FINAL

Paper 15

DIRECT TAX LAWS AND INTERNATIONAL TAXATION

Study Notes

SYLLABUS 2022

The Institute of Cost Accountants of India

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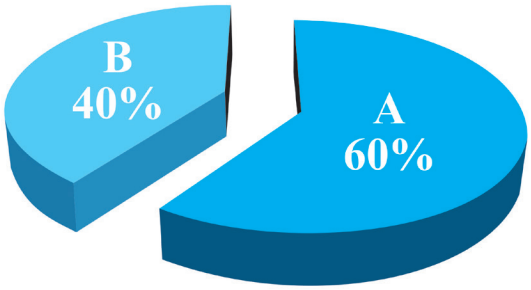
PAPER 15 : DIRECT TAX LAWS AND INTERNATIONAL TAXATION

Syllabus Structure:

The syllabus in this paper comprises the following topics and study weightage:

Module No.	Module Description	Weight
	Section A : Direct Tax Laws	**60%**
1	Assessment of Income and Computation of Tax Liability of Various Entities	60%
2	Tax Management, Return and Assessment Procedure	
3	Grievance Redressal	
4	Penalties and Prosecutions	
5	Business Restructuring	
6	Different Aspects of Tax Planning	
7	CBDT and Other Authorities	
8	E-commerce Transaction and Liability in Special Cases	
9	Income Computation and Disclosure Standards (ICDS)	
10	Black Money Act, 2015	
11	Case Study	
	Section B: International Taxation	**40%**
12	Double Taxation and Avoidance Agreements (DTAA) [Sec.90. 90A and 91]	40%
13	Transfer Pricing	
14	GAAR	



Learning Environment

Subject Title	**DIRECT TAX LAWS AND INTERNATIONAL TAXATION**
Subject Code	**DIT**
Paper No.	**15**
Course Description	The subject primarily focuses on various provisions of direct taxation laws to guide assessment of income and computation of tax liability of different assessees and also on application of such provisions in arriving at tax efficient decisions. The subject further includes a detail discussion on provisions relating to compliance along with necessary coverage of Income Computation and Disclosure Standards. In addition to the above, the subject highlights international taxation laws including DTAA, GAAR and transfer pricing.
CMA Course Learning Objectives (CMLOs)	1. Interpret and appreciate emerging national and global concerns affecting organizations and be in a state of readiness for business management. a. Identify emerging national and global forces responsible for enhanced/varied business challenges. b. Assess how far these forces pose threats to the status-quo and creating new opportunities. c. Find out ways and means to convert challenges into opportunities 2. Acquire skill sets for critical thinking, analyses and evaluations, comprehension, syntheses, and applications for optimization of sustainable goals. a. Be equipped with the appropriate tools for analyses of business risks and hurdles. b. Learn to apply tools and systems for evaluation of decision alternatives with a 360-degree approach. c. Develop solutions through critical thinking to optimize sustainable goals. 3. Develop an understanding of strategic, financial, cost and risk-enabled performance management in a dynamic business environment. a. Study the impacts of dynamic business environment on existing business strategies. b. Learn to adopt, adapt and innovate financial, cost and operating strategies to cope up with the dynamic business environment. c. Come up with strategies and tactics that create sustainable competitive advantages. 4. Learn to design the optimal approach for management of legal, institutional, regulatory and ESG frameworks, stakeholders' dynamics; monitoring, control, and reporting with application-oriented knowledge. a. Develop an understanding of the legal, institutional and regulatory and ESG frameworks within which a firm operates. b. Learn to articulate optimal responses to the changes in the above frameworks. c. Appreciate stakeholders' dynamics and expectations, and develop appropriate reporting mechanisms to address their concerns.

	5. Prepare to adopt an integrated cross functional approach for decision management and execution with cost leadership, optimized value creations and deliveries. a. Acquire knowledge of cross functional tools for decision management. b. Take an industry specific approach towards cost optimization, and control to achieve sustainable cost leadership. c. Attain exclusive knowledge of data science and engineering to analyze and create value.

Subject Learning Objectives [SLOB(s)]	1. To develop understanding about various provisions of direct taxation laws and rules including international taxation laws, and inherent issues that are subject to interpretation with reference to case laws, etc. (CMLO 4 a, b) 2. To attain abilities to apply the acquired understanding for solving complex taxation problems and taking tax efficient business decision and execution thereof. (CMLO 3a, b and 5a) 3. To acquire knowledge of various compliance related provisions of taxation laws and attain skills for their proactive compliance in business operations to avoid any eventual risk exposure. (CMLO 4 c) 4. To acquire knowledge on various provisions and processes available as per taxation laws that offers for redressal of taxpayers' grievances. (CMLO 4c)
Subject Learning Outcomes (SLOC) and Application Skills (APS)	**SLOC(s)** 1. Students will develop understanding of legal provisions and analyse, interpret, and apply the same in day-to-day business transactions. 2. They will acquire knowledge and application skills required to compute income and tax liabilities, and be able to apply those for helping management to take tax efficient business decisions. 3. Students would learn about ways and means for identifying various compliance requirements as well as processes. 4. Students will attain abilities to help management in identifying statutory forum for redressal of grievances and process to be followed for the same. **APS** 1. Students will analyse and interpret various legal provisions and rules while computing taxable income and tax liabilities of various types of assessees. 2. Students will participate in various types of business decision making process for both optimisation of tax cost and avoidance of exposures to risks of non-compliance. 3. Students will identify the concerned legal and regulatory provisions and will follow systems and processes for redressal of grievances as well as compliance management.

Module wise Mapping of SLOB(s)

Module No.	Topics and Sub-topics	Additional Resources (Research articles, case studies, blogs)	SLOB Mapped
Section A: Direct Tax Laws			
1	Assessment of Income and Computation of Tax Liability of Various Entities	Common for all Modules: Income-tax Act, 1961 (Bare Act) and the Income-tax Rules www.incometaxindia.gov.in For this module, refer Chapter IV, XII of the Income-tax Act, 1961	To develop understanding about various provisions of direct taxation laws and rules including international taxation laws, and inherent issues that are subject to interpretation with reference to case laws, etc.
2	Tax Management, Return and Assessment Procedure	Refer Chapter XIV of the Income-tax Act, 1961	To acquire knowledge of various compliance related provisions of taxation laws and attain skills for their proactive compliance in business operations to avoid any eventual risk exposure.
3	Grievance Redressal	Refer Chapter XX of the Income-tax Act, 1961	To acquire knowledge on various provisions and processes available as per taxation laws that offers for redressal of taxpayers' grievances.
4	Penalties and Prosecutions	Refer Chapter XXI of the Income-tax Act, 1961	To acquire knowledge of various compliance related provisions of taxation laws and attain skills for their proactive compliance in business operations to avoid any eventual risk exposure.
5	Business Restructuring	Refer Chapter XV of the Income-tax Act, 1961	To attain abilities to apply the acquired understanding for solving complex taxation problems and taking tax efficient business decision and execution thereof.
6	Different Aspects of Tax Planning	Refer www.incometaxindia.gov.in for Bare Acts & Rules	
7	CBDT and other authorities	Refer Chapter XIII of the Income-tax Act, 1961	To develop understanding about various provisions of direct taxation laws and rules including international taxation laws, and inherent issues that are subject to interpretation with reference to case laws, etc.
8	E-commerce Transaction and Liability in Special Cases	Refer Chapter XV of the Income-tax Act, 1961	To develop understanding about various provisions of direct taxation laws and rules including international taxation laws, and inherent issues that are subject to interpretation with reference to case laws, etc.

9	Income Computation and Disclosure Standards (ICDS)	Refer Chapter IV of the Income-tax Act, 1961	1. To develop understanding about various provisions of direct taxation laws and rules including international taxation laws, and inherent issues that are subject to interpretation with reference to case laws, etc. 2. To acquire knowledge of various compliance related provisions of taxation laws and attain skills for their proactive compliance in business operations to avoid any eventual risk exposure.
10	Black Money Act,2015	Refer Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.	To develop understanding about various provisions of direct taxation laws and rules including international taxation laws, and inherent issues that are subject to interpretation with reference to case laws, etc.
11	Case Study	For RTI Case Laws, refer https://www.incometaxindia.gov.in/Pages/right-to-information/case-laws.aspx	1. To develop understanding about various provisions of direct taxation laws and rules including international taxation laws, and inherent issues that are subject to interpretation with reference to case laws, etc. 2. To attain abilities to apply the acquired understanding for solving complex taxation problems and taking tax efficient business decision and execution thereof.
Section B: International Taxation			
12	Double Taxation and Avoidance Agreements (DTAA)	Refer Chapter IX of the Income-tax Act, 1961	1. To develop understanding about various provisions of direct taxation laws and rules including international taxation laws, and inherent issues that are subject to interpretation with reference to case laws, etc. 2. To attain abilities to apply the acquired understanding for solving complex taxation problems and taking tax efficient business decision and execution thereof.
13	Transfer Pricing	Refer Chapter X of the Income-tax Act, 1961	
14	GAAR	Refer Chapter XA of the Income-tax Act, 1961	

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SECTION - A

DIRECT TAX LAWS

Assessment of Income and Computation of Tax Liability of Various Entities

1

This Module includes:

1.1 Individual including Non-resident

1.2 Company

1.3 Trust

1.4 Mutual Association

Assessment of Income and Computation of Tax Liability of Various Entities

SLOB Mapped against the Module:

To develop understanding about various provisions of direct taxation laws and rules including international taxation laws, and inherent issues that are subject to interpretation with reference to case laws, etc.

Module Learning Objectives:

After studying this module, the students will be able to -

- Understand the provisions of taxation in respect of various person
- Understand the provisions of alternative taxation scheme applicable in respect of various person
- Compute and examine the tax payable by various person.

Introduction

1

In the earlier stage of the course, we learned about various categories of person and provisions relating to computation of income under different heads of income. In general, provisions relating to computation of income are applicable to all assessee unless and until mentioned otherwise. Few of the provisions are applicable in case of specific type of person like company, trust, etc.

In this chapter, we will discuss the various provisions relating to specific person like:

a. Company

b. Business Trust

c. Securitisation Trust

d. Investment Fund

e. Religious or Charitable Trust

f. Local Authority

g. Mutual Concerns

In the chapter, apart from learning of computation of income of aforesaid persons, we will also learn about alternative tax regime, if any, available in respect of such person.

Individual including Non-resident

1.1

Individual

Computation of Total Income requires the complete knowledge of all heads of income and deduction under Chapter VIA.

Computation of Total Income of…….. for the A.Y. 2026-27

Particulars	Amount
Salaries	***
Income from house property	***
Profits and gains of business or profession	***
Capital gains	***
Income from other sources	***
Gross Total Income	****
Less: Deductions u/s 80C to 80U (subject to Max. of GTI before casual income, STCG covered u/s 111A & LTCG) [Deductions are subject to regime]	***
Total Income / Taxable Income (Rounded off u/s 288A)	****

Computation of Tax Liability of Mr. X …….. for the A.Y. 2026-27

Particulars	Rate	Details	Amount
Total Income other than STCG u/s 111A, LTCG & casual income [as per regime]			***
Add: Tax on casual income	30%		***
Add: Tax on LTCG	12.5% / 20% / 0%		***
Add: Tax on STCG covered u/s 111A	20%		***
Total tax liability before rebate and cess			PQR
Less: Rebate u/s 87A			**
			STY
Add: Surcharge			**
			ABC
Add: Health and Education cess @ 4%			**
Tax liability after cess			***

Particulars	Rate	Details	Amount
Less: Relief u/s 86, 89, 90 & 91			**
Tax liability			***
Less: Advance Tax		***	
Less: Tax Deducted / Collected at Source		***	
Less: Any other prepaid tax		***	***
Tax Payable (if + ve) or Refundable (if – ve) (Rounded of u/s 288B)			***

Non-resident

"Non-resident" means a person who is not a "resident", and for the purposes of sections 92, 93 and 168, includes a person who is not ordinarily resident within the meaning of sec. 6(6) - [Sec. 2(30)]

Residential Status

Assessee	Condition to be a Resident	Condition to be an Ordinarily resident
Individual	Assessee satisfies any one condition of sec. 6(1) i.e. (a) He is in India in the previous year for a period of 182 days or more; **or** (b) He is in India for a period of 60 days or more during the previous year and 365 days or more during 4 previous years immediately preceding the relevant previous year. **Exceptions** A. In the following cases, condition (ii) of sec. 6(1) [i.e. sec. 6(1)(c)] is irrelevant: 1. An Indian citizen, who leaves India during the previous year for employment purpose. 2. An Indian citizen, who leaves India during the previous year as a member of crew of an Indian ship. B. An individual shall be deemed to be resident in India, if following conditions are satisfied a. He is a citizen of India b. His total income, other than the income from foreign sources, exceeds ₹15 lakhs during the previous year;	Assessee satisfies both the conditions of sec. 6(6) (a) He has been resident in India in at least 2 out of 10 previous years immediately preceding the relevant previous year; **and** (b) He has resided in India for a period of 730 days or more during 7 previous years immediately preceding the relevant previous year. **Exceptions** A. An individual shall be **deemed to be resident but not ordinarily** resident in India, if following conditions are satisfied: a. He is a citizen of India b. His total income, other than the income from foreign sources, exceeds ₹15 lakhs during the previous year; and

<table>
<tr><th>Assessee</th><th>Condition to be a Resident</th><th>Condition to be an Ordinarily resident</th></tr>
<tr><td></td><td>c. He is not satisfying any of the basic conditions given u/s 6(1) [i.e., 182 days or 60 days + 365 days]; and
d. He is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature. [Sec. 6(1A)]
C. In case of an Indian citizen or a person of Indian origin comes on a visit to India during the previous year, modified condition (ii) of sec. 6(1) is applicable:
<table>
<tr><th>Case</th><th>Modified condition (ii) of sec. 6(1)</th></tr>
<tr><td>His total income, other than the income from foreign sources[1], exceeds ₹15 lakhs during the previous year</td><td>He is in India for a period of 120 days or more (but less than 182 days) during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year</td></tr>
<tr><td>His total income, other than the income from foreign sources, does not exceed ₹15 lakhs during the previous year</td><td>He is in India for a period of 182 days or more during the previous year</td></tr>
</table></td><td>c. He is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.
d. He is deemed to be resident in India u/s 6(1A).
B. An individual shall be deemed to be resident but not ordinarily resident in India, if following conditions are satisfied:
a. He is an Indian citizen or a person of Indian origin.
b. He comes on a visit to India during the previous year
c. His total income, other than the income from foreign sources, exceeds ₹15 lakhs during the previous year
d. He is in India for a period of 120 days or more (but less than 182 days) during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year</td></tr>
<tr><td>HUF</td><td>Management is wholly or partly situated in India</td><td>Karta satisfies all conditions of sec. 6(6)</td></tr>
<tr><td>Company</td><td></td><td></td></tr>
<tr><td>a) Indian Co.</td><td>Always resident</td><td rowspan="5">Not applicable</td></tr>
<tr><td>b) Other Co.</td><td>Place of effective management is in India</td></tr>
<tr><td>Firm</td><td rowspan="4">Management is wholly or partly situated in India</td></tr>
<tr><td>AOP</td></tr>
<tr><td>BOI</td></tr>
<tr><td>Other person</td></tr>
</table>

Place of effective management

Place of effective management" means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole, are in substance made.' Circular 6/2017 dated 24-01-2017 provides that the process of determination of POEM would be primarily based on the fact as to whether or not the company is engaged in active business outside India (ABOI).

Particulars	POEM
Company is engaged in active business outside India	
– If the majority meetings of the board of directors of the company are held outside India	Outside India
– If Board of directors of the company are standing aside and not exercising their powers of management and such powers are being exercised by either the holding company or any other person (s) resident in India	In India
Company is not engaged in active business outside India then the following are required to be ascertained: 1. The person(s) who actually make the key management and commercial decision for the conduct of the company's business as a whole 2. Place where these decisions are in fact being made[1]	
If such place is in India	In India

Taxpoint

- A company shall be said to be engaged in "active business outside India" if:
  a) the passive income is not more than 50% of its total income; and
  b) less than 50% of its total assets are situated in India; and
  c) less than 50% of total number of employees are situated in India or are resident in India; and
  d) the payroll expenses incurred on such employees is less than 50% of its total payroll expenditure.
- Passive income of a company shall be aggregate of:
  i. income from the transactions where both the purchase and sale of goods is from / to its associated enterprises; and
  ii. income by way of royalty, dividend, capital gains, interest (except for banking company or public financial institution) or rental income;

Clarification related to guidelines for establishing 'Place of Effective Management' (PoEM) in India [Circular 25/2017 dated 23-10-2017]

Guiding Principles for determination of POEM of a company were issued on 24th January, 2017 vide Circular No. 06 of 2017. Further, vide Circular No. 08 of 2017 dated 23rd February, 2017, it has been clarified that the POEM provisions shall not apply to a company having turnover or gross receipts of ₹50 crore or less in a financial year[2].

The stakeholders have been raised concern that as per the extant guidelines, POEM may be triggered in cases of certain multinational companies with regional headquarter structure merely on the ground that certain employees having multi-country responsibility or oversight over the operations in other countries of the region are working from India, and consequently, their income from operations outside India may be taxed in India.

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

2 In other words, a foreign company whose annual turnover / gross receipts is ₹50 crores or less cannot be resident in India.

In this regard, it may be mentioned that Para 7 of the guidelines provides that the place of effective management in case of a company engaged in active business outside India (ABOI) shall be presumed to be outside India if the majority meetings of the board of directors (BoD) of the company are held outside India.

However, Para 7.1 of the guidelines provides that if on the basis of facts and circumstances it is established that the Board of directors of the company are standing aside and not exercising their powers of management and such powers are being exercised by either the holding company or any other person(s) resident in India, then the POEM shall be considered to be in India.

It has also been provided that for this purpose, merely because the BoD follows general and objective principles of global policy of the group laid down by the parent entity which may be in the field of Pay roll functions, Accounting, Human resource (HR) functions, IT infrastructure and network platforms, Supply chain functions, Routine banking Operational procedures, and not being specific to any entity or group of entities per se; would not constitute a case of BoD of companies standing aside.

In view of the above, it is clarified that so long as the Regional Headquarter Operates for subsidiaries/ group companies in a region within the general and objective principles of global policy of the group laid down by the parent entity in the field of Pay roll functions, Accounting, HR functions, IT infrastructure and network platforms, Supply chain functions, Routine banking operational procedures, and not being specific to any entity or group of entities per se; it would, in itself, not constitute a case of BoD of companies standing aside and such activities of Regional Headquarter in India alone will not be a basis for establishment of PoEM for such subsidiaries/ group companies.

It is further clarified that the provisions of General Anti-Avoidance Rule contained in Chapter X-A of the Income-tax Act, 1961 may get triggered in such cases where the above clarification is found to be used for abusive/ aggressive tax planning.

Clarification on applicability of section 9(1)(i) relating to indirect transfer in case of redemption of share or interest outside India [Circular No. 28/2017, dated 07-11-2017]

As per sec. 9(1)(i), all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India or through the transfer of a capital asset situate in India, shall be deemed to accrue or arise in India.

Explanation 5 to section 9(1)(i) provides that an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

Concerns were raised by investment funds, including private equity funds and venture capital funds that on account of the extant indirect transfer provisions in the Act, non-resident investment funds investing in India, which are set up as multi-tier investment structures, suffer multiple taxation of the same income at the time of subsequent redemption or buyback. Such taxability arises firstly at the level of the fund in India on its short term capital gain/business income and then at every upper level of investment in the fund chain on subsequent redemption or buyback.

Vide Finance Act, 2017, Category I and Category II FPIs have already been exempted from indirect transfer provisions of the Act through insertion of proviso to Explanation 5 to section 9(1)(i) of the Act, with effect from 01.04.2015.

There could be situations in multi-tiered investment structures, where interest or share held indirectly by a non-resident in an Investment Fund or a Venture Capital Company or a Venture Capital Fund (hereinafter referred to as 'specified funds'), is redeemed in an upstream entity outside India in consequence of transfer of shares or

securities held in India by the specified funds, the income of which have been subject to tax in India. In such cases, application of indirect transfer provisions on redemption of share or interest in the upstream entity may lead to multiple taxation of the same income. In respect of Category I and Category II FPIs though, such multiple taxation will not take place on account of the insertion of proviso to Explanation 5 to section 9(1)(i) of the Act, vide Finance Act, 2017.

The CBDT has received representations to exclude investors above the level of the direct investor who is already chargeable to tax in India on such income from the ambit of indirect transfer provisions of the Act.

In order to address this concern, the CBDT has clarified that the provisions of section 9(1)(i) read with Explanation 5, shall not apply in respect of income accruing or arising to a non-resident on account of redemption or buyback of its share or interest held indirectly (i.e. through upstream entities registered or incorporated outside India) in the specified funds (namely, investment funds, venture capital company and venture capital funds) if such income accrues or arises from or in consequence of transfer of shares or securities held in India by the specified funds and such income is chargeable to tax in India.

However, the above benefit shall be applicable only in those cases where the proceeds of redemption or buyback arising to the non-resident do not exceed the pro-rata share of the non-resident in the total consideration realized by the specified funds from the said transfer of shares or securities in India. It is further clarified that a non-resident investing directly in the specified funds shall continue to be taxed as per the extant provisions of the Act.

Foreign company said to be resident in India [Sec. 115JH]

Where,

i. a foreign company is said to be resident in India in any previous year; and

ii. such foreign company has not been resident in India in any of the previous years preceding the said previous year,

then, the provisions relating to the computation of total income, treatment of unabsorbed depreciation, set off or carry forward and set off of losses, collection and recovery and special provisions relating to avoidance of tax shall apply with such exceptions, modifications and adaptations as may be specified in notification[3] issued by the Government for the said previous year.

Consequences when such company fails to comply with the conditions

- Where, in a previous year, any benefit, exemption or relief has been claimed and granted to the foreign company and, subsequently, there is failure to comply with any of the conditions specified in the notification, then,:
  - i. such benefit, exemption or relief shall be deemed to have been wrongly allowed;
  - ii. the Assessing Officer may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said previous year and make the necessary amendment as if the exceptions, modifications and adaptations did not apply; and
  - iii. the provisions of sec. 154 shall, so far as may be, apply thereto and the period of 4 years specified therein being reckoned from the end of the previous year in which the failure to comply with the conditions takes place.

Other Point

- Where the determination regarding foreign company to be resident in India has been made in the assessment proceedings relevant to any previous year, then the provisions shall also apply in respect of any other previous year, succeeding such previous year, if the foreign company is resident in India in that previous year and the previous year ends on or before the date on which such assessment proceeding is completed.

3 Notification No. 29/2018 dated 22/06/2018

1.1.1 Computation of income on presumptive basis

Shipping Business (Other than cruise ship) in the case of Non-residents [Sec. 44B]

Applicable to	All non-resident assesse
Condition	Assessee must be engaged in the business of operation of ships.
Estimated income	Income taxable under the head "Profits & gains of business or profession" from such business shall be estimated at 7.5% of the amount being aggregate of the following: 1. The amount paid or payable (whether in or out of India) to the assessee (or to any person on his behalf) on account of the carriage of passengers, livestock, mail or goods shipped at any port in India; and 2. The amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods shipped at any port outside India.
Notes: The amount paid or payable or received or deemed to be received, as the case may be, shall also include demurrage charges or handling charges or any other amount of similar nature.	

Special procedure for Shipping Business of Non-residents [Sec. 172]

Applicable to

The section is applicable for the purpose of the levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, livestock, mail or goods shipped at a port in India.

Deemed Income

Where such a ship carries passengers, livestock, mail or goods shipped at a port in India, $7^{1}/_{2}$% of the amount paid or payable on account of such carriage to the owner or the charterer or to any person on his behalf, whether that amount is paid or payable in or out of India, shall be deemed to be income accruing in India to the owner or charterer on account of such carriage.

Computation of Tax

- Before the departure from any port in India of any such ship, the master of the ship shall prepare and furnish to the Assessing Officer a return of the full amount paid or payable to the owner or charterer or any person on his behalf, on account of the carriage of all passengers, livestock, mail or goods shipped at that port since the last arrival of the ship thereat.
- However, where the AO is satisfied that it is not possible for the master of the ship to furnish such return before the departure of the ship from the port and provided the master of the ship has made satisfactory arrangements for the filing of the return and payment of the tax by any other person on his behalf, the Assessing Officer may, if the return is filed within 30 days of the departure of the ship, deem the filing of the return by the person so authorised by the master as sufficient compliance.
- On receipt of the return, the Assessing Officer shall assess such income and determine the sum payable as tax thereon at the rate or rates in force applicable to the total income of a company which has not made the arrangements referred to in sec. 194 (i.e. foreign company) and such sum shall be payable by the master of the ship.
- For this purpose, the Assessing Officer may call for such accounts or documents as he may require.
- No order assessing the income and determining the sum of tax payable thereon shall be made after the expiry of 9 months from the end of the financial year in which the return is furnished.

Other Provisions

- Option to claim that assessment shall be made: The owner or charterer of a ship has option to claim before the expiry of the assessment year relevant to the previous year in which the date of departure of the ship from the Indian port falls, that an assessment be made of his total income of the previous year and the tax payable on the basis thereof be determined in accordance with the other provisions of this Act. If he so claims, any payment made u/s 172 shall be

treated as advance tax and the difference between the sum so paid and the amount of tax found payable by him on such assessment shall be paid by him or refunded to him, as the case may be [Sec. 172(7)]

- The ship which leaves the Indian port and only casually visits the Indian port is covered by sec. 172 and those who do regular shipping business are covered by sec. 44B [V.M. Salgaocar & Brother Ltd. -vs.- Deputy Controller [1991] 187 ITR 381 (Kar.)]

Profits & Gains in connection with the Business of Exploration, etc. of Mineral Oils [Sec. 44BB]

Applicable to	Non-resident assessee
Conditions	Assessee must be engaged in the business of - ➢ Providing services or facilities in connection with; or ➢ Supplying plant[1] and machinery on hire, used or to be used in, – the prospecting for, or extraction or production of, mineral oils[2]. 1. Plant includes ships, aircraft, vehicles, drilling units, scientific apparatus and equipment, used for the purpose of the said business 2. Mineral oil includes petroleum and natural gas.
Estimated income	A sum equal to 10% of the aggregate of the following amount shall be deemed to be the profits and gains of such business chargeable to tax - ➢ The amount paid or payable (whether in or out of India) to the assessee (or to any person on his behalf) on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils in India; and ➢ The amount received or deemed to be received in India by or on behalf of the assessee on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils outside India.
Assessee may claim lower profit	An assessee may claim lower profits and gains if he keeps and maintains books of account as per sec. 44AA and gets his accounts audited and furnishes the report u/s 44AB and thereupon the Assessing Officer shall proceed to make an assessment of the total income of the assessee u/s 143(3) & determine the sum payable by, or refundable to, the assessee
Taxpoint	Benefit of unabsorbed depreciation and brought forward loss shall not be allowed to the assessee for such previous year

Profits and Gains of the Business of Operation of Aircraft [Sec. 44BBA]

Applicable to	All non-resident assessee.
Condition	Assessee must be engaged in the business of operation of aircraft.
Estimated income	Income of such business shall be estimated at 5% of the aggregate of the following - ➢ The amount paid or payable (whether in or out of India) to the assessee (or to any person on his behalf) on account of the carriage of passengers, livestock, mail or goods from any place in India; and ➢ The amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods from any place outside India.

Illustration 1:

USA Airlines incorporated as a company in USA operates its flights to India and vice versa during the year 2025-26 and collects charges of ₹150 lakh for carriage of passengers and cargo out of which ₹90 lakh were received in

US Dollars for the passenger fare booked from New York to Mumbai. The total expenses for the year on operation of such flights were ₹195 lakh. Income chargeable to tax of the foreign airlines may please be computed.

Solution:

Computation of income of USA Airlines

Particulars	Fare booked from Mumbai to New York whether paid in India or outside India	Fare booked from New York to Mumbai	
		If paid in India (or deemed to be received in India)	If paid outside India
Fare	₹ 60 lakh [₹ 150 – ₹90]	₹90 lakh	₹90 lakh
Taxable Income @ 5% of the above	₹3,00,000	₹4,50,000	-

Profits and Gains of Foreign Companies engaged in the Business of Civil Construction, etc. in certain Turnkey Power Projects [Sec. 44BBB]

Applicable to	A foreign company
Condition	The assessee must be engaged in the business of - ➢ civil construction; or ➢ erection of plant or machinery or testing or commissioning thereof, – in connection with a turnkey power project approved by the Central Government in this behalf.
	Approval issued by the Department of Power in the Ministry of Energy shall be deemed to be the approval of the Central Government for this section.
Estimated income	Income of such business shall be estimated at 10% of the amount paid or payable (whether in or out of India) to the said assessee (or to any person on his behalf) on account of such civil construction, erection, testing or commissioning.
Assessee may claim lower profit	An assessee may claim lower profits and gains if he keeps and maintain books of account as per sec. 44AA and gets his accounts audited and furnishes the report u/s 44AB and thereupon the Assessing Officer shall proceed to make an assessment of the total income of the assessee u/s 143(3) and determine the sum payable by, or refundable to, the assessee.
Taxpoint	Benefit of unabsorbed depreciation and brought forward loss shall not be allowed to the assessee for such previous year

Special provision for computing profits and gains of business of operation of cruise ships in case of non-residents [Sec. 44BBC]

Applicable to	Non resident
Condition	a. The assessee must be engaged in the business of operation of cruise ships; and b. The assessee has satisfied such conditions as may be prescribed
Estimated income	Income of such business shall be estimated at 20% of the aggregate of the following - (a) the amount paid or payable to the assessee or to any person on his behalf on account of the carriage of passengers; and (b) the amount received or deemed to be received by or on behalf of the assessee on account of the carriage of passengers

Special provision for non-resident providing services for electronics manufacturing facility [Sec. 44BBD]

Applicable to	Non resident
Conditions	a. Assessee is engaged in the business of providing services or technology in India, for the purposes of setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, article or thing in India; b. Such services or technology shall be provided to a resident company which is establishing or operating electronics manufacturing facility or a connected facility for manufacturing or producing electronic goods, article or thing in India, under a scheme notified by the Central Government in the Ministry of Electronics and Information Technology; and c. The resident company satisfies the conditions prescribed in this behalf.
Deemed income	25% of the aggregate of the following shall be deemed to be the profits and gains of such business of the non-resident assessee – a. the amount paid or payable to the non-resident assessee or to any person on his behalf on account of providing services or technology; and b. the amount received or deemed to be received by the non-resident assessee or on behalf of non-resident assessee on account of providing services or technology
Taxpoint	a. Where a non-resident assessee declares profits and gains of business for any previous year under this section, no set off of unabsorbed depreciation and brought forward loss shall be allowed to the assessee for such previous year b. The provisions of sec. 44DA or sec. 115A shall not apply in respect of the amounts referred to in this section

Special Provision for Computing Income by way of Royalties, etc. in case of Non-resident [Sec. 44DA]

Applicable to	A non-resident (not being a company) or a foreign company
Conditions	1. Assessee has earned income by way of royalty or fees for technical services received from the Government or an Indian concern in pursuance of an agreement made with the Government or the Indian concern; 2. Assessee carries on business in India through a permanent establishment situated therein, or performs professional services from a fixed place of profession situated therein; and 3. Right, property or contract in respect of which royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession, as the case may be.
Agreement date	After 31/3/2003
Tax Treatment	Income shall be computed under the head "Profits and gains of business or profession" in accordance with the provisions of this Act:
Deduction not permissible	No deduction shall be allowed in respect of - ➢ any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or ➢ amounts paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices.

Note: Assessee shall keep and maintain books of account and other documents as per sec. 44AA and get his accounts audited u/s 44AB and upload one month prior to the due date of filing of the return of income, the report of such audit in Form 3CE duly signed and verified by chartered accountant.

Deduction of Head Office Expenditure in the case of Non-residents [Sec. 44C]

In case of a non-resident assessee, head office expenditure shall not be allowed (in computing the income chargeable under the head "Profits and gains of business or profession") in excess of the higher of the following amount:

(i) an amount equal to 5% of the adjusted total income; or

(ii) the amount of so much of the expenditure in the nature of head office expenditure incurred by the assessee as is attributable to the business or profession of the assessee in India,

Other Points

- Adjusted total income means the total income without giving effect to:
  a) Head-office expenditure u/s 44C; or
  b) Unabsorbed depreciation u/s 32(2); or
  c) The first proviso to sec. 36(1)(ix) i.e. capital expenditure on family planning; or
  d) Any loss carried forward u/s 72 or 73 or 74 or 74A; or
  e) The deductions under Chapter VIA;
- Where the adjusted total income of the assessee is a loss, then (i) shall be computed at the rate of 5% of the average adjusted total income of the assessee.
- Average adjusted total income means average of adjusted total income of 3 assessment years immediately preceding the relevant assessment year. However, where the total income of the assessee is assessable only for last 2 or 1 year(s), then average of last 2 or 1 year(s) shall be considered.
- Head office expenditure means executive and general administration expenditure incurred by the assessee outside India, including expenditure incurred in respect of:
  (a) rent, rates, taxes, repairs or insurance of any premises outside India used for the purposes of the business or profession;
  (b) salary, wages, annuity, pension, fees, bonus, commission, gratuity, perquisites or profits in lieu of or in addition to salary, whether paid or allowed to any employee or other person employed in, or managing the affairs of, any office outside India;
  (c) travelling by any employee or other person employed in, or managing the affairs of, any office outside India; and
  (d) such other matters connected with executive and general administration as may be prescribed.

1.1.2 Capital gain on transfer of shares/debentures by a non-resident [First proviso to Sec. 48 and rule 115A]

Applicable on

A non-resident assessee (not being an assessee covered u/s 115AC and 115AD)

Nature of asset

Capital assets whether long-term or short term being shares in, or debentures of an Indian company acquired by utilizing foreign currency

Taxpoint:

- The provision shall also be applicable in respect of capital gains accruing or arising on transfer of shares in, or debentures of, an Indian company, acquired through reinvestment.
- The asset may be a short-term or long-term capital asset.
- The above provision is not applicable to units of UTI and Mutual Funds.

Procedure

Capital gain on transfer of above asset shall be computed as under:

- Cost of acquisition, expenditure on transfer and the sale consideration shall be converted into the same foreign currency as was initially utilized in the purchase of the shares or debentures; and
- Capital gains (computed in such foreign currency) shall be reconverted into Indian currency.

Taxpoint:

- The method of computation is mandatory and not optional.
- Capital gain shall be determined as under:

Step	Conversion of	Particulars	Conversion rate
1	Sale consideration	Find sale consideration in Indian currency and convert it into foreign currency	At average exchange rate[1] on the date of transfer
2	Expenditure on transfer	Find expenditure on transfer in Indian currency and convert it into foreign currency	At average exchange rate on the date of transfer (not on the date when expenditure was incurred)
3	Cost of acquisition	Find cost of acquisition in Indian currency and convert it into foreign currency	At average exchange rate on the date of acquisition.
4	Capital gain in foreign currency	Step 1 – Step 2 – Step 3	Not applicable
5	Taxable Capital gain	Capital gain so calculated (in step 4) will be reconverted into Indian currency	At buying rate[2] on the date of transfer

1. **Average exchange rate:** It is the average of the telegraphic transfer buying rate and telegraphic transfer selling rate.

2. **Buying Rate:** It is telegraphic transfer buying rate of such currency.

Telegraphic transfer buying/selling rate in relation to a foreign currency is a rate of exchange adopted by the State Bank of India for purchasing/selling such currency where such currency is made available by that bank through telegraphic transfer.

Illustration 2:

Anthony, a non-resident Indian, acquired 1,000 shares in A Ltd. (an Indian Company) for ₹20,000 by utilizing foreign currency (SGP $) on 18/08/2024. On 16/09/2025, Anthony sold such shares for ₹45,000 and utilized the proceeds in acquisition of 500 shares of B Ltd. (an Indian Company) after paying expenditure on transfer on 13/9/2025 ₹5,000. Compute capital gain liability in the previous year 2025-26.

Date	Buying rate	Selling rate
18/08/2025	45	46
13/09/2025	48	50
16/09/2025	46	48

Solution:

Since the assessee is a non-resident and shares of an Indian company were acquired by utilizing foreign currency, hence, first proviso to sec. 48 and Rule 115A shall be applicable on the above transactions.

Computation of capital gain for the A.Y. 2026-27

Particulars	Working	Rate applied	Amount	Amount
Sale consideration	₹45,000/₹47	Av. rate as on 16/09/2025		$957.4
Less: Expenditure on transfer	₹5,000/₹47	Av. rate as on 16/09/2025		$106.4
Net Sale consideration				$851.0
Less: Cost of acquisition	₹20,000/₹45.5	Av rate as on 18/08/2025	$439.6	
Less: Cost of improvement			Nil	$439.6
Short term Capital Gain				$411.4
Short term capital gain	$411.4 × ₹46	Buying rate as on 16/09/2025		₹18,924

Special provision for Long Term Capital Gain in Some Cases [Sec. 112(1)(c)]

Applicable on

Non-resident (not being a company) or a foreign company

Conditions to be satisfied

1. Long-term capital gains shall be arising from the transfer of a capital asset, being unlisted securities or shares of a company in which the public are substantially interested.
2. Capital gain in respect of such asset shall be computed without giving effect to the first proviso to sec. 48 (computation of capital gain in foreign currency).

Tax Rate

Such long term capital gain shall be taxable @ 12.50% (+ surcharge and cess, as applicable).

Special Provisions in relation to certain income of Non-residents [Sec. 115A to Sec.115AC]

Following table enumerated the provisions relating to sec.115A to 115AC

Sec. Particulars	115A(1)(a)	115A(1)(b)	115AB	115AC
Applicable on	Non-resident	Non-resident	Overseas financial organization[$]	Non-resident
Income covered	a) Dividends; or b) Interest received from notified infrastructure bonds or Govt. or an Indian concern on money borrowed in foreign currency; or c) Interest of the nature and extent referred to in sec. 194LC/194LD/ 194LBA(2)	Royalty or fees for technical services (other than income covered u/s 44DA) received as per agreement entered with Government or an Indian concern[2] on or after 1-4-1976	Long-term capital gains arising from the transfer of units of UTI or mutual fund specified u/s 10(23D) purchased in foreign currency	a) Interest on notified foreign currency bonds of Indian / public sector company b) Dividend on GDR c) LTCG arising on transfer of such bonds or Global Depository Receipts (GDR)
Special tax rate	10% (Dividend received from a unit in IFSC) or 5% or 4% or 10% (respective rates referred to in sec. 194LC or 194LD or 194LBA)/ 20% (other cases)	20%	12.50%	LTCG: 12.50% Other Income: 10%
Allowability of expenditure u/s 28 to 44C & sec. 57	No	No	Not Applicable	No

4 Where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy

Sec. Particulars	115A(1)(a)	115A(1)(b)	115AB	115AC
Deduction under Chapter VIA	Not available **Exception** Deduction u/s 80LA can be claimed by a Unit of an International Financial Services Centre	Available	Not available	Not available
Index benefit	Not Applicable	Not Applicable	Not Available	Not Available
Requirement to furnish return[#]	No	Yes	Yes	No

[#] If total income consists of such income only and appropriate tax has been deducted from such income

[$]Overseas financial organisation means any fund, institution, association or body, whether incorporated or not, established under the laws of a country outside India, which has entered into an arrangement for investment in India with any public sector bank or public financial institution or a mutual fund specified u/s 10(23D) and such arrangement is approved by the Securities and Exchange Board of India.

Special Provisions in relation to certain Income of Non-residents [Sec. 115ACA to Sec.115BBA]

The following table enumerated the provisions relating to sec.115ACA to 115BBA

Sec. Particulars	115ACA	115AD	115BBA(1)(a)	115BBA(1)(b)
Applicable on	Resident individual	Specified Fund[5] or Foreign Institutional Investor	Non-resident sportsman or entertainer being foreign citizen	Non-resident sports association
Income covered	a) Dividend on GDR[$] of an Indian company engaged in specified knowledge based industry or service* issued as ESOP b) Long-term capital gains on transfer of such GDR	a) Income on securities (other than unit referred to in sec. 115AB) b) STCG or LTCG on transfer of such securities	Income by way of: a) participation in India in any game or sport; or b) advertisement; or c) contribution of articles relating to any game or sport in India in newspapers, magazines or journals. In case of entertainer, any income received or receivable from his performance in India, **Taxpoint:** Match Referee is not considered as sportsmen.	Any amount guaranteed to be paid or payable to such association for any game or sport played in India

5 In case of specified fund, the provision of sec. 115AD shall apply only to the extent of income that is attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) calculated in the prescribed manner.

Sec. Particulars	115ACA	115AD		115BBA(1)(a)	115BBA(1)(b)
Special tax rate	LTCG: 12.50% Other Income: 10%	Interest u/s 194LD	5%	20%	20%
		STCG u/s 111A	20%		
		Other STCG	30%		
		LTCG[@]	12.50%		
		Other Income	20% (10% in case of specified fund)		
Allowability of expenditure u/s 28 to 44C & sec. 57	No	No		No	No
Deduction u/ch VIA	Not available	Not available		Not available	Not available
Index benefit	Not Available	Not Available		Not Applicable	Not Applicable
Requirement to furnish return#	Yes	Yes		No	No
Others	Assessee must be an employee of such company or its subsidiary			Winning from lottery, cross-word puzzles etc. is taxable @ 30% u/s 115BB	

[@] In case of long-term capital asset referred to in section 112A, income-tax @ 12.50% shall be calculated on such income exceeding ₹ 1.25 lakh.

[#] Specified knowledge based industry or service means:

a. information technology software;
b. information technology service;
c. entertainment service;
d. pharmaceutical industry;
e. bio-technology industry; and
f. any other specified industry or service

[$]Global Depository Receipts means any instrument in the form of a depository receipt or certificate (by whatever name called) created by the Overseas Depository Bank outside India or in an International Financial Services Centre and issued to investors against the issue of:

i. ordinary shares of issuing company, being a company listed on a recognised stock exchange in India; or
ii. foreign currency convertible bonds of issuing company
iii. ordinary shares of issuing company, being a company incorporated outside India, if such depository receipt or certificate is listed and traded on any International Financial Services Centre

⊙ Where the specified fund is investment division of an offshore banking unit, the provisions of sec. 115AD shall apply to the extent of income that is attributable to the investment division of such banking units, referred to in clause (c)(ii) to the Explanation to sec. 10(4D), as a Category-I portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities and Exchange Board of India Act, 1992, calculated in such manner as may be prescribed.

Special Provision in case of Non-resident Indian [Sec.115C to 115-I]

Applicable on

Non-resident Indians deriving –

(a) Income from investment in foreign exchange asset; or

(b) Long-term capital gain on foreign exchange asset.

Taxpoint

- Foreign exchange asset means any specified asset, which the assessee has acquired or purchased with, or subscribed to, in convertible foreign exchange.
- Specified asset means any of the following –
  - Shares in Indian company;
  - Debenture issued by an Indian company which is not a private company;
  - Deposit with an Indian company, which is not a private company;
  - Any security of the Central Government; or
  - Any notified asset.
- Investment income means any income derived from a foreign exchange asset.
- Long-term capital gain means income chargeable under the head Capital gains relating to a capital asset, being a foreign exchange asset, which is not a short-term capital asset.
- Non-resident Indian means an individual, being a citizen of India or a person of Indian origin who is not a resident.

Special Provision [Sec. 115D]

1. No deduction in respect of any expenditure or allowance is allowed under any provision of this Act in computing the investment income.
2. No deduction shall be allowed to the assessee u/s 80C to 80U

Tax on Investment Income and Long-term Capital Gain [Sec. 115E]

Nature of income	Rate of tax
Income from investment	20%
Long term capital gain	12.5%

Exempted Capital Gain [Sec. 115F]

Applicable to

Non-resident Indian (i.e. an individual being a citizen of India or a person of Indian origin who is a non-resident)

Conditions

1. Assessee has transferred any of the following long term capital asset, acquired in convertible foreign exchange:
   - Shares in an Indian company; or
   - Debentures of an Indian public limited company; or
   - Deposits with an Indian public limited company; or
   - Central Government securities.

   (hereinafter referred to as original asset)

2. Within 6 months of transfer of original asset, the taxpayer has invested the whole or any part of net consideration in any of the following assets (hereinafter referred to as new asset)
   a) Shares in an Indian company; or
   b) Debentures of an Indian public limited company; or
   c) Deposit with an Indian public limited company; or
   d) Central Government securities; or
   e) National Savings Certificate VI and VII issues.

Amount of exemption

Exemption is available to the minimum of the following –

- Long term capital gain; or
- $\frac{\text{Long term capial gain} \times \text{Amount invested in the new asset}}{\text{Net sale consideration on transfer of original asset}}$

Withdrawal of exemption

When the new asset acquired by the assessee is transferred or converted into money within 3 years from the date of its acquisition, the capital gains exempted earlier shall be revoked.

On revocation of exemption, benefit availed earlier under this section shall be taxed as long-term capital gain in the previous year in which such new asset is transferred or converted into money.

Note: Sec. 115F is optional in nature and not mandatory, i.e. an assessee may or may not opt for sec. 115F by giving a declaration in return of income to this effect. [Sec. 115-I]

Return of Income not to be Filed in certain cases [Sec. 115G]

It is not necessary to file return if during the previous year there is no other income and tax has been deducted at source.

Applicability of Provisions after Becoming Resident [Sec. 115H]

Where a person become assessable as resident in India in any subsequent previous year, he may assessed as above provisions for that income provided he file a declaration in writing along with his return of income of subsequent year in this regard.

Non-applicability of Provisions [Sec. 115I]

An assessee may elect not to be governed by this provision for any assessment year by furnishing return of income for that assessment year u/s 139 declaring therein that the provision of this chapter shall not apply on him for that assessment year and if he does so, the provisions of this chapter shall not apply on him.

Conversion of an Indian branch of Foreign Company into Subsidiary Indian Company [Sec. 115JG]

Where a foreign company is engaged in the business of banking in India through its branch situated in India and such branch is converted into a subsidiary company thereof, being an Indian company (hereafter referred to as an Indian subsidiary company) in accordance with the scheme framed by the Reserve Bank of India (and subject to the conditions as may be notified by the Central Government), then,

(a) The capital gains arising from such conversion shall not be chargeable to tax in the assessment year relevant to the previous year in which such conversion takes place.

(b) The provisions of this Act relating to treatment of unabsorbed depreciation, set off or carry forward and set off of losses, tax credit in respect of tax paid on deemed income relating to certain companies and the computation of income in the case of the foreign company and the Indian subsidiary company shall apply with such exceptions, modifications and adaptations as may be specified in that notification.

Consequence of failure to Comply with any of the Conditions

In case of failure to comply with any of the conditions specified in the scheme or in the notification, all the provisions of this Act shall apply to the foreign company and the said Indian subsidiary company without aforesaid

benefit, exemption or relief.

Consequence of failure to Comply with any of the conditions after Claiming Benefit

Where, in a previous year, any benefit, exemption or relief has been claimed and granted to the foreign company or the Indian subsidiary company and, subsequently, there is failure to comply with any of the conditions specified in the scheme or in the notification, then:

(a) Such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(b) The Assessing Officer may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said previous year and make the necessary amendment; and

(c) The provisions of sec. 154 shall, so far as may be, apply thereto and the period of 4 years specified in that section being reckoned from the end of the previous year in which the failure to comply with the condition takes place.

Submission of Statement by a Non-resident having Liaison Office [Sec.285]

Every person, being a non-resident having a liaison office in India set up in accordance with the guidelines issued by the Reserve Bank of India under the Foreign Exchange Management Act, 1999, shall, in respect of its activities in a financial year, prepare and deliver to the Assessing Officer having jurisdiction, within prescribed time, a statement in such form (Form 49C) and containing such particulars as may be prescribed.

Obligation to furnish information on transaction of crypto-asset [Sec. 285BAA]

1. Any person, being a reporting entity, as prescribed, in respect of acrypto-asset, shall furnish information in respect of a transaction of such crypto-asset in a statement, for such period, within such time, in such form and manner and to such income-tax authority, as prescribed.
2. Where the prescribed income-tax authority considers such statement as defective, he may intimate the defect to the person who has furnished such statement and give him an opportunity of rectifying the defect within 30 days from the date of such intimation or such further period as may be allowed, and if the defect is not rectified within such period, the provisions of this Act shall apply as if such person had furnished inaccurate information in the statement.
3. However, where a person who is required to furnish a statement, has not furnished the same within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such statement within a period not exceeding 30 days from the date of service of such notice and he shall furnish the statement within the time specified in the notice.
4. If any person, having furnished a statement (suo-moto or in pursuance of aforesaid notice), comes to know or discovers any inaccuracy in the information provided in the statement, he shall within 10 days inform the prescribed income-tax authority, the inaccuracy in such statement and furnish the correct information in such manner as prescribed.

The Central Government may, by rules prescribe the persons to be registered with the prescribed income-tax authority; the nature of information and the manner in which such information shall be maintained by such persons referred and the due-diligence to be carried out by such persons for the purpose of identification of any crypto-asset user or owner.

Furnishing of the report in respect of international group [Sec. 286]

- Every constituent entity resident in India, shall, if it is constituent of an international group, the parent entity of which is not resident in India, notify the prescribed income-tax authority (herein referred to as prescribed authority) in the form and manner, on or before such date, as may be prescribed:
  a) whether it is the alternate reporting entity of the international group; or
  b) the details of the parent entity or the alternate reporting entity, if any, of the international group, and the country or territory of which the said entities are resident. [Sec. 286(1)]

- Every parent entity or the alternate reporting entity, resident in India, shall, for every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report[6], to the prescribed authority[7] within a period of 12 months from the end of the said reporting accounting year, in the form and manner as may be prescribed [Sec. 286(2)]
- The report in respect of an international group shall include:
  a. the aggregate information in respect of the amount of revenue, profit or loss before income-tax, amount of income-tax paid, amount of income-tax accrued, stated capital, accumulated earnings, number of employees and tangible assets not being cash or cash equivalents, with regard to each country or territory in which the group operates;
  b. the details of each constituent entity of the group including the country or territory in which such constituent entity is incorporated or organised or established and the country or territory where it is resident;
  c. the nature and details of the main business activity or activities of each constituent entity; and
  d. any other information as may be prescribed.
- A constituent entity of an international group, resident in India, other than the entity referred to sec. 286(2), shall furnish the report, in respect of the international group for a reporting accounting year within prescribed period, if the parent entity is resident of a country or territory,—
  a. where the parent entity is not obligated to file such report;
  b. with which India does not have an agreement providing for exchange of such report; or
  c. there has been a systemic failure of the country or territory and the said failure has been intimated by the prescribed authority to such constituent entity.
- However, if there are more than one such constituent entities of the group, resident in India, the report shall be furnished by any one constituent entity, if,—
  a. the international group has designated such entity to furnish such report on behalf of all the constituent entities resident in India; and
  b. the information has been conveyed in writing on behalf of the group to the prescribed authority.
- If, an alternate reporting entity of the international group has furnished such report with the tax authority of the country or territory in which such entity is resident, on or before the date specified by that country or territory and the following conditions are satisfied then separate report is not required to be furnished:
  a. the report is required to be furnished under the law for the time being in force in the said country or territory;
  b. the said country or territory has entered into an agreement with India providing for exchange of the said report;
  c. the prescribed authority has not conveyed any systemic failure in respect of the said country or territory to any constituent entity of the group that is resident in India;
  d. the said country or territory has been informed in writing by the constituent entity that it is the alternate reporting entity on behalf of the international group; and
  e. the prescribed authority has been informed by such entity.
- The prescribed authority may, for the purposes of determining the accuracy of the report furnished by any reporting entity, by issue of a notice in writing, require the entity to produce such information and document as may be specified in the notice within 30 days of the date of receipt of the notice.
- The prescribed authority may, on an application made by such entity, extend the period of thirty days by a further period not exceeding 30 days.
- The provisions of this section shall not apply in respect of an international group for an accounting year, if the total consolidated group revenue, as reflected in the consolidated financial statement for the accounting year preceding such accounting year does not exceed prescribed amount[8].

[6] Rule 10DB: Form Nos. 3CEAC to 3CEAE
[7] Director General of Income-tax (Risk Assessment)
[8] Rule 10DB(6) provides that for the purposes of sec. 286(7), the total consolidated group revenue of the international group shall be ₹5,500 crores

- "Accounting Year" means:
  a. a previous year, in a case where the parent entity is resident in India; or
  b. an annual accounting period, with respect to which the parent entity of the international group prepares its financial statements under any law for the time being in force or the applicable accounting standards of the country or territory of which such entity is resident, in any other case.
- "Agreement" means a combination of all of the following agreements:
  i. an agreement entered into u/s 90 or u/s 90A; and
  ii. an agreement for exchange of the report referred to in sec. 286(2) and notified by the Central Government.
- "Alternate Reporting Entity" means any constituent entity of the international group that has been designated by such group, in the place of the parent entity, to furnish the report in the country or territory in which the said constituent entity is resident on behalf of such group.
- "Constituent Entity" means:
  i. any separate entity of an international group that is included in the consolidated financial statement of the said group for financial reporting purposes, or may be so included for the said purpose, if the equity share of any entity of the international group were to be listed on a stock exchange;
  ii. any such entity that is excluded from the consolidated financial statement of the international group solely on the basis of size or materiality; or
  iii. any permanent establishment of any separate business entity of the international group included in (i) or (ii) [supra], if such business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;
- "Group" includes a parent entity and all the entities in respect of which, for the reason of ownership or control, a consolidated financial statement for financial reporting purposes,—
  i. is required to be prepared under any law for the time being in force or the accounting standards of the country or territory of which the parent entity is resident; or
  ii. would have been required to be prepared had the equity shares of any of the enterprises were listed on a stock exchange in the country or territory of which the parent entity is resident;
- "Consolidated Financial Statement" means the financial statement of an international group in which the assets, liabilities, income, expenses and cash flows of the parent entity and the constituent entities are presented as those of a single economic entity.
- "International Group" means any group that includes,—
  i. two or more enterprises which are resident of different countries or territories; or
  ii. an enterprise, being a resident of one country or territory, which carries on any business through a permanent establishment in other countries or territories;
- "Parent Entity" means a constituent entity, of an international group holding, directly or indirectly, an interest in one or more of the other constituent entities of the international group, such that:
  i. it is required to prepare a consolidated financial statement under any law for the time being in force or the accounting standards of the country or territory of which the entity is resident; or

ii. it would have been required to prepare a consolidated financial statement had the equity shares of any of the enterprises were listed on a stock exchange,

and, there is no other constituent entity of such group which, due to ownership of any interest, directly or indirectly, in the first mentioned constituent entity, is required to prepare a consolidated financial statement, under the circumstances referred to in (i) or (ii) [supra], that includes the separate financial statement of the first mentioned constituent entity;

- "Reporting Accounting Year" means the accounting year in respect of which the financial and operational results are required to be reflected in the report
- "Reporting Entity" means the constituent entity including the parent entity or the alternate reporting entity, that is required to furnish a report.
- "Systemic Failure" with respect to a country or territory means that the country or territory has an agreement with India providing for exchange of such report, but—

i. in violation of the said agreement, it has suspended automatic exchange; or

ii. has persistently failed to automatically provide to India the report in its possession in respect of any international group having a constituent entity resident in India.

Withholding Tax for Non-Resident

1.1.3 TDS on payment to non-resident sportsman or sports associations [Sec. 194E]

Who is responsible to deduct tax: Any person who is responsible to pay the following income –

Payee	Income by way of
Sportsman (including an athlete) or an entertainer being non-resident foreign citizen	1. Participation in India in any game (excluding card game or gambling) or sport
	2. Advertising
	3. Contribution of articles relating to any game or sports in any newspaper, magazine or journal.
Sports association being non- resident	Any game (other than card game) or sports organised in India

Rate of TDS: 20% (+ Surcharge + Health & Education Cess)

When tax shall be deducted: At the time of payment or crediting the party whichever is earlier.

1.1.4 TDS on interest from Infrastructure Debt Fund [Sec. 194LB]

Who is responsible to deduct tax: Any person responsible for paying income by way of interest by an infrastructure debt fund referred to in sec. 10(47) to a non-resident or a foreign company.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 5% (+ SC + HEC)

1.1.5 TDS on interest to non-resident [Sec. 194LC]

Who is responsible to deduct tax: Any Indian company or a business trust[4] responsible for paying income by way of interest to a non-resident or a foreign company. Such interest is payable in respect of

1. in respect of monies borrowed by it in foreign currency from a source outside India:
   a. under a loan agreement at any time on or after 01-07-2012 but before 01-07-2023; or
   b. by way of issue of long-term infrastructure bonds at any time 01-07-2012 but before 01-10-2014; or
   c. by way of issue of any long-term bond including long-term infrastructure bond at 01-10-2014 but before 01-07-2023,

   as approved by the Central Government in this behalf; or
2. in respect of monies borrowed by it from a source outside India by way of issue of rupee denominated bond before 01-07-2023; or
3. in respect of monies borrowed by it from a source outside India by way of issue of any long-term bond or rupee denominated bond on or after 01-04-2020 but before 01-07-2023, which is listed only on a recognised stock exchange located in any International Financial Services Centre,
4. in respect of money borrowed by it from a source outside India by way of issuance of any long-term bond or rupee denominated bond on or after 01-07-2023, which is listed only on a recognised stock exchange located in an International Financial Services Centre
5. to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or the bond and its repayment.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 5% (+ SC + Health & Education Cess) [in case of interest mentioned in point 3 above rate of TDS is 4%] [Further, in case of interest mentioned in point 4 above rate of TDS is 9%]

Note: W.e.f. 01-06-2013, the provisions of section 206AA (i.e. rate of TDS will be 20% in absence of PAN) shall not apply in respect of payment of interest, on long-term bonds including long term infrastructure bonds (being referred to in sec. 194LC) to a non-resident, not being a company, or to a foreign company.

1.1.6 Income by way of interest on certain bonds, Govt. securities [Sec. 194LD]

Who is responsible to deduct tax: Any person who is responsible for paying interest (at the rate notified by the Central Government) to a person being a Foreign Institutional Investor or a Qualified Foreign Investor[9]. Such interest shall be payable:

a. on or after 01-06-2013 but before 01-07-2023 in respect of the investment made by the payee in:
   i. a rupee denominated bond of an Indian company [provided rate of interest shall not exceed the notified rate]; or
   ii. a Government security;
b. on or after 01-04-2020 but before 01-07-2023 in respect of the investment made by the payee in municipal debt securities.

9 "Qualified Foreign Investor" shall have the meaning assigned to it in the Circular No. Cir/IMD/DF/14/2011, dated the 9th August, 2011, as amended from time to time, issued by the Securities and Exchange Board of India, under section 11 of the Securities and Exchange Board of India Act, 1992.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 5% (+ SC + Health & Education Cess)

1.1.7 TDS on other sums payable to non-resident [Sec. 195]

Who is responsible to deduct tax: Any person (resident or non-resident[10]) responsible for paying any sum chargeable under this Act (excluding income chargeable under the head "Salaries") to a non-resident.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: At the rate in force during the financial year

Exemption or relaxation from the provision

When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax [Refer sec. 197]

Note: In case, payer is a Government or Public sector bank or a financial institution [within the meaning of 10(23D)], tax shall be deducted only at the time of payment.

Other Points

Provision for furnishing information: The person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.

If a person fails to furnish such information or furnishes inaccurate information, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ₹1,00,000/- [Sec. 271-I]

Application to the Assessing Officer: The Board may notify a class of persons or cases, where the person responsible for paying to a non-resident, any sum, whether or not chargeable under the provisions of this Act, shall make an application to the Assessing Officer to determine, by general or special order, the appropriate proportion of sum chargeable, and upon such determination, tax shall be deducted on that proportion of the sum which is so chargeable.

1.1.8 TDS on income in respect of units of non-residents [Sec. 196A]

Who is responsible to deduct tax: Any person responsible for paying any income in respect of units of a Mutual Fund specified u/s 10(23D) or of the Unit Trust of India to a foreign company or to any non corporate non resident assessee.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 20% + SC + HEC

Exemption or relaxation from the provision:

Tax shall not be deducted from any income payable in respect of units of the Unit Trust of India to a non-resident Indian or a non-resident HUF, if the following conditions are satisfied –

- The units have been acquired from the Unit Trust of India out of the funds in a Non-resident (External) Account maintained with any bank in India; or
- The units have been acquired from the Unit Trust of India by remittance of funds in foreign currency

[10] whether or not such non-resident person has: (i) a residence or place of business or business connection in India; or (ii) any other presence in any manner whatsoever in India

Other Points

"Non-resident Indian" means an individual, being a citizen of India or a person of Indian origin who is not a "resident".

1.1.9 TDS on income from units [Sec. 196B]

Who is responsible to deduct tax: Any person responsible for paying any income in respect of units referred to in sec. 115AB or by way of long-term capital gains arising from the transfer of such units to an Offshore Fund.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS:

Income	Rate of TDS
Long term capital gain on transfer of such units	12.5% (10% if the transfer takes place prior to 23-07-2024) + Surcharge + Health & Education Cess
Other Income	10% + Surcharge + Health & Education Cess

1.1.10 TDS on income from foreign currency bonds or GDR [Sec. 196C]

Who is responsible to deduct tax: Any person responsible for paying any income by way of interest or dividends in respect of bonds or Global Depository Receipts referred to in section 115AC or by way of long-term capital gains arising from the transfer of such bonds or Global Depository Receipts to a non-resident

When tax shall be deducted: At the time of payment (by any mode) or crediting the payee, whichever is earlier.

Rate of TDS:

Income	Rate of TDS
Long term capital gain on transfer of such units	12.5% (10% if the transfer takes place prior to 23-07-2024) + Surcharge + Health & Education Cess
Other Income	10% + Surcharge + Health & Education Cess

1.1.11 TDS on income of FII from securities [Sec. 196D]

Who is responsible to deduct tax: Any person responsible for paying any income in respect of securities referred to in section 115AD (1)(a) [not being interest referred to in sec. 194LD] to Foreign Institutional Investor or specified fund [referred to in sec. 10(4D)].

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 20% (10% in case payee is specified fund) + Surcharge + Health & Education Cess

Notes

- Tax shall not be deducted from any capital gains arising from the transfer of securities referred to in section 115AD, payable to a Foreign Institutional Investor. Similarly, tax shall not be deducted if such income is exempted u/s 10(4D).
- Further, where DTAA agreement applies to the payee and if the payee has furnished a certificate referred to sec. 90 or 90A, as the case may be, then, tax shall be deducted at the rate of 20% or at the rate provided in such agreement for such income, whichever is lower.

1.1.12 Recovery of Tax

As per section 160, agent of the non-resident, including a person who is treated as an agent u/s 163 is considered as a representative assessee in respect of the income of a non-resident specified in sec. 9(1).

As per sec. 161, every representative assessee, as regards the income in respect of which he is a representative assessee, shall be subject to the same duties, responsibilities and liabilities as if the income were income received by or accruing to or in favour of him beneficially, and shall be liable to assessment in his own name in respect of that income; but any such assessment shall be deemed to be made upon him in his representative capacity only, and the tax shall, subject to the other provisions contained in this Chapter, be levied upon and recovered from him in like manner and to the same extent as it would be leviable upon and recoverable from the person represented by him.

Agent of a Non-resident [Sec. 163]

Where the person liable to tax under this Act resides outside India, then tax may be levied upon and recovered from his agent. The agent shall be deemed to be the assessee in respect of such tax. The Assessing Officer may serve a notice on the persons for his intention of treating him as the agent of non resident. No person shall be treated as the agent of a non-resident unless he has had an opportunity of being heard by the Assessing Officer as to his liability to be treated as such.

Who may be treated as an Agent

"Agent", in relation to a non-resident, includes any person in India:

(a) who is employed by or on behalf of the non-resident; or

(b) who has any business connection with the non-resident; or

(c) from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or

(d) who is the trustee of the non-resident;

and includes also any other person who, whether a resident or non-resident, has acquired by means of a transfer, a capital asset in India.

Exception

A broker in India who, in respect of any transactions, does not deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker shall not be deemed to be an agent under this section in respect of such transactions, if the following conditions are fulfilled:

(i) the transactions are carried on in the ordinary course of business through the first-mentioned broker; and

(ii) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal.

Taxpoint

- An agent shall be entitled to -
  - a) recover any sum paid by him from the person on whose behalf it is paid; or
  - b) to retain out of any moneys that may be in his possession; or
  - c) to retain out of any moneys that may come to him in his capacity as such agent
- Any agent or any person, who apprehends that he may be assessed as an agent, may retain (equal to estimated liability) out of any money payable by him to the person residing outside India on whose behalf he is liable to pay tax (hereinafter in this section referred to as the principal).
- However, where there is any disagreement between the principal and such agent or person, regarding amount to be so retained, such agent or person may secure from the Assessing Officer a certificate stating the amount to be so retained pending final settlement of the liability.

- The amount recoverable from such agent or person at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such agent or person may at such time have in his hands additional assets of the principal.

Recovery of tax in respect of non-resident from his assets [Sec. 173]

Where the person entitled to the income referred to in sec. 9(1)(i) is a non-resident, the tax chargeable thereon, whether in his name or in the name of his agent who is liable as a representative assessee, may be recovered by deduction under any of the provisions of Chapter XVII-B and any arrears of tax may also be recovered from any assets of the non-resident which are, or may at any time come, within India.

Recovery of tax in pursuance of agreements with foreign countries [Sec. 228A]

Where an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may, if the assessee has property in a country outside India (being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), forward to the Board a certificate drawn up by him u/s 222 and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.

Illustration 3:

Smart (a non resident) has computed his tax liability as under –

Particulars	Details	Amount
Income from business A		3,80,000
Long term capital gain	10,000	
Less: Income from business B u/s 71	(10,000)	Nil
Income from other sources		30,000
Total Income		**4,10,000**
Tax liability (after rebate u/s 87A)		**520**

Comment on the above computation.

Solution:

Computation made by Smart is incorrect, as because first intra head set-off shall be made, thereafter inter head set-off can be made. The correct computation is shown below -

Computation of total income and tax liability of Smart for the A.Y. 2026-27

Particulars	Details	Amount
Profits & Gains of Business or Profession		
Income from business A	3,80,000	
Income from business B u/s 70	(10,000)	3,70,000
Capital Gains		
Long term capital gain		10,000
Income from other sources		30,000
Gross Total Income		**4,10,000**
Tax liability [(₹10,000 × 12.50%) × 104%]		**1,300**

In case of non-resident individual, rebate u/s 87A is not available.

Illustration 4:

Mr. Crown, a non-resident, gives you the following information for the year ended 31-3-2026

Interest on Government securities (gross)	12,21,000
Dividend on shares of foreign companies received aboard	52,000
Interest from deposits in Indian companies (gross)	30,000
Income from horse races in India	20,000

He has donated a sum of ₹2,00,000 to Municipal Corporation of Delhi for promotion of family planning. He has paid ₹20,000 by cheque to New India Assurance Co. for mediclaim for himself. He has also spent ₹16,000 on medical treatment of his minor son who is physically handicapped.

Compute total income of Mr. Crown for the assessment year 2026-27 assuming that he has opted for old regime

Solution:

Computation of Total Income of Mr. Crown, a non-resident, for the A.Y. 2026-27

Particulars	Working	Amount	Amount
Income from other sources			
Dividend from			
Foreign company	Non-resident	Nil	
Interest from			
Government securities		12,21,000	
Indian company deposits		30,000	12,51,000
Casual income			
Winning from horse races			20,000
Gross Total Income			**12,71,000**
Less: Deduction			
U/s 80D (Medical insurance)		20,000	
U/s 80DD (Handicapped son)	Non-resident	Nil	
U/s 80G (Donation)	Note	1,25,100	1,45,100
Total Income			**11,25,900**

Note: Computation of Deduction u/s 80G

Computation of Adjusted GTI:

Adj. GTI = GTI – Deduction u/s 80CCC to 80U other than 80G

= ₹ 12,71,000 – ₹ 20,000 = ₹ 12,51,000

Qualifying amount for donation = 10% of Adjusted GTI = 10% of ₹ 12,51,000 = ₹ 1,25,100

Deduction: In case of donation to Municipal Corporation for family planning, rate of deduction is 100% of qualifying amount. Hence, deduction u/s 80G shall be ₹1,25,100 (being 100% of ₹1,25,100).

Illustration 5:

Roger, a foreign national, furnishes the following data for the previous year ended 31st March, 2026:

(i) Royalty from Indian concern under an agreement made on 15-09-1996 approved by the Central Government ₹3,00,000.

(ii) Expenditure as per section 28 to 44C for earning such income ₹2,00,000.

(iii) Interest from an Indian company on money lent in foreign currency ₹11,00,000.

(iv) Expenditure on collection of above interest ₹90,000.

(v) Gross sale of business in India ₹30,00,000.

(vi) Expenditure as per sections 28 to 44C for above business ₹28,00,000.

Determine the total income of Roger for the assessment year 2026-27.

Solution:

Computation of Total income of Roger for the A.Y. 2026-27

Particulars	Amount	Amount	Amount
Profits and gains of business or profession			
Sale	30,00,000		
Less: Expenditure	28,00,000	2,00,000	
Royalty income	3,00,000		
Less: Expenditure (Not allowed u/s 115A)	Nil	3,00,000	5,00,000
Income from other sources			
Interest income		11,00,000	
Less: Expenses (Not allowed u/s 115A)		Nil	11,00,000
Total Income			**16,00,000**

Note: As per sec. 115A, no expenses shall be allowed from royalty and interest income.

Illustration 6:

The total income of a non-resident Indian includes:

- Investment income (net) ₹ 50,000
- Long term capital gain ₹ 25,000
- Other income ₹ 4,15,000

What will be the tax payable by him in respect of A.Y. 2026-27 on the above income under chapter XIIA (special provisions relating to certain income of non-residents) of the I.T. Act, 1961?

Solution:

Since the assessee is non-resident hence income shall be taxable as per provision of sec. 115E as under –

Particulars	Income	Rate	Tax liability
Investment income (Net)	50,000	20%	10,000
Long term capital gain	25,000	12.50%	3,125
Other income	4,15,000	[(4,00,000×Nil) + (15,000×5%)]	750
Tax before surcharge			13,875
Add: Health & Education cess @ 4%			555
Tax liability (Rounded off)			14,430

Illustration 7:

Mr. Q, a non-resident, operates an aircraft between Singapore and Chennai. He received the following amounts in the course of the business of operation of aircraft during the previous year:

(i) ₹ 2 crores in India on account of carriage of passengers from Chennai.

(ii) ₹ 1 crore in India on account of carriage of goods from Chennai.

(iii) ₹ 3 crores in India on account of carriage of passengers from Singapore.

(iv) ₹ 1 crore in Singapore on account of carriage of passengers from Chennai.

(v) The total expenditure incurred by Mr. Q for the purposes of the business during the year was ₹6.75 crores.

Compute income chargeable to tax of the foreign airlines

Solution:

Computation of income of Mr. Q for the A.Y. 2026-27

Particulars	Amount
Amount received in India on account of carriage of passengers from Chennai	2,00,00,000
Amount received in India on account of carriage of goods from Chennai	1,00,00,000
Amount received in India on account of carriage of passengers from Singapore	3,00,00,000
Amount received in Singapore on account of carriage of passengers from Chennai	1,00,00,000
Total	7,00,00,000
Total Income (as per sec. 44BBA being 5% of above)	35,00,000

Illustration 8:

The net result of the business carried on by a branch of a foreign company in India for the year ended 31.03.2026 was a loss of ₹50 lacs after charge of head office expenses of ₹100 lacs allocated to the branch. Compute income of the branch for the assessment year 2026-27.

Solution:

Computation of income of the branch for the A.Y. 2026-27

Particulars	Amount	Amount
Net Income for the year ended on 31-03-2026		(50,00,000)
Add: Head office expenses (to be considered separately)		1,00,00,000
Adjusted Total Income		50,00,000
Less: Head office expenses allowable u/s 44C being lower of the following:		
- 5% of ₹50,00,000	2,50,000	
- Actual Expenses	1,00,00,000	2,50,000
Total Income		47,50,000

Illustration 9:

Roger Federer, a tennis professional and a non-Indian citizen participated in India in a tennis Tournament and won the prize money of ₹15 lakh. He contributed articles on the tournament in a local newspaper for which he was paid ₹1 lakh. He was also paid ₹4 lakh by a Soft Drink Company for appearance in a T.V. advertisement. Although his expenses in India were met by the sponsors, he had to incur ₹1,30,000 towards his travel cost to India. He was a non-resident for tax purposes in India. What would be his tax liability in India for A.Y. 2026-27. Is he required to file his return of income u/s 139(1).

Solution:

U/s 115BBA, where a sportsman who is not a citizen of India receives any income by way of i) participating in any game in India; or ii) advertisement; or iii) contributing articles relating to any game or sport in India in newspapers, magazines or journals, then such income shall be chargeable to tax @ 20% + cess @ 4% on the tax.

Accordingly, his income for the A.Y. 2026-27 are as under:

Particulars	Amount
Tennis tournament prize	15,00,000
Amount received on contributing articles in the newspaper	1,00,000
Amount received on advertisement	4,00,000
Total Income	20,00,000
Tax on above [₹20,00,000 × 20% × 104%]	4,16,000

Notes:

a. While computing income, no deduction in respect of any expenditure or allowance shall be allowed

b. It shall not be necessary for the assessee to furnish return of his income if:

(i) his total income consisted only of income referred to in sec. 115BBA; and

(ii) the tax deductible at source has been deducted from such income

Illustration 10.

Compute the income-tax in the following cases:

(a) Royalty of ₹10 lakh received by a foreign company from an Indian concern in pursuance of an agreement approved by the Central Government in the previous year 2025-26.

(b) ₹10 lakh long-term capital gains received by an overseas financial organisation on transfer of unit purchased in foreign currency.

Solution:

(a) As per Section 115A(i)(b), the rate of income tax applicable on royalty is 20%.

Therefore, Income tax = 20% of ₹10,00,000 = ₹2,00,000

Health & Education cess = 4% of ₹2,00,000 = ₹8,000

Total tax payable = ₹2,00,000 + ₹8,000 = ₹2,08,000

(b) Long term Capital Gain = ₹10,00,000

Income-tax u/s 115AB = 12.50% of ₹10,00,000 = ₹1,25,000

Health & Education cess = 4% of ₹ 1,25,000 = ₹5,000

Total tax payable = ₹1,25,000 + ₹5,000 = ₹1,30,000

Illustration 11.

A non-resident foreign company has a permanent establishment (PE) in India, in respect of which royalty ₹101 lakh was earned from an Indian company in pursuance of an agreement dated 10th June, 2016 (expenditure incurred on PE in India ₹12,37,600). Compute the gross tax liability of foreign company ignoring TDS/advance tax for the assessment year 2026-27, assuming that there is no other income of the company for the year.

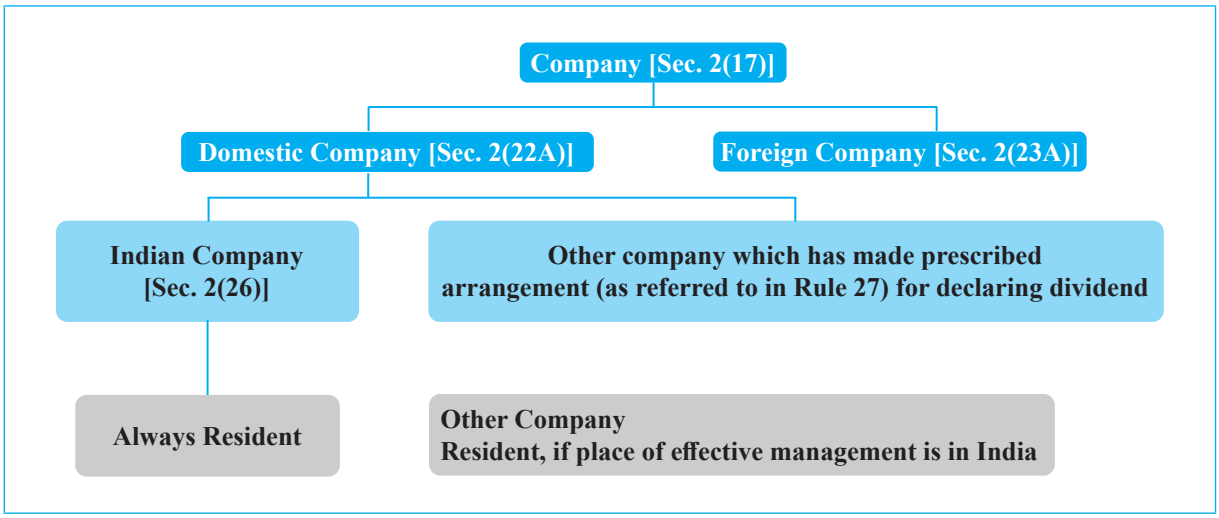
Solution:

Computation of Total Income and Tax Liability

Particulars	Amount
Royalty covered u/s 44DA	1,01,00,000
Less: Expenses	12,37,600
Income	88,62,400
Tax on above [104% {₹88,62,400 * 35%}] [Rounded off]	32,25,910

Company

1.2



Company [Sec. 2(17)]

Company means:

a. any Indian company; or

b. any body corporate, incorporated under the laws of a foreign country; or

c. any institution, association or body which is or was assessable or was assessed as a company for any assessment year on or before April 1, 1970; or

d. any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by general or special order of the Central Board of Direct Taxes to be a company.

Indian Company [Sec. 2(26)]

An Indian company means a company formed & registered under the Companies Act, 1956 & includes

a. a company formed and registered under any law relating to companies formerly in force in any part of India other than the state of Jammu & Kashmir and the Union territories specified in (c) infra;

b. a company formed and registered under any law for the time being in force in the State of Jammu & Kashmir;

c. a company formed and registered under any law for the time being in force in the Union territories of Dadar & Nagar Haveli, Goa, Daman & Diu and Pondicherry;

d. a corporation established by or under a Central, State or Provincial Act;

e. any institution, association or body which is declared by the Central Board of Direct Taxes (CBDT) to be a company u/s 2(17).

In the aforesaid cases, a company, corporation, institution, association or body will be treated as an Indian company only if its registered office or principal office, as the case may be, is in India.

Domestic Company [Sec. 2(22A)]

Domestic company means:

i) an Indian company; or

ii) any other company, which in respect of its income liable to tax under the Act, has made prescribed arrangements for the declaration and payment of dividends (including dividend on preference share), payable out of such income, within India.

Prescribed arrangements for declaration and payment of dividends within India [Rule 27]

The arrangements to be made by a company for the declaration and payment of dividends (including dividends on preference shares) within India shall be as follows:

a. The share-register of the company for all shareholders shall be regularly maintained at its principal place of business within India.

b. The general meeting for passing the accounts of the previous year relevant to the assessment year and for declaring any dividends in respect thereof shall be held only at a place within India.

c. The dividends declared, if any, shall be payable only within India to all shareholders.

Foreign Company [Sec. 2(23A)]

Foreign company means a company which is not a domestic company.

Company in which public are substantially interested [Sec. 2(18)]

A company is said to be a company in which the public are substantially interested (also known as widely held company):

1. **Government company:** A company owned by the Government or the Reserve Bank of India or in which not less than 40% of the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that bank; or
2. **A company u/s 8:** A company which is registered u/s 8 of the Companies Act, 2013; or
3. **Mutual benefit finance company:** A company
   a. which carries on, as its principal business, the business of acceptance of deposits from its members; &
   b. which is declared by the Central Government u/s 620A of the Companies Act, 1956, to be a Nidhi or Mutual Benefit Society; or

4. **Company in which shares are held by co-operative societies:** A company whose equity shares carrying not less than 50% of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by, one or more co-operative societies;

5. **Listed company:** A company which is not a private company as defined in the Companies Act, 1956, and the conditions specified either in item (A) or in item (B) are fulfilled, namely:—

   A) equity shares in the company were, as on the last day of the relevant previous year, listed in a recognised stock exchange in India;

   B) equity shares in the company carrying not less than 50% (40% in case of an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power i.e. industrial company) of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by:

   (a) the Government; or

   (b) a corporation established by a Central, State or Provincial Act; or

   (c) any company to which this clause applies or any subsidiary company of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year.

6. **Company which is prescribed by Board:** A company having no share capital and if, having regard to its objects, the nature and composition of its membership and other relevant considerations, it is declared by order of the Board to be a company in which the public are substantially interested. [Such company shall be deemed to be a company in which the public are substantially interested only for such assessment year or assessment years as may be specified in the declaration]; or

Rate of Tax for Company Assessee

The income of a company is taxable as under:

Short term capital gain covered u/s 111A	20%
Long term capital gain covered u/s 112A	12.50%
Other Long term capital gain	12.50%
Winnings from lottery, cross-word puzzles, etc.	30%
Other Income	
– In the case of a domestic company	
➢ Where its total turnover or gross receipts during the previous year 2023-24 does not exceed ₹400 crores	25%
➢ In other case	30%
– In the case of a foreign company:	
➢ Royalty received from Government or an Indian concern in pursuance of an agreement made by it with the Indian concern after March 31, 1961, but before April 1, 1976, or fees for rendering technical services in pursuance of an agreement made by it after February 29, 1964, but before April 1, 1976, and where such agreement has in either case been approved by Central Government	50%
➢ Other incomes	35%

Surcharge: The amount of tax computed as above shall be further increased by a surcharge as per the following table:

Total Income	Surcharge as a % of Income Tax	
	Domestic Company	Foreign Company
Income less than or equal to ₹ 1,00,00,000	Nil	Nil
Income exceeds ₹ 1 crore but does not exceed ₹ 10 crores	7%	2%
Income exceeds ₹ 10 crores	12%	5%

Health & Education Cess: 4% of 'Tax liability after surcharge' is also levied on every company.

Marginal Relief

Condition: Total income exceeds ₹1,00,00,000

Relief: Marginal relief is provided to ensure that the additional income tax payable including surcharge on excess of income over ₹1,00,00,000 is limited to the amount by which the income is more than ₹1,00,00,000

Similar relief is also available if income exceeds ₹10 crores. In that case, in the above, ₹1 crore shall be replaced with ₹10 crores

Tax on income of certain manufacturing domestic companies [Sec. 115BA]

Applicable to: Domestic Company

Conditions:

1. The company has been set-up and registered on or after the 01-03-2016.
2. The company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it; and
3. The total income of the company has been computed:
   (a) Without any deduction u/s 10AA or 32(1)(iia) or 32AC or 32AD or 33AB or 33ABA or 35(1)(ii) or 35(1)(iia) or 35(1)(iii) or 35(2AB) or 35(2AA) or 35AC or 35AD or 35CCC or 35CCD or under any provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" other than the provisions of sec. 80JJAA;
   (b) Without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred above; and
   (c) Depreciation u/s 32 [other than 32(1)(iia)], is determined in the manner as may be prescribed.
      - Depreciation u/s 32(1)(ii) of any block of assets entitled to more than 40% shall be restricted to 40% on the written down value of such block of assets [Rule 5]

Rate of Tax: 25% + SC + Cess

Other Points

- Income taxable at special rate shall be taxable at special rate of tax applicable on that income. E.g., short term capital gain covered u/s 111A is taxable @ 20%.
- The loss referred to in the conditions 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.

- The scheme is optional. The option is exercised by the person in the prescribed manner[11] on or before the due date specified u/s 139(1) for furnishing the first of the returns of income which the person is required to furnish under the provisions of this Act. Further, once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.
- Where the person exercises option u/s 115BAA, the option under this section may be withdrawn.

Tax on income of certain domestic companies [Sec. 15BAA]

Applicable to: Domestic Company

Conditions:

The total income of the company shall be computed:

a. without any deduction u/s 10AA or 32(1)(iia) or 32AD or 33AB or 33ABA or 35(1)(ii) or 35(1)(iia) or 35(1)(iii) or 35(2AA) or 35(2AB) or 35AD or 35CCC or 35CCD or under any provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" other than the provisions of sec. 80JJAA or sec. 80M.

   Exception

   In case of unit in the International Financial Services Centre, the deduction u/s 80LA shall be available to such Unit subject to fulfilment of the conditions contained in sec. 80LA.

b. Without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred above; and

c. Depreciation u/s 32 [other than 32(1)(iia)], is determined in the manner as may be prescribed.

Rate of Tax: 22% + SC @ 10% (irrespective of size of income) + Cess

Other Points

- Income taxable at special rate shall be taxable at special rate of tax applicable on that income. E.g., short term capital gain covered u/s 111A is taxable @ 20%.
- The loss referred to in the conditions 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.
- The scheme is optional. The option is exercised by the person in the prescribed manner[12] on or before the due date specified u/s 139(1) for furnishing the first of the returns of income which the person is required to furnish under the provisions of this Act. Further, once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.
- Where the person fails to satisfy the conditions in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.
- Where a person has exercised the option u/s 115BAA, the provision of sec. 115JB (i.e. MAT) is not applicable.
- In case of a person, where the option exercised by it, u/s 115BAB has been rendered invalid due to violation of conditions contained in that section, such person may exercise the option under this section.

[11] Uploading Form 10-IB
[12] Uploading Form 10-IB

Tax on income of new manufacturing domestic companies [Sec. 115BAB]

Applicable to: Domestic Company

Conditions:

a) The company has been set-up and registered on or after 01-10-2019, and has commenced manufacturing or production of an article or thing on or before 31-03-2024.

b) The business is not formed by splitting up, or the reconstruction, of a business already in existence.

Exception

i. Where business is formed as a result of the re-establishment, reconstruction or revival by the person of the business of any such undertaking as is referred to in sec. 33B, in the circumstances and within the period specified in that section.

c) The company does not use any machinery or plant previously used for any purpose.

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

  A. such machinery or plant was not, at any time previous to the date of the installation used in India;

  B. such machinery or plant is imported into India from any country outside India; and

  C. no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the person.

- Where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of such machinery or plant or part thereof does not exceed 20% of the total value of the machinery or plant used by the company, then, this condition shall be deemed to have been complied with.

d) The company does not use any building previously used as a hotel or a convention centre, as the case may be, in respect of which deduction u/s 80-ID has been claimed and allowed.

e) The company is not engaged in any business other than the business of manufacture or production of any article or thing (it includes the business of generation of electricity) and research in relation to, or distribution of, such article or thing manufactured or produced by it.

Exception

The business of manufacture or production of any article or thing shall not include business of:

i. development of computer software in any form or in any media;

ii. mining;

iii. conversion of marble blocks or similar items into slabs;

iv. bottling of gas into cylinder;

v. printing of books or production of cinematograph film; or

vi. any other business as may be notified by the Central Government in this behalf; and

f) The total income of the company has been computed:

A. without any deduction u/s 10AA or 32(1)(iia) or 32AD or 33AB or 33ABA or 35(1)(ii) or 35(1)(iia) or 35(1)(iii) or 35(2AA) or 35(2AB) or 35AD or 35CCC or 35CCD or under any provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" other than the provisions of sec. 80JJAA or 80M.

B. Without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred above; and

C. Depreciation u/s 32 [other than 32(1)(iia)], is determined in the manner as may be prescribed.

Rate of Tax: 15% + SC @ 10% (irrespective of size of income) + Cess

Other Points

- Income taxable at special rate shall be taxable at special rate of tax applicable on that income. E.g., short term capital gain covered u/s 111A is taxable @ 20%.
- Where the total income of the person, includes any income, which has neither been derived from nor is incidental to manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed @ 22% and no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income.
- The income-tax payable in respect of income being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed @ 22%
- Where the person fails to satisfy the conditions in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.
- The loss referred to in the conditions 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.
- The scheme is optional. The option is exercised by the person in the prescribed manner[13] on or before the due date specified u/s 139(1) for furnishing the first of the returns of income which the person is required to furnish under the provisions of this Act. Further, once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.
- Where a person has exercised the option u/s 115BAB, the provision of sec. 115JB (i.e. MAT) is not applicable.
- If any difficulty arises regarding fulfilment of the conditions, the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery. Every guideline issued by the Board shall be laid before each House of Parliament, and shall be binding on the person, and the income-tax authorities subordinate to it.
- Where it appears to the Assessing Officer that, owing to the close connection between the person to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the person more than the ordinary profits which might be expected to arise in such business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom:

[13] Uploading Form 10-IB

Taxpoint:

- In case the aforesaid arrangement involves a specified domestic transaction referred to in sec. 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in sec. 92F(ii).
- The amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the person. Such income is computed @ 30%

Illustration 12.

Compute gross total income of Minakshi Ltd. under the head Profits & gains of business or profession for the assessment year 2026-27

Profit & Loss A/c for the year ended 31/3/2026

Particulars	Amount	Particulars	Amount
To Opening stock	4,00,000	By Sales	17,80,000
To Purchase of raw material	5,00,000	By Closing Stock	5,00,000
To Conversion cost	4,00,000	By Interest on debenture	10,000
To Customs duty	1,70,000	By Bad debt recovery	25,000
To Salary and wages	80,000	(Previously allowed)	
To Bonus to employee	15,000	By Interest on income tax Refund	6,000
To Carriage inward	20,000	By Rent from house property	40,000
To Advertisement	30,000		
To Interest	2,000		
To Carriage outward	38,000		
To Depreciation	50,000		
To Provision for income tax	20,000		
To Compensation paid to director	1,00,000		
To Provision for bad debt	10,000		
To Audit fees	20,000		
To Bad debt	30,000		
To Traveling expenses	25,000		
To Municipal tax	5,000		
To Net profit	4,46,000		
	23,61,000		23,61,000

Additional information

(a) Minakshi, holder of 21% share, sold goods to the company for ₹ 40,000 though market value is lower by ₹ 10,000. Payment to her was made by way of bearer cheque.

(b) Advertisement expenses relate to the purchase of a machinery for advertisement. Depreciation allowed on such machinery is ₹ 2,250.

(c) Ritu, holder of 21% share, purchased goods from the company for ₹ 30,000 though market value is ₹ 35,000. She made payment by way of bearer cheque.

(d) Purav, who supplies more than 25% of goods, sold goods to company for ₹ 10,000 however, market value of such goods was ₹ 8,000.

(e) Outstanding salary ₹ 20,000 was paid on 30-12-2026.

(f) Bonus is not paid till due date of furnishing return.

(g) Provision for bad debts is in excess of ₹ 1,000.

(h) Salary paid in excess of the requirement to non-relative ₹ 2,000 and to a relative of director ₹ 6,000.

(i) Traveling expenses is on traveling of Minakshi for 10 days out of which she used 8 days for acquiring a new machine from Jaipur for the company and 2 days for meeting her relative. However, Minakshi agreed to refund the proportionate cost.

(j) On 31-7-2025, company purchased a machine from Jaipur costing ₹ 5,00,000.

(k) Customs duty paid on 30-11-2026. However, the company paid ₹ 5,000 on 30-7-2025 outstanding customs duty of earlier year

(l) Company incurred capital expenditure of ₹ 1,00,000 for promoting family planning among its workers.

(m) Carriage inward shows the expenditure incurred for acquiring machine from Jaipur.

(n) Interest paid is related to loan taken for purchasing debenture.

(o) As on 1-4-2025, company holds following assets –

Assets	Rate	Value (₹)
Plant & Machinery	15%	6,00,000
Furniture	10%	1,00,000

Compute gross total income for the assessment year 2026-27. Ignore the provision of sec. 115JB.

Solution:

Computation of gross total income of Minakshi Ltd. for the A.Y. 2026-27

Particulars	Notes	Details	Amount	Amount
Income from house property				
Gross Annual value (Rent received)			40,000	
Less: Municipal tax			5,000	
Net annual value (NAV)			35,000	
Less: Standard deduction u/s 24(a) [30% of NAV]			10,500	24,500
Profits & gains of business or profession				
Net profit as per Profit and Loss A/c			4,46,000	
Add: Expenditure disallowed but debited in P/L A/c				
Depreciation	1	50,000		
Provision for income tax	2	20,000		
Provision for bad debt	3	10,000		
Municipal tax	4	5,000		
Excessive payment to Minakshi	5	10,000		

Particulars	Notes	Details	Amount	Amount
Cash payment to Minakshi in excess of ₹ 10,000	6	30,000		
Advertisement expenditure	7	30,000		
Bonus	8	15,000		
Excess payment of salary to relative of director	9	6,000		
Travelling expenses	10	25,000		
Customs duty	11	1,70,000		
Carriage inward	10	20,000		
Interest	12	2,000	3,93,000	
			8,39,000	
Less: Expenditure allowed but not debited to P/L A/c				
Customs duty of earlier years	11	5,000		
Expenditure on promoting family planning among employees	13	20,000		
Depreciation u/s 32	1	2,91,250		
Less: Income taxable under other head but credited in P/L A/c				
Rent from house property	14	40,000		
Interest on debenture	14	10,000		
Interest on refund of income tax	14	6,000	3,72,250	4,66,750
Income from other sources				
Interest on debenture		10,000		
Less: Interest on borrowed capital	12	2,000	8,000	
Interest on refund of income tax			6,000	14,000
Gross Total Income				5,05,250

Notes

1. Depreciation is allowed as per Income tax Act being calculated as under -

Particulars	Details	Amount
Block 1: Plant and Machinery @ 15%		
W.D.V. as on 1/4/2025	6,00,000	
Add: Purchase during the year	5,40,000#	
	11,40,000	
Less: Sale during the year	-	
	11,40,000	
Depreciation @ 15% [₹ 11,40,000 × 15%]	1,71,000	
Additional depreciation @ 20% [₹ 5,40,000 × 20%]	1,08,000	2,79,000
Block 2: Furniture @ 10%		
W.D.V. as on 1/4/2025	1,00,000	
Add: Purchase during the year	-	

Particulars	Details	Amount
	1,00,000	
Less: Sale during the year	-	
	1,00,000	
Depreciation @ 10% [₹ 1,00,000 × 10%]		10,000
On machinery for advertisement		2,250
Depreciation allowed u/s 32		2,91,250

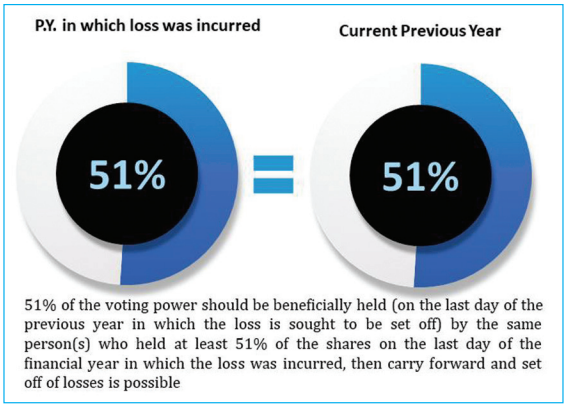
Computation of actual cost of machinery purchased during the year -

Particulars	Amount
Purchase cost	5,00,000
Carriage inward	20,000
Traveling cost *	20,000
Actual cost of purchased machinery	5,40,000

* Since the traveling cost for 10 days was ₹ 25,000. Hence cost for 8 days (used for acquiring the new machine) is ₹ 20,000.

2. Income tax is not allowed u/s 40(a).
3. Any anticipatory loss is not allowed.
4. Municipal tax is not allowed as deduction from business income but allowed from Income from house property.
5. Since Minakshi has a substantial interest in the company, hence, excessive payment is disallowed u/s 40A(2).
6. Payment of allowed expenditure otherwise than by account payee cheque or demand draft in excess of ₹10,000 shall be disallowed u/s 40A(3).
7. Any capital expenditure is not allowed.
8. By virtue of sec. 43B, bonus to employees is allowed as deduction on payment basis.
9. Excessive payment to relative of director is disallowed [Sec. 40A(2)].
10. Since traveling expenditure and carriage inward is related to acquisition of machine, hence the same should be added with the cost of machine. Further, personal expenditure of Minakshi being refundable shall not be treated as expenditure.
11. As per sec. 43B, customs duty is allowed as deduction on payment basis.
12. Interest on loan taken for acquisition of debenture is deductible from income from debenture.
13. Any capital expenditure on promoting family planning among employees by a company is allowed in 5 equal installments [Sec. 36(1)(ix)].
14. Rent from house property is taxable under the head Income from house property, whereas interest income (including interest on income tax refund) is taxable under the head Income from other sources.
15. Any excessive payment received from a person who has substantial interest is not governed by sec. 40A(2).
16. A person supplying 25% of raw material is not treated as person who holds substantial interest. Hence excessive payment to Purav is allowed.
17. Compensation paid to director shall be allowed u/s 37(1).
18. Sec. 43B covers bonus and commission paid to employee but does not cover salary paid to employee.

1.2.1 Carry Forward and Set-off of Losses in the case of Closely Held Companies [Sec. 79]



51% of the voting power should be beneficially held (on the last day of the previous year in which the loss is sought to be set off) by the same person(s) who held at least 51% of the shares on the last day of the financial year in which the loss was incurred, then carry forward and set off of losses is possible

In case of a company in which the public are not substantially interested (other than the eligible start-up company referred below), no loss shall be carried forward and set off against the income of the previous year, unless at least 51% of the voting power of the company are beneficially held (on the last day of the previous year in which the loss is sought to be set off) by the same person(s) who held at least 51% of the shares on the last day of the financial year in which the loss was incurred.

Taxpoint

a) **Losses under the head 'Capital gains':** Sec. 79 applies to all losses, including losses under the head Capital gains.

b) **Unabsorbed depreciation:** The above provision is not applicable on unabsorbed depreciation, such unabsorbed depreciation shall be allowed to be carried forward.

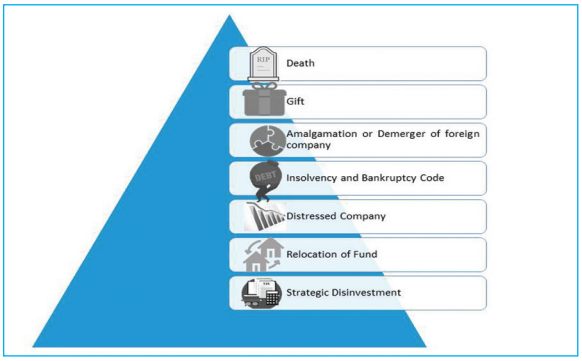
Option for eligible start-up company[14]

In the case of eligible start-up company, not being a company in which the public are substantially interested, the loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, if:

- All the shareholders of such company who held shares carrying voting power 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 previous year; and
- Such loss has been incurred during the period of 10 years beginning from the year in which such company is incorporated

Exceptions: However, change in the share holding due to following reasons shall not be considered-

1. **Transfer due to death:** Where a change in the said voting power takes place in a previous year consequent upon the death of a shareholder
2. **Transfer by way of gift:** Where a change in the said voting power takes place in a previous year on account of transfer of shares by way of gift to any relative of the shareholder making such gift.
3. **Amalgamation or demerger of foreign company:** Any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that 51% shareholders of the amalgamating or demerged foreign company continues to be the shareholder of the amalgamated or the resulting foreign company.



[14] As defined in sec. 80-IAC

4. **Insolvency and Bankruptcy Code:** Where change in the shareholding is taken place pursuant to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

5. **Relocation of Fund:** The section is not applicable to a case to the extent that a change in the shareholding has taken place during the previous year on account of relocation referred to in the Explanation to sec. 47(viiac) and (viiad).

6. **Distressed Company:** The provision is not applicable to a company, and its subsidiary and the subsidiary of such subsidiary, where:

   i. the National Company Law Tribunal (NCLT), on an application moved by the Central Government u/s 241 of the Companies Act, 2013, has suspended the Board of Directors of such company and has appointed new directors nominated by the Central Government, u/s 242 of the said Act; and

   ii. a change in shareholding of such company, and its subsidiary and the subsidiary of such subsidiary, has taken place in a previous year pursuant to a resolution plan approved by the Tribunal u/s 242 of the Companies Act, 2013 after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

7. **Strategic Disinvestment:** The provision is not applicable to an erstwhile public sector company (as defined u/s 72A) provided that the ultimate holding company of such company, immediately after the completion of strategic disinvestment (as defined u/s 72A), continues to hold, directly or through its subsidiary or subsidiaries, at least 51% of the voting power of such company in aggregate.

   Taxpoint: Where the condition of 51% is not complied with in any previous year after the completion of strategic disinvestment, the provision of sec. 79 shall apply for such previous year and subsequent previous years.

Illustration 13.

Following are the details of X Pvt Ltd, determine the brought forward loss available for set off during the previous year 2025-26 relevant to the assessment year 2026-27:

Previous Year 2024-25	Previous Year 2025-26
Business Loss = ₹12 lakh	Business Profit = ₹25 lakh
Unabsorbed depreciation: ₹2 lakh	(before adjusting brought forward loss and unabsorbed depreciation)
Details of Shareholders as on 31-03-2025	Details of Shareholders as on 31-03-2026
A = 30%	E = 30%
B = 25%	F = 25%
C = 20%	C = 20%
D = 25%	D = 25%

How shall your view will differ, if Mr. B had gifted the shares to Mr. F, a relative of Mr. B.

Solution:

As per sec. 79, in case of a company in which public are not substantially interested, no loss shall be carried forward and set off against the income of the previous year, unless at least 51% of the voting power of the company are beneficially held (on the last day of the previous year in which the loss is sought to be set off) by the same person(s) who held at least 51% of the shares on the last day of the financial year in which the loss was incurred. However, the said provision is not applicable in case of unabsorbed depreciation.

Since, in the given case, shareholders holding 51% shares as on 31-03-2025 (the last day of the previous year in which loss has been incurred) and 31-03-2026 are not beneficially held by the same persons hence such loss shall not be available for set off with the income of the previous year 2025-26. Thus, no brought forward business loss is available for set off during the previous year 2025-26 relevant to the assessment year 2026-27. However, unabsorbed depreciation of ₹ 2 lakh shall be available for adjustment from the business income of the previous year 2025-26. Thus, business income for the assessment year 2026-27 is ₹ 23 lakhs..

If Mr. B had gifted the shares to Mr. F

Transfer of shares by way of gift to a relative is not considered as change in shareholding for the purpose of sec. 79. Hence, the loss of ₹ 12 lakh of previous year 2024-25 shall be available for set off with income of the previous year 2025-26.

Illustration 14.

A private limited company has share capital in the form of equity share capital. The shares were held until 31st March, 2023 by 4 members A, B, C and D equally. The company made losses/profits for the past three assessment years are as follow:

Asst. Year	Business Loss	Unabsorbed depreciation	Total
2022-23	Nil	₹ 15,00,000	₹ 15,00,000
2023-24	Nil	₹ 12,00,000	₹ 12,00,000
2024-25	₹ 9,00,000	₹ 9,00,000	₹ 18,00,000

The above figures have been accepted by the tax department.

During the previous year 31-3-2025, A sold his shares to Y and during the previous year 31-3-2026, B sold his shares to Z. The profits for the past two years are as follows:

31-3-2025 ₹ 18,00,000 (before charging depreciation ₹ 9,00,000)

31-3-2026 ₹ 45,00,000 (before charging depreciation ₹ 7,50,000)

Compute taxable income for A.Y. 2026-27

Solution:

According to sec. 79, loss sustained by the closely held company shall not allowed to be set off unless in the year of such set off the shareholders holding not less than 51% of beneficial interest in share capital of the company in the year of sustaining the loss shall continue to be the shareholders of the company. Accordingly, the taxable income of the company for the A.Y. 2026-27 is worked out as follow:

Particulars	₹ in lacs
Income before depreciation	18
Less: Depreciation of the current year	9
Income after depreciation	9
Less: Unabsorbed business loss b/f	9
Taxable income	Nil

However, the abovementioned condition of beneficial ownership shall not be applied for carry forward and set off of unabsorbed depreciation therefore, the company can carry forward and set off the unabsorbed depreciation, even if there is a change in the shareholding pattern between the year in which the loss was suffered and the year

in which it seeks to set off such loss. Thus, the taxable income of the company for A.Y. 2025-26 is worked out as follow:

₹ in lacs

Particulars	Amount	Amount
Income before depreciation		45
Less: Depreciation of the current year		7.5
Income after current depreciation		37.50
Less: Unabsorbed Depreciation		
A.Y. 2022-23	15	
A.Y. 2023-24	12	
A.Y. 2024-25	9	36
Taxable income		1.50

1.2.2 No set off of losses consequent to search, requisition and survey [Sec. 79A]

Set off of loss (including unabsorbed depreciation) shall not be allowed from the undisclosed income while computing total income for the previous year if following conditions are satisfied:

a. Total income of the assessee includes undisclosed income

b. Such undisclosed income is consequent to a search u/s 132 or a requisition u/s 132A or a survey u/s 133A [other than u/s 133A(2A)].

Taxpoint:

- Loss may be current year loss or brought forward loss
- Undisclosed income means:

  i. any income of the previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search u/s 132 or a requisition u/s 132A or a survey u/s 133A [other than u/s 133A(2A)], which has,—

     a. not been recorded on or before the date of search or requisition or survey, as the case may be, in the books of account or other documents maintained in the normal course relating to such previous year; or

     b. not been disclosed to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner before the date of search or requisition or survey, as the case may be; or

  ii. any income of the previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the previous year 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.

1.2.3 Minimum Alternate Tax (MAT) or Tax on Book Profit [Sec. 115JB]

At times it may happen that a taxpayer, being a company, may have generated income during the year, but by taking the advantage of various provisions of Income-tax Law (like exemptions, deductions, depreciation, etc.), it may have reduced its tax liability or may not have paid any tax at all. Due to increase in the number of zero tax paying companies, MAT was introduced by the Finance Act, 1987 with effect from assessment year 1988-89. Later on, it was withdrawn by the Finance Act, 1990 and then reintroduced by Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

The objective of introduction of MAT is to bring into the tax net "zero tax companies" which in spite of having earned substantial book profits and having paid handsome dividends, do not pay any tax due to various tax concessions and incentives provided under the Income-tax Law.

Applicable to

Any company (whether Indian or Foreign, resident or non-resident, closely held or widely held company)

Circumstance in which MAT is applicable: Where the income-tax, payable on the total income (being computed under this Act in respect of any previous year) is less than 15% of its book profit

Treatment:

- Such book profit shall be deemed to be the total income of the assessee; and
- The tax payable by the assessee on such total income shall be the amount of income-tax at the rate of 15% (plus surcharge, Health & Education cess)

Other Points

- **Unit in IFSC:** Where the assessee is a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, the rate of MAT shall be 9%
- **Book Profit should be as per Schedule III to the Companies Act, 2013:** Every company shall prepare its Statement of Profit and Loss for the relevant previous year in accordance with the provisions of Schedule III to the Companies Act, 2013. However, in case of banking, insurance or electricity company, such statement should be prepared as per provisions of the Act which governs such company.

➢ **While preparing the annual accounts:**

a. the accounting policies;

b. the accounting standards followed for preparing such accounts;

c. the method and rates adopted for calculating the depreciation,

shall be the same as have been adopted for the purpose of preparing such accounts and laid before the company at its annual general meeting.

- **When assessing officer has power to alter profit:** Where the statement of profit and loss has been prepared in accordance with Schedule III to the Companies Act, 2013 and which has been scrutinised and certified by the statutory auditors and relevant authorities, the Assessing Officer has no power to scrutinise net profit in the statement of profit and loss except to the extent provided in Explanation [Apollo Tyres Ltd. -vs.- CIT (SC)]

- **Report from Accountant:** Every company to which this section applies, shall upload a report in the prescribed form [Form 29B] from an accountant, certifying that the book profit has been computed in accordance with the provisions of this section one month prior to the due date of the filing of the return of income u/s 139 or along with the return of income furnished in response to a notice u/s 142(1)

- **Life Insurance Business:** The provision of this section shall not apply to any income accruing or arising to a company from life insurance business referred to in sec. 115B.

- **Companies opting for sec. 115BAA and sec. 115BAB:** The provision of this section shall not apply to a person who has exercised the option referred to u/s 115BAA and u/s 115BAB.

- **Advance Pricing agreement & Secondary Adjustment:** In case of a company, where there is an increase in book profit of the previous year due to income of past year (or years) included in the book profit on account of an advance pricing agreement entered into by the assessee u/s 92CC or on account of secondary adjustment required to be made u/s 92CE, the Assessing Officer shall, on an application made to him in this behalf by the assessee, recompute the book profit of the past year (or years) and tax payable, if any, by the assessee during the previous year. In this situation, the provisions of sec. 154 shall apply and the period of 4 years shall be reckoned from the end of the financial year in which the said application is received by the Assessing Officer. This provision shall apply only if the assessee has not utilised the credit of tax paid under this section in any subsequent assessment year u/s 115JAA.

- **Foreign Company:** The provisions of this section shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, if:

  i. The assessee is a resident of a country or a specified territory with which India has an agreement referred to in sec. 90 or the Central Government has adopted any agreement u/s 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such agreement; or

  ii. the assessee is a resident of a country with which India does not have an agreement of the nature referred above and the assessee is not required to seek registration under any law for the time being in force relating to companies.

  Taxpoint: The MAT provision is not applicable to an assessee, being a foreign company, where its total income comprises solely of profits and gains from business referred to in section 44B or 44BB or 44BBA or 44BBB and such income has been offered to tax at the rates specified in those sections.

- **No impact of MAT on losses:** Nothing shall affect the determination of the amounts in relation to the relevant previous year to be carried forward to the subsequent year or years under the provisions of sec. 32(2) or 72(1)(ii) or 73 or 74 or 74A(3).

- **Other provision will apply:** All other provisions of this Act like Advance Tax, interest, etc. shall apply to every company, mentioned in this section.

Illustration 15.

Business income (before adjusting brought forward losses) & Book Profit of X Ltd. for various years are as follow:

	Year 1	Year 2	Year 3
Business Income as per other provisions of the Act	(-) ₹ 2,00,000	₹ 1,50,000	₹ 1,50,000
Book Profit	₹ 1,00,000	₹ 60,000	₹ 2,50,000

In the aforesaid case, tax shall be computed as under:

Particulars	Year 1	Year 2	Year 3
Business Income after set off	(-) ₹ 2,00,000	Nil	₹ 1,00,000
Tax on above @ 30% [A]	Nil	Nil	₹ 30,000
Book Profit	₹ 1,00,000	₹ 60,000	₹ 2,50,000
15% of Book Profit [B]	₹ 15,000	₹ 9,000	₹ 37,500
Tax [Higher[15] of A & B]	₹ 15,000	₹ 9,000	₹ 37,500
Add: Surcharge*	Nil	Nil	Nil
Tax & Surcharge	₹ 15,000	₹ 9,000	₹ 37,500
Add: Health & Education Cess	₹ 600	₹ 360	₹ 1,500
Tax Liability (R/off)	₹ 15,600	₹ 9,360	₹ 39,000

*As total income of the company does not exceed ₹1 crore, hence surcharge is not applicable.

It is to be noted that when a company is liable to pay tax u/s 115JB, book profit of the company shall be considered as total income of the company.

Computation and Meaning of Book Profit [Explanation 1 to sec. 115JB]

Book profit means the profit as shown in the statement of profit and loss for the relevant previous year:

As increased by (if following amount is debited in the Statement of Profit & Loss):

(a) the amount of income-tax paid or payable, and the provision therefore;

- ➢ It includes:
  - Any interest under Income Tax Act;
  - Surcharge and cess on income-tax.
- ➢ It does not include:
  - Penalty paid or payable under this Act
  - Any tax, interest or penalty paid or payable under Wealth Tax Act or other Act;
  - Securities Transaction Tax;

(b) the amounts carried to any reserves, by whatever name called;

(c) the amount set aside to provisions made for meeting liabilities, other than ascertained liabilities;

- ➢ Any provision made to meet unascertained liabilities like provision for gratuity or future losses, etc. should be added back. However, if the provision for gratuity has been made on the basis of actuarial valuation, it becomes ascertained liability, hence should not be added back [Shree Sajjan Mills Ltd. -vs.- CIT (SC)]

[15] There is another view. As per that view, comparison shall be made after applying surcharge and cess in respective tax.

(d) the amount by way of provision for losses of subsidiary companies;

(e) the amount or amounts of dividends paid or proposed;

(f) the amount or amounts of expenditure relatable to any income to which sec. 10 or sec. 11 or sec. 12 apply.

(g) the amount or amounts of expenditure relatable to income being share of profit from AOP, if such share is exempt u/s 86

(h) expenditure relating to following income of a foreign company if tax payable on such income under normal provision is less than 15%:

(A) the capital gains arising on transactions in securities; or

(B) the interest, dividend, royalty or fees for technical services chargeable to tax u/s 115A to 115BBG

(i) notional loss on transfer of a capital asset, being share or a special purpose vehicle to a business trust in exchange of units allotted by the trust referred to in sec. 47(xvii) or the amount representing notional loss resulting from any change in carrying amount of said units or the amount of loss on transfer of units referred to in sec. 47(xvii)

(j) the amounts of expenditure relatable to income by way of royalty in respect of patent chargeable to tax u/s 115BBF

(k) the amount of depreciation

(l) the amount of deferred tax and provision thereof

(m) the amount set aside as provision for diminution in the value of any asset (like asset written-off, etc.)

(n) the amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset (if not credited to the statement of Profit and Loss)

(o) gain on transfer of units referred to in sec.47(xvii) computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through statement of profit or loss, as the case may be;

As reduced by:

(i) the amount withdrawn from any reserve or provision if any such amount is credited to the statement of profit and loss.

- An amount withdrawn from reserve being created before 1-4-1997 otherwise than by way of a debit to the statement of profit and loss shall not be reduced.
- An amount withdrawn from reserves created or provisions made on or after 1-4-1997 shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn) in that year.

(i) the amount of income to which any of the provisions of sec. 10 or sec. 11 or sec. 12 apply, if any such amount is credited to the statement of profit and loss.

(ii) share of profit from AOP, if such share is exempt u/s 86

(iii) following income of a foreign company if tax payable on such income under normal provision is less than 15%:

a. the capital gains arising on transactions in securities; or

b. the interest, dividend, royalty or fees for technical services chargeable to tax u/s 115A to 115BBG

(v) the amount representing,—

a. notional gain on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in sec.47(xvii); or

b. notional gain resulting from any change in carrying amount of said units; or

c. gain on transfer of units referred to in sec.47(xvii),

if any, credited to the statement of profit and loss; or

(vi) the amount of loss on transfer of units referred to in sec.47(xvii) computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through statement of profit or loss, as the case may be;

(vii) the amount of income by way of royalty in respect of patent chargeable to tax u/s 115BBF;

(viii) the amount of depreciation debited to the statement of profit and loss (excluding the depreciation on account of revaluation of assets);

(ix) the amount withdrawn from revaluation reserve and credited to the statement of profit and loss, to the extent it does not exceed the amount of depreciation on account of revaluation of assets referred above;

(x) the amount of brought forward loss or unabsorbed depreciation, whichever is less as per books of account.

- the loss shall not include depreciation;
- the provisions of this clause shall not apply if the amount of loss brought forward or unabsorbed depreciation, is nil;

Exception:

The aggregate (not lower) amount of unabsorbed depreciation & loss brought forward shall be reduced, in case of a:

a. company, and its subsidiary and the subsidiary of such subsidiary, where, the Tribunal, on an application moved by the Central Government u/s 241 of the Companies Act, 2013 has suspended the Board of Directors of such company and has appointed new directors who are nominated by the Central Government u/s 242 of the said Act;

b. company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Insolvency and Bankruptcy Code, 2016

(xi) the amount of deferred tax, if any such amount is credited to the statement of profit and loss

(xii) the amount of profits of sick industrial company for the assessment year commencing on and from the assessment year relevant to the previous year in which the said company has become a sick industrial company and ending with the assessment year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

Net worth means paid up capital + free reserve

Illustration 16.

Apple Industries Ltd. provides the following information for the financial year 2025-26:

Net profit as per statement of profit and loss after debiting/crediting the following:	₹ 120 lakh
Proposed dividend	₹ 30 lakh
Profit from unit established in SEZ	₹ 20 lakh
Provision for income-tax	₹ 18 lakh
Provision for deferred tax	₹ 10 lakh
Provision for permanent diminution in value of investments	₹ 3 lakh
Depreciation debited to statement of profit and loss ₹10 lakh includes	
depreciation on revaluation of assets to the tune of	₹ 1 lakh

Bought forward losses and unabsorbed depreciation as per books of the company are as follows :

(₹ in lakh)

Previous Year	Brought Forward Losses	Unabsorbed Depreciation
2022 – 23	1	4
2023 – 24	1	1
2024 – 25	10	5

Compute the book profit of the company as per section 115JB for the assessment year 2026-27.

Solution:

Computation of Book Profit of Apple Industries Ltd. for the A.Y. 2026-27 (₹ In lakhs)

Particulars	Details	Amount
Net profit as per books of accounts		120
Add:		
Proposed Dividend	30	
Provision for income tax	18	
Provision for deferred-tax	10	
Provision for permanent diminution in value of investments	3	
Depreciation	10	71
		191
Less:		
Depreciation (ignoring depreciation on revaluation)	9	
Lower of brought forward loss and unabsorbed depreciation	10	19
Book Profit		172

Illustration 17.

The book profits of a company in the previous year 2025-26 computed in accordance with section 115JB are ₹60,00,000. If the total income for the same period computed as per the provisions of the Income-tax Act, 1961 is ₹12,00,000 calculate the tax payable by the company in the assessment year 2026-27 and also indicate whether the company is eligible for any tax credit.

Solution:

Computation of Tax Liability of …… for the A.Y. 2026-27

Particulars	Amount
Total Income	12,00,000
Tax on above [A]	3,60,000
Book Profit	60,00,000
Tax on above [B]	9,00,000
Tax liability [Higher of (A) and (B)]	9,00,000
Add: Health & Education Cess	36,000
Tax & Cess payable u/s 115JB [B]	9,36,000

Illustration 18.

X Ltd. charged depreciation on its fixed assets at the rate prescribed in the income tax rules. However, the Assessing Officer disallowed the same and allowed the rate as prescribed in the Companies Act, 2013 for the purpose of computation of book profit under section 115JB for the previous year 2025-26. Examine the legality of action taken by the Assessing Authority.

Solution:

This issue was settled by the Supreme Court in Malayala Manorama Co. Ltd. -vs.- CIT. The Apex Court observed that for the purpose of computation of book profit under section 115JB, the Assessing Officer's power is restricted to examining whether the books of account are certified by the authorities under the Companies Act as having been properly maintained in accordance with the Companies Act. Thereafter, he only has the limited power of making additions and deductions as provided for in Explanation 1 to section 115JB. The Assessing Officer does not have the jurisdiction to go behind the net profit shown in the profit and loss account except to the extent provided in Explanation 1 to section 115JB. Where an assessee is consistently charging depreciation in its books of account at the rates prescribed in Income-tax Rules and the accounts of the assessee have been prepared and certified as per the provisions of the Companies Act, the Assessing Officer does not have any jurisdiction under section 115JB to rework the net profit of the assessee by substituting the rates of depreciation prescribed under the Companies Act. Applying the ratio of the Supreme Court decision to this case, it may be concluded that the action of the Assessing Officer is not correct.

Illustration 19.

The net profit of Renuka Ltd. an Indian company, as per its profit and loss account prepared as per the Income-tax Act, 1961 is ₹90,00,000 after debiting and crediting following items:

	₹
Provision for income-tax	5,00,000
Provisions for deferred tax	3,00,000
Proposed dividend	7,50,000
Depreciation including depreciation on revaluation of assets ₹ 20,00,000 debited to profit and loss account	60,00,000
Profit from industrial unit in SEZ area	80,000
Provision for permanent diminution in the value of investments	70,000

Compute tax liability under section 115JB for the assessment year 2026-27.

Solution:

Computation of Book Profit for the purpose of Sec. 115JB

Particulars	Details	Amount
Net profit as per books of accounts		90,00,000
Add:		
Provision for income tax	5,00,000	
Provisions for deferred tax	3,00,000	
Provision for permanent diminution in the value of investments	70,000	
Proposed dividend	7,50,000	
Depreciation	60,00,000	76,20,000
		1,66,20,000
Less:		
Depreciation (without considering depreciation on revaluation)	40,00,000	
Profit from industrial unit in SEZ area	Nil	40,00,000
Book Profit		1,26,20,000

Computation of Tax Liability under section 115JB

Particulars	Amount
Book profit u/s 115JB	1,26,20,000
15% of book profit	18,93,000
Add: Surcharge [As total income exceeds ₹ 1,00,00,000/-]	1,32,510
Tax & Surcharge	20,25,510
Add: Health & Education Cess @ 4%	81,020
Tax Liability u/s 115JB	21,06,530

The tax liability u/s 115JB is required to be compared with tax liability calculated on income calculated as per other provisions of the Act.

Illustration 20.

Sun bright Ltd., an Indian company furnished the following particulars of its income for the previous year 2025-26. Calculate its total income and income tax liability for the assessment year 2026-27:

	₹
Income from business	5,00,000
Dividend received during the year:	
— from Indian company	20,000
— from foreign company	5,000
Gains from transfer of capital assets:	
— short term capital gains	25,000
— long term capital gains	50,000
Agricultural income in India	35,000

Additional information:

(i) Business expenses already charged from business income include ₹10,000 revenue expenditure and ₹30,000 capital expenditure on family planning programme for employees.

(ii) Company has debited following donations in the profit and loss account of the business of company.

- PM Care Fund: ₹50,000.

Solution

Computation of Total Income of Sun Bright Ltd. for the Assessment Year 2026-27

Particulars	Amount	Amount
Income from Business		
Profit as per Profit & Loss A/c		5,00,000
Add: Disallowed Expenditure		
(i) Donation	75,000	
(ii) Capital Expenditure on Family Planning (₹30,000 - ₹6,000)	24,000	99,000
		5,99,000
Capital Gain		
- Long term	50,000	
- Short term	25,000	75,000
Income from Other Sources		
Dividend from:		
- Indian Company	20,000	
- foreign Company*	5,000	
Agricultural Income	Exempt	25,000
Gross Total Income		6,99,000
Less: Deduction u/s		
- 80G (Donation)		50,000
Total Income		6,49,000

Computation of Tax Liability

Particulars	Tax on LTCG	Other Income
Total Income	50,000	5,99,000
Rate	12.5%	30%
Tax	6,250	1,79,700
Total tax		1,85,950
Surcharge		Nil
Tax including surcharge		1,85,950
Health & Education Cess @ 4%		7,438
Total tax (Rounded Off)		1,93,390

* It is assumed that foreign company is not a specified foreign company u/s 115BBD.

Illustration 21.

Following is the profit and loss account of Z Ltd. for the year ended on 31-3-2026

Particulars	Amount	Particulars	Amount
To Raw material consumed	20,00,000	By Sale	
To Rent	5,00,000	Export	50,00,000
To Salary & Wages	10,00,000	Domestic	30,00,000
To Depreciation	5,00,000	By Closing Stock	10,00,000
To Provision for contingencies	75,000		
To Wealth Tax of earlier year	50,000		
To Loss of subsidiary co.	50,000		
To Custom Duty	40,000		
To Proposed dividend	1,00,000		
To Provision for Income tax	1,05,000		
To Net Profit	45,80,000		
	90,00,000		90,00,000

Additional Information

1. Interest on bank loan relating to year 2023-24 has been paid during the previous year ₹1,00,000.
2. Whole of Custom duty is unpaid.
3. Company is entitled to get deduction u/s 80G ₹1,00,000
4. For the purpose of Income tax, depreciation is ₹4,00,000.
5. Turnover of the company during the previous year was ₹ 65 crores and it is life time highest turnover achieved by the company.
6. In past few years, company had suffered losses, following balances are still unabsorbed:

	As per Income tax Act	As per books of Accounts
Depreciation	--	₹ 3,50,000
Losses	₹ 42,50,000	₹ 4,00,000

Compute tax liability of the company.

Solution:

Computation of total income of Z Ltd. for the A.Y.2026-27 (as per other provisions of the Act)

Particulars	Details	Amount
Net profit as per books of accounts		45,80,000
Add: Expenditure disallowed but debited in P/L A/c		
Excess Depreciation	1,00,000	
Provisions for Contingencies	75,000	
Wealth Tax	50,000	
Loss of subsidiary company	50,000	
Proposed Dividend	1,00,000	
Provision for income tax	1,05,000	
Unpaid customs duty	40,000	5,20,000
		51,00,000
Less: Expenditure allowed but not debited in P/L A/c		
Interest on bank loan of earlier years		1,00,000
		50,00,000
Less: Brought forward business loss		42,50,000
Gross Total Income		7,50,000
Less: Deduction u/s 80G		1,00,000
Total Income		6,50,000

Computation of Book Profit of Z Ltd. for the A.Y.2026-27

Particulars	Details	Amount
Net profit as per books of accounts		45,80,000
Add:		
Provision for contingencies	75,000	
Loss of subsidiary company	50,000	
Proposed Dividend	1,00,000	
Provision for income tax	1,05,000	
Depreciation	5,00,000	8,30,000
		54,10,000
Less:		
Depreciation (as assets are not revalued)	5,00,000	
Lower of unabsorbed depreciation and brought forward loss (as per books of account)	3,50,000	8,50,000
Book Profit		45,60,000

Computation of tax liability of Z Ltd.

Particulars	Amount
Total income as per other provisions of the Act	6,50,000
Tax on above @ 25% [A]	1,62,500
Book profit u/s 115JB	45,60,000
15% of book profit [B]	6,84,000
Tax [Higher of A & B]	6,84,000
Add: Surcharge [As total income is only ₹ 45,60,000/-, thus, surcharge is not applicable]	Nil
Tax & Surcharge	6,84,000
Add: Health & Education Cess @ 4%	27,360
Tax Liability (Rounded off)	7,11,360

Illustration 22.

Following is the profit and loss account of Z Ltd. for the year ended on 31-3-2026

Particulars	Amount	Particulars	Amount
To Raw material consumed	23,25,000	By Sale	1,60,00,000
To Rent	3,50,000	By Closing Stock	10,00,000
To Salary & Wages	12,00,000	By Revaluation Reserve	25,000
To Depreciation	5,00,000	By General Reserve	1,00,000
To Provision for contingencies	75,000		
To Wealth Tax	50,000		
To Provision for bad debts	40,000		
To Proposed dividend	1,00,000		
To Provision for Income tax	1,05,000		
To Net Profit	1,23,80,000		
	1,71,25,000		1,71,25,000

Additional Information

1. The amount of depreciation includes depreciation on revaluation of assets ₹50,000. Further, for the purpose of Income tax, depreciation is ₹4,00,000.
2. Turnover of the company during the previous year was ₹530 crores. However, during the financial year 2023-24, turnover of the company was ₹250 crores only.
3. In past few years, company had suffered losses, following balances are still unabsorbed:

	As per Income tax Act	As per books of Accounts
Depreciation	₹ 66,00,000	Nil
Losses	₹ 35,50,000	Nil

Compute tax liability of the company.

Solution:

Computation of total income of Z Ltd. for the A.Y.2026-27 (as per other provisions of the Act)

Particulars	Details	Amount
Net profit as per books of accounts		1,23,80,000
Add: Expenditure disallowed but debited in P/L A/c		
Excess Depreciation	1,00,000	
Provisions for Contingencies	75,000	
Wealth Tax	50,000	
Provision for bad debts	40,000	
Proposed Dividend	1,00,000	
Provision for income tax	1,05,000	4,70,000
		1,28,50,000
Less: Amount credited to P/L A/c		
Revaluation Reserve	25,000	
General Reserve	1,00,000	1,25,000
		1,27,25,000
Less: Brought forward business loss		35,50,000
		91,75,000
Less: Unabsorbed Depreciation		66,00,000
Total Income		25,75,000

Computation of Book Profit of Z Ltd. for the A.Y.2026-27

Particulars	Details	Amount
Net profit as per books of accounts		1,23,80,000
Add:		
Provision for contingencies	75,000	
Proposed Dividend	1,00,000	
Provision for income tax	1,05,000	
Provision for Bad Debts	40,000	
Depreciation	5,00,000	8,20,000
		1,32,00,000
Less:		
Depreciation (ignoring depreciation on revaluation)	4,50,000	
Amount transferred from Revaluation Reserve	25,000	
Amount transferred from General Reserve	1,00,000	5,75,000
Book Profit		1,26,25,000

Computation of tax liability of Z Ltd.

Particulars	Amount
Total income as per other provisions of the Act	25,75,000
Tax on above @ 25% [A]	6,43,750
Book profit u/s 115JB	1,26,25,000
15% of book profit [B]	18,93,750
Tax [Higher of A & B]	18,93,750
Add: Surcharge [As total income is ₹1,26,25,000]	1,32,563
Tax & Surcharge	20,26,313
Add: Health & Education Cess @ 4%	81,053
Tax Liability (Rounded off u/s 288B)	21,07,370

Tax Credit in respect of Tax Paid on Deemed Income [Sec. 115JAA]

- Where any amount of tax is paid u/s 115JB by an assessee, being a company, then, credit in respect of tax so paid shall be allowed to him in accordance with the provisions of this section. [Sec. 115JAA(1A)]
- The tax credit to be allowed as above shall be the difference of the tax paid for any assessment year u/s 115JB and the amount of tax payable by the assessee on his total income computed in accordance with the other provisions of this Act. However, no interest shall be payable on the tax credit allowed.
- Mathematically, tax credit available = Tax paid u/s 115JB - Tax payable as per other provisions of the Act
- The amount of tax credit determined shall be carried forward and set off but such carry forward shall not be allowed beyond the 15 assessment years immediately succeeding the assessment year in which tax credit becomes allowable.
- The tax credit shall be allowed set-off in a year when tax becomes payable on the total income computed in accordance with the provisions of this Act other than sec. 115JB.
- Set off in respect of brought forward tax credit shall be allowed for any assessment year to the extent of the difference between the tax on his total income and the tax which would have been payable under the provisions of sec. 115JB for that assessment year. In other words, after setting off of MAT credit, tax liability of the year cannot be less than tax would have been payable u/s 115JB for that year.
- The amount of tax credit in respect of any income-tax paid in any country or specified territory outside India u/s 90 or 90A or 91, allowed against the minimum alternate tax, exceeds the amount of the tax credit admissible against the regular income-tax payable by the assessee, then, while computing the amount of credit, such excess amount shall be ignored.

  Example

  a. Tax paid in foreign country: ₹ 70/-

  b. Tax payable u/s 115JB: ₹ 75/-

  c. Tax payable under other provisions of the Act: ₹10/-

Then,

Foreign tax credit to the extent of ₹70/- is available for discharging tax liability u/s 115JB.

While calculating credit u/s 115JAA for subsequent year, ₹60/- shall be ignored and credit of ₹5 is available as shown below:

Tax payable under other provisions of the Act	A	₹ 10
Less: Foreign Tax Credit	B	₹ 10
Tax Payable after adjustment	C	Nil
Tax payable u/s 115JB	D	₹ 75
Less: Foreign Tax Credit	E	₹ 70
Tax Payable after adjustment	F	₹ 5
MAT Credit available without considering aforesaid provision	D – A	₹ 65
Credit not available due to aforesaid provision	E – B	₹ 60
Credit available in the subsequent year(s)	F – C	₹5

- Where as a result of an order, the amount of tax payable is reduced or increased, the amount of tax credit allowed under this section shall also be increased or reduced accordingly.
- Aforesaid provisions do not apply to a limited liability partnership which has been converted from a private company or unlisted public company.
- The provisions of this section shall not apply to a person who has exercised the option u/s 115BAA.

MAT on Ind AS compliant Financial Statement [Sec. 115JB(2A)]

A company whose financial statements are drawn up in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015, the book profit (as computed above) shall be further:

a) increased by all amounts credited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss";

b) decreased by all amounts debited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss";

- No adjustment shall be made for the amount credited or debited to other comprehensive income under the head "Items that will not be re-classified to profit or loss" in respect of—

(i) revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38; or

(ii) gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109:

- However, the book profit of the previous year in which the asset or investment referred 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 above for the previous year or any of the preceding previous years and relatable to such asset or investment.

c) increased by amounts or aggregate of the amounts debited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10;

d) decreased by all amounts or aggregate of the amounts credited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10.

MAT in case of demerger [Sec. 115JB(2B)]

In the case of a resulting company, where the property and the liabilities of the undertaking being 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.

First time adoption of Ind AS [Sec. 115JB(2C)]

In case of Ind AS compliant company, the book profit of the year of convergence and each of the following 4 previous years, shall be further increased or decreased, as the case may be, by 1/5th of the transition amount.

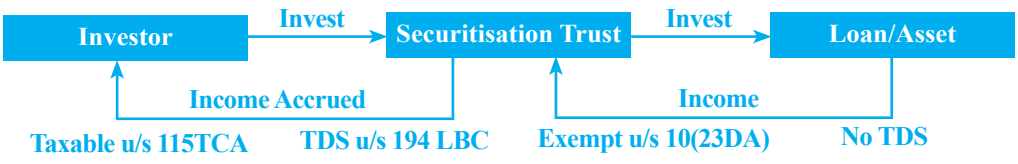
- "Transition Amount" means the amount or the aggregate of the amounts adjusted in the other equity (excluding capital reserve, and securities premium reserve) on the convergence date but not including the following:
  - A. Aggregate of the amounts adjusted in the other comprehensive income on the convergence date which shall be subsequently re-classified to the profit or loss;
  - B. Revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38 adjusted on the convergence date;
  - C. Gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 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 Indian Accounting Standards 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 Indian Accounting Standards 101 on the convergence date; and
  - F. Adjustments relating to cumulative translation differences of a foreign operation in accordance with paragraph D13 of the Indian Accounting Standards 101 on the convergence date.
- The book profit of the previous year in which the asset or investment referred to in (B) to (E) (supra) is retired, disposed, realised or otherwise transferred, shall be increased or decreased, as the case may be, by the aggregate of the amounts relatable to such asset or investment.
- The book profit of the previous year in which the foreign operation referred to in (F) is disposed or otherwise transferred, shall be increased or decreased, as the case may be, by the aggregate of the amounts relatable to such foreign operations.
- "Year of Convergence" means the previous year within which the convergence date falls;
- "Convergence Date" means the first day of the first Indian Accounting Standards reporting period as defined in the Indian Accounting Standards 101.

1.2.5 Tax on income from Securitisation Trusts [Sec. 115TCA]

Meaning

Securitisation Trust means a trust (which fulfils such conditions, as may be prescribed), being a:

Special purpose distinct entity	As per regulation 2(1)(u) of the SEBI (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the SEBI Act, 1992 and the Securities Contracts (Regulation) Act, 1956, and regulated under the said regulations
Special Purpose Vehicle	Regulated by the guidelines on securitisation of standard assets issued by the RBI
Trust	Set-up by a securitisation company or a reconstruction company formed, for the purposes of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), or in pursuance of any guidelines or directions issued by the RBI

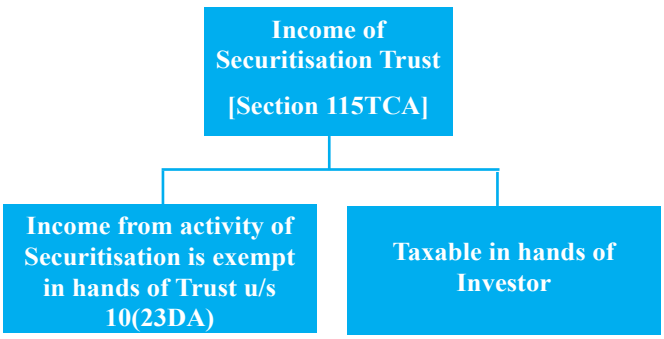


Tax Treatment in hands of investor

- Income of an investor of a securitisation trust, out of investments made in the securitisation trust, shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person, had the investments by the securitisation trust been made directly by him.

a. Investor means a person who is holder of any securitised debt instrument or securities or security receipt issued by the securitisation trust.

b. Securities means debt securities issued by a Special Purpose Vehicle as referred to in the guidelines on securitisation of standard assets issued by the RBI.



- **Nature of income:** The income paid or credited by the securitisation trust shall be deemed to be of the same nature and in the same proportion in the hands of the investor, as if it had been received by, or had accrued or arisen to, the securitisation trust during the previous year.

- **Deemed Credit:** The income accruing or arising to, or received by, the securitisation trust, during a previous year, if not paid or credited to the investor, shall be deemed to have been credited to the account of the investor on the last day of the previous year in the same proportion in which such investor would have been entitled to receive the income had it been paid in the previous year.

- **Statement specifying nature of income:** The person responsible for crediting or making payment of the

income on behalf of securitisation trust and the securitisation trust shall furnish, within 30th June of the financial year following the previous year during which the income is distributed, to the investor who is liable to tax in respect of such income and to the prescribed income-tax authority (30th November of the financial year following the previous year during which the income is distributed) , a statement in such form (Form 64E) and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details, as may be prescribed.

- **Double taxation:** Any income which has been included in the total income of the investor, in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the securitisation trust.

Tax treatment in hands Securitisation Trust

Any income of a securitisation trust from the activity of securitisation is exempt u/s 10(23DA).

TDS on income from Investment in Securitization Fund [Sec. 194LBC]

Who is responsible to deduct tax: The person responsible for making the payment to an investor in respect of an investment in a securitisation trust, being referred to in sec. 115TCA

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS:

Payee	Rate of TDS
Resident	10%
Non-Resident	
– Foreign Company	40%
– Other than foreign company	30%

Exemption or relaxation from the provision

When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax

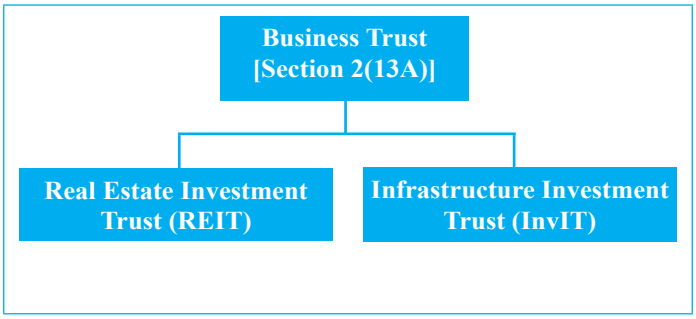
1.2.6 Tax on income of unit holder and business trust [Sec. 115UA]

Meaning [Sec. 2(13A)]

Business Trust means a trust registered as:

i. an Infrastructure Investment Trust under the SEBI (Infrastructure Investment Trusts) Regulations, 2014; or

ii. a Real Estate Investment Trust under the SEBI (Real Estate Investment Trusts) Regulations, 2014



Tax treatment in hands of Business Trust

1. Following income are exempt:

A. Income of Business Trust [Sec 10(23FC)]

Any income of a business trust by way of

a. interest received or receivable from a special purpose vehicle; or

b. dividend received or receivable from a special purpose vehicle

- "Special purpose vehicle" means an Indian company in which the business trust holds controlling interest and any specific percentage of shareholding or interest, as may be required by the regulations under which such trust is granted registration
- Special purpose vehicle is not required to deduct tax at source on interest paid to the business trust [Sec. 194A(3)(xi)]. However, business trust is required to deduct tax at source @ 10% (5% in case of non-corporate non-resident or foreign company) on interest component of income distributed to the unitholders [Sec. 194LBA]

B. Income of Real Estate Investment Trust [Sec. 10(23FCA)]

Any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust.

Taxpoint: Where rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in sec. 10(23FCA), owned directly by such business trust, TDS u/s 194-I is not required to be deducted. Business trust is required to deduct tax at source @ 10% (30% in case of non-corporate non-resident and 40% in case of foreign company) on distribution of such rental income to the unit holders [Sec. 194LBA]

2. Other Income of Business Trust

Subject to the provisions of sec. 111A, sec. 112, and sec. 112A, the total income of a business trust shall be charged to tax at the maximum marginal rate.

Tax treatment in hands of unit holders

A. Distributed Income to unit holder of a Business Trust [Sec 10(23FD)]

Any distributed income, referred to in section 115UA, received by a unit holder from the business trust, not being that proportion of the income which is of the same nature as the income referred to in 10(23FC)(a) [i.e., proportionate interest income] or 10(23FC)(b)

Case	REIT	InvIT	Unitholders
Dividend from SPV (SPV not opted for Sec. 115BAA)	Exempt	Exempt	Exempt
Dividend from SPV (SPV opted for Sec. 115BAA)	Exempt	Exempt	Taxable
Dividend other than dividend from SPV	Taxable	Taxable	Exempt
Interest from SPV	Exempt	Exempt	Taxable
Interest other than above	Taxable	Taxable	Exempt
Rental income from SPV	Taxable	Taxable	Exempt
Rental income from property owned by REIT	Exempt	Taxable	From REIT: Taxable From InvIT: Exempt
Capital Gain	Taxable @ sp rate, if any else MMR	Taxable @ sp rate, if any else MMR	Exempt

[i.e., proportionate dividend income where the special purpose vehicle has exercised the option u/s 115BAA] or 10(23FCA) [i.e., proportionate rental income] is exempt

B. Any income distributed by a business trust to its unit holders shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as it had been received by, or accrued to, the business trust.

If in any previous year, the distributed income, received by a unit holder from the business trust is of the nature as referred to in sec. 10(23FC) or 10(23FCA)], then, such distributed income shall be deemed to be income of such unit holder and shall be charged to tax as income of the previous year.

Taxpoint: Unitholder, being non-corporate non-resident or foreign company, may be liable to tax u/s 115A.

Other Provisions

- Any person responsible for making payment of the income distributed on behalf of a business trust to a unit holder shall furnish a statement to the unit holder (within 30th June of the financial year following the previous year during which the income is distributed) and the prescribed authority (within 30th November of the financial year following the previous year during which the income is distributed), in such form and manner as may be prescribed, giving the details of the nature of the income paid during the previous year and such other details as may be prescribed.
- The provision is not applicable in respect of any sum referred to in sec. 56(2)(xii), received by a unit holder from a business trust.
- Any transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor is not regarded as transfer for the purpose of computation of capital gain.
- Income referred to in sec. 10(23FC) or 10(23FCA) is not taxable in hands of business trust but taxation of such income is passed to the unit holder. On the other hand, all other income of the business trust is taxable in hands of the business trust and distribution thereof to the unit holders is not taxable again in hands of the unitholders.

1.2.7 TDS on certain income from units of a Business Trust [Sec. 194LBA]

Who is responsible to deduct tax: Any business trust distributing income referred to in sec. 115UA [being of the nature referred to in sec. 10(23FC) or 10(23FCA)] to its unit holder

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS:

Payee	Rate of TDS	
	Payment referred to in sec. 10(23FC)	Payment referred to in sec. 10(23FCA)
If payment is made to a resident unit holder	10%	10%
If payment is made to a unit holder being non-resident (not being a company)	Dividend income: 10% Other Income: 5%	30% + SC + Health & Education Cess
If payment is made to a unit holder being a foreign company	Dividend income: 10% Other Income: 5%	40% + SC + Health & Education Cess

Other Point

The provision is not applicable in respect of income of the nature referred to in sec. 10(23FC)(b) [i.e., dividend], if the special purpose vehicle has not exercised the option u/s 115BAA.

Illustration 23.

DEF is a real estate investment trust (REIT). It owns house properties in different parts of Maharashtra. Besides, it holds controlling interest in A Ltd. (A Ltd., an Indian company, is SPV created by DEF for the purpose of owning commercial properties). Annual income of DEF for the previous year 2025-26 are calculated as follows:

	₹ in crore
Rental income from properties directly owned by DEF (computed)	7
Long-term capital gain on sale of land and buildings directly owned by DEF (computed)	20
Short term capital gain on sale of listed shares of A Ltd.	2
Short term capital gain on sale of land and buildings directly owned by DEF (computed)	8
Interest from A Ltd.	13
Total	50

DEF distributes ₹50 crore to its unitholders. X is one of the unitholders. He holds 10% units in DEF. Compute income in hands of DEF and X

Solution:

Computation of total income and tax liability of DEF for the A.Y. 2026-27

Particulars	₹ in crore
Rental income from properties directly owned by DEF [Exempt u/s 10(23FCA)]	Nil
Long-term capital gain on sale of land and buildings directly owned by DEF	20
Short term capital gain on sale of listed shares of A Ltd.	2
Short term capital gain on sale of land and buildings directly owned by DEF	8
Interest from A Ltd. [Exempt u/s 10(23FC)]	Nil
Total Income	30

Computation of total income of X for the A.Y. 2026-27

Particulars	₹ in crore
Rental income from properties [₹ 5 crore × 7 / 50]	0.70
Long-term capital gain on sale of land and buildings [Exempt u/s 10(23FD)]	Exempt
Short term capital gain on sale of listed shares of A Ltd. [Exempt u/s 10(23FD)]	Exempt
Short term capital gain on sale of land and buildings [Exempt u/s 10(23FD)]	Exempt
Interest from A Ltd. [₹ 5 crore × 13 / 50]	1.30
Total Income	2.00

1.2.8 Tax on income of investment fund and its unit holders [Sec. 115UB]

Meaning

Investment fund means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the SEBI (Alternative Investment Funds) Regulations, 2012, made under the SEBI Act, 1992 or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019

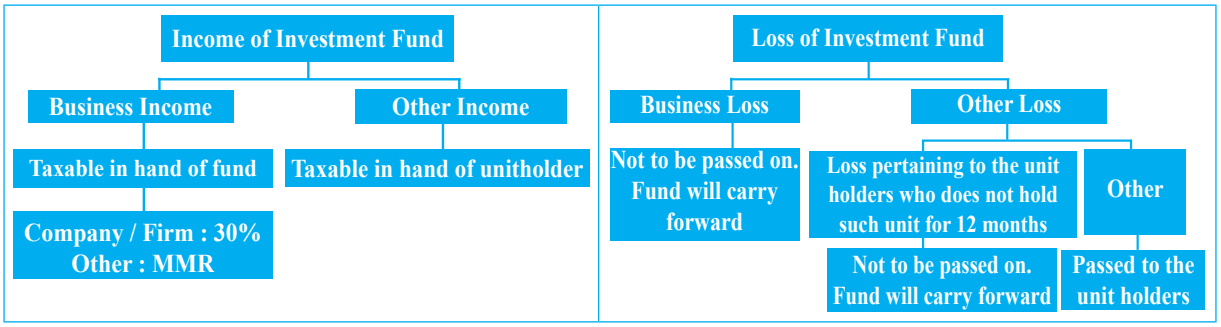
Tax treatment in hands of Investment Fund

A. Non-business income of Investment Fund

Any income of an investment fund other than the income chargeable under the head "Profits and gains of business or profession" is exempt u/s 10(23FBA)].

B. The total income of the investment fund shall be charged to tax as follow:

Where such fund is a company or a firm	Taxable at the rate specified in the Finance Act
In any other case	Taxable at maximum marginal rate



Other Provisions

- **Statement specifying nature of income:** The person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund shall furnish, within 30th June of the financial year following the previous year during which the income is distributed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority (within 30th November of the financial year following the previous year during which the income is distributed), a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details, as may be prescribed.

Tax treatment in hands of unitholders

A. Income, being that proportion of income which is of the same nature as income chargeable under the head "Profits and gains of business or profession" in hands of the investment fund is exempt in hands of the unit holders [Sec. 10(23FBB)].

B. Any income accruing or arising to, or received by, a person, being a unit holder of an investment fund, out of investments made in the investment fund, shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person had the investments made by the investment fund been made directly by him.

Taxpoint:

- **Carry forward of Loss:** Where in any previous year, the net result of computation of total income of the investment fund [without giving effect to the provisions of sec. 10(23FBA)] is a loss under any head of income and such loss cannot be or is not wholly set-off against income under any other head of income of the said previous year, then:

i. out of such loss, the loss arising to the investment fund as a result of the computation under the head "Profits and gains of business or profession", if any, shall be:

- allowed to be carried forward and it shall be set off by the investment fund in accordance with the provisions of Chapter VI; and
- Such loss shall not be passed through to the unit holders.

ii. the other loss, if any, shall not be passed through to the unit holders, if such loss has arisen in respect of a unit which has not been held by the unit holder for a period of atleast 12 months.

- The loss other than the loss under the head "Profits and gains of business or profession", if any, accumulated at the level of investment fund as on 31-03-2019, shall be:

i. deemed to be the loss of a unit holder who held the unit on the 31-03-2019 in respect of the investments made by him in the investment fund; and

ii. allowed to be carried forward by such unit holder for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and shall be set off by him in accordance with the provisions of Chapter VI:

Taxpoint: Such loss shall not be available to the investment fund on or after 01-04-2019.

- **Nature of income:** The income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the unitholders, as if it had been received by, or had accrued or arisen to, the investment fund during the previous year (subject to adjustment of losses).
- **Deemed Credit:** The income of the investment fund, if not paid or credited to the unit holders, shall be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.
- **Double Taxation:** Any income which has been included in total income of the unitholder in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the investment fund.

1.2.9 TDS on income of units of Investment Fund [Sec. 194LBB]

Who is responsible to deduct tax: The person responsible for making the payment of any income, other than that proportion of income which is of the same nature as income referred to in sec. 10(23FBB), to a unit holder in respect of units of an investment fund specified in clause (a) of the Explanation 1 to sec. 115UB

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS:

Payee	Rate of TDS
Resident	10%
Non-resident (not being a company)	30%
Foreign Company	40%

Note: Where the payee is a non-resident (not being a company) or a foreign company, deduction shall not be made in respect of any income that is not chargeable to tax.

Exemption or relaxation from the provision

When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax

Illustration 24.

Compute total income of each investment fund for A.Y. 2026-27 from the following details:

Income	Fund A (₹)	Fund B (₹)	Fund C (₹)
Business Income	Nil	5,00,000	(2,00,000)
Capital Gains	20,00,000	15,00,000	(5,00,000)
Income from Other Sources	5,00,000	3,00,000	10,00,000

Further, it is also given that there are 20 unit-holders each holding one unit. You are also requested to compute income of unit holder assuming that income from investment fund is the only income of unit holder.

Solution:

Computation of total income of the investment fund for the A.Y. 2026-27

Particulars	Fund A (₹)	Fund B (₹)	Fund C (₹)
Business Income	Nil	5,00,000	Nil
Total Income	Nil	5,00,000	Nil

Such income is taxable at the rate @ 30% if the fund is a company or firm else at maximum marginal rate of tax.

Computation of total income of the unit holder for the A.Y. 2026-27

Particulars	Fund A (₹)	Fund B (₹)	Fund C (₹)
Capital Gains [Income / 20]	1,00,000	75,000	
Income from Other Sources [Income / 20] [#(₹ 10 lakh – ₹ 2 lakh)/20]	25,000	15,000	40,000#
Total Income	1,25,000	90,000	40,000

Illustration 25.

In case of case C of the aforesaid illustration, if Fund C has earned following income during the previous year 2026-27, compute total income for the assessment year 2027-28

- Business Income: ₹ 2,00,000
- Capital Gains: ₹ 8,00,000
- Income from Other Sources: ₹ 9,00,000

Solution:

Computation of total income of the investment fund for the A.Y. 2026-27

Particulars	Amount (₹)
Business Income	2,00,000
Total Income	2,00,000

Computation of total income of the unit holder for the A.Y. 2027-28

Particulars	Amount (₹)
Capital Gains [(₹ 8 lakh – ₹ 5 lakh i.e., b/f loss) / 20]	15,000
Income from Other Sources [Income / 20]	45,000
Total Income	60,000

1.2.10 Tax on income from Patent [Sec. 115BBF]

Where the total income of an eligible assessee includes any income by way of royalty in respect of a patent developed and registered in India, tax @ 10% shall be payable on such royalty income.

- Eligible Assessee means a person resident in India and who is a patentee;
- Patentee means the person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee, in accordance with the Patents Act, and includes every such person, being the true and first inventor of the invention, where more than one person is registered as patentee under that Act in respect of that patent.
- Developed means at least 75% of the expenditure incurred in India by the eligible assessee for any invention in respect of which patent is granted under the Patents Act, 1970
- Royalty, in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains" or consideration for sale of product manufactured with the use of patented process or the patented article for commercial use) for the:
  i. transfer of all or any rights (including the granting of a licence) in respect of a patent; or
  ii. imparting of any information concerning the working of, or the use of, a patent; or
  iii. use of any patent; or
  iv. rendering of any services in connection with the activities referred above
- Lump sum includes an advance payment on account of such royalties which is not returnable.

Other Provisions

- **No deduction for expenditure:** No deduction in respect of any expenditure or allowance shall be allowed to the eligible assessee in computing his royalty income.
- **Option to the assessee:** The eligible assessee is required to exercise the option for taxation of such royalty income in accordance with the provisions of this section, in the prescribed manner, on or before the due date for furnishing the return of income for the relevant previous year.
- **Concessional Rate is not applicable:** Where an eligible assessee opts for taxation of his royalty income in accordance with the provision of this section and he offers the royalty income for any of the 5 assessment years relevant to the previous year succeeding the previous year not in accordance with the provisions this section, then, the assessee shall not be eligible to claim the benefit of this section for 5 assessment years subsequent to the assessment year relevant to the previous year in which such income has not been offered to tax in accordance with this section.

1.2.11 Tax on income from transfer of carbon credits [Sec. 115BBG]

Where the total income of an assessee includes any income by way of transfer of carbon credits, tax @ 10% shall be payable on the income by way of transfer of carbon credits.

- Carbon credit in respect of one unit shall mean reduction of one tonne of carbon dioxide emissions or emissions of its equivalent gases which is validated by the United Nations Framework on Climate Change and which can be traded in market at its prevailing market price.
- **No deduction for expenditure:** No deduction in respect of any expenditure or allowance shall be allowed to the assessee while computing his income by way of transfer of carbon credit.

Trust

1.3

'Charity begins at home but should not end there.' – **Francis Bacon**

The essence of the above quote has been fully captured in the definition of the expression "charitable purpose" as envisaged in the Income Tax Act, 1961. Under the Indian Income Taxation Laws, a trust is considered as charitable, if its objects are directed to the benefit of the society at large and not for an individual or group of individuals. Various deductions or exemptions are available under the law to the charitable trust.

Now a days, business trust, securitization trust, etc., are also formed. The Act provides special code in respect of computation of income of these trusts.

1.3.1 Religious or Charitable Trust

Income of a religious or charitable trust or institution is exempt from tax u/s 11. Trust must be created in accordance with law for charitable purposes.

Meaning of Certain Terms

Trust	It is an obligation annexed to the ownership; ➢ arising out of a confidence reposed by the owner; ➢ declared and accepted by him (owner); ➢ for the benefit of another (or of another and the owner). Note: For the purpose of the Income Tax Act, the word trust includes "any other legal obligation"
Author of the trust	The person who reposes or declares the confidence and creates trust.
Beneficiary	The person for whose benefit the trust is created.
Trustee	The person who accepts the confidence and who is authorised to manage the trust property and to look after the interest of the beneficiary.
Trust property	The property set aside by the trust, for the benefit of the beneficiary, being the subject matter of the trust.
Instrument of trust	The deed or instrument by which the trust is created. Note: No trust in relation to immovable property can be framed unless and until a non-testamentary instrument in writing is signed by the author of the trust or by the will of the author of the trust. However, such an instrument is not required in the case of a movable property when such property is transferred to the trustee.

Charitable purpose	As per Sec. 2(15), it includes relief of the poor, education, yoga, medical relief, preservation of the environment (including watersheds, forests, and wildlife), and preservation of monuments or places or objects of artistic or historic interest and the advancement of any other object of general public utility. (discussed in detail later in this chapter)
Public trust	A trust in which beneficiaries are the general public or a class thereof.
Private trust	A trust in which the beneficiary is the specific person(s).

Contents

Sec.11	Exemption of income from property held in trust or other legal obligation for religious or charitable purpose(s) wholly.
Sec.12	Exemption of income derived by such a trust from voluntary contribution
Sec.12A/12AB	Conditions relating to registration of trust
Sec.13	Withdrawal of exemptions u/s 11 and 12

Conditions for Exemption [Sec. 11]

A. Property must be held under a trust

The income-yielding property must be held under a trust or other legal obligations.

Taxpoint:

- There must be a trust: If there is neither trust nor any legal obligation, exemption will not be available even if the entire income of the property is applied to charitable or religious purpose.
- There must be a property: A mere creation of a trust for generating income is not sufficient. There must be a property held under a trust for generating income.

B. Purpose of the trust

Trust must be created wholly for charitable/religious and lawful purposes. (discussed in detail later in this chapter).

C. Registration of the trust

The trust must be a registered trust. (The procedure of registration is discussed later in this chapter).

D. Audit of Accounts

Where the total income of the trust or institution without giving effect to the provisions of sec. 11 and 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year,—

i. the books of account and other documents have been kept and maintained in such form and manner and at such place, as may be prescribed; and

ii. Such accounts of the trust must be audited. Audit report must be uploaded one month prior to the due date of filing of return.

E. Application of Income

Income must be applied for the purpose of the trust. (a detailed discussion is made later in this chapter)

- While computing income of the trust, the provisions of sec. 40(a)(ia), sec. 40A(3) and sec. 40A(3A) shall apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession.

F. Return of Income

Income-tax return required to furnished u/s 139(4A) should be furnished within the due date of filing return of income.

G. Additional condition for charitable trust created on or after 1/4/1962

A charitable trust created on or after 1/4/1962 should satisfy further following conditions:

a. It should not be created for the benefit of any particular religious community or caste.

b. No part of its income should be applied directly or indirectly for the benefit of the settlor or other specified persons.

c. Its property should be held wholly for charitable purposes.

Trust must be created wholly for charitable/religious and lawful purposes

Meaning of Charitable trust

1. As per Sec. 2(15), charitable purpose includes relief of the poor, education, yoga, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest and the advancement of any other object of general public utility.

   Exception: The advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of:

   a) any activity in the nature of trade, commerce or business, or

   b) any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration,

   - irrespective of the nature of use or application, or retention, of the income from such activity, unless:

     i. such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

     ii. the aggregate receipts from such activity or activities during the previous year, do not exceed 20% of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year.

2. In this regard it is to be noted that -

   Sec. 10(21) exempts, subject to certain conditions, income of an approved scientific research association, which is applied fully for the purpose of such association.

   Sec. 10(23C) exempts, subject to certain conditions, income of a University and other educational institutions or hospital or other institutions existing fully for educational or philanthropic purposes respectively.

3. If the object is not intended to give relief to the poor or for the advancement of medical or educational field, it may be treated as charitable purpose if it causes the advancement of object of general public utility. As per Bar council of Maharastra -vs.- CIT meaning of –

General	:	Pertaining to a whole class
Public	:	The body of people at large
Utility	:	Usefulness

4. The expression "object of general public utility" is not restricted to 'the object beneficial to whole of mankind'. An object beneficial to a particular section shall also be deemed as "object of general public utility". However, it must not be beneficial, only to a particular caste or religious community.
5. Charitable purpose includes Promotion of Sports and Games. Therefore, an association engaged in the promotion of games and sports can claim exemption u/s 11.
6. A trust or institution meant for the benefit of Scheduled Castes, Scheduled Tribes, Backward Classes, etc. is eligible for exemption u/s 11.
7. Trust created for charitable or religious purposes, which promotes international welfare in which India is interested, shall be eligible for exemption provided a general or special order has been received from CBDT in this regard.

Meaning of Religious Purpose

- Sec.11 provides exemption to income of the trust held for charitable or religious purpose. Religious purpose is different from charitable purpose. A private trust held for religious purpose is not eligible for exemption u/s 11, however, a public trust held for religious purpose can claim exemption u/s 11. A charitable trust created on or after 1/4/1962, should not be created for the benefit of any particular religious community or caste.
- As per explanation 3A to sec. 11(1), where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified u/s 80G(2)(b), any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,—
  a. applies such corpus only for the purpose for which the voluntary contribution was made;
  b. does not apply such corpus for making contribution or donation to any person;
  c. maintains such corpus as separately identifiable; and
  d. invests or deposits such corpus in the forms and modes specified u/s 11(5).
- Further, as per Explanation 3B, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the aforesaid conditions is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place

Meaning of lawful purpose

The trust shall not be treated as lawful if the purpose -

- for which it is created is forbidden by law.
- is fraudulent
- is regarded as immoral or opposed to public policy
- causes injury to others.

Where a trust has two objects one of which in unlawful it shall be treated as illegal trust unless and until it can be separately carried on with legal object.

Exemption [Sec. 11]

As per sec. 11(1)(a), income derived from property held under trust wholly for charitable or religious purpose(s), shall be exempted from tax, to the extent to which such income is applied to such purposes in India.

Taxpoint:

- Any amount credited or paid to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sec. 10(23C)(iv) or (v) or (vi) or (via) or other registered trust or institution, being

Contribution with a specific direction that they shall form part of the corpus	It shall not be treated as application of income for charitable or religious purposes
Contribution without such direction	It shall be treated as application for charitable or religious purposes only to the extent of 85% of such amount credited or paid

- In order to claim exemption, a trust must apply its income for charitable purpose(s). Income which is not applied for the purpose for which charitable trust is created, shall not be eligible for exemption.
  - Any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it)
  - Further, where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.
- Anonymous donation referred u/s 115BBC is not exempt.
- Where a trust or an institution has been granted registration and the said registration is in force for any previous year, then, no exemption u/s 10 [other than sec.10(1), 10(23C) and 10(46)] is available to such trust or institution

Anonymous donation [Sec. 115BBC]

Where the total income of an assessee being –

- Any University or other educational institution referred u/s 10(23C)(iiiad) or (vi)
- Any hospital or other institution referred u/s 10(23C)(iiiae) or (via)
- Any fund or institution referred u/s 10(23C)(iv) or (v)
- Any trust or institution referred u/s 11.
  - includes any income by way of anonymous donation[#] in excess of specified limit[##], such donation shall be taxed @ 30% (+SC+EC+SHEC)

[#] Anonymous donation means any voluntary contribution, where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and other prescribed particulars.

[##] **Specified limit:** Anonymous donation received being higher of the following:

- 5% of the total donations received by the assessee; or
- ₹ 1,00,000

Exceptions

The above provision shall not apply to any anonymous donation received by –

- Any trust or institution created wholly for religious purposes
- Any trust or institution created wholly for religious and charitable purposes other than any anonymous donation made with a specific direction that such donation is for any University or other education institution or hospital or other medical institution run by such trust or institution.
- Anonymous donation received upto specified limit.

Free Accumulation of Income

However, trust is allowed to accumulate 15% of its income and such accumulation shall be treated as application of income. For such 15% accumulation of income, trust need not to apply any one. Such accumulation of income is freely allowed.

Taxpoint:

- In order to claim 100% exemption, trust must apply 85% of its income for charitable purpose(s)for which it is created.
- For this purpose, income means accounting income and not income as per the Income Tax Act.

Example: If a trust has earned income of ₹ 3,00,000 for the year 2025-26, and applied its income for charitable purpose(s) during the year 2025-26, ₹1,80,000. The taxable income shall be –

Income of the trust	₹ 3,00,000
Less: 15% free accumulation	₹ 45,000
Balance	₹ 2,55,000
Less: Amount applied for the prescribed purposes	₹ 1,80,000
Taxable income	₹ 75,000

Notes regarding computation of income / Income of trusts or institutions

a. **Voluntary contribution:** As per sec. 12(1), any voluntary contributions (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) received by a trust created wholly for charitable or religious purpose(s), shall be deemed to be income of the trust.

   Taxpoint:

   - Contributions made with a specific direction that they shall form part of the corpus of the trust shall not be treated as income of the trust subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sec. 11(5) maintained specifically for such corpus.
   - Application for charitable or religious purposes from such corpus shall not be treated as application of income for charitable or religious purposes. However, the amount not so treated as application shall be treated as application for charitable or religious purposes in the previous year in which the amount is invested or deposited back, into one or more of the forms or modes specified in sec. 11(5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or deposit.

b. **Value of services:** As per sec. 12(2), the value of any service, being medical or educational service, provided by the charitable or religious trust running a hospital or medical institution or an educational institution, shall

be deemed to be income of the trust during the previous year in which such services are provided and shall be chargeable to income-tax.

c. **Business Income of the Trust [Sec.11(4) & (4A)]:** On fulfillment of following two conditions, income of any such undertaking shall not be included in the total income of the trust -

1. The trust or institution can carry out business activities provided such activities are incidental to the object of the trust.
2. Trust needs to maintain separate books of account in respect of such business.
3. The purpose of the trust or institute must be relief to the poor, education or medical relief.

Taxpoint

- Property held under trust includes a business undertaking so held.
- The Assessing Officer has power to determine the income of such undertaking in accordance with the provisions of this Act.
- In case, income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied for the purposes other than charitable or religious purposes.

Notes regarding application of income

- Application of amount may be of revenue or capital nature.
- Application for charitable or religious purposes, from corpus or any loan or borrowing, shall not be treated as application of income for charitable or religious purposes.

  However, if trust or institution invest or deposits back the amount into corpus or repays the loan within 5 years of application from the corpus or loan, then such investment or depositing back into corpus or repayment of loan will be allowed as application.

  Further, the following conditions should be fulfilled at the time of initial utilisation of corpus or loan:

  - It should not be in the form of corpus donation to other trust
  - Carry forward and set off of excess application is not allowed
  - It is allowed in the year in which it was actually paid
  - It has not been made for the benefit of any person referred to in sec. 13(1)
  - It should be in India except with the approval of the Board.
  - TDS, if any, has been deducted
  - It should not disallowed u/s 40A(3)
- Loan granted to poor person for education or medical treatment shall be treated as application of income. However, when such loan is repaid, it shall be treated as income of the trust.
- The calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year.
- Where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income in the same or any other previous year

Illustration 26.

Compute taxable income of a charitable trust for the A.Y 2026-27 under the following cases:

Particulars	Case 1	Case 2	Case 3
Income other than voluntary contribution	4,00,000	5,00,000	15,00,000
Voluntary contribution	1,00,000	80,000	2,00,000
Voluntary contribution in the corpus of the trust	2,00,000	1,50,000	5,00,000
Income applied for the purpose for which trust is created	4,50,000	4,93,000	2,00,000

Solution:

Computation of taxable income of the charitable trust for the A.Y 2026-27

Particulars	Amount		
	Case 1	Case 2	Case 3
Income other than voluntary contribution	4,00,000	5,00,000	15,00,000
Add: Voluntary contribution	1,00,000	80,000	2,00,000
Total income of the trust	5,00,000	5,80,000	17,00,000
Less: 15% Free accumulation	(75,000)	(87,000)	(2,55,000)
Balance	4,25,000	4,93,000	14,45,000
Less: Income exempted to the extent applied for the purpose	4,25,000	4,93,000	2,00,000
Total Income	Nil	Nil	12,45,000
Note: Contribution in the corpus of the trust shall not be treated as income of the trust.			

Deferment of application of income [Explanation to Sec. 11(1)]

When due to certain reasons application of income is below 85% of its income, trust has the option to apply for deferment of application of income.

Time limit for application of deferment of income: such option to be exercised at least 2 months prior to the expiry of the due date for furnishing the return of income specified u/s 139(1), in prescribed form and manner.

Reasons, Deferment Period and effect of non application of income within the deferred period:

Reasons	Deferred period	Effect when income is not applied within the deferred period
The whole or any part of income has not been received during that year.	The previous year in which such income is actually received and the previous year subsequent to such year.	It shall be treated as income of the year following the previous year in which such income is actually received. Note: The part of income, which is not spent, shall be taxable.
Any other reason	Subsequent to the previous year in which such income is derived.	It shall be treated as income of the year following the previous year in which such income is derived

Illustration 27.

Bangur Charitable Trust has earned income of ₹70 lacs during the previous year 2025-26. It has applied the income of ₹15 lacs, during the previous year 2025-26 and also applied for deferment of application of income of -

Case 1) ₹ 32 lacs

Case 2) ₹ 45 lacs

- as such income has not yet been received by the trust.

During the previous year 2027-28 such income is received and applied as under -

Previous Year	Amount applied for charitable purposes	
	Case 1	Case 2
2027-28	₹ 12 lacs	₹ 15 lacs
2028-29	₹ 11 lacs	₹ 10 lacs
2029-30	₹ 9 lacs	₹ 20 lacs

Compute taxable income of the A.Y. 2026-27 and 2029-30

Solution:

Computation of income of Bangur Charitable Trust for the A.Y. 2026-27

Particulars	Amount	
	Case 1	Case 2
Income earned	70 lacs	70 lacs
Less: Free accumulation of income @ 15%	10.5 lacs	10.5lacs
Balance	59.5 lacs	59.5 lacs
Less: Application of income during the previous year	15 lacs	15 lacs
	44.5 lacs	44.5 lacs
Less: Amount for which deferment is allowed [Max. of taxable income before deferment]	32 lacs	44.5 lacs
Taxable income	**12.5 lacs**	**Nil**

Computation of income of Bangur Charitable Trust for the A.Y. 2029-30

Particulars	Amount	
	Case I	Case II
Amount deferred in the P.Y. 2025-26 and are to be applied till P.Y. 2027-28 i.e. one year after the year in which such income is received	32	44.5
Less: Amount applied before 31/3/2029	23	25
Taxable income	**9**	**19.5**

Conditional Accumulation [Sec. 11(2)]

Where a trust could not apply its 85% of income for charitable or religious purpose(s), then it may accumulate or set aside its income (in full or in part) for a maximum period of 5 years to be applied for specific purposes. In such case subject to the following conditions income so accumulated shall not be included in total income of the trust:

Conditions

- **Statement to the Assessing Officer:** Such person furnishes a statement in the prescribed form (Form 10) and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed 5 years.
  - In computing the period of 5 years, the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.
- **Time-limit:** The statement shall be furnished 2 months prior to the due date of furnishing return as specified u/s 139(1).
- **Return of income:** The return of income for the previous year is required to be furnished by such person on or before the due date specified u/s 139(1) for furnishing the return of income for the said previous year.
- **Investment of accumulated income:** The money so accumulated or set apart is invested or deposited in the forms or modes specified in the following mode being stated in sec.11(5):
  - (a) Investment in Government Savings Certificates and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government.
  - (b) Deposit in any account with the Post Office Savings Bank;
  - (c) Deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank);
  - (d) Investment in units of the Unit Trust of India;
  - (e) Investment in the Central Government or a State Government securities;
  - (f) Investment in debentures issued by any company or corporation, both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;
  - (g) Investment or deposit in any public sector company;
  - (h) Deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction u/s 36(1)(viii);
  - (i) Deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction u/s 36(1)(viii);
  - (j) Deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India;
  - (k) Investment in an immovable property. Immovable property does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to or permanently fastened to earth;
  - (l) Deposits with the Industrial Development Bank of India;
  - (m) Invest in any other form or mode of investment or deposit as may be prescribed e.g. Investment by way of acquiring equity shares of a depository, Units of Mutual Fund, etc.

Application to Assessing Officer for applying the income for the purpose other than the purpose for which it was accumulated [Sec. 11(3A)]

In case where due to circumstances beyond the control of the trust, accumulated income cannot be applied for the purpose for which it was accumulated or set apart, the trust can apply to Assessing Officer to apply such income for other charitable or religious purpose in India in conformity with the objects of the trust. Assessing Officer may, on receipt of such application, allow use of such accumulated income for the purpose(s) as specified in the application.

Withdrawal of benefit of accumulation of income [Sec. 11(3)]

Cases	Tax treatment
When income so set aside is applied for the purpose other than the specified purpose	Such income shall be deemed to be the taxable income of the previous year in which it is so applied.
When income so set aside, ceases to be accumulated	Such income shall be deemed to be the taxable income of the previous year in which it so ceases to be accumulated
When income so set aside, ceases to remain so invested or deposited in mode mentioned in Sec. 11(5)	Such income shall be deemed to be the taxable income of the previous year in which it so ceases to be so invested.
When such income is not utilized for the purpose for which it is so accumulated or set apart during the period allowable for accumulation	Such income shall be deemed to be the income of such person of the previous year in which such period expires
When income so set aside is credited or paid to – ➢ any registered trust/institution; or ➢ to any fund, institution, trust, any university, other educational institution, any hospital or other medical institution referred to in Sec.10(23C) (iv), (v), (vi) or (via)	Such income shall be deemed to be the taxable income of the previous year in which it is so credited or paid.

Taxpoint: In case the trust or institution, which has accumulated its income, is dissolved, the Assessing Officer may allow application of such income in payment to another registered trust in the year in which such trust or institution was dissolved.

Tax Treatment of Capital Gains on transfer of Capital Assets

Capital gain arises on transfer of 'property held under trust for charitable purpose' shall be eligible for exemption if the consideration or part thereof is applied in acquisition of new property. Such amount applied in acquiring the new capital assets shall be held as part of the corpus of the trust. Exemption shall be as per the following table:

Property transferred	Amount to be applied	Exemption
Capital asset being property held under trust for charitable purpose.	The net sale consideration.	Entire Capital gain
	Only a part of the net sale consideration	[(Amount so utilised) – (the cost of acquisition and cost of improvement of the transferred asset)]
Capital asset, being property held under trust in part only for such purposes	The net sale consideration	The proportionate amount of the capital gain.
	Only a part of the net sale consideration	Proportionate amount of - [(Amount so utilised) – (the cost of the transferred asset)]
Notes: Proportionate amount is calculated having regard to the proportion, which the amount of income applicable to charitable purpose bears to the whole of income from such property.		

Registration of Trust [Sec.12A & 12AB]

The person in receipt of the income has made an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for registration of the trust or institution u/s 12AB:

S.No.	Case	Time limit
i	Where the trust or institution is registered u/s 12AB and the period of the said registration is due to expire	At least 6 months prior to expiry of the said period
ii	Where the trust or institution has been provisionally registered	At least 6 months prior to expiry of period of the provisional registration or within 6 months of commencement of its activities, whichever is earlier
iii	Where registration of the trust or institution has become inoperative due to sec. 11(7)	At least 6 months prior to the commencement of the assessment year from which the said registration is sought to be made operative
iv	Where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration	Within a period of 30 days from the date of the said adoption or modification
v	In any other case	
	- Where activities of the trust or institution have not commenced	At least 1 month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought.
	- Where activities of the trust or institution have commenced and no income or part thereof of the said trust or institution has been excluded from the total income on account of applicability of sec. 10(23C) (iv) or (v) or (vi) or (via), or sec. 11 or sec. 12, for any previous year ending on or before the date of such application	At any time after the commencement of such activities

Taxpoint:

- The Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in filing the application, condone such delay and such application shall be deemed to have been filed within time.
- Any application seeking approval u/s 10(23C)(iv)/(v)/(vi)/(via) filed on or after 01-10-2024 shall not considered. Existing organisation will get the benefit of exemption till the validity of the said approval. After that date, they are eligible for apply for registration u/s 12A

Procedure for Registration [Sec.12AB]

On receipt of an application u/s 12A, the Principal Commissioner or Commissioner shall:

Cases covered in S. No. i to iv of the above table	a. call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about: A. the genuineness of activities of the trust or institution; and B. the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects; b. after satisfying himself about the objects of the trust or institution and the genuineness of its activities and compliance of the requirements:

	A. pass an order, within 6 months from the end of the quarter in which the application was received, in writing registering the trust or institution for a period of 5 years (10 years if certain conditions are satisfied[1]); or B. if he is not so satisfied, pass an order in writing rejecting such application and also cancelling its registration after affording a reasonable opportunity of being heard; and send a copy of such order to the trust or institution.
Cases covered in S. No. v of the above table	Pass an order, within 1 month from the end of the month in which the application was received, in writing provisionally registering the trust or institution for a period of 3 years from the assessment year from which the registration is sought, and send a copy of such order to the trust or institution.

Taxpoint: A refusal-order shall not be passed unless the applicant has been given a reasonable opportunity of being heard.

[1] 10 years are applicable if following conditions are satisfied:

a. The application is made by the trust u/s 12A(1)(ac)(i) to (v)

b. The total income of such trust, without giving effect to the provision of sec. 11 and 12, does not exceed ₹ 5 crore during each of the two previous year preceding the previous year in which such application is made.

Cancellation of Registration

Where registration or provisional registration of a trust or an institution has been granted and subsequently,:

a. the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year; or

- "specified violation" means:

  a. where any income derived from property held under trust, wholly or in part for charitable or religious purposes, has been applied, other than for the objects of the trust or institution; or

  b. the trust or institution has income from profits and gains of business which is not incidental to the attainment of its objectives or separate books of account are not maintained by such trust or institution in respect of the business which is incidental to the attainment of its objectives; or

  c. the trust or institution has applied any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public; or

  d. the trust or institution established for charitable purpose created or established after the commencement of this Act, has applied any part of its income for the benefit of any particular religious community or caste; or

  e. any activity being carried out by the trust or institution—

     i. is not genuine; or

     ii. is not being carried out in accordance with all or any of the conditions subject to which it was registered; or

  f. the trust or institution has not complied with the requirement of any other applicable law and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality.

  g. the application for registration or approval contains false or incorrect information.

b. the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under the second proviso to sec. 143(3) for any previous year; or

c. such case has been selected in accordance with the risk management strategy, formulated by the Board from time to time, for any previous year,

the Principal Commissioner or Commissioner shall—

i. call for such documents or information from the trust or institution, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence or otherwise of any specified violation;

ii. pass an order in writing, cancelling the registration of such trust or institution, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violations have taken place;

iii. pass an order in writing, refusing to cancel the registration of such trust or institution, if he is not satisfied about the occurrence of one or more specified violations;

iv. forward a copy of the order to the Assessing Officer and such trust or institution.

Time limit for passing such order: The order shall be passed before the expiry of a period of 6 months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner calling for any document or information, or for making any inquiry.

Forfeiture of Exemption [Sec.13]

Nothing contained in section 11 [or section 12] shall operate in respect of —

- **Income for private religious purposes:** Any part of the income from the property held under a trust for private religious purposes, which does not ensure for the benefit of the public.
- **Income for the benefit of particular religious community:** in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit of any particular religious community or caste.
- Funds are invested in securities/deposits which is not specified u/s 11(5), then income to the extent of such investment shall be taxable. It is to be noted that holding shares in a public sector company would not disqualify the trust from claiming exemption.
- **Income applied for the benefit of Interested person:** In the case of a trust for charitable or religious purposes, any income thereof:
  - if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust, any part of such income ensures, directly or indirectly for the benefit of interested person[#]
  - if any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied, directly or indirectly for the benefit of any interested person[#].
  - Such part of the income is not exempted.

Note: The above provision shall not apply to a trust or institution created or established before the commencement of this Act, to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any Interested person, if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution

[#] Income applied for the benefit of interested persons

Interested person: Following are the interested persons -

- **Author:** The author of the trust or the founder of the institution.
- **Contributory:** Any person whose total contribution to the trust or institution, during the relevant previous year exceeds ₹ 1 lakh, or, in aggregate up to the end of the relevant previous year exceeds ₹ 10 lakh, as the case may be.
- **Trustee:** Any trustee of the trust or manager (by whatever name called) of the institution.

- **Relatives of Author/Trustee:** Any relative of any such author, founder, member, trustee or manager as aforesaid.

  Note: Where an HUF is the author, founder or any member of such HUF.

- **Other:** Any concern in which any of the above-referred person (except contributor) has a substantial interest.

Income applied for the benefit of interested persons: Income or the property of the trust or any part of such income or property shall be deemed to have been used or applied for the benefit of a person –

(a) If any part of the income or property of the trust or institution is lent to any interested person for any period during the previous year without either adequate security or adequate interest or both;

(b) If any land, building or other property of the trust or institution is made available for the use of any interested person, for any period during the previous year without charging adequate rent or other compensation;

(c) If any amount is paid by way of salary, allowance or otherwise during the previous year to any interested person and the amount so paid is in excess of what may be reasonably paid for such services;

(d) If the services of the trust or institution are made available to any interested person during the previous year without adequate remuneration or other compensation;

(e) If any share, security or other property is purchased by or on behalf of the trust or institution from any interested person during the previous year for consideration which is more than adequate;

(f) If any share, security or other property is sold by or on behalf of the trust or institution to any interested person during the previous year for consideration which is less than adequate;

(g) If any income or property of the trust or institution is diverted during the previous year in favour of any interested person.

Computation of income in case of certain violation [Sec. 13(10) / (11)

Where

i. The trust is carrying on any activity in the nature of trade, commerce or business (for which exemption is not available u/s 11 or 12); or

ii. The trust is not maintaining books of account; or

iii. The trust has not obtained the audit report; or

iv. The trust has not filed its return of income within the time allowed u/s 139(4A)

- its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the trust or institution, subject to fulfilment of the following conditions:

  a. such expenditure is not from the corpus standing to the credit of the trust or institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which income is being computed;

  b. such expenditure is not from any loan or borrowing;

  c. claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other previous year; and

  d. such expenditure is not in the form of any contribution or donation to any person.

Taxpoint:

- The provisions of sec. 40(a)(ia) and sec. 40A(3) / (3A), shall apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".
- For the purposes of computing income chargeable to tax, no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of this Act.

Tax on specified income of certain institutions [Sec. 115BBI]

Where the total income of an assessee, being a person in receipt of income on behalf of any fund or institution or trust or university or other educational institution or any hospital or other medical institution referred to in sec. 10(23C)(iv) / (v) / (vi) / (via) or any trust or institution referred to in sec. 11, includes any income by way of any specified income, the income-tax payable shall be the aggregate of:

Nature of Income	Rate of tax
Specified income	30%
Other income	Regular rate i.e. slab rate

Taxpoint:

- No deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the specified income.
- "Specified income" means:
  a. income accumulated or set apart in excess of 15% of the income where such accumulation is not allowed under any specific provision of this Act; or
  b. deemed income referred to in Explanation 4 to the third proviso to sec. 10(23C) or sec. 11(1B) / (3) [i.e., default relating to accumulation of income]; or
  c. any income, which is not exempt u/s 10(23C) on account of violation of the provisions of clause (b) of the third proviso of clause (23C) of section 10, or not to be excluded from the total income u/s 13(1)(d) [i.e., investment of fund in non-specified modes]; or
  d. any income which is deemed to be income under the twenty-first proviso to sec. 10(23C) or which is not excluded from the total income u/s 13(1)(c) [i.e., misutilisation of funds for the benefit of specified persons]; or
  e. any income which is not excluded from the total income u/s 11(1)(c) [i.e., income applied outside India].

Tax on accreted income [Sec. 115TD] i.e. Exit Plan for the Charitable Trust

- Where in any previous year, a specified person has:
  a. converted into any form which is not eligible for grant of registration u/s 12AA or 12AB, or approval u/s 10(23C)(iv) or (v) or (vi) or (via);
  b. merged with any entity other than an entity which is a trust or institution having objects similar to it and registered u/s 12AA or 12AB or approved u/s 10(23C)(iv) or (v) or (vi) or (via); or
  c. failed to transfer upon dissolution all its assets to any other specified person within a period of 12 months from the end of the month in which the dissolution takes place,

  then, the accreted income of the specified person as on the specified date shall be charged to tax at the maximum marginal rate (MMR) [herein referred to as tax on accreted income]

Taxpoint

- Such tax is in addition to the income-tax chargeable in respect of the total income of such specified person.
- Specified date means the date of conversion or the date of merger or the date of dissolution, as the case may be.
- Specified person means:
  a. any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sec. 10(23C)(iv) or (v) or (vi) or (via); or
  b. a trust or institution registered u/s 12AA or section 12AB;
- The accreted income means the amount by which the aggregate fair market value of the total assets of the specified person, as on the specified date, exceeds the total liability of such specified person, computed in

accordance with the prescribed method of valuation.

- Accreted income = Aggregate fair market value of the total assets - Total liability
- However, so much of the accreted income as is attributable to the following asset and liability, if any, related to such asset, shall be ignored:
  i. any asset which is established to have been directly acquired by the specified person out of its income of the nature referred to in sec. 10(1);
  ii. any asset acquired by the specified person during the period beginning from the date of its creation or establishment and ending on the date from which the registration u/s 12AA or section 12AB or approval u/s 10(23C) became effective, if the specified person has not been allowed any benefit of sec. 11 and 12 or sec. 10(23C(iv) or (v) or (vi) or (via) during the said period
- Where due to specified reasons, the exemption have been allowed to the specified person in respect of any previous year(s) prior to the date from which the registration or approval is effective, then, the registration or approval shall be deemed to have become effective from the first day of the earliest previous year.
- While computing the accreted income in a case of dissolution, assets and liabilities, if any, related to such asset, which has been transferred to any other specified person within the specified period, shall be ignored.

- A specified person shall be deemed to have been converted into any form not eligible for registration u/s 12AA or 12AB or approval u/s 10(23C)(iv) or (v) or (vi) or (via) in a previous year, if:
  i. The registration or approval granted to it has been cancelled; or
  ii. It has adopted or undertaken modification of its objects which do not conform to the conditions of registration and it:
    a. has not applied for fresh registration or approval in the said previous year; or
    b. has applied for fresh registration or approval but the said application has been rejected.
  iii. it fails to make an application in accordance with the provisions of sec. 10(23C) or 12A, within the period specified in respective provision, which expires in the said previous year

Taxpoint

- Date of conversion means:
  a. the date of the order cancelling the registration or approval; or
  b. the date of adoption or modification of any object.
- Notwithstanding that no income-tax is payable by a specified person on its total income computed in accordance with the provisions of this Act, the tax on the accreted income shall be payable by such specified person.
- The principal officer or the trustee of the specified person, as the case may be, and the specified person shall also be liable to pay the tax on accreted income to the credit of the Central Government within 14 days from:

Case	14 days from
When registration or approval is cancelled	a. the period for filing appeal u/s 253 against the order cancelling the registration expires and no appeal has been filed by the specified person; or b. the order in any appeal, confirming the cancellation of the registration, is received by the specified person.
Where it has adopted or undertaken modification of its objects which do not conform to the conditions of registration and	

➢ It has not applied for fresh registration or approval in the said previous year	The end of the relevant previous year
➢ It has applied for fresh registration or approval but the said application has been rejected	a. the period for filing appeal u/s 253 against the order cancelling the registration expires and no appeal has been filed by the specified person; or b. the order in any appeal, confirming the cancellation of the registration, is received by the specified person.
When it merged	Date of merger
When it is dissolved	The date on which the said period of 12 months expires

- The tax on the accreted income by the specified person shall be treated as the final payment of tax in respect of the said income and no further credit therefor shall be claimed by the specified person or by any other person in respect of the amount of tax so paid
- No deduction under any other provision of this Act shall be allowed to the specified person or any other person in respect of accreted income.

Merger of charitable trusts or institutions in certain cases [Sec. 12AC]

Where any trust or institution registered u/s 12AB or approved u/s 10(23C)(iv)/(v)/(vi)/(via), as the case may be, merges with another trust or institution, the provisions of Chapter XII-EB (i.e., sec. 115TD to sec. 115TF) shall not apply if-

(a) the other trust or institution has same or similar objects;

(b) the other trust or institution is registered u/s 12AA or 12AB or approved u/s 10(23C)(iv)/(v)/(vi)/(via), as the case may be; and

(c) the said merger fulfils such conditions as may be prescribed.

Interest payable for non-payment of tax by specified person [Sec. 115TE]

Where the principal officer or the trustee of the specified person and the specified person fails to pay the whole or any part of the tax on the accreted income, within the time allowed, he or it shall be liable to pay simple interest @ 1% for every month (or part thereof) on such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

When specified person is deemed to be assessee in default [Sec. 115TF]

- If any principal officer or the trustee of the specified person and the specified person does not pay tax on accreted income, then, he or it shall be deemed to be an assessee in default and all provisions for the collection and recovery shall apply.
- However, in a case where the tax on accreted income is payable due to dissolution, the person to whom any asset forming part of the computation of accreted income has been transferred, shall be deemed to be an assessee in default in respect of such tax and interest thereon and all provisions for the collection and recovery shall apply.
- The liability of such person shall be limited to the extent to which the asset received by him is capable of meeting the liability.

Mutual Association

1.4

- No one can trade with himself or make income out of himself
- A mutual association arises where persons forming a group associate together with a common object and contribute monies for achieving that object and divide the surplus amongst themselves. The cardinal requirement in the case of mutual association is that all the contributors to the fund must be entitled to participate in the surplus and vice versa.
- The participation in the surplus need not be immediate but it may assume the shape of a reduction in the future contribution or a division of surplus on dissolution. Further, it is not necessary that the surplus should be returned to every member in pro-rata basis.
- It does not make any difference whether the persons joining together form an association or incorporate a company.
- Where there is mutuality, the fact that some members alone take advantage of the mutual enterprise would not affect the character of mutual association.
- A mutual association may carry on non-mutual activity, but exemption is available only to the surplus arising out of mutual activity.
- However, the Act provides for assessment of income (from mutual activity) of mutual concern in the following cases:
  - Where the mutual concern is a mutual insurance society and the income is derived from the carrying on of any business of insurance [Sec. 44 read with sec. 2(24)(vii)]
  - Where the mutual concern is a trade, professional or similar association and the income is derived from specific service performed for its member [Sec. 28(iii) read with sec. 44A]
    - Specific service to its member means some tangible benefits which would not available to them unless they pay the specific fees charged for such special benefits [CIT -vs.- Calcutta Stock Exchange Association Ltd. (SC)] Hence, entrance fees is not for specific service, it is not taxable u/s 28(iii).
  - To some extent, co-operative bank [Deduction u/s 80P]

  However, it is to be noted that income derived from non-mutual activity is taxable.

Trade and professional association [Sec. 44A]

A trade association is an association of tradesmen, businessmen or manufacturers for the protection and advancement of their common interest. It is different from trading association [CIT vs Royal Western India Turf Club Ltd. (SC)]

Where income from a particular source is not chargeable to tax, a loss from such source cannot be set off against income chargeable to tax. Sec. 44A provides an exception to this general rule which is as follow:

- Where the amount received during a previous year by any trade, professional or similar association [other than an association or institution referred in sec. 10(23A)] from its members, whether by way of subscription or otherwise (not being remuneration received for rendering any specific services to such members) falls short of the expenditure incurred by such association during that previous year (not being expenditure deductible in computing the income under any other provision of this Act and not being in the nature of capital expenditure) solely for the purposes of protection or advancement of the common interests of its members, the amount so fallen short (hereinafter referred to as deficiency) shall be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under the head "Profits and gains of business or profession" and if there is no income assessable under that head or the deficiency allowable exceeds such income, the whole or the balance of the deficiency, as the case may be, shall be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under any other head.
  - Sec. 44A is exception of the rule that loss of un-assessable business cannot be adjusted with assessed income.
- In computing the income of the association for the relevant assessment year effect shall first be given to any other provision of this Act under which any allowance or loss in respect of any earlier assessment year is carried forward and set off against the income for the relevant assessment year.
- The amount of deficiency to be allowed as a deduction under this section shall in no case exceed ½ of the total income of the association as computed before making any allowance under this section.
- This section applies only to that trade, professional or similar association the income of which or any part thereof is not distributed to its members except as grants to any association or institution affiliated to it.

Illustration 28.

A is an association governed by the provisions of sec. 44A of the Income-tax Act. The subscription receipts for the year ended 31st March, 2026 were ₹60,000. The expenditure in the normal course of its activities was ₹85,000. Its other income taxable under the Act works out to ₹75,000. On these facts, you are consulted as to:

a. How A's taxable income will be determined for assessment year 2026-27.

b. In case the association did not have the other taxable income, will there be any difference in the computation of its income?

Solution:

Computation of total income

Particulars	Amount (₹)
Other Income	75,000
Less: Deficiency (Note 1)	25,000
Total Income	50,000

Note 1: Calculation of deficiency

Particulars	Amount (₹)
Subscription received	60,000
Less: Expenditure	85,000
Deficiency	25,000

Maximum deficiency can be set off against other income is lower of the following:

a. Actual Deficiency i.e. ₹ 25,000

b. 50% of other income i.e., ₹ 37,500 being 50% of ₹ 75,000

In case, association do not have any other taxable income, then the total income shall be nil and the deficiency of ₹ 25,000 shall not be carried forward.

Income of Professional Institutions [Sec. 10(23A)]

Any income (other than income chargeable under the head "Income from house property" or any income received for rendering any specific services or income by way of interest or dividends derived from its investments) of professional association shall be exempt provided -

a. Such association or institution is established in India having as its object the control, supervision, regulation or encouragement of the profession of law, medicine, accountancy, engineering or architecture or other specified profession;

b. Such association or institution applies its income, or accumulates it for application, solely to the objects for which it is established; and

c. The association or institution is approved by the Central Government.

Clubs

Social clubs are not trade association hence sec. 28(iii) is not applicable on it. It would be governed by general principle of mutuality. Excess over expenditure received by club from the facilities extended to members as part of advantages attached to such membership shall not be chargeable to tax on the principle of mutuality. [CIT -vs.- Bankipur Club Ltd. (SC)] However, it is to be noted that income derived from non-mutual activity is taxable.

Insurance Business

The profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co-operative society, shall be computed in accordance with the rules contained in the First Schedule of the Income Tax Act, 1961 [Sec. 44]

A. Life Insurance Business

- In the case of a person who carries on or at any time in the previous year carried on life insurance business, the profits and gains of such person from that business shall be computed separately from his profits and gains from any other business.
- The profits and gains (after considering the provision of sec. 37) of life insurance business shall be taken to be the annual average of the surplus arrived at by adjusting the surplus or deficit disclosed by the acturial valuation made in accordance with the Insurance Act, 1938.
- Tax on profits and gains of life insurance business [Sec. 115B]

  Where the total income of an assessee includes any profits and gains from life insurance business, the income-tax payable shall be the aggregate of:

i. the amount of income-tax calculated on the amount of profits and gains of the life insurance business included in the total income @ 12.5%; and

ii. the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the amount of profits and gains of the life insurance business.

- The provision of sec. 115JB (i.e., MAT provisions) shall not apply to any income accruing or arising to a company from life insurance business.

B. Other insurance business

The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance Act, 1938, to be furnished to the Controller of Insurance, subject to the following adjustments:

- Any expenditure or allowance disallowed u/s 30 to 43B

  Taxpoint: Any sum payable by the assessee u/s 43B, which is added back, shall be allowed as deduction in computing the income in the previous year in which such sum is actually paid]

- Any gain or loss on realisation of investments shall be added or deducted, as the case may be, if such gain or loss is not credited or debited to the profit and loss account;

- Any provision for diminution in the value of investment debited to the profit and loss account, shall be added back

- Amount carried over to a reserve for unexpired risks shall be allowed as a deduction. As per rule 6E, any business of insurance other than life insurance, the amount carried over to a reserve for unexpired risks (including any amount carried over to any additional reserve) shall not exceed:

Nature of insurance	Ceiling
Fire insurance or engineering insurance and which provides insurance for terrorism risks	100% of the net premium income of such business of the previous year
Fire insurance or miscellaneous insurance other than above	50% of the net premium income of such business of the previous year
Marine insurance	100% of the net premium income of such business of the previous year.

- Net premium income means the amount of premium received as reduced by the amount of reinsurance premium paid during the relevant previous year.
- Marine insurance includes the Export Credit Insurance.

C. Non-resident Person carrying of insurance business

The profits and gains of the branches in India of a person not resident in India and carrying on any business of insurance shall be calculated on the basis of reliable data available in respect of such activity. However, in the absence of reliable data, profit may be deemed to be that proportion of the world income of such person, which corresponds to the proportion, which his premium income derived from India bears to his total premium income.

Assessment of Private Trust

Where beneficiaries share is known

Income includes business income, then taxable @ Maximum Marginal Rate of tax (MMR) [Sec. 161(1A)]

Exception

If following conditions are satisfied then taxable @ applicable to the total income of each beneficiary

a) The trust is declared by will;

b) Such trust is exclusively for the benefit of any relative dependent on him for support and maintenance; and

c) Such trust is the only trust declared by him

Income does not include business income or include business income but fall in exception, then beneficiary's share is separately taxable in the hands of trustee or beneficiary (u/s 166) @ applicable to the total income of each beneficiary [Sec. 161(1)]

Oral Trust

Taxable @ MMR [Sec. 164A]

Oral trust means a trust which is not declared by a duly executed instrument in writing [including any wakf deed] and which is not deemed to be a trust declared by a duly executed instrument in writing

However, following oral trust is not treated as oral trust:

A trust which is not declared by a duly executed instrument in writing [including wakf deed] shall be deemed to be a trust declared by a duly executed instrument in writing if a statement in writing, signed by trustees, setting out the purpose or purposes of the trust, particulars as to the trustees, the beneficiaries and the trust property, is forwarded to the AO:

(i) where the trust has been declared before 1-6-1981, within 3 months from 1-6-81;

(ii) in any other case, within 3 months from the date of such declaration.

i.e., share is unknown then @ MMR & share is known then @ applicable to beneficiaries.

Where beneficiaries share is unknown

Income does not include business income and fall in following cases, then @ AOP (i.e., individual rate)

a) None of the beneficiaries has income exceeding the max. amount not chargeable to tax in the case of an AOP nor is a beneficiary under any other trust; or

b) Income is receivable under a trust declared by any person by will and such trust is the only trust so declared by him; or

c) Income is receivable under a trust created before 1-3-1970 by a non-testame-ntary instrument & the AO is satisfied that the trust was created bona fide exclusively for the benefit of the relatives of settlor, or where settlor is a HUF, exclusively for the benefit of members of family, in circumstances where such relatives or members were mainly dependant on settlor for support and maintenance; or

d) the trustee receives income for provident fund, superannuation fund, etc. created bona fide by a person carrying on a business (or profession) exclusively for the benefit of persons employed in such business.

Assessee falling under these cases (see left) and having business income and satisfying following condition then taxable @ AOP

a) The trust is declared by will;

b) Such trust is exclusively for the benefit of any relative dependent on him for support and maintenance; and

c) Such trust is the only trust declared by him

In any other case having business income or not @MMR [Sec. 164(1)]

Solved Case :

Mamta, widow of Shri Kulkarni, supplies the following details for the P.Y. 2025-26:

a. She has two house properties. 2nd is self occupied and 1st is let-out for ₹10,000 p.m. Municipal tax paid for 2nd house ₹5,000 and that for 1st house ₹3,000. Interest on loan for 1st house is ₹22,000.

b. She is working with A Ltd. on following terms:

Basic Salary	₹5,000 p.m.
Bonus	₹40,000
D.A.	₹2,000 p.m.
HRA	₹3,000 p.m. (she resides in Kolkata)

Car of 1.4 ltr is provided for office as well as personal purpose.

c. She received interest on her fixed deposit ₹5,000. Interest on Saving Bank Account ₹6,000. Interest on deposits in a public Ltd. company ₹5,000.

d. She made a mediclaim policy of her dependent mother aged 62 years and paid a premium of ₹5,000.

e. She donated to Rajiv Gandhi Memorial Fund ₹10,000

f. Her handicapped brother is fully dependent on her.

g. She paid LIC premium ₹8,000 and made repayment of housing loan taken for acquisition of second house ₹43,000 (including ₹22,000 interest).

h. During the previous year, she sold 200 debenture of X Ltd. on behalf of her minor son for ₹1,00,000. She acquired such debenture on 1-4-2005 for ₹50,000 and gifted the same to her minor child on 1-4-2014.

i. She paid tuition fees for her –

- Elder son (Mumbai University) ₹10,000.
- Younger son (Melbourne University, Australia) ₹25,000

On the basis of aforesaid information, you are requested to choose the correct options for the following:

1. What will be value of taxable perquisites?
2. What will be her taxable salary?
3. What will be her taxable income under the head income from house property?
4. What will be taxable capital gain?
5. What will be her taxable income under the head income from other sources?
6. State the amount of deduction under chapter VIA.

Solution:

Computation of total income of Mamta for A.Y.2026-27

Particulars	Details	Amount	Amount
Salaries			
Basic		60,000	
Bonus		50,000	
Allowances			
Dearness Allowance	24,000		
House Rent Allowance (as she resides in her own house)	36,000	60,000	
Perquisite u/s 17(2)			
Car facility [₹1,800 × 12]		21,600	
		1,91,600	
Less: Standard Deduction u/s 16(ia)		50,000	1,41,600
Income from house property			
HP 1: Let out [Sec. 23(1)]			
Gross Annual Value (being rent received)	1,20,000		
Less: Municipal Tax	3,000		
Net Annual Value	1,17,000		
Less: Deduction u/s			
24(a) Standard Deduction	35,100		
24(b) Interest on loan	22,000	59,900	
HP 2: Self occupied [Sec. 23(2)(a)]			
Net Annual Value	Nil		
Less: Deduction u/s 24(b) Interest on loan	22,000	(–) 22,000	37,900
Capital gains			
Long term capital gain of minor son [Clubbed u/s 64(1A)]			
Sale consideration		1,00,000	
Less: Cost of acquisition		50,000	
		50,000	
Less: Exemption u/s 10(32)		1,500	48,500
Income from other sources			
Interest on Fixed Deposit		5,000	
Interest on Saving Bank Account		6,000	
Interest on deposits in a public limited company		5,000	16,000
Gross Total Income			2,44,000

Particulars	Details	Amount	Amount
Less: Deduction u/s			
80C#		39,000	
80D (Mediclaim insurance premium paid)		5,000	
80DD (Assessee has handicapped dependent relative)		75,000	
80G (50% of donation to Rajiv Gandhi Memorial Fund)		5,000	
80TTA (Interest on Saving Bank Account)		6,000	1,30,000
Total Income			1,14,000
Tax on above			Nil

Deduction u/s 80C

Particulars	Amount
Insurance premium	8,000
Tuition fees (Burdwan University)	10,000
Housing loan repayment (Maximum)	21,000
Total	39,000

Exercise

Multiple Choice Questions

1. As per section 115JB, every taxpayer being a company is liable to pay MAT, if the Income tax payable on the total income, computed as per the provisions of the Income-tax Act in respect of any year is less than _____

   a. 15.50%

   b. 18.00%

   c. 15.00%

   d. 20.00%

2. MAT shall not apply to any income accruing or arising to a company from

   a. Life insurance business

   b. Banking business

   c. Business of transmission of electricity

   d. All of the above

3. Book profit for the purposes of section 115JB means net profit as shown in the Statement of the Profit and Loss prepared in accordance with _____of the Companies Act as increased and decreased by certain items prescribed in this regard.

   a. Schedule V

   b. Schedule IV

   c. Schedule III

   d. Schedule II

4. Every company to whom the provisions of MAT apply is required to obtain a report from a chartered accountant in Form No. _____ on or before the due date of filing the return of income

   a. 29

   b. 29A

   c. 29B

   d. 29C

5. While computing book profit u/s 115JB, one of the following is required to be reduced from the net profit

   a. Unabsorbed Depreciation as per books of account

   b. Brought forward business loss as per books of account

   c. Brought forward loss or unabsorbed depreciation, whichever is less as per books of account

   d. Income-tax paid or payable if not already debited to the Statement of Profit and Loss

[Answer: 1-C, 2- A, 3-C, 4-C, 5-C]

Short Essay Type Questions:

1. How to compute book profit u/s 115JB?
2. State the provisions relating to registration of trust.
3. State the provisions relating to carbon credit.

Comprehensive Numerical Problems:

1. From the following particulars of Shri Khote for the year ending 31st March, 2026, find out his taxable income from business for the assessment year 2026-27:

Particulars	Amount (₹)	Particulars	Amount (₹)
To Opening Stock	1,20,000	By Sales	2,14,20,000
To Purchases	2,10,00,000	By Profit on sale of import licence	5,000
To Salaries	25,000	By Gift received	24,000
To Printing Expenses	10,000	By Closing Stock	2,00,000
To Bad Debts	5,000		
To Rent	50,000		
To Interest on loan	2,500		
To Depreciation	15,000		
To Income tax paid	2,000		
To Outstanding Customs Duty	25,000		
To Advertisement	2,000		
To Legal expenses	12,000		
To Contribution towards URPF	5,000		
To General expenses	17,500		
To Traveling expenses	1,00,000		
To Net Profit	2,58,000		
	2,16,49,000		2,16,49,000

In computing the income, the following facts are to be taken into consideration:

1. Interest on loan is paid to brother of Shri Khote for loan taken for payment of advance income tax.
2. During the previous year 2021-22, assessee had claimed ₹ 45,000 as bad debt out of which only ₹35,000 was allowed. During the previous year, he recovers ₹ 25,000.
3. Contribution towards unrecognised provident fund was paid within time.
4. Legal expenses include ₹2,000 paid for preparation of income tax return.
5. Stock is undervalued by 10%.
6. Gift received was given by a supplier for achieving target sale.
7. Outstanding customs duty has been paid on 31-12-2026.
8. During the previous year, he comes to know that his former employee had embezzled cash of ₹5,000 on 31-3-2025, which was not accounted for.
9. Traveling expenses include ₹50,000 being cost of trip to Singapore by an employee for 10 days. However, only 8 days of trip is useful to business and 2 days has been allowed as holiday to employee.

10. Rent includes expenditure on extension of shed on rented building ₹26,000. However, such extension was completed on 1-5-2026 with total cost of ₹50,000.

11. General expenses includes –

- Salary of ₹1,200 paid to domestic servant.
- Compensation of ₹2,000 paid for retrenchment of an employee.

Compute his business income for the A.Y. 2026-27

[Ans: ₹3,38,589]

Case Studies - Unsolved

Question: 1

Barun Co. Ltd. is engaged in the business of manufacture of chemicals since June, 2006. The Statement of Profit and Loss for the year ended 31.03.2026 shows a Net Profit of ₹ 35,60,000 and aggregate turnover which never exceeded ₹ 25 crores. The following additional information is provided:

a) Depreciation debited in the books ₹ 19,40,000 (it includes depreciation on revalued plant and machinery of ₹ 3,00,000). Amount of depreciation deductible under Income-tax Rules ₹ 13,15,000.

b) Interest payable to financial institutions ₹ 5,20,000 debited in the books but ₹ 3,90,000 was actually paid during the previous year and up to the date of filing the return of income under section 139(1).

c) Provision for doubtful debts ₹ 8 lakhs being 5% on debtors debited to Statement of Profit and Loss.

d) Expenditure towards issue of bonus shares ₹ 2 lakhs and alteration of memorandum of association for increasing the authorized capital ₹ 1 lakh. Both have been debited in the books as expenditure.

e) Purchase of agricultural produce being raw material for manufacture by making cash payment on 15.08.2025 ₹ 60,000 and on 26.01.2026 ₹ 40,000. Also, cash payments of ₹ 50,000 made for purchases of the previous year 2024-2025 on 03.05.2025.

f) Contract payments made during the year ₹ 5,10,000 to ABC Ltd., Chennai. Tax was not deducted at source in respect of the payments of ₹ 1,50,000.

g) Provision for taxation ₹ 2 lakhs and proposed dividend ₹ 80,000 debited to Statement of Profit and Loss.

On the basis of aforesaid information, you are required to answer the following questions:

(i) State the amount of addition / disallowance to be made in relation to expenditure incurred towards issue of bonus shares and expenditure incurred towards increase in authorized capital while computing taxable income

(ii) State the amount of addition required to be made as per sec. 40A(3) while computing taxable income

(iii) Calculate the total income of the assessee (without considering the provision of sec. 115JB)

(iv) State the amount of addition / disallowance to be made in relation to expenditure incurred towards issue of bonus shares and expenditure incurred towards increase in authorized capital while computing book profit u/s 115JB

(v) Calculate the book profit for the purpose of sec. 115JB

(vi) Calculate its tax liability

[Hint: (i) ₹ 1,00,000; (ii) ₹ 50,000; (iii) ₹ 55,90,000; (iv) Nil; (v) ₹ 49,40,000; (vi) ₹ 14,53,400]

Question: 2

AC Flour Mills Ltd., a domestic company engaged in manufacture of wheat flour, furnishes the following information pertaining to the year ended 31-3-2026:

(i) Net profit as per the Statement of Profit and Loss is ₹ 77 lakhs after considering the following items listed in (ii) to (viii) below.

(ii) The company is a member of VF & Co., an AOP in which the members' shares are determinate and their shares in profit/loss are clearly known. The entire income of the AOP is from business activities. During the year, the company has derived share income of ₹ 9 lakhs from the AOP. The company has spent a sum of ₹ 90,000 towards earning such income.

(iii) The company has provided for income-tax (including interest u/s 234B and 234C of ₹ 62,000) for ₹ 3 lakhs and ₹ 5 lakhs towards share in loss of foreign subsidiary.

(iv) Amount debited to the Statement of Profit and Loss towards interest to a public financial institution is ₹ 12 lakhs. Of this, ₹ 4 lakhs was paid on 12-12-2025 only.

(v) The company committed breach of building norms while extending the factory building. The City Corporation initiated proceedings against the company and the company settled the issue by paying compounding fee of ₹ 1 lakh. This amount forms part of general expenses, which has been debited to the Statement Profit and Loss.

(vi) In the administrative expenses, the company has debited a sum of ₹ 70,000 towards fee for delayed filing of statement of TDS under section 234E of the Income-tax Act, 1961.

(vii) The company has credited ₹ 10 lakhs to revaluation surplus on fair valuation of assets.

(viii) During the current year, the depreciation charged as per books of account of the company is the same as allowable under the Income-tax Act, 1961 [before considering the provisions of section 32(2)]. The company proposes to adopt this practice consistently in the future years.

The turnover of the company never exceeds ₹ 100 crore.

On the basis of aforesaid information, you are require to answer the following questions:

(i) State the amount of addition required to be made while computing total income on account of fee paid u/s 234E

(ii) Calculate the total income of the assessee without considering provision of sec. 115JB

(iii) State the net impact of income from AOP (and expenditure relating thereto) while computing book profit u/s 115JB

(iv) Calculate the book profit u/s 115JB of the company.

(v) Calculate the tax liability of the company.

[Hint: (i) Nil; (ii) ₹ 85,90,000; (iii) (₹ 8,10,000); (iv) ₹ 76,90,000; (v) None of the above]

Question: 3

S Textiles (P) Ltd., Surat earned a profit of ₹ 20 lakhs after debit/credit of the following items to its statement of profit and loss for the year ended 31.03.2026:

Particulars		₹
Items debited to statement of profit and loss:		
(i)	Provision for the loss of subsidiary	2,00,000
(ii)	Provision for Doubtful Debts	1,50,000
(iii)	Provision for Income-tax	3,00,000
(iv)	Provision for Gratuity (based on actuarial valuation ₹ 5 lakhs)	7,00,000
(v)	Depreciation (including ₹ 1,60,000 on account of revaluation of fixed assets)	5,60,000
(vi)	Interest to financial institution (unpaid till filing of return)	2,50,000
(vii)	Penalty for infraction of law	60,000
Items credited to statement of profit and loss:		
(i)	Royalty in respect of patent (chargeable to tax under section 115BBF)	6,00,000
(ii)	Share income as partner in a firm	1,20,000
(iii)	Agricultural income	75,000
(iv)	Long term capital gains on sale of vacant land	4,00,000

Other information:

(a) Depreciation as per Income-tax Rules is ₹ 2,80,000.

(b) Income tax liability on income computed as per regular provisions for the A.Y. 2026-27 is ₹ 1,22,070 excluding tax on royalty chargeable to tax u/s 115BBF.

You are required to compute

(i) Book Profits under section 115JB of the Income-tax Act, 1961 for Assessment Year 2026-27;

(ii) Tax on Book Profits u/s 115JB of the Income-tax Act, 1961 for Assessment Year 2026-27 (including applicable surcharge and cess); and

(iii) Tax credit eligible for carry forward by the company (including applicable surcharge and cess)

[Hint: (i) ₹ 22,15,000; (ii) ₹ 4,07,940; (iii) ₹ 2,23,470]

Question 4

Father Ltd., an Indian company, earned a profit of ₹ 54 lakhs after debit/ credit of the following items to its Statement of Profit and Loss for the year ended on 31.3.2026:

A. Items debited to Statement of Profit and Loss

Sl. No.	Particulars	₹
1.	Provision for the loss of subsidiary	83,000
2.	Provision for doubtful debts	92,000
3.	Provision for income-tax	1,45,000
4.	Provision for gratuity based on actuarial valuation	4,17,000
5.	Depreciation	3,07,000
6.	Interest to financial institution (unpaid before filing of return)	72,000
7.	Penalty for infraction of law	14,000

B. The following are credited in P/L Account Statement:

Sl. No.	Particulars	₹
1.	Profit from unit established in special economic zone	15,20,000
2.	Share in income of an AOP as a member	1,95,000
3.	Long term capital gains	3,20,000

Other Information:

a. Depreciation includes ₹ 81,000 on account of revaluation of fixed assets.

b. Depreciation as per Income-tax Rules, 1962 is ₹ 4,12,000

c. Balance of Statement of Profit and Loss shown in Balance Sheet at the asset side as at 31.3.2025 was ₹ 32 lakhs which includes unabsorbed depreciation of ₹ 18 Lakhs.

d. The AOP, of which the company is a member, has paid tax at maximum marginal rate.

e. Provision for income-tax includes ₹ 65,000 of interest payable on income-tax.

Based on the above information you are required to answer the following questions.

(i) Calculate the book profit u/s 115JB of the company

(ii) Calculate the tax liability of the company

(iii) Calculate the tax amount u/s 115JB (after rounded off), if Father Ltd. is a unit located in an IFSC and derives its income solely in convertible foreign exchange

[Hint: (i) ₹ 42,06,000; (ii) ₹ 6,56,140; (iii) ₹ 3,93,680]

Question: 5

Profit and Loss account of X Ltd. for the year ending on 31st March 2026 shows a net profit of ₹ 75,00,000 after debiting / crediting the following items:

a) Depreciation ₹ 24,00,000 including ₹ 4,00,000 on revaluation

b) Interest to financial institution not paid before the due date of filing return of income ₹ 6,00,000

c) Provision for doubtful debts ₹ 1,00,000

d) Provision for unascertained liabilities ₹ 2,00,000

e) Transferred to General Reserve ₹ 5,00,000

f) Net agricultural income ₹ 16,00,000

g) Amount withdrawn from reserve created during 2020-21 ₹3,00,000 (book profit was increased by the amount transferred to such reserve in the assessment year 2021-22)

Other information: Brought forward loss and unabsorbed depreciation as per books are ₹12,00,000 and ₹10,00,000 respectively.

Based on the above information you are required to answer the following questions.

(i) Calculate the book profit u/s 115JB of the company

(ii) Calculate the tax liability of the company

[Hint: (i) ₹ 58,00,000; (ii) ₹ 9,04,800]

References:

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