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CA VIJAY SARDA

# DIRECT TAX
# FAST TRACK

## Features of Book

- As Amended by Finance Act, 22 (May/June 23) (Nov 23)
- Comprehensive coverage of all applicable topic
- Short cuts &
- Covering case studies, judgments relevant to the topic.
- & In-Depth analysis of provisions.
- Tabular & Chart presentaion to save Time and Energy.

CA VIJAY SARDA

# Dear Students,

It gives us immense pleasure to present before you a Comprehensive book on Direct Taxes. This book would not have been a reality but from the tremendous support from "My Love-Pallavi.

Special Thanks to Vlearn Team, who has been involved "day & night literally" to fulfill this dream without whom this would not have been the light of the day.

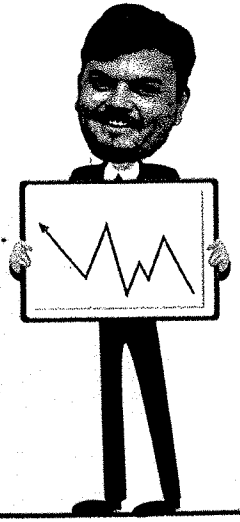
I Have been blessed to have an extraordinary support terms of colleagues, friends & family who have helped me in every sphere of my journey called this life. All these people deserve much more than a deep thank and love. I express all my gratitude to each and everyone of them for assisting me in all my endeavors. Thanks to the student community: For inviting me into your academics & making me your teacher. I am grateful for the opportunity to be of service to you. The love & affection you have shown is immense & invaluable.
"Padho toh Hadh kardo warna Program radh kardo"

I express my respect, love and gratitude to my PARENTS & my FAMILY for not only giving me life but giving your entire life to me. I am indebted to both of you a lot, indeed more than my life & to my lovely WIFE to bear with me in all the time I spend on making notes. And last to all my CRITICS because your criticism continuously keep me grounded and give me power to do even better.Every care has been taken to make the presentation is this book from blemish. Nevertheless, it is conceded that no one is infallible, unintended error or omission may have crept in. The user of this book are requested to bring these to the notice of the author & offer, without inhibition , their suggestion for further improvement.

Let us remind you two important things

1. This book is not a substitute for study material issued by ICAI, it's only an aid.
2. There is no short cut to success, it is resolute hard work that pays.

"Quality is what I serve, & my Passion drives it"



CA. CS. Vijay Sarda
VLearn Classes, Pune.

# Dear Students,

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Color Code used in the book :

General Concept

Important

Amendments

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# STUDENT REVIEWS - CA FINAL

Hello sir !! First of all a very big thank you for your fastrack lectures !! Really really helped a lot in last days before exam .
It is a very big initiative by Vsmart usually no faculties have this kind of thinking!! Your teaching is supeeerrbbbb !! Huge respeeect ( in your language😂) for all the faculties!!
I wish I could have done live regular batch with you !! Even while watching on YouTube it doesn't feels bore , you are too entertaining which every faculty should be !!!! Once again thank you sir soo much !! 😄😄❤❤❤
20:43

So lucky to have chosen you to study my most favourite subject sir 😍😍
09:43

Your teaching style your notes and most importantly your hard work behind that is beyond any appreciation that I could write in words
09:46

Sir thank you so so so much to you n all the vsmart faculties for your continuous love n support ❤
Koi or kr hi nhi skta apke jitna ...jo apne n vsmart ne krra hai sare students ke liye....
Thank you is not much for your hard work that u did for us...
Fast track lectures ne itna help Kiya hai sir ...self study se bhi jyada...
U covered all the things ...bcoz of u we don't have to take tnsn about all the things ...
Thank u so much big brother...🙏
Thank you to Vishal sir n darshan sir also ❤..u all helped us ,support us at every time...
Aap sabhi ne jo padhaya hai na ek no. 👌 koi comparison nhi h apka...
Thanku so much sir😍
05:26

Couldn't stay without saying these words Sir your classes are just awesome n got module - 3 can say one of the best book of India 🇮🇳

Thank You Sir
08:33

Best Ca Final DT Faculty in all over India.
11:06

Sir Thanks a lot ur lectures of CA Final are awesome 👌👏👍
May God Bless You for your kind support to students
Thanks again
17:40

Also liked the approach that u have covered topics in Fast Track which a teacher normally skips even in regular batch.
17:46

Good Afternoon Sir,
My name is Mohit Jain
CA final student,
Attempt due in May 2019.

First of all Thank You so much, for sharing the revision marathon on Youtube,
The lecture (specially the notes) were awesome. I was searching these style of notes for case laws basically... And then got the notification from vsmart academy..
Thank you so much sir...

Afternoon sir ... your fasttrack lectures r jst amazing n fabulous .. ! I can't describe it in the words how much it help me ... Thank uh sooo much sir 😍😍 Respactt sir ...
because of some issues I have started my study before 10 days n I don't have enough time now ... but I have completed DT n I m jst trying to take exemption n ur lectures help me a lot
18:04

Sir ur the best teacher of the world

Sir, Ur Fastrack dt classes on YouTube are awsm just awsm sir..it's d best classes...I just loved d way u taught, notes, concepts nd entertainment.. everything was much much more den perfect...I don't know where I would have lied in my concepts of dt if I wouldn't have found Ur classes..I thought it is impsbl to remember so much provisions of each heads of income at a time bt u made it so so so easy...

Nd d best part I wanna say is..even if I attend Ur lectures whole day ..I don't feel bore or doesn't need refreshment..or wen I study some other subject nd feels to take refreshment I do Ur class..which not only saves my tym dat would have been wasted on any other refreshment options bt also boosts up nd refreshes my mind back to 100%...

Really sir very lucky to have got an opportunity to attend Ur Fastrack dt class...!!

Thank u sooooooooo mch sir..!! 🙏🙏
20:07

i recently watched ur marathon ca final classes on youtube...i hv never attnded any classes before of DT...apki classes dekhne k bad lga ki marathon hi kaafi h DT ko pdhne k liye..mtlb revision lecture bhi itna detailed mei pdha diya apne...truely a magician ...THANK YOU SO MUCH SIR.....😍
19:57

Sir besides possessing fantastic teaching skills you are a good motivator n entertainer too..u have made the subject so interesting and easy..I m sure I could have never get such best DT classes from anywhere..the best thing I found in u is u work so hard for your students u give ur 100%to make them remember things so nicely..and sir last but not the least u deserve every bit of respect n success..(and the natural life u live with a pure heart makes everything more best)!!
18:44

😍tqq so mchh sirr😍 .what a step by u 😍 we almost all Nepalese students re now at safe position due to fast track revision 😍u just reduced stress level by 50%. proud to be Ur student😍
11:02

Sir I was present for your lecture today

And it was really too good sir!!
I didn't get opportunity to come pune and learn but my wish for learning from expert faculty was fulfilled today

Thankyou sir for jokes and masti and that hand was joke was just 🔥🔥😂

Thanks vijay sir for boosting our morale
Keep teaching sir

such a great experience to be learn from you face to face. You are excellent teacher as well as great mentor. Thank You so much sir for coming to our city and sharing such a great time with all of us😃. Apart from the subject, you are excellent comedian too..😍
😂💯💯💯❤❤❤ Thanks Sir..💯🔥😄
22:54

# STUDENT REVIEWS - CA INTER

Sir i just finished watching your IPCC DT fast track videos and would like to say a big thankyou to you and your team💯 Sir Respect Sir Respect 🙏 Sir aap zabardast padhate ho aapka humour 🔥 💯 Thankyou for everything and zyada nhi kahunga bs 2 line sir apke liye "जो बनाये हमें इंसान,
और दे सही गलत की पहचान,
देश के उन निर्माताओं को,
हम करते हैं शत-शत प्रणाम।"

Thank You very much sir for today's lecture. I cannot express the joy and contentment I'm feeling since then.

It was my first live experience which included memorable life as well as academic lessons. You have no idea how your true and honest sayings have impacted or are impacting me. Your words brings out house warming vibes. I won't hesitate to call you a family member. You might be receiving such appreciation texts from thousands of students but I'll prove myself I'm not one of them.
I'm giving you my word, it's my 3rd attempt and I'll score an exemption. Make myself be an example for others and show you how your great thoughts have influenced me.
Thank you again😊.

Hello Sir,
I am from Ludhiana. I have completed your Inter DT Fast Track just now. I know I'm late but I came to know about your classes in mid of April and then I started for preparing Dt with you through Fastrack. It was very helpful for me to revise DT with amendments and problems. Its my Second attempt now. Thanks to you that I have revised whole DT syllabus so well that I am confident now. I have also shared these classes with my cousin. He also liked them and attended the classes. Thank you so much sir.... 🙏😊

Sir mera ye 4attempt hai Ipcc hai... M har bar Tax m rhe rahi thi... Esa darr lgta tha tax ke naam se.. Pr mene jab aapka revision batch pura Dekha aap jese jese board pr likhte gye mene pura separate copy m likha.. Aapne jitne question kr vaee uske sath sath hi mene pm sm krli....
Sir aaj m bol sakti hu aapke lectures dekhne ke baad ki dt meko almost sab section yaad hai ..m sare question solve kr saktii hu...
Aur aapke lecture ke meko itna confident hai ki m exemption la sakti hu dt m...
Thankuuuuuu thankuuu thankuuuuu soooo much sir aapke lecture Bhut helpful hai..
Bhut hi jaada... Mtlb ki meko tax m kuch bhi ni aata tha aaj meko sirf voh revision lecture se sab aata hai..mene marathon lecture bhi dekhliye Aur amendment bhi 2bar dekhe...
Sir m aapko jitna thankuu bolu u km hai...
Ab tax krne ki hi iccha hoti rehti... And very much confident in tax...
Thankuu sir once again

Pradesh.Due to time constraint and lack of planning I didn't took regular DT classes and the exams are approaching there is small worry in me how to excel in subject.But god in your form came to my rescue and I'm thankful to you from bottom of my heart.Conceptual clarity and ease of teaching its speechless experience watching your classes and the content is really worth a lot money but your humility make us bow down to you sir.I can tell like this without any limit :).We love your work and God bless you sir.

You people's are done a grt works for us . The students can't afford the price for classes and all these peoples are thankful to you for lifetime.. these videos come to me too late but it's increase my confidence level towards may attempt thank you very much sir
your teaching is too too too great sir...
In your words Huge huge respect to you.. not expressed in words
Thank you so much ...!!

Thank you so much..... Sir!!! 😊😊

Aaj ka paper hadd easy thha... Specially Gst Ki paper to was like GHEE KA LADDU... thanks sir.. For everything for free fastrack batch.
Specially to Vishal Sir, unkee vjh se aaj ka gst Ka paper Itna achha gya.
Aur apki baat hi alag hai sir, aapne apne fastrack batch me students ko aise teach Kia thha Jaise aap khud ek average student ho. Aapki hi vjh se mere DT ke concepts jo ekdm 0 thhe... Last exam me honestly mujhe DT me even 10 marks score Krne me struggle krna pda thha... But apki vhj se aaj ka Dt ka paper jitna Accha gya hai.. Even I can't explain u😢

Thoda speed slow thhi isliye 10 marks ka DT me rh gya but I have full confidence that this time I will score at least exemption.

And yes sir,.... MCQs to bde pyaare thhe...

Love you alot sir to you, to Vishal sir and to whole Vsmartacademy 🖤🖤

Sir aaj tax ka paper bht hii aacha gya aur iska pura credit aapke aur vsmart ke fast track lecture ke initiative ko jata hai last attempt mai tax mai 40 bhi nhi aaye the par is baar exemption aa jayegi

Maine jis faculty se tax pada tha unhone hume bht sare topic nhi karwaye the aur total income bhi skip karwa diya tha mai fail hone par bht demotivate ho gya tha lekin aapke fast track lecture ne kamal kr diya

Samajh nhi aa rha aapka sukriya kese karu 🙏🙏

Once again thank you so much😊😊😊

Final mai tax aapse hi padana hai 😊😊

Hello sir, I am vi ispiring chartered accountant) giving ca inter this may 19, I watched you amendment and all fasttrack videos from you tube... It was really very very helpful,
Really great respect for you sir, I wish all prosperity and happiness to you, you have made my direct tax experience really wonderful... I started watching this you since May only..
Aapne latakte latakte bacha liya sir... I'll give my best to have 50+in DT itself 🖤🖤🖤🖤🖤🖤🖤
Thank you sir for all the motivation and so much of efforts

Hello Sir, i took ur FT batch videos for DT for may19 i didnot took any class of any faculty before but after watching ur lecture i found myself confident. U are superb sir specially noone can provide the max amount of study pattern of DT ie, vast subject for without any return. U gave a lot of amount of students to get cleared in thiss attempt this is ur kind act for us to make u a true teacher THANK U SO MUCH SIR BY DEEP OF HEART. not for free provided tqsm for provided in a manner like my papa teach me whenever , felt like that. SUN MERE BHAI.....😊
TQ TQ AGAIN a lot .... i wish to meet u one day ....U GOT VICTORY ON OUR HEARTS BTW U already "VIJAY SIR" love you sir

# BASICS OF INCOME TAX & TAX CALCULATION

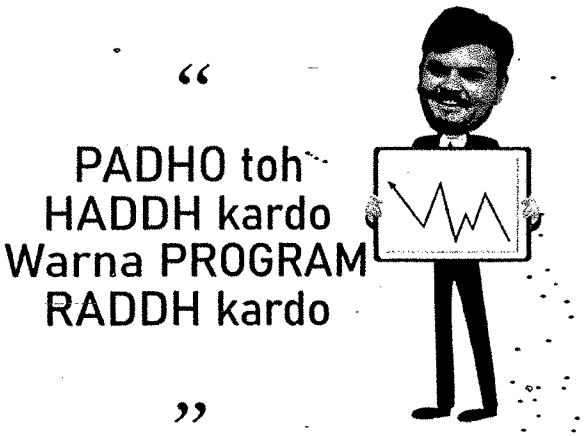

| Sr No. | Particulars | Pg No |
|---|---|---|
| 1 | Constitutional validity of Income Tax | 1.2 |
| 2 | Basics of Income Tax | 1.2 |
| 3 | Notifications, Circulars & Judicial Updates | 1.2 |
| 4 | Annual Amendments | 1.2 |
| 5 | Important Definitions | 1.2 |
| 6 | Tax rates for I/HUF/AOP/BOI/AJP | 1.3 |
| 7 | Tax rates for Firm/Companies/Co-Operative Sty | 1.5 |
| 8 | Marginal relief | 1.5 |
| 9 | Special rates | 1.5 |
| 10 | Unsolved Problems | 1.6 |


**Very Important Point -**

FA'20 has inserted alternative taxation scheme for Individuals - Sec 115BAC which are discussed later in Chap 17. Co-operative society, resident in India, can opt for concessional rate of tax @25.168% (i.e., tax@22% plus surcharge@10% plus health and education cess (HEC)@4%) under section 115BAD in respect of its total income computed without giving effect to deduction u/s 10AA, 32AD, 35AD, 35CCC, additional depreciation u/s 32(1)(iia), deductions under Chapter VI-A (other than sec 80JJAA) etc. and set off of loss and depreciation brought forward from earlier years relating to the above deductions. The provisions of alternate minimum tax u/s 115JC would not be applicable to co-operative society opting for sec 115BAD. This section will be dealt with in detail at Final level.

## IMPORTANT AMENDMENTS/ NOTIFICATIONS/CIRCULARS


| Sr No. | Particulars | Pg No |
|---|---|---|
| 1 | Surcharge rates | 1.3 |
| 2 | Tax Rates for companies | 1.5 |

## CONSTITUITIONAL VALIDITY

| | |
|---|---|
| Article 265 | No Tax can be levied or collected except by authority of Law. |
| Article 270 | All the taxes & duties except specified shall be levied by CG & distributed between Union & state Government in the manner specified by President or through recommendation of finance commission. |
| Article 245 | Parliament may make law for the whole or part of the territory. |
| Article 123 | President may Promulgate Ordinances during recess of Parliament |
| Article 271 | Parliament may at any time increase any duties & taxes as referred in article 270, by surcharge for purpose of Union & whole proceeds of any such surcharge shall form part of CFI |

## BASICS OF INCOME TAX

- Income tax is covered under entry no 82 of the union list.
- Agriculture Income is covered under Entry no 46 to State List
- It is applicable to whole of India (Sec 1)
- PY shall be 22-23 and AY shall be 23-24

| Notifications | Circulars | Judicial Updates |
|---|---|---|
| > Notification is communication of any change in Act/Rules<br>> Issued by CBDT u/s 119<br>> Notification over-rides Act<br>> All Notification 6M before exam are applicable | > Clarification issued by Dept<br>> Issued by CBDT u/s 119<br>> All Circulars 6M before exam are applicable<br>>These are binding on dept not on Assessee | > Supreme Court : Approached when a) HC frames a ques of law; b) a SLP is filed; Judgements of SC become law of land<br>> High Court : Only handles ques of law. File Writ petition<br>> ITAT : Last authority for ques of fact |

## ANNUAL AMENDMENTS

Every year along with Budget a Financial Bill is presented. The provisions of such Finance Act are thereafter incorporated in the Income-tax Act.

| | |
|---|---|
| DIRECT TAX AMENDMENTS | Effective from 1st day of Next Year, Unless Specified Otherwise |
| INDIRECT TAX AMENDMENTS | Effective from Midnight, Unless Specified Otherwise [Now after GST, amendment are expected after every GST Council Meet. |

## IMPORTANT DEFINITIONS

| | | | |
|---|---|---|---|
| Sec 2(9) | Assessment Year | means period of 12 M commencing on 1st day of April every year. (AY = FY in which tax is paid) | |
| Sec 3 | Previous Year | means FY immediately preceding AY. (PY = FY in which income is earned)<br>In case of Business commencement PY, starts from Date of commencement." | |
| | Exceptions to PY Income of PY taxable in PY itself instead of AY | S. 172 | Income of NR shipping companies. |
| | | S. 174 | Income of persons leaving India with no intention of returning to India |
| | | S. 174A | Assessment of AOP / BOI / AJP formed for a particular purpose likely to be dissolved in same year of formation |
| | | S. 175 | Assessee likely to transfer his assets with view to avoid payment of tax |
| | | S. 176 | Income of a discontinued business or profession. |
| Sec. 2(31) | Person | Includes Individual; HUF; Company; Firm; AOP; Local Authority; AJP | |
| Sec. 2(7) | Assessee | Person liable to pay tax, a deemed assessee; a person who is in default. | |

# TAX RATES

NORMAL RATES : Specified by relevant Finance Act
SPECIAL RATES : Specified by Income Tax Act

# TAX RATES FOR I/HUF/AOP/BOI/AJP

Individual: In case of every individual viz Male, female, & below the age of 60 years on the last day of PY, any AOP, BOI, HUF, AJP, Non Resident (Irrespective of Age).

| Total Income | Amount of tax |
|---|---|
| Upto ₹. 2,50,000 | Nil |
| Exceeding ₹. 2,50,000 but upto ₹. 5,00,000 | 5% of (total income less ₹. 2,50,000) |
| Exceeding ₹. 5,00,000 but upto ₹. 10,00,000 | ₹12500 + 20% of (TI less ₹. 5,00,000) |
| In excess of ₹. 10,00,000 | ₹112500 + 30% of TI |

Senior citizens: Individual [Resident] 60 years or more but not more than 80 years

| Total Income | Amount of tax |
|---|---|
| Upto ₹. 3,00,000 | Nil |
| Exceeding ₹. 3,00,000 but upto ₹. 5,00,000 | 5% of (total income less ₹. 3,00,000) |
| Exceeding ₹. 5,00,000 but upto ₹. 10,00,000 | ₹10,000 + 20% of (TI less ₹. 5,00,000) |
| In excess of ₹. 10,00,000 | ₹1,10,000 + 30% of TI |

Super Senior citizens: Individual [R] who is of age of 80 years or more

| Total Income | Amount of tax |
|---|---|
| Upto ₹. 5,00,000 | Nil |
| Exceeding ₹. 5,00,000 but upto ₹. 10,00,000 | 20% of (TI less ₹. 5,00,000) |
| In excess of ₹. 10,00,000 | ₹1,00,000 + 30% of TI |

From AY 21-22, Ind. & HUF have an option to opt for sec 115BAC

NOTES :

a) HEC is applicable @ 4%. [after surcharge or Rebate]

b) Rebate u/s 87A
1) Assessee is Individual
2) He is Resident in India
3) whose TI(From All Heads after Ded$^{n}$) does not exceed ₹ 5 lakh
Rebate= ₹ 12500 or 100% of tax payable , whichever is lower
> Rebate not available for tax computed u/s 112A

c) Rounding Off

| | | |
|---|---|---|
| S.288A | Round off of Total Income | R/o to nearest multiple of ₹10 |
| S.288B | Round off of Total Tax | R/o to nearest multiple of ₹10 |

Rule of 5 is applicable.
Eg:- If tax calculated is 81,501 then tax be rounded off to 81,500.

Circular 28/2016 -
CBDT, hereby clarifies that a person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday. In particular, the question of attainment of age of eligibility for being considered a senior/very senior citizen would therefore be decided on the basis of above criteria. Therefore, if a person is born on 1 April, 1962/1942 then he shall get slab of ₹ 3,00,000/ ₹5,00,000 in PY 31.3.2022.

d) Special Adjustment - If Assessee (Resident) has special Income i.e. LTCG (112 / 112A) /STCG (111 / 111A) (Not casual Income) & BEL is not exhausted then such special income shall be first used to cover up BEL & balance ,if any, shall be chargeable to special rate of Tax.

e) Surcharge applicable to Individual, HUF,AOP,BOI,AJP - As per Taxation law amendment ordinance 2019 & FA'22

| No | Income | Surcharge on Income | |
|---|---|---|---|
| | | 111A,112,112A & dividend | Other |
| 1) | TI [Including Income u/s 111A,112, 112A & div. does not exceed 50L | Nil | Nil |
| 2) | TI [Incl Income u/s 111A,112,112A & dividend exceed 50L but not 1cr. | 10% | 10% |
| 3) | TI [Incl Income u/s 111A,112,112A & dividend exceed 1cr but not 2cr. | 15% | 15% |
| 4) | TI [Excl. Income u/s 111A,112,112A & dividend exceed 2cr but not 5cr. | 15% | 25% |
| 5) | TI [Excluding Income u/s 111A,112, 112A & dividend exceed 5cr | 15% | 37% |
| 6) | TI [Incl Income u/s 111A,112, 112A & dividend exceed 2cr but not covered by situation 4 & 5. | 15% | 15% |

| Particulars | Rate | Example | |
|---|---|---|---|
| | | Components of total income | Applicable rate of surcharge |
| Where the total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 50 lakhs but ≤ ₹ 1 crore | 10% | • Dividend ₹ 10 lakhs;<br>• STCG u/s 111A ₹ 20 lakhs;<br>• LTCG u/s 112 ₹ 15 lakhs;<br>• LTCG u/s 112A ₹ 20 lakhs; and<br>• Other income ₹ 25 lakhs | Surcharge would be levied @10% on income-tax computed on total income of ₹ 90 lakhs. |
| Where total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 1 crore but ≤ ₹ 2 crore | 15% | • Dividend income ₹ 10 lakhs<br>• STCG u/s 111A ₹ 40 lakhs;<br>• LTCG u/s 112 ₹ 55 lakhs;<br>• LTCG u/s 112A ₹ 35 lakhs; and<br>• Other income ₹ 50 lakhs | Surcharge would be levied @15% on income-tax computed on total income of ₹ 1.90 crores. |
| Where total income excluding dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) >₹ 2 crore but ≤ ₹ 5 crore | 25% | • Dividend income ` 51 lakhs;<br>• STCG u/s 111A ₹ 44 lakh;<br>• LTCG u/s ₹ 42 lakhs;<br>• LTCG u/s 112A ₹ 55 lakh; and<br>• Other income ₹ 3 crores | Surcharge @15% would be levied on income-tax on:<br>• Dividend income of ` 51 lakhs;<br>• STCG of ₹ 44 lakhs chargeable to tax u/s 111A;<br>• LTCG of ₹ 42 lakhs chargeable to tax u/s 112; and<br>• LTCG of ₹ 55 lakhs chargeable to tax u/s 112A<br>Surcharge @25% would be leviable on income-tax computed on other income of ₹ 3 crores included in total income |
| The rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A | Not exceeding 15% | | |

| Particulars | Rate | Example | |
|---|---|---|---|
| | | Components of total income | Applicable rate of surcharge |
| Where total income (excluding dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 5 crore | 37% | • Dividend income ₹ 60 lakhs;<br>• STCG u/s 111A ₹ 50 lakhs;<br>• LTCG u/s ₹ 42 lakhs;<br>• LTCG u/s 112A ₹ 65 lakhs; and<br>• Other income ₹ 6 crore | Surcharge@15% would be levied on income-tax on:<br>• Dividend income of ₹ 60 lakhs;<br>• STCG of ₹ 50 lakhs chargeable to tax u/s 111A;<br>• LTCG of ₹ 42 lakhs chargeable to tax u/s 112; and<br>• LTCG of ₹ 65 lakhs chargeable to tax u/s 112A.<br>Surcharge @37% would be leviable on the income-tax computed on other income of ₹ 6 crores included in total income. |
| Rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A | Not excee-ding 15% | | |
| Where total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 2 crore in cases not covered under (iii) and (iv) above | 15% | • Dividend income ₹ 55 lakhs;<br>• STCG u/s 111A ₹ 60 lakhs;<br>• LTCG u/s ₹42 lakhs;<br>• LTCG u/s 112A ₹ 55 lakhs; and<br>• Other income ₹ 1.10 crore | Surcharge would be levied @15% on income-tax computed on total income of ₹ 3.22 crore. |

## TAX RATES FOR OTHER ENTITIES

| | |
|---|---|
| Domestic Co Turnover not exceeding 400Cr in PY 20-21[FA'22] | 25% |
| Other Companies | 30% |
| Foreign Companies | 40% |
| Firm & LLP | 30% |
| Local Authority | 30% |
| Co-Operative Society:<br>For First 10,000<br>For Next 10,000<br>For Balance | <br>10%<br>20%<br>30% |
| Sec 115BAD (New inserted sec subject to conditions) [FA'20] | 22% |

Surcharge applicable to other entities

| | | |
|---|---|---|
| Firm/LLP/Local Authority/ Co-op Sty | | If Income Exceed 1cr - 12% |
| Companies | Domestic Co (400 crore in PY 20-21 [FA'22] ) | Upto 1cr- Nil<br>Above 1cr upto 10 cr -7%<br>Above 10cr -12% |
| | Foreign Co | Upto 1cr- Nil<br>Above 1cr upto 10 cr -2%<br>Above 10cr - 5% |
| An AOP consisting of only companies as member | | 50L< TI < 1Cr -10%<br>1Cr <TI - 15%<br>(Maximum rate of surcharge for AY 23-24 is 15%) |

## MARGINAL RELIEF

A) In case of an Local Authority & Firm, where TI < ₹1cr, aggregate of income tax & surcharge shall be restricted to:
(Tax on ₹1cr) + (Total Income - ₹1cr)

B) In case of an Individual & HUF,

| Total Income | Income tax & Surcharge restricted to |
|---|---|
| ₹50L </= ₹1cr | (Tax on ₹50 lakhs) + (Total Income - ₹50 lakhs) |
| ₹1cr </= ₹2cr | (Tax on ₹1 crore with surch @ 10%) + (Total Income - ₹1 crore) |
| ₹2cr </= ₹5cr | (Tax on ₹2 crore with surch @ 15%) + (Total Income - ₹2 crore) |
| Exceeds ₹5cr | (Tax on ₹5 crore with surch @ 25%) + (Total Income - ₹5 crore) |

C) In case of a Domestic / Foreign Company, where TI ₹1cr </= ₹10cr, aggregate of income tax & surcharge shall be restricted to:
(Tax on ₹1cr) + (Total Income - ₹1cr)

D) In case of a Domestic Company, where TI > ₹10cr, aggregate of income tax & surcharge shall be restricted to:
(Tax on ₹10cr with surch of 7%) + (Total Income - ₹10cr)

E) In case of a Foreign Company, where TI > ₹10cr, aggregate of income tax & surcharge shall be restricted to:
(Tax on ₹10cr with surch of 2%) + (Total Income - ₹10cr)

## f) SPECIAL RATES

| Income | Rates |
|---|---|
| STCG referred to in sec 111A (Securities) | 15% |
| LTCG referred to in sec 112 | 20% |
| LTCG U/s 112A Beyond ₹1Lakh | 10% |
| Casual incomes (e.g. Lottery, horse winnings, etc.) (Sec 115BB) | 30% |
| Unexplained Cash/Expenses/Investment-115BBE | 60% |
| Maximum Marginal rate | 42.744% [30% + 37% + 4%] |

# Unsolved Problems

1. Compute the tax liability of Mr. Gupta (aged 61), having total income of 1,02,00,000 for the Assessment Year 2023-24. Assume that his total income comprises of salary income, income from house property and interest on fixed deposit. Assume that Mr. Gupta has not opted for the provisions of section 115BAC.

2. State any four instances where the income of the previous year is assessable in the previous year itself instead of the assessment year.

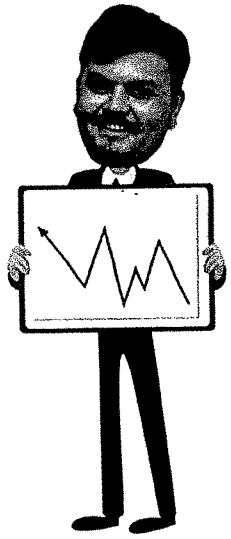
3. Mr. Sharma aged 62 years and a resident in India, has a total income of ₹ 2,30,00,000, comprising long term capital gain taxable under section 112 of ₹ 52,00,000, short term capital gain taxable under section 111A of ₹ 64,00,000 and other income of ₹ 1,14,00,000. Compute his tax liability for A.Y. 2023-24. Assume that Mr. Sharma has not opted for the provisions of section 115BAC.

# RESIDENTIAL STATUS


| Sr. No | Particulars | Pg No |
|---|---|---|
| 1 | Basics of Residential Status | 2.2 |
| 2 | Residential Status is determined for | 2.2 |
| 3 | Residential Status for Other Assessee | 2.2 |
| 4 | Residential Status of Individual | 2.2 |
| 5 | Deemed Resident | 2.3 |
| 6 | Residential Status of HUF | 2.4 |
| 7 | Residential Status of Company | 2.4 |
| 8 | Scope of Total income & tax incidence | 2.4 |
| 9 | Deemed to receive or accrue | 2.5 |
| 10 | Sec 9(1) Income from Business Connection | 2.5 |
| 11 | Circular 13/2017 | 2.8 |


## IMPORTANT AMENDMENTS/ NOTIFICATIONS/CIRCULARS


| Sr No. | Particulars | Pg No |
|---|---|---|
| 1 | Residential Status of Individual | 2.2 |

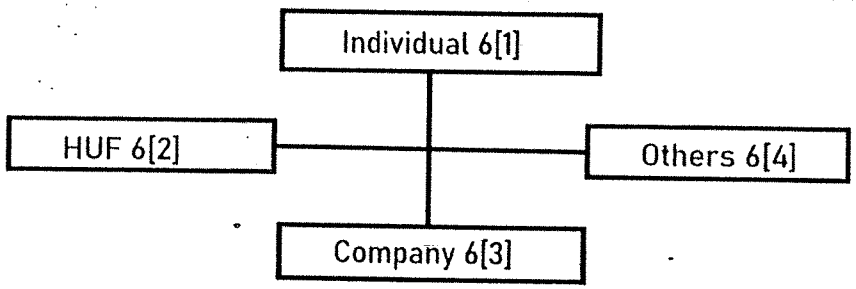



# BASICS OF RESIDENTIAL STATUS

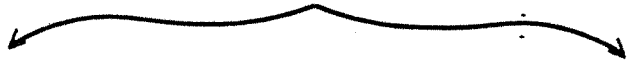
1. Total Income of an Assessee cannot be computed unless we know residential status of the assessee during PY
2. RS is determined for each category of person separately
3. RS always determined for PY because we have to determine the total income of the PY only
4. It is calculated for every year because it may change year to year
5. A person can be resident of more than one country for any PY
6. Citizenship of a country & RS of that country are different concept.
7. Onus of Proof

| Individual/company | Burden lies on the Department |
|---|---|
| HUF,Firm,LLP | Assumed that they are Resident, Onus that they are not resident is on them. |
| Other Assessee | Is a question of Fact, it is the duty of assessee to provide all relevant fact. |

# RESIDENTIAL STATUS IS DETERMINED FOR




# RESIDENTIAL STATUS FOR OTHER ASSESSEE



**Resident Sec.6[4]**

If Control & Management Wholly or partly situated in India

**Non-Resident**

If Control & Management Wholly Situated Outside India

# RESIDENTIAL STATUS OF INDIVIDUAL

**Determining Residential Status of individual (Sec 6(1))**

**Other Assessee not covered in the 3 categories**

They would be treated as Resident if satisfy any of following condition-

a) If they stay in India for 182 days or more in PY OR

b) Stays in India for 60 days in PY AND 365 days in 4 Previous preceding year continuos 4 PY

**For 3 category of cases**

1. Indian Citizen who leaves India in PY as a ship crew member of an Indian ship or for the purpose of employment outside India
   - They would be treated as Resident if they stay in India for 182 days or more in PY

2. Indian Citizen/Person of Indian Origin who being outside India comes on a visit to India in PY & total income (other than foreign income) is 15lakh or less
   - They would be treated as Resident if they stay in India for 182 days or more in PY

3. Indian Citizen/Person of Indian Origin who being outside India comes on a visit to India in PY & total income (other than foreign income) is exceeding 15lakh
   - They would be treated as Resident if satisfy any of following condition-
     a) If they stay in India for 182 days or more in PY OR
     b) If the period of stay is 120 days or more during the PY AND 365 days or more during the 4yrs immediately preceding PY

IC / PIO having income exceeding 15L & liability to tax in another country

- no: Person treated as RNOR as per Sec 6(1A) & 6(6)
- yes: RS depends upon period of stay in India when he visit India
  - Upto 120 days - NR
  - Exceeding 120 days but less than 182 days & 365 days or more in 4 PPY - RNOR [6(1) & 6(6)]
  - 182 days or more
    - Sec 6(1) - Resident
    - Sec 6(6) - ROR or RNOR

# Deemed Resident

Notwithstanding anything contained in Sec 6(1),
an individual, being citizen of India(not PIO), having total income, other than the income from foreign sources, exceeding 15,00,000 during the PY shall be deemed to be resident in India in that PY, if he is not liable to tax in any other country / territory by reason of his domicile / residence / any other criteria of similar nature
As per Sec 6(6), If a person is deemed Resident as per Sec 6(1A) he shall deem to be RNOR.

Other Points :
If a person is resident as per Sec 6(1), then Sec 6(1A) shall not apply.
Sec 6(1A) does not apply to an individual who is not a citizen of India but a person of Indian Origin

Person of Indian Origin
A person is deemed to be of Indian origin if he, or either of his parents or any of his grandparents, was born in Undivided India It may be noted that grandparents include both maternal and paternal grand parents.

Resident & Ordinarily Resident (ROR) :
An individual may become a ROR in India if he satisfy both following conditions given u/s 6(6) besides satisfying any one of the above mentioned conditions:
a) he is a resident in atleast any two out of the ten PYs immediately preceding the relevant PY, and
b) he has been in India for 730 days or more during the 7 PYs immediately preceding the relevant PY.

Resident but Not Ordinarily Resident (RNOR) :
An individual is RNOR in any PY if-
a) he has been a NR in India in 9/10 PYs preceding that year, or
b) he has during the 7 PYs preceding that year been in India for period of, or periods amounting in all to, 729 days or less
c) a citizen of India, or a person of Indian origin, having total income, other than income from foreign sources, exceeding 15,00,000 during the PY, who has been in India for a period or periods amounting in all to 120 days or more but less than 182 days; or
d) a citizen of India who is deemed to be resident in India - clause (1a)

Non - Resident :
If an individual does not satisfy any of the above basic condition then, he will be treated as Non-resident. It must be noted that the fulfillment of any one of the above conditions (a) / (b) as applicable will make an Individual resident in India for tax purposes. Further it is to be noted that these conditions are alternative & not cumulative in their application.

Important Notes :
The fact that an assessee is resident in India in respect of one year does not automatically mean that he would be resident in the preceding or succeeding years as well. Consequently, the residential status of the assessee should be determined for each year separately. This is in view of the fact that a person resident in one year may become NR or RNOR in another year and vice versa.

The stay may be anywhere in India and for any length of time at each place in cases where the stay in India is at more places than one, what is required is the total period of stay should not be less than the number of days specified in each condition.

While determining residential status, the day of leaving and returning to India should be considered as a stay in India

Where the exact arrival and departure time is not available then the day he comes to India and the day he leaves India is counted as stay in India

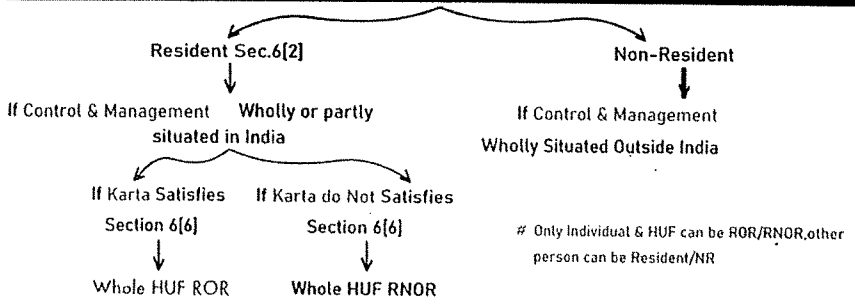
India means territory of India, its territorial waters, continental shelf, Exclusive Economic Zone (upto 200 nautical miles) and airspace above its territory and territorial waters.

Exception to the basic condition :
being a citizen of India, who leaves India in any PY as a member of the crew of an Indian ship as defined in sec 3(18) of the Merchant Shipping Act, 1958, or for the purposes of employment outside India
Rule 126 Computation of period of stay in India in certain cases -
An Individual, being a citizen of India and a member of the crew of a ship, the period of stay in India in respect of an eligible voyage shall not include the period beginning from the date of joining till the date of signing off as mentioned in the Continuous Discharge Certificate under the Merchant Shipping Act, 1958.
"eligible voyage" shall mean a voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where-

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

being citizen of India/ person of Indian origin within the meaning of expl. to sec 115C(e), who, being outside India, comes on visit to India in any PY.

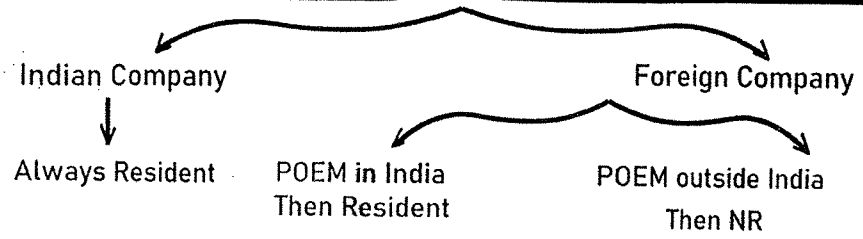
## RESIDENTIAL STATUS OF HUF




Sec 6(2) - A HUF, firm or other association of persons is said to be resident in India in any PY in every case except where during that year the control & management of its affairs is situated wholly outside India.

Additional Conditions :
a) Karta of resident HUF should be resident in atleast 2/10 PY immediately preceding relevant PY.
b) Stay of Karta during 7 PY immediately preceding relevant PY should be 730 days or more.

## SEC 6(3) RESIDENTIAL STATUS OF COMPANIES




Sec 6(3) - A company is said to be a resident in India in any P. Y. if—
it is an Indian company; or
its place of effective management, in that year, is in India.

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

POEM :- Place of Effective Management

## SEC 5 SCOPE OF TOTAL INCOME & TAX INCIDENCE

In order to understand relationship between residential status & Incidence it is necessary to understand meaning if Indian & Foreign income.

Indian Income:
1. Received In India
2. Deemed to be Received in India [ Sec 7 & 8]
3. Accrued in India
4. Deemed to be accrued or arise in India [Sec 9]

Foreign Income

Income is not received or not deemed to be received in India.
Income which does not accrue or arise in India.

Remittance of Income
Approved mode — Exempt in India
Unapproved Mode — Taxable In India

Past Foreign Untaxed Income brought to India - Not taxable in India

## INCIDENCE OF TAX FOR INDIVIDUAL & HUF

| Income | ROR | RNOR | NR |
|---|---|---|---|
| Indian | Taxable in India | Taxable in India | Taxable in India |
| Foreign | Taxable in India | Only two type of Foreign income is taxable in India.[Refer Notes] | Not Taxable in India |

Note : Income from business/profession which is set up in India

## INCIDENCE OF TAX FOR OTHERS

| Income | RESIDENT | NR |
|---|---|---|
| Indian | Taxable in India | Taxable in India |
| Foreign | Taxable in India | Not Taxable in India |

## DEEMED TO RECEIVE OR ACCRUE

Deemed to be received in India [Sec.7]

A) Contribution made by the employer to RPF beyond 12% of the salary [Upto 12% Exempt](Refer Salary)

B) Interest credited to Employee beyond 9.5% p.a. (Ref Salary)

C) Transfer from URPF to RPF

D) Contribution to pension fund u/s 80CCD (Refer Salary)

Accrued In India [Sec.9]

1) Income out of Business Connection
2) Salary earned in India
3) Salary from government to an Indian citizen for services Rendered outside India
4) Dividend from Indian Co
5) Income from Interest payable by specified person
6) Income from Royalty
7) Income from Technical services
8) Income from Property/Assets situated In India
9) Income from transfer of Capital Assets situated In India
10) Gift(Money) by R to NR

| Business Connection |
|---|
| 1. Business Connection |
| 2. Deemed Business Connection |
| 3. Not a Business Connection |

## SEC 9(1) INCOME FROM BUSINESS CONNECTION

The following incomes shall be deemed to accrue or arise in India :—

Sec 9(1)(i) - All income accruing or arising, whether directly/indirectly, through or from any business connection in India, or through/from any property in India, or through or from any asset / source of income in India, or through the transfer of a capital asset situate in India.

Explanation 1 - Not a business connection

For the purposes of this clause -
a) in the case of a business other than the business having business connection in India on account of significant economic presence , of which all the operations are not carried out in India,
b) in the case of NR, no income shall be deemed to accrue/ arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export;
c) in the case of NR, being a person engaged in the business of running a news agency or of publishing newspapers, magazines or journals,
d) in the case of NR, being—
(1) an individual who is not a citizen of India ; or
(2) a firm which does not have any partner who is a citizen of India/ who is resident in India ; or
(3) a company which does not have any shareholder who is a citizen of India or who is resident in India,
no income shall be deemed to accrue from operations which are confined to the shooting of any cinematograph film in India;
e) in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to the display of uncut and unassorted diamond in any special zone notified by the CG in the Official Gazette in this behalf.

Explanation 2 - Meaning of business connection

"Business connection" shall include any business activity carried out through a person who, acting on behalf of the NR,-

a) Has and habitually exercises in India, an authority to conclude contracts on behalf of the NR or habitually concludes

b) Has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

c) habitually secures orders in India, mainly or wholly for the NR or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident.

If a broker, general commission agent or any other agent having an independent status, then there is no Buisness connection.

Explanation 2A - Deemed Business Connection - Significant Economic Presence - Significant economic presence of a NR in India shall constitute, It Means

1. Transaction in respect of any goods, services or property carried out by NR with any person in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the PY exceeds Rs. 2crore or

2. systematic and continuous soliciting of business activities/engaging in interaction with such number of users in India, Should exceed 3Lakh

Transactions or activities shall constitute significant economic presence in India, whether or not—
(i) Agreement for such transactions/activities is entered in India; or
(ii) NR has a residence or place of business in India; or
(iii) NR renders services in India:

Further only so much of income as is attributable to the transactions or activities carrried out in India shall be deemed to accrue or arise in India

Explanation 3A: The income attributable to the operations carried out in India, as Shall include income from—
a) such advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;
b) sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and sale of goods or services using data collected from a person who resides in India or from a person who uses internet protocol address located in India.

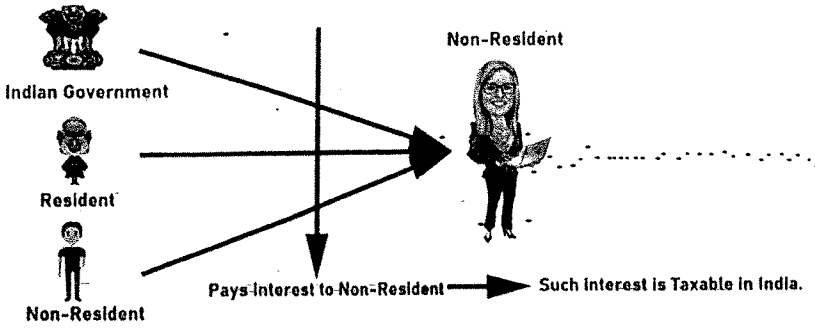
Provisions contained in this Explanation shall also apply to the income attributable to the transactions or activities referred to in Explanation 2A.

Sec 9(1)(ii) - Salary Earned In India
Income which falls under the head "Salaries", if it is earned in India.
Explanation - salary payable for the rest period or leave period which is preceded and succeeded by services rendered in India and forms part of the service contract of employment,shall be regarded as income earned in India;

Sec 9(1)(iii) - Salary Earned Outside India
Income chargeable under the head "Salaries" payable by the Government. However allowances or perquisite payable outside India would be exempt u/s 10(7)

Sec 9(1)(iv) - Dividend From An Indian Company
A dividend paid by an Indian company outside India;

Sec 9(1)(v) - Interest payable to NR would be deemed to accrue in India if paid by
a) Government ; or
b) Person who is resident,
Exception: where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by him outside India or for the purposes of making or earning any income from any source outside India ; or
c) NR in respect of debt incured or moneys borrowed and used, for the purposes of a business or profession carried on by such person in India.




Exception: Interest on money borrowed by the NR for any purpose in India other than for Business or profession, will not be deemed to accrue or arise in India.

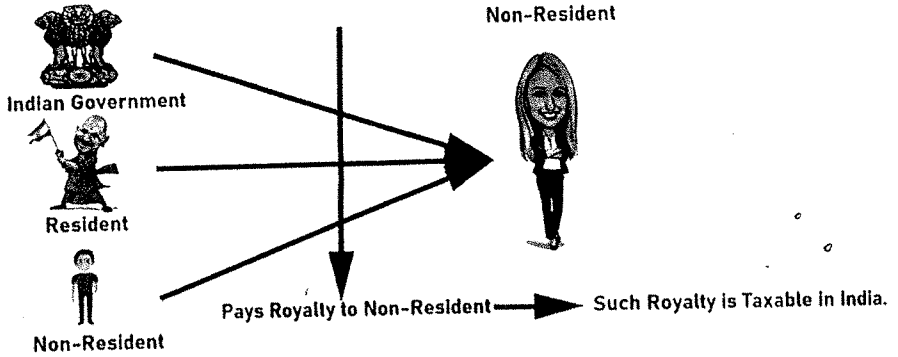
Sec 9(1)(vi) - Royalty payable to NR by

a) Government ; or

b) Person who is resident,

Exception: where it is payable in respect for transfer of any right or the use of any property or information used or for utilisation of services for the purposes of a business or profession carried on by him outside India or for the purposes of making or earning any income from any source outside India ; or

c) NR in respect of royalty payable in respect of any right, property or Information used or services utilised for the purpose of business or profession carried on by such person in India.




Note:

Lumsum Royalty mde by resident for transfer of all or any right (including grant of license ) in respect of computer software supplied by NR manufacturer along with computer hardware under any scheme arroved by Govt ,shall not be regarded as Royalty accrued or arised in India.

. Meaning of Royalty: "Royalty" means

onsideration (including any lump sum consideration but excluding any onsideration which would be the income of the recipient chargeable nder the head "Capital gains") for—

) the transfer of all or any rights (including the granting of a license) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property ;

) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trademark or similar property

) the use of any patent, invention, model, design, secret formula or process or trade mark or similar property ;

d) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill ;

the use or right to use any industrial, commercial or scientific equipment but not including the amounts referred to in section 44BB;

the transfer of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, including consideration for the sale, distribution or exhibition of cinematographic films; or

the rendering of any services in connection with the activities referred to in sub-clauses (i) to (iv), (iva) and (v).

3. **Consideration for use or Right to use computer software is Royalty. [Explanation 4]**

4. **Royalty Includes: Consideration in respect of any right whether or not**

a) the possession or control of such right, property or information is with the payer;

b) such right, property or information is used directly by the payer;

c) the location of such right, property or information is in India. [Explanation 5]

5. Meaning of "process": Process includes & shall be deemed to have always included transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal), cable, optic fibre or by any other similar technology, whether or not such process is secret;

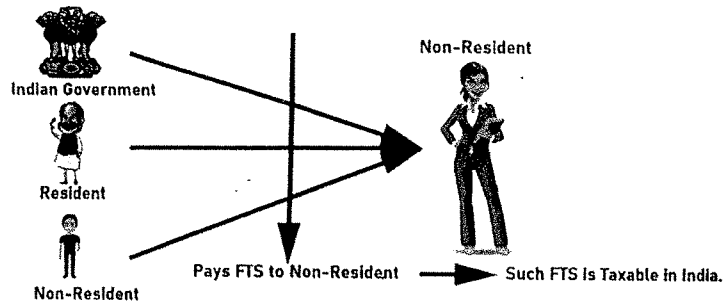
Sec 9(1)(vii) - FTS any fees for technical services paid o NR by—

a) Government ; or

b) Person who is resident,

Exception: where it is payable in respect for technical services utilised for the purposes of a business or profession carried on by him outside India or for the purposes of making or earning any income from any source outside India ; or

c) NR in respect of FTS payable in respect of services utilised for the purpose of business or profession carried on by such person in India.




Explanation 2 - "Fees for technical services" means any consideration (including any lump sum consideration) for rendering of any managerial, technical/consultancy services (including provision of services of technical/other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head "Salaries";

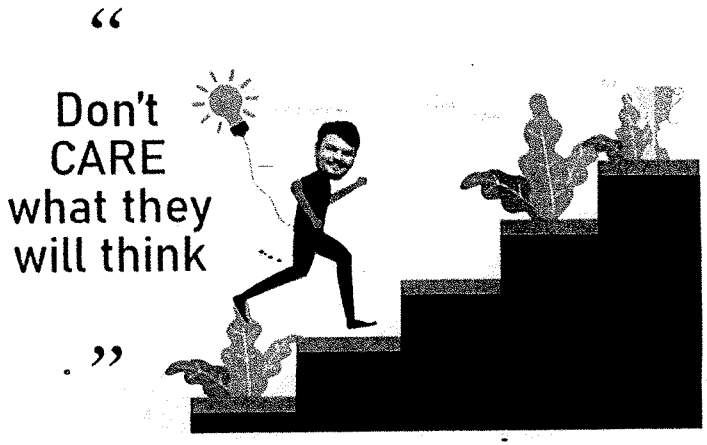
Sec 9(1)(viii) - Income arising outside India, being any sum of money paid on/after the 5th day of July, 2019 by a person resident in India to non-resident, not being a company, or to a foreign company.

## Circular 13/2017

Salary accrued to NR sea farer for service rendered outside India on a foreign going ship (with Indian flag/not) shall be not included in Total Income nearly because the salary is credited in NRE a/c with Indian Bank.

# AGRICULTURE INCOME


| Sec | Particulars | Pg No |
|---|---|---|
| 2(1A) | Basics of Agriculture Income | 3.2 |
| | Agriculture Income | 3.2 |
| | Agricultural Operation | 3.2 |
| Rule 7&8 | Composite Agriculture Income | 3.2 |
| | Composite Agriculture Other Income | 3.2 |
| | Method of Aggregation / Partial Integration | 3.2 |

# BASICS OF AGRICULTURE INCOME

- Agriculture income is defined u/s 2[1A].
- Agricultural Income is exempt from income tax u/s 10 (1), but income tax act indirectly collects tax on agricultural income
- Agriculture Income Fall within the state List Entry no 46, Hence shall be levied and collected by SG.
- Sec.14A Where any expenditure is incurred in relation to exempt Income the same shall not be allowed as deduction.

# SEC 2(1A) AGRICULTURE INCOME

Agriculture Income means

a. Any Rent or Revenue Derived from an Agriculture land situated in India & used for agriculture purpose
b. Income from agricultural operation.
c. Income from farm house or farm land.
d. Income from Nursery, sampling, seedling. [Expl.3]

# AGRICULTURAL OPERATION

The word agricultural operation is not defined in the act, however it has been considered by court in Raja benoy Sahay Case which has provided:

Mere Basic Operation - It's Agriculture Income
Mere Subsequent Operation - Non-Agriculture Income
Subsequent operation together with basic - Agriculture Income

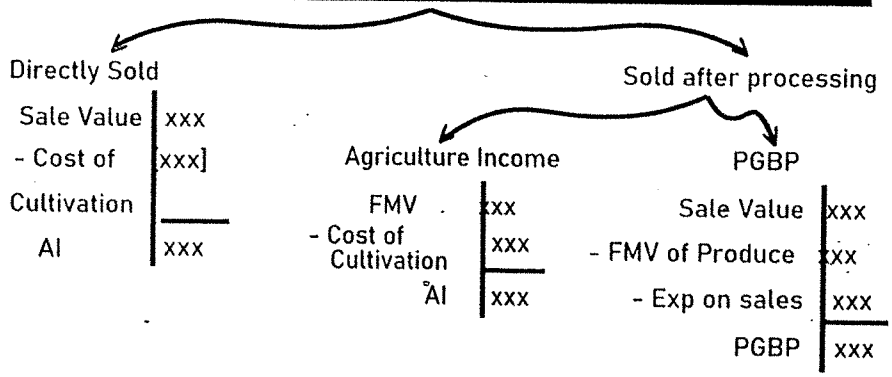
Basic Operation : It means application of human skill & labour upon the land, prior to germination,e.g. Tiling of land, sowing of seeds, planting etc.

Subsequent Operation : means operations which fosters growth & Preserve Produce For rendering produce fit for sale in market, & Which are performed after the produce sprouts from the land.

# RULE 7 & 8 - COMPOSITE AGRICULTURE INCOME

| Rule | Content | Agriculture | Non Agriculture |
|---|---|---|---|
| 7A | Growing and manufacturing rubber (Latex) | 65% | 35% |
| 7B | Growing and manufacturing coffee grown & Cured | 75% | 25% |
| 7B | Growing and manufacturing coffee grown, cured, roasted and grounded | 60% | 40% |
| 8 | Growing and manufacturing Tea | 60% | 40% |

# COMPOSITE AGRICULTURE OTHER INCOME




# METHOD OF AGGREGATION/PARTIAL INTEGRATION

Applicability: Applicable only to individuals, HUF, AOP & BOI, AJP & not applicable to firms and companies
Minimum agricultural income: Should exceed ₹5000
Other income: Should exceed ₹250000/300000/500000

| | |
|---|---|
| Step 1: Agricultural Income + Non Agricultural Income | xxx |
| Step 2: tax on Step 1 | xxx |
| Step 3: Agricultural Income + Basic Exemption Limit | xxx |
| Step 4: tax on Step 3 | xxx |
| Step 5: Difference of tax [Step 2- Step 4] | xxx |
| Step 6: Add Surcharge/ Less Rebate , Add HEC | xxx |
| Step 7: Final Tax Liability. | xxx |

# INCOME FROM HOUSE PROPERTY


| Sec | Particulars | Pg No |
|---|---|---|
| 22 | Charging Section | 4.2 |
| | Composite Rent | 4.2 |
| | Income from House Property outside India | 4.2 |
| | Gross Annual Value | 4.2 |
| | Municipal/Property/Corporation Tax | 4.2 |
| 24 | Deductions from Annual Value | 4.2 |
| 25 | Deduction of Interest not allowed in certain cases | 4.3 |
| 23(2) | Computation - Self Occupied property | 4.3 |
| 23(4) | Computation when more than 2 Self occupied property | 4.3 |
| 23(1)(c) | Let out Property Vacant for Whole Year | 4.3 |
| 23(3) | Property let out for part & self occupied for part year | 4.4 |
| | Property a portion of which is let out & portion is self occupied | 4.4 |
| 23(1)(c) | Let out property kept vacant for part of year | 4.4 |
| 25AA | Recovery of unrealized rent & arrears | 4.4 |
| 26 | Co-Owned Property | 4.5 |
| 27 | Deemed Ownership | 4.5 |
| | Impact of Sec 115BAC under HP | 4.5 |

| Sr No | Amendment | Pg No |
|---|---|---|
| 1 | Adjustment for Unrealised Rent | 4.5 |


"Whether You Think You Can Or Think You Can't, You're Right"

# SEC 22 CHARGING SECTION

- Assessee must be owner
  - Owner include deemed owner Sec.27
- Annual Value of Land, Building appurtenant thereto
- Property must not be used for own business & profession

Income under this head may be charged irrespective of income actually received or not

## COMPOSITE RENT

| | | |
|---|---|---|
| If letting of such property is separable | letting is the main business | a) Income from property- "house property"<br>b) Income from other asset- "PGBP" |
| | letting is not the main business | a) Income from property- "house property"*<br>b) Income from other asset- "Other sources" |
| If letting of such property is not separable | letting is the main business | Entire income will be taxable under "PGBP". |
| | letting is not the main business | Entire income will be taxable under "Other sources". |

* Except the case where letting out is for the purpose of carrying on the business in the efficient manner and letting is not the main business.

## INCOME FROM HP OUTSIDE INDIA

| Assessee is ROR | Assessee is RNOR/NR |
|---|---|
| Taxable in India whether property is in India or Outside India | Taxable in India Only if rent is received in India |

# GROSS ANNUAL VALUE

GAV shall be higher of RER or ARR

**Reasonable Expected Rent:**

| | |
|---|---|
| Step 1 : Municipal Value | Xxx |
| Step 2 : Fair Rent | Xxx |
| Step 3 : Expected Rent (Higher of Step 1 / 2) | Xxx |
| Step 4 : Standard Rent | Xxx |
| Step 5 : RER (lower of Step 3 / 4) | xxx |

**Actual rent received or receivable**

| | |
|---|---|
| Actual rent for let-out period | Xxx |
| Less: Unrealized Rent Subject to conditions of Rule 4 | Xxx |
| ARR | Xxx |

| | |
|---|---|
| Municipal Value | This is value as determined by the municipal authorities for levying municipal taxes on house property. |
| Fair Rent | Fair rent is the rent which a similar property can fetch in the same or similar locality. |
| Standard Rent | The standard rent is the maximum rent which can be collected by landlord. This is fixed under Rent control act |
| Unrealized Rent | Rent due from tenant but not received. Deduction is allowed is condition is satisfied if nothing is mentioned assume that condition is satisfied. |

RER cannot exceed expected Rent: (SC) & Amolak Ram Khosla vs. CIT [198

## MUNICIPAL /PROPERTY/CORPORATION TAX

| | |
|---|---|
| Conditions for Benefit | a) It should be Borne by Assessee (Not Tenant).<br>b) It should be actually paid during the year. |
| Deductions | Paid for PY in the current year - Allowed<br>Paid for Current Year - Allowed<br>Advance Paid - Allowed (Since it is disputed write Note) |
| Other Benefit | Benefit for Sewerage Tax and Water Tax Also Available |
| Paid outside India | Allowed as per CIT v. R. Venugopala Reddiar (Mad.) |
| Adjustments | Given in Cash : Take Actual Amount<br>% is given : Take % of Municipal Value and Not of GAV |

## SEC 24 DEDUCTIONS FROM ANNUAL VALUE

| | |
|---|---|
| Standard Deduction | a) 30% of NAV<br>b) Available only if NAV is Positive.<br>c) If standard deduction is available deduction for other expenses are not available eg: Repairs, Insurance. |
| Interest on Borrowed Capital | a) Deduction is available on Accrual Basis.<br>b) Interest on unpaid interest is not allowed as deduction under this sec.<br>c) Any brokerage or commission paid for raising such loan is not allowed.<br>d) Interest on new loan taken to repay original loan is considered as loan taken for such acquisition, construction, etc. (Refer CBDT Circular No. 28 dated 20-8-1969). |

f) Sec.80EE Provides additional benefit Out of Gross Total Income.
g) Deduction = 1/5th of Pre construction + 100% of Post Construction.
Post Construction interest - 100% allowed as deduction
Pre Construction Interest - 1/5th of Total Interest Paid during pre construction period

Pre Construction Period

| | |
|---|---|
| a) Repayment Precedes Construction | Date of Borrowing to date of Repayment |
| b) Construction precedes Repayments | Date of Borrowing to 31st March Prior to date of Completion. |

## SEC 25 DEDUCTION OF INTEREST NOT ALLOWED IN CERTAIN CASES

Interest chargeable under this Act which is payable outside India shall not be deducted if:
a) tax has not been paid or deducted from such interest and
b) there is no person in India who may be treated as an agent u/s 163.

## SEC 23(2) COMPUTATION - SOP

Conditions:-
1. The property was not let out for any part of the year
2. No other benefits has been derived from the property
3. Number of self occupied property shall not exceed 2

| Particulars | ₹ |
|---|---|
| Annual value u/s 23(2) | Nil |
| Less:- Municipal tax actually paid | Nil |
| NAV | Nil |
| Less:- Deduction u/s 24 | |
| a) Standard Deduction | Nil |
| b) Interest on borrowed capital | (xxx) |
| 1. Upto Rs. Maximum of ₹200000 [Aggregate Amount of Deduction] | |
| Conditions:- | |
| a. Loan is taken for acquisition or construction | |
| b. After 1.4.1999 | |
| c. Acquisition or construction is complete within 5 years from the end of financial year in which capital is borrowed. | |
| 2. Upto maximum of ₹30000[Aggregate Amount of Deduction] | |
| a. If condition given in 1 is not satisfied | |
| b. Loan is taken for repairs and maintenance | |
| Loss from House Property | (xxx) |

If ASSESSES opted for 115 BAC, then deduction of IOBC in case of SOP is not allowed

## SEC 23(4) MORE THAN 2 SOP

| Particulars | Option 1 | | | Option 2 | | |
|---|---|---|---|---|---|---|
| | F1 SOP | F2 SOP | F3 DLOP | F1 SOP | F2 DLOP | F3 SOP |
| GAV | Nil | Nil | Xxx | Nil | Xxx | Nil |
| Less: Municipal tax actually paid | Nil | Nil | (xxx) | Nil | (xxx) | Nil |
| NAV | Nil | Nil | Xxx | Nil | Xxx | Nil |
| Less: Deduction | | | | | | |
| Standard deduction | Nil | Nil | (xxx) | Nil | (xxx) | Nil |
| Interest on borrowed capital | (xxx) [limited] | (xxx) [limited] | (xxx) [unlimited] | (xxx) [limited] | (xxx) [unlimited] | (xxx) [limited] |

| Particulars | Option 3 | | |
|---|---|---|---|
| | F1 DLOP | F2 SOP | F3 SOP |
| GAV | Xxx | Nil | Nil |
| Less: Municipal tax actually paid | (xxx) | Nil | Nil |
| NAV | Xxx | Nil | Nil |
| Less: Deduction | | | |
| Standard deduction | (xxx) | Nil | Nil |
| Interest on borrowed capital | (xxx) [unlimited] | (xxx) [limited] | (xxx) [limited] |

Romance: - Choose the option which has lower taxable income or higher loss
Notes:-
a) This option can be changed year after year in a manner beneficial to the assessee.
b) In case of deemed let-out property, the Annual value (i.e. reasonable expected rent) shall be taken as the GAV.
The Maximum Interest of both Self occupied property cannot exceed 2,00,000/30,000

## SEC 23(1)(c) LET OUT PROPERTY VACANT FOR WHOLE YEAR

| Particulars | ₹ |
|---|---|
| GAV | Nil |
| Less: Municipal tax actually paid by the owner | (xxx) |
| NAV | (xxx) |
| Less: Deduction | |
| Standard deduction | Nil |
| Interest on borrowed capital | (xxx) |
| Income from House Property | (Xxx) |

115 BAC -> Loss can't be set off with other but can be carried forward

Where the property consisting of any building or land appurtenant thereto is held as stock-in-trade and property or any part of the property is not let during the whole or any part of the PY, the annual value of such property or part of the property, for period up to 2 year from end of financial year in which the certificate of completion of construction of property is obtained from the competent authority, shall be taken to be nil.

## SEC 23(3) PROPERTY LET OUT FOR PART & SELF OCCUPIED FOR PART YEAR

Income shall be calculated for the whole year as deemed let out property.

| Particulars | ₹ |
|---|---|
| GAV | Xxx |
| Less: Municipal tax actually paid by the owner for PY | (xxx) |
| NAV | xxx |
| Less: Deduction | |
| a) Standard deduction | (xxx) |
| b) Interest on borrowed capital (Unlimited) | (xxx) |
| Income from House Property | Xxx |

## PROPERTY A PORTION OF WHICH IS LET OUT & PORTION SELF OCCUPIED

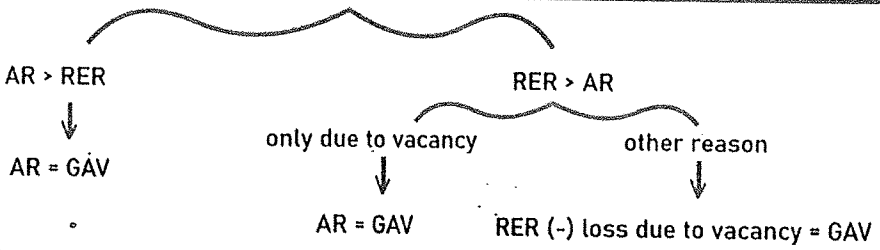
There is no need to treat the whole property as a single unit for computation of income from house property

| Particulars | LOP | SOP |
|---|---|---|
| GAV | Xxx | Nil |
| Less: Municipal tax actually paid by the owner for the whole year | (xxx) | Nil |
| NAV | (xxx) | Nil |
| Less: Deduction | | |
| Standard deduction | (xxx) | Nil |
| Interest on borrowed capital | (xx)(unltd) | Xxx(ltd) |
| Income from House Property | Xxx | Xxx |

Make working note for this problem compulsory & divide on the basis of proportion.

## SEC 23(1)(c) LET OUT PROPERTY KEPT VACANT FOR PART OF YEAR

| Particulars | ₹ |
|---|---|
| Step1: RER | |
| Step2: ARR (Excluding unrealized Rent) Higher shall be GAV | |
| Step 3: AR | Xxx |
| Less: Municipal tax actually paid | (xxx) |
| NAV | Xxx |
| Deduction u/s 24 | |
| 1. Standard deduction @ 30% | (xxx) |
| 2. Interest on borrowed capital | (xxx) |
| Income from house property | Xxx |




## SEC 25AA,25B RECOVERY OF UNREALIZED RENT & ARREARS

| Unrealized rent | Arrears of rent |
|---|---|
| a) Taxable in the hands of the assessee whether he is the owner of that property or not. | a) Taxable in the hands of the assessee whether he is the owner of that property or not. |
| b) Taxable as income of the PY in which he recovers the unrealized rent. | b) Taxable as income of the year in which he receives the arrears of rent. |
| c) 30% of the amount of arrears shall be allowed as deduction. | c) 30% of the amount of arrears shall be allowed as deduction. |
| d) Unrealized rent means the rent which has been deducted from actual rent in any previous year for determining annual value. | d) Arrears of rent are in respect of rent not charged to income-tax for any PY. |

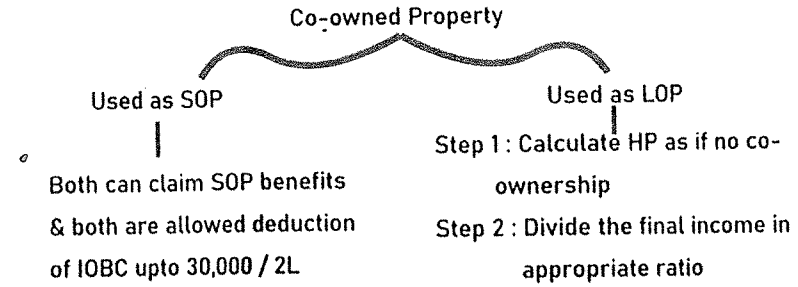
## Adjustment for Unrealised Rent

Generally Unrealised rent is deducted from Actual rent received (ARR) or receivable however Income tax Return however permits deduction of unrealised from GAV(Gross Annual Value) if this view is taken then Unrealised rent should be deducted only after computing GAV. [FA 2022]

## SEC 26 CO-OWNED PROPERTY

Following points should be noted:

Where property is owned by two or more persons, whose shares are definite & ascertainable, then the income from such property cannot be taxed as income of an AOP.




## SEC 27 DEEMED OWNERSHIP

As per section 27, the following persons, though not legal owners of a property, are deemed to be the owners for sec 22 to 26-

a. Transfer to Spouse for Inadequate Consideration
   Exception: Transfer to spouse in connection with an agreement to live apart, the transferee will be the owner of the house property
b. Transfer to a minor child for Inadequate Consideration
   Exception: In case of transfer to a minor married daughter, the transferor is not deemed to be the owner.
c. Holder of an impartible estate which is not legally divisible
   Example: Transfer by Mr. Raja who is one of the ex-Rulers of former princely State.
d. Member of a co-operative society etc to whom a building or part thereof is allotted or leased under a House Building Scheme of a society/company/association
e. Person in possession of a property
   This would include cases where the-
   a) possession of property has been handed over to the buyer
   b) sale consideration has been paid or promised to be paid to seller by the buyer
   c) sale deed has not been executed in favor of buyer, although certain other documents like power of attorney/agreement to sell/will etc. have been executed. In above case, buyer would be deemed to be owner of property although not registered in his name.
f. Lease for more than 12 years.

## IMPACT OF SEC 115BAC UNDER HP

1) Individuals & HUFs can opt for section 115BAC.
2) Individual and HUF opting for optional tax regime u/d 115BAC:
3) The deduction u/c VI-A not allowed except sec 80CCD(2)/80JJAA;
4) The below chart contains the exemptions and deduction not available under the new system related to income under the head HP.

| Nature of Exemption/Deduction Relating to Head HP | New System | Existing system |
|---|---|---|
| Deduction of Municipal tax from GaV | ✓ | ✓ |
| Standard deduction u/s 24(a) from NaV | ✓ | ✓ |
| interest deduction u/s 24(b) from NaV | | |
| (a) let out properties u/s 23(1) | ✓ | ✓ |
| (b) Self residential Property u/s 23(2) | x | ✓ |
| (c) Property which is stock in trade u/s 23(5) | ✓ | ✓ |
| Set off of brought forward House Property losses & brought forward depreciation from Current year House Property income | x if related to dis-allowed ded & exempt | ✓ |
| Set off current year House Property loss from other heads | x | ✓ |

# Chapter 5

# INCOME FROM SALARY


| Sec | Particulars | Pg No |
|---|---|---|
| 15 | Charging Section | 5.2 |
| | Fully Taxable Part of Salary | 5.2 |
| | Partly Exempt Allowances | 5.2 |
| | Allowances | 5.3 |
| 10(13A) | House Rent Allowance | 5.3 |
| 16 | Deduction | 5.3 |
| 10(10) | Gratuity | 5.3 |
| 10(10A) | Pension | 5.4 |
| 10(10B) | Retrenchment Compensation | 5.4 |
| 10(10C) | Voluntary Retirement | 5.4 |
| 10(10AA) | Leave Salary | 5.5 |
| | Specified & non Specified employee | 5.5 |
| R 3(1) | Valuation of Residential Accomodation | 5.5 |
| R 3(2) | Valuation of Motor / Other Vehicle | 5.6 |
| | Gift from Employer | 5.6 |
| | Credit Card Facility | 5.7 |
| | Club Facility | 5.7 |
| | ESOP | 5.7 |
| | Approved Super Annuation Fund | 5.7 |
| | Use of Movable Assets | 5.7 |
| | Sale of Movable Assets | 5.7 |
| | Interest free or Concessional loan | 5.7 |
| | Meal Facility | 5.8 |
| | Provident Fund | 5.8 |
| | Perks : Taxable only in case of Specified EE | 5.8 |
| | Fully Exempted Perks | 5.9 |
| | Any annual accretion of interest dividend In Fund | 5.9 |
| | Limit on Interest credited on contribution by such employee | 5.10 |
| | Impact of Sec 115BAC on Salaries | 5.10 |


## IMPORTANT AMENDMENTS/ NOTIFICATIONS/CIRCULARS


| Sr No. | Particulars | Pg No |
|---|---|---|
| 1 | ANY ANNUAL ACCRETION OF INTEREST DIVIDEND IN FUND | 5 .9 |
| 2 | LIMIT ON INTEREST CREDITED ON CONTRIBUTION IN PF | 5.10 |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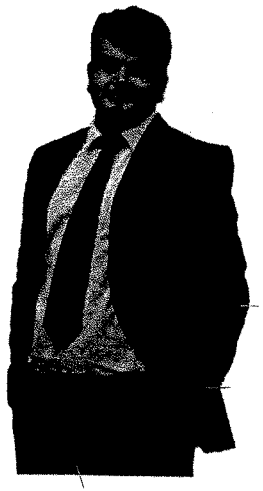


# SEC 15 CHARGING SECTION

CHARGEABLE INCOME :
Where there exists a relationship of employer and employee. Where an individual is bound to follow the instructions of other it is said that there exists a relationship of ER and EE.

WHEN IS SALARY CHARGED TO TAX :
Salaries charged to tax either on DUE or RECEIPT whichever matures earlier
Exception : Following salaries taxable on receipt basis
a. Advance Salary
b. Bonus
c. Salary in lieu of notice period
d. Arrears of Salary

COMPUTATION :
Basic + Taxable Allowance + Taxable Perquisite

# FULLY TAXABLE PART OF SALARY

a. Basic b. Bonus c. Fees d. Advance/Arrears
e. Commission f. Leave Encashment
g. Uncommuted Pension (Monthly pension)

# PARTLY EXEMPT ALLOWANCES Sec.10(14)

| Name of Allowance | Nature of allowance | Exemption |
|---|---|---|
| Allowance for transport Employee | Any allowance granted to an employee working in any transport system to meet his personal expenditure during his duty performed | Lower of : i) 70% of such allowance; or ii) ₹10,000 pm |
| Children Education Allowance | Any allowance given for children education of employee(s). Deduction is available even if not spent. | ₹100 pm per child, max upto 2 children. |
| Hostel Expenditure Allowance | Any allowance given for meeting hostel expenditure of child/children of employee(s). | ₹300 pm per child, max upto 2 children. |
| Transport allowance [ Deduction withdrawal with Intro of of Std Ded$^{n}$] | Transport allowance granted to an employee, other than the employee working in any transport system, to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty. | In case EE is blind/ handicapped, ₹3200 pm. [Still Available] |
| Underground allowance | Underground allowance is granted to an employee who is working in unnatural climate in underground. | ₹800 pm |
| High altitude allowance | This allowance granted to the member of the armed forces operating in high altitude areas. | Exemption : a) for altitude of 9,000 to 15,000 ft. ~ ₹1060pm b) for altitude above 15,000 ft.~ ₹1600pm |
| Tribal Area | The tribal areas of Madhya Pradesh, Tamil Nadu, Uttar Pradesh, Karnataka, Tripura, Assam, West Bengal, Bihar & Orissa. | ₹200 pm |

# ALLOWANCES

| Fully Taxable | Fully Exempt ( amount spent) | Partly Taxable |
|---|---|---|
| >Basic<br>>Advance salary<br>>Arrears of salary<br>>Bonus<br>>Commission as a % if Turnover<br>>Fees<br>>Dearness Allowance<br>>City compensatory allowance<br>>Entertainment allowance<br>>Fixed medical allowance<br>>Family allowance<br>>Leave encashment received during service<br>>Lunch/Tiffin allowance<br>>uncommuted pension<br>>Non practicing allowance<br>>Overtime allowance<br>>Servant allowance<br>>Warden allowance<br>>Interim allowance<br>>Project allowance<br>>Telephone Allowance<br>>Transport Allowance<br>>Any other cash allowance | >Travelling allowance<br>>Daily allowance<br>>Conveyance allowance<br>>Helper allowance<br>>Academics allowance<br>>Uniform allowance<br>>Amount received from UNO.<br>>Allowance to High<br>>Court or supreme court Judge.<br>> If assessee, opts for Sec 115BAC then he is not eligible to claim exemption for any allowance except-<br>1) Travelling<br>2) Conveyance<br>3) Daily<br>4) Transport (handicapped) [FA'20] | >Children education allowance<br>>Children hostel allowance<br>>Running allowance<br>>Tribal area allowance<br>>Underground allowance |

# SEC 10(13A) HOUSE RENT ALLOWANCE

Exemption is not available if
a) Accommodation is owned by him.
b) If he has not paid the rent for accommodation.

If Assessee opts for 115BAC then HRA exemption not available. HRA will become totally taxable.

Exemption is lower of
i) Actual amount
ii) Rent Paid (-) 10% of salary
iii) 50% of salary in respect of the relevant period, if such accommodation is situated in Mumbai, Calcutta, Delhi or Chennai (40% of salary if it is situated at any other place)

Notes
Salary = Basic + DA(R) + Commission (T).
If there is change in any factor namely Salary, HRA, Period, place of business etc.HRA needs to be calculated separately.

Any Advance Salary shall be excluded for purpose of this calculation.
Exemption is also not available if Rent paid is less than 10 % of Salary.
The basis for calculation is location of accommodation & not of Service.

# SEC 16 DEDUCTIONS

| | | |
|---|---|---|
| Sec.16(i) | Standard Deduction | Lower of<br>1. Rs.50000<br>2. Salary<br>If Assessee opts for Sec 115BAC, Deduction u/s 16 is not available [FA'20]<br>For Salary and Pension [ Not Family Pension] |
| Sec.16(ii) | Entertainment Allowance | Non Govt EE: Not Available<br>Govt EE: Lower of a) Actual b) 20% of Basic Salary c) ₹5000 p.a.<br>> First Add Entertainment allowance in gross salary and then take deduction.<br>> Deduction shall be irrespective of actual expense incurred, Whether for office or for personal purposes. |
| Sec.16(iii) | Professional Tax | Professional tax means tax on employment, profession, trade, etc. levied by a state under article 276 of the Constitution.<br>Deduction = Actual Amount Paid<br>If Employer has paid the amount, 1st Add in salary and then take the deduction. |

# SEC 10(10) GRATUITY

| | | |
|---|---|---|
| Meaning of Salary | Covered in Gratuity Act | Basic +DA |
| | Not Covered in Gratuity Act | Basic salary + D.A. (R) + commission based on fixed % of turnover. |
| | Average Salary | Avg. monthly salary calculated on basis of avg. salary for 10 M immediately preceding month in which employee has retired. For instance if employee retires on Dec, avg. salary will be calculated till November. |
| Received from more than 1 employer | While claiming the statutory deduction of ₹20L any amount earlier claimed as deduction shall be reduced from ₹20L. | |
| Relief U/s 89(1) | Available. | |

- During his Employment → Totally Taxable to all Employee however relief can be claimed u/s 89.
- At the Time of Retirement
  - Government Employees → Fully exempt
  - Non Government Employees
    - Employees covered under The Payment of Gratuity Act, 1972 → Minimum of
      1) Actual received
      2) 15/26 x Last drawn Salary x No. of yrs of completed service / part in excess of 6 M
      3) Maximum ₹20L
    - Employees not covered under The Payment of Gratuity Act, 1972 → Minimum of
      1) Actual received
      2) 1/2 x Avg Salary x No. of yrs of completed service
      3) Maximum ₹20L [Not. 16/2019]
      No difference if seasonal Employee
- After the death of Employee → payment to Widow/legal heir is not taxable

>In case of seasonal employment period of 15 days shall be replaced by 7 days.
>Complete year of service: For calculating complete year of service any period of more than 6 M shall be taken to be full year.

## SEC 10(10A) PENSION

- During his Employment → Totally Taxable to all Employee
- At the Time of Retirement
  - Uncommuted Pension → Taxable to all including Govt EE
  - Commuted Pension
    - Govt EE (Whether gratuity is received or not) → Exempt u/s 10(10A)(i)
    - Non Govt EE
      - Non-Govt EE who have received Gratuity → Section 10(10A)(ii)

| | |
|---|---|
| Actual Amount Recd | XX |
| (-) 1/3rd of Full Value of Pension | (XX) |
| Taxable | XX |

      - Non-Govt EE who have not received gratuity → Section 10(10A)(ii)

| | |
|---|---|
| Actual Amount Recd | XX |
| (-) 1/2 of Full Value of Pension | (XX) |
| Taxable | XX |

- After the death of Employee → Taxable under IFOS

Notes :
Pension received from UNO is not taxable.
Relief u/s 89(1) available for commuted pension.
Full Value of Pension = Amount Received / % of Commutation

## SEC 10(10B) RETRENCHMENT COMPENSATION

- As per Scheme of Central Gov → Nil
- Other

| | |
|---|---|
| Actual Amount Recd | XX |
| (-) Lower of : | (XX) |
| a) Actual received | |
| b) Amount calculated as per Industrial Dispute Act, 1947 | |
| c) Maximum ₹ 5L | |
| Taxable (eligible for relief u/s 89) | XX |

Notes :
> If amount determined as per industrial dispute act is not given:-
15/26 x Avg salary of Last 3M x No of year of completed service /part thereof in excess of 6 M.
However as per Guru Jambeswar Case instead of 15/26 take 15/30.
> Salary for this purpose:- Basic+ DA(R)
> If retrenchment compensation is received in scheme framed by CG then whole retrenchment compensation is Exempt.
> Any compensation in excess of above limit will be taxable as salary.

## SEC 10(10C) VOLUNTARY RETIREMENT

Conditions
(i) 10 years of service or 40 years of age
(ii) For all employees (except directors of the company)
(iii) Overall Reduction in number of employees
(iv) Not to be filled up
(v) No same management

Exemption

| | |
|---|---|
| Actual Amount Recd | XX |
| (-) Lower of : | (XX) |
| a) Actual Amount | |
| b) Rs.500000 | |
| c) Amount higher of | |
| i) Last drawn salary x 3 x No of yrs Completed Service. | |
| ii) Last Drawn Salary x Balance no of M left for service | |
| Taxable | XX |

Notes :
Deduction under this sec is available only once in lifetime.
Salary = Basic + DA (R) + Commission (T).
If assessee claims relief u/s 89(1) for VRC then he cannot claims exemption u/s 10(10C) in that year or any other AY.

## SEC 10(10AA) LEAVE SALARY

- During his Employment → Totally Taxable to all Employee
- At the Time of Retirement
  - Govt EE → Fully Exempt
  - Non Govt EE → Minimum of
    (1) Actual received
    (2) Avg. salary x10 months
    (3) Maximum 3,00,000
    (4) Leave Credit for 30 days
- After the death of Employee → Not Taxable in hands of legal heir

- Employees are entitled to various types of leave while in service. The leave may either be availed by them or in case not availed of, these may either lapse/are allowed to be encashed every year or these are accumulated and encashed after retirement or death.
- Salary Means Basic +DA(R) + C (T).
- Relief u/s 89(1) available.
- How to Find out leave Credit:

a) Find out duration of service without any fraction- 12yrs & 7M=12 yrs
b) Find out leave allowed: (Max allowed as per rule 30 days per yr) if period of leave credited is more than 30 days then take 30 days for calculation & it is less than 30 days then same can be taken.
c) Period of leave earned = ( Leave Credit x Avg Salary ) / 30

## SPECIFIED & NON SPECIFIED EMPLOYEE

If any of the 3 condition is satisfied an employee is treated as specified employee. [17(2)(iii)]
a. Employee + Director
b. Employee + Substantial Interest. S 2(32) An employee holding atleast 20% voting power in a company
c. Income from Salary less salary in kind exceeds ₹ 50,000

If none of the conditions are satisfied then employee is treated as non specified employee.

## RULE 3(1) PERK : VALUATION OF RESIDENTIAL ACCOMMODATION

- Unfurnished
  - Govt EE
  - Non Govt EE
    - Owned
    - Hired
    - Hotel
- Furnished

| | |
|---|---|
| Where accommodation is provided by Union/State Govt to their employees | License Fees xxx<br>Less: Anything Recovered (xxx)<br>Perk xxx |
| Accommodation owned by him. | Population of the city (as per 2001 census) where accommodation is provided,<br>Population — Perk<br>Beyond 25Lakh — 15%<br>Above 10Lakh-25 Lakh — 10%<br>Below 10 Lakh — 7.5%<br>Deduction for any amount paid by the employee:The amount so calculated shall be reduced by rent, if any, actually paid by EE |
| Accommodation is hired /leased | Lower of<br>a) 15% of Salary or<br>b) Actual amount paid.<br>Deduction for any amount paid by EE: The amount so calculated shall be reduced by rent, if any, actually paid by the employee.<br>Salary for such period only: Salary for this purpose should be taken only for the period during which accommodation is occupied by EE |
| Provided in Hotel | Upto 15 days: Nil<br>Beyond 15 days: 24% of salary xxx; Less: Recovered Perk (xxx); xxx |

| Particulars | ₹ |
|---|---|
| Value as Per Unfurnished | xxx |
| Add: Value of Furniture | xxx |
| If Owned:- 10% of actual Cost | Xx |
| Hired:- Actual Hire Charges | Xx |
| Less: Anything Recovered | (xxx) |
| Perk | xxx |

Notes-

1. Salary: Basic+ DA(R)+ Bonus + Commission + All taxable Allowance
2. "Accommodation" incl. house, flat, farm house, hotel accommodation motel,service apartment guest house,caravan, mobile home, ship etc.
3. Where an employee is transferred from one place to another & he is provided with an accommodation at new place also. The value of perquisite shall be taken for only one such house having lower value for period not exceeding 90 days. Thereafter, the values of both.

## RULE 3(2) PERK : VALUATION OF MOTOR/OTHER VEHICLE

| Situation | Use | Tax Treatment |
|---|---|---|
| Car owned & maintained by Employer | Official use | Exempt |
| | Private use | 10% of cost OR Actual hire charges<br>(+) Running & Maintenance exp.<br>(-) Amount recoverable |
| | Partly official partly private | Taxable amount =<br>For/below 1.6 ltr.CC = 1,800 pm<br>Above 1.6 ltr.CC = 2,400 pm<br>(Nothing deductible on account of amount recovered) |
| Car owned by Employer & maintained by Employee | Official use | Exempt |
| | Private use | 10% of cost OR Actual hire charges<br>(-) Amount recoverable |
| | Partly official partly private | Taxable amount =<br>For/below 1.6 ltr.CC = 600 pm<br>Above 1.6 ltr.CC = 900 pm<br>If Chauffer provided = 900pm<br>(Nothing deductible on account of amount recovered) |

| | | |
|---|---|---|
| Car owned & maintained by Employee | Nothing is Taxable | |
| Car owned by Employee & maintained by Employer | Official use | Nil |
| | Private use | Amount of Expenditure |
| | Partly official partly private | Actual Expenditure xxx<br>(-) 1800 pm / 2400 pm (Depending on CC) (xxx)<br>(-) 900 pm if chauffer is provided<br>Taxable xxx |
| Any other automotive owned by Employer | Official use | Nil |
| | Private use | Amount of Expenditure |
| | Partly official partly private | Actual Expenditure<br>Less: Rs. 900 p.m.<br>(Greater deduction can be allowed if as per official records it is established that expense was for official use) |

1. Month denotes completed month. Any part of M shall be ignored
2. Chauffer is added only if provided.
3. When more than 1 car is provided to EE, otherwise than wholly & exclusively for such car than value of perquisite for.
4. 1 car shall be taken as used for partly official & partly for personal

## GIFT FROM EMPLOYER

| | |
|---|---|
| Cost Doesn't Exceed ₹5000 pa | Nil |
| Cost Exceed ₹5000 pa | Alternative 1: Followed BY ICAI & Our Class<br>Amount exceeding ₹5,000 fully taxable<br><br>Alternative 2: ICAI Provides an alternative that if it exceed ₹5000 only excess portion is taxable . |

## PERK : CREDIT CARD FACILITY

| | |
|---|---|
| Official Purpose | Nil |
| Other Purpose | Actual Cost to Employer xxx<br>Less: Recovered (xxx)<br>Perk xxx |

Conditions:
a) Complete details in respect of such expense are maintained by the employer which may, inter-alia, include date & nature of expense; and
b) The employer gives a certificate for such expense to the effect that same was incurred wholly & exclusively for the performance of official duty.

## PERK : CLUB FACILITY

| | | | |
|---|---|---|---|
| Official Purpose | Nil [It should be certified By Employer] | | |
| Given Uniformly to all Employee | Nil | | |
| Corporate Membership for all Employee | Initial Fees | Nil | |
| | Other | Actual Cost | xxx |
| | | Less: Recovered | (xxx) |
| | | Perk | xxx |

## PERK : ESOP

FMV on the date of Exercise [-] Amount Recovered

## APPROVED SUPER ANNUATION FUND

EE's Contribution is eligible for deduction u/s 80C
ER's Contribution
less than ₹ 150,000 - Exempt from Taxable
more than ₹ 150,000 - chargeable to tax to the extent it exceeds
Interest on accumulated balance is exempt from tax
Overall Cap Limit Introducted By Finance Act 20

> The amount or the aggregate of amounts of any contribution made to account of the assessee by the employer—
(a) in a recognised provident fund;
(b) in the scheme referred to in sec 80CCD(1); and
(c) in an approved superannuation fund,
to the extent it exceeds ₹7,50,000 in a PY;

> annual accretion by way of interest, dividend or any other amount of similar nature during the PY to the balance at the credit of fund in any PY computed in such manner as may be prescribed;(refer how to compute Interest ahead )

## PERK : USE OF MOVABLE ASSETS

| | | |
|---|---|---|
| Owned by ER | 10% of actual Cost | xxx |
| | Less: recovered | (xxx) |
| | Perk | xxx |
| Hired by ER | Actual Cost to ER | xxx |
| | Less: recovered | (xxx) |
| | Perk | xxx |
| Comp & Laptop | Nil (official/personal use) | |

## SALE OF MOVABLE ASSETS

| Particulars | Electronics/ computer | Car | Other Assets |
|---|---|---|---|
| Depreciation Rate | 50% | 20% | 10% |
| Depreciation Method | WDV | WDV | SLM |
| Actual Cost | Xxx | Xxx | Xxx |
| Less: Depreciation for each completed year from date of acquisition | (xxx) | (xxx) | (xxx) |
| WDV | Xxx | Xxx | Xxx |
| Less: Sale Value | (xxx) | (xxx) | (xxx) |
| Perk | Xxx | Xxx | Xxx |

## PERK : INTEREST FREE OR CONCESSIONAL LOAN

Loan

| | | |
|---|---|---|
| For Specified Diseases & Loan upto ₹20000 Perk: NIL | Loan Beyond ₹20000 | |
| | =/> than SBI rate as on 1st day of PY. | Nil |
| | Lower than SBI rate as on 1st day of PY. | Maximum Outstanding Monthly Bal (i.e. the aggregate outstanding bal for each loan as on last day of each month after EMI) Less: Recovered |

# MEAL FACILITY

➪ If Assessee opted for 115BAC this benefit is not available.

| Tea & Coffee During Office Hours | Provided in Remote Area or Offshore Installation | Other |
|---|---|---|
| NIL | | Actual Cost to Employer xxx<br>(-) Rs.50 per Meal/day (xxx)<br>Perk xxx |

# PROVIDENT FUND

| Particulars | SPF | RPF | URPF | PPF |
|---|---|---|---|---|
| ~~EE Contri~~ | Deduction u/s 80C | | No deduction u/s 80C | Deduction u/s 80C |
| ER Contri | Exempt from tax | > Exempt up to 12% of salary;<br>> Any excess over is taxable.<br>Salary = Basic+ DA(R) + C(T) | Not treated as income of year in which contribution is made. | NA as there is only EE's contribution. |
| Interest on PF | Exempt from tax | Exempt from tax upto 9.5% p.a.; excess, if any, will be included in the salary. | Not treated as income of year in which interest is credited. | Exempt from tax |
| Re-payment of lump-sum at the time of retirement etc. | Exempt from tax u/s 10(11) | Exempt from tax,subject to fulfillment of certain conditions | Receipts of:<br>> EE's own contri, is exempt.<br>> Interest on EE's contri, is taxable under "other sources".<br>> Any other receipts will be taxable under the head "salaries". | Exempt from tax u/s 10(11) |

Overall Cap Limit Introducted By Finance Act 20

> The amount or the aggregate of amounts of any contribution made to account of the assessee by the employer—
  (a) in a recognised provident fund;
  (b) in the scheme referred to in sec 80CCD(1); and
  (c) in an approved superannuation fund,
  to the extent it exceeds ₹7,50,000 in a PY;
> annual accretion by way of interest, dividend or any other amount of similar nature in any PY computed in such manner as may be prescribed

# PERK : TAXABLE ONLY IN CASE OF SPECIFIED EE

## GAS / ELECRTICITY / WATER FACILITY

Connection in the name of

| Employer - Taxable only to specified EE | | Employee -Taxable to all employee | |
|---|---|---|---|
| Manufacturing cost Per Unit | xxx | Actual Cost to ER | xxx |
| Less: Recovered | (xxx) | Less: Recovered | (xxx) |
| Taxable | xxx | Taxable | xxx |

## EDUCATION FACILITY

| School Maintained by ER | | Education cost Reimbursed |
|---|---|---|
| Cost pm doesn't exceed 1000pm | Nil | Cost to ER (-) Recovered |
| Cost exceed 1000pm | Cost in similar school (-) Recovered | |

## TRAVEL FACILITY

| Cases | Tax | |
|---|---|---|
| If employer is engaged in transportation business. | Rail/Air | NIL |
| | Other | Amount charged from public for such facility is taxable in the hands of specified employee (-) Recovered. |
| In any other case | Actual cost of employer for such facility is taxable in the hands of all employees (-) Recovered. | |

Leave travel concession 10(5) not available if opted for 115BAC

MEDICAL FACILITY

The perquisite in respect of medical facility is generally taxable only in case of 'specified employees'. Where however, bills are issued in the name of the employee & the employer makes payment thereof, then it is a perquisite taxable in the hands of all employees

| | | |
|---|---|---|
| In India | Exempt | 1) Treatment in Hospital Maintained by Employer<br>2) Government Hospital<br>3) Approved Hospital<br>4) Any health Insurance/ Group Insurance |
| | Taxable | Reimbursement in Private Hospital is Fully Taxable |
| Outside India | Medical Treatment | Exempt upto an amount specified by RBI |
| | Stay Abroad | Exempt upto an amount specified by RBI |
| | Travel | Gross total Income upto 2L Nil<br>Gross total Income beyond 2L Total taxable |

## FULLY EXEMPTED PERKS

The following are not included for TDS u/s 192 -

- Tea or snacks provided during working hours.
- Free meals provided during working hours in a remote area or an offshore installation.
- Perquisites allowed outside India by Govt to citizen of India for rendering service outside India.
- Employer's contribution to staff group insurance scheme.
- Free educational facility provided in an institute owned/maintained by employer to children of ee provided cost/value doesn't exceed ₹1,000 pm per child (no limit on no. of children).
- Interest-free/concessional loan of an amount not exceeding ₹20,000.
- Comp/laptop given (not transferred) to EE for official/personal use.
- Transfer without consideration to an employee of a movable asset (other than computer, electronic items or car) by employer after using it for a period of 10 years or more.
- Traveling facility to employees of railways or airlines.
- Rent-free official residence & Conveyance to a HC/SC Judge.
- Conveyance facility provided to an EE between office & residence.
- Accommodation provided on transfer of an employee in a hotel for not exceeding 15 days in aggregate.
- Interest free loan for medical treatment of nature given in Rule 3A
- Periodicals and journals required for discharge of work.

## Any annual accretion of interest dividend In Fund

Any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the recognized provident fund or NPS or approved superannuation fund to the extent it relates to the employer's contribution which is included in total income in any previous year under section 17(2)(vii) computed in prescribed manner [Section 17(2)(viia)]. In other words, interest, dividend or any other amount of similar nature on the amount which is included in total income under section 17(2)(vii) would also be treated as a perquisite.

The CBDT has, vide Rule 3B, notified the following manner to compute the annual accretion by way of interest, dividend or any other amount of similar nature during the previous year-

$$TP = (PC/2)*R + (PC1 + TP1)*R$$

Where,

| | |
|---|---|
| TP | Taxable perquisite under section 17(2) (viia) for the current previous year |
| PC | Amount or aggregate of amounts of employers's contribution in excess of ₹ 7.5 lakh to recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund during the previous year |
| PC1 | Amount or aggregate of amounts of employers contribution in excess of ₹ 7.5 lakh is recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund for the previous year or years commencing on or after 1st April, 2020 other than the current previous year |
| TP1 | Aggregate of taxable perquisite under section 17(2) (viia) for the previous year or years commencing on or after 1st April, 2020 other than the current. |
| R | I/ Favg |
| I | Amount or aggregate of amounts of income accured during the current previous year in recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund. |
| Favg | (Amount or aggregate of amounts of balance to the credit of recognised provident fund, national pension scheme u/s 80CCD and approved superannuation fund on 1st April, 2021 + Amount or aggregate of amounts of balance to the credit of recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund on 31st March. |

Where the amount of aggregate of amount of TP1 and PC1 exceeds the amount or aggregate of amounts of balance to the credit of the specified fund or scheme on 1st April, 2021, then the amount in excess of the amount or aggregate of amounts of the said balance shall be ignored for the purpose of computing the amount or aggregate of amounts of TP1 and PC1.

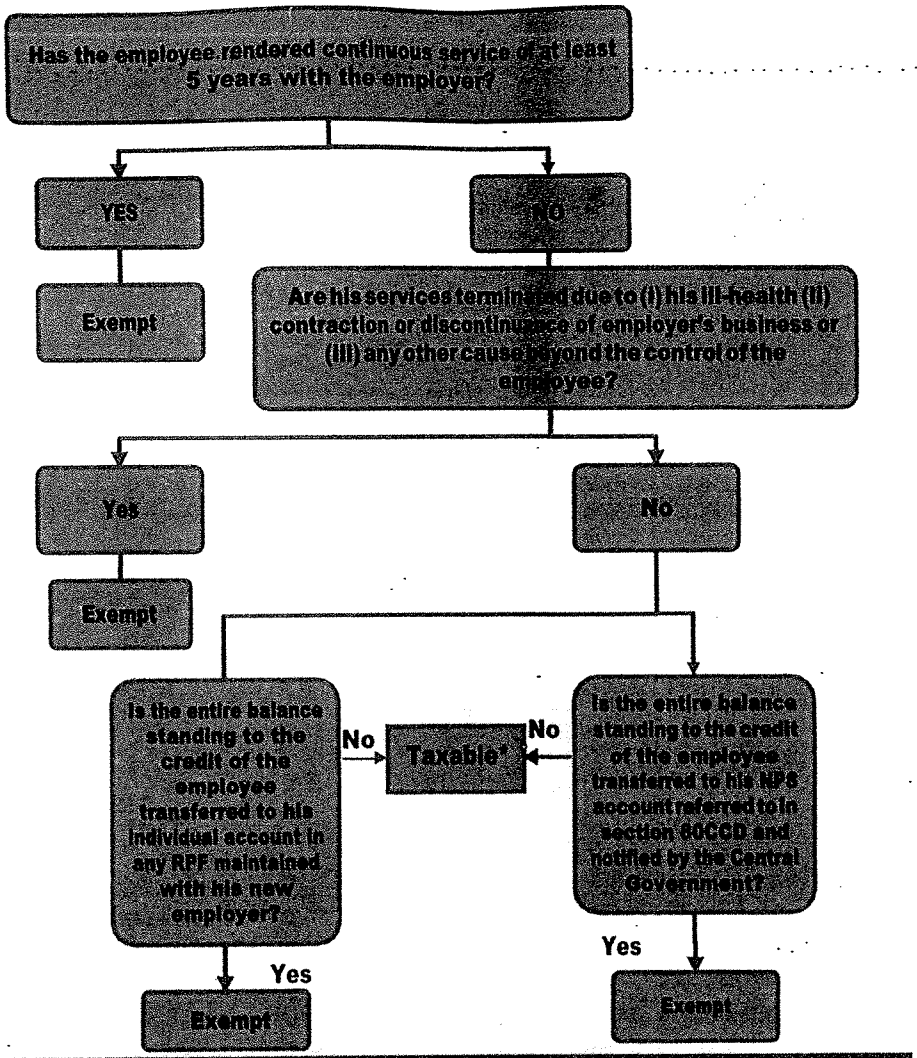
## LIMIT ON INTEREST CREDITED ON CONTRIBUTION BY SUCH EMPLOYEE

As per section 10(11), any payment from a Provident fund (PF) to which Provident Fund Act, 1925, applies or from Public Provident Fund would be exempt.

Accumalated balance due and becoming payable to an employee participating in a Recognized Provident Fund (RPF) would be exempt under section 10(12).

However, the exemption under section 10(11) or 10)(12) would not be available in respect of income by way of interest accured during the previous year to the extent it relates to the amount or the aggregate of amounts of contribution made by that persons/employee exceeding ₹ 2,50,000 in any previous year in that fund, on or after 1st April, 2021.
If the contribution by such person/ employee is in a fund in which there is no employer's contribution, then a higher limit of ₹ 5,00,000 would be applicable for such contribution, and interest accured in any previous year in that fund, on or after 1st April, 2021 would be exempt upto that limit.

It may be noted that interest accured on contribution to such funds upto 31st March 2021 would be exempt without any limit, even if the accural of income is after that date.




## IMPACT OF SEC 115BAC UNDER SALARIES

1) Individuals and HUFs can opt for section 115BAC
2) The deduction u/c VI-A not available other than sec 80CCD(2)/ 80JJAA;
3) The below chart contains the exemptions and deduction not available under the Head Salary.

| Nature of Exemption/Deduction Relating to Head Salaries | New System | Existing system |
|---|---|---|
| RETIREMENT BENEFITS EXEMPTIONS | | |
| Leave Salary u/s 10(10aa) | ✓ | ✓ |
| Gratuity u/s 10(10) | ✓ | ✓ |
| Commutation of Pension u/s 10(10a) | ✓ | ✓ |
| Retrenchment Compensation u/s 10(10B) | ✓ | ✓ |
| VRS Compensation u/s 10(10C) | ✓ | ✓ |
| Leave travel Concession u/s 10(5) | X | ✓ |
| ALLOWANCES | | |
| Exemption u/s 10(13A) & rule 2A from HRA | X | ✓ |
| Exemption u/s 10(14)(i) and Rule 2BB | | |
| Travelling allowance | ✓ | ✓ |
| Conveyance allowance | ✓ | ✓ |
| Daily allowance | ✓ | ✓ |
| Helper allowance | X | ✓ |
| Any allowance granted for encouraging the academic, research & training pursuits in edu. & research inst. | X | ✓ |
| Uniform allowance | X | ✓ |
| Exemption u/s 10(14)(ii) & Rule 2BB | | |
| Children education allowance | X | ✓ |
| Hostel expenditure allowance | X | ✓ |
| Tribal area allowance | X | ✓ |
| Transport allowance to Handicapped/deaf/dumb/Blind employee | ✓ | ✓ |
| Transport allowance to other than above employees | X | X |
| PERQUISITES | | |
| Free food and beverage through vouchers provided to the employee upto 50/meal/tea & snacks | X | ✓ |
| Other exemptions from perquisites e.g. use of Computers, laptops etc | ✓ | ✓ |
| Dedductions u/s 16 | X | ✓ |
| Standard deduction u/s 16(ia) | X | ✓ |
| Entertainment allowance u/s 16(ii) | X | ✓ |
| Professional tax u/s 16(iii) | X | ✓ |

# INCOME FROM OTHER SOURCES


| Sec | Particulars | Pg No |
|---|---|---|
| 56 | Basics | 6.2 |
| | Advance Money Forefeited | 6.2 |
| | Interest on Compensation & Enhance Compensation | 6.2 |
| 56(2)(x) | Taxation of Gifts | 6.2 |
| | Property Meaning | 6.3 |
| | Relative Meaning | 6.3 |
| | Notification 96/2019 | 6.3 |
| | Casual Income | 6.3 |
| | Taxation of Dividend & Deemed Dividend | 6.3 |
| 8 | Dividend Income | 6.4 |
| | Taxability of Dividend in the hand of Shareholder | 6.4 |
| | Deemed Dividend | 6.5 |
| | Liability of Company | 6.5 |
| 194 | Taxation of Dividend in case of resident | 6.5 |
| 195 | Taxation in case of NR | 6.6 |
| 115BBD | Dividend received by Indian Co from foreign co | 6.6 |
| | Shares issued at premium | 6.6 |
| | Family pension | 6.6 |
| | Deduction allowed u/s 57 | 6.6 |
| | Deductions not allowed u/s 58 | 6.6 |


## IMPORTANT AMENDMENTS/ NOTIFICATIONS/CIRCULARS


| Sr No. | Particulars | Pg No |
|---|---|---|
| 1 | Gift received from following is exempt | 6.2 |
| 2 | Property Meaning | 6.3 |
| 3 | Taxation of Dividend & Deemed Dividend | 6.3 |
| 4 | Sec 115BBD Dividend recieved by Indian Co. | 6.4 |
| 5 | Deduction allowed u/s 57 | 6.6 |


"The best fighter is never angry"

# SEC 56

SEC 56(1):

Income of every kind which is not exempt & chargeable to tax under any any of the other head, shall be chargeable under Income from Other Sources.

**Sec.56[2]:**

1. Casual income.
2. Interest on compensation & enhance compensation.
3. Income from subletting of HP.
4. Rent from a vacant plot.
5. Composite Rent Non-separable.
6. Advance money forfeited.
7. Director sitting fees.
8. Agriculture Income from foreign.
9. Dividend
10. Gift
11. Sum received under keyman Insurance policy including sum by way of Bonus.
12. family Pension
13. Interest on Loan/ securities.
14. Income of MP,MLA.
15. Interest on income tax refund Income tax refund is not an Income
16. Royalty
17. Any compensation or other payment received by any person in connection with the termination of his employment or the modification of the terms and conditions relating thereto.
18. Income from Undisclosed Sources.
19. Income from Letting of P&M & Furniture
20. Issue of share @ premium.

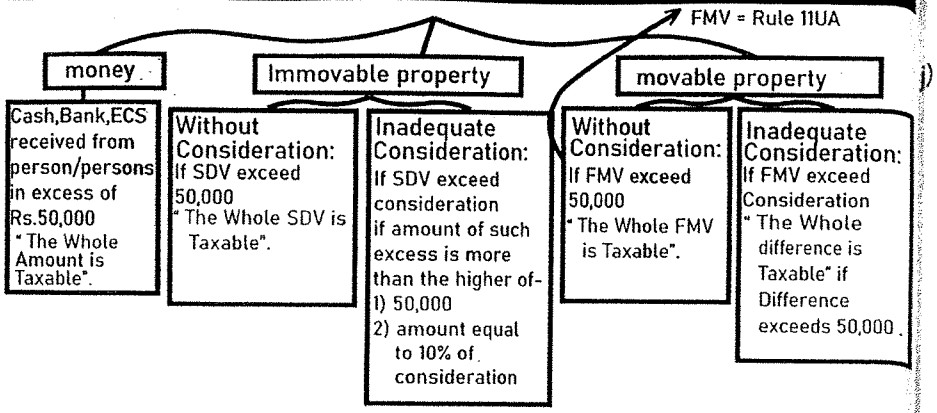
# ADVANCE MONEY FORFEITED

Forfeited on or after 01.04.2014 is taxable under IFOS

## INTEREST ON COMPENSATION & ENHANCE COMPENSATION

Such interest is taxable in IFOS in the year of receipt & 50% of such interest is allowed as deduction (Sec 57), irrespective of the year to which it pertains.

# SEC 56(2)(x) TAXATION OF GIFTS




* Instead of 10 % we will take 20% if conditions mentioned in Sec 43CA are Satisfied( FA 21 )
* Gift by Resident to NR made outside India shall deemed to accrue or arise in India
* Board shall prescribe transactions undertaken by class of Person to which Sec 56(2)(10) & 50CA shall not be applicable w.r.t determination of FMV on unlisted shares

Sec 56(2)(x) applicable only if property is a Capital Asset of recipient, if it is Stock in trade then this sec is not applicable (CBDT Circular)

GIFT RECEIVED FROM FOLLOWING IS EXEMPT:

a) Gift from any relative
b) On the occasion of the marriage of the individual
c) Under a will or by way of inheritance or in contemplation of Death
d) From any local authority,University, Educational Institute u/s 10[23]
e) By any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sec 10(23C)(iv)/(v)/(vi)/(via); or If sum or property is received by any person referred u/s 13(3) from any Fund registered u/s 10(23C)or trust registered u/s 12AA/12AB then such sum shall be Taxable.[FA,2022]
f) By way of transactions not regarded as transfer under clause (i) or (iv)/(v)/(vi)/(via)/(viaa)/(vib)/(vic)/(vica)/(vicb)/(vid)/(vii)/(viiac)/(viiad)/(viiae)/(viiaf) of sec 47 [FA 2022]
g) Given by Individual to trust for benefit of Relative.
h) Such class of person & subject to such condition as may be prescribed.

) Received by an Individual, from any person, for medical treatment or treatment of any member of his family, for any illness related to COVID-19 subject to such conditions, as CG may Notify.(During FY 19-20 or onwards)
) Received By a member of the family of a deceased person
(A) from the employer of the deceased person; or
(B) from any other person or persons to the extent that such sum or aggregate of such sums does not exceed 10 lakh rupees,
Where the cause of death of such person is illness related to COVID-19 and the payment is
(i) Received within 12 months from the date of death of such person; and
(ii) Subject to such other conditions, CG may notify.
"Family"(For clause 12 & 13) , in relation to an individual means
(i)The spouse and children of the individual ; and
(ii)The parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.[FA,2022]

## PROPERTY MEANING

i) Immovable property being land or building or both;
ii) Shares and securities
iii) Jewellery & Bullion
iv) Archaeological collections
v) Drawing
vi) Paintings
vii) Any work of art
viii) Sculptures
ix) Virtual Digital Assets[FA 2022]

## RELATIVE MEANING

- Spouse of the Individual
- Brother/Sister of the Individual/Spouse of the Individual
- Brother/Sister of either of the Parents of the Individual
- any lineal ascendant/descendant of the Individual
- any lineal ascendant/descendant of the Spouse of the Individual
- Spouse of the person referred to in clause (ii) to (vi)
- In case of HUF - any member

## NOTIFICATION 96/2019

ec 56(2)(x) is not applicable if immovable property is received by resident of unauthorised colony in national capital territory of elhi, when CG by notification regularize such transaction which are ased on latest power of attorney, agreement to sell, will / possession tter & other document evidencing payment for the right of ownership r transfer or mortgage in regards to such property.

Stamp Duty Value as on the date of agreement can be considered if full / part consideration is received by account payee cheque / draft / ECS / other mode as may be prescribed (Refer CG)

## CASUAL INCOME

Income by way of
Lottery
Horse races
Betting
Card Game
Crossword puzzle
Games of any sort

Notes:
1. Sec.58(4),no deduction is allowed from such Income
2. U/s 115BB it is taxable @ 30%
3. Deduction u/s 80C-80U is not available
4. Generally casual Income is Received after TDS [Net of TDS ) Hence we need to Gross up.
grossing up = Amount received / 100 -TDS Rate
> If Problem gives Net amount gross it
5. Lottery held as stock in trade taxable in PGBP.
> If nothing is given assume it is Gross up

## TAXATION OF DIVIDEND & DEEMED DIVIDEND

From the year 2003 Dividend paid by Company and Mutual Fund was subject to DDT and hence it was exempt in the hands of Shareholder. This was made because it was easier to collect the tax at the single point however with the advent of technology & tracking system the justification of current system of Taxation has outlived itself.
Company used to pay DDT u/s 1150 [Discussed here] & mutual Fund were liable to Deduct u/s 115R
The FA 2020 has abolished the DDT and has moved to the Traditional System of Taxability of Dividend.

COMPANY'S LIABILITY

| Sec | Provisions before 1.4.2020 | Provisions after 1.4.2020 |
|---|---|---|
| 115-O | Company is Liable to DDT on dividend declared & Paid. | Company is not liable to DDT |
| 194 | Company is not liable to Deduct TDS on dividend paid u/s 115-O | Company would be liable to deduct TDS |
| 80M | Was not in existence. | Inter corporate Dividend allowed as Deduction.[Refer section] |

## SHAREHOLDER'S LIABILITY

| Sec | Provisions before 1.4.2020 | Provisions after 1.4.2020 |
|---|---|---|
| - | Shareholder was not liable to Tax till ₹10L | Now shareholder is liable to tax on dividend from single Rupee. |
| - | The Tax rate beyond ₹10L was 10% | Now dividend is treated as normal income and liable to Tax as per slab rate. |
| 57 | No deduction is allowed from dividend income | Deduction is allowed from dividend Income maximum upto 20% of Dividend Income. |
| 10[34] | Dividend income is exempt upto ₹10L | Now this exemption is not available. |

# SEC 8 DIVIDEND INCOME

1) Interim Dividend shall deemed to be income of PY in which such dividend is made available by company to member
2) Dividend includes deemed dividend u/s 2(22)(a) to (e).

# TAXABILITY OF DIVIDEND IN THE HANDS OF SHAREHOLDER

1) From 01.04.20, dividend income is taxable in the hands of shareholder

### 2) The PY in which dividend is taxable :

| Type of Dividend | PY in which it is taxable |
|---|---|
| Interim Dividend | Taxable in the year in which it is received |
| Final Dividend | Taxable in the year in which it is declared at AGM |
| Deemed Dividend Sec 2(22)(a) - (e) | Taxable in the year in which it is distributed or paid |

### 3) Surcharge on Dividend

For Individual & HUF - The surcharge on dividends & capital gains u/s 111A / 112A shall not exceed 15%

a) Upto 50lakhs — No surcharge
b) Exceeds 50L upto 1cr. — 10%
c) Exceeds 1cr upto 2cr — 15%
d) Beyond 2cr. — 15% only

### 4) Allowability of Expenses from Dividend Income

1) Sec 57 provides that while computing the dividend income, interest expense is allowed lower of
   a) Actual interest
   b) 20% of dividend income before such deduction
2) No expenses except above shall be allowed as deduction

### 5) When Dividend is received by NR & Foreign Company

1) Dividend income is taxable (as per Sec 115A the tax rates will be 20%)
2) The Payer Company shall deduct the TDS u/s 195 @ 20%

### 6) When Dividend is received by Company

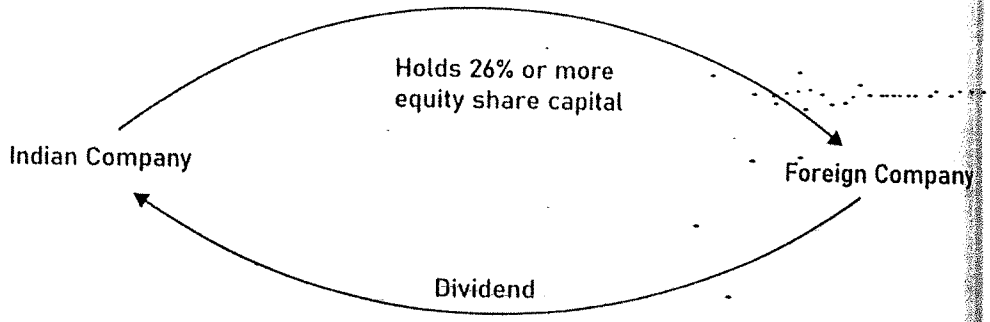
Company also invest in the shares of another company & it also receives dividend which is taxable to the Company at the same time also pays the dividend & therefore, FA'20 has inserted a new section 80M for deduction in respect of inter-corporate dividends

### 7) Sec 115BBD Dividend received by Indian Company from Foreign Company

Dividend received by Indian Company from Foreign Company where Indian Company holds 26% or more equity share capital of a Foreign Company & such foreign company pays dividend, then such dividend is taxable in the hands of Indian Company ( + Surcharge if total income is >1cr. of Indian Company + HEC @ 4%)

Note : No other expense shall be allowed against dividend, means Gross Dividend is taxable in the hands of Indian Company @ 15%

The provisions of this section shall not apply to any assesment year beginning on or after the 1st day of April 2023." (FA 22)



# LIABILITY OF COMPANY

The Payer Company now not liable to deduct Tax u/s 115-O
The Payer Company is liable to deduct TDS u/s 194 in case of Resident whereas Sec 195 in case of Non Resident

# SEC 194 TAXATION OF DIVIDEND IN CASE OF RESIDENT

| | |
|---|---|
| Payer [Deductor] | Principal officer of any Indian Co / a company which has made prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India |
| Payee[Deductee] | Shareholder being Resident |
| Limit | If dividend does not exceed ₹5,000 |
| Rate | 10% [FA'20] |
| Time of Deduction | Before making any payment by any mode [FA'20] in respect of any dividend or before making any distribution or payment |
| Special points | This section shall not apply to such income credited or paid to-<br>a) the LIC of India<br>b) the GIC of India<br>c) any other insurer in respect of any shares owned by it or in which it has full beneficial interest. |

# DEEMED DIVIDEND

| Sec | Particulars | Relevant point |
|---|---|---|
| 2(22)(a) | Any distribution by a company, to the extent of accumulated profits (capitalised or not),resulting release of its assets to its shareholders<br>#Issue of bonus shares is not deemed dividend.<br># When assets are distributed, FMV of asset as on date of distribution has to be taken. | Amount of dividend = FMV of assets as on the date of distribution has to be taken for calculation of dividend |
| 2(22)(b) | Any distribution to its shareholders by a Co<br>› of debentures/debenture-stock/deposit certificates,<br>› of bonus to its preference shareholders,<br>› to the extent of accumulated profits (capitalised or not). | If bonus shares are issued to equity shareholders, it does not amount to distribution of dividend. |
| 2(22)(c) | Any distribution to the shareholders of a Co on its liquidation, to the extent of its accumulated profits (capitalised or not). | In such case, there will be no CG in the hands of the CO u/s 46(1), however, the shareholder will be subject to CG. |
| 2(22)(d) | Any distribution to its shareholders by a Co. on the reduction of its capital, to the extent of accumulated profits (capitalised or not). | |
| 2(22)(e) | Loans & Advances by Closely Held Company:<br>1. Loan & Advances by Private Co[closely held co] is treated as Deemed Dividend to the extent of accumulated profit<br>2. Accumulated profit means profit as per companies Act<br>3. Substantial Interest in case of companies shall be 10% of voting rate in case of other concern it shall be 20% of profit or voting right<br>4. Tarulata Shyam v. CIT (SC): Section is applicable at the time when loan is given hence even if loan is repaid during the year then also sec applies.<br>5. It is not applicable in case of trade advances.[Cir 19/2017]<br>6. Accumulated profits means all profit which is available for distribution or payment of dividend & u/s 2[22][c] all profits up to date of liquidation.<br>7.In case of an amalgamated company. Accumulated profits, whether capitalized /not/loss as the case may be shall be increased by accumulated profits whether capitalized/not of amalgamating company on date of amalgamation.<br>Dividend Does not Include:<br>a) Loan, Advances given in the ordinary course of Business.<br>b) buy back of shares<br>c) Any Dividend which is set-off by company against loan which has been deemed as dividend u/s 2[22][e]<br>d) share alloted to shareholder of demerged company by resulting Co. [under the scheme of demerger]<br>e) Any distribution made u/s 2[22][c]/2[22][d] in respect of preference share | |

## SEC 195 TAXATION IN CASE OF NR

TDS shall be deducted @ 20% + 4% HEC.

## SEC 115BBD DIVIDEND RECEIVED BY INDIAN COMPANY FROM FOREIGN COMPANY

Dividend received by Indian Company from Foreign Company where Indian Company holds 26% or more equity share capital of a Foreign Company & such foreign company pays dividend, then such dividend is taxable in the hands of Indian Company ( + Surcharge if total income is > 1cr. of Indian Company + HEC @ 4%)
Dividend does not include 2(22)(E)-Tax rate @ 30%
Note : No other expense shall be allowed against dividend, means Gross Dividend is taxable in the hands of Indian Company @ 15%.
Provisions of this section not applicable now.

## SHARE ISSUED AT PREMIUM

If a closely held company [Private Co.] issued to share to a resident shareholder on premium then consideration (-) FMV = IFOS

Exception :
1) Premium received by Venture Capital Undertaking &
2) Person specified by Central Govt (as of now Cat I AIF is specified)
3) Issue of Share at Premium by Category II AIF shall be exempt
4) Startup if prescribe conditions are satisfied.

FMV shall be higher of
1) As determined according to prescribe method
2) As specified by company to the satisfaction of AO based on its value of assets on the date of issue of shares

For Computation of FMV the value assets include value if intangible assets

## FAMILY PENSION

| Normal | | Deceased was recipient of gallantry award | Deceased was working in armed forces |
|---|---|---|---|
| Actual rcvd | xx | | |
| [-] Lower of 1/3rd of pension 15000p.a. | | Exempt u/s 10[18] | Exempt u/s 10[19] |
| | (xx) | → IF opted for Sec 115(BAC) than this benefit is not available | |
| Taxable | xx | | |

Pension received to family member of Deceased.

## DEDUCTION ALLOWED U/S 57

1. Expenditure for realising dividend or interest from UTI/MF only Interest exp allowed & that too 20% of such dividend / income from UTI / MF
2. Employees' contribution towards relevant fund(s) before the due date As per that Act [Sec. 57(IA)]
3. Repair, depreciation, insurance of plant, machinery, furniture, building [Sec. 57(li)]
4. Standard deduction in case of family pension lower of 1/3rd of Pension Or Rs.15000p.a.
5. Other deductions incurred for business is allowed as deduction. Sec57(iii)
6. 50% of the amount of interest on compensation or enhanced compensation

## DEDUCTION NOT ALLOWED U/S 58

a) Any personal expenses of the assessee.
b) Any interest or salary payable outside India on which tax has not been paid or deducted.
c) Any sum paid on account of Wealth-Tax
d) The provisions of section 40A shall apply mutatis-mutandis
e)Expenditure related to casual Income
f) 30% of the amount of payment made without TDS to Resident u/s 40(a)(ia).
g)Cash expense exceeding ₹10,000 - Sec 40A(3) shall apply.

# CAPITAL GAINS

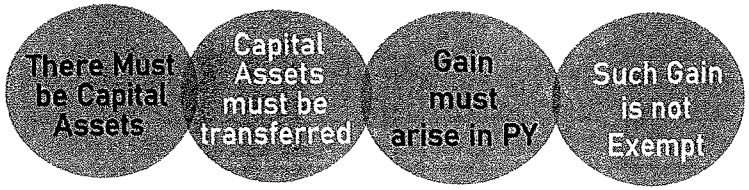

| Sec | Particulars | Pg No | Sec | Particulars | Pg No |
|---|---|---|---|---|---|
| 45(1) | Chargeability | 7.2 | | Notification 60/2018 Exception to STT payment | 7.7 |
| 2(14) | Capital Assets | 7.2 | | Press Note Dt 20/09/2019 | 7.8 |
| | Financial Assets | 7.2 | | Unutilised Deposit under CGAS in the hands of legal heirs | 7.8 |
| | Types of Capital Assets | 7.2 | | | |
| | Period of Holding Assets | 7.2 | | Circular No 667 | 7.8 |
| | Transfer of Capital Assets | 7.2 | 51 | Forfeiture of advance received | 7.11 |
| Sec 48 | Computation of capital gain | 7.3 | | Exception to Sec 45 | 7.11 |
| | Full Value of Consideration | 7.3 | 45(1A) | Insurance Compensation | 7.11 |
| 50C | Full value of consideration of Land & Building | 7.3 | 45(2) | Conversion of CA into S-I-T | 7.11 |
| 50CA | Unlisted Share | 7.3 | 45(1B) | ULIP Receipts | 7.12 |
| | Expense of Transfer | 7.4 | 45(5) | Compulsory Acquistion | 7.12 |
| 55(2) | Cost of Acquistion | 7.4 | 45(5A) | Registered Developer Agreement | 7.12 |
| | COA & COI of Intangibles | 7.4 | 50(B) | SLUMP Sale | 7.13 |
| 49 | Cost of Acquisition in various cases | 7.4 | | | |
| 55(I)(B) | Cost of Improvement | 7.5 | 46 | Capital Gain on Liquidation | 7.13 |
| 2nd prov | ICOA & ICOI | 7.5 | 47 | Transaction not regarded as transfer | 7.13 |
| 1st prov | Benefit of Indexation not available to | 7.6 | 111A | Tax on STCG in certain cases | 7.14 |
| 3rd prov | Capital Gain in case of Non resident | 7.6 | 112 | Tax on Long term Capital gain | 7.15 |
| 4th prov | LTCG in case Equity shares | 7.6 | | Case Laws | 7.15 |
| 5th prov | Foreign Exchange Fluctuation | 7.6 | | | |
| 6th prov | Deemed Consideration | 7.6 | | | |
| 10 | Exempt Capital gain | 7.7 | | | |
| 112A | Tax on Long Term Capital Gain | 7.7 | | | |


## IMPORTANT AMENDMENTS/NOTIFICATIONS/CIRCULARS


| Sr No. | Particulars | Pg No |
|---|---|---|
| 1 | Cost Inflation Index | 7.5 |
| 2 | Sec 54 Exemption | 7.9 |


"You have to be ODD to be NUMBER ONE"

## SEC 45(1) CHARGEABILITY




## SEC 2(14) CAPITAL ASSETS

Capital asset means property of any kind connected to Business or not connected to Business, Movable or immovable, Tangible or Intangible and

**Sec 2(14)**

a) Any right in or in relation to an Indian company, including rights of management or control or any others right whatsoever [Vodafone Case]
b) Securities held by Foreign Institutional Investor (whether as Investment /Stock in trade)
c) Any ULIP issued on or after 1st Feb 2021 and premium for single policy exceed 25000 pa or Premium for multiple policy exceed 250000 pa.
[ Note: ULIP is issued on or after 1.2.2021 are not being made applicable at intermediate level.]

**Exclude**

a) Stock in Trade(other than Security held by FII)
b) Personal Effects
c) Rural Agricultural Land in India
d) Specified Bonds

**Land and Building are separate asset for the purpose of CG (C.R. Subramniam)**

Personal effects Means Movable Property but Excludes (JADPAS)
1) Jewelery 2) Archaeological Collections 3) Drawing
4) Paintings 5) Sculptures 6) Any work of art
7) Any immovable property

## FINANCIAL ASSETS

Financial Assets Include :
a) Equity/Preference Shares (Listed)
b) Securities Debentures & Govt. Securities - Listed
c) Units of UTI (Quoted or not quoted)
d) Zero Coupon Bonds
e) Unit of mutual fund Sec. 10(23D) (Quoted or not quoted)

## TYPES OF CAPITAL ASSETS

| | | | |
|---|---|---|---|
| Long Term | Financial Assets | Held for More than 12 M | Depends upon POHA |
| | Special Assets | Held for More than 24 M | |
| | Others | Held for More than 36 M | |
| Short Term | Financial Assets | Held for Less than 12 M | |
| | Special Assets | Held for Less than 24 M | |
| | Others | Held for Less than 36 M | |

## PERIOD OF HOLDING OF ASSETS

| Purchased | Gift/Will/Inheritance/ Amalgamation/ Demerger | When Business Assets is converted into CA |
|---|---|---|
| From Date of Acquisition to Date of Transfer | Holding Period of Assessee + Holding Period of Previous Owner. | POHA shall be counted from the date of Conversion. |

## SEC 2(47) TRANSFER OF CAPITAL ASSETS

a) The sale, exchange / relinquishment of the asset.
b) The extinguishment of any rights therein
c) The compulsory acquisition
d) Conversion of asset into stock-in-trade
e) The maturity or redemption of a zero coupon bond
f) Any transaction in part performance of a contract of immovable property u/s 53A of TOPA, 1882
g) Any transaction of becoming a member of a society or company etc. having house building scheme for its members.

## SEC 48 COMPUTATION OF CAPITAL GAIN

| Short term Capital Gains | | Long term Capital Gains | |
|---|---|---|---|
| Full Value of Consideration | xxx | Full Value of Consideration | xxx |
| Less: Exp on Transfer | (xxx) | Less: Exp on Transfer | (xxx) |
| Net Consideration | xxx | Net Consideration | xxx |
| Less: Cost of Acquisition | (xxx) | Less: Indexed Cost of Acquisition | (xxx) |
| Less: Cost of Improvement | (xxx) | Less: Indexed Cost of Improvement | (xxx) |
| STCG | Xxx | LTCG | Xxx |
| Less: Exemption u/s 54B/ D/G/GA | (xxx) | Less: Exempt U/s 54 to 54GB | (xxx) |
| STCG | Xxx | LTCG | Xxx |

## FULL VALUE OF CONSIDERATION

Full value of consideration is amount of consideration received or receivable by transferor without making any deduction there from.

If in Cash - Take Actual Amount

If in Kind - As per Sec 50 D take FMV wherever Consideration is not ascertainable or cannot be determined.

## SEC 50C FULL VALUE OF CONSIDERATION OF LAND & BUILDING

If Value adopted by Stamp Value Authority exceed 110%[FA'20] of consideration received or accruing ,then only Stamp Value is adopted as FVC otherwise consideration so received shall be FVC.
Transaction which are not registered with Stamp Duty Authority & executed through Agreement to sell or power of attorney are also included in Sec 50C.

| | | |
|---|---|---|
| Different Situation in reference to VO | Value by VO is higher than SVA | C= SVA |
| | Value by VO is lower than SVA but more than Assessee | C= VO Value |
| | Value by VO is lower than value by Assessee | C = Assessee Value |

Generally, SDV as on the date of registration is considered but, if the date of agreement and registration are not the same, then, Assessee can take SDV as on the date of agreement if he has received consideration or part thereof upto the date of agreement by way of A/c payee cheque, DD, ECS or any other electronic mode.

Not. 8/2020 - Other electronic mode includes Credit card, Debit card, net banking, IMPS, UPI, RTGS, NEFT & BHIM.

Aforesaid notification is also applicable for sec 13A,35AD, 40A,43,43CA,44AD,56,80JJAA,269SS,269ST,269T.

## SEC 50CA UNLISTED SHARES

FMV shall be deemed to be the full value of consideration if consideration is less then FMV (Determine as per Rule 11UAA)

Sec applies to all Assessee including NR.

Sec applies only if the shares are held as Capital Asset not stock in trade.

Sec applies to all kinds of shares - equity / preference. However, it does not apply to Debentures.

Provided that the provisions of this section shall not apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions as may be prescribed. [FA'20]

Prescribed class of persons : The provision of Sec 50CA shall not apply to transfer of unquoted shares of a company & its subsidiary & subsidiary of such subsidiary by an Assessee where

1) The Tribunal on application moved by CG u/s 241 of Companies Act'13, has suspended the board of directors of such company & has appointed new directors nominated by CG u/s 242 of the said Act; &
2) share of such company & its subsidiary & subsidiary of such subsidiary have been transferred pursuant to a resolution approved by Tribunal u/s 242 of Companies Act'13 after according OOBH to the jurisdictional PC / CIT.

## EXPENSES OF TRANSFER

a) Expenses on transfer is allowed as deduction (not exp on acquisition because it is added to cost)
   Given in Cash : Take Actual Amount
   Given in % : Take % of Sale Consideration not of FVOC
b) Expenses on transfer include brokerage & other legal expenses for sale of Such assets
c) Expenses on transfer does not Include STT, Hence STT is not allowed as Deduction [7th Proviso to Sec 48]

## SEC 55(2) COST OF ACQUISITION

Cost of acquisition is value which assessee has paid, or amount which he has incurred, for acquisition of asset. It includes amount for completing /acquiring title (Interest on Borrowed capital)

## COA & COI OF INTANGIBLES

1) Goodwill of business / profession
2) Right to manufacture, produce article or thing,
3) Right to carry on any business,
4) Trademark / brand name of business,
5) Tenancy rights,
6) Route permits,
7) Loom hours.

Self-Generated = Nil
Purchased = Purchase price

1) Benefit of FMV as on 01/04/2001 NOT available in case of these assets
2) No CG on Goodwill of Profession as per B.C Shrinivasa Shetty (SC)

## SEC 49 COST OF ACQUISITION

| | | |
|---|---|---|
| Sec 49(1) | i) Distribution of assets on total / partial partition of HUF<br>ii) Gift or will or inheritance<br>iii) Succession, inheritance or devolution<br>iv) Distribution of assets on liquidation of co.<br>v) Transfer to revocable/irrevocable trust | Cost to the Previous Owner |
| Sec 49 | Assets Acquired before 01.04.2001 | Cost of acquisition / FMV as on 01.04.2001 whichever is higher |
| Shares | Original Shares | Amount paid for acquiring these shares. |
| | Right shares subscribed by the assessee | Amount paid by him for acquiring such asset. |
| | Right shares subscribed by the other person | Purchase price paid to person renouncing such right + amount paid to co. allotting such shares |
| | Right renouncement: if rights are renounced in favor of other person | Nil |
| | Bonus shares allotted before 1.4.2001 | FMV on 1.4.2001 |
| | Bonus shares allotted on or after 1.4.2001 | Nil |
| | Sweat Equity shares | FMV for calculation of Perquisite |
| If 112A applies | COA = Higher of COA or lower of a) Sales consideration or FMV as on 31.03.201 | |
| Immov-able property | If SDV as on 01.04.2001 is available then FMV as on 01.04.2001 should not be more than SDV as on 01.04.2001. | |
| Property Received u/s56(x) | Cost of acquisition of the sum of money or property received without consideration or lower consideration u/s. 56(x) shall be value adopted u/s. 56(x) | |
| Assets trf under IDS | FMV of the assets taken into account for the purpose of Tax, surcharge and penalty.[As on 01.06.2016 shall be taken]<br>In case of CA declared under IDS'16 :<br>1) Immovable Property - POH = Date of Acq. as per deed<br>2) Other Assets - POH = From 01.06.2016 | |
| Conversion of business assets into CA | COA = FMV as on the date of conversion | |

## SEC 55(I)(B) COST OF IMPROVEMENT

a) Cost of improvement means expenditure incurred to increase productive quality of asset. It includes all expenditure of capital nature incurred in making any additions or alteration to capital asset.

b) Only capital expenditure is considered as a cost of improvement Routine expenses on repairs and maintenance do not form part of cost of improvement.

c) Any improvement expenditure incurred before 01.04.2001 to be ignored while computing capital gain.

d) IT can be incurred either by Assessee or previous owner.

e) COI shall be NIL for the following : 1) Goodwil of Business
2) Right of Manufacture, Produce or Process any article/thing
3) Right to carry on a business or profession

## 2ND PROVISO TO SEC 48 INDEXED COST OF ACQUISITION & IMPROVEMENT

Provisions of indexation will apply in case of long term capital gain on transfer of a long-term capital asset, other than capital gain arising to a non-resident from the transfer of shares in, or debentures of, an Indian company referred to in first proviso.

### 1) Index cost of acquisition

a) Before 01/04/2001

$$\text{FMV on 1/4/2001 / COA to Assessee /Previous Owner, whichever is higher} \times \frac{\text{CII of the year of transfer}}{100}$$

b) After 01/04/2001

$$\text{COA to Assessee} \times \frac{\text{CII of the year of transfer}}{\text{CII of year of acquisition}}$$

c) Asset acquired prior to 01/04/2001 by previous owner & received by Assessee prior to 01/04/2001

$$\text{FMV on 1/4/2001 / COA to Assessee / Previous Owner, whichever is higher} \times \frac{\text{CII of the year of transfer}}{100}$$

d) Asset acquired prior to 01/04/2001 by previous owner & received by Assessee after 01/04/2001

$$\text{FMV on 1/4/2001 / COA to Previous Owner, whichever is higher} \times \frac{\text{CII of the year of transfer}}{\text{CII of year in which first held by Assessee}}$$

e) Asset acquired after to 01/04/2001 by previous owner & received by Assessee after 01/04/2001

$$\text{COA to Previous Owner} \times \frac{\text{CII of the year of transfer}}{\text{CII of year in which first held by Assessee}}$$

Manjula shah vs CIT : - if assessee acquire CA by way of gift & transferred such assets, then ICA would be with reference to year in which previous owner held the assets & not in which Assessee becomes the owner. Therefore CII should be based on the year in which previous owner acquired the assets & not in which assessee becomes the owner

### 2) Index cost of Improvement

$$\text{COI of the asset} \times \frac{\text{CII of the year of transfer}}{\text{CII of the year in which improvement made by assessee/previous owner}}$$

(any cost of improvement before 01.04.2001 whether by assessee or by previous owner is to be ignored)

Finance Act ,2016 has rearranged the Cost inflation Index:

| FY | CII | FY | CII | FY | CII |
|---|---|---|---|---|---|
| 2001-2002 | 100 | 2009-2010 | 148 | 2017-2018 | 272 |
| 2002-2003 | 105 | 2010-2011 | 167 | 2018-2019 | 280 |
| 2003-2004 | 109 | 2011-2012 | 184 | 2019-2020 | 289 |
| 2004-2005 | 113 | 2012-2013 | 200 | 2020-2021 | 301 |
| 2005-2006 | 117 | 2013-2014 | 220 | 2021 -2022 | 317 |
| 2006-2007 | 122 | 2014-2015 | 240 | 2022-2023 | 331 |
| 2007-2008 | 129 | 2015-2016 | 254 | | |
| 2008-2009 | 137 | 2016-2017 | 264 | | |

## BENEFIT OF INDEXATION NOT AVAILABLE TO

| Nature of Long Term Capital Gain Transferred | Assessee not Eligible |
|---|---|
| Bond/debenture Except capital Indexed Bond issued by Govt | All Assessee |
| Shares/debenture of Indian company acquired by using convertible Forex | Non Resident |
| Depreciable Assets | All Assessee |
| Slum Sale | All Assessee |
| Gold Bond Scheme 2015 | All Assessee |

## 1ST PROVISO TO SEC 48 CAPITAL GAIN IN CASE OF NON RESIDENT

In case of :
Assessee who is a NR (Includes foreign company)
Assets should be shares or debentures of Indian Company &
Such Asset was acquired in foreign currency by way of purchase of reinvestment
then CG shall be calculated in foreign currency & after that it shall be reconverted into Indian Currency.

| RULE 115A - METHOD OF CONVERSION | | |
|---|---|---|
| Sale Consideration | avg of TTBR & TTSR | on date of transfer |
| COA | avg of TTBR & TTSR | on date of acquisition |
| Transfer Expense | avg of TTBR & TTSR | on date of transfer |
| CG into INR | TTBR | on date of transfer |

## 3RD PROVISO TO SEC 48

First & second proviso NOT APPLICABLE for computation of LTCG in case of Equity shares, Equity oriented units, units of Business Trust referred u/s 112A.

## 4TH PROVISO TO SEC 48

Index benefit not allowed in case of bonds/debentures except Capital Indexation Bonds & Sovereign Gold Bonds issued by RBI.
As per Sec 47, NO CG in case of Individual on redemption of Sovereign Gold Bond issued by RBI

Individual
- Redemption on Maturity — No CG due to Sec 47
- Transfer before Maturity — CG Apply (Index available)

Other Assessee : CG on transfer or Maturity & index benefit available.

## 5TH PROVISO TO SEC 48 FOREIGN EXCHANGE FLUCTUATION

a) Any gain arising on Rupee Appreciation against Foreign currency at time of redemption of RDB (Rupee denomination bonds) of Indian Company, shall be ignored for calculation of FVOC in case of NR Assessee
b) For CG Computation - First Proviso to Sec 48 applies
c) If there is loss due to Rupee depreciation, then it shall be allowed as Capital loss & can be set off & c/f
d) Exemption is not available if RDB is transferred before maturity
e) Exemption is available to any person who holds the bond i.e. even a secondary holder as well.

## 6TH PROVISO TO SEC 48 DEEMED CONSIDERATION

Where shares, debentures & warrants are transferred under the gift or an irrevocable trust, the market value as on date of such transfer shall be deemed to be Full value of consideration

# CG EXEMPT U/S 10

| Section | Detailed provisions |
|---|---|
| 10(34A) | Any transfer upon buy back of shares of an domestic company shall be exempt in the hands of shareholder |
| 10(43) | CG exempt if received under Reverse Mortgage Scheme. |
| 10(37) | CG on compulsory acquisition of urban agricultural land<br>› Assessee is Individual/HUF<br>› Such Land was used at least 2 years prior transfer for agricultural purpose<br>› Acquired by way of compulsory acquisition<br>› Received after 2004 |
| 10(37A) | Transfer of Land/Building/Both after 02-06-2014 under Andhra Pradesh capital city land pooling scheme<br>› Assessee is individual or HUF<br>› Owns a Land/building under Andhra Pradesh capital city land pooling scheme<br>› Ownership certificate is issued under the scheme<br>› Any CG on account of transfer shall be exempt. |

# SEC 112A TAX ON LONG TERM CAPITAL GAIN [SEC 10(38) ABOLISHED]

LTCG on transfer of

› Equity Shares, or

› Equity Oriented Units, or

› Units of Business Trust,

› Any ULIP issued on or 1.2.2021,to which exemption under Sec 10(10D) dose not apply an acount of-

1) Premium payable exceedng exceeding ₹ 2,50,00 for any of the previous years during the term of such policy; or
2) The aggregate amount of premium exceeding ₹ 2,50,000 in any of the py during the term of any such ULIP(s), in case where premium is payable by a person for more than one ULIP issued on or after 1.2.2021

In excess of ₹ 1L shall be taxable @ 10% ( + HEC @ 4% ) if following conditions are satisfied:

i) STT paid on Acquisition & transfer of Equity Shares

ii) STT paid on transfer of Equity Oriented Units & Units of Business Trust

- If the above conditions are not satisfied, Sec 112 is still applicable:
- Rebate u/s 87A is not available (applicable) from LTCG u/s 112A

| Particulars | Amount |
|---|---|
| FVC = Amount received | xxx |
| (-) Expenses on Transfer | (xxx) |
| Net Consideration | xxx |
| (-) COA : Higher of | (xxx) |
| a) COA | |
| b) Lower of : | |
| i) Sale Consideration | |
| ii) FMV as on 31.1.18 | |
| Capital Gain | xxx |

FMV :

| | |
|---|---|
| Listed & Traded on 31.1.18 | - Highest Price on that Day |
| Listed but not traded | - Highest Price on any Previous Traded Day |
| Units | - NAV as on 31.1.18 |
| Unlisted Shares | - Indexed Cost (17-18) |

# NOTIFICATION 60/2018 EXCEPTION TO STT PAYMENT

1) Shares acquired prior to 1st Oct 2004
2) Acquisition of share approved by HC, SC, NCLT, SEBI, & RBI
3) Shares acquired by NR under FDI guidelines
4) Acquisition of shares by Investment fund u/s 115 UB
5) Shares acquired through preferential issue as per SEBI
6) Acquisition through an issue of share by company
7) Acquistion by schedule Bank, Reconstruction, or securitisation company or PFI during ordinary course of business
8) Acquisition under ESOP
9) Acquisition under SEBI
10) Acquisition from Government
11) Acquisition by any mode of transfer [45(3)/45(4)/47/50B] if the previsious owner has acquiried shares by any of the mode

## PRESS NOTE DT. 20TH SEPT 2019

Enhanced Surcharge rate shall not apply to CG arising out of Sale of equity share or equity oriented fund or units of business trust in hands of I/HUF/AOP/BOI/AJP

Enhanced Surcharge shall not apply to CG arising on sale of security including derivative in hands of Foreign Portfolio investor

## CIR NO. 743 UNUTILSED DEPOSIT UNDER CGAS IN THE HANDS OF LEGAL HEIRS

It is clarified that unutilized deposit under CGAS, 1988 cannot be taxed in hands of deceased. This amount is not taxable in hands of legal heirs also for unutilised portion of deposit does not partake the character of income in their hands but only a part of estate devolving upon them.

## CIRCULAR NO 667

Land is an integral part of the Residential House, hence exemption u/s 54 is available for the same.

## Space for personal notes

| Particulars | Sec 54 | Sec 54B | Sec 54D | Sec 54EC |
|---|---|---|---|---|
| Assets Transferred | Residential house property (i.e. building/land appurtenant thereto) whose income is taxable under "HP" | Urban Agriculture Land [Because Rural Agri Land is not a CA] | Land/building of industrial undertaking which is transferred in compulsory acquisition. | Land & Building |
| Who can claim exemption | Individual/HUF | Individual/HUF | Any Assessee | Any Assessee |
| Period of use /possession of asset | The asset so transferred should be a Long Term Capital Asset. | The agri land should be used by him/parents, for agri purpose for at least 2 years before transfer. | Such L&B should be used by assessee for industrial undertaking for at least 2 yrs before such transfer. It is not necessary that such L&B should be owned by the Assessee for stipulated period of 2 yrs | Any long term capital asset |
| Nature of CG, eligible for exemption | Long term | Long term/ short term | Long term/ short term | Long term |
| Eligible New Asset | RHP (whether acquired/ constructed) in India [If CG does not exceed ₹2cr then he can purchase 2 RHP] FA.2019 (Option available once in lifetime) | Agri land (whether in rural area or in urban area). | Land/building for industrial purpose | Bonds of NHAI/ REC/Power Fin. Corp./ Indian railway fin. Corp. /Any bond Notified By CG(redeemable after 5 yrs, Max ₹50L during any FY) |
| Max period allowed for investment | If purchased- 1 year before/2 yrs after date of such transfer. If constructed - 3 yrs after date of such transfer. | Within 2 yrs from the date of such transfer | Within 3 yrs from date of receipts of amount of compensation in respect of such transfer. | Within 6 m from date of such transfer |
| Exemption | Amount Invested/CG Whichever is Lower. | | | |
| Treatment of unutilized amount | Upto the date of furnishing of income tax return, the unutilised amount of such CG should be deposited into "Capital gain deposit account scheme". | | | |
| New asset is transferred- tax treatment | Where such asset is transferred within a period of 3 year from the date of its acquisition/construction, the COA of such asset will be reduced by the amount of exemption so withdrawn. | | | Amount of CG exempted earlier will now be taxable as LTCG in year of transfer. Note: transfer includes conversion into money. |

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| Particulars | Sec 54F | Sec 54EE |
|---|---|---|
| Assets Transferred | Any LTCA other than residential house | Any LTCA |
| Assessee | Individual/HUF | Any Assessee |
| Nature of CG,eligible for exemp. | Long term | Long term |
| Eligible New Asset | One RHP(whether acquired/ constructed) Note: But on date of transfer, should not own more than one RHP (other than this new house). | Investment of whole or any Part of CG in "LT specified assets" as stipulated in the sec. |
| Max period allowed for investment | If purchased- 1 year before/2 yrs after date of such transfer. If constructed - 3 yrs after date of such transfer. | Investment should be made within 6 M from date of transfer |
| Exemption | Proportionate capital gain i.e.- Total X Amount CG invested in new asset NC | Amount Invested or CG whichever is lower Subject to Max.50L |
| Treatment of unutilized amount | Upto the date of furnishing of IT return,the unutilised amount of such CG should be deposited into "CG deposit account scheme". | - |
| New asset is transferred- tax treatment | > Where new house is transferred within 3 yrs: i) CG on such transfer will be STCG. ii) CG exempted under this sec will be taxable as LTCG. > With 2 houses in hand, assessee purchases/ constructs another house within 2/3 yrs as the case may - CG exempted under this sec will be taxable as LTCG. | If New Asset is transferred before 3 yrs from date of purchase/ construction, the CG exempted earlier will be chargeable to tax in year of transfer of new asset |

## SEC 51 FORFEITURE OF ADVANCE RECEIVED

- Advance Money received/retained upto 31-03-2014
  - Previous Owner → Ignore
  - Assessee → Reduce from cost/ WDV/ FMV & then calculate Indexation
- Advance Money received/retained after 31-03-2014 → Taxable in "IFOS"

## EXCEPTION TO SEC 45

1) Insurance Compensation on destruction of asset [Sec 45(1A)]
2) Conversion of Capital Asset into stock in trade [Sec 45(2)]
3) Transfer of Securities by depository [Sec 45(2A)]
4) Transfer of Capital Asset by partner / member of AOP/ BOI [Sec 45(3)]
5) Distribution of CA of Dissolution of Firm,AOP,BOI [Sec45(4)]
6) Capital Gain in case of compulsory acq of CA [Sec 45(4)]
7) Registered Re-developer agreement [Sec 45(5A)]

## SEC 45(1A) INSURANCE COMPENSATION

Where CA is detroyed due to Fire, flood, earthquake, Tsunami, riots, civil disturbance, action of enemy then the provision is applicable, if compensation is received.

**Non-Depreciable Assets**

| | | |
|---|---|---|
| Full Value of consideration | Amount Received [Taxable in year of Receipt] | XXX |
| Exp on Transfer | As Usual | (XXX) |
| Net Consideration | | XXX |
| COA / ICOA | As Usual: But Indexation only upto destruction year | (XXX) |
| COI / ICOI | | (XXX) |
| Capital Gain/ Loss- | | XXX |

**Depreciable Assets**

| | |
|---|---|
| Full Value of consideration | Amount Received [Taxable in year of Receipt] |
| WDV | |
| STCG/STCL | |

Note :
1) Insurance monies for loss of raw material shall be treated as normal trading receipt as raw material is not a 'capital asset', however, it may be taxable as trading receipt u/s 28 or 56
2) Where any asset is destroyed & no insurance compensation is received, it shall be treated as a dead loss, because neither sec 45(1) nor sec 45(1A) get attracted.

## SEC 45(2) CONVERSION OF CA INTO S-I-T

Note- 1) Both Income will arise when Converted stock is sold. Indexation is available only upto the year of conversion.
2) If any part of stock is sold then only part CG shall arise in year of sale.
3) In case of converted stock sale, period of 6M shall calculate from date of sale of stock for claimimg deduction exemption u/s 54EC

| Capital Gain | |
|---|---|
| FVC= FMV as on date of Conversion [Taxable when converted stock is sold] | XXX |
| Less: Exp on Transfer | (XXX) |
| Net Consideration (as usual) | XXX |
| Less:COA/ICOA(as usual) (Indexation only upto the year on conversion) | (XXX) |
| Less:COI/ICOI(as usual) (Indexation only upto year on conversion) | (XXX) |
| CG | XXX |
| Less: Exemption u/s 54 series | (XXX) |
| CG | XXX |

| PGBP | |
|---|---|
| Sale Value [Taxable in the year when converted stock is sold] | XXX |
| Less: FMV as on the date of Conversion | (XXX) |
| PGBP | XXX |

Conversion of Stock in Trade into Capital Asset Shall be charged under the head "PGBP"

## SEC 45(1B) ULIP RECEIPTS

> Where any person receive at any time during the PY, any amount under the ULIP issued on or after 01.02.2021, to which exemption u/s 10(10D) does not apply on account of

1) Premium payable exceeding 2,50,000 for any of the PY's during the term of such policy; or
2) The aggregate amount of premium exceeding 2,50,000 in any of the PY during the term of any such ULIP(s), in case where premium is payable by a person for more than one ULIP issued on or after 1.2.2021

Then any profit arising from receipts of such amount by such person shall be chargebale to tax under the head capital gains & shall be deemed to be Income of PY in which such amount was received. the Income taxable shall be calculated in such manner as may be prescribe.

## SEC 45(5) COMPULSORY ACQUISITION

| Initial Compensation | |
|---|---|
| FVC= Total Compensation received [Even is part consideration is received whole amount is taxable] | XXX |
| Less: Exp on Transfer | (XXX) |
| Net Consideration (as usual) | XXX |
| Less:COA/ICOA(as usual)(Indexation only upto year on conversion) | (XXX) |
| Less:COI/ICOI(as usual)(Indexation only upto year on conversion) | (XXX) |
| CG | XXX |
| Less: Exemption u/s 54 | (XXX) |
| CG | XXX |

| Enhanced Compensation | |
|---|---|
| FVC= Amount received | XXX |
| Less: Exp on Transfer | (XXX) |
| Net Consideration | XXX |
| Less: COA/ICOA | NIL |
| Less: COI/ICOI | NIL |
| CG | XXX |

> Reduction of compensation:
Where comp. is reduced by CG then Gain shall be recomputed. Interest on Compensation & Enhanced is Taxable under IFOS & u/s 57: 50% of Interest shall be allowed as deduction.

Notes : 1) Nature of CG w.r.t enhanced compensation shall be same as nature of CG computed w.r.t original compensation.

2) Legal expenses incurred to obtain enhanced compensation are deductible from enhanced compensation & balance shall be CG
3) Compensation received in respect of award/agreement u/s 96 of Right to fair Compensation & Transperancy in land Acq Rehabiliation & Resettlement Act'13 shall not be taxable.

## SEC 45(5A) REGISTERED DEVELOPER AGREEMENT

Assessee being Individual & HUF, who enter into specific agreement for development of project then, in the year of certificate of completion of whole or part of the project is issued by competent authority shall be chargeable to tax.

| FVC = Stamp Duty Value of his share on date of issue of certificate + consideration received in cash. | XXX |
|---|---|
| Less: Exp on Transfer | (XXX) |
| Net Consideration (as usual) | XXX |
| Less: COA /ICOA | (XXX) |
| Less: COI/ICOI | (XXX) |
| CG | XXX |
| Less: Exemption u/s 54 | (XXX) |
| CG | XXX |

My Note :

a) Chargeable in PY in which completion certificate for whole or part of the property is issued by competent authority.
b) Non Applicability of above provision-
In case assessee transfers his share in project on / before date of issue of said certificate of completion & CGs will be charged in PY in which transfer took place & normal provisions of CGs shall apply.

## SEC 50B SLUMP SALE

| | |
|---|---|
| FMV determined in prescribe manner [FA.21] | xxx |
| Less: Net Worth [Deemed cost of acquisition] | (xxx) |
| CG | xxx |

| | |
|---|---|
| Net Worth | Total Assets ( - ) Current Liability<br>Note: If net worth is negative, it is taken as equal to zero & sale consideration will become CG – Zuari Inds. Ltd. v. CIT (Mum.) |
| Aggregate value of total assets | Depreciable Assets - WDV<br>Other Assets - Book Value<br>100% deduction Claimed assets - Nil<br>Revaluation of Assets are totally Ignored |

Important Points :

1) If Networth is negative - COA is NIL
2) If Deduction u/s 35AD is claimed on asset then COA = NIL
3) Assessee shall furnish a report from CA certifying Networth.
4) Gain is long term if unit held for more than 3 years.

› FMV shall be determined as per Rule 11UAE which shall be higher of FMV1 or FMV2 whichever is higher(Covered at Finals Level)

## SEC 46 CAPITAL GAIN ON LIQUIDATION

Sec 46(1) - Where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of sec 45.

Sec 46(2) - 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 distribution, as reduced by the amount assessed as dividend within the meaning of sec 2(22)(c) and the sum so arrived at shall be deemed to be the FVOC for the purposes of sec 48.

## SEC 47 TRANSACTION NOT REGARDED AS TRANSFER

No capital gain would arise in following situations:

Sec 47(i) - any distribution of capital assets on the total or partial partition of a HUF;

Sec 47(iii) - any transfer of a capital asset under a gift / will / irrevocable trust;

Provided that this clause shall not apply to transfer under a gift or an irrevocable trust of a capital asset being shares, debentures or warrants allotted by a company directly or indirectly to its employees under any Employees' Stock Option Plan or Scheme of the company offered to such employees in accordance with the guidelines issued by the CG in this behalf;

Sec 47(iv) - any transfer of a capital asset by a Co to its Subsidiary Co, if-

› the parent company or its nominees hold the whole of the share capital of the subsidiary company, and
› the subsidiary company is an Indian company;

Sec 47(v) - any transfer of a capital asset by a subsidiary company to the holding company, if-

› the whole of the share capital of the subsidiary company is held by the holding company, and
› the holding company is an Indian company

Sec 47(vi) - any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company;

Sec 47(vib) - any transfer, in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting co is an Indian company;

Sec 47(vicd) - any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company if the transfer or issue is made in consideration of demerger of the undertaking;

Sec 47(vii) - any transfer by a shareholder, in a scheme of amalgamation, of a capital asset being a share(s) held by him in the amalgamating co, if-

a) the transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company except where the shareholder itself is the amalgamated company, and
b) the amalgamated company is an Indian company;

Sec 47(viiaa) - any transfer, made outside India, of a capital asset being rupee denominated bond of an Indian company issued outside India, by a NR to another NR;

Sec 47(viib) - any transfer of a capital asset, being a Govt Security carrying periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a NR to another NR.

Sec 47(viic) - any transfer of Sovereign Gold Bond issued by the RBI under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an assessee being an individual;

Sec 47(ix) - any transfer of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to the Government or a University or the National Museum, National Art Gallery, National Archives or any such other public museum or institution as may be notified by the CG in the Official Gazette to be of national importance or to be of renown throughout any State or States.

Sec 47(x) - any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that co;

Sec.47(xvi): Transfer of capital Assets under reverse mortagage scheme (whether receivved in lumsum or annuity)

Sec 47(xb) - any transfer by way of conversion of preference shares of a co into equity shares of that co;

## SEC 111A TAX ON SHORT TERM CAPITAL GAIN

If a person sale short-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust and STT is paid tthen Tax shall be:

a) on STCG @ 15% and
b) Other income - Applicable rate.

Special Adjustment for Residents: In the case of an individual or a HUF, being a resident, where Assessee cannot absorb Basic exemption limit and has special Income then special income shall be 1st Adjusted towards basic Exemption limit and balance, if any, shall be chargebale at special rate

Transaction undertaken on a RSE located in any IFSC and where the consideration for such transaction is paid or payable in foreign currency then even if STT is not paid then also section is applicable

Sec111A(2) :Where the gross total income of an assessee includes any STCG , the deduction u/c VI-A shall be allowed from the gross total income as reduced by such capital gains.

## SEC 112 TAX ON LONG TERM CAPITAL GAIN

Tax rate for Individual / HUF
Normal Income - Normal Slab Rate
LTCG - 20%
Special Adjustment:
If Assessee(resident) cannot absorb basic exemption limit and has special Income viz LTCG u/s 112/112A or STCG u/s 111A such special income shall be first adjusted towards Basic exemption limit and balance income if any shall be Taxable at special rate

Tax rate for Domestic Company
1. Other Income - Normal rate applicable to Company
2. LTCG - 20%

Tax rate for NR/FC
1. Unlisted shares/ Shares or Private company - 10% (Without Giving Indexation)(1st provisio to Sec.48)
2. LTCG - 20%

Tax rate for Other Than Individual
1. LTCG - 20%

No Deduction under Chapter VIA:
No deduction under Chapter VIA is applicable in case of LTCG u/s 112.

## CASE LAWS

| | | |
|---|---|---|
| Syed Ali Adil | Case: would assessee be entitle to exemption u/s 54 in respect of Purchase of 2 house adjacent to each other having common entrance | Held: Yes if it has common entrance. |
| Kamakl Wahal | Case: can exemption be withdrawn on the grounds that new flat was purchased in the name of wife | Held: No |
| CIT v. Arvinda Reddy | Case: Property owned by more than one person & other Co-owner/(s) release respective share/interest in property in favour of one of the co-owner, can it be considered that the property is purchased be releasee & exemption be claimed u/s 54? | Held: Yes, Releasee fulfills condition of Sec 54 as to purchase so far as release assessee is concerned. |
| CIT v. Narasimhan (PV) (Mad.) | Case: Assessee sold residential property & invested CG within stipulated time in construction of a new floor on another house owned by him by demolishing existing floor. Is it entitled for deduction u/s 54? | Held: Yes |
| CIT v. JR Subramanya Bhatt (Karn) | Case: Construction of new house may start before date of transfer but it is to completed within 3 years from date of original transfer. Is it elgible for deduction u/s 54? | Held: Yes |
| CIT v. Shahzada Begum (AP) | Case: Assessee has paid full consideration & obtained the possession of the house within the specified period, but the sale deed is not been registered in his favor. Is he eligible for exemption u/s 54? | Held: Yes |
| Gurnam Singh | Case: Can exemtion u/s 54B be denied on the grounds that assessee is co owner | Held: Exemption shall be Available |
| Hindustan Unilever | Case: can exemption be withdrawn u/s 54EC if invt is made within 6 month but bond issued after 6M | Held: Yes |
| Rajiv Shukla | Case: can exemption be availabled if asset is depreciable assets u/s 54F | Held: Yes |
| Fiber Boards | Case: can advance given for purchase of P&M, L&B qualify for exemption u/s 54G | Held: Yes |

# Chapter 8

# PROFITS & GAINS FROM BUSINESS/PROFESSION


| Sec | Particulars | Pg No | Sec | Particulars | Pg No |
|---|---|---|---|---|---|
| 28 | Charging Section | 8.2 | 1st proviso | Depreciation in case of Amalgamation | 8.8 |
| 37 | General deductions | 8.2 | 32(1)(i) | Depreciation in case of Power Generation Unit | 8.8 |
| 40A(2) | Payment to relative | 8.2 | 32(1)(iia) | Additional Depreciation | 8.9 |
| 40A(3) | Cash expenditures | 8.2 | | Set off & c/f of depreciation | 8.9 |
| R.6DD | Exception to 40A(3) | 8.2 | | Format to Solve Depreciation | 8.9 |
| 44AD | Presumptive basis of taxation | 8.3 | 50 | Capital Gain of depreciable asset | 8.9 |
| 44AE | Presumptive basis of tax for GTA | 8.3 | 43(1) | Actual Cost | 8.10 |
| 44ADA | Presumptive tax for Professionals | 8.3 | 145 | Method of Accounting | 8.12 |
| 43B | Deduction on actual payment | 8.4 | 145B | Taxability of Certain Income | 8.12 |
| 30 & 31 | Rent, rates & taxes | 8.4 | 35AD | Deduction in respect of expense on specified biz. | 8.12 |
| 36 | Other Deductions | 8.4 | 40(b) | Payment to partners | 8.13 |
| 35 | Expenditure on Scientific Research | 8.6 | 40(ba) | Payment of interest, salary, bonus, commission/ remuneration made by AOP/BOI to members | 8.14 |
| 32AB | In house research by Companies | 8.6 | 40(a) | Expenses not deductible | 8.15 |
| 35D | Preliminary expense | 8.6 | | Payment without TDS | 8.15 |
| 35CCA | Expense for Rural Development prog. | 8.7 | 41 | Deemed PGBP | 8.15 |
| 35DD | Expense of Amalgamation/Demerger | 8.7 | 44AA | Maintenance of Books of accounts | 8.15 |
| 35CCC | Expense on Agriculture Extenion Project | 8.7 | 44AB | Audit of accounts | 8.16 |
| 35CCD | Expense on Skill development | 8.7 | | Speculative Transaction | 8.16 |
| 40A(7) | Disallowance of provision for gratuity | 8.7 | SEC 4 | FVOC For Land & Building held as stock in Trade | 8.16 |
| 40A(9) | Disallowance on Contribution to Non Statutory Funds | 8.7 | | | |
| 38 | Partly used for Business & profession | 8.7 | | | |
| 32 | Depreciation | 8.7 | | | |
| | Rate of Depreciation | 8.8 | | | |


## IMPORTANT AMENDMENTS/ NOTIFICATIONS/CIRCULARS

| Sr No. | Particulars | Pg No |
|---|---|---|
| 1 | SEC 43B DEDUCTION ON ACTUAL PAYMENT | 8.4 |
| 2 | SEC 35 EXPENDITURE ON SCIENTIFIC RESEARCH | 8.6 |
| 3 | Sec 35CCD Expense on Skill Development | 8.7 |
| 4 | Sec 40(a) Expenses not allowed | 8.15 |
| 5 | Sec 44AB Audit of Accounts | 8.16 |
| 6 | Speculative Transaction | 8.16 |
| 7 | Sec 44AA Books of account | 8.16 |

## SEC 28 CHARGING SECTION

Following Income shall be taxable under the head PGBP

1) Any profit/gain of any Business/Profession
2) Profit on sale of Import Entitlement License
3) Cash Compensatory support or duty drawback
4) Profit on sale of DEPB (Duty entitlement pass book scheme)/ Duty free Replenishment Certification (DFRC)
5) Any Amount received under Key-Man Insurance Policy
6) Any gift/benefit/perquisite arising due to Business/Profession
7) Any Interest, salary, bonus, commission received by partner from Partnership firm [to extent allowed u/s 40(b) to firm]
8) Non-compete Fees (not carrying out any activity in relation to any business or profession or not sharing any know-how, patent, copyright, trade-mark etc.)
9) Income derived by a trade, professional or similar association from specific service perform for its member
10) FMV of inventory as on date on which it is converted into CA.
11) Any Compensation or other payment due to/received by, any person, at or in connection with termination/modification of terms & conditions, of any contract relating to his business
12) Sale of Asset whose whole cost is allowed as deduction

## SEC 37 GENERAL DEDUCTIONS

a) Expenditure is not covered u/s 30 to 36
b) Expenditure is incurred wholly & exclusively for the purpose of business
c) Expenditure is not of capital in nature.
d) Expenditure is not personal nature
e) Expenditure should not be in nature of offence or prohibited by Law

Important Note :

> Sec 37(2b) - No deduction allowed for adv in souvenier/brochure/ pamphlet published by political party (allowed u/s 80GGB/GGC)
> Exp related to CSR or donation to various entities not allowed.
> Cir.5/2012 - Freebies to medical practioner- not allowed
> Tax interest or penalty related to direct taxes not allowed. Whereas, tax and interest of indirect taxes is allowed but penalty of indirect tax not allowed.
> Dividend & DDT paid not allowed.
> Circ. 38/2016 - Premium paid by firm on keyman isnurance policy of partner is allowed.

## SEC 40A(2) PAYMENT TO RELATIVE

Unreasonable payment made to relative as determined by AO is not allowed as deduction. Market price shall be determined as per Arm's Length Price. ALP is determined u/s 92C. [Refer definition of Relative from Regular book]

## SEC 40A(3) CASH EXPENDITURE

Any Payment made

> to a person in a day for a single bill
> exceeding Rs 10,000 or Rs 35000 (in case of GTA)
> otherwise then by, A/c Payee Cheque, Draft/ECS or other electronic mode of payment as may be prescribed [Refer CG]
> shall be disallowed. (100%)

Where liability is incurred & deduction allowed on accrual basis, payment made in succeeding year otherwise than by prescribed mode shall be treated as income of that year

## RULE 6DD - EXCEPTION TO SEC 40A(3)

a) where the payment is made to the Government
b) where payment is made to LIC, & other financial institution
c) payment made through NEFT/RTGS/Dr Card/Cr.card/UPI or BHIM [Rule 6(ABBA)]
d) payment made where banking facility is not available
e) payment made to farmer for agriculture/forest/fish/fish product
f) payment made to EE for retirement benefit upto 50,000
g) payment made for purchase of foreign currency
h) salary to employee posted at other place for 15days/more.

# SEC 44AD PRESUMPTIVE TAXATION

ASSESSEE : Resident (Individual / HUF / Firm [Not LLP] who has not claimed deduction u/s 10AA / 80-IA to 80RRB.

TURNOVER: Turnover / gross receipts should not exceed 2cr.

BUSINESS : Any business is allowed except (CGAP)
- C - Commission / brokerage
- G - GTA
- A - Agency
- P - Profession

PRESUMPTIVE INCOME : Higher of
- actual declared OR
- prescribed percentage

| | |
|---|---|
| 8% | For other cases |
| 6% | If payment is received by A/c payee cheque, draft, ECS or other prescribed modes (Refer CG) |

OTHER CONDITION :
1) Advance tax is mandatory by 15th of March
2) Deduction u/s 30 to 38 are deemed to be allowed. Hence, no further deduction
3) Partner's remuneration as per Sec 40(b) not deductible
4) Sec must be complied for continuous 5 years. If he does not declare income as per sec 44AD, he shall be ineligible to declare income u/s 44AD for the next 5 years. Further, if NTI is more than BEL then, he is mandatorily required to maintain books of account & get them audited.
5) Deduction u/c VI-A allowed
6) Set off is allowed
7) Assessee can declare a lower profit provided accounts are maintained & audit is done

# SEC 44AE PRESUMPTIVE TAXATION FOR GTA

ASSESSEE : Any Assessee engaged in plying, hiring, leasing the goods carriage

VEHICLE : Should not own more than 10 vehicles at any time during the PY.

PRESUMPTIVE INCOME - Higher of declared or specified below

| | |
|---|---|
| Heavy goods vehicle (Gross wgt > 12tonne) | 1,000 X per tonne X per month or part thereof X per vehicle |
| Other Vehicle | 7,500 per month per vehicle (or for part thereof) during the period for which asset is owned |

OTHER CONDITION :
1) Advance tax as per requirement of Sec 207
2) Deduction u/s 30 to 38 are deemed to be allowed. Hence, no further deduction
3) Partner's remuneration as per Sec 40(b) deductible
4) Deduction u/c VI-A allowed
5) Set off is allowed
6) If gross weight is not available, consider unladen weight: it means weight of vehicle including all equipments ordinarily used with vehicle but excludes weight driver,attendent and where altenative body parts are used than unladen weight many weight of vehicle with haviest alternative body part
7) Assessee can declare a lower profit provided accounts are maintained & audit is done

# SEC 44ADA PRESUMPTIVE TAXATION FOR PROFESSIONAL

ASSESSEE : Resident Assessee being individual or firm(not LLP)

TURNOVER: Gross receipts should not exceed 50 lakhs.

PRESUMPTIVE INCOME : Higher of
- actual declared OR
- 50% of gross receipts

OTHER CONDITION :
1) Advance tax is mandatory by 15th of March
2) Deduction u/s 30 to 38 are deemed to be allowed. Hence, no further deduction
3) Partner's remuneration as per Sec 40(b) not deductible
4) If declares a lower income & NTI > BEL then books of accounts & audit is mandatory
5) Deduction u/c VI-A allowed
6) Set off is allowed
7) Assessee can declare a lower profit provided accounts are maintained & audit is done

## SEC 43B DEDUCTION ON ACTUAL PAYMENT

Following expenses are allowed only if following payments are made before filing ROI

a) Any tax, duty, cess
b) Employer's contribution towards SPF, RPF, Approved Gratuity Fund, Approved Super Annuation Fund, New Pension scheme, any funds as per law
c) Bonus, Commission to Employees
d) Interest on loan to any PFI, State Financial corp, state industrial investment corp, scheduled banks [scheduled bank include co-operative bank other than a primary agricultural credit society or a primary co-operatie agricultural & rural development bank]
e) Leave encashment to employees
f) Any sum payable to Indian railways for use of railway assets
g) Interest on any loan or borrowing from a deposit taking non-banking financial company or systematically important non-deposit taking NBFC.

If payment is made after the due date then deduction will be allowed in the year of payment

Explanation 3C.— It is hereby declared that any conversion of Interest Payable into loan or borrowing shall not be deemed that such Interest have been actually paid.

F.A.2022 w.e.f. AY 23-24 Conversion of Interest payable into Debenture or any other Instrument by which liability to pay is deferred to a future date shall also not be deemed to have been paid

## SEC 30 & SEC 31

| Section 30. Rent, rates and taxes of premises | Section 31. Insurance, repairs of plant, machinery & furniture (PMF). |
|---|---|
| Rent of the premises paid to ~~others~~ / Firm is allowed as deduction(for Tenant) | Rent of the PMF paid to others / Firm is allowed as deduction u/s 37 |
| Insurance of premises is allowed as deduction. | Insurance of PMF is allowed as deduction |
| Municipal tax, land revenue subject to S 43B is allowed as deduction. | - |
| Current repairs is allowed as deduction. On capital repairs depreciation can be claimed. | Current repairs is allowed as deduction. On capital repairs depreciation can be claimed |

## SEC 36 OTHER DEDUCTIONS

| Section | Particulars |
|---|---|
| 36(1)(i), (ia), (ib)] | The premium paid for insurance against risk of damage or destruction of stocks or stores.<br>The premium paid by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society.<br>The premium (paid by cheque) by the employer to effect or to keep in force an insurance on the health of his employees under the approved schemes. |
| 36(1)(ii) | Any sum paid to an employee as bonus or commission for services rendered, provided that such sum is not paid in place of profits or dividend.<br>Note: Bonus shall be allowed as deduction even if such bonus is in excess of the amount required to be paid under Payment of Bonus Act. |
| 36(1)(iii) | Interest on borrowed capital:<br>› The interest paid in respect of capital borrowed for the purposes of the business or profession. (for Working Capital or for Acquiring Capital Assets).<br>› There Should be a Nexus.<br>› Interest paid on capital borrowed for acquisition of an asset for extension of business/profession, for the period till the date on which such asset was first put to use, shall not be allowed. [CIT v Alembic Glass Ind]<br>› Interest on own capital is not allowed under this sec.<br>› Interest on money borrowed to pay income tax is not allowed. [East India Pharma Works Ltd (SC)]<br>› S.A.Builders Ltd(SC)- Int on loan to Sister Concern for Commercial expediency shall be allowed as dedn<br>› Interest paid to Relative is allowed as deduction u/s 40(a)(2).<br>› Interest paid outside India without TDS is not allowed |
| 36(1)(iv) | Employers Contribution towards, RPF & Superannuation fund is allowed as deduction if it is paid as per Sec 43B |

| Section | Particulars |
|---|---|
| 36(1)(iva) | Employer's contribution towards new pension scheme. His deduction will be subject to limit of 10% of salary of the employee |
| 36(1)(vi) | Allowance for dead/permanently useless animals which where used for the purpose of business. Deductions: Actual Cost of Animal Less Amount Realized on sale of the animal or there carcasses. |
| 36(1)(v) | Employer's contribution to approved gratuity fund |
| 36(1)(va) | Employee's contribution to RPF & Super Annuation fund If paid before the due date under relevant ACT(not 43B) |
| 36(1)(vii) | Bad Debts<br>Actual Bad Debts<br>Related to Sales<br>Related to Loan → except lending business<br>Provision for Bad Debts → Not Allowed Except to Banks<br>Provision for Bad Debts<br>Indian Bank → 8.5% of GTI [before this deduction] + 10% of Aggregate Avg Advance made by Rural Branches<br>Foreign Bank / Public Financial Inst / State Financial Cor / State Industrial Investment corp → 5% of GTI [before this deduction]<br>Conditions<br>> It must have been written off in the accounts of the assessee. [Hence Provision for bad debt is not allowed as deduction.]<br>> Business must be carried on during the PY of any part of the PY. [Bad debt of a discontinued business is not allowed as deduction even though assessee has any other business continued.] |

| Section | Particulars |
|---|---|
| | Romancing Analysis<br>> Bad debt is not allowed as deduction to assessee who maintains accounts on cash basis.<br>> Bad debts are also allowed in the hands of successor of the business. [Veerbhadra Rao]<br><br>Section 41(4): Recovery of Bad debts<br>It shall be deemed to be the income PGBP of PY in which such recovery is made-whether biz/profession in respect of which the deduction has been allowed is in existence or not. |
| 36(1)(x) | Applicable to: Company only<br>Purpose of such expenditure: Such expense must have been incurred for promotion of family planning among its employees.<br>Quantum of deduction:<br>Revenue Exp → Allowed u/s 37[1]<br>Capital Exp → Allowed on 1/5th Basis |
| 36(1)(xiii)<br>36(xii) | Banking Cash Transaction Tax paid is allowed as ded$^{n}$<br>Deduction in respect of securities transaction tax:<br>> The assessee can claim deduction of amount of STT paid in respect of the taxable securities transactions,<br>> if income from such transaction have been included in his income under the head PGBP. |
| 36(1)(xvi) | Commodity Transaction Tax - transaction should be entered in course of business & income from such transaction is included in PGBP. Notification 45/2013. CTT shall be levied @ 0.01% [ w.e.f. AY 14-15]. |
| 36(1)(xviii) | Marked to market loss or other expected loss as computed as per ICDS w.r.e.f 01.04.2017 |
| 36(1)(iiia) | Pro-rata amount of discount on Zero Coupon bond over the life of such bond. |
| 36(1)(xvii) | Exp. by Co-Op sty. for purchase of sugarcane at price equal/less than as set by govt |

## SEC 35 EXPENDITURE ON SCIENTIFIC RESEARCH

| In house research : Research should be related to the business | Contribution to outsiders Research may or may not be related to the business |
|---|---|
| Revenue Expenditure - 100% ALLOWED<br><br>Capital expenditure however capital expenditure does not include cost of Land. Further no Depreciation shall be allowed on such assets - 100% ALLOWED<br><br>Current year expense - allowed<br>Previous year expense- allowed.<br>PY means 3 years before the commencement of business. | National Laboratory / IIT's - 100% Sec 35(2AA)<br><br>Approved University, Colleges, institution [Sec 35(1)(ii)] - 100%<br><br>Social statistical research [Sec 35(1)(iii) - 100%<br><br>Company having main object as research [Sec 35(1)(iia)] - 100%<br>If opted for 115BAC than is benefit is not available |

Other Points :

1) Deduction shall not be denied even if approval is withdrawn
2) No depreciation of the assets on which deduction is claimed
3) Unabsorbed expenditure shall be set off & c/f same as unabsorbed depreciation
4) W.r.e.f. 21-22 The deduction claimed by the donor with respect to donation given to any Research Association shall be disallowed unless such Research Association files the statement of Donation. [FA 2022]

## SEC 35(2AB) IN HOUSE RESEARCH BY COMPANIES

ASSESSEE : Company engaged in Bio-technology / manufacturing of article or thing.

DEDUCTION :

1) Land - No deduction
2) Building - 100% [Sec 35(1)(iv)]
3) Other Capital expense - 100% deduction
4) Other revenue expense - 100% deduction

OTHER CONDITIONS :

1) Enter into prescribed agreement with the authority & submit the report to PC / CCIT / PDGIT.
2) Benefit available to amalgamating company as well

Further FA'20 provided the following conditions for research association, university, college & other institution so notified

1) They shall make an intimation in such form & manner within 3 months from the date of proviso into effect & such intimation shall be valid for 5 years.
2) Sec 35(1A) - research association, university, college & other institution or company shall not be entitled to deduction unless
   a) prepare a statement & deliver to the Income Tax Authority or correction statement as the case maybe
   b) furnishes the donor a certificate specifying the amount of donation.

## SEC 35D PRELIMINARY EXPENSE

ASSESSEE : Any Resident Assessee

DEDUCTION : 1/5th of lower of Actual or Maximum

Maximum=

| | |
|---|---|
| Company | 5% of cost of project OR 5% of Capital Employed, whichever is higher |
| Other Assessee | 5% of cost of project |

Preliminary expenses include :

i) preparation of feasibility report;
ii) preparation of project report;
iii) conducting market survey or any other survey;
iv) engineering services relating to the business of the assessee.
v) legal charges
vi) drafting & printing of MOA & AOA
vii) expenses related to public issue
viii) other expenses notified by government

COST OF PROJECT means amount invested in Fixed asset of new project or new setup

CAPITAL EMPLOYED means share capital + debenture + long term borrowing (R&S are not a part of CE)

Audit is mandatory and submit report 1m before due date u/s 44AB.

## SEC 35CCA EXPENSE FOR RURAL DEVELOPMENT PROGRAMMES

Assessee contribute for
(i) National fund for Rural Development
(ii) National Urban poverty Eradication fund,
The assessee shall be allowed a deduction of the amount of such expenditure incurred during the PY. if they dont have PGBP income than claim it under 80GGA

Deduction = 100%

## SEC 35DD EXPENSE OF AMALGAMATION / DEMERGER

Indian companies being Transferee - 1/5TH OF ACTUAL EXP

## SEC 35CCC EXPENSE ON AGRICULTURE EXTENSTION PROJECT

Any Assessee incurring expense on notified Agriculture extension project - 100% [FA'20] [Exp on L&B - not allowed]
"If opted for 115BAC than this deduction cannot be claimed"

## SEC 35CCD EXPENSE ON SKILL DEVELOPMENT

Companies incurring expense on Skill Development project - 100% [FA'20] [Exp on L&B - not allowed]

## SEC 40A(7) DISALLOWANCE IN RESPECT OF PROVISION FOR GRATUITY

| Disallowed Part | Allowed Part |
|---|---|
| Provision /payment to unapproved gratuity(Even if as per actuary) | Provision /payment to Approved Gratuity. |

## SEC 40A(9) DISALLOWANCE ON CONTRIBUTION TO NON STATUTORY FUNDS

| Disallowed Part | Allowed Part |
|---|---|
| Provision /payment to unrecognized provident Fund | Provision /payment to:<br>a) RPF b) SPF c) Pension (80CCD)<br>c) PPF d) Super Annuation Fund |

## SEC 38 PARTLY USED FOR BUSINESS & PROFESSION

AO During Assessment Shall Decide → The Amount of Personal & Business Exp → Only Business exp shall be allowed

## SEC 32 DEPRECIATION

a) Assets must be used for the purpose of business and profession
b) Assets should be owned by assessee
c) Depreciation should be allowed on the block of assets @ prescribed
d) Assets must be Put to Use.

OTHER POINTS :
1) No depreciation on goodwill be it purchased or self generated goodwill from AY21-22
2) 2nd proviso to Sec 32(1) - If assets is acquired In the PY & put to use for less than 180 days in the previous year then only 50% of depreciation shall be allowed.
3) In case of lease - Depreciation is always claimed by Lessor
4) Hire Purchase - Assessee can claim depreciation from the beginning
5) Expl. 1 to Sec 32 - Deemed Building - Where tenant incur capital expense on a building then it is treated as deemed building & depre is allowed to tenant
6) Expl. 5 to Sec 32 - Depreciation is mandatory

| Particulars | ₹ |
|---|---|
| WDV of the block of assets* as on 1st day of the PY | XXX |
| (+) Actual cost of assets acquired during PY Sec.43[1] | XXX |
| (-) sold, discarded, demolished/destroyed during PY. However, this reduction cannot, in any case, exceed value of asset computed above [actual sale price is reduced] | (XXX) |
| WDV | XXX |
| (-) Depreciation @ specified | (XXX) |
| Closing WDV | XXX |

Actual Sales price shall be reduced from WDV & not its FMV.
[CIT v Cable Corp]

Sale price include insurance received, salvage/compensation received.

# RATE OF DEPRECIATION

| Block | Nature of Assets | Rate |
|---|---|---|
| Building | Residential building other than hotels & boarding [Employee Quarter] | 5% |
| | Non-residential building, godown, office, factory etc. including hotels and boarding | 10% |
| | Temporary construction | 40% |
| Furniture | Any furniture including electrical fittings | 10% |
| P&M [Sec 43(3)] | In general (if nothing is mentioned ]<br>Oil well | 15% |
| | Motor car including lorries, buses, used for hiring purposes A.C. | 30% |
| | > Computer including computer software<br>> Books owned by a professional [whether annual publication or not]<br>> Energy saving device<br>> Annual Publication of books<br>> Life saving equipment<br>> Windmill [before 01.04.2014 15%]<br>> Pollution control equipment | 40% |
| Intangible | Acquired after 31.3.1998 | 25% |
| Other | Ship/ Vessel/speed boats | 20% |
| | Aeroplanes | 40% |
| | Motor bus /lorries on running them on hire | 30% |
| | Renewable energy device installed after 31/03/2014 | 40% |
| | Renewable energy device installed before 31/03/14 | 15% |

Notes:

Sec.43[3] P&M includes ships, vehicles, books, scientific apparatus & surgical equipment used for B&P but does not include:

a) Tea bushes b) Live stock c)Building d) Furniture & Fitting.

Depreciation rate for computer accessories is also 40% [printer] [CIT v. BSES Yamuna Power ltd]

EPABX are not computer eligible for 15% [Federal Bank Ltd]

As per Explanation 5 to sec 32(1), depreciation shall be allowed to assessee whether/not he has claimed it in total income, because sec is mandatory.

# 1ST PROVISO - DEPRECIATION IN CASE OF AMALGAMATION

| | |
|---|---|
| Step 1 | Calculate Total Depreciation as if no Amalgamation has taken Place |
| Step 2 | Divide total Depreciation into No of days Used by Each Entity<br>Days Counting:<br>Old Assets - From 1st day of PY<br>New Assets before Conversion - From the date of acquisition |

# SEC 32(1)(i) DEPRECIATION IN CASE OF POWER GENERATION UNIT

These Units has an Option to Claim Depreciation { SLM [Dep on Individual Assets; WDV[Dep on Block Assets]

## Sale of Assets on Which SLM is claimed

Sale Value is Less then WDV

| | |
|---|---|
| OP WDV | XXX |
| [-] Money Received Including Scrap Value | (XXX) |
| Terminal Depreciation to be claimed in Year | XXX |

Sale Value is More then WDV

| | |
|---|---|
| OP WDV | XXX |
| [-] Money Received Including Scrap Value | (XXX) |

> Amount upto Dep already claimed is taxable as Balancing Charge[Sec 41(2)]

> Balance surplus is Taxable as CG depends upon POHA [Sec 50A]

TERMINAL DEPRECIATION [Sec 32(1)(iii)] - If there is a loss on sale of assets of power generating unit, such loss is allowed as deduction.

BALANCING CHARGE [Sec 41(2)] - If there is a profit on sale of assets of power generating unit, such profit is taxable as PGBP. Amount recovered in excess thereof is taxable as STCG u/s 50A.

## SEC 32(i)(iia) ADDITIONAL DEPRECIATION

| | | |
|---|---|---|
| Assessee | Any Assessee engaged in Manufacturing / Power Generating, Distribution, Transmission Unit.<br>CBDT Cir 15/2016: printing & publication unit are also eligible for AD. | |
| Eligible Asset | Acquire New P&M | |
| Time | After 31/03/2005 | |
| P&M Does Not Include | 1) Second Hand P&M<br>2) P&M installed in Office / Guest House<br>3) Office appliance and Road Transport Agency,ship,aircraft.<br>4) The Whole Cost of which is allowed as Deduction<br>5) Ship or aircraft | |
| Rate of AD | Used for more than 180 days | 20% of actual Cost |
| | Less Than 180 days | 10% of actual Cost. However the balance 10% shall be available in the subsequent year. |
| | Undertaking operating in Notified area of specified state of AP/ Bihar/West Bengal/ Telangana [acq betn April'15 to April'20] | 35% of actual Cost. However if the assets are used for less than 180 days than 17.5% & balance 17.5% shall be available in the subsequent year. [It shall be 20% on assets acqd after April 2020] |
| Romancing Analysis | 1. AD is allowed only in the year in which such P&M is first put to use.<br>2. AD shall be allowed even if block has nil/negative value.<br>3. AD shall be subtracted while computing closing WDV of the respective block.<br>4. AD is not available if new plant/machinery is sold in the year of acquisition.<br>5. AD is not available if power unit is claiming depreciation under SLM i.e. under section 32(1)(i).<br>6. AD of 35% is not available for P&M used in generation or distribution of power. However, 20% shall be allowed for notified backward area. | |

Benefit not available for Assessee opting for Sec 115BAC

## SET OFF & CARRY FORWARD OF DEPRECIATION

| | |
|---|---|
| Current year Depreciation | 1. Against the profits of any business carried on during that year.<br>2. The balance, if any, against income under any other head. |
| Unabsorbed Depreciation | The unabsorbed depreciation can be carried forward for any no. of AYs & set off against income under any other head<br>> except salary & winning from lotteries, cross word puzzles etc. |
| Other Conditions | > Unabsorbed depreciation can be carry forward even return of income has not been filed.<br>> The business / profession for which depreciation was originally computed need not be carried on in the year of set off.<br>For set-off purpose following order should be followed :<br>a. Current year depreciation.<br>b. Brought forward business loss<br>c. Unabsorbed depreciation. |

## FORMAT TO SOLVE DEPRECIATION PROBLEM

| Particulars of Assets | WDV as on 1/4/.. | Addition made | Sale | Net value of block | Depreciation for the year | WDV on 31/3/.. |
|---|---|---|---|---|---|---|
| | | | | | | |

## SEC 50 CAPITAL GAIN IN CASE OF DEPRECIABLE ASSET

**Depreciable Asset is not eligible for indexation. Hence, the gain will always be STCG.**

**If asset is stolen or damaged & no insurance compensation is received,**

- **There are other assets in block** → No seperate tax treatment is required. Loss shall be contained in WDV & depre will be allowed over the number of period
- **No other assets in the block** → The block shall become NIL & Sec 50C shall not be attracted. Hence, it is a dead loss.

**CIT v. Rajiv Shukla (Delhi) - The assessee can claim exemption u/s 54F, if the assets are held for more than 36 months even though in case of depreciable asset the gain is Short term.**

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# SEC 43(1) ACTUAL COST

| Sr No | Particulars | Actual Cost | |
|---|---|---|---|
| 1 | Purchased | Purchase Price<br>(+) other costs incurred on assets put to use<br>(-) Sale value<br>Insurance<br>Subsidy<br>Assets acqd in cash exceeding ₹10,000 | xxx<br>xxx<br><br>(xxx) |
| Expl 1 to Sec 43(1) | Acquired for Scientific research subsequently brought into business use | Actual Cost<br>(-) Deduction availed u/s 35 | |
| Expl 1A to Sec 43(1) | Stock in trade is converted into capital asset | Fair Market value on the date of transfer | |
| Expl 2 to Sec 43(1) | Acquired by way of gift or inheritance | WDV in the hands of previous owner at the of transfer | |
| Expl 3 to Sec 43(1) | Asset acquired at higher price from any other person using the asset for his business or profession with a view to claim depreciation on enhanced cost & reduce tax liability | Actual cost to be determined by AO with prior approval of Joint Commissioner. | |
| Expl 4 to Sec 43(1) | Asset once belonged to the assessee which was used by him for business & transferred & reacquired by him | The WDV at the time of original transfer or the price paid for reacquiring the asset, whichever is less. | |
| Expl 4A to Sec 43(1) | Asset acquired by an assessee from another person who had claimed depreciation on such asset & asset is leased back to such other person. | The WDV of the asset to the transferor at the time of transfer to the assessee. | |
| Expl 5 to Sec 43(1) | Building used for private purpose subsequently brought into business use. | The cost of purchase or construction of the building as reduced by the notional depreciation calculated up to the year of bringing the asset to business use at the depreciation rate applicable to that year. | |
| Expl 6 to Sec 43(1)<br>Expl 2 to Sec 43(6) | Asset transferred by a holding Co. to its subsidiary Co. or by a Subsidiary Co., to holding Co. if the following two conditions are satisfied :<br>i) Shares of the subsidiary Co. should be wholly owned by the | WDV to the transferor company will be adopted as the actual cost to the transferee company. | |

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# SEC 43(1) ACTUAL COST

| Sr No | Particulars | Actual Cost |
|---|---|---|
| | the holding co. or its nominees.<br>ii) The transferee co. should be an Indian company.<br>Note: If transferor company was not claiming depreciation since it was not used for its business, then the actual cost to the transferee company shall be the actual cost to the transferor Company. | |
| Expl 7 to Sec 43(1)<br>Expl 2 to Sec 43(6) | Transfer of asset in a scheme of amalgamation by amalgamating co to amalgamated Indian company.<br>Note: If amalgamating Co was not claiming depreciation since it was not used for its business, then actual cost to the amalgamated co shall be the actual cost to amalgamating company. | WDV to the amalgamating company will be adopted as the actual cost to the amalgamated company. |
| Expl 7A to Sec 43(1) | Asset transferred by a demerged co to the resulting Indian co | Actual cost shall be the WDV in the hands of the demerged company. |
| Expl 8 to Sec 43(1) | Asset acquired out of borrowed funds | Interest on loan borrowed relating to the period after the asset is first put to use shall never form part of actual cost. |
| Expl 9 to Sec 43(1) | Asset acquired subject to levy of excise duty or customs duty in respect of which CENVAT credit is availed. | So much of the duty in respect in respect of which a claim of credit has been made & allowed under Central Excise Rules,1944 shall not form part of the actual cost. |
| Expl 10 to Sec 43(1) | A portion of the cost of an asset acquired is met directly or indirectly by Government or any statutory authority or any other person in the form of a subsidy or grant or reimbursement. | So much. of the cost as is relatable to such subsidy or grant or reimbursement shall not form part of the actual cost. If subsidy is not directly relatable to the asset acquired, but subsidy is with reference to the assets then the subsidy shall be proportionately reduced from the actual cost of the assets with reference to which subsidy has been granted. |
| Expl 11 to Sec 43(1) | Asset brought into India by NR/ foreign co for use in his business or profession. | Actual cost as reduced by amount of depre calculated @ in force as if asset was used in India since the date of acquisition. |

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| Sr No | Particulars | Actual Cost |
|---|---|---|
| Expl 12 to Sec 43(1) | Any capital asset acquired under a scheme of corporatisation of a recognised stock exchange in India, approved by SEBI. | The amount, which would have been regarded as actual cost, had there been no such corporatisation shall be deemed to be the actual cost. |
| Expl 13 to Sec 43(1) | Actual cost of capital asset has been allowed as deduction u/s 35AD and capital asset is transferred by way of transactions referred to in section 47. | The actual cost of such asset to the transferee shall be NIL. |

w.e.f. PY 20-21, goodwill is not eliible for depreciation, so if value of the block of assets as on 01.04.2020, includes goodwill(on which Dep has been obtained ), then depreciated value of goodwill shall be deduted from block as on 01.04.2020. For this purpose Deprec--iated Value of goddwill shall be calculated as if goodwill was the only assets in the relevant block .[FA'21]

## SEC 145 METHOD OF ACCOUNTING

For income under PGPB and IOS the computation shall be as per cash or accrual system of accounting.
The assessee is required to follow income computation and disclosure standards as may be notified by the CG.
If the accounts of the assessee are correct and complete, but the method of accounting is such (in the opinion of the AO) the correct profits cannot be derived there from then the AO may make the assessment u/s 144. British Paints India Ltd v CIT (SC)

## SEC 145B TAXABILITY OF CERTAIN INCOME

Interest received by assessee on any compensation/enhanced compensation, shall be deemed to be income of PY in which it is received (Refer IFOS).
Any claim for escalation of price in a contract/export incentives shall be deemed to be the income of PY in which reasonable certainty of its realisation is achieved.
Assistance in the form of subsidy/grant/cash incentive/duty drawback/ waiver/concession be deemed to be the income of the PY in which it is received (refer PGBP)

## SEC 35AD DEDUCTION IN RESPECT OF EXPENSE ON SPECIFIED BUSINESS

| Specified Business | Commence | Deduction |
|---|---|---|
| laying and operating a cross-country natural gas/crude /petroleum pipeline | 1.4.2009 | 100% |
| setting up and operating a cold chain facility | 1.4.2009 | 100% |
| setting up & operating a warehousing facility for storage of agriculture produce | 1.4.2009 | 100% |
| The business of building and operating a new hotel of 2 star or above category,anywhere in India. | 1.4.2010 | 100% |
| The business of building & operating of a new hospital anywhere in India with at least 100 beds for patients. | 1.4.2010 | 100% |
| a housing project under a scheme for slum redevelopment or rehabilitation . | 1.4.2011 | 100% |
| developing and building a housing project under a scheme for affordable housing . | 1.4.2011 | 100% |
| Capital expense for a new plant or newly installed capacity in any existing plant for production of fertilizers | 1.4.2012 | 100% |
| setting up & operating an Inland Container depot or container freight Station notified or approved under Custom Act | 1.4.2012 | 100% |
| Bee-keeping & production-Honey & Beewax | 1.4.2012 | 100% |
| Setting up & operating warehouse.facility for Storage of Sugar | 1.4.2012 | 100% |
| Laying & operating a slurry pipeline for the transportation of iron ore | 1.4.2014 | 100% |
| Setting up & operating Semi-conductor wafer fabrication manufacturing unit notified by CBDT | 1.4.2014 | 100% |
| Developing or maintaining & operating/ developing, maintaining & operating new infrastructure facility | 1.4.2017 | 100% |

The benefit of this section is available only if assessee has opted
If opted for 115BAC than the benefit is not available

Note :

Year of deduction

| Situation | Year of deduction |
|---|---|
| Prior Period Exp | The previous year in which the operations so commence, if such amount is capitalized in the books of accounts of the assessee on the date of commencement of operations. |
| Current Year Post Commencement | The previous year in which such expenditure is incurred. |

- It should not be formed by splitting up or reconstruction
- P&M should be new, however following shall be new P&M
  a) Imported P&M [on which no Dep is claimed in India]
  b) Dep claimed is not more than 20%
- Amount of deduction: The whole of any expenditure of capital nature incurred (excluding the expense on acquisition of any land/goodwill/ financial instrument), wholly & exclusively, for purposes of such specified business capital expense shall not be allowed as deduction for any payment exceeding ₹10000 except in case of mode prescribed [FA'19]
- Where the Assessee Builds the hotel of 2 star/above category as classified by Central Government and subsequently, While continuing to own hotel, transfer the operation thereof to another person , assessee shall be deemed to be carrying on the specified business u/s 35AD.
- No deduction shall be allowed under provisions of Chapter VI-A/ 10AA in relation to such specified business for the same or any other AY
- If Assets cost is Allowed as deduction u/s 35AD & such assets is transferred under slum sale then value of such assets be taken as Nil. Hence no depre shall be allowed.
- Loss from specified biz. can be setoff only against income from specified business if it cannot be setoff then it shall be c/f for any no of years
- Assets acquired shall be used for specified business only & shall be holded for 8 years where it is transferred earlier then it shall be deemed to be PGBP.[however not applicable for sick industrial unit.]

| Particulars | ₹ |
|---|---|
| Deduction claimed u/s 35AD | XXX |
| Less: Notional Depreciation | (XXX) |

- Infrastructure Facility shall include Road/dam/bridge/canal/port/ airport/highway projects/water supply/irrigation etc.

# SEC 40(b) PAYMENT TO PARTNERS

a) Partner generate following Income from the firm & these income are taxable in the head PGBP to Partner.

| S.No | Income | Taxability |
|---|---|---|
| 1 | Share of firm/LLP | Exempt u/s 10(2A) |
| 2 | Remuneration/salary | Subject to limit of Sec.40(b) |
| 3 | Interest on capital/Advance | |
| 4 | Commission | |

b) Any other income of partner apart from firm shall be taxable in his individual capacity in respective head for eg: interest on saving bank account taxable in IFOS

c) Partner can take deduction of such expense which is incurred for earning the income

## REMUNERATION

Condition for remuneration:-
- Remuneration should be paid only to a working partner
- Remuneration must be authorised by the partnership deed
- Remuneration should not pertain to period prior to partnership deed
- Remuneration should not exceed the permissible limit

Maximum Permissible Limits
In case of any partnership firm

| Book Profit | Limit |
|---|---|
| On the First ₹ 3,00,000 of the Book Profit or in case of a loss. | ₹ 1,50,000 or at the rate of 90 % of Book Profits, whichever is higher. |
| On the balance of book profits. | At the rate of 60 % of book profits. |

Note : While making adjustment in Step 2 above, following to be noted:
a) Book Profit =

| | |
|---|---|
| Income from PGBP as per Normal Provision after making all adjustment u/s 28-44[(-) Current year (+) b/f depreciation] | XXX |
| Add: Interest /remuneration paid or payable to partners [if debited] | xxx |
| Less: Interest allowable u/s 40(b) | [xxx] |
| Books profit | |

b) Income chargeable under 'HP', 'CG' & 'IFOS' will not form part of 'Book Profits'.
c) Remuneration include commission for the purpose of Sec.40[b]
d) B/f business loss will not be deducted from profits.
e) Permissible deductions from gross total income shall be ignored.
f) As per ACIT vs great city manufacturing co it was held that once sec. 40(b) is allied sec.40(A)(2) cannot be applied.
g) Any payment made beyond limit be disallowed while computing PGBP of firm

Expl 1 to 40(b) - If Individual is a partner in a firm, on representative capacity & receiving interest on individual capacity, then Sec 40(b) is not applicable. (which means interest beyond 12% is also allowed)

Expl 2 to 40(b) - If Individual is a partner in a firm, on individual capacity & receiving interest on representative capacity, then Sec 40(b) is not applicable. (which means interest beyond 12% is also allowed)

The above explanations are only for interest & not remuneration, Remuneration shall be limited to the limits of Sec 40(b)

## INTEREST

Condition for claiming interest:-
- Payment of interest should be authorised by Partnership deed
- Payment of Interest should pertain to the period after the Partnership deed
- Rate of interest should not exceed 12% pa simple interest

Interest paid to working as well as sleeping are both allowed

Act does not make difference between capital/loan. Interest on both is 12%. (Capital covers both fixed & circulating)

If firm pays interest to partner & partner pays interest to firm on drawing, it shall not be net off.

Deduction is lower of:
a) 12% of capital
b) Actual Interest
c) Amount given in deed

## SEC 40(ba) PAYMENT OF INTEREST, SALARY, BONUS, COMMISSION / REMUNERATION MADE BY AOP/BOI TO MEMBERS

Notwithstanding anything to the contrary in sec 30 to 38, following amounts shall not be deducted in computing income chargeable under the head "Profits and gains of business or profession", incase of an AOP / BOI other than a company/co-operative society or a society registered under Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India, any payment-interest, salary, bonus, commission/remuneration, by whatever name called, made by such association/body to a member of the same.

Explanation 1 - Where interest is paid by an AOP / BOI to any member thereof who has also paid interest to the association or body, amount of interest to be disallowed under this clause shall be limited to amount by which the payment of interest by the association/body to member exceeds the payment of interest by member to the association or body.

Explanation 2 - Where an individual is a member of an association or body on behalf, or for the benefit, of any other person (such member and the other person being hereinafter referred to as "member in a representative capacity" and "person so represented", respectively), -
i) interest paid by the association / body to such individual / by such individual to the association or body otherwise than as member in a representative capacity, shall not be taken into account for the purposes of this clause;
ii) interest paid by the AOP / BOI to such individual or by such individual to the association or body as member in a representative capacity and interest paid by the association or body to the person so represented or by the person so represented to the association or body, shall be taken into account for the purposes of this clause.

Explanation 3 - Where an individual is a member of an association or body otherwise than as member in a representative capacity, interest paid by the association or body to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.

## SEC 40(a) EXPENSES NOT DEDUCTIBLE

a) Salary, Interest, Royalty, etc. for non-resident (without TDS)
b) Interest, Commission, Royalty, etc. for resident (without TDS)
c) Fringe benefit tax- Tax on employment paid by Employer
d) Income tax/Dividend tax (Income tax include surcharge and cess) [FA 2022].
e) Wealth Tax
f) Royalty,fees, service charges paid by State Govt undertaking to State Govt

## PAYMENT WITHOUT TDS

Sec 40(a)(i) - Payment to Non Resident
Any payment made or credited to NR if
a) TDS is not deducted
b) TDS is deducted but not paid to Government before due date of filing ROI
then, 100% of such sum shall be disallowed.

Sec 40(a)(ia) - Payment to Resident
Any payment made or credited to Resident if
a) TDS is not deducted
b) TDS is deducted but not paid to Government before due date of filing ROI
then, 30% of such sum shall be disallowed.

Sec 40(a)(ib) - Equalisation Levy
If Equalisation levy is not deducted, then 100% disallowed

Other Points :
1) Deduction is allowed in the year of payment
2) Assessee not treated as Assessee-in-default
If any amount paid/credited to Assessee [R/NR]
Payee without TDS but such payee
a) Furnishes ROI
b) Consider the above income & pay the tax on such sum
c) Furnishes a certificate from a CA in this effect
then, Assessee shall not be treated as Assessee-in-default.
[However, interest u/s 201(1A) @ 1% pm or part thereof is applicable]

## SEC 41 DEEMED PGBP

Sec 41(1) : If Assessee was allowed deduction in earlier PY by way of expense, loss, trading liability & now during the current PY. Assessee has obtained a refund of such liability or there is remission/cessation of such trading liability, then such refund/remission shall be taxable under PGBP. Eg : a) Sales tax refund

Sec 41(2) : Balancing Charge : Already discussed with power units depreciation.

Sec 41(3) : Sale of Scientific Research Assets as discussed in Scientific research.

Sec 41(4) : Recovery of bad debts - taxable in the year of recovery

## SEC 44AA MAINTENANCE OF BOOKS OF ACCOUNTS

BUSINESS:
a) Individual & HUF : Income exceeds 2,50,000
Turnover exceeds 25,00,000
b) Showed Lower Income
c) Other than Individual/HUF : Income exceeds 1,20,000
Turnover exceeds 10,00,000 in any 3 PYs

PROFESSION:
If Gross receipts in all 3 PYs exceed 1,50,000
Specified Profession includes - legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession.

NOTE:
1. Books are maintained for 6 years from end of relevant AY.
2. Penalty for non compliance = 25000 [Sec.271A]

## Sec 2(12A) Books or books of account

"Books or books of account" include ledgers, day-books, cash books, account-books and other books, whether kept in the written form or in electronic form or in digital form or as printouts of data stored in such electronic form or in digital form or in a floppy, disc, tape or any other form of electro-magnetic data storage device. [FA 2022]

## SEC 44AB AUDIT OF ACCOUNTS

1) BUSINESS: Total sales or gross receipts exceed ₹1crore.
   FA'20 - The turnover limit shall be 10cr. instead of 1cr. in the following case :
   a) out of total receipts, cash receipt is upto 5% during the PY &
   b) out of total payments, cash payment is upto 5% during the PY.

2) PROFESSION: Gross receipt exceed ₹50 lakh

3) Business referred to under Sec. 44AD/ADA and declaring lower income & total income > BEL

4) If assessee is covered u/s 44AE/44BBB/44BB & claim income lower than presumptive income.

NOTE:
1. Penalty for non compliance = 150000 or 0.5% of sales, whichever is lower [Sec.271B]
2. Filling of report = Audit report of CA, 1 month before the due date of ROI

## SPECULATIVE TRANSACTION

"speculative transaction" means a transaction in which a contract for purchase or sale of any commodity, including stocks & shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips.

However, following transactions shall not deemed to be speculative -
a) Forward contracts
b) Trading & derivative through recognised stock exchange
c) Hedging contract in respect of raw material or merchandise or stock in shares
d) Eligible transaction in commodity derivative through Recognised Stock Exchange [FA'20]
   Speculative is considered as a Seperate business.

# SEC 43CA FVOC FOR LAND & BUILDING HELD AS STOCK IN TRADE

Asset being land or building or both held as stock in trade,
where 110% of stamp duty value exceeds consideration then SDV shall be full value of consideration in respect of such transfer,

(1) Instead of 110% take 120% if following condition are satisfied
(i) The transfer of such residential unit takes place during the period beginning from the 12th day of November, 2020 and ending on the 30th day of June, 2021;
ii) such transfer is by way of first time allotment of the residential unit to any person; and
iii) the consideration received or accruing as a result of such transfer does not exceed 2crore rupees.]

(2) The provisions of sub-section (2) and sub-section (3) of section 50C shall, so far as may be, apply in relation to determination of the value adopted or assessed or assessable under sub-section (1).

(3) Where the date of agreement fixing the value of consideration for transfer of the asset and the date of registration of such transfer of asset are not the same, the value referred to in sub-section (1) may be taken as the value assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer on the date of the agreement.

(4) The provisions of sub-section (3) shall apply only in a case where the amount of consideration or a part thereof has been received by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account 93[or through such other electronic mode as may be prescribed94] on or before the date of agreement for transfer of the asset.

"residential unit" means an independent housing unit with separate facilities for living, cooking and sanitary requirement, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.]

# CLUBBING OF INCOME


| Sec | Particulars | Pg No |
|---|---|---|
| | Basics of Clubbing Income | 9.2 |
| 60 | Transfer of Income without Transfer of Assets | 9.2 |
| 61 | Revocable Transfer of Assets | 9.2 |
| 64[1A] | Minor's Income | 9.2 |
| 64(1)(iv) | Transfer to Spouse for Inadequate or without consideration | 9.2 |
| 64(1)(vi) | Transfer to Son's Wife | 9.3 |
| 64(1)(vii) | Assets transferred to 3rd person for benefit of | 9.3 |
| (viii) | Wife/Son's Wife | |
| 64(1)(ii) | Salary, Commission earned by Spouse | 9.3 |
| | Business out of Gifted Money | 9.3 |
| 64(2) | Transfer of Asset to HUF | 9.3 |
| | Cross Transfers | 9.4 |


"If you are not doing what you Love, you are wasting your time"

## BASICS OF CLUBBING

The income, shall be first computed in the hands of recipient and all expenditure related to such income shall be allowed as provisions of the Act and thereafter the net income shall be clubbed. E.g. Standard deduction u/s. 24(a) from income from house allowed in the hands of the recipient and thereafter the net income shall

If the clubbed income is eligible for deduction u/s. 80C, then such deduction shall be allowed to the assessee in whose hands such income is clubbed e.g. if interest on NSC of the minor is clubbed in the hands of parent u/s. 64(1A) then parent can claim deduction u/s. 80C.

Clubbing Shall be Made in the same Head in which such person has earned it. e.g. Bank interest of minor child shall be clubbed under the head "Income from other sources" of parent.

Negative Income is also Clubbed

Clubbing Provisions are mandatory

## SEC 60 TRANSFER OF INCOME WITHOUT TRANSFER OF ASSETS

If any person transfer any Income without transfer of Assets then such income is taxable in the hands of transferor.

## SEC 61 REVOCABLE TRANSFER OF ASSETS

Income arising to any person by virtue of revocable transfer shall be included in total income of trasnferor.

Revocable transfer of asset: transfer shall be deemed to be revocable if-it contains any provision for re-transfer of the whole or any part of the income or assets to the transferor, or it gives transferor a right to re-assume power over the whole or any part of income or assets.

Provision of sec 61 shall not apply to transfer which is revocable after the life time of the beneficiary or transferee.

## SEC 64[1A] MINOR'S INCOME

All other income except specified shall be Taxable

- Parent Marriage Subsist → Clubbed in the hands of parent having Greater Income
- Parent Marriage Do not Subsist → Clubbed in the hands of parent Who maintain the Child

Following shall not be clubbed Taxable in the hands of minor himself.

1. Earned out of skill & Talent
2. Earned out of manual work done
3. Income earned by a minor Handicap covered u/s 80U.

Where any such income is once included in total income of either parent any such income arising in any succeeding year shall not be included in total income of the other parent, unless AO is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.

Once the Income of minor is clubbed then exemption of Rs.1500 per child shall be available[irrespective of no of child][Sec 10(32)]

Child includes step child: Child in relation to an individual, includes step-child and an adopted child.

Minor child includes minor married daughter:

Provision of sec 64(1A) shall apply in case of minor married daughter als

No clubbing after attaining majority: Where the minor child become majo during the previous year, provision of this section will apply till such dat

## SEC 64(1)(iv) TRANSFER TO SPOUSE FOR INADEQUATE OR WITHOUT CONSIDERATION

- Income from HP → Taxable in HP in the Hands of tranferor u/s 27 as deemed owner.
- Other Income → Taxable in Hands of Transferor u/s 64

Note: This Section is Not Applicable in following cases
1. If the relation of husband and wife does not subsist either at the time of transfer or at the time of accrual of income from such asset.
2. If transferred for adequate consideration or under agreement to live apart

Other Note:
A. Change in shape: Where the assets transferred has changed its shape and identification then, income from such changed assets is to be clubbed.
B. CG on sale of transferred asset: Where the assets transferred is sold by the transferee, the CG arising to transferee, if any, is to be clubbed in the hands of transferor.
C. Acquisition of asset out of pin money: Provisions of clubbing won't apply when such assets is acquired by the spouse out of pin money (i.e. small allowances given by her husband for her personal expenses).

## SEC 64(1)(vi) TRANSFER TO SON'S WIFE

If Assets are transfered to sons wife for inadequate or without consideration & Income is earned then such income is clubbed in the hands of transferor.[father in Law].

Exception: If it is transferred for adequate consideration.

## SEC 64(1)(vii),(viii) ASSETS TRANSFERRED TO 3RD PERSON FOR BENEFIT OF WIFE/SON'S WIFE

If the Assets is transfered for the benefit of wife/sons wife then income from such property shall be clubbed in hands of transferor

Exception- The asset is transferred otherwise than for adequate consideration.

## SEC 64(1)(ii) SALARY, COMMISSION EARNED BY SPOUSE

If the spouse has earned remuneration from a concern where Individual has substiantial interest & spouse does not posses any professional & technical Qualification then such remuneration shall be clubbed in hands of transferor.

**Meaning of substantial interest:**
(i) in a case where the concern is a company: 20% of Voting Right.
(ii) in any other case: 20% of Profit

Notes:
1. Whether both husband & wife has substiantial interest:
The income shall be clubbed in the hands of person having greater income before this clubbing

2. Whether holding of relative is also considered:
Yes holding of relative shall also be counted while considering the substiantial Interest. 'Relative' in relation to individual means the husband,wife, brother or sister or any lineal ascendant/descendant.

## BUSINESS OUT OF GIFTED MONEY

A. Profit earned in the business shall be clubbed in the following manner

$$\text{profit} \times \frac{\text{Gifted Amount}}{\text{Total Capital Employed}}$$

## SEC 64(2) TRANSFER OF ASSET TO HUF

If any Individual transfers any asset to his HUF without/for inadequate consideration then Income from such asset is received by HUF but taxable in the hands of the Transferor (Member)
After Partition of HUF, Income from such asset received, by spouse shall be clubbed in hands of Transferor
Note :
a) Income includes loss
b) Where an asset transferred is converted into other form, income derived from such converted asset shall be clubbed
c) Natural love & affection is not adequate consideration for Sec 64
d) If asset transferred is sold by transferee then CG is income & clubbed
e) If there are 2 transactions both interconnected & part of same transaction, shall be considered evasion of tax & therefore clubbed

## CROSS TRANSFERS

In the case of cross transfers also (e.g., A making gift of ₹50,000 to the wife of his brother B for the purchase of a house by her and a simultaneous gift by B to A's minor son of shares in a foreign company worth ₹50,000 owned by him), the income from the assets transferred would be assessed in the hands of the deemed transferor if the transfers are so intimately connected that they form part of a single transaction, and each transfer constitutes consideration for the other by being mutual or otherwise. Thus, in the instant case, the transfers have been made by A and B to persons who are not their spouse or minor child so as to circumvent the provisions of this section, showing that such transfers constituted consideration for each other.

The Supreme Court, in case of CIT v. Keshavji Morarji [1967], observed that if two transactions are inter-connected and are parts of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. Accordingly, the income arising to Mrs. B from the house property should be included in the total income of B and the dividend from shares transferred to A's minor son would be taxable in the hands of A. This is because A and B are the indirect transferors to their minor child and spouse, respectively, of income-yielding assets, so as to reduce their burden of taxation.

# SET OFF AND CARRY FORWARD


| Sec | Particulars | Pg No |
|---|---|---|
| 70 | Intra Head Adjustment | 10.2 |
| 71 | Inter Head Adjustment | 10.2 |
| 94(8) | Bonus Stripping | 10.3 |
| | Summary Chart | 10.4 |
| | Exception to the rule that Assessee who has incurred the loss can only be set off that loss | 10.5 |
| | Order of Set off | 10.5 |
| 80 | Submission of return of losses | 10.5 |


## IMPORTANT AMENDMENTS/ NOTIFICATIONS/CIRCULARS


| Sr No. | Particulars | Pg No |
|---|---|---|
| 1 | Sec 94(8) Bonus Stripping | 10.3 |
| 2 | Explanation : Record Date | 10.3 |
| 3 | Explanation : Units | 10.3 |


"

5 by 5 RULE
If it is not going to matter in 5 years, don't spend more than 5 minutes being upset about it

"

## SEC 70 INTRA HEAD ADJUSTMENT

| Particulars | Provisions | |
|---|---|---|
| Salary | There cannot be any loss in Head Salary. | |
| House Property | Loss from House property can be setoff against income from house property | |
| PGBP | Normal Business | Normal Business loss can be setoff against any Business Income |
| | Speculative Business | Speculative loss can be setoff only against Speculative Income |
| | Specified Business | Specified Business loss can be setoff only against specified business Income |
| Capital Gains | LTCL | LTCL can be setoff only against LTCG |
| | STCL | STCL can be setoff against any capital gains |
| Other Sources | Normal Loss | IFOS loss can be setoff against IFOS Income |
| | Loss from O & M Horse race | Horse race loss can be setoff only against Horse Race Income |
| | Loss from an Exempt Source | Loss from an exempt source cant be setoff CIT Vs. Tyagrajan |

## SEC 71 INTER HEAD ADJUSTMENT

| Particulars | Provisions | |
|---|---|---|
| Salary | Loss from any head can be setoff against salary except PGBP & Unabsorbed Depreciation | |
| House Property | Loss From House Property can be setoff against other head maximum upto Rs.2L. [Within same Head unlimited]. | |
| PGBP | Normal Business | Normal Business loss can be setoff against any Income except salary. |
| | Speculative Business | Speculative loss can be setoff only against Speculative Income |
| | Specified Business | Specified Business loss can be S/O only against specified business Income Sec.35AD |
| Capital Gains | General Rule | Loss from other head can be setoff against CG but loss from CG cant be setoff against other Head I.E. |
| | LTCL | LTCL can be setoff only against LTCG |
| | STCL | STCL can be setoff against any capital gains |
| Other Sources | Normal Loss | IFOS loss can be setoff against IFOS Income |
| | Loss from O & M Horse race | Horse race loss can be setoff only against Horse Race Income |
| | Loss from an Exempt Source | Loss from an expemt source cant be setoff CIT Vs. Tyagrajan |

Following points should be noted in respect of section 70 and 71: No order of priority is given in the Act: Act does not prescribed any order of priority for s/o of losses, therefore, one should try to set off of those losses which cannot be set off in future /having shorter period Once loss is C/f it can be setoff against same head of Income only.

## Sec 94(8) Bonus Stripping

Where

(a) Any person buys or acquires any securities(FA,2022) or units within a period of 3 months prior to the record date;

(b) Such person is allotted additional securities or units without any payment on the basis of holding of such securities or units on such date;

(c) Such person sells or transfers all or any of the securities or units referred to in clause (a) within a period of 9 months after such date, while continuing to hold all or any of the additional securities or units referred to in clause (b), then, the loss, if any, arising to him on account of such purchase and sale of all or any of such securities or units shall be ignored for the purposes of computing his income chargeable to tax.

## Explanation : Record Date

"Record date" means such date as may be fixed by—

(i) A company;

(ii) A Mutual Fund or the Administrator of the specified undertaking or the specified company referred to in the Explanation to clause (35) of section 10; or

(iii) A business trust ; or

(iv) An Alternative Investment Fund, made under SEBI Act. for the purposes of entitlement of the holder of the securities or units, as the case may be, to receive dividend, income, or additional securities or units without any consideration, as the case may be; [FA,2022]

## Explanation : Units

"unit" shall mean,

(i) A unit of a business trust defined in clause (13A) of section 2;

(ii) A unit defined in clause (b) of the Explanation to section 115AB; or

(iii) Beneficial interest of an investor in an AIF and shall include shares or partnership interests. [FA,2022]

# SUMMARY CHART

| Particulars | Set off | | Sec 71B to 74A<br>Rules to carry forward & set off past year losses. |
|---|---|---|---|
| | Intra head | Inter head | |
| House Property Loss | Yes | Yes | Sec 71B:<br>• Brought forward HP loss can be set off only with HP.<br>• It can be carried forward for 8 AY's.<br>• Section 80 is not applicable. It means even if return of loss is not filed or filed late loss can be carried forward & set off.<br>Maximum Setoff upto 2L |
| Business Loss | Yes | Yes, except Salary | Section 72<br>• Set off with both business income & speculation income.<br>• Carry forward for 8AY.<br>• Section 80 applicable. It means if return of loss is not filed or filed late business loss cannot be carried forward.<br>• Assessee who has incurred the loss can only set off that loss [6 exception]<br>• Even if business is discontinued business loss can be set off. |
| Speculation Loss (Same day sale & purchase i.e without taking delivery) Sec 43(5) | Yes | No | Section 73<br>• Past year speculation loss can be set off only with speculation income.<br>• Carry forward for 4 AY.<br>• Section 80 applicable. It means if return of loss is not filed or filed late speculation loss cannot be carried forward.<br>• Assessee who has incurred the loss can only set off that loss [exception not applicable]<br>• Even if business is discontinued business loss can be set off. |
| Loss under capital gain head | Yes; LT against LT only. ST against ST & LT | No | Section 74<br>• LT can be set off only with LT. ST can be set off with both LT & ST.<br>• Carry forward for 8 AY.<br>• Section 80 applicable. It means if return of loss is not filed or filed late Capital gain (loss) cannot be carried forward. |
| Loss from activity of owning & maintaining race horses | Yes | No | Section 74A<br>• Past year horse loss can be set off only with horse income.<br>• Carry forward for 4 AY.<br>• Section 80 applicable. It means if return of loss is not filed or filed late business loss cannot be carried forward.<br>• Assessee who has incurred the loss can only set off that loss [exception not applicable]<br>• Even if business is discontinued business loss can be set off. |

| | | | |
|---|---|---|---|
| Loss from Lotteries | No | No | No |
| Other lossess | Yes | Yes | Yes |

Notes :
Loss from lotteries :
No other loss can be set off against this income. Deduction u/s 57 not available. Deduction u/s 80C to 80U not available. Basic exemption not available. Flat rate 30%.

Other Losses :
In case of choice this loss should be set off first since it cannot be carried forward.

## EXCEPTIONS TO THE RULE THAT ASSESSEE WHO HAS INCURRED THE LOSS CAN ONLY BE SET OFF THAT LOSS [APPLICABLE TO S 72 & 32(2)]

72A. Accumulated business loss of amalgamating company can be carried forward and set off by amalgamated company.

72A. Accumulated business loss of demerged company can be carried forward and set off by resulting company.

72A. Conversion of sole proprietorship concern into a company.

72A. Conversion of firm into a company.

72A. Conversion of Pvt. limited Company to LLP or Unlisted Company to LLP. (Limited Liability Partnership).

78(2). Losses of business acquired on inheritance. Father dies and son inherits the business then son can set off the business loss.

## ORDER OF SET OFF

Sec.72(2), where unabsorbed depreciation or unabsorbed exp of a capital nature on scientific research related to the business carried on by the assessee, are also C/f then, effect shall first be given to the unabsorbed business loss. Therefore priority of set off is as under:

1.Current year depreciation,
2.Current year expenditure on scientific research,
3.Current year allowable expenditure on promotion of family Planning
4.Brought forward business or profession loss,
5.Unabsorbed depreciation,
6.Unabsorbed capital expenditure on scientific research,
7.Unabsorbed expenditure on promotion of family planning.

## SEC 80 SUBMISSION OF RETURN OF LOSSES

As per section 80, the assessee must have filed a return of loss u/s 139(3)

in order to carry forward and set off of

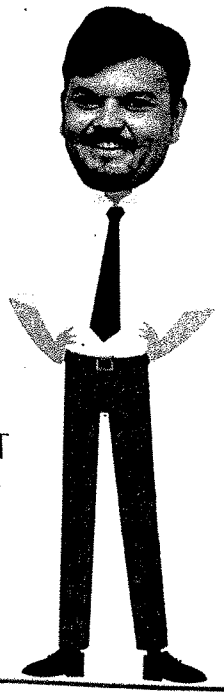
- business loss to be carried forward u/s 72(1)
- speculation business loss to be carried forward u/s 73(2)
- loss from specified business to carried forward u/s 73A(2)
- loss under the head "Capital Gains" to be c/f u/s 74(1) &
- loss incurred in the activity of owning and maintaining race horses to be carried forward u/s 74A(3).

# DEDUCTIONS


| Sec | Particulars | Pg No |
|---|---|---|
| | Basics of Deductions | 11.2 |
| 80TTA | Deduction for Interest on Saving Account | 11.2 |
| 80GGB | Contribution to Political party by Indian Company | 11.2 |
| 80TTB | Interest on Deposits | 11.2 |
| 80GGC | Contribution to Political parties | 11.2 |
| 80U | Deduction for Person with Disability | 11.2 |
| 80DD | Maintenance of Disable Dependent | 11.3 |
| 80DDB | Treatment of Specified Diseases | 11.3 |
| 80EEB | Tax Incentive for Electric Vehicle | 11.3 |
| 80GGA | Scientific research & rural development | 11.3 |
| 80E | Interest on Education Loan | 11.4 |
| 80D | Medical Treatment | 11.4 |
| 80EEA | Interest on Self Occupied Property | 11.4 |
| 80EE | Interest on Housing loan | 11.4 |
| 80C | Deduction on Eligible Investment | 11.5 |
| 80CCC | LIC Pension Fund | 11.6 |
| 80CCD | Contribution to Pension Funds | 11.6 |
| 80G | Donations | 11.7 |
| 80GG | Deduction for Rent Paid | 11.7 |
| 80JJAA | Deduction for Employment | 11.8 |
| 80RRB | Royalty on Patents | 11.8 |
| 80QQB | Royalty Income of Authors | 11.9 |
| | Note to Student | 11.9 |
| | List of Institution / Fund | 11.9 |
| | Impact of Sec 115BAC on deductions | 11.10 |


## IMPORTANT AMENDMENTS/ NOTIFICATIONS/CIRCULARS


| Sr No. | Particulars | Pg No |
|---|---|---|
| 1 | Sec 80DD | 11.3 |
| 2 | Sec 80EEA | 11.4 |
| 3 | Sec 80CCD | 11.6 |
| 4 | Sec 80G | 11.7 |
| 5 | Sec 80M | 11.8 |
| 6 | Impact of Sec 115BAC on Deductions | 11.10 |

"GO with the CHOICE that SCARES you the MOST because that's the one that's going to HELP you GROW"

# BASICS OF DEDUCTION

1. Deduction is covered under chapter VIA.
2. Deduction is Available u/s 80C-80U.
3. Deduction cannot exceed GTI. [Sec.80A]
4. Sec.80AC No deduction would be allowed to a taxpayer if income-tax return is not filled on or before the due date u/s 139[1] .
5. Deduction is not available from following:
   a) Capital gains u/s 111A, 112 & 112A
   b) Casual income.
   c) Specified Business income.
   d) NR Presumptive Income u/s 115A to 115AD
   e) Income of NR u/c XIIA.

# SEC 80TTA DEDUCTION FOR INTEREST ON SAVING ACCOUNT

| | |
|---|---|
| Assessee | Individual or HUF [Other than Senior citizen][FA,2018] |
| Qualifying Income | Interest on savings account (not time deposits) earned on savings account with<br>a) Banking company<br>b) Co-operative society doing banking business<br>c) Post office |
| Deduction | Minimum of the following<br>a. Interest on such deposits in saving account.<br>b. Rs.10,000 |

# SEC 80GGB CONTRIBUTION TO POLITICAL PARTY BY INDIAN CO

| | |
|---|---|
| Assessee | Indian Company |
| Contribution to | Political Party or Electoral Trust [Within the meaning of Sec 182 of the Companies Act, 2013 |
| Deduction | Any Amount [100%] |
| Restriction | Amount should not be paid in Cash |

# SEC 80TTB INTEREST ON DEPOSITS

| | |
|---|---|
| Assessee | Individual being Resident [Being Senior Citizen] |
| Qualifying Income | Interest on deposit earned from<br>a) Banking company<br>b) Co-operative society doing banking business<br>c) Post office |
| Deduction | Minimum of the following<br>a. Interest on deposits<br>b. ₹50,000 |
| Other Condition | > corresponding amendment has been proposed in Sec 194A to provide that TDS is required from payment of interest to senior citizen upto ₹50,000 |

# SEC 80GGC CONTRIBUTION TO POLITICAL PARTY

| | |
|---|---|
| Assessee | Any Assessee [other than Indian Company] |
| Contribution to | Political Party or Electoral Trust [Within the meaning of Sec 182 of the Companies Act, 2013] |
| Deduction | Any Amount [100%] |
| Restriction | Amount should not be paid in Cash |

# SEC 80U DEDUCTION FOR PERSON WITH DISABILITY

| | |
|---|---|
| Assessee | Individual being Resident |
| Condition | The assessee, at any time during the PY, is certified by the medical authority to be a person with disability.<br><br>The assessee furnishes a copy of certificate issued by the medical authority in the prescribed form along with the return of income in respect of the A.Y. for which the deduction is claimed.. |
| Amount of Deduction | Disability of the assessee: Other than severe disability — ₹75,000; Sever disability[80%] — ₹1,25,000<br>Deduction is allowed irrespective of expense incurred by the assessee. |

## SEC 80DD MAINTENANCE OF DISABLE DEPENDENT

| | |
|---|---|
| Assessee | Individual/HUF being Resident |
| Condition | 1) Medical treatment (including nursing), training & rehabilitation of a dependant, being a person with disability<br>2) Deposited any amount under a scheme (framed by the LIC or any other approved insurer), which would provide for payment of annuity or lump sum amount for the benefit of such dependent, in the event of the death of the assessee.<br>3) It should provide for payment of annuity or lumpsum<br>a) In the event of death or<br>b) Attending the age of 60 yrs or more by such individual or member of HUF |
| Amount of Deduction | Disability of the assessee: Other than severe disability — ₹75,000; Sever disability[80%] — ₹1,25,000<br>Deduction is Allowed on Actual Payment Basis<br>Relative includes - parents, spouse, brother, sister & any member of HUF |
| Deemed Income | If the dependent ( being disable) predeceases the individual or member then the amount deposited would be treated as deemed income. However, such deeming provision would not apply to the amount recieved by dependent being a person with disability, before his death, by way of annuity or lumpsum under the scheme mentioned in point B when individual or member attend 60 yr or more. |

## SEC 80EEB TAX INCENTIVE FOR ELECTRIC VEHICLE

| | |
|---|---|
| Assessee | Individual |
| Condition | 1) Interest on Loan taken for Purchase of Electric Vehicle from any Financial Institution/NBFC<br>2) Loan must be taken between April'19 to March'23<br>3) Assessee does not own any other Electric Vehicle on the date of sanction |
| Amount of Deduction | Interest Paid or 150,000 - whichever is lower |

"Electric Vehicle" means a vehicle which is powered exclusively by an electric motor whose traction energy is supplied excusively by traction battery installed in the vehicle & has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy.

## SEC 80DDB TREATMENT FOR SPECIFIED DISEASES

| | |
|---|---|
| Assessee | Individual/HUF being Resident |
| Condition | Expenditure incurred on the medical treatment of relative. [Specified Diseases in Rule 11D- Neurological disease, Cancer, Chronic Renal failure, Thalassaemia. ] |
| Amount of Deduction | Dependent: 1. Other than senior citizen — Actual or ₹40,000, whichever is less; 2. Senior citizen / 3. Very senior citizen — Actual or ₹100000, whichever is less<br>Deduction is Allowed on Actual Payment Basis |
| Meaning of Various Terms | Dependent: Individual — Himself, Spouse, children, parents, brothers and sisters of the individual.; HUF — Any Member |

## SEC 80GGA SCIENTIFIC RESEARCH & RURAL DEVELOPMENT

| | |
|---|---|
| Assessee | Any Assessee not having Income from PGBP |
| Contribution to | > A Scientific Research Association, or to an Approved University, or College or other institutions to be used for Scientific Research / Research in Social Science or Statistical Research.<br>> An Approved Association, Institution, Public Sector Co which has as its object the training of persons for implementing program of rural development.<br>> Sum paid to the National Fund for rural development set up and notified by the Central Government for the purpose of carrying out rural development programmers. |
| Deduction | Any Amount [100%]. However if Sum Exceed ₹2,000 [FA'20] then Amount should be paid via Cheque. |
| Logics | No withdrawal of deduction even if approval is withdrawn<br>Above deduction, shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval of above mentioned institutions has been withdrawn. |

Amendment as per FA'20 w.e.f 01.06.2020 -
Explanation to Sec 80GGA(4) - For removal of doubts, it is hereby declared that the claim of assessee for a deduction in respect of any sum referred to in sub-sec (2) in ROI for any AY filed by him, shall be allowed on the basis of information relating to such sum furnished by payee to the prescribed income-tax authority / person authorised by such authority, subject to verification in accordance with the risk management strategy by Board from time to time.

## SEC 80E INTEREST ON EDUCATION LOAN

| | |
|---|---|
| Assessee | Individual (R/NR) |
| Payment for | Paid Interest on education loan[out of income chargeable to Tax] taken for Own/Relative's Educ. |
| Deduction | > Any Amount of Interest Paid [100%];Only Interest is allowed and not the principal amount.<br>> Deduction is available from the year from which assessee start paying interest & 7 immediately succeeding A.Y. |
| Meaning & Condition | >Relative : Spouse, Children, For Whom Assessee is Guardian<br>> Loan be taken from approved financial institute. |

## SEC 80D MEDICAL TREATMENT

| | |
|---|---|
| Assessee | Individual /HUF |
| mode of investment | medical Insurance - pay by any mode other than cash<br>CG health scheme - pay by any mode other than cash<br>Approved scheme- pay by any mode other than cash<br>prevntive health checkup - cash /other mode allowed<br>exp on super senior citizen -any mode other than cash |
| Deduction | Assessee +Spouse +Dependent child: Actual or 25000 whichever is lower<br>Parents: Actual or 25000 whichever is lower<br>If any person is senior citizen : actual or 50000 WIL. |

Other Points:

| | |
|---|---|
| Individual | Name of Individual/Spouse/Parents & dependent Children. |
| HUF | In the Name of any member. |

Expense for preventive health checkup of assessee/his family is included in the total deduction,subject to a max. of ₹5000.
Payment shall be made out of income chargeable to tax.
Medical Exp of very senior citizen is restricted to ₹30000
Not. 9/2018 - Contribution in Health Scheme of Department of Atomic Energy would qualify for deduction u/s 80D
In case of single premium health insurance policies which covers more than 1 year, deduction shall be allowed on proportionate basis for all those yrs for which cover provided, subj. specified monetary limit

## SEC 80EEA INTEREST ON SELF OCCUPIED PROPERTY

| | |
|---|---|
| Assessee | Individual (Other than covered in 80EE) (R/NR) |
| Payment for | Paid Interest on Loan borrowed for SOP |
| Amount of Deduction | Additional Benefit upto ₹150000 apart from Available in Sec.24(b). Benefit will be available till the date of Repayment |
| Meaning & Condition | >Loan should from bank / approved financial institute.<br>>Actual amount of interest paid is available<br>>The Stamp Value of the House does not exceed ₹45L<br>>Loan should be Sanctioned Between 2019-22 [FA'21]<br>>Should not own more any HP as on date of sanction<br>>If deduction is taken under this sec, deduction under other sec is not allowed |

## SEC 80EE INTEREST ON HOUSING LOAN

| | |
|---|---|
| Assessee | Individual (R/NR) |
| Payment for | Paid Interest on housing loan |
| Amount of Deduction | > Amount of Interest Paid or 50,000 whichever is lowerOnly Interest is allowed and not principal amount.<br>First Deduction is to be claimed u/s 24(b) of House Property (upto 2L) & remaining interest deduction u/s 80EE. |
| Condition | ☒Loan should be taken from bank or financial institute for acquisition of Residential property<br>☒Purchase Price of House upto 50lakhs<br>☒Loan should be sanctioned between 01/04/16 to 31/03/2017<br>☒Loan amount upto 35 Lakhs<br>☒Assessee does not own any Residential house on the date of sanction of loan |

# SEC 80C DEDUCTION OF ELIGIBLE INVESTMENT

| | |
|---|---|
| Assessee | Individual/HUF irrespective of Residential Status |
| Investment | See list below |
| Maximum Deduction | Maximum deduction along with sec 80CCC and 80CCD or independently u/s 80C is restricted to Rs.150000. [80CCE] |
| Condition | >Investment is made in approved scheme<br>>Payment need not necessarily made out of income chargeable to tax<br>>Deduction shall be made only on payment basis not on accrual basis. |

## Qualifying savings/investments

| Any sums paid or deposited in PY by assessee | Individual | HUF |
|---|---|---|
| To effect or to keep in force a Life insurance on life of following persons:<br>1. The children may male/female, married/unmarried, dependent/ independent.<br>2. The premium exceeding 10% of sum assured is not eligible for deduction. [If policy is issued before 31.03.12 then it shall be 20%]<br>3. 15% of SA for person covered u/s 80U/80DDB | Self/ Spouse /Child | Any Member |
| to effect or to keep in force a non-commutable deferred annuity, (other than annuity plan of LIC,/other insurer), on the life of the individual, the wife or husband and any child of such individual. | Self/ Spouse /Child | NA |
| by way of deduction from the salary of Govt. EE, being a sum deducted, for the purpose of securing to him a deferred annuity/making provision for his spouse or children, max upto 1/5th of the salary. | Self | NA |
| as a contribution by an individual to any statutory PF or RPF. | Self | NA |

| Any sums paid or deposited in PY by assessee: | Individual | HUF |
|---|---|---|
| as a contribution by an individual/HUF to any PPF, Min-500 Max-150000 | Self/ Spouse/ Child | Any Member |
| as subscription to NSS-1992. | Self | NA |
| as subscription to NSC- VIII issue. Note:Int accrued on these certificates which is deemed to be reinvested, also qualifies for deduction. | Self | NA |
| as a contribution in the Unit-linked Insurance Plan (ULIP) | Self/ Spouse/ Child | Any Member |
| to effect or to keep in force a contract for notified annuity plan of the LIC or any other insurer. | Self/ Spouse/ Child | Any Member |
| subscription to any units of any Mutual Fund referred to in section 10(23D), under any notified plan. | Self | NA |
| as a contribution by an individual to Retirement Benefit Pension Fund of UTI. | Self | NA |
| as subscription to Home Loan Account Scheme of National Housing Bank. | Self | NA |
| subscription to notified deposit scheme. | Self | NA |
| tuition fees paid by individual, whether at the time of admission or thereafter,— Including Stamp duty & registration fees.<br>> to any university, college, school/other educational institution situated in India;<br>> for the purpose of full-time education of any two children of such individual. | Maximum 2 children | NA |
| RE-PAYMENT OF HOUSING LOANS Repayment of Housing loan except int on borrowed capital provided house is taken for residential purpose & assessee should not transfer the house property for 5 years. Including Stamp Duty. | Self | NA |
| as subscription to equity shares/deb forming part of any eligible issue of capital approved by Board of public co engaged in infrastructure including power sector or public financial institution. | Self | NA |

| Any sums paid or deposited in PY by assessee: | Individual | HUF |
|---|---|---|
| as term deposit—<br>(a) for a fixed period of not less than 5 years with a scheduled bank; &<br>(b) which is in accordance with scheme framed & notified, by CG | Self | NA |
| as subscription to bonds of NABARD | Self | NA |
| in an account under the senior Citizen Saving Scheme Rules, 2004. | Self | NA |
| as 5 year time deposit in an a/c under Post Office Time Deposit Rules, 1981. | Self | NA |
| Sukanya Samriddhi Account [Noti.5/2015] | Self/ Spouse /Child | Any Member |
| Deposit by CG Employee as contribution to his Tier-II A/c of Pension Scheme | Self | NA |

## SEC 80CCC LIC PENSION FUND

| | |
|---|---|
| Condition 1 | The assessee is an Individual.[irrespective of status] |
| Condition 2 | The assessee has paid or deposited any amount for any annuity plan of LIC of India (or any other insurer) for receiving pension from fund referred to in sec 10(23AAB) |
| Condition 3 | The amount is paid out of his income chargeable to tax. Any amount withdrawn/pension received from the plan is taxable in hands of the assessee or nominee in the year of receipt |
| Deduction | Independently -₹150000<br>Overall-₹150000<br>Or actual, whichever is lower. |

## SEC 80CCD CONTRIBUTION TO PENSION FUNDS

| | |
|---|---|
| Condition 1 | The assessee is an Individual, who is –<br>a) employed by CG/SG or any other employer, or<br>b) any self employed person. |
| Condition 2 | Assessee has, during previous year, paid or deposited any amount in his account under pension scheme notified by the<br>> CG/SG/Employer/Assessee.<br>> Atal Pension Yojna is also Eligible. |
| Deduction | CG/SG/Employer/Employee- 10% of salary<br>Any other individual-20% of Gross Total Income [Basic+DA(R)] |
| 80CCD[1B] Own Contribution | Additional deduction upto 50000 shall be allowed other than contribution covered u/s 80CCD[1]<br>Example: Assessee contribution 140000 towards NPS & GTI is 560000 in this case deduction shall be<br>20% of GTI = 112000 u/s 80CCD[1]<br>Balance deduction = 28000 u/s 80CCD[1B] |
| 80CCD[2] Own Contribution | Emplyer contribution is first taxable under head salary & then he [employee] gets deduction u/s 80CCD[2] lower of<br>a. Employers contribution<br>b. 14% (Central Govt) / 10% of salary (others) |
| Other notes | 1) As per 10[12A] any payment received from the NPS by Assessee upon closure of his account/on his opting out of the pension scheme to the extent of 60% [40% Taxable] of the total amount payable to him at the time of such closure or his opting out of scheme.[If amount is received by legal heir it is fully exempt].<br>2) As per 10[12B] Any payment from the NPS to an EE under pension scheme on partial withdrawal made out of his account in accordance with terms & conditions, specified under the Pension Fund Regulatory and Development Authority Act, 2013 and the regulations made thereunder, to the extent it does not exceed 25% of the amount of contributions made by him;] |

# SEC 80G DONATION

| | |
|---|---|
| Assessee | All Assessee |
| Expense on | Any donation in form of sum of money. Donation in kind is not qualified for deduction. [Rama Vera 187 ITR 308]<br>The donation should be made only to specified funds/ institutions (List). |
| Payment Mode | If the Donation Exceed Rs.2000 then only through Cheque |
| Deduction | % Specified in the List (Refer at the end of the chap)<br>Some items: - With Qualifying Limit [10% of Adjusted Total Income]<br>Rest:- Without Qualifying Limit |
| Calculation of Qualifying Limit | Particulars<br>Gross Total Income<br>Less:<br>LTCG<br>STCG u/s 111A(only)<br>Deduction u/s 80C to 80U Except 80G<br>Adjusted Gross Total Income<br>10% of ATI<br>Deduction = 50% or 100% of (10% of ATI)<br>While calculating Adjusted GTI, casual income like winning from lotteries etc. shall be included. |

Amendment as per FA'20 -
- The institution / fund must be approved by PCIT / CIT
- The institution / fund must prepare a statement & deliver to authority or provide a correction statement as may be prescribed
- The institution / fund shall furnish the donor a certificate specifying the amount of donation & other particulars as may be prescribed

Procedure for grant of new approval - FA'20
a) where the institution or fund is approved under clause (vi) [as it stood immediately before its amendment by the FA, 2020], within 3 months from the date on which this proviso has come into force;
b) where the institution or fund is approved and the period of such approval is due to expire, at least + months prior to expiry of the said period;
c) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier;
d) in any other case, at least one month prior to commencement of the PY relevant to AY from which the said approval is sought.

Registration Period - FA'20
New - Provisional registrations for 3 years & thereafter for every 5 yrs
Existing - For 5 years.
(All applications pending before CIT on which no order is passed shall deem to be new application)

# SEC 80GG DEDUCTION FOR RENT PAID

| | |
|---|---|
| Assessee | Individual [R/NR] |
| Condition | - No HRA : Assessee is not receiving HRA.<br>- No house at place of employment: He/his spouse/minor child or HUF of which he is a member, should not own any residential house at a place where the assessee resides, perform the duties of this office, or employment or carries on his business or profession.<br>- A declaration in Form 10BA should be filed for expense incurred by him towards payment of rent.<br>- The assessee has not claimed concession in respect of self-occupied property |
| Deduction | Lower of<br>- ₹5000pm (60000pa)<br>- 25% of Adjusted Total Income<br>- Rent paid (-) 10% of ATI |
| Calculation of ATI | Particulars<br>Gross Total Income<br>Less:<br>LTCG<br>STCG u/s 111A(only)<br>Deduction u/s 80C to 80U Except 80GG<br>Adjusted Gross Total Income |

## SEC 80JJAA DEDUCTION FOR EMPLOYMENT

| Assessee | Assessee to whom Section 44AB applies |
|---|---|
| Deduction | 30% of "additional wages" paid to the "new regular workmen" employed by the assessee in the PY. The deduction shall be allowed for 3 AYs, including the AY relevant to the PY in which such employment is provided. |
| Meaning of Terms | New Regular workmen do not include –<br>> Employee Whose Total Remuneration exceed ₹25000pm<br>> Whose entire contribution is paid by Government under Pension Scheme<br>> Employee worked for Less than 240 days/150 days in case of apparel Business/footwear & leather industry.<br>> Employee who does not participate in RPF. |
| Restriction | 1) Additional Employee Cost : Total Employment paid/ payable to Additional Employees employed during year.<br>a) In case of existing business - Cost will be NIL if no increase in total no of employees & emoulments paid otherwise than by A/c payee cheque/draft/NEFT/RTGS /other electronic mode prescribed.<br>2) The assessee furnishes along with ROI report of accountant, atleast 1 Month prior to date of ROI [Form 10DA] |

## SEC 80RRB ROYALTY ON PATENTS

| | | |
|---|---|---|
| Assessee | Individual Being<br>>Resident<br>>Patentee: person who is true and first inventor of the patent and whose name is entered on the patent which is registered on or after 1.4.2003 under the Indian Patents Act, 1970. | |
| Deduction | Earned In India | Minimum of the following:<br>> 100% of such income; or<br>> ₹3,00,000 |
| | Earned outside India | Minimum of the following:<br>> Income in respect of money brought into India in convertible foreign exchange within prescribed time limit; or<br>> ₹3,00,000 |
| Conditions | > The assessee must furnish a certificate in prescribed form (Form No. 10CCE), duly verified by the person responsible for making such payment to the assessee,<br>> Deduction should not exceed royalty as per licence<br>> Double deduction not permissible: | |

## Sec 80M Deduction in respect of certain inter-corporate dividends [FA'20]

Sec 80M(1) - Where the gross total income of a domestic company in any PY includes any income by way of dividends from any other domestic company or a foreign company or a business trust, there shall, in accordance with and subject to the provisions of this section, be allowed in computing the total income of such domestic company, a deduction of an amount equal to so much of the amount of income by way of dividends received from such other domestic company or foreign company or business trust as does not exceed the amount of dividend distributed by it on or before the due date.

Sec 80M(2) - Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed under sub-sec (1) in any PY, no deduction shall be allowed in respect of such amount in any other PY

Explanation - For the purposes of this section, the expression "due date" means the date one month prior to the date for furnishing the return of income u/s 139(1).

## SEC 80QQB ROYALTY INCOME OF AUTHORS

| | |
|---|---|
| Assessee | Individual Being<br>› Resident<br>› An Author (Including Joint Author of Book ) being a work of literary, artistic or scientific nature |
| Deduction | Lumsump Royalty - Actual or ₹3L, whichever is lower<br>Other than above - Upto 15% of value of book sold |
| Conditions | 1) The assessee must furnish a certificate in prescribed form (Form No. 10CCD), duly verified by the person responsible for making such payment to the assessee,<br>2) If the income is earned outside India, the assessee must furnish a certificate, in the prescribed form (Form No. 10H) from the prescribed authority (i.e. RBI, see rule 29A).<br>3) If royalty is earned outside India the deduction is allowed only if such royalty is brought to India in convertible Forex within 6m from the end of PY or time allowed by RBI. |

## NOTE TO STUDENT

Deduction u/s 80IA, 80IB, 80IC, 80ID, 80IE are not available if business is started on or after 01.04.2017. However, if the business is started prior to such date deduction will be available. Refer to Study material for the same.

## SEC 80G - LIST OF INSTITUTION / FUND

| Trust/institution to which donation is made | Qualifying limit applies or not | % of donation eligible for ded$^{n}$ |
|---|---|---|
| National Defence Fund set up by Central Govt | No | 100 |
| Prime Minister's National Relief Fund / Prime Minister's Citizen Assistance & Relief in Emergency Situations Fund (PM Cares Fund) [FA'20] | No | 100 |
| PM's Armenia Earthquake Relief Fund | No | 100 |
| Africa (Public Contributions - India) Fund | No | 100 |
| National Foundation for Communal Harmony | No | 100 |
| University/any educational inst. of national Eminence | No | 100 |
| Maharashtra Chief Minister's relief Fund / Earthquake Relief Fund | No | 100 |
| Fund set up by the Govt of Gujarat for relief of the Victims of Earthquake | No | 100 |
| Zila Saksharta Samiti | No | 100 |
| National/State Blood Transfusion Council | No | 100 |
| Any fund set up by a State Govt to provide medical relief to the poor | No | 100 |
| Army Central Welfare Fund/Indian Naval Benevolent Fund/Air Force Central WelfareFund | No | 100 |
| Andhra Pradesh CM's Cyclone Relief Fund, 1996 | No | 100 |
| National Illness Assistance Fund | No | 100 |
| Chief Minister's Relief Fund/Lieutenant Governor's Relief Fund | No | 100 |
| National Sports Fund to be set up by the CG | No | 100 |
| National Cultural Fund set up by the CG | No | 100 |
| Fund for Tech Development/application by CG | No | 100 |
| National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation & Multiple Disabilities | No | 100 |
| Any sums paid by the assessee, between Jan 26 2001 to Sep 30, 2001, to any trust, institution or fund which satisfies conditions of sec 80G(5) for providing relief to victims of Guj earthquake | No | 100 |
| Jawaharlal Nehru Memorial Fund | No | 50 |
| Prime Minister's Drought Relief Fund | No | 50 |

| Trust/institution to which donation is made | Qualifying limit applies or not | % of donation eligible for ded$^{n}$ |
|---|---|---|
| National Children's Fund | No | 100 |
| Indira Gandhi Memorial Trust | No | 50 |
| Rajiv Gandhi Foundation | No | 50 |
| Govt/any approved local authority, institution or association, to be utilised for purpose of promoting family planning | YES | 100 |
| Any sums paid by assessee, being a co, in the PY as donations to Indian Olympic Association or to any other association/institution established in India and notified by the CG for—<br>i) the development of infrastructure for sports & games, in India; or<br>ii) the sponsorship of sports & games, in India | YES | 100 |
| Fund or any institution which satisfies the conditions given u/s 80G(5) | YES | 50 |
| The Government or any local authority, to be utilised for any charitable purpose other than the purpose of promoting family planning | YES | 50 |
| An authority constituted in India for satisfying the need for housing accommodation or for the purpose of planning, development or of cities, towns and villages, or for both | YES | 50 |
| Any corporation referred to in sec 10(26BB) for promoting the minority community | YES | 50 |
| Any sums paid for renovation or repair of any such temple, mosque, gurdwara, church/other notified place. | YES | 50 |
| Swachh bharat Kosh set up by CG | No | 100 |
| Clean Ganga Fund set up by CG | No | 100 |
| National Fund for control of drug abuse constituted u/s 7A of narcotic drugs | No | 100 |

## IMPACT OF SEC 115BAC ON DEDUCTIONS

Finance act, 2020 has introduced a New Optional tax System for individuals & HUFs u/s 115BAC of the Income Tax Act, 1961 w.e.f. AY 21-22 to provide for concessional rate of Slab Rates to be applied on Total Income calculated without claiming specified deductions and exemptions.
Hence, from AY 2021-22 or FY 2021-22, there are 2 operative tax system-

a) One is the existing tax system where all the applicable deductions and exemptions are allowed and the tax rates are as per the Slab rates of tax specified in the Finance Act, 2020.
b) The second one is section 115BAC which is a Optional tax System and under which many deductions and exemptions have not been allowed but lower slab tax rates are provided in the section 115BAC itself.

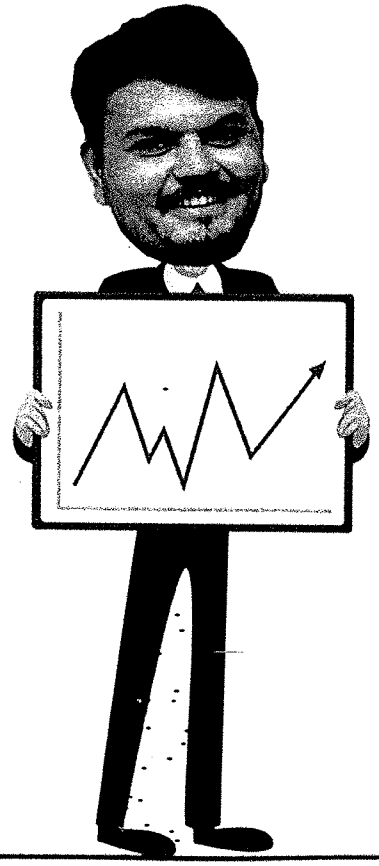
Individual and HUF opting for connectional tax regine u/s 115BAC: The deduction under Chapter VI-A other than the provisions of sec 80CCD(2) / 80JJAA not available to the individual and HuF opting to pay tax under connectional tax regime u/s 115BAC of the income tax act, 1961.

If assessee opts for Sec 115BAC then following deductions are not allowed

Sec 80TTA
Sec 80TTB
Sec 80GGC
Sec 80U
Sec 80DD
Sec 80DDB
Sec 80D
Sec 80EEB
Sec 80EE
Sec 80E
Sec 80EEA
Sec 80C
Sec 80CCC
Sec 80G
Sec 80GG
Sec 80GGA
Sec 80QQB
Sec 80RRB

# EXEMPTIONS

"WELL DONE
is BETTER
than
WELL SAID"



| Section | Particulars | Who are entitled to | Condition |
|---|---|---|---|
| 10(1) | Agricultural income: | Any Assessee | Ref AI |
| 10(2) | Amount received out of family income, or in case of impartible estate, amt received out of income of family estate | Individual as member of HUF | |
| 10(2A) | Partner's share in total income of firm (which includes LLPs) | Partner of a firm | |
| 10(4)(ii) | Interest received on NR (External) A/c | Individual NR | |
| 10(10D) | At present Any sum received under a life insurance policy including bonus on such policy but excluding sums received u/s 80DDA(3) and under a Keyman Insurance policy is exempt provided the premium does not exceed 10% of actual capital Sum assured in any year. [15% for person with disability] | Any Assessee | Ref Deduction |
| 10(6)(ii) | The remuneration received | Official of :<br>a) embassy<br>b) high comm.<br>c) legation<br>d) commission<br>e) consulate<br>f) trade rep. of Foreign st.<br>g) member of staff of above | 1. Rem. by our official should be exempt<br>2. such officers not be engaged in any other biz./prof in India |
| 10(6)(vi) | Remuneration received for services rendered in India to foreign enterprise | Employee of a foreign enterprise. | 1. Foreign Ent. not engaged in any biz/trade<br>2. EE stay in Ind doesn't exceed 90 days in PY<br>3. Rem. not liable to be deducted from the ERs income chargeable to tax under the Act |

| Section | Particulars | Who are entitled to | Condition |
|---|---|---|---|
| 10(6)(viii) | Salary received for services rendered on foreign ship | Non Citizen NR employee | Total stay in India does not exceed 90 days during the PY. |
| 10(6)(ix) | Remuneration received from Foreign Govt (ER) during stay in India for specified training | EE | Remuneration received in connection with their training in any establishment or office or in any undertaking owned by -<br>a) Govt<br>b) Co wholly owned by CG & SG or jointly by CG & 1/more SG<br>c) any co which is subsidiary of a co ref above<br>d) any stat corp<br>e) any society registered, which is wholly owned by CG & SG or jointly by CG & 1/more SG |
| 10(6D) | Royalty income or fees for technical services received from National Technical Research Org. (NTRO) | Non-Corporate NR & Foreign Cos | Service can be rendered in or outside India |
| 10(10BC) | Compensation received on account of disaster | Individual / legal heir | Received / receivable from CG / SG / local authority on account of any disaster.<br>No exemption if already allowed as deduction under this Act |
| 10(11A) | Any contribution in Sukanya Samriddhi Account, Rules | Any Assessee | |
| 10(16) | Educational scholarship | Individual | Granted to meet cost of education |
| 10(17) | Payments to MPs & MLAs<br>› Daily allowance<br>› Constituency Allowance of MPs<br>› Constituency allowance of MLAs | MP / MLA | reason of member-ship of Parliament or state legislature under any Act or rules |

If opted for Sec115 BAC than this benefit is not available.

| Section | Particulars | Who are entitled to | Condition |
|---|---|---|---|
| 10(17A) | Awards for literary, scientific & artistic works & other awards by Govt | Any Person | Approved by CG in public interest |
| 10(18) | Pension received by recipient of gallantry awards | Individual who is an employee of CG / SG / Family Member | Awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or such other gallantry award notified by the CG in this behalf |
| 10 (26AAA) | Specified income of a Sikkimese Individual.<br><br>Exemption will not be available to a Sikkimese woman who, on or after 1st April, 2008, marries non-Sikkimese individual. | Sikkimese Individual | Following income will be exempt -<br>a) income from any source in State of Sikkim;<br>b) income by way of dividend/interest on securities |
| 10(30) | Tea board subsidy | Any assessee engaged in business of growing & manufacturing tea | > Subsidy should have been recd under any scheme for replantation/replacement of the bushes / for rejuvenation or consolidation of areas used for cultivation of tea, as notified by CG<br>> Assessee should furnish a certificate from the Tea Board, as to the subsidy received by him during PY, to AO along with his return of the relevant AY / within the time extended by AO for this purpose. |

| Section | Particulars | Who are entitled to | Condition |
|---|---|---|---|
| 10(31) | Other subsidies | Any assessee engaged in business of growing & manufacturing rubber, coffee, cardamom/ specified commodity | > Subsidies should have been received from or through Rubber, Coffee, Spices / any other Board in respect of any other commodity under any scheme for replantation or replacement of rubber, coffee, cardamom or other plants / for rejuvenation or consolidation of areas used for cultivation of all such commodities.<br>> Assessee should furnish a certificate from the Board, as to the subsidy received by him during PY, to the AO along with his return of relevant AY / within the time extended by AO for this purpose |
| 10(35) | Income from units from the Administrator of specified undertaking/ specified company/ Mutual Fund | Any assessee | Any income except income from transfer of such units |

# SEC 10AA TAX HOLIDAY FOR UNITS ESTABLISHED IN SEZ

Assessees who are eligible for exemption

> all categories of assessees who derive any profits or gains from an undertaking, being a unit, engaged in the manufacturing or production of article

Essential conditions to claim exemption

The exemption shall apply to an undertaking which fulfills the following conditions:

> It has begun or begins to manufacture or produce articles or things or provide any service in any SEZ during PY relevant to A.Y.2006-07/ any subsequent AY but not later than A.Y.2020-21.

> It should not be formed by splitting up or reconstruction of business already in existence. except given in section 33B.

> It should not be formed by transfer of machinery or plant previously used for any purpose to new biz. However, deduction u/s 10AA will be available if total value of machinery or plant transferred does not exceed 20% of the total value of machinery or plant used in business.

For this purpose, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose if the following conditions are fulfilled:

a) such machinery or plant was not at any time used in India;
b) such machinery or plant is imported into India from any country outside India; and
c) no deduction on account of depreciation has been allowed or allowable under this Act in respect of such machinery or plant to any person earlier for any prior period.
d) The assessee should furnish in the prescribed form, alongwith the return of income, the report of a chartered accountant certifying that the deduction has been correctly claimed.

Period for which deduction is available

a) 100% of computed profit for first 5 years.
b) 50% of computed profit for next 5 years.
c) .50% of computed profit for next 5 years, if conditions are satisfied.

Conditions:

1) The amount credited to the SEZ Re-investment Reserve A/c.
2) satisfy such other condition as may be satisfied.

Computed Profit =

$$\text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit SEZ}}{\text{Total turnover of Unit SEZ}}$$

Meaning of Export turnover :

It means the consideration received in India or brought into India by the assessee in respect of export by the undertaking being the unit of articles or things or services.

However, it does not include-

> freight
> telecommunication charges
> insurance

attributable to the delivery of the articles or things outside India or expenses incurred in foreign exchange in rendering of services (incl. computer software) outside India

Deduction allowable in case of amalgamation and demerger

In the event of any undertaking, being the Unit which is entitled to deduction under this section, being transferred, before the expiry of the period specified in this section, to another undertaking, being the Unit in a scheme of amalgamation or demerger,

1) no deduction shall be admissible under this section to the amalgamating or the demerged Unit for the PY in which the amalgamation / the demerger takes place; &
2) the provisions of this section would apply to the amalgamated or resulting Unit, as they would have applied to the amalgamating or the demerged Unit had the amalgamation or demerger had not taken place

# TAX DEDUCTED AT SOURCE & TAX COLLECTED AT SOURCE


| Sec | Particulars | Pg No | Sec | Particulars | Pg No |
|---|---|---|---|---|---|
| | Basics | 13.2 | 194J | TDS on fees for Professional or Technical services or Royalty or Non Compete fee or remuneration payable to Director | 13.8 |
| | Surcharge & cess on Rates of TDS | 13.2 | | | |
| 192 | TDS on Salary | 13.2 | | | |
| 192A | TDS on Accumulated balance on EPF | 13.3 | 194K | TDS on income in respect of units | 13.8 |
| 193 | TDS on Interest on Securities | 13.3 | 194N | TDS on payment of certain amounts in cash | 13.9 |
| 194A | TDS on Interest other than on Securities | 13.3 | 195A | Income Payable "net of tax" | 13.9 |
| 194B | TDS on Lottery & Casual Income | 13.4 | 197 | Non Deduction / Lower Deduction | 13.9 |
| 194BB | TDS on Horse Race Winnings | 13.4 | 203A | Tax Deduction & Collection Account Number | 13.9 |
| 194C | TDS on Payments to Contractors | 13.4 | 200A | Processing of TDS Statements | 13.9 |
| 194D | TDS on Insurance Commission | 13.4 | | Important Forms & Dates | 13.10 |
| 194DA | TDS on maturity proceeds of LIP | 13.4 | 194-O | TDS by E-commerce Operator | 13.10 |
| 194E | TDS on payment to NR sportsmen/Entertainer/Sports Association | 13.5 | 194P | Deduction of tax in case of Specified Senior Citizen | 13.11 |
| | | | 194Q | TDS on Purchase of Goods with effect from 01.07.2021 | |
| 194EE | TDS on payment under National Savings Scheme | 13.5 | | Failure to deduct TDS or furnish return on time | 13.11 |
| 194F | TDS on repurchase of 80CCB units by Mutual Fund | 13.5 | 194R | TDS on Benefit & Perquisite in respect of Business or Profession w.e.f 1/4/22 [FA 2022] | 13.12 |
| 194G | TDS on Commission on sale of Lottery Tickets etc | 13.5 | | | |
| 194H | TDS on Commission or Brokerage | 13.5 | 206AA | Furnish of PAN | 13.12 |
| 194I | TDS on Rent | 13.6 | 198 | Tax deducted is income received | 13.12 |
| 194M | TDS on payment of certain sums by certain funds | 13.6 | 203 | Certificate for tax deducted | 13.13 |
| 194IA | TDS on Consideration for transfer of land other than Urban agriculture land/building | 13.7 | | Tax Collected at Source | 13.12 |
| | | | 206AB | Certificate for tax deducted | 13.13 |
| 194IB | TDS on rent payable other than 194I | 13.7 | 206CC | TCS at Higher Rate | 13.14 |
| 194IC | TDS on payment of consideration under Developer Agreement us 45(5A) | 13.7 | 206CCA | TCS at Higher Rate | 13.14 |
| | | | | TCS Summary Chart | 13.14 |
| 194LA | TDS on compensation of Compulsory Acquisition of building/non agriculture land | 13.7 | | TDS Rats - Summary Chart | 13.15 |

# BASICS

| | |
|---|---|
| Who Shall deduct | Payer |
| On What & When | On Specified payments at the time of Payment or credit |
| Benefit to Assessee | If Tax is deducted at the time of Payment or credit it will be allowed as deduction otherwise it will be disallowed u/s 40(a) and be treated as income of Assessee u/s 198. |
| Benefit to the Deductee Clubbing & TDS | Tax deducted & paid to CG by Deductor shall be treated as payment of tax on behalf of Assessee-Sec.199<br>Where the income is assessable is assessable (partly/fully) in the hands of a person other than the deductee (ex:- minor income) credit of TDS shall be given to such other person and not to deductee- Rule 37BA |
| Sec.206AA | Any deductee who is entitle to receive any sum on which tax is deductible shall furnish his PAN to Deductor otherwise Tax shall be deducted at the higher rate of -<br>a) Rate Specified.<br>b) Rate in Force.<br>c) 20% |
| IF TDS provision not given for any payment | SECTION 191: In the case of any income in respect of which provision is not made under the Chapter of TDS for deducting income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of this Chap, income-tax shall be payable by the assessee directly. |

# SURCHARGE & CESS ON RATES OF TDS

## In Case of Resident Payee / Deductee:

| Payee/ Deductee (i,e, to whom payment is made) | Applicability of Surcharge and Education cess |
|---|---|
| 1) Companies | No surcharge or health & education cess be added, |
| 2) Any other assessee | No surcharge or education cess shall be added to the prescribed rate of TDS, However, surcharge & health & education cess shall be added on TDS on the salary, (surcharge @ 15% where taxable salary exceeds ₹1 cr & surcharge @ 10% where taxable salary exceeds ₹50 lakhs,) |

## In Case of Non - Resident Payee / Deductee:

| Payee/ Deductee (i,e, to whom payment is made) | Applicability of Surcharge and Education cess |
|---|---|
| 1) Foreign Companies | The rates of TDS shall be increased by:<br>a) surcharge of 2% /5% depending upon payment.<br>b) health & education cess of 4% in all cases, |
| 2) Individual | The rates of TDS shall be increased by:<br>a) surch @ 10%/15%/25%/37% depend on payment<br>b) health & education cess of 4% in all cases, |
| 3) Any other assessee | The rates of TDS shall be increased by:<br>a) surcharge of 12% (where the payment made or to be made to payee and which is subject to tax deduction during the FY exceeds 1 cr); &<br>b) health & education cess of 4% in all cases, |

CIRCULAR NO,23/2017, DATED 19-7-2017
TDS on Goods and Services Tax (GST): The Board hereby clarifies that
GST Shown Seperately : TDS on amount excl. GST
GST not shown Seperately : TDS on whole amount
GST for this purpose shall include CGST, SGST, IGST & UTGST

# SEC 192 TDS ON SALARY

| | |
|---|---|
| Payer [Deductor] | Employer |
| Payee[Deductee] | Employee [R/NR] |
| Limit | If Annual Salary[after dedn & exemption] exceed Basic Limit |
| Rate | Normal Slab rate calculation along with Cess [at the avg rate of income tax computed on basis of rates in force for FY in which the payment is made, on the estimated income of the assessee under this head for that financial year] |
| Time of Deduction | At the time of payment |
| Special points | > Salary Includes Basic + Allowance + Perk<br>> EE shall provide all information and proof of payments<br>> If EE works with more than 1 ER[Including Previous ER] he can provide the details of other ER at one place in form 12B & such ER shall be bound to a/c the other salary.[Sec.192[2]]<br>> If the firm pays salary to partner Sec.192 is not attracted<br>> If salary exceed Rs.1.5L annually then it is the duty of ER to furnish to EE correct & complete particulars of perquisite. [Sec.192[2C]][ Form 16]<br>> Loss from HP can be reduced while determining TDS Liability<br>Sec 192(1C) - For TDS u/s 192(1)/ 192(1A), person, being an eligible start-up u/s 80-IAC, shall deduct TDS while making the payment of perq. of the nature specified in sec 17(2)(vi) in any PY relevant to A.Y. beg. on /after the 01.04.2021, shall deduct / pay, tax on such income within 14 days -<br>(i) after the expiry of 48 months from the end of the relevant A.Y.;/<br>(ii) from the date of the sale of such specified security / sweat equity share by the assessee; or<br>(iii) from the date of the assessee ceasing to be EE of the person, whichever is earliest, on basis of rates in force for F. Y. in which said specified security / sweat eq. share is allotted/trf.[FA'20] |

## SEC 192A TDS ON ACCUMULATED BALANCE ON EPF

| | |
|---|---|
| Payer [Deductor] | Trustee of EPF |
| Payee[Deductee] | Employee [R/NR] |
| Limit | If Amount exceed 50000 |
| Rate | 10% |
| Time of Deduction | At the time of payment |

## SEC 193 TDS ON INTEREST ON SECURITIES

| | |
|---|---|
| Payer [Deductor] | Any person |
| Payee[Deductee] | Any person being Resident |
| Limit | Co : If payment exceeds ₹5,000<br>Local Authority or : If payment exceeds ₹10,000<br>corporation/ 7.75% savings (Taxable) Bonds'18 |
| Rate | 10% |
| Time of Deduction | At the time of credit or payment whichever is earlier |
| Special points | No TDS of Following<br>› Interest payable to LIC/GIC or other insurer<br>› Interest on Provident Fund<br>› any interest payable on any security issued by a co, where such security is in dematerialized form & is listed on a recognised stock exchange in India,<br>› Interest payable on any security of the Central or State Govt, However, as per Finance Act, 2018 TDS shall be deducted on 7,75% Savings (Taxable) Bonds, 2018,<br>› Any interest payable to any insurance company in respect of any securities owned by it/in which it has full beneficial interest,<br>› "Indian Railway Finance Corporation Ltd, 54EC CG Bond" & "Power Finance Corporation Ltd, 54EC Capital Gains Bonds" [Not. 27/2018]<br>› Not. 05/2017 - Interest Income accrued to minor child where both parents have deceased shall be deducted & reported against the PAN of minor |

## SEC 194A TDS ON INTEREST OTHER THAN ON SECURITIES

| | |
|---|---|
| Payer [Deductor] | Specified Person being<br>Individual : total sales, gross receipts / turnover exceed 1cr.(biz) /<br>& HUF 50L(prof) during FY imm. preceeding FY in which interest credited / paid<br>Others : If Exceeds Limit |
| Payee[Deductee]<br>Limit | Any person being Resident<br>Others : If payment exceeds ₹5,000<br>Bank / PO / co-: If payment exceeds ₹40,000<br>operative society |

| | |
|---|---|
| | From 01.06.2015, If the bank has adopted core.banking solution then limit will be per Bank wise. |
| Rate | 10% |
| Time of Deduction | At the time of credit or payment whichever is earlier |
| Special Points | No TDS of Following<br>› any banking company / co-op society enaged in banking biz(incl. co-op land mortgage bank)<br>› any financial corp est. by/under Central, state or Provincial Act, or<br>› the LIC of India est. under the LIC Act,1956;<br>› the UTI est under the UTI Act,1963, or<br>› any Co. /co-op society carrying on business of insurance<br>› such other inst/class of AOP / BOI or class of inst. which CG may,notify in this behalf in Official Gazzette<br>P his shall be issued on/after 01.04.20 [FA'20]<br>Interest paid by Cooperative Society being a Bank: Interest on FDR & recurring deposit exceeding ₹10,000 in a financial year<br>Paid to member : TDS to be deducted<br>Paid to another co-operative society : No TDS to be deducted<br>Paid to Others : TDS to be Deducted<br><br>Sec 194A(5) - the CG may, by notification in the Official Gazette, provide that the deduction of tax shall not be made or shall be made at such lower rate, from such payment to such person or class of persons, as may be specified in the said notification. [FA'20] |

| | |
|---|---|
| Where core-banking solutions software not adopted | No TDS shall be deducted If interest payment by each branch does not exceed ₹40,000 |
| Where core-banking solutions software is adopted | TDS shall be deducted on aggregate of interest paid by all the branches of the bank, exceed ₹ 40,000. |

## SEC 194B TDS ON LOTTERY & CASUAL INCOME

| | |
|---|---|
| Payer [Deductor] | Any person |
| Payee[Deductee] | Any person [R/NR] |
| Limit | Amount > 10000 |
| Rate | 30% |
| Time of Deduction | At the time of payment |

## SEC 194BB TDS ON HORSE RACE WINNINGS

| | |
|---|---|
| Payer [Deductor] | Any person |
| Payee[Deductee] | Any person [R/NR] |
| Limit | Amount > 10000 |
| Rate | 30% |
| Time of Deduction | At the time of payment |

## SEC 194D TDS ON INSURANCE COMMISSION

| | |
|---|---|
| Payer [Deductor] | Insurance company |
| Payee[Deductee] | Agent |
| Limit | Amount > ₹15000 in a year |
| Rate | 5% |
| Time of Deduction | At time of payment or credit whichever is earlier |

## SEC 194DA TDS ON MATURITY PROCEEDS OF LIP

| | |
|---|---|
| Payer [Deductor] | Any person |
| Payee[Deductee] | Any person resident in India |
| Limit | Amount > ₹1,00,000 or more in a year |
| Rate | 5% on amount received - amount paid |
| Time of Deduction | At the time of payment |
| Special points | Conditions<br>Amount should not be exempt u/s 10(10D) |

## SEC 194C TDS ON PAYMENTS TO CONTRACTORS

| | |
|---|---|
| Payer [Deductor] | Specified Person being<br>Individual & HUF : total sales, gross receipts / turnover exceed 1cr.(biz) / 50L(prof) during FY imm. preceeding FY in which interest credited / paid<br>Others : If Exceeds Limit |
| Payee[Deductee] | Any person resident in India |
| Limit | ₹ 30,000 for single payment/aggregate amount ₹ 1,00,000 |
| Rate | > In Individual or HUF: 1%<br>> In other Case: 2% |
| Time of Deduction | At the time of payment or credit whichever is earlier |
| Special points | Exemptions<br>1. No TDS is required in case of contracts of personal In Nature<br>2. W.e.f.01.06.2015 No TDS is required in Goods transport Business which owns less than 10 goods vehicle.<br>3. Contract for sale of goods<br>Works:-<br>• Advertisement<br>• Broadcasting<br>• Catering<br>• Carriage of goods or passenger by any mode other than railway<br>Manufacturing of Product according to requirement/specification of a customer by using material purchased from such customer or relative as defined in Sec 40A(2).<br>But does not include manufacturing/supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.<br>The section also provides that in above case TDS to be deducted:<br>i) On invoice value excluding value of material, if such value is mentioned separately in the invoice; or<br>ii) On whole of invoice value, if value of material is not mentioned separately in the invoice |

## SEC 194E TDS ON PAYMENT TO NR SPORTSMEN/ ENTERTAINER/SPORTS ASSOCIATION

| | |
|---|---|
| Payer [Deductor] | Any Assessee |
| Payee[Deductee] | NR sportsmen or Entertainer or sports Association |
| Limit | Any Amount |
| Rate | 20%. |
| Time of Deduction | At the time of payment or credit whichever earlier. |

## SEC 194EE TDS ON PAYMENT UNDER NATIONAL SAVINGS SCHEME

| | |
|---|---|
| Payer [Deductor] | Any person responsible for paying [post office] |
| Payee[Deductee] | Any individual |
| Limit | No TDS if payment less than ₹2500 |
| Rate | 10% |
| Time of Deduction | At the time of payment |
| Special points | Exemption<br>If payment is made to legal heir of deceased. |

## SEC 194F TDS ON REPURCHASE OF 80CCB UNITS BY MF

| | |
|---|---|
| Payer [Deductor] | Mutual Fund Co/UTI |
| Payee[Deductee] | Any person |
| Limit | Any amount |
| Rate | At the time of payment |
| Time of Deduction | |

## SEC 194G TDS ON COMMISSION ON SALE OF LOTTERY TICKETS ETC

| | |
|---|---|
| Payer [Deductor] | Stockist, distributor, etc. of lottery tickets |
| Payee[Deductee] | Any Person (Resident / NR) |
| Limit | ₹15000p.a. |
| Rate | 5% |
| Time of Deduction | At the time of payment or credit whichever is earlier |

## SEC 194H TDS ON COMMISSION OR BROKERAGE

| | |
|---|---|
| Payer [Deductor] | Specified Person being<br>Individual : total sales, gross receipts / turnover exceed 1cr.(biz) /<br>& HUF 50L(prof) during FY imm. preceeding FY in which interest credited / paid<br>Others : If Exceeds Limit |
| Payee[Deductee] | Any person being resident |
| Limit | > ₹15000 |
| Rate | 5% |
| Time of Deduction | At the time of payment or credit whichever is earlier |
| Special Points | Commission or Brokerage other than those referred to in Sec 194 D & Sec 194 G |
| Circular & Decision | > Provided also that no deduction shall be made under this sec on any commission/brokerage payable by BSNL or MTNL<br>> Commission to EE & EE directors will form part of salary income & is liable to TDS u/s 192 of the Act & not this sec,<br>> The transactions relating to Securities are not covered by sec 194H, Therefore, section 194H is not attracted on:<br>1. Brokerage and commission paid to underwriters,<br>2. Brokerage and sub-brokerage on public issue of securities,<br>3. Brokerage on stock exchange transactions of securities,<br>> However, TDS shall be deducted on brokerage/commission paid for commodities transactions<br>Tax deduction at source on payments by television channels & publishing houses to advertisement companies for procuring or canvassing for advertisements - CIRCULAR NO. 5/2016<br>Payment by Client to Advertising Agency - TDS u/s 194C<br>Payment by advertising agency to the TV/Newspaper Co - No TDS<br>Payments by TV/Newspaper Co to Advertising Agency - no TDS |
| | TDS on payments by broadcasters or TV channels to production houses for production of content or program for telecasting - CIRCULAR NO.4/2016<br>where the content is produced as per specifications provided by the broadcaster/telecaster — TDS u/s 194C<br>where the telecaster/broadcaster acquires only telecasting/broadcasting rights of content already produced by the production house — No TDS u/s 194C but liable under this chapter for TDS.<br>Tax should be deducted at source u/s 194H on amount available to agents being difference between airfare fixed by Airlines & price at which agents are enabled to sell tickets<br><br>Bharti Cellular Ltd, (Kolkata)<br>Can discount given on supply of SIM cards & recharge coupons by a telecom co to its distributors under a prepaid scheme be treated as commission to attract the TDS provisions under section 194H?<br>Held: The distributor only acted as a middleman on behalf of the assessee for procuring & retaining customers & therefore, the discount given to him was within meaning of commission u/s 194H on which tax was deductible. |

# SEC 194I TDS ON RENT

| | |
|---|---|
| Payer [Deductor] | Specified Person being<br>Individual & HUF : total sales, gross receipts / turnover exceed 1cr.(biz) / 50L(prof) during FY imm. preceeding FY in which interest credited / paid<br>Others : If Exceeds Limit |
| Payee[Deductee] | Any person resident in India |
| Limit | Exceeds ₹2,40,000 p.a. per co-owner (including Advance Rent & Arrears of Rent) |
| Rate | For use of P & M: Upto 2%<br>For use of other asset: Upto 10% |
| Time of Deduction | At the time of payment or credit whichever is earlier |
| Meaning of Terms | i) "Rent" means any payment, by whatever name called, under any lease, sublease, tenancy or any other agreement or arrangement for the use of (either separately/together) any,<br>a) land; or<br>b) building (including factory building); or<br>c) land appurtenant to a building (including factory building); or<br>d) machinery; or<br>e) plant; or<br>f) equipment; or<br>g) furniture; or<br>h) fittings,<br>whether or not any or all of the above are owned by the payee. |
| Special points | 1. No TDS on Rent credited or paid to a business Trust.<br><br>2. TDs is also required to be deducted on advance rent. Circular No, 5/2001<br><br>3. Where the share of each co-owner in the property is definite & ascertainable, the limit of 1.8L will be applicable to each co-owner separately.<br><br>4. JAPAN AIRLINES CO, LTD, V, COMMISSIONER OF INCOME-TAX [2015] [SC]<br>Case: Landing & parking charges payable by Airlines in respect of aircrafts are not for the 'use of land' per se but the charges are in respect of number of facilities provided by Airport Authority of India, Thus, landing & parking charges payable by Airlines would attract TDS u/s 194C & not u/s 194-I |

| | |
|---|---|
| | 5. Circular No, 21/2017 - Non-applicability of sec 194-1 on remittance of Passenger Service Fees (PSF) by an airline to an airport operator<br>According to Bombay High Court, sec 194-1 shall not be attracted on payment of passenger service fee by an airline to an air operator,The Board has accepted the above view of High Court of Bombay, Accordingly, it is now a settled position that sec194-1 of Act, will not apply on PSF.<br><br>6. TDS on Non-refundable deposit made by Tenant - CBDT Clarification<br>Non Refundable - TDS is deducted<br>Refundable - TDS is not deducted<br><br>7. Provision of 194-1 is not applicable to the cooling charges paid by the customers of the cold storage.<br><br>8. TDS on Payment made to Hotels - Circular No, 5/2002<br>Regular basis Accommodation - TDS is deducted<br>Other basis Accommodation - No TDS is deducted<br><br>9. No deduction shall be made under this sec where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, ref to in sec 10(23FCA), owned directly by such business trust |

# SEC 194M TDS ON PAYMENT OF CERTAIN SUMS BY CERTAIN IND / HUF

| | |
|---|---|
| Payer [Deductor] | Individual or a HUF (other than those who are required to deduct income-tax as per the provisions of sec 194C, sec 194H / sec 194J) |
| Payee[Deductee] | Any person [Resident] |
| Limit | Exceed ₹ 50,00000 during a FY |
| Rate | 5% |
| Special Points | > Sums, credited or paid to a resident during a F. Y.<br>> Provisions of sec 203A shall not apply to a person required to deduct tax as per provisions of this sec. |

## SEC 194IA TDS ON CONSIDERATION FOR TRANSFER OF LAND OTHER THAN URBAN AGRICULTURAL LAND/BUILDING

| | |
|---|---|
| Payer [Deductor] | Any assessee |
| Payee[Deductee] | Resident Assessee |
| Limit | Consideration of Immovable property & SDV of such property both Exceed 50 Lakh. [FA,22] |
| Rate | 1% of consideration or stamp duty value of such property, whichever is higher [FA,2022] |
| Time of Deduction | Transfer of assets on or after 01.07.2013 |
| Special Points | The Deductor shall remit the TDS to CG in form 26QB and issue form 16B as certificate to payee.<br>1) Therefore, if the immovable property is purchased from a NR person for any value, no TDS is required to be deducted under this sec, However, TDS shall be deducted u/s 195,<br>2) In case the seller does not have PAN, then instead of 1%, TDS will be applicable @ 20% because of sec 206AA of Income-tax Act'61,<br>3) In the case of property whose sale price is 50 lakhs or more and in the event part payment is being made for the purchase,then such TDS would be required to be deducted on every part payment of consideration and not at the time of final tranche of payment,<br>4) If sellers jointly own a property and sells for a total consideration of 50L or more, then sec 194-IA is attracted even if each co-owner's consideration is less than 50 lakhs,<br>5) TDS is required to be deducted irrespective of the fact that immovable property is held as capital asset/stock-in trade by the buyer and seller,<br>6) In case sec 194-IA is attracted then purchaser isn't required to obtain TAN, i,e,, Tax Deduction Account Number i,e,, section 203A is not applicable.<br>Consideration shall incl. all charges of the nature of club membership fee, car parking fee, water or electricity facility fee, maintenance, advance fee / similar which are incidental to the property |

## SEC 194IB TDS ON RENT PAYABLE OTHER THAN U/S 194I

| | |
|---|---|
| Payer [Deductor] | Individual/HUF |
| Payee[Deductee] | Any person Resident |
| Limit | Exceed ₹50000 per month |
| Rate | 5% |
| Time of Deduction | At the time of payment or credit of such rent, for the last month of the PY / tenancy whichever is earlier. |
| Other Points | 1) Deduction should not exceed rant for last month<br>2) Sec 194IB(4) - Where TDS is deductible as per the provisions of sec 206AA ~~or section 206AB~~ [FA,2022], such deduction shall not exceed the amount of rent payable for the last month of the PY or the last month of the tenancy [That means if Section 206AB applies TDS can exceed Rent Payable] |

## SEC 194IC TDS ON PAYMENT OF CONSIDERATION UNDER DEVELOPER AGREEMENT SEC 45(5A)

| | |
|---|---|
| Payer [Deductor] | Any Person |
| Payee[Deductee] | Any Person Resident |
| Limit | Consideration, not being in kind, under agreement ref to in 45(5A) |
| Rate | 10% |
| Time of Deduction | At the time of credit of such sum |
| Special Points | › Registered agreement of owing Land or building or both, to develop real estate project.<br>› Part of the consideration may also be in cash |

## SEC 194LA TDS ON COMPENSATION OF COMPULSORY ACQUISITION OF BUILDING/NON AGRICULTURE LAND

| | |
|---|---|
| Payer [Deductor] | Any Person |
| Payee[Deductee] | Resident |
| Limit | Exceeds ₹2,50,000 |
| Rate | 10% |
| Time of Deduction | At the time of payment [State of Kerela Vs. Mariaama] |
| | No TDS to be deducted if compulsory acquisition of Rural Agriculture land |

## SEC 194J TDS ON FEES FOR PROFESSIONAL OR TECHNICAL SERVICES OR ROYALTY OR NON COMPETE FEE OR REMUNERATION PAYABLE TO DIRECTOR

| | |
|---|---|
| Payer [Deductor] | Specified Person being<br>Individual : total sales, gross receipts / turnover exceed 1cr.(biz) /<br>& HUF 50L(prof) during FY imm. preceeding FY in which interest credited / paid<br>Others : If Exceeds Limit |
| Payee[Deductee] | Any person resident in India |
| Limit | > ₹ 30,000 PA except Directors fees |
| Rate | Technical Services (not being professional services) / royalty in the nature of consideration for sale, distribution / exhibition of cinematographic films<br>2%<br>10% |
| Time of Deduction | At the time of payment or credit whichever is earlier |
| Special points | 2% in case of payee engaged in business of operation of call centre CBDT Notifies the services rendered by following persons in relation to the sports activities as "Professional Services" under section 194J - NOTIFICATION NO, 88/2008<br>Central Board of Direct Taxes, hereby notifies the services rendered by following persons in relation to the sports activities as "Professional Services" for the purpose of the section 194J, namely:<br>• Sports Persons,<br>• Umpires and Referees,<br>• Coaches and Trainers,<br>• Team Physicians and Physiotherapists,<br>• Event Managers,<br>• Commentators,<br>• Anchors, and<br>• Sports Columnists<br><br>No TDS on Professional fee paid by Non-residents to the Chartered Accountant, lawyer, advocate or solicitor in India- Clarification from CBDT<br>Commissioner of Income-tax v, Kotak Securities Ltd, (SC) Service made available by Bombay Stock Exchange (BSE Online Trading (BOLT) System) for which transaction charges are paid by members of BSE are common services that every member of Stock Exchange is necessarily required to avail of to carry out trading in securities in Stock Exchange; such services do not amount to 'technical services' provided by Stock Exchange, not being services specifically sought for by user or consumer and, therefore, no TDS would be deductible under section 194J on payments made for such services,Only payment for services which are specialized, exctusive & according to individual requirements of user or consumer who may approach service provider for such services would come within ambit of 'fees for technical services so as to attract TDS under section 194J.<br>Manipal Health Systems (P) Ltd, (Kar)<br>Where remuneration paid to doctors is variable based on number of patients and treatment given to them, would the liability to deduct tax at source arise under section 192 or under section 194J?<br>Held: Considering the totality of facts and terms of the agreement, the Court held that in this case, the consultancy charges paid to doctors rendering professional service would be subject to tax deduction under section 194J and not section 192. |

## SEC 194K TDS ON INCOME IN RESPECT OF UNITS

| | |
|---|---|
| Payer [Deductor] | Any person |
| Payee[Deductee] | Any person (Resident) |
| Limit | Exceed ₹ 5,000 |
| Rate [FA'20] | Upto 13.05.20 - 10% & 14.05.20 - 31.03.21 - 7.5% |
| Time of Deduction | At the time of payment or credit whichever is earlier |
| Special points | TDS shall be deductible on income in respect of units -<br>a) units of a Mutual Fund specified u/s 10(23D); or<br>b) units from the Administrator of the specified undertaking; or<br>c) units from the specified company,<br><br>This section shall not apply -<br>a) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the PY by the person responsible for making the payment to the account of, or to, the payee does not exceed ₹5,000; or<br>b) if the income is of the nature of capital gains. |

# SEC 194N TDS ON PAYMENT OF CERTAIN AMOUNTS IN CASH

| | |
|---|---|
| Payer [Deductor] | Banks, Co-op Society or Post Office |
| Payee[Deductee] | Any Assessee |
| Limit ' | Cash withdrawal > 1cr. in PY from 1 or more accounts maintained |
| Rate | 5% |
| Special Points | > If payee has not filed ROI for all the 3 AYs relevant to the 3 PYs for which the time limit to file u/s 139(1) has expired, immediately preceeding the PY in which the payment of the sum is made to him, the TDS deducted as follows :<br>a) amount withdrawn more than 20 lakhs but upto 1cr - 2%<br>b) amount withdrawn more than 1cr - 5% |
| | Sec is not applicable to Withdrawal by -<br>1) The Government<br>2) Any banking company or co-operative society or a post office<br>3) Any business correspondent of a banking company or Co-operative;<br>4) Any white label automated teller machine operator of a Banking or co-operative society;<br>5) Authorized dealer and sub agent and full fledged money Changer licensed by RBI & its franchised agents Maintaining Separate bank account from which withdrawl is made for Purchase of foreign Currency from Foreign tourist or NR Visiting India or from resident Indian on there return to India in Cash as per the directions of RBI or disbursement of in Word remittance to recipient beneficiary in India under Money transfer service scheme of RBI; |

# SEC 197 NON DEDUCTION/LOWER DEDUCTION

1) Where, in the case of any income of any person or sum payable to any person, income- tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of sec 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-1, 194J, 194LA, 194LBB, 194LBC & 195, the AO is satisfied that total income of recipient justifies deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, the AO shall, on an application made by assessee in this behalf, give to him such certificate as may be appropriate,
2) Where any such certificate is given, the person responsible for paying the income shall, until such certificate is cancelled by AO, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be.

# SEC 203A TAX DEDUCTION & COLLECTION A/C NO

1) Every person, deducting tax/collecting tax in accordance with the provisions of this, Chapter, who has not been allotted a tax deduction a/c no. or, as the case may be, a tax collection a/c no, shall, within such time as may be prescribed, apply to AO for allotment of a "tax deduction & collection account number",
2) Quote TAN No
> In all challans for payment of any sum in as per provisions of Sec 200/206C;
> In all certificates furnished under section 203 or under section 206C;
> In all periodic statements (at present quarterly) prepared & delivered/caused to be delivered in accordance with the provisions of sec 200(3)/206C(3),
> In all returns, delivered as per sec 206 / 206C to any income-tax authority.

# SEC 200A PROCESSING OF TDS STATEMENTS

Where a quarterly return of TDS or a correction statement has been made by a person deducting any sum (hereafter referred to in this section as deductor) u/s 200, such quarterly return shall be processed in the following manner, namely:
a) The sums deductible under this Chapter shall be computed after making the following adjustments, namely:
i) Any arithmetical error or,
ii) An incorrect claim,
b) The interest, if any,
c) The fee, if any,
d) The sum payable by,/ amount of refund due to, the deductor shall be determined
e) An intimation shall be prepared/generated & sent to deductor specifying the sum determined to be payable by/amount of refund due to, him under clause (d);

# IMPORTANT FORMS & DATES

**Due Date for payment of TDS (Sec-200)**

| | |
|---|---|
| For March | 30th April |
| Between April & Feb | 7th of the month Succeeding the month in which Tax is deducted or Tax is due u/s 192(1A) |

**TDS Return Sec-200(3)**

E-Filling of TDS Return:-
- Deductor/Collector is responsible for e-filling of quarterly return
- As per Sec 200A(2) CBDT has notified Centralized processing of statement of TDS scheme,2013 being TRACES- TDS reconciliation analysis & correction enabling system. {www.tdscpc.gov.in},it is 100% mandatory to quote PAN.

Due Dates

| Quarter Ending | Due date |
|---|---|
| 30th June | 31th July |
| 30th Sep | 31th October |
| 30th December | 31th January |
| 31st March | 31th May |

**Forms of TDS to be submitted by Deductor**

The below given form shall be accompanied by form 27A.

| | |
|---|---|
| For Salary u/s 192 | 24Q |
| Other Than Salary | 26Q |
| NR | 27 |
| For resident transferor(Land) | 26QB-Furnish within 7days of dedn |

**TDS certificate to be issued to deductee Sec.203**

| TDS deducted | Form no | Periodicity | Due date |
|---|---|---|---|
| Under 192 | 16 | Annual | 31st May of following year |
| Any Sec except 192 | 16A | Quarterly | Within 15days of due date of filling TDS return |
| | 16B | Within 7 days with 26QB | 7 days of deduction |

| Quarter Ending | Due date |
|---|---|
| 30th June | 15 days from the date of Return. |
| 30th Sep | |
| 30th December | |
| 31st March | |

# SEC 194-O TDS BY E-COMMERCE OPERATOR

| | |
|---|---|
| Payer | E-commerce operator |
| Payee | Resident E-commerce participant |
| Nature of Payment | E-Commerce operator made sale of goods or provision of service through its digital or electronic facility or Platform Facility |
| Person Responsible to deduct tax | E-commerce Operator |
| Rate of TDS | 1% |
| Time of Deduction | a) At the time credit of amount of sale or service or both to the Account of an E-commerce Participate or<br>b) At the time payment thereof to such e-commerce Participant by any mode, whichever is earlier |
| No TDS | a) Any sum credited or paid or likely to be credited or paid during The previous year to the account of an e-commerce Participant. Being an individual or Hindu undivided family,<br>b) Where the gross amount of Such sale or services or both during The previous year does not exceed Rs 5,00,000<br>c) Such e-commerce participant has furnished his Permanent Account Number or Aadhaar number to the E-Commerce operator.<br>d) Any amount or aggregate of amounts received or receivable by any E-Commerce Operator for hosting advertisements or providing any Other services which are not in connection with the sale refereed u/s 194-O |
| Not Lible to TDS under Chapter XVII | Notwithstanding anything contained in part B of this chapter, a Transaction in respect of which-<br>a) Tax has been deducted by the e-commerce operator u/s 94-O<br>b) Transaction value does not exceed Rs 5,00,000 and hence is not Liable to deduction u/s 194-O,<br>Shall not be liable to TDS under any other provision of this chapter |

Note:
Any payment made by purchaser of goods or recipient of services directly to any E-Commerce Participant for the sale of goods or provision of services or both, facilitate by an E-commerce Operator shall be deemed to be the amount credited or paid by the E-Commerce operator to the E-Commerce participant and shall be included in the gross amount of such sale or services for The purpose of deduction u/s 194-O w.e.f 01.04.2020, Any dedutee who failed to furnish PAN, rate of TAX shall be deducted at 5% instead of 20% u/s 206AA(i)(iii)

# Sec 194P Deduction of Tax in case Of Specified senior Citizen

| | |
|---|---|
| Payer | A specified bank means a bank as notified by the Central Government. |
| Payee | The person will qualify as a 'specified senior citizen' if it satisfies The following conditions-<br>Condition 1 – The senior citizen should be of the age 75 years or More during the previous year.<br>Condition 2 – The senior citizen should be resident in India.<br>Condition 3 – The senior citizen should be receiving only two Incomes i.e., –<br>Pension income; and<br>Interest income receivable from the specified bank from Which he is receiving the pension income.<br>Condition 4 – The senior citizen has furnished a required declaration to the specified bank. |
| Responsibility of Payer | Based on the declaration, the specified bank will-<br>Compute the total income of the specified senior citizen after Giving the effect of deduction available under section 80C to Section 80U and rebate admissible under section 87A of the Income Tax Act; and<br>Deduct appropriate income tax on such total income of the Specified senior citizen. |
| Benefit to Senior Citizen | Such senior citizens are not required to furtheir income tax Return |

# Sec 194Q TDS on Purchase of Goods With effect from 01..07.2021

| | |
|---|---|
| Payer | Buyer whose turnover or gross receipt exceed 10 Crore during PPY |
| Payee | Seller Resident who sell the good of value which exceeding Rs 50 Lakh |
| TDS Rate | 0.1 % of sum exceeding Rs 50 Lakh |
| Other Point | 1)Section 194Q applies to purchase of all goods whether on Capital or on revenue account.<br>2) Sec is applicable whether Buyer is Resident or NR.<br>3) If the Resident seller has not Provided Permanent account Number(PAN) or aadhar Number to the buyer, Then the TDS Would be deducted at 5% instead of 0.1%<br>4) If TDS is deducted under this Section TCS u/s 206C(1H) is not Applicable.<br>5) If TDS is deducted u/s 194-O then TDS under 194-Q is not Applicable further if both section are applicable TDS under 190-O is applicable.<br>6) If TDS under 194-O & TCS u/s 206C(1H) is applicable then TDS under 194-O shall be applicable.<br>7) The limit of Rs 50 Lakh shall be counted from 01.04.2021. |

# FAILURE TO DEDUCT TDS OR FURNISH RETURN ON TIME

1 interest: -

| Condition | Rate | Period of Interest | Interest payable on |
|---|---|---|---|
| Tax is not deducted by any other person (except assessee in default) | 1% pm | From date on which such tax had to be deducted to the date of actual deduction | Amount of such tax not deducted. |
| Tax deducted but not paid | 1.5% pm | From the date of deduction of such tax to the actual date of payment of such tax. | Amount of Such tax not paid |

| Sec | Nature of default | Penalty | Levy by |
|---|---|---|---|
| 271C | Failure to deduct TDS | Sum equal to the amount of TDS | JCIT |
| 271H | Failure to file Return of TDS | Rs.10000 to Rs.100000 | AO |
| 272A | Failure to issue TDS certificate | Rs.100 for every day of default max default= tax deductible | JCIT |

## SEC 206AA FURNISH OF PAN

Sec 206AA(1) -

Any person entitled to receive any sum or income or amount, on which tax is deductible shall furnish his PAN to the person responsible for deducting such tax failing which tax shall be deducted at the higher of the following rates, namely :

(i) at the rate specified in Act; or

(ii) at the rate or rates in force; or

(iii) at the rate of 20%:

Provided that where the tax is required to be deducted u/s 194-O, the had been substituted.

Where the PAN provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished his PAN

## SEC 198 TAX DEDUCTED IS INCOME RECEIVED

All sums deducted as per this Chapter shall, for the purpose of computing income of an assessee, be deemed to be income received. Exceptions - Income received u/s 192(1A) & 194N

## SEC 203 CERTIFICATE FOR TAX DEDUCTED

Sec 203(1) - Every person deducting tax in accordance with the foregoing provisions shall furnish to the person whose tax is deducted , a certificate to the effect that tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed.

## SEC 201 Consquences of failure to deduct or pay

**# where an order is made by the Assessing Officer for the default for non Deduction or short deduction the interest shall be paid by the person in accordance with such order.[FA,2022]**

## Sec 194R TDS on Benefit & Perquisite in respect of Business or Profession w.e.f 1/4/22

| | |
|---|---|
| Payer [Deductor] | **Specified Person** responsible for paying any sum |
| Payee[Deductee] | Any person being Resident |
| Limit | Amount excceding 20000 p.a. |
| Rate | 10% of the value or aggregate of value of such benefit or perquisite: |
| Time of Deduction | before providing such benefit or perquisite |
| Special points | 1. Payment shall be for any benefit or perquisite, whether convertible into money or not,arising from business or the exercise of a profession<br>2. In case where the benefit or perquisite is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the liability of TDS in respect of whole of such benefit or perquisite, deductor shall, before releasing the benefit or perquisite, ensure that TDS required to be deducted has been paid. |

**3. Specified Person**

| | |
|---|---|
| Individual Or HUF | Two Conditions must be satisfied<br>1. Turnover in Case of Business Exceed 1Crore or Gross Receipt in case of Profession exceed 50L in PPY &<br>2. In the PY payment for contract must exceed prescribe Limit. |
| For Other Payee | In the PY payment for contract must exceed prescribe Limit. |

**4. The following are some of the common examples of benefits and perquisites;**

- **Gift Card and Gift Vouchers**
- **Gold Coins under Incentive Scheme**
- **Phones**
- **Vehicles**
- **Business Asset Usage Service**
- **Travel Packages**

**5. Such gifts, perks or benefits provided on some special occasions like festivals, marriage occasions, etc. may not liable for TDS as Section cover only those benefits which arise out of business or profession.**

**Example: Mr. Aakash is a businessman engaged in trading of electronic items, Mr. Aakash requests samsung Ltd for giving a discount in his purchases. But instead of giving a discount company sponsors the 5-star hotel accommodation and conveyance of Aakash and also gift him a Rolex watch, In order to develop friendly business relations worth Rs. 2Lakh .**
**Now TDS will be deducted by Company @10% on 2L i.e. value of benefit or Perquisite .**

# TAX COLLECTED AT SOURCE

| | |
|---|---|
| Who is responsible | Seller collects it from Buyer<br>Seller include:<br>• CG/SG/LA<br>• Company<br>• Firm/LLP<br>• Individual liable to Tax audit u/s 44AB<br>Buyer Include: Every person other than<br>• Public sector co<br>• CG/SG/LA<br>• Club<br>• Buyer in Retail sale of such goods for personal consumption. |
| Due date(Deposit) | Deposited on last day of month in which collection is made |
| Issue of TCS Certificate | Seller shall issue TCS certificate within month from the end of month in which TCS was collected in form 27Ds |
| Filling quarterly return by seller | In form 27EQ on 15th July, Sep, Jan, 30th April. |

| Sale Transaction | Rates |
|---|---|
| Alcoholic liquor for human Consumption | 1% |
| Tendu leaves | 5% |
| Timber obtained under forest lease | 2.5% |
| Timber obtained by any mode other than a forest lease | 2.5% |
| Any other forest produce not being timber/tendu leaves | 2.5% |
| Scrap | 1% |
| Minerals, being coal or lignite or iron ore | 1% |

Sec 206C(1A) Non Applicability - No TCS if a declaration in the prescribed form to CCIT/CIT the effect that the goods are to be utilized for the purposes of manufacturing,processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

| Sale Transaction | Rates |
|---|---|
| Parking lot | 2% |
| Toll plaza | 2% |
| Mining & Quarrying | 2% |

Sec.206C(1F): TCS on motor Vehicle Every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding 10lakh rupees, shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 1% of the sale consideration as income-tax.

Sec 206C(1G) - On Remittance & Foreign Tour - Every person,

(a) An authorised dealer, who receives an amount, for remittance out of India from a buyer, being a person remitting such amount out of India under the Liberalised Remittance Scheme of the Reserve Bank of India exceeding Rs.700000, TCS shall be @ 7%.

Educational Purpose: Authorised dealer shall collect a sum equal to 0.5% of the amount or aggregate of the amounts in excess of ₹7 lakh remitted by the buyer in a FY, if the amount being remitted out is a loan obtained from any financial institution as defined in section 80E, for the purpose of pursuing any education.

(b) A seller of an overseas tour program package, who receives any amount from a buyer, being the person who purchases such package,shall, at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier, collect from buyer, a sum equal to 5% of such amount as income-tax.

No TCS Where: :
(i) It is subject to TDS
(ii) where buyer to CG, a SG, an embassy, a High Commission, a legation, commission, a consulate, the trade representation of a foreign State, local authority or any other person as CG.

Sec 206C(1H) - on Sale of Goods

> Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding 50 lakhs in any PY, other than the goods being exported out of India or goods covered in sub-sec (1) / (1F) / (1G) shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1% of the sale consideration exceeding 50 lakhs as income-tax

> Provided that if the buyer has not provided the PAN or the Aadhaar no. to the seller, then the provisions of sec 206CC(1)(ii) shall be read as if for the words "5%", the words "1%" had been substituted.

> If TDS is Attracted then no TCS.

## SEC 206AB TDS to be Deducted at higher rate for non-filers of Income-Tax Return

- Section 206AB shall be applicable with effect from 01-07-2021.
- This section requires that the person (payer) who deducts TDS in case of a payee (who is a non-filer of income tax return), TDS shall be deducted at the higher rates
- Any person who is responsible to pay any sum or amount to a specified person shall be required to deduct TDS as per section 206AB on such sum or amount paid or payable or credited to the specified person.

Sec 206AB(3) - "specified person" means a person who has not furnished ROI for the AY relevant to the PY immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing ROI has expired and the aggregate of TDS/TCS in his case is ₹ 50000 or more in the said previous year. [FA,2022]

- Section 206AB shall not be applicable on a non-resident who is not having any permanent establishment in India. Therefore, TDS in case of non-residents shall continue to be deducted as per section 195 or any other provision of the Act.
- TDS under section shall be deducted at higher of the following:
  1. At twice the rate specified in the relevant provision of the Act or
  2. At twice the rate or rates in force or
  3. At the rate of 5%

Eg: X Limited makes payment of rent against commercial property to Y Limited Rs. 5 Lakhs on which it is required to deduct TDS @ 10% u/s 194I. Y Limited has not filed its ITR for last 3 financial years though TDS credit in its case is more than Rs. 50,000 every year. Please guide X Limited as regards TDS rates?

Solution: Y Limited is a specified person u/s 206AB as it fulfils both the limbs of the definition. Therefore, X Limited shall deduct TDS at the higher of: Twice of rate u/s 194I i.e. 10% * 2 = 20%
5%
Thus, the effective rate of TDS shall be 20% in case of Y Limited.

**This Section is not applicable to TDS under Following section**

Section 192 - TDS on Salaries
Section 192A - TDS on Accumulated Balance of EPF
Section 192B - TDS on Casual Winning
Section 194BB - TDS on winning frpom Horse races
Section.194IA - TDS on Acquisitin of Property
Section 194IB - TDS on Rental Payment
Section 194LBC - TDS on Investment in Secularization Trust
Section 194M - TDS on Personal Payments
Section 194N - TDs on Cash Withdraw. [FA.2022]

- "If the provisions of section 206AA is applicable to a specified person, in addition to the provisions of this section, the tax shall be deducted at higher of the two rates provided in this section and in section 206AA."

## SEC 206CC TCS at Higher Rate

Any person whose payments are subject to TCS shall mandatorily furnish his PAN to the collector .failing which the collector shall collect tax at source at higher of the following rates –
a. At twice the applicable rate of TCS or
b. At the rate of 5%

The provisions of this section shall not apply to a non-resident who does not have permanent establishment in India.

## SEC 206CCA TCS at Higher Rate

- Sections is with effect from 01-Jul-2021.
- Where TCS is required to be collected on any amount from the Specified person tax shall be collected at higher rate of
  a) Twice the rate in Act.
  b) 5%
- If both Sec.206CC & 206CCA strikes then Amount shall be higher of either of the sections

> "Specified Person" means:

1. A person who has not filed the ROI for both of the 2 PY who has not furnished ROI for the AY relevant to the PY immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing ROI has expired and the aggregate of TDS/TCS in his case is rupees 50000 or more in the said previous year. [FA,2022]
2. The total amount of TDS and TCS in case of such person is ₹ 50,000 or more in each of these two previous years.

## TCS Summary Chart

| Nature of Receipts | Sec of the Income-tax Act | Rate of TCS |
|---|---|---|
| Sale of Tendu Leaves | 206C(1) | 5.00% |
| Sale of Timber obtained under a forest lease | 206C(1) | 2.50% |
| Sale of timber obtained by any other mode | 206C(1) | 2.50% |
| Sale of Any other forest produce not being timber/tendu leaves | 206C(1) | 2.50% |
| Sale of scrap | 206C(1) | 1.00% |
| Sale of Minerals, being oak or lignite or iron ore | 206C(1) | 1.00% |
| Grant of license, lease, etc. of Parking lot | 206C(1) | 2.00% |
| Grant of license, lease, etc. of Toll Plaza | 206C(1) | 2.00% |
| Grant of license, lease, etc. of Mining and quarrying | 206C(1) | 2.00% |
| Sale of motor vehicle above 10 lakhs | 206C(1F) | 1.00% |
| Sale of any other goods | 206C(1H) | 0.1% (w.e.f 1.10.20) |

## TDS Rates - Summary Chart

| Nature of Payment | Relevant Section | TDS rate |
|---|---|---|
| Receiving accumulated taxable part of PF | Sec 192A | 10% |
| Interest received on securities | Sec 193 | 10% |
| Dividend received from Mutual funds and on company's shares | Sec 194 and 194K | 10% |
| Interest other than Interest on Securities e.g. Fixed deposit interest | Sec 194A | 10% |
| Winnings from lottery, crosswords or any sort of game | Sec 194B | 30% |
| Winnings from horse races | Sec 194BB | 30% |
| Insurance Commission received by an Individual | Sec 194D | 5% |
| Life Insurance Policies not exempt under Section 10(10D) | Sec 194DA | 5% |
| Commission or brokerage received except for Insurance Commission | Sec 194H | 5% |
| Payment made while purchasing land or property | Sec 194IA | 1% |
| Payment of rent by individual or HUF exceeding Rs. 50,000 per month | Sec 194IB | 5% |
| Payment made to professional or commission or brokerage | Sec 194M | 5% |

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| Nature of Payment | Relevant Section | TDS rate |
|---|---|---|
| of more than Rs 50 lakh and above | | |
| Cash withdrawal exceeding Rs 20 lakh or 1 crore as the case maybe | Sec 194N | 2% |
| Payment of Professional Fees etc. | Sec 194J | 2%(FTS, certain royalties, call centre) 10%(others) |
| Payment in respect of deposits under National Savings Scheme | Sec 194EE | 10% |
| Rent for plant and machinery | Sec 194- I(a) | 2% |
| Rent for immovable property | Sec 194-I(b) | 10% |

Sec.206C(7):Interest for default:
If the person responsible for collecting TCS does not collect the tax or after collecting the tax fails to pay he shall be liable to pay simple interest at the rate of 1% per month or part thereof on the amount of such TCS from the date on which such TCS was collectible to the date on which the tax was actually paid and such interest shall be paid before furnishing the quarterly statement for each quarter. where an order is made by the Assessing Officer for the default under sub-section (6A), the interest shall be paid by the person in accordance with such order.[FA,2022]

## Amendment Based Question

Q.1 Mr. Gupta, a resident Indian, is in retail business and his turnover for F.Y.2021-22 was ₹ 12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler, and the aggregate payments during the F.Y.2022-23 was ₹ 95 lakh (₹ 20 lakh on 1.6.22, ₹ 25 lakh on 12.8.2022, ₹ 22 lakh on 23.11.2022 and ₹ 28 lakh on 25.3.2023). Assume that the said amounts were credited to Mr. Agarwal's account in the books of Mr. Gupta on the same date. Mr. Agarwal's turnover for F.Y. 2021-22 was ₹ 15 crores.

(1) Based on the above facts, examine the TDS/TCS implications, if any, under the Income-tax Act, 1961.

(2) Would your answer be different if Mr. Gupta's turnover for F.Y.2021-22 was ₹ 8 crores, all other facts remaining the same?

(3) Would your answer to (1) and (2) change, if PAN has not been furnished by the buyer or seller, as required?

Solution:-

1. Since Mr. Gupta's turnover for F.Y.2021-22 exceeds 10 crores, and payments made by him to Mr. Agarwal, a resident seller exceed ₹ 50 lakhs in the P.Y.2022-23, he is liable to deduct tax@0.1% of ₹ 45 lakhs (being the sum exceeding ₹ 50 lakhs) in the following manner –
   No tax is to be deducted u/s 194Q on the payments made on 1.6.2022 and 12.8.2022, since the aggregate payments till that date i.e. 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.
   Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 22 lakh on 23.11.2022 [₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit].
   Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 28 lakhs on 25.3.2023.
   Note – In this case, since both section 194Q and 206C(1H) applies, tax has to be deducted u/s 194Q.
2. If Mr. Gupta's turnover for the F.Y.2021-22 was only ₹ 8 crores, TDS provisions under section 194Q would not be attracted. However, TCS provisions under section 206C(1H) would be attracted in the hands of Mr. Agarwal, since his turnover exceeds ₹ 10 crores in the F.Y.2021-22 and his receipts from Mr. Gupta exceed ₹ 50 lakhs.
   No tax is to be collected u/s 206C(1H) on 1.6.2022 and 12.8.2022, since the aggregate receipts till that date i.e. 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.
   Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be collected u/s 206C(1H) on 23.11.2022 (₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit). Tax of 2800 (0.1% of 28Lakh ) has to be collected on 25.3.2023.
3. In case (1), if PAN is not furnished by Mr. Agarwal to Mr. Gupta, then, Mr. Gupta has to deduct tax@5%, instead of 0.1%. Accordingly, tax of ₹ 85,000 (i.e., 5% of ₹ 17 lakhs) and ₹ 1,40,000 (5% of ₹ 28 lakhs) has to be deducted by Mr. Gupta u/s 194Q on 23.11.2022 and 25.3.2023, respectively.
   In case (2), if PAN is not furnished by Mr. Gupta to Mr. Agarwal, then, Mr. Agarwal has to collect tax@1% instead of 0.1%. Accordingly, tax of ₹ 17,000 (i.e., 1% of ₹ 17 lakhs) and ₹ 28,000 (1% of ₹ 28 lakhs) has to be collected by Mr. Agarwal u/s 206C(1H) on 23.11.2022 and 25.3.2023, respectively.

Question 2: Based on 206AB

A company makes a contract payment of Rs.80 lakhs to Mr P. The tax is deductible at 1%. But Mr P did not file his IT return for both the years and the due date of filing the return has expired.

Solution :

Hence, when the company deducts tax in the FY 2021-22 and learns that the payee has not filed his ITR for the last two years, the TDS should be deducted at higher of the following:

- Twice the rate prescribed in the Act, i.e. 2% (twice of 1%), or
- 5%

Hence, the tax should be deducted at the rate of 5%.

Further, if PAN is not furnished, then TDS shall be deducted at the rate of 20%, which is higher than 5%

Question 3: Based on 194Q

A buyer purchases goods from a resident Indian seller worth Rs. 90 lakhs. Here, the TDS payment would be deducted on Rs 40 lakh, at the rate of 0.1%, as Section 194Q mandates TDS to be deducted only on amounts exceeding RS. 50 lakh.

So, the TDS payment of Rs. 4000 needs to be deducted from Rs. 90 lakhs at the time of payment or crediting of the invoice amount.

Note: The TDS would be deducted at 5% if the seller fails does not furnish PAN.

Question 4 Based on 194Q

Mr. Mayank makes an advance payment of Rs. 55 lakhs for purchase of goods on 30.6.2022, and debits such purchases in his books on 15.7.2022. Mr. Mayank's turnover from his business in FY 2021-22 was Rs.11 crores.

In this case, Mr. Mayank will not be liable to deduct TDS u/s 194Q on such purchases of Rs. 55 lakhs, paid before 1.7.2022, though debited after 1.7.2022.

Question 5 Based on 234B & 234C

Mr. Jay having total income of ` 8,70,000, did not pay any advance tax during the previous year 2022-23. He wishes to pay the whole of the tax, along with interest if any, on filing the return in the month of July, 2023. What is total tax which Mr. Jay has to deposit as self-assessment tax along with interest, if he files the return on 29.07.2023? Assume that he does not exercise the option under section 115BAC.

Solution:

Obligation to pay advance tax arises in every case, where the advance tax payable is Rs.10,000 or more. As a consequence of such failure, assessee may be charged with interest under section 234B and 234C.

In the given case, since Mr. Jay did not deposit any amount of advance tax during the previous year, he will need to pay the total tax due on his income along with interest for default in payment of advance tax [under section 234B] and interest for deferment of advance tax [under section 234C] before filing of his return.

Total tax due on returned income of Rs.8,70,000 is 89,960 [(20% of Rs.3,70,000 + 12,500) + cess@4%]

Interest under section 234B:

Interest under section 234B is attracted - a) When the assessee, who is liable to pay advance tax has failed to pay such tax; or b) Where the advance tax paid by the assessee is less than 90% of the assessed tax.

Since, Mr. Jay did not pay any amount as advance tax, interest under section 234B at 1% per month or part of the month will be levied beginning from 1st April of the following year i.e., 01.04.2023 till the time he deposits the whole tax under self- assessment.

Interest will be levied on tax liability of ` 89,900 (rounded off to nearest hundred, ignoring fraction) at 1% for four months i.e., from 1st April to 29th July.

The interest under section 234B amount to Rs.3,596

Interest under section 234C:

Assessees, other than assessees who declare profits and gains in accordance with provision of section 44AD(1) or section 44ADA(1), are liable to pay advance tax in 4 installments during the previous year. Section 234C is attracted, if the actual installment paid by the assessee is the less than the amount required to be paid by him on such instalments. The interest shall be calculated at 1% per month or part of the month for short payment or non-payment of each instalment.

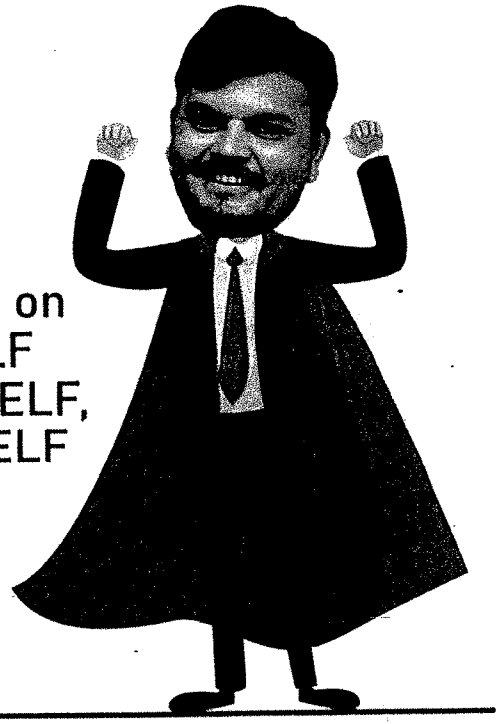
In the given scenario, since Mr. Jay, did not deposit any amount as advance tax, the interest under section 234C is calculated as under –

| | | | | |
|---|---|---|---|---|
| **15th June 2022** | **15%** | **13,400** | **3 months** | **402** |
| **15th September 2022** | **45%** | **40,400** | **3 months** | **1,212** |
| **15th December 2022** | **75%** | **67,400** | **3 months** | **2,022** |
| **15th March 2023** | **100%** | **89,900** | **1 month** | **899** |
| **Total interest under section 234C** | | | | **4,535** |

Jay needs to pay 98091 as total of Tax & Interest on or before filling of return in the month of July 2022

# ADVANCE TAX


| Sec | Particulars | Pg No |
|---|---|---|
| 208 | Conditions of Liability to pay Advance Tax | 14.2 |
| 207 | Liability for payment of advance tax | 14.2 |
| 209 | Computation of advance tax | 14.2 |
| 211 | Due dates for payment of advance tax other than persons covered u/s 44AD/ADA | 14.2 |
| 218 | When Assessee deemed to be in deafult | 14.2 |
| | Proviso to Sec 234 Payment of advance tax in case of capital gain & casual income | 14.3 |
| 234B | Interest for dafult in payment of advance tax | 14.3 |
| 234C | Interest for deferment of advance tax | 14.3 |

## SEC 208 CONDITIONS OF LIABILITY TO PAY ADVANCE TAX

Advance tax shall be payable during a financial year in every case where the amount of such tax payable by the assessee during that year, as computed in accordance with the provisions of this Chapter, is Rs. 10,000 or more.Assessee who is covered u/s 44AD/44ADA is also liable to pay advance Tax.

## SEC 207 LIABILITY FOR PAYMENT OF ADVANCE TAX

| | |
|---|---|
| Individual resident | 1- There is no Income chargeable under the head PGBP<br>2- The assessee is aged 60 years or more at any Time during PY. |
| Other | Total Advance Tax Payable is less than 10,000 (Sec 208) |

## SEC 209 COMPUTATION OF ADVANCE TAX

| PARTICULARS | Amt. |
|---|---|
| Income under the 5 heads of income | xxx |
| Adjustment in respect of B/F loss and allowance | xxx |
| GROSS TOTAL INCOME | XXX |
| Less: Deduction admissible under Chapter VI-A | (xxx) |
| TAXABLE INCOME | XXX |
| Tax on Taxable Income | xxx |
| Less: Rebate u/s 87A | (xxx) |
| TAX PAYABLE | XXX |
| Add: Surcharge | xxx |
| NET TAX PAYABLE | XXX |
| Less: Relief under Sec. 89, 90, 90A, 91 | (xxx) |
| Tax liability | xxx |
| Less: TDS/TCS | (xxx) |
| Less: MAT/AMT Credit under Sec. 115JAA | (xxx) |
| ADVANCE TAX | XXX |

## SEC 211 DUE DATES FOR PAYMENT OF ADVANCE TAX OTHER THAN PERSONS COVERED U/S 44AD/ADA

| Due date of installments | On or before Companies & Other assessee |
|---|---|
| 15th June | Not less than 15% of Adv. Tax liability |
| 15th Sept | Not less than 45% of Adv. |
| 15th Dec. | Not less than 75% of Adv. |
| 15th March | The whole amt. of Adv. |

Note:

1. Person covered u/s 44AD/ADA to pay Advance Tax by 15th March.
2. Any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the FY ending on that day for all the purposes of this Act.
3. If due date for payment of any installment of AT is banking holiday, and payment is made on the next immediately following working days,No interest shall be leviable u/s234B or 234C.
4. While calculating advance tax, net agricultural income shall also be taken into consideration for computing tax liability.
5. If any assessee does not pay any installment within due date he shall be deemed to be an assessee in default in respect of such installment (Section 218).
6. Advance Tax is deposited in Challan no.280.
7. If the notice of demand issued u/s 156 in pursuance of an order of the AO u/s 210(3)/(4) is served after any of the due dates specified in sec 211(1), the appropriate part or, as the case may be, the whole of the amount of the advance tax specified in such notice shall be payable on or before each of such of those dates as fall after the date of service of notice of demand.

## SEC 218 WHEN ASSESSEE DEEMED TO BE IN DEFAULT

If any person does not pay on the date specified in Sec 211(1), any installment of the advance tax that he is required to pay by an order of the AO u/s 210(3)/(4) & does not, on or before the date on which any such installment as it is not paid becomes due, send to the AO an intimation u/s 210(5) or does not pay on the basis of his estimate of his current income the advance tax payable by him u/s 210(6), he shall be deemed to be an assessee in default in respect of such installment(s

## PROVISO SEC 234 PAYMENT OF ADVANCE TAX IN CASE OF CAPITAL GAIN & CASUAL INCOME

1- Advance tax is payable on all types of income, including capital gains and winnings of lotteries, crossword puzzles, etc.

2- However, it is not normally possible for an assessee to estimate his capital gains or winnings from lotteries, etc. which are generally unexpected. Therefore, it is provided that if any such income arises after the due date of any installment, then, the entire amount of tax payable (after deduction of tax at source, if any) on such capital gain or casual income should be paid in remaining installments of advance tax which are due or where no such installment is due, by 31st March of the relevant Financial Year.

3- If the entire amount of tax payable is so paid, then no interest on late payment will be leviable.

## SEC 234B INTEREST FOR DEFAULT IN PAYMENT OF ADVANCE TAX

Interest is payable if -

a) Advance tax paid during PY < 90% of Assessed tax OR

b) No advance tax paid during the year

Assessed Tax means : Tax on Income declared in ROI, reduced by-

i) any tax deducted or collected at source as per Chap XVII on any income which is subject to deduction / collection & which is taken into account in computing such total income;

ia) any relief of tax allowed u/s 89;

ii) any relief of tax allowed u/s 90 on account of tax paid in a country outside India;

iii) any relief of tax allowed u/s 90A on account of tax paid in a specified territory outside India ref to in that section;

iv) any deduction, from the Indian income tax payable, allowed u/s 91, on a/c of tax paid in a country outside India &

v) any tax credit allowed to be set off u/s 115JAA / JD.

WHERE NO TAX PAID AFTER 31ST MARCH OF THE PY U/S 140A OR OTHERWISE :

| | | | | |
|---|---|---|---|---|
| Advance Tax short as per ROI | X | 1% per month or part of a month | X | Commences from 1st April of AY & ends on date of filing of ROI |

WHERE TAX HAS BEEN PAID AFTER 31ST MARCH OF THE PY U/S 140A OR OTHERWISE :

Advance Tax short as per ROI X [ Rate X Period ]

Rate = 1% per month Simple Interest — Commences from 1st April of AY & ends on date of payment of tax u/s 140A / otherwise

Aggregate of

Period = 1% per month Simple Interest — Commences from the date next following the date of payment of tax u/s 140A or otherwise & ends on date of filing of ROI.

Interest under this sec shall be reduced by interest, any paid u/s 140A or otherwise.

If an assessment is cancelled & referred back to AO for fresh assessment, then interest under this sec shall be levied upto the date of completion of fresh assessment

Common Amendment in Sec.234A & 234B :

a) Tax on total income as determined u/s 143(1) shall not include the additional income-tax, if any, payable u/s 140B or section 143; and

b) Tax on the total income determined under regular assessment shall not include the additional income-tax payable u/s 140B. [FA,2022]

## SEC 234C INTEREST FOR DEFERMENT OF ADVANCE TAX

| Assessee to whom Sec 44AD/44ADA does not apply | Assessee to whom Sec 44AD/44ADA apply |
|---|---|
| **CHARGEABILITY** | |
| Interest is payable if :<br>a) Advance tax paid on / before 15th June < 12% of "Tax due on returned income"<br>AND / OR<br>b) Advance Tax paid on / before 15th Sept < 36% of "Tax due on returned income"<br>AND / OR<br>c) Advance tax paid on / before 15th Dec < 75% of "Tax due on returned income"<br>AND / OR<br>d) Advance tax paid on/before 15th March < "Tax due on returned income"<br>OR<br>e) No advance tax paid. | Interest is payable if :<br>a) Advance tax paid on/before 15th March < "Tax due on returned income" |

| Assessee to whom Sec 44AD/44ADA does not apply | Assessee to whom Sec 44AD/44ADA apply |
|---|---|
| Tax due on Returned Income means tax on total income declared in ROI as reduced by :<br>i) any tax deducted or collected at source as per Chap XVII on any income which is subject to deduction / collection & which is taken into account in computing such total income;<br>ia) any relief of tax allowed u/s 89;<br>ii) any relief of tax allowed u/s 90 on account of tax paid in a country outside India;<br>iii) any relief of tax allowed u/s 90A on account of tax paid in a specified territory outside India ref to in that section;<br>iv) any deduction, from the Indian income tax payable, allowed u/s 91, on a/c of tax paid in a country outside India &<br>v) any tax credit allowed to be set off u/s 115JAA / JD. | |
| **COMPUTATION OF INTEREST** | |
| 15%45%/75%/ 100% of tax due on returned income (-) advance tax paid on/before 15th June/Sept/ Dec/March X 1%pm X 3/1m (Simple Int) | Tax due on returned income (-) advance tax paid on/before 15th March X 1%pm X 1m (Simple Int) |
| * Period of 1 month is considered for the period of last installment i.e 15th March. | |

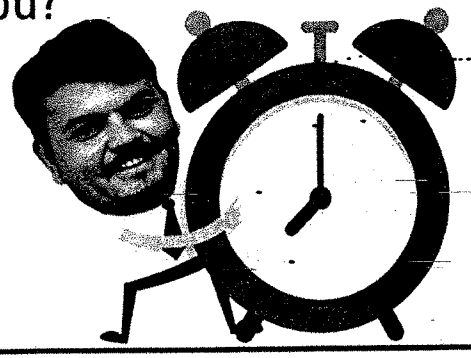
# RETURN OF INCOME


| Sec | Particulars | Pg No | Sec | Particulars | Pg No |
|---|---|---|---|---|---|
| 139 | Filing of ROI | 15.2 | 139(3) | Loss Return | 15.3 |
| | Due date of Filing of ROI u/s 139(1) | 15.2 | 139(4) | Belated Return | 15.4 |
| | Consequences of not filing return within due date u/s 139(1) | 15.2 | 139(5) | Revised Return | 15.4 |
| | | | 139(9) | Defective Return | 15.4 |
| 234F | Fee for default in furnishing ROI | 15.3 | 139A | Permanent Account Number | 15.4 |
| 139(1A) | Bulk Return | 15.3 | 139AA | Aadhaar Number | 15.5 |
| 139(1C) | CG to exempt class of persons | 15.3 | 140A | Self Assessment Tax | 15.5 |
| 234A | Interest on Default in Furnishing Return | 15.3 | 139B | Tax Return Preparers [TRP] | 15.6 |
| | | | 140 | Who shall verify the Return | 15.7 |


## IMPORTANT AMENDMENTS/ NOTIFICATIONS/CIRCULARS


| Sr No. | Particulars | Pg No |
|---|---|---|
| 1 | Filing of ROI | 15.2 |
| 2 | Sec 234A Interest | 15.3 |
| 3 | Sec 139(8A) Updated Return | 15.8 |


"TIME will PASS will you?"



# SEC 139 FILING OF ROI

Every person, -

(a) Being a company or a firm; or

(b) Being a person other than a company or a firm, if his total income or the total income of any other person in respect of which he is assessable under this -Act during the PY exceeded the maximum amount which is not chargeable to tax,

(c) Being ROR who at any time during PY,

(a) holds, as a beneficial owner or otherwise, any asset (incl. any financial interest in any entity) located outside India or has signing authority in any account located outside India; or

(b) is a beneficiary of any asset (including any financial interest in any entity) located outside India.

(d) Being an individual / HUF or AOPs / a BOIs, whether incorporated / not, or an AJP,

> if his total income or total income of any other person in respect of which he is assessable under this Act during PY, without giving effect to the provisions of Sec 10(38)/ 10A / 10B / 10BA / 54 / 54B / 54D / 54EC / 54F / 54G / 54GA / 54GB / Chapter VI-A exceeded max amount which is not chargeable to IT.

(e) A person:

1. Has deposited an amount or aggregate of the amounts exceeding 1 cr rupees in one or more current accounts maintained with a banking company or a co-operative bank;
2. Has incurred expenditure of an amount or aggregate of amounts exceeding 2 lakh rupees for himself / any other person for travel to a foreign country;
3. Has incurred expenditure of an amount or aggregate of the amounts exceeding one lakh rupees towards consumption of electricity;
4. fulfils such other conditions as may be prescribed

> furnish a return of his / the income of such other person during the PY, in the prescribed form & verified in the prescribed manner & setting forth such other particulars as may be prescribed.

f) Following Person also required to file ROI [FA 2022]

| | Case | Prescribed transactions | Prescribed Monetary threshold |
|---|---|---|---|
| (I) | (2) | (3) | (4) |
| (i) | A person carrying on business | His total sales, turnover or gross receipts, as the case may be, in the business | >₹ 60 lakhs during the relevant P.Y. |
| (ii) | A person carrying on business | His total gross receipts in profession | > ₹10 lakhs during the relevant P.Y. |
| (iii) | (a) A resident individual who is aged ≥ 60 yrs at any time during the relevant P.Y. | The aggregate of TDS and TCS in his case | >₹ 50,000 during the relevant P.Y. |
| | (b) Any other person | The aggregate of TDS and TCS in his case | > ₹ 25,000 during the relevant P.Y. |
| (iv) | A person having savings bank account | The deposit in one or more savings bank account of the person, in aggregate | >₹50 lakhs during the relevant P.Y. |

# DUE DATE OF FILING ROI U/S 139(1)

| | | |
|---|---|---|
| Company | Liable to TP Report u/s 92E, partner of such Assessee & if covered by Sec.5A spouce of such partner [FA,21]<br>Others | 30th Nov of AY<br>31st Oct of AY |
| Others | Liable to tax audit u/s 44AB, where assessee is a partner in a firm, whose accounts are required to be audited under any law or spouse of such partner if provision of section 5A applies to such spouse.<br>Working Partner [FA'21]<br>Others | 31st Oct of AY<br>31st July of AY |

Sec.5A of Income Tax : Where the husband and wife are governed by Portuguese Civil Code of 1860 as "COMMUNIAO DOS BENS"), such income of the husband and of the wife under each head of income (other than under the head "Salaries") shall be apportioned equally between the husband and the wife and the income so apportioned shall be included separately in the total income of the husband and of the wife respectively. and the remaining provisions of this Act shall apply accordingly.

## CONSEQUENCES OF NOT FILING RETURN WITHIN DUE DATE U/S 139(1)

- Interest u/s 234A
- Fees u/s 234F
- Benefit of carry forward of losses u/s 72/73/74/74A is lost
- Right to revise the return of income u/s 139(5) is lost
- Department action u/s 142(1) or 144 or 148
- Prosecution u/s 276CC

## FEE FOR DEFAULT IN FURNISHING RETURN OF INCOME U/S 234F

Where a person required to furnish a ROI u/s 139, fails to do so within the time prescribed he shall pay,by way of fee, a sum of Rs.5000 [w.e.f. AY 21-22]

## SEC 139(1A) BULK RETURN

Specified Assessee[Salaried] can file their ROI to Employer and then employer shall furnish such ROI in Bulk in a PD or CD to Department.

## SEC 139(1C) CG TO EXEMPT CLASS OF PERSONS

CG is Empowered to notify the class of person who will be exempted from requirement of Filling ROI

## SEC 234A INTEREST FOR DEFAULT IN FURNISHING RETURN

Interest is payable if -
a) ROI is filed after the due date specified u/s 139(1)/ 139(4)/139(8A)/142(1) OR
b) ROI is not filed

| | | | | |
|---|---|---|---|---|
| Tax on Income declared in ROI | X | 1% per month or part of a month | X | Commences from next day following due date u/s 139(1) & ends on :<br>ROI filed : the date of filing of ROI<br>ROI not filed : date of completion of assessment u/s 144/147/153A |

* Part of the month shall be considered as full month.

Interest is calculated of the tax on total income as determined u/s 143(1), & where regular assessment is made, on the amount of tax on the total income determined under regular assessment, as reduced by -

i) advance tax paid, if any
ii) any tax deducted or collected at source;
iia) any relief of tax allowed u/s 89;
iii) any relief of tax allowed u/s 90 on account of tax paid in a country outside India;
iv) any relief of tax allowed u/s 90A on account of tax paid in a specified territory outside India ref to in that section;
v) any deduction, from the Indian income tax payable, allowed u/s 91, on a/c of tax paid in a country outside India &
vi) any tax credit allowed to be set off u/s 115JAA / JD.

Dr. Prannoy Roy vs. CIT - Credit allowed of Self Assessment Tax, if paid upto due date of return filing.

Interest under this sec shall be reduced by interest, any paid u/s 140A or otherwise.

## SEC 139(3) LOSS RETURN

If a person has sustained a loss under the head "Profits & gains of business or profession" or under the head "Capital Gains" & claims that such loss should be carried forward u/s 72 / 73 / 73A / 74 / 74A, then he may furnish a return of loss within the time prescribed u/s 139(1) & all provisions of the Income-tax Act shall apply as if it were a return furnished u/s 139(1).

East Asiatic Company India Private Limited (Mad.)
unabsorbed depreciation can be carried forward even if the ROI is furnished after the due date specified in section 139(1).

CIT v. Haryana Hotels Ltd. (Punj. & Har.)
unabsorbed depreciation can be carried forward even if no return has been filed by the assessee.

## SEC 139(4) BELATED RETURN

Any person who has not furnished a return within the time allowed to him u/s 139(1), may furnish the return for any PY at any time

- 3months before the end of relevant AY OR
- before completion of assessment, whichever is earlier.

## SEC 139(5) REVISED RETURN

Return Filled U/s 139[1] /139[3] / 139[4] can be revised if discover any ommission or wrong statement in such ROI filed earlier

- 3months Before End of AY or
- Before Completion of Assessment Whichever is Earlier.

Notes:

1. Revised return replaces original return. [Dhampur Sugar Mills vs. CIT]
2. Return can be revised even after receiving intimation u/s 143[1] or refund.
3. No restriction on revision no of times.
4. OR/BR/LR/RR- all ROI can be Revised.

| | | |
|---|---|---|
| Goetze India LTD[SC] | Case: A fresh claim before AO can be made by Filling Statement/ Letter ? | 1- Held: NO, fresh claimed before AO can be made by Filling Revised Return.<br>2- But a fresh claim before CIT[A] without a Revised Return is Possible. [Pruthvi brokers or Jute Corporation of India]<br>3- But a fresh claim before ITAT without a Revised Return is Possible. [National Thermal Power Corp [SC]] |

## SEC 139(9) DEFECTIVE RETURN

ROI considered as defective Unless:

a) Column, Annexure, is duly filled
b) Proof of tax paid given
c) Audit report, if any submitted alon with B/S and P&L.

Rectify defect within time specified in Notice [generally 15 days]
If return rectified & submitted - Valid Return
If return not rectified - Invalid Return

## SEC 139A PERMANENT ACCOUNT NUMBER

Following person must obtain PAN

1. Every person liable to pay tax.
2. Person carrying PGBP having Sales/turnover exceeding ₹5L
3. Every person required to Furnish ROI u/s 139[4A]
4. Being Resident[other than Individual] which enters financial transaction in aggregate exceeding ₹2.5L or more in FY
5. Person who is MD, Director, trustee, Founder, karta, CEO, principal officer.
6. Who intends to enter into such transaction as may be prescribe by Board

Any person has not been allotted a PAN but possesses Aadhaar number, may furnish his Aadhaar number in lieu of PAN, & such person shall be allotted a PAN in such manner as may be prescribed;

has been allotted a PAN, and who has intimated his Aadhaar number may furnish or intimate or quote his Aadhaar number in lieu of the PAN

Every person entering into such transaction, as be prescribed, shall quote his PAN/Aadhaar number, as the case may be, in documents pertaining to such transactions & also authenticate such PAN or Aadhaar number, in such manner as be prescribed

Every person receiving any document shall ensure that PAN or Aadhaar number, is so authenticated.

Notification 31/2019 : Aadhar must be intimated to prescribe authority [PDGIT (Systems)] by 31/03/2022 [FA 2022]

Notification 82/2018: Time limit to apply for PAN

| Situation | Time Limit |
|---|---|
| Every person, if TI > BEL. | On/before 31 may of AY. |
| Person carrying business & sales exceed 5L | before the end of that FY (PY) |
| Every person who is required to furnish ROI u/s 139(4A) | Before the end of that FY (PY) |
| Every person being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to ₹2,50,000 or more in a FY | on or before 31 May of immediately following FY |
| Every person who is a managing director, director, partner, trustee, author, founder, karta, CEO, principal officer or office bearer | on or before 31 May of immediately following FY |

## 139AA AADHAAR NUMBER

| | |
|---|---|
| Required Upon | Every person who is eligible to obtain Aadhaar number shall, on or after the 1st day of July, 2017,quote Aadhaar number— a) Pan Application b) Filling ROI |
| If Don't possesses aadhar | where the person does not possess the Aadhaar Number, Enrolment ID of Aadhaar application |
| Non Compliance | In case of failure to intimate Aadhaar number, PAN allotted shall be deemed to be invalid inoperative (without declaring it invalid) (ruling confirmed by Binoy Viswam vs. UI, 2017 (SC))& other provisions shall apply as not applied PAN |
| Sec. not applicable to | 1) NR<br>2) Person having an age of 80 years or above<br>3) Person is not a citizen of India<br>4) Person residing in Assam, Meghalaya, J&K |

# SEC 140A SELF ASSESSMENT TAX

Where any tax & interest u/s 234A, 234B & 234C & fee u/s 234F is payable by the assessee on the basis of the return of income required to be furnished u/s 139 or sec 142(1) / sec 148, or sec 153A , after deducting

- > Advance Tax;
- > any tax deducted or collected at source;
- > any relief of tax claimed u/s 89;
- > any relief of tax claimed u/s 90 / 91 of tax paid in country o/s India;
- > any relief of tax claimed u/s 90A on account of tax paid in any specified territory outside India referred to in that sec;
- > any MAT credit u/s 115JAA or AMT credit u/s 115JD; and
- > any tax or interest payable according to the provisions of sec 191(2) [FA'20]

SIMPLIFIED ANALYSIS :

1. The Assessee is required to assess his own Income & Tax payable thereon after taking into account

| | |
|---|---|
| Total Income | xxx |
| Compute tax on total income<br>After surcharge & HEC | xxx |
| Less: TDS/TCS//Advance tax<br>releif 89/90/91/115JAA/115JD | [xxx] |
| Add: Interest u/s 234A/B/234F<br>Tax & Interest u/s 191(2) | xxx |
| Final Advance Tax payable | xxx |

The assessee shall be liable to pay such tax with interest & Fees. Where the amount paid by the assessee falls short of the aggregate of the tax the amount so paid shall first be adj towards the Fees & thereafter interest payable as aforesaid & the balance, if any, shall be adjusted towards tax payable.

Notes :

1. Consequences of Failure to Pay Tax Interest or Fees
   - A) Assessee shall deemed to be Assessee in Default & interest is payable u/s 220/221.
   - B) Recovery Proceeding shall be Initiated. However, ROI shall not be treated as defective, if SA is not paid
   - C) Penalty u/s 221 can also be levied -Maximum penalty = Tax in arrears.

After a regular assessment any amount of Advance tax shall deemed to be paid towards regular Assessment.

# SEC 139B TAX RETURN PREPARERS [TRP]

A TRP is an individual who has been authorized to enable any specified class(s) of person to prepare & furnish their returns of income.

1- Who can be TRP ?
# Any Individual or HUF.

2- Person not eligible to become TRP :-
# Chartered Accountant.
# Any legal practitioner who is entitled to practice in any civil court in India.
# An employee of the specified class / classes of person.

3- Education & qualification of TRP :-
> Graduate from recognize university/Institution.
> Who have cleared intermediate exam of CA/CS/CMA Inst.

4- Return which cannot be filled by TRP
> Person covered under Tax Audit
> Revised return if original return is not made by TRP
>Person not resident In India

Circular No 6/2019 : Quoting Aadhar is mandatory on all returns filed after 01/04/2019.

Notification 31/2019 : Aadhar must be intimated to prescribe authority [PDGIT (Systems)] by 31/03/2022 [FA 2022]

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# SEC 140 WHO SHALL VERIFY THE RETURN

| Assessee | Signatory\ Verified by |
|---|---|
| Individual | 1- Present in India: Assessee himself<br>2- Absent from India: Individual himself or person authorized by him<br>3- Mentally Incapacitated: Person competent to act on his behalf or legal guardian.<br>4- Other cases: Person duly authorize by him. |
| HUF | 1- General: By Karta<br>2- Karta absent from India or is Mentally Incapacitated: Any other Adult Member of the family. |
| Company | 1- General: By Managing Director<br>2- MD is not able to sign or there is no MD: Any other Director or any other person as may be prescribed [FA'20]<br>3- Co not Resident in India: Holder of a valid Power of Attorney<br>4- Company is in liquidation or Receiver is appointed: The Liquidator<br>5- Management taken over by Government: Principal Officer |
| Limited Liability Partnership | 1- General: By Designated partner<br>2- Designated Partner is not able to sign / no designated partner Designated Partner: Any other Partner. any other person as may be prescribed [FA'20] |
| Local Authority | Principal Officer |
| Political Party | Chief Executive Officer |
| Association of Persons | Any Member or Principal Officer. |
| Any Other Persons | That person or any other person who is competent to sign on his behalf |
| Insolvency is applied as | Insolvency professional appointed by such Adjudicating Authority.[FA.2018] |

## Sec.234H Fees for Default in intimation if AADHAR

Where a person, who is required to intimate his Aadhar Number under section 139AA(2), fails to do so on or before the notified date i.e., 30th June, 2021, he shall be liable to pay such fee, as may be prescribed, at the time of making intimation under section 139AA(2) after 30th June, 2021.
However, such fee shall not exceed Rs.1,000

## Sec 139(8A) Updated Return

# Any person may furnish an updated return of his income (or the income of any other person in respect of which he is assessable under the Act) for the previous year relevant to such AY.. Applicable from 1-04-2022 -

# Time-limit - Updated return under section 139(8A) can be submitted at any time within 24 months from the end of the relevant AY. For instance, updated return for the AY 2022-23 can be submitted on or before March 31, 2025. .

# Who can submit updated return - Updated return can be submitted by any person whether ((or not) he has furnished a return under section 139(1)/(4(BR))/(5(RR)) for an AY (herein referred to as the relevant assessment year).

# Other points - The following points should be noted -

1. If a person has sustained a loss for any previous year and he has already submitted return of loss for that year within due date [as given in section 139(1)], he can furnish an updated return for that year under section 139(8A) where such return is a return of income. [ A Loss return can be updated only with an updated return which reflects Inc]

| | | |
|---|---|---|
| Loss ROI | ➤ Updated Loss Return | ✗ |
| Income ROI | ➤ Updated Income Return | ✓ |
| Income Return | ➤ Updated Loss Return | ✗ |
| Loss Return | ➤ Updated Return Income | ✓ |

2. If as a result of submitting updated return under section 139(8A), the quantum of carried forward loss (or unabsorbed depreciation or MAT/ AM credit) is to be reduced for any subsequent year, then an updated return shall be furnished for each such subsequent year.

**# When updated return cannot be submitted** - In the following cases update return cannot be submitted -

1. If updated return is a return of a loss.

2. If updated return has the effect of decreasing the total tax liability determined on the basis of return furnished or results in refund or increases the refund due on the basis of return.

3. If Search has been initiated under section 132 or books , other documents or any assets are requisitioned u/s 132A or a survey has been conducted u/s 133A [other than Sec.133A (2) /133A(5).

4. A notice has been issued to the effect that any money, bullion, jewelery or valuable article or thing or Books or Documents, seized or requisitioned u/s 132 or sec. 132A in the case of any other person belongs to Assessee.

5. Where an updated return has already been furnished by him u/s 139(8A) for the relevant AY. or

6 Any proceeding for assessment/reassessment/re-computation/ revision of income is pending or has been completed for that AY

7. The AO has information in respect of such person for the relevant AY in his possession under
   1. The prevention of money Laundering Act 2002 or
   2. The Black Money (undisclosed foreign income & Assets ) and imposition of Tax Act or
   3. The prohibition of Benami property transaction Act 1988 or
   4. The Smugglers and Foreign Exchange Manipulators (Forfeiture of property ) Act, 1976 and the same has been communicated to him, prior to the date of his filling of return u/s 139(8A), or

Information has been received under DTAA( section 90 or 90A) in respect of such person and the same has been communicated to him, prior to the date of filing of return under section 139(8A), or

Any prosecution proceedings have been initiated for the relevant AY in respect of such person,

He is a person or belongs to a class of persons, as may be notified by the Board in this regard.

**Updated return to be accompanied by proof of payment of tax and additional income-tax –**

updated return cannot be submitted unless it is accompanied by proof of Payment as per Sec. 140B (i.e tax and additional income-tax).

## # How to calculate tax on updated return [Sec. 140B] -

**Where assessee has not furnished return earlier –**

Where no return of income has been furnished by an assesse, he shall before furnishing updated return is liable to pay the tax together with interest and fee payable.

The tax payable shall be computed after Reducing:

a. The Amount of advance Tax (already paid);
b. Any TDS/TCS;
c. Any relief of tax claimed u/s 89/90/90A/91;
d. Any AMT credit/ MAT credit u/s 115JAA/115JD.

Such updated return shall also be accompanied by proof of payment of such tax, additional tax, interest and fee u/s 23F

**Where assessee has furnished return earlier-**

If an Assessee has furnished return ,or he (before submitting updated return) is liable to pay the tax due to together with interest & fee payable The tax payable should be computed after taking into the account of following-

a. Amount of Tax paid Earlier
b. TDS/TCS
c. Any MAT/AMT credit

The aforesaid tax shall be increased by the amount of refund, if any, issued in respect of earlier return. The updated return shall be accompanied by proof of payment of such Tax, additional Tax, interest and fee.

## # Computation of additional Tax-

The additional tax payable at the time of furnishing updated return shall be calculated as follows-

| | |
|---|---|
| If updated return is furnished after the expiry of time available u/s 139(4)/(5) but before completion of 12 months from the end of the relevant AY | 25 % of aggregate of tax (+ SC+HEC) and interest as computed |
| If updated return is furnished after the expiry of 12 months) but before completion of 24 months from the end of the relevant AY | 50 % of aggregate of tax (+ SC+HEC) and interest as computed |

Where ROI not Furnished Interest u/s 234A + 234B +234C if any

Where ROI Furnished - earlier Interest u/s 234B + 234C if any

## # How to calculate interest under section 234B where an earlier return is furnished -

Where an earlier return has been furnished, interest payable under section 234B shall be computed on an amount equal to the assessed tax. For this purpose, "assessed tax" means the tax on the total income as declared in updated return after Reducing Following

- The amount of relief or tax u/s 140A(1), the credit for which has been taken in the earlier return;
- TDS/TCS on any income declared in updated return and which has not been claimed in the earlier return;
- Any relief/ deduction under section 90/90A/91 which has not been claimed in the earlier return;
- Any AMT/MAT credit under section 115JAA/115JD, which has not been claimed in the earlier return.

Other points - The following points should be noted -

1. If no earlier return is furnished, interest payable under section 234A shall be calculated on the basis of tax on total income as declared in the updated return.
2. If earlier return is furnished, interest payable under section 234C shall be computed after considering the total income furnished in the updated return as the returned income.
3. For the purpose of additional tax, interest payable shall be interest chargeable under any provision of the Act on the income as per updated return, as reduced by interest paid in earlier return. However, the interest paid in the earlier return shall be considered to be nil if no earlier return has been furnished.

## Amendment Based Questions

Question 1: Mr. Vineet submits his return of income on 12-09-2023 for A.Y 2023-24 consisting of income under the head "Salaries", "Income from HP" and bank interest. On 21-12-2023, he realized that he had not claimed deduction under section 80TTA in respect of his interest income on the Savings Bank Account. He wants to revise his return of income. Can he do so? Examine. Would your answer be different if he discovered this omission on 21-03-2024?

Solution: Since Mr. Vineet has income only under the heads "Salaries", HP and IFOS ", he does not fall under the category of a person whose accounts are required to be audited under the Act or any other law in force. Therefore, the due date of filing return for A.Y.2023-24 under section 139(1), in his case, is 31st July, 2023. Since Mr. Vineet had submitted his return only on 12.9.2023, the said return is a belated return under section 139(4).

A belated return under section 139(4) can also be revised. Therefore, Mr. Vineet can revise the return of income filed by him under section 139(4) in December 2023, to claim deduction under section 80TTA, since the time limit for filing a revised return is 3 months prior to the end of the RAY, which is 31.12.2023. However, he cannot revise return had he discovered this omission only on 21-03- 2024, since it is beyond 31.12.2023.

QUESTION 2: [Updated Return]
Mr. X would like to furnish his updated return for the A.Y. 2021-22. In case he furnished his updated return of income, he would be liable to pay ₹2,50,000 towards tax and ₹35,000 towards interest after adjusting tax and interest pa at the time filing earlier return. You are required to examine whether Mr. X can furnish updated return
(i) as on 31.3.2023
(ii) as on 28.2.2024
(iii) as on 31.5.2024
If yes, compute the amount of additional income-tax payable by Mr. X at the time of filing his updated return.
Would your answer be different with respect to filing of updated return in ca of (ii) above, where he has received a notice under section 147 for the said A.Y. 2021-22 on 23.7.2023

SOLUTION
1. Mr. X may furnish an updated return of his income for A.Y. 2021-22 at any ti within 24 months from the end of the relevant assessment year i.e., 31.3.20
2. Accordingly, Mr. X can furnish updated return for A.Y. 2021-22 as on 31.3.20 and on 28.2.2024. However, he can not furnish such return as on 31.5.2024, since such date falls after 31.3.2024.
3. Mr. X would be liable to pay additional income-tax
   - @25% of tax and interest payable, if updated return is furnished after the expiry of the time limit available under section 139(4) or 139(5) i.e., 31st December 2022 and before the expiry of 12 months from end of relevant assessment year i.e., 31.3.2023
   - @50% of tax and interest payable, if updated return is furnished after the expiry of 12 months from end of relevant assessment year i.e., 31.3.2023 and before the expiry of 24 months from end of relevant A.Y. i.e., 31.3.2024
4. Accordingly, Mr. X is liable to pay additional income-tax in case he furnishe his updated return as on
   (i) 31.3.2023 - ₹71,250 [25% of 2,85,000, being tax of ₹2,50,000 plus interest ₹35,000]
   (ii) 28.2.2024 of ₹1,42,500 [50% of 2,85,000, being tax of ₹2,50,000 plus interes of ₹35,000] He cannot furnish updated return where he has received noti u/s 147, since proceeding for income escaping assessment for the A.Y. 2021-22 are pending.

# ALTERNATE MINIMUM TAX


| Sec | Particulars | Pg No |
|---|---|---|
| | Alternate Minimum Tax | 16.2 |
| 115JC | Applicability | 16.2 |
| 115JD | AMT credit | 16.2 |
| 115JEE | Application to certain persons | 16.2 |

# ALTERNATE MINIMUM TAX

Is applicable to ALL ASSESSEE except COMPANY.

# SEC 115JC - APPLICABILITY

As Per Sec 115JC(1), Income Tax Payable by any person Higher of -
a) Income Tax payable as per Normal Provision of Income Tax.
b) 18.5% of Adjusted Total Income [Surcharge, if applicable + 4% Cess]

Sec 115JC(2) - Calculation of Adjusted Total Income -

| Particulars | ₹ |
|---|---|
| Taxable income of the taxpayer | XXX |
| Add: Amount of deduction under chapter VIA (except 80P) [Sec.80IA to 80RRB] | xxx |
| Add: Amount of deduction claimed u/s 35AD (as reduced by the amount of depreciation allowable in accordance with provisions of section 32) | xxx |
| Add: Amount of deduction claimed u/s 10AA[SEZ] | xxx |
| Less: Depreciation allowable as per sec 32 assuming that ded$^{n}$ u/s 35AD not allowed on assets on which ded$^{n}$ u/s 35AD is claimed | (xxx) |
| Adjusted total income | XXX |

Sec 115JC(3) - Every person to whom this section applies shall obtain a report, atleast 1 month prior to the date of filing ROI

Sec 115JC(4) - If the Assessee is a unit located in an International Financial Services Centre & derives its income solely in convertible foreign exchange, rate shall be 9%.
Incase of Co-op Society AMT would be leviable at the rate of 15% of ATI instead of 18.5%

Sec 115JC(5) - The provisions of this section shall not apply to a person who has exercised option referred to in sec 115BAC / 115BAD. [FA'20]

# SEC 115JD AMT CREDIT

> IF AMT > Normal Income Tax then excess shall be AMT Credit
> It shall be c/f for 15AY
> Credit shall be setoff in year in which regular tax is More than AMT
> Tax credit shall be allowed set off in a year when Tax as per Normal

Provision > AMT

> Provided that where amount of tax credit in respect of any income-tax paid in any country or specified territory outside India, u/s 90 or sec.90A or sec.91, allowed against the alternate minimum tax payable exceeds the amount of the tax credit admissible against the regular income- tax payable by the assessee, then, while computing amount of credit under this sub-section, such excess amount shall be ignored.

The provisions of this section shall not apply to a person who has exercised option referred to in sec 115BAC / 115BAD. [FA'20]

# SEC 115JEE APPLICATION TO CERTAIN PERSONS

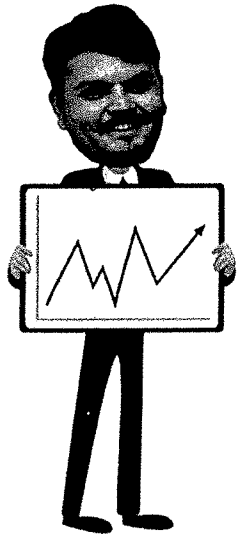
The Provisions of this Chap shall apply to a person who has claimed any deduction under :
a) any sec (other than sec 80P) included in Chap VI - A under the head "C- Deduction in respect of certain incomes" or
b) sec 10AA; or
c) Sec 35AD

AMT is not payable by :
- Individual
- HUF
- AOP / BOI
- Artificial Judicial Persons

If Adjusted total income of such persons does not exceed 20 lakhs

# Alternative Tax Scheme


| Sec | Particulars | Pg No |
|---|---|---|
| 115BAC | Tax Incentive for Individual & HUF | 17.2 |
| 69 | Unexplained Investments | 17.3 |
| 69A | Unexplained Money etc | 17.3 |
| 69B | Amount of Investments, etc not fully disclosed in books | 17.3 |
| 69C | Unexplained Expenditure | 17.3 |
| 69D | Amount borrowed or repaid on Hundi | 17.3 |

"NEXT STOP THE TOP!"

# SEC 115BAC TAX INCENTIVE FOR INDIVIDUAL & HUF

> Assessee to whole it is applicable : Individual / HUF (R/NR)
> When Applicable : only if it is opted
  a) Not having Business Income : Every time ROI is fillied
  b) Having Business Income : Once Opted it will Continue, This option can be withdrawan only once in lifetime , other than year in which it exercised & thereafter,

> Tax Rate if opted:

| Total Income | Rate (%) |
|---|---|
| Upto ₹ 250000 | Nil |
| ₹ 2.5L to 5L | 5% |
| ₹ 5L to 7.5L | 10% |
| ₹ 7.5L to 10L | 15% |
| ₹ 10L to 12.5L | 20% |
| ₹ 12.5L to 15L | 25% |
| Excess of ₹ 15L | 30% |

+ Income like LTCG/STCG u/s 111A/112A/112 shall be taxable at applicable
+ Surcharge, if any applicable (10% / 15% / 25% / 37%)
+ HEC @4%
+ The above rate are applicable irrespective of age of Assessee.

> If Assessee opts for Sec.115BAC then provision of AMT u/s 115JC & 115JD is not applicable

> He will be eligible to claim following:
> Leave travel concession [in sec10(5)];
> House rent allowance [in sec 10(13A)];
> Alowance in sec 10 (14) (eg Children Edu allowance)
> Allowances to MPs/MLAs in sec 10(17)
> Allowance for income of minor in sec 10(32)
> Exemption for SEZ unit contained in section 10AA
> Deduction From Salary in Sec.16 like Standard deduction, Entertainment allowance &-employment, professional tax u/s 16;
> Deduction From House Property u/s 24 like [Interest u/s 24 in respect of self-occupied or vacant property]
> Deductions from PGBP like
  1) Additional depreciation Sec. 32(1)(iia)
  2) Deductions under section 32AD, 33AB, 33ABA;
  3) Various deduction for donation for or expenditure on scientific research contained in section 35(2AA) or in Sec.35 (ii) / (iia) / (iii).
  4) Deduction under section 35AD or section 35CCC;
> Deduction from IFOS like
  1) Deduction from family pension under section 57(iia);
> Deduction in Chapter VIA:
  Any deduction under chapter VIA (Except Given Below)

Following Benefits can Be Taken
1. Depreciation u/s 32
2. Chapter VIA Deduction in Section Sec 80CCD (employer contribution on account of employee in notified pension scheme) & Sec 80JJAA (new employment).
3. Transport Allowance in case of Handicap Assessee.
4. Conveyance Allowance for performance of duties .
5. Travel allowance or Daily Allowance to meet ordinary daily charges.
6. Free food & beverage through vouchers provided to the employee

Other Points to ponder :
1. Loss from house property for rented house(SOP) not be allowed to be set off under any other head & would be allowed to be c/f as per extant law).
2. Without Set off of any loss c/f or depreciation from an earlier AY, if the same is attributable to allowable deductions . These Losses or Depreciation cannot be Carried forward as well.

## Sec 115BAD Tax Incentive for Resident Co-operative Society [FA'20]

The condition for concessional rate shall be that the total income of co- operative society is computed -

Without claiming the following deductions :

Exemption for SEZ unit contained in section 10AA

Additional Depreciation u/s 32(1)(iia)

Deductions u/s 32AD, 33AB, 33ABA sub-clause (ii) or sub-clause (iia) / sub-clause (iii) of sub-sec (1) or sub-sec (2AA) of sec 35 / 35AD / 35CCC

Provisions under Chaper VI A

Without Set off of any loss c/f or depreciation from an earlier AY, if the same is attributable to any of the deductions referred in point A. Also, the same cannot be carried forward.

By claiming Depreciation u/s 32 except Additional depre

The concessional rate shall not apply unless option is exercised by the co-operative society in the prescribed manner on or before the due date specified u/s 139(1) of the Act for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after 1st April, 2021 and such option once exercised shall apply to subsequent assessment years

Provisions of Sec 115JC, AMT, shall not apply to such Resident Co- operative Society. Similarly, provisions in Sec 115JD relating to carry forward and set off of AMT credit, if any, shall not apply.

Option once exercised cannot be withdrawn;

On fulfillment of above conditions, a co-operative society resident in India shall have the option to pay tax at 22% for AY 2021-22 onwards in respect of its total income so however that if it fails to satisfy conditions in any previous year, the option shall become invalid and other provisions of the Act shall apply. The surcharge applicable to such co-operative society shall be levied at 10%

## SEC 69 UNEXPLAINED INVESTMENTS

Where in the FY immediately preceding the AY the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the AO, satisfactory, the value of the investments may be deemed to be the income of the assessee of such FY.

## SEC 69A UNEXPLAINED MONEY ETC

Where in any FY the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the AO, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such FY.

## SEC 69B AMOUNT OF INVESTMENTS, ETC. NOT FULLY DISCLOSED IN BOOKS

Where in any FY the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the AO finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and the assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the AO, satisfactory, the excess amount may be deemed to be the income of the assessee for such FY.

## SEC 69C UNEXPLAINED EXPENDITURE

Where in any FY an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the AO, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such FY.
Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.

## SEC 69D AMOUNT BORROWED OR REPAID ON HUNDI

Where any amount is borrowed on a hundi from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the PY in which amount was borrowed or repaid, as the case may be.
Provided that, if in any case any amount borrowed on a hundi has been deemed under the provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount.