

CA | CMA FINAL

DIRECT TAXATION & INTERNATIONAL TAXATION

COMPACT

AMENDED BY FA 2024

MAY / JUNE &
NOV / DEC -
2025 EXAM

3.0
PART -1



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Handwritten Notes

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Direct Taxation

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Preface

for 18th Edition

"What we learn with pleasure we never forget" - Alfred Mercier

Direct Tax is the one of the most extensive subject in terms of volume and sometimes it may seems to be intimidating as well. Through this book, we have tried to eradicate that fear. Our purpose is to efficiently succinct all important concepts without becoming overwhelmed with voluminous textbooks.

The book is user-friendly and will work as a one stop solution for your CA/CMA Final DT paper. During my exam time, I have struggled alot because of using multiple books and notes. Due to mad rush in exams, I often used to get confused with what to refer and how to remember. Since that period, I have tried and I'm still trying to make learning simpler and easier for anyone to understand and apply.

I'm highly delighted to introduce a handwritten font book called 'Compact 2.0' which will act as a complete guide for a CA final student. From exam preparation to last minute revision, this book can be your great companion in celebrating your success with you. "Compact 2.0" is amended and updated as per New Syllabus of ICAI.

It took me 45 days to make this edition possible. I would like to express my gratitude to everyone who helped me in bringing this idea alive.

I dedicate this book to each student who is aspiring to become a Chartered Accountant / CMA and contribute in the growth of our country.

Compact is color coded book for easy understanding

- Black : Headings
- Blue : Main Content
- Red : Important Point & Words
- Green : Amendments

Thanks to makemydelivery.com/Pooja Law house to publishing this book. I would also like to thanks Aadil & Sneha for their valuable contribution in Compact 2.0.

Topic wise Weightage

Sections	Weightage	Content Area
1.	20% - 23%	PGBP, Capital Gain, IFOS, Clubbing, Setoff & C/F, Deduction u/c VI-A, Alternative Tax Regime u/s 115BAA, 115BAB, 115BAC, 115BAD, 115BAE, MAT, AMT & SEZ
2.	20% - 22%	Taxation of charitable and religious trust and institutions, political parties and electoral trusts, business trusts, securitisation trusts, investment funds, GAAR, VDA, Equalisation Levy
3.	20% - 30%	TDS & TCS, Assessment Procedures, Appeals and Revision, Dispute Resolution, Miscellaneous Provisions, Black Money Act, 2015, Penalties & Tax Audit
4.	30% - 35%	International Taxation Transfer Pricing, NR Taxation, Double Taxation Relief, Advance Ruling, MTC, BEPS, Application and Interpretation of Tax Treaties



COMPACT

INDEX

CHAPTERS

Page No.

1	Basics, Tax Rates AY 25-26 & Alternate Taxation Regime	01
2	Income from Capital Gains	18
3	Income from Other Sources	61
4	Taxation of Dividend & Deemed Dividend	67
5	Taxation in Case of Liquidation & Buy Back	71
6	Taxation in Case of Amalgamation and Demerger	77
7	Profits & Gains of Business or Profession	82
8	Income Computation & Disclosure Standards (ICDS)	124
9	Taxation of Political Parties & Electoral Trust	135
10	Taxation in Case of Firm/LLP	136
11	Taxation in Case of AOP/BOI	140
12	Taxation of Business Trust	142
13	Taxation of Investment Fund	146
14	Taxation of Securitisation Trust	148
15	Minimum Alternate Tax	149
16	Alternate Minimum Tax	156
17	Deduction u/s 10AA (SEZ)	158
18	Deduction U/C VI-A	161
19	Clubbing of Income	176
20	Set-Off & C/F of Losses	179

Entry 82 of the Union List i.e., List I in the Seventh Schedule to Article 246 of the Constitution of India has given the power to the **CG** to make laws on **Income tax** other than agricultural income. **Entry 46 of state list** give power to State Govt. to make law on tax on **agriculture income**.

Sources of Income Tax Law

- **Income Tax Act, 1961:** It is the main source of Income tax law. It's provide determination of Total Income, Tax Liability & Procedure of assessment etc. It applicable to **whole of India w.e.f. 1st April, 1962**.
- **Income Tax Rules, 1962:** IT Act empowered Central Board of Direct Tax (CBDT) to make rules. All Forms, procedure, depreciation rates, principles of Valuation of perquisites are provided in the Rules.
- **Annual Finance Act:** Every year, the FM presents a Finance Bill in the parliament, which contains various amendments proposed to be made in the DT & IDT. **Finance Bill (No. 2), 2024** presented by Nirmala Sitharaman on **23rd July, 2024**.
As soon as the Bill passed by both the houses of the parliament and thereafter receives the assent of President, it becomes the Finance Act. Finance Bill, 2024 became **Finance Act (No. 2), 2024** on after receive assent of president.
- **Circulars/Notifications from CBDT:** Circulars are issued by the CBDT to **clarify the meaning & scope of certain provisions** contained in the Act. Notifications are issued by Central Govt./CBDT to give **effect to the provision** of The Act.
Circulars are **binding to Assessing officer** but not on Assessee and Courts. However Assessee can take advantage of Circulars which are beneficial to them.
- **Supreme Court & High Court Decisions:** Various issues which arise out of the provisions are decided by HC/SC. The SC is the Apex Court and the law laid down by the SC is the law of the land. The decision of HC will apply in the respective state in which such HC have jurisdiction.

Sec. 4: Charging Section of Income Tax

Income Tax is charged for **every Assessment Year**. It is charge **on every person** as define u/s 2(31). It is charge on the total income earned by the person during Previous Year. The tax is levied at the rates prescribed by Finance Act.

Sec. 2(9): Assessment Year

A.Y. means the period of 12 months starting from 1st April every year. Income earned in Previous year (PY) is taxed in AY. The A.Y. 25-26 is a period of 12 months from the 1st April 25 till 31st March 26.

Sec. 3: Previous Year

P.Y. means the financial year immediately preceding the AY. For A.Y. 25-26, the PY shall be period from 1st April 24 to 31st March 25 & **the Income earned in PY 24-25 is assessed in the AY 25-26**.

Provided that, in the case of a business or profession newly set up, or a source of income newly coming into existence, in the FY, the PY shall be the period starting from the date of setting up of the business or profession or, the date on which the source of income newly comes into existence and ending with 31st March of FY.

Sec. 2(31): Person

Person includes—

- ✓ Individual: Natural Person like Man, Woman, Minor, person of Unsound mind. E.g., Mr. BB
- ✓ Hindu Undivided Family (HUF): Consists of all males lineally descended from a common ancestor and includes their wives and daughters. E.g., Ram's HUF
- ✓ Company: Any body corporate incorporated in India or outside India. E.g., BB Virtuals Pvt. Ltd.
- ✓ Firm (Includes LLP): E.g., Gupme Foods LLP
- ✓ Association of Person or Body of Individual (AOP/BOI): E.g., Joint Ventures, Unregistered Trust
- ✓ Local Authority: E.g., Municipality, Gram Panchayat
- ✓ Artificial juridical person: E.g., Deities, Bar Council, Universities

Sec. 2(7): Assessee

It means any person who is liable to pay any tax or any other sum under IT Act, 1961. It includes person in respect of which any proceeding initiated, deemed assessee or assessee in default.

Certain cases where Income assessed to Tax in Previous Year itself

- Sec 172 - Shipping Business of NR: Where a ship of NR, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid. → Mandatory.
- Sec 174 - Person leaving India: Where it appears to the AO that any individual may leave India and he has no intention of returning, the income of such individual for the period upto the probable date of his departure from India is chargeable to tax in current year only.
- Sec 174A - AOP/ BOI/ AJP formed for a particular event or purpose: AO apprehends that the AOP/ BOI is likely to be dissolved in the same year, he can make assessment of the income up to the date of dissolution as income of the current year.
- Sec 175 - Persons likely to transfer property to avoid tax: If it appears to the AO that a person is likely to charge, sell, transfer, dispose of his assets to avoid payment of any liability, the total income of such person charge to tax in current year itself.
- Sec 176 - Discontinued business: Where any business or profession is discontinued, the income of the period upto the date of such discontinuance may, at the discretion of the AO, be charged to tax in current year.

Examples

₹ in Lakhs

Sr. No.	Total Income excluding special Income	Special Income (CG & Dividend)	Total Income	Surcharge applicable on Tax Calculated on	
				Special Income	Other Income
(i)	20	25	45	NIL	NIL
(ii)	45	50	95	10%	10%
(iii)	45	70	115	15%	15%
(iv)	45	300	345	15%	15%
(v)	60	700	760	15%	15%
(vi)	150	250	400	15%	15%
(vii)	150	500	650	15%	15%
(viii)	300	100	400	15%	25%
(ix)	300	250	550	15%	25%
(x)	600	100	700	15%	37%

♦ In case of Company

A. Domestic Company

Tax Rate

 ➤ Total Turnover or Gross Receipt of P.Y. 2022-23
upto ₹ 400 Crore

25%

➤ Otherwise

30%

B. Foreign Company

35% [earlier it was 40%]

Surcharge:

Domestic Company

Foreign Company

Total Income > ₹ 1 crore but upto ₹ 10 crores

7%

2%

Total Income > ₹ 10 crores

12%

5%

♦ In case of Firm, LLP, Local Authority

Tax Rate: 30%

Surcharge @ 12% if Total Income more than ₹ 1 crore.

♦ In case of Co. operative society

Tax Rate

Total Income upto ₹ 10,000

10%

Total Income > ₹ 10,000 but upto ₹ 20,000

20%

Total Income > ₹ 20,000

30%

Surcharge: Same as domestic company (7% & 12%)

♦ In all the above cases Health & Education cess applicable @4% on tax (including SC if any).

◆ **Sec 288A/288B:** Amount of Total Income and Tax rounded off to the nearest ₹ 10.

Example: 1

Mr. Jay is a resident, aged 32 years. His income details for PY 2024-25 are as follows:

- (i) Capital gains u/s 112A ₹ 1,00,00,000 (Asset transfer on 16/06/24)
- (ii) Capital gains u/s 112 ₹ 60,00,000 (Asset transfer on 10/12/24)
- (ii) Capital gains u/s 111A ₹ 2,00,00,000 (Asset transfer on 14/02/25)
- (iii) Other income ₹ 1,00,00,000

Calculate his tax liability for AY 2025-26. He shifted out of default tax regime u/s 115BAC(1A).

Solution:

Particular	Tax Rate	Income	Tax
LTCG 112A (in excess of ₹ 1,25,000)	10%	1,00,00,000	9,87,500
LTCG 112	12.5%	60,00,000	7,50,000
STCG 111A	20%	2,00,00,000	40,00,000
Balance NTI	Slab Rate	1,00,00,000	28,12,500
	Total	4,60,00,000	85,50,000
Add: Surcharge on LTCG & STCG 111A @15%			8,60,625
Add: Surcharge on Balance Tax @15%			4,21,875
			98,32,500
Add: Health & Edu. Cess @4%			3,93,300
Net Tax Payable			1,02,25,800

Example: 2

Mr. BB is a resident, aged 34 years. His income details for PY 2024-25 are as follows:

- (i) Capital gains u/s 112A ₹ 2,00,000 (Asset transfer on 23/07/24)
- (ii) Capital gains u/s 112 ₹ 1,00,000 (Asset transfer on 15/05/24)
- (iii) Capital gains u/s 111A ₹ 3,00,000 (Asset transfer on 17/06/24)
- (iii) Dividend ₹ 13,00,000
- (iv) Other income - ₹ 3,34,00,000

Calculate his tax liability for AY 2025-26. He shifted out of default tax regime u/s 115BAC(1A).

Solution:

Particular	Tax Rate	Income	Tax
LTCG 112A (in excess of ₹ 1,25,000)	12.5%	2,00,000	9,375
LTCG 112	20%	1,00,000	20,000
STCG 111A	15%	3,00,000	45,000
Balance NTI	Slab Rate	3,47,00,000	1,02,22,500
		3,53,00,000	1,02,96,875

Add: Surcharge on LTCG & STCG 111A @15%	11,156
Add: Surcharge on Tax on Dividend @15% #	57,446
Add: Surcharge on Balance Tax@25% (9839524 x 25%)	24,59,881
	1,28,25,358
Add: Health & Edu. Cess @4%	5,13,014
Net Tax Payable	1,33,38,372

Tax on dividend = $1,02,22,500 / 3,47,00,000 \times 13,00,000 = 3,82,976$

Test Yourself

From following information calculate net tax liability & assume assessee shifted out of default tax regime u/s 115BAC(1A).

Nature of Income	Mr. SK (64 years NR)	Mr. Dev (28 years)	Mr. AK (52 years)
Capital gains u/s 112A (Asset transfer on 10/12/24)	1,50,000	-	8,00,00,000
Capital gains u/s 112 (Asset transfer on 10/12/24)	1,70,000	1,90,00,000	2,00,000
Capital gains u/s 111A (Asset transfer on 10/12/24)	4,10,000	7,00,00,000	1,00,000
Dividend	-	-	49,00,000
Other Income	99,00,000	60,00,000	6,59,00,000
Total Income	1,06,30,000	9,50,00,000	15,11,00,000
Final Answer	34,55,095	2,15,13,050	4,16,57,366

- ◆ **Marginal Relief in Surcharge:** If there is little bit increase in income over 50 Lakhs/1 Crore/2 Crore/5 Crore (in case of Ind/HUF/AOP/ BOI/AJP) or 1 Crore (in case of Company/Firm/local Authority/Co. op. society) or 10 Crore (in case of Company/ Co. op Society), surcharge is applicable on entire amount of tax and as a result increase in tax is more than the increase in income. In order to remove this defect, assessee shall be allowed relief to the extent increase in tax is more than the increase in income.

Example-1 Total income of Shree Ltd. (Indian Company) ₹ 1,01,00,000. T/o of PY 22-23 is ₹ 450 crores. Assessee not opted sec. 115BAA. Calculate tax liability.

Solution	₹	
Tax on Total Income (1,01,00,000 × 30%)	30,30,000	
Add: Surcharge @7%	<u>2,12,100</u>	
	32,42,100	Marginal Relief
Above amount is restricted to Tax on 1 crore + (NTI - 1 crore)		₹ 1,42,100
(30,00,000 + 1,00,000)	<u>31,00,000</u>	↓
	31,00,000	
Add: HEC @ 4%	<u>1,24,000</u>	
Net Tax Liability	<u>32,24,000</u>	

Example-2 Total income of Tree Ltd. (Indian Company) ₹ 10,02,30,000. T/o of PY 22-23 is ₹ 350 crores. Assessee not opted sec. 115BAA. Calculate tax liability.

Solution	₹	
Tax on Total Income (10,02,30,000 × 25%)	2,50,57,500	
Add: Surcharge @12%	<u>30,06,900</u>	
	2,80,64,400	Marginal Relief
Above amount is restricted to Tax on 10 crore + (NTI - 10 crore)		₹ 10,84,400
(2,67,50,000 + 2,30,000)	<u>2,69,80,000</u>	↓
	2,69,80,000	
Add: HEC @ 4%	<u>10,79,200</u>	
Net Tax Liability	<u>2,80,59,200</u>	

Example-3 Total income of Mr. Sam (62 years) NR is ₹ 1,01,00,000. Assessee shifted out from default tax regime u/s 115BAC. Calculate tax liability.

Solution	₹
Tax on Total Income	
Upto 2,50,000	Nil
> 2,50,000 upto 5,00,000	12,500
> 5,00,000 upto 10,00,000	1,00,000
>10,00,000 upto 1,01,00,000	<u>27,30,000</u>



	28,42,500	
Add: Surcharge @ 15%	<u>4,26,375</u>	
	32,68,875	Relief
Above amount is restricted to Tax on 1 crore + (NTI - 1 crore) (30,93,750 + 1,00,000)	<u>31,93,750</u> ↓	₹ 75,125
	31,93,750	
Add: HEC @ 4%	<u>1,27,750</u>	
Net Tax Payable	<u>33,21,500</u>	

Test Yourself

From following information calculate net tax liability & assume assessee shifted out from 115BAC.

	Mr. Devam (49 years)	Mr. Krishiv (28 years)
Total Income	5,07,20,000	2,04,40,000
Final Answer	2,00,05,050	74,09,350



Sec. 87A: Rebate from Tax to Certain Individuals

For **Resident Individual** having Total Income upto ₹ 5,00,000.

- ↓ a.) 100% of tax payable, or
↓ b.) ₹ 12,500

Whichever is **Lower**

Notes:

1. This rebate shall be reduced before adding health & education cess.
2. Rebate u/s 87A available against all types of Income **except LTCG u/s 112A**.
3. Marginal relief concept not applicable on rebate **except when assessee opted 115BAC**.
4. Rebate in case of 115BAC discussed with concept of 115BAC in later part of this topic.

Example: Calculate tax liability of Ms. Sneha resident Individual (Age 24 years).

	Case - 1	Case - 2
Total Income	4,40,000	5,07,000
Tax Liability	9,500	13,900
Less: Rebate 87A		
a) Tax Amount		Not Available
9,500	9,500	
b) 12,500	<u>12,500</u>	
Whichever is lower		
	Nil	13,900
Add: HEC @ 4%	Nil	556
Net Tax Liability	Nil	14,456

Special Tax Rates (As per Chapter XII of Act)

Alternate Taxation Regime

Sec. 115BAA: Tax on Income of certain Domestic Companies [W.e.f. AY 20-21]

Assessee	Domestic Company
Tax rate	Income u/s 115BAA shall be taxable @22%
Surcharge & cess	➤ Surcharge will be @10% irrespective of total income. ➤ Health & Education cess will be @ 4% always.
Effective tax rate	➤ Income u/s 115BAA: 22%+10%+4% = 25.168% ➤ Other income (like IFHP, IFOS etc): 22%+10%+4% = 25.168% ➤ Income cover u/c XII (i.e. special income u/s 111A, 112, 112A etc): Special rate +10% +4%

MAT	➤ Company opting for 115BAA is not required to pay MAT. ➤ B/F MAT credit cannot be set off against income u/s 115BAA. Therefore, if assessee has b/f MAT credit, it should first exhaust the MAT credit and thereafter opt for 115BAA in subsequent PY.
Conditions	1. Company should not claim following deductions: - Sec. 10AA - Sec. Additional depreciation u/s 32(1)(iia) - Sec. 33AB, 33ABA - Sec. 35(1)(ii),(iia),(iii), 35(2AA),35(2AB) - Sec. 35AD, 35CCC, 35CCD - Any deduction under Chapter VI-A (except: 80JJAA, 80LA, 80M) 2. Company cannot set-off any B/F loss or unabsorbed depreciation which is attributable to deduction referred above. Such loss or unabsorbed depreciation shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year. ➤ If the above conditions are not satisfied in any PY - the option will be invalid for that PY and subsequent PY's and normal provisions of the Act shall apply.
Option	➤ This section apply only if the option is exercised in the FORM 10-IC upto due date of ROI u/s 139(1) for AY 20-21 or subsequent AY. ➤ Once the option is exercised it would apply to subsequent AY's. ➤ Further, Once the option is exercised for any PY it can't be withdrawn for the same or any other PY.

Sec. 115BAB: Tax on Income of certain New Domestic Manufacturing Co. [W.e.f. AY 20-21]

Assessee	Domestic Manufacturing Company setup & registered on or after 1st Oct., 2019 and commences manufacturing business on or before 31st March, 2024 .		
Tax rate	Income u/s 115BAB shall be taxable @ 15%		
Surcharge & cess	➤ Surcharge will be @ 10% irrespective of total income. ➤ Health & Education cess will be @ 4% always.		
Effective tax rate	➤ Manufacturing Income u/s 115BAB	:	$15\% + 10\% + 4\% = 17.16\%$
	➤ STCG on T/F of depreciable asset	:	$15\% + 10\% + 4\% = 17.16\%$
	➤ STCG on T/F of Non-depreciable asset	:	$22\% + 10\% + 4\% = 25.168\%$
	➤ Income cover u/c XII (i.e. special income u/s 111A, 112, 112A etc)	:	Special rate + 10% + 4%
	➤ Excess profit computed by AO u/s 115BAB(6)	:	$30\% + 10\% + 4\% = 34.32\%$

	➤ Other Income (like IFHP, IFOS etc) (However, no deduction or allowance in respect of any expenditure or allowance shall be allowed e.g. sec. 24, 57)	: 22%+10%+4% = 25.168%
MAT	➤ Company opting for 115BAB is not required to pay MAT. ➤ Since this sec applies to Newly setup Companies, there is no question of brought forward MAT credit.	
Conditions	- Setup & reg. on or after 1/10/19 and commence business on or before 31/3/24. - Should not be formed by splitting up or reconstruction of an existing business. - P&M should be New. Exception: 20% of total P&M can be second hand. - Imported P&M shall be treated as new only for this sec. - Does not use any building previously used as a Hotel or a convention centre. - Not engaged in any business other than manufacturing and research relating to, or distribution of such article manufactured by it. <u>Business of Manufacture does not include business of:</u> - x Development of Computer software - x Mining - x Conversion of marble block or similar items into slabs - x Bottling of gas into cylinder - x Printing books or production of cinematograph film - x Any other notified business Note: Business of power generation shall be treated as manufacturing business. - Company should not claim following deductions/ exemptions: - Sec. 10AA, 32(1)(iia), 33AB, 33ABA - Sec. 35(1)(ii), (iia), (iii), 35(2AA), 35(2AB) - Sec. 35AD, 35CCC, 35CCD - Chapter VI-A (except: 80JJAA, 80M) - Company cannot not setoff any loss or unabsorbed dep attributable to deduction referred above. Such loss or unabsorbed depreciation shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year. ➤ If above conditions not satisfied in any PY- the option will be invalid for that PY and subsequent PY's and normal provisions of the Act shall apply. ➤ However, if the option rendered invalid due to violation of condition stipulated in point no. (3) to (5), company may exercise option u/s 115BAA.	

Option	➤ This section apply only if the option is exercised in FORM 10-ID on or before due date of furnishing first ROI u/s 139(1). ➤ Once the option is exercised it would apply to subsequent AYs. ➤ Further, Once the option is exercised for any PY it can't be withdrawn for the same or any other PY.
Other points	➤ Sec 115BAB(6): Appears to AO that, owing to the close connection between the company and any other person or for any other reason, the course of business is so arranged that the business transacted between them produces more profit than ordinarily expected to the Company, Excess profit computed by AO to treated as income to the Co and taxable @ 30%+10%+4%. ➤ If transaction is > ₹ 20 cr. It will be covered in specified domestic transaction and transfer pricing shall apply.

Sec. 115BAC: Tax on Income of Ind, HUF, AOP, BOI, AJP [Amended w.e.f. AY 25-26]

Assessee	Individual, HUF, AOP/BOI (other than Co.op. society), AJP	
Tax rate	<u>Total income</u>	<u>Tax rate</u>
	Upto ₹ 3,00,000	Nil
	₹ 3,00,001 to ₹ 7,00,000	5%
	₹ 7,00,001 to ₹ 10,00,000	10%
	₹ 10,00,001 to ₹ 12,00,000	15%
	₹ 12,00,001 to ₹ 15,00,000	20%
	Above ₹ 15,00,000	30%
Special Income (u/s 111A, 112, 112A etc.) shall be taxable @ Special rates.		
Surcharge & cess	➤ Surcharge will be @ 10%/15%/25% depending on Total Income of assessee. In this case 37% surcharge not applicable even Total Income > ₹ 5 crores. ➤ Health & Education cess shall be @ 4% always.	
AMT	➤ Assessee paid tax as per sec. 115BAC is not required to pay AMT. ➤ B/F AMT credit cannot be set off against income u/s 115BAC. Therefore, if assessee has b/f AMT credit, it should first exhaust the AMT credit and thereafter opt for sec 115BAC.	
Conditions	1. Assessee does not claim following deductions/exemptions:	
	HP	➤ Interest u/s 24(b) for Self-occupied property ➤ Set-off of HP loss (Let out/Deemed to be let-out property) against other head (HP loss shall be allowed to be carried forward as per law)
	Salary	➤ Entertainment allowance and Professional tax u/s 16(ii)& (iii) ➤ Leave travel concession u/s 10(5)

	> HRA u/s 10(13A) > Allowance u/s 10(14) (except: DTDC) D. Travel allowance to a Divyang employee for commuting between the place of residence and place of duty. T. Travelling or tour allowance: to meet the cost of travel on tour or on transfer. D. Daily allowance: to meet the ordinary daily charges incurred by an employee due to absence from his normal place of duty. C. Conveyance allowance: to meet the expenditure on conveyance in performance of duties of an office.
PGBP	Sec. 10AA, 32(1)(iia), 33AB, 33ABA, 35(1)(ii),(iia),(iii),35(2AA), 35AD, 35CCC.
IFOS	Allowance for income of minor u/s 10(32) Allowance to MP/MLA u/s 10(17)
Deduction	Deduction under Chapter VI-A Except: deduction u/s 80JTAA, 80CCD(2), 80CCH(2), 80LA.
	2. Assessee cannot set-off any b/f loss or unabsorbed depreciation attributable to deduction referred above. 3. HP loss cannot be set off against other head. 4. No deduction or exemption for allowance or perquisite provided under any other law for the time being in force.
Option not to opt 115BAC [115BAC(6)]	Section 115BAC is default tax regime. However assessee can avail the benefit of regular tax regime by exercising the option. > Assessee does not have PGBP: Option of regular tax regime must be exercise alongwith the return u/s 139(1) for every PY. > Assessee having PGBP: Option of regular tax regime must be exercise alongwith the return u/s 139(1). Such option once exercised shall apply for subsequent AY also. However the option once exercise for regular tax regime can be withdraw only once for PY & there after the person shall never be eligible for the benefit of regular tax regime till the time having any income under PGBP.
Rebate u/s 87A As per default tax regime u/s 115BAC	For Resident Individual having Total Income upto ₹ 7,00,000. - a.) 100% of tax payable, or - b.) ₹ 25,000 Whichever is Lower Marginal Relief: If Total Income more than ₹ 7,00,000 but does not exceed ₹ 7,27,770, tax on such income cannot exceed the amount by which the Total Income exceeds ₹ 7,00,000. However marginal Relief not available in case of regular tax regime .

Notes	If assessee having PGBP & opting 115BAC for first time in AY 24-25 and if any additional depreciation is included in B/F unabsorbed depreciation then such additional depreciation not allowed to be set-off but it will be added to opening WDV of block as on 01/04/2023.
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Example: Mr. BB (age 34 years) is a Resident Individual. His total income for AY 25-26 is ₹ 7,00,000 or ₹ 7,27,000 or ₹ 7,30,000 or ₹ 7,50,000. Assessee not opted regular tax regime. Calculate tax liability.

Total Income	7,00,000	7,27,000	7,30,000	7,50,000
Tax as per 115BAC	25,000	27,700	28,000	30,000
Less: Rebate u/s 87A				
a.) 100% of tax payable, or				
b.) ₹ 25,000	25,000	Nil	Nil	Nil
	Nil	27,700	28,000	30,000
Restricted to				
Tax on 7 lakhs + (NTI - 7 lakhs)	Nil	27,000	30,000	50,000
	Nil	27,000	28,000	30,000
Add: Health & Edu. Cess @ 4%	Nil	1,080	1,120	1,200
Net Tax Liability	Nil	28,080	29,120	31,200
Marginal Relief	-	7,00	-	-

Sec. 115BAD: Tax on Income of certain Resident Co-operative societies [W.e.f. AY 21-22]

Assessee	Resident Co-operative Society
Tax rate	Income u/s 115BAD shall be taxable @22%
Surcharge & cess	> Surcharge will be @10% irrespective of total income. > Health & Education cess will be @ 4% always.
Effective tax rate	> Income u/s 115BAD: 22%+10%+4% = 25.168% > Income cover u/c XII (i.e. special income u/s 111A, 112, 112A etc): Special rate +10% +4%
AMT	> Assessee opting for 115BAD is not required to pay AMT . > B/F AMT credit cannot be set off against income u/s 115BAD. Therefore, if assessee has b/f AMT credit, it should first exhaust the AMT credit and thereafter opt for sec 115BAD in a subsequent PY.
Conditions	1. Assessee should not claim following deductions: - Sec. 10AA, 32(1)(iia), 33AB, 33ABA, 35(1)(ii),(iia),(iii), 35(2AA), 35CCC, Any deduction u/c VI-A (except: 80JJAA, 80LA)

	2. It cannot setoff any B/F loss or unabsorbed depreciation which is attributable to deduction referred above. If the above conditions are not satisfied in any PY - the option will be invalid for that PY and subsequent PY's and normal provisions of the Act shall apply.
Option	➤ This section apply only if the option is exercised in the FORM 10-IF upto due date of ROI u/s 139(1) for AY 21-22 or subsequent AY. ➤ Once the option is exercised it would apply to subsequent AY's. ➤ Further, Once the option is exercised for any PY it can't be withdrawn for the same or any other PY.

Sec. 115BAE: Tax on Income of certain New Manufacturing Co. Op. Society [W.e.f. AY 24-25]

Assessee	Manufacturing Resident co. op. society setup & registered on or after 1st April, 2023 and commences manufacturing business on or before 31st March, 2024 .
Tax rate	Income u/s 115BAE shall be taxable @ 15%
Surcharge & cess	Same as sec. 115BAB
Effective tax rate	Same as sec. 115BAB
AMT	➤ Not required to pay AMT. ➤ Since this sec applies to Newly setup Co. op. society, there is no question of brought forward AMT credit.
Conditions	1. Setup & reg. on or after 1/4/23 and commence business on or before 31/3/24. 2. Same as condn. 2 of sec 115BAB 3. Same as condn. 3 of sec 115BAB 4. Same as condn. 5 of sec 115BAB 5. Assessee should not claim following deductions/ exemptions: - Sec. 10AA, 32(1)(iia), 33AB, 33ABA, 35(1)(ii), (iia), (iii), 35(2AA), - Sec. 35AD, 35CCC, Chapter VI-A (except: 80JJAA) 6. Same as condn. 7 of sec 115BAB ➤ If above conditions not satisfied in any PY- the option will be invalid for that PY and subsequent PY's and normal provisions of the Act shall apply.
Option	➤ This section apply only if the option is exercised in prescribed Form on or before due date of furnishing first ROI u/s 139(1). ➤ Once the option is exercised it would apply to subsequent AYs. ➤ Further, Once the option is exercised for any PY it can't be withdrawn for the same or any other PY.

Other
points

Same as sec. 115BAB

Common notes for 115BAA, 115BAB,
115BAC, 115BAD, 115BAE

1. Maximum Depreciation rate is 40%.
2. MAT/AMT not applicable

Some other Special Tax Rates (As per Chapter XII of Act)**Sec. 115BB:** Tax on winnings from lotteries, crossword puzzles, races, card games etc

Tax Rate: 30%

Sec. 115BBE: Deemed Income u/s 68 to 69D

Tax Rate: 60% (surcharge @ 25% and HEC @ 4%) effective rate 78%

Note: No set off of any loss shall be allowable against deemed income.

Sec. 115BBF: Royalty from Patent

Royalty income in respect of patent developed & registered in India shall be taxable @ 10%.

Notes:

1. Developed means 75% of expenditure should be incurred in India.
2. Assessee: Person resident in India who is true & first inventor of the invention & whose name is register as patentee under patent Act, 1970.
3. Assessee has to exercise the option for taxation of royalty in accordance with provisions of Sec 115BBF upto due date of return filling u/s 139(1).
4. Where assessee opts for sec 115BBF for any P.Y. & the assessee is not offered income as per sec 115BBF in any of the next 5 years then Assessee shall not be eligible to claim benefit of Sec 115BBF for 5 A.Y. subsequent to the A.Y. relevant to the P.Y. in which income has not been offered as per sec 115BBF.

Sec. 115BBG: Income from transfer of Carbon Credit

Tax Rate: 10%

Sec. 115BBJ: Income from Online Games (Added by FA 23 w.e.f. AY 24-25)

Tax Rate: 30% on winning from online games computed as manner may be prescribed.

"Online Game" means a game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device.

[Income Computation - Discussed with TDS Topic]



Notes for all above sections:

- Deduction u/s 28 to 44C or sec 57 not allowed against above income, means gross income taxable.
- Deduction u/c VI-A not available.
- Basic Exemption Benefit NOT Available against above income (Except 112 (LTCG), 112A & 111A in case of resident Individual & HUF)

Diversion of Income by overriding title v/s Application of Income

Diversion: If any income is diverted from the source to any other person due to obligation created by any agreement or as per Law then such income not taxable in hand of assessee but its taxable in hand of such other person.

Example: ABC firm in which Mr. A and his two sons, Mr. B & Mr. C are partners. The deed provides that after the death of Mr. A, Mr. B & Mr. C shall continue the business of the firm subject to a condition that 20% of profit of the firm shall be given to Mrs. D (wife of Mr. A).

In this case after death of Mr. A, 20% of Profit taxable in hands of Mrs. D and 80% taxable in hands of Firm.

Application: If any income is transfer to any person without any obligation at source is treated as application.

Example: Mr. A is liable to pay ₹ 10,000 per month to Ms. B (his ex-wife) as alimony. Mr. A, being an employee of ABC Pvt. Ltd., instructs the HR department to pay ₹ 10,000 per month out of his salary to Ms. B directly and remit the remaining salary in his account.

In this case, the amount of ₹ 10,000 per month is an obligation of Mr. A to pay to Ms. B out of his income and not an income in which Ms. B had overriding entitlement.

In other words, this is the income of Mr. A, which is applied by him to fulfill an obligation and hence, includible in his total income and a mere arrangement to pay a sum directly to Ms. B would not make it a case of diversion of income.



Notes

Sec. 45(1): Charging Section

Any profit and gain arising from **Transfer** of a **Capital Asset** shall be chargeable under the head capital gain in the **P.Y. in which transfer took place.**

Sec. 2(14): Capital Asset

Capital Asset means-

- A) Property of any kind held by assessee, whether or not connected with business or profession.
- B) Any Securities held by a Foreign Institutional Investor (FII).

But Capital Asset **does not include (excludes)**

- (i) **Stock** in trade (RM/WIP /FG).
- (ii) Movable **personal** asset (used by assessee or dependent family member for personal purpose).
But **Excludes:** Jewellery, Drawings, Paintings, Sculpture, Archaeological Collection, or Any other work of Art.
- (iii) **Rural Agricultural** Land in India.
- (iv) Gold Deposit Bonds, 1999 or Deposit Certificates issued under the Gold Monetisation Scheme, 2015. Interest on Instrument also exempt u/s 10(15)
- C) ULIP to which exemption u/s 10(10D) does not apply due to fourth and fifth proviso thereof.

Notes:

1. Assets used for personal purpose of assessee :-
 ⇒ T.V., Car, Mobile etc - **Not a Capital Asset** - CG not Applicable
 ⇒ Jewellery, Drawings, Paintings - **Capital Asset** - CG Applicable
2. Gold Utensils, Silver Bars, Silver Coins were held not to be Consider as Personal Effect - **Capital Gain Applicable** (Maharaja Rana Hemanth Singh)
3. Silver Utensils held to be Personal Effect - **No Capital Gain** (Benarshilal Kataruka)
4. Car used in the **business** treated as **capital asset**.
5. Jewellery means:
 - a.) Ornaments made of gold, silver, platinum or other precious metal or alloy containing such metals.
 - b.) Precious stones whether or not set in any furniture, utensil or other article.
6. Definition of **Urban Area**
 - a) Any area (municipality, cantonment board etc) which has a population of 10000 or more.
 - b) In the following area within the distance, measured aerially

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



Rural Area Means Area Which is Not a Urban Area.

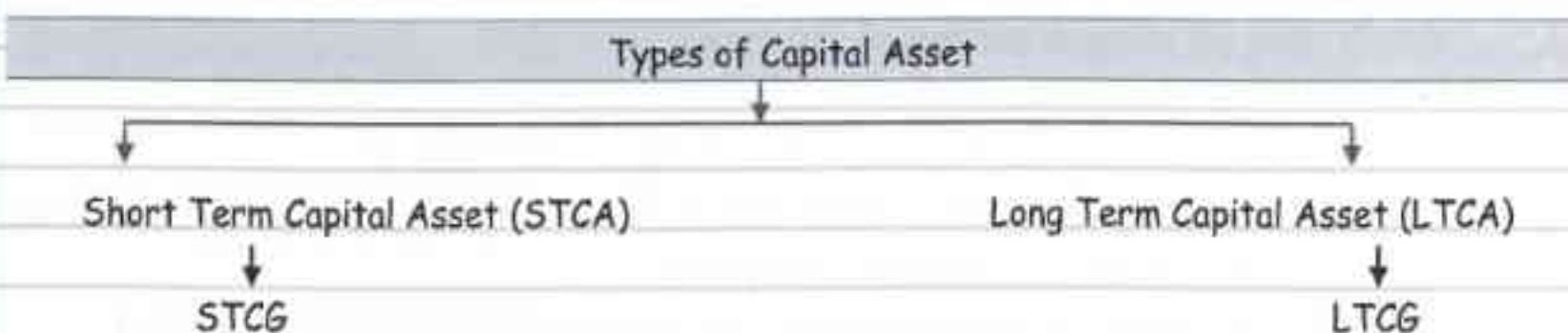
7. "Property" also includes any rights in relation to an Indian Company including right of management or control or any other right whatsoever.

Sec. 2(47): Transfer

'Transfer' includes

- (i) The **sale, exchange or relinquishment** of the asset, or
- (ii) The **extinguishment of any right** there in, or
- (iii) **Compulsory acquisition** there of under any law, or
- (iv) **Conversion of capital asset into stock** in trade, or
- (v) Allowing the **possession of any immovable property** to be taken or retained in part performance of a contract.
- (vi) Any **transaction** (like becoming a member of, or acquiring shares in a Co. operative society) which has the effect of transferring or **enabling the enjoyment of immovable property**.
- (vii) The **redemption of Zero-Coupon Bonds (ZCB)**

Note: "Transfer" also includes disposing of or parting with an asset or interest therein or creating any interest in any asset in any manner whatsoever either directly or indirectly, absolutely or conditionally voluntarily or involuntarily by way of an agreement or otherwise.



Capital Asset		Period of Holding	
		Upto 22/07/24	From 23/07/24
Part: A	➤ Security (other than Unit*) listed in recognised stock exchange of India ➤ Unit of UTI ➤ Unit of Equity oriented Mutual Fund ➤ ZCB	1 Year	1 Year
Part: B	➤ Unlisted shares (Shares not covered in Part-A) ➤ Immovable Property	2 Years	2 Years
Part: C	➤ Any other Asset	3 Years	2 Years

* "other than Unit" is omitted w.e.f. 23rd July, 24 so now in case of listed units POH 1 year applicable from 23rd July, 24. [E.g. Listed Business trust units]

If any asset held for more than 1/2/3 years then it is treated as LTCA otherwise STCA.

Sec. 48: Computation of Capital Gain

Particular	Amount
Full value of consideration (FVOC)	xx
(-) Expenses incurred in connection of transfer	(x)
Net Consideration	xx
Less: Cost of Acquisition (COA)	(x)
Cost Of Improvement (COI)	(x)
Capital Gain	xx

Proviso added by FA- 23: Provided that the COA or COI shall not include the deductions claimed in respect of interest u/s 24(b) or under the provisions of Chapter VI-A.

◆ **Second proviso (exception) to section 48: Indexation** [Not applicable w.e.f. 23rd July, 2024]

In case of LTCA (long term capital asset) COA & COI should be indexed:

a) **ICOA:**

$$\text{COA} \times \frac{\text{CII of the year of Transfer}}{\text{CII for the first year in which asset was held by assessee or for the year 01-02, whichever is later}}$$

b) **ICOI**

$$\text{COI} \times \frac{\text{CII for the year of transfer}}{\text{CII for the year in which the improvement to the asset took place}}$$

Cost Inflation Index (CII)					
FY	C.I.I.	FY	C.I.I.	FY	C.I.I.
2001-02	100	2009-10	148	2017-18	272
2002-03	105	2010-11	167	2018-19	280
2003-04	109	2011-12	184	2019-20	289
2004-05	113	2012-13	200	2020-21	301
2005-06	117	2013-14	220	2021-22	317
2006-07	122	2014-15	240	2022-23	331
2007-08	129	2015-16	254	2023-24	348
2008-09	137	2016-17	264	2024-25	363

Note: From July 23, 2024, indexation benefits are not available on the transfer of long-term capital assets, regardless of the holding period.

c) Asset acquired before 01/04/2001:

COA = Actual cost or FMV as on 1/4/01, whichever is higher

Note: In case of immovable properties if Stamp Duty Value (SDV) as on 01.04.2001 available then **FMV** as on 01.04.2001 **should not be more than SDV** as on 01.04.2001.

COA =	a) Actual Cost of Asset		xx
	b) (i) FMV as on 01/04/01	xx	
	(ii) SDV as on 01/04/01	<u>xx</u>	<u>xx</u>

d) Improvement done before 1/4/2001 - **Should be ignored.**

◆ First proviso to section 48: Capital Gain in case of Non-Resident

- **NR Assessee** (include foreign company);
- Asset being **Shares & Debenture** of Indian Company;
- Such asset acquired in **foreign currency** by way of purchase or reinvestment;
- then capital gain shall be calculated in foreign currency & after that it shall be reconverted into Indian currency.

Rule 115A: Method of Conversion	
COA	Avg. of TTBR & TTSR on the date of Acquisition
FVOC & Transfer Exps.	Avg. of TTBR & TTSR on the date of Transfer
CG into Indian currency	TTBR on the date of Transfer

Notes: 1. Assessee should be NR in the year of sale.

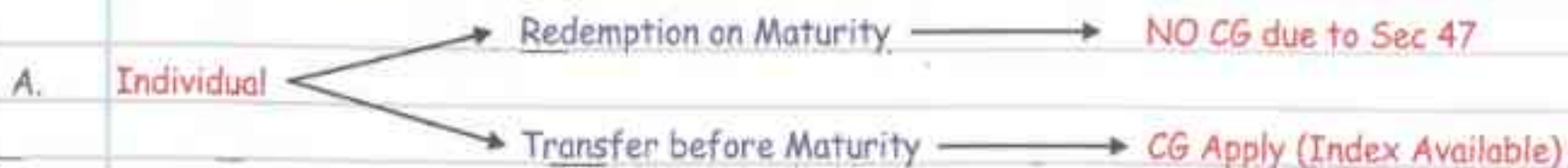
2. **Index benefit not available** where first proviso applies.

◆ Third proviso to section 48: First and second proviso **NOT Applicable** for computation of LTCG referred u/s 112A.

◆ Fourth proviso to section 48: No indexation in case of Debentures & Bonds

Index benefit **not allowed** in case of bonds & debentures **except** Capital Indexation Bonds and Sovereign Gold Bonds issued by RBI.

As per section 47, NO Capital Gain will arise in case of Individual on Redemption of Sovereign Gold Bond issued by RBI.



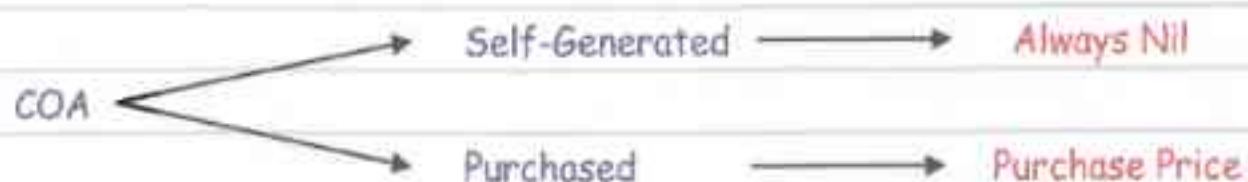
B. **Other Person:** Capital gain applicable on transfer or maturity and index benefit available.

- ◆ **Fifth proviso to section 48: Foreign Exchange Fluctuation gain on RDB in case of NR**
Any gain arising on rupee appreciation against foreign currency at the time of redemption of RDB (Rupee denominated bonds) of Indian company, shall be ignored for the purpose of computation of full value of consideration.
- ◆ **Sixth proviso to section 48: Will discuss with section 47**
- ◆ **Seventh proviso to Section 48: Security Transactions Tax (STT) not Allowed**
STT paid on sale/purchase of shares/unit **shall not be allowed** under capital gain.
If it is paid at the time of Sale - **Not treated as transfer expense**
If it is paid at the time of Purchase - **Not added to the cost of acquisition**

Sec. 55: Cost of Acquisition and Improvement

➤ Cost of Acquisition (COA)

- a) Goodwill or any other intangible asset of Business or Profession,
- b) Trademark or Brand name associates with a business or profession,
- c) Right to manufacture, produce, process any article or things (patent & copyright),
- d) Right to carry on any Business or Profession,
- e) Tenancy right, Loom hours, Route permits or any other right.



Notes

1. Benefit of FMV as on 01/04/2001 NOT available in case of above assets.
2. Capital gain on transfer of self-generated goodwill of a profession or self-generated trade mark/ brand name associated with a profession, is not chargeable to tax up to the AY 20-21.
3. In case of Goodwill, in respect of which depreciation has been claimed upto PY 19-20, the COA would be purchase price as reduced by depreciation claimed by the assessee.

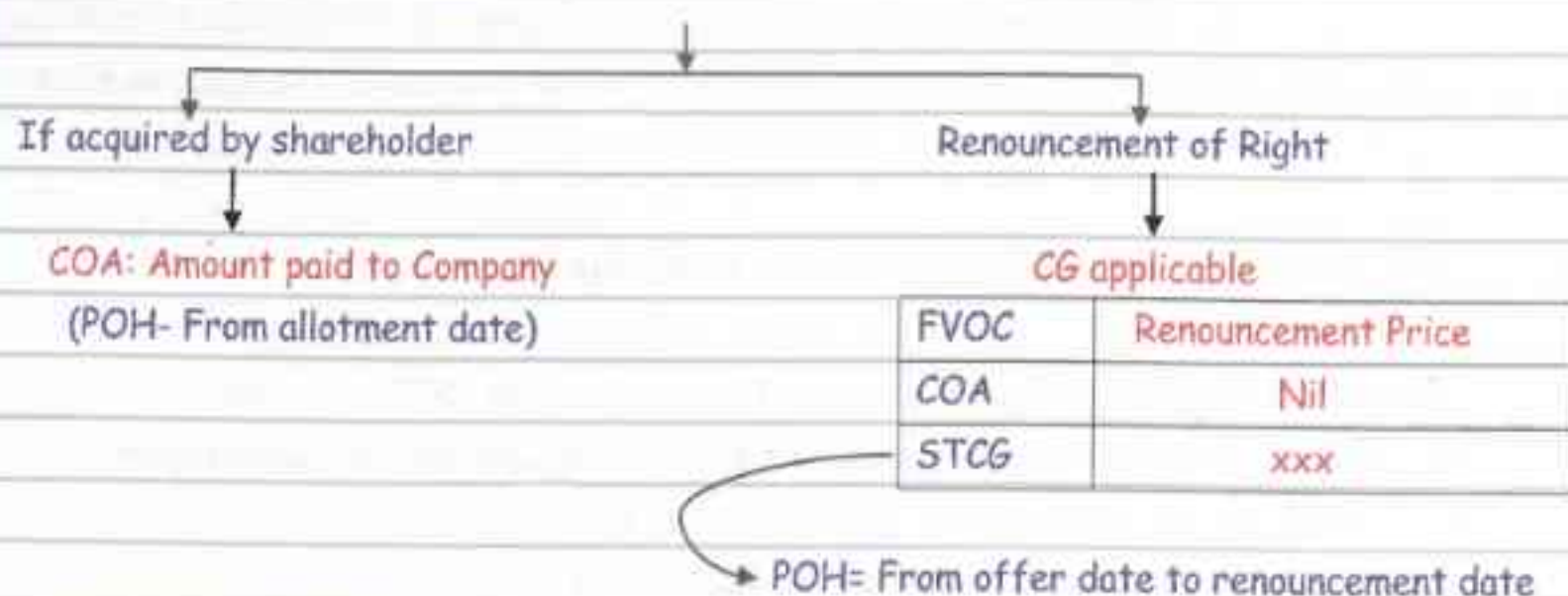
➤ Bonus Shares & Security



POH Case of Shares/Securities - from allotment date to transfer date.

Note: If sec. 112A apply & Bonus shares allotted before 01/2/18 then COA is FMV as on 31/1/18.

> Right Shares & Security



• In hands of purchaser of right

COA: Amount paid to Company for shares + Amount paid for purchase of right

POH: From date of allotment of shares

> Cost of Improvement (COI)

1. In case of goodwill or any other intangible asset of business, patent, copyright, right to carry on any business or profession or any other right - **always Nil**.
2. In case of other assets capital expenses incurred on improvement on or after 01/04/2001.

Exception of Section 45(1)

As per section 45(1), Capital Gain is chargeable to tax in the year of transfer but in the following cases Capital Gain is not taxable in the year of transfer:-

Sec 45(2): Conversion of capital Asset into Stock in Trade

Conversion of capital asset into stock-in-trade is treated as transfer, capital gain shall arise where an assessee converts capital asset into stock in trade.

Capital Gain shall be **taxable** in the year in which such **stock in trade is sold**.

Capital Gain	₹	PGBP	₹
FVOC (FMV on date of conversion)	xx	Sale Price of stock in trade	xx
(-) COA/ICOA	(x)	(-) FMV of Asset on date of conversion	(x)
(-) COI/ICOI	(x)		
STCG/LTCG	xx	PGBP	xx

> Amount recorded in books of accounts - **Not Relevant**

> FMV as on date of conversion - **Relevant**

Notes:

1. If any **part of stock in trade** is sold then **only part capital gain** shall arise in the year in which **part stock-in-trade is sold**.



2. In case of conversion of capital asset into stock and subsequent sale of stock, period of 6 months shall be calculated from date of sale of stock for the purpose of exemption u/s 54EC (CBDT Circular)

Conversion of Stock in Trade into Capital Assets

➤ **Section 28(via): PGBP**

The FMV of Inventory as on the date on which it is converted into capital asset shall be Taxable under PGBP.

➤ **Section 49(9): Cost of Acquisition**

For the purpose of computing capital gain COA of such asset shall be FMV Referred in sec. 28(via).

➤ **Section 2(42A): Period of Holding**

POH Shall be reckoned from the date of conversion into Capital Asset.

➤ **Rule: 11UAB: Determination of FMV of Stock in Trade**

- (a) Immovable Property: **SDV (Stamp Duty Value)** on the date of conversion.
- (b) Jewellery, archaeological collections, drawings, paintings, sculptures, any work of art, shares and securities: **Value as per Rule 11UA** on the date of conversion.
- (c) Any other asset: **Price in open market** on the date of conversion.

Note: In this case the PGBP taxable in the year of conversion of SIT into Capital asset and capital gain taxable in the year in which capital asset transferred but in section 45(2) conversion of capital asset into stock in trade, capital gain and PGBP both taxable in the year in which stock sold.

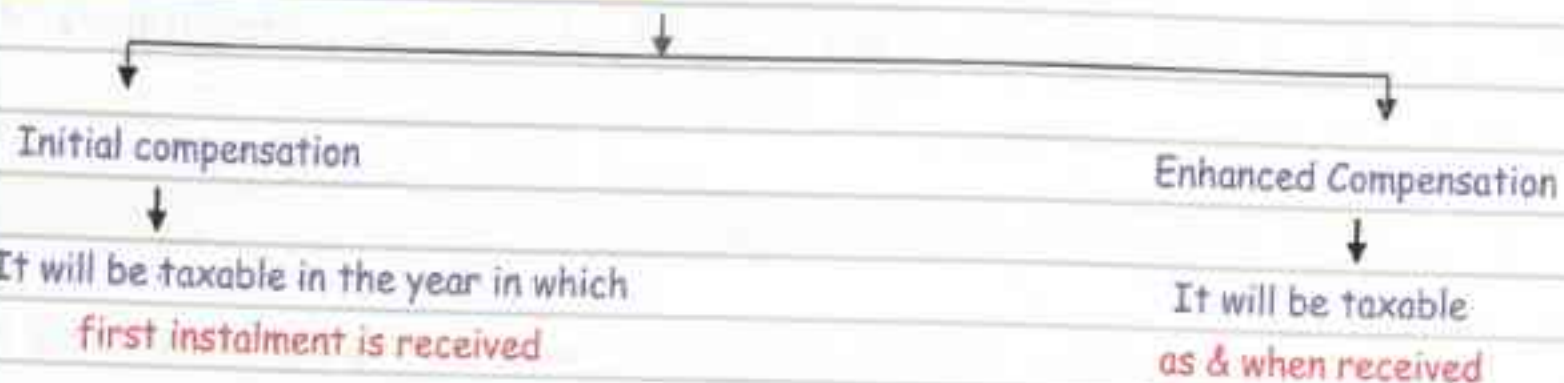
Section 45(5): Compensation on compulsory Acquisition under any Law

Normally capital gain is taxed in the year of transfer but in case of compulsory acquisition of capital asset, capital gain will be taxable in the year in which **compensation is received**.

For Initial Compensation	₹	For Enhanced Compensation	₹
FVOC (Initial Compensation)	xx	FVOC (Enhanced Compensation)	xx
(-) COA/ICOA	(x)	(-) Litigation Expenses	(x)
(-) COI/ICOI	(x)		
STCG/LTCG	xx	STCG/LTCG	xx

CBDT Clarification - Compensation received in respect of any award or agreement which has been exempted from levy of income-tax u/s 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR) shall also not be taxable under Income-tax Act, 1961

➤ If compensation received in instalment



- If any **enhanced compensation** is received due to the **interim order** of any court, then such compensation shall **not** be taxable in the **year of receipt** but shall be taxable in the year in which **final order is passed** by such court or other authority.
- Any interest received on late compensation shall be taxable under IFOS in the **year of receipt** & 50% deduction will be allowed u/s 57.
- If compensation is reduced by any court or authority then rectification has to be made to give effect of the same (Sec 155).
- **Nature of Capital Gain** of Enhanced compensation will be **same as that of Initial** compensation.
- If due to the death of transferor, the enhanced compensation is received by any other person. In that case, the enhanced compensation will be taxable under Capital gain of such other person.
- Any Capital Gains arising to an **Individual or HUF** on **compulsory acquisition** of **urban agricultural land** shall be exempt from tax provided such land has been used for agricultural purposes during the preceding 2 years by the Individual or his parents or by such HUF [Sec 10(37)].
- Where agricultural land was acquired by Govt. under Land Acquisitions Act & Assessee initiated negotiations with Collector without going to the Court to enhance compensation determined, **it does not change the character** of acquisition from Compulsory Acquisition to voluntary sale. Hence, exemption u/s 10(37) cannot be denied - **Balakrishnan (2017)(SC)**

Section 45(1A): Insurance Claims for Damage or Destruction of Capital Asset

Normally capital gain is taxed in the year of transfer but in case of **destruction** of capital asset, Capital gain will be taxable in the **year in which insurance claim is received**.

Capital asset is destroyed due to fire, flood, earthquake, tsunami, riot, civil disturbance, enemy action or any other natural calamity and **insurance claim is received** then capital gain is applicable.

- If no claim received, no capital gain shall arise.

- Computation of Capital Gain

Particular	₹
FVOC [Insurance claim (Money/ FMV of asset received as claim)]	xx
(-) COA/ICOA	(x)



(-) COI/ICOI	(x)
STCG/LTCG	xx

Section 45(5A): Capital Gain in case of Joint Development Agreement (JDA)

In case of **Individual or HUF**, who entered into a JDA for development of project, the capital gain on transfer of **Land or Building or Both**, shall be taxable in the year in which **Certificate of Completion (CC)** for the whole or part of project issued by Competent Authority.

- Year of Transfer = **Year in which possession of immovable property is transfer in JDA**
- Year of Tax = **Year in which CC issued by Competent Authority**
- FVOC = **SDV on the date of issue of CC of his share in project + money received.**

Note: Above provisions not apply if assessee transfer his share in project on or before the date of issue of CC and capital gain will be taxable in the year in which transfer took place i.e., possession transfer in JDA.

➤ Section 49(7): COA of share received in JDA

COA = Amount Deemed as FVOC u/s 45(5A) [**SDV of share in project**]

- #### ➤ Meaning of JDA:
- It means a registered agreement in which a person owning immovable property, agrees to allow another person to develop a real estate project. The consideration, in this case, is a share, being land or building or both in such project; Part of the consideration may also be in cash or by a cheque or draft or any other mode.

Example-1: Mr. BB purchased a plot for ₹ 5,00,000 in PY 01-02. On 16/07/2018 he entered into a JDA with Omkar Builders & handover the possession of plot to Builder on 16/07/2018. FMV of plot on such date is ₹ 32,00,000. As per JDA, BB is to receive 2 flats in developed project along with ₹ 40,00,000. Mr. BB received money of ₹ 40,00,000 in PY 21-22. Completion certificate (CC) of project issued on 10/12/2024 & SDV on such date is ₹ 50,00,000 per flat. Mr. BB got possession of 2 flats on 30/06/2025. Compute Capital Gain.

Solution:

	PY 2024-25	AY2025-26
Computation Capital Gain		₹
FVOC [(50Lacs x 2 Flats) + 40 Lacs]		1,40,00,000
Less: ICOA [POH 01-02 to 15/7/2018]		
5,00,000 X 280 (18-19)		14,00,000
100 (01-02)		
LTCG		<u>1,26,00,000</u>



Example-2: Suppose in above example if Mr. BB transfer 1 Flat for ₹ 92,00,000 on 14/02/2026. Compute Capital Gain.

	PY2025-26	AY2026-27
Computation Capital Gain		₹
FVOC		92,00,000
Less: COA [POH 30/06/25 to 13/02/26] Sec. 49(7)		50,00,000
	STCG	<u>42,00,000</u>

Summary				
Section	Year of Transfer	Year of Tax	POH	FVOC
45(1A) Destruction of CA	Year of Destruction	Ins. Claim Recd.	Till date of destruction	Ins. Claim Recd.
45(2) Conversion of CA into SIT	Year of Conversion	Year in which SIT sold	Till date of conversion	FMV on the date of Conversion
45(5) Compulsory Acq. of CA	Year of compulsory Acq.	Compensation Recd.	Till date of compulsory acq.	Compensation Recd.
45(5A) JDA	Year of possession transfer	CC of project issued	Till date of possession trf.	SDV + Money (if any)

Transfer of a Capital Asset between Firm & Partner

Sec 45(3): Capital Gain on transfer of a capital asset by a partner/member to Firm/AOP/BOI

In this case capital gain applicable in hands of Partner/member as it is treated as transfer.

FVOC = Amount recorded in Books of Firm/AOP/BOI.

Sec 9B: Income on receipt of capital asset or SIT by Partner/member from Firm/AOP/BOI

Where a partner receives in PY any capital asset or SIT or both from the Firm in connection with the dissolution or reconstitution, then the Firm shall be deemed to have transferred such assets to partner in the year in which such assets are received by the partner and Firm is required to pay tax under the head PGBP or Capital Gain or both.

- FMV as on the date of receipt by partner shall be treated as FVOC for the purpose of Capital Gain and PGBP.

Notes: 1. Above provisions are applicable in case of AOP /BOI also.

2. "Reconstitution" means, where-

- One or more of its partners ceases to be partners; or
- One or more new partners are admitted in such circumstances that one or more of the existing partners, continue as partner or partners after the change; or
- All the partners continue with a change in their respective PSR or in the PSR of some of them.

Sec 45(4): Capital Gain on transfer of a capital asset by a Firm/AOP/BOI to partner/member

Where a Partner receives during the PY any **money or capital asset** or both from a Firm in connection with the **reconstitution**, then any profits or gains arising from such receipt shall be chargeable to tax as **income of Firm** under the head "**Capital gains**" in the PY in which **assets received by partner**.

Computation of Capital Gain ($A = B + C - D$)

Particular		₹
Value of money on the date of receipts	B	xx
Add: FMV Capital Assets on the date of receipts	C	xx
Total		xx
Less: Partner Capital Account balance at the time of reconstitution	D	(x)
Capital Gain	A	xx

Notes:

1. If the value of "A" in the above formula is negative, its value shall be deemed to be zero.
2. Balance in the capital account of the partner in the BOA of the firm is to be calculated **without taking into account the increase in the capital account due to revaluation** of any asset or due to self-generated goodwill or any other self-gen. asset.
3. When capital asset is received by a partner from a firm in reconstitution, then provisions of this section shall apply in **addition to the provisions of section 9B**.
4. Above provisions are applicable in case of AOP/BOI also.
5. The above Capital Gain shall **be attribute to remaining capital assets** as per Rule 8AB. The above Capital Gain shall be deemed to be STCG if it is attributed to following assets:
 - » STCA at the time of taxation u/s 45(4),
 - » Capital asset part of block of asset,
 - » Self-Generated asset and Self-Generated goodwill.
6. In other cases, above Capital Gain shall be **deemed to be LTCG**.

➤ **Rule 8AB: Attribution of Capital Gain referred u/s 45(4) to the remaining capital assets of Firm**

	CG charged u/s 45(4) relate to	Attribution Rule
1.	Relates only to CA received by partner	No attribution
2.	Relates to revaluation of any CA or valuation of self gen. Goodwill or any other self. Gen asset of Firm (other than category 1 above)	$CG \times \frac{\text{Increase in Value of such Asset}}{\text{Total increase in value of all assets due to revaluation}}$
3.	Does not relate to any of the above categories	No attribution

➤ **Sec 48: Computation of Capital Gain at the time of transfer of remaining Assets**

Capital Gain charged u/s 45(4) is attributed to remaining assets as per Rule 8AB then at the time of transfer of such assets shall be reduce while calculating capital gain.

Example

Mr. Prem is a partner in two firms X & Co., Mumbai and Y & Co., Delhi. X & Co. has four partners with equal PSR. Mr. Prem resigned from X & Co. on 1.4.2024. On that date, the capital balance of each of the partners stood at ₹ 32 lakhs. In order to settle the dues of Mr. Prem, the firm revalue its land for the first time since purchase, the valuer also valued self-generated goodwill at ₹ 70 lakhs. The firm has the following capital assets, whose details are as follows.

	Assets	Date of purchase	COA (Book value)	FMV as on 1.4.2024
1.	Land at Pune	21.1.2013	₹ 15 lakhs	₹ 50 lakhs
2.	Land at Nagpur	18.4.2015	₹ 25.4 lakhs	₹ 45 lakhs
3.	Land at Mumbai	14.5.2013	₹ 88 lakhs	₹ 250 lakhs
4.	Self-gen. Goodwill			₹ 70 lakhs

In April, 2024, X & Co. gave Nagpur Land and ₹ 15 lakh to Mr. Prem to settle his capital balance.

The firm Y & Co. dissolved on 1.3.2025 and distributed its land at Chandigarh, Mohali and Gurgaon on the same date to its three partners, Prem, Akshay and Aarav, respectively, who were sharing profits and losses equally. The particulars of these lands are given hereunder -

	Particulars of Assets	Date of purchase	COA (book value)	FMV as on 1.3.25
1.	Land at Chandigarh (given to Prem)	3.7.2011	₹ 18.4 lakhs	₹ 62 lakhs
2.	Land at Mohali (given to Akshay)	15.9.2015	₹ 15.24 lakhs	₹ 59 lakhs
3.	Land at Gurgaon (given to Aarav)	27.2.2011	₹ 16.7 lakhs	₹ 70 lakhs

In addition, Prem and Akshay were given money of ₹ 8 lakhs and ₹ 11 lakhs, respectively on 1st March, 2025.

From the above information answer the following questions.

1. Discuss the tax treatment in hands of X & Co. Mumbai from above transactions.
2. Would your answer change if X & Co. sells Land at Nagpur to an outsider at FMV of ₹ 45 lakhs and settled Mr. Prem's account by paying only money of ₹ 60 lakhs.
3. Suppose Mr. Prem transfer land of Nagpur (which was received from Firm) to Mr. Hari for ₹ 72 lakhs on 10.04.25, compute capital gain.
4. Suppose X & Co. Mumbai transfer land of Pune for ₹ 80 lakhs on 17.07.24, compute capital gain.
5. Discuss the tax treatment in hands of Y & Co. Delhi from above transactions.

Part-1: X & Co. Mumbai

As per section 9B, since capital asset (Land at Nagpur) given to Mr. Prem on reconstitution of Firm so it is treated as deemed to be transfer in hands of Firm and capital gain applicable in the year in which asset received by Mr. Prem.

Computation of Capital Gain as per 9B

PY 24-25 AY 25-26

Particulars	₹
Full value of consideration (FMV on the date of transfer)	45,00,000
Less: Transfer Expenses	-
Net Consideration	45,00,000
Less: Index cost of Acquisition 25,40,000 × $\frac{363 (24-25)}{254 (15-16)}$	36,30,000
Long-term Capital Gain	8,70,000

Calculation of Tax Liability

₹

Tax @ 20% on LTCG u/s 112 (8,70,000 × 20%)	:	1,74,000
Add: Health and Education cess @4%	:	6,960
Net Tax payable		1,80,960

- The CBDT guidelines also specify accounting treatments in the books of Firm on the transfer of assets to partner. As per accounts, profit before tax on transfer of capital asset shall be ₹ 19,60,000 i.e. (FMV of asset ₹ 45,00,000 minus Book Value ₹ 25,40,000)
 Profit after tax as per account is ₹ 17,47,840 (₹ 19,60,000 minus ₹ 1,80,960)
 Mr. Prem share in profit (₹ 17,47,840/4) = ₹ 4,36,960
 Mr. Prem capital after adjusting profit [₹ 32,00,000 + ₹ 4,36,960] = ₹ 36,36,960

Applicability of section 45(4) in case of X & Co. Mumbai

Since in the present case Mr. Prem retired from Firm so it is treated as reconstitution of Firm so section 45(4) also applies in addition to section 9B.

Computation of Capital Gain

PY 24-25 AY 25-26

Particulars	₹
Full value of consideration	
(i) Money	15,00,000
(ii) FMV of Capital asset (Nagpur Land)	45,00,000
	60,00,000

Less: Capital account balance of Mr. Prem (after giving accounting treatment of section 9B)	36,44,760
Capital Gain as per section 45(4)	23,55,240

Attribution of Capital Gain u/s 45(4) to remaining capital asset of Firm as per Rule 8AB

Assets	Cost (Book Value) ₹	Revalued (FMV) ₹	Increase ₹	Attribution ₹
Land at Pune	15,00,000	50,00,000	35,00,000	3,08,739 (23,55,240 × 35L / 267L)
Land at Mumbai	88,00,000	2,50,00,000	1,62,00,000	14,29,022 (23,55,240 × 162L / 267L)
Self-Generated Goodwill	Nil	70,00,000	70,00,000	6,17,479 (23,55,240 × 70L / 267L)
Total			2,67,00,000	23,55,240

- Capital gain of ₹ 17,37,761 attributed towards Land at Pune and Mumbai is treated as LTCG as such lands are long term capital asset at the time of taxation u/s 45(4).
- Capital gain of ₹ 6,17,479 attributed towards self-generated goodwill shall be treated as STCG.

Part-2

If land at Nagpur transfer to any outsider, then sec. 9B not applicable but normal CG provisions as per sec. 45(1) applicable. The net results of capital gain incidence will remain same as part-1.

Part-3

Capital Gain in Hands of Mr. Prem on transfer of Nagpur Land

Computation of Capital Gain

Particulars	PY 25-26	AY 26-27
Full value of consideration	72,00,000	
Less: Transfer Expenses		-
Net Consideration	72,00,000	
Less: Cost of Acquisition (FMV on the date of received)	45,00,000	
Short-term Capital Gain	27,00,000	

Part-4

Capital Gain in Hands of X & Co. on transfer of Pune Land

Computation of Capital Gain

Particulars	PY 24-25	AY 25-26
Full value of consideration	80,00,000	
Less: Transfer Expenses		-
Net Consideration	80,00,000	

Less: Index cost of Acquisition $15,00,000 \times \frac{363 (24-25)}{200 (12-13)}$	27,22,500
Less: Attribution of capital gain towards Pune land	3,08,739
Long-term Capital Gain	49,68,761

Part-5**Y & Co. Delhi**

As per sec. 9B in case of dissolution, if any CA or SIT transfer to partner then capital gain or PGBP or both applicable in hands of Firm. In case of dissolution of Firm sec. 45(4) is not applicable.

Computation of Capital Gain

PY 24-25 AY 25-26

Particulars	Land at Chandigarh ₹	Land at Mohali ₹	Land at Gurgaon ₹
Full value of consideration (FMV on the date of transfer)	62,00,000	59,00,000	70,00,000
Less: Transfer Expenses	-	-	-
Net Consideration	62,00,000	59,00,000	70,00,000
Less: Cost of Acquisition	18,40,000	15,24,000	16,70,000
Long-term Capital Gain	43,60,000	43,76,000	53,30,000
Total LTCG	1,40,66,000		
Tax Rate	12.5% (plus applicable Surcharge & Cess)		

Sec 45(2A): Transfer of Securities held in D-MAT

Capital Gain is applicable in hands of beneficial owner (i.e. shareholder). The **cost of acquisition and period of holding** shall be determined on the basis of **FIFO method**

CBDT Circular

- The date of transfer & period of holding does not change even when securities held in D-MAT form.
- FIFO method applies only for D-Mat securities & not for physical securities.
- If investor held multiple D-Mat accounts then FIFO applied Account Wise.
- In D-Mat, if old physical stock is dematerialized, under the FIFO method, the basis for determining the movement out of the A/c is the date of entry into A/C.

Taxation in case of Unit Linked Insurance Policy (ULIP) (Application from AY 21-22)

- Sec. 2(14): "Capital Asset" means any ULIP to which exemption u/s 10(10D) does not apply on account of the applicability of the 4th & 5th provisos thereof.

➤ Sec 10(10D): Exemption on maturity of Life Insurance Policy

Any sum received under a LIP, including the bonus is Exempt from Tax.

Following sums are taxable:

- Received under a Keyman insurance policy.
- Received where premium paid is more than prescribed limit (20%, 10%, 15%) given u/s 80C. (If it is received on death then its exempt).
- Received where any ULIP, issued on or after 1st Feb, 2021, if the amount of premium payable for any of the PY during the term of such policy exceeds ₹ 2,50,000.
Provided, if premium is payable, for more than one ULIP's, issued on or after 1st Feb, 2021, the exemption u/s 10(10D) shall apply only with respect to those ULIP's, where the aggregate amount of premium does not exceed ₹ 2,50,000, in any of the PY during the term of any of those policies. [4th & 5th provisos of sec 10(10D)]
- Received where any LIP, other than ULIP, issued on or after the 1st April, 2023, if the amount of premium payable for any of the PY during the term of policy exceeds ₹ 5,00,000.
Provided, if premium is payable for more than one LIP, other than ULIP, issued on or after 1st April, 2023, the exemption u/s 10(10D) shall apply only with respect to those LIP's, where the aggregate amount of premium does not exceed ₹ 5,00,000, in any of the PY during the term of any of those policies. [6th & 7th provisos of sec 10(10D)-added by FA, 23 w.e.f. AY 24-25]

Note: Exemption is available if sum received in point (iii) & (iv) on the death of person.

Example

Mr. BB (aged 34 years) is a resident Indian who has the following life insurance policies, some of which are ULIPs. The details of such policies are given hereunder:

Particulars	A	B	C (ULIP)	D (ULIP)	E (ULIP)	F (ULIP)	G (ULIP)
Date of issue	1.4.17	1.4.18	1.1.21	1.4.21	1.2.21	1.3.21	1.4.21
Annual premium	₹ 50,000	₹ 40,000	₹ 3 Lakhs	₹ 3 Lakhs	₹ 1 Lakhs	₹ 1.4 Lakhs	₹ 2.5 Lakhs
Date when premium falls due every year	1 st April	1 st April	1 st Jan	1 st April	1 st Feb	1 st March	1 st April
Date of maturity	31.3.25	31.3.25	31.12.29	31.03.30	31.1.30	28.2.30	31.3.30

Consideration received on maturity (including bonus)	₹ 7 Lakhs	₹ 4 Lakhs	₹ 32 Lakhs	₹ 32 Lakhs	₹ 11 Lakhs	₹ 17 Lakhs	₹ 28 Lakhs
Sum assured	₹ 6 Lakhs	₹ 3.5 Lakhs	₹ 30 Lakhs	₹ 30 Lakhs	₹ 10 Lakhs	₹ 15 Lakhs	₹ 25 Lakhs

A: Taxability of Normal Insurance Policy

1. Income on maturity of policy "A" shall be exempt u/s 10(10D) because premium paid during the policy term is not more than 10% of policy value.
2. Income on maturity of policy "B" shall not be exempt u/s 10(10D) because premium paid during the policy term is more than 10% of policy value. In this case income component ₹ 1,20,000 (4,00,000 - 2,80,000) taxable under IFOS in the PY 24-25.

B: Taxability of Unit linked Insurance Policy (ULIP)

1. Income on maturity of ULIP "C" shall be exempt u/s 10(10D) because premium paid during the policy term is not more than 10% of policy value and ULIP taken before 01.02.21.
2. Income on maturity of ULIP "D" shall be taxable as ULIP taken on or after 01.02.21 and premium more than ₹ 2,50,000 in a year. In this case income component ₹ 5,00,000 (32,00,000 - 27,00,000) taxable under Capital Gain in the PY 29-30 and taxable as LTCG u/s 112A @12.5%.
3. In case of ULIP's "E, F & G" premium in respect of single policy is not more than ₹ 2,50,000 but aggregate exceed ₹ 2,50,000 so in this case assessee can claim exemption for ULIP's for which premium not more than ₹ 2,50,000. Assessee can claim exemption either for ULIP "E & F" or ULIP "G". Aggregate capital gain in case of ULIP "E & F" is ₹ 6,40,000 [(11,00,000 - 9,00,000) + (17,00,000 - 12,60,000)] and in case of ULIP "G" is ₹ 5,50,000 (28,00,000 - 22,50,000). Since it is beneficial to claim exemption u/s 10(10D) for ULIP "E & F" so assessee should opt this option and pay capital gain tax on LTCG of ₹ 5,50,000 on "ULIP G" in PY 29-30.

> Sec. 45(1B): Capital Gain on ULIP's

Any person receives, any amount, under a ULIP issued on or after 1.2.21, to which exemption u/s 10(10D) does not apply, then, any profits or gains arising from receipt shall be chargeable to "Capital gains" in the year in which amount received.

Rule 8AD: Computation of Capital Gain

- Amount received first time: - Taxable Amount = A - B

A- the amount received for the first time in the PY, including Bonus; and

B- aggregate of the premium till the date of receipt of the amount as referred to in "A".



- Amount received subsequent time: - Taxable Amount = C - D

C- the amount received excluding amount already considered in point "A": and

D- aggregate of the premium till the date of receipt of the amount as referred to in "C" excluding amount already considered in point "B"

Note: The capital gains shall be deemed to be the capital gains arising from the transfer of a unit of an equity-oriented fund and taxable u/s 112A.

Example: Mr. BB invested ₹ 3,00,000 per year in ULIP of ICICI from 01/04/21 for 10 years. Policy value is ₹ 40,00,000. Mr. BB received ₹ 37,00,000 on 17/07/26 from such policy. On 31/3/31 he again received ₹ 28,00,000 from such policy. Compute capital Gain.

Solution: Part-1

Computation of Capital Gain

PY 26-27 AY 27-28

Particular	₹
Full Value of Consideration	37,00,000
Less: Cost of Acquisition (3,00,000 x 6 instalment's)	18,00,000
LTCG taxable u/s 112A	19,00,000

Part-2

Computation of Capital Gain

PY 30-31 AY 31-32

Particular	₹
Full Value of Consideration	28,00,000
Less: Cost of Acquisition (3,00,000 x 4 instalment's)	12,00,000
LTCG taxable u/s 112A	16,00,000

Sec 56(2)(xiii): Income from Life Insurance Policy

(Added by FA-23 w.e.f. AY 24-25)

Any sum is received, including bonus, at any time during a PY, under a life insurance policy, other than KIP & ULIP, which is not exempted u/s 10(10D), the sum received as exceeds the aggregate of the premium paid, during the term of such life insurance policy, and not claimed as deduction under any other provision of this Act, computed in such manner as may be prescribed.

Clarification on GST Component: It is clarified by CBDT that the premium payable/ aggregate premium payable for LIP's, other than a ULIP, issued on or after 1.4.2023, for any PY, would be exclusive of the amount of GST payable on such premium.

Clarification on premium of Term life insurance policy: Limit of ₹ 5,00,000 of amount of premium payable would not be applicable in case of a term life insurance policy i.e, where sum under a life



insurance policy is only paid to the nominee in case of the death of the person insured during the term of the policy and no amount is paid to anyone if the insured person survives the policy tenure.

Example : Hari, Ram & Kavi take life insurance policy on 10/07/23. They do not have any other policy & do not intend to take any other insurance policy in future. Discuss tax treatment

Particular	Hari	Ram	Kavi
Sum Assured	45,00,000	60,00,000	60,00,000
Annual Insurance Premium	4,00,000	5,20,000	6,50,000
Term of Policy	10 Years	10 Years	10 Years
Deduction claimed u/s 80C every year	60,000	1,50,000	1,20,000
Maturity Amount	52,00,000	77,00,000	80,00,000

Solution:

- **Mr. Hari** - As annual premium within the limit of 10% of sum assured & annual premium isn't more than 5,00,000 so exemption u/s 10(10D) available. Nothing will be taxable u/s 56(2)(xiii).
- **Mr. Ram** - Annual premium within the limit of 10% of sum assured but premium on policy taken on or after 01/04/23 is more than 5,00,000 so exemption u/s 10(10D) not available & it is taxable u/s 56(2)(xiii) under IFOS.
- **Mr. Kavi** - Annual premium exceed the limit of 10% of sum assured & premium on policy taken on or after 01/04/23 is more than 5,00,000 so exemption u/s 10(10D) not available & it is taxable u/s 56(2)(xiii) under IFOS.

Computation of Taxable amount from LIP under IFOS

PY 33-34 AY 34-35

Particular	Mr. Ram	Mr. Kavi
Maturity Amount (A)	77,00,000	80,00,000
Annual Premium Paid	5,20,000	6,50,000
Less: Deduction Claimed u/s 80C	1,50,000	1,20,000
Total Premium paid net of deduction u/s 80C (B)	37,00,000	53,00,000
Taxable Income	40,00,000	27,00,000

Sec 50AA: Capital Gain in case of Debt, MF, MLD & Unlisted Bonds (Amended by FA-24 w.e.f. 23/07/24)

In Case of:

(a) unit of a Specified Mutual Fund acquired on or after 1st April, 23 or a Market Linked Debenture (MLD); or

(b) unlisted bond or an unlisted debenture which is transferred or redeemed or matures on or after the 23rd July, 2024,

the capital gain shall be calculated as follows & it is always STCG.

Computation of Capital Gain	₹
FVOC on transfer, redemption or maturity	xx
Less: Transfer Expenses	(x)
Net Consideration	xx
Less: Cost of Acquisition	(x)
STCG	xx

Notes:

1. STT **not allowed** while calculating capital gain.
2. In this case capital asset deemed to be STCA & CG STCG so index not allowed.
3. "MLD" means a security which has an underlying principal component in the form of a debt security and where the **returns are linked to market returns** on other underlying securities or indices and include any security classified or regulated as a Market Linked Debenture by the SEBI;
4. "Specified Mutual Fund" means a MF where **not more than 35%** of its total proceeds is invested in the **equity shares of domestic companies**.

Percentage of equity shareholding shall be computed with reference to the annual average of the daily closing figures.

Amendment w.e.f. AY 26-27

"Specified Mutual Fund" means: -

- (a) Mutual Fund which invests more than 65% of its total proceeds in debt and money market instruments; or
- (b) fund which invests 65% or more of its total proceeds in units of a fund referred to in sub-clause (a).

Sec 50B: Slump Sale

Slump sale means transfers the **entire undertaking or division** for lumpsum consideration without assigning value/selling price of individual asset.

Computation of Capital Gain	₹
FVOC [FMV as per rule 11UAE]	xx
Less: Transfer Expenses	(x)
Net Consideration	xx
Less: Cost of Acquisition (Net worth of Undertaking) (Note-1) [Index not allowed on COA]	(x)
STCG/LTCG	xx

Notes:

1. Computation of Net worth = Assets minus liabilities

Assets	₹
➤ Depreciable Asset	WDV as per Income Tax
➤ Other Assets	Book Value
Less: Liabilities	(Book Value)
Net worth	xxx

2. Revaluation of asset shall be **ignored**.
3. If Net-worth comes negative then, COA = Nil.
4. For computing net worth,
 - if asset (on which deduction u/s 35AD was claimed) - Value taken as Nil
 - Value of self-generated goodwill - Value taken as Nil
5. No Profit under PGBP shall arise even if stock is transferred in slump sale.
6. Nature of capital gain
 - If undertaking held for More than 3 Years - **LTCG**
 - If undertaking held for 3 Year or Less - **STCG**
7. Assessee shall furnish a **CA report** upto date of Audit u/s 44AB indicating the computation of the net worth, and certifying that the net worth, has been correctly arrived.
8. "**Tax Savy**" restructuring plans to avoid tax if transferee is Indian Co.
 - a) Transfer undertaking after **acquiring 100% shares** of transferee to not attract CG [Sec 47(iv)]
 - b) Transfer undertaking by way of **demerger** rather than slump sale [Sec 47(vib)]
9. Rule 11UAE: FMV on the **date of transfer (slump sale)** shall be higher of FMV-1 or FMV-2
 - ↑ FMV-1 : FMV of **Undertaking transferred**
 - ↑ FMV-2 : FMV of **Consideration Received**
 - FMV-1: $A+B+C+D-L$, where,

A = **Book value** of all the **assets** (except jewellery, artistic work, shares, securities and immovable property) as reduced by the following amount:

- ⌘ Income-tax paid after reducing income-tax refund (if any)
- ⌘ Unamortised amount of deferred expenditure.

B = **FMV of jewellery and artistic work** (based on registered valuer report)

C = **FMV of shares and securities**

D = **SDV of Immovable property**

L = **Book value of liabilities**, but excluding following:

- ⌘ Paid up equity share capital.
- ⌘ Dividend amount set apart where such dividends have not been declared in AGM before the date of transfer.
- ⌘ Reserves and surplus, other than depreciation reserve.
- ⌘ Provision for tax, other than income-tax paid after reducing income-tax refund (if any), to the extent of the excess over the tax payable with reference to the book profits.
- ⌘ Provision for unascertained liabilities.
- ⌘ Contingent liabilities other than arrears of dividends of cumulative preference shares.

➤ FMV-2: **E+F+G+H**, where,

E = **Monetary consideration**.

F = **FMV of non-monetary consideration** (assets for which Val. Rules prescribed).

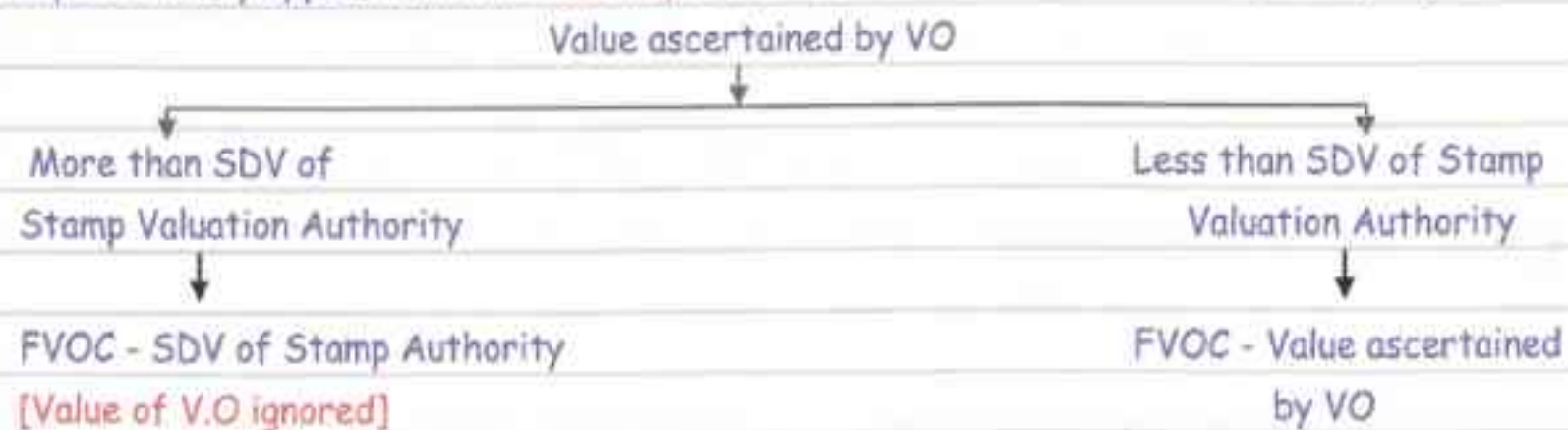
G = Open market price of non-monetary assets for which Val. Rules not prescribed (Valuer report)

H = **SDV of immovable property**.

Sec 50C: Stamp Duty value shall be treated as FVOC

In case of **immovable property** held as **capital asset**, if SDV (assessed/assessable by stamp valuation authority) is more than 110% of consideration such SDV shall be deemed to be FVOC.

- Where assessee **claims** that SDV is more than FMV of the property & such SDV has not been disputed in any appeal then the **A.O. may refer the valuation to valuation officer (VO)**.





- Normally SDV considered on the date of **registration** but u/s 50C if date of agreement & registration are not same, then assessee can take **SDV on the date of agreement** if he has received **consideration or part thereof** upto the **date of agreement** in A/c payee cheque /DD, use of electronic clearing system (ECS) through a bank account or any other electronic modes as may be prescribed.

Notification 8/2020 - Other electronic modes

- (a) Credit Card, Debit Card;
- (b) Net Banking;
- (c) IMPS (Immediate Payment Service);
- (d) UPI (Unified Payment Interface);
- (e) RTGS (Real Time Gross Settlement);
- (f) NEFT (National Electronic Funds Transfer), and
- (g) BHIM (Bharat Interface for Money) Aadhaar Pay.

Note: Above notification also applicable for section 13A, 35AD, 40A, 43, 43CA, 44AD, 56, 80JTAA, 269SS, 269ST, 269T.

Sec 50CA: FMV of Unquoted Shares shall be Treated as FVOC

Where **Unquoted Shares** (i.e. shares other than Quoted Shares), being a Capital Asset is transferred for consideration lower than FMV, then such **FMV shall be deemed to be FVOC**.

Explanation - "Quoted Share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.

Proviso: The above provisions **shall not apply** to transfer of **Unquoted shares of company** and its subsidiary and subsidiary of such subsidiary by an assessee where the NCLT on an application by CG has **suspended the BOD** of such company and appointed new directors nominated by CG and the shares so received are pursuant to **resolution plan approved by NCLT** after providing the PCIT /CIT an opportunity of being heard.

Sec 50D: Where sales consideration is not ascertainable or cannot be determined

Then **FMV** of such asset as on the date of transfer shall be **FVOC**

Sec 51: Advance money forfeited (Token money)

If any advance money/token money/earnest money is forfeited by the assessee (**present owner**) **before 01/04/2014**, then it shall be reduced from "Cost of Acquisition" (before indexing).

Note: Above provisions are applicable only in case of forfeitures done by present owner - Any forfeiture done by **previous owner shall not be considered**.



Sec. 56(2)(ix): Any advance money forfeiture on or after 01/04/14 shall be charged to tax in the year of forfeiture under the head "Income from Other Sources".

Sec 47: Certain Transaction not regarded as Transfer (Exempt transfer)

Following transactions are not regarded as transfer. Therefore, no Capital Gain will arise

1. Distribution of capital asset on the partial or total partition of HUF - [Sec. 47(i)]
2. Transfer of capital asset by Individual or HUF under gift, will, irrevocable trust - [Sec. 47(ii)]

Notes:

→ This clause shall not apply to gift or an irrevocable trust of share, debenture or warrants allotted by company to employee under ESOPS.

→ As per sixth proviso to section 48- FMV on the date of transfer (date of GIFT or irrevocable trust) shall be treated as FVOC of such shares, debentures or warrants.

3. & 4. Transfer of capital asset by holding Co. to its subsidiary Co. or subsidiary Co. to its holding Co. provided following conditions are satisfied - [Sec. 47(iv)/ Sec.47(v)]

a) Holding Co. holds 100% shareholding of subsidiary Co.

b) Transferee Co. should be Indian Co.

Note: This exemption is not allowed if capital asset is transferred as stock-in-trade.

➤ In Above cases

(a) Cost of Acquisition Sec. 49 (1): Cost to the Previous Owner.

(b) Cost of Improvement: Incurred by previous owner & present owner shall be considered.

(c) Period of Holding: POH of previous owner shall also be considered.

(d) Indexed Cost of Acquisition: Manjula J. Shah (Bombay H.C)

COA of Previous owner $\times$ $\frac{\text{CII of the year of Transfer}}{\text{CII for the year in which asset}}$

first held by Previous Owner

(e) Benefit of FMV as on 01/04/2001 - Available

➤ Sec. 47A: Withdrawal of Exemption

In case of clause (iv) & (v) of Sec. 47 (Holding Co. to Subsidiary Co.) and (subsidiary Co. to Holding Co.), if within 8 years from the date of transfer:

a. Such asset is converted in stock-in-trade by transferee Co. or

b. Holding Co. cease to hold 100% share capital of subsidiary Co.

then, exemption claimed earlier shall be withdrawn & tax shall be charged to Transferor Co. in the Previous year in which transfer took place.

➤ If Sec. 47A attracted then assessment of transferor Co. should be rectified u/s 154.

➤ If Sec. 47A is attracted then COA in hands of transferee Co. will be the price at which the asset was acquired [Sec. 49 (3)].

5. **Transfer under Amalgamation**

Transfer of Any Capital asset by Amalgamating Co. to amalgamated Co.	If Amalgamated Co. is an Indian Co. [Sec. 47(vi)]
Transfer of Shares in Indian Co. or Shares of FC which derive its value from share of Indian Co [referred to in expln 5 to sec.9(1)(i)] by Amalgamating Foreign Company (FC) to Amalgamated FC	a) If atleast 25% of SH of Am'ing FC continue in Am'ed FC. b) Such transfer does not attract tax in the country in which Am'ing Co. is incorporated. [Sec. 47(via) & 47(viab)]
Transfer of any CA under scheme of amalgamation of Banking Co with Banking Institution	as per sec 45(7) of Banking Regulation, 1949 [Sec. 47(viaa)]
Surrender of Share in Am'ing Co by SH of Am'ing Co to Am'ed Co.	a) Consideration = only Allotment of Share in Am'ed Co. (Except when Am'ed Co = itself SH) b) Am'ed Co. is Indian Co. [Sec. 47(vii)]

6. **Transfer under Demerger**

Transfer of Any Capital asset by Demerged Co. to Resulting company	If Resulting Co. a is Indian Co. [Sec. 47(vib)]
Transfer of Shares in Indian Co. or Share of a FC which derive its value from share of Indian Co [referred to in expln 5 to sec.9(1)(I)] by demerged FC to resulting FC	a) If SH holding atleast 75% of value of shares in Demerged Co. continue in Resulting Co. b) Such transfer does not attract tax in the country in which Demerged is incorporated. [Sec. 47(vic) & 47(vicc)]
Issue of Shares by resulting Co to SH of demerged Co.	Here SH received shares of resulting company is not treated as transfer of shares in demerged company. [Sec. 47(vid)]

7. **Transfer in case of Non-Resident**

Bond/ GDR referred u/s 115AC outside India	By one NR to another NR, outside India. [Sec. 47(vila)]
Rupee denominated bond of an Indian Co	By one NR to another NR, outside India [Sec. 47(viaa)]
Govt. Securities carrying periodic payment of Interest	By one NR to another NR, outside India through an intermediary dealing in settlement of securities. [Sec. 47(viib)]

a. Bonds or GDR referred to in Sec.115AC b. Derivative c. RDB of Indian Co. d. Other notified securities :-	by NR on a Recognised Stock Exchange located in any IFSC & where the consideration is paid or payable in foreign currency. [Sec. 47(viib)]
(1) Foreign currency denominated bond, (2) Foreign currency denominated equity shares of a company (3) Units of a Mutual fund (4) Units of a Business Trust (5) Units of Alternative Investment Fund (6) Bullion Depository Receipt (7) Unit of investment trust, being REITs or an Invit's, (8) Unit of a scheme (a scheme of a fund management entity launched under IFSC Authority (Fund Management) Regulations, 2022); (9) Unit of a Exchange Traded Fund launched under IFSC Authority (Fund Management) Regulations, 2022	

8. Conversion of Entities :

Conversion of Sole Proprietor into Company	a) All assets & liabilities transfer to Company. b) Sole Proprietor becomes SH. c) Consideration to Sole Proprietor = only Share in Co. d) His shareholding in Co should be at least 50% during 5 years from the date of conversion. [Sec. 47(xiv)]
Conversion of Firm into Company or Conversion of Stock exchange as AOP/BOI into recognised stock exchange as Company	a) All assets & liabilities transfer to Company. b) All Partners/members become SH in proportion of their capital standing as on the date of succession. c) Consideration to partners/members = Only allotment of shares in Co. d) Total Voting Power of partners/members in the company should be atleast 50% during 5 years from the date of succession. e) The Corporatization of RSE in India is carried out as per Corporatization scheme approved by SEBI [Sec. 47(xiii)]
Transfer of membership rights for acquisition of shares & trading /clearing right in that RSE	COA of equity shares allotted = Cost to acquire mem. COA of Trading/clearing right = Nil POH shall be reckoned from date of his membership in RSE. [Sec. 47(xiii)]
Conversion of Unlisted Public Co./ Private Co. into LLP	a) All assets & liabilities transfer to LLP. b) All SH become Partners and their capital contribution & PSR are in proportion of their shareholding. c) Consideration to SH= Share in profit & capital

- d) Total PSR in LLP of SH should be **atleast 50%** during **5 years** from the date of conversion.
- e) No Amt. is paid directly/indirectly to any Partner from accumulated profit balance standing on conversion date for **3 years** from date of conversion.
- f) Total **T.O/G.R** of company should be **upto ₹ 60 Lakhs** in last **3 FY** preceding the year of conversion.
- g) Total **Assets** of Co. should be **upto ₹ 5 Crore** in last **3FY** preceding the PY of conversion. [Sec. 47(xiiib)]

➤ **Sec. 47A(3)&(4) : Violation of above conditions:**

If any condition of sec. 47(xiii)/47(xiv) /47(xiiib) is violated, the exemption claimed by the proprietor/firm/company will be taxable in the hands of successor company/LLP in the year of violation.

9. **Conversion of securities**

Conversion of Bond, debenture, debenture stock, deposit certificates of a company into Share or debenture of same Co. [Sec. 47(x)]	COA of share/debenture received on conversion = cost of that part of Bond, debenture, Deposit certificates which is so converted. -Sec. 49(2A) POH of share/debenture shall also include the period for which Bond, debenture, Deposit certificates held by the assessee.
Conversion of Preference share of a Co. into Equity share of same co. [Sec. 47(xb)]	COA of equity share received on conversion = cost of that part of preference shares which is so converted. -Sec. 49(2AE) POH of equity share shall also include the period for which preference shares held by the assessee. Sec. 2(42A)
Conversion of Gold into Electronic Gold Receipt (EGR) issued by a Vault Manager, or conversion of Electronic Gold Receipt into Gold. [Sec. 47(viid)] (Added by FA, 23 w.e.f. AY 24-25)	COA of current asset (EGR/gold) received on conversion = cost of earlier asset (gold/EGR) which is so converted. -Sec. 49(10) POH of earlier asset (gold/EGR) shall also include the period for which current asset (EGR/gold) held by the assessee. Sec. 2(42A)

10. Transfer of Sovereign Gold Bond issued by RBI under **Sovereign Gold Bond Scheme 2015**, by way of **redemption** by the assessee being an **Individual**. [Sec. 47(viic)]
11. **Stock lending scheme:** any transfer in a scheme for lending any securities under an agreement between the assessee and borrower of such securities as per SEBI or RBI guidelines. [Sec. 47(xv)]
12. Transfer of Work of Art, scientific, archaeological, manuscript, books, photograph or print to Govt., University, National Museum or art gallery or archives, any public notified museum. [Sec. 47(ix)]

13. Transfer of capital asset under **reversed mortgage** under a scheme made and notified by CG. [Sec. 47(xvi)]
Note: Amount of **loan (either in instalment or lumpsum) received** by the senior citizen under the transaction of reverse mortgage would be **exempt from income tax u/s 10(43)**.
14. Transfer of share of SPV to a Business trust in exchange of units of the trust. [Sec 47(xvii)]
15. Transfer of capital asset in a business reorganisation, by the predecessor co-operative bank to the successor co-op. or to the converted banking company. [Sec 47(vica)]
16. Transfer of shares by a SH, in a business reorganisation, if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank or to the converted banking company. [Sec 47(vicb)]
17. Transfer of capital asset by India Infrastructure Finance Company Limited to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the CG.; [Sec 47(viaae)]
18. Transfer of capital asset, under a plan approved by the CG, by a public sector company (PSC) to another PSC notified by the CG or to the CG or to a SG; [Sec 47(viaaf)]
19. Any transfer, by a MF unit holder of units, held by him in the **consolidating scheme of MF**, made in consideration of the allotment to him of units in **consolidated scheme** of the MF.
 Provided the consolidation should be of two or more schemes of equity-oriented fund or of two or more schemes of a fund other than equity oriented scheme. [Sec. 47(xviii)]

Example

Exemption

EOF A + EOF B = EOF C	Allowed
DOF P + DOF Q = DOF R	Allowed
EOF X + DOF Y = EOF Z	Not allowed
DOF D + EOF E = DOF F	Not allowed
EOF - Equity oriented fund	
DOF - Debt oriented fund	
➤ Sec. 49 (2AD)	
Cost of acquisition of units received of consolidated scheme	COA of units in the consolidating scheme



POH of units of consolidated scheme shall also include period for which units held under consolidating scheme.

Example: Mr. Kapil acquired 1000 units of Kotak classic equity-oriented scheme ₹ 50 per unit on 14/02/2024. On 16/07/24, Kotak classic EOS is merged with Kotak-50 equity-oriented scheme & he is allotted 1200 unit of Kotak-50. On 03/02/25 he sold all the units for ₹ 90 per unit.

Solution:

Part-1 No capital due to Sec. 47(xviii) at the time of merger of Kotak classic with Kotak-50

Part-2 Capital Gain on sale of Kotak-50	₹
FVOC (1200 x 90)	1,08,000
Less: COA (1000 x 50) Sec 49(2AD)	50,000
STCG	<u>58,000</u>

20. Any transfer by a MF unit holder, of units, held by him in the consolidating plan of a MF scheme, made in consideration of the allotment to him of units, in consolidated plan of that scheme of the MF - [Sec. 47(xix)]

MF scheme has various plans like growth plan, dividend plan etc. Now it has allowed merger of one plan with another plan, of same MF scheme. As per Sec. 47 (xix) capital gain in hands of unit holder shall not apply when one plan merge with another plan of same MF scheme.

Exemption u/s 47 (xix) allowed only if -

- A plan of equity-oriented MF merge with another plan of same equity-oriented MF.
- A plan of debt-oriented MF merges with another plan of same debt-oriented MF.

21. Any transfer of interest in a joint venture, held by a public sector company, in exchange of shares of a company incorporated outside India by the Govt. of a foreign State, in accordance with the laws of that foreign State. [JV means business entity may be notified by CG]

- COA of share received on conversion = cost of interest in JV. - Sec. 49(2AI)

➤ **Cost of Acquisition for transaction covered u/s 47**

- If capital asset is received by assessee as a gift, will, inheritance, partition of HUF or by way of transaction covered u/s 47(iv)/(v)/(vi)/(via)/(viaa)/(viab)/(vib)/(vie)/(vice)/(vii)/(viiab)/(viiac)/(viiad)/(viiab)/(viiac)/(viiad)/(viiab)/(viiac)/(viiad) then COA in hands of assessee shall be COA to previous owner
- Period of holding of previous owner should also be considered.

Segregated Portfolio or Side Pocketing

Side-pocketing facilitates the separation of units into a distinct portfolio, in which no fresh subscriptions are allowed. Investors can redeem these units once the money is recovered from the bad debt, while they can redeem other units at any point of time.

Segregation of portfolio or side-pocketing is actually to be seen as splitting the investments into two parts, one is called the 'main portfolio' and another part is called the 'segregated portfolio'

Taxation in case of side pocketing:

- **Section 49(2AG): COA of a units in the segregated portfolio:**

$$\frac{\text{COA of Units in Total Portfolio} \times \text{NAV of assets transferred in segregated portfolio}}{\text{NAV of Total Portfolio before segregation}}$$

- **Section 49(2AH): COA of a units in the main portfolio:**

The COA of the original units in main portfolio minus COA of segregated portfolio units.

- **Section 2(42A)(hh): POH of units in a segregated portfolio shall also include the period for which the original units in the main portfolio were held by the assessee.**

- **Total portfolio** - is the original one and then is splitted into two portfolios-main portfolios and segregated portfolios.

- **Main portfolio** - which is separated from the 'total portfolio' with good debts and can be redeemed by the investor at any point of time.

- **Segregated portfolio** - is that part of the total portfolio which contains the bad, downgraded and illiquid debts.

Example:

Mr. BB invested in a scheme of a mutual fund on 14-02-2015 when the NAV was ₹ 10. On May 1, 2024, when NAV of the scheme was ₹ 50, segregation of portfolio was created due to a credit event.

Post creation of the segregated portfolio, the NAV of the main portfolio was ₹ 40 and the segregated portfolio was ₹ 10. Hence, the proportion is 80:20 of the total portfolio. According to the amendment, the cost of acquisition of the main portfolio and the segregated portfolio should be taken as ₹ 8 & ₹ 2 respectively.

Similarly, the POH of main portfolio and segregated portfolio shall be counted from 14-02-2015.

Exemption under Capital Gain

Sec 54: Exemption for Residential House Property

A.	Assessee	Individual or HUF
B.	Transferred Assets	Residential house property (RHP) being building & land appurtenant there to.
C.	CG on Transferred Asset	LTCG
D.	Asset to be acquired	One Residential HP in India Note: IF LTCG is upto ₹ 2 Crore then Assessee can acquire Two Residential HP in prescribed time limit. This benefit of 2 HP is available only once in life time.
E.	Time limit for Purchase or construction	Purchase: Within 1 yr. before or 2 yrs after the date of transfer; and (-1+2) Construction: Complete construction within 3 yrs after date of transfer. (+3)
F.	Deposit Scheme (Note-1)	CGAS applicable
G.	Amount of Exemption	(i) Capital Gain xxx (ii) Cost of New Asset/Deposit Amount xxx Whichever is lower Note: If Cost of new asset exceeds ₹ 10 crores, then the amount exceeding ₹ 10 crores shall not be taken into account for the purposes of exemption. [Added by FA 2023 w.e.f. AY 24-25]
H.	Locking period on transfer of New Asset	New Asset transferred within 3 yrs from date of purchase or construction then exemption claimed earlier shall be withdrawn & COA of new asset reduced by exempted Capital Gain while calculating CG on new asset.
I.	Case Laws Syed Ali Adil (2013)(A.P.)	Where the Assessee has acquired 2 adjacent flats and he had effected modification to make them single flat by opening the door between them. it was immaterial that flat was acquired from two different sellers and two separate sale deeds. Hence, both flats shall be deemed single house property for the purpose of exemption u/s 54.
	Kamal Wahal (2013) (Delhi)	Having regard to the rule of purposive construction and the object of enactment of section 54. Exemption u/s 54 cannot be denied solely on the ground that the new residential house is purchased by the assessee exclusively in the name of his wife.

	T.N. Aravinda Reddy (SC)	Where a property is owned by more than one person and the other co-owner release his share or interest in the property in favour of one of the co-owners, it can be said that the property has been purchased by the releasee. Such release also fulfils the condition of section 54 as to purchase so far as releasee assessee is concerned.
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Sec 54B: Exemption for Urban Agriculture Land

A.	Assessee	Individual or HUF
B.	Transferred Assets	Urban Agricultural land use by Individual or his Parents for agri. purpose during 2 yrs. before the transfer.
C.	CG on Transferred Asset	STCG/LTCG
D.	Asset to be acquired	Urban or Rural Agriculture Land
E.	Time limit for Purchase or construction	Purchase: Within 2 yrs after the date of transfer: (+2)
F.	Deposit Scheme (Note-1)	CGAS applicable
G.	Amount of Exemption	(i) Capital Gain ↓ (ii) Cost of New Asset/Deposit Amount Whichever is lower xxx xxx
H.	Locking period on transfer of New Asset	Same as section 54.
I.	Case Laws Gurnam Singh (2010)(P&H)	Exemption u/s 54B cannot be denied solely on the ground that the new agricultural land purchased is not wholly owned by the assessee, as the assessee's son is a co-owner as per the sale deed.
J.	Notes	1. If assessee acquired new asset as Rural Agriculture land & if he transfer that land within 3 years period then exemption claimed earlier shall not be withdrawn as Rural agriculture land is not a capital asset. 2. Deduction u/s 54B can be for STCG also. The condition is that land should be used by assessee or his parents for 2 years prior to the date of transfer.

Sec 54D: Exemption for Industrial Land & Building

A.	Assessee	Any Person
B.	Transferred Assets	Compulsory acquisition of land or building which was used by assessee in the business of industrial undertaking during 2 yrs prior to date of transfer.
C.	CG on Transferred Asset	STCG/LTCG
D.	Asset to be acquired	New land or buildings for the industrial undertaking.
E.	Time limit for Purchase or construction	Purchase: Within 3 years from date of receipt of compensation.
F.	Deposit Scheme (Note-1)	CGAS applicable
G.	Amount of Exemption	(i) Capital Gain ↓ (ii) Cost of New Asset/Deposit Amount Whichever is lower xxx xxx
H.	Locking period on transfer of New Asset	Same as section 54.

Sec 54EC: Exemption for Immovable Property

A.	Assessee	Any Person
B.	Transferred Assets	Land, Building or Both
C.	CG on Transferred Asset	LTCG
D.	Asset to be acquired	Bonds redeemable after 5 years issued, by (a) National Highway Authority of India (NHAI) (b) Rural Electrification Corp. Ltd. (RECL) (c) Power Finance Corp. Ltd. (PFCL) (d) Indian Railway Fin. Corp. Ltd. (IRFCL) Maximum exemption limit being ₹ 50 lakhs within prescribed time limit.
E.	Time limit for Purchase or construction	Purchase: Within 6 months from the date of transfer of original asset.
F.	Deposit Scheme	CGAS NOT applicable
G.	Amount of Exemption	(i) Capital Gain ↓ (ii) Cost of New Asset Whichever is lower [Max. can be ₹ 50 lakhs] xxx xxx
H.	Locking period on transfer of New Asset	New asset is transferred or converted into money within 5 years from date of acquisition then exempt LTCG will be taxable in year of transfer/conversion.

		Note: If assessee takes any loan or advance on the security of bonds, he shall be deemed to have converted into money on the date on which such loan or advance is taken & CG exempted earlier shall be taxable.
I.	Case Laws Hindustan Unilever Ltd.(2010) (Bom)	If the Assessee has made the payment for purchase of bonds within 6 months from the date of transfer, exemption u/s 54EC cannot be denied merely because the bond was allotted to Assessee after the expiry of six months period.
	V.S. Dempo Company Ltd (2016) (SC)	Sec 50 deems the capital gains as STCG. It does not change the nature of asset held. Sec 54EC requires the nature of asset to be LTCA and not LTCG. It does make a distinction between depreciable and non-depreciable assets. Hence, where a depreciable asset was held for period required for qualifying as LTCA, Assessee shall be eligible for exemption u/s 54EC irrespective of the fact that the resultant gain is STCG.

Sec 54F: Exemption for Any LTCA other than Residential House Property

A.	Assessee	Individual or HUF
B.	Transferred Assets	Any LTCA other than Residential House Property
C.	CG on Transferred Asset	LTCG
D.	Asset to be acquired	One Residential HP in India
E.	Time limit for Purchase or construction	Purchase: Within 1 yr. before or 2 yrs after the date of transfer; and (-1+2) Construction: Complete construction within 3 yrs after date of transfer. (+3)
F.	Deposit Scheme (Note-1)	CGAS applicable
G.	Amount of Exemption	$LTCG \times \frac{\text{Cost of New Asset/Deposit Amt}}{\text{Net Consideration}}$ Note: If Cost of new asset exceeds ₹ 10 crores, then the amount exceeding ₹ 10 crores shall not be taken into account for the purposes of exemption. [Added by FA 2023 w.e.f. AY 24-25]
H.	Locking period on transfer of New Asset	New Asset transferred within 3 yrs from date of purchase or construction then exemption claimed earlier shall be withdrawn & treated as LTCG.
I.	Case Laws Ravinder Kumar Arora (2012)(Delhi)	Where a house property is registered in Joint names, the exemption u/s 54F can be allowed fully to the co-owner who



		has paid whole of the purchase consideration and it will not be restricted to his share in the house property.
	Sambandam Udaykumar (2012) (Kar.)	Exemption u/s 54F cannot be denied on the ground that the construction was not completed within three years after the date on which transfer took place, on account of pendency of certain finishing work like flooring, electrical fittings, fittings of door shutter, etc.
	Gouli Mahadevappa (2013) (Kar)	Where the SDV u/s 50C has been adopted as the FVOC, the reinvestment made in acquiring a residential property, which is in excess of the actual net sale consideration, can be considered for the purpose of computation of exemption u/s 54F, irrespective of the source of funds for such reinvestment.
J.	Additional Conditions	➤ On the date of transfer of LTCA, assessee should not own more than one residential HP, and ➤ Should not purchase any other house within 2 years or construct within 3 years after the date of transfer. If above conditions not satisfied then exempt CG, taxable in PY in which such other residential house is purchased/constructed.

Sec 54G: Exemption for Shifting undertaking from Urban to Rural Area

A.	Assessee	Any Person
B.	Transferred Assets	Transfer of plant machinery or land or building for shifting industrial undertaking from urban area to rural area.
C.	CG on Transferred Asset	STCG/LTCG
D.	Asset to be acquired	(a) Purchase/construction of new plant & machinery, land or building in such rural area, or, (b) Shifting original assets to that area or, (c) Incurring notified expenses
E.	Time limit for Purchase or construction	Within 1 year before or 3 years after the date of transfer. (-1+3)
F.	Deposit Scheme (Note-1)	CGAS applicable
G.	Amount of Exemption	↓ (i) Capital Gain xxx ↓ (ii) Cost of New Asset/Deposit Amount xxx Whichever is lower
H.	Locking period on transfer of New Asset	Same as section 54.

Case Law Fibre Boards (P) Ltd. (2015) (SC)	Advance given for purchase of land, building, P&M, amounts to utilization of capital gain for purchase and acquisition of new assets, for claim of exemption u/s 54G/GA.
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Sec 54GA: Exemption for Shifting undertaking from Urban area to SEZ

- All points same as section 54G
- Difference - U/s 54G P&M acquired in Rural Area should be NEW but u/s 54GA P&M acquired in SEZ can be second hand also.

Notes:

1. Capital Gain Account Scheme:

- a. **Amount:** If investment u/s 54, 54B, 54D, 54F, 54G, 54GA is not made before the date of filing of return, then the amount of net consideration (in case of sec. 54F) or capital gain has to be deposited under the CGAS. The amount so deposited shall be deemed to be cost of new asset.
- b. **Time limit:** Such deposit in CGAS should be made before due date or actual date of filing the return, whichever is earlier.
- c. **Unutilized amount:** If the amount deposited is not utilized for the specified purpose within the stipulated period, then the unutilized amount shall be charged as CG of the PY in which the specified period expires. However, In the case of sec. 54F, proportionate amount will be taxable.

Note: CBDT clarifies that in the event of death of an individual before the stipulated period, the unutilized amount is not chargeable to tax in the hands of the legal heirs of the deceased individual.

2. Section 54H: Extension of time for acquiring new asset

Where transfer of capital asset is by compulsory acquisition under any law, then, Time limits for acquiring new assets & for depositing in CGAS shall be computed from date of receipt of compensation & not from the date of compulsory acquisition.

Example: Mr. BB purchase gold in PY 12-13 for ₹ 13 crore. On 16/03/25 he sold such gold for ₹ 40.05 crores. Transfer expenses is ₹ 0.05 crore. On 28/06/25 he has purchased a residential house property in Mumbai for ₹ 28 crores. He does not own more than 1 HP on the date of transfer of Gold. On 30/03/27 he has transferred Mumbai HP for ₹ 34 crores. Discuss Tax treatment.

Solution:**Computation of Capital Gain on transfer of Gold**

PY24-25 AY25-26

Particular	₹ in crores
Full Value of Consideration	40.05
Less: Transfer expenses	0.05
Net Consideration	40.00
Less: COA	13.00
Gross LTCG	27.00
Less: Exemption u/s 54F	
LTCG $\times$ $\frac{\text{Cost of New Asset ₹ 28 Cr. but its restricted to ₹ 10 Cr.}}{\text{₹ 27}}$	(6.75)
Net Consideration ₹ 40	
Net LTCG	20.25

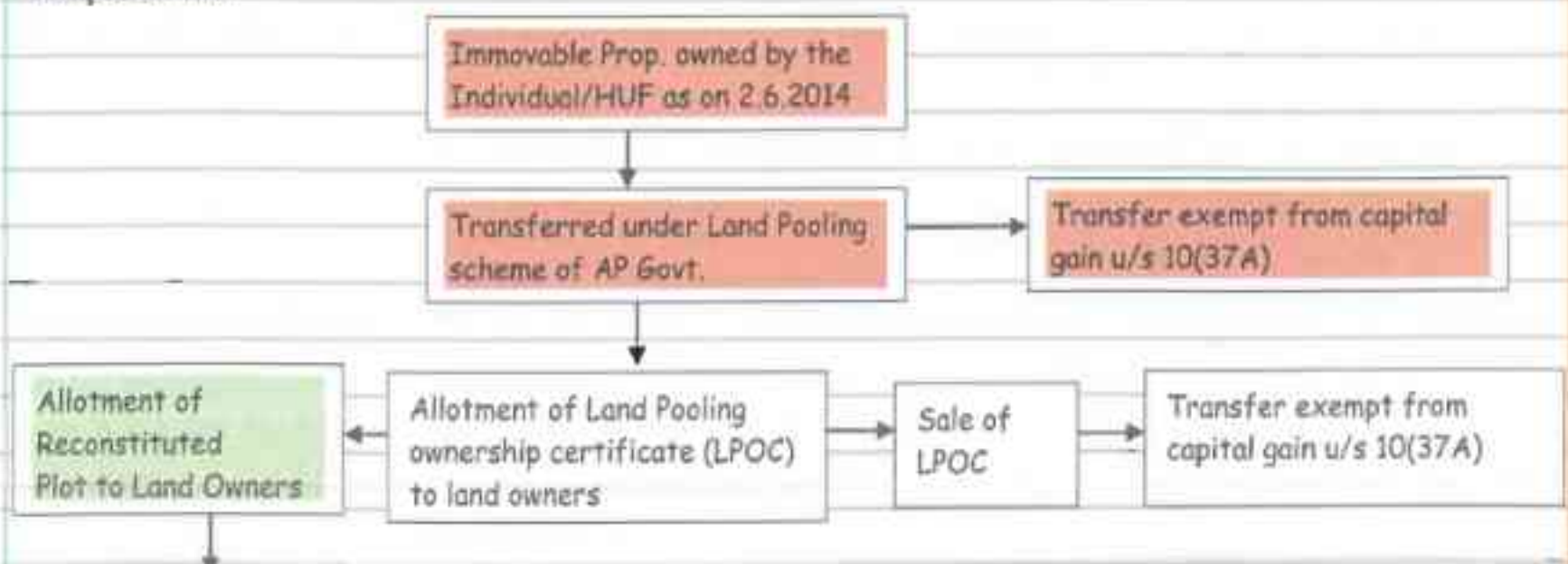
Computation of Capital Gain on transfer of Mumbai HP

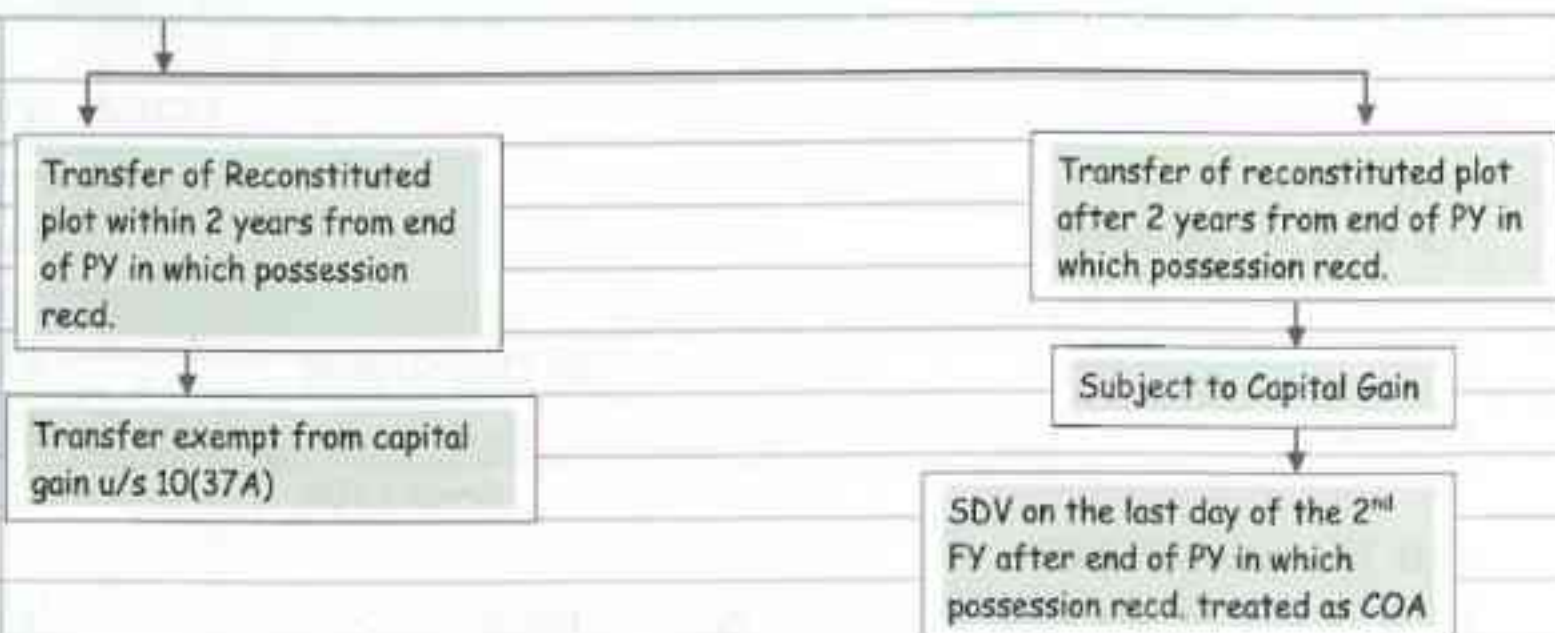
PY26-27 AY27-28

Particular	₹ in crores
Full Value of Consideration	34.00
Less: Transfer expenses	-
Net Consideration	34.00
Less: COA	28.00
STCG	6.00
Deemed LTCG as Mumbai property transfer within 3 years of acq.	6.75

Sec 10(37A): Exemption to Specified People of Andhra Pradesh

After split of State of AP & Telangana, capital of AP (Hyderabad) become part of Telangana. Thus, a new city called Amaravati founded to form new capital of AP. For this purpose, Govt of AP had formulated a land pooling scheme to acquire land from farmers in the concerned land in order to avoid land-acquisition disputes & lessen the financial burden associated with payment of compensation.





Tax Rates for Capital Gain

Sec 112A: Tax on LTCG of certain Asset [Added by FA18 - Applicable from AY 19-20]

1. LTCG on transfer of equity shares or equity-oriented units or units of Business Trust, **in excess of ₹ 1,25,000 shall be taxable:-**
 - (a) @ 10% for any transfer which takes place before 23rd July, 2024; and
 - (b) @ 12.5% for any transfer which takes place on or after 23rd July, 2024,if following conditions are satisfied:
 - STT paid on **acquisition & transfer** of Equity shares.
 - STT paid on **transfer** of equity-oriented units and units of business trust.

Note: limit of ₹ 1,25,000 shall apply on aggregate of the LTCG under sub-clauses (a) and (b).

[Amended by FA 24, w.e.f. 23rd July, 24]

2. LTCG arising from transaction in recog. stock exchange located in an international financial service centre (IFSC) would be **taxable @ 10%/12.5%** where the consideration in foreign currency even though **STT Not Paid** in respect of such transaction.
3. Deduction u/c VI-A & Rebate u/s 87A **Not Allowed** Against Capital Gain referred u/s 112A.
4. C.G. May notify certain modes of acq. of equity shares where **payment of STT on acquisition would not be applicable.**

As per CG Notification if:-

 - (i) Equity shares **acquired before 1/10/2004** eligible for benefit of sec 112A (as there was no STT before 1/10/2004).
 - (ii) Equity shares acquired on or after 1/10/2004 eligible for benefit of sec 112A **where STT were not chargeable** but in the following 3 cases, benefit of section 112A is not applicable.



A. Where acq. of **existing listed equity shares** in a company whose equity shares are not frequently traded in a RSE of India is made through a **preferential issue**.

Provided above clause not applicable if acquisition: -

- (i) Approved by SC, HC, NCLT, SEBI or RBI.
- (ii) By **any NR** as per **FDI** guidelines.
- (iii) By an Investment Fund or Qualified Institutional Buyer.

B. Acq. of existing listed equity share in a company, not entered through a RSE of India.

Provided above clause not applicable if acquisition

- (i) Acq. through an issue of share by a company other than **preferential issue**
- (ii) Acq. which has been **approved** by the **SC, HC, NCLT, SEBI Or RBI**.
- (iii) Acq. under **ESOP**.
- (iv) By **any NR** as per **FDI** Guidelines.
- (v) Acq. under SEBI (substantial Acq. of shares and Takeovers) Regulations, 2011.
- (vi) Acq. from the **Govt**.
- (vii) Acq. by mode of transfer referred to in sec. 47 (**exempt transfers**) or sec. 50B (**slump sale**) if the acq. by the previous owner was not acquired as per specified mode (A, B, C mode).
- (viii) by an Investment Fund or Qualified Institutional Buyer.

C. Acq. during the intervening period starting from the date on which the company is delisted and ending on the date immediately before the date on which the company is again listed in RSE.

◆ Sec. 55: Cost of Acquisition

In case of equity shares or unit of equity-oriented fund or unit of Business Trust **acquired before 1/2/2018** & transferred on or after 1/4/2018, COA shall be:

Higher of step 1 & 2

Step - 1	(i) Cost of acquisition		xxx
Step - 2	(ii) Lower of		
	↓ a. FMV as on 31/01/2018	xxx	
	↓ b. Sale value FVOC	xxx	xxx
		COA	xxx

Note: **Indexation not available** for computation of Capital Gain u/s 112A.

➤ Computation of FMV on 31/01/2018

(i) Listed shares/Units on RSE on 31/01/2018:

FMV = **Highest price Quoted on 31/01/2018**.

Note: If no trading on 31/01/2018 then the highest price of last trading session before 31/01/2018.



(ii) Unit/Shares not listed on 31/01/2018

In case of Units

FMV = NAV on 31/01/2018

In case of Share Not Listed on
31/01/2018 but Listed on Date of transfer

FMV = COA $\times$ CII of FY 17-18 i.e. 272

CII of the year in which the
share was first held by assessee
or 01-02, whichever is later.

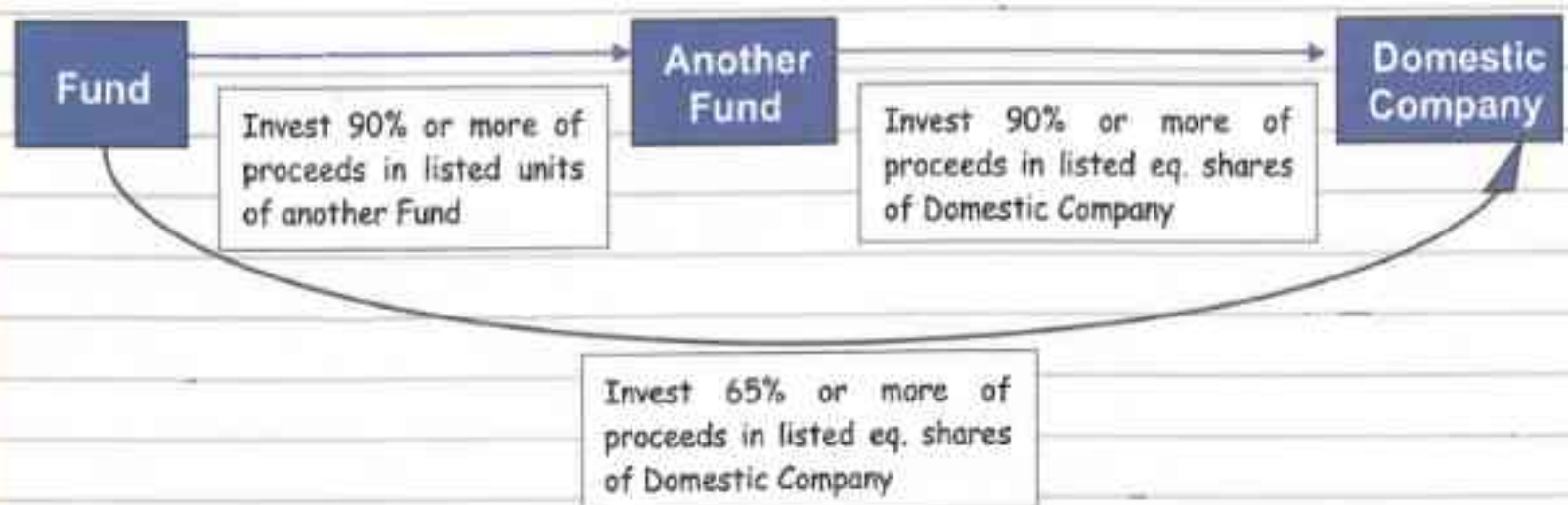
➤ Equity Oriented Fund meaning: Fund set-up under a scheme of a MF or ULIP to which exemption u/s 10(10D) does not apply;

(i) In a case where the fund invests in the units of another fund which is traded on a RSE,-

(A) a minimum of 90% of the total proceeds of such fund is invested in the units of such other fund; and

(B) such other fund also invests a minimum of 90% of its total proceeds in the equity shares of domestic companies listed on a RSE; and

(ii) In any other case, a minimum of 65% of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a RSE.



Sec 111A: Tax on STCG of certain Asset

➤ STCG on transfer of equity shares or unit of equity-oriented fund or unit of business trust shall be taxable :-

(a) @ 15% for any transfer which takes place before the 23rd July, 2024; and

(b) @ 20% for any transfer which takes place on or after the 23rd July, 2024.

if STT paid on transfer of such assets.

[Amended by FA 24 w.e.f. 23rd July 24]



- Concessional rate of 15%/20% available on transaction in foreign currency on RSE located in IFSC even though STT not paid in respect of such translation.
- Deduction u/s VI-A not available against STCG taxable u/s 111A.

Other Capital Gain Tax (other than referred in 112A & 111A above)

No.	Particular	LTCG	STCG
A.	Transfer took place before 23 rd July, 24	20%	Normal Tax Rate (slab rate)
B.	Transfer took place on or after 23 rd July, 24	12.5%	Normal Tax Rate (slab rate)

Note: If a Resident Individual or HUF transfers any immovable property acquired before 23rd July, 2024, and the tax calculated on LTCG at the new rate (12.5% without indexation) is higher than the tax calculated at the old rate (20% with indexation), then the excess tax is ignored. In other words, the assessee is required to pay tax at 12.5% without indexation or 20% with indexation, whichever is lower.

- **Proviso to Sec. 112 [Not applicable w.e.f. AY 23rd July 24]**
In case of LTCG on listed securities (other than units) & Zero Coupon Bonds, assessee can pay tax;
 - (i) 10% (without indexation)
 - (ii) 20% (with indexation)
 whichever is lower
- **In case of NR or Foreign Company - 10% Tax on LTCG** from Unlisted securities or shares without First & Second Proviso to Section 48 if transfer took place before 23rd July, 24 & 12.5% if transfer took place on or after 23rd July 2024.
- **Benefit of Basic Exemption against LTCG / STCG 111A/LTCG 112A**
In case of Resident Individual/HUF, if balance total income (other than LTCG 112, LTCG 112A & STCG 111A) is less than basic exemption then unexhausted (unutilised) basic exemption can be used against LTCG 112, LTCG 112A & STCG 111A.
Example: Total income (NTI) of Mr. Ram is ₹ 4,20,000 (it include LTCG on sale of land ₹ 2,50,000)
Now tax liability of Ram (assume he opted out from default tax regime 115BAC), [2,50,000-80,000] = ₹ 1,70,000 × 20% = ₹ 34,000 - Rebate u/s 87A+ HEC@ 4%.
- **Shares held as stock in trade or Capital Asset (Investment)**
Benefit of Sec. 112A & 111A is available only when shares are held as capital asset, if it is held as stock-in-trade, then profit is taxable under the head PGBP. In deciding whether shares are capital assets or SIT,

1. Following points should be considered [CBDT Circular 4/2007]
 - (a) Treatment **in books** of assessee i.e. shown as investment or stock.
 - (b) **Quantum of purchase & sales.**
 - (c) **Holding period.**
 - (d) If objective is to **earn dividend**, then it is a capital asset.
 - (e) Whether shares have been purchased out of **own funds or loan taken.**

2. CBDT circular no. 06/2016, dated 29/02/2016
 A.O. has to take into account following points while deciding whether profit from sale of shares/securities is taxable as PGBP or Capital Gain:-
 - (a) Where **assessee itself**, irrespective of the POH the listed shares & security **treat them as SIT** income has to be taxable under the head PGBP.
 - (b) In case of **listed shares/ securities held for more than 12 months** assessee desires to treat income under the head **Capital Gain** then A.O. should not dispute the same however, this stand once taken by assessee shall not be allowed to change in subsequent A.Y.'s and shall remain applicable in subsequent A.Y.'s.
 - (c) In all other cases the nature of transaction shall continue to be decided keeping in view of above circular. (1st Circular)

Note: Principle listed in circular 06/2016 not applicable in case of sham transaction (Bogus transactions)

- Income arising on transfer of Unlisted shares is always taxable under Capital Gain irrespective of POH except in following cases :-
 - The genuineness of transaction itself is questionable, or
 - The transfer is related to an issue pertaining to lifting of corporate veil, or
 - The transfer is made along with the control and management of underlying business and the AO would take appropriate view in such situations.

Sec 55A: Reference to Valuation officer (V.O.)

A.O May Refer Case to Valuation officer in the following circumstances

- (i) **FMV Claimed by assessee as per registered valuer:-** A.O. is of Opinion that the Value so Claimed is at variance with its FMV.
- (ii) **In any other Case:-**
 - a) FMV as per A.O. Opinion more than value claimed by assessee by
 - i) 15% of value claimed by assessee, OR
 - ii) 25000/-
 whichever is lower
 - b) Having regard to nature of asset and other relevant circumstances, it is necessary so to do.

**Case Laws****Aditya Kumar Jajodia (2018) (Cal)**

Can the amount incurred by the assessee towards perfecting title of property acquired through will, for making further sale, be included in the COA for computing capital gains?

The assessee had inherited the immovable property under a will and the costs incurred by him for perfection of the title from perpetual leasehold rights to the complete ownership had to be regarded as a cost of acquisition within the meaning of sections 48 and 55, as the assessee was transferring the complete ownership rights to the transferee, and not the leasehold rights.

Sakthi Metal Depot [2021](SC)

The depreciable asset forming a part of block of assets within the meaning section 2(11) would not cease to be a part of the block of assets so long as the assessee continued business. In this case, the building forming part of the block of assets would retain its character as such, even if one or two of the assets in the block were not used for the business purposes in the last couple of year's. Consequently, the profits arising on sale of such asset would be short-term capital gains.

Gujarat State Fertilizers and Chemicals Limited (2018)(Guj)

Fertilizer subsidy given to an assessee to compensate the loss on sale of fertilisers should be treated as business income. Due to cash crunch, the GOI had discharged its dues of paying the subsidy by issue of fertilizer bonds. These bonds are saleable in the open market and the market price. In this case also, the assessee received fertilizer bonds (in lieu of subsidy) which were sold at a loss in the open market. Since the subsidy would have been treated as business income, loss on sale of fertilizer bonds issued is to be allowed as business loss.

Govindbhai Mamaiya (2014)(SC)

land inherited by three brothers is compulsorily acquired by the SG, whether the capital gain taxable in the status of AOP or in their individual status?

AOP could be formed only when two or more persons voluntarily combined together for certain purposes. In this case, the property in question came to the assessee's possession through inheritance. The income from asset inherited by the legal heirs is taxable in their individual hands and not in the status of AOP.



Notes



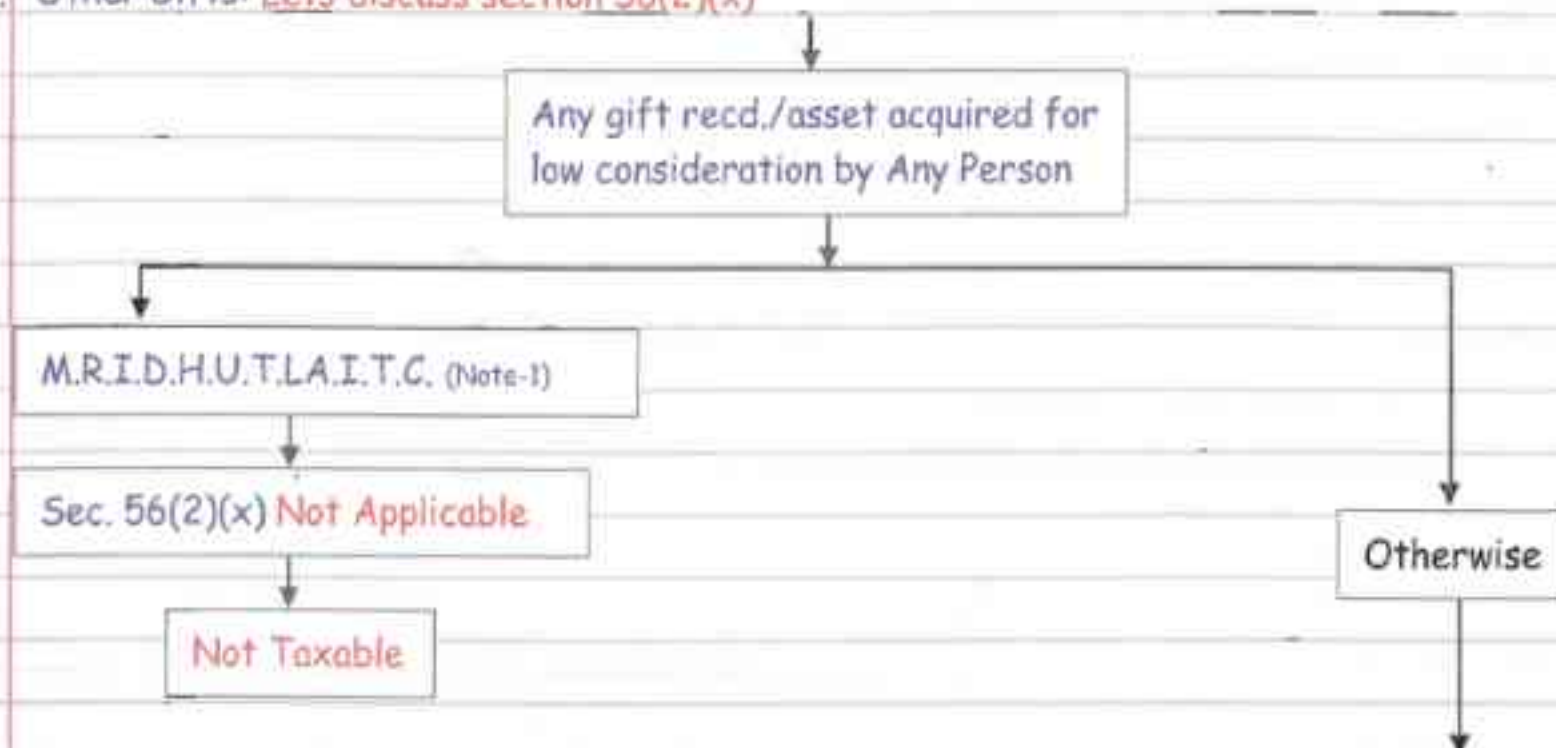
Sec. 56(1): Any Income which is **not taxable** under Salary, IFHP, PGBP or Capital gain, shall be chargeable under IFOS.

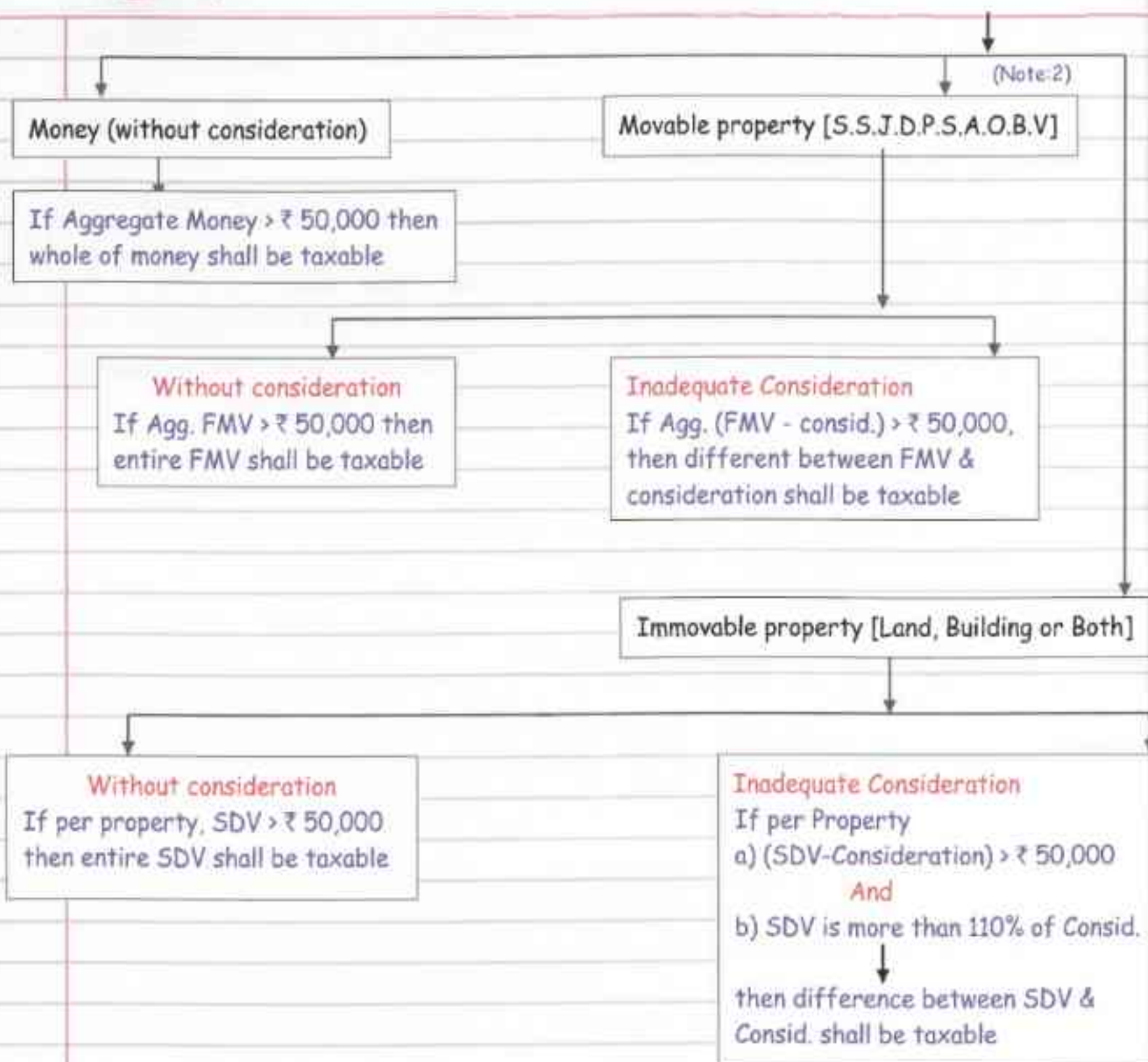
Sec. 56(2) Income taxable under IFOS

- Dividend
- Winning from lotteries, puzzles, card game etc.
- Interest on securities (if shares held as SIT then taxable under PGBP)
- Rent from letting out of P&M or furniture with or without building, if not chargeable under PGBP
- Any sum received under keymen insurance policy if not chargeable under PGBP or Salaries
- Interest received on compensation of compulsory acquisition of capital asset
- Gift
- Other income taxable under IFOS:
 - Amount received under family pension.
 - Interest on bank deposit & loan given.
 - Interest on Income tax refund.
 - Income from sub-letting of house property.
 - Royalty income.
 - Agriculture income.
 - Director sitting fee.
 - Salary of MP/ MLA/ MLC etc.

Taxation of Gift

1. Any gift received by employee from employer due to employee - employer relationship - **always taxable** [even if received on marriage] under income from salary.
2. Any gift/benefit/perquisite arising from Business or Profession - **always taxable** under PGBP.
3. Other Gifts: **Lets discuss section 56(2)(x)**





Note-1: Money/Property **Not Taxable** if it is received

- M - On the occasion of **Marriage**
- R - From any **Relative** (note-3)
- I - Under will or way of **Inheritance**
- D - In contemplation of **Death**
- H - From any **Hospital** or medical institution
- U - From any **University** or educational institution
- T - From or by any **Trust** registered u/s 12AA/12AB
- LA - From any **Local Authority** u/s 10(20)
- I - From an **Individual** by a trust created solely for the benefit of the relative of the Ind.
- T - by any Fund, Trust, Hospital, Medical Inst., University, Edu. Institution ref. u/s 10(23C)

➤ C - Certain Exempt transfer as per sec. 47 clause (i), (iv), (v), (vi), (via), (viaa), (vib), (vie), (vica), (vicb), (vid), (vii), (viiac), (viiad), (viiac), (viiad), (viiac), (viiad).

◆ CBDT Notification No. 40/2020 - Sec 56(2)(x) Not Applicable in following cases:

1. **Immovable Property** received by **resident** of **unauthorised colony** in National Capital Territory of Delhi, where CG has regularised transactions of such property for conferring or recognising right of ownership/transfer/mortgage in favour of such resident based on latest POA, Sale Agreement, Will, possession, etc. including evidencing payments of consideration.
2. Receipt of **Unquoted shares** of company and its subsidiary and subsidiary of such subsidiary by a shareholder where the NCLT on application by CG has suspended the BOD and appointed new directors nominated by CG and the shares so received are pursuant to resolution plan approved by NCLT after providing the PCIT /CIT an opportunity of being heard.
3. **Equity shares** of **Yes Bank Ltd.** received by the **investor** as per the Yes Bank Ltd. Reconstruction Scheme, 2020.
4. **Equity shares**, of the **public sector company**, received by a person from the CG or SG under strategic disinvestment.

◆ Amendment by FA-22 w.e.f. AY 20-21

Sec. 56(2)(x) not applicable in the following cases, Money recd.:-

- (i) By **Individual**, from any person, for exps. actually incurred on treatment of Covid-19 related illness of him or any family member.
- (ii) By family **member** of **deceased** person, within 12 months of death (death due to Covid-19 illness) -
 - (a) from the employer of the deceased person (without any limit); or
 - (b) from any other person or persons upto ₹ 10 lakhs.

Note-1: Family means spouse, children and dependent relative (parents, brother, sister).

Note-2: Death should be within 6 months from the date of testing covid positive.

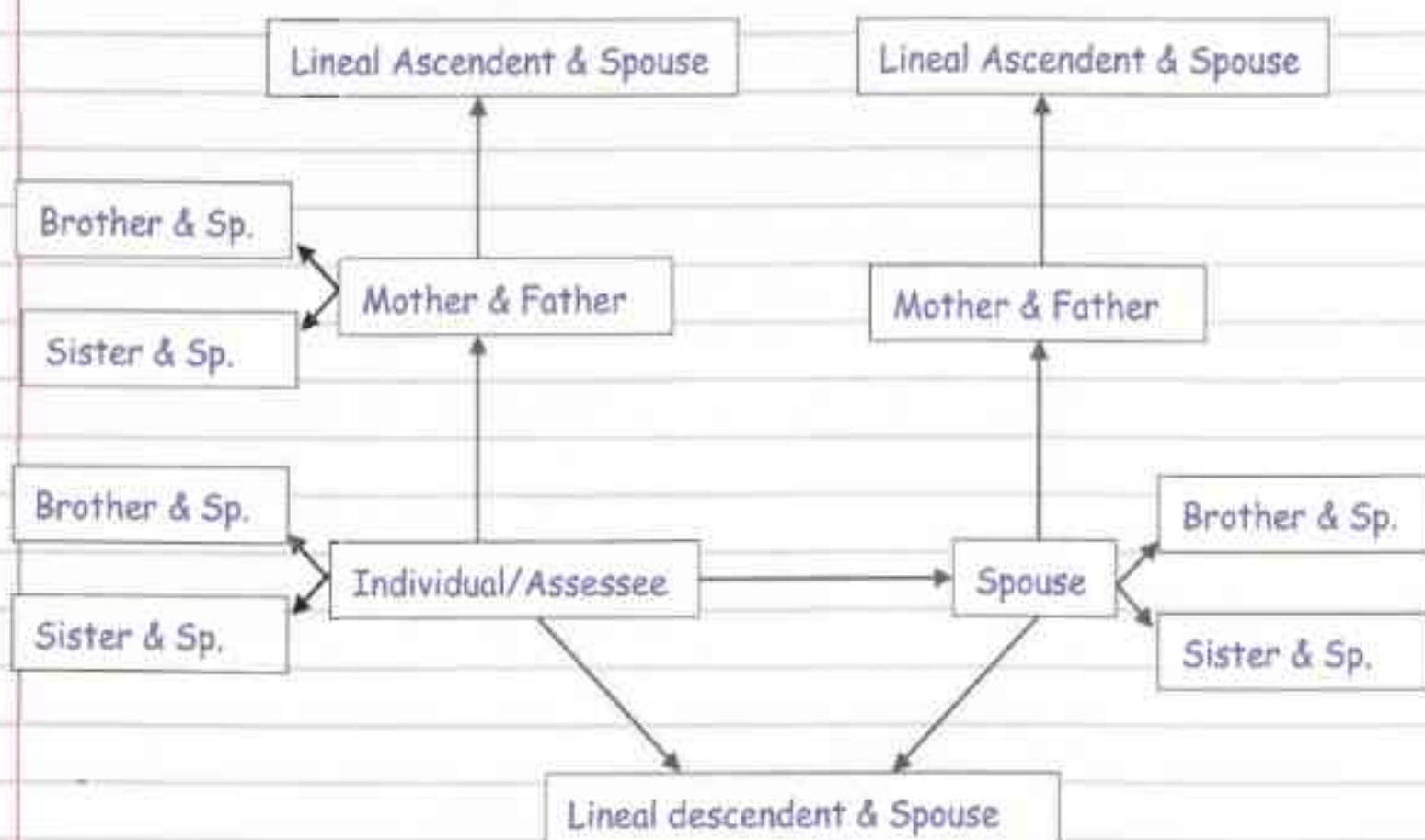
Note-2: Property (Movable & Immovable)

- | | | |
|-----------------------------------|-------------------------------------|-------------------|
| 1. Shares & securities | 2. Jewellery | 3. Drawing |
| 4. Painting | 5. Archaeological collection | |
| 6. Sculptures | 7. Any other work of art | |
| 8. Bullion | 9. Immovable property | |
| 10. Virtual Digital Assets | | |

- Any property received as gift or acquired for low consideration **other than above, Sec. 56(2)(x)**
Not applicable - Not taxable.
 Car, Iphone 14, T.V., Furniture, Wrist Watch, etc. received then not taxable even value is more than ₹ 50,000/-

Note-3: Relative

A. In case of Individual



B. In case of HUF - Any member of HUF

Note-4: Assessee is **not satisfied with SDV** then his case may be **transfer to VO** (same as sec 50C)

Note 5: Sec. 56(2)(x) **applicable** only if property is in the nature of **capital asset** of the recipient, if it is Stock-in-trade then Sec. 56(2)(x) Not applicable.

Note 6: Sec.49(4): If any person receiving any asset as gift or acquires for inadequate consideration & **he already assessed u/s 56(2)(x) on FMV/SDV** then COA of such asset shall be **FMV/SDV which was considered under IFOS u/s Sec. 56(2)(x)**. When COA is computed as per section 49(4), the period of holding of the previous owner shall not be included in the period of holding.

Note 6: Section 56(2)(x) is applicable even gift of **money** made outside India by **Resident to NR**.



Note 7: If date of agreement & registration is not same, SDV on the date of agreement can be considered u/s 56(2)(x), if full or part consideration paid by A/c Payee cheque, A/c Payee DD or any ECS through bank A/c upto date of agreement.

Sec. 43CA: SDV shall be treated as sales consideration

In case of **immovable property held as stock-in-trade**, if SDV is more than **110%** of consideration then such SDV shall be deemed to be sales consideration for computing PGBP.

- If assessee not satisfied with SDV then his case may be transferred to V.O. (same as Sec. 50C).
- If date of agreement & registration is not same, SDV on the date of agreement can be considered u/s 43CA, if full or part consideration received by A/c Payee cheque, A/c Payee DD or any ECS through bank A/c upto date of agreement.



Sec. 56(2)(xi): Compensation on termination of Employment

Any compensation received by any person due to termination of his employment (or modification of terms of employment) is treated as income.

This section is applicable only if compensation is received from a person other than employer. However, if it is received from employer, then it is taxable u/s 17(3)(i) under the head "Salaries".

Sec. 57: Allowable Deduction

- a) Dividend [other than referred u/s 2(22)(f)] or income on units of MF/UTI: Only interest expenses is allowed as deduction subject to maximum 20% of dividend or income from MF /UTI.
- b) Income under family pension: deduction shall be lower of 1/3rd of family pension or ₹ 15,000 p.a.
 Note: In case of assessee opted default taxation regime u/s 115BAC then deduction is ₹ 25,000 instead of ₹ 15,000.

Certain exemption in respect of family pension:

- Received by the widow or children or nominated heirs, of a member of the armed forces (including para-military forces), where the death has occurred in the course of operational duties shall be exempt u/s 10(19).
 - Received by any family member of individual who had been in the service of CG or SG and had been awarded "Param Vir Chakra" or "Vir Chakra" or Mahavir Chakra" or other notified gallantry awards shall be exempt u/s 10(18)(ii).
- c) Interest on compensation of compulsory acquisition - 50% of such Interest.



- d) Any other expenditure (not being in the nature of capital expenditure) - Allowed if it's wholly and exclusively for the purpose of making or earning such income.

Sec. 58: Expenses Not allowed as deductions under IFOS

- Any **personal expenses** of the assessee.
- Any interest or salary payable outside India on which **TDS has not been paid or deducted**.
- Cash Expenditure **exceeding ₹ 10,000**. Provisions of section 40A(3) shall apply.
- **30%** of any sum payable to a **resident** on which TDS has not been paid or deducted at source. Provision of section 40(a)(ia) shall apply.
- Any **expenditure** incurred in connection with **casual income**.

Relevant Case Laws

1. **Manju & Co. (2011)(Kerala)**: Any winnings from unsold lottery tickets held by distributor of lottery tickets cannot be said to be "income earned" in business. Receipt of prize money is not in his capacity as lottery distributor but as a holder of ticket which won the prize. Hence, it cannot be contended that the said winning is business income. In any case winnings from lotteries are assessed by special provisions of Sec 115BB irrespective of head it falls. Therefore, even if the same is business income, it shall continue to be taxed at 30% u/s 115BB.
2. **Dr. Ranjan Pai (2021)(Kar)**: When a shareholder gets bonus shares, the **value of the org. shares goes down** and the market value as well as intrinsic value of the two shares put together will be the same or nearly the same as the value of original share before the issue of bonus shares. Thus, any profit derived by the assessee shareholder on account of receipt of bonus shares is adjusted by depreciation in the value of equity shares originally held by him. Bonus shares **were not issued in order to evade any tax** so, the provisions of section 56(2)(x) would not be attracted in the hands of the recipient shareholders on receipt of bonus shares.



- Indian Company: Company formed & registered under Companies Act, 2013 or any law of state.
- Domestic Company: Indian Company or any other company (foreign company) who made prescribed arrangement for the declaration and a payment of dividend within India. Thus all Indian Co. are treated as domestic companies but all Dom. Co. not treated as Indian Co.
If a Foreign Co. makes prescribed arrangements for payment of dividends in India it shall be treated as Dom. Co.
- Foreign Company: Company which is not a Domestic Company.

Sec 8: Taxability of Dividend

Dividend Income from Domestic Co. or Foreign Co. taxable in hands of Shareholder at Normal Tax rate.

- Final Dividend: It is taxable in the year in which it is **declared at the AGM** by company.
- Deemed Dividend: It is taxable in the year in which it is **distributed/paid** by company.
- Interim Dividend: It is taxable in the year in which it is **received** by shareholder.

Note: Dividend received by any person from unit located in IFSC on or after 01/04/17 **shall not be taxable in hands of SH's.** [Sec 115-O(8)]

Deemed Dividend

In reality these payments are not dividend but for the purpose of income tax they are treated as dividends. The objective is to plug the loopholes in the tax provision & to check avoidance.

◆ Sec. 2(22)(a): Any distribution of assets

Any distribution of **Assets** by a company to its shareholders to the extent the company possesses **accumulated profits (capitalised or not).**

Notes:

- In case of **Bonus shares**, there is **no release of assets** hence, issue of bonus shares is not deemed as dividend.
- When assets are distributed u/s 2(22)(a)/(c)/(d), the **FMV of the asset** on the date of distribution has to be taken for computing the dividend.

◆ Sec. 2(22)(b): Any distribution of Debentures, deposit certificate etc.

(a) Any **distribution** to its shareholders by Co. of **debentures, debentures stock or deposit certificates**, and

(b) Any distribution to its **preference shareholders of shares by way of Bonus**,

to the extent to which Co. possesses accumulated profit (capitalised or not)

◆ Sec 2(22)(c): Distribution of assets on liquidation

Any **distribution of assets** by company on liquidation to the extent to which company possesses **accumulated profit (capitalised or not)**.

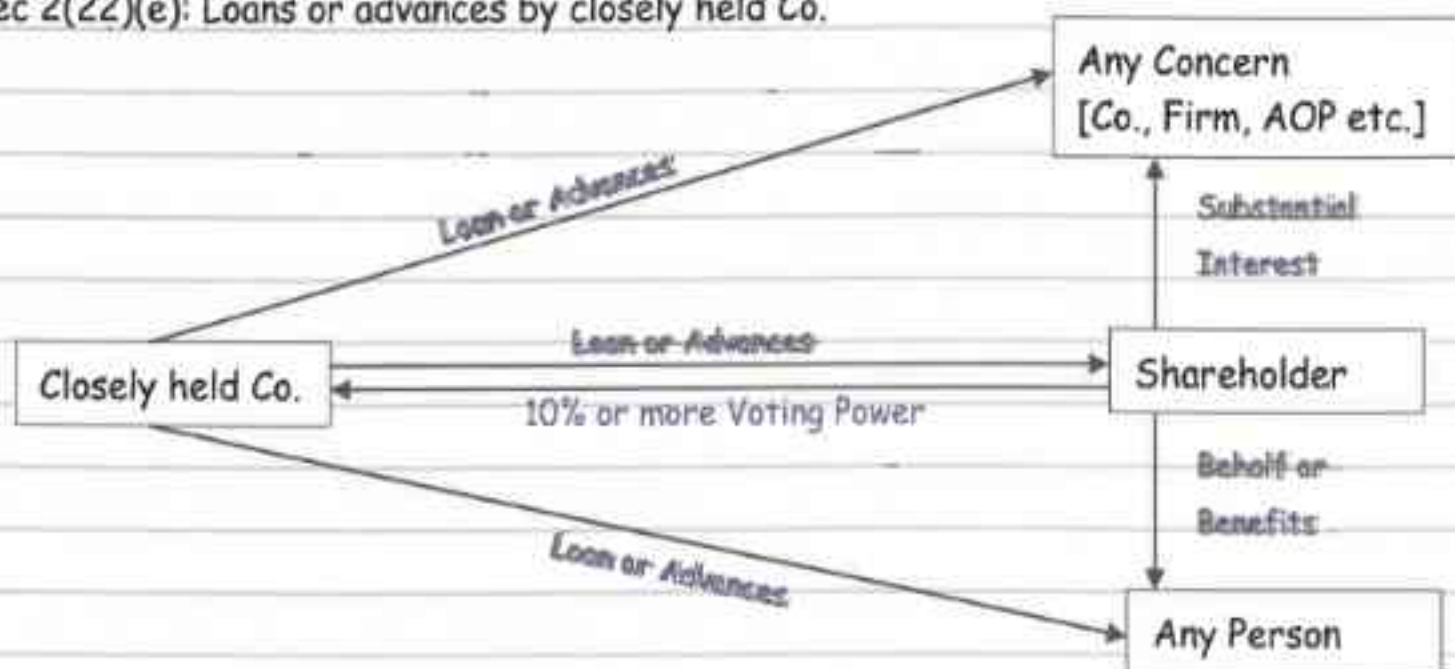
◆ Sec 2(22)(d): Reduction of share Capital

Any **distribution** to its shareholder by company on **reduction** of its capital to the extent to which company has **accumulated profit (Capitalised or not)**.

➤ Some differences between 2(22)(a)/(b)/(c)/(d) & 2(22)(e)

S.No.	2(22)(a)/(b)/(c)/(d)	2(22)(e)
1.	Treated as Deemed dividend to the extent accumulated Profit (capitalised* or not).	Treated as deemed dividend to the extent accumulated profit .
2.	Applicable to all Companies .	Applicable to only closely held Company .
Notes	Distr. treated as DD "to the extent of accum. profits ". In case accum. loss , the above prov. shall not apply . Accum. profit means profit/reserve created through P&L A/c.	
	*Capitalised means issue of bonus shares, transfers to capital reserves etc. shall also be included in accum. profit.	

◆ Sec 2(22)(e): Loans or advances by closely held Co.



Notes :

1. Loan or advances is treated as deemed dividend & taxable in hands of shareholder to the extent to which **company possesses accumulated profit**.
2. Concern means HUF, Firm, Company, AOP/BOI.
3. Substantial interest means **20% or more voting power/PSR** at any time during the P.Y.
4. Loan is repaid or Company charges market rate of interest then also loan is treated as deemed dividend.

5. Accum. profit means profit as per **Companies Act (means accounting profit)** not Assessable profit.
6. Section 2(22)(e) is **not applicable in case of trade advances** means advance which is in the nature of commercial transaction. [CBDT Circular 19/2017]
Example: Advance made by company to sister concern for job work, Advance was made by a company to its shareholder to install P&M at the shareholder's premises to enable him to do job work for the company so that the company could fulfil an export order etc.
7. If loan and advance given to concern then it is treated as deemed dividend in hands of concern but as per some court judgments its taxable in hands of shareholder.

Dividend **shall not include** -

- (a) Any Advance or Loans given by Company in the **ordinary course of its business of money lending**, where money lending is "**substantial part** of the business (SPOB)". SPOB has to be understood on case to case basis. The relevant factors can be T/o, profits, manpower, capital employed etc.
- (b) Any dividend paid by a company, which is **set off against the loan** which has been deemed as dividend u/s 2(22)(e).
- (c) Shares allotted to shareholder of demerged Company by resulting Company under Demerger.
- (d) Any distribution made u/s 2(22)(c)/2(22)(d) is respect of **preference shares**.

Sec 80M: Deduction in Respect of Certain Inter Corporate Dividend

If GTI of **domestic company** include dividend from another **Domestic company or Foreign company or Business Trust** following amount shall be deducted:

- | | | |
|------|--|-----|
| (i) | Aggregate Dividend Income received (include deemed dividend) | xxx |
| (ii) | Dividend distributed to shareholders upto due date | xxx |

Whichever is lower

Note: Due date means **one month before due date of ROI u/s 139(1)**.

Example

From followings particular calculate total income of BB Ltd. (Domestic company) for AY 25-26

PGBP ₹ 10,00,000

LTCG on Land ₹ 2,00,000

Dividend from RIL (Dom. Co) ₹ 12,00,000

(Interest paid on money borrowed for investment in RIL 3,00,000 & dividend collection charges 7,000)

Income from Axis equity oriented Mutual Fund ₹ 3,00,000

(Interest paid on money borrowed for investment in MF ₹ 16,000 & others charges ₹ 4,000)

BB Ltd distributed following dividend to shareholders:

Interim dividend for FY 24-25 on 15.07.2024 : ₹ 80,000

Final dividend for FY 24-25 on 12.04.2025 : ₹ 70,000

Interim dividend for FY 25-26 on 22.07.2025 : ₹ 2,50,000

Interim dividend for FY 25-26 on 28.11.2025 : ₹ 90,000

Solution:

BB Ltd.

PY 24-25 AY 25-26

Computation of Total Income

Particular	Amount	Amount
PGBP		10,00,000
LTCG on Land		2,00,000
IFOS		
Dividend from RIL	12,00,000	
Less: Interest u/s 57 (upto 20% of Income)	<u>2,40,000</u>	9,60,000
Income from Axis MF	3,00,000	
Less: Interest u/s 57 (upto 20% of Income)	<u>16,000</u>	2,84,000
Gross Total Income		24,44,000
Less: Deduction under chapter VI-A		
Deduction u/s 80M		
(i) Dividend income received	9,60,000	
(ii) Dividend distributed upto 30.09.2025	<u>4,00,000</u>	(4,00,000)
Whichever is Lower		
Total Income		20,44,000

Notes:

1. Dividend collection charges and other charges not allowed as deduction.
2. U/s 80M deduction allowed only for dividend distributed upto due date i.e. 1 month before the due date of ROI.

Case Laws

Sree Rama Multi Tech Ltd. [2018] (SC): Company was statutorily required to keep share appln money in a separate a/c until allotment was completed, any interest earned from such deposit is incidental as the intention was to comply with the law and not to earn interest. Accordingly, interest earned is eligible to set-off against the public issue exps. and not taxed under IFOS.

Vir Vikram Vaid (2014) (Bom): If company incurs repair & renovation expense on the building let out to them by a shareholder having substantial interest in the company, it cannot be contended that amount spent is dividend u/s 2(22)(e) as no money has been paid by the company to the shareholder. Further, the amount was spent by the company on the building in his capacity as lessee. Hence, the contention that amount was given on behalf of for the individual benefit of the owner is not tenable.

In case of Liquidation

◆ In hands of Company

(a) Distribution shall be treated as Deemed dividend u/s 2(22)(c).

(b) As per sec 46(1): Where asset of Co. is distributed on its liquidation, such distribution shall not be treated as transfer. Hence, Capital Gain shall not apply in hands of company.

◆ In hands of Shareholder

Where shareholder, on liquidation, receives any money or other assets from company then capital gain is applicable in hands of shareholder.

Computation of Capital Gain

Particulars	₹
Money received	xx
(+) FMV of asset recd. on date of Distribution	xx
	xx
(-) Amount assessed as deemed dividend u/s 2(22)(c)	(x)
Full Value of Consideration (FVOC)	xx
(-) COA/ICOA of shares	(x)
STCG/LTCG	xx

Notes:

- POH of shares: Date of Acquisition to date of Liquidation.
- CG is applicable in the hands of SH in the year in which he received assets under Liquidation.
- COA of assets received under Liquidation is FMV of such asset on the date of distribution. (Sec.- 55)

Taxation in Case of Buy Back

◆ In case of shares or other specified securities (other than shares of domestic Company)

- In hands of company: There is **NO Tax** treatment in hands of Company.
- In hands of shareholder: As per Sec 46A, **CG is applicable in hands of shareholder.**

Computation of Capital Gain

Particulars	₹
Full Value of Consideration (Buy Back Price)	xx
(-) COA/ICOA of shares	(x)
STCG/LTCG	xx

POH = **Date of Acquisition till date of Buy back.**

Note: Where shareholder received consideration and its treated as deemed dividend u/s 2(22)(f) then, FVOC shall be treated as NIL while calculating CG. [Added by FA 24 w.e.f. 1/10/24]



◆ In case of shares of Domestic Company (listed as well as unlisted) [Buyback till 30th Sep. 2024]

➤ In hands of Company

As per Sec 115QA, Domestic Company shall pay tax @ 23.296% (20%+12%+4%) on distributed income which shall be calculated as under:

Distributed income = Buyback price - Issue price (including premium)

Note: Company required to pay tax within 14 days from date of Distribution.

➤ In hands of Shareholder

The amount received by shareholders on Buyback of shares shall be exempt u/s 10(34A). No tax treatment in hands of shareholders.

Note: Redemption of the preference shares also amounts to buy back of shares.

Sec 115QB/QC: Interest @ 1% p.m. or part of the month applicable from 15th day. Assessee will be treated as assessee in default if tax not paid.

◆ Rule 40BB - Buy Back Rules

S. NO	Case	Issue Price
1.	Shares issued by a company on its subscription.	Amount actually received by the company (including premium).
E.g.	BB Ltd issued 1,00,000 shares on 16/07/2012 for ₹ 70 Per share. Face Value of share is ₹ 10: In this case IP = ₹ 70 per share.	
2.	Where prior to buy back, the company had returned any sum out of amount received.	Amount received by the company as reduced by the sum so returned. * If Company paid DDT u/s 115-O on Returned amount then it shall not be reduced.
E.g.	Suppose in above example company return ₹ 5 Per share on 14/02/2017 to shareholders. Accum. profit on 14/02/2017 is NIL: In this case IP of share shall be ₹ 70 - ₹ 5 = ₹ 65 Per share. Suppose in above example company return ₹ 5 Per share on 14/02/2017 to shareholders. Accum. profit on 14/02/2017 is ₹ 6,00,000. Company distributed ₹ 5,00,000 to shareholder on reduction of share capital. It will be treated as deemed dividend u/s 2(22)(d) and company required to paid DDT u/s 115-O on such dividend. In this case issue price will be ₹ 70.	
3.	Shares issued under ESOP or as part of sweat equity	↓ i) FMV of shares xx ↓ ii) Amt Credited to share capital & Premium. xx whichever is Lower

E.g.	BB Ltd issued 10,000 ESOPS at ₹ 40 per share (FV -10). FMV of share is ₹ 70 per share. In this case issue price will be lower of FMV and amount credited to share capital and security premium. So issue price will be ₹ 70 Per share. (Since ₹ 30 dr. to ESOP exps. account so amount credited to share capital and premium is ₹ 70)	
4.	Shares are issued under a scheme of amalgamation, in lieu of the share or shares of an amalgamating company	Amount received by the amalgamating company in respect of such shares.
E.g.	AVPL issued 1,00,000 shares at ₹ 70 per share (FV 10). AVPL amalgamated with PVPL and PVPL issued 1,20,000 shares to shareholders of AVPL. Now IP of shares of PVPL is $70,00,000/1,20,000 = ₹ 58.33$ Per share.	
5.	In case of demerger, shares issued by resulting company	Amount recd. by demerged Co. in respect of original shares to be divided in ratio of net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger.
6.	In case of demerger, in hands of demerged company	Amount recd. shall be reduced by the amount determined in point 5 above.
E.g.	Titan Ltd have 2 division Jewellery and watches. Titan Ltd issued 1,00,000 shares at ₹ 70 per share (FV 10) in PY01-02. Titan Ltd demerged and transfer Jewellery division to Tanisq Ltd in PY17-18. At the time of demerger net-worth of Titan Ltd. is ₹ 500 Crores. Net assets transfer in demerger to Tanisq Ltd. is ₹ 200 Crores. Tanisq Ltd issued 20,000 shares of FV ₹ 10 to the shareholders of Titan Ltd. In this case Issue price- (i) Shares of Tanisq Ltd : $₹ 70,00,000 \times 200Cr/500Cr = ₹ 28,00,000/20,000$ shares = ₹ 140 Per share (ii) Shares of Titan Ltd : $₹ 70,00,000 - ₹ 28,00,000 = ₹ 42,00,000/1,00,000$ shares = ₹ 42 Per share	
7.	Shares issued or allotted as part of consideration for acquisition of any asset or settlement of any liability	Amount received= A/B A: a) FMV of Asset/Liability xxx b) Amount credited to Share Cap & Security premium xxx Whichever is Lower B: No of shares issued as part of

		consid. Note: Where both shares and money is given the FMV of assets shall be consider only to the portion of consideration paid by shares.
E.g.	BB Ltd acquired asset in lieu of issue of 10,000 shares (FV 10). FMV of asset is ₹ 7,00,000. In this case issue price will be $7,00,000/10,000 = ₹ 70$ Per Share.	
8.	Shares issued or allotted on succession or conversion of firm into a company or succession of sole proprietary concern by the company [E.g. given at end of Topic]	Amount received = $(A-B)/C$ A = Book value of the assets in B/S as reduced by TDS, TCS, Adv. Tax (except refund) & unamortized amount of deferred expenditure B = Book value of liabilities in the B/S as reduced by capital, reserves and surpluses, provision for taxation, provision for Unascertained liabilities and contingent liabilities C = Number of shares issued on conversion
9.	Bonus Shares issued without consid.	Nil
10.	Shares issued on conversion of pref. shares, bond or debenture, debenture stock or deposit certificate.	Amount received by the company in respect of the instrument so converted.
E.g.	KK Ltd. issued 10,000 Bonds for ₹ 500 per bonds in FY14-15. On 18/08/23 bonds convertible into shares and Company allotted 2,00,000 shares in lieu of bonds. In this case IP = ₹ 50 lakhs/2 lakhs = ₹ 25 per share	
11.	Shares held in D-MAT Form and which cannot be distinctly identified	Amount received for issue of shares on the basis of FIFO method.
12.	In any other case	Face value of the shares.

E.g. Business of Mr. Rahul (proprietor) is transfer to Rahul Pvt. Ltd. and company allotted 1,00,000 shares to Mr. Rahul (FV ₹ 10). Statement of assets and liabilities on the date of succession is as follows:

Liabilities		₹	Assets		₹
Capital of Mr. Rahul		25,30,000	Building		17,00,000
Provision for Tax		2,30,000	Goodwill		10,00,000
(Excess prov. by 20,000)			Furniture		4,00,000

Loan	4,70,000	TDS/TCS	2,00,000
Other Liabilities	1,20,000	Advance Tax	50,000
	33,50,000		33,50,000

Building transferred at ₹ 24,00,000. Calculate issue price of shares allotted to Mr. Rahul.

A.

$$\text{IP of shares} = \frac{A - B}{C} = \frac{25,50,000}{1,00,000} = 25.50 \text{ per share}$$

A = BV of Assets

Building	17,00,000
Goodwill	10,00,000
Furniture	4,00,000
IT Refund	40,000
(2,50,000 - 2,10,000)	

B = BV of Liabilities

Loan	(4,70,000)
Other Liabilities	(1,20,000)
Net Assets	25,50,000

Taxation in Case of Buy Back by Domestic Company w.e.f. 1st October, 2024

- In hands of company: There is **NO Tax** treatment in hands of Company.
- In hands of shareholder:
 - (a) Sec. 2(22)(f): Any payment by Company on Buy Back of shares shall be treated as deemed dividend in hands of shareholder and it is taxable under IFOS as per normal tax rate.
 - (b) Buy Back is treated as extinguishment of rights so CG is applicable as per section 46A in hands of shareholder.

Computation of Capital Gain

Particulars	₹
Full Value of Consideration (Buy Back Price)	Always NIL
(-) COA of shares	(x)
STCL/LTCL	(xx)

POH = Date of Acquisition till date of Buy back.



Example: Mr. BB acquired 1,000 shares of BB Virtuals Ltd @ ₹ 50 per share during PY 20-21. BBVL buy back 300 shares @ ₹ 120 per share on 10/12/2024. Mr. BB sold 700 shares on 15/07/2025 @ ₹ 200 per share. Discuss Tax treatment in hands of Mr. BB.

Solution:

(a) During PY 24-25, ₹ 36,000 (300 shares x ₹ 120) is treated as deemed dividend in hands of Mr. BB u/s 2(22)(f) & it is taxable under IFOS.

(b) Computation of Capital Gain on Buy Back

PY 24-25 AY 25-26

Particulars	₹
Full Value of Consideration (Buy Back Price)	Always NIL
(-) COA of shares [300 shares x ₹ 50]	(15,000)
LTCL (it can be setoff against any other LTCG or C/F for next 8 AY's.)	(15,000)

(c) Computation of Capital Gain on sale of 700 shares

PY 25-26 AY 26-27

Particulars	₹
Full Value of Consideration [700 shares x ₹ 200]	1,40,000
(-) COA of shares. [700 shares x ₹ 50]	35,000
LTCG	1,05,000
Less: LTCL of last Year	(15,000)
Net LTCG Taxable in AY 26-27	90,000



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➤ Sec. 2(1B): Definition of Amalgamation

Merger of one or more companies with another company or the merger of two or more companies to form one company, in such a manner that -

- (i) All the asset & liabilities of amalgamating company becomes the asset & liabilities of amalgamated company.
- (ii) Shareholders holding minimum 75% in value of shares in amalgamating company become shareholder of amalgamated company.

-27

➤ Taxation of Shareholder

a) As per Sec. 47, there will be no transfer & hence no CG when shareholder allotted shares of amalgamated Company in exchange of share of amalgamating Co.

b) COA of the shares in the Amalgamated Company = COA of the shares in the Amalgamating Company [Sec. 49(2)].

c) POH = Period for which shares held in Amalgamating Company + Period in Amalgamated Company.

➤ Taxation of Amalgamating company

As per Sec. 47, there will be no capital gain on transfer of capital asset by amalgamating company to amalgamated company.

➤ Taxation of Amalgamated Company

a) As per Sec. 49 (1) COA of asset becomes property of Amalgamated Company = COA of Amalgamating Company [Cost of Previous Owner].

b) POH of asset = Period of Amalgamating Company as well as Amalgamated Company.

Note: PGBP losses & unabsorbed depreciation of amalgamating Company can be carried forward & set off by Amalgamated Company [Refer set off & c/f topic].

➤ Meaning of Demerger





- **Sec. 2(19AA):** Demerger means transfer by demerged Co. of its one or more undertaking to any resulting Company, all the following conditions are fulfilled:
- (a) All the assets & liabilities of undertaking-2 (tanishq) transferred by demerged company become the asset & liabilities of resulting company (tanishq ltd).
 - (b) All assets & liabilities should be transferred at Book value [Revaluation is to be ignored].
 - (c) The resulting company (tanishq ltd.) issues, its shares to the shareholder of demerged company (titan ltd.) on proportionate basis except when the resulting company itself is a shareholder of the demerged Company.
 - (d) The shareholders holding minimum 75% value of shares in the demerged Company becomes the shareholder of resulting Company.
 - (e) Transfer of undertaking on a going concern basis.

Note: Condition (b) not applicable where resulting company records the value of prop. and liab. at different value in compliance to IND-AS.

➤ **Taxation of Shareholder**

- a) Sec. 47: There will be no capital gain in hands of shareholders of demerged Company when they receive share of resulting Company.
- b) POH of shares of resulting company: Period for which shares were held in demerged Co. shall also be considered [Sec. 2(42A)]
- c) Sec. 49(2C): COA of shares of Resulting Company

COA of shares held in demerged Company $\times$ $\frac{\text{Net Book value of assets transferred in demerger}}{\text{**Net worth of demerged Company before demerger}}$

**Net worth = Paid up share capital + General reserve

- d) Sec. 49(2D): COA of shares in the Demerged Company

COA of originals shares in demerged Company xx

(-) COA of shares in resulting Company (point c). xx

xx

➤ **Taxation of Resulting Co.**

COA of Asset received in Demerger = COA to Demerged Company



> Taxation of Demerged Co.

As per Sec. 47 there will be no capital gain when asset transferred by Demerged Company to Resulting Company.

Note: PGBP losses & unab. Dep. related to transferred undertaking can be C/f & set off by resulting Company [Refer set off & C/F topic]

Sec 94(8): Bonus stripping Transactions

If any person buys or acquire any units or securities at any time within a period of 3 months prior to the record date

And

He is being allotted bonus units or securities

And

Such person sells or transfers all or any of the original units or securities at any time within a period of 9 months from the record date, while continuing to hold all or any of the bonus units or securities

Then

Loss arising on transfer of original units or securities shall be completely Ignored

And

The loss so ignored shall be deemed to be the COA of those bonus units or securities, which are left out as on the date of transfer of original units or securities.

"Record date" means date fixed by a company or MF or UTI or Business Trust or an AIF for the purposes of entitlement of the holder of the securities/units, to receive dividend, income, or additional securities or units without any consideration.

E.g. 1- Saloni acquired 1000 shares of ITC Ltd. @ 200 per share on 16/07/24. Company allotted 700 bonus shares on record date i.e. 16/09/24. Saloni transfer 1000 original shares on 14/02/25 @ ₹ 120 per share. Discuss tax treatment.

Sol. Computation of Capital Gain

PY 24-25 AY 25-26

Particular	Amount
Full Value of Consideration(FVOC)	1,20,000
Less: COA (1,000 x 200)	2,00,000
STCL	(80,000)
Loss of ₹ 80,000 cannot be set-off and C/F, but it will be treated as cost of acquisition of 700 bonus shares.	



E.g. 2- Suppose in continue of example-1, Saloni transferred 400 bonus shares on 19/04/25 and 300 bonus shares on 15/07/25 for ₹ 70 & ₹ 130 per share respectively.

Sol. Computation of Capital Gain on transfer of bonus shares PY 25-26 AY 26-27

Particular	400 Shares	300 Shares
Full Value of Consideration(FVOC)	28,000	39,000
Less: COA	45,714	34,286
	(80000/700×400)	(80000/700×300)
STCL/STCG	(17,714)	4,714
Here STCL can be set-off again STCG and remaining can be carry forward.	STCL	STCG

E.g. 3- Suppose Saloni transferred 1000 original shares and 400 bonus shares on 14/02/25 @ ₹ 120 per share.

Sol. Computation of Capital Gain PY 24-25 AY 25-26

Particular	1000 org. shares	400 Bonus shares
Full Value of Consideration(FVOC)	1,20,000	48,000
Less: COA (1,000 × 200)	2,00,000	Nil
STCL/STCG	(80,000)	48,000
Loss of ₹ 80,000 cannot be set-off and C/F, but it will be treated as cost of acquisition of 300 bonus shares.		

E.g. 4- Suppose Saloni transferred 1000 original shares and 700 bonus shares on 14/02/25 @ ₹ 120 per share.

Sol. Computation of Capital Gain PY 24-25 AY 25-26

Particular	1000 org. shares	700 Bonus shares
Full Value of Consideration(FVOC)	1,20,000	84,000
Less: COA (1,000 × 200)	2,00,000	Nil
STCL/STCG	(80,000)	84,000
Loss of ₹ 80,000 can be set-off against STCG of ₹ 84,000		



Sec 94(1): Bond washing Transactions

Where the owner of any securities sells or transfers those securities before due date of interest, and buys back or reacquires the securities after due date, then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable by transferee, the interest shall be deemed to income of transferor of security.

Exception: Above section not applicable if:-

- (a) If there has been no avoidance of tax (eq. like transferee is also taxable at same rate).
- (b) If the avoidance was exceptional and not systematic and there was no avoidance of tax by the assessee during last 3 years (eq. transfer due to genuine reason).

Note: If transferor reacquiring similar security, then his tax burden shall not be higher than what would have been if he reacquired original security.

E.g.- Mr. BB acquired Bonds of Tisco on 01/01/2023 for ₹ 20,00,000, interest @ 9% payable on 31st Dec. of every year. Suppose BB transfer such bonds to Hari on 27/12/2023 and reacquired on 02/01/2024, then interest of ₹ 1,80,000 received by Hari shall be taxable in hand of Mr. BB due to sec. 94.

Suppose in above example Mr BB acquired 12% debenture from Hari instead of original bonds then also interest of ₹ 1,80,000 shall be taxable in hands of Mr. BB.

Sec 94(7): Interest Stripping Transactions

- i) If any person buys or acquires any Security or Units at any time within a period of 3 months prior to record date

And

- ii) Sells or transfer such-
 - a) Securities within 3 months after such record date

OR

- b) Units within 9 months after such record date

And

- iii) Interest or income from such Securities/Units is Exempt from tax

Then

- iv) Loss arising from transfer of such securities or units shall be IGNORED to the extent Income claimed to be exempt.

Note: The loss referred u/s 94(7) and 94(8), need not necessarily be capital loss, it could be business loss also.



Notes



Sec 28: Charging Section

Following income shall be taxable under the head PGBP.

1. Any **profit** or gain of any **Business/Profession**.
2. Profit on sale of **import entitlement licence**.
3. Cash compensatory support or **duty drawback**.
4. Profit on sale of **DEPB** [duty entitlement pass book scheme] or Duty Free Replenishment certification [**DFRC**].
5. Any amount received under **Key-Man insurance policy**.
6. Any **gift/benefit/perquisite** arising due to business or profession, whether convertible into money or not or in cash or in kind or partly in cash & partly in kind.
7. Any **interest, salary, bonus, commission** received by **partner** from partnership **firm** [to the 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 the date on which it is **converted into Capital asset**.
11. Any **compensation** in connection with the **termination or modification** of the terms and conditions, of any **contract relating to his business**. Accordingly, any compensation, whether revenue or capital, in connection with the termination/modification of the terms and conditions of any business contract shall be taxable under PGBP.

- Any income from letting out of a residential house or a part of the house by the owner **shall not be taxable under "PGBP"** and shall be taxable under "Income from house property"

[Explanation added by FA 24 w.e.f. AY 25-26]

- **Speculation Business:** It means a transaction in which a contract for the purchase or sales of any commodity including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips.
- **Transaction not deemed to be speculative transaction**
- a) **Hedging contract** in respect of raw materials or merchandise or stocks and shares.
 - b) **Forward contract**.
 - c) Trading in **derivatives** through recognised stock exchange.
 - d) Trading in **Commodity derivatives** through RSE on which CTT paid. However, the requirement of charge ability of CTT not applicable in respect of trading in agricultural commodity derivatives from A.Y. 19-20.



Notes:

1. Speculative business shall be treated as separate and distinct business.
2. Assessee had to **deposit margin money with bank** for obtaining bank guarantee and such guarantee **is essential for assessee business**. Any interest earned on such deposits will be taxed under PGBP and not IFOS as this interest is inextricably linked to the business. **[K & Co. (Del HC)]**
3. The main objective of the company as per its MOA is to acquire and hold properties in Chennai and let out these properties. Therefore, holding of the prop. and earning income by letting out these prop. is the main objective of the company. Further, in the ROI filed by the company and accepted by AO, the entire income of the company comprised of income from letting out of such properties & Nature of activity of assessee is Business activity. Income is taxable under the head **PGBP** and **not IFHP**. **[Chennai Properties & Investment Ltd (SC)]**
BB's Note: Following the FA-24 amendment, this case law now only applies to commercial properties, not residential ones.

Sec 29: How to compute PGBP

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

Sec 30: Rent, Rates, Taxes, Repairs & Insurance of Building

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

Sec 31: Insurance & Repair of Plant & Machinery and Furniture

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

[Sec 37]

Notes :

1. Expenses u/s 30 & 31 allowed only if asset **used for business or profession**.
2. Capital repair **not allowed** as deduction as it will be **added to cost of asset**. Capital repair incurred by tenant is treated as **Deemed Building** & depreciation is allowed to Tenant.
3. If a firm runs its business in the premises owned by its partner, the rent payable to the partner will be an allowed to the extent it is reasonable and is not excessive.

Sec 32: Depreciation

A. Conditions to claim depreciation

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

Notes:

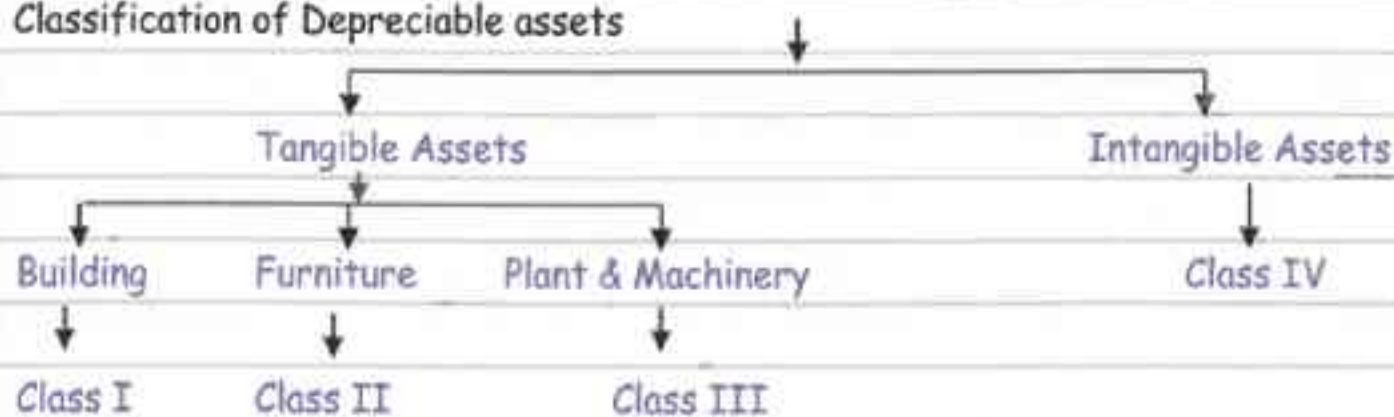
1. Depreciation is allowed if assessee is **beneficial owner**.
2. In case of Lease, Depreciation is always claimed by lessor whether it is Financial lease or Operating lease [CBDT circular].
3. In case of Hire Purchase, assessee gets the ownership only after payment of last instalment but he can claim **depreciation from beginning**, assuming assessee is the owner from beginning.
4. Depreciation on asset **partially owned** by the assessee shall be allowed to him of his share in asset.
5. In case of stand by machinery and emergency spares, the depreciation shall be allowed even if they are ready for use & not put to use.

➤ **ICDS Ltd (2013)(SC):** Depreciation shall be allowed to **lessor** even though the asset is **registered** in the name of the **lessee**. As per lease agreements-

- The lessor is the exclusive owner of the vehicle at all points of time.
- The lessor is empowered to repossess the vehicle, in case the lessee committed default.
- The lessor had a right of inspection of the vehicle at all times.
- At the end of the lease period, the lessee was obliged to return the vehicle to the lessor.

It can be seen that the proof of **ownership lies in the lease agreement itself**, which clearly points in favour of the lessor.

B. Classification of Depreciable assets



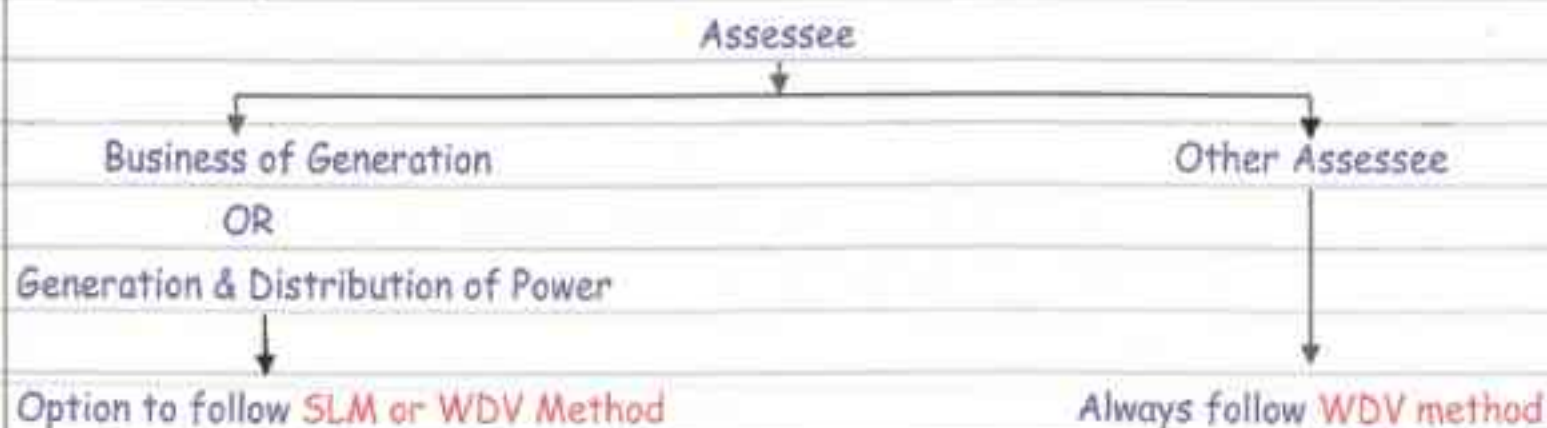
C. Rates of Depreciation (WDV Method) (Block of Asset System)

S.No.	Assets	Rate
1.	Building (includes roads, bridges, wells and tubewells)	
	(i) Residential use (except hotels)	5%
	(ii) Other Use	10%
	(iii) Temporary or Wooden Structure	40%

2.	Furniture & Fittings (include electrical fittings like fans, wires, switches etc.)	10%
3.	Plant & Machinery	
	(i) Motor Vehicles	15%
	- Acquired & put to use between 23.08.19 to 31.03.20	30%
	(ii) Motor Vehicles (Lorries, buses, taxi) used in Hire Business	30%
	- Acquired & put to use between 23.08.19 to 31.03.20	45%
	(iii) Ships, Vessels, Speed Boats	20%
	(iv) Aeroplanes, Aeroengines	40%
	(v) Computer & Computer software	40%
	(vi) Books (include annual publication or used in libraries)	40%
	(vii) Pollution Control Equipment's	40%
	(viii) Windmills & its equipment installed before 01/04/14	15%
	- Windmills & its equipment installed on or after 01/04/14	40%
	(ix) Renewable Energy Devices (include E-Vehicles)	40%
	(x) Oil wells	15%
	(xi) Other P&M	15%
4.	Intangible Assets	25%

Notes:

1. **Mandatory** to claim depreciation for all assessee.
2. EPABX & Mobile phone are **not computers**; hence Depreciation @ 40% is **NOT** eligible.
3. Intangible assets include know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature but **other than goodwill of business and profession**.
4. Depreciation rate for computers accessories is 40% i.e. UPS, printer, scanners etc.
5. Depreciation allowed when asset **actually put to use & not ready to use**.
6. As per Sec. 43(3) plant includes **ships, vehicles, books, scientific apparatus & surgical equipment** used for business or profession but does not include Tea bushes, live-stock, building, furniture.

D. Method of Depreciation


E. System of Depreciation

WDV Method

Block of Asset system
shall apply

SLM method

Individual asset system
shall apply (Power Units)

- Block of asset means "Group of assets having Same Rate of dep within the Same Class of Asset"
Block Of Asset = Same Rate + Same Class
- Individual assets system: Depreciation calculated on Individual asset - Same as Accounts.

F. Calculation of depreciation (Block of asset/ WDV method)

Particulars	Amount ₹
Opening WDV of block	xx
Add: Actual cost of asset acquired during PY	
➤ Put to use 180 days or more (upto 3 rd Oct)	xx
➤ Put to use less than 180 days (on or after 4 th Oct)	xx
➤ Acquired but not put to use	xx
	xx
Less: Money payable [selling price of asset]	(x)
Less: WDV of assets transferred in Slump sale (compute WDV of asset assuming this is only asset in block)	(x)
** WDV of Block for the purpose of Depreciation	xx
Less: Depreciation Actually Allowed	(x)
Closing WDV of Block	xx

** WDV of Block of Assets

Asset acquired but
not put to use

No Depreciation

Put to use less
than 180 days

Half rate Dep.

Balance

Full rate Dep.

Notes:

1. If asset acquired during current PY & not put to use then depreciation shall not be allowed for such asset but that asset should be added to Block of asset.
2. Actual sale price of asset shall be reduced and not the FMV of asset sold.

3. If assessee transferred Building then **actual sale price shall be reduce** and NOT SDV. However **if sec. 50 attract then SDV shall be considered** for computation of capital gain.
4. Money payable means **sale price or insurance compensation** in respect of asset sold, discarded, demolished or destroyed during the PY and the amount of scrap value.

➤ **Proviso to Sec. 32(1):**

Depreciation is restricted to 50% if asset put to use for less than 180 days in the **year of acquisition**, restriction applies only in the year of acquisition.

Year of Acq.	Year of Put to use less than 180 days	Depn. Allowed	Rate
PY 24-25	PY 24-25	PY 24-25	Half Rate
PY 24-25	PY 25-26	PY 25-26	Full Rate

G. **Proviso to Sec. 32(1): Depreciation in case of Amalgamation/Demerger/Succession**

In these cases depreciation is calculated normally & after that it shall be distributed between Amalgamating co./Demerged co./Predecessor **AND** Amalgamated co./Resulting co./Successor in the **Ratio of the number of days for which assets were used by them.**

Succession means:

- (i) Firm / Proprietorship → Company Sec. 47(xiii)/(xiv)
- (ii) Company → LLP Sec. 47(xiiib)
- (iii) Any other succession other than death.

H. **Sale of Asset / Capital Gain in case of depreciable assets [Block of asset]**

Part- A: Where a Block of assets ceases to exist [All Asset Transfer]

Sale Price of asset	5,20,000	7	9,30,000	7
Particular	₹	No.	₹	No.
Opening WDV of block	6,00,000	5	6,00,000	5
(+) Actual cost of Asset acquired	2,00,000	2	2,00,000	2
	8,00,000	7	8,00,000	7
(-) Sale value of assets	(5,20,000)	7	*(8,00,000)	7
Capital Loss	2,80,000	-	-	-
	Asset →	No	Asset →	No
	WDV →	Yes	WDV →	No
	Depn →	No	Depn →	No
	CG →	Yes	CG →	Yes
Computation of Capital Gain				
Full Value of Consideration	5,20,000		9,30,000	
Less: COA (Op Wdv + Actual Cost)	(8,00,000)		(8,00,000)	
	(2,80,000) ←	STCL	1,30,000 ←	STCG



* Block can be Nil but Never Negative.

Note: In case of Depreciable assets there is always STCG/STCL.

Part- B: Where some assets of Block of assets Transferred				
Sale Price of asset	9,10,000	4	6,20,000	4
Particular	₹	No.	₹	No.
Opening WDV of block	6,00,000	5	6,00,000	5
(+) Actual cost of Asset acquired	2,00,000	2	2,00,000	2
	8,00,000	7	8,00,000	7
(-) Sale value of assets	*(8,00,000)	4	(6,20,000)	4
Capital Loss	-	3	1,80,000	3
	Asset →	Yes	Asset →	Yes
	WDV →	No	WDV →	Yes
	Depn →	No	Depn →	Yes
	CG →	Yes	CG →	NO
Computation of Capital Gain			Normal	
Full Value of Consideration	9,10,000		Dep.	
Less: COA(Op Wdv + Actual Cost)	*(8,00,000)		Allowed	
	1,10,000 ←	STCG		

* Block can be Nil but Never Negative.

I. Sec. 32(1)(iia) Additional Depreciation

- Eligible Assessee - engaged in the business of **manufacture** of any article or **generation transmission or distribution of power**.
- Additional depreciation @20% allowed on Plant & Machinery, excluding:
 - ⌘ Second hand P&M.
 - ⌘ Any p&m installed in **office premises or residential accommodation**.
 - ⌘ **Ships, aircraft & transports vehicles**.
 - ⌘ P&M on which **100% deduction allowed**.
- Additional depreciation is allowed only in the **First year in which it is put to use**. If put to use for less than 180 days then 10% depn shall be allowed in current year and remaining **10% in next year**.
- Printing** or printing and publishing treated as **Manufacturing Business** eligible for Add. Dep. [CBDT]
- Add. dep.** is allowed only if assessee opt **WDV method**. It is not allowed to Power units if they opt SLM method.
- Forklift Truck** used in factory is not treated as transport vehicle so it is eligible for Add. dep.





6.	Capital asset transferred by holding Co. to 100% subsidiary Co. or 100% Subsidiary Co. to holding Co. [Sec. 47 (iv)/(v)]	Cost/opening WDV to the transferor company
7.	Transferred by Amalgamating Co. to Amalgamated Co.	Cost/opening WDV to the Amalgamating Company
7A.	Transferred by Demerged Co. to Resulting Co.	Cost/WDV (at the time of demerger) to demerged Company
8.	Asset acquired out of Borrowed fund	Interest upto first put to use form part of Actual Cost.
9.	GST, Custom duty etc.	Duty in respect of which ITC claim not allowed forming part of Actual Cost.
10.	Govt Grant / Subsidy	If related to any asset then reduce from actual cost.
11.	Asset brought into India by NR for use in his Business or Profession	Actual Cost xx -Dep. Calculated at the rate in force as if the asset was used in India from date of acquisition xx
12.	Any capital asset acq. under corporatisation of RSE (AOP/BOI to Company)	Cost/WDV of AOP/BOI
13.	Actual Cost allowed as deduction u/s 35AD and capital asset transferred to non-specified business after 8 years from the year of acq. or transfer by way of transactions referred in sec.47.	Actual cost for transferee shall be NIL

- **Expln 7 of Sec. 43(6):** In cases where partly income from Business and Partly from Agriculture (Tea, coffee & Rubber Growing & Mnf.), for the purpose of computing WDV, the depreciation shall be computed as if the entire income of the assessee is "PGBP". The depreciation so computed shall be deemed to have been "actually allowed" to the assessee.

E.g. Mr. BB engaged in Grwoing & Mnf. of Tea in this case only 40% income taxable under PGBP. If the turnover is, say, ₹20 lakh, the dep. ₹ 1 lakh and other exps. ₹ 4 lakh, then the income would be ₹ 15 lakh. PGBP would be ₹ 6 lakh (being 40% of ₹ 15 lakh). As per earlier Court decisions, only the depreciation "actually allowed" i.e., ₹ 40,000, being 40% of ₹ 1 lakh, has to be deducted to arrive at the WDV but as per this explanation total ₹ 1 lakh shall be reduce to compute WDV.

K. Dep. for Power Units/Sale of Assets/SLM method /Individual asset system

If power units follows SLM method then they are subject to individual asset system profit & loss is calculated on every sale.

For better understanding let's take an example:

Actual cost of asset = ₹ 100

Rate of depn = 10% SLM

In 3rd year suppose asset sold for a) ₹ 72

b) ₹ 89

c) ₹ 117

Calculation of Dep. for 2 years

Actual Cost	100
- Dep. 1 st Year	(10)
	90
- Dep. 2 nd Year	(10)
WDV	80

Tax treatment in the year of sale (3rd Year)

	A	B	C
Sale Value	72	89	117
Less: WDV	80	80	80
Profit/(loss)	(8)	9	37

Terminal Dep.
Allowed as ded.
u/s 32(I)(ii)
P&L - Dr. Side

Balancing Charge
taxable u/s 41(2)
under PGBP

₹ 20 (upto cost)
Balancing
Charge u/s
41(2)-PGBP

₹ 17
SP > Cost
STCG u/s
50A

L. If asset is not exclusively used for the purpose of Business/Profession then deduction u/s 30,31,32 shall be restricted to a proportionate part as determined by A.O.

Example:

Opening WDV of car (01/04/23) = ₹ 4,00,000

Suppose, CAR 60% used for business purpose & 40% used for personal purpose

Dep. @15% on ₹ 4,00,000 i.e. ₹ 60,000. In this case 60% i.e. ₹ 36,000 dep. allowed and 40% i.e. ₹ 24,000 disallowed.

While calculating Closing WDV only ₹ 36,000 dep. actually allowed shall be reduced from Block.

M. Sec.32(2) Unabsorbed Depreciation

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

- > It can be set-off against the income of any other head **except "Salaries"**.
- > It **can be setoff** even if the **business** to which it relates **does not exists**.
- > Order of setoff will be: **C.Y. dep → B/F business loss → unabsorbed dep.**

➤ Taxation of Grants/Subsidies from Govt.

Any subsidy, grants, cash incentive, duty drawback, waiver etc. by CG or SG or any Authority or Body [other than referred in expl. 10] shall be **treated as Income under PGBP. Sec. 2(24)(xviii).**

Notes

- (i) If subsidy received for acq. an asset, it shall be deducted from Actual cost of asset.
- (ii) Any subsidy/grant received by trust or institution (established by CG/SG) as a Corpus fund from Central Govt shall **not be treated as income.**
- (iii) Above provision not applicable on LPG subsidy or any other welfare subsidy of the individual.

➤ Treatment of interest on loan taken for acquiring asset

(a) Interest upto the date of asset first put to use: **add to actual cost.**

(b) Interest after the date of asset first put to use: **allowed as revenue exp.**

Sec.	33AB: Deduction for Tea, Coffee, Rubber Growing & Mnf Business	33ABA: Deduction for Petroleum & Natural Gas business
Assessee	All assessee engaged in the business of Growing & Mfg of tea, coffee, rubber in India.	All assessee engaged in the business of Prospecting extraction production of natural gas or petroleum in India
Deposit	Dedn is allowed if some amount is deposited in NABARD upto the due date of return filing or 6 months from end of PY, whichever earlier	Dedn is allowed if some amount is deposited in SBI [Site Restoration A/C] upto the end of the P.Y.
Deduction Amount	(i) Actual amt deposited xx (ii) 40% of PGBP (before this dedn) xx Whichever is lower	(i) Actual amt deposited xx (ii) 20% of PGBP (before this dedn) xx Whichever is lower
Utilization	Deposited amount should be utilized for purposes prescribed by Tea, Coffee Rubber Board.	Deposited amount should be utilized for purposes prescribed by Ministry of Petroleum & Natural Gas Govt of India.
Mis-utilization	If deposited amount is mis-utilized then deduction allowed earlier shall be withdrawn & taxable under PGBP.	

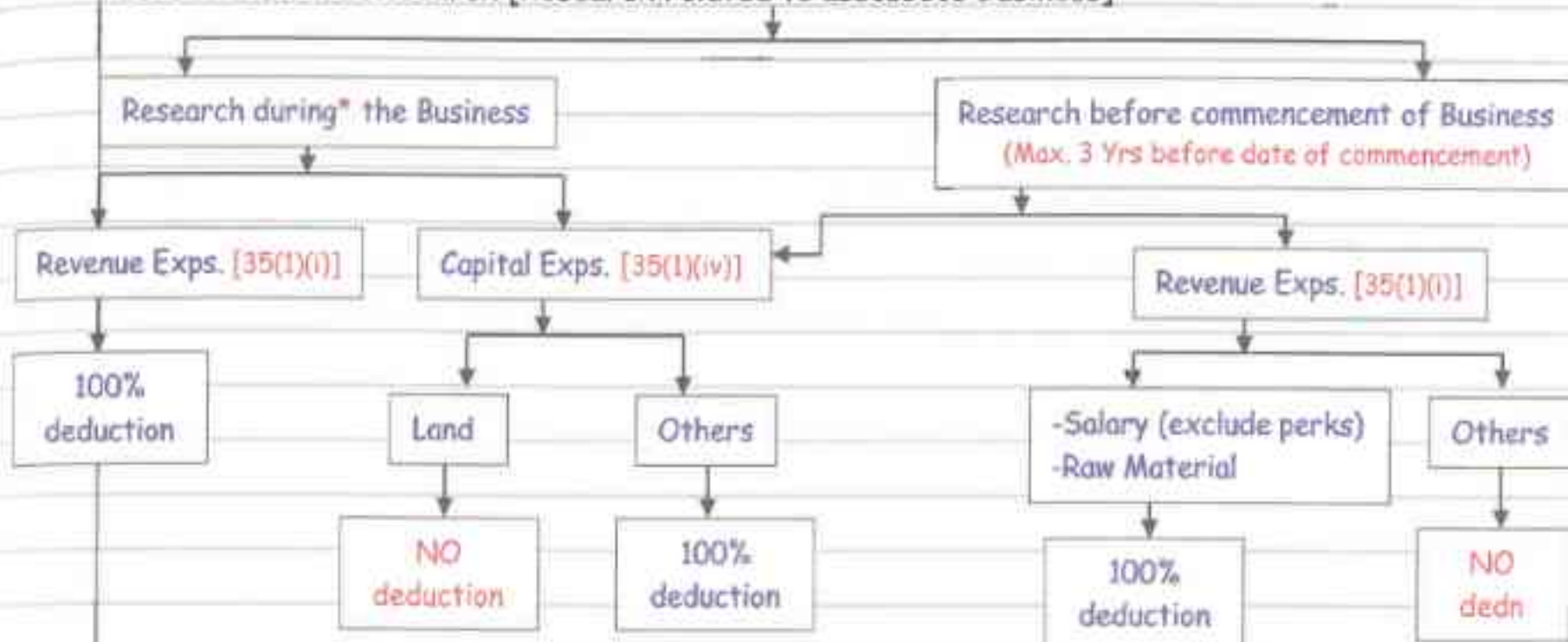
➤ Some common points of Sec. 33AB/33ABA

- If any amount is withdrawn from NABARD/Site Restoration a/c should be utilized **in year of withdrawal only**, otherwise such amount shall be taxable.
- If any amount is utilized for following purposes then deduction claimed earlier shall be withdrawn :
 - ⌘ For P&M used in **office premises** or **residential accommodation**

2. For **office appliances** [not being computer]
 3. P&M on which **100% deduction already allowed** under the head PGBP.
3. When amount utilized [as per scheme] for **revenue expenses** then such expenses **shall not be allowed** as deduction under PGBP.
4. When amount utilized [as per scheme] for **purchase of any P&M** then depreciation **shall be allowed** on such P&M.
5. Where asset purchased is sold/ transferred before expiry of 8 years from end of P.Y. in which it was acquired, such part of asset as is relatable to deduction allowed, shall be deemed to be income of P.Y. in year of sale/transfer of asset. Restriction of 8 years shall NOT apply: -
- Where asset is **transferred to Govt/Local Authority/Statutory corp, Govt. Company.**
 - Transfer is by **succession of firm to company** whereby all assets and liabilities of firm are transferred to company and all shareholders of the company were partners of the firm immediately before succession.
6. Where any amount outstanding in deposits is withdrawn on account of:
- | Sec. 33AB | | Sec. 33ABA |
|------------------------|---|--|
| Closure of Business | <div style="border: 1px solid black; padding: 2px; text-align: center;">Taxable in the year of Withdrawal</div> | No Conditions. Amount withdrawn (-) Any amount payable to CG shall be fully taxable in the year of withdrawal |
| Dissolution of firm | | |
| Death of the Assessee | <div style="border: 1px solid black; padding: 2px; text-align: center;">Not Taxable</div> | |
| Partition of HUF | | |
| Liquidation of company | | |
7. Assessee claiming deduction u/s 33AB/33ABA shall get his books audited and furnish a report by a CA in Form 3AC/3AD before the due date specified u/s 44AB [atleast 1 month prior to due date for filing return u/s 139(1)].

Sec 35: Scientific Research

Part A: Inhouse Research [Research related to assessee's Business]



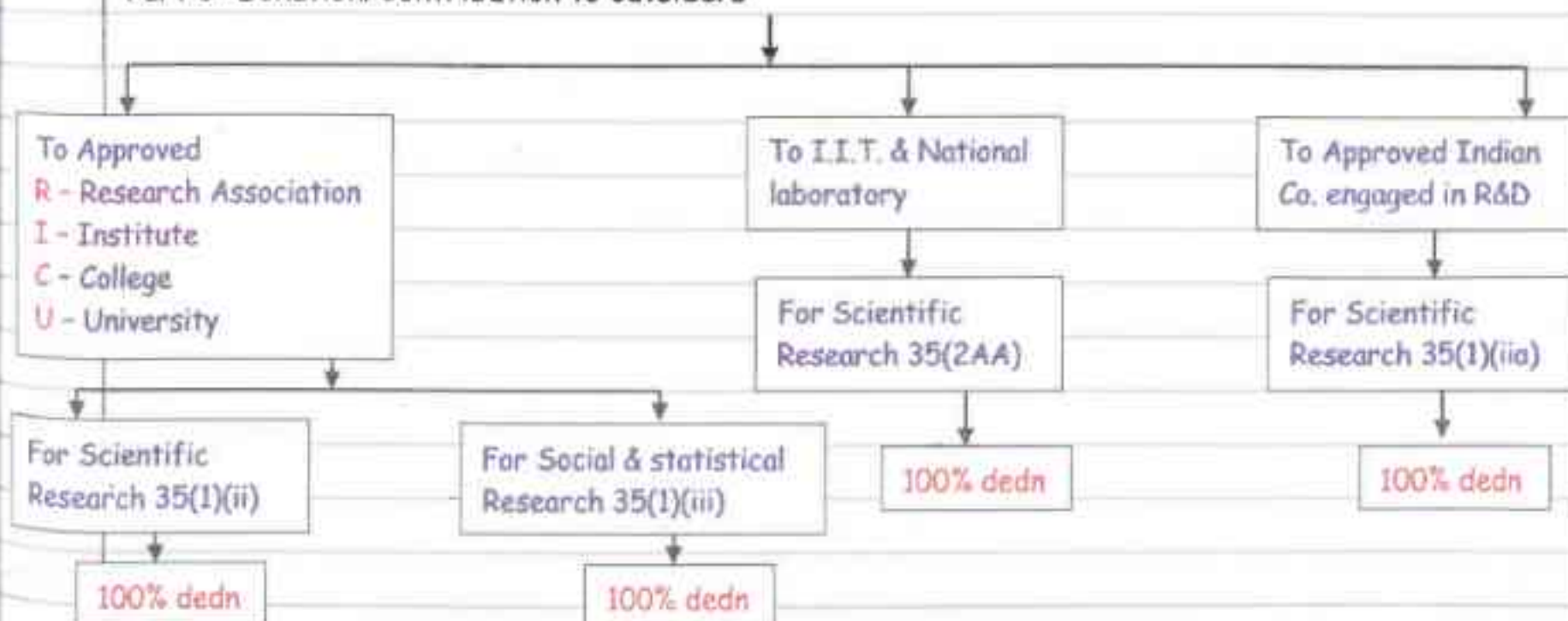
* Sec.35(2AB) If following conditions are satisfied then deduction @100% allowed on all revenue & capital exps. except Land & Building u/s 35(2AB) instead of 35(1)

- (i) Assessee should be **Company**
- (ii) Company engaged in **manufacturing & Bio-technology** business
- (iii) Research approved by prescribed authority

If above conditions satisfied then deduction allowed as follows:-

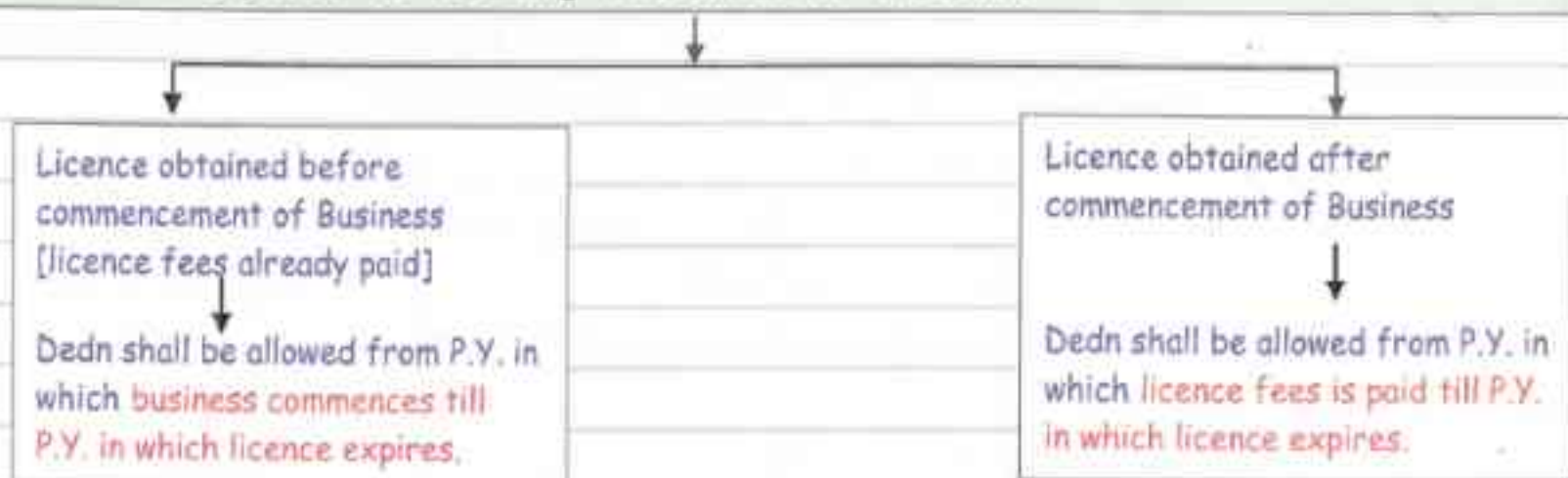
- Land - **No deduction**
- Building - **100% deduction 35(1)(iv)**
- Other Rev. & Capital exps. - **100% deduction 35(2AB)**

Part B: Donation/Contribution to outsiders



Notes:

1. The deduction u/s 35(1)(ii)/(iia)/(iii)/35(2AA) shall **not be denied** if **approval** of such institution has been **withdrawn** after payment of sum by assessee.
2. **No depreciation** allowed on assets if deduction u/s 35 claimed.
3. If **L&B** purchased through a composite agreement then the cost of **L&B** shall be **bifurcated** on the basis of FMV because cost of land is not allowed as deduction.
4. Unabsorbed research capital expenditure can be set off & c/f same as un-absorbed depreciation.
5. Deduction u/s 35(1)(ii), 35(2AA) & 35(2AB) earlier was 150% upto AY 20-21.
6. **Sec 35(1A):** Payer shall be entitled to deduction u/s 35(1)(ii)/(iia)/(iii) only if:
 - (i) The **donee institution** prepares a **statement in Form No.10BD** and submitted to PDGIT(System) upto 31st May of next FY, and
 - (ii) The **donee institution** furnishes a **certificate to the donor** in Form No. 10BE upto 31st May of next FY.

Sec 35ABB: Expenses for obtaining Telecommunication Licence


E.g. Idea commenced business of telecommunication service during 1995-96. Assessee acquired telecommunication licence on 01/7/2024 for ₹ 1,00,000 life of licence 10 years [till 30/6/2034] deduction amount for P.Y. 2024-25

$$= \frac{1,00,000}{11 \text{ Years [PY24-25 to PY34-35]}} = ₹ 9091.$$

➤ **Tax treatment on sale of Licence**

For better understanding we are going to take an example

Cost of licence = ₹ 100 [total amount paid in the beginning] Life of licence = 10 years

Suppose licence sold in 3rd year at a) 72 b) 89 c) 117

Part A: Full Licence Sold

Part B: Part Licence Sold

Part A: Full Licence sold	₹
Cost of licence	100
(-) dedn 1st year u/s 35ABB	10
Un-amortised fees	90
(-) dedn 2nd year u/s 35ABB	10
Opening un-amortised fees	80

Tax treatment in the year of sale (3rd Year)

	A	B	C
Sale Value	72	89	117
Less: Un Amt.	80	80	80
Profit/(loss)	(8)	9	37

Allowed as ded.
u/s 35ABB
P&L - Dr. Side

Taxable
under PGBP
P&L Cr. side

₹20 (upto cost)
Taxable under
PGBP
P&L Cr. Side

₹ 17
SP > Cost
ST on LT
Depends on POH

Part B: Part Licence sold	₹
(a) SP	72
(-) Unamortised fees	(80)
	8

Allowed as deduction in the remaining
life of licence.

$$\frac{\text{Un-amortised fees - Sale value}}{\text{Residual Period}} = \frac{80 - 72}{8 \text{ years}} = ₹ 1 \text{ for every year for 8 years}$$

(b) & (c) same as part (A) [Full Licence transfer]

◆ Section 35ABA : Expenses for obtaining Telecommunication spectrum

As provision contained in section 35ABB, shall apply as if for the word "Licence" the word "Spectrum" had been substituted.

Common points for Sec. 35ABA/ABB

- Depreciation u/s 32 shall **not be allowed** for Telecommunication licence & Spectrum.
- In case Amalgamation or Demerger, then remaining deduction shall be allowed to Amalgamated Company/ Resulting company as they would have allowed to Amalgamating Co/ Demerged Co.

Sec 35CCC: Expenditure on Agriculture Extension Project

Deduction @100% allowed, if expenses (except L&B as per CBDT Notification) incurred for notified agriculture extension project. This deduction is allowed to all assessees.

Sec 35CCD: Expenditure for Skill Development Project

Deduction @ 100% allowed, if any expenditure incurred (except Land & Building) for notified skill development project. This deduction is allowed only to companies.

Note: Any expenditure incurred by the assessee which is reimbursed or reimbursable by any person directly or indirectly, shall not be eligible for deduction u/s 35CCC/35CCD.

Sec 35D: Preliminary expenses

➤ **Meaning:** (a) Preparation of feasibility study/project report

(b) Market survey

(c) Engineering services

(d) Drafting & printing of MOA/ AOA.

(e) Legal fees

(f) Expenses related to public issue of shares & Debenture

(g) other expenses may be notified by CBDT.

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

➤ **Amount of deduction**

Indian Company

(i) Actual Preliminary Exps.	xx
(ii) 5% COP/CE**	xx
Whichever is Lower	

Other Resident

(i) Actual Preliminary Exps.	xx
(ii) 5% COP	xx
Whichever is Lower	

** COP or CE, whichever is Higher

➤ **Notes :**

1. Above deduction is allowed in 5 equal instalments.

2. COP = Cost of project [Amount invested in fixed asset of new project or extension or setup new unit as per books as on last day of P.Y.]

3. CE = Capital employed [share capital + debentures + long term borrowing for new project or extension or setup new unit as per books as on last day of P.Y.]

4. Reserve and surplus (including security premium) shall not be part of CE.

5. Audit is mandatory for the year in which such expenses incurred except company and co-operative society & audit report should be submit upto date given u/s 44AB.
6. Assessee shall furnish the details of expenditure in Form No. 3AF to Income Tax Authority within 1 month prior to the due date of ROI u/s 139(1).

Sec 35DD: Expenses on Amalgamation & Demerger

Assessee: Only **Indian Company**

Deduction allowed in **5 equal instalments**.

Note: Deduction is allowed to the assessee who has incurred such expenditure.

Sec 35DDA: Expenditure on Voluntary Retirement Scheme

Assessee : **All Assesses**

Deduction allowed in **5 equal instalments**.

Note: 35D & 35DDA

1. If there is Amalgamation/Demerger, then remaining deduction shall be Allowed to Amalgamated Company/Resulting Company
2. U/s 35DDA remaining deduction allowed to successor in case of succession referred u/s 47(xiii)/(xiv)/(xiiib).

Sec 35E: Taxation of Mining of Coal/Limestone/Iron/Zinc, etc.

1. **Assessee:** Engaged in prospecting/extraction/production of minerals like coal, limestone, iron, gold, zinc etc.
2. Deduction allowed for expenses incurred on-
 - Any operation of prospecting for any minerals;
 - Development of mine or other natural deposit of any mineral.
3. Such expenditure should be incurred during the year of **commercial production and 4 years immediately preceding that year**.
4. Deduction allowed over a period of **10 years from the year in which commercial production started**. Any Unabsorbed expenditure can be carried forward and be allowed along with instalment of next year (upto 10 years).
5. This deduction is **restricted to income** from PGBP of mines.
6. Deduction not allowed on expenses incurred for acquisition of mines/sites or building, P&M, furniture on which depreciation is allowed.
7. Audit is mandatory for first year in which deduction is claimed and assessee has to submit report of CA upto date mentioned u/s 44AB.

Sec 35AD: Specified Business

No.	Business	Commencement on or after
Under this section ded. @100% allowed for Capital Expenses and this section is optional for assessee.		
1	Setting up & Operating a Cold Chain facility	01/04/2009
2	Setting up & Operating a warehousing facility for agri. Produce	01/04/2009
3	Laying & Operating cross country pipeline for distribution of petroleum oil, natural gas.	Nat. Gas. $\frac{1}{2}$ /07 Petro. $\frac{1}{2}$ /09
4	Building & Operating a Hotel of 2 star or above	01/04/2010
5	Building & Operating a Hospital with min. 100 patient beds	01/04/2010
6	Developing & Building a Housing Project under Slum Development scheme	01/04/2010
7	Developing & Building a housing Project under affordable housing scheme	01/04/2011
8	Production of Fertilizers in India	01/04/2011
9	Setting up & Operating inland container depot or container freight station	01/04/2012
10	Bee keeping and production of bee's Honey & Wax	01/04/2012
11	Setting up & Operating a warehousing facility for sugar	01/04/2012
12	Laying & Operating a slurry pipeline for transportation of Iron ore	01/04/2014
13	Setting up & Operating a Semi-conductor wafer fabrication manufacturing unit	01/04/2014
14	Developing or maintaining and operating or developing, maintaining and operating a New Infrastructure Facility	01/04/2017

Conditions & Notes:

- Not formed by splitting or reconstruction of existing business means business should be New.
- P&M should be New
Exception: (a) Imported old P&M (P&M on which dep. not claimed under IT Act.)
(b) 20% of total P&M can be old (Second Hand)
- If assessee is in the business of Laying cross country Pipeline then some portion of pipeline should be made available for use of others on common carrier basis.
- Deduction allowed on all Capital expenses except (a) Land (b) Goodwill (c) Financial instruments. Further, any exps. for which payment made to a person of an amount exceeding ₹ 10,000 in a day otherwise than by a/c payee cheque or DD or ECS would not be eligible for deduction.
- Depreciation not allowed if deduction claimed u/s 35AD.

6. Loss of specified business can be carried forward indefinitely.
7. If asset (on which deduction claimed u/s 35AD is allowed) sold, then the **entire sales price shall be taxable as PGBP** [Section 28].
8. Loss of specified business **can be set off only against specified business** income irrespective of whether the latter is eligible for deduction u/s 35AD.
Example: A assessee can therefore, set-off the losses of a hospital or hotel which begins to operate after 1/04/2010 and which is eligible for deduction sec. 35AD, against the profits of the existing business of operating a hospital (with atleast 100 beds for patients) or a hotel (of 2* or above) started before 1/04/2010 even if the latter is not eligible for deduction u/s 35AD.
9. If deduction u/s 35AD is claimed then deduction u/s 80IA to 80RRB & 10AA deduction shall not be allowed.
10. In case of Hotel (2 * or more) if assessee transfers operation to another person, then assessee shall be deemed to be carrying on the specified business.
11. Infrastructure facility means:
 - (i) A road including toll road, a bridge or a rail system.
 - (ii) A highway project including housing or other activities being an integral part of the highway project.
 - (iii) Water supply project, water treatment system, irrigation project, sanitation and sewage system or solid waste management system.
 - (iv) A port, airport, inland waterway, inland port or navigational channel in the sea.
12. Business of cross-country pipeline and new infrastructure facility should be **owned by Indian Company or consortium of such companies** or by an authority or a board or corporation or any other body established or constituted under any Central or State Act.
13. Business of cross-country pipeline should be approved by the Petroleum and Natural Gas Regulatory Board and notified by the CG. Under New infrastructure facility entity should have entered into an agreement with the CG/SG/Local Authority or any other Govt body.
14. Asset (on which deduction claimed u/s 35AD) should be exclusively used for specified business for minimum **8 yrs. from the year of acquisition**.

If it is used for non-specified business within 8 yrs. then following shall be taxable under PGBP.

Particular	₹
Amount of deduction claimed u/s 35AD earlier	xx
(-) depreciation that would have been allowable if Sec. 35AD not there	(xx)
PGBP	xx

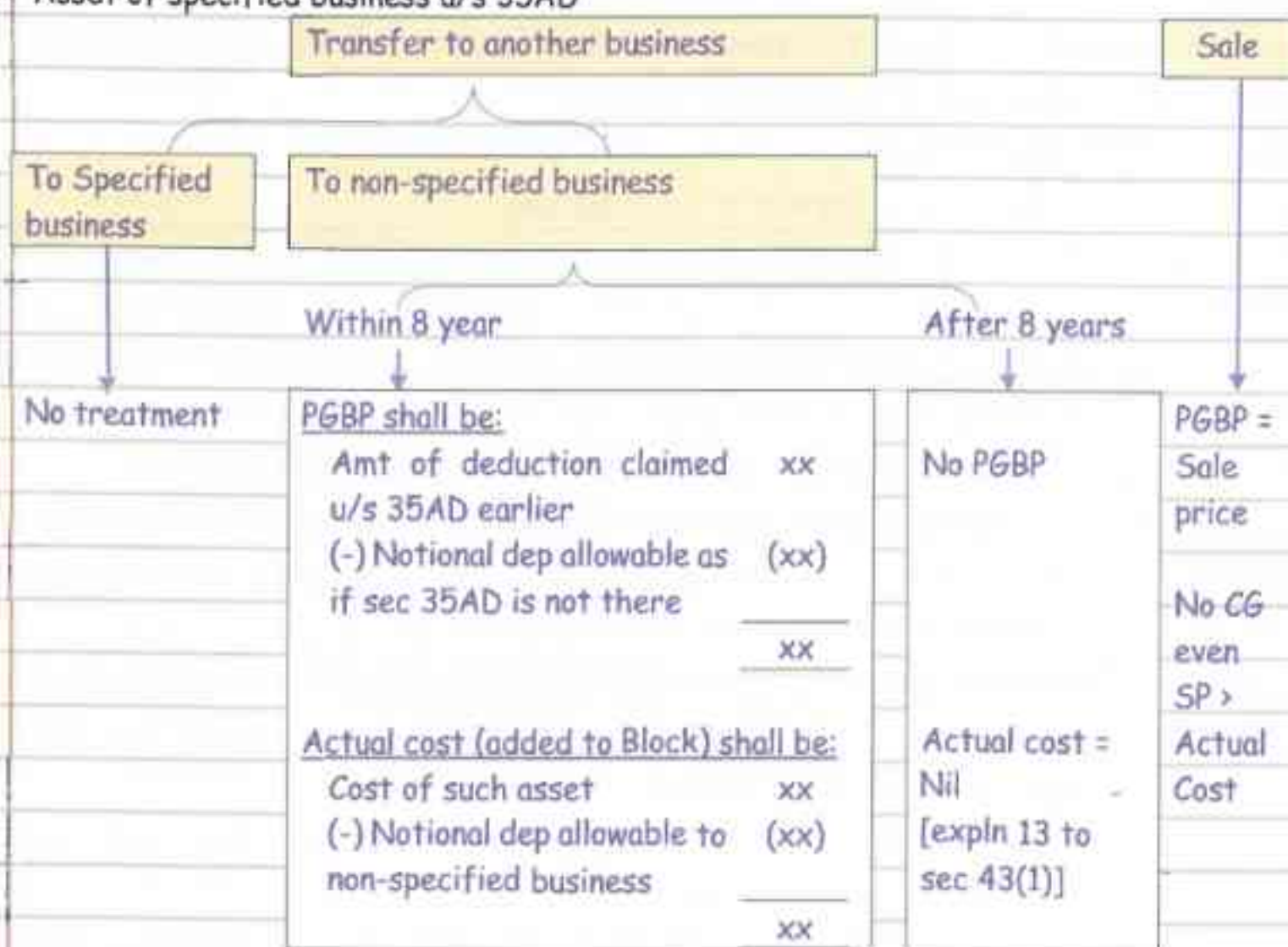
15. If asset is transferred from specified business to non-specified business within 8 years then Actual cost shall be-

Particular	₹
Cost of Such Asset	xx

(-) depreciation allowable if such asset used for non-specified business from acquisition	(xx)
Actual Cost	xx

16. Ceebros Hotel Pvt. Ltd (2018)(Mad.): Where the assessee has set up a hotel and applied for a 3 star category in the same PY, deduction u/s 35AD cannot be denied for the said year merely on the grounds that the approval was granted by the authority only in the next year. See 35AD is a beneficial provision and hence should be interpreted liberally. Assessee cannot be penalized for the delay made by the authority for completing their inspection and granting approval.

➤ Asset of specified business u/s 35AD

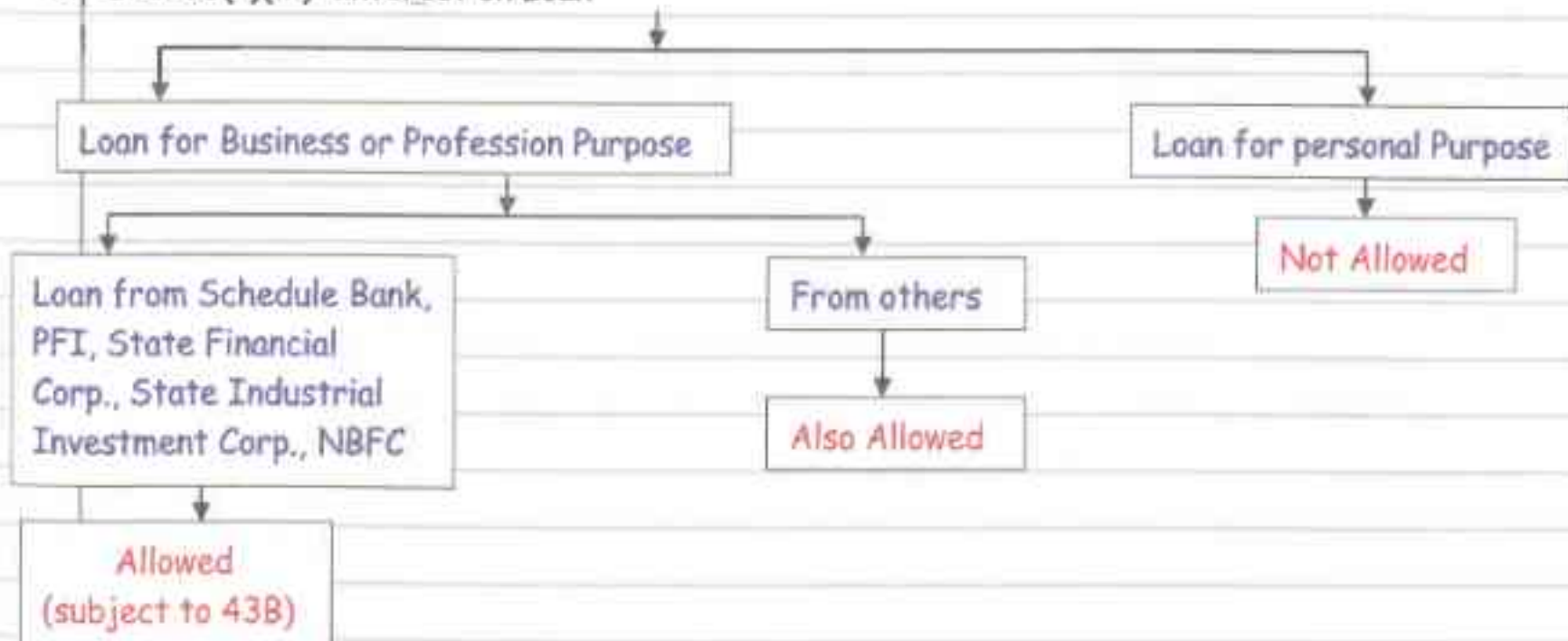


Sec 36: Certain deduction u/s 36

- Sec. 36(1)(i): Premium for insurance of stock -in-trade
It is **allowed** as deduction.
- Sec. 36(1)(ia): Insurance premium paid by a Federal Milk Co-operative Society
It is **allowed** if it is on the life of the cattle owned by a member of primary co-op. society which supplies milk to such Federal Milk Co-operative Society.
- Sec. 36(1)(ib): Health insurance premium for employees
It is **allowed** as deduction if premium paid in **any mode other than cash**.
- Sec. 36(1)(ii): Bonus or commission to employees
It is **allowed** as deduction subject to Sec. 43B. There is **no restriction** on the amount of bonus and it may exceed the bonus payable under the Payment of Bonus Act, 1965.

Shasun Chemicals & Drugs Ltd (2016)(SC): Company and its employee's union had a dispute as regard the quantum of bonus which led to labour unrest. Due to this reason bonus due to employees paid to a trust and such amount is subsequently paid to the employees by trust (after settlement of dispute) before the stipulated due date. AO disallowed u/s 40A(9) that bonus is not paid to employees and its paid to Trust. As per SC it has to be allowed u/s 36(1)(ii) as bonus is ultimately paid to employees only.

➤ Sec. 36(1)(iii): Interest on Loan



Notes:

1. Interest on loan taken for payment of IT shall be disallowed since IT is a personal liability.
2. Interest on loan advanced to sister concern for commercial expediency is allowed.



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

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

Example:

KRK Ltd issued 1,00,000 ZCB on 06/12/23 @ ₹ 80. Face value of bond is ₹ 100. ZCB redeemable after 10 months. Compute deduction allowed for P.Y. 2023-24

Solution: Total Discount = $1,00,000 \times 20 = ₹ 20,00,000$

Monthly Discount = $\frac{20,00,000}{10 \text{ months}} = 2,00,000 \text{ p.m}$

Discount for P.Y. 2023-24 = ₹ 2,00,000 x 4 months (Dec. 23 to March 24) = ₹ 8,00,000

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

Suppose in above example if ZCB issued on 16/12/23 then we will take 11 calendar months because period is 15 days, or more in the month of issue and redemption.

Monthly discount = $\frac{20,00,000}{11 \text{ months}} = 1,81,818$

Deduction for PY 23-24 = $1,81,818 \times 4 \text{ months} = ₹ 7,27,273$

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

- Statutory Provident fund (SPF)
- Recognized Provident fund (RPF)
- Approved Super annuation fund (ASF)
- Approved Gratuity fund (AGF)
- Any other fund as per law

Allowed
(subject to 43B)

- Unrecognized Provident fund (URPF)
- Unapproved Super annuation fund (UASF)
- Unapproved Gratuity fund (UAGF)
- Any other fund

Not Allowed

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

Deduction allowed to employer [Subject to sec 43B]

↓ (i) Actual contribution

↓ (ii) 14% of salary [Basic + DA (Terms)]

Whichever is lower.

[Amended by FA 24 w.e.f. AY 25-26]

➤ Sec. 36(1)(va): Employees contribution towards welfare fund

Any sum received by Employer from Employee as contribution to PF, super annuation fund, ESI etc. is deemed to be PGBP if such sum is not deposited in respective fund up to the due date to such fund.

Notes:

1. PF due date is 15th of next month.
2. If any amount deposited after due date of fund, then it will be treated as PGBP income of employer and never be allowed to employer.
3. As clarified by FA 21, here due date means due date of Fund & not a due date of ROI as per section 43B.

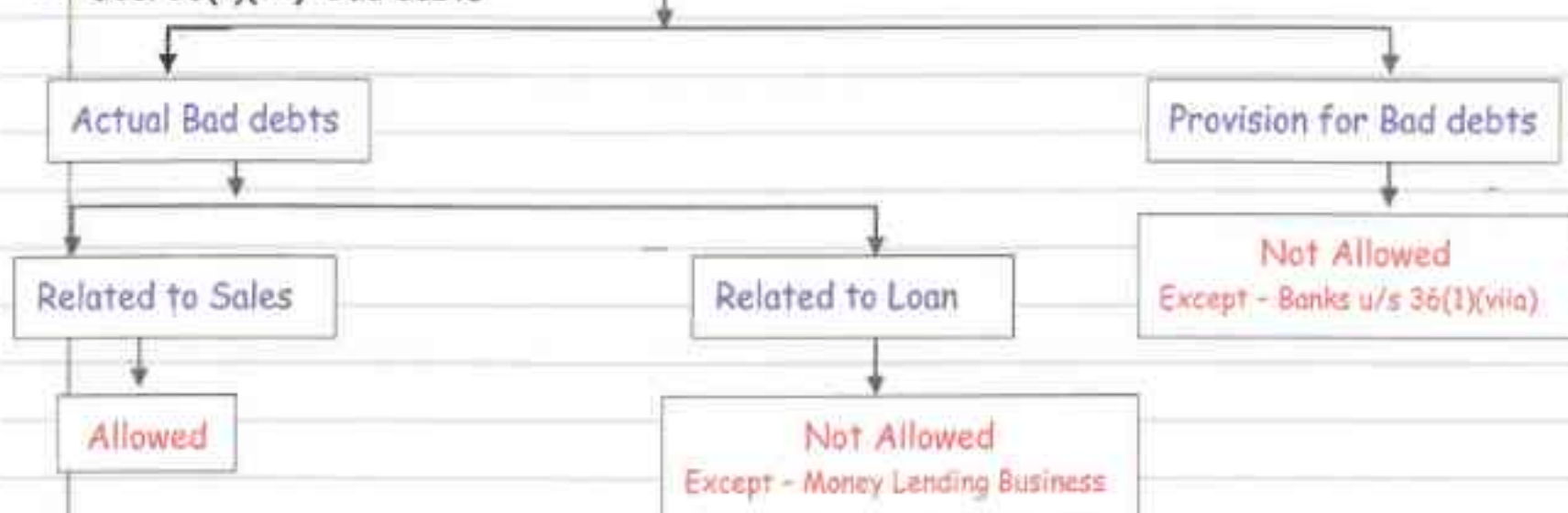
➤ Sec. 36(1)(vi): Animals used in Business (other than SIT)

Deduction is allowed in the year in which such animal become permanently useless or died.

Deduction = Cost of animal - scrap value

Note: Depreciation u/s 32 not allowed on animal.

➤ Sec. 36(1)(vii): Bad debts

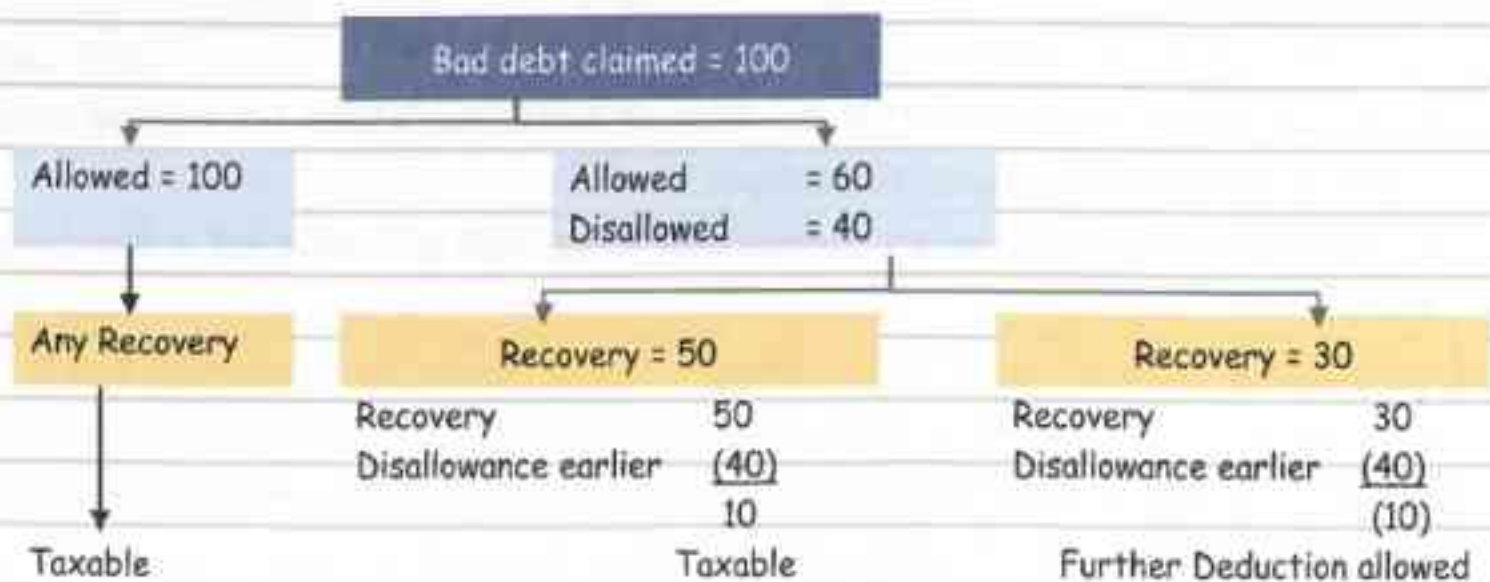


Notes:

1. Bad debts should be written off in the books of A/c's of Assessee in the P.Y. in which deduction is claimed.
2. The debt should have been taken into account for computing income for P.Y. or earlier P.Y.
3. No need to prove that the debts have become bad.
4. Where the amount of such debt has been taken into account in computing the income for PY or earlier PY (on the basis of ICDSs without recording the same in the accounts), Such debt shall be allowed in the PY in which such debt becomes bad and it shall be deemed that such debt has been written off as irrecoverable in the accounts.

◆ Sec. 41(4): Bad-Debts Recovery

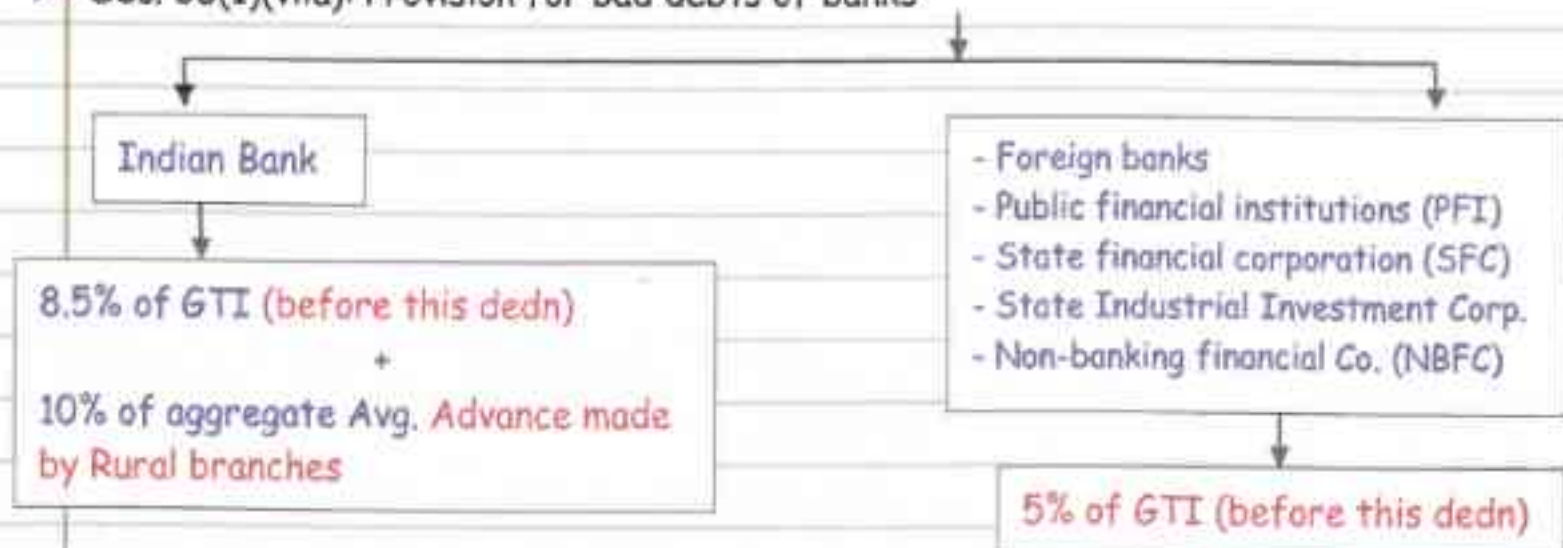
Where deduction has been allowed in respect of bad debts, recovery shall be taxable as PGBP in the year of recovery. This shall apply even if the business or profession is not in existence in the PY in which recovery has been made.



Notes:

1. Firm claims bad debts - Firm dissolved - Partner recovered bad debts- Section 41(4) NOT applicable because it applies only if assessee who claims the bad debts and assessee who recovers is same.
2. Bad debt in case of succession [T. Veerabhadra Rao (S.C.)]: Successor will be allowed to claim deduction even if predecessor has included relevant debt in its income and successor can write-off it as bad debt.

➤ Sec. 36(1)(viii): Provision for bad debts of banks



Notes

1. No deduction is allowed for actual bad debts u/s 36(1)(vii).
2. Actual Bad debts should be debited to Prov. for Bad debts A/ c.



3. If Prov. for bad debts is less than actual bad debts, then remaining bad debts allowed u/s 36(1)(vii).
4. Assessee should maintain only one account in respect of provision for bad and doubtful debts and such account shall relate to all types of advances including advances made by rural and urban branches.

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

Assessee: Only Company

Revenue Exps: 100% deduction allowed

Capital Exps: Allowed in 5 equal Instalments

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

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

➤ Sec. 36(1)(viii): Transfer to Special Reserve

This deduction is allowed to Financial Corporation engaged in providing Long term finance [5 yrs or more]

Amount of Deduction

(i) Actual amount transferred to special reserve

(ii) 20% of PGBP of core business (before this deduction)

(iii) [200% of (share capital+ general reserve)] - Opening Balance in Special Reserve

Whichever is lower

Note: Any amount withdrawn from reserve shall be taxable under PGBP. [Sec. 41(4A)]

➤ Sec. 36(1)(xvii): Purchase of Sugar Cane

Expenditure incurred by cooperative society engaged in business of manufacturing of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed by Govt allowed as deduction.

➤ Sec 36(1)(xviii): Marked to market loss or other expected loss

MTM Loss/Expected loss

- As per ICDS - Allowed
- Other - Not allowed as per 40A(13)

**Sec 37: General Deduction**

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

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

Explanation - Following expenses treated as **illegal and not allowed as deduction**

- For any purpose which is an **offence or prohibited by any law** in India or outside India; or
- To provide any **benefit or perquisite** to a person, whether or not carrying on a business or profession & acceptance of such benefit/perquisite is in **violation of any law or rule or regulation or guideline** governing the conduct of such person (**free samples to Dr.**); or
- To **compound an offence** under any law for the time being in force, in India or outside India; or
- To **settle proceedings initiated in relation to contravention under such law as may be notified by the Cen. Govt.**

[Added by FA 24 w.e.f. AY 25-26]

➤ **Corporate social Responsibility (CSR) expenses**

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

Notes:

- (i) If donation made to PM cares fund or PM relief Fund etc. then assessee can claim deduction u/s 80G even it's a CSR expenses.
- (ii) If donation made to **Clean Ganga Fund or Swach Bharat Kosh** then assessee not eligible to claim deduction u/s 80G if it is CSR spends.

➤ **Allowability of some expenses -**

- (a) Advertisement in brochure, souvenir, newspaper, pamphlet published by political party - **Not allowed**

Note: As per sec. 182 Companies Act, 2013 Advertisement in the brochure, newspaper, pamphlet of political party is treated as Donation so Indian company can claim deduction u/s 80GGB for advertisement expenses.

- (b) Gift to employee - **Allowed**
- (c) Customary expenses (Puja at the time of new year, Diwali) - **Allowed**
- (d) Expenses incurred by CA's for attending CPE seminars - **Allowed**
- (e) Dividend - **Not Allowed**
- (f) Provision for loss of subsidiary, Provision for deferred tax, Provision for diminution in value of asset, Provision for un-ascertain liability- **Not Allowed**
- (g) Shares /Debentures issue expenses:-
 - IPO/FPO/Right Share → Capital Exps. (Change in Capital) → **Not Allowed**
 - Buy Back/Bonus/ Deb. & Loan Exps → Revenue Exps. (No Change in Capital) → **Allowed**

(h) Registration fees incurred on increase of authorised share capital of company - **Not allowed.**

(i) Taxes, Interest & Penalties

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

Subject to Sec 43B

➤ Penalty of Breach of law - **Not Allowed**

➤ Breach of Contract (Contract of Revenue Nature) - **Allowed**

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

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

(l) Tax audit fees or litigation exp in relation income tax cases - **Allowed**

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

(n) **Cash embezzled** - the loss is incidental to the business. Hence it is allowed in the year in which embezzlement discovered.

(o) Exp incurred on a project **not relating to existing business** and the project was abandoned - **not allowed as it is not related to existing business.**

(p) Retrenchment compensation - On closure of entire business - **Capital Exp.**
- On closure of some of the business units - **Revenue Exp.**

(q) If salary to director exceeds the limit prescribed under Cos. Act, such **excess salary shall be disallowed.**

(r) Prior period exp be allowed only if liability to pay is crystalized during PY. (e.g. increased salary paid in PY)

(s) Expenditure incurred for development of roads/highways in Build-Operate- Transfer (BOT) agreement - **Allowed over life of agreement.**

(t) In case of an abandoned film, the cost of film shall be treated as revenue expenses and allowed as deduction.

(u) **Orient Ceramics and Industries Ltd (2013) (Delhi):** Expenditure incurred on glow sign boards displayed at dealers outlets shall be treated as revenue expenditure as the life of the asset is very short, there is replacement expenses recurring almost every year and these boards do not bring into existence any asset or advantage of enduring benefit.

(v) **Priya Village Roadshows Ltd. (2011)(Delhi):** Expenditure on architect fees for examining technical viability of proposal for take-over of cinema theatre for conversion into multiplex. Project was dropped later on. Since the feasibility studies were conducted by the assessee for existing business & venture was abandoned without creating a new asset, the expenses are of **revenue nature.**



- (w) **National Co-operative Development Corporation (2020)(SC):** The source of funds from which the expenditure is made is not relevant for the purpose of sec. 37. Every application of income towards the business objective of the assessee is a business expenditure. There can be an amount treated as a capital receipt while the same amount expended may be a revenue expenditure.
- (x) **Mahle Anand Filter Systems Pvt. Ltd. [2023] (SC):** Can foregoing a security deposit to settle a dispute be considered a revenue expenditure ?
When the assessee sought to vacate certain leased premises, disputes arose, and to end the dispute with the lessor, the assessee agreed not to claim the security deposit of ₹ 5.8 crores. The Apex Court affirmed the decision of the High Court which held that the amount of ₹ 5.8 crores could not be treated as revenue expenditure merely because it was paid in the course of a dispute. It is evident that the character of the amount was of a capital nature and remained so although assessee decided to forgo ₹ 5.8 crores (the security deposit).
- (y) **Shanti Bhushan (2011) (Delhi):** Can the expenditure incurred on heart surgery of a lawyer, be allowed as business expenditure u/s 31, or u/s 37 ?
Heart cannot be said to be plant for the business or profession of the assessee. Therefore, the expenditure on heart surgery is not allowable as repairs to plant u/s 31. Also, there is no direct nexus between the expenses incurred by the assessee on the heart surgery and his efficiency in the professional field. Therefore, the claim for allowing the said expenditure u/s 37 is also not tenable.

Sec 40: Amount specifically Not deductible**➤ Sec. 40(a)(i): Payment made to Non-Resident**

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

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

➤ Sec. 40(a)(ia): Payment made to Resident

Any amount paid or credited to **Resident** & if :-

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

Notes:

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

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

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

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

However payer has to pay interest u/s 201(1A) @ 1% p.m or part of the month on the amount of TDS not deducted from the date on which the TDS was so deductible till the date on which payee furnish his ROI.

- ◆ **Palam Gas Service [2017](SC):** The word payable used in sec. 40(a) includes actually paid also. Accordingly, disallowance u/s 40(a)(ia) shall be triggered on both sums payable at the end of PY or paid during the PY. Further sec 40(a)(ia) is attracted in case of both mercantile as well as cash system of accounting.

- ◆ **Maruti Suzuki India Limited [2018] (Del):** Payments made to a NR agent who does not have any income assessable in India cannot be disallowed u/s 40(a)(i) for non-deduction of TDS on the ground that no application was made by the assessee u/s 195(2) for making deduction of TDS at nil rate.

➤ **Sec. 40(a)(iib) : Royalty, fees etc charged by State Govt.**

If any royalty, Fees, service charge etc is exclusively collected by state Govt from state govt undertaking then such expense is not allowed to such state Govt undertaking.

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

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

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

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

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

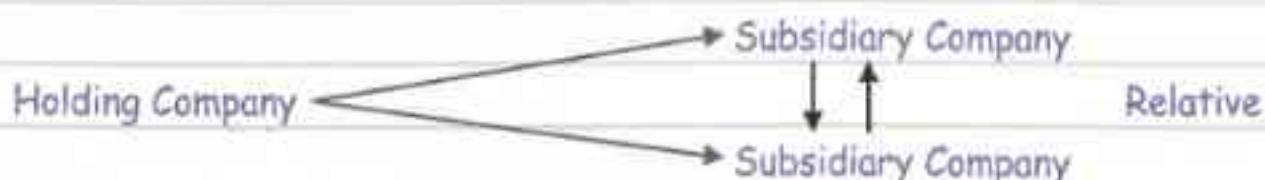
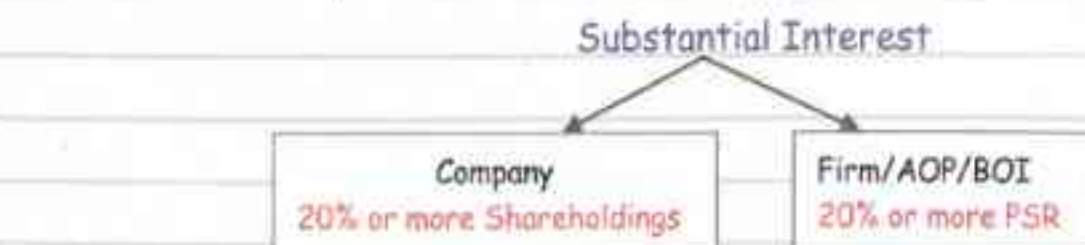
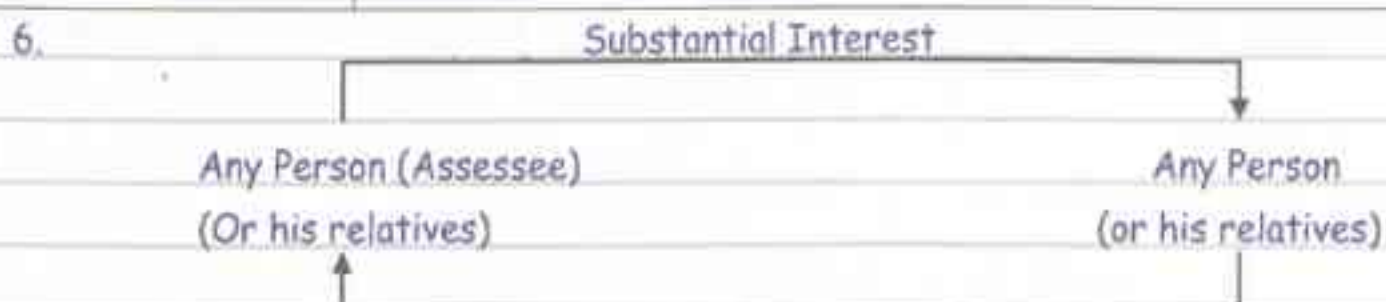
If employer offers some Non-Monetary perquisite to the employee, then tax on such Non-Monetary perquisite is the responsibility of the employee. But instead of employee, if employer decides to pay tax on such Non-Monetary perquisite from his pocket, then that Tax is Not Allowed as deduction because its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

Sec 40A(2): Payments to specified Persons (Relatives)

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

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

Assessee	Relatives
1. Individual	S, M, F, B, S, LA, LD
2. HUF	Members & their Relatives
3. FIRM/LLP	Partners & their Relatives
4. Company	Directors & their Relatives
5. AOP/BOI	Members & their Relatives



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

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

Notes:

1. If payment made to **transporter** then limit is **₹35,000**.
2. If the expenditure is claimed as deduction in earlier year on accrual basis & if such expenses is subsequently paid in cash or bearer cheque then deduction allowed earlier shall be withdrawn & taxable as PGBP [40A(3A)].
3. If expenditure paid by **Cross cheque** then also deduction **not allowed**.
4. This sec shall not apply to any payment made by a commission agent for receive goods for sale on commission basis (as commission treated as income of agent). However, if commission agent purchase goods on his own account, then provisions of this sec shall apply.



5. Where any payment in respect of any expenditure is required to be made by an a/c cheque/DD etc. in order that such expenditure may not be disallowed u/s 40A(3), then the payment may be made by such mode. No person is allowed to raise, in any suit or other proceeding, a plea based on the ground that the payment was not made in cash.

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

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

Sec 40A(7): Provision of Gratuity - Not Allowed

Only payment to Approved Gratuity Fund or provision for gratuity actually become payable during the P.Y. (due basis) is allowed as deduction.

Sec 43B: Expenses allowed on Payment Basis

Following expenses [except point (h)] are allowed only if they are actually paid upto the due date of return filling as per Sec. 139(1)

(a) Any tax, Duty, Cess & Fees

(b) Employer's contribution towards SPF, RPF, Approved Gratuity Fund, Approved Super Annuation Fund, New pension scheme, any fund as per Law

(c) Bonus or 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-operative agricultural and rural development bank]

(e) Leave encashment (Leave salary) to employees



- (f) Any sum payable to **Indian railways** for use of **Railway Assets**.
- (g) **Interest** on any loan or borrowing from such class of **NBFC** as may be notified by CG.
- (h) Any sum payable by the assessee to a **micro** or **small** enterprise **beyond the time limit** specified in sec. 15 of the Micro, Small and Medium Enterprises Development Act, 2006. (refer note 3)

[Point (h) Added by FA 2023 w.e.f. AY 24-25]

Note: If payment (a to g) made **after due date** of return filing & payment (h) made after time limit of MSME Act, then such expenses shall be allowed in the **year of actual payment**.

Notes:

1. Where the interest payable on loans has been **converted into a loan or borrowing**, it shall not be deemed that the interest is paid off. Interest shall only be **allowed as deduction in the PY in which such instalments are paid**.
2. If interest payable on loan is **converted into debenture or any other instrument** by which the liability to **pay is deferred** to a future date shall **not be treated as actual payment**.
3. Any payment made to **Micro & Small enterprise** allowed as deduction in **current year** if **payment made within time allowed u/s 15 of MSME Act** otherwise allowed in the year of Actual Payment.
4. **Time Limit as per Sec 15 of MSME Act:** Where any person purchases goods/services, from a micro/small enterprise, the payment shall be made before the **date agreed upon between him and supplier in writing**. In no case the period agreed upon between the supplier and the buyer in writing shall more than 45 days. If, however, there is no such agreement, the payment shall be made within 15 days of acceptance or deemed acceptance of goods/services.

	Micro Ent.	Small Ent.
Investment in P&M or equipment's, and	Upto ₹ 1 crore	Upto ₹ 10 crore
Turnover	Upto ₹ 5 Crore	Upto ₹ 50 crore

Example-1: BB Ltd. purchased goods from DB Ltd (a small enterprise as per MSME Act) for ₹ 15,00,000 on 2nd March 25. As per written agreement payment is to be made upto 30th April 25. However payment is made as follows:

- 2,00,000 paid on 30th March 25
- 4,00,000 paid on 6th April 25
- 3,00,000 paid on 15th April 25
- 6,00,000 paid on 6th May 25

Soln

Date of acceptance of goods is 2nd March 25. Due date for payment as per MSME Act is 16th April 25 (i.e., the agreed date of payment or 45 days, whichever is earlier).



Deduction will be available to BB Ltd. as follows-

Amount ₹	Payment date	Due date as per MSMED Act	Payment made before due date ?	Basis of Deduction	PY in which exps allowed
2,00,000	30 th March 25	16 th April 25	Yes	Accrual	PY 24-25
4,00,000	6 th April 25	16 th April 25	Yes	Accrual	PY 24-25
3,00,000	15 th April 25	16 th April 25	Yes	Accrual	PY 24-25
6,00,000	6 th May 25	16 th April 25	No	Payment	PY 25-26

Example-2: Suppose in example-1 there is no agreement about the time of payment

Date of acceptance of goods is 2nd March 25. Due date for payment as per MSMED Act is 17th March 25 (i.e., 15 days of acceptance of goods).

Amount ₹	Payment date	Due date as per MSMED Act	Payment made before due date ?	Basis of Deduction	PY in which exps allowed
2,00,000	30 th March 25	17 th Mar. 25	No	Payment	PY 24-25
4,00,000	6 th April 25	17 th Mar. 25	No	Payment	PY 25-26
3,00,000	15 th April 25	17 th Mar. 25	No	Payment	PY 25-26
6,00,000	6 th May 25	17 th Mar. 25	No	Payment	PY 25-26

Sec 43CB: Income from construction contract and service contract

Construction contract [Sec 43CB + ICDS-III]	Contract for providing Service [Sec 43CB + ICDS-IV]						
Any revenue or cost associated with construction contract shall be recognized as per: POCM (percentage of completion method)	Any profit or gain arising from service contract shall be computed as follows: <table> <tr> <td>If duration of contract is upto 90 days</td><td>Project completion method</td></tr> <tr> <td>If contract involves indeterminate no. of acts over a specific period of time</td><td>Straight line method over period</td></tr> <tr> <td>Otherwise</td><td>POCM</td></tr> </table>	If duration of contract is upto 90 days	Project completion method	If contract involves indeterminate no. of acts over a specific period of time	Straight line method over period	Otherwise	POCM
If duration of contract is upto 90 days	Project completion method						
If contract involves indeterminate no. of acts over a specific period of time	Straight line method over period						
Otherwise	POCM						

> For the purpose of POCM, PCM & SLM,

(a) Contract revenue shall **include retention money**

(Retention money are Amt of progress billing which are not paid until the satisfaction of a condition specified in the contract for payment or until defects have been rectified).

(b) Contract cost shall **not be reduced by any incidental income** in the nature of interest, dividend or capital gain.

Sec 43C: Determination of cost of acquisition of Stock-in-trade

If under **amalgamation, gift, partition of HUF, will or irrevocable trust**, a capital asset is transferred as **stock in trade**, then COA of such stock for transferee shall be COA of previous owner + COI incurred by transferee and transferor + expenses on transfer incurred by the transferor.

**Sec 43D: Interest income on NPA (bad & Doubtful debts)**

In case of Scheduled bank, Public Financial Institution, State Financial Corp, State Industrial Investment Corp, NBFC

Income by way of Interest on such categories of bad & doubtful debts as prescribed by the RBI.

Shall be chargeable to tax in PY in which it is

- Credited by the assessee to its P&L a/c
- Actually received by the assessee
Whichever is earlier

Sec 43A: Asset acquired from foreign country

If any asset is acquired from a foreign country through a loan in foreign currency or foreign suppliers' credit, any loss/gain arising at the time of payment shall be adjusted within the Block of asset.

Notes:

1. Adjustment is made only at the time of actual payment of foreign loan or supplier's credit.
2. If there is gain then reduce from block of asset & if there is loss then added to the block.
3. Profit or Loss on hedging contract for meeting out the loss in foreign currency payment towards asset acquired from outside India shall also be reduced or added to cost of asset.

Sec 43AA: Taxation of foreign exchange fluctuation

Any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss & it shall be computed as per ICDS & it includes all foreign currency transactions related to:-

- (a) Monetary items and non-monetary items;
- (b) Translation of financial statements of foreign operations
- (c) Forward exchange contracts;
- (d) Foreign currency translation reserves.

Sec 41: Deemed PGBP

➤ **Sec. 41(1) Recovery against any deductions already claimed**

If Assessee was allowed a deduction in earlier P.Y. by way of expenditure, loss, trading liability & now during the current P.Y. 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.

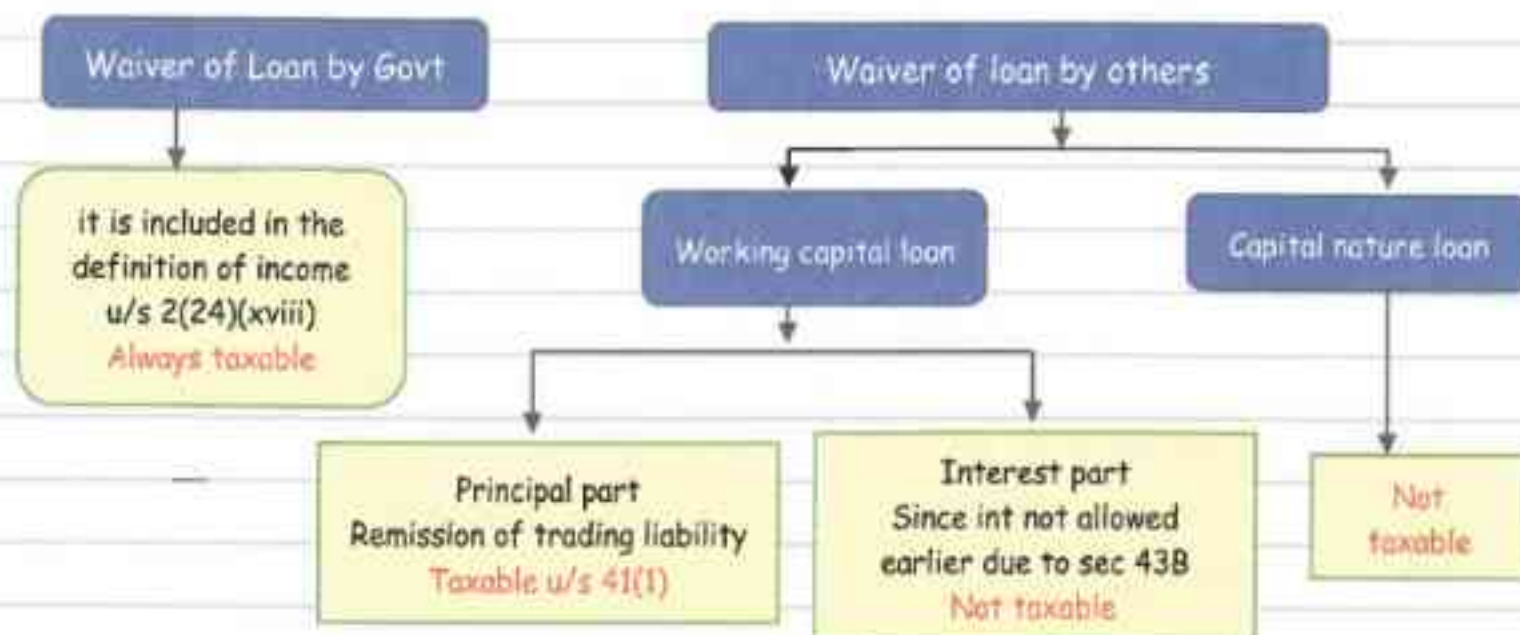
Example:

- a) Sales Tax/GST Refund
- b) stock in trade is destroyed by fire & allowed as trading loss & later on insurance compensation is received by assessee.

Notes:

1. Remission by unilateral act	Assessee has written-off the liability without getting consent of creditor - deemed to be income
2. Time barred liability	If he decides to write it off , then it shall be deemed to be his income u/s 41(1) . If he does not write-off such liability - then sec 41(1) shall not attract.

3. Waiver of loan



> Sec. 41(3): sale of Scientific Research Assets

Sale without use in Business

↓
(i) Sale price
↓
(ii) Deduction already claimed u/s 35(1)(iv)
↓
Whichever is lower
↓
Taxable as **PGBP**

If $SP > Cost$ then capital gain also arise.

Sale after use in Business

(a) Add to Block of asset Actual cost = Nil
Expln 1 of Sec. 43(1)

(b) at the time of sale Sec. 50 will apply
[full block / part block sold]

> Sec. 41(2): Balancing charge

Already discussed with the power units depreciation.

> Sec. 41(4): Recovery of Bad debts.

Recovery amount shall be taxable in the year in which it is recovered.



Sec 44AA: Compulsory maintenance of books of accounts

- A. **Specified Profession:** In case of specified profession, if **Gross Receipt is more than ₹ 1,50,000** in all 3 years preceding the PY or likely to exceed if the profession is newly setup then, assessee is required to maintain books of accounts as per **Rule-6F**, otherwise he is required to maintain such books of accounts or documents from which AO is able to complete the assessment.

Specified profession:

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

Prescribed books as per Rule 6F:

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

- B. **Other Assessee (Business):** In case of other assessee, if **PGBP is more than ₹ 1,20,000/-** or **Total Sales /Gross receipt is more than ₹ 10,00,000/-** in any of the 3 years preceding the PY or likely to exceeding in case of newly setup business/profession, then assessee is required to maintain **any books of accounts or documents** from which AO is able to complete the assessment otherwise the assessee is not required to maintain any books of accounts.

However, in case of Individual & HUF, limit will be ₹ 2,50,000 for PGBP and ₹ 25,00,000 for Turnover or Gross Receipts.

C. Special Cases:

- Assessee declared **lower income u/s 44AD/44ADA and NTI > Basic exemption.**
- Assessee claiming **lower income u/s 44AE, 44BB, 44BBB.**

Notes:

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

Sec 44AB: Compulsory Audit of books of accounts

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

A	B	C
Specified profession	Business	Special Cases
G.R. > ₹ 50 Lac	T.O./G.R. > ₹ 1 crore In case of business, T.O. Limit shall be ₹ 10 crores instead of ₹ 1 crore if: i) *Cash receipts out of total receipts is upto 5% during the PY and ii) *Cash payment out of total payments is upto 5% during the PY.	- Assessee claiming lower income u/s 44AD or 44ADA and NTI > Basic exemption - Assessee claiming lower income u/s 44AE, 44BB, 44BBB
*cheque/DD, which is not account payee, shall be treated as Cash		

➤ Non-applicability of Sec 44AB:

- Person declaring income u/s 44AD or 44ADA.
- Person deriving income of the nature referred to in section 44B (ship) & 44BBA (aircraft).

➤ Penalty u/s 271B: if assessee fails to get accounts audited:

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

Sec 44AD: Profit & Gains of Business on Presumptive Basis

- Eligible Assessee: Resident Individual/Resident HUF/ Resident Firm (excluding LLP) who has not claimed dedn u/s 10AA or 80IA to 80RRB.
- This section is applicable for any Business except
 - Sec. 44AE Business,
 - Agency Business,
 - Commission & Brokerage business;

and Turnover/Gross Receipts is upto ₹ 2 crore.

Note: Where the amounts received during the PY in *cash does not exceed 5% of the total turnover or gross receipts of such PY then limit of T/o ₹ 3 crore apply instead of ₹ 2 crore.

[Amended by FA 2023 w.e.f. AY 24-25]

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



- c) Presumptive PGBP income = Turnover/Gross receipt $\times$ 8%
 "If Turnover/ Gross Receipts realized by Account Payee Cheque/DD/ ECS upto due date of Return Filing then PGBP = T/O $\times$ 6 %"
- d) If assessee declares income as per Sec. 44AD or higher income and whose T/O is up to 2Cr/3Cr then assessee is not required to maintain books of account & get it audited.
- e) If assessee declares income for any P.Y as per 44AD & he doesn't declare income as per 44AD in any of the five consecutive P.Y.s, then he shall not eligible to claim benefit of sec. 44AD for 5 years subsequent to the year in which assessee did not declare income as per Sec. 44AD.
- f) If point (e) is applicable & NTI of assessee is more than basic exemption then assessee is required to maintain books of accounts & get it audited.

Example:

Let us consider the following particulars relating to an resident individual, Mr.A being an eligible assessee whose Turnover do not exceed ₹ 2 crore in any of the AY's between A.Y. 24-25 to A.Y. 26-27.

	AY 24-25	AY 25-26	AY 26-27
Total T/o (All Cash)	1,80,00,000	1,90,00,000	2,00,00,000
Income offered for tax	14,40,000	15,20,000	10,00,000
% of Gross receipts	8%	8%	5%
Offered income as per 44AD	Yes	Yes	No

In the above case Mr. A an eligible assessee, opts for presumptive taxation u/s 44AD for A.Y. 24-25 & A.Y. 25-26. However, for A.Y. 26-27, he offers income of only ₹ 10 lakh on turnover of ₹ 2 crore, which amounts to 5% of his gross receipts. He has to maintain books of accounts u/s 44AA & gets the same audited u/s 44AB. Since he has not offered income in accordance with the provisions of Sec. 44AD, for five consecutive A.Y. after A.Y. 24-25, he will not be eligible to claim the benefit of Sec. 44AD for next five AY succeeding A.Y. 26-27 i.e. from A.Y. 27-28 to 31-32.

Sec 44ADA: Profit & Gains of profession on Presumptive Basis

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

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

[Amended by FA 2023 w.e.f. AY 24-25]

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



- d) If assessee declares income as per Section 44ADA or higher then, he is not required to maintain books of accounts & get it audited.
- e) If assessee declares income lower than 50% & his NTI is more than basic exemption he is required to maintain books of A/ cs & get it audited.

➤ Common notes for 44AD and 44ADA

1. Deduction u/s 30-38 shall not be allowed. (Assume its deemed to be already allowed).
2. WDV is to be calculated considering notional dep every P.Y.
3. Partners' remuneration & interest are not allowed from deemed PGBP.
4. 100% Advance Tax can be paid by 15th march of P.Y.

Sec 44AE: Profit & Gains of Transporter on Presumptive Basis

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

- Heavy goods Vehicle: ₹ 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a month
- Other Vehicle: ₹ 7,500 for every month or part of a month

Notes:

1. The assessee can also declare a higher amount in his return of income. In such case, the latter will be considered to be his income.
2. This section is applicable if assessee **owns Max 10 vehicles**. If assessee owns more than 10 vehicles at any time during the P.Y. then this section shall not apply.
3. Income **calculated even vehicle not put to use but own** by assessee.
4. **Partners remuneration**, salary, interest etc as per 40(b) **shall be deductible** while computing income u/s 44AE
5. Heavy goods vehicle means any goods carriage, the Gross Vehicle Weight of which exceeds 12,000 kilograms (12 tons)
6. As per CBDT clarification we have to consider Gross Vehicle Weight (GVW) for calculating income however if GVW not available then we have to consider unladen weight.
7. Assessee opting for presumptive taxation are not required to maintain books of account as per Sec 44AA or get them audited u/s 44AB. However, where an Assessee wishes to declare income lesser than as computed u/s 44AE, he is required to mandatorily maintain books of account and get the same audited.
8. Deduction u/s 30-38 shall not be deemed. (Assume its deemed to be already allowed).
9. WDV is to be calculated considering notional dep every PY.

Presumptive Basis Taxation for Non Residents

Particulars	44B	44BBA	44BB	44BBB
Nature of Business	Shipping Business (other than cruise ship)	Operation of Aircraft	Business of providing services or facilities in connection with, or supplying P & M on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils	Business of civil construction or the business of erection of P&M or testing or Commissioning thereof, in connection with turnkey power projects approved by the CG
Assessee	NR	NR	NR	Only Foreign Co.
Presumptive Income	7.5% of specified sum	5% of specified sum	10% of specified sum	10% of specified sum
Specified Sum	Amount paid or payable on account of carriage of passengers, livestock, mail or goods shipped at/ from any port/place in India; and * Amount received or deemed to be received in India on account of the carriage of passengers, livestock mail or goods shipped at/from any port/place outside India		Amount paid or payable on account of the provision of such services or facilities for the foresaid purposes in India; and * Amount received or deemed to be received in India on account of the provisions of services or facilities for the aforesaid purpose outside India.	Amount paid or payable on a/ c of such civil construction, erection, testing or commissioning
Option to declare lower profits	Not available		Lower profits may be claimed u/s 44BB and u/s 44BBB provided the assessee maintains Books of account u/s 44AA and gets them audited u/s 44AB.	
Set-off B/F losses	Allowed		If assessee declares income as per this section, no set off of unab. dep. and b/f loss shall be allowed to the assessee for such PY.	

Particulars	Section 44BBC (Added by FA 24 w.e.f. AY 25-26)
Nature of Business	Operation of Cruise Ship [other condition of this section will be prescribed by CG through Notification)
Assessee	NR
Presumptive Income	20% of specified sum
Specified Sum	Amount paid or payable on account of carriage of passengers; and * Amount received or deemed to be received on account of the carriage of passengers.
Option to declare lower profits	Not available

Set-off B/F losses

Allowed

Sec 44C: Taxation of Branches of Foreign Company - Head office exp

The income of branches of foreign Co. shall be computed as per Sec. 28 to 44D, the H.O. expenses shall be allowed as follows:-

- ↓ (a) 5% of Adjusted Total Income (ATI).
- ↓ (b) Amt of exps. in the nature of H.O attributed to business or profession of assessee in India. whichever is lower.

Notes:

ATI means total income before giving effect to:

- (i) B/f depreciation, b/f family planning exps.
- (ii) B/f losses.
- (iii) Deduction under chapter VI-A.

If ATI is a loss, then last 3 years average ATI shall be considered.

Sec 44DA: Royalty/Technical fees of Non-resident

1. Assessee is NR or Foreign Company.
2. Such assessee earns income:
 - (a) From Royalty/Fees for Technical Services.
 - (b) In pursuance of agreement entered into after 31.03.2003.
 - (c) In case of :-
 - (i) **Business** : It is carried on through Permanent Establishment(PE) situated in India
 - (ii) **Profession**: It is performed from a Fixed Place of Profession situated in India.
 - (d) Right, property or contract in respect of which the royalty/technical fees is paid, is effectively connected with such PE.
3. Following items shall be disallowed:
 - (a) Expenditure/allowance which is NOT wholly and exclusively incurred for the business of such - PE or fixed place of profession in India.
 - (b) Any amount paid by the PE to its head office or to any of its other offices except reimbursement of actual expenses.

Sec 44A Special provisions for Trade or professional or similar association (Mutual Concern)

Any Trade or professional or similar association [other than association exempted u/s 10(23A)]

Received amt by way of subscription or otherwise from

General service to member

Specific service to member

Other-wise

Income is Exempt due to Principle of mutuality

Income is taxable in PGBP u/s 28(iii) and

Taxable under IFOS



However, loss is allowed as deficiency as per sec 44A
(it is an exception to the principle of mutuality)

loss is allowed

↓
Deduction u/s 44A:

1. Deficiency is allowed as deduction but subject to max. 50% of Total income before such deduction.
2. While computing the taxable income of the association, any b/f allowance or losses to be effected first.
3. However, in case of inadequate or absence of income u/h PGBP, such deduction is allowed from income of other heads.
4. This section applies only to such trade, professional or associations which do not distribute their income amongst their members except in the form of grants to affiliated associations or institutions.

Meaning of Deficiency

Receipts from members as subscription or otherwise (except receipt for rendering of specific service to members)

xxx

(-) Expenditures solely for the protection or advancement of common interest of the members (except capital exp and the exp deductible under any other heads of income)

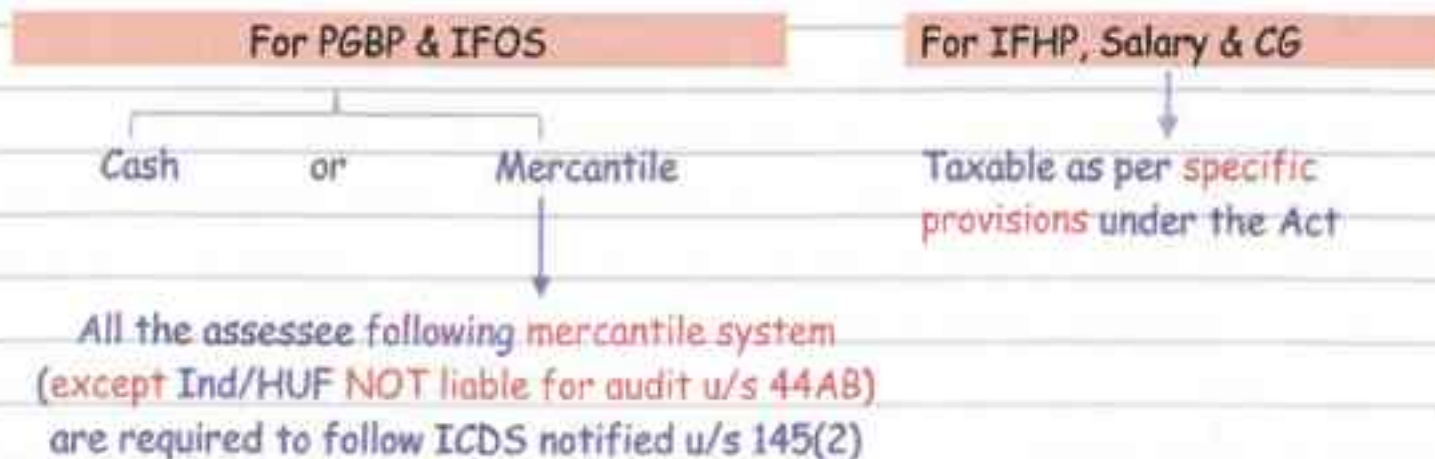
(xxx)

Deficiency

(xxx)



➤ Sec. 145(1) Method of Accounting



➤ Sec. 145(2) Income Computation and disclosure standards (ICDS)

CG has been empowered to **notify ICDS**. CG has notified 10 ICDS applicable from AY 17-18.

❖ CBDT Clarification on ICDS

- **Applicability:** Applicable for computation of income chargeable under the head "PGBP" and "IFOS" and **not for the purpose of maintenance of books of accounts.**
- **Conflict with the IT, 1961 & Rules :** In the case of conflict between the provisions of the **Act/Rules** and **ICDS**, the **provisions of the Act/Rules shall prevail.**
- **Presumptive Taxation:** ICDS shall also apply for computing income under presumptive taxation scheme like 44AD, 44ADA, 44AE, 44BB etc. E.g. ICDS on Construction Contract or Revenue recognition shall apply for determining the receipts or turnover, as the case may be.
- **AS v/s Ind-AS:** **ICDS** shall apply for computation income under IT irrespective of the accounting standards adopted by companies i.e. either AS or Ind-AS.
- **MAT & AMT:** **MAT** u/s 115JB is computed on 'book profit' that is net profit as shown in P&L a/c as per Companies Act subject to certain adjustments. Since, ICDS are applicable for computation of income under the normal provisions, **ICDS shall not apply for MAT.**
AMT u/s 115JC is computed on adjusted total income which is derived by making adjustments to total income computed as per the regular provisions. Hence, **ICDS shall apply for AMT.**
- **Income Taxable on Gross Basis:** ICDS shall also apply for computation incomes on gross basis like Royalty, Interest, FTS u/s 115A taxable on gross basis for NR.
- **Disclosure:** Net effect on the income due to ICDS is to be disclosed in the Return of income. The disclosures required under ICDS shall be made in the tax audit report in Form 3CD. however, there shall not be any separate **disclosure requirements** for persons who are not liable to tax audit.

**ICDS-I: Accounting Policies**

- ICDS recognises the fundamental accounting assumptions of **Going Concern, Consistency and Accrual** but does not recognise the concept of "prudence" & "Materiality".
- **Treatment & presentation of transactions** shall be based on **substance over legal form**.
- **MTM loss** or an expected loss is **not to be recognized** unless recognition of such loss is in accordance with the provisions of any other ICDS.
- A change in Accounting Policy can be made if there is a **"Reasonable Cause"**

❖ Disclosure requirements

All significant accounting policies adopted, any change in an accounting policy, any of the fundamental accounting assumptions not followed shall be disclosed.

❖ CBDT Clarification on ICDS

- Accounting policies mentioned in ICDS-I being fundamental in nature shall be applicable only for computing income under the heads "PGBP" or "IFOS".
- Principles of Marked to Market (MTM) loss or an expected loss of ICDS-I shall apply **mutatis mutandis** to MTM gains or an expected profit.
- Under the Act, 'reasonable cause' is an **existing concept** and has evolved well over a period of time, conferring desired flexibility to the tax payer in deserving cases.

ICDS-II: Valuation of Inventories

ICDS-II shall be applied for valuation of inventories, **except**:

- a) **WIP arising under construction contract** (ICDS-III) or dealt with by any other ICDS.
- b) **Shares, debentures** and other financial instruments **held as SIT** (ICDS-VIII on securities).
- c) **'Producers' inventories of** livestock, agriculture and forest products, mineral oils, ores and gases to the extent that they are measured at NRV.
- d) **Machinery spares** used only in tangible fixed asset (ICDS-V on tangible fixed assets).

"Inventories" are assets:

- **held for sale** in the ordinary course of business;
- in the **process of production** for such sale;
- in the **form of materials** to be consumed in prodn process or in the rendering of services.

❖ Treatment

- Inventories shall be valued at **cost, or net realisable value, whichever is lower**.
- In case of **dissolution of firm, AOP or BOI**, whether business is continued or not, the **inventories shall be valued at NRV** on that date.

- $NRV = \text{Estimated SP} (-) \text{Estimated cost of completion and estimated cost necessary to make the sale.}$
- Cost of inventories shall be assigned by using the FIFO or weighted avg. cost formula or Standard Cost Method.
- Retail Method can be used in retail trade when it's impracticable to use other methods.

❖ Cost of Inventories shall include:

a. Purchase cost	Pur. price + duties and taxes, freight inwards and other exp directly related to purchase - Trade discounts, rebates, etc
b. Service cost	labour and other costs of personnel directly engaged in providing the service.
c. Conversion cost of inventories	Costs directly related to the units of production including allocated fixed overhead incurred in converting RM into FG. In case of joint product: cost shall be allocated between products on a rational & consistent basis. In case of by-product, scrap or waste: its NRV shall be deducted from cost of main product.
d. Other cost	Interest & Borrowing Cost if permitted under ICDS IX

❖ Cost of inventories shall exclude:

- a. Abnormal amounts of wasted materials, labour, or other production costs.
- b. Storage costs, unless those costs are necessary in the production process prior to a further production stage.
- c. Administrative overheads that do not bring inventories to its present location & condition.
- d. Selling costs.

- ❖ Valuation of RM: Raw material and other supplies used in production shall be valued at Cost only & not NRV. However, if there is decline in its price and estimated cost of finished goods would be less than NRV, then material shall be value at NRV (which shall be replacement cost).

❖ Disclosure:

The accounting policies adopted in measuring inventories along with the total carrying amount of inventories and its classification.

❖ Sec 145A: Method of Accounting in certain cases (Added by FA-18 w.e.f. AY 2017-18)

For the purpose of determining income under PGBP

Inventory	Valuation
a. Normally	lower of actual cost or NRV
b. Security not listed on RSE or security listed but not quoted on RSE with regularity time to time	actual cost initially recognized
c. Security listed and quoted on RSE with regularity time to time	at lower of actual cost or NRV

d. Security held a scheduled bank or PFI

as per ICDS after considering
RBI Guidelines.

- The comparison of **actual cost or NRV** of securities shall be made **category-wise**. (E.g. given with ICDS-VIII)
- Value of purchase & sale of goods or service and value of inventory shall **include amount of any tax, duty, cess or fee** actually paid or incurred to bring the goods or services to the place of its location and condition as on the date of valuation.

ICDS-III: Construction Contract

- Contract revenue & contract costs associated with a construction contract are **recognised on Percentage of Completion Method**.
- Where outcome of the contract **cannot be estimated reliably** during the early stages of contract, contract revenue can be recognised only to the extent cost incurred. Early stage of contract shall **not extend beyond 25% of the stage of completion**.
- ICDS III requires disclosure like the amount of contract revenue recognized as revenue in the period, the methods used to determine the stage of completion of contracts in progress etc.
- **Escalation in price** in a contract or **export incentives** shall be deemed to be income of PY in which **reasonable certainty** of realisation is **achieved**. [Sec 145B]

ICDS-IV: Revenue Recognition

It covered **recognition of revenue** arising during the ordinary activities of a person from **sale of goods, rendering of services**, use of entity's resources by other persons yielding **interest, royalty or dividends**.

Recognition of revenue:

Sale of goods	Significant risk & rewards of ownership are transferred & there is reasonable certainty of its ultimate collection.
Revenue from service transactions	Percentage Completion Method/ Straight Line Method/ Project Completion Method [Refer Sec 43CB of PGBP].
Interest	Accrue on time basis.
Interest on refund of any tax, duty or cess	Recognized in the PY in which such interest was received.
Royalties	Accrue as per the term of relevant agreement unless there is some other systematic and rational basis
Dividend	Recognized as per the provisions of the Act (Sec 8)

Disclosure: Amt of revenue from service transactions recognized during the PY, the method used to determine the stage of completion of service, information relating to service transactions in progress at the end of the previous year etc.

❖ **CBDT Clarification on ICDS**

➤ Interest accrues on time basis & royalty accrues on the basis contractual terms. Hence, the same shall be recognised even if there is no reasonable certainty of subsequent collection. Non-recovery in either cases can be claimed as deduction later in sec 36(1)(vii)[Bad debts]

➤ If the taxpayer sells a security on the 30/04/24. The interest payment dates are December and June. The actual date of receipt of interest is on the 30/06/24 but the interest on accrual basis has been accounted as income on the 31/03/24. Whether the taxpayer shall be permitted to claim deduction of such interest i.e., offered to tax but not received while computing the capital gain?

Answer: Yes, the amount already taxed as interest income on accrual basis shall be taken into account for computation of income arising from such sale.

December	31/03/14	On 30/04/14		June
Int ₹1000 received	int ₹ 500 accrued for 3 months int taxed but not received.	Sale		Int ₹1000 received
		FVOC	12,000	
		(-) COA	(10,000)	
			2,000	
		(-) Int taxed on accrual basis	(500)	
		CG	1,500	

ICDS-V: Tangible Fixed Assets

❖ **Tangible fixed asset (TFA)** - Land, building, P&M or furniture held for being used for the purpose of producing or providing goods or services and **not held for sale** in normal course of business.

❖ **Identification of Tangible fixed assets**

- Machine spares are charged to **revenue as and when consumed**.
- If machine spares are used only in connection with the TFA and their use is expected to be irregular, then **machine spares will be capitalized**.
- Stand-by and servicing equipment are to **be capitalized**.

❖ **Components of Actual Cost**

Purchase price	xx
+ duties and taxes except those subsequently recoverable	xx
+ any directly attributable expenditure on making the asset ready for its intended use	xx
- Any trade discount and rebates	(xx)

❖ Admin. and other general overhead expenses that **do not relate to a specific TFA**, are to be excluded from cost of such asset.

❖ Expenses which are specifically attributable to construction of a project or to the acquisition of a TFA or bringing it to its working condition, shall be included as a part of the cost of the project or as a part of the cost of the TFA.



- ❖ The exps. incurred on start-up and commissioning of the project, including the exps. incurred on test runs and experimental production, shall be capitalised. The expenditure incurred after the plant has begun commercial production (production intended for sale or captive consumption) shall be treated as revenue expenditure. Expense incurred after the conduct of test runs & experimental production but before commencement of commercial production shall also be treated as capital exps.
- ❖ Where a TFA is acquired in exchange for another asset or shares or securities, then the FMV of fixed asset so acquired will be its actual cost.
- ❖ ICDS-V requires disclosure like description of asset or block of assets, rate of depreciation, actual cost or written down value, as the case may be additions or deductions during the year with dates, depreciation allowable & WDV at the end of the year.

ICDS- VI: Effect of Change in Foreign Exchange Rates

This ICDS deals with treatment of transactions in foreign currencies, translating the financial statements of foreign operations & treatment of forward contracts involving foreign currencies

- ❖ Foreign currencies transactions
 - Initial Recognition: A foreign currency transaction shall be recorded by applying
 - Actual rate at transaction date or
 - A weekly or monthly average rate that approximates the actual rate for all the transaction occurred during that period. However, if exchange rate fluctuates significantly then the actual rate shall be used.

- Conversion in Reporting Currency (MTM): at the last day of each PY

Item	Exchange rate
Foreign currency Monetary item	Closing rate
Foreign currency Non-mon. item	Rate at Transaction date
Foreign currency Non-mon. item being inventory which is valued @ NRV	Rate at Date of valuation

- Recognition of Exchange Difference:

Items	On Conversion (last day) - MTM	On Settlement
Monetary item	Gain-taxable Loss-allowed	Gain-taxable Loss-allowed
Non-monetary item	Gain- Not taxable Loss- Not allowed	Gain-taxable Loss-allowed

- Note: Exchange difference on payment of forex loan taken for acquisition of asset - shall be adjusted to cost or WDV of asset as per Sec 43A.
- ❖ Foreign operations: Financial statement of foreign operation shall be translated using the same principle as in case of foreign currency transaction.

❖ Forward Exchange Contracts:

Forward contracts for Speculation or Trading or Hedging foreign currency risk of firm commitment or highly probable forecast transaction	Premium/ Discount Exchange differences shall be recognised only at the time of settlement
Other Forward contracts	- Premium/ Discount shall be amortised over life of contract. - Exchange difference(MTM) at the end of PY shall be recognised as income or expense in every year. - On Renewal or cancellation, profit or gain shall be recognised in that PY.
Premium or discount = difference of exchange rate at the inception of contract and forward rate specified in the contract.	

ICDS- VII: Government grants

- ❖ Scope: This ICDS deals with the treatment of Govt Grants. It recognizes that the govt grants are also called as subsidies, cash incentives, duty drawbacks etc.

This ICDS does not deal with Govt assistance (other than Govt grants) and Govt participation in the ownership of the enterprise.

- ❖ Recognition of Govt Grant: It shall not be postponed beyond the actual date of receipt. As per sec. 145B Govt grant taxable on the basis of actual receipts or due whichever is earlier.

- ❖ Treatment of Govt grant:

Govt grant	Treatment
1. If grant is directly related to acq. of dep. asset	It shall be reduced from actual cost
2. If grant is not directly related to acq. of dep. asset. E.g. Govt grant of ₹ 30 lac received for a project costing ₹ 100 lac. Asset acquired in PY is ₹ 10 lac	Proportionate grant shall be reduced from cost or WDV of asset as follows: $\text{cost/wdv} - \text{grant} \times \frac{\text{cost of asset acquired}}{\text{cost of all asset in respect of which grant received}}$ Thus, cost of asset = $10 - \left(30 \times \frac{10}{100}\right) = 7 \text{ lac}$
3. If grant is directly related to acquisition of non-depreciable asset.	Recognise as income over the same period over which the cost of meeting such obligations is charged to income.
4. Grants receivable as compensation for expenses or losses incurred in a PFY or for the purpose of giving immediate financial support to the person with no further related costs	Recognise as income of the period in which it is receivable.
5. Other Govt Grants	Recognise as income over the periods necessary to match them with the related costs which they are intended to compensate.
6. Grant in form if non-monetary assets given at a concessional rate	Recognise at acquisition cost.

❖ Treatment on Refund of grant:

Govt grant	Treatment	
If grant related to depreciable asset	Amt refundable shall be added to actual cost or WDV . Dep. shall be provided on revised Actual cost or WDV prospectively.	
Otherwise (Grant specified in point no. 3, 4 & 5 above)	If unamortised deferred credit is remained	first, Refundable amt shall be applied against unamortised deferred credit. then, any amt of refund remained unadjusted shall be charged to P&L.
	If there is no deferred credit	Refundable amt to be charged to P&L.

❖ Disclosure: Nature & extent of grants recognized during the PY as income, nature & extent of grants not recognized during the PY as income & reasons thereof etc.

ICDS- VIII: Securities

Part A: Securities held as stock-in-trade

This part of ICDS deals **securities held as SIT** but **does not deals** with:-

- Recognition of Interest & dividend on securities covered by ICDS-IV on revenue recognition.
- Securities held by insurer, MF, Venture capital funds and banks & PFI covered in Part B

❖ Initial recognition:

- Securities are recognized at actual COA (purchase price + acquisition charges like brokerage, fees, tax, duty or cess).
- If any security acquired in exchange for other security or another asset, the actual cost shall be the FMV of the security so acquired.
- In case of interest-bearing securities (like 10% debenture), if any interest is accrued before acquisition and is included in purchase price, on receipt of such interest, it shall be allocated into pre-acq & post-acq interest. The pre-acq interest shall be reduced from actual cost.

❖ Subsequent measurement:

- At the end of each PY, securities have to be valued **at lower of actual cost or NRV**.
- Such comparison of actual cost and NRV has to be done "category-wise" and not "individual security wise". The categories can be equity share, preference shares, debt securities etc.

Security	Category	Cost	NRV	Security-wise	Category-wise (ICDS)
A	Share	100	75	75	
B	Share	120	150	120	
	Total	220	225	195	220
C	Debenture	150	160	150	
D	Debenture	105	90	90	
	Total	255	250	240	250
Grand Total		475	475	435	470

Note: If actual cost initially recognised cannot be ascertained by reference to specific identification, "FIFO" method or "Weighted Avg. Cost" formula can be used.

Part B: Securities held by a scheduled bank or PFI:

The securities shall be classified, recognised and measured as per guidelines issued by the RBI.

ICDS- IX: Borrowing Costs

- Borrowing costs that are directly attributable to the acquisition, construction or production of a qualifying asset, shall be **capitalized as part of cost of that asset**.
- Other borrowing costs shall be recognised in accordance with the provisions of the Act.

❖ Qualifying asset means

- a. land, building, P&M, furniture being tangible asset
- b. Patents, know-how, licenses, trademarks, copyrights, any other business or commercial rights being intangible asset.
- c. Inventories that require a period of 12 months or more to bring them into a saleable condition.

❖ Capitalization of Borrowing Costs:

Type of borrowing	Amt eligible for capitalisation	Commencement of capitalisation	Cessation of capitalisation
Specific borrowing cost	Actual borrowing cost incurred during the PY	Date of borrowing	First put to use (in case of inventory, when all activities necessary for its intended sale are completed)
General borrowing cost	$\text{General Borrowing cost} \times \frac{\text{Avg. cost of Qualifying asset}}{\text{Avg. cost of Total asset}}$	Date of utilisation of borrowed funds	

❖ Notes for the purpose of general borrowing cost:

- (i) A qualifying asset shall be such asset that necessarily require a period of 12 months or more for its acquisition, construction or production.

- (ii) Avg. cost of Qualifying asset shall be computed as follow:

If qualifying asset remain throughout the PY	$(\text{Opening} + \text{Closing Balance sheet value}) \div 2$
If qualifying asset does not appear on first day of the PY	$\text{Closing Balance sheet value} \div 2$
If qualifying asset does not appear on last day of the PY	$(\text{Opening Balance sheet value} + \text{Value on the date of put to use or completion}) \div 2$

- (iii) The avg. cost of qualifying asset and total asset shall not include cost of asset to the extent it is funded out of specific borrowings.



❖ CBDT Clarification on ICDS

- The definition of borrowing cost is an inclusive definition. Bill discounting charges and other similar charges are covered as borrowing cost.
- The capitalization of general borrowing cost under ICDS-IX shall be done on asset-by-asset basis.

❖ AS-16 vs ICDS IX

1. Income earned on Temporary investment of borrowed funds pending their expenditure on qualifying asset to be deducted from borrowing cost incurred as per AS-16. However, ICDS IX does not permit such reduction from borrowing cost.
2. **Suspension of capitalisation of borrowing cost:** Paragraph 17 of AS 16 permits suspension of capitalisation of borrowing cost during the extended period in which active development is interrupted. ICDS IX does not permit suspension of capitalisation of borrowing cost in such cases.
3. Above deviations between AS 16 and ICDS IX would result in increase in taxable income.

ICDS- X: Contingent Liabilities and Contingent Assets

ICDS deals with provisions, contingent liabilities and contingent assets, except those resulting from - financial instruments, executory contracts and contract with policyholder arising in insurance business or covered by another ICDS.

	Provisions	Contingent asset & contingent liability
Recognition	There exists a present obligation as a result of a past event & it is reasonably certain that an outflow of economic resources will be required to settle the obligation. Criteria for recognition of provision in AS-29 is "probable" which is replaced by "reasonable certainty" under ICDS.	Contingent asset and contingent liability shall not be recognised However, contingent assets are assessed continually and when it becomes reasonably certain that the inflow of economic benefit will arise, the asset & related income are recognized in the PY in which the change occurs.
Measurement	Provision shall be the best estimate of expenditure required to settle the present obligation at the end of PY. The amt of provision shall not be discounted to its present value. If any expenditure required to settle the provision is expected to be reimbursed by a third party, it will be recognized only when it is reasonably certain that the reimbursement amt will be received. The amt of reimbursement shall not exceed the amt of provision.	Asset & related income shall be the best estimate of value of economic benefit arising at the end of PY. The amt of asset & related income shall not be discounted to its present value.



Review at the end of each PY	If it is reasonably certain that an outflow of economic resources will not be required to settle the provision then such provision should be reversed.	If it is reasonably certain that an inflow of economic benefits will not arise then such asset and related income should be reversed
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- A provision shall be used only for expenditures for which it was originally made.
- Disclosure: ICDS X requires disclosures in respect of each class of provision, asset & related income recognized.
- CBDT clarified that provisioning for employee benefit which are otherwise covered by AS 15 shall continue to be governed by specific provisions of the Act and are not dealt with by ICDS-X.

Summary:

Provisions for Bad debt for banks etc.	Allowed u/s 36(1)(viii)
Provision for gratuity	Disallowed u/s 40A(7)
Other provisions	Allowed- only if there is reasonable certainty as per ICDS X
Contingent liability	Disallowed under ICDS X
Contingent asset	Recognised only if it becomes reasonably certain as per ICDS X



Notes



Sec 13A: Income of Political Parties

Income from **House Property, Capital Gain, Other sources & Donation** received of political party shall be exempt if following conditions are satisfied:

- Must **maintain Books of Alc's & documents**,
- Must get its Books of **Account audited**,
- Must keep & maintain **record** of each voluntary contribution or **donation > ₹ 20,000** received by it except through electoral bonds (record means name, address of donor),
- Must receive donation > ₹ 2,000 by **A/c payee cheque or DD or ECS or Electoral Bonds**,
- Must file **Return of Income** upto due date u/s 139(4B).

- ❖ Income from Salary - **Not possible**
- ❖ PGBP - **Fully Taxable**

Sec 13B: Income of Electoral Trust

Any **Voluntary contribution (Donation)** received by on Electoral Trust shall be exempt, if both conditions are satisfied:

- (a) **At least 95% or more** of aggregate donation of the current year along with surplus b/f from the earlier year is **distributed to any political party &**
- (b) Function in accordance with rules made by CG.

Notes:

1. Only Donation Income is exempt other income like interest on Deposit, etc fully taxable.
2. Contribution is received from permitted sources:

Permitted Sources	Non-permitted sources
a) Individual Indian Citizen	a) Individual Non-Indian Citizen
b) Indian Company	b) Any Foreign Entity
c) Resident Firm, HUF, AOP, BOI	c) Any other Electoral Trust
	d) Government Company
	e) Any Foreign Source

3. Contribution is received only after donor furnishes his PAN (resident)/Passport No (NR donor).
4. Contribution is received only by way of a/c payee cheque, DD, ECS. Electoral trust may spend upto 5% of total donation received for the purpose of managing its affairs (Max Limit 5 lakhs for 1st Year & 3 lakhs for subsequent years). Contribution should not utilised for the direct or indirect benefit of its members or contributors.
5. Trust gets its books of account audited by a CA in Form 10BC and furnishes the same alongwith its return of income on or before due date u/s 139(1).

Sec 80GGB/80GGC: Donation to Political Party or Electoral Trust

Person donating to Political Party or Electoral Trust will **get 100% deduction** u/s 80GGB (Indian Co.)/80GGC (other Assessee). Deduction **not available** on Cash Donation.



Notes

Firm/LLP	Partners
- Income of firm/LLP is taxable @ 30% + (12% surcharge if NTI > ₹ 1 crore + 4% HEC) LTCG = 20/12.5%, STCG 111A = 15/20% and LTCG 112A = 10/12.5% in excess of ₹ 1,00,000. - Interest & Remuneration paid to the partners is allowed as per the limit specified u/s 40(b).	- Share of partner in the Total income of a firm/LLP is exempt in the hands of partners u/s 10(2A). - Interest & Remuneration received by the partners is taxable u/h PGBP to extent it is allowed u/s 40(b).

➤ Sec 44AD/44ADA **not applicable** to LLP.

➤ Losses of firm shall be carried forward by the firm and shall not be allocated to partners.

Sec 40(b): Payment of Interest, Bonus, Commission or Remuneration

Interest & Remuneration paid by Firm/LLP is allowed as deduction if following conditions are satisfied :

1. **Remuneration** paid to only **Working Partner**.
2. Remuneration & Interest should be **authorised** by **Partnership deed**.
3. Remuneration & Interest should relate to **period falling after the date of Partnership deed**. That means it **should not be retrospective**.
4. Interest on **partner's capital & loan** allowed **max@ 12% p.a.** simple interest.
5. Remuneration allowed on **Book profit basis** * [Amended by FA 24 w.e.f. AY 25-26]

* Book Profits (BP)



❖ Meaning of Book Profit	₹
Net Profit under PGBP	xx
(-) Current year + b/f depreciation	xx
	xx
(+) Remuneration (if it is debited to P&L A/c)	xx
Book Profits	xx

In simple terms: Book Profit means **PGBP before Remuneration**.



❖ Explanation to sec 40(b)

1. If any individual is a partner in a Firm on **Individual capacity** & receiving interest on **Representative's capacity**, then sec 40(b) not applicable on such interest.
2. If any individual is a partner in a Firm on **Representative's capacity** & receiving interest on **Individual capacity**, then sec 40(b) not applicable on such interest.

Summary

Partner on	Interest Recd. on	Treatment
Individual Capacity	Individual Capacity	Max. 12% interest allowed as per 40(b)
Representative Capacity	Representative Capacity	Max. 12% interest allowed as per 40(b)
Individual Capacity	Representative Capacity	Limit of Sec. 40(b) Not applicable so even interest more than 12% allowed
Representative Capacity	Individual Capacity	Limit of Sec. 40(b) Not applicable so even interest more than 12% allowed

Note: The above explanation is applicable **only for Interest**. If any individual is partner on representative capacity or individual capacity and received any remuneration then on such remuneration limit of section 40(b) shall apply.

Sec 78: Carry forward & Set-off of losses

The losses and unabsorbed depreciation of the firm can be carried forward by the firm only. If there is retirement of Partner or Death of partner the firm **shall not carry forward** shares of **retired/deceased partner in the losses of firm (after adjustment of current year profit)**.

Notes

1. Sec 78 does **not apply to unabsorbed depreciation** so it can be c/f by firm even if partner dies or retires.
2. If Legal heir becomes partner after death of any partner then firm can C/F & Set-off losses.

Example: Mr. X, Y & Z are partner in a Firm on equal PSR.

B/F losses for PY 23-24 - 8,00,000

Unabsorbed depreciation for PY 22-23 - 1,10,000

Profit of Current Year i.e. PY 24-25 - 9,30,000

Mr. Z retired on 30/06/24. Calculate taxable income of Firm for PY 24-25.

	₹
> Share of Mr. Z in Losses of Firm: $8,00,000/3 =$	2,66,667
Less: Share in current year profit: $9,30,000/3 \times 3\text{months}/12\text{ months}$	77,500
	<u>1,89,167</u>

➤	Computation of Total Income of Firm	PY 24-25 AY 25-26
	Net profit of Current Year	9,30,000
	Less: B/F losses of PY 23-24	<u>6,10,833</u>
	(8,00,000 - 1,89,167)	3,19,167
	Less: Unabsorbed Depreciation	<u>1,10,000</u>
	Total Income	<u>2,09,167</u>

◆ Sec 184: Assessment of Firm

Firm shall be assessed as firm if:

- There is a **partnership deed**.
- PSR** should be specified in deed.
- Partnership deed should be **furnished with first return of firm**.

◆ Sec 185: If above condition is not satisfied or Firm has committed a default u/s 144 then interest & remuneration paid to partners will be fully disallowed in hands of firm & not taxable in hands of partner.

◆ Sec 187: Change in constitution of FIRM

- If one or more partners are admitted **or** cease to be partners but **at least one person** who was partner of the firm before the change, **continues as partner after the change** or.
- Where all the partners continue with a **change in the respective PSR**.

◆ Sec 188: Succession of firm

Where a firm is succeeded by another firm. In this case separate assessment shall be made on the predecessor firm & the successor firm.

Example:

ABC	→	AB	Change in Constitution
AB	→	ABD	Change in Constitution
ABC	→	DEF	Succession

- Change in constitution → **only one return for P.Y.**
- Succession → **two return for P.Y.** [Predecessor & Successor].

◆ Sec 188A: Joint & Several liability of Partners

Every person who was partner of the firm **at any time during the P.Y.** shall be jointly & severally liable along with firm for amount of tax, Penalty, etc. of the firm for that P. Y.



◆ Sec 189: Firm dissolved or Business discontinued

- a) If the firm has been dissolved or business discontinued the A.O. shall make an assessment of the firm as if No such dissolution or discontinuance has taken place.
- b) Every person who was partner at the time of dissolution or discontinuance, shall be jointly & severally liable for tax, penalty, etc. for all the A.Y.s since the formation of firm.

◆ Sec 167C: Liability of partners of LLP is not limited for the purpose of income tax Act.

Case Laws

1. Anil Hardware Store (2010)(HP): Where the partnership deed does not specify the remuneration payable to each individual working partner but lays down the manner of fixing the remuneration, the assessee firm would be entitled to deduction in respect of remuneration paid to partners.
2. Great City Manufacturing Co. (2013)(All): Remuneration paid to working partners as per the partnership deed within the statutory limit prescribed u/s 40(b) shall be allowed as deduction even though it is unreasonable and excessive. AO cannot impose section 40A(2) in this case.
3. Pramod Mittal (2013) (Delhi): Can the loss suffered by an erstwhile Firm, which was dissolved, be c/f for set-off by the individual partner who took over the business of the firm as a sole proprietor, considering the succession as a succession by inheritance?
HC observed that the firm and the proprietorship concern are two separate and distinct units for the purpose of assessment. Sec. 78(2) deals with the carry forward of losses in case of succession of business. It provides that only the person who has incurred the losses, can be set off & c/f. An exception provided thereunder is in case of succession by inheritance. The exception given in section 78(2) permitting c/f of losses by the successor in case of inheritance, is not applicable in the present case since the partnership firm was dissolved and ceased to continue. Taking over of business by a partner cannot be considered as a case of inheritance due to death as per the law of succession. The loss suffered by the erstwhile partnership firm before dissolution of the firm cannot be carried forward by the successor sole-proprietor, since it is not a case of succession by inheritance.

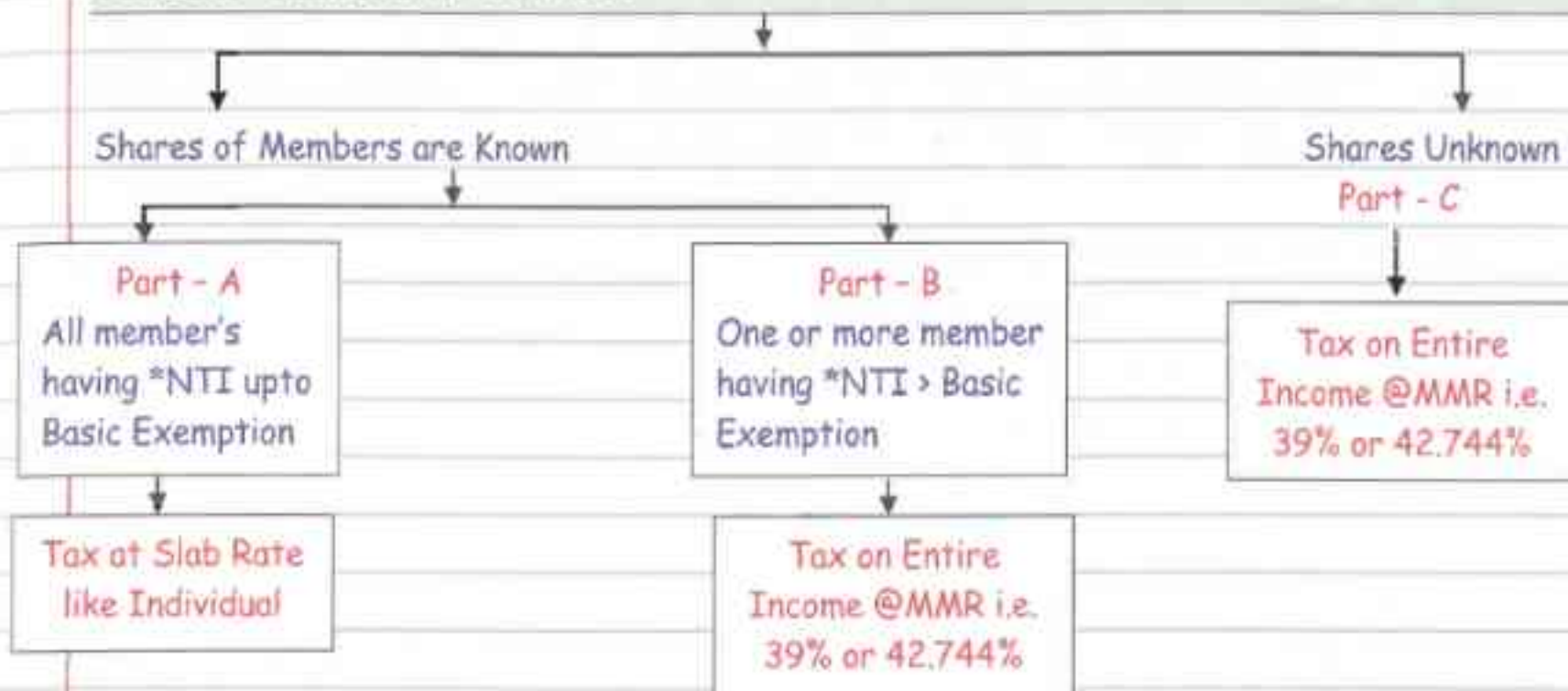


Sec. 40(ba): Interest & Remuneration to Member by AOP/BOI

Interest, salary, bonus, commission paid by AOP/BOI while computing PGBP Shall be **disallowed**.

Note: If any interest is recd. from the member to whom any interest is paid then only the Net Interest shall be disallowed.

Sec. 167B: Tax rates of AOP/BOI



*In computing NTI of member his share from this AOP / BOI shall be excluded.

Notes:

- If AOP/BOI pay tax as per default tax regime u/s 115BAC then MMR is 39% (30%+25%+4%) otherwise its 42.744% (30%+37%+4%).
- Loss of AOP/BOI shall be **c/f by such AOP / BOI only**.
- If AOP /BOI pay tax as per normal tax rate (slab rate) then special rates of tax income (like LTCG/STCG111A/LTCG112A) shall be taxable as per special rate of tax only. If AOP/BOI pay tax as per MMR or any higher rate then special rates of tax income shall be taxable as per MMR or such higher rate only.

Sec. 67A: Method of computing members shares in the income of AOP/BOI

Steps 1: Compute NTI of AOP/BOI, This shall be computed after disallowing salary & Interest paid to member as per Sec 40(ba)

	₹
Step 2: Net taxable income of AOP/BOI	xx
(-) Interest & remuneration paid to members	xx
	<u>xx</u>

This amount shall be allocated to members in their PSR



Step 3: To the amount allocated in step 2, add the interest & remuneration to the respective members. The total shall be members shares in income of AOP/BOI.

➤ **Why we computed members share?**

AOP/BOI is already chargeable to tax so members share should be exempt in their individual hands but if AOP/BOI paid taxes @ slab rate (part A of sec 167B) then members share in income of AOP/BOI (calculated in sec 67A) shall be included in total income of members & members will claim rebate u/s 86. If AOP/BOI has paid taxes @ MMR then member's shares shall not be included in total income of members. [Part B/C of Sec 167B].

Sec. 86: Rebate in Respect of Member's share

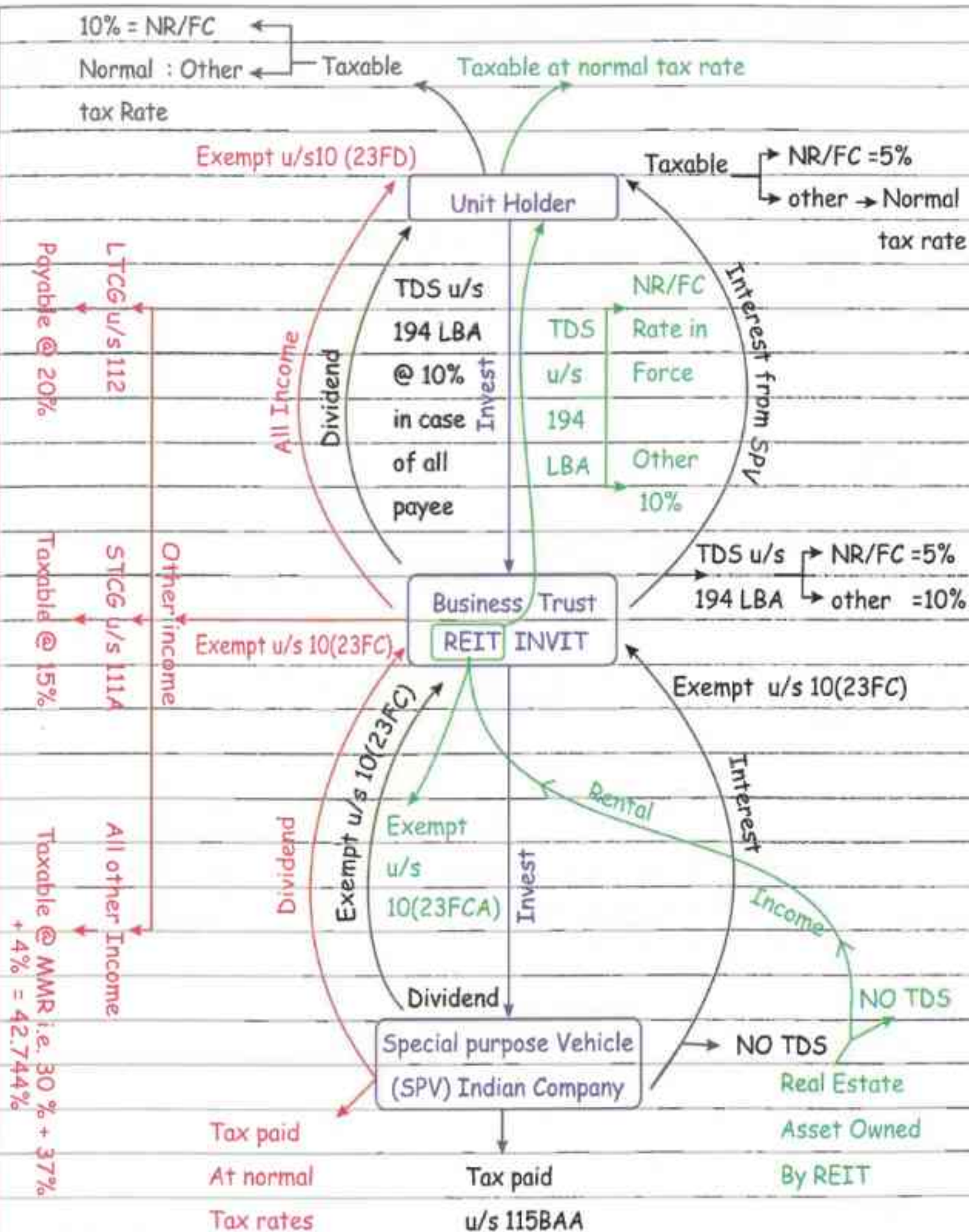
Computation of total income & tax of member	₹
Share from AOP/BOI	xx
Add : Other income of member	xx
Total income	<u>xx</u>
Tax liability on total income (including surcharge & HEC)	xx
less: Rebate u/s 86	xx
Tax liability x Share from AOP/BOI	
Total Income	
Net Tax Payable by Member	<u>xx</u>

➤ No rebate if the tax payable by AOP/BOI is Nil.

➤ The rebate shall be reduced after adding surcharge & education cess.

◆ **Interest to Members**

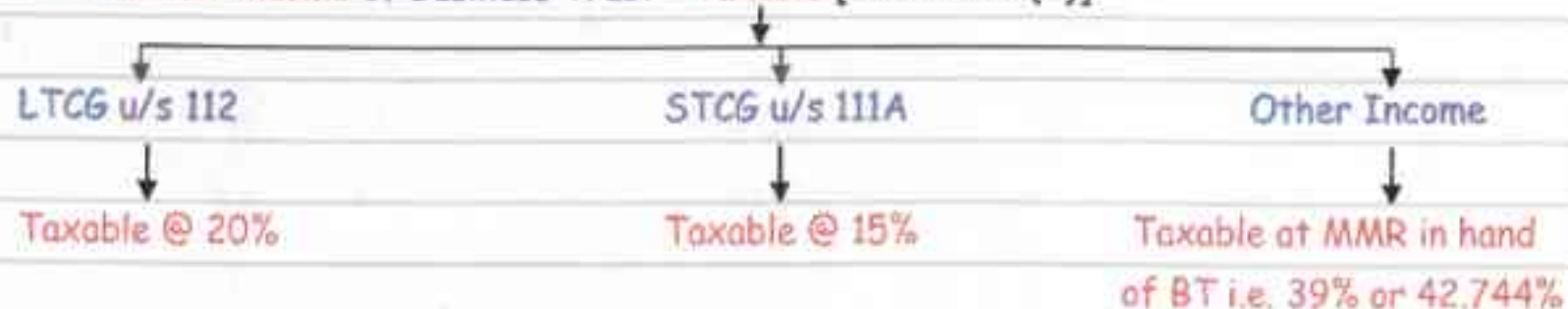
Member on	Interest Recd. on	Treatment
Individual Capacity	Individual Capacity	Interest dis-allowed as per 40(ba)
Representative Capacity	Representative Capacity	Interest dis-allowed as per 40(ba)
Individual Capacity	Representative Capacity	Sec. 40(ba) Not applicable so full interest is allowed
Representative Capacity	Individual Capacity	Sec. 40(ba) Not applicable so full interest is allowed



- # Business Trust means "Real Estate Investment Trust (REIT)" or "Infrastructure Investment Trust (Invit)"
- Example of Business Trusts: India Grid Trust, Embassy office Parks REIT, Mind space Business Parks REIT etc.

◆ Taxability in hands of Business Trust (REIT /Invit)

- Interest & Dividend from SPV shall be **fully exempt** u/s 10(23FC), so SPV is not required to deduct TDS on such Interest & Dividend.
- Rental income of REIT (only REIT) from renting /leasing/letting out any Real estate asset owned by REIT shall be **exempt**-Sec 10(23FCA).
- All other income of Business Trust - **Taxable** [Sec 115UA(2)]



◆ Taxability in hands of Unit Holders

- Any **interest** received by unit holder from BT (which was received from SPV) shall be taxable in hands of unit holder at following rates.
 - ⇒ NR / Foreign Company - **5%**
 - ⇒ Resident - **Normal tax rates**

Since interest is taxable in hands of unit holders so, BT **required to deduct TDS** at following rates u/s 194LBA

- ⇒ NR/Foreign Co. Payee - **5%**
- ⇒ Resident Payee - **10%**

- Any **dividend** received by unit holder from BT (which was received from SPV & SPV paid taxes u/s 115BAA @22%) shall be taxable in hands of unit holders at following rates:

- ⇒ NR/ Foreign Company- **10%**
- ⇒ Resident- **Normal Tax Rates**

Since above dividend is taxable in hands of Unit holders so, BT **required to deduct TDS** at following rates u/s 194LBA

- ⇒ NR/Foreign Co. Payee - **10%**
- ⇒ Resident Payee - **10%**

- If SPV paid taxes as per normal provisions of income tax (Not opted 115BAA) then Dividend from SPV shall be **exempt** in hands of BT u/s 10(23FC) & in hands of unit holder's u/s 10(23FD).



- **Rental income** received by Unit holder from REIT shall be **taxable** at followings rates in hands of Unit holder because it was exempt in hands of REIT u/s 10(23FCA)
 - ⇒ NR / Foreign Company - **Normal tax rates**
 - ⇒ Resident - **Normal tax rates**

Since above rental is taxable in hands of Unit holders so, BT **required to deduct TDS** at following rates u/s 194LBA

- ⇒ NR/Foreign Co. Payee - **Rate in force (Tax rate applicable for recipient)**
- ⇒ Resident Payee - **10%**

- **Sec 56(2)(xii):** Specified sum received by unit holder from BT during the PY shall be taxable. Specified sum = $A - B - C$ (which shall be deemed to be "0" if sum of B and C is greater than A), where-

A = agg. of sum distributed by the BT, which is,—

- (a) **not in the nature** of Interest, Dividend & Rental income referred in 10(23FC)/(23FCA); &
- (b) **not chargeable in hands of BT** to tax u/s 115UA(2);

B = amount at which such unit was issued by the BT; and

C = amount charged to tax under this clause in any earlier PY.

Reason of above amendment - In some cases, BT make distribution to unitholders which can be categorised into 4 different categories-(i) interest (ii) dividend (iii) rental income and (iv) repayment of debt. As explained above, interest, dividend and rental income have been exempt at the level of BT and are taxable in the hands of the unitholders.

However, in respect of the distribution made by BT to unitholders (which is shown as repayment of debt) nothing is taxable in the hands of BT or unitholders. To remove such dual non-taxation of any distribution made by the BT to unitholders (i.e. which is exempt in the hands of the BT as well as the unitholder) sec. 56(2)(xii) introduced by FA 2023 w.e.f. AY 24-25.

- Any other income (**except covered in above points**) received by unit Holders from BT shall be exempt in hands of Unit Holders u/s 10(23FD).
- Taxability on transfer of **unit of BT** - listed in recognised stock exchange & STT paid thereon





Note: If units of BT not listed then LTCG taxable@ 20%/12.5% u/s 112 and STCG taxable at Normal Tax rates in hands of Unit Holders.

- If any person transfers shares of SPV to BT in exchange of Unit of BT, it shall not be treated as transfer & capital gain shall not apply. [Sec 47(xvii)]

⇒ Sec 49(2AC): COA units = COA of shares in SPV

⇒ Period of Holding = Period of shares in SPV + Units in Business Trust

Notes:

1. Business Trust compulsory required to file return as per sec. 139(4E).
2. SPV means Indian company in which BT holds controlling interest & any specific % of shareholding [Presently 50% or more].
3. Income distributed by BT to its Unit holders shall be of the same nature & in the same proportion in hands of the unit holders as it had been received by BT [Sec 115UA(1)].



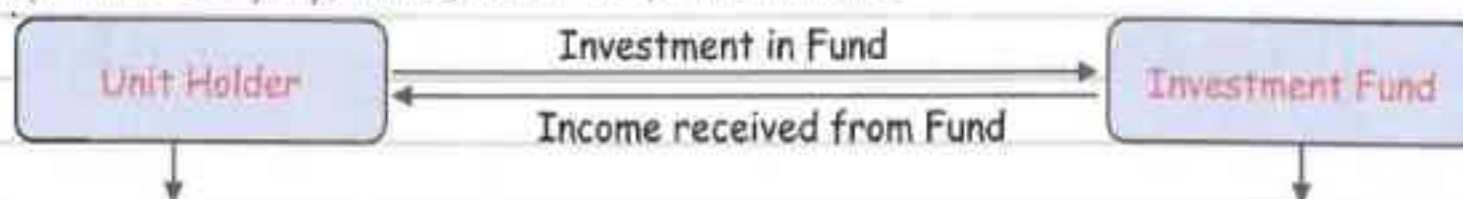
Investment fund means Category I or II Alternative Investment Fund and is regulated under the SEBI (AIF) Regulations, 2012 or under the IFSC Authority act, 2019.

Category I : Investment in Start-ups, SME, social and economically viable projects.

Example : Venture Capital Funds, SME Funds, Social Venture funds, Infrastructure Funds, Angel Investment Funds

Category II : Investment in Equity and Debt Securities.

Example Private Equity, Funds, Debt Fund, Fund of Funds



All Income taxable except PGBP

All Income exempt except PGBP

1. All incomes of investment funds (except PGBP) are **Exempt u/s 10(23FBA)**.
2. ALL income received by **unit holders** from investment fund are **taxable** in hands of unit holders (except PGBP) **u/s 115UB**.
3. Tax rates for investment fund (PGBP)
 - Company/Firm - 25%/30%
 - Other - MMR
4. Any income distributed by investment fund (except PGBP), **TDS has to be deducted** by Investment Fund u/s 194LBB.
 - NR/FC Payee = Rate in force
 - Resident Payee = 10%
5. If the income accruing/arising/recd. by fund during P.Y. has not been paid/credited to unit holder, the same shall be **deemed to have been credited to the account of Investor on the last day of P.Y.** & taxable in hands of unit holder.
Note: If income already taxed in the year of accrual then not taxable in the year of receipt.
6. Any income accruing or receive by a person being unit holder of an investment fund, out of investment made in investment fund, shall be chargeable to income tax in the same manner as if it were the income accruing/received by Unit holder.
7. Income **nature and proportion** will be **same** in hands of Unit holder.
8. Investment fund **compulsorily required to file return u/s 139(4F)**.

◆ **Losses incurred by Investment Fund [From 01.04.2019]**

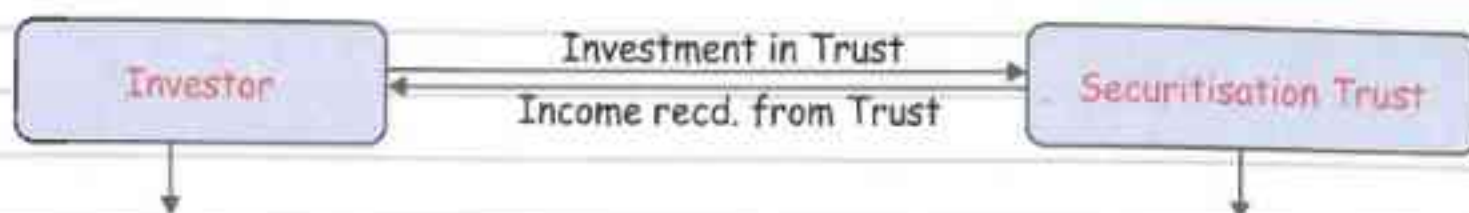
If in any year there is a loss under any head of income at the fund level then first fund will set-off such losses and if such loss cannot be or is not wholly set-off against income under any other head of income of that PY, then out of such losses,

(i) **PGBP Losses** : Carried forward and set-off by Fund only.

(ii) **Other Losses** : Passed on to the unit holders (who holds units atleast for 12 months or more) to be carry forward and set-off in their individual hands.

Note -1: If units not hold for 12 months, then such losses not allowed to Unit holder as well as Fund.

Note-2: Before 01.04.2019 all losses carried forward by Fund only but from 01.04.19 losses other than PGBP allowed to be carry forward to unit holders so any accumulated losses (other than PGBP) at fund level on 31.03.19 shall be distributed to unit holder holding units on 31.03.19 and allowed to carry forward and setoff to unit holder for remaining period.



All Income taxable

All Income from securitisation activity
exempt u/s 10(23DA)

- Income of Securitisation Trust from the activity of Securitisation shall be **exempt in hands of Trust as per Sec 10(23DA)**.
- Income accruing or received by investor from securitisation trust (out of investment made in trust), shall be taxable in hands of Investor in the same manner & to the same extent as if investor had made investment directly in the underlying asset & not through the trust (Sec 115TCA).
- Income in hands of investor shall be of the **same nature & in the same proportion** as it had been accrued/received by Securitisation Trust.
- If the income accruing/arising/ received by trust during P.Y. has not been paid or credited to the investor, the same shall be deemed to have been credited to the account of Investor on the last day of P.Y.
Where income has been taxable in hands of investor in the year of accrual then same shall not be taxable in the year in which trust actually paid income.
- Securitisation Trust **required to deduct TDS** at following rates at the time of payment or credit whichever is earlier u/s 194 LBC:

Resident Ind/HUF Payee	25%
Other Resident Payee	30%
NR/FC payee -	Rate in Force
- Securitisation Trust means a SPV or a trust setup by Reconstruction Co. or Secu. Co. under the regulation of SARFAESI Act, 2002 or SEBI (public offer & listing of Securitised DEBT Instrument) Regulation 2008 or RBI directions/Guidelines.
- **Common Note for Business Trust, Investment Fund & Securitisation Trust**
The Business Trust, Investment Fund & Securitisation Trust shall provide **breakup** regarding nature and proportion of its income and other details to **unit holder/ investor** upto **30th June** of the F.Y. following the P.Y. and **Income Tax Authority (CIT/PCIT)** upto **30th November** (15th June in case of **investment fund**) of the FY following the P.Y.



Yes
People!

Notes



MAT is applicable only to "Companies" (including foreign/Govt/Non-Govt Company)

As per sec 115JB, companies have to pay tax ₹

(i) Tax as per Normal Prov. of income tax xx

(ii) 15% of Book Profit (MAT) xx

Whichever is Higher

Normal tax Rates in case of company	Domestic Co.	Foreign Co.
Tax Rate	25%/30%	35%
Surcharge		
NTI > 1 crore upto 10 crores	7%	2%
> 10 Crores	12%	5%
Health & Education Cess	4%	4%

MAT Calculation	₹
15% of Book Profits	xx
Add: Surcharge:	
If BP > ₹ 1 Cr - 7% / 2%	
If BP > ₹ 10 Cr - 12% / 5%	xx
	xx
Add: HEC @4%	xx
	xx
MAT	xx

Notes:

- Sec 115JB(7): Where unit of assessee is located in an IFSC & derive its income solely in foreign exchange then MAT is applicable @ 9% instead of 15%.
- MAT is **not applicable** to life insurance companies or person exercised option referred u/s 115BAA or 115BAB.
- MAT **not applicable** in case of foreign companies -
 - Foreign Company - Resident of a country or specified territory with which India has DTAA & such Foreign Co. does not have any P.E. (Permanent establishment) in India.
 - Foreign Co. - Resident of country with which India does not have any DTAA & Foreign company is not required to seek registration under any companies Law.
- MAT **not applicable** in case of foreign company, if total income solely of PGBP referred u/s 44B, 44BB, 44BBA, 44BBB & such income offered to tax at such special rates.



➤ Explanation to Sec. 115JB : Computation of Book Profit

Part - 1 (Adjustments for All Companies)		₹	₹
Profit as per statement P&L A/C (Companies Act), 2013 SCH-III			xx
Add: [only if Dr. to P&L (except point no.10 & 14)]			
1.	Income tax paid/provision [includes interest on IT, DDT, surcharge & education cess]	xx	
2.	Dividend paid/proposed	xx	
3.	Any amount transferred to any Reserves A/c	xx	
4.	Losses of Subsidiary Company	xx	
5.	Provision for un-ascertained/contingent liability	xx	
6.	Expenses for earning Income exempt u/s 10, 11, 12	xx	
7.	Depreciation debited to P&L a/c (Total Depreciation)	xx	
8.	Provision for Diminution in the value of assets (provision for Bad debts/AS-13/AS-28)	xx	
9.	Deferred Tax	xx	
10.	Balance in Revaluation reserve on retirement or disposal of Asset (if not credited to P&L A/c)	xx	
11.	Expenses related to share in the income of AOP/BOI	xx	
12.	Expenses relating to income to foreign company From - Capital Gain on securities; or - Dividend, Interest, Royalty, Fees for Technical Service if the tax rate on above income is less than MAT Rate i.e. 15%	xx	
13.	Any notional loss on exchange of shares of SPV with units of Business Trust or notional loss due to change in carrying amount of units or loss on the transfer of units	xx	
14.	Amount of actual gain on transfer of units of business trust (SP of units - Cost of shares of SPV)	xx	
15.	Expenditure relatable to income by way of royalty of patent taxable u/s 115BBF	xx	xx
			xx
Less:			
A.	Amount withdrawn from any reserve (if reserve made through P&L A/ c)	xx	
B.	Income exempted u/s 10/11/12	xx	
C.	Deferred Tax	xx	
D.	Depreciation (excluding depreciation on Revaluation of asset)	xx	
E.	Profit of Sick Industrial company	xx	



F.	Transfer from Revaluation reserve (to the extent Depreciation on revaluation assets)	xx	
G.	B/F losses and unabsorbed depreciation of company:- (i) Against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority u/s 7 or 9 or 10 of the IBC, 2016 (ii) Company, and its subsidiary and the subsidiary of such subsidiary, where, Tribunal, on an application moved by the CG u/s 241 of the Co. Act, 2013 has suspended the BOD of such company and has appointed new director u/s 242 (a company shall be a subsidiary of another company, if such other company holds more than 50% in the nominal value of eq. share capital of the company)	xx	
H.	(i) B/F losses ↓ (ii) Unabsorbed Dep. Whichever is Lower xx xx	xx	
I.	Income as a share in Income of AOP/ BOI (because income is already taxable in hands of AOP/BOI)	xx	
J.	Income to foreign Company From - a) Capital gain on securities, or b) Interest, Dividend, royalty or FTS if tax rate on above income is less than MAT rate i.e. 15%	xx	
K.	Any notional gain on exchange of shares of SPV with units of Business Trust or notional gain due to change in carrying amount of units or gain on the transfer of units	xx	
L.	Amount of actual loss on transfer of units of business trust (SP of units - Cost of shares of SPV)	xx	
M.	Income by way of royalty in respect of patent chargeable to tax u/s 115BBF [As per sec 115BBF royalty is taxable @ 10%, MAT is not applicable]	xx	xx
Book Profit		xx	

Notes:

- > For above adjustments, net profit should be computed as per schedule III of Companies Act 2013. For electricity, Banking & Insurance Companies profit calculated as per respective Act.
- > Provision for gratuity, leave salary, prov. for warranty shall not be added, if it is made as per Actuary valuation or scientific basis.



- Depreciation referred in point no. '7' and 'd' should be as per Companies Act, NOT as per IT Act.
- B/F loss & Unabsorbed depreciation as per companies Act, Not as per IT Act.

Part-2

In case the company required to Comply with Ind-AS then following additional adjustments to be made in book profit computed in Part-1

Section 115JB(2A) & 115JB(2C)		₹	₹
Book profit computed in Part-1			xx
Add:			
1.	Items credited to other comprehensive income (OCI) and not to be reclassified to statement of Profit or loss (except note-1)	xx	
2.	Gain from change in fair value of equity instruments through OCI and revaluation surplus from assets on retirement, disposal, realization or transfer	xx	
3.	Amount debited to statement of profit and loss on distribution of Non-Cash assets to shareholder in a demerger as per Appendix A of Ind-AS10	xx	
4.	1/5 of transition amount	xx	xx
Less:			
A.	Items debited to other comprehensive income (OCI) and not to be reclassified to statement of Profit or loss (except note-1)	xx	
B.	Loss from change in fair value of equity instruments through OCI and revaluation surplus from assets on retirement, disposal, realization or transfer	xx	
C.	Amount credited to statement of profit and loss on distribution of Non-Cash assets to shareholder in a demerger as per Appendix A of Ind-AS 10	xx	
D.	1/5 of transition amount	xx	xx
Book Profit for Ind-AS compliant companies			xx

Note:1 Following shall not be increased or decreased from the book profit:

- (i) Revaluation surplus from asset in accordance with the Ind AS 16 & 38
- (ii) Gain or loss from investment in equity instruments designated at fair value through OCI in accordance with the Ind AS 109

Means MAT not applicable on Notional profit or loss of above 2 items. It will be applicable in the year in which such asset or investment is retired, disposed, realized or transferred.



Note:2 In a demerger, in the case of a resulting company, where the property and the liabilities of the undertaking received by it are recorded at values different from values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company - Sec. 115JB(2B)

Note: 3

"Transition amount" means the amounts adjusted in the other equity (excluding capital reserve & security premium reserve) on the convergence date but not including the following, -

- A. Amounts adjusted in the OCI on the convergence date which shall be subsequent re-classified to P&L;
- B. Revaluation surplus for assets in accordance with the Ind-AS 16 and Ind-AS 38 adjusted on the convergence date;
- C. Gains or losses from investments in equity instruments designated at fair value through OCI in accordance with the Ind-AS 109 adjusted on the convergence date;
- D. Adjustments relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost in accordance with paragraphs D5 and D7 of the Ind-AS 101 on the convergence date;
- E. Adjustments relating to investments in subsidiaries, joint ventures and associates recorded at fair value as deemed cost in accordance with paragraph D15 of the Ind-AS 101 on the convergence date; and
- F. Adjustments relating to cumulative translation differences of a foreign operation in accordance with paragraph D13 of the Ind-AS 101 on the convergence date.

➤ However, the book profit of the previous year in which the asset or investment referred to in sub-clauses (B) to (E) above is retired, disposed, realised or otherwise transferred, shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the said sub-clause relating to such asset or investment. The book profit of the previous year in which the foreign operation referred to in sub-clause (F) is disposed or otherwise transferred, shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the said sub-clause relating to such foreign operations.

➤ "Convergence date" means the first day of the first Ind-AS reporting period as defined in the Ind-AS 101. "year of convergence" means the previous year within which the convergence date falls.



➤ **Sec 115JAA: MAT Credit**

- (a) MAT credit shall be c/f & set-off upto 15 A.Y.s
- (b) MAT Credit
15% of Book Profit (MAT) **minus** Tax as per Normal prov.
- (c) MAT credit can be set off in the year in which
Tax as per Normal prov. > MAT (15% of Book Profit)
- (d) MAT credit can be utilized to the extent **normal tax exceeds MAT**.
- (e) In case of conversion of a unlisted company into an LLP, the tax credit u/s 115JAA for MAT paid by the company u/s 115JB would not be allowed to the successor LLP.
- (f) The amount of MAT credit will be reduced by :
Foreign Tax Credit Allowed against MAT **minus** FTC allowed against Normal Tax.

Notes:

1. Company to which MAT applies shall be liable to pay Advance tax, Interest u/s 234A/B/C.
2. Apollo Tyres Ltd. - Where P&L is prepared as per Companies Act, the A.O. could not recompute profit of company for MAT calculation. He can adjust only adjustment provided in explanation 1 of Sec 115JB.

Example of MAT Credit

P.Y.	Tax as per 115JB MAT	Normal Tax	Tax Payable	MAT Adjustment	Actual Tax Paid	MAT Credit
17-18	1,00,000	70,000	1,00,000	-	1,00,000	30,000
18-19	90,000	50,000	90,000	-	90,000	70,000
19-20	40,000	65,000	65,000	25,000	40,000	45,000
20-21	50,000	55,000	55,000	5,000	50,000	40,000
21-22	30,000	90,000	90,000	40,000	50,000	-
22-23	1,30,000	80,000	1,30,000	-	1,30,000	50,000

Amendment made by FA, 2021

In case of company, where there is an increase in Book Profit of the current PY due to income of past year or years included in the book profit on account of an Advance Pricing Agreement (APA) u/s 92CC or Secondary Adjustment u/s 92CE, the AO shall, on an application made by the assessee, recompute the book profit of the past year or years. AO will also compute tax payable if any by assessee. [Added by FA-21 w.e.f. AY 21-22]

Notes:

1. For the purpose of rectification u/s 154, 4 year time limit shall be computed from the end of financial year in which application is made by assessee.
2. Above provision is applicable only if company have not utilized MAT credit arise in earlier years



3. Above provisions are also applicable for AY 20-21 or earlier years. If any refund arise due to above provision then assessee not entitle for any interest on such refund.
4. The adjustment under this provision is dependent on application by the assessee company. In other words, the company has an option whether to seek the adjustment under the sub-section or not.

➤ **10RB - Relief in tax payable u/s 115JB(1) due to APA/SA**

Tax payable by assessee company u/s 115JB(1) for the PY referred to in that section, shall be reduced by the following amount, namely:-

$(A-B) - (D-C)$, where,

A = Tax payable by company u/s 115JB(1) on the BP of the PY including the past income;

B = Tax payable by company u/s 115JB(1) on the BP of the PY after reducing the BP with the past income;

C = Aggregate of tax payable by company u/s 115JB(1) on the BP of those past year or years to which the past income belongs;

D = Aggregate of tax payable by company u/s 115JB(1) on the BP of past year or years, referred to in item C, after increasing the BP with the relevant past income of such year or years:

Provided that if the value of $(A-B)-(D-C)$ in the formula is negative, its value shall be deemed to be zero.

Notes:

1. For the purposes of sec. 115JB(1), past income would be the amount of income of past year or years included in the BP or the PY on account of an APA entered into by the assessee u/s 92CC or on account of secondary adjustment required to be made u/s 92CE.
2. On application of provision of Rule 10RB(1), the tax credit allowed to the assessee u/s 115JAA shall be reduced by the amount which is equal to the amount of reduction that has been allowed under Rule 10RB(1).

Case Laws

Metal and Chromium Plater (P) Ltd. [2019] (Mad)

Since Sec 115JB(5) allows for application other provisions contained in the Income Tax Act, any capital gains forming part of net profit in respect of which assessee has claimed exemption u/s 54EC while computing total income under normal provisions of the Act should not be taken into account while computing book profits u/s 115JB as well. MAT not applicable on such LTCG.

Contradictory view in case of N. J. Jose and Co. (P) Ltd. (Ker): LTCG exempted by virtue of sec 54EC has to be included in the book profit computed u/s 115JB. Hence MAT will be applicable.



Notes

AMT is applicable to **All assessee** except Company.

- Sec 115JC: Income tax payable by any person, higher of ₹
- | | | |
|-------|---|-----|
| ↑ (i) | Income Tax payable as per Normal Provision of Income Tax | xxx |
| (ii) | 18.5% of Adjusted Total income (ATI) | xxx |
- [Surcharge (if applicable) + 4%]

Notes:

1. Calculation of ATI ₹

Total Income (NTI) as per Normal provision of Income Tax	xx
Add: (i) Deduction u/s 10AA (SEZ)	xx
(ii) Deduction u/s 35AD (14 Business)	xx
(iii) Deduction u/c VI-A (Deduction in respect of Income except Sec 80P) [sec 80IA to 80RRB]	xx
	<u>xx</u>
Less: Depreciation allowable as per Sec. 32 assuming that deduction u/s 35AD was not allowed on the assets on which deduction u/s 35AD is claimed	xx
ATI	<u>xx</u>
2. AMT shall not be applicable if **ATI** (Adjusted Total income) is up to ₹ 20 lakhs in case of Individual/HUF/AOP/BOI/Artificial Judicial Person.
 The provision of AMT apply only if assessee is claiming deduction u/s **10AA, 35AD, 80IA to 80RRB (except 80P)**.

➤ Sec 115JD : AMT Credit

 - a) If **AMT > Normal Income tax** then excess shall be treated as AMT credit.
 - b) AMT credit can be C/F and set off for **15 years**.
 - c) Credit can be set-off in the year in which **regular tax is more than AMT**.
 - d) The credit allowed to be set off will be restricted to the difference between the regular Income tax computed under normal provision of IT & the AMT.
 - e) Assessee can claim **AMT credit in such subsequent P.Y.** even if AMT is not applicable in subsequent P.Y.

➤ Notes

 - (i) All other provisions of IT Act like Advance tax, int u/s 234A/B/C shall apply to Assessee.
 - (ii) Assessee will obtain report from **CA for computation of ATI & AMT**.
 - (iii) The Amount of AMT Credit will be reduced by :
 Foreign Tax Credit Allowed against AMT **minus** FTC allowed against Normal Tax



Example	Normal Income Tax	AMT
Tax Calculated	2,00,000	3,00,000
Less: FTC	40,000	55,000
Final Tax Payable	1,60,000	2,45,000

Assessee will pay tax: ₹ 2,45,000 & He can claim AMT Credit of (2,45,000-1,60,000): ₹ 85,000.

- (iv) Where unit of assessee is located in IFSC & derive its income solely in convertible foreign exchange, then AMT is applicable @9% instead of 18.5%.
- (v) In case of Co-operative Society Amt Applicable @ 15% instead of 18.5%.
- (vi) Provisions of this chapter not applicable for Specified Fund referred u/s 10(4D).
- (vii) Provision of this topic not applicable if assessee opting for provisions of Sec 115BAC, 115BAD & 115BAE. Further, any unutilised AMT credit shall be lapse permanently.



> Sec 10AA: Special Provisions for newly establish units SEZ

1. In computing Total income of an undertaking, which begins to **manufacturing or produce article or things or computer software** in any SEZ

Deduction under this section is available only if the SEZ unit has received the necessary **approval upto 31.3.2020** and **begins manufacture or production** of articles or things or providing services **upto 31.03.2021**.

Amount of Deduction	
For First 5 AY's	100% of Export Profit
For Next 5 AY's	50% of Export Profit
For Next 5 AY's	Amount debited to P&L A/c & credited to SEZ Reinvestment Allowance Reserve A/c OR 50% of Export Profit Whichever is lower

2. Export Profit

$$\text{PGBP of unit located in SEZ} \times \frac{\text{Export Turnover}^{**}}{\text{Total Turnover}}$$

****Export Turnover** means the consideration in respect of export brought into India in convertible foreign currency **within 6 months from end of PY** or time permitted by RBI.

Notes:

1. Sales proceeds deemed to have been received in India if such amount is credited to a separate A/c maintained by assessee outside India with approval of RBI.
2. Amount credited to SEZ Re-invest allowance reserve A/c should be utilized for acquiring new P&M & put to use within 3 years from the end of P.Y. in which reserve was created. If amount mis-utilised or un-utilised then deduction claimed earlier shall be taxable as PGBP.

Deemed Income

- > If Reserve has been utilized for non-specified purpose: **of the year in which wrongly utilized.**
- > If Reserve has not been utilized till the expiry of time limit: **of the year immediately following the period of 3 years.**



3. Export T/O **does not include** freight, telecommunication charges, Insurance or expenses for providing service outside India. Further export T/O shall not include cash compensatory support, Duty drawback and profit on sale of import entitlement licenses.
 4. Total T/O shall **not include** freight, telecommunication charges, insurance or expenses for providing service outside India. Further it shall not include CCS, DD and profit on sale of import entitlement licenses. Total T/O includes Export T/O and Domestic T/O and it further includes even that portion of export T/O which is not received in convertible foreign exchange.
 5. Deduction u/s 10AA available after **claiming all deduction u/c VI-A** from GTI.
 6. Income from cash Compensatory support, duty drawback and sale of import entitlement licenses are taxable under the head PGBP but not eligible for deduction calculation as these are ancillary profit and hence do not constitute profit "derived from" business.
 7. Assessee shall obtain a report from an CA and furnish it before the due date specified u/s 44AB.
 8. Deduction under this section **not available** if its formed by **splitting up/reconstruction of existing business:-**
Exceptions: In case of software industry, deployment of technical manpower from existing units to SEZ unit shall not be treated as splitting up of business provided:
 - Technical manpower **transferred to SEZ unit is upto 50%** of total technical manpower deployed in SEZ unit in the first year of business, or
 - Net additions of **technical power employed in all Units atleast 50%** or more of technical manpower in **SEZ unit** in such P.Y.
 9. P&M used in business should be New:-
Exceptions:
 - a) **20%** of total value of P&M used in undertaking can be **second hand**.
 - b) **P&M Imported** from outside India for the first time shall be treated as **New P&M**.
- ◆ **Circular No. 1/2013 dated 17/1/2013**
- (a) It is clarified that the software developed abroad at client place would be eligible for 10AA pursuant to a contract between client and SEZ unit.
 - (b) It is further clarified that the profits earned as a result of deployment of technical manpower at client place abroad specifically for software development shall be eligible for 10AA pursuant to a contract between both the parties.



- (c) It is clarified that in case of change in ownership deduction shall be available during the unexpired period at applicable rates subject to fulfilment of prescribed conditions.
- (d) It has been clarified that the tax holiday should not be denied merely on the ground of physical relocation of an eligible SEZ unit from one place to another SEZ unit.

➤ Case Laws

HCL Technologies Ltd. (2018)(SC): Expenditure incurred in foreign exchange for provision of technical services outside India, which is deductible for computing export turnover, will also be excluded from total turnover for the purpose of computing deduction u/s 10AA.

Cognizant Technology Solutions of India Pvt. Ltd. [2023](SC):

Is deduction u/s 10AA available in respect of foreign exchange gain solely relating to the export business of the assessee?

Benefit earned by the assessee derived by virtue of export made by the assessee is considered. The exchange value based on upward or downward of the rupee value is not in the hands of the assessee. When the fluctuation in foreign exchange rate was solely relatable to the export business of the assessee and the higher rupee value was earned, the deduction u/s 10AA would be available in respect of such foreign exchange gains.

Note: Deduction u/s 10AA is available only if assessee filed ROI upto due date of ROI u/s 139(1).



Notes



1. Deduction u/c VI-A is **restricted** to Gross Total income & deduction **cannot be carry forward**.
2. Deduction u/c VI-A is Not Allowed against LTCG, LTCG 112A, STCG 111A & special rates of tax income.

Payment Related Deductions

Sec 80C: Specified Investments

- Eligible Assessee: Individual & HUF
- Amount of Deduction: Max ₹ 1,50,000
- Eligible Investments

1. Life Insurance Premium (LIP)

For Individual: **Self, Spouse, Children**

For HUF: **Any Member**

Policy issued before 1/4/12	Policy issued on or after 1/4/12	Policy issued on or after 1/4/13 for person with disability (u/s 80U) or person suffering from specified disease (u/s 80DDB)
(i) Premium Paid xx ↓ (ii) 20% of Policy Value xx	(i) Premium Paid xx ↓ (ii) 10% of Policy Value xx	(i) Premium Paid xx ↓ (ii) 15% of Policy Value xx

2. Amount deposited in **Public Provident Fund (PPF)**

(For Individual: **Self, Spouse, Children**)

(For HUF: **Any Member**)

3. Employee's contribution to **Statutory provident fund, Recognised Provident fund or Approved Superannuation Fund (SPF, RPF & ASF)**.

4. Amount invested in **NSC** as well as **interest accrued on NSC**.

5. **Repayment** of Loan taken from banks or financial institution for purchase or construction of House.

6. **Fixed Deposit** in a scheduled Bank or Post office for **5 years or more**.

7. **Tuition fees** paid for education of children. [Max 2 children for full time education in India]

8. Deposit in Notified **bonds of NABARD**.

9. Deposit in **Senior citizen Saving Scheme**.

10. Contribution towards **Unit Linked Insurance Plan (ULIP)**.

11. Notified **units of Mutual Funds or UTI**.

12. Notified **Pension scheme of UTI or MF**.

13. Deposit in **Sukanya Samridhi scheme A/c** [For any girl child of individual or girl child for whom such individual is a legal guardian].

14. **Stamp duty, Registration fee** for acquisition of house property.

15. By employee of **CG** as a contribution to a specified account of the pension scheme referred to in Sec. 80CCD for a fix period of **Three years or more (NPS Tier - II)**.

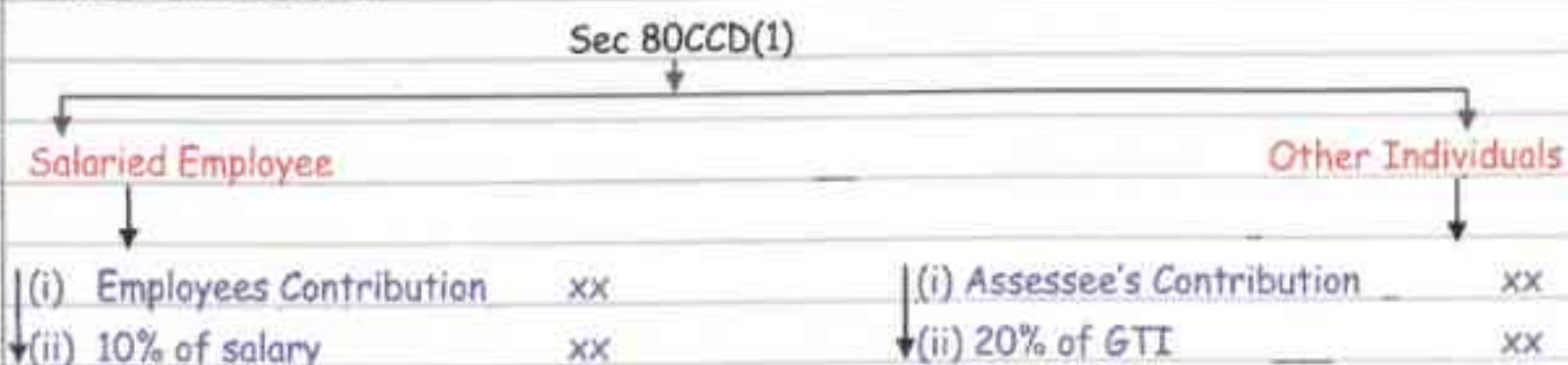
16. Contribution to **National Housing Bank (Tax Saving) Term Deposit Scheme, 2008**.

Sec 80CCC: Contribution to Pension Fund of LIC or other Insurance company

- Eligible Assessee: Individual
- Amount of Deduction: Max ₹ 1,50,000

Sec 80CCD: Contribution to Pension scheme of Central Govt. / National Pension scheme

- Eligible Assessee: Individual
- Amount of Deduction:



- Sec 80CCD(1B): Additional deduction up to ₹ 50,000 shall be allowed other than contributions covered u/s 80CCD(1)

Example: Assessee's contribution - ₹ 1,40,000 towards NPS & GTI is ₹ 5,50,000, in this case assessee can claim ₹ 1,10,000 (20% of GTI) u/s 80CCD(1) & remaining ₹ 30,000 u/s 80CCD(1B) or He can first claim u/s 80CCD(1B) of ₹ 50,000 & remaining ₹ 90,000 u/s 80CCD(1).

- Sec 80CCD(2): Employer's contribution to NPS for the benefit of Employee

Employer's contribution is first taxable under the head salary in hands of Employee & then he gets deduction u/s 80CCD(2)

- | | | |
|---|-----------------------------|----|
| ↓ | (i) Employer's Contribution | xx |
| ↓ | (ii) 10%* / 14%* of Salary | xx |

* 14% if assessee follow default tax regime u/s 115BAC [Added by FA 24 w.e.f. AY 25-25]

* 14 % where such contribution made by C.G or S.G.

Notes

- ✓ For the purpose of Sec 80CCD(1) & (2), Salary means = Basic salary + DA (In terms)
- ✓ As per Sec 10(12A) any payment received by assessee on closure of his account is exempt to the extent of 60% (40% is taxable) of total amount payable to him at the time of closure. In case of employee or Non-employee, any amount received from NPS by the nominee legal heir on death of an assessee is Fully Exempt.
- ✓ Subscribers from Recognised Provident Funds and Super-annuation Funds would be able to transfer their corpus from these funds to National Pension System (NPS) without any tax implication.
- ✓ In case of partial withdrawal from NPS by an employee, payment shall be exempt upto 25% of contributions made by him (Fully taxable for non-salaried employee) [Sec 10(12B)].
- Sec 80CCE: Aggregate deduction u/s 80C + 80CCC + 80CCD(1) is restricted to Max. ₹ 1,50,000



Sec 80CCH: Contribution to Agnipath Scheme (Added by FA 23 w.e.f. AY 24-25)

- Eligible Assessee: Individual enrolled in Agnipath scheme subscribing to the Agniveer Corpus Fund on or after 1.11.2022.
- Sec 80CCH(1): 100% of his contribution to Agnipath Corpus Fund
- Sec 80CCH(2): 100% of CG contribution to Agnipath Corpus Fund (first it is taxable under salary and then EE can claim deduction here)
- Sec 10(12C): Any amount received by assessee or his nominee from Agnipath Fund is exempt from tax.

Note: As per Agnipath scheme 30% of monthly package should contributed to Agnipath fund by assessee and CG will also contribute matching amount.

Sec 80D: Medical Ins. Premium, CG Health Scheme, Preventive Health check-up & Medical Treatment

- Eligible Assessee: Individual & HUF
- For Whom: Individual - Self, spouse, Parents & dependent children.
HUF - Any member of HUF.
- Mode of payment: Any mode other than Cash, but payment of preventive health check-up can be made in Cash.
- Amount of Deduction

	Particular	Individual		HUF
		Self, Spouse, depended Children	Parents	Members
A.	(i) Medical Insurance Premium	Yes	Yes	Yes
	(ii) CG Health scheme	Yes	No	No
	(iii) Preventive Health check-up	Yes	Yes	No
	General Deduction [i + ii + iii]	Max 25,000	Max 25,000	Max 25,000
	Additional Deduction (When Mediclaim taken for Senior Citizen - Age 60 or more)	Max 25,000	Max 25,000	Max 25,000
B.	Medical Exps. of Senior citizen (Age 60 or more) & Mediclaim premium not paid for Such person	Max 50,000	Max 50,000	Max 50,000
	Maximum Deduction (A+B)	Max 50,000	Max 50,000	Max 50,000

Notes: Aggregate payment for preventive health check-up of self, spouse, dependent children & parents cannot exceed ₹ 5000/-

- Where the medical insurance premium is paid in lumpsum for more than 1 year, deduction for each year shall be :
$$\frac{\text{Lumpsum premium}}{\text{PY's in which Insurance in force}}$$

E.g.: Mr. BB paid health insurance premium to star health of ₹ 60,000 for 5 years on 01/11/24. Policy tenure is 5 years i.e. from 01/11/24 till 31/10/29. Calculate deduction to be allowed in PY 24-25.

In this case deduction allowed in 6 PY's i.e., from PY 24-25 till PY 29-30, so deduction for PY 24-25 is ₹ 60,000/6 years = ₹ 10,000.

Sec 80DD: Medical treatment & Maintenance of Handicapped dependant relative

- Eligible Assessee: Resident Individual & HUF
- Amount of Deduction: (i) Normal disability : ₹ 75,000
(ii) Severe disability (80% or more disability) = ₹ 1,25,000

Notes

1. Assessee should incur **expenses on medical treatment** or deposit any amount for **maintenance of such handicapped dependant relative**.
2. Relative Individual - Spouse, Brother, Sister, Children, Mother, Father.
HUF - Any dependant member of HUF
3. Deduction will be reversed if dependent handicapped relative received annuity before the death of assessee or before attaining age of 60 years of assessee.

Sec 80DDB: Deduction in respect of Medical treatment of specified Disease

- Eligible Assessee: Resident Individual & HUF
- Amount of Deduction: ₹

(i) Actual Expenses on treatment	xx
(ii) Maximum * ₹ 40,000/ ₹ 1,00,000	xx
Whichever is Lower	xx
Less: Insurance Claim Recd.	xx
Amount of Deduction	xx

* Normal case - ₹ 40,000

Senior citizen patient - ₹ 1,00,000

- Assessee should incur expenditure on the **treatment of specified diseases** for :-
Individual - Self or dependant relative (Spouse, Brother, Sister, Children, Mother, Father)
HUF - Any dependant member of HUF

Sec 80U: Deduction for handicapped Assessee

- Eligible Assessee: Resident Individual
- Amount of Deduction: (i) Normal disability : ₹ 75,000
(ii) Severe disability (80% or more disability) = ₹ 1,25,000



Sec 80E: Interest on loan for higher education in India or abroad [any course after XII Class]

- Eligible Assessee: Individual
- Amount of Deduction: Interest amount for a period of 8 consecutive years starting from the year in which assessee starts paying interest.
- Deduction is allowed if loan taken for the education of self, spouse, children or any student for whom assessee is a legal guardian.

Sec 80EE: Deduction in respect of interest on housing loan

- Eligible Assessee: Individual
- Amount of Deduction: Max. ₹ 50,000
- Conditions
 - ☞ Loan should be taken from bank or financial institution for acquisition of residential property.
 - ☞ Purchase price of house upto ₹ 50 Lakhs.
 - ☞ Loan should be sanctioned between 1/4/2016 to 31/3/2017.
 - ☞ Loan amount up to ₹ 35 lakhs.
 - ☞ Assessee does not own any residential house on the date of sanction of loan.
 - ☞ First deduction should be claimed u/s 24(b) of house property (up to ₹ 2,00,000) & remaining int. deduction u/s 80EE.

Sec 80EEA: Deduction in respect of interest on housing loan

- Eligible Assessee: Individual (other than covered u/s 80EE)
- Amount of Deduction: Max. ₹ 1,50,000
- Conditions
 - ☞ Loan should be taken from banks or financial institution for acquisition of residential property.
 - ☞ Stamp Duty Value of house property should be upto ₹ 45 lakhs.
 - ☞ Loan should be sanctioned between 1/4/2019 to 31/3/2022.
 - ☞ Assessee does not own any residential house property on the date of sanction of loan.
 - ☞ If deduction allowed for any interest here then deduction shall not be allowed in respect of such interest under any other provision.
 - ☞ First deduction should be claimed u/s 24(b) of house property and remaining interest deduction u/s 80EEA.

Sec 80EEB: Deduction in respect of interest on Electric Vehicle (EV) Loan

- Eligible Assessee: Individual
- Amount of Deduction: Max. ₹ 1,50,000
- Conditions
 - ☞ Loan should be taken from banks or financial institutions including NBFC.



- ☞ Loan should be sanctioned between 1/4/2019 to 31/3/2023.
- ☞ If deduction allowed for any interest here then deduction shall not be allowed in respect of such interest under any other provision.

Sec 80G: Donations

- Eligible Assessee: All Assessee
- Eligible Donations

Part A - Unlimited Category

- ☞ National Defence fund
- ☞ P.M. National Relief fund
- ☞ P.M. Armenia Earthquake Relief fund
- ☞ C.M. Relief fund & Lieutenant Governor Relief fund
- ☞ Zilla Saksharta Samiti
- ☞ National Sports development fund
- ☞ National Children fund
- ☞ National Cultural fund
- ☞ Swachh Bharat Kosh
- ☞ Clean Ganga Fund
- ☞ National Fund for control of Drug abuse
- ☞ P.M. Citizen Assistance and Relief Fund (Care Fund)
- ☞ Fund for Army, etc.

100% Unlimited

- ☞ P.M. Drought Relief fund - 50% Unlimited

Part B - Limited Category

- ✓ Donation to Govt. or Local Authority or approved Institution for promoting Family Planning (F)
- ✓ Donations by Company to Indian Olympics Association (O) or any other institution for development of infrastructure for sports in India,
- ✓ Donation to Housing development authority (H)
- ✓ Donation for renovation or repair of temple, (T) gurudwara, mosque or church, etc.
- ✓ Donation to any Public Charitable Trust (C)
- ✓ Donation for Promoting minority community in India (M)

100% Limited

50% Limited



➤ Under limited category, there is limit of Eligible donation

F.O.	xx
H.T.C.M.	xx
Total Donation	xx
10% of ATI *	xx
Eligible Donation	xx

*ATI - Adjusted Total income

₹

GTI (exclude Income Taxable at special Rate) xx

(-) All deductions (except 80G) xx

ATI xx

➤ Notes:

1. Deduction under this section is not allowed if donation made in **cash is more than ₹ 2000**.
2. If donor made donation to any Trust/Institution then deduction shall be allowed only if such trust/institution is **registered u/s 80G(5)**. Time limit and procedure of registration is similar to whatever we have discussed in trust topic u/s 12A and 12AB.
3. Donor shall be entitled to **deduction u/s 80G only** if:
 - ✓ Donee Trust prepares a statement in Form No.10BD and submitted to PDGIT(System) upto 31st May of next FY, and
 - ✓ Donee Trust furnishes a certificate to the donor in Form No. 10BE upto 31st May of next FY.
4. Donations paid in **kind are not eligible** for deduction u/s 80G.
5. Employees make donations to the PM National Relief Fund, the CM Relief Fund or the LG Relief Fund through their respective employers, EE's shall be eligible for deduction u/s 80G even certificate issued in the name of ER. ER will issue certificate to EE' s about such donation.

Sec 80GG: Rent paid of House Property (HRA not recd.)

➤ Eligible Assessee: Individual

➤ Amount of Deduction

- (i) ₹ 5000 P.M.
- (ii) 25% of Adj. GTI
- ↓ (iii) Rent Paid - 10% of Adj. GTI

➤ Assessee or his spouse or minor child or HUF should not own any house at the place of his duty.

Adjusted GTI = GTI - All deductions u/c VIA (Except u/s 80GG)

Sec 80GGA: Donation for scientific research or rural development

➤ Eligible Assessee: All assessees (except assessees having income under the head PGBP)

➤ Amount of Deduction: 100% of donation

➤ If donation amount is **more than ₹ 2,000** then should be made **other than Cash**.

Sec 80GGB/80GGC: Donation to Political Parties or Electoral Trust

- Eligible Assessee: 80GGB - Indian Company, 80GGC - Any Other Person
- Amount of Deduction: 100% of donation

Note: No deduction, if donation made in **Cash**.

Income Based Deductions ["VI-A Part - C" Income in respect of certain Income]

General points regarding Income Based Deductions

1. Only those profits which are "derived from" eligible business can be claimed as a deduction:
 - ✓ Revenue subsidy (transport, power, interest subsidies etc.) from Govt. towards reimbursement of cost of production/manufacture or sale of manufactured goods or Interest on delay collection of sale proceeds - **Treated as profit derived and eligible for deduction.**
 - ✓ Sale of import entitlement, duty drawback, Interest on Fixed deposits with Bank, Insurance claim - **Not treated as profit derived so not eligible for deduction.**
2. Where deduction is claimed and allowed u/s 10AA/35AD, no deduction shall be allowed at anytime under Chapter VI-A Part- C in any A.Y.
3. Deduction u/s 10AA/chapter VI - A Part-C shall NOT be allowed, if NOT claimed in return. Also, deduction shall be allowed, only if the return is filed upto the due date of filing of return.
4. Where, during assessment, AO makes addition u/s 40(a), 40A(3), 43B etc, in respect of eligible business. If such addition is made, same would increase the "eligible profit" and thus, an eligible assessee would get deduction u/c, VI A-Part C on same.
5. Income based deduction u/c VI-A "Part-C" means deduction covered u/s 80-IA to 80RRB. Deduction u/s 80JJAA practically allowed on expenditure but it is included in income based deduction "Part-C" in law so AMT also apply if assessee claimed deduction u/s 80JJAA.

Sec 80JJAA: Deduction in respect of Employment of new employees

- Eligible Assessee: Any Assessee engaged in **Business & to whom Sec 44AB applies**
- Amount of Deduction: **30% of Additional employee cost** (deduction for 3 consecutive years)
- Additional employee cost: Total emolument paid or payable to Additional employees employed during the P.Y.

☞ In case of existing business, Additional employee cost shall be **Nil**, if

- There is **no increase in the Total number** of employees.
- Emoluments paid otherwise than by a/c payee cheque, DD or ECS.

E.g.: Suppose total employee as on 31/3/23 were 100 and during P.Y. 23-24, 15 employees left the job & 15 new employees joined, then there will be no deduction, suppose in above example if 20 new employees joined then deduction will be allowed on emolument paid to 5 employees.

☞ In case of New Business - Emoluments paid or payable to employees employed during that P.Y.



➤ Additional employees **do not include** -

- ⊗ Employee whose emoluments > ₹ 25,000 p.m.
- ⊗ Employee employed for **less than 240 days** in P.Y. (in case of manufacture of **apparel or footwear or leather products then 150 days**)
- ⊗ Employee **does not participate** in RPF.
- ⊗ Employee for whom the entire contribution is paid by Govt under Employees Pension scheme notified in accordance with the provision of the Employees PF & Misc. Provision Act, 1952.

➤ Notes:

1. If an employee is employed during PY for less than 240/150 days, but is employed for a period of 240/150 days, in next year, he shall be deemed to have been employed in next year. Accordingly, assessee entitled for deduction of 30% of additional employee cost in the next.
2. Deduction under this section allowed only if BOA is audited of assessee and audit report should be submit upto date given u/s 44AB.

Sec 80JJA: Income from Collecting and Processing Bio-degradable Waste

- Eligible Assessee: All Assessee
- Amount of Deduction: 100% of PGBP for 5 consecutive PY from the PY in which business commenced
- Eligible Income : PGBP of **collecting and processing or treating of bio-degradable waste** for:-
 - ☞ Generating power;
 - ☞ Producing bio-fertilizers, bio-pesticides, or other biological agents;
 - ☞ Producing bio-gas;
 - ☞ Making pallets or briquettes for fuel or Organic manure.

Sec 80LA: Offshore Banking Unit (OBU)/ International Financial Services Centre (IFSC)

- Eligible Assessee: (i) Scheduled bank or Foreign bank having an **OBU (Branch) in SEZ** or
(ii) **Unit of IFSC**
- Amount of Deduction:
 - ☞ Bank Branch in SEZ: 100% of Income for first 5 A.Y.'s & 50% for Next 5 A.Y.'s [From AY 23-24 deduction enhanced to 100% for Next 5 A.Y.]
 - ☞ Unit of IFSC: 100% of Income for any 10 consecutive A.Y.'s at the option of the assessee, out of 15 A.Y.

Note: Deduction allowed from PY in which permission under Banking Act, SEBI Act or IFSC Act received.

- Eligible Income : Any Income from
 - ✓ OBU in a SEZ,
 - ✓ Unit of IFSC

- ✓ Transfer of an aircraft, or ship which was leased by a unit of IFSC & such unit has commenced operation upto 31/03/25.
- ✓ Banking business with
 - undertaking located in a SEZ or
 - any undertaking which develops, develops and operates or operates and maintains a SEZ.
- Additional Conditions:
 - ✓ Certificate of CA in Form No. 10CCF shall be filed with ROI.
 - ✓ Copy of permission under Banking Regu. Act or IFSC Authority Act shall be filed with ROI.

Sec 80-IAC: Deductions for New Start ups

- Eligible Assessee: Company or LLP engaged in a business carried out by an eligible start-up engaged in Innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation.
- Company/LLP should be incorporated during 1/4/16 to 31/3/2025 & T/O should be upto ₹ 100 Crores in P.Y. for which deduction is claimed.
- Assessee hold certificate of eligible business from Inter Ministerial board of certification.
- Amount of Deduction: 100% of profit derived by startup for any 3 consecutive A.Y.'s out of 10 A.Y.'s beginning from A.Y. in which start up is incorporated.
- Additional Conditions:
 - It should not be formed by split up or reconstruction of existing business.
 - P&M should be New, except
 - ✓ 20% can be second hand.
 - ✓ Imported second hand P&M is treated as New only.
 - Accounts should be audited by CA.

Sec 80-IBA: Developing and Building Housing Projects

- Eligible Assessee: All Assessee
- Amount of Deduction: 100% of Profit of housing project or Rental housing project.
- Conditions: Project should be;-
 - (a) Approved by competent authority after 01.06.2016 upto 31.03.2022.
 - (b) Project shall be completed within 5 years from the date of approval.
 - (c) Carpet Area of shops and other commercial area is not more than 3% of aggregate Carpet Area.
 - (d) Conditions relating to size of plot of land, residential units etc.

Location of Project	Plot size of Project	Carpet area of each unit	% of floor area ratio to be utilised by the Project
Chennai, Delhi, Kolkata or Mumbai	Min. 1000 sq. mtr.	Max. 30 sq. mtr.	Min.90%
Other Place	Min. 2000 sq. mtr.	Max. 60 sq. mtr.	Min.80%

- (e) Where a residential unit in project is allotted to an individual, no other units shall be allotted to that individual/ his spouse/ minor children.
- (f) Assessee maintains separate books of account in respect of this project.
- (g) Project shall not be executed as a mere works contractor.
- (h) If project is not completed in specified period, the deduction claimed in earlier years will be deemed to be income of year in which time limit expires.

➤ **Additional Conditions if housing project approved on or after 01/09/2019**

- a. SDV of residential unit should not be more than ₹ 45 lakhs.
- b. Conditions relating to size of plot of land, residential units etc.

Location of Project	Plot size of Project	Carpet area of each unit	% of floor area utilised
Bengaluru, Chennai, Delhi NCR (include Noida, Ghaziabad, Gurugram, Faridabad), Hyderabad, Kolkata or Mumbai (include metropolitan region)	Min. 1000 sq. mtr.	Max. 60 sq. mtr.	Min.90%
Other Place	Min. 2000 sq. mtr.	Max. 90 sq. mtr.	Min.80%

Sec 80P: Deduction in respect of Income of Co-op Societies

➤ **Eligible Assessee: Co-op Societies**

➤ **Amount of Deduction:**

Part A: 100% deduction allowed on profit from following specified activities

- (a) Carrying on the business of **providing credit facility** to its members (except co-op Bank).
- (b) **Cottage Industry.**
- (c) **Marketing of agricultural produce** grown by its member.
- (d) **Collective disposal of labour** of its members.
- (e) **Fishing & allied activities** i.e. catching, curing, processing, storing or mktg. of fish.
- (f) Processing **without aid of power** of agriculture produce of its members.
- (g) **Purchase of agriculture implements, seeds, livestock** or other agriculture article for the purpose of supplying them to members.
- (h) Income (**Interest/Dividend**) from Investment with other **Co-op societies.**
- (i) Income from **letting out of godowns** or warehouse.
- (j) Supply of milk, oil seeds, fruits or vegetable by primary society to:
 - Federal co-op society
 - Govt or local authority
 - Govt Co. or statutory corp., engaged in supplying milk, fruits, etc

Part B: General deductions for other activity

- ✓ In case of consumers co-op society = **Max ₹ 1,00,000**
- ✓ In any other case = **Max ₹ 50,000**

Note: Any income arising to a co-op society by way of 'Interest on securities' or 'Income from house property' is fully deductible under this section where the GTI does not exceed ₹ 20,000 and it is not a housing society or an urban consumer's society or a society carrying on transport business or a society engaged in the performance of any manufacturing operations with the aid of power.

Sec 80PA: Deduction for Producer Companies

- **Eligible Assessee:** Farm producer companies (FPC) engaged in the business of;
 - Marketing of agricultural produce grown by its members,
 - Purchase of agricultural implements, seeds, livestock or other articles for agriculture or supplying to its members,
 - Processing of agricultural produce of its members.
- **Amount of Deduction:** 100% of Profit from AY19-20 to AY24-25.
- **Condition:** Total Turnover of FPC shall be less than ₹ 100 crores in any PY

Sec 80QQB: Royalty from Books of literary, artistic, scientific nature

- **Eligible Assessee:** Resident Individual
- **Amount of Deduction:**

↓	(i) Eligible Royalty received	xx
↓	(ii) Max. ₹ 3,00,000	<u>xx</u>
	Whichever is Lower	xx
- **Eligible Royalty:** In case of lumpsum Royalty - Amount Received as Royalty
Otherwise - Max. 15% of value of Book sold

Sec 80RRB: Royalty from Patent

- **Eligible Assessee:** Resident Individual
- **Amount of Deduction:**

↓	(i) Royalty received	xx
↓	(ii) Max. ₹ 3,00,000	<u>xx</u>
	Whichever is Lower	xx
- **Note for 80QQB & 80RRB:** If Royalty is earned outside India, then deduction is allowed only if such royalty amount is brought in India in convertible foreign exchange within 6 months from the end of the P.Y. or time allowed by RBI

Other Income Based Deductions ["VI-A Part - CA"]

Sec 80TTA: Interest on Savings Account from Bank, Co.op Bank & Post office

➤ Eligible Assessee: Individual & HUF

➤ Amount of Deduction:

↓ (i) Interest Amount	xx
(ii) Max. ₹ 10,000	xx
Whichever is Lower	xx

➤ Note: Deduction under this section not available to a resident senior citizen eligible for deduction u/s 80TTB

Sec 80TTB: Interest on Deposits from Bank, Co.op Bank & Post office

➤ Eligible Assessee: Resident Senior Citizen

➤ Amount of Deduction:

↓ (i) Interest Amount	xx
(ii) Max. ₹ 50,000	xx
Whichever is Lower	xx

➤ Note: Where interest income is derived from any saving account or deposit held by, or on behalf of, a firm, an AOP or a BOI, the partner of the firm or member of AOP/BOI would not be allowed deduction in respect of such income while computing their total income

Case Laws

Reliance Energy Ltd. (2022)(SC) Does profit-linked deduction u/s VI-A have to be restricted to PGBP ? For example, let us take the case of XYZ Ltd., an Indian company, for P.Y. 24-25.

- ☞ Profits from eligible business - ₹ 90 lakhs,
- ☞ Loss from non-eligible business - ₹ 20 lakhs (which is set-off against profits from eligible business)
- ☞ Income under the head "PGBP" - ₹ 70 lakhs [₹ 90 lakhs - ₹ 20 lakhs]
- ☞ Gross total income - ₹ 85 lakhs

In this case, assuming deduction u/s 80-IA is the only deduction U/C VI-A for XYZ Ltd., the same would not be restricted to ₹ 70 lakhs (being the income under the head "PGBP"). However, the same would be restricted to ₹ 85 lakhs, being the gross total income as per the requirement in section 80A(2).

If, in the above example, the GTI was ₹ 95 lakhs (instead of ₹ 85 lakhs), then, the entire profits of ₹ 90 lakhs from eligible business would be allowed as deduction u/s 80-IA.

Container Corporation of India Limited [2018](SC): Inland Container Depot shall be treated as infrastructure facility, for profits derived therefrom to be eligible for deduction u/s 80-IA, considering the nature of work such as custom clearance carried out at inland container depots, it can be considered as an inland port within the meaning of sec 80-IA(4).

Swarnagiri Wire Insulations Pvt. Ltd. (2012) (Kar.): Assessee can set-off Losses of eligible unit against profits of non-eligible units. However, once set-off is done, deduction to such extent should not be claimed in the subsequent years.

E.g. - X Ltd., having two units, Unit A and Unit B. If Unit A engaged in eligible business has a profit of ₹ 100 lacs in A.Y. 2024-25, before claiming depreciation of ₹ 120 lacs and Unit B engaged in non-eligible business has a profit of ₹ 70 lacs, then, as per the above decision, the loss of ₹ 20 lacs (representing balance depreciation not set-off) pertaining to Unit A can be set-off against profit of ₹ 70 lacs of Unit B. Therefore, the net profit of ₹ 50 lacs would be taxable in the A.Y. 24-25. If in the next year, i.e. A.Y. 25-26, the net profits of Unit A and Unit B are ₹ 200 lacs and ₹ 80 lacs, respectively, then the eligible deduction u/s 80-IA for that year would be ₹ 180 lacs (i.e., ₹ 200 lacs minus ₹ 20 lacs, being loss (representing balance depreciation) set-off in the A.Y. 24-25 against other income).

Nestor Pharmaceuticals Ltd. / Sidwal Refrigerations Ind Ltd. (2010)(Delhi)

With mere trial production, the manufacture for the purpose of marketing the goods had not started which starts only with commercial production, namely, when the final product to the satisfaction of the manufacturer has been brought into existence and is fit for marketing.

Further the 5 year period has to be reckoned from FY in which commercial production commenced.

Chetak Enterprises Pvt. Ltd. [2020](SC): Firm entered into an agreement with the SG for construction of road and collection of toll tax (in agreement it's mentioned that after conversion of firm into company agreement will be change in name of company). The construction of road was completed by firm on 27/03/2000 & and the same was inaugurated on 01/04/2000. The firm was converted into a Pvt. Ltd. company on 28/03/2000. Intimation was given to the P.W.D. of SG, they cancelled the registration of the firm and granted a fresh registration code to the company. AO declined the claim of deduction u/s 80-IA on the ground that infra business is carried on by Firm & not company. As 80-IA(4) required that business should be carried on by Indian Company.

SC noted that company's MOA states that its main object was to acquire as a going concern, and continue the business carried on by the firm. The assessee qualified for the deduction u/s 80-IA being an enterprise carrying on the stated business and owned by a company registered in India on the basis of the agreement executed with the SG to which the company has succeeded in law after conversion of the firm into a company.

Praveen Soni (2011) (Delhi): Sec 80-IB nowhere stipulated a condition that the claim for deduction under this sec. had to be made from the first year of qualification of deduction failing which the claim will not be allowed in the remaining years of eligibility. It means suppose assessee failed to claim deduction for initial 2 years then for remaining 8 years he can claim this deduction.

Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd. [2023] (SC): Co-operative society engaged in providing credit facilities solely to its members be eligible for deduction u/s 80P. It is not treated as Co. op. Bank.

Cognizant Technology Solutions of India Pvt. Ltd. [2023] (SC): Fluctuation in foreign exchange rate was solely relatable to the export business of the assessee and the higher rupee value was earned by virtue of such exports carried out by the assessee, deduction u/s 10AA would be available in respect of such foreign exchange gains.

Table for deductions u/s 80-IA to 80-IE

Section	Eligible Business	Commencement	Period of Ded.	% of Ded.
80-IA	a. Develop, Operate, maintain infrastructure facility.	01/04/95 to 01/04/17	For Infra facility of road, bridge, rail system, highway project, water supply project: 10 consecutive AY's out of first 20 AY's. Others: 10 consecutive AY's out of first 15 AY's.	100%
	b. Industrial Park	01/04/97 to 31/03/11		
	c. Power Undertaking ➤ Gen. & dist. ➤ Transm. or dist. ➤ Renovation & modernisation of existing network	01/04/93 to 31/03/17 01/04/93 to 31/03/17 01/04/04 to 31/03/17		
	d. Reconstruction, revival of power generating plant by Indian Co.	Co. formed before 30/11/05 & begins gen., transm., dist. of power before 31/03/11.		
80-IAB	Development of SEZ	SEZ notified from 1/4/05 to 31/3/17.	10 consecutive AY's out of first 15 AY's.	100%
80-IB	a. Industrial undertaking in J&K	01/04/93 to 31/03/12	10 consecutive AY's (12 years in case of Co. Op. society)	100%
	b. Commercial production of mineral oil/ natural gas	Mineral oil - 01/04/97 to 31/03/17 Natural Gas- 01/04/09 to 31/03/17	7 consecutive AY's.	100%
	c. Process, Preserve, packing of fruits, vegetables, meat, poultry, marine dairy or handle, storage, transport of food grains.	Meat or meat products or poultry or marine or dairy products - on or after 01/04/09 Other - on or after 01/04/01.	10 consecutive AY's. [100% first 5 AY's, 25% for balance (30% in case of Company)]	100% /25%
80-IC	Manufacturing undertaking in Himachal Pradesh & Uttaranchal	01/04/03 to 31/03/12	10 consecutive AY's. [100% first 5 AY's, 25% for balance (30%- Company)]	100%/ 25%
80-IE	Manufacturing Undertaking in North Eastern States	01/04/07 to 31/03/17	10 consecutive AY's.	100%



Notes



Sec 64(1A): Income of a minor child

Income of a minor child is taxable in hands of the parent whose income is more before clubbing minor's income.

Exception:- In the following 3 cases minor's income is taxable in the hands of minor only:-

- ✓ Income is due to **manual work**.
- ✓ Income is due to **skill & talent**.
- ✓ Minor child **suffering from disability**.

Notes:

1. If minor child's income is clubbed in the hands of parent then **exemption u/s 10(32) of ₹ 1500 p.a. per child is allowed to parent**.
2. Once minor's income is clubbed with one parent, it will continue to be clubbed with that parent only, in subsequent years. AO, may, club the minor's income with other parent after giving an opportunity to be heard.
3. Where the marriage of the parents does not subsist, income of the minor will be includible in the income of that parent who maintains the minor child in the relevant PY.
4. Clubbing provisions are attracted even in respect of income of minor married daughter.
5. Child in relation to an individual includes a step-child and an adopted child of that individual.

Sec 64(1)(iv): Asset transferred to spouse

If any individual transfers any asset to his or her **spouse** without consideration or for inadequate consideration then **income from such asset** is received by spouse but **tax on such income is paid by transferor (Assessee)**.

Notes:-

1. The above provision is applicable only if relationship of husband & wife should **exist at the time of transfer of asset as well as at the time of generating the income**.
2. This provision is not applicable if asset is transferred in connection with **agreement to live apart**.
3. If a House property is transferred by an individual to his spouse or minor child (Not being a minor married daughter) for without/inadequate consideration then such individual is treated as **Deemed owner** as per sec 27 & sec 64 shall not apply.

Sec 64(1)(vi): Asset transferred to Son's Wife

If any individual transfers any asset to his/her **son's wife** without consideration or for inadequate consideration, then income from such asset is received by son's wife but **tax on such asset is paid by transferor**.

Note: This provision is applicable only if the relationship of mother/father - in law & daughter - in law exists at the time of transfer of asset as well as at the time of generating the income.

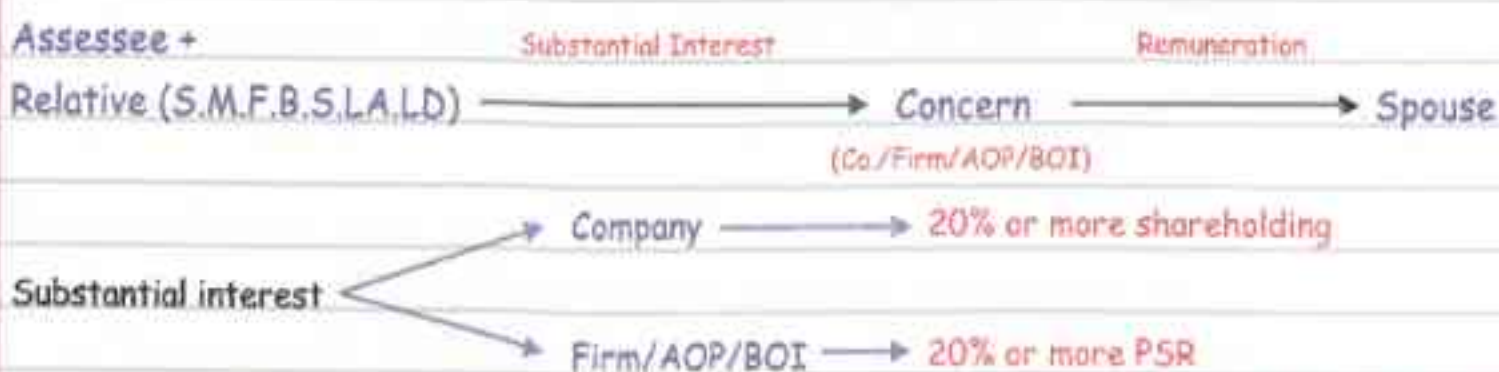
Sec 64(1)(vii/viii): Asset transferred to any person for the benefit of spouse/son's wife

If an individual transfers any asset to any person without consideration or for inadequate consideration for the benefit of son's wife/spouse then income from such asset is received by any other person (transferee) but tax on such income is paid by transferor.

Sec 64(1)(ii): Income of spouse from a concern where assessee has substantial interest

Income of spouse is taxable in hands of assessee if following conditions are satisfied :-

1. Income should be in the nature of salary, commission, bonus (remuneration) &
2. Such remuneration should be received from a concern where assessee has substantial interest.



- > **Exceptions:** If remuneration received by spouse due to technical & professional qualification & such remuneration is attributed to such qualification then the above provision is not applicable.
- > Where both husband and wife have substantial interest in a concern and both are in receipt of income by way of remuneration from concern, such income will be includible in the hands of that spouse, whose total income, excluding such income is higher. Where any such income is once included in the total income of either spouse, income arising in the succeeding year shall not be included in the total income of the other spouse unless the AO is satisfied, after giving that spouse an opportunity of being heard, that it is necessary to do so.

Sec 60: Income transfer without transfer of asset

If an individual transfers any income without transfer of asset then such income is taxable in the hands of transferor.

Sec 61: Revocable transfer of asset

In case of revocable transfer, income is received by transferee but tax is paid by transferor.

Exception: If transfer is revoked after the death of beneficiary or transferee then the above provision is not applicable.

Sec 64(2): Asset transfer to HUF

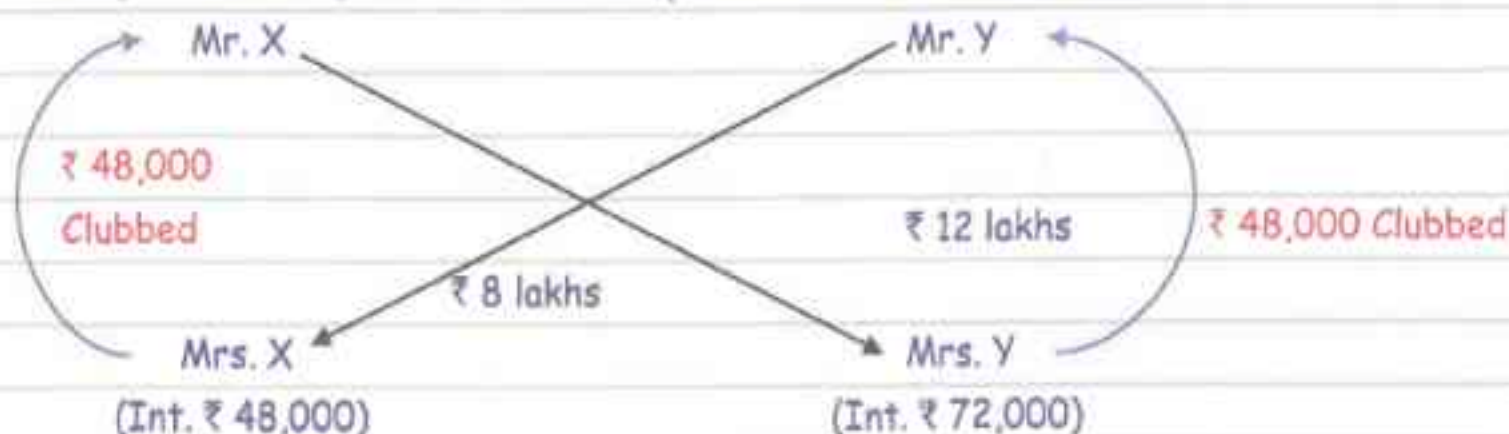
If any individual transfers any asset to his HUF without/for inadequate consideration, then income from such asset is received by HUF but taxable in hands of transferor (member).

- After partition of HUF, Income from such asset recd. by spouse shall be clubbed in hands of transferor.

Notes:

1. Income includes loss, so, if there is loss then also clubbing provisions are applicable.
2. Where an asset transferred is converted into other form, income derived from such converted asset shall be clubbed.
3. Natural love & affection may be a good consideration but it's not adequate consideration.
4. If the asset transferred is sold by the transferee then CG is treated as income & shall be clubbed.
5. If there are two transactions and they are inter-connected and part of same transaction, it shall be considered to be a device for evasion of tax and therefore clubbing provision shall apply. **(Cross Gifts)**

E.g.- Mr. X gifted ₹ 12 Lakhs to his brother's wife (Mrs. Y) & his brother (Mr. Y) gifted ₹ 8 Lakhs to Mrs X (Mr. X's wife). Gifted amount deposited in Banks @ 9% on 1/8/2023.



Clubbing provisions will be applicable only to the extent of income on the matching amount of cross gifts, in the above example, ₹ 8 Lakhs is matching amount.

6. Where any asset is transferred by individual to his spouse/son's wife & such amount is invested in Business by transferee then proportionate profit of such business shall be clubbed as per following formula :

$$\text{Income from business} \times \frac{\text{Gifted by Assessee}}{\text{Capital of Business on first day of P.Y. (Opening Capital)}}$$

Clubbing shall be applicable only if gifted money is included in opening capital.

7. All the clubbing provisions are not applicable to second generation income i.e. income from accretion of transferred asset.



Notes

Sec 70: Intra head adjustment

It means loss from one source of income can be set off against income from another source of income but in the **same head of income**.

Exceptions:

- ☞ Speculative business loss can be set off against only speculative business income.
- ☞ Specified business loss (Sec 35AD) can be set off against specified business income.
- ☞ Long term capital loss (LTCL) can be set off against long term capital gains.
- ☞ Loss from owning & maintaining race horses can be set off against income from owning & maintaining race horses.

Sec 71: Inter head adjustment

It means loss under one head of income can be set off against income from another head of income but in the **same previous year***.

Exceptions:

- ☞ Speculative business loss can be set off against only speculative business income.
- ☞ Specified business loss (Sec 35AD) can be set off against specified business income.
- ☞ Long term capital loss (LTCL) can be set off against long term capital gains.
- ☞ Loss from owning & maintaining race horses can be set off against income from owning & maintaining race horses.
- ☞ Short term capital loss (STCL) can be set off only against STCG & LTCG.
- ☞ Loss from Business cannot be set off against salary.

*** For carry forward losses Inter-head adjustment Not Allowed**

Summary

1. Income From Salary - **Loss not possible**
2. Income From House Property - **Loss from HP**
 - ☞ Step - 1 Intra head adjustment
 - ☞ Step - 2 Inter head adjustment (**Max ₹ 2,00,000**)
 - ☞ Step - 3 Carry Forward for next 8 AY's
3. Profit & Gain from Business or profession
 - (i) Loss from Speculative Business
 - ☞ Step - 1 Setoff against speculative business income
 - ☞ Step - 2 Carry Forward for next 4 AY's
 - (ii) Loss from Specified Business
 - ☞ Step - 1 Setoff against specified business income
 - ☞ Step - 2 Carry Forward for Unlimited Period



- (iii) Any other Business Loss
- Step - 1 Intra head adjustment
 - Step - 2 Inter head adjustment (except Salary)
 - Step - 3 Carry Forward for next 8 AY's
4. Capital Gain
- (i) STCL
- Step - 1 Setoff against STCG or LTCG
 - Step - 2 Carry Forward for next 8 AY's
- (ii) LTCL
- Step - 1 Setoff against LTCG
 - Step - 2 Carry Forward for next 8 AY's
5. Income from other sources
- (i) Loss from Owning & Maintaining race-horses
- Step - 1 Setoff against Owning & Maintaining race-horses income
 - Step - 2 Carry Forward for next 4 AY's
- (ii) Other losses of IFOS
- Step - 1 Intra head adjustment
 - Step - 2 Inter head adjustment
 - Step - 3 Carry Forward NOT allowed.

Notes:

1. Loss from house prop. which can be set-off against income from any other head is max. ₹2 lakhs.
2. It is to be remembered that once a particular loss is carried forward, it can be set off only against the income from the same head in the forthcoming AY's.

Carry Forward & Set-off of Losses

Section	Losses to be C/F	B/F losses setoff against	Time Limit	ROI on time
71B	Loss from HP	Income from HP	8 Years	No
72	Normal Business Loss	Any Business Income	8 Years	Yes
73	Speculative Business Loss	Speculative Business Income	4 Years	Yes
73A	Specified Business Loss	Specified Business Income	Unlimited	Yes
74	STCL	STCG & LTCG	8 Years	Yes
	LTCL	LTCG	8 Years	Yes
74A	Owning & maint. race horses	Income from Owning & maint race horses	4 Years	Yes
32	Unabsorbed Dep.	Any head of Income except salary	Unlimited	No

Notes:

1. Whenever income is exempt then losses does not have any tax treatment means it should be ignored.
2. Loss from any lottery, card games, races, etc are **Not Eligible** for set off & C/F & Losses cannot be set off against the income referred u/s 115BB i.e lottery income, crossword puzzles, income in TV show, etc.
3. B/f losses from a business can be set off even if such business is Not continued.
4. Order for set off of losses.
 - ✓ Current year depreciation
 - ✓ B/f losses from Business or profession
 - ✓ Unabsorbed depreciation
5. If there is income under any head & eligible losses under any other head, such loss shall be first set off against the income before set off & elf of losses(CBDT circular).
6. Set off of losses not permissible against unexplained income, investment, money etc, chargeable u/s 68 to 69D [Sec 115BBE].

Sec 79: Carry Forward and Set-Off of Losses in the case of certain companies

Where a **change in shareholding** has taken place during the PY in the case of a **closely held company**, **no loss** incurred in any year prior to the PY shall be C/F and set-off against the income of the PY, unless on the **last day of the PY**, atleast **51% of equity shares** were held by persons who held atleast **51% of equity shares** on the last day of the year or years in which the loss was incurred.

Provided that even if the above condition is not satisfied in case of eligible start up (80-IAC), loss incurred in any year prior to the PY shall be allowed to be C/F and set-off against the income of the PY if all the equity shareholders of such company who held shares on the last day of the year or years in which the loss was incurred, continue to hold those shares on the last day of such PY and such loss has been incurred during the period of **10 years** from the year in which such company is incorporated.

Following changes in shareholding **shall not be considered as a change in shareholding**

- ⊗ Where the change takes place consequent upon the **death of the shareholder**.
- ⊗ Where the change takes place by way of **gift of shares** to any relative of the shareholder.
- ⊗ Any changes in shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of the foreign company subject to the condition that 51 % of the shareholders of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company.
- ⊗ Where a change takes place in PY as a result to a resolution plan approved under IBC, 2016, or due to resolution plan approved by NCLT Sec 241 & 242 of Companies Act, 2013.



- ⑧ To an erstwhile public sector company subject to the condition that the ultimate holding company of such company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least 51% of the voting power of such company in aggregate.

If this condition not complied with in any PY after the completion of strategic disinvestment, the provisions of sec. 79 shall apply for such PY and subsequent PY's.

Example-1

Loss Incurred by BB Pvt Ltd in PY 23-24 & earned income for PY 24-25

Equity Shareholding on	31/03/24	31/03/25
Mr A	34%	35%
Mr B	33%	33%
Mr C	33%	-
Mr D	-	32%

Losses of PY 23-24 can be set off against income of PY 24-25 because 51% or more equity shares held by same persons on 31/03/24 and 31/03/25.

Example-2

Loss Incurred by BB Pvt Ltd in PY 23-24 & earned income for PY 24-25

Equity Shareholding on	31/03/24	31/03/25
Mr A	34%	10%
Mr B	33%	10%
Mr C	33%	5%
Mr D	-	75%

Losses of PY23-24 cannot be set off against income of PY 24-25 because 51% or more equity shares not held by same persons on 31/03/24 and 31/03/25. However, if BB Pvt Ltd is eligible start-up as per section 80-IAC then losses of PY 23-24 can be set off because all the shareholders on 31/03/24 continue as shareholders on 31/03/25. (Assume loss incurred in first 10 years of incorporation).

Sec 79A: No set off of losses consequent to search, requisition and survey

Where consequent to a **search** u/s 132 or a **requisition** u/s 132A or a **survey** u/s 133A (other than TDS/TCS survey), the total income of any PY of an assessee includes any **undisclosed income, setoff of any losses or unabsorbed depreciation not allowed against such undisclosed income.**

Undisclosed income means: -

1. Income of the PY represented by **money, bullion or other valuable article** or any entry in the BOA or other documents or transactions found during search or requisition or survey, which has :-



- (A) **not been recorded** on or before the date of search or requisition or survey, in the BOA or other documents maintained in the normal course relating to such PY; or
- (B) **not been disclosed** to the PCCIT or CCIT or PCIT or CIT before the date of search or requisition or survey; or

2. Income of the PY represented by any entry in respect of an **expense** recorded in the BOA or other documents maintained in the normal course relating to the PY which is found to be **false** and which would not have been found to be so, had the search not been initiated or the survey not been conducted or the requisition not been made.

Carry Forward & Setoff losses in case of Amalgamation, Demerger & Succession

Case	Accumulated Business Loss	Can be C/F by	Time Limit
Amalgamation Sec 2(1B)	Amalgamating Co.	Amalgamated Co.	Fresh period of 8 Years
Demerger Sec 2(19AA)	Demerged Co.	Resulting Co.	Remaining period of 8 years
Conversion of Firm / proprietary into Co. Sec 47 (xiii)/(xiv)	Firm/proprietary concern	Successor co.	Fresh period of 8 Years
Unlisted Co. into LLP Sec 47 (xiiib)	Unlisted Co.	LLP	Fresh period of 8 Years

Notes:

- Unabsorbed depreciation can be carried forward by Amalgamated Co./ Resulting Co./Successor Co./ LLP for unlimited period.
- Only Business Losses (except speculative business loss) can be c/f by successor.

Sec 72A: Carry Forward & Setoff losses in case of Amalgamation & Demerger

Applicability: This section applies where there has been an amalgamation of-

- Company owning an Industrial undertaking or a ship or a hotel with another company; or
- Amalgamation of a banking company with a specified bank; or
- one or more public sector company or companies with one or more PSC or companies; or
- an erstwhile public sector co. (PSC) with one or more co. or co's., if the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said PSC and the amalgamation is carried out within 5 years from the end of the PY in which the restriction on amalgamation in the share purchase agreement ends.

Notes:

- The loss and UD of the A' ing co., in case of an amalgamation referred to in (iv), which is deemed to be the loss or UD of the A' ed co., shall not be more than the loss and UD of the PSC as on the date on which the PSC ceases to be a PSC as a result of strategic disinvestment.

2. "Strategic disinvestment" means sale of shareholding by the CG or any SG in a PSC which results in reduction of its shareholding to below 51% along with transfer of control to the buyer
E.g.: Suppose shares of Air India Ltd. purchased by Talace Pvt Ltd. in PY 21-22 under share purchase agreement (SPA). As per SPA its mentioned that PSC cannot amalgamate till 31/3/24. Amalgamation took place in PY 26-27. In this cases whatever losses and UD of Air India Ltd as on 31/3/24 shall be treated as losses and UD of Talace Pvt Ltd. for PY 26-27.

Conditions to be satisfied by Amalgamating Co.:-

1. Amalgamating Co. should have been engaged in the business for 3 years or more prior to the date of amalgamation.
E.g.:- A'tion takes place on 01.07.2023 then A'ting Co. should have started the business on or before 01.07.2020.
2. The A'ing Co. should hold atleast 75% of the Book value of fixed Assets which it held two years prior to date of Amalgamation.

Conditions to be satisfied by Amalgamated Co.:-

1. A'ted Co. should continue the business of amalgamating Co. for the period of 5 years from the date of A'tion.
2. A'ted Co. should fulfil the prescribed conditions in case there is an A'tion of industrial Undertaking.

The prescribed conditions are as follows:-

The A'ted Co. shall achieve the level of production of at least 50% of installed capacity before the end of 4 years from the date of amalgamation and continue to maintain said minimum level of production till the end of 5 years from the date of A'tion. However, CG on an application made by an A'ted Co. may relax the condition of achieving the level of production or period during which same is to be achieved or both in suitable cases.

3. A'ted Co. holds continuously for a minimum period of 5 years from the date of A'tion atleast 75% of BV of FA of amalgamating Co. acquired in scheme of A'tion.

If, all the above conditions are fulfilled then the accumulated losses and un-absorbed dep. shall be deemed to be of amalgamated Co. for the PY in which amalgamation was effected i.e. such accumulated losses can be carried forward for fresh 8 years.

Section 72A:- Deemed Income

If any of the above conditions are not complied with, set off loss or dep. made in any PY in the hands of A'ted Co. shall be deemed to be the income of the A'ted Co. chargeable to tax in the year in which such conditions are not complied with.



➤ Demerger

Allowability of carry forward and set-off of accumulated loss and unabsorbed dep. by resulting company: Where there has been a demerger of an undertaking,

- ✓ Accumulated loss and the unabsorbed dep. directly relatable to the undertaking transferred by the demerged company to the resulting company shall be allowed to be C/F and set off in the hands of the resulting company.
- ✓ accumulated loss or unabsorbed depreciation is not directly relatable to the undertaking, the same will be apportioned between the demerged company and resulting company in the same proportion in which the value of the assets have been transferred.

Industrial undertaking meaning

It means any undertaking which is engaged in -

- (i) Manufacture or processing of goods;
- (ii) Manufacture of computer software;
- (iii) Generation or distribution of electricity or any other form of power;
- (iv) providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broad band network and internet services.
- (v) mining;
- (vi) the construction of ships, aircraft or rail systems

Stock & Commodity market

1. Transactions in shares where delivery effected
 - ⇒ PGBP if shares held as Stock in trade
 - ⇒ Capital Gain if shares held as Capital Asset
2. Transactions in shares where delivery not effected i.e., Intraday
 - ⇒ Always Speculative Business Income
3. Transactions in Derivative i.e. futures, options etc. & currency futures at recognised stock exchange
 - ⇒ Always Normal Business Income

Pramod Mittal (2013)(Delhi): Can the loss suffered by firm, which was dissolved, be c/f for set-off by the individual partner who took over the business of firm as a sole proprietor, considering the succession as a succession by inheritance?

HC observed that firm and proprietorship are two separate and distinct units for the purpose of assessment. Sec. 78(2) deals with c/f of losses in case of succession of business. It provides that only the person who has incurred the losses, can be set off & c/f. An exception provided is in case of succession by inheritance. This exception is not applicable in the present case since the partnership firm was dissolved and ceased to continue. Taking over of business by a partner cannot be considered as a case of inheritance due to death as per the law of succession.

The loss suffered by firm before dissolution of the firm cannot be c/f by the successor sole-proprietor.