

Computation of Total Income and Tax Liability of various Entities

Lesson 11

KEY CONCEPTS

■ Individual/Hindu Undivided Families 'HUF' ■ Firm ■ Partner ■ Partnership ■ Alternate Minimum Tax 'AMT' ■ Book Profit ■ Association of Person 'AOP' ■ Body of Individual 'BOI' ■ Political Parties ■ Electoral Trusts

Learning Objectives

To understand:

- The Computation of Taxation of Individuals
- Concept of Hindu Undivided Family 'HUF' and how HUF comes into existence?
- When and How HUF can be partitioned?
- What are the Tax implications before and after partition of HUF?
- What is Partnership Firm?
- What are the Tax implications in the hands of Partners and Firm?
- What are Admissible Expenses/ Inadmissible Expenses while calculating the Book Profit of the Firm?
- What is Book Profit?
- What are the provisions of Alternate Minimum Tax 'AMT'?
- What is Association of Persons and how it is formed?
- What is the method of computation of share of a member of AOP?
- What are Co-operative Societies and how the tax liability of Cooperative societies is determined?
- Provisions related to Political Parties
- Provisions related to Electoral Trusts
- Registration of trust u/s 12A/ 12AA / 12AB

Lesson Outline

- Introduction
- Tax Rates
- Special Tax Regime for Individual & HUF
- Special Tax Regime Applicable to a Cooperative Societies
- Taxation of Individuals
- Taxation of Hindu Undivided Families 'HUF'
- Computation of Income of Hindu Undivided Families ('HUF')
- Taxation of Firms
- Alternate Minimum Tax 'AMT' [Section 115JC]
- Taxation of Association of Persons / Body of Individual
- Taxation of Co-Operative Societies
- Tax Exemptions to Political Parties [Section 13A]
- Electoral Trusts
- Registration of trust u/s 12A/ 12AA / 12AB
- Lesson Round-Up
- Test Yourself
- List of Further Readings
- Other References

INTRODUCTION

Income Tax is a charge on the Income of Assessee. Income Tax law lays down the provisions for computing the taxable income on which tax is to be charged. Taxable income of an assessee shall be calculated in the following manner:

1. Determine the residential status of the person as per section 6 of the Income Tax Act, 1961 ('the Act').
2. Calculate the Income as per the provisions of respective Heads of Income. Section 14 classifies the income under five heads.
 - (i) Income from Salaries
 - (ii) Income from House Property
 - (iii) Profits and Gains from Business or Profession
 - (iv) Capital Gains
 - (v) Income from Other Sources.
3. Consider all the Deductions and Allowances given under the respective heads before arriving at the net under each head.
4. Exclude the Incomes exempt under section 10 of the Act.
5. Aggregate of Incomes computed under the 5 heads of income after applying Clubbing provisions and making adjustments of set off and carry forward of losses is known as Gross Total Income.
6. Deduct therefrom the deductions admissible under Sections 80C to 80U. The balance is called Total Income.
7. The total income is rounded off to the nearest multiple of Rupees ten. (Section 288A)
8. Add Agriculture Income (if any) in the total income calculated in (6) above. Then calculate tax on the aggregate as if such aggregate income is the Total Income.
9. Calculate income tax on the net agricultural income as increased by Rs. 2,50,000 / 3,00,000 / 5,00,000 as the case may be, as if such increased net agricultural income were the total income.
10. The amount of income tax determined under (9) above will be deducted from the amount of income tax determined under (8) above.
11. Calculate income tax on capital gains under Section 112, 112A, 111A and on other income at specified rates.
12. The balance of amount of income tax left as per (10) above plus the amount of income tax at (11) above will be the income tax in respect of the total income.
13. Deduct the following from the amount of tax calculated under (12) above.
 - (i) Rebate under section 87A (if applicable).
 - (ii) Tax deducted and collected at source.
 - (iii) Advance tax paid.
 - (iv) Double taxation relief (Section 90 or 91).
14. The balance of amount left after deduction of items given in (13) above, shall be the net tax payable or net tax refundable for the assessee. Net tax payable/refundable shall be rounded off to the nearest multiple of Ten rupees (Section 288B).

15. Along with the amount of net tax payable, the assessee shall have to pay late fee, penalties or fines, if any, imposed on him under the Income-tax Act.

For calculation of income, amount received is classified under 5 heads of income; it is then to be adjusted with reference to the provisions of the Income Tax laws in the following manner.

Computation of Tax Liability	Sections	Amount
1. Income from Salary Less: Deductions u/s 16 <ul style="list-style-type: none"> i. Standard Deduction of Rs. 50,000 or Gross Salary, whichever is lower in Old Tax regime. w.e.f. FY 2024-25, Standard Deduction of Rs. 75,000 or Gross Salary, whichever is lower in Default Tax regime. ii. Entertainment Allowance iii. Professional Tax Paid 	15 to 17	XXX
2. Income from House Property Less: Deduction u/s 24 <ul style="list-style-type: none"> (a) Standard Deduction (b) Interest on Borrowed Capital (Loan) 	22 to 27	XXX
3. Income from Profits and Gains from Business and Profession Turnover / Receipts / Fees / Sales Less: Deductions u/s 30 to 37(1)	28 to 44	XXX
4. Income from Capital Gains Full value of consideration Less: Cost of acquisition/Cost of Improvement/Transfer expenses Less: Exemption u/s 54/54B/54EE etc.	45 to 55A	XXX
5. Income from Other Sources Income u/s 56 Less: Deductions u/s 57	56 to 59	XXX
Add: Clubbing of Income Less: Set Off & Carry Forward Provisions under respective heads		XXX (XXX)
Gross Total Income [GTI]		XXX
Less: Deductions under Chapter VIA	80C to 80U	(XXX)
Total Income (Rounded off to nearest Rs.10 u/s 288A)		XXX
Tax on Total Income		XXX
Add: Surcharge on Total Tax (if applicable)		XXX

Computation of Tax Liability	Sections	Amount
Less: Rebate u/s 87A		(XXX)
Add: 4% Health & Education Cess on [Total tax + Surcharge – Rebate]		XXX
Net Tax Liability		XXX
Less: (i). TDS (ii). Advance Tax (iii). Relief u/s 89		(XXX)
Balance Tax Payable on Self-Assessment [Section 140A]		XXX
Less: Self-Assessment Tax paid		XXX
Balance Tax		NIL

Provision for Computation of Taxable Income		
Tax Rates	<ul style="list-style-type: none"> ● It is given by Finance Act (Passed by Parliament every year along with Union Budget. ● It is not given by Income tax Act. 	
Computation of Taxable Income	<ul style="list-style-type: none"> ● Provision for computation of taxable income is given as per Income Tax Act. 	
Structure of Finance Bill	<ul style="list-style-type: none"> ● Chapter: I Preliminary ● Chapter: II Rates of Income Tax. ● Chapter: III Direct taxes [Income Tax] ● Chapter: IV Indirect Taxes [Custom/Excise/CGST/IGST/UTGST] ● Chapter: V Misc. 	
Schedule-I of Finance Act	Part- I	● Income-tax rates for different assessee
	Part-II	● TDS Rates applicable
	Part-III	● Advance Tax Rates
	Note	● Part-III of First schedule of Finance Act would become the Part-I of the First Schedule of next Finance Act.

TAX RATES FOR FY 2025-26 i.e. AY 2026-27

Calculation of Tax on Income

- Tax Rate depends upon the category of Person
- Amount of Income
- Residential Status of Person
- Age of Individual (Incase of Optional/ Normal Tax Regime)
- Type of Income

Components of Tax are



Tax Rates for Different types of persons depending upon various parameters:

1. For:

- Resident Individual of the age below 60 years
- Non-Resident Individual
- Hindu undivided family
- Association of Persons
- Body of Individuals (other than Co-operative society)
- Artificial Juridical Person

Total Income (Rs.)	Tax Rate	Tax liability (Rs.)
Upto 2,50,000	Nil	Nil
2,50,001 – 5,00,000	5%	5% of (Total Income – 2,50,000)
5,00,001 – 10,00,000	20%	20% of (Total Income – 5,00,000) + 12,500
Above 10,00,000	30%	30% of (Total Income – 10,00,000) + 1,12,500

2. Applicable for:

Resident individual of the age of 60 years or more but less than eighty years at any time during the previous year

Total Income (Rs.)	Tax Rate	Tax liability (Rs.)
Upto 3,00,000	Nil	Nil
3,00,001 – 5,00,000	5%	5% of (Total Income – 3,00,000)
5,00,001 – 10,00,000	20%	20% of (Total Income – 5,00,000) + 10,000
Above 10,00,000	30%	30% of (Total Income – 10,00,000) + 1,10,000

3. Applicable for:

Resident Individual of the age of 80 years or more at any time during the previous year

Total Income (Rs.)	Tax Rate	Tax liability (Rs.)
Upto 5,00,000	Nil	Nil
5,00,001 – 10,00,000	20%	20% of (Total Income – 5,00,000)
Above 10,00,000	30%	30% of (Total Income – 10,00,000) + 1,00,000

CBDT has clarified vide Circular No. 28/2016 27.07.2016, that a person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday.

Therefore a resident individual, whose 60th / 80th birthday falls on 1st April, 2026 would be treated as having attained the age of 60 years/80 years in the P. Yr. 2025-26.

4. For Firm and Local Authorities:

<i>Types of persons</i>	<i>Tax Rates</i>
Firms (including LLP)	30% of total Income
Local Authorities	30% of total Income

Good to Know: Entity or individual other than a company whose adjusted total income exceeds Rs. 20 lakhs during PY are liable to pay Alternate Minimum tax @ 18.5%.

5. For Co-operative Society:

<i>Income Slabs</i>		<i>Tax Rates</i>
i.	Where the taxable income does not exceed Rs. 10,000	10% of the income
ii.	Where the taxable income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,000 + 20% of income in excess of Rs. 10,000
iii.	Where the taxable income exceeds Rs. 20,000	Rs. 3,000 + 30% of the amount by which the taxable income exceeds Rs. 20,000

Note: Option to exercise Concessional Tax Regime under section 115BAD/115BAE.

Surcharge

Surcharge is an additional tax imposed on certain cases. It is imposed over the basic tax rate calculated on the income.

For example: Suppose total taxable income of an individual of 45 years is Rs. 1,30,00,000, then Base tax will be: Rs. 1,12,500 + 30% of (1,20,00,000) = Rs. 37,12,500.

Surcharge @12%* of Rs. 37,12,500 = Rs. 4,45,500. There are different rates of surcharge prescribed in the following manner:

<i>S. No.</i>	<i>Types of persons</i>	<i>Income</i>	<i>Surcharge Rates</i>
i.	Individuals, HUF, AOP, BOI	If Income exceeds Rs. 50 lakhs but does not exceed Rs. 1 crores	10% of income tax
		If income exceeds Rs. 1 crore but does not exceed Rs. 2 crores	15% of income tax
		If income exceeds Rs. 2 crores but does not exceed Rs. 5 crores	25% of income tax
		If total income exceeds Rs. 5 crores	37% of income tax

S. No.	Types of persons	Income	Surcharge Rates
ii	Firm/Local Authority	If income exceeds Rs. 1 crore	12% of income tax
iii	Co-operative Society	If income exceeds one crore rupees but not exceeding ten crore rupees	7%
		If total income exceeds ten crore rupees	12%

In case of income referred in section 115AD then surcharge shall be computed as under:

S. No.	Types of persons	Income	Surcharge Rates
i.	Individuals, HUF, AOP, BOI	If Income exceeds Rs. 50 lakhs but does not exceed Rs. 1 crores	10% of income tax
		If income exceeds Rs. 1 crore but does not exceed Rs. 2 crores	15% of income tax
		If income (excluding interest or dividend income u/s 115AD) exceeds Rs. 2 crores but does not exceed Rs. 5 crores	25% of income tax
		If total income (excluding interest or dividend income u/s 115AD) exceeds Rs. 5 crores	37% of income tax
		Interest or dividend income referred u/s 115AD exceeding Rs. 2 crores	15% of income tax

Marginal Relief in Surcharge: When an assessee's taxable income exceeds applicable slab mentioned above, for example, exceeds Rs. 1 crore, he is liable to pay Surcharge at prescribed rates mentioned above on Income Tax payable by him. However, the amount of Income Tax and surcharge on total income shall not exceed the amount of income that exceeds the respective slabs, for example, Rs. 1 crore.

Example: Suppose Mr. Ram an individual assessee of 42 years is having taxable income of Rs. 1,00,01,000/- assuming Mr. Ram adopted new tax regime

Particulars		Amount (Rs.)
1.	Income Tax	Rs. 26,90,300
2.	Surcharge @15% of Income Tax	Rs. 4,03,545
3.	Income Tax on income of Rs. 1 crore	Rs. 26,90,300
4.	Maximum Surcharge payable (Income over Rs. 1 crore i.e. Rs. 1,000)	Rs. 1,000
5.	(Income Tax + Surcharge) payable	Rs. 26,91,300

Thus, in the above case, though the surcharge @15% is Rs. 4,03,545. However, since the income of Mr. Ram exceeds Rs. 1 crore by just Rs. 1,000, Ram will be eligible for marginal relief and maximum surcharge will be restricted to Rs. 1,000 only.

Cess

- Governments resort to imposition of cess for meeting specific expenditure
- Education Cess and Senior and Higher Education Cess are additional levy on the basic tax liability + surcharge, if applicable.
- Rate of Education Cess is 2%
- Rate of SHEC is 1%.
- Rate of Health Cess is 1%.

SPECIAL TAX REGIME FOR INDIVIDUAL, HUF, AOP, BOI, ARTIFICIAL JURIDICAL PERSON [SECTION 115BAC]

The Finance Act, 2023, has amended tax regime under Section 115BAC for Individuals, HUF, AOP, BOI or an artificial juridical person for payment of taxes at the given rates. This regime of Section 115BAC is the Default Tax Regime from Assessment Year 2024-25. Below rates are applicable from Assessment Year 2026-27:

Total Income (Rs)	Rate
Up to 4,00,000	Nil
From 4,00,001 to 8,00,000	5%
From 8,00,001 to 12,00,000	10%
From 12,00,001 to 16,00,000	15%
From 16,00,001 to 20,00,000	20%
From 20,00,001 to 24,00,000	25%
Above 24,00,000	30%

Surcharge: Surcharge is levied on the amount of income-tax at following rates if total income of an assessee exceeds specified limits:

<i>Rs. 50 Lakhs to Rs. 1 Crore</i>	<i>Rs. 1 Crore to Rs.2 Crores</i>	<i>Exceeding Rs. 2 Crores excluding dividend & income u/s 111A, 112, 112A</i>
10%	15%	25%

Note 1: The enhanced surcharge of 25% or 37% is not levied, on income by way of dividend or from income chargeable to tax under sections 111A, 112, 112A and 115AD(1)(b). Hence, the maximum rate of surcharge on tax payable on such incomes shall be 15%. Also, the surcharge rate for AOP with all members as a company, shall be capped at 15%.

Note 2: Marginal relief is available from surcharge.

Health and Education Cess: Health and Education Cess is levied at the rate of 4% on the amount of income-tax plus surcharge.

Alternate Minimum Tax: The assessee who are paying tax as per section 115BAC have been kept out of the purview of Alternate Minimum Tax (AMT) of section 115JC. Further the provision relating to the computation, carry forward and set off of AMT credit shall not apply to these assessee.

Note: In case Basic Exemption Limit is not fully exhausted with the Normal Income, then the unexhausted exemption limit can be adjusted against LTCG u/s 112/112A and STCG u/s 111A in case of Individual being Resident in India during PY under both Regimes. (Unexhausted Basic Exemption Limit cannot be adjusted against Casual Income.)

Few Incentives Not Available:

1. Total Income of the assessee is calculated under the tax regime of section 115BAC without claiming the following deductions/exemptions (which are otherwise available under regular tax regime):
 - a) Leave Travel concession [Section 10(5)]
 - b) House Rent Allowance [Section 10(13A)]
 - c) Official and personal allowances (other than those as may be prescribed) [Section 10(14)]
 - d) Allowances to MPs/MLAs [Section 10(17)]
 - e) Allowances for income of minor [Section 10(32)]
 - f) Deduction for units established in Special Economic Zones (SEZ) [Section 10AA]
 - g) Exemption of perquisite in respect of free food and non-alcoholic beverage (i.e. Rs.50 per meal) provided through paid voucher [Section 17(2) read with Rule 3 (7)(iii)]
 - h) Entertainment Allowance [Section 16(ii)]
 - i) Professional Tax [Section 16(iii)]
 - j) Interest on housing loan in the case of one or two self-occupied properties [Section 24(b)]
 - k) Additional depreciation in respect of new plant and machinery [Section 32(1) (iia)]
 - l) Deduction for investment in new plant and machinery in notified backward areas [Section 32AD]
 - m) Deduction in respect of tea, coffee or rubber business [Section 33AB]
 - n) Deduction in respect of business consisting of prospecting or extraction or production of petroleum or natural gas in India [Section 33ABA]
 - o) Deduction for donation made to approved scientific research association, university college or other institutes for doing scientific research which may or may not be related to business [Section 35(1) (ii)]
 - p) Deduction for payment made to an Indian company for doing scientific research which may or may not be related to business [Section 35(1) (iia)]
 - q) Deduction for donation made to university, college, or other institution for doing research in social science or statistical research [Section 35(1) (iii)]
 - r) Deduction for donation made for or expenditure on scientific research [Section 35(2AA)]
 - s) Deduction in respect of capital expenditure incurred in respect of certain specified businesses, i.e., cold chain facility, warehousing facility, etc. [Section 35AD]
 - t) Deduction for expenditure on agriculture extension project [Section 35CCC]
 - u) Deduction under section 80C – 80U {Except employer's contribution towards NPS under section

80CCD(2), deduction under section 80JJAA, Deduction u/s 80CCH and deduction under section 80LA(1A)). Finance Act 2024 has increased tax deduction limit for employer contribution from 10% to 14% of basic salary.

2. Total income of the assessee is calculated after claiming depreciation under section 32, other than additional depreciation, and without adjusting brought forward losses and depreciation from any earlier year (if such loss or depreciation pertains to any deduction under the aforesaid sections). Further, loss under the head house property can't be set off against other heads of Income. Moreover, such loss and depreciation will not be carried forward.
3. If the assessee has any unabsorbed depreciation, relating to additional depreciation, which has not been given full effect, the corresponding adjustment shall be made to WDV of the block of assets in the prescribed manner.
4. In case the assessee has business or professional income, and no option is exercised, he will be governed by the alternative tax regime. The assessee can avail benefit of regular tax regime by exercising the option under section 115BAC (6). Such option can be exercised on or before the due date of submission of return of income under section 139(1) and such option once exercised shall apply to subsequent assessment year as well.
5. However, the option once exercised for any previous year can be withdrawn only once for a previous year (other than year in which it was exercised) and thereafter the person shall never be eligible to exercise the option of availing the benefit of regular tax regime (except where such person ceases to have any income from business or profession.)
6. If assessee does not have business or professional income, the option under section 115BAC(6) i.e. to opt for regular tax regime must be exercised along with return of income under section 139(1) for every previous year.

REBATE [SECTION 87A]

1. In case of tax payable as per normal provisions, an assessee, being an individual resident in India, whose total income does not exceed Rs. 5,00,000 shall be entitled to a deduction, from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to 100% of such income-tax or an amount of Rs. 12,500, whichever is less.
2. In case of tax payable as per Default Provisions being an individual resident in India, the rebate under section 87A for the assessee paying tax under default scheme of section 115BAC shall be as follows:

Conditions:

- a. Assessee should be resident individual.
- b. The assessee wants to pay tax under default regime of section 115BAC and;
- c. Whose Total Income does not exceed Rs.12,00,000.

Quantum of Rebate:

If the aforesaid conditions are satisfied, the amount of rebate under section 87A shall be 100% of Income Tax or; Rs.60,000, whichever is less.

Notes: However, the provisions of Rebate u/s 87A are not available against the Incomes on which tax is payable at Special Rates.

Marginal Relief in Rebate for assessee paying tax u/s 115BAC:

If Net income exceeds Rs. 12,00,000, income tax on such income cannot exceed the amount by which the net income exceeds Rs. 12,00,000.

Illustration: Ms. Bhanu, aged 33 years, resident in India, living in Delhi, having total income of Rs. 9,80,000. You are required to compute her tax liability for AY 2026-27 as per default tax regime u/s 115BAC(1A)

Solution:

Computation of Tax Liability of Ms. Bhanu for AY 2026-27

Particulars	Amount
Tax on Total Income of Rs. 9,80,000	38,000
First 4 Lac – NIL	
Next 4 Lac – 20,000 (5% of 4 Lac)	
Next 1.8 Lac – 18,000 (10% of 1.8 Lac)	
Less: Rebate u/s 87A (Tax Payable or 60,000, whichever is lower)	(38,000)
Tax Liability	NIL

Illustration: Suppose in above Illustration total income is 13,00,000 instead of 9,80,000. You are required to compute her tax liability for AY 2026-27 as per default tax regime u/s 115BAC(1A)

Solution:

Computation of Tax Liability of Ms. Bhanu for AY 2026-27

Particulars	Amount
Tax on Total Income of Rs. 13,00,000	75,000
First 4 Lac – NIL	
Next 4 Lac – 20,000 (5% of 4 Lac)	
Next 4 Lac – 40,000 (10% of 4 Lac)	
Next 1 Lac – 15,000 (15% of 1 Lac)	
Less: Rebate u/s 87A (NA, Since Income greater than 12 Lacs considering Relief)	NIL
Tax Liability	75,000
Add: HEC @ 4% of 75,000	3,000
Total Tax Liability	78,000

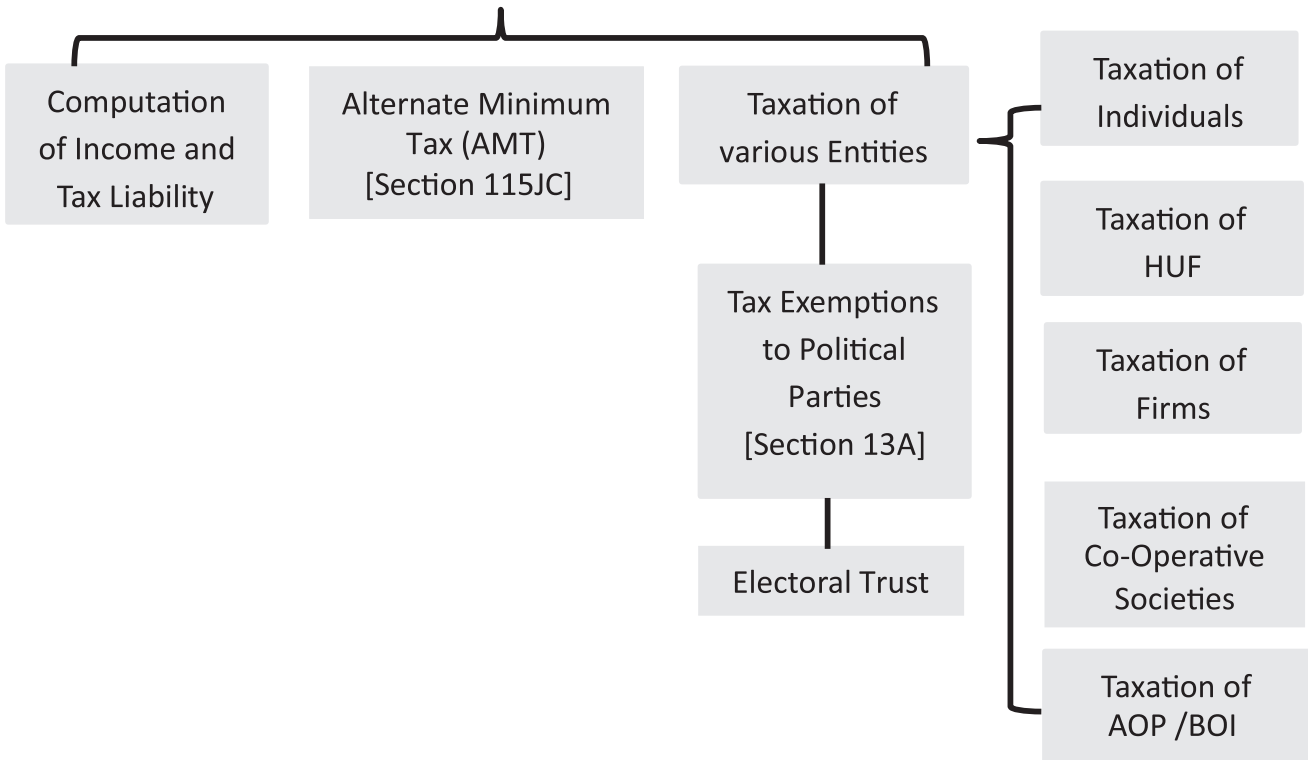
Illustration: Ms. Bhanu, aged 33 years, resident in India, living in Delhi, having total income of Rs. 4,80,000. You are required to compute her tax liability for AY 2026-27, if she opts out of Default Tax Regime.

Solution:

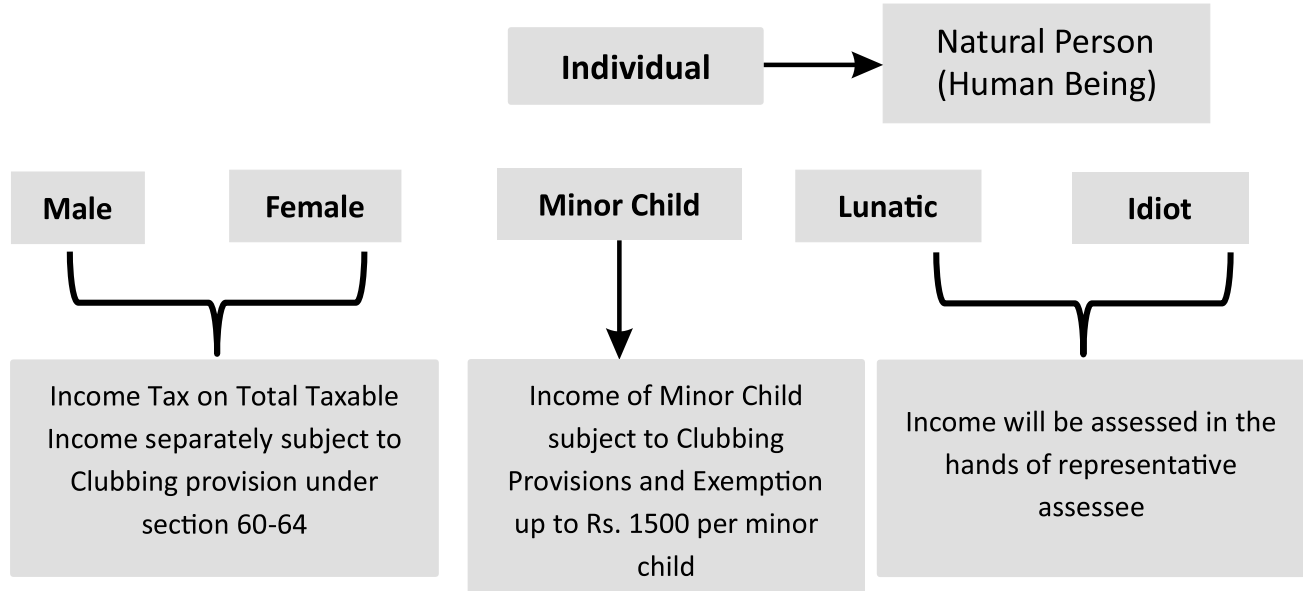
Computation of Tax Liability of Ms. Bhanu for AY 2026-27

Particulars	Amount
Tax on Total Income of Rs. 4,80,000	11,500
First 2.5 Lac – NIL Next 2.3 Lac – 11,500 (5% of 2.3 Lac)	
Less: Rebate u/s 87A (Tax Payable or 12,500, whichever is lower)	(11,500)
Tax Liability	NIL

CHAPTER OVERVIEW



TAXATION OF INDIVIDUALS



Income of Individual and its tax treatment		
Taxable Income of Individual	Income	Taxability/Exemption
	Income earned by Individual	Based on Individual capacity
	Remuneration in terms of Salary, Bonus, Commission etc. received by partner (As Individual)	Taxable as Business Income
	Interest on capital/Loans to Firm/LLP received by partner (As Individual)	Taxable as Business Income
	Income received as Member of AOP or BOI	Share of Income from AOP/BOI is taxable
	Income from impartible estate of HUF	Income is taxable in hands of Karta
Exempted in hands of Individuals	Share of Profit of Firm/LLP	Exempt in the hands of Partner [Section 10(2A)]
	Income of AOP/BOI is chargeable at Maximum Marginal Rate (MMR)	Share of income of member will not be included in taxable income
	Share of Income from HUF	Exempt in the hands of Individual [Section 10(2)]

List of deductions available to Individuals under Chapter VI-A (Except who pay tax under section 115BAC)	
Section	Particulars
80C	Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc.
80CCC	Deduction in respect of contribution to certain pension funds
80CCD	Deduction in respect of contribution to pension scheme of Central Government
80CCE	Limit on deductions under sections 80C, 80CCC and 80CCD
80D	Deduction in respect of health insurance premia
80DD	Deduction in respect of maintenance including medical treatment of a dependent who is a person with disability
80DDB	Deduction in respect of medical treatment, etc.
80E	Deduction in respect of interest on loan taken for higher education
80EE	Deduction in respect of interest on loan taken for residential house property
80EEA	Deduction in respect of interest on loan taken for certain house property
80EEB	Deduction in respect of purchase of electric vehicle
80G	Deduction in respect of donations to certain funds, charitable institutions, etc.
80GG	Deductions in respect of rents paid
80GGA	Deduction in respect of certain donations for scientific research or rural development
80GGC	Deduction in respect of contributions given by any person to political parties
80-I	Deduction in respect of profits and gains from industrial undertakings after a certain date, etc.
80-IB	Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings
80-IBA	Deductions in respect of profits and gains from housing projects
80-IE	Special provisions in respect of certain undertakings in North-Eastern States

80JJA	Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste
80JJAA	Deduction in respect of employment of new employees
80QQB	Deduction in respect of royalty income, etc., of authors of certain books other than text-books
80RRB	Deduction in respect of royalty on patents
80TTA	Deduction in respect of interest on deposits in savings account
80TTB	Deduction in respect of interest on deposits in case of senior citizens
80U	Deduction in case of a person with disability

CASE 1

Mr. PB, has earned gross salary of Rs. 6,55,000 (including HRA of Rs. 45,000). He has paid Rs. 15,000 p.m. as rent for his residential accommodation in Mumbai. Besides that, he earned Rs. 12,000 from saving bank deposit during the year 2025-26 and at the same time he has deposited to Rs. 65,000 to PPF. You are required to compute total income and tax payable by PB if

- He opts to pay tax as per optional scheme.
- He pays tax under Section 115BAC(1A)

Solution: Statement showing computation of Total income and tax liability

<i>Particulars</i>	<i>Opts to pay tax as per optional scheme</i>		<i>He pays tax under section 115BAC</i>	
	<i>Amount (₹)</i>	<i>Amount (₹)</i>	<i>Amount (₹)</i>	<i>Amount (₹)</i>
Salary received	6,55,000		6,55,000	
Less: HRA Exempted u/s 10(13A)	(45,000)		Nil	
	6,10,000		6,55,000	
Less: Standard Deduction u/s 16(ia)	(50,000)		(75,000)	
Income under the head salary		5,60,000		5,80,000
Income from saving bank deposit		12,000		12,000
Gross Total Income		5,72,000		5,92,000

Less:				
Deduction u/s 80C	65,000			
Deduction u/s 80TTA	10,000	(75,000)		Nil
(a) Actual 12000				
(b) Limit 10000				
Whichever is less				
Total Income		4,97,000		5,92,000
Tax on total Income		12,350		9,600
Less: Rebate u/s 87A				
(a) 100% of Tax				
(b) Limit 12500 or Rs. 60,000 (as applicable)		(12,350)		(9,600)
Whichever is less				
Balance		Nil		Nil
Add: HEC @4%		Nil		Nil
Total Tax Payable (R/O)		Nil		Nil

Illustration 1:

Gross total income of Mr. Manu, a tax consultant based at Mumbai, is Rs. 18 Lacs (income from profession Rs. 17 Lacs and interest on bank fixed deposit Rs. 1 Lacs). He pays Rs. 3,00,000 as house rent. He deposits Rs. 50,000 in public provident fund. Compute his taxable income for the assessment year 2026-27.

Option 1: Assessee has opted to pay tax under optional scheme

Option 2: Assessee is paying tax as per Section 115BAC

Solution:

Option 1: Assessee has opted to pay tax under optional scheme

Computation of Taxable Income of Mr. Manu for the A.Y. 2026-27

<i>Particular</i>	<i>Amount (Rs.)</i>	<i>Amount (Rs.)</i>
Professional Income – PGBP		17,00,000
Interest on Bank Deposit – Other sources		1,00,000
Gross Total Income		18,00,000
Less: Deductions under Chapter VI-A		
u/s 80C (PPF)	(50,000)	
u/s 80 GG (Note)	(60,000)	(1,10,000)
Total Income		16,90,000

Note: Deduction u/s 80GG is least of the following:

- Rs. 60,000 (i.e., Rs. 5000 x 12 months)
- Rs. 4,37,500 [25% of total income (Rs. 18,00,000 - 50,000)] (i.e. 25% of Total Income before allowing the deduction u/s 80GG)
- Rs. 1,25,000 [Excess of rent paid over 10% of total income (Rs. 3,00,000- 1,75,000)]

Option 2: Assessee pays tax as per section 115BAC

Computation of Taxable Income of Mr. X for the A.Y. 2026-27

<i>Particular</i>	<i>Amount (Rs.)</i>
Professional Income – PGBP	17,00,000
Interest on Bank Deposit – Other sources	1,00,000
Gross Total Income	18,00,000
Less: Deductions under Chapter VI-A	Nil
Total Income	18,00,000

Note 1: Deduction u/s 80C & 80GG not allowed.

Illustration 2:

From the following profit and loss account of Vinay for the year ended 31st March 2026, compute his total income and tax liability for the assessment year 2026-27:

Particulars	Amount Rs.	Particulars	Amount Rs.
Interest on capital	12,000	Gross profit	5,10,000
Insurance	2,000	Brokerage	30,000
Bad debts	30,000	Bad debts recovered (earlier allowed as deduction)	15,000
Depreciation	34,000	Sundry receipts	18,000
Advance tax	25,000	Interest on debentures (gross) [TDS Rs. 4,000]	40,000
General expenses	12,000		
Advertisement	5,000		
Salary (including salary to Vinay Rs.20,000)	85,000		

Interest on loan	8,000		
Net profit	4,00,000		
Total	6,13,000	Total	6,13,000

Additional information:

- (i) The amount of depreciation allowable as per income-tax rules is Rs. 42,000.
- (ii) General expenses include Rs.5,000 given as Health insurance Premium.
- (iii) Vinay pays Rs. 5,200 as premium on his own life insurance policy of Rs. 50,000 issued in 2016-17.
- (iv) Loan was obtained for payment of income-tax.

Option 1: Assessee has opted to pay tax as per optional scheme

Option 2: Assessee is paying tax as per Section 115BAC(1A)

Solution:

Option 1: Assessee has opted to pay tax as per optional scheme

<i>Particulars</i>	<i>Amount (Rs.)</i>	<i>Amount (Rs.)</i>
(I) Income from business		
Net profit for the year		4,00,000
<i>Add: Expenses not allowed under Income tax Act but debited to P & L A/c</i>		
Interest on capital (Note 2)	12,000	
Depreciation as per books of account	34,000	
Advance tax	25,000	
General Expenses	5,000	
Salary to Vinay	20,000	
Interest on loan (Note 2)	8,000	1,04,000
<i>Less: Income not related to business and profession but Credited to P& L a/c</i>		
Interest on debentures	40,000	
Deductible expenses not debited to P&L Account		
Depreciation as per Income tax Act	42,000	(82,000)
Profits and Gains of Business & Profession		4,22,000

(II) Income from other sources Interest on debenture		40,000
Gross Total Income (I + II)		4,62,000
<i>Less: Deduction U/S 80C – 80U</i>		
(i) Premium on life insurance policy (u/s 80C) (Note 1)		(5,000)
(ii) Health insurance Premium (u/s 80D)		(5,000)
Total Taxable Income		4,52,000

Note

- Under section 80C deduction of life insurance premium cannot exceed 10% of the sum assured.
- Under Section 36(1)(iii) Interest paid on borrowed capital is allowed as a deduction. Interest on own capital is not deductible. Similarly, interest on money borrowed to pay income tax is not allowed as a deduction.

Option 2: Assessee is paying tax as per Section 115BAC

<i>Particulars</i>	<i>Amount (Rs.)</i>	<i>Amount (Rs.)</i>
(I) Income from Business		
Net profit for the year		4,00,000
<i>Add: Expenses not allowed under Income tax act but debited to P & L A/c</i>		
Interest on capital (Note 2)	12,000	
Depreciation as per books of A/c	34,000	
Advance tax	25,000	
General Expenses	5,000	
Salary to Vinay	20,000	
Interest on loan (Note 2)	8,000	1,04,000
<i>Less: Income not related to business and profession but Credited to P& L A/c</i>		
Interest on debentures	40,000	
<i>Deductible expenses not debited to P&L Account</i>		
Depreciation as per Income tax Act (Working Note)	42,000	(82,000)
Profits and Gains of Business & Profession		4,22,000
(II) Income from other sources Interest on debenture		40,000

Gross total income (I + II)		4,62,000
Less: Deduction U/S 80C – 80U		NIL
Total Taxable Income		4,62,000

Note:

1. Deduction u/s 80C and 80D is not allowed under section 115BAC.
2. Under Section 36(1)(iii) Interest paid on borrowed capital is allowed as a deduction. Interest on own capital is not deductible. Similarly, interest on money borrowed to pay income tax is not allowed as a deduction.
3. Depreciation u/s 115BAC is allowed except Additional depreciation as per provisions.

Illustration 3:

For the Assessment Year 2026-27, Mr. Ram, who is 58 years old, resident in India, furnishes the following information:

Basic salary	Rs. 15000 pm
Dearness Allowance (20% forming part for retirement benefits)	40% of basic salary
City Compensatory Allowance	Rs. 300 pm
Children education allowance	Rs. 200 pm per child for 2 children
Transport allowance	Rs. 2000 pm
House Rent Allowance	Rs. 6000 pm
Actual rent paid for a house in Delhi	Rs. 7000 pm
He travels via Delhi metro from his residence to office and back in which he spends	Rs. 1500 pm
Medical allowance	Rs. 1000 pm
Lunch allowance	Rs. 200 pm

He owns a house property in Mumbai whose construction is completed in 2005 and which is let out for Rs. 40,000 pm. The standard rent as per Rent Control Act is Rs. 3,10,000. He pays Rs. 32,000 for municipal taxes and interest on capital borrowed for construction of house Rs. 75,000. Further, he incurs Rs. 10,000 on repairs of the house.

Long-term capital gains Rs. 225,000

Short term capital gains for the year Rs.1,01,000 (STT not applicable).

Dividend received from Indian Company X Ltd. Rs. 12,000.

Interest received @10% on listed debentures of face value 14,00,000

Diwali Gift of gold coins received from a friend. Market value Rs. 60,000

Share of profit from:

Firm	40,000
HUF	34,000
Income from Lotteries (gross)	50,000

Mr. Ram invested in PPF Rs.1,50,000 and also paid a life insurance premium of Rs. 21,000. Donation to National Defence Fund Rs.10,000.

Compute the total income and Tax liability of Mr. Ram for the Assessment year 2026-27.

Option 1 : Assessee has opted to pay tax as per the optional scheme

Option 2 : Assessee is paying tax as per section 115BAC(1A)

Solution:

Option 1: Assessee has opted to pay tax as per the optional scheme

(A) Computation of Total Income

<i>Particulars</i>	<i>Amount Rs.</i>	<i>Amount Rs.</i>
Income from Salary		
Basic salary (15000 *12)		180,000
Dearness Allowance (180,000*0.40)		72,000
CCA (fully taxable) (300*12)		3600
Children Education Allowance	4800	
Less: Exempt	(2400)	2400
Transport allowance	24000	
Less: Exempt (Exemption withdrawn by Finance Act, 2018)	NIL	24000
House Rent Allowance (Note)		7440
Lunch Allowance		2400
Medical Allowance		12000
Less: Deduction under section 16 (ia) Standard Deduction		(50,000)
Taxable Salary		2,53,840
Income from house property		
Gross annual Value (Rent Received 40,000*12)		4,80,000
Less: Municipal Taxes		(32,000)
Net annual Value		4,48,000

Less: Standard Deduction @ 30% of 4,48, 000		(1,34,400)
Less: Interest on capital borrowed		(75,000)
Income from House property		2,38,600
Income from Business/Profession		
Firm (Exempt)		NIL
HUF (Exempt)		NIL
Income under the head Capital Gains		
Long-term capital gains u/s 112		2,25,000
Short term Capital Gain u/s 111A		1,01,000
Income from other sources		
Dividend received from Indian Company X Ltd.	12,000	
Interest received on listed debentures	1,40,000	
Winning from Lotteries	50,000	
Gift in kind	60,000	2,62,000
Gross Total Income		10,80,440
Less: Deduction under section 80C to 80U		
(i) Under section 80C (maximum)		(150,000)
(ii) Under section 80G		(10,000)
Total Income		9,20,440

(B) Computation of Tax on Total Income

Tax on winning from lotteries (30% of Rs. 50,000)	15,000
Tax on long-term capital gains (20% of Rs. 2,25,000) assuming indexation benefit is availed by the assessee, the rate of tax will be 20% otherwise 12.5% without indexation.	45,000
Balance of Total Income Rs. 6,45,440	41,588
Total tax	1,01,588
Add: Health and Education cess at 4%	4,064
Total liability	1,05,652
Total liability (round off)	1,05,650

Notes:

1. House Rent Allowance: Least of three is exempt
 - i. 50% of the salary* because the house is in Delhi = $0.50 * 194400 = \text{Rs. } 97,200$

ii. HRA received = Rs. 72,000

iii. Rent paid – 10% of the salary = $(7000 * 12) - 0.10 * 194400 = 84000 - 19440 =$ Rs. 64,560

Exempted HRA = Rs. 64,560

Taxable HRA = $72,000 - 25,680 =$ Rs. 7,440

*Salary here = Basic salary + Dearness allowance (forming part only) = $180,000 + 180000 * 0.40 * 0.20 =$ Rs. 1,94,400

2. The tax liability is subject to set-off of TDS for winning from lotteries and interest from listed debentures.

Option 2: Assessee is paying tax as per section 115BAC

(A) Computation of Total Income

<i>Income from salary</i>	<i>Rs.</i>	<i>Rs.</i>
Basic salary (15000 *12)		180,000
Dearness Allowance (180,000*0.40)		72,000
CCA (fully taxable) (300*12)		3600
Children Education Allowance	4800	
Less: Exempt	NA	4800
Transport allowance	24000	
Less: Exempt	NA	24000
House Rent Allowance (Note)		72,000
Lunch Allowance		2400
Medical Allowance		12000
Less: Deduction under section 16		(75000)
Taxable Salary		2,95,800
<i>Income from house property</i>		
Gross annual Value (Rent Received 40,000*12)		4,80,000
Less: Municipal Taxes		(32,000)
Net annual Value		4,48,000
Less: Standard Deduction @ 30% of 4,48,000		(1,34,400)
Less: Interest on capital borrowed		(75,000)

Income from House property		2,38,600
Income from Business/Profession		
Firm (Exempt)	NIL	
HUF (Exempt)	NIL	NIL
Income under the head Capital Gains		
Long-term capital gains u/s 112		2,25,000
Short term Capital Gain u/s 111A		1,01,000
Income from other sources		
Dividend received from Indian Company X Ltd.	12,000	
Interest received on listed debentures	1,40,000	
Winning from Lotteries	50,000	
Gift in kind	60,000	262,000
Gross Total Income		11,22,400
Less: Deduction under section 80C to 80U		NA
Total Income		11,22,400

(B) Computation of Tax on Total Income

Tax on winning from lotteries (30% of Rs. 50,000)	15,000
Tax on long-term capital gains (20% of Rs. 2,25,000)	45,000
Balance of Total Income Rs. 8,47,400	24,740
Total tax	84,740
Less: Rebate u/s 87A	(24,740)
Total Tax after rebate	60,000
Add: Health and Education cess at 4%	2,400
Total liability	62,400

Notes:

1. Exemption from House Rent Allowance / Children Education allowance, Deduction under section 80C & 80G is not allowed
2. The tax liability is subject to set-off of TDS for winning from lotteries and interest from listed debentures.

Illustration 4:

Mr. X aged 62 years; resident individual furnishes the following particulars relevant for the assessment year 2026-27:

Profit and Loss Account			
Particulars	Amount (Rs.)	Particulars	Amount (Rs.)
Salaries	30000	Gross profit	436000
General Expenses	45000	Commission	120000
Bad Debts	15000	Sundry Receipts	40000
Reserve for losses	3000	Short term capital gain	30000
Insurance	5200	Discount	2000
Advertisement	10000	Profit on sale of import license	100000
<i>Add: outstanding 2000</i>	12000		
Interest on capital	4500		
Interest on bank loan	12500		
Expenditure on acquisition of patent and put to use on 30.06.21	16000		
Depreciation on Plant	24000		
Depreciation on building	10000		
Depreciation on Furniture	4000		
Provision for outstanding GST liability	12000		
Taxation reserve	12000		
Loss by fire of a part of building (Uninsured)	8000		
Net profit	514800		
Total	728000	Total	728000

Other information

1. Bank loan is used for business purposes.
2. The amount of depreciation as per tax rates, in respect of plant, building, furniture, amounts to Rs. 20000, 12000, 7400 respectively.

3. Salary includes payment to a relative which is unreasonable to the extent of Rs. 5000.
4. Out of GST liability Rs. 2000 is paid on 04.07.26 and Rs. 6000 is paid on 03.10.26. The balance is still outstanding. Due date of filling the return of income is 31.7.26.
5. Income of X from other sources is Rs. 24000.
6. X paid medical insurance premium Rs. 16000 for himself and Rs. 16000 for his mother (dependent)
7. X repaid housing loan to the extent of Rs. 45000.

Determine the taxable income and tax liability of Mr. X for the assessment year 2026-27 assuming STT is not applicable on STCG.

Assume Assessee has not opted for section 115BAC.

Solution:

Computation of total income of Mr. X for the AY 2026-27

<i>Particulars</i>	<i>Rs.</i>
Profit and gain from business profession (Note)	5,37,900
Income under the head capital gain [STCG]	30,000
Income from other sources	24,000
Gross Total Income	5,91,900
Less: Deduction	
80C – Repayment of Housing Loan	(45,000)
80D – Medical Insurance Premium	(32,000)
Total Income	5,14,900

Computation of Tax on Total Income

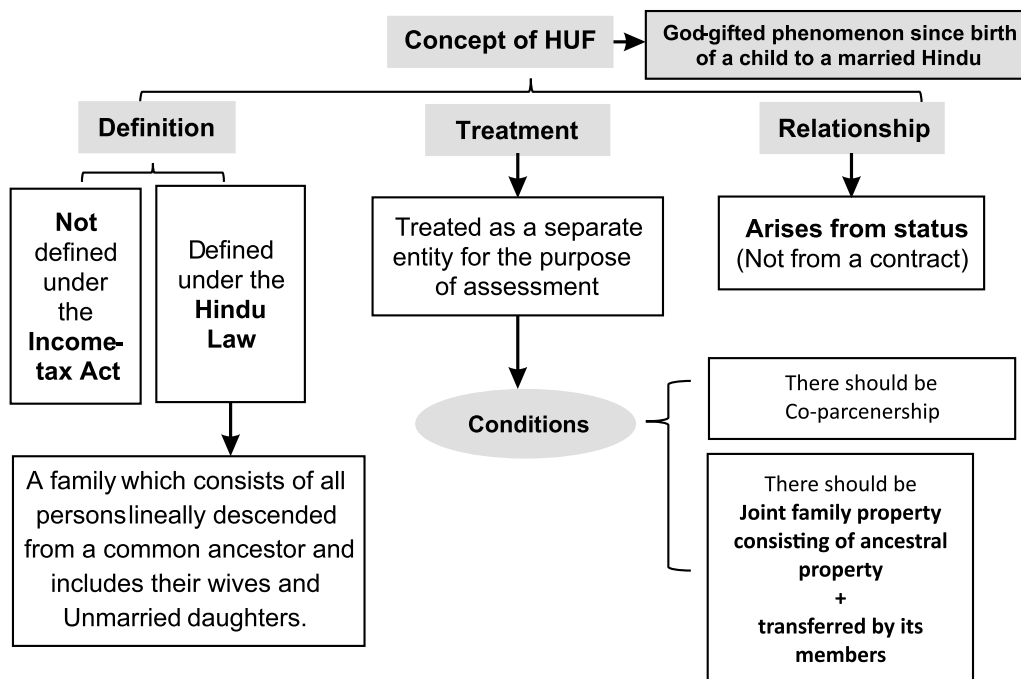
Tax on Rs. 300000	Nil
Tax on Rs. 200000 @ 5%	10,000
Balance of Total Income 14900 @ 20%	2,980
Total tax	12,980
Add: Health and Education cess at 4%	519.2
Total liability	13,499.2
Total liability (round off)	13,500

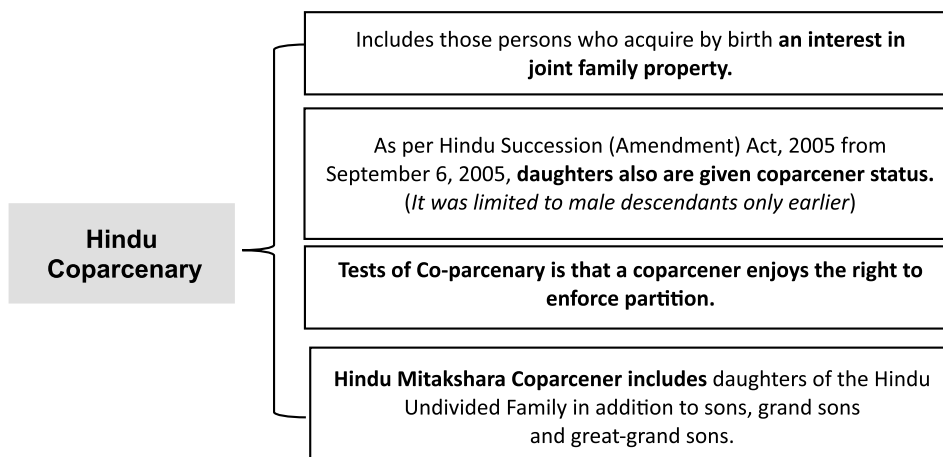
Working Note:

Calculation of Business Income

<i>Particulars</i>	<i>Rs.</i>
Profit as per P&L A/C	5,14,800
<i>Add:</i> Inadmissible Expenses	
Reserve for losses	3,000
Interest on capital	4,500
Patent right [16000- 25% of 16000]	12,000
Excess salary paid to relative	5,000
Outstanding GST liability [12000-2000]	10,000
Taxation reserve	12,000
Loss by fire of part of building	8,000
<i>Less:</i> Admissible Expenses Depreciation [39400-38000]	(1,400)
<i>Less:</i> Income taxable under head capital gain (STCG)	(30,000)
Business Income	5,37,900

TAXATION OF HINDU UNDIVIDED FAMILIES (HUF)





The term 'Hindu undivided family' has not been defined in the Income-tax Act but it is treated as a separate entity or person under section 2(31) of the Income-tax Act, 1961 for the purpose of assessment under the Act. Under Hindu Law, an HUF is a family which consists of all persons lineally descended from a common ancestor and includes their wives and unmarried daughters. Jain and Sikh families even though are not governed by the Hindu Law, but they are treated as HUF under the Act. An HUF cannot be created under a contract and is created automatically in a Hindu Family. Creation of a HUF is a God-gifted phenomenon since birth of a child to a married Hindu, automatically creates a new HUF. It is not at all necessary that every HUF must have joint property or family income. [*R. Subramania Iyer v. CIT (1955) 28, ITR, 352*]. However, to become an assessee under the Income-tax Act, there must be 'income-yielding' joint property of the family.

A HUF may consist of a number of smaller HUFs. A smaller HUF has a legal existence and may be assessable as a unit distinct from the apex joint family even when the bigger HUF is in place [*CIT v. Khanna (1963) 49 ITR 232*].

The Supreme Court's decision in the case of *Surjit Lal Chhabra v. CIT (1975 101 ITR 776)* has come to stay as one of the leading case laws. The ratio laid down by the Supreme Court had been applied by the Andhra Pradesh, Orissa and Madras High Courts, followed by Bombay, Patna, Madhya Pradesh and Delhi High Courts and relied upon by the Punjab High Court. In the latest case, the Delhi High Court held in *Commissioner of Income-tax v. S.P. Chopra (1991, 191 ITR 455)* that the income from the half share of the property had to be treated as the individual income of the assessee under the personal law and not as income of the family. The character of the property had to be determined in accordance with the personal law of the assessee and not on the basis of how the property had been treated by the revenue in respect of earlier assessments.

A son conceived or in his mother's womb is equal in many respects to a son actually in existence, viz., inheritance, partition, survivorship etc. But this doctrine does not apply to the Income-tax Act. Hence, a son conceived is not treated a member of the H.U.F. for Income-tax purposes. [*S. Srinivasan v. C.I.T., (1966) 60, ITR, p.36 (S.C.)*].

Jain and Sikh undivided families are also treated as Hindu undivided families unless, under special circumstances, the assessee claims not to be treated as such. If such claim is made, the assessee shall have to prove that there is some such custom in his family on account of which it cannot be treated as a Hindu undivided family.

A Hindu does not cease to be a Hindu merely because he declared for the purpose of the Special Marriage Act, 1872, that he does not profess Hindu Religion. Such a Hindu does form an H.U.F. with his children from such marriage. [*CIT v. Partap Chand (1959), 36 ITR, 262*]. Similarly, a Muslim family governed by the Marumakkathayam law constitutes 'Tarwad' or 'Thavazhi' and falls within the definition of a H.U.F. [*V.K.P. Abdul Kadar Haji v. Ag. ITO (1967) 66, ITR, 173*].

If a Hindu gets converted as a Christian, the family of such a person will not be a HUF. However, a Hindu, along with his son (by a Christian wife) who has been brought up as a Hindu will be a HUF. [*CWT v. R. Sridharan (1976) 104, ITR, 436 (S.C.)*].

A Hindu Joint Family consists of two types of members:

1. **Coparceners:** The lineal male descendants of a person up to the third generation of such person are known as coparceners. The coparceners acquire, on birth, ownership in the ancestral properties of such ascendant and have a right to claim partition of such property at any time. However, w.e.f. 9.9.2005 due to amendment of Hindu Succession Act, the daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as the son. Hence, the daughter can also ask for partition.
2. **Other members:** Such members include wives of male members of the family and other male members. Widow or widows of deceased male member or members. [*Gowli Buddanna v. C.I.T. (1966) 60, ITR, p. 293 (S.C.)*]

However, an unmarried coparcener who receives share on the partition of joint family properties, cannot form a Hindu undivided family unless he marries. After his marriage, he can hold the property received from family as joint family property consisting of himself and his wife. [*C. Krishna Prasad v. C.I.T. (1974) 97, p. 493 (S.C.)*].

The joint property of the HUF is managed through Karta: Property of the family is ordinarily managed by the father or other senior member for the time being of the family. He is called Karta. However, the senior member may give up his right of management and a junior member may be appointed as Karta with the consent of all other members. [*Narendra Kumar J. Modi v. CIT (1976) 105, ITR, 109 (S.C.)*]. In the absence of a male member in the family or when all male members are minors, a woman member can be treated as manager of the family for income- tax purposes. [*Smt. Champa Kumari Singhi v. Addl. Member of the Board of Revenue (1962) 46, ITR, p. 81*].

Views of different schools of Hindu law under taxation of HUF	
School of Hindu Law	<ul style="list-style-type: none"> ● Dayabhaga School of law ● Mitakshara School of law
<p>Dayabhaga School of law (Summarized Provision)</p> <p style="text-align: center;">↓</p> <p>No coparcener till the death of father</p>	<ul style="list-style-type: none"> ● It prevails in West Bengal and Assam. ● Son does not acquire any interest by birth in an ancestral property but acquires such interest only after the death of his father. (i.e. No enjoyment of right to demand partition during the lifetime of his father) ● On the other hand, the father enjoys an absolute right to dispose of the property of the family according to his desire. ● Father is assessed as an individual (Not as HUF)
Mitakshara School of law	<ul style="list-style-type: none"> ● Applicable to the whole of India except West Bengal and Assam ● Both son and daughter acquire by birth an equal right in the ancestral property along with their father. ● The Co-parcenary is a fluctuating body which is enlarged at the time of each birth and reduced at the time of each death of a Co-parcenary child.

Note:	<ul style="list-style-type: none"> ● As per Hindu Succession Act, 2005 (Amendment), Daughter and Her Children (In case of pre-deceased daughter) are eligible for share in the family assets on partition. ● Ancestral property refers to property which a man inherits from any of his 3 immediate male ancestors (i.e. His father, grandfather and great grandfather) ● Jain and Sikh families will not be governed as per Hindu Law but treated as HUF for the purpose of Income Tax Act.
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Position under Hindu Succession Act, 1956

This Act came into force on and from 17th June, 1956. It lays down a uniform and comprehensive system of inheritance and applies to persons governed by the Mitakshara as well as the Dayabhaga Schools, superseding and abrogating all previous law or customs or usage having the force of law.

Under this Act, the heirs of a male Hindu dying intestate on or after 17th June, 1956 are divided into three classes. Class I heirs get the right to the deceased's property simultaneously to the exclusion of all other Classes of heirs. Class II relations succeed only if there is no class I relation and, the heirs in the first entry of class II being preferred to heirs in the second entry, and so on, but heirs in any one entry taking in equal shares amongst themselves.

The students should note that Section 4 of the Hindu Succession Act, 1956 clearly lays down that "save as otherwise expressly provided in the Act, any text, rule or interpretation of Hindu Law or any custom or usage as part of that law in force immediately before the commencement of the Act shall cease to have effect with respect to any matter for which provision is made in the Act." And, Section 8 of the Hindu Succession Act, 1956, lays down the scheme of succession to the property of a Hindu dying intestate. The schedule classifies the heirs on which such property shall devolve.

The preferential heirs of class I are as under:

(1) Son (2) Daughter (3) Widow (4) Mother (5) Son/daughter/widow of a predeceased son (6) son/daughter of a predeceased daughter (7) Son/daughter/ widow of a predeceased son of a predeceased son.

A son's son is not mentioned as an heir under Class I of the schedule and, therefore, he cannot get any right in the property of his grandfather under the provision. The right of a son's son in his grandfather's property during the lifetime of his father which existed under the Hindu Law as in force before the Act, is not saved expressly by the Act and, therefore the earlier interpretation of Hindu Law giving a right by birth in such property 'ceased to have effect'.

Therefore, the property which devolves on a Hindu on the death of his father intestate after coming into force of the Hindu Succession Act, 1956, does not constitute H.U.F. property consisting of his own branch including his sons. [*Shri Vallabhdas Modani v. C.I.T. (1982) 138, ITR, p. 673*].

The Allahabad High Court's decision supra in the case of *Shri Vallabhdas Modani v. Commissioner of Income-tax* was followed by the Andhra Pradesh High Court (1983, 144 ITR 18) and later approved by the Supreme Court in the case of *Commissioner of Wealth-Tax v. Chander Sen* (1986, 161 ITR 370) holding that it is not possible to say that when a son inherits the property in the situation contemplated by the Hindu Succession Act, 1956, he takes as Karta of his own undivided family.

COMPUTATION OF INCOME OF HINDU UNDIVIDED FAMILY 'HUF'

Income of the HUF is assessed as joint family income of HUF if there exists a co-parcenership and joint property of the family till partition is claimed by any of its coparceners.

Joint Property of the family consists of:

- (i) ancestral property which a man inherits from any of his three immediate male ancestors, namely, father, grandfather, great grandfather;
- (ii) accretion thereto;
- (iii) acquisition with joint funds; and
- (iv) self-acquired property of any member thrown by him into the common stock to be treated as family property. In the case of *Pushpa Devi v. C.I.T.* the Supreme Court has held that a Hindu female, not being a coparcener, cannot blend her separate property with Joint family property. However, she can make a gift of her property or sell the property to the family. [(1977) 109, ITR p. 730].

The gross total income of the family for the relevant previous year shall be computed under the relevant heads (as per the provisions of the Income-tax Act) as it is computed for other assessee's. Incomes exempt under section 10 to 13A are exempt and deductions allowable under chapter VIA are to be provided. However, in this connection the following points are worth noting:

- (i) The holder, who is the senior most male member of the family, of an impartible estate is liable to tax on income from that estate in his individual capacity though the estate belongs to HUF.
- (ii) Conversion of self-acquired property into joint family property- Section 64(2) provides that where an individual being a member of Hindu undivided family transfers his separate property after 31st December, 1969 to the family for the common benefit of the family, otherwise than for adequate consideration, such property is known as converted property. The income derived from the converted property or any part thereof shall be included in the total income of the transferor individual and not in the income of the family.
- (iii) If the funds of a Hindu Undivided family are invested in a company or a firm, fees or remuneration received by the member as a director, or a partner in the company or firm may be treated as income of the family in case the fees or remuneration is earned essentially as a result of investment of funds. But, if the fees or remuneration is earned essentially for services rendered by the member in his personal capacity, the income shall constitute the personal income of the member.
- (iv) Where a member of a HUF is a partner in a firm on behalf of the family and on partition of the property of the family, the share in the firm is allotted to such a member, subsequent to such allotment when the firm settles its accounts the whole income for that year would be the income of the individual member and no part of the income would be added to the income of the family. [*CIT v. Ashok Bhai Chiman Bhai (1965) 56, ITR, 42 (SC)*].
- (v) The personal earning, including income from self-acquired property of a member of the HUF, even though he has sons, would not be included in the income of the family. Such income shall be assessed as income of that individual. [*Kalyanji Vithal Das v. CIT (1937) 5 ITR 90 (PC)*].
- (vi) Any sum paid by an HUF to a member of the family out of its income is not deductible in computing the income of the family. However, such amount will not be included in the income of such individual whether the family had paid tax on its income or not [Section 10(2)].
- (vii) If any remuneration is paid by the Hindu Undivided family to the Karta or any other member for services rendered by him in conducting family's business, the remuneration is deductible if remuneration is (a)

- paid under a valid and bona fide agreement; (b) in the interest of, and expedient for, the business of family; and (c) genuine and not excessive. *Jugal Kishore Baldeo Sahai v. CIT [1967] 63 ITR 238 (SC)*.
- (viii) If salary is paid by the Hindu undivided family to its Karta for looking after its interest in firms in which it is partner through said Karta, such salary is allowable as deduction - *CIT v. Prakash Chand Agarwal [1982] 11 Taxman 55 (MP)*.
- (ix) Income from 'stridhan' is not includible in the income of the family. Property derived by a woman from her father or brother or husband or any other relative either before or after her marriage is known as 'stridhan'.
- (x) Under the Dayabhaga School of law, as stated in a preceding page, no son has any right in the ancestral property during the lifetime of his father. If, therefore, the father does not have any brother as a coparcener, income arising from ancestral property is taxable as his individual income.

Partition of a Hindu Undivided Family [Section 171]

'Partition' signifies division of property. In the cases of property capable of physical division, share of each member is determined by making physical division thereof. It must be noted that a division of income without physical division of property does not amount to partition. Where, however, the property is not capable of physical division, partition implies such division as the property may admit.

Who is entitled to share on partition

Though only coparceners can demand partition, once the partition takes effect, the following persons are entitled to a share:

- (a) all coparceners;
- (b) a son in the womb of his mother at the time of partition;
- (c) mother, who gets an equal share if the partition takes place among her sons after the death of her husband; and
- (d) wife, who gets a share equal to that of a son at the time of a partition between father and sons.

Assessment after partition (Section 171)

Section 171 applies to an HUF which is assessed as such. Therefore, if in case a family is not assessed as a Hindu Undivided Family this section does not apply. A joint family, once assessed as a HUF, continues to be assessed as such till one or more coparceners claim partition. Such claim must be made by the coparceners before the assessment of the income of the HUF for the relevant assessment year is completed. On the receipt of such a claim, the Assessing Officer must make an inquiry after giving due notice to the members and record a finding whether there has been a partition and, if so, the date of the partition. The income of the family from the first day of the previous year to the date of partition is assessed as income of the HUF and from the next date of the partition to the date of close of the previous year, as the individual income of the recipient-members. If the recipient member forms another HUF along with his wife and son(s), the income of the property which was subject to partition is chargeable to tax in the hands of the new H.U.F.

A partition of the HUF can be both total and partial

Where the entire joint family property is divided among all coparceners and the family ceases to exist as an undivided family, the partition is total. A partial partition may be as regards: (a) the persons constituting the joint family, or (b) the properties belonging to the joint family, or (c) both. In case of partial partition, some coparceners continue as a joint family or some properties continue as a joint estate as against some coparceners or properties which separate from HUF. The device of partial partition has been used as a medium for reduction

of proper tax liability. To curb such a practice, the Finance (No. 2) Act, 1980 inserted Sub-section 9 in Section 171 which lays down that partial partitions of HUFs assessed as such (*Union of India vs. MV Valliappan 1999 AIR SCW 2689*), effected after 31st December, 1978 will not be recognised for tax purposes.

The provisions made by Sub-section (9) in Section 171 are as follows:

- (i) In a case where a partial partition of a HUF has taken place after 31.12.1978, no claim of such partition will be enquired into and the Assessing Officer will not record a finding as to whether there has been a partition of the family property. Further, any finding regarding partial partition recorded under Section 171(3) will be null and void and of no legal effect.
- (ii) Such family will continue to be assessed as if no such partial partition has taken place, i.e., the property or source of income will be deemed to continue to belong to the Hindu undivided family and no member will be deemed to have separated from the family.
- (iii) Each member or group of members of such family will be jointly and severally liable for any tax, interest, penalty, fine or other sum payable under the Act by the family, whether before or after such partition. The several liability of any member or group of members of such family will be computed according to the portion of the joint family property allotted to him on such partial partition. This amendment has come into force with effect from April 1, 1980 and has, accordingly, been applicable with effect from assessment year 1980-81 and onwards.

Illustration 5:

Ram Manhar & Sons HUF, running Raghuveer Departmental Stores consists of Karta, his wife, two sons and daughter. Both the sons who are having professional/technical qualifications as a Chartered Accountant and as an Automobile Engineer started in partnership, a garage for the repairing of motor cars, with a clear understanding that the technical side of the business be looked after by the Engineer while the general administration and finance part be taken care by the Chartered Accountant. They had taken an interest-free loan of Rs. 5,00,000 from the HUF for starting the venture. The business of garage resulted in a net profit of Rs. 15,00,000 for the year ended 31.03.2025. The Assessing Officer proposes to assess the income from the business of motor garage in the hands of HUF. Examine the validity of the proposition of the Assessing Officer in the light of a decided case law.

Solution:

The facts of the case are similar to that of the case of *CIT v. Charan Dass Khanna & Sons (1980) 123 ITR 194*, where the Delhi High Court observed that if the investment made by the HUF in the business started by the coparceners plays a minor role and it is primarily the personal efforts, specialized skill and enterprise of the individual coparceners which resulted in setting up of a new business and earning of goods profits, then it may not essentially be said that the income belongs to the HUF.

The Supreme Court has also supported this view in the case of *K.S. Subbiah Pillai v. CIT (1999) 237 ITR 11* and held that where the remuneration and commission earned by the Karta were on account of the personal qualifications and exertions and not on account of the investment of the family funds, such income cannot be treated as income of the HUF.

Thus, in the given case, profits were earned primarily because of the specialized skills acquired by both the partners in their respective fields and used in the business of motor garage. The initial capital taken from the HUF as interest free loan, of course, has its role but it is nevertheless a minor one. Therefore, the income from the business set up by the brothers is assessable in their individual hands and not as the income of the family.

Further, the proposition of the Assessing Officer to tax the profits of the business of motor garage earned by the two sons in the hands of the HUF is not valid.

Illustration 6:

An HUF (RRR & Sons) consisting of Ram (59 years) and his two brothers, Ramesh (57 years) and Rahul (50 years) are engaged in family business of cultivation of wheat. Last year they had losses to the extent of Rs. 12,000 but this year, due to good season the Business earned a Profit of Rs. 2,20,000.

The family owns a house property, the municipal valuation of which is Rs. 2,80,000 and the market rent of similar property is Rs. 2,85,000. The standard rent as per Rent Control Act is Rs. 3,50,000. The family pays Rs. 48,000 for municipal taxes during the previous year out of which Rs. 20,000 pertains to earlier year which could not be paid due to business loss. Interest on capital borrowed for repaying original loan for construction of house Rs. 75,000. Further, the rental income of the property is Rs. 3,10,000.

Dividend received from Indian Company X Ltd. Rs. 12,000.

Interest received on listed debentures Rs.8,10,000 (net).

Compute the total income and Tax liability of the HUF (RRR & Sons) for the Assessment year 2026-27.

Option 1: Assessee has opted to pay tax as per the Optional Scheme.

Option 2: Assessee is paying tax as per Section 115BAC.

Solution:

Option 1: Assessee has opted to pay tax as per the optional scheme:

Computation of Total Income of RRR & Sons (HUF) for the Assessment Year 2026-27

Income from House Property	(Rs.)
Gross annual Value	3,10,000
Less: Municipal Taxes	(48,000)
Net annual Value	2,62,000
Less: Standard Deduction @ 30% of 2,62, 000	(78,600)
Less: Interest on capital borrowed	(75,000)
Income from House property	1,08,400
Income from Business/Profession	
Agricultural income (Exempt)	NIL
Income from other sources	
Dividend received from Indian Company X Ltd.	12,000
Interest on listed debentures	9,00,000
Gross Total Income	10,20,400
Less: Deduction under section 80C to 80U	NIL
Total Income	10,20,400

Note: The share of Karta and other coparceners in the profits of HUF will be exempt under section 10(2)

Computation of tax on Total Income of X (HUF) for the Assessment Year 2026-27

<i>Particulars</i>		<i>Amount (Rs.)</i>
(a)	Agricultural income (2,20,000-12,000)	2,08,000
(b)	Non-agricultural income	10,20,400
(c)	Total of (a) and (b)	12,28,400
(d)	Tax payable on (c)	1,81,020
	Tax on first 2,50,000 NIL	
	Tax on next 250,000 @ 5% = Rs. 12,500	
	Tax on next 500,000 @ 20% = Rs. 100,000	
	Tax on remaining income Rs. 2,28,400@ 30% = 68,520	
(e)	Total of agricultural income and basic exemption limit	4,58,000
(f)	Tax payable on (e) (As per slab rates)	10,400
(g)	Net tax payable = (d)-(f)	1,70,620
(h)	Add: Health and Education cess of 4% on Rs.170620	6,824
(i)	Total tax (round off)	1,77,440

Option 2: Assessee is paying tax as per section 115BAC**Computation of Total Income of X (HUF) for the Assessment Year 2026-27**

Income from House Property	(Rs.)
Gross annual Value	3,10,000
Less: Municipal Taxes	(48,000)
Net annual Value	2,62,000
Less: Standard Deduction @ 30% of 2,62,000	(78,600)
Less: Interest on capital borrowed	(75,000)
Income from House property	1,08,400
Income from Business/Profession	(Rs.)
Agricultural income (Exempt)	NIL
Income from other sources	
Dividend received from Indian Company X Ltd.	12,000

Interest on listed debentures	9,00,000
Gross Total Income	10,20,400
Less: Deduction under section 80C to 80U	NIL
Total Income	10,20,400

Note: The share of Karta and other coparceners in the profits of HUF will be exempt under section 10(2).

Computation of Tax on Total Income of X (HUF) for the Assessment Year 2026-27

Particulars		Amount (Rs.)
(a)	Agricultural income (2,20,000-12,000)	2,08,000
(b)	Non-agricultural income	10,20,400
(c)	Total of (a) and (b)	12,28,400
(d)	Tax payable on (c)	64,260
	Tax on first 4,00,000 NIL	
	Tax on next 4,00,000 @ 5% = Rs. 20,000	
	Tax on next 4,00,000 @ 10% = Rs. 40,000	
	Tax on next 28,400 @ 15 % = Rs.4,260	
(e)	Total of agricultural income and basic exemption limit	6,08,000
(f)	Tax payable on (e) (As per slab)	10,400
(g)	Net tax payable = (d)-(f) (64,260 – 10400)	53,860
(h)	Add: Health and Education cess of 4% on Rs. 53,860	2,154.4
(i)	Total tax (round off)	56,014

Illustration 7:

Ram, 66 years is the Karta of a HUF with his two sons Ramesh (39 years) and Somesh (25 years). The family owns a house property, the rental income of the same is Rs. 3,10,000. Family business profits Rs. 2,80,000. Long- term capital gains Rs. 25,000 and short-term capital gains for the year Rs.11,000 (STT applicable). Dividend received from Indian Company X Ltd. Rs. 12,000. Interest received on listed debentures Rs.8,000 (gross) Ram invested in PPF Rs. 1,50,000 out of family funds and received share of profits from a firm in which he represented HUF being Karta. Ram gifts Rs. 1,00,000 to family. Salary income of Ramesh Rs. 6,00,000 Interest on Government Securities Rs. 10,000(gross) out of own funds of Ram.

Compute the total income and Tax liability of the family X (HUF) and Ram, Ramesh and Somesh for the Assessment year 2026-27. Assume that assesseees are opting to pay tax as per optional scheme .

Solution:**Computation of Total Income of X (HUF) for the Assessment Year 2026-27**

Income from house property	Amount (Rs.)
Rent	3,10,000
Less: Standard Deduction @ 30%	93,000
Income from House property	2,17,000
Income from Business/Profession	
Business Profits	2,80,000
A Firm (Exempt)	NIL
Income under the head Capital Gains	
Long-term Capital Gain	25,000
Short term Capital Gain	11,000
Income from other sources	
Dividend received from Indian Company X Ltd.	12,000
Interest received on listed debentures	8,000
Gift (Exempt)	NIL
Gross Total Income	5,53,000
Less: Deduction under section 80C to 80U	
Under section 80C (maximum)	1,50,000
Total Income	4,03,000

Note: The share of Karta and other coparceners in the profits of HUF will be exempt under section 10(2)

Computation of tax on Total Income of HUF for the Assessment Year 2026-27

Tax on long-term capital gains (20% of Rs. 25,000) assuming indexation benefit is availed	5,000
Tax on short-term capital gains (15% of Rs. 11,000)	1,650
Balance of Total Income Rs. 3,67,000 (slab rate)	5,850
Total tax	12,500
Add: Health and Education cess at 4%	500
Total liability (round off)	13,000

Note: The share of Karta and other coparceners in the profits of HUF will be exempt under section 10(2)

Computation of taxable income of Ram, Ramesh and Somesh for the Assessment Year 2026-27

Particulars	Ram	Ramesh	Somesh
Salary Income		6,00,000	
Business Income:			
Profit share in HUF	Exempt	Exempt	Exempt

Income from other sources			
Interest on Government Securities	10,000		
Gross Total Income	10,000	6,00,000	
Deductions u/s 80C to 80U			
Taxable Income	10,000	6,00,000	
Tax liability	NIL	33,800	NIL

TAXATION OF FIRMS

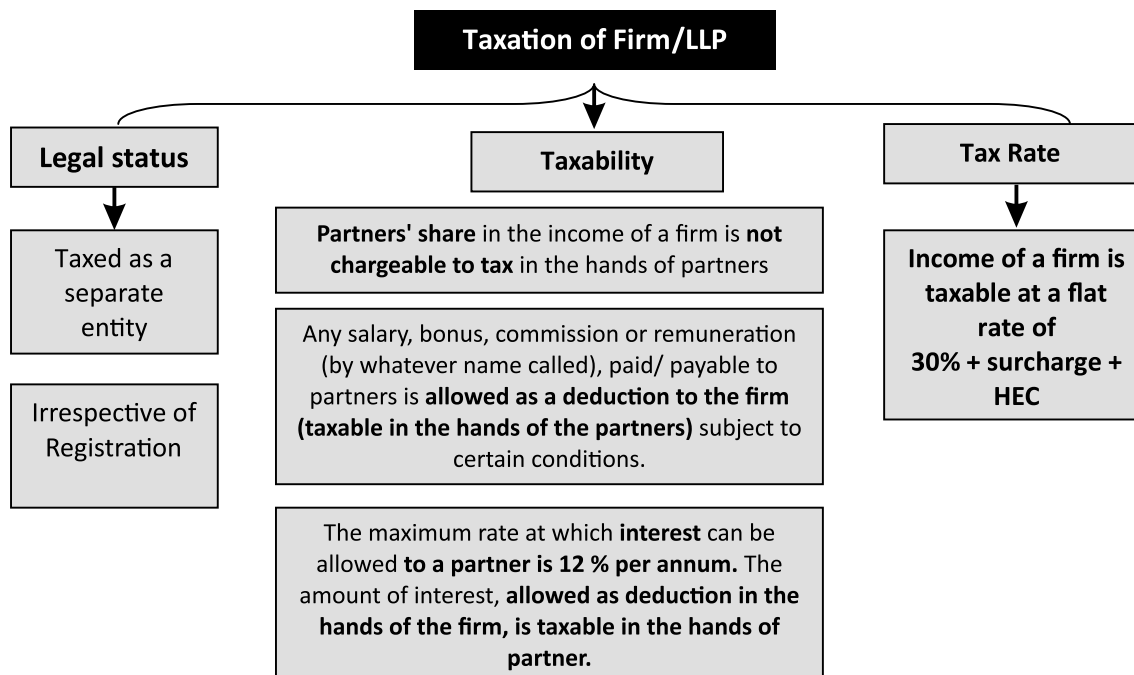
Under Section 2(23) of the Income-tax Act, the terms “firm”, “partner”, and “partnership” have the meanings respectively assigned to them in the Indian Partnership Act, 1932 and Limited Liability Partnership Act, 2008.

The expression “partner” also includes a minor who has been admitted to the benefits of partnership and a partner of a Limited Liability Partnership Act, 2008. However, a minor cannot validly enter into any partnership as a ‘full partner’ with other persons but he can be admitted to the benefits of partnership only.

A joint Hindu family as such cannot be a partner in a firm. However, through its Karta it may enter into a valid partnership with a third person or with a member of the undivided family in his individual capacity. In such a case, the Karta occupies a dual position. On the partnership he functions in his individual capacity; on the relations to other members of the Hindu undivided family, in his representative capacity.

An incorporated company being a legal person may form a partnership with an individual or with another company. In considering the maximum number of partners comprising a firm, the company will be considered as one person only.

A partnership firm as such is not entitled to enter into a partnership with another firm, H.U.F., individual, or a company. However, its partners in their individual capacity can enter into another partnership.



Assessment as a Firm [Section 184]

As per the scheme, a partnership firm in the first assessment year shall be assessed as a firm if the following conditions are satisfied:

1. The partnership is evidenced by an instrument, i.e., partnership deed which is to be in writing containing necessary clauses.
2. The individual shares of the partners as specified in that instrument (including how the loss will be borne by major partners in case of a minor admitted for benefits only).
3. A copy of the partnership deed certified by all the partners or their duly authorized agents, in writing (other than the minors) is submitted along with the return of income in respect of which assessment as a firm is first sought.

Where the return is made after the dissolution of the firm, the copy of the partnership deed should be certified in writing by all persons (excluding minors) who were partners of the firm immediately before its dissolution and by the legal representative of any deceased partner.

When a firm is assessed as such for any assessment year, it shall be assessed in the same capacity for every subsequent year if there is no change in the constitution of the firm or in the shares of partners as evidenced by the partnership deed on the basis of which assessment as a firm was first sought.

Where any such change has taken place in the previous year, the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income for the assessment year relevant to such previous year. In doing so all the provisions of Section 184 will apply to the firm. Further, any change in remuneration or interest to partners is to be notified in the same manner to comply with section 40(b).

Circumstances where the firm will be assessed as a firm but shall not be eligible for deduction on account of interest, salary, bonus, etc.

Where the firm -

- (a) fails to make the return required under Section 139(1) and has not made a return or revised return under Section 139(4) or 139(5), or
- (b) fails to comply with all the terms of a notice issued under Section 142(1) or fails to comply with a direction issued under Section 142(2A), or
- (c) having made a return, fails to comply with all the terms of a notice issued under Section 143(2),
- (d) does not comply with three conditions mentioned above u/s 184.

then the firm shall not be eligible for any deduction on account of interest to a partner and remuneration to a working partner although the same is mentioned in the partnership deed.

Computation of Income and Tax thereon of Firm

The income of the firm shall be computed as per the normal provisions of the Act under various heads of income excluding incomes exempt from tax and deductions under chapter VI-A as applicable.

Rate of Tax: In the case of a firm which is assessable as such (i.e., as a firm), tax is chargeable on its total income at the rate of 30%.

Surcharge @12% shall be applicable where the total income exceeds Rs. 1 crore.

Health and Education Cess shall be added as 4% of tax plus surcharge. However, firm and LLP is subject to Alternate Minimum Tax 'AMT' under section 115JC (discussed in detail later in this chapter).

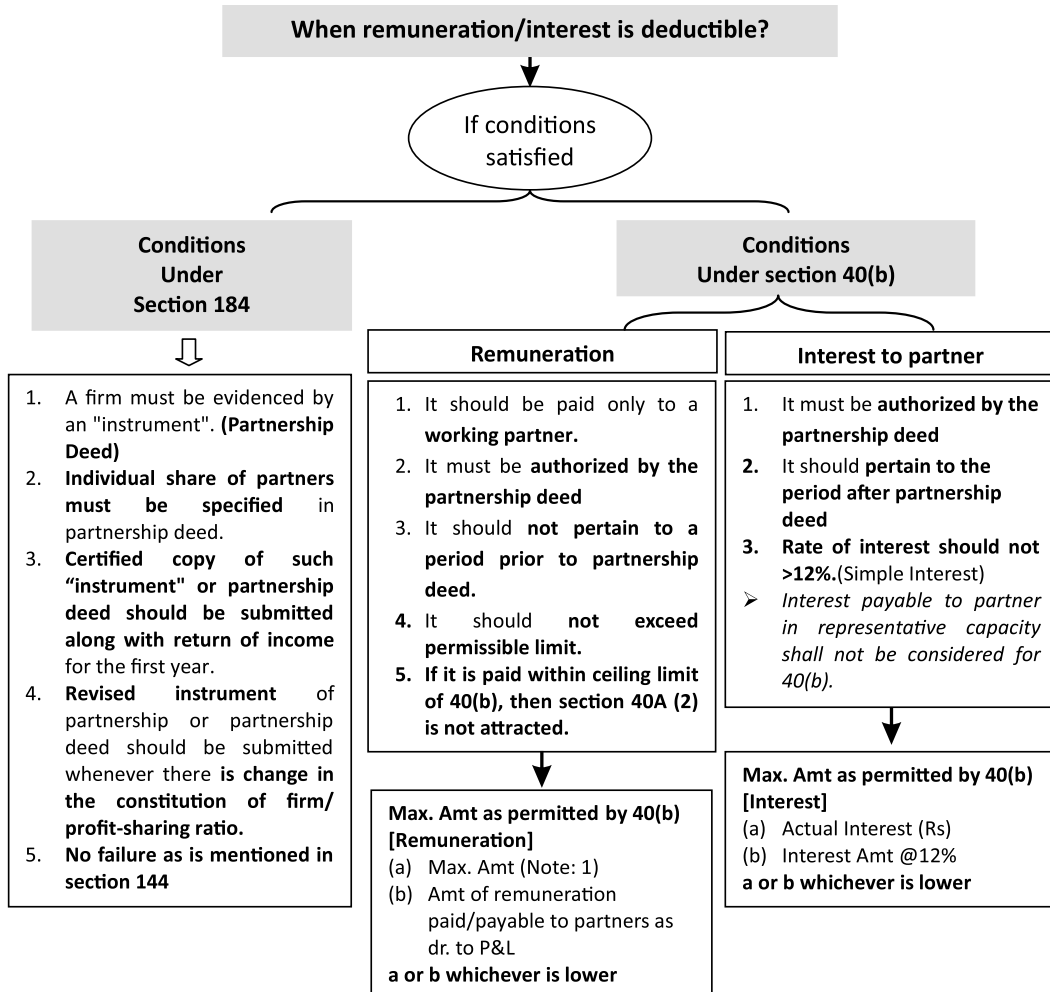
Partnership is not a separate entity distinct from the partners, but for tax purposes a partnership is taxed as a separate entity and therefore total income will be computed under various heads of income. A partnership firm is also entitled for deductions under section 30 to 38 for expenditures incurred. However, for payment of

remuneration to partners and interest on capital are allowed subject to conditions laid down under section 40(b).

Section 40(b), contains the following conditions which need to be complied with while making payment of remuneration and interest on borrowed capital to the partners:

- (i) Payment of salary, bonus, commission or remuneration by whatever name called to a non-working partner shall not be allowed as deduction. Such payments are allowed only to working partners if it is authorised by the partnership deed and are in accordance with partnership deed. Also, such payments should pertain to the period after the partnership deed.
- (ii) Interest payable to a partner, authorised by the partnership deed for period after the partnership deed shall be allowable as deduction subject to a maximum of 12% p.a. If the partnership deed provides for interest at less than 12% p.a, the deduction of interest shall be allowed to the extent provided by the partnership deed.
- (iii) the payment of remuneration to working partner, although authorised by partnership deed however it is subject to maximum of the following limits.

Uniform limits for both Professional Firms and Non-Professional Firms:	
On the first Rs. 6,00,000 of the book-profit or in case of a loss.	Rs. 3,00,000 or 90% of the book-profit, whichever is more.
On the balance of the book-profit	60% of the book profits.



Meaning of Book Profit [Explanation 3 to section 40(b)]

Book-profit” means the net profit, as shown in the profit and loss account and make the additions and deductions as per section 28 to 44DB explained under the head income from Business and Profession increased by the aggregate amount of the remuneration paid or payable to all the partners of the firm if such amount has been deducted while computing the net profit. Interest paid/payable to partners in excess of 12% shall also be disallowed as per section 40(b).

Net profit as per P&L account	**
Add/less: Adjustments as provided by sections 28 to 44DB	
Add: Remuneration to partners if debited to the P&L	
Book profit	**

Note:

- Income chargeable to tax under the heads “Income from house property,” Capital gains” and “Income from other sources” is not part of “book profit”
- Brought forward business losses are not to be deducted from “book profit” (Adjust b/f unabsorbed depreciation from earlier years); and for allowing unabsorbed depreciation, b/f business loss shall have to be notionally allowed first from current business income.
- Permissible deductions from gross total income under sections 80C to 80U shall be ignored for computing “book profit”.
- Interest on FD is a considered to be business income and hence it will be included in book profit. *CIT v J.J. Industries* [2013] 216 Taxman 162(Guj.)

CASE 1

D Patel & Associates, a firm carrying on business provides details for the FY 2025-26 stated a book profit before adjusting unabsorbed depreciation and b/f business loss of Rs 185000. However, the unabsorbed depreciation of earlier years and b/f business loss would be Rs 85000 and Rs. 115000 respectively. Kindly advise towards treatment of Brought forward business losses and allowable remuneration under section 40(b).

Solution:

Provision for Brought forward business losses

Brought forward business losses are not to be deducted from “book profit” (Adjust b/f unabsorbed depreciation from earlier years); and for allowing unabsorbed depreciation, b/f business loss shall have to be notionally allowed first from current business income.

Computation of allowable remuneration under section 40(b)

<i>Particulars</i>	<i>Amount Rs</i>
Book profit before adjusting unabsorbed depreciation and b/f business loss	1,85,000
Less: B/F business loss (Notional Deduction)	(1,15,000)

Balance	70,000
Less: Set off unabsorbed depreciation (To the extent of Rs70000)	(70,000)
Balance	0
Add: B/F business loss (Notional Deduction) but not allowed to be set off as carried under section 72	1,15,000
Book Profit	1,15,000
Allowable Remuneration under section 40(b)	3,00,000
a) 3,00,000	
b) 90% of Book profit (i.e. 90% of 115000) = 103500	
Whichever is higher	

Summarized provisions of carry forward and set off of loss in the case of Firm		
Points to be noted	<ul style="list-style-type: none"> ● No separate provision of carry forward and set off of loss of firms. ● Same as applicable in case of other assesses ● Losses and unabsorbed depreciation of firm can be carried forward by firm only. 	
Set off and carry forward Change in the constitution of firm.	<ul style="list-style-type: none"> ● Section 78 provides that where there is a change in the constitution of the firm on account of death/ retirement, the firm shall not be entitled to carry forward of so much of the loss as is attributable to such partner. ● This provision covers when a partner goes out of the firm (i.e., the case of retirement or death). ● It does not cover the case of change in profit-sharing ratio or the case of admission of a partner. ● Section 78 is not applicable in the case of unabsorbed depreciation and unabsorbed capital expenditure on scientific research. 	
Tax Treatment in case of change in constitution of firm	Step 1: Compute Share of outgoing partner in the profit of the firm in the year of change in the constitution of firm	**
	Step 2: Compute the share of loss of outgoing partner in the brought forward loss.	**
	Step 3: Set off share in b/f loss of outgoing partner for his share of profit of current year.	**

CASE 2

XL and Associates (firm) having 3 partners sharing profit in the ratio of 2:2:1 provides you the following details for the PY 2025-26.

Profit (Before) setting of b/f loss and depreciation	360000
B/F depreciation	150000
B/F loss of AY 2025-26	200000

You are requested to advice on Tax Treatment in case of change in constitution of firm when one of the partners sharing 2:5 retired on 31.8.2025 from the firm.

Solution:

<i>Particulars</i>	<i>Amount</i>
Step 1: Share of outgoing partner in the profit of the firm in the year of change in the constitution of firm $(3,60,000 \times 2/5 \times 5/12)$ [Period from 1.4.2025-31.8.2025]	60,000
Step 2: Share of loss of outgoing partner in the brought forward loss. $(2,00,000 \times 2/5)$	80,000
Step 3: Set off loss to the extent of profit	
Loss	80,000
Less: Set off of profit	(60,000)
Balance of Loss (Can't be carried forward and set off by firm)	20,000
Firm is allowed to set off b/f loss $(2,00,000 - 20,000)$ to the extent of	1,80,000

Assessment of Partners

As per Section 10(2A) of the Act, any person who is a partner of a firm which is assessed as such, his share in the total income of the firm will not be included in computing his total income. Partner includes a minor admitted to the benefits of partnership as per Section 2(23) of the Act.

Further, the explanation to Sub-clause (2A) provides that the share of a partner in the total income of the firm assessed as a firm shall be an amount which bears to the total income of the firm the same proportion as the amount of his share in the profits of the firm (in accordance with the partnership deed) bears to such profits.

In terms of a formula, the amount exempt would be: Partners share in the profit of the firm = as shown in the partnership deed Total Profits of the Firm \times Total income of the firm.

Any interest, salary, bonus, commission or remuneration by whatever name called which is due to or received by a partner of a firm from the firm will be chargeable to tax in the hands of the partner (to the extent allowed as deduction to the firm) under the head "profits and gains of business or profession". However, if such salary, interest, bonus, commission or remuneration (or any part thereof) has not been allowed as deduction as per Section 40(b) in the hands of the firm, the amount not allowed as deduction shall not be charged to tax in the hands of partners.

Further, deductions under Sections 32 to 37 can be claimed by a partner from any income where any expenditure was incurred to earn such income.

Section 194T - Payments to Partners of Firms

- (1) Any person, being a firm, responsible for paying any sum in the nature of salary, remuneration, commission, bonus or interest to a partner of the firm, shall, at the time of credit of such sum to the account of the partner (including the capital account) or at the time of payment thereof, whichever is earlier shall, deduct income-tax thereon at the rate of ten per cent.
- (2) No deduction shall be made under sub-section (1) where such sum or the aggregate of such sums credited or paid or likely to be credited or paid to the partner of the firm does not exceed twenty thousand rupees during the financial year.

Introduced by the Finance (No. 2) Act, 2024, Section 194T of the Income Tax Act, 1961, mandates the deduction of Tax Deducted at Source (TDS) on certain payments made by Partnership Firms and Limited Liability Partnerships (LLPs) to their partners, excluding foreign LLPs

Applicability: Any person, being a partnership firm or an LLP, is responsible for deducting TDS on payments in the nature of salary, remuneration, commission, bonus, or interest to a partner, effective from April 1, 2025.

TDS Rate: TDS @ **10%** is to be deducted only if the total sum of such payments to a single partner during a financial year **exceeds ₹20,000**. (TDS is applicable on the entire amount, not just the amount exceeding the limit).

The firm must deduct the TDS at the time of crediting the amount to the partner's account (including their capital account) in the firm's books; or at the time of payment, whichever is earlier.

However, if the partner does not provide a valid Permanent Account Number (PAN), the TDS rate will be 20% as per Section 206AA.

Note 1: The provisions of Section 194T does not apply to the repayment of a partner's capital or other withdrawals that are not in the nature of salary, remuneration, commission, bonus, or interest. Also, the provision does not include an option for partners to get a certificate for lower or nil TDS deduction.

Note 2: Firm must also file quarterly TDS returns in Form 26Q and provide TDS certificates (Form 16A) to their partners. Failure to comply can lead to significant penalties, including interest charges and the disallowance of up to 30% of the relevant expenditure under Section 40(a)(ia).

Succession of one firm by another firm [Section 188]

When all the partners in the predecessor firm are replaced by new partners in the successor firm, it is known as succession of one firm by another firm. If a firm is dissolved and some of the partners take over the firm's business or carry on a similar business with or without new partners, it would be a case of succession by a new firm (62 I.T.R. 75).

In *CIT v. K.H. Chambers (1965) 55 ITR 674*, the Supreme Court laid down the following requisites of succession:

- (i) There is a change of ownership.
- (ii) The whole business is transferred.
- (iii) Substantially the identity and the continuity of the business are preserved.

Where the partnership deed does not provide specifically for continuance of the firm on the death of a

partner, there would be no change in constitution of the firm but it would be a case of succession. [*Addl. CIT v. Thyagasundara Mudaliar (1981) 127 ITR 520*].

Where a firm is succeeded by another firm, separate assessments are made on the predecessor and successor firms respectively in accordance with the provisions of Section 170. Section 170 provides that the predecessor shall be assessed in respect of the income of the previous year in which the succession took place up to the date of succession and the successor shall be assessed in respect of the income of the previous year after the date of succession. If the predecessor cannot be found, or the tax assessed on the predecessor cannot be recovered from him for the previous year (in which the succession took place) and the previous year immediately preceding such previous year, the unrealised tax payable by the predecessor shall be recovered from the successor.

However, the successor firm is entitled to recover from the predecessor firm any tax paid by it on behalf of the former. If any tax is due against any partner of the predecessor firm, it cannot be recovered from the successor firm.

Joint and Several Liabilities of Partners for Tax Payable by Firm [Section 188A]

Section 188A provides that every person who was, during the previous year, a partner of a firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for the assessment year to which such previous year is relevant, and all the provisions of Income-tax Act, so far as may be, shall apply to the assessment of such tax or imposition or levy of such penalty or other sum.

Firm Dissolved or Business Discontinued [Section 189]


Where any business or profession carried on by a firm has been discontinued or where a firm is dissolved, the assessment of the total income of the firm shall be made as if no such discontinuance or dissolution had taken place and all the provisions of the Act, including the provisions relating to penalty or any other sum (interest, fine) chargeable under the Act, shall apply. Consequently, every person who was a partner of the firm at the time of discontinuance of business or dissolution of the firm and legal representative of the deceased partner shall be jointly and severally liable to the amount of tax penalty and any other sum. Where the dissolution or discontinuance of business takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the partners or legal representative of a deceased partner from the stage at which the proceedings stood at the time of such dissolution or discontinuance.

Thus, every partner of the firm and the legal representative of the deceased partner is liable to pay the tax which is already due or may have become due after the dissolution, irrespective of his interest in the firm.

However, if there was any irrecoverable amount at the time of dissolution or discontinuance of business and later on it was recovered by the partners, the partners shall personally pay the tax on their share so recovered.

ALTERNATE MINIMUM TAX (AMT) [SECTION 115JC]

Summarized provisions of Alternate Minimum Tax [AMT]	
Chapter	XIIB (Special provisions relating to certain persons other than a company)
Section	115JC to 115JF

Applicability  Non-Corporate Assessee	<table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 50%;">Non corporate Assessee</th> <th style="width: 50%;">Condition</th> </tr> </thead> <tbody> <tr> <td>Individual/HUF/AOP/BOI/AJP</td> <td>If Adjusted Total Income (ATI) >Rs 20Lakh</td> </tr> <tr> <td>LLP/Any other firm/Any person other than co.</td> <td>If claimed deduction <ul style="list-style-type: none"> ● u/s/ 10AA/80H to 80RRB (Except 80P) for AY 13-14 or 14-15 or ● u/s 10AA/35AD/80H to 80RRB (Except 80P) for AY 15-16 onwards </td> </tr> </tbody> </table>		Non corporate Assessee	Condition	Individual/HUF/AOP/BOI/AJP	If Adjusted Total Income (ATI) >Rs 20Lakh	LLP/Any other firm/Any person other than co.	If claimed deduction <ul style="list-style-type: none"> ● u/s/ 10AA/80H to 80RRB (Except 80P) for AY 13-14 or 14-15 or ● u/s 10AA/35AD/80H to 80RRB (Except 80P) for AY 15-16 onwards
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Non Applicability	<ul style="list-style-type: none"> ● Non-Corporate Assessee whose adjusted total income (ATI) is Rs 20,00,000 or less. ● Person who has opted to pay tax under section 115BAC/115BAD/115BAE. 							
Tax Rate (AMT)	<table border="1" style="width: 100%;"> <tbody> <tr> <td style="width: 50%;">Normal Tax Rate</td> <td style="width: 50%; text-align: right;">18.5% of ATI</td> </tr> <tr> <td>Co-Operative Society</td> <td style="text-align: right;">15% of ATI</td> </tr> <tr> <td>Units located in IFSC and derived income solely in convertible forex</td> <td style="text-align: right;">9% of ATI</td> </tr> </tbody> </table>		Normal Tax Rate	18.5% of ATI	Co-Operative Society	15% of ATI	Units located in IFSC and derived income solely in convertible forex	9% of ATI
Normal Tax Rate	18.5% of ATI							
Co-Operative Society	15% of ATI							
Units located in IFSC and derived income solely in convertible forex	9% of ATI							
Tax liability	<p>A. Tax on total income as per normal provision of Income Tax Act</p> <p>B. 18.5% (+SC+HEC) of Adjusted Total Income</p> <p>Amount of tax payable = (A) or (B) whichever is higher</p>							
A > B	<ul style="list-style-type: none"> ● Non-Corporate has to pay normal income tax ● Non-Corporate can utilize amount of AMT credit in that year if available. <p>Maximum Amount of Credit Utilized = A-B</p>							
A < B	<ul style="list-style-type: none"> ● Non-Corporate has to pay AMT u/s 115JC ● Non-Corporate can only avail AMT credit. <p>AMT Credit Available = B-A</p>							
How to compute ATI	Net Income or Total Income	**						
	<p><i>Add:</i></p> <ul style="list-style-type: none"> ● Deduction under section 10AA ** ● Deduction under section 80H to 80RRB (Except 80P) ** ● Deduction claimed, if any, under section 35AD (as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction under section 35AD was allowed in respect of the assets on which the deduction under that section is claimed). ** 							
	Adjusted Total Income	**						

<p>Set off and Carry forward AMT credit</p>	<ul style="list-style-type: none"> ● Not beyond 10th assessment year (up to the assessment year 2017-18) and ● Not beyond 15th assessment year (from the assessment year 2018-19)] ● From AY 2018-19, AMT Credit shall not be carried forward to subsequent year to the extent such credit relates to difference between Foreign Tax Credit (FTC) allowed against AMT. ● No interest is payable on AMT credit. ● AMT can't be adjusted in case of person who has opted for the Alternative Tax regime under section 115BAC/115BAD/115BAE.
<p>Report form CA</p>	<p>The assessee will have to obtain a report in Form No. 29C electronically from a chartered accountant 1 month prior to the due date of submission of return certifying that the ATI and AMT have been computed in accordance with the provisions of this Chapter.</p>
<p>Other Provisions</p>	<p>Advance tax, interest u/s 234A/B/C shall apply to assessee</p>

The provisions of section 115JC are applicable to all assessees except companies where the regular income tax payable for a previous year is less than the alternate minimum tax payable for such previous year then the adjusted total income shall be deemed to be the total income of that person for such previous year and it shall be liable to pay income tax on such adjusted total income @ 18.5% plus Health and Education Cess @ 4%.

12% surcharge if Adjusted Total income of the firm or LLP exceeds INR 1 crore plus 4% Health & Education cess in all cases. In case of individual surcharge will be 10% if Adjusted Total income exceeds INR 50 Lacs and 15% if it exceeds INR 1 crore and 25% if it exceeds INR 2 crores and 37% if it exceeds INR 5 crores.

It is further provided that the provisions of AMT under Chapter XII-BA shall only apply to an individual or a Hindu undivided family or an association of persons or a body of individuals (whether incorporated or not) or an artificial juridical person if the adjusted total income of such person exceeds **twenty lakh rupees**.

However, AMT is levied @ 9% in case of a non-corporate assessee being a unit located in International Financial Services Centre and deriving its income solely in convertible foreign exchange. For Co-operative Society rate of AMT will be 15% from AY2025-26 onwards. Surcharge and cess as applicable will also be levied. (Applicable from Assessment Year 2020-21)

The regular income tax payable shall be the income-tax payable for a previous year by a person other than a company on his total income in accordance with the provisions of the Act other than the provisions of Chapter XII- BA, i.e., section 115JC to 115JF.

Adjusted total income shall be the total income before giving effect to the provisions of Chapter XII-BA as increased by the deductions claimed under any section 80H to Section 80RRB (other than section 80P) included in Chapter VI-A under the heading "C - Deductions in respect of certain incomes" and deduction claimed under section 10AA. Further, total income shall be increased by the deduction claimed under section 35AD for purpose of computation of adjusted total income. The amount of depreciation allowable under section 32, as if no deduction u/s 35 AD in respect of such assets was allowed, shall however, be reduced in computing the adjusted total income.

<i>Particulars</i>	<i>(Rs.)</i>
Taxable income of the taxpayer	XXXX
<i>Add:</i> Amount of deduction claimed under section 80H to 80RRB (except 80P)	XXXX
<i>Add:</i> Amount of deduction claimed under section 35AD (as reduced by the amount of depreciation allowable in accordance with the provisions of section 32)	XXXX
<i>Add:</i> Amount of deduction claimed under section 10AA	XXXX
Adjusted total income	XXXX

The provisions can be summarized as:

1. If regular income tax payable is more than or equal to the alternate minimum tax (18.5% plus Health and Education cess @ 4% of adjusted total income), the regular income tax payable is the tax liability of the assessee.
2. If regular income tax payable is less than the alternate minimum tax (18.5% plus Health and Education cess @ 4% of adjusted total income), the adjusted total income is the deemed income of the assessee for that year and alternate minimum tax is the tax liability.

However, it is also provided that the credit for tax (tax credit) paid by a person on account of AMT under Chapter XII- BA shall be allowed to the extent of the excess of the AMT paid over the regular income-tax. This tax credit shall be allowed to be carried forward up to the fifteen assessment years immediately succeeding the assessment year for which such credit becomes allowable and set off against regular tax liability. In other words, it shall be allowed to be set off for an assessment year in which the regular income-tax exceeds the AMT, to the extent of the excess of the regular income-tax over the AMT.

The amount of AMT credit shall not be allowed to be carried forward to the subsequent year to the extent such credit relates to the difference between the amounts of foreign tax credit (FTC) allowed against AMT and FTC allowable against the tax computed under regular provisions of the Act.

Every person to which this section applies shall obtain a report, before the specified date referred to in section 44AB, in such form as may be prescribed, from an accountant referred to in the Explanation below sub-section (2) of section 288, certifying that the adjusted total income and the alternate minimum tax have been computed in accordance with the provisions of this Chapter and furnish such report by that date.

All other provisions of the Act, like advance tax, interest u/s 234A/B/C shall apply to assessee who is liable to pay AMT.

The provisions of AMT shall not apply to a person who has exercised the option referred to in section 115BAC or section 115BAD or section 115BAE.

Illustration 8:

A, B and C are the partners for 3:2:1 share respectively, in a firm engaged in medical profession. Compute the total income of the firm for the year ended 31st March, 2026:

<i>Particular</i>	<i>Rs.</i>	<i>Particular</i>	<i>Rs.</i>
Office Expenses	15,400	Gross Profit	40,000

Income Tax	1,000	Net Loss A	8,700
Salary to A	5,000	Net Loss B	5,800
Salary to B	4,000	Net Loss C	2,900
Salary to C	10,000		
Bonus to A	10,000		
Bonus to B	12,000		
Total	57,400	Total	57,400

Solution:

<i>Computation of Book Profit of the Firm</i>	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>
Net Loss as per P & L A/c			(17,400)
<i>Add:</i> Inadmissible Expenses:			
Income-tax		1,000	
Salary to partners:			
A	5,000		
B	4,000		
C	10,000	19,000	
Bonus to partners			
A	10,000		
C	12,000	22,000	42,000
Book Profit			24,600

Permissible Remuneration to Partners

90% of first Rs. 6,00,000 of Book-profit or Rs. 3,00,000 whichever is more, is allowed as deduction. Here the permissible remuneration comes to Rs. 3,00,000, but as the partners have claimed Rs. 41,000 only, hence the entire amount will be allowed.

Computation of total income of the firm

Book Profit		24,600
Less: Salary to Partners	19,000	
Bonus to Partners	22,000	(41,000)
Loss of the Firm		(16,400)

Note: Loss of the firm will be carried forward by the firm to the next year(s).

Illustration 9:

M, N and O are partners sharing profits and losses in the ratio of 2:1:1 respectively. Their summarized Profit and Loss A/c for the year ending 31st March, 2026 is appended below:

<i>Particulars</i>	<i>Amount (Rs.)</i>	<i>Particulars</i>	<i>Amount (Rs.)</i>
Office salaries	5,680	Gross Profit	60,570
Telephone and Telegram	2,000	Rent received	6,000
Interest on loan from M	2,000	Interest on securities	4,000
Local taxes (let out property)	1,000		
Salary to N	3,000		
Commission to partners			
M	4,000		
N	5,000		
O	6,000		
Collection charges of interest on securities	50		
Bad debts reserve	1,000		
Net Profit to partners:			
M	20,420		
N	10,210		
O	10,210		
Total	70,570	Total	70,570

Compute total income of the firm for the Assessment Year 2026-27 and tax liability thereon. Interest paid to M has been calculated at the rate of 20% p.a.

Solution:**Computation of Book-Profit**

<i>Particulars</i>	<i>Rs.</i>	<i>Rs.</i>
Net Income as per P & L A/c		40,840
<i>Add:</i> Inadmissible items -		
Local taxes (on let out property)	1,000	
Salary to N (Partner)	3,000	
Commission to partners	15,000	
Collection charges	50	
Bad debts reserve	1,000	20,050

		60,890
Less: Other Incomes -		
Rent received	(6,000)	
Interest on securities	(4,000)	(10,000)
Book Profit		50,890

Maximum remuneration payable to partners

Here Rs. 3,00,000 will be allowed as maximum remuneration. But as the partners have drawn only Rs. 18,000 by way of salary and commission, the entire amount will be allowed as deduction.

Computation of Total Income of the Firm [Assessment Year 2026-27]

<i>Particulars</i>	<i>Rs.</i>	<i>Rs.</i>
Book Profit:		50,890
Less: Salary and commission to partners		(18,000)
– Taxable Business Profit		32,890
– Income from house property		
Rent received		6,000
Less: Municipal taxes		(1,000)
Net Annual Value (NAV)		5,000
Less: Standard Deduction @ 30% of NAV u/s 24(a)		(1,500)
Income from House Property		3500
Income from other sources:		
Interest on Securities	4,000	
Less: Collection charges	(50)	3,950
Gross Total Income (32,890 + 3,500 + 3,950)		40,340

The firm will have to pay tax on Rs. 40,340 @ 30%, which comes to Rs. 12,102 plus health and education cess @ 4% on 12,102 making the total liability as Rs. 12,586.

Illustration 10:

Compute tax liability of the firm X & Co. for the assessment year 2026-27 considering the provisions of Section 115JC. The business income of the firm is Rs. 21,00,500 before deduction under section 32 and before deduction under section 35AD Rs. 11,00,000, because of which depreciation of Rs. 40,000 cannot be claimed. Deduction under section 80IB Rs. 1,00,000. Donation paid to a political party Rs. 85,000.

Solution:

<i>Particulars</i>	<i>(Rs.)</i>
GTI - Business Income (Rs. 21,00,500 less 11,00,000)	10,00,500
Less: Deductions	

Under section 80IB	1,00,000
Under section 80GGC	85,000
Net Income	8,15,500
Tax on Rs. 8,15,500 @ 30%	2,44,650
Add: Health and Education Cess @ 4%	9786
Tax liability	2,54,436
Adjusted total income and alternate minimum tax for the purpose of section 115JC	
Net Income	8,15,500
Add: Under section 80IB	1,00,000
Add: under section 35AD (Rs. 11,00,000 less 40,000)	10,60,000
Adjusted total income	19,75,500
AMT on Rs. 19,75,500 @ 18.5%	3,65,467
Add: Health and Education Cess @ 4%	14,618
AMT liability	3,80,085
AMT liability (round off)	3,80,090
Tax payable is Rs. 3,80,090 being higher of tax liability Rs. 2,54,436 and AMT Rs. 3,80,090.	

Illustration 11:**Income & Expenditure A/c of Lawyers & Co. for the year ending March 31, 2026**

<i>Particulars</i>	<i>Amount (Rs.)</i>	<i>Particulars</i>	<i>Amount (Rs.)</i>
To Expenses	1,50,000	By Professional Receipts	3,80,000
To Depreciation	20,000	By Other fees	90,000
To Remuneration to partners	1,50,000		
Interest on Capital to partners @ 20 per cent	20,000		
To Net Profit	1,30,000		
Total	4,70,000	Total	4,70,000

Other Information:

- Expenses include Rs. 18,000 and Rs. 12,000 paid in cash as brokerage to a single party on a single day.
- Depreciation calculated as per section 32 is Rs. 40,000.

Compute the Total Income of the Firm.

Solution:**Computation of Total Income of Lawyers & Co. for A. Y. 2026-27**

<i>Particulars</i>		<i>Amount (Rs.)</i>
Net profit as per profit and loss account		1,30,000
<i>Add:</i> Expenses not allowable		
Section 40A(3)- Cash payments to a broker exceeding Rs. 10,000 (Note 1)	30,000	
Section 40(b)-Excess interest on capital to partners 20%-12%,i.e., (20000*8/20) (Note 2)	8,000	38,000
<i>Add:</i> Remuneration to partners debited to profit and loss account		1,50,000
<i>Less:</i> Depreciation u/s 32 (Rs. 40,000 - Rs. 20,000 debited in profit and loss account)		(20,000)
Book profit (Note 3)		2,98,000
Maximum permissible remuneration (higher of the two: (i.e., 90 per cent of Rs. 2,98,000 or Rs. 3,00,000); or	2,68,200	
Actual (Subject to actual)	1,50,000	(1,50,000)
Business Income of the Firm		1,48,000
Tax Liability (30% of 1,48,000)		44,400
<i>Add:</i> Health and Education Cess @ 4%		1,776
Total Tax Liability		46,176

Notes:

- As per section 40A(3) of the Act, if the aggregate payment made (otherwise than by an account payee cheque/draft) to the same person during a day exceeds Rs. 10,000/- the entire amount of such payment is disallowed.
- As per section 40 (b) of the Act, if the interest payable to the partners exceeds simple interest of 12% per annum, the excess amount is not deductible.
- The remuneration paid to the working partners cannot exceed the permissible limits specified under section 40 (b) of the Act.

Illustration 12:

Mr. X, carrying on the business of operating a warehousing facility for storage of sugar, has a total income of Rs. 80 lakhs. In computing the total income, he had claimed deduction under section 35AD to the tune of Rs. 70 lakhs on investment in building (on 1.4.2024) for operating the warehousing facility for storage of sugar. Compute his tax liability for A.Y. 2026-27. Show the calculations of Alternate Minimum Tax also.

Option 1: Assessee paying tax under optional tax regime

Option 2: Assessee paying tax under Section 115BAC

Solution:

Option1: Assessee paying tax under optional tax regime

Computation of Tax payable by Mr. X for AY 2026-27

Computation of Optional Tax

<i>Particulars</i>	<i>Amount (Rs. in lakh)</i>
Tax liability @ Slab Rate – Income 80 Lacs	22.125
Add: Surcharge @ 10% Total income > 50 lacs	2.2125
Add: Health and Education Cess @ 4% of 24.3375	0.9735
Total Tax Liability	25.311

Computation of Alternate Minimum Tax

<i>Particulars</i>	<i>Amount (Rs. in lakh)</i>
Adjusted Total Income	80.00
Add: Deduction under section 35AD	70.00
Less: Depreciation under section 32	(7.00)
Adjusted Total Income	143.00
AMT @18.5%	26.46
Surcharge @ 15% (since adjusted total income > Rs. 100 lakh)	3.97
Tax	30.43
Add: Health and Education Cess @ 4%	1.217
Total tax Liability	31.647

Since the regular income tax payable is less than the AMT payable, the adjusted total income of Rs. 143 lakhs shall be deemed to be the total income of Mr. X and tax is payable @18.5% thereof plus surcharge @ 15% and cess @4%. Therefore, tax liability is 31.647 lakhs.

However, Mr. X would be eligible for credit in 15 subsequent years to the extent of difference between the AMT and Normal Tax, i.e. Rs., 6.336 lakhs.

Option 2: Assessee paying tax under Section 115BAC

Computation of Tax payable by Mr. X for AY 2026-27

Computation of Normal Tax

<i>Particulars</i>	<i>Amount (Rs. in lakh)</i>
Tax liability @ Slab Rate – Income 80 Lacs	19.80
Add: Surcharge @ 10% of Total income > 50 lacs	1.98

Add: Health and Education Cess @ 4% of 21.78	0.87120
Total Tax Liability	22.65120

Note: Alternate Minimum Tax is not applicable if assessee covered u/s 115BAC

Illustration 13:

Mr. A, 42 years, and Mr. B, 50 years, are equal partners in a partnership firm AB and Co. engaged in furniture business. From the profit and loss account of the firm compute net income and tax liability of the firm as well as the partner's for the assessment year 2026-27.

Profit and Loss Account For the year ending March 31, 2026

<i>Particulars</i>	<i>Amount (Rs.)</i>	<i>Particulars</i>	<i>Amount (Rs.)</i>
Cost of goods sold	5,10,000	Sales	1,90,0000
Salary to staff	6,00,000	Long term capital gain	1,00,000
Depreciation	1,20,000	Lottery prize	35,000
Fees for technical service	40,000	Other business receipts	1,47,000
Remuneration to partners A 140000 B 60000	2,00,000		
Other Expenses	2,10,000		
Interest on capital@20%			
A 43000			
B 60000	10,3000		
Provision for bad debts	10,000		
Net profit	3,89,000		
Total	2,18,2000	Total	2,18,2000

Other Information

- 1) Remuneration and interest to partners is paid as per partnership deed
- 2) Depreciation as per income tax rules Rs. 1,00,000
- 3) Firm paid bonus to employees Rs. 20,400 relating to last year on 15-12-2025.
- 4) Other expenses include donation to approved charitable institution for the purpose of family planning Rs. 45,000.

- 5) Fees for technical services are paid out of India wherein TDS rules apply. Tax has been deducted at source on time on 31 July, 2025 but it is deposited to Government 21 days late on 28 August, 2025.
- 6) The firm complies with conditions of section 184 and 40(b)
- 7) Income and investments of Mr. A and Mr. B are as follows:

<i>Particulars</i>	<i>Mr. A (Rs.)</i>	<i>Mr. B (Rs.)</i>
Interest on Government Securities	60,000	56,000
Interest on Bank Deposit (gross)	4,500	5,000
Dividend from Indian Company	20,000	22,000
Contribution to PPF	1,00,000	1,10,000
Interest on listed Debentures (net)	6,300	6,300

- 8) Mr. A received gift of Rs. 80,000 from a friend.
- 9) Assessee paying tax under normal tax regime

Solution:**Computation of Total Income of AB and Co. for the Assessment Year 2026-27****Calculation of Business Income**

<i>Particulars</i>	<i>Amount (Rs.)</i>
Net Profit as per P&L A/C	3,89,000
<i>Add:</i> Inadmissible Expenses	
Excess depreciation [120000-100000]	20,000
Remuneration to partners	2,00,000
Interest on capital in excess of 12% p.a.	
A: $43000 \times 8/20 = 17200$	
B: $60000 \times 8/20 = 24000$	41,200
Provision for bad debts	10,000
Donations	45,000
<i>Less:</i> Admissible Expenses	
Bonus to employees	(20,400)
<i>Less:</i> Income taxable under head capital gain and other sources	
LTCG	(1,00,000)
Lottery prize	(35,000)
Book profit	5,49,800
<i>Less:</i> Remuneration to partners	

On First 6,00,000 of book profit @ 90% (90% of 5,49,800)	4,94,820
Rs. 4,94,820 or Rs. 2,00,000 whichever is less	(2,00,000)
Business Income	3,49,800
Income under the head capital gain [LTCG]	1,00,000
Income from other sources	
Lottery prize $35,000 \times 100/70$	50,000
Gross total income	4,99,800
Less: Deduction u/s 80	
80G [100% of 45,000 or 10% of {4,99,800 – 1,00,000}]	(39,980)
Taxable Income	4,59,820

Share of A and B in the income of the firm Rs. 2,29,910 (4,59,820/2)

Computation of Tax on Total Income of AB and Co. for the Assessment Year 2026-27

<i>Particulars</i>	<i>Amount (Rs.)</i>
Tax on winning from lotteries (30% of Rs. 50,000)	15,000
Tax on long-term capital gains (20% of Rs. 1,00,000)	20,000
Balance of Total Income 3,09,820 @ 30%	92,946
Total tax	1,27,946
Add: Health and Education Cess @ 4%	5,118
Total liability	1,33,064

Rs. 1,33,060 (round off, subject to setoff of TDS for winning from lotteries)

Computation of Taxable Income of partners for the Assessment Year 2026-27

<i>Particulars</i>	<i>A (Rs.)</i>	<i>B (Rs.)</i>
Business Salary		
Remuneration	1,40,000	60,000
Interest on capital	25,800	36,000
Profit share in firm	Exempt	Exempt
Income from other sources		
Interest on Government securities	60,000	56,000

Interest on Bank deposits	4,500	5,000
Dividend from Indian companies	20,000	22,000
Interest on listed debentures (6,300*100)/90	7,000	7,000
Gift from a friend	80,000	-
Gross Total Income	3,37,800	1,86,000
Deductions u/s 80-80C PPF	1,00,000	1,10,000
Taxable Income	2,37,800	76,000
Tax liability	NIL	NIL
TDS on Interest on listed debentures and Remuneration & Interest to partners to be claimed for refund.		

Illustration 14:

Mr. A (40 years) and Mr. B (49 years) are equal partners in a firm of Chartered Accountants, AB Co. On April 1, 2025 they amended their partnership deed and provided for salary and interest to partners as follows:

<i>Particulars</i>	<i>Amount (Rs.)</i>
Salary to A	2,50,000 p.a.
Salary to B	3,00,000 p.a.
Interest to A and B	24 % p.a.

From the income and expenditure account of the firm compute net income and tax liability of the firm as well as the partner's for the assessment year 2026-27. Assessee has not opted for section 115BAC and paying tax under normal tax regime.

Income and Expenditure Account For the year ending March 31, 2026

<i>Particulars</i>	<i>Amount (Rs.)</i>	<i>Particulars</i>	<i>Amount (Rs.)</i>
Office expenses	2,51,000	Receipts from clients	8,40,000
Salary to staff	82,000	Interest on drawings	3,500
Income Tax	39,000		
Salary to A	2,50,000		
Salary to B	3,00,000		
Interest on loan to minor son of X @15%	6,000		
Interest on capital@24%			
A 17000			
B 19000	36,000		

Net profit	1,14,500		
Total	843500	Total	8,43,500

Other Information

- 1) The firm does not comply with conditions of section 184 and 40(b)
- 2) The firm has received funds from minor son of X as loan.
- 3) Income and investments of Mr. A and Mr. B are as follows:

<i>Particulars</i>	<i>Mr. A (Rs.)</i>	<i>Mr. B (Rs.)</i>
Investment in 5% Government Loan	12,00,000	11,20,000
Interest from Post office savings bank	4,500	5,000
Medical Insurance Premium	12,000	15,000
Dividend from Foreign Companies	40,000	30,000

Solution:**Computation of Total Income of AB and Co. for the Assessment Year 2026-27****Calculation of Business Income**

<i>Particulars</i>	<i>Rs.</i>
Net Profit as per P&L A/C	1,14,500
<i>Add:</i> Inadmissible Expenses	
Income Tax	39,000
Salary to A	2,50,000
Salary to B	3,00,000
Interest on capital in excess of 12% p.a.	
A: 17000*12/24	8,500
B: 19000*12/24	9,500
Book profit	7,21,500
<i>Less:</i> Remuneration to partners (not allowed as conditions of section 184 & 40(b) are not met)	NIL
Business Income	7,21,500
Taxable Income	7,21,500

Share of A and B in the income of the firm Rs. 7,21,500/2= 3,60,750

Computation of tax on Total Income for the Assessment Year 2026-27

<i>Particulars</i>	<i>Amount (Rs.)</i>
Tax on Rs. 7,21,500 @ 30%	2,16,450

Add: Health and Education Cess @ 4%	8,658
Total liability	2,25,108
Total (round off)	2,25,110

Computation of taxable income of partners for the Assessment Year 2026-27

<i>Particulars</i>	A	B
Business Salary		
Remuneration	–	–
Interest on capital	8500	9500
Profit share in firm	Exempt	Exempt
Income from other sources		
Interest on Government Loan (5% of 12,00,000; 5% of 11,20,000)	60,000	56,000
Interest on Post office savings bank (exempt upto Rs. 3500 u/s 10(15)(i))	1,000	1,500
Dividend from Foreign companies	40,000	30,000
Gross Total Income	1,09,500	97,000
Deductions u/s 80C to 80U		
80D Mediclaim Insurance	(12,000)	(15,000)
Taxable Income	97,500	82,000
Tax liability	NIL	NIL

CASE 1

Tax on total income as per normal provision of Income Tax Act is Rs. 2,05,000 and AMT is Rs. 3,05,000. Compute the tax liability and implications assuming Foreign Tax Credit (FTC) will be Rs. 45,000 and Rs. 60,000 attributable to Normal provision and AMT respectively.

Solution:

Computation of tax liability and adjustment of FTC

<i>Particulars</i>	Amount (Rs.)	Amount (Rs.)
Tax on total income as per normal provision of Income Tax Act	2,05,000	
Less: FTC attributable to Normal Tax	(45,000)	
A. Tax on total income as per normal provision of Income Tax Act		1,60,000
Alternate Minimum Tax	3,05,000	
Less: FTC attributable to AMT	(60,000)	

B. Tax as per AMT	2,45,000
Amount of tax payable = (A) or (B) whichever is higher	2,45,000
Tax Implications:	
A<B	
<ul style="list-style-type: none"> ➤ Non-Corporate has to pay AMT u/s 115JC ➤ Non-Corporate can only avail AMT credit. 	
AMT Credit Available = B-A = 2,45,000-1,60,000 = Rs. 85,000	

CASE 2

The taxable income for the year 2025-26 of Mr. Shah (resident and age 40 years) computed as per the provisions of Income-tax Act is Rs. 28,40,000. The taxable income has been computed after deduction of Rs. 2,00,000 under section 80QQB in respect of royalty on books. Compute the tax liability and tax implications with reference to AMT assuming Mr. Shah does not opt to be taxed under section 115BAC/BAD and paying tax under normal tax regime.

Solution:

Check the eligibility	
Applicable to Non-Corporate Assessee (i.e. Mr Shah)	Yes
If claimed deduction	Yes
<ul style="list-style-type: none"> ● u/s/ 10AA/80H to 80RRB (Except 80P) for AY 13-14 or 14-15 or ● u/s 10AA/35AD/80H to 80RRB (Except 80P) for AY 15-16 onwards 	
ATI > Rs 2000000 (i.e. 30,40,000 Refer Note:2)	Yes
Provision of AMT apply	Yes

Computation of Adjusted Total Income (ATI)	
Net Income or Total Income	28,40,000
<i>Add:</i>	
<ul style="list-style-type: none"> ● Deduction under section 10AA ● Deduction under section 80H to 80RRB (Except 80P) (i.e. 80QQB) ● Deduction claimed, if any, under section 35AD (as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction under section 35AD was allowed in respect of the assets on which the deduction under that section is claimed). 	<p style="text-align: right;">Nil</p> <p style="text-align: right;">2,00,000</p> <p style="text-align: right;">Nil</p>
Adjusted Total Income (ATI)	30,40,000

A	Tax on total income as per normal provision of Income Tax Act		6,91,080
	Tax on 28,40,000	6,64,500	
	Less: Rebate u/s 87A	N.A.	
	Balance	6,64,500	
	Add: Surcharge	N.A.	
	Tax and Surcharge	6,64,500	
	Add: HEC@4%	26,580	
	Total Tax Payable	6,91,080	
B	18.5% (+SC+HEC) of Adjusted Total Income		5,84,896
	18.5% on 30,40,000	5,62,400	
	Add: Surcharge	N.A.	
	Tax and Surcharge	5,62,400	
	Add: HEC@4%	22,496	
	Total Tax Payable	5,84,896	
Amount of tax payable = (A) or (B) whichever is higher			6,91,080
Tax Implications			
A > B	<ul style="list-style-type: none"> ➤ Non-Corporate (i.e. Mr. Shah) has to pay normal income tax ➤ Non-Corporate can utilize amount of AMT credit in that year if available. <p>Maximum Amount of Credit Utilized = A-B = 6,91,080 - 5,84,896 = 1,06,184</p>		

CASE 3

The taxable income for the financial year 2025-26 of Mr. Jay (resident and age 35 years) computed as per the provisions of Income-tax Act is Rs. 20,84,000. The taxable income has been computed after deduction of Rs. 5,00,000 under section 80JJA. Will he be liable to AMT? What will be his tax liability for the year? Assuming Mr. Jay does not opt to be taxed Under section 115BAC/BAD and paying tax under normal tax regime.

Solution:

Check the eligibility	
Applicable to Non-Corporate Assessee (i.e. Mr. Jay)	Yes
If claimed deduction <ul style="list-style-type: none"> ● u/s/ 10AA/80H to 80RRB (Except 80P) for AY 13-14 or 14-15 or ● u/s 10AA/35AD/80H to 80RRB (Except 80P) for AY 15-16 onwards 	Yes
ATI >Rs2000000 (i.e. 25,84,000 Refer Note:2)	Yes
Provision of AMT apply	Yes

Computation of Adjusted Total Income (ATI)	
Net Income or Total Income	20,84,000
Add: <ul style="list-style-type: none"> ● Deduction under section 10AA ● Deduction under section 80H to 80RRB (Except 80P) (i.e. 80JJA) ● Deduction claimed, if any, under section 35AD (as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction under section 35AD was allowed in respect of the assets on which the deduction is claimed). 	Nil 5,00,000 Nil
Adjusted Total Income (ATI)	25,84,000

A	Tax on total income as per normal provision of Income Tax Act	4,55,208														
	<table border="1" style="width: 100%;"> <tbody> <tr> <td>Tax on 20,84,000</td> <td style="text-align: right;">4,37,700</td> </tr> <tr> <td>Less: Rebate u/s 87A</td> <td style="text-align: right;">N.A</td> </tr> <tr> <td>Balance</td> <td style="text-align: right;">4,37,700</td> </tr> <tr> <td>Add: Surcharge</td> <td style="text-align: right;">N.A.</td> </tr> <tr> <td>Tax and Surcharge</td> <td style="text-align: right;">4,37,700</td> </tr> <tr> <td>Add: HEC@4%</td> <td style="text-align: right;">17,508</td> </tr> <tr> <td>Total Tax Payable</td> <td style="text-align: right;">4,55,208</td> </tr> </tbody> </table>	Tax on 20,84,000	4,37,700	Less: Rebate u/s 87A	N.A	Balance	4,37,700	Add: Surcharge	N.A.	Tax and Surcharge	4,37,700	Add: HEC@4%	17,508	Total Tax Payable	4,55,208	
Tax on 20,84,000	4,37,700															
Less: Rebate u/s 87A	N.A															
Balance	4,37,700															
Add: Surcharge	N.A.															
Tax and Surcharge	4,37,700															
Add: HEC@4%	17,508															
Total Tax Payable	4,55,208															

B	18.5% (+SC+HEC) of Adjusted Total Income		4,97,162
	18.5% on 25,84,000	4,78,040	
	Add: Surcharge	N.A.	
	Tax and Surcharge	4,78,040	
	Add: HEC@4%	19,122	
	Total Tax Payable	4,97,162	
Amount of tax payable = (A) or (B) whichever is higher			4,97,162

Tax Implications

A < B

- Non-Corporate (i.e. Mr Jay) has to pay AMT u/s 115JC
- Non-Corporate (i.e. Mr Jay) can only avail AMT credit.

AMT Credit Available = B - A = 497162 - 455208 = Rs 41,954

CASE 4

The tax liability of SP Enterprises (a partnership firm) for the financial year 2025-26 under the normal provisions of the Income-tax Act is Rs. 8,40,000 and the liability as per the provisions of AMT is Rs. 10,00,000. Will it be entitled to claim any AMT credit in the subsequent year(s)?

Solution:

A	Tax on total income as per normal provision of Income Tax Act	840000
B	18.5% (+SC+HEC) of Adjusted Total Income	1000000
Amount of tax payable = (A) or (B) whichever is higher		1000000

Note: Tax Implications

A < B

- Non-Corporate has to pay AMT u/s 115JC
- Non-Corporate can only avail AMT credit.

AMT Credit Available = B - A = 1000000 - 840000 = Rs. 160000

TAXATION OF ASSOCIATION OF PERSONS / BODY OF INDIVIDUALS

'Association of Persons' has not been defined in the Income-tax Act. However, in the case of *CIT v. Indira Balkrishna* [(1960) 39 ITR 546] the Supreme Court has defined it as:

"Association of Persons" means an association in which two or more persons join in for a common purpose or common action to produce income, profits or gains.

An association of persons may consist of non-individuals (Companies, Firms, Joint Families) [*Ipoth v. CIT (1968) 67 ITR 106 (S.C.)*]. A minor can join an AOP if his lawful guardian gives his consent. [*Murugesan & Bros. v. CIT (1973) 88 ITR 432 (SC)*].

Applying the ratio laid down by the Supreme Court in the case of *G Murugesan and Bros. v. Commissioner of Income-tax (1973, 88 ITR 432)*, the Kerala High Court held in the case of *Commissioner of Income-tax v. Goel Dalal and Perin C. Dalal (1990, 184 ITR 248)* that in order to acquire the status of an association of persons, the persons must join in a common purpose or action and the object of the association must be to produce income. It is not enough that the persons receive the income jointly.

For the formation of an AOP, the association need not necessarily be on the basis of a contract, consent and understanding may be presumed [*Shanmugham & Co. v. CIT(1971) 81 ITR 310 (S.C.)*].

Applying the ratio laid down by the Supreme Court in the case of *N.V. Shanmugham & Co. v. Commissioner of Income-tax (1971, 81 ITR 310)* the Calcutta High Court held in the case of *Gopal Chand Sen v. Income-tax Officer and others (1977, 109 ITR 820)* that an assessment of business income has to be done in the hands of receivers and in such an assessment, the receivers are never assessed as independent earners of income. The income in the hands of the receiver is assessable in the like manner and to the same extent as it would have been assessed on the real owners.

However, co-owners, co-heirs or co-legatees do not constitute an AOP in respect of the income of the joint or common asset by reason only of their jural relationship. But if they write themselves with the objective of earning income they constitute an AOP for assessment purposes. [*Estate of Mohamed Rowther v. CIT (1963, 49 ITR 39)*]. Section 26 of the Income-tax Act provides that where property consisting of building or buildings and lands appurtenant thereto is owned by two or more persons in definite and ascertainable shares, such persons shall not, in respect of such property be assessed as an AOP, but on their respective share of income therefrom.

In order to constitute an association of persons, there must be joining together in a common purpose or in a common action, the object of which is to produce income, profits and gains. Though a body of individuals is not identical with an association of persons, they have some similarities. An association of persons may consist of non-individuals also but a body of individuals has to consist only of human beings. The word 'body' would require an association for some common purpose or for a common cause or there must be unity under some common tie or occupation. A mere collection of individuals without a common tie or common aid cannot be taken to be a body of individuals falling under Section 2(31) of the Income-tax Act, 1961. [See *CIT v. Deghamwala Estates (1980, 121 ITR 684)*].

Tax Liability of Association of Persons / Body of Individuals

With effect from assessment year 1989-90, the following provisions are applicable to assesseees other than companies, co-operative societies and societies registered under the Societies Registration Act, 1860 or any law corresponding to that Act in force in any part of India.

- (1) Interest paid by the AOP to a member will not be allowed as deduction from the income of the AOP [(Section 40(ba)]. In cases where interest is paid by the AOP to any member, who has also paid interest to the AOP, the amount of interest, that will be disallowed, is the amount of interest paid by the AOP to the member less the amount of interest paid to the AOP by the member [(Explanation 1 to section 40(ba)].
- (2) In cases where an individual is a member of an AOP in a representative capacity, any interest paid by the AOP to such individual or by such individual to the AOP, otherwise than in a representative capacity will not be subject to disallowance under explanation 2(i) to Section 40(ba).
- (3) In the cases of interest paid by AOP to such individual or by such individual to the AOP in a representative capacity any interest paid by the AOP to the person represented by such person or vice versa, will not be allowed under Section 40(ba) [Explanation 2(ii) to Section 40(ba)].
- (4) Explanation 3 to Section 40(ba) further provides that where an individual is a member of the AOP otherwise than as member in a representative capacity, any interest paid by the AOP to such individual will not be disallowed if the interest is received by him on behalf of any other person.

- (5) Any salary, bonus, commission or remuneration (by whatever name called) paid by the AOP to a member will not be allowed as a deduction.

Section 167B makes the following provisions as regards the incidence of charge of tax on the association of persons.

A. Where Shares of Members are Determinate

In this case, tax is chargeable on the income of the association of persons at the same rate as applicable to an individual. However, where the total income of any member of the association of persons for the previous year (excluding his share of income from the association of persons) exceeds the maximum amount not chargeable to tax in the case of an individual, tax will be charged on the total income of the AOP at the maximum marginal rate of 30%, i.e., the highest slab applicable to an individual.

More so, where the total income of any member of the AOP, irrespective of whether or not it exceeds the maximum amount not chargeable to tax in the case of an individual, is chargeable to tax at a rate higher than the maximum marginal rate (e.g. foreign company), tax will be charged on the total income of the AOP at such higher rate for that portion of the income of AOP which relates to the share of such member and the balance of income at a maximum marginal rate of tax.

Note:

1. Some incomes are taxable at special rates.
2. Provisions of alternate minimum tax under section 115JC to 115JF shall apply.

B. Where the Shares of the Members are Indeterminate

In this case, tax will be charged on the total income of the AOP at the maximum marginal rate, that is, the rate of tax as well as surcharge, if any, applicable to the highest slab of income in the case of an individual as specified in the Finance Act of the relevant year. However, if income of any member of AOP is chargeable to tax at a rate higher than maximum marginal rate, then the rate of tax for the entire income of AOP shall be such higher rate.

The individual shares of the members in the whole or any part of the income of the AOP will be deemed to be indeterminate or unknown if such shares are indeterminate or unknown on the date of formation of the AOP, or at any time thereafter.

Method of Computing Share of a Member of Association of Persons / Body of Individuals [Section 67A]

Section 67A seeks to provide for the method of computing a member's share in the income of an association of persons or a body of individuals, wherein the shares of the members are determinate, in the same manner as provided for in Sub-sections (1) to (3) of Section 67 for computing a partner's share in a firm.

This section lays down the following methods of computing the member's share:

- (a) Any interest, salary, bonus, commission or remuneration, by whatever name called, paid to any member in respect of the previous year shall be deducted from the total income of the association or body and the balance ascertained and apportioned among the members in the proportion in which they are entitled to share the income of the association or body.
- (b) Where the amount apportioned to a member under (a) hereinabove is a profit, any interest, salary, bonus, commission or remuneration paid to the member by the AOP in respect of the previous year shall be added to that amount - the result shall constitute the member's share in the income of the association or body.
- (c) Where the amount apportioned to a member under (a) is a loss, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be adjusted against that amount, the result shall be adjusted against that amount, and the result shall be treated as the member's share in the income of the association or body.

Notes:

- (1) The share of each member of AOP/BOI shall be apportioned under the various heads of income as is determined while computing the income of the AOP/BOI.
- (2) Deductions under section 80 to the extent allowed to AOP/BOI shall not be allowed to the members.

Taxation of share of income of a member of AOP/BOI

Section 86 relates to shares of members of an association of persons or a body of individuals in the income of the association or body. This section provides that if the assessee is a member of an association of persons or a body of individuals (other than a company or a Co-operative society or a Society registered under the Societies Registration Act, 1860, or any law corresponding to that Act in force in any part of India), his share in the income of the association or body, computed in the manner provided in Section 67A shall not be liable to tax.

Further, The taxability of share of income of a member of AOP/BOI depends on the rate at which income of such AOP/ BOI is taxable:

1. Where AOP/BOI is chargeable to tax on its total income at the maximum marginal rate or any higher rate, the share of the member shall not be included in his total income.
2. Where AOP/BOI is chargeable to tax on its total income at the rate applicable to individuals (normal rate) and tax is paid, share of income of a member shall be chargeable to tax as part of his total income and rebate under section 86 shall be claimed.
3. Where AOP/BOI is chargeable to tax on its total income at the rate applicable to individuals (normal rate) and no tax is chargeable, share of income of a member shall be chargeable to tax as part of his total income and no rebate under section 86 shall be claimed.

Assessment in case of Dissolution of an Association of Persons [Section 177]

Where any business or profession carried on by an AOP has been discontinued or an AOP is dissolved, the Assessing Officer shall make an assessment of the total income of the AOP as if no such discontinuance or dissolution had taken place, and all provisions of this Act, including the provisions relating to the levy of penalty or any other sum chargeable under any provisions of the Income-tax Act shall apply.

Every person who was at the time of such discontinuance or dissolution a member of the AOP and the legal representative of any such person who is deceased, shall jointly and severally be liable for the amount of tax, penalty or other sum payable.

Where such discontinuance or dissolution takes place after any proceeding in respect of an assessment year have commenced, the proceedings may be continued against the members from the stage at which the proceedings stood at the time of such discontinuance or dissolution.

CASE 1

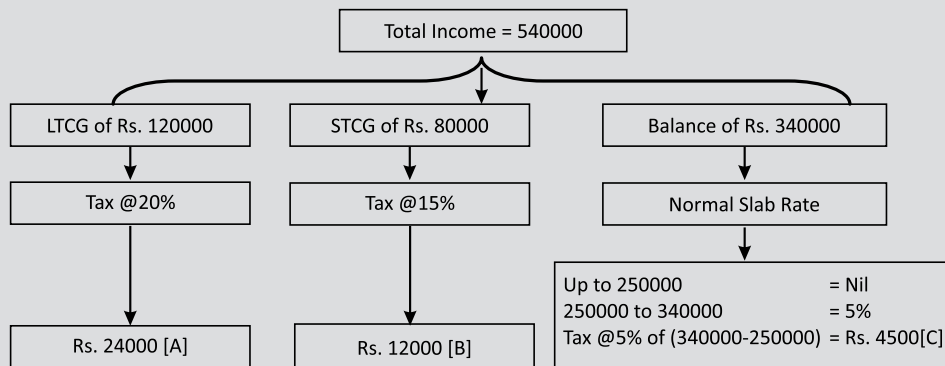
P, Q and R, are the three partners of AOP having profit sharing ratio of 2:2:1. Details of income provided are as follows:

	<i>Rs.</i>
P	1,00,000
Q	90,000
R	1,10,000

Total income of AOP 5,40,000 (Including LTCG Rs. 1,20,000 and STCG under 111A Rs. 80,000) You are required to compute tax liability of AOP for AY 2026-27.

Solution:

Here, in this case, AOP will be assessed and taxed like an individual assuming indexation benefit is availed and sale took place after July 24 with regard to capital gain



Total Tax [A+B+C]	40500
Add: HEC @4%	1620
Tax Payable	42120

TAXATION OF CO-OPERATIVE SOCIETIES**Meaning [Section 2(10)]**

'Co-operative Society' means a co-operative society registered under the Co-operative Societies Act, 1912, or under any other law for the time being in force in any state for the registration of co-operative societies. The income of the co-operative society is computed in the same manner as provided for other assesses. A co-operative society is entitled to the deductions from its gross total income u/s 80G, 80GGA, 80GGC, 80IA, 80-IB, 80JJA and 80P.

A regional rural bank (to which provisions of the Regional Rural Bank Act, 1976, apply) is deemed to be a co-operative society [Circular No. 319 dated 11.1.1982].

Computation of Income of Co-operative Societies

The income of a co-operative society is computed in the same manner as provided for other assesseees under the Act. The provisions under various heads of income, clubbing of incomes, set off and brought forward losses, deductions under section 80 shall apply.

Further, the subsidy given by the government to a co-operative society for meeting managerial expenses and admission fee collected by the society is treated as revenue receipt and liable to tax. [*Ludhiana Central Co-operative Consumers' Stores Ltd. v. C.I.T (1980) 122, I.T.R. 942*]. There is, however difference of opinion with regard to tax treatment of 'subsidy' received from the Government. Distinguishing the ratio laid down by the Punjab & Haryana High Court in the case of *Ludhiana Central Co-operative Consumers' Stores Ltd. Commissioner of Income-tax (1980, 122 ITR 942)*, the Punjab & Haryana High Court held in the case of *Commissioner of Income-tax v. Jindal Brothers Rice Mills (1989, 179 ITR 470)* that depreciation is allowable on the cost of the machinery or plant reduced by the amount of the subsidy as actual cost stands reduced by the percentage allowed by the subsidy. Though this case was followed by it in the case of *Commissioner of Income-tax v. Janak Steel Tubes*

(Pvt.) Ltd. (1989, 179 ITR 536) (the capital subsidy should be deducted from the value of plant and machinery) but had been dissented from by the Bombay, Madras and Rajasthan High Courts in the following cases:

- (i) *Srinivas Industries v. Commissioner of Income-tax (1991, 188 ITR 22)*: The Madras High Court held that the subsidy really partook the character of cash grant expendable for any purpose-consequently, the amount of subsidy granted could not be deducted from the capital cost of the machinery.
- (ii) In *Commissioner of Income-tax v. Elys Plastics Pvt. Ltd. (1991, 188 ITR 11)* the Bombay High Court held that the subsidies were not deductible in computing the cost of plant and machinery for purposes of allowing depreciation.
- (iii) In *Commissioner of Income-tax v. Ambica Electrolytic Capacitors (P) Ltd. and others (1991, 191 ITR 494)* the Rajasthan High Court held that the subsidy or investment subsidy given by the Government cannot be deducted from the actual cost for purposes of investment or depreciation allowance.

Rates of Income-tax on Co-operative Society

The rates of income-tax applicable to a co-operative society for the assessment year 2026-27 are as follows:

1. Where the total income does not exceed Rs. 10,000	10% of total income
2. Where the total income exceeds Rs. 10,000 but total income does not exceed Rs. 20,000.	Rs. 1,000 plus 20% of the amount by which income exceeds Rs. 10,000
3. Where the total income exceeds Rs. 20,000	Rs. 3,000 plus 30% of the amount by which income exceeds Rs. 20,000

Health and Education Cess @ 4%.

Surcharge: The amount of income-tax shall be increased by a surcharge at the rate of 7% of such tax, where total income exceeds one crore rupees but not exceeding ten crore rupees and at the rate of 12% of such tax, where total income exceeds ten crore rupees.

Note:

1. Some incomes are taxable at special rates.
2. Provisions of alternate minimum tax under section 115JC to 115JF shall apply.

Note: Co-operative Societies can opt to pay tax under concessional tax regime as per provisions of the Act. A Co-operative Society, resident in India (other than Manufacturing Co-operative Society) can opt to pay concessional tax u/s 115BAD and Manufacturing Co-operative Society, resident in India can opt to pay concessional tax u/s 115BAE.

SPECIAL TAX REGIME APPLICABLE TO A CO-OPERATIVE SOCIETIES [SECTION 115BAD]

The Finance Act, 2020 has inserted a new section 115BAD in Income-tax Act to provide an option to the resident co-operative societies (Other than those mentioned in Section 115BAE) to get taxed at the rate of 22% plus 10% surcharge and 4% cess. The resident co-operative societies have an option to opt for taxation under newly introduced section 115BAD of the Act w.e.f. Assessment Year 2021-22. The option once exercised under this section cannot be subsequently withdrawn for the same or any other previous year.

If the new regime of Section 115BAD is opted by a co-operative society, its income shall be computed without providing for specified exemption, deduction or incentive available under the Act. The societies opting for this section have been kept out of the purview of Alternate Minimum Tax (AMT). Further, the provision relating to computation, carry forward and set-off of AMT credit shall not apply to these assesseees.

The option to pay tax at lower rates shall be available only if the total income of cooperative society is computed without claiming following exemptions or deductions:

- a) Deduction for units established in Special Economic Zones (SEZ) [Section 10AA];
- b) Additional depreciation in respect of new plant and machinery [Section 32(1)(iia)];
- c) Deduction for investment in new plant and machinery in notified backward areas [Section 32AD];
- d) Deduction in respect of tea, coffee or rubber business [Section 33AB];
- e) Deduction in respect of business consisting of prospecting or extraction or production of petroleum or natural gas in India [Section 33ABA];
- f) Deduction for donation made to approved scientific research association, university college or other institutes for doing scientific research which may or may not be related to business [Section 35(1) (ii)];
- g) Deduction for payment made to an Indian company for doing scientific research which may or may not be related to business [Section 35(1)(iia)];
- h) Deduction for donation made to university, college, or other institution for doing research in social science or statistical research [Section 35(1) (iii)];
- i) Deduction for donation made to National Laboratory or IITs, etc. for doing scientific research which may or may not be related to business [Section 35(2AA)];
- j) Deduction in respect of capital expenditure incurred in respect of certain specified businesses, i.e., cold chain facility, warehousing facility, etc. [Section 35AD];
- k) Deduction for expenditure on agriculture extension project [Section 35CCC];
- l) Deduction in respect of certain incomes other than specified under Section 80JJAA [Part C of Chapter VI-A].

Where a co-operative society exercises option for availing benefit of lower tax rate under section 115BAD, it shall not be allowed to claim set-off of any brought forward losses or depreciation attributable to any restricted exemption or deduction in the Assessment Year for which the option has been exercised and for any subsequent Assessment Year.

TAX ON INCOME OF CERTAIN NEW MANUFACTURING CO-OPERATIVE SOCIETIES [SECTION 115BAE]

Conditions:

- The co-operative society is set up and registered on or after 01-04-2023;
- It is engaged in manufacture or production of any article or thing;
- It commences manufacturing on or before 31-03-2024; and
- It does not claim specified exemption, incentive or deduction.

Tax rate: 15% (Income from manufacturing activities)

Surcharge: The surcharge is levied at a rate of 10% on the amount of income-tax irrespective of the total income of such co-operative society.

Health & Education Cess: 4% of such income-tax and surcharge.

Particulars	Section 115BAD	Section 115BAE
Applicability	Introduced by Finance Act, 2020. Applicable to all Resident Co-operative Societies (irrespective to their business activity)	Introduced by Finance Act, 2023. Applicable to all New Resident Co-operative Societies Setup & Registered on or after April 1st, 2023 and Commenced Business on or before March 31st, 2024 and engaged in Manufacturing or production.
Tax Rate	22% + 10% Surcharge + 4% HEC	15% + 10% Surcharge + 4% HEC
Conditions	<p>Few Deductions & Exemptions not available</p> <ul style="list-style-type: none"> ● Sec 10AA – Deduction for SEZ Units ● Sec 32(1)(ia) – Additional Depreciation ● Sec 35 – Scientific Research ● Chapter VI-A – Sec 80C to 80U (except Sec 80JJAA/80M) ● Provisions of AMT not applicable 	<p>Few Deductions & Exemptions not available</p> <ul style="list-style-type: none"> ● Sec 10AA – Deduction for SEZ Units ● Sec 32(1)(ia) – Additional Depreciation ● Sec 35 – Scientific Research ● Chapter VI-A – Sec 80C to 80U (except Sec 80JJAA/80M) ● Provisions of AMT not applicable ● Additionally, it must not be formed by splitting up or reconstructing an existing business and must not use any previously used plant or machinery (with the exception that up to 20% of the total value of the plant and machinery can be used if it was imported)
Option Irrevocable	Society must exercise the option to opt in for this Section on or before the due date of ITR. Once Opted, its irrevocable for all subsequent years	Society must exercise the option to opt in for this Section on or before the due date of ITR. Once Opted, its irrevocable for all subsequent years

Deduction in respect of Income of Co-operative Societies [Section 80P]

Section 80P provides for certain deductions from the gross total income of a Co-operative Society. These deductions are:

- (a) In the case of Co-operative Society engaged in:
- (i) the business of Banking or providing credit facilities to its members, or
 - (ii) a cottage industry, or
 - (iii) the marketing of the agricultural produce grown by its members, or
 - (iv) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for purpose of supplying them to its members, or
 - (v) the processing, without the aid of power, of the agricultural produce of its members, or
 - (vi) the collective disposal of the labour of its members, or

- (vii) fishing or allied activities, i.e., catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members,

the whole of the amount of profits and gains of business attributable to any one or more of such activities shall be deducted from the gross total income provided that in the case of a co-operative society falling under Sub-clause (vi) or (vii), the rules and bye-laws of the society restrict the voting rights to the following classes of its members:

- (i) the individuals who contribute their labour or carry on the fishing or allied activities;
 - (ii) the co-operative credit societies which provide financial assistance to the society;
 - (iii) the State Government.
- (b) In the case of primary co-operative society engaged in supplying milk, oilseeds, fruits, vegetables raised or grown by its members to
- (i) a federal co-operative society engaged in supplying the above-mentioned products; or
 - (ii) a Government or a local authority; or
 - (iii) a Government Company or a Corporation established by or under a Central, State or a Provincial Act (being a company or corporation engaged in supplying the above-mentioned products to the public).

the whole of the amount of profits and gains of such business shall be deducted from the gross total income.

In the case of a co-operative society engaged in activities other than those specified in clauses (a) or (b) either independently of, or in addition to, profits and gains attributable to the activities mentioned at clauses (a) and (b) deduction from the gross total income will be allowed to the extent of Rs. 50,000.

- (c) Where such co-operative society is a Consumers' Co-operative Society, the deduction shall be Rs. 1,00,000.
- (d) In the case of every co-operative society, the whole of the income by way of interest or dividends derived from its investments with any other co-operative society shall be deducted from the gross total income.
- (e) In the case of every co-operative society, the whole of the income derived by the society from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities shall be deducted from its gross total income.
- (f) In the case of every co-operative society, not being a housing society or an urban consumers' society, or a society carrying on transport business or a society engaged in the performance of any manufacturing operations with the aid of power, where the gross total income does not exceed Rs. 20,000 the amount of any income by way of interest on securities or any income from house property shall be deducted from the gross total income.

Urban Consumers' Co-operative Society

An urban consumers' co-operative society means a society for the benefit of consumers, within the limits of a municipal corporation, municipality, notified areas committee, town area, or cantonment [Explanation to Section 80P(2)].

The provisions of this Section shall not apply in relation to any cooperative bank other than a primary agricultural credit society or a primary cooperative agricultural and rural development bank.

Other points

- Amount received for letting of godowns, incidental services of taking delivery of stock at rail-head and transporting it to godowns were also rendered and amount received was described as 'commission' was wholly exempt. *I.T. v. South Arcot District Co-operative Marketing Society Ltd. (1989) 43 Taxman 328/176 ITR 117 (SC)*.
- Income from ginning and pressing of cotton is exempt. *Broach Distt. Co-operative Cotton Sales, Ginning & Pressing Society Ltd. v. CIT (1989) 177 ITR 418/44 Taxman 439 (SC)*.
- Where assessee, an apex co-operative society, derived (i) interest on cash security furnished by it for carrying on sugar agency business, and (ii) interest on temporary loans given by it for financing sugar business, while former interest was not exempt, latter was exempt under Section 14(3)(iii) of the 1922 Act, *CIT v. U.P. Co-operative Federation Ltd. (1989) 176 ITR 435/43 Taxman 20 (SC)*.
- Amount of subsidy received by assessee from National Co-operative Development Corpn. towards loss incurred on account of price fluctuation qualifies for deduction under Section 81(1)(c) - *CIT v. Punjab State Co-operative Supply & Marketing Federation Ltd. (1989) 46 Taxman 156 (Punj. & Har.)*.
- Proportionate expenditure relating to such business activities of assessee co-operative society as are contemplated by Section 80P(2) is not to be disallowed. *Baghapurana Co-operative Marketing Society Ltd. v. CIT (1989) 178 ITR, 653/44 Taxman 92 (Punj. & Har.)*.
- In the cases of agricultural produce, the agricultural produce marketed by assessee co-operative society need not have been produced by assessee's members - *CIT v. Punjab State Co-operative Supply & Marketing Federation Ltd. (1989) 46 Taxman 156 (Punj. & Har.)*.
- The expression 'the marketing of the agricultural produce of its members means that agricultural produce should be owned by its members, whether supplied by them (that is, the members) or purchased from the market or acquired from any other producer. *C.I.T. v. Haryana State Co-operative Supply & Marketing Federation Ltd. (1989) 79 CTR (Punj. & Har.) 94*.
- Short-term call deposits are investment within the meaning of Section 80P(2)(d). *CIT v. Haryana Co-operative Sugar Mills Ltd. (1989) 46 Taxman 28 (Punj. & Har.)*.

Assessment of Co-operative Societies

The following are the provisions which are specifically applicable to the assessment of Co-operative Societies.

- (I) **Co-operative Housing Society:** Under Section 27(iii), a member of co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the society, company or association, as the case may be, shall be deemed to be owner of that building or part thereof.

Clause (iia) further provides that a person who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in Section 53A of the Transfer of Property Act, 1882 shall be deemed to be the owner of that building or part thereof; and

As per Clause (iib), a person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof, by virtue of any such transaction as is referred to in Clause (f) of Section 269UA, shall be deemed to be the owner of that building or part thereof.

Clause (f) of Section 269UA, it may be noted, defines “transfer” for the purposes of Chapter XX-C of the Income tax Act, dealing with purchase by Central Government of immovable properties in certain cases of transfer.

- (II) Profits and Gains of Co-operative Society from Insurance Business [Section 44]:** The profits and gains of any business of insurance carried on by a Co-operative Society shall be computed in accordance with the rules contained in the First Schedule.

In this connection, the First Schedule and Rule 6E of the Income Tax Rules, 1962 provides as under:

The profits of non-life insurance business, e.g., Fire insurance business, marine insurance business, general insurance business etc. shall be the profits disclosed by the annual accounts required to be prepared under the Insurance Act, 1938 subject to the following adjustments:

- (i) If such profits are arrived at after deducting any expenditure or allowance which is not admissible under Sections 30 to 43B of the Income-tax Act, such expenditure or allowance shall be added back to the profits.
- (ii) The reserve for unexpired risks shall be allowed as a deduction to the following extent:
 - (a) where the insurance business relates to fire insurance or miscellaneous insurance - 50% of the net premium income of such business of the previous year;
 - (b) where the insurance business relates to 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 re-insurance premiums paid during the relevant previous year.

In the context of computing the total income of co-operative society, the following cases are worth noting.

- (1) Where the credit facility is extended to members of the society by virtue of sale of goods to them by consumers’ co-operative society, the exemption is not available. When the society sells goods on credit to its members, such transaction cannot be construed as a credit society to which the benefit of Section 80P(2)(a)(i) can be extended. [*Rodier Mill Employees’ Co-operative Stores Ltd. v. CIT (1982) 135 ITR 355*].

Following the ratio laid down by the Madras High Court in the case of *Rodier Mill Employees’ Co-operative Stores Ltd. v. Commissioner of Income-tax (1982, 135 ITR 355)*, the Kerala High Court held in the case of *Kerala Co-operative Consumers Federation Ltd. v. Commissioner of Income-tax (1988, 170 ITR 455)* that the words ‘providing credit facilities’, occurring in Section 80P(2)(a)(i) of the Income-tax Act, 1961 should be construed as similar to, or akin to the ‘carrying on the business of banking’, preceding the words “or providing credit facilities” in the same sub-section. The words ‘providing credit facilities to its members’ means providing credit by way of loans and not selling goods on credit.

- (2) Where society purchases auto-rickshaws and sells them to members on hire-purchase, it is not providing credit facility to members and not entitled to exemption [*C.I.T. v. Madras Auto Rickshaw Drivers’ Co-operative Society (1983) 143 ITR 981*]. In this case it was held that the tax relief under Section 80P(2)(a)(i) of the Income Tax Act, is a grant not to a category of income but to a category of assessee namely, a co-operative society answering the description of a society engaged in carrying on the business of providing credit facilities to its members. If the society in question does not answer to this description, it is not entitled to the relief.
- (3) In *Bihar State Co-operative Bank Ltd. v. C.I.T. [(1960) 39 I.T.R. 114]* the Supreme Court has held that if a co-operative society carrying on banking business invests its circulating capital in such a manner that it is readily available, the interest on such investment shall constitute income from banking business and therefore shall be exempt in the hands of the co-operative society.

- (4) Interest received on Government Securities held by co-operative society as its stock-in-trade qualifies for deduction from gross total income. But the deduction is inapplicable to interest received from Government Securities held as investments. [*CIT v. Bombay State Co-operative Bank Ltd. (1968) 70 ITR 86 (SC)*].

The Madhya Pradesh High Court held in the case of *M.P. State Co-operative Bank Ltd. v. Addl. Commissioner of Income-tax (1979, 119 ITR 327)* that income from investment of reserve capital in securities was not a part of the income from banking business and did not qualify for exemption. Similarly, the interest income from investment of provident fund income did not form part of the income from the banking business and did not qualify for exemption under Section 80(i)(a) (now Section 80P). Distinguishing the ratio laid down in this case, the Madhya Pradesh High Court held in the case of *Commissioner of Income-tax v. Bhopal Co-operative Central Bank Ltd. (1987, 164 ITR 713)* that the security deposits made are in accordance with the Banking Regulation Act, 1949 and interest income received on deposits formed part of income from business of banking and exempt under Section 80P(2)(i) of the Income-tax Act, 1961.

The Allahabad High Court held in the case of *Addl. Commissioner of Income-tax v. U.P. Co-operative Cane Union (1978, 114 ITR 70)* that selling goods on credit was only a mode of carrying on business. It did not become a business of providing credit facility. Following this case, the Allahabad High Court held in the case of *Commissioner of Income-tax v. U.P. Co-operative Cane Union Federation Ltd. (1980, 122 ITR 913)* that the expression 'providing credit facilities' in Section 80P(2)(a)(i) would comprehend the business of lending money on interest. It would also comprehend the business of lending services on profit for guaranteeing payments because guaranteeing payment is as much a part of banking business for affording credit facility as advancing loans.

However, where a co-operative society holds securities as per requirements of Banking Regulation Act and directions of the RBI, the deduction is available on such interest income. Similarly, subsidy from Government for opening new branches and giving loans to poorer sections at lower rate of interest, is income attributable to banking business [*CIT v. Madurai District Central Co-operative Bank Ltd. (1984) 148 ITR 196*].

- (5) The Income earned by a co-operative society carrying on the business of banking and providing credit facilities to its members from commission and brokerage by dealing in bills of exchange, subsidy from Government, admission fee from members, incidental charges and financial penalties is attributable to the business of banking of providing credit facilities to its members and hence deductible under Section 80P(2)(a)

- (i) [*CIT v. Dhar Central Co-operative Bank (1984) 149 ITR 438 (MP)*].

Following its decision in the case of *Commissioner of Income-tax v. Dhar Central Co-operative Bank (1984, 149 ITR 438)*, the Madhya Pradesh High Court held in the case of *Commissioner of Income-tax v. Bhopal Co-operative Central Bank Ltd. (1988, 172 ITR 423)* that a co-operative society carrying on the business of banking is entitled to exemption in respect of interest on securities, commission, subsidy, donation and locker rent. Again, the said decision was followed by it in the case of *Madhya Pradesh Rajya Sahakari Bank v. Commissioner of Income-tax (1988, 174 ITR 150)* holding that the income from commission, exchange and other miscellaneous income was attributable to the business of banking and that the assessee was entitled to exemption under Section 81 (now 80P) of the Income-tax Act, 1961 in respect thereof.

- (6) A society which buys and sells products of other societies or individuals is not entitled to exemption. Where a society manufactures and sells its own products or the products of its members, such society is entitled to exemption. Hence, the Central Cottage Industries Emporium, New Delhi, is not entitled to exemption under Section 80P [*Addl. C.I.T. v. Indian Co-operative Union Ltd. (1982) 134 ITR 108 (Delhi)*].

If the godown or warehouse is let for a purpose other than storage, processing of facilitating the marketing of commodities, the income derived therefrom by a co-operative society would not be deductible under Section 80P. In *C.I.T. v. Ahmedabad Maskati Cloth Dealers Co-operative Warehouses Society Ltd.* [(1986) 162 ITR 142 (Guj.)] it was also held that shops in which wholesale or retail business in cloth is carried on cannot come within the meaning of 'godowns' or 'warehouses'.

The Gujarat High Court's decision in the case of *Commissioner of Income-tax v. Ahmedabad Maskati Cloth Dealers Co-operative Warehouses Society Ltd.* (1986, 162 ITR 142) had since been approved by the Supreme Court in the case of *South Arcot District Co-operative Marketing Society Ltd.* (infra). The Gujarat High Court had, inter alia, held that the words 'facilitating the marketing of commodities' would not lend colour to the words 'godowns or warehouses' so as to enlarge their meaning.

CASE 1

P Co-operative Society engaged in procession of agriculture produce and running its activities without aid of power furnishes following details of income, compute taxable income and tax liability for the purpose of A.Y. 2026-27 if it does not opt to be taxed under section 115BAD and if opts to be taxed under section 115BAD.

● Income from processing of agricultural produce of its member	38,500
● Income from marketing of the agricultural produce	12,000
● Dividend from another co-operative society	41,400
● Income from letting of godown	24,000
● Commission income	91,000

Solution:

Statement showing computation of Total income and tax liability

<i>Particulars</i>	<i>Remarks</i>	<i>Not opt to be taxed under section 115BAD</i>	<i>Opts to be taxed under section 115BAD</i>
Income from letting of godown [a]		24,000	24,000
Income from processing of agricultural produce of its member		38,500	38,500
Income from marketing of the agricultural produce		12,000	12,000
Commission income		91,000	91,000
Income from PGBP [b]		1,41,500	1,41,500
Dividend from another co-operative society		41,400	41,400
Income from other Source [c]		41,400	41,400
Gross Total Income [a+b+c]		2,06,900	2,06,900
Deduction under section 80C to 80U			
Deduction under section 80P			

Income of agricultural produce	38,500*100%	38,500	Nil
Income from marketing of the agricultural produce	12,000*100%	12,000	Nil
Commission income	Exempt up to 50,000	50,000	Nil
Letting out of godowns	24,000*100%	24,000	Nil
Dividend income	41,400*100%	41,400	Nil
Total Income		41,000	2,06,900
Tax on total income		@ Slab Rate	@ 22%
Up to 10,000 = 10% (10% x 10,000) = 1,000 10,000-20,000 = 20% (20% x 10,000) = 2,000 20,000-41,000 = 30% (30% x 21,000) = 6,300		9,300	45,518
Add: Surcharge		NA	NA
Tax and Surcharge		9,300	45,518
Add: HEC@4%		372	1821
Tax Payable (Rounded off)		9,670	47,340

Illustration 15:

Delhi Co-operative Society derived the following incomes during the previous year 01.4.2025 to 31.3.2026

(1)	Marketing of agricultural produce of its members	10,000
(2)	Interest from members on delayed payment of the price of goods purchased	1,000
(3)	Processing (without aid of power) of agricultural produce of its members	8,000
(4)	Supplying milk to the Government (raised by its members)	15,000
(5)	Agency business	25,000
(6)	Dividends from other Co-operative Societies	15,000
(7)	Income from letting of godowns	20,000
(8)	Income from House Property	30,000

Solution:

Option 1: Assessee has not opted for Section 115BAD

Computation of total income of Delhi Co-operative Society

<i>Particulars</i>	<i>Amount (Rs.)</i>	<i>Amount (Rs.)</i>
Income from House Property	30,000	
Letting of godowns	20,000	50,000

Income from Business		
Marketing of agricultural product	10,000	
Processing of goods	8,000	
Supplying milk	15,000	
Agency business	25,000	58,000
Income from other sources		
Interest from members	1,000	
Dividends	15,000	16,000
Gross Income		1,24,000
Deductions under Section 80P		
Letting of godowns	20,000	
Marketing of agricultural produce	10,000	
Processing of goods	8,000	
Supplying milk	15,000	
Agency business	25,000	
Dividends	15,000	(93,000)
Total income		31,000

Notes:

- (1) Interest from members Rs. 1,000 is not deductible as it is not from the credit facilities provided to the member and for this purpose society cannot be said to be a credit society [*Rodier Mill Employees' Co-operative Stores Ltd. v. CIT (1982) 135 ITR 355*].
- (2) The gross total income of the society exceeds Rs. 20,000 hence deduction regarding income from house property is not available.

Option 2: Assessee has opted for Section 115BAD**Computation of total income of Delhi Co-operative Society**

<i>Particulars</i>	<i>Amount (Rs.)</i>	<i>Amount (Rs.)</i>
Income from House Property	30,000	
Letting of godowns	20,000	50,000
Income from Business		
Marketing of agricultural product	10,000	
Processing of goods	8,000	
Supplying milk	15,000	

Agency business	25,000	58,000
Income from other sources		
Interest from members	1,000	
Dividends	15,000	16,000
Gross Income		1,24,000
Deductions under Section 80P		NA
Total income		1,24,000

Notes:

- (1) Interest from members Rs. 1,000 is not deductible as it is not from the credit facilities provided to the member and for this purpose society cannot be said to be a credit society [*Rodier Mill Employees' Co-operative Stores Ltd. v. CIT* (1982) 135 ITR 355].
- (2) The gross total income of the society exceeds Rs. 20,000 hence deduction regarding income from house property is not available.
- (3) Deduction under section 80P is not allowed u/s 115BAD

TAX EXEMPTIONS TO POLITICAL PARTIES [SECTION 13A]

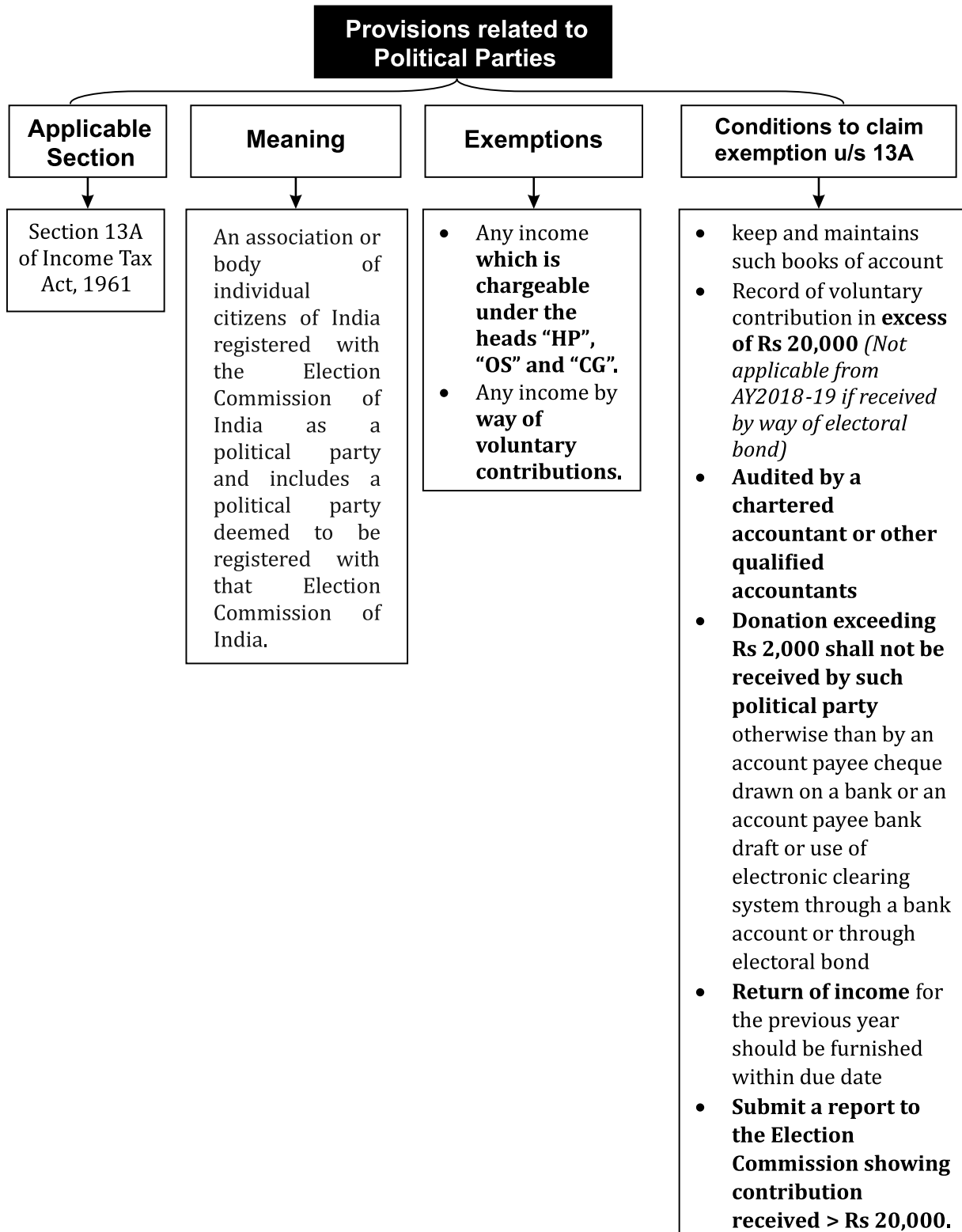
'Political Party' means an association or body of individual citizens of India registered with the Election Commission of India as a political party and includes a political party deemed to be registered with that Election Commission of India.

Political parties are liable to pay tax on their income and they are assessed as 'An association of persons'. However, the income derived by these parties as income by way of voluntary contributions, Income from House Property; and Income from Other Sources or Capital Gains are exempt subject to the following conditions:

- (i) the party keeps and maintains such books of account and other documents as would enable the Assessing Officer to properly deduce the income;
- (ii) in respect of each such voluntary contribution in excess of Rs. 20,000, the party keeps and maintains a record of the contributions and names and addresses of the persons who have made such contribution; and the accounts of the party are audited by a Chartered Accountant or other qualified accountant.
- (iii) No donation of Rs. 2000 or more can be received by a Political Party otherwise than by an account payee cheque/draft/ECS through a bank account or through electoral bonds.

Return of income under section 139(4B) should be filed by the Political Party on or before due date of filing of return u/s 139(1), otherwise exemption under section 13A will not be given.

The Chief Executive Officer of the political party is required to file a return of income if the total income (computed under this Act without giving effect to the provisions of Section 13A) exceeds the maximum amount which is not chargeable to income-tax. In this connection, the provisions of Section 139(1) shall apply.



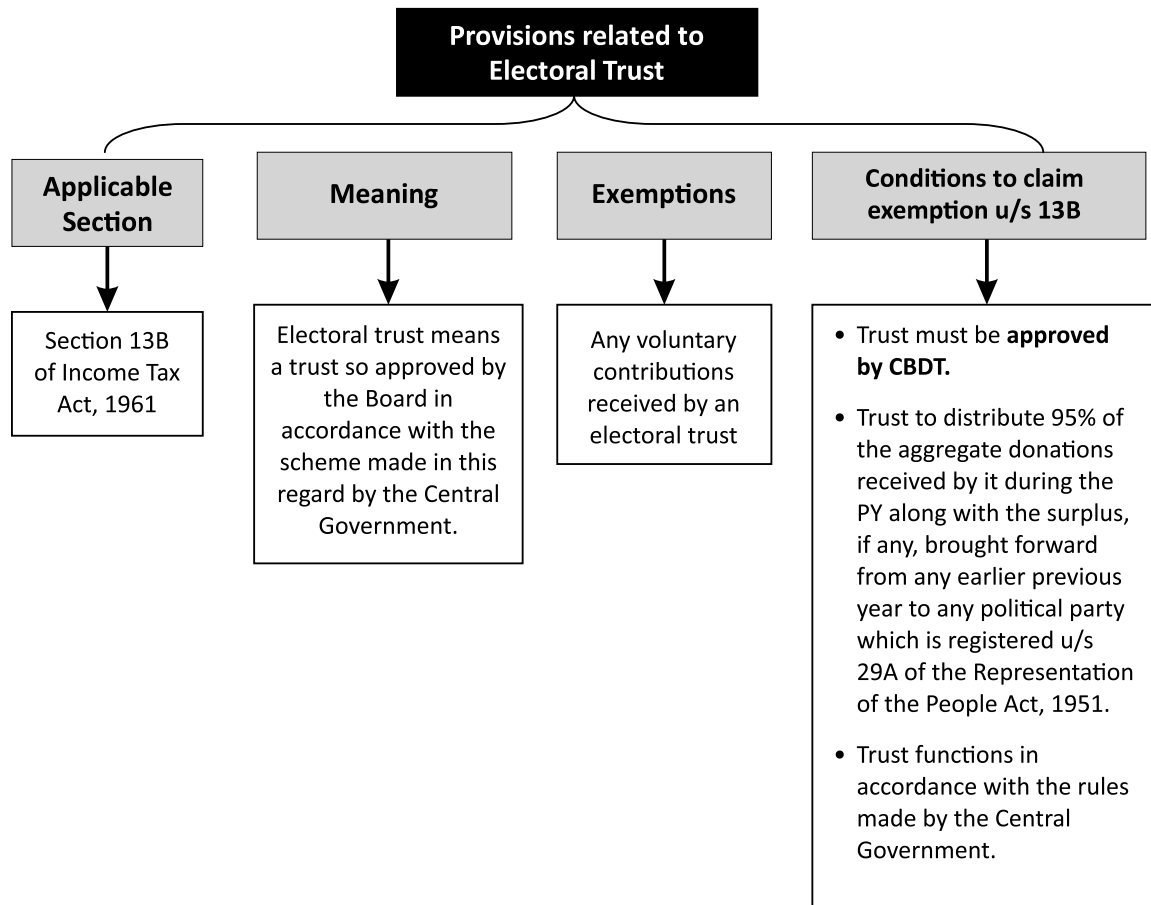
ELECTORAL TRUST

‘Electoral Trust’ means a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government.

Voluntary contributions received by an Electoral Trust [Section 13B]

Any voluntary contributions received by an electoral trust shall not be included in the total income of the previous year of such electoral trust, if -

- (a) such electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951, during the said previous year, ninety-five per cent of the aggregate donations received by it during the said previous year along with the surplus, if any brought forward from any earlier previous year; and
- (b) such electoral trust functions in accordance with the rules made by the Central Government.



Tax Exemptions for Charitable Trusts and Institutions

Trust: Section 3 of the Indian Trusts Act defines a trust to mean “an obligation annexed to the ownership of property and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him for the benefit of another and the owner”.

Institution: An Organisation with a constitution composed of a President, Vice-President, Secretary, Committee Members and ordinary members, is known as an Institution. The activities of the institution and its offices are regulated by rules and bye-laws of the institution. A university or a Chamber of Commerce is an Institution.

Charitable purpose: The term 'charitable purpose' has been defined in this Act in a wider sense than what is commonly understood. According to Section 2(15) of the Act, it 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 advancement of any other object of general public utility not involving the carrying on of any activity for profit.

In order to qualify for tax exemptions, the charity must be of a public character, and the trust or institution should not be created or established for the benefit of any particular religious community or caste, if the trust or institution is established for the benefit of the member of a club or employees of a factory, it would not be a public charitable trust. Vide Circular No. 395 dated Sept. 24, 1984 promotion of sports and games is considered to be a charitable purpose within the meaning of Section 2(15). Accordingly, an association or institution, engaged in the promotion of sports or games can claim exemption under Section 11, even if it is not approved under Section 10(23).

Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or 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 twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;

However, Union Budget 2025-26 has merged tax exemption frameworks under section 10(23C) and 12(A). This move is designed to streamline procedures, reduce redundancies, and provide greater tax certainty for taxpayers. This change involves transitioning existing organisations approved under Section 10(23C) to the Section 12A regime.

Summary of amendments:

- No new applications seeking approval or provisional approval under sub-clauses (iv), (v), (vi), or (via) of Section 10(23C) can be made or considered on or after 01-10-2024. It is important to note that these four clauses are the only ones requiring approval from the Principal Commissioner of Income Tax (PCIT) or Commissioner of Income Tax (CIT).
- Applications filed under sub-clauses (iv), (v), (vi), or (via) of Section 10(23C) before 01-10-2024, and still pending will be processed and considered under Section 10(23C) regime. In other words, new registrations under Section 10(23C) with a validity of five years can be issued until 31-03-2025. Therefore, the sunset timeline for all organisations approved under these sub-clauses will be the assessment year 2029-30. The government should have shifted to the assessment under the Section 12A regime from an earlier assessment year.
- Approved trusts, funds, or institutions will continue to avail exemption benefits under sub-clauses (iv), (v), (vi), or (via) of Section 10(23C) until their current approval expires.
- The Supreme Court of India, in its landmark judgment in *New Noble Educational Society v. CCIT* [2022] 143 taxmann.com 276, established important guidelines for educational institutions claiming exemption

under Section 10(23C)(vi). The Court ruled that a “solely” educational institution must focus exclusively on educational activities and cannot engage in any other charitable or profit-making activities. In other words, all objects of the society, trust etc., must relate to imparting education or be in relation to educational activities. Currently, there is no formal mechanism for such educational institutions to transition to exemptions under Section 11. Therefore, the proposed amendment offers these institutions a much-needed opportunity to shift to the second regime.

Income not to be included in the Total Income [Section 11(1)]

According to Section 11(1), the following items of income are not to be included in the total income of the previous year of the assessee who is in receipt of the same:

- (i) **Income derived from property held under trust wholly for charitable or religious purposes:** Income derived from property held under trust wholly for charitable or religious purposes shall be exempt to the extent to which such income is applied for such purposes in India and where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of 15% of the income from such property.
- (ii) **Income derived from property held under trust in part only for charitable or religious purposes:** Income derived from property held under trust in part only for charitable or religious purposes shall be exempt. This exemption would, however, be available only for trusts created before 1.4.1962. Further, where any such income is finally set apart for application to such purposes in India, shall be exempt to the extent to which the income so set apart is not in excess of 15% of the income from such property.
- (iii) **Income from property held under trust created on or after 1.4.1952:** for a charitable purpose which tends to promote international welfare in which India is interested shall be exempt to the extent to which such income is applied for such charitable purposes outside India.
- (iv) **Income from property held under trust created before 1.4.1952** for charitable or religious purposes shall be exempt to the extent to which such income is applied for such purposes outside India. This exemption is, however, subject to the condition that the Central Board of Direct Taxes has, by a general or special order, issued a direction in either of the above two cases that the income in question would not be included in the total income of the person in receipt of such income.
- (v) **Income in the form of voluntary contributions** made with a specific direction that they shall form part of the corpus of the trust or institution shall be fully exempt subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus.

Explanation:

In respect of items (i) and (ii) above:

- (1) In computing the 15% of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in Section 12 (dealt with later in this Chapter) shall be deemed to be part of the income.
- (2) If, in the previous year, the income applied to charitable or religious purposes in India falls short of 85% of the income derived during that year from property held under trust, by any amount on account of (i) not receiving the income during that year, or (ii) for any other reason, then:
 - (a) In case referred to in (i), so much of the income applied to such purpose in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount shall be deemed to be income applied to such purposes during the

previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes during the previous year in which the income is received or during the previous year immediately following, as the case may be.

- (b) In case referred to in (ii), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount shall be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes during the previous year immediately following the previous year in which the income was derived.

Any amount credited or paid, out of income referred to in clause (a) or clause (b) read with Explanation 1, to any other trust or institution registered under section 12AA, being contribution with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income for charitable or religious purposes.

For the purposes of determining the amount of application of income, the provisions of section 40(a)(ia) relating to 30% disallowance for non-deduction of TDS and section 40A(3) and 40A(3A) relating to payment exceeding Rs. 10,000, shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession"

Where any income as discussed in (a) and (b) above is not applied to charitable or religious purposes in India within the prescribed time, then such income shall be deemed to be the income of the person in receipt thereof:

- (a) *In case of not receiving the income:* Such income shall be deemed to be the income of the previous year immediately following the previous year in which the income was received.
- (b) *In any other case:* Such income shall be deemed to be the income of the previous year immediately following the previous year in which the income was derived [Clause (1B)].

Capital Gains [Section 11(1A)]

1. Asset held wholly for religious purposes or charitable purposes

Sometimes a capital asset held under trust wholly for charitable or religious purposes is transferred resulting in a capital gain. The net consideration received on such transfer may be utilised wholly or in part in acquiring another capital asset to be so held wholly for religious or charitable purposes. In such cases the capital gains arising from the transfer shall be deemed to have been applied for charitable or religious purposes to the extent stated herein below:

- (i) Where the whole of the net consideration is utilised for acquiring the new capital assets, so much of the capital gains.
- (ii) Where only a part of the net consideration is utilised for acquiring the new capital asset, so much of the capital gain as is equal to the amount by which the amount so utilised exceeds the cost of the transferred asset.

Example 1: A charitable trust had a capital asset the cost of which was Rs.80,000 and it sold the same for Rs. 1,00,000. The whole of the consideration, i.e., Rs. 1,00,000 will be exempt from capital gains tax if a new capital asset is bought for Rs. 1,00,000.

Example 2: If a trust had a capital asset costing Rs.1,00,000 and sold the same for Rs. 1,50,000 and then bought a capital asset for Rs. 1,30,000, then the working will be as follows:

<i>Particulars</i>	<i>(Rs.)</i>
Sale proceeds of old asset	1,50,000
Cost of the old asset	(1,00,000)
Capital gain	50,000
Cost of the new asset	1,30,000
Cost of the old asset	(1,00,000)
Capital gain utilised	30,000
Capital gain taxable	20,000

2. Assets held partly for religious or charitable purposes

It is quite possible that a capital asset is held by a trust partly for religious or charitable purposes. Where such a capital asset is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified here under:

- (i) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;
- (ii) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

“Explanation” to Section 11(1A) provides:

‘Appropriate fraction’ means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes.

‘Cost of the transferred asset’ means the aggregate of the cost of acquisition (as ascertained for the purposes of Section 48 and 49 of the capital assets which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (b) of clause (1) of Section 55.

‘Net consideration’ means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

Illustration 16

A trust has a capital asset costing Rs. 2,00,000 and 1/2 of its income is utilised for charitable purpose. It is sold for Rs. 3,50,000. If the trust buys another capital asset for Rs. 3,50,000 then appropriate fraction of the capital gain deemed to have been applied for charitable purpose. Supposing that the trust buys another asset for Rs. 2,90,000.

Solution:

Particulars	(Rs.)
Sale proceeds of Capital asset	3,50,000
Less: Cost of the asset	2,00,000
Capital gain on transfer of capital asset	1,50,000
Appropriate fraction i.e. 1/2	75,000
Another asset purchased	2,90,000
Appropriate fraction utilised (1/2 of Rs. 2,90,000)	1,45,000
Appropriate fraction of the original capital asset	
1/2 of Rs. 2,00,000	(1,00,000)
Capital gain utilised	45,000
Capital gain not utilised	30,000

Accumulations of Income [Section 11(2)]

While dealing with Section 11 it has been stated that accumulation of income from trust property held for charitable purpose is permissible up to 15 per cent on the gross receipts without attracting any liability to tax. Where the balance 85 per cent of the income is not applied or is not deemed to have been applied to charitable or religious purposes in India during the previous year, such income so accumulated or set apart shall not be included in the total income if the following conditions are fulfilled:

- (a) such person furnishes a statement in the prescribed form 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 five years;
- (b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);
- (c) the statement referred to in clause (a) is furnished at least two months prior to the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (a), 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.

Explanation: Any amount credited or paid, out of income referred to in clause (a) or clause (b) of sub-section (1), read with the Explanation to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.

It is important to note that to claim exemption subject to Section 11(2) it is enough to invest in Government securities etc., only that part of the unspent balance which falls over and above 15% of the total income derived from the property held under trust [*C.I.T. v. H.H. Marthanda Varma Elayaraja of Travancore Trust and others (1981) 129 I.T.R. 191 (Ker.)*].

Section 11(3) provides that:

- (i) if the income accumulated for the specific purpose under Section 11(2) is applied to purposes other than charitable or religious, or ceases to be accumulated or set apart for application thereto, it will be chargeable to tax as income of that year. Further, such accumulated income will become liable to be taxed if,
- (ii) it ceases to remain invested in any security or deposited in the manner provided under Section 11(5), or
- (iii) it is not utilised for the purpose for which it is so accumulated or set apart during the specified period, or in the year immediately following the expiry thereof;
- (iv) is credited or paid to any trust or institution registered under Section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of Section 10.

it shall be deemed to be the income of the previous year in which it ceases to remain so invested or deposited or is not so utilised, as the case may be.

Section 11(3A) provides that where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of Section 11(2) cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf allow such person to apply such income for such other charitable or religious purpose in India, as is specified by the person in the application subject further to the condition that it is in conformity with the objects of the trust.

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (d) of Sub-section (3) of section 11.

For the purposes of Section 11, 'property held under trust' includes a business undertaking so held and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of the Income-tax Act relating to assessment and where any 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 to purposes other than charitable or religious.

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (d) of Sub-section (3) of Section 11:

Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (b) of Sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (d) of Sub-section (3) in the year in which such trust or institution was dissolved.

Sub-section (4A) as substituted by Finance Act, 1991 with effect from 1.4.1992 states that Sub-sections (1) or (3) or (3A) of Section 11 shall not apply in relation to any business income of a trust or institution unless the business is incidental to the attainment of the objectives of the trust or institution and separate books of accounts are maintained by such trust or institution in respect of such business.

Forms and Modes of Investment [Section 11(5)]

The forms and modes for investing funds of charitable and religions trusts and institutions are given hereunder:

- (i) Investment in saving certificates as defined in clause (c) of Section 2 of the Government Savings Certificates Act, 1959, and any other securities or certificates issued by the Central Government under

the Small Savings Schemes of that Government. Investments in Indira Vikas Patra and Kisan Vikas Patra also qualify for the purpose of this Section;

- (ii) deposit in any account with the Post Office Savings Bank;
- (iii) 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);

Explanation: In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under Section 3 of the Banking Companies (Acquisition and Transfer of Undertaking Act, 1980, or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

- (iv) Investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963.
- (v) Investment in any security for money created and issued by the Central Government or a State Government;
- (vi) investment in debentures issued by, or on behalf of, 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;
- (vii) investment or deposit in any public sector company;

Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company:

- (a) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

Investment in debt instruments issued by and infrastructure Finance Company registered with RBI.

- (b) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;
- (viii) 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 under clause (viii) of Sub-section (1) of Section 36;
- (ix) 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 or construction or purchase of houses in India for residential purposes and which is approved by the Central Government for the purposes of clause (viii) of Sub-section (1) of Section 36;
- (x) 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.

Explanation: For the purpose of this clause:

- (a) "long-term finance" means any loan or advance where the terms under which moneys are loaned

or advanced provide for repayment along with interest thereof during a period of not less than five years;

- (b) “public company” shall have the meaning assigned to it in Section 3 of the Companies Act, 1956;
- (c) “urban infrastructure” means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport.
- (x) Investment in immovable property.

Explanation: “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, anything attached to the earth;

- (xi) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964;
- (xii) any other form or mode of investment or deposit as may be prescribed including investments in units of Mutual Fund and Transfer of Deposits to Public Account of India.

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 under this section in the same or any other previous year [Section 11(6)].

Where a trust or an institution has been granted registration under clause (b) of sub-section (1) of section 12AA or 12AB or has obtained registration at any time under section 12A and the said registration is in force for any previous year, then, nothing contained in section 10 [other than clause (1) and clause (23C), clause (23EC), clause (46) and clause (46A) thereof] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year [Section 11(6)].

Income of Trusts or Institutions from Contributions [Section 12]

The income of a trust by way of voluntary contributions would also be treated for all purposes as income deemed to have been derived by the trust from property held by it under trust except, however, in case where the voluntary contribution is received with a specific direction that it shall form part of the corpus of the trust. As a result, voluntary contribution received by a trust should also be applied for charitable purposes before the end of the accounting year or within 3 months following so that income-tax exemption could be availed of. However, voluntary contributions could be accumulated for future obligation for charitable purposes in the same manner as specified earlier.

The value of any services, being medical or educational services, made available by any charitable or religious trust running a hospital or medical institution or an educational institution, to any person referred to in Clause (a) or Clause (b) or Clause (c) or Clause (cc) or Clause (d) of Sub-section (3) of Section 13, shall be deemed to be income of such trust or institution derived from property held under trust wholly for charitable or religious purposes during the previous year in which such services are so provided and shall be chargeable to income-tax notwithstanding the provisions of Sub-section (1) of Section 11.

Explanation: For the purposes of this sub-section, the expression “value” shall be the value of any benefit or facility granted or provided free of cost or at concessional rate to any person referred to in Clause (a) or Clause (c) or Clause (cc) or Clause (d) of Sub-section (3) of Section 13.

Notwithstanding anything contained in Section 11, any amount of donation received by the trust or institution in terms of Clause (d) of Sub-section (2) of Section 80G which has been utilised for purposes other than providing

relief to the victims of earthquake in Gujarat or which remains unutilised in terms of Sub-section 5(C) of Section 80G in respect of which accounts of income and expenditure have not been rendered to the authority prescribed under clause (v) of sub-section (5C) of that section, in the manner specified in that clause, and not transferred to the Prime Minister's National Relief Fund on or before the 31st day of March, 2004 shall be deemed to be the income of the previous year and shall accordingly be charged to tax.

REGISTRATION OF TRUSTS [SECTION 12A]

The provisions of Sections 11 and 12 shall not apply in relation to any trust or institution unless the following conditions are fulfilled:

1. The person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and manner to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;
2. the person in receipt of the income has made an application for registration of the trust or institution, and subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, in the prescribed form and manner, within a period of 30 days from the date of said adoption or modification, to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;
3. Notwithstanding anything contained above, 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:
 - (i) where the trust or institution is registered under section 12A or under section 12AA, within three months from the date on which this clause has come into force;
 - (ii) where the trust or institution is registered under section 12AB and the period of the said registration is due to expire, at least six months prior to expiry of the said period;
 - (iii) where the trust or institution has been provisionally registered under section 12AB, at least six months prior to expiry of period of the provisional registration or within six months of commencement of its activities, whichever is earlier;
 - (iv) where registration of the trust or institution has become inoperative due to the first proviso to sub-section (7) of section 11, at least six months prior to the commencement of the assessment year from which the said registration is sought to be made operative;
 - (v) 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 thirty days from the date of the said adoption or modification;
 - (vi) in any other case, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought, and such trust or institution is registered under section 12AB; **[Clause (ac) inserted by Finance Act, 2020]**
4. Where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year, the accounts of the trust or institution for that year have been audited by an accountant as defined in the Explanation to sub-section (2) of section 288 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the

report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

5. The person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under sub-section (1) or sub-section (4) of that section.

Where an application has been made, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made.

[Provided that the provisions of sections 11 and 12 shall apply to a trust or institution, where the application is made under—

- (a) sub-clause (i) of clause (ac) of sub-section (1), from the assessment year from which such trust or institution was earlier granted registration;
- (b) sub-clause (iii) of clause (ac) of sub-section (1), from the first of the assessment years for which it was provisionally registered: [Inserted by Finance Act, 2020]

Provided that where registration has been granted to the trust or institution under section 12AA or section 12AB, then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year:

Provided further that no action under section 147 shall be taken by the Assessing Officer in case of such trust or institution for any assessment year preceding the aforesaid assessment year only for non-registration of such trust or institution for the said assessment year.

Rule 17A of the Income-tax Rules, 1962 provides that an application for registration of a trust shall be made in duplicate in Form No. 10A and shall be accompanied by the following documents:

- (i) where the trust is created or the institution is established under an instrument, the instrument in original together with a copy thereof and where it is created otherwise than under an instrument, the document evidencing the creation of the trust or the establishment of the institution together with one copy thereof. The Principal Commissioner or Commissioner may accept a certified copy instead of the original where the original cannot be conveniently produced.
- (ii) where the trust is in existence during any year or years prior to the financial year in which the application for registration is made, two copies each of the accounts of the trust for the three years (immediately) preceding the years in which the application for which the accounts have been made-up.

Procedure for Registration [Section 12AA]

Nothing contained in this section shall apply on or after the 1st day of June, 2020. **[Inserted by Finance Act, 2020]** In terms of Section 12AA, on receipt of application for registration, the Principal Commissioner or Commissioner shall call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf. He has to either grant or decline registration within six months from the end of the month in which the application was received. If no order is passed within the said six months, then it shall be deemed that the trust has been registered.

Where the Principal Commissioner or Commissioner is satisfied that the activities of the trust or institution are not genuine or are not carried out in accordance with the objects of the trust or institution then the commissioner may pass an order in writing for the cancellation of registration granted under section 12AA or under section 12A after giving an opportunity of being heard.

Further, where a trust or an institution has been granted registration or has obtained registration at any time under section 12A and subsequently it is noticed that the activities of the trust or the institution are being carried out in a manner that the provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 13, then, the Principal Commissioner or the Commissioner may by an order in writing cancel the registration of such trust or institution.

However, the registration shall not be cancelled under this sub-section, if the trust or institution proves that there was a reasonable cause for the activities to be carried out in the said manner.

Procedure for Fresh Registration [Section 12AB]

- (1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of section 12A, shall,—
 - (a) where the application is made under sub-clause (i) of the said clause, pass an order in writing registering the trust or institution for a period of five years;
 - (b) where the application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) or item (B) of sub-clause (vi) of the said clause,—
 - (i) 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; and
 - (ii) after satisfying himself about the objects of the trust or institution and the genuineness of its activities under item (A), and compliance of the requirements under item (B), of sub-clause (i),—
 - (A) pass an order in writing registering the trust or institution for a period of five years;
 - (B) if he is not so satisfied in a case referred to in sub-clause (ii) or sub-clause (iii) or sub-clause (v) of clause (ac) of sub-section (1) of section 12A rejecting such application and also cancelling its registration;
 - (C) if he is not so satisfied in a case referred to in sub-clause (iv) or in item (B) of sub-clause (vi) of sub-section (1) of section 12A, rejecting such application, after affording a reasonable opportunity of being heard;
 - (D) where the application is made under sub-clause (vi) of the said clause, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought, and send a copy of such order to the trust or institution.

Provided that where an application is made under sub-clauses (i) to (v) of the said clause, and the total income of such trust or institution, without giving effect to the provisions of

sections 11 and 12, does not exceed rupees five crores during each of the two previous years, preceding the previous year in which such application is made, the provisions of this sub-section shall have effect as if for **the words “five years”, the words “ten years” had been substituted.**; **(Inserted by Finance Act, 2025).**

- (2) All applications, pending before the Principal Commissioner or Commissioner on which no order has been passed under clause (b) of sub-section (1) of section 12AA before the date on which this section has come into force, shall be deemed to be an application made under sub-clause (vi) of clause (ac) of sub-section (1) of section 12A on that date.
- (3) The order under clause (a), sub-clause (ii) of clause (b) and clause (c), of sub-section (1) shall be passed, in such form and manner as may be prescribed,
 - (i) three months calculated from the end of the month in which the application was received in case of clause (a);
 - (ii) six months calculated from the end of the quarter in which the application was received in case of sub-clause (ii) of clause (b); and
 - (iii) one month calculated from the end of the month in which the application was received in case of clause (c).]
- (4) Where registration of a trust or an institution has been granted under clause (a) or (b) or (c) of Section 12AA(1) and subsequently, the Principal Commissioner or Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution after affording a reasonable opportunity of being heard.
- (5) Without prejudice to the provisions of sub-section (4), where registration of a trust or an institution has been granted under clause (a) or clause (b) of sub-section (1) and subsequently, it is noticed that—
 - (a) the activities of the trust or the institution are being carried out in a manner that the provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 13; or
 - (b) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), 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,

then, the Principal Commissioner or the Commissioner may, by an order in writing, after affording a reasonable opportunity of being heard, cancel the registration of such trust or institution.]

Merger of Charitable Trusts or Other Institutions in certain cases [Section 12AC]

Where any trust or institution registered under section 12AB or approved under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, as the case may be, merges with another trust or institution, the provisions of Chapter XII-EB shall not apply if—

- (a) the other trust or institution has same or similar objects;
- (b) the other trust or institution is registered under section 12AA or section 12AB or approved under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, as the case may be; and
- (c) the said merger fulfils such conditions as may be prescribed.

Levy of tax where the charitable institution ceases to exist or converts into a non-charitable organization

Sections 11 and 12 of the Act provide for exemption to trusts or institutions in respect of income derived from property held under trust and voluntary contributions, subject to various conditions contained in the said sections. The primary condition for grant of exemption is that the income derived from property held under trust should be applied for the charitable purposes, and where such income cannot be applied during the previous year, it has to be accumulated and invested in the modes prescribed and applied for such purposes in accordance with various conditions provided in the section. If the accumulated income is not applied in accordance with the conditions provided in the said section within a specified time, then such income is deemed to be taxable income of the trust or the institution. Section 12AA provides for registration of the trust or institution which entitles them to be able to get the benefit of sections 11 and 12. It also provides the circumstances under which the registration can be cancelled. Section 13 of the Act provides for the circumstances under which exemption under section 11 or 12 in respect of whole or part of income would not be available to a trust or institution.

A society or a company or a trust or an institution carrying on charitable activity may voluntarily wind up its activities and dissolve or may also merge with any other charitable or non-charitable institution, or it may convert into a non-charitable organization. In such a situation, the existing law does not provide any clarity as to how the assets of such a charitable institution shall be dealt with.

In order to ensure that the intended purpose of exemption availed by trust or institution is achieved, a new chapter has been introduced that provides for levy of additional income-tax in case of conversion into, or merger with, any non-charitable form or on transfer of assets of a charitable organization on its dissolution to a non-charitable institution. The elements of the regime are under:

- (i) The accretion in income (accreted income) of the trust or institution shall be taxable on conversion of trust or institution into a form not eligible for registration u/s 12AA or on merger into an entity not having similar objects and registered under section 12AA or on non-distribution of assets on dissolution to any charitable institution registered u/s 12AA or approved under section 10(23C) within a period of twelve months from dissolution.
- (ii) Accreted income shall be amount of aggregate of total assets as reduced by the liability as on the specified date. The method of valuation is proposed to be prescribed in rules. The asset and the liability of the Charitable Organisation which have been transferred to another charitable organisation within specified time will be excluded while calculating accreted income.
- (iii) The taxation of accreted income shall be at the maximum marginal rate.
- (iv) This levy shall be in addition to any income chargeable to tax in the hands of the entity.
- (v) This tax shall be final tax for which no credit can be taken by the trust or institution or any other person, and like any other additional tax, it shall be leviable even if the trust or institution does not have any other income chargeable to tax in the relevant previous year.
- (vi) In case of failure of payment of tax within the prescribed time, a simple interest @ 1% per month or part of it shall be applicable for the period of non-payment.
- (vii) For the purpose of recovery of tax and interest, the principal officer or the trustee and the trust or the institution shall be deemed to be assessee in default and all provisions related to the recovery of taxes shall apply. Further, the recipient of assets of the trust, which is not a charitable organisation, shall also be liable to be held as assessee in default in case of non-payment of tax and interest. However, the recipient's liability shall be limited to the extent of the assets received.

CASE LAWS***CIT vs Anil Hardware Stores (2010) 323 ITR 368 (HP):***

Remuneration payable to partners in equal proportion in which the profit and losses to be distributed to them, even though there is no provision in partnership deed. Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or 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 twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year.

LESSON ROUND-UP

- The term 'Hindu undivided family' has not been defined in the Income-tax Act. However, in general parlance it means an undivided family of Hindus. Creation of a HUF is a God-gifted phenomenon. As soon as a married Hindu gets a child, a new HUF comes into existence. It is not at all necessary that every HUF must have joint property or family income.
- A Hindu Joint Family consists of Coparceners & members.
- The gross total income of the family for the relevant previous year shall be computed under the relevant heads (as per the provisions of the Income-tax Act) as it is computed for other assesseees.
- 'Partition' signifies division of property. In the cases of property capable of physical division, share of each member is determined by making physical division thereof. It must be noted that a division of income without physical division of property does not amount to partition.
- **Partnership Firm:** Under Section 2(23) of the Income-tax Act, the terms "firm", "partner", and "partnership" have the meanings respectively assigned to them in the Indian Partnership Act, 1932 and Limited Liability Partnership Act, 2008.
- As per the scheme, a partnership firm shall be assessed as a firm if the following conditions are satisfied:
 - The partnership is evidenced by an instrument i.e. partnership deed.
 - The individual shares of the partners are specified in that instrument.
 - A copy of the partnership deed certified by all the partners in writing (other than the minors) is submitted along with the return of income in respect of which assessment as a firm is first sought.
- As per Section 10(2A) of the Act, any person who is a partner of a firm which is assessed as such, his share in the total income of the firm will not be included in computing his total income. Partner includes a minor admitted to the benefits of partnership as per Section 2(23) of the Act.

- When all the partners in the predecessor firm are replaced by new partners in the successor firm, it is known as succession of one firm by another firm. If a firm is dissolved and some of the partners take over the firm's business or carry on a similar business with or without new partners, it would be a case of succession by a new firm.
- Where a change has occurred in the constitution of a firm on account of death or retirement, the firm is not entitled to carry forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the previous year.
- **Alternate Minimum Tax:** From the assessment year 2012-13 onwards, where the regular income tax payable for a previous year by a person other than a company is less than the alternate minimum tax payable for such previous year then the adjusted total income shall be deemed to be the total income of such person for such previous year and it shall be liable to pay income tax on such adjusted total income @ 18.5% + SC plus health and education cess (HEC) @ 4%. AMT is applicable if adjusted total income exceeds Rs. 20 lakhs.
- **Association of persons:** "Association of persons" means an association in which two or more persons join in a common purpose or common action to produce income, profits or gains.
- For the formation of an AOP the association need not necessarily be on the basis of a contract, consent and understanding may be presumed.
- Section 167B makes the following provisions as regards the incidence of charge of tax on the association of persons.
- Where shares of members are determinate, tax is chargeable on the income of the association of persons at the same rate as applicable to an individual. However, where the total income of any member of the association of persons for the previous year (excluding his share of income from the association of persons) exceeds the maximum amount not chargeable to tax in the case of an individual, tax will be charged on the total income of the AOP at the maximum marginal rate of 30%, i.e., the highest slab applicable to an individual.
- Where the shares of the members are indeterminate, tax will be charged on the total income of the AOP at the maximum marginal rate, that is, the rate of tax as well as surcharge, if any, applicable to the highest slab of income in the case of an individual as specified in the Finance Act of the relevant year
- Section 67A seeks to provide for the method of computing a member's share in the income of an association of persons or a body of individuals, wherein the shares of the members are determinate, in the same manner as provided for in Sub-sections (1) to (3) of Section 67 for computing a partner's share in a firm.
- Co-operative Society means a co-operative society registered under the Co-operative Societies Act, 1912, or under any other law for the time being in force in any State for the registration of co-operative societies.
- The income of a co-operative society is computed in the same manner as provided for other assesseees.
- Section 80P provides for certain deductions from the gross total income of a Co-operative Society.

TEST YOURSELF

(These are meant for recapitulation only. Answers to these questions are not to be submitted for evaluation.)

Multiple Choice Questions “MCQs”

1. Alternative Minimum Tax (AMT) is applicable if adjusted Total Income of individual, AOP, artificial juristic person, Firm etc. exceeds:
 - (a) 15 lakhs
 - (a) 20 lakhs
 - (a) 25 lakhs
 - (a) 10 lakhsAnswer: (b)
2. Share in the profits of the firm is taxable in the hands of partner under the head:
 - (a) Salary
 - (b) Business & Profession
 - (c) Income from other sources
 - (d) Exempt from taxAnswer: (d)
3. Salary, fees, bonus received by a partner from the firm is Taxable in the hands of partner under the head:
 - (a) Salary
 - (b) Business & Profession
 - (c) Income from other sources
 - (d) Exempt from taxAnswer: (b)
4. Income earned from sale of “Streedhan” is taxable in the hands of:
 - (a) HUF
 - (b) Husband of such woman
 - (c) Such woman herself
 - (d) None of aboveAnswer: (c)
5. Personal earning including income from Self Acquired Property of a member of the HUF is included in Income of:
 - (a) HUF income
 - (b) Son’s income
 - (c) Individual’s income
 - (d) None of theseAnswer: (c)

