

Income Tax Summary

Finance Act 2021 For AY 22-23

About the Author –

Yogesh Verma is a member of the ICAI and a graduate from India's premiere undergraduate college – SRCC, DU
With the aim to provide quality education at affordable price he has started Learnzup.com (Online platform for commerce Students)

Prior to entering into teaching industry – he has worked in KPMG, Royal Bank of Scotland, Nomura, RSM and Luthra & Luthra.



Yogesh Verma
Founder – Learnzup.com

He has taught more than 10000 students freely on You-tube since Nov-16 and more than 1000 students through Learnzup.com

For Taxation Concept Video Lectures – Visit [Learnzup.com](https://www.learnzup.com) (Free account creation and free study group facility for students to interact and ask questions)

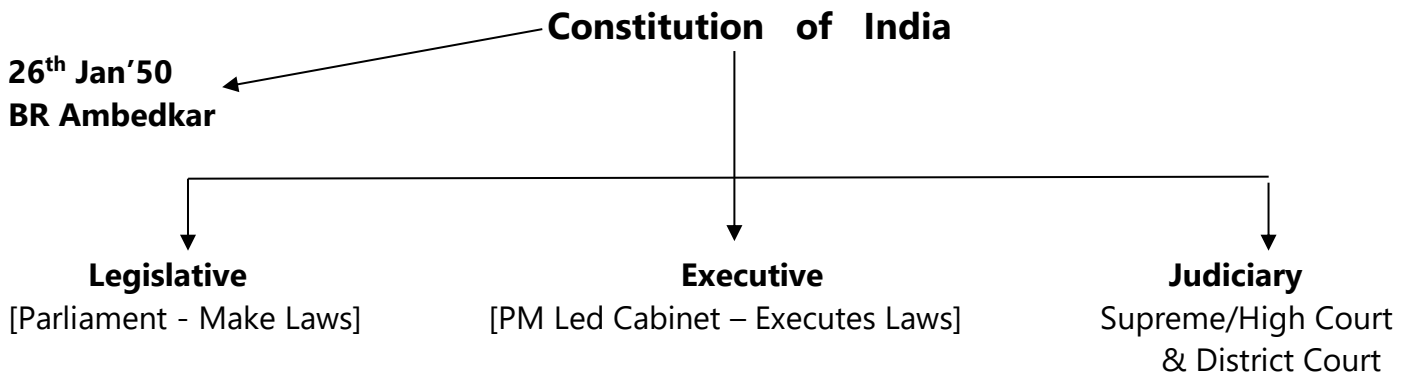
Disclaimer – While every effort has been made to provide quality content to the students, though there might be some areas where correction is required. Students are requested to contact the author in case there are any amendments required in this book.

Copyright notice - No part of this book can be reproduced without prior permission of the author. Unauthorized downloading/sharing/printing any part of this book is a punishable offence.

Index

| Sr. No. | Particulars | Page No. |
|----------------|-----------------------------------|-----------------|
| 1 | Introduction | 3 |
| 2 | Residential Status | 19 |
| 3 | Income From House Property | 26 |
| 4 | Capital Gains | 32 |
| 5 | PGBP | 50 |
| 6 | Agricultural Income | 74 |
| 7 | Income From Other Sources | 77 |
| 8 | Clubbing of Income | 83 |
| 9 | Set off & carry forward of losses | 85 |
| 10 | Exemption | 87 |
| 11 | Deduction | 89 |
| 12 | TDS & TCS | 95 |
| 13 | Advance Tax | 104 |
| 14 | Salary | 105 |
| 15 | Filing of Return | 116 |
| 16 | Alternate Minimum Tax (AMT) | 120 |

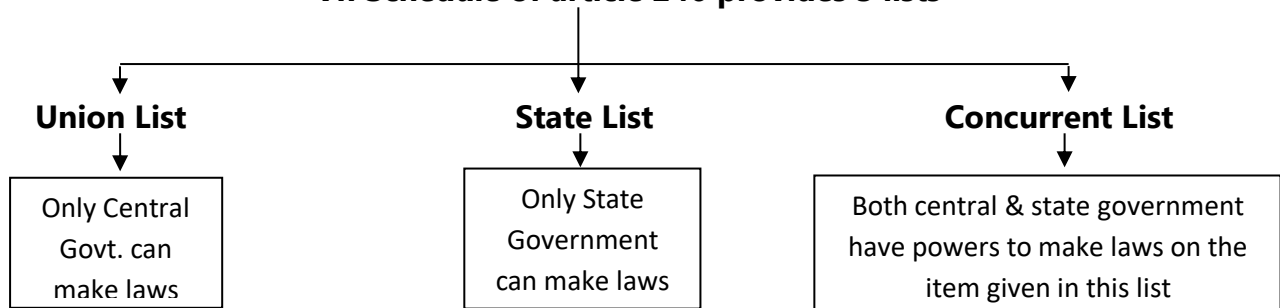
INTRODUCTION



Our constitution has articles

Article 246 gives powers to union & state government to levy taxes.

VII Schedule of article 246 provides 3 lists



Entry 82 of Union List – Gives powers to Central Government to levy taxes on income other than agricultural income

What are Taxes?

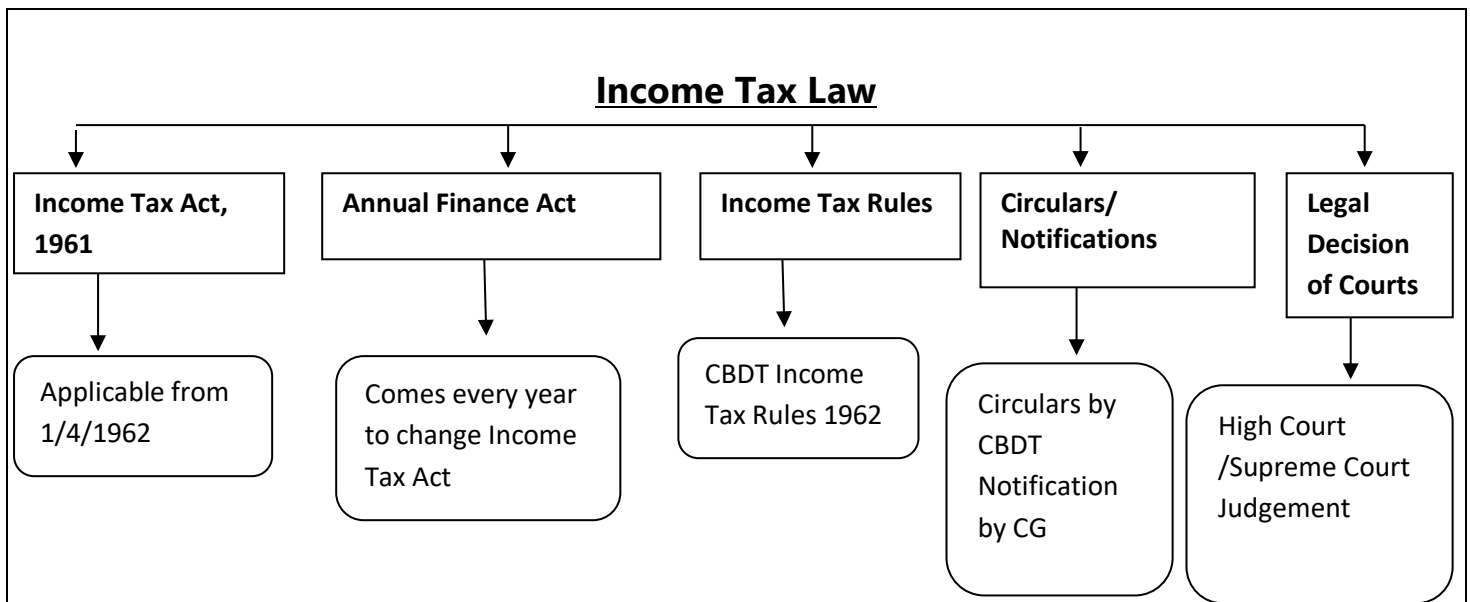
Fee charged by government

Types of Taxes

- 1) **Direct Taxes** - Burden of tax cannot be shifted on others. E.g. Income Tax
It is levied on persons E.g. Govt. charges income tax on Mr A then Mr A has to pay from his pockets
- 2) **Indirect Taxes** - Burden of tax can be shifted on others E.g. Goods & Services Tax
It is levied on goods/services E.g. Govt. charges GST on goods sold – Mr A sells the good to Mr B but here Mr A will recover the GST amount from Mr B and then will pay it to the government.

Why Taxes?

Government requires funds for development of our nation, building roads, dams, health care, schools, defence etc.



Every act has various Sections/subsection/clauses/sub-clauses in which provisions (act mein jo likha hua hai) are written.

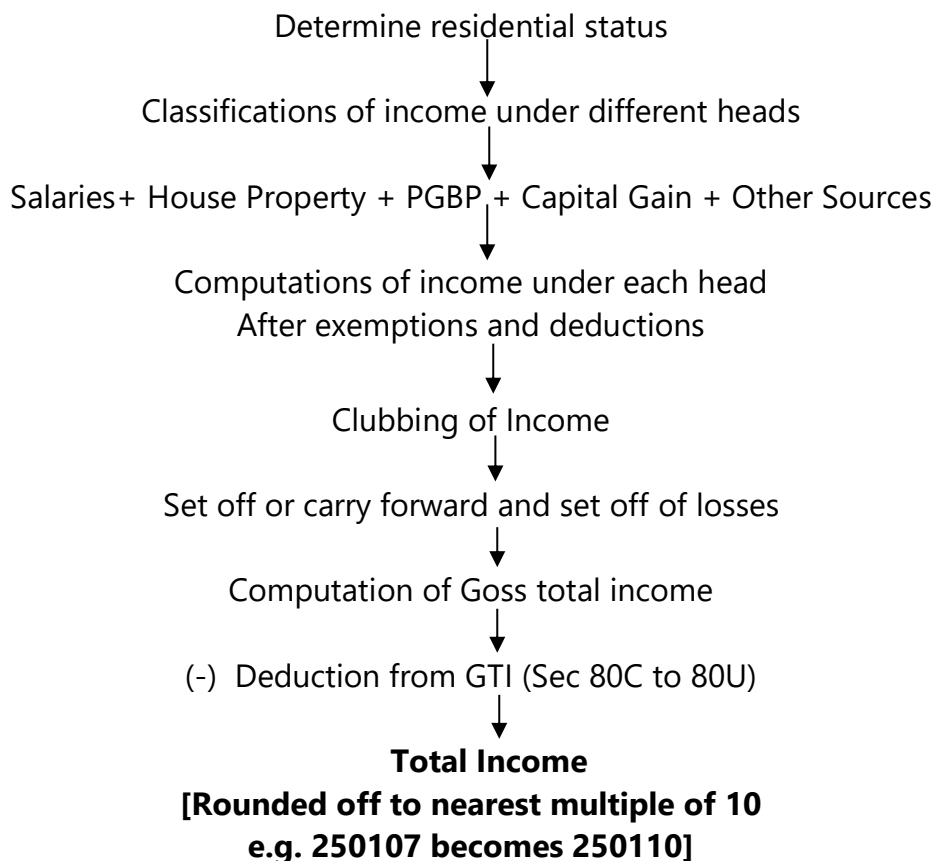
E.g. Sec 6(6) – Who is Not Ordinarily Resident in India – Read It as Section 6 Subsection 6

E.g. Sec 2(1A) – Section 2 has clauses hence read it as Section 2 clause 1A

Sections have proviso (means exceptions) and explanations (which gives clarifications)

***Income tax** is levied on **total income**. Therefore we need to find total income as per below method

How To Calculate Total Income



Computation of Income Tax For PY 21-22 AY 22-23

Tax is levied on Total Income

- 1) Based on type of income e.g. LTCG/STCG/dividend income/unexplained money
- 2) Based on type of person

As per Sec 2(31) person includes

- Individual
- HUF
- Firm
- Company
- AOP
- BOI
- Local authority
- Artificial Juridical person

How To Calculate Income Tax

Income Tax (Based on Type of Income & Type of Person)

+ Surcharge --- Only If TI > 50L

(-) Rebate u/s 87A (Maximum 12500) --- If TI <=5L

Income Tax After Surcharge/Rebate

+ Health & Education Cess on above @ 4%

(-) Advance Tax & Tax Deducted at Source

Income Tax Payable/Refundable

*** File Income Tax Return In Assessment Year (Next Year)**

Example – Compute total income of Mr X from the following details. Assume Mr X is a resident in PY 21-22.

| Particulars | Amount |
|----------------------------------------------------------------------------------------------------|----------|
| Income from salary [without deductions] | 300000 |
| Income from house property A | 200000 |
| Loss from house property B | (100000) |
| Mr X sold shares in Maruti Suzuki [cost price 20000 sold at 30000] Mr X held the shares <1 year | - |
| Son of Mr X earned interest on FD [son's age is 10 years] | 50000 |
| Mr X paid LIC premium during 20-21 | 10000 |
| Mr X invested 2 lakh in tax saver FD | |
| Mr X has a business in Nepal (Agriculture Income) | 50000 |

Solution**Computation of Income of Mr X for PY 21-22 AY 22-23**

| Particulars | | Amount |
|--------------------------------------------------------------|----------|---------------|
| Income from salary | 300000 | |
| (-) Standard deduction | (50000) | 250000 |
| Income from house property | | |
| HPA | 200000 | |
| HPB | (100000) | 100000 |
| Income from PGBP [From Nepal] | | 50000 |
| Income from Capital gains | | |
| Short term capital gain on shares sale consideration | 30000 | |
| (-) Cost of acquisition | (20000) | 10000 |
| Income from Other Sources | | |
| Sec 64(A) FD interest of minor son [50000 – 1500 u/s 10(32)] | | 48500 |
| Gross total income | | 448500 |
| (-) Deductions under chapter VI-A | | 150000 |
| Total Income | | 298500 |

*** Note deduction u/s 80C is allowed upto Rs. 1.5 lakhs (Refer chapter Deductions)**

Example Mr Y is a Non-Resident in India for PY 2021-22 compute his total income from the following data:

| Particulars | Amount |
|--------------------------------------------------------------------------|---------|
| Salary earned & received in USA | 100000 |
| Salary earned in India (Computed) | 200000 |
| Income from HP | 50006 |
| C/F loss from Business A (17-18) | (20000) |
| Profits from Business A | 50000 |
| Interest earned on FD after TDS of 2000 | 18000 |
| Interest earned by major child of Y | 3000 |
| Y sold his property in Delhi for 50 lakh (Purchased in 2021 for 40 lakh) | - |
| Y invested amount in public provident fund | 130000 |
| Y also paid LIC premium | 20000 |
| FD Tax saver 5 years | 50000 |

Solution Computation of total income of Mr Y for PY 21-22 AY 22-23

| Particulars | | Amount |
|-------------------------------------------------------------------------------------------------------------------------------|-------------|------------------|
| Income from Salary – USA (Not Included) as Mr Y is NR - only Indian Income is Taxable Income from salary – India | | 200000 |
| Income from house property | | 50006 |
| Income from PGBP | | |
| Business A | 50000 | |
| (-) B/F loss now adjusted (Intra-head set off) | (20000) | 30000 |
| Income from capital gain | | |
| Sale consideration | 50,00,000 | |
| (-) cost of acquisition | (40,00,000) | |
| Short term capital gain | 10,00,000 | 10,00,000 |
| Income from other sources | | |
| Interest on FD (excluding TDS) | | 20,000 |
| Gross total income | | 13,00,006 |
| (-) deduction from GTI | | 1,50,000 |
| Total Income (Rounded off to nearest multiple of 10 u/s 288A) | | 11,50,006 |

Calculation of Deductions u/s 80C Allowed Upto 1.5 lakh

| | |
|---------------|---------------|
| PPF | 130000 |
| + LIC premium | 20000 |
| +FD 5 years | 50000 |
| Total | 200000 |

Tax rates based on type of person**Individual < 60 years during PY**

| | |
|-----------|---------|
| Upto 2.5L | Nil tax |
| 2.5L – 5L | 5% |
| 5L-10L | 20% |
| >10L | 30% |

Note – Individual includes both resident & non-resident, both male/female and any other gender.

Example – Mr X has total income of 12,00,000 (earned from salary) how much income tax needs to be paid?

| | |
|------------------|--------|
| On First 2.5L | Nil |
| 2.5L -5L @ 5% | 12500 |
| 5L-10L @ 20% | 100000 |
| >10L (30% of 2L) | 60000 |

Income tax = 1,72,500 (Add health & education cess 4% as well)

Individual (Resident + \geq 60 years) ----- Senior Citizen

| | |
|---------|--------|
| Upto 3L | No tax |
| 3L-5L | 5% |
| 5L-10L | 20% |
| >10L | 30% |

Clarification – Age should be checked on 1/4/AY

For PY 21-22 age on 1/4/22 to be considered

Individual (Resident + \geq 80 years) ---- Very senior citizen

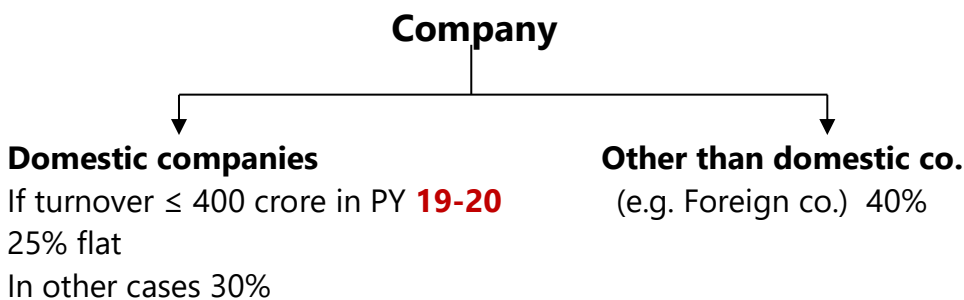
| | |
|---------|--------|
| Upto 5L | No tax |
| 5L- 10L | 20% |
| >10L | 30% |

Note – Individual who is non-resident will be taxable at slab rates applicable for < 60 years

Note – HUF/AOP/BOI/Artificial Juridical Person are taxable at same rates which are applicable to individual < 60 years

Firm/LLP - Flat rate 30%

Local authority - Flat rate 30%



Domestic company also have an option to pay tax @ 22% + surcharge & cess --- provided it doesn't take any exemption/incentive i.e. effective rate 25.17% with surcharge & cess

Also new manufacturing co. incorporated \geq 1/10/19 can pay tax @ 15% without availing any exemption/incentives – effective rate 17.16% with surcharge & cess

Tax rates based on type of income

Section 112 Long term capital gain – 20% [Generally]

Section 112A LTCG on transfer of –

- Equity shares in company
- Units of equity oriented fund
- **Unit of ULIP issued on or after 1.2.21 to which exemption u/s 10(10D) doesn't apply**
- Units of a business trust

If security transaction tax is paid then LTCG upto 1L is exempt & LTCG >1L is taxable @ 10%

Section 111A STCG on above & STT is paid --- 15%.

STCG on other than above is taxable as per type of person

Section 115BB - Winning from lottery, gambling, betting, crossword puzzles, card games, game shows, horse races or other races --- 30%

Section 115BBE - Unexplained money, unexplained expenditure, investments not fully disclosed, cash credits, amount borrowed or repaid in Hundi (a document to give loan in earlier times) 60% tax rate + Surcharge 25% of tax + 4% Health & education cess on [Tax + Surcharge]

Rate of tax for undisclosed sources of income [Section 115BBE]

Undisclosed sources se income jab assessing officer (Income Tax Officer) pakdega tab income tax dena padega i.e. when below income is found and assessee (Taxpayer) offer no explanation about the nature and source or the explanation offered is not satisfactory is the opinion of AO then it will be taxable under this section -

Cash credit (Sec 68) – Amount credited in books of accounts but assessee offers no explanation e.g. cash received in bank and liability book – so credit done in books – if assessee cannot prove it is a loan or doesn't offer satisfactory explanation that from where this money has been received then that will be treated as his income

Unexplained –

- **Investment (Sec 69)** – not recorded in books
- **Money/Jewellery(Sec 69A)** – not recorded in books
- **Expenditure(Sec 69C)**

Amount of Investment not fully disclosed in the books of accounts Sec 69B

Amount borrowed or repaid on hundi [other than a/c payee cheque] Sec 69D

Surcharge (Tax on Tax)

1) Individual/HUF/AOP/BOI/Artificial Juridical Person

- | | | |
|-------|---------------------------------------------------------------------------|--------|
| (i) | Total income > 50L ≤ 1 crore [Including LTCG 112A & STCG 111A Income] | -- 10% |
| (ii) | Total income > 1 crore ≤ 2 crore [Including LTCG 112A & STCG 111A Income] | -- 15% |
| (iii) | Total income > 2 crore ≤ 5 crore [Excluding LTCG 112A & STCG 111A Income] | -- 25% |
| (iv) | Total Income > 5 crore [Excluding LTCG 112A & STCG 111A Income] | -- 37% |

Any other case except above where total income [including income u/s 111A & 112A] exceeds 2 crore in cases not covered in (ii) & (iii) above – 15% rate.

However 25% & 37% surcharge slab not applicable on capital gain on which STT has been paid – so for these income 15% is the maximum rate.

2) Firm/LLP/Local Authority/Cooperative society

Total income > 1 crore – 12% of income tax

Example – Mr X has total income of 2 crore. Calculate his tax liability.

| | |
|--------------------------------|------------------|
| 1,90,00,000 x 30% | 57,00,000 |
| 10,00,000 [12500+1,00,000] | 112500 |
| Total income tax | 5812500 |
| Surcharge @ 15% | 871875 |
| Tax + surcharge | 66,84,375 |
| + Health and Education Cess 4% | 267375 |
| Total Income Tax | 69,51,750 |

3) Domestic company

Total Income > 1 crore ≤ 10 crore --- 7% of income tax

Total income > 10 crore --- 12% of income tax

4) Foreign company/other than domestic

Total income > 1 crore ≤ 10 crore -- 2% of income tax

Total income > 10 crore -- 5% of income tax

Marginal relief

If total income of company exceeds 1 crore – let say 1,00,00,100 then surcharge on whole income tax calculated will be levied

Income tax = 1,00,00,100 × 30% = 30,00,030 + Surcharge = 30,00,030 × 7% = 2,10,002

Total = 32,10,032

Kash yeh company 100 kam earn karleti – Total Income hoti 1 crore – Income Tax – 30L - No surcharge

Only INR 100 zyada hone se surcharge dena pada 2,10,002 – This is not justified

Therefore, Extra income se zyada extra tax nahi ho sakta

This concept is called marginal relief

Extra income = 100

Extra tax = 32,10,032 – 30,00,000 = 2,10,032

Or

Extra tax 100×30% = 30

+ Surcharge = 2,10,002

Total Extra Tax = 2,10,032

Marginal relief = 210032 – 100 = 209932

I.T. = 3210032

(-)Marginal relief = 209932

I.T. + SURCHARGE = 3000100

(+) Health & Education cess 4% 120004

I Tax payable = 3120100 – Rounded off to the nearest multiple of 10.

NOTE – Same concept is applicable on all persons – Individual/Firm etc. Similarly if Total Income > 10 crore by small amount – Check extra tax paid on amount > 10 crore [Calculate tax on 10 crore then calculate tax on Total Income] Find their difference – Extra tax cannot be more than extra income

$$\begin{aligned} & \text{Gross Total Income} \\ & \text{(-) Deductions under Chapter VIA} \\ & \quad \downarrow \\ & \quad = \text{Total Income} \end{aligned}$$

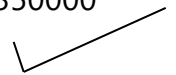
Deductions are not allowed from income which are taxed at special rates i.e. income which are taxed u/s 112, 111A, 112A, 115BB, 115BBDA, 115BBE & undisclosed sources of income

Example – Mr X has GTI = INR 4L (2L – winning from lottery & 1,50,000 STCG u/s 111A), X has invested 1.5L in PPF i.e. deductions u/s 80C – Calculate total income

Gross Total Income 400000 (-) Deduction u/s 80C 150000 = Total Income 250000



GTI = 400000 (3.5L special tax rate no deduction) (-) Deduction 50000 = Total Income 350000



Rebate u/s 87A to Resident Individual

If Total Income \leq 500000 then 12500 maximum rebate u/s 87A can be availed from income tax calculated. **Rebate not available for tax payable u/s 112A**

Example Mr X (Non-resident) has total income 300000 – Calculate rebate u/s 87A
No rebate since Mr X is non-resident.

Example – Mr X (Resident in PY 20-21) has total income of 2.70L – Calculate Rebate u/s 87A.

First calculate income tax

0 – 2.5L – NIL

20000 \times 5% -- 1000 income tax

(-) Rebate u/s 87A (1000)

Tax payable = Nil

Rebate is available since Mr X is resident & T.I. \leq 5L

Further rebate cannot be more than tax payable.

Some important points

Rebate u/s 87A is not available in respect of LTCG u/s 112A

Concept of unexhausted basic exemption limit

We know that there are some incomes where income tax is calculated at special rates without looking at basic exemption limit.

Example – Mr X has 1L of lottery income – Calculate income tax

– 1L \times 30% = 30,000 (tax as per type of income)

However for resident Individual & HUF if income is earned u/s 112/112A/111A then total income upto 2.5L (2.5L/3L/5L Depending on first slab or basic exemption limit) should not be taxable. This concept is called benefit of unexhausted basic exemption limit.

Example – Mr X (Resident) has GTI 8L (3L—112, 1L – 112A, 3L – 111A). Mr X has invested in 5 years tax saver FD 2L. Calculate income tax

Solution – Out of 8L GTI (7L of income would be taxed at special rate). Maximum deduction which can be allowed is 1L.

$8L(\text{GTI}) - 1L (\text{Deduction u/s } 80C) = 7L (\text{Total Income})$

2.5L is basic exemption limit hence 4.5L should be taxable

| | |
|-----------------------------------|-------|
| LTCG 112A 1L x 10% | 10000 |
| STCG 111A 3L x 15% | 45000 |
| LTCG 112 50000 x 20% | 10000 |
| Income tax | 65000 |
| No surcharge / no rebate u/s 87 A | |
| Health & education cess 4% | 2600 |
| Income tax payables | 67600 |

NOTE – 4.5L mein kitni income 112A ki hai kitni 111A hai aur kitni 112 ki??

Jisse assessee ko tax sabse kuma aye usi order mein income tax calculate karna padega

Whichever is more beneficial to assessee

Example – Mr X stayed in India during PY 21-22 for 200 days. He earned following income during the year:

| | |
|---------------------------------------------------------------|---------|
| Salary from ABC Ltd | 200000 |
| LTCG on sale of equity shares of Y Ltd | 50000 |
| Winning from KBC [after 30% TDS] | 250000 |
| Agricultural income | 5000 |
| Dividend from Y Ltd [Indian Co.] | 1150000 |
| Interest on FD earned by minor Daughter of Mr X after 10% TDS | 60000 |
| X invested 20,000 in PPF u/s 80C | |
| X earned rental income from his House A | 120000 |
| Investment made in tax saver FD | 150000 |
| LIC premium paid | 10000 |

Calculate Total income & Income tax liability assuming Mr X has paid 7000 as advance tax during PY 21-22.

Solution – Computation of total income of Mr X for PY 21-22 AY 22-23

| Particulars | Amount |
|------------------------------------------|------------------|
| Income from salary | 200000 |
| Income from house property | 120000 |
| Income from capital gain | |
| LTCG exempt u/s112A | - |
| Income from PGBP | - |
| Agricultural income exempt u/s 10(1) | |
| Income from other sources | |
| Winning from KBC (X – 30% of X = 250000) | 357143 |
| Sec 64(A) Interest on FD | 66667 |
| 1500 exempt u/s 10(32) | (1500) |
| Dividend from Y Ltd | 1150000 |
| Gross total income | 18,92,310 |
| Deductions u/s 80c | 150000 |
| Total Income | 17,42,310 |

Deductions u/s 80C

| | |
|------------------------|---------------|
| LIC premium | 10000 |
| Tax saver FD | 150000 |
| Total | 160000 |
| Maximum Allowed | 150000 |

Computation of tax liability for Mr X PY 21-22 AY 22-23

Total income 17,42,310

- 1) Special Rate Income - $357143 \times 30\%$ u/s 115BB
- 2) Normal Income 13,85,167 upto 2.5 Lakhs No Tax

Total Income Tax $-1,07,143 + 2,28,050 = 3,35,193$

HEC 4% = 13,408

Income Tax + HEC = 3,48,601

Less: TDS $[107143 + 6667] = 113810$

Less Advance Tax = 7000

Income Tax Payable = 2,27,790 (rounded off to nearest multiple of 10)

Definitions



Given in section 2 of every act (generally). These definitions are applicable on the whole act. If another definition of same word is given under any other chapter than for that chapter only Section 2 definition doesn't apply.

E.g. Definition of relative given under Sec 2 as well as in the chapter of other sources, so for the chapter of other sources definition of relative given in section 2 will not be applicable

Types of definitions

- **Exhaustive** – Start with means “iske alawa kuch nahi”
- **Inclusive** – Start with ‘It includes’ which is an open definition and new items of similar nature can be added in the definition
- **Hybrid** – Means & includes – since the word include is also used therefore new items of similar nature can be added in this definition as well

Assessee Section 2(7)

Assessee means a person by whom any tax or other amount is payable under this act, it also includes:

- Every person who is deemed to be an assessee under this act.
- Every person who is deemed to be an assessee-in-default under any provision of this act.
- Every person in respect of whom any proceedings under this act have been taken for assessment of his income.

Assessment Section 2(8)

Procedure followed by assessing officer (from income tax department) to determine income of an assessee by way of normal assessment or the way of reassessment of an income previously assessed.

Company Section 2(17) Means –

- Indian company
- Foreign company
- Any institution, association or body whether incorporated or not and whether Indian or not – which is declared by CBDT to be a company.

Domestic company Section 2(22A) Means -

An Indian company or a co. which has made prescribed arrangements for the declaration & payment of dividend within India. (Dividend payable out of income liable to income tax)

Foreign company Section 2(23A)

Means a company which is not a domestic company

Indian company Section 2(26)

- The co. should be formed and registered under any law relating to companies. E.g. Company Act 2013
- The registered office or the principal office of the company should be in India.

Indian co. also includes

Corporation established under central, state or provisional act

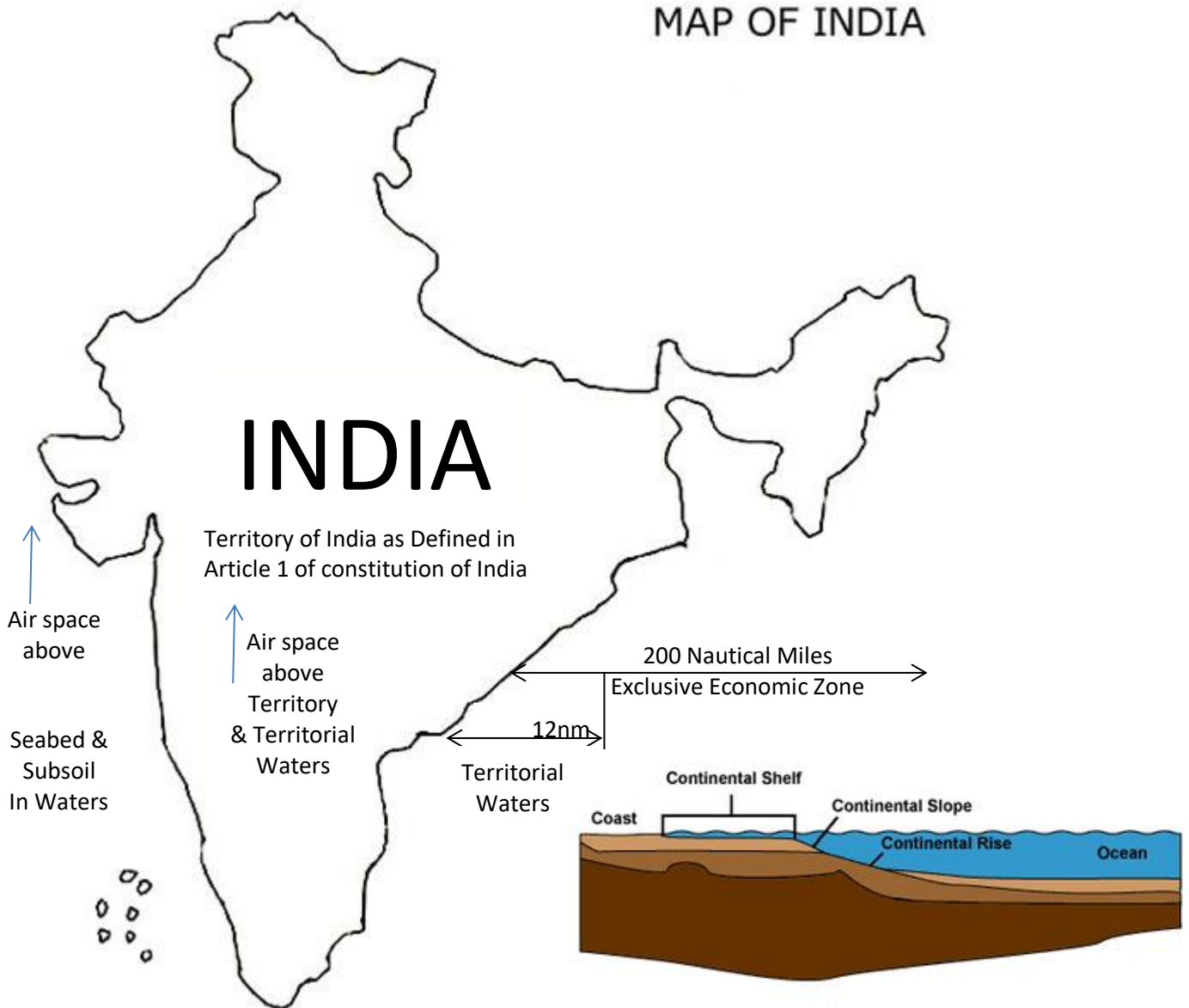
Co. formed in Jammu & Kashmir or union territories of Pondicherry, Goa, Daman & Diu, Dadra & Nagar Haveli

Income section 2(24) Includes

PGBP, capital gains, salary, & allowances, dividend, winning from lottery, gambling, betting, income from other sources etc.

India Section 2(25A)

MAP OF INDIA



Some Basic Concepts Under Income Tax

1. Regular receipt v/s casual receipt

Regular receipts are earned regularly like salary, rent, PGBP, etc. while casual receipt are earned occasionally by chance like lottery, winnings.
Both incomes are taxable.

2. Revenue receipt v/s capital receipt

Capital receipt is generally not taxable however in the chapter of capital gains even capital receipts are taxable

3. Net receipt v/s gross receipt

Gross receipts are generally not taxable
Only net receipts are taxable i.e. after deducting expenditure from the total receipts

4. Due basis v/s receipt basis

Income can be taxed either on due basis or on receipt basis
For PGBP & IOS – Assessee can follow either accrual system or cash basis

Revenue v/s capital receipt

Generally income tax is levied on income earned and not capital receipt. However some incomes are taxed even for capital receipt like capital gains.

Few distinctions to test whether a receipt is revenue or capital –

Fixed capital v/s circulating capital

Fixed capital like share capital not taxable since it is used to earn profits whereas circulating capital like working capital created from sales in the form of debtors/cash increases are taxable.

Income from transfer of capital asset or trading asset

Income from capital assets is chargeable under capital gains whereas income from trading assets is chargeable under PGBP.

How to test revenue receipt or capital receipt

- Transactions entered into the course of business are generally revenue receipt. E.g. Sale of house property is capital receipt generally but for DLF (builders) – Selling HP is a business income i.e. PGBP.
- Similar for shares/securities
 - Motive to trade regularly – Business income
 - Motive to invest -- Capital gain
 - Motive to sell same day – speculative

Note – Securities held by foreign institutional investor are always treated as capital assets

- Can single transaction constitute a business – Yes e.g. Bulk sale at trade fair or big event
Single event but still business
- Liquidated damages – Paid on breach of contract – not regular hence capital receipt
- Compensation on termination of agency

Person having one agency – If terminated & amount received then capital receipt
 Person having many agencies & one is terminated – Revenue in nature but both points are taxable under PGBP

- Gifts – Generally capital receipt as one time but are taxable under “other sources”.

Maximum Marginal Rate

Highest rate including surcharge if any which can be applicable on Individual, AOP, BOI as the case may be

E.g. Individual having income > 1 crore can be taxed at 30% rate + 15% surcharge i.e. 34.5% +4% health & education cess = 35.88% -- This is MMR

Individual with income < =50L

Maximum rate is 30% + 4% cess = 31.2%.

Average rate of tax

Income Tax Calculated/Total Income = Average rate

Generally used when giving double taxation relief (studied in CA Final)

Previous Year & Assessment Year

Year in which income is earned is known as previous year [21-22]

Year in which income is taxed is known as assessment year [22-23]

E.g. If it is written PY 21-22 [it means it is the year in which income is earned – Jis year ki income par tax nikalna hai. For PY 21-22 AY is 22-23 [i.e. next year starting from 1/4 to 31/3].

Exceptions to this rule –

Income earned in previous year is taxed in previous year itself

1. Shipping business of Non- Resident [Section 172]

Ship carrying passengers/livestocks/mail/goods Shipped to Indian port

If this ship belongs to NR then before leaving India income tax needs to be paid by captain of the ship or any other authorized person.

Also, Income will deemed to be 7.5% of freight paid/payable – e.g. freight paid 1 crore so 7.5 Lakhs would be treated as income and then tax on this income needs to be paid before ship is allowed to leave Indian ports.

2. Persons leaving India [Section 174]

If AO finds/notice any Individual leaving India with no intentions of returning back to India then tax for the year in which individual is about to leave is paid in the same year in which he leaves India.

3. AOP/BOI/Artificial Juridical person formed part for a particular event or purpose [Section 174A]

AO feels AOP/BOI/ etc. is likely to be dissolved in the same year or next year, then he can make assessment of the income upto the date of dissolution as income of relevant AY.

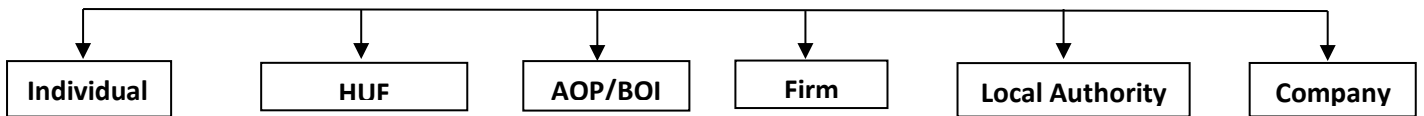
4. Person likely to transfer property to avoid tax [Section 175]

If it appears to AO that person is likely to charge sell, transfer, dispose any of his asset to avoid payment of any liability under this act then income from expiry of PY to the date is chargeable to tax in that AY.

5. Discontinued business [Section 176]

Only in this section AO may or may not charge income from expiry of PY upto the date of discontinuance of business/profession in that AY

RESIDENTIAL STATUS



These all types of persons can either be resident or non-resident, residential status depends on how long a person stays in India. It is however a different concept than citizenship and is checked for each previous year. That means a person can be resident in PY 20-21 but may be a non-resident in PY 21-22

Scope of Total Income Section 5

For Resident - Both Indian & Foreign Income is taxable.

For Non-Resident - Only Indian Income is taxable.

In case of Individuals/HUF – If they are resident then they can be either –

1. Resident & Ordinarily Resident – Both Indian & Foreign Income is taxable

or

2. Resident But Not Ordinarily Resident – Indian Income is taxable + Income from a business controlled from business or profession setup in India is also taxable

Residential status of Individual Section 6(1)

An individual will be resident if he/she satisfies any of the basic condition –

Stay in India (including territorial waters) \geq 182 days during PY

or

Stay in India (including territorial waters) \geq 60 days during PY + Stay in India \geq 365 days during 4 immediately preceding PYs.

Or Deemed To Be Resident In India - Sec 6(1A) – Notwithstanding anything contained in clause 1, an individual being citizen of India having total income (other than the income from foreign sources) exceeds 15 lakhs during the previous year shall be deemed to be resident in India in that PY if he is not **liable to tax** in any other country.

Liable to tax means there is an income tax liability on such person under the law of that country for the time being in force. It also includes a person who has subsequently been exempted from such liability under the law of that country.

Note – Stay can be continuous or not i.e. an Individual can come in India & go out of India any no. of times – Both date of arrival & departure will be included in calculating stay in India

Example – Mr X born in India but stayed for 50 days during PY 21-22 in India. Determine his residential status.

Mr X is a non-resident since he doesn't qualified any of the condition u/s 6(1)

In below cases an Individual is resident only if his stay in India \geq 182 days in PY i.e. second condition is not checked:

1. Indian citizens who leaves India as a crew member of an Indian ship or leaves India for the purpose of employment outside India or
2. Indian citizens or person of Indian origin engaged outside India in an employment or business or profession or vocation who comes on a visit to India.

For Indian citizens and persons of India origin having total income (other than income from foreign sources) exceeding INR 15 lakhs then that individual will be resident even if he stays in India for 120 days or more in PY + 365 or more in 4 preceding PY.

Foreign source means – Income which accrues or arises outside India and is not from business controlled in India or profession set up in India.

Note 1 – Person of Indian origin means if Individual or his parents or any of his grandparents (Dada, Dadi, Nana, Nani) were born in Undivided India (before independence i.e. 15/8/1947)

Note 2 - As per CBDT notification, For Indian citizen who is a crew member of a ship - period of stay in India (in respect of eligible voyage) doesn't include the following period –

1. Date entered in continuous discharge certificate in respect of joining the ship &
2. Date entered in continuous discharge certificate in respect of signing off the ship

Eligible voyage means –

- Voyage originating from any port in India & has destination as any port outside India &
- Voyage originating from any port outside India & has its destination as any port in India.

Section 6(6) Resident & Ordinarily Resident (ROR) –

A resident (i.e. who satisfies any of the basic condition mentioned above) will be a ROR if both the below conditions are satisfied

- 1) Individual is resident (satisfies basic condition) in any 2 PY out of last 10 immediately preceding PY &
- 2) His/her total stay in India ≥ 730 days in 7 immediately preceding PYs

Who is RNOR:

- 1) If any of the above condition is not satisfied then individual will be a resident but not ordinarily resident (RNOR)
- 2) Individual who is a deemed resident under 6(1A)
- 3) Citizen of India or person of Indian origin who stays in India for 120 days of more but less than 182 days and has income (excluding income from foreign sources) greater than 15 Lakhs

Example - Mr A is an Australian player & visits India for 100 days in every financial year since last 10 years. Determine his residential status for PY 21-22

Solution RNOR (because stay in India < 730 days in last 7 years)

Example – Mr D an Indian citizen leaves India on 22.09.2021 for full time employment abroad. Determine his residential status for PY 21-22.

Solution As per exception to section 6(1) if an Indian citizen leaves India for the purpose of employment outside India then he/she will be resident if his/her stay in India is 182 days or more during the PY (i.e. only first basic condition will be checked)

However D has stayed in India for 175 days during PY 21-22
 April 30 days May 31 days June 30 days July 31 days Aug 31 days Sep 22 days = 175 Days
 Since his stay in India < 182 days during PY 19-20 hence D is a non-resident for PY 21-22
 Only Indian income would be taxable for 'D' during PY 21-22

Example – Mr D a Non-resident residing in US since 1990 came back to India on 01.04.20 for permanent settlement. Determine his residential status for AY 22-23.

Solution – As per section 6(1), D will be resident for PY 21-22 if he stays ≥ 182 days OR ≥ 60 days +365 days during 4 preceding PYs.

Since D stayed in India for whole year during PY 21-22 hence he is resident for PY 21-22.

If an Individual is a resident, we need to check whether he is ROR or RNOR as per section 6(6). He will be resident & ordinarily resident in India if both the below additional conditions are satisfied:

1. He is resident in any 2 out of 10 immediately preceding PY.
2. (+) His Total Stay in India ≥ 730 days in 7 immediately preceding PY.

Since 'D' came from USA. Therefore, his stay in India in last 7 years is only 365 days – Since this condition is not satisfied he is RNOR for PY 21-22.

Residential status of HUF

Resident – If control & management of the affairs is situated wholly or partly in India

Non-resident – If control & management of the affairs is situated wholly outside India

Control & management means directing power at a particular place with degree of permanence. Business can be done outside India but it may be controlled from India. (Decision making power)

If HUF is resident then additional condition for its manager is checked to determine whether HUF is ROR or RNOR

- Manager of HUF is resident at least 2 PY out of 10 PY (immediately preceding) + Manager stay in India ≥ 730 days in 7 immediately preceding PY. If both conditions satisfied HUF is ROR
- HUF RNOR – If any additional condition not satisfied

Residential status of AOP/Firms/Local Authority & Artificial Juridical Person

Resident – If control & management of its affairs wholly or partly situated in India

Non Resident – If whole control & management of its affairs is situated outside India

Residential Status of Companies

Resident –

- All Indian companies
- Other company If its place of effective management (POEM) for that PY is in India

Non Resident – If company is not resident then it is NR

POEM –Place where key management & commercial decisions are made which are necessary for the whole entity. Section 6(3)

E.g. Board of directors meeting

Scope of Total Income Section 5

Indian Income –

- Income received or deemed to be received in India during PY
- Income accrued or arises or deemed to accrue or arise in India during PY.

Taxable for both Resident & Non-resident.

Clarification – Non-Resident seafarer (Sailor – who work on ship) who renders services outside India but received salary in NRE a/c (Non-resident external a/c) of Indian bank – his salary income would not be included in total income.

Foreign Income – Income which accrues or arises outside India & also received outside India during PY - Taxable for ROR only + For RNOR only if earned from business controlled from India or profession setup in India.

Some Basic Concepts

Receipt means first occasion when the recipient gets the money under his control

E.g. Salary earned in USA & received in a bank a/c maintained in USA. Later on this amount is transferred to HDFC bank in India.

Since amount is first received in USA therefore, it will be treated as received outside India. Further when same amount is transferred from one bank a/c to another bank a/c in India (USA India) it is called remittance & will not be taxed again.

Accrue means right to receive income & due means right to demand payment of the same. E.g. Salary earned during a month on day to day basis but it becomes due at the month end or may be next month as per co. policy

If income is taxed on accrual basis then same income cannot be taxed again on receipt
Similarly, if income is taxed on receipt then cannot taxed on accrual basis

Income Deemed to be Received In India (Section 7)

Contribution in RPF >12% of salary; Interest credited in RPF >9.5% p.a., contribution of CG/employer in pension scheme u/s 80CCD, Amount transferred from UPF to RPF (employer's contribution & its interest)

Income Deemed to Accrue/Arise In India (Section 9)

1. Salary payable for services rendered in India Section 9(1)(ii)
2. Salary payable by govt. to its citizens for services rendered outside India Section 9(1)(iii)
3. Allowances & perquisites paid by govt. outside India – exempt Sec 10(7)
4. Dividend paid by Indian company outside India - Section 9(1)(iv)
5. Interest payable by govt. or a person who is resident Section 9(1)(v)

If NR borrows money & use it for business/profession carried on in India then interest paid on such borrowing is deemed to accrue in India

If resident borrows money & use it for earning any income outside India then it is not deemed to accrue/arise in India.

Example – NR 'A' borrows money from NR 'B' & invests it in the shares of an Indian co. Interest paid by A to B – not deemed to accrue/arise in India because it is not used in doing his own business/profession in India

Section 9(I)(vi) Royalty Payable By -

- Government
- Resident person except if royalty paid for using any right/property/information for purpose of making/earning income from any source outside India
- NR If rights/property/information – used for earning any income from any source in India

Important points

| | | |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| NR Manufacturer | $\begin{array}{c} \xrightarrow{\text{Computer software with computer hardware}} \\ \xleftarrow{\text{Lump sum royalty for taking all rights of software}} \end{array}$ | Resident (not deemed to accrue/ arise in India) |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|

It also means amount paid to use computer software is a royalty

Royalty also means consideration paid for –

- Use of patent/invention/design/secret formula/process/trade mark/information/property
- Transfer of rights/licence for any copyright/artistic/scientific/literary work including film/video
- Process includes transmission by satellite (up-linking, amplification, conversion for downlinking) or transmission by cable optic fibre or through similar technology.

Section 9(I)(vii) Fees for technical services payable (includes managerial/consultancy/technical services) by -

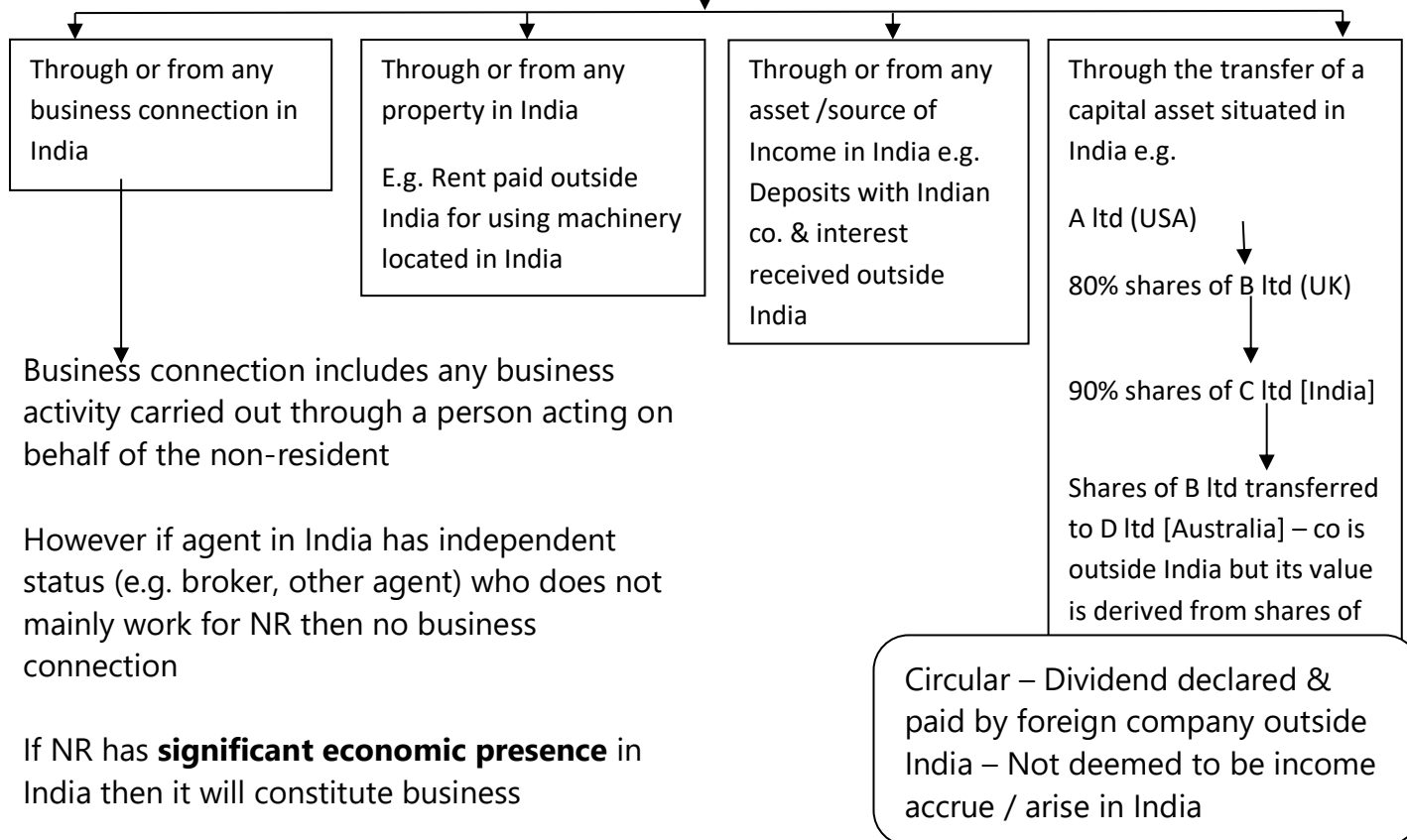
- Government
- Resident person except if technical services utilized for earning income from any source outside India
- NR If technical services utilized for earning any income from any source in India

Income deemed to accrue/arise in India

Income arising outside India being any sum of money paid without consideration, by a resident Indian to a non-corporate non-resident or foreign company, where aggregate of such sum > INR 50,000.

Income Deemed to Accrue/Arise In India Section 9(1)

Any income accruing/arising to an assessee in any place outside India whether directly or indirectly



In case for business connection to be established

- Agent must have authority to enter into contracts on behalf of NR & agent generally exercises his authority
- Agent secures orders in India mainly for that NR
- Where agent has no authority but he maintain in India stock of goods from which he generally deliver goods on behalf of the NR
- Example – Agent of one NR_A secures order for other NR_B – business connection if
 - a) NR_B controls NR_A or
 - b) NR_A controls NR_B or
 - c) Both NR are under a control of another NR

These are not business connections in India – when done by NR

1. Purchase of goods in India for export.
2. Collection of news & views in India for transmission outside India e.g. Reporter from USA.
3. Shooting film in India if
 - a) In case of Individual – He himself
 - b) In case of Firm – It's Partners
 - c) In case of Company – It's Shareholder
 Are not Indian citizens
4. Display of rough/uncut diamonds by foreign mining co. in specialized notified zones (SNZ)

5. Business (other than business having significant economic presence in India) whose all operations are not carried in India – Income which is not attributed to operations carried in India shall not be deemed to accrue/arise in India

Note – Income attributable to the operations carried out in India includes:

Income from advertisement targeting customers residing in India or accessing advertising through IPA (Internet Protocol Address) located in India

Income from sale of data collected from persons residing in India or using IPA located in India

Income from sale of goods and services using data collected from persons residing in India or using IPA located in India.

Significant economic presence means-

| | Nature of transaction | Condition |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| (a) | <i>in respect of any goods, services or property carried out by a non-resident with any person in India including provision of download of data or software in India</i> | <i>Aggregate of payments arising from such transaction or transactions during the previous year should exceed ` 2 crores.</i> |
| (b) | <i>systematic and continuous soliciting of business activities or engaging in interaction with users in India</i> | <i>The number of users should be atleast 3 lakhs.</i> |

INCOME FROM HOUSE PROPERTY

House property can be residential or commercial (office, shops, godown etc.)
Vacant land which is not attached to HP is not taxable under this head of income.

Rental from house property or rental from land attached to house property is taxable under this chapter.

Example - A company purchase a property/office to run its business – then it will be shown as a fixed asset in co.'s balance sheet & income generated from the business would be taxable under PGBP, No income under HP.

As per Supreme Court judgment if an assessee is doing business of letting out of properties on rent then it would be taxable as business income.

For property builders/developers main business is selling HP but if they earn rent from property which is held as stock in trade then also the rental income will be taxable as HP income, however HP value considered Nil for 2 years from end of FY in which property construction is complete (when completion certificate obtained) – Benefit available if property is not let out.

Ye sunkar shock lagega

Agar rent par nahi chadhaya tab bhi income from house property calculate hogi – this concept is called deemed to be let out. Expected rent ko gross annual value (GAV) mana jayega.

However only for individual /HUF who owns more than 2 HP can consider any 2 HP as self-occupied on which deemed income will not be calculated, for all other properties if let out then higher of actual rent v/s expected rent is considered as gross annual value of the HP
If other properties not let out then expected rent is considered as GAV

Section 22 chargeability under this head

- Any building or land appurtenant to building
- Assessee must be owner or deemed owner of the property
- Property should not be used by owner for doing his business/profession

Notes

- 1) Ownership includes freehold & leasehold rights, registration of sale deed not required
- 2) If property is under dispute [Court case] IT department can decide who is owner till the court gives its decision.

Example – Mr A [Owner] gives HP on rent to Mr B [Tenant] who then sublets to Mr C [Sub Tenant]
Then for B it will be taxable under income from other sources (because he is not the owner of the property) – for A it will be taxable under HP.

Example - An individual has 1 HP in which he lives, whether he has to pay any income tax on such House property

Solution - Individual/HUF are given benefit for one self-occupied HP i.e. they are not required to pay any tax as gross annual value of 2 HP which is self-occupied is considered as NIL .

Example An individual has 10 HP out of which 2 HP are self-occupied, 5 HP are given on rent & 3HP are unoccupied

Solution For 2HP at the choice of individual can be considered as self-occupied & GAV will be Nil, for 5 HP given on rent, we need to compare actual rent of these HP with the expected rent of these properties & higher of the two will be GAV – this needs to be checked separately for each HP, for remaining 3 HP not given on rent, as per income tax act, these will be considered deemed to be let out & expected rent will be taken as GAV – to be checked separately for each HP.

Example A builder constructed a building [Completed on 22/10/18] – out of which 10 units are not sold till 31-March-21. Whether he has to pay tax on these 10 HP

Solution – Yes, benefit given to builder for 2 year from the end of FY in which building is constructed, if HP remains in stock in trade & not let out then also it will be deemed to be let out after 31-3-21 (i.e.) after 2 years from end of the year when construction is completed, for year 21-22 HP income will be calculated considering expected rent as GAV.

Thought/Vichaar – Agar builder ne benefit period mein e.g. – In 21-22 rent par de di hoti any HP out of the 10 HP jo inventory mei hai, to kya taxable hota, if HP given on rent tab to definitely income from HP calculate hogi for the HP which is given on rent.

How To Calculate Expected Rent

Expected rent is higher of municipal value or fair rent

MV – Value determined by municipal authorities to levy house tax

FR – Rent of similar property in same locality

Note - Expected rent cannot be more than standard rent (fixed by rent control act – maximum rent which supreme could allow in case of dispute)

How To Calculate Gross Annual Value

Expected rent or

Actual rent received/receivable (i.e. on accrual basis)

whichever is higher

How To Calculate Income From House Property

| Particulars | Amount |
|-----------------------------------------------------|------------|
| Gross Annual Value | XXX |
| Less:- Municipal Taxes paid by owner during PY | XXX |
| Net Annual Value | XXX |
| Less – Standard Deduction 30% of NAV [Section24(a)] | XXX |
| Less- Interest on borrowed capital [Sec 24(b)] | XXX |
| Income from house property | XXX |

Note - Actual expenditure on repair maintenance are not deducted here – Flat 30%of NAV is deducted for everyone irrespective of actual expenditure

For let out/deemed to be let out HP – No restriction on amount of interest deducted u/s 24(b)

For self-occupied property there is a restriction on maximum interest which can be deducted u/s 24(b)

Case 1 Loan taken on or after 1/4/99 – purpose of loan was to acquire or construct a property – which should be acquired/constructed within 5 years from end of FY in which loan was taken + obtain certificate from lender for interest paid / payable
In this case Maximum 200000 interest can be deducted u/s 24(b)

Case 2 If any of the above condition is not satisfied – Max deduction INR 30000
Deduction (30000/200000) – on 2 self-occupied HP in totality

Example MR A has rented his HP 6000 p. m during PY 21-22, MV 5000 p.m., fair rent 30000 pm, standard rent 15000 pm, interest on borrowing paid 200000, municipal taxes paid by tenant 3000, Municipal taxes paid by owner for PY 17-18 Rs. 2000. Calculate income form house property

Solution

| | |
|-----------------------------------|----------|
| Gross Annual Value [GAV] | 180000 |
| (-) Municipal taxes paid by owner | (2000) |
| Net Annual Value [NAV] | 178000 |
| (-) Standard deduction | 53400 |
| (-) Interest on borrowed capital | 2,00,000 |
| Loss under HP | (75400) |

Concept of Unrealised Rent

Unrealized rent means tenant has denied to pay the rent or rent which cannot be realized from the tenant.

Example – If Mr A has rented his property [Office] to Mr C for 50000 p.m., Mr C did not pay last 2 month's rent though he has used the office space for complete 12 months.

In this case 100000 is not realized & same can be deducted from actual rent receivable (5000 X 12 = 600000) only If all the conditions of rule 4 are satisfied

Conditions of Rule 4

- Tenancy should be bonafide [Not fake]
- Defaulting tenant has vacated that HP or steps have been taken to compel him to vacate the property
- Defaulting tenant should not be occupying any other property of the assessee
- Assessee has taken all reasonable steps to institute legal proceeding for the recovery of unpaid rent or satisfies assessing officer that legal action would be useless

Concept of Vacancy/Loss Due To Vacancy

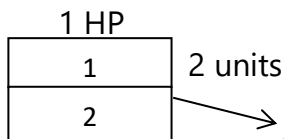
It may be possible tenant vacate the property in between the year which creates vacancy (no tenant) for part of the year.

Note if tenant vacates the property and then owner occupied the property then it will not be treated as vacancy.

How to calculate GAV in such situation:

Compare [Actual rent (-) unrealised rent (if conditions of rule 4 are satisfied)] with expected rent

- If expected rent is more -- then expected rent is GAV
 - If expected rent is lower -- then actual rent for 12 month (-) unrealised rent (Rule 4 satisfied) (-) loss due to vacancy (Actual rent * no. of months property remained vacant) = GAV
- i.e. if actual rent is lower than ER due to vacancy then actual rent is GAV

2 More Concepts

Consider them as 2 separate HP & calculate income from HP separately, if MV/SR/FR given for whole HP then split the same. Similarly divide interest on loan in 2 parts for unit 1 & 2 .

If 1 HP self-occupied for some time & let out for some time, consider it as let out
No loss due to vacancy for the period self-occupied, ignore the concept discussed above.

How To Calculate Interest On Borrowing

The year in which property is constructed/acquired – Interest for that year & all the years ahead can be claimed as deduction in those respective years for which interest belongs.

E.g. - Property constructed in PY 21-22 (on 2/11/21) - Interest pertaining to PY 21-22 can be deducted u/s 24(b) while calculating income for that HP for PY 21-22

Similarly for next year PY 22-23, interest paid /payable in 22-23 can be deducted u/s 24(b) while calculating HP income for that year

What about interest paid /payable in years before construction is completed / property acquired -

This is called pre-construction period interest – assuming in the above example loan was taken on 10/5/18 & property was constructed /acquired on 2/11/21

Then interest for 10/5/18 to 31/3/21 – is called pre- construction period interest i.e interest pertaining to period prior to the PY in which construction completed or property acquired, this interest cannot be deducted in the year to which it pertains but this total pre-construction period interest will be deducted in 5 equal installments starting from the year when construction is complete/property acquired.

If interest from 10/5/18 to 31/3/21 = 300000 & interest for PY 21-22 is 35000 then in year 21-22 deduction will be –

$35000 + (300000/5=60000) = 95000$ u/s 24(b)

In PY 21-22 (Interest for year 21-22 + $300000/5= 60000$) = XXX (can be taken as deduction)

From 21-22, 22-23, 23-24, 24-25, 25-26 in these 5 years pre-construction period interest will be deducted equally.

Important Points

It is possible to take new loan to repay old loan then interest on fresh loan can also be deducted
If loan interest is not paid on time then interest on loan interest can be charged

However interest on interest cannot be deducted u/s 24(b)

If no loan is taken & seller asked buyer to pay amount in instalment & also charges interest then this interest can be deducted u/s 24(b)

Composite Rent

Rent of building (taxable under HP) + Rent for different services like lifts/security etc. (taxable under PGBP)

However if other party (tenant) does not accept letting out of building without other assets then this means rent is not separate & can be taxed in PGBP or other sources, since we cannot separate HP rent hence it cannot be taxable under HP

Property owned by 2 or more owners

If let out/deemed to be let out – Calculate income from HP assuming there is only one owner & then apportion the income/loss amongst each co-owner as per the percentage of their ownership.

For self-occupied each owner can claim interest of borrowing for their loan upto 200000/ 30000

Sec 25A Provision for arrears of rent & unrealized rent received subsequently

If arrears or unrealized rent received then taxable in the year of receipt 30% deduction will be allowed

Ex- 5 Lakh received – arrears in PY 21-22

5L (-) 30% of 5L = 3.5 Lakhs Income from HP

Note If assessee is not owner when he receives arrear/unrealized rent then also taxable under the head HP

Note If loan taken from abroad & interest on loan payable outside India then TDS needs to be deducted & paid – If not deducted or paid then interest on loan cannot be deducted u/s 24(b)

Deemed Ownership

Transfer HP to spouse without adequate consideration & without agreement to live apart, though HP transferred to spouse but individual will be treated as deemed owner

Transfer of HP to minor child without adequate consideration, if transferred to minor married daughter then transferor is not deemed owner

Holder of an impartible estate [i.e. estate which cannot be legally divided e.g. Palace]

Member of a cooperative society to whom HP allocated or leased [cooperative society/association is legal owner of that building but its member will be deemed owner

Power of attorney transferred though sale deed not registered – the buyer will be deemed owner

Lease ≥ 12 years – The person acquiring rights in lease is deemed owner, however if lease is renewed year on year then not treated as deemed owner

CAPITAL GAIN

Capital Asset --if-- **Transferred** then capital gain or capital loss needs to be calculated as per below method given under section 48:

| Particulars | Amount (INR) |
|------------------------------------------------------|---------------------|
| Full Value consideration/ Gross Sales Consideration | XXX |
| (-) Expenditure Incurred wholly & exclusively on T/F | (XX) |
| Net Sale Consideration | XXX |
| (-) Cost of acquisition | (XX) |
| (-) Cost of improvement | (XX) |
| Capital Gain/Capital Loss | XXX |
| (-) Exemptions (If any) | (XX) |
| Capital gain chargeable to tax | XXX |

Note – Wholly & exclusively means agar transfer nahi hota to expense bhi nahi hota. However security transaction tax paid on sale of security is not allowed to be deducted as expense while calculating capital gains.

Further Capital gain can be Long term or short term depending on period of holding. Exemptions are generally given if assessee holds the capital asset for long term.

How to check Long term / Short term

If period of holding is ≤ 36 months then capital asset is short term capital asset and gain/loss calculated on its transfer is STCG/STCL. Section 2(42A)
Otherwise it is Long term capital asset – Section 2(29A)

However for some of the capital assets period of holding is different

Unlisted shares



>24 months then LTCA

Land or Building

Listed Securities (except units)

Units of UTI/ Units of equity oriented fund

Zero coupon bond



>12 months then LTCA

Equity oriented fund means - a fund which invests at least 65% of the total amount in equity shares of a domestic co.

Zero coupon bond – Issued at discounted price & matured at par. E.g. issued @ 800 and matured @ 1000, so INR 200 is gain. No interest is received on such bonds.

Capital Assets Section 2(14)

Means

- a) Property of any kind held by assessee, whether or not connected with his business or profession.
- b) Any security held by foreign institutional investor (FII) – always treated as capital asset.

Property includes and shall be deemed to have always included any rights in or in relation to an Indian company.

E.g. Vodafone case demonstration through example

A Ltd is HO ----- B Ltd (UK) (Subsidiary)



C Ltd (India) - B Ltd. holds shares in C Ltd

When A Ltd. sold its subsidiary co. B Ltd. (UK) to D Ltd (UK) then transaction done outside India, however it has indirectly transferred the control of C Ltd (which is an Indian Co.) from B Ltd. to D Ltd.

There is a T/F, a further right in Indian co. is a capital asset, and therefore capital gain will be calculated.

From clause (a) of sec 2(14) some of the capital assets are excluded

- 1) Stock in trade/Raw material/Inventory – because these are taxable in PGBP when sold
- 2) Rural agricultural land – not a capital asset and agricultural income is not taxable
- 3) Gold deposit / Special bearer bonds issued by central government
- 4) Personal movable property (e.g. Furniture, wearing apparel etc.)

Personal immovable assets (Land/Building) are always capital assets – rental is taxable under income from HP and if transferred then taxable under the head capital gains.

However some of the personal movable assets which are expensive are treated as capital assets – these are

Jewellery – ornaments made of gold, silver, platinum or any other precious metal or any alloy (combination of any precious metals), Precious stones/ semi-precious stones

Drawings, paintings, sculptures or any other work of art

E.g. If there is furniture used for personal purpose – not a capital asset but if furniture has precious metals/stones in it then it will be expensive and will be treated as capital asset.

On transfer of the same – capital gain or loss is calculated.

Rural Agricultural Land – No tax on transfer

Rural land which is used for agricultural purpose

Rural land means a land which is not an urban land

Urban land means:

1) Land situated in a municipality having population > 10000

or

2) Municipality ka area khatam hone ke baad bhi uske kuch Km tak land hua to bhi urban land mana jayega

| Land situated within | From Local limits of any municipality having population |
|----------------------|---------------------------------------------------------|
| < = 2 Kms | > 10,000 <= 1Lakh |
| < = 6 Kms | > 1Lakh <= 10 Lakhs |
| < = 8 Kms | > 10 Lakhs |

Distance should be the shortest distance / aerial distance i.e. Chidya ud kar jaati hai hawa mein seedhe from one point to another

Example Mr X (Resident) purchased a house in 2019 for 50 Lakhs. He sold the house in 2020 for 60 lakhs. In 2019 itself Mr X incurred 5 Lakhs for renovating the house.

Brokerage paid on purchase --- 1%

Brokerage paid on sale --- 1%

From the sale proceeds Mr X purchased another HP for 50 Lakhs. Calculate his income from capital gains chargeable to tax.

Solution

**Income from Capital Gains for Mr X
PY 21-22 or AY 22-23**

| Particulars | Amount (INR) |
|------------------------------------------------------|----------------|
| Full value consideration | 6000000 |
| (-) Expenditure incurred wholly & exclusively on T/F | (60000) |
| Net Sale Consideration | 5940000 |
| (-) Cost of acquisition | (5000000) |
| (-) Cost of improvement | (500000) |
| Short term capital gain | 440000 |
| (-) Exemption u/s 54 | (440000) |
| STCG taxable | Nil |

Exemption is available on Long term capital asset i.e. if period of holding (POH) > 24 months

Further expenditure incurred on T/F can be deducted – not on purchase

Since POH is < = 24months hence it is a STCA

Cost of improvement means – capital expenditure incurred which increases the value of the property. Normal repair & maintenance expenses done every year cannot be treated as cost of improvement.

Transfer Section 2(47)**Transfer in relation to capital assets includes:**

- 1) Sale / Exchange / Relinquishment of the asset
- 2) Extinguishment of any rights therein (e.g. capital asset lost in fire and insurance claim received – this insurance claim would be the sale consideration)
- 3) Maturity of zero coupon bond
- 4) Compulsory acquisition by government
- 5) Conversion of capital asset into stock in trade of business (Inventory sale karne par to PGBP income therefore conversion ke time hi T/F manke capital gain nikaleinge – Fair market value ko sale consideration man leinge --- FMV business ke liye cost ban jayegi fir)
- 6) Power of attorney sale (for immovable property)
- 7) Transactions which have the effect of transferring or enabling the enjoyment of an immovable property. E.g. Cooperative society T/F to its members – property is registered in the name of Coop Society but it will be treated as T/F

Transactions which are not regarded as transfer (Section 47)

Short forms used in the notes: CA – Capital asset, T/F – Transfer, CG – Capital gain/Central government, H – Holding co, S – Subsidiary co.

- 1) On partition of HUF – CA distributed
- 2) CA given as gift/ under will / under irrevocable trust
- 3) **CA transferred between H Ltd ---to--- S Ltd or S Ltd. -to—H Ltd.** --- not regarded as transfer if 3 conditions are satisfied
 - a) H Ltd. Has 100% ownership of S Ltd
 - b) Transferee Co. (Jisko capital asset transfer ho rahe hain) should be Indian Co.
 - c) Capital asset received should not be T/F as stock in trade – Transfer jisne kiya uske liye to CA tha par jisko milega usne stock in trade bana mein record kiya (agar aisa hua to transfer mana jayega – how to tax – we will study in CA Final)

4) In a scheme of amalgamation 2 things will happen:

- a. Amalgamating co. ----- Transfer its CA to --- Amalgamated co.
- b. Shareholders of amalgamating co. will extinguish their rights (which is covered under definition of transfer) and will get share in the amalgamated co.

The above two transactions though covered under definition of transfer will not be regarded as transfer if amalgamated co. is Indian co. and shareholders gets only share of amalgamated co. as consideration of their share in amalgamating co. (i.e. they should not be paid cash for extinguishment of their shares)

5) In a scheme of demerger 2 things will happen:

- a. Demerged co. T/F some CA to – resulting co.
- b. Resulting co. will T/F its share to the shareholders of demerged co. on proportionate basis (i.e. in line with assets T/F to resulting co.)

These two transactions would not be regarded as transfer if resulting co. is an Indian Co.
Seedhi Baat – Jis co. ko CA milega wo Indian Co. hogi to dikkat nahi hogi

6) Non-resident T/F to another Non-resident --- which CA is transferred??

- a) Government security purchased outside India
- b) Rupee denominated bond issued outside India

7) Redemption of sovereign gold bonds by individual**8) Conversion of**

[Bonds
Debentures
Debenture Stock
Deposit Certificate]



Shares/Debentures
of the same Co.

9) Conversion of preference shares ----- to ----- Equity shares of that Co.**Understand Mutual Funds**

Mutual Fund means a trust which collects money from different persons (called unit holders) and invests in its different schemes – for managing funds, MF takes service of professional fund managers.

Those who invest in mutual funds get the units (in a similar fashion as shareholder gets their share)

There are different mutual funds– Aditya Birla, DSP Black Rock, IDFC MF, L&T MF
A mutual fund can have various schemes e.g. Aditya Birla MF can have
Aditya Birla Sun life Floating rate long term fund – dividend weekly
Aditya Birla Sun life Floating rate long term fund – dividend daily
Etc.

Each scheme has a certain objective (Like to invest in equity in big co., to invest shares of small companies which are growing, to invest in debt funds, to invest in balanced fund etc.)

SEBI suggested merging various schemes of similar nature. For this reason consolidation of schemes is being done.

Further every scheme can have different plans like -- Growth plan or Dividend plan – i.e. regular income v/s capital gains.

- 10)** T/F of units by unit holder (who holds units in consolidating scheme of Mutual fund) in consideration of the allotment of units in consolidated scheme of MF
Consolidated Scheme means – 2 or more schemes of the same fund
- 11)** Similarly T/F of units by unit holder (who holds units in consolidating plan of a Mutual fund scheme) in consideration of the allotment to him units in consolidated plan of that scheme of MF.
- 12)** T/F of some specified assets to the Government/University/National Museum/Art Gallery or institution notified by CG to the institution of national importance
Specified assets – Drawing/Painting/Archaeological, Scientific or Art collection/Any work of art / Book /Manuscript/Photograph/Print
- 13) Transfer of CA under the scheme of reverse mortgage notified by central govt. –**
What is reverse mortgage – Senior citizens generally doesn't have regular income since they are retired but they do generally have a house property. To give them regular income they can mortgage their HP with a Bank and can get a lump sum amount or instead of lump sum amount they can chose the option for regular monthly/quarterly/annually income. Bank generally gives 60% amount of the market value of the HP and after every 5 years do revaluation of the HP.
This loan is given for maximum 20 years. Upon expiry of this period or death of the senior citizen – his legal heir can repay the (loan + accumulated interest) and can take back the property

The above property when transferred to bank will not be regarded as transfer since it is temporary and later on loan will be repaid. Further, the amount received by senior citizen under reverse mortgage is exempt u/s 10(43) since it is a type of loan not income.

However if loan is not repaid then bank will sell the HP – recovers its Loan + accumulated interest and returns the excess money to the senior citizen/Legal heir. In this case capital gain will be calculated since HP is actually sold. CG is calculated for the senior citizen/ legal heir.

Mode of Computation of Capital Gains -- Section 48

Method for calculating capital gains has already been discussed at the start of the chapter. However there is a twist in case of Long term capital asset.

Example – Mr X Purchased HP on 10/4/2007 for 10 Lakhs and now want to sell the same for 25 Lakhs on 20/9/2021

On plain reading we see that 15 Lakhs is the capital gain (25 L – 10L) but that's not correct

2 Arguments:

- 1) Mr X has purchased the capital asset not for selling but for investing for long term as he held the asset > 24 months – now it is LTCA
- 2) The value of 10 Lakhs in year 2007 is not equal to 10 Lakhs in year 2020 due to inflation. 10 Rupee jo year 1980 mein khareedh sakte thhe aaj wahi purchase karne ke liye 200 Rupees lag rahe hai because of inflation

Therefore income tax act has allowed assessee to increase the cost of capital asset based on inflation if capital asset is LTCA. This is called indexation benefit for LTCA – available on both cost of acquisition and cost of improvement.

| Financial Year | Cost Inflation Index |
|------------------|----------------------|
| 2001-02 | 100 |
| 2002-03 | 105 |
| 2003-04 | 109 |
| 2004-05 | 113 |
| 2005-06 | 117 |
| 2006-07 | 122 |
| 2007-08 | 129 |
| 2008-09 | 137 |
| 2009-10 | 148 |
| 2010-11 | 167 |
| 2011-12 | 184 |
| 2012-13 | 200 |
| 2013-14 | 220 |
| 2014-15 | 240 |
| 2015-16 | 254 |
| 2016-17 | 264 |
| 2017-18 | 272 |
| 2018-19 | 280 |
| 2019-20 | 289 |
| 2020-21 | 301 |
| 2021-2022 | 317 |

Example – Considering above example, capital gain will be calculated as follows:

Calculate indexed cost of acquisition

INR 129 in 2007-08 (year of cost incurred) is equivalent to INR 317 in 2021-22 (year of transfer)

INR 1 in 2007-08 = 317/129

INR 10 Lakhs of 2007-08 = (317 * 10 L) / 129

= INR 24,57,364

Calculation of Capital Gain

| | |
|-------------------------------------------------|---------------|
| Full value consideration/Net sale consideration | 25,00,000 |
| (-) Indexed cost of acquisition | 24,57,364 |
| Long term capital gain | 42,636 |

Benefit of indexation is not available on the following capital assets:

- 1) Bonds / Debentures (however indexation available on indexed bonds or sovereign gold bonds issued by CG)
- 2) On depreciable assets (e.g. which are used in a business – furniture/office equipment) – further these are always treated as STCA
- 3) Section 112A – LTCA – listed equity shares/units of equity oriented fund / units of business trust (where STT is paid)
- 4) Slump sale
- 5) Long term unlisted securities T/F by Non-resident – 10% rate flat on LTCG

First proviso to section 48

Non-resident purchasing shares/debentures of Indian co. in foreign currency then at the time of transfer first calculate the capital gain in foreign currency (e.g. in \$) then convert the capital gain into INR.

Indexation benefit is not available

Rupee denominated bonds – purchased by Non-resident in foreign currency. Then on redemption of bonds if rupee value has appreciated then calculate full value consideration based on INR rates applicable at the time of purchase.

Indexation is given under second proviso to section 48

Indexed cost of acquisition = $COA * \frac{CII \text{ of the year of T/F}}{CII \text{ of the year when asset was first held by assessee or CII of 1/4/2001 whichever is later}}$



To Assessee or to the previous owner

Note – Indexation benefit is also available from the year of cost incurred by previous owner Also as per Bombay high court judgement (CIT v. Manjula J. Shah) – it is held CII of the year asset acquired by previous owner can be taken in respect of a gifted asset.

Indexed cost of improvement = $COI * \frac{CII \text{ of the year of T/F}}{CII \text{ of the year of improvement}}$



To Assessee or to the previous owner

What will happen if asset purchased by owner or previous owner before 1/4/2001 – because indexation base starts from FY 2001-02

In such a situation assessee can take **at his option** the fair market value as on 1/4/2001 or the actual COA. In other words COA will be higher of FMV as on 1/4/01 or actual cost.

Cost of improvement done before 1/4/2001 by assessee or previous owner **is ignored** i.e. not to be deducted while calculating capital gain

Previous owner is the person whose assets are transferred u/s 47 i.e. where transactions are not regarded as transfer.

So in such a situation for the new owner – COA is nil because he has not paid anything, however when the new owner will transfer then for calculating capital gains we can take COA of the previous owner.

Similarly COI done by previous owner can also be deducted while calculating capital gains. However COI before 1/4/01 is ignored because COI will get merged with COA while comparing it with FMV as on 1/04/01 and higher of the two is taken as cost on 1/4/01.

As we are allowed to take COA/COI of the previous owner – similarly for determining period of holding --- time for which asset remained with the previous owner should also be included to determine whether it is long term or short term.

What is Cost of Acquisition & Cost of Improvement-- Section 55

In simple terms – It is the cost incurred or amount spent on the capital asset

COI is all kinds of capital expenditure done which can increase the value of the capital asset.

What is the cost of acquisition in special circumstances?

- 1) If COA to previous owner cannot be ascertained then take FMV on the date when asset becomes property of the previous owner.
- 2) For sweat equity shares which are given to employees for their hard work --- no cost incurred but COA will be FMV which was taken as perquisite value while calculating income from salary.
- 3) At the time of demerger – some of the assets T/F to resulting co. and shareholders of demerged co. were also given shares of resulting co.

COA of shares in resulting Co = COA in demerged co.* $\frac{\text{Net book value of asset T/F to resulting co.}}{\text{Net worth (Paid up share capital + General reserves) of demerged co. immediately before demerger}}$

FMV as on 1/4/01 on land/building cannot be taken more than stamp duty value

E.g. If Mr A acquired 500 shares in D Ltd for 1 Lakh. D Ltd then T/F its 20% of net assets to the resulting co. in the scheme of demerger. Net worth before demerger was 1000 Crore. Mr A has been allotted 1000 shares in the resulting co.

Now the cost of 1000 new shares will be $1,00,000 * \frac{200}{1000} = 20000$ INR

COA of 500 shares in D Ltd was 1 Lakhs but now it will be 1 Lakhs – 20000 = INR 80000

Mr A now has 500 shares in D Ltd. (INR 80000) and 1000 shares in resulting co. (INR 20000). Total cost incurred will remain 1 Lakh.

- 4) For bonus shares no amount is paid hence COA is nil **however if acquired before 1/4/2001 then FMV as on 1/4/01 can be taken – benefit available**
- 5) For right shares --- the amount paid is COA
- 6) For rights purchased --- remember right shares are new shares allotted to existing shareholders at concessional rate. Existing shareholders can either purchase the same at lower rate or T/F their rights to someone else who can then purchase the right shares at concessional rates.

The COA of only rights (not right shares) is nil because given by company without any charges. When this right is T/F to other person at a price then capital gain is to be calculated (Price received Less Nil cost) = CG

The other person who has paid to purchase the rights will now exercise the rights and pay the company to acquire right shares COA will be amount paid to acquire rights + amount paid to the company to acquire right shares.

Cost of Acquisition Section 112A –

COA can be taken as FMV as on 31/1/18 (FMV cannot be more than sale value) in below cases:

- Equity shares in a company on which STT is paid both at the time of purchase and transfer or
- Unit of equity oriented fund or unit of business trust on which STT is paid at the time of transfer.

Also note that bonus shares and right shares in relation to listed equity shares acquired before 1/2/18 – option to take FMV as on 31/1/18 is available – same as above why?? Because pehle LTCG par tax nahi lagta tha achanak lagaya to benefit bhi diya.

Further Section 112A mein LTCG aayega tab bhi 1 Lakhs tak exempt hai

Note – When you take FMV as on 31/1/18 in the above case then take highest traded price on 31/1/18 or before whatever latest data is available.

If shares were not listed on 31/1/18 (not listed no FMV) but listed at the time of T/F – then do indexation of cost till 2017-18 – which can be taken as FMV.

Self-Generated (Intangible) Capital Assets

| Type of capital asset | COA | COI |
|-------------------------------------------|-----|------------------|
| Goodwill of a business | Nil | Nil |
| Trade Mark | Nil | Yes – Actual COI |
| Tenancy rights | Nil | Yes – Actual COI |
| Route permits | Nil | Yes – Actual COI |
| Loom hours (Right to use M/H) | Nil | Yes – Actual COI |
| Right to manufacture, process anything | Nil | Nil |
| Right to carry any business or profession | Nil | Nil |

Note – If above assets were acquired & not self-generated then

- 1) COA is the purchase price
- 2) COI -- treatment same as given in above table

In case of goodwill of business/profession acquired upto PY 19-20 – COA would be the purchase price paid to previous owner less depreciation claimed by assessee upto PY 19-20.

So in above capital assets capital gain will be calculated on its T/F

Any other capital asset (i.e. other than above) if self-generated then no capital gain as their value would be treated as indeterminate (*Supreme Court in CIT v. B.C. Srinivasa Shetty*)

E.g. Goodwill of a profession not written above – if self-generated and sold – no capital gain

Full Value Consideration (Section 50C)

Jaise padha COA & COI waise hi kuch baatein sales consideration par bhi ho jaye

Land ho ya Building (Sales consideration cannot be less than Stamp duty Value)

Important -- Agar stamp duty value (SDV) > 110% of the sales consideration then assume SDV as the gross sales consideration

E.g. SDV 104000, sale consideration 100000 --- Sales value = gross sale consideration
Assume SDV 126000, since SDV is more than 110% of the sale consideration
SDV = sale consideration

Stamp duty value – Aesi value jispar stamp duty calculate hoti hai registry ke time

Stamp duty value to be checked on date of registration of the property.

However if agreement is done before the date of registration & some consideration received by a/c payee cheque or a/c payee bank draft or electronic clearing system then stamp duty value as on date of agreement can also be taken.

If Assessee claims before assessing officer that SDV is more than FMV of the property as on date of registration.

Then assessing officer may refer the valuation of capital asset to their valuation officer.

The SDV is adopted by authority for payment of stamp duty

It should not be under any dispute only then reference to valuation officer can be made.

If as per valuation officer

Value > SDV then take SDV as sales consideration

Value < SDV then take new value as sales consideration

The above reference is made by AO on request of assessee. However u/s 55A AO can refer the case to valuation officer. Check provisions below

Reference to Valuation officer Section 55A

Applicable where FMV is involved

- 1) Assessee claims a valuation done by registered valuer
- 2) AO thinks FMV would be greater than value claimed by assessee by
 - a. 25000 or
 - b. 15% more than value so claimed
- 3) AO thinks given the circumstances it is necessary to make the reference.

Section 50CA – Unquoted shares

If sales consideration < FMV then take FMV as the sales consideration – how to calculate FMV for unquoted shares – In CA Final

Section 50D Any capital asset

If consideration cannot be ascertained then take FMV on the date of T/F

Advance money received & forfeited Section 51

There are circumstances when some advance is given to book a capital asset and later on party (buyer) changes his mind, in this case seller can keep the advance money and will not return (this is called advance money forfeited).

If advance is forfeited by seller on or after 1/4/2014 then it is taxed under income from other sources u/s Section 56(2)

If advance money is forfeited before 1/4/14 (man leinge ki itne se cost kum ho gayi)

It will be deducted from COA.

After deduction of forfeited amount – indexation will be done

Imp. Jisne forfeit kiya amount wahi deduct kar sakta hai COA se

E.g. Mr A has one HP purchased for 10 Lakhs on 1/4/2007. He has forfeited advance money on 10/7/2012. Mr A has gifted this property to Mr B (his close friend)
Now Mr.B want to sale the property but he cannot deduct the forfeited amount from COA since he has not received that amount.

Slump Sale – Section 50B

Sale of one or more undertaking (asset & liabilities of that undertaking is Sold/ Transferred)

Net worth is taken as deemed cost of acquisition – no indexation to be done

The net worth (CA certify karega)

Net worth = Asset – Liabilities

Assets are valued as under:

Depreciable assets = Take written down value as per income tax act 43(6)

If for any capital asset 100% cost already debited to P&L u/s 35AD then cost is nil

For any other asset = Take book value

COA of self-generated goodwill considered as nil**Sale consideration is the fair market value of the capital assets as on the date of transfer**

Revaluation impact should be ignored

Short term < = 36 months, otherwise long term

Capital Gains on distribution of Assets by Companies in Liquidation (Section 46)**Section 46(2)**

On Liquidation shareholder's right on the shares extinguishes hence it is a transfer u/s 2(47).

Shareholder will receive money or asset from the company = this is the sales consideration

For assets received take FMV

E.g. A shareholder has 1000 equity shares in A Ltd. – company goes into liquidation and Mr. A gets a machine (book value 1 Lakh, FMV 50,000) and also gets 30,000 in bank a/c. He has acquired the shares in year 2007 for INR 20,000

In this case Total sales consideration will be INR 30000 + INR 50000 (FMV of the asset received) = INR 80000

Capital gain = 80000 – 20000 = INR 60000 (LTCG)

Assuming shares were listed – hence indexation not done, capital gain till INR 1Lakh exempt u/s 112A.

When Mr A sell the capital asset received – the FMV which was taken in sales consideration would now become the cost for Mr A.

Concept of deemed dividend (We will study in income from other sources) – Is concept ko complete kareinge IOS chapter mein**Section 46(1)**

For company T/F of its assets to shareholders on liquidation would not be treated as T/F.

However if assets are first sold in the market then it will be treated as T/F and capital gain to be calculated for the company.

Capital Gain on buy back of securities Section 46A

Listed/Unlisted shares by domestic company = No tax for shareholders - exempt u/s 10(34A)

However company has to pay additional tax @ (20% + 12% SC) + 4% health & education cess = 23.296%

Other securities or buy back of shares by other than domestic company = Amount received from the company will be sales consideration and chargeable to capital gain tax for the shareholder in the year of buy back u/s 46A

Scope & Year of Chargeability Section 45

Capital Gain chargeable to income tax in the PY in which capital asset is transferred – Sec 45(1)

However benefit of indexation is available till the year of actual T/F

However there are certain exceptions:

- 1) Insurance Receipts Section 45 (1A)** – When capital asset is destroyed then insurance claim is received (If insured). Asset destroyed means extinguishment of title over the capital asset which is covered in the definition of transfer.
However tax needs to be paid in the year when insurance claim is received. If insurance company gives asset instead of money then take FMV of that asset as full value consideration.
- 2) Unit linked insurance policy receipts [Sec 45(1B)** – Where any person receives an amount under ULIP on or after 1.2.21 which is not covered under exemption u/s 10(10D) then receipt of such amount is taxable under capital gain and shall be deemed to be the income for the PY in which such amount was received.
- 3) Conversion of capital asset into stock in trade Section 45(2)** - This is treated as transfer in the year of conversion but to avoid hardships – capital gain tax is calculated in the year when this stock is actually sold (jab paisa aayeinge us year mein tax de dena). FMV of the asset is taken as sales consideration and this FMV will become cost for the business. Note indexation benefit is available till the year of T/F.

E.g. Ms Amy converts a capital asset into stock in trade of her business, asset was purchased in the year 2012-13 for 1 Lakh and converted into stock in trade in the year 2021-22.

However it was sold in the year 2022-23 for 3 Lakhs.

FMV as on the date of conversion was 1.5 Lakhs.

In this case capital gain will be calculated in the year 2022-23

| | |
|------------------------------------|--------|
| Sales consideration | 150000 |
| (-) Indexed COA (100000 * 301/200) | 150500 |
| LTCL | 500 |

Indexation is always done till the year of T/F

For business it will be treated as if it is purchased for 1.5 Lakhs

Now when business sold this inventory then business income will be calculated

3 Lakhs – 1.5 Lakhs = 1.5 Lakhs (PGBP)

4) Introduction of capital asset as capital contribution Section 45(3) –

Individual -----T/F ----- Capital Asset ----- Firm/AOP/BOI

In which individual is a partner

As a capital contribution i.e. capital le kar aaya par cash mein nahi – uske badle capital asset de diye business ko.

Full value consideration is – amount recorded in the books of accounts of the firm/AOP/BOI.

5) Distribution of capital asset on dissolution/otherwise of firm/AOP or BOI Section 45(4)

When firm/AOP/BOI distributes a capital asset then its **FMV is taken as sales consideration** and capital gain would be calculated [balance in partner's capital a/c without taking effect of revaluation will be treated as COA]

Firm & LLP have same tax treatment

6) Compensation on compulsory acquisition section 45(5)

If central govt. compulsory acquires capital asset then it is treated as T/F (Land taken for building highway, metro). However capital gain tax can be paid when compensation is received from the government.

This compensation is determined by central govt. or RBI

Sometimes it is possible assessee is not happy with the compensation received from the government and may go to court for a higher compensation.

If court orders enhanced compensation then it is taxable in the year of receipt

If court ordered is challenged by the department and Agar baad mein enhanced compensation kum ho gaya then re-calculate capital gain – and file rectification of return.

Note – enhanced compensation to be taxable in the year of final order of the court.

Not taxable at the time of interim order

There is no COA or COI for the enhanced compensation – whole amount is treated as capital gain.

If transferor dies then the person who receives the enhanced compensation has to pay tax.

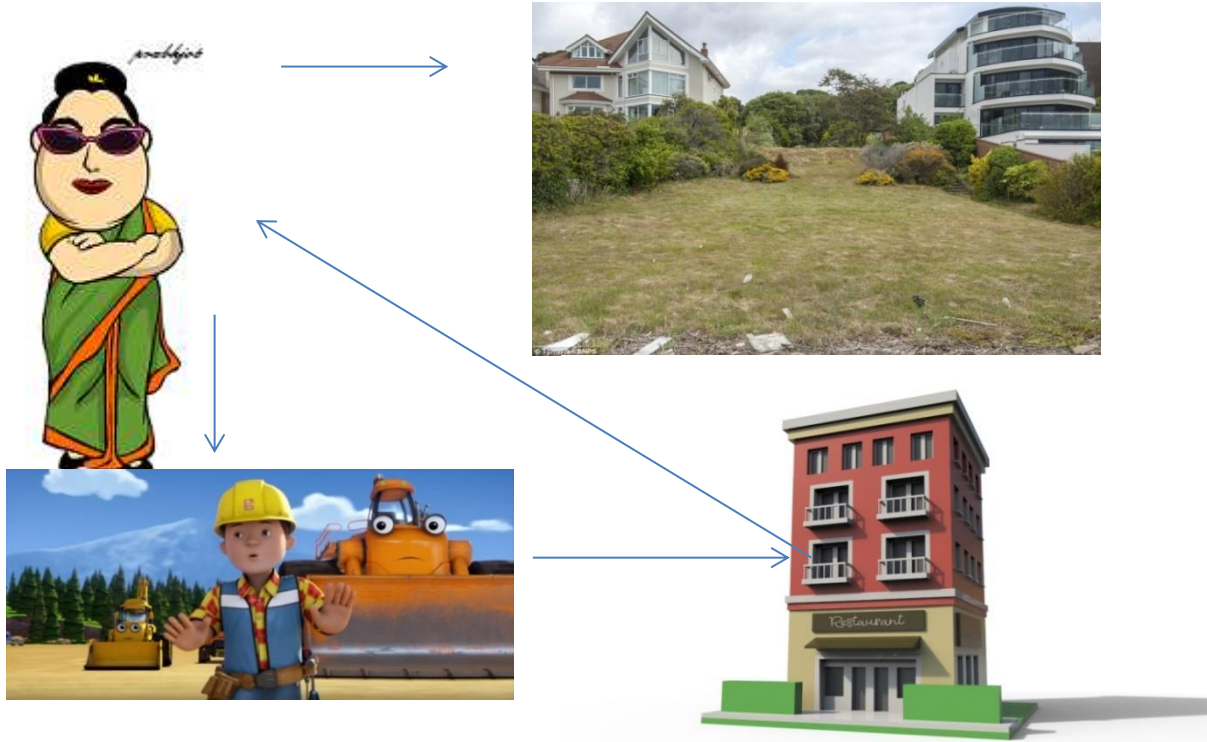
7) T/F of beneficial interest in securities Section 45 (2A)

When securities transacted through stock exchanges then it is first bought by the broker on its own name, however beneficial owner remains the actual investor.

Date of contract between the broker and beneficial owner is treated as date of T/F though actual delivery of securities may take some time.

Use FIFO method in order to calculate capital gain --- Jo security pehle kharidi – maan lena usi ko pehle becha hoga

8) Land/Building given to developer for a real estate project in return of any part of land/building + Cash (if any) Section 45 (5A)



Aunty has plot of land – which she gave to the builder to construct a house
 Builder in return will develop the building and give one floor to aunty + some cash
 First property is T/F to the builder hence capital gain needs to be calculated however to avoid hardship benefit is given – this benefit is available only to individual & HUF that is they can pay CG tax in the year when completion certificate of the whole or part of the property is received.

Sales consideration is stamp duty value of the part of property received by Aunty + cash received.

However if aunty T/F her part of property before date of issue of certificate of completion then CG tax needs to be calculated in the year when property was first T/F to the developer – matlab fir ye benefit nahi milega.

Exemption from capital gain

Section 10(33) – T/F of units of unit scheme 1964 of UTI

Section 10(37) – Individual or HUF who owns urban agricultural land compulsorily acquired by central government and compensation received after 1/4/2004. Capital gain exempt if land was used for agricultural purpose for at least two immediately preceding PY.

| Particulars | Section 54 | Section 54B | Section 54D | Section 54EC | Section 54F |
|-------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Eligible Assessee | Individual / HUF | Individual/ HUF | Any assessee | Any assessee | Individual / HUF |
| Asset transferred | Residential House (LTCA) | Urban Agricultural Land | Land & building forming part of an industrial undertaking | Land or building or both (LTCA) | Any LTCA other than Residential House. |
| Other Conditions | Income from such house should be chargeable under the head "Income from house property" | Land should be used for agricultural purposes by assessee or his parents or HUF for 2 years immediately preceding the date of transfer | Land & building have been used for business of undertaking for at least 2 years immediately preceding the date of transfer. The transfer should be by way of compulsory acquisition of the industrial undertaking | - | Assessee should not own more than one residential house on the date of transfer. He should not purchase within 2 years or construct within 3 years after the date of transfer, another residential house. |
| Qualifying asset i.e., asset in which capital gains has to be invested | One Residential House situated in India | Land for being used for agricultural purpose (Urban/ Rural) | Land or Building or right in land or building | Bonds of NHAI or RECL or any other bond notified by C.G. (Redeemable after 5 years) | One Residential House situated in India |
| Time limit for purchase/ construction | Purchase within 1 year before or 2 years after the date of transfer (or) construct within 3 years after the date of transfer | Purchase within a period of 2 years from the date of transfer | Purchase/ construct within 3 years after transfer, for shifting or re-establishing the existing undertaking or setting up a new industrial undertaking. | Purchase within 6 months from the date of transfer | Purchase within 1 year before or 2 years after the date of transfer or Construct within 3 years after the date of transfer |
| Amount of Exemption | Cost of new Residential House or Capital Gain, whichever is lower, is exempt | Cost of new Agricultural Land or Capital Gain, whichever is lower, is exempt | Cost of new asset or Capital Gain, whichever is lower. | Capital Gain or amount invested in specified bonds, whichever is lower. | Cost of new Residential House \geq Net sale consideration of original asset, entire Capital gain is exempt. |

| | | | | | |
|--------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | Maximum permissible investment out of capital gains arising in any financial year is ` 50 lakhs, whether such investment is made in the current FY or subsequent FY or both. | Cost of new Residential House < Net sale consideration of original asset, proportionate capital gain is exempt. |
| Whether new asset/investment can be transferred | Not allowed to T/F <= 3 years of its acquisition If T/F then CG exempt earlier is reduced from COA of new asset while calculating CG | Not allowed to T/F <= 3 years of its acquisition If T/F then CG exempt earlier is reduced from COA of new asset while calculating CG | Not allowed to T/F <= 3 years of its acquisition If T/F then CG exempt earlier is reduced from COA of new asset while calculating CG | Not allowed to T/F <= 5 years Otherwise taxable as CG in the year of T/F | Cannot T/F <= 3 years of its purchase + Cannot purchase any other residential house <=2/3 years Otherwise CG exempted earlier will be taxable under LTCG in the year of breach. |

Note for Sec 54 – In case CG does not exceed 2 crore - Once in a lifetime option given to purchase 2HP instead of 1 and should invest amount <= ITR date or deposit in CG deposit account <=ITR date * then utilize the same within <=2/3 years of transfer date.

PROFITS AND GAINS OF BUSINESS OR PROFESSION

Section 145(1) - PGBP & IOS - Follow either cash basis or mercantile basis

Profit and Loss A/c

| Particulars | Amt. | Particulars | Amt. |
|-------------|------|--------------|------|
| COGS | XXX | Sales | XXX |
| GP C/d | XXX | GP B/d | XXX |
| Expenses | XXX | Other income | XXX |
| Net profit | XXX | | |

As Per Accounting

Expenses debited

How to find PGBP Income

| | |
|----------------------------------------------------------------------------|------------|
| Net profit as per P&L | XXX |
| + Expenses debited in P&L but not allowed in income tax | XXX |
| (-) Expenses allowable as deduction but not debited to P&L | XX |
| (-) Income credited in P&L but not taxable or taxable under any other head | XXX |
| (+) Deemed income not credited in P&L | XX |
| PGBP Income | XXX |

In different sections of this chapter we will study what can be debited as expense and what cannot.

Examples to understand this chapter –

- Depreciation rates in income tax act is different from accountancy (Schedule II) – Therefore depreciation debited in P&L as per accountancy will be first added and depreciation as per income tax act will be then subtracted from Net profits
- Interest received credited in P&L in accounts but we need to remove that while calculating PGBP income as same is taxable under income from other sources
- Some capital expenditure is allowed to be debited 100% in P&L as per income tax act example- Sec 35AD
- Cash expenses > 10000 not allowed
- Expenses paid without TDS not allowed
- Some expenses only allowed when paid
- Excess money paid to specified persons not allowed to be debited
- There is one concept of presumptive taxation i.e. small businesses can opt for this scheme where they are not required to follow normal provisions of the PGBP & can assume a particular % on their turnover as their income
- We will study when books of accounts are required to be maintained & when audit under income tax act is to be done
- At last we will study how to tax agricultural income indirectly

Section 32 How To Calculate Depreciation

In Accountancy

Machine A Purchased for 10L

Machine B Purchased for 5L

Separate accounting/individual depreciation calculation is to be done for both the machinery.

Further when machine A is sold then Profit/loss on sale will be calculated in accountancy.

In Income Tax

Same categories of assets are clubbed in the form of block and depreciation is charged based on the whole block. This is how depreciation schedule is prepared in companies –

(Assuming New Business – No Opening Balance)

| Particulars | Building | Furniture | Plant & Machinery | Ships | Office Equipment | Total |
|-------------------------------------------------------------------------|------------|------------|-------------------|------------|------------------|------------|
| Additions | XX | XX | XX | XX | XX | XXX |
| (-) Sale value of asset sold | XX | XX | XX | XX | XX | XXX |
| Closing WDV | XX | XX | XX | XX | XX | XXX |
| (-) Depreciation | XX | XX | XX | XX | XX | XX |
| At full rate on assets put to use >180days | XX | XX | XX | XX | XX | XX |
| At half the rate [50% of rate prescribed] on assets put to use <180days | XX | XX | XX | XX | XX | XX |
| Total depreciation | XX | XX | XX | XX | XX | XX |
| Closing WDV after Depreciation | XXX | XXX | XXX | XXX | XXX | XXX |

Note - Closing WDV become opening WDV next year

Section 32 – Depreciation rates given in rule 5(1)

Building

| Particulars | Rate |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| Residential (excluding hotels) | 5% |
| Commercial | 10% |
| Building used for installing machinery & plant forming part of water supply project/water treatment system (used for business of providing infrastructure facilities) | 40% |
| Purely temporary building | 40% |

Same rate for **P&M** used for business of providing infrastructure facility

Other assets

| Particulars | Rate |
|----------------------------------------------------|------|
| Furniture & fittings including electrical fittings | 10% |
| Ships | 20% |
| Intangible assets know-how/patent/copyright etc. | 25% |
| Plant and machinery – General rate | 15% |
| Aeroplanes/Aero-engines | 40% |

Plant & Machinery

| Particulars | Rate |
|--------------------------------------------------------------------------------------------|------|
| Motor cars | 15% |
| Motor buses /cars/taxis/lorries used in business of running them on hire | 30% |
| P&M used in semi-conductor industry | 30% |
| Moulds used in rubber & plastic goods factories | 30% |
| Air/water pollution control equipment | 40% |
| Lifesaving medical equipment | 40% |
| Oil wells | 40% |
| Renewable energy saving devices (windmills/electric generator/pump running on wind energy) | 40% |
| Computer + Computer Software | 40% |
| Books | 40% |

No depreciation on goodwill of profession/business w.e.f 1.4.21 [its opening WDV will be removed from the block in PY21-22]

Increased rate of depreciation in following cases:

Motor cars acquired during 23.8.19 to 31.3.20 and put to use on or before 31.3.20 – Rate is 30%
 Motor buses /cars/taxis/lorries used in business of running them on hire acquired during the period 23.8.19 to 31.3.20 and put to use before 31.3.20 – Rate is 45%

Important Notes

Depreciation is calculated separately for each block

To add asset to any block – Put to use date is relevant

In Accounts - Depreciation can be charged once asset is ready for use whether actually used or not

In Income tax – Asset is capitalized in the respective block when it is first put to use (i.e. capitalize only when used for first time - add it in the block)

In the year of addition/first put to use

Asset used < 180 days - 50% depreciation allowed

Asset used ≥ 180 days & opening WDV-100% depreciation allowed

Example – Furniture purchased on 1/12/21 for 10L & put to use on 1/6/22 then it will be added in the block in the year 22-23 & from 1/6/22 - 31/3/23. Put to use \geq 180 days hence 10% rate allowed for depreciation (10% is applicable for furniture) – If put to use is less than 180 days then at 5% rate [50% of 10%] depreciation would be allowed on furniture in the first year.

Note – Some standby equipment/backup server cannot be used unless the main equipment fails. However depreciation will be allowed on these assets even if not put to use

Remember charging depreciation is mandatory. Further depreciation is available on only those assets which are used for business purposes.

Example – Opening WDV of P&M (15%) block as on 1/4/21 is 10L. New P&M purchased on 1/5/21 but put to use on 1/11/21 of 2L. Another P&M purchased on 1/7/21 for 1L & put to use on the same date. Calculate depreciation to be debited to P&L as per income tax act.

Solution –

| Particulars | Amount |
|-----------------------------------------------|------------------|
| Opening WDV as on 1/4/21 | 10,00,000 |
| + Additions | 3,00,000 |
| (-) Sale Value | - |
| Closing WDV before depreciation | 13,00,000 |
| (-) Depreciation at 15% on [10L+ 1L] | 1,65,000 |
| 7.5% on 2L (since put to use < 180 days) | 15,000 |
| Closing WDV 31/3/22 after depreciation | 11,20,000 |

Section 32 – Depreciation

Land is an appreciable asset (limited in quantity – value increases as demand increases) therefore no depreciation on land

Power Generation Undertaking or Generation & distribution of power

- Can charge depreciation on straight line method (SLM) i.e. % on actual cost of the asset. Rule 5(1A)
- Should exercise the option before ITR date (of 1st PY when it begins to generate power)

Additional depreciation – One time Extra depreciation allowed to Industrial undertaking on new Plant & Machinery (other than ships/ aircraft) @ 20% of the cost of Plant & Machinery.

35% for backward areas of AP, Bihar, West Bengal or Telangana – This was upto 31/3/2021

Conditions where additional depreciation not available:

- Plant and machinery used before its installation by assessee
- Plant and machinery installed in office premise or residential place/guest house
- Office appliances or road transport vehicles

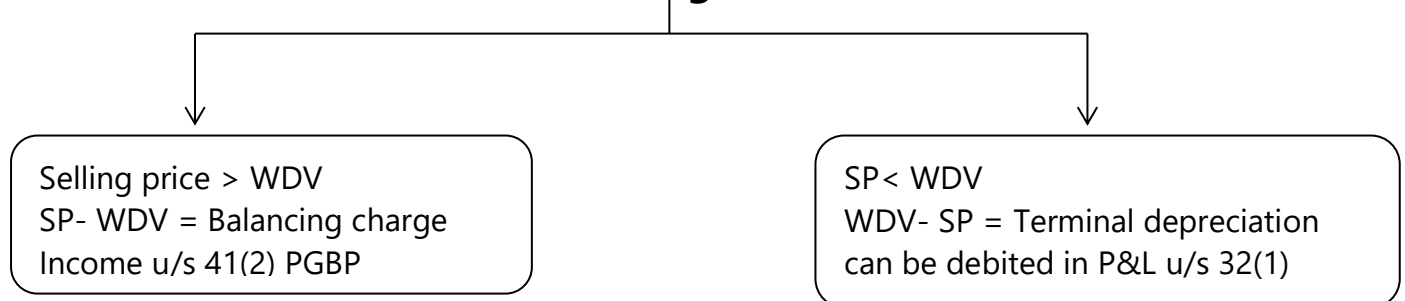
- Plant and machinery whose whole or any part of cost is debited to P&L while calculating PGBP income of any one PY i.e. either 100% cost already debited to P&L or any part debited in any PY. Therefore additional depreciation allowed in the 1st year only.

Further- If asset is put to use < 180 days – then as per second provision to Sec 32(1)(ii) – 50% additional depreciation will be allowed in the first year & balance 50% can be taken next year - third proviso to sec 32(1)(ii)

So, additional depreciation is allowed to manufacturers & those engaged in business of generation, transmission or distribution of power

Circular – Additional depreciation allowed to assessee engaged in printing or printing & publishing as well

Power Undertaking (Asset Transferred)



SP > Actual purchase price then

SP - Actual cost = STCG
Actual Cost - WDV = PGBP Income

Depreciation is charged on WDV and WDV is [Actual Cost – Accumulated Depreciation]

Section 43(1) Actual cost in different scenarios

Generally Actual cost of asset = Actual price paid (-) subsidy received (-) cost borne by another person.

If old asset is obtained through transactions not regarded as T/F u/s 47 then WDV of the previous owner becomes cost for the new owner & depreciation will be charged on the same.

- 1) Second hand asset purchased** – Mr A purchased machinery for 1L, current WDV is 40000
Now Mr A sold his machinery to Mr B for 1L
Mr B can now claim depreciation on 1L again. In this way 1 person will 1st use the asset & claim depreciation then T/F to his friend at a higher amount who can then claim the depreciation again on higher amount.
If AO thinks transaction is to avoid tax/reduce tax liability then AO can decide the actual cost.

2) Mr A had a machinery of 1L used for same for doing business whose WDV is 50000

Mr A sold his machinery to Mr B for 60,000 'B' now used the same for 2 years when WDV reached to 40,000

Now Mr B sold back the same machine to 'A' for 60000

That means same asset came back to Mr A (Re-acquisition of asset). In this case Mr A can claim depreciation on

- WDV [at the time of original transfer]
 - Actual price paid to re-acquire the asset
- whichever is lower

3) Mr A [M/H WDV is 30000] sold to Mr B for 70000 and Mr B gave the same asset to A on lease/ hire

In this case Mr B is the legal owner of the asset however machinery will be used by Mr A who was earlier the owner of the same asset (therefore cost of asset for Mr B will be taken as 30000 – WDV at the time of T/F)

4) Building (personal) transferred to Business

Actual cost for claiming depreciation = Actual purchase cost (original) (-) depreciation for each year when asset was used for personal purpose

5) Asset acquired outside India by Non-Resident - Now brought to India for his Business/Profession - Actual cost for calculating depreciation = Actual cost when asset purchased abroad (-) depreciation for each year when asset used outside India

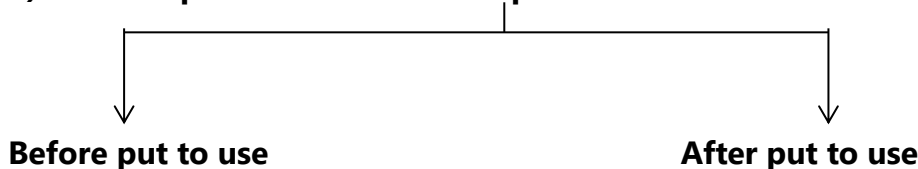
6) Hire purchase agreement –

Type I – Asset cannot be recovered from lessee – then claim depreciation on hire purchase price.

Type II – Asset can be recovered from lessee if instalment not received then claim depreciation on cash price (i.e. price which would have been paid at the time of agreement to purchase the asset)

7) Depreciation in case of succession of firm/sole proprietary concern by a company or business reorganisation or amalgamation or demerger - Depreciation till conversion will be taken by old entity and depreciation after conversion will be received by new entity – depreciation will be distributed as per number of days asset remained with each entity in the year of transfer.

8) Interest paid on loan taken to purchase the asset



Becomes part of the cost the asset Do not capitalize (debit in P&L)

9) Asset T/F from one stock exchange to another stock exchange under a scheme of corporatization- WDV before T/F is taken as cost for new exchange

Section 43(6) Written Down Value

| | |
|-------------------------------------------------------------------|------------|
| WDV as on 1/4/PY | XXX |
| + Actual cost of assets acquired during PY | XX |
| (-) Assets sold or T/F – Sale value or amount received | XX |
| WDV at the end of the year on which depreciation is to be charged | XXX |
| (-) Depreciation @ prescribed rates | XX |
| WDV as on 1/4/next year | XXX |

Explanation 6 of Sec 43(6)

Where a person is exempt from tax and no PGBP income is calculated and if exemption is withdrawn later then on what amount depreciation is to be calculated?

Actual cost (-) depreciation that allowed if there was no exemption = WDV
Now charge depreciation on this amount

Note - Building, Plant & Machinery, Furniture not exclusively used for business purpose

Section 38(2) Assessing officer will decide proportion in which expense incurred on these assets can be debited to P&L

When Capital gain is calculated on depreciable assets?

- When all assets in any block are T/F (i.e. block becomes empty) or
- Sale value of any asset/assets exceeds (Opening WDV + Additions) i.e. closing WDV become negative

In both cases STCG/STCL is calculated.

Concept of Unabsorbed depreciation

Depreciation which cannot be adjusted with the available profits is called unabsorbed depreciation

Example- Profits (PGBP) before depreciation 1L and depreciation 2.5L then 1.5L will be unabsorbed depreciation

Unabsorbed depreciation can be carry forwarded for unlimited time

As per Supreme Court –order of set off is defined below (later discussed in the chapter of set off & carry forward) -

- Current year depreciation, then
- B/F business loss, then

3) B/F depreciation i.e. unabsorbed depreciation

Unabsorbed depreciation is adjusted at last since it can be carry forwarded for unlimited time

Rule 5(2) – Plant and machinery using a technology/know how developed in a laboratory owned or financed by govt. /public sector company/university – then depreciation on such machinery is charged @40%

Proviso to sec 43(1) – Amount paid for asset in a day > 10,000 otherwise than by a/c payee cheque, a/c payee bank draft or electronic mode then that expenditure will not become part of the actual cost.

Tax paid on asset – If credit is available for the taxes paid then do not add it in the actual cost

Note – Personal expenses cannot be debited to P&L Sec 38(2)

Expenses allowed on Payment basis Sec 43B

Assessee can follow either accrued basis or cash basis for PGBP & IOS. However below expenses are allowed to be debited in P&L if actually paid on or before the due date of filing ITR (31/10/AY for those who are required to get tax audit or 31/7/AY for others)

If expenses are paid after ITR due date then it can be debited to P&L in next year

Expenses – Allowed on cash basis

- Tax, GST, Cess, Fee under any law (however income tax is not allowed to be debited in P&L)
- Sum payable to an employee as bonus or commission (not salary which is normally allowed on accrual basis)
- Interest on loan from any scheduled bank, cooperative bank, public financial institution or state financial corporation or state industrial financial corporation
- Payment of leave encashment to employee
- Contribution by employer to PF or super Annuation fund or gratuity fund or ESI or any fund for welfare of employee
- Any sum payable by assessee to Indian Railways for use of railway assets

Example – X Ltd. paid bonus for FY 21-22 to its employees in Dec 22. 50L was paid in Dec 22 PGBP income after debiting these expenses was 1.5 crore for PY 21-22.

| Solution | Particulars | Amounts |
|-----------------|--------------------|------------------|
| | PGBP | 1.5 crore |
| | + Bonus Paid | 0.5 crore |
| | PGBP 21-22 | 2.0 crore |

50L were paid in Dec 22 i.e. after due date of ITR (31/10/22). Therefore, 50L cannot be debited in PY 21-22. However these 50L can be debited in PY 22-23.

Example – Interest on loan taken from HDFC Ltd 50000 not paid till 31/3/22. Total loan amount outstanding was 5L on 31/3/22 Rs. 25000 loan interest was paid & Rs. 25000 converted into a fresh

loan. PGBP income for PY 21-22 was 1.2 L after debiting 50000 as interest. Calculate correct income.

Solution –

| Particulars | Amounts |
|----------------------------------------------|---------------|
| PGBP | 120000 |
| (+) 25,000 interest not paid before ITR date | 25000 |
| PGBP 21-22 | 145000 |

Interest paid 25000 on 5/5/22 (pertaining to PY 21-22) can be debited to P&L as these were paid before ITR due date.

Payment made to specified persons Sec 40A(2)

Excessive payment made to specified persons cannot be debited to P&L if objected by assessing officer. Let's see who all are specified person for different type of assessee:

- 1) Specified person for
 - a. Individual - Self
 - b. AOP/HUF – Members
 - c. Firm – Partners
 - d. Company – Director
- +Relatives of above
- 2) For individual - If he/she has substantial interest in business of a [Person – e.g. Mr A] then Mr A and relative of Mr A will be specified person for that individual
- 3) For company – Any individual having substantial interest in the business/profession of a company + relative of that individual
- 4) Co./Firm/HUF/AOP or its directors/members/partners or their relatives --- any of them having substantial interest in the business of a person e.g. Mr A then Mr A will specified person for all of them.
- 5) Any assessee in whose business Co./AOP/firm/HUF or their director/partner/members – any of them has a substantial interest then -
Co./AOP/Firm/HUF + Directors/Partners/Members + their relatives – all will be specified person for that assessee

Relative Sec 2(41) – Spouse, Brother, Sister, lineal ascendant or lineal descendant of such individual.

Substantial interest means $\geq 20\%$ of equity capital or $\geq 20\%$ shares in profits at any time during the PY

Disallowance of expenditure > 10,000 paid by other than a/c payee cheque, a/c payee demand draft or electronic clearing system - Sec40A(3)

>10,000 paid in one day + original expenditure also > 10,000

For transport operators (works for good transport agency) limit is 35000.

Example – Bill of 50000 raised in Nov 21 & cash payment made by assessee as follows –

| | |
|---------|-------|
| 1/12/21 | 8000 |
| 3/12/21 | 7000 |
| 4/12/21 | 25000 |

If Expenses > 10000 & payment on one single day > 10,000 otherwise than by a/c payee cheque/DD/electronic clearing system then that expense is not allowed to be debited in P&L.

Here, 25000 will not be allowed to be dr. in P&L however 8000 and 7000 can be debited Sec 40A(3)

Assuming these 25000 was paid in Dec 22 & assessee is following accrual system then he will debit the expenses 50000 (8000 and 7000 paid & balance to be paid). In Dec 22 however cash payment made > 10,000 (original expense was also > 10,000) then expense earlier debited will now be treated as income 25000. To be added to P&L of PY 22-23. Sec 40A(3A)

Exception to Sec 40A(3) Rule 6DD –

Payments can be made in cash or any other mode and will be allowed to be debited in P&L

- Payment made to RBI, SBI, Banking Co. , Cooperative bank, LIC
- Paid to Govt.
- Payment made in a village/ town where banking facility not available on the date of payment.
- Payment made to employee after deducting TDS **condition** –
Employee temporarily posted for ≥ 15 days in other place where he doesn't maintain a bank a/c
- Paid to employee full and final settlement on retirement, resignation in the form of gratuity & retirement/ terminal benefits and amount ≤50,000.
- Payment made for products manufactured without power in a cottage industry (small family run business operated through houses) .
- Payment through adjustment of any liability

Rule 6ABBA prescribed the following electronic modes through which payment can be made or money can be received in place of electronic clearing system, A/c payee cheque or bank draft:

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

| Liability | Asset |
|------------------------|----------------------|
| Creditor Mr A 15000 | Debtor Mr A 15000 |

If creditor is paid by adjusting the amount in books like

Creditor a/c dr. 15000

To Debtors 15000

Then this is known as book adjustment as is allowed to be debited.

- Payment made for agricultural produce/forest produce/ animal husbandry/ dairy products/ poultry farming/ Fish products/ products of horticulture (flowers, fruits, vegetables) or Apiculture (bee maintenance).

Condition – Paid to cultivator, grower or producer of such products

- Payment made by – credit/debit card, bill of exchange, letter of credit, telegraphic T/F electronic system through a bank , book adjustment between two bank a/cs

TDS not deducted or not paid then expenses cannot be debited to P&L

How much - 30% of expenses not allowed however when TDS done later on & paid later then the above 30% will be debited to P&L of that year. For payment made to non-resident take 100% instead of 30%

Section 40(a)(i)

Paid to non-resident TDS applicable but not deducted or deducted but not paid ≤ ITR date
100% expenses not allowed when TDS paid in subsequent year then allowed

Section 40(a)(ia)

Paid to resident (ROR/RNOR) TDS applicable but not done in PY or deducted in PY but not paid ≤ ITR date 31/7/AJ or 31/10/AJ (where audit required) then 30% expenses not allowed 70% will still be allowed to be debited, when TDS paid in subsequent year then 30% not allowed earlier can be debited to PY when TDS is paid

Example - ABC Ltd. Paid 1L to Mr A (CA) for professional services rendered in PY 21-22. Fees paid on 5/12/21 & TDS deducted on 7/7/22 but TDS deposited on 5/10/22. PGBP Income PY 21-22 50L & PGBP income PY 22-23 is 20L. 1L was debited in PY 21-22. Calculate correct PGBP of both the years.

Solution-TDS not deducted in PY hence 30% expenses will not be allowed to be debited in PY 20-21 u/s 40(a)(ia)

| | |
|-------------------------------|------------------|
| PGBP | 50,00,000 |
| + 30% Disallowed | 30,000 |
| PGBP 21-22 (corrected) | 50,30,000 |

| | |
|------------------------------------------------------|-----------|
| PY 22-23 | 20,00,000 |
| (-) 30% disallowed earlier u/s 40(a)(ia) now allowed | 30,000 |
| PGBP PY 22-23 | 19,70,000 |

Other Disallowances

- 40(a)(ii) – Income tax cannot be debited to P&L
- 40(a)(iia) – Wealth tax not allowed to be debited in P&L.
- 40(a)(iib) – Fee, charge etc. paid by state govt. undertaking to state govt.
Concept – State govt. take funds from state govt. u/t by way of some royalty/license fee/service fee etc. which is levied exclusively on state govt. u/t not allowed debited in P&L of state govt. u/t otherwise state government will withdraw all funds from its undertaking and show loss due to which central government will lose its tax revenue
- 40(a)(iii) - Salary payable outside India or to Non Resident - Tax not paid then 100% not allowed in P&L
- 40(a)(iv) – Contribution of employer to PF or other fund when amount withdrawn by employee then employer should have arrangements to deduct tax otherwise expense not allowed to be debited
- 40(a)(v) – Perquisites (non-monetary benefits)– given to employees then it is salary income for the employee & tax needs to be paid. If employer pays tax on such perquisites value then this tax amount cannot be debited in P&L of the employer

For employee perquisite (on which employer has paid tax) will not be taxable

Any contribution received for LWF [ESI/PF etc.] by employer and not deposited by due date shall be treated as income of the employer.

Some other deductions allowed Sec 36(1) –

- Insurance premium paid for stock/stores (Inventory) – Insurance done for damage/destruction
- Insurance premium paid for health of employees (if paid other than cash)
- Keyman insurance policy- Insurance taken for the key persons of the business
- Discount on zero coupon bonds allowed on pro rata basis
- Family planning expenditure for employees of **company only Sec 36(1)(ix) –**

Capital expenditure – 5 years one- fifth equally debited in P&L for 5 years

Revenue expenditure debited in P&L

If profits are not sufficient to absorb family planning expenditure then treated it in the same way as unabsorbed depreciation

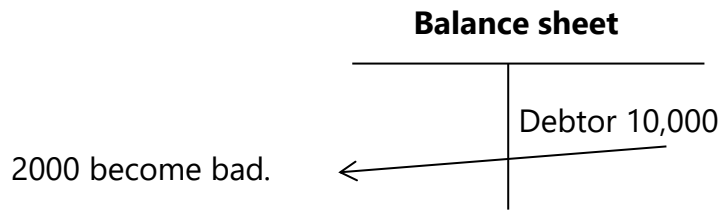
If family planning exp. done by other than company then only revenue expenditure is allowed to be debited u/s 37(1) on satisfying some condition

- Security transaction paid/commodities transaction tax paid – in capital gain not allowed however in PGBP it is allowed if its corresponding income is also credited in P&L
- Cooperative society engaged in business of manufacture of sugar from sugarcane. Purchased sugarcane then expense can be debited \leq Price fixed by govt.

Bonus/Commission/Interest on loan/Employer's contribution to recognized PF/ Gratuity fund can be debited u/s 36(1) subject to 43B condition (i.e. paid \leq ITR date).

- Bad-debts – Provision for bad debts not allowed. Actual bad debt allowed -

Debtor dr.10000
To Sales 10000



Conditions for debiting bad debt (actual bad debts not provision)-

Debt must be taken into a/c in computing business income
Business for which deduction is claimed should be continued

If business sold (all assets and liabilities) then new person can claim bad debt

If later on bad debts recovered then taxable u/s 41(4) credited to P&L

If business A claimed bad debts then sold the business to B and B recovers the bad debts then no tax treatment as per high court judgement in CIT v/s PK Kaimal – Assesse who claims deduction & who recovers bad debts should be same.

Provision for bad debt allowed in the following cases only

- Indian bank – 8.5% of gross total income + 10% of aggregate advances made by rural branches
- Foreign banks/Non-Banking Financial Corporations/Public Financial Institute/State Financial Institutions – 5% of GTI

General deductions Sec 37(1)

If expenses not allowed u/s 30 to 36 then it can be deducted u/s 37 if some conditions are satisfied:

- Not a capital expenditure +
- Not a personal expense +
- Incurred wholly or exclusively for business or profession

Explanation 1 – Any expense which is an offence or prohibited by any law shall not be allowed as deduction.

Explanation 2 – Corporate social responsibility expenditure not allowed in P&L. CSR is required to be done necessarily for social purpose and therefore it cannot be taken as deduction

If CSR expense is in nature of an expense allowed u/s 30 to 36 then that can be debited under those sections

Following expenditure not allowed – Penalties under any law, fee paid to ROC for increasing authorised capital is a capital expenditure, share issue expense (other than bonus shares) are of capital in nature hence not allowed

CIT u/s general insurance corporation (Supreme Court)

Bonus shares issued – This is only reallocation of funds as capital employed remains the same hence expenses done on issue of bonus shares are revenue in nature and therefore allowed

Sec 38(2) – Asset used for personal purpose + business purposes then debit expenses on proportionate basis

Section 30 – Expense for building

If building is used for business or profession – Rent/repairs taxes i.e. Revenue expenditure can be debited to P&L who has done the expense

Capital Expenditure done by

- Landlord (+) in block of assets (building)
- Tenant (+) deemed building (create new block)

Section 31 – Expense on Plant & Machinery/ Furniture

Repairs & insurance debited in P&L if used for business and rent for machinery allowed u/s 37(1) provided both are revenue expense

Example – Mr A submits the following P&L for the year ending 31/3/22. Calculate PGBP income for AY 22-23

| Particulars | Amount | Particulars | Amount |
|--------------------------------------------------|------------------|--------------------------------|------------------|
| COGS [opening stock + purchases – closing stock] | 9,00,000 | Sales | 20,00,000 |
| GST payable | 2,00,000 | Profit on sale of land | 5,00,000 |
| Depreciation | 50,000 | Discount received | 5000 |
| Household expenses | 10,000 | Rent of house property | 240000 |
| Donation to PMNRF | 60,000 | Dividend from domestic company | 5000 |
| Bribe to policeman | 1000 | | |
| GST paid on 31/3/22 (paid in cash) | 30,000 | | |
| Salary to employees | 2,50,000 | | |
| Machinery purchased | 3,00,000 | | |
| Electricity expenses | 9,000 | | |
| Net profits | 9,40,000 | | |
| | 27,50,000 | | 27,50,000 |

Additional information –

1. GST of ₹10,000 paid on 31/7/22 & 1,90,000 paid on 10/8/22 (due date of ITR 31/7/22)
2. Salary of ₹2000 paid by Mr A to himself
3. Purchase includes a bill of ₹50,000 made from relative. This was excessive by ₹5000 as per assessing officer. The bill was of 50,000 was paid in cash
4. Depreciation on machinery @15% p.a. not debited to Profit and loss a/c

Solution –

| Particulars | Amount |
|----------------------------------------------------------------|---------------|
| Net profits | 9,40,000 |
| + Excess payment to relative disallowed u/s 40A(2) | 5,000 |
| + Cash payment disallowed u/s 40A(3) | 45,000 |
| + Salary paid by A to himself | 2,000 |
| + Machinery purchased | 3,00,000 |
| (-) Depreciation on machinery u/s 32 = 3L *15% | (45000) |
| + Payment of GST on 10/8/22 | 1,90,000 |
| + Household expenses | 10,000 |
| + Donation | 60,000 |
| + Bribe to policeman | 1000 |
| (-) Rent of house property taxable under the chapter of HP | (240000) |
| (-) Profit on sale of land (Since taxable under capital gains) | (500000) |
| (-) Dividend from Indian company (Income from other sources) | (5000) |
| PGBP income | 763000 |

Note – Always do adjustment from additional information first GST paid in cash allowed as per rule 6DD

Section 40(ba)

Salary, bonus, commission paid by AOP/BOI to its members not allowed as deduction

Taxation of AOP/BOI – CA Final

Section 40A(7) Gratuity

Provision for gratuity – Not allowed to be debited

Gratuity actually paid & payable – Allowed

Example – Mr A resigns on 2/3/22 and his last working day would be 2/5/22 i.e. after 2 months of notice period. His employer made a provision of ₹1L as gratuity payable to Mr A in May 22
Actual 1L – allowed to be debited since it is paid/payable

ABC Ltd. creates provision of ₹10L for gratuity on estimated basis which it might have to pay in case employee resigns —————> Not allowed

ABC Ltd. has an approved gratuity fund —————> It deposited ₹1.5L - Allowed since actually paid + in an approved fund. Also check Sec 43B

Section 40A(9) Non Statutory or Unrecognised Fund

Amount deposited —————> Not allowed to debited

Advertisement In Publication of Political Parties Sec 37(2B)

Not allowed in PGBP but allowed as deduction u/s 80GGB (for companies) & 80GGC (For other assessee) provided donation paid other than in cash

Section 40(b) Taxation of firm

1. Interest on loan & capital to partners allowed if authorized by partnership deed + for the period after partnership deed is created + upto max. 12% p.a.
Interest paid to partners 14% —————> 12% p.a. allowed, rest disallowed
2. Salary, bonus, commission to partners allowed if authorized by partnership deed + paid to only working partners + paid within following limits –
 - a) On just 3L of book profit or in case of loss Higher of 1.5L or 90% of book profits
 - b) On balance book profits 60% of balance book profits

Salary more than above limit cannot be debited in P&L even if paid to working partners
Non-working partners --- Salary paid can't be debited to P&L

Example – Firm A has a loss during PY 21-22 for 2L - Maximum salary expense allowed 1.5L

Example – Firm A has profits of 5L PY 21-22

On 3L × 90% = 2.7L or 1.5L whichever higher i.e. 2.7 Lakhs

On 2L × 60% = 1.2L

Total = ₹3.8L maximum salary to working partners allowed

Book profits = Net profits + interest which is excess than 12% p.a. + remuneration to partners
(These are added if already debited in P&L)

Section 41 Deemed profits

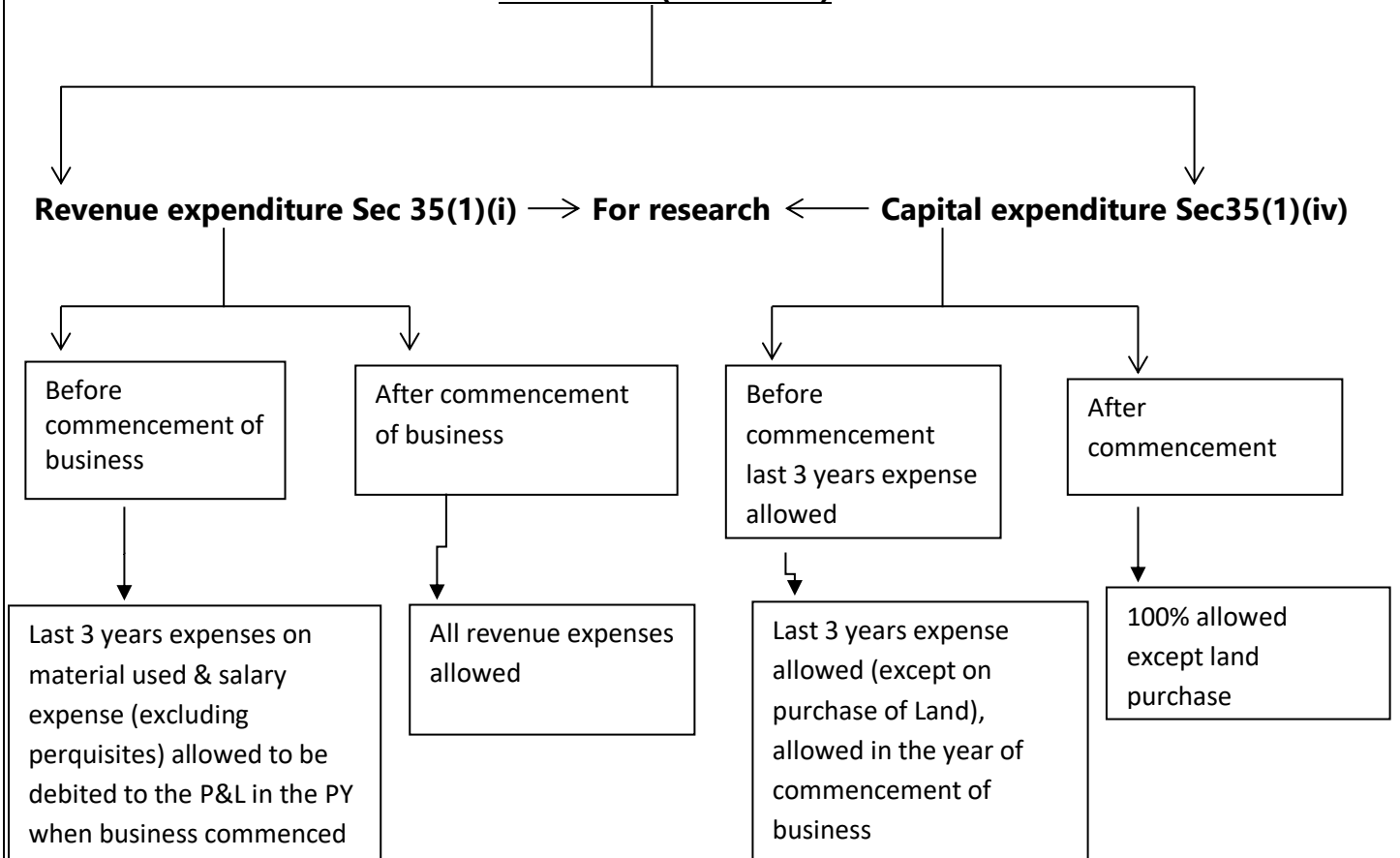
Even if business is closed but this income is taxable under PGBP in the year of receipt

41(1) – Loss debited earlier if recovered later then taxable under PGBP

41(5) – Business/profession discontinued then c/f of loss allowed under the chapter of set off and c/f. If any income is received u/s 41(1), 41(3), 41(4) of discontinued bus then such loss can be set off against these incomes No time limit on c/f

Expenditure on Scientific Research

Section 35 (Khatarnak)



If capital expenditure remain unabsorbed i.e. profits not sufficient then same treatment as unabsorbed depreciation

Note – No depreciation allowed for which deduction is claimed u/s 35

Contribution (Donation) made by assessee to others for Scientific Research

| Section | Contribution made to | Amount of deduction |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 35(1)(ii) | Approved research associations/ approved university, college or other institution for scientific research | 100% of sum paid |
| 35(1)(iia) | Amt. paid to company <ul style="list-style-type: none"> • Reg. in India + • Object scientific research & development + • Co. approved by prescribed auth. | 100% of sum paid |
| 35(1)(iii) | Approved University, college or other institution or approved association object scientific research <ul style="list-style-type: none"> • Social science • Statistical science | 100% of sum paid |

If no PGBP income then claim above deduction u/s 80GGA from GTI (discussed later)

Section 35(2AA) Payment to National laboratory/University/IIT/specified persons prescribed by authority

With specific directions that sum shall be used for scientific research programmes approved by govt. - 100%

Section 35(2AB) - To company engaged in manufacturing except XIth Schedule items (Beer, wine, tobacco, toothpaste, soap, projectors etc.)

Capital + Revenue expenditure – 100%

If done on Any In house research & development expense on land & building is not allowed

Section 41(3) Sale of asset used for scientific research

Taxable as business income u/s 41(3) upto the amt. deduction which was claimed u/s 35

- Asset sold without using it for any other bus. purpose
 - a. Sale price
 - b. Deduction taken u/s 35(1) earlier for that asset
 whichever is lower

If Sale > Cost excess is capital gain

- Asset sold after using it for any other bus. purpose - when asset removed from scientific research & used for normal bus. then it will be added in block of asset at nil cost because 100% already claimed u/s 35

When sold subtract sale value from opening WDV as this much amt. is recovered

Section 35AD Investment Linked Tax Incentive For Specified Business

100% deduction allowed on CAPITAL EXPENDITURE done for specified business.

Not available on land/goodwill/financial instruments + >10,000 then pay through a/c payee
 Cheque or account payee demand draft or electronic clearing system or other electronic mode (prescribed)

Revenue exp. allowed 100%

Capital exp. done prior to commencement of operations then 100% deductions allowed in the PY in which operations start

Since 100% Capex debited – No depreciation allowed & no deduction u/s 10AA allowed – SEZ (Discussed later on)

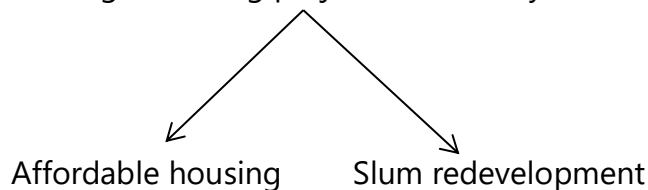
Conditions to be fulfilled

1. Assessee is carrying on a specified bus. & this business is not setup by splitting up/ reconstruction of any existing business
2. It should not be setup by T/F of used P&M to specified business, however ≤ 20% P&M can be old
3. P&M used outside India treated as new P&M if it is – never used in India + Imported from outside India + no depreciation was claimed on such P&M earlier

4. No deduction u/s 80C to 80U allowed from income of specified business
5. In case of business of fertilizers – deductions allowed for P&M installed whether used completely for production or not
6. Business of laying & operating cross country natural gas/crude petroleum oil pipeline network for distribution including storage facilities – Deductions allowed if \geq one third (for natural gas) \geq one fourth (for petroleum products) of total capacity is available for use on common carrier basis

Specified business – Setup in India

1. Point no. 5& 6 & slurry pipeline for supply of iron ore
2. Setting and operating cold chain facilities (for agricultural, dairy, meat products)
3. Setting and operating warehouse facilities for storage of agricultural produce & sugar
4. Building & operating
 - a. Hospital with Min. 100 beds
 - b. \geq 2 star hotel
5. Bee keeping and production of honey and bees wax
6. Setting and operating Inland container depot or container freight station approved under customs act 1962
7. Developing and building a housing project (notified by CBDT)



8. Setting and operating a semiconductor wafer fabrications manuf. unit

Specified Business 35AD

Developing, maintaining + operating, developing + maintaining + operating - a new infrastructure facility \geq 1/4/17

- Road, toll road, bridge, railway
- Highway including housing or other activities – Integral part of project
- Water supply project, water treatment system, Irrigation project sanitation & sewerage system or solid waste management system
- Port, airport, inland waterways, inland port navigational channel in the sea

Condition – Owned by Indian co. or body constituted by central or state act + Agreement with CG/SG/local authority/statutory body

Section 35AD(6)

\geq 2 star hotel built by assessee ——— TIF operations to another person

Still deemed to be carrying on business of building & operating hotel and can take deduction u/s 35AD

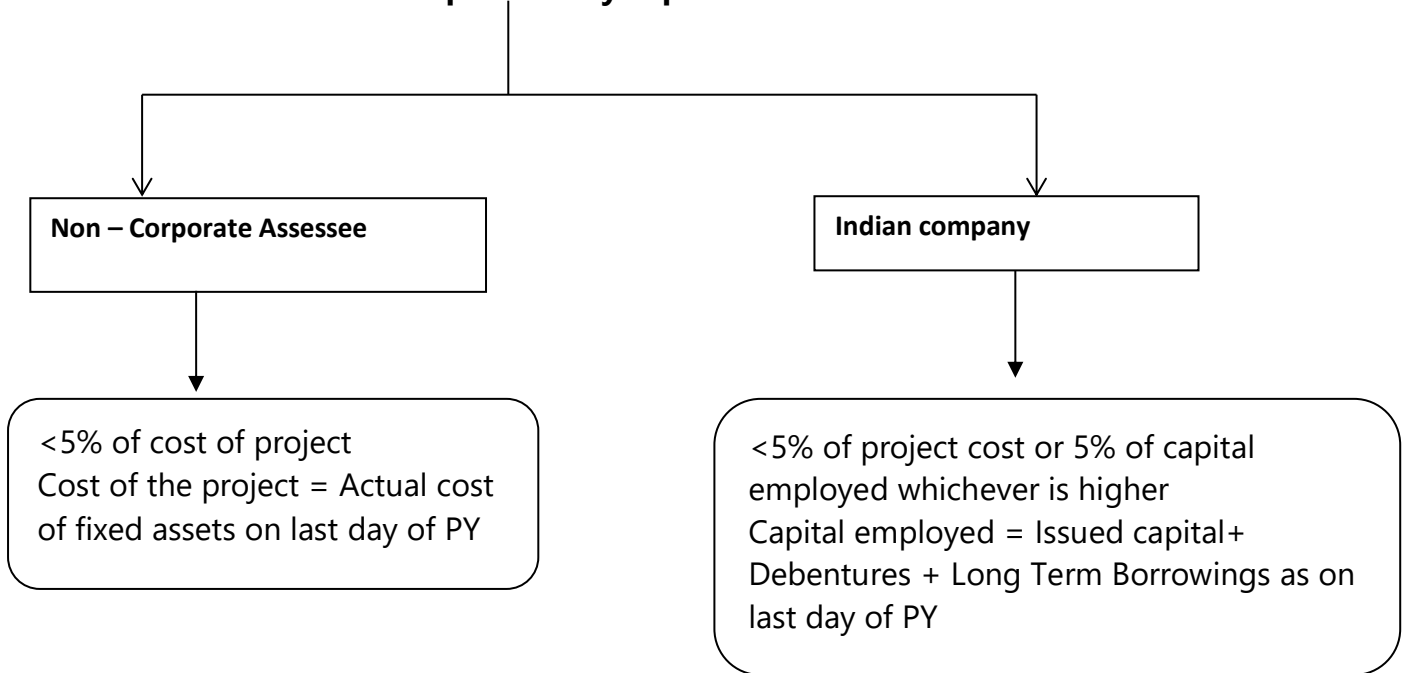
35AD(7A) - If deduction allowed for any asset then it should be used for ≥ 8 years

35AD(7B) - If used for any other business ≤ 8 years then

Expense debited earlier will be deemed to be income = value of any asset purchased (-) depreciation for each year for which asset already been used

If company becomes sick during first 8 years of using asset then ok Sec 35AD(7B) not applicable

Section 35D Amortization of preliminary expenses



The amount of preliminary expenses subject to above limits is allowed in 5 equal instalments each year.

CA will audit accounts & report is furnished with ITR

Preliminary expense means expense incurred before commencement of business or for expanding existing under taking or for new unit

Examples –

- Cost of preparing feasibility report, project report, expenditure on any market survey, engineering services
- Legal charges for drafting of any agreement
- Cost of MOA, AOA, registration of company or issue of shares or debentures
- Expenses for issue or share capital, debentures or underwriting commission
- Drafting, typing, printing, advertisement of prospectus.

Sec 35DDA Exp. of Voluntary Retirement Scheme

Amount paid ---- 5 years mein dr. in P&L

Sec 35CCC Agriculture Extension Project

100% of exp. can be debited revenue or capital

Sec 35CCD Skill Development Project

Only to company - 100% exp. can be dr. except cost of land & b/d

[Revenue+ Capital] - If deduction allowed under above sections then no deductions allowed under any other section.

Presumptive Taxation

Aankh band karke --- Income assume karlo or us par tax dedo --- provision follow karne ki jarurat nahi hai --- No need to follow PGBP provisions for calculating income instead assume your income as given in below sections

Sec 44AD For Individual, HUF & Firm (not LLP) can take benefit
Professionals, brokers, agents --- cannot take the benefit under this section

Condition – Total receipt \leq 2 crore

Assume 8% of turnover as income – for T/o received in cash or other modes

Assume 6% of turnover as income if amount received by a/c payee cheque, a/c payee demand draft, electronic clearing system on or before ITR due date

This income is assumed to be final income i.e. after every deduction – no depreciation or other deduction allowed + pay tax \leq 15/3/PY (Advance Tax)

No books of A/c required + No audit required – Benefit

If assessee wants to claim lower income then maintain books of accounts + audit

If Sec 44AD opted & later on in any year assessee wants to claim lower income then presumptive taxation benefits for next 5 years is not available under Sec 44AD.

Example – Mr A opted 44AD for AY 21-22, 22-23 but in AY 2023-24 he claims 4 lakh income on a T/o of 1 crore then for AY 24-25 to 28-29 benefit of Sec 44AD will not be available.

Section 44AE Transport Operation Business (leasing vehicle for transporting goods)

Condition – Should not have > 10 trucks anytime during PY

Income = Period for which vehicle owned by assessee

For heavy goods vehicle (can carry > 12000 kg for heavy goods)

1000/Ton of gross vehicle weight for every month or part of the month or

Actual amount earned from such vehicle whichever is higher

For every other vehicle

7500 every month or part of month during which goods carriage is owned by assessee or

Amount actually earned from such goods carriage whichever is higher

Note – Under this section partner salary & interest 40(b) allowed from income calculated

Example – Mr A gives the following P&L a/c for the year ending 31/3/22

| Particulars | Amount | Particulars | Amount |
|------------------------------------|--------------------|-------------------|--------------------|
| Opening stock | 90,000 | Outward supply | 1,20,00,000 |
| Inward supply | 1,10,00,000 | Dividend from UTI | 2,400 |
| Salary | 60,000 | Closing stock | 1,86,100 |
| Rent & taxes | 36,000 | | |
| Interest on loan | 15,000 | | |
| Depreciation | 1,05,000 | | |
| Printing & stationary | 23,200 | | |
| Postages & telegram | 1,640 | | |
| Loss on sale on share (short term) | 8,100 | | |
| Other general expense | 7,060 | | |
| Electricity expense | 7,92,500 | | |
| Net profits | 50,000 | | |
| Total | 12,1,88,500 | Total | 1,21,88,500 |

Additional information –

- Some stocks were omitted to be included in both the opening and closing stock – value on opening stock 9,000 and closing stock 18,000
- Salary includes 10,000 paid to brother – unreasonable to the extent 2000
- Printing and stationery exp. was paid in cash
- Depreciation 1,05,000 is based on the following information –
WDV P&M 4,20,000. A new plant falling under same block of depreciation @ 15%. Bought on 1/7/21 for 70,000 & two old plants were sold on 1/10/21 for 50,000
- Rent and rates includes GST liability of 3400 paid on 7/4/22
- Other general exp. include 2000 donation paid to charitable trust

Whether A should opt for presumptive taxation?

Solution – Turnover 120,00,000 × 6% = 7,20,000 (-) 50% of 2000 [Deduction] + Dividend Income 2400 = 7,21,400

Computation of income as per normal provisions

| | |
|-----------------------------------------|-----------------|
| Net profit as per P&L | 50,000 |
| + Omission from closing stock | 18,000 |
| (-) Omission from opening stock | (9,000) |
| + Excess salary paid to brother | 2,000 |
| + Amt. paid in cash | 23,200 |
| + Depreciation | 1,05,000 |
| (-) Correct depreciation | (66,000) |
| + Donation | 2,000 |
| + GST paid before due date | - |
| + Loss on sale of shares (capital gain) | 8,100 |
| (-) Income from UTI (other courses) | (2,400) |
| Business Income | 1,30,900 |
| + Income from other sources | 2,400 |
| Gross Total Income | 1,33,300 |
| (-) Deduction 80G [50% of 2000] | 1,000 |
| Total income | 1,32,300 |

Mr A should not declare income u/s 44AD

Example –Mr A provides following info for PY 21-22

| Particulars | Amount |
|---------------------------------------------------------------------------------------------|----------|
| Income from plying of vehicles (he owns 5 heavy goods vehicle 13000 Kg throughout the year) | 5,10,400 |
| Income from retail trade of garment (outward supply to T/o in cash 21,70,000) | 1,70,000 |
| He has brought forward depreciation relating to AY 15-16 | 1,00,000 |
| Deposit into his PPF a/c on 6/1/23 | 1,00,000 |

Calculate taxable income of A for AY 22-23 i.e. PY 21-22 with reasons. Follow presumptive taxation or normal provisions.

Solution –

| | |
|-------------------------------------------------------------------------------------------|-----------------|
| Income from vehicles (13 x 1000) x 5 x 12 months =780000 or 510400 whichever is higher | 7,80,000 |
| Income from retail trade lower of 217000 x 8% Or 1,700,00 | 1,70,000 |
| Total 7,80,000 + 1,70,000 | 9,50,000 |
| Less B/f depreciation | (1,00,000) |
| Total | 8,50,000 |
| Any other income | Nil |

(-) Deduction u/s 80C 1L

Total Income = 7.5L

Section 44ADA PGBP Professionals

44ADA(1) Resident **individual/P.Firm [Not LLP]** engaged in professional activity

Condition Turnover \leq 50,00,000

Presumptive income \longrightarrow 50% of gross receipt.

44ADA(2) No other deduction allowed except partners salary & interest u/s 40(b)

44ADA(4) If assessee claims lesser income than presumptive income & his Total Income > Basic exemption limit then prepare books of a/cs + audit required

Maintenance books of accounts Sec 44AA Rule 6F

1. Sec 44AD/44AE/44ADA income – No need to maintain books of accounts. If assessee claims his income < deemed income + his income > basic exemption limit (then maintain such books of a/c & other documents as may enable the AO to compute his total income)
2. Person carrying on specified profession -
 - Gross receipt > 1,50,000 in each of preceding 3PYs - Maintain all prescribed books of a/cs
 - Gross receipt < 1,50,000 in any 3 preceding PYs (then maintain such books of a/c & other documents as may enable the AO to compute his total income)

3. Person carrying non specified profession or doing business

Total Income > 2,50,000 in current PY or Turnover > 25,00,000 in any 3 preceding PY (then maintain such books of a/c & other documents as may enable the AO to compute his total income)

These limits are for Individual/HUF. For others limits are 1,20,000 (Total income) & 10,00,000 (Turnover)

Prescribed profession – Legal, medical, engineering, architectural, accountancy, film artist, technical consultancy, and interior decorators

Prescribed books – Cash book, Journal, Ledger, Carbon copies of the bills issued exceeding 25, original bills received/ receipt of any expenditure if the amt. of bills exceeds 50

Medical professions should also maintain daily case register, stock register

Books required to be maintained for 6 years from end if relevant AY

Failure to maintain books of a/cs – Penalty of 25,000 each year u/s 271A

Sec 44AB Audit Requirement

Business – T/o > 1 crore in any previous year

T/o > 10 crore (provided gross receipt/payments in cash is <=5% of total)

T/o > 2 crore for 44AD business

Profession – T/o > 50L in any previous year

* Payment made through non-account payee cheque/demand draft shall be deemed to be cash payments/receipts.

Presumptive Taxation – Who claims income < presumptive income & income > basic exemption limit (2.5L/3L/5L)

Fails to get audit ≤ 30/9/AY then Penalty 271B 0.5% of T/o or 1.5L whichever is lower

Audit needs to be done 1 month before the due date of furnishing ITR [31/10/AY]

AGRICULTURAL INCOME

Sec 10(1) – Agricultural income exempt from tax

Agricultural income Sec 2(IA)

- Rent or revenue share from agricultural land
- Income from farm building (on agricultural land or near agricultural land) which is used by cultivator or rent receiver
- Income from doing agricultural activity

Note – If land is situated in foreign country then above income is not exempt

- If rent received in kind (e.g. wheat, rice received) --- Its value will be agricultural income but if sold for profit then profit amt. will not be agricultural income
- Interest on rent (when received late) is not exempt

Supreme court CIT u/s Raja Benoy Kumar Sahes Roy

There are 2 kinds of operations –

- 1) Basic operations – Tilling of land, sowing seeds, irrigation, etc.
- 2) Subsequent operations – After produce sprout from the land e.g. harvesting etc.

Both activities are required to be carried out to consider the same as agricultural income. Even if output is not food grain

Note - Many times there is no ready market available for the crop that has been harvested & in order to make it saleable in the market some extra process has to be performed then also it will be treated as agricultural income

However, If this process is not necessary for sale of agricultural produce then that product (after processing) not regarded as agricultural produce.

E.g. Sugarcane processed to jiggery (gud)

If sugarcane can be sold in the market then why process is carried out?

In this case sugarcane is agricultural produce but not jaggery

Examples –

1. Plant grown in nursery ----- Agricultural income always
2. Cotton, Jute, Timber trees, coffee, tea, etc. Agricultural income
3. Fisheries, poultry farming, dairy farming, animal husbandry - Not agricultural income
4. Sale on spontaneously grown trees Not agricultural income
5. Supply of water for irrigation, royalty income of mines, film shooting on farm house Not agricultural income

Composite Activity

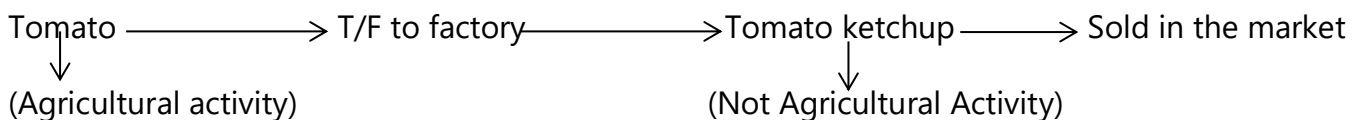
Some activities involve agricultural income as well as business income. We need to bifurcate both the incomes as per below rules

| Rule | Income | Agricultural | Business |
|--------|------------------------------------------------|--------------|----------|
| 7A | Sale of rubber | 65% | 35% |
| 7B(i) | Sale of coffee grown & cured in India | 75% | 25% |
| 7B(IA) | Sale of coffee grown cured & grounded in India | 60% | 40% |
| 8 | Growing & manufactured tea in India | 60% | 40% |

Note - First calculate PGBP income for above activities then bifurcate/ divide in above ratio

For partnership firm salary & interest (upto above mentioned % is allowed to be deducted)

Rule 7 Other than above products – If any activity has both agricultural & business activity like



How to calculate agricultural income?

Agricultural Income = Market value of tomato (-) Expenses to grow tomato

Business income = Sale value of tomato ketchup (-) Market value of tomato

Indirect method to tax agricultural income

For Individual/HUF/AOP/BOI/Artificial Juridical person

Step 1 – First find net agricultural income (after expenses)

+ Non-agricultural income

= Total Income – Now calculate tax on total income

Step 2 – Agricultural Income + Basic Exemption Limit = Total Income – Now calculate tax on this income

Tax in step 1 – Tax in step 2 = Income tax

+Health & education cess 4%

= **Tax Payable**

Follow above method if agricultural income > 5000 & Non-agricultural income > basic exemption limit

Example – LTCG 80,000, lottery income 70,000, agricultural income 60,000 other non-agricultural 2,10,000, deduction 80C to 80U 20,000.

Solution – Gross total income = 80,000(LTCG) + 70,000(other sources) + 0 [60,000 agricultural income exempt 10(1)] + 2,10,000 (other sources) = 3,60,000
(-) Deduction 20,000
= 3,40,000 Total Income

Tax calculation Step 1 = 3.4L + 60,000 (Agricultural Income) = 4,00,000
Tax 37,000

Tax calculation Step 2 = Tax on 2.5L + 60,000 = 3,10,000 = Tax 3,000

Income tax = 37,000 - 3,000 = 34,000 (-)12,500 (Rebate) = 21,500

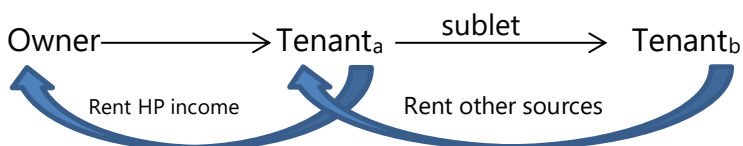
INCOME FROM OTHER SOURCES

5 heads of income –

- Salary (will do it at last) employer pays to employee
- HP – Rental/deemed rental
- Capital gains – CA – T/F
- PGBP – Business/Profession
- Other sources – Any income not taxable under previous 4 heads will be taxable here provided it is not exempt u/s Section 56(1)

Examples –

- 1) Winning from lotteries, gambling, betting, card games, game shows, horse races, crossword puzzles, etc. – 30% rate 115BB
- 2) Interest on securities – If held as stock in trade – PGBP otherwise other sources. Any expense done to earn interest can be deducted u/s 57
Section 10(15) – Interest on post office savings a/c is exempt upto 3500 however for joint holder exempt upto 7000. Interest on PPF exempt u/s 10(11)
- 3) Income from letting of machinery, plant or furniture -- if not doing business of letting then taxable under other sources.
- 4) Sub-letting house property – Rental income taxable here.



5) Keyman Insurance policy – Sum received by –

- a. Person who has taken this policy for his employee – PGBP income
- b. Keyman himself receives – If he was employee then salary income.
- c. Anyone receives other than above – other sources.

6) Interest on compensation or enhanced compensation on compulsory acquisition

Compensation/ enhanced compensation – capital gain however Interest on above taxable in other sources income

Example – 1L interest received on enhanced compensation then 50% deductions allowed u/s 57 & balance 50% taxable. So 50,000 taxable u/s 56 as IOS.

Similarly, Interest received on compensation from Motor accident claim tribunal – 50% deduction u/s 57. 50% taxable IOS u/s 56.

7) Advance amount forfeited Section 56(2)

When capital asset agreed to be T/F but buyer later on rejects – Any amt. forfeited chargeable here

8) Share premium in excess of fair market value 56(2)(viib) –

Closely held company issues shares at premium & issue price > fair market value.

Excess is treated as income of the company as IOS.

Example – A Pvt. Ltd. Issues shares at 130, FMV 120 & Face value 100. 10,000 shares issued. $10000 \times (130 - 120) =$ Income from other sources. If shares are issued at discount then provisions does not apply.

9) Shares in closely held co. received by firm or a closely held co. Section 56(2)(viiia).

- Without consideration – FMV > 50,000 , FMV taxable
- Consideration Inadequate i.e. < FMV upto 50,000 then ok otherwise (FMV – Consideration) is taxable

Not Applicable – In case of amalgamation/demerger

Section 56(2)(x) – Gift received from any person

- 1) Money Received > 50,000 p.a. fully taxable. E.g. X receives 60,000 as gift from friend – 60,000 IOS. If 30,000 received from A & 25,000 from B (both are friends 55,000) – IOS
- 2) Movable Property - Shares/Securities + CG chapter (Jewellery, drawings, painting, etc.)
 - a) Without consideration & FMV > 50,000 then exempt u/s 47 CG but IOS for recipient E.g. X gifts gold biscuits to Mr A on 10/11/20 FMV 85,000. Fully taxable for A
 - b) Consideration < FMV by more than 50,000 then [FMV – Consideration = IOS]. Sale price – COA is capital gain for seller. FMV – sale consideration paid = IOS for recipient.

Example – Mr A sold a gold biscuit to Mr Y (friend) for 2L on 1/1/20. It was purchased on 1/11/19 for 1.5L. FMV is 3L on the date of sale.

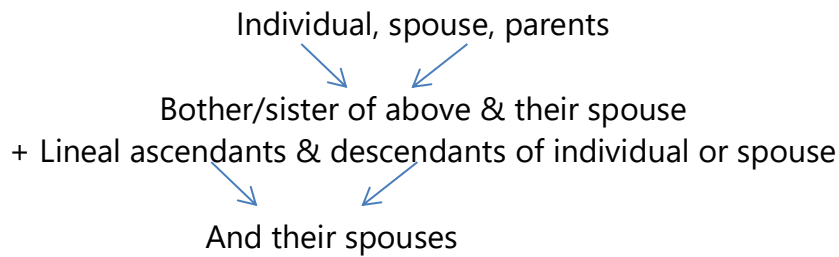
Solution – For A $2L - 1.5L = 50,000$ Capital gain
For Y $3L$ (FMV) – $2L$ amt. paid = $1L$ Taxable IOS

Holding \longleftrightarrow Subsidiary

Capital asset transferred between above entities – No T/F u/s 47 for transferor. No IOS for transferee u/s 56(2)

No IOS in the following cases –

Sum received - From relative, on marriage (not marriage anniversary), under will, under contemplation of death of payer, from local authority, from any fund/foundation/university, Educational institute, hospital, trust u/s 10(23C), Trust institution u/s 12AA

Relative for this chapter –

Example – 70,000 received from Mama → Parent's brother/sister relative – No IOS
 70,000 given to Mama – taxable as received from son of sister who is not covered in definition of relative

For HUF – Any member of HUF is a relative.
 Any sum/ property received by HUF from its members not taxable.

Section 56(2)(x) Land/Building Immovable property received in gift**IOS, CG, PGBP – Inter linking**

Without consideration and stamp duty value > 50,000 then fully taxable as IOS for receiver.
 Under capital gain – it is treated as gift given u/s 47 therefore no tax for transferor
 If SDV < 50,000 – No income

For a consideration – which is < SDV by 50,000 & SDV is > consideration*110%.

SDV – Consideration = IOS for the receiver

SDV – COA = CG for seller

In case of residential unit take 120% instead of 110% [detail conditions mentioned in CG chapter]

Note – For recipient who has included in his income SDV (-) Amt. paid. Then SDV will become his/her COA

Example – Mr A sold his house (COA – 10L purchased on 10/1/20) – sold to Mr B for 20L on 1/10/21. Stamp duty value on sale date was 23L.

Solution –

For A CG = 23L - 10L = 13L

For B IOS = 23L (Value received) – 20L (Amount paid) = 3L

↓
 Mana jayega B ne 23L SDV mein khareeda and therefore for B COA = 23L

Now, B sold the same on 1/11/21 for 30L then 30L – 23L = 7L CG.

If value of property is disputed then AO may refer it to valuation officer [Same provisions as Section 50C]

Note - SDV as on agreement date (instead of date of transfer) can be taken if some consideration is received on or before the agreement date.

Note – Provisions of Sec 56(2)(x) shall not apply to any immovable property, being land or building or both, received by a resident of an unauthorised colony in NCT Delhi (notified by central government).

Section 43CA – PGBP

Land/Building in stock in trade – sold then PGBP income. If sale value $\times 110\% <$ stamp duty value then stamp duty value considered as sales

If residential unit is purchased b/w 12.11.20 to 30.6.21 as first allotment and sale consideration is upto 2 crore then take 120% for comparison instead

Note – If any asset is purchased as stock in trade for amount $<$ FMV then no treatment no income because that person is doing business & purchased at a lesser rates which he will sell later & record in PGBP

Some other income taxable as income from other sources –

Director's fee, agricultural income from foreign land, rent from vacant land, salary of members of parliament, casual income, royalty income, undisclosed income, family pension received by family members of deceased employee, examination fee received by teacher from other than employer, honorarium, etc.

Section 57 Deductions from IOS

1. Family pensions – Deduct lower of 15,000 or $\frac{1}{3}$ of such family pension
2. Expenses – repairs, insurance premium, depreciation, etc. are allowed to be reduced from rental income by letting out plant & machinery
3. Other exp. incurred to earn IOS (wholly or exclusively) & not a capital expenditure
4. Interest expense upto 20% of the income from dividend, mutual fund, units of specified companies
5. Interest on enhanced compensation 50% deduction allowed

Section 58 Deductions Not Allowed

- Personal expense, interest paid outside India without TDS
- Salary paid outside India without TDS, wealth tax
- No expense to be deducted from winning of lotteries, games, etc.
- No expense deducted for earning income which is exempt
- Expense for earning income from owning & maintaining horses is allowed

Deemed dividend Section 2(22)

Amount distributed to shareholders deemed to be dividend upto the extent of accumulated profits, In all the cases it will be taxable to shareholders at normal rate

2(22)(a) – Distribution of assets to shareholders upto accumulated profits

For Shareholders – FMV of the assets deemed as dividend in the hands of shareholders.

2(22)(b) – Distribution of Debentures/debenture stock/deposit certificate bonus shares to preference shareholders

Deemed dividend lower of – FMV of such preference Share/debentures or Accumulated profits available

2(22)(c) – Distribution of assets on liquidation – linked to CG
 (Money+ FMV of Asset) (-) Accumulated profits = Sale consideration
 Sale consideration – COA = CG 46(2)

Deemed dividend u/s 2(22)(c) are taken upto accumulated profits

2(22)(d) – Distribution to shareholders on reduction of its capital extinguishment of rights – T/f CG for shareholders

Same as discussed above u/s 2(22)(c)

Section 2(22)(e) Pvt. Co. or closely held co. – Gives loan/advance to

- Shareholder holding atleast 10% or more voting power or
- Any person on behalf of or for benefit of above shareholder
- To any concern in which such a shareholder is a member or partner & in which he has a substantial interest ($\geq 20\%$).

If loan/advance given in ordinary course of business then not deemed dividend

Other important points –

- Payment > 10,000 other than a/c payee cheque / A/c payee DD/ electronic clearing system – cannot be deducted from IOS u/s 58
- Termination of employment or modification of terms & conditions – Amount received taxable under IOS
- Interest on deposits – which is held for Bhopal gas victims & interest on gold deposit bonds – exempt
- For banks interest earned is PGBP
- Family pensions to family members of armed forces – Exempt or to whom Vir chakra/ Paramvir chakra awards is given is also exempt
- Section 58(2) payment made to related person – Excess as per AO not allowed as deduction
- No exp. can be debited for earning casual incomes
- Sec 59 If exp. deducted & later on amt. recovered then taxable
- Interest from unit in IFSC received by NR after 31/8/20 --- Exempt

Example –

| Particulars | Amount |
|--------------------------------------------------------------------------------|------------------------------------------|
| 1,20,000 received from relatives & 80,000 from friends on occasion of marriage | Exempt as received on marriage |
| Mobile worth 1L received from friend | Mobile phones are not taxable |
| Mr A carrying jewellery business purchased gold at 3L on 20/1/22 FMV is 5L | Nil as purchased as stock in trade |
| Bullion worth 4L received on birthday | Taxable as >50000 taxable |
| Agricultural income from Bhutan 30,000 | Taxable |
| Director fee from ABC Ltd | Taxable |
| Winning from lottery net of TDS 70,000 expense on lottery tickets 100 | Taxable (1 Lakhs – before TDS) |
| Furniture rented for 20000 (1/4/21 WDV 50,000, repairs 5,000) | Taxable [20000(-) 10% of 50000 (-) 5000] |

CLUBBING OF INCOME

Income of other person included in assessee's income

Section 60 Income transferred without transfer of asset - only income T/F to another person but asset from which such income is earned is not transferred

Example Mr A T/F interest earned on bonds to Mr B – bonds are owned by Mr A – Interest will be taxable for Mr A even if interest is T/F to Mr B

Section 61 Revocable (Jisko vapas liya ja sake) transfer of assets – Temporary transfer
If transfer is not revocable during lifetime of transferor then it is irrevocable transfer, income earned from asset temporary transfer to anyone will be taxable for the transferor

Example Mr A T/F house to Mr B till Diwali of 2019 – Income earned from house will be clubbed in the income of Mr A

Section 64(1)(ii) Remuneration earned by spouse from a concern in which assessee has a substantial interest >20%

And spouse doesn't have technical/professional skills or experience – if both husband & wife have substantial interest then club in the hands of the spouse having higher gross total income

Sec 64(1)(iv) Asset Transferred To Spouse Without

Agreement to live apart

+Without adequate consideration

+Relationship of husband & wife exist at the time of transfer & at the time of accrual of income

If asset is house property then deemed ownership concept will apply & income taxable for transferor under the chapter of HP

For other assets – clubbing provision shall apply & income for such asset clubbed in the income of transferor

Examples - Assessee –transfers asset to spouse and spouse invest that asset in her – business or introduce it as capital of her firm

Then income earned from such asset will be clubbed in the income of transferor.

Always check amount invested as on 1/4/PY & calculate proportionate income

Taxable income earned from business * $\frac{[\text{Amount invested out of asset transferred on 1/4/PY}]}{\text{Total investment as on 1/4/PY}}$

Example – Mrs A has a business – on 1/4/20 capital of the business was 2 Lakhs. Her husband gifted INR 1 Lakhs on 10/4/20 which is invested by Mrs A in her business. 20-21 profits earned INR 1.6 Lakhs & in PY 21-22 INR 4 Lakhs. Calculate income to be clubbed in the hands of Mr A for PY 21-22

Solution – Capital of business on 1/4/21 = 2 Lakhs + 1 Lakhs + 1.6 Lakhs = 4.6 Lakhs

Out of 4.6 Lakhs 1 Lakh was given by spouse

So Profits of 21-22 - 4Lakhs * $[\frac{1L}{4.6L}] = 86,956$

Sec 64(1)(vi) Asset Transferred To Son's Wife Without Adequate Consideration

Income from such asset is included in the income of transferor provided relationship with daughter in law exists both at the time of accrual of income & at the time of clubbing.

Sec 64(1)(vii) Income From Asset Transferred For The Benefit Of Spouse Without Adequate Consideration**Sec 64(1)(viii) Income From Asset Transferred For The Benefit Of Son's Wife Without Adequate Consideration**

For above two cases

Assessee –Transfers Asset to any person who uses that asset for the benefit of assessee's spouse or assessee's daughter in law

Income earned from such asset will be taxable for the assessee

Sec 64(1A) - Income of the minor child included in the total income of that parent whose total income is higher & as per 10(32) maximum 1500 p.a. per child can be deducted from the income clubbed.

If minor child is disabled [Sec 80U] or earns income from manual work or activity involving skill/talent/specialized knowledge then that income is not clubbed.

Example Mr A (Minor child) earned interest income of 15000. Parent A has TI 2 Lakhs & Parent B has TI of 3 Lakhs.

Then club this 15,000 as income from other sources (interest income) in the TI of parent B + 1500 exempt u/s 10(32) so 13500 + 3lakhs = 3,13,500 [Total Income of B]

Sec 64(2) – Member of HUF transfers personal property to the common stock of HUF without adequate consideration

Till the partition of HUF - Income from such property taxable for transferor

After partition – Income from the portion of the property received by transferor & by his/her spouse is taxable for the transferor

Other Points

- 1) Clubbing of loss also done in similar way
- 2) Asset T/F then income earned is clubbed but income on income earned – not clubbed
- 3) Capital gains earned from the asset T/F are also clubbed
- 4) Sec 65- Tax on asset T/F can be demanded from transferee or transferor

Cross transfer – to avoid clubbing provision -

A transfer 5L to wife of B and B transfers 6L to wife of A – this is done to avoid clubbing provision but still income earned by A's wife from 5L will be taxable for him and income earned by wife of B from 5L will be taxable from him.

5L is common amount which is indirectly transferred by them to their wives – case CIT v/s Keshavji Morarji

SET OFF AND CARRY FORWARD & SET OFF OF LOSSES

Sec 70 – Intra head set off

Losses from one source of income 1st set off against income of another source - under same head

Sec 71- Inter head set off

After Sec 70 – If loss remains then it can be set off against the income of another head for the same AY.

If loss cannot be set off then it will be carry forward & in next year it can be only be set off under same head intra head only

Sec 80 – It is mandatory to set off – if possible

Also to C/F loss, ITR needs to be filed ≤ due date u/s 139(1) 31st July /31st Oct

Exceptions to above sections:

- 1) Salary - No chance of any loss
- 2) House Property – Max 8 years C/F allowed – Even if ITR is not filed on time u/s 139(1) 71(3A) – Inter head set off can be done upto 2 Lakh
- 3) PGBP Sec 72 – Normal PGBP can be set off except salary income and c/f maximum 8 years even if business is discontinued

Sec 74A- Business of owning & maintaining horses for races – loss from this activity can be set off only from this act, c/f max 4 years

Sec 73A- Loss of specified business can be set off against income from same activity and c/f for unlimited time

Sec 73 Loss from speculative business can be set off against another speculation business income, c/f max 4 years

However loss from other business can be set off against income of specified business/speculation income.

Unabsorbed depreciation/unabsorbed capital expense on scientific research & capital expenses on family planning not absorbed then – **As per CIT vs Virmani Industries**

Adjust with PGBP income from another business/profession

Then adjust from any other head except salary casual income

Remaining will be c/f for unlimited period

Next year CY depreciation/scientific research /family planning expense can be set off then b/f business loss then b/f depreciation/scientific research /family planning

4) Sec 74 capital gain – c/f max 8years

LTCL-Set off with another LTCL

STCL-Set off only with LTCL/STCL

Notes –

- 1) No loss can be set off from casual income, lottery, game shows, betting etc.
- 2) No loss can be set off against exempt income
- 3) If b/f loss can be set off in next year but it is not set off by assessee then amount which could be set off can't be allowed to be carry forwarded further

EXEMPTIONS

Exemption - Not included in gross total income, there can be either full exemption i.e. 100% exemption or a partial exemption i.e. upto certain amount.

Deduction – It reduces the income, further deductions are available in

- a) Individual chapters (like standard deduction in salary chapter and 30% deduction from NAV in house property chapter)
- b) Deduction From Gross Total Income (like under section 80C – payment of life insurance premium, deposit in tax saver FD)

Exemptions available under section 10

1. Agricultural Income - Sec 10(1)
2. Share of Profit - Received by member of HUF from HUF business -- exempt under Sec 10(2) and received by partner of firm from firm --- exempt under Sec 10(2A)
3. Payment of Bhopal Gas Victims Sec 10(10BB)
4. Compensation received on disaster 10(10BC) from govt. / local authority
5. LIC sum received or any sum received for life insurance Sec 10(10D) [For policy issued on or after 1.2.21, no exemption if premium paid is > 2.5 lakhs in respect of all ULIP taken by person] – If amount received on death of a person then fully exempt.
6. Withdrawal of sum from Sukanya Samriddhi A/c & interest on above deposit
7. Amount payable from National Pension Scheme – upto 60% -- 10(12A) on closure of scheme or opting out of scheme otherwise exempt upto 25% 10(12B)
8. Interest on post office saving bank a/c INR 3500 p.a or 7000 (In case of Joint account) Sec 10(15) Int. on gold deposit bonds/ deposit certificate – gold monetization
9. Scholarship given to meet cost of education 10(16)
10. Income earned by minor child 1500 per annum per child 10(32) allowed to parent in whose income it is clubbed
11. Income received by shareholder on account of by back of shares 10(34A)
12. Capital gain on compulsory acquisition of urban agricultural land 10(37)
13. Reverse mortgage 10(43) – discussed in capital gain
14. Daily allowance received by MP or MLA, Constituency allowance received by MLA , other allowance received by MP – Fully exempt 10(37)
15. Other allowance received by MLA upto 2000 p.m 10(37)
16. Income of member of a scheduled tribe 10(26)
17. Income of individual who is of sikkimese origin – earned in Sikkim or dividend / interest earned from any place 10(26AA). Sikkimese woman marries non-sikkimese then no exemption

18. Interest on NRE a/c – exempt for non – resident individual 10(4)
19. Non citizen & NR receives salary for employment in foreign ship & his/her total stay <90days during PY 10(6)
20. Remuneration received by foreign government employee from their government during their stay in India – for specified training 10(6)
21. Royalty income or fees for technical services from National Technical Research Organisation (NTRO) – By NR/Foreign Co. 10(6D)
22. Awards received from government Sec 10(17A)
23. Pension received by recipient of Gallantry Awards Sec 10(18)
24. Subsidy received by assessee engaged in business of growing & manufacturing tea in India 10(30)
25. Subsidy received for growing /manufacturing rubber, coffee, cardamom 10(31)
26. Exemption of salary chapter will be discussed later

Sec 14 Allowability of expenditure which is not included in total income

No deduction allowed from exempt income

Tax Holiday for units established in Special Economic Zones (Sec10 AA)

Conditions for claiming tax holiday

Entrepreneur manufacturing in SEZ – in new unit/undertaking (i.e. not formed by splitting existing business) & new plant & machinery >80% of total P&M

P&M used outside India = New P&M + Report from CA required

Deduction Allowed

First 5 years - 100% profits from exports

Next 5 years - 50% profits from exports

Next 5 years - Amount debited to P&L a/c & credited to SEZ reinvestment allowance reserve upto 50% of export profits – This should be allowed to acquire P&M <3years & should not be used for dividend distribution, remittance outside India as profits or creating asset outside India. If misutilized then taxable

Export Profits = Profits of unit in SEZ * $\frac{\text{Export Turnover of SEZ unit}}{\text{Total Turnover of SEZ unit}}$

Turnover doesn't include freight, insurance & telecommunication charges and insurance expenses attributable to delivery outside India.

DEDUCTIONS (SECTION 80C TO 80U)

| | |
|---------------------|-------------------|
| Gross Total Income | |
| Less: Deductions | (Cannot be > GTI) |
| Total Income | |

Deduction are not available from LTCG u/s 112& 112A, STCG 111A, casual income, specified business income, undisclosed income (In short special rate income)

80C Deduction for saving & investment (Available to Individual/HUF)

Maximum deduction allowed under this section is 1.5 Lakhs p.a.

- 1) Life insurance premium paid for self, spouse , children , members of HUF
Maximum deduction allowed:

| Policy Taken | Limit |
|-----------------|------------------------------------------------------------------------|
| <= 31/3/12 | 20% of sum assured |
| >1/4/12 <1/4/13 | 10% of sum assured |
| >1/4/13 | 10% of sum assured but 15% in case of dependent person who is disabled |

Sum received on maturity is exempt u/s 10(10D) if premium paid within above limits or if policy is matured due to death

- 2) Public provident fund (PPF)
- 3) National savings certificate & its interest thereon
- 4) Deposit for 10year/15 year in post office deposit scheme – in the name of self, spouse, children, members of HUF.
FD – 5 years with bank or time deposit 5 year with post office (amount invested can be deducted but interest earned will be taxable)
- 5) Employee' Provident Fund – only employee contribution to RPF, SPF , Super annuation fund allowed as deduction
- 6) Units of mutual fund – lock in 3 years and units linked insurance plan – lock in 5 years
- 7) Education expenses for tuition fees of children – Max for 2children
- 8) Payment of house loan - Principal amount, interest on home loan is allowed in HP 24(b)
Condition to take principal deduction here – house cannot be sold for 5year
- 9) Investment in equity shares /debentures of Indian public ltd co / public financial institution or MF which shall use the amount for developing, maintaining & operating infrastructure facility
- 10) Annuity plan taken in the name of individual / member of HUF
- 11) Bonds of NABARD
- 12) Suakanya Samriddhi A/c scheme – In the name of any girl child
- 13) Contribution to NPS (Tier II A/c) by CG employee
- 14) Stamp duty/registration charges paid on house property purchased

80CCC Pension Funds

Amount deposited in Pension Funds allowed upto 1.5 Lakhs. When received then taxable

80CCD New Pension Scheme (Tier I A/c)

80CCD (1) – Employee contribution to NPS - Maximum 10%
10% is calculated on (Basic salary + DA forming part of retirement benefit)

80CCD(1B) – Employee's contribution exceeding 10% of (Basic + DA forming part of retirement benefit) then upto 50000 can be deducted here (this is additional deduction not covered by limit of 80CCE)

80CCD(2) – The entire employer's contribution would be included in the salary of the employee, however deduction i/s 80CCD(2) would be restricted to 14% of salary, in case of contribution made by the central government and to 10% of salary in case of contribution made by other employer.

80CCD(1) For Self-Employed

Max 20% of GTI

Sec10(12A) – If NPS closed or opt out of NPS – 60% withdrawal exempt

Sec 10(12B) – Otherwise 25% withdrawal exempt

If received on death then fully exempt

Sec 80CCE- Total deduction u/s 80C, 80CCC, 80CCD- 1.5 Lakhs**80D Medical Insurance premium paid other than in cash by Individual/HUF**

- 1) Maximum 25,000 for self, spouse, dependent children however if anyone is >60years (+Resident) then 50000 p.a. – amount paid for medical insurance, central govt. health scheme or preventive health check-ups (Max 5000 allowed and this can be paid in cash)
- 2) Maximum 25,000 for parents however if anyone > 60 year (+Resident) then 50000 p.a – Amount paid for Medical insurance or preventive health check-ups (Max 5000 allowed and this can be paid in cash)

If no insurance taken and then medical expenditure can be paid for self/spouse/parents who is >= 60 years however it should be within the limit of 50,000 as specified in 1 & 2 above

80D(4A) – if premium paid > 1 year then proportionate allowed

Sec 80DD Maintenance of dependent who is a person with disability

Available to resident Individual/HUF

Dependent should be relative & should not claim deduction u/s 80U

75,000 p.a. however for disability $\geq 80\%$ - 1,25,000 p.a.

Same deduction u/s 80U – however that is allowed to disabled person himself

Sec 80DDB For Medical treatment of self/relative (dependent) & suffering from specified disease

Available to resident Individual/HUF

Deduction is lower of actual amount paid or 40,000 p.a. (1 Lakhs for ≥ 60 year)

If any amount is received from insurance company then that should be subtracted from the above deduction and net will be allowed

Section 80E Interest on loan taken for higher education for self or relative

Allowed to Individual

Loan should be taken from financial institution or approved charitable institution

Deduction available for 8 years

Section 80EE Interest on loan for acquiring Residential HP

Available to Individual

Loan sanctioned in 16-17 $\leq 35L$ & value of HP $\leq 50L$

Loan should be taken from bank or housing finance company

2L allowed u/s 24(b) & 50,000 additional 80EE

Benefit available till loan continues

Section 80EEA HP Interest

If assessee ineligible for 80EE then can claim interest deduction under this section – conditions:

Available to individual + loan sanctioned in during **1/4/19 to 31/3/22** for residential HP and stamp duty value $\leq 45L$

+ Individual should not own any residential HP on the date of loan sanction

Loan should be taken from bank or housing finance company

Maximum 1.5 Lakhs allowed in excess of 2 Lakhs u/s 24(b)

80EEB Interest on loan taken by individual from bank/specified NBFC for purchase of electric vehicle

Max 1.5 Lakhs allowed

Loan should be sanctioned between 1/4/19 to 31/3/23

Loan should be taken from Bank/NBFC

80G Deduction in respect of donations given

Upto 2000 can be in cash rest should be made in other than cash

(I) Some deduction eligible for 100% deduction:

National funds – e.g. National children’s fund, national trust for welfare of disable persons etc.
Prime Minister/Chief Minister Relief Funds, Zila Sakshatra Samiti constituted in any district, Swachh Bharat Kosh, Clean Ganga Fund, Army Welfare Fund, PM Care Fund etc.

(II) Donation made to these funds eligible for 50% deduction

PM drought relief fund, Indira Gandhi Memorial Trust, Rajiv Gandhi Foundation, Jawaharlal Nehru Memorial Trust

(III) Rest of the deduction below allowed max 10% of adjusted GTI

100% deduction subject to above limit – Amount donated to government /approved institution for family planning, donation by co to Indian Olympic Association for development of sports infrastructure

50% deduction subject to above limit – Donation for charitable purpose, donation to any charitable / religious institution, For renovation/repair on notified place of public worship/historic places

Adjusted GTI = GTI – LTCG 112 – LTCG 112A – STCG 111A – All Deductions except 80G

Example – Adjusted GTI INR 5 Lakhs, donation for family planning 10,000, donation to religious institution –INR 30,000.

10% of Adjusted GTI = 50,000, now upto this amount claim deduction for family planning which is 10,000.

Remaining balance is 40,000 available for 50% deduction subject to 10% of adjusted GTI – For this 50% of available limit (50% of 40,000) or 50% of amount deposited (50% of 30,000) whichever is lower will be allowed so 20,000 or 15,000 whichever lower --- INR 15,000 will be allowed.

80GG Deduction for rent paid

Individual who is self-employed or doesn’t get HRA
Condition – no self-occupied HP & living on rent

Deduction allowed lower of

-5000 p.m.

-25% of adjusted GTI

-Rent paid – 10% of adjusted GTI

Adjusted GTI = GTI – LTCG 112 –LTCG 112A – STCG 111A – All Deductions except 80GG

80GGA – Donation for scientific research / rural development

Allowed if no PGBP Income, sum should be paid other than cash if >2000

Upto 2000 can be paid in cash

Donation to political party/electoral trust

80GGB – By Indian Company

80GGC – Other than Indian co, local authority, artificial person

Cannot be paid in cash

Political parties use the amount on advertisement

Deduction In Respect of Certain Income

Sec 80QQB Royalty Income of Authors (Resident Individual)

Not available for textbooks, newspapers, journal etc., it should be work of literature, art, science fiction

Deduction allowed least of

- Royalty income
- 3 Lakh
- 15% of value of books sold during PY (condition only applies when royalty is received on a % of sales)

80RRB Royalty on Patents (Resident Individual)

100% of royalty or 3 Lakhs – whichever is lower

In above section if royalty earned outside India then it should be brought within India in 6months

80TTA Interest on Savings A/c (Bank/Cooperative Bank/Post Office)

Max 10,000 p.a. (For senior citizens refer 80TTB)

Not available to Firm/AOP/BOI

80TTB Interest on Deposits (Saving or FD) of resident senior citizens

Max 50,000 p.a.

Not available to Firm/AOP/BOI

80U Disable person can take Deduction

75,000 p.a. however for disability $\geq 80\%$ - 1,25,000 p.a.

80JJA Employment of the new workers

Assessee having PGBP income + audit required u/s 44AB + new workers employed then 30% of employee cost can be deducted under this section

Conditions:

New workers should be permanent workers employed for ≥ 240 days (For apparel, footwear, leather industry take ≥ 150 days)

Salary $\leq 25,000$ p.m. for employees

Should participate in Recognized PF scheme

In Pension scheme entire contribution should not be paid by government

Note - It should be a business not set up by splitting, business reorganisation

80PA Deduction for producer companies

100% deduction of profits of eligible business

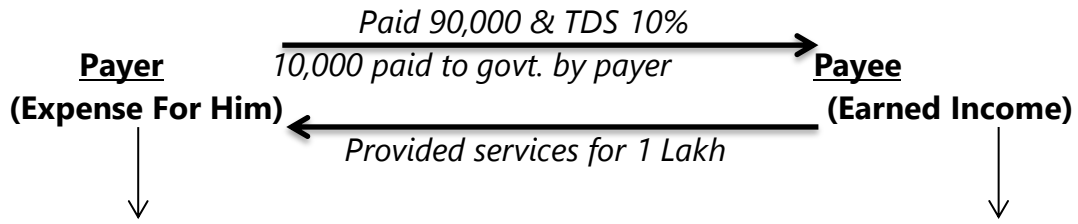
T/o < 100 crore + carrying eligible business + ITR filed within due date

Eligible business – Marketing agricultural produce grown by members, purchasing agricultural seeds/livestock for members, processing agricultural produce of members

Section 80M Deduction in respect of inter-corporate dividends

Deduction for dividends distributed by it on or before due date against dividend received from any other domestic co., a foreign co. or a business trust available to all companies.

TAX DEDUCTED AT SOURCE



If total payment exceeds a certain amount then on whole amount, some tax has to be deducted & deposited with the government

Generally Individual/HUF whose a/c's are not required to be audited (small business) are not required to deduct tax

Sec 206AA - If payee doesn't provide PAN No. then deduct TDS @20% or at the prevailing TDS rate whichever is higher

If person who has to deduct TDS doesn't deduct TDS then he will become assessee in default + Int., tax, penalty, prosecution + 30% of expense cannot be debited in P&L u/s 40(a)

If payee – files ITR & show income received on which no TDS done & pays full tax on that amount then payer will not be treated as assessee in default

Has to provide his PAN No. to Payer

Can claim benefit of TDS while filing his ITR
However when calculating Gross Total Income – Income without TDS is to be included

| | |
|-----------------------|-----------------|
| E.g. PGBP | 1,00,000 |
| GTI | 1,00,000 |
| (-) Deductions | Nil |
| Total Income | 1,00,000 |
| Income Tax | 0 |
| (-) TDS/TCS | 10000 |
| Tax Refundable | (10000) |

Payee can take approval from IT department u/s 197 for allowing lower TDS rate – If approval is granted then payer will deduct TDS at a lower rate

Note Sec 191(2) - In a case where the income of the assessee includes the value of any specified security or sweat equity shares allotted or transferred by the current employer, being an eligible start-up, free of cost or at concessional rate to the assessee, the income-tax on such income has to be paid by the assessee within 14 days from the earliest of the following dates -

- After the expiry of 48 months from the end of the relevant assessment year; or
- From the date of the sale of such specified security or sweat equity share by the assessee; or
- From the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity shares.

Section 192 TDS on Salary

Every person who pays salary has to deduct tax when salary is paid

How to calculate tax?

Calculate income for PY 20-21 estimated (of each employee)

Calculate tax based on slab rate and type of income

Divide it by 12 and deduct the same every month from the salary and deposit it to the government

Note – Employer should obtain proof from employee for computing total income
 For HRA (Name, address & PAN of the landlord where aggregate rent paid in PY > 1Lakhs)
 Leave travel concession – evidence of expenditure
 Deduction of interest under head HP --- Name, address and PAN of lender
 Deduction under Chapter VI-A – Evidence of investment or expenditure

Section 192A Premature Withdrawal From Employees Provident Fund

10% on premature taxable withdrawal from EPF scheme at the time of payment
 No TDS if payment < 50000 during PY
 If PAN not submitted then TDS will be done at maximum marginal rate

193 Interest on Securities

Any person paying interest on security to resident
 Required to deduct 10% TDS

When – Date of payment or credit in books of accounts whichever is earlier

Exemption – No TDS

No TDS if debenture interest to resident individual /HUF <= 5000 p.a. during PY – if received by a/c payee cheque
 National development bonds/defence bonds, NSC 7 years
 Debenture of co-op society or Public Sector Company or institution notified by CG
 Interest on listed securities held in D-MAT form
 Security of CG/SG
 Capital gain bonds of power finance corporation Ltd. or Indian railway finance corporation – If bonds are transferred then to take exemption transferee should inform PFCL/IRFCL by registered post <= 60 days of such transfer

Sec 194 Dividend 2(22)(a) to 2(22)(e)

Indian co. paying dividend to resident shareholder shall deduct TDS @ 10%.

NA – Dividend paid by a mode other than cash or amount does not exceed 5000

194A Interest On Other Than Securities

10% TDS payment /credit whichever earlier

Not applicable if paid to bank, public financial institution, LIC, UTI, HUDCO, int. to partners by firm, zero coupon bond

Individual/HUF having business turnover <= 1 Crore or <= 50 Lakhs in case of profession does not required to deduct TDS.

Exemptions – No TDS

Int. paid by bank, cooperative Soc. bank, post office on time deposits <= 40000, for senior citizen limit is 50000

Other cases payment <= 5000 No TDS

Compensation awarded by motor accidents claim tribunal if > 50000 then TDS done when int. on this compensation paid + for interest 50% int. can be deducted u/s 57

Interest paid or credited by a firm to any of its partner

Int. paid/credited in respect of deposit with primary agricultural credit society or cooperative land mortgage bank

Interest paid or credited by banks/coop bank on other than time deposit (like saving a/c)

FD/deposit booked in the name of the registrar general of court or on direction of courts

Interest on capital gain deposit account is liable to TDS (if depositor is alive then taxable for him, interest for the period after the death of depositor is taxable for legal heir)

194B TDS On Winning Of Lottery /Games etc.

30% TDS at the time of payment – only if payment > 10000

Winning in kind --- Payer should ensure tax is paid by winner before asset won is released

194BB TDS On Winning From Horse Races

30% if > 10000 at the time of payment

194C TDS On Payment To Contractor /Sub – Contractor

If payment > 30000 single contract **or** > 1 Lakh in Total during PY

Then on all payments – TDS @ 1% if paid to individual /HUF

TDS 2% for other

When---Payment or credit whoever earlier

E.g. Advertising contracts, broadcasting/telecasting including production of programmes, carriage of goods or passengers by any mode other than railways, catering contracts, manufacturing/supply of a product according to requirement of customer

Individual/HUF having business turnover <= 1 Crore or <= 50 Lakhs in case of profession does not required to deduct TDS.

Exempt -

Pay to transport operator <= 10 vehicles at any time during PY provided recipient has furnished PAN

Personal contracts by individual /HUF – No TDS

Payment made by broadcaster to production houses – if content is produced as per the specifications of the broadcaster then TDS u/s/ 194C

194D Insurance Commission

5% TDS at the time of payment or credit whichever is earlier

<= 15000 p.a. – No TDS

194DA Life Insurance Sum Received

No TDS, if income is exempt or if payment is < 100000 p.a.

Rate 5% on (policy amount – premium paid by assessee) - TDS at the time of payment or credit whichever is earlier

194E Non – Resident Sportsman & NR Sports Institutions

Receives payment for ----

- Participation in India in any games except card games /gambling
- Advertisement, writing articles in newspapers, magazines
- From any performance in India

Rate 20.8% i.e. 20%+ Cess – Pay /credit whichever earlier

194EE National Savings Scheme

Post office making payment to depositor on maturity of NSS

TDS 10% - on payment, No TDS <2500

Payment to legal heirs of depositor – No TDS

194F Repurchase of Units By Mutual Funds/UTI

20% TDS at the time of payment

194G Sale of Lottery Tickets Commission

TDS 5% pay /credit earlier, Commission <=15000 then no TDS

194H TDS on Commission or Brokerage

5% at pay or credit whichever is earlier, No TDS <=15000

No TDS on MTNL/BSNL (Payer) paying commission to Public call office franchisees (PCO)

Individual/HUF having business turnover <=1 Crore or <= 50 Lakhs in case of profession does not required to deduct TDS.

194I TDS on Rent of Assets

2% on Rent of P&M, 10% on land /building /furniture

Payment or credit whichever is earlier

<=240000- No TDS (check for each co-owner separately)

Individual/HUF having business turnover <=1 Crore or <= 50 Lakhs in case of profession are not required to deduct TDS

No TDS on GST portion [Rent + GST = Total Bill] --- TDS only on rent

Circulars –Arrangement between customer and cold storage owners are basically contractual in nature – 194C is applicable.

TDS u/s 194I not applicable on Passenger service fee (PSF) paid by airline to airport operator.

Lump sum lease premium not adjustable with periodic rent – not in the nature of rent u/s 194I.

194IA TDS on Payment To Acquire Immovable Property, Other Than Agricultural Land

1% TDS Pay/credit whichever earlier (Applicable to all transferee)

<=50 Lakh – No TDS (Consideration includes all charges like club membership fee, car parking fee, electricity or water facility fee, maintenance fee etc.)

TAN number not required in this case to deduct TDS

194IB – TDS on Rent of Land or Building or Both

Applicable on Individual/HUF having business turnover <=1 Crore or <= 50 Lakhs in case of profession only

Rent >50000 p.m. then TDS 5% --- Done in the last month

If PAN not furnished by payee then maximum TDS which can be deducted is rent payable in the last month

TAN number not required

194IC TDS on Payment Under Specified Agreement u/s 45(5A)

Land owner gives land development rights to builder and in return get some money and flats

Payer -----Individual/HUF (payee)

TDS on only monetary consideration

10% Pay /credit whichever earlier

194J TDS on Fee of Professional or Technical Service

Check for each **professional service** separately >30000 then 10% TDS pay /credit earlier

For technical service (or royalty in nature of consideration for sale, distribution or exhibition of cinematographic films) > 30000 TDS is 2% - pay/credit earlier

Doing business of only call centre – 2% TDS

Fee/remuneration/commission paid to director – TDS 194J even if <=30000

Professional service also includes – consultancy, trainers, coach, event manager, commentators, anchors, umpires, referee, film artists, sports person etc.

Individual/HUF having business turnover <=1 Crore or <= 50 Lakhs in case of profession are not required to deduct TDS

No TDS

NR paying to CA/Lawyer/Advocate/Solicitor

Service taken in personal capacity – No TDS

Amount paid by third party administrator (TPA) to hospitals under cash less insurance is liable for TDS u/s 194J

Sec 194K Income from units to mutual funds to a resident

10% TDS on:

- 1) Units of mutual funds u/s 10(23D) or
- 2) Units from administrator of the specified undertaking or
- 3) Units of the specified company

NA – If amount does not exceed 5000 or if it is capital income

194LA Compulsory Acquisition of Immovable Property Except Rural Agricultural Land

10% TDS on compensation / enhanced compensation at the time of pay / credit whichever earlier
 <=2.5L – No TDS

194M Payment for Professional service/Contract work/Commission/Brokerage

Individual/HUF having business turnover <=1 Crore or <= 50 Lakhs in case of profession are required to deduct TDS

If paid/credited to resident > 50 Lakhs in PY

Rate 5% for TDS

However they are not required to obtain TAN (Tax deduction & Collection Number)

Tax to be deposited within 30 days from end of the month in which deduction is made and shall be accompanied by challan-cum statement in form no. 26QD

Certificate for TDS in form no. 16D to the payee <= 15 days from the due date for furnishing challan-cum statement in form no. 26QD.

194N TDS on Cash Withdrawal

Bank/Post office/Cooperative Society in banking business -----Required to deduct TDS at 2% on sum exceeding 1 crore during FY withdrawn by person from one or more accounts

NA --- Payment to govt./banks/white label ATM operator of banks/business correspondent (retail agents) of bank

Rule 31A – Every person has to furnish particulars of amount paid or credited on which tax was not deducted in view of the exemption provided above

If person has not furnished ITR for last 3 years then rate is

2% for > 20 L to <=1 crore

5% for > 1 crore

194O E-commerce operator to deduct tax @1% on e-commerce transaction at the time of credit or payment to E-commerce participant

NA – If Ecommerce participant is individual or HUF and gross sale <=5 Lakhs and furnishes PAN/Aadhaar number to E-commerce

If PAN/Aadhaar not furnished then TDS @ 5%

194P TDS by specified banks on resident individuals >= 75 years having only pension/interest income

If that senior citizen furnishes a declaration then bank will deduct tax on total income after deduction/rebate for such senior citizen and no ITR needs to be filed by such individual

Sec 194Q TDS on purchase of goods [w.e.f. 1.7.21]

Value of purchase > 50 lakhs then 0.1% TDS by buyer

NA – TDS deducted under any other provision or TCS u/s 206

If TCS u/s 206C(1H) and 194Q is applicable then only TDS u/s 194Q would be deducted.

Note – Buyer means a person whose total sales from his business > 10 crore during any preceding FY.

Section 196 – No TDS if any payment made to govt., RBI, Mutual fund, corporation established under central act whose income is exempt under the act

Section 197 – Assessee can make an application to AO for allowing lower deduction of TDS on payment received by such person.

Section 197A – No deduction of TDS u/s 192A/193/194A/194D/194DA/194I/194K ---- for other than company/firms – if that person furnishes a declaration that his tax on total income will be nil
One copy of declaration to be submitted to chief commissioner/principal chief commissioner <=7th of the month following the month in which declaration is furnished to the payer.

No TDS on interest paid by an offshore banking unit to a non-resident

Section 200 Deposit of TDS Amount

<=7th of next month

For March Month – 30th April

For sec 194IA&194IB <=30th of next month

Section 201(1A) Interest

TDS not deducted –1% interest p.m. or part of month

TDS done but not deposited – 1.5% interest p.m. or part of the month

Section 203, Rule 31 TDS certificate & Rule 31A TDS Returns

| Return | Form No. | Periodicity | Due date of TDS certificate | Due date of TDS return |
|--------|----------|-------------|-------------------------------------------------------|----------------------------------------------------------------------------|
| 24Q | 16 | Annual | <=15 th June next year – for salary income | 31 st of next month after quarter end For March quarter 31/5 |
| 26Q | 16A | Quarterly | <=15 days from the due date of furnishing TDS return | 31 st of next month after quarter end For March quarter 31/5 |
| 26QB | 16B | Quarterly | Sec 194IA Income | 30 days from the end of the month in which TDS is done |
| 26QC | 16C | Quarterly | Sec 194IB Income | 30 days from the end of the month in which TDS is done |

E.g. for due date of TDS Returns

June – 31/7 Sep – 31/10 Dec – 31/1 March - 31/5

Fee u/s 234E of 200/day in case of default in furnishing return – however it will not exceed the total amount of TDS/TCS and such fees is to be paid before delivering TDS statement.

Section 206C Tax Collection at Source – TCS

1) Seller collects TCS from buyer for following goods

| Product | Rate | Rate from 14/5/20 to 31/3/21 |
|----------------------------------------|------|------------------------------|
| Alcoholic liquor for human consumption | 1% | 1% |
| Scrap | 1% | 0.75% |
| Minerals – Coal/Iron ore/ Lignite | 1% | 0.75% |
| Timber/Forest produce | 2.5% | 1.875% |
| Tendu leaves | 5% | 3.75% |

Buyer doesn't include public sector company/ CG/SG/Embassy/High commission, or when purchased by him for personal consumption.

Individual/HUF having business turnover ≤ 1 Crore or ≤ 50 Lakhs in case of profession are not required to deduct TCS

Sec 206C(1A) – If above goods used for manufacturing then no TCS – Buyer has to give declaration to seller in form 27C and seller will deliver one copy to chief commissioner or commissioner $\leq 7^{\text{th}}$ of next month following the month in which declaration is received.

If PAN not intimated then TCS is higher of 5% or 2x rate given above
TCS collected debit / receipt whichever earlier

- 2) Person grants rights of parking lots, toll plaza, mining activity (except petroleum & natural gas) – To anyone except public sector company
2% TCS rate (1.5% from 14/5/20 to 31/3/20)
- 3) Sale of motor vehicle in **retail trade** where price > 10 Lakh per transaction – 1% TCS (0.75% from 14/5/20 to 31/3/21)

Sec 206C(IG) Overseas Remittance Or An Overseas Tour Package [w.e.f. 1.10.2020]

Section 206C(IG) provides for collection of tax by every person:

- being a **seller of an overseas tour programme package** who receives any amount from the buyer who purchases the package at the rate of **5%** of such amount.
- being an **authorized dealer**, who receives amount, under the Liberalised Remittance Scheme of the RBI, for overseas remittance from a buyer, being a person remitting such amount out of India at the following rates

206AB For TDS and 206CCA TCS [w.e.f. 1/7/21] For Non-Filers of ITR

A person who has not furnished ITR for 2 preceding PY in which TDS was required to be deducted and time has elapsed for filing the above ITRs and TDS/TCS ≥ 50000 in each of the above PY Then TDS/TCS rate would be higher of the followings rates:

- a) Twice the rate specified in the relevant provision of the Act; or
- b) 5%

This provision doesn't apply to NR not having permanent establishments in India.

| Remittance Other Than Tour Programme Through An Authorised Dealer | Rate |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| Aggregate amount < 7 lakh in a FY | Nil |
| Aggregate amount > 7 Lakh remitted by buyer in a FY | 5% of the aggregate amt. > 7 Lakh |
| Where the amt. remitted out is a loan obtained from any financial institution for the purpose of pursuing any education and amt. > 7 lakh is remitted by buyer | 0.5% of the amt. or aggregate of amt. > 7 Lakh |

Tax has to be collected at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier.

No TCS –

- 1) If buyer is CG/SG, an embassy, high commission, a legation, a commission, consulate, the trade representation of a foreign state, a local authority or any other person notified by CG
- 2) If buyer is liable to do TDS under any other provision of the act
- 3) No TCS by authorised dealer on an amount in respect of which the sum has been collected by the seller

Section 206C(1H)

Seller who received any amount as consideration for sale of goods of the value or aggregate of such value exceeding INR 50 lakhs in a PY [Other than exported goods or goods covered under sub section (1)/(1F)/(1G)] – 0.1% rate

No TCS if buyer is liable to deduct TDS under any other provision of the act on the goods purchased by hi from the seller he has deducted such tax.

PAN/Aadhar not provided then higher of 1% TCS or twice the specified rate

TDS/TCS on Non-Filer of ITR for last 2 years and TDS/TCS >= 50,000 in each of the previous 2 years then TDS/TCS will be higher of

Twice the specified rate or 5%

Salary income, payment to NR and income from lottery shall be excluded from this section

ADVANCE TAX

For PY 21-22 Pay tax in PY 21-22

Sec 208- If tax payable after TDS ≥ 10000 then advance tax needs to be paid quarterly

| Till | How much advance tax has to be paid |
|----------|-------------------------------------|
| 15/6/PY | 15% of total advance tax |
| 15/9/PY | 45% of total advance tax |
| 15/12/PY | 75% of total advance tax |
| 15/3/PY | 100% of total advance tax |

If paid after 15/3/PY till 31/3/PY then also it is treated as advance tax & no interest to be paid u/s 234B. 207(2) senior citizen not having PGBP – No advance tax provision

Section 209 Steps –

- 1) Estimate income for PY 21-22 & income tax on the same
- 2) Deduct TDS from income tax
- 3) Balance needs to be paid as advance tax if ≥ 10000

Sec 210- If advance tax is payable & not paid then AO can pass order till end of Feb. AO will estimate the tax based on –

Higher of – Total income of latest assessed PY or Total income shown in ITR in any subsequent PY
AO will tell the instalment to be paid for advance tax

Note - advance tax still not paid then --- Assessee in default + interest + penalty 100% of such tax maximum can be imposed

Advance tax liability on dividend income [Except 2(22)(e) will arise only after receipt of income]

Interest on Late Payment of Advance Tax:-

Sec 234C

Advance tax not paid within due date, 1% p.m. or part of the month for 3 months,
For last instalment – 1% p.m. for 1 month

E.g. If 1st instalment 7000 needs to be paid but only 5000 is paid then on 2000 * 1% * 3 months (till next instalment) interest to be paid

If 12% tak pay kiya in 1st instalment then no interest for that instalment

Agar 36% tak pay kiya till 2nd instalment then no interest for that instalment

Sec 234B

If $< 90\%$ advance tax paid $\leq 31/3/PY$ then from 1/4/PY, 1% p.m. or part of the month interest payable till such tax is paid

Sec 234A

If ITR furnished $> 139(1)$ after due date, 1% p.m. or part of the month interest payable starting from 1/8/AY (ITR ki next date se) or 1/10/AY (ITR ki next date se) as the case may be

Int. calculated on only tax not paid till ITR

INCOME FROM SALARY

Employer (ee) – Employee (er) relationship

i.e. contract of service - Employer can control & direct employee - Salary

Contract for service e.g. auditor & client – contract done for a service & it's on service provider how they provide the service – No salary

Sec 15 Taxed on Receipt Basis or Due Basis Whichever Is Earlier

E.g. March salary received on 10/4/22 but taxable in (21-22) on due basis (will not be taxable in 22-23 since already taxed)

Bonus, arrears, advance salary – taxable on receipt basis

Salary Structure

Basic salary + dearness allowance + HRA + bonus + commission + allowances + perquisites + retirement benefits = Gross salary

Sec 16 Deductions From Gross Salary

Gross salary

(-) Standard deduction 16(ia) 50,000

(-) Entertainment allowances 16(ii) available to govt. emp.

(-) Professional tax 16(iii) paid till 31/3/PY

Retirement benefit/death payment (discussed later)

Gratuity + Pension + Leave Encashment + Provident Fund

Allowances

Sec 10(7) Allowances & perquisites provided by government to its employees who are citizens of India (for services rendered outside India) – exempt

Official allowances 10(14) - exempt upto amount spent for official duties

Official Allowances - Daily allowance, travelling allowance, research allowance, helper allowance, conveyance allowance

How to remember - *Daily uniform* pehan kar school tak *travel* karo, wahan *academic* padho aur uski *research* karo – doosro ki *help* karne ke liye sabse *convey* karo

Allowances Which Are Exempt Upto A Particular Amount

House Rent Allowance (HRA) Sec 10(13A)

Lower of the following is exempt:

a) Actual HRA

b) Rent (-) 10% of salary for the period

c) 50% of salary (for metro city)

d) 40% of salary (for non-metro city)

Salary (for checking HRA exemption) = Basic + DA (forming part of retirement benefit) + commission received as fixed % of sales

If any one thing changes – HRA, rent paid, salary, location during the PY

Then till the time of change calculate separately for that period and after the change calculate separately

Example Mr A having basic salary of 8000 p.m. from a company in Kota, he gets 40% of his basic salary as DA – ½ form part of the salary for retirement benefit, he gets HRA @ 4000p.m. From 1/1/22 – Salary increased by 1000 p.m. Mr A stayed with his parents till 31/7/21 and from 1/8/21 he has taken house on rent of 4500 p.m. compute income under the head salary

Solution -

| | | |
|------------------------|---------------------------------|---------|
| Basic salary | $8000 \times 9 + 9000 \times 3$ | 99000 |
| + Dearness allowance | 40% of basic | 39600 |
| + HRA | 4000×12 | 48000 |
| (-) Exempt | =27960 (27960) | 20040 |
| Gross salary | | 158640 |
| (-) Standard deduction | | 50000 |
| Taxable salary | | 108,640 |

| Particulars | 1/8/21 to 31/12/21 | 1/1/22 to 31/3/22 |
|-------------------------------|------------------------------------|------------------------------------|
| HRA received | $4000 \times 5 = 20000$ | $4000 \times 3 = 12000$ |
| Rent paid | $4500 \times 5 = 22500$ | $4500 \times 3 = 13500$ |
| 40% of salary (since in Kota) | $5 \times (8000 + 3200/2) = 19200$ | $3 \times (9000 + 3600/2) = 12960$ |
| Rent (-) 10% of salary | $22500 - 4800 = 17700$ | $13500 - 3240 = 10260$ |

Lowest will be exempt i.e. 17700 & 10260 = 27960

Hostel Expenditure Allowance

For max 2 children upto 300 p.m. per child exempt

Children Education Allowance

Max 2 children Max 100 p.m. per child exempt

Tribal Area Allowance

For states of AP/UP/TN/Karnataka/Tripura/Assam/West Bengal/Orissa/Bihar

If received then max 200 p.m. exempt

Hill Compensatory Allowance

Employees go on height ≥ 1000 metres above sea level

Max 300 p.m.

In some areas 800 p.m. exempt

For Siachen 7000p.m

Underground Allowance

Max 800p.m

Border Area Allowance

For armed forces – exemptions depends on area of posting

Counter Insurgency Allowance

Max 3900 p.m.

Either border area or counter insurgency allowance will be given

Transport Allowance

Max 3200 p.m. exempt for employee who are deaf/dumb/blind/handicapped

Outstation Allowance

Given to those who work in any transport system – 70% allowance or 10000 p.m. – lower is exempt
Outstation allowance exempt only if employee is not receiving daily allowance

Some other allowance exempt

Allowance to high court/Supreme Court judges

Allowance to employee of UNO

Daily & consistency allowance received by MP & MLA Sec 10(17)

10(45) – Specific perquisites & allowances notified by CG received by both serving & retired chairman & member of UPSC

Rest all allowances are taxable

Perquisites Sec 17(2)

Facilities provided to employee - can have monetary value as well

Medical Facilities

Exempt generally if provided by employer in India proviso to sec 17(2)

Employer provides to employee & his family members

- a) Medical treatment in any hospital /clinic maintained by employer
- b) Actual expenses incurred or reimbursed – treatment in govt. hospital
- c) Actual expenses incurred or reimbursed on specified disease – treatment in any hospital approved by government
- d) Group medical & health insurance

Facilities provided outside India

To employee or any of its family members

+ Expenses on stay abroad of patient + one attendant

+ Travelling expense of patient & one attendant --- If GTI <=2Lakhs

Maximum exempt upto the extent permitted by RBI

Family Members – Spouse, children

[Parents, brothers, sisters]– If mainly dependent on employee

Rent Free Accommodation

Employer can provide free HP for stay to his employee or may provide at concessional rate
It can be furnished or unfurnished.

Since employee gets benefit from employer hence equivalent value is taxable

Accommodation owned by employer

| Population | Value |
|------------------|----------------|
| >25lakh | 15% of salary |
| >10lakh <=25lakh | 10% of salary |
| <10lakh | 7.5% of salary |

(-) Amount taken from employee = Value of perquisites

Accommodation rented by Employer

Lower of rent paid or 15% of salary is the value of perquisite
If furniture also provided then add 10% p.a. of furniture cost
or actual rent of the furniture

If Accommodation Provided To Government Employee

Value as per government rules calculated

+ 10% for cost of furniture (If furniture is owned by government)

Or + Actual rent paid for furniture (If furniture is not owned by government)

Government employee means for this section - Employees of CG/SG/Govt. undertaking

Note: RFA to cabinet minister, HC/SC Judge, officials of Parliament, leader of opposition party in Parliament, serving chairman & members of UPSC – exempt

Accommodation in hotel to Govt. /Non Govt. Employee

Lower of 24% of salary Actual charges paid by employer

(-) Amount recovered from employee

Value taxable from employee

If stay <=15 days then not taxable

Otherwise for first 15 days not taxable

Salary calculation on due basis for RFA purpose

Basic salary + D.A (retirement benefit) + bonus + commission (fixed or %) + taxable portion of allowance + monetary payments which are not perquisites

Not Include In Salary – PF given by employer, perquisites, arrears of salary, advance salary, ESOP

RFA in remote area population <20000- not taxable

2 RFA- first 90 days only 1 taxable then both taxable

Valuation of Motor Car

- 1) If used only for official purpose – nil taxable
- 2) Used only for private purpose
 - a. Car owned by employer - All charges borne by employer, driver's salary (if driver is provided), 10% p.a. on cost of car (if car is owned by employer) or actual hire charges (if car is hired by employer)
 - b. Car owned by employee & expenses borne by employer -Taxable for employee expenses done by employer

Note – log book required to be maintained for each journey travelled

- 3) Car Owned By employer & used by employee For both personal & official purpose
 - a. Running expenses met by employer –
 - i. Engine \leq 1600 cc 1800 p.m.
 - ii. Engine $>$ 1600 cc 2400 p.m.
 - b. Running expenses met by employee –
 - i. Engine \leq 1600 cc 600 p.m.
 - ii. Engine $>$ 1600 cc 900 p.m.

+ 900 p.m. in both above cases if driver is also provided
- 4) Car owned by employee & expenses met by employer used for personal & official purpose

Actual expenses done by employer

(-) 1800 p.m. or 2400 p.m. depending upon cc

(-) 900 p.m. if chauffer is also provided

Note – this perquisite is calculated on month on month basis i.e. from 15/5 to 14/6, 14/6 to 14/7 & so on

If $>$ 1 car used for official & personal purpose --- then 1 car can be assumed as used for personal & official purpose rest all cars are assumed as used for personal purpose.

Other than car any other vehicle provided – 900 p.m. taxable

Pick & drop facility from home to office – exempt

Education Facility Sec 17(2)(iii) & Rule 3(5)

To employee – Exempt value Nil

To children of employee – Fees charged by similar institution or amount spent by employer

Taxable (-) 1000 p.m. per child can be subtracted

To family members (fee paid employer) – Taxable for employee [under 17(2)(iv)]

Scholarship to children of employee – exempt Sec 10(16)

From the value of perquisites subtract amt. recovered from employee

If employee pays education expense & then employer reimburse that expense to employee – Taxable under 17(2)(iv)

Obligation of employee met by employer

Children education expense, gas, electricity, water bills paid/reimbursed by employer,
Income tax & professional tax paid by employer

Any monetary obligation of employee met by employer – Taxable perquisites in the hands of employee

Transport Facility Sec 17(2)(iii) & Rule 3(6)

To employee in railways or airlines – exempt

To others – Taxable at price charged by employer from other

(-) Any amount recovered from employee

Sweeper, Gardner, Watchman, Personal Attendant Sec 17(2)(iii) & Rule 3(3)

To employee or members of household – Taxable

If RFA provided & Gardner also provided with RFA then perquisite value of Gardner not taxable

Gas, Electricity or Water Facility Sec 17(2)(iii) & Rule 3(4)

Provided to employee or his/her household

Value of perquisites - Taxable

Household means – spouse, children, spouse of children, parents, dependent & servant of employee

Note - If employee pays any amount to employer for the perquisites then deduct the same from perquisite value

Life Insurance Premium Paid By Employer Sec 17(2)(v)

Salary income

Issue of share & securities under ESOP Sec 17(2)(vi)

Free of cost or concessional rate - Taxable

Listed equities = $[\text{Opening} + \text{Closing}] / 2 =$ Average price of shares on stock exchange on date of exercise of option

Unlisted equities = FMV determined by merchant banker on the date of exercise of option on earlier date

Any amount paid by the employee to employer will be subtracted from the perquisite value

Contribution of employer to Super Annuation Fund Sec 17(2)(vii)

In excess of 1.5L is taxable

Valuation of Fringe Benefits

1) Interest free or concessional loans - If interest < interest charged by SBI as on 1/4/PY then calculate on monthly basis (each month ka calculate karo)

Example – Employer gives 10 Lakhs @ 6% interest p.a. on 31/3/21 – SBI interest on 1/4/21 is 10% 10000 to be paid monthly

Solution – $10L * 4\% * 1/12 = 3333$ approx. (concessional interest for 1st month) i.e. perquisite value
 $10L * 6\% * 1/12 = 5000$ interest in 10000 instalment so balance 5000 is the principal value
 Next month $[10L - 5000] * 4\% * 1/12 =$ Interest benefit given to employee

Calculate on maximum monthly outstanding (as on the last day of the month) for each month. If loan ≤ 20000 is given or loan given for treatment of specified diseases of employee or his household then not taxable.

2) Travelling, Touring, Accommodation & other expense on holiday on employee & household –

For official tour – for employee not taxable however if done for household – value taxable

Official tour extended as vacation –

- a) Amount paid by employer taxable (if facilities maintained by employer & available to all employees)
- b) Value at which were offered by other agencies (If employer provides facilities to few employee only)

3) Free Meals, Tea & Snacks Sec 17(2)(viii)

- a) Snacks/ tea /other non-alcoholic beverages –
 - a. Provided in working hours in office/any place- Exempt
 - b. Provided in remote area, offshore installation in working hours –Not taxable
- b) Food meal –
 - a. In office / other place – paid vouchers -- actual expense incurred by employer (-)
50/meal = taxable value of perquisite
 - b. Provided in remote area, offshore installation in working hours –Not taxable

Coffee/Non-alcoholic beverages/snacks in working hours/in over-time = Exempt

Any amount paid by employee to employer should be subtracted from perquisite value

4) Gift, Voucher or Gift Token Received From Employer- 5000 exempt rest taxable

5) Credit card expenditure Sec 17(2)(viii) - Wholly for official purpose – not taxable

Personal purpose or personal + official = taxable

Club membership taken by employer – Initial price paid not taxable

6) Use of Moveable Assets Sec 17(2)(viii) Other Than Motor Car

Computer/laptop – perquisite value nil

Other assets – 10% of actual cost or hire charges paid by employer

If employee has paid some amount then deduct the same

7) Transfer of Movable Assets Sec 17(2)(viii)

Cost of asset (-) depreciation for completed years = book value

Book value (-) sale price of asset [co. sold to its employee] = Value of perquisite

Depreciation Rates

Computer & electronic gadgets - 50% of WDV

Motor car - 20% of WDV

Any other assets – 10% of SLM

If asset which was used for ≥ 10 years is transfer then not taxable for employee

Rule 3(8) Any Other Perquisite

Cost incurred by employer – taxable for employee

Expenses on telephone facility/mobile phone/newspaper/magazine facility – exempt

Sec 10(10CC) payment of income tax on non- monetary perquisites by employer on behalf of employee

If income tax on salary paid by employer then – included in salary income of employee

Advance Salary & Advance Against Salary

Advance salary - Salary of next month received before accrual -- taxable on receipt basis

Advance against salary – Loan – not taxable for employee

Arrears of salary- If salary is increased from back data then increased portion – Arrears which will be taxable when received

But advance salary & arrears ki wajah se salary increase ho jayegi & tax zyada ayega

Therefore Sec 89(1) provides relief**Step 1 Calculate tax payable of year of receipt of arrears /advance salary on**

a) Income inclusive of additional salary

b) Income exclusive of additional salary

Difference between the two is tax on additional salary

Step 2 Calculate tax payable of year for which salary relates

a) Inclusive of additional salary

b) Excluding additional salary

Difference between the two is tax on additional salary

Relief u/s 89(1) – Tax calculated in Step 1 – Tax calculated in step 2

Salary foregone – Employee doesn't wish to receive salary from employer – still taxable on due basis however if salary is surrendered to central government then not taxable

Salary from >1 employer– Total taxable

Retirement benefits**Gratuity Sec 10(10)**

Gratuity received while doing job – fully taxable for all employee

For Govt. employees – Fully exempt if received on retirement or death

Govt. employees means SG/CG/local authority employees

Non- Govt. Employee - lower of the following is exempt

a) Covered under payment of gratuity act 1972

i) 20 Lakhs

ii) $15/26 * \text{salary of one month} * \text{No. of completed years of service (rounded off)}$ 2.5 years will become 3 years

iii) Gratuity received

Salary means basic + DA

Gratuity is paid if employee serves >5years

b) Not covered under payment of gratuity act 1972

i) 20 Lakh

ii) Calculate average salary of last 10months

$15/30 * \text{Average salary} * \text{completed year of service}$ (no rounding off 2.5 years = 2 years)

iii) Gratuity actually received

Salary means basic + DA (retirement benefit) + commission (% of sales)

Commuted Pension Sec 10(10A)

Pension received regularly (Uncommuted Pension) – fully taxable

Commuted pension– future pension received in advance

1) Govt. employee (CG/SG/LA/Statutory corporation) – Fully exempt

2) Non– govt. employee

a. Employee getting gratuity as well then $1/3$ of total pension or actual whichever lower is exempt

b. Employee not getting gratuity then $1/2$ of total pension or actual – exempt whichever is lower

3) Family pension on death of employee - Income from other sources

$1/3$ of such pension or 15000 whichever is lower is allowed as deduction allowed u/s 57

E.g. Pension 10 Lakh to be received in total but 400000 received in advance in lumpsum –

$1/2 * 10 \text{ L} = 5 \text{ Lakh}$ or 4 Lakh (received) – lower is exempt

So 4 Lakh exempt

E.g. 40% pension received 792000 – first calculate total

$X * 40\% = 792000$

$X = 1980000$

$1/2$ of 19.8L or 7.92L – lower is exempt

Sec 10(18) - Exempt for winners of gallantry awards (Param Vir Chakra, Shaurya Chakra etc.)

Sec10 (19) - Death of armed forces – family pension received by widow /children exempt

Leave Encashment

Received during service – Taxable

On retirement to Govt. employee – exempt

Non-Govt. employee on retirement lower of the following is exempt:

a) 3 Lakh or $10 * \text{Avg. salary of last 10 months}$

b) Actual received

c) $[\text{Average salary of last 10 months}/30] * \text{Unused leave}$

Salary means basic +DA (Retirement) + commission (% of sales)

Govt. employees means CG/SG employees

Provident Fund

| Particulars | Recognized PF | Unrecognized PF | Statutory PF | Public PF |
|-------------------------|--------------------------------|-----------------------------------------------------------------|-------------------------------------------------------------|-----------------------------------------------------|
| Employer's contribution | >12% of salary is taxable | Not taxable yearly | Fully exempt | N.A. (as there is only assessee's own contribution) |
| Employee's Contribution | Eligible for deduction u/s 80C | Not eligible for deduction | Eligible for deduction u/s 80C | Eligible for deduction u/s 80C |
| Interest Credited | > 9.5% p.a. is taxable | Not taxable yearly | On Employer's contribution Exempt Refer Note** | Fully exempt |
| On Retirement | Exempt* | Employer's contribution and interest thereon taxable as salary* | Exempt | Exempt |

****W.e.f. 1/4/21 interest on [employee's contribution above Rs. 2.5 lakhs] is taxable, limit is 5 lakhs in case of no employer contribution**

***Recognised provident fund –**

If employee has served >5 years then exempt

Payment on death /retirement exempt or termination due to ill health – exempt

If transfer done to national pension scheme or RPF maintained with another employer then also such transfer is exempt

***Unrecognised provident fund -**

Employee contribution not taxable however interest on employee contribution is taxable under income from other sources

Sec 10(13) Approved Superannuation Fund

A fund maintained by employer for timely pay of pension, employee contribution allowed u/s 80C, Payment on retirement /death – exempt

Important Note - Cumulative contribution by employer to recognized PF, approved superannuation fund and National Pension Scheme (or any other scheme notified u/s 80CCD) in excess of Rs.7,50,000 is taxable as perquisite u/s 17(2)(vii). Similarly interest/dividend/income on the portion included in the total income will also be taxable as perquisites.

Public Provident Fund

Min. 500, Max 1.5 Lakh – Annually can be contributed

Deduction allowed u/s 80C

Interest on above exempt, pay on maturity exempt, 15years term

A/c can be opened in the name of self, spouse, dependent children

Other Payment To Employee**Leave Travel concession (LTC) Sec 10(5) & Rule 2B**

Take family to any place in India –travelling expense– LTC – received from employer will be exempt for employee if conditions are satisfied

Block of 4 year 2019-2022, 2023-2026 and so on – these are calendar years

2 journeys in one block allowed, if 2 journey not taken in 4 year's block then 1 journey can be c/f to the next block (1st year of the next block)

Family – Spouse, children, dependent parents, dependent brothers/sisters

Children born <1/10/98 – no limit but children born >= 1/10/98 then maximum for 2 children LTC is allowed however if second child is a twin then benefit available to all 3.

Air travel – economy class fare

Rail- 1st class AC fare for shortest route

Other mode – 1st class /deluxe class fare – public transport

LTC received (-) Expense on journey for self & family = Taxable value of benefit

Retrenchment Compensation

Compensation received –

a) 15 days' average salary * completed year of service (rounded off) e.g. 2.5 years becomes 3 years

b) 500000

c) Actual received

Lower of the above is exempt, balance taxable

Sec 10(10C) Voluntary Retirement Scheme Rule 2BA

Retirement before scheduled year of retirement

Lower of the following is exempt:

a) 5 Lakh

b) Actual

VRS should not exceed

3 month's salary * completed year of service **or**

Salary of months remaining before original retirement date

FILING OF INCOME TAX RETURN (ITR)

Income earned PY 21-22 and some tax is also paid in PY 21-22 (Advance tax)
 Balance tax is paid in AY 22-23 in the form of self-assessment tax
 Every income is shown in ITR filed in AY 22-23

Types of Returns

ITR 1 (SAHAJ Form)

Who can file – Resident Individual having total income from salary/pension or one HP or income from other sources (excluding lottery income race horses)

- + Total Income < = 50lakh
- + Agriculture income <= 5000
- + No Income /asset outside India
- + No loss under IOS
- + Not a director or a person who has invested in unlisted equity shares

ITR 2

Who can file – Individual & HUF not having income from PGBP

ITR 3

Individual/HUF carrying on business or profession

ITR 4 (SUGAM Form)

Resident [Individual /HUF/Firm (other than LLP)] - having total income upto 50 Lakhs & having presumptive income under PGBP

Not a director or a person who has invested in unlisted equity shares

ITR 6

For Companies other than companies claiming exemption under section 11 (charitable activity)
 - Must file in electronic mode

ITR 7

For persons including companies required to furnish return under sections 139(4A) i.e. Charitable/Religious Trust or 139(4B) – Political Parties or 139(4C) or 139(4D) – entities/institutions taking exemption of their income u/s 10 – Discussed in CA Final

ITR 5

For persons other than Individual/HUF/Company or Person filing ITR-7

Section 139(1) Compulsory Filing of Income Tax Return

Compulsory for every company & firm to file return <= Due date

For others having total income > basic exemption limit (without claiming deduction u/s chapter VI-A 80C to 80U or section 54/54B/54D/54EC/54F – under capital gain) should file ITR <= Due date to claim deduction

Person holding asset outside India/having signing authority outside India/ Beneficiary of any asset located outside India should file ITR \leq Due date

Any person other than company or firm who is not required to furnish a return under section 139(1) is required to file ITR if such person –

- a) Has deposited an amount $>$ 1 crore during PY in one or more current accounts maintained with bank
- b) Has incurred expenditure $>$ 2 lakhs on foreign travel
- c) Has incurred expenditure an amount $>$ 1 lakhs towards electricity bill

Due Date of ITR

Company \leq 31/10/AY (30/9/AY is the audit due date – i.e. 1 month prior to the ITR date)

Other than company (required to get their accounts audited under income tax act) \leq 31/10/AY

Other cases \leq 31/7/AY

Assessee on which transfer pricing provisions applicable and required to furnish report u/s 92E \leq 30/11/AY

31/10/AY for partner [+ spouse of partner] of a firm whose account are required to be audited

Tax audit report to be furnished at least 1 month prior to the due date of furnishing ITR

Fee on late filing Sec 234F

Rs. 5000

If Total Income \leq 5 Lakhs Maximum Fee 1000

234H – Penalty fee upto Rs. 1000 for not linking Aadhaar with PAN

Sec 139(1A) Employee can furnish return to his/her employer (option given not compulsory) and employer can then submits return of all employees to the income tax department \leq due date

Sec 139(3) In order to c/f loss – ITR needs to be filed \leq due date as per Sec 80

Loss under HP/unabsorbed depreciation can be c/f even if ITR is filed after the due date

Sec 139(4) Belated Return

Return filed after due date + Fee 234F + Interest 234A + losses can't be C/F

Belated return can be filed before 3 months prior to the relevant AY i.e. 31/12/AY or before completion of assessment whichever earlier

Sec 139(5) Revised Return

If assessee finds any omission or wrong statement in ITR filed then he/she can file revised return

before 3 months prior to the end of relevant AY i.e. 31/12/AY or before completion of assessment year, whichever is earlier

Revised return replaces the original return

Revised return treated as filed on the date of original return

Sec 139(6) Details to be furnished with the return

- a) Income exempt from tax
- b) Assets of prescribed nature – owned by him
- c) Bank a/c , credit card details

d) Expenditure exceeding the prescribed limit

Sec 139(6A) Detail to be furnished by assessee engaged in business/profession

- Audit report u/s 44AB
- Location of principal place of business
- Name/address of partners in his firm/members of AOP/BOI & shares of all partners/members in profits

Sec 139(9) Defective Return When -

- Annexures, statements, columns – Not Filed Properly
- Return not accompanied by computation of tax payable/audit report u/s 44AB / Proof of tax paid -- TDS/TCS/Advance Tax/Self-Assessment Tax
- Where regular books of accounts maintained by assessee, return of income is not accompanied by - copies of manufacturing a/c, trading a/c, expenditure a/c, personal a/c, details of proprietor (for firm details of partners/members)
- Audit report with profit and loss, balance sheet, cost audit report – Not furnished if applicable
- If Regular books not maintained and statement of T/o / GP /Net profit /debtors/creditors /cash balance – Not furnished

AO will inform the assessee about the defect and give assessee an opportunity to rectify the defect within 15 days of such intimation. If defect not rectified then it will be treated as return not filed.

Self Assessment Tax Sec 140A

Payment of final tax + interest + fee before furnishing ITR is called self-assessment tax, Total tax payable is first adjusted with advance tax paid /TDS/TCS/relief u/s 89 and tax credit Balance Tax + Interest + Fee if any needs to be paid

ITR should be accompanied by proof of payment of such tax, Int & fee

Order of adjustment if full amount is not paid e.g.

14000 [10000 Tax + 3000 Fee + 1000 Interest] to be paid & 12000 is paid then

First apply it towards fee [3000] then interest [1000] then tax [8000] – 2000 tax not paid

Consequence of failure – assessee in default need to pay Tax/Int/Penalty

Verification of Tax Returns Sec 140

Individual – himself /herself

HUF – Karta /other adult member

Company – managing director If MD not there – any director or other person as may be prescribed for this purpose

Co wound up – liquidator

Firm – Managing partner If MP not there - Any major partner

LLP – Designated partner if DP not there – any partner of LLP or other person as may be prescribed for this purpose

Local authority – Principal Officer

Political party – CEO of the party

Any other association – Member of association principal officer of such person

PAN – Permanent A/c No.

- T.I > Basic exemption limit/Maximum amount not chargeable to tax – Apply for PAN <=31/5/AY
- For business/profession – Total sales /Gross receipts >5lakh in PY apply PAN 31/3/PY
- Charitable trust filing return u/s 139(4A) apply for PAN
- Person (resident but not individual) - Transaction of amount >=2.5 Lakh – Apply for PAN
- MD/director/partner/trustee/Karta/CEO/principal officer – Obtain PAN

PAN/Aadhar Number should be quoted in following transaction –

- Sale/Purchase of Immovable property >10 Lakh
- Sale purchase of motor vehicle except 2 wheeler
- Time deposit > 50000 single FD or 5 Lakhs in aggregate during FY
- Hotel /restaurant bill >50000
- Cash deposit in bank or Demand draft/Pay order >50000/day
- Foreign travel/Foreign currency purchase >50000 anytime
- Mutual fund units >50000
- Shares in co – Opening DMAT A/c, Purchase/Sale of Shares of unlisted company for amount >1 Lakh/transaction
- Debenture /bonds /LIC premium/cards >50000

Every person who doesn't have PAN can quote Aadhaar number and would be then allotted PAN in the manner prescribed.

Minor to quote PAN of parents /guardian

Quoting of Aadhaar No. 139AA

In PAN application & In ITR

Linking Aadhar & PAN mandatory to be done till 31-March-21

w.e.f. 01.04.2019, it is mandatory to quote and link Aadhaar number while filing the return of income, either manually or electronically, unless specifically exempted.

No Aadhaar No – Then apply and quote enrolment ID

Failure to intimate Aadhaar No – PAN invalid

Income Tax Return Preparer Sec 139B

Assist assessee to file ITR & they furnish their sign on return

CA, Legal Practitioner, officer of scheduled bank, employee of person whose a/c are not required to be audited u/s 44AB – cannot be ITR preparer.

Individual/HUF – whose accounts are required to be audited u/s 44AB or under any other law cannot furnish their return through tax return preparer

ALTERNATE MINIMUM TAX (AMT)

Profit as per books of accounts – 30 Lakhs

Profit as per income tax act – 4 Lakhs

NA If assessee opts for concessional rates of tax u/s 115BAC

Since income is calculated in a different manner under income tax as compared to accounting hence it may be possible that accounting profits are very high though there is negligible profits in income tax and thus lower tax is paid to the government.

Hence government has introduced a minimum tax which needs to be paid by the assessee. For companies provisions of Minimum alternate tax are applicable which will be studied in CA Final.

For other assessee provisions of alternate minimum tax (Itna tax to dena hi padega) is applicable **if adjusted total income is > 20 Lakhs**

Adjusted Total Income

| | |
|------------------------------------------------------------|------------|
| Total Income | XXX |
| + Deduction u/s 10AA | XXX |
| + [Deduction u/s 35AD – Depreciation Allowed] | XXX |
| + Deduction u/s 80JJA/80QQB/80RRB – For Intermediate level | XXX |
| Adjusted Total Income | XXX |

Adjusted Total Income * 18.5% (Sec 115JC) = AMT

If tax calculated on adjusted TI > Income Tax Payable then AMT needs to be paid & adjusted TI is deemed to be Total Income

AMT – Income Tax Payable = Excess Tax Paid

The excess tax paid is allowed to be carry forwarded for maximum 15 years & can be used to adjust IT payable [i.e. in future if IT payable comes greater than AMT then tax credit can be used to adjust the difference].

Example – Income Tax Payable AY 21-22 INR 5 Lakhs but AMT calculated at 7 Lakhs then 7 Lakhs needs to be paid in AY 21-22. However AMT credit will be 2 lakhs [7 lakhs – 5 lakhs] which can be carried for 15 more years.

Now if in next year AY 22-23 income tax payable comes out to be INR 3 lakhs and AMT comes out to be 1.8 lakhs then 1.2 Lakhs [3 Lakhs – 1.8 Lakhs] can be first adjusted with AMT credit available. In our case 2 lakhs credit was available hence 1.8 lakhs will be adjusted with that and balance 20000 credit will be carried forward.

Optional Scheme to Pay Tax Without Availing Exemption/Deductions Sec 115BAC

Option available to Individual/HUF only

| Income | Rate |
|---------------|-------------|
| 0-250000 | Nil |
| >2.5L to 5L | 5% |
| >5L to 7.5L | 10% |
| >7.5L to 10L | 15% |
| >10L to 12.5L | 20% |
| >12.5L to 15L | 25% |
| >15L | 30% |

For senior citizen basic exemption limit is 3 Lakh and for very senior citizen basic exemption limit is 5 Lakh. Rebate of 12500 available in this case as well (discussed later)

Individual/HUF not having business income can exercise this option each year at the time of filing ITR

Individual/HUF having business income and exercising option u/s 115BAC - AMT provisions not applicable and cannot carry forward or set off AMT credit.

The option has to be exercised on or before due date specified u/s 139(1) for furnishing ITR for AY 21-22 or subsequent AYs and once option is exercised, it would apply to subsequent AY. Option can be withdrawn only once and thereafter individual or HUF shall never be eligible to exercise option under this section except when they ceases to have any business income.

Deduction/Exemptions Not Allowed – LTC, HRA, special allowances for personal/official purpose, Daily or constituency allowance, exemption u/s 10(32), 10AA, standard deduction, entertainment allowance, professional tax, interest on loan in respect of self-occupied property, Additional depreciation, Deduction u/s 35(1)(ii)/(ia)/(iii), 35(2AA), 35AD, 35CCC, 57(ia), 80C to 80U.

Loss of let out HP can be set off against income from other let out property (cannot be set off with any other head)

No exemption in respect of free coupon/meal voucher (given to employee as perquisites).

80JJA allowed as deduction

Employer's contribution at National Pension Scheme Sec 80CCD(2) allowed