

CHAPTER 10

Exemptions

Tax Holiday for Newly Established Units in SEZ [Sec 10AA]

Eligible profits

Profits derived from Export of articles/things or providing any service from the unit established in SEZ shall be allowed as deduction from total income.

Eligible Assessee.

Any Assessee engaged in Export of articles/things or providing any service in SEZ.

Quantum of Deduction

$$= \text{Profits from unit in SEZ} \times \frac{\text{Export Turnover of unit in SEZ}}{\text{Total turnover of Unit in SEZ}}$$

Export turnover: Consideration in respect of export by the undertaking but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or rendering services.

Note: Freight, insurance, telecommunication charges & expenses incurred in foreign exchange for rendering services outside India are to be excluded both from 'Export turnover' & 'total turnover', while calculating deduction u/s 10AA to the extent they are attributable to the delivery of articles or things outside India.

Note: Profits derived from on-site development of computer software (including services for development of software) outside India shall be deemed to be the profits & gains derived from the export of computer software outside India.

Period of Deduction

Deduction u/s 10AA shall be allowed for a total period of 15 relevant AY.

For first 5 AY	100% of profits & gains of export.
For Next 5 AY	50% of profits or gains of export.
For Next 5 AY	Amount not exceeding 50% of profits debited to P&L A/c of PY in respect of which deduction is to be allowed & credited to SEZ Reinvestment Reserve Account & utilised for specified purposes.

Note: Deduction u/s 10AA shall not exceed such total income of assessee.

Ex: An undertaking is set up in a SEZ & begins manufacturing on 15.10.23. [PY 2023-24]

Deduction u/s 10AA =

- (a) 100% of profits of such undertaking from exports from AY 2024-25 to AY 2028-29.
- (b) 50% of profits of such undertaking from exports from AY 2029-30 to AY 2033-34.
- (c) 50% of profits of such undertaking from exports from AY 2034-35 to AY 2038-39.

Conditions for claiming deduction for further 5 years (after 10 years) [Sec 10AA(2)]

1. Amount credited to SEZ Re-Investment Reserve Account is utilized:
 - (a) for acquiring P&M which is first put to use before expiry of 3 years following the PY in which the reserve was created; &
 - (b) Until acquisition of aforesaid P&M: For the business of the undertaking.
2. However, it should not be utilized for:
 - (a) distribution of dividends/ remittance o/s India as profits; or
 - (b) for the creation of any asset outside India;

Consequences of mis-utilisation or non- utilization of reserve Where any amount credited to SEZ Re-Investment Reserve Account -

- (a) has been utilised for any purpose other than those referred to in 10AA(2), amount utilized shall be deemed to be profits of the year in which the amount was utilized.
- (b) has not been utilised before the expiry of 3 years, unutilized amount shall be deemed to be profits of the year immediately following the said period.

Conversion of EPZ/FTZ into SEZ

Period of 10 consecutive AYs (for taking deduction) shall be reckoned from the AY relevant to PY in which the Unit began to manufacture such articles in such FTZ/EPZ. However, where a unit initially located in any FTZ or EPZ is subsequently located in a SEZ by reason of conversion of such FTZ/EPZ into a SEZ & has already completed 10 consecutive AYs, it shall not be eligible for further deduction from income.

Amalgamation / Demerger [Sec 10AA(5)] Deduction shall be allowable in the hands of the amalgamated or resulting company. NO Deduction shall be allowed u/s 10AA to amalgamating company or demerged company for the PY in which amalgamation / demerger takes place.

Conditions

- Benefit u/s 10AA is available in respect of only that portion of export turnover, the proceeds of which have been received in convertible foreign exchange within 6 months from the end of the relevant previous year or such further period as the competent authority (ie, RBI) may allow in this behalf.
- Further, in order to claim benefit u/s 10AA, the assessee should have filed his return of income on or before the due date prescribed u/s 139(1).

1. Assessee has been granted a letter of approval by development commissioner to set a unit in SEZ.
2. It begins to manufacture/produce articles or things or provide services on or after 1st April 2005 but before 1st April 2021 in SEZ.
3. It should not be formed by splitting up/reconstruction of business already in existence.
4. It should not be formed by the transfer of old P&M to a new business.

Exception: However, it can be formed by transfer of old P&M to the extent of 20% of the total value of P&M. Imported P&M are not treated as old P&M.

Note: Deduction is available if any undertaking (being a unit) is re-established, reconstructed, or revived by the assessee of any undertaking in the circumstances & within specified period referred in section 33B.

Circumstances & Specified Period referred to in Section 33B

- ✚ Undertaking, being the unit, is formed as re-establishment, reconstruction or revival by the assessee within 3 years from the end of PY in which the business of such undertaking is discontinued by reason of extensive damage, destruction of, any building, P&M, furniture owned by the assessee & used for the business.
 - ✚ Such damage or destruction should be affected because of flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature or riot or civil disturbance or accidental fire or explosion or action by an enemy or action taken in combating an enemy.
5. Assessee should furnish report of CA with ROI certifying that deduction has been correctly claimed.

Restriction on Other Tax Benefits

- i) Business Loss referred in sec 72(1) or Capital loss u/s 74 or unabsorbed depreciation in so far as such loss relates to business of the undertaking (being the Unit) shall be allowed to be carried forward or set off in subsequent years.
- (ii) WDV after tax holiday period: During tax holiday period, **depreciation is deemed to have been allowed** on the assets & WDV shall be computed after tax holiday as if **depreciation has been claimed as deduction**.
- (iii) If deduction u/s 10AA is allowed from profit of specified business u/s 35 AD, no deduction shall be allowed u/s 35AD for any AY.
- (iv) Where any goods or services held for the purposes of eligible business are transferred to any other business carried on by the assessee, or where any goods held for any other business are transferred to the eligible business &, in either case, if the consideration for such transfer as recorded in the accounts of the eligible business does not correspond to the market value there of, then the profits eligible for deduction shall be computed by adopting market value of such goods or services on the date of transfer.
In case of exceptional difficulty, profits shall be computed by AO on a reasonable basis as he may deem fit. Similarly, where due to the close connection between assessee & other person or for any other reason, it appears to AO that profit of eligible business is increased to more than ordinary profits, AO shall compute the amount of profits of such eligible business on a reasonable basis for allowing the deduction.

Question 1

Y Ltd. gives the following information for AY 2024-25. Compute deduction u/s 10AA for AY 2024-25.

Particulars	₹ (in lacs)
Total turnover of Unit A located in Special Economic Zone	100
Profit of the business of Unit A	30
Export turnover of Unit A	50
Total turnover of Unit B located in Domestic Tariff Area (DTA)	200
Profit of the business of Unit B	20

Solution:

100% of profit derived from export of articles/things or services is eligible for deduction u/s 10AA, assuming that PY 2023-24 falls within first 5-years period commencing from the year of manufacture or production of articles or things or provision of services by the Unit in SEZ. Deduction u/s 10AA = Profits from unit in SEZ × Export Turnover of unit SEZ / Total turnover of Unit in SEZ = $[30 \text{ Lacs} * (50 \text{ Lacs}/100 \text{ Lacs})] = ₹ 15 \text{ Lacs}$.

Difference B/w 'Exempt Income' & 'Deductions'**Exempt Income**

- Income which are not included in total income are called Exempt Income.
- Such exempt Income will not enter into the computation of total Income.

Ex: Incomes which are exempt u/s 10 will not be included in GTI.

Deduction

- Certain Incomes are first included in Gross Total Income of the assessee & then the prescribed amount of deductions is allowed as stated in the relevant section, such incomes are called Deductible Income.

Ex: Incomes from which deductions are allowable under Chapter VI-A will first be included in GTI & then the deductions will be allowed from GTI.

Difference B/w 'Gross Total Income' & 'Total Income'**Gross Total Income**

- GTI means Aggregate of Incomes under all heads of Income before claiming deduction under chapter VI-A (Sec 80C- 80U).
- GTI = Aggregate of Income from 5 heads after clubbing of incomes & set off of losses.

Total Income

- Total income means gross total income after allowing deductions under Chapter VI-A.
- Total Income = GTI - Chapter VI-A Deductions.

Restriction on Allowability of Expenditure Incurred for Earning Exempt Income [Sec 14A]

- Any expenditure incurred to earn Exempt Income shall not be allowed as deduction while computing income under any head since the exempt income is not taxable.

Method for determining amount of expenditure incurred to earn Exempt Income - Rule 8D

✚ If AO, having regard to the accounts of the assessee, is not satisfied with -

- (a) Correctness of the claim of the expenditure incurred by the assessee; or
- (b) Assessee has claimed that no expenditure has been incurred to earn exempt income in the PY, he shall determine amount of expenditure incurred to earn exempt income in following manner:

Expenditure incurred to earn Exempt Income = (i) + (ii)

- (i) Amount of Expenditure incurred directly to earn Exempt Income.
- (ii) 1% of Annual Average of Monthly Averages of value of investment, income from which is Exempt.

However, (i) + (ii) shall not exceed total expenditure claimed as deduction in PY.

Note: Section 14A r/w Rule 8D states that expenditure incurred to earn exempt income shall be disallowed even if assessee has not earned any exempt income in a particular year.

Note: All the Exemptions u/s 10 will not be discussed in this chapter. Some Exemptions u/s 10 are discussed in some of the chapters to be discussed later. So, in this chapter we will discuss only those exemptions which will not be discussed in other chapters.

List of Exemptions Discussed in Respective Chapters

Salaries

- ✚ Leave Travel Concession & HRA.
- ✚ Allowance payable outside India by GOI to a Citizen of India [Foreign Diplomats].
- ✚ Gratuity/Commuted Pension/Leave Encashment [Salary].
- ✚ Retrenchment Compensation & Voluntary Retirement Receipts.
- ✚ Income-tax paid by employer on behalf of employee.
- ✚ Payment from Provident Funds/Superannuation Fund.
- ✚ Special Allowance to meet expenses relating to duties or personal expenses.

Deductions from GTI.

- ✚ Receipts from LIC / ULIP.
- ✚ Payment from NPS Trust to an employee on Closure of his Account/Opting out of Pension Scheme/Partial Withdrawal.

IFOS.

- ✚ Interest Income arising to Certain Persons.
- ✚ Family Pension received by Widow/Nominated heirs of Armed Forces Members.

Clubbing

- ✚ Exemption (₹ 1,500) i.r.o Minor's Income included in hands of Parent [Sec 10(32)].

Capital Gains.

- ✚ Income received on buy-back of Unlisted Shares of Domestic Company.
- ✚ Capital Gain on Compulsory Acquisition of Urban Agricultural Land.
- ✚ Income received in Transaction of Reverse Mortgage.

Share of HUF Income Received by a Member from HUF [Sec 10(2)]

- ✚ Income earned by the HUF is assessable in its own hands since HUF is a 'person' under Act.
- ✚ Any sum received by an Individual as a member of HUF
 - Either out of the family income or
 - Out of the impartible estate belonging to the family shall be exempt in the hands of the member even if such income is exempt in the hands of HUF.

Question 2

Mr. A, member of HUF, received 10,000 as his share from income of HUF. Discuss Tax.

Answer :

Such income is not includible in Mr. A's chargeable income since section 10(2) exempts any sum received by an individual as a member of a HUF where such sum has been paid out of the income of the family.

Share of Profit of a Partner From a Firm [Section 10(2A)]

- ✚ Share of the Partner in total income of the firm shall be exempt in the hands of partner even if taxable income becomes nil in the hands of firm due to any exemptions or deductions.

Interest on Non-Resident (External) A/C (only for Individual) [Sec 10(4)(ii)]

- ✚ Interest received on moneys in Non-Resident (External) A/c in any bank in India → Exempt to NR.

Points to Remember:

- ✚ Exemption is available only if such NR person is permitted by RBI to maintain such account.

✚ Joint-holders of NRE A/c will not be treated as AOP merely because they have A/c in joint names.

✚ Exemption will be available to each of the joint-holders only if they fulfil other prescribed T&Cs.

Remuneration Received by Individual Who are Not Citizen [Sec10(6)]

↓ Sec.	Exemptions & Conditions for claiming Exemptions
(ii)	Remuneration of Foreign Diplomats in India: <u>Conditions for Claiming Exemption:</u> 1. Remuneration received by Indian official in such foreign countries should be Exempt. 2. Foreign officer is not engaged in any other business / profession / employment in India.
(vi)	Remuneration of EEs of a Foreign Enterprise for services rendered in India: <u>Conditions for claiming Exemption:</u> 1. Employees' Stay in India $\leq$ 90 days in PY. 2. Remuneration paid to such employee is not deductible from employer's income & 3. Employer is not engaged in any Business/Trade in India.
(viii)	Salary received by NR Non-citizen of India as a crew Member of Foreign Ship: <u>Condition for claiming Exemption:</u> His stay in India $\leq$ 90 days in a PY.
(xi)	Remuneration received by Foreign Gov. Employees from Foreign Gov. for specified training in India Training should be in any establishment/office of or in any undertaking owned by the following: (a) Government; (b) Any Statutory corporation; (c) Company wholly owned by CG/SG or Jointly by CG & SG or its Subsidiary company Any registered society which is wholly financed by CG/SG/Jointly by CG & SG.

Royalty/FTS from National Technical Research Organisation [Sec 10(6D)]

- Income arising to non-corporate NR & foreign companies, by way of Royalty/FTS rendered in or outside India from National Technical Research Organisation (NTRO) is Exempt.

Allowances or Perquisites O/s India to a Citizen of India [Sec 10(7)]

Nature	Allowance & Perquisites [~~Basic Salary~~]
Paid by	Government of India
Paid to	Citizen of India
Paid for	Rendering services outside India to Government of India

} Foreign Diplomats
& Ambassadors

Payment to Victims of Bhopal Gas Disaster [Sec 10(10BB)]

- Any payment made to a victim of Bhopal Gas Leak Disaster → **Fully exempt.**
- No Exemption:** If the amount of Loss has been allowed as deduction under income tax.

Compensation Received on Account of any Disaster [Sec 10(10BC)]

- Compensation received for any disaster from **CG/SG/LA** by an Individual/his legal heir → Exempt.
- No Exemption:** If the amount of Loss has been allowed as deduction.

Pension Received by Recipient of Gallantry Awards - Sec 10(18)

- Pension received by Individual who was **CG/SG** employee & who has been awarded Param Vir Chakra/Maha Vir Chakra/Vir Chakra → Exempt.
- In case of Death of Awardee: Family pension received by the member of his family is exempt.
- Disability pension granted to disabled personnel of armed forces (naval, military or air) who have been invalided on account of disability attributable to or aggravated by such service would be exempt from tax.

Note: Exemption will not be available to personnel who have been retired on superannuation or otherwise.

Income of Member of Scheduled Tribe in Specified Areas [Sec 10(26)]

Specified Area means:

- (a) Area specified in the Constitution of India; (North Cachar Hills District, Karbi Anglong District, Bodoland Territorial Areas District, Khasi Hills District, Jaintia Hills/Garo Hills District)
- (b) Manipur, Mizoram, Tripura, Nagaland, Arunachal Pradesh &
- (c) Ladakh in J&K.

Following Incomes are Exempt:

- (a) Income from Any source in the specified areas or States.
- (b) Dividend or Interest on securities.

Income of a Sikkimese Individual [Sec 10(26AAA)]

Exempt Incomes:

- (a) Income from any source in the State of Sikkim; or
- (b) Income by way of Dividend or Interest on securities.

 **Exemption is not available** → Sikkimese woman who marry Non-Sikkimese man on/after 1.4.2008.

Question 3

Exemption is available to Sikkimese individual, only in respect of income from any source in Sikkim.

Answer:

Incorrect. Exemption u/s 10(26AAA) is available to a Sikkimese individual not only in respect of the said income, but also in respect of income by way of dividend or interest on securities.

Following Incomes Received by Way of Subsidy are Exempt

Tea Board Subsidy -Sec 10(30)

1. Assessee must be engaged in business of growing & manufacturing tea in India.
2. Subsidy is received for replantation/replacement/rejuvenation or consolidation of areas used for cultivation of tea.
3. Assessee should furnish a certificate from Tea Board to AO along with his ROI.

Specified Crop Board - Sec 10(31)

1. Assessee must be engaged in business of growing & manufacturing rubber, coffee, cardamom or other specified commodity in India.
2. Subsidy is received for replantation/replacement/rejuvenation or consolidation of areas used for cultivation of specified crops.
3. Assessee should furnish a certificate from the Board to AO along with his ROI.

Note: Income on transfer of such units is not exempt.

Maturity Amount of A Life Insurance Policy [Sec 10(10D)]

Nature of Policy	Tax treatment
Any sum received from a policy u/s 80DD(3)	Taxable.
Any sum received under a Keyman Insurance Policy	Taxable.
Any other policy (sum received on death of Person)	Exempt
Any other policy (not received on death of Person)	
(i) Issued before 1.4.2003	Fully Exempt
(ii) Issued on/after 1.4.2003 but before 1.4.2012	Exempt if Premium $\leq$ 20% of sum assured.
(iii) Issued during 2012-2013	Exempt if Premium $\leq$ 10% of sum assured.
(iv) Issued on or after 1.4.2013 (for Disabled perosn)	Exempt if Premium $\leq$ 15% of sum assured.

- In case where an assessee has a **single life insurance** policy (other than ULIP) issued on or after 1.4.2023 - Exemption u/s 10(10D) would not be available with respect to any life insurance policy (other than ULIP) issued on or after 1.4.2023, if the amount of premium payable exceeds ` 5,00,000 for any of the previous years during the term of such life insurance policy.

- In case where an assessee has **multiple life insurance** policies (other than ULIPs) issued on or after 1.4.2023 - In a case where premium is payable by a person for more than one life insurance policies (other than ULIPs) issued on or after 1.4.2023 and the aggregate of premium payable on such life insurance policies exceed ` 5,00,000 for any of the previous years during the term of any such LIP(s), exemption u/s 10(10D) would be available in respect of any of those LIPs, at the option of the assessee, whose aggregate premium payable does not exceed ` 5,00,000 for any of the previous years during their term. However, to get exemption u/s 10(10D), the condition of annual premium not exceeding 10% of the actual capital sum assured also needs to be satisfied.
- Exemption in case of death of a person - In case any sum is received on the death of a person, exemption u/s 10(10D) would be available irrespective of the annual premium payable of the LIP.

Following Receipts will also be Exempt:

10(10CC) Tax on Non-Monetary Perquisites paid by the Employer.

10(11) Any Payment from PF/PPF set up by CG.

10(11A) Interest & Withdrawals from Sukanya Samriddhi A/c.*

10(12) Payment from Accumulated Balance of RPF to the employee.

10(12A) Any payment from NPS trust to an employee on closure/opting out of scheme u/s 80CCD is exempt upto 60% of total amount payable to him.

10(12B) Any payment from NPS trust to an employee on partial withdrawals out of his account from NPS referred u/s 80CCD is exempt upto 25% of contributions made by him.

10(13) Any Payment from Approved Superannuation Fund.

10(15) (i) Interest on Gold Deposit Bonds (ii) Interest on bonds issued by LA.

10(16) Scholarships granted to meet the Cost of Education.

10(17) Daily & Constituency allowance received by MPs & MLAs.

10(17A) Awards or Rewards given by CG/SG (in cash/kind).

10(19) Family Pension received by Family Members of Armed Forces who died on duty.

10(19A) Annual value of one palace of the ex-ruler

10(21) Income of an approved research association

10(22B) Income of specified news agency set-up in India solely for collection & distribution of news if such news agency does not distribute its income the member

10(23C) Income of certain funds of National Importance set up by CG: (i) Swachh Bharat Kosh (ii) Clean Ganga Fund or such other specified funds. (iii) University/Educational institution formed solely for educational purpose & not for profit. (iv) Hospital/medical institution formed solely for philanthropic purpose & not for profit.

10(23D) Income of Notified Mutual Funds

10(32) Income of minor clubbed in the hands of a parent upto ₹ 1500.

10(37) CG arising on transfer of urban agricultural land by way of compulsory acquisition to Individual/HUF is exempt if compensation is received on/after 1.4.2004.

Note: Rural Agricultural land is not a capital asset & thus CG will arise in such case.

10(39) Specified Income from International Sporting Event held in India.

10(43) Amount received by Individual as loan under Reverse Mortgage Scheme → Exempt

10(44) Income of NPS Trust is Exempt.