,250	13,275	16,300

Working Notes: Salary for rent free accommodation (amount in Rs.) :

Basic Pay	90,000
DA (assuming DA form part of retirement benefits)	22,500
Commission (5% of basic pay)	4,000
Bonus	4,000
Income tax & professional tax paid by employer (not includible in salary, as they are 'perquisites')	Nil
Salary for rent free accommodation	1,21,000

Illustration 8 - Car facility: Mr. A is provided with two cars, to be used for official and personal work by his employer ABC Ltd. The following information is available from the company records –

	Car 1	**Car 2**
Cost of the Car	6,00,000	4,00,000
Running and maintenance (Borne by the company)	44,800	28,000
Salary of driver (Borne by the company)	24,000	24,000

The taxable monetary emoluments of Mr. A are 90,000. Compute the taxable 'Perk in respect of Cars on the assumption car 2, is exclusively used by 'A' for personal purpose. (4 Marks, Nov. 2004)

Solution: The perquisite in respect of motor car will be taxable in the hands of Mr. A, as he is a 'specified employee'.

Since in question it is specifically mentioned that Car 2 is used for private purposes therefore Car 1 shall be taken as used for partly official and partly personal purpose:

Car 1 (Partly official and partly personal, assumed to be above 1.6 litres cc) [(2,400+900) × 12]	39,600
Car 2 (Private use only) [Expenses actually incurred 28,000 and 24,000 + 10% of cost of car]	92,000

Total value of perquisite	**1,31,600**

Illustration 9- Education facility: Vidya Bhawan is owned by ABC Ltd. Shri Ramesh is an employee of ABC Ltd drawing salary of 2,00,000 and his following family members are studying in the said school. Find out the taxable value of perquisite-

	Rahul, son of Ramesh	**Kajri, daughter of Ramesh**
Cost of education in a similar institution	Rs. 3,500 p.m.	Rs. 1,800 p.m
Amount charged from Ramesh	Rs. 2,500 p.m.	-

Solution: It was held in CIT v. Delhi Public School [2009] 318 ITR 234 (Del.) that perquisite in respect of education facility is exempt if its value is upto 1,000 p.m. If the value exceeds 1,000 p.m. then the entire amount will be taxable. Further, if value of concessional facility is upto ₹ 1,000 p.m., it will also be exempt. In case of Rahul, the value of perquisite shall be (₹3,500-2,500) = 1,000p.m. As the value of perquisite doesn't exceed 1,000 p.m., hence, the perquisite shall not be taxable.

Taxable value of perquisite in case of Kajri = 1,800 × 12 = 21,600. (Since the value of the perquisite exceeds ₹ 1,000 p.m., entire amount is taxable.)

Illustration 10-ESOP : Mr. M is working with MNO Limited for the last 10 years. He was granted an option on 01-7-2022 by the company to purchase 800 equity shares at a price of 250 per share. The period during which the option can be exercised to purchase 800 shares at a pre-determined price of 250 per share commencing on 01-7-2022 and ending on 31-3-2024. Mr. M exercised the option on 15-3-2023 to purchase 500 shares. Fair market value on the said date was 6,490 on the Bombay Stock Exchange and 6,500 on the National Stock Exchange. The NSE has recorded the higher volume of trading in that share.
The company has allotted him 500 shares on 24th April, 2023. The fair market value on the date of allotment was 7,100 per share on NSE and 7,110 on the BSE, that has recorded the higher volume of trading in that share. The option was granted for making available rights in the nature of intellectual property rights. Determine the taxability of perquisite.

Does it make any difference if the option was granted for providing technical know-how?
Solution: The value of perquisite shall be computed as follows -

(i) In this question shares of M/s. MNO Ltd. are traded on more than one stock exchange (both, BSE and NSE) on the date of exercise of the option i.e. on 15-3-2023, hence, as per Valuation Rules, the average of the opening and closing prices on the recognised stock exchange, which records highest trading volume shall be taken to be the fair market value of each option.

(ii) Since NSE recorded the higher trading volume, hence, FMV on that date on NSE = 6,500 shall be taken to be the FMV for the purpose of valuation of perquisite.

(iii) Value of perquisite = (FMV - Exercise Price) x No. of shares = (6,500-250) × 500 shares = 31,25,000.

(iv) The taxability of perquisite will arise in the year in which shares are alloted or transferred to employee i.e. in the previous year 2023-24.

Even if the option is granted for providing know-how, the same will fall within the meaning of 'sweat equity shares' and, therefore, section 17(2)(vi) shall apply in the same manner as given above.

Illustration 11 - Medical Facility: Ms. Rakhi is an employee in a private company. She receives the following medical benefits from the company during the previous year 2023-24:

		Rs.
(1)	Reimbursement of following Medical Expenses incurred by Ms. Rakhi —	
(a)	On treatment of her self employed daughter in a private clinic .	4,000
(b)	On treatment of herself by Family doctor	8,000
(c)	On treatment of her Mother-in-law dependent on her, in a Nursing Home	5,000
(2)	Payment of premium on Mediclaim Policy taken on her health.	7,500
(3)	Medical Allowance.	2,000 p.m.
(4)	Medical Expenses Reimbursed on her Son's treatment in a Government Hospital.	5,000
(5)	Expenses incurred by company on the treatment of her minor son abroad.	1,05,000
(6)	Expenses in relation to Foreign Travel and stay of Rakhi and her son abroad for Medical Treatment. (Limit prescribed by RBI for this is Rs. 2,00,000)	1,20,000

Discuss about the taxability of above benefits and allowances in the hands of Rakhi.
(8 Marks, May 2014)

Solution: Computation of taxable value of perquisite in the hands of Ms. Rakhi
(amount in Rs.)

Reimbursement of following Medical Expenses incurred by Ms. Rakhi.		
(a) On treatment of her self employed daughter in a private clinic (The same shall be taxable)	4,000	
(b) On treatment of herself by Family doctor (The same shall be taxable)	8,000	
Total expenditure	12,000	
Less: Exempt	Nil	12,000
(c) On treatment of her Mother-in-law dependent on her, in a Nursing Home (Since mother in law is not his family member hence the same shall be taxable)		5,000
Payment of premium on Mediclaim Policy taken on her health. (The same shall be exempt from tax) Medical Allowance (Fully taxable)		Exempt
Medical Expenses Reimbursed on her Son's treatment in a Government Hospital		24,000
Expenses incurred by company on the treatment of her minor son abroad.		Exempt

[WN] Expenses in relation to Foreign Travel and stay of Rakhi and her son abroad for Medical Treatment. [WN]		Exempt Exempt
Taxable Value of Perquisites		**41,000**

Working Note : As per clause (vi) of the first proviso to section 17(2), the following expenditure incurred by the employer would be excluded from perquisite subject to certain conditions -

(i) The expenditure on medical treatment and stay abroad would be excluded from perquisite to the extent permitted by Reserve Bank of India;

(ii) The expenditure on travel would be excluded from perquisite only in the case of an employee whose gross total income, as computed before including the said expenditure, does not exceed Rs. 2 lakh.

Assuming that the limit of Rs. 2 lakh prescribed by RBI pertains to both expenditure on medical treatment of minor son as well as expenditure on stay abroad of Ms. Rakhi and her minor son, such expenditure would be excluded from perquisite subject to a maximum of Rs. 2 lakh. If such expenditure is less than Rs. 2 lakh, it would be fully excluded. The foreign travel expenditure of Ms. Rakhi and her minor son borne by the employer would be excluded from perquisite only if the gross total income of Ms. Rakhi, as computed before including the said expenditure, does not exceed Rs. 2 lakh.

Illustration 12 - Medical facility: Himalaya Ltd. reimburses the following expenditure on medical treatment of the son of an employee Karan. The treatment was done at UK :

(i) Travelling expenses Rs. 1,15,000.

(ii) Stay expenses at UK permitted by RBI Rs. 45,000 (Actual expenses Rs. 70,000).

(iii) Medical expenses permitted by RBI Rs. 50,000 (Actual expenses Rs. 70,000).

Compute the taxable perquisites in the hands of Karan, if his annual income from salary (after standard deduction) was - (i) Rs. 1,55,000; (ii) Rs. 1,56,000. (CS June 2005)

Solution: Computation of taxable value of medical perquisite (amount in Rs.) -

In case salary is Rs. 1,55,000, taxable value of medical perquisite will be -	
Stay expenses [Rs. 70,000 - Rs. 45,000 (exempt)] Medical expenses [Rs. 70,000 - Rs. 50,000 (exempt)] Travelling expenses (See note)	25,000 20,000 Nil
Taxable value of Medical perquisite	45,000

Note : The gross total income before including travel expenses = Rs. 1,55,000 + Rs. 25,000 + Rs. 20,000 = Rs. 2,00,000, i.e. does not exceed Rs. 2 lakh. Hence, the travel expenses will be exempt in this case.

In case salary is Rs. 1,56,000, taxable value of medical perquisite will be —	
Stay expenses [Rs. 70,000 - Rs. 45,000 (exempt)] Medical expenses 70,000 – Rs. 50,000 (exempt)] Travelling expenses (See Note)	25,000 20,000 1,15,000
Taxable value of Medical perquisite	1,60,000

Note : The gross total income before including travel expenses = Rs. 1,56,000 + Rs. 25,000 + Rs. 20,000 = Rs. 2,01,000, i.e. greater than Rs. 2 lakh. Hence, the travel expenses will be taxable in this case.

Illustration 13 - Interest free loan : Ram is working as a General Manager of A Ltd. on a monthly salary of Rs. 20,000. In the previous year ending 31-3-2024, the Company provided him the following—

(i) Interest free loan (on 01-10-2023)
  (a) For purchase of residential flat (repayable in 8 years) (SBI Rate 12.25%) — Rs. 5,00,000
  (b) Education loan (for son) (SBI Rate 11.5 %) — Rs. 15,000
(ii) Loan for purchase of computer on 01-10-2023 (8% interest p.a.) (SBI Rate 15.25%) — Rs. 30,000

You are required to state the basis for calculation and compute the chargeable perquisite. (Nov. 2002)

Solution: Computation of taxable perquisite in respect of interest-free or concessional loans (amount in Rs.) -

Interest on Housing Loan (Rs. 5,00,000 x 12.25% x 6/12) [1-10-2023 to 31-3-2024]	30,625.00
Education Loan for Son (Rs. 15,000 x 11.50% x 6/12) [1-10-2023 to 31-3-2024]	862.50
Loan for purchase of Computer [Rs. 30,000 x (15.25% - 8%) x 6/12] [1-10-2023 to 31-3-2024]	1,087.50
Taxable value of Perquisite	32,575.00

Note : Since the aggregate value of all the loans during the previous year exceeds Rs. 20,000, hence, the education loan though less than Rs. 20,000 shall also be considered for valuation of perquisite.

Illustration 14 - Transfer of movable assets : Find out the taxable value of perquisites from the following particulars in case of an employee to whom the following assets held by the company were sold on 13th September, 2022 (amt. in Rs.):

	Car	**Laptop**	**Furniture**
Cost of purchase (in May 2018)	8,72,000	1,22,500	35,000
Sale price	5,15,000	25,000	10,000

The assets were put to use by the company from the day these were purchased.

Solution: Computation of taxable value of perquisite (amounts in Rs.) -

	Car (20% WDV)	**Laptop (50% WDV)**	**Furniture (10% SLM)**
Cost of the asset	8,72,000	1,22,500	35,000
Less: Depreciation for each completed year of use -			
=> 1st year ending May 2022	1,74,400	61,250	3,500
Balance as on 1st June 2022	6,97,600	61,250	31,500
=> 2nd year ending May 2023	1,39,520	30,625	3,500

Balance as on 1st June 2023	5,58,080	30,625	28,000
Less: Sale Price	5,15,000	25,000	10,000
Taxable value of perquisites	43,080	5,625	18,000

Illustration 15 - Interest free loan and transfer of movable asset : Following benefits have been granted by Ved Software Ltd. to one of its employees Mr. Badri:

(i) Housing loan @ 6% per annum. Amount outstanding on 01-4-2023 is t 6,00,000. Mr. Badri pays Rs. 12,000 per month, on 5th of each month.

(ii) Air conditioners purchased 4 years back for Rs. 2,00,000 have been given to Mr. Badri for Rs. 90,000. Compute the chargeable perquisite in the hands of Mr. Badri for the assessment year 2024-25.

The lending rate of SBI as on 1-4-2023 for housing loan may be taken as 10%. (6 Marks, PCC May 2008)

Solution: Computation of Taxable Perquisite in the hands of Mr. Badri (amounts in Rs) -

(1)	Concessional loan (See Note)		20,880
(2)	Transfer of movable asset: Actual cost of the air conditioner	2,00,000	
	Less: (i) 10% depreciation on SLM basis for 4 years	80,000	
	(ii) Amount paid by Mr. Badri	90,000	30,000
	Total value of taxable perquisite		**50,880**

Note : Total maximum monthly outstanding balance means the amount outstanding on the last day of the concerned month.

Month	Maximum outstanding monthly balance (amount in Rs)	Perquisite value
April 2022	5,88,000	1,960
May 2022	5,76,000	1,920
June, 2022	5,64,000	1,880
July, 2022	5,52,000	1,840
August, 2022	5,40,000	1,800
September, 2022	5,28,000	1,760
October, 2022	5,16,000	1,720
November, 2022	5,04,000	1,680
December, 2022	4,92,000	1,640
January, 2023	4,80,000	1,600
February, 2023	4,68,000	1,560
March, 2023	4,56,000	1,520
Total		**20,880**

Illustration 16 - Computation of taxable value of perquisites: Shri Bala employed in ABC Co. Ltd. as Finance Manager gives you the list of perquisites provided by the company to him for the entire FY 2023-24: (8 Marks, PCC May 2011)

(i) Medical facility given to his family in a hospital maintained by the company. The estimated value of benefit because of such facility is Rs. 40,000.

(ii) Domestic servant was provided at the residence of Bala. Salary of domestic servant is Rs. 1,500 per month. The servant was engaged by him and the salary is reimbursed by the company (employer).

In case, the company has employed the domestic servant, what is the value of perquisite?

(iii) Free education was provided to his two children Arthy and Ashok in a school maintained and owned by the company. The cost of such education for Arthy is computed at Rs. 900 per month and for Ashok at Rs. 1,200 per month. No amount was recovered by the company for such education facility from Bala.

(iv) The employer has provided movable assets such as television, refrigerator and air-conditioner at the residence of Bala. The actual cost of such assets provided to the employee is Rs. 1,10,000.

(v) A gift voucher worth Rs. 10,000 was given on the occasion of his marriage anniversary. It is given by the company to all employees above certain grade.

State the taxability or otherwise of the above said perquisites and compute the total value of taxable perquisites. Solution: Computation of total value of taxable perquisites (amount in Rs.) –

(i)	Medical facility to family in a hospital maintained by the company	[WN-1]	Exempt
(ii)	Salary of domestic servant of Bala reimbursed by the company (Rs. 1,500 x 12)	[WN-2]	18,000
(iii)	Free education provided to children of Bala in a school maintained by the company	[WN-3]	14,400
(iv)	Movable assets provided by the ABC Co. Ltd	[WN-4]	11,000
(v)	Gift voucher given by the company to Bala on his marriage anniversary	[WN-5]	10,000
Total value of taxable perquisites			**53,400**

Working Notes:

(1) The medical facility provided to an employee in a hospital maintained by the employer is exempt from tax under proviso to section 17(2).

(2) Here, the servant is engaged by Bala i.e. reimbursement by the employer-company would be employee's obligation met by employer, hence, taxable under section 17(2)(iv). In case, the company has employed the domestic servant, then the same shall be taxable if Bala is specified employee.

(3) Free education provided in a school maintained and owned by the employer is exempt if the cost of such education does not exceed Rs. 1,000 per month per child, otherwise it is fully taxable. In this case, free education for Arthy shall be exempt since it does not exceed Rs. 1,000 p.m.; but the free education for Ashok, which exceeds Rs. 1,000 per month shall be fully liable to tax [Rs. 1,200 x 12].

(4) In case employer allows use of movable asset, the value of perquisite shall be - 10% p.a. of the actual cost. Hence, taxable value = 10% of Rs. 1,10,000 = Rs. 11,000.

(5) Gifts, the value of which is below Rs. 5,000, are exempt from tax. Here, the value of the gift voucher is Rs. 10,000, hence it is fully taxable.

Illustration 17 - Computation of taxable Gratuity : Mr. Raj is an employee of XYZ Ltd. He received Rs. 25,00,000 as gratuity. He retired on 16th February 2024 after rendering 25 years and 7 months of service. His basic salary w.e.f. 01-10-2023 was Rs. 60,000 per month (prior to that Rs. 50,000 p.m.). His dearness allowance was Rs. 30,800 p.m. Calculate the amount of gratuity exempt from tax if -

(i) Mr. Raj is a government employee.

(ii) Mr. Raj is covered by the Payment of Gratuity Act, 1972;

(iii) Mr. Raj is not covered by the Payment of Gratuity Act, 1972; (40% of dearness allowance forms part of salary for retirement benefits)

Solution: Computation of taxable gratuity shall be as under -

(i) If Mr. Raj is a Government Employee : The whole of the gratuity shall be exempt from tax.

(ii) If Mr. Raj is covered by Payment of Gratuity Act: The amount of exemption shall be (amounts in Rs.) -

Completed years of service (Part thereof in excess of 6 months shall be rounded off to higher side)	26
Exemption u/s 10(10): Least of the following is exempt -	
(a) Gratuity received	25,00,000
(b) 15/26 x Salary last drawn x Completed years of service (Salary Last Drawn = Basic + DA (fully included) = Rs. 60,000 + Rs. 30,800 = Rs. 90,800)	13,62,000
(c) Specified limit	20,00,000
Taxable Gratuity = Gratuity Received - Exemption	**11,38,000**

(iii) If Mr. Raj is not covered by the Payment of Gratuity Act: The amount of exemption shall be (amounts in Rs.) –

Gratuity received		25,00,000
Exemption u/s 10(10): Least of the following is exempt –		
(a) Gratuity received	25,00,000	
(b) ½ x Average Salary (Rs. 66,320) x Completed Years (25) [WN]	8,29,000	
(c) Specified limit	20,00,000	8,29,000
Taxable Gratuity = Gratuity Received - Exemption		**16,71,000**

Working Note:

Ten months immediately preceding the month of retirement	01-04-2023 to 31-01-2024
Basic Salary for the said ten months [Rs. 50,000 x 6 + Rs. 60,000 x 4]	5,40,000
DA (to the extent it forms part of retirement benefits), 40% of Rs. 30,800 x 10	1,23,200
Total Salary during the said ten months	6,63,200
Average salary for the said ten months	66,320
Completed years of service ignoring any fraction	25

Illustration 18 - Compute taxable gratuity : Mr. Shah, an Accounts Manager, has retired from JK Ltd. On 15-1-2024 after rendering services for 30 years 7 months. His salary is Rs. 25,000 p.m. upto 30-09-2023 and Rs. 27,000 thereafter. He also gets Rs. 2,000 p.m. as dearness allowance (55% of it is a part of salary for computing retirement benefits). He is not covered by the Payments of Gratuity Act, 1972. He has received Rs. 8 lacs as gratuity from the employer company. Compute taxable gratuity. (4 Marks, IPCC Nov. 2010)

Solution: Computation of taxable gratuity: The relevant computations are as follows (amount in Rs) -

Gratuity received		8,00,000
Exemption u/s 10(10): The least of the following is exempt -		

(a)	Gratuity received	4,00,500	
(b)	½ x Average Salary (Rs. 26,700) x Completed years (30) [WN]	20,00,000	
(c)	Specified limit	8,00,000	4,00,500
Taxable Gratuity = Gratuity Received - Exemption			**3,99,500**

Working Notes:

Ten months immediately preceding the month of retirement	**01-03-2023 to 31-12-2023**
Basic Salary for the said ten months [Rs. 25,000 x 7+ Rs. 27,000 x 3]	2,56,000
DA (to the extent it forms part of retirement benefits), 55% of Rs. 2,000 x 10	11,000
Total Salary during the said ten months	2,67,000
Average salary for the said ten months	26,700
Completed years of service ignoring any fraction	30

Illustration 19 - Computation of taxable earned leave salary : Mr. Bansal was employed in M/s. ABC & Associates. After completing 40 years and 7 months of service he retired on 31st October 2023. From the following information, compute the amount of taxable leave salary –

- Salary at the time of retirement-10,000 p.m.
- Average monthly salary for 10 months ending on 31st October 2023 - Rs. 9,500 p.m.
- Leave entitlement – 1 ½ months for each completed year of service.
- Leave encashment received on the basis of salary at the time of retirement - Rs.5,00,000

Solution: The relevant computations are (amount in Rs.) -

Leave salary received		5,00,000
Exemption: Least of the following is exempt -		
➢ Actual earned leave salary received	5,00,000	
➢ 10 months' Average salary	95,000	
➢ Earned leave to the credit x Average Salary (30 x Rs. 9,500)	2,85,000	
➢ Amount notified by the Central Government	3,00,000	95,000
Taxable Leave Encashment = Sum Received - Exemption		4,05,000

Working Note: Computation of leave at the credit of an employee:

Particulars	**As per Company Rules**	**As per Income-tax Rules**
Leave entitlement for completed year	1.5 months	1 month
Completed years of service	40	40
Total leave entitlement (months)	60	40
Leave availed while in service (months)	10	10

Balance leave at his credit (months)	50	30

Illustration 20 - Computation of taxable pension : Rani is entitled to get a pension of Rs. 1,500 p.m. from Raja Ltd. She gets three-fifth of the pension commuted and receives Rs. 90,000. Compute the taxable portion of commuted value of pension when-

(i) she does not receive gratuity;

(ii) receives Rs. 50,000 as gratuity.

(CS June 2014)

Solution: Computation of taxable pension -

(i) When Rani doesn't receive gratuity :

(a) % of pension commuted = 3/5 = 60%.

(b) Commuted value of pension (Pension received ÷% commuted) = Rs. 90,000 ÷60% = Rs. 1,50,000.

(c) Exemption = ½ of commuted value of pension (Rs. 1,50,000) = Rs. 75,000

(d) Taxable portion of commuted pension = Rs. 90,000 - Rs. 75,000 = Rs. 15,000.

(ii) When Rani receives gratuity :

(a) Exemption = 1/3rd of commuted value of pension (Rs. 1,50,000) = Rs. 50,000

(b) Taxable portion of commuted pension = Rs. 90,000 - Rs. 50,000 = Rs. 40,000.

Illustration 21 - Computation of Gross salary: Mr. Jain retires from a Private service on 1st August 2023. At the time of his retirement after 28 years and 8 months of service, he was getting the salary of Rs. 34,000 per month. He gets pension of Rs. 10,000 per month upto 31st December 2023. With effect from 1st January 2024 he gets 4/5th of his pension commuted for Rs. 12,00,000. Determine his gross salary.

Solution: Computation of gross salary (amounts in Rs.) –

Salary @ Rs. 34,000 per month (April 2022 to July 2022)	1,36,000
Uncommuted pension [Rs. 10,000 x 5 months (August 2023 to December 2023) + (Rs. 2,000 x 3 (January 2024 to March 2024)] [WN-1]	56,000
Taxable portion of commuted value of pension [WN-2]	4,50,000
Gross salary	**6,42,000**

Working Notes:

(1) Uncommuted Pension : Since Mr. Jain commuted 4/5th pension in December, 2023. His uncommuted pension from January, 2024 onward shall be [Rs. 10,000 x 1/5) = Rs. 2,000 p.m.

(2) Commuted pension:

(a) % of pension commuted = 4/5 = 80%.

(b) Commuted value of pension (Pension received - % commuted) = 12,00,000 * 80% = Rs. 15,00,000.

(c) Exemption = 1/2 of commuted value of pension (Rs. 15,00,000) = Rs. 7,50,000.

(d) Taxable portion of commuted pension = Rs. 12,00,000 - Rs. 7,50,000 = Rs. 4,50,000.

Illustration 22 - Exemption in respect of leave travel concession u/s 10(5): Mr. Amit avails the benefit of LTC and went by air (economy class) on a holiday in India on 25-01-2024. along with his wife and three children consisting of son aged 6 years and twin daughters of 2 years age. Total cost of tickets reimbursed by his employer was Rs. 1,00,000 (Rs. 55,000 for 2 adults and Rs. 45,000 for the three children). State with reasons the amount which is exempt in the hands of Mr. Amit out of the reimbursement received by him. (Similar 4 Marks, IPCC May 2013) (Similar: 4 Marks, Nov. 2016)

What will be your answer in case among his three children, the twins were 6 years old and the age of the son was 2 years ?

Solution: Exemption is available under section 10(5) to an employee in respect of value of LTC for himself and his family, in connection with his proceedings on leave to any place in India.

"Family" includes the spouse and children of the individual. In case of children born after 1-10-1998 exemption is available for 2 surviving children. However, exemption shall be available in respect of children born before 1-10-1998 and also in respect of multiple births after one child.

Further, as per **Rule 2B**, if journey is performed by air, the exemption will be available only upto the extent of economy air fare of national carrier by shortest route.

Illustration 23 - Retrenchment Compensation: Mr. Gobind received retrenchment compensation of Rs. 10,00,000 after 30 years 4 months of service. At the time of retrenchment, he was receiving basic salary of Rs. 20,000 p.m; dearness allowance of Rs. 5,000 p.m. Compute his taxable retrenchment compensation. (4 Marks, 1PCC May 2013)

Solution: Computation of taxable retrenchment compensation (amount in Rs.)-

Retrenchment compensation received	10,00,000
Less: Exemption under section 10(10B) [WN]	4,32,692
Taxable retrenchment compensation	5,67,308

Working Note : Exemption is to the extent of least of the following -

(i) Compensation actually received : Rs. 10,00,000

(ii) Statutory Limit: Rs. 5,00,000

(iii) Amount calculated in accordance with provisions of the Industrial Disputes Act, 1947

i. e $= \frac{15}{26} x$ Avg salary of last 3 months x Completed year of service and part thereof in excess of 6 months

$$\frac{15}{26} x \frac{(\text{Rs.}20{,}000 \text{ x } 3) + (\text{Rs.}5{,}000 \text{x} 3)}{3} \text{ x } 30 \text{ years } = \text{ Rs. } 4{,}32{,}692$$

Illustration 24 - VRS compensation : R is employed in a public company and is paid a sum of Rs. 6,00,000 on Voluntary Retirement from service. The normal age of retirement in the company is 60 years and R who was 45 years at the time of retirement had completed 20 years of service. His monthly salary at the time of retirement was as follows

	Rs.
Basic Pay	**10,000**
Dearness Allowance (50% is includible for pension)	6,000
HRA	3,000
Conveyance Allowance	800

What is the amount of compensation taxable under the Income-tax Act?.

Solution; As per section 10(10C) read with rule 2BA the exemption is available of Rs. 5,00,000 only if the amount received as compensation does not exceed higher of the following limits -

(amount in Rs.)

(a)	3 months x salary last drawn x completed years of service i.e., (3 x Rs. 13,000 x 20) [WN]	**7,80,000**
(b)	Salary last drawn x No. of months of service left for retirement i.e., 13,000 x 15 x 12)	**23,40,000**

Rs. 5,00,000 will be exempt, since the amount received is less than the aforesaid limits, Consequently, Rs. 1,00,000 will be taxable.

Working Notes:
Salary means = 110,000 + Rs. 3,000 (50% of DA of Rs. 6,000) = Rs. 13,000.
Illustration 25 - Computation of taxable compensation : What will be the amount of taxable compensation in the illustration above, if instead of compensation of Rs. 6,00,000, R receives a compensation at the time of his retirement of -
(i) Rs. 10,00,000; or
(ii) Rs. 29,80,000.

Solution :
(i) Here, the amount received is within the limit of Rs. 23,40,000. Therefore, the exemption under section 10(10C) will be available. The amount taxable at the time of retirement = Rs. 10,00,000 - Rs. 5,00,000 = Rs. 5,00,000.

(ii) Since the compensation received exceeds Rs. 23,40,000, the payment is not in accordance with Rule 2BA and therefore no exemption will be available under section 10(10C). Therefore, entire compensation will be taxable i.e. Rs. 29,80,000.

Illustration 26 - Taxability of perquisite: Mr. X is appointed as a CFO of ABC Ltd. in Mumbai from 1-5-2021. His basic salary is Rs. 6,00,000 p.m. He is paid 8% as D.A. He contributes 10% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount. The accumulated balance in recognized

provident fund as on 1-4-2022,31-3-2023 and 31-3-2024 is Rs. 9,81,137, Rs. 27,43,048 and Rs. 46,48,555. Compute the perquisite value chargeable in the hands of Mr. X u/s 17(2)(vii) and 17(2)(viia) for the P.Y. 2024-25. Prior to 1-9-2021, he was a consultant, whose professional fees was taxable under the head "Profits and gains of business or profession".

Solution:

(1) Perquisite value taxable u/s 17(2)(vii) = Rs. 7,77,600, being employer's contribution to recognized provident fund during the P.Y. 2022-23 - Rs. 7,50,000 = Rs. 27,600.

(2) Annual accretion on perquisite taxable u/s 17(2)(vii) = (PC/2) x R + (PC1 + TP1) x R = (27,600/2) x 0.0914 + 0
= Rs. 1,261

PC	ABC Ltd's contribution in excess of 75 lakh to recognized provident fund during PY 2022-23 = 27.600
PCI	Nil since employer's contribution is less than 75 lakh to recognized provident fund in P.Y. 2021-22 and there is no employer's contribution in P.Y. 2020-21.
TP1	Nil
R	1/Favg = 5,56,500/60,90,850 = 0.0914
I	RPF balance as on 31-3-2023- employee's and employer's contribution during the year - RPF balance as on 1-4-2022 = 2,06,711 (27,43,048 -7,77,600-7,77,600-9,81,137)
Favg	Balance to the credit of recognized provident fund as on 1" April, 2022+ Balance to the credit of recognized provident fund as on 31 March, 2023)/2= (9,81,137+ 27,43,048)/2 = 18,62,093

Note : Interest on the aggregate of following will also be chargeable to tax during A.Y. 2023-24-

(i) Rs.2,03,600 [Employee's contribution exceeding Rs.2,50,000 during P.Y. 2021-22]
(ii) Rs.5,27,600 [Employee's contribution exceeding Rs.2,50,000 during P.Y. 2022-23]
(iii) Interest accrued on Rs.2,03,600 being excess employee's contribution of P.Y. 2021-22

Computation of perquisite value taxable u/s 17(2)(vii) and 17(2)(viia) for A.Y 2024-25:

(i) Perquisite value taxable u/s 17(2)(vii) = 7,77,600, being employer's contribution to recognized provident fund during the PY 2022-23-7.50,000 = 27,600

(ii) Perquisite value taxable u/s 17(2)(viia) = Annual accretion on perquisite taxable u/s 17(2)(vii) = (PC/2) × R+(PC1 + TP1) x R
=(27,600/2) × 0.0910+ (27,600+ 1,261) × 0.0910
= 1,308 + 2,069
= 4,069

PC	ABC Ltd's contribution in excess of 7.5 lakh to recognized provident fund during PY 2023-24 =27,600

PC1	Amount of employer's contribution in excess of 7,50,000 to RPF in P Y 2021-22 = 27,600
TP1	Taxable perquisite under section 17(2)(viia) for the P Y 2022-23=1,261
R	I/Favg = 7,55,800/83,02,200 = 0.0910
I	RPF balance as on 31-3-2024- employee's and employer's contribution during the year - RPF balance as on 1-4-2023 = 3,50,307 (46,48,555 - 7,77,600-7,77,600 – 27,43,048)
Favg	Balance to the credit of recognized provident fund as on 1st April, 2023 + Balance to the credit of recognized provident fund as on 31" March, 2024)/2 = (27,43,048+ 46,48,555)/2 = 36,95,802

Note: Interest on the aggregate of following will also be chargeable to tax during A.Y. 2024-25-

(i) Rs. 2,03,600 [Employee's contribution exceeding Rs.2,50,000 during P.Y. 2021-22]
(ii) Rs.5,27,600 [Employee's contribution exceeding (Rs.2,50,000 during P.Y. 2022-23]
(iii) Rs.5,27,600 [Employee's contribution exceeding Rs.2,50,000 during P.Y. 2023-24]
(iv) Interest accrued on Rs.2,03,600 being excess employee's contribution of P.Y. 2021-22
(v) Interest accrued on Rs.5,27,600 being excess employee's contribution of P.Y. 2022-23

Illustration 27 - Computation of taxable salary : Mr. M is an area manager of M/s. N. Steels Co. Ltd. During the previous year 2022-23 he gets following emoluments from his employer

Basic salary : upto 31-08-2023	Rs. 20,000 p.m.
from 01-09-2023	Rs. 25,000 p.m.
Transport Allowance	Rs. 2,000 p.m.
Contribution to recognized provident fund	15% of basic salary and D.A.
Children education allowance City	Rs. 500 p.m. for two children
Compensatory Allowance	Rs.300 p.m.
Hostel expenses allowance	Rs. 380 p.m. for two children
Tiffin allowance (actual expenses Rs. 3,700)	Rs. 5,000 p.a.
Tax paid on employment	Rs. 2,500

Compute taxable salary of Mr. M. (6 Marks, PCC Nov. 2008)

Solution: Computation of income from salary of Mr. M (amount in Rs.) :

Basic salary (Rs. 20,000 x 5 + Rs. 25,000 x 7)		2,75,000
Transport Allowance (Rs. 2,000 p.m. x 12)	24,000	
Less: Exempt	Nil	24,000
Children education allowance (Rs. 500 p.m. x 12)	6,000	
Less: Exempt (Rs. 100 x 2 x 12)	2,400	3,600
City Compensatory		3,600

Allowance Hostel expenses allowance (Rs. 380 x 12)	4,560	
Less: Exempt (Rs. 300 x 2 x 12) = Rs. 7,200 but restricted to the actual allowance of Rs. 4,560	4,560	Exempt
Tiffin allowance (Fully taxable)		5,000
Tax paid on employment (Employee's obligation met by employer) [WN-2]		2,500
Employer's contribution to R.P.F. In excess of 12% of salary (i.e., 3% of Rs. 2,75,000) [WN-1]		8,250
Gross salary		3,21,950
Less: Standard Deduction u/s 16(ia) [WN-3]		50,000
Employment tax u/ s Section 16(iii)		2,500
Taxable Salary		**2,69,450**

Working Notes:

(1) The question states that contribution to recognised provident fund is at 15% of Basic salary + D A. However, since the amount or rate of D.A. is not given in the question, contribution to recognised provident fund has been taken as 15% of basic salary.

(2) Employment tax paid by employer should be included in the salary of Mr. M as a perquisite since it is discharge of monetary obligation of the employee by the employer. Thereafter, deduction of employment tax paid is allowed to the employee from his gross salary.

(3) As per Section 16(ia), standard deduction will be allowed from gross salary amounting Rs. 50,000 or the amount of salary, whichever is less.

Illustration 28 - Tax relief : Mr. Ashok Kumar, an employee of a PSU, furnishes the following particulars for the previous year ending 31-3-2024:

	Particulars	**Rs.**
(a)	Salary income (computed) for the year	8,25,000
(b)	Salary for financial year 2008-09 received during the year	40,000
(c)	Assessed income for the financial year 2008-09	1,40,000

You are requested to compute relief under Section 89 of the Income-tax Act, 1961, in terms of tax payable. The rates of Income-tax for the Assessment Year 2009-10 are -

On first Rs. 1,00,000 : Nil
On Rs. 1,00,000 - Rs. 1,50,000 : 10%
On Rs. 1,50,000 - Rs. 2,50,000 : 20%
Above Rs. 2,50,000: 30%. Education cess @ 2% of tax payable.

(7Marks, Modified PCC June, 2009)

Solution: Computation of Relief under section 89 -

Particulars	**Tax liability for AY 2023-24**		**Tax liability for AY 2009-10**	
	Salary inclusive Of arrears	**Salary without arrears**	**Salary inclusive Of arrears**	**Salary without arrears**
	(1)	**(2)**	**(3)**	**(4)**
Actual Salary	8,65,000	8,25,000	1,80,000	1,40,000
Income Tax thereon	85,500	77,500	11,000	4,000

HEC @4%/ EC @ 2%	3,420	3,100	220	80
Total Tax liability	**88,920**	**80,600**	**11,220**	**4,080**
Step 1: Tax at (1) - Tax at (2) Step 2: Tax at (3) -Tax at (4)	8,320		7,140	
Relief u/s 89 : Step 1 - Step 2	**1,180**			
Tax payable [Tax at (1) - Relief] (Rounded off)	**87,740**			

Assumption: Arrears of salary of financial year 2008-09 are not included in salary income of current year.

MISCELLANEOUS ILLUSTRATIONS

Illustration 29 - Computation of taxable income: Mr. Narendra, who retired from the services of Hotel Samode Ltd., on 31-1-2024 after putting on service for 5 years, received the following amounts from the employer for the year ending on 31-3-2024:

(i) Salary @ Rs. 16,000 p.m. comprising of basic salary of Rs. 10,000, Dearness allowance of Rs. 3,000, City compensatory allowance of Rs. 2,000 and Night duty allowance of Rs. 1,000.
(ii) Pension @ 30% of basic salary from 1-2-2024.
(iii) Leave salary of Rs. 75,000 for 225 days of leave accumulated during 5 year @ 45 days leave per year.
(iv) Gratuity of Rs. 50,000. Compute the total income of Mr. Narendra. (6 Marks, PCC May 2008)

Solution: Computation of total income of Mr. Narendra (amount in Rs.) -

Basic Salary (Rs. 10,000 x 10)		1,00,000
Dearness Allowance 3,000 x 10)		30,000
City Compensatory Allowances 2,000 x 10) - Fully taxable		20,000
Night Duty Allowance (Rs. 1,000 x 10) - Fully taxable		10,000
Pension(30% of Rs. 10,000 x 2) [February, 2024 to March, 2024]		6,000
Taxable leave encashment	[WN-1]	25,000
Gratuity	[WN-2]	25,000
Gross Salary		**2,16,000**
Less: Standard Deduction u/s 16(ia)		50,000
Salary Income/ Total Income		**1,66,000**

Working Notes:

(1) Computation of taxable leave encashment (amount in Rs.) :

Leave salary received		75,000
Exemption: Least of the following is exempt -		
➢ Actual earned leave salary received	75,000	
➢ 10 months' Average salary	1,00,000	
➢ Earned leave to the credit x Average Salary (5 x Rs. 10,000)	50,000	
➢ Amount notified by the Central Government	25,00,000	50,000
Taxable Leave Encashment = Sum Received - Exemption		**25,000**

Computation of leave of at the credit of an employee:

Particulars	Company	Income-tax
Leave entitlement for completed year	45 days	30 days
Completed years of service	5	5
Total leave entitlement (days)	225	150
Leave availed while in service (days)	0	0
Balance leave at his credit (days)	225	150

(2) Computation of taxable gratuity (amount in Rs.) -

Gratuity received		50,000

Exemption v/s 10(10): The least of the following is exempt -		
(a) Gratuity received	50,000	
(b) 1/2 x Average Salary (Rs. 10,000) x Completed Years (5)	25,000	
(c) Specified limit	20,00,000	25,000
Taxable Gratuity = Gratuity Received - Exemption		**25,000**

Illustration 30 - Computation of taxable salary : Babu joined a Company on 01-06-2023 and was paid the following emoluments and allowed perquisites as under -

Emoluments: Basic pay Rs. 25,000 per month; DA Rs. 10,000 per month; Bonus Rs. 50,000 per month.

Perquisites:

(a) Furnished accommodation owned by the employer and provided free of cost. Value of furniture therein Rs. 3,00,000.

(b) Motorcar owned by the Company (with engine cubic capacity less than 1.6 litres) along with chauffeur for official and personal use.

(c) Sweeper salary paid by Company Rs. 1,500 per month.

(d) Watchman salary paid by Company Rs. 1,500 per month.

(e) Educational facility for 2 children provided free of cost. School is owned and maintained by company.

(f) Interest free loan of Rs. 5,00,000 given on 1-10-2023 for purchase of a house. No repayment was made during the year. (SBI Rate 12.25%)

(g) Interest free loan for purchase of computer Rs. 50,000 given on 1-1-2024 No repayment was made during the year. (SBI Rate 15.25%)

(h) Corporate membership of a club. The initial fee of Rs. 1,00,000 was paid by the Company. Babu paid the bills for his use of club facilities.

You are required to compute the income of Babu under the Head "Salaries". Suitable assumptions may be made, wherever necessary. (May 2002)

Solution: Computation of Income of Babu under the Head "Salaries" (amounts in Rs.)

Basic Salary (Rs. 25,000 x 10)		2,50,000
Dearness allowance (Rs. 10,000 x 10)	[WN-1]	1,00,000
Bonus (Rs. 50,000 x 10 months)		5,00,000
Value of Accommodation	[WN-2 & 3]	1,22,500
Sweeper Salary paid by employer (Rs. 1,500 x 10)		15,000
Watchman Salary paid by employer (Rs. 1,500 x 10)		15,000
Car facility	[WN-4]	27,000
Club facility	[WN-5]	Nil
Education facility to children	[WN-6]	Nil
Interest free housing Loan (Rs. 5,00,000 x 12.25% x 6 ÷12)		30,625
Interest free Computer Loan 50,000 x 15.25% p.a. x 3 ÷12)		1,906
Gross Salary		**10,62,281**
Less: Standard Deduction u/s 16(ia)		50,000
Income under the head salaries		**10,12,281**

Working Notes:

(1) It is assumed that DA forms the part of salary for retirement benefits.

(2) It is assumed that the place of accommodation has population exceeding 40 lakhs.

(3) **Taxable value of Rent Free furnished Accommodation:**

	01-06-2023 to 31-08-2023	**01-09-2023 to 31-03-2024**
Valuation of rent free accommodation	15% of salary	10% of salary
Value of rent free accommodation 8,50,000 x 15%)	38,250	59,500
Add: Furniture (10% p.a. of original cost of furniture) 3,00,000 x 10% x 10/12)	7,500	17,500
Taxable value of furnished accommodation	**45,750**	**77,000**
Salary for rent free accommodation:		
➢ Basic Pay	75,000	1,75,000
➢ DA	30,000	70,000
➢ Bonus	1,50,000	3,50,000
	2,55,000	**5,95,000**

(4) The car is used partly for personal and partly for official use. Assuming that the maintenance and running expenses are met by the owner-company, value of car facility = (Rs. 1,800 + Rs. 900) x 10 = Rs. 27,000.

(5) The initial fee for corporate membership is exempt from tax.

(6) It is assumed that the cost of education per child does not exceed Rs. 1,000 p.m.

Illustration 31 - Computation of gross salary : Sehwag is employed with Sure Shots Ltd. on a salary of Rs. 25,000 per month. The company provides him with the following benefits

(a) A company owned accommodation at Delhi w.e.f 01-10-2023.

(b) A housing loan of Rs. 5,00,000 on 1st July 2023 on which it charges interest @ 6% per annum. The entire loan is still outstanding. The rate of SBI is 8% p.a.

(c) The company gave him a watch worth Rs. 4,900 as gift on his 50th birthday on 21st October, 2023.

(d) He made purchases of Rs. 12,000 on his credit card. This amount, along with the annual fee of Rs. 2,000, was paid by the company.

(e) He is allowed to use the video camera belonging to the company. The company had purchased this camera for Rs. 60,000 on 1st May 2020. This camera was sold to him on 1st August 2023 for Rs. 30,000.

(f) The company had purchased a car on 16th July 2020 for Rs. 2,50,000. This car was sold to Sehwag on 14th July 2023 for Rs. 80,000.

(g) The company pays telephone bills of Rs. 24,000 for the telephone installed at the residence of Sehwag.

Compute the gross income from salary of Sehwag if he has not opted for the provisions of Section 115BAC.

Solution: Computation of Taxable Salary of Sehwag (amounts in Rs.) -

Basic salary @ Rs. 25,000 p.m. 25,000 x 12)		3,00,000
Rent free accommodation (15% of salary)		15,000
Concessional housing loan	[WN-1]	7,500
Free gift of watch	[WN-2]	Exempt

Credit card facility (Rs. 12,000 + Rs. 2,000)		14,000
Telephone facility	[WN-3]	Exempt
Use of Video camera	[WN-4]	2,000
Sale of video camera	[WN-5]	12,000
Sale of car	[WN-6]	80,000
Gross Salary		**4,30,500**
Less: Standard Deduction u/s 16(ia)		50,000
Income under the head salaries		**3,80,500**

Working Notes:

(1) Value of concessional housing loan = Rs. 5,00,000 x 2% x 9/12 = Rs. 7,500.

(2) The value of gift received is exempt from tax as the amount is below Rs. 5,000.

(3) Telephone facility provided is an exempt perquisite, hence not liable to tax.

(4) Taxable value for use of video camera = Rs. 60,000 x 10% x 4/12 = Rs. 2,000.

(5) Taxable value for use of video camera = WDV - Sale price = (Rs. 60,000 - Depreciation @ 10% for 3 years Rs. 18,000) - Rs. 30,000 = Rs. 42,000 - Rs. 30,000 = Rs. 12,000.

(6) Total depreciation for two completed years on motor car = Rs. 90,000, computed as follows -

Depreciation for the 1st year @ 20% of cost	50,000
WDV at the end of 1st year	2,00,000
Depreciation for 2nd year @ 20%	40,000

Hence, taxable value for sale of car = Rs. 2,50,000 - Rs. 90,000 - Rs. 80,000 = Rs. 80,000.

Illustration 32 - Computation of taxable salary: Naresh, who is neither a director nor he has substantial interest in any company, is offered an employment by Freewheel Ltd., Mumbai with following alternatives :

	Alternative I Rs.	**Alternative II Rs.**
Basic pay	1,66,000	1,66,000
Bonus	9,000	9,000
Education allowance for 2 children/ Education facility for 2 children in a school		
maintained by employer	30,200	30,200
Sweeper allowance/Sweeper facility	10,000	10,000
Entertainment Allowance/Club facility	6,000	6,000
Transport allowance/Free car (1200 cc) facility for personal use (Car owned by the employer)	21,600	21,600
Medical allowance/Medical facility for Naresh and his family members in a hospital		
maintained by employer	18,000	18,000
Allowance for gas, electricity and water supply/ Free gas, electricity and water		

supply (bills will be in the name of the employer)	4,500	4,500
Holiday home allowance/Holiday home facility	8,000	8,000
Lunch allowance/ Free lunch (Rs. 70 x 200 days + Rs. 80 x 50 days)	18,000	18,000
Diwali gift allowance/ Gift on Diwali	7,500	7,500
A rent-free unfurnished home — lease rent	30,000	30,000

Which of the two alternatives Naresh should opt for on the assumption that both employer and employee will contribute 10% of salary towards unrecognised provident fund?.
Interest-free loan of Rs. 20,000 will be given to him for purchasing household items.
Note : He has not opted for the provisions of Section 115BAC.

Solution: Computation of Taxable Salary of Naresh under two Alternatives (amounts in Rs.)-

		Alternative I	**Alternative II**
Basic pay		1,66,000	1,66,000
Bonus		9,000	9,000
Education allowance/Education facility	[WN-1]	27,800	30,200
Sweeper allowance/Sweeper facility		10,000	10,000
Entertainment Allowance/Club facility		6,000	6,000
Transport allowance/ Free car (1200 cc) facility for personal use	[WN-2]	21,600	21,600
Medical allowance/Medical facility for Naresh and his family members in a hospital maintained by employer		18,000	Exempt
Allowance for gas, electricity and water supply/Free gas, electricity and water supply (bills will be in the name of the employer)		4,500	4,500
Holiday home allowance/Holiday home facility		8,000	8,000
Lunch allowance/Free lunch	[WN-3]	18,000	5,500
Diwali gift allowance/Gift on Diwali	[WN-4]	7,500	7,500
Rent-free unfurnished home	[WN-5]	29,040	17,500
Gross Salary		3,26,040	2,85,800
Less: Standard Deduction u/ s 16(ia)		50,000	50,000
Total taxable salary		2,76,040	2,35,800

Hence, Naresh should opt for Alternative II, as taxable income is less in that case, thus his tax liability will be less.

Working Notes:

(1) **Alternative I:** Taxable value of Education allowance = Rs. 30,200 - [Rs. 100 x 12 x 2] = Rs. 27,800.
Alternative II: Taxable value of Education facility for 2 children is fully taxable as the value exceeds Rs. 1,000 p.m. per child.

(2) **Alternative I:** Taxable value of Transport Allowance = Rs. 21,600

Alternative II: Assuming that Rs. 21,600 includes all expenses incurred including normal wear & tear, taxable value of Car Facility = Rs. 21,600.

(3) **Alternative II:** Free lunch is exempt upto Rs. 50 per meal, hence, taxable amount = (Rs. 80 - Rs. 50) x 50 days + 70 - Rs. 50) x 200 days = Rs. 5,500.

(4) **Alternative II:** The gift received on Diwali is fully taxable as the value exceeds Rs. 5,000.

(5) **Value of rent free house shall be lower of the following –**

		Alternative I	**Alternative II**
(a)	15% of Monetary Salary (15%of Rs. 2,96,400 and 15% of Rs. 75,000)	44,460	26,250
(b)	Lease rent paid	30,000	30,000

Illustration 33 - Computation of taxable salary: From the following details find out the salary chargeable to tax: Mr. X is a regular employee of Rama & Co. in Gurgaon. He was appointed on 01-01-2023 in the scale of Rs. 20,000 – Rs. 1,000 – Rs. 30,000. He is paid 10% D.A. & Bonus equivalent to one month pay. He contributes 15% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount. He is provided free housing facility which has been taken on rent by the company at Rs. 10,000 per month. He is also provided with following facilities :

(i) Facility of laptop costing Rs. 50,000
(ii) Company reimbursed medical treatment bill of his brother of Rs. 25,000, who is dependent on him.
(iii) The monthly salary of Rs. 1,000 of a house keeper is reimbursed by the company.
(iv) A gift voucher of Rs. 1.0,000 on the occasion of his marriage anniversary.
(v) Conveyance allowance of Rs. 1,000 p.m. is given by the company towards actual reimbursement.
(vi) He is provided personal accident policy for which premium of Rs. 5,000 is paid by the company.
(vii) He is getting telephone allowance @ Rs. 500 per month.
(viii) Company pays medical insurance premium of his family of Rs. 10,000.

Note : Mr. X has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).
Apply new valuation rules for the entire financial year for the purpose of rent free accomodation. (8 Marks, Nov. 2010)

Solution: Computation of taxable salary of Mr. X (amounts in Rs.) -

Basic pay [(Rs. 20,000 x 9) + (Rs. 21,000 x 3)]		2,43,000
Dearness allowance [10% of basic pay]		24,300
Bonus	[WN-1]	21,000
Telephone allowance [Rs. 500 x 12]		6,000
Conveyance allowance	[WN-2]	Exempt
Employer's contribution to RPF in excess of 12%	[WN-3]	8,019

Rent-free accommodation	[WN-4]	29,430
Medical reimbursement	[WN-5]	25,000
Reimbursement of salary of housekeeper - Taxable u/s 17(2)(iv)		12,000
Facility of laptop - Exempt under Rule 3 of the Income-tax Rules		Exempt
Medical insurance premium paid by employer on self or family member- Exempt under proviso to Section 17(2) of the Act		Exempt
Premium of Rs. 5,000 paid by the company for personal accident policy	[WN-6]	Exempt
Gift voucher	[WN-7]	10,000
Gross Salary		3,78,749
Less: Standard Deduction u/s 16(ia)		50,000
Salary income chargeable to tax		3,28,749

Working Notes:

(1) Bonus has been taken as 1 month's basic pay as at the end of year i.e. Rs. 21,000. Alternatively, it may be taken Rs. 20,000, being 1 month's basic pay upto 31-12-2023.

(2) Conveyance Allowance is exempt as it is fully used for official purposes.

(3) Taxable part of employer's contribution to RPF = 3% of (Basic pay + DA) = 3% of (Rs. 2,43,000 + Rs. 24,300) = Rs. 8,019.
Since employer contributes to RPF on basic pay plus DA, hence, even the DA forms the part of salary for computing retirement benefits.

(4) Value of taxable RFA = Lower of the two - (a) 15% of salary i.e. Rs. 29,430 (b) Lease rent Rs. 10,000 x 12 = Rs. 1,20,000.
Salary for rent free accommodation (amount in Rs.):

Basic pay	2,43,000
Dearness allowance	24,300
Bonus	21,000
Telephone allowance	6,000
Conveyance allowance	Exempt
Total	**2,94,300**

(5) Reimbursed medical treatment bill of his brother of Rs. 25,000 who is dependent on him is fully taxable.

(6) Premium of Rs. 5,000 paid by company for personal accident policy is not liable to tax.

(7) Gifts below Rs. 5,000 are not taxable; otherwise it is fully taxable.

Illustration 34 - Computation of taxable salary : Mr. Balaji, employed as Production Manager in Beta Ltd., furnishes you the following information for the year ended 31-03-2024:

(i) Basic Salary upto 31-10-2024 Rs. 50,000 p.m.
Basic salary from 01-11-2024 Rs. 60,000 p.m.
Note: Salary is due and paid on the last day of every month.

(ii) Dearness allowance @ 40% of basic salary.

(iii) Bonus equal to one month salary. Paid in October 2024 on basic salary plus dearness allowance applicable for that month.

(iv) Contribution of employer to recognized provident fund account of the employee @ 16% of basic salary.

(v) Profession tax paid Rs. 3,000 of which Rs. 2,000 was paid by the employer.

(vi) Facility of laptop and computer was provided to Balaji for both official and personal use. Cost of laptop Rs. 45,000 and computer Rs. 35,000 were acquired by the company on 01-12-2024.

(vii) Motor car owned by the employer (cubic capacity of engine exceeds 1.60 litres) provided to the employee from 01-11-2024 meant for both official and personal use. Repair and running expenses of Rs. 45,000 from 01-11-2023 to 31-03-2024, were fully met by the employer. The motor car was self-driven by the employee.

(viii) Leave travel concession given to employee, his wife and three children (one daughter aged 7 and twin sons - aged 3). Cost of air tickets (economy class) reimbursed by the employer Rs. 30,000 for adults and Rs. 45,000 for three children. Balaji is eligible for availing exemption this year to the extent it is permissible in law.

Compute the salary income chargeable to tax in the hands of Mr. Balaji if he has not opted for the provisions of Section 115BAC. (8 Marks, I PCC Nov. 2011)

Solution: Computation of taxable salary of Mr. Balaji (amounts in Rs.)

Basic salary [(Rs. 50,000 x 7) + (Rs. 60,000 x 5)]		6,50,000
Dearness allowance [40% of basic salary]		2,60,000
Bonus (Rs. 50,000 + 40% of Rs. 50,000)	[WN-1]	70,000
Employer's contribution to RPF in excess of 12% [4% of Rs. 6,50,000]	[WN-4]	26,000
Professional tax paid by the employer	[WN-6]	2,000
Facility of laptop and Computers	[WN-2]	Exempt
Motor Car Facility used for both official and personal purpose	[WN-5]	12,000
Leave Travel Facility - Exemption u/ s 10(5)	[WN-3]	Exempt
Gross Salary		**10,20,000**
Less: Professional tax paid		3,000
Less: Standard Deduction u/ s 16(ia)		50,000
Income chargeable to tax under 'Salaries'		**9,67,000**

Working Notes:

(1) Since bonus was paid in the month of October, the basic salary of Rs. 50,000 for the month of October is considered for its calculation.

(2) As per Rule 3(7)(vii), facility of use of laptop and computer is an exempt perquisite, whether used for official or personal purpose or both.

(3) Mr. Balaji can avail exemption u/ s 10(5) on the entire amount of Rs. 75,000 reimbursed by the employer towards Leave Travel Concession since the same was availed for himself, his wife and three children and the journey was undertaken by economy class airfare. The restriction imposed for two children is

not applicable in case of multiple births which take place after the first child. It is assumed that the Leave Travel Concession was availed for journey within India.

(4) It is assumed that dearness allowance does not form part of salary for computing retirement benefits.

(5) As per the provisions of Rule 3(2), in case a motor car (engine cubic capacity exceeding 1.60 liters) owned by the employer is provided to the employee without chauffeur for personal as well as office use the value of perquisite shall be Rs. 2,400 per month. The car was provided to the employee from 01-11-2023 therefore, the perquisite value has been calculated for 5 months.

(6) As per Section 17(2) (iv), a "perquisite" includes any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee. Therefore, professional tax of Rs. 2,000 paid by the employer is taxable as a perquisite in the hands of Mr. Balaji. As per Section 16(iii), a deduction from the salary is provided on account of tax on employment i.e. professional tax paid during the year.

Therefore, in the present case, the professional tax paid by the employer on behalf of the employee Rs. 2,000 is first included in the salary and deduction of the entire professional tax of Rs. 3,000 is provided from salary.

Illustration 35 - Computation of taxable salary: From the following details, find out the salary chargeable to tax of Mr. Anand for the assessment year 2024-25 : Mr. Anand is a regular employee of Malpani Ltd. in Mumbai. He was appointed on 01-03-2023 in the scale of 25,000 - 2,500 - 35,000. He is paid dearness allowance (which forms part of salary for retirement benefits) @ 15% of basic pay and bonus equivalent to one and a half month's basic pay as at the end of the year. He contributes 18% of his salary (basic pay plus dearness allowance) towards recognized provident fund and the Company contributes the same amount.

He is provided free housing facility which has been taken on rent by the Company at Rs. 15,000 per month. He is also provided with following facilities.

(i) The company reimbursed the medical treatment bill of Rs. 40,000 of his daughter, who is dependent on him.

(ii) The monthly salary of 12,000 of a house keeper is reimbursed by the Company.

(iii) He is getting telephone allowance @ Rs. 1,000 per month.

(iv) A gift voucher of Rs. 4,700 was given on the occasion of his marriage anniversary.

(v) The Company pays medical insurance premium to effect an insurance on the health of Mr. Anand Rs. 12,000.

(vi) Motor car running and maintenance charges fully paid by employer of Rs. 36,600. (The motor car is owned and driven by Mr. Anand. The engine cubic capacity is below 1.60 litres. The motor car is used for both official and personal purpose by the employee.)

(vii) Value of free lunch provided during office hours is Rs. 2,200.

Note : He has exercised the option of shifting out of the default tax regime provided u/s 115BAC(1A). Apply new valuation rules for the entire financial year for the purpose of valuation of rent free accommodation. (S Marks, Nov. 2013)

Solution: Computation of Salary chargeable to tax of Mr. Anand (amount in Rs.) -

Basic pay [(Rs. 25,000 x 11) + 27,500 x 1)]		3,02,500
Dearness allowance (15% of basic pay)		45,375
Bonus (Rs. 27,500 x 1.5)	[WN-1]	41,250
Telephone allowance (Rs. 1000 * 12)		12,000
Car facility (Rs. 36,600 - Rs. 1,800 x 12)	[WN-2]	15,000
Employer's contribution to RPF in excess of 12%	[WN-3]	20,873
Rent-free accommodation	[WN-4]	40,113
Medical reimbursement [Fully Taxable]		40,000
Reimbursement of salary of housekeeper - Taxable u/s 17(2)(iv)		24,000
Medical insurance premium paid by employer on health of Mr. Anand	[WN-5]	Exempt
Gift voucher	[WN-6]	Exempt
Free lunch provided during office hours shall be exempt from tax (assuming value per meal doesn't exceed Rs. 50)		
		Exempt
Gross Salary		**5,41,112**
Less: Standard Deduction u/s 16(ia)		50,000
Salary income chargeable to tax		**4,91,112**

Working Notes:

(1) Bonus has been taken as 1.5 month's basic pay as at the end of year i.e. Rs. 27,500.

(2) In case motor car is owned by the employee and repair and maintenance expenses are met by employer, then perquisite value shall be actual expenses incurred by employer as reduced by Rs. 1,800 p.m., since cubic capacity of engine does not exceed 1.6 litres.

(3) Taxable part of employer's contribution to RPF = 6% of (Basic pay + DA) = 6% of (Rs. 3,02,500 + Rs. 45,375) = Rs. 20,873. Since employer contributes to RPF on basic pay plus DA, hence, even the DA forms the part of salary for computing retirement benefits.

(4) Value of taxable RFA = Lower of the two -

(a) 15% of salary (Rs. 4,01,125) i.e. 160,169

(b) Lease rent Rs. 15,000 x 12 = Rs. 1,80,000.

Salary for rent free accommodation (amount in Rs.) :

Basic pay	3,02,500
Dearness allowance	45,375
Bonus	41,250
Telephone allowance	12,000
Total	4,01,125

(5) Premium of Rs. 12,000 paid by company for medical insurance premium on health of Anand is not liable to tax.
(6) Gifts below Rs. 5,000 are not taxable.

Illustration 36 - Computation of taxable salary : Mr. Anand an employee of XYZ Co. Ltd. at Mumbai and covered by Payment of Gratuity Act, retires at the age of 64 years on 31-12-2023 after completing 33 years and 7 months of service. At the time of retirement, his employer pays Rs. 20,51,640 as Gratuity and Rs. 6,00,000 as accumulated balance of Recognised Provident fund. He is also entitled for monthly pension of Rs. 8,000. He gets 75% of pension Commuted for Rs. 4,50,000 on 1st February, 2024.

Determine the salary chargeable to tax for Mr. Anand for the AY 2024-25 with the help of following information:

	Rs.
Basic Salary (Rs. 80,000 x 9)	7,20,000
Bonus	36,000
House Rent Allowance (Rs. 15,000 x 9)	1,35,000
Rent paid by Mr. Anand (Rs. 10,000 x 12)	1,20,000
Employer contribution towards Recognized Provident Fund	1,10,000
Professional Tax paid by Mr. Anand	2,000

Note : Salary and Pension falls due on the last day of each month. I le has not opted for the provisions of Section 11515 AC.(8 Marks, Nov. 2014)

Solution: Computation of Income from salary (amount in Rs.):

Basic Salary (Rs. 80,000 x 9)	7,20,000
Bonus	36,000
Taxable House Rent Allowance [WN-1]	1,17,000
Employer contribution towards Recognized Provident Fund 1,10,000 -12% of Rs. 7,20,000] [WN-5]	23,600
Taxable Gratuity [WN-2]	4,82,409
Uncommuted pension [Rs.8,000 x 1 month (January, 2023) + (Rs. 2,000 x 2 (February 2024 to March 2024)] [WN-3]	12,000
Taxable portion of commuted value of pension [WN-4]	2,50,000
Gross Salary	**16,41,009**
Less: Standard Deduction u/s 16(ia)	50,000
Less: Professional Tax paid by Mr. Anand	2,000
Income from salary	**15,89,009**

Working Notes:
(1) HRA is exempt to the extent least of the following (amount in Rs.) -

(1)	Actual HRA received	1,35,000
(2)	Rent paid -10% of salary (Rs. 90,000 -10% of Rs. 7,20,000)	18,000
(3)	50% of the salary (50% of Rs. 7,20,000)	3,60,000
Exempted HRA		**18,000**

Taxable HRA	**1,17,000**

(2) Computation of taxable gratuity (amount in Rs.) :

Completed years of service (Part thereof in excess of 6 months shall be rounded off to higher side)		34
Exemption u/s 10(10): Least of the following is exempt -		
(a)	Gratuity received	20,51,640
(b)	15/26 x Salary last drawn x Completed years of service	15,69,231
(c)	Specified limit	20,00,000
Taxable Gratuity = Gratuity Received - Exemption		**4,82,409**

(3) Uncommuted Pension : Since Mr. Anand commuted 75% pension in February, 2023. His uncommitted pension from February, 2024 onward shall be (Rs. 8,000 x 25%) = Rs. 2,000 p.m.

(4) Commuted pension:

(a) % of pension commuted = 75%.

(b) Commuted value of pension (Pension received ÷ % commuted) = Rs. 4,50,000÷ 75% = Rs. 6,00,000.

(c) Exemption = 1/3rd of commuted value of pension (Rs. 6,00,000) = Rs. 2,00,000.

(d) Taxable portion of commuted pension = Rs. 4,50,000 - Rs. 2,00,000 = Rs. 2,50,000.

(5) Employer's contribution is exempt upto 12% of salary.

Illustration 37 - Computation of taxable salary : Mr. Nambi, a salaried employee, furnishes the following details for the financial year 2023-24:

Particulars	**Rs.**
Basic salary	6,00,000
Dearness allowance	3,20,000
Commission	50,000
Entertainment allowance	7,500
Medical expenses reimbursed by the employer	21,000
Profession Tax (of this, 50% paid by employer)	7,000
Health insurance premium paid by employer	9,000
Gift voucher given by employer on his birthday	12,000
Life insurance premium of Nambi paid by employer	34,000
Laptop provided for use at home. Actual cost of Laptop to employer [Children of the assessee are also using the Laptop at home]	30,000

Employer-Company owns a Tata Nano car, which was provided to the assessee, both for official and personal use. No driver was provided. (Engine cubic capacity less than 1.6 litres)	
Annual credit card fees paid by employer [Credit card is not exclusively used for official purposes; details of usage are not available]	2,000

You are required to compute the income chargeable under the head "Salaries" for the AY 2024-25. (8 Marks, May 2017)

Solution: Computation of Taxable Salary of Nambi (amounts in Rs.) -

Basic salary	6,00,000
Dearness allowance	3,20,000
Commission	50,000
Entertainment allowance	7,500
Medical expenses reimbursed by the employer [Fully Taxable]	21,000
Profession Tax (50% paid by employer shall be treated as perquisite)	3,500
Health insurance premium paid by employer [Exempt from tax]	-
Gift voucher given by employer on his birthday (taxable, as it is not below Rs. 5,000)	12,000
Life insurance premium of Nambi paid by employer [Employees obligation met by employer, hence fully	
taxable]	34,000
Laptop facility [Use of Laptops and computers belonging to or hired by the employer is exempt]	-
Car facility for official and personal use [Rs. 1,800 p.m. is taxable, since engine cubic capacity less than 1.6 litres] [Rs. 1800 x 12]	21,600
Annual credit card fees paid by employer	2,000
Gross Salary	**10,71,600**
Less: Standard Deduction u/s 16(ia)	50,000
Less: Professional Tax paid	7,000
Income chargeable to tax under 'Salaries'	**10,14,600**

Illustration 38 - Computation of taxable salary : Ms. Jaya is the marketing manager in XYZ limited. She gives you the following particulars:

Basic Salary	:	Rs. 65,000 p.m.
Dearness Allowance	:	Rs. 22,000 p.m. (30% is for retirement benefits)
Bonus	:	Rs. 17,000 p.m.

Her employer has provided her with an accommodation on 1st April, 2023 at a concessional rent. The house was taken on lease by XYZ Ltd. for Rs. 12,000 p.m. Ms. Jaya occupied the house from 1st November, 2023. Rs. 4,800 p.m. is recovered from the salary of Ms. Jaya.
The employer gave her a gift voucher of Rs. 8,000 on her birthday. She contributes 18% of her salary (Basic Pay + DA) towards recognised provident fund and the company contributes the same amount.
The company pays medical insurance premium to effect insurance on the health of Ms. Jaya Rs. 18,000.
Motor car owned by the employer (cubic capacity of engine exceeds 1.6 liters) provided to Ms. Jaya from 1st November, 2023 which is used for both official and personal purposes. Repair and running expenses of Rs. 50,000 were fully met by the company. The motor car was self-driven by the employee.
Compute the income chargeable to tax under the head "Salaries" in the hands of Vis. Java for the A.Y. 2024-25 if she has not opted for the provisions of Section 115BAC". (10 Marks, Nov. 2017)

Solution: Computation of Salary chargeable to tax of Ms. Jaya (amount in Rs.) -

Basic salary [(Rs. 65,000 x 12)]		7,80,000
Dearness allowance [Rs. 22,000 p.m. (30% is for retirement benefits)] [Rs. 22,000 x 12]		2,64,000
Bonus 17,000 x 12)		2,04,000
Car facility (Rs. 2,400 x 5)	[WN-1]	12,000
Employer's contribution to RPF in excess of 12%	[WN-2]	84,816
Rent-free accommodation	[WN-3]	36,000
Medical insurance premium paid by employer on health of Ms Jaya	[WN-4]	Exempt
Gift voucher	[WN-5]	8,000
Gross Salary		13,88,816
Less: Standard Deduction u/s 16(ia)		50,000
Salary income chargeable to tax		**13,38,816**

Working Notes:

(1) In case motor car is owned by the employer and repair and maintenance expenses are met by employer, then perquisite value shall be Rs. 2,400 p.m., since cubic capacity of engine exceeds 1.6 litres. Sine it is provided from 1st November, 2023, it will be taxable for 5 months.

(2) Employer's contribution to recognized provident fund in excess of 12% of salary is taxable as per section 17(1)(vi). 18% x [(Rs. 65,000 + Rs. 22,000) x 12] - 12% x ([Rs. 65,000 + Rs. 6,600 (being 30% of Rs. 22,000)] x 12) = Rs. 1,87,920 - Rs. 1,03,104] [Salary = Basic Salary + Dearness allowance, to the extent it forms part of pay for retirement benefits]

(3) In case of accommodation taken on lease by the employer, there would be deemed concession in the matter of rent i.e. the rent paid by the employer or 15% of salary, whichever is lower, exceeds rent recoverable from the employee.

Hence, Value of concessional Accommodation = Lower of the two -
(a) 15% of salary (Rs. 4,43,000) i.e. Rs. 66,450
(b) Lease rent Rs. 12,000 x 5 = Rs. 60,000
as reduced by rent recovered from Ms. Jaya i.e. [Rs. 60,000 - 4,800 x 5)] = 36,000

Salary for rent free accommodation (amount in Rs.) :

Basic pay ("Rs. 65,000 x 5)	3,25,000
Dearness allowance (Rs. 22,000 x 30% x 5)	33,000
Bonus 17,000 x 5)	85,000
Total	4,43,000

Note : Since Ms. Jaya has occupied the house only from 1-11-2023, salary would be considered only in respect of the months during which she has occupied the accommodation. Hence, salary for 5 months (i.e. from 1-11-2023 to 31-3-2024) would be considered.

(4) Premium of Rs. 18,000 paid by company for medical insurance premium on health of Jaya is not liable to tax.
(5) Gift voucher of Rs. 8,000 will be fully taxable, since it is not below Rs. 5,000.

Illustration 39 - Computation of taxable salary: Mr. Honey is working with a domestic company having a production unit in the U.S.A. for last 15 years. He has been regularly visiting India for export promotion of company's product. He has been staying in India for at least 184 days every year.

He submits the following information:
Salary received outside India (For 6 months) Rs. 50,000 p.m.
Salary received in India (For 6 months) Rs. 50,000 p.m.

He has been given rent free accommodation in U.S.A. for which company pays Rs. 4,000 per month as rent, but when he comes to India, he stays in the guest house of the company. During this period he is given free lunch facility. During the previous year company incurred an expenditure of Rs. 48,000 on this facility.

He has been provided a car of 2000 cc capacity in U.S.A. which is used by him for both office and p rivate purposes. The actual cost of the car is Rs. 8,00,000. But when he is in India, the car is used by him and the members of his family only for personal purpose. The monthly expenditure of car is Rs. 5,000. His elder son is studying in India for which his employer spends Rs. 12,000 per year where as his younger son is studying in U.S.A. and stays in a hostel for which Mr. Honey gets Rs. 3,000 per month as combined allowance.

The company has taken an accident insurance policy and a life insurance policy. During the previous year the company paid premium of Rs. 5,000 and Rs. 10,000 respectively.

Compute Mr. Honey's taxable income from salary for the Assessment Year 2024-25 if he has not opted for the provisions of Section 115B AC. (10 Murks, May 2018-NS)

Solution: Since Honey was in India for more than 182 days during the previous year, he is a resident in India for assessment year 2024-25. Hence, his worldwide income will be taxable in India.

Basic Salary [(Rs. 50,000 x 6) + (Rs. 50,000 x 6)]		6,00,000
Hostel and education allowance [Rs. 3000 x 12]	[WN-1]	36,000
Education facility for elder child	[WN-2]	12,000
Car facility for official and personal use in U.S.A. 2,400 x 6)	[WN-3]	14,400
Car facility for personal use	[WN-4]	70,000
Guest House	[WN-5]	Nil
Lunch facility	[WN-5]	48,000
Rent-free accommodation (lease rent paid or 15% of salary whichever is less	[WN-6]	48,000
Premium of Rs. 5,000 paid by the company for personal accident policy	[WN-7]	Exempt
Life Insurance premium paid		10,000
Gross Salary		8,38,400
Less: Standard deduction u/s 16(ia)		50,000
Salary Income chargeable to Tax		**7,88,400**

Working Notes:

(1) No exemption is available in respect of allowance received for any education or hostel facility of children outside India.

(2) If employer incurs expenditure on providing education facility to member of household, it is fully taxable.

(3) Since car (2000cc) is used for official and personal purpose when Mr. Honey is in USA Rs. 2,400 p.m. will be taxable.

(4) When Mr. Honey is in India, Car is used for personal purpose by his family members. Hence amount to be taxable is arrived as under : (amount in Rs.)

Deprecation of car @ 10% p.a. of original cost of car 8,00,000 x 10% x 6/12]	40,000
Monthly expenditure incurred by employer [Rs. 5,000 x 6]	30,000
Total	**70,000**

(5) Guest house facility is not taxable, since it is provided for stay when he visits India wholly for official purposes. Expenditure incurred on providing lunch facility is taxable.

(6) Value of taxable RFA = Lower of the two -

(a) 10% of salary i.e. Rs. 63,600

(b) Lease rent Rs. 4,000 x 12 = Rs. 48,000

Salary for rent free accommodation: (amount in Rs.)

Basic pay	6,00,000
Hostel and education allowance	36,000
Total	**6,36,000**
10% of salary	**63,600**

(7) Premium of Rs. 5,000 paid by company for personal accident policy is not liable to tax.

Illustration 40 - Computation of taxable salary : Mr. Janakaraj, employed as General Manager in Rajus Refractories Pvt. Ltd., furnishes you the under-mentioned information for the year ended 31-03-2024 :

(i) Basic salary upto 30-11-2024 Rs. 70,000 p.m.
Basic salary from 01-12-2024 Rs. 80,000 p.m.

Note: Salary is due and paid on the last day of every month.

(ii) Dearness allowance @ 50% of basic salary (not forming part of salary for retirement benefits).
(iii) Bonus equal to one month salary. This was paid in November, 2023 on basic salary plus dearness allowance applicable for that month.
(iv) Contribution of employer to recognized provident fund account of the employee @ 1.8% of basic salary, employee also contributing an equivalent amount.
(v) Profession tax paid Rs. 6,000 of which Rs. 3,000 was paid by the employer.
(vi) Facility of laptop was provided to Janakaraj for both official and personal use. Cost of laptop Rs. 65,000 and was purchased by the company on 11-10-2023.
(vii) Leave travel concession given to Janakaraj, his wife and three children (one daughter aged 6 and twin sons aged 4). Cost of air tickets (economy class) reimbursed by the employer Rs. 20,000 for adults and lump sum of Rs. 25,000 for three children. Janakaraj is eligible for availing exemption this year to the extent it is permissible under the Income-tax Act, 1961.

Compute the taxable salary of Mr. Janakaraj if he has not opted for the provisions of Section 115BAC. (6 Marks, Nov. 2018-NS)

Solution: Computation of income from salary of Mr. Janakaraj (amount in Rs.):

Basic salary (Rs. 70,000 x 8 + Rs. 80,000 x 4)		8,80,000
Dearness allowance (Fully taxable) [50% of basic salary]		4,40,000
Bonus on basis of salary for month of November [Rs. 70,000 + Rs. 35,000]		1,05,000
Facility of laptop	[WN-1]	Exempt
Leave travel concession -Exempt under Section 10(5)	[WN-3]	Exempt
Tax paid on employment (Employee's obligation met by employer)		3,000
Employer's contribution to R.P.F. in excess of 12% of basic salary (i.e., 6% of Rs. 8,80,000)	[WN-2]	52,800
Gross salary		**14,80,800**
Less: Standard Deduction u/s 16(ia)	[WN-4]	50,000
Professional tax u/ s Section 16(iii)	[WN-2]	6,000
Taxable Salary		**14,24,800**

Working Notes:

(1) As per Rule 3(7)(vii), facility of use of laptop and computer is an exempt perquisite, whether used for official or personal purpose or both.

(2) As per Section 17(2)(iv), a "perquisite" includes any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee. Therefore, professional tax of Rs. 3,000 paid by the employer is taxable as a perquisite in the hands of Mr. Janakaraj. As per Section 16(iii), a deduction from the salary is provided on account of tax on employment i.e. professional tax paid during the year.
Therefore, in the present case, the professional tax paid by the employer on behalf of the employee Rs. 3,000 is first included in the salary and deduction of the entire professional tax of Rs. 6,000 is provided from salary.

(3) Mr. Janakraj can avail exemption u/ s 10(5) on the entire amount of Rs. 45,000 reimbursed by the employer towards Leave Travel Concession since the same was availed for himself, his wife and three children and the journey was undertaken by economy class airfare. The restriction imposed for two children is not applicable in case of multiple births which take place after the first child.

(4) As per Section 16(ia), standard deduction will be allowed from gross salary amounting Rs. 50,000 or the amount of salary, whichever is less.

4.Income from House Property

Illustrations

Illustration 1 - Computation of Gross Annual Value : Mr. Vaibhav owns five houses at Cochin. Compute the gross annual value of each house from the information given below
(5 Marks, PCC May 2012)

Particulars	House-I	House-II	House-Ill	House-IV	House-V
Municipal Value	1,20,000	2,40,000	1,10,000	90,000	75,000
Fair Rent	1,50,000	2,40,000	1,14,000	84,000	80,000
Standard Rent	1,08,000	N.A.	1,44,000	N.A.	78,000
Actual Rent Received / Receivable	1,80,000	2,10,000	1,20,000	1,08,000	72,000

Solution: Computation of Gross Annual Value (amount in Rs.)-

Particulars	House-I	House-II	House-Ill	House-IV	House-V
Expected Rent [WN]	1,08,000	2,40,000	1,14,000	90,000	78,000
Actual rent receivable	1,80,000	2,10,000	1,20,000	1,08,000	72,000
Gross Annual value (Higher of the above two)	1,80,000	2,40,000	1,20,000	1,08,000	78,000

Working Note : ER = Municipal Value or Fair Rent, whichever is higher subject to maximum of Standard Rent.

Illustration 2 - Computation of Gross Annual Value : Vinod is the owner of the three houses, which are all let out and covered by the Rent Control Act. From the following particulars, find out the gross annual value in each case :

Particulars	**House -1**	**House - II**	**House - III**
Municipal value	30,000	26,000	35,000
Annual rent	42,000	36,000	30,000
Fair rent	36,000	28,000	30,000
Standard rent	30,000	35,000	36,000
Unrealised rent	7,000	9,000	2,500
Period of vacancy	1 month	2 months	3 months

Solution: Computation of Gross Annual Value (amount in Rs.) - (CS Dec. 2003)

Particulars		**House I**	**House II**	**House III**
Expected rent	[WN-1]	30,000	28,000	35,000
Let out period (in months)		11	10	9
Proportionate Expected Rent for the let out period (PER)	[WN-2]	27,500	23,333	26,250
Actual rent for let out period		38,500	30,000	22,500
Actual rent received (ARR)	[WN-3]	31,500	21,000	20,000
Gross Annual Value (GAV)	**[WN-4]**	**31,500**	**28,000**	**35000**

Working Notes:

(1) ER = Municipal Value or Fair Rent, whichever is higher subject to maximum of Standard Rent.

(2) PER = ER x Let -out period ÷12.

(3) ARR = Actual rent - Unrealised rent.

(4) If ARR is greater than or equal to PER, then GAV = ARR, otherwise GAV = ER.

Illustration 3 - Computation of Income from House Property : XYZ Ltd. is engaged in construction of residential flats. One building consisting of 25 residential apartments was constructed and completion certificate was obtained on 15-07-2021. Out of 25 residential apartments 5 apartments remained unsold upto 31-03-2025. The expected rent of each apartment is Rs. 30,000 per month. You are required to determine Income from House property for Assessment Year 2024-25 and Assessment Year 2025-26.

Solution: As per provisions of Section 23(5), where the house property consisting of any building and 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 upto two years 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.

Thus, the income from house property upto 31-03-2024 i.e., two years from end of Financial Year 2021-22 shall be taken as NIL. Thus, income from house property for AY 2024-25 shall be taken as NIL.

Computation of Income from House property for Assessment Year 2024-25:

(amount in Rs.)

"Expected Rent being Gross annual value (Rs. 30,000 x 12 x 5)	18,00,000
Less: Municipal taxes paid	Nil
Net Annual Value	18,00,000
Less: Deductions under section 24 (Statutory deduction @ 30% of NAV)	5,40,000
Income from House Property	12,60,000

Illustration 4 - Self occupied properties : Mr. Naman owns two house properties one at Mumbai, wherein his family resides and the other at Delhi, which is unoccupied. He lives in Chandigarh for his employment purposes in a rented house. For acquisition of house property at Mumbai, he has taken a loan of Rs. 25 lakh @ 12% p.a. on 01-04-2022. He has not repaid any amount so far. In respect of house property at Delhi, he has taken a loan of Rs. 6 lakh ® 11% p.a. on 01-10-2022 towards repairs. Compute the

deduction which would be available to him under section 24(b) for A.Y. 2024-25 in respect of interest payable on such loan if he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

Solution: Mr. Naman can claim benefit of Nil Annual Value in respect of his house property at Mumbai and Delhi, since no benefit is derived by him from such properties, and he cannot occupy such properties due to reason of his employment at Chandigarh, where he lives in a rented house.

Computation of deduction u/s 24(b) for A.Y. 2024-25 (amount in Rs.):

Interest on loan taken for acquisition of residential house property at Mumbai [Rs. 25,00,000 x 12% = Rs. 3,00,000 (restricted to Rs. 2,00,000)	2,00,000
Interest on loan taken for repair of residential house property at Delhi [Rs. 6,00,000 x 11% = Rs. 66,000 (restricted to Rs. 30,000)	30,000
Total Interest	**2,30,000**
Deduction u/s 24(b) in respect of (I) and (II) above to be restricted to -	**2,00,000**

Illustration 5 - Self occupied properties: Nisha has two houses, both of which are self occupied. The particulars of these are given below:

Particulars	**(Value in Rs.)**	
	House -1	**House - II**
Municipal Valuation per annum	1,20,000	1,15,000
Fair Rent per annum	1,50,000	1,75,000
Standard rent per annum	1,00,000	1,65,000
Date of completion	31-03-2020	31-03-201
Municipal taxes payable during the year (paid for House II only)	12%	8%
Interest on money borrowed for acquisition of house properties	1,80,000	80,000

Compute Nisha's income from the House Property for the Assessment Year 2024-25 if she has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

Solution: Section 23 of the Income-tax Act provides relief to the taxpayer by allowing him an option to claim nil annual value in respect of any two houses, declared as self-occupied. Besides this section 24 of the Income-tax Act provides that the monetary limit of deduction on account of interest payable on borrowed capital i.e. Rs. 30,000/Rs. 2,00,000 shall continue to apply to the aggregate of the amounts of deduction in case of more than one self-occupied houses. Hence, the Income from house property shall be computed as under :

Computation of income from houses when they are treated as self-occupied (amount in Rs.)

Particulars	**House I and II**
Annual Value [Since both the houses are self occupied]	Nil
Less: Interest on loans [House -1: Rs. 1,80,000 and House - II: Rs. 80,000 (Restricted to 2,00,000)	2,00,000

Income from house property	**-2,00,000**

Illustration 6 - Self occupied properties: Mr. X has three houses, all of which are self occupied . The particulars of these are given below:

Particulars	**(Value in Rs.)**		
	House -1	**House - II**	**House - III**
Municipal Valuation per annum	1,20,000	1,15,000	2,00,000
Fair Rent per annum	1,50,000	1,75,000	2,50,000
Standard rent per annum	1,00,000	1,65,000	2,40,000
Date of completion	31-03-2019	31-03-2021	31-03-2021
Municipal taxes payable during the year (paid for House II and III only)	12%	8%	10%
Interest on money borrowed for acquisition of house properties	1,80,000	80,000	75,000

Compute Mr. X income from the House Property for the Assessment Year 2024-25 if he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

Solution: Section 23 of the Income-tax Act provides relief to the taxpayer by allowing him an option to claim nil annual value in respect of any two houses, declared as self-occupied, instead of one such house as provided earlier. Besides this section 24 of the Income-tax Act provides that the monetary limit of deduction on account of interest payable on borrowed capital i.e. Rs. 30,000/ Rs. 2,00,000 shall continue to apply to the aggregate of the amounts of deduction in case of more than one self-occupied houses. Thus, assessee has the following options:

Option I : House I and II self occupied and House III - deemed to be let out.
Option II : House I and III self occupied and House II - deemed to be let out.
Option III : House II and III self occupied and House I - deemed to be let out.

The lowest value of house property amongst the above options shall be offered for taxation.
Hence, the Income from house property shall be computed as under:
(1) Computation of income from houses when they are deemed to be let out (amount in Rs.) –

Particulars	**House-I**	**House-II**	**House-Ill**
Gross Annual Value [Note-A]	1,00,000	1,65,000	2,40,000
Less: Municipal taxes paid [Note-B]	Nil	9,200	20,000
Net Annual Value	**1,00,000**	**1,55,800**	**2,20,000**
Less: Deductions under section 24 -			
(a) Statutory Deduction @ 30% of NAV	30,000	46,740	66,000
(b) Interest on loans	1,80,000	80,000	75,000
Income from house	**-1,10,000**	**29,060**	**79,000**

Notes:

(A) GAV = Municipal Value or Fair Rent, whichever is higher subject to maximum of Standard Rent.

(B) Municipal taxes actually paid shall only be allowed as deduction.

(2) Computation of income from houses when they are treated as self-occupied (amount in Rs.) -

Particulars	**House I & II**	**House I & III**	**House II & III**
Annual Value [Since both the houses are self occupied]	Nil	Nil	Nil
Less: Interest on loans (Restricted to 2,00,000)	2,00,000	2,00,000	1,55,000
Income from house property	**-2,00,000**	**-2,00,000**	**-1,55,000**

(3) Hence, the taxable value shall be arrived as under:

Option	**Total**
Option I: House I and II self occupied and House III - deemed to be let out	-1,21,000
Option II: House I and III self occupied and House II - deemed to be let out	-1,70,940
Option III: House II and III self occupied and House I - deemed to be let out.	-2,65,000

Since the lowest value is in option III, hence the Income from house property will be Rs. (- 2,65,000.)

Illustration 7 - Interest on borrowed capital: Arvind commenced construction of a residential house, intended exclusively for his residence, on 01-11-2022. He raised a loan of Rs. 10,00,000 at 12% interest for the purpose of construction on 01-11-2022. Finding that there was an over-run in the cost of construction, he raised a further loan of Rs. 12,00,000 at the same rate of interest on 1-10-2023. What is the interest allowable under section 24, assuming that the construction was completed by 31-3-2024 and if he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)? (May 2000)

Solution: According to Section 23(2), the annual value shall be taken as NIL since the house is self-occupied by the assessee.

Thus, the interest allowable (including interest relating to pre-construction period) will be subject to maximum limit of Rs. 2,00,000. Pre-construction period shall start from 01-11-2022 and end on 31-03-2023 i.e. (31st March preceding the date of completion of construction). Computation of interest allowable under section 24(b) (amounts in Rs.) –

Total pre-construction interest	[WN-1]	50,000
Pre-construction interest allowable in assessment year 2023-24 (1/5th of above)		10,000
Current year interest	[WN-2]	1,92,000

Total interest		2,02,000

Hence, total amount deductible under section 24(b) = Rs. 2,00,000.

Working Notes:

(1) Pre-construction interest = Rs. 10,00,000 x 12% x 5 ÷12 (from 1-11-2022 to 31-3-2023) = Rs. 50,000.

(2) Current year interest (FY 2023-24) = **Loan-I**: Rs. 10 lakhs x 12% x 1 + **Loan-II**: Rs. 12 lakhs x 12% x 6÷12 = Rs. 1,92,000.

Illustration 8 - Determination of heads of income for taxability: In the following cases, state the head of income under which the receipt is to be assessed and comment-

(a) X Ltd. lets out its property to Y. Y sublets the same.

(b) X has built a house on a leasehold land. He has let out the above property and claims income from House Property under other Sources and deducted expenses on repair, security charges, insurance and collection charges in all amounting to 40% of receipts.

Solution:

(a) Rent paid by Y will be taxed in hands of X Ltd. as "Income from House Property". However, income from subletting (Subletting receipts Less rent paid to X Ltd.) shall be taxed as "Income from Other Sources" in hands of Y.

(b) House constructed on leasehold land is assessable under head "Income from house property", hence the rent there from shall be taxable as Income from house property. Further, the standard deduction under section 24 @ 30% of NAV and interest on capital borrowed will only be allowable to him.

Illustration 9 - Self-occupied and let out property period wise : Ram owned a house property at Madras which was occupied by him for the purpose of his residence. He was transferred to Bombay in June, 2023 and therefore he let out the property with effect from 1-7-2023 on a monthly rent of Rs. 3,000. The corporation tax payable in respect of the property was Rs. 6,000 of which 50% was paid by him before 31-3-2024. Interest on money borrowed for the construction of the property amounted to Rs. 20,000. Compute the income from house property if he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

Solution: Computation of Income from House Property (amount in Rs.)

Annual value	[WN-1]	36,000
Less: Municipal taxes paid (Rs. 6,000 x 50%)	[WN-2]	3,000
Net Annual Value (NAV)		33,000
Less: Deductions under section 24 -		
(a) Standard deduction @ 30% of NAV		9,900
(b) Interest on borrowed capital		20,000
Income from House Property		**3,100**

Working Notes:

(1) Where the property is let for a part of a year and self-occupied for remaining period, the benefit of self-occupation shall not be available and the annual value shall be determined as per Section 23(1)(a).
Thus, annual value =
(a) Expected Rent i.e. Rs. 3,000 x 12 = Rs. 36,000; or
(b) Actual Rent i.e. Rs. 3,000 x 9 = Rs. 27,000; whichever is higher.

(2) Municipal taxes paid by Ram shall only be allowed as deduction.

Illustration 10 - Let-out property : Rajeev owns a house, which is self-occupied upto 31-5-2023. W.e.f. 1-6-2023, the property is let to Rafi at Rs. 20,000 p.m. On 1-12-2023, Rafi vacated the house and the property after remaining vacant for one month, was let to Rachna w.e.f. 1-1-2024 at Rs. 25,000 p.m. Determine the Gross Annual Value of the house if the expected rent of the property is - (a) Rs. 2,00,000 or (b) Rs. 3,00,000.

Solution: In this case, the property is -
- self-occupied for 2 months;
- let-out for 9 months; and
- vacant for 1 month.

Hence, no benefit of self-occupation will be available.
The Actual Rent Receivable (ARR) for 9 months will be compared with Proportionate Expected Rent (PER) for 11 months to determine the Gross Annual Value.

(a) Case I - If expected rent is Rs. 2,00,000 : In this case -
ARR = Rs.20,000 x 6 + Rs.25,000 x 3 = Rs. 1,95,000;
PER = Rs. 2,00,000 x 11 /12 = Rs. 183,333.
This implies that since ARR is greater than PER, hence ARR is less than ER on account of vacancy.
Therefore, GAV = ARR = Rs. 1,95,000.

(b) Case 2 - If expected rent is Rs. 3,00,000: In this case –
ARR = Rs.20,000 x 6 + Rs.25,000 x 3 = Rs. 1,95,000;
PER = Rs. 3,00,000 x 11/12 = Rs. 2,75,000.

This implies that since ARR is less than PER, hence ARR is less than ER not on account of vacancy but due to other reasons.
Therefore, GAV = ER = Rs. 3,00,000.

Illustration 11 - Deemed to be let out property - Computation of Income from House Property: Mr. X owns one residential house in Mumbai. The house is having two units. First unit of the house is self-occupied by Mr. X and another unit is rented for 8,000 p.m. The rented unit was vacant for 2 months during the year. The particulars of house are:

Standard rent	Rs. 1,62,000 p.a.
Municipal valuation	Rs. 1,90,000 p.a.
Fair rent	Rs. 1,85,000 p.a.
Municipal tax	15% of municipal value
Light and water charges	Rs. 500 p.m.

Interest on borrowed capital	Rs. 1,500 p.m.
Lease money	Rs. 1,200 p.a.
Insurance charges	Rs. 3,000 p.a.
Repairs.	Rs. 12,000 p.a.

Compute the income from house property of Mr. X. (9 Marks, PCC Nov. 2008)

Solution: Computation of Income from House Property of Mr. X (amount in Rs.) –

(1) In case of Unit-I (self-occupied):

Net Annual Value	Nil
Less: Interest on the borrowed capital u/s 24(b) (Rs. 1,500 x 12 x 1/2)	9,000
Net Income from Unit -1	-9,000

(2) In case of Unit-II (let-out):

Expected Rent	[WN-1]	81,000
Actual rent received (Rs. 8,000 x 10)		80,000
Proportionate Expected Rent (PER)	[WN-2]	67,500
Gross Annual Value	[WN-3]	80,000
Less: Municipal taxes paid (15% of Rs. 1,90,000 x 1/2)		14,250
Net Annual Value		65,750
Less: Deductions under section 24 -		
(a) Statutory deduction @ 30 % of NAV		19,725
(b) Interest on the borrowed capital (Rs. 1,500 x 12 x 1/2)		9,000
Net Income from Unit - II		**37,025**

Thus, total Income from House Property = (Rs.) - 9,000 + 37,025 = Rs. 28,025.

Working Notes:

(1) ER = Fair Rent Rs. 92,500 or Municipal Value Rs. 95,000, whichever is higher; subject to maximum of Standard Rent Rs. 81,000.

(2) PER = Expected Rent x 10 ÷12 = Rs. 81,000 x 10 ÷12 = Rs. 67,500.

(3) Since ARR is greater than PER, therefore, ARR is less than ER on account of vacancy hence ARR is GAV.

Illustration 12 - Computation of Income from House Property : Mr. Krishna owns a residential house in Delhi. The house is having two identical units. First unit of the house is self-occupied by Mr. Krishna and another unit is rented for Rs. 12,000 p.m. The rented unit was vacant for three months during the year. The particulars of the house for the previous year 2023-24. are as under:

Standard Rent	Rs. 2,20,000 p.a.
Municipal Valuation	Rs. 2,44,000 p.a.
Fair Rent	Rs.2,35,000 p.a.
Muncipal tax paid by Mr. Krishna	12% of the Municipal Valuation
Light and water charges	Rs. 800 p.m.
Interest on borrowed capital	Rs.2,000 p.m.
Insurance charges	Rs. 3,500 p.a.
Painting expenses	Rs. 16,000 p.a.

Compute income from house property of Mr. Krishna. (8 Marks, Nov. 2013)

Solution: Computation of Income from House Property of Mr. Krishna (amount in Rs.) –

(i) In case of Unit-I (Self-occupied):

Net Annual Value	Nil
Less: Interest on the borrowed capital u/s 24(b) (X 2,000 x 12 x 1/2)	12,000
Net Income from Unit -1	**-12,000**

(ii) In case of Unit-II (Let-out):

Expected Rent	[WN-1]	1,10,000
Actual rent received (Rs. 12,000 x 9)		1,08,000
Proportionate Expected Rent (PER)	[WN-2]	82,500
Gross Annual Value	**[WN-3]**	**1,08,000**
Less: Municipal taxes paid (12% of Rs. 2,44,000 x 1/2)		14,640
Net Annual Value		**93,360**
Less: Deductions under section 24 -		
(a) Statutory deduction @ 30 % of NAV		28,008
(b) Interest on the borrowed capital 2,000 x 12 x 1/2)		12,000
Net Income from Unit - II		**53,352**

Thus, total Income from House Property = Rs. -12,000 + Rs. 53,352 = Rs. 41,352.

Working Notes:

(1) ER = Fair Rent Rs. 1,17,500 or Municipal Value Rs. 1,22,000 whichever is higher; subject to maximum of Standard Rent Rs. 1,10,000.

(2) PER = Expected Rent x 9 ÷12 = Rs. 1,10,000 x 9 ÷ 12 = Rs. 82,500.

(3) Since ARR is greater than PER, therefore, ARR is less than ER on account of vacancy hence ARR is GAV.

Illustration 13 - Computation of Income from House Property : A and B construct their houses on a piece of land purchased by them at New Delhi. The built up area of each house is 1,000 sq, ft. (ground floor and an equal area in the first floor). A starts construction on April 1, 2022 and completes it on March 31, 2023 . B starts the construction on April 1, 2022 and completes on June 30, 2023 and lets out the first floor for a rent of Rs. 15,000 per month. The tenant vacates the house on December 31, 2023 and B occupies the entire house during the period January 1, 2024 to March 31, 2024. The following are the other information's (amount in Rs.):

Fair rental value of each unit (ground floor/first floor) (per annum)	72,000
Municipal value of each unit (ground floor/first floor) (per annum)	1,00,000
Municipal taxes paid by — A	8,000
-B	8,000
Repair and maintenance charges paid by — A	28,000
- B	30,000

A has availed a housing loan of Rs. 20 lakhs @ 12% on April 1, 2022. B has availed a housing loan of Rs. 12 lakh @ 10% on July 1, 2022. No repayment is made by either of them till March 31,2024.

Compute the Income from house property. (Nov. 2003)

Solution: Computation of Income from House Property of A and B (amounts in Rs.) –

(1) In case of Mr. A:

Net Annual Value (self-occupied)	Nil
Less: Interest on borrowed capital [WN]	2,00,000
Income from House Property	-2,00,000

Working Note : 'A' started construction on 01-04-2022, which ended on 31-03-2023. Since A had taken loan on 01-04-2022 and the construction was completed on 31-03-2023, there is no pre-construction period. Thus, interest from 01-04-2023 to 31-03-2024 i.e. Rs. 2,40,000 shall be deductible, subject to maximum of Rs. 2,00,000.

(2) In case of Mr. B :

Particulars		**Unit 1 - Self occupied**	**Unit 2 - Partly SOP and partly let out**
Expected Rent	[WN-1]	-	75,000
ARR (Rs. 15,000 x 6)		-	90,000
Gross Annual Value	[WN-2]	-	90,000
Less: Municipal taxes (50% of 8,000)		-	4,000
Net Annual Value		**Nil**	**86,000**
Less: Deductions under section 24 —			
(a) Statutory deduction @ 30% of NAV		-	25,800
(b) Interest on borrowed capital	[WN-3]	69,000	69,000
Income from House Property		**-69,000**	**-8,800**

Working Notes:

(1) ER = Municipal value (of 9 months) or Fair rent (of 9 months), whichever is higher = higher of Rs. 75,000 or Rs. 54,000 = Rs. 75,000. B has occupied the ground floor for self-occupation from 01-07-2023. Its annual value will be computed as per Section 23(2). The first floor is let for a part of the year and then it is self-occupied. Its annual value will also be computed as per Section 23(1). However, since the house has come into existence on 01-07-2023, the annual fair value and annual municipal value for the period when the property was in existence (9 months) shall be considered for computing GAV.

(2) Since ARR is greater than ER, hence GAV = ARR.

(3) The pre-construction period starts from 01-07-2022 (date of loan) and ends on 31-03-2023. The interest for the said period i.e. for 9 months shall be - Rs. 12,00,000 x 10% x (9 ÷ 12) = Rs. 90,000; Rs. 45,000 for ground floor and Rs. 45,000 for 1st floor. Such interest is deductible in 5 equal annual instalments starting with previous year 2023-24, each installment being Rs. 9,000 (i.e., Rs. 45,000 ÷ 5). Interest of Rs. 1,20,000 for current year will be apportioned between the 2 units at Rs. 60,000 each. Therefore, total interest deductible = Rs. 69,000 (i.e., Rs. 60,000 + Rs. 9,000) in each case.

Illustration 14 - Computation of Income from House Property : Mrs. Indu, a resident individual, owns a house in U.S.A. She receives rent @ $ 2,000 per month. She paid

municipal taxes of $ 1,500 during the financial year 2023-24. She also owns a two storied house in Mumbai, ground floor is used for her residence and first floor is let out at a monthly rent of Rs. 10,000. Standard rent for each floor is Rs. 11,000 per month. Municipal taxes paid for the house amounts to Rs. 7,500. Mrs. Indu had constructed the house by taking a loan from a nationalised bank on 20-6-2021
She repaid the loan of Rs. 54,000 including interest of Rs. 24,000. The value of one dollar is to be taken as Rs. 75. Compute total income from house property of Mrs. Indu if she has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). (7Marks, PCC Nov. 2009)

Solution : Computation total Income from House Property of Mrs. Indu (amounts in Rs.)

- (1) Mumbai House - Ground Floor:

Net Annual Value	Nil
Less: Interest on borrowed capital [See Note]	12,000
Net Income from Ground Floor	**-12,000**

Note : Interest on capital borrowed for construction = Rs. 24,000 x 1/2 = Rs. 12,000, remaining half is for 1st floor.

(2) Mumbai House - First Floor :

Gross Annual Value being actual rent	[WN-1]	1,20,000
Less: Municipal Taxes paid	[WN-2]	3,750
Net Annual Value		**1,16,250**
Less: Deductions under section 24 -		
(a) Standard Deduction @ 30% of NAV		34,875
(b) Interest on capital borrowed	[WN-3]	12,000
Income from First Floor of Mumbai House		69,375

Working Notes:

(1) GAV = Rs. 10,000 x 12 = Rs. 1,20,000.
(2) Municipal taxes paid in respect of first floor =Rs.7,500 x ½ = Rs. 3,750 as balance half is for ground floor.
(3) Interest on capital borrowed for construction =24,000 x ½ = Rs. 12000

(3) U.S.A. House:

Gross Annual Value	[WN-1]	18,00,000
Less: Municipal Taxes paid	[WN-2]	1,12,500
Net Annual Value		16,87,500
Less: Standard Deduction u/s 24 @ 30% of NAV		5,06,250
Income from U.S.A. House		**11,81,250**

Working Notes:

(1) GAV = $ 2,000 x 12 x Rs. 75 per dollar = Rs. 1800000.
(2) Municipal Taxes paid = $ 1,500 x 75 = Rs. 112500.
Therefore, total Income from House Property of Mrs. Indu = Rs. (-12,000) + Rs. 69,375 + Rs. 11,81,250 = Rs. 1,238,625.

Illustration 15 - Tax Treatment of unrealised rent and arrears of rent received :
Mr. Krishna sold his residential house property in March, 2023. In June, 202 3, he recovered rent of Rs. 35,000 from Mr. Ravindra, to whom he had let out his house

for two years from April 2017 to March 2019. He could not realise two months rent of Rs. 40,000 from him and to that extent his actual rent was reduced while computing Income from house property for A.Y. 2019-20.

Further, he had let out his property from April, 2019 to February, 2023 to Mr. Kamlesh. In April, 2021, he had increased the rent from Rs. 20,000 to Rs. 25,000 per month and the same was a subject matter of dispute. In September, 2023, the matter was finally settled and Mr. Krishna received Rs. 1,15,000 as arrears of rent for the period April 2021 to February, 2023.

Would the recovery of unrealised rent and arrears of rent be taxable in the hands of Mr. Krishna, and if so in which year?.
= Rs. 7,500 x 1/2 = 13,750, as balance half is for ground floor. = Rs. 24,000 x 1/2 = Rs. 12,000.

Solution: Since the unrealised rent was recovered in the P.Y. 2023-24, the same would be taxable in the A.Y. 2024-25 under section 25A, irrespective of the fact that Mr. Krishna was not the owner of the house in that year. Further, the arrears of rent was also received in the P.Y. 2023-24, and hence the same would be taxable in the A.Y. 2024-25 under section 25A, even though Mr. Krishna was not the owner of the house in that year.

A deduction of 30% of unrealised rent recovered and arrears of rent would be allowed while computing income from house property of Mr. Krishna for A.Y. 2024-25.

Computation of income from house property of Mr. Krishna for A.Y. 2024-25
(amount in Rs.):

(i) Unrealised rent recovered	35,000
(ii) Arrears of rent received	1,15,000
	1,50,000
Less: Deduction @ 30%	45,000
Income from house property	**1,05,000**

Illustration 16 - Tax treatment of unrealised rent: An owner of a house property is allowed a deduction of Rs. 12,000 by way of unrealized rent for assessment year 2019-20. He sold the house on 15-4-2023 and ceases to be the owner thereof. A decree for the unrealized rent was given in his favour on 1-12-2023 and he receives the full amount on 1-2-2024. Examine the tax consequence. (May 2006)

Solution : According to Section 25A, recovery of unrealized rent is taxable as "Income from House Property" whether the assessee is owner of the house or not. Hence, in the given case, the amount of Rs. 12,000 received by A by way of unrealised rent after giving deduction of 30%, shall be taxable as his income for the previous year 2023-24 even if he ceases to be the owner of the house property during the previous year.

Taxable (amount in Rs.):

The amount received as unrealised rent	12,000
Less: Standard Deduction @ 30% of such amount	3,600

Income from house property	**8,400**

Illustration 17 - Computation of income from house property : X is the owner of a commercial property let out at Rs. 20,000 p.m. The municipal tax on the property is Rs. 25,000 annually, 50% of which is payable by the tenant. This tax was actually paid on 15-4-2024. He had borrowed a sum of Rs. 10 lacs from his cousin, resident in USA (In Dollars) for the construction of the property on which interest at 10% is payable. He has also received arrears of rent of Rs. 20,000 during the year, which was not charged to tax in the earlier years. What is the property income of X Rs. (Nov. 2002)

Solution: Computation of Income From House Property of Mr. X (amount in Rs.) –

Gross Annual Value (Rs. 20,000 x 12)		2,40,000
Less: Municipal taxes paid	[WN-1]	Nil
Net Annual Value		2,40,000
Less: Deductions under section 24 -		
(a) Standard deduction @ 30% of NAV		72,000
(b) Interest on Housing Loan (Rs. 10,00,000 x 10%)	[WN-2]	1,00,000
		68,000
Add: Arrears of rent received	[WN-3]	14,000
Income from House Property		**82,000**

Working Notes:

(1) No deduction shall be allowed for municipal taxes as the same were not actually paid during the previous year.

(2) It is assumed that the tax has been deducted at source on the amount of interest paid outside India.

(3) Taxable value of arrears of rent under section 25A = Rs. 20,000 - 30% of Rs. 20,000 = Rs. 14,000.

Illustration 18 - Computation of taxable income : Ramesh (58 years) retired as General Manager of XYZ Co. Ltd. On 30- 11-2023 after rendering service for 20 years and 10 months. He received Rs. 3,00,000 as gratuity from the employer. (He is not covered by Gratuity Act, 1972). His salary particulars are given below :

Basic Pay	Rs. 10,000 p.m. upto 30-06-2023
Basic Pay	Rs. 12,000 p.m. from 01-07-2023
Dearness allowance (Eligible for retirement benefits)	50% of basic pay
Transport Allowance	Rs. 2,300 p.m.

He resides in his own house. Interest on monies borrowed for the self-occupied house is Rs. 24,000 for the year-ended 31- 3-2024. From a fixed deposit with a bank he earned interest income of Rs. 18,000 for the year ending 31-3-2024. Compute taxable income of Ramesh. (May 2004)

Solution: Computation of taxable income of Ramesh (amount in Rs.) -

Income from Salaries			
Basic Pay (Rs. 10,000 x 3 + Rs. 12,000 x 5)		90,000	

Dearness Allowance (50% of basic pay)			45,000	
Transport Allowance (Rs. 2,300 x 8)	[WN-1]		18,400	
Gratuity Received		3,00,000		
Less: Exempt	[WN-2]	1,62,000	1,38,000	
Gross Salary			**2,91,400**	
Less: Standard deduction u/s 16(ia)			50,000	2,41,400
Income from House Property				
Annual Value	[WN-3]		Nil	
Less: Interest on borrowed capital			24,000	-24,000
Income from other sources (Bank Interest)				18,000
Total Income				**2,35,400**

Working Notes:

(1) Transport allowance is fully taxable.

(2) Gratuity received shall be exempt to the extent of least of the following (Payment of Gratuity Act is not applicable) -

(a)	Actual amount received	3,00,000
(b)	Notified Amount	20,00,000
(c)	1/2 x Average Salary x No. of completed years of service = 1/2 x Rs. 16,200 x 20 years	1,62,000

Average Salary = Basic and DA for 10 months preceding the month of retirement i.e. January to October + 10 = [(Rs. 10,000 x 6 + Rs. 12,000 x 4) + 50% of (Rs. 10,000 x 6 + Rs. 12,000 x 4)] = Rs. 16,200.

(3) Since the house is self-occupied, hence its annual value shall be Nil.

Illustration 19 - Income from House Property in case of co-ownership : Mr. Raman is a co-owner of a house property along with his brother.

Municipal value of the Property	Rs. 1,60,000
Fair Rent	Rs. 1,50,000
Standard Rent Under the Rent Control Act	Rs. 1,70,000
Rent received	Rs. 15,000 p.m.

The loan for the construction of this property is jointly taken and the interest charged by the bank is Rs. 25,000 out of which Rs. 21,000 have been paid. Interest on the unpaid interest is Rs. 450.

To repay this loan, Raman and his brother have taken a fresh loan and interest charged on this loan is Rs. 5,000. The Municipal taxes of Rs. 5,100 have been paid by the tenant.

Compute the income from this property chargeable in the hands of Mr. Raman. (6 Marks, IPCC Nov. 2009)

Solution: Computation of Income from House Property chargeable in the hands of Mr. Raman (amount in Rs.) -

Expected Rent	[WN-1]	1,60,000
Actual Rent Received or Receivable (Rs. 15,000 x 12)		1,80,000
Gross Annual Value (GAV) (higher of above two)		**1,80,000**
Less: Municipal Taxes	[WN-2]	-
Net Annual Value (NAV)		**1,80,000**
Less: Standard Deduction u/s 24 @ 30% of NAV		54,000

Joint interest on loan taken for the property (allowed on accrual basis) Interest on unpaid interest [WN-3] Interest on fresh loan taken to repay the original loan (allowed as deduction)	25,000 - 5,000
Income from house property	**96,000**
Income taxable in Raman's hands (Income from house x 50%)	**48,000**

Working Notes:

(1) ER = Municipal value or fair rent, whichever is higher subject to maximum of Standard rent.

(2) Municipal taxes have been paid by the tenant and not by the owner, hence no deduction shall be allowed in respect of the same.

(3) Interest on unpaid interest cannot be regarded as interest on capital borrowed, hence not deductible.

(4) Raman is a co-owner. Hence, as per Section 26, he will be liable to income tax only in respect of his share in the property. It is assumed that such share is definite and ascertainable and is 50%.

Illustration 20 - Computation of Income from House Property: Two brothers Arun and Bimal are co-owners of a house property with equal share. The property was constructed during the financial year 1997-98. The property consists of eight identical units and is situated at Cochin. During the current year, each co-owner occupied one unit for residence and the balance of six units were let out at a rent of Rs. 12,000 per month per unit. The municipal value of the house property is Rs. 9,00,000 and the municipal taxes are 20% of municipal value, which were paid during the year. The other expenses were as follows :

(i)	Repairs	40,000
(ii)	Insurance premium (paid)	15,000
(iii)	Interest payable on loan taken for construction of house	3,00,000

One of the let out units remained vacant for four months during the year. Arun could not occupy his unit for six months as he was transferred to Chennai. He does not own any other house. The other income of Mr. Arun and Mr. Bimal are Rs. 2,90,000 and Rs. 1,80,000 respectively for the year. Compute the income under the head 'Income from House Property' and the total income of two brothers. (12 Marks, PCC Nov. 2010)

Solution: Computation of total income (amount in Rs.) –

Particulars		**Arun**	**Bimal**
Income from house property			
(1) Self-occupied portion (25%): Annual value		Nil	Nil
Less: Deduction u/s 24(b)	[WN-1]	30,000	30,000
Income from self-occupied portion		**-30,000**	**-30,000**
(2) Let-out portion (75%)	[WN-2]	1,25,850	1,25,850
Income from house property		**95,850**	**95,850**
Other Income		2,90,000	1,80,000
Total Income		**3,85,850**	**2,75,850**

Working Notes:

(1) Interest on loan taken for construction = 25% of Rs. 3 lakhs = Rs. 75,000 - restricted to maximum of Rs. 30,000 for each co-owner.

(2) Computation of income from let-out portion (75%) of house property (amount in Rs)

Since 6 units have been let out out of 8 units, hence let out portion = 6/8 x 100 = 75%.

All expenses will be made proportionate (i.e. 75%) for calculating income from house property.

Municipal value (75% of Rs. 9 lakhs) (being expected rent)	6,75,000	
Actual rent [(Rs. 12,000 x 6 x 12) - (Rs. 12,000 x 1 x 4)] = Rs. 8,64,000 - Rs. 48,000	8,16,000	
Gross Annual Value, being the higher of: Municipal Value or Actual Rent		8,16,000
Less: Municipal taxes paid [75% of 20% of Rs. 9 lakhs]		1,35,000
Net Annual Value (NAV)		**6,81,000**
Less: Deduction under section 24 -		
(a) Standard deduction @ 30% of NAV	2,04,300	
(b) Interest on loan taken for the house (75% of Rs.3 lakhs)	2,25,000	4,29,300
Income from let-out portion of house property		**2,51,700**
Share of each co-owner (50%)		**1,25,850**

Illustration 21 - Deemed owner: Answer the following –

(1) Mr. Rajesh transfers a property of market value Rs. 38,00,000 to his wife out of natural love and affection. The income from such property is Rs. 2,00,000. How will the property income be taxed?

(2) Mr. Amit gifts a property valuing 10,00,000 to his minor child. The annual income from such property is Rs. 2,00,000. How will the property income be taxed.

(3) What will your answer be, if in the above case Mr. Amit has gifted the house property to his minor married daughter?

(4) Mr. Anuj gives his house property to Mr. Dinesh on lease for 20 years. However, the lease is to be renewed by Mr. Dinesh every year. How will the property income be taxed?

(5) What will your answer be if in the above case Mr. Anuj gives his house property on lease to Mr. Dinesh for 2 years and Mr. Dinesh can get the lease renewed for another 2 years on payment of a specified sum and so on for indefinite period?

Solution: The above mentioned cases have been discussed as follows –

(1) In this case, Mr. Rajesh has transferred his house property to his wife in natural love and affection i.e. otherwise than for adequate consideration. Therefore, he

will be the deemed owner of such property and hence income of Rs. 2,00,000 will be assessed in the hands of Mr. Rajesh as 'Income from House Property.

(2) Here, Mr. Amit has gifted the property to his minor child i.e. without any adequate consideration. Thus, Mr. Amit shall be the deemed owner of such property and the income of Rs. 2,00,000 from the said property shall be taxable in his hands.

(3) In case, an individual transfers the property without adequate consideration to his minor married daughter, then he shall not be treated as deemed owner in respect of such property as per Section 27. Hence, the income from such property will be taxed in the hands of the minor married daughter.

(4) In this case, the lease is for 20 years i.e. for more than 12 years, but the same is to be renewed every year by Mr. Dinesh i.e. for a period of not more than one year. Thus, Mr. Dinesh is not treated as the deemed owner of such property and the income from such property will be taxable for Mr. Anuj.

(5) Here, the lease is for 2 years but Mr. Dinesh can renew it after every 2 years for indefinite period, which implies that the lease can be for more than 12 years. Thus, Mr. Dinesh will be the deemed owner of such property and income there from will be taxable in his hands.

Illustration 22 - Computation of Total Income: From the following particulars furnished by Kiran for the previous year ending 31-3-2024, compute the taxable income :(Nov. 2001)

(i) He owns a house property at Metro City. The fair rental value per annum is Rs. 27,000 and the Municipal value is Rs. 24,000.

(ii) The house was let out from 1-4-2023 to 31-8-2023 at a monthly rent of Rs. 2,100. From 1-9-2023 Kiran occupies for his residence (self).

(iii) Expenditure incurred on property and paid :

(a)	Municipal tax	4,000
(b)	Fire Insurance	2,500
(c)	Land Revenue	4,600
(d)	Repairs	1,000

(iv) Interest paid on borrowing for construction:

(a)	For the yea.	21,600
(b)	Proportionate pre-construction interest	12,960

(v) Income from Firm (PF A/ c) as partner: Salary Rs. 25,000; Interest on Capital Rs. 20,000; and Share Income Rs. 35,000.

Solution: Computation of Total Income of Kiran (amounts in Rs.)-

Gross Annual Value	[WN-1]	27,000
Less: Municipal Taxes paid		4,000
Net Annual Value		**23,000**
Less: Deduction under section 24 -		
(a) Standard deduction 30% of NAV		6,900
(b) Interest on Borrowed Capital (Rs. 21,600 + Rs. 12,960)		34,560

Income from House Property Profits and Gains of Business or Profession	 [WN-2]	**-18,460** 45,000
Gross Total Income/Total Income		**26,540**

Working Notes:

(1) GAV = (a) Expected Rent Rs. 27,000 (being higher of Municipal Value or Fair Rent); or (b) ARR Rs. 10,500 (Rs. 2,100 x 5 months) = Rs. 27,000, whichever is higher.

(2) Salary and interest from partnership firm is taxable under the head profits and gains of business or profession, however share income from firm is exempt under section 10(2A).

Illustration 23 - Computation of Income from house property: Rohit is the owner of a house property, its municipal valuation is Rs. 80,000. It has been let-out for Rs. 1,20,000 per annum. The local taxes payable by the owner amount to Rs. 16,000, but as per agreement between the tenant and the landlord, the tenant has paid the amount directly to the municipality. The landlord, however, bears the following expenses on tenant's amenities:

	Rs.
Extension of water connection	.2
Water charges	1,500
Lift maintenance	1,500
Salary of gardener	1,800
Lighting of stairs	1,200
Maintenance of swimming pool	750
The landlord claims the following deductions :	
Repairs and collection charges	7,500
Land revenue paid	1,500

Compute the taxable income of Rohit from the house property. (10 Marks, CS Executive Dec. 2009)

Solution: Computation of income from the property (amount in Rs.):

Total sum received from the tenant		1,20,000
Less: Sum incurred towards tenant's amenities -	[WN-1]	
Extension of water connection		-3,000
Water charges		-1,500
Lift maintenance		-1,500
Salary of gardener		-1,800
Lighting of stairs		-1,200
Maintenance of swimming pool		-750
Total Rent received for the property		**1,10,250**
Less: Municipal taxes	[WN-2]	Nil
Net annual value		**1,10,250**
Less: Standard Deduction u/s 24 @ 30%	[WN-3]	33,075
Income from house property		**77,175**

Working Notes:

(1) The expenses borne by the landlord towards amenities of the tenant is included in the rent of Rs. 1,20,000, hence the same is to be excluded for calculating actual rent as the same have been incurred on behalf of the tenant, for his personal amenities.

(2) No deduction shall be allowed for municipal taxes as the same have been paid by the tenant.

(3) No deduction is allowed for repair and collection charges and land revenue paid by the landlord, only a standard deduction under section 24 @ 30% of the NAV shall be allowed.

Illustration 24 - Computation of Income from house property : Mr. Raphael constructed a shopping complex. He had taken a loan of Rs. 25 lakhs for construction of the said property on 01-08-2021 from SBI @ 10% for 5 years. The construction was completed on 30-06-2022. Rental income received from shopping complex Rs. 30,000 per month-let out for the whole year. Municipal Taxes paid for shopping complex Rs. 8,000. Arrears of rent received from shopping complex Rs. 1,20,000.

Interest paid on loan taken from SBI for purchase of house for use as own residence for the period 2023-24, Rs. 3 lakhs. You are required to compute Income from Flouse property of Mr. Raphael for A.Y. 2024-25 if he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).
(8 Marks, Nov. 2015) (Similar: 4 Marks, May 2017)

Solution: Computation of Income From House Property of Mr. Raphael

(amount in Rs.)-

Let out property [Shopping Complex]		
Gross Annual Value (Rs. 30,000 x 12)		3,60,000
Less: Municipal taxes paid		8,000
Net Annual Value		3,52,000
Less: Deductions under section 24 -		1,05,600
(a) Standard deduction @ 30% of NAV		
(b) Interest on Housing Loan	[WN-2]	2,83,333
		-36,933
Add: Arrears of rent received	[WN-3]	84,000
Income from let out property	**[A]**	**47,067**
Self occupied house:		
Net Annual Value		Nil
Less: Interest on borrowed capital	[WN-1]	-2,00,000
Income From Self occupied property	**[B]**	**-2,00,000**
Income from House property [A] + [B]		**-1,52,933**

Working Notes:

(1) The maximum amount of interest on borrowed capital to be allowed as deduction in case of self occupied house is Rs. 2,00,000.

(2) The pre-construction period starts from 01-08-2021 (date of loan) and ends on 31-03-2022. The interest for the said period i.e. for 8 months shall be - Rs. 25,00,000 x 10% x (8 ÷ 12) = Rs. 166,667. Such interest is deductible in 5 equal annual instalments starting with previous year 2022-23, each installment being Rs. 33,333 (i.e., Rs. 1,66,667 ÷ 5). Interest of Rs. 2,50,000 for current year will be deductible. Therefore, total interest deductible = Rs. 283,333 (i.e., Rs. 33,333 + Rs. 2,50,000).

(3) Taxable value of arrears of rent under section 25A = Rs. 1,20,000 - 30% of Rs. 1,20,000 = Rs. 84,000.

Illustration 25 - Computation of Income from house property: Mr. Aditya, a resident but not ordinarily resident in India during the Assessment Year 2024-25. He owns two house, one in Dubai and the other in Mumbai. The house in Dubai is let out there at a rent of DHS 20,000 p.m. (1 DHS = INR 18). The entire rent is received in India. He paid Property tax of DHS 2,500 and Sewerage Tax DHS 1,500 there, for the Financial Year 2023-24. The house in Mumbai is self-occupied. He had taken a loan of Rs. 25,00,000 to construct the house on 1st June, 2020 @ 12%. The construction was completed on 31st May, 2022 and he occupied the house on 1st v June, 2023. The entire loan is outstanding as on 31st March, 2024. Property tax paid in respect of the second house is Rs. 2,4.00 for the Financial Year 2023-24. Compute the income chargeable under the head "Income from House Property" in the hands of Mr. Aditya for the Assessment Year 2024-25. (5 Marks, Nov. 2017)

Solution: Though Mr. Aditya is a resident but not ordinarily resident in India but the income from property in Dubai will be taxable in India since the rent is received in India.

(amount in Rs.)

Let out property [Dubai House]		
Gross Annual Value (DHS 20,000 x Rs. 18 x 12)		43,20,000
Less: Municipal taxes paid (DHS (2,500 + 1,500) x Rs. 18)		72,000
Net Annual Value		**42,48,000**
Less: Deductions under section 24 -		
(a) Standard deduction @ 30% of NAV		12,74,400
(b) Interest on Housing Loan -		
Income from let out property	[A]	**29,73,600**
Self occupied house :		
Net Annual Value		Nil
Less: Interest on borrowed capital	[WN]	-2,00,000
Income From Self occupied property	[B]	-2,00,000
Income from House property [A] + [B]		**27,73,600**

Working Note: The pre-construction period starts from 01-06-2020 (date of loan) and ends on 31-03-2022. The interest for the said period i.e. for 22 months shall be - Rs. 25,00,000 x 12% x (22 ÷12) = Rs. 550,000. Such interest is deductible in 5 equal annual

instalments starting with previous year 2022-23, each installment being Rs. 1,10,000 (i.e., Rs. 5,50,000÷ 5). Interest for current year is Rs. 3,00,000 (Rs. 25,00,000 x 12% x 1). Therefore, total interest = Rs. 410,000 (i.e., Rs. 1,10,000 + Rs. 3,00,000). Since the house is self-occupied the maximum allowable interest is Rs.2,00,000.

Illustration 26 - Compulation of Income from house property: Mrs. Disha Khanria, a resident of India, owns a house property at Bhiwani in Haryana. The Municipal value of the property is Rs. 7,50,000, Fair Rent of the property is Rs. 6,30,000 and Standard Rent is f 7,20,000 per annum. The property was let out for Rs. 75,000 per month for the period April 2023 to December 2023.

Thereafter, the tenant vacated the property and Mrs. Disha Khanna used the house for self-occupation. Rent for the months of November and December 2023 could not be realized from the tenant. The tenancy was bonafide but the defaulting tenant was in occupation of another property of the assessee, paying rent regularly.

She paid municipal taxes @ 12% during the year and paid interest of Rs. 35,000 during the year for amount borrowed towards repairs of the house property.
You are required to compute her income from "House Property" for the A.Y. 2024-25. (7Marks, Nov. 2018-NS)

Solution: Computation of Income from House Property (amount in Rs.) -

Annual value	[WN-1]	7,20,000
Less: Municipal taxes paid (Rs. 7,50,000 x 12%)		90,000
Net Annual Value (NAV)		6,30,000
Less: Deductions u/s 24 -		
(a) Standard deduction @ 30% of NAV		1,89,000
(b) Interest on borrowed capital		35,000
Income from House Property		4,06,000

Working Notes:

(1) Where the property is let for a part of a year and self-occupied for remaining period, the benefit of self-occupation shall not be available and the annual value shall be determined as per Section 23(1)(a).

Thus, annual value =

(a) Expected Rent i.e. Municipal Value 7,50,000) or Fair Rent (f 6,30,000) whichever is higher subject to maximum of Standard Rent (Rs. 7,20,000) i.e. Rs. 7,20,000; or

(b) Actual Rent i.e. Rs. 75,000 x 9 = Rs. 675000; whichever is higher.

(2) Unrealised Rent cannot be deducted from actual rent since the conditions of Rule 4 have not been satisfied.

5.Profit and Gain of Business or Profession

Illustrations

Illustration 1 - Computation of depreciation - Impact of cash payment on actual cost: From the following data, calculate the depreciation admissible to an individual carrying on trading business :

	Amount in Rs.
Plant and Machinery (Block Rate 15%) (WDV of Plant A and Plant B on 01-04-2023)	25,00,000
Additions - Plant C on 30-06-2023 (Rs. 5,00,000 is paid in cash and balance Rs. 10,00,000 is paid through account payee cheque)	15,00,000
Plant D on 31-12-2023 (Rs. 4,80,000 is paid in cash and balance Rs. 7,20,000 through RTG5 transfer)	12,00,000
Sales - Plant A on 01-12-2023	6,00,000

Solution: Where the assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds Rs. 10,000, such expenditure shall be ignored for the purposes of determination of actual cost.
Thus, Actual cost of Plant C will be Rs. 10,00,000 i.e. [Rs. 15,00,000 - Rs. 5,00,000] and Plant D will be Rs. [12,00,000 - 4,80,000] = Rs. 7,20,000

Computation of the amount of depreciation allowable (amounts in Rs.) –

WDV as on 01-04-2023	25,00,000
Add: Actual cost of asset acquired during the year -	
30-06-2023	10,00,000
31-12-2023	7,20,000
	42,20,000
Less: Sale proceeds of Plant A on 1-12-2023	6,00,000
WDV	**36,20,000**
Less: Depreciation (7.5% of Rs. 7,20,000 and 15% of Rs. 29,00,000)	4,89,000
Depreciated value as on 31-03-2024	**31,31,000**

Working Note: Depreciation is allowed to the extent of 50% as the asset is used for less than 180 days during the previous year. Thus, depreciation on Plant D acquired on 31-12-2023 shall be allowed @ 7.5% of Rs. 7,20,000.

Illustration 2 - Conversion of use of building - depreciation: Compute the amount of depreciation allowable in the following cases - Dr. Jolly purchased a house property on 1-12-2021 for Rs. 10,00,000. Till 1-12-2023, the same was self- occupied as a residence. On this date, the building was brought into use for his medical profession. Rate of depreciation on buildings at the time of purchase of house property was 15%. (CS June 2001)

Solution: As per Explanation 5 to section 43(1), building previously the property of the assessee, is now brought into use for the purpose of business of the assessee, the actual cost shall be the actual cost of the building as reduced by the depreciation that would have been allowed, had the asset been used for business purpose since the date of its acquisition. The rate of depreciation to be applied is the rate in force in the year in which building is brought into business use i.e. 10%.

Computation of the amount of depreciation allowable (amounts in Rs.) -

WDV as on 31-3-2022	10,00,000
Less: Depreciation @ 5% of Rs. 10,00,000 [WN]	50,000
WDV as on 01-04-2022	9,50,000
Less: Depreciation (10% of Rs. 9,50,000)	95,000
WDV as on 1-4-2023 (Actual cost of building)	8,55,000
Depreciation for the current year (10% of Rs. 8,55,000)	85,500

Working Note: Depreciation is allowed to the extent of 50% as the asset is used for less than 180 days during the previous year.

Illustration 3 - Computation of depreciation : A car purchased by S on 10-08-2018 for Rs. 3,25,000 for personal use is brought into the business of the assessee on 01-12-2023, when its market value is Rs. 1,50,000. Compute the actual cost of the car and the amount of depreciation for the assessment year 2024-25 assuming the rate of depreciation to be 15%. **(4 Marks, Nov. 2004)**

Solution: As per Explanation 5 to section 43(1), building previously the property of the assessee, is now brought into use for the purpose of business of the assessee, the actual cost shall be the actual cost of the building as reduced by the depreciation that would have been allowed, had the asset been used for business purpose since the date of its acquisition. However, it does not provide any mode for a motorcar which is brought into business use after being initially used for personal purposes.

Therefore, Actual cost of motorcar brought into business use = actual cost to assessee = Rs. 3,25,000. (The market value of motorcar as on date of bringing it into business use is irrelevant)

Thus, actual cost of car = Rs. 3,25,000 & depreciation = 7.5% of 3,25,000 = Rs. 24,375 (since the car was used for less than 180 days in the previous year).

Illustration 4 - WDV exists but there is no asset in the block: WDV of the block as on April 1, 2023 is Rs. 15,00,000; rate of depreciation = 15%.

(i) Assets, falling within the block, are purchased during the year for Rs. 5,00,000.

(ii) Sale of entire block = Rs. 8,80,000. Determine the tax consequences.

Solution: WDV of the block as on 31st March 2024 **(amounts in Rs.)**

-

Opening WDV	15,00,000
	5,00,000
Add: Actual cost of the asset acquired during the year	20,00,000
Less: Moneys payable in respect of entire block sold during the year	8,80,000
WDV as on 31-3-2024 (as block ceases to exist)	-
Depreciation admissible	-
Short term capital Loss (Rs. 20,00,000 - Rs. 8,80,000)	**11,20,000**

Illustration 5 - Block exists but there is no WDV: Mr. Prakash has the following assets which are eligible for depreciation at 15% on Written Down Value (WDV) basis:

01-04-2020	WDV of plant 'X' and Plant 'Y'	Rs. 2,00,000
10-12-2023	Acquired a new plant 'Z' for	Rs. 2,00,000
22-01-2024	Sold Plant Y for	Rs. 4,00,000
	Expenditure incurred in connection with transfer	Rs. 10,000

Compute eligible depreciation claim/chargeable capital gain if any. (7 Marks, PCC May 2010)

Solution: Computation of capital gain/depreciation claim of Mr. Prakash (amount in Rs.) -

Sale proceeds of Plant Y		**4,00,000**
Less: Deduction under section 50(1)		
Purchase of new Plant 'Z'	2,00,000	
WDV as on 1-4-2023 of Block comprising of Plants 'X' and 'Y [WN-1]	1,22,825	
Expenditure incurred in connection with such transfer	**10,000**	**3,32,825**
Short-term capital gains for 2023-24 (Assessment Year 2023-24)		**67,175**

Working Notes:

(1) Computation of WDV: **(amount in Rs.)**

WDV as on 1-4-2019 of Block comprising of Plants 'X' and 'Y'	2,00,000
Less: Depreciation for previous year 2020-21 @ 15%	30,000
WDV as on 1-4-2021	**1,70,000**
Less: Depreciation for previous year 2021-22 @ 15%	25,500
WDV as on 1-4-2022	**1,44,500**
Less: Depreciation for previous year 2022-23 @ 15%	21,675
WDV as on 1-4-2023	**1,22,825**

(2) Since the block is reduced to Nil, hence, no depreciation shall be admissible for assessment year 2024-25.

Illustration 6 - Computation of depreciation: From the following data, calculate the depreciation admissible to an individual carrying on trading business :

	(amounts in Rs.)
Factory Building (WDV)	5,00,000
Plant and Machinery (WDV):	8,00,000
Additions - 30-06-2023	1,00,000
31-12-2023	1,00,000
Sales - 01-12-2023	6,00,000

Computer Addition 1-1-2024. (Rs. 60,000 is paid through A/ c payee cheque and balance in cash)	80,000
Furniture and Fixtures (WDV)	1,00,000
Motor-car (WDV) (Nov. 2000)	**60,000**

Solution: The admissibility of depreciation shall be computed as follows (amount in

Particulars	**Block 1 – Plant & Machinery (15%)**	**Block 2 - Furniture & Fittings (10%)**	**Block 3 - Factory Building (10%)**	**Block 5 - Computer (40%)**
WDV as on 1-4-2023	8,60,000	1,00,000	5,00,000	Nil
Add: Actual cost of asset acquired during the year -				
30-06-2023	1,00,000	Nil	Nil	Nil
31-12-2023 & 1-1-2024	1,00,000	Nil	Nil	60,000
	10,60,000	**1,00,000**	**5,00,000**	**60,000**
Less: Sales (1-12-2023)	6,00,000	Nil	Nil	Nil
WDV as on 31-3-2024	**4,60,000**	**1,00,000**	**5,00,000**	**60,000**
Less: Depreciation at block rate	61,500	10,000	50,000	12,000
WDV as on 1-4-2024	**3,98,500**	**90,000**	**4,50,000**	**48,000**

Working Notes:

(1) Since assessee is carrying on trading business, no additional depreciation is admissible.

(2) Since the new plant acquired during the previous year is put to use for less than 180 days depreciation on such plant is calculated at half of the block rate. Hence, depreciation on Plant & Machinery = 15% of Rs. 3.6 lakh + 50% of 15% of Rs. 1 lakh (since used for less than 180 days) = 61,500.

(3) Though purchase price of computer is Rs. 80,000 but Rs. 20,000 is paid in cash, hence its actual cost will be Rs. 80,000 - Rs. 20,000 = Rs. 60,000. Since the new computer acquired during the previous year is put to use for less than 180 days, hence depreciation on such computer is calculated at half of the block rate. Depreciation on computer = 50% of 40% of Rs. 60,000 = Rs. 12,000.

Illustration 7 - Computation of depreciation: A newly qualified Chartered Accountant Mr. Dhaval, commenced practice and has acquired the following assets in his office at the cost shown against each item. Calculate the amount of depreciation that can be claimed from his professional income:

No.	Description	Date of Acquisition	Date when put to use	Amount (Rs.)
(a)	Computer	27 Sept. 2023	2 Oct., 2023	35,000
(b)	Computer software	2 Oct., 2023	4 Oct., 2023	8,500
(c)	Computer printer	2 Oct., 2023	3 Oct., 2023	12,500
(d)	Books (of which books being annual Publications are of Rs.12,000)	1 Apr., 2023	1 Apr., 2023	13,000
(e)	Office furniture (Acquired from practicing CA.)	1 Apr., 2023	1 Apr., 2023	3,00,000
(f)	Laptop	26 Sept., 2023	4 Oct., 2023	43,000
(g)	Fire extinguisher	1 Apr., 2023	No instance arose to use during F.Y. 2023-24	2,500
(h)	Purchased practicing CA's office in April 2023 who had run it for 4 years, for Rs. 5 lakhs which includes Rs. 2 lakhs for goodwill and Rs. 3 lakhs for cost of furniture (included in (e) above)			

Note: Depreciation is to be provided at the applicable rates. (Take 365 days in a year) (8 Marks, May 2007)

Solution: Computation of depreciation allowable (amounts in Rs.) -

Particulars	Block 1 (Computer, Computer software. Laptop & Books being non- annual publications, Books being Annual publications) - 40%	Block 2 (Furniture) - 10%	Block 4 (Fire Extinguisher & Computer Printer) -15%
Assets put to use for 180 days or more	60,500	3,00,000	2,500
Assets put to use for less than 180 days	51,500	Nil	Nil
Allowable Depreciation	34,500	30,000	375

Working Notes:

(1) Goodwill of profession is not eligible for depreciation.

(2) Depreciation on fire extinguisher will be available even if it is not actually put to use because of its nature.

(3) Computer printer is eligible for depreciation at rate of computer.

Illustration 8 - Computation of depreciation : Mr. Rangamannar resides in Delhi. As per new rule in the city, private cars can be plied in the city only on alternate days.
He has purchased a car on 21-09-2023, for the purpose of his business as per following details:

	Rs.
Cost of car (excluding GST)	12,00,000
Add: Delhi GST at 14%	1,68,000
Add: Central GST at 14%	1,68,000
Total price of car	**15,36,000**

He estimates the usage of the car for personal purposes will be 25%. He is advised that since the car has run only on alternate days, half the depreciation, which is otherwise allowable, will be actually allowed. He has started using the car immediately after purchase.
Determine the depreciation allowable on car for the assessment year 2024-25, if this is the only asset in the block. If this car were to be used in the subsequent assessment year 2025-26 on the same terms and conditions above, what will be the depreciation allowable Rs. Assume that there is no change in the legal position under the Income-tax Act, 1961. (4 Marks, Nov. 2018-NS)

Solution: According to Section 32, if an asset is acquired by the assesses during the previous year and the same is put to use for less than 180 days during that previous year, then the depreciation will be limited to 50% of the depreciation allowable on such asset as per the rate prescribed in Rule 5(1). Since the car was ready for use for more than 180 days, the date of purchase being 21-09-2023 (the date when car was put to use), hence depreciation will be allowed on such car at full rate.
Since, no input tax credit is admissible of CGST and SGST paid in respect of motor vehicles (subject to certain exceptions), the actual cost of car shall be Rs. 15,36,000.
Where any motor car is not exclusively used for the purposes of business or profession, then the deduction u/s 32 shall be restricted to a fair proportionate part thereof which is used for the purpose of business. The amount of depreciation actually allowed shall be reduced from the written down value to find out depreciated value of the block of asset.
Thus, taking into account the above observations depreciation shall be computed as under

(amount in Rs.):

Assessment Year 2024-25 :		
Actual cost of car		15,36,000
Less: Depreciation @ 15% of Rs. 15,36,000	2,30,400	
Less: Disallowed as per Section 38(2) for personal use [25%]	57,600	**1,72,800**
Depreciated value of the block at the end of year		**13,63,200**
Assessment Year 2025-26:		
Depreciated value of the block at the beginning of year		13,63,200
Less: Depreciation @ 15% of Rs. 13,63,200	2,04,480	
Less: Disallowed as per Section 38(2) for personal use [25%]	51,120	**1,53,360**
Depreciated value of the block at the end of year		**12,09,840**
Thus, depreciation allowable for A.Y. 2024-25 is Rs. 1,72,800 and for A.Y. 2025-26 is Rs. 1,53,360.		

Illustration 9 - Section 43A & Section 32: M/s. Y Industries Ltd. purchased a plant worth USD 8 lakh on 1-4-2022 on which date the rate of exchange was Rs.80. The consideration towards the plant was payable in 3 instalments of USD 3 lakh, 2.6 lakh and 2.4 lakh respectively on 1-1-2023, 1-7-2023 and 1-1-2024; the rate of exchange being Rs.82, Rs.78 and Rs.81 respectively. Compute the amount of depreciation allowable on the plant for the two assessment years, assuming the rate of depreciation to be 15%.

Solution: Computation of depreciation on the plant, assuming it to be the only asset in the block **(amount in Rs.)**

Actual cost on the date of acquisition [8 lakh × 80]	6,40,00,000
Add: Forex diff. arising out of increase in liability u/s 43A on 1-1-2023 [₹3 lakh × (82-80)]	6,00,000
Actual cost for the purposes of section 43(1)/WDV as on 31-3-2023	**6,46,00,000**
Less: Depreciation @35% (Normal @ 15% + Additional @ 20%) - Depreciation will be allowed for the whole of the year, as the asset has been put to use for more than 180 days during the previous year; the date of increase in liability u/s 43A shall not affect depreciation.	2,26,10,000
WDV as on 1-4-2023	**4,19,90,000**
Less: Forex diff. arising out of decrease in liability u/s 43A on 1-7-2023 [₹2.6 lakh × (80 - 78)]	-5,20,000
Add: Forex diff. arising out of increase in liability u/s 43A on 1-1-2024 [₹ 2.4 lakh × (81 - 80)]	2,40,000
WDV as on 31-3-2024	**4,17,10,000**
Less: Depreciation @ 15%	62,56,500
WDV as on 1-4-2024	**3,54,53,500**

Illustration 10 -Apportionment of Depreciation: Mr. Gopi carrying on business as proprietor converted the same into a limited company by name Gopi Pipes (P) Ltd. from 01-07-2023. The details of the assets are given below:

Block -1 WDV of plant & machinery (rate of depreciation @ 15%)	12,00,000
Block -II WDV of building (rate of depreciation @ 10%)	25,00,000

The Company Gopi Pipes (P) Ltd. acquired plant and machinery in December 2023 for 110,00,000. It has been doing the business from 01-07-2023.

Compute the quantum of depreciation to be claimed by Mr. Gopi and successor Gopi Pipes (P) Ltd. for the A.Y. 2024-25.
Note : Ignore additional depreciation. (4 Marks, Nov. 2014)

Solution: The amount of depreciation in any previous year, on tangible and intangible assets, allowable to Sole Proprietor and Private limited company shall be maximum upto the depreciation calculated at prescribed rates, had such conversion not taken place. Such depreciation shall be apportioned between predecessor and successor, in the ratio of the number of days of use of assets by them during that previous year.

Apportionment of Depreciation:
No. of days in the year = 366;Date of conversion = 01-07-2023

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Asset	Total Depreciation (WDV on 1-4-2023 x Dep. Rate)	Total Days used	Days used by Gopi Proprietor	Days used by Gopi Pipes (P) Ltd.	Allowable Deprecation to Gopi Proprietor	Allowable depreciation Gopi Pipes (P) Ltd
Buildings	2,50,000	366	91	275	62,158	1,87,842
Plant & Machinery	1,80,000	366	91	275	44,754	1,35,246
New Plant and machinery	75,000	-	-	Less than 180 days	-	75,000
Total	**5,05,000**				**1,06,912**	**3,98,088**

Illustration 11 - Apportionment of Depreciation: Sai Ltd. has a block of assets carrying 1.5% rate of depreciation, whose written down value on 01-04-2023 was Rs. 40 lacs. It purchased another asset of the same block on 01-11-2023 for Rs. 14.40 lacs and put to use on the same day. Sai Ltd. was amalgamated with Shirdi Ltd. with effect from 01-01-2024.
Compute the depreciation allowable to Sai Ltd. & Shirdi Ltd. for the previous year ended on 31-03-2024 assuming the assets transferred of Shirdi Ltd. at Rs. 60 lacs.(8 Marks, IPCC Nov. 2010)

Solution: The amount of depreciation in any previous year, on tangible and intangible assets, allowable to amalgamating company and amalgamated company shall not exceed the depreciation calculated at prescribed rates, had such amalgamation not taken place. Such depreciation determined shall be apportioned between amalgamating company and amalgamated company, in the ratio of the number of days of use of assets by them during that previous year.

Apportionment of Depreciation: Number of days in the year = 366; Date of amalgamation = 01-01-2024.

H h	Total Depreciation	Total Days used	Days used by Sai	Days used by Shirdi	Sai Ltd.	Shirdi Ltd.
(a) On opening balance [WN-1]	6,00,000	366	275	91	4,50,820	1,47,180
(b) Additions made by by Sai Ltd. [WN-2]	1,08,000	152	61	91	43,342	64,658
Total	**7,08,000**				**4,94,162**	**2,13,838**

Working Notes:

(1) Statement showing computation of depreciation:

WDV as on 1-04-2023	40,00,000
Add: Actual cost of asset acquired during the year (used for less than 180 Days)	14,40,000
Depreciation on Rs. 40,00,000 @ 15%	6,00,000
Depreciation on Rs. 14,40,000 @ 7.5%	1,08,000

(2) The price at which the assets were transferred, i.e., Rs. 60 lacs, has no effect on depreciation.

Illustration 12 - Computation of depreciation and additional depreciation: GP Ltd. was incorporated on 31-12-2022 for manufacture of tyres and tubes for motor vehicles in Rajasthan. The manufacturing unit was set up on 30-4-2023. The company commenced its operations on 01-05-2023. The total cost of the plant and machinery installed in the unit is Rs. 10 crores. The said plant and machinery included second-hand plant and machinery bought for Rs. 1 crores and new plant and machinery for scientific research relating to the business of the assessee acquired at a cost of Rs. 1 crores. Out of the said plant and machinery, new plant and machinery acquired at cost of Rs. 2 crores was put to use on 14-12-2023.
Compute the amount of depreciation allowable u/s 32 of the Income-tax Act, 1961 in respect of the assessment year 2024-25 and assessment year 2025-26. Furnish explanations in support of your computation. **(4 Marks, May 2007)**

Solution: Computation of depreciation allowable for the assessment year 2023-24 to GP Ltd. **(Rs. crores):**

Total cost of plant and machinery			
Less: Used for Scientific Research	[WN-1]	1	
Cost eligible for normal depreciation		**9**	
Normal depreciation at 15% of Rs. 7 crores (since put to use for not less than 180 days):		1.05	
Normal depreciation at 7.5% of Rs. 2 crores (since put to use for less than 180 days)		0.15	1.20
Additional Depreciation			
Cost of plant and machinery		10	
Less: Second hand plant and machinery	[WN-2]	1	
Plant and machinery used for scientific research	[WN-2]	1	
Cost eligible for additional depreciation		**8**	
Additional Depreciation at 20% of actual cost of Rs. 6 crores (put to use not less than 180 days)		1.2	
Additional Depreciation at 10% of actual cost of Rs. 2 crores (put to use for less than than 180 days)		0.2	1.40
Depreciation allowable for AY 2024-25 under section 32			**2.60**
Depreciated value of plant and machinery [Rs. 9 crores – Rs. 2.6 crores]			**6.40**

Computation of depreciation allowable for the assessment year 2025-26 to GP Ltd. (Rs. crores):

Depreciated value of Plant and machinery as on 01-04-2024		6.40
Normal depreciation at 15% of Rs. 6.4 crores	0.96	
Cost of plant and machinery 2 crores x 10%] [WN-3]	0.20	1.16
Depreciated value of plant and machinery 6.4 crores - Rs. 1.16 crores]		**5.24**

Working Notes:

(1) As per section 35(2) (iv), no depreciation shall be allowed in respect of plant and machinery purchased for scientific research relating to assessee's business, since the entire expenditure is deductible under section 35.

(2) No additional depreciation will be allowed on second hand plant and machinery as well as plant and machinery used for scientific research.

(3) Where an asset is acquired by the assessee during the previous year and is put to use for the purposes of business for a period of less than 180 days in that previous year, and the additional depreciation in respect of such asset is restricted to 10% of the actual cost for that previous year, then, the deduction for the balance additional depreciation i.e. 10% of the actual cost of such asset shall be allowed in the immediately succeeding previous year in respect of such asset.

Illustration 13 - Computation of depreciation and additional depreciation: Venus Ltd., engaged in manufacture of pesticides, furnishes the following particulars relating to its manufacturing unit at Chennai (for the year ending 31-03-2024):

	(Rs. in lacs)
Opening WDV of Plant and Machinery	20
New machinery purchased on 1-9-2023	10
New car purchased on 1-12-2023	8
Computer purchased on 3-1-2024	4

Additional information:

- All assets were put to use immediately.
- Computer has been installed in the office.
- During the year ended 31-3-2023, a new machinery had been purchased on 31-10-2022, for Rs. 10 lacs. Additional depreciation, besides normal depreciation, had been claimed thereon.
- Depreciation rate of machinery may be taken as 15%.

Compute the depreciation available to the assessee as per the provisions of the Income-tax Act, 1961 and the WDV of different blocks of assets as on 31-3-2024. **(8 Marks, May 2016)**

Solution: Computation of depreciation and the WDV of different blocks of asset as on 31-03-2024 **(amount in Rs.)**

Particulars	**Block I (Plant & Machinery) & (Car) Block Rate 15%**	**Block II (Computer) Block Rate 40%**
Opening WDV [Opening WDV in case of car is Nil]	20,00,000	Nil
Add: Assets acquired during the previous year 10,00,000 + Rs. 8,00,000) (Computer = Rs. 4,00,000)	18,00,000	4,00,000

Less: Moneys payable in respect of assets sold during the year	Nil	Nil
WDV as on 31-3-2024 eligible for depreciation	38,00,000	4,00,000
Less: (a) Normal Depreciation - On car (Rs.8,00,000 x 7.5%, since used for less		
than 180 days and balance WDV i.e. Rs.30,00,000 x 15%) - On Computer		
(Rs. 4,00,000 x 40% x 50%,since used for less than 180 days)	5,10,000	80,000
(b) Additional Depreciation - On plant (Rs. 10,00,000 x 20%, since used for more than 180 days) [WN]	2,00,000	-
(c) Additional Depreciation - On plant (Rs. 10,00,000 x 10%, since purchased in FY2022-23 and put to use for less than 180 days) [WN]	1,00,000	-
WDV as on 1-4-2024	**29,90,000**	**3,20,000**

Working Notes:

(1) In case of new machinery of Rs. 20,00,000, additional depreciation is calculated @ 20% of actual cost since the asset is acquired during the previous year and put to use for a period of not less than 180 days.

(2) Since the computer is installed in office building, the same shall not be eligible for additional depreciation.

(3) Where an asset is acquired by the assessee during the previous year and is put to use for the purposes of business for a period of less than 180 days in that previous year, and the additional depreciation in respect of such asset is restricted to 10% of the actual cost for that previous year, then, the deduction for the balance additional depreciation i.e. 10% of the actual cost of such asset shall be allowed in the immediately succeeding previous year in respect of such asset. Hence, on plant of Rs. 10,00,000 which was purchased in FY 2022-23 and put to use for less than 180 days in that year, the remaining additional depreciation @ 10% is allowed in FY 2023-24.

Illustration. 14 Computation of depreciation and additional depreciation: An industrial undertaking which has commenced the manufacturing activity has acquired the following assets during the previous year **(amount in Rs.):**

Assets	**Date of acquisition**	**Date when put to use**	**Cost of acquisition**
Factory buildings	4-4-2023	1-9-2023	50,00,000
Plant and Machinery:			
Air pollution control equipment	4-5-2023	1-9-2023	4,00,000
Machinery A	5-5-2023	1-9-2023	2,00,000
Machinery B	7-6-2023	1-9-2023	5,00,000
Machinery C	30-8-2023	1-9-2023	10,00,000
Machinery D	1-9-2023	31-10-2023	4,00,000
Machinery E	1-1-2024	28-2-2024	3,00,000
Machinery F (second hand)	11-1-2024	13-1-2024	2,00,000
Motor car	1-2-2024	1-2-2024	5,00,000
Air conditioner (installed in the office)	1-2-2024	2-2-2024	1,00,000

Compute depreciation allowable and the WDV. **(CS Dec. 2005)**

Solution: Computation of depreciation and WDV (amount in Rs.) -

Nature of Asset	Actual Cost	Rate of Depreciation	Normal Depreciation	Additional Depreciation	WDV as on 1-4-2024
Factory buildings	50,00,000	10%	5,00,000	-	45,00,000
Plant & machinery:					
Air pollution control equipment	4,00,000	40%	1,60,000	80,000	1,60,000
Machinery A, B & C	17,00,000	15%	2,55,000	3,40,000	11,05,000
Machinery D&E (used for less than 180 days)	7,00,000	15%	52,500	70,000	5,77,500
Machinery F&AC (used for less than 180 days)	3,00,000	15%	22,500	Not Eligible	2,77,500
Motor car (used for less than 180 days)	5,00,000	15%	37,500	Not Eligible	4,62,500

Working Notes:

(1) No Additional depreciation shall be allowed in respect of -
(a) Machinery F (second hand) which before its installation by the assessee, was used by any other person;
(b) Air conditioner since the same is installed in any office premises;
(c) Motor Car since it is road transport vehicles; or
(2) In case of Machinery D and E additional depreciation is calculated @ 10% of actual cost since the asset is acquired during the previous year and put to use for a period of less than 180 days.

Illustration 15 - Computation of depreciation and additional depreciation: Gopichand Industries furnishes you the following information: (amount in Rs.)

On 1-4-2023 -		
Block I: Plant and machinery (consisting of 10 looms) Rate of depreciation 15%	WDV	5,00,000
Block II: Buildings (consisting of 3 buildings) Rate of depreciation 10%	WDV	12,50,000
Acquired on 5-7-2023 - 5 looms for		4,00,000
Sold on 7-12-2023 -15 looms for		10,00,000
Acquired on 10-1-2024 - 2 looms for		3,00,000

Compute depreciation claim if assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).

Solution: Computation of depreciation claim (amount in Rs.) –

Particulars	Block I (Plant)	Block II (Buildings)
Opening WDV	5,00,000	12,50,000
Add: Assets acquired during the previous year (Rs. 4,00,000 + Rs. 3,00,000)	7,00,000	-
	12,00,000	12,50,000
Less: Moneys payable in respect of assets sold during the year	10,00,000	-
WDV as on 31-3-2024 eligible for depreciation	**2,00,000**	**12,50,000**
Less: (a) Normal Depreciation (Rs.2,00,000 x 7.5%, since used for less than 180 days)	15,000	1,25,000
(b) Additional Depreciation (Rs.3,00,000 x 10%, since used for less than 180 days) [WN]	30,000	-
WDV as on 1-4-2024	**1,55,000**	**11,25,000**

Working Note:

In case if plant is acquired during the year and is sold in the same year then no additional depreciation on the same shall be admissible. Hence, no additional depreciation can be claimed on 5 looms which were sold in the year of acquisition. The balance additional depreciation amounting Rs. 30,000 will be allowed in the immediately succeeding previous year.

No additional depreciation is admissible on building.

Illustration 16 - Computation of depreciation and additional depreciation: Mr. Abhimanyu is engaged in the business of generation and distribution of electric power. He always opts to claim depreciation on written down value for income-tax purposes. From the following details, compute the depreciation allowable as per the provisions of the Income-tax Act, 1961 for the assessment year 2024-25 : **(4 Marks, Nov. 2013)**

(i)	Opening WDV of block (15% rate)	42
(ii)	New machinery purchased on 12-10-2023	10
(iii)	Machinery imported from Colombo on 12-04-2023 This machine had been used only in Colombo earlier and the assessee is the first user in India.	9
(iv)	New computer installed in generation wing of the unit on 15-07-2023.	2

Solution: Computation of depreciation (amount in Rs.):

Particulars	Block I (Plant) Block Rate 15%	Block II (Computer) Block Rate 40%
Opening WDV	42,00,000	Nil
Add: Assets acquired during the previous year (Rs. 10,00,000 + Rs. 9,00,000)	19,00,000	2,00,000
Less: Moneys payable in respect of assets sold during the year	Nil	Nil
WDV as on 31-3-2024 eligible for depreciation	61,00,000	2,00,000
Less: (a) Normal Depreciation - On plant (Rs. 10,00,000 x 7.5%, since used for less than 180 days and balance WDV i.e. Rs. Rs. 51,00,000 x 15%) - On Computer (Rs.2,00,000 x 40%)	8,40,000	80,000
(b) Additional Depreciation - On plant (Rs. 10,00,000 x 10%, since used for less than 180 days) - On computers (Rs.2,00,000 x 20%) [WN]	1,00,000	40,000
WDV as on 1-4-2024	**51,60,000**	**80,000**

Working Notes:

(1) No Additional depreciation shall be allowed in respect of Machinery imported from Colombo which before its installation by the assessee, was used by any other person.

(2) In case of new machinery of Rs.10,00,000, additional depreciation is calculated @ 10% of actual cost since the asset is acquired during the previous year and put to use for a period of less than 180 days. The balance additional depreciation amounting Rs. 1,00,000 will be allowed in the immediately succeeding previous year.

(3) Since the computer is installed in generation wing of the unit, the same shall be eligible for additional depreciation @ 20% i.e. Rs. 2,00,000 x 20% = Rs. 40,000.

Illustration 17- Balancing charge and terminal depreciation in case of power generating undertakings: Determine the tax consequences in following cases for assessment year 2024-25

(a) XYZ Co., an undertaking established in 2015 for generation and distribution of power, has opted for SLM method of depreciation. The written down value of its machinery as on 1-4-2023 was Rs. 6,60,000. The machinery is sold for Rs. 4,60,000 on 1-5-2023.

(b) ABC Co., a power-generating unit (opted for SLM), has purchased machinery on 1-5-2023 for Rs. 10,00,000 which is destroyed by fire on 15-10-2023 and an insurance claim of Rs. 8,80,000 is received on 31-1-2024.

(c) X A Co., an undertaking established in 2020 for generation of power, has opted for SLM method of depreciation. The company purchased a machinery for Rs. 5,00,000. The written down value of its machinery as on 1-4-2023 is Rs. 3,50,000. The machinery is sold for Rs. 7,65,000 on 1-12-2023.

Solution: The tax consequences in aforesaid cases shall be as follows -

(a) Here, monies payable is less than WDV, hence there shall be allowed deduction for terminal depreciation. Therefore, terminal Depreciation u/s 32(1)(iii) = Rs. 6,60,000 - Rs. 4,60,000 = Rs. 2,00,000.

(b) Here, since machine is destroyed in the same previous year in which it is first put to use, hence there is no terminal depreciation. The amount of loss, to the extent not reimbursed by insurance company, shall be treated as Short- Term Capital Loss. Therefore, STCL = Rs. 10,00,000 – Rs.8,80,000 = Rs. 1,20,000.

(c) Here, monies payable is greater than WDV.
Therefore, Balancing Charge u/s 41(2) = [(Lower of Rs. 5,00,000 or Rs. 7,65,000) - Rs. 3,50,000] = Rs. 1,50,000; and Short-Term Capital Gains = Rs. 7,65,000 – Rs. 5,00,000 = Rs. 2,65,000.

Illustration 18 - Expenditure on Scientific research : Mr. Praveen Kumar has furnished the following particulars relating to payments made towards scientific research for the year ended 31-3-2024:

(Rs. in lacs)

(i)	Payments made to K Research Ltd.	20
(ii)	Payment made to LMN College	15
(iii)	Payment made to OPQ College	10
	Note: K Research Ltd. and LMN College are approved research institutions and these payments are to be used for the purposes of scientific research.	
(iv)	Payment made to National Laboratory	8
(v)	Machinery purchased for in-house scientific research	25
(vi)	Salaries to research staff engaged in in-house scientific research	12

Compute the amount of deduction available under section 35. (4 Marks, IPCC May 2011)

Solution: Computation of deduction under section 35 of the Act –

(i) If Mr. Praveen Kumar is paying tax under default tax regime under section 115BAC :

Particulars	Section	Rs.	% of Weight	Deduction
(i) Payments made to K Research Ltd. (approved company)	35(1)(iia)	20,00,000	Not Allowed	Nil
(ii) Payment made to LMN College approved institution	35(1)(ii)	15,00,000	Not Allowed	Nil
(iii) Payment made to OPQ College	-	-	-	-
(iv) Payment to National Laboratory	35(2AA)	8,00,000	Not Allowed	Nil
(v) Machinery purchased for in-house scientific research	35(1)(iv)	25,00,000	100%	25,00,000
(vi) Salaries to research staff engaged in in- house scientific research	35(1)(i)	12,00,000	100%	12,00,000
Total Deduction				**37,00,000**

(ii) If Mr. Praveen Kumar has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A):

Particulars	Section	% of Weight	Qualifying Sum	Dedu1ction
(i) Payments made to K [WN-1] Research Ltd. (approved company)	35(1)(iia)	100%	20,00,000	20,00,000
(ii) Payment made to LMN College - approved institution	35(1) (ii)	100%	15,00,000	15,00,000
(iii) Payment made to OPQ [WN-2] College	-	-	-	-
(iv) Payment to National [WN-3] Laboratory	35(2AA)	100%	8,00,000	8,00,000

(v)	Machinery purchased for in-house scientific research	[WN-4]	35(1)(iv)	100%	25,00,000	25,00,000
(vi)	Salaries to research staff engaged in in-house scientific research		35(1)(i)	100%	12,00,000	12,00,000
	Total Deduction	**[WN-5]**				**80,00,000**

Working Notes:

(1) Payments made to K research Ltd. an Indian company shall be eligible for deduction of 100% u/s 35(1)(iia).

(2) Since in the question it has been specifically provided that K Research Ltd. and LMN College are approved, hence it can be concluded that OPQ college is not an approved research institution. Therefore payment made to OPQ college shall not be eligible for deduction.

(3) Payment to National Laboratory is eligible for deduction under section 35(2AA) @ 100% of the sum so paid.

(4) Mr. Praveen Kumar is an individual shall not be eligible for deduction of 100% for in house research under section 35(2AB) since the same is available only to a company assessee.

(5) Salaries to research staff engaged in in-house scientific research is not eligible for deduction under section 35(2AB) as the said deduction is available only to a company assessee.

Illustration 19 - Expenditure on Scientific research: Vivitha Bio-medicals Ltd. is engaged in the business of manufacture of bio-medical items. The following expenses were incurred in respect of activities connected with scientific research :

Year ended	**Item**	**Rs.**
30-12-2021	Land	10,00,000
(incurred after 1-9-2020)	Building	25,00,000
31-03-2022	Plant and machinery	5,00,000
31-03-2023	Raw materials	2,20,000
31-03-2024	Raw materials and salaries	1,80,000

The business was commenced on 01-09-2023 In view of availability of better model plant and machinery, the existing plant and machinery were sold for Rs. 8,00,000 on 01-03-2024.

Discuss the implications of the above for assessment year 2024-25 along with brief computation of deduction permissible under section 35, assuming that necessary conditions have been fulfilled. **(7 Marks, PCE Nov. 2007)**

Solution: Expenditure incurred (other than cost of land or building) on in-house research and development facility as approved by the prescribed authority, by a company engaged in the business of bio-technology shall be allowed as deduction to the extent of 100% of such expenditure under section 35(2AB).

Expenditure incurred within the 3 years preceding the date in which the business commences, on salary paid to an employee engaged in such scientific research or on the purchase of materials used in such scientific research, or capital expenditure (other than cost of land), shall be allowed as deduction, to the extent of 100% of such expenditure (allowed in the previous year i.e. year of commencement of business). The relevant computation is as under –

- **Computation of amount of deduction under section 35 (amounts in Rs.) -**

Particulars	**Expenditure allowable u/s 35(1)(i) and (iv) at 100%**	**Expenditure allowable u/s 35(2AB) at 100%**
Land	—	—
Building	25,00,000	—
Plant and Machinery	5,00,000	—
Raw material	2,20,000	—
Raw material and salaries	_	1,80,000
Eligible expenditure	32,20,000	1,80,000
Deduction allowable	**32,20,000**	**1,80,000**
Total deduction allowable u/s 35		**34,00,000**

- When the asset is sold without being used for other purposes : In such a case, there shall be deemed profits in the year in which sale took place.
  (a) The taxable amount under section 41(3) shall be = So much of the sale proceeds which do not exceed the amount of deduction allowed under section 35 i.e. Rs. 5 lakhs.
  (b) Capital gains under section 45 = Excess of sale proceeds over the cost of acquisition and expenditure incurred on transfer. Short-term capital gains = Moneys payable - Cost = Rs. 8 lakhs - Rs. 5 lakhs = Rs. 3 lakhs.

Illustration 20 - Deduction of expenditure on Specified Business u/s 35AD: Win Limited commenced the business of operating a three star hotel in Tirupati on 1-4-2023.

(i)	Cost of land (acquired in June 2021)	Rs. 60 lakhs
(ii)	Cost of construction of hotel building :	
	Financial year 2022-23	Rs. 30 lakhs
	Financial year 2023-24	Rs. 150 lakhs
	[Out of expenditure of Rs. 150 lakhs, 11,50,000 is paid in cash to contractor on 10-09-2024 and Rs. 50,000 is paid in cash of 15-01-2024 and balance through account payee cheque.]	
(iii)	Plant and Machinery (all new) acquired during financial year 2023-24	Rs. 30 lakhs
	[All the above expenditures were capitalized in the books of the company]	
	Net profit before depreciation for the financial year 2023-24	Rs. 80 lakhs

Determine the amount eligible for deduction u/s 35AD of the Income tax Act for AY 2024-25. **(4 Marks, PCC May 2011)**

Solution: Computation of amount eligible for deduction u/s 35AD: As per Section 35 AD in case an assessee is engaged in the business of operating a hotel of 2-star or above category (i.e., 3-star category) on or after 1-4-2010, it is eligible for deduction under section 35AD. Since Win Ltd. is engaged in the business of operating a hotel of 3-star category, hence, it is eligible for deduction under section 35AD. Deduction shall be allowed in respect of the capital expenditure incurred in the earlier years (i.e. years earlier than the previous year 2023-24, as the expenditure has been capitalized in the books of accounts in the current financial year; and the expenditure incurred in the previous year Any expenditure of capital nature shall not include any expenditure in respect of which the payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, exceeds Rs. 10,000 or any expenditure incurred on the acquisition of any land or goodwill or financial instrument.

The relevant computations are (Rs.in lakhs) –

Net profit before depreciation for the financial year 2023-24		80
Cost of construction of hotel building (Rs. 148 + Rs. 30) (Rs. 1.5 and Rs. 0.5 lakhs shall not be eligible Less: Deduction u/ s 35AD for deduction since the same is paid in cash)	-178	
Plant and Machinery (all new) acquired during financial year 2023-24	-30	-208
Loss to be carried forward under section 73A for indefinite period (to be set-off only against business specified in section 35AD)		-128

Illustration 21 - Consequences of misutilisation of asset whose deduction is claimed u/s 35AD : XYZ Ltd. commenced business of production of fertilizer on 1-4-2021. The company purchased plant and machinery for manufacture of the fertilizer amounting Rs. 100 lakhs for which deduction was claimed under Section 35AD. In financial year 2023-24 the said asset was used for non specified business. You are required to determine the tax implications of the said transaction in hands of XYZ Ltd.

Solution : According to Section 35AD(7B), if any asset is used for any purpose other than the specified business, the total amount of deduction so claimed and allowed in any previous year in respect of such asset, as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction had been allowed under section 35AD, shall be deemed to be income of the assessee chargeable under the head **"Profits and gains of business or profession"** of the previous year in which the asset is so used. Hence, the relevant computation will be as under:

(Rs.in lakhs)

Total amount of deduction claimed and allowed in respect of such asset u/ s 35AD	100
Less: Depreciation eligible under Section 32 in respect of such asset [WN]	44.75
Deemed profits u/s 35AD	**55.25**
Actual Cost of asset	100
Less: Depreciation eligible under Section 32 (including additional depreciation) for FY 2021-22	35

WDV	65
Less: Depreciation eligible under Section 32 for FY 2022-23	9.75
WDV as on 01-04-2023	55.25
Deduction admissible on account of depreciation for FY 2021-22 and 2022-23	**44.75**

Illustration 22 - Amortisation of preliminary expenses : Jardine Ltd., is an existing Indian Company, which sets up a new industrial unit. It incurs the following expenditure in connection with the new unit **(amounts in Rs.):**

Preparation of project report	4,00,000
Market Survey	5,00,000
Legal and other charges for issue of additional capital required for the new unit	2,00,000
Total	**11,00,000**
The following further data is given :	
Cost of project	30,00,000
Capital employed in the new unit	40,00,000

What is the deduction admissible to the company under section 35D?
What will be your answer if the above facts relate to Mr. Jardine, a resident in India Rs. (May 2000)

Solution: In case of Jardine Ltd.: In case of an Indian company, the preliminary expenditure qualifying for deduction cannot exceed higher of the following two limits,-
(i) 5% of cost of project i.e. 5% of 30,00,000 i.e. Rs. 1,50,000, or
(ii) 5% of capital employed i.e. 5% of 40,00,000 i.e. Rs. 2,00,000.

Therefore, the qualifying amount for deduction = Rs. 2,00,000, which shall be allowed in five equal annual instalments of Rs. 40,000 each beginning with previous year in which new industrial unit is set up.

In case of Mr. Jardine : It must be noted that the option of 5% of capital employed is available only in case of Indian company. Therefore, in case of Mr. Jardine, the qualifying amount of deduction = 5% of 30,00,000 i.e. Rs. 1,50,000, which shall be allowed in five equal annual installments of Rs. 30,000 each.

Illustration 23 - Section 40(a)(i): X Ltd. pays a sum of Rs. 10,00,000 as commission to Y Inc. (a US company) on October 15, 2023. Tax is deductible under section 195 (read with Indo-US tax treaty) but it is not deducted by X Ltd. Y Inc. pays advance tax on the due dates on its income (including Rs. 10,00,000). Entire tax liability is paid by Y Inc. during the financial year 2023-24 by way of advance tax. Return of income of Y Inc. for the assessment year 2024-25 is submitted on September 20,2024. X Ltd. has a certificate of this effect from a chartered accountant in the prescribed form. Discuss tax consequences in respect of the said transaction in hands of X Ltd.

Solution: In this case, X Ltd. has not deducted tax at source in the financial year 2023-24. By virtue of section 40(a)(i), the payment of Rs. 10,00,000 will be disallowed in computing the income for the assessment year 2024-25. However, X Ltd. cannot be

treated as an assessee-in-default under the amended provisions of first proviso to section 201(1), as the following conditions are satisfied —

(a) Y Inc. has furnished its return of income under section 139;
(b) Y Inc. has taken into account the above income in such return of income;
(c) Y Inc. has paid the tax due on the income declared in such return of income, and
(d) X Ltd. has a certificate to this effect from a chartered accountant in a prescribed form.

Under the amended provisions, it will be assumed that X Ltd. has deducted and paid tax on September 20, 2024. As a consequence, Rs. 10,00,000 will be allowed as deduction in the hands of X Ltd. for the financial year 2024-25 (i.e. assessment year 2025-26).

Illustration 24 - Deductibility of various expenses: State with reasons, the allowability of the following expenses incurred by MN Limited, a wholesale dealer of commodities, under the Income-tax Act, 1961 while computing Profit & Gains from business or profession for the Assessment Year 2024-25.

(a) Construction of school building in compliance with CSR activities amounting to Rs. 5,60,000.
(b) Purchase of building for setting up a warehousing facility for storage of food grains amounting to Rs. 4,50,000.
(c) Interest on loan paid to Mr. X (a resident) Rs. 50,000 on which tax has not been deducted.
(d) Commodity transaction tax paid Rs. 20,000 on sale of bullion.

(8 Marks, Nov. 2015)

Ans.

(a) According to Explanation 2 to Section 37(1), Any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession. Hence, expenditure incurred on construction of school building in compliance with CSR activities amounting to Rs. 5,60,000 will not be allowed as deduction.

(b) 100% of the expenditure incurred on purchase of building for setting up a warehousing facility for storage of food grains is eligible for deduction under Section 35AD. Hence, the company will be eligible for deduction of 100% of Rs. 4,50,000 in accordance with the provisions of Section 35AD.

(c) According to Section 40(a)(ia) - 30% of any sum payable to a resident on which tax is deductible at source and such tax has not been deducted; or after such deduction, has not been paid on or before the due date of furnishing return of income specified under section 139(1) shall not be allowed as deduction. Hence, 30% of Rs. 50 000 = Rs. 15,000 shall not be allowed as deduction while computing Profits and Gains of Business or Profession

(d) According to Section 36(1)(xvi) Commodities transaction tax paid by the assessee in respect of the taxable commodities transactions altered into in the course of his business during the previous year, if the income arising from such

taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession shall be allowed as deduction. Hence, commodity transaction tax paid Rs. 20,000 on sale of bullion shall be admissible as deduction.

Illustration 25 - Computation of book profits and allowable remuneration: Rao & Jain, a partnership firm consisting of two partners, reports a net profit of Rs. 7,00,000 before deduction of the following items:

(1) Salary of Rs. 20,000 each per month payable to two working partners of the firm (as authorized by the deed of partnership).

(2) Depreciation on plant and machinery under section 32 (computed) Rs. 1,50,000.

(3) Interest on capital at 15% p.a. (as per deed of partnership). The amount of capital eligible for interest Rs. 5,00,000.

Compute:

(i) Book-profit of the firm under section 40(b) of the Income-tax Act, 1961.

(ii) Allowable working partner salary as per section 40(b) of the Income-tax Act, 1961. **(5 Marks, IPCC Nov. 2011)**

Solution: Computation of book profits and allowable working partner salary **(amounts in Rs.):**

Net profit as per Profit & Loss account		7,00,000
Less: (a) Depreciation u/s 32	1,50,000	
(b) Interest on capital to the extent of 12% p.a. on Rs. 5,00,000	60,000	2,10,000
Book profits		**4,90,000**

Computation of allowable of remuneration (amount in Rs.):

Actual Remuneration (Rs. 20,000 p.m. x 12 months x 2 partners)		4,80,000
Remuneration allowable u/ s 40(b)		
On the first Rs. 3,00,000 of book profit [(Rs. 1,50,000 or 90 % of Rs. 3,00,000) whichever is more]	2,70,000	
On the balance of book profit [60% of (Rs. 4,90,000 – Rs. 3,00,000)]	1,14,000	3,84,000
Maximum allowable remuneration (lower of actual remuneration or remuneration as per section 40(b)		**3,84,000**

Illustration 26 - Remuneration allowable u/s 40(b); Nikihil, Gagan and Suman are partners in a firm with equal shares. The profit and loss account for the year ending 31st March, 2024 shows a net profit of Rs.42,300 after debiting the following items:

(i) Salary of Rs. 74,000 each to Nikhil and Gagan.

(ii) Bonus to Suman Rs. 68,000.

(iii) Commission of Rs. 19,000, Rs.20,000 and Rs.45,000 to Nikhil, Gagan and Suman respectively.

(iv) Interest on capital @ 15% amounting to Rs. 4,500, Rs.6,000 and 15,000 was paid to Nikhil, Gagan and Suman respectively.

Assuming that all partners are working partners and the firm fulfils the conditions of Section 184, compute the total income of the firm and taxable income of the partners in the firm. **(8 Marks, CS Exe. Dec. 2008)**

Solution: Calculation of total income of the firm (amount in Rs.):

Net profit as per Profit and Loss A/c		42,300
Add: Disallowed items:		
Salary to Partners (Nikhil Rs.74,000 + Gagan Rs.74,000)	1,48,000	
Bonus to Suman	68,000	
Commission to Partners (Nikhil Rs.19,000 + Gagan Rs.20,000 + Suman Rs.45,000)	84,000	3,00,000
Interest to partners in excess of 12% p.a. -		
Nikhil = (Rs.4,500 x 3) + 15	900	
Gagan = (Rs.6,000 x 3) + 15	1,200	
Suman = (Rs.15,000 x 3) -15	3,000	5,100
Book profits		**3,47,400**
Less: Allowable remuneration allowable under section 40(b), being lower of the following -		
(a) Actual remuneration; or	3,00,000	
(b) Allowable u/s 40(b) [Rs.3,00,000 x 90% + Rs. 47,400 x 60%]	2,98,440	2,98,440
Total income		**48,960**

Calculation of total income of each partner of the firm (amount in Rs.) :

Particulars	**Nikhil**	**Gagan**	**Suman**
Interest on capital @ 12% (to the extent allowed in hands of the firm)	3,600	92,516	4,800
Salary, Bonus & Commission (taxable only upto Rs. 2,98,440 since the same is allowed in hands of firm)	93,511	12,000	1,12,412
Total income	**96,116**	**98,311**	**1,24,412**

Illustration 27 - Computation of total income of AOP: M/s. XYZ, an association of person, consisting of members X, Y & Z sharing profits in the ratio of 2: 2:1, furnishes you with the following information:
Net profit as per P&L A/c is Rs. 6 lakhs after following debits:
Salaries paid to members: Mr. X Rs. 1,60,000, Mr. Y Rs. 2,40,000 and Mr. Z Rs. 1,20,000.
Interest on capital to members @ 15% p.a.: Mr. X Rs. 45,000, Mr. Y Rs. 60,000 and Mr. Z Rs. 15,000.
Determine the income of association of person.

Solution: Computation of total income of AOP (amounts in Rs.):

Net profit as per Profit and Loss Account		6,00,000
Add: Salaries to members -		
Mr. X	1,60,000	
Mr. Y	2,40,000	
Mr. Z	1,20,000	5,20,000
Add: Interest on capital -		
Mr. X	45,000	
Mr. Y	60,000	
Mr. Z	15,000	1,20,000
Total income of the AOP		**12,40,000**

Illustration 28 - Payments to relatives u/s 40A(2) and Cash payments u/s 40A(3) : M/s. XYZ, a firm constituting partners X, Y and Z, is engaged in wholesale business of electronics and made following payments towards some purchases on 01-12-2023:

Party	Mode of payment	Amount (Rs.)	Fair Value (Rs.)
Raj Ltd.	Cash	80,000	10,000
PQR and Co.	Account payee cheque	65,000	65,000
Mr. Bansal (Bill No. 100)	Crossed cheque	15,000	8,000
Mr. Bansal (Bill No. 101)	Cash	5,000	8,000
Freight paid to Shiv Transporters	Cash	30,000	30,000

X holds 2.5% equity shares of Raj Ltd. Y's son Ram is 60% partner in PQR and Co. Mr. Bansal is father of Z. What amount will be disallowed as per Income-tax Act, 1961?

Solution: Here, X and Y have substantial interest in Raj Ltd. and PQR and Co. respectively; and Mr. Bansal is a relative of Z. Thus, all the three parties are specified persons as per Section 40A(2). So, firstly, disallowance will be made as per Section 40A(2); and Section 40A(3) will apply to amount available after disallowance under section 40A(2)

The amount of disallowance will be computed as follows (amounts in Rs.) -

Purchases from -	Disallowance u/s 40A(2) [Expenditure - Fair Value]	Disallowance u/s 40A(3) for cash payment exceeding Rs.10,000
Raj Ltd.	Rs. 70,000 [Rs.80,000 - Rs. 10,000]	NIL [WN-1]
PQR and Co.	Nil	NIL [Since payment is made through account payee cheque]
Mr. Bansal	Rs. 7,000 [Rs. 15,000 - Rs. 8,000, for 1st purchase] Nil [for 2nd purchase, as FMV is higher]	Rs. 13,000 [WN-2]
Shiv Transporters	Nil	Nil [WN-3]
Total	**Rs. 77,000**	**Rs. 13,000**

Working Notes:

(1) Since after disallowance under section 40A(2) of Rs. 70,000, remaining allowable expenditure is Rs. 10,000 since, the amount does not exceed Rs. 10,000 i.e. within the prescribed limit of Section 40A(3), disallowance under section 40A(3) is not attracted.

(2) While individual bills do not exceed Rs. 10,000, but since cash payment made to Mr. Bansal on the day exceeds Rs. 10,000, hence, it will be disallowed.

(3) Payment to goods transport agency in cash shall be allowed as deduction since maximum limit for cash payment in such case is Rs. 35,000.

Illustration 29 - Allowable expenditure: Discuss the tax implications of the following in the case of a doctor running a nursing home **(amount in Rs.)-. (CA May 2001)**

(1) Amount paid to a scientific research association approved by the Central Government and run by a drug manufacturing company 20,000

(2) Payments made in cash towards purchases of medicines 50,000

(3) Amounts received from the employees of the nursing home as contributions towards Provident 25,000

Fund for the month of March 2024, paid to the P.F. Commissioner on 25-4-2024.

Solution: Tax implications of the following in the case of a doctor running a nursing home (amounts in Rs.) -

	Cases	Deduction
(1)	Amount paid to a scientific research association approved by the Central Government and run by a drug manufacturing company [WN-1]	20,000
(2)	Payments made in cash towards purchases of medicines [WN-2]	Nil
(3)	Amounts received from the employees of the nursing home as contributions towards Provident Fund [WN-3]	Nil

Working Notes:

(1) 100% of such expenditure is allowable as deduction under section 35(1)(ii) i.e. 100% of Rs. 20,000 = Rs. 20,000.

(2) Such cash payments are not allowable under section 40A(3) since the same exceeds Rs. 10,000.

(3) The amount received will be first included in income of the assessee and then deduction shall be allowed under section 36(1)(va) if payment is made on or before due date of relevant fund i.e. 15-04-2024+ 5 days. In this case since payment was made on 25-04-2024 therefore no deduction shall be allowed under section 36(1) (va).

Illustration 30 - Deduction on payment basis: X Ltd. follows mercantile system of accounting. After negotiations with the bank, interest of Rs. 4 lakhs (including interest of Rs.1.2 lakhs) pertaining to year ended 31-03-2024 has been converted into loan. Can the interest of Rs. 1.2 lakhs so capitalized be claimed as business expenditure**? (2 Marks, PCE Nov. 2007)**

Solution: No, the said interest of 1.2 lakhs cannot be claimed as expenditure, since Section 43B specifically disallows the interest converted into loan, as it is not actually paid.

Illustration 31 - Deduction on payment basis: An analysis of the profit and loss account and the balance sheet of Kapil as at 31st March, 2024 reveals that the following expenses which were due, were though debited to the profit and loss account, but have been paid after 31st March, 2024:

(i) **Goods and Services Tax:** Rs. 50,000 (Rs. 20,000 paid on 14th September, 2024; and Rs. 30,000 paid on 15th December, 2024;

(ii) **Customs duty :** Rs. 1,20,000 (Rs. 40,000 paid on 14th September, 2024; Rs. 40,000 paid on 15th December, 2024; and Rs.40,000 paid on 24th December, 2024).

(iii) **Bonus to staff:** Rs. 60,000 ("Rs. 58,000 paid on 10th September, 2024; & Rs.2,000 paid on 15th December, 2024).

(iv) **Employer's contribution to provident fund:** Rs. 55,000 ("Rs. 25,000 paid on 15th July, 2024; Rs. 10,000 paid on 30"' September, 2024; and Rs. 20,000 paid on 15th December, 2024).

(v) **Interest on term loan from cooperative bank:** Rs. 1,50,000 (Rs. 1,20,000 paid on 14,h July, 2024; and Rs. 30,000 paid on . 15thDecember, 2024).

The due date for filing of return is 31th October, 2024. In which previous years can the above payments be claimed as a deduction? (Modified CS Dec. 2004)

Solution: The aforesaid amounts shall be deductible as follows -

Expenses	**Amount of Expenditure**	**Date of payment**	**Amount of payment**	**Previous year in which deductible**
Goods and Services Tax	50,000	14-09-2024	20,000	2023-24
Customs duty	1,20,000	15-12-2024	30,000	2024-25
		14-09-2024	40,000	2023-24
		15-12-2024	40,000	2024-25
		24-12-2024	40,000	2024-25
Bonus to staff	60,000	10-09-2024	58,000	2023-24
		15-12-2024	2,000	2024-25
Employer's contribution to PF	55,000	15-07-2024	25,000	2023-24
		30-09-2024	10,000	2023-24
		15-12-2024	20,000	2024-25
Interest on term loan from cooperative bank	1,50,000	14-07-2024	1,20,000	2023-24
		15-12-2024	30,000	2024-25

Illustration 35 - Section- 43CA: Find out "full value of consideration" for the purpose of Section 43CA in the cases given below-

Different cases	Stamp duty value (date of agreement)		Stamp duty value (date of registration)		Amount of consideration as per agreement	Date when first payment is received by seller by account-payee cheque/draft, etc.
	(f)	Date	(f)	Date		
Case 1	26,40,000	15-04-2023	35,00,000	30-04-2023	24,00,000	10-04-2023
Case 2	27,00,000	10-04-2023	35,00,000	30-04-2023	24,00,000	10-04-2023
Case 3	25,00,000	15-04-2023	35,00,000	30-05-2023	24,00,000	10-05-2023
Case 4	30,00,000	10-05-2023	31,50,000	30-05-2023	30,00,000	14-05-2023

Solution: Computation of Full value of consideration (amount in Rs.):

Different cases	Amount of consideration as per agreement	Stamp duty value relevant for Section 43CA		110% of amount of consideration as per agreement	Full value of consideration u/s 43CA [if Column 4 is more than Column 5, Column 4 value will be taken, otherwise section 43CA is not applicable]
		Date of agreement/ registration	Stamp duty value		
(1)	(2)	(3)	(4)	(5)	(6)
Case 1	24,00,000	Date of agreement	26,40,000	26,40,000	24,00,000
Case 2	24,00,000	Date of agreement	27,00,000	26,40,000	27,00,000
Case 3	24,00,000	Date of registration	35,00,000	26,40,000	35,00,000
Case 4	30,00,000	Date of registration	31,50,000	33,00,000	30,00,000

Illustration 33 - Applicability of Section 43CA: Mr. Ramesh, a property dealer, purchased a building on 15 July 2023 for a sum of Rs. 65 lakh. The said building was sold by him during the course of his business to his friend Mahesh, who is a dealer in cosmetic goods, for Rs. 90 lakh on 1-1-2024, when the stamp duty value was Rs. 185 lakh. The agreement was entered on the same day and the property was registered on the same day. Discuss tax implications in hands of Ramesh.

What would be your answer if the agreement was entered into on 1-7-2023 when the stamp duty value was Rs. 120 lakh. Mr. Ramesh had received a down payment of Rs. 15 lakh by cheque from Mahesh on the date of agreement. Will your answer change if the said sum of Rs. 15 lakhs has been received by cash instead of cheque.

Solution: The tax implications in hands of Ramesh shall be as under -

Case I: **In case the agreement has been entered on the date of sale and property has been registered on the same day:** The provisions of section 43CA would be attracted, since the building represents his stock-in-trade and he has transferred the same for a consideration less than the stamp duty value on the date of registration of property and the stamp duty value exceeds 110% of the consideration.
Therefore, Rs. 120 lakh, being the difference between the stamp duty value on the date of registration (i.e., Rs. 185 lakh) and the purchase price (i.e. Rs. 65 lakh), would be chargeable as business income in the hands of Mr. Ramesh.

Case II: **In case the agreement has been entered on 1-7-2023:** In this case the stamp duty value on the date of agreement will be considered to compute business profits since, Mr. Ramesh had received a down payment of Rs. 15 lakh by cheque from Mahesh on the date of agreement and stamp duty does exceeds 110% of the consideration received or accruing as a result of the transfer. Therefore, Rs. 55 lakh, being the difference between the stamp duty value on the date of agreement (i.e. Rs. 120 lakh) and the

purchase price (i.e. Rs. 65 lakh), would be chargeable as business income in the hands of Mr. Ramesh.

Yes, the answer will change in case if on the date of agreement cash has been received instead of cheque. In such case stamp duty value on the date of agreement shall not be considered but the stamp duty value on the date of registration of property shall be considered and the business profits shall be Rs. 120 lakhs.

Illustration 34 - Maintenance of books of Accounts : Vinod is a person carrying on profession as film artist. His gross receipt from profession are as under:

Financial Year 2021-22	Rs. 1,15,000
Financial Year 2022-23	Rs. 1,80,000
Financial Year 2023-24	Rs. 2,10,000

What is his obligation regarding maintenance of books of accounts for each assessment year under Section 44AA of Income-tax Act, 1961 Rs. **(5 Marks, May 2001, May 2008)**

Solution: Every person carrying on the profession of film artist shall keep and maintain specified books of account and other documents, if his gross receipts exceeds Rs. 1,50,000 in all of the three immediately preceding previous years, since Mr. Vinod is a film artist he is required to maintain books of account only if his gross receipts exceeds f 1,50,000 in all of the 3 immediately preceding previous years. Accordingly -

Financial year 2021-22	He is not required to maintain any books of accounts.
Financial year 2022-23	He is not required to maintain any books of accounts.
Financial year 2023-24	He is not required to maintain any books of accounts.

Illustration 35 - Presumptive basis taxation section 44AD: Mr. Praveen engaged in retail trade, reports a turnover of Rs.2,98,50,000 for the financial year 2023-24. Amount received in cash during the P.Y. 2023-24 is 14,00,000 and balance through prescribed electronic modes on or before 31st October 2024. His income from the said business as per books of account is 15,00,000 computed as per the provisions of Chapter IV-D "Profits and gains from business or Profession of the Income-tax Act, 1961. Retail trade is the only source of income for Mr. Praveen. A.Y. 2023-24 was the first year for which he declared his business income in accordance with the provisions of presumptive taxation under section 44AD. (i)

(i) Is Mr. Praveen eligible to opt for presumptive determination of his income chargeable to tax?

(ii) If so, determine his income from retail trade as per the applicable presumptive provision.

(iii) In case, Mr. Praveen does not opt for presumptive taxation of income from retail trade, what are his obligations under the Income-tax Act, 1961?

(iv) What is the 'due date' for filing his return of income, under both the options?

Solution: Thus, the relevant answers are as follows –

(i) Yes. Since his cash receipts during the P.Y. does not 5% of the total turnover (14,00,000/2,98,50,000 × 100) and his total turnover for the F.Y. 2023-24 is below Rs.300 lakhs, he is eligible for presumptive taxation scheme under section 44AD in respect of his retail trade business.

(ii) His income from retail trade, applying the presumptive tax provisions under section 44AD, would be 18,19,000 (1,12,000, being 8% of 14,00,000+ 17,07,000, being 6% of ₹2,84,50,000).

(iii) Mr. Praveen had declared profit for the previous year 2022-23 in accordance with the presumptive provisions and if he wants to declare profits as per books of account which is lower than the presumptive income for any of the five consecutive assessment years i.e., A.Y. 2024-25 to A.Y. 2028-29, he would not be eligible to claim the benefit of presumptive taxation for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance the presumptive provisions i.e. if he declares profits lower than the presumptive income in say P.Y. 2023-24 relevant to A.Y. 2024-25, then he would not be eligible to claim the benefit of presumptive taxation for A.Y. 2025-26 to A.Y. 2029-30.

Consequently, Mr. Praveen is required to maintain the books of accounts and get them audited under section 44AB, since his income exceeds the basic exemption limit.

(iv) In case he declares presumptive income under section 44AD, the due date would be 31 July, 2024. In case he declares profits as per books of account which is lower than the presumptive income, he is required to get his books of account audited, in which case the due date for filing of return of income would be 31 October, 2024.

Illustration 36 - Presumptive basis taxation Section MAD: Mr. Querashi is a business man. During the year ended 31-03-2024 he was engaged in the business of Hypermarket and Super Market. He maintains proper books of accounts for both businesses in mercantile system. Sales from Hypermarket achieved a turnover of Rs. 75 lakhs and all receipts were in cash. However, Supermarket business is through online and entire receipts of Rs. 50 lakhs during the year were received though online in his bank account. The expenses were incurred in the ratio 65:35.
Following additional information is furnished:

To Salary	10,00,000
To Repairs on building	1,81,000
To Interest	1,10,000
To Travelling	1,30,550
To Depreciation	8,12,000
Net profit	3,93,950

(a) In addition to the above, repairs of Rs. 1,00,000 was incurred for building a new room which was debited to P&L a/c.
(b) Depreciation as per Income-tax Act is Rs. 7,17,000.
(c) Rs. 75,000 was paid in cash on 30-09-2023 to Mrs. Ann, accountant for preparation of the accounts for the year ended 31-03-2023 and adjusted under the head "expenses payable" account.
(d) He was forced to shutdown his furniture business in the year 2020 as his accountant absconded with cash of Rs. 5 lakhs and fully allowed in that year. Unabsorbed business loss of furniture business is Rs. 3 lakhs. Rs. 4

lakhs was received as insurance compensation on 31-03-2024 for the cash theft.

(e) Mr. Querashi wants to declare income under "Presumptive income" basis. Compute the income chargeable under the head profits and gains of business or profession of Mr. Querashi under Presumptive Income scheme u/s 44AD and his Total Income for the year ended 31-03-2024. **(10 Marks, May 2018)**

Solution:

(1) As per Section 44AD, in case of an eligible assessee engaged in an eligible business -

(a) a sum equal to 8% of the total turnover or gross receipts of the assessee in the previous year on account of such business (6% of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in Section 139(1) in respect of that previous year); or

(b) a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of Business or Profession".

(2) Any deduction allowable under the provisions of Sections 30 to 38 (including unabsorbed depreciation, unabsorbed capital expenditure on scientific research/ family planning) shall be deemed to have been already deducted and no further deduction under those sections shall be allowed.

Thus, His Presumptive Income under section 44AD is as under = 8% of turnover of Rs. 75,00,000 + 6% of turnover of Rs. 50,00,000 = Rs. 900,000.

Particulars	**Rs.**	**Rs.**
Presumptive Income under Section 44AD	9,00,000	
Furniture business Recovery against deduction taxable as business profits [WN-1]	4,00,000	
Less: Unabsorbed business loss as per Section 41(5) [WN-2]	3,00,000	1,00,000
Profits and Gains of Business and Profession /Total Income		**10,00,000**

In the question it is stated that Mr. Querashi "maintains proper books of accounts for both businesses in mercantile system". The income as per regular books of account has to be computed and if such income is more than the presumptive income computed under section 44AD, the higher income can be declared under section 44AD. Hence, income of Mr. Querashi for the assessment year 2024-25 as per books of account is computed below:

(amount in Rs.)

Income under the head Profits & Gains of Business and Profession		
Net profit as per Profit and Loss Account	3,93,950	
Add: Expenses not allowable -		
Depreciation debited in Profit and loss Account	8,12,000	
Cash payment in excess of Rs. 10,000 made in a day in the current		

year in respect of expenditure allowed on mercantile basis in the previous year, would be deemed as income in the current year	75,000	
Building construction expenditure debited to P & L A/c	1,00,000	13,80,950
Less: Expenses allowable under this head -		
Depreciation as per Income-tax Act, 1961	7,17,000	
Depreciation on building extension of a room @ 10%	10,000	7,27,000
Profits and gains of business computed as per books of account		**6,53,950**

Note: The assessee's total income from hypermarket and supermarket business computed as per books of account is less than the income computed under section 44AD. The question states that the assessee wants to declare income under presumptive provision i.e. section 44AD. Hence, the total income computation would include only the presumptive income computed under section 44AD for both hypermarket and supermarket businesses.

Computation of Total Income **(amount in Rs.):**

Presumptive Income under Section 44AD		9,00,000
Furniture business Recovery against deduction taxable as business profits [WN-1]	4,00,000	
Less: Unabsorbed business loss as per Section 41(5) [WN-2]	3,00,000	1,00,000
Profits and Gains of Business and Profession /Total Income		10,00,000

Working Note:

(1) As per provisions of Section 41(1), recovery of any amount in respect of any loss which was earlier claimed as deduction is chargeable to tax under the head Profits and gains of business whether the business is in existence or not. Hence, Rs. 4,00,000 shall be treated as taxable profits.

(2) As per Section 41(5), where the business or profession is no longer in existence; and there is income chargeable to tax under section 41(1) in respect of that business or profession any loss, not being a loss sustained in speculation business, which arose in that business or profession during the previous year in which it ceased to exist and which could not be set off against any other income of that previous year shall be set off against such deemed profits to the extent of such profits. Thus, loss of Rs. 3,00,000 shall be set-off from such recovery of Rs. 4,00,000 and balance amount will be taxable.

Illustration 37 - Section MAD A : A partnership firm consisting of three partners X, Y, and Z is engaged in the profession of accountancy. Gross Receipts of the profession for the year ended 31st March, 2024 amounts to Rs. 48 lakh. Bad debts written off in the books are Rs. 75,000. Interest at 12% p.a. is provided to partner, Z on his capital of Rs. 6 lakh as authorized by the partnership deed.

The firm had business loss of Rs. 50,000 and unabsorbed depreciation of Rs.1,50,000 carried forward from assessment year 2023-24. The firm opts for presumptive taxation under section 44ADA for assessment year 2024-25. Compute the Total income of the firm for assessment year 2024-25 .

Solution: Computation of income of the firm chargeable under the head "Profits and Gains of business or profession" **(amount in Rs.):**

Presumptive income under section 44ADA (50% of Rs. 48 lakh)	[WN-1]	24,00,000
Less: Interest @ 12% to Z (12% of Rs. 6 lakh)	[WN-2]	Nil
Less: Brought forward loss under section 72	[WN-3]	50,000
PGBP/Total Income		**23,50,000**

Working Notes:

(1) A partnership firm falls within the definition of "eligible assessee" under section 44ADA. In this case, since the gross receipts of the profession of the firm does not exceed Rs. 50 lakhs, and therefore, the firm is eligible to opt for presumptive taxation under section 44ADA. Hence, 50% of the gross receipts would be deemed to be the Profits and Gains of Business or Profession of the firm.

(2) As per Section 44ADA(2), all deductions allowable under sections 30 to 38 shall be deemed to have been allowed Accordingly no deduction shall be allowed for bad debts since the same is deductible under section 36(1) (viii) and unabsorbed depreciation since the same is deductible under section 32(2)-No deduction shall be allowed for interest on capital paid to partners.

(3) Further, business loss of P.Y. 2022-23 can be set-off against current year professional income as per Section 72.

Illustration 38 - Presumptive basis u/s 44ADA : Ms. Kriti is a Chartered Accountant in practice. She maintains her accounts on cash basis. Her Income and Expenditure account for the year ended 31st March, 2024 reads as follows :

Expenditure	**Rs.**	**Income**		**Rs.**
Salary to staff	5,50,000	Fees earned:		
Stipend to articled assistants	37,000	Audit	17,88,000	
Incentive to articled assistants	3,000	Taxation services	5,40,300	
Office rent	24,000	Consultancy	2,70,000	25,98,300
Printing and stationery	22,000	Dividend on shares of Indian companies (Gross)		10,524
Meeting, seminar and conference	31,600	Income from units of mutual fund (Gross)		7,600
Purchase of car	80,000	Honorarium received from various institutions for valuation of answer papers		15,800
Repair, maintenance and petrol of car	4,000	Rent received from residential flat let out		85,600
Travelling expenses	35,000			
Municipal tax paid in respect of house property	3,000			
Net Profit	19,28,224			
	27,17,824			**27,17,824**

Other Information:

(i) Allowable rate of depreciation on motor car is 15%.

(ii) Incentives to articled assistants represent amount paid to two articled assistants for passing IPCC Examination at first attempt.

(iii) Salary include Rs. 15,000 to a computer specialist in cash on 15-07-2023 for assisting Ms. Kriti in one professional assignment.

On the basis of above information, determine whether Ms. Kriti should opt for presumptive basis taxation for computation of her Gross Total Income for assessment year 2024-25.

Solution: Computation of the Gross Total Income for the assessment year 2024-25.

- **CASE I:** When Ms. Kriti opt for the provisions of Section 44ADA:

Computation of gross total income (amounts in Rs.):

Income from house property:		
Actual Rent Received [Being Gross Annual Value u/s 23(1)]	85,600	
Less: Municipal taxes paid	3,000	
Net Annual Value (NAV)	82,600	
Less: Standard deduction u/s 24 @ 30% of NAV	24,780	57,820
Income under the head Profits & Gains of Business and Profession		
50% of the Gross receipts i.e. 50% of Rs.25,98,300 is deemed profits from profession under Section 44ADA		12,99,150
Income from other sources:		
Dividends from Indian companies [Taxable in hands of shareholder]	10,524	
Income from Unit Trust of India. [Taxable in hands of unit holder]	7,600	
Honorarium for valuation of answer papers	15,800	33,924
Gross Total Income		**13,90,894**

- **CASE II:** When income is computed as per normal provisions of the Act.

Computation of gross total income (amounts in Rs.):

Income from house property:		
Actual Rent Received [Being Gross Annual Value u/s 23(1)]	85,600	
Less: Municipal taxes paid	3,000	
Net Annual Value NAV	**82,600**	
Less: Standard deduction u/s 24 @ 30% of NAV	24,780	57,820
Income under the head Profits & Gains of Business and Profession		
Net profit as per Income and Expenditure Account	19,28,224	
Add: Expenses debited but not allowable -		
Municipal Taxes of house property in respect of residential flat let out	3,000	
Salary paid to computer specialist in cash disallowed u/ s 40A(3), since such cash payment is in excess of Rs. 10,000	15,000	
Amount paid for purchase of car is not allowable u/s 37(1) since it is a capital expenditure	80,000	
Less: Income credited but not taxable under this head -		
Dividend on shares of Indian Companies [The same taxable under the head Income From Other Sources]	10,524	
Income from Unit Trust of India [The same taxable under the head Income From Other Sources]	7,600	
Honorarium for valuation of answer papers [The same is taxable under the head'Income from other sources']	15,800	
Rent received from residential flat let out [The same is taxable under the	85,600	

'Income from house property']		
Depreciation on Motor Car @ 15% [WN]	12,000	18,94,700
Income from other sources :		
Dividends from Indian companies [Taxable in hands of shareholder]	10,524	
Income from Unit Trust of India. [Taxable in hands of shareholder]	7,600	
Honorarium for valuation of answer papers	15,800	33,924
Gross Total Income		**19,86,444**

Working Note: It has been assumed that the motor car was put to use for more than 180 days during the previous year and hence, full depreciation @ 15% has been provided for under section 32(1) (ii).

Conclusion : The assessee should opt for the provisions of Section 44ADA since her income from profession as per the said section is Rs. 12,99,150 which is less than actual income of Rs. 18,94,700.

Illustration 39 - Income from plying goods carriages: Mr. X commenced the business of operating goods vehicles on 1-4-2023. He purchased the following vehicles during the previous year 2023-24. Compute his income under section 44AE for assessment year 2024-25.

	Number	Date of purchase	Gross Vehicle Weight (in kilograms)
(1)	7,000	2	10-04-2023
(2)	6,500	1	15-03-2024
(3)	10,000	3	16-07-2023
(4)	11,000	1	02-01-2024
(5)	15,000	2	29-08-2023
(6)	15,000	1	23-02-2024

Would your answer change if the goods vehicles purchased in April, 2023 were put to use only in July, 2023.

Solution: Since Mr. X does not own more than 10 vehicles at any time during the previous year 2023-24, he is eligible to opt for presumptive taxation scheme under section 44AE. Rs. 1,000 per ton of gross vehicle weight or unladen weight per month or part of the month for each heavy goods vehicle and Rs. 7,500 per month or part of month for each goods carriage other than heavy goods vehicle, owned by him would be deemed as his profits and gains from such goods carriage.
Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kg.

Type of Carriage	Number of Vehicles	Date of purchase	No. of months for which vehicle is owned	No. of months x No. of vehicles	Deemed income per month	Amount(Rs.)
For Heavy goods vehicle	2	29-08-2023	8	16	15,000	2,40,000
	1	23-02-2024	2	2	15,000	30,000
For goods vehicle	2	10-04-2023	12	24	7,500	1,80,000
	1	15-03-2024	1	1	7,500	7,500

other than heavy goods vehicle						
	3	16-07-2023	9	27	7,500	2,02,500
	1	02-01-2024	3	3	7,500	22,500
Profits from the business referred to u/s 44AE						**6,82,500**

The answer would remain the same even if the two vehicles purchased in April, 2023 were put to use only in July, 2023, since the presumptive income has to be calculated per month or part of the month for which the vehicle is owned by Mr. X.

Illustration 40 - Income from plying goods carriages: Mr. Sukhvinder is engaged in the business of plying goods carriages. On 1st April 2023, he owns 10 trucks (out of which 6 are heavy goods vehicles (gross unladen weight 31,000 kgs). On 2nd May 2023, he sold one of the heavy goods vehicles and purchased a light goods vehicle on 6th May 2023. This new vehicle could however be put to use only on 15th June 2023. Compute the total income of Mr. Sukhvinder for the assessment year 2024-25 taking note of the following data **(amount in Rs.): (6 Marks; May 2005)**

Freight charges collected		75,00,000
Less: Operational expenses	45,00,000	
Depreciation as per section 32	5,56,000	
Other office expenses	2,15,000	52,71,000
Net Profit		**22,29,000**
Other business and non-business income		70,000

Solution: In this case, provisions of Section 44AE apply since assessee does not own more than 10 goods carriages at any time during the previous year.

Computation of total income of Mr. Sukhvinder (amounts in Rs.) -

Particulars	**Presumptive income**	**Where books are maintained**
Income from plying goods carriages [WN]	23,64,500	22,29,000
Other income	70,000	70,000
Total income	**24,34,500**	**22,99,000**

Since income as per books of accounts is lower than presumptive income computed under section 44AE, hence, Mr. Sukhwinder should keep and maintain books and get his accounts audited and his total income shall be Rs. 22,99,000.

Working Note: Calculation of presumptive income as per section 44AE **(amounts in Rs.) -**

Type of Carriage	**No. of goods**	**Period during which trucks**	**Months**	**Deemed income**	**Amount**
	carriages	owned		p.m.	(Rs.)
Light Goods Vehicles	4	01-04-2023 to 31-03-2024	12	7,500	3,60,000
	1	06-05-2023 to 31-03-2024	11	7,500	82,500
Heavy Goods Vehicle	5	01-04-2023 to 31-03-2024	12	Rs. 1,000 x 31	18,60,000
	1	01-04-2023 to 02-05-2023	2	Rs. 1,000 x 31	62,000
Total					**23,64,500**

Illustration 41 - Income from plying goods carriages: Ramamurthy had 4 light goods vehicles as on 1-4-2023. He acquired 7 light goods vehicles on 27-6-2023. He sold 2 light goods vehicles on 31-5-2023. He has brought forward business loss, of Rs. 50,000 relating to A.Y. 2020-21 of a discontinued business. Assuming that he opts for presumptive taxation of income as per section 44AE, compute his total income chargeable to tax. **(4 Marks, PCC May 2011)**

Solution: In this case, section 44AE shall apply because Ramamurthy didn't have more than 10 vehicles at any time during the previous year.
The relevant computations are –

No. of light Goods Vehicle	Period during which owned	No. of months	Rate p.m.	(Rs.)
2	01-04-2023 to 31-03-2024	12	7,500	1,80,000
2	01-04-2023 to 31-05-2023	2	7,500	30,000
7	27-06-2023 to 31-03-2024	10	7,500	5,25,000
Profits from the business referred to u/s 44AE				7,35,000
Less: Set-off of the brought forward business loss				50,000
Total Income				**6,85,000**

As per provision of Section 44AE, the computed income is profits and gains of business or profession. Hence, the assessee will be entitled to set off other business loss from such presumptive income.

Illustration 42 - Presumptive incomes under section 44AD & 44AE: Mr. R furnishes you the following information for the year-ended 31-3-2024 **(amounts in Rs.) :**

(i)	Income from plying of vehicles (computed as per books) (He owned 5 light goods vehicle throughout the year)	5,10,000
(ii)	Income from retail trade of garments (computed as per books) (Sales turnover Rs.41,70,000)	2,00,000
(iii)	Brought forward depreciation relating to assessment year 2023-24	1,20,000
(iv)	Amount deposited into PPF Account on 06-04-2024	1,00,000

Compute taxable income of Mr. R and his tax liability if sale proceeds of garments is received through account payee cheque. **(May 2004)**

Solution: If Mr. R opts for presumptive taxation under section 44AD and 44AE, then, any deduction allowable under the provisions of Sections 30 to 38 (including unabsorbed depreciation, unabsorbed capital expenditure on scientific research/ family planning) shall be deemed to have been already deducted and no further deduction under those sections shall be allowed. The relevant computation is as under :

Computation of taxable income of R and his tax liability **(amounts in Rs.) -**

Particulars	**Presumptive taxation**	**Income as per books**
Income from plying of vehicles (Rs. 7,500 x 12 x 5)	4,50,000	5,10,000
Income from retail trade business (6% of Rs. 41,70,000) (Since sale proceeds are received through account payee cheque)	2,50,200	2,00,000

		7,00,200	**7,10,000**
Less: Unabsorbed depreciation		-	1,20,000
Gross total income		**7,00,200**	**5,90,000**
Gross total income	[WN-1]		5,90,000
Less: Deduction u/s 80C in respect of PPF	[WN-2]		Nil
Taxable income			**5,90,000**
Income tax on total income			30,500
Add: HEC @ 4%			1,220
Tax liability (rounded off)			**31,720**

Working Notes:

(1) Since total income as per books of accounts is lower than presumptive income under section 44AD and Section 44AE, therefore, Mr. R should claim his income as per books and get his such books of accounts audited.

(2) Deduction in respect of PPF is not allowable as it is not paid upto 31-3-2024.

Illustration 43 - Presumptive incomes under section 44AE: Mr. Prakash is in the business of operating goods vehicles. As on 1st April, 2023, he had the following vehicles:

Vehicle	Gross Vehicle Weight (in Kgs.)	Date of Purchase	Put to use during F.Y. 2023-24
A	8,500	02-04-2022	Yes
B	13,000	15-05-2022	Yes
C	12,000	04-08-2022	No (as under repairs)

During P.Y. 2023-24, he purchased the following vehicles:

Vehicle	Gross Vehicle Weight(in Kgs.)	Date of Purchase	Date on which put to use
D	11,000	30-04-2023	10-05-2023
E	15,000	15-05-2023	18-05-2023

Compute his income under section 44AE of the Income-tax Act, 1961 for A.Y. 2024-25. **(4 Marks, Nov. 2019)**

Solution: Since Mr. Prakash does not own more than 10 vehicles at any time during the previous year 2023-24, he is eligible to opt for presumptive taxation scheme under section 44AE. Rs. 1,000 per ton of gross vehicle weight or unladen weight per month or part of the month for each heavy goods vehicle and Rs. 7,500 per month or part of month for each goods carriage other than heavy goods vehicle, owned by him would be deemed as his profits and gains from such goods carriage. Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kg.

Computation of income u/s 44AE:

Type of Carriage	Number of Vehicles	Date of purchase	No. of months for which vehicle is owned	Deemed income per month	Amount (Rs.)
For Heavy goods vehicle	B E	15-07-2022 15-05-2023	12 11	13,000 15,000	1,56,000 1,65,000
For goods vehicle other than heavy goods vehicle	A	02-04-2022	12	7,500	90,000
	B	04-08-2022	12	7,500	90,000
	C	30-04-2023	12	7,500	90,000
Profits from the business referred to u/s 44AE					**5,91,000**

Note: The "put to use" date of the vehicle is not relevant for the purpose of computation of presumptive income under section 44AE, since the presumptive income has to be calculated per month or part of the month for which the vehicle is owned by Mr. Prakash.

MISCELLANEOUS ILLUS TRA TIONS ON COMPUTING BUSINESS INCOME/TOTAL INCOME

Illustration 44 - Computation of Business profit s.' Following is the Profit and Loss account of Mr. A **(amounts in Rs.) –**

To	Repairs on building	1,30,000	By	Gross profit	6,01,000
To	Advertisement	51,000	By	IT Refund	4,500
To	Amount paid to Scientific Research Association approved u/s 35	1,00,000	By	Interest from company deposits	6,400
To	Interest	1,10,000	By	Dividends	3,600
To	Traveling	1,30,000			
To	Miscellaneous Expenditure	550			
To	Net Profit	93,950			
		6,15,500			**6,15,500**

Following additional information is furnished:

(i) Repairs on building includes Rs. 95,000 being cost of raising a compound wall for the own business premises.

(ii) Interest payments include interest of Rs. 12,000 payable to a resident Indian on which tax has not been deducted and penalty of Rs.24,000 for contravention of Central Goods and Services Tax Act.

Compute the income chargeable under the head 'Profits and gains of business or profession' of Mr. A ignoring depreciation. **(7Marks, May 2006) (Similar IPCC May 2012,10 Marks)**

Solution: Profits and gains of business or profession of Mr. A (amounts in Rs.) -

Net profit as per Profit and Loss Account			93,950
Add: Expenses not allowable -			
Expenses on raising a compound wall	[WN-1]	95,000	
Penalty for contravention of CGST Act	[WN-2]	24,000	
Interest payable to a resident, as tax has not been deducted on the same Rs. 12,000 x 30%	[WN-5]	3,600	1,22,600
Less: Income not forming part of business income -			
Interest from company deposits	[WN-3]	6,400	
I.T. Refund	[WN-4]	4,500	
Dividend	[WN-6]	3,600	14,500
Profit and Gains of Business or Profession			**2,02,050**

Working Notes:

(1) Expenses on raising a compound wall shall not be deductible as it is a capital expenditure.

(2) Penalty paid for violation or infringement of any law is not allowable as deduction under section 37(1).

(3) Interest from company deposits shall not form part of business income as it is taxable as Income from other sources.

(4) I.T. Refund is not taxable, as it is not 'income'.

(5) 30% of interest payable to a resident, as tax has not been deducted on the same shall not be allowed as deduction under section 40(a).

(6) Dividend from shares of Indian Company is taxable in hands of shareholder under the head Income from other sources.

(7) Amount paid to Scientific Research Association approved u/s 35 is eligible for 100% deduction. Since the same is debited to profit and loss account, hence no adjustment will be required.

Illustration 45 - Computation of Business profits: Ram, who is 28 years of age, is a businessman in Delhi. On the basis of the following profit and loss account for the financial year 2023-24, compute his taxable income:

Particulars	**Rs.**	**Particulars**	**Rs.**
Opening stock	20,700	Sales	15,00,000
Purchases	10,00,000	Closing stock	25,200
Household expenses	10,000		
Income-tax for the financial year 2021-22	30,000		
Interest on capital	8,400		
Depreciation on furniture	12,000		
Reserve for bad debts	1,200		
Salaries and wages	60,000		
Rent and rates	25,000		
Net profit	3,57,900		
	15,25,200		**15,25,200**

Other relevant particulars are as follows:

(i) Opening stock and closing stock have consistently been valued at 10% below cost price.

(ii) Household expenses include a contribution of Rs. 1,500 towards public provident fund.

(iii) Amount of depreciation on furniture as per income-tax provisions is Rs. 10,000.

(6 Marks, CS Executive Dec, 2008)

Solution: Computation of taxable income of Mr. Ram **(amounts in Rs.)**

Net profit as per Profit and Loss A/c		3,57,900
Add: Expenses not allowable		
Household expenses	10,000	
Income-tax for the financial year 2022-23	30,000	
Interest on capital	8,400	
Depreciation on furniture	12,000	
Reserve for bad debts	1,200	61,600
Add: Undervaluation of closing stock (Rs. 25,200 x 1/9)		2,800
Less: Undervaluation of opening stock (Rs. 20,700 x 1/9)		-2,300
Less: Allowable depreciation		-10,000
		4,10,000
Less: Deduction u/s 80C for contribution to PPF		1,500
Total income		**4,08,500**

Illustration 46- Computation of Business Income: Mr. Rameshwar is registered Medical practitioner. He keeps his book on cash basis and his summarised cash account for year ended 31st March 2024 is as under (amounts in Rs.:)

To	Balance b/d	2,700	By	Costs of medicines	20,000
To	Loan from Bank	6,000	By	Surgical equipment	6,000
To	Sale of medicines	30,500	By	Motor car purchased	12,000
To	Consultation fees	50,10,000	By	Car expenses	1,800
To	Visiting fees	8,000	By	Salaries	48,01,200
To	Interest on investments	9,000	By	Rent on dispensary	1,200
To	Dividend on shares	7,200	By	General expenses	600
To	Sale of building	15,000	By	Personal expenses	3,600
To	Sale of furniture	5,000	By	Life insurance premium	2,000
			By	Interest on bank loan for investment	360
			By	Insurance of personal property	400
			By	Fixed Deposit in Bank	30,000
			By	Balance c/d	2,14,240
		50,93,400			**50,93,400**

Compute his Income from profession taking into account the following further information:

(1) 1/3rd of the motorcar expenses are in respect of his personal use.

(2) The original cost of the building was Rs. 20,000 and written down value of furniture as on 1st April 2023 was Rs. 4,000. There was no other asset in this block.

(3) The rate of depreciation on motorcar and on surgical equipments is 15%. An old car was purchased in May 2023 while the surgical equipments were purchased in December 2023.

(4) Outstanding consultancy fees and outstanding salaries are Rs. 20,000 and Rs. 1,000 respectively. Further, medicines valuing Rs. 5,000 were sold to Mr. Babu on credit.

Solution: Computation of taxable income from profession **(amounts in Rs.) -**

Gross Receipts: Sale of medicines	30,500	
Consultation fees	50,10,000	
Visiting fees	8,000	50,48,500
Less: Allowable expenses viz. cost of medicines	20,000	
Car expenses (Rs. 1,800 x 2 ÷ 3)	1,200	
Salaries	48,01,200	
Rent of dispensary	1,200	
General Expenses	600	
Allowable Depreciation Motor car (Rs. 12,000 x 15%) x 2/3	1,200	
Surgical equipment (7.5% x Rs. 6,000)	**450**	**48,25,850**
Income from profession		**2,22,650**

Note: Since the assessee maintains accounts as per cash basis, therefore, outstanding consultancy fees, outstanding salaries and sale of medicines on credit will not be considered.

Illustration 47 - Computation of Business Income: Mr. X, a retail trader of Cochin gives the following Trading & Profit and Loss A/c for the year ended 31-3-2024 **(amounts in Rs.):**

To	Opening Stock	90,000	By Sales	12,11,500
To	Purchases	10,04,000	By Income from UTI	2,400
To	Gross Profits	3,06,000	By Other Business receipts	6,100
			By Closing Stock	1,80,000
		14,00,000		14,00,000
To	Salary	60,000	Gross Profit B/d	3,06,000
To	Rent and Rates	36,000		
To	Interest on loan	15,000		
To	Depreciation	1,05,000		
To	Printing and Stationery	13,200		
To	Postage and Telegram	1,640		
To	Loss on Sale of Shares (short-term)	8,100		
To	Other General Expenses	7,060		
To	Net Profit	60,000		
		3,06,000		**3,06,000**

Additional Information:

(a) It was found, some stocks were omitted to be included in both the Opening and Closing stock, the values of which were : Opening stock - Rs. 9,000, and Closing stock – Rs. 18,000.

(b) Salary includes Rs. 10,000 paid to his brother, which is unreasonable to the extent of Rs. 2,000.

(c) The whole amount of Printing and Stationery was paid in cash.

(d) The Depreciation provided in Profit & Loss A/c Rs. 1,05,000 was based on following information:
The WDV of Plant & Machinery is Rs. 4,20,000. A new Plant falling under same Block of depreciation of 15% was bought on 1-7-2022 for Rs. 70,000. Two old plants were sold on 1-10-2023 for Rs. 50,000.

(e) Rent and Rates includes Goods and Services Tax liability of Rs. 3,400 paid on 7-4-2024.

(f) Other Business receipts include Rs. 2,200 received as refund of Goods and Services Tax relating to 2022-23.

(g) Other General Expenses include Rs.2,000 paid as Donation to a Public Charitable Trust.

(h) Sale proceeds are received through account payee cheque.
Advise Mr. X whether he can offer his business income under section 44AD i.e. presumptive taxation. (May 2003)

Solution:

(A) Business income if Mr. X does not opt for presumptive income scheme

(amounts in Rs.) –

Net profit as per Profit and Loss account				60,000
Add:	**(a)**	Closing stock not included	18,000	
	(b)	Excess salary paid to brother [WN1]	2,000	
	(c)	Whole of printing and stationery expenses paid in cash [WN2]	13,200	
	(d)	Depreciation	1,05,000	
	(e)	Donations	2,000	
	(f)	Loss on shares	8,100	1,48,300
				2,08,300
Less: (a)		Opening stock not included	9,000	
	(b)	Allowable depreciation [WN-3]	66,000	
	(c)	Income from UTI [WN4]	2,400	77,400
Income from business				**1,30,900**

Working Note:

(1) Salary paid to his brother, which is unreasonable to the extent of Rs. 2,000 shall not be allowed as deduction in accordance with Section 40A(2).

(2) Since the whole amount of Printing and Stationery was paid in cash which exceeds Rs. 10,000 whole of such expenditure shall be disallowed in accordance with Section 40A(3).

(3) Computation of allowable depreciation **(amount in Rs.) :**

Opening WDV of plant and machinery	4,20,000
Add: Actual cost of plant acquired on 01-07-2023	70,000
Less: Sale proceeds of plant	-50,000
WDV as on 31-03-2024	4,40,000
Depreciation @ 15%	66,000

(4) Income from units of UTI is taxable in hands of unit holder under the head Income from other sources.

(5) Goods and Services Tax refund is taxable, as it would have been allowed as deduction earlier.

(B) Business income if he opts for presumptive income scheme u/s 44AD: Deemed income as per Section 44AD = 6% of Turnover (since sale proceeds are received through account payee cheque) i.e. 6% of Rs. 12,11,500 = Rs. 72,690.

Conclusion: Since income as per Section 44AD works out to be lower than income as per normal provisions, the assessee should opt for presumptive taxation under Section 44AD.

Illustration 48 - Computation of Business Income: Mr. Raju, a manufacturer at Chennai, gives the following Manufacturing, Trading and Profit & Loss Account for the year ended 31-03-2024.

Manufacturing, Trading and Profit & Loss Account for the year ended 31-03-2024

	Particulars	Rs.	Particulars	Rs.
To	Opening Stock	71,000	By Sales	32,00,000
To	Purchases of Raw materials	16,99,000		
To	Manufacturing Wages & Expenses	5,70,000	By Closing stock	2,00,000
To	GrossProfit	10,60,000		
		34,00,000		34,00,000

To	Administrative Charges	3,26,000	By GrossProfit	10,60,000
To	GST penalty paid	5,000	By Dividend from domestic companies (Gross)	15,000
To	GST paid	1,10,000	By Income from agriculture (net)	1,80,000
To	General Expenses	54,000		
To	Interest to Bank (On machinery term loan)	60,000		
To	Depreciation	2,00,000		
To	Net Profit	5,00,000		
		12,55,000		**12,55,000**

Following are the further information relating to the financial year 2023-24:

(i) Administrative charges include Rs. 46,000 paid as commission to brother of the assessee. The commission amount at the market rate is Rs. 36,000.

(ii) The assessee paid Rs. 33,000 in cash to a transport carrier on 29-12-2023. This amount is included in manufacturing expenses. (Assume that the provisions relating to TDS are not applicable to this payment.)

(iii) A sum of Rs. 4,000 per month was paid as salary to a staff throughout the year and this has not been recorded in the books of account.

(iv) Bank term loan interest actually paid upto 31-03-2024 was Rs. 20,000 and the balance was paid in Nov. 2024.

(v) Housing loan principal repaid during the year was Rs. 50,000 and it relates to residential property occupied by him. Interest on housing loan was Rs. 23,000. Housing loan was taken from Canara Bank. These amounts were not dealt with in the Profit and Loss Account given above.

(vi) Depreciation allowable under the Act is to be computed on the basis of following information **(amount in Rs.):**

Plant & Machinery (Depreciation rate @15%)	
Opening WDV (as on 01-04-2023)	12,00,000
Additions during the year (used for more than 180 days)	2,00,000
Total additions during the year	4,00,000
Note : Ignore additional depreciation u/s 32(1) (iia)	

Compute the total income of Mr. Raju for the assessment year 2023-24. **(12 Marks, PCCNov. 2010)**

Note: Ignore application of Section 14A for disallowance of expenditures in respect of any exempt income.

Solution: Computation of Total Income of Mr. Raju **(amount in Rs.):**

Income from house property:			
Annual value of self-occupied property		Nil	
Less: Deduction under section 24(b) - Interest on housing loan		23000	-23000
Profits and gains of business or profession:			
Net profits as per P&L A/c		500000	
Add: Excess commission paid to brother disallowed under section 40A(2)		10000	
Salary paid to staff not recorded in the books	[WN-1]	48000	
Bank term loan interest paid in November 2024	[WN-2]	40000	

GST penalty paid disallowed	[WN-3]	5000	
Depreciation debited to profit and loss account		200000	
		803000	
Less: Dividend from domestic companies [Taxable in hands of shareholder]		-15000	
Income from agriculture [Exempt u/s 10(1)]		180000	
Depreciation under the Income-tax Act, 1961	[WN-4]	-225000	383000
Income from Other Sources :			
Dividend from domestic companies [Taxable in hands of shareholder]			15000
Gross Total Income			375000
Less: Deduction u/s 80C in respect of Principal repayment of housing loan			50000
Total Income			**325000**

Working Notes:

(1) Assuming that the salary paid to staff is in the nature of unexplained expenditure and hence, is deemed to be income as per section 69C. Further, no deduction shall be allowable in respect of such expenditure.

Alternate view: It is also possible to take a view that the salary not recorded in the books of account was an erroneous omission and that the assessee has offered satisfactory explanation for the same. In such a case, the same should not be added back as unexplained expenditure under section 69C of the Act, but would be allowable as deduction while computing profits and gains of business and profession.

(2) Bank term loan interest paid after the due date of filing of return under section 139(1) shall be disallowed as per Section 43B. It is assumed that the interest doesn't relate to the period before the machinery is first put to use, hence, the same is a revenue expenditure. Thus, amount to be disallowed = Rs. 60,000 - 20,000 =Rs. 40,000.

(3) Where the imposition of penalty is not for delay in payment of Goods and Services Tax but for contravention of provisions of the Goods and Services Tax Act, the levy is not compensatory and therefore, not deductible. However, if the levy is compensatory in nature, it would be fully allowable. Where it is a composite levy, the portion which is compensatory is allowable and that portion which is penal is to be disallowed.

Since the question only mentions "GST penalty paid" and the reason for levy of penalty is not given, it has been assumed that the levy is not compensatory and therefore, not deductible. However, it may also be assumed that such levy is compensatory in nature and hence, allowable as deduction, in which case the answer would change.

(4) Depreciation as per Income-tax Act, 1961 **(amount in Rs.) -**

Plant & Machinery (Depreciation rate @ 15%)	
Opening WDV (as on 01-04-2023)	12,00,000
Add: Additions during the year (used for more than 180 days)	2,00,000
Add: Additions during the year (used for less than 180 days)	2,00,000
WDV (as on 31-03-2024)	**16,00,000**
Deprecation @ 15% (Rs. 12,00,000 + Rs. 2,00,000)	2,10,000
Deprecation @ 7.5 % (Rs. 2,00,000)	15,000
Total allowable deprecation	**2,25,000**

(5) Payment made to transporter is not disallowed under section 40A(3) since the limit for cash payment in case of transporters is Rs. 35,000. Hence, it is fully allowable as deduction.

Illustration 49 - Taxabilitiy/ Deductibility of various items: Ramji Ltd., engaged in manufacture of medicines (pharmaceuticals) furnishes the following information for the year ended 31-03-2024:

(i) Municipal tax relating to office building Rs. 51,000 not paid till 31-10-2024.
(ii) Patent acquired for Rs. 20,00,000 on 01-09-2023 and used from the same month.
(iii) Capital expenditure on scientific research Rs. 10,00,000 which includes cost of land Rs. 2,00,000.
(iv) Amount due from customer X outstanding for more than 3 years written off as bad debt in the books Rs. 5,00,000.
(v) Income tax paid Rs. 90,000 by the company in respect of non-monetary perquisites provided to its employees.
(vi) Provident fund contribution of employees Rs. 5,50,000 remitted in July 2024.
(vii) Expenditure towards advertisement in souvenir of a political party Rs. 1,50,000.
(viii) Refund of Goods and Services Tax Rs. 75,000 received during the year, which was claimed as expenditure in an earlier year.

State with reasons the taxability or deductibility of the items given above under Income-tax Act, 1961.

Note: Computation of total income is not required. **(8 Marks, CA IPCC Nov. 2011)**

Solution: The treatment is as under -

(i) As per Section 43B, municipal tax is not deductible for assessment year 2024-25 since it is not paid on or before 31-10-2024, being the due date of filing the return for assessment year 2024-25.
(ii) Patent is an intangible asset eligible for depreciation @ 25%. Since, it has been acquired and put to use for more than 180 days during the previous year 2023-24, full depreciation of Rs.5,00,000 (i.e. 25% of Rs. 20,00,000) is allowable as deduction under section 32.
(iii) Deduction @ 100% is available under section 35(2AB) in respect of expenditure incurred by a company on scientific research on in-house research and development facility as approved by the prescribed authority. However, cost of land is not eligible for deduction.

Deduction under section 35(2AB) = 100% of Rs.8 lakhs = Rs. 8,00,000.

(iv) Bad debts i.e. Rs. 5,00,000 written off in the books of account as irrecoverable is deductible under section 36(1) (vii), provided the debt has been taken into account in computing the income of the company in the current previous year or any of the earlier previous years.
(v) As per Section 40(a) (v), income-tax of Rs. 90,000 paid by the company in respect of non-monetary perquisites provided to its employees, exempt in the employee's hands under section 10(10CC), is not deductible while computing business income of the employer-company.
(vi) The employees' contribution to provident fund is taxable in the hands of the company since it is included in the definition of income under section 2(24) (x). As per section 36(1) (va), provident fund contribution of employees is deductible

only if such sum is credited to the employee's provident fund account on or before the due date under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. In this case, since it is remitted after the due date under the said Act, it is not deductible.

(vii) Expenditure towards advertisement in souvenir of a political party is disallowed under section 37(2B) while computing business income. However, the same is deductible under section 80GGB from gross total income.

(viii) Refund of a trading liability is taxable under section 41(1), if a deduction was allowed in respect of the same to the taxpayer in an earlier year. Since Goods and Services Tax was claimed as expenditure in an earlier year, refund of the same during the year would attract the provisions of Section 41(1).

Illustration 50 - Computation of IBP & PGBP : Mr. Ramesh constructed a big house (construction completed in P.Y. 2008-09) with 3 independent units. Unit - 1 (50% of floor area) is let out for residential purpose at monthly rent of Rs. 15,000. A sum of Rs. 3,000 could not be collected from the tenant and a notice to vacate the unit was given to the tenant. No other property of Mr. Ramesh is occupied by the tenant. Unit -1 remains vacant for 2 months when it is not put to any use. Unit - 2 (25% of the floor area) is used by Mr. Ramesh for the purpose of his business, while Unit - 3 (the remaining 25%) is utilized for the purpose of his residence. Other particulars of the house are as follows:

Particulars	**Rs.**
Municipal valuation	88,000
Fair rent	2,48,000
Standard rent under the Rent control Act	2,28,000
Municipal taxes	20,000
Repairs	5,000
Interest on capital borrowed for the construction of the property	60,000
Ground rent	6,000
Fire insurance premium paid	60,000

Income of Ramesh from the business is Rs. 1,40,000 (without debiting house rent and other incidental expenditure).
Determine the taxable income of Mr. Ramesh for the assessment year 2024-25 if he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). (6 Marks, July 2022)

Solution: Computation of Taxable Income of Mr. Ramesh under the regular provisions of the Act

Particulars	**Rs**	**Rs**
Income from house property : Unit -1 [50% of floor area - Let out] Gross Annual Value, higher of—		
➢ Expected rent Rs. 1,14,000 [Higher of Municipal Value oft 94,000 v.a. and Fair Rent of Rs. 1,24,000 p .a., but restricted to Standard Rent oft 1,14,000 p.a.]	1,14,000	
➢ Actual rent Rs. 1,47,000 15,000 x 10] less unrealized rent of t 3,000 since conditions of Rule 4 has been satisfied]	1,47,000	
Gross Annual Value	**1,47,000**	

Less: Municipal taxes [50% of Rs. 20,000][Assumed to have been paid during the vear bv Mr. Ramesh]		10,000	
Net annual value		1,37,000	
Less: Deductions from Net Annual Value			
(a) 30% of Net Annual Value		41,100	
(b) Interest on loan [50% of Rs. 60,000]		30,000	65,900
Unit - 3 [25% of floor area - Self occupied]			
Net Annual Value		-	
Less: Interest on loan [25 % of Rs. 60,000]		15,000	-15,000
Income from house property			50,900
Profits and gains from business or profession:			
Business Income [without deducting expenditure on Unit - 2- 25% floor area used for business purposes]		1,40,000	
Less: Expenditure in respect of Unit -2			
Municipal taxes [25% of Rs. 20,000] [Assumed to have been paid on or before the due date u/s 139(1)]	5 000		
Repairs [25% ofRs. 5,000]	1,250		
Interest on loan [25 % of Rs. 60,000]	15,000		
Ground rent [25% of Rs. 6,000]	1,500		
Fire Insurance premium [25% of Rs. 60,000]	15,000	37,750	1,02,250
Taxable Income			**1,53,150**

Illustration 51 - Computation of Business and agricultural Income: Mr. Anil earned Rs. 5,00,000 from sale of Coffee grown and cured (processed) by him. He claims the entire income as agricultural income, hence exempt from tax. Is he correct?
(2 Marks, PCC May 2010)

Solution: No. Out of the total income of Rs. 5,00,000 –
Agricultural income = 75% of Rs. 5,00,000 = Rs. 3,75,000;
Business income = 25% of Rs. 5,00,000 = Rs. 1,25,000.

Illustration 52 - Computation of Business and agricultural Income: Mr. Tony had estates in Rubber, Tea and Coffee. He derives income from them. He has also a nursery wherein he grows plants and sells. For the previous year ending 31-3-2024, he furnishes the following particulars of his sources of income from estates and sale of plants

(amounts in Rs.)-

(a)	Manufacture of Rubber	5,00,000
(b)	Manufacture of Coffee grown and cured	3,50,000
(c)	Manufacture of Tea	7,00,000
(d)	Sale of plants from nursery	1,00,000

You are requested to compute the taxable income. **(5 Marks, CA PE-II Nov. 2004)**

Solution: Computation of taxable income of Tony **(amount in Rs.)**

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

Hence, total income of Mr. Tony = Rs. 5,42,500.

Illustration 53 - Computation of Business and agricultural Income: Miss. Kavita, a resident and ordinarily resident in India, has derived the following income for the year ended 31-3-2024: **Rs.**

(i)	Income from sale of centrifuged latex processed from rubber plants grown in Darjeeling	1,00,000
(ii)	Income from sale of coffee grown and cured in Yereaud, Tamil Nadu	2,00,000
(iii)	Income from sale of coffee grown, cured, roasted and grounded in Colombo. Sale consideration was received in Chennai.	5,00,000
(iv)	Income from sale of tea grown and manufactured in Shimla	10,00,000
(v)	Income from sapling and seedling grown in a nursery at Cochin. Basic operations were not carried out by her on land.	2,00,000

You are required to compute the business income and agricultural income of Miss. Kavita for the Assessment Year 2024-25. **(5 Marks, May 2018) (Similar: 6 Marks, CA PE-II June, 2009)**

Solution: Computation of taxable income of Miss Kavita **(amounts in Rs.) -**

Particulars	Business Income	Agricultural Income
Income from growing & manufacturing rubber in India (Rule 7A) - 35% : 65%	35,000	65,000
Income from growing and curing coffee in India (Rule 7B) - 25% : 75%	50,000	1,50,000
Income from growing/curing/roasting etc. coffee out of India in Colombo (Sri Lanka) [WN-1]	5,00,000	-
Income from growing and manufacturing tea in India (Rule 8) - 40% : 60%	4,00,000	6,00,000
Income from sapling and seedling grown in a nursery [WN-2]	-	2,00,000
Total	**9,85,000**	**10,15,000**

Working Note:

(1) Income from a land situated outside India is Non-Agricultural Income. Since the operations have taken place outside India, hence, no part of such income can be regarded as agricultural income (Rule 7B will not apply). Since Miss Kavita is resident in India, hence, this income will be taxed in India.

(2) Income from sapling and seedling grown in a nursery is deemed agricultural income even if no basic operations have been carried out.

Illustration 54 - Computation of Business and agricultural Income: Mr. Tenzingh is engaged in composite business of growing and curing (further processing) Coffee in Coorg, Karnataka. The whole of coffee grown in his plantation is cured. Relevant information pertaining to the year ended 31-3-2024 are given below:

	Rs.
WDV of Car as on 01-04-2023	3,00,000
WDV of machinery as on 31-03-2023 (15% rate)	15,00,000
Expenses incurred for growing coffee	3,10,000
Expenditure for curing Coffee	3,00,000
Sale value of cured Coffee	22,00,000

Besides being used for agricultural operations, the car is also used for personal use; disallowance for personal use may be taken at 20%. The expenses incurred for car running and maintenance are Rs. 50,000. The machines were used in coffee curing business operations. Compute the income arising from the above activities for the assessment year 2024-25. Show the WDV of the assets as on 31-03-2024. **(6 Marks, IPCC May 2010)**

Solution: Computation of income from partly agricultural and partly business activities : Where an assessee is engaged in the composite business of growing and curing of coffee, the income will be segregated between agricultural income and business income, as per Rule 7B of the Income-tax Rules, 1962.

As per the above Rule, income derived from sale of coffee grown and cured by the seller in India shall be computed as if it were income derived from business, and 25% of such income shall be deemed to be income liable to tax. The balance 75% will be treated as agricultural income **(amount in Rs.) –**

Sale value of cured coffee		22,00,000
Less: Expenditure incurred for growing coffee	3,10,000	
Expenditure incurred for curing coffee	3,00,000	
Expenditure on running and maintenance of car (Rs. 50,000 x 80%) - Balance 20% pertaining to personal use, not allowed as deduction	40,000	
Depreciation on machinery	2,25,000	
Depreciation on car	36,000	9,11,000
Income from coffee business (before disintegration)		12,89,000
Agricultural Income @ 75%		9,66,750
Business Income @ 25%		3,22,250
Computation of WDV of assets as on 31-3-2024:	**Car**	**Machine**
WDV as on 01-04-2023	3,00,000	15,00,000
Less: Depreciation @ 15% (In case of car, only 80% will be deducted) (See Note)	-36,000	-2,25,000
Depreciated WDV as on 31-3-2024	**2,64,000**	**12,75,000**

Note:

(1) Explanation 7 has been inserted in section 43(6) to provide that in cases of 'composite income', for the purpose of computing written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire composite income of the assessee (and not just 25%) is chargeable under the head "Profits and gains of business or profession". The depreciation so computed shall be deemed to have been "actually allowed" to the assessee.

(2) It has been assumed that the written down value of machinery as on 31-3-2023 i.e., Rs. 15 lakhs given in the question represents the closing balance after providing depreciation for the previous year 2022-23. It is also possible to assume that the written down value of Rs. 15 lakhs as on 31-3-2023 represents the written down value on which depreciation has to be charged for the previous year 2022-23 and answer will be modified accordingly.

Illustration 55 - Computation of tax liability in case of Business income & other income: Mr. X, a resident, has provided the following particulars of his income for the P.Y. 2023-24. Compute his tax liability.

(4)	Income from salary (Computed)	-	Rs. 3,80,000
(5)	Income from house property (computed)	-	Rs. 2,00,000
(6)	Agricultural income from a land in Jaipur	-	Rs. 2,80,000
(7)	Expenses incurred for earning agricultural income	-	Rs. 1,70,000

Solution: Computation of total income of Mr. X for the A.Y. 2024-25 **(amount in Rs.):**

Income from salary (Computed)		3,80,000
Income from house property		2,00,000
Net agricultural income [Rs. 2,80,000 - Rs. 1,70,000]	1,10,000	
Less: Exempt under section 10(1)	-1,10,000	-
Gross Total Income		5,80,000
Less: Deductions under Chapter VI-A		-
Total Income		**5,80,000**

Computation of tax payable by Mr. X **(amounts in Rs.):**

Tax on business income including agricultural income (Rs. 5,80,000 + Rs. 1,10,000)	50,500
Less: Tax on agricultural income + basic exemption (Rs. 1,10,000 + Rs. 2,50,000)	5,500
Tax payable	**45,000**
Add: HEC @ 4%	1,800
Tax liability (rounded off)	**46,800**

Illustration 56 - Computation of Business and agricultural Income: Mr. Kamal grows paddy and uses the same for the purpose of manufacturing of rice in his own Rice Mill. The cost of cultivation of 40% of paddy produce is Rs. 7,00,000 which is sold for Rs. 15,00,000; and the cost of cultivation of balance 60% of paddy is Rs. 12,00,000 and the market value of such paddy is Rs. 24,00,000. To manufacture the rice, he incurred Rs. 2,00,000 in the manufacturing process on the balance (60%) paddy. The rice was sold for Rs. 30,00,000. Compute the Business income and Agriculture Income of Mr. Kamal. (4 Marks, Nov. 2016)

Solution: Computation of Business income and Agriculture Income of Mr. Kamal **(amount in Rs.):**

Agricultural Income:		
Sale value of paddy	15,00,000	
Less: Cost of Cultivation	7,00,000	**8,00,000**
Market value of paddy used for production of rice	24,00,000	
Less: Cost of Cultivation	12,00,000	**12,00,000**
Business Income:		

Sale Value of Rice	30,00,000	
Less: Cost of Paddy [Market Valued Paddy is taken for computing Business Income as u/r 7]	24,00,000	
Less: Further Processing Cost [**Note:** These are processing Costs, not Agri. Operations]	2,00,000	**4,00,000**

Illustration 57 - Computation of tax liability in case of Business income & Other income: Mr. Avani, a resident aged 25 years, manufactures tea leaves from the tea plants grown by him in India. These are then sold in the Indian market for Rs. 40 lakhs. The cost of growing tea plants was Rs. 15 lakhs and the cost of manufacturing tea leaves was Rs. 10 lakhs. Compute his tax liability for the Assessment Year 2024-25 if he has not opted for the provisions of Section 115BAC. (7 Marks, May 2018-NS)

Solution: Computation of tax liability of Mr. Avani (amount in Rs.);

Sale value of manufactured Tea		40,00,000
Less: Expenditure incurred for growing tea plants	15,00,000	
Expenditure incurred for manufacturing tea leaves	10,00,000	25,00,000
Composite income from growing and manufacturing tea		**15,00,000**
Agricultural Income @ 60%		9,00,000
Business Income @ 40%		6,00,000

Computation of tax payable by Mr. Avani **(amounts in Rs.) :**

Tax on business income including agricultural income (Rs. 6,00,000 + Rs. 9,00,000)	2,62,500
Less: Tax on agricultural income + basic exemption (Rs. 9,00,000 + Rs. 2,50,000)	1,57,500
Tax payable	1,05,000
Add: HEC @ 4%	4,200
Tax liability (rounded off)	**1,09,200**

Illustration 58 - Agricultural Income: Discuss the taxability of the following transactions giving reasons, in the light of relevant provisions, for your conclusion.

(i) Mr. Rajpal took a land on rent from Ms. Shilpa on monthly rent of Rs. 10,000. He sublets the land to Mr. Manish for a monthly rent of Rs. 11,500. Manish uses the land for grazing of cattle required for agricultural activities. Mr. Rajpal wants to claim deduction of Rs. 10,000 (being rent paid by him to Ms. Shilpa) from the rental income received by it from Mr. Manish.

(ii) Mr. Pratham, a non-resident in India, received a sum of Rs. 1,14,000 from Mr. Rakesh, a resident and ordinarily resident in India. The amount was paid to Pratham on account of transfer of right to use the manufacturing process developed by Pratham. The manufacturing process was developed by Mr. Pratham in Singapore and Mr. Rakesh uses such process for his business carried on by him in Dubai.

(iii) Mr. Netram grows paddy on land. He then employs mechanical operations on grain to make it fit for sale in the market, like removing hay and chaff from the grain, filtering the grain and finally packing the rice in gunny bags. He claims that entire income earned by him from sale of rice is agricultural income not liable to income tax since paddy as grown on land is not fit for sale in its original form. (3x2=6 Marks, Jan. 2022)

Solution :

(i) The rent or revenue derived from land situated in India and used for agricultural purposes would be agricultural . income under section 2(1A)(a). Therefore, rent received from sub-letting of the land used for grazing of cattle required for agriculture activities is agricultural income. The rent can either be received by the owner of the land or by the Original tenant from the sub-tenant.
Accordingly, rent received by Mr. Rajpal from Mr. Manish for using land for grazing of cattle required for Agricultural activities is agricultural income exempt u/s 10(1).
As per section 14A, no deduction is allowable in respect of exempt income.

(ii) Consideration for transfer of right to use the manufacturing process falls within the definition of royalty. Income by way royalty payable by Mr. Rakesh, a resident and ordinarily resident, is not deemed to accrue or arise in India in the hands of Mr. Pratham as per section 9(1)(vi)(b), since royalty is payable in respect of right used for the purposes of a business carried on by Mr. Rakesh outside India i.e., in Dubai.

(iii) The income from the process ordinarily employed to render the produce fit to be taken to the market would be agricultural income under section 2(1A)(b)(ii). The process of making the rice ready from paddy for the market may involve manual operations or mechanical operations, both of which constitute processes ordinarily employed to make the product fit for the market.
Accordingly, the entire income earned by Mr. Netram from sale of rice is agricultural income.

Capital Gain

Illustrations

Illustration 1 - Capital gains - Basics: Compute the capital gains for assessment year 2024-25 in following independent cases -

(i) Mr. Ramesh, a property dealer, sells a commercial plot of land on 1-3-2024 for Rs. 100 lakhs which was acquired by him on 1-8-2019 for Rs. 25,00,000 for selling of offices constructed therein. He had incurred land development charges of Rs. 10,00,000 on 1-10-2019. He incurred Rs. 50,000 for selling the plot of land.

(ii) Mr. Roy sells his personal motorcar on 11-4-2023 for Rs. 2,55,000, which was acquired on 31-1-2019 for Rs. 6,50,000. The expenses on transfer are 2% of selling price.

(iii) Mr. Pawan sells his personal residential house on 1-4-2024 for Rs. 86,70,000, which was acquired by him on 1-10-2008 for 30,00,000. The expenses on transfer were Rs. 70,000.

(iv) Mr. Yash sells an agricultural land situated in rural area on 1-1-2024 for Rs. 10,50,000. The population of municipality under which the village is covered is 9,800. The land was acquired on 1-3-2002 for Rs. 1,00,000.

(v) Mrs. Priya sells her gold bracelet on 1-5-2023 for Rs. 5,00,000, which was acquired for Rs. 40,000 on 1-3-2005. A diamond was fitted onto that bracelet on 1-4-2007 for Rs. 10,000.

(vi) Mr. Kalicharan, a businessman, had acquired a sculpture for Rs. 8,36,600 and a drawing for Rs. 20,000 in the year 2004-05. He sold the sculpture for Rs. 9,00,000 to a university and the drawing for Rs. 15,000 to a National Museum on 25-12-2023.

Solution: Capital gains for A.Y. 2024-25 in respect of above cases shall be computed as follows,-

(i) Commercial plot of land acquired by property dealer 'Ramesh' for his business purpose is in the nature of stock-in- trade for him. Therefore, it is not a capital asset and hence, no capital gains will arise.

(ii) Personal motorcar sold by Mr. Roy is a personal effect. Therefore, it is not a capital asset and hence, no capital gains will arise.

(iii) The transfer of the residential house by Mr. Pawan was effected on 01-04-2024 which doesn't fall within the previous year 2023-24. Hence, this transaction is not liable to capital gains in the assessment year 2024-25, but will be taxable in the assessment year 2025-26.

(iv) In this case, agricultural land is situated in an area, the population of whose municipality is less than 10,000. Hence, the land is a rural agricultural land, thus not a capital asset.

(v) Bracelet for personal use is 'jewellery' and is specifically excluded from the term personal effect. Therefore, it is a capital asset liable to capital gains tax, as follows:

(amounts in Rs.)

Full value of consideration	5,00,000
Less: Indexed cost of acquisition (Rs. 40,000 x 348÷113)	1,23,186
Less: Indexed cost of improvement being fitting of diamond (Rs. 10,000 x 348 ÷129)	26,977
Long-term capital gains	**3,63,214**

(vi) While sculpture/ drawings are capital assets, but their transfer to a University/National Museum is exempt under section 47(ix). Hence, no capital gains shall arise.

Illustration 2 - Computation of Capital Gains: A owns a capital asset which was purchased by him on 1-5-1999 for Rs. 4,00,000. The market value of the said asset as on 1-4-2001. was Rs. 3,00,000. The said asset was sold for Rs. 18,00,000 on 30-01-2024. Expense incurred on transfer amounted to Rs. 5,000. Compute the capital gain for the A.Y. 2024-25. (Cost inflation index for F.Y. 2001-02 = 100 and 2023-24= 348)

Solution: Computation of capital gains chargeable to tax **(amount in Rs.)** -

Full value of consideration	18,00,000
Less: Expenses on transfer	5,000
Net Consideration	17,95,000
Less: Indexed cost of acquisition (Rs. 4,00,000 x 348 ÷100)	13,92,000
Long-term Capital Gains	**4,03,000**

Illustration 3 - Computation of Capital Gains- Short term: A owns shares of unlisted company which was purchased by him on 15-10-2023 for Rs. 4,00,000. The said asset was sold for Rs. 4,80,000 on 30-01-2024. Expense incurred on transfer amounted to Rs. 5,000. Compute the capital gain for the assessment year 2024-25.

Solution: Computation of capital gains chargeable to tax **(amount in Rs.) -**

Full value of consideration	4,80,000
Less: Expenses on transfer	5,000
Net Consideration	**4,75,000**
Less: Cost of acquisition [WN]	4,00,000
Short-term Capital Gains	**75,000**

Working Note: Since the shares of unlisted company are not held for more than **24 months** immediately preceding the date of transfer the said capital asset is short term capital asset.

Illustration 4 - Computation of Capital Gains - Long Term: A owns shares of unlisted company which was purchased by him on 15-10-2016 for 14,00,000. The said asset was sold for Rs. 5,75,000 on 30-01-2024. Expense incurred on transfer amounted to Rs. 5,000. Compute the capital gain for the assessment year 2024-25. (Cost inflation index for F.Y. 201-17 = 264 arid 2023-24 = 348)

Solution: Computation of capital gains chargeable to tax **(amount in Rs.) -**

Full value of consideration		5,75,000
Less: Expenses on transfer		5,000
Net Consideration		5,70,000
Less: Cost of acquisition 4,00,000 x 348 ÷ 264)	[WN]	5,27,273
Long-term Capital Gains		**42,727**

Working Note: Since the shares of unlisted company are held for more than **24 months** immediately preceding the date of transfer the said capital asset is long term capital asset.

Illustration 5 - Computation of Capital Gains - Long Term: A owns a commercial property which was purchased by him on 15-10-2016 for Rs. 8,00,000. The said asset was sold for Rs. 15,75,000 on 30-01-2024. Expense incurred on transfer amounted to 5,000. Compute the capital gain for the assessment year 2024-25. (Cost inflation index for F.Y. 2016-17 = 264 and 2023-24 = 348)

Solution: Computation of capital gains chargeable to tax **(amount in Rs,) -**

Full value of consideration		15,75,000
Less: Expenses on transfer		5,000
Net Consideration		15,70,000
Less: Cost of acquisition (Rs. 8,00,000 x 348 ÷ 264)	[WN]	10,54,545
Long-term Capital Gains		**5,15,455**

Working Note: Since the commercial property is held for more than **24 months** immediately preceding the date of transfer the said capital asset is long term capital asset.

Illustration 6 - Computation of Capital Gains: A owns a capital asset which was purchased by him on 01-5-1989 for Rs. 4,00,000. The fair market value as on 01-04-2001 is Rs. 15,00,000. The said asset was sold for Rs. 48,00,000 during financial year 2023–24. Expense incurred on transfer amounted to Rs. 15,000. Compute the capital gain for the assessment year 2024-25. (Cost inflation index for F.Y. 2001-02 = 100 and 2023-24 = 348)

Solution: Computation of capital gains chargeable to tax **(amount in Rs.) -**

Full value of consideration	58,00,000
Less: Expenses on transfer	15,000
Net Consideration	57,85,000
Less: Indexed cost of acquisition 15,00,000 x 348 ÷100)	52,20,000
Long-term Capital Gains	**5,65,000**

Illustration 7 - Computation of Capital gains: Ram purchases a house property for Rs. 15,00,000 on 30th June, 1994. The following expenses were incurred by him for making addition/ alteration to the house property:

	Rs.
Cost of construction of first floor in 1995-1996	5,00,000
Cost of construction of second floor in 2002-03	7,50,000
Alteration/reconstruction of the property in 2006-07	6,25,000
Fair market value of the property on 1st April, 2001	21,00,000
Stamp duty value of the property as on 1st April, 2001	20,00,000

The house property is sold by him on 15th June, 2023 for Rs. 1,25,00,000 (expenses incurred on transfer Rs. 1,15,000). Compute the amount of capital gains chargeable to tax for the assessment year 2024-25.

Cost inflation indices: FY 2001-02:100; FY 2002-03 :105; FY 2006-07:122 and 2023-24:348.

Solution: Computation of capital gains/ loss chargeable to tax **(amount in Rs.) –**

Full value of consideration	1,25,00,000
Less: Expenses on transfer	1,15,000
Net Consideration	1,23,85,000
Less: Indexed cost of acquisition (Rs. 20,00,000 x 348 ÷100) [Stamp duty vale will be considered as cost of acquisition since it exceeds the fair market value of the property]	69,60,000
Less: Indexed cost of improvement (second floor) 6,25,000 x 348 ÷ 122)	24,85,714
Less: Indexed cost of improvement (Rs. 6,25,000 x 348 ÷ 122)	17,82,787
Long-term Capital Gains	**11,56,499**

Illustration 8 - Computation of capital gains when transferred asset acquired u/s 49(1) modes: Mrs. R sells a plot of land on 21-11-2023 for Rs. 50,00,000. She inherited the plot from her grandfather on 01-04-2013. Her grandfather had acquired the plot on 01-03-2001 for Rs. 5,00,000. Her grandfather incurred land development charges of Rs. 2,90,000 on 31-3-2001 and Rs. 6,60,000 on 01-05-2013. Mrs. R also incurred land development charges of Rs. 1,00,000 on 01-09-2015. The expenses incurred on transfer amounted to 1.5% of the sale price. The FMV of the plot as on 01-04-2001 was Rs. 8,00,000. Compute the capital gains.
Cost Inflation Index: FY 2001-02 = 100; FY 2013-14 = 220; FY 2015-16 = 254 and FY 2023-24 = 348.

Solution: Here, the property (plot of land) was acquired by Mrs. R from her grandfather under inheritance i.e. Section 49(1)modes. Hence, the period of holding of Mrs. R's grandfather will be included, as a result of which, the plot of land becomes long-term capital asset for Mrs. R.
Cost of acquisition for Mrs. R = Cost to the previous owner or FMV as on 1-4-2001, whichever is higher = Rs. 8,00,000.
Cost of improvement incurred after 1-4-2001 by previous owner or the assessee is deductible.

(amounts in Rs.)

Full value of consideration	50,00,000
Less: Expenses on transfer @ 1.5% of 50,00,000	75,000
Net consideration	**49,25,000**
Less: Indexed cost of acquisition (Rs. 8,00,000 x 348 ÷100)	27,84,000
Less: Cost of improvement incurred after 1-4-2001	
Mrs. R's grandfather (Rs. 6,60,000 x 348 - 220) + Mrs. R (Rs. 1,00,000 x 348 ÷ 254)	11,81,008
Long-term capital gains	**9,59,992**

Illustration 9 - Computation of capital gains in case of conversion of preference shares into equity shares: Mr. A is the holder of 1,000 preference shares of XYZ Ltd. having a face value of Rs. 100 each. The preference shares were acquired by him on 10-07-2014 for Rs. 1,50,000. The company converted the preference shares into equity shares in ratio of 1:1 on 15-07-2023. The market value of the equity shares on the date of conversion was Rs. 250 per share. He sold all the equity shares on 10-03-2024 for Rs. 325 per share. Expenses on transfer amounted to Rs. 10,000. The shares are not listed in recognized stock exchange. Determine taxable capital gains.

Cost Inflation Index: FY2014-15=240

Solution: As per provisions of section 47(xb), conversion of preference share of a company into its equity share shall not be regarded as transfer. As per Section 49(2AE), where the capital asset, being equity share of a company, became the property of the assessee in consideration of such conversion, the cost of acquisition of the equity share shall be deemed to be that part of the cost of the preference share in relation to which such equity share is acquired by the assessee. In computing the period of holding of equity shares, there shall be included the period for which the preference shares were held by the assessee. The capital gains shall be computed as under

(amount in Rs.) :

Full value of consideration	3,25,000
Less: Expenses on transfer	10,000
Net consideration	**3,15,000**
Less: Indexed cost of acquisition (Rs. 1,50,000 x 348 ÷240)	2,17,500
Long-term capital gains	**97,500**

Illustration 10 - Perquisite and Capital gains of ESQP: AB Co. Ltd. allotted 1,000 sweat equity shares to Sri Chand in June 2023. The shares were allotted at Rs. 200 per share as against the fair market value of Rs. 300 per share on the date of exercise of option by the allottee viz., Sri Chand. The fair market value was computed in accordance with the method prescribed under the Act.

(i) What is the perquisite value of sweat equity shares allotted to Sri Chand ?
(ii) In the case of subsequent sale of those shares by Sri Chand, what would be the cost of acquisition of those sweat equity shares Rs.**(4 Marks, PCC Nov. 2010)**

Solution:

(i) As per Section 17(2) (vi), the value of sweat equity shares chargeable to tax as perquisite shall be the fair market value of such shares on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from, the assessee in respect of such shares. (amounts in Rs.)

Fair market value of 1,000 sweat equity shares @ Rs. 300 each	3,00,000
Less: Amount recovered from Sri Chand 1,000 shares @ Rs. 200 each	2,00,000
Value of perquisite of sweat equity shares allotted to Sri Chand	**1,00,000**

(ii) As per section 49(2AA), where capital gain arises from transfer of sweat equity shares, the cost of acquisition of such shares shall be the fair market value which has been taken into account for perquisite valuation under section 17(2)(vi). Therefore, in case of subsequent sale of sweat equity shares by Sri Chand, the cost of acquisition would be Rs. 3,00,000.

Illustration 11 - Conversion of stock in trade into Capital Asset: Mr. X, a trader in gold arid silver jewellery furnishes you with the following information —

(1) On 14th May, 2022, X purchases 100 grams of gold bullion the rate of Rs. 30,000 per 10 gram as his stock-in-trade

(2) This stock-in-trade is not sold till 31st March, 2023. FMV of gold bullion on 31st March, 2023 is Rs. 31,500 per 10 grams.

(3) The above inventory of 100 grams gold bullion is converted into capital asset on 10th July, 2023. FMV of Gold bullion on 10th July, 2023 is Rs. 31,750 per ten grams.

(4) X transfers 50 grams of gold bullion on 25th March, 2024 at the rate of Rs. 32,500 per 10 gram.

Find out tax consequences of these transactions (assume that X has not undertaken any other transaction during the previous years 2022-23 and 2023-24).

Solution:

(1) For the previous year 2022-23, business income from the above transaction will be determined as follows (Rs.) —

Opening stock on 1st April, 2022	Nil	
Purchase of inventory during 2022-23 [Rs. 30,000 ÷10 x 100]	3,00,000	
Sales during 2022-23		Nil
Closing value of inventory (cost or market price, whichever is lower) Net profit	Nil	3,00,000
Total	**3,00,000**	**3,00,000**

(2) Business income of X for the previous year 2023-24 will be computed as follows **(amount in Rs.) —**

Opening stock on 1st April, 2023	3,00,000	
Purchase of inventory during 2023-24	Nil	
Sales during 2023-24		Nil
Fair market value on the date of conversion as per Section		3,17,500

28(via) [Rs. 32,500÷10 x 100] Closing value of inventory Net profit	 17,500	 Nil
Total	**3,17,500**	**3,17,500**

(3) Income under the head "Capital gains" will be as follows **(amount in Rs.) —**

Full value of consideration (Rs. 32,500 x 50/10) Less: Cost of acquisition (being fair market value on the date of conversion) (Rs. 31,750 x 50 -10) [WN]	1,62,500 1,58,750
Short-term capital gain	**3,750**

Working Note: Where the capital gain arises from the transfer of a capital asset referred to in Section 28(via) i.e. inventory converted into capital asset, the cost of acquisition of such asset shall be deemed to be the fair market value which has been taken into account for the purposes of Section 28(via) and the period of holding of such capital asset shall be reckoned from the date of conversion or treatment.

Illustration 12 - Conversion of convertible debentures into shares: Mr. B purchased convertible debentures for Rs. 5,00,000 during August 2002. The debentures were converted into equity shares in September 2012. These shares were sold for Rs. 20,00,000 in August, 2023. The brokerage expenses are Rs.50,000. You are required to compute the capital gains in case of Mr. B for the assessment year 2024-25.

Cost Inflation Index: FY 2002-03 = 105; FY 2012-13 = 200 and FY 2023-24 = 348.

Solution: Computation of Capital Gains of Mr. B for the A.Y. 2024-25:

Sale consideration **Less:** Expenses on transfer i.e. Brokerage paid	20,00,000 50,000
Net consideration **Less:** Indexed cost of acquisition (Rs. 5,00,000 x 348 what is this Where is starting question It will be very good mahi ke dhun nagai djit The growth typing is speed to Rajya Lag/105)	19,50,000 16,57,143
Long term capital gain	**2,92,857**

Note: For determining the period of holding of a capital asset, being a share of a company, which becomes the property of the assessee by way of conversion of debentures of that company, the period for which the debenture was held by the assessee before conversion shall also be considered.

Illustration 13 - Computation of capital gains in case of self generated asset : Mr. Sunil sells the goodwill on 20-01-2024 for Rs.38,00,000. It was self-generated by him on 02-01-2001 and he incurred cost of improvement thereof for Rs.5,55,000 on 1-4-2016. Compute his taxable gains.

Also compute the capital gains in case the goodwill was purchased by Mr. Sunil on 2-1-2001 for Rs.5,46,000. he has not claimed any depreciation on the same.

Solution: Computation of capital gains of Mr. Sunil (amounts in)-

Particulars	Self-Generated Goodwill	Purchased Goodwill
Full value of consideration	Yahaki	38,00,000
Less: Indexed cost of acquisition	Nil	19,00,080
Less: Indexed cost of improvement	Nil	Nil
Long-term capital gains	**38,00,000**	**18,99,920**

Working Notes:
(1) Indexed cost of acquisition in case of purchased goodwill
= 5,46,000 × 348/100 = ₹1900080.
(2) Indexed cost of improvement shall be always NIL in case of goodwill.

Illustration 14 - Capital gains in case of offer of rights: A is a shareholder of X & Co. Ltd., holding 1,000 shares of the face value of Rs. 10 each, allotted at the time of the company's incorporation in May, 2001. The company made a right issue in the ratio of 1:1 on 15-7-2023 at a premium of Rs. 40 per share. Instead of taking up the right, he renounced it in favour of 'B' at a price of Rs. 10 per share. What is the capital gain chargeable in the hands of 'A'?. What will be the cost of the shares in the hands of B?. **(Nov. 1995, May 2000)**

Solution: Capital Gain chargeable in the hands of A:

(1) Short-term capital gains in hands of A = Sale proceeds of the right entitlements - Cost thereof = Rs. 10 x 1,000 - Nil = Rs. 10,000.
(2) Cost of acquisition for B = Amount paid to A + Amount paid to X Ltd. = 1,000 (Rs. 10 + Rs. 50) = Rs. 60,000.

Illustration 15 - Computation of Capital Gains in case of sub-division of shares: In April, 2001, S subscribed to the first issue of equity capital of a public limited company (face value of each share was Rs. 100) to the extent of Rs. 25,000. In 2005, the company converted the face value of its shares from Rs. 100 to Rs. 10 each. Half of the holdings of the shares held by S was sold by him in October, 2023 for Rs. 50,000. S had to pay a brokerage of 2% on sale. What is the nature of gains realised and compute the same. The shares are transferred otherwise than through recognized stock exchange. **(May 1998)**

Solution: Computation of Capital Gain (amounts in Rs.) -

Full value of consideration [WN]	50,000
Less: Expenses on transfer i.e. brokerage @ 2%	1,000
Net consideration	49,000
Less: Indexed cost of acquisition (Rs. 12,500 x 348 ÷ 100)	43,500
Long-term capital gains	**5,500**

Working Note: No. of original shares = 250 shares of Rs. 100 each. On sub-division of share capital from face value of Rs. 100 to Rs. 10, the total number of shares = 2,500 shares of Rs. 10 each.

Illustration 16 - Insurance compensation on damage/ destruction of capital asset:
Mr. A is an individual carrying on business. His stock and machinery were damaged and destroyed in a fire accident. The value of stock lost (total damaged) was Rs. 6,50,000. Certain portion of the machinery could be salvaged. The opening WDV of the block as on 1-4-2023 was Rs. 10,80,000. During the process of safeguarding machinery and in the fire fighting operations, Mr. A lost his gold chain and a diamond ring, which he had purchased in April, 2005 for Rs. 1,20,000. The market value of these two items as on the date of fire accident was Rs. 1,80,000.
Mr. A received the following amounts from the insurance company:

(i) Towards loss of stock = 4,80,000
(ii) Towards damage of machinery = Rs. 6,00,000
(iii) Towards gold chain and diamond ring = Rs. 4,00,000

Briefly comment on the tax treatment of the above three items. **(7 Marks, Nov. 2006)**

Solution: The taxability of the aforesaid items has been discussed herein below –

(i) **Treatment of compensation in respect of stock-in-trade:** Stock-in-trade is not a capital asset, hence its loss is a trading loss which will be allowed as deduction in computing income under the head Profits and gains of business or profession.
The whole of the value of stock can be claimed as deduction; and the insurance compensation received can be assessed as taxable business receipt. Alternatively net loss of stock-in-trade = Value of stock - Insurance compensation received = Rs. 6,50,000 – Rs. 4,80,000 = Rs. 1,70,000 can be claimed as deduction.

(ii) **Treatment of compensation in respect of machinery:** Since the machinery has been directly destroyed by fire, therefore, the compensation has been received under circumstances referred to in section 45(1 A). Accordingly, the capital gains shall be computed as follows - **(amounts in Rs.)**

Particulars	**Machinery**
Full value of consideration (being insurance compensation received)	6,00,000
Less: Cost of acquisition being : WDV of the block of machinery	10,80,000
Short-term Capital Loss	**-4,80,000**

(iii)

Treatment of compensation in respect of gold chain and ring : Since the gold chain and diamond ring has been destroyed during fire fighting operation (the immediate cause thereof being the fire). Therefore, the compensation has been received under circumstances referred to in Section 45(1 A). Accordingly, the capital gains shall be computed as follows - **(amounts in Rs.)**

Particulars	**Gold Chain & Ring**
Full value of consideration (being insurance compensation received)	4,00,000
Less: Indexed cost of acquisition diamond ring and Gold chain (Rs. 1,20,000 x 348 -117)	3,56,923
Long-term Capital Gains	**43,077**

Note : It is assumed that both the breaking out of the fire and receipt of insurance compensation took place during the previous year 2023-24 and whole of the insurance compensation has been received in cash.

Illustration 17 - Computation of capital gains in case of conversion of a capital asset into stock-in-trade: Aarnav converts his plot of land purchased in July, 2003 for Rs. 80,000 into stock-in-trade on 31st March, 2023. The fair market value as on 31st March, 2023 was 2,50,000. The stock-in-trade was sold Rs. 2,75,000 in the month of January 2024. Find out the taxable income, if any, and, if so, under which 'head of income' and for which Assessment Year Rs. **(5 Marks, May 2008)**
Cost Inflation Index: FY 2003-04 = 109; FY 2021-22 = 317 and FY 2023-24 = 348.

Solution: Conversion of capital asset into stock-in-trade is transfer exigible to capital gains tax, but the capital gains are charged to tax in the year of sale of stock-in-trade. The tax implications are **(amounts in Rs.) –**

Full value of consideration (FMV on the date of conversion)	2,50,000
Less: Indexed cost of acquisition (Rs. 80,000 x 348÷109) [WN]	2,42,936
Long-term capital gains taxable in assessment year 2024-25	**37,064**
Sale price of stock	2,95,000
Less: Cost of stock being FMV as on the date of conversion	2,80,000
Business income taxable in assessment year 2024-25	**15,000**

Working Note: Since plot of land is converted into stock in trade therefore Transfer takes place in the year of conversion. Hence, cost inflation index of the year of conversion (i.e., F.Y. 2022-23)shall be taken

Illustration 18 - Capital gains on compulsory acquisition under any law: The house property of Abhinav is compulsorily acquired by the Government for Rs. 20,00,000 vide Notification issued on 12th March 2023. Abhinav has purchased the house in 2007-08 for Rs. 8,00,000. The compensation is received on -15th April 2023. The compensation is further enhanced by an order of the court on 5th April 2024 and a sum of Rs. 2,00,000 is received as enhanced compensation on 25ih May 2024. Abhinav wants to claim full exemption of the capital gains. Advise Abhinav in this regard. Compute the capital gains and determine the year in which it is taxable. **(CS June 2007)**

Cost Inflation Index: FY 2007-08=129; FY 2022-23=331 and FY 2023-24=348

Solution: Mr. Abhinav's house property is compulsorily acquired by the Government on 12th March 2023 hence, the year of transfer is the financial year 2022-23. However, as specified in Section 45(5), the capital gains arising due to such acquisition shall be taxable as capital gains in the previous year in which the compensation or part thereof is first received. Thus, the liability for capital gains shall arise in previous year 2023-24 (assessment year 2024-25).

Computation of long term capital gains for the assessment year 2024-25:-(amount in Rs.)

Full value of consideration	20,00,000
Less: Indexed cost of acquisition (Rs. 8,00,000 x331 ÷129)	20,52,713
Long term capital gains	**1,47,287**

Treatment of enhanced compensation: LTCG due to enhanced compensation = Rs. 2,00,000, which will be chargeable to tax in the year in which it is received i.e. previous year 2024-25 (assessment year 2025-26).

Exemption from capital gain [Section 54 read with Section 54H]: In order to claim full exemption, Mr. Abhinav should invest the amount of capital gains in acquiring/ constructing another house property. The investment must be made within 2 years (in case of acquisition) or 3 years (in case of construction) from dates of receipt of compensation i.e. 15-4-2023 (for capital gains of Rs. 2,07,752) and 25-5-2024 (for capital gains of Rs. 2,00,000). (Discussed later in this chapter).

Illustration 19 - Compensation by Interim order: Mr. X purchased an urban land on 25-04-2006 for Rs. 6,00,000. His property was acquired in land acquisition proceedings on 15-07-2012 and award of Rs. 15,00,000 was determined and the same was paid on 18-07-2012. The assessee filed an appeal against the award so determined. The land acquisition court, by order dated 01-05-2013, enhanced the compensation amount by Rs. 10,00,000, which was not paid to the assessee on account of the contest by the State through an appeal. The High Court by interim order allowed the assessee to withdraw 50% of the enhanced compensation on 15-07-2023 and the assessee received the amount in the relevant financial year. The court by final order dated 01-10-2024 held the enhancement of compensation as valid and assessee received the balance award on 17-12-2024. Discuss the taxability of the said compensation.
Cost Inflation Index: FY2006-07=122; FY 2012-13=200 and FY 2023-24=348

Solution: The original compensation will be taxable in the year of receipt. However, the amount of compensation received in pursuance of an interim order of the court, Tribunal or other authority shall be deemed to be income chargeable under the head 'Capital gains' in the previous year in which the final order of such court, Tribunal or other authority is made. Hence, the relevant computation will be as under:

Computation of long term capital gains on receipt of original compensation **(amount in Rs.):**

Full value of consideration	15,00,000
Less: Indexed cost of acquisition (Rs. 6,00,000 x 200 ÷122)	9,83,607
Long term capital gains taxable in AY 2013-14	**5,16,393**
Computation of long term capital gains on receipt of enhanced compensation **(amount in Rs.):**	
Full value of consideration	10,00,000
Less: Indexed cost of acquisition	NIL
Long term capital gains taxable in AY 2025-26	**10,00,000**

Note : The interim compensation of Rs. 5,00,000 will not be taxable in AY 2024-25 but will be taxable when the final award is received i.e. AY 2025-26.

Illustration 20 - Computation of capital gains on distribution of assets by companies in liquidation: Mr. Raghu purchased 10,000 equity shares of AB Avenues Private Limited on 25-03-2005 for Rs. 1,20,000. The company went into liquidation on 31-07-2023. The following is the summarized financial position of the company as on 31-07-2023.

Liabilities	Rs.	Assets	Rs.
60,000 equity shares of Rs. 10 each	6,00,000	Agricultural lands in urban area	22,00,000
General reserve	40,00,000	Cash at bank	32,22,212
Provision for taxation	8,22,212		
Total	**54,22,212**	**Total**	**54,22,212**

The assets remaining after discharging liability for income tax were distributed to the shareholders in the proportion of their shareholding. The market value of agricultural land as on 31-07-2023 is Rs. 60,00,000.

The agricultural land received as above was sold by Mr. Raghu on 28-02-2024 for Rs. 15,00,000. Discuss the tax implications in the hand of the company and Mr. Raghu.
The cost inflation indices are F.Y. 2004-05:113 and F.Y. 2023-24 : 348.
(Modified PCC May 2008, 8 Marks)

Solution:

(1) Tax implications in the hands of the company :

(i) According to Section 46(1) of the Act, distribution of capital assets amongst the shareholders on liquidation of the company is not regarded as "transfer" in the hands of the company. Consequently, there will be no capital gains in the hands of the company.

(ii) According to Section 2(22) (c), any distribution made to the shareholders of a company on its liquidation, to the extent to which distribution is attributable to the accumulated profits of the company immediately before its liquidation would be deemed as dividend. Therefore, Rs. 40,00,000, being the amount of general reserves on the date of liquidation would be deemed as dividend.
The Company will be liable to deduct tax at source under section 194@10%.

(2) Tax implications in the hands of Mr. Raghu (shareholder):

(i) On liquidation (31-07-2023) : Where a shareholder on the liquidation of a company receives any money or other assets from the company, he shall be chargeable to income-tax under the head "capital gains" in respect of the money so received or the market value of the other assets on the date of the distribution, as reduced by the amount assessed as dividend and the sum so arrived at shall be deemed to be the full value of consideration.

(amount in Rs.)

Mr. Raghu holds 1/6th of the shareholding of the company	
Market value of agricultural land received (Rs. 60 lakhs x 1/6th) + Cash at bank [1/6th of Rs. 32,22,212 - Rs. 8,22,212)]	14,00,000
Less: Deemed dividend u/s 2(22)(c) i.e., 1/6,h of Rs. 40,00,000	6,66,667
Full value of consideration	**7,33,333**
Less: Indexed cost of acquisition of Shares (Rs. 1,20,000 x 348/113)	3,69,558
Long term capital gains	**3,63,776**

(ii) On sale of agriculture land : Hence, the short-term capital gains in the hands of Mr. Raghu (shareholder) at the time of sale of urban agricultural land should be computed as follows :

(amount in Rs.)

Full value of consideration	15,00,000
Less: Fair market value of the agricultural land on the date of distribution [WN]	10,00,000
Short term capital gain	**5,00,000**

Working Note : Where the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to capital gains in respect of that asset, the cost of acquisition means the fair market value of the asset on the date of distribution. Dividend under section 2(22)(c) amounting to Rs. 6,66,667 will be exempt under section 10(34).

Illustration 21 - Computation of capital gain in case of depreciable Asset: The written down value of the block of assets of Rosy Ltd. as on 1st April, 2023 was Rs. 5 lakhs. An asset of the same block was acquired on 11th May, 2023 for Rs. 3 lakhs. There was a fire on 18th September, 2023 and the assets were destroyed by fire and the assessee received a sum of Rs. 11. lakhs from the insurance company. Compute the capital gain assuming -

(i) All the assets were destroyed by fire; and

(ii) Part of the block of assets was destroyed by fire.

What will be the answer if assessee received Rs. 6 lakhs from insurance company instead of Rs. 11 lakhs? **(CS Dec. 2006)**

Solution:

(1) If compensation is received for Rs. 11 lakhs: Here, moneys payable exceeds WDV, thus there will be short-term capital gains which shall be computed as follows **(amount in Rs.) -**

Written down value of the block on 01-04-2023	5,00,000
Add: Asset acquired during the year	3,00,000
	8,00,000
Less: Sum received from the insurance company	11,00,000
Short term capital Gains	**3,00,000**

Note : In case (i) and (ii), both, i.e. whether the block is fully destroyed or partly destroyed by fire, there will be STCG of Rs. 3,00,000, since the sum received is more than the WDV of the block.

(i) **If the block is fully destroyed:** Short-term capital loss = WDV - moneys payable = Rs. 8 lakhs - Rs.6 lakhs = Rs.2 lakhs.

(ii) **If the block is partly destroyed:** There will be no capital gains. Since the block and WDV both exists, therefore, the balance WDV of Rs. 2 lakhs will be eligible for depreciation.

Illustration 22 - Capital Gains in case of slump sale: M/s. Sriram Enterprises, a proprietorship having 2 units. Unit 1 is transferred on 1-4-2023 by way of slump sale for a total consideration of 14 lacs. Unit 1 was started in the year 2005-06. The expenses incurred for this transfer were 38,000. Balance Sheet as on 31-3-2023 is as under:

Liabilities	**Total**	**Assets**	**Unit 1**	**Unit 2**	**Unit 3**
Own capital	17,00,000	Building	13,00,000	3,00,000	16,00,000
Revaluation Reserve (for building of unit 1)	5,00,000	Machinery	4,00,000	2,00,000	6,00,000
Bank loan (70% for unit 1)	4,00,000	Debtors	2,00,000	1,40,000	3,40,000
Trade creditors (25% for unit 1)	3,50,000	Patents	2,50,000	1,60,000	4,10,000
Total	**29,50,000**	**Total**	**21,50,000**	**8,00,000**	**29,50,000**

Other information:

(i) Revaluation reserve is created by revising upward the value of the building of Unit 1. The stamp duty value on 1-4-2023 is 10 lakhs.

(ii) No individual value of any asset is considered in the transfer deed.

(iii)Patents were acquired on 1-7-2021 on which no depreciation has been charged. Compute the capital gain for the assessment year 2024-25.

Solution: Computation of capital gains on slump sale of Unit 1 (amount in):

Full value of consideration [Fair market value on 1-4-2023]		14,82,500
Less: Expenses on sale		38,000
Net sale consideration		**14,44,500**
Less: Net worth	**[WN-1]**	11,73,125
Long-term capital gain		**2,71,375**

Working Notes:

(1) Computation of Full value of consideration (amount in):

Fair market value of the capital assets transferred by way of slump sale		
Building, being an immovable property *[stamp duty value on 1-4-2023, being the date of slump sale]*	[A]	10,00,000
Machinery *[Book value as appearing in the books of accounts]*	[B]	4,00,000
Debtors *[Book value as appearing in the books of accounts]*	[C]	2,00,000
Patents *[Book value as appearing in the books of accounts]*	[D]	2,05,000
		18,50,000

Less: Liabilities of Unit 1 [29,50,000 - 1,20,000 - 2,62,500]	[L]	25,67,500	
Excluding:			
(i) Own Capital	17,00,000		
(ii) Revaluation reserve Fair	5,00,000	22,00,000	3,67,600
Fair market value of the capital assets transferred by way of slump sale [A+B+C+D-L] [FMV1]			**14,82,500**
Fair market value of the consideration received or accruing as a result of transfer by way of slump sale [value of the monetary consideration received] [FMV2]			14,00,000
Full value of consideration [Higher of FMV1 or FMV2]			**14,82,500**

(2) Computation of net worth of Unit 1 of Simran Enterprises:

Building (excluding 5 lakhs on account of revaluation)		8,00,000
Machinery		4,00,000
Debtors		2,00,000
Patents (See Note 3 below)		1,40,625
Total assets		**15,40,625**
Less: Creditors [3,50,000 × 25%]	87,500	
Bank Loan [4,00,000×70%]	2,80,000	3,67,500
Net worth		**11,73,125**

(3) Written down value of patents as on 1-4-2023:

Value of patents	**Rs.**
Cost as on 1-7-2021	2,50,000
Less: Depreciation @25% for Financial Year 2021-22	62,500
WDV as on 1-4-2022	**1,87,500**
Less: Depreciation for Financial Year 2022-23	46,875
WDV as on 1-4-2023	**1,40,625**

For the purposes of computation of net worth, the written down value determined as per section 43(6) has to be considered in the case of depreciable assets. The problem has been solved assuming that the Balance Sheet values of 4 lakh and 8 lakh (₹ 13 lakh 5 lakh) represent the written down value of machinery and building, respectively, of Unit 1.

Illustration 23 - Computation of Capital Gains in case of slump sale: Mr. Patel is a proprietor of Star Stores since 20-05-2019. He has transferred his shop by way of slump sale for a total consideration of Rs. 40 lakh. The fair market value of capital assets on 31-03-2024 is Rs.38 lakh. The professional fees & brokerage paid for this sale are Rs. 80,000. His balance sheet as on 31-03-2024 is as under :

Liabilities	**Rs.**	**Assets**	**Rs.**
Own Capital	10,50,000	Building	5,00,000
Bank Loan	5,00,000	Furniture	5,00,000
Trade Creditors	2,50,000	Debtors	2,00,000
Unsecured Loan	2,00,000	Other Assets	8,00,000
Total	**20,00,000**	**Total**	**20,00,000**

Other Information:

(1) No individual value of any asset is considered in the transfer deed.

(2) Other assets include trademarks valuing Rs.2,00,000 as on 01-04-2023 on which no depreciation has been provided.

(3) Furniture of Rs. 1,50,000 purchased on 05-11-2023 on which no depreciation has been provided.

(4) Unsecured loan includes Rs.50,000 as advance received from his wife, which she has agreed to waive off. Compute the capital gain for A.Y. 2024-25. (4 Marks, July 2021)

Solution: Computation of capital gains on slump sale of shop (amount in Rs):

Full Value of consideration *[Higher of FMV of capital assets transferred or FMV of monetary consideration received]*	40,00,000
less: Expenses on sale [professional fees & brokerage]	80,000
Net sale consideration	**39,20,000**
less: Net worth (See Working Note below)	10,42,500
Short-term capital gain *[Since shop is held for not more than 36 months immediately preceding the date of transfer]*	**28,77,500**

Working Note : Computation of net worth of shop (amount in Rs.) :

Building		5,00,000
Furniture	5,00,000	
less: Deprecation on Rs. 1,50,000 @ 5%, being 50% of 10% since furniture is put to use for less than 180 days during the previous year	7,500	4,92,500
Debtors		2,00,000
Other assets	8,00,000	
less: Deprecation on Rs. 2,00,000, being intangible asset @ 25%	50,000	7,50,000
Total assets		**19,42,500**
less: Bank loan	5,00,000	
Trade creditors	2,50,000	
Unsecured loan Rs. 2,00,000 less Rs. 50,000, being the amount waived off by his wife	1,50,000	9,00,000
Networth		**10,42,500**

Illustration 24 - Stamp value - Full value of consideration - Section 50C: From the following information compute taxable Capital gains in hands of X —

(1) X purchases a plot of land on 10th August, 2008 for Rs. 4,11,000.

(2) He enters into an agreement with B to transfer the plot of land on 1st May, 2023 for Rs. 80,00,000 (stamp duty value being Rs. 86,00,000).

(3) On 1st May, 2023, X gets an advance of Rs. 1,00,000 by an account-payee cheque.

(4) Conveyance deed is registered on 5th June, 2023 (stamp duty value on the date of registration: Rs. 89,00,000).

What would your answer be in case Rs. 1,00,000 is received on 2nd May 2023, instead of 1st May, 2023.

Note: Cost of Inflation Indices for the FY 2008-09 and FY 2023-24 are 137 and 348 respectively.

Solution:

(i) **When X has received an advance on the date of agreement:** In this case, stamp duty value on the date of agreement is different from stamp duty value on the date of registration. X has received an advance of Rs. 1,00,000 by an account-payee cheque on or before the date of agreement. Consequently, stamp duty value on the date of agreement will be taken into consideration. Capital gain will be calculated as follows- **(amount in Rs.)**

Full value of consideration [110% of actual consideration of Rs. 80,00,000 is Rs. 88,00,000. Stamp duty value is Rs. 86,00,000. As stamp duty value does not exceed 110%, of actual consideration, stamp duty value is not considered.]	80,00,000
Less: Indexed cost of acquisition [Rs. 4,11,000 x 348 ÷137]	10,44,000
Long-term capital gain	**69,56,000**

(ii) When X has received an advance after the date of agreement: X has received an advance of Rs. 1,00,000 after the date of agreement. Consequently, stamp duty value on the date of registration will be taken into consideration. Capital gain will be calculated as follows — **(amount in Rs.)**

Full value of consideration [220% of actual consideration of Rs. 80,00,000 is Rs. 88,00,000. Stamp duty value on date of registration is Rs. 89,00,000. As stamp duty value exceeds 105% of actual consideration, stamp duty value is taken as full value of consideration.]	89,00,000
Less: Indexed cost of acquisition [Rs. 4,11,000 x 348 ÷137]	10,44,000
Long-term capital gain	**78,56,000**

Illustration 25 - Capital gains on Land - Stamp Value to be full value of consideration - Section 50C: Mr. Ramesh purchased a building on 10-04-2001 for a sum of Rs. 35 lakh. The said building was sold by him to Mahesh, for Rs. 90 lakh on 1-1-2024, when the stamp duty value was Rs. 185 lakh. The agreement was entered on the same day and the property was registered on the same day. Discuss tax implications in hands of Ramesh.

What would be your answer if the agreement was entered into on 1-7-2023 when the stamp duty value was Rs. 120 lakh. Mr. Ramesh had received a down payment of Rs. 15 lakh by cheque from Mahesh on the date of agreement. Will your answer change if the said sum of Rs. 15 lakhs has been received by cash instead of cheque.

Solution:

(1) The tax implications in hands of Ramesh shall be as under -

CASE I: In case the agreement has been entered on the date of sale and property has been registered on the same day: Full Value of Consideration = Value fixed by stamp valuation authority, as per the provisions of Section 50C i.e. Rs. 1,85,00,000 on the date of registration will be taken as full value of consideration since the stamp duty value exceeds 110% of the actual consideration and capital gains shall be computed as under :

(amount in Rs.)

Full value of consideration [Section 50C]	1,85,00,000
Less: Indexed cost of acquisition (Rs. 35,00,000 x 348 ÷100)	1,21,80,000
Long-term capital gains	**63,20,000**

CASE II : In case the agreement has been entered on 1-7-2023 : In this case the stamp duty value on the date of agreement will be considered to compute capital gains since on the date of agreement, sum of Rs. 15 lakh has been received by an account payee cheque and the value adopted or assessed or assessable by the stamp valuation authority exceed 110% of the consideration received as a result of transfer of capital asset. The capital gains shall be computed as under : **(amount in Rs.)**

Full value of consideration [Section 50C]	1,20,00,000
Less: Indexed cost of acquisition (Rs. 35,00,000 x 348 ÷100)	1,21,80,000
Long-term capital gains	**3,20,000**

(2) Yes, the answer will change in case if on the date of agreement cash has been received instead of an account payee cheque. In such case stamp duty value on the date of agreement shall not be considered but the stamp duty value on the date of registration of property shall be considered and capital gains shall be Rs. 74,05,000.

Illustration 26 - Capital gains on Land- Stamp Value to be full value of consideration : Bala sold his vacant site on 30-09-2023 for Rs. 12,00,000. It was acquired by him on 01-10-1998 for Rs. 1,50,000. The fair market value on 01-04-2001 is Rs. 2,00,000 and the stamp duty value as on 01-04-2001 is Rs. 1,80,000. The State stamp valuation authority fixed the value of the site at the time of transfer at Rs. 13,20,000. Compute income under the head capital gains in the hands of Bala and give your reasons for computation.

Solution: Computation of capital gains of Bala **(amounts in Rs.) -**

Full value of consideration	[WN-1]	12,00,000
Less: Indexed cost of acquisition 1,80,000 x 348 ÷100)	[WN-2]	6,26,400
Long-term capital gains		**5,73,600**

Working Note:

(1) Since the value adopted or assessed or assessable by the stamp valuation authority i.e. Rs. 13,20,000 does not exceed 110% of the consideration received i.e. Rs. 12,00,000, the consideration so received or accruing as a result of the transfer shall be deemed to be the full value of the consideration.

(2) In case of a capital asset, being land or building or both, the fair market value of such asset on 01-04-2001 shall not exceed the stamp duty value, wherever available, of such asset as on 01-04-2001. Hence, in this case the SDV as on 01-04-2001 i.e. Rs. 1,80,000 shall be taken as cost of acquisition.

Illustration 27 - Computation of Capital gains - Implications of Section 50C : Mr. Vaibhav sold a house, held as a capital asset, to his friend Mr. Dhanush on 1st December, 2023 for a consideration of Rs. 25,00,000. The Sub-Registrar refused to register the document for the said value, as according to him, stamp duty valuation based on State Government guidelines was Rs. 45,00,000. Mr. Vaibhav preferred an appeal to the Revenue Divisional Officer, who fixed the value of the house as Rs. 35,00,000 (Rs. 22,00,000 for land and the balance for building portion). The differential stamp duty was paid, accepting the said value determined. Mr. Vaibhav had purchased the land on 1st June, 2007 for Rs. 6,10,000 and completed the construction of the house on 21st December, 2022 for Rs. 14,00,000.

Briefly discuss the tax implications in the hands of Mr. Vaibhav and compute the capital gains chargeable to tax. **(4 Marks, Nov. 2013)**
Note: Cost of Inflation Indices for the FY 2007-08 and FY 2023-24 are 129 and 348 respectively

Solution: Computation of capital gains chargeable to tax of Mr. Vaibhav

Particulars	**Land**	**Building**
Full value of consideration (Section 50C) [WN]	22,00,000	13,00,000
Less: Indexed cost/cost of acquisition (Rs. 6,10,000 x 348 ÷ 129)	15,45,581	14,00,000
Long-term capital gain	5,54,419	-
Short-term capital gain/loss	-	-1,00,000
Taxable Capital Gains		**4,54,419**

Working Notes:

(1) In case, a land is held by the assessee for more than 24 months but the building constructed over it is held for not more than 24 months, then there will be long-term capital gains on sale of the land and short-term capital gains on sale of building **- CIT v. Citibank N.A. [2003] 261ITR 570 (Bom.).** Hence, the capital gains have been computed accordingly.

(2) As per provisions of Section 50C, if the stamp duty value adopted by stamp valuation authority is disputed in appeal and the same is reduced by the appellate authority, the reduced value shall be taken to be full value of consideration for computing the capital gains chargeable to tax.
Since the value adopted or assessed or assessable by the stamp valuation authority as revised by Revenue Divisional Officer i.e. Rs. 35,00,000 exceed 110% of the consideration received i.e. Rs. 25,00,000, Value fixed by stamp valuation authority, as per the provisions of Section 50C shall be deemed to be the full value of the consideration i.e. 35,00,000.

(3) Short term capital loss can be set off from long term capital gains in accordance with provisions of Section 74 of the Income-tax Act, 1961.

Illustration 28 - Computation of Capital gains - Implications of Section 50C: Mr. T inherited a house in Jaipur under will of his father in May, 2002. The house was purchased by his father in January, 1980 for Rs. 2,50,000. He invested an amount of Rs. 7,00,000 in construction of one more floor in this house in June, 2006. The house was sold by him in November, 2023 for Rs. 37,50,000. The valuation adopted by the registration authorities for charge of stamp duty was Rs. 47,25,000 which was not contested by the buyer, but as per assessee's request/the Assessing Officer made a reference to Valuation Officer. The value determined by Valuation Officer was Rs. 47,50,000. Brokerage @ 1% of sale consideration was paid by Mr. T to Mr. S. The market value of house as on 1-4-2001 was Rs. 2,70,000. Compute the capital gain chargeable to tax. **(9 Marks, PCE Nov. 2007)**

Note: Cost Inflation Index : FY 2002-03 = 105; FY 2006-07 = 122 and FY2023-24 = 348.

Solution: Computation of capital gains chargeable to tax of Mr. T **(amount in Rs.) :**

Full value of consideration	[WN-1]	47,25,000	
Less: Expenses of transfer i.e. brokerage @ 1% of Rs. 37,50,000		37,500	
Net sale consideration			46,87,500
Less: Indexed cost of acquisition (Rs. 2,70,000 x 348 ÷100)	[WN-2]	9,39,600	
Indexed cost of improvement (Rs. 7,00,000 x 348 ÷ 122)		19,96,721	29,36,321
Long-term capital gains			**17,51,179**

Working Notes:

(1) As per Section 50C, where the value adopted or assessed or assessable by the stamp valuation authority exceeds 105% of the consideration received, the stamp duty value shall be deemed to be the full value of the consideration. Hence, in the given case - Sales consideration = Rs. 37,50,000,110% of Sale Consideration Rs. 41,25,000, Stamp duty value = Rs. 47,25,000, Valuation made by Valuation officer = Rs. 47,50,000, Therefore, full value of consideration = Higher of Rs. 41,25,000 and Rs. 47,50,000; subject to maximum of Rs. 47,25,000 = Rs. 47,25,000.

(2) Since the house has been obtained under inheritance i.e. one of the modes specified under section 49(1), therefore, its cost shall be the cost to the previous owner (father) i.e. FMV as on 1-4-2001 i.e. Rs. 2,70,000. The CII of acquisition will be of 2001-02 since his father has acquired the property prior to 01-04-2001.

Illustration 29 - Advance money - Forfeited: Mr. Paresh purchased a house property on 14th Nov., 2015 for Rs. 10,00,000. He entered into an agreement with Mr. B for the sale of house on 15th September, 2023 and received an advance of Rs. 25,000. However, since Mr. B did not remit the balance amount, Mr. Paresh forfeited the advance. Finally, the house was sold by Mr. Paresh to Mr. Sanjay on 15-03-2023 for a consideration of Rs. 21,00,000. Discuss tax implications of such transaction in hands of Paresh.
Note : Cost Inflation Index: FY 2015-16 = 254 and FY 2023-24 = 348.

Solution: Section 56(2)(ix) provides for the taxability of any sum of money, received as an advance or otherwise on or after 01-04-2014 in the course of negotiations for transfer of a capital asset shall be chargeable to income-tax under the head 'income from other sources' if such sum is forfeited and the negotiations do not result in transfer of such capital asset. The sum so taxable will not be reduced from cost of acquisition to compute capital gains on transfer of such asset.

Hence, the sum of Rs. 25,000 received as advance an forfeited by Mr. Paresh shall be taxable as his Income from other Sources in assessment year 2024-25.
Since the house property is held for more than 24 months immediately preceding the date of transfer, it will be regarded as long term capital asset. The capital gains shall be computed as under :

Computation of capital gains of Mr. Paresh for AY 2024-25 (amounts in Rs.) –

Full value of consideration	21,00,000
Less: Indexed Cost of acquisition [Rs. 10,00,000 x 348 ÷254] [WN]	13,70,079
Long-term capital gains	**7,29,921**

Working Note : The advance money forfeited by Paresh shall not be reduced since the same is taken into account while computing Income from other sources under Section 56(2)(ix).

Illustration 30 - Advance money received-forfeited by the assessee : Mr. Rakesh purchased a house property on 14th April, 1999 for Rs. 9,05,000 He entered into an agreement with Mr. B for the sale of house on 9 September, 2002 and received an advance of 25,000. However, since Mr. B did not remit the balance amount, Mr. Rakesh forfeited the advance. Later on, he gifted the house property lo his brother Mr. A on 15th June, 2006.

Following renovations were carried out bv Mr. Rakesh and Mr. A to the house property :

Particulars	Amounts
By Mr. Rakesh during FY 1999-2000	10,000
By Mr. Rakesh during FY 2003-04	50,000
By Mr. A during FY 2007-08	1,90,000

The fair market value of the property as on 01-04-2001 is Rs. 11,00,000

Mr. A entered into an agreement with Mr. C for sale of the house on 1st June, 2012 and received an advance of Rs. 80,000.

The said amount was forfeited by Mr. A, since Mr. C could not fulfil the terms of the agreement. Finally, the house was sold by Mr. A to Mr. Sanjay on 2nd January, 2024 for a consideration of Rs. 52,00,000.

Compute the capital gains chargeable to tax in the hands of Mr. A for the assessment year 2024-25.

Cost inflation indices are as under:

Financial Year	Cost inflation index
2001-02	100
2003-04	109
2006-07	122
2007-08	129
2023-24	348

(8 Marks, IPCC Modified, May 2011)

Solution: Computation of capital gains taxable in the hands of Mr. A: Here, the house property so transferred shall be the long term capital asset for Mr. A as he has acquired the property from Mr. Rakesh by way of gift [one of the modes specified in Section 49(1)], hence, his period of holding = 14-4-1999 to 2-1-2023 i.e. more than 2 years, **(amount in Rs.)**

Full value of consideration	52,00,000
Less: Indexed cost of acquisition (Rs. 10,20,000 x 348 ÷ 100) [WN-1]	35,49,600
Less: Indexed cost of improvement by Mr. Rakesh (Rs. 50,000 x 348 ÷109) [WN-2]	1,59,633
Less: Indexed cost of improvement by Mr. A (Rs. 1,90,000 x 348 ÷129)	5,12,558
Long-term Capital Gains	**9,78,209**

Working Notes:

(1) Cost of acquisition = FMV as on 01-04-2001 Less Advance forfeited by Mr. A = Rs. 11,00,000 – Rs. 80,000 = Rs. 10,20,000. Forfeiture made by Mr. Rakesh (previous owner) shall be ignored.

(2) Cost of improvement by Mr. Rakesh shall not include the improvements made before 1-04-2001.

Illustration 31 - Advance money received and Exemption u/s 54 : Compute the net taxable capital gains of Smt. Megha on the basis of the following information :

A house was purchased on 01-05-2007 for Rs. 4,50,000 and was used as a residence by the owner. The owner had contracted to sell this property in June, 2012 for Rs. 10,00,000 and had received an advance of Rs. 70,000 towards sale. The intending purchaser did not proceed with the transaction and the advance was forfeited by the owner. The property was sold in April, 2023 for Rs. 18,00,00,000. The owner, from out of sale proceeds, invested Rs. 4 lakhs in a new residential house in India in January, 2024.

What would your answer be if the new residential house property is purchased in Dubai instead of India.

Cost Inflation Index: FY 2007-08 = 129 and FY 2023-24 = 348. (6 Marks, I PCC Nov. 2009)

Solution:

(1) Computation of taxable capital gains in the hands of Megha (amounts in Rs.) -

Full Value of consideration	18,00,00,000
Less: Indexed cost of acquisition [Rs. 3,80,000 x 348 ÷129] [WN-1]	10,25,116
Long-term capital gains	**17,89,74,884**
Less: Exemption u/s 54 [WN-2]	10,00,00,000
Taxable long-term capital gains	**7,89,74,884**

Working Notes:

(1) For computing cost of acquisition, advance money received and forfeited shall be deducted. Hence, cost of acquisition = Rs. 4,50,000 - Rs. 70,000 = Rs. 3,80,000. [Section 51]

(2) Exemption under section 54 shall be available in respect of one/two new house(s) purchased within 2 years from the date of transfer of existing residential house.

(2) In case the residential house property is purchased in Dubai, the benefit of exemption under Section 54 shall not be available since the house property must be located in India for getting the exemption under Section 54. Hence, the taxable Capital Gains will be Rs. 17,89,74,884.

Illustration 32 - Exemption tinder section 54 : Mr. Surinder furnishes the following particulars for the previous year ending 31-3-2024, and requests you to compute the taxable capital gain :

(i) He had a residential house inherited from father in 2006, the fair market value of which as on 1-4-2001 is

(ii) In the year 2007-08, further construction and improvements cos ted Rs. 6 lakhs.

(iii) On 10-5-2023, the house was sold for Rs. 90 lakhs. Expenditure in connection with transfer = Rs. 50,000.

(iv) On 20-1.2-2023, he purchased a residential house for Rs. 10 lakhs.

Cost Inflation Index: FY 2006-07 = 1.22;FY 2007-08 = 129 and FY 2023-24 = 348. (May 2002)

Solution: Computation of Capital Gains (amounts in Rs.) -

Full value of consideration		90,00,000
Less: Expenditure in connection with transfer		50,000
Net Sale Consideration		**89,50,000**
Less: Indexed Cost of Acquisition (Rs. 5,00,000 x 348 ÷100) [WN 1]	17,40,000	
Less: Indexed Cost of Improvement (Rs. 6,00,000 x 348 ÷129)	16,18,605	33,58,605
Long Term Capital Gains		**55,91,395**
Less: Exemption u/s 54 [WN 2]		10,00,000
Taxable Long Term Capital Gains		**45,91,395**

Working Note:

(1) In this question it is assumed that his father has acquired the property before 01-04-2001. Hence, cost inflation index of the year 2001-02 is taken for determining indexed cost of acquisition.

(2) Exemption under section 54 shall be the cost of new house acquired i.e. Rs. 10,00,000 as the amount of capital gain is more than the cost of new house.

Illustration 33 - Section 50C and Exemption u/s 54: Mr. Sunil entered into an agreement with Mr. Dhaval to sell his residential house located at Navi Mumbai on 16-08-2023 for Rs. 80,00,000. The sale proceeds was to be paid in the following manner:

(i) 20% through account payee bank draft on the date of agreement.

(ii) 60% on the date of the possession of the property.

(iii) Balance after the completion of the registration of the title of the property.

Mr. Dhaval was handed over the possession of the property on 15-12-2023 and the registration process was completed on 14-01-2024. He paid the sale proceeds as per the sale agreement.

The value determined by the Stamp Duty Authority on 16-08-2023 was Rs. 1,10,00,000 whereas, on 14-01-2024 it was Rs. 1,11,50,000.

Mr. Sunil had acquired the property on 01-04-2001 for Rs. 20,00,000. After recovering the sale proceeds from Dhaval, he purchased another residential house property for Rs. 32,00,000.

Compute the income under the head "Capital Gains" for the Assessment Year 2023-24.

Cost Inflation Index for Financial Year(s): 2001-02 - 100; 2002-03 - 105 and 2023-24 – 348 . **(5 Marks, Nov. 2017)**

Solution: Computation of taxable capital gains **(amount in Rs.):**

Full value of consideration [Section 50C] [WN-1]	1,10,00,000
Less: Indexed cost of acquisition (Rs. 20,00,000 x 348 ÷100) [WN-2]	69,60,000
Long-term capital gains	**40,40,000**
Less: Exemption u/s 54 [WN-3]	32,00,000
Taxable long-term capital gains	**8,40,000**

Working Notes:

(1) As per provisions of Section 50C, since the value adopted or assessed or assessable by the stamp valuation authority i.e. Rs. 98,00,000 exceeds 110% of the consideration received i.e. Rs. 80,00,000, stamp duty value will be taken as full value of consideration. In this case the stamp duty value on the date of agreement will be considered to compute capital gains since on the date of agreement, 20% of sales consideration i.e. Rs. 16 lakh has been received by an account payee bank draft.

(2) Since the residential house property was held by Mr. Sunil for more than 24 months immediately preceding the date of its transfer, the resultant capital gains will be long term capital gains.

(3) Exemption under section 54 shall be available in respect of one/ two new house(s) purchased within 2 years from the date of transfer of existing residential house.

Illustration 34 - Exemption u/s 54: The following information is given by X and Y for the previous year 2022-23:

	X(Rs.)	Y (Rs.)
Sales consideration of a residential house property situated in Mumbai	2,30,00,000	9,40,00,000
Stamp duty value on the date of transfer	2,55,00,000	9,50,00,000
Cost of acquisition in 1996-97	8,00,000	1,60,00,000
Fair market value on 1 April, 2001.	9,00,000	2,30,00,000
Cost of improvement incurred in 2002-03	40,000	50,00,000
Expenditure on transfer borne by transferor	40,000	50,000
Purchase of residential house property in Cochin on 1 December, 2023	60,70,000	20,10,000
Purchase of another residential house property in Mumbai on 10 July, 2024	2,02,00,000	1,20,00,000

Determine taxable capital gains for assessment year 2024-25.

Cost Inflation Index for Financial Year(s): 2001-02:100; 2002-03:105 and 2023-24-348.

Solution: Computation of capital gains —

	X(Rs.)	Y (Rs.)
Full value of consideration (In case of Mr. X stamp duty value is taken as it exceeds 110% of sale consideration)	2,55,00,000	9,40,00,000
Less: Expenses on transfer	40,000	50,000
Net Consideration	2,54,60,000	9,39,50,000
Less: Indexed cost of acquisition:		
- In the case of X (Rs. 9,00,000 x 348 ÷100)	31,32,000	-
- In the case of Y (Rs. 2,30,00,000 x 348 ÷100)	-	7,30,80,000
Indexed cost of improvement:		
- In the case of X (f 40,000 x 348 ÷ 105)	1,32,571	-
- In the case of Y (Rs. 50,00,000 x 348 ÷105)	-	1,65,71,429
Long-term capital gain before exemption	**2,21,95,429**	**82,98,571**
Less: Exemption u/s 54		
In the case of X (as long-term capital gain exceeds Rs.2 crore, X can avail section 54 exemption only for investment in one residential house property)	2,02,00,000	-
In the case of Y (as long-term capital gain does not exceed Rs. 2 crore, Y can claim section 54 exemption for investment in two residential house properties) Rs. 20,10,000 + Rs. 1,20,00,000, subject to maximum of long-term capital gain of Rs. 82,98,571)	-	82,98,571
Income under the head "Capital gains"	**19,95,429**	**Nil**

Illustration 35 - Exemption u/s 54: Mr. Roy owned a residential house in Noida. It was acquired on 09-09-2009 for Rs. 30,00,000. He sold it for Rs. 1,57,00,000 on 07-01-2020.

Mr. Roy utilized the sale proceeds of the above property to acquire a residential house in Panchkula for Rs. 2,05,00,000 on 20-07-2020. The said house property was sold on 31-05-2023 and he purchased another residential house in Delhi for Rs. 2,57,00,000 on 02-03-2024 . The property at Panchkula was sold for Rs. 3,25,00,000.
Calculate capital gains chargeable to tax for the A.Y. 2020-21 and 2024-25. All workings should form part of your answer. **(6 Marks, May 2019-NS)**

Cost inflation index for various financial year are as under: 2009-10:148,2019-20 : 289, 2020-21: 301 and 2023-24:348

Solution:

(i) Computation of capital gains for A.Y. 2020-21 **(amount in Rs.):**

Sale of Residential House in Noida	
Full value of consideration	1,57,00,000
Less: Indened Cost of Acquisition (Rs. 30,00,000 x 289/148)	58,58,108
Long-term capital gains	98,41,892
Less: Exemption u/s 54 (Since investment in new residential house in Panchkula exceeds the capital gains, entire capital gains shall be exempt from tax)	98,41,892
Taxable Long-term capital gains	**Nil**

(ii) Computation of capital gains for A.Y. 2024-25 **(amount in Rs.):**

Sale of Residential House in Panchkula		
Full value of consideration		3,25,00,000
Less: Indexed cost of acquisition		
Cost of Acquisition	2,05,00,000	
Less: Exemption claimed u/ s 54 [See Note]	98,41,892	
(Rs. 1,06,58,108 x 348/280)	1,06,58,108	1,23,22,331
Long term capital gains		**2,01,77,669**
Less: Exemption u/s 54 (on purchase of new house at Delhi)		2,01,77,669
Taxable Long-term capital gains		**Nil**

Note: The house purchased in Panchkula has been transferred before **3 years** from the date of its acquisition, hence cost of the asset will be reduced by capital gains exempted earlier for computing capital gains.

Illustration 36 - Exemption under Section 54EC: Mr. Chandru transferred a vacant site on 28-10-2023 for Rs. 100 lakhs. The site was acquired for Rs. 9,99,300 on 30-6-2001. He deposited Rs. 40 lakhs in eligible bonds issued by Rural Electrification Corporation Ltd. (REC) on 20-3-2024. Again, he deposited Rs. 30 lakhs in eligible bonds issued by National Highways Authority of India (NHAI) on 16-4-2024.
Compute the chargeable capital gain in the hands of Chandru for the assessment year 2024-25.

Financial Year	Cost Inflation Index
2001-02	100
2023-24	348

(5 Marks, PCC May 2011)

Solution: Computation of capital gains **(amounts in Rs.) –**

Full value of consideration	1,00,00,000
Less: Indexed Cost of Acquisition [Rs. 9,99,300 x 348 ÷100]	34,77,564
Long-term Capital Gains	65,22,436
Less: Exemption u/s 54EC [WN]	50,00,000
Taxable Capital Gains	15,22,436

Working Note: Exemption u/s 54EC = Investment in REC Bonds (acquired within 6 months from the date of transfer) + NHAI Bonds (acquired within 6 months from the date of transfer) = Rs. 40,00,000 + Rs. 30,00,000 = Rs. 70,00,000.

Section 54EC provides that the maximum limit of investment during the financial year in which asset is transferred and in subsequent financial year shall be Rs. 50 lakhs. Thus, the limit of Rs. 50 lakhs applies in aggregate for more than one financial year taken together. In this case, REC Bonds were acquired during the financial year 2023-24; while NHAI bonds were acquired during the financial year 2024-25. Hence, both the investments shall be eligible for exemption under section 54EC as the same have been made in different financial years but subject to maximum of Rs. 50 lakhs.

Illustration 37 Exemption under Section 54EC: X transfers the following long-term capital assets -

Capital asset	Date of transfer	Full Value of Consideration	Indexed cost of acquisition	Investment in NHAI/REC bonds (date of investment)
Land	03-04-2023	Rs. 95 lakhs	Rs. 40 lakhs	Rs. 40 lakh (01-09-2023)
Commercial House	05-11-2023	Rs. 65 lakhs	Rs.20 lakhs	Rs. 40 lakh (01-04-2024)

Find out exemption under section 54EC and taxable capital gain for AY 2024-25.

Solution: Computation of Taxable Capital Gains Assessment year 2024-25 **(Rs. in lakh):**

Long-term capital gain on transfer of Land and Commercial House (Rs. 55 lakh + Rs. 45 lakh)	100
Less: Exemption u/s 54EC (Investment in NHAI/REC bonds: Rs. 40 lakh + Rs.40 lakh, limited to Rs. 50 lakh)	50
Long-term capital gain chargeable to tax	**50**

Illustration 38 - Exemption under section 54 and its withdrawal: Mr. Selvan acquired a residential house in January, 2002 for Rs. 10,00,000 and made some improvements by way of additional construction to the house, incurring expenditure of Rs. 2,00,000 in October, 2004. He sold the house property in October, 2023 for Rs. 75,00,000. The value of property was adopted as Rs. 88,00,000 by the State stamp valuation authority for registration purpose. He acquired a residential house in January, 2023 for Rs. 25,00,000. He deposited Rs. 20,00,000 in capital gains bonds issued by National Highways Authority of India (NHAI) in June, 2024. Compute the capital gain chargeable to tax for the A.Y. 2024-25.

What would be the tax consequence and in which assessment year it would be taxable, if the house property acquired in January, 2023 is sold for Rs. 40,00,000 in December, 2024?
Cost inflation index for various financial year are as under: 2001-02:100, 2004-05:113 and 2023-24: 348

Solution:

(1) Computation of Capital Gains (amounts in Rs.) -

Full Value of Consideration (i.e. Stamp Duty Value) [WN-1]		88,00,000
Less: Cost being: Indexed Cost of Acquisition (Rs. 10,00,000 x 348 ÷100)	34,80,000	
Indexed Cost of Improvement (Rs. 2,00,000 x 348 ÷100)	6,15,929	40,95,929
Long Term Capital Gains		47,04,071
Less: Exemption u/s 54 [WN-2]		25,00,000
Exemption u/s 54EC in respect of bonds of NHAI [WN-3]		NIL
Taxable Long Term Capital Gains		**22,04,071**

Working Notes:

(1) As per the provisions of Section 50C, in this case the value assessed by the stamp valuation authority exceed 110% of the consideration received therefore, the stamp duty value shall be deemed as the full value of consideration.

(2) Exemption under section 54 is available if a one /two residential house(s) is/are purchased within 1 year before or 2 years after the date of transfer. Here the new house is purchased within the said time limit, further the cost of new residential house is less than the capital gain, capital gain to the extent of cost of new asset is exempt under section 54.

(3) Exemption under section 54EC is available in respect of investment in bonds of National Highways Authority of India only if the investment is made within a period of 6 months after the date of such transfer. In this case, since the investment is made after 6 months, exemption under section 54EC would not be available.

(2) **Short Term Capital Gains for the assessment year 2023-24 sale of house** = Full value of consideration - Cost of acquisition = Rs. 40,00,000 - NIL = Rs. 40,00,000.
Since exemption was claimed under section 54 in respect of the house and the same has been sold within 3 years from the date of its acquisition, therefore, the exemption will be withdrawn. Accordingly, cost of acquisition of house = Original Cost of purchase - Exemption claimed under section 54 = Rs. 25 lakhs- Rs. 25 lakhs = NIL.

Illustration 39 - Section 50C and Investment to be made in bonds of NHAI/REC: Mr. A who transfers land and building on 02-01-2024, furnishes the following information:

(i) Net consideration received Rs. 16 lakhs.

(ii) Value adopted by stamp valuation authority, which was not contested by Mr. A Rs. 21 lakhs.

(iii) Value ascertained by Valuation Officer on reference by the Assessing Officer Rs. 25 lakhs.

(iv) This land was distributed to Mr. A on the partial partition of his HUF on 1-4-2001. Fair market value of the land as on 1-4-2001 was Rs. 1,00,000.

(v) A residential building was constructed on the above land by Mr. A at a cost of Rs. 3,00,000 (construction completed on 1-12-2004) during the financial year 2004-05.

(vi) Short-term capital loss incurred on sale of shares during the financial year 2018-19 Rs. 2,05,000.

Mr. A seeks your advice as to the amount to be invested in NHAI bonds so as to be exempt from clutches of capital gain tax**.**

(8 Marks, Modified May 2006) (8 Marks, IPCC May 2012)

Cost inflation index for various financial year are as under: 2004-05: 113 and 2023-24 :348

Solution: Computation of Capital Gains of Mr. A **(amounts in Rs.) –**

Full value of consideration	[WN-1]		21,00,000
Less: Indexed cost of land (Rs. 1,00,000 x 348 ÷100)	[WN-2]	3,48,000	
Indexed cost of building (Rs. 3,00,000 x 348 ÷113)		9,23,894	12,71,894
Long-term capital gains			**8,28,106**
Less: Brought forward short-term capital loss set off			2,05,000
Amount to be invested in NHA1/REC bonds to claim exemption u/s 54EC			6,23,106

Working Notes:

(1) As per Section 50C, where the value assessed by the stamp valuation authority exceeds 110% of the consideration received then the stamp duty value shall be deemed to be the full value of the consideration. Hence, in the given case - Sales consideration = Rs.16,00,000,110% of Sale Consideration = Rs. 17,60,000, Stamp duty value = Rs. 21,00,000, Valuation made by Valuation officer = Rs. 25,00,000. Therefore, full value of consideration = Higher of Rs. 16,00,000 and Rs. 25,00,000; subject to maximum of Rs. 21,00,000.

(2) Since acquisition of capital asset on partition of HUF is one of the modes specified in Section 49(1), hence, cost thereof shall be the cost to the previous owner. Hence, FMV as on 1-4-2001 shall be the cost of acquisition and shall be eligible for indexation.

Illustration 40 - Exemption u/s 54F: Mr. 'X' furnishes the following data for the previous year ending 31-3-2024:

(a) Equity Shares of AB Ltd., 10,000 in number were sold on 31-5-2023, at Rs. 550 for each share.

(b) The above shares of 10,000, were acquired by 'X' in the following manner:
  (i) Received as gift from his father on 1-6-2000 (5,000 shares) the market price on 1-4-2001 Rs. 50 per share.
  (ii) Bonus shares received from AB Ltd. on 21-7-2004 (2,000 shares).
  (iii) Purchased on 1-2-2013 at the price of Rs.125 per share (3,000 shares).

(c) Purchased one residential house at Rs. 25 lakhs, on 1-9-2024 from the sale proceeds of shares.

(d) 'X' is already owning a residential house, even before the purchase of above house.

You are required to compute the taxable capital gain. He has no other source of income chargeable to tax. **(6 Marks, Modified Nov. 2004)**

Solution: Computation of taxable capital gains of Mr. 'X' **(amounts in Rs.)**

Sale consideration @ Rs. 550 per share on 10,000 shares	[A]	55,00,000
Less: (1) Shares received as gift on 1-6-2000 (Indexed cost = 5,000 x Rs. 50 x 348 ÷100)	[WN-1]	8,70,000
(2) Shares received as bonus on 21-7-2004	[WN-2]	Nil
(3) Shares purchased on 1-2-2013 (Indexed cost = 3,000 x Rs. 125 x 348 ÷ 200)		6,52,500
Long Term Capital Gain	[B]	**39,77,500**
Exemption u/ s 54F = [Rs. 39,77,500 x Rs. 25,00,000 x Rs. 55,00,000] [WN-3]	[C]	18,07,955
Taxable Long-term Capital Gains = B - C		**21,69,545**

Working Notes:

(1) Cost of shares gifted by the father would be FMV as on 1-4-2001 i.e. Rs. 50 per share.

(2) The cost of bonus shares allotted on or after 1-04-2001 is always taken as NIL.

(3) Mr. X is eligible for exemption under section 54F since he owns only one house at the time of the transfer of the shares and the purchase of the new house takes places within 2 years from the date of transfer of the shares.

(4) It is assumed that Mr. X has complied with all the procedures like deposit of money under the capital gains account scheme by the due date, as may be applicable to him.

Illustration 41 - Exemption u/s 54 ami 54F: Mr. X owns a residential house, which is sell-occupied, and also a plot of land (he owns no other house). he sells the house on January 2, 2024 and the plot on February 11, 2024 for Rs. 15,00,000 and Rs. 12,00,000 respectively. The house was purchased on June, 2001 for Rs. 4,50,000 anil the plot on March 31, 2002 for Rs. 3,00,000. X has purchased a new residential house on April 25, 2024 for Rs. 7,00,000 and claims exemption in respect of such house. On 1-1-2024, he transfers the said residential house for 8,25,000 ami purchases a new house on 31-3-2025. for12,00,000. Compute the capital gains for relevant years.
Cost inflation index for various financial year are as under: 2001-02:100 and 2023-24:348

Solution: X can claim exemption under section 54 in respect of capital gains on sale of residential house and exemption under section 54F in respect of capital gains on sale of plot. Since the exemption under section 54 is available on investment of capital gains, therefore, first of all, exemption under section 54 will be claimed. Thereafter, exemption under section 54F, which is available on investment of net consideration, shall be claimed. The exemption under section 54F will be available only in respect of balance cost of new house i.e. Original cost of new house - Exemption u/s 54.

- Computation of Capital Gains for assessment year 2023-24 **(amounts in Rs.) -**

Particulars	**Residential house**	**Plot**
Full Value of consideration	18,00,000	12,00,000
Less: Indexed cost [(4,50,000 x 348 ÷100); (3,00,000 x 348 ÷100)]	15,66,000	10,44,000
Long term capital gains	2,34,000	1,56,000
Less: Exemption u/s 54	2,34,000	
Exemption u/s 54F [WN]		60,580
Taxable long term capital gains	Nil	**95,420**

Working Note: Exemption under section 54F –

s

$$\frac{\text{Capital gains x (cost of new house – exemption u/s 54)}}{\text{Net consideration of plot}} + \frac{\text{Rs.3,33,000 x (Rs.7,00,000 – Rs.73,500)}}{\text{Rs.12,00,000}} = \text{Rs. 1,29,999 ...>}$$

Computation of capital gains on sale of residential house for assessment year 2023-24 **(amounts in Rs.) -**

Sale price of the residential house (acquired on 25-4-2022)	8,25,000
Less: Cost of Acquisition (Rs.7,00,000 – Rs.2,34,000 i.e., exemption claimed u/s 54	4,66,000
Short-term capital gains for assessment year 2023-24	**3,59,000**
Long-term capital gains (Exemption claimed u/s 54F shall be chargeable as long-term capital gains of the year in which the house is transferred i.e. assessment year 2024-25)	60,580

Note: No exemption u/s 54 or 54F will be available in respect of second new house acquired on 31-3-2025 since the house transferred on 1-1-2024 is a short-term capital asset.

Illustration 42 - Reverse Mortgage: Mr. Abhik's father, who is a senior citizen, had pledged his residential house to a bank under a notified reverse mortgage scheme. He was getting loan from bank in monthly instalments. Mr. Abhik's father did not repay the loan on maturity and given possession of the house to the bank to discharge his loan. How will the treatment of the long-term capital gain be made on such reverse mortgage transaction? **(3 Marks, PCC June, 2009)**

Solution: As per Section 47(xvi), mortgage of residential house under a notified reverse mortgage scheme doesn't constitute 'transfer'. Also, the loan received under such scheme is exempt under section 10(43). However, when the bank alienates the property for the purpose of recovery of the loan on non-payment of the loan, then the same will constitute 'transfer' and the capital gains so computed will be taxed accordingly.

Illustration 43 - Reverse Mortgage: Sachin received 15,00,000 on 23-01-2024 on transfer of his residential building in a transaction of reverse mortgage under a scheme notified by the Central Government. The building was acquired in March 1991 for Rs. 8,00,000. Is the amount received on reverse mortgage chargeable to tax in the hands of Sachin under the head 'Capital Gains'? **(4 Marks, PCC Nov. 2010)**

Solution: As per section 47(xvi), any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government will not be regarded as a transfer. Therefore, capital gains tax liability is not attracted. Section 10(43) provides that the amount received by a senior citizen as a loan, either in lump sum or in installments, in a transaction of reverse mortgage would be exempt from income-tax. Therefore, the amount received by Sachin in a transaction of reverse mortgage of his residential building is exempt under section 10(43).

Illustration 44 - Computation of LTCG on sale of Equity shares: From the following information determine taxable capital gains. Mr. X has acquired 1,000 equity shares on 01-04-2017 for Rs. 15,00,000 (STT paid @ 0.1%). The fair-market value of shares as on 31-01-2018 was Rs. 15,25,000. He sold the shares on 25-08-2023 for Rs. 16,75,000 (STT paid @ 0.1%). Brokerage Expenses incurred on transfer: 0.5% of the Sales consideration.

Solution:

Computation of taxable capital gains **(amount in Rs.):**

Full value of consideration	16,75,000
Less: Expenses on transfer (0.5% of the gross consideration)	8,375
Net consideration	**16,66,625**
Less: Cost of acquisition [WN]	15,25,000
Long-term capital gains	**1,41,625**

Working Note: The cost of acquisition of equity shares shall be determined as under—

- **Step 1:** Cost of acquisition of such equity shares i.e. Rs. 15,00,000

- **Step 2 :** Lower of - (a) the fair market value of such asset as on 31-01-2018 i.e. 15,25,000; or (b) the full value of consideration received or accruing as a result of the transfer of the capital asset i.e. Rs. 16,75,000 = Rs. 15,25,000.
- **Step 3:** Cost of acquisition shall be deemed to the amount computed at Step 1 or Step 2 whichever is higher i.e. Rs. 15,25,000.

Illustration 45 - Computation of LTCG on sale of Equity shares: From the following information determine taxable capital gains. Mr. X has acquired 1,000 equity shares on 1-04-2017 for Rs. 15,25,000 (STT paid @ 0.1%). The fair market value of Shares as on 31-01-2018 was Rs. 15,00,000. He sold the shares on 25-08-2023 for Rs. 14,75,000 (STT paid @ 0.1%). Brokerage Expenses incurred on transfer: 0.5% of the Sales consideration.

Solution: Computation of taxable capital gains (amount in Rs.) :

Full value of consideration	14,75,000
Less: Expenses on transfer (0.5% of the gross consideration)	7,375
Net consideration	**14,67,625**
Less: Cost of acquisition [WN]	15,25,000
Long-term capital gains	**-57,375**

Working Note: The cost of acquisition of equity shares shall be determined as under—

- **Step 1:** Cost of acquisition of such equity shares i.e. Rs. 15,25,000.
- **Step 2 :** Lower of - (a) the fair market value of such asset as on 31-01-2018 i.e. 15,00,000; or (b) the full value of consideration received or accruing as a result of the transfer of the capital asset i.e. Rs. 14,75,000 = Rs. 14,75,000.
- **Step 3 :** Cost of acquisition shall be deemed to the amount computed at Step 1 or Step 2 whichever is higher i.e. Rs. 15,25,000

Illustration 46 - Computation of LTCG on sale of Equity shares: From the following information determine taxable capital gains. Mr. X has acquired 1,000 equity shares on 1-04-2017 for Rs. 15,25,000 (STT paid @ 0.1%). The fair market value of shares as on 31-01-2018 was Rs. 16,50,000. He sold the shares on 25-08-2023 for Rs. 16,00,000 (STT paid @ 0.1%).

Solution: Computation of taxable capital gains **(amount in Rs.):**

Full value of consideration	16,00,000
Less: Expenses on transfer	Nil
Net consideration	**16,00,000**
Less: Cost of acquisition [WN]	16,00,000
Long-term capital gains	**Nil**

Working Note: The cost of acquisition of equity shares shall be determined as under —

- **Step 1:** Cost of acquisition of such equity shares i.e. Rs. 15,25,000
- **Step 2 :** Lower of — (a) the fair market value of such asset as on 31-01-2018 i.e. 16,50,000; or (b) the full value of consideration received or accruing as a result of the transfer of the capital asset i.e. Rs. 16,00,000 = Rs. 16,00,000.
- **Step 3:** Cost of acquisition shall be deemed to the amount computed at Step 1 or Step 2 whichever is higher i.e. Rs. 16,00,000.

Illustration 47 - Computation of tax liability: Mr. X (64 years) is a resident individual. For the A.Y. 2024-25, he has following income-

Long-term capital gain on transfer of equity shares as computed as per provisions of section 112A)	1,80,000
Other income	2,75,000

Compute his tax liability for A.Y. 2024-25.

Solution: Computation of tax liability (amount in Rs.):

Tax on long-term capital gain u/s112A [10% of (long-term capital gain exceeding Rs. 1,00,000)]	5,500
Add: Health and education cess @4%	220
Tax liability	**5,720**

Working Note : In this case, the other income falls short of maximum amount not chargeable to tax by Rs. 25,000 [Rs. 3,00,000 - Rs. 2,75,000], hence long term capital gains will be reduced by such shortfall. Taxable LTCG under Section 112A = Rs. 1,55,000. No rebate under Section 87A shall be admissible from tax on long term capital gains computed as per the provisions of Section 112A of the Income tax Act, 1961.

Illustration 48 - Computation of Capital Gains and Tax liability: Mr. Rajan provides you the following details with regard to sale of certain securities by him during F.Y. 2023-24:

(i) **Sold 10000 shares of A Ltd. on 05-04-2023 @ Rs. 650 per share:** A Ltd. is a listed company. These shares were acquired by Mr. Rajan on 05-04-2017 @ Rs. 100 per share. STT was paid both at the time of acquisition as well as at the time of transfer of such shares which was affected through a recognized stock exchange. On 31-01-2018, the shares of A Ltd. were traded on a recognized stock exchange as under:

Highest price – Rs. 300 per share
Average price – Rs. 290 per share
Lowest price Rs. 280 per share

(ii) **Sold 1000 units of B Mutual Fund on 20-04-2023 @ Rs. 50 per unit:** B Mutal Fund is an equity oriented fund. These units were acquired by Mr. Rajan on 15-04-2017 @ Rs. 10 per unit. STT was paid only at the time of transfer of such units. On 31-01-2018, the Net Asset Value of the units of B Mutual Fund was Rs. 55 per unit.

(iii) **Sold 100 shares of C Ltd. on 25-04-2023 @ Rs. 200 per share :** C Ltd. is an un-listed company. These shares were issued by the company as bonus shares on 30-09-1997. The Fair Market Value of these shares as on 01-04-2001 was Rs. 50 per share.

Calculate the amount chargeable to tax under the head Capital Gains' and also calculate tax on such gains for assessment year 2024-25 assuming that the other incomes of Mr. Rajan exceeds the maximum amount not chargeable to tax. (Ignore surcharge and cess).

Cost Inflation Index for various financial year are as under : 2001-02 : 100, 2016-17 : 264, 2017-18 : 272, 2022-23 : 331 and 2023-24 : 348. (Marks, Nov. 2019)

Solution: Computation of taxable capital gains and tax thereon **(amount in Rs.):**

Long Term Capital gains on sale of Shares of A Ltd. (listed in RSE)		
Full value of consideration	65,00,000	
Less: Expenses on transfer	Nil	
Net consideration	**65,00,000**	
Less: Cost of acquisition (No benefit of indexation is available) [WN-1]	30,00,000	35,00,000
Long-term capital gains on sale of units of B Mutual Fund		
Full value of consideration	50,000	
Less: Expenses on transfer	Nil	
Net consideration	**50,000**	
Less: Cost of acquisition (No benefit of indexation is available) [WN-2]	50,000	Nil
Long Term Capital gains on sale of Shares of C Ltd. (unlisted company)		
Full value of consideration	25,000	
Less: Expenses on transfer	Nil	
Net consideration	**25,000**	
Less: Indexed Cost of acquisition 50 x 100 x 348 ÷100]	17,400	7,600
Total Taxable LTCG		**35,07,600**
Computation of tax on capital gains		
Tax on Long Term Capital gains on sale of Shares of A Ltd. (listed in RSE) taxable under Section 112A @ 10% in excess of Rs. 1,00,000		3,40,000
Tax on Long Term Capital gains on sale of Shares of C Ltd. (unlisted company) @ 20%		1,520

Working Notes:

(1) The cost of acquisition of equity shares shall be determined as under —

Step 1: Cost of acquisition of such equity shares (Rs. 100 x 10,000) i.e. Rs. 10,00,000

Step 2: Lower of - (a) the fair market value of such asset as on 31-01-2018 (being highest price i.e. Rs. 300 per shares) i.e. Rs. 300 x 10,000; or (b) the full value of consideration received or accruing as a result of the transfer of the capital asset i.e. Rs. 65,00,000 = Rs. 30,00,000.

Step 3: Cost of acquisition shall be deemed to the amount computed at Step 1 or Step 2 whichever is higher i.e. Rs. 30,00,000.

(2) The cost of acquisition of mutual fund units shall be determined as under —

Step 1: Cost of acquisition of such units (Rs. 10 x 1,000) i.e. Rs. 10,000

Step 2: Lower of - (a) the fair market value of such asset as on 31-01-2018 (Rs. 55 per unit) i.e. Rs.55 x 1,000; or (b) the full value of consideration received or accruing as a result of the transfer of the capital asset i.e. Rs. 50,000 = Rs. 50,000

Step 3: Cost of acquisition shall be deemed to the amount computed at Step 1 or Step 2 whichever is higher i.e. Rs. 50,000.

Illustration 49 - Computation of capital gains in case of conversion of a capital asset into stock-in-trade: Mr. Govind purchased 600 shares of "Y" limited at Rs.130 per share on 26-02-1979. "Y" limited issued him, 1,200 bonus shares on 20- 02-1984. The fair market value of these share at Mumbai Stock Exchange as on 01-04-2001 was Rs. 900 per share and Rs. 2,000 per share as on 31-01-2018. On 31-01-2023 he converted 1000 shares as his slock in trade. The shares was traded at Mumbai Stock Exchange on that date at a high of Rs. 2,200 per share and closed for the dav at Rs. 2,100 per share. On 07-07- 2023 Mr. Govind sold all 1800 shares @ Rs. 2,400 per share at Mumbai Stock Exchange and securities transaction tax was paid. Compute total income of Mr. Govind for the A.Y. 2024-25. (5 Marks, Nov. 2020)

Solution: Computation of total income of Mr. Govind for the A.Y. 2023-24 (amount in Rs.):

I	Profits and gains of business and profession:		
	Full value of consideration [1000 shares x Rs. 2,400 per share]	24,00,000	
	Less: FMV on the date of conversion (Rs. 2,100 x 1000 shares] [See Note below]	21,00,000	
			3,00,000
II	Capital Gains:		
	In respect of 800 shares held as capital asset up-to the date of sale -		
	Full value of consideration [800 shares x Rs. 2,400 per share]	19,20,000	
	Less: Cost of acquisition [800 shares x Rs. 2,000] (See Working Note below)	16,00,000	
			3,20,000
	In respect of 1,000 shares converted into stock in trade on 31-1-2023 (Capital gains is taxable in the P.Y. 2023-24, when the stock in trade is sold)		
	Full value of consideration [1000 shares x Rs.2,100, being FMV on the date of conversion]	21,00,000	
	Less: Cost of acquisition [1000 shares x Rs. 2,000] (See Working Note below)	20,00,000	
			1,00,000
	Total Income		**7,20,000**

Working Note: Cost of acquisition (per share) (amount in Rs.) -

Higher of (i) and (ii), below		2,000	
(i)	Rs. 900 per share, being - In case of shares purchased - Original cost of acquisition (Rs.130) or FMV as on 1-4-2001 (Rs.900), at the option of the assessee In case of bonus shares - FMV as on 1-4-2001 (Nil or Rs.900, at the option of the assessee)		
(ii)	Rs. 2,000 per share, being the lower of - FMV as on 31-1-2018 - Rs. 2,000 per share Sale consideration - Rs. 2,400 per share		

Working Note : Explanation to section 55(2)(ac) defines "fair market value" as the highest price of capital asset quoted on the stock exchange only for the purpose of the said clause (ac) i.e., to arrive at the FMV as on 31-1-2018 for computing cost of acquisition of shares.
However, the question states two prices on 31-1-2023, being the date of conversion of capital asset into stock in trade for which we have to consider the definition of "fair market value" as per section 2(22B). As per this definition, FMV refers to the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date. In the question, two prices are given on the relevant date i.e., the date of conversion of capital asset into stock in trade, namely, the highest price and the closing price. The above solution is given considering the closing price as the FMV as on 31-1-2022.

MISCELLANEOUS QUESTIONS

Illustration 50 - Computation of capital gains: Mr. Malik owns a factory building on which he had been claiming depreciation for the past few years. It is the only asset in the block. The factory building and land appurtenant thereto were sold during the year. The following details are available **(amounts in Rs.):**

Building completed in September, 2004 for	10,00,000
Land appurtenant thereto purchased in April, 2003 for	11,00,000
Advance received from a prospective buyer for land in May, 2004, forfeited in favour of assessee, as negotiations failed	50,000
WDV of the building block as on 1-4-2023	8,74,800
Sale value of factory building in November, 2023	8,00,000
Sale value of appurtenant land	40,00,000

The assessee is ready to invest in long-term specified assets under section 54EC within specified time.
Compute the amount of taxable capital gain for the assessment year 2024-25 and the amount to be invested under section 54EC for availing the maximum exemption. **(10 Marks, Nov. 2006)**

Solution: Computation of Capital Gain **(amount in Rs.) -**

Sale consideration of the block	8,00,000
Less: Cost of acquisition i.e. WDV of block	8,74,800
Short- term capital loss	**-74,800**
Full value of consideration of land	40,00,000
Less: Indexed cost of land 10,50,000 x 348 ÷109) [WN]	33,52,294
Long-term capital gains	**6,47,706**
Taxable long-term capital gains (after set-off of short-term capital loss)	**5,72,906**

Working Note: Rs. 50,000 advance forfeited by Mr. Malik shall be deducted from cost of acquisition.

Exemption under section 54EC: The aforesaid amount of taxable net long-term capital gains Rs. **5,72,906** should be invested within 6 months under section 54EC for availing the maximum exemption.

Illustration 51 - Computation of Capital Gains and tax liability: Abhay purchased 1,000 listed equity shares of Rs. 10 each at Rs. 100 per share from a broker on 4th May, 2014. He paid Rs. 3,000 as brokerage. On 15th March, 2023, he was given bonus shares by the company on the basis of one share for every two shares held. On the same date, he was also given a right to acquire 1,000 rights shares @ Rs. 90 per share. He acquired 50% of the right shares offered and sold the balance 50% of the rights entitlement for a sum of Rs. 67,500 on 7th April 2023. The right shares were allotted to him on 30th April, 2023. All the shares held by him were sold on 24th September 2023 @ Rs. 280 per share through a recognised stock exchange.
Compute capital gain and tax assuming his income from other sources is Rs. 5,40,000. FMV as on 31-01-2018 is Rs. 150 per share. **(CS Inter June 2005)**

Solution: Computation of capital gains on remaining shares **(amounts in Rs.) –**

Particulars	**Original Shares**	**Right Entitlement**	**Right shares**	**Bonus shares**
No. of shares	1,000	500	500	500
Full value of consideration (@ Rs. 280 per share)	2,80,000	67,500	1,40,000	1,40,000
Less: Cost of acquisition	1,50,000	NIL	45,000	NIL
Long term capital gains / Short-term capital gains	**1,30,000**	**67,500**	**95,000**	**1,40,000**
Total short-term capital gains falling u/s 111A (from sale of right and bonus shares)				2,35,000
Other short-term capital gains				67,500
Long term capital gains in excess of 11,00,000 as per Section 112A				30,000
Income from other sources				5,40,000
Total Income				8,72,500
Tax on LTCG under Section 112A [10% of Rs. 30,000]				3,000
Tax on STCG under Section 111A [15% of Rs. 2,35,000]				35,250
Tax on balance Income [Taxable at slab rates]				34,000
Total Tax				**72,250**
Less: Tax rebate u/s 87A [Since total income exceeds Rs. 5,00,000]				Nil
Balance tax				**72,250**
Add: Health and Education Cess @ 4%				2,890
Tax liability (rounded off)				**75,140**

Illustration 52- Computation of total income: Mr. Y submits the following information pertaining to the year ended 31st March, 2024:

(1) On 30-11-2023, when he attained the age of 60, his friends in India gave a flat at Surat as a gift, each contributing a sum of Rs. 20,000 in cash. The cost of flat purchased using various gifts was Rs. 3.4 lakhs.
(2) His close friend abroad sent him a cash gift of Rs. 75,000 through his relative, for the above occasion.
(3) Mr. Y sold the above flat on 30-1-2024 for Rs. 3.6 lakhs. The Registrar's valuation for stamp duty purposes was Rs. 3.9 lakhs. Neither Mr. Y nor the buyer, questioned the value fixed by the Registrar.
(4) He had purchased some equity shares in X Pvt. Ltd. on 5-2-2023 for Rs. 3.5 lakhs. These shares were sold on 15-3-2024 for Rs. 2.8 lakhs.

You are requested to calculate the total income of Mr. Y for the assessment year 2024-25. **(6 Marks, May 2005)**

Solution: Computation of total income of Mr. Y **(amounts in Rs.) -**

Particulars	**Flat***	**Equity shares**
Full value of consideration [Since stamp duty value exceeds 110% of actual consideration]	4,00,000	2,80,000
Less: Cost of acquisition	3,40,000	3,50,000
Short-term capital gains/loss	60,000	-70,000
Short term capital Loss to be carried forward		-10,000
Income from other sources (cash gift of Rs. 75,000 + Flat of Rs. 3.4 lakh)		4,15,000
Total Income		**4,15,000**

Working Notes:

(1) Gift of flat in excess of Rs. 50,000 is taxable under section 56(2)(x). The cost of such gifted asset will be Rs. 3,40,000, being the fair market value taken for the purpose of taxability under section 56(2)(x).

(2) Cash gift exceeding Rs. 50,000 from an unrelated person is taxable as Income from other sources.

(3) Equity shares of unlisted company held for more than 24 months from the date of purchase are long-term capital asset. Hence, the same shall be regarded as short term capital asset.

Illustration 53 - Taxability of capital gains: Ms. Smriti purchased 40 capital indexed bonds issued by Government listed in RSE for Rs. 10,000 each on 01-04-2008. She sold all the bonds @ Rs. 40,500 per bond on 28th September 2023. She invested Rs. 80,000 in bonds of NABARD on 01-11-2023 and Rs. 70,000 in the bonds National Highway Authority of India on 31-03-2024. Compute the tax liability of Ms. Smriti assuming that she has no other income chargeable to tax.
Cost inflation index for various financial year are as under : 2008-09 : 137 and 2023-24: 348

Solution: Computation of tax liability of Ms. Smriti **(amounts in Rs.) -**

Full value of consideration (Rs. 29,500 x 40)		16,20,000
Less: Indexed Cost of acquisition (40 x Rs. 10,000 x 348÷137)		10,16,058
Long-term capital gains		**6,03,942**
Less: Exemption u/s 54EC	[WN-1]	Nil
Taxable long-term capital gains		**6,03,942**
Total Income (rounded off)		**6,03,940**
Tax on LTCG (No rebate u/s 87A is admissible since, total income exceeds Rs. 5,00,000)	[WN-2]	70,788
Add: Health & Education cess @ 4%		2,832
Tax Liability (rounded off to nearest Rs.10)		**73,620**

Working Notes:

(1) Benefit of Section 54EC is not available on LTCG arising from transfer of bonds.

(2) Tax on LTCG shall be lower of the following :
(a) 20% of (LTCG - basic exemption limit of Rs.2,50,000) = 20% of (Rs. 6,03,942 - Rs. 2,50,000) = Rs. 70,788
(b) 10% of LTCG without indexation & basic exemption = 10% of [(Rs. 40,500 - Rs. 10,000) x 40] = Rs. 122,000.

Illustration 54 - Computation of Capital gains and Tax liability : Mukesh (aged 55 years) owned a residential house at Nagpur. It was acquired by Mukesh on 10-10-2004 for Rs. 14,50,000. It was sold for Rs. 55,00,000 on 04-11-2023. The Stale stamp valuation authority fixed the value of Ihe properly at Rs. 75,00,000. The assessee paid 2% of the sale consideration as brokerage for the sale of said properly.

Mukesh acquired a residential house at Chennai on 10-12-2023 for Rs. 10,00,000 and deposited Rs. 10,00,000 on 10-04-2024 in the capital gain bond of Rural Electrification Corporation Ltd (RFC). He deposited Rs. 5,00,000 on 06-07-2024 in the Capital Gain Deposit Scheme in a nationalised bank for construction of additional floor on the residential house property acquired at Chennai.

Compute the capital gain chargeable to lax in the hands of Mr. Mukesh. Calculate the income-tax payable on the assumption that he has no other income chargeable to tax. (7Marks, PCC Nov. 2010) Cost inflation index for various financial year are as under: 2004-05:113 and 2023-24:348

Solution: Computation of capital gains and tax thereon in the hands of Mukesh (amounts in Rs.)-

Full value of consideration	[WN-1]	75,00,000
Less: Brokerage @ 2% of actual sale consideration of Rs. 55,00,000		1,10,000
Net sale consideration		**73,90,000**
Less: Indexed cost of acquisition (Rs. 14,50,000 x 348 ÷113)		44,65,487
Capital Gains		**33,22,331**
Less: Exemption under section 54	[WN-2]	15,00,000
Exemption under section 54EC	[WN-3]	10,00,000
Income by way of Long-term capital gain		**8,22,331**
Less: Basic Exemption Limit of Rs. 2,50,000	[WN-4]	2,50,000
LTCG on which tax imposable		**5,72,330**
Income Tax @ 20%		1,14,464
Add: Health & Education cess @ 4%		4,579
Total Tax (Rounded off)		1,19,040

Working Notes:
(1) As per the provisions of Section 50C, in this case the value assessed by the stamp valuation authority exceed 110% of the consideration received therefore, the stamp duty value shall be deemed as the full value of consideration.
(2) Exemption under section 54 = Cost of residential house acquired at Chennai on 10-12-2023 + amount deposited in Capital Gains Accounts Scheme on 6-7-2024 (before the due date of filing of return of income) for construction of additional floor on residential house property acquired at Chennai = Rs. 10 lakhs + 5 lakhs = Rs. 15 lakhs.

(3) Exemption under section 54EC = amount deposited in RECL bonds on 10-04-2024 (within 6 months from the date of transfer) = Rs. 10 lakhs.

(4) Since Mukesh is a resident individual having no other income, hence, he will be entitled to basic exemption limit in respect of the income from LTCG - Section 112.

Illustration 55 - Computation of Tax liability: The total income of Mrs. Z is Rs. 3,50,000, which includes the following:

Particulars	**Rs.**
Long-term capital gains	30,000
Winnings from lotteries	20,000
Short-term capital gains covered by Section 111A	10,000
	60,000

Agricultural income earned by her was Rs. 50,000. Compute the tax payable by Mrs. Z. **(6 Marks, May 2006)**

Solution: Computation of tax payable by Mrs. Z **(amounts in Rs.) -**

Tax on incomes taxable at special rates:	
Tax on STCG u/s 111A @ 15% [Rs. 10,000 x 15%]	1,500
Tax on LTCG u/s 112 @ 20% 30,000 x 20%]	6,000
Tax on Lottery income @ 30% [Rs. 20,000 x 30%]	6,000
Tax on balance income : Balance income including agricultural income (Rs. 50,000 + Rs. 2,90,000)	4,500
Less: Tax on agricultural income + basic exemption (Rs. 2,50,000 + Rs. 50,000)	-2,500
Tax payable	15,500
Less: Tax rebate u/s 87A [100% of tax or Rs. 12,500 which ever is less]	12,500
Balance tax	**3,000**
Add: Health & Education cess @ 4%	120
Tax payable by Mrs. Z (rounded off)	**3,120**

Illustration 56 - Computation of Capital gains and tax liability: Mr. C inherited from his father 8 plots of land in 1980. His father had purchased the plots in 1960 for Rs. 5 lakhs. The fair market value of the plots as on 1-4-2001 was Rs. 8 lakhs. (Rs. 1 lakh for each plot)

On 1st June 2001, C started a business of dealer in plots and converted the 8 plots as stock-in-trade of his business. He recorded the plots in his books at Rs. 45 lakhs being the fair market value on that date. In June 2005, C sold the 8 plots for Rs. 50 lakhs.

In the same year, he acquired a residential house property for Rs. 45 lakhs. He invested an amount of Rs. 5 lakhs in construction of one more floor in his house in June 2006. The house was sold by him in June 2023 for Rs. 90,00,000.

The valuation adopted by the registration authorities for charge of stamp duty was Rs. 1,60,50,000. As per the assessee's request, the Assessing Officer made a reference to a Valuation Officer. The value determined by the Valuation Officer was Rs. 1,70,00,000.

Brokerage of 1% of sale consideration was paid by C. Give the tax computation for the relevant assessment years with reasoning. **(Modified 8 Marks: Nov. 2012 & Similar Nov. 2016)**

Cost inflation index for various financial year are as under: 2005-06:117, 2006-07:122 and 2023-24:348

Solution: Computation of total income and tax liability of Mr. C **(amount in Rs.):**

Capital Gains on sale of residential house property		
Full value of consideration [WN-1]		1,60,50,000
Less: Brokerage @ 1% of sale consideration (1% of Rs. 90,00,000)		90,000
Net consideration		1,59,60,000
Less: Indexed cost of acquisition (Rs. 45,00,000 x 348/117)	1,33,84,615	
Less: Indexed cost of improvement (Rs. 5,00,000 x 348/122)	14,26,230	1,48,10,845
Long-term capital gains (Total Income) (rounded off)		**11,49,160**
Tax on total income [WN-2]		
Long-term capital gain taxable @ 20% (Rs. 11,49,160- Rs. 2,50,000)		1,79,832
Add: Health & Education cess @ 4%		7,193
Total tax liability		**1,87,030**

Working Notes:

(1) As per the provisions of Section 50C, in this case the value assessed by the stamp valuation authority exceed 110% of the consideration received therefore, the stamp duty value shall be deemed as the full value of consideration.

(2) As per Section 112, the unexhausted basic exemption limit can be exhausted against the long-term capital gains. Since Mr. C does not have any other income in the current year, the whole of the basic exemption limit of Rs. 2,50,000 is exhausted against the long-term capital gains of Rs. 11,49,160 and the balance long-term capital gains shall be taxable @ 20%. It is assumed that Mr. C is a resident individual below the age of 60 years.

Illustration 57 - Computation of Capital gain: Ms. Neelima had purchased 500 equity shares in A Ltd. at a cost of Rs. 30 per share (brokerage 1%) in February 1995. She got 50 bonus shares in September 1999. She again got 550 bonus shares by virtue of her holding on March, 2005. Fair market value of the shares of A Ltd. on April, 2001 is Rs. 45. In January 2024, she transferred all her shares @ Rs. 280 per share (brokerage 2%). The FMV of shares as on 31-01-2018 is Rs. 150 per share. Compute the capital gains taxable in the hands of Ms. Neelima assuming -

(i) A Ltd. is an unlisted company and securities transaction tax was not applicable at the time of sale.

(ii) A Ltd. is a listed company and the shares are sold in a recognised stock exchange and securities transaction tax was paid at the time of purchase and sale.

(8 Marks, IPCC May 2013)

Solution:

(i) Computation of capital gains [unlisted shares] (amount in Rs.) –

Particulars	Original shares [A]	Ist Bonus shares [B]	IInd Bonus shares [C]
No. of shares	500	50	550
Full value of consideration (@ Rs. 280 per share)	1,40,000	14,000	1,54,000
Less: Brokerage paid	2,800	280	3,080
Net sale consideration	1,37,200	13,720	1,50,920
Less: Indexed cost of acquisition (Rs. 45 x 500 x 348/100)	78,300	7,830	Nil
Long term capital gain	58,900	5,890	1,50,920
Long term capital gains [A + B + C]			**2,15,710**

Notes: Cost of acquisition of bonus shares shall be NIL.

Computation of capital gains [Listed shares] (amount in Rs.) -

Particulars	Original shares [A]	Ist Bonus shares [B]	IInd Bonus shares [C]
No. of shares	500	50	550
Full value of consideration (@ Rs. 280 per share)	1,40,000	14,000	1,54,000
Less: Brokerage paid	2,800	280	3,080
Net sale consideration	1,37,200	13,720	1,50,920
Less: Cost of acquisition [No benefit of indexation will be available as per Section 112A]	75,000	7,500	82,500
Long term capital gain	62,200	6,220	68,420
Long term capital gains [A + B + C]			**1,36,840**

Illustration 58 - Computation of Capital Gains and Tax Liability: Mr. Roy, aged 55 years owned a Residential House in Ghaziabad. It was acquired by Mr. Roy on 10-10-1986 for Rs. 6,00,000. The fair market value as on 01-04-2001 was Rs. 18,00,000. He sold it for Rs. 53,00,000 on 4-11-2023. The stamp valuation authority of the state fixed value of the property at Rs. 94,00,000. The Assessee paid 2% of the sale consideration as brokerage on the sale of the said property. Mr. Roy Acquired a Residential House property at Kolkata on 10-12-2023 for Rs. 10,00,000 and deposited Rs. 7,00,000 on 10-04-2024 and Rs. 5,00,000 on 15-06-2024 in the capital gains bonds of Rural Electrification Corporation Ltd. He deposited Rs. 4,00,000 on. 06-07-2023 and Rs. 3,00,000 on 01-11-2024 the capital gain composite scheme in a Nationalized Bank for construction of an additional floor on the residential house property in Kolkata.

Compute the Capital Gain chargeable to Tax for the Assessment Year 2024-25 and Income Tax chargeable thereon assuming Mr. Roy has no other income. **(8 Marks, May 2014) (Similar: 8 Marks, May 2017)**

Solution: Computation of Capital Gains **(amounts in Rs.) -**

Full Value of Consideration (i.e. Stamp Duty Value)	[WN-1]	94,00,000
Less: Expenses on transfer (2% expenses on transfer of Rs. 53,00,000)		1,06,000
Net consideration		92,94,000
Less: Cost being: Indexed Cost of Acquisition (Rs. 18,00,000 x 348 ÷ 100)		67,64,000
Long Term Capital Gains		30,30,000
Less: Exemption u/s 54 (Rs.10,00,000 + Rs.4,00,000)	[WN-2]	14,00,000
Exemption u/ s 54EC in respect of bonds of REC	[WN-3]	7,00,000
Taxable Long Term Capital Gains		9,30,000
Total Income (rounded off)		9,30,000

Tax on long-term capital gains	[WN-4]	1,36,000
Add: HEC @ 4%		5,440
Tax payable (rounded off)		1,41,440

Working Notes:

(1) In case the stamp duty value fixed by the stamp valuation authority exceeds 110% of actual sale consideration, the stamp duty value shall be deemed as the full value of consideration.

(2) Exemption u/s 54 is available if one/two new residential house(s) is/are purchased within 1 year before or 2 years after the date of transfer. Here the new house is purchased within the said time limit, further the cost of new residential house is less than the capital gain, capital gain to the extent of cost of new asset is exempt u/ s 54. Besides this the amount deposited in capital gains account scheme on or before the due date of furnishing the return of income shall also qualify for deduction even if it is deposited for construction of additional floor of the house.

(3) Exemption under section 54EC is available in respect of investment in bonds of Rural Electrification corporation only if the investment is made within a period of 6 months after the date of such transfer. In this case the investment made after 6 months amounting Rs. 5,00,000 shall not qualify for exemption under section 54EC.

(4) Tax on LTCG = 20% of (Rs.9,30,000 - basic exemption limit of Rs. 2,50,000 (assuming that the assessee is resident in India) = 20% of Rs. 6,80,000 = Rs. 1,36,000.

(5) Since the total income of Mr. Roy exceeds Rs. 5,00,000, he is not entitled for tax rebate under Section 87A.

Illustration 59 - Computation of capital gains and tax liability: Mr. Martin sold his residential house property on 08-06-2023 for Rs.70 lakhs which was purchased by him for Rs. 20 lakhs on 05-05-2006.

(1) He paid Rs. 50,000 as brokerage for the sale of said property. The stamp duty valuation assessed by sub registrar was Rs. 97 lakhs.

(2) He bought another house property on 25-12-2023 for Rs. 15 lakhs.

(3) He deposited Rs.10 lakhs on 10-11-2023 in the capital gain bond of National Highway Authority of India (NITAI).

(4) He deposited another Rs. 10 lakhs on 10-07-2024 in the capital gain deposit scheme with SBI for construction of additional floor of house property.

Compute income under the head "Capital Gains" for A.Y. 2024-25 as per Income-tax Act, 1961 and also Income tax payable on the assumption that he has no other income chargeable to tax. **(8 Marks, Nov. 2015)**

Cost inflation index for various financial year are as under: 2006-07:122 and 2023-24:348

Solution: Computation of capital gains and tax thereon in the hands of Mr. Martin **(amounts in Rs.) -**

Full value of consideration	[WN-1]	97,00,000
Less: Brokerage		50,000
Net sale consideration		96,50,000
Less: Indexed cost of acquisition (Rs. 20,00,000 x 348÷ 122)		57,04,918
Capital Gains		39,45,082
Less: Exemption under section 54	[WN-2]	25,00,000
Exemption under section 54EC	[WN-3]	10,00,000
Income by way of Long-term capital gain Total Income (rounded off)		4,45,080
Less: Basic Exemption Limit of Rs. 2,50,000	[WN-4]	2,50,000
LTCG on which tax imposable		1,95,080
Income Tax @ 20%		39,016
Less: Tax rebate u/s 87A [100% of tax or Rs. 12,500 whichever is less]		12,500
Balance Income tax		**26,516**
Add: Health & Education cess @ 4%		1,061
Total tax (rounded off)		27,580

Working Notes:

(1) Value assessed by the stamp valuation authority exceeds 110% of the consideration received, so the stamp dutv value will be deemed as FVC = Rs. 97 lakhs.

(2) Exemption under section 54 = Cost of residential house acquired on 25-12-2023 + amount deposited in Capital Gains Accounts Scheme on 10-7-2024 (before the due date of filing of return of income) for construction of additional floor on residential house property = Rs. 15 lakhs + 10 lakhs = Rs. 25 lakhs.

(3) Exemption under section 54EC = amount deposited in NHAI bonds on 10-11-2023 (within 6 months from the date of transfer) = Rs. 10 lakhs.

(4) Since Mr. Martin is a resident individual having no other income, hence, he will be entitled to basic exemption limit in respect of the income from LTCG - Section 112.

Illustration 60 - Conversion of Capital Asset into stock in trade: Ms. Gunjan purchased a land at a cost of Rs. 50 lakh in the financial year 2001-02 and held the same as her capital asset till 31st August, 2013. She started her real estate business on 1st September, 2013 and converted the said land into stock-in-trade of her business on the said date, when the fair market value of the land was Rs. 320 lakh.

She constructed 8 flats of equal size, quality and dimension. Cost of construction of each flat is Rs. 36 lakh. Construction

was completed in January, 2023. She sold 5 flats at Rs. 90 lakh per flat in February, 2024.

She invested Rs. 70 lakh in bonds issued by National Highways Authority of India on 31st March,2024

Compute the capital gains and business income arising from the above transactions in the hands of Ms. Gunjan for Assessment Year 2024-25 indicating clearly the reasons for treatment for each item.

Cost inflation index for various financial year are as under : 2013-14 : 220 and 2023-24: 348

Solution: Computation of capital gains and business income of Ms. Gunjan for A.Y. 2023-24 (amount in Rs.) :

Capital Gains:	
Fair market value of land on the date of conversion deemed as the full value of consideration for the purposes of section 45(2)	3,20,00,000
Less: Indexed cost of acquisition [Rs. 50,00,000 x 220/100]	1,10,00,000
	2,10,00,000
Proportionate capital gains arising during the A.Y. 2023-24 (Rs. 2,10,00,000 x 5/8)	1,31,25,000
Less: Exemption under section 54EC (restricted to Rs. 50 lakh)	50,00,000
Capital gains chargeable to tax for A.Y. 2024-25	**81,25,000**
Business Income	
Sale price of flats [5 x Rs. 90 lakh]	4,50,00,000
Less: Cost of flats -	
Fair market value of land on the date of conversion (Rs. 3,20,00,000 x 5/8)	2,00,00,000
Cost of construction of flats [5 x Rs. 36 lakh]	1,80,00,000
Profits and Gains of Business or Profession	**70,00,000**

Working Notes:

(1) The conversion of a capital asset into stock-in-trade is treated as a transfer under section 2(47). It would be treated as a transfer in the year in which the capital asset is converted into stock-in-trade.

(2) However, as per section 45(2), the capital gains arising from the transfer by way of conversion of capital assets into stock-in-trade will be chargeable to tax only in the year in which the stock-in-trade is sold.

(3) The indexation benefit for computing indexed cost of acquisition would be available only up to the year of conversion of capital asset to stock-in-trade and not up to the year of sale of stock-in-trade.

(4) For the purpose of computing capital gains in such cases, the fair market value of the capital asset on the date on which it was converted into stock-in-trade shall be deemed to be the full value of consideration received or accruing as a result of the transfer of the capital asset.
In this case, since only 5/8th of stock-in trade (5 flats out of 8 flats) is sold in the P.Y. 2022-23 only proportionate capital gains (i.e. 5/8th) would be chargeable to tax in the A.Y. 2023-24.

(5) On sale of such stock-in-trade (i.e., flats, in this case), business income would arise. The business income chargeable to tax would be the price at which the flats are sold as reduced by the fair market value on the date of conversion of the capital asset (i.e., land) into stock-in-trade and the cost of construction of flats.

(6) In case of conversion of capital asset into stock-in-trade and subsequent sale of stock-in-trade, the period of 6 months, for the purpose of exemption under section 54EC, is to be reckoned from the date of sale of stock-in-trade [CBDT Circular No. 791 dated 02-6-2000], In this case, since the investment in bonds of NHAI has been made within 6 months of sale of flats, the same qualifies for exemption under section 54EC, subject to a maximum of Rs. 50 lakh.

Illustration 61 - Capital gains in case of Reverse Mortgage and Tax liability : Mrs. Mahalakshmi an individual, aged 68 years, mortgaged her Residential Property, purchased for Rs. 3 lakhs on 01-10-2002, with a bank, under a notified reverse mortgage scheme and was sanctioned a loan of Rs. 20 lakhs. As per the said scheme she was receiving the loan amount in equal monthly installments of Rs. 30,000 per month from the bank. Mrs. Mahalakshmi was not able to repay the loan on maturity and in lieu of settlement of the loan surrenders the residential property to the bank. Bank sold the property for Rs.25 lakhs on 22-02-2024. She had no other income during the year.
Discuss the Tax consequences and compute tax for the Assessment Year 2024-25.
Cost Inflation Index : 2002-03 = 105 and 2023-24 = 348. **(5 Marks, May 2018)**

Solution: The tax consequences in hands of Mrs. Mahalaksmi are as under:

(1) At the time of mortgage:

- As per section 47(xvi), any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government will not be regarded as a transfer. Therefore, capital gains tax liability is not attracted.
- Section 10(43) provides that the amount received by a senior citizen as a loan, either in lump sum or in installments, in a transaction of reverse mortgage would be exempt from income-tax. Therefore, the amount received by Mrs. Mahalakshmi in a transaction of reverse mortgage of her residential building is exempt under section 10(43).

(2) At the time of alienation of house property : When the bank alienates the property for the purpose of recovery of the loan on non-payment of the loan, then the same will constitute 'transfer' and the capital gains so computed will be taxed accordingly.

Thus, Capital Gains in hands of Mrs. Mahalakshmi are as under:

Full value of consideration	25,00,000
Less: Indexed cost of acquisition (Rs. 3,00,000 x 348 ÷105)	9,94,286
Long-term capital gains/ Gross Total Income	15,05,714
Less: Deduction under Chapter VI-A	Nil
Total Income (rounded off)	15,05,710
Tax on long-term capital gains [Tax on LTCG = 20% of (Rs. 15,05,710 - Basic exemption limit of Rs.3,00,000 (assuming that the assessee is resident in India)]	2,41,142
Less: Tax rebate u/s 87A (Nil, since her Total Income exceeds Rs. 5,00,000)	Nil
Balance tax	2,41,142
Add: HEC@4%	9,646
Tax payable (rounded off)	2,50,790

Illustration 65 - Computation of Capital Gains and tax liability : Examine the taxability of Capital gains in the following scenarios for the Assessment Year 2024-25, determine the taxable amount and rate of tax applicable :

(i) On 28th February, 2024 10,000 shares of XY Ltd., a listed company are sold by Mr. B @ 550 per share and STT was paid at the time of sale of shares. These shares were acquired by him on 5th April, 2017 @ Rs. 395 per share by paying

STT at the time of purchase. On 31st January, 2018, the shares of XY Ltd. were traded on a recognized stock exchange at the Fair Market Value of Rs. 390 per Share.

(ii) Mr. A is the owner of residential house which was purchased on 1st September, 2016 for Rs. 9,00,000. He sold the said house on 4th September, 2023 for Rs. 19,00,000. Valuation as per stamp valuation authorities was Rs.45,00,000. He invested Rs. 19,00,000 in NHAI Bonds on 21st March, 2024.
Cost Inflation Index: F.Y. 2016-2017: 264 and F.Y. 2020-2021 - 301 (2 x 2 = 4 Marks, July 2022)

Solution:

(i) Long-term capital gain on transfer of 10,000 shares of XY Ltd. [taxable u/s 112A @ 10% on amount exceeding Rs. 1,00,000]:

Full value of consideration [10,000 x Rs.550]		55,00,000
Less: Cost of acquisition		
Higher of—		
Cost of acquisition [10,000 x Rs. 395]	39,50,000	
Lower of fair market value per share as on 31-1-2018 i.e., Rs. 390 per share and sale consideration i.e., Rs. 550 per share [10,000 x Rs. 390]	39,00,000	
		39,50,000
Long term capital gain taxable u/s 112A		**15,50,000**
Long-term capital gain exceeding Rs. 1 lakh i.e., Rs.14,50,000 would be taxable @ 10%		

(ii) Sale of residential house [long-term capital asset, since held for more than 24 months]:

Full value of consideration [stamp duty value, since it exceeds 110% of actual sale consideration]	45,00,000
Less: Indexed cost of acquisition [Rs. 9,00,000 x 348/264]	11,86,364
	33,13,636
Less: Deduction u/s 54EC [No deduction u/s 54EC would be allowed on investment of Rs. 19,00,000 in NHAI bonds, since such investment is made on 21st March 2024 i.e., after six months from the date of transfer i.e., 4th September, 2024]	Nil
Long-term capital gain taxable u/s 112 @ 20%	33,13,636

Income From Other Sources

Illustrations

Illustration 1 - Taxability of Income tinder various heads: State under which heads the following incomes are taxable:

(1) Rental income in case of dealer in property;
(2) Dividend on shares in case of a dealer in shares;
(3) Salary by a partner from his partnership firm;
(4) Rental income of machinery;
(5) Winnings from lotteries by a person having the same as business activity;
(6) Salaries payable to a Member of Parliament;
(7) Receipts without consideration;
(8) In case of retirement, interest on employee's contribution if provident fund is unrecoginsed.

(4 Marks, IPCC Nov. 2010)

Solution: The taxability of the given incomes is discussed in the following table -

	Particulars	**Head of Income**
1.	Rental income in case of dealer in property	Income from house property.
2.	Dividend on shares in case of a dealer in shares	Income from other sources.
3.	Salary by partner from his partnership firm	Profit and gains of business or profession.
4.	Rental income of machinery	Profits and gains of business or profession. However, if the same is not taxable as business income, it is taxable as Income from Other Sources under section 56(2)(ii).
5.	Winnings from lotteries by a person having the same as business activity	Income from other sources.
6.	Salaries payable to a Member of Parliament	Income from other sources.
7.	Receipts without consideration	Income from other sources under section 56(2)(x).
8.	In case of retirement, interest on employee's contribution if provident fund is unrecognized	Income from other sources.

Illustration 2 - Issue price exceeds FMV of shares - Taxability: The following are the details of the shares issued by VSC Pvt. Ltd. during financial year 2023-24 Discuss the applicability of provisions of section 56(2) (viib) in the hands of the company:
(Rs. in lakhs)

S. No,	**Face value of shares (Rs.)**	**FMV of shares (Rs.)**	**Issue price of shares (Rs.)**
(i)	200	220	230
(ii)	200	230	220
(iii)	200	190	198
(iv)	200	190	210

Solution: The applicability of provisions of Section 56(2)(viib) in the hands of the VSC Pvt. Ltd. is as under -

S. No.	Face value of shares (Rs.)	FMV of shares (Rs.)	Issue price of shares (Rs.)	Applicability of section 56(2)(viib)
(i)	200	220	230	The provisions of Section 56(2)(viib) are attracted in this case since the shares are issued at a premium (i.e., issue price exceeds the face value of shares). The excess of the issue price of the shares over the FMV would be taxable under section 56(2)(viib). Hence, Rs. 10 lakhs (Rs. 230 lakhs - Rs. 220 lakhs) shall be treated as income in the hands of VSC Pvt. Ltd.
(ii)	200	230	220	The provisions of Section 56(2) (viib) are attracted since the shares are issued at a premium. However, no sum shall be chargeable to tax under the said section as the shares are issued at a price less than the FMV of shares.
(iii)	200	190	198	Section 56(2)(viib) is not attracted since the shares are issued at a discount, though the issue price is greater than the FMV.
(iv)	200	210	190	The provisions of section 56(2)(viib) are attracted in this case since the shares are issued at a premium. The excess of the issue price of the shares over the FMV would be taxable under section 56(2) (viib). Therefore, Rs. 20 lakhs (Rs. 210 lakhs - Rs. 190 lakhs) shall be treated as income in the hands of VSC Pvt. Ltd.

Illustration 3 - Taxation of dividends received from domestic companies: XYZ Ltd. a domestic company, declared dividend of Rs. 150 lakh for the Financial Year 2023-24 and distributed the same on 31-07-2023. Mr. A holding 10% share in XYZ Ltd. received net dividend of Rs.13.5 lakh in July, 2023. Mr. B holding 5% share in XYZ Ltd. received net dividend of Rs. 6.75 lakh in July, 2023v.

Discuss the tax liabilities in the hands of Mr. A and Mr. B assuming that Mr. A and Mr. B have not received dividend from any other domestic company during the year.
(3 Marks, May 2018)

Solution: In both the cases dividend received from shares of Indian company shall be chargeable to tax in hands of the shareholder. Gross dividend will be taxable in hands of shareholders. Thus, gross dividend of Rs. 15 lakh (Rs. 13.5 lakh ÷90 x 100) received by Mr. A and gross dividend Rs. 7.5 lakh (Rs. 6.75 lakh 90 x 100) received by Mr. B will be chargeable to tax in their hands.

Illustration 4 - Taxation of dividends received from domestic companies: Mr. X resident individual 45 years of age gives the following information pertaining to the assessment year 2024-25 :

Particulars	**Rs.**
Business Income	15,00,000
Dividend from shares of Indian company (net)	9,00,000
Interest Expenses incurred on making investment in shares	2,50,000
Long term capital gains on sale of building	18,60,000

Determine the amount of TotalTncome and tax liability for the assessment year 2024-25.

Solution: Computation of amount of total income and tax liability for AY 2024-25
(amount in Rs.) :

Business Income		15,00,000
Long term capital gains on sale of building		18,60,000
Income from other sources :		
Dividend from shares of Indian company [Gross Amount (Rs. 9,00,000 x 100 ÷90)]	10,00,000	
Interest Expenses incurred for making investment in shares (Subject to maximum of 20% of dividend income)	2,00,000	8,00,000
Total Income (rounded off)		**41,60,000**

Tax liability: **(amount in Rs.)**

Long term capital gains taxable under Section 112 @ 20% (Rs. 18,60,000 x 20%)	3,72,000
Balance Income taxable at normal rates (Rs. 23,00,000)	5,02,500
Total Tax	**8,74,500**
Add: HEC @ 4%	34,980
Total tax liability (rounded off)	9,09,480
Less: TDS u/s 194 on dividends	1,00,000
Tax payable	**8,09,480**

Illustration 5 - Taxability of deemed dividend u/s 2(22)(e) : Rahul, holding 28% of equity shares in a company, took a loan of Rs. 5,00,000 from the same company. On the date of granting the loan, the company had accumulated profits of Rs. 4,00,000. The company is engaged in some manufacturing activity.

(i) Is the amount of loan taxable as deemed dividend in the hands of Rahul, if the company is a company in which the public are substantially interested ?

(ii) What would be your answer, if the lending company is a private limited company (i.e.) a company in which the public are not substantially interested ?

(5 Marks, PCC May 2011) (Similar 4 Marks, Nov. 2016)

Ans: The given case requires application of Section 2(22) (e) as follows -

(i) The provisions of section 2(22) (e) will not apply where the loan is given by a company in which public are substantially interested. In the given case, the loan would not be taxable as deemed dividend in the hands of Rahul as the company which has extended loan is a company in which public are substantially interested.

(ii) If the loan is taken from a private limited company (i.e. a company in which the public are not substantially interested), which is a manufacturing company and not a company where lending of money is a substantial part of the business of the company, then, the provisions of section 2(22) (e) would be attracted.

Since Rahul is holding more than 10% of the equity shares in the company, thus loan granted by the company to him is treated as deemed dividend to the extent of accumulated profits.

Hence, the loan of Rs. 5 lakhs shall be deemed to be dividend in the hands of Mr. Rahul only upto the extent of accumulated profits of Rs. 4 lakhs. Accordingly, Rs. 4 lakhs shall be taxable in the hands of Mr. Rahul under section 2(22)(e) as deemed dividend.

Illustration 6 - Taxability of the gifts : Check the taxability of the following gifts received by Mrs. Rashmi during the previous year and compute the taxable income from gifts :

(i) On the occasion of her marriage on 14-8-2023, she has received Rs. 90,000 as gift out of which Rs. 70,000 are from relatives and balance from friends.

(ii) On 12-9-2023, she has received gift of Rs. 18,000 from cousin of her mother.

(iii) A ceil phone of Rs. 21,000 is gifted by her employer on 15-08-2023.

(iv) She gets gift of Rs. 25,000 from elder brother of her husband's grandfather on 25-09-2023.

(v) She has received gift from her friend of Rs. 2,000 on 14-04-2023**. (6 Marks, PE-II Nov. 2008)**

Solution: **The answer is as follows -**

(i) Not taxable since the same has been received by her on the occasion of marriage.

(ii) Taxable since her mother's cousin does not fall in the category of relative.

(iii) Gift from employer shall be chargeable to tax under the head 'Salaries' as the same exceeds Rs. 5,000.

(iv) Taxable since brother of grandfather does not fall in the category of relative.

(v) Taxable.

Therefore, the total taxable sum under income from other sources under section 56 = Rs. 18,000 + Rs. 25,000 + Rs. 2,000 = Rs. 45,000. Since the aggregate value of taxable gifts doesn't exceed Rs. 50,000, therefore, the same are not 'income' as per section 56(2)(x). Hence, none of the gifts shall be taxable in the hands of Mrs. Rashmi.

Illustration 7 - Taxability of gifts : Discuss the taxability of the following receipts in the hands of Mr. Sanjay Kamboj under the Income-tax Act, 1961. for A.Y. 2024-25 :

(i) Rs. 51,000 received from his sister living in US on 1-6-2023.

(ii) Received a car from his friend on payment of Rs. 2,50,000, the FMV of which was Rs. 5,50,000. Provisions of taxability or Non-taxability must be discussed. **(3 Marks, May 2018-NS)**

Solution:

(i) **Not taxable :** Gift from sister i.e. 'relative' is not liable to tax under section 56(2)(x).

(ii) **Not taxable:** Car is not included in the definition of property for the purpose of Section 56(2)(x), therefore, the same shall not be taxable.

Illustration 8 - Taxability under various heads of Income : Decide the following transactions in the context of Income- tax Act, 1961: **(6 Marks, PCC May 2011)**

(i) Mr. B transferred 500 shares of Reliance Industries Ltd. to M/s. B Co. (P) Ltd. on 10-10-2023 for Rs. 3,00,000 when the market price was Rs. 5,00,000. The indexed cost of acquisition of shares for Mr. B was computed at Rs. 4,45,000. The transfer was not subjected to securities transaction, tax. Determine the income chargeable to tax in hands of Mr. B and M/s. B Co (P) Ltd. because of the above said transaction.

(ii) Ms. Chhaya transferred a vacant site to Ms. Dayama for Rs. 4,25,000. The stamp valuation authority fixed the value of vacant site for stamp duty purpose at Rs. 6,00,000. The total income of Chhaya and Dayama before considering the transfer of vacant site are 50,000 and Rs. 2,05,000 respectively. The indexed cost of acquisition for Ms. Chhaya in respect of vacant site is Rs. 4,00,000 (computed). Determine the total income of both Ms. Chhaya and Ms. Dayama taking into account the abovesaid transaction.

(iii) Mr. Cheqian is employed in a company with taxable salary income of Rs. 5,00,000. He received a cash gift of Rs. 1,00,000 from Atma Charitable Trust (registered under section 12 A A) in December 2023 for meeting his medical

expenses. Is the cash gift so received from the trust chargeable to tax in the hands of Mr. Cheqian?

Solution: The answer is as follows -

(i) Any movable property received for inadequate consideration by any person is chargeable to tax under section 56(2)(x), if the difference between aggregate Fair Market Value of the property and consideration exceeds Rs. 50,000. Thus, share received by M/ s B. Co. (P) Ltd. from Mr. B for inadequate consideration is chargeable to tax under section 56(2)(x) to the extent of Rs. 2,00,000.

The indexed cost of acquisition (Rs. 4,45,000) less the actual sale consideration (Rs. 3,00,000) would result in a long term capital loss of Rs. 1,45,000 in the hands of Mr. B, which is eligible for set off against any other long term capital gain.

(ii) Total Income of Chhaya = Rs. 50,000 + LTCG (Rs. 6 lakhs, being stamp value u/s 50C - Rs. 4 lakhs) = Rs. 2,50,000.
Total Income of Dayama = Rs. 2,05,000 + Rs. 1,75,000 = Rs. 3,80,000. [Difference between the stamp duty value of Rs. 6,00,000 and the actual consideration of t 4,25,000 paid is taxable under section 56(2) (x) since the difference exceeds Rs. 50,000 being, the higher of Rs. 50,000 and 10% of consideration i.e. Rs. 42,500.]

(iii) No, the cash gift so received by Mr. Cheqian shall not be taxable in his hands as any sum received without consideration i.e., as cash gift from a charitable trust registered u/s 12AA is specifically excluded u/s 56(2)(x).

Illustration 9 - Taxability of the gifts: The following details have been furnished by Mrs. Hemali, pertaining to the year ended 31-3-2024:

(i) Cash gift of Rs. 51,000 received from her friend on the occasion of her "Shastiaptha Poorthi", a wedding function celebrated on her husband completing 60 years of age. This was also her 25th wedding anniversary.

(ii) On the above occasion, a diamond necklace worth Rs. 2 lakhs was presented by her sister living in Dubai.

(iii) When she celebrated her daughter's wedding on 21-2-2024, her friend assigned in Mrs. Hemali's favour, a fixed deposit held by the said friend in a scheduled bank; the value of the fixed deposit and the accrued interest on the said date was Rs. 51,000.

Compute the income, if any, assessable as income from other sources. **(4 Marks, IPCC May 2011)**

Solution: Computation of income assessable as income from other sources **(amounts in Rs.)** :

Cash gift from friend on the occasion of a wedding function/ anniversary [WN-1]	51,000
Diamond necklace received from sister [WN-2]	Not Taxable
Gift from friend on the occasion of marriage of her daughter [WN-3]	51,000
Income from Other Sources	1,02,000

Working Notes:

(1) Any sum received by an individual on the occasion of the marriage of the individual is not liable to tax under section 56(2) (x). However, in this case, the gift is received on wedding anniversary or birthday of her husband, hence the same shall be taxable.

(2) Gift from sister i.e. 'relative' is not liable to tax under section 56(2)(x). "

(3) Gifts received on the occasion of the marriage of "the individual" i.e. on the marriage of the recipient of the gift, is outside the scope of tax. In the given case, the gift has been received on the occasion of the marriage of "daughter", hence, the same is not exempt. Section 56(2) (x) refers to any sum of money, which includes fixed deposits.

Illustration 10 - Taxability of the gifts : Mr. Sharma asks you to compute his taxable income from the following transactions which took place with his friends during January 2024-

(i) Cash gifts received by him from Mr. A and Mr. Z : Rs. 32,000 each ;

(ii) Two plot of lands gifted to him by Mr. B and Mr. C whose stamp values are Rs. 3,50,000 and Rs. 50,000 respectively;

(iii) He purchased a residential house at Rs. 6,00,000 from Mr. D, which was not registered, but the prevalent stamp value of which was Rs. 7,50,000;

(iv) A sculpture and jewellery worth 150,000 and Rs. 35,000 respectively were gifted by Mr. E and Mr. F;

(v) A silver coin purchased by him at Rs. 10 lakhs from Mr. G, when prevalent market value is Rs. 10.5 lakhs and shares purchased by him at Rs. 3 lakhs from Mr. H, when fair market value thereof was Rs. 3.3 lakhs.

(vi) A diamond ring purchased at Rs. 50 lakhs from M/s. Pearl Jewels (a jewellery shop of his close friend) when the fair market value was Rs. 55 lakhs for the purpose of Sharma Gem and Jewellery Mart (a jewellery shop owned by Mr. Sharma).

Solution: Mr. Sharma has received cash and various items of property, which are covered by Section 56(2)(x). Hence, the taxability of these amounts in view of said section is as follows –

Cash gifts received from Mr. A and Mr. Z	[WN-1]	64,000
Gift of plot of land from Mr. B (fully taxable, as stamp value exceeds Rs. 50,000)		3,50,000
Gift of plot of land from Mr. C (not taxable, as stamp value doesn't exceed Rs. 50,000)		Nil
Residential house acquired for inadequate consideration	[WN-2]	1,50,000
Sculpture and jewellery gifted by Mr. E and Mr. F	[WN-3]	85,000
Silver coin and shares purchased by him from Mr. G and Mr. H	[WN-4]	80,000
Diamond ring purchased from M/s. Pearl Jewels	[WN-5]	Nil
Total Income		**7,29,000**

Working Notes:

(1) Aggregate of cash gifts received by Mr. Sharma = Rs. 32,000 x 2 = Rs. 64,000 i.e. exceeding Rs. 50,000, hence fully taxable.

(2) Difference between the stamp duty value of Rs. 7,50,000 and the actual consideration of Rs. 6,00,000 paid is taxable under section 56(2) (x) since the difference exceeds Rs. 50,000 being, the higher of Rs. 50,000 and 10% of consideration i.e. Rs. 60,000.

(3) Aggregate value of gift in form of movable properties = Rs. 50,000 + Rs. 35,000 = Rs. 85,000 i.e. exceeding Rs. 50,000, hence fully taxable.

(4) Aggregate value of inadequate consideration of movable properties = (Rs. 10.5 lakhs - Rs. 10 lakhs) + (Rs. 3.3 lakhs - Rs. 3 lakhs) = Rs. 80,000 i.e. exceeding Rs. 50,000, hence, whole of the difference will be taxable.

(5) Purchase of diamond ring for business purposes at less than fair market value cannot be treated as gift in hands of Mr. Sharma since the said ring is held as stock-in-trade by Mr. Sharma, hence cannot be regarded as property in the hands of Mr. Sharma, as the same is specifically excluded from the definition of capital asset. Accordingly, inadequacy of consideration is not taxable.

Illustration 11 - Taxability of gifts : Discuss the taxability or otherwise of the following in the hands of the recipient under section 56(2)(x) the Income-tax Act, 1961-

(i) Ankit HUF received Rs. 1,75,000 in cash from niece of Ankit (i.e., daughter of Ankit's sister). Ankit is the Karta of the HUF.

(ii) Nikita, a member of her father's HUF, transferred a house property to the HUF without consideration. The stamp duty value of the house property is Rs. 19,00,000.

(iii) Mr. Rakshit received 100 shares of A Ltd. from his friend as a gift on occasion of his 25th marriage anniversary. The fair market value on that date was Rs. 120 per share. He also received jewellery worth Rs. 45,000 (FMV) from his nephew on the same day.

(iv) Rakesh HUF gifted a car to son of Karta for achieving good marks in XII board examination. The fair market value of the car is Rs. 3,00,000.

(v) Ms. Kareena purchased a land from PMC Co. a partnership concern for Rs. 7,15,000. The stamp duty value of the same was Rs. 12,00,000.

Solution: The taxability in the hands of the recipient under section 56(2)(x) is as under -

S. No.	Taxable/ Non-taxable	Amount liable to tax (Rs.)	Reason
(i)	Taxable	1,75,000	Sum of money exceeding Rs. 50,000 received without consideration from a non relative is taxable under section 56(2)(x). Daughter of Mr. Ankit's sister is not a relative of Ankit HUF, since she is not a member of Ankit HUF.
(ii)	Non-taxable	Nil	Immovable property received without consideration by a HUF from its relative is not taxable under section 56(2)(x). Since Nikita is a member of the HUF, she is a relative

			of the HUF. However, income from such asset would be included in the hands of Nikita under section 64(2).
(iii)	Taxable	57,000	As per provisions of section 56(2)(x), in case the aggregate fair market value of property, other than immovable property, received without consideration exceeds Rs. 50,000, the whole of the aggregate value shall be taxable. In this case, the aggregate fair market value of shares (Rs. 12,000) and jewellery (Rs. 45,000) exceeds Rs. 50,000. Hence, the entire amount of Rs. 57,000 shall be taxable.
(iv)	Non-taxable	Nil	Car is not included in the definition of property for the purpose of section 56(2)(x), therefore, the same shall not be taxable.
(v)	Taxable	4,85,000	Difference between the stamp duty value of Rs. 12,00,000 and the actual consideration of Rs. 7,15,000 paid is taxable under section 56(2) (x) since the difference exceeds Rs. 50,000 being, the higher of Rs. 50,000 and 10% of consideration i.e. Rs. 71,500.

Illustration 12 - Taxability of various receipts: Discuss the taxability or otherwise in the hands of the recipients, as per the provisions of the Income-tax Act, 1961:
(2 x 4 = 8 Marks, May 2016)

(i) ABC Private Limited, a closely held company, issued 10,000 share at Rs. 130 per share. (The face value of the share is Rs. 100 per share and the fair market value of the share is Rs. '120 per share).

(ii) Mr. A received an advance of Rs. 50,000 on 1-9-2023 against the sale of his house. However, due to non-payment of instalment in time, the contract has cancelled and the amount of Rs. 50,000 was forfeited.

(iii) Mr. N, a member of his father's HUF, transferred a house property to the HUF without consideration. The value of the house is Rs. 10 lacs as per the registrar of stamp duty.

(iv) Mr. Kumar gifted a car to his sister's son (Sunil) for achieving goods marks in CA Final exam. The fair market value of the car is Rs. 5,00,000.

Ans:

(i) The provisions of Section 56(2) (viib) are attracted in this case since the shares of a closely held company are issued at a premium (i.e., the issue price of Rs.130 per share exceeds the face value of Rs. 100 per share) and the issue price exceeds the fair market value of such shares.

The consideration received by the company in excess of the fair market value of the shares would be taxable under section 56(2)(viib).

Therefore, Rs. 1,00,000 [i.e., (Rs. 130 - Rs. 120) x 10,000 shares] shall be the income chargeable u/s 56(2)(viib) in the hands of ABC Private Limited.

(ii) Any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if such sum is forfeited and the negotiations do not result in transfer of such capital asset. Hence, amount of Rs. 50,000 received by Mr. A will be taxable as income from other sources.

(iii) Any property received without consideration by a HUF from its relative is not taxable u/ s 56(2)(x). Since "N" is a member of his father's HUF, he is a "relative" of the HUF. Therefore, if HUF receives any property (house, in this case) from its member, i.e., "N", without consideration, then, the stamp duty value of such property will not be chargeable to tax in the hands of the HUF, since gift received from a "relative" is excluded from the scope of section 56(2)(x).

(iv) Car is not included in the definition of property for the purpose of section 56(2)(x), therefore, the same shall not be taxable.

Illustration 13 - Capital gains & Gift in case of inadequate consideration: Mr. Raj Kumar sold a house to his friend Mr. Dhruv on 1st November, 2023 for a consideration of Rs. 25,00,000. The Sub-Registrar refused to register the document for the said value, as according to him, stamp duty had to be paid on Rs.45,00,000, which was the Government guideline value. Mr. Raj Kumar preferred an appeal to the Revenue Divisional Officer, who fixed the value of the house as 32,00,000 (Rs. 22,00,000 for land; balance for building portion). The differential stamp duty was paid, accepting the said value determined. Assuming that the fair market value is Rs. 32,00,000, what are the tax implications in the hands of Mr. Raj Kumar and Mr. Dhruv for the assessment year 2024-25. Rs. Mr. Raj Kumar had purchased the land on 1st June, 2006 for Rs. 5,19,000 and completed the construction of house on 1st December, 2021 for Rs. 14,00,000. **(6 Marks, IPCC May 2010)**

Cost inflation index for various financial year are as under: 2006-07:122 and 2023-24:348

Solution: Computation of capital gains in the hands of Mr. Rajkumar: In case a land is held by the assessee for more than 24 months but the building constructed over it is held for not more than 24 months, then there will be long-term capital gains on sale of the land and short-term capital gains on sale of building. - **CIT v. Citibank N.A. [2003] 261 ITR 570 (Bom.)**

In the given case, the land was purchased on 1-6-2006 and sold on 1-11-2023, hence, it is a long-term capital asset; while the building thereon was constructed on 1-12-2021, hence it is a short-term capital asset.

As per provisions of Section 50C, if the stamp duty value adopted by stamp valuation authority is disputed in appeal and the same is reduced by the appellate authority, the reduced value shall be taken to be full value of consideration for computing the capital gains chargeable to tax since the difference between the stamp duty value (as reduced) and the actual consideration exceeds 10% of the actual consideration. Hence, in this case the full value of consideration for the purpose of computing capital gains shall be Rs.32 lakhs (Rs. 22 lakhs for the land and Rs. 10 lakhs).

The relevant computations are as follows **(amounts in Rs.) :**

Particulars	**Land**	**Building**
Full value of consideration	22,00,000	10,00,000
Less: Expenditure in connection with transfer (Not given)	Nil	Nil
Net consideration	22,00,000	10,00,000
Less: Indexed cost of acquisition of land [Rs. 5,19,000 x 348 ÷ 122]	14,80,426	
Cost of acquisition of building		14,00,000

Long-term Capital Gains	**7,91,893**	
Short-term Capital Loss		-4,00,000
Taxable Capital Gains		**3,19,574**

Tax consequences in the hands of Dhruv: Mr. Raj kumar sold the house property to Mr. Dhruv for Rs. 25 lakhs, while its stamp value/ fair value is Rs. 32 lakhs. Hence, there is an inadequate consideration of Rs. 7 lakhs (Rs. 32 lakhs - Rs. 25 lakhs), i.e. difference between the stamp duty value of Rs. 32 lakhs and the actual consideration of Rs. 25 lakhs paid is taxable under section 56(2)(x) since the difference exceeds Rs. 1,25,000 being, the higher of Rs. 50,000 and 10% of consideration (Rs. 25,00,000) i.e. Rs. 2,50,000.]

Illustration 14 - Computation of Total Income : Ms. Mohini transferred a house to her friend Ms. Ragini for Rs. 35,00,000 on 01-10-2023. The Sub Registrar valued the land at Rs. 60,00,000. Ms. Mohini contested the valuation and the matter was referred to Divisional Revenue Officer, who valued the house at Rs. 55,50,000. Accepting the said value, differential stamp duty was also paid and the transfer was completed.

The total income of Mohini and Ragini for the assessment year 2024-25, before considering the transfer of said house are Rs. 2,80,000 and Rs. 3,45,000, respectively. Ms. Mohini had purchased the house on 15th May 2010 for Rs. 25,00,000 and registration expenses were Rs. 1,50,000.
You are required to explain provisions of Income-tax Act, 1961 applicable to present case and also determine the total income of both Ms. Mohini and Ms. Ragini taking into account the above said transactions. **(8 Marks, May 2015)**

Solution: Computation of Total Income chargeable to tax of Ms. Mohini **(amount in Rs.):**

Capital Gains		
Full value of consideration (Section 50C) [WN]	55,50,000	
Less: Indexed cost/cost of acquisition (Rs. 26,50,000 x 348 ÷167)	52,22,156	27,844
Other Income		2,80,000
Total Income (rounded off)		**3,07,840**

Working Notes: As per provisions of Section 50C, if the stamp duty value adopted by stamp valuation authority is disputed in appeal and the same is reduced by the appellate authority, the reduced value shall be taken to be full value of consideration for computing the capital gains chargeable to tax since the difference between the stamp duty value (as reduced) and the actual consideration exceeds 10% of the actual consideration. Hence, in this case the full value of consideration for the purpose of computing capital gains shall be Rs. 55.50 lakhs.

Computation of Total Income chargeable to tax of Ms. Ragini **(amount in Rs.):**

Income from other sources :	
Purchase of Immovable property for inadequate consideration [Note]	20,50,000
Other Income	3,45,000
Total Income	**23,95,000**

Note : Since Ms. Ragini purchased immovable property for inadequate consideration, as per Section 56(2)(x) (Rs. 55,50,000 - Rs. 35,00,000) = Rs. 2,050,000 i.e. difference between the stamp duty value of X 55.50 lakhs and the actual consideration of Rs. 35 lakhs paid is taxable under section 56(2) (x) as Income from other sources, since the difference exceeds X 3,50„000 being, the higher of X 50,000 and 10% of consideration (Rs. 35,00,000) i.e. Rs. 3,50,000.]

Illustration 15 - Capital gains & Gift in case of inadequate consideration : Mr. Subramani sold a house plot to Mrs. Vimala for Rs. 45 lakhs on 12-05-2023. The valuation determined by the stamp valuation authority was Rs. 53 lakhs. Discuss the tax consequences of above, in the hands of each one of them, viz, Mr. Subramani & Mrs. Vimala. Mrs. Vimala has sold this plot to Ms. Padmaja on 21-03-2024 for Rs. 55 lakhs. The valuation as per stamp valuation authority remains the same at Rs. 53 lakhs. Compute the capital gains arising on sale of the house plot by Mrs. Vimala.

Note : None of the parties viz Mr. Subramani, Mrs. Vimala & Ms. Padmaja are related to each other; the transactions are between outsiders. (6 Marks, Nov. 2018-NS)

Solution: Tax implications in hands of Mr. Subramani: As per Section 50C, where the value adopted or assessed or assessable by the stamp valuation authority exceeds 110% of the consideration received, the stamp duty value shall be deemed to be the full value of the consideration. Hence, in the given case - Sales consideration = Rs. 45,00,000,110% of Sale Consideration Rs. 4950000, Stamp duty value = Rs. 53,00,000. Hence, Rs. 53,00,000 will be taken as Full Value of consideration in hands of Mr. Subramani for computing his capital gains.

Tax implications in hands of Mrs. Vimala on purchase of immovable property : Difference between the stamp duty value of Rs. 53,00,000 and the actual consideration of Rs. 45,00,000 paid is taxable under section 56(2) (x) since the difference exceeds Rs. 450000 being, the higher of Rs. 50,000 and 10% of consideration i.e. Rs. 450000. Thus, Income from other sources taxable in hands of Mrs. Vimala = Rs. 8,00,000 [Rs. 53,00,000 - Rs. 45,00,000].

Sale of immovable property to Ms. Padmaja : Capital Gains will arise in hands of Vimala on sale of immovable property to Padmaja. Since immovable property is not held for more than 24 months, the resultant capital gains shall be short term capital gains. The stamp duty value so taken into account for computing Income from other sources shall become cost of acquisition in hands of Vimala as per provisions of Section 49(4). Short term capital gains : [Rs. 55,00,000 - Rs. 53,00,000] = Rs. 2,00,000.

Illustration 16 - Tax implications on issue of shares at premium : MLX Investments (P) Ltd. was incorporated during previous year 2018-19 having a paid up capital of Rs. 10 lakhs. In order to increase its capital, the company further issues, 1,00,000 shares (having face value of Rs. 100 each) during the year at par as on 01-08-2023. The FMV of such share as on 01-08-2023 was Rs. 85.

(i) Determine the tax implications of the above transaction in the hands of company, assuming it is the only transaction made during the year.

(ii) Will your answer change, if shares were issued at Rs.105 eachRs.

(iii) What will be your answer, if shares were issued at Rs.105 and FMV of the share was Rs. 120 as on 01-08-2023.(4 Marks, Nov. 2019)

Solution: According to Section 56(2)(viib), where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be taxable as Income from other sources in hands of company.

(i) In this case, since MLX Investments (P) Ltd., a closely held company issued 1,00,000 shares (having face value of f 100 each) at par i.e., Rs. 100 each, though issue price is greater than FMV, no amount would be chargeable to tax as income from other sources.

(ii) In case shares are issued at premium of Rs. 5 per share, the difference between issue price and FMV of shares i.e. (Rs. 105 - Rs. 85) x 1,00,000 = Rs. 20,00,000 shall be taxable as Income from other sources.

(iii) If shares are issued at Rs.105 each and FMV of share is Rs. 120 each, no amount would be chargeable to tax even though the shares were issued at a premium, since shares are issued at a price which is less than the fair market value but for shareholder, the same may be taxable in his hands under section 56(2) (x), since the shares are purchased for inadequate consideration and the difference exceeds Rs. 50,000.

Illustration 17 - Interest on enhanced compensation : On 10-10-2023, Mr. Govind (a bank employee) received Rs. 5,00,000 towards interest on enhanced compensation from State Government in respect of compulsory acquisition of his land effected during the financial year 2015-16. Out of this interest, Rs. 1,50,000 relates to the financial year 2016-17; Rs. 1,65,000 to the financial year 2017-18; Rs. 1,85,000 to the financial year 2018-19. He incurred Rs. 50,000 by way of legal expenses to receive the interest on such enhanced compensation. Flow much of interest on enhanced compensation would be chargeable to tax for assessment year 2024-25? (4 Marks, IPCC Nov. 2011)

Solution: Section 145B provides that interest received by the assessee on enhanced compensation shall be deemed to be the income of the assessee of the year in which it is received, irrespective of the method of accounting followed by the assessee and irrespective of the financial year to which it relates. Section 56(2)(viii) states that such income shall be taxable as 'Income from other sources'. 50% of such income shall be allowed as deduction by virtue of section 57(iv) and no other deduction shall be permissible from such Income. Therefore, legal expenses incurred to receive the interest on enhanced compensation would not be allowed as deduction from such income.

Computation of interest on enhanced compensation taxable as "Income from other sources" for the A.Y. 2024-25 (Rs.):

Interest on enhanced compensation	5,00,000
Less: Deduction under section 57 (50% of Rs. 5,00,000)	2,50,000
Taxable interest on enhanced compensation	**2,50,000**

Illustration 18 - Deemed Dividend & Interest on enhanced compensation: Ms. Julie received following amounts during the previous year 2023-24.

(1) Received loan of Rs. 5,00,000 from the ABC Private Limited, a closely held company engaged in textile business. She is holding 10% of the equity share capital in the said company. The accumulated profit of the company was Rs. 2,00,000 on the date of the loan.

(2) Received Interest on enhanced compensation of Rs. 5,00,000. Out of this interest, Rs. 1,50,000 relates to the previous year 2020-21, Rs. 1,90,000 relates to previous year 2021-22 and Rs. 1,60,000 relates to previous year 2022-23. She paid Rs. 1 lakh to her advocate for his efforts in the matter.

Discuss the tax implications, if any, arising from these transactions in her hand with reference to Assessment Year 2024-25. (4 Marks, Nov. 2020)

Solution: The tax implications are discussed as under :

(1) Any payment by way of loan by a closely held company to its shareholder holding not less than 10% of voting power is deemed as dividend, to the extent of accumulated profits of the company. Accordingly, out of Rs. 5 lakhs given by ABC Pvt. Ltd. to Ms. Julie, loan to the extent of Rs. 2 lakhs would be treated as deemed dividend for the A.Y. 2024-25 and will be taxable in her hands.

(2) Interest on enhanced compensation is chargeable to tax under the head "Income from other sources" in the year of receipt, after providing for deduction of 50% of such income. Accordingly, Rs. 2,50,000 5,00,000 - Rs. 2,50,000, being 50% of Rs. 5 lakh] would be chargeable to tax in the hands of Ms. Julie under the head "Income from Other Sources" for the A.Y. 2024-25.

Illustration 19 - Computation of income from other sources : From the following particulars of Pankaj for the previous year ended 31st March, 2024 compute the Income under the head "Income from other Sources":

S.No.	Particulars	Rs.
(i)	Directors Fee from a Company	10,000
(ii)	Interest on Bank Deposits	3,000
(iii)	Income from undisclosed source	12,000
(iv)	Winnings from Lotteries (Net)	33,936
(v)	Royalty on a book written by him	9,000
(vi)	Lectures in Seminars	5,000
(vii)	Interest on loan given to a relative	7,000
(viii)	Interest on Debentures of a Company (listed in a Recognized Stock Exchange) Net of Taxes	7,200
(ix)	Interest on Post Office Savings Bank Account	500
(x)	Interest on Government Securities	2,200
(xi)	Interest on Monthly Income Scheme of Post office	33,000

He paid Rs. 1,000 for typing the manuscript of book written by him.
(6 Marks, IPCC Nov. 2009)

Solution: Computation of the Income under the head "Income from other Sources" (amounts in Rs.) -

(i)	Directors Fee from a Company		10,000
(ii)	Interest on Bank Deposits		3,000
(iii)	Income from undisclosed source		12,000
(iv)	Winnings from Lotteries	[WN-1]	48,480
(V)	Royalty on a book written by him	[WN-2]	8,000
(vi)	Lectures in Seminars		5,000
(vii)	Interest on loan given to a relative		7,000
(viii)	Interest on Debentures of a Company (listed in a Recognized Stock Exchange) Net of Taxes	[WN-3]	8,000
(ix)	Interest on Post Office Savings Bank Account	[WN-4]	Exempt
(X)	Interest on Government Securities		2,200
(Xi)	Interest on Monthly Income Scheme of Post office		33,000
	Income from other sources		**1,36,680**

Working Notes:

(1) Gross winnings from lotteries = Income (net of TDS) x 100 ÷ (100 - TDS rate) = Rs. 33,936 x 100 ÷ 70 = Rs. 48,480.

(2) Royalty income is taxed under the head 'Profits and gains of Business or Profession' only if the assessee is an author by profession. In the given case, it is assumed that the royalty income doesn't fall under PGBP head, hence the same shall be taxable under the head 'Income from Other Sources'.
Taxable Amount = Royalty Less Expenses on typing manuscript = Rs. 9,000 - Rs. 1,000 = Rs. 8,000.

(3) Gross interest on debentures = Rs. 7,200 x 100÷90 = Rs. 8,000.

(4) Interest on Post Office Savings Bank Account is exempt under section 10(15) upto Rs. 3,500.

Illustration 20 - Taxability of various receipts: State with brief reasoning whether the following receipts are chargeable to income-tax or are exempt (if chargeable, the amount taxable is to be mentioned) for the assessment year 2024-25 :

Nature of receipt	Amount (Rs.)
Interest on enhanced compensation received on 12-03-2024 for acquisition of urban land, of which 40% relates to the earlier year.	96,000
Rent received for letting out agricultural land for a movie shooting.	72,000

Computation is NOT required. (4 Marks, Nov. 2013)

Solution:

(1) Section 145B(1) provides that interest received by the assessee on enhanced compensation shall be deemed to be the income of the assessee of the year in which it is received, irrespective of the method of accounting followed by the assessee and irrespective of the financial year to which it relates. Section 56(2)(viii) states that such income shall be taxable as 'Income from other sources'. 50% of such income shall be allowed as deduction by virtue of section 57(iv) and no other deduction shall be permissible from such Income. Hence, taxable interest under the head Income from other sources is Rs. 48,000.

(2) Income derived from any farm building or land from its use for non-agricultural purposes (including letting for residential purpose or for the purpose of any business or profession) shall not be agricultural income. Hence, Rent received for letting out agricultural land for a movie shooting shall be chargeable to tax.

Illustration 21 - Taxability of various receipts: Discuss the tax implications under section 56(2) in respect of each of the following transactions —

(1) Mr. Tejpal received a painting by M. F. Hussain worth Rs. 2 lakh from his nephew on his 10th wedding anniversary.

(2) Verma's son transferred shares of D Ltd. to Verma HUF without any consideration. The fair market value of the shares is Rs. 2.5 lakh.

(3) Sunshine (P) Ltd. purchased 9,500 equity shares of Saturn (P) Ltd. at Rs. 86 per share. The fair market value of the share on the date of transaction is Rs. 105.

(4) Bijali (P) Ltd. issued 28,000 equity shares of Rs. 10 each at a premium of Rs. 8. The fair market value of each share on the date of issue is Rs.15.

(5) Mr. Sharan's land was acquired by the Government in August 2011. He received interest of Rs. 5,40,000 on enhanced compensation in January, 2024, out of which Rs. 1,20,000 related to the year 2020-21, Rs. 1,60,000 related to the year 2021-22, Rs. 2,00,000 related to the year 2022-23 and 60,000 related to the year 2023-24.

(6) Mr. Rajan decided to sell capital asset to Mr. Mahajan and received an advance of Rs. 1,00,000 on 1st October, 2023. Mr. Mahajan could not pay the balance sum and advance money was forfeited by Mr. Rajan on 15 th January, 2024. (Similar: 2 Marks, Nov. 2016)

Solution: Tax implications under section 56(2):

(1) Since paintings are included in the definition of "property", therefore, when paintings are received without consideration, the same is taxable under section 56(2)(x), as the aggregate fair market value of paintings exceed Rs. 50,000. Therefore, Rs. 2,00,000, being the value of painting gifted by his nephew, would be taxable under section 56(2) (x) in the hands of Mr. Tejpal, since "nephew" is not included in the definition of "relative" thereunder.

(2) Any property received without consideration by a HUF from its relative is not taxable under section 56(2)(x). Since Verma's son is a member of Verma HUF, he is a "relative" of the HUF. Therefore, if Verma HUF receives any property (shares, in this case) from its member, i.e., Verma's son, without consideration, then, the fair market value of such shares will not be chargeable to tax in the hands of the HUF, since gift received from a "relative" is excluded from the scope of section 56 (2) (x).

(3) The difference between the aggregate fair market value of shares of a closely held company and the consideration paid for purchase of such shares is deemed as income in the hands of the purchasing company u/s 56(2)(x), if the difference exceeds Rs. 50,000.

Accordingly, in this case, the difference of Rs. 1,80,500 [i.e., (Rs. 105 - Rs. 86) x 9,500] is taxable u/s 56(2)(x) in the hands of Sunshine (P) Ltd.

(4) The provisions of Section 56(2) (viib) are attracted in this case since the shares of a closely held company are issued at a premium (i.e., the issue price of Rs. 18 per share exceeds the face value of Rs. 10 per share) and the issue price exceeds the fair market value of such shares.

The consideration received by the company in excess of the fair market value of the shares would be taxable under section 56(2)(viib).
Therefore, Rs. 84,000 [i.e., (Rs. 18 - Rs. 15) x 28,000 shares] shall be the income chargeable under section 56(2)(viib) in the hands of Bijali (P) Ltd.

(5) As per section 145B(1), interest received on enhanced compensation shall be deemed to be the income of the previous year in which it is received, irrespective of the method of accounting followed by the assessee. Therefore, in this case, interest on enhanced compensation received by Mr. Sharan in January, 2024 shall be deemed to be the income of P.Y. 2023-24, i.e., the year of receipt, irrespective of the method of accounting followed by him. Such interest is taxable under section 56(2)(viii).

(Rs. 1,20,000 + Rs. 1,60,000 + Rs. 2,00,000 + Rs. 60,000)	5,40,000
Less: Deduction under section 57(iv) @ 50% of Rs. 5,40,000	2,70,000

(6) Any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if such sum is forfeited and the negotiations do not result in transfer of such capital asset. Hence, amount of Rs. 1,00,000 received by Mr. Rajan will be taxable as income from other sources.

Illustration 22 - Taxability of gifts - Section 9(1)(viii) and Section 56(2)(x) : Mr. Y a non resident has received the following gifts from his friend Rs. who is resident in India during the half year ending 31-03-2024. Determine his Income from other sources.

(1) Gift of Rs. 25 lakh by NEFT transfer from X's bank account (PNB, Mumbai) to Y's bank account in New York, US.
(2) Gift of Rs. 15 lakh to Y (X has a bank account in Citibank, New York. Permission of RBI has taken for this purpose. This gift is transferred from Citibank, New York account of X to the account of Y in Deutsche Bank, New York).
(3) Gift of house property situated in New Jersey (market value: Rs. 2.70 crore).
(4) Diamond Jewellery (market value Rs. 50 lakh) given in New York from X's locker in New York.

Solution: According to Section 9(1)(viii), Income arising outside India, being any sum of money referred to in Section 2(24)(xviia) i.e. gifts, paid on or after 05-07-2019 by a person resident in India to a non-resident, not being a company, or to a foreign company shall be deemed to accrue or arise in India. In light of the above provisions the taxability in hands of Mr. Y is as under (amount in Rs.):

(1)	Gift by way of NEFT to foreign bank [The same shall be taxable in India as the Income is deemed to accrue of arise in India as per the provisions of Section 9(1)(viii)	25,00,000
(2)	Gift by bank transfer in New York [The same shall be taxable in India as the Income is deemed to accrue of arise in India as per the provisions of Section 9(1)(viii)]	15,00,000
(3)	Gift of house property situated in New Jersey [The same shall not be taxable in India as the provisions of Section 9(1)(viii) applies only in respect of money and not in respect of other property]	Nil
(4)	Gift of diamond Jewellery outside India [The same shall not be taxable in India as the provisions of Section 9(1)(viii) applies only in respect of money and not in respect of other property]	Nil
Income from Other Sources		**40,00,000**

Illustration 24 - Examine whether the following are chargeable to tax and the amount liable to tax:

(i) Interest on enhanced compensation 3,00,000 received on 31-03-2024 from Government of Tamil Nadu towards urban land acquired by it. 40% of enhanced compensation interest pertains to previous year 2022-23.

(ii) Narayanan transferred 1000 shares of BS Ltd to AB Pvt. Ltd on 01-06-2023 for a consideration of 2,00,000 when the fair market value of the same as on transaction date was 3,00,000. The indexed cost of acquisition of shares for Narayanan was 2,75,000. The transfer was effected off market on which securities transaction tax was not paid. BS Ltd is a closely held unlisted company.

(iii) Mr. A received 5,00,000 on 1 March 2024 from Sree Pushpaka Charitable Trust for meeting his medical expenses. The trust is registered under section 12AB of Income-tax Act. (6 Marks, Nov. 2022)

Solution :
(i) Interest on enhanced compensation received on 31-03-24 from Government of Tamil Nadu (including 40% of interest on enhanced compensation relating to P.Y. 2022-23) would be deemed to be the income of P.Y. 2023-24, being the year in which it is received irrespective of the method of accounting followed by the assessee.
Interest of 3,00,000 on enhanced compensation is chargeable to tax during the P.Y. 2023-24 after providing deduction of 50% under section 57. Therefore, 1,50,000 is chargeable to tax under the head "Income from other sources".

(ii) **In the hands of Mr. Narayanan :** Since the consideration of 2,00,000 is less than 3,00,000, being the fair market value of unquoted shares of BS Ltd., the fair market value of shares i.e., 3,00,000 would be deemed to be the full value of consideration. Accordingly, 25,000 [3,00,000-2,75,000, being indexed cost of acquisition] would be liable to tax as long term capital gains in the hands of Mr. Narayanan.
In the hands of AB Pvt. Ltd.: Shares received by AB Pvt. Ltd. from Mr. Narayanan for inadequate consideration is chargeable to tax, since the difference exceeds 50,000.

Accordingly, ₹ 1,00,000, being the difference between aggregate Fair Market Value of the shares i.e., 3,00,000 and consideration i.e., 2,00,000 would be chargeable to tax under the head "Income from other sources".

(iii) The sum of 5,00,000 received from Sree Pushpaka Charitable Trust, without consideration, for meeting medical expenses would not be chargeable to tax in the hands of Mr. A, since the same is received from a trust registered under section 12AB.

About The Author

Vishal Somai Sir is a well-known mentor and an eminent faculty of Direct and Indirect Taxation. His Core skills also lies in the area of Financial Management. He teaches Tax Laws to the aspirants of CA/CS/CMA. Vishal Somai Sir always focus on conceptual strength and clarity of fundamental. His dynamic nature and attitude of teaching is quite famous among the students. He is the most activist faculty of taxation. Big leaders of this fraternity give shingles after knowing the fact that Vishal Somai Sir, being professional not only manages his professional assignment but also sincerely involve in employment related to core Income Tax. His personal connection with the students marks great impact on achieving desired result.

He is basically a teacher who is for the students, of the students and by the students. He is young, dynamic, intellectual, very creative, restless and always ready to take stand for his students. Instead of becomes one of the sprigs of big tree, he decided to plant its own education Institute named Vidyasthal, Headquarter at New Delhi. The main aim of Vidyasthal is to deliver best education to the aspirants of CA/CS/CMA at all levels throughout the India in most innovative and creative way. Teaching is an art and cannot be bargain just by reading and translating the lines of books.

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