

ERRORLESS TAXATION

- CA Inter May 2022 & November 2022
- CS Executive June 2022 & December 2022
- CMA Inter June 2022 & December 2022

BY CA PRANAV CHANDAK

क्षणशः कणशश्चैव विद्यामर्थं च साधयेत् । क्षणत्यागे कुतो विद्या कणत्यागे कुतो धनम् ॥

Knowledge should be gained through minute by minute efforts. Money should be earned utilizing each and every resource. If you waste time, how can you get knowledge. If you waste resources, how can you accumulate the wealth.

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ACKNOWLEDGEMENT

Writing a book is harder than I thought & more rewarding than I could have ever Imagined.

It gives me immense happiness to present 7th Edition of ERRORLESS TAXATION.

We have covered 100% of ICAI syllabus with all the relevant questions from study material with reference given in the question itself **WITHOUT ANY REPETITION** applicable for **CA Intermediate/CS Executive/CMA Inter Exams.**

I am fortunate to get the guidance of many people during the preparation of this book.

I am especially thankful to my Parents, **Mr. PRAMODJI CHANDAK & Mrs. SANTOSH CHANDAK** for all your support, care & sacrifices you have done for me.

I owe thanks to a very special person, my sister, **PRACHI CHANDAK** for her continued & unfailing support to me throughout this journey. I am grateful to you for your valuable advices, constructive criticism and positive appreciation.

It is my privilege to thank my dynamic wife **“Disha Chandak”** for her constant encouragement & valuable suggestions.

AMOL CHANDAK, I cannot forget to mention your contribution in anything & everything I do. You helped me see that I can be more.

Special Thanks to my team:

CA SHUBHAM SHARMA, CA ANUP SHARMA, CA AKSHAY GATTANI, CA BHARAT HURKAT for their continuous support. Knowing the fact that you people are & will always be there, eases half of my worries. Thank You for being the **BACKBONE** of PCA.

NEHA DIDWANI, I seriously cannot find words to thank you & I guess I will never get the words which will do justice to your dedication & determination.

Mr. Kamlesh Bhai Patel & Kartik Bhai Patel for making this book into reality.

My Dear Students for your continuous love & faith.

THANKING YOU ALL!!

CA PRANAV PRAMODJI CHANDAK

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Note from CA Pranav Chandak:

- ❖ All the relevant amendments inserted by Finance Act, 2021 has been covered in this Edition.
- ❖ Amendments coming via May 2022 RTP will be published on our YouTube Channel. Students are requested to subscribe the channel & stay connected. Amendment Video will be uploaded on our YouTube Channel within 2 days of Issue of RTP.
- ❖ Students should stay connected on Telegram channel for updates about Free Revision Classes.

STUDY PLANNER

DID YOU REVISE???

SN	Name of the Chapter	Fill the Date of Completion		
		Self - Study (After Class)	1 st Revision	2 nd Revision
1	Basic Concepts of Income Tax & Rate of Tax			
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3	Salaries			
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13	Return of Income & Assessment			
14A	Alternate Minimum Tax			
14B	Computation of Total Income			

Author's Note: Students should revise whole of this book at least twice before reading our Chart Book.

Students doing 'Self Study' shall stay connected with us on WhatsApp @8888111134.

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CHAPTER 1. BASIC CONCEPTS OF INCOME TAX

1.1 WHAT IS TAX

[Not for Exams]

- A tax may be defined as a "pecuniary (monetary) burden laid upon individuals or property owners to support the Government [Black's Law Dictionary].
- It is **financial charge (fee)** imposed by Government on income, commodity or activity.
- A tax "is not a voluntary payment or donation, but an enforced contribution. However, it is non-penal.
- Thus, it can be said that Tax is "**Compulsory Extortion of Money**" by the government.

WHY ARE TAXES LEVIED?

[Not for Exams]

- Taxes constitute **basic source of revenue** to the Government which are **utilized for meeting expenses of Government** like defence, provision of education, health-care, facilities like roads, dams etc.
- They are levied & collected to fulfill the soci-economic objectives of the government.

DIFFERENCE B/W DIRECT TAX & INDIRECT TAX

[Not for Exams]

Basis	Direct Tax	Indirect Tax
Definition	▪ If tax is levied directly on income/wealth of a person, it is a direct tax.	▪ If tax is levied on price of a good or service, it is an indirect tax.
Incidence & Impact	▪ Impact & incidence of tax are on same person.	▪ Impact & incidence of tax are on different person.
Levied on	▪ Income/wealth of the person.	▪ Price of Goods or Services
Burden	▪ There is No Shifting of burden.	▪ Burden is shifted to subsequent buyer.
Borne by	▪ Directly borne by the taxpayer.	▪ Burden falls on final consumer.
Nature	▪ Progressive in nature	▪ Regressive in nature
Collection	▪ Yearly basis.	▪ @ the time of sale/purchase of G/S.
Examples	▪ Income tax, Tax on undisclosed Income.	▪ GST, Custom duty.

POWER TO LEVY TAXES [TAXATION SYSTEM IN INDIA]

[Only for Knowledge]

- In India, **Constitution (COI)** is the **parent law**. All other laws should be enacted (made) without exceeding the framework of COI & subject to the norms (T&C) laid down in it. It consists of a Preamble, **25 parts** containing **448 Articles** & **12 Schedules**.
- **Article 265** of CoI provides that **no tax shall be levied or collected except by authority of law**.
- CoI gives power to levy & collect taxes to Central Government (CG) & State Government.
- **Parliament (Union) & State Legislature** are **empowered to make laws** by virtue of **Article 246** of CoI.
- **Seventh Schedule to Article 246 contains 3 lists which are as follows:**

Union List	CG has exclusive power to make laws on the matters contained in Union List.
State List	SG has exclusive power to make laws on the matters contained in State List.
Concurrent List	Both CG & SG have power to make laws on the matters contained in this list.

- **Article 254** deals with **Inconsistency b/w laws made by Parliament & State Legislatures**.
 - ⚡ If State Legislature make any Law on the matter enumerated in concurrent list & the law so made is inconsistent with → (1) Any Law made by Parliament; (2) Any Existing Law w.r.t this matter.
 - ⚡ BUT ASSENT OF PRESIDENT is received to such Law made by State Legislature,
 - ⚡ THEN, Law Formulated by such state shall prevail in such State instead of Law made by parliament.
- **Entry 82 of Union List** (List I to Seventh Schedule of COI) gives power to Parliament to levy **taxes on Income other than Agricultural Income**. [Power to levy taxes on agricultural income is with SG].

COMPONENTS OF INCOME TAX LAWS

1 INCOME TAX ACT, 1961

- It came into force on **1st April, 1962**. The act contains **298 sections & XIV schedules**.
- A section may have **sub-sections, clauses & sub-clauses**.

Clause	When each part of the section is independent of each other & one is not related with other, such parts are called a "Clause".
Sub-section	It refers to such parts of a section where each part is related with other & all sub-sections taken together completes the concept propounded in that section.

Ex: Clause (1A) of Section 2 defines "agricultural income", Clause (1B) defines "amalgamation".

Ex: Section 5 defining the scope of total income (TI) has two sub-sections (1) & (2).

Sub-Section (1) defines the scope of TI of a Resident; Sub-section (2) defines the scope of TI of a NR.

PC Note: Each sub section is related with the other in the sense that only when one reads them all, one gets the complete idea related with scope of total income.

- A Section may also have **Provisos & Explanations**.

Proviso	It gives the exceptions to the provision contained in the respective section.
Explanation	It gives clarification relating to the provision contained in that section.

- The Act (since it is **Revenue-based Act**) undergo changes every year with additions & deletions brought by the **Annual Finance Act** passed by the parliament.

2 ANNUAL FINANCE ACT

- Every year, **Finance Minister Introduces the Finance Bill** in Parliament's Budget session.
 - **Part A** of budget speech contains the **proposed policies of government in fiscal area**.
 - **Part B** of budget speech contains the **detailed tax proposals**.
- When the **Finance Bill** is passed by both the **houses of the Parliament** & gets the **assent** of the **President**, it becomes the **Finance Act** which is incorporated in the Income-Tax Act.
- Amendments are made every year to the Act & other tax laws by the Finance Act.
- The **First Schedule** to the Finance Act contains **four parts** which **specify the rates of tax**.

3 INCOME TAX RULES, 1962

- Administration of direct taxes is looked after by Central Board of Direct Taxes (CBDT).
- CBDT is empowered to make rules for **proper administration** of the Act. [**Ex:** Sec 32 states that depreciation will be allowed as deduction but rates of depreciation are given by Rule 5].

4 NOTIFICATIONS

- Notifications are **subordinate legislation issued by CG** to give effect to the provisions of the Act.
- The CBDT is also empowered to **make & amend rules by issuing notifications**.
- They are **binding on everyone**. [Assessee + Income Tax department]

5 CIRCULARS

- Circulars are issued by the CBDT to deal with **certain specific problems & to clarify the doubts regarding the scope & meaning of the provisions of the law**.
- Circulars are issued for the guidance of the Income Tax officers &/or Assesseees.
- These circulars are **binding on the department but not on the assessee**. However assessee can take advantage of beneficial circulars.

6	CASE LAWS (JUDICIAL DECISIONS)
	<ul style="list-style-type: none"> ➤ It is not possible to make law for all the possible issues that may arise. Hence, any new point which arises (on which law is not made) will be heard by the courts & decision given by court becomes Law. ➤ Supreme Court Decisions becomes Judicial Precedent (Law) & are binding on all the courts, Appellate Tribunal, Income Tax Authorities & on Assesseees. ➤ High Court decisions are binding on the Assesseees & Income Tax Authorities which come under its jurisdiction unless it is overruled by a higher authority (Supreme Court). ➤ Decision of a High Court cannot bind other High Court.
7	RULES OF INTERPRETATION OF LAW (These rules are not static & keep on evolving)
	<p>PC Note: In some cases, more than one rule of interpretation may appear to be applicable to a given situation. In such cases, Courts decide the most appropriate rule considering the facts of the case.</p>

LEVY/CHARGE OF INCOME TAX [Section 4]	[To be discussed in detail later]
<p>☞ Income-tax is a tax levied on the Total Income (TI) of the Previous Year of every person.</p>	
<p>Steps/Procedure for computation of TI of the person for levy of Income tax is as follows:</p>	
Step 1 - Determination of Residential Status.	
Step 2 - Classification of Income under 5 different heads.	
Step 3 - Computation of Income under each head.	
Step 4 - Clubbing of income of spouse, minor child etc.	
Step 5 - Set-off or carry forward & set-off of losses.	
Step 6 - Computation of Gross Total Income [Net Result of Step 1 – 5].	
Step 7 - Deductions from Gross Total Income. [Payment based/Income Based deductions].	
Step 8 - Total income [GTI – Deductions under Step 7].	
Step 9 - Application of Rates of Tax on the total income.	
Step 10 - Surcharge / Rebate u/s 87A.	
Step 11 - Health & Education Cess on Income Tax.	
Step 12 - Advance tax & TDS.	
Step 13 - Tax Payable/Tax Refundable.	
<p>PC Note: We will study all the above steps in detail in the Respective Chapters.</p>	

SOME IMPORTANT DEFINITIONS

1. INDIA [Section 2(25A)]

[Not for Exams]

➤ The term 'India' means –

- Territory of India as per Article 1 of the Constitution,
- Territorial Waters of India (TWI), seabed & subsoil underlying such waters,
- Continental Shelf,
- Exclusive Economic Zone;
- Any other specified maritime zone & air space above its territory & TWI.

Specified maritime zone means the maritime zone as referred to in Territorial Waters, Continental Shelf, Exclusive Economic Zone & other Maritime Zones Act, 1976.

2. ASSESSEE [Section 2(7)]

➤ Any person by whom **any tax or any other sum of money is payable** under this Act.

➤ It includes:

Tax Payable	Every Person by whom any tax or any other sum of money is payable under this Act whether or not any proceeding under this act has started against him.
Proceeding started	Any Person i.r.o. whom any proceeding has been taken under this act whether or not any tax, penalty etc. is payable by him under this act. Proceeding may be taken for/of - <ul style="list-style-type: none"> ▪ Assessment of his income (or loss) sustained by him; ▪ Income (or loss) of any other person i.r.o. whom he is assessable; ▪ Refund due to him or to such other person.
Deemed Assessee	Sometimes, a person becomes assessable i.r.o. the income of some other persons. In such a case, he may be deemed as an assessee. Ex: Legal Heir.
Assessee in default	Any person who does not deduct tax at source or after deducting tax, fails to pay deducted tax to the government or who fails to pay advance tax is deemed to be assessee in default u/s [201(1)]/218.

Examples:

1. Income of Chirag (Age: 35 yrs) is Rs. 2,50,000. He does not file his ROI since his income is below BEL. No action/proceeding is initiated by IT Department. He is not assessee because no tax is due from him.
2. Income of Manish (Age: 38 years) is Rs. 2,55,000. He does not file his ROI. Since he is supposed to pay tax by filing ROI (since his income > BEL Rs. 2.5 Lacs), he is an 'assessee'. [ROI Provisions to be studied later]
3. Income of Raj (age: 51 years) is Rs. 75,000. He files his ROI (even if his taxable income is < BEL). Assessment order is passed by AO without any adjustment. Raj is an "assessee" since he files his ROI.
4. Loss of Ram is (Rs. 60,000). He files his ROI to carry forward such loss. He is an 'assessee'.
5. Income of Sudhir (Age: 28 years) is < BEL. He files his ROI to claim refund of TDS by X Ltd. on interest paid to him. Sudhir is an 'assessee'.
6. Income of Sham (Age: 30 Years) is < BEL. He does not file his ROI. During the PY, he has paid salary of Rs. 2,90,000 to an employee. Though he was supposed to deduct tax at source, yet due to ignorance of law, no tax is deducted by him. Sham is an assessee as he has failed to deduct tax at source. [Assessee in Default].

3. PERSON [Section 2(31)]

A. INDIVIDUAL

- Individual means **only a natural human being** (Male/Female/Minor/Unsound Mind).
- Income of **Minor & Person of unsound Mind** → Assessed in hands of **Guardian or Manager** u/s 161(1) who is entitled to receive his income.
- In the case of **Deceased person**, assessment would be made on the **legal representative**.

B HINDU UNDIVIDED FAMILY

- HUF is treated as separate entity (from members) for assessment purpose & tax is payable by HUF.
 - As per Hindu Law, it consists of all males lineally descended from a common ancestor & includes **their wives & unmarried daughters**.
 - The Status in HUF is received **by birth** & not by operation of law.
 - Even a single male member can have HUF (w.e.f 6/9/2005).
 - Only **Co-parceners** have the **right to Partition**.
 - **Coparceners** → HUF may contain many members, but only members within **4 degrees** including KARTA are called **co-parceners** (including daughters w.e.f 6/9/2005).
- PC Note: Wife/ daughter-in-law cannot be co-parceners; however, they can be members.**
- Jain & Sikh undivided families would also be assessed as a HUF under IT Act.

DIFFERENT OPINIONS OF SCHOOLS OF HINDU LAWS

Dayabaga school of Hindu law	Mitakshara school of Hindu law
<ul style="list-style-type: none"> ▪ Prevalent in West Bengal & Assam 	<ul style="list-style-type: none"> ▪ Prevalent in the Rest of India
<ul style="list-style-type: none"> ▪ Nobody acquires the right, share in the property by birth if karta is alive. ▪ Thus, the children do not acquire any right, share in the family property, if his father is alive & children will acquire right/share in the property only after the death of his father. ▪ Hence, father & his brothers would be the coparceners of the HUF. 	<ul style="list-style-type: none"> ▪ One acquires the right to the family property by his birth & not by succession irrespective of the fact that his elders are living. ▪ Thus, every child born in the family acquires a right/share in the family property. ▪ Thus Every child will be co-parcener of HUF

C COMPANY [SECTION 2(17)]

- ‘Company’ has a much wider meaning under Income Tax Act than Companies Act.
- It means:
 - Any **Indian Company** defined in section 2(26);
 - Any Body Corporate incorporated under the foreign laws [**Foreign company**];
 - Any institution, association or body (incorporated/not) whether Indian or non-Indian, which is **declared by general or special order of CBDT to be a company**.

PC Note: Classes of Companies is explained in Detail in Later Part of the Chapter.

D A FIRM [SECTION 2(23)]

- A firm includes a **partnership firm** (registered or not) & shall **include a LLP**.
- **“Partnership firm”** has same meanings as assigned to them in Indian Partnership Act.
- However, for IT purposes, a **minor** admitted to the benefits of existing partnership would also be **treated as partner**. This is specified u/s 2(23) of the Act.
- **Same Tax Treatment** would be applicable for both **General Partnerships & LLPs**.

E ASSOCIATION OF PERSONS (AOP)

- When two or more persons combine together for **promotion of joint enterprise**, they are assessable as an AOP **when they do not constitute a partnership legally**.
- **Conditions to form AOP:** Persons must join in a **common purpose, common action** & their object must be to **produce Income**, but they should not form a partnership.
- **Co-heirs, co-donees** joining together for common purpose would be chargeable as AOP.

F BODY OF INDIVIDUALS (BOI)

- Persons who merely **receive** the **income jointly** & who may be assessable in like manner & to the same extent as the beneficiaries individually. [**Ex:** Executors/trustees]
 - Co-Executors/Co-trustees are assessable as BOI since their title & interest are indivisible.
- Note:** Tax is **not** payable by the assessee on **share of Income** received by him from BOI on which the tax has already been paid by such BOI. [**To avoid Double Taxation**]

G LOCAL AUTHORITY

- Municipal committee, district board, Municipality, body of port commissioners etc. legally entitled/ entrusted by Government with control & management of Municipal/ local fund.
- PC Note:** Income of LA is taxable only if it is derived from the business of supply of commodity/service (other than water & electricity) outside its own jurisdictional area. Income arising from supply of water & electricity even outside its own jurisdictional areas → **Exempt**.

H EVERY OTHER ARTIFICIAL JURIDICAL PERSON (not falling within above categories)

- This is a **residuary clause**. If the assessee does not fall in any of the first six categories, he is assessed under this clause. **Ex:** An idol, or deity.

CQ1. What is the difference between AOP & BOI?
Answer:

1. AOP: Voluntary getting together for definite purpose; BOI: Just a body without an intention to get together.
2. Members of BOI can be individuals only; Members of AOP can be individual or non-individual (Artificial persons).

4 PERSON HAVING SUBSTANTIAL INTEREST IN THE COMPANY [Section 2(32)]

- Any person who is the **beneficial owner of shares** (not being shares entitled to fixed rate of dividend), whether participating in profit or not, **carrying at least 20% of total voting power**.

5 AVERAGE RATE OF TAX [SECTION 2(10)]

$$\text{Average Rate of Tax} = \frac{\text{Amount of Income Tax calculated on Total Income using applicable slab rate}}{\text{Total Income}}$$

PC Example:
6 MAXIMUM MARGINAL RATE OF TAX [SECTION 2(29C)]

- **Highest Slab Rate of Tax (including SC)** specified in Finance Act of relevant PY for **Individual**.
- **MMR for PY 2021-22** = 30 % (Rate of Tax) + 37% Surcharge + 4% HEC = **42.744%**.

CLASSES OF COMPANIES

1	DOMESTIC COMPANY [SECTION 2(22A)]	[VERY IMPORTANT]
	<ul style="list-style-type: none"> ➤ An Indian company or ➤ Any other company which has made prescribed arrangements for declaration & payment of dividends (including dividends on preference shares) within India payable out of the income taxable in India. 	
2	INDIAN COMPANY [SECTION 2(26)]	
	<ul style="list-style-type: none"> ❖ If the company satisfy the following conditions: <ul style="list-style-type: none"> ➤ Company should have been formed & registered under any law in India & ➤ Registered office or Principal office of the company should be in India. ❖ ‘Indian Company’ includes the following if “their registered/principal office is in India”: <ol style="list-style-type: none"> 1. A corporation established by or under a Central, State or Provincial Act. Ex: Financial Corporation/State Road Transport Corporation. 2. Institution/association/body → Declared by CBDT to be a company u/s 2(17)(iv). 3. For J&K → Company formed & registered under any law in force in J&K. 4. For Union territories of Dadra & Nagar Haveli, Goa, Daman & Diu, & Pondicherry → Company formed & registered under any law in force in that territory. 	
3	FOREIGN COMPANY [SEC 2(23A)]	A Company which is not a domestic company.
4	COMPANY IN WHICH PUBLIC ARE SUBSTANTIALLY INTERESTED [SEC 2(18)]	
	<ol style="list-style-type: none"> 1. Company owned by Indian Government (CG/SG) or by RBI. 2. Company in which ≥ 40% shares are held by Indian Government/RBI or corporation owned by RBI. 3. Company which is registered u/s 8 of the Companies Act, 2013. 4. Company having NO Share capital which is declared by CBDT to be a company in which public is substantially interested for specified No. of AYS. 5. Company which is not a private company & which fulfill any of the following conditions: <ol style="list-style-type: none"> (a) Equity shares should have been listed in RSE in India as on last day of the relevant PY or (b) Equity shares carrying at least 50% (40% in case of industrial companies) voting power should have been unconditionally allotted to or acquired by & should have been beneficially held throughout the relevant PY by - <ul style="list-style-type: none"> - Government or - Statutory Corporation or - Company in which public are substantially interested or - Any wholly owned subsidiary of company mentioned in (c). - One or more co-operative societies. (c) Company which carries on its principal business of accepting deposits from its members & which is declared by CG u/s 620A of the Companies Act to be Nidhi/Mutual Benefit Society. 	

INCOME & ITS CONSTITUENTS [SECTION 2(24)]

1. MEANING & DEFINITION OF INCOME

- Income is a **periodical monetary return** with some sort of **regularity**.
- Generally, the word 'Income' covers receipts in the shape of **money or money's worth**.
- However, **all receipts do not form the basis of taxation** under the Act.

Income includes: [Each of these will be covered in Respective Chapter in Detail]

1. Profits & gains.
2. Dividends.
3. **Voluntary Contributions (donations)** received by **charitable/religious trust** or by research associations or universities & educational institutions or hospitals & medical institutions or **electoral trust**.
4. Value of any perquisite or **profit in lieu of salary** taxable u/s 17(2) & 17(3).
5. **Any special allowance** or benefit other than the perquisite included above.
6. Any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living.
7. Value of any benefit or perquisite obtained from a company either by a director or by a person who has a substantial interest in the company or by a relative of director or such person & any sum paid by such company i.r.o any obligation which would have been payable by director or other person aforesaid.
8. Value of any benefit or perquisite, whether convertible into money or not, which is obtained by any representative assessee or by any beneficiary or any amount paid by the representative assessee for the benefit of the beneficiary which the beneficiary would have ordinarily been required to pay.
9. **Profits & gains of business or profession chargeable to tax u/s 28.**
10. **Deemed profits** chargeable to tax u/s 41 or u/s 59.
11. **Any capital gains chargeable u/s 45.**
12. Profits & gains of any insurance business carried on by Mutual Insurance Company or by a cooperative society, computed in accordance with Section 44 or any surplus taken to be such profits & gains by virtue of provisions contained in first Schedule to the Act.
13. Profits & gains of any business of banking carried on by a co-operative society with its members.
14. **Any winnings from lotteries, cross-word puzzles, races including horse races, card games & other games** of any sort or from gambling, or betting of any form or nature whatsoever. **[IFOS]**
15. **Any sum received by assessee from his employee as contributions to any PF/SAF/ESI.**
16. Any sum received under a **Keyman insurance policy** including bonus on such policy.
17. Any sum under an agreement for **not carrying out any activity** in relation to any business or profession; or **not sharing any know-how, patent, copyright, trademark, licence, franchise, or any other business or commercial right** of a similar nature, or information or technique likely to assist in manufacture or processing of goods or provision of services → **Taxable u/h 'PGBP' [Sec 28(va)]**
18. **FMV of inventory which is converted into or treated as a capital asset** [Section 28(iva)].
19. Any consideration received for issue of shares exceeding their FMV [Section 56(2)(viib)].
20. Advance received & forfeited on failure of negotiation for transfer of a capital asset [56(2)(ix)].
21. **Money or property received for inadequate/without consideration** by any person [56(2)(x)].
22. **Compensation** or other payment, due to or received by any person, in connection with **termination of his employment or modification of T & Cs** relating thereto [Section 56(2)(xi)].
23. Assistance in the form of **subsidy or grant or cash incentive or duty drawback** or waiver or concession or reimbursement by CG or SG or any authority or body in cash or kind.

Note: Subsidy or Grant which are not included in the definition of income u/s 2(24):

- (i) Subsidy or grant which has been considered for determination of actual cost of depreciable asset as per Explanation 10 to section 43(1)
- (ii) Subsidy or grant by CG for corpus of a trust or institution established by CG/SG.

2.	REGULARITY OF INCOME	
	<ul style="list-style-type: none"> ➤ Income means periodical monetary return coming from definite source with some regularity. ➤ However, this does not mean that income which does not arise regularly will not be treated as income for tax purposes. [Ex: Winnings from lotteries, card games, etc. which do not arise from definite source & do not have element of regularity are specifically included in Income under IT Act] ➤ Even a single transaction can constitute business. Repetition of such transactions is not necessary under Income Tax Act. 	
3.	CASH/KIND	
	<ul style="list-style-type: none"> ➤ Income received by the assessee need not be in the form of cash only. ➤ It may also be some other property or right which has monetary value. ➤ Wherever income is received in kind (like perquisites), then their value has to be found as per the prescribed rules & this value shall be taken to be the income. 	
4.	ILLEGAL/ TAINTED INCOME	
	<ul style="list-style-type: none"> ➤ Income is income, though tainted (with illegality). Thus, illegal Income is also taxed. 	
5.	DISPUTED INCOME	
	<ul style="list-style-type: none"> ➤ Dispute regarding the title of Income cannot stop assessment of income in the hands of recipient. ➤ Disputed income is taxable in the hands of recipient though there may be rival claims to it. 	
6.	CONTINGENT INCOME	
	<ul style="list-style-type: none"> ➤ Contingent income is not Income. Until the contingency has happened, it cannot be assumed that income has accrued or has arisen to the assessee. 	
7.	PERSONAL GIFTS	[To be studied in IFOS]
8.	PIN MONEY	
	<ul style="list-style-type: none"> ➤ Pin money received by a woman (Moneys given to a woman by her husband for running the expenses of the kitchen) would not be income in the eyes of the law. ➤ Any property acquired using such money/savings is a Capital Asset of the lady. 	
9.	LUMP SUM RECEIPT	
	<ul style="list-style-type: none"> ➤ Receipt in lumpsum or in instalments would not affect its taxability. <p style="margin-left: 20px;">Ex: If a person receives arrears of salary in a lumpsum amount, it would still be his income.</p>	
10.	RELEVANCE OF METHOD OF ACCOUNTING FOLLOWED BY THE ASSESSEE	
	Heads	Relevant Method of Accounting
	Salaries (15-17)	<ul style="list-style-type: none"> ▪ Taxable on due basis or on receipt basis whichever is earlier. ▪ Method of accounting followed by the assessee is irrelevant.
	HP (22-27)	Taxable on Accrual basis . Method of accounting of assessee is irrelevant .
	PGBP (28-44DB)	<ul style="list-style-type: none"> ▪ PGBP Income is taxable as per method of accounting followed by assessee. ▪ If assessee follows Accrual basis of accounting → Income taxed on accrual basis. ▪ If assessee follows Cash basis of accounting → Income taxed on Cash basis. <p style="margin-left: 20px;">PC Note: Certain payments are allowable only on Payment basis. [Refer PGBP]</p>
	Cap. Gain (45 – 55A)	<ul style="list-style-type: none"> ▪ Taxable in the PY in which the capital asset is transferred. ▪ Method of accounting followed by the assessee is irrelevant.
	IFOS	Same as PGBP.

11. CAPITAL & REVENUE RECEIPTS [VERY IMPORTANT]		
Particular	Capital Receipts	Revenue Receipts
Meaning	<ul style="list-style-type: none"> Receipt referable to fixed capital. Receipts towards substitution of source of income. Amount received as compensation for surrender of any right of ownership. 	<ul style="list-style-type: none"> Receipt referable to circulating capital. Any receipt toward substitution of Income. Any compensation received for the Loss of future profit.
Tax Treatment	<ul style="list-style-type: none"> Not Taxable unless expressly provided. Ex: Profit from Sale of Capital Asset is taxable u/h Capital Gains u/s 45. 	<ul style="list-style-type: none"> Taxable unless specifically exempted. Ex: Profits arising from sale of Trading Asset is taxable as Business Income.
<p>How to determine whether a receipt is a Revenue receipt or Capital receipt?</p> <ul style="list-style-type: none"> ➤ If Income-generating activity is within the normal dealing of the Assessee → Revenue receipt. ➤ If Income-generating activity is outside the normal dealing of the Assessee → Capital receipt. <p>Ex: Profit on sale of shares & securities held by a bank as investments would be of Capital Nature. But Profit on sale of shares & securities held by a stock broker as SIT would be of Revenue Nature.</p> <p>PC Note: Where profits arise from transactions which are outside the normal dealing of the assessee, although connected with his business, taxability would depend upon the fact whether transactions constitute trading activity for the Assessee.</p>		

Points to be noted:

- ✍ **Liquidated damages** received directly & intimately linked with the procurement of a capital asset, which lead to delay in coming into existence of the profit-making apparatus → **Capital receipt**. Amount received towards compensation for sterilization of profit earning source is not in ordinary course of business. [CIT v. Saurashtra Cement Ltd. (2010) 325 ITR 422 (SC)]
- ✍ **Compensation on Termination of Agency Business** → **Capital receipt** if such agency business being the **only source of income** by the assessee; However, it will be taxable u/s 28(ii)(c).
But if the assessee has several agencies & one of them is terminated & compensation is received, the receipt would be revenue receipt since taking agencies & exploiting the same for earning income is in the ordinary course of business & loss of one agency would be made good by taking another.
- ✍ **Compensation received from employer** or from any person for **premature termination** of service is a capital receipt but is taxable as profit in lieu of salary u/s 17(3) or IFOS u/s 56(2)(xi), respectively.
- ✍ **Compensation received** or receivable in connection with **termination/modification of T&C of any contract** relating to its business shall be taxable as business income.

12. APPLICATION OF INCOME VS DIVERSION OF INCOME [VERY IMPORTANT]	
Application of Income	Diversion of Income
<ul style="list-style-type: none"> If assessee applies his income to discharge his obligation after the income reaches in the hands of the assessee, it would be application of income & This would result in taxation of such income in the hands of the assessee. 	<ul style="list-style-type: none"> If there is an overriding charge on the source of income which diverts the income, it is diversion of Income. Income gets diverted before it reaches the assessee, It cannot be treated as an income of the assessee.
<p>Conditions:</p> <ol style="list-style-type: none"> Income accrues to the assessee Income reaches the assessee Income is applied to discharge obligation 	<p>Conditions:</p> <ol style="list-style-type: none"> An overriding charge/title on income & Income is diverted at source. Charge is on sources of income; not on Receiver.

CQ2. Based on “Application of Income Vs. Diversion of Income”**[CA FINAL MODULE]**

Mr. Bhargava, a leading advocate on corporate law, decided to reduce his practice & to accept briefs only for paying his taxes & making charities with the fees received on such briefs. In a particular case, he agreed to appear to defend one company in Supreme Court on the condition that he would be provided with Rs. 5 lacs for a public charitable trust that he would create. He defended the company & was paid Rs. 5 Lacs by the company. He created a trust of that sum by executing a trust deed. Decide whether the amount received by Mr. Bhargava is assessable in his hands as income from profession.

Answer: In the instant case, the trust was created by Mr. Bhargava himself out of his professional income. The client did not create the trust. The client did not impose any obligation in the nature of a trust binding on Mr. Bhargava. Thus, there is no diversion of the money to the trust before it became professional income in the hands of Mr. Bhargava. This case is one of application of professional income & not of diversion of income by overriding title. Therefore, amount received by Mr. Bhargava is chargeable to tax u/h ‘PGBP’.

CQ3. Based on “Application of Income Vs. Diversion of Income”**[CA FINAL MODULE]**

XYZ Ltd. took over the running business of a sole-proprietor by sale deed. As per the sale deed, XYZ Ltd. undertook to pay overriding charges of Rs. 15,000 p.a. to the wife of the sole-proprietor in addition to the sale consideration. The sale deed also specifically mentioned that the amount was charged on the net profits of XYZ Ltd., who had accepted that obligation as a condition of purchase of the going concern. Is payment of overriding charges by XYZ Ltd. to wife of sole-proprietor ‘diversion of income’ or ‘application of income’? Discuss.

Answer: Allahabad High Court observed that the overriding charge which had been created in favour of the wife of the sole-proprietor was an integral part of the sale deed by which the going concern was transferred to the assessee. The obligation, therefore, was attached to the very source of income i.e. the going concern transferred to the assessee by the sale deed. The sale deed also specifically mentioned that the amount in question was charged on the net profits of the assessee-company & the assessee-company had accepted that obligation as a condition of purchase of the going concern. Hence, it is clearly a case of diversion of income by an overriding charge & not a mere application of income. **[Jit & Pal X-Rays (P.) Ltd. v. CIT (2004) 267 ITR 370 (All)]**

CQ4. Based on “Application of Income Vs. Diversion of Income”**[CA FINAL MODULE]**

MKG Agency is a partnership firm consisting of father & 3 major sons. Partnership deed provided that after the death of father, business shall be continued by the sons, subject to the condition that the firm shall pay 20% of the profits to the mother. Father died in March, 2019. In PY 2019-20, reconstituted firm paid Rs. 1 Lac (20%) to the mother & claimed the amount as deduction from its income. Examine the correctness of claim of the firm.

Answer: Amount of Rs. 1 Lacs, being 20% of profits of the firm, paid to the mother gets diverted at source by the charge created in her favour as per the terms of the partnership deed. Such income does not reach the assessee-firm. Rather, such income stands diverted to the other person as such other person has a better title on such income than the title of the assessee. Firm might have received the said amount but it so received for & on behalf of the mother, who possesses the overriding title. Therefore, the amount paid to the mother should be excluded from the income of the firm. **[CIT vs. Nariman B. Bharucha & Sons (1981) 130 ITR 863 (Bom)]**

CQ5. Based on ‘Existence of HUF having Single Male Member’**[CA FINAL MODULE]**

Anand was the Karta of HUF. He died leaving behind his major son Prem, his widow, his grandmother & brother’s wife. Can the HUF retain its status as such or the surviving persons would become co-owners?

Answer: SC has made it clear that there need not be more than 1 male member to form a HUF. Under Hindu Law, a joint family may consist of a single male member & widows of deceased male members. Therefore, property of a joint HUF does not cease to belong to family merely because family is represented by a single co-parcener who possesses the right which an owner of property may possess. Therefore, HUF would retain its status as before.

CQ6. An employee instructs his employer to pay a certain portion of his salary to a charity & claims it as exempt as it is diverted by overriding charge / title. Comment.

Answer: In the instant case, it is an application of income & in the nature of foregoing of salary. According to the Supreme Court judgment in CIT v. L.W. Russel (1964) 52 ITR 91, the salary which has been foregone after its accrual in the hands of the employee is taxable. Hence, the amount paid by the employer to a charity as per the employee’s directions is taxable in the hands of the employee.

CONCEPT OF FINANCIAL YEAR, PREVIOUS YEAR & ASSESSMENT YEAR

FY	<ul style="list-style-type: none"> Financial year means a year starting on 1st April & ending on 31st March of next year.
PY	<ul style="list-style-type: none"> FY in which the income is earned is called "Previous Year". PY means the Financial Year immediately preceding the AY.
AY	<ul style="list-style-type: none"> The year in which income is assessed to tax is called Assessment Year. AY 2022-23 will commence on 1.4.2022 & will end on 31.3.2023. Thus, Income earned during PY 2021-22 will be assessed/taxed in AY 2022-23.

PC Note: PY → FY in which Income is earned; AY → FY (Next) in which income is taxed.

Ex: A is running a business from 2003 onwards. Determine PY for AY 2022-23. [Ans: PY = 1.4.2021 - 31.3.2022]

FIRST PREVIOUS YEAR FOR NEWLY SET-UP BUSINESS/PROFESSION DURING FY

- First PY = The period beginning from the date of setting up of the business or from the date the new source came into existence & ending on the last day of that FY (31st March).
- Therefore, first PY of a newly set-up business/ profession or a new source of income will be either 12 months or less than 12 months. **It can never exceed a period of 12 months.**

PC Note: Same provision will be applicable for 'New Source of Income'.

CQ7. Mr. PC set up a new business on 24.02.2021, what will be first PY for that business?

Ans: From 24.02.2021 – 31.3.2021; PY 2020-21; AY 2021-22.

CQ8. What will be the 2nd PY for his business?

Ans: [PY 2021-22; AY 2022-23]

DUAL ROLE OF A FINANCIAL YEAR

- Each financial year is both Previous Year as well as Assessment Year.
- It is PY for income earned during that FY & AY for the income earned during the preceding FY.

Example:

FY	Previous Year [PY]	Assessment Year [AY]
2020-21	FY 2020-21 → PY for income received or accrued during 1 April 2020 to 31 March 2021.	FY 2020-21 → AY for incomes earned in PY 2019-20.
2021-22	FY 2021-22 → PY for income received or accrued during 1 April 2021 to 31 March 2022.	FY 2021-22 → AY for incomes earned in PY 2020-21.

UNIFORM PREVIOUS YEAR

- All Assesseees are required to follow FY as their PY uniformly for every year. [1st April - 31st March]
- An Assessee may maintain books of account on calendar year basis but for Income Tax purpose, his previous year will be financial year & not the calendar year.

Ex: Mr. PC can maintain books of accounts on calendar year basis, but tax will be levied on the basis of FY only.

Calendar Year (CY)	Income as per books of A/c	Splitting of Income as per FY		Taxable Income
		Jan - March	April - Dec	
2019	12 Lacs	3 Lacs	9 Lacs	PY 2019-20 = 9L + 6L = 15L.
2020	24 Lacs	6 Lacs	18 Lacs	PY 2020-21 = 18L + 9L = 27 L.
2021	36 Lacs	9 Lacs	27 Lacs	PY 2021-22 = 27L + ___ = __ L

CASES WHERE INCOME OF PREVIOUS YEAR IS ASSESSED IN SAME YEAR

- **General Rule:** Income earned during any PY is assessed to tax in immediately succeeding AY.
- However, in following circumstances, income is taxed in PY in which it is earned. Thus AY & PY in these exceptional circumstances will be same. These exceptions have been made to protect the interests of revenue.

FOLLOWING ARE THE EXCEPTIONS:

1	SHIPPING BUSINESS OF NON-RESIDENTS [Section 172]
	<ul style="list-style-type: none"> ➤ If a ship belonging to or chartered by NR carries passengers/livestock/mail/goods shipped at a port in India, ➤ Such Ship is allowed to leave the port only when tax has been paid or satisfactory arrangement has been made for payment thereof. ➤ Income = 7.5% of the freight paid/payable to the owner or his agent whether in India or o/s India for such carriage. ➤ Such income is charged to tax in the same year in which it is earned.
2	PERSONS LEAVING INDIA [Section 174]
	<ul style="list-style-type: none"> ➤ Where it appears to AO that any individual may leave India during the current AY or shortly after its expiry & ➤ He has no present intention of returning to India, ➤ Then Total Income of such individual for the period from the expiry of the respective PY up to the probable date of his departure from India is chargeable to tax in that AY. <p>Ex: Suppose Mr. X is leaving India for USA on 10.6.2021 & it appears to AO that he has no intention to return. Before leaving India, Mr. X will be required to pay tax on the income earned during PY 2020-21 as well as the total income earned during the period 1.4.2021 to 10.06.2021.</p>
3	AOP/BOI/AJP FORMED FOR A PARTICULAR EVENT OR PURPOSE [Section 174A]
	<ul style="list-style-type: none"> ➤ If AOP/BOI etc. is formed or established for a particular event or purpose & ➤ AO apprehends that AOP/BOI is likely to be dissolved in the same year or in next year, ➤ he can make assessment of the income upto date of dissolution as income of relevant AY.
4	PERSONS LIKELY TO TRANSFER PROPERTY TO AVOID TAX [Section 175]
	<ul style="list-style-type: none"> ➤ During the current AY, if it appears to AO that a person is likely to charge, sell, transfer, dispose any of his assets ➤ to avoid payment of any liability under this Act, ➤ Total income of such person for the period from the expiry of PY to the date when AO commences proceedings is chargeable to tax in that assessment year.
5	DISCONTINUED BUSINESS [Section 176]
	<ul style="list-style-type: none"> ➤ If any business or profession is discontinued in any AY, ➤ Income of the period from the expiry of the PY up to the date of such discontinuance may, ➤ at the discretion of AO ➤ may be charged to tax in that assessment year.
<p>PC Note: Section 176 is a Discretionary power. AO has the discretion of applying it. AO may choose not to apply it & wait till the end of the Assessment Year.</p>	

PREVIOUS YEAR FOR UNDISCLOSED SOURCES OF INCOME

1. CASH CREDITS [Section 68]

- Where any sum is found credited in the books of the assessee & assessee offers **no explanation** about the **nature & source** or **explanation offered is not satisfactory**,
- Such Sum so credited may be charged as income of the assessee of that FY.

2. UNEXPLAINED INVESTMENTS [Section 69]

- If assessee has made **investments** which are **not recorded in books of account** & Assessee offers **no explanation** about **nature & source of investment** or explanation offered is **not satisfactory**,
- Value of investments are taxed as income of assessee of such FY in which investment is made.

3. UNEXPLAINED MONEY ETC. [Section 69A]

- Where in any FY, assessee is found to be **owner of any money, bullion, jewellery** etc. &
- Such asset is **not recorded** in books of account & the assessee offers **no explanation** about nature & source or explanation offered is not satisfactory,
- Money & Value of bullion etc. will be deemed to be income of the assessee for such FY.
- **Ownership is important & mere possession is not enough.**
- Thus, if the assessee is in possession of the above-mentioned things but he is not the owner, then such other person who is the owner will be questioned about the source & will be assessed to tax.

4. AMOUNT OF INVESTMENTS NOT FULLY DISCLOSED IN BOOKS [Section 69B]

- Where in any FY, assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article &
- AO finds that **amount spent** on making such investments **exceeds the amount recorded in his books** & assessee **offers no explanation** for the **difference** or explanation offered is **unsatisfactory**,
- Such excess may be deemed to be the income of the assessee for such FY.

Ex: If Assessee is found to be the owner of 100 gms of gold (market value = Rs. 3,00,000) during the FY ending on 31.3.2022 but he has recorded to have spent Rs. 1,50,000 in acquiring it, AO can add Rs. 1,50,000 as the income of the assessee, if the assessee offers no satisfactory explanation thereof.

5. UNEXPLAINED EXPENDITURE [Section 69C]

- Where in any FY, Assessee has incurred any expenditure & he offers no explanation about the source of such expenditure or the explanation offered is unsatisfactory,
- AO may treat such unexplained expenditure as the income of the assessee for such FY.
- **Such unexplained expenditure which is deemed to be income of the assessee shall not be allowed as deduction under any head of income.**

CQ9. AO found, during the course of assessment of a firm, that it had paid rent i.r.o its business premises of Rs. 60,000, which was not debited in the books of A/c for PY 2021-22. Firm did not explain the source for payment of rent. AO proposes to make an addition of Rs. 60,000 in the hands of the firm for AY 2022-23. Firm claims that even if the addition is made, the sum of Rs. 60,000 should be allowed as deduction while computing its business income since it has been expended for purposes of its business. Examine the claim of the firm.
[Based on 'Unexplained Expenditure u/s 69C' - CA Final Module]

Answer: Action of AO in making addition of Rs. 60,000, being payment of rent not debited in the books of A/c (for which the firm failed to explain the source of payment) is correct in law since it is an unexplained expenditure u/s 69C. Proviso to section 69C states that such unexplained expenditure, which is deemed to be the income of the assessee, shall not be allowed as a deduction under any head of income. Claim of the firm for deduction of Rs. 60,000 in computing its business income is not tenable.

6. AMOUNT BORROWED OR REPAID ON HUNDI [Section 69D]

- Where any amount is borrowed on hundi or is repaid (other than through A/c Payee Cheque),
- Amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying for the PY in which the amount was borrowed or repaid.
- Amount repaid shall include interest paid on the amount borrowed.
- But if any amount borrowed on hundi has been taxed as income of the person, he will not be again liable to be assessed i.r.o. such amount on repayment of such amount.

Ex: Mr. PC has borrowed Rs. 5 Lacs on Hundi from Mr. AC in cash. Since the amount is borrowed by the mode other than A/c payee cheque, Rs. 5 Lacs will be deemed to be the income of Mr. PC in the year of borrowing. Now when PC will repay the amount to Mr. AC (even if repaid in cash), it cannot be taxed again to PC on repayment.

CQ10. Mr. C borrowed on Hundi, a sum of Rs. 25,000 by way of bearer cheque on 11.09.2021 & repaid the same with interest amounting to Rs. 30,000 by A/c payee cheque on 12.10.2021. AO wants to treat the amount borrowed as income during the previous year. Is the action of AO valid?

Based on "Amount borrowed on Hundi u/s 69D"

[CA Final Module]

Answer:

- Section 69D provides that where any amount is borrowed on a hundi or any amount due thereon is repaid otherwise than by way of A/c Payee cheque, amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount for PY in which the amount was so borrowed or repaid.
- Mr. C has borrowed Rs. 25,000 on Hundi by way of bearer cheque. Therefore, it shall be deemed to be income of Mr. C for PY 2021-22.
- Since repayment of the same along with interest was made by A/c payee cheque, it would not be taxed.
- If the amount is deemed as an Income at the time of borrowing, it will not be taxed again on repayment.
- Therefore, action of AO treating the amount borrowed as income during PY is valid in law.

RATE OF TAX U/S 68 & 69 [Section 115BBE]

☞ Such Deemed Incomes are taxed **@ 60% + surcharge @ 25% of tax.**

☞ Thus, Effective rate of tax (including SC @ 25% of tax & cess @ 4% of Tax & SC) is **78%**. [Section 115BBE].

☞ Neither BEL nor any allowance nor set off of any loss shall be allowable against such income.

CHARGE OF INCOME TAX & RATE OF TAX [SECTION 4]

☞ Tax rates are fixed by the Annual Finance Act & not by the Income Tax Act.

☞ For the purpose of A, B, C, D, E, F below, Total income means total income from all sources after All Permissible Deduction **Except Incomes Taxable at Specified Rates.**

A.	INDIVIDUAL/HUF/AOP/BOI/AJP [R/NR] [Specific rates are given for AOP & BOI u/s 167B]	
		Total Income
		Rate of Tax
		Upto Rs. 2,50,000 [Basic Exemption Limit]
		From Rs. 2,50,001 to Rs. 5,00,000
		From Rs. 5,00,001 to Rs. 10,00,000
		Above Rs. 10,00,000
		Nil
		5%
		20%
		30%
B	Resident Senior Citizen [60 years or more but < 80 years at any time during PY]	
		Total Income
		Rate of Tax
		Upto Rs. 3,00,000
		From Rs. 3,00,001 to Rs. 5,00,000
		From Rs. 5,00,001 to Rs. 10,00,000
		Above Rs. 10,00,000
		Nil
		5%
		20%
		30%
C.	For Resident Super Senior Citizen [80 years or above at any time during PY]	
		Total Income
		Rate of Tax
		Upto Rs. 5,00,000
		From Rs. 5,00,001 to Rs. 10,00,000
		Above Rs. 10,00,000
		Nil
		20%
		30%

Clarification regarding attaining age of 60 years/80 years on 31st March if birthday falls on 1st April

- ❖ Question is whether a person born on 1st April of a particular year can be said to have completed a particular age on 31st March on preceding day of his/her birthday or on 1st April itself of that year.
- ❖ CBDT has clarified that a person born on 1st April would be considered to have attained a particular age on 31st March, the day before his birthday.
- ❖ Thus, resident individual whose 60th birthday falls on 1st April 2022 would be treated as having attained 60 years on 31st March 2022 (i.e. in PY 2021-22) & would be eligible for higher BEL of Rs. 3 Lacs &
- ❖ Resident individual whose 80th birthday falls on 1st April 2022, would be treated as having attained the age of 80 years in PY 2021-22 & would be eligible for higher BEL of Rs. 5 lacs for AY 2022-23.

NEW SECTION 115BAC

- ✍ **Individuals & HUFs** have an option to pay tax i.r.o. their total income at following concessional rates
- ✍ other than income taxable at special rates under Chapter XII (Special Income)
- ✍ if they do not avail certain exemptions/deductions like LTC, standard deduction u/h 'Salaries', interest on housing loan on SOP, Chapter VI-A deductions (other than 80CCD(2) or 80JJAA) etc.

Income	≤ 2.5 L	> 2.5 L ≤ 5 L	> 5 L ≤ 7.5 L	> 7.5 L ≤ 10 L	> 10 L ≤ 12.5 L	> 12.5 L ≤ 15 L	> 15 L
Rate	Nil	5%	10%	15%	20%	25%	30%

PC Note: Individuals & HUFs exercising option u/s 115BAC are not liable to AMT u/s 115JC.

PC Note: Higher BEL of Rs. 3 Lacs & 5 Lacs will not be available if person opts for 115BAC.

SECTION 115BAC WILL BE STUDIED IN DETAIL IN "TOTAL COMPUTATION" CHAPTER.

Conceptual Question. Mr. X has a total income of Rs. 12 Lacs for PY 2021-22, comprising of income from house property & interest on fixed deposits. Compute his tax liability for AY 2022-23 if his age is

CQ11. 45 years; **CQ12.** 63 years; **CQ13.** 82 years.

[Assume that Mr. X has not opted for the provisions of section 115BAC]

[ICAI SM Q1]

Answer to CQ11: Age = 45 years

First Rs. 2,50,000	Nil
Next Rs. 2,50,000 @ 5%	Rs. 12,500
Next Rs. 5,00,000 @ 20%	Rs. 1,00,000
Balance Rs. 2 Lacs @ 30%	Rs. 60,000
Total	Rs. 1,72,500
Add: 4% HEC	Rs. 6,900
Total Tax (rounded off)	Rs. 1,79,400

PC Note: Tax on Rs. 10 Lacs = Rs. 1,12,500 in case of Normal Individual (Remember this). Only Tax on Income above Rs. 10 Lacs shall be calculated & such amount shall be added by Rs. 1,12,500 to arrive at final tax amount.

Answer to CQ12: Age = 63 years. Mr. X is a senior citizen, he will get BEL of Rs. 3 Lacs & remaining slabs will be same.

First Rs. 3,00,000	Nil
Next Rs. 2,00,000 @ 5%	Rs. 10,000
Next Rs. 5,00,000 @ 20%	Rs. 1,00,000
Balance Rs. 2,00,000 @ 30%	Rs. 60,000
Total	Rs. 1,70,000
Add: 4% HEC	Rs. 6,800
Tax rounded off	Rs. 1,76,800

Answer to CQ13: Age = 82 Years. Since Mr. X is a super-senior citizen, he will get BEL of Rs. 5 lacs.

First Rs. 500,000	Nil
Next Rs. 5,00,000 @ 20%	Rs. 1,00,000
Balance Rs. 2,00,000 @ 30%	Rs. 60,000
Total	Rs. 1,60,000
Add: 4% HEC	Rs. 6,400
Tax rounded off	Rs. 1,66,400

CQ14. Total income of Mr. Joe (70 yrs) NR in India for PY 2021-22 is Rs. 12 lacs. Compute his tax liability.

Solution: Mr. Joe is not eligible for higher BEL since he is a NR. However, he is eligible for BEL of Rs. 2,50,000.

Tax on Rs. 10 Lacs	Rs. 1,12,500
Balance Rs. 2 Lacs @ 30%	Rs. 60,000
Total	Rs. 1,72,500
Add: 4% HEC	Rs. 6,900
Total Tax (rounded off)	Rs. 1,79,400

D.	Firms/ LLP/ Local Authority	Whole Income is taxable @ Flat 30% without any BEL.	
E.	CO-OPERATIVE SOCIETIES		
	Total Income		Rate of Tax
	Upto Rs. 10,000		10%
	From Rs. 10,001 to Rs. 20,000		20%
	Above Rs. 20,000		30%
	New Section 115BAD		
	☞ Resident Co-operative society can opt for concessional rate of tax @ 25.168% [22% + 10% SC + 4% HEC] u/s 115BAD i.r.o. its total income ☞ computed without giving effect to - <ul style="list-style-type: none"> - some specific deduction u/s 10AA, 32AD, 35AD, 35CCC, - Additional depreciation u/s 32(1)(ia), - Chapter VI-A deductions (other than section 80JJAA) etc. & - set off of loss & depreciation brought forward from earlier years relating to above deductions. 		
	PC Note: AMT Provisions u/s 115JC → NA to co-operative society opting for sec. 115BAD.		
F.	COMPANY		
	Nature of Company		Tax Rate
Domestic	1	Manufacturing company exercising option u/s 115BAB	15%
	2	Company exercising option u/s 115BAA	22%
	3	If Turnover/Gross Receipt in PY 2019-20 ≤ Rs. 400 Cr.	25%
	4	Any other case	30%
	✎ Provisions of MAT → NA to domestic companies specified in (1) & (2) above. ✎ MAT is payable by companies specified in (3) & (4) above;		
Foreign	Foreign Company (Other than Domestic Company)		40%
	Royalties & FTS received from GoI or Indian concern in pursuance of an agreement, approved by CG made by company with GoI/Indian concern b/w 1.4.1961 - 31.3.1976 (Royalties) & b/w 1.3.1964 - 31.3.1976		50%
	PC Note:		

NEW SECTION 115BAA & 115BAB
[Relevant for CA Final Only]

- ☞ Domestic company can opt for section 115BAA or section 115BAB subject to certain conditions.
- ☞ Total income of such companies would be computed without giving effect to –
 - deductions u/s 10AA, 32AD, 33AB, 33ABA, 35AD, 35CCC, 35CCD,
 - 80-IA to 80RRB (except section 80JJAA/80M),
 - additional depreciation u/s 32(1)(ia) etc. &
 - without set-off of brought forward loss & unabsorbed depreciation attributable to such deductions.

PC Note:
For CA Inter Students: Section 115BAA & 115BAB are to be studied in detail in CA Final.

For CS Executive & CMA Inter Students: Section 115BAA & 115BAB will be covered in ‘Corporate Taxation’.

REBATE U/S 87A	
Eligible Assessee	Resident Individuals whose Total Income ≤ Rs. 5,00,000.
Amount of Rebate	Lower of (i) Income Tax payable on Total Income OR (ii) Rs. 12,500.
Points to be noted: ✗ Rebate u/s 87A is not available i.r.o tax payable on LTCG u/s 112A. ✗ Rebate u/s 87A shall be taken before adding 4% HEC.	
PC Note:	

CQ15. Total income of Mr. Raghav (26 years) is Rs. 4,40,000. Compute the tax liability for AY 2022-23. [ICAI SM Q6]

Solution: Since Mr. Raghav is a resident having Total Income < Rs. 5,00,000, rebate u/s 87A is available.

First Rs. 2,50,000	Nil
Next Rs. 1,90,000 @ 5%	Rs. 9,500
Less: Rebate u/s 87A = Lower of (i) Tax payable i.e Rs. 9,500; OR (ii) Rs. 12,500	(Rs. 9,500)
Tax payable after rebate u/s 87A	Nil

CQ16. Total income of Mr. Anup (22 years) resident in India is Rs. 5,00,000. Compute tax liability for AY 2022-23.

Solution: Since Mr. Anup is a resident having Total Income = Rs. 5,00,000, rebate u/s 87A is available.

First Rs. 2,50,000	Nil
Next Rs. 2,50,000 @ 5%	Rs. 12,500
Total	Rs. 12,500
Rebate u/s 87A = Lower of (i) Tax payable or (ii) Rs. 12,500	(Rs. 12,500)
Tax payable after rebate u/s 87A	Nil

CQ17. Total income of Mr. Rahul (22 years) resident in India is Rs. 5,00,100. Compute tax liability for AY 2022-23.

Solution: Since Mr. Rahul is a resident having Total Income > Rs. 5,00,000, rebate u/s 87A is NOT available.

First Rs. 2,50,000	Nil
Next Rs. 2,50,000 @ 5%	Rs. 12,500
Next Rs. 100 @ 20%	Rs. 20
Total	Rs. 12,520
Rebate u/s 87A = Lower of (i) Tax payable or (ii) Rs. 12,500	NA
Add: 4% HEC	Rs. 500.80
Tax payable (rounded off)	Rs. 13,020

HEALTH & EDUCATION CESS [Applicable on TI of ALL Assesseees]

- Health & Education cess @ 4% is levied on **Total Income tax + SC - Rebate u/s 87A.**

ROUNDING OFF OF INCOME & TAX PAYABLE [SECTION 288A/B]

- Total income/Tax shall be rounded off to the **nearest multiple of 10 Rupees.**

RATES OF SURCHARGE for AY 2022-23 (SC is levied as % of Income Tax)

A. Individual/HUF/AOP/BOI/AJP [PC Method]				
1	If there is no "Share Market Income" [i.e STCG u/s 111A, LTCG u/s 112A & Dividend]			
	(a)	TI ≤ Rs. 50 Lacs	No Surcharge	
	(b)	TI > Rs. 50 Lacs but ≤ Rs. 1 Cr.	Rate of Surcharge = 10% of Income Tax	
	(c)	TI > Rs. 1 Cr. but ≤ Rs. 2 Cr.	Rate of Surcharge = 15% of Income Tax	
	(d)	TI > Rs. 2 Cr. but ≤ Rs. 5 Cr.	Rate of Surcharge = 25% of Income Tax	
	(e)	TI > 5 Cr.	Rate of Surcharge = 37% of Income Tax	
	2	If there is "Share Market Income" [i.e STCG u/s 111A, LTCG u/s 112A & Dividend]		
		PC Note: Surcharge Rate of 25% & 37% are not applicable on 'Share Market Income'		
		(a)	TI ≤ Rs. 50 Lacs	No Surcharge
		(b)	TI > Rs. 50 Lacs but ≤ Rs. 1 Cr.	Rate of Surcharge = 10% of Income Tax
		(c)	TI > Rs. 1 Cr. but ≤ Rs. 2 Cr.	Rate of Surcharge = 15% of Income Tax
(d)		TI > 2 Cr.		
(i) Share Market Income		Rate of Surcharge = 15% of Income Tax		
(ii) Other Incomes —				
— ≤ Rs. 2 Cr.		Rate of Surcharge = 15% of Income Tax		
— > 2 Cr. but ≤ Rs. 5 Cr.		Rate of Surcharge = 25% of Income Tax		
— > 5 Cr.		Rate of Surcharge = 37% of Income Tax		
Refer the FORMAT for Surcharge given by ICAI only once. Use PC Method to Solve Questions.				
B	Firms/LLP/Co-operative society/LA	Rate of Surcharge = 12% of IT if TI > 1 Cr.		
C Domestic Companies				
☞ TI > Rs. 1 Cr but ≤ Rs. 10 Cr		Rate of SC = 7 % of Income Tax.		
☞ TI > Rs. 10 Cr		Rate of SC = 12 % of Income Tax.		
DOMESTIC COMPANY WHICH OPTED FOR OPTION U/S 115BAA OR U/S 115BAB ↓				
<ul style="list-style-type: none"> ▪ Rate of SC = 10% of Income Tax computed u/s 115BAA or u/s 115BAB. ▪ There is no threshold limit for applicability of surcharge. ▪ Consequently, there is no marginal relief. 				
D Foreign Companies [Note: Foreign companies are not eligible for 115BAA/BAB]				
☞ TI > Rs. 1 Cr but ≤ Rs. 10 Cr		Rate of SC = 2 % of Income Tax.		
☞ TI > Rs. 10 Cr		Rate of SC = 7 % of Income Tax.		

FORMAT GIVEN BY ICAI FOR SURCHARGE [USE PC METHOD TO SOLVE THE QUESTIONS]		
	Particulars	SC @
1	TI (including dividend & STCG u/s 111A & LTCG u/s 112A) > Rs. 50 Lacs but ≤ Rs. 1 crore.	10%
	Example: Dividend - Rs. 10 lacs; STCG u/s 111A - Rs. 20 lacs; LTCG u/s 112A - Rs. 25 lacs; Other income - Rs. 40 lacs. Rate of Surcharge = 10% on income-tax computed on total income of Rs. 95 lacs.	
2	TI (including dividend & STCG u/s 111A & LTCG u/s 112A) > Rs. 1 Cr. but ≤ Rs. 2 Cr.	15%
	Example: Dividend - Rs. 10 lacs; STCG u/s 111A - Rs. 60 lacs; LTCG u/s 112A - Rs. 65 lacs; Other income - Rs. 50 lacs. Rate of Surcharge = 15% on income-tax computed on total income of Rs. 1.85 Crores.	
3	TI (excluding dividend & STCG u/s 111A & LTCG u/s 112A) > Rs. 2 Cr but ≤ Rs. 5 Cr.	25%
	Rate of Surcharge on income-tax payable on portion of dividend & STCG u/s 111A & 112A	15%
	Example: Dividend - Rs. 60 lacs; STCG u/s 111A - Rs. 54 lacs; LTCG u/s 112A - Rs. 55 lacs; Other income - Rs. 3 Cr [PC Note: Other income being > 2 Cr] Rate of Surcharge = 25% on income-tax computed on other income of Rs. 3 crores. Surcharge @ 15% would be levied on Dividend - Rs. 60 lacs; STCG u/s 111A - Rs. 54 lacs; LTCG u/s 112A - Rs. 55 lacs;	
4	TI (excluding dividend & STCG u/s 111A & LTCG u/s 112A) > Rs. 5 Cr.	37%
	Rate of Surcharge on income-tax payable on portion of dividend & STCG u/s 111A & 112A	15%
	Example: Dividend - Rs. 60 lacs; STCG u/s 111A - Rs. 50 lacs; LTCG u/s 112A - Rs. 65 lacs; Other income - Rs. 6 Cr [PC Note: Other income being > 5 Cr] Rate of Surcharge = 37% on income-tax computed on other income of Rs. 6 crores. Surcharge @ 15% would be levied on Dividend - Rs. 60 lacs; STCG u/s 111A - Rs. 50 lacs; LTCG u/s 112A - Rs. 65 lacs;	
5	TI (including dividend & STCG u/s 111A & LTCG u/s 112A) > Rs. 2 Cr [in cases not covered under (3) & (4) above] [PC Note: Other income being ≤ 2 Cr] Example: Dividend - Rs. 55 lacs; STCG u/s 111A - Rs. 60 lacs; LTCG u/s 112A - Rs. 55 lacs; Other income - Rs. 1.10 Cr. Surcharge would be levied @ 15% on income-tax computed on TI of Rs. 2.80 crore.	15%

PC Note:

- ✍ **APPROACH GIVEN BY ICAI FOR SURCHARGE IS VERY DIFFICULT TO UNDERSTAND.**
- ✍ **STUDENTS ARE ADVISED TO USE THE CONCEPT USED BY CA PRANAV CHANDAK SIR IN CLASS TO SOLVE THE QUESTIONS.**
- ✍ **ANSWER WILL BE SAME USING BOTH THE CONCEPTS AS PROVED IN THE CLASS.**

MARGINAL RELIEF [SECTION 89]

☞ If surcharge is applicable on Total Income, Marginal relief is available to **ALL Assesseees**.

☞ **Steps to calculate Marginal Relief:**

1. Calculate Tax (including surcharge) on Total Income of the Assessee.
2. Calculate Tax payable on Rs. 50 Lacs/1 Cr/2 Cr/5 Cr (as the case may be).
3. Calculate '**Extra Tax Payable**' because of Income above Rs. 50 Lacs/1 Cr/2 Cr/5 Cr. [Step 1 - 2]
4. Marginal Relief = Extra Tax Payable – Income above Rs. 50 Lacs/1 Cr/2 Cr/5 Cr.

☞ **PC Note: If Extra Tax > Extra Income, Marginal Relief = Extra Tax - Extra Income.**

CQ18. Compute Marginal relief available to Y Ltd., a domestic company, assuming that TI of Y Ltd. for AY 2022-23 is Rs. 10,01,00,000 & TI does not include any capital gains. Assume that company has not exercised option u/s 115BAA/115BAB. (Gross Receipts of Y Ltd. for PY 2019-20 is Rs. 410 Cr) **[CA FINAL SM Q5]**

Solution: Tax payable on TI of Rs. 10,01,00,000 of Y Ltd. Computed @ 33.6% (including SC @ 12%) = Rs. 3,36,33,600. However, tax cannot exceed Rs. 3,22,00,000 [i.e., tax of Rs. 3,21,00,000 (32.1% of Rs. 10 crore) payable on TI of Rs. 10 Cr + Rs. 1,00,000, being the amount of total income exceeding Rs. 10 Cr]. Therefore, tax payable = Rs. 3,22,00,000. Marginal relief = Rs. 14,33,600 (i.e., Rs. 3,36,33,600 - Rs. 3,22,00,000).

CQ19. Compute Marginal relief available to X Ltd. (Domestic co.) having TI of Rs. 101 Lacs for AY 2022-23 assuming that TI does not include any capital gains & company has not exercised option u/s 115BAA/115BAB. [GR for PY 2019-20 is 402 Cr]. **[Marginal relief = Rs. 1,42,100]**

CQ20. Compute the tax liability of Mr. A (Age 25), having total income of Rs. 51 Lacs for AY 2022-23. **[ICAI SM Q2]**

Solution: **Computation of tax liability of Mr. A for AY 2022-23**

1. Tax payable including surcharge on Total Income of Rs. 51,00,000	Rs 14,76,750.
2. Tax Payable on total income of Rs. 50 Lacs	Rs. 13,12,500.
3. Excess tax payable = [(1) - (2)] = Rs. 14,76,750 – Rs. 13,12,500	Rs. 1,64,250.
4. Marginal Relief = [(Rs. 1,64,250- Rs. 1,00,000) Income in excess of Rs. 50,00,000]	Rs. 64,250.
5. Tax Payable = Rs. 14,76,750 – Rs. 64,250 (Marginal Relief) = Rs. 14,12,500 + 4% HEC	Rs. 14,69,000

CQ21. Compute tax liability of Mr. B (Age 42), having total income of Rs. 1,01,00,000 for AY 2022-23. **[ICAI SM Q3]**

Solution: **Computation of tax liability of Mr. B for AY 2022-23**

1. Tax payable including surcharge on total income of Rs. 1,01,00,000 @ 15%	Rs. 32,68,875.
2. Tax Payable on total income of Rs. 1 crore [SC @ 10%]	Rs. 30,93,750.
3. Excess tax payable = [(1) - (2)] = Rs. 32,68,875 - Rs. 30,93,750	Rs. 1,75,125.
4. Marginal Relief = [(Rs. 1,75,125 - Rs. 1,00,000) Income in excess of Rs. 50,00,000]	Rs. 75,125.
5. Tax Payable = Rs. 32,68,875 – Rs. 75,125 (Marginal Relief) = Rs. 31,93,750 + 4% HEC	Rs. 33,21,500

CQ22. Total income of Mr. John aged 35 years (NR) in India is Rs. 4,50,000. Compute tax liability for AY 2022-23.

Solution: Since Mr. John is a Non- Resident, rebate u/s 87A is **Not** available.

First Rs. 2,50,000	Nil
Next Rs. 2,00,000 @ 5%	Rs. 10,000
Total	Rs. 10,000
Add: 4% HEC	Rs. 400
Tax rounded off	Rs. 10,400

THEORY QUESTIONS:

CQ23. State the instances where the income of the PY is assessable in the PY itself instead of the AY. [ICAI SM Ex. Q3]

CQ24. Describe 'Average rate of tax' & 'Maximum marginal rate' u/s 2(10) & 2(29C). [ICAI SM Ex. Q1]

CQ25. Write a short note on "Surcharge".

CQ26. Write a short note on "Marginal Relief"

CQ27. Explain the provisions relating to Rebate u/s 87A.

CQ28. Explain "Assessee", "Deemed Assessee", "Assessee in Default" with suitable examples. [ICAI SM Ex. Q2]

CQ29. List out the capital receipts which are taxable under the Income Tax Act, 1961.

CQ30. Compute the tax liability & Marginal Relief for Resident Assessee in following situations for PY 2021-22:

Name	Mr. Pranav	Mr. Akshay	Mr. Bharat
Age of Assessee	25 years	62 years	81 years
Total Income	Rs. 1.01 Cr	Rs. 1.01 Cr	Rs. 1.01 Cr

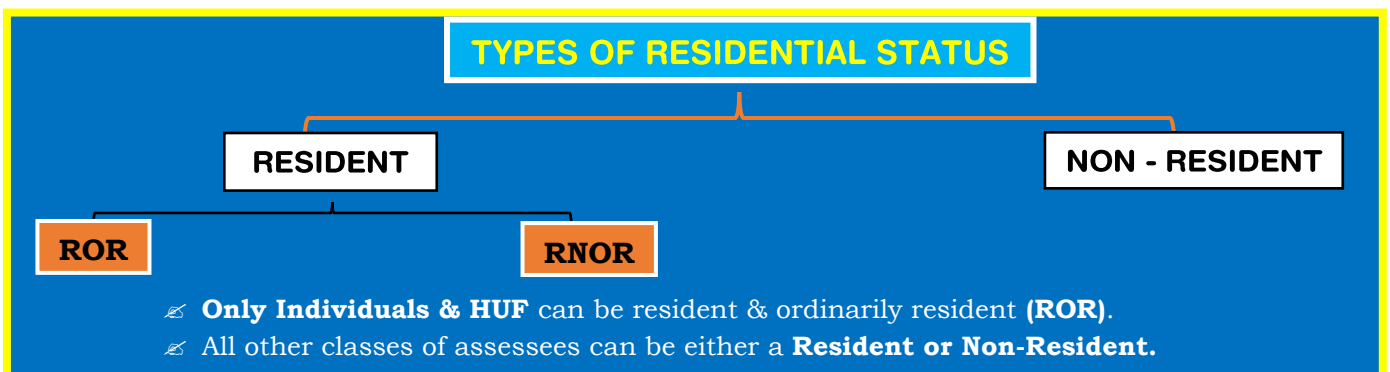
Note: Any of the assessee does not have any income in the nature of Capital gains u/s 111A & 112A.

Solution:

SN	Particulars	Mr. Pranav	Mr. Akshay	Mr. Bharat
1(a)	Tax on Total Income	1,12,500 + (91 L x 30%) = Rs. 28,42,500	1,10,000 + (91 L x 30%) = Rs. 28,40,000	1,00,000 + (91 L x 30%) = Rs. 28,30,000
1(b)	SC @ 15% on 1(a)	Rs. 4,26,375	Rs. 4,26,000	Rs. 4,24,500
1	Total Tax = 1(a) + 1(b)	Rs. 32,68,875	Rs. 32,66,000	Rs. 32,54,500
2(a)	Tax if Income = Rs. 1 Cr	1,12,500 + (90 L x 30%) = Rs. 28,12,500	1,10,000 + (90 L x 30%) = Rs. 28,10,000	1,00,000 + (90 L x 30%) = Rs. 28,00,000
2(b)	SC @ 10% on 2(a)	Rs. 2,81,250	Rs. 2,81,000	Rs. 2,80,000
2	Total Tax = 2(a) + 2(b)	Rs. 30,93,750	Rs. 30,91,000	Rs. 30,80,000
3	Excess Tax payable	Rs. 1,75,125	Rs. 1,75,000	Rs. 1,74,500
4	Excess Income (i.e > 1 Cr)	Rs. 1,00,000	Rs. 1,00,000	Rs. 1,00,000
5	Marginal Relief (3 - 4)	Rs. 75,125	Rs. 75,000	Rs. 74,500
6	Tax Payable (1 - 5)	Rs. 31,93,750	Rs. 31,91,000	Rs. 31,80,000
7	HEC at 4 % on (6)	Rs. 1,27,750	Rs. 1,27,640	Rs. 1,27,200
8	Tax Liability	Rs. 33,21,500	Rs. 33,18,640	Rs. 33,07,200

CHAPTER 2A. RESIDENTIAL STATUS

- ❖ Incidence (burden) of Tax of any Assessee depends upon his residential status under the Act.
- ❖ Taxability of Income would depend on -
 - ☞ Nature of Income
 - ☞ Place of Accrual/Receipt of Income
 - ☞ Residential Status of Assessee
- ❖ Residential status of the assessee must be **determined separately** for **each Previous Year**.
- ❖ Residential Status of a person in current PY **MAY** be **different** from his residential status in earlier PY.
- ❖ **To determine whether a particular Income is taxable in the hands of Assessee or not, we have to determine the residential status of the assessee.**



DETERMINATION OF RESIDENTIAL STATUS OF “INDIVIDUAL” [Section 6]

BASIC CONDITIONS: Individual is a Resident in India if he satisfies **ANY ONE** of the Basic Conditions:

1. He has been in India for a **total period of 182 days or more** during PY **OR**
2. (a) He has been in India for **at least 60 days in the relevant PY** **AND**
 (b) He has been in India for **at least 365 days** during **Last 4 PYs**.

PC Note:

- ☞ Individual satisfy **ANY 1** Condition → **Resident** ✓ [Check Additional Conditions].
- ☞ If **Both** conditions are **NOT** satisfied → **Non-Resident** ✓.

CQ1. Mr. B, a Canadian citizen, comes to India for the first time during PY 2017-18. During PY 2017-18, PY 2018-19, PY 2019-20, PY 2020-21 & PY 2021-22, he was in India for 55 days, 60 days, 90 days, 150 days & 70 days respectively. Determine his residential status for AY 2022-23. **[ICAI SM Q3]**

Solution:

- During the relevant PY 2021-22, Mr. B was in India for 70 days.
- During the Last 4 PYs, he was in India for 355 days (i.e. 55 + 60 + 90 + 150 days).
- Thus, he does not ANY of the basic conditions. Thus, he is a **NR**.

EXCEPTIONS: Following Individuals will be Resident only if Period of Stay in India during PY \geq 182 days. [2nd Condition \rightarrow NA in the following cases]

1. **Indian Citizen** who **leaves India** during PY as a **Member of Crew** of Indian ship.
2. **Indian Citizen** who **leaves India** during PY for employment outside India;
3. **Indian Citizen** or **Person of Indian Origin** who comes on **visit to India** in PY.

PC Note: Such Person must be engaged in employment or business o/s India].

Amendment Inserted by Finance Act, 2020

However, **Indian Citizen** or **Person of Indian Origin** having total (taxable) income **$>$ Rs. 15 lacs** during PY (other than income from foreign sources) will be treated as resident in India if –

- Period of his stay in India during relevant PY \geq 182 days **OR**
- he has been in India (i) during Last 4 PYs for \geq 365 days **AND** (ii) for \geq 120 days in the PY.

MEANING OF ‘INCOME FROM FOREIGN SOURCES’ \rightarrow

Income which accrues/arises outside India & which is not deemed to accrue or arise in India

Except (i) Income from a business controlled from India or (ii) Profession set up in India.

DEEMED RESIDENT [SECTION 6(1A)]

[Amendment Inserted by Finance Act, 2020]

- ❖ An Individual (being an Indian citizen) &
- ❖ having total (taxable) income, other than the income from foreign sources **$>$ Rs. 15 lacs during PY &**
- ❖ he is **not liable to pay tax** in any other country or territory by reason of his domicile or residence or any other criteria of similar nature, **then he shall be deemed to be resident in India in that PY.**

PC Note: Deemed Resident u/s 6(1A) would always be “Not Ordinarily Resident” [Clause (d) of Sec. 6(6)]

PC Note: Provision of “Deemed Resident u/s 6(1A) \rightarrow NA to individual who is a resident of India in PY.

RESIDENT & ORDINARILY RESIDENT (ROR) or RESIDENT BUT NOT ORDINARILY RESIDENT (RNOR) [ADDITIONAL CONDITIONS]

▪ ROR is one who satisfies both ff the conditions specified u/s 6(6) (Additional Conditions)

- | | | |
|----------|--|------------|
| 1 | If such individual has been Resident in India in atleast 2 PYs out of Last 10 PYs | AND |
| 2 | If such individual has been in India for 730 days or more during Last 7 PYs. | |

PC Note:

- An **Indian citizen or Person of Indian Origin** who comes on a **visit to India** during PY &
- having **total (taxable) income $>$ Rs. 15 lacs** during PY (other than income from foreign sources) &
- stay in India during PY is **\geq 120 days but $<$ 182 days will always be RNOR.**

Meaning of “liable to tax” in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for time being in force. It also includes a person who has subsequently been exempted from such liability under the law of that country.

MEANING OF PERSON OF INDIAN ORIGIN

☞ If the person himself or his parents/grandparents (maternal/paternal) were born in **UNDIVIDED INDIA**.

Points to Remember:

- Continuous Stay in India → Not Necessary.
- Date of Arrival & Departure → Considered to be in India for counting days stayed in India.
- Individual can be resident in more than 1 country, but he can be citizen in ONLY ONE Country.

CQ2. Brett Lee, an Australian cricket player visits India for 100 days in every PY. This has been his practice for the past 10 PYs. **[ICAI SM Q2]**

- (a) Find out his residential status for AY 2022-23.
- (b) Would your answer change if the above facts relate to Srinath, an Indian citizen who resides in Australia & represents the Australian cricket team?
- (c) What if Srinath had visited India for 120 days instead of 100 days every year, including PY 2021-22?

Answer:

(a) Determination of Residential Status of Mr. Brett Lee for AY 2022-23:

- Period of stay during PY 2021-22 = 100 days.
 - Calculation of period of stay during 4 preceding previous years (100 x 4=400 days)
 - Mr. Brett Lee has been in India for more than 60 days during PY 2021-22 & for more than 365 days during last 4 PYs.
 - Since he satisfies one of the basic conditions u/s 6(1), he is a resident for AY 2022-23.
 - Stay in India during Last 7 PYs = 100 x 7=700 days. Since his period of stay in India during last 7 PYs is < 730 days, he is a not-ordinarily resident during AY 2022-23. **(See Note below)**
 - Therefore, Mr. Brett Lee is a resident but not ordinarily resident during PY 2021-22.
- (b)** If above facts relate to Mr. Srinath, an Indian citizen, who residing in Australia, comes on a visit to India, he would be treated as non-resident in India, irrespective of his total income (excluding income from foreign sources), since his stay in India in the current financial year is, in any case, less than 120 days.
- (c)** If Srinath's total income (excluding income from foreign sources) exceeds Rs. 15 lacs, he would be treated as resident but not ordinarily resident in India for PY 2021-22, since his stay in India is 120 days in PY 2021-22 & 480 days (i.e., 120 days x 4 years) in Last 4 PYs.

If his total income (excluding income from foreign sources) does not exceed Rs. 15 lacs, he would be treated as non-resident in India for PY 2021-22, since his stay in India is less than 182 days in PY 2021-22.

CQ3. Mr. Roy is a foreign national. During PY 2021-22, he comes to India for 91 days. Determine his residential status for AY 2022-23 if during PY 2009-10 to PY 2020-21, he was present in India as follows:

2009-10	16 days	2012-13	179 days	2015-16	359 days	2018-19	67 days
2010-11	40 days	2013-14	362 days	2016-17	180 days	2019-20	12 days
2011-12	72 days	2014-15	22 days	2017-18	307 days	2020-21	134 days

Solution:

- During PY 2021-22, Mr. R is in India for 91 days. Thus, he does not satisfy 1st basic condition.
- During Last 4 PYs, he was in India for 520 days (134 + 12 + 67 + 307 days). Thus, he satisfies 2nd basic condition.
- **Thus, he is Resident.**

Additional conditions:

PY	Stay in India	Comments
2020-21	134 (566 days in last 4 PYs)	Satisfy 2 nd Basic Condition; Thus Resident (for 1st time)
2019-20	12 (866 days in last 4 PYs)	Do not satisfy any Basic Condition; Thus, Non-resident
2018-19	67 (868 days in last 4 PYs)	Satisfy 2 nd Basic Condition; Thus Resident (for 2nd time)
2017-18	307	Not necessary to determine further as resident for 2 years
2016-17	180	
2015-16	359	
2014-15	22	

- **Total stay in 7 preceding PY in India is 1081 days. Thus, Roy satisfies both the additional conditions.**
- Thus, Mr. Roy is ROR in India for AY 2022-23.

CQ4. Mr. Dey, a Non-Resident, residing in Pakistan since 2003 came to India on 19.02.2020 for permanent settlement in India. Explain his Residential Status for AY 2022-23. **[CA Inter May 2015/ Similar to ICAI SM Ex. Q2]**

Solution:

- Since Assessee has come back to India in India on 19.2.2020 & has not gone back from India, his stay during PY 2020-21 will be 365 days.
- Thus, he satisfies first basic condition for PY 2021-22. **Hence, Atif Aslam is a Resident in India.**

Additional Conditions:

(a) Total Stay in India in Last 7 PYs	<ul style="list-style-type: none"> ▪ PY 2020-21: 366 days; ▪ PY 2019-20: Feb (11 days) + March (31 days) = 42 days; ▪ PY 2018-19; PY 2017-18; PY 2016-17; PY 2015-16; PY 2014-15 = Nil ▪ Total Stay in India in Last 7 PYs = 42+366 + Nil = 408 days. ▪ So, 1st Condition is Not satisfied. Thus, he is a RNOR.
(b) Resident Status in Last 10 PYs	No Need to check because to be ROR, all conditions are to be satisfied.

CQ5. Mr. Raj, a citizen of India, is an export manager of XYZ Ltd, an Indian Company, since 1.5.2017. He has been regularly going to USA for export promotion. He spent following days in USA for last 5 yrs:

Previous Year	PY 2021-22	PY 2020-21	PY 2019-20	PY 2018-19	PY 2017-18
Days spent in USA	294	311	271	150	317

Determine his residential status for AY 2022-23 assuming that prior to 1.5.2017 he had never travelled abroad.

Solution:

- This case does not fall in the exceptions to 2nd Basic condition since he has not gone for employment outside India but has gone out of India during the employment in India. **Thus, Both Basic Conditions are applicable.**

Basic Conditions:

(a) Stay during PY 2021-22: 71 Days (365 - 294) & thus 1st basic condition is not satisfied.

(b) (i) Stay in India during PY 2021-22 = 71 days &

(ii) Stay in 4 preceding PYs [48 + 215 + 94 + 55] = 412 days.

PY	PY 2021-22	PY 2020-21	PY 2019-20	PY 2018-19	PY 2017-18
Days in USA	294	311	271	150	317
Days in India	71	55	94	215	48

Thus, Mr. Raj satisfies 2nd basic condition. Thus, he is a resident in India.

Additional conditions:

(a) Stay in India in Last 7 PYs = 55 + 94 + 215 + 48 + 365 + 365 + 365 = **1507**. He satisfies 1st additional condition.

PY	2020-21	2019-20	2018-19	2017-18	2016-17	2015-16	2014-14
Days	55	94	215	48	366	365	365

(b)

PY	Stay in India	Residential Status
2020-21	55 Days	Non-Resident
2019-20	94 Days	Resident (1 st time)
2019-19	215 Days	Resident (2 nd time)
2017-18	48 Days	No need to check
Prior to 2016-17		No need to check

He satisfies 2nd additional condition of being resident in at least 2 out of 10 PY prior to the relevant PY. Since Mr. Raj satisfy both additional conditions, **he is a ROR.**

Rule 126: Clarification regarding FOREIGN BOUND SHIPS where destination of the voyage is outside India [Explanation 2 to Section 6(1)]

❖ **Period of Stay in India** of an Individual (Indian Citizen) leaving India as a Member of Crew of Foreign Bound ship **shall not include** the following period i.r.o. an eligible voyage:

Period Commencing from	Ending on
Date entered into CDC for joining the ship	Date entered into the CDC for signing off .

❖ **Eligible voyage:** A voyage by a ship engaged in carriage of passengers/freight in international traffic:
 (a) For voyage having originated from any port in India → Destination should be any port o/s India.
 (b) For voyage having originated from any port o/s India → Destination should be any port in India.

CQ6. Mr. Anand is an Indian citizen & member of crew of a Singapore bound Indian ship engaged in carriage of passengers in international traffic departing from Chennai port on 6th June 2021. Determine residential status of Mr. Anand for AY 2022-23, assuming that his stay in India in last 4 PYs is 400 days & last 7 PYs is 750 days: **[ICAI SM Q1]**

Date entered into Continuous discharge certificate i.r.o joining the ship by Mr. Anand	6th June 2021
Date entered into Continuous discharge certificate i.r.o signing off the ship by Mr. Anand	9th Dec 2021

Solution:

- Mr. Anand is an Indian citizen & leaving India during PY 2021-22 as a member of the crew of Indian ship, he would be resident in India if he stayed in India for 182 days or more.
- Voyage is undertaken by Indian ship engaged in carriage of passenger in international traffic originating from port in India (Chennai) & having its destination at port o/s India (Singapore). Hence it is an eligible voyage.
- Period from 6th June 2021 & ending on 9th Dec 2021, has to be excluded for computing the period of his stay in India.
- Accordingly, 187 days [25+31+31+30+31+30+9] have to be excluded from period of his stay in India.
- Thus, Mr. Anand's period of stay in India during PY 2021-22 would be 178 days [i.e., 365 days – 187 days].
- Since his period of stay in India during PY 2021-22 is less than 182 days, **he is a NR for AY 2022-23.**

CQ7. Mr. B, an Indian citizen, leaves India on 22.9.2021 for the first time, to work as an officer of a company in France. Determine his residential status for the AY 2022-23. **[ICAI Ex. Q1]**

Solution:

- During PY 2020-21, Mr. B was in India for 175 days (30+31+30+31+31+22). He does not satisfy 1st basic condition.
- Since he is an Indian citizen leaving India for employment, 2nd Basic condition is not applicable to him.
- Therefore, **Mr. B is a NR.**

CQ8. Mr. Shakib was born in Dhaka in 1945. He has been staying in Canada since 1974. He comes to visit India on 13.10.2021 & returns on 29.3.2022. Determine his residential status for AY 2022-23.

Solution:

- His stay in India during PY 2021-22 is 168 days. He does not satisfy 1st Basic condition.
- Since Shakib was born in Dhaka in 1945 (undivided India), he is a person of Indian origin & thus 2nd basic condition is not applicable to him.
- Thus Mr. Shakib is a Non-Resident in India for AY 2022-23.

CQ9. Mr. Nirmal is a citizen of Nepal. His grandfather was born near Multan (Now in Pakistan) in 1945. He came to India for the first time since 1986 on 2.10.2021 for a visit of 294 days. Find his residential status for AY 2022-23.

Solution:

- Mr. Nirmal's stay in India during PY 2021-22 is 181 days. Thus, he does not satisfy 1st Basic Condition.
- Since his grandfather was born in undivided India, he is a person of Indian origin & thus 2nd basic condition is not applicable to him.
- Therefore, Mr. D is a Non-Resident in AY 2022-23.

PC Note: The fact that he has come for 294 days is irrelevant. No. of days in PY is to be considered.

CQ10. Mr. PC comes to India, for the first time on 14.4.2019. During his stay in India upto 3.10.2021, he stays at Mumbai upto 08.04.2020 & then stays in Delhi till his departure from India. Determine his residential status for AY 2022-23.

Solution:

- During PY 2021-22, Mr. PC was in India for 186 days (1.4.2021 to 3.10.2021). [1st Basic condition → Satisfied].
- Thus Mr. PC is a Resident in India.
- To determine whether he is ROR/RNOR, we need to check additional conditions.
 1. Mr. PC is resident in India for PYs 2019-20 & PY 2020-21 since his stay in India \geq 182 days.
 2. Mr. PC is in India from 14.4.2019 to 31.3.2021 (i.e. 717 days).
- Mr. PC satisfies one of the basic conditions & only one of the two additional conditions.
- Thus Mr. PC is a RNOR in India.

CQ11. Mr. Raju, an Indian citizen left India for first time on 24.9.2020 for employment in USA. During PY 2021-22, he comes to India on 5.6.2021 for 165 days. Determine his residential status for PY 2020-21 & PY 2021-22.

Solution:

PY 2020-21	<ul style="list-style-type: none"> ▪ He is a citizen of India & has left India during PY 2020-21 for employment outside India. ▪ Thus, 2nd basic condition is not applicable. ▪ PY 2020-21, his stay in India = 177 days [30 (M) + 31 (A) + 30 (M) + 31 (J) + 31 (J) + 24(A)]. ▪ Thus, he does not satisfy 1st basic condition. ▪ Thus, he is NR in India during PY 2020-21.
PY 2021-22	<ul style="list-style-type: none"> ▪ His stay in India is for 165 days. ▪ Since he is a citizen of India & comes on a visit to India, 2nd basic condition is not applicable. ▪ During PY 2021-22, his stay in India is of 165 days. ▪ He does not satisfy 1st basic condition & therefore, he is NR in India during PY 2021-22.

CQ12. Mr. PC, UK citizen has come to India for the first time on 1.7.2018 as an executive of a MNC. His employer has allowed him to visit UK every year & for this purpose he will be leaving India every year on 1st Nov & shall come back on 31st Dec. Besides that, he has visited China on several occasions for official work. Details are:

Date of leaving India	10.09.2018	07.02.2019	11.07.2019	10.02.2020	11.02.2021	01.02.2022
Date of arriving in India	30.09.2018	08.05.2019	21.10.2019	23.07.2020	12.06.2021	10.04.2022

Determine his residential status for PY 2018-19 to PY 2021-22.

[CA Exams - May 1998]

Solution:

PY 2018-19	No. of days in India during PY 2018-19 = 144. Thus, he is Non-Resident for PY 2018-19. [July - 31, Aug - 31, Sep - 11, Oct - 31, Nov - 1, Dec - 1, Jan - 31, Feb - 7]
PY 2019-20	No. of days in India during PY 2019-20 = 119. Thus, he is Non-Resident for PY 2019-20. [May - 24, June - 30, July - 11, Oct - 11, Nov - 1, Dec - 1; Jan - 31, Feb - 10]
PY 2020-21	No. of days in India during PY 2020-21 = 145. Thus, he is Non-Resident for PY 2020-21. [July - 9, Aug - 31, Sep - 30, Oct - 31, Nov - 1, Dec - 1, Jan - 31, Feb - 11].
PY 2022-23	(i) No. of days in India during PY 2021-22 = 176 Days. [June - 19, July - 31, Aug - 31, Sep - 30, Oct - 31, Nov - 1, Dec - 1, Jan - 31, Feb - 1] (ii) Stay in India in Last 4 PYs = 365 days or more so he is resident. Additional Conditions: His stay during Last 7 PYs < 730 days. Thus, he is a RNOR.

CQ13. Mr. Akshay was born in 1977 in India. His parents were born in India in 1950. However, his grandparents were born in England. Mr. X was residing in India till 16.3.2018. Thereafter, he migrated to England & took the citizenship of that country on 15.3.2019. He visits India during PY 2021-22 for 90 days. Determine residential status of Mr. Akshay for AY 2022-23.

Solution:

- Mr. Akshay is neither a citizen of India nor a person of Indian origin, because neither he nor his parents nor his grandparents were born in undivided India. Thus 2nd basic condition is applicable.
- (a) 1st Basic Condition: Stay in India during PY 2021-22: 90 days. Thus, he does not satisfy 1st basic condition.
- (b) 2nd Basic Condition: (i) Stay in India during PY 2021-22: 90 days;
(ii) Stay in India during Last 4 PY: 350 days
[PY 2020-21: Nil; PY 2019-20: Nil; PY 2018-19: Nil; PY 2017-18: 350 days].
- Since he does not satisfy Any Basic Condition, he is a Non- Resident in India.

B. DETERMINATION OF RESIDENTIAL STATUS OF 'HUF'

❖ Residential Status of HUF depends on the place where C&M of HUF is situated.

If Control & Management of HUF is situated wholly/partly in India	HUF is Resident
If Control & Management of HUF is situated wholly outside India	HUF is Non-Resident

❖ **DETERMINATION OF ROR/RNOR**

➤ Status of **KARTA** will determine whether **HUF** is **ROR/RNOR**.

- If KARTA satisfy **both of the first 2 Additional Conditions** → **HUF is ROR**
- If KARTA does not first both/any of the first 2 Additional Conditions → **HUF is RNOR**.

PC Note: No Need to check Basic Conditions for KARTA.

C DETERMINATION OF RESIDENTIAL STATUS OF FIRMS/ AOP/LA/AJP

If Control & Management is situated wholly/partly in India	Resident
If Control & Management is situated wholly outside India	Non-Resident

D DETERMINATION OF RESIDENTIAL STATUS OF "COMPANY"

❖ A Company shall be Resident in India if:

1. It is an **Indian company**;
2. **POEM is in India** in that PY (Other than Indian Company).

PC Note: Indian Company is Always **RESIDENT** even if its **POEM** is in India/not. Thus, criterion of **POEM** is relevant for Foreign Company only.

Meaning of POEM: A Place where key management & commercial decisions necessary for the conduct of the business of entity as a whole are substantially made.

Meaning of Control & Management (C&M)

[Only for Knowledge]

- C&M is situated at a place where "head & brain" is situated. C&M refers to **Central C&M** & not day-to-day business activities. Business may be done from outside India & yet its C&M may be within India.
- **Place of Control** → May differ from **usual place** of running **business & registered office**. This is because C&M need not be necessarily done from the place of business/from registered office.

CQ14. Business of a HUF is transacted from Australia & all the policy decisions are taken there. Mr. A, the karta of the HUF (born in Kolkata) visited India during PY 2021-22 after 15 years. He comes to India on 1.4.2021 & leaves for Australia on 1.12.2021. Determine the residential status of HUF for AY 2022-23. **[ICAI SM Q4]**

Solution: **Determination of Residential Status of "HUF"**

Since the business of the HUF is transacted from Australia & nothing is mentioned regarding its control & management, it is assumed that C & M is also wholly outside India. Therefore, HUF is a NR for PY 2021-22.

CQ15. ABC Ltd is registered in India. All the meetings of BODs of ABC Ltd were held in China during PY 2021-22. Determine the residential status of ABC Ltd. for AY 2022-23.

Answer: As ABC Ltd. is an Indian Company, it is always resident in India even if its **POEM** is outside India. It is irrelevant that all the board meetings are held in China.

CHAPTER 2B. SCOPE OF TOTAL INCOME

- Taxability of total income of an assessee depends upon the following factors:
- Residential Status** of the assessee.
 - Place of Accrual/Receipt** of Income.
 - Point of time** at which income had accrued/received by the assessee or his agent.

To understand the scope of Total Income, we must first understand some terms:

INDIAN INCOME	1. Income Received or deemed to be received in India OR 2. Income Accrued or deemed to be accrued in India .
FOREIGN INCOME	Income which is NEITHER Received in India NOR Accrued in India.

SCOPE OF TOTAL INCOME				
1	INDIVIDUAL/HUF			
	Nature of Income	Tax Treatment		
		ROR	RNOR	NR
	Indian Income	Taxable	Taxable	Taxable
	Foreign Income	Taxable	Only 2 types of Foreign Incomes are taxable ** Others foreign incomes are not taxable in India.	Not Taxable
<p>Following Foreign Incomes are taxable in the hands of RNOR **</p> <ol style="list-style-type: none"> Business Income which is controlled wholly/partly from India. Income from Profession set up in India. <p>Above 2 Incomes must be included in TI of RNOR even if they accrues/arises outside India.</p> <p>PC Note: No other foreign Income (Salary, Rent, Interest etc.) is taxable to RNOR in India.</p>				
2	Other than INDIVIDUAL/HUF			
	Nature of Income	Tax Treatment		
		Resident	Non-Resident	
	Indian Income	Taxable	Taxable	
Foreign Income	Taxable	Not Taxable		

PC Note

- ❖ **Indian Income** → Taxable to **EVERYONE (R/NR)**.
- ❖ **ROR** → **Every Income (Indian/Foreign) is Taxable**.

Circular: Clarification regarding liability to Tax in India of **NR Seafarer receiving Remuneration in NRE (Non-Resident External) A/c** maintained with Indian Bank

Income by way of salary, received by non-resident seafarers, for services rendered **outside India** on a foreign going ship (with Indian flag or foreign flag) & received into NRE bank A/c maintained with an Indian bank shall **not be included** in the total income.

RECEIPT OF INCOME & ACCRUAL OF INCOME

A. RECEIPT OF INCOME

Income received in India	<ul style="list-style-type: none"> ➤ Receipt → First occasion(time) when the recipient gets money under his control. ➤ Any Further Remittance/Transmission of the received amount to another place/person does not result in “Receipt” in the hands of subsequent recipient.
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Space for Class Ex:

Income deemed to be received in India	<ul style="list-style-type: none"> (i) Employer’s Contribution to RPF in excess of 12% of salary. (ii) Interest credited to RPF of the Employee in excess of 9.5% p.a. (iii) Amount transferred from URPF to RPF (Employer’s contribution & its interest). (iv) Contribution made by CG/other employer in the PY under Pension scheme [80CCD] to the account of employee. (v) Any Tax deducted at source.
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CQ16. Discuss the taxability of the following items of receipt in the case of RNOR:

- (i) Rs. 1,00,000 was earned from a business in the USA but the profit has been remitted to India. The assessee used to attend to the business only when he was in the USA.
- (ii) Remuneration of Rs. 20,000 due to him for services rendered in Russia was credited to his bank account in Russia & immediately thereafter remitted to India.

Solution:

- (i) Remittance of profit to India does not mean that business is controlled in India.
For RNOR, income accruing outside India is taxable only when it is from a business controlled from India or from a profession set up in India. Thus, income of Rs. 1,00,000 is not taxable in India.
- (ii) Salary accrues where services are rendered. In the present case services were rendered in Russia & income received there, it is income accruing outside India & received outside India. Hence it is not taxable in India.

B. ACCRUAL OF INCOME

- **Accrue** means the **right to receive income**.
- **Due** means the **right to enforce payment** of the accrued income.

Examples:

1. Salary for work done in December will accrue throughout the month, day to day, but will become due on the salary bill being passed on 31st Dec or 1st Jan.
2. Interest on Government securities payable on specified dates arise during the period of holding but will become due for payment on specified dates.

Explanation to Section 5

1	Income accruing/arising outside India shall not be deemed to be received in India merely because it is taken into account in Balance Sheet prepared in India.
2	Income taxed on Accrual basis cannot be assessed again on Receipt basis, as it will amount to double taxation.

PC Class Note:

INCOMES DEEMED TO ACCRUE OR ARISE IN INDIA [SECTION 9]

- Some Incomes are **deemed** to accrue/arise in India even though they actually accrue outside India.
- **PC Note:** This section is relevant only for NR because for ROR, Global Income is taxable.

1 INCOME FROM BUSINESS CONNECTION IN INDIA

❖ **Conditions for Taxability of Income from Business Connection:**

- (a) Assessee has a **“Business Connection”** in India.
- (b) Income arises **outside India** by virtue of such Business Connection to the assessee.

PC Note: Even if such income arises outside India, it will be deemed that such income has accrued in India & will be taxable in India.

❖ **Meaning of Business Connection:** Business connection includes **any Business Activity** carried out **through** a person acting on behalf of NR.

Person Acting on behalf of NR (Agent) must satisfy follⁿ conditions to form Business Connection:

1. Agent of NR must have **Authority to conclude contracts on behalf of NR**. Such contract
 - Should be in the **name** of NR.
 - Should be **for Provision of Services** by that NR.
 - Should be **for the transfer of ownership** of Property owned by that NR.
 - Should be **for granting of Right to use** Property owned by that NR/under control of NR.
2. If the agent does not have above Authorities but **he habitually maintains stock of goods/merchandise** from which he regularly delivers goods/merchandise in India **on behalf of NR**.
3. Where he **habitually secures orders in India** for NR.

PC Note: If agent’s authority is limited to purchase of goods for NR, No BC exists.

❖ **Examples of Business Connection**

- (a) Branch office in India or Agent of a NR in India or an organization/factory of a NR in India.
- (b) Appointing an agent in India for systematic & regular purchase of Raw Material or for sale of NR’s goods for other business purpose.
- (c) Formation of subsidiary company in India to carry on business of NR parent company.
- (d) Any profit of NR which can be reasonably attributable to such part of operations carried out in India through business connections in India are deemed to be earned in India.

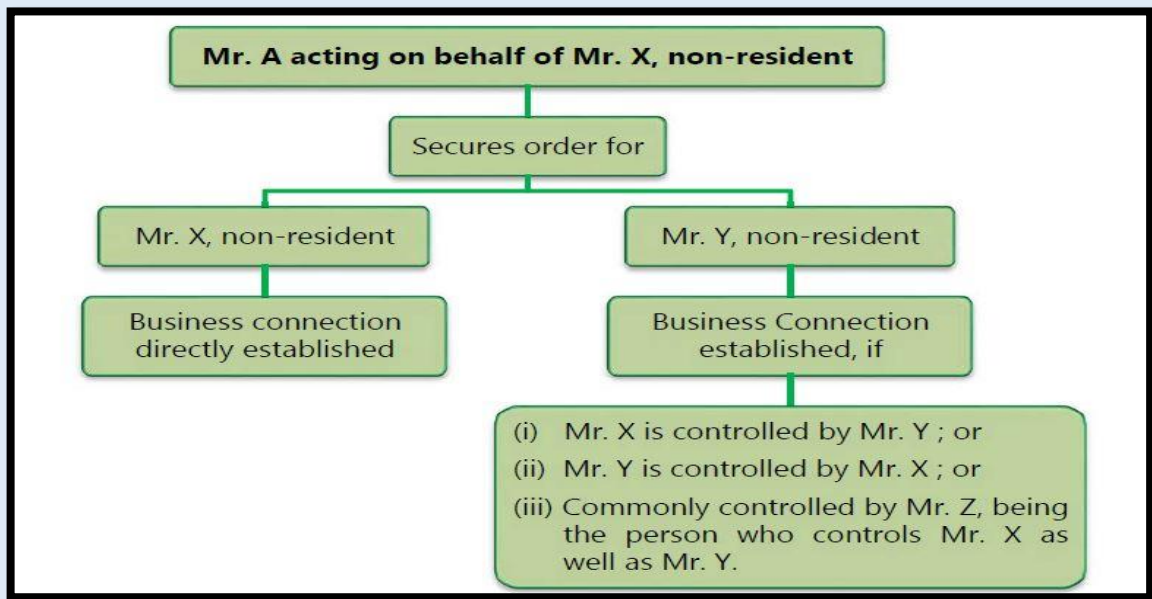
❖ **Independent Agent:** Agent who do not work mainly or wholly for NR: Where NR carries on business through broker/commission agent, there will be NO business connection if such a person is acting in ordinary course of his business.

❖ **ONE AGENT – 2 NR:**

There may be situations when a person acting on behalf of NR **secures order for another NR too**. In such situation, business connection for other NR is established if:

- (a) **such other NR controls the NR or**
- (b) **such other NR is controlled by the NR or**
- (c) **such other NR is subject to same control as that of NR.**

In all 3 situations above, business connection is established where a person habitually secures orders in India, mainly or wholly for such non-residents.



SIGNIFICANT ECONOMIC PRESENCE [EXPLANATION 2A TO SECTION 9(1)(I)] [NEWLY ADDED]

- Significant Economic Presence of a NR in India shall also constitute business connection in India.
- Significant economic presence means-

	Nature of transaction	Condition
(a)	i.r.o. 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	Aggregate of payments arising from such transaction(s) during PY should exceed Rs. 2 crores.
(b)	systematic & continuous soliciting of business activities or engaging in interaction with users in India	Number of users should be atleast 3 lakhs.

- Further, the above transactions or activities shall constitute SEP in India, whether or not,
 - (1) Agreement for such transactions or activities is entered in India;
 - (2) NR has a residence or place of business in India; or
 - (3) NR renders services in India.
- However, where a business connection is established by reason of SEP in India, only so much of income as is attributable to the transactions or activities referred to in (a) or (b) above shall be deemed to accrue or arise in India.

Space for PC Analysis:

FOLLOWING SHALL NOT BE TREATED AS BUSINESS CONNECTION IN INDIA to NR	
(a)	<p>Business whose All operations are not carried out in India</p> <ul style="list-style-type: none"> ▪ Proportionate Income attributable to the operations carried out in India shall be deemed to accrue or arise in India. ▪ Income which cannot be attributed to the operations in India shall not be deemed to accrue/arise in India. <p>Income attributable to the operations carried out in India includes:</p> <ul style="list-style-type: none"> ▪ Income from advt. targetting customers residing in India or accessing advt. through IPA in India; ▪ Income from sale of data collected from persons residing in India or using IPA located in India ▪ Income from sale of goods & services using data collected from persons residing in India or using IPA located in India
(b)	<p>Purchase of Goods in India for Export by NR</p> <p>No Income shall be deemed to accrue in India from operations which are confined to purchase of goods in India for Export by NR.</p>
(c)	<p>Collection of News & Views in India for transmission out of India by NR</p> <p>If a person is engaged in news agency business etc, income from activities which are confined to collection of news & views in India for transmission out of India → Not deemed to accrue in India</p>
(d)	<p>Shooting of Cinematograph films in India by NR</p> <p>Income from operations confined to shooting of any cinematograph film in India, if such NR is:</p> <ul style="list-style-type: none"> (a) Individual, who is not a citizen of India or (b) Firm which does not have any partner who is a Citizen of India or who is Resident in India; (c) Company which does not have any Shareholder who is a Citizen or Resident of India.
(e)	<p>Display of Rough Diamonds in SNZ by Foreign Company</p> <p>Income from the activities carried out by Foreign Company which are confined to display of uncut & unassorted diamonds (without any sorting or Sale) in any SNZ notified by CG.</p>
2	<p>INCOME FROM PROPERTY OR ASSET OR SOURCE OF INCOME IN INDIA</p> <ul style="list-style-type: none"> ❖ Income from Property/Asset situated in India → Deemed to accrue in India. Ex: Rent paid o/s India for use of machinery/buildings situated in India is deemed to accrue in India. Ex: Deposits with an Indian company for which interest is received o/s India.
3	<p>CAPITAL GAIN ON TRANSFER OF A CAPITAL ASSET SITUATED IN INDIA</p> <ul style="list-style-type: none"> ❖ Capital Gain on Transfer of Capital Asset situated in India is deemed to accrue in India even if: <ul style="list-style-type: none"> ▪ Place of Registration of Document of Transfer is in India or outside India; & ▪ Place of Payment of consideration for transfer is in India or outside India. ❖ Dividend declared by a foreign company outside India i.r.o shares which derive their value substantially from assets situated in India would NOT be deemed to be income accruing in India.
4	<p>DIVIDEND INCOME FROM INDIAN COMPANY</p> <ul style="list-style-type: none"> ❖ Dividends paid by Indian company outside India → Deemed to Accrue in India. ❖ It would be taxable in the hands of shareholders at normal slab rates.

5	INCOME FROM SALARIES
	<ul style="list-style-type: none"> ❖ Salary is deemed to accrue/arise at the place where the services are rendered. ❖ Salaries payable by Government to a citizen of India for services rendered outside India would be deemed to accrue India (even if services are rendered outside India). However, Allowances & Perquisites paid outside India by Government are exempt u/s 10(7). <p>Exception u/s 9(2): Pension payable outside India by the Government to its officials & judges who permanently reside outside India shall not be deemed to accrue or arise in India.</p>
6	INTEREST, ROYALTY, FEES FOR TECHNICAL SERVICES PAID TO NON-RESIDENT
(a)	Payable by Government of India (CG/SG): deemed to accrue/arise in India
(b)	Payable by Resident: Always deemed to accrue/arise in India Exceptions: [In following cases, income is not deemed to accrue in India] <ul style="list-style-type: none"> (a) If borrowed money is used by the payer of interest (NR) for a business/profession carried on outside India or for earning any income from the source outside India. (b) Payment of Royalty or Technical fees related to a Business/profession carried on by the payer outside India or for earning any income outside India.
(c)	Payable by Non- Resident: deemed to accrue/arise in India in (a) & (b) cases only. <ul style="list-style-type: none"> (a) If borrowed money is used by the payer of Interest for a business/profession carried on in India or for earning any income in India. (b) Payment of Royalty or FTS related to a Business/profession carried on by the payer in India or for earning any income in India. <p>Exception: Interest on money borrowed by NR for any purpose other than business or profession in India will NOT be deemed to accrue or arise in India.</p> <p>Ex: If a NR 'A' borrows money from a non-resident 'B' & invests the same in shares of an Indian company, interest payable by 'A' to 'B' will not be deemed to accrue or arise in India.</p>
	<p>PC Note: Income by way of Interest, Royalty, FTS from services utilized in India would be deemed to accrue in India & be included in NR's TI, whether or not such services were rendered in India & whether or not NR has a residence or place of business or business connection in India.</p> <p>Consideration for sale, distribution or exhibition of cinematographic films is covered within the scope of royalty [AMENDMENT INSERTED BY FA 2020, w.e.f. A.Y.2021-22]</p>
7	MONEY PAID BY RESIDENT INDIAN TO A NR (NON-CORPORATE)/FOREIGN COMPANY
	<ul style="list-style-type: none"> ❖ Any sum of money paid (without consideration) by Indian resident person to a NR (non-corporate) or foreign company on or after 05.07.2019 ❖ would be deemed to accrue or arise in India if the same is chargeable to tax u/s 56(2)(x). ❖ Section 56(2)(x): If aggregate sums received exceeds Rs. 50,000 in a FY.

CQ17. Mr. Rashid Khan, a national of Iraq received the following fees for technical services during PY 2021-22.

Sr. No.	Description	Amount (Rs.)
1	From Government of India	1,00,000
2	From Government of Iraq	4,00,000
3	From S, a ROI, services have been utilised for earning income in India	40,000
4	From V, a ROI, services have been utilised for earning income outside India	80,000
5	From J, a NR for services for a business carried on in India	70,000

Compute his TI for AY 2022-23. He has come for first time in India during PY 2021-22 & stayed for 181 days.

Solution: Since Mr. Rashid does not satisfy any basic conditions; he is a NR. Thus, only Indian Incomes are taxable.

Fees for technical services received from:

1	Government of India [taxable u/s 9(vii)(a)]	1,00,000
2	Government of Iraq [not taxable since paid by foreign government to NR]	-
3	S [Paid by Resident & services has been used for earning Income in India]	40,000
4	V [Paid by Resident & services has been used for earning Income outside India]	-
5	J [Paid by one NR to another NR but services has been given for business in India]	70,000
Total Income		2,10,000

CQ18. What if Rashid came to India on 15.6.2021 & stayed upto. 31.12.2021, what will be his taxable income?

Solution: If Mr. Rashid stays in India from 15.6.2021 to 31.12.2021, his stay in India = 200 days. Thus, he will be Resident in India. However, he shall be "RNOR" as he does not satisfy both the additional conditions.

For RNOR, income earned & received o/s India is taxable only when it is from a business controlled from or profession set up in India. Assuming that this condition is not satisfied, FTS received from Government of Iraq as well as from V will still be exempt from tax in India. Hence Total Income of Rashid will remain at Rs. 2,10,000.

CQ19. Discuss the correctness of the statement - "Income deemed to accrue or arise in India to a NR by way of interest, royalty & fees for technical services is to be taxed irrespective of territorial nexus". **[ICAI EX Q4]**

Answer:

- As per section 9, if any NR has provided any patent right or any managerial, technical services & such patent right etc. was used in India, in such cases any royalty or fee received by NR shall be considered to be income accruing/arising in India & shall be taxable & it do not matter that NR do not have residence or place of business or business connection in India i.e. there is no territorial nexus or NR has not rendered services in India.
- **Ex:** If Suzuki of Japan, a NR company has provided technical know-how in Japan to Maruti Udyog Ltd for use in India & has received Rs. 3 Cr. Such income is deemed to be accruing in India & is taxable even if Suzuki do not have any Territorial Nexus with India i.e. company do not have place of residence or PoB in India.
- If any loan was given by NR to other NR & such other NR has utilized loan amount in India in business or profession, interest received by NR shall be considered to be his income accruing in India even if such NR do not have any territorial nexus with India.

MASTER QUESTION ON RESIDENTIAL STATUS

MQ01. Compute total income of Mr. PC assuming him (i) ROR (ii) RNOR (iii) NR for AY 2022-23. **[Modified]**

Particulars	Amt
1. Interest on UK Development Bonds (50% of interest received in India)	10,000
2. Interest for debentures in an Indian company (received in London)	10,000
3. Income from a business in Chennai managed from London (50% is received in India)	20,000
4. Profits on sale of shares of Indian company (received in London)	20,000
5. Dividend from British Company (received in London)	5,000
6. Profits on Sale of Plant at Germany (50% of profits are received in India)	40,000
7. Business income in Germany which is controlled from Delhi (40,000 is received in India)	70,000
8. Profits from a business in Delhi but managed entirely from London	15,000
9. Income from House in London deposited in Indian Bank at London, brought to India (computed)	50,000
10. Royalty/Fees for technical services rendered in India (received in London)	8,000
11. Pension for services rendered in India (received in Burma)	4,000
12. Income from property situated in Pakistan received there	16,000
13. Past foreign untaxed Income brought to India during the PY	5,000
14. Income from agricultural land in Nepal received there and then brought to India	18,000

15. Income from profession in Kenya which was set up in India, received there but spent in India	5,000
16. Gift received on the occasion of his wedding	20,000
17. Income from a business in Russia, controlled from Russia	20,000
18. Dividend from Reliance Petroleum Limited, an Indian company	5,000
19. Honorarium received from Government of India (Rs. 15,000 was paid for travelling expenses)	20,000
20. Income from Business connection in India, received in London	10,000
21. Speculation profit earned & received outside India on 15.4.2021	20,000
22. Salary drawn for 2 months for working in Indian Embassy's Office in Australia & received there	80,000

Solution:
Computation of Total Income for AY 2021-22

Particular	ROR	RNOR	NR
1. Interest on UK Development Bonds.	10,000	5,000	5,000
It is foreign Income. But 50% of interest received in India is Indian Income.			
2. Interest for debentures in an Indian company	10,000	10,000	10,000
Since Interest is paid on debentures by Indian company, it is an Indian Income. Thus, taxable to Everyone.			
3. Income from a business in Chennai (50% is received in India)	20,000	20,000	20,000
Since business is situated in India, 100% is Indian Income irrespective of the place where it is Managed from.			
4. Profits on sale of shares of Indian company received in London	20,000	20,000	20,000
5. Dividend from British company received in London [Foreign Income]	5,000	-	-
6. Profits on sale of plant at Germany [50% Foreign & 50% Indian Income]	40,000	20,000	20,000
7. Income earned from business in Germany which is controlled from Delhi	70,000	70,000	40,000
Since the business has been controlled from India, such foreign income is taxable to RNOR also.			
8. Profits from business in Delhi [Indian Income & thus taxable to everyone]	15,000	15,000	15,000
9. Income from property in London deposited in London, later on remitted to India [Foreign Income & thus taxable to ROR]; No tax on Remittance	50,000	-	-
10. Royalty/FTS rendered in India; Indian Income & thus taxable to everyone	8,000	8,000	8,000
11. Pension for services rendered in India & [Thus Indian Income]	4,000	4,000	4,000
12. Income from property situated in Pakistan [Foreign Income; tax – ROR]	16,000	-	-
13. Past foreign untaxed income brought to India during the PY	-	-	-
Since income relates to past year, it is assumed that it must have been taxed in that PY. Thus, it is not taxable in this PY.			
14. Income from Agricultural land in Nepal received there [Foreign Income]	18,000	-	-
15. Income from profession in Kenya which was set up in India [Refer Pt. 7]	5,000	5,000	-
16. Gift received on the occasion of his wedding [not taxable]	-	-	-
17. Income from business in Russia, controlled from Russia [Foreign Income]	20,000	-	-
18. Dividend from Reliance Limited, Indian Company [Exempt u/s 10(34)]	-	-	-
19. Honorarium received from Government of India [Indian Income]. But Allowance are exempt u/s 10(7). Thus, travelling expenses are not taxable.	5,000	5,000	5,000
20. Income from Business connection in India, received in London	10,000	10,000	10,000
21. Speculation profit earned & received outside India [Foreign Income]	20,000	-	-
22. Salary for working in Indian Embassy's Office in Australia & received there. [Deemed to accrue in India & thus Indian Income]	80,000	80,000	80,000

CHAPTER 3. INCOME FROM SALARY

PART A. BASICS OF SALARY

SALARY

- Every payment made by an employer to his employee for **service rendered** during the **course of employment** would be taxable as Income from Salaries.
 - **Employer-Employee Relationship:** To be taxable u/h “Salaries”:
 - (a) There should be Employer-Employee relationship.
 - (b) Employee may be full-time or part-time employee.
 - (c) Employer may be operating in India or Abroad.
- PC Note:** Amount received by an Individual shall be treated as salary only if **relationship** b/w payer & payee is of **Employer & Employee/Master & Servant/Principal & Agent**.

Examples:

1. Commission received by director:

- Taxed u/h “Salaries” if the director is an employee of the company.
- If he is not Employee → Such commission may be taxed u/h PGBP/IFOS as the case may be.

2. Member of Parliament/State Legislature → MPs & MSL are not employees of the Government & thus their salary is not taxable u/h salaries. It is taxable u/h **IFOS**.

3. Salary paid to a Partner by a Firm: It is an appropriation of profits. It is not treated as Salary since no Employer-Employee relationship exists b/w the partner & firm. It is taxed u/h **PGBP**.

- Salary includes both **Monetary & Non-Monetary facilities**.
 - (a) Monetary Facilities: Basic salary, Bonus, Commission, Allowances etc.
 - (b) Non- Monetary facilities: Accommodation, Medical facility, Interest free loans etc.
- **Salary & wages** are same (**not different**) terms for the purpose of Income Tax Act.
- **Salary from more than one source:** Salary from each source is taxable u/h Salaries.

Definition of Salary [Sec 17(1)]

- Meaning of ‘salary’ for income-tax is much wider than what is normally understood.
- Salary includes the following:

Wages.
Annuity or Pension.
Gratuity.
Any fees, Commission, Perquisite or Profits in lieu of or in addition to any salary.
Advance Salary.
Payment received i.r.o. any Period of Leave not availed by him.
Leave Salary or Leave Encashment.
Portion of the annual accretion in any PY to the balance at the credit of an employee participating in a recognised PF to the extent it is taxable.
Transferred balance in recognized PF (only taxable portion)
Contribution made by the employer under a pension scheme u/s 80CCD.

- It is an inclusive definition & includes monetary as well as non-monetary items.

BASIS OF CHARGE [SECTION 15]

1	Salary is taxable on Due or Receipt basis whichever is earlier .
2	Advance Salary: Advance salary is taxable on Receipt basis (whether it is due or not). <ul style="list-style-type: none"> ▪ Advance Salary which has been taxed on Receipt basis in earlier PYs (in which it is received) cannot be taxed again on due basis in the PY in which it becomes due. ▪ Relief u/s 89(1) is available in this case.
3	Salary in Arrears: Salary in Arrears becomes taxable on due basis (whether it is paid or not). <ul style="list-style-type: none"> ▪ Since Salary paid in arrears is already taxed on due basis, it cannot be taxed again on paymene basis (i.e when it is paid). ▪ But in some circumstances, it may not be possible to tax salary on due basis. <p>Ex: If 'Pay Commission' is appointed by Central Government & it recommends revision of salaries of employees, arrears received in that connection will be charged on receipt basis.</p> <ul style="list-style-type: none"> ▪ Relief u/s 89(1) is available in this case.

Examples:

- (i) A draws his salary in advance for April 2021 in March 2021 itself. Salary of April 2021 is taxable on receipt basis & is to be taxed as income of PY 2020-21. However, salary for PY 2021-22 will not include salary of April 2021.
- (ii) If salary due for March 2021 is received later in April 2021, it is still chargeable as income of PY 2020-21 i.e. AY 2022-23 on due basis. Obviously, salary for PY 2021-22 will not include salary of March 2021.

ANALYSIS OF SECTION 15

Nature of Salary	Taxable in
Salary becomes due in PY 2021-22 (Paid in Subsequent Year)	PY 2021-22
Salary is received in PY 2021-22 (becomes due Subsequent Year)	PY 2021-22
Arrears of salary received during PY 2021-22 although it pertains to one of the earlier years & same were not taxed on due basis.	PY 2021-22
Arrears of salary received during PY 2021-22 although it pertains to one of the earlier years but same were taxed on due basis.	PY in which it was due

PLACE OF ACCRUAL OF SALARY [SEC 9(1)]

General Rule: Salary is deemed to **accrue or arise** at the **place** where the **services are rendered**.

Place of Service	Place of Payment	Deemed to accrue in India ?	Taxable ?
India	India	Yes	Yes
India	Abroad	Yes	Yes
India	Pension is paid Abroad	Yes	Yes
Leaves Earned in India	Leave salary is paid abroad	Yes	Yes

PC Note: If an employee gets pension outside India for the services rendered in India, such pension will be deemed to accrue in India. [Same will apply for Leave Salary paid outside India].

Exception to General Rule - Sec 9(1)(iii)

- **Salary paid by Government to Citizen of India (R/NR)** for the services rendered **outside India** to the Government is **deemed to accrue/arise in India**.
- However, **Allowance or Perquisites** paid **outside India** by **GOI** to a **citizen of India** for rendering services outside India will be **fully exempt**. [Section 10(7)].

CQ1. Mr. A, a citizen of India, is posted in USA as our Ambassador. Obviously, he renders his services outside India. He also receives his salary outside India. He is also a NR. The question, therefore, arises whether he can claim exemption i.r.o. his salary paid by GOI to him outside India.

As per general rule, such salary cannot be taxed in his hands because services are rendered outside India. But section 9(1)(iii) provides that salaries payable by GOI to a citizen of India for services outside India shall be deemed to accrue or arise in India & thus it will be Indian Income. However, Allowance/Perquisites paid outside India by the Government to a citizen of India for rendering services outside India will be fully exempt u/s 10(7).

TABULAR SUMMARY of Sec 9(1)(ii) & Sec 9(iii)

	Who is employee	Employer	Place of Service	Is it taxable in India	
				Salary	Allowance/Perquisite
1	Indian Citizen (R/NR)	GOI	Outside India	Yes	No
2	NR (Other than 1)	Any	Outside India	No	No
3	ROR (Other than 1)	Any	Anywhere	Yes	Yes

SALARY PAID TAX-FREE	<ul style="list-style-type: none"> ▪ Salary paid tax-free does not mean that tax is not levied on such salary. ▪ It means that Employer bears the burden of the tax on salary of employee. ▪ It does not matter whether employer pays the tax under T&Cs of the employment contract or voluntarily. ▪ In such case, Income from salaries = Salary Income + Tax on employee's Salary paid by the employer. ▪ However, as per section 10(10CC), Income-tax paid by the employer on Non-Monetary Perquisites on behalf of the employee would be exempt in the hands of the employee.
LOAN OR ADVANCE AGAINST SALARY	<ul style="list-style-type: none"> ▪ Loan is different from salary. It cannot be taxed as Salary. ▪ Advance against salary is different from advance salary. It is an advance taken by the employee from his employer. This advance is generally adjusted with his salary over a specified time period. ▪ When an employee takes a loan from his employer, which is repayable in certain specified instalments, the loan amount cannot be brought to tax as salary of the employee.
Space for PC Note	
FOREGOING OF SALARY	<ul style="list-style-type: none"> ▪ Salary is chargeable to tax on due or receipt basis (whichever is earlier). ▪ If employee foregoes his salary, it does not mean that salary foregone is not taxable. ▪ Once salary accrues, subsequent waiver by the employee does not make it exempt. ▪ Such waiver is only an application & hence, is taxable. ▪ Surrender of Salary to Central Gov: If an employee surrenders his salary to u/s 2 of Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961 → It is Exempt.
<p>CQ2. Mr. A, an employee instructs his employer that he is not interested in receiving salary for April 2022 & salary for April 2022 shall be donated to a charitable institution. In this case, Mr. A cannot claim that he cannot be taxed i.r.o salary for April 2022. It is only due to his instruction that donation was made to a charitable institution by his employer. It is only an application of income. Hence, salary for April 2022 will be taxable in hands of Mr. A. However, he is entitled to claim a deduction u/s 80G for the amount donated to the institution.</p>	

COMPONENTS OF SALARY & THEIR TAXABILITY

RECEIPTS	TREATMENT
Basic Salary Dearness allowance/pay Leave encashment while in service Salary in lieu of Notice Fees & Commission Monthly Pension (uncommuted) Annuity from Employer Profits in lieu of Salary	Fully Taxable
Advance Salary	
Arrears of Salary	Taxable in PY in which it becomes due.
Bonus	Taxable on Receipt Basis [if not taxed earlier on due basis].
Annual Accretion to the credit balance in RPF (Taxable Amount)	<ul style="list-style-type: none"> ▪ Excess of Employer's contribution over 12% of salary ▪ Excess of Interest over 9.5% is taxable.
Leave Encashment on Retirement Gratuity/Commuted Pension	<ul style="list-style-type: none"> ▪ Government employees: Exempt ▪ Non-Government employee: Exempt in some cases.
Salary to Partner	Not taxable under "Salaries", but taxable under "PGBP"
Salary/Pension from UNO	Not chargeable to tax.
Compensation received under VRS	Exempt in some cases.
Pension under NPS	Taxable at the time of receipt.

MEANING OF "SALARY" FOR DIFFERENT PURPOSES

Allowance/Perquisites	Definition of Salary for such purpose
Gratuity for Covered Employees.	Basic Salary + DA (whenever DA is paid)
(a) Gratuity for other cases (b) National Pension Scheme (c) Employer's Contribution to RPF (d) Leave salary; (e) HRA (f) VRS	Basic Salary + Dearness Allowance (if it forms part of salary for computing all retirement benefits) + Commission (if paid as % of turnover). PC Class Note:
Perquisite for calculating value of Rent-Free Accommodation	Basic Salary + Dearness Allowance (if it forms part of salary for computing all retirement benefits) + Bonus + Any Commission (Paid + Any other monetary payment by whatever name but Excludes: (a) Employer's contribution to PF of the employee; (b) Exempt Allowances; (c) Value of Taxable Perquisites u/s 17(2); (d) Medical Allowance to the extent it is not taxable. (e) Payment/Expenditure for Allotment of shares or Debentures or Warrants under ESOP etc.

PART B. DIFFERENT FORMS OF ALLOWANCES & ITS TAXABILITY

Meaning of Allowance: Fixed quantity of money given regularly to employees in addition to salary to meet some particular requirements connected with service or compensation for unusual conditions of that service. It is fixed, predetermined & given irrespective of actual expenditure.

VARIOUS ALLOWANCES & THEIR TAXABILITY		
Fully Taxable Allowances	Partly Taxable Allowances	Fully Exempt Allowances
<ul style="list-style-type: none"> ▪ Dearness Allowance ▪ Overtime Allowance ▪ Fixed Medical Allowance ▪ City Compensatory Allowance ▪ Interim Allowance ▪ Servant Allowance ▪ Project Allowance ▪ Tiffin/Lunch Allowance ▪ Any other cash allowance ▪ Warden Allowance ▪ Non-practicing Allowance ▪ Transport Allowance Except Handicapped Employees. 	<ul style="list-style-type: none"> ▪ House Rent Allowance ▪ Special Allowances 	<ul style="list-style-type: none"> ▪ Allowance to Government employees outside India ▪ Sumptuary allowance granted to HC/SC Judges. ▪ Allowance paid by UNO. ▪ Compensatory Allowance received by a judge

HOUSE RENT ALLOWANCE [SEC 10(13A)]	▶ Least of the following is Exempt ↓
1. Actual amount of HRA received for the Relevant Period.	
2. Excess of Rent paid over 10% of salary for the Relevant Period.	
3. City of Residence:	
(a) Mumbai, Delhi, Kolkata, Madras (chennai): 50% of Salary for Relevant Period.	
(b) Other cities: 40% of Salary for Relevant Period.	
Points to Remember:	
✓ For HRA, Salary = Basic Salary + DA (Retirement benefits) + Commission (if paid as % of TO).	
✓ Salary of the PY shall only be considered for calculating HRA Exemption. Salary of the period other than PY is not considered even if it is received in the PY & is taxable on receipt basis (Advance salary).	
✓ Salary of the period during which rental accommodation is not occupied in PY is also not considered.	
✓ No Exemption if employee lives in his own house/in a house where he does not pay rent.	
✓ Relevant period means the period during which house was occupied by the assessee during PY.	

CQ3. Mr. Roy, staying at Chennai, receives Rs. 12,500 monthly as basic salary; Rs. 1,500 p.m as DA provided in terms of employment & 4% as commission on turnover achieved by him. He is paid HRA of Rs. 1,800 p.m. Turnover achieved by him for the year is Rs. 15 Lacs. House rent paid by him is Rs. 2,500 p.m. He received advance salary of Rs. 50,000 in March 2022 relating to the period April to July 2022. Find taxable HRA for AY 2022-23.

Solution: Salary for HRA = Basic Salary + Dearness Allowance (Retirement Benefits) + Commission (% of TO)
 = (12,500 x 12 months) + (1,500 x 12 months) + 4% on 15,00,000 = Rs. 2,28,000.

Computation of Taxable House Rent Allowance of Mr. Roy

Particulars	Rs.	Rs.
Actual House Rent allowance (Rs. 1800 x 12 months)		21,600
Less: Exempt u/s. 10 (13A) to the extent of least of the following:		
1. Excess of rent paid over 10% of the salary (30,000 – 22,800)	7,200	
2. 50% of salary (50% of 2,28,000)	1,14,000	
3. Actual HRA received	<u>21,600</u>	<u>7,200</u>
Taxable HRA		14,400

PC Note: Though advance Salary is taxable in AY 2022-23 on receipt basis, it should not be considered in computing Salary for the purpose of calculating exemption u/s 10(13A).

***CQ4.** Mr. Mohit is employed with XY Ltd. on a basic salary of Rs. 10,000 p.m. He is also entitled to dearness allowance @ 100% of basic salary, 50% of which is included in salary as per terms of employment.

The company gives him house rent allowance of Rs. 6,000 p.m. which was increased to Rs. 7,000 p.m. w.e.f 1.1.2021. He also got an increment of Rs. 1,000 p.m. in his basic salary w.e.f 1.2.2022. Rent paid by him during PY 2021-22 is:

April & May, 2021	Nil, as he stayed with his parents
June to October, 2021	Rs. 6,000 p.m. for an accommodation in Ghaziabad
November, 2021 to March, 2022	Rs. 8,000 p.m. for an accommodation in Delhi

Compute his gross salary for AY 2022-23.

[ICAI – Exercise Q1]

Solution: **Computation of Gross Salary of Mr. Mohit for AY 2022-23**

Particulars	Amount
Basic salary [(Rs. 10,000 × 10) + (Rs. 11,000 × 2)]	1,22,000
Dearness Allowance (100% of basic salary)	1,22,000
House Rent Allowance (See Note below)	21,300
Gross Salary	2,65,300

Computation of Taxable House Rent Allowance (HRA)

Particulars	April - May	June - Oct	Nov - Dec	Jan	Feb - March
Basic salary per month	10,000	10,000	10,000	10,000	11,000
DA (50% of Basic Salary)	5,000	5,000	5,000	5,000	5,500
Salary p.m for computation of HRA	15,000	15,000	15,000	15,000	16,500
Relevant period (in months)	2	5	2	1	2
Salary for the relevant period (Salary p.m × relevant period)	30,000	75,000	30,000	15,000	33,000
Rent paid for the relevant period	Nil	30,000 (6,000 × 5)	16,000 (8,000 × 2)	8,000 (8,000 × 1)	16,000 (8,000 × 2)
HRA received during relevant period (A)	12,000 (6,000 × 2)	30,000 (6,000 × 5)	12,000 (6,000 × 2)	7,000 (7,000 × 1)	14,000 (7,000 × 2)
Least of the following is Exempt	NA				
1. Actual HRA received	-	30,000	12,000	7,000	14,000
2. Rent paid - 10% of salary	-	22,500	13,000	6,500	12,700
3. 40% of Salary [Ghaziabad: June - Oct 2021] 50% of salary [Delhi: Nov 2021 - March 2022]	-	30,000 (40% × 75,000)	15,000 (50% × Rs. 30,000)	7,500 (50% × Rs. 15,000)	16,500 (50% × Rs. 33,000)
Exempt HRA (B)	Nil	22,500	12,000	6,500	12,700
Taxable HRA [A-B]	12,000	7,500	Nil	500	1,300

Total Taxable HRA = Rs. 12,000 + Rs. 7,500 + Rs. 500 + Rs. 1,300 = Rs. 21,300.

SPECIAL ALLOWANCES EXEMPT U/S 10(14) r/w Rule 2BB
(i) Exemption depends upon Actual Expenditure incurred by the employee [Sec 10(14)(i)]

- **Actual Expenditure** incurred by the employee is **RELEVANT** for the purpose of exemption.
 - Exemption = Lower of (a) Allowance Received or (b) Amount utilized for specific purpose.
- PC Note:** There is no limit on the amount which employee can receive from the employer as allowance.

SN	Allowances	Nature of Allowance
(a)	Travelling /Transfer Allowance	Allowance granted to meet the cost of travel on tour or on transfer (including any sum paid for transfer, packing & transportation of personal effects on such transfer).
(b)	Daily Allowance	Allowance granted on tour or for journey in connection with transfer, to meet the ordinary daily charges incurred due to absence from his normal place of duty.
(c)	Conveyance Allowance	Granted to meet expenditure on conveyance in performance of duties of office. PC Note: Expenditure for journey between office & residence is not exempt.
(d)	Helper allowance	Any allowance (by whatever name called) to meet the expenditure on a helper where such helper is engaged for the performance of official duties.
(e)	Research Allowance	Any allowance (by whatever name called) granted for encouraging the academic research & other professional pursuits.
(f)	Uniform Allowance	Any allowance (by whatever name called) to meet expenditure on purchase or maintenance of uniform for wear during the performance of duties of an office.

SECTION 115BAC: An employee who opts for the provisions of section 115BAC would be entitled for exemption only i.p.o. **(a) – (c) above.**

CQ5. During PY 2021-22, the following allowances are given to X by the employer company:

Nature of allowance	Amount of Allowance	Amount Actually spent	Amount taxable
Travelling allowance for official purposes	36,000	32,000	4,000
Transfer allowance given on transfer of X	40,000	41,000	Nil
Conveyance allowance for official purposes	50,000	42,000	8,000
Helper allowance of helper for official purposes	68,000	64,000	4,000
Research allowance	1,00,000	90,000	10,000
Uniform allowance for official purposes	18,000	17,000	1,000

(ii) Exemption does not depend upon Actual Expenditure incurred by the employee [Sec 10(14)(ii)]

- **Actual Expenditure** incurred by the employee is **IRRELEVANT** for the purpose of exemption.
 - Exemption = Lower of (a) Allowance actually received or (b) Amount specified in Rule 2BB.
- PC Note:** There is a limit on the amount which employee can receive from the employer as allowance. Any amount received by the employee in excess of these specified limits will be taxable in the hands of employee as salary income.

Name of Allowance	Nature & Given to & Conditions	Exemption	
Children Education Allowance	Given for children's education	Rs. 100 p.m per child upto Maximum of 2 children	
Hostel Expenditure	Given for meeting expenditure of child	Rs. 300 p.m per child upto Maximum of 2 children	
Transport Allowance	Expenses for communicating between place of his residence & place of duty.	Rs. 3,200 p.m; only for Handicapped employees	
Allowance for Transport Employees	Granted to meet personal expenses during his duty if not in receipt of daily allowance.	(a) 70% of such Allowance; (b) Rs. 10,000 p.m (Lower)	
Tribal areas/Scheduled Areas Allowance	For MP, Tamil Nadu, UP, WB, Bihar, Orissa, Karnataka, Tripura, Assam	Rs. 200 p.m	
Special Compensatory (Hilly Areas) Allowance	High Altitude/Snow Area Allowance	Rs. 300 - Rs. 800 p.m [7,000 p.m in Siachen of J&K]	
Border Area Allowance	Border area/Remote locality Allowance	Rs. 200 – Rs. 1,300 p.m	
Compensatory Allowance (a) Field area (b) Modified Field Area	Employee cannot claim Border Area Allowance if this exemption is taken	(a) 2,600 p.m in some cases (b) 1,000 p.m in some cases	
Underground Allowance	Employee working in/under mines.	Rs. 800 p.m	
High Altitude Allowance	Granted to Members of Armed forces operating in High Altitude areas.	Altitude (fts)	Exemption
		9000-15000	Rs. 1,060 p.m
		Above 15000	Rs. 1,600 p.m
Highly Active Field Area	Granted to Members of Armed forces.	Upto Rs. 4,200 p.m	
Island Duty Allowance	Granted to Members of Armed forces in Andaman & Nicobar; Lakshadweep.	Upto Rs. 3,250 p.m	
Counter Insurgency Allowance	Members of armed forces operating in areas away from their permanent locations.	Rs. 3,900 p.m	

SECTION 115BAC: An employee who opts for the provisions of section 115BAC would be entitled for exemption only i.p.o. **transport allowance** granted to handicapped employee of Rs. 3,200.

CQ6. During PY 2021-22, following allowance are given to X by the employer company:

Name of Allowance	Received	Spent	Exempt	Tax
1. Tribal area allowance for X posted in Assam for 2 months	1000	NA	200 p.m	600
2. Child education allowance for X's elder son	1800	NA	100 p.m	600
3. Child education allowance for X's younger son	900	NA	Nil	900
4. Child education allowance for X's daughter	1080	NA	100 p.m	Nil
5. Hostel expenditure allowance for X's elder son	6600	NA	300 p.m	3000

PC Note for (Pt. 2, 3, & 4): If Education allowance is received for more than 2 children, exemption of Rs. 100 p.m shall be taken for 2 children for whom highest allowance is received. Child for whom lowest allowance is received shall be made taxable **(as it will be beneficial for the assessee).**

PART C. VARIOUS PERQUISITES & THEIR TAXABILITY

Definition of Perquisite

- Any Casual Emolument or benefits attached to office/position in addition to salary.
- It is an extra benefit in addition to the basic salary. It may be provided in cash or kind.
- It is not necessary that a recurring or regular receipt is alone perquisites; even a casual or non-recurring receipt can be perquisite.

Any Sum received shall be taxed as Perquisite only if following conditions are satisfied:

- (a) Given by Employer. (If received from other person → Taxed u/h PGBP/IFOS)
- (b) Given during the **continuance of employment** & must be directly related to service
- (c) Resulting in personal advantage to an employee;
- (d) Derived by virtue of employer's authority
- (e) Perquisite may be given for the **benefits of employee or his Member of household.**

Points to Remember:

- ❖ Reimbursement of Expenses incurred in official discharge of duties → Not a Perquisite.
- ❖ Perquisite will become taxable only if it has a **legal origin**. An unauthorized advantage taken by an employee without his employer's sanction cannot be considered as a perquisite. Such unauthorized amount would be chargeable u/h IFOS.
Ex: Suppose Mr. A is given a house by his employer. On 31.3.2021, he is terminated from service. But he continues to occupy the house without the permission of the employer for 6-months after which he is evicted by the employer. The question arises whether the value of the benefit enjoyed by him during 6-month period can be considered as a perquisite & be charged to salary for PY 2021-22. It cannot be taxed u/h 'Salaries' since the relationship of employer- employee ceased to exist after 31.3.2021. It will be taxable u/h "IFOS".
- ❖ Income-tax paid by the employer out of his pocket on the salary of the employee is a perquisite in the hands of the employee whether payment is contractual or voluntary.
- ❖ Member of Household shall include:
 - (a) Spouse (b) Children & their spouses (c) Parents (d) Servants & Dependants.
- ❖ Children includes step child & adopted child.
- ❖ Children born out of multiple birth after 1st child will be treated as "one child only."

PERQUISITE I.R.O 'FREE EDUCATION'

Nature of Expenditure		Taxable Perquisite
1	Training of employees	Not Taxable
2	Education facility provided to family members Payment/reimbursement of tuition fees.	Fully Taxable. No Exemption is available.
3	Education facility provided to children of Employee	Reasonable cost of education is taxable. Exemption → Rs 1000 p.m per child.

PC Note: Scholarship given by an employer to the children of its employees → Not a perquisite.

CQ7. The employer has made arrangements for education of 3 childrens of his employee in his own school & has incurred Rs. 1,500 p.m per child & has recovered Rs. 300 p.m per child from the employee. Calculate the value of taxable perquisite.

Solution: Exemption of Rs. 1,000 p.m is available irrespective of number of children.

- Value of perquisite per children = Rs. 1,500 – Rs. 300 – Rs. 1,000 (Exemption) = Rs. 200 p.m.
- Value of taxable perquisite = Rs. 200 p.m × 12 months × 3 children = Rs. 7,200.

PERQUISITE I.R.O 'RENT-FREE UNFURNISHED ACCOMODATION'

'Accommodation' includes a house, flat, farm house (or part), or accommodation in a hotel, motel, service apartment, guest-house, caravan, mobile home, ship or other floating structure.

Employee	Value of perquisites	
(a) CG or SG employees	License fee determined by CG or SG.	
(b) Other than Government Employee		
❖ Accommodation owned by Employer	Population of place of Accommodation	Perquisite
	Less than 10 lacs	7.5% of salary
	10 lacs – 25 lacs	10% of salary
	More than 25 lacs	15% of salary
❖ Accommodation is taken on rent/lease by the employer	Lower of: (i) 15% of salary or (ii) Actual lease rent paid by employer for the occupied period.	
(c) Accommodation Provided in Hotel (Gov/Non-Government Employer)	Lower of: (i) 24% of salary or (ii) Actual Hotel charges paid by employer.	

PC Note: If Accommodation is provided ≤ 15 days on his transfer from one place to another \rightarrow **No Tax.**

Accommodation provided at two places:

If any employee has been transferred & employer has provided him accommodation at the new place also, in such cases only one of the accommodations having **lower perquisite value** shall be taxable **upto 90 days** (3 months) & **after 90 days, both** of the accommodations shall be **taxable as perquisite.**

VALUATION OF FURNISHED ACCOMODATION

Valuation shall be done as if employer has provided **unfurnished accommodation**

Add: 10% p.a of original cost of furniture (if furniture is owned by employer).

Add: Lease charges/Rent paid for hiring furniture (If furniture is hired by employer).

PC Note: Rent-free official residence provided to a Judge of HC/SC & Officer of Parliament \rightarrow Not taxable.

CQ8. Mr. Lakshman informs you the particulars of salary for previous year ending 31.03.2022: Basic pay: Rs. 36,000; DA: Rs. 4,800 (not forming part of salary); Bonus: Rs. 6,000; Commission: Rs. 4,000; City Compensatory Allowance: Rs. 3,600. Calculate the value of perquisite i.r.o. rent-free furnished house if Mr. Lakshman stays in a city with a population (a) more than 25 Lacs, (b) less than 10 Lacs, (c) between 10 Lacs & 25 Lacs. Cost of furniture provided is Rs. 16,000. Sofa was taken on rent for Rs. 300 p.m.

Solution: Salary = BS + Bonus + Commission + City Compensatory Allowance = 36,000 + 6,000 + 4,000 + 3,600 = 49,600

Value of Rent-free unfurnished Accomodation			
(a) Population > 25 Lacs	\rightarrow 15% of salary	= 15% of Rs. 49,600	= Rs. 7,440
(b) Population 10 lac – 25 lacs	\rightarrow 10% of salary	= 10% of Rs. 49,600	= Rs. 4,960
(c) Population < 10 lacs	\rightarrow 7.5% of salary	= 7.5% of Rs. 49,600	= Rs. 3,720
Value of Furnished Accommodation			
Particulars	Population > 25L	10 Lacs – 25 Lacs	Population < 10L
Value of unfurnished accommodation	7,440	4,960	3,720
Add: Perquisites for value of furniture [(10% of Rs. 16,000) + (300 x 12)]	5,200	5,200	5,200
Value of furnished accommodation	12,640	10,160	8,920

Note: Since DA is not forming part of salary for retirement benefits, it shall not be included in salary for the purpose of computation of Value of Rent free Accomodation.

PERQUISITE I.R.O 'MEDICAL FACILITIES'
A. Medical Facilities in India

Place of Provision of Medical Treatment	Value of Taxable Perquisite
(a) Hospital owned/maintained by employer; (b) Government Hospital; (c) Private Hospital (if recommended by Government for treatment of its employees). (d) Specified facility for prescribed diseases in hospital approved by PCC/CC.	Nothing shall be Taxable in such cases
Any other facility in India (Ex: Family doctor)	Fully Taxable

B. Medical Facility outside India

Type of Expenditure	Value of Taxable Perquisite
(a) Medical treatment in Abroad	<ul style="list-style-type: none"> Exempt to the extent permitted by the RBI.
(b) Cost of Stay in Abroad (including one attendant who accompanies the patient)	<ul style="list-style-type: none"> Taxable Perquisite = Amount exceeding the amount permitted by RBI.
(c) Cost on Travel (including one attendant who accompanies patient)	Exempt only if GTI of employee computed before deducting (including) this expenditure \leq Rs. 2 lacs.

PC Note:

- Health Insurance Premium paid by employer in approved scheme of CG/IRDA → **Not Taxable.**
- Medical Facilities may be provided to an employee or any member of his family.
- Family → Spouse + Children (Maximum 2) + [Parents + Brothers + Sisters – Dependent].
- Fixed Medical Allowance** → Always taxable.

CQ9. Compute taxable perquisite i.r.o. medical facilities received by Mr. G from his employer: **[ICAI SM Q12]**

Medical premium paid for insuring health of Mr. G	Rs. 7,000
Treatment of Mr. G by his family doctor	Rs. 5,000
Treatment of Mrs. G in a Government hospital	Rs. 25,000
Treatment of Mr. G's grandfather in a private clinic by family doctor	Rs. 12,000
Treatment of Mr. G's sister (dependant) in a nursing home	Rs. 3,000
Treatment of Mr. G's brother (independent)	Rs. 6,000
Treatment of Mr. G's father (75 years & dependant) abroad	Rs. 50,000
Expenses of staying abroad of the patient (Limit specified by RBI = 75,000)	Rs. 30,000

Solution:
Medical Facilities outside India

Total Expenditure on Treatment + Expense of Stay = Rs. 50,000 + Rs. 30,000	Rs. 80,000
Less: Exempt to the extent permitted by RBI (Limit specified by RBI)	Rs. 75,000
Value of Taxable Perquisite	Rs. 5,000

Medical Facilities in India

Medical premium paid for insuring health of Mr. G	Exempt
Treatment of Mr. G by his family doctor	Rs. 5,000
Treatment of Mrs. G in a Government hospital	Exempt
Treatment of Mr. G's grandfather in a private clinic	Rs. 12,000
Treatment of Mr. G's sister (dependant) in a nursing home	Rs. 3,000
Treatment of Mr. G's brother (independent)	Rs. 6,000
Perquisite of Medical facilities in India	Rs. 26,000

PC Note: Grandfather & Independent brother are not included within the meaning of family of Mr. G.

INTEREST-FREE LOAN OR CONCESSIONAL LOAN

- If a loan is given by the employer to employee/member of his household, it is a taxable perquisite.

How to value the amount of Perquisite when loan is given ?

1. Find out the **Maximum outstanding Monthly balance** on last day of every month.
2. Find out **Differential Interest** for each month on the outstanding amount. [SBI rate on loan of same kind – Concessional rate given by employee]
3. Value of Perquisite on loan = **Sum of Differential Interest of all months.**

- **Maximum outstanding monthly balance** = Aggregate outstanding balance for each loan as on the last day of each month.
- **Exceptions:** In following cases, Interest-free Loan is not treated as perquisite:
- (a) If the amount of total **loans** ≤ **Rs. 20,000.**
 - (b) If **Loan** is given for **Medical Treatment of Prescribed Diseases** (Cancer, tuberculosis, etc).
However, any amount reimbursed (given) to the employee by insurance company shall be considered for valuation of Perquisite. [**PC Note:** Insurance company ne reimburse kiye hue paise = Perquisite]

Class Note:

CQ10. Mr. Raju is employed in Kangana Ltd. and he has taken a loan of Rs. 5 lacs from employer on 20.04.2021 at a rate of 4% p.a. but SBI rate is 10% p.a. and loan was repaid in monthly installment of Rs. 1 lac each starting from 10.07.2021. Find the value of taxable perquisite.

Solution:

April 2021	$5,00,000 \times 6\% \times 1/12$	Rs. 2,500
May 2021	$5,00,000 \times 6\% \times 1/12$	Rs. 2,500
June 2021	$5,00,000 \times 6\% \times 1/12$	Rs. 2,500
July 2021	$4,00,000 \times 6\% \times 1/12$	Rs. 2,000
August 2021	$3,00,000 \times 6\% \times 1/12$	Rs. 1,500
September 2021	$2,00,000 \times 6\% \times 1/12$	Rs. 1,000
October 2021	$1,00,000 \times 6\% \times 1/12$	Rs. 500
Taxable amount		Rs. 12,500

PERQUISITE I.R.O TRAVELLING, TOURING, ACCOMMODATION

Circumstances	Value of perquisite
Facility is provided uniformly to all employees	Actual Expenditure incurred by the employer
Facility is not available uniformly to all employees	Actual value offered to public by other agencies
Employee is on official tour & he takes his family member with him	Amount of expenditure incurred for such family member
Any official tour is extended as a vacation.	Expenses incurred for extended period.

VALUATION OF LEAVE TRAVEL CONCESSION IN INDIA [SEC 10(5)]

Different situations of Journey	Amount of exemption (LOWER OF 1 or 2)
1. Journey by Air	(a) Fare of Economy class by shortest route or (b) Amount spent
2. Journey by Rail or by other mode even if Routes of journey are connected by rail	(a) Fare of AC 1st class rail by shortest route or (b) Amount spent.
3. If origin & destination of journey (or part) are not connected by rail :	
(a) If Recognised public transport Exists	1 st /Deluxe fare by shortest route
(b) If No recognised public transport Exist	AC 1 st class rail fare by shortest route

Points to Remember:

- ❖ Exemption is available only for going anywhere in India along with family.
- ❖ Family: Spouse & children (Max 2 children), Dependent Parents, brothers, sisters.
- ❖ Only 2 journeys in a block of 4 years are Exempt: The block of 4 years applicable for AY 2022-23 is 2018-2021 (1 Jan 2018 - 31 Dec 2021). Earlier blocks were 2014-2017 & so on.
- ❖ Exemption is based on Actual Expenditure: No Exemption without performing any journey.
- ❖ Exemption is available only on Bus fare, Rail fare, Air fare → No exemption of taxi charges, loading charges, boarding expenses is available.

CARRY FORWARD OF EXEMPTION

If any of the LTC available in earlier block has not been availed by the assessee, then assessee can claim carry forward of such unavailed exemption (ONLY ONE) in 1st calendar year of the next block. Such Carried forward exemption availed will not be counted i.r.o 2 journey in next block.

Ex: For the block of 2018-21, X can claim exemption of LTC on two occasions. If X has not availed the exemption (or has availed exemption only on one occasion) during 2018-21, then he can carry forward unavailed concession. The benefit of carry forward is available i.r.o. only one journey in 1st year of the next block (i.e during Calendar Year 2022). In addition, he can avail exemptions on two more occasions during 2022-25.

CQ11. Mr. D went on a holiday on 25.12.2020 to Delhi with his wife & 3 children (one son – age 5 years; twin daughters – age 2 years). They went by flight (economy class) & total cost of tickets reimbursed by his employer was Rs. 60,000 (Rs. 45,000 for adults & Rs. 15,000 for the three minor children). Compute the amount of LTC exempt.

Solution: Since the son's age is more than the twin daughters, Mr. D can avail exemption for all his three children. The restriction of two children is not applicable to multiple births after one child. The holiday being in India and the journey being performed by air (economy class), the entire reimbursement met by the employer is fully exempt.

CQ12. Will there be any difference if among his three children the twins were 5 years old & son 3 years old?

Solution: Since the twins' age is more than the son, Mr. D cannot avail for exemption for all his 3 children. LTC exemption can be availed i.r.o. only two children. **Taxable LTC = 15000 × 1/3 = Rs. 5000.**

PERQUISITE I.R.O 'GIFT, VOUCHER OR TOKEN'

- Value of perquisite = Actual cost to the employer.

Cash gifts	Fully taxable without any exemption.
Gifts in Kind	Aggregate Exemption of Rs. 5,000 in a year.

PC Note: Gift or voucher or token may be received by the employee or by member of his household.

Ex: Employer provides a cash gift of Rs 3,000 to X. Beside this, X gets a wrist watch of Rs. 8,000 from his employer.

Answer: Rs. 3,000 being cash is fully taxable. Further Rs. 3,000 (Rs. 8,000 – Rs. 5,000) is taxable for gift-in-kind.

PERQUISITE I.R.O ‘TELEPHONES/MOBILE PHONES BILLS’

➤ If employer pays/reimburses telephone bills or mobile charges of employee → No Perquisite.

PC Note: In case of Retired chairman/members of UPSC, Value of residential telephones free of cost & number of free calls upto Rs. 1,500 p.m (over & above free calls allowed by telecompany → **Exempt**).

PERQUISITE I.R.O. “FREE DOMESTIC SERVANTS”

➤ Taxable Amount = **Actual Cost** (Total salary paid by employer – amount recovered from employee)

PC Note: When a house owned by employer is given to employee & employer incurs expenditure on maintenance of garden → Not a perquisite.

As per CBDT circular, provisions of gardener (when gardener is provided **along with a house** owned by the employer) cannot be taken as a perquisite, as employer in any case would have maintained the garden irrespective of the fact whether building was occupied by employee or lying vacant.

CQ13. Mr. X employed in XYZ Ltd. as a computer analyst gives you the list of perquisites provided by the company to him for PY 2021-22:

1. Domestic servant was provided at the residence of Mr. X. Salary of domestic servant is Rs. 1,500 p.m. The servant was engaged by him and the salary is reimbursed by the company (employer).
2. Free education was provided to his two children Y & Z in a school maintained and owned by the company. The cost of such education for Y is computed at Rs. 900 p.m and for Z at Rs. 1,200 p.m. No amount was recovered by the company for such education facility from Mr. X.
3. A gift voucher worth Rs. 10,000 was given on the occasion of his marriage anniversary. It is given by the company to all employees above certain grade.
4. Telephone provided at the residence of Mr. X & bill aggregating to Rs. 25,000 paid by the employer.

Compute the chargeable perquisite in the hands of Mr. X for AY 2022-23.

Solution:

1. Domestic servant was employed by the employee & salary of such domestic servant was paid/reimbursed by the employer. It is taxable as perquisite for all employees. Taxable perquisite value = Rs. 1,500 × 12 = Rs. 18,000.
2. Where the educational institution is owned by the employer, value of perquisite i.r.o free education facility shall be determined with reference to the reasonable cost of such education in a similar institution in or near the locality. However, there would be no perquisite if the cost of such education per child ≤ Rs. 1,000 p.m.
Therefore, there would be no perquisite i.r.o. cost of free education provided to his child Y.
However, the cost of free education provided to his child Z would be taxable, since the cost exceeds Rs. 1,000 p.m. The taxable perquisite value would be Rs. 2,400 (Rs. 200 × 12).
3. The value of any gift or voucher or token in lieu of gift received by the employee or by member of his household not exceeding Rs. 5,000 in aggregate during the previous year is exempt. Value of perquisite would be Rs. 5,000.
4. Telephone provided at the residence of the employee & payment of bill by the employer is a tax-free perquisite.

FREE FOOD & NON-ALCOHOLIC BEVERAGES

Nature of expenditure	Taxability of perquisite.
1. Tea or snacks provided during working hours	Not a perquisite
2. Meal provided in office	Cost to employer (in excess of Rs 50) – Amount recovered from the employee
3. Food & non-alcoholic beverages provided in remote area or an off-shore installation	Not a perquisite if provided in working hours

PC Note: Working hours include overtime & working on holidays.

Ex: Mr. X is employed in the office of Chartered Accountant and during the year he was given free lunch on many occasions and value per lunch is Rs. 175. In such case Rs. 125 (Rs. 175 – Rs. 50) per lunch is taxable.

PERQUISITE I.R.O 'CREDIT CARD EXPENSES'

- **Perquisite** = Total expenditure incurred (including Membership fees) by the employer
 Less: Expenditure incurred for **official purposes** [Complete details should be maintained]
 Less: Amount recovered from employee.

PERQUISITE I.R.O 'CLUB EXPENDITURE'

- **Perquisite** = Total expenditure incurred (including annual fees) for club facilities
 Less: Expenditure incurred for official purposes [Complete details should be maintained]
 Less: Amount recovered from employee.
- Expenditure pertaining to **health club, sports facilities** etc. → **Not a perquisite.**
PC Note: Where the employer has obtained corporate membership of the club, value of perquisite shall not include the initial fee paid for acquiring such corporate membership.

PERQUISITE I.R.O 'FREE/CONCESSIONAL TICKETS'

- **Employer:** Engaged in the carriage of passengers or goods;
- **Services given:** Free/concessional Tickets for Personal Journey/Goods;
- **Perquisite** = Value at which such benefit or amenity is offered by such employer to the public.
PC Note: In case of **Employees of Airline or Railways** → **No Perquisite.**

PERQUISITE I.R.O 'USE OF MOVEABLE ASSETS'

- Value of perquisite is determined as follows:

Asset given	Value of benefit
(a) Laptops & computers	NIL
(b) Other Movable assets	10% p.a. of Actual Cost (Hire/Rent Charges)

- **Completed years of Use is not required. Even use of asset for part of year will be perquisite.**

TRANSFER OF MOVEABLE ASSETS AT DISCOUNTED/NOMINAL PRICE

- **Perquisite** = WDV [Actual Cost – Depreciation] – Sale Consideration paid by employee.
- Depreciation shall be calculated only if asset has been used by employer for business purpose.
- Depreciation shall be calculated as follows **for completed years of use only. (Fraction of years → Ignored)**

1. Computer & electronics items	50% on WDV for each completed year of usage.
2. Motor car	20% on WDV for each completed year of usage.
3. Any other Asset	10% on SLM for each completed year of usage

- Electronics items do not include household electronic appliances.

CQ14. Find out the taxable value of the perquisite in the following cases for AY 2022-23:

- Mr. X is given a laptop by his employer for using it for private purpose. Cost of the laptop is Rs. 96,000.
- On 18.10.2021, the company gives its music system to Mr. X for domestic use. Ownership is not transferred. Cost of music system (in 2013) to the employer is Rs. 30,000.
- The employer sells the following assets to the employees on 1.1.2022:

Name of employee	W	X	Y
Asset sold	Car	Computer	Fridge
Cost of the asset to employer	Rs. 8,50,000	Rs. 95,000	Rs. 30,000
Date of purchase [put to use on the same day]	14.5.2018	14.5.2018	14.5.2018
Sale price	Rs. 3,00,000	Rs. 19,000	Rs.10,000

Before sale on 1.1.2022, these assets were used for business purpose by the employer.

Solution:

- Free use of laptop is not a taxable perquisite.
- S is provided a music system by the employer. Taxable perquisite is determined @ 10% p.a. of cost for the period of use (From 18.10.2021 – 31.3.2022). Thus, Taxable perquisite = Rs. 1,356 [Rs. 30,000 x 10% x $\frac{165}{365}$].
- The taxable value of the perquisite in the hands of W, X & Y shall be determined as follows-

Particulars	Car	Computer	Fridge
Cost of the asset on 14.5.2019	8,50,000	95,000	30,000
Less: Normal wear & tear for 1 st year ending 13.5.2020 (20% of Rs. 8,50,000; 50% of Rs. 95,000; 10% of Rs.30,000)	1,70,000	47,500	3,000
Balance on 14.5.2020	6,80,000	47,500	27,000
Less: Normal wear & tear for 2 nd year ending 13.5.2021 (20% of Rs. 6,80,000; 50% of Rs. 47,500; 10% of Rs. 30,000)	1,36,000	23,750	3,000
Balance on 14.5.2021	5,44,000	23,750	24,000
Less: Sale consideration	3,00,000	19,000	10,000
Taxable value of the perquisite	2,44,000	4,750	14,000

PC Note: Depreciation is deductible for **completed years of use only**. (Fraction of years → Ignored).

CQ15. Mr. X is employed with ABC Ltd. His son is allowed to use a motor cycle belonging to the company. The company had purchased this motor cycle for Rs. 60,000 on 1.5.2018 & given him on the same date. The motor cycle was finally sold to him on 1.8.2021 for Rs. 30,000. Compute the taxable perquisite in the hands of Mr. X.

Solution:

- (a) **Perquisite for Use of motor cycle** = 60,000 x 10% p.a. for 4 months [1.4.2021 – 31.7.2021] = Rs. 2,000.
Note: Only the period of use in this previous year shall be considered for valuation of perquisite. Because we are determining the taxability for this PY. **Students generally make mistake on this point.**
- (b) **Perquisite i.r.o. Transfer of motor cycle:**
 Depreciated value of the motor cycle = Original cost - Depreciation @ 10% p.a. for 3 completed years
 = Rs. 60,000 - (Rs. 60,000 x 10% p.a. x 3 years) = Rs. 42,000.
Taxable Perquisite = Rs. 42,000 - Rs. 30,000 = Rs. 12,000.

PAYMENT OF PREMIUM ON PERSONAL ACCIDENT INSURANCE POLICIES

- **No immediate benefit** & benefit will accrue at a future date only if certain events take place.
- Moreover, employers would be taking such policy in their **business interest only**, so as to indemnify themselves from payment of any compensation.
- Therefore, the premium so paid will **not** be a **taxable perquisite** in the employees' hands.

PERQUISITE I.R.O 'GAS, ELECTRIC ENERGY OR WATER SUPPLY'

- Taxable amount = Actual Cost (Total Expenditure of Employer – Amount Recovered from Employee)
- If Employee himself is manufacturer → Perquisite = **Manufacturing cost** incurred by employer.

CQ16: Mr. X is employed in Bisleri and the company has provided him free water facility for which manufacturing cost of the company is Rs. 1,000 & its market value is Rs. 1,100, in this case, perquisite value shall be **Rs. 1,000**.

ANY OTHER BENEFIT/AMENITIES PROVIDED BY EMPLOYER (Residual provision)

- Perquisite = Cost to Employer (Arms length price) – Amount recovered from employee.

PERQUISITE I.R.O “USE OF MOTOR CAR”

Owned by	Expenses by	Purpose of use	Taxable Perquisite	
1. Employer	Employer	Fully Official	No Perquisite	
2. Employer	Employer	Fully Personal	(a) Actual expenditure on car + (b) Remuneration to driver + (c) Depreciation @ 10% p.a on actual cost.	
Expenses recovered from employee are deductible. No limit of Rs. 900 for driver's salary.				
3. Employer	Employer	Partly official & Partly Personal	CC of Engine	Perquisite
			Upto 1600 CC	1,800 p.m + 900 p.m for driver = Rs 2,700 p.m
			Above 1600 CC	2,400 p.m + 900 p.m for driver = Rs 3,300 p.m
Rs. 900 p.m shall be taxable if driver is provided. Expenses recovered from employee are NOT deductible.				
4. Employer	Employee	Partly official & Partly Personal	CC of Engine	Perquisite
			Upto 1600 CC	600 p.m + 900 p.m for driver = Rs 1,500 p.m
			Above 1600 CC	900 p.m + 900 p.m for driver = Rs 1,800 p.m
Rs. 900 p.m shall be taxable if driver is provided. Expenses recovered from employee are NOT deductible.				
5. Employee	Employer	Partly official & Partly Personal	Actual Expenditure incurred Less ↓	
			CC of Engine	Perquisite
			Upto 1600 CC	1,800 p.m + 900 p.m for driver = Rs 2,700 p.m
		Above 1600 CC	2,400 p.m + 900 p.m for driver = Rs 3,300 p.m	
Rs. 900 p.m shall be taxable if driver is provided. Expenses recovered from employee are NOT deductible.				
6. Employee	Employer	Official use	Not a perquisite.	
7. Employee owns other conveyance but not car	Employer	Partly official & Partly Personal	Actual Expenditure incurred by Employer Less: Rs. 900 p.m	
8. Employer	Employee	Fully Personal	10% p.a on actual cost of Car/hire charges	

PC Note:

- ❖ **Meaning of Month:** Month means **completed months**.
- ❖ **When two or more cars are provided by employer to the employee:** If an employer provides two or more cars (which falls in category 3), taxable value of only one such car (at employee's option) shall be determined according to the rules given in category 3. For other cars, value of perquisite shall be calculated under category 2.
- ❖ **Car facility between residence & office: Not taxable.**
- ❖ **Facility for HC/SC Judges/Chairman/members of UPSC: Not taxable.**
- ❖ **Transport allowance provided to serving chairman/members of UPSC is also not taxable.**

CQ17. Mr. X is employed in ABC Ltd. getting basic pay of Rs. 22,000 p.m. Employer has provided him rent free accommodation which is owned by employer himself (Population of 5,00,000). **[CA Exam Question]**

Employer has provided him 3 motor cars for official as well as personal use with particulars as given below:

Particulars	I	II	III
Actual cost	4,00,000	3,00,000	2,50,000
Engine capacity	1.8 litres	1.6 litres	1.4 litres
Petrol expenses	3,000	10,000	15,000
Repairs	5,000	4,000	3,000
Driver	4,000 p.m.	3,000 p.m.	no driver

All the expenses are met by the employer. Compute his gross salary.

Solution:

Basic Pay (22,000 x 12)	Rs. 2,64,000
Rent free accommodation (Sec 17(2)(i) Rule 3(1)) [7.5 % of Rs. 2,64,000]	Rs. 19,800
Motor Car {Sec 17(2)(iii) Rule 3(2)} [See working Note]	Rs. 1,62,600
Gross Salary	Rs. 4,46,400

Working Note:

Option I: Car I is for official & personal purposes; Car II & III for personal purposes; perquisite value shall be:

Car I = (Rs. 2,400 + Rs. 900) x 12	Rs. 39,600
Car II = Rs. 30,000 + Rs. 10,000 + Rs. 4,000 + Rs. 36,000	Rs. 80,000
Car III = Rs. 25,000 + Rs. 15,000 + Rs. 3,000	Rs. 43,000
Perquisite value	Rs. 1,62,600

Option II: Car II is for official & personal purpose; Car I & Car III is for personal use; perquisite value shall be:

Car I = Rs. 40,000 + Rs. 3,000 + Rs. 5,000 + Rs. 48,000	Rs. 96,000
Car II = (Rs. 1,800 + Rs. 900) x 12	Rs. 32,400
Car III = Rs. 25,000 + Rs. 15,000 + Rs. 3,000	Rs. 43,000
Perquisite Value	Rs. 1,71,400

Option III: Car III is for official & personal purpose; Car I & Car II is for personal use; perquisite value shall be:

Car I = Rs. 40,000 + Rs. 3,000 + Rs. 5,000 + Rs. 48,000	Rs. 96,000
Car II = Rs. 30,000 + Rs. 10,000 + Rs. 4,000 + Rs. 36,000	Rs. 80,000
Car III = Rs. 1,800 x 12	Rs. 21,600
Perquisite Value	Rs. 1,97,600

Conclusion: 1st option is better.

PERQUISITE I.R.O 'SWEAT EQUITY SHARES/ESOP [SPECIFIED SECURITY]

- Perquisite = FMV on Exercise Date – Amount Actually paid by the Employee.
- Year of taxability: Taxable in the year of Allotment of Shares.

PC Note: If the shares have been sold by employee, Cost of Acquisition = FMV on Exercise Date [Sec 49(2AA)].

CQ18. AB Co. Ltd. allotted 1000 sweat equity shares to Sri Chand in June 2021. Shares were allotted at Rs. 200 per share as against FMV of Rs. 300 per share on the date of exercise of option by Sri Chand.

- (i) What is the perquisite value of sweat equity shares allotted to Sri Chand?
- (ii) In the case of subsequent sale of those shares by Sri Chand, what would be COA of those sweat equity shares?

Solution: Value of sweat equity shares = FMV on Exercise Date – Amount Actually paid by the Employee.

Perquisite = (Rs. 300 – Rs. 200) x 1000 shares = Rs. 1,00,000

As per section 49(2AA), where capital gain arises from transfer of sweat equity shares, the cost of acquisition of such shares shall be the fair market value which has been taken into account for perquisite valuation u/s 17(2)(vi). (The provisions of section 49 are discussed in Unit 4: Capital Gains of this chapter).

Therefore, in case of subsequent sale of sweat equity shares by Sri Chand, COA would be Rs. 3,00,000.

A. Determination of FMV of specified security or sweat equity share, being an equity share

- 1 If Shares are listed on RSE** → FMV = Average of Opening price & Closing price on exercise date.
- 2 If shares are listed on more than one RSE** → FMV = Average of Opening price & Closing price on exercise date on **a RSE which records the highest volume of trading in the share.**
- 3 If no trading in share on RSE** → If on exercising date, there is no trading on any RSE, FMV shall be
 - (a) Closing price on any RSE on a date closest to exercise date & immediately preceding such date; or
 - (b) Closing price on a RSE, which records highest volume of trading in such share, if closing price, on the date closest to exercise date & immediately preceding such date, is recorded on more than 1 RSE.

Closing price = Price of the last settlement on such date on such RSE. However, where stock exchange quotes both “buy” and “sell” prices, closing price shall be the “sell” price of the last settlement.

Opening price = Price of the first settlement on such date on such RSE. However, where the stock exchange quotes both “buy” & ‘sell’ prices, opening price shall be the “sell” price of the first settlement.
- 4 If shares are not listed on any RSE on exercise date** → FMV = Value determined by a merchant banker on the specified date.

Specified date” means (i) date of exercising of the option; or (ii) Any date earlier than exercise date, not being a date, which is more than 180 days earlier than the date of the exercising.

PC Note: Where any amount has been recovered from the employee, the same shall be deducted to arrive at the value of perquisites.

B. Determination of FMV of specified security or sweat equity share, NOT being an equity share

FMV = Value determined by a merchant banker on the specified date.

TYPES OF PERQUISITES

A PERQUISITES TAXABLE IN THE CASE OF ALL EMPLOYEES	
Rent Free/concessional Accommodation	Already Discussed [Sec 17(2)(i)]
Payment by the employer i.r.o. an obligation of employee [Sec 17(2)(iv)]	Amount paid by employer i.r.o. any obligation which otherwise would have been payable by employee.
<p>Ex: If a domestic servant is engaged by employee & employer reimburses the salary paid to the servant, it becomes an obligation which the employee would have discharged even if employer did not reimburse it. This perquisite will be covered by section 17(2)(iv) & will be taxable in the hands of all employees.</p>	
Amount payable by employer directly/indirectly to effect an assurance on the life of assessee (employee)	<p>Amount payable by an employer directly or indirectly to effect an assurance on the life of the assessee or to effect a contract for an annuity, other than payment made to RPF or approved SAF or deposit-linked insurance fund established under Coal Mines PF & Miscellaneous Provisions Fund, 1948 or Employees' PF & Miscellaneous Provisions Act, 1952 [Section 17(2)(v)].</p> <p>However, there are schemes like group annuity scheme, employees state insurance scheme & fidelity insurance scheme, under which insurance premium is paid by employer on behalf of the employees. Such payments are not regarded as perquisite in view of the fact that employees have only an expectancy of the benefit in such schemes.</p>
Specified security or sweat equity shares allotted/transferred by employer	Already Discussed [Sec 17(2)(vi)]
Aggregate amount of any contribution made by employer	Aggregate contribution made by employer to the account of the assessee in (i) RPF ; (ii) NPS ; (iii) Approved SAF to the extent it exceeds Rs. 7,50,000 [Sec 17(2)(vii)].
Annual accretion to the balance in RPF/NPS/approved SAF which relates to employer's contribution & included in TI (on account of the same having exceeded Rs. 7,50,000)	Annual accretion by way of interest, dividend or any other amount of similar nature during PY to the balance at the credit of RPF/NPS/Approved SAF to the extent it relates to the employer's contribution which is included in TI in any PY u/s 17(2)(vii) [Sec 17(2)(vii)]. [Given in Detail Below]
Any other fringe benefit or amenity [Rule 3(7)] [Already discussed Earlier]	<ul style="list-style-type: none"> ✓ Interest free/concessional Loan ✓ Travelling, touring and accommodation ✓ Free or concessional food and non-alcoholic beverages ✓ Gift, voucher or tokens, Credit card & Club expenditure ✓ Use of movable assets; Transfer of movable assets etc.
B TAX FREE PERQUISITES IN CASE OF ALL EMPLOYEES	
Telephone at employee's residence	Telephone provided by employer at his residence
Privilege passes & tickets	granted by Indian Railways to its employees;
Transport Facility provided by employer	engaged in business of carrying of passengers/goods to employees;
Employer's contribution to staff group insurance scheme	

MANNER FOR COMPUTATION OF TAXABLE PERQUISITE U/S 17(2)(VIIA) [Rule 3B] [NN 11/ 2021]

- (1) The amount or **aggregate** of amounts of any **contribution** made by the employer to the account of the assessee in –
- RPF
 - NPS referred to in section 80CCD(1) &
 - Approved Superannuation Fund
- to the extent it exceeds Rs. 7,50,000** would be perquisite in the hands of employee [Section 17(2)(vii)]
- (2) Any **annual accretion** by way of **interest, dividend or any other amount of similar nature** during PY to the balance at the credit of RPF or NPS or SAF to the extent it relates to the employer's contribution which is included in total income in any PY u/s 17(2)(vii), **computed in prescribed manner** would also be perquisite taxable u/h 'Salaries' [Section 17(2)(viiia)]

CBDT has vide Rule 3B prescribed the following manner to compute the annual accretion by way of interest, dividend or any other amount of similar nature during the current PY

$$\text{Taxable Perquisite} = \frac{PC}{2} \times R + (PC1 + TP1) \times R$$

TP	Taxable perquisite u/s 17(2)(viiia) for the current PY (i.e PY 2021-22)
TP1	Aggregate of taxable perquisite u/s 17(2)(viiia) for the previous year or years commencing on/after 1.4.2020 other than the current previous year (See Note). PC Note: पुराने Pys ka Taxable Perquisite u/s 17(2)(viiia).
PC	Aggregate amount of employer's contribution in excess of Rs. 7.5 lacs to specified fund/scheme during the current PY (i.e. PY 2021-22). PC Note: Employer's contribution in excess of Rs. 7,50,000.
PC1	Aggregate amount of employer's contribution in excess of Rs. 7.5 lacs to specified fund or scheme for the previous year or years commencing on/after 1 st April 2020 other than current previous year (See Note). PC Note: पुराने Pys ka excess contribution above Rs. 7,50,000.
R	$\frac{I}{F_{avg}} = \frac{\text{Aggregate Interest accrued for current PY}}{(\text{Opening Balance of Fund} + \text{Closing Balance of Fund})/2}$
I	Aggregate amount of income accrued during current PY in specified fund or scheme account.
F_{avg}	Aggregate amount of balance to the credit of specified fund or scheme on 1 st day of current PY (i.e., on 1 st April 2020) + Aggregate amount of balance to the credit of the specified fund or scheme on last day of current PY (i.e., on 31 st March 2021)/2 PC Note: (Opening Balance of Fund + Closing Balance of Fund)/2

Note: Specified fund/scheme → RPF, NPS referred to in section 80CCD(1) & approved superannuation fund.

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

CQ19. Mr. X is appointed as a CFO of ABC Ltd. in Mumbai from 1.5.2020. His basic salary is Rs. 5,50,000 p.m. He is paid 10% as DA. He contributes 11% of his pay & DA towards his RPF & company contributes the same amount. Accumulated balance in RPF as on 1.4.2021 & 31.3.2022 is Rs. 15,35,000 & Rs. 33,55,000. Compute the perquisite value chargeable in the hands of Mr. X u/s 17(2)(vii) and 17(2)(viia) for PY 2021-22.

Solution:

1	Perquisite value taxable u/s 17(2)(vii) = Rs. 48,600 [Rs. 7,98,600 - Rs. 7,50,000]
2	Annual accretion on perquisite taxable u/s 17(2)(vii) = $(PC/2)*R + (PC1 + TP1)*R$ = $(48,600/2)*0.091 + 0 = \text{Rs. } 2,211$

PC	ABC Ltd.'s contribution in excess of Rs. 7.5 lakh to RPF during PY 2021-22 = Rs. 48,600
PC1	Nil since employer's contribution is less than Rs. 7.5 lakh to RPF in PY 2020-21.
TP1	Nil
R	$I/\text{Favg} = 2,22,800/24,45,000 = 0.091$
I	RPF balance as on 31.3.2022 - employee's and employer's contribution during the year - RPF balance as on 1.4.2021 = Rs. 2,22,800 (Rs. 33,55,000 - Rs. 7,98,600 - Rs. 7,98,600 - Rs. 15,35,000)
Favg	Balance to the credit of RPF as on 1st April, 2021 + Balance to the credit of RPF as on 31st March, 2022)/2 = $(\text{Rs. } 15,35,000 + \text{Rs. } 33,55,000)/2 = \text{Rs. } 24,45,000$.

PC Note: Since employee's contribution to RPF exceeds Rs. 2,50,000 in PY 2021-22, interest on Rs. 5,48,600 (i.e., Rs. 7,98,600 - Rs. 2,50,000) will also be chargeable to tax.

Space for PC Analysis of Amendment in Class:

C	PERQUISITES TAXABLE ONLY IN HANDS OF SPECIFIED EMPLOYEES [SECTION 17(2)(iii)]
	<ul style="list-style-type: none"> ➤ Monetary perquisites are taxable in the hands of all employees [Specified + Non-Specified]. ➤ Non-Monetary perquisites are taxable in the hands of specified employees only. ➤ Following Perquisites will be taxable in the hands of Specified Employees only. [V. IMP] <ul style="list-style-type: none"> ▪ Provision of Sweeper, gardener, watchman or personal attendant ▪ Facility of use of Gas, Electricity or Water supplied by employer ▪ Free or Concessional tickets; Free or concessional Educational Facilities & Use of Motor Car.

MEANING OF 'SPECIFIED EMPLOYEE & NON-SPECIFIED EMPLOYEES'

Specified Employee	Director Employee	<ul style="list-style-type: none"> ▪ Any Director of the company.
	Substantial Interest	<ul style="list-style-type: none"> ▪ Person has substantial interest in a company if he is a beneficial owner of equity shares carrying $\geq 20\%$ of voting power in the company.
	Salary > Rs. 50,000	<ul style="list-style-type: none"> ▪ Employee drawing a salary of more than Rs. 50,000. <p>While calculating limit of Rs. 50,000, following payment shall be ignored:</p> <ul style="list-style-type: none"> (a) All Non-monetary benefits; (b) Exempt Monetary benefits u/s 10. [Ex: HRA to the extent it is exempt] (c) Standard deduction of Rs. 50,000; (d) Deduction for Entertainment allowance & Professional tax.

Non-Specified Employee: Employees other than specified employees.

CQ20. Mrs. Roma, an employee of XYZ Ltd., submits the following information for AY 2022-23: Salary: Rs. 1,86,000; City compensatory allowance: Rs. 8,000; Bonus: Rs. 10,200; Education allowance: Rs. 4,000 (for her grandchildren); Income tax penalty paid by the employer: Rs. 2,000; Medical expenses reimbursed by the employer: Rs. 12,000; Leave travel concession: Rs. 1,000 (expenditure incurred by the employee nil); Free residential telephone: Rs. 4,000; Free refreshment during office hours: Rs. 4,000; reimbursement of electricity bill by the employer: Rs. 1,060; reimbursement of gas bills: Rs. 1,000; Professional tax paid by the employer: Rs. 300 on behalf of Mrs. Roma; Professional tax paid by Mrs. Roma: Rs. 150. Determine Total Income of Mrs. Roma.

Solution: **Computation of Salary Income of Mrs. Roma**

Basic Salary	Rs. 1,86,000
City Compensatory Allowance	Rs. 8,000
Bonus	Rs. 10,200
Education Allowance [Fully taxable since given for grandchildren]	Rs. 4,000
Income tax Penalty paid by employer [Income tax paid by employer on non-monetary perquisites is exempt. In this case, penalty is paid. Thus, it is a taxable perquisite]	Rs. 2,000
Medical Reimbursement [other medical facilities are fully taxable]	Rs. 12,000
Leave Travel Concession [taxable since actual expenditure is not incurred]	Rs. 1,000
Residential Telephone	Nil
Refreshment [Since during office hours]	Nil
Payment of electricity bills by employer [It is a taxable perquisite]	Rs. 1060
Reimbursement of gas bills [It is a taxable perquisite]	Rs. 1000
Professional tax paid by employer [First included in salary & then allowed as deduction u/s 16(iii)]	Rs. 300
Gross Salary	Rs. 2,25,560
Less: Standard deduction u/s 16(ia)	(Rs. 50,000)
Less: Professional Tax paid by employee as well as employee [Rs. 300 + Rs. 150]	(Rs. 450)
Taxable salary	Rs. 1,75,110

PART D. TREATMENT OF PROVIDENT FUND FOR INCOME-TAX

Particulars	SPF	RPF	URPF	PPF
Employer's contribution	Fully Exempt	Exempt upto 12% of salary. Amount in excess of 12% of salary is taxable.	Not taxable to employee at the time of contribution	NA as there is only assessee's own contribution.
Employee's contribution	Deductible u/s 80C.	Deductible u/s 80C	No deduction.	Deductible u/s 80C
Interest on Employer's Contribution	Fully Exempt	<input checked="" type="checkbox"/> Exempt upto 9.5% p.a. <input checked="" type="checkbox"/> Excess over 9.5% p.a. is taxable.	Not taxable at the time of credit of interest	NA.
Interest on Employee's Contribution	Exempt upto certain limit of contribution [Note 1]	<input checked="" type="checkbox"/> Exempt upto 9.5% p.a. <input checked="" type="checkbox"/> Excess over 9.5% p.a. is taxable. [Note 2]	Not taxable at the time of credit of interest	Fully Exempt
Amount withdrawn on retirement or termination	Exempt u/s 10(11)	Exempt u/s 10(12) subject to certain conditions [Note 3]		Exempt u/s 10(11)

IMPORTANT NOTES

1. Interest credited on Employee's contribution:

- As per section 10(11), any payment from PF or PPF Public Provident Fund would be exempt.
- Accumulated balance payable to an employee participating in RPF would be exempt u/s 10(12).
- However, exemption u/s 10(11) or 10(12) would not be available i.r.o. income by way of interest accrued during PY to the extent it relates to the amount or aggregate of amounts of contribution made by that person/employee exceeding Rs. 2,50,000 in any previous year in that fund, on/after 1st April 2021.
- If contribution by such employee is in a fund in which there is no employer's contribution, then, a higher limit of Rs. 5,00,000 would be applicable for such contribution, and interest accrued in any previous year in that fund on/after 1st April, 2021 would be exempt upto that limit.
- **PC Note:** Interest accrued on contribution to such funds upto 31st March, 2021 would be exempt without any limit, even if the accrual of income is after that date.

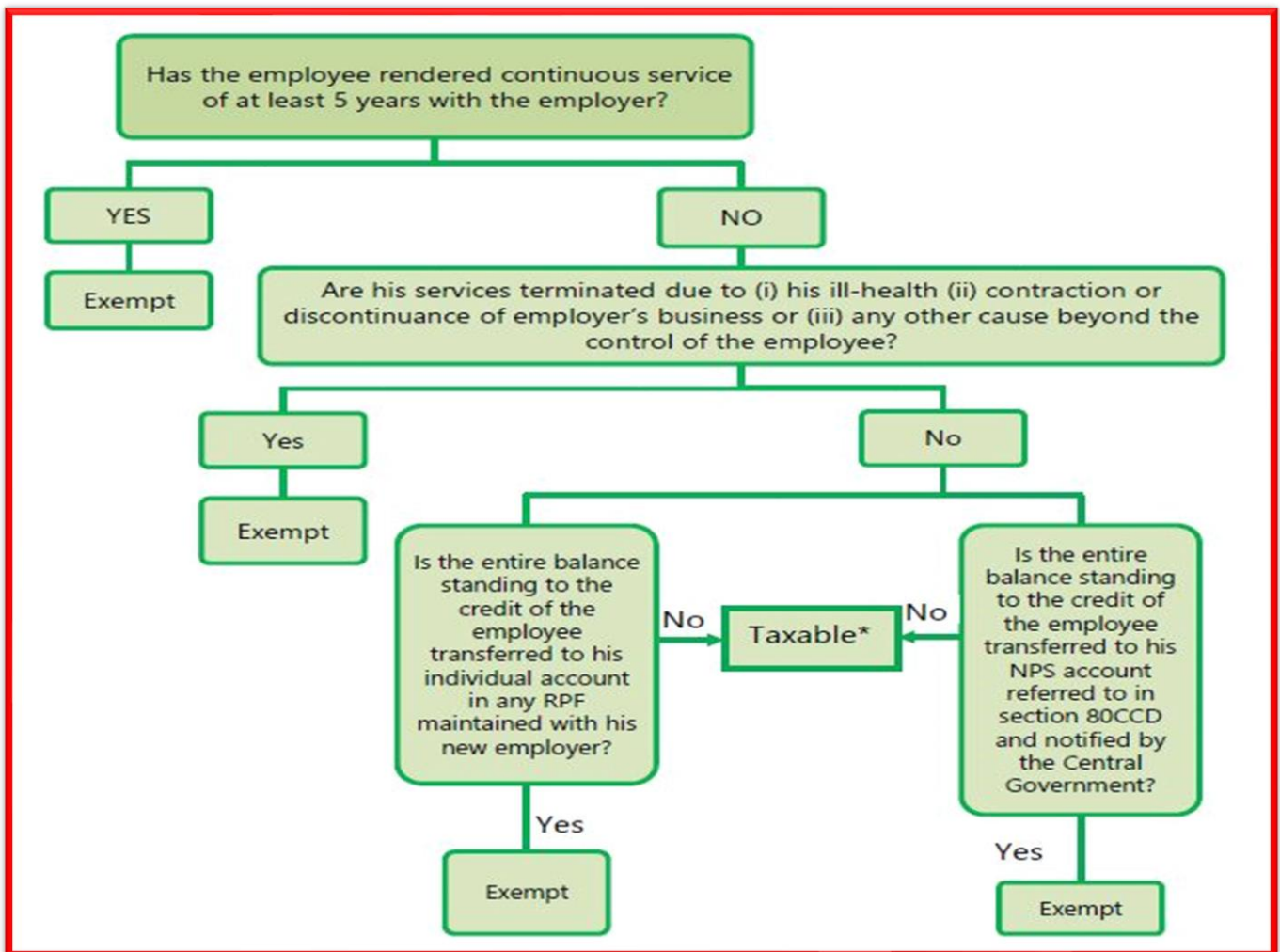
2. URPF

- Accumulated Employee's contribution is not taxable.
- Accumulated Employer's contribution + its interest is taxable as "profit in lieu of salary".
- Interest on Employees Contribution is taxable u/h IFOS.

3. RPF: Withdrawal of accumulated balance by employee from RPF is exempt in following cases:

- (a) If employee has rendered continuous service with his employer for a period of 5 years/more.
- (b) If service has been terminated by reason of (a) employee's ill health, (b) discontinuance of employer's business, (c) reasons which are beyond employee's control. [even if continuous service < 5 years].
- (c) If employee joins new employment on cessation of his old employment & accumulated balance in his PF A/c (due to him) is transferred to his individual A/c in any RPF maintained by new employer. In such case, for calculating period of service for (i) & (ii) above, period for which employee rendered continuous service under his former employer shall be included.

If accumulated balance is paid to employee otherwise than in circumstances referred above (Ex: where employee voluntarily resigns before 5 years of service, amount paid is taxable. In such cases, deduction allowed shall be withdrawn. Thus, Employer's contribution + Interest on it (which was not taxed earlier) → Taxed as Profit in lieu of salary. Interest on employee's contribution → Taxable u/h IFOS.



CQ21. Mr. X retires from service on 31st Dec 2021 after 25 years of service. Particulars for PY 2021-22 are as follows:

Basic pay @ Rs. 16,000 per month for 9 months	1,44,000
Dearness pay (50% forms part of the retirement benefits) for 9 months [Rs. 8,000 p.m × 9 months]	72,000
Lumpsum payment received from UPPF	6,00,000
Deposits in PPF A/c	40,000

Out of the amount received from PF, employer's share was Rs. 2,20,000 & interest thereon Rs. 50,000. Employee's share was Rs. 2,70,000 & interest thereon Rs. 60,000. What is the taxable portion of the amount received from URPF in the hands of Mr. X for AY 2022-23?

Solution: Taxable portion of the amount received from URPF in the hands of Mr. X for AY 2022-23

1. Amount taxable u/h 'Salaries' [Profit in lieu of salary]		
Employer's share in the payment received from URPF	Rs. 2,20,000	
Interest on the employer's share	Rs. 50,000	
Total		Rs. 2,70,000
2. Amount taxable u/h 'IFOS'		
Interest on Employee's contribution		Rs. 60,000
Total taxable amount in the hands of Mr. X		Rs. 3,30,000

PC Note: Accumulated Employee's contribution of Rs. 2,70,000 will not be taxable since it was not allowed as deduction at the time of payment.

CQ22. Mr. B is working in XYZ Ltd. & has given the details of his income for PY 2021-22. You are required to compute his gross salary from the details given below:

Basic Salary	Rs. 10,000 p.m.
D.A. (50% is for retirement benefits)	Rs. 8,000 p.m.
Commission as a percentage of turnover	0.1%
Turnover during the year	Rs. 50,00,000
Bonus	Rs. 40,000
Gratuity	Rs. 25,000
His own contribution in the RPF	Rs. 20,000
Employer's contribution to RPF	20% of his basic salary
Interest accrued in the RPF @ 13% p.a.	Rs. 13,000

Solution: **Computation of Gross Salary of Mr. B for AY 2022-23**

Particulars	Rs	Rs
Basic Salary [Rs. 10,000 × 12]		1,20,000
Dearness Allowance [Rs. 8,000 × 12]		96,000
Commission on turnover [0.1% × Rs. 50,00,000]		5,000
Bonus		40,000
Gratuity [Note 1]		25,000
Employer's contribution to RPF [20% of Rs. 1,20,000]	24,000	
Less: Exempt [Note 2]	(20,760)	3,240
Interest accrued in the RPF @ 13% p.a.	13,000	
Less: Exempt @ 9.5% p.a.	(9,500)	3,500
Gross Salary		2,92,740

Note:

- Gratuity received during service is fully taxable.
- Employer's contribution in the RPF is exempt up to 12% of the salary. i.e., 12% of [Basic Salary + Dearness Allowance forming part of retirement benefits + Commission based on turnover] = 12% of [Rs. 1,20,000 + (50% × Rs. 96,000) + Rs. 5,000] = 12% of Rs. 1,73,000 = Rs. 20,760
- Employee's contribution to RPF is not taxable. It is eligible for deduction u/s 80C.

PART E. RETIREMENT BENEFITS

1. LEAVE SALARY [SECTION 10(10AA)]

- Amount received by encashment of **unutilized leave** on retirement/termination of employment.
- Leave salary received during the **period of service** → Fully Taxable. (Gov/Non-Gov. Employees)
- Taxability of leave salary received **at** the time of **retirement is different**. It is as follows:
 - ☞ **Government Employees** (at the time of retirement): **Fully Exempt**.
 - ☞ **Non-Government Employees** (at the time of retirement): **Partly Exempt**.

TAXABILITY FOR NON-GOVERNMENT EMPLOYEES (on retirement) **Least** of the following is **EXEMPT** ↓

1. Leave Salary Actually received.
2. Rs. 3,00,000
3. 10 × AMS (on the basis of average salary of last 10 Months)
4. (iv) Leaves Earned (in No. of Months) × AMS.
 - **Leaves Earned** = [Completed years of service × No. of leaves credited/month (Maximum 30 days allowed in a year)] – Leaves actually taken/ availed.
 - AMS = Average Salary of 10 months immediately preceding **date of retirement**.
 - Leave entitlement credited cannot exceed 30 days for every year of actual service rendered.

Points to Remember:

- ⚡ Receipt of Leave salary from two or more employers: in the same year/ different year, then the **aggregate amount of leave salary exempt from tax cannot exceed Rs. 3,00,000**.
- ⚡ If Leave salary is received in any earlier year from former employer & again received from another employer in later year, limit of Rs. 3,00,000 will be reduced by amount of leave salary exempt earlier.
- ⚡ Leave salary paid to legal heir & family of government servant who died in harness (on duty) → **Exempt**.

CQ23. X was employed by PQR Ltd. upto March 15, 2007. At the time of leaving PQR Ltd, he was paid Rs. 3,50,000 as leave salary out of which Rs. 57,000 was exempt from tax u/s 10(AA)(ii). Thereafter he joined ABC(P.) Ltd. & received Rs. 4,12,200 as leave salary at the time of his retirement on 31st Dec 2021. Determine taxable leave salary:

1	Salary at the time of retirement (p.m)	Rs. 22,900
2	Average salary received during 10 months ending on December 31,2021	
	- From March 1, 2021 to July 31, 2021 (p.m)	Rs. 22,600
	- From August 1, 2021 to December 31, 2021 (p.m)	Rs. 22,900
3	Duration of service (a)	14.75 years
4	Leave entitlement for every year of service (b)	45 days
5	Leave availed while in service (c)	90 days
6	Leave at the credit of employee at the time of retirement [(14 years x 45 months - 90)/30]	18 months
7	Leave salary paid at the time of retirement @ Rs. 22,900 p.m (i.e., Rs. 22,900 x 18)	Rs. 4,12,200

Solution:

1	Leave Salary Received	Rs. 4,12,200
2	Leave Salary Exempt u/s 10(10AA) [Lower of the following]	
	(i) Amount actually received = Rs. 4,12,200	
	(ii) Rs. 3 Lacs – Rs. 57000 (Amount already exempted from previous employer) Rs. 2,43,000	
	(iii) 10× 22,750 (Note 1) = Rs. 2,27,500	
	(iv) 11 × 22750 (Note 2) = Rs. 2,50,250	(Rs. 2,27,500)
3	Taxable Leave Salary [1 – 2]	Rs. 1,84,700

Note 1: AMS = [(Rs. 22600 × 5) + (Rs. 22900 × 5)] ÷ 10 = Rs. 22750.

Note 2: Leaves Earned = {Completed years of service × No. of leaves credited/month (Max. 30 days allowed in a PY)} – Leaves actually taken ÷ 30 days. = [(14 × 30) – 90] ÷ 30 = 11 months.

2. GRATUITY [SECTION 10(10)] → [Payable at time of cessation of employment]

Type of Employee		<u>EXEMPTION I.R.O GRATUITY</u>
1. Government Employees		Fully Exempt u/s 10(10)(i)
2. Non-Government Employees		
1	EMPLOYEES COVERED BY GRATUITY ACT, 1972 Exempt Gratuity = Least of →	1. Gratuity Actually Received
		2. Rs. 20 Lacs
		3. Length of Service (LOS) x 15 days Salary
	(a) How to calculate LOS: More than half year = Full year [Ignore less than half part]	
	(b) 15 days salary = $\frac{\text{Salary last drawn} \times 15}{26}$.	
2	EMPLOYEES NOT COVERED BY GRATUITY ACT, 1972 Exempt Gratuity = Least of →	1. Gratuity Actually received.
		2. Rs. 20 Lacs
		3. ½ Month's Average Salary x Completed YOS
AMS: Average salary for 10 months immediately preceding Retirement Month (& not date).		

Points to Remember:

- ❖ Gratuity Received during the period of Service → Fully Taxable.
- ❖ Gratuity received by Members of Defence Service → Fully Exempt.
- ❖ Retirement Gratuity received by Employees of CG/Members of Civil Services/LA → Fully Exempt.
- ❖ Gratuity is received by Widow, Children or Dependents of Deceased Employee → Fully Exempt.
- ❖ Completed YOS (year of service) will include the period of earlier employment if the employee was not entitled to gratuity at that time/during that employment.
- ❖ Exemption Limit of Rs. 20 Lacs is the maximum amount of gratuity exempt. If gratuity is received in any earlier year from former employer (if any) & again received from another employer in later year, limit of Rs. 20 Lacs will be reduced by the amount of gratuity exempt earlier.

CQ24. Mr. Raj not being covered by the Payment of Gratuity Act, 1972 retires during PY 2021-22 from XYZ Private Ltd & receives Rs. 45,000 as gratuity after a service of 40 years 11 months. His average monthly salary during the last 10 months of services was Rs. 2,200. Determine the taxable gratuity for AY 2022-23.

Solution: **Computation of taxable gratuity of Mr. Raj**

1	Amount of Gratuity Received	Rs. 45,000
2	Amount of Gratuity Exempt u/s 10(10) [Least of the following] (1) Amount of Gratuity actually received = Rs. 45,000 (2) Specified Amount = Rs. 20 Lacs (3) Rs. 2,200 x ½ x 40 = Rs. 44,000	Rs. 44,000
3	Taxable gratuity [1 - 2]	Rs. 1,000

3. PENSION [SEC [10(10A)]

❖ Pension → Periodic payment made to employee after his retirement in consideration of past services.

1	COMMUTED PENSION [Commutation = Inter-Change]	<ul style="list-style-type: none"> ▪ Converting future right to receive monthly pension into lumpsum amount receivable immediately on retirement. ▪ It is lumpsum payment in lieu of periodical payment.
2	UNCOMMUTED PENSION (Monthly pension)	<ul style="list-style-type: none"> ▪ It is periodical payment of pension. ▪ It is always TAXABLE to both Gov & Non-Gov Employees.

Ex: If a person is entitled to receive a pension of Rs. 10,000 p.m. for the rest of his life. He may commute 50% of this amount & get a lumpsum of Rs. 3 lacs (random amount). After commutation, his monthly pension will now be the balance 50% of Rs. 10,000 p.m. = Rs. 5,000 p.m.

❖ **TAX TREATMENT OF UNCOMMUTED (MONTHLY) PENSION:** It is **always TAXABLE** in the hands of both Government/Non-Government Employee.

❖ **TAX TREATMENT OF COMMUTED PENSION** [Taxable Pension = Pension Received – Exempt Pension]

Type of Employee	Tax Treatment	
1. Government	Always EXEMPT .	
2. Non-Government Employees	EXEMPTION I.R.O COMMUTED PENSION	
	A	If Gratuity is received by Employee Exemption = 1/3rd of the Pension which he would have been normally entitled to receive had he not commuted the pension (Total Pension).
	B	If Gratuity is not received by Employee Exemption = 1/2th of the Pension which he would have been normally entitled to receive had he commuted the pension (Total Pension).

PC Note: For this purpose, **Total Pension** = $\frac{\text{Commuted Pension}}{\% \text{ of commutation}}$

Points to Remember:

- ✗ Commuted Pension to Judges of HC/SC → Fully Exempt.
- ✗ Commuted Pension received by Individual out of annuity plan of LIC → Exempt.
- ✗ Pension received from UNO by the employee or his family members → Exempt.
- ✗ Family Pension received by the family members of Armed forces → Exempt u/s 10(19).
- ✗ Family Pension received by family members after death of an employee (Other than armed forces) → **Taxable u/h IFOS. Deduction u/s 57 = Lower of Rs 15000 OR 1/3rd of Pension.**

CQ25. Mr. X retires from PQR Ltd. on 31.3.2020. He is paid Rs. 1,800 p.m. as pension. On his request, RG Co. pays Rs. 36,000 to Mr. X in lieu of 50% of his monthly pension on 1.12.2022. Calculate taxable pension in the hands of Mr. X for AY 2022-23 assuming that (i) Gratuity is paid, (ii) Gratuity is not paid.

Solution: Mr. X has commuted his pension on 1.12.2021. Till 31.11.2021 (i.e for 8 months), he was receiving monthly pension of Rs. 1,800. Now from 1.12.2021, he will receive only Rs. 900 as monthly pension since he has commuted 50% of his monthly pension. Total pension = $\frac{\text{Rs. } 36,000}{50\%}$ = Rs. 72,000 for the purpose of exemption.

Case I: Gratuity is paid to Mr. X		Amount	Total
1	Uncommuted Pension (Always Taxable to all employees)		
	- Before commutation (Rs. 1,800 x 8 months)	14,400	
	- After commutation (Rs. 900 x 4 months)	3,600	18,000
2	Taxable Commuted Pension [A – B]		
	A. Commuted Pension Received	36,000	
	B. Exempt u/s 10(10A) = 1/3 rd of Total Pension [1/3 x Rs. 72,000]	(24,000)	12,000
Total Taxable Pension [1 + 2]			30,000

Case II : Gratuity is not paid to Mr. X		Amount	Total
1	Uncommuted Pension (Always Taxable to all employees)		
	- Before commutation (Rs. 1,800 x 8 months)	14,400	
	- After commutation (Rs. 900 x 4 months)	3,600	18,000
2	Taxable Commuted Pension [A – B]		
	C. Commuted Pension Received	36,000	
	D. Exempt u/s 10(10A) = 1/2 of Total Pension [1/2 x Rs. 72,000]	(36,000)	Nil
Total Taxable Pension [1 + 2]			18,000

RETRENCHMENT COMPENSATION [SECTION 10(10B)]

- Any compensation received by a workman at the time of his retrenchment shall be **Exempt to the Extent of Lower of the following:**
- Actual Amount Received.
 - Rs. 5,00,000.
 - 15 days Average Pay × Length of service (More than half year shall be treated as full year).

Note: Compensation received by workman as per the scheme approved by CG → Exempt u/s 10(10B).

CQ26. Mr. Garg received retrenchment compensation of Rs. 10 Lacs after 30 years 4 months of service. He was drawing basic salary Rs. 20,000 p.m.; DA - Rs. 6,000 p.m. Compute his taxable retrenchment compensation.

Solution: Taxable Retrenchment compensation = Rs. 10 lacs – Rs. 4,50,000 (Refer WN below) = Rs. 5,50,000

WN - Calculation of Exempt Retrenchment compensation = Lower of

- Actual Amount Received = Rs. 10 lacs
- Rs. 5,00,000.
- 15 days Average Pay × LOS (More than half is treated as full) = Rs. 26000 × 15/26 × 30 years = Rs. 4,50,000.

COMPENSATION RECEIVED ON VOLUNTARY RETIREMENT [SEC 10(10C)]

- Maximum Exemption upto **Rs. 5,00,000** is available if following condition is satisfied:

Condition: Amount payable for VRS should not exceed [Higher of (a) or (b)]

(a) **3 Months Salary** for each completed year of service.

(b) Salary @ time of retirement × Balance months of service left before retirement/superannuation.

Points to Remember:

- ❖ Relief u/s 89 is not available if exemption is taken in this section.
- ❖ Exemption u/s 10(10C) shall be allowed once in a lifetime.
- ❖ It applies to an employee who has completed 10 years of service or completed 40 years of age. [Except employee of a public sector company under voluntary separation scheme framed by the company].
- ❖ It applies to all employees except directors of a company or a cooperative society.

CQ27. Mr. Dutta received voluntary retirement compensation of Rs. 7,00,000 after 30 years 4 months of service. He still has 6 years of service left. At the time of voluntary retirement, he was drawing basic salary Rs. 20,000 p.m.; Dearness allowance (which forms part of pay) Rs. 5,000 p.m. Compute his taxable VRS.

Solution: Exemption of Rs. 5,00,000 is available if Amount payable for VRS does not exceed Higher of

- 3 Months Salary for each completed year of service = 3 × Rs. 25,000 × 30 years = Rs. 22,50,000;
 - Salary @ time of retirement × Balance months of service left before retirement = Rs. 25,000 × 72 = Rs. 18 lacs;
- Thus, If VRS Compensation received does not exceed Rs. 22,50,000, Exemption of Rs. 5,00,000 will be available.
Amount of VRS Compensation received = Rs. 7,00,000. Thus Rs. 5,00,000 will be Exempt. Taxable VRS = Rs. 2,0,000.

NATIONAL PENSION SCHEME

Applicability	Only to new employees of government or any other employer.
Scheme	Every employee is required to contribute 10% of his salary every month towards NPS. A matching contribution is made by the employer.
Tax Treatment	<ol style="list-style-type: none"> Employer's contribution: First included in salary income of the employee & deduction (upto 10%/14% of salary) is given u/s 80CCD(2). Employee's contribution: Deductible (upto LOWER OF 10% of salary or Rs. 1.5 lacs) u/s 80CCD(1).
Maturity amount	Pension received out of the aforesaid amount → Taxable to recipient.

PART F. DEDUCTION ALLOWED FROM SALARY

Standard Deduction [Section 16(ia)]	<ul style="list-style-type: none"> ▪ Lower of (i) Rs. 50,000 or (ii) Amount of Salary. 			
Entertainment Allowance [Section 16(ii)]	<ul style="list-style-type: none"> ▪ It is first included in salary income & then deduction is available u/s 16. ▪ Least of the following is Exempt for GOVERNMENT EMPLOYEES only. <table border="1" style="margin-left: 20px; width: 80%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Amount of entertainment allowance actually received during PY.</td> </tr> <tr> <td style="padding: 2px;">Rs. 5,000.</td> </tr> <tr> <td style="padding: 2px;">20% of basic salary.</td> </tr> </table> <ul style="list-style-type: none"> ▪ Actual expenditure towards entertainment is NOT RELEVANT. ▪ Non-Government Employee → Entertainment allowance is not deductible. 	Amount of entertainment allowance actually received during PY.	Rs. 5,000.	20% of basic salary.
Amount of entertainment allowance actually received during PY.				
Rs. 5,000.				
20% of basic salary.				
Professional Tax [Section 16(iii)]	<ul style="list-style-type: none"> ▪ It is levied by a State under Article 276 of the Constitution. SG cannot impose more than Rs. 2,500 as profession tax. ▪ It is deductible only when it is actually paid by the Employee during PY. <p style="margin-left: 20px; color: magenta;"> PC Note: Student should note that the Limit of Rs. 2,500 is for the levy of professional tax in a previous year by the State Government. However, under Income Tax Act, there is no such limit on claiming deduction in a PY. Thus, if Rs. 5,000 is paid as professional tax during the PY, whole of Rs. 5,000 will be deductible in the PY in which it is paid. </p> <ul style="list-style-type: none"> ▪ If an Employer pays Professional Tax on behalf of Employee, it shall be first included in salary of the employee as perquisite & then shall be allowed as deduction on payment basis. 			

CQ28. Mr. D, a Government employee gets Rs. 20,000 per year as entertainment allowance out of which he spends Rs. 2,000 for official purpose; Rs. 3,200 for personal purposes & save the balance Rs. 14,800. Basic salary amounts to Rs. 60,000. Compute the taxable entertainment allowance.

Solution:

Computation of taxable entertainment allowance

1	Entertainment allowance actually received for the year	20,000
2	Least of the following will be deductible u/s 16(ii) 1. Specified Amount (i.e. Rs. 5,000); 2. 20% of basic salary: Rs. 60,000 × 20% = Rs. 12,000 3. Actual entertainment allowance: Rs. 20,000	(5,000)
3	Taxable Entertainment Allowance [1 - 2]	15,000

PART G. RELIEF [SECTION 89] (Only for INDIVIDUALS)

- If any individual receives any portion of his salary in arrears or in advance or receives profits in lieu of salary (gratuity, commuted pension), family pension & as a result of such receipt, his income is assessed at a higher rate than the rate at which it would have been assessed if there was no such aforesaid receipts, he can claim relief u/s 89.
- **Procedure for computing relief as given in Rule 21A is as follows:**

1	Calculate the tax payable of PY in which the arrears/ advance salary is received on (a) Total Income including of advance salary/ salary in arrears. (b) Total Income excluding of advance salary/ salary in arrears <i>Difference between (a) & (b) is the tax on additional salary included in the total income.</i>
2	Calculate the tax payable of PY to which the advance salary/salary in arrears relates. (a) Total Income including of advance salary/ salary in arrears (b) Total Income excluding of advance salary/ salary in arrears. <i>Calculate the difference between (a) & (b) for every PY to which the additional salary relates.</i>
3	Excess tax on additional salary as calculated in 1 & 2 shall be Relief admissible u/s 89.

CQ29. Mr. Hari, who turned 68 years on 28.3.2022, salary for PY 2021-22 is Rs. 10,20,000 & Arrears of salary received is Rs. 3,45,000. Further, you are given the following details relating to the earlier years to which the arrears of salary received is attributable to:

Previous year	Taxable Salary	Arrears now received
2011 - 2012	7,10,000	1,03,000
2012 - 2013	8,25,000	1,17,000
2013 - 2014	9,50,000	1,25,000

Compute relief u/s 89 & tax payable for AY 2022-23. Assume that Mr. Hari does not opt for section 115BAC.

Note: Rates of Taxes:

AY	Slab rates of income-tax for Resident Individual			
	For Senior		For Others	
2012-13	Upto 2,40,000	Nil	Upto Rs. 1,60,000	Nil
	2,40,001 - 5,00,000	10%	Rs. 1,60,001 - Rs. 5,00,000	10%
	5,00,001 - 8,00,000	20%	Rs. 5,00,001 - Rs. 8,00,000	20%
	Above 8,00,000	30%	Above Rs. 8,00,000	30%
2013-14	Upto 2,50,000	Nil	Upto Rs. 1,80,000	Nil
	2,50,001 - 5,00,000	10%	Rs. 1,80,001 - Rs. 5,00,000	10%
	5,00,001 - Rs. 8,00,000	20%	Rs. 5,00,001 - Rs. 8,00,000	20%
	Above Rs. 8,00,000	30%	Above Rs. 8,00,000	30%
2014-15	Upto Rs. 2,50,000	Nil	Upto Rs. 2,00,000	Nil
	2,50,001 - 5,00,000	10%	Rs. 2,00,001 - Rs. 5,00,000	10%
	5,00,001 - 10,00,000	20%	Rs. 5,00,001 - Rs. 10,00,000	20%
	Above 10,00,000	30%	Above Rs. 10,00,000	30%

Note: Education cess @ 2% & SHEC @ 1% was attracted on the income-tax for all above preceding years.

Solution: Computation of tax payable by Mr. Hari for AY 2022-23

Particulars	Incl. arrears of salary	Excl. arrears of salary
Current year salary	10,20,000	10,20,000
Add: Arrears of salary	3,45,000	-
Taxable Salary	13,65,000	10,20,000
Income-tax thereon	2,19,500	1,16,000
Add: HEC @ 4%	8,780	4,640
Total payable	2,28,280	1,20,640

Computation of tax payable on arrears of salary if charged to tax in respective AYs

Particulars	AY 2012-13		AY 2013-14		AY 2014-15	
	Incl. arrears	Excl. arrears	Incl. arrears	Excl. arrears	Incl. arrears	Excl. arrears
Taxable salary	7,10,000	7,10,000	8,25,000	8,25,000	9,50,000	9,50,000
Add: Arrears of salary	1,03,000	-	1,17,000	-	1,25,000	-
Taxable salary	8,13,000	7,10,000	9,42,000	8,25,000	10,75,000	9,50,000
Tax	97,900	76,000	1,34,600	99,500	1,47,500	1,15,000
Add: Cess@3%	2,937	2,280	4,038	2,985	4,425	3,450
Tax payable	1,00,837	78,280	1,38,638	1,02,485	1,51,925	1,18,450

Computation of Relief u/s 89

Particulars	Rs.	Rs.
Tax payable in AY 2022-23 on arrears:		
Tax on income including arrears	2,28,280	
Less: Tax on income excluding arrears	1,20,640	1,07,640
Tax payable in respective years on arrears:		
Tax on income including arrears (Rs. 1,00,837 + Rs. 1,38,638 + Rs. 1,51,925)	3,91,400	
Less: Tax on income excluding arrears (Rs. 78,280 + Rs. 1,02,485 + Rs. 1,18,450)	2,99,215	92,185
Relief u/s 89 [Diffn b/w tax on arrears in AY 2022-23 & tax on arrears in respective years]		15,455

-----THE END-----

CHAPTER 4. INCOME FROM HOUSE PROPERTY

BASIS OF CHARGE [SECTION 22]

- **'Annual value'** of any **house property** which is **owned** by the assessee is taxable u/h 'Income from HP'.
- House property shall include **all types of house properties** [i.e. residential houses, shops, godowns, cinema building, workshop building, hotel buildings etc].

Income from Renting of House Property →	Taxable u/h 'House Property'.
Income from Sale of House Property →	Taxable u/h 'Capital Gains'.

ANALYSIS OF SECTION 22

I. **Property should consist of any Building or/ & Land attached (appurtenant) to the building (thereto)**

- Land appurtenant means land connected with the building [Ex: Garden, Garage, Parking]
- Letting out of vacant land → Taxable u/h IFOS [as No Building]
- Subletting of House Property → Taxable u/h IFOS [as No Ownership]

II. **Assessee must be the owner of the rented House Property**

- Registration of the sale deed → Not necessary. [& thus includes also a beneficial owner]
- Ownership of land on which the building stands is not necessary. [Land may be on lease].
- Ownership in PY is relevant & not in AY.
- Ownership includes deemed ownership (discussed in Section 27 later).
- **House Property with Disputed Title of Ownership:** It will be the decision of Income-tax Department as to who is the owner till the court gives its decision on such property.

III. **Purpose**

- HP may be used for any purpose by the owner (other than for his business/profession).
- **If house property is used by the assessee for his own business/profession**, annual value of such house property is **not taxable** u/h 'Income from house property'. [since section 30 does not allow deduction of 'notional rent' of the property while computing business income u/h PGBP]

Ex: Mr. X uses the property for his office. Income from such property cannot be taxed u/h house property since it is used for his own business.

HOUSE PROPERTY HELD AS SIT

- If house property constitutes SIT of a business, rental income from such house property is to be taxed u/h 'Income from House Property'. [Since specific head has been given for income from house property, it cannot be taxed under any other head].
- **HP held as SIT → Annual value = NIL for 2 years** from the end of FY in which completion certificate is obtained from competent authority, if such property is not LOP during such period. [Sec 23(5)]

PC Note: Rental Income earned by an assessee engaged in the business of letting out of properties on rent would be taxable as Business Income. [SC ruling in *Rayala Corporation (P) Ltd. v. Asstt. CIT (2016) 386 ITR 500*]

CQ1. Write a note on letting out of building which is supplementary to the business.

Answer:

- If any assessee has let out any house property for any purpose which is supplementary to his business,
- in such cases rental income from such house property shall be taxable u/h 'PGBP' &
- all expenses of such house property will be allowed as deduction u/h 'PGBP' (if admissible).

Ex: If a Public school has let out a part of its building to a Bank, in this case rent received shall be considered to be income u/h "PGBP" & all the expenses of such house property shall be debited to profit & loss account.

STEPS TO COMPUTE "INCOME FROM HOUSE PROPERTY"

A. Gross Annual Value (GAV)	xxx
B. Less: Municipal tax paid by the owner during the PY.	(xxx)
C. Net Annual Value (NAV) [A – B]	xxx
D. Less: Deduction u/s 24	(xxx)
Section 24(a): Standard deduction (30% of NAV)	(xxx)
Section 24(b): Interest on borrowed Capital	(xxx)

A. DETERMINATION OF GROSS ANNUAL VALUE [SECTION 23]

1	Calculate Expected Rent (ER) = Higher of (a) MV or (b) FR subject to maximum of SR.
2	Calculate Actual Rent Received (ARR) = Rent receivable - Unrealized Rent [See PC Note Below].
3	GAV = Higher of ER or ARR.
❖ Unrealized Rent → House was let out, but rent could not be recovered from tenant.	
❖ Vacancy Loss → Loss of rent because house property remained vacant during such period.	

CQ2. When Unrealized Rent shall be deducted from Rent Received/Receivable?

Answer: Unrealized rent shall be deducted from rent if all the following conditions are satisfied:

- Tenancy is **bonafide**;
- Defaulting tenant **has vacated**, or steps have been taken to compel him to vacate the property;
- Defaulting tenant is **not in occupation** of any other property of the assessee;
- Assessee has taken all **reasonable steps to institute legal proceedings** for the **recovery** of the unpaid rent or **satisfies AO** that **legal proceedings would be useless**.

PC Note - Income-tax returns permit deduction of unrealized rent from GAV. If this view is taken, unrealized rent should be deducted only after computing GAV.

CQ3. Jayashree owns five houses in Chennai, all of which are let-out. Compute GAV of each House. **[ICAI SM Q1]**

Particulars	House I	House II	House III	House IV	House V
Municipal Value	80,000	55,000	65,000	24,000	80,000
Fair Rent	90,000	60,000	65,000	25,000	75,000
Standard Rent	NA	75,000	58,000	N.A.	78,000
AR received/Receivable	72,000	72,000	60,000	30,000	72,000

Solution:

Computation of GAV of each house owned by Mr. X

	Particulars	House I	House II	House III	House IV	House V
(i)	Municipal value	80,000	55,000	65,000	24,000	80,000
(ii)	Fair rent	90,000	60,000	65,000	25,000	75,000
(iii)	Higher of (i) & (ii)	90,000	60,000	65,000	25,000	80,000
(iv)	Standard rent	N.A.	75,000	58,000	N.A.	78,000
(v)	Expected rent [Lower of (iii) & (iv)]	90,000	60,000	58,000	25,000	78,000
(vi)	Actual rent received/receivable	72,000	72,000	60,000	30,000	72,000
	GAV [Higher of (v) & (vi)]	90,000	72,000	60,000	30,000	78,000

COMPUTATION OF GAV FOR DIFFERENT TYPES OF HOUSE PROPERTIES							
1. Self-occupied (SOP)/ unoccupied House Property	<ul style="list-style-type: none"> ▪ GAV = Nil for 2 Houses [Only for Individual/HUF] ▪ No deduction of Municipal taxes paid by the owner. 						
2. Property Let out for whole year	<ul style="list-style-type: none"> ▪ GAV = Higher of (i) ER or (ii) ARR. ▪ No Question of vacancy since property was occupied for whole year. 						
3. Let out Property vacant for a part of year.	<ul style="list-style-type: none"> ▪ ER shall be calculated for whole year. ▪ While computing ARR, rent for the period for which the house was vacant shall be excluded. <table border="1" style="width: 100%; margin-top: 10px;"> <tr> <td>If ARR > ER</td> <td>GAV = ARR</td> </tr> <tr> <td>If ARR < ER due to vacancy</td> <td>GAV = ARR</td> </tr> <tr> <td>If ARR < ER due to other reason</td> <td>GAV = ER</td> </tr> </table>	If ARR > ER	GAV = ARR	If ARR < ER due to vacancy	GAV = ARR	If ARR < ER due to other reason	GAV = ER
If ARR > ER	GAV = ARR						
If ARR < ER due to vacancy	GAV = ARR						
If ARR < ER due to other reason	GAV = ER						
4. Let out for part & self occupied for part of year	<ul style="list-style-type: none"> ▪ ER shall be calculated for the whole year. ▪ ARR shall be computed for let out period. ▪ GAV = Higher of (i) ER (for whole year) or (ii) ARR (for let out part). 						
5. Deemed Let out property	If Assessee is having more than 2 houses & he is using all of them for himself, he has the option to choose any 2 houses as SOP & other houses will be deemed to be let out. <ul style="list-style-type: none"> ▪ GAV of DLOP → ER because there is no rent since both HPs are SOP. ▪ GAV of SOP = Nil; 						
6. Single House – One portion is let & other portion is self-occupied	<ul style="list-style-type: none"> ▪ SOP → GAV = Nil; No deduction of Municipal taxes paid; ▪ Interest is deductible subject to the limit of Rs. 30,000/2,00,000. ▪ For LOP → ER shall be computed on proportionate basis. 						

CQ4. Anirudh has a property whose municipal valuation is Rs. 1,30,000 p.a. Fair rent is Rs. 1,10,000 p.a. & Standard rent is Rs. 1,20,000 p.a. The property was let out for a rent of Rs. 11,000 p.m. throughout the PY. Unrealised rent was Rs. 11,000. Compute gross annual value for AY 2022-23. **[ICAI SM Q4]**

Solution: **Computation of Gross Annual Value**

ER =	Higher of (a) MV or (b) FR subject to maximum of SR.	Rs. 1,20,000
ARR =	Rent receivable – Unrealized Rent = Rs. 1,32,000 – Rs. 11,000	Rs. 1,21,000
GAV =	Higher of ER or ARR [Higher of Rs. 1,20,000 or Rs. 1,21,000]	Rs. 1,21,000

Alternate View: If as per income-tax returns, URR is deducted from GAV, then GAV would be Rs. 1,32,000, being higher of expected rent of Rs. 1,20,000 & actual rent of Rs. 1,32,000. Thereafter, URR of Rs. 11,000 would be deducted from GAV of Rs. 1,32,000 to arrive at NAV.

CQ5. Ganesh has a property whose municipal valuation is Rs. 2,50,000 p.a. Fair rent is Rs. 2,00,000 p.a. & standard rent is Rs. 2,10,000 p.a. Property was let out for a rent of Rs. 20,000 p.m. However, tenant vacated the property on 31.1.2021. Unrealised rent was Rs. 20,000. Compute GAV. **[ICAI SM Q5]**

Solution: Property was vacant for 2 months. So, while calculating ARR, we will take only 10 months.

ER =	Higher of (a) MV or (b) FR subject to maximum of SR. [For whole year]	Rs. 2,10,000
ARR =	Rent receivable/received – Unrealized Rent = Rs. 2,00,000 – Rs. 20,000	Rs. 1,80,000

Now, if the property was let out for 2 months, i.e. for the period it remained vacant, ARR would be Rs. 2,40,000 – Rs. 20,000 = Rs. 2,20,000. Thus, we can say that ARR < ER due to vacancy, thus **GAV = ARR = Rs. 1,80,000.**

Alternate View: If as per income-tax returns, unrealized rent is deducted from GAV, then GAV = Rs. 2 Lacs, being the actual rent, since the actual rent is lower than ER of Rs. 2,10,000 owing to vacancy. Thereafter, URR of Rs. 20,000 would be deducted from GAV of Rs. 2,00,000 to arrive at the NAV.

CQ6. Smt. Rajalakshmi owns a house property at Adyar in Chennai. Municipal value of the property is Rs. 5,00,000, fair rent is Rs. 4,20,000 & standard rent is Rs. 4,80,000. The property was let-out for Rs. 50,000 p.m. up to December 2021. Thereafter, the tenant vacated the property & Smt. Rajalakshmi used the house for self-occupation. Rent for Nov. & Dec. 2020 could not be realised. Compute GAV of such house property. [ICAI SM Q7]

Solution:

ER =	Higher of (a) MV or (b) FR subject to maximum of SR. [For whole year]	Rs. 4,80,000
ARR =	Rent receivable - Unrealized Rent = Rs. 4,50,000 - Rs. 1,00,000 [for let out period]	Rs. 3,50,000
GAV =	Higher of ER (for whole year) or ARR (for let out period)	Rs. 4,80,000

Alternate View: If as per income-tax returns, unrealized rent is deducted from GAV, then GAV = Rs. 4,80,000, being higher of ER of Rs. 4,80,000 & actual rent of Rs. 4,50,000. Thereafter, URR of Rs. 1,00,000 would be deducted from GAV of Rs. 4,80,000 to arrive at the NAV.

***CQ7.** Ganesh has three houses, all of which are self-occupied. Particulars of the houses for PY 2021-22 are as under:

Particulars	House I	House II	House III
Municipal valuation p.a.	Rs. 3,00,000	Rs. 3,60,000	Rs. 3,30,000
Fair rent p.a.	Rs. 3,75,000	Rs. 2,75,000	Rs. 3,80,000
Standard rent p.a.	Rs. 3,50,000	Rs. 3,70,000	Rs. 3,75,000
Date of completion/purchase	31.3.1999	31.3.2001	01.4.2014
Municipal taxes paid during the year	12%	8%	6%
Interest on loan for repair of property during current year	-	55,000	
Interest for current year on loan taken in July 2015 for purchase			1,75,000

Compute Ganesh's income from house property for AY 2022-23 & suggest which houses should be opted by Ganesh to be assessed as self-occupied so that his tax liability is minimum. [ICAI SM Q8]

Solution: Let us first calculate 'income from each house property' assuming that they are **deemed to be let out**.

Computation of Income from House Property of Ganesh

Particulars	House I	House II	House III
GAV [GAV = ER; ER = Higher of MV and FR, but restricted to SR]	3,50,000	3,60,000	3,75,000
Less: Municipal taxes (paid by the owner during PY)	36,000	28,800	19,800
Net Annual Value (NAV)	3,14,000	3,31,200	3,55,200
Less: Deductions u/s 24			
(a) 30% of NAV	94,200	99,360	1,06,560
(b) Interest on borrowed capital	-	55,000	1,75,000
Income from house property	2,19,800	1,76,840	73,640

Now, Mr. Ganesh can opt to treat any two of the above house properties as self-occupied.

Option 1: House I & II - Self-occupied & House III - Deemed to be let out	
House I (Self-occupied)	Nil
House II (Self-occupied) (interest deduction restricted to Rs. 30,000)	(30,000)
House III (Deemed to be let-out)	73,640
Income from house property	43,640
Option 2: House I & III - Self-occupied & House II - Deemed to be let out	
House I (Self-occupied)	Nil

House II (Deemed to be let-out)	1,76,840
House III (Self-occupied)	(1,75,000)
Income from house property	1,840
Option 3: House II & III - Self-occupied & House I - Deemed to be let out	
House I (Deemed to be let-out)	2,19,800
House II (SOP) [Interest deduction restricted to Rs. 30,000]	(2,00,000)
House III (SOP) (Total interest deduction of 2 SOP restricted to Rs. 2,00,000)	
Income from house property	19,800

Conclusion: Since Option 2 is most beneficial, Ganesh should opt to treat House I and III as self-occupied & House II as deemed to be let out. Income from house property = Rs. 1,840.

B. MUNICIPAL TAXES

- Municipal taxes are to be deducted from GAV if:
 - (a) Municipal taxes have been borne by the owner & (b) they have been actually paid during PY.

Points to Remember:

- Municipal Taxes are allowed as deduction in PY of payment even if they relate to past years.
- Municipal Taxes levied by foreign local authority → Deductible if such taxes are paid by the owner.
- Refund of Municipal Tax Paid → Not taxable.
- If Municipal taxes are borne by tenant, rent received/receivable should not be increased to calculate rent since it is the duty of occupier of HP (i.e. tenant) to pay the municipal taxes.

C. NET ANNUAL VALUE

- **NAV = GAV - Municipal Taxes** paid & borne by the owner.

D. DEDUCTIONS U/S 24

(a) Standard Deduction [Sec 24(a)]

- Standard deduction = **30% of NAV** shall be allowed from NAV.
- This is a flat deduction & is allowed irrespective of the actual expenditure incurred.
- No other expenses shall be allowed as deduction while computing house property income.
- **SOP → Standard Deduction = Nil** (as NAV itself is Nil).

(b) Interest on Borrowed Capital [Sec 24(b)]

1. Current year Interest

Deduction	Interest = Amount of Loan × ROI p.a (Without any limit)
From When	Interest relating to the PY of completion of construction can be fully claimed in that PY (irrespective of the date of completion).
Purpose	Loan can be taken for Acquisition, construction, repair, renovation, reconstruction of HP.
Accrual	Deduction u/s 24(b) for interest is available on accrual basis. Thus, Interest accrued but not paid during PY can also be claimed as deduction.

2. Pre-construction period Interest

Deduction	Pre-commencement Interest is allowed as deduction in 5 successive PYs starting from PY of completion of construction. [1/5 th of Total Interest]
Meaning	Pre-construction Period means period during which loan was taken but the construction of HP was/could not be started.
Pre-Construction Period	Start: From Date of Borrowing & End: (a) 31 st March immediately prior to date of completion of construction (b) Date of payment of Loan (Whichever is earlier).

Note: Interest will be aggregated from the date of borrowing till the end of the PY prior to the PY in which the house is completed and not till the date of completion of construction.

STEPS FOR COMPUTATION OF PRIOR PERIOD INTEREST

Step 1: Identify the Date of Borrowing of Loan.

Step 2: Identify the Date of Completion/Acquisition.

Step 3: Identify Last Date of FY immediately preceding the date of Completion/ Acquisition.

Step 4: Prior Period = Period calculated from Step 1 to Step 3.

Step 5: Prior Period Interest = Prior Period as per Step 4 × Rate of Interest × Amount of Loan.

Step 6: Allowable Prior Period Interest = $\frac{\text{Prior Period Interest as per Step 5}}{5 \text{ Years}}$

CQ8. If Mr. X had taken a loan of Rs. 5,00,000 for construction of property on 1.10.2020 & interest is payable @ 10% p.a. & construction was completed on 30.06.2021, interest allowed u/s 24(b) shall be:

(a) Current year Interest = Interest for PY 2021-22 = 10% of Rs. 5,00,000 = Rs. 50,000;

(b) Pre-construction Period = Date of borrowings to 31st March immediately preceding date of completion.

- Date of Completion = 30.6.2021. Pre-construction period will end on 31st March immediately preceding 30.6.2021 which is 31st March 2021. **Pre-construction period = From 1.10.2020 - 31.03.2021.**
- Pre-construction Interest = 10% of Rs. 5 Lac for 6 months (from 01.10.2020 to 31.03.2021) = Rs. 25,000.
- Prior period interest to be allowed in 5 equal annual installments of Rs. 5,000 from PY of completion of construction i.e. PY 2021-22.
- **Therefore, total interest deduction u/s 24(b) = 50,000 + 5000 = Rs. 55,000.**

Points to Remember:

- (a) Loan may be taken for purchasing the land even if construction is done out of the own funds.
- (b) Interest on unpaid interest is not deductible.
- (c) Interest on fresh loan taken to repay original loan is allowed as a deduction.
- (d) Amount paid as brokerage/commission for arrangement of loan → NOT Allowed as deduction.
- (e) If loan is taken from outside India, Interest is deductible if tax has been deducted at source.
- (f) Where a buyer enters into an arrangement with a seller to pay the sale price in installments along with interest due, the seller becomes the lender in relation to unpaid purchase price & buyer becomes the borrower. In such case, unpaid purchase price can be treated as capital borrowed for acquiring property & interest paid can be allowed as deduction.

LIMIT ON DEDUCTIONS OF INTEREST FOR SELF OCCUPIED PROPERTIES

Loan is taken for ↓	Maximum Interest Allowed
Acquisition/Construction/Repair/Renovation/Reconstruction before 1.4.99	(Maximum of Rs. 30,000)
Repair or Renovation of House property on/after 1.4.1999	Actual Interest payable (Maximum of Rs. 30,000)
Acquisition or Construction of House Property on/after 1.4.1999 & such acquisition or construction is completed within 5 years from the end of the PY in which capital was borrowed.	Actual interest payable (Maximum of Rs. 2,00,000)

PC Note: Above-mentioned Limits are applicable combinedly for 2 SOP & not for each SOP.

PC Note: No such limit is applicable in case of **Let-out property or Deemed Let out property.**

CQ9. Mr. Manas owns 2 houses at Bombay, wherein his family resides & other at Delhi, which is unoccupied. He lives in Chandigarh for his employment purposes in a rented house. For acquisition of house property at Bombay, he has taken a loan of Rs. 30 lacs @ 10% p.a. on 1.4.2020. He has not repaid any amount so far. I.r.o. house property at Delhi, he has taken a loan of Rs. 5 lacs @ 11% p.a. on 1.10.2020 towards repairs. Compute the deduction which would be available to him u/s 24(b) for AY 2022-23 i.r.o. interest payable on such loan. **[ICAI Module Q3]**

Solution: Mr. Manas can claim both of his houses as self – occupied & thus annual value of both the houses will be Nil.

Computation of deduction u/s 24(b) for AY 2022-23		
1	Interest on loan taken for acquisition of residential house property at Bombay [30 lacs x 10%] = Rs. 3,00,000 (Restricted to Rs. 2,00,000)	Rs. 2,00,000
2	Interest on loan taken for repair of residential house property at Delhi [Rs. 5 lacs x 11% = Rs. 55,000 (Restricted to Rs. 30,000)	Rs. 30,000
	Total interest	Rs. 2,30,000
	Deduction u/s 24(b) i.r.o. (I) and (II) above to be restricted to	Rs. 2,00,000

UNREALISED RENT & ARREARS OF RENT RECEIVED SUBSEQUENTLY [SEC 25A]

Unrealized Rent	Arrears of Rent
<ul style="list-style-type: none"> ▪ Rent which could not be realized from the Assessee. ▪ If such amount is realized subsequently, it gets taxed in the PY of Receipt. ▪ However, deduction shall be allowed @ 30% of such unrealized rent. ▪ Taxable @ 70% of received amount. 	<ul style="list-style-type: none"> ▪ If assessee has increased the rent payable by the tenant retrospectively & there is a dispute over such increase; & later on the assessee receives the increased rent as arrears, it is called arrears of rent. ▪ It is taxable in the PY of Receipt. ▪ Deduction of 30% is allowed from such arrears. ▪ Taxable @ 70% of received amount.

PC Note: It does not matter whether the Assessee is owner of such house property in PY of receipt.

Space for PC Analysis:

COMPOSITE RENT

- **Meaning:** The owner of a property may sometimes receive rent i.r.o. building as well as
- (i) Other assets [Ex: Furniture, plant and machinery] or
 - (ii) for different services provided in the building [Ex: Lifts; Security; Power backup].

➤ **Tax Treatment**

Two lettings are separable	Two lettings are not separable
<ul style="list-style-type: none"> ▪ Rent from HP → Taxable u/h HP. ▪ Rent from Use of other services → Taxable u/h PGBP or IFOS. 	<ul style="list-style-type: none"> ▪ Taxable u/h PGBP or IFOS. Ex: Hotel business/paying guest accommodation or warehousing or auditorium

PC Note: All the expenses for other facilities → Deducted while computing its income u/h PGBP or IFOS.

Space for PC Class Note:

****CQ10.** Mr. Sanju aged 50 years owns a house property at Gwalior which is let out for residential purposes:

Rent of house and amount charged for different amenities	Rs. 2,40,000
(Rs. 2,40,000 includes charges for the following amenities - water charges: Rs. 12,000, electricity charges: Rs. 18,000, lift charges: Rs. 15,000 & security charges: Rs. 18,000)	
Rent of 1 month could not be collected (1/12 of Rs. 2,40,000)	Rs. 20,000
Municipal taxes paid by the tenant	Rs. 15,000
Municipal valuation	Rs. 1,60,000
Fair rent	Rs. 1,50,000
Standard Rent	Rs. 1,90,000
Repairs (met by the tenant)	Rs. 10,000
Insurance	Rs. 9,000
Collection charges and litigation expenses for collection of rent	Rs. 7,000

For providing different amenities, the following expenses are incurred by Sanju:

Depreciation	Rs. 2,000
Electricity bills	Rs. 20,000
Lift maintenance	Rs. 5,000
Salary of liftman	Rs. 9,000
Depreciation of lift	Rs. 3,000
Salary of guard	Rs. 21,000

During PY 2012-2013, Sanju had claimed deduction of unrealized rent of Rs. 20,000 out of which Rs. 15,000 was allowed as deduction for that year. On 15.9.2021, Sanju recovers Rs. 9,000 from defaulting tenant (expenditure on recovery of rent: Rs. 1,000). Find out his taxable Income & state the heads under which it is taxable.

Solution:

- Since house property is provided with all other amenities which are separable, we should only take the rent of HP for calculation of Annual Value.
- Rent of house property = Rs. 2,40,000 - Rs. 12,000 - Rs. 18,000 - Rs. 15,000 - Rs. 18,000 = Rs. 1,77,000
- ARR = Rs. 1,77,000 - (1/12 of Rs. 1,77,000) = Rs. 1,62,250.
- ER = [Higher of MV or FR subject to max of SR] = Rs. 1,60,000;

Computation of Income u/h "House Property"

GAV [Higher of ER or ARR]	Rs. 1,62,250
Less: Less: Municipal tax (not deductible as paid by tenant)	Nil
Net Annual Value	Rs. 1,62,250
Less: Standard deduction @ 30%	(Rs. 48,675)
Income from House Property	Rs. 1,13,575
Add: Unrealized rent taxed @ 70% [Refer Note below] [Rs. 9,000 - Rs. 5,000] × 70%	Rs. 2,800
Income under the head "Income from house property"	Rs. 1,16,375

Note: Rs. 15,000 of unrealized rent was allowed as deduction in PY 2012-13 itself. Thus Rs. 5,000 was not allowed as deduction in PY 2012-13. Thus, we can say that Rs. 5,000 was taxed in PY 2012-13 itself. Now if we recover any such unrealized rent in later years, Unrealized rent received upto Rs. 5000 will not be taxable. Receipt of unrealized rent over Rs. 5,000 will only be taxable & 30% will be allowed as deduction.

Income from other sources		
Amount collected from tenant for providing different amenities [11/12 of (Rs. 12,000 + Rs. 18,000 + 15,000 + 18,000)]	57,750	
Less: Expenses (i.e., Rs. 2,000 + Rs. 20,000 + Rs. 5,000 + Rs. 9,000 + Rs. 3,000 + Rs. 21,000)	60,000	(2,250)

INCOME FROM HOUSE PROPERTY SITUATED OUTSIDE INDIA

1. ROR in India (Note)	Always Taxable (whether or not such income is received in India).
2. RNOR/NR in India	Taxable only if it is received in India.
PC Note: Municipal Taxes Paid o/s India – Deductible if Tax has been deducted at source.	

***CQ11.** Mrs. Rohini Ravi, a citizen of USA is ROR in India during PY 2021-22. She owns a house property at Los Angeles which is used as her residence. Annual value of the house is \$20,000. 1 \$ = Rs. 65. She took ownership & possession of a flat in Chennai on 1.7.2021, which is used for self-occupation, while she is in India. Flat was used by her for 7 months only during PY 2021-22. MV = Rs. 32,000 p.m. & FR = Rs. 4,20,000 p.a. She paid the following to Corporation of Chennai: (i) Property Tax – Rs. 16,200; (ii) Sewerage Tax – Rs. 1,800.

She had taken a loan from Standard Chartered Bank in June, 2018 for purchasing this flat. Interest on loan was:

Period prior to 1.4.2021	Rs. 49,200
1.4.2020 to 30.6.2021	Rs. 50,800
1.7.2020 to 31.3.2022	Rs. 1,31,300

She had a house property in Bangalore, which was sold in March, 2018. I.r.o. this house, she received arrears of rent of Rs. 60,000 in March, 2022. This amount has not been charged to tax earlier.

Compute the income u/h house property of Mrs. Rohini Ravi for AY 2022-23.

[ICAI Ex. Q4 + May 2009]

Solution:

- Since the assessee is a ROR, her global income will be taxable in India.
- She possesses a self-occupied house at Los Angeles as well as at Chennai. She can take the benefit of “Nil” Annual Value i.r.o. both the house properties.
- As regards the Bangalore house, 70% of arrears of rent will be taxable as income from house property in the year of receipt u/s 25A. It is not essential that the assessee should continue to be the owner.

Accordingly, the income from house property of Mrs. Rohini Ravi will be calculated as under:

	Particulars		Amount
1	House at Los Angeles [SOP 1]		
	Annual value	Nil	
	Less: Deduction u/s 24	Nil	Nil
2	House property at Chennai [SOP 2]		
	Annual value	Nil	
	Less: Interest on borrowed capital (See Note below)	1,91,940	(1,91,940)
3	Arrears i.r.o. Bangalore property (Section 25A)		
	Arrears of rent received	60,000	
	Less: Deduction @ 30% u/s 25A(2)	(18,000)	42,000
Loss u/h "Income from house property"			(1,49,940)

Note: Interest on borrowed capital

Interest for the current year (Rs. 50,800 + Rs. 1,31,300)	Rs. 1,82,100
Add: 1/5th of pre-construction interest (Rs. 49,200 x 1/5)	Rs. 9,840
Interest deduction allowable under section 24	Rs. 1,91,940

TREATMENT OF INCOME FROM CO-OWNED PROPERTY [SECTION 26]

Co-owned HP is Self occupied	Co-owned HP is Let out
<p>For Each Co-owner:</p> <ul style="list-style-type: none"> ▪ Annual Value → NIL ▪ Deduction of Rs. 30,000/2 Lacs u/s 24(b) separately for each co-owner. 	<ul style="list-style-type: none"> ▪ Income from such HP shall be computed as if property is owned by one owner & then ▪ Income so computed shall be apportioned amongst each co-owner as per their share.
<p>Note: If Shares of co-owners are not definite → Income from HP is taxed as income of AOP (Co-owners).</p> <p>Note: Maximum deduction of interest to each co-owner i.r.o interest payable on loan taken for co-owned house property & interest payable on loan taken for another SOP cannot exceed Rs. 30,000/Rs. 2,00,000.</p>	

TREATMENT OF INCOME FROM PROPERTY OWNED BY A PARTNERSHIP FIRM

- Income is assessable in the hands of firm & not in the hands of partners.

***CQ12.** Two brothers Arun & Bimal are co-owners of a house property with equal share. The property was constructed during the PY 1999-2000. The property consists of 8 identical units and is situated at Cochin. During PY 2021-22, each co-owner occupied 1 unit for residence & balance of 6 units were let out at a rent of Rs. 12,000 p.m. per unit. MV of house property is Rs. 9,00,000 & municipal taxes of 20% were paid during PY. Other expenses:

Repairs	Rs. 40,000
Insurance premium (paid)	Rs. 15,000
Interest payable on loan taken for construction of house	Rs. 3,00,000

One of the let-out units remained vacant for 4 months. Arun could not occupy his unit for 6 months as he was transferred to Chennai. He does not own any other house. Compute House Property Income for AY 2022-23.

Solution:

[ICAI Ex. Q5 + Nov 2012]

	Particulars	Arun	Bimal
I	Self-occupied portion (25%)		
	Annual value	Nil	Nil
	Less: Interest on loan taken for construction Rs. 37,500 (being 25% of Rs. 1.5 lakh) restricted to maximum of Rs. 30,000 for each co-owner since the property was constructed before 1.04.2000. Hence, it is assumed that loan was taken before 1.4.2000.	30,000	30,000
	Loss from self occupied property	(30,000)	(30,000)
II	Let-out portion (75%)		
	(a) Municipal value (75% of Rs. 9 lacs)	6,75,000	
	(b) Actual rent [(Rs. 12000 x 6 x 12) – (Rs. 12,000 x 1 x 4)]	8,16,000	
	Gross Annual Value [Higher of (a) or (b)]		8,16,000
	Less: Municipal Tax [75% of Rs. 1,80,000 (20% of Rs. 9 lacs)]		(1,35,000)
	Net Annual Value (NAV)		6,81,000
	Less: Deduction u/s 24		
	(a) 30% of NAV	(2,04,300)	
	(b) Interest on loan taken for the house [75% of Rs. 3 lacs]	(2,25,000)	(4,29,300)
	Income from let-out portion of house property		2,51,700
	Share of each co-owner (50%)		1,25,850
Income from house property		95,850	95,850

****CQ13.** Assessee owns 4 houses. Following are the particulars i.r.o properties. Compute assessee's income from HP.

Particulars	A	B	C	D
Municipal Value	80,000	1,60,000	1,15,000	1,20,000
Rent p.m.	10,000	6,000	10,000	
Local taxes paid	8,000	16,000	15,000	1,00,000
Used for	Let-out for business	½ used for own business, ½ given to the manager	Let-out for residential purpose	Self occupied
Actual repairs	5,000	12,000	3,000	6,000
Ground rent due	2,000	-	3,000	-
Insurance Premium	-	2,000	-	4,000
Vacancy	2 months	-	1 month	-
Annual charges	-	2,000	-	-

Solution:
Computation of Assessee's Income from house property

1st House (Let out for business)	GAV = ARR [ARR = 1,00,000 (vacant for 2 months); ER (MV) = 80,000 since no other information about FR & SR is given]	1,00,000
	Less: Municipal taxes paid	(8,000)
	NAV	92,000
	Less: Standard Deduction @ 30%	27,600
	Income from 1st House	64,400
2nd House	Nil as used for own business. House given to manager is also considered to be used for business.	
3rd House (Let out for residential use)	GAV [ARR < ER due to vacancy; thus GAV = ARR [Rs. 1,10,000]	1,10,000
	Less: Municipal taxes paid	(15,000)
	NAV	95,000
	Less: Standard Deduction @ 30%	(28,500)
	Income from 3rd House	66,500
4th House (Self-occupied)	NAV	Nil
	Less: Standard Deduction @ 30%	Nil
	Income from 4th House	Nil

PC Note: No deduction of any other expenses will be allowed like repairs, ground rent, insurance premium etc.

CQ14. Can Net Annual Value be negative? **Answer:** Yes, only if MT paid by the owner are more than GAV.

CQ15. Can there be any loss under the head income from house property?

Answer:

- (a) **SOP:** NAV = Nil. No deductions are allowed except for interest on borrowed funds up to a maximum of Rs. 30,000/Rs. 2,00,000. Thus, Maximum loss i.r.o. such SOP shall be either Rs. 30,000 or Rs. 2,00,000.
- (b) **LOP/DLOP:** There are no restrictions on deductions & therefore, there can be loss u/h HP due to municipal taxes as well as deductions. Similarly, deductions u/s 24 in case of DLOP can be more than NAV.

DEEMED OWNERSHIP [SECTION 27]

1	<p>Transfer to a spouse: If an Individual transfer any house property to his/her spouse for Inadequate consideration, such transferor is deemed to be the owner of the transferred House property.</p> <p>Exception: If a Property is transferred to a spouse in connection with an agreement to live apart.</p> <p>Ex: Mr. X has two house property each having income of Rs. 10 lacs and Mr. X has gifted one house property to Mrs. X. In this case, income from such house property shall be taxable in the hands of Mr. X but if Mr. X has sold the house property to Mrs. X and has taken full payment, income from house property shall be taxable in the hands of Mrs. X.</p> <p>Note: Where an individual gives cash to his/her spouse or minor child & such transferee acquires HP from such cash, transferor shall not be treated as deemed owner. It will attract clubbing provisions.</p>
2	<p>Transfer to Minor Child: If an Individual transfer any house property to minor child for inadequate consideration, transferor is deemed to be the owner of transferred house property.</p> <p>Exception: Where a property is transferred to a minor married daughter.</p>
3	<p>Holder of an Impartible estate: Holder of an Impartible estate (Impartible estate is a property which is not legally divisible) shall be deemed to be owner of all properties in the estate.</p> <p>Ex: A Property could not be divided at the time of partition since it was occupied by the temple. Mr. X being the eldest son is the owner of the property as per the family convention. Property is given to Mr. X because the property could not be divided amongst the younger brother. Mr X in this case is not the beneficial owner of the property. He holds the property as a trustee on behalf of his younger brothers since all members of the family have right to enjoy benefits of the property. Mr. X is deemed as owner of property.</p>
4	<p>Member of a Co-operative Society, etc: Member of a co-operative society, company or other AOPs to whom a building or part thereof is allotted or leased under a House Building Scheme of a society/company/association, shall be deemed to be owner of that building or part thereof allotted to him although the co-operative society/company/association is the legal owner of that building.</p>
5	<p>Person in possession of a property: A person who is allowed to take possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the TOPA shall be deemed owner of that house property. This would cover cases where -</p> <p>(a) Possession of property has been handed over to the buyer,</p> <p>(b) Sale consideration has been paid or promised to be paid to the seller by the buyer,</p> <p>(c) Sale deed has not been executed in favour of the buyer.</p> <p>Buyer would be deemed to be the owner of the property although it is not registered in his name.</p> <p>Ex: Mr. X has sold his house property to Mr. Y for Rs. 50 lakcs & has taken full payment and possession has been given to Mr. Y but conveyance deed is not prepared in the name of Mr. Y. Mr. Y is the deemed owner.</p>
6	<p>Person having right in a property by way of Lease for 12 years or more: A person who acquires any building by way of lease for a period of 12 years or more shall be deemed to be the owner of that building or part thereof.</p> <p>Exception: This will not cover the case where any Lease is acquired from month-to-month basis or for a period not exceeding one year.</p>

CHAPTER 5. PROFIT & GAINS OF BUSINESS & PROFESSION

MEANING OF “BUSINESS & PROFESSION”

Business [Sec 2(13)]	<ul style="list-style-type: none"> ▪ Business = Any ‘Recurring Economic Activity’ done with the objective of earning profit. ▪ However, ‘Isolated Activity’ (which has an element of trade) can also be termed as ‘business’ depending on the facts & circumstances of the case. ▪ Thus, Profit from single venture which has the element of trade may be treated as business. ▪ Business includes any Trade, Commerce, Manufacture or any adventure or concern in the nature of TCM. ▪ Adventure: Doing an activity for first time without knowing its outcome.
Profession	<ul style="list-style-type: none"> ▪ The term “Profession” has not been defined in the act. ▪ In general sense, it means an occupation requiring some degree of learning. ▪ The term ‘Profession’ includes Vocation also [Section 2(36)]. <p>Ex: Painter, a sculptor, an author, an auditor, a lawyer, a doctor, an architect & even an astrologer are persons who can be said to be carrying on a profession.</p>

PC Note: For the purpose of Income tax, it is immaterial whether a person is carrying on a ‘Business’ or ‘Profession’ or ‘vocation’. Profits from all these sources are treated & taxed alike.

MEANING OF “PROFIT”

Cash or Kind	<ul style="list-style-type: none"> ▪ Profits may be realized in money or in money’s worth (cash or in kind). ▪ Profit is realized in any form other than cash → Cash Equivalent (FMV) of the received item/thing on the date of receipt is taken as value of the Income.
Capital Receipt	<ul style="list-style-type: none"> ▪ Capital receipts are generally not taxable u/h PGBP.
Voluntary Receipts	<ul style="list-style-type: none"> ▪ Voluntary Payment received in the course of a business/profession would be treated as income in the hands of the Recipient. (There should be Nexus between the Business & Payment received). <p>Ex: Any amount paid to a lawyer by a person who was not a client, but who has been benefited by the lawyer’s professional service to another would be assessable as the lawyer’s income.</p>
Application of Profit (use)	<ul style="list-style-type: none"> ▪ Purpose for which the profits earned in business/profession are use is immaterial. It will be taxed irrespective of the manner & reason of application.
Legality	<ul style="list-style-type: none"> ▪ Even the profit earned from illegal source is taxable.
Distinct Businesses	<ul style="list-style-type: none"> ▪ Tax is chargeable on the Aggregate profits of all the business carried on by the assessee even though the computation of profit is done separately.
Computation of Profits	<ul style="list-style-type: none"> ▪ Tax is levied on the ‘profits & gains’ & not on gross receipts. ▪ Profits should be computed after deducting losses & expenses incurred for earning the income in the regular course of the business/profession unless the loss or expenses is expressly disallowed by the Act.

BASIS OF CHARGE - (SECTION 28)

1	Profits & Gains of any <u>business or profession</u> carried on at <u>any time</u> during PY by the assessee. <ul style="list-style-type: none"> ▪ Capital Receipt → Not Taxable. (Subject to certain exceptions) ▪ Capital Loss → Not Deductible.
2	Compensation for Loss of Office. Any compensation or other payment due to or received by any person in relation to - <ol style="list-style-type: none"> (a) Termination or Modification of Managing agent's agreement in relation to an Indian Company/any other company in India; (b) Termination or Modification of contract relating to an Agency in India; (c) Vesting of management of any property or business with Government/their Corporation. (d) Termination or Modification of terms & conditions, of any contract relating to his business. PC Class Note:
3	Income of Trade/Professional Association from Specific Activities for its Members. <ul style="list-style-type: none"> ▪ This is an exception to "Principle of Mutuality" since association & its members are treated as Same Person. [Ex: Chambers of commerce, stock brokers' associations etc] ▪ As a result, association performing specific services for its members is deemed to be carrying on business i.r.o these services & Income arising from such specific activities is Taxable.
4	Export Incentives. <ol style="list-style-type: none"> (a) Profit on sale of import entitlements. (b) Cash assistance against exports under any scheme of Government of India. (c) Customs duty or excise re-paid or repayable as drawback. (d) Profit on transfer of Duty Entitlement Passbook Scheme/Duty-Free Replenishment Certificate.
5	Remuneration to Partners is taxable in the hands of Partner to the extent it is deductible to firm. CQ1. The allowable rate of interest is 12% p.a. u/s 40(b). Now if a firm pays interest to a partner at 15% p.a, excess 3% paid will be disallowed to firm u/s 40(b). Thus 12% which is allowed as deduction to the firm u/s 40(b) shall be taxed in the hands of partner. Excess interest of 3% which has been disallowed to the firm u/s 40(b) will not be taxed in the hands of the partner again.
6	Amount received for Non-Competence Fees are taxable [even if they are capital receipts]. Any sum received under an agreement, <ul style="list-style-type: none"> ▪ For not carrying out any activity in relation to any business or profession. ▪ Not to share any know-how, patent, copyright, trade mark likely to assist in the manufacture or processing of goods or provision for services etc.
7	Keyman Insurance Policy (including Bonus) is taxable in the hands of employer if maturity Amount is Received by Employer.
8	FMV of Inventory (SIT) on its conversion into Capital Asset → FMV of Inventory on the date of its conversion into capital asset would be taxable as business income.
9	Value of Benefit arising from Business/Profession. (Whether Convertible into Money or not). (There should be Nexus between the business & the benefits received).
10	Sum received or receivable on demolition, destruction or transfer of any Capital Asset (Except Land/GW/Financial Instrument), whole cost of which was allowed as deduction u/s 35AD.

FOLLOWING INCOMES ARE ALSO TAXED U/H “PGBP”

Deemed Income (Section 41)	<ul style="list-style-type: none"> ▪ Items which normally do not have the character of income; ▪ but are deemed as income as they have been allowed as deduction in the earlier years ▪ irrespective of whether the business/profession is continued or not.
Discontinued Business (Sec 176)	<ul style="list-style-type: none"> ▪ This relates to a situation where the income is earned after discontinuance of business/profession. ▪ Income from discontinued business is also taxable.

SPECULATION BUSINESS

❖ ‘Speculative transaction’ means a transaction in which a contract for purchase or sales of any commodity (including stocks & shares) is **periodically/ultimately settled otherwise than by the Actual delivery or transfer of the commodity/Scripts** [section 43(5)].

❖ **Deeming provision:** Where any part of the business of a company consists of purchase & sale of the shares of other companies, such company is deemed to be carrying on speculation business to the extent of such business of the purchase & sale of such shares.

However, this Deeming Provision does not apply to the following companies: **[Read once]**

1. A company whose GTI consists of mainly income taxable u/h IFOS, House property, Capital gains.
2. A company whose principal business is:
 - (i) Trading in shares;
 - (ii) Banking;
 - (iii) Granting of loans & advances.

Thus, if these companies carry on the business of purchase & sale of shares of other companies, they would not be deemed to be carrying on speculation business. [Explanation to sec 73]

❖ **Profits/Losses resulting from Speculative** Transaction must be **treated as separate** & distinct from **other** profits & gains of business & profession because Loss from Speculative Business can be set off only against Profit of Speculative Business & no other business (Section 73). **[VERY IMP]**

TRANSACTIONS NOT DEEMED TO BE SPECULATIVE TRANSACTIONS

1. **Hedging Contract i.r.o Raw Materials or Merchandise:** A contract i.r.o raw materials or merchandise entered into by a person in the course of his manufacturing or merchandising business to guard against loss through future price fluctuations i.r.o his contracts for the actual delivery of goods manufactured by him or merchandise sold by him.
2. **Hedging contract i.r.o Stocks & Shares:** A contract i.r.o Stocks & Shares entered into by a dealer/investor to guard against loss in his holdings of stocks & shares.
3. **Forward Contract:** A Contract entered into by a Member of a Forward Market or Stock Exchange in the course of any transaction in the nature of Jobbing or Arbitrage to guard against any loss which may arise in the ordinary course of his business as a member.
4. **Trading in Derivatives:** Eligible transaction carried i.r.o Trading in Derivatives in RSE.
5. **Trading in Commodity Derivatives:** Eligible transaction i.r.o trading in commodity derivatives carried out in a recognized association, which is chargeable to CTT.

RELEVANCE OF METHOD OF ACCOUNTING [Section 145(1)]

- ❖ Income chargeable u/h ‘PGBP’ or ‘IFOS’ shall be computed in accordance with the **method** of accounting **regularly followed** by the Assessee.
- ❖ If Assessee follows Mercantile System of Accounting → Income will be taxed on “**Due**” basis.
- ❖ If Assessee follows Cash basis of Accounting → Income will be taxed on “**Receipt**” basis.

A. SPECIFIC DEDUCTIONS [SECTION 30 – 36]

- ❖ We know that Profit = Receipts – Expenditures.
- ❖ However, there may be some expenditures which are deducted by the Assessee while computing his income, but they are not allowable as deduction under Income Tax Act.
- ❖ Section 30 - 36 gives the list of the expenditures which are allowed as deductions while calculating income under this head.
- ❖ Let us study each of them in detail.

RENT, RATES, TAXES, REPAIRS & INSURANCE FOR BUILDING [SEC 30]	
Nature of Expenditure	Conditions
Rent	Paid by the Tenant for Building occupied by him for his business.
Revenue Repairs	Done by Owner/Tenant . [Capital Repairs are not covered in this section]
Rates & Taxes	Land Revenue, Local Rates & Municipal Tax [Section 43B will Apply]
Insurance Premium	Paid by the owner .
<p>PC Note:</p> <ul style="list-style-type: none"> ✓ Premises used partly for Business & partly for other purposes: Proportionate Expenditure of the premises used for Business will be allowed as a deduction. ✓ Deduction in case of Subletting of rented premises = Rent paid – Rent recovered from sub-tenant. ✓ No Deduction for Notional Rent: If the owner uses his own premises for his business, No Notional Rent shall be allowed as deduction. But if firm runs its business in the premises owned by one of its partners, rent payable to the partner will be an allowable deduction to the extent it is reasonable & is not excessive. ✓ Cesses, Rates & Taxes levied by a Foreign Government → Allowed as deduction. 	

REPAIRS & INSURANCE OF PLANT, MACHINERY & FURNITURE [SEC 31]	
Nature of Expenditure	Conditions
Revenue Repairs	Done by Owner & Tenant.
Insurance Premium	Paid by Owner.
<p>PC Note:</p> <ol style="list-style-type: none"> 1. Insurance & Repair charges of the Assets which have been discarded (though owned by the assessee) or have not been used for the business during the PY → Not Allowed as Deduction. 2. To Claim Deduction u/s 31 → Asset must be used (atleast for 1 day) for assessee's business. 3. Repairs include Renewal or Renovation of an asset but not its Replacement or Reconstruction. 	

DEPRECIATION [SECTION 32]

- ❖ Depreciation is to be claimed on the BLOCK OF ASSETS & Not on Individual Asset.
- ❖ Claiming Depreciation is Mandatory. Assessee does not have any option to not claim it.
- ❖ Only WDV Method of charging depreciation is recognized under the Act. However, Power Generation units have option to claim depreciation on SLM.

CONDITIONS FOR CLAIMING DEPRECIATION

1 Ownership of Asset

- Assessee must be the owner of the asset (fully or partly owned).
- Registered ownership is not necessary (It can be a beneficial ownership).
- To claim depreciation on building, ownership of land on which building is constructed is **not necessary**. Land may be lease-hold.

PC Note: If Tenant has incurred any Capital Expenditure on construction, renovation, extension of the building taken on lease/rent, he can take depreciation on such capital expenditure.

2 Asset must be used by the assessee for his business/profession during relevant PY

- **Asset must be put to use at any time during the previous year.**
 - ☞ Even if the asset is used for a single day during the year, full depreciation shall be allowed Except for first year of use of asset.

☞ **Use of Asset in 1st year of Asset:** Asset must be used for atleast 180 days to get full depreciation. If it is used for less than 180 days in 1st year, only 50% of the allowable depreciation can be claimed.

Ex: If Assessee acquires the asset in PY 2020-21 on 1 Dec 2020, only 50% of the allowable depreciation can be claimed by the Assessee in PY 2020-21. However, from PY 2021-22, full depreciation can be claimed even if the asset has been used even for a single day in PY 2021-22.

However, if asset is acquired in PY 2020-21 & it is not put to use in PY 2020-21, no depreciation can be claimed for PY 2020-21. Now PY 2021-22 cannot be said to be the first year of asset. Thus 100% depreciation will be allowed in PY 2021-22.

PC Note: In case of Partition of HUF, Dissolution of Firm, Conversion of firm into Company, no asset is acquired by the successor & thus condition of 180 days is Not Applicable.

- **Use includes 'Passive use' also [Asset is said to be in use even when it is 'kept ready for use']**

PC Note:

1. **Asset used Partly for Business & partly for Personal purposes** → Depreciation proportionate to business is allowed as deduction u/s 32 & only such amount is deducted from WDV.
2. **Asset used Partly for Business & partly for Agricultural purposes** → Depreciation proportionate to business shall be allowed as deduction u/s 32, but 100% depreciation is deducted from WDV.

PC Note: Allowability of Depreciation in case of Letting of assets on hire (Under Which Head)

If Letting of Assets on Hire is the business of the assessee & asset is let out.	Depreciation on such let out assets is allowed as deduction u/s 32 to the assessee
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If Letting of assets on Hire is NOT the business of the assessee & asset is let out.	Depreciation on such let out assets is allowed as deduction u/s 57(ii) to the assessee
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PC Note:

3	Asset must fall under the eligible class of Asset (a) Class A: Tangible assets. It included building, machinery, plant or furniture. (b) Class B: Intangible assets. It includes know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature not being goodwill of a business or profession. [W.E.F AY 2022-23]
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CONCEPT OF “BLOCK OF ASSETS”

Meaning: Group of assets falling within **Same Class** & having **Same Rate** of Depreciation.

Points to be considered while forming block of asset:

(Only for Better Understanding)

- ✍ **Building** includes Roads, bridges & tubewells attached to the building or forming part of it.
- ✍ **Machinery** → Asset which is directly connected with Production/Manufacture/ processing.
- ✍ **Furniture** → Asset used for Convenience & Decoration.
- ✍ **Plant** → Any Asset not falling under any other classification, but which are Essential to carry out the business.

Includes: Ships, vehicles, books, scientific apparatus & surgical used for business.

Excludes: Tea bushes or livestock etc.; animal, human body or stock- in-trade; Buildings.

However, Theatre buildings, hospital buildings & hotel buildings though specially equipped for business are still buildings & **cannot be treated as plant.**

PC Note:

- Assets Ineligible for depreciation [**Land/Personal assets**] will **not** form part of **any block.**
- While calculating Depreciation on Building, **Cost of Land is to be Excluded.**

Space for PC Analysis:

A	STEPS TO DETERMINE BLOCK OF ASSET:
	<ol style="list-style-type: none"> 1. Classify assets into (i) Tangible Assets & (ii) Intangible Assets (except GW of business/profession). 2. All the Tangible Assets shall further be classified into <ol style="list-style-type: none"> (a) Building, (b) Plant & Machinery & (c) Furniture 3. Group the classified assets in each category separately on the basis of Rate of depreciation. 4. Assets having same rate of depreciation should be grouped together.
B	STEPS TO CALCULATE DEPRECIATION: [V. IMP]
	<ol style="list-style-type: none"> 1. Find Closing WDV of each block for PY. Opening WDV as on 1st April of current PY Add: Actual Cost of Assets purchase during PY (not being GW of business/profession) Less: Sale Value of assets sold, discarded, demolished or destroyed during PY Less: Where goodwill of a business or profession was part of the block of assets on which depreciation was allowed to the assessee upto PY 2019-20: Actual cost of the goodwill - amount of depreciation that would have been allowable to the assessee for such goodwill as if goodwill was the only asset in the block. However, such amount of reduction cannot exceed the WDV. 2. Bifurcate Closing WDV of each block into two categories: <ol style="list-style-type: none"> (i) WDV of the assets used for less than 180 days during PY (ii) Balance WDV. [Note that it is not always equals to WDV of Assets used for > 180 days] 3. Apply Rate of depreciation on (i) Assets used for less than 180 days. [50% Rate Depreciation] 4. Apply Rate of depreciation on (ii) Balance WDV. [100% depreciation (as per the rates)].

RATES OF DEPRECIATION		
SN	Nature of Asset	(%)
A. I	Building	
	Block 1: Residential Building (Except hotels & boarding houses)	5
	Block 2: Buildings which are not used mainly for residential purposes & not covered by Block (1) above & (3) below (Office, factory, Godowns & other buildings)	10
	Block 3: Building used for installing P&M of Water supply project/Water treatment system. It should be used for the business of providing Infrastructure facilities.	40
	Block 4: Any temporary erections (wooden structures)	40
AI	Furniture - Any furniture & fittings including electrical fittings.	10
A. III	Plant & Machinery	
	Block 1: Motor cars (Except cars used in the business of running them on hire) (a) Acquired during 23.8.2019 - 31.3.2020 & put to use on/before 31.3.2020	30
	(b) Acquired or put to use on/after 1.4.1990 [except those covered in (a) above]	15
	Block 2: Buses, lorries & taxis used in the business of running them on hire (a) Acquired during 23.8.2019 - 31.3.2020 & put to use on/before 31.3.2020	45
	(b) Except those covered in (a) above (Old Rate)	30
	Block 3: Moulds used in rubber & plastics goods factory	30
	Block 4: Aeroplanes & Aeroengines.	40
	Block 5: Specified Pollution control equipments (air/water); Solid waste control equipment etc.	40
	Block 6: P&M used in semi-conductor industry covering all Integrated Circuits (ICs)	30
	Block 7: Life saving medical equipments.	40
	Block 8: P&M in Water supply project/Water treatment system. It should be used for the business of providing Infrastructure facilities.	40
	Block 9: Oil wells	15
	Block 10: Renewable Energy Saving Devices	
	Windmills & any specially designed devices which run on windmills (including any special devices including electric generators & pumps running on wind energy) (a) installed on or after 1.4.2014 (b) installed before 1.4.2014	40 15
	Block 11: Computers & computer softwares.	40
Block 12: Books (Annual publication/not) owned by assessee carrying on profession	40	
Block 13: Books owned by assessee carrying on business of running Libraries	40	
Block 14: Any other Plant & Machinery	15	
A. IV	Ships - Block 1: Ocean-going ships	20
	Block 2: Vessels ordinarily operating on inland waters not covered by Block (3) below	20
	Block 3: Speed boats operating on inland water	20
B	All Intangible Assets (Know-how, patents, copyrights, TMs, licences, franchises or any other business or commercial rights of similar nature, not being goodwill of business/ profession)	25

CQ2. Rajan Ltd. has 2 machines [S & M] in the block as on 1.4.2021 [WDV = Rs. 3 Lacs]. Machine L was acquired on 12.11.2021 for Rs. 1,50,000 & put to use on the same date. The same machine L is sold on 24.03.2022 for Rs. 2 Lacs.

(a) Compute the depreciation allowable u/s 32 for AY 2022-23 on the block. (Only for 1st Revision)

(b) What will be the depreciation allowed, if machine S is sold instead of machine L.

(c) What will be the depreciation allowed if both the machineries S & M are sold instead of machine L.

(d) What will be the depreciation allowed, if machine S is sold at Rs. 3,20,000 instead of machine L.

Solution:

(a)	Opening WDV of the block as on 01.04.2021		3,00,000
	Add: Actual cost of Machine L (Acquired & put to use for less than 180 days)		1,50,000
	Less: Sale consideration of machine L (sold in this same year)		(2,00,000)
	WDV as on 31.03.2022		2,50,000
	Depreciation on Rs. 2,50,000 @ 15% [Since No asset used for < 180 days exist on 31.3.2021]		(37,500)
	WDV as on 01.04.2022		2,12,500
	Note: Depreciation @ 15% has been charged on total WDV, as machine L which was put to use for < 180 days during PY, ceases to exist on 31.03.2022. If machine L would have been in the block on 31.03.2022, then actual cost of Machine L to the extent of WDV of the block would be eligible to only 50% of the normal depreciation.		
(b)	WDV of the block as on 1.4.2021		3,00,000
	Add: Actual cost of Machine L (Acquired & put to use for less than 180 days)		1,50,000
	Less: Sale consideration of machine S		(2,00,000)
	WDV as on 31.3.2022		2,50,000
	Depreciation on Rs. 1,00,000 @ 15%	(15,000)	
	Depreciation on Rs. 1,50,000 @ 7.5% (half of Normal Depreciation)	(11,250)	(26,250)
WDV as on 1.4.2022		2,23,750	
(c)	WDV of the block as on 1.4.2021		3,00,000
	Add: Actual cost of Machine L (Acquired & put to use for less than 180 days)		1,50,000
	Less: Sale consideration of machine S & M sold during the year		(2,00,000)
	WDV as on 31.3.2022 for the purpose of charging depreciation		2,50,000
	Depreciation on Rs. 1,00,000 @ 15%	15,000	
	Depreciation on Rs. 1,50,000 @ 7.5%	11,250	26,250
	WDV as on 1.4.2022		2,23,750
*Although only one asset L is left in the block whose cost is Rs.1,50,000, still depreciation will be allowed on the balance amount Rs. 1,00,000 @15% as the block has not ceased to exist.			
(d)	WDV of the block as on 1.4.2021		3,00,000
	Add: Actual cost of Machine L (Acquired & put to use for less than 180 days)		1,50,000
	Less: Sale consideration of machine L (sold in this same year)		(3,20,000)
	WDV as on 31.03.2022		1,30,000
	Depreciation on Rs. 1,30,000 @ 7.5%		9,750
	WDV as on 1.4.2022		1,20,250
As machine L is in the block on 31.03.2022, actual cost of Machine L to the extent of the WDV of the block would be eligible to only 50% of normal depreciation, as machine L was put to use for < 180 days during PY.			

CQ3. Calculate Depreciation of the following assets for PY 2021-22:

[Solve Only Once]

Particulars	WDV on 1.4.2021	Rate of Dep.
Building A	5,40,000	5%
Building B	4,15,000	10%
Building C	5,20,000	10%
Furniture	24,500	10%
Plant & Machinery A	5,60,000	30%
Plant & Machinery B	3,20,000	15%

Following assets have been purchased on 5.4.2021 & put to use on following dates during the PY.

Particulars	Date put to use	Rs.	Rate of Dep.
Plant C	01.08.2021	1,60,000	10%
Plant D	18.11.2021	2,80,000	30%
Plant E	10.09.2021	4,00,000	15%
Building D	01.12.2021	3,00,000	10%
Building E	11.04.2021	1,60,000	5%

Following assets have been sold during the PY.

	Date of sale	Sale consideration
Building B	25.10.2021	6,40,000
Plant A	08.05.2021	5,80,000

Rs. 90,000 were also spent to renovate & modify Building A. Rs. 1,20,000 also been spent in June 2021 on Machinery B to make it suitable for the new system of production.

Solution:

Calculation of Depreciation

Block of Assets	WDV/Cost	Depreciation
1. Building Block I [Rate 5%]		
Building A: WDV on 1.4.2021	5,40,000	
Add: New addition (Cost) building E [Put to use for more than 180 days]	1,60,000	
Add: Capital expenditure to renovate building A	90,000	
Depreciation = 5% on Rs. 7,90,000		39,500
2. Building Block II [Rate 10%]		
Building B: WDV on 1.4.2021	4,15,000	
Building C: WDV on 1.4.2021	5,20,000	
Add: New building D (Cost) put to use for less than 180 days	3,00,000	
Less: Sale consideration of building B	(6,40,000)	
WDV	5,95,000	
Depreciation: (i) On new 3,00,000 @ 5%	15,000	
(ii) On Rs. 2,95,000 @ 10%	29,500	44,500
3. Furniture Block III [Rate 10%]		
WDV on 1.4.2021	24,500	
Depreciation: On Rs. 24,500 @ 10%		2,450
4. Plant & Machinery Block IV [Rate 15%]		
WDV on 1.4.2021	3,20,000	
Add: Capital Expenditure on Modernization	1,20,000	
Add: New Plant E put to use for more than 180 days	4,00,000	
WDV before claiming depreciation	8,40,000	
Depreciation: 15% of Rs. 8,40,000		1,26,000
5. Plant & Machinery Block V [Rate 30%]		
WDV on 1.4.2021	5,60,000	
Add: New addition of Machine D (less than 180 days)	2,80,000	
Less: Sale consideration of Machine A	(5,80,000)	
WDV on 31.3.2021	2,60,000	
Less: Depreciation (30% of 2,60,000 x ½)		39,000
6. Plant & Machinery Block VI [Rate 100%]		
Cost of Purchase	1,60,000	
Less: Depreciation	1,60,000	1,60,000

ADDITIONAL DEPRECIATION [SECTION 32(1)(iia)]		
Eligibility	The Assessee must be engaged in the business of: (a) Manufacturing or production of any article or thing, or (b) Generation, transmission or Distribution of Power	
Benefits	Additional depreciation is available @ prescribed rates to the eligible assesseees for Investment in New Plant & Machinery. [No Land & Building or OLD P&M]	
Ineligible Investments	1. Ships & Aircrafts 2. Any second-hand P&M (in/out of India) 3. Any P&M installed in office premises, residential house or guest house. 4. Any other office appliances or road transport vehicles. 5. Any P&M whose whole of Actual cost has been allowed as deduction.	
Rate	IN ALL CASES FROM AY 2021-22	20% of Actual cost of new P&M
Assets put to use for less than 180 days in 1st PY: If the asset is used for less than 180 days in the year in which the asset is acquired, Additional depreciation will be allowed as: <ul style="list-style-type: none"> ▪ 1st PY = Restricted to 50% (i.e. 10%) ▪ Next PY = Remaining 50% that was disallowed in the 1st PY 		
➤ Addition depreciation will be over & above normal depreciation allowed. ➤ It should be reduced from WDV of the asset.		

❖ **Circular No. 15/2016:** Printing or Printing & Publishing amounts to **manufacture** & thus an Assessee engaged in such business is **eligible for Additional Depreciation u/s 32(1)(iia)**.

❖ **PC Note:** Additional depreciation is not available to the power generating assessee who claims depreciation on SLM basis. Because Additional depreciation is available only in those cases where normal depreciation is claimed u/s 32(1)ii on the WDV of block of assets.

CQ4. Rama Ltd. has started a new business of manufacturing paints on 01.04.2021. The company has purchased the following assets during PY 2021-22.

Asset	Actual COA	ROD	Date when it is put to use
Furniture	6,00,000	10%	20.04.2021
AC installed in office	3,00,000	15%	22.06. 2021
Motor Car	24,00,000	15%	16.07. 2021
Plant A	1,50,00,000	15%	25.04.2021
Plant B	60,00,000	15%	14.11.2021
Plant C	2,40,000	100%	18.09.2021
Computer installed in office	3,00,000	60%	09.07.2021
Computer for factory	4,50,000	60%	12.07.2021

Compute normal & additional depreciation allowable for AY 2022-23 to Rama Ltd.

Solution: **Computation of Normal & Additional Depreciation for AY 2022-23**

Asset	Furniture (10%)	Plant (60%)	Plant & Car (15%)	Plant (100%)
Opening WDV as on 1.4.2021	NIL	NIL	NIL	NIL

Add: Cost of assets acquired during PY	6,00,000	7,50,000	2,37,00,000	2,40,000
WDV as on 31.03.2022	6,00,000	7,50,000	2,37,00,000	2,40,000
Less: Normal Depreciation	60,000	4,50,000 (WN 2)	31,05,000 (WN 3)	2,40,000
Additional Depreciation	NIL (WN 1)	90,000 (WN 2)	36,00,000 (WN 3)	Nil
WDV as on 01.04.2022 [Closing WDV]	5,40,000	2,10,000	1,69,95,000	Nil

Working Note

1	Additional depreciation is not available on furniture as the same is not covered u/s 32 (1)(ia).			
2	Plant also consists of computer. Further computer installed in office is not eligible for additional depreciation.			
	Normal depreciation @ 60% on Rs. 7,50,000			Rs. 4,50,000
	Additional Depreciation @ 20% on Rs. 4,50,000			Rs. 90,000
3	Normal Depreciation on Plant (inclusive of Motor-Car) has been calculated as under:			
	Depreciation @ 15% on Rs. 1,77,00,000			Rs. 26,55,000
	Depreciation @ 7.5% on Rs. 60,00,000 (as put to use for less than 180 days)			Rs. 4,50,000
	Total Depreciation			Rs. 31,05,000

Additional Depreciation on Plant (inclusive of Motor-Car)

Asset	Plant A (20%)	Plant B (10%)	Plant C (Nil)
Actual cost	Rs. 1,50,00,000	Rs. 60,00,000	-
Additional Depreciation	Rs. 30,00,000	Rs. 6,00,000	Nil

Note: Balance of Additional depreciation of Rs. 6 Lacs [50% of Rs. 12 lacs] would be allowed in AY 2023-24.

CQ5. Mr. X, a proprietor engaged in manufacturing business, furnishes the following particulars: **[ICAI Module Q1]**

SN	Particulars	Rs.
1	Opening WDV of plant & machinery as on 1.4.2021	30,00,000
2	New plant & machinery purchased & put to use on 08.06.2021	20,00,000
3	New plant & machinery acquired & put to use on 15.12.2021	8,00,000
4	Computer acquired & installed in the office premises on 2.1.2022	3,00,000

Compute the amount of depreciation & additional depreciation for the AY 2022-23.

Solution: **Computation of Normal Depreciation & Additional depreciation for AY 2022-23**

Particulars	P & M 15%	Computer 40%
Normal depreciation		
@ 15% on Rs. 50,00,000 [See Working Note 1]	7,50,000	-
@ 7.5% on Rs. 8,00,000	60,000	-
@ 20% (50% of 40%) on Rs. 3,00,000	-	60,000
Additional Depreciation		
@ 20% on Rs. 20,00,000 + @10% on Rs. 8,00,000	4,00,000 + 80,000	-
Total depreciation	12,90,00	60,000

Working Note

1	Computation of WDV of Plant & Machinery as on 31.03.2022 (Particulars)	P & M	Computer
	Written down value as on 1.4.2021	30,00,000	
	Add: Plant & Machinery purchased on 08.6.2021/Computer in office	20,00,000	3,00,000
	Add: Plant & Machinery acquired on 15.12.2021 [Less than 180 days]	8,00,000	
	WDV on 31.3.2022	58,00,000	3,00,000
2	Balance Additional Depreciation of Rs. 80,000 would be allowed as deduction in AY 2023-24.		
3	Additional depreciation is not allowable on computer installed in the office premises.		

DEPRECIATION ON SLM BASIS [SECTION 32(1)(i)]

Applicability	For Undertakings engaged in Generation, transmission, Distribution of Power.
Time to Exercise	Before DD of Filing ROI u/s 139(1) relevant to the PY in which they begin to generate power. The option once exercised shall be Final.
Option of SLM → Tangible Assets only	For Intangible Assets, only WDV method shall be applicable. Such undertakings can charge depreciation on tangible assets individually , i.e. SLM or WDV whichever is beneficial for assessee.
New Assets used for < 180 days	Newly acquired assets put to use < 180 days → Depreciation is allowable at 50% of ROD ; Remaining 50% will be allowed in next AY.
Sale in Year of First Use	Profit/Loss arising shall be treated as STCG/STCL.

TRANSFER OF DEPRECIABLE ASSETS BY POWER SECTOR UNITS

SN	Conditions	Treatment
1	NSC < WDV	Terminal Depreciation = WDV – NSC. It shall be Deductible u/s 32.
2	NSC > WDV but < COA	Balancing Charge (Profit) = NSC – WDV. It shall be Taxable u/s 41(2).
3	NSC > COA	Capital Gain = NSC – Original COA. Balancing Charge = Original COA – WDV. It shall be Taxable u/s 41(2).

CQ6. Bijli Ltd. a power generating unit purchased a machinery of Rs. 15,00,000 on 1.1.2021 on which the depreciation rate is 7.84% on SLM. Machinery is sold on 31.12.2021 for: (i) Rs. 7,50,000; (ii) Rs. 14,41,200; (iii) Rs. 18 Lacs. Calculate depreciation for PY 2021-22 & the tax implications on transfer of the asset in each of the above cases.

Solution: Depreciation as per SLM for Bijli Ltd. for PY 2021-22 = Rs. 58,800. Thus, WDV as on 1.4.2021 is Rs. 14,41,200.

Case 1	<ul style="list-style-type: none"> Assets is sold on 31.12.2021 for Rs. 7,50,000: WDV = Rs. 14,41,200. Thus SC < WDV, Terminal depreciation = WDV – SC = Rs. 14,41,200 – Rs. 7,50,000 = Rs. 6,91,200.
Case 2	<ul style="list-style-type: none"> Assets is sold on 31.12.2021 for Rs. 14,41,200: WDV = Rs. 14,41,200. Thus SC = WDV, Thus No Terminal depreciation & no Balancing charge.
Case 3	<ul style="list-style-type: none"> Assets is sold on 31.12.2021 for Rs. 18,00,000: WDV = Rs. 14,41,200. In this case, actual sale consideration > WDV. Thus Capital gain & Balancing charge will arise. Balancing charge = Original COA – WDV = Rs. 15,00,000 – Rs. 14,41,200. Capital Gains = Sale consideration – Actual COA = Rs. 18 lacs – Rs. 15 lacs = Rs. 3,00,000.

DEPRECIATION IN CASE OF AMALGAMATION/DEMERGER OF COMPANY, SUCCESSION OF FIRM & OTHER BUSINESS RE-ORGANISATION

In Case of: (i) Succession, (ii) Amalgamation, (iii) Demerger, (iv) Business Re-organization.	<ul style="list-style-type: none"> These are the cases of Change in ownership. In such cases, depreciation shall be calculated on the assumption that no change in ownership has taken place. Then the amount of depreciation so calculated shall be apportioned between predecessor & successor in the ratio of number of days for which the asset is USED by them.
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PC Note: Consideration for which the assets are **transferred** to the **resulting company** is **irrelevant** for calculation of depreciation. Students should not get confused by such amount given in question.

CQ7. Harsh Ltd. has a block of assets (depreciation @ 15%), WDV of which on 1.4.2021 was Rs. 12 lacs. It purchased & put to use another asset on 1.11.2021 for Rs. 3 lacs. Harsh Ltd. is converted into Harsh LLP on 1.1.2022 & the block of assets were transferred to Harsh LLP at Rs. 18 lacs. Though the conversion into LLP took place on 1.1.2022, but assets were put into use by Harsh LLP on 1.3.2022. Explain the tax implications. **[ICAI SM Q2 + Q3]**

Solution: Depreciation shall be calculated first as if no conversion has taken place & then aggregate depreciation shall be apportioned between the predecessor company & the successor LLP.

WDV as on 1.4.2021			Rs. 12,00,000
Add: Actual cost of asset acquired during the year [Put to use for less than 180 days]			Rs. 3,00,000
WDV on 31.3.2022			Rs. 15,00,000
Depreciation @ 15% on Rs. 12,00,000 [WDV of assets used for > 180days]			Rs. 1,80,000
Depreciation @ 7.5% on Rs. 3,00,000 [WDV of assets used for < 180days]			Rs. 22,500
Depreciation for PY 2021-22			Rs. 2,02,500
Apportionment of Depreciation between Predecessor & successor			
Harsh Ltd	$1,80,000 \times 275/306 = 1,61,765$	$22,500 \times 61/92 = 14,918$	Rs. 1,76,683
Harsh LLP	$1,80,000 \times 31/306 = 18,235$	$22,500 \times 31/92 = 7,582$	Rs. 25,817
Note: No. of days of January & February has not been considered for apportioning the depreciation as Harsh LLP has put to use assets only on 1.3.2021 i.e. after 2 months from Conversion.			
Calculation of Depreciation for Harsh LLP			
Actual Cost of Assets acquired from Harsh Ltd. [WDV on Date of conversion] (Rs. 12 L + Rs. 3 L)			15,00,000
Less: Depreciation allowable to Harsh Ltd			(1,76,683)
WDV for AY 2022-23			13,23,317
Less: Depreciation for Harsh LLP on Rs. 15,00,000 - Apportioned depreciation			(25,817)
WDV as on 1.4.2022			12,97,500

DETERMINATION OF ACTUAL COST [SECTION 43(1)]

Cost of Acquisition/Construction of Asset		Rs.
Less:		
(a) Excise Duty i.r.o which CENVAT credit is Allowed	xxx	
(b) Subsidy or Grant received by any Authority (Directly/Indirectly)	xxx	(xxx)
Add:		
(a) Interest on loan borrowed payable upto date of commencement of production.	xxx	
(b) Expenses incurred for acquiring Asset [Freight, Insurance, loading, unloading]	xxx	
(c) Expenses incurred in connection with the Instalment of Asset.	xxx	
(d) FOREX Fluctuations arising i.r.o asset acquired from abroad [Sec 43A]	xxx	xxx
ACTUAL COST for the purpose of computing Depreciation		xxx

PC Note: Any Expenditure for Acquisition of any Asset for which aggregate payments made to a person in a day, otherwise than by A/c Payee Cheque or A/c Payee Draft or Electronic clearing system exceeds Rs. 10,000, such expenditure shall not be included in Cost of such asset.

Prescribed electronic modes include credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), & BHIM (Bharat Interface for Money) Aadhar Pay [CBDT NN 8/2020 dated 29.01.2020].

Space for Class Note:

'ACTUAL COST' IN SPECIAL CASES [Explanation to Section 43(1)]

SN	Cases	Actual Cost
1.	Scientific Asset/Specified business Asset u/s 35AD brought into business.	Actual cost – deduction allowed u/s 35 = Nil
1A	Conversion of Capital Asset into SIT	FMV of Capital Asset on the date of conversion of capital asset into SIT
	Conversion of SIT into Capital asset & used into business	FMV of SIT on the date of conversion of SIT into capital asset.
2.	Asset acquired by Gift, Will or Inheritance	WDV to the previous owner .
3	Second hand asset	If AO is satisfied that main purpose was to reduce the Income Tax Liability by claiming depreciation on enhanced cost, he may, with the previous approval of JCIT, determine the Actual Cost having regard to all the circumstances of the case.

CQ8. Mr. A transfers P&M used in his business for several years for Rs. 20,00,000 to Mr. B. WDV in the books of Mr. of the said asset was Rs. 5,00,000. FMV of the asset on the date of transfer was Rs. 4,00,000. Determine the Actual cost of asset in the case of Mr. B for computing depreciation u/s 32.

Solution: According to Expl. 3 to Sec. 43(6), where any asset has been acquired from another person, who has been using the asset for his business, AO has the power to determine actual cost of the asset to act as a deterrent against excess depreciation to be claimed on the enhanced cost. In this case, as FMV of the asset as on date of acquisition is only Rs. 4 Lacs, AO may determine the same as CoA instead of Rs. 20 Lacs being the purchase consideration.

4	Re-acquisition of asset used for Business/profession earlier.	(a) WDV at the time of original transfer or (b) Cost of re-acquisition [whichever is Lower]
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CQ9. Mr. A acquired an assets on 15.4.2020 for Rs. 2 Lacs on which depreciation is charged @ 10%. He sold the asset to Mr. B for Rs. 2 Lacs on 1.4.2021. Again on 16.9.2021, it was reacquired by Mr. A for Rs. 2 Lacs. Compute the actual cost in the hands of Mr. A for AY 2022-23.

Solution:

Cost of Asset as on 15.4.2020	2,00,000
Less: Depreciation for PY 2020-21	(20,000)
WDV on the date transfer of asset (a)	1,80,000
Value of Reacquisition (b)	2,00,000
Cost to be adopted – as per Explanation 4 Sec. 43(1) [(a) or (b) whichever is less]	1,80,000

4A	Sale & Leaseback transactions	WDV of the asset in the hands of transferee = WDV of the asset in the hands of the person to whom it has been leased back .
	(Assets previously used by transferor for his B/P are acquired by the transferee & let out or hired or leased back to the same transferor)	

CQ10. Mr. A owns an asset & uses it for the purpose of his business/profession. A has claimed depreciation i.r.o such asset. The said asset is transferred by A to Mr. B. Mr. A then acquires the same asset back from B on lease, hire or otherwise. B being the new owner will be entitled to depreciation.

Cost of acquisition of transferred assets in hands of B = WDV of the said assets at the time of transfer.

5	Building (now brought into business) which was used for non-business purpose earlier . [PC Note: Only for Building]	Actual cost of building – Deemed Depreciation @ rate on that date) that would have been allowed had the asset been used for business since the date of acquisition. Note: Other assets should be recorded @ original COA.
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CQ11. Mr. A Converted the following assets used for personal purposes into his business assets on 1.4.2021:

Particulars	COA	DOA	FMV on 1.4.2021	Value recorded in books on 1.4.2021
Building	20,00,000	1.4.2019	30,00,000	30,00,000
Land	10,00,000	1.4.2018	50,00,000	10,00,000

Solution:

Computation of Actual Cost of the asset of Mr. A

Particulars	Rs.
Cost of asset as on 1.4.2018	20,00,000
Less: Notional depreciation @ 5% for the year 2019-20	(1,00,000)
WDV as on 31.03.2020	19,00,000
Less: Notional depreciation @ 5% for the year 2020-21	(95,000)
Cost to be capitalized as per Explanation 5 Sec. 43(1)	18,05,000

Explanation 5 to Sec. 43 requires the notional depreciation to be computed **only in the case of building & not in case of any other asset**. Therefore, the value of other fixed assets namely Land shall get recorded at Rs. 10 Lacs. In case of building, cost to be adopted for computing depreciation shall be Rs. 18,05,000 & not at Rs. 30 Lacs.

CQ12. Dr. X purchased a house property on 1.12.2019 for Rs. 10 lacs. Till 1.5.2021, the same was self-occupied as a residence. On this date, the said building was brought into use for the purpose of his medical profession. What would be the depreciation allowable for AY 2022-23 assuming that he owns no other building & ROD is 10%.

(b) What if house property had been gifted by his mother, who had purchased the same on 01.05.2018 for Rs 9 lacs?

(c) What if the asset would have been a car?

Ans: As per Explanation 5 to Sec. 43(1), depreciation of Rs. 50,000 for PY 2019-20 & Rs. 95,000 for PY 2020-21 will be notionally computed & deducted from the cost of Rs. 10 Lacs. Dr. Binu can claim depreciation at 10% on Rs. 8.55 Lacs which works out to Rs. 85,500 for AY 2022-23.

(b) Yes, the answer would differ has the building been gifted by his mother.

Explanation 2 to Sec. 43(1) provided that where an asset is acquired by way of gift or inheritance, actual cost of asset to the assessee will be the WDV to the previous owner.

Deprecation thereafter shall be allowed assuming the asset as the only asset remaining in the block.

Deprecation on the building that would have been allowed/ allowable as under:

Year ending 31.03.2019	Year ending 31.03.2020	Year ending 31.03.2021
Rs. 90,000	Rs. 81,000	Rs. 72,900

Cost = Rs. 6,56,100 (Rs. 9 Lacs - Rs. 2,43,900). Assessee can avail Rs. 65,610 as depreciation for AY 2022-23.

(c) Actual cost of car would be taken as cost of acquisition for charging depreciation.

6	Interest on capital borrowed	Interest relating to a period after the asset is first put to use will NOT form part of Actual cost.
7	Adjustments of CENVAT credit	Where CENVAT credit on capital goods has been availed i.r.o Excise duty, it shall not form part of cost.
8	Subsidy on capital investment	Specific Subsidy: Deducted from Actual COA. General subsidy: Proportionate Subsidy relating to the asset shall be deducted from COA.
9	Asset acquired outside India by NR & brought to India & used for the purpose of his business/profession.	Actual cost - depreciation calculated @ rate in force that would have been allowable had the asset been used in India since the date of acquisition.
10	Capital asset is acquired under a scheme for corporatization of RSE.	Amount which would have been regarded as actual cost had there been no such corporatization.

CASES WHEN NO DEPRECIATION IS ALLOWED

➤ In the following cases, no depreciation will be allowed to the Assessee during PY:

WDV is Zero but Block is not Empty	No Depreciation & STCG u/s 50(1) will arise.
Block is empty but WDV is not Zero	No Depreciation & STCL u/s 50(2) will arise.

Space for PC Class Note:

UNABSORBED DEPRECIATION [SECTION 32(2)]

1. Where depreciation is not fully deductible u/h 'PGBP' because of absence or inadequacy of profits, it is deductible from other heads of Income for the same AY.
2. If depreciation is still unabsorbed, it can be c/f to subsequent AY without any time limit.
3. In the subsequent years, unabsorbed depreciation can be set off against any income whether chargeable under the head PGBP or under any other head of income.
4. In the matter of **set off**, the **following priority** is followed in the subsequent years
 - (i) Current year Depreciation
 - (ii) Brought Forward Business Loss
 - (iii) Unabsorbed Depreciation.

PC Note: Set off will be allowed even if the said business to which it related has been discontinued.

EXPENDITURE ON SCIENTIFIC RESEARCH [SECTION 35]

1(A). SCIENTIFIC RESEARCH CARRIED ON BY ASSESSEE [Related to business]

REVENUE EXPENDITURE [SEC 35(1)(i)] - [100 % Deduction]

Pre-commencement Period Expenditure	Only following expenditures will be allowed as deduction: (i) Salary (excluding perquisites) to research personnel. (ii) Purchase of Materials used in scientific research. [only of 3 years prior to Commencement]
Post-commencement Period Expenditure	Any Revenue Expenditure incurred on scientific research will be allowed as deduction

CAPITAL EXPENDITURE [SEC 35(1)(iv) & 35(2)] - [100 % Deduction]

Pre-commencement Period Expenditure	Any Capital Expenditure incurred will be allowed as deduction (Except Cost of Land). [only of 3 years prior to Commencement]
Post-commencement Period Expenditure	Any Capital Expenditure incurred will be allowed as deduction (Except Cost of Land).

1(B). EXPENDITURE ON IN-HOUSE RESEARCH BY COMPANY ASSESSEE [SEC 35(2AB)]

Assessee	Company only
Eligible Business	Bio-technology or any business of manufacture/production of any articles or thing, not being an article or thing specified in the list of the Eleventh schedule.
Expenditure	Capital & Revenue Expenditure [Excluding Cost of Land & Building]
Deductions	100% of Capital & Revenue Expenditure [Except cost of Land & Building]

PC Note: For Company → Pre-commencement expenditure & cost of Building is not allowed as deduction u/s 35(2AB). Thus, company will not be able to claim **100%** depreciation on them.

But they are allowed as deduction @ 100% u/s 35(1) & 35(2). Hence, company will be entitled to claim 100% deduction on Pre-commencement expenditure & cost of Building u/s 35(1)/(2). **[IRRELEVANT NOW]**

PC Note:

- ❖ Deduction of **Pre-commencement expenditure** shall be allowed **in the year of commencement of business** to the extent certified by the prescribed authority.
- ❖ Assessee must incur the expenditure on scientific research. Actual payment is not compulsory.
- ❖ Assessee is not eligible for deduction by mere transfer of asset from business purpose to scientific research purpose [i.e Merely by transfer entry in books of accounts].
- ❖ **No depreciation** will be allowed on any capital asset whose cost has been allowed as deduction u/s 35.
- ❖ It is not necessary that the capital asset must be complete in all respect & used for scientific purpose in the PY itself. It is also irrelevant that construction of building is not completed & the building has not been used in the PY.
- ❖ No deductions u/s 35(2AB) shall be allowed to company accepting donations u/s 35(1)(ia).
- ❖ **UNABSORBED CAPITAL EXPENDITURE ON SCIENTIFIC RESEARCH:** Treated same as unabsorbed depreciation (can be carried forward for infinite years without any time limit).

2. CONTRIBUTION MADE BY ASSESSEE TO OUSIDER [Related to business or Not]

Purpose	Sec	Contribution to whom	Deduction
Scientific Research	35(2AA)	National laboratory/ National university/ IITs/ IIMs	100%
	35(1)(ii)	Approved Research association/University/College/Institutions	100%
	35(1)(ia)	Company Registered in India having scientific research as its main business objective.	100%
Social or Statistical Research	35(1)(iii)	Approved Research association/University/College/institutions	100%

PC Note: Deduction of contribution made shall **not be denied** merely on the ground that the **approval granted** to such institutions **was withdrawn after payment** of such sum by the assessee to them.

CQ13. Mr. X has furnished following particulars related to payment made towards scientific research for PY 2021-22:

SN	Particulars	(Rs. In Lacs)
(i)	Payments made to K Research Ltd.	20
(ii)	Payment made to LMN College	15
(iii)	Payment made to OPQ College	10
(iv)	Payment made to National Laboratory	8
(v)	Machinery purchased for in-house scientific research	25
(vi)	Salaries to research staff engaged in in-house scientific	12

Note: K Research Ltd. & LMN College are approved research institutions & these payments are to be used for the purposes of scientific research. Compute the amount of deduction available u/s 35. **[May 2011]**

Solution:

Particulars	Amount	Sec	% of Deduction	Deduction
Payment for scientific Research				
K Research Ltd (WN 2)	20	35(1)(ii)	150%	30.00
LMN College	15	35(1)(ii)	150%	22.50
OPQ College	10	-	Nil	Nil
National Laboratory	8	35(2AA)	150%	12.00
In-house Research [WN 2]				
Capital expenditure	25	35(1)(iv) r.w. 35(2)	100%	25.00
Revenue expenditure	12	35(1)(i)	100%	12.00
Deduction allowable u/s 35				101.50

Notes:

- Only company are entitled to weighted deduction @ 150% u/s 35(2AB) i.r.o in-house research expenditure incurred. However, assessee is an individual. Thus he would be entitled to deduction @100% of revenue expenditure incurred u/s 35(1)(i) & 100% of the capital expenditure incurred u/s 35(1)(iv) r/w section 35(2).
- Payment to K Research Ltd. (Alternative Answer):** Any sum paid to a company registered in India which has as its main object scientific research qualifies for a weighted deduction of 100% u/s 35(1)(ia). Therefore, it is also possible to take a view that payment of Rs. 20 lacs to K Research Ltd. qualifies for a weighted deduction of 100% u/s 35(1)(ia) since K Research Ltd. is a company. Weighted deduction u/s 35(1)(ia) would be Rs. 20 lacs (i.e., 100% of Rs. 20 lacs). In such case, total deduction u/s 35 = Rs. 91.50lacs.

SALE OF SCIENTIFIC ASSET [SECTION 41(3)]

1. Assessee may use scientific research asset for his other business purpose after completion of scientific research. [Conversion of scientific research asset into normal business asset] **OR**
2. Assessee may sell scientific research asset without using it for another purpose after completion of scientific research.

In both cases, tax liability could arise.

1 Asset is sold after using it for Business [Section 41(1)]

- Such asset will form part of the block of asset.
- Cost of Acquisition = Nil (Since whole of the cost has been allowed as deduction)
- No Depreciation will be allowed on such asset when it is used for other business.
- On sale of such asset, sale value + scrap (if any) of such asset will be taxed in the hands of assessee.
- On sale of such asset subsequently, Section 41(3) will not be applicable as the asset has been included in the block.

2 Asset is sold without using it for business [Section 41(3)]

- **If sale proceeds + deduction u/s 35 > Capital Expenditure;** Taxable Amount = Lower of (i) or (ii)
 (i) Sale Price + Deduction allowed u/s 35 – Capital Expenditure; (ii) Deduction allowed u/s 35.

Space for Class Note:

INVESTMENT IN SPECIFIED BUSINESS [SECTION 35AD]

❖ **Only Capital Expenditures are covered u/s 35AD [Other than Land/GW/Financial Instrument]**

Nature of Specified Business

1	Setting up & operating a Cold chain facility
2	Warehousing facility for storage of agricultural produce.
3	Affordable Housing project
4	Production of Fertilizer
5	Hospital (at least 100 Beds)
6	Cross country pipeline for petroleum or crude oil, natural gas
7	Hotel (2 Star +)
8	Slum Re-development Housing
9	Setting up & operation ICDs or CFS notified or approved under the customs act, 1962
10	Bee-keeping & production of honey & bees wax
11	Warehousing facility for storage of sugar
12	Laying & Operating Slurry Pipeline for the transportation of iron ore.
13	Setting & operating Semiconductor Wafer Fabrication Manufacturing unit
14	Developing or/& maintaining or/& operating a new infrastructure facility.

PERMISSIBLE EXPENDITURE FOR DEDUCTION

1	Prior Period Expenses	If they are capitalized in the books of accounts.
2	Post Commencement Expenses	Any Capital Expenditure incurred during the PY.

PC Note: Any Expenditure for Acquisition of any Asset for which the aggregate payments made to a person in a day, **otherwise than by A/c Payee Cheque** or A/c Payee Draft or Electronic clearing system (**as specified earlier**) **exceeds Rs. 10,000** would **not** be **eligible** for deduction.

Note: Assessee is deemed to be carrying on the specified business of building & operating hotel if assessee builds a hotel of two-star or above category. After building the hotel, he transfers the operation of the hotel to another person; However, he should continue to own the hotel.

CONDITIONS:

1	It is NOT set up by Splitting up or reconstruction of a business already in existence.
2	It is NOT set up by transfer of Second-hand Plant & Machinery. Exceptions: (a) Imported P&M will be treated as new for this section & (b) Used P&M upto 20% of Total value of P&M shall be allowed under this section.
3	No Deduction under any other section: (i.e 10AA & 80IA-80RRB) in any PY.
4	Set-off & carry forward of loss: [To be studied in respective chapter later]
5	Transfer, destruction, demolition, discarding of asset for which deduction was allowed: If any asset on which a deduction u/s 35AD has been claimed & allowed, is demolished, destroyed, discarded or transferred, Sum received on such transfer is taxable u/s 28(vii).

6 **Use of Asset till 8 years for Specified Business only:** Where such asset is used for any purpose other than specified business during 8 years, following amount shall be deemed to be the income of the assessee of the PY in which the asset is used for Non-specified purpose.

Income = Total Deduction Claimed & Allowed in one or more PYs - Depreciation allowable (as if no deduction was allowed u/s 35AD)

Exception: If the company becomes a sick within 8 years, this provision will not be applicable.

CQ14. Mr. Arnav is a proprietor having two units – Unit A carries on specified business of setting up & operating a warehousing facility for storage of sugar; Unit B carries on non-specified business of operating a warehouse for storage of edible oil. Unit A commenced operation on 1.4.2021 & it claimed deduction of Rs. 100 lacs incurred on purchase of 2 buildings for Rs. 50 lacs each (for operating a warehouse for storage of sugar) u/s 35AD for AY 2021-22. However, in Feb 2022, Unit A transferred one of its buildings to Unit B. Examine the tax implications of such transfer to Mr. Arnav. **[ICAI Module Q11]**

Solution: Since the capital asset, i.r.o which deduction of Rs. 50 lacs was claimed u/s 35AD, has been transferred by Unit A carrying on specified business to Unit B carrying on non-specified business in PY 2021-22, the deeming provision u/s 35AD(7B) is attracted during the AY 2022-23.

Particulars	Amount
Deduction allowed u/s 35AD for AY 2021-22	Rs. 50,00,000
Less: Depreciation allowable u/s 32 for AY 2021-22 [10% of Rs. 50 lacs]	Rs. 5,00,000
Deemed income u/s 35AD(7B)	Rs. 45,00,000

By virtue of section 43(1), Mr. Arnav can claim depreciation u/s 32 on building in Unit B for AY 2022-23. For the purpose of claiming depreciation on building in Unit B, actual cost of the building would be: Actual cost to the assessee - Depreciation allowable u/s 32 for AY 2021-22 = Rs. 50 L – Rs. 5 L = Rs. 45 Lac.

7 **Transfer of goods/services to Non-Specified Business of the Assessee himself:**

- Where any goods or services held for specified business are transferred to any other business carried on by the assessee, or vice versa, &
- Consideration for such transfer does not correspond with FMV of the goods or services,
- Profits of Specified Business shall be computed as if the transfer was made at FMV.

CQ15. An assessee, who is already in the business of trading in textiles, commences the business of cold chain facility w.e.f. 1.7.2021 & has incurred the following expenditure:

Machinery purchased on 26.02.2021 & capitalized in the books of accounts	4,00,000
LAND purchased on 1.04.2020 & capitalized	6,00,000
Building constructed on 30.06.2021	10,00,000
Goodwill purchased on 05.06.2021	2,00,000
Machinery purchased on 20.01.2022	3,00,000

Calculate the deduction allowed u/s 35AD for PY 2021-22.

Solution:

- Deduction of 100% of capital expenditure incurred wholly for cold chain business shall be allowed during the year in which the expenditure is incurred.
- All capital expenditures are eligible for 100% deduction (except LAND, GW & any financial instrument).
- Land, Goodwill will not qualify for deduction.
- Capital expenditure incurred before commencement shall be deductible in the year of commencement, if expenditure is capitalized in books of account on date of commencement.
- Total deduction allowed for PY 2021-22 = **100% of** [Rs. 4L (machinery purchased before commencement of business since capitalized) + Rs. 10 L (building) + Rs. 3 L(machinery) = Rs. 17,00,000.

CQ16. Mr. A commenced operations of the businesses of setting up a warehousing facility for storage of food grains, sugar & edible oil on 1.4.2021. He incurred capital expenditure of Rs. 80 lacs, Rs. 60 lacs & Rs. 50 lacs, respectively, on purchase of land & building during Jan. 2021 to March 2021 exclusively for the above businesses, and capitalized the same in its books of A/c as on 1st April, 2021. Cost of land included in above figures is Rs. 50 lacs, Rs. 40 lacs & Rs. 30 lacs respectively. During PY 2021-22, he incurred capital expenditure of Rs. 20 lacs, Rs. 15 lacs & Rs. 10 lacs, respectively, for extension/reconstruction of the building purchased & used exclusively for the above businesses.

Compute the income u/h "PGBP" for AY 2022-23 & the loss to be carried forward, assuming that Mr. A has fulfilled all the conditions specified for claim of deduction u/s 35AD & has not claimed any deduction under Chapter VI-A under the heading "C – Deductions i.r.o certain incomes".

Profits from the business of setting up a warehousing facility for storage of food grains, sugar & edible oil (before claiming deduction u/s 35AD & section 32) for AY 2022-23 is Rs. 16 lacs, Rs. 14 lacs & Rs. 31 lacs, respectively. Also, assume i.r.o expenditure incurred, the payments are made by A/c payee cheque or use of ECS through bank.

Solution: **Computation of profits and gains of business or profession for AY 2022-23**

Particulars	Amount
Profit from business of setting up of warehouse for storage of edible oil (before providing for depreciation u/s 32)	Rs. 31 Lacs
Less: Depreciation u/s 32 [10% of Rs. 30 lacs, being (Rs. 50 lacs – Rs. 30 lacs + Rs. 10 lacs)]	(Rs. 3 Lacs)
Income chargeable under "Profits and gains from business or profession"	Rs. 28 Lacs

Computation of income/loss from specified business u/s 35AD

Particulars	Food Grains	Sugar	Total
A. Profits from the specified business of setting up a warehousing facility (before providing deduction u/s 35AD)	16	14	30
Less: Deduction u/s 35AD			
B. Capital expenditure incurred prior to 1.4.2021 (commencement of business) & capitalized in books of A/c as on 1.4.2021 (excluding expenditure incurred on acquisition of land) = Rs. 30 lacs (Rs. 80 lacs – Rs. 50 lacs) & Rs. 20 lacs (60 L – 40 L)	30	20	50
C. Capital expenditure incurred during the PY 2021-22	20	15	35
D. Total capital expenditure (B + C)	50	35	85
E. Deduction u/s 35AD [100% of capital expenditure]	50	35	85
F. Loss from the specified business of setting up and operating a warehousing facility (after providing for deduction u/s 35AD) to be carried forward as per section 73A [A-E]	(34)	(21)	(55)

Notes:

- Deduction of 100% of capital expenditure is available u/s 35AD for AY 2022-23 i.r.o specified business of setting up & operating a warehousing facility for storage of sugar & setting up and operating a warehousing facility for storage of agricultural produce.
- However, since setting up and operating a warehousing facility for storage of edible oils is not a specified business, Mr. A is not eligible for deduction u/s 35AD i.r.o capital expenditure incurred i.r.o such business.
- Mr. A can, however, claim depreciation @ 10% u/s 32 i.r.o the capital expenditure incurred on buildings. It is presumed that the buildings were put to use for more than 180 days during the PY 2021-22.
- Loss from a specified business can be set-off only against profits from another specified business. Therefore, the loss of Rs. 55 lacs from the specified businesses of setting up and operating a warehousing facility for storage of food grains and sugar cannot be set-off against the profits of Rs. 28 lacs from the business of setting and operating a warehousing facility for storage of edible oils, since the same is not a specified business. Such loss can, however, be carried forward indefinitely for set-off against profits of the same or any other specified business.

AMORTIZATION OF PRELIMINARY EXPENDITURE [SECTION 35D]

Assessee	(a) Indian Company or (b) Any other person Resident in India.	
Eligible Expenditure	(a) In case of New companies → Expenses for setting up any business. (b) In case of Existing companies → Expenses for Expansion of Business. <ul style="list-style-type: none"> ▪ Expenditure on Preparation of feasibility report, Project report, conducting market survey or engineering services relating to the business. ▪ Legal charges for drafting any agreement relating to the business. ▪ Legal charges for drafting the MOA & AOA of the company. ▪ Printing charges of the MOA & AOA of the company. ▪ Registration fees of the company. ▪ Expenditure on public issue of shares/debenture, underwriting commission, brokerage & charges for drafting, & advertising prospectus. 	
Maximum Limit	1. Indian Company	Higher of 5% of [Cost of Project OR Capital Employed]
	2. Any other Assessee	5% of Cost of Project.
Qualifying Expenditure	1. Eligible Expenditure incurred or 2. Maximum Limit (whichever is Lower)	
Deduction	1/5 th of the Qualifying expenditure in 5 successive PYs.	
Audit	COMPULSORY AUDIT for the years in which expenditure is incurred.	
<p>PC Note: If Indian Co. is amalgamated with another Indian Co. before expiry of 10 years → Above provisions will apply to amalgamated company as if the amalgamation had not taken place.</p> <p>❖ Meaning of Cost of Project → Actual cost of Fixed assets [L & B, P & M, F & F etc];</p> <p>❖ Meaning of Capital Employed → Aggregate of Issued share capital, Debentures, Long-term borrowings; (as on the last day of PY in which business is commenced).</p>		

CQ17. X Ltd. is incorporated in Mumbai on 6 September 2021. It commences production on 15 March 2022. Following expenses are incurred by the company before commencement of business. Calculate deduction u/s 35D.

(a) Expenses on incorporation, issue of shares: Rs. 92,000.

(b) Preparation of feasibility report & conducting market survey: Rs. 1,40,000.

(c) Engineering services (work is carried on by a concern which is unapproved by Board): Rs. 1,30,000.

Particulars as on last day of PY in which business is commenced are: Cost of fixed asset – Rs. 55 Lacs; Share capital - Rs. 40 Lacs; Debentures - Rs. 12 Lacs; Long-term borrowing from FIs (repayable for not less than 7 years) - Rs. 8 Lacs

Solution:

Cost of Project	Rs. 55,00,000
Capital Employed (i.e. Rs. 40 lacs + Rs. 12 lacs + Rs. 8 lacs)	Rs. 60,00,000
1. Eligible Expenditure	
(a) Expenses on incorporation (Included even if work is undertaken by unapproved person)	Rs. 92,000
(b) Preparation of feasibility report, project report & conducting market survey (these are included only if work is done by the taxpayer or it is undertaken by an approved concern)	Rs. 1,40,000
(c) Engineering services (included only if work is done by taxpayer or it is undertaken by approved concern; since it is completed by a concern not approved by Board, it is not included)	Nil
Total Eligible Expenditure	Rs. 2,32,000
2. Maximum Limit (5% of Rs. 55 lacs or Rs. 60 lacs, whichever is higher)	Rs. 3,00,000
Qualifying Amount for Deduction Lower of (i) or (ii)	Rs. 2,32,000
Amount deductible in 5 years for AY 2022-23 to 2026-27	Rs. 46,400

AMORTIZATION OF COMPENSATION PAID UNDER VRS [SECTION 35DDA]

Eligible Assessee	Any Assessee
Eligible Expenditure	Payment of any sum to Employee for his voluntary retirement.
Deduction	<ul style="list-style-type: none"> ▪ 1/5th of Expenditure shall be deductible for 5 succeeding PYs. ▪ Each Part Payment of VRS is deductible in 5 Instalments. ▪ 1st Instalment is deductible in the PY in which such sum is Actually Paid.

PC Note: In case of any **Business Re-organization** → **Deduction** shall be allowed to resulting company (organisation) for **Remaining years.**

CQ18. X Ltd. made payment of VRS to its employee Y as under:

PY 2021-22: Rs. 4,00,000; **PY 2022-23:** Rs. 3,00,000; **PY 2023-24:** Rs. 1,40,000

How deduction of above expense will be claimed by X Ltd. as per Income Tax Act?

Also calculate how much deduction will be allowed to X Ltd. for AY 2022-23 & 2023-24 i.r.o. the VRS?

Solution:

Deduction of VRS Expenditure

AY	Payment	1/5 th Deduction from PY of payment	Period of 5 years from year of payment
2022-23	4,00,000	80,000	AY 2022-23 to 2026-27
2023-24	3,00,000	60,000	AY 2023-24 to 2027-28
2024-25	1,40,000	28,000	AY 2024-25 to 2028-29

(i) Total Deduction u/s 35DDA for **AY 2022-23 = Rs. 80,000.**

(ii) Total Deduction u/s 35DDA for **AY 2023-24 = Rs. 80,000 + Rs. 60,000 = Rs. 1,40,000.**

MISCELLANEOUS DEDUCTIONS [SECTION 36(1)]

INSURANCE PREMIUM PAID ON

- (i) Stocks or stores against risk of damage or destruction.
- (ia) Lives of Cattles owned by members & paid by primary milk co-operative society.
- (ib) Health of Employees → Paid by the employer [Any mode other than Cash].

BONUS OR COMMISSION [Sec 43B will Apply]

- (ii) Bonus/commission **PAID** to the Employees by the employer. [not payable as profit or dividend]

PC Note: Amount paid to the employees as bonus or commission shall not be payable to them as profits or dividends if it had not been paid as bonus or commission.

It is a provision intended to safeguard escaping tax by distributing a part of its profits by way of bonus amongst the members, or employees of their own concern instead of distributing the money as dividends or profits.

(iii) INTEREST ON BORROWED CAPITAL FOR BUSINESS

- Interest for the period **after the asset is put to use** is allowed as deduction.

PC Note: Interest payable for the period before the asset is put to use → Capitalized & added to COA of Asset & thus not deductible u/s 36(1)(iii).

PC Note:

- ❖ Interest on own capital → Not deductible.
- ❖ Guaranteed interest paid to shareholders on paid-up capital → Not Deductible.
- ❖ Interest paid on money borrowed for payment of dividends → Deductible.
- ❖ Interest paid on money borrowed for payment of Tax → Not Deductible.
- ❖ Interest paid by a firm to partners → Deductible; Interest paid by AOP to its members → Not Deductible.

AMORTIZATION OF EXPENDITURE ON ZERO COUPON BOND BY ISSUING COMPANY

- (iii)(a) Amortization of Discount on a Zero-Coupon Bond is deductible **over the life of such bond**.

Tax Treatment in the hands of Issuing Company

- Discount (Amount payable on Maturity – Issue Price) on ZCB is deductible on Pro rata basis.
- No TDS **u/s 194A** by the payer company.

Tax Treatment in the hands of Investor

- Maturity or redemption of ZCB will amount to **transfer** u/s 2(47)(iva).

EMPLOYER'S CONTRIBUTION towards

- (iv) RPF or Approved SF, Subject to section 43B.
- (iva) Pension scheme to the extent of **10% of salary** of the employee in PY.
- (v) Approved Gratuity Fund subject to Section 43B.

EMPLOYEE'S CONTRIBUTION

- (va) Employee's contribution towards RPF/SF/ESIC, if deposited by the employer before DD.

PC Note: Employee's contribution is **first included** in total income of the employer. Then **deduction** is given under this section if the sum received is **deposited before due date** under relevant law.

As per the Employees Provident Funds Scheme, 1952, amounts under consideration i.r.o. wages of the employees for any particular month shall be paid within 15 days of the close of every month.

PC Note - It is clarified that provisions of section 43B does not apply & would deemed never to be applied on employee's contribution received by employer towards any welfare fund of such employee. In effect, extended time upto due date of filing of ROI is not available for credit of employee's contribution towards any welfare fund received by the employer.

(vii) BAD DEBTS (EXCLUDING PROVISIONS FOR BAD DEBT)

Conditions:

- Debt (Loan) must be incidental to the business & Must be **written off** in books of accounts.
- Such debt must be **charged as income** in computing the income if the assessee of any PY
- Debt may be money lent in the ordinary course of banking or money lending business

Second Proviso inserted by FA, 2015:

If whole or part of Debt has been included in the income of PY in which it becomes irrevocable or earlier PYs without recording the same in the books of accounts; such Debt amount shall be allowed in PY in which, it becomes irrevocable and it shall be deemed that such amount has been written off in A/cs

Other points:

1. In case of succession → Successor is entitled to claim the deduction when a debt originally due to the predecessor is written off as bad debt by the successor in his books of accounts.
2. Recovery of Bad debts is **taxable** as **business income** in the **PY of recovery**. [sec 41(4)]

(ix) EXPENSES ON FAMILY PLANNING [IMP]

- Any expenditure incurred by the company for promoting family planning amongst employees will be allowed as deduction in the hands of company.

Amount of Deduction will be as follows:

- Revenue Expenditure: Fully allowed in the PY in which it is incurred.
- Capital Expenditure: **1/5th of the expenditure allowed in 5 PY's.**

PC Note: Treatment of Unabsorbed expenditure is same as treatment of unabsorbed depreciation.

(xv) Securities Transaction Tax [STT] paid by the assessee is deductible if the income arising from such a taxable securities transaction is included u/h "PGBP"

(xvi) Commodity Transaction Tax [CTT] paid by the assessee is deductible if the income arising from such a taxable commodities transaction is included u/h "PGBP".

CQ19. The profit & loss account for the year ending 31st March 2022 is as follows:

Cost of goods sold	75,000	Sale proceeds of goods	2,30,000
Salary to employees	99,000		
Other expenses	10,000		
Net profit	46,000		

Salary of Rs. 99,000 comprises Rs. 9,000 as employee's contribution towards RPF. Out of Rs. 9,000, Rs. 6,000 is credited in employees' PF within Due Date & Rs. 3,000 is credited after the Due Date. Compute net income of X for AY 2022-23.

Solution:

Net profit	46,000
Add: Employees contribution towards PF [it is first included in income - Section 2(24)(x)]	9,000
Total	55,000
Less: Employees contribution towards PF if credited on a date before DD [Section 36(1)(va)]	(6,000)
Net income	49,000

GENERAL DEDUCTIONS [SECTION 37]

- Section 30-36 provides for **Specific deductions** i.r.o certain expenditures.
- But still there can be Certain Expenditures which might not get covered in Section 30-36.
- Thus **Section 37** provides for **General deductions**.
- **Only Business Expenditure is Allowable u/s 37.**
- Deduction u/s 37 is limited only to the amount actually expended & does not extend to a reserve created against a contingent liability.
- Business losses such as those arising out of embezzlement, theft, destruction of assets, misappropriation by employees etc are allowable u/s 29 as losses incidental to the business.

CONDITIONS FOR ALLOWANCE U/S 37: Such expenditure shall

1. Not covered in Section 30 to 36.
2. **Not a capital expenditure** (Only revenue expenditure is deductible u/s 37).
3. Incurred during the PY.
4. It must have been incurred after the business was set up.
5. Incurred wholly & exclusively for business (**Personal Expenditure is NOT** deductible).
6. **Legal Purpose only:** Expenditure should not be for any purpose which is an offence or prohibited by law.

PC Note:

1. There should be Nexus between Expenses & business.
2. Exclusive benefit may or may not be derived by the assessee. Section 37 requires that expenditure should be wholly & exclusively incurred for business. AO cannot question the necessity of expenditure in allowing the deduction for such expense which was incurred for the purpose of the business but was unnecessary.

Some Important Decisions based on Case Laws:

Particulars	Deduction u/s 37(1)
Penalties imposed for Infraction of Laws	Not Allowed
Penalty paid for failure to deduct TDS	Not Allowed
Any interest or penalty paid under Direct tax laws	Not Allowed
Interest paid to Sales tax Department on Arrears of Sales tax	Allowed
Penalty levied under CST Act.	Not Allowed
Demurrage paid to port authorities for releasing confiscated goods.	Allowed as it is not a fine.
Interest paid under Employees PF & Misc. provision Act, 1952.	Allowed
Penalty paid by the assessee (contractor) for non-completion of contract within stipulated time.	Allowed as it is not a fine paid for infraction of law.

CONTRIBUTION TO POLITICAL PARTIES [SEC 37(2B)]

- Any expenditure on advertisement in any souvenir, brochure, tract, pamphlet published by Political parties is **not deductible**.
- However, it can be claimed as deduction **u/s 80GGB & 80GGC** as **“Donations to PP”**.

Some Important Circulars:

1. **Expenditure incurred on keyman insurance policy:** Premium paid on the Keyman Insurance Policy is allowable as **business expenditure**.
2. **Expenses incurred in providing freebies to medical practitioner:** Any expense incurred in providing freebies to medical practitioner is in violation of the provisions of Indian Medical Council Regulations, 2002. Thus, value of freebies enjoyed by aforesaid medical practitioner or professional associations is also **taxable as business income or IFOS**.
3. **Expenditure incurred on CSR:** Not deemed to be incurred for Business & thus **not deductible**.

Mandatory CSR obligations u/s 135 of Companies Act, 2013

- ❖ Every company, listed or unlisted, private or public, having a –
 - net worth of Rs. 500 crores or more [Net worth criterion]; or
 - turnover of Rs. 1,000 crores or more [Turnover criterion]; or
 - a net profit of Rs. 5 crores or more [Net Profit criterion]during the immediately preceding financial year to constitute a CSR Committee of the Board;
- ❖ Such company to spend in every FY, at least **2% of its average net profits** made in the immediately 3 preceding FYs, on the CSR activities specified in Schedule VII to the Companies Act, 2013.
- ❖ **As per Rule 4 of the Companies (CSR) Rules, 2014, following expenditure are not considered as CSR activity for the purpose of section 135:**
 - Expenditure on CSR activities undertaken outside India;
 - Expenditure which is exclusively for benefit of employees of the company or their families;&
 - Contributions to political parties.

PART B. SPECIFIC DISALLOWANCES

INTEREST, ROYALTY, FTS or ANY OTHER SUM to NR (On which Tax is Deductible at Source) [Section 40(a)(i)]

- Payable out of India (to any person) or
- Payable in India (to any NR or Foreign Company)

Conditions for Disallowance	(i) Tax is not deducted before the end of the PY. OR (ii) Tax is deducted but not paid before due date of filing ROI u/s 139(1).
Consequences	100 % of such amount paid/payable is disallowed in that PY.
Deduction or Payment in Subsequent PY	(i) Where tax has been deducted in any subsequent PY OR (ii) has been deducted during the PY but paid after the Due date; then 100% of such sum shall be allowed as deduction in computing the income of PY in which such tax has been paid (PY of Payment of tax to government).

It is to be noted that to get deduction of any sum paid on which tax is deductible;

- (i) Tax should be **deducted** before the end of PY (i.e before 31st march of the relevant PY) **AND**
 - (ii) Such deducted tax should be **paid** to government before due date of filing ROI u/s 139(1).
- Both** conditions should be satisfied together to get deduction in the relevant PY.

IMP CASE → There may exist a situation when tax is deducted after 31st march of relevant PY but such tax is paid to government before due date of filing ROI. In such case, amount paid shall be disallowed in the relevant PY since tax has not been deducted before 31st march. However, it will be allowed as deduction in the next PY. Both the conditions given above goes hand in hand – [Refer case 5 Below]

CQ20. For PY 2021-22; Due date of filing ROI u/s 139(1) is 30.09.2022;

Case	Date of TDS	Date of Payment of TDS	Deductible in PY
1	26.07.2021	2.9.2022	PY 2021-22
2	31.03.2022	13.10.2022	PY 2021-22
3	16.05.2021	Not deposited	Not Deductible
4	20.04.2022	20.7.2024	PY 2024-25
5	30.04.2022	10.05.2022	PY 2022-23

Payment of Tax by Payee of such sum [Sec 201]

If assessee fails to deduct the whole or any part of tax on any such sum but is not deemed as assessee in default under the first proviso to section 201(1) by reason that such payee:

- (a) has furnished his return of income u/s 139;
- (b) has taken into account such sum for computing income in such return of income; &
- (c) has paid the tax due on the income declared by him in such return of income, and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed,

it would be deemed that the assessee has deducted & paid the tax on such sum on the date on which ROI has been furnished by the payee.

PC Note: Since date of furnishing ROI by the payee is taken as the date on which payer has deducted tax at source & paid the same, such expenditure/payment i.r.o which the payer has failed to deduct tax at source shall be disallowed u/s 40(a)(i) in the year in which the said expenditure is incurred. However, such expenditure will be allowed as deduction in the subsequent year in which ROI is furnished by the payee, since tax is deemed to have been deducted & paid by the payer in that year.

PAYMENTS TO RESIDENT (on which Tax is Deductible at Source) [Sec 40(a)(ia)]

Conditions for disallowance	(i) Such tax is <u>not deducted</u> before the end of PY OR (ii) Tax is <u>deducted but not paid before Due Date</u> of ROI u/s 139(1)
Consequences	30% of such amount paid/ payable is disallowed as deduction in that PY.
Deduction or payment in subsequent PY	(i) Where tax has been deducted in any subsequent PY OR (ii) has been deducted during the PY but paid after the said DD, 30% of such sum shall be <u>allowed</u> as <u>deduction</u> in computing the income of <u>the PY in which such tax has been paid</u> .

Payment of Tax by Payee of such sum [Section 201]

- If **Tax** on such income has been **paid by the payee** by showing such sum as his income in his ROI, then it shall be deemed that Assessee has deducted & paid tax & thus **No disallowance** under this section.
- **Deemed Date of TDS & Payment of tax** → Date of filing ROI by the payee.

Since date of filing ROI by resident payee is deemed to be the date on which the payer has deducted & paid tax → 30% of such expenditure/payment shall be disallowed u/s 40(a)(ia) in the year in which the said expenditure is incurred. **However, 30% of such expenditure will be allowed as deduction in the subsequent year in which ROI is furnished by the resident payee.**

Ex: Tax on royalty paid to Mr. A, a resident, has been deducted during PY 2021-22 & it has to be paid by 31st July/31st October, 2022, as the case may be. Otherwise, 30% of royalty paid would be disallowed in computing the income for AY 2022-23. If i.r.o. such royalty, tax deducted during PY 2021-22 has been paid after 31st July/31st October, 2022, 30% of such royalty would be allowed as deduction in the year of payment.

SALARY PAID OUTSIDE INDIA/ TO NON-RESIDENT [SEC 40(a)(iii)]

- Payment of Salary on which tax has been **neither deducted** before the end of PY **nor paid** before DD of filing ROI u/s 139(1).
 - Payable out of India (to any person) **or** ▪ In India (**to any NR**)
- **PC Note:** It is a permanent disallowance.

CQ21.

SN	Date of TDS	Date of Payment	PY in which Salary is Deductible
1	31.07.2021	10.11.2021	PY 2021-22
2	31.03.2022	30.04.2022	PY 2021-22
3	Not Deducted	12.05.2022	PY 2021-22
4	31.03.2022	Not Deposited	PY 2021-22
5	Not Deducted	Not Deposited	Not Deductible

TAX PAID BY EMPLOYER ON NON-MONETARY PERQUISITES [SECTION 40(a)(v)]

- Tax paid on non-monetary perquisites by the employer → **Not Deductible to Employer.**
- Such tax will be **exempt** in the **hands of employee** – [Sec 10(10CC)].

INCOME TAX PAID

 on income of business/profession is **not deductible** - Section 40(a)(ii)/(iia)

DISALLOWANCE IN CASE OF PARTNERSHIP FIRM/LLP [SECTION 40(b)]
A. REMUNERATION TO PARTNER [Salary/Bonus/Commission/by whatever name]

Following payments to partners are **disallowed** in the hands of Partnership firm:

1. Remuneration to **Non- Working Partner**.
2. Remuneration to Working Partner if:
 - (a) **Not Authorized by Partnership deed.**
 - (b) **Not in Accordance with T&C of partnership deed.**
 - (c) **For the period prior to the date of agreement.**
 - (d) **Exceeding the limit given below ↓**

Book Profit	Amount of Remuneration
Book Loss OR Upto Rs. 3 Lacs of Book Profit	Rs 1.5 Lacs OR 90% of Book Profit [Higher]
On the balance of Book Profit [Above 3 Lacs]	60% of the Book Profit

B. INTEREST PAID TO PARTNERS

Interest paid to the partners is disallowed to partnership firm in the following cases:

- (a) **Not Authorized by the Partnership deed**
- (b) **For the period prior to the date of the Partnership Deed.**
- (c) **At a Rate Exceeding 12% p.a.**

Explanation to section 40(b)

- I.** Where an Individual is a Partner in the Firm in Representative Capacity.
 - Interest paid by firm to such individual in Individual capacity shall **NOT** be considered.
 - Interest paid by firm to such individual in Representative capacity shall be considered.
- II.** Where an Individual is a Partner in the Firm in Individual Capacity
 - Interest paid by firm to such individual on behalf of any other person is not considered.

CQ22. X & Y, a partnership firm consisting of 2 partners, reports net profit of 7,00,000 before deduction of following:

1. Salary of Rs. 20,000 each p.m payable to 2 working partners of firm (as authorized by the deed of partnership).
2. Depreciation on plant & machinery u/s 32 (computed): Rs. 1,50,000.
3. Interest on capital at 15% p.a (as per p'ship deed). Amount of capital eligible for interest is Rs. 5,00,000.

Compute:

(i) Book-profit of the firm u/s 40(b) of the Income-Tax Act 1961.

(ii) Allowable working partner salary for AY 2022-23 as per section 40(b).

[NOV-2011 + ICAI Module Q16]

Solution	(i) Computation of Book- Profits u/s 40(b) of Income Tax Act 1961
Net Profit	7,00,000
Less: Depreciation u/s 32	(1,50,000)
Less: Interest on capital (5,00,000 x 12%)	(60,000)
Book Profit as per section 40(b)	4,90,000
(ii) Calculation of allowable salary to partners	
Allowable Salary	
On first 3,00,000 of book profit: 90% of book profits or 1,50,000 whichever is higher	2,70,000
On balance book profit: 60% on balance book profit (1,90,000 x 60/100)	1,14,000
Hence, salary as per section 40(b) would be	3,84,000

REMUNERATION PAID BY AOP/BOI TO ITS MEMBER [Section 40(ba)]

➤ Salary, Bonus, Commission paid by AOP/BOI to its Member → **Not Deductible.**

PAYMENT TO RELATIVES [SECTION 40A(2)]

Applicability: This section is applicable if:

- (a) **Payment** for any Expenditure is made to a **related person** &
- (b) Such payment is considered to be **excessive or unreasonable by AO.**

Disallowance: Expenditure to the extent it is **Excessive or unreasonable** is **Disallowed.**

Payer	Meaning of Relatives	Payments made to/received by (Payee)
Individual	(i) Relative (spouse, brother or sister or any lineal ascendant/descendant of that individual); (ii) Person in whose business individual or his relative has a substantial interest.	
Company	(i) Director of the company & their relatives (ii) Person in whose business Company, Director or his relative has substantial interest. (iii) Relative of such Director/Partner/Member or any other Company carrying on business or profession in which the first mentioned Company has substantial interest.	
Firm	(i) Partner & their relatives; (ii) Any Person in whose business, firm, partner or their relatives has SI.	
HUF/AOP	(i) Member & their relatives; (ii) Any Person in whose business, HUF/AOP, Member & their relatives has SI.	
Any other Assessee	(i) Individual who has a substantial interest in the Assessee's business/profession, or relatives of such individual, or (ii) Company/Firm/AOP/HUF/having substantial interest in the assessee's business or profession, or any director/partner/Member of such company/Firm/AOP/HUF, or any relative of such director/Partner/Member.	

PAYMENT IN CASH [OTHER THAN A/C PAYEE CHEQUE ETC] [SECTION 40A(3)]
Conditions for Disallowance u/s 40A(3)

1. Assessee incurs any expenditure exceeding Rs. 10,000 which is **deductible** u/h PGBP.
2. A **Payment or Aggregate of Payments** made to **A Person** in **A Day** for **an Expenditure** exceeds **Rs. 10,000** [Rs. 35,000 in case of payment made for Plying, Hiring, Leasing Goods Carriages].
3. Above Payment is made **otherwise than by A/c payee cheque/draft/Specified Electronic Modes.**

Then → NO DEDUCTION shall be allowed for such expenditure.

Ex: If for an expenditure of Rs. 32,000 incurred by X Ltd, 4 cash payments of Rs. 8,000 each are made on a particular day to Mr. Y as: (1) Morning at 10 AM; (2) @ 12 Noon; (3) @ 3 PM & (4) @ 6 PM, Entire expenditure of Rs. 32,000 would be disallowed u/s 40A(3), since Aggregate cash payments made during a day to Mr. Y > Rs. 10,000.

PC Note:

1. If any expenditure has been allowed as deduction in any earlier PY on accrual basis (if assessee is following accrual basis) & payment for such expenditure has been made in any subsequent PY exceeding Rs. 10,000/35,000 in cash to a person in a day, then such payment shall be deemed to be the income of the PY in which payment is made.

2. In following cases, Sec 40A(3) does not Apply:

(a) Repayment of Loans (It is not an expenditure deductible in computing the taxable income) **But it applies to interest payments since interest is a deductible expenditure.**

(b) Payment made by commission agents for goods received by them for sale on commission basis (such payment is not a deductible expenditure in computing taxable income of commission agent).

However, where commission agent purchases goods on his own account but not on commission basis, section 40A(3) will apply.

Exceptions: [In the following cases, NO Disallowance even if amount paid > Rs. 10,000]	
1	Payment made to Banks (including Private & Co-operative Bank, Credit Societies & LIC.)
2	Payment made to Government when such payment is required to be made in legal tender.
3	Payment through Banking System .
4	Payment by Book Adjustments against any liability incurred.
5	Payments made to the Cultivator, Grower or Producer of agricultural, forest, animal husbandry or dairy or poultry, fish, horticulture, apiculture products.
6	Payment to the producers of goods in cottage industry without the aid of power .
7	Payment made at the place which on the date of payments is not served by bank .
8	Any terminal benefits [Ex: Retirement or gratuity etc.] \leq Rs. 50,000.
9	Payment to Employees on temporary posting for continuous period of 15 days or more if such payment is made after TDS & such employee does not maintain any bank A/c at such place.
10	Payment made on a day on which Banks were closed due to holiday or strike .
11	Payments made by any person to his commission agent who is required to make payment in cash for goods or services on behalf of such person.
12	Payment made by Authorized Dealer or Money changer against purchase of Foreign currency or Traveller's cheque in the normal course of his business.

CQ23. Determine the amount of disallowance in following cases:

- Salary of Dec. 2021 is paid to A, B & C by Bearer cheque (Rs. 6,000, Rs. 10,000 & Rs. 12,500, respectively).
- X Ltd. Purchases goods on credit from Y Ltd. on 6.5.2021 for Rs. 76,000 which is paid as follows:
(a) Rs. 5,000 in cash on 11.5.2021 (b) Rs. 30,000 by a bearer cheque on 5.6.2021 & remaining with netbanking.
- Z Ltd. Purchases goods on credit from A Ltd. on 10.5.2021 for Rs. 6,000 & on 30.5.2021 for Rs. 5,000. The total amount is paid on 1.7.2021 in cash.
- A Ltd. purchases goods on credit from a relative of a director on 20.6.2021 for Rs. 50,000 (Market value; Rs. 42,000). The amount is paid in cash on 25.6.2021.
- A Ltd purchase raw material on credit from B ltd. in which A Ltd. holds 20% equity shares, (amount of bill being Rs. 26,000, market price being Rs. 9,000). It is paid in cash on 26.07.2021. [PC Note: Beneficial to assessee approach]

Solution:

- Rs. 12,500, being 100% of salary paid by bearer cheque to C, will be disallowed.
- Nothing will be disallowed out of the payment of Rs. 5,000 cash on 11.05.2021, as the payment does not exceed Rs. 10,000. 100% of Rs. 30,000 will be disallowed. Nothing will be disallowed in case of Netbanking.
- Though the amount of payment exceeds Rs. 10,000, nothing shall be disallowed. To attract disallowance, the amount of bill as well as the amount of payment should be more than Rs. 10,000.
- Out of the payment of Rs. 50,000 Rs. 8,000 (being excess payment to relative) shall be disallowed u/s 40(A)(2). As payment is made in cash & remaining amount exceeds Rs. 10,000, 100% (i.e. Rs. 42,000) is disallowed u/s 40A(3).
- Out of the payment of Rs. 26,000, Rs. 17,000 (being the excess payment to person holding a substantial interest) shall be disallowed u/s 40A(2). Remaining amount (i.e. Rs. 9,000) does not exceed Rs. 10,000. Nothing shall be disallowed u/s 40A(3) even if the payment is made in cash. [Hint: Sequence]

CQ24. Please advise whether sec. 40A(3) will apply to cases given as below

- Advance for purchase of material was paid in cash Rs. 60,000 on 15.6.2021. Material was delivered on 7.8.2021 Balance payment of Rs. 2,00,000 was made by crossed cheque.
- Donations paid in cash Rs. 35,000.
- Cash payment of Rs. 80,000 made to a farmer for purchase of agriculture produce in a village served by bank.
- Purchase of Raw Material of Rs. 40,000 was made on 10.10.2021 from nephew, market price is rated Rs. 30,000.*
- Mode & Date (i) 1.11.2021 Cash - Rs. 5000 (ii) 1.12.2021 bearer cheque - Rs. 10000 (iii) 15.1.2022 Cash - Rs. 25000.

- (f) Cash purchase of land Rs. 10,00,000 held as stock-in-trade by an estate dealer.*
- (g) Cash payment of Rs. 70,000 made by the consignee for the goods received on consignment.
- (h) Cash payment of Rs. 5,00,000 made by an authorized dealer against travelers cheque.

Solution:

- (a) Cash advance given against purchase of raw material is also an outgoing expenditure. 100% of Rs. 60,000 will be disallowed. Also, 100% of Rs. 2,00,000 is disallowed as payment is made by crossed cheque.
- (b) Section 40A(3) does not apply to cash donations as it is not deductible u/s 30 to 37. [Check 80G conditions]
- (c) Cash Payment > Rs. 10,000 for the purchase of agriculture produce to the cultivator has been excluded from the ambit of Sec. 40A(3) vide rule 6DD. Hence, there will be no disallowance.
- (d) Section 40A(2) does not apply as nephew is not relative. Brother's son is not included in the definition of relative.
- (e) Cash payment of Rs. 25,000 on 15.1.2022 shall be covered by the disallowance u/s 40A(3).
- (f) Rs. 10,00,000 will be disallowed as purchase of stock-in-trade is a business revenue expenditure.
- (g) Section 40A(3) is not applicable to consignee as he has not purchased the goods on his account.
- (h) Section 40A(3) does not apply to an authorised dealer or money changer.

PROVISION FOR UNAPPROVED GRATUITY TO EMPLOYEES [SEC 40A(7)]

➤ Any Provision made for payment of unapproved gratuity which is **not yet due** → **Not Deductible**.

Exceptions:

1. Contribution towards Approved Gratuity Fund.
2. Provision for Gratuity that has become Due & Payable during PY by virtue of Employee's Retirement, Death, Termination of service etc.

CQ25. Discuss the amount deductible in the following cases

- (i) X retires from the services of Y Ltd. on May 31, 2022. The company pays gratuity of Rs. 1,60,000, according to the provisions of the Payment of Gratuity Act, 1972. Y Ltd. does not maintain any provision for gratuity account.
- (ii) Z Ltd. maintains an approved gratuity fund. A sum of Rs. 1,00,000 being employer's contribution towards the gratuity fund, is debited to the P & L A/c ending March 31, 2022.

Solution:

- (i) Where gratuity is paid during PY or where gratuity has become payable during PY, it is deductible if no deduction has been claimed earlier. Consequently, Rs. 1,60,000 is allowed as deduction for AY 2022-23.
- (ii) Where any provision is made for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, it is allowed as deduction. It is assumed that provisions of section 43B are satisfied.

CONTRIBUTION BY EMPLOYER TO UNRECOGNIZED PF [SEC 40A(9)]

➤ Contribution to Any Fund which is not required by Law (Non-Statutory) is not allowed as deduction.

CQ26. X Ltd. contributes 20% of basic salary to the account of each employee under pension scheme referred in sec. 80CCD. DA = 40% of basic salary & it forms part of pay of the employees. Compute deduction allowable u/s 36(1)(iva) if basic salary is Rs. 10 lacs. Would disallowance u/s 40A(9) be attracted? **[ICAI Module Q12]**

Solution: **Computation of deduction u/s 36(1)(iva) & disallowance u/s 40A(9)**

Particulars	Rs.
Basic Salary	10,00,000
Dearness Allowance@40% of basic salary [DA forms part of pay]	4,00,000
Salary for the purpose of section 36(1)(iva) (Basic Salary + DA)	14,00,000
Actual contribution (20% of basic salary i.e., 20% of Rs. 10 lacs)	2,00,000
Less: Permissible deduction (10% of basic salary + DA) = 10% of Rs. 14,00,000 = Rs. 1,40,000)	1,40,000
Excess contribution disallowed u/s 40A(9)	60,000

DEEMED PROFIT & THEIR TREATMENT [SECTION 41]

RECOVERY AGAINST ANY DEDUCTION [Sec 41(1)]

- Deduction of any Loss, Expenditure or Trading Liability was allowed in any earlier year; &
- During the current PY, the assessee has obtained:
 - Refund of such expenditure OR
 - Some Benefits i.r.o such Trading liability. (Remission/Cessation of such liability; then
- Such refunded expenditure or remitted/ceased liability shall be deemed to be income of the Assessee.
- Year of Taxability → PY in which Amount is Recovered OR Liability is Remitted.

Examples:

1. Rs. 1,50,000 is paid as sales tax by X during PY 2018-19 & same is allowed as deduction. Mr. X claims a refund of Rs. 10,000 on 16.06.2021 from sales tax department after getting a favourable verdict from Delhi High Court. Rs. 10,000 is taxable for the PY 2021-22.
2. Suppose before the verdict of Delhi High Court, X dies & the business is continued by his son Y who gets a refund of Rs. 10,000 from the sales tax department, Rs. 10,000 is taxable as business income of Y.
3. An assessee is allowed deduction for PY 2019-20 i.r.o Rs. 42,000 misappropriated by his cashier. In PY 2021-22 Rs. 8,000 (out of the sum so misappropriated) is recovered by the assessee. Rs. 8,000 is chargeable to tax as business income for PY 2021-22.
4. X pays Rs. 80,000 as excise duty & claims it as deduction in PY 2016-17. Later on in PY 2021-22, he gets a refund Rs. 20,000 from CBDT after obtaining a favourable verdict from Delhi HC. CBDT files the suit in SC & the matter is still pending. In this case, Rs. 20,000 is taxable in PY 2021-22. If SC decides the appeal against the assessee, the amount, which will be paid back, will be deductible in the year of payment as per sec. 43B.

BALANCING CHARGE [Sec 41(2)]

- Balancing Charge on assets on which depreciation is charged on SLM basis, in case of power generating/distributing undertakings.
- Year of Taxability: **Year of transfer/sale.**

SALE OF ASSET USED FOR SCIENTIFIC RESEARCH [Sec 41(3)]

- **Already Covered with Section 35**
- Year of Taxability: **Year of transfer/sale.**

RECOVERY OF BAD DEBT ALLOWED AS DEDUCTION U/S 36(1)(vii) [Sec 41(4)]

- Year of Taxability: **Year of Recovery.**

ADJUSTMENT OF LOSS [Sec 41(5)]

- Generally, loss from business **cannot be c/f after 8 years.**
- However, loss suffered in the **year of Discontinuance** (only) can be **set off** against any income taxable u/s 41(1), (3), (4), (4A) [Above deemed Incomes].

CQ27. A business (not speculative) is discontinued on 10th Dec 1989. There was unadjusted business loss of Rs. 35,000 (i.e. Rs. 10,000 of PY 1988-89 & Rs. 25,000 pertaining to the period 1 April 1989 – 10 Dec 1989). On 20th May 2021, assessee recovers a debt of Rs. 48,000 from a debtor which was allowed as bad debt in PY 1988-89 (or may be in some other year). Find out taxable notional profit for PY 2021-22 u/s 41.

Solution:

- Bad debt recovered in PY 2021-22 will be taxable u/s 41(4). However, such deemed income can be set off (adjusted) against the unabsorbed loss of the year of discontinuance. Thus, loss of Rs. 25,000 can be set off against such deemed Income. Thus, taxable income for PY 2021-22 = Rs. 48,000 – Rs. 25,000 = Rs. 21,000.
- It is to be noted that loss of earlier years of discontinuance cannot be adjusted against such deemed income.

EXPENDITURES DEDUCTIBLE ON PAYMENT BASIS ONLY [SEC 43B]

- **Conditions for Applicability of 43B:** Assessee following **Mercantile Basis** of Accounting **only**.
- **Following Expenses** (which are deductible in normal circumstances) are **deductible in the relevant PY only if they are paid before due date of filing ROI** of such PY u/s 139(1).
 1. **Tax, Duty, Cess or Fee** (by whatever name called) levied under any law.
 2. **Employer's Contribution** to any PF/SAF/Gratuity Fund or any recognized welfare fund.
 3. **Bonus or Commission** to employees [Arrears of salary & other benefits → not covered in 43B].
 4. Sum payable by the employer in lieu of any **Leave standing** at the credit of his employee.
 5. **Interest on any Loan** or borrowing from any PFI/SFC/SIIC.
 6. Interest on any Loan or advances from a Scheduled Bank (including co-operative bank).
 7. Interest on any loan or borrowing from a deposit taking NBFC or systemically important non-deposit taking NBFC, in accordance with T&Cs of the agreement governing such loan or borrowing.
 8. Any sum Payable to **Indian Railways for the use of Railways Assets**.

PC Note: Conversion of unpaid interest into Fresh Loan by Bank / FI → If unpaid Interest is converted into Loan/Advances, it shall not be deemed to be paid & thus **no deduction** shall be allowed.

Deposit taking NBFC	NBFC which is accepting or holding public deposits & is registered with RBI.
Systemically Important Non-Deposit taking NBFC	NBFC which is not accepting or holding public deposits & having total assets ≥ Rs. 500 Cr. as per last audited balance sheet & is registered with RBI.

CQ28. Hari, an individual, carried on the business of purchase & sale of agricultural commodities like paddy, wheat, etc. He borrowed the following loans & has not paid interest as detailed hereunder: **[New Question]**

- Andhra Pradesh State Financial Corporation (PY 2020-21 & 2021-22): Rs. 15 Lacs.
- Indian Bank (PY 2021-22): Rs. 30 Lacs.

Both APSFC & Indian Bank, while restructuring the loan facilities of Hari during the year 2021-22, converted the above interest payable by Hari to them as a loan repayable in 60 equal installments. During the year ended 31.3.2022, Hari paid 5 installments to APSFC & 3 installments to Indian Bank.

Hari claimed entire interest of Rs. 45 Lacs as an expenditure while computing business income of purchase & sale of agricultural commodities. Examine whether his claim is valid & what is the amount of interest allowable.

Solution: According to section 43B, any interest payable on the term loans to specified financial institutions & any interest payable on any loans & advances to, *inter alia*, scheduled banks shall be allowed only in the year of payment of such interest irrespective of the method of accounting followed by the assessee. Where there is default in the payment of interest by the assessee, such unpaid interest may be converted into loan. Such conversion of unpaid interest into loan shall not be construed as payment of interest for section 43B. Amount of unpaid interest so converted as loan shall be allowed as deduction only in the year in which converted loan is actually paid.

In this case, unpaid interest of Rs. 15 Lacs due to APSFC & of Rs. 30 Lacs due to Indian Bank was converted into loan. Such conversion would not amount to payment of interest & would not be eligible for deduction in the year of such conversion. Hence, claim of Hari that entire interest of Rs. 45 Lacs is to be allowed as deduction in the year of conversion is not tenable. Deduction shall be allowed only to the extent of repayment made during FY. Accordingly, amount of interest eligible for deduction for AY 2022-23 shall be calculated as follows:

Banks	Interest outstanding	Number of Instalments	Amount per instalment	Instalments paid	Interest allowable
APSFC	15 lacs	60	25,000	5	1,25,000
Indian Bank	30 lacs	60	50,000	3	1,50,000
Total amount eligible for deduction					2,75,000

CQ29. An analysis of the P & L A/c & balance sheet of X as on 31.03.2022 reveal that the following expenses which were due, were debited to P&L A/c but have been paid after 31.03.2022.

Service Tax	Rs. 1,00,000	Rs. 80,000 paid on 1.4.2022 & Rs. 20,000 paid on 25.4.2023
Interest on loan taken from PFI	Rs. 80,000	Rs. 70,000 paid on 30.6.2022 & Rs. 10,000 paid on 8.7.2023
Commission to staff	Rs. 40,000	Paid on 1.8.2022
Employer's contribution to ESI	Rs. 15,000	Rs. 10,000 paid on 28.6.2022 & Rs. 5,000 paid on 8.9.2022

Due date of filing ROI is 31.7.2022. In which AYs can the above payments be claimed as a deduction?

Solution:

Nature of Payment	AY 2022-23	AY 2023-24	AY 2024-25
Service Tax	Rs. 80,000	----	Rs. 20,000
Interest on loan taken from PFI	Rs. 70,000 & Rs. 10,000	----	----
Commission to Staff	----	Rs. 40,000	----
Employer's contribution to ESI	Rs. 10,000	Rs. 5,000	----
Total deduction allowed	Rs. 1,70,000	Rs. 45,000	Rs. 20,000

ADJUSTMENT IN COA OF ASSET DUE TO CHANGE IN FOREX RATE [SECTION 43A]

- ❖ If any business asset is acquired/Loan is taken in foreign currency &
 - ❖ At the time of payment, there is a change in foreign exchange rates (as compared to the rates on the date of loan), such difference [Increase/decrease in liability] shall be **adjusted to –**
 - Actual cost of acquisition of Asset u/s 43(1)
 - Capital expenditure incurred on scientific research u/s 35(1)(iv)
 - Capital expenditure incurred by a company for promoting family planning u/s 36(1)(ix)
 - Cost of acquisition of a non-depreciable capital asset falling u/s 48.
- to the **extent of amount paid.** [Change in outstanding amount shall be ignored]

▪ **Such Increased/Decreased cost shall be taken into consideration for all purposes of Tax.**

PC Note: Consider Profit/loss only on amount paid during PY & Ignore loss/profit on outstanding amount.

PC Note: Where the whole or any part of the liability aforesaid is met by any other person or authority (& not by the assessee), liability so met shall not be taken into account for the purposes of this section.

FVC I.R.O TRANSFER OF L&B HELD AS SIT [SEC 43CA]

To be Studied with **Sec 50C** u/h 'Capital Gains'.

PC Note: Section 43CA contains amendment for AY 2022-23. Students are required to study section 50C carefully.

Space for Class Note:

CRUX of Amendment: Tolerance Band in case of Residential unit is 20%.

In case of transfer of a residential unit, if SDV does not exceed 120% of the consideration received or accruing, then, such consideration shall be deemed to be the full value of consideration for the purpose of computing profits and gains from transfer of such asset, subject to the satisfaction of following conditions:

- (a) Transfer of residential unit takes place during the period between 12.11.2020 and 30.6.2021
- (b) Such transfer is by way of first-time allotment of the residential unit to any person.
- (c) The consideration received or accruing as a result of such transfer \leq 2 crores

Meaning of Residential unit: Independent housing unit with separate facilities for living, cooking & sanitary requirement, distinctly separated from other residential units within building, which is directly accessible from an outer door or through an interior door in shared hallway & not by walking through the living space of another household.

Illustration based on Section 43CA & amendment:

SN	Transfer	ASC	SDV on DoA	SDV on DoR	FVC	Explanation
1	1.09.2021	100 (Rs. 10 lacs received by A/c payee cheque on 1.07.2021)	120 (1.07.2021)	130 (1.09.2021)	120	As part of consideration is received by A/c payee cheque on the date of agreement, FVC = SDV on DoA, since SDV exceeds 110% of consideration i.e., Rs. 110 lacs.
2	1.09.2021	100 (Rs. 10 lacs received by cash on 1.07.2021)	109 (1.07.2021)	130 (1.09.2021)	130	FVC = SDV on DoR & such SDV exceeds 110% of consideration i.e., Rs. 110 lacs. Since part of consideration is received by cash on DoA, SDV on DoA cannot be considered as FVC.
3	31.01.2022	100 (Rs. 10 Lacs received by A/c payee cheque on 1.07.2021)	109 (1/7/2021)	130 (31/1/2022)	100	FVC = ASC, since SDV on DoA < 110% of ASC. SDV on DoA can be taken as part of the consideration has been received by A/c payee cheque on DoA.
4	31.03.2022	100 (Full amount received in cash on DoR)	120 (1.05.2021)	130 (31.03.2022)	130	FVC = SDV on DoR since SDV > 110% of ASC.
5	1.05.2021 Transfer of a residential unit by way of first-time allotment	150 (50% of amount received by A/c payee cheque on DoA)	180 (1.04.2021)	185 (1.05.2021)	150	FVC = ASC, since residential unit is transferred b/w 12.11.2020 & 30.6.2021, consideration < Rs. 2 Cr & SDV on DoA < 120% ASC. SDV on DoA can be considered vis-à-vis ASC since part of consideration is received by A/c payee cheque on DoA
6	1.05.2021 Transfer of a residential unit by way of first-time allotment	250 (Rs. 10 Lacs received by cash on 1.04.2021)	270 (1.04.2021)	285 (1.05.2021)	285	FVC = SDV on DoR, since such SDV > 110% of consideration i.e., Rs. 275 Lacs. Benefit of higher permissible variation of 20% would not be available since ASC > consideration in this case, exceeds Rs. 2 crores. Further, SDV on DoA cannot be considered since part of consideration is received by way of cash on DoA.

COMPULSORY MAINTENANCE OF BOOKS OF ACCOUNTS [SECTION 44AA]

A Specified Professionals		
1	GR > Rs. 1,50,000 in All of last 3 PYs	Books prescribed u/r 6F.
2	GR ≤ 1,50,000 in Any of last 3 PYs	Such books of account & documents which enable AO to compute their taxable income.
Meaning of Specified Profession: Persons carrying on Legal, Medical, Engineering, Architectural, Accountancy, Technical consultancy or Interior Decoration or any other Notified profession. Notified Professions: Authorised representatives, film artists & Company secretaries & Information Technology.		

B Person required to maintain such books of A/cs which will enable AO to compute their income		
1	Individual/HUF carrying Non-Specified Business or Profession Income > Rs. 2,50,000 OR Sales/TO/GR > 25,00,000 in ANY ONE of the last 3 PY.	
2	Person other than Individual/HUF carrying non-specified profession or business Income > Rs. 1,20,000 OR Sales/TO/GR > Rs. 10,00,000 in ANY ONE of the last 3 PY.	
3	Person showing Lower Income than Income computed on Presumptive basis u/s 44AE.	
4	If Section 44AD(4) is applicable to him & his income exceeds BEL in any of those PY: If Any assessee is NOT Eligible to claim benefit of section 44AD(1) for 5 AYs subsequent to the PY in which profit has not been declared as per 44AD(1) & his Income exceeds BEL during the PY.	

CQ30. Mr. X carrying on profession as film artist gives the details of his gross receipts from profession:

(i) PY 2018-19: Rs. 1,15,000; (ii) PY 2019-20: Rs. 1,80,000; (iii) PY 2021-22: Rs. 2,10,000.

Is he required to maintain any books of account u/s. 44AA? If so, what are these books? **[ICAI SM Q18]**

Answer: Gross receipts from profession should be > Rs. 1,50,000 in all 3 immediately preceding PYs.

Since in PY 2018-19, GRs has not exceeded Rs. 1,50,000, Mr. X is not required to maintain books of A/cs u/s. 44AA. He will maintain such books of account so as to enable AO to compute his income.

SOME OTHER PROVISIONS:
[To be Read once]

1	Place at which books are to be kept & maintained: <ul style="list-style-type: none"> ▪ Place where the person is carrying on the profession, or where there is more than one place, at the principal place of his profession. ▪ However, if he maintains separate set of books for each place of his profession, such books & documents may be kept & maintained at the respective places.
2	Minimum period for maintenance of books of A/Cs: 6 years from the end of the relevant AY.
3	Books of accounts & documents prescribed in Rule 6F: [To be Read once] <ol style="list-style-type: none"> (a) Cash book; Ledgers (b) Journal, if accounts are maintained on mercantile basis; (c) Carbon copies of Bills & Receipts issued (serially numbered) for Amount > Rs. 25; (d) Original Bills & receipts issued to the person i.r.o expenditure incurred by the person; If such bills & receipts are not issued, payment voucher prepared & signed by the person incurring expenditure (provided the amount < Rs. 50). If cash book contains adequate particulars, preparation & signing of payment voucher is not required. <p>Additional requirement in case of person carrying on Medical Profession:</p> <ol style="list-style-type: none"> (a) Daily case registers in Forms 3C. (b) Inventory under broad heads of the stock of drugs, medicines & other consumable accessories as on the First & last day of the PY used for his profession.

COMPULSORY AUDIT OF BOOKS OF ACCOUNTS [SECTION 44AB]

SN	Different Taxpayer	Circumstances when audit is compulsory before specified date
(a)	Person carrying Business	If Sale, Turnover, Gross Receipt for PY > Rs. 1 Cr. [Refer Note Below]
(b)	Professionals	If his Gross Receipts for PY > Rs. 50 Lacs.
(c)	Person covered u/s 44AE	If such person claims that his income is LOWER than Income computed on Presumptive basis u/s 44AE. PC Note: Such Audit have nothing to do with their turnover.
(d)	Person covered u/s 44AD & 44ADA	If such person claims that his income is LOWER than Income computed on Presumptive basis & his Income > BEL in PY.
(e)	Person covered u/s 44AD(4)	If his Income > BEL in PY.

Note for (a) above

- Requirement of Compulsory Audit u/s 44AB **does not** apply to a person who declared profit u/s 44AD on presumptive basis & his **Total Sales, Turnover, or Gross Receipts ≤ Rs. 2 Crores.**
- Limit of Audit increased from Rs. 1 Cr to 10 Crores subject to following conditions:**
 - Total Cash receipts in RPY ≤ 5% of total receipts (including receipt for sales/TO/GR); &
 - Total Cash payments in RPY ≤ 5% of total payments (including amount incurred for expenditure).
- Accounts audited under other statutes are considered.

Thus, provision regarding compulsory audit does not imply a second or separate audit of accounts of companies whose accounts are already required to be audited under the Companies Act, 2013.

The provision only requires that companies should get their accounts audited under the Companies Act, 2013 before the specified date & in addition to the report required to be given by the auditor under the Companies Act, 2013 furnish a report for tax purposes in prescribed form in this behalf by CBDT.

MEANING OF SPECIFIED DATE

❖ 'Specified date' in relation to the accounts of PY or years relevant to any AY means **the date one month prior to due date for furnishing ROI u/s 139(1).**

Ex: Due date for filing ROI in case of assessee (other than companies) who are required to get their accounts audited is 31st October of the RAY. Hence, **specified date for tax audit is 30th Sep of RAY.**

CQ31. Mr. Ram is having three businesses. State whether he has to get his books of account audited u/s 44AB?

Particulars	Turnover during PY 2021-22
Business 1	60 Lacs
Business 2	35 Lacs
Business 3 (44AE)	8 Lacs

Answer:

- Though Aggregate turnover of all the three businesses exceeds Rs. 1 Crore, according to Sec 44AE, for the purpose of computing monetary limit, the gross receipts from the business referred to in Sec. 44AE shall be excluded.
- Accordingly, Rs. 8 lacs shall not form part of the computation of limits for the purpose of Sec. 44AB.
- Aggregate turnover of other two businesses is < Rs. 1 Crore (Rs. 95 lacs). Books of A/c of Mr. Ram is not subject to tax audit u/s 44 AB.

PRESUMPTIVE INCOME OF ELIGIBLE BUSINESS [SEC 44AD]	
Eligible Assessee	<ul style="list-style-type: none"> ▪ Resident Individual/HUF/Partnership Firm (not being a LLP) & ▪ Assessee has not claimed deduction u/s 10A/AA/B/BA, 80HH - 80RRB in relevant AY. ▪ Eligible Business: Any business (other than Negative Listed). ▪ Turnover in the PY of such business does not exceed Rs 2 Crores
Negative list	<ul style="list-style-type: none"> ▪ The provisions of Sec. 44AD are NOT applicable to: <ul style="list-style-type: none"> (a) Person carrying on specified profession as referred in Sec. 44AA(1), (b) Person earning income in the nature of Commission or brokerage, or (c) Person carrying on any Agency business. (d) Business of plying, hiring, or leasing goods carriages specified u/s 44AE.
Income	<ul style="list-style-type: none"> ▪ Income = 8% of Turnover. ▪ However, Income = 6% of Turnover/GR for amount received by A/c Payee cheque/draft/Netbanking during PY or before DD of Filing ROI u/s 139(1)
Deductions	<ul style="list-style-type: none"> ▪ No Deduction u/s 30 - 38 shall be available.
Maintenance of Books	<ul style="list-style-type: none"> ▪ Not required.
Audit	<ul style="list-style-type: none"> ▪ Not required.
Chapter VI-A Deductions	<ul style="list-style-type: none"> ▪ Deduction u/s 80C to 80U shall be available to the Assessee.
Advance Tax	<ul style="list-style-type: none"> ▪ He is required to pay Advance Tax in 1 installment on/before 15th March.
Depreciation	<ul style="list-style-type: none"> ▪ Depreciation for subsequent PY when he ceases to be eligible assessee for section 44AD: WDV of Assets shall be computed, as if Depreciation had been allowed in earlier PYs.

Q. Can Assessee declares Lower Income? YES

1. He will have to maintain books of accounts. &
2. If the declared income exceeds BEL, he will have to get his books of accounts audited.

CQ32. Mr. Ramanshu is an eligible assessee business u/s 44AD. Particulars are as under:

Gross receipt	Rs. 80,00,000
Expenditure deductible u/s 30 to 37	Rs. 76,60,000
Net Profit	Rs. 3,40,000
Deduction u/s 80C	Rs. 1,00,000

Calculate total taxable income if he opts for sec 44AD. Can the assessee claim lower profits.

Solution:

- If an assessee opts for Section 44AD, profit from his business whose turnover does not exceed Rs. 2 crores shall be presumed to be 8% of the turnover.
- Thus, 8% of Rs. 80,00,000 i.e. Rs. 6,40,000 shall be presumed to be his profit from his business & no further deduction shall be allowed to him u/s 30 to 38.
- His total taxable income will be Rs. 5,40,000 (Rs. 6,40,000 - Rs. 1,00,000 80C Deduction) & assessee is not required to maintain books of account.
- However, if the assessee wants to claim the lower profit of Rs. 3,40,000 from PGBP, then he can do so without maintaining the books of accounts as required u/s 44AA & without getting his accounts audited u/s 44AB, since in that case his total taxable income shall be Rs. 2,40,000 (Rs. 3,40,000 - Rs. 1,00,000 80C Deduction) which is < BEL.

Note:

- (i) In above case, if deduction was not available to assessee & he wants to claim lower profit, then he is required to maintain the books of accounts & others document referred to in sec 44AA & get his accounts audited u/s 44AB.
- (ii) Also, as per the amendment made by the Finance Act, 2016, if Mr. Ramenshu wants to claim profits lower than the presumptive profits within the period of 5 years from the year he was first covered u/s 44AD, then shall not be eligible for claiming presumptive income u/s 44AD for next five A.Y & required to maintain books of A/cs & other document & get his accounts audited in the years in which his total income exceeds the BEL.

SECTION 44AD(4)

❖ If an eligible assessee declares profit for any PY as per 44AD on presumptive basis & he **does not declare profit on presumptive basis** as per section 44AD(1) for any of the next 5 consecutive PY, he **becomes ineligible** to claim the **benefit of presumptive income** as per AD(1) for next 5 AYs subsequent to PY in which profit has not been declared as per 44 AD.

Ex: If assessee declares profit for any of the five successive PYs (say, PY 2021-22) not in accordance with section 44AD (i.e., he declares profits lower than 8% or 6% of total turnover, sales or gross receipts in that year), then he cannot opt for section 44AD for five successive PYs after the year of such default (i.e., from PY 2022-23 to PY 2026-27). For the year of default (i.e., PY 2021-22) & five successive PYs (i.e., PY 2022-23 to PY 2026-27), he has to maintain books of account u/s 44AA & get them audited u/s 44AB, if his income exceeds BEL.

CQ33. Mr. A, being an eligible assessee u/s 44AD whose GR do not exceed Rs. 2 crores in any of the AYs between AY 2022-23 to AY 2024-25

Particulars	AY 2022-23	AY 2023-24	AY 2024-25
Gross receipts	Rs. 1,80,00,000	Rs. 1,90,00,000	Rs. 2,00,00,000
Income offered for taxation	Rs. 14,40,000	Rs. 15,20,000	Rs. 10,00,000
% of gross receipts	8%	8%	5%
Income offered as per 44AD	Yes	Yes	No

- In above case, Mr. A opts for presumptive taxation u/s 44AD for AY 2022-23 & AY 2023-24 & offers income of Rs. 14.40 lacs & Rs. 15.20 lacs on GR of Rs. 1.80 crore & Rs. 1.90 crore respectively.
- However, for AY 2023-24, he offers income of only Rs. 10 lacs on GR of Rs. 2 crores, which amounts to 5% of his GR. He maintains books of accounts u/s 44AA & gets the same audited u/s 44AB.
- Since he has not offered income on presumptive basis as per section 44AD(1) for 5 consecutive AYs after AY 2022-23, he will not be eligible to opt sec. 44AD for next 5 AYs succeeding AY 2024-25 i.e., for AY 2025-26 to AY 2029-30.

CQ34. AB & Co. a partnership firm engaged in the manufacturing business has a gross receipt of Rs. 59 Lacs. The partnership deed provides for the salary of Rs. 20,000 p.m to each of the partners A & B. Firm uses machinery for business & WDV of the Machinery as on 1.4.2021 is 2 lacs. Machinery is eligible for depreciation @ 15%. Compute the profits from business for AY 2022-23, if firm opts for scheme u/s 44AD & has received the following amount by A/c payee cheques: (i) 25 Lacs till 31.03.2022; (ii) 6 Lacs b/w 31.3.2022 & 31.7.2022; (iii) 5 Lacs after 31.7.2022.

Solution: As per Sec. 44AD profits will be computed as under:

6% of Gross receipts of 31 Lacs [amount received by A/c Payee Cheque till DD of filing ROI u/s 139(1)]	1,86,000
8% of gross receipts of 28 Lacs [Rs. 59 Lacs – Rs. 31 Lacs]	2,24,000
Total Income as per section 44AD	4,10,000

Note:

1. No Deduction will be allowed on account of depreciation.
2. WDV of Machinery for next year shall be taken as Rs.1,70,000 (2,00,000- 15% of 2,00,000) assuming as if depreciation has been allowed.
3. No deduction shall be allowed on account of salary paid to partners even if it is provided in partnership deed.

PRESUMPTIVE INCOME OF ELIGIBLE PROFESSIONALS [SECTION 44ADA]	
Eligible Assessee	<ul style="list-style-type: none"> ▪ Resident Individual/HUF/Partnership Firm (not being a LLP) engaged Legal, Medical, Engineering, Architectural, Accountancy, Technical consultancy or Interior Decoration or any other NOTIFIED profession. Authorised representatives, film artists & company secretaries & Information Technology have been notified for this purpose till date. ▪ Gross Receipt does not exceed 50 Lacs.
Income	▪ 50% of Gross Receipt. However, Assessee can declare Higher Income.
No Deduction	▪ No Deduction u/s 30 - 38 shall be available.
Maintenance of Books	▪ Not required.
Audit	▪ Not required.
Deductions	▪ Deduction u/s 80C to 80U shall be available to the Assessee.
Advance Tax	▪ He is required to pay Advance Tax in 1 installment on/before 15th March.
Depreciation	▪ Depreciation for subsequent PY when he ceases to be eligible assessee for section 44AE → WDV of the Assets shall be computed, as if Depreciation had been allowed in earlier year.

Q. Can Assessee declares Lower Income? YES.

1. He will have to maintain books of accounts &
2. If the declared income exceeds BEL, he will have to get his books of accounts Audited.

PRESUMPTIVE INCOME OF TRANSPORT ASSESSEES [SECTION 44AE]					
Eligible Assessee	▪ Persons carrying on business of plying, hiring, & leasing goods carriages & not owning more than 10 Goods Carriages at any time during the PY.				
Income	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="background-color: #D9E1F2;">Heavy Goods Vehicles</td> <td style="background-color: #D9E1F2;">Rs. 1,000 per ton of gross vehicle weight or unladen weight for every month or part of it.</td> </tr> <tr> <td style="background-color: #D9E1F2;">Other than Heavy Vehicles</td> <td style="background-color: #D9E1F2;">Rs. 7,500 for every month or part of it. [Note: irrespective of the weight]</td> </tr> </table> <p style="text-align: center;">only for the period during which vehicle is owned by Assessee in the PY.</p>	Heavy Goods Vehicles	Rs. 1,000 per ton of gross vehicle weight or unladen weight for every month or part of it.	Other than Heavy Vehicles	Rs. 7,500 for every month or part of it. [Note: irrespective of the weight]
Heavy Goods Vehicles	Rs. 1,000 per ton of gross vehicle weight or unladen weight for every month or part of it.				
Other than Heavy Vehicles	Rs. 7,500 for every month or part of it. [Note: irrespective of the weight]				
No Deduction	<ul style="list-style-type: none"> ▪ No Deduction u/s 30 - 38 shall be available. ▪ However, Salary & Interest paid by firm to partner → Deductible. 				
Maintenance of Books & Audit	▪ Not required.				
Chapter VI-A Deductions	▪ Deduction u/s 80C to 80U shall be available to the Assessee.				
Advance Tax	▪ No Concession is available. Normal Advance Tax provisions shall be applicable.				
Depreciation	▪ Depreciation for subsequent PY when he ceases to be eligible assessee for section 44AE → WDV of the Assets shall be computed, as if Depreciation had been allowed in earlier year.				

Q. Can Assessee declares Lower Income? YES.

1. He will have to maintain books of accounts &
2. If the declared income exceeds BEL, he will have to get his books of accounts audited.

Meaning of Some Terms	
Heavy Vehicle	Any goods carriage whose gross vehicle weight > 12,000 kgs.
Gross vehicle weight	Total weight of the vehicle & load certified & registered by the authority.
Unladen weight	Weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working but excluding (i) Weight of driver/attendant and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative body or part.

CQ35. Mr. X commenced the business of operating goods vehicles on 1.4.2021. He purchased the following vehicles during the PY 2021-22. Compute his income u/s 44AE for AY 2022-23. [ICAI Module Q20]

SN	Gross Vehicle Weight (in kilograms)	Number	Date of purchase
(1)	7,000	2	10.04.2021
(2)	6,500	1	15.03.2022
(3)	10,000	3	16.07.2021
(4)	11,000	1	02.01.2022
(5)	15,000	2	29.08.2021
(6)	15,000	1	23.02.2022

(b) Would your answer change if the goods vehicles purchased in April, 2021 were put to use only in July, 2021?

Solution: Since Mr. X does not own more than 10 vehicles at any time during PY 2021-22, he is eligible to opt for presumptive taxation scheme u/s 44AE.

Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kg.

(1)	(2)	(3)	(4)
No. of Vehicles	Purchase Date	No. of months for which vehicle is owned	No. of months × No. of vehicles [(1) × (3)]
For Heavy goods vehicle			
2	29.08.2021	8	16
1	23.02.2022	2	2
			18
For goods vehicle other than heavy goods vehicle			
2	10.4.2021	12	24
1	15.3.2022	1	1
3	16.7.2021	9	27
1	2.1.2022	3	3
			55

Presumptive income of Mr. X u/s 44AE for AY 2022-23 = Rs. 6,82,500, i.e., 55 × Rs. 7,500, being for other than heavy goods vehicle + 18 × Rs. 1,000 × 15 ton being for heavy goods vehicle.

(b) The answer would remain the same even if the two vehicles purchased in April, 2021 were put to use only in July, 2021, since the presumptive income has to be calculated p.m or part for which vehicle is owned by Mr. X.

CHAPTER 6. CAPITAL GAINS

BASIS OF CHARGE [SECTION 45]

1. There should be a **Capital Asset**;
2. It should be **transferred** by the assessee;
3. Such transfer should take place **during the PY**;
4. Any **Profit/Gains** should **arise** from such transfer;
5. Such Capital Gain should **NOT be exempted** u/s 54 series.

If all the above conditions are satisfied, Capital Gain shall arise & shall be deemed to be the income of the **PY in which transfer took place** & taxed accordingly.

DEFINITION OF CAPITAL ASSET [SECTION 2(14)]

Capital Asset means:

- (a) **Any Property** (Movable/immovable), connected with assessee's business/profession or not.
- (b) Any Securities held by **FII**s (invested as per SEBI regulations) **[Always CA → Even if held as SIT]**
- (c) Any unit linked insurance policy (ULIP) issued on/after 1.2.2021, to which exemption u/s 10(10D) does not apply on account of – **[Amendment]**
 - premium payable exceeding Rs. 2,50,000 for any of the PYs during the term of such policy; or
 - aggregate amount of premium exceeding Rs. 2,50,000 in any of the PYs during the term of any such ULIP(s) in case where premium is payable by person for more than 1 ULIP issued on/after 1.2.2021.

Exceptions: [Following are NOT CAPITAL ASSETS]

- 1 **SIT/RM/Consumables stores** held for business/profession; (**Except** Securities held by FIIs as SIT).
PC Note: Securities held by FIIs will be Capital Asset even if they are held as SIT.
- 2 **Movable Personal effects** (including apparel & furniture) held for his/family member's personal use
but excludes - [Capital Assets even if held for personal use]
Jewellery, Archaeological collections; Drawings; Paintings; Sculptures Any other work of Art.
Note: To constitute Personal Effect, Asset should be **used by** the assessee. **Daily use is not necessary.**
☞ **Jewellery:** Jewellery is a capital asset & the profits/gains arising from the transfer of jewellery held for personal use are taxable u/h "capital gains".
☞ If Precious stones/metals are sewn/worked/set into Wearing Apparel/ furniture, it is classified into the category of jewellery & thus it is a **Capital Asset**.
Ex: Throne made of Gold/Platinum/Diamonds; Shirt with diamond buttons sewn into it.
- 3 **Rural Agricultural Land in INDIA** [Urban Agricultural land → Capital Asset]
❖ **Rural Land** means land outside the following Specified limits:

Population	Distance from Municipality/Cantonment Board
≤ 10,000	0 Kms
> 10,000 & ≤ 1,00,000	2 Kms
> 1,00,000 & ≤ 10,00,000	6 Kms
Above 10,00,000	8 Kms

 ❖ **Agricultural Land:** Land must be used for agricultural purposes for 2 yrs prior to transfer.
PC Note: Capital Gain on Urban Agricultural Land → Not treated as Agricultural Income & thus it is **not exempt** u/s 10(1). Capital Gains arising from such transfer would be taxable u/s 45.
- 4 **Gold Deposit bonds/Certificates** issued under Gold Monetisation Scheme, 2015.

CQ1. Discuss the Tax treatment in the following cases: [CA - Capital Asset & SIT - Stock in Trade]

Cases	Whether Capital Asset or not ?
Sale of Flats by a construction company	Not a CA since flat is a SIT for construction company.
Sale of Flats held by Mr. X as an investment	CA since Mr. X has held it as an investment.
Sale of Securities in Indian Company held by FIIs as investment	CA since specifically included in definition of Capital Asset u/s sec 2(14).
Sale of Securities in Indian Company held by FIIs as SIT	CA since specifically included in definition of Capital Asset u/s sec 2(14) even if held as SIT.
Sale of car by Mr. AC for Rs. 10 lacs which was used for his business purpose	CA used for business is not excluded u/s 2(14) & thus it is a CA.
Sale of Personal Jewels (Diamond) for Rs. 3 cr	CA since it is included u/s 2(14) even if movable PE.
Sale of Painting by Miss Jacqueline for Rs. 10 cr	CA since it is included u/s 2(14) even if movable PE.
House property used for personal purpose	CA since PE does not include immovable property.
Agricultural Land situated in Urban Area	Capital Asset
Non-Agricultural Land situated in Rural Area	Capital Asset
Agricultural Land situated in Rural Area used for non-agricultural purpose permanently	Capital Asset
Rural Agricultural land used permanently for agricultural purpose situated in Europe	Capital Asset since situated Outside India.

CQ2. Determine which of the lands will be Capital Assets:

Land	Population	Shortest aerial Distance	Rural Land?	CA?
A	9,000	1 km	Yes	No
B	12,000	1.5 kms	No	Yes
C	11,00,000	2 kms	No	Yes
D	80,000	3 kms	Yes	No
E	3,00,000	4 kms	No	Yes
F	12,00,000	5 kms	No	Yes
G	8,000	6 kms	Yes	No
H	4,00,000	7 kms	Yes	No
I	10,50,000	8 kms	No	Yes
J	15,00,000	9 kms	Yes	No

CQ3. Mrs. X contends that sale of a work of art held by her is not liable to capital gains. Is she correct?

Answer: "Personal effects" excludes any work of art. As a result, any work of art will be considered as a capital asset & thus sale will attract capital gains tax. Thus Mrs. X is not correct.

CQ4. State whether the capital gains will arise in the following independent cases for AY 2020-21:

Profit on Sale of jewellery by Mr. A, a jewellery dealer.	No
Profit on Sale of personal furniture/car/bike by Mr. B.	No
Profit on Sale of Residential house	Yes
Profit on Sale of drawings & paintings by Mr, PC to a National Musuem	No*
Profit on Sale of Gold Deposit Bonds	No

* However, transfer of a capital asset to National Museum is exempt u/s 47.

TYPES OF CAPITAL ASSET [Section 2(42A)]

1. **STCA:** If **Period of Holding (POH)** of Asset ≤ 36 months immediately before the date of transfer.
2. **LTCA:** If **Period of Holding (POH)** of Asset > 36 months immediately before the date of transfer.

Exceptions: Following assets become **LTCA** if POH is more than 12/24 Months.

A	LTCG if Period of Holding (POH) > 12 Months
	(i) Listed Equity/Preference shares in a company. (ii) Listed Securities (Debentures/bonds) <i>other than units</i> . (iii) Units of UTI/ Equity oriented mutual fund. (iv) Zero Coupon Bonds.
B	LTCG if Period of Holding (POH) > 24 Months
	(i) Unlisted Equity or Preference shares. [Shares in private/unlisted public companies]. (ii) Immovable property, being Land or Building or both.

Ex: State the period required for the Capital Asset to become LTCA.

Nature of Asset	Minimum Period to become LTCA
Units of Equity Oriented Mutual Fund	12 Months
Units of Debt Oriented Mutual Fund	36 Months
Units of UTI	12 Months
Zero Coupon Bonds	12 Months
Listed Debentures/Bonds/Govt. Securities	12 Months
Unlisted Debentures/Bonds/Govt. Securities	36 Months
Listed shares in a company	12 Months
Unlisted shares in a company	24 Months
Land or building	24 Months
Other Assets	36 Months

Why CAPITAL ASSETS are divided into STCA & LTCA? [To be read once]

- Tax incidence under Capital Gains depends upon whether asset is LTCA or STCA.
- If asset is STCA, capital gain will be Short- term capital gains.
- If asset is LTCA, capital gain will be Long- term capital gains.
- In **case of DEPRECIABLE ASSET**, always **STCG will arise irrespective of POH**.

DEFINITION OF TRANSFER OF CAPITAL ASSET [SECTION 2(47)]

1	Sale, exchange or relinquishment of the asset.
2	Extinguishment of any rights in the asset.
3	Compulsory Acquisition of any Capital Asset under any law.
4	Conversion of Capital Asset into Stock in trade.
5	Maturity/Redemption of ZCB.
6	<p>Giving possession of IMMOVABLE PROPERTY under Part performance of a contract.</p> <p>Under Income Tax Act, the above transaction is considered as transfer by applying 'substance over form'.</p> <p>Ex: A enters into an agreement for the sale of his house. The purchaser gives the entire sale consideration to A. 'A' hand over complete rights of possession to the purchaser since he has realised the entire sale consideration. However, some legal formalities are left to be done.</p>
7	<p>Transactions which have the effect of transferring the enjoyment of Immovable property.</p> <p>Ex: A person may become a member of a co-operative society which may be a house/flat. When he pays an agreed amount, the society etc. hands over possession of the house to the person concerned. No conveyance is registered. Such transaction is a transfer under Income Tax Act.</p> <p>PC Note: Even power of attorney transactions are regarded as transfer.</p>

DATE OF COMPLETION OF TRANSFER
[Read Once]

MOVABLE PROPERTY	<ul style="list-style-type: none"> ▪ Date on which property is delivered after the contract of sell. ▪ Entries in Books of A/c → Irrelevant for determining date of transfer.
IMMOVABLE PROPERTY	<p>(i) Documents are registered → Date on which deed is executed or registered.</p> <p>(ii) Documents are not registered → If the following conditions are satisfied:</p> <ul style="list-style-type: none"> ▪ There should be a contract in writing; ▪ Transferee has paid consideration/is willing to perform his part of the contract; ▪ Transferee should have taken the possession of the property.

HOW TO COMPUTE CAPITAL GAINS (Section 48)

Full Value of Consideration	(Sec 50C may be applicable for L&B)		Xxx
Less: Expenses of Transfer		(xxx)	
Less: Cost of Acquisition	(Indexation available if Capital Asset is LTCA)	(xxx)	
Less: Cost of Improvement	(Indexation available if Capital Asset is LTCA)	(xxx)	(xxx)
SHORT/LONG TERM CAPITAL GAIN			XXX

Note: STT levied on purchase/sale of Equity shares & units of EOMF → **Not deductible u/h Capital Gains.**

FULL VALUE OF CONSIDERATION (FVC) [SECTION 48]

- **Meaning:** Consideration received/receivable by the transferor for the transferred capital asset.
- It may be in **cash/ kind**. [If consideration is received in kind, then FMV = Full value of consideration].
- **Adequacy of Consideration & Receipt of Consideration** → **IRRELEVANT** for determining FVC.

EXPENSES OF TRANSFER

- Expenditure incurred wholly & exclusively in connection with transfer of capital asset.
 - Such expenses of transfer are **deductible from FVC**.
- Ex:** Brokerage, stamp fees, registration fees, legal expenses, commission paid for securing a purchaser, cost of stamp, litigation expenditure etc.
- PC Note:** **STT** paid on purchase/sale of Equity shares & units of EOMF → **Not deductible u/h CG**.

COST OF ACQUISITION

- The value for which the asset was acquired by the assessee.
- **Only capital expenditures** for completing/acquiring title to the property are **includible in COA**.
- Any Revenue expenditure incurred → will not form part of COA.
- **Amount paid for discharge of mortgage is part of 'COA' if mortgage was not created by transferor.**

INDEXATION

- Sale consideration is the price at which the asset is sold in the PY. However, asset may be purchased in some earlier year. Money spent years before & sale consideration received in PY cannot be compared.
- Thus, deducting the cost of acquisition that has been incurred many years earlier from the sale consideration that has been received in this PY is unfair for the assessee.
- Thus, Indexation is given for the Long-term capital assets.
- **Thus, Indexation of COA means bringing into line COA with that of Sale Consideration.**

Meaning of Indexed COA:

- As per Section 48, COA will be increased by applying the cost inflation Index (CII).
- Once the Cost Inflation Index is applied to COA, it becomes **Indexed COA**.

Steps to Calculate Indexed COA:

1. Find out the type of asset on the basis of POH (whether the asset is STCA/LTCA)
2. Apply Indexation to Cost of Acquisition only if asset is Long Term Capital Asset.

INDEXED COST OF ACQUISITION

$$\frac{\text{Cost of acquisition}}{\text{CII of the year in which asset was first held by Assessee **}} \times \text{CII of year of Transfer of Asset}$$

OR CII of 2001 – 2002 (whichever is Later)

**** PC Note:** CII of year of acquisition of asset by Previous owner [For Transfer u/s 49(1)].

COST INFLATION INDEX for Different FYs

[FY 2021-22: 317]

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

NO INDEXATION IS AVAILABLE IN FOLLOWING CASES [EVEN IF ASSETS ARE LTCA]

1. Zero Coupon Bonds
2. **Debentures/ Bonds** [Except Capital Indexed Bonds/ Sovereign Gold Bonds issues by RBI]
3. Slump Sale [Section 50B]
4. **Depreciable Assets** [Since capital gain arising on depreciable asset is always STCG]
5. Share/Debentures acquired by NR in foreign currency in Indian company. **(1st Proviso to sec 48)**
6. **Long term capital assets specified u/s 112A.**

COST OF IMPROVEMENT

- **Capital expenditure** incurred in making any additions/improvements/protect capital asset.
- **Routine expenditure** on repairs or maintenance will NOT be included in Cost of improvement.

Points to Remember:

1. In case of **Goodwill of Business** (whether Self-generated/Purchased) → **COI = Nil.**
2. COI → Considered **only** if incurred **on/after** 1.4.2001.
3. COI incurred by **Previous Owner** → **Considered** if incurred on/after 1.4.2001.

INDEXED COST OF IMPROVEMENT

$$= \frac{\text{Cost of Improvement}}{\text{CII of the year of Improvement}} \times \text{CII of year of transfer of Asset}$$

Q. How to decide whether to take Indexation of Cost of Improvement or not?

- ❖ It should be decided from the nature of the asset.
- ❖ If Asset is LTCA → Take Indexed COI &
- ❖ If Asset is STCA → Take COI **(without Indexation).**

Note: Year in which Improvement is done in the Asset → **Not Relevant.**

OPTION TO TAKE FMV ON 1.4.2001 AS COST OF ACQUISITION

- If Capital Asset is acquired before 1.4.2001 → Assessee have the **option** to take FMV of the Asset on 1.4.2001 as COA of the Asset. [Option is exercised when FMV on 1.4.2001 > Original COA of asset]
- This option is **not** available in case of Depreciable Assets; Goodwill of Business/other like assets.
- **However, in case of capital asset, being Land or building or both, FMV of such asset on 1.04.2001 shall not exceed SDV of such asset as on 1.04.2001.** [Inserted by FA, 2020]

PC Class Note:

CQ5. During PY 2021-22, Mr. Ramesh sells the following capital assets:

Capital Assets	Sold for	COA	Date of Acquisition	FMV on 1.04.2001	SDV on 1.04.2001
Land	50,00,000	10,00,000	31.05.1999	14,00,000	12,00,000
Gold	15,00,000	5,00,000	1.04.2010	NA	NA
Debenture (Listed)	3,50,000	90,000	12.09.1999	80,000	NA

Compute the taxable Capital Gains for AY 2022-23.

[CII: FY 2007-08: 129; FY 2021-22: 317]

Solution:

Particulars	Land	Gold	Listed Debentures
Full Value of Consideration	50,00,000	15,00,000	3,50,000
Less: COA/Indexed COA	(38,04,000) [12L × 317/100] (Note 1)	(12,28,682) [5L × 317/129]	(90,000) (Note 2)
LTCG	11,96,000	2,71,318	2,60,000

Note:

- Since FMV on 1.4.2001 > Original COA, FMV is taken as COA for computing Capital Gain. However, in case of capital asset, being Land or building or both, FMV of such asset on 1.04.2001 shall not exceed SDV of such asset as on 1.04.2001. Since FMV on 1.04.2001 exceeds SDV on 1.04.2001, SDV on 1.4.2001 shall be taken as COA.
- No indexation is allowed in case of debentures. Since COA > FMV on 1.4.2001, option will not be exercised.

CQ6. Mr. PC purchases a house property for Rs. 1,06,000 on 15th May 1995. The following expenses are incurred by him for making addition/alternation to the house property:

Cost of construction of first floor in 1997-98	Rs. 3,10,000
Cost of construction of second floor in 2002-03	Rs. 7,35,000
Reconstruction of the property in PY 2020-21	Rs. 5,50,000

FMV of the property on 1.4.2001 is Rs. 8,50,000. House property is sold by Mr. PC on 10th August 2021 for Rs. 68 lacs. Expenses incurred on transfer: Rs. 50,000. Compute the Capital Gain for AY 2022-23.

[CII: FY 2002-03: 105; 2017-18: 272; FY 2021-22: 317]

Solution:

Computation of Capital Gains of Mr. C for AY 2022-23

Particulars	Rs.	Rs.
Gross Sale Consideration	68,00,000	
Less: Expenses on transfer	(50,000)	
Net sale consideration		67,50,000
Less: Indexed COA [Rs. 8,50,000 × 317/100]		(26,94,500)
Less: Indexed COI		
(i) Construction of 1 st Floor in PY 1997-98 → Ignored Since incurred before 1.4.2001	(Nil)	
(ii) Construction of 2 nd floor in PY 2002-03 → (Rs. 7,35,000 × 317/105)	(22,19,000)	
(iii) Alternation/reconstruction in PY 2020-21 → (Rs. 5,50,000 × 317/301)	(5,79,236)	(27,98,236)
Long Term Capital Gain		12,57,264

FVC IN CASE OF TRANSFER OF LAND & BUILDING HELD AS CAPITAL ASSET [SEC 50C]

Circumstances		Full value of consideration
A	If Actual Sale Consideration > Stamp Duty value	Actual Sale Consideration
B	If Actual Sale Consideration < Stamp Duty value	Stamp Duty value

PC Note: If $SDV \leq 110\%$ of Actual sale consideration \rightarrow FVC = Actual Sale Consideration.

Space for Class Example:

[Based on Amendment]

SDV WHEN DATE OF AGREEMENT (DoA) & DATE OF REGISTRATION (DoR) ARE NOT SAME

- (a) If Payment (Full/Part) has been received by A/c payee cheque/draft/Netbanking on/before DoA \rightarrow FVC = SDV on Date of Agreement.
- (b) If NO Payment is received by A/c payee cheque/draft/Netbanking on/before DoA \rightarrow FVC = SDV on Date of Registration.

Space for PC Note:

PC Example:

Transfer	SC	SDV on DOA	SDV on DOR	FVC
1.5.2019	100 Lac (10 Lac received by cheque on 1.9.2018)	120 (1.9.2018)	210 (1.5.2019)	120
1.5.2019	100 Lac (10 Lacs received by cash on 1.9.2018)	120 (1.9.2018)	210 (1.5.2019)	210
31.3.2020	100 Lac (Full amount received on DOR)	120 (1.5.2018)	210 (31.3.2020)	210

Example: For transfer of building, ASC = 100 Lacs, SDV on DOA = Rs. 109 lacs; SDV on DOR = Rs. 112 lacs;

- (i) **If any part of the consideration is paid by prescribed electronic mode on/before DOA**
FVC = ASC of Rs. 100 lacs since SDV of Rs. 109 lacs on date of agreement < 110% of ASC of Rs. 100 lacs.
- (ii) **If no part of the consideration is paid by prescribed electronic mode on/before DOA**
FVC = SDV of Rs. 112 lacs on date of transfer since it is > 110% of actual consideration of Rs. 100 lacs.

VALUATION BY VALUATION OFFICER

[PC @ बिच का बन्दर]

Circumstances	Full value of consideration
A. Value by VO > SDV	Stamp Duty Value
B. Value by VO > Actual Sale Consideration but < SDV	Value by Valuation officer

Example:

SN	Actual SC	SDV	Value by VO	Full Value of Consideration
1	50	45	-	50
2	50	75	-	75
3	50	75	85	75
4	50	75	55	55
5	50	75	45	50

CQ7. Miss Disha transferred a house to her friend Ms. Teju for Rs. 40 lacs on 1.11.2021. The sub-registrar valued the house @ Rs. 50 Lacs. Miss Disha contested the valuation & matter was referred to divisional revenue officer who valued the house @ Rs. 45 lacs. Ms. Disha had purchased the house on 15th May, 2011 for Rs. 20 lacs & registration expenses were Rs. 2,00,000. [CII: FY 2011-12: 184; FY 2021-22: 317]

Solution: **Computation of Capital Gain in the hands of Miss Disha for AY 2021-22**

Full Value of Consideration [Refer Note Below]	45,00,000
Less: Cost of acquisition [(20 Lacs + 2 Lacs) × 317/184]	(37,90,217)
Long Term Capital Gains - Taxable @ 20%	7,09,783

Note:

1. If Value by VO > Actual Sale Consideration but < SDV, then FVC = Value by Valuation officer.
2. Registration expenses paid at the time of purchase shall be added to cost of acquisition of asset.

FVC ON TRANSFER OF UNLISTED/UNQUOTED SHARES [SECTION 50CA]

☞ If Sale consideration < FMV of such share, **FMV** shall be deemed to be full value of consideration.

FMV → Deemed to be Full Value of Consideration [Section 50D]

☞ If **Consideration is not determinable** → FVC = FMV of the capital asset on the date of transfer.

TAX TREATMENT OF ADVANCE MONEY FORFEITED [SECTION 51]

1	Advance Money Forfeited Before 1.4.2014	Reduce from Original COA.
2	Advance Money Forfeited on/After 1.4.2014	Taxable u/h IFOS u/s 56(2)(ix).

PC Note:

- ❖ Forfeited Advance shall be **reduced** from **original COA** before **Indexation** & **NOT after Indexation**.
- ❖ **Date of Forfeiture of Advance** should be **considered** & NOT the date of Receipt of Advance.
- ❖ Amount Received & Forfeited by **Previous owner** → **Not to be considered**.

Ex	Date of Receipt of Advance	Date of Adv. Forfeited	Taxable	Treatment
1	15.06.2012	10.08.2013	AY 2014-15	Reduce from COA of asset
2	20.05.2014	30.09.2014	AY 2015-16	IFOS

CQ8. A house was purchased on 1.05.2001 for Rs. 2 Lacs & was used as a residence by Mr. Lalla. Mr. Lalla had contracted to sell this property in June 2012 for Rs. 8 lacs to Miss. Shona & received an advance of Rs. 50,000 towards sale. The deal was not finalized & hence the amount was forfeited by Mr. Lalla on 15.08.2012. He again contracted to sell this property & received an advance on 24.02.2015. However, this deal was also not finalized & hence the amount was forfeited on 30.04.2015. The property was sold in June 2021 to Miss. Jina for Rs. 10 Lacs. Mr. Lalla paid 2% brokerage on sale of the house. Calculate capital gains. [CII: FY 2001-02: 100; FY 2021-22: 317]

Solution: **Computation of Capital Gain in the hands of Mr. Lalla for AY 2021-22**

Full Value of consideration	10,00,000
Less: Expenses on transfer [Brokerage @ 2% of Sale Value]	(20,000)
Net Sale Consideration	9,80,000
Less: (Cost of acquisition - Forfeited Advance) = [(2L - 50,000) × 317/100]	(4,75,500)
Long- Term Capital Gain	5,04,500

Note: Advance forfeited on/after 1.4.2014 shall be taxed u/h "IFOS" u/s 56(2)(ix).

CAPITAL GAINS IN CASE OF DEEMED SALE

DESTRUCTION OF CAPITAL ASSET [SPECIAL CHARGING SECTION [SEC 45(1A)]]	
Circumstances for Destruction	(i) Natural activities/causes; (ii) Riot/civil disturbances. (iii) Accidental fire/explosion; (iv) Action of Enemy (war/without war)
Sale Consideration	Insurance Compensation (Money + FMV of replaced Asset).
Year of Taxability	Capital Gain is taxable in PY of Receipt of Insurance Money.
Period of Holding	From Date of Acquisition till the Date of Destruction.
Indexation	Indexation is available till PY of destruction & not till receipt of Compensation.

CQ9. Mr. Raj owns a House purchased by him on 1.5.1999 for Rs. 5 lacs. House was destroyed by fire on 3.4.2021 & Mr. Raj received Rs. 50 lacs on 5.5.2022 from the Insurance Company. FMV of house on 1.4.2001 = Rs. 12 lacs. SDV on 3.4.2021 = Rs. 60 lacs & SDV on 1.04.2001 = Rs. 15 Lacs. Calculate Capital Gain of Mr. Raj for AY 2022-23.

Solution: POH: 1.5.1999 – 3.4.2020 > 24 Months & Thus, it is a LTCA & Indexation will be available.

Sale Consideration [Insurance compensation as per section 45(1A)]	50,00,000
Less: Indexed COA [Rs. 12,00,000 × 317/100] [Refer Note 1 & 2]	(38,04,000)
Long-term Capital Gain	11,96,000

PC Note:

- In case of deemed sale u/s 45(1A), SDV on the date of sale is not relevant.
- Since FMV on 1.4.2001 > Actual COA, FMV on 1.4.2001 shall be taken as COA. Since FMV on 1.4.2001 does not exceeds SDV on 1.04.2001, FMV shall be taken as COA.
- Sale Consideration = Insurance compensation & Capital Gain is chargeable to tax in the PY in which Insurance money is received. Indexation of COI will be done till the year of destruction of capital asset.

CAPITAL GAIN ON UNIT LINK INSURANCE POLICY RECEIPTS [SECTION 45(1B)]

- ❖ Where any person receives, at any time during any PY, any amount under a ULIP issued on/after 1.02.2021, to which exemption u/s 10(10D) does not apply on account of – **[Amendment]**
 - premium payable exceeding Rs. 2,50,000 for any of the PYs during the term of such policy; or
 - aggregate amount of premium exceeding Rs. 2,50,000 in any of the PYs during the term of any such ULIP(s) in case where premium is payable by person for more than 1 ULIP issued on/after 1.02.2021
 then, any profits or gains arising from such receipt shall be chargeable to tax u/h “Capital gains” & shall be deemed to be the income of the such person for PY in which such amount was received.
- ❖ Income taxable shall be calculated in such manner as may be prescribed.

PC Note: No Capital gains will arise on receipts of ULIP which are exempt u/s 10(10D).

CAPITAL GAIN ON CONVERSION OF CAPITAL ASSET INTO SIT [SECTION 45(2)]

Sale Consideration	FMV of the asset on the date of conversion.
Year of Taxability	Year in which SIT is sold/ transferred & not in year of conversion into SIT.
Period of Holding	From Date of Acquisition till the Date of conversion into SIT.
Indexation	Only till the PY in which conversion took place.

CQ10. X purchased gold ornaments of Rs. 1 Lac on 4.1.2009 for investment. On 12.01.2015, he started a business of dealing in Jewellery & converts the gold into SIT. FMV of the gold ornaments on date of conversion was Rs. 5 Lacs. These gold ornaments were sold in PY 2021-22 for Rs. 6 Lacs. (a) Compute Capital Gain & Business Income. (b) What would be the answer if the gold ornaments are held by the assessee till 31.3.2020?

Solution:

(a)	Conversion of Capital Asset into SIT is treated as a transfer u/s 2(47). In this case, conversion took place on 12.01.2015. Therefore, it will be treated as transfer of PY 2014-15. But Capital Gain will be taxable in PY in which such asset is sold i.e. PY 2021-22.	
	Capital Gain of AY 2022-23	
	Full Value of Consideration	Rs. 5,00,000
	Less: Indexed cost of acquisition [1,00,000 × 240/137]	Rs. (1,75,180)
	Long-term capital gain	Rs. 3,24,820
	Business Income for AY 2022-23	
	Sale Price	Rs. 6,00,000
	Less: FMV on the date of conversion	Rs. (5,00,000)
	Business Income	Rs. 1,00,000
(b)	There will neither be business income nor capital gain because converted asset has not yet been sold.	

COMPULSORY ACQUISITION OF CAPITAL ASSET [SECTION 45(5)]

- Given provisions are applicable when the asset has been compulsorily acquired by government.
- However, these rules are also applicable when consideration is approved by RBI/CG (Even if there is no compulsory acquisition).

A. INITIAL COMPENSATION

SC	Amount of Initial Compensation
Taxed in	PY of Receipt of Initial Compensation (either Whole/Part) ➤ If compensation is received in Instalments, <u>ENTIRE Capital gain</u> on <u>Total Compensation</u> is taxable in PY of receipt of 1 st Instalment.
POH	From: Date of Acquisition of asset. Till: Date of Compulsory Acquisition.
Indexation	<u>Upto the year of Compulsory Acquisition</u> of the Asset & <u>NOT till the year of payment.</u>

B. ENHANCED COMPENSATION

SC	Amount of Enhanced Compensation.
Taxed in	<p>Enhanced compensation is taxable in PY of Receipt.</p> <p>➤ Enhanced Compensation is received in Instalments → only Proportionate Capital Gain to the amount of Instalment received during PY, shall be taxable in that PY.</p> <p>Note: Enhanced compensation received under interim order will be taxable in the PY in which final order of court is passed.</p>
COA/COI	Nil. However, Litigation expenses are allowed as deduction.

C. REDUCTION OF ENHANCED COMPENSATION

- Where capital gain has been charged on compensation received by the assessee & subsequently such compensation is reduced by any court or tribunal;
- Assessed capital gain of that year shall be recomputed by taking into consideration the reduced amount.

PC Note:

- Interest on compensation will be taxable in PY of Receipt irrespective of the year for which it has been paid. Such interest is deductible to the extent of 50% of amount received u/s 57.
- Enhanced Compensation is taxable in the hands of recipient → If assessee is dead on date of receipt of enhanced compensation, such compensation received by his legal heir shall be taxable in their hands.

CQ11. Mr. X acquired a house for Rs. 20,000 in 1997-98. On his death in October 2006, house was acquired by his son Mr. Y. Fair Market Value of the house on 1.4.2001 was Rs. 80,000.

This house was acquired by the Government on 15.3.2010 for Rs. 3 Lacs & a compensation of Rs. 2,20,000 is paid to him on 25.03.2022 & balance Rs. 80,000 on 15.04.2022.

Mr. Y filed a suit against Government challenging the quantum of compensation & court ordered additional compensation of Rs. 1 Lacs. He incurred an expenditure of Rs. 2,000.

50% of the enhanced compensation is received on 14.02.2023 & other 50% is received in PY 2024-25.

Compute taxable capital gains in the hands of Mr. X. [FY 2009-10: 148;

Solution:

(a)	Capital gain on Initial Compensation [Taxable in PY 2021-22 (AY 2022-23)] during which part of the compensation was actually received by him, although the balance of Rs. 80,000 was received in PY 2022-23. POH (Including POH of previous owner): PY 1997-98 to PY 2009-10. Indexation only upto PY 2009-10.	
	Sale Consideration [Total Initial Compensation]	Rs. 3,00,000
	Less: Indexed cost of acquisition: [Rs. 80,000 × 148/100]	(Rs. 1,18,400)
	Long-term capital Gain	Rs. 1,81,600
(b)	Capital Gain for PY 2022-23 (AY 2023-24) as half of enhanced compensation was received on 14.02.2023.	
	Sale Consideration	Rs. 1,00,000
	Less: Expenses of transfer i.e., Litigation Expenses	(Rs. 2,000)
	Long-term capital Gain	Rs. 98,000
PC Note: In AY 2023-24, Capital gain tax on half of enhanced compensation only shall be payable. Remaining tax shall be payable in AY 2025-26 when the other half is received.		

CAPITAL GAINS IN CASE OF SPECIFIED AGREEMENT [SECTION 45(5A)]	
Applicability	Individual & HUF
Transaction	Capital Gain on Transfer of Land & Building or Both under Specified Agreement.
Year of Taxability	CG arising from such transfer shall be taxable as income of PY in which Completion <u>Certificate for the whole/part of the project is issued by the competent authority.</u>
Sale Consideration	Stamp Duty Value of his share (being land or building or both) in the project on the date of issue of certificate of completion + Consideration received in cash.
Meaning of Specified Agreement	<ul style="list-style-type: none"> ▪ Registered agreement in which a person owing land/building or both agrees to allow another person to develop a real estate project on such land/building; ▪ in consideration of a share (being land/building or both) in such project with or without payment of part of the consideration in cash.
Consequences of Transfer before Date of Issue of Completion Certificate	
<ul style="list-style-type: none"> ▪ Benefit u/s 45(5A) is not available if assessee transfers his share in the project on/before issue of completion certificate to any person. In such case, CG shall arise in the year of such transfer. ▪ <u>In such case, section 45(5A) will not apply for determining full value of consideration.</u> ▪ Thus, FVC = Higher of (i) SDV on the date of transfer of his share or (ii) Actual consideration. 	

CAPITAL GAINS ON BUYBACK OF SHARES/SPECIFIED SECURITIES [Sec 46(A)]			
Sale Consideration	Amount given by the company to Shareholder on buy-back of shares/securities.		
COA	Amount at which shares were Purchased by the shareholder.		
Tax Treatment on Buyback of			
Taxability in hands of	Shares (Listed/Unlisted) by		Specified Securities by
	Domestic Company (DC)	Other than DC	Any company
Company	Taxable @ 23.296%	Not taxable	Not taxable
Shareholder	Exempt u/s 10(34A)	Taxable as CG u/s 46A	Taxable as CG u/s 46A.

Meaning of Specified Securities: As per Section 68 of CA, 2013, 'specified securities' includes employees' stock option or other securities as may be notified by the Central Government from time to time.

CQ12. Mr. X has acquired 2,000 equity share of ABC Ltd on 1.04.2007 @ Rs. 350 per share. The company buybacks 20,000 shares on 30.01.2022 @ 900 per share. Compute the capital gain taxable in his hands.

Solution: **Capital Gains on buyback in the hands of Mr. X**

Sale Consideration [Buyback price] (2,000 × 900 per share]	Rs. 18,00,000
Less: Indexed COA [2,000 shares × Rs. 350 per share × 317/129]	(Rs. 17,20,155)
Long Term Capital Gain	Rs. 79,845

COST OF ACQUISITION IN SPECIAL CASES

GOODWILL/TRADEMARK/BRAND NAME etc. [SECTION 55(2)(A)]

Nature of Assets (A)	(i) Goodwill of a business or a trademark or brand name associated with a business or (ii) Right to manufacture/produce any article or thing or ; (iii) Right to carry on any business or profession or ; (iv) Tenancy rights, stage carriage permits & loom hours.		
Cost of Acquisition	1	Self-Generated Assets (specified Above)	COA = Nil
	2	Purchased from another Person	COA = Purchase price
	3	Acquired by any of the modes u/s 49(1)	COA = Purchase price of Previous Owner
	Ex: If Mr. A purchase a stage carriage permit from B for Rs. 2 Lacs, then COA = Rs. 2 Lacs.		
However, in case of a capital asset, being goodwill of business or profession, i.r.o. which depreciation u/s 32(1) has been obtained by the assessee in any PY (upto PY 2019-20), COA of such goodwill = Purchase price - total amount of depreciation (upto PY 2019-20) obtained by the assessee u/s 32(1).			

PC Note: Option to take FMV on 1.4.2001 → Not Available in case of Above Assets.

CQ13. Mr. Pranav commenced a business on 15.4.2002. The said business is sold by Mr. Pranav on 18.04.2021 & he received Rs. 9 Lacs towards goodwill. Compute Capital Gains in the hands of Mr. Pranav for AY 2021-22.

Solution:

Capital Gain of AY 2021-22

Sale Consideration	9,00,000
Less: Indexed cost of acquisition (Self-Generated)	(Nil)
Long-term capital gain	9,00,000

CQ14. What if in above CQ, Mr. Pranav had acquired goodwill for this business for a consideration of Rs. 2 Lacs?

Solution:

Sale Consideration	9,00,000
Less: Indexed cost of acquisition (Purchased) $[2,00,000 \times 317/105]$	(6,03,810)
Long-term capital gain	2,96,190

CQ15. Mr. Amol purchased tenancy right on 1.04.1999 for Rs. 3,00,000. The same was sold by him on 14.8.2021 for Rs. 15 Lacs. FMV of tenancy right as on 1.4.2001 was Rs. 5,00,000. Compute the Capital Gain for AY 2021-22.

Solution:

Sale Consideration	15,00,000
Less: Indexed cost of acquisition (Purchased) $[3,00,000 \times 317/100]$	(9,51,000)
Long-term capital gain	5,49,000

PC Note: In case of tenancy right, option to take FMV on 1.4.2001 as COA is not available.

COST OF ACQUISITION OF BONUS SHARES [SECTION 55(2)(aa)]		
1	If Bonus shares acquired before 1.4.2001	COA = FMV as on 1.4.2001
2	If Bonus shares acquired on/after 1.4.2001	COA = Nil since no option is available
3	Bonus shares allotted before 1.2.2018 on which STT has been paid at the time of transfer [AMENDMENT]	COA = Higher of (a) & (b) (a) Actual cost of acquisition i.e - Nil (if allotted on/after 1.4.2001) - FMV on 1.4.2001 (if allotted before 1.4.2001) (b) Lower of (i) & (ii) (i) FMV as on 31.1.2018; & (ii) Actual sale consideration

PC Note: Indexation is available from date of allotment of Bonus Shares.

COST OF ACQUISITION OF BONUS SHARES [SEC 55(2)(aa)]		
1	Right Shares	➤ Purchased by Original Shareholder: COA = Issue Price ➤ Purchased by Purchaser of Right: COA = Issue price + Cost of Right
2	Right	COA = Always Nil & Always STCG

SWEAT EQUITY SHARES/ ESOP [SEC 49(2AA)]	
Sale Consideration	Amount received on sale of shares.
COA	FMV on the date of exercising ESOP option.

COST OF ACQUISITION OF LTCA REFERRED TO IN SECTION 112A

❖ COA of LTCA being –

- **Equity shares** in a company on which STT is paid both at the time of purchase & transfer or
 - **Unit of equity-oriented fund** or unit of business trust on which STT is paid at the time of transfer.
- acquired before 1st February, 2018 shall be higher of (i) & (ii) –**
- (i) Cost of acquisition of such asset; &
 - (ii) Lower of **(a)** FMV on 31st Jan 2018 & **(b)** Full value of consideration.

Ex: An equity share is acquired on 1st Jan 2017 at Rs.100; its FMV is Rs. 200 on 31st Jan 2018 & it is sold on 1st April 2018 at Rs. 250. As the actual cost of acquisition < FMV on 31st Jan 2018, FMV of Rs. 200 will be taken as the cost of acquisition & the long-term capital gain will be Rs. 50 (Rs. 250 – Rs. 200).

Ex: An equity share is acquired on 1st Jan 2017 at Rs. 100, FMV is Rs. 200 on 31st Jan 2018 & it is sold on 1st April 2018 at Rs. 150. In this case, actual COA < FMV on 31st Jan 2018. However, sale value is also < FMV on 31st Jan 2018. Thus, sale value of Rs. 150 will be taken as COA & LTCG = Nil (Rs.150 – Rs.150).

Ex: An equity share is acquired on 1st Jan 2017 at Rs. 100, its FMV is Rs. 50 on 31st Jan 2018 & it is sold on 1st April 2018 at Rs. 150. In this case, FMV on 31st Jan 2018 < Actual cost of acquisition & thus actual cost of Rs. 100 will be taken as actual cost of acquisition & LTCG will be Rs. 50 (Rs. 150 – Rs. 100).

Ex: An equity share is acquired on 1st Jan 2017 at Rs. 100, FMV is Rs. 200 on 31st Jan 2018 & it is sold on 1st April 2018 at Rs. 50. Actual COA < FMV on 31st Jan 2018. Sale value < FMV on 31st Jan 2018 & actual COA. Therefore, actual cost of Rs. 100 will be taken as COA. Hence, LTCL = Rs. 50 (Rs. 50 – Rs. 100).

Meaning of Fair Market value

Circumstance	Fair Market Value
Cap. asset is listed on any RSE as on 31.01.2018	<ul style="list-style-type: none"> ❖ If there is trading in such asset on such RSE on 31.01.2018 → Highest price of capital asset quoted on such RSE on 31.01.2018. ❖ If there is no trading in such asset on such RSE on 31.01.2018 → Highest price of such asset on such RSE on date immediately preceding 31.1.2018 when such asset was traded on such RSE.
Cap. asset is not listed on any RSE on 31.01.2018	Net Asset Value of such unit as on 31.01.2018.
Cap. asset is equity share in company which is - <ul style="list-style-type: none"> - not listed on a RSE on 31.01.2018 but listed on such exchange on the date of transfer - listed on a RSE on date of transfer & which became property of assessee in consideration of share which is not listed on such exchange as on 31.01.2018 by way of transaction not regarded as transfer u/s 47. 	An amount which bears to COA the same proportion as CII for FY 2017-18 bears to the CII for the first year in which the asset was held by the assessee or on 01.04.2001, whichever is later. Space for PC Note:

COA FOR WHICH THE PREVIOUS OWNER ACQUIRED THE PROPERTY CANNOT BE ASCERTAINED

COA to previous owner = **FMV** on the date on which capital asset became property of the previous owner.

CAPITAL GAINS ON TRANSFER OF DEPRECIABLE ASSET [SECTION 50]

☞ Capital gain arising on depreciable asset will **always be STCG** irrespective of POH.

Conditions for Claiming Depreciation u/s 32

1. There must be **at least one asset** in the block.
 2. There must be **some WDV for the block** on which prescribed rate of Depreciation can be applied.
- If any of the 2 conditions are not satisfied, section 32 ceases to apply & section 50 becomes applicable.

Section 50: Capital Gain on Depreciable Assets will arise only in the following two cases:

1	STCG	<ul style="list-style-type: none"> ▪ If Sale Consideration received on transfer of one or more capital asset > WDV of Block, WDV of the block will be Zero & therefore no Depreciation can be claimed. ▪ In such case, STCG = Sale consideration - WDV of the block.
2	STCL	<ul style="list-style-type: none"> ▪ If all assets in the block are sold, block is empty & thus no depreciation can be claimed even if there is WDV left in the block. ▪ In such case, short term capital loss will arise to the extent of remaining WDV.

If SC of all assets in Block < WDV of the Block, STCL = SC of all the assets - WDV of the block.

However, in a case where goodwill of a business/profession forms part of a block of asset for AY 2020-21 & depreciation thereon has been obtained by the assessee under the Act, WDV of that block of asset & STCG (if any) would be determined in the prescribed manner. **[AMENDMENT]**

CQ16. Singhania & Co., a sole proprietorship owns 6 machines, put in use for business in March 2021. Rate of Depreciation is 15%. WDV of these machines as on 1st April 2020 was Rs. 8,50,000. Three of the old machines were sold on 10th June 2021 for Rs. 11,00,000. A second-hand plant was bought for Rs. 8,50,000 on 30th November 2021. You are required to: (1) Determine depreciation for AY 2022-23; (2) Compute Capital Gains for AY 2022-23. (3) If 3 machines are sold in June 2021 for Rs. 21 lacs, will there be any difference in your above workings?

Solution:

1	Computation of depreciation for AY 2022-23 (i.e PY 2021-22)	
	Particulars	Rs.
	W.D.V. of the block as on 1.4.2021	8,50,000
	Add: Purchase of second-hand plant during the year on 10 th June 2021	8,50,000
	Less: Sale consideration of old machinery during the year	(11,00,000)
	WDV of the block as on 31.03.2022	6,00,000
	Note: Since, Second-hand machinery was put to use for less than 180 days, depreciation is restricted to 50% of 15%. Therefore, depreciation for the year = Rs. 45,000, being 7.5 % of Rs. 6,00,000.	
2	Section 50 on Capital Gains in case of depreciable assets is applicable only in the following circumstances: (a) When one or some of the assets in the block are sold for consideration more than the value of the block. (b) When all the assets are transferred for a consideration more than the value of the block. (c) When all the assets are transferred for a consideration less than the value of the block. In (a) & (b), SC > WDV of the block, STCG would arise. In (c), Since SC < WDV of block, STCL would arise. In the given case, capital gains will not arise as the block of asset continues to exist, & some of the assets are sold for a price which is lesser than WDV of the block.	
3	If 3 machines are sold in June 2021 for Rs. 21,00,000, STCG would arise since SC > aggregate of opening WDV of the block + Additions made during the year.	
	Sale consideration	21,00,000
	Less: WDV of the machines as on 1.4.2021	8,50,000
	Less: Purchase of second plant during the year	(17,00,000)
	Short term capital gains	4,00,000

CAPITAL GAINS IN CASE OF POWER GENERATING UNDERTAKINGS [SECTION 50A]

Applicability	Only for undertakings engaged in Generation/Generation & distribution of power.
Option	Such undertakings have option to use SLM method for depreciation.
COA	COA of the asset shall be WDV of Asset as appropriately adjusted.

TABLE FOR COMPUTATION OF CAPITAL GAINS

Conditions	Treatment
1. SC < WDV	<ul style="list-style-type: none"> Terminal Depreciation (Loss) = WDV – SC. It is Deductible u/s 32 u/h PGBP.
2. SC > WDV but < Original COA	<ul style="list-style-type: none"> Balancing Charge (Profit) = SC – WDV. It is Taxable u/s 41(2) u.h PGBP.
3. SC > Original COA	<ul style="list-style-type: none"> Capital Gain = SC - Original COA. Balancing Charge (Profit) = SC- WDV. It is Taxable u/s 41(2) u/h PGBP.

PC Note: Question on the same provision has been given in PGBP. [Question starting with Bijli Ltd].

CAPITAL GAIN IN CASE OF SLUMP SALE [SECTION 50B]

MEANING	<ul style="list-style-type: none"> Sale of whole undertaking/ unit for lumpsum consideration. In slump sale, whole undertaking/division is transferred for lumpsum consideration. Individual assets are not transferred & thus, sale consideration for the individual assets is not known. Therefore, Sale consideration of whole undertaking/division is compared with NET WORTH of the undertaking to find out the Capital gain. 				
Deemed FVC	FMV of the capital assets as on the date of transfer [Section 50B(2)(ii)] AMENDMENT				
COA & COI	<ul style="list-style-type: none"> ❖ COA & COI = Net worth of the undertaking/ division. ❖ Net worth shall be calculated as follow: <table border="1" style="margin-left: 20px;"> <tr> <td>Total value of All Assets of an undertaking/division</td> <td style="text-align: right;">[Note 1]</td> </tr> <tr> <td>Less: Total value of All Liabilities of such undertaking/division</td> <td style="text-align: right;">[Note 2]</td> </tr> </table> ❖ Any change in the value of assets on account of REVALUATION of Assets shall NOT be considered for this purpose. 	Total value of All Assets of an undertaking/division	[Note 1]	Less: Total value of All Liabilities of such undertaking/division	[Note 2]
Total value of All Assets of an undertaking/division	[Note 1]				
Less: Total value of All Liabilities of such undertaking/division	[Note 2]				
INDEXATION	No Indexation shall be allowed on COA/COI.				
Nature of Capital Gains	<ul style="list-style-type: none"> ❖ If POH of the undertaking/division ≤ 36 Months → STCG would arise. ❖ If POH of the undertaking/division > 36 Months → LTCG would arise. 				

PC Note:

- Aggregate value of total assets shall be calculated as follows:
 - Depreciable Assets: WDV of block of assets determined in accordance with sec 43(6)
 - Sec 35AD Assets: Nil
 - All other Assets: Book value.
- All Liabilities should be assumed to be paid off in full unless otherwise specified.

CQ17. X Ltd. has several undertakings carrying on several businesses. During PY 2021-22, company sold one of its undertakings (as it was continuously generating loss since last 5 years) for a lump sum value of Rs. 300 lacs without assigning value to individual asset & liabilities. Brokerage on transfer paid @ 5%. Compute taxable capital gain.

Book value of sundry assets & liabilities of the undertaking as on the date of sale is as under:

Items	Book Value	FMV
Land	Rs. 50 lacs (Stamp duty Value = Rs. 70 Lacs)	Rs. 100 lacs
Machinery	Rs. 30 lacs (WDV as per IT Act Rs. 60 lacs)	Rs. 100 lacs
Furniture	Rs. 50 lacs (WDV as per IT Act Rs. 90 lacs)	Rs. 75 lacs
Stock	Rs. 30 lacs	Rs. 35 lacs
Debtors	Rs. 40 lacs	Rs. 40 lacs
Creditors	Rs. 50 lacs	-

Solution: Since the undertaking is owned by the company for > 3 years, LTCG shall arise.

Calculation of Net Worth			
A. Value of Assets taken over:			B. Value of liabilities taken over:
Asset	Value	Basis	(i) Creditors = Rs. 50 Lacs – Basis of Book Value.
Land	Rs. 50 Lacs	Book Value	Net Worth = Assets – Liabilities = A - B = 270 Lacs – R50 Lacs = Rs. 220 Lacs
Machinery	Rs. 60 Lacs	WDV	
Furniture	Rs. 90 Lacs	WDV	
Stock	Rs. 30 Lacs	Book Value	
Debtors	Rs. 40 Lacs	Book Value	
Total	Rs. 270 lacs		

Computation of Capital Gains in the hands of X Ltd. for AY 2022-22	
Sale consideration	Rs. 300 lacs
Less: Expenses on transfer = (5% of Rs.300 lacs)	(Rs. 15 Lacs)
Net sale consideration	Rs. 285 lacs
Less: Cost of acquisition i.e. Net Worth: Calculated above	(Rs. 220 lacs)
Less: Cost of improvement	(Rs. Nil)
Long Term Capital Gain	Rs. 65 Lacs

CAPITAL GAINS ON SHARES & DEBENTURES ACQUIRED IN FOREIGN CURRENCY BY A NON-RESIDENT [1st Proviso to Section 48]

- If a NR acquires shares or debentures of an Indian Company by utilizing foreign Currency, **then capital gain shall be computed in same foreign currency**. After calculating capital gains in foreign currency, it will be converted into Indian Currency.
- Benefit of INDEXATION is NOT AVAILABLE.

STEPS TO COMPUTE CAPITAL GAINS

1. Sale Consideration, Expenses of Transfer & Cost of Acquisition will be given in Rupees in the question as the shares/debentures were acquired by utilizing foreign currency.
2. So, we need to convert them into Foreign Currency by using **AVERAGE BUYING RATE** on the date of TRANSFER/ ACQUISITION.
3. Calculate CAPITAL GAINS in FOREIGN CURRENCY.
4. Capital Gain in Foreign Currency shall be **Re-converted** into INDIAN CURRENCY by applying **BUYING Rate** on the date of transfer.

CQ18. Mr. R, a NRI, remits \$40,000 to India on 16.09.2009. The amount is partly utilized on 3.10.2009 for purchasing 10,000 shares in A Ltd., an Indian company @ Rs. 12 per share. These shares are sold for Rs. 36 per share on 30.3.2022. Telegraphic transfer buying & selling rate of US dollars adopted by SBI is:

Date	TT Buying Rate	TT Selling Rate	Average TT Rate [Buying + Selling]/2
16.9.2009	18	20	19.5
3.10.2009	19	21	20
30.3.2022	44	46	45

Compute capital gain for AY 2022-23 on the assumption that these shares have not been sold through RSE.

Solution:

Sale consideration (Rs. 3,60,000/45)	\$ 8,000
Less: Cost of acquisition (Rs. 1,20,000/20)	(\$ 6,000)
Long-term capital gain	\$ 2,000
Long term Capital gain covered into Rupees (US\$ 2,000 x Rs. 44/US\$)	Rs. 88,000

ASCERTAINMENT OF COST IN SPECIFIED CIRCUMSTANCES [SECTION 49(1)]

- ☞ In following cases, cost of acquisition of the asset shall be deemed to be cost for which the previous owner of the property has acquired it.
- ☞ To this cost, CoI to the asset incurred by previous owner or assessee must be added.
- ☞ **Where the capital asset became the property of the assessee:**
 - (a) on any distribution of assets on the total or partition of a HUF;
 - (b) under a gift or will;
 - (c) by succession, inheritance or devolution;
 - (d) on any distribution of assets on the liquidation of a company;
 - (e) under a transfer to revocable or an irrevocable trust;
 - (f) under any transfer of capital asset by holding company to its WOS Indian company or by subsidiary company to its 100% holding Indian company, ref. in section 47(iv) & 47(v) respectively;
 - (g) under any transfer referred to in section 47(vi) of a capital asset by amalgamating company to amalgamated Indian company, in a scheme of amalgamation;
 - (h) under any transfer referred to in section 47(vib), of a capital asset by the demerged company to the resulting Indian company, in a scheme of demerger;
 - (i) Conversion by individual of his separate property into HUF property [by mode ref. in sec. 64(2)].

☞ **Case Law: Bombay High Court in CIT v. Manjula J. Shah 16 Taxman 42 (Bom.)**

- **Bombay HC held that Indexed CoA in case of gifted asset has to be computed w.r.t. the year in which previous owner first held the asset & not the year in which assessee became the owner of the asset.**
- Section 2(42A) provides that in all such cases, for determining the period for which the capital asset is held by the transferee, period of holding of the asset by previous owner shall also be considered.

PC Note: In case of mode of acquisition of asset specified u/s 49(1), Period of holding of the previous owner shall also be considered for the purpose of taking Indexation of Cost of Acquisition.

TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 47]

Owner → Change
Asset → Same

A

Owner → Same
Asset → Change

B

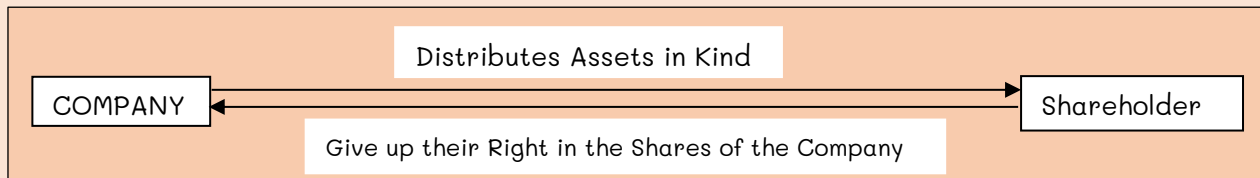
COA (to New owner) = Cost to Previous owner
POH → Include POH of Previous owner.

COA (of New Asset) = Cost of Old Asset.
POH → Include POH of Old Asset.

TRANSACTIONS NOT TREATED AS TRANSFER [SEC 46 & 47]

- In following cases, **No Capital Gain** would arise **since** they are **NOT** treated as Transfer.
- Thus, **NO TAX** will be payable on such transfer by the transferee.

CAPITAL GAIN ARISING ON “DISTRIBUTION OF ASSETS IN KIND” BY COMPANY TO ITS SHAREHOLDERS ON LIQUIDATION [SECTION 46]



FOR COMPANY IN LIQUIDATION [Section 46(1)]

- ❖ Any Asset distributed in kind by the company to its shareholders on liquidation → shall **NOT** be regarded as a transfer by the company.
- ❖ Thus, **No Capital Gain** shall arise to company on distribution of such Assets.

PC Note: If liquidator sells the assets of company & distributes funds so collected, capital gain shall arise on such transfer.

FOR SHAREHOLDERS [Section 46(2)]

- ❖ Capital Gain shall arise in the hands of Shareholders on transfer of such shares to the company.
- ❖ **Sale Consideration = FMV of Assets received in Kind – Deemed Dividend u/s 2(22)(c).**
- ❖ Deemed dividend u/s 2(22)(c) → Distribution of Accumulated Profits by the company on liquidation is treated as deemed dividend u/s 2(22)(c). Since DDT has been abolished from AY 2021-22 & thus such dividend shall be taxable in the hands of shareholders u/h IFOS & such amount of dividend shall be deducted from sale consideration for computation of capital gains.

CAPITAL GAIN ON TRANSFER OF ASSETS RECEIVED IN KIND BY THE SHAREHOLDERS

- ❖ When the asset received in kind is transferred by the shareholder later, Capital Gain will arise.
- ❖ **COA** of such asset = **FMV** of such asset **on date of distribution** by the company.
- ❖ **POH** shall be reckoned from the **date of receipt** of asset on liquidation.

CQ19. Mr. PC purchased 10,000 equity shares of XYZ Co. Pvt. Ltd on 28.2.2007 for Rs. 1,20,000. The company was wound up on 31.7.2021. The following is the summarized financial position of the company as on 31.7.2021:

Liabilities	Rs.	Assets	Rs.
60,000 Equity shares	6,00,000	Agricultural lands	42,00,000
General Reserve	40,00,000	Cash at bank	6,50,000
Provision for taxation	2,50,000		
	48,50,000		48,50,000

- Tax liability (towards DDT) was ascertained at Rs. 3 Lacs, after considering refund due to the company.
- The remaining assets were distributed to the shareholders in the proportion of their shareholding.
- The market value of the 6 acres of the agriculture land (in an urban area) as on 31.7.2021 is Rs. 10 Lacs per acre.
- Agriculture land received above was sold by Mr. PC on 29.2.2022 for Rs. 15 Lacs. Discuss tax treatment.

Solution:

1	CG arising in hands of company on distribution of asset in kind to shareholders on liquidation is exempt u/s 46.	
2	Computation of Capital Gains in the hands of Mr. PC	
	Sale consideration [refer Note 1]	4,00,000
	Less: Indexed cost of acquisition [$1,20,000 \times 317/122$]	(3,11,803)
	Long term capital gain	88,197
3	Capital Gains arising on sale of urban agricultural land received in the hands Mr. PC	
	Sale consideration	Rs. 15 Lacs
	Less: COA [deemed to be FMV on date of distribution]	(Rs. 10 Lacs)
	Short term capital gain	Rs. 5 Lacs

Working Note:

1	Calculation of Sale Consideration of Shares: Mr. PC holds 1/6 th of shareholding of the company, so	
	Agriculture land received (60 Lacs/6)	Rs. 10,00,000
	Cash at bank ($6,50,000 - 3 \text{ Lacs} / 6$)	Rs. 58,333
	Less: Deemed dividend u/s 2(22)(c) [$40 \text{ Lacs} - 50,000$]/6 ---- Taxable u/h IFOS]	(6,58,333)
	Sale consideration	Rs. 4,00,000
2	Dividend u/s 2 (22)(c) i.e. Rs. 6,58,333 will be taxable u/h IFOS in the hands of Mr. PC.	
3	Tax liability has been ascertained at Rs. 3 Lacs as against the provision of Rs. 2,50,000. Therefore Rs. 50,000 (Rs. 3 Lacs - Rs. 2,50,000) has to be reduced from general reserve for calculating deemed dividend u/s 2(22)(c).	

DISTRIBUTION OF CAPITAL ASSET ON TOTAL/PARTIAL PARTITION OF HUF

- Distribution of Capital Asset by HUF to its members on partition of HUF is **NOT** treated as Transfer & thus **NO Capital Gain** shall arise in the hands of **HUF**.
- **However**, Capital Gain shall arise when the asset received on partition, is **sold** by member.
- For computing capital gain in the hands of member on the transfer of said asset ↓

COA in the hands of Member	Cost of Asset to the HUF
Period of Holding of Member	From the date of Acquisition of Asset by HUF

CQ20. On 18.08.2005, Ramu acquired 1000 debentures of X Ltd. & house on partition of its HUF. House was acquired by HUF on 1.04.1995 for Rs. 3 lacs & Debentures were acquired on 1.04.2002 for Rs. 2 lacs. FMV of the house on 1.04.2001 is Rs. 4 lacs. COI incurred by HUF on 15.3.2002 was Rs. 2 lacs. On 17.07.2021, Ramu sold the house for Rs. 20 lacs & its debentures are taken by the company at Rs. 2,50,000. Compute capital gain of Ramu for AY 2022-23.

Solution: **Computation of capital gain in the hands of Ramu for AY 2022-23**

I. HOUSE → POH: 1.4.1995 – 17.07.2021

Sale Consideration	20,00,000
Less: Indexed cost of acquisition [$4,00,000 \times 317/100$]	(12,68,000)
Less: Indexed cost of improvement [$2,00,000 \times 317/100$]	(6,34,000)
Long-term capital gain	98,000

II. Debenture → POH: 1.4.2002 – 17.7.2021

Sale Consideration	2,50,000
Less: Cost of acquisition [No indexation is available]	(2,00,000)
Long-term capital gain	50,000

PC Note: COA = Cost to Previous owner in case of Gift.

TRANSFER OF CAPITAL ASSET BY WAY OF GIFT/UNDER A WILL OR TRUST

- Transfer of capital asset under a gift or will or irrevocable trust is NOT treated as transfer & thus NO CAPITAL GAIN shall arise in the hands of transferor.
- However, Capital Gain will arise in the hands of Recipient when he transfers such capital asset.
- For computing capital gain in the hands of recipient of gifts/will/irrevocable trust.

COA in the hands of Recipient	Cost to the Previous owner
Period of Holding/Indexation	<ul style="list-style-type: none"> ▪ Includes Period of Holding of previous owner; ▪ Indexation will be taken from DoA of Asset by Previous owner

PC Note: If assets received as gift is made taxable u/s 56 (2)(vii)/(viiia), then COA of such assets shall be the value taken into accounts for the purpose of sec 56(2)(vii) or (viiia).

In such case, POH of previous owner shall not be included.

[To be Studies with IFOS]

CQ21. Mr. A purchased gold in 1970 for Rs. 25,000. FMV on 1.4.2001 was Rs. 1,30,000. In PY 2017-18, he gifted it to his son. FMV on the date of receipt of gift was Rs. 2,00,000. His son sold it PY 2021-22 for Rs. 5,00,000. Discuss the tax implications in the hands of Mr. A & his son.

Solution: Gift is exempt by virtue of Section 47 & thus NO capital gain arises in the hands of Mr. A.

Computation of Capital Gains in the hands of Son of Mr. A [Note: COA = Cost to Previous owner in case of Gift]

Sale Consideration	5,00,000
Less: Indexed cost of acquisition $[1,30,000 \times 317/100]$	(4,12,100)
Long-term capital gain	87,900

TRANSFER OF CAPITAL ASSET BY HOLDING COMPANY TO WOS COMPANY

COA in the hands of WOS	Cost to Holding company (Previous owner)
POH of WOS Company	Includes POH of Holding company (Previous owner).

TRANSFER OF CAPITAL ASSET BY WOS COMPANY TO HOLDING COMPANY

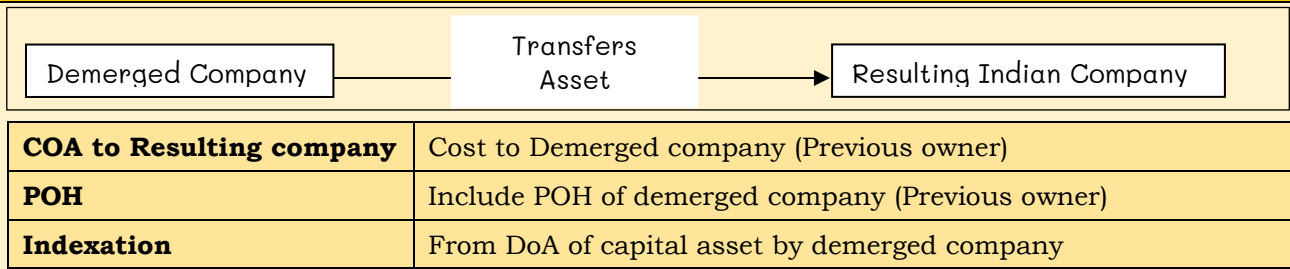
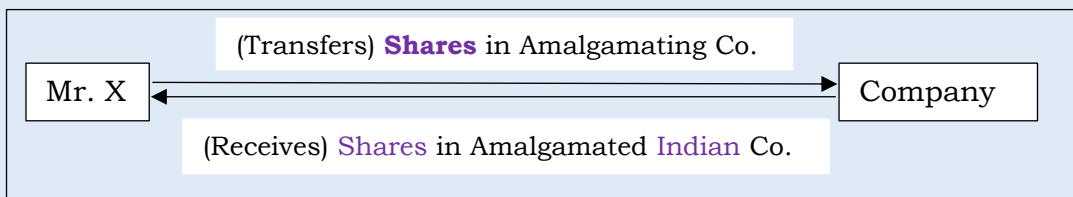
COA in the hands of Holding company	Cost to WOS company (Previous owner)
POH of Holding Company	Includes POH of WOS company (Previous owner).

PC Note: For transfers between HC & SC,

- Recipient Company (company receiving capital asset) shall be Indian Company.
- Exemption will NOT apply if a Capital Asset is transferred as SIT.

TRANSFER OF CAPITAL ASSET IN SCHEME OF AMALGAMATION BY AMALGAMATING COMPANY TO AMALGAMATED (INDIAN) COMPANY


COA to Amalgamated Company	Cost to Amalgamating company (Previous owner)
POH	Include POH of Amalgamating company (Previous owner)
Indexation	From DoA of capital asset by amalgamating company

TRANSFER OF CAPITAL ASSET IN THE SCHEME OF DEMERGER BY DEMERGED COMPANY TO RESULTING INDIAN COMPANY

ALLOTMENT (ISSUE) OF SHARES BY AMALGAMATED COMPANY IN LIEU OF SHARES HELD IN AMALGAMATING COMPANY


COA of shares in Amalgamated company	COA of shares in Amalgamating Company
POH of shares for Amalgamated company	Include POH of shares in Amalgamating Company.

PC Note: In this case, shares in amalgamated company are allotted to the shareholders (of amalgamating company) in exchange of their shares in the amalgamating company, **except where the shareholder itself is amalgamated company.**

Ex: A Ltd., an Indian company, holds 60% of shares in B Ltd. B Ltd. amalgamates with A Ltd. Since A Ltd. itself is the shareholder of B Ltd., A Ltd., being the amalgamated company, cannot issue shares to itself. However, A Ltd. has to issue shares to the other shareholders of B Ltd.

PC Note: Same provision would apply in case of conversion of company into LLP – [Sec 47(xiic)]

❖ Cost of share in LLP = COA of Shares in the company immediately before its conversion.

ALLOTMENT OF SHARES BY RESULTING COMPANY TO SHAREHOLDERS OF DEMERGED COMPANY

Shares in	Cost of Acquisition
Resulting Company	COA of shares in Demerged Company $\times \frac{\text{Net BV of Asset in demerged company after demerger}}{\text{Net BV of Asset in demerged company before demerger}}$
Demerged Company	COA of share in Demerged Co. – Cost apportioned to shares of Resulting Co.

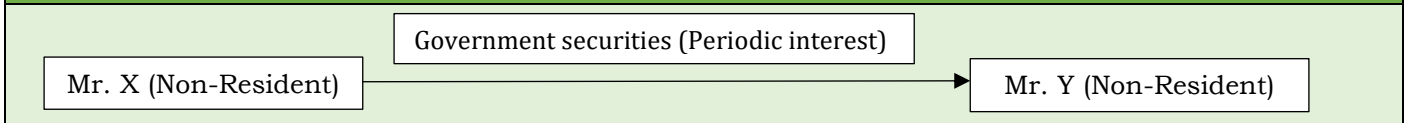
PC Note: For determining POH of Shares in Resulting Co. → Includes POH of Shares in demerged Co.

Q22. Mr A. acquired 1000 shares in XY Ltd of Rs. 20,000. XY Ltd. was demerged on 25.09.2021 & net book value of the asset transferred to Y Ltd (the resulting company) was 30 Lacs. Compute the cost of acquisition of shares of Mr. A in demerged company as well as resulting company assuming the paid-up capital & general reserve of XY Ltd before demerger were 1 crore.

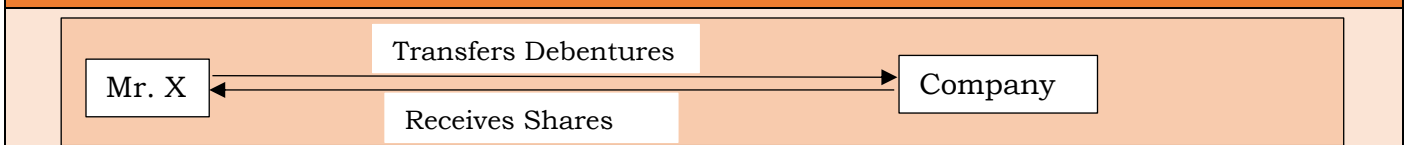
Solution:

COA of Shares in

Resulting Company	COA of shares in Demerged Co. $\times \frac{\text{Net BV of Asset in demerged co. after demerger}}{\text{Net BV of Asset in demerged co. before demerger}} = 20,000 \times \frac{30}{1 \text{ crore}} = \text{Rs. } 6,000.$
Demerged Company	COA of share in Demerged Co. – Cost apportioned to shares of Resulting Co. = Rs. 20,000 – Rs. 6,000 = Rs. 14,000.

TRANSFER OF GOVERNMENT SECURITY BY A NR TO ANOTHER NR OUTSIDE INDIA THROUGH INTERMEDIARY (SECTION 47(VIIB))


TRANSFER OF CAPITAL ASSET BEING ANY WORK OF ART, Archaeological, Scientific or Art Collection, Book, Manuscript, Drawing, Painting, Photograph etc to **Government, University, National Museum, National Art Gallery**, other Public Museum or Institution of National Importance → **Exempt**.

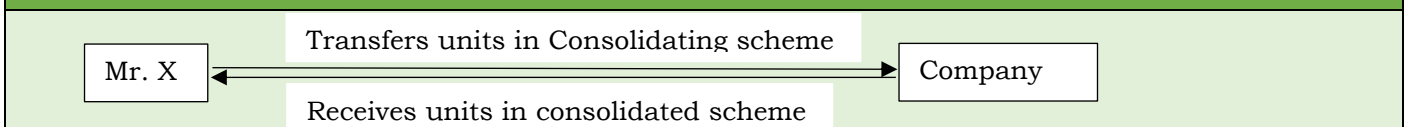
TRANSFER BY WAY OF CONVERSION OF BONDS/DEBENTURES INTO SHARES


COA of Shares received	Cost of Bonds/Debenture given up
POH of Shares	Include POH of Debentures given up

CQ23. Mr. B purchased convertible debentures for Rs. 5,00,000 during August 2001. The debentures were converted into shares in September 2012. These shares were sold for Rs. 20,00,000 in August 2021. The brokerage expenses are Rs. 50,000. You are required to compute the CG in case of Mr. B for AY 2022-23.

Solution: **Computation of Capital Gains of Mr. B for AY 2022-23**

Particulars	Rs.
Sale consideration	20,00,000
Less: Expenses on transfer (Brokerage paid)	(50,000)
Net sale consideration	19,50,000
Less: Indexed cost of acquisition (Rs. 5,00,000 × 317/100)	(15,5,000)
Long term capital gain	3,65,000

TRANSFER OF UNITS OF MF IN THE SCHEME OF CONSOLIDATION OF MF


COA of unit in Consolidated scheme	COA of units in Consolidating Scheme
POH of unit in consolidating scheme	Includes POH of units in consolidating scheme for determining POH of units in consolidated scheme

PC Note: Consolidation should be of 2 or more schemes of EOMF or of a fund other than EOMF.

SOME OTHER TRANSACTIONS WHICH ARE NOT TREATED AS TRANSFER

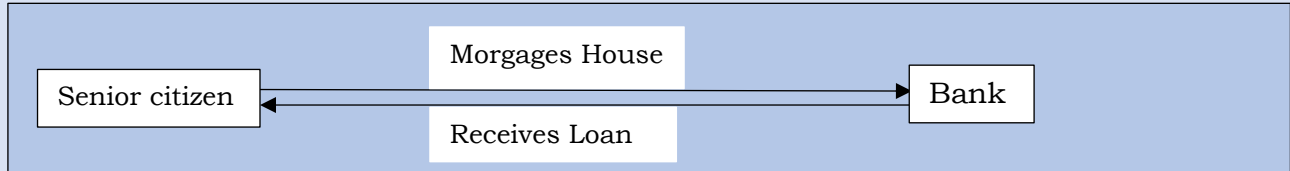
Transfer of Rupee denominated bond of Indian company issued outside India by NR to another NR - [Section 47(viaa)].

Redemption of Sovereign Gold Bonds by Individual issued under Sovereign Gold Bond Scheme, 2015 [Section 47(viic)].

Conversion of Preference shares into Equity shares: Any transfer by way of conversion of preference shares of a company into equity shares of that company [Section 47(xb)].

TRANSFER OF CAPITAL ASSET IN SCHEME OF REVERSE MORTGAGE

- Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made & notified by the Central Government would not amount to a transfer. [Section 47(xvi)]



PC Note: Sec 10(43) **exempts** any lumpsum amounts or instalments received as a **loan** under a scheme of reverse mortgage from the bank by senior citizens.

Meaning	<ul style="list-style-type: none"> Reverse Mortgage scheme is for the benefit of senior citizens who own residential house. Senior citizens can mortgage their house property with scheduled bank/housing finance company for lumpsum amount or a regular monthly/quarterly/annual income.
Scheme	<ul style="list-style-type: none"> Senior citizens can mortgage their house & get the contracted amount. They can continue to live in their house & receive regular income without having to pay back the loan. Borrower can use the loan amount for renovation & extension of residential property, family's medical & emergency expenditure etc., amongst others. However, he cannot use the amount for speculative or trading purposes. Bank/housing finance company would revalue the property once every 5 years.
Recovery	<ul style="list-style-type: none"> Bank will recover loan with interest by selling house after the death of the borrower. The excess amount will be given to the legal heirs. However before selling the house, preference will be given to the legal heirs to repay the loan & interest & get the mortgaged property released.
Taxation	<ul style="list-style-type: none"> Transfer of capital asset in a transaction of reverse mortgage under a scheme made & notified by CG would not amount to a transfer - Section 47(xvi). Amount received by the senior citizen as a loan (Lump sum/Instalments) in a transaction of reverse mortgage would be exempt from income-tax- Section 10(43). Capital gains would arise in the hands of senior citizen only when the mortgaged property is sold by the bank/housing finance company for the purposes of recovering the loan.

CQ24. Mr. X a senior citizen, pledged his residential house with a bank, under a notified reverse mortgage scheme. He was getting loan from bank in monthly instalments. Mr. X did not repay the loan on maturity & hence gave possession of the house to the bank to discharge his loan. How will the treatment of LTCG be on such reverse mortgage transaction?

Answer:

- Section 47(xvi) provides that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made & notified by CG shall not be considered as a transfer for the purpose of capital gain.
- Accordingly pledging of residential house with bank by Mr. X will not be regarded as a transfer. Therefore, no capital gain will be charged on such transaction.
- Further, section 10(43) provides that the amount received by the senior citizen as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage would be exempt from income-tax. Therefore, the monthly instalment amounts received by Mr. X would not be taxable.
- However, capital gains tax liability would be attracted at the stage of alienation of the mortgaged property by the bank for the purposes of recovering the loan.

EXEMPTION FROM CAPITAL GAINS

Exemption from Capital Gains is available in two categories:

A. Exemption u/s 10	<ul style="list-style-type: none"> ▪ These exemptions are available on Transfer of Notified Capital Assets. ▪ No Investment in any new capital asset is required to avail these Exemption.
B. Exemption u/s 54	<ul style="list-style-type: none"> ▪ These exemptions are available only if the Specified (New) Capital Asset is Acquired or Constructed.

A. EXEMPTIONS U/S 10

1. Capital Gain arising to Individual/HUF on Compulsory Acquisition of Urban Agricultural Land [Section 10(37)]

- Exemption is available only if compensation is received on/after 1.4.2004.

2. Capital Gain arising on Buy-back of shares (listed/unlisted) by Domestic Company [Sec 10(34A)]

CQ25. Mr. Kumar has agricultural land (costing Rs. 6 lacs) in Lucknow & has been using it for agricultural purposes since 1.4.2000 till 1.8.2011 when the Government took over compulsory acquisition of this land. Compensation of Rs. 10 lacs was settled. The compensation was received by Mr. Kumar on 1.7.2021. Compute the amount of capital gains taxable in the hands of Mr. Kumar for AY 2022-23.

Solution:

- Compulsory acquisition of an urban agricultural land has taken place & the compensation is received after 1.4.2004. This land had also been used for at least 2 years by the assessee himself for agricultural purposes.
- Thus, as per section 10(37), entire capital gains arising on such compulsory acquisition will be fully exempt & nothing is taxable in the hands of Mr. Kumar in the year of receipt of compensation i.e. AY 2022-23.

CQ26. Will your answer be any different if Mr. Kumar had by his own will sold this land to his friend Mr. Sharma?

Solution:

- As per section 10(37), exemption is available if compulsory acquisition of urban agricultural land takes place.
- Since the sale is out of own will & desire, the provisions of this section are not attracted & the capital gains arising on such sale will be taxable in the hands of Mr. Kumar.

CQ27. Will your answer be different if Mr. Kumar had not used this land for agricultural activities? Explain.

Solution:

- As per section 10(37), exemption is available only when such land has been used for agricultural purposes during the preceding two years by such individual or a parent of his or by such HUF.
- Since the assessee has not used it for agricultural activities, the provisions of this section are not attracted & the capital gains arising on such compulsory acquisition will be taxable in the hands of Mr. Kumar.

CQ28. Will your answer be different if the land belonged to ABC Ltd. & not Mr. Kumar & compensation on compulsory acquisition was received by the company? Explain.

Solution:

- Section 10(37) exempts capital gains arising to an individual or a HUF from transfer of agricultural land by way of compulsory acquisition.
- If the land belongs to ABC Ltd., a company, the provisions of this section are not attracted & the capital gains arising on such compulsory acquisition will be taxable in the hands of ABC Ltd.

B. EXEMPTION U/S 54

CAPITAL GAINS ON TRANSFER OF RESIDENTIAL HOUSE PROPERTY (SEC 54)															
Eligible Assessee	Individual or HUF														
Which Asset must be transferred	Residential House Property (LTCA) Income from such house should be chargeable u/h "Income from HP".														
Which asset must be acquired	If Capital gains > Rs. 2 crores → ONE Residential House in India If Capital gains ≤ Rs. 2 crores → TWO Residential House in India														
<p>Note: If in any AY, assessee has exercised the option to purchase or construct 2 residential houses in India, he shall not be subsequently entitled to exercise the option for same AY or any other AY.</p> <p>Ex: If an assessee has availed the option of claiming benefit of section 54 i.r.o purchase of 2 residential houses in Jaipur & Jodhpur i.r.o capital gains of Rs. 1.50 crores arising from transfer of residential house at Bombay in PY 2021-22 then, he will not be entitled to avail the benefit of section 54 again i.r.o. purchase of 2 residential houses in Pune & Baroda, i.r.o capital gains of Rs. 1.20 crores arising from transfer of residential house in Jaipur in PY 2023-24, even though capital gains arising on transfer of residential house at Jaipur < Rs. 2 crores.</p>															
Time limit for acquiring new asset	Purchase → Within 1 yr before transfer or within 2 years after transfer. Construct → Within 3 years after the date of transfer.														
Quantum of Exemption	(a) Investment in New House or Houses or (b) Capital Gain (whichever is lower)														
Consequences of transfer of Newly acquired asset within 3 years.	Exemption granted will be taken back. For computing STCG on transfer of new asset: Cost of New House = (Cost of acquisition- Capital gains exempted earlier).														
Example	1. CG = Rs. 7 lacs & Cost of New house= Rs. 9 lacs; Exemption = Rs. 7 lacs.														
	2. CG = Rs. 7 lacs & Cost of New house=Rs. 5 lacs; Exemption = Rs. 5 lacs.														
	Continuing Ex , if the new house was sold after 2 years for Rs. 12 lacs, then STCG =														
	<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 60%;">Particulars</th> <th style="width: 20%;">Rs.</th> <th style="width: 20%;">Rs.</th> </tr> </thead> <tbody> <tr> <td>Net Consideration</td> <td></td> <td>1200000</td> </tr> <tr> <td>Cost of acquisition</td> <td>9,00,000</td> <td></td> </tr> <tr> <td>Less: CG exempt earlier u/s 54</td> <td>(7,00,000)</td> <td>(200000)</td> </tr> <tr> <td>Taxable STCG</td> <td></td> <td>1000000</td> </tr> </tbody> </table>	Particulars	Rs.	Rs.	Net Consideration		1200000	Cost of acquisition	9,00,000		Less: CG exempt earlier u/s 54	(7,00,000)	(200000)	Taxable STCG	
Particulars	Rs.	Rs.													
Net Consideration		1200000													
Cost of acquisition	9,00,000														
Less: CG exempt earlier u/s 54	(7,00,000)	(200000)													
Taxable STCG		1000000													

PC Note:

- **Date of completion of construction is relevant.** Date of commencement of construction is irrelevant. Construction may be commenced even before the transfer of house.
- Allotment of Flat under Self-financing scheme is treated as construction of house for Section 54.
- **Holding of Legal Title** → **Not Necessary**. If the taxpayer pays whole/part of consideration & gets the possession of new house, exemption available u/s 54 is available.
- Investment → Includes Cost of Purchase of House + Cost incurred to make habitable.
- A person may Sell 2 Houses & Purchase 1 House for the purpose of availing exemption u/s 54.

CQ29. Mr. Cee purchased a residential house on 20th July 2019 for Rs. 10,00,000 & made some additions to the house incurring Rs. 2,00,000 in August 2019. He sold the house property in April 2021 for Rs. 20 Lacs. Out of the sale proceeds, he spent Rs. 5,00,000 to purchase another house property in September 2021. Find the amount of capital gains taxable in the hands of Mr. Cee for AY 2022-23?

Solution: House is sold before 24 months from the date of purchase. Hence, the house is a STCA.

Particulars	Rs.
Sale consideration	20,00,000
Less: Cost of acquisition	(10,00,000)
Less: Cost of improvement	(2,00,000)
Short-term capital gains	8,00,000

PC Note: The exemption of capital gains u/s 54 is available only in case of LTCA. As the house is STCA. Mr. Cee cannot claim exemption u/s 54. Thus, the amount of taxable STCA is Rs. 8,00,000.

CAPITAL GAIN ON TRANSFER OF AGRICULTURAL LAND [SECTION 54B]

Eligible Assessee	Individual or HUF
Which asset shall be transferred	Urban Agricultural land (LT/ST). Such land must have been used by Assessee or his parents/HUF for agricultural purposes for 2 yrs immediately preceding date of transfer.
Which asset is acquired	Agricultural Land (Rural/Urban)
Time limit for acquiring new asset	Within 2 years from the date of transfer.
Quantum of Exemption	Same as Section 54.
Consequences of transfer within 3 years	Same as Section 54. However, if new agricultural land is a rural agricultural land, there would be no CG on transfer of such land.

CAPITAL GAIN ON COMPULSORY ACQUISITION OF INDUSTRIAL L & B [SEC 54D]

Eligible Assessee	Any Assessee.
Which asset shall be transferred	Industrial Land or Building (STCA/LTCA) Such Land/building should have been used by assessee for Industrial undertaking for 2 years immediately preceding the date of transfer.
Which asset is acquired	Land or Building for Industrial purpose
Time limit for acquiring new asset	Within 3 years from the date of Receipt of compensation.
Quantum of Exemption	Same as Section 54.
Consequences of transfer within 3 years	Same as Section 54

CAPITAL GAIN ON TRANSFER OF ANY LONG-TERM CAPITAL ASSET ON THE BASIS OF INVESTMENT IN CERTAIN BONDS [SECTION 54EC]

Eligible Assessee	Any Assessee
Which asset shall be transferred	Long-term Capital Asset being Land or Building or both (Even a depreciable asset held for more than 36 months is a LTCA even if they are always regarded as STCA under other sections of the act)
Which asset is acquired	Bonds of National Highways Authority of India (NHAI) & Rural Electrification Corporation Ltd (RECL) redeemable after 5 years. Bonds issued by Power Finance Corporation Limited on/after 15.06.17 & Bonds issued by Indian Railway Finance Corporation Limited on/after 8.8.17 & redeemable after 3 years.
Time limit	Within 6 months from the date of transfer.
Quantum of Exemption	Capital Gain or Amount Invested in Bonds (whichever is Lower). PC Note: Maximum Investment that can be made in bonds of NHAI & RECL from CG arising from the transfer of one/more LTCA during the PY of transfer & in subsequent FY cannot exceed Rs. 50 lacs.
Lock-in-period	Bonds should not be transferred for a period of 5 Years . Assessee should not transfer/convert or avail loan on security of such bonds for 5 years from the date of acquisition of such bonds. Otherwise, exemption granted earlier shall be taken back.

PC Note: Receipt of **money** on liquidation of company is taxable in the hands of shareholders [Section 46(2)]. In such case there is no transfer of capital asset & thus exemption u/s 54EC is not available.

CQ30. Capital gain of Rs. 75 lacs arising from transfer of LTCA on 1.5.2019 will be exempt from tax if such capital gain is invested in the bonds redeemable after 5 years, issued by NHAI u/s 54EC. Comment whether true or false.

Answer: False: The exemption u/s 54EC has been restricted by limiting the maximum investment in long term specified assets (i.e. bonds of NHAI or RECL redeemable after 3 years) to Rs. 50 lacs whether such investment is made during the relevant PY or subsequent PY or both. Therefore, in this case, the exemption u/s 54EC can be availed only to the extent of Rs. 50 lacs provided the investment is made before 1.11.2019 (i.e., within 6 months from the date of transfer).

CAPITAL GAIN ON TRANSFER OF ANY LONG-TERM CAPITAL ASSET OTHER THAN RESIDENTIAL HOUSE PROPERTY [SECTION 54F]

Eligible assessee	Individual & HUF
Which asset shall be transferred	Transfer of LTCA other than Residential House Property. Thus, Transfer of Vanact Plot of Land → Eligible for Exemption. Provided that assessee should not own more than 1 Residential House on the date of transfer (except the newly acquired house property).
Which asset is acquired	ONE Residential House Property in India
Time limit for acquiring New asset	Assessee should either <ul style="list-style-type: none"> ▪ Purchase: <u>Within 1 year</u> before transfer or within <u>2 years after</u> transfer. ▪ Construct: <u>Within 3 years</u> from the date of transfer.
Quantum of Exemption	Proportionate Exemption. Thus, to get the exemption of amount of capital gains, the whole amount of sale consideration shall be invested. = Amount invested in new residential house × $\frac{\text{LTCG}}{\text{Net sale consideration}}$

Withdrawal of Exemption	<ul style="list-style-type: none"> ▪ If the new house is transferred within 3 years from the date of acquisition. ▪ If assessee purchases another residential house within 2 years from the date of transfer of original asset. ▪ If assessee completes construction of another residential house in India/outside India within 3 years from the date of transfer of original asset.
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CQ31. Compute the taxable capital gains of Mr. D for AY 2022-23. CII are as follows: FY 2004-05: 113

Cost of jewellery [Purchased in FY 2001-2002]	Rs. 5,00,000
Sale price of jewellery sold in January 2022	Rs. 20,20,000
Expenses on transfer	Rs. 15,000
Residential house purchased in March 2022	Rs. 6,00,000

Solution: **Computation of taxable capital gains for AY 2022-23**

Particulars	Rs.
Gross consideration	Rs. 20,20,000
Less: Expenses on transfer	(Rs. 15,000)
Net consideration	Rs. 20,05,000
Less: Indexed COA (Rs. 5,00,000 × 317/100)	(Rs. 15,85,000)
Long term Capital Gains	Rs. 4,20,000
Less: Exemption u/s 54F (Rs. 6,00,000 × Rs. 4,20,000/ Rs. 20,05,000)	(Rs. 1,25,686)
Taxable Long-term Capital Gains	Rs. 2,94,314

CQ32. Mr. Ramesh submits you the following particulars:

Capital asset	DOA	COA	FMV as on 1.4.2001	Date of sale	Sale Price
Urban Agricultural land	5.06.1999	90,000	1,80,000	16.08.2021	30,00,000
Rural Agricultural land	5.05.2002	1,80,000	-	17.10.2021	21,60,000
Listed Shares	6.08.2018	1,08,000	-	5.07.2021	1,44,000
Gold	7.09.1995	90,000	81,000	6.03.2022	12,00,000
Residential House	9.07.1984	54,000	10,80,000	1.03.2022	35,00,000

He deposited Rs. 9,20,000 on 25.06.2022 in CGAS as he intends to buy Agricultural Land later. Out of sale proceeds of gold, he purchased residential house property of Rs. 6,00,000 on 15.05.2022. Compute capital gain for AY 2022-23.

Solution:

	Urban Agri land	Rural Agri Land	Listed Share	Gold	House Property
Sale Consideration	30,00,000	Not a Cap. Asset	1,44,000	12,00,000	35,00,000
Less: Indexed COA /COA	(5,70,600) [1.8L × 317/100]	NA	(1,08,000)	(2,85,300) [90,000 × 317/100]	(34,23,600) [10.8L × 317/100]
LTCG	24,29,400	Exempt	-	9,14,700	76,400
STCG	-	-	36,000	-	-
Less: Capital Gain Exempt u/s 54 Series					
u/s 54B	(9,20,000)	-	-	-	-
u/s 54F	-	-	-	(4,57,350)	-
Taxable LTCG	15,09,400	NA	-	4,57,350	76,400
STCG u/s 111A	-	-	36,000	-	-

PC Note: Exemption u/s 54F (Proportionate Exemption) = Rs. 9,14,700 × 6L/12L = Rs. 4,64,550.

CAPITAL GAINS ACCOUNT SCHEME (CGAS)

Scheme of deposit	<ul style="list-style-type: none"> ▪ For Section 54, 54B, 54D, 54F, Capital Gain is exempt to the extent of Investment of 'Capital gains/Net Sale Consideration' (for 54F) in specified assets within specified time limit. ▪ If such Investment is not made before DD of filing of ROI, then Capital Gain/Net sale consideration (for 54F) has to be deposited under the CGAS to get exemption.
Time limit for acquiring new asset	<ul style="list-style-type: none"> ▪ Such deposit in CGAS should be made before filing ROI or before DD of filing ROI, whichever is earlier. ▪ Proof of such deposit should be attached with the return. ▪ Deposit can be withdrawn for the specified purposes.
Consequences of non-utilization	<ul style="list-style-type: none"> ▪ If the amount deposited is not utilized for specified purpose within stipulated period, then unutilized amount shall be charged as capital gain of the PY in which specified period expires. <u>For Sec 54F, Proportionate Amount will be Taxable.</u> ▪ If Individual dies before the stipulated period, unutilized amount is not taxable in the hands of legal heirs of deceased individual because such unutilized amount is not income but is a part of the estate devolving upon them.

EXTENSION OF TIME FOR ACQUIRING NEW ASSET OR MAKING DEPOSIT IN CAPITAL GAIN ACCOUNT SCHEME [SEC 54H]

- In case of compulsory acquisition of original asset, time limit for acquiring new asset/making deposit in CGAS is considered from date of receipt of compensation & not from date of transfer.
- For **Determination of Year of Chargeability of Capital Gain**: Whole Capital gain is taxable in the PY in which 1st Instalment of Compensation is received.
 But for Determining Time Limit for Acquiring the Asset, Dates of Receipt of different Instalments shall be considered.

REFERENCE TO VALUATION OFFICER [SEC 55A]

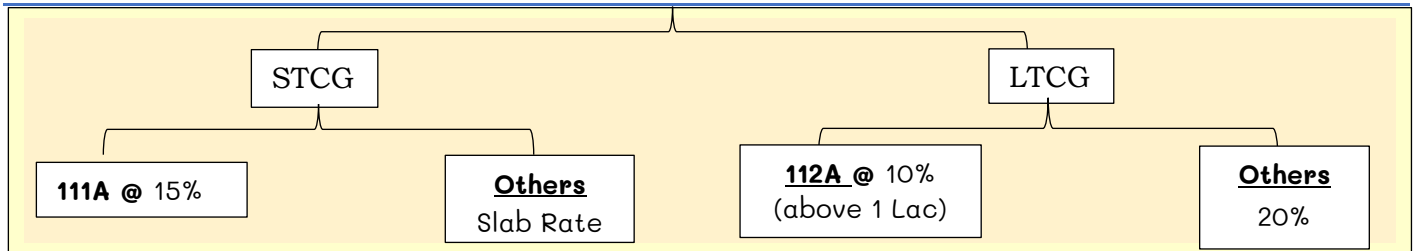
AO may refer valuation officer with a view to ascertain FMV of a capital asset in following cases:

- (i) Where the value of the asset claimed by the assessee is in accordance with valuation made by the registered valuer, but AO is of the opinion that value so claimed is less than FMV of the Asset.
 - AO can make a reference to VO in cases where FMV is taken to be sale consideration.
 - If FMV on 1.4.2001 is taken as COA, AO can make a reference to VO if he is of the view that there is any variation between FMV on 1.4.2001 claimed by assessee & FMV on that date.
- (ii) Where the AO is of the opinion that FMV of the asset exceeds the value claimed **by**
 - **More than 15% of the value claimed** by the assessee or **Rs. 25,000 (whichever is less).**
- (iii) Where AO thinks that it is necessary to do so having regards to the nature of asset & relevant circumstances.

CAPITAL GAIN ON CONVERSION OF LLP INTO GENERAL PARTNERSHIP

- Since the tax treatment of LLP & general partnership is same, conversion from a general Partnership firm to LLP will have no tax implications if the rights & obligations of the partners remain same after conversion & if there is no transfer of any asset or liability after conversion.
- However, if there is a change in rights & obligations of partners or there is a transfer of asset or liability after conversion, then the provisions of section 45 would get attracted.

RATE OF TAX ON CAPITAL GAINS



A. SHORT- TERM CAPITAL GAINS [STCG]

1 **STCG u/s 111A: Taxable @ 15%**

- STCG on transfer of –
 - Equity shares
 - units of EOMF (i.e., a fund set up under a scheme of mutual fund specified u/s 10(23D) or under a scheme of an insurance company comprising ULIPs issued on/after 1.02.2021, to which exemption u/s 10(10D) does not apply on account of
 - (i) premium payable exceeding Rs. 2,50,000 for any of the PYs during the term of such policy; or
 - (ii) aggregate amount of premium exceeding Rs. 2,50,000 in any of the PYs during the term of any such ULIP(s) where premium is payable by person for more than 1 ULIP issued on/after 1.2.2021.
 on which STT is paid → Taxed @ 15%.
- **Benefit of UNEXHAUSTED BEL** will be **available** for **Resident Individual/HUF**.
- **No deduction under Chapter VI-A** against STCG taxable u/s 111A.
- STCG arising on transactions undertaken in foreign currency on RSE located in International Financial Services Centre is taxable @ 15% even if STT is not leviable on such transactions.

2 **Other STCG**

STCG **other than Section 111A** are treated as **Normal Income** & will be taxed @ Slab Rate along with Other Incomes.

LONG-TERM CAPITAL GAINS [LTCG]

1 **LTCG u/s 112A** **[Taxable @ 10% on LTCG exceeding Rs. 1 Lac]**

- LTCG on transfer of –
 - **Equity shares**
 - **units of EOMF** (i.e., a fund set up under a scheme of mutual fund specified u/s 10(23D) or under a scheme of an insurance company comprising ULIPs issued on/after 1.02.2021, to which exemption u/s 10(10D) does not apply on account of
 - (i) premium payable exceeding Rs. 2,50,000 for any of the PYs during the term of such policy; or
 - (ii) aggregate amount of premium exceeding Rs. 2,50,000 in any of the PYs during the term of any such ULIP(s) where premium is payable by person for more than 1 ULIP issued on/after 1.2.2021.
 on which **STT is paid** → **Taxed @ 10% above Rs. 1 Lacs.**
- Benefit of UNEXHAUSTED BEL will be available for **Resident Individual/HUF**.
- **No deduction under Chapter VI-A** against STCG taxable u/s 112A.
- **Rebate u/s 87A** → **Not Available against LTCG taxable u/s 112A.**

- LTCG arising on transactions undertaken in foreign currency on RSE located in International Financial Services Centre is taxable @ 10% even if STT is not leviable on such transactions.

PC Note:

1. Equity share → STT is to be paid on acquisition & transfer of such capital asset.
2. Units of EOMF/Business Trust → STT is to be paid on transfer of such capital asset.

2 OTHER LTCG: Taxable @ 20%

- No deduction under Chapter VI-A is available against LTCG.
- **Resident Individual & HUF** → **20%**. Benefit of Unexhausted BEL is available.
- **Other Person & Domestic Company** → **20%**. No Benefit of Unexhausted BEL.
- **Foreign company/ Non-corporate Non-Resident:**

LTCG on unlisted securities or shares in Private company	10% without Indexation & currency fluctuations under 1 st proviso to sec 48.
Other Assets	20%

❖ LTCG arising from transfer of Listed Securities (other than units) & ZCBs

- Assessee will have the option to pay tax @ 10% without Indexation.

PC Note: LTCG on transfer of units & unlisted securities are not eligible for concessional rate of tax @ 10% (without indexation benefit). Therefore, such LTCG is taxable @ 20% (with indexation benefit).

❖ What about Debt-oriented MF or unlisted securities?

- LTCG on transfer of units of debt-oriented MF & unlisted Securities are not eligible for concessional rate of 10% (without indexation benefit). Thus taxable @ 20% with indexation.

Benefit of UNEXHAUSTED BEL from LTCG & STCG u/s 111A to Resident Individual/HUF

- ❖ We know that entire LTCG is taxable @ 20% & STCG u/s 111A @ 15% without any exemption.
- ❖ But in case of **Resident Individual/HUF**, benefit of BEL is available if BEL is unexhausted.
- ❖ Unexhausted BEL means: taxable income (excluding LTCG) is less than the BEL.
- ❖ In such case, the **shortfall*** shall be deducted from LTCG/STCG u/s 111A as the case may be.
- ❖ **Shortfall = BEL - (Taxable income - LTCG).**

Space for PC Class Note:

CQ33. Calculate the Income Tax Liability for AY 2022-23 in following cases:

Particulars	A (Age 45)	B (Age 62)	C (Age 81)	D (Age 82)
Status	Resident	NR	Resident	NR
Income other than LTCG	2,40,000	2,80,000	5,90,000	4,80,000
LTCG	15,000 [Sale of Vacant site]	10,000 [Sale of listed Shares (STT paid)]	60,000 [Sale of Rural Agricultural land]	Nil

Solution:

Computation of Income Tax Liability for AY 2022-23

Particulars	A (Age 45)	B (Age 62)	C (Age 81)	D (Age 82)
Residential Status	Resident	NR	Resident	NR
BEL	Rs. 2,50,000	Rs. 2,50,000	Rs. 5,00,000	Rs. 2,50,000
Asset sold	Vacant site	Listed shares	Rural Agro. land	-
LTCG	Rs. 15,000 [Taxable @ 20%]	Rs. 10,000 [Not taxable since < 1 L]	Rs. 60,000 [Exempt – Not CA]	-
Other income	Rs. 2,40,000	Rs. 2,80,000	Rs. 5,90,000	Rs. 4,80,000
Tax on LTCG (After Adjusting BEL)	Rs. 1,000 (15,000 – 10,000) × 20%	-	-	-
On Other Income	Nil	Rs. 1,500	Rs. 18,000	Rs. 11,500
Less: Rebate u/s 87A	Rs. 1,000	NA (since NR)	-	NA (since NR)
Tax Payable	Nil	Rs. 1,500	Rs. 18,000	Rs. 11,500
Add: HEC @ 4%	Nil	Rs. 60	Rs. 720	Rs. 460
Total Tax Liability	Nil	Rs. 1,560	Rs. 18,720	Rs. 11,960

Notes:

1. Since Mrs. B & Mr. D are non-residents, they cannot avail the higher basic exemption limit of Rs. 3,00,000 & Rs. 5,00,000 for persons over the age of 60 years & 80 years, respectively.
2. Since Mr. A is a resident whose total income does not exceed Rs. 5,00,000, he is eligible for rebate of Rs. 12,500 or the actual tax payable, whichever is lower, u/s 87A.
3. No rebate u/s 87A is available to Non-Resident (Mr. D).

SOME CLARIFICATIONS REGARDING SECTION 112A

Q1. What is the point of chargeability of the tax?

Answer: Tax will be levied only upon transfer of specified LTCA on or after 1st April 2018.

***Q2.** How do we determine the cost of acquisition for assets acquired on or before 31st Jan 2018?

Answer: COA of LTCA specified u/s 112A acquired before 1st Feb 2018 shall be Higher of (a) or (b)

(a) Cost of Acquisition or

(b) Lower of (i) FMV of such asset or (ii) Actual Sale consideration.

Alternative Explanation as given in study material

[Answer will be same]

- Cost of acquisition for specified LTCA acquired on/before 31st Jan 2018 → Actual cost.
- But if Actual cost < FMV of such asset on 31st Jan 2018 → FMV on 31st Jan 2018 = COA.
- Further, if FVC on transfer < FMV, then Higher of (i) FVC or (ii) Actual COA will be deemed as COA.

Ex: An equity share is acquired on 1st of Jan 2017 at Rs.100; its FMV is Rs. 200 on 31st Jan 2018 & it is sold on 1st April 2018 at Rs. 250. As the actual cost of acquisition < FMV on 31st Jan 2018, FMV of Rs. 200 will be taken as the cost of acquisition & the long-term capital gain will be Rs. 50 (Rs. 250 – Rs. 200).

Ex: An equity share is acquired on 1st Jan 2017 at Rs. 100, its FMV is Rs. 200 on 31st Jan 2018 & it is sold on 1st April 2018 at Rs. 150. In this case, actual cost of acquisition < FMV on 31st Jan 2018. However, sale value is also < FMV on 31st Jan 2018. Thus sale value of Rs. 150 will be taken as cost of acquisition & LTCG = NIL (Rs.150 – Rs.150).

Ex: An equity share is acquired on 1st Jan 2017 at Rs. 100, its FMV is Rs. 50 on 31st Jan 2018 & it is sold on 1st April 2018 at Rs. 150. In this case, FMV on 31st Jan 2018 < Actual cost of acquisition & thus actual cost of Rs. 100 will be taken as actual cost of acquisition & LTCG will be Rs. 50 (Rs. 150 – Rs. 100).

Ex: An equity share is acquired on 1st Jan 2017 at Rs. 100, its FMV is Rs. 200 on 31st Jan 2018 & it is sold on 1st April 2018 at Rs. 50. In this case, actual cost of acquisition < FMV on 31st Jan 2018. Sale value < FMV on 31st Jan 2018 & also the actual cost of acquisition. Therefore, the actual cost of Rs. 100 will be taken as the cost of acquisition in this case. Hence, the long-term capital loss will be Rs. 50 (Rs. 50 – Rs. 100) in this case.

Q3. Whether the cost of acquisition will be inflation indexed?

Answer: No Indexation of Cost of acquisition.

Q4. What will be the tax treatment of transfer made on or after 1st April 2018?

Answer: LTCG > Rs. 1 Lacs arising from transfer of these assets made on after 1st April, 2018 will be taxed at 10%. However, there will be no tax on gains accrued upto 31st January, 2018.

Q5. Whether tax will be deducted at source in case of gains by resident tax payer?

Answer: No. There will be no deduction of tax at source from the payment of LTCG to a resident tax payer.

Q6. What will be the cost of acquisition in the case of bonus shares acquired before 1st February 2018?

Answer: CoA of bonus shares acquired before 31st January, 2018 will be determined as per section 55(2)(ac). Therefore, FMV of bonus shares as on 31st January, 2018 will be taken as cost of acquisition (except in some typical situations explained in Ans 5), & hence, the gains accrued upto 31st January, 2018 will continue to be exempt.

Q7. What will be the cost of acquisition in the case of right share acquired before 1st February 2018?

Answer: CoA of right share acquired before 31st January, 2018 will be determined as per section 55(2)(ac). Therefore, FMV of right share as on 31st Jan 2018 will be taken as cost of acquisition (except in some typical situations explained in Ans 5), & hence, the gains accrued upto 31st January, 2018 will continue to be exempt.

Q8. What will be the treatment of long-term capital loss arising from transfer made on or after 1st April, 2018?

Answer: LTCL arising from transfer made on or after 1st April, 2018 will be allowed to be set-off & carried forward in accordance with existing provisions of the Act. Therefore, it can be set-off against any other LTCG & unabsorbed loss can be carried forward to subsequent eight years for set-off against LTCG.

CHAPTER 7. INCOME FROM OTHER SOURCES

BASIS OF CHARGE [SECTION 56]

- Every Income which is not taxable under any other heads of Income is taxable u/h IFOS.
- Such Income should not be Exempt from Tax. (i.e it is taxable in the hands of assessee).
- **IFOS is Residuary Head of Income** & brings within its scope all the taxable incomes which fall outside the scope of all other 4 heads of Income.

RELEVANCE OF METHOD OF ACCOUNTING

- Income chargeable u/h IFOS has to be computed in accordance with Method of Accounting regularly employed by the assessee.
- If assessee follows cash system of accounting, income shall be taxed on cash basis.
- If assessee follows mercantile method of accounting, income shall be taxed on accrual basis.

PC Note: However, Deemed Dividend u/s 2(22)(e) is taxable on Payment Basis u/s 8.

FOLLOWING INCOMES ARE GENERALLY TAXABLE U/H 'IFOS'

▪ Dividends Except Dividend u/s 115-O	▪ Interest on Income Tax Refunds.
▪ Casual & Non-Recurring Income	▪ Winnings from Lotteries, Puzzles, Horse Races, Card Game etc.
▪ Income from Undisclosed Sources	▪ Rent from vacant piece of Land (Ground Rent)
▪ Income from Agricultural Land OUTSIDE India	▪ Income from Sub - Letting of House Property
▪ Remuneration received by MPs/MLAs	▪ Examination Fees received by Teacher from the Non-Employer.
▪ Director's Sitting Fee	▪ Director's Commission from bank for Guarantee
▪ Gratuity received by Director (Not as Employee)	▪ Director's Commission for Underwriting shares.
▪ Interest on Employees Contribution from URPF	▪ Family Pension received by family of Deceased Person. [Check Section 57]
▪ Interest received on Compensation for Compulsory Acquisition by Government of India.	
▪ Compensation or any other payment received in connection with termination of his employment or the modification of the terms & conditions of the employment [Section 56(2)(xi)]	

FOLLOWING INCOMES ARE TAXABLE U/H 'IFOS' IF NOT TAXABLE U/H 'PGBP'

- **Interest on securities & Interest on Bank Deposits/Deposits with Companies.** [Discussed Later]
- Employee Contribution to PF/SAF etc. received by Employer [If not remitted before Due Date]
- Income from letting out on hire Plant, Machinery, Furniture.
- Income from letting out → When letting of buildings is inseparable from letting of P&M/furniture.
- **Sum received from Keyman Insurance Policy including Bonus** if received by any person **other than employer & employee.**
- **Insurance Commission.**
- Income from Royalty.

DIVIDEND [SECTION 56(2)(i)]
Basis of Charge of Dividend

- Dividends received from any company (domestic/foreign) is **taxable at normal rates of tax** (slab rates) in the hands of **shareholder**.

PC Note: Dividends are always taxable u/h IFOS [whether shares are held as SIT or as Investment].

- Any income received i.r.o -**

- (a) units from the Administrator of the specified undertaking, or
- (b) the specified company, or
- (c) a Mutual Fund specified u/s 10(23D) **shall also be taxable in the hands of shareholders.**

Nature of Dividend	Year of Taxability
Normal Dividend	Year of Declaration
Deemed Dividend	Year of Distribution/Payment
Interim Dividend	Year in which dividend is unconditionally made available to shareholders

PC Note: Method of Accounting employed by the assessee is irrelevant in case of taxability of Dividends since Section 8 specifically give the basis of charge of Dividend Income.

PC Note: Dividend declared by Indian company outside India → Deemed to accrue/arise in India.

DEEMED DIVIDEND [Section 2(22)]

- ❖ These Payments are not dividend in reality, but for the purpose of Income tax, they are deemed as dividend so as to check tax avoidance.
- ❖ Following Payments/Distribution by the company to its shareholders are treated as Dividend **to the extent of ACCUMULATED PROFITS** of the company.

(a) Distribution of Accumulated Profit by the company to its shareholders resulting into Release of Company's Asset

- There should be **distribution** from **accumulated profits** of the company whether capitalised or not & not from capital.
- Such distribution must result in the **release of company's asset** (In cash/kind).

PC Note: In case of issue of bonus shares to equity shareholders → No Assets are released since it is capitalization of profit & thus it is not deemed as dividend.

CQ1. PCA Educator Ltd. has accumulated profits of Rs. 9 Lacs excluding capitalized profits i.e. bonus shares of Rs. 6 Lac issued in the past. It distributed assets of Rs. 15 Lacs to the shareholders during PY 2021-22. Compute taxable dividend if market value of the asset on the date of the distribution is Rs. 10 Lacs.

What will be your answer if market value of the distributed assets is (ii) Rs. 14,00,000; (iii) Rs. 17,00,000.

Answer: Deemed dividend shall be taxable in the hands of shareholders proportionate to their shareholding. Shareholders shall be liable to pay tax on FMV of the asset on the date of distribution subject to the maximum extent of accumulated profits, whether capitalized or not. Thus, deemed dividend to be taxed proportionately in the hands of the shareholders = Rs. 10 Lacs.

(ii) Rs. 14 Lacs;

(iii) Rs. 15 Lacs (accumulated profits including capitalized profit i.e bonus shares).

(b) Distribution of Accumulated profit by company in the form of Debentures/Debentures stock or Bonus shares to Preference Shareholders

Any distribution by a company of:

- **Bonus Debentures/Debenture Stock** → to any shareholders;
- **Bonus shares** → to Preference shareholders. [No Dividend if given to Equity Shareholders]

PC Note: In this clause, Release of asset is not necessary.

Taxable Amount: Bonus shares/Debenture: FMV is taxable in the hands of shareholders.

CQ2. Mr. X is holding 100 preference share in ABC Ltd. Company has issued him 100 bonus shares having market value of Rs. 1,200. Rs. 1,200 will be deemed as dividend to the extent of accumulated profits.

(c) Distribution of accumulated profit at the time of liquidation

- Any distribution by the company on liquidation shall be deemed as dividend to the extent of accumulated profit (Capitalized/not) **immediately before its liquidation.**

PC Note: Distribution made out of Profits after Liquidation → Repayment towards capital.

(d) Distribution on Reduction of Share Capital by the Company

- Any distribution by the company on Reduction of its share capital to the extent of Accumulated profits (whether capitalized or not) is deemed as Dividend.

CQ3. Mr. X is holding 1000 shares of ABC Ltd. of Rs. 10 each & company has reduced its share capital & has refunded Rs. 5 per share to the shareholders, the amount so received by the shareholders shall be considered to be dividend to the extent of accumulated profit.

(e) Distribution of Accumulated Profits by way of Loan/Advance

Any payment by **Closely held company** by way of **Advance/Loan** to:

1. **Shareholders** beneficially holding at least **10% Equity shares** in the company.
2. **Any Person** on behalf of such **shareholders**/for benefit of such shareholder.
3. **Any Concern** in which such shareholder has **substantial interest** (atleast **20% shares**)
4. Any **Concern** in which such shareholder is **Member/Partner**.

CQ4. ABC Pvt. Ltd. a closely held company has general reserves of Rs. 7 lacs & current profits of Rs. 2 lacs. The company has given a loan of Rs. 3 lacs to one such shareholder Mr. X. in this case, it will be considered to be dividend in the hands of Mr. X. However, if loan given by the company is Rs. 10 Lacs, dividend will be Rs. 9 lacs.

Exception to Section 2(22)(e)

1. Money lending is **substantial business** of company & loan is given in **ordinary course of business.**
2. **Set-off of Dividend** → Where any payment (loan) has been treated as dividend & subsequently company declares dividend & dividend so paid is adjusted (set-off) by the company **against the previous borrowing**, adjusted amount will not be again treated as a dividend.

CQ5. PCA Educators Pvt. Ltd gave a loan of Rs. 5,00,000 to Mr. Shubham who had 10% shares in the company. The loan is still outstanding. Thereafter, company declared dividend & has to pay a dividend of Rs. 1,00,000 to Mr. Shubham & such dividend is set off against such loan. In such case, Rs. 5,00,000 shall be deemed dividend as per section 2(22)(e). However, dividend of Rs. 1,00,000 which has been set off against such loan would not be liable to tax in the hands of Mr. Shubham.

If the amount distributed as dividend is not set off against the loan, shareholder shall be liable to pay tax on such amount paid also.

Further, if such dividend has been declared after the loan is refunded by Mr. Shubham, then he would be liable to pay tax on dividend of Rs. 1,00,000.

Following Payments shall not be treated as Deemed Dividend:

- (a) Payment on Buy-back of shares.
- (b) Dividend does not include any distribution of shares in the scheme of Demerger.
- (c) **Trade Advances** in the nature of commercial transactions → **Not a Deemed Dividend**.

CQ6. Rahul holding 28% of equity shares in a company, took a loan of Rs. 5 lacs from the same company. On the date of granting loan, company had accumulated profit of Rs. 4 lacs. Company is engaged in some manufacturing activity.

- (i) Is the amount of loan taxable as deemed dividend in the hands of Rahul, if the company is a company in which the public are substantially interested?
- (ii) What would be your answer, if the lending company is a private limited company (i.e. a company in which the public are not substantially interested)? **[ICAI SM Q1]**

Solution:

Any payment by a company, other than a company in which the public are substantially interested, of any sum by way of advance or loan to an equity shareholder, being a person who is the beneficial owner of shares holding not less than 10% of the voting power, is deemed as dividend u/s 2(22)(e), to the extent the company possesses accumulated profits.

- (i) Provisions of section 2(22)(e), however, will not apply where the loan is given by a company in which public are substantially interested. In such a case, the loan would not be taxable as deemed dividend in the hands of Rahul.
- (ii) However, if the loan is taken from a private company (i.e. a company in which the public are not substantially interested), which is a manufacturing company & not a company where lending of money is a substantial part of the business of the company, then, the provisions of section 2(22)(e) would be attracted, since Rahul holds more than 10% of the equity shares in the company.

Amount chargeable as deemed dividend cannot, however, exceed the accumulated profits held by the company on the date of giving the loan. Therefore, amount taxable as deemed dividend in the hands of Rahul would be limited to accumulated profit (Rs. 4 lacs) & not the amount of loan (i.e. Rs. 5 lacs).

MEANING OF ACCUMULATED PROFITS
[To be Read Once]

1. It includes all profits upto the date of Distribution/Liquidation (if company is in liquidation).
2. **Accumulated profit includes capital profits (Bonus shares issued) only for clause [a-d] & not for clause 'e'**. Thus, **Capitalized profit is not considered for Section 2(22)(e)**.
3. It includes tax-free Income (Agricultural Income). However capital receipts are included in accumulated profits only if they are taxable u/h "Capital Gains" in the hands of recipient company.
4. Does not include Provision for taxation/dividend, depreciation reserves (provisions for outsiders)
5. If Government/Government company has compulsorily acquired the company → Accumulated profits do not include any profits prior to 3 successive PYs immediately preceding the PY of compulsory acquisition.
6. In case of Amalgamated company → Accumulated Profits of amalgamating company on date of amalgamation shall be included in accumulated profits of amalgamated company.

CASUAL INCOMES (WINNING FROM LOTTERY etc.) [Section 56(2)(ib)]

- It includes casual income in the nature of winning from lotteries, crossword puzzles, horse races, card games & other games of any sort, gambling, betting etc.
- Taxable @ **30% + SC (if any) + 4% HEC on tax u/s 115BB**.
- **No deduction for any Expenditure** is allowed from such income.
- Deduction under **Chapter VI-A is not allowable** from such income.
- Adjustment of **unexhausted BEL is not permitted** against casual income.

INTEREST RECEIVED ON SECURITIES [Section 56(2)(id)]

- Securities held as Investment → Interest from such securities is taxable u/h IFOS.
- Securities held as **Stock in Trade** → Interest from such securities is taxable u/h PGBP.

Grossing up of Winning from Lottery/Interest on securities

- If net amount is given, then it shall be grossed up. Tax will be levied on Gross Income.
- **Gross amount** = $\frac{\text{Net amount}}{[1 - \text{Tax Rate}]}$

Exceptions: Following Interest Income would be EXEMPT u/s 10(15):

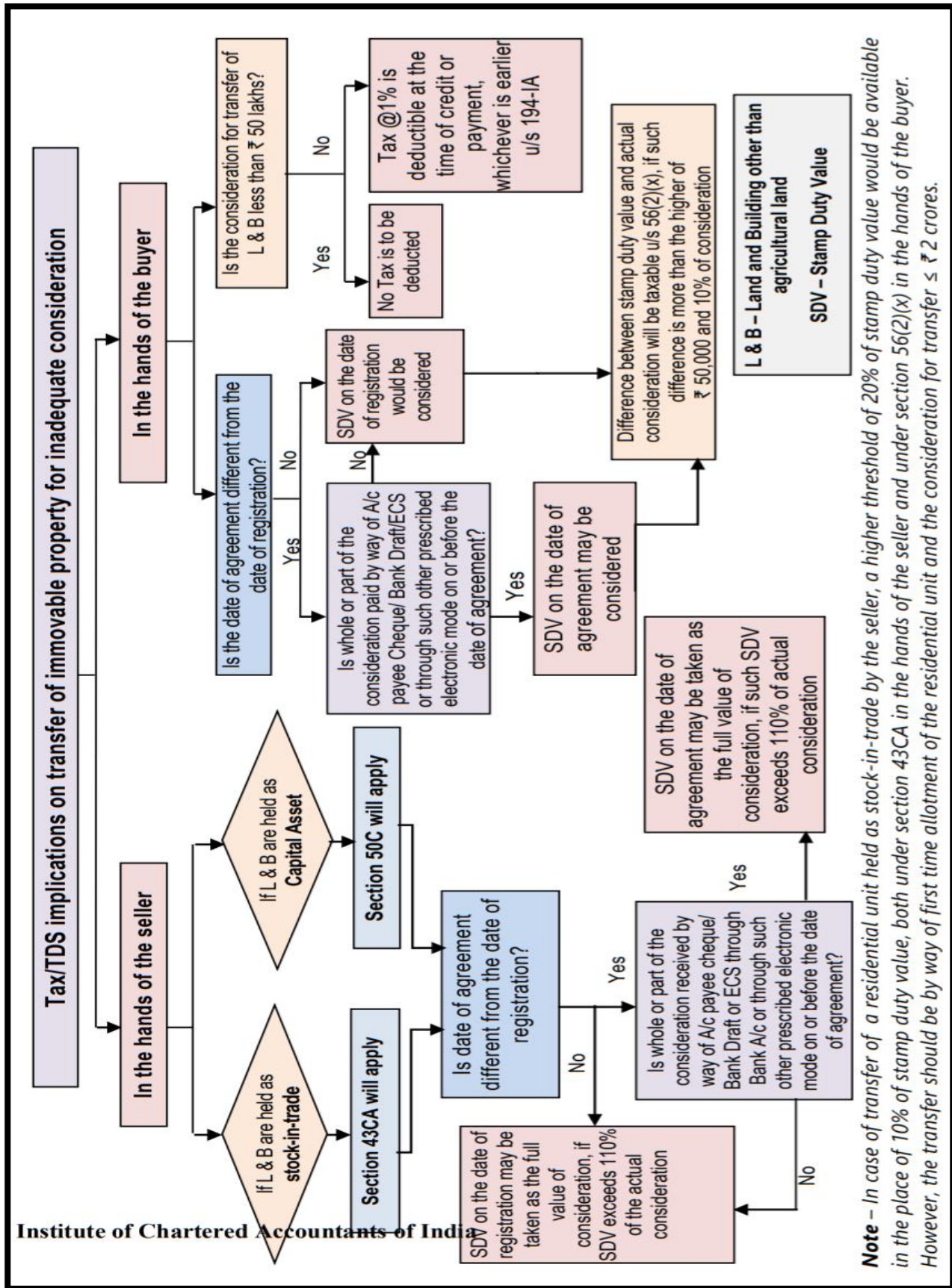
(a)	Interest on Post Office Savings Bank Account is exempt from tax only to the extent of: Individual A/c → Rs. 3,500; Joint A/c → Rs. 7,000.
(b)	Interest payable to any foreign bank on deposit made by it with scheduled bank (with RBI approval)
(c)	Interest payable by: <ul style="list-style-type: none"> (i) Public sector companies on bonds/debentures notified by CG in the official gazette. Interest from the following bonds is Exempt: India Infrastructure Company Ltd & tax-free Bonds of Indian Railway Finance Corporation Ltd. (IRFCL), NHAI, RECL, Housing & Urban Development Corporation Ltd. (HUDCL), Power Finance Corporation (PFC), Jawaharlal Nehru Port Trust, Dredging Corporation of India Limited, Ennore Port Limited & Indian Renewable Energy Development Agency Limited. (ii) GOI on deposit made by employee of CG/SG/Public sector company in accordance with notified scheme of moneys due to him on account of his retirement.
(d)	Bhopal Gas Victims: Interest on deposits made for benefit of victims of Bhopal Gas Disaster in account with RBI or any public sector bank notified by CG → Exempt u/s 10(15).
(e)	Interest on Gold Deposit Bond /Certificates issued u/s Gold Monetization Scheme, 2015.
(f)	Interest on bonds issued by (a) Local authority; (b) State Pooled Finance Entity notified by CG. Interest from "Tax-Free Pooled Finance Development Bonds" → Exempt u/s 10(15).
(g)	Interest received by NR/RNOR from deposit in Offshore Banking Unit referred u/s 2(u) of SEZ Act, 2005 made on/after 1.4.2005.
(h)	Interest receivable by NR from unit located in IFSC i.r.o moneys borrowed by it on/after 1.9.2019.

Interest from non-SLR Securities of Banks: Whether chargeable u/h PGBP or IFOS?

- Investments made by banking concern are part of business of banking.
- Thus, income arising from such investments is attributable to business & thus fall u/h PGBP.
- Therefore, expenses relating to investment in non-SLR securities → Allowed as deduction u/s 57(i).

RECEIPT OF MONEY OR PROPERTY BY INDIVIDUAL OR HUF FOR INADEQUATE CONSIDERATION or WITHOUT CONSIDERATION [SECTION 56(2)(x)] → [GIFT]

1	Applicability of Section 56(2)(x)	
	<ul style="list-style-type: none"> Section 56(2)(x) would apply only if Gift (Property) received is a Capital asset for recipient. It would not apply the property received is SIT/RM/CS of the recipient. Thus, only transfer of capital asset for inadequate/without consideration would attract sec 56(2)(x). 	
2	Taxability	
SN	Nature of Gift	Taxability in the hands of Recipient
1	Cash/Cheque/Draft (All Transactions)	If Total Amount of Money received from one or more person during a PY > Rs. 50,000 → Whole Amount of Money received is Taxable
	PC Note: If Money received is less than Rs. 50,000 → Nothing will be taxable.	
2	Receipt of MOVABLE PROPERTY (All Transactions)	
	Free (Without Consideration)	If Aggregate FMV of all Movable properties received > Rs.50,000 → Whole amount of FMV of Movable Properties received is taxable.
	Concessional	If Aggregate Discount on all Movable properties received > Rs.50,000 → then Total Discount received is taxable.
	PC Note: If Value/Discount received is less than Rs. 50,000 → Nothing will be taxable.	
3	Receipt of IMMOVABLE PROPERTY (Single Transactions)	
	Free	If SDV > Rs. 50,000 → Whole SDV is taxable.
	Concessional	If Discount > Higher of (i) Rs. 50,000 or (ii) 10% of Consideration → Discount is taxable.
3	FOLLOWING GIFTS ARE NOT TAXABLE IRRESPECTIVE OF THEIR AMOUNT	
	While calculating the above limit of Rs 50,000, following amount shall not be considered.	
	<ul style="list-style-type: none"> Gifts from Relatives On occasion of marriage. Under a Will/ By Inheritance Gift received by a trust from Individual. (Trust must be created for benefit of relative of individual) Transaction not regarded as transfer u/s 47(i)/(iv)/(v)/(vi)/(vib)/(vid)/(vii). ✓ Transfer b/w HC & its WOS; or Transfer b/w subsidiary company & its 100% Indian HC. 	<ul style="list-style-type: none"> In Contemplation of Death of the payee/donor. From Local Authority. From Registered Charitable trust referred u/s 10(23C).
4	MEANING OF RELATIVES	
For Individual	<ul style="list-style-type: none"> Spouse/Brother/Sister of the individual. Brother/Sister of the Spouse of the individual. Brother/sister of either of the parents of the individual. Any lineal ascendant or descendant of the individual & spouse of the individual. Spouse of any of the persons referred to above. 	
For HUF	Any Member of HUF	
	PC Note: Which Value is to be considered if DOA & DOR are different: Refer Capital Gains.	



- CQ7.** Mr. A, a dealer in shares, received the following without consideration during PY 2021-22 from a friend B:
- Cash gift of Rs. 75,000 on his marriage, 15th April, 2021.
 - Bullion, the FMV of which was Rs. 60,000, on his birthday, 19th June, 2021.
 - A plot of land at Faridabad on 1st July, 2021; SDV is Rs. 5 lacs on that date. Mr. B had purchased it in April, 2020.
 - Mr. A purchased from his friend Mr. C, who is also a dealer in shares, 1000 shares of X Ltd. @ Rs. 400 each on 19th June, 2021, FMV of which was Rs. 600 each. Mr. A sold these shares in the course of his business on 23rd June, 2021.
 - On 1st Nov 2021, Mr. A took possession of building booked by him two years back at Rs. 20 lacs. SDV of the property as on 1st Nov 2021 was Rs. 32 lacs & on the date of booking was Rs. 23 lacs. He had paid Rs. 1 lac by A/c payee cheque as down payment on the date of booking.

On 1st March, 2022, he sold the plot at Faridabad for Rs. 7 lacs.

Compute the income of Mr. A chargeable u/h "IFOS" & "Capital Gains" for AY 2022-23

[ICAI SM Q3]

Solution: **Computation of "Income from other sources" of Mr. A for AY 2022-23**

SN	Particulars	Rs.
(i)	Cash gift since received on occasion of his marriage, it will not be taxable even if > Rs. 50,000.	Nil
(ii)	Since bullion is included in the definition of property, therefore, when bullion is received without consideration, it is taxable since the aggregate FMV > Rs. 50,000	60,000
(iii)	SDV of plot of land at Faridabad, received without consideration, is taxable u/s 56(2)(x)	5,00,000
(iv)	Shares of X Ltd. purchased from Mr. C, a dealer in shares, is not taxable as it is SIT of Mr. A.	-
(v)	Difference b/w SDV on date of booking of Rs. 23 lacs & ASC of Rs. 20 lacs paid is taxable u/s 56(2)(x) since difference > Rs. 1 lac [being higher of Rs. 50,000 & 10% of consideration].	3,00,000
PC Note: SDV on date of booking is taken since Rs. 1 lac was paid by A/c payee cheque on the date of booking.		
Income from other Source		9,35,000
Computation of "Capital Gains" of Mr. A for AY 2022-23		
Particulars		Rs.
Sale Consideration		7,00,000
Less: COA [deemed to be SDV charged to tax u/s 56(2)(x) as per section 49(4)]		(5,00,000)
Short-term capital gains		2,00,000

CQ8. Discuss the taxability or otherwise of the following in the hands of the recipient u/s 56(2)(x). [ICAI SM Q4]

- Akhil HUF received Rs. 75,000 in cash from niece of Akhil (i.e., daughter of Akhil's sister). Akhil is the Karta of HUF.
- Nitisha, a member of her father's HUF, transferred a house property to HUF without consideration. SDV = 9 Lacs.
- Mr. Akshat received 100 shares of A Ltd. from his friend as a gift on occasion of his 25th marriage anniversary. FMV on that date was Rs. 100 per share. He also received jewellery of Rs. 45,000 (FMV) from his nephew on same day.
- Kishan HUF gifted a car to son of Karta for achieving good marks. FMV of the car is Rs. 5,25,000.

Solution:

(i)	Taxable	75,000	Sum of money exceeding Rs. 50,000 received without consideration from non-relative is taxable u/s 56(2)(x). Daughter of Mr. Akhil's sister is not a relative of Akhil HUF, since she is not a member of Akhil HUF.
(ii)	Non-taxable	Nil	Immovable property received without consideration by a HUF from its relative is not taxable u/s 56(2)(x). Since Nitisha is a member of the HUF, she is a relative of the HUF. However, income from such asset would be clubbed in the hands of Nitisha u/s 64(2).
(iii)	Taxable	55,000	As per section 56(2)(x), if aggregate FMV of movable property received without consideration exceeds Rs. 50,000, whole of aggregate value shall be taxable. In this case, aggregate FMV of shares (Rs. 10,000) & jewellery (Rs. 45,000) exceeds Rs. 50,000. Hence, entire amount of Rs. 55,000 shall be taxable. [Nephew is not a relative].
(iv)	Non-taxable	Nil	Car is not a capital asset & therefore, same shall not be taxable.

CQ9. Mr. Hari, a property dealer, sold a building in the course of his business to his friend Rajesh, who is a dealer in automobile spare parts for Rs. 90 lacs on 1.1.2022, when the SDV was Rs. 150 lacs. The agreement was, however, entered into on 1.9.2021 when the SDV was Rs. 140 lacs. Mr. Hari had received a down payment of Rs. 15 lacs by a crossed cheque from Rajesh on the date of agreement. Discuss the tax implications in the hands of Hari & Rajesh, assuming that Mr. Hari has purchased the building for Rs. 75 lacs on 12th July, 2020.

Would your answer be different if Hari was a share broker instead of a property dealer?

[ICAI SM Q5]

Solution:

Case 1: Tax implications if Mr. Hari is a property dealer

In the hands of Mr. Hari	In the hands of Mr. Rajesh
<ul style="list-style-type: none"> ▪ Provisions of section 43CA would be attracted as building is his SIT & he has transferred it for a consideration < SDV; & SDV > 110% of consideration. ▪ u/s 43CA, option to take SDV on DOA can be exercised only if whole/part of consideration has been received on or before DOA by way of A/c payee cheque or draft or by use of ECS through bank A/c or through such other prescribed electronic mode on/before DOA. ▪ Since, down-payment of Rs. 15 lacs is received on date of agreement by crossed cheque & not A/c payee cheque, option cannot be exercised. ▪ Therefore, Rs. 75 lacs [Difference b/w SDV on date of transfer (i.e., 150 lacs) & purchase price (i.e. Rs. 75 lacs), would be chargeable as business income in the hands of Mr. Hari, since SDV > 110% of the consideration. 	<ul style="list-style-type: none"> ▪ Since Mr. Rajesh is a dealer in automobile spare parts, building purchased would be a capital asset in his hands. ▪ Section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration & difference b/w consideration & SDV > Rs. 4,50,000, being the higher of Rs. 50,000 & 10% of consideration. ▪ Therefore, Rs. 60 lacs [Difference b/w SDV on DoR - Actual Consideration] (Rs. 150 lacs - Rs. 90 lacs) would be taxable u/s 56(2)(x) in the hands of Mr. Rajesh, since payment is made by crossed Cheque & not A/c payee cheque/draft or ECS or through such other prescribed electronic mode.

Case 2: Tax implications if Mr. Hari is a stock broker

In the hands of Mr. Hari	In the hands of Mr. Rajesh
<ul style="list-style-type: none"> ▪ If Mr. Hari is a stock broker, building would represent his capital asset & not SIT. ▪ Sec 50C would be attracted in the hands of Mr. Hari. ▪ Rs. 75 lacs [difference b/w SDV on DOR (i.e., Rs. 150 lac) & purchase price (i.e., Rs. 75 lac) would be chargeable as short-term capital gains. ▪ It may be noted that u/s 50C, option to adopt the SDV on the date of agreement can be exercised only if whole/part of consideration has been received on/before DOA by way of A/c payee cheque or draft or by use of ECS through a bank account on or before the date of agreement. 	<ul style="list-style-type: none"> ▪ There would be no difference in the taxability in the hands of Mr. Rajesh, whether Mr. Hari is a property dealer or a stock broker. ▪ Therefore, provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration. ▪ Therefore, Rs. 60 lacs, being the difference between the SDV of the property on the date of registration (i.e., Rs. 150 lacs) & the actual consideration (i.e., Rs. 90 lacs) would be taxable u/s 56(2)(x) in the hands of Mr. Rajesh.

PC Note: As per section 43CA, SDV on the date of agreement can be adopted, if whole or part of consideration is received otherwise than by way of cash on or before the date of agreement. However, both section 50C & 56(2)(x) permit adoption of SDV on date of agreement only if whole/part of consideration is received/paid by way of account payee cheque or account payee bank draft or by use of ECS through a bank A/c.

ADVANCE FORFEITED DUE TO FAILURE OF NEGOTIATION FOR TRANSFER OF A CAPITAL ASSET [SECTION 56(2)(ix)]

Date of forfeiture	Tax Treatment
A. Advance money forfeited upto 31.3.2014	Reduce from original COA of capital asset.
B. Advance money forfeited on/after 1.4.2014	Taxable u/h IFOS. Such advance would not be reduced from the cost of acquisition for computing capital gains.

PC Note: Date of Forfeiture of Advance Money is Relevant & not date of receipt of advance money.

ISSUE OF SHARES AT PREMIUM BY CLOSELY HELD COMPANY TO RESIDENT [Sec 56(2)(viib)]

➤ **Taxable Amount:** (in the hands of closely held company) = Issue Price of Share – FMV of share.

Exceptions: If consideration for issue of shares is received by:

- Venture Capital Undertaking** from Venture Capital Fund (VCF)/Venture Capital Company (VCC)
- Company from a class of persons as notified by CG for this purpose.

CQ10. IP - Issue Price; FV – Face Value; FMV – Fair Market Value.

Name	FV	IP	FMV	Applicability of section 56(2)(viib)
A Ltd	100	120	120	IP > FV. Thus shares are issued at premium & thus 56(2)(viib) is attracted. Taxable Amount = IP – FMV = Rs. 120 – Rs. 120 = Nil. Note: Even if Sec 56(2)(viib) is attracted, there is no tax since IP = FMV.
B Ltd	100	100	120	IP = FV. Thus shares are NOT issued at premium & thus 56(2)(viib) is NOT attracted. Thus, no tax even if shares are issued above FMV.
C Ltd	100	110	90	IP > FV. Thus shares are issued at premium & thus 56(2)(viib) is attracted. Taxable Amount = IP – FMV = Rs. 110 – Rs. 90 = Rs. 20 per share.
D Ltd	100	98	100	IP < FV. Thus shares are NOT issued at premium & thus 56(2)(viib) is NOT attracted. Thus, no tax even if shares are issued above FMV.

INTEREST RECEIVED ON COMPENSATION/ENHANCED COMPENSATION FOR COMPULSORY ACQUISITION OF LAND & BUILDING [SECTION 56(viii)]

➤ **Taxable in PY of Receipt** irrespective of the year for which it is paid & irrespective of the method of accounting followed by the assessee [Section 145A].

CQ11. During PY 2021-22, Mr. Gagan received Rs. 5,32,000 towards interest on compensation from SG i.r.o. compulsory acquisition of his land effected during FY 2012-13. Above amount include interest relating to FYs:

FY 2015-16: Rs. 1,58,000	FY 2016-17: Rs. 1,78,000	FY 2017-18: Rs. 1,96,000
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He incurred legal expenses of Rs. 75,000 in PY 2017-18 to receive interest on such enhanced compensation. Determine how much Interest on enhanced compensation would be taxable for AY 2022-23? Can he claim deduction i.r.o. legal expenses from the amount of interest on enhanced compensation? **[N14/M17 & M14]**

Solution:

- Section 145A provides that interest received on enhanced compensation shall be deemed to be the income of the PY of receipt, irrespective of method of accounting followed & irrespective of FY to which it relates.
- 50% of such income shall be allowed as deduction by virtue of section 57(iv). Therefore, he cannot claim deduction i.r.o. legal expenses incurred to receive interest on enhanced compensation from such income.

Computation of interest on enhanced compensation taxable u/h 'IFOS' for AY 2022-23	Rs.
Interest on enhanced compensation taxable u/s 56(2)(viii)	5,32,000
Less: Deduction u/s 57(iv) (50% x Rs. 5,32,000)	2,66,000
Taxable interest on enhanced compensation	2,66,000

PERMISSIBLE DEDUCTIONS FROM IFOS [SECTION 57]

1	<p>Interest on Loan: Interest on loan for purchasing the shares can be claimed as a deduction. Interest can be claimed even if no income is earned by way of dividend on such shares.</p> <p>Dividend or income i.r.o. units of mutual fund specified u/s 10(23D) or of specified company: Interest expenditure to earn such income is allowed as deduction subject to a maximum of 20% of dividend income included in the total income, without deduction under this section.</p> <p>PC Note: Deduction on account of interest shall not exceed 20% of dividend income or income from units included in the total income for that PY without deduction u/s 57 (i.e before deduction).</p>
2	Interest on Securities: Commission & Remuneration paid to any person to realise such interest if such income is taxable in the hands of recipient [Ex: Collection charges paid to bank/interest on loan]
3	Family Pension → Deduction = Lower of (a) Rs. 15,000 or (b) 1/3 rd of Family Pension Received.
4	Interest on compensation for Compulsory acquisition = 50% of amount received during PY.
5	<p>In case of income from letting of P&M/furniture on hire with/without building:</p> <p>Following items are allowed as deductions in computation of income:</p> <p>(a) Amount paid for current repairs to P&M/furniture.</p> <p>(b) Insurance premium paid against risk of damage/destruction of P&M/furniture.</p> <p>(c) Normal depreciation allowance for P&M/furniture due.</p>
6	<p>Employee Contribution remitted before due date by the Employer.</p> <p>Employee contribution to PF is treated as income in the hands of Employer. Such employee's contribution is allowed as deduction to employer if remitted before Due Date as per the relevant law.</p>
7	Any other Revenue expenditure incurred wholly & exclusively for earning such Income.

INADMISSIBLE DEDUCTIONS FROM IFOS [SECTION 58]

1	Personal Expenses	Any personal expense of the assessee
2	Casual Income	<p>No deduction from any casual income.</p> <p>PC Note: Activity of owning & maintaining race horses → Expenses incurred shall be allowed. Such loss shall be allowed to be carried forward in accordance with the provisions of section 74A.</p>
3	Income Tax	Any Income-tax paid/payable
4	Interest	Payable outside India if No TDS or after TDS, not paid to government
5	Salaries	Payable outside India if No TDS or after TDS, not paid to government
6	Payment to Residents	<p>30% of Sum paid shall be disallowed if -</p> <ul style="list-style-type: none"> ▪ Tax is NOT deducted or; ▪ Tax after deduction is NOT paid before DD of filing ROI u/s 139(1).
7	Payment to Relative	Excessive payment shall be disallowed. [Same as section 40A(2)]
8	Cash Payment	Same as section 40A(3).

TAXABLE DEEMED INCOME

- The provisions of section 41(1) are made applicable to the computation of income u/h IFOS.
- Thus, any income u/s 41(1) which comes under the purview of IFOS shall be taxable u/h IFOS.

MASTER QUESTION ON “INCOME FROM OTHER SOURCES”

MQ1. Mr. PC furnishes the following particulars of his incomes for PY 2021-22. Compute his IFOS for AY 2022-23.

1	Dividend on equity shares	Rs. 6,000
2	Dividend on preference shares	Rs. 5,000
3	Dividend from a foreign company	Rs. 10,000
4	Dividends received from Assam Tea Ltd. (60% of the income is agricultural Income)	Rs. 25,000
5	Income from agricultural land in India	Rs. 12,000
6	Income from agricultural land in Pakistan	Rs. 10,000
7	Interest on Securities (Net)	Rs. 18,000
8	Winning from Horse-Race (Gross)	Rs. 13,000
9	Rent from sub-letting a house	Rs. 40,000
10	Rent payable by Mr. Mohan for the sub-let house	Rs. 25,000
11	Other expenses on sub-let-house	Rs. 5,000
12	Income from letting on hire of building & machinery under one composite lease	Rs. 22,000
13	Interest on Bank Deposits	Rs. 4,000
14	Directors sitting fees received	Rs. 10,000
15	Ground rent received from Land in Pathankot	Rs. 6,000
16	Income from undisclosed sources	Rs. 65,000
17	Amount received on account of winnings from lotteries	Rs. 25,000
Following deductions are claimed by him		
(a)	Allowable depreciation on Building & Machinery	Rs. 6,000
(b)	Fire Insurance on Building & Machinery	Rs. 1,000
(c)	Amount spent for buying lottery ticket	Rs. 5,000

Solution: **Computation of Income u/h IFOS in the hands of Mr. PC**

Dividend on equity shares	Rs. 6,000
Dividend on preference shares	Rs. 5,000
Dividend from a foreign company	Rs. 10,000
Dividends received from Assam Tea Ltd. (Since it is Indian company)	Rs. 25,000
Income from agricultural land in India	Exempt
Income from agricultural land in Pakistan	Rs. 10,000
Interest on Securities (after grossing up @ 10%) [18000/90%]	Rs. 20,000
Winning from Horse-Race [Gross amount is given, so no need to gross up again]	Rs. 13,000
Rent from sub-letting a house [Rs. 40,000 – 25,000 – 5,000]	Rs. 10,000
Income from letting of machinery & building after Expense [Rs. 22,000 - (Rs. 6,000 + Rs. 1000)]	Rs. 15,000
Interest on Bank Deposits	Rs. 4,000
Directors sitting fees received	Rs. 10,000
Ground rent received from Land in Pathankot	Rs. 6,000
Income from undisclosed sources – Taxable @ 78%	Rs. 65,000
Amount received on account of winnings from lotteries	Rs. 25,000

Notes:

- (i) Amount spent for buying lottery ticket is not deductible. (Winning from lottery is taxable @ 30%)
- (ii) Agricultural income from land situated in India is exempt u/s 10.

CHAPTER 8. CLUBBING OF INCOME

TRANSFER OF INCOME WITHOUT TRANSFER OF ASSET [Section 60]

- If any person transfers the income from any asset without transferring the asset, such **transferred Income is included in Total Income of the transferor.**
- Transfer can be **Revocable or Irrevocable.**

Ex: Mr. A confers the right to receive rent i.r.o his house property on his wife, Mrs. A, without transferring the house itself to her. In this case, the rent received by Mrs. A will be clubbed with the income of Mr. A.

CQ1. Mr. Vatsan has transferred income arising from a godown to his son through a duly registered document, without transferring the godown. In whose hands will rental income from godown be charged? **[ICAI SM Q1]**

Answer: According to Section 60 transfer of income without transfer of asset is chargeable in the hands of the transferor. Thus, rental income from godown will be charged in the hands of Mr. Vatsan.

INCOME ARISING FROM REVOCABLE TRANSFER OF ASSETS [Section 61]

- If any Asset is transferred under 'Revocable Trust', Income from such asset is **included in TI of transferor.**
- **Meaning of Revocable Transfer:** A transfer shall be deemed to be **Revocable if Transfer:**

(a)	Contains ANY Provision for RE-TRANSFER (directly/indirectly) of whole/part of the Asset or Income to the transferor, during the Life-Time of Beneficiary or Transferee.
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Examples:

1. X transfers a house property to a trust for the benefit of A & B. However, X has a right to revoke the trust during the lifetime of A or B. It is a revocable transfer & income arising from house property shall be included in the hands of X.
2. X transfers a house property to A. However, X has a right to revoke transfer during the lifetime of A. It is a revocable transfer & income arising from the house property is taxable in the hands of X.
3. X transfers an asset. As per T&C of transfer, he has a right to utilize the income of the asset for his benefit. However, he has not exercised this right as yet. Income of the asset would be taxable in the hands of X, even if he has not exercised the aforesaid right.

(b)	Gives Right to the Transferor to RE-ASSUME Power (directly/indirectly) over the whole/part of the Asset or Income during the Life-Time of Beneficiary or Transferee.
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Ex: X transfers an asset. As per T&C of transfer, he has a right to use the asset for the personal benefits of his family members whenever he wants. Till date, he has not exercised this right. It is a revocable transfer. The entire income from the asset would be taxable in the hands of X.

- **Exceptions [Section 62]** → Income will NOT be clubbed even in case of revocable Transfer
 - ✎ If transfer is **not revocable** during the **Lifetime of Beneficiary/Transferee.** In such cases, Income shall be taxable in the hands of transferee provided transferor derives no benefit.

Ex: R transfers his house property to a trust for the benefit of G till his death. In this case, this transfer is irrevocable till the death of G. Thus, till the death of G, Income from house property is taxable in the hands of Transferee (trust). However, on death of G, income from such house shall be included in total income of R since on that date the transfer has become revocable. In above case, if R had reserved a right to get back house or its income from G during lifetime of G, then, such transfer shall be revocable & Income from such house shall be taxable in hands of R from beginning.

PC Note: Income arising from revocable transfer of the asset/income is taxable when the power to revoke the transfer arises **even if the power to revoke has not been exercised by transferor.**

CLUBBING OF INCOME ARISING TO SPOUSE [SECTION 64(1)(ii)]

A. REMUNERATION TO SPOUSE

- Any Remuneration received by Spouse from a Concern in which other Spouse has Substantial Interest, shall be clubbed in the hands of the spouse who has Substantial Interest.
- **NO CLUBBING** → If Remuneration is received by Spouse due to his/her Qualifications.
- **Substantial Interest:** Individual is deemed to have substantial interest in concern if Individual along with his relatives beneficially holds **20 % or more equity** shares at any time during PY.
- **Relative** = Husband, wife, brother or sister or Lineal Ascendant or Descendant of the individual.

Ex: Mr. X is a partner in a partnership concern & is entitled to 50% share of the profit of the firm. Mrs. X is employed as the General Manager of the firm & is getting a salary of 25,000 p.m. Taxable salary of Mrs. X will be clubbed with TI of Mr. X u/h 'Income from salaries'. However, if Mrs. X is receiving the salary on account of her technical or professional knowledge or experience, then the salary would not be clubbed.

CQ2. Mr. X is a CA in practice. He engages his wife Mrs. X as an employee for audit works & pays a sum of Rs. 20,000 p.m. towards salary. Mrs. X before marriage has completed her CA articleship & is presently awaiting result of the final examination. Examine the tax implication.

Answer: Where the spouse of the assessee has qualification, remuneration received will not be clubbed. Thus, Income of Mrs. X should not be clubbed with that of Mr. X.

PC Note:

1. Clubbing is Mandatory, even if such clubbing in some case results into benefit to the assessee.
2. If both Husband & Wife have Substantial Interest & both are in Receipt of Remuneration without qualification from the Same Concern → Remuneration of other spouse will be clubbed in total income of Husband/Wife whose Total Income excluding such remuneration is Greater.
3. Once the clubbing is done in the hands any spouse (Say X) since his Income was greater in 1st year of clubbing than Income of other spouse (Mrs. X), Income of Mrs. X shall be clubbed in the hands of X in subsequent years also even if Income of Mrs. X is greater in subsequent year.

CQ3. Mr. A & Mrs. A, whose other incomes are Rs. 5,60,000 & Rs. 5,80,000 respectively are both employed in X Ltd & getting remuneration of Rs. 20,000 p.m. & Rs. 18,000 p.m. respectively. Their shareholding in the company along with relatives are Mr. A- 10%, Mrs. A - 5%, Mr. A's brother - 6%, Mrs. A's brother - 8%. In this case A & Mrs. A both have substantial interest determined as:

- **Mr. A:** His own share 10% + 5% (Mrs A's share) + 6% (A's brother's share) = 21%.
- **Mrs. A:** Her own share 5% + 10% (A's share) + 8% A's brother's share = 23%.

Thus, the income of Mr. A from X Ltd. will be clubbed in the hands of Mrs. A.

Mrs. A's Total Income		
Salary Income (18,000x 12)	2,16,000	
A's Salary Income (20,000 x 12 = 1,20,000)	2,40,000	4,56,000
Other Income		5,80,000
Gross total income		10,36,000
A's Total Income		
Other incomes		5,60,000
Gross Total Income		5,60,000

B INCOME FROM ASSET TRANSFERRED TO SPOUSE (Section 64(1)(iv))

➤ If Individual transfer any **asset (other than house property)** to his/her spouse **for inadequate consideration**, Income from such asset shall be included in Total Income of the transferor.

Ex: Mr. PC transfers debentures of X Ltd to his wife for inadequate consideration. Interest income on such debentures shall be clubbed in the hands of Mr. PC.

PC Note:

1 Transfer of House Property by Individual to Spouse for Inadequate Consideration → Transferor shall be **deemed as Owner** of House Property **u/s 27** & Income from such House Property is taxed in the hands of the transferor as he is deemed owner as per section 27.

PC Note: CAPITAL GAIN on Transfer of such House Property → **Clubbed** in hands of Transferor.

2 Marriage should exist both at the time of Transfer & when Income is Accrued. [**Transfer before Marriage & After Divorce → No Clubbing**]

3 If Any **Property** is acquired by the Wife out of the **Pin Money** → **No Clubbing**.

4 **Transfer should be for inadequate Consideration. [Adequate Consideration → No Clubbing].**

☞ Transfer of Asset **in connection with Agreement to Live Apart** → Deemed to be transfer with **Adequate Consideration & thus No Clubbing**.

☞ If Consideration is Payable in Parts → Only Proportionate Income shall be clubbed.

5 **CHANGE IN IDENTITY OF TRANSFERRED ASSET:** If transferred asset has changed the shape & Identification, then Income from such Changed Asset shall be Clubbed.

Ex: Mr. PC gifted shares to his wife. His wife sold the shares & acquired a house which was let out, the income from house property shall be clubbed in the hands of Mr. PC.

6 **NO CLUBBING ON ACCRETION OF INCOME**

Income from Transferred Asset is to be Clubbed. But Income on Income is Not Clubbed: Income derived on the accretion of transferred property cannot be clubbed except in case of Minor Child.

Ex: X transfer 10,000 bonds of IDBI to his wife Mrs. X. Mrs. X receive interest of 70,000 p.a on the bonds. Rs. 70,000 is to be clubbed in the hands of Mr. X. However, if Mrs. X accumulates 50,000 out of the interest income & deposits it with the company at an interest of 10% p.a, then interest of Rs. 5,000 p.a received by her on the deposit will not be clubbed in Income of Mr. X.

APPROPRIATION WHEN TRANSFERRED ASSET IS INVESTED IN A BUSINESS

1. Find Total Investment of the Transferee (spouse) in the business on 1st day of PY.

2. Find out the amount Invested by the transferee (spouse) out of the assets transferred to her for Inadequate consideration on 1st day of PY in the said business.

3. Find out Taxable Income from Business. [If transferee becomes partner of a Firm by investing said Asset (Capital Contribution), only Interest is considered (share of profit from firm is Exempt)].

4. Amount which shall be included in the hands of Transferor is determined as follows: $\left[\frac{2 \times 3}{1} \right]$

CQ4. Mr. Vaibhav started a proprietary business on 1.04.2020 with a capital of Rs. 5,00,000. He incurred a loss of Rs. 2 Lacs during PY 2020-21. To overcome the financial position, his wife Mrs. Vaishaly, a software Engineer, gave a gift of Rs. 5 Lacs on 1.4.2021, which was immediately invested in the business by Mr. Vaibhav. He earned a profit of Rs. 4 Lacs during PY 2021-22. Compute the amount to be clubbed in the hands of Mrs. Vaishaly for AY 2022-23. If Mrs. Vaishaly gave the said amount as loan, what would be the amount to be clubbed?

[ICAI SM Q5]

Solution: Income to be clubbed in the hands of Mrs. Vaishaly for AY 2022-23 is computed as under:

- Since Mr. Vaibhav has incurred loss of Rs. 2,00,000, remaining amount of Rs. 3,00,000 is the amount of Capital he has in the business on 1.4.2021.
- Total Capital Contribution on 1.4.2020 = Rs. 8,00,000 [Includes Rs. 5,00,000 taken from his wife]
- Profit of PY 2021-22= Rs. 4,00,000.
- Amount to be clubbed in the hands of Mrs. Vaishali =
$$\left[\frac{\text{Investment made out of Spouse Money}}{\text{Total Investment on first day of PY}} \times \text{Profit} \right]$$

$$= \left[\frac{\text{Rs. } 5,00,000}{\text{Rs. } 8,00,000} \times \text{Rs. } 4,00,000 \right] = \text{Rs. } 2,50,000$$

Thus, Rs. 2,50,000 shall be clubbed in the hands of Mrs. Vaishali.

CQ5. X & Y form a partnership from 1st April 2021 (PSR - 2: 3) by investing Rs. 10 Lacs & Rs. 15 Lacs respectively. The investment has been financed from the following sources.

Particulars	X	Y
Gift from Mrs. X	6,60,000	-
Gift from Mrs. Y	-	8,00,000
Past savings of X & Y	3,40,000	7,00,000
For the year ending March 31, 2022, Share of Profit from the firm is as follows:		
Interest on Capital @ 12%	1,20,000	1,80,000
Salary as working partner	24,000	24,000
Share of Profit	1,08,000	1,62,000

Find out the Income chargeable to tax in the hands of X & Mrs. X

Solution:

Particulars	Mr. X	Mrs. X
Share of profit [Exempt u/s 10(2A)]	Nil	-
Salary from Firm	24,000	-
Interest on Capital [* (Rs. 1,20,000 × Rs.6.6 lacs)/Rs. 10 lacs]	40,800	79,200*
Business income	64,800	79,200

C INCOME FROM ASSET TRANSFERRED TO SON'S WIFE FOR INADEQUATE CONSIDERATION [SECTION 64(1)(vi)]

➤ If Individual Transfers any Asset to his/her son's wife for Inadequate Consideration → Income from such Asset shall be clubbed in Total Income of the Transferor.

Ex: Mr. PC transfers debentures of X ltd to his son's wife for inadequate consideration. Interest income on such debentures shall be clubbed in the hands of Mr. PC.

PC Note: All Provisions relating to Transfer of Asset to Spouse shall also apply to Son's Spouse.

D INCOME FROM ASSETS TRANSFERRED TO ANY PERSON FOR BENEFIT OF SPOUSE/SON'S WIFE: [Section 64(1)(vii)/(viii)]

➤ When Individual transfers any assets to Any Person/AOP for **Inadequate consideration**, Income from such transferred Assets shall be clubbed in the Income of the transferor (to the extent of benefit which accrues to the spouse/son's wife).

Ex: Mr. X transfers a house to Mr. Y with a direction that 50% of Rental Income is to be used for the benefit of his wife Mrs. X & 50% for others, then Rental Income to the extent of 50% shall be included in TI of X.

CLUBBING OF INCOME OF A MINOR CHILD [SECTION 64(1A)]

- All Income which accrues to Minor Child → Clubbed in the hands of **Either of his Parents**.
- **Clubbing in Father's or Mother's Hands:** Income of Minor shall be clubbed in the hands of that Parent whose Total Income (excluding Income of Minor) is Greater.
- **If Marriage of his Parents does not Subsist:** Income shall be clubbed in the hands of that Parent who maintains the minor child in the PY.
- **If Both Parents are Dead:** Income of Minor **cannot** be assessed in hands of his grandparents.
- **Rs. 1500 Exemption to Minor's Parent u/s 10(32):** Parent in whose Income, the income of Minor is clubbed will get exemption of (a) **Rs. 1,500** OR (b) Amount of Income Clubbed (whichever is less) i.r.o. each minor child.

NO CLUBBING:

1. Income has been earned by the Minor due to his **own Skills**.
2. **Minor is suffering from disabilities** referred in **Section 80U**.

PC Note:

1. Section 64(1A) **apply** to **Minor Married Daughter**. Income of Minor Married Daughter is also clubbed.
2. **If Minor attains Majority during PY** → Income till the date he was minor in that PY is clubbed.

PC Analysis:

- If asset transferred to a minor child (not being a minor married daughter) without consideration or for inadequate consideration is a house property, then, by virtue of section 27(i), transferor-parent will be the deemed owner of the house property. Therefore, income from house property will be taxable in the hands of transferor-parent, being deemed owner and not in the hands of the minor child. Consequently, clubbing provisions under section 64(1A) would not be attracted i.r.o. such income, due to which the benefit of exemption u/s 10(32) (discussed above) cannot be availed against such income.
- However, if house property is transferred by a parent to his or her minor married daughter, without consideration or for inadequate consideration, then, section 27(i) is not attracted. In such a case, the income from house property will be included u/s 64(1A) in the hands of that parent, whose total income before including minor child's income is higher; and benefit of exemption u/s 10(32) can be availed by that parent i.r.o. the income so included.

CQ7. Mr. A has three minor children – two twin daughters, aged 12 years & one son, aged 16 years. Income of the twin daughters is Rs. 2,000 p.a. each and that of the son is Rs. 1,200 p.a. Mrs. A has transferred her flat to her minor son on 1.4.2021 out of natural love and affection. Flat was let out on same date & rental income from the flat is Rs. 10,000 p.m. Compute the income i.r.o. minor children, to be included in the hands of Mr. A and Mrs. A u/s 64(1A) (assuming that Mr. A's total income is higher than Mrs. A's total income, before including the income of minor children).

Solution: Taxable income, i.r.o. minor children, in the hands of Mr. A is:

Particulars	Rs.	Rs.
Twin minor daughters [Rs. 2,000 × 2]	4,000	
Less: Exempt under section 10(32) [Rs. 1,500 × 2]	3,000	1,000
Minor son	1,200	
Less: Exempt under section 10(32)	1,200	Nil
Income to be clubbed in the hands of Mr. A		1,000

Note: As per section 27(i), Mrs. A is deemed owner of house property transferred to her minor son. Natural love & affection do not constitute adequate consideration. Accordingly, income from HP of Rs. 84,000 [i.e., Rs. 1,20,000 – 30%] would be taxable directly in her hands as deemed owner. Consequently, clubbing provisions u/s 64(1A) would not be attracted i.r.o. income from house property, owing to which exemption u/s 10(32) cannot be availed by her.

CQ8. The following details are furnished i.r.o. Mr. X & his family members. Determine their GTI:

Particulars	Mr. X	Mrs. X	Minor Child
Income as child Artist in films	-	-	60,000
Business Income (Own)	(40,000)	-	-
Salary from X Ltd. in which Mr. X holds 25% Voting power	-	30,000	-
Share of profit from Firm AB & Co.	80,000 (40%)	-	20,000 (10%)
Commission from AB & Co.	-	20,000	--
Interest Income	8,000	5,000	4,000

Note:

- Mrs. X possesses B. Com degree & works as accountant of X Ltd. & she does not render any services to M/s. AB & Co.
- Interest received by Mrs. X is from investment of Rs. 40,000 gifted by Mr. X & Rs. 40,000 from her own resource.

Solution: **Computation of Gross Total Income for AY 2022-23**

Particulars	Mr. X	Mrs. X	Minor Child
Salaries: Salary from X Ltd	-	30,000	--
Profits & gains from business/ Profession: Income / (Loss)	(40,000)	--	60,000
Income from other sources			
(i) Interest income Own (Mr. X) = 8,000		2,500	
Add: Spouse – Sec 64(1) [5000 × 40,000/80,000] = 2,500	10,500	--	--
Total Income for Clubbing of Minor's Income	(29,500)	32,500	-
Interest Income of Minor Child Rs. 4,000	--	2,500	--
Less: Exempt u/s. 10(32) (Rs. 1,500) Rs. 2,500			
Commission income of spouse u/s. 64(1)	20,000	--	--
Gross Total Income	(9,500)	35,000	60,000

Notes:

- Share of profit from firm is exempt from tax u/s. 10(2A).
- Income of the minor child will be clubbed in the hands of the parent whose income before such clubbing is greater. Thus, the interest income of minor child is clubbed in the hands of Mrs. X.

INCOME FROM SELF-ACQUIRED PROPERTY CONVERTED TO HUF PROPERTY [SEC 64(2)]

- If Self-Acquired Property of Individual is converted into HUF Property for Inadequate Consideration → Income derived by HUF from such property is Clubbed in Income of transferor.
Ex: Mr. X owns a house property from which he derives an income of Rs. 6,00,000 p.a. It is income of Mr. X & shall be included in computation of his TI u/h 'Income from House Property'. If he converts this property as the property of HUF of which he is a member, income shall henceforth be received by HUF but it shall be deemed to be income of Mr. X & shall be taxed in the hands of Mr. X & not in the hands of HUF.
- **CLUBBING AFTER PARTITION:** If converted property is subsequently transferred amongst the members of the family, Income from such converted property which is received by Spouse of Transferor + Minor Child (subject to T&C) shall be clubbed in the hands of the transferor.
Ex: In the example given above, if there is partition in the family & there are 5 members entitled to a share in the HUF property i.e. Mr. X, Mrs. X, a minor child of X & two major sons of X assuming they decide to share the property equally then the income from the property shall be treated as follows:
 - a) Income from 1/5th share of X Rs. 120000;
 - b) Income from 1/5th share of Mrs. X Rs. 1,20,000 (to be clubbed with the income of X);
 - c) Income from 1/5th share of minor child of X Rs. 1,20,000 (to be clubbed with the income of X or Mrs. X, whose income is higher u/s 64(1A). However, X can claim exemption upto Rs. 15,000);
 - d) Income from 2/5th share of other members shall be taxable in the hands of the major sons individually.

CLUBBING OF LOSSES [Explanation 2 to sec. 64]

- **Income includes Loss. Thus, Losses shall also be Clubbed.**
 i.e Where an income is liable to be clubbed, loss from the same source shall also be clubbed.
- Clubbing provisions is mandatory and shall be applied even in those cases where the application of such provision causes loss of revenue to the Income tax department.

RELEVANT HEAD FOR CLUBBING – NET INCOME SHALL BE CLUBBED

- Firstly, Income shall be computed in the hands of Recipient & then clubbing shall be done head wise.
- All expenditures related to such income shall be allowed as per the respective provisions of the Act and thereafter the net income shall be clubbed.
Ex: Standard deduction u/s 16(ia) from gross salary shall be allowed in the hands of the recipient & thereafter, **net income shall be clubbed.**
- **Deduction under chapter VIA:** If the clubbed income is eligible for deduction u/s 80C to 80U, then such deduction shall be allowed to the assessee in whose hands such income is clubbed.
Ex: If interest on saving bank account of the minor is clubbed in the hands of parent u/s 64(1A), then parent can claim deduction u/s 80TTA.

SECTION 61 VIS-À-VIS SECTION 64

- **Section 61:** Section 61 applies only to **Revocable transfer** made by **ANY Person**.
- **Section 64:** It applies to Revocable & Irrevocable Transfers made only by **Individuals**.

CROSS TRANSFERS

❖ **Instances:** Two transactions are **Inter-connected** in such a way that they **seem to be two different transactions** but **in reality**, they are the **parts of the same transaction**.

Ex: A making gift of Rs. 50,000 to the wife of his brother B for the purchase of a house by her & a simultaneous gift by B to A's Minor son of shares in a foreign company of Rs. 50,000.

❖ **In case of Cross Transfers** → Income from transferred assets would be assessed in the hands of the deemed transferor if the transfers are so intimately connected as to form part of a single transaction, and each transfer constitutes consideration for the other.

Thus, in above case, transfers have been made by A & B to persons who are not their spouse or minor child so as to evade the provisions of this section, showing that such transfers constituted consideration for each other.

❖ **CIT v. Keshavji Morarji [1967]:** Supreme Court observed that if two transactions are inter-connected and are parts of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of Clubbing provisions would be attracted.

Thus, Income arising to Mrs. B from house property should be clubbed in TI of Mr. B & Dividend from shares transferred to Mr. A's Minor son would be taxable in the hands of Mr. A. This is because A & B are indirect transferors to their minor child & spouse of the income-yielding assets, so as to reduce their burden of taxation.

CQ9. Mr. Ramesh gifted a sum of Rs. 5 lacs to his brother's minor son on 16.4.2021. On 18.4.2021, his brother gifted debentures worth Rs. 6 lacs to Mrs. Ramesh. Son of Mr. Ramesh' brother invested the amount in fixed deposit with Bank of India @ 9% p.a. ROI & Mrs. Ramesh received interest of Rs. 45,000 on debentures received by her. Discuss.

Answer:

- In the given case, Mr. Ramesh gifted a sum of Rs. 5 lacs to his brother's minor son on 16.4.2021 & simultaneously, his brother gifted debentures worth Rs. 6 lacs to Mr. Ramesh's wife on 18.4.2021.
- Mr. Ramesh's brother's minor son invested the gifted amount of Rs. 5 lacs in fixed deposit with Bank of India.
- These transfers are in the nature of cross transfers.
- Accordingly, income from assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction & each transfer constitutes consideration for the other by being mutual or otherwise.
- If two transactions are inter-connected & are part of same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, implication of clubbing provisions would be attracted.
- Accordingly, the interest income arising to Mr. Ramesh's brother's son from fixed deposits would be included in total income of Mr. Ramesh's brother, assuming that Mr. Ramesh's brother's total income is higher than his wife's total income, before including minor's income. Mr. Ramesh's brother can claim exemption of Rs. 1,500.
- Interest on debentures arising in the hands of Mrs. Ramesh would be taxable in the hands of Mr. Ramesh.
- This is because both Mr. Ramesh & his brother are the indirect transferors of the income to their spouse & minor son, respectively, with an intention to reduce their burden of taxation.
- In the hands of Mr. Ramesh, interest received by his spouse on debentures of Rs. 5 lacs alone would be included & not entire interest income on debentures of 6 lacs, since the cross transfer is only to the extent of Rs. 5 lacs.
- Hence, only proportional interest (5/6th of interest) Rs. 37,500 would be includible in the hands of Mr. Ramesh.

CHAPTER 9. SET OFF & CARRY FORWARD OF LOSSES

- **Total Income** earned by the Assessee during the PY is taxable under Income Tax Act.
- It is worthy to be noted that **Total Income from All Sources/Heads** is to be taxed & not the Income from Individual source/head.
Thus, it becomes Important to know Mechanism of Set off & Carry forward of Losses.
Ex: Mr. PC carries on two businesses. He gets loss in one business & profit in another one. His PGBP income will be the net income i.e. after an adjustment of the loss.
- It might also happen that Net Result from a Particular Source/Head of Income may be Loss. This Loss can be Set off against other Source/Head in a Specified Manner.
- Thus, it can be said that **Loss from one Source/Head can be Adjusted against Income form other Source/Head Subject to Certain Conditions.**

MEANING OF SET-OFF & CARRY FORWARD OF LOSSES

Set off of Loss	Adjustment of Losses against Profits from Another Source/Head of Income in Same AY.
Carry Forward of Losses	If Losses cannot be Set-off in Same Year due to Inadequacy of Eligible Profits, then such Losses are carried forward to Next AY for Adjustment against Eligible Profits of that year.

THIS TOPIC CAN BE DIVIDED INTO 2 PARTS:

A.	Set off of Loss in Same Year 1. Intra-Head/Inter-Source Adjustments [Set off within Same Head of Income] 2. Inter Head Adjustements [Set off against other Head of Income]
B.	Carry Forward & Set off of Loss in Next Year.

PART A. SET OFF OF LOSSES

1. INTRA HEAD ADJUSTMENT [SECTION 70]

General Rule: Loss from Any Source of Income can be set off (adjusted) against Income from any other source under the SAME HEAD.

Examples:

1. Loss from one house property can be set off against the Income from another house property as both these sources of income fall under one head of income.
2. If the assessee has two house & income from one house is Rs. 30,000 while loss from other house is Rs. 10,000, then such loss shall be adjusted against other income from same source & after set off, income u/h HP = Rs. 20000.
3. Loss from one business (textiles) can be set off against income from any other business (printing) in same year as both these sources of income fall under one head of income.

EXCEPTIONS to Intra Head Adjustment: In following cases, Loss from one source cannot be adjusted against Income from another source although both falls under Same head:

Nature of Loss	Details
Speculation Business Loss [Sec 73(1)]	<ul style="list-style-type: none"> Speculative Business Loss CANNOT be set off from Normal Business Income (Non- Speculative Business Income). Speculation Business Loss can be set off against Income of ANY other Speculation Business only.
Loss of Specified Business u/s 35AD [Sec 73A]	<ul style="list-style-type: none"> Loss of Specified Business CANNOT be set off against Normal /Speculative Business Income. Loss of Specified Business can be set off against Income of ANY Specified Business only. <p>PC Note: Normal business losses can be set off against specified business income</p>
Loss from Activity of Owning & Maintaining Race Horses [Sec 74A]	<ul style="list-style-type: none"> Such Loss can be set-off only against Income from Activity of Owning & Maintaining Race Horses only.
Long Term Capital Loss [Sec 70(3)]	<ul style="list-style-type: none"> LTCL can be set off against LTCG only & NOT even against STCG. However, STCL can be set off against both STCG & LTCG.
Loss from Lottery, Puzzles, Card Games	<ul style="list-style-type: none"> NO SET OFF against any Income. It is Taxable @ 30%. Expenditure Incurred for Buying Lottery Ticket → Not Deductible.
Exempt Source	<ul style="list-style-type: none"> Loss from Exempt Source cannot be set-off against Profits from Taxable Source.

CQ1. R carries two businesses A & B. Business A is a manufacturing business while business B is a speculative business. State whether the loss can be set off in the following two situations:

Particulars	Situation I	Situation II
Manufacturing Business	(+) 3,00,000	(-) 15,00,000
Speculation Business	(-) 1,40,000	(+) 2,00,000

Solution:

- Situation I:** Set off is NOT Possible as speculation loss can be set off only against speculation Income. Thus Loss from speculation business cannot be set off against Normal Business Income & it will be carried forward to Next year & will be adjusted against profit from speculation business (if any).
- Situation II:** Set off is **Possible** since Loss from Normal Business can be set off against profit form Speculative Business. Thus Normal business loss of Rs. 2,00,000 can be adjusted against Speculation Business Income. Remaining Business loss of Rs. 13,00,000 will be carried forward to Next year & will be adjusted against profit from Normal Business only (if any).

CQ2. Give the provisions regarding Set off & Carry forward in the following situations:

Particulars	Situation I	Situation II
Short-term Capital Gain	(-) 5,00,000	(+) 3,00,000
Long-term Capital Gain	(+) 7,00,000	(-) 2,00,000

Solution:

- Situation I:** STCL of Rs. 5,00,000 can be set off against LTCG. Hence, Net LTCG = Rs. 2,00,000;
- Situation II:** LTCL can be set off from LTCG only. It cannot be set off from STCG. Hence, STCG of Rs. 3,00,000 shall be taxable & Rs. 2,00,000 of LTCL will be carried forward to Next year & adjusted against LTCG only (if any).

2. INTER HEAD ADJUSTMENT [SECTION 71]

General Rule: Loss from one Head can be set off against Income from Another Head.

Ex: Mr. X has loss from Business/Profession of Rs. 3,00,000 & Income from House Property of Rs. 5,00,000. In such case, Loss from business (One head) can be set off against Income from House Property (Another Head).

EXCEPTIONS to Inter Head Adjustment:

1	Capital Loss	<ul style="list-style-type: none"> Loss u/h Capital Gains can be set off against Income u/h Capital Gains only. Loss u/h 'Capital Gains' CANNOT be set-off against Income under Any other Head.
2	Loss u/h PGBP [Sec 71(2A)]	<ul style="list-style-type: none"> Loss u/h PGBP CAN be set off against Income from Any Head of Income Except Income from Salary.
3	Loss u/h 'House Property'	<ul style="list-style-type: none"> Loss u/h 'House Property' can be set off against any Head upto Rs. 2 Lacs only. Note: Maximum Loss from House Property which can be set-off = Rs. 2 lacs.
4	Since Intra-Head Adjustment is NOT Permitted in the following cases & thus Inter-Head Adjustment is ALSO NOT Permitted <ol style="list-style-type: none"> Loss from Speculation Business; Loss from Specified Business u/s 35AD; Loss from Activity of owning & Maintaining Race Horses; Loss of Lottery, Crossword Puzzles, Card Games; Loss from Exempt Source of Income. 	

PC Note

- Loss from any Head (other than Capital Gain & PGBP) can be adjusted against Income from ANY Head of Income, including Capital Gain & Salary in Same AY.
- Assessee may choose to set off the losses in the manner which is Most Beneficial to him.
- It is Mandatory to Set off Loss if Eligible Income is there. Assessee cannot ignore it.

PART B. CARRY FORWARD OF LOSSES

- If Loss cannot be set off either under Same Head or under other Heads of Income
- due to Absence of Eligible Income in Same AY,
- it shall be carried forward to the next year &
- Set off against Income from Same Head in next AYs subject to prescribed Time Limit.

PC Note:

- Once a Loss is carried forward, it can be set off only against Income from Same Head.
- Loss from Lottery cannot be set off nor Carried Forward.

TREATMENT OF VARIOUS LOSSES IN DETAIL
[V.IMP]

Loss u/h	Combined Provisions of Set off & Carry Forward
House Property [Section 71B]	<ul style="list-style-type: none"> ▪ Firstly, Loss from one House Property shall be adjusted against Income from Another House Property. ▪ If still there is Unabsorbed Loss, it shall be set-off against income from any other head upto Rs. 2,00,000 only. ▪ Remaining (Unabsorbed) Loss will be carried forward to Next Year. ▪ Such b/f Loss can be set-off against Income u/h 'House Property' only in next PY.
Normal Business Loss [Section 72]	<ul style="list-style-type: none"> ▪ Firstly, Normal business loss can be set off against income u/h 'PGBP'. ▪ If still there is unabsorbed Loss, it can be set off against Income under any other head Except "salaries". ▪ If still there is a loss, it can be carried forward to Next Year. ▪ Such b/f Loss can be set-off against 'income u/h PGBP' only in Next PY. <p>Points to Remember:</p> <ul style="list-style-type: none"> ❖ Unabsorbed Depreciation can be set off against ANY HEAD OF INCOME. ❖ It is not necessary that Business whose Loss is being set off must be continued. ❖ Business Losses can be set off only by the assessee who has incurred loss: Only the person who has incurred the loss is entitled to c/f or set off the loss. Thus, successor of a business cannot c/f or set off losses of his predecessor.
Specified Business Loss [Section 73A]	<ul style="list-style-type: none"> ▪ Specified business loss u/s 35AD can be set off only against income of any other specified business. ▪ Unabsorbed loss will be c/f to next AY & set off against income from Specified Business. <p>Note: Loss from a specified business can be set-off against Profit of another specified business u/s 73A even if other specified business is not eligible for deduction u/s 35AD.</p> <p>Ex: Assessee can set-off Losses of Hospital/Hotel Business which is eligible for deduction u/s 35AD against Profits of Existing Business of Hotel (Above 2 star) even if Hotel business is not eligible for deduction u/s 35AD.</p>
Speculation Business Loss [Section 73]	<ul style="list-style-type: none"> ▪ Speculation Business Losses can be set off only against any other Speculation Business Income. ▪ If there is no other Speculation Income, it can be c/f to subsequent years & set-off only against income from any speculation business carried on by the assessee. <p>Note: It is not necessary that same speculation business must continue in AY in which Loss is to be set off.</p> <p>PC Note: Loss from activity of trading in derivatives is not treated as speculative loss.</p>
Capital Loss	<ul style="list-style-type: none"> ▪ STCL can be set off against both STCG & LTCG. ▪ LTCL can be set-off only against LTCG & not against STCG. ▪ Carry Forward: <ul style="list-style-type: none"> (a) STCL: It can be set off against ANY Capital Gains. (b) LTCL: It can be set off ONLY against LTCG. ▪ Capital Loss cannot be set off against Income under any other Head.
Owning & Maintaining Race Horse [Sec 74A]	<ul style="list-style-type: none"> ▪ Losses from Activity of owning & Maintaining Race Horses can be set off only against Income from Activity of owning & Maintaining race horses only. ▪ Loss = Stake money – Revenue Expenditure for Maintaining Race Horses.

CQ3. Compute the Taxable Income in following situation:

Particulars	Situation I	Situation II
Long term capital gain/loss	30,000	(3,00,000)
Short term capital gain/loss	(50,000)	1,10,000
Business income/loss	(80,000)	(90,000)

Solution:

Particulars	Situation I	Situation II
Long term capital Gain/Loss	30,000	(3,00,000) [Note 4]
Short term capital Loss/Gain	(50,000)	1,10,000
Income u/h Capital Gain after Set off	Nil [Note 1]	1,10,000 [Note 2]
Set off of Business Income/Loss	Nil [Note 4]	(90,000) [Note 3]
Total income	Nil	20,000

Note:

- STCL can be set off against LTCG. Thus STCL of Rs. 30,000 will be set off against LTCG. Remaining STCL will be carried forward to next year & will be set off in next year against income u/h 'Capital Gains'.
- LTCL can only be set off against LTCG. It cannot be set off against STCG also. Thus LTCL of Rs. 3,00,000 will be carried forward & set off in next year against LTCG.
- Business Loss can be set off against Income under any head except salary. Business loss can be set off against CG.
- Business Loss of Rs. 80,000 will be carried forward & will be set off in next year against income u/h "PGBP".

CQ4. Compute Total Income of Mr. A for AY 2022-23 from the following details:

[ICAI Module Q1]

Income from salary	4,00,000
Loss from Self-occupied property	(70,000)
Loss from Let-out property	(1,50,000)
Business Loss	(1,00,000)
Bank Interest (FD) received	80,000

Solution:

Computation of Total Income of Mr. A for AY 2022-23

Particulars	Amount	Amount
Income from salary	4,00,000	
Loss from House Property of Rs. 2,20,000 to be restricted to Rs. 2 Lacs [Sec 71(3A)]	(2,00,000)	2,00,000
Balance loss of Rs. 20,000 from house property will be carry forward to next AY		
Income from other Sources (Interest on fixed deposit with bank)	80,000	
Business Loss Set-off	(1,00,000)	-
Business loss of Rs. 20,000 to be carried forward		
Gross total income/Total Income [See Note below]		2,00,000

Note: GTI includes after adjusting loss of Rs. 2 Lacs from house property. Balance loss of Rs. 20,000 from house property will be c/f salary of Rs. 2 Lacs. Business loss of Rs. 1 Lac is set off against bank interest of Rs. 80,000 & remaining business loss of Rs. 20,000 will be c/f as it cannot be set off against salary.

CQ5. Compute the taxable income in the following two situations:

Particulars	Situation I	Situation II
Income from Manufacturing business (Normal Business)	1,50,000	(3,60,000)
Income from Speculation Business	(80,000)	3,50,000
Loss from a Specified Business u/s 35AD	(40,000)	40,000
Short Term Capital Gains	(1,70,000)	(1,70,000)
Agricultural Income	(40,000)	60,000

Solution:

Particulars	Situation I	Situation II	Notes for Situation II
Income from manufacturing business	1,50,000	(3,60,000)	Loss from Normal Business can be set off against Speculative Income & specified business Income also
Income from speculation business	Nil [Note 1]	3,50,000	
Loss from specified business	Nil [Note 1]	40,000	
Total income	1,50,000	30,000	

Note:

- Loss from Speculation/Specified Business can be set off only against Income from Speculative/Specified business respectively. Thus Loss of Rs. 80,000 & Rs. 40,000 will be c/f to next year & will be set off in next year against Speculative/Specified Business Income respectively.
- STCL cannot be set off from any other head. It will be carried forward & set off against "Capital Gains".
- Loss from exempt source cannot be set off against any income & No loss can be set off from agriculture income.

CQ6. Compute the total income of A for AY 2022-23:

Income from Salary	1,80,000
Income from House Property	40,000
Business Loss	(1,90,000)
Loss from Specified Business	(60,000)
Short-term capital Loss	(60,000)
Long-term capital Gain	2,40,000

Solution:

Computation of total income of A for AY 2022-23

(i) Income u/h "Salary"		1,80,000
(ii) Income u/h "House Property"	40,000	
Less: Business loss adjusted against House property Income	(10,000)	30,000
(iii) Business Loss	(1,90,000)	
Less: Set off against Capital Gain	1,80,000	
Less: Set off against House Property Income	10,000	Nil
Loss from specified business not allowed to be set off	(-) 60,000	
(iv) Income u/h "Capital Gain"		
Long-term Capital Gain	2,40,000	
Less: Short-term capital loss	(60,000)	
Less: Business loss adjusted	(1,80,000)	Nil
Gross total income/Total Income		2,10,000

Note:

- Business loss should first be set off from LTCG as it is taxable @ 20% whereas house property is taxable @ 10%.
- Business loss cannot be set off against income u/h salary.

CQ7. Mr. B, a resident individual, furnishes the following particulars for the PY 2021-22: **[ICAI Module Q2]**

Income from business – non-speculative	(22,000)
Income from speculative business	(4,000)
Short-term capital losses	(25,000)
Long-term capital gains	19,000

What is the total income chargeable to tax for the AY 2022-23?

Solution:
Total income of Mr. B for AY 2022-23

Particulars	Amount	Amount
Profits & gains of business & profession		
Business loss to be carried forward	(22,000)	
Speculative loss to be carried forward [Note 1]	(4,000)	
Capital Gains		
LTCG	19,000	
STCL [STCL of Rs. 6,000 is to be carried forward [Note 2]]	(25,000)	
Taxable income		Nil

Note 1: Speculative business Loss of Rs. 4,000 can be set off only against speculative business income. Thus, it is carried forward.

Note 2: STCL can be set off against both STCG & LTCG. Therefore, STCL of Rs. 25,000 can be set-off against LTCG to the extent of Rs. 19,000. Balance STCL of Rs. 6,000 cannot be set-off against any other income & has to be c/f.

SET-OFF OF BROUGHT FORWARD LOSSES & MAXIMUM TIME LIMIT

Nature of Loss to be c/f	Income against which Brought Forward Loss can be set-off	Maximum Period for Carry Forward of Losses
House Property Loss	Any Income u/h House Property	8 AYs
Normal Business Loss	Any Income u/h PBGP.	8 AYs
Speculation Business Loss	Any Speculation Business Income	4 AYs
Specified Business Loss	Any Specified Business Profit	Indefinite Period
Long Term Capital Loss	Long Term Capital Gains	8 AYs
Short Term Capital Loss	STCG/LTCG	8 AYs
Loss from Activity of owning & Maintaining Race Horses	Income from Activity of owning & Maintaining Race Horses.	4 AYs

ORDER OF SET-OFF OF LOSSES [SECTION 72(2)]
[IMP]

1. Current year Depreciation/~~Current year Capital Expenditure on Scientific Research~~
2. Brought Forward Business Loss [Section 72(1)]
3. Unabsorbed Depreciation of Earlier Years [Section 32(2)]
4. ~~Unabsorbed Capital Expenditure on Scientific Research of Earlier Years [Section 35(4)]~~
5. ~~Unabsorbed Expenditure on Family Planning of Earlier Years [Section 36(1)(ix)].~~

COMPULSORY FILING OF ROL BEFORE DUE DATE U/S 139(1) [SECTION 80]

- Return of Loss u/s 139(3) shall be filed within time limit of section 139(1) to carry forward losses.
- However, Loss u/h “House Property” & Unabsorbed Depreciation can be carried forward even if **Return of Loss is not filed within DD u/s 139(1)**.

BUSINESS LOSS CAN BE CARRIED FORWARD FOR MORE THAN 8 AY [Sec 41(5)]

- If Business/Profession is No Longer in Existence & there is Deemed Income Taxable u/s 41(1), 41(3), 41(4)/(4A) i.r.o. that Business/Profession;
- then Any Loss (Except Speculation Loss) of such Discontinued Business in the year of Discontinuance
- which **could not be set off** in the year of Discontinuance can be set off against Deemed Income u/s 41(1), 41(3), 41(4)/(4A).

BROUGHT FORWARD LOSSES MUST BE SET OFF IN IMMEDIATELY SUCCEEDING YEARS WHEN ELIGIBLE INCOME IS AVAILABLE

- Losses which are carried forward must be set off against Eligible Income of Immediately succeeding year & if there is any balance still to be set off, it should be set off in Immediately Next succeeding years within the time allowed.
- If Losses are not set off against Income of Immediately Next year, it cannot be set off in Later year.

CQ8. R had incurred a business loss of Rs. 4,00,000 during PY 2021-22. During PY 2022-23, he has earned business income of: (a) 5,00,000; (b) 2,50,000. What will be the consequences if he does not set off the loss in AY 2022-23 & wishes to set off the same in AY 2023-24?

Solution: (a) R can set off the loss of Rs. 4,00,000 in AY 2022-23 against the income of Rs. 5,00,000. If he does not do so, he cannot carry forward such loss of 4,00,000 to AY 2023-24.

(b) R can set off the loss of Rs. 2,50,000 only out of loss of Rs. 4,00,000 in AY 2022-23. If he does not do so, he will not be able to carry forward & set off Rs. 2,50,000 in Next AY. However, he can carry forward the balance Rs. 1,50,000 which could not be set off due to insufficient income during AY 2022-23.

CQ9. During PY 2021-22, Mr. C has following incomes & brought forward losses:

[ICAI SM Q3]

Short term capital gains on sale of shares	1,50,000
Long term capital loss of AY 2020-21	(96,000)
Short term capital loss of AY 2021-22	(37,000)
Long term capital gain	75,000

What is the capital gain taxable in the hands of Mr. C for AY 2022-23?

Solution: Taxable capital gains of Mr. C for AY 2022-23

(i) Short term capital gains on sale of shares	1,50,000	
Less: Brought forward Short-term capital loss of AY 2021-22	(37,000)	1,13,000
(ii) Long term capital gain	75,000	
Less: Brought Forward Long-term capital loss of AY 2020-21	(75,000)	Nil
Total Taxable Capital Gains		1,13,000

Note: LTCL cannot be set off against STCG. Hence, unadjusted LTCL of AY 2020-21 of Rs. 21,000 (i.e. Rs. 96,000 – Rs. 75,000) has to be carried forward to the next year to be set-off against LTCG of that year.

CQ10. Mr. D has the following income for PY 2021-22: **[ICAI SM Q4]**

Income from the activity of owning & maintaining the race horses	75,000
Income from textile business	85,000
Brought forward textile business loss	50,000
Brought forward loss from activity of owning & maintaining race horses (relating to AY 2019-20)	96,000

What is the total income in the hands of Mr. D for AY 2022-23?

Solution: Total income of Mr. D for AY 2022-23

Particulars	Rs.	Rs.
(i) Income from the activity of owning & maintaining race horses	75,000	
Less: Brought forward loss from the activity of owning & maintaining race horses	(96,000)	
To be carried forward to Next AY	(21,000)	
Income from textile business	85,000	
Less: Brought forward business loss from textile business.	50,000	35,000
Total income		35,000

Note: Loss from activity of owning & maintaining race horses cannot be set-off against any other source/head. Loss from activity of owning & maintaining race horses (relating to AY 2019-20) can be set off only to the extent of Rs. 70,000. Thus Remaining Amount of Rs. 21,000 will be carried forward to AY 2022-23.

HWQ11. Mr. E has furnished his details for AY 2022-23 as under: **[ICAI SM Q5]**

Income from salaries	1,50,000
Income from speculation business	60,000
Loss from non-speculation business	(40,000)
STCG	80,000
Long term capital loss of AY 2020-21	(30,000)

What is the taxable income of Mr. E for AY 2022-23?

[Answer: Taxable income = Rs. 2,50,000]

CHAPTER 10. DEDUCTIONS FROM GTI

DIFFERENCE B/W EXEMPT INCOMES & DEDUCTIONS FROM GTI

Exempt Incomes	<ul style="list-style-type: none"> ▪ Some Incomes are NOT at all included in Income Computation process (Section 10). ▪ Such Incomes are called Exempt Incomes. They are NOT INCLUDED in GTI.
Deductions	<ul style="list-style-type: none"> ▪ There are certain incomes which are first included in GTI & then they are allowed as deductions on certain basis while calculating Taxable Income. ▪ Such Deductions are contained in Chapter VI-A which are allowed as deduction from GTI. <p>PC Note: Deduction is allowed from GTI. IF NO GTI → NO DEDUCTION</p>

PC Note: Chapter VI-A Deductions are NOT ALLOWED from (i) Capital Gains (ii) Casual Incomes

MEANING OF GROSS TOTAL INCOME & TOTAL INCOME

Gross Total Income	<ul style="list-style-type: none"> ▪ Total Income computed under each of the 5 heads, after applying Provisions for Clubbing of Income & Set off of Losses is known as Gross Total Income.
Total Income	<ul style="list-style-type: none"> ▪ Gross Total Income – Deductions under Chapter VI-A.

TYPES OF DEDUCTIONS

Investment based deductions	Deductions given when certain Payments & Investments are made.
Income based deductions	Deductions given i.r.o. Certain Incomes included in GTI.

BASIC RULES OF DEDUCTIONS

Sec. 80A	<ul style="list-style-type: none"> ▪ Deduction u/s 80C - 80U shall be allowed from GTI while computing TI of the Assessee ▪ Total Amount of Deductions u/s 80C - 80U shall NOT Exceed GTI. Thus, there cannot be a Loss as a result of Chapter VI-A deductions. ▪ Deductions cannot be carried forward to next year if GTI < Eligible Deductions. ▪ Chapter VI-A Deductions shall be allowed ONLY IF they are claimed in ROI.
Sec. 80AB	<ul style="list-style-type: none"> ▪ For computing Profit/Income-Linked deductions, Net Income Calculated as per Income-tax Act ((before making deduction under Chapter VI-A) shall be regarded as the income received by the assessee & which is included in his GTI.
Sec. 80AC	<ul style="list-style-type: none"> ▪ Income Based Deductions u/s 80 IA/IAB/IB/IC/ID/IE shall be allowed to the assessee only if he furnishes a ROI on or before the due date specified u/s 139(1).

CQ1. For claiming deduction u/s 80JAA, filing of audit report is must for a corporate assessee; filing of return within DD laid down in section 139(1) is not required. Examine.

Ans: Incorrect. Section 80AC stipulates compulsory filing of ROI on or before DD u/s 139(1), as a pre-condition for availing the benefit of deduction u/s 80JAA.

CQ2. Filing of Belated ROI u/s 139(4) will debar an assessee from claiming deduction u/s 80M. Examine.

Ans: Correct. As per section 80AC, the assessee has to furnish his ROI on or before DD u/s 139(1), to be eligible to claim deduction u/s 80M.

A. INVESTMENT/PAYMENT BASED DEDUCTIONS

PAYMENT OF LIC PREMIUM, DEFERRED ANNUITY, CONTRIBUTION TO PF, SUBSCRIPTION TO CERTAIN EQUITY SHARES or DEBENTURES [Section 80C]

Eligible Assessee	Only Individual or HUF (R/NR)
Deduction	Lower of ► (i) Amount Invested/Paid or ► (ii) Rs. 1,50,000.

Payments/Investments/Contribution eligible for deductions u/s 80C
1. PREMIUM PAID ON LIFE INSURANCE POLICY ON LIFE OF ↓

Assessee	Premium paid on the life of ↓
Individual	<ul style="list-style-type: none"> ▪ Individual himself; Spouse of the individual; ▪ Any Child of such Individual. (Married/Single/Dependent/Independent).
HUF	Any Family Member .

Maximum amount of Premium Eligible for deduction u/s 80C

Premium paid on Insurance Policy ↓	Deduction u/s 80C
1. Issued before 1.4.2003	Upto 20% of sum assured.
2. Issued between 1.4.2003 & 31.3.2012	Upto 20% of sum assured.
3. Issued on/after 1.4.2012 but before 1.4.2013	Upto 10% of sum assured.
4. Issued on/after 1.4.2013 on life of a person (a) with Disability referred u/s 80U or (b) Suffering from Specified Disease u/s 80DDB	Upto 15% of sum assured.

PC Note: Actual Capital Sum assured shall **not** include any **bonus/premium** agreed to be returned.

EXEMPTION ON RECEIPTS OF MATURITY AMOUNT FROM LIC [Sec. 10(10D)]

(a) Maturity Amount received (including Bonus) under Life Insurance Policy is **NOT Exempt** if **Premium paid** for any year during the term of Policy **Exceeds SPECIFIED %** given in Sec 80C.

PC Note: Maturity Amount of Policy issued before 1.4.2003 → Always Exempt.

(b) Any Sum received u/s 80DD(3) & Keyman Insurance Policy → Not Exempt u/s 10(10D).

CQ3. Compute deduction u/s 80C for AY 2022-23 on life insurance premium paid by Mr. G:

Date of Issue of policy	Person Insured	Sum assured	Premium Paid in PY 2021-22
1.04.2011	Self	Rs. 3,00,000	Rs. 40,000
1.05.2016	Spouse	Rs. 1,50,000	Rs. 20,000
1.06.2018	Handicapped Son	Rs. 4,00,000	Rs. 80,000

Solution:

Date of Issue	Person Insured	Sum Assured	Premium Paid during PY 2021-22	(Restricted to % of Sum Assured)	Deduction u/s 80C
1.04.2011	Self	Rs. 3,00,000	Rs. 40,000	20%	Rs. 40,000
1.05.2016	Spouse	Rs. 1,50,000	Rs. 20,000	10%	Rs. 15,000
1.06.2018	Handicapped son	Rs. 4,00,000	Rs. 80,000	15%	Rs. 60,000
Total					Rs. 1,15,000

2.	CONTRIBUTION TOWARDS SPF/PPF/RPF/SAF
	<ul style="list-style-type: none"> ▪ Contribution to be made → In Account of Individual/Spouse/Any Children. ▪ For HUF: Contribution shall be made in the account of any member of the family.
3	Subscription to SUKANYA SAMRIDHI ACCOUNT Scheme in the name of: <ul style="list-style-type: none"> ▪ Girl child/Individual himself (in case assessee is a girl child).
4	SUBSCRIPTION TO <ul style="list-style-type: none"> ▪ National Saving Scheme, 1992/National Savings Scheme, 1992. ▪ National Savings Certificates (VIII or IX Issue). ▪ Bonds issued by NABARD. ▪ Approved Equity Shares/Debentures of wholly public company where such proceeds are utilized for infrastructure company. [Lock-in-period: 3 years]. ▪ Notified units of MF/UTI ▪ Notified Deposit Scheme/Pension Fund set up by National Housing Bank. (Home Loan Account Scheme of the National Housing Bank has been notified).
5	Any sum deposited in - <ul style="list-style-type: none"> ▪ Account under the Senior Citizens Saving Scheme Rules, 2004. ▪ 5-years time deposit in an account under the Post Office Time Deposit Rules, 1981. ▪ Term deposit for a fixed period of not less than 5 years with a scheduled bank.
6	Payment made by Individual for NON-COMMUTABLE DEFERRED ANNUITY on life of: (a) Individual himself; (b) Spouse & (c) Any Child of such Individual.
7	Any Sum deducted from Salary of Government Employee for DEFERRED ANNUITY <ul style="list-style-type: none"> ▪ Maximum Sum deducted Eligible for deduction u/s 80C = 20% of Salary. ▪ Deferred Annuity shall be for the benefit of Individual, Spouse, Any Children.
8	Payment of TUITION FEES IN INDIA for FULL TIME EDUCATION [MAX. 2 CHILDREN]
	Any sum paid as tuition fees excluding any payment towards development fees or donation <ul style="list-style-type: none"> ▪ at any time on admission or afterwards. ▪ to any university, college, school or other educational institution in India. ▪ for full-time education. ▪ for any 2 Children of such Individual. <p>PC Class Note:</p>
9	Contribution to National Housing Bank (Tax Saving) Term Deposit Scheme, 2008
10	Contribution in Unit-Link Insurance Plan of UTI or LIC Mutual Fund. PC Note: Contribution may be made in the name of any person mentioned in (1) above.
11	Contribution to Approved Annuity Plan (New Jeevan Dhara/I & New Jeevan Akshay/I/II)
12	Subscription to Notified Deposit Scheme of: Public Sector Company engaged in providing LT finance for Construction/Purchase of houses in India for Residential Purposes [Ex: Public Deposit Scheme of HUDCO]

13	REPAYMENT OF HOUSING LOAN including Stamp Duty, Registration Fee
	<p>Such payment may be made towards:</p> <p>(a) Installment of Amount due under any self-financing scheme or other notified scheme.</p> <p>(b) Installment of Amount due towards the cost of the house property allotted to him.</p> <p>(c) Repayment of the amount borrowed by the assessee from:</p> <ul style="list-style-type: none"> ▪ CG/SG/Bank, LIC, National Housing Bank. ▪ Indian Public Company carrying on business of providing LT finance for construction or purchase of houses in India for residential purposes. ▪ Public company/Co-operative society engaged in financing construction of Houses. ▪ Employer of Assessee if such employer is Public Sector company/University/College. <p>(d) Stamp Duty, Registration fee & other expenses for transfer of such house.</p> <p><u>FOLLOWING PAYMENTS ARE NOT ALLOWED AS DEDUCTION:</u></p> <ul style="list-style-type: none"> ▪ Admission Fee, Cost of Share of co-operative society & Initial Deposit ▪ Cost of Renovation/Repair/Alteration of the house after issue of completion certificate. ▪ Any Expenditure i.r.o. which deduction is allowable u/s 24.
14	CONTRIBUTION TO ADDITIONAL ACCOUNT UNDER NPS by CA Employee
	<ul style="list-style-type: none"> ❖ Contribution by CG employee to additional A/c under NPS (specified A/c) referred to in section 80CCD for a fixed period of not less than 3 years in accordance with the scheme notified by CG. ❖ There are two types of NPS account i.e., Tier I & Tier II, to which an individual can contribute. <ul style="list-style-type: none"> ▪ Section 80CCD provides deduction i.r.o contribution to individual pension A/c [Tier I A/c]. ▪ Deduction u/s 80C is allowable i.r.o contribution to additional A/c [Tier II] of NPS which does not qualify for deduction u/s 80CCD. ▪ Thus, Contribution to Tier II A/c is allowed as deduction u/s 80C only to CG employee.

PC Note:

- Deduction u/s 80C is available on **Payment Basis**.
- Interest Accrued on NSC every year (except for Last Year) → Deemed to be Reinvested & Such Amount of Interest is also entitled for deduction u/s 80C.**
- Such Payment/contribution/deposit can be made out of taxable Income or Exempt Income. **[MCQ Point]**

Termination of Insurance Policy or ULIP or Transfer of House Property or Withdrawal of Deposit

If in any PY, an assessee:

- Terminates his contract of Insurance** by notice OR where the contract of insurance has ceased because of non-payment of premium & the assessee does not revive the contract
 - In case of Single Premium Policy → Within 2 years after date of commencement of Insurance;
 - In any other case → Before Premiums have been paid for two years.
- Terminates ULIP** by notice OR where his participation has ceased because of non-payment of premium & assessee does not revive his ULIP before participation have been paid for 5 years.
- Transfers House** before expiry of 5 years from the end of FY in which possession is obtained by him, **then NO further Deduction will be allowed & Total Deductions allowed in earlier PYs is deemed to be the Income of the assessee of such PY & shall be taxed in AY relevant to such PY.**
- If amount deposited under Senior Citizens Savings Scheme is withdrawn before the expiry of 5 years from the date of its deposit, **then withdrawn amount is deemed to be the Income of the assessee of PY in which the amount is withdrawn. Amount so withdrawn is taxable in the AY relevant to such previous year.**
 - ❖ If Interest received/withdrawn is taxed in earlier PYs → It will not be taxed again.
 - ❖ If Interest on deposit was not taxed in earlier PYs → Such Interest would be taxed.
 - ❖ Amount received by Legal heir on the death of assessee → Not taxable in hands of Legal Heir.

Condition i.r.o. unit linked insurance policies issued on/after 01.02.2021 for exemption u/s 10(10D)

- ❖ In order to deter high net-worth individuals from claiming exemption u/s 10(10D) by investing in ULIPs with huge premium, additional condition has been stipulated i.r.o ULIPs issued on/after 1.2.2021.
- ❖ For this purpose, ULIP means a life insurance policy, which has components of both investment and insurance and is linked to a unit defined under IRDA (ULIP) Regulations, 2019.
- ❖ Accordingly, exemption u/s 10(10D) would not be available with respect to any ULIP issued on or after 1.2.2021, if the amount of premium payable exceeds Rs. 2,50,000 for any of the previous years during the term of such ULIP.
- ❖ Moreover, in a case where premium is payable by a person for more than one ULIP issued on or after 1.2.2021, exemption u/s 10(10D) would not be available where the aggregate amount of premium exceeds Rs. 2,50,000 in any of the previous years during the term of any such ULIP(s) issued on or after 1.2.2021.
- ❖ However, in case any sum is received on the death of a person, exemption u/s 10(10D) would be available, even if the premium/aggregate premium for any year during the term of such ULIP/any such ULIP issued on or after 1.2.2021 exceeds Rs. 2,50,000.
- ❖ In case any difficulty arises in giving effect to the provisions of this clause, the CBDT may issue guidelines for the purpose of removing the difficulty with the previous approval of the Central Government.
- ❖ Every guideline issued by the CBDT shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and assessee.

CQ4. Mr. A, (age 61 years) has earned a lottery of Rs. 1,20,000 (gross) during PY 2021-22. He also has interest on FD of Rs. 30,000. He invested Rs. 10,000 in PPF & Rs. 24,000 in NSC. What is the total income of Mr. A for AY 2022-23?

Solution: **Computation of Total Income of Mr. A for AY 2022-23**

Particulars	Rs.	Rs.
Income from other sources		
Interest on Fixed Deposit		Rs. 30,000
lottery income		Rs. 1,20,000
Gross Total Income		Rs. 1,50,000
Less: Deductions under Chapter VIA [See Note below]		
u/s 80C - Deposit in Public Provident Fund	Rs. 10,000	
- Investment in National Saving Certificate	Rs. 24,000	
Total Eligible Investments for deduction u/s 80C	Rs. 34,000	
But Deduction u/s 80C is restricted to		(Rs. 30,000)
Total Income		Rs. 1,20,000

Note: Even though eligible investment is Rs. 34,000, however, deduction under Chapter VIA is not available against casual incomes. Therefore, maximum permissible deduction u/s 80C = Rs. 1,50,000 – Rs. 1,20,000 = Rs. 30,000.

CQ5. Mr. Bharat has made the investments as given below. Compute deduction u/s 80C for AY 2022-23.

- Fixed deposit with State Bank for two years Rs. 5,000.
- Deposit in Public Provident Fund Account in the name of minor son Rs. 8,000.
- LIC Premium of major married independent daughter on 15.9.2021 Rs. 9,000. (Sum assured Rs. 1,00,000).
- LIC Premium of major married independent son on 11.11.2021 Rs. 5,000. (sum assured Rs. 20,000)
- Investment in Home Loan A/c Scheme of National Housing Bank Rs. 15,000 (Investment made from Past saving)
- Investment in units of MF notified u/s 10(23D) Rs. 25,000. (Investment was made from Exempt Income).
- Investment in Equity Shares of Infrastructure Companies Rs. 35,000.
- Payment of Tuition fees of his son to a private coaching centre for coaching in taxation Rs. 5,000.

Solution: **Computation of Deduction u/s 80C**

Fixed deposit with State Bank for two years	Nil
Public Provident Fund (Minor Son)	Rs. 8,000
LIC in name of Major married Independent daughter (10% of Sum assured is deductible)	Rs. 9,000
LIC policy in name of major married independent son [10% of Sum Assured is only allowed]	Rs. 2,000
Home Loan Account Scheme	Rs. 15,000
Units of Mutual Funds	Rs. 25,000
Equity Shares of Infrastructure Companies	Rs. 35,000
Tuition Fees (Since paid to private coaching centre)	Nil
Total Deduction u/s 80C	1,00,000

CONTRIBUTION TO CERTAIN PENSION FUNDS [SECTION 80CCC]

Assessee	Only Individuals (R/NR)
Qualifying Payment	▪ Amount Deposited during PY by such individual for any Annuity Plan of LIC or any other Insurer for receiving Pension out of his taxable income.
PC Note:	Interest/Bonus accrued → Not deemed as Contribution & thus No deduction will be available.
Deduction	Lower of (a) Amount Deposited (Excluding Interest/Bonus) or (b) Rs. 1,50,000.
PC Note:	1. Pension received is taxable in the PY of Receipt of Maturity Amount. 2. If Deduction is Allowed u/s 80CCC, Deduction u/s 80C will NOT be available.

CONTRIBUTION TO PENSION SCHEME NOTIFIED BY CG [SECTION 80CCD]

Eligible Assessee	<ul style="list-style-type: none"> Employee of CG (Compulsory to Join NPS) Any other employees (Optional to join NPS) Self-employed individual (Optional to join NPS) 		
Deduction	Employee's Contribution [Sec 80CCD(1)]	Upto 10% of Salary is deductible.	
	Employer's Contribution [Sec 80CCD(2)]	Employer	Deduction
		Central Government	Upto 14% of salary
		Other than CG	Upto 10% of salary
	For Self-employed Individual	Upto 20% of GTI is deductible.	

- Meaning of Salary is same as that in the case of HRA.
- Employer's Contribution is firstly taxable as Salary Income in the hands of Employee.
- Atal Pension scheme has been notified by CG till now.
- No deduction shall be allowed u/s 80C if deduction has been claimed u/s 80CCD.

Additional Deduction of Rs. 50,000 u/s 80CCD(1B) – [To be studied after Section 80 CCE]

Additional Deduction upto Rs. 50,000 of Payment under NPS is allowed u/s 80CCD(1B) over & above deduction u/s 80CCD(1).

PC Note: Deduction u/s 80CCD(1) is subject to overall limit of Rs. 1.50 lacs u/s 80CCE. But, deduction u/s 80CCD(1B) is in addition to overall limit of Rs. 1.50 lacs u/s 80CCE.

TAXABILITY OF PENSION RECEIVED

1. Amount received on Closing NPS Account or opting out of NPS	Taxable
2. If Amount is received by Nominee on the Death of Assessee	Exempt
3. Pension received out of NPS	Taxable
4. Amount received (Specified in 1,2,3) utilized for purchasing annuity plan in same PY	Exempt
5. Pension received out of Annuity Plan specified in (4)	Taxable

Payment from NPS to an employee on closure of his A/c or on his opting out of scheme

- Section 10(12A):** Any payment from NPS to an assessee on account of closure or his opting out of the pension scheme referred to in section 80CCD, to the extent it does not **exceed 60% of the total amount** payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax.
- Section 10(12B):** Any payment from NPS to an employee under pension scheme referred to in section 80CCD, on partial withdrawn made out of his account shall be exempt from tax to the extent it does **not exceed 25% of amount of contributions** made by him.

MAXIMUM COMBINED CEILING u/s 80C, 80CCC & 80CCD(1) [Sec 80CCE]

- Total Deduction u/s 80C + 80CCC + 80CCD(1) → **cannot Exceed Rs. 1,50,000.**
- PC Note:** Maximum Limit of Rs. 1,50,000 is Not Applicable to Employer's contribution u/s 80CCD(1B).

Section	Maximum Deduction	Max deduction (80CCE)
80C	Rs. 1,50,000	} Rs. 1,50,000
80CCC	Rs. 1,50,000	
Employee's Contribution u/s 80CCD(1)	10% of Salary	} Not Applicable
Additional Deductions u/s 80CCD(1B)	Rs. 50,000	
Employer's contribution u/s 80CCD(2)	14% or 10% of Salary	

CQ6. Basic salary of Mr. A is Rs. 1,00,000 p.m. He is entitled to Dearness Allowance which is 40% of Basic Salary. 50% of the Dearness Allowance forms part of retirement benefits. Both Mr. A & his employer contributes 15% of Basic Salary to Pension scheme referred in section 80CCD. Explain tax treatment of such contribution to Mr. A.

Solution: **Tax treatment in the hands of Mr. A u/s 80CCD**

Basic Salary	Rs. 12 Lacs
Dearness Allowance forming part of retirement benefits [(40% of Rs. 12 lacs) × 50%]	Rs. 2.4 Lacs
Salary for the purpose of deduction u/s 80CCD = Basic Salary + DA (Retirement)	Rs. 14.40 Lacs

- Mr. A's contribution to pension scheme = 15% of Basic salary = Rs. 1,80,000;
- Employer's Contribution = Rs. 1,80,000.

(a) Employer's contribution would be treated as salary since it is specifically included in the definition of "salary" u/s 17(1)(viii). Therefore, Rs. 1,80,000 will be first included in Mr. A's salary.
Deduction u/s 80CCD(2) [Maximum of Upto 10% of Salary] = Rs. 1,44,000.

PC Note: Deduction u/s 80CCD(2) would be restricted to Rs. 1,44,000, even though entire employer's contribution of Rs. 1,80,000 is included in salary u/s 17(1)(viii).

However, this deduction of Employer's contribution of Rs. 1,44,000 would be outside the overall limit of Rs. 1,50,000 u/s 80CCE. It would be over & above the other deductions which are subject to the limit of Rs. 1,50,000.

(b) Mr. A's Contribution will be Deductible u/s 80CCD(1). However, the deduction is restricted to 10% of salary.
Deduction u/s 80CCD(1) [Upto 10% of Salary] = Rs. 1,44,000 (Even though Actual contribution is Rs. 1,80,000).
This would be subject to the overall limit of Rs. 1,50,000 u/s 80CCE.

However, Addition Deduction u/s 80CCC(1B) Upto Rs. 50,000 will be allowed for Employee's Contribution.

As per section 80CCD(1B), a further deduction of upto Rs. 50,000 is allowable. Therefore, deduction u/s 80CCD(1B) is Rs. 36,000 (Rs. 1,80,000 – Rs. 1,44,000).

Rs. 36,000 allowable as deduction u/s 80CCD(1B) is outside the overall limit of Rs. 1,50,000 u/s 80CCE.

Thus, we can say that if the employee's contribution is more than the specified limit of Section 80CCD(1) or 80CCE, he can avail additional deduction upto Rs. 50,000 u/s 80CCD(1B).

Alternate View: Rs. 50,000 can be claimed as deduction u/s 80CCD(1B). Balance Rs. 1,30,000 (Rs. 1,80,000 – Rs. 50,000) can be claimed as deduction u/s 80CCD(1).

CQ7. GTI of Mr. X for AY 2022-23 is Rs. 5,00,000. He has made following investments during PY 2021-22:

Contribution to PPF	110000
Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI	45000
Repayment of housing loan taken from Standard Chartered Bank	25000
Contribution to approved pension fund of LIC	105000

Solution: **Computation of deduction under Chapter VI-A for AY 2022-23**

Particulars	Rs.
A. Deduction u/s 80C	
1. Contribution to PPF – fully allowed, since it is within the limit of Rs. 1,50,000	1,10,000
2. Payment of tuition fees to Apeejay School, New Delhi, for education of his son in Class XI	45,000
3. Repayment of housing loan	25,000
Total Eligible Investment	1,80,000
But Maximum Permissible Deduction u/s 80C is Rs. 1,50,000	1,50,000
B. Deduction u/s 80CCC	
4. Contribution to Approved Pension fund of LIC Rs. 1,05,000	1,05,000
Deduction u/s 80 CCC	1,05,000
As per section 80CCE, Total deduction u/s 80C, 80CCC & 80CCD(1) is restricted to Rs. 1,50,000. Thus, Deduction allowable under Chapter VIA for AY 2022-23 = Rs. 1,50,000.	

DEDUCTION I.R.O. MEDICAL INSURANCE PREMIUM [SECTION 80D]				
Eligible Assessee		Only Individual or HUF [Resident/Non-Resident]		
Mode of Payment		Any Mode other than Cash [Preventive Health Checkup → Cash is Allowed]		
MAXIMUM AMOUNT OF DEDUCTION u/s 80D				
Particulars		INDIVIDUAL		HUF
For whose benefit payment shall be made →		Family	Parents	Member
1	(a) Medical Insurance Premium	✓	✓	✓
	(b) Contribution to CG Health Scheme	✓	×	×
	(c) Preventive Health Check-up [Max. Rs. 5000]	✓	✓	×
❖ Maximum Deduction for (a), (b), (c)		Rs. 25000	Rs. 25000	Rs. 25000
❖ Additional Deduction on (a) when Medi-claim policy is taken on Life of Senior Citizen = Rs. 25,000.		Rs. 25,000	Rs. 25,000	Rs. 25,000
2	Medical Expenditure on health of Senior citizen if NO Medical Insurance is paid on his health (Max. Limit)	Rs. 50,000	Rs. 50,000	Rs. 50,000
3	Combined Maximum Deduction for 1 & 2	Rs. 50,000	Rs. 50,000	Rs. 50,000

PC Note:

- ❖ Maximum Deduction for **Preventive Health-Check up** of **Family + Parents** → **Rs. 5,000**.
- ❖ Family = Individual + Spouse + Dependent Children.
- ❖ Parents = Father + Mother (Dependent or independent); **Father-in-Law & Mother-in-Law** → ✗
- ❖ Notified Scheme = Contributory Health Service Scheme of Department of Space.

LUMP SUM HEALTH INSURANCE PREMIUM PAID FOR MORE THAN ONE YEAR

- **Deduction u/s 80D** for each PY shall be allowed on **Proportionate basis**.

CQ8. Mr. Y (40 yrs) paid medical insurance premium of Rs. 22,000 during PY 2021-22 to insure his health & health of his spouse & dependent children. He also paid medical insurance premium of Rs. 33,000 during the year to insure the health of his mother, aged 67 years, who is not dependent on him. He incurred medical expenditure of Rs. 20,000 on his father, aged 71 years, who is not covered under mediclaim policy. His father is also not dependent upon him. He contributed Rs. 6,000 to CG Health Scheme during the year. Compute deduction allowable u/s 80D for AY 2022-23.

Solution: Deduction allowable u/s 80D for the AY 2022-23

	Particulars	Rs.	Deduction
(i)	Medical Insurance Premium paid for self, spouse & Dependent children	Rs. 22,000	
(ii)	Contribution to CGHS	Rs. 6,000	
	Total Expenditure for Family	Rs. 28,000	Rs. 25,000
(iii)	Medi-claim premium paid for mother, who is over 60 years	Rs. 33,000	
(iv)	Medical expenditure for father (over 60 yrs) & not covered by any insurance	Rs. 20,000	
	Total Expenditure for Parents	Rs. 53,000	Rs. 50,000
	Total Deduction u/s 80D = Rs. 25,000 + Rs. 50,000		Rs. 75,000

CQ9. Mr. A, aged 40 years, paid medical insurance premium of Rs. 20,000 during PY 2021-22 to insure his health as well as the health of his spouse. He also paid medical insurance premium of Rs. 47,000 during the year to insure the health of his father, aged 63 years, who is not dependent on him. He contributed Rs. 3,600 to CG Health Scheme during the year. He has incurred Rs. 3,000 in cash on preventive health check-up of himself & his spouse & Rs. 4,000 by cheque on preventive health check-up of his father. Compute deduction u/s 80D for AY 2022-23.

Solution:
Deduction allowable u/s 80D for AY 2022-23

	Particulars	Amt Paid	Deduction
1	Premium paid & medical expenditure incurred for self & spouse		
(a)	Medical insurance premium paid for self & spouse	20,000	20,000
(b)	Contribution to CGHS	3,600	3,600
(c)	Exp. on preventive health check-up of self & spouse	3,000	1,400
		26,600	25,000
2	Premium paid & medical expenditure incurred for father, who is a senior citizen		
(a)	Medi-claim premium paid for father, who is over 60 years of age	47,000	47,000
(b)	Expenditure on preventive health check-up of father	4,000	3,000
		51,000	50,000
	Total deduction u/s 80D (Rs. 25,000 + Rs. 50,000)		75,000

Notes:

- Total deduction for 1(a),(b),(c) above should not exceed Rs. 25,000. Therefore, expenditure on preventive health check-up for self & spouse would be restricted to Rs. 1,400 (Rs. 25000 - Rs. 20000 - Rs. 3600).
- Total deduction for 2(a)&(b) above should not exceed Rs. 50,000. Therefore, expenditure on preventive health check-up for father would be restricted to Rs. 3,000 (Rs. 50,000 - Rs. 47,000).
- In this case, total deduction allowed on account of expenditure on preventive health check-up of self, spouse & father is Rs. 4400 (Rs. 1400 + Rs. 3000), which is less than the maximum permissible limit of Rs. 5,000.

DEDUCTION FOR MAINTENANCE/MEDICAL TREATMENT OF DEPENDANT DISABLED [Section 80DD]

Assessee	Resident Individual/HUF
Eligible Payment	<ul style="list-style-type: none"> Expenditure for Medical Treatment (including nursing), training & rehabilitation of a dependant disabled. Amount paid under approved scheme for Maintenance of Dependant Disabled.
Deduction	<ul style="list-style-type: none"> Rs. 75,000; Rs. 1,25,000 with severe disability.

PC Note:

- ❖ Deduction u/s 80DD is allowed irrespective of the amount of Actual Expenditure incurred.
- ❖ **Meaning of 'Dependant'**
 - For Individual: Spouse, Children, Parents, Brothers & Sisters of Individual.
 - For HUF: Any member of HUF; dependant wholly/mainly on such individual/HUF for support & who has not claimed any deduction u/s 80U during PY.
- ❖ Person with **severe disability** = Person with **80%** or more of one or more disabilities.
- ❖ If Dependant Disabled dies before Assessee → Amount deposited is deemed as Income in PY of receipt.

CQ10. Mr. X is a resident individual. He deposits a sum of Rs. 50,000 with LIC every year for maintenance of his handicapped grandfather wholly dependent on him. A copy of certificate from the medical authority is submitted. Compute the deduction available u/s 80DD for AY 2022-23.

Solution: Since the amount deposited by Mr. X was for his grandfather & grandfather is not covered in definition of relative u/s 80DD, he will not be allowed any deduction u/s 80DD.

CQ11. What will be the deduction if Mr. X had made this deposit for his dependant father?

Solution: Since the expense was incurred for dependent father who comes under the definition of dependant disabled relative, Mr. X will be entitled to claim a deduction of Rs. 75,000 u/s 80DD, irrespective of the amount deposited. In case his father has severe disability, the deduction would be Rs. 1,25,000.

DEDUCTION I.R.O. MEDICAL TREATMENT, ETC. [SECTION 80DDB]

Eligible Assessee	Resident Individual/HUF	
Eligible Payment for Deduction	Expenditure on Medical Treatment of Specified Disease in Rule 11DD for:	
	Assessee	Expenditure for
	Individual →	Himself or Dependant
	HUF →	Member of HUF
Deduction	➤ Amount Actually Paid or Rs. 40,000 (whichever is Lower) ➤ Senior Citizen: Amount Actually Paid or Rs. 1,00,000 (whichever is Lower)	
PC Note: If any amount is received under insurance or reimbursed by employer for Medical treatment, received amount shall be reduced from the deduction allowable under this section.		

INTEREST PAID ON LOAN TAKEN FOR HIGHER EDUCATION [SECTION 80E]

Eligible Assessee	Individuals only
Source of Loan	Loan must have been taken from: (a) Bank (b) Financial institution (c) Approved charitable institution
Purpose of Loan	Loan must have been taken for pursuing higher education of (a) Assessee himself; (b) His Relatives (Spouse/Children); (c) Student for whom the assessee is Legal Guardian. PC Note: Courses after Class XII or Equivalent → Qualify for deduction. ❖ Loan can be taken for study in India or Outside India also. ❖ Course may be Full-time or Part-time.
Deduction	Interest paid during PY on higher Education Loan out of taxable Income.
Period of Deduction	Deduction shall be allowed for 8 AYs starting from the AY in which the assessee starts paying the interest on loan.

CQ12. Mr. B has taken three education loans on April 1, 2021. Compute deduction u/s 80E for AY 2022-23.

Particulars	Loan 1	Loan 2	Loan 3	Loan 4	Loan 5
For whose education loan was taken	B	Son of B	Daughter of B	Spouse	Y, his Friend
Purpose of Loan	MBA	B. Sc.	10 th	BA	CA
Amount of Loan	5,00,000	2,00,000	4,00,000	10,00,000	6,00,000
Annual repayment of Loan	1,00,000	40,000	80,000	2,00,000	1,20,000
Annual repayment of Interest	20,000	10,000	18,000	40,000	24,000

Solution: Deduction u/s 80E is available to Individual for any Interest paid by him in PY i.r.o. loan taken for pursuing higher education of himself/spouse/children. No deduction is available for loan taken for 10th class.

Therefore, Interest repayment of Loan 1, Loan 2, Loan 4 will qualify for deduction.

Deduction u/s 80E = 20,000 + 10,000 + 40,000 = Rs. 70,000.

INTEREST ON LOAN TAKEN FOR ACQUISITION OF RESIDENTIAL HOUSE [SEC 80EE]

Eligible Assessee	Individuals only [R/NR]
Source of Loan	Loan must have been taken from: (a) Bank; (b) FI; (c) Housing finance company
Purpose of Loan	Loan must be taken for Acquisition of Residential House Property.
Conditions	<ul style="list-style-type: none"> ➤ Loan must have been sanctioned in FY 2016-17. ➤ Amount of Loan Sanctioned ≤ Rs. 35 Lacs. ➤ Value of Residential House Property ≤ Rs. 50 Lacs. ➤ Assessee should not own any Residential House on the Date of Sanction of Loan.
Deduction	<p>LOWER of (a) Interest paid on Loan during FY or (b) Rs. 50,000.</p> <p>This deduction is over & above deduction u/s 24(b) for interest paid i.r.o. loan borrowed for acquisition of a self-occupied property.</p>
Period of Deduction	Deduction is available Till Repayment of loan continues.

CQ13. Mr. A purchased a residential house property for self-occupation @ Rs. 45 lacs on 1.4.2017 for which he took a loan of Rs. 35 lacs from HDFC @ 11% p.a. on same date. Loan was sanctioned on 28.3.2017. Compute deduction u/s 80EE for AY 2022-23 assuming that entire loan was outstanding as on 31.3.2022 & he does not own any other house.

Solution: **Total Interest payable for AY 2022-23 = 35 lacs × 11% = Rs. 3,85,000.**

Deduction allowable u/s 24(b) while computing Income u/h "Income from house property" = Rs. 2,00,000.

Deduction u/s 80EE = Rs. 1,85,000 (3,85,000 – 2,00,000). But **Maximum Deduction u/s 80EE = Rs. 50,000.**

INTEREST ON LOAN TAKEN FOR ACQUISITION OF RESIDENTIAL HOUSE PROPERTY [SECTION 80EEA]

Eligible Assessee	Individuals only [R/NR]
Source of Loan	Loan must have been taken from: (a) Bank; (b) FI; (c) Housing finance company
Purpose of Loan	Loan must be taken for Acquisition of Residential House Property.
Conditions	<ul style="list-style-type: none"> ➤ Individual should not be eligible to claim deduction u/s 80EE. ➤ Loan must have been sanctioned b/w 1.4.2019 & 31st March 2022. ➤ SDV of Residential House Property ≤ Rs. 45 Lacs. ➤ Assessee should not own any Residential House on the Date of Sanction of Loan.
Deduction	LOWER of (a) Interest paid on Loan during FY or (b) Rs. 1,50,000.
Period of Deduction	Deduction is available Till Repayment of loan continues.

PC Note: I.r.o. SOP, interest deduction u/s 24(b) is restricted to Rs. 2 Lacs. Section 71(3A) restricts the amount of loss from house property to be set-off against any other head of income to Rs. 2 Lacs. Accordingly, if interest payable i.r.o. acquisition of eligible house property is more than Rs. 2,00,000, excess can be claimed as deduction u/s 80EEA, subject to fulfilment of conditions.

INTEREST ON LOAN TAKEN FOR PURCHASE OF ELECTRIC VEHICLE [SEC. 80EEB]	
Eligible Assessee	Individuals only [R/NR]
Source of Loan	Loan must have been taken from: (a) Bank; (b) Any deposit taking NBFC; (c) Systemically important non-deposit taking NBFC.
Purpose of Loan	Loan must be taken for Purchase of Electric Vehicle.
Conditions	➤ Loan must have been sanctioned b/w 1.4.2019 & 31.3.2023 .
Deduction	LOWER of (a) Interest paid on Loan during FY or (b) Rs. 1,50,000 .
Period of Deduction	Deduction is available Till Repayment of loan continues.

CQ14. Following are the particulars of Mr. A, B, C & D, salaried individuals, for AY 2022-23:

[ICAI SM Q12]

Particulars	Mr. A	Mr. B	Mr. C	Mr. D
Amount of loan	Rs. 43 Lacs	Rs. 45 Lacs	Rs. 20 Lacs	Rs. 15 Lacs
Loan taken from	HFC	Deposit taking NBFC	Deposit taking NBFC	Public sector bank
Sanction Date	1.4.2021	1.4.2020	1.4.2020	30.3.2019
Disbursement Date	1.5.2021	1.5.2020	1.5.2020	1.5.2019
Purpose of loan	Acquisition of residential house for self-occupation	Acquisition of residential house for self-occupation	Purchase of electric vehicle for personal use	Purchase of electric vehicle for personal use
SDV of house	Rs. 45 Lacs	Rs. 48 Lacs	-	-
Cost of E- Vehicle	-	-	Rs. 22 Lacs	Rs. 18 Lacs
Rate of interest	9% p.a.	9% p.a.	10% p.a.	10% p.a.

Compute the amount of deduction, if any, allowable under the provisions of the Income-tax Act, 1961 for AY 2022-23 in the hands of Mr. A, Mr. B, Mr. C and Mr. D. Assume that there has been no principal repayment during PY 2021-22.

Solution:

Interest deduction for AY 2022-23 to Mr. A		
1	Deduction allowable while computing income u/h 'house property' Deduction u/s 24(b) Rs. 3,54,750 [Rs. 43,00,000 × 9% × 11/12] Restricted to	2,00,000
2	Deduction under Chapter VI-A from Gross Total Income Deduction u/s 80EEA: Rs. 1,54,750 (Rs. 3,54,750 – Rs. 2,00,000) Restricted to	1,50,000
Interest deduction for AY 2022-23 to Mr. B		
1	Deduction allowable while computing income u/h 'house property' Deduction u/s 24(b) Rs. 3,71,250 [Rs. 45,00,000 × 9% × 11/12] Restricted to	2,00,000
2	Deduction under Chapter VI-A from Gross Total Income Deduction u/s 80EEA is not permissible since: loan is taken from NBFC & SDV > Rs. 45 lacs.	Nil
Mr. C: Deduction under Chapter VI-A		
1	Deduction u/s 80EEB for interest payable on loan taken for purchase of electric vehicle [Rs. 20 lacs × 10% × 11/12 = Rs. 1,83,333, restricted to Rs. 1,50,000].	1,50,000
Mr. D: Deduction under Chapter VI-A		
1	Deduction u/s 80EEB is not permissible since loan was sanctioned before 1.4.2019	Nil

DONATIONS TO CHARITABLE INSTITUTIONS/FUNDS [SEC 80G]	
Eligible Assessee	Any Assessee (R/NR)
Eligible Payment	Donations made to specified funds which are approved u/s 80G.
Mode of Payment	<ul style="list-style-type: none"> ➤ Amount shall be paid by Any Mode other than Cash. However, Donations ≤ 2000 can be made in Cash. ➤ Donation in kind → No Deduction (Donation should be made in Money). ➤ Donations can be from Earlier year's Income/Exempt Income.
Adjusted GTI	Adjusted GTI = GTI as Reduced by the following: <ul style="list-style-type: none"> ▪ LTCG u/s 112 & 112A ▪ STCG u/s 111A ▪ All Permissible Deductions u/s 80C - 80U [Except deduction u/s 80G] ▪ Exempt Income
Qualifying Limit	Qualifying Limit = 10% of Adjusted GTI
Deduction	Deduction u/s 80G = Total of Deductions permissible under A, B, C & D.
AMOUNT OF DEDUCTION u/s 80G [Refer "How to calculate Deduction" Below]	
A	Donations Eligible for 100% Deduction WITHOUT QUALIFYING LIMIT
	<ul style="list-style-type: none"> ▪ National Defence Fund/National Foundation for Communal Harmony; ▪ Zila Saksharta Samiti/State/National Blood Transfusion Council; ▪ PM's National Relief Fund/[(Maharashtra CM's/PM's Armenia) Earthquake Relief Fund] ▪ Africa (Public Contributions India) Fund; ▪ Approved University/Educational Institution of National Eminence; ▪ Fund set up by SG of Gujarat for providing relief to Victims of Earthquake in Gujarat; ▪ Fund set up by SG to provide Medical Relief to Poor People; ▪ Army/Airforce Central Welfare Fund/Indian Naval Benevolent Fund; ▪ Andhra Pradesh CM's Cyclone Relief Fund, 1996; ▪ CM's Relief Fund/Lieutenant Governor's Relief Fund in any State or Union Territory. ▪ National Illness Assistance Fund/National Sports Fund/National Cultural Fund; ▪ Fund for Technology Development & Application set up by CG. ▪ National Trust for Welfare of persons with Autism, Cerebral Palsy, Mental Retardation etc; ▪ National Fund for control of Drug Abuse (Inserted by FA, 2015 w.e.f. A.Y. 2016 -17) ▪ Donations made to Swachh Bharat Kosh/ Clean Ganga Fund set up by CG ▪ National Children's Fund. ▪ Prime Minister's Citizen Assistance & Relief in Emergency Situations Fund (PM Cares Fund)
B	Donations Eligible for 50% Deduction WITHOUT QUALIFYING LIMIT
	<ul style="list-style-type: none"> ▪ Jawaharlal Nehru Memorial Fund/Prime Minister's Drought Relief Fund. ▪ Indira Gandhi Memorial Trust/ Rajiv Gandhi Foundation.
C	Donations Eligible for 100% Deduction SUBJECT TO QUALIFYING LIMIT
	<ul style="list-style-type: none"> ▪ Donation to Government/Approved LA/Institution for Promoting Family Planning; ▪ Donations by Company to Indian Olympic Association/any other association established in India & notified by CG for Sponsorship/Development of Infrastructure for Sports & Games.

D Donations Eligible for 50% Deduction SUBJECT TO QUALIFYING LIMIT

- Donation to Government/Approved LA/Institution for Any Charitable Purpose other than Promoting Family Planning.
- Authority constituted for satisfying the need for housing accommodation/ Improvement of cities, towns & villages.
- Corporation established by CG/SG specified u/s 10(26BB) for Promoting Interests of Minority
- Notified Temple, Mosque, Gurdwara, Church notified by CG to be of historic importance, for Renovation/Repair of such Place.

How to Calculate Deduction u/s 80G
[V.IMP]

1. Calculate Adjusted GTI.
2. Calculate Qualifying Limit [= 10 % of Adjusted GTI]
3. Eligible donations in C & D (which are subject to Qualifying Limit) should be Aggregated.
4. Qualifying Limit gives us "Total Amount of Donations" eligible for Deduction. **[It is mistaken that Qualifying Limit gives us Maximum Possible Deduction]**
5. Firstly, Donations eligible for 100% Deduction **(C)** should be adjusted against Qualifying Limit.
6. Balance Qualifying Limit shall be adjusted against Donations Eligible for 50% Deduction & then deduction of 50% shall be calculated.
7. Total Deduction under (C) & (D) should be limited to Qualifying Limit (10% of Adjusted GTI)
8. Donations made under (A) & (B) are fully allowed as deduction without QUALIFYING LIMIT.

CQ15. Mr. Shiva (age 58 years) has GTI of Rs. 7,75,000 comprising of Salary & House Property. He made following investment:

- (i) Premium paid to insure life of major daughter on 1.4.2021 (Sum Assured Rs. Rs. 1,80,000) - Rs. 20,000.
- (ii) Medical Insurance Premium for self - Rs. 12,000; Spouse- Rs. 14,000.
- (iii) Donation to a public charitable institution registered under 80G - Rs. 50,000 by way of Cheque.
- (iv) LIC Pension Fund - Rs. 60,000.
- (v) Donation to National Children's Fund - Rs. 25,000 by way of Cheque.
- (vi) Donation to Jawaharlal Nehru Memorial Fund - Rs. 25,000 by way of Cheque.
- (vii) Donation to approved institution for promotion of family planning - Rs. 40,000 by Cheque.
- (viii) Deposit in PPF – Rs. 1,00,000.

Compute the total income of Mr. Shiva for AY 2022-23.

Solution: **Computation of Total Income of Mr. Shiva for AY 2022-23**

Gross Total Income		7,75,000
Less: Deduction u/s 80C		
Deposit in PPF	(1,00,000)	
Life insurance premium paid for insurance of major daughter (Maximum 10% of Sum Assured as the policy is taken after 31.3.2013)	(18,000)	
Deduction u/s 80CCC i.r.o. LIC pension fund	(60,000)	
Total Investment eligible for deduction u/s 80C	1,78,000	
Deduction u/s 80C [Restricted to Rs. 1,50,000]		(1,50,000)
Deduction u/s 80D		
Medical Insurance premium i.r.o. self & spouse (restricted to Rs. 25,000)		(25,000)
Deduction u/s 80G (See Working Note below)		(87,500)
Total income		5,79,950

Working Note:
Computation of Deduction u/s 80G

 (i) Adjusted GTI = GTI – All Deductions except 80G = Rs. 7,75,000 – Rs. 1,50,000 – Rs. 25,000 = **Rs. 6,00,000.**

 (ii) Qualifying Limit = 10% of Adjusted GTI = **Rs. 60,000.**

Particulars of donation	Donation	% of Deduction	Deduction u/s 80G
National Children's Fund	25,000	100%	25,000
Jawaharlal Nehru Memorial Fund	25,000	50%	12,500
Approved Institution for promotion of family planning	40,000	100%, subject to Qualifying Limit	40,000
Public Charitable Trust	1,50,000	50% subject to qualifying limit	10,000
Total Deduction u/s 80G			Rs. 87,000

Note: Firstly, donation of Rs. 40,000 to approved institution for family planning qualifying for 100% deduction subject to qualifying limit, should be adjusted against Qualifying Limit of Rs. 60,000. Thus, Qualifying Limit left after such adjustment = Rs. 20,000 [Rs. 60,000 – Rs. 40,000]

Now, even though we have donated Rs. 1,50,000 to public charitable trust, only balance qualifying limit of Rs. 20,000 shall be available for taking deduction. Thus, we will calculate deduction as if we have contributed only Rs. 20,000 to public charitable trust. Hence, contribution of Rs. 1,50,000 to public charitable trust is restricted to Rs. 20,000 (Rs. 60,000 - Rs. 40,000) 50% of which would be deduction u/s 80G. Deduction i.r.o. donation to public charitable trust = Rs. 10,000 (50% of Rs. 20,000).

DEDUCTIONS I.R.O. RENT PAID [SECTION 80GG]	
Assessee	<ul style="list-style-type: none"> ▪ Any Self-Employed Individual OR ▪ Employed Individual (Not in Receipt of HRA/Rent-Free Accommodation)
Payment	Rent paid for his Residential Accommodation along with his family.
Deduction	(a) Rs. 5,000 p.m (b) Excess of Rent paid over 10% of Adjusted GTI (c) 25% of Adjusted GTI [Whichever is lower]
Adjusted GTI	Adjusted GTI for this purpose means GTI as REDUCED by: 1. LTCG which have been included in GTI & STCG u/s 111A. 2. All Deductions u/s 80C-80U Except Deduction u/s 80G.
Conditions	<ul style="list-style-type: none"> ▪ Assessee should not be receiving any HRA exempt u/s 10(13A). ▪ Rented House should be occupied by the assessee for his own residence. ▪ Assessee, spouse or minor child or HUF of which assessee is a member, does not own any residential accommodation at the place where assessee ordinarily resides or at the place where he works or carries on his business or profession. ▪ If assessee owns any residential accommodation at any place, other than the place of residence or work of the assessee, then the concession i.r.o. self-occupied property is not claimed by the assessee.

CQ16. Mr. Ganesh, a businessman, whose total income (before allowing deduction u/s 80GG) for AY 2022-23 is Rs. 4,60,000. He paid house rent at Rs. 12,000 p.m. i.r.o. residential accommodation occupied by him at Mumbai. Compute the deduction allowable to him u/s 80GG for AY 2022-23.

Solution: Deduction u/s 80GG = Least of all the below given points = **Rs. 60,000.**

(i) Actual Rent paid - 10% of Adjusted GTI = Rs. 1,44,000 – Rs. 46,000 = Rs. 98,000.

(ii) 25% of Adjusted GTI = 25% × Rs. 4,60,000 = Rs. 1,15,000.

(iii) Rs. 5,000 × 12 Months = Rs. 60,000.

DONATION FOR SCIENTIFIC RESEARCH/RURAL DEVELOPMENT [SEC 80GGA]

Assessee	Any Assessee NOT having PGBP Income
Eligible Payment	Payment made during PY to the following: <ul style="list-style-type: none"> ▪ Approved Research Association/University/College to be used for Scientific or Social or Statistical Research or Rural Development as specified u/s 35CCA. ▪ Notified rural development fund/National Urban Poverty Eradication Fund. ▪ Public sector company/LA/Association/Institution approved by National Committee, for carrying out any eligible project/scheme specified in Sec. 35AC ▪ National Urban Poverty Eradication Fund (NUPEF)
Deduction	100% of the Donation Paid.
Mode of Payment	<ul style="list-style-type: none"> ▪ Amount shall be Paid by any mode other than Cash. ▪ Donations ≤ 2,000 can be made in Cash (w.e.f 1st June 2020)

PC Note: Deduction allowed to the assessee shall not be denied even if approval granted to any of the above institution is withdrawn after the payment of donation by the assessee.

CONTRIBUTIONS GIVEN BY COMPANY TO POLITICAL PARTY [SEC 80GGB]

Eligible Assessee	Indian Companies only.
Eligible Payment	Any sum contributed in PY to any Political party or Electoral Trust. Expenditure on advertisement in Brochure of Political party → Eligible.
Deduction	100% of the Donation Paid.
Mode of Payment	Amount shall be paid by Any mode other than Cash.

CQ17. During PY 2021-22, ABC Ltd, Indian company contributed Rs. 2 lacs to an electoral trust & incurred Rs. 25,000 on advertisement in a brochure of political party. Is the company eligible for deduction u/s 80GGB?

Solution: Indian company is eligible for deduction u/s 80GGB i.r.o. any sum contributed by it in the previous year to any political party or an electoral trust.

Further, the word "contribute" in section 80GGB has the meaning assigned to it in section 293A of the Companies Act, 1956, & accordingly, it includes **expenditure incurred on advertisement in a brochure of a political party**. Therefore, ABC Ltd. is eligible for a deduction of Rs. 2,25,000 u/s 80GGB i.r.o. sum of Rs. 2 lacs contributed to an electoral trust & Rs. 25,000 incurred by it on advertisement in a brochure of a political party.

PC Note: There is a specific disallowance u/s 37(2B) i.r.o. expenditure incurred on advertisement in brochure of Political party. Therefore, the expenditure of Rs. 25,000 would be disallowed while computing business income/GTI. However, such expenditure incurred by Indian company is allowable as deduction from GTI u/s 80GGB.

CONTRIBUTIONS GIVEN BY ANY PERSON TO POLITICAL PARTY [80GGC]

Eligible Assessee	Any Person [Except Local Authority & Every AJP funded by Government]
Eligible Payment	Any sum contributed in PY to any Political party or Electoral Trust.
Deduction	100% of the Donation Paid.
Mode of Payment	Amount shall be paid by Any mode other than Cash.

PC Note: Government companies **cannot** give political donations.

B. INCOME BASED DEDUCTIONS

DEDUCTION OF “INTEREST ON DEPOSIT IN SAVING A/C” [SEC 80TTA]

Eligible Assessee	Individual/HUF whose GTI includes Interest on Deposits in Saving A/c in Bank/Co-operative Bank/Post office (Except Time Deposit repayable after Fixed Period)
Deduction	Interest on Saving Deposits (other than Time Deposits) upto Rs. 10,000.

PC Note:

1. Interest from Deposit in Savings A/c held by firm/AOP/BOI → No Deduction to Partner/Member.
2. Deduction u/s 80TTA is not available to Resident Senior Citizen eligible for deduction u/s 80TTB.
3. Section 10(15)(i) → Saving A/c Interest in POST OFFICE is Exempt upto Rs. 3,500/Rs. 7,000.

INTEREST ON “DEPOSITS” IN CASE OF SENIOR CITIZENS [SEC 80TTB]

Eligible Assessee	Resident Senior Citizen whose GTI includes Interest on Deposits in Bank/Co-operative Bank/Post office.
Deduction	Interest on Saving Deposits upto Rs. 50,000.

PC Note: It may be Interest on Saving A/c, Fixed Deposit or any other Interest.

SPACE FOR PC Analysis - Section 80TTA Vs. 80TTB

DEDUCTION I.R.O. ROYALTY ON PATENTS [SECTION 80RRB]

Eligible Assessee	Resident Individual who is registered as True & First Inventor under the Patents Act, 1970, including co-owner of the patent.
Deduction	Lower of (a) Amount of Royalty Received or (b) Rs. 3 lacs.
Income Eligible for Deduction	Royalty Income including Consideration for: <ul style="list-style-type: none"> (i) Transfer of Rights in the Patent or (ii) Providing information for working or use in India. It includes Advance Royalty which is Not Returnable. Note: Exemption is not Available on Consideration for Sale of Product Manufactured using of Patented process/Article for Commercial Use.
Royalty from Foreign Country	Royalty brought to India in Convertible Foreign Exchange within 6 Months or extended period (by RBI) shall only be allowed as Deduction. Assessee is required to furnish a Prescribed Certificate along with ROI.
Subsequent Revocation of Patent	If Patent is Subsequently Revoked → Deduction allowed shall be deemed to have been Wrongly Allowed & Assessment shall be rectified u/s 155. Note: Period of 4 years for Rectification u/s 155 shall be reckoned from the end of PY in which order of the Revocation is Passed.

ROYALTY INCOME OF AUTHORS OF BOOKS [SECTION 80QQB]	
Eligible Assessee	Resident Individual who is an Author/Joint Author.
Deduction	Lower of (a) Amount of Royalty Received or (b) Rs. 3 lacs.
Income Eligible for Deduction	Royalty Income. ❖ Such book should be a work of Literary, Artistic or Scientific Nature. ❖ Royalty Income from Textbook for Schools, Guides, Commentaries, Newspapers, Journals, Pamphlets → Not Eligible for Deduction.
<p>PC Note: Royalty Income (before allowing Expenses attributable to such income) shall Not Exceed 15% of the value of books sold during PY. [If it Exceed 15%, Excess amount is Not deductible].</p> <p>However, this condition is not applicable where Royalty is receivable in lumpsum in lieu of all rights of the author in the book.</p>	
Royalty from Foreign Country	Royalty brought to India in Convertible Foreign Exchange within 6 Months or extended period (by RBI) shall only be allowed as Deduction. Assessee is required to furnish a Prescribed Certificate along with ROI.

CQ18. Mr. X receives royalty of Rs. 1 Lacs @ 18% & incurs Rs. 10,000 as expenditure for earning royalty. The books are covered u/s 80QQB & royalty is received from abroad. Rs. 50,000 are remitted to India till 30th September 2022. Determine deduction u/s 80 QQB for AY 2022-23.

Solution:

- Eligible income for deduction (before allowing expenditure) = 15% = $\frac{1,00,000}{18\%} \times 15\% = \text{Rs. } 83,334$.
- Income brought to India in convertible foreign exchange = Rs. 50,000.
- Thus, Income eligible for deduction = Rs. 50,000.
- Royalty Income = Rs. 50,000 – Rs. 10,000 (expenditures) = Rs. 40,000.
- Deduction u/s 80 QQB = Rs. 50,000 – Rs. 10,000 = Rs. 40,000.

CQ19. Mr. Aakash received royalty of Rs. 2,88,000 from a foreign country for a book authored by him, being a work of literary nature. Rate of royalty is 18% of value of books. Expenditure incurred for earning this royalty was Rs. 40,000. Amount remitted to India till 30.09.2021 is Rs. 2,30,000. Remaining amount was not remitted till 31.03.2022. Compute the amount includible in GTI of Mr. Aakash & deduction u/s 80QQB.

Solution: Net royalty of Rs. 2,48,000 (Rs. 2,88,000 – Rs. 40,000) is includible in gross total income.

Deduction u/s 80QQB		
Royalty	$\left[\frac{2,88,000 \times 15\%}{18\%} \right]$	Rs. 2,40,000
Restricted to		
Amount brought into India in convertible foreign exchange within the prescribed time		Rs. 2,30,000
Less: Expenses already allowed as deduction while computing royalty income		(Rs. 40,000)
Deduction u/s 80QQB		Rs. 1,90,000

DEDUCTION IN CASE OF PERSON WITH DISABILITY [SEC 80U]	
Assessee	Resident Individual certified by medical authority to be disabled person with disability.
Deduction	➤ Rs. 75,000 [Person with disability]; ➤ Rs. 1,25,000 [Person with Severe Disability (over 80%)]
T&Cs	Assessee shall furnish a copy of Medical Certificate along with ROI.

C. OTHER DEDUCTIONS

DEDUCTION FOR “EMPLOYMENT OF NEW EMPLOYEES” [SEC 80JJAA]	
Applicability	Assessee to whom Section 44AB (Tax Audit) Apply.
Deduction	30% of Additional Employee Cost incurred in the PY would be allowed for 3 AYs including the AY relevant to PY in which such Employment is provided.
Conditions	(a) Business should Not be formed by Splitting up or Reconstruction of Existing Business. (b) Business should Not be Acquired by the Assessee by way of Transfer from any other Person or as a result of any Business Re-organisation. (c) Prescribed Audit Report should be furnished along with ROI.
AEC (Additional Employee Cost)	AEC = Total Emolument Paid to Additional Employees Employed during PY. A. In case of Existing Business: AEC = Nil if: (i) There is No Increase in Number of Employees from Total Number of Employees Employed on Last Day of Preceding Year; [Even if New Employees are Employed] (ii) Payment is made otherwise than by A/c Payee Cheque/Draft/Netbanking. B. In case of New Business: AEC = Emoluments Paid to Employees Employed during that PY.
Additional Employee	Employee who has been Employed during PY & his employment has increased Total No. of Employees on the last day of Preceding year but does not include: (a) Employee whose Total Emoluments > Rs. 25,000 p.m; (b) Employee for whom Entire Contribution is Paid by Government under the Employees' Pension Scheme; (c) Employee Employed for < 240 days during PY. PC Note: If Assessee engaged in Business of Manufacturing of Apparel, Footwear, Leather Products → Employee employed for < 150 days during PY] (d) Employee who does Not Participate in RPF.
Emolument	(a) Any Sum Paid/Payable to Employee for his Employment but does Not Include: (b) Contribution Paid/Payable by Employer to Pension fund/PF/Any other Fund for the benefit of the Employee under any law; (c) Any Lump-sum Payment Paid/Payable to Employee at the time of Termination or Superannuation/Voluntary Retirement. [Ex: Gratuity, Pension, VRS etc]

CQ19. Mr. Kirshnan has commenced the operations of Manufacture of goods in a factory on 1.4.2021. He employed 105 New Employees during PY 2021-22 as under:

- (a) 10 Employees who does not participate in PF benefits;
- (b) 30 Employees employed from 1.4.2021 to 30.3.2022;
- (c) 50 Employees employed on 1.5.2021, to whom Salary is paid at Rs. 30,000 p.m;
- (d) 15 Employees employed on 1.9.2021.

Compute deduction available to Mr. A for AY 2022-23 if Salary paid to each employee at Rs. 10,000 p.m. except those employed on 1.5.2021 & Profits from the Manufacture of Goods in Factory for AY 2022-23 is Rs. 4,75,000.

Solution:

Computation of Deduction u/s 80JJAA

Particulars	Additional Employee	Reason
(a) 10 Employees	No	Does not participate in RPF.
(b) 30 Employees employed from 1.4.2021 to 30.3.2022	30	Employed for more than 240 days
(c) 50 Employees employed on 1.5.2021 to whom wages are paid at Rs. 30,000 pm.	Nil	Total emoluments > Rs. 25,000 p.m
(d) 15 Employees employed on 1.9.2021	Nil	Employed for less than 240 days
Additional Employees	30	

❖ Additional Employee Cost = Rs. 10,000 × 30 Employees × 12 months = Rs. 36,00,000.

❖ **Deduction u/s 80JJAA = Rs. 36,00,000 × 30% = Rs. 10,80,000.**

CHAPTER 11A. AGRICULTURAL INCOME

DEFINITION OF AGRICULTURAL INCOME [Section 2(1A)]	Agricultural Income consists of:
(a)	<p>Rent/Revenue derived from letting of land situated in India & used for agricultural purposes.</p> <p>Rent: Rent received by the original tenant from sub-tenant would also be agricultural income. Revenue: fees received for renewal of lease of land would be revenue derived from land.</p> <p>PC Note: If agricultural land is situated in foreign country, Agricultural Income is taxable u/h IFOS. PC Note: If rent has not been received in time & accordingly interest has been received, such interest shall not be considered to be agricultural income. It shall be taxable u/h 'IFOS'.</p>
(b)	<p>Income derived from Agricultural Operations or other related activities.</p>
(c)	<p>Income derived from Farm building (in Rural Area) required for agriculture operations.</p> <p>Ex: Farm building used as dwelling house for farmers; as a store house for agricultural produce/tools.</p> <p>PC Note: Income arising from use of farm building for any purpose other than agriculture referred in (a) & (b) above would not be agricultural income (Ex: Letting for residential purpose/for business) PC Note: If Farm Building is in Urban Area, it should be constructed on agricultural land.</p>
<p>PC Note: Income from saplings/seeds grown in Nursery (whether/not basic operations were carried out on land) is also an agricultural Income.</p>	

DIVIDEND INCOME RECEIVED FROM AGRICULTURAL COMPANY

Dividend received by any shareholder from a company having agricultural income shall not be considered to be agricultural income. It shall be treated as "Dividend Income" in the hands of shareholder.

CQ1. PC Ltd., an Indian company having agricultural income of Rs. 12 Crore distributes dividend of Rs. 60 lacs. Mr. AC (shareholder of PC Ltd.) has received dividend of Rs. 6 lacs. Discuss tax treatment.

Solution: Tax Treatment: Dividend received by Mr. AC shall be taxable to him at slab rate.

AGRICULTURAL INCOME OF FOREIGN COMPANY

- If any foreign company is doing agriculture, its agricultural income in India shall also be exempt.
- If company has paid dividend to shareholders, it will be taxable in the hands of the shareholder.

CQ2. What would be your answer if PC Ltd is a foreign Company in CQ1.

Solution:

Tax Treatment in the hands of Mr. AC: Dividend received by Mr. AC shall be taxable in his hands. Tax payable on Rs. 6 Lacs = 1 Lacs x 20% + 2.5 Lacs x 5% = Rs. 32,500 + HEC @ 4% = Rs. 33,800.

Tax Treatment in the hands of PC Ltd: Agricultural Income of Rs. 12 Crores shall be exempt u/s 10(1).

SOME EXAMPLES OF AGRICULTURAL INCOME & NON-AGRICULTURAL INCOME

AGRICULTURAL INCOME	NON-AGRICULTURAL INCOME
Income derived from the sale of seeds.	Income from breeding of livestock.
Income from growing of flowers & creepers.	Income from poultry farming.
Rent received from land used for grazing of cattle required for agriculture activities.	Income from fisheries.
Income from growing of bamboo.	Income from dairy farming.

SOME OTHER IMPORTANT CASE LAWS

- ✍ Compensation received from an insurance company on account of damage caused to the crops is agricultural income [B. Gupta Private Ltd, v CIT, (HC)]
- ✍ Income from butter and cheese making is not agricultural income [Venkataswamy Naitlu v CIT, (SC)]
- ✍ Income from supplying surplus water to other agriculturists is not agricultural income [Sri Kanga Vilas Ginning & Oil Mills v. CIT, (HC)]
- ✍ If the assessee was growing mulberry leaves, feeding them to silkworms and obtaining silk cocoons, income from sale of silk cocoons would not be agricultural income [K. Lakshmansa & Co. v CIT, (SC)].

CQ3. Mr. Amol Chandak is a professor in PKV Agricultural University, Akola & is getting salary of Rs. 50,000 p.m. He claims that it is his agricultural income. Discuss.

Solution: Income from PKV Agricultural university cannot be considered to be agricultural income. It is taxable u/h salary in the hands of Mr. Amol Chandak.

CQ4. Discuss whether Rent Received for letting out Agricultural land for a Movie shooting & amounts Received from Sale of seedlings in Nursery adjacent to Agricultural Land owned by Assessee can be regarded as Agricultural Income.

Answer: Rent for Movie shooting: It is not an Agricultural Income, since it is not Income derived 'through Agriculture'. This constitutes Rental Income for 'non – agricultural purposes'.

Sales of seedlings in Nursery: Income from Sale of Plants & Seedlings grown in Posts in Nursery constitutes Agricultural Income. However, in this case, such income is derived not from agricultural land, but from a Nursery 'adjacent' to it. Hence, it does not constitute Agricultural Income.

PAYMENT RECEIVED BY PARTNER FROM PARTNERSHIP FIRM HAVING AGRICULTURAL INCOME

- ☞ If any partnership firm has agricultural income, it will be exempt from income tax and if partnership firm has paid any salary or interest to the partners, it will be considered to be agricultural income to the partners as decided in U.M. Chidambaram Pillai v C1T (SC)
- ☞ If any partner has received any share out of profits of partnership firm, it will be exempt u/s 10(2A) & it does not matter whether partnership firm has agricultural income or non-agricultural income.

PROFIT ON TRANSFER OF URBAN AGRICULTURAL LAND: Whether Agricultural Income?

- ❖ **No**, as per Explanation to section 2(1A), CG arising from the transfer of urban agricultural land would not be treated as agricultural income u/s 10 but will be taxable u/s 45.

Ex: If I sell agricultural land situated in Mumbai for Rs. 10 lacs & make profit of Rs. 8 lacs over its COA. This surplus will not be an agricultural income exempt u/s 10(1). It will be taxable u/s 45 since it is urban agricultural Land & thus it is a capital asset.

RULE 7 - INCOME FROM GROWING & MANUFACTURING OF ANY PRODUCT

Business Income	Sale proceeds of final product manufactured by using agricultural produce – Market value of Agricultural produce used in manufacturing of such Product – Manufacturing Expenses.
Agriculture Income	Market Value of Agricultural produce – Cost of Cultivation.

CQ5. Mr. B grows sugarcane & uses the same for the purpose of manufacturing sugar in his factory. 30% of sugarcane produce is sold for Rs. 10 lacs & cost of cultivation of such sugarcane is Rs. 5 lacs. Cost of cultivation of 70% is Rs.14 lacs & market value of the same is Rs. 22 lacs. After incurring Rs.1.5 lacs in manufacturing process on the balance sugarcane, the sugar was sold for Rs. 25 lacs. Compute B's business income & agricultural income. **[ICAI SM Q1]**

Solution: Income from sale of sugarcane is agricultural income & Income from sale of sugar is business income.

Business income = Sale proceeds - MV of 70% of sugarcane (used in manufacture of sugar) - Manufacturing expenses
= Rs. 25 lacs - Rs. 22 lacs - Rs. 1.5 lacs = Rs. 1.5 lacs.

Agricultural income = Market value of sugarcane produce - Cost of cultivation.
= [Rs. 10 lacs + Rs. 22 lacs] – [Rs. 5 lacs + Rs. 14 lacs] = Rs. 13 lacs.

How to determination of Market Value?

SN	Situation	Market Value
1	If Agricultural produce is capable of being sold in market as such/after ordinary processing	Value calculated at Average price at which it has been sold during the relevant PY.
2	If Agricultural produce is incapable of being sold in market as such/after ordinary processing	Cultivation Expenses + Rent paid for Land in which it was grown + Such profit as AO thinks to be reasonable.

CQ6. X Ltd. grows sugarcane to manufacture sugar. Data for the PY 2021-22 is as follow:

1. Cost of cultivation of sugarcane	6,00,000
2. Market value of Sugarcane when transferred to factory	10,00,000
3. other manufacturing cost	6,00,000
4. Sale of sugar	25,00,000
5. Salary of Managing Director who looks after all operation of the company	3,00,000

Determine the Income of the company.

Solution:

Particulars	Rs.	Rs.
1. Profit & Gain of Business or Profession:		
Sales of sugar		25,00,000
Less: Average market Value of Sugarcane	10,00,000	
Salary to managing Director	3,00,000	
Manufacturing cost	6,00,000	(19,00,000)
Business Income		6,00,000
2. Computation of Agricultural Income:		
Market Value of Sugarcane		10,00,000
Less: Cost of Cultivation		(6,00,000)
Agricultural Income		4,00,000

APPORTIONMENT OF INCOME B/W BUSINESS INCOME & AGRICULTURE INCOME

Rule	Apportionment of Income in certain cases	Agriculture	Business
7A	Income from growing & manufacturing of rubber	65%	35%
7B	Income from growing & manufacturing of coffee		
	Income derived from sale of coffee grown & cured	75%	25%
	Income derived from sale of coffee grown, cured, roasted & grounded	60%	40%
8	Income from growing & manufacturing of tea	60%	40%

CQ7. Mr. C manufactures latex from the rubber plants grown by him in India. These are then sold in the market for Rs. 30 lacs. Cost of growing rubber plants is Rs. 10 lacs & that of manufacturing latex is Rs. 8 lacs. Compute his total income.

Solution: The total income of Mr. C comprises of agricultural income & business income.

Total profits from the sale of latex = Rs. 30 lacs – Rs. 10 lacs – Rs. 8 lacs = **Rs. 12 lacs.**

Agricultural income = 65% of Rs. 12 lacs = Rs. 7.8 lacs; Business income = 35% of Rs. 12 lacs. = Rs. 4.2 lacs.

PARTIAL INTEGRATION OF AGRICULTURAL INCOME WITH NON-AGRICULTURAL INCOME [PIT]

Objective of PIT	Tax the non-agricultural Income at higher rates.
Applicability of PIT	Individuals, HUF, AOP/BOI & artificial persons. {Company & Firms}
Conditions for Partial Integration of Tax	1. Net Agricultural Income should exceed Rs 5,000 p.a. & 2. Non-Agricultural Income should exceed BEL.

STEPS for calculation of tax in case of PIT

1. Calculate Tax on Net Agricultural Income + Non-Agricultural Income.
2. Calculate Tax on Net Agricultural Income + BEL.
3. Income tax Calculated in Step 1 – Income Tax calculated in Step 2.
4. Sum arrived in Step 3 shall be increased by SC (if applicable) & **reduced by rebate u/s 87A.**
5. Add Health & Education cess @ 4%.

CQ8. Mr. Shubham (Age 24), a resident, has provided the following particulars of his income for PY 2021-22:

Income from salary (computed)	Rs. 3,00,000
Income from house property (computed)	Rs. 2,10,000
Agricultural income from a land in Nagpur	Rs. 2,10,000
Expenses incurred for earning agricultural income	Rs. 1,10,000

Compute tax liability of Mr. Shubham for AY 2022-23.

Solution:

Computation of tax liability

Particulars	Amount
1. Income from salary (computed)	Rs. 3,00,000
2. Income from house property (computed)	Rs. 2,10,000
Gross Total Income	Rs. 5,10,000
Computation of tax Liability	
Step 1	Tax on Rs. 6,10,000 (Rs. 1,00,000 + Rs. 5,10,000) = Rs. 34,500.
Step 2	Tax on Rs. 3,50,000 (Rs. 1,00,000 + Rs. 2,50,000) = Rs. 5,000.
Step 3	Tax Payable = tax in (1) – Tax in (2) = Rs. 34,500 – Rs. 5,000 = Rs. 29,500
Step 4 & 5	Rs. 29,500 + 4% = Rs. 30,680.
Tax Payable	Rs. 30,680.

PC Note: Net Agricultural Income = Rs. 2,10,000 – Rs. 1,10,000 = Rs. 1,00,000

TAX HOLIDAY FOR NEWLY ESTABLISHED UNITS IN SEZ [SECTION 10AA]

Eligible profits	Profits derived from Export of articles/things or providing any service from the unit established in SEZ shall be allowed as deduction from total income.						
Eligible Assessee	Assessee engaged in Export of articles/things or providing any service.						
Quantum of Deduction	$= \text{Profits from unit in SEZ} \times \frac{\text{Export Turnover of unit in SEZ}}{\text{Total turnover of Unit in SEZ}}$ <p>Export turnover: Consideration in respect of export by the undertaking but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or rendering services.</p> <p>PC Note: Freight, insurance, telecommunication charges & expenses incurred in foreign exchange for rendering services outside India are to be excluded both from 'Export turnover' & 'total turnover', while calculating deduction u/s 10AA to the extent they are attributable to the delivery of articles or things outside India.</p> <p>PC Note: Profits derived from on-site development of computer software (including services for development of software) outside India shall be deemed to be the profits & gains derived from the export of computer software outside India.</p>						
Period of Deduction	Deduction u/s 10AA shall be allowed for a total period of 15 relevant AY . <table border="1" style="width: 100%; margin-top: 10px;"> <tr> <td style="width: 30%;">For first 5 AY</td> <td>100% of profits & gains of export.</td> </tr> <tr> <td>For Next 5 AY</td> <td>50% of profits or gains of export.</td> </tr> <tr> <td>For Next 5 AY</td> <td>Amount not exceeding 50% of profits debited to P&L A/c of PY in respect of which deduction is to be allowed & credited to SEZ Reinvestment Reserve Account & utilised for specified purposes.</td> </tr> </table> <p>PC Note: Deduction u/s 10AA shall not exceed such total income of assessee.</p>	For first 5 AY	100% of profits & gains of export .	For Next 5 AY	50% of profits or gains of export .	For Next 5 AY	Amount not exceeding 50% of profits debited to P&L A/c of PY in respect of which deduction is to be allowed & credited to SEZ Reinvestment Reserve Account & utilised for specified purposes.
For first 5 AY	100% of profits & gains of export .						
For Next 5 AY	50% of profits or gains of export .						
For Next 5 AY	Amount not exceeding 50% of profits debited to P&L A/c of PY in respect of which deduction is to be allowed & credited to SEZ Reinvestment Reserve Account & utilised for specified purposes.						
Conditions for claiming deduction for further 5 years (after 10 years) [Sec 10AA(2)]	<ol style="list-style-type: none"> Amount credited to SEZ Re-Investment Reserve Account is utilized: <ol style="list-style-type: none"> for acquiring P&M which is first put to use before expiry of 3 years following the PY in which the reserve was created; & Until acquisition of aforesaid P&M: For the business of the undertaking. However, it should not be utilized for: <ol style="list-style-type: none"> distribution of dividends/ remittance o/s India as profits; or for the creation of any asset outside India; 						
Consequences of mis-utilisation or non-utilisation of reserve	Where any amount credited to SEZ Re-Investment Reserve Account – <ol style="list-style-type: none"> has been utilised for any purpose other than those referred to in 10AA(2), amount utilized shall be deemed to be profits of the year in which the amount was utilized. has not been utilised before the expiry of 3 years, unutilized amount shall be deemed to be profits of the year immediately following the said period. 						
Amalgamation/ Demerger [Sec 10AA(5)]	Deduction shall be allowable in the hands of the amalgamated or resulting company. NO Deduction shall be allowed u/s 10AA to amalgamating company or demerged company for the PY in which amalgamation/demerger takes place.						

CONDITIONS	
1	Assessee has been granted a letter of approval by development commissioner to set a unit in SEZ.
2	It begins to manufacture/produce articles or things or provide services during PY 2005-06 or after but not later than AY 2020-21 in SEZ. It has been extended to 31st March 2021 by The Taxation & other Law Act, 2020.
3	It should not be formed by splitting up/reconstruction of business already in existence.
4	It should not be formed by transfer of old P&M to new business. Exception: It can be formed by transfer of old P&M upto 20% of total value of P&M. Imported P&M are not treated as old P&M.
5	Deduction is available if any undertaking is re-established, reconstructed, or revived by the assessee of any undertaking in the circumstances & within specified period referred in section 33B. Circumstances & Specified Period referred to in Section 33B <ul style="list-style-type: none"> ▪ Undertaking, being the unit, is formed as re-establishment, reconstruction or revival by the assessee within 3 years from the end of PY in which business of such undertaking is discontinued by reason of extensive damage, destruction of, any building, P&M, furniture owned by the assessee & used for the business. ▪ Such damage or destruction should be affected because of flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature or riot or civil disturbance or accidental fire or explosion or action by an enemy or action taken in combating an enemy.
6	Assessee should furnish report of CA with ROI certifying that deduction has been correctly claimed.

RESTRICTION ON OTHER TAX BENEFITS	
1	Business Loss or Capital loss or unabsorbed depreciation in so far as such loss relates to business of the undertaking (being the Unit) shall be allowed to be carried forward or set off in subsequent years.
2	WDV after tax holiday: During tax holiday period, depreciation is deemed to have been allowed on assets & WDV shall be computed after tax holiday as if depreciation has been claimed as deduction.
3	If deduction u/s 10AA is allowed from profit of specified business u/s 35AD, no deduction shall be allowed u/s 35AD for any AY.
4	Where any goods or services held for eligible business are transferred to any other business carried on by assessee, or where any goods held for any other business are transferred to eligible business &, in either case, if consideration for such transfer as recorded in the accounts of the eligible business does not correspond to market value, then profits eligible for deduction shall be computed by adopting market value of such goods or services on the date of transfer.

CQ9. Y Ltd. gives the following information for AY 2022-23. Compute deduction u/s 10AA for AY 2022-23.

Particulars	Rs. (in lacs)
Total turnover of Unit A located in Special Economic Zone	100
Profit of the business of Unit A	30
Export turnover of Unit A	50
Total turnover of Unit B located in Domestic Tariff Area (DTA)	200
Profit of the business of Unit B	20

Solution: 100% of profit derived from export of articles/things or services is eligible for deduction u/s 10AA, assuming that PY 2021-22 falls within first 5-years period commencing from the year of manufacture or production of articles or things or provision of services by the Unit in SEZ. **Deduction u/s 10AA = Profits from unit in SEZ × Export Turnover of unit SEZ/Total turnover of Unit in SEZ = [30 Lacs * (50 Lacs/100 Lacs)] = Rs. 15 Lacs.**

CHAPTER 11B. EXEMPT INCOMES [SECTION 10]

DIFFERENCE B/W 'EXEMPT INCOME' & 'DEDUCTIONS'

EXEMPT INCOME	<ul style="list-style-type: none"> Income which are not included in total income are called Exempt Income. Such exempt Income will not enter the computation of total Income. <p>Ex: Incomes which are exempt u/s 10 will not be included in GTI.</p>
DEDUCTION	<ul style="list-style-type: none"> Certain Incomes are first included in Gross Total Income of the assessee & then the prescribed amount of deductions is allowed as stated in the relevant section, such incomes are called Deductible Income. <p>Ex: Incomes from which deductions are allowable under Chapter VI-A will first be included in GTI & then the deductions will be allowed from GTI.</p>

DIFFERENCE B/W 'GROSS TOTAL INCOME' & 'TOTAL INCOME'

GROSS TOTAL INCOME	<ul style="list-style-type: none"> GTI means Aggregate of Incomes under all heads of Income before claiming deduction under chapter VI-A (Sec 80C- 80U). GTI = Aggregate of Income from 5 heads after clubbing of incomes & set off of losses.
TOTAL INCOME	<ul style="list-style-type: none"> Total income means gross total income after allowing deductions under Chapter VI-A. Total Income = GTI - Chapter VI-A Deductions.

RESTRICTION ON ALLOWABILITY OF EXPENDITURE INCURRED FOR EARNING EXEMPT INCOME [SECTION 14A]

- Any expenditure incurred to earn Exempt Income shall not be allowed as deduction while computing income under any head since the exempt income is not taxable.

Method for determining amount of expenditure incurred to earn Exempt Income - Rule 8D

- If AO, having regard to the accounts of the assessee, is **not satisfied** with -
 - Correctness of the claim of the expenditure incurred by the assessee; or
 - Assessee has claimed that **no expenditure** has been **incurred to earn exempt income** in the PY, he shall determine amount of expenditure incurred to earn exempt income in following manner:

Expenditure incurred to earn Exempt Income = (i) + (ii)

- Amount of Expenditure incurred directly to earn Exempt Income.
- 1% of Annual Average of Monthly Averages of value of investment, income from which is Exempt.

However, (i) + (ii) shall not exceed total expenditure claimed as deduction in PY.

PC Note: Section 14A r/w Rule 8D states that expenditure incurred to earn exempt income shall be disallowed even if assessee has not earned any exempt income in a particular year.

PC Note: All the Exemptions u/s 10 will not be discussed in this chapter. Some Exemptions u/s 10 are discussed in some of the chapters to be discussed later.

So, in this chapter we will discuss only those exemptions which will not be discussed in other chapters.

LIST OF EXEMPTIONS DISCUSSED IN RESPECTIVE CHAPTERS	
Salaries	<ul style="list-style-type: none"> ▪ Leave Travel Concession & HRA. ▪ Allowance payable outside India by GOI to a Citizen of India [Foreign Diplomats]. ▪ Gratuity/Commutated Pension/Leave Encashment [Salary]. ▪ Retrenchment Compensation & Voluntary Retirement Receipts. ▪ Income-tax paid by employer on behalf of employee. ▪ Payment from Provident Funds/Superannuation Fund. ▪ Special Allowance to meet expenses relating to duties or personal expenses. ▪ Specified Allowances & Perquisites paid to Chairman/Member of UPSC [Section 10(45)]
Deductions from GTI	<ul style="list-style-type: none"> ▪ Receipts from LIC. ▪ Payment from NPS Trust to an employee on Closure of his Account/Opting out of Pension Scheme/Partial Withdrawal.
IPOS	<ul style="list-style-type: none"> ▪ Interest Income arising to Certain Persons. ▪ Family Pension received by Widow/Nominated heirs of Armed Forces Members.
Clubbing	<ul style="list-style-type: none"> ▪ Exemption (Rs. 1,500) i.r.o Minor's Income included in hands of Parent [Sec 10(32)].
Capital Gains	<ul style="list-style-type: none"> ▪ Income received on buy-back of Shares (Listed/unlisted) of Domestic Company [10(34A)] ▪ Capital Gain on Compulsory Acquisition of Urban Agricultural Land [Section 10(37)] ▪ Loan received by Individual under Reverse Mortgage Scheme → Exempt [Section 10(43)]

SHARE OF HUF INCOME RECEIVED BY A MEMBER FROM HUF [SECTION 10(2)]

- Income earned by the HUF is assessable in its own hands since HUF is a 'person' under Income Tax Act.
- Any sum received by an Individual as a member of HUF
 - either out of the family income or
 - out of the impartible estate belonging to the family
 shall be **exempt** in the hands of the member even if such income is exempt in the hands of HUF.

CQ1. Mr. A, member of HUF, received 10,000 as his share from income of HUF. Discuss Tax Treatment.

Answer: Such income is not includible in Mr. A's chargeable income since section 10(2) exempts any sum received by an individual as a member of a HUF where such sum has been paid out of the income of the family.

SHARE OF PROFIT OF A PARTNER FROM A FIRM [SECTION 10(2A)]

- Share of the Partner in total income of the firm shall be exempt in the hands of partner even if taxable income becomes nil in the hands of firm due to any exemptions or deductions.

INTEREST ON NON-RESIDENT (EXTERNAL) A/C (only for Individual) [SEC 10(4)(ii)]

- **Interest** received on moneys in **Non-Resident (External) A/c** in any bank **in India** → **Exempt to NR.**

Points to Remember:

- ❖ **Exemption** is **available** only if such NR person is **permitted** by **RBI** to **maintain** such account.
- ❖ Joint-holders of NRE A/c will not be treated as AOP merely because they have A/c in joint names.
- ❖ Exemption will be available to each of the joint-holders only if they fulfill other prescribed T&Cs.

REMUNERATION RECEIVED BY INDIVIDUAL WHO ARE NOT CITIZEN [SEC 10(6)]

↓ Sec.	Exemptions & Conditions for claiming Exemptions
(ii)	Remuneration of Foreign Diplomats in India: Conditions for Claiming Exemption: 1. Remuneration received by Indian official in such foreign countries should be Exempt. 2. Foreign officer is not engaged in any other business/profession/employment in India.
(vi)	Remuneration of Employees of a Foreign Enterprise for services rendered in India: Conditions for claiming Exemption: 1. Employees' Stay in India ≤ 90 days in PY. 2. Remuneration paid to such employee is not deductible from employer's income & 3. Employer is not engaged in any Business/Trade in India.
(viii)	Salary received by NR Non-citizen of India as a crew Member of Foreign Ship: Condition for claiming Exemption: His stay in India ≤ 90 days in a PY.
(xi)	Remuneration received by Foreign Gov. Employees from Foreign Government for specified training in India Training should be in any establishment/office of or in any undertaking owned by the following: (a) Government; (b) Any Statutory corporation; (c) Company wholly owned by CG/SG or Jointly by CG & SG or its Subsidiary company (d) Any registered society which is wholly financed by CG/SG/Jointly by CG & SG.

ALLOWANCES OR PERQUISITES O/S INDIA TO A CITIZEN OF INDIA [SEC 10(7)]

Nature	Allowance & Perquisites {Basic Salary}
Paid by	Government of India
Paid to	Citizen of India
Paid for	Rendering services outside India to Government of India

Foreign Diplomats & Ambassadors

COMPENSATION RECEIVED ON ACCOUNT OF ANY DISASTER [SEC 10(10BC)]

- **Compensation** received for **any disaster** from **CG/SG/LA** by an **Individual/his legal heir** → Exempt.
- **No Exemption:** If the amount of Loss has been allowed as deduction.

PENSION RECEIVED BY RECIPIENT OF GALLANTRY AWARDS [SEC 10(18)]

- Pension received by Individual who was CG/SG employee & who has been awarded Param Vir Chakra/Maha Vir Chakra/Vir Chakra → Exempt.
- In **case of Death of Awardee:** Family pension received by the member of his family is exempt.
- Disability pension granted to disabled personnel of armed forces (naval, military or air) who have been invalided on account of disability attributable to or aggravated by such service would be exempt from tax.

Note: Exemption will not be available to personnel who have been retired on superannuation or otherwise.

INCOME OF A SIKKIMESE INDIVIDUAL [SECTION 10(26AAA)]

- Exempt Incomes:
 - (a) Income from **any source** in the State of Sikkim; or
 - (b) Income by way of **Dividend or Interest on securities**.
- **Exemption is not available** → Sikkimese woman who marry Non-Sikkimese man on/after 1.4.2008.

CQ2. Exemption is available to Sikkimese individual, only in respect of income from any source in Sikkim.

Answer: Incorrect. Exemption u/s 10(26AAA) is available to a Sikkimese individual not only in respect of the said income, but also in respect of income by way of dividend or interest on securities.

MATURITY AMOUNT OF A LIFE INSURANCE POLICY [SECTION 10(10D)] [V. IMP]	
Nature of Policy	Tax treatment
Any sum received from a policy u/s 80DD(3)	Taxable.
Any sum received under a Keyman Insurance Policy	Taxable.
Any other policy (sum received on death of Person)	Exempt
Any other policy (not received on death of Person) <ul style="list-style-type: none"> (i) Issued before 1.4.2003 (ii) Issued on/after 1.4.2003 but before 1.4.2012 (iii) Issued during 2012-2013 (iv) Issued on or after 1.4.2013(for Disabled perosn) 	Fully Exempt Exempt if Premium ≤ 20% of sum assured. Exempt if Premium ≤ 10% of sum assured. Exempt if Premium ≤ 15% of sum assured.

PC Note: Question for this section is given in the topic “TDS”. Students are advised to read the provisions of this section after completing “TDS”.

FOLLOWING RECEIPTS WILL ALSO BE EXEMPT

10(10CC)	Tax on Non-Monetary Perquisites paid by the Employer.
10(11)	Any Payment from PF/PPF set up by CG.
10(11A)	Interest & Withdrawals from Sukanya Samriddhi A/c.*
10(12)	Payment from Accumulated Balance of RPF to the employee.
10(12A)	Any payment from NPS trust to an employee on closure/opting out of scheme u/s 80CCD is exempt upto 60% of total amount payable to him.
10(12B)	Any payment from NPS trust to an employee on partial withdrawals out of his account from NPS referred u/s 80CCD is exempt upto 25% of contributions made by him.
10(13)	Any Payment from Approved Superannuation Fund.
10(15)	(i) Interest on Gold Deposit Bonds (ii) Interest on bonds issued by LA.
10(16)	Scholarships granted to meet the Cost of Education.
10(17)	Daily & Constituency allowance received by MPs & MLAs.
10(17A)	Awards or Rewards given by CG/SG (in cash/kind).
10(19)	Family Pension received by Family Members of Armed Forces who died on duty.
10(19A)	Annual value of one palace of the ex-ruler
10(21)	Income of an approved research association
10(22B)	Income of specified news agency set-up in India solely for collection & distribution of news if such news agency does not distribute its income to the member.
10(23C)	Income of certain funds of National Importance set up by CG: (i) Swachh Bharat Kosh (ii) Clean Ganga Fund or such other specified funds. (iii) University/Educational institution formed solely for educational purpose & not for profit. (iv) Hospital/medical institution formed solely for philanthropic purpose & not for profit.
10(23D)	Income of Notified Mutual Funds
10(32)	Income of minor clubbed in the hands of a parent upto Rs. 1500.
10(37)	CG arising on transfer of urban agricultural land by way of compulsory acquisition to Individual/HUF is exempt if compensation is received on/after 1.4.2004. PC Note: Rural Agricultural land is not a capital asset & thus CG will arise in such case.
10(39)	Specified Income from International Sporting Event held in India.
10(43)	Amount received by Individual as loan under Reverse Mortgage Scheme → Exempt
10(44)	Income of NPS Trust is Exempt.
10(45)	Notified Allowance/Perquisite paid to Chairman/Member of UPSC.

MASTER QUESTION

MQ01. Find out the net income & tax liability of Mr. X (35 years) for the AY 2022-23.
[Modified RTP]

Income from the activity of owning & maintaining race horses	7,00,000
Winnings from camel races in Dubai	3,00,000
Winnings from Government lottery	1,00,000
Cost of purchase of Lottery ticket	11,000
Salary from A Ltd. (includes entertainment allowance of Rs. 5,000) engaged in cultivation & manufacture of coffee in India	5,50,000
Share of profit from LLP firm for PY 2021-22 (X is a sleeping partner in the firm & share of profit includes LTCG on transfer of a plot of land of Rs. 1,50,000)	10,70,000
Share of profit from the family business	2,65,000
Interest income of minor child (of deposit made out of gift received by the child from brother of Mrs. X)	21,500
Income of Mrs. X [It is interest on company deposit (50% deposit is made out of gift received from X & 50% is made out of gift received from her father).	1,00,000
PPF contribution	2,05,000
Receipt of accumulated balance of PPF A/c (it includes interest of Rs. 1,10,000)	6,10,000

Solution:

Computation of Total Income & tax liability of Mr. X

(i) Salary (after standard deduction of Rs. 50,000) [Note 1]	5,00,000
(ii) Business income (owning & maintaining race horses)	7,00,000
(iii) Income from other sources -	
- Interest income of minor child [Rs. 21,500 - Rs. 1,500 exemption u/s 10(32)]	20,000
- Winnings from camel races (expenditure is not deductible)	3,00,000
- Winnings from lottery (expenditure is not deductible)	1,00,000
- Interest income of Mrs. X on deposit made by her out of money gifted by X	50,000
Gross total income	16,70,000
Less: Deduction u/s 80C	(1,50,000)
Total Income	15,20,000
Tax Payable = (30% of Rs. 4,00,000 + Normal tax @ Slab Rate = 11,20,000) + 4% HEC = Rs. 2,79,240.	

Note:

- Salary shall be taxable even if it is paid out of agricultural income by the employer.
- Accumulated balance of PPF & Interest on such balance is exempt u/s 10(11).
- Share of profit from a firm (LLP) is Exempt u/s 10(2A) even if X is a sleeping partner & profit includes LTCG.
- Share of profit from HUF Business received by the member of HUF is Exempt u/s 10(2).

CHAPTER 12A. TAX DEDUCTED AT SOURCE

DEDUCTION AT SOURCE & ADVANCE PAYMENT [SECTION 190]

- ❖ We all know that Income of PY is assessed to tax during next AY. Thus, Income earned during PY 2021-22 will be assessed to tax in AY 2022-23 [i.e. 1.04.2021 to 31.03.2022].
- ❖ However, Tax on such Income is taken from the assessee in the PY itself in following ways:
 - (a) **TDS**: In case of some income, tax is deducted at source by the payer at the prescribed rate.
 - (b) **TCS**: In some cases, tax is collected at source by the seller from buyer.
 - (c) **Advance Tax**: Sometimes assessee is under obligation to pay Advance Tax.
 - (d) **Tax paid by the employer u/s 192(1A)** on **non-monetary perquisites** provided to the employee.
- ❖ Taxes deducted/collected at source or paid as advance tax in PY itself are known as **pre-paid taxes**. Such prepaid taxes are deducted from the total tax due from the assessee.
- ❖ **Self Assessment Tax (SAT) u/s 140A**: At the time of filing ROI, assessee has to pay SAT u/s 140A, after deducting (adjusting) the following
 - TDS & TCS, Advance Tax paid, Tax paid u/s 192(1A),
 - Relief u/s 89,
 - **AMT credit** - Tax credit claimed to be set off in accordance with the provisions of section 115JD
 - Tax or interest payable according to the provisions of section 191(2).

SAT u/s 140A = Tax on total income – TDS/TCS/Advance tax/Tax u/s 192(1A) or 191(2)/AMT Credit.

CQ1. Income of Mr. PC is Rs. 10 Lacs. In this income, Rs. 50,000 was earned by way of Interest on which payer deducted tax @ 10% (Rs. 5,000). He paid Advance Tax of Rs. 25,000 in different instalments. TCS collected at Source was Rs. 10,000. Calculate SAT to be paid u/s 140A at the time of filing ROI.

Solution:

- (i) Total Tax liability on Rs. 10 Lacs = Rs. 1,12,500.
- (ii) TDS + TCS + Advance Tax paid by Mr. Pranav Chandak = Rs. 5,000 + Rs. 25,000 + Rs. 10,000 = Rs. 40,000.
- (iii) SAT payable u/s 140A = Rs. 1,12,500 – Rs. 40,000 = Rs. 72,500.

PC Note: Since the amount of tax has been already deducted at the time of payment of Interest to Mr. PC, he will get the credit of that amount while calculating Tax payable u/s 140A.

DIRECT PAYMENT OF TAX BY THE ASSESSEE [SECTION 191]

1 Direct payment of tax by the assessee [Section 191(1)]

- ❖ In the following cases, income-tax is payable by the assessee directly:
 - (a) Income on which tax is not required to be deducted at source [**Provisions of TDS → NA**]
 - (b) Income on which tax is to be deducted at source but has not been deducted. [**Provisions of TDS → Applicable; but TDS ×**]
 - ❖ Recovery proceedings shall be initiated against the assessee whose tax was to be deducted but has not been deducted. **[To be Studied @ CA FINAL Level]**
 - ❖ **Assessee in default** → A person who was liable to deduct tax but does not deduct tax (whole/part) OR after deducting tax, does not pay tax to government, such person liable to deduct tax shall be deemed to be assessee in default. [Explanation to Section 191]
- However, if the assessee himself has paid the tax, this provision will not apply.

2	<p>Direct payment of tax by the assessee (employee) whose has been allotted specified security or sweat equity shares free of cost or at a concessional rate by an employer [Section 191(2)]</p> <ul style="list-style-type: none"> ❖ If income of the assessee includes <ul style="list-style-type: none"> ▪ value of any specified security or sweat equity shares ▪ allotted by current employer free of cost or at concessional rate to the assessee, ▪ where employer being eligible start-up ref. in section 80-IAC ▪ tax on such income has to be paid by assessee within 14 days from earliest of following dates — <ul style="list-style-type: none"> - after the expiry of 48 months from the end of RAY; or - from the date of sale of such specified security or sweat equity share by the assessee; - from the date of the assessee ceasing to be the employee of the employer who allotted him such specified security or sweat equity shares.
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SALARY [SECTION 192]	
Nature of Payment	Salary (Taxable Salaries only).
Deductor	Employer
Payee	Employee having taxable salary.
Exemption Limit	<ul style="list-style-type: none"> ▪ Basic Exemption Limit (Rs 2,50,000). ▪ No TDS if Estimated Salary ≤ BEL (even if employee does not have PAN).
Rate of TDS	<ul style="list-style-type: none"> ▪ Tax should be deducted @ Average rate of tax on total income. ▪ Average Rate of Tax = $\frac{\text{Income Tax on Total Income using Slab Rate}}{\text{Total Income}}$ ▪ If employee intends to opt for concessional rate of tax u/s 115BAC & intimates to the deductor (his employer) of such intention, then employer shall compute his TI & deduct tax as per the provisions of section 115BAC. ▪ If employee does not intimate employer of such intension, employer shall deduct tax at source without considering the provision of section 115BAC.
Inclusion of Incomes & Losses from other heads.	<p>On application by the employee, Employer shall consider</p> <ul style="list-style-type: none"> ▪ Income from All Heads (Considering any TDS on such income) & ▪ Loss u/h House Property while calculating TDS of such employee.
Tax on Non-Monetary Perquisite given to Employee [192(1A)]	<ul style="list-style-type: none"> ▪ Employer may (at his option) pay tax on non-monetary perquisites in lieu of deduction of tax at source from salary payable of the employee. ▪ Payment of tax will have to be made every month along with tax deducted at source on monetary payment of salary, allowances etc. <p>PC Note: Tax paid by the employer u/s 192(1A) shall be taken as if it was a tax deductible at source from salary payable to the employee.</p>
Relief u/s 89(1)	Relief u/s 89(1) shall be considered while calculating TDS (if available).
Space for PC Note:	

TDS on salary by an employer, being an eligible start up referred in Section 80-IAC

- ❖ An employer, being an eligible start up, responsible for paying any income to the assessee
 - by way of perquisite being specified security or sweat equity shares allotted for free or at discount
 - has to deduct or pay tax on the value of such perquisite provided to its employee
 - within 14 days from the earliest of the following dates -
 - after the expiry of 48 months from the end of RAY; or
 - from the date of sale of such specified security or sweat equity share by the assessee;
 - from the date of the assessee ceasing to be the employee of the employer.
- ❖ Such tax has to deducted or paid on the basis of rates in force for FY in which said specified security or sweat equity share is allotted or transferred.

When a person is employed by one or more employers during FY?

- ❖ In such case, tax will be deducted by the employer separately. However, employee will have choice to choose one employer & give details (in Form No. 12B) of other employment to the chosen employer.
- ❖ The chosen employer will deduct the balance tax on Aggregate Salary.

Ex: Salary in 1st company = 10L & salary in 2nd company = 20L (Total salary received 30L).
 Now; Employee will have to choose any one employer & give details about other employment.
 Suppose he chooses Company 1 & gives details regarding his salary in Company 2 to Company 1.
 Now Company 1 will deduct only balance amount of tax on Total Income & not tax calculated on Rs. 20 Lacs.
 (i) Tax on TI (Rs. 30 Lacs) = Rs. 7,25,000; (ii) Tax on 10 Lacs deducted by Company 2 = Rs. 1,25,000;
 (iii) Company 1 will deduct only Rs. 6,00,000 [Rs. 7,25,000 – Rs. 1,25,000].

CQ2. Mr. X is employed in ABC Ltd. getting salary Rs. 50,000 p.m. & he has invested Rs. 50,000 in NSC. In this case, TDS at the time of payment of salary shall be:

Gross Total Income	Rs. 6,00,000
Less: Deduction u/s 80C [NSC]	(Rs. 50,000)
Total Income	Rs. 5,50,000
Tax on 5,50,000 + HEC @ 4%	Rs. 23,400
TDS to be deducted every month shall be (Rs. 23,400/12)	Rs. 1,950

If employer has deducted tax at source for April & salary was increased to Rs. 60,000 p.m. w.e.f. 1.5.2021, tax to be deducted in subsequent instalments shall be:

Salary (50,000 x 1) + (60,000 x 11)	Rs. 7,10,000
Less: Deduction u/s 80C [NSC]	(Rs. 50,000)
Total Income	Rs. 6,60,000
Tax on Rs. 6,60,000 + HEC @ 4%	Rs. 46,280
Less: Tax deducted at source in April	(Rs. 1,950)
Balance Amount of Tax [Rs. 46,280 – Rs. 1,950]	Rs. 44,330
Tax to be deducted in subsequent months (Rs. 44,330/11)	Rs. 4,030

PREMATURE (TAXABLE) WITHDRAWALS FROM EMPLOYEES' PF [SECTION 192A]

Deductor	Trustees of the payment of Employees' PF Scheme, 1952. [Trustee of RPF]
Payee	Employee.
Eligible Payment for TDS	<ul style="list-style-type: none"> ▪ Taxable Premature Withdrawal of Accumulated balance from RPF. (If period of continuous service < 5 years). ▪ Withdrawal of Accumulated balance is taxable in the following cases: Refer Salary.
Rate of TDS	10% (If PAN is not provided to the Deductor of Tax, then TDS @ MMR).
No TDS	If Aggregate Payment < Rs. 50,000.

For calculating 5 years time-limit, services rendered to previous employer shall be included:

1. If previous employer maintained RPF & balance of employee in PF A/c was transferred to him by employer.
2. If employment has been terminated because of certain reasons which are beyond his control.
3. If entire balance standing to the credit of the employee is transferred to his account under a pension scheme referred to in Sec 80CCD & notified by CG (NPS).

PC Note: Tax on withdrawn amount is required to be calculated by re-computing the tax liability of the years for which contribution to RPF has been made by treating it as contribution to URPF [Rule 9].

INTEREST ON SECURITIES [SECTION 193]

Deductor	Every person paying Interest on securities.
Payee	Resident Non-corporate Assessee/Domestic company.
TDS Rate	10%
NO TDS	Any amount of interest payable on: <ul style="list-style-type: none"> ❖ 4¼% National Defence Bonds 1972 held by resident individual ❖ 4¼% National Defence Loan, 1968 or 4¾% National Defence Loan, 1972 (to individual); ❖ National Development Bonds/Notified Debentures by CG <li style="padding-left: 20px;">Space for PC Class Note: ❖ 7-year NSC (IV Issue) ❖ 54EC Capital Gains Bonds: PFCL & IRFCL Bonds. ❖ 6½% Gold Bonds, 1977 or 7% Gold Bonds, 1980 held by resident Individual. ❖ Securities of CG/SG [However, TDS applicable if interest payable during the FY on 8% saving (taxable) bonds, 2003 or 7.75% Savings (Taxable) Bonds, 2018 > Rs. 10,000]. ❖ Interest on any debentures (listed or not) of public company, <ul style="list-style-type: none"> ▪ to Resident Individual or HUF ▪ by A/c Payee Cheque ▪ Total interest paid/payable in FY ≤ 5,000. ❖ Payable to LIC/GIC/Subsidiary of GIC/any other insurance company provided <ul style="list-style-type: none"> ▪ securities are owned by them or ▪ they have full beneficial interest in such securities. ❖ Listed Securities held in DEMAT form.

DIVIDEND [SECTION 194]		[V. Imp]
Deductor	Principal officer of a domestic company.	
Payee	Resident shareholders only.	
TDS Rate	10%	
NO TDS	No TDS in case of an individual shareholder where: <ul style="list-style-type: none"> ❖ Dividend is paid by any mode other than cash & total dividend distributed or paid or likely to be distributed or paid during FY to such shareholder ≤ Rs. 5,000. ❖ Payable to LIC/GIC/Subsidiary of GIC/any other insurance company provided <ul style="list-style-type: none"> ▪ shares are owned by them or ▪ they have full beneficial interest in such shares. 	

INTEREST OTHER THAN INTEREST ON SECURITIES [SECTION 194A]			
Deductor	(a) All Person (other than Individual/ HUF) & (b) Individual/HUF [if Tax Audit is required to be done u/s 44AB (a)(b) in Last PY]		
Payee	Resident Non-corporate Assessee/Domestic company.		
Rate	10%		
Exemption	1	Aggregate Interest paid or credited	≤ Rs 5,000
	2	Aggregate Interest paid by Bank/Co-operative Society/Post office on (a) Time deposits with bank/co-operative banks (b) deposits with post office under notified schemes.	≤ Rs 40,000
PC Note: For 'Resident Senior Citizen' - Exemption Limit is Rs. 50,000.			
PC Note:			
<ul style="list-style-type: none"> ▪ Exemption Limit of Rs. 40,000/Rs. 50,000 shall be computed with reference to each Branch. ▪ But if CBS is adopted, limit of Rs. 40,000/Rs. 50,000 shall be computed with reference to Whole bank (All branches) & not with reference to Individual Branch. ▪ This applies on Time Deposits including Recurring deposits. 			
NO TDS even if amount paid or credited for following payments exceeds Rs. 5,000:			
<ol style="list-style-type: none"> 1. In case of Senior Citizens if the aggregate amount of interest does not exceed Rs. 50,000. 2. Interest on loans given to Banks/Fin. Institutions/LIC/UTI/Insurance company. 3. Interest paid by Firm to partners. 4. Interest paid by a Co-operative society to its member or to any other co-operative society; [However, Co-operative Banks → Members; TDS provisions will be applicable if interest credited/paid is > 40,000] 5. Interest paid on Refund of Tax by Government. 6. Interest paid by Primary Agricultural Credit society or a Primary Credit society or a co-operative Land Mortgage bank or Co-operative Land Development Bank in respect of deposits with them. 7. Interest paid to Banks/Financial institutions/UTI/National Skill Development Fund/HUDCO. 8. Interest on compensation awarded by Motor Accidents Claims Tribunal & paid by Insurance company → NO TDS on CREDIT of any Interest & NO TDS ON PAYMENT ≤ Rs. 50,000 in a FY. 9. Interest on ZCBs. 			

CQ3. Examine TDS implications u/s 194A in the cases mentioned hereunder:

[ICAI SM Q1]

- (a) On 1.10.2021, Mr. Harish made a six-month fixed deposit of Rs. 10 Lacs @ 9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2022.
- (b) On 1.6.2021, Mr. Ganesh made three 9-months FDs of Rs. 3 lacs each carrying interest @ 9% with Dwarka Branch, Janakpuri Branch & Rohini Branch of XYZ Bank (bank has adopted CBS). FD mature on 28.2.2022.
- (c) On 1.10.2021, Mr. Rajesh started a 1-year recurring deposit of Rs. 2,00,000 p.m @ 8% p.a. with PQR Bank which matures on 31.3.2022.

Solution:

- (a) ABC Co-operative Bank has to deduct tax at source @ 10% on interest of Rs. 45,000 (9% × Rs. 10 Lacs × ½) u/s 194A. TDS u/s 194A = Rs. 4,500.
- (b) XYZ Bank has to deduct tax at source @ 10% u/s 194A, since aggregate interest on FD with 3 branches of the bank is Rs. 60,750 [Rs. 3 Lacs × 3 × 9% × 9/12] which exceeds Rs. 40,000.
Since XYZ Bank has adopted CBS, the aggregate interest credited/paid by all branches has to be considered.
- (c) No TDS u/s 194A by PQR Bank on interest of Rs. 28,000 falling due on RD on 31.3.2022 to Mr. Rajesh, since 'recurring deposit' is included in definition of 'time deposit' & interest does not exceed Rs. 40,000.

WINNING FROM LOTTERY, HORSE RACE & JACKPOT etc. [SECTION 194B & 194 BB]	
Deductor	Bookmaker or a person to whom a license has been granted by the Government for horse racing or for arranging for wagering or betting in any race course.
Rate of TDS	30%
Exemption Limit	Total Winning ≤ Rs. 10,000.
Lottery in KIND	Winner shall pay tax first & then lottery amount can be claimed.

PAYMENTS TO RESIDENT CONTRACTOR & SUB-CONTRACTOR [SECTION 194C]	
Deductor	<ul style="list-style-type: none"> ▪ Individual/HUF/AOP/BOI (<u>if tax audit u/s 44AB(a)/(b) is done in Last PY</u>). ▪ CG/SG/LA/Statutory corporation; Company, Firm; Cooperative society; Trust, Societies. ▪ Any statutory authority dealing with housing accommodations, ▪ Any university established under a Central, State or Provincial Act & institution declared to be a university under the UGC Act, 1956; ▪ Government of foreign State or foreign enterprise or any association established o/s India;
Rate (if paid to)	If paid to Individual/HUF: TDS @ 1% [0.75% from 14th May 2020 to 31st March, 2021] If paid to others: TDS @ 2% [1.5% from 14th May 2020 to 31st March, 2021] Tax should be deducted on - (a) Invoice Value excluding value of material if value of material is shown separately in Invoice) (b) Whole of Invoice Value (if Not Shown separately in the Invoice)
No TDS	(a) Contract of Personal nature for Individual/HUF. (b) Single payment to a person ≤ Rs. 30,000 during a FY & (c) Aggregate payment to a person during a year ≤ Rs. 1,00,000. (d) Transport charges paid to Contractor in a business of leasing/hiring goods carriages not owning more than 10 trucks at any time & who furnishes PAN to payer [Section 194C(6)].

Nature of Payment	(a) Advertisement (b) Broadcasting & Telecasting (including production of programmes) (c) Transportation of Goods & Passengers by any mode (OTHER THAN by RAILWAYS) (d) Catering Services (e) Manufacturing or supplying a product according to the requirement or specification of the customer by using materials purchased from the customer or its associate, being a person related to the customer in such manner as defined u/s 40A(2)(b). PC Note: If raw material is purchased from a person other than such customer or his associate, such a contract is a contract for 'sale' which is not covered u/s 194C. (f) Any works contract including supply for labour. (Not for Contract of SALE).
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PC Note:

1. Sec. 194C will apply only to 'Works Contracts' & 'Labour Contracts' & will not cover contracts for Sale.
2. Separate provisions for 'fees for professional services' have been made u/s 194J & thus Section 194C will not be attracted in such cases.

CQ4. ABC Ltd. makes following payments to Mr. X, a contractor, for contract work **[ICAI SM Q2]**

- (a) Rs. 20,000 on 1.5.2021; (b) Rs. 25,000 on 1.8.2021; (c) Rs. 28,000 on 1.12.2021.

On 1.3.2022 a payment of Rs. 30,000 is due to Mr. X on account of contract work. Whether ABC Ltd. is liable to deduct tax at source u/s 194C from payments made to Mr. X in PY 2021-22.

Solution: In this case, Individual contract payments made to Mr. X does not exceed Rs. 30,000. However, since the aggregate amount paid to Mr. X during PY 2021-22 exceeds Rs. 1 Lac (on account of last payment of Rs. 30,000, due on 1.3.2022, taking the total from Rs. 73,000 to Rs. 1,03,000), TDS provisions u/s 194C would get attracted. ABC Ltd. would be liable to deduct tax @ 1% on entire amount of Rs. 1,03,000 from last payment of Rs. 30,000. TDS = Rs. 1,03,000 Lac × 1% = Rs. 1,030 & balance of Rs. 28,970 (i.e. Rs. 30,000 – Rs. 1,030) has to be paid to Mr. X.

INSURANCE COMMISSION [SECTION 194D]

Deductor	Any person paying commission for soliciting or procuring insurance business
Recipient	A Resident person
Rate	5%
Exemption	Insurance Commission ≤ Rs. 15,000 during a FY to a person on aggregate basis.

PAYMENT OF MATURITY AMOUNT OF LIFE INSURANCE POLICY [SECTION 194DA]

Deductor	Insurance Companies
Payee	A resident person.
Rate	<ul style="list-style-type: none"> ▪ 5% on Income [Total Sum Received – Insurance Premium paid] ▪ if it is not exempt u/s 10(10D)
Exemption	< Rs. 1,00,000 (on Aggregate basis to a person in a FY)

CQ5. Examine the applicability of TDS provisions u/s 194DA in the following cases: **[ICAI SM Q4]**

- (a) Mr. X, a resident, is due to receive Rs. 4.50 Lacs on 31.03.2022, towards maturity proceeds of LIC policy taken on 1.4.2019, for which the sum assured is Rs. 4 Lacs & annual premium is Rs. 1,25,000.
- (b) Mr. Y, a resident, is due to receive Rs. 3.95 Lacs on 31.3.2022 on LIC policy taken on 31.3.2012, for which the sum assured is Rs. 3.5 Lacs & annual premium is Rs. 30,100.
- (c) Mr. Z, a resident, is due to receive Rs. 95,000 on 1.8.2021 towards maturity proceeds of LIC policy taken on 1.8.2015 for which the sum assured is Rs. 90,000 & annual premium was Rs. 10,000.

Solution:

- (a) Since Annual premium > 10% of Sum Assured i.r.o a policy taken after 31.3.2012, maturity proceeds of Rs. 4.50 lacs are not exempt u/s 10(10D) in the hands of Mr. X. Therefore, tax is required to be deducted @ 5% u/s 194DA on the amount of income comprised therein i.e on Rs. 75,000 [Rs. 4,50,000 – Rs. 3,75,000].
- (b) Since Annual premium < 20% of Sum Assured in respect of a policy taken before 1.4.2012, Sum of Rs. 3.95 lacs due to Mr. Y would be exempt u/s 10(10D) in his hands. Hence, **No TDS u/s 194DA to Mr. Y.**
- (c) Even though Annual premium > 10% of Sum Assured i.r.o a policy taken after 31.3.2012, & consequently, maturity proceeds of Rs. 95,000 would not be exempt u/s 10(10D) in the hands of Mr. Z, TDS provisions u/s 194DA are not attracted since the maturity proceeds are **less than 1 lac.**

NR SPORTSMEN/SPORTS ASSOCIATION [SECTION 194E]	
Payee	NR Sportsman/Athlete/Sports Association/Entertainer [Foreign Citizen]
Eligible Payment	Any payment referred to in section 115BBA.
Rate	20% + Surcharge (if applicable) + 4% HEC (since paid to NR)

CQ6. Calculate the amount of TDS on payment made to Ricky Ponting, an Australian cricketer non-resident in India, by a newspaper for contribution of articles Rs. 25,000. **[ICAI SM Q5]**

Solution:

- As per section 194E, person responsible for payment of any amount to non-resident sportsman for contribution of articles relating to any game or sport in India in a newspaper shall deduct tax @ 20%.
- Further, since Ricky Ponting is a non-resident, HEC @ 4% on TDS would also be added.
- **TDS = 20 + 4% HEC = 20.8% = Rs. 25,000 x 20.80% = Rs. 5,200.**

PAYMENT OF DEPOSITS UNDER NATIONAL SAVING SCHEME [SECTION 194EE]	
Rate	10%
Exemption	Payment < Rs 2,500 (on aggregate basis to a person in a FY)
Deductor	Post office
Payee	Any person.
Payment	Payment (Principal + Interest) out of national saving scheme, 1987.
PC Note: If payment is made to legal heirs of a deceased depositor → No TDS.	

PAYMENT ON REPURCHASE OF UNITS BY MUTUAL FUND/UTI [SECTION 194F]

Rate	20%
Deductor	Mutual fund/UTI
Payee	Unit holders of MF or UTI u/s 80CCB(2).
Payment	Payment on account of repurchase of units referred in Section 80CCB.

COMMISSION ON SALE OF LOTTERY [SECTION 194G]

Deductor	Any person paying commission on sale of lottery tickets.
Payee	Any person.
Rate	5%
Exemption	Commission ≤ Rs. 15000

PC Note: If an authorised lottery ticket agent purchases tickets in bulk at a discount from SG & sells the same at a price of his choice, Section 194G is not applicable.

COMMISSION/BROKERAGE [SECTION 194H]

Deductor	(a) All Person (other than Individual/ HUF) & (b) Individual/HUF (if Tax Audit is done u/s 44AB (a)/(b) in Last PY)
Rate	5%
Exemption	Aggregate Commission ≤ Rs. 15,000 to a person during FY.
NO TDS	(i) Insurance Commission. (ii) Commission to Stock broker. (iii) Commission by BSNL/MTNL to their Public Call Office (PCO) franchisees. PC Note: This section is not applicable to professional services.

CQ7. Moon TV, a television channel, made payment of Rs. 50 Lacs to a production house for production of programme for telecasting as per the specifications given by the channel. The copyright of the programme is also transferred to Moon TV. Would such payment be liable for tax deduction at source u/s 194C? Discuss. Also, examine whether the provisions of tax deduction at source u/s 194C would be attracted if the payment was made by Moon TV for acquisition of telecasting rights of the content already produced by the production house.

Solution: In this case, since the programme is produced by the production house as per the specifications given by Moon TV, a television channel, & the copyright is also transferred to the television channel, the same falls within the scope of definition of the term 'work' u/s 194C.

Therefore, the payment of Rs. 50 Lacs made by Moon TV to the production house would be subject to tax deduction at source u/s 194C.

If, however, the payment was made by Moon TV for acquisition of telecasting rights of the content already produced by the production house, there is no contract for "carrying out any work", as required in section 194C(1). Therefore, such payment would not be liable for tax deduction at source u/s 194C.

RENT [SECTION 194I]			
Deductor	(a) All person (other than Individual/ HUF) & (b) Individual/HUF (if Tax Audit is done u/s 44AB (a)/(b) in Last PY).		
Payee	Resident person only		
Payment	Rent of L & B (including factory building), P & M, F & F, Equipment.		
Rate	P&M, Equipments - 2%	L&B, F&F & others - 10%	[Excluding GST & Municipal Tax]
No TDS	(a) Aggregate of Rent paid/credited \leq Rs 2,40,000 during a FY to a person. (b) Rent paid to GOVERNMENT/ REIT .		

Q8. Mrs. Indira, a landlord, derived income from rent from letting a house property to M/s Vaibhav Corporation Ltd. of Rs. 1,00,000 p.m. She charged GST @ 15% on lease Rent charges. Calculate TDS to be made by M/s Vaibhavi Corporation Ltd. on payment made to Mrs. Indira.

Solution: GST paid by the tenant does not partake the nature of income of the landlord. Landlord only acts as a collecting agency for collection of GST. Therefore, TDS u/s 194-I would be required to be made on the amount of rent paid or payable excluding GST (TDS u/s 194-I on Rs. 12 lacs only). TDS = 12 Lacs \times 7.5% = Rs. 90,000.

PAYMENT OF RENT BY INDIVIDUAL/HUF [SECTION 194 IB]	
Deductor	Individual/HUF (if last year tax audit was NOT done u/s 44AB (a)(b));
Payment	Rent of Land or Building or Both
Rate	5%
Exemption	If Rent p.m or part of the month \leq Rs. 50,000 during the PY.
Time of TDS	(a) At the time of credit of Rent for Last month of PY or Last month of tenancy (if property is vacated during the year)] to the account of the payee OR (b) At the time of Payment , whichever is earlier.

PC Note: Deduction not to exceed rent for Last Month even if NO PAN is provided

- Where tax is required to be deducted as per section 206AA & 206AB, such deduction u/s 194IB shall not exceed rent payable for the last month of PY or last month of the tenancy.

Q9. Mr. X, a salaried individual, pays rent of Rs. 55,000 p.m to Mr. Y from June, 2021. **[ICAI SM Q8]**

- Compute TDS; Time of deduction of Tax;
- Would your answer change if Mr. X vacated the premises on 31st December 2021?
- What would be your answer if Mr. Y does not provide his PAN to Mr. X?

Solution:

- Since Mr. X pays rent exceeding Rs. 50,000 p.m in PY 2021-22, he is liable to TDS @ 5% of such rent for PY 2021-22 u/s 194-IB. Thus **Rs. 27,500** [Rs. 55,000 \times 5% \times 10 months] has to be deducted for March 2022.
- If Mr. X vacated the premises in Dec. 2021, then TDS of Rs. 19,250 [Rs. 55,000 \times 5% \times 7] from rent payable for Dec 2021.
- If Mr. Y does not provide his PAN to Mr. X \rightarrow TDS @ 20%, instead of 5%.
 - TDS = Rs. 1,10,000 [Rs. 55,000 \times 20% \times 10] but restricted to Rs. 55,000 only being rent for March 2022.
 - TDS = 77,000 [Rs. 55,000 \times 20% \times 7] but restricted to Rs. 55,000 only, being rent for December 2021.

PAYMENT ON TRANSFER OF IMMOVABLE PROPERTY OTHER THAN RURAL AGRICULTURAL LAND [SECTION 194IA]

Deductor Any person paying consideration for transfer of immovable property

TDS Rate

- 1%
- 20% if no PAN is furnished by the payee.

No TDS **Consideration < Rs. 50 lacs.**

PC Note: TDS on compulsory acquisition of immovable property is covered u/s 194LA & thus, section 194-IA do not get attracted in that case.

Ex: Mr. X has purchased one building for Rs. 65 Lacs. In this case TDS shall be Rs. 65 lacs x 1% = Rs. 65,000. But if building was purchased for Rs. 47 Lacs, amount of TDS shall be nil since consideration < Rs. 50 Lacs.

CQ10. Mr. X sold his house property in Bangalore as well as his rural agricultural land for a consideration of Rs. 60 lacs & Rs. 15 lacs, respectively, to Mr. Y on 1.8.2021. He has purchased the house property & land in the year 2020 for Rs. 40 lacs & Rs. 10 lacs, respectively. The stamp duty value on the date of transfer, i.e., 1.8.2021, is Rs. 85 lacs & Rs. 20 lacs for house property & rural agricultural land, respectively. Examine the tax implications in the hands of Mr. X & Mr. Y & the TDS implications, if any, in the hands of Mr. Y, assuming that both Mr. X & Mr. Y are resident Indians.

Solution:

- ❖ **Tax implications in the hands of Mr. X:** As per section 50C, the stamp duty value of house property (i.e. Rs. 85 lacs) would be deemed to be the full value of consideration arising on transfer of property, since the stamp duty value exceeds 110% of the consideration received. Therefore, Rs. 45 lacs (i.e., Rs. 85 lacs – Rs. 40 lacs, being the purchase price) would be taxable as short-term capital gains in AY 2022-23. Since rural agricultural land is not a capital asset, gains arising on sale of such land is not taxable in the hands of Mr. X.
- ❖ **Tax implications in the hands of Mr. Y:** In case immovable property is received for inadequate consideration, the difference between the stamp value & actual consideration would be taxable u/s 56(2)(x), if such difference exceeds the higher of Rs. 50,000 & 10% of the consideration. Therefore, in this case Rs. 25 lacs (Rs. 85 lacs – Rs. 60 lacs) would be taxable in the hands of Mr. Y u/s 56(2)(x).
Since agricultural land is not a capital asset, the provisions of section 56(2)(x) are not attracted in respect of receipt of agricultural land for inadequate consideration, since the definition of “property” u/s 56(2)(x) includes only capital assets specified thereunder.
- ❖ **TDS implications in the hands of Mr. Y:** Since the sale consideration of house property exceeds Rs. 50 lakh, Mr. Y is required to deduct tax at source u/s 194-IA. Tax to be deducted u/s 194-IA would be Rs. 60,000, being 1% of Rs. 60 lacs. TDS provisions u/s 194-IA are not attracted i.r.o. transfer of rural agricultural land.

PROCEDURAL PART

[To be read once]

- ❖ No requirement to obtain TAN to the Deductor under this section.
- ❖ Deductor u/s 194-IA shall also furnish to DGIT (Systems) or any person authorized by him, a challan-cum-statement in **Form No. 26QB** electronically **within 30 days** from the end of the month in which the deduction is made [Rule 31A].
- ❖ Deductor u/s 194-IA shall furnish TDS certificate in Form No. **16B** to the payee **within 15 days** from DD of furnishing the challan-cum-statement in Form No.26QB u/r 31A, after generating & downloading the same from the web portal specified by the DGIT (Systems) [Rule 31].

PAYMENT UNDER SPECIFIED AGREEMENT [SECTION 194-IC] **

Deductor	Any person.
Payment	Consideration paid to a resident under a specified agreement u/s 45(5A).
Rate	10% on Amount Paid
Non-applicability of section 194-IA: Since TDS provisions for specified agreement u/s 45(5A) is covered u/s 194-IC, provisions of Section 194-IA do not get attracted in such cases.	

PAYMENT OF COMPENSATION ON COMPULSORY ACQUISITION OF IMMOVABLE PROPERTY (OTHER THAN AGRICULTURAL LAND) [SECTION 194LA]

Deductor	Any person paying compensation.
Payee	Resident Person only.
Payments	Compensation/Enhanced Compensation on account of Compulsory Acquisition of Land & Building (other than Agricultural Land).
Rate of TDS	10% of Initial/Enhanced Compensation
No TDS	Aggregate Payment ≤ Rs. 2.5 Lacs during FY to a Person.

FEES FOR PROFESSIONAL/TECHNICAL SERVICES [SECTION 194J]

Deductor	<ul style="list-style-type: none"> ▪ Every person other than Individual/HUF ▪ Individual/HUF [if Tax Audit is required to be done u/s 44AB (a)(b) in Last PY] are required to deducted tax at source for fees for professional & technical services only.
Payee	Resident Person
Nature of Payment	(a) Professional services (b) Technical services (c) Any Remuneration or fees or commission (except salary to director of company) (d) Royalty (including royalty for cinematographic films) (e) Non-Compete Fees referred in Section 28(va).
Rate of TDS	<ul style="list-style-type: none"> ▪ 2% (in case of fees for technical services or royalty for cinematographic films). ▪ 10% in all other cases Note: TDS Rate = 2% if payee is engaged only in business of operation of call centre.
NO TDS	(a) on services provided to Individual/HUF for Personal Purposes. (b) Aggregate payment ≤ Rs 30,000 to a person in a FY PC Note: Limit of Rs. 30,000 is available separately for Individual services. Thus, if payment to a person towards each of the above is < Rs. 30,000, no tax is required to be deducted at source, even though aggregate payment or credit > Rs. 30,000. However, NO Exemption Limit is available for 'Director's fees'.

Notified Professional Services for section 194J: Sports Person, Umpires & Referees, Coaches & Trainer, Team Physician & Physiotherapist, Event Manager, Commentator, Anchor & Sports Columnist.

Meaning of “Fees for technical services”

- Any consideration (including lumpsum consideration) for rendering following services: Managerial services; Technical services; Consultancy services; Provision of services of technical or other personnel.
- It is expressly provided ‘fees for technical services’ will not include following types of consideration:
 - (a) Consideration for any construction, assembly, mining or like project or
 - (b) Consideration which is chargeable under the head ‘Salaries’.

CQ11. XYZ Ltd. makes a payment of Rs. 28,000 to Mr. X on 2.8.2021 towards fees for professional services & another payment of Rs. 25,000 to him on same date towards fees for technical services. Discuss whether Sec. 194J is attracted.

Solution: TDS provisions u/s 194J would not get attracted, since limit of Rs. 30,000 is applicable for fees for professional services & fees for technical services, separately. It is assumed that there is no other payment to Mr. X towards fees for professional services & fees for technical services during PY 2021-22. [ICAI SM Q9]

INCOME IN RESPECT OF UNITS [SECTION 194K]		[Inserted by FA, 2020]
Deductor	Any person responsible for paying any income i.r.o. <ul style="list-style-type: none"> ▪ units of a Mutual fund ▪ units from Administrator of the specified undertaking ▪ units from the specified company 	
Payee	Resident Person.	
Rate of TDS	10%	
NO TDS	<ul style="list-style-type: none"> ▪ Aggregate payment ≤ Rs 5,000 to a person in a FY ▪ Income is of the nature of capital gains. 	

PAYMENT FOR CONTRACT WORK OR BY WAY OF FEES FOR PROFESSIONAL SERVICES OR COMMISSION OR BROKERAGE [SECTION 194M]	
Deductor	Individual/HUF (other than those who are required to deduct tax u/s 194C/194H/194J)
Payee	Resident Person.
Rate of TDS	5% if Aggregate amount of such sums credited/paid during PY ≤ Rs. 50 Lacs.
Nature of Payment	Any Payment for <ol style="list-style-type: none"> (a) Carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or (b) Commission (not being insurance commission referred in sec 194D) or brokerage; (c) Fees for professional services.
No TAN	Provisions of sec. 203A containing the requirement of obtaining Tax deduction A/c number (TAN) shall not apply to the person required to deduct tax in accordance with the provisions of section 194M.

CQ12. Examine whether TDS provisions would be attracted in the following cases, & if so, under which section. Also specify the rate of TDS applicable in each case. Assume that all payments are made to residents.

SN	Payer	Nature of Payment	Aggregate Payment in PY 2021-22
1	Mr. Ganesh, individual carrying on retail business with turnover of Rs. 2.5 crores in PY 2020-21	Contract Payment for repair of house	Rs. 5 lacs
		Payment of commission to Mr. Vallish for business purposes	Rs. 80,000
2	Mr. Rajesh, a wholesale trader whose turnover was 95 Lacs in PY 2020-21	Contract Payment for reconstruction of residential house (made during Jan – Mar 2022)	Rs. 20 lacs in Jan 2022, Rs. 15 lacs in Feb 2022 & Rs. 20 lacs in March 2022.
3	Mr. Satish, salaried individual	Payment of brokerage for buying a residential house in March, 2022	Rs. 51 lacs
4	Mr. Dheeraj, a pensioner	Contract payment made during Oct-Nov 2021 for reconstruction of residential house	Rs. 48 lacs

Solution:

SN	Payer	Nature of payment	Payments	Whether TDS?
1	Mr. Ganesh	Contract Payment for repair of house	Rs. 5 Lacs	TDS u/s 194C is not attracted since payment is for personal purpose & TDS u/s 194M is not attracted as total payment to a payee in PY 2020-21 < Rs. 50 lacs.
		Payment of commission to Mr. Vallish for business	Rs. 80,000	Yes, u/s 194H, since payment > Rs. 15,000 & Mr. Ganesh's turnover > Rs. 1 crore in PY 2020-21.
2	Mr. Rajesh	Contract Payment for reconstruction of house	Rs. 55 Lacs	Yes, u/s 194M, since aggregate of payments (i.e Rs. 55 lacs) > Rs. 50 lacs. Since his turnover does not exceeds Rs. 1 Cr, he is not subject to tax audit in PY 2020-21. Hence, TDS provisions u/s 194C are not attracted in respect of payments made in PY 2021-22.
3	Mr. Satish	Payment of brokerage for buying a residential house	Rs. 51 Lacs	Yes, u/s 194M, since payment of Rs. 51 lacs made in March 2022 > Rs. 50 lacs. Since Mr. Satish is a salaried individual, Sec. 194H is not applicable.
4	Mr. Dheeraj	Contract payment for reconstruction of house	Rs. 48 Lacs	TDS provisions u/s 194C are not attracted since Mr. Dheeraj is a pensioner & not liable to tax audit. Provisions u/s 194M are also not applicable since payment of Rs. 48 lacs < Rs. 50 lacs.

TDS ON CASH WITHDRAWALS [SECTION 194N]

Deductor	(a) Banking company; (b) Co-operative bank; (c) Post office
Payments	Aggregate cash payment during PY exceeding Rs. 1 crore to any person from one or more accounts maintained by such recipient-person with the Deductor.
Rate of TDS	2% of sum exceeding Rs. 1 crore.

Modification in Rate of TDS & withdrawal limit for recipient who has not furnished ROI for last 3 PY

If recipient has not furnished ROI for all 3 AYs relevant to 3 PYs, for which time limit of filing ROI u/s 139(1) has expired, immediately preceding the PY in which the payment of the sum is made, sum shall mean the amount or aggregate of amounts, as the case may be, in cash > Rs. 20 lacs during PY, & tax shall be deducted at the rate of -

- **2% of sum, where aggregate amount being paid in cash > 20 Lacs but ≤ Rs. 1 Cr.**
- **5% of sum, where aggregate amount being paid in cash > Rs. 1 Cr.**

Non-applicability of TDS under section 194N [Second Proviso to section 194N]

Any payment made to:

- (a) Government;
- (b) Banking company or co-operative banks or a post-office;
- (c) Business correspondent of a banking company or co-operative bank;
- (d) White label ATM operator of a banking company or co-operative bank.

Central Government may specify, with the consultation of RBI, by notification, the recipient in whose case section 194N shall not apply or apply at reduced rate, subject to the satisfaction of the conditions specified in such notification. Accordingly, Central Government has, after consultation with RBI has specified

1	Cash Replenishment Agencies (CRA) & Franchise Agents of White Label ATM Operators (WLATMO) <ul style="list-style-type: none"> ▪ maintaining separate bank A/c from which withdrawal is made for replenishing cash in ATM only & ▪ WLATMO have furnished a certificate every month to bank certifying that bank of CRA & franchise agents of WLATMO have been examined & amounts being withdrawn from their bank A/c has been reconciled with the amount of cash deposited in ATMs of WLATMO.
2	Commission Agent/Trader operating under APMC (registered under any Law relating to AMP) <ul style="list-style-type: none"> ▪ who has intimated his A/c no. to bank/Co- operative society/PO through which he wishes to withdraw cash in excess of Rs. 1 crore in PY along with his PAN & details of the PY & ▪ has certified that cash withdrawn from such A/c in excess of Rs. 1 crore during PY is for making payments to the farmers on A/c of purchase of agriculture produce & ▪ Bank/Co-operative society/PO has ensured that PAN quoted is correct & commission agent or trader is registered with APMC & necessary evidences have been collected & placed on record.
3	(a) Authorised Dealer & its Franchise Agent & Sub-Agent (b) Full-Fledged Money Changer (FFMC) licensed by RBI & its franchise agent; <p>Such persons should maintain a separate bank A/c from which withdrawal is made only for:</p> <ol style="list-style-type: none"> 1. Purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians on their return to India, in cash as per the directions or guidelines issued by RBI; or 2. Disbursement of inward remittances to the recipient beneficiaries in India in cash under Money Transfer Service Scheme (MTSS) of the RBI;

PC Note [Sub-rule (3A) in Rule 37BA]

- ✓ Credit for TDS u/s 194N shall be given to the person from whose A/c tax is deducted & paid to CG
- ✓ For the AY relevant to PY in which such deduction is made.

PAYMENT BY E-COMMERCE OPERATOR TO E-COMMERCE PARTICIPANT [SECTION 194O]

Applicability	If Sale of goods or provision of services of an e-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform.
Deductor	E-commerce operator making payment to E-commerce participant
Rate of TDS	1% of gross amount of such sales/services/both [0.75% from 14.05.2020 – 31.03. 2021]
Time of deduction	(a) At the time of credit of amount of sale or services or both to the account E-commerce participant or
[Earlier of →	(b) at the time of payment thereof to such e-commerce participant by any mode
No TDS	Any sum credited/paid to E-commerce participant (being Individual/HUF), where the gross amount of such sale or services or both during PY does not exceed Rs. 5 lacs & such e-commerce participant has furnished his PAN/Aadhaar to e-commerce operator.

Deemed credit: Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for sale of goods or provision of services, facilitated by an e-commerce operator, would be deemed to be amount credited or paid by e-commerce operator to e-commerce participant. **Such payment would be included in gross amount of such sales/services for TDS u/s 194-O.**

Non-applicability of TDS under any other section

- ❖ A transaction i.r.o. which tax has been deducted by the e-commerce operator under this section or which is not liable to tax deduction under this section on account of the exemption discussed above, would not be liable to tax deduction at source under any other provision of Chapter XVII-B of the Act.
- ❖ However, this exemption from TDS under Chapter XVII-B would not apply to any amount or aggregate of amounts received/receivable by E-commerce operator for hosting advertisements or providing any other services which are not in connection with sale of goods/services referred above.

TDS BY A SPECIFIED BANK IN CASE OF SPECIFIED SENIOR CITIZEN [SECTION 194P]

Applicability	TDS on the basis of rates in force by a specified bank, being a notified banking company, on total income of specified senior citizen for relevant AY, computed after giving effect to deduction allowable under Chapter VI-A; and rebate u/s section 87A.
Exemption	Specified senior citizen is exempted from filing his ROI for the AY relevant to the PY in which the tax has been deducted under this section.

Meaning of certain terms:

- ❖ **Specified bank:** A banking company as notified by the Central Government.
- ❖ **Specified senior citizen:** An individual, being a resident in India, who –
 - is of the age of 75 years or more at any time during PY;
 - is having pension income [Also, he should have no other income except interest income received or receivable from any account maintained by such individual in same specified bank in which he is receiving his pension income]; and
 - has furnished a declaration to specified bank containing such particulars, in the prescribed form and verified in the prescribed manner.

CQ13. Mr. Sharma, a resident Indian (age 77 yrs) gets pension of Rs. 52,000 per month from UP State Government. It is credited to his savings account in SBI, Lucknow Branch. In addition, he gets interest @ 8% on fixed deposit of Rs. 20 lacs with said bank. Out of the deposit of Rs. 20 lacs, Rs. 2 lacs represents 5-year term deposit made by him on 1.4.2021. Interest on savings bank credited to his SBI savings account for PY 2021-22 is Rs. 9,500.

- Compute total income & tax liability of Mr. Sharma for AY 2022-23.
- What would be the amount of TDS by SBI, assuming that the same is a specified bank? Is Mr. Sharma required to file his ROI for AY 2022-23, if tax deductible at source has been fully deducted? Examine.
- Would your answer to (b) be different if the fixed deposit of Rs. 20 lacs was with Canara Bank instead of SBI, other facts remaining the same?

Solution:
(a) Computation of total income of Mr. Sharma for AY 2022-23

Particulars		Rs.	Rs.
1	Salaries		
	Pension (Rs. 52,000 x 12)	6,24,000	
	Less: Standard deduction u/s 16(ia)	(50,000)	5,74,000
2	Income from Other Sources		
	Interest on fixed deposit (Rs. 20 lacs x 8%)	1,60,000	
	Interest on savings account	9,500	1,69,500
3	Gross total income		7,43,500
	Less: Deductions under Chapter VI-A		
	Section 80C: Five-year term deposit (Rs. 2 lacs, restricted to Rs. 1.5 lacs)	1,50,000	
	Section 80TTB: Interest on fixed deposit and savings account, restricted to Rs. 50,000, since Mr. Sharma is a resident Indian of the age of 77 years.	50,000	2,00,000
4	Total Income		5,43,500
5	Computation of tax liability for AY 2022-23		
	Tax payable [Rs. 43,500 x 20% + Rs. 10,000] + 4% HEC		19,448

- SBI, being a specified bank, is required to deduct tax at source u/s 194P (after considering tax, if any, deducted on pension u/s 192) & remit the same to CG. Mr. Sharma would not be required to file his ROI u/s 139.
- If fixed deposit of Rs. 20 lacs is with a bank other than SBI, which is the bank where his pension is credited, then, Mr. Sharma would not qualify as a "specified senior citizen", consequent to which SBI would not be liable to deduct tax u/s 194P. In this case, Mr. Sharma would have to file his ROI u/s 139, since his total income (without giving effect to deduction under Chapter VI- A) exceeds the basic exemption limit.

It may be noted that, TDS provisions u/s 192 would, in any case, be attracted in respect of pension income. Further, Canara Bank would, be liable to deduct tax @ 10% u/s 194-A on interest on fixed deposit, since the same exceeds Rs. 50,000.

TDS ON PURCHASE OF GOODS [SECTION 194Q] [W.E.F. 1.7.2021]	
Deductor	Buyer who is responsible for paying any sum to any resident-seller for purchase of goods of the value or aggregate of such value exceeding Rs. 50 lacs in a PY.
Rate if TDS	1% of such sum exceeding Rs. 50 Lacs
Time of deduction	Deduction is to be made at the time of credit of such sum to the account of the resident-seller or at the time of payment thereof by any mode, whichever is earlier.
No TDS	Tax is not required to be deducted under this section i.r.o. a transaction on which – (a) tax is deductible under any of the provisions of this Act; & (b) tax is collectible under the provisions of section 206C, other than section 206C(1H).
Note	In case of a transaction to which both section 206C(1H) & 194Q applies, tax is required to be deducted u/s 194Q.
Meaning of buyer	Person whose Sales/TO/GR > Rs. 10 crores during last FY. However, buyer does not include a person as notified by CG for this purpose, subject to fulfillment of T&Cs.

PC Note: Students are advised to read section 206AA, 206C(1H) & 206CC before solving this CQ.

CQ14. Mr. Gupta, a resident, is in retail business & his turnover for PY 2020-21 was Rs. 12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler & aggregate payment during PY 2021-22 was Rs. 95 lacs (Rs. 20 Lacs on 1.6.2021, Rs. 25 Lacs on 12.8.2021, Rs. 22 Lacs on 23.11.2021 & Rs. 28 Lacs on 25.3.2022). Assume that the said amounts were credited to Mr. Agarwal's account in the books of Mr. Gupta on the same date. Mr. Agarwal's turnover for PY 2020-21 was Rs. 15 crores.

- Examine the TDS/TCS implications, if any, under the Income-tax Act, 1961.
- Would your answer be different if Mr. Gupta's turnover for PY 2020-21 was Rs. 8 crores?
- Would your answer to (1) and (2) change, if PAN has not been furnished by the buyer or seller, as required?

Solution:

- Since Mr. Gupta's turnover for PY 2020-21 exceeds 10 crores & payments made by him to Mr. Agarwal, a resident seller exceed Rs. 50 lacs in PY 2021-22, he is liable to TDS @ 0.1% of Rs. 45 lacs (in excess of 50 Lac)–
 - No TDS u/s 194Q on payments made on 1.6.2021 & 12.8.2021, since aggregate payments till that date i.e. 45 lacs, has not exceeded the threshold of Rs. 50 lacs.
 - TDS of Rs. 1,700 (i.e., 0.1% of Rs. 17 lacs) u/s 194Q from payment/credit of Rs. 22 Lacs on 23.11.2021 [Rs. 22 Lacs – Rs. 5 lacs, being the balance unexhausted threshold limit].
 - TDS of Rs. 2,800 (i.e., 0.1% of Rs. 28 Lacs) u/s 194Q from the payment/credit of Rs. 28 lacs on 25.3.2022.
 Note: In this case, since both section 194Q and 206C(1H) applies, tax has to be deducted u/s 194Q.

- If Mr. Gupta's turnover for PY 2020-21 was only Rs. 8 crores, TDS provisions u/s 194Q would not be attracted. However, TCS provisions u/s 206C(1H) would be attracted in the hands of Mr. Agarwal, since his turnover exceeds Rs. 10 crores in PY 2020-21 and his receipts from Mr. Gupta exceed Rs. 50 lacs.
 - No TCS u/s 206C(1H) on 1.6.2021 & 12.8.2021, since aggregate receipts till that date i.e. 45 lacs, has not exceeded the threshold of Rs. 50 lacs.
 - Tax of Rs. 1,700 (i.e., 0.1% of Rs. 17 lacs) has to be collected u/s 206C(1H) on 23.11.2021 (Rs. 22 Lacs – Rs. 5 lacs, being the balance unexhausted threshold limit).
 - Tax of Rs. 2,800 (i.e., 0.1% of Rs. 28 lacs) has to be collected u/s 206C(1H) on 25.03.2022.

- In case (1), if PAN is not furnished by Mr. Agarwal to Mr. Gupta, then, Mr. Gupta has to deduct tax @ 5%, instead of 0.1%. Accordingly, tax of Rs. 85,000 (i.e., 5% of Rs. 17 lacs) and Rs. 1,40,000 (5% of Rs. 28 lacs) has to be deducted by Mr. Gupta u/s 194Q on 23.11.2021 and 25.3.2022, respectively.

In case (2), if PAN is not furnished by Mr. Gupta to Mr. Agarwal, then, Mr. Agarwal has to collect tax @ 1% instead of 0.1%. Accordingly, tax of Rs. 17,000 (i.e., 1% of Rs. 17 lacs) and Rs. 28,000 (1% of Rs. 28 lacs) has to be collected by Mr. Agarwal u/s 206C(1H) on 23.11.2021 and 25.3.2022, respectively.

INCOME PAYABLE “NET OF TAX” [SECTION 195A]

- ❖ Where, under an agreement or other arrangement, the tax chargeable on any income is to be borne by the person by whom the income is payable, then, for the purposes of deduction of tax under those provisions such income shall be increased to such amount as would, after deduction of tax thereon, be equal to the net amount payable under such agreement or arrangement.
- ❖ However, no grossing up is required in the case of tax paid under section 192(1A) by an employer on the non-monetary perquisites provided to the employee.

NO TDS ON ANY SUMS PAYABLE TO GOVERNMENT, RBI etc. [SECTION 196]

- ❖ No TDS on any sum payable to the following persons:
 - Government; RBI.
 - Corporation established by/under Central Act, which is exempt from Income-tax.
 - Mutual Fund specified u/s 10(23D).
- ❖ This provision for non-deduction is when such sum is payable to above entities by way of:
 - (i) Interest/Dividend i.r.o. securities/shares owned (full beneficial interest) by them; OR
 - (ii) Any income accruing or arising to them.

TIME FOR DEDUCTION OF TAX AT SOURCE

For Sections	Time when Tax should be deducted
193, 194A/C/D/G/H/I/IA/IB/IC/J	(a) At the time of Credit of A/c of the payee (b) Date of Payment whichever is earlier
192, 192A, 194, 194B/BB/DA/EE/LA	On the Date of Payment

PC Note: A/c to which sum is credited may be called ‘Suspense Account’ or by any other name.

- ☞ Deduction is to be made at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.
- ☞ Where such sum is credited to any account, whether called suspense account or by any other name, in the books of accounts of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and tax has to be deducted accordingly.

TIME LIMIT, FORM & MANNER OF DEPOSITING TDS u/s 194IA, 194IB & 194M [NN 98/2019]

1	Time limit & prescribed form for remittance of TDS
	Any sum deducted u/s 194-IA, 194-IB & 194M shall be paid to the credit of CG within 30 days from the end of the month in which the deduction is made & shall be accompanied by a challan-cum statement in Form 26QB, 26QC, 26QD . [Rule 30(2C)]
2	Manner of remittance of TDS
	Where tax deducted is to be deposited accompanied by a challan-cum-statement in Form No. 26QD , amount of tax so deducted shall be deposited to the credit of the Central Government by remitting it electronically within thirty days from the end of the month in which the deduction is made into RBI or SBI or any authorised bank . [Rule 30(6C)]

3	TDS Certificate & time limit for furnishing such certificate to the payee [Rule 31(3C)]
	Every person responsible for deduction of tax u/s 194-IA, 194-IB & 194M shall furnish the TDS certificate in Form No.16B, 16C & 16D, respectively, to the payee within 15 days from the due date for furnishing the challan- cum-statement in Form No.26QB, 26QC & 26QD, respectively, under Rule 31A, after generating & downloading the same from the web portal specified by the PDGIT (Systems) (in case of section 194-IB & 194M) or DGIT (Systems) or the person authorized by him.
4	Time limit & manner of submission of Challan-cum Statement [Rule 31A(4C)]
	Every person responsible for deduction of tax u/s 194-IA, 194-IB & 194M shall also furnish to the PDGIT (Systems) (in case of section 194IB & 194M), DGIT (Systems) or any person authorized by them, a challan-cum-statement in Form No.26QB, 26QC & 26QD, respectively, electronically within 30 days from the end of the month in which the deduction is made.

CERTIFICATE FOR DEDUCTION OF TAX AT LOWER RATE [SECTION 197]

- ❖ Section 197 is operative in case of **section 192, 193, 194, 194A/C/D/G/H/I/J/K/LA/M/O.**
- ❖ In such cases, assessee can make an application to AO for TDS at Lower rate/No TDS.
- ❖ If AO is satisfied that TI of the recipient justifies TDS @ lower rate or No TDS, he may give such certificate.
- ❖ Where AO issues such a certificate, then deductor shall deduct income-tax at such **lower rates specified in certificate or deduct no tax, until such certificate is cancelled by AO.**

NO DEDUCTION OF TAX TO BE MADE IN CERTAIN CASES [SECTION 197A]

- ❖ **A declaration in writing by the assessee in duplicate that tax on his estimated TI of PY will be Nil.**
- ❖ Deductor shall deliver or cause to be delivered to PCC or CC or PC, one copy of the declaration on or before 7th day of the next month following the month in which the declaration is furnished to him.

1	Filing of declaration for receipt of NSS payment & dividend without TDS [Sub-section (1)]
	<ul style="list-style-type: none"> ❖ Resident individual whose estimated TI of the PY < BEL may file a declaration in duplicate to receive dividend (u/s 194) or any sum out of National Savings Scheme A/c (u/s 194EE), without TDS. ❖ Declaration shall state that tax on estimated TI of the declarant of the PY in which such income is to be included in computing his TI will be Nil. ❖ Declaration is to be furnished to the person responsible for paying such income u/s 194/194EE.
2	Declaration for non-deduction of tax u/s 192A/193/194A/194D/194DA/194I/194K by persons, other than companies & firms [Sub-section (1A)]
	<ul style="list-style-type: none"> ❖ If a person, who is not a company/firm, furnishes to the person responsible for paying any income referred to in these sections, a declaration in writing in duplicate that tax on his estimated TI of the PY in which such income is to be included in computing his total income will be Nil.
3	Filing of declaration is not permissible if income/aggregate of incomes > BEL [Sub-section (1B)]
	Declaration cannot be furnished as per the above provisions, where - (a) Payments of dividend; (b) Payments i.r.o. deposits under National Savings Schemes; (c) Payment of premature withdrawal from EPF; (d) Interest on securities or other interests; (e) Insurance commission; (f) Payment i.r.o. life insurance policy; (g) Rent; (h) Income from units; (i) Aggregate of the amounts of such incomes in (a) to (h) above credited/paid or likely to be credited/paid during PY in which such income is to be included > BEL.

4	Filing of declaration by resident senior citizens for no TDS [Sub-section (1C)]
	<p>If a resident senior individual furnishes a declaration in writing in duplicate to the payer, that tax on his estimated TI of the PY in which such income is to be included in computing his total income is Nil, no TDS shall be made u/s 192A/193/194/194A/194D/194DA/194EE/194I/194K.</p> <p>The restriction contained in sub-section (1B) will not apply to resident senior citizens.</p>
5	Non-deduction of tax in certain cases
	<p>❖ Interest payments by an Offshore Banking Unit to NR/RNOR [Sub-section (1D)] No deduction of tax shall be made by an Offshore Banking Unit from the interest paid on- (a) deposit made by NR/RNOR or (b) borrowing from NR/RNOR on or after 1.4.2005.</p> <p>❖ Payment to any person for, or on behalf of, the NPS Trust [Sub-section (1E)] No TDS shall be made from any payment to any person for, or on behalf of, NPS Trust.</p>
6	Time limit for delivery of one copy of declaration [Sub-section (2)]
	On receipt of the declaration referred to in sub-sections (1), (1A) or (1C), person responsible for making the payment will be required to deliver or cause to be delivered to PCC/CC/PC/CIT, one copy of the declaration on/before 7 th of the month following the month in which declaration is furnished to him.

SUMMARY OF SECTION 197A			
Payee	Section	Form No	Non-Applicability [197A(1B)]
Resident Individual	194 & 194EE	15G (15H by person ≥ 60 years of age)	Amount of such income or the aggregate of such incomes credited or paid or likely to be credited or paid during PY exceeds the BEL.
Person (other than Company or Firm)	192A, 193, 194A, 194D & 194DA, 194I.		

CONSEQUENCES OF FAILURE TO DEDUCT OR PAY TDS TO CG [SECTION 201]		
1	Assessee in Default	
	Any person including principal officer of the company who is: (a) Required to deduct Tax at Source or (b) Being an employer opts for payment of tax u/s 192 (1A) does not deduct or pay (whole/part) the tax, such person shall be deemed to be assessee in default .	
2	Payer NOT deemed to be "Assessee in Default"	
	▪ If such payee has filed ROI u/s 139 & has included such sum in computing his total income in ROI & has paid tax on such sum. PC Note: No penalty u/s 221 if failure is due to good & sufficient reason.	
3	INTEREST FOR DELAY IN DEDUCTION OR PAYMENT	
	If (i) No Tax is deducted OR (ii) Tax has been deducted but not paid to CG; interest payable will be:	
	Late Deduction	Simple Interest @ 1% p.m or part of the month of Late Deduction:
	From	Date on which tax should have been deducted
	Upto	Date on which such tax was actually deducted
	Late Payment	Simple interest @ 1.5% p.m or part of the month of Late Payment
	From	Date on which tax was deducted
	Upto	Date on which such tax is actually paid to CG

Ex: If assessee has deducted tax at source on 31.12.2021 & assessee pays TDS on 17.01.2022, Interest u/s 201(1A) shall be charged in the manner given below:

(i) Interest u/s 201 shall be charged for 3 months @ 1% for the period 10.10.2021 to 31.12.2021.

(ii) Interest u/s 201 shall be charged for 1 month @ 1.5% p.m from 31.12.2021 to 17.01.2022.

CQ15. Rs. 40,000 was paid to Mr. X on 1.7.2021 towards professional fees w/o TDS. Subsequently, another payment of Rs. 50,000 was due to Mr. X on 28.2.2022, from which tax @ 10 % (Rs. 9,000) on entire amount of Rs. 90,000 was deducted. However, this tax of Rs. 9,000 was deposited only on 22.6.2022. Compute Interest u/s 201(1A). [ICAI SM Q11]

Solution:

Computation of Interest u/s 201(1A)

Particulars	Rs
1% on tax deductible but not deducted [1 % on Rs. 3,000 for 8 months (1.7.2021 to 28.2.2022)]	240
1.5% on tax deducted but not deposited [1.5% on Rs. 6,750 for 4 months (28.2.2021 to 22.6.2022)]	405
Total Interest u/s 201(1A)	645

4 Time Limit for deeming a person to be Assessee-in-default for failure to deduct tax at source

Order u/s 201(1) deeming a person as assessee in default shall be passed at any time before

- 7 years from the end of FY in which payment is made or credit is given. **[Whichever is later]**
- 2 years from the end of FY in which correction statement is delivered under proviso to sec. 200(3)

5 No Time Limit is prescribed deeming a person to be Assessee-in-default in following cases

- Tax has been deducted but **not paid** to the government;
- Employer has failed to pay tax (wholly/partly) u/s 192(1A) [Since No question of deduction arises];
- Deductee is a Non-Resident [It may not be possible to recover the tax from NR].

TABLE A: DUE DATE FOR DEPOSIT OF TDS TO CG [Rule 30]

SN	Deductor	Cases	Due Date
1	Government	Tax paid without production of Income Tax Challan	Same Day of TDS
		Tax paid accompanied by Income Tax Challan	7 days from end of the month of TDS.
2	Any other Person	Deduction made in April - February	7 days from end of the month of TDS.
		If income is credited/paid in March	30 th April.

- Tax deducted u/s 194IA/IB/M have to be remitted within 30 days from the end of the month of TDS.
- Challan-cum-statement in Form No. 26QB/QC/QD has to be furnished within 30 days from the end of the month of TDS.

QUARTERLY PAYMENT OF TDS:

- In special cases, AO may (with prior approval of JCIT) permit quarterly payment of **TDS u/s 192/194A/D/H** on/before 7th of the month following the quarter for 1st three quarters in the FY & 30th April i.r.o. the quarter ending on 31st March.
- Thus, dates for quarterly payment would be 7 July, 7 October, 7 January & 30 April for the quarters ended 30 June, 30 September, 31 December & 31 March, respectively.

TABLE B: DUE DATES FOR FILLING QUARTERLY STATEMENT [Rule 31A]

Every person responsible for deduction of tax shall deliver, or cause to be delivered, following quarterly statements to the DGIT (Systems) or any person authorized by him, in accordance with sec. 200(3):

Statement of TDS u/s ↓		Form No.		
1	Section 192	Form No. 24Q		
2	Other sections	Deductee being NR or foreign company or RNOR		Form No. 27Q
		All other deductees		Form No. 26Q
Quarter ending on		30 th June	30 th Sep	31 st Dec
Due Date for filing statement		31 July of FY	31 Oct of FY	31 Jan of FY

- Tax deducted u/s 194IA/IB/M have to be remitted within 30 days from the end of the month of TDS.
- Challan-cum-statement in Form No. 26QB/QC/QD has to be furnished within 30 days from the end of the month of TDS.

CERTIFICATE FOR TAX DEDUCTED [SECTION 203]

- Deductor shall issue a certificate to the payee of Income that tax has been deducted & specify the amount deducted, rate at which tax has been deducted & such other prescribed particulars.
- Every Employer shall furnish to the employee a certificate (for Tax u/s 192(1A) that tax has been paid & specify the amount of Tax paid, rate at which tax has been paid & such other prescribed particulars.

TDS CERTIFICATE [Rule 31]

TDS u/s 192	In Form No. 16 → Issued annually by 15 th June of next FY.
Other sections	In Form 16A → Issued Quarterly w/i 15 days from DD for filing TDS statement u/r 31A.

CORRECTION OF ARITHMETIC MISTAKES & ADJUSTMENT OF INCORRECT CLAIM DURING COMPUTERIZED PROCESSING OF TDS STATEMENTS [SECTION 200A]

1	Following adjustments can be made during the computerized processing of statement of TDS: <ul style="list-style-type: none"> ▪ Arithmetical Errors in the statement; or ▪ Incorrect claim if such incorrect claim is apparent from any other information in the statement.
2	'Incorrect claim apparent from any information in the statement' shall mean claim: <ul style="list-style-type: none"> ▪ which is Inconsistent with another entry of the same or some other item in such statement; ▪ where Rate of TDS is not in accordance with the provisions of the Act.
3	Interest has to be computed on the basis of the sums deductible as computed in statement
4	Fee u/s 234E: A fee of Rs. 200 per day is levied u/s 234E for late furnishing of TDS statement. <ul style="list-style-type: none"> ▪ From: DD of furnishing of TDS statement - To: Date of Actual furnishing of TDS statement. ▪ Total fee u/s 234E shall not exceed Total Amount of TDS/TCS. ▪ Such fee has to be paid before delivering the TDS statement.
5	Sum payable by the deductor should be determined after Adjustment of Interest & Fee against the amount paid u/s 200/201/234E & any other amount paid by way of Tax/Interest/Fee.
6	Intimation will be sent to the deductor, specifying his tax liability or refund due within 1 year from the end of FY in which statement is filed. Refund due shall be granted to the deductor.

MANDATORY REQUIREMENT OF FURNISHING PAN [SECTION 206AA]

- ❖ Both deductor & deductee have to compulsorily quote PAN of the deductee in all correspondence, bills, vouchers & other documents exchanged between them.
- ❖ In case of failure to provide PAN, **RATE OF TDS** shall be **higher** of the following rates:
 - (a) **Rate prescribed in the Act;**
 - (b) **Rate in force (i.e. rate mentioned in Finance Act) or**
 - (c) **20% [5% in case tax is required to be deducted at source u/s 194O & 194Q]**
- ❖ Above provision is also applicable if taxpayer files a declaration in Form 15G/15H but does not provide PAN. Similar **No certificate u/s 197** will be granted by AO if PAN is not furnished.
- ❖ If PAN provided is invalid or it does not belong to the deductee, it shall be deemed that the deductee has not furnished his PAN to the deductor.

Ex: In case of rental payment for plant and machinery, where the payee does not furnish his PAN to the payer, tax would be deductible @ 20% instead of @ 2% prescribed u/s 194-I. However, non-furnishing of PAN by the deductee in case of income by way of winnings from lotteries, card games etc., would result in tax being deducted at the existing rate of 30% u/s 194B. Therefore, wherever tax is deductible at a rate higher than 20%, this provision would not have any impact.

HIGHER RATE OF TDS FOR NON-FILERS OF INCOME-TAX RETURN [SECTION 206AB]

- ❖ Section 206AB requires tax to be deducted at source under the provisions of this Chapter on any sum or income or amount paid (or payable) or credited by a person (deductee) to a **specified person**, at higher of the following rates –
 - (a) **Twice the rate prescribed in the relevant provisions of the Act;**
 - (b) **Twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or**
 - (c) **5%**
 - ❖ However, section 206AB is not applicable to 192, 192A, 194B, 194BB or 194N.
 - ❖ If both section 206AA & section 206AB are applicable to specified person, then, tax is required to be deducted at higher of the two rates provided in section 206AA and section 206AB.
 - ❖ **Meaning of Specified person:** A person who has not filed ROI for both of 2 AYs relevant to 2 PYs immediately prior to the PY in which tax is required to be deducted, for which time limit of filing ROI u/s 139(1) has expired, & aggregate of TDS & TCS is Rs. 50,000 or more in each of these 2 PYs.
- Note:** Specified person does not include a NR who does not have a permanent establishment in India.

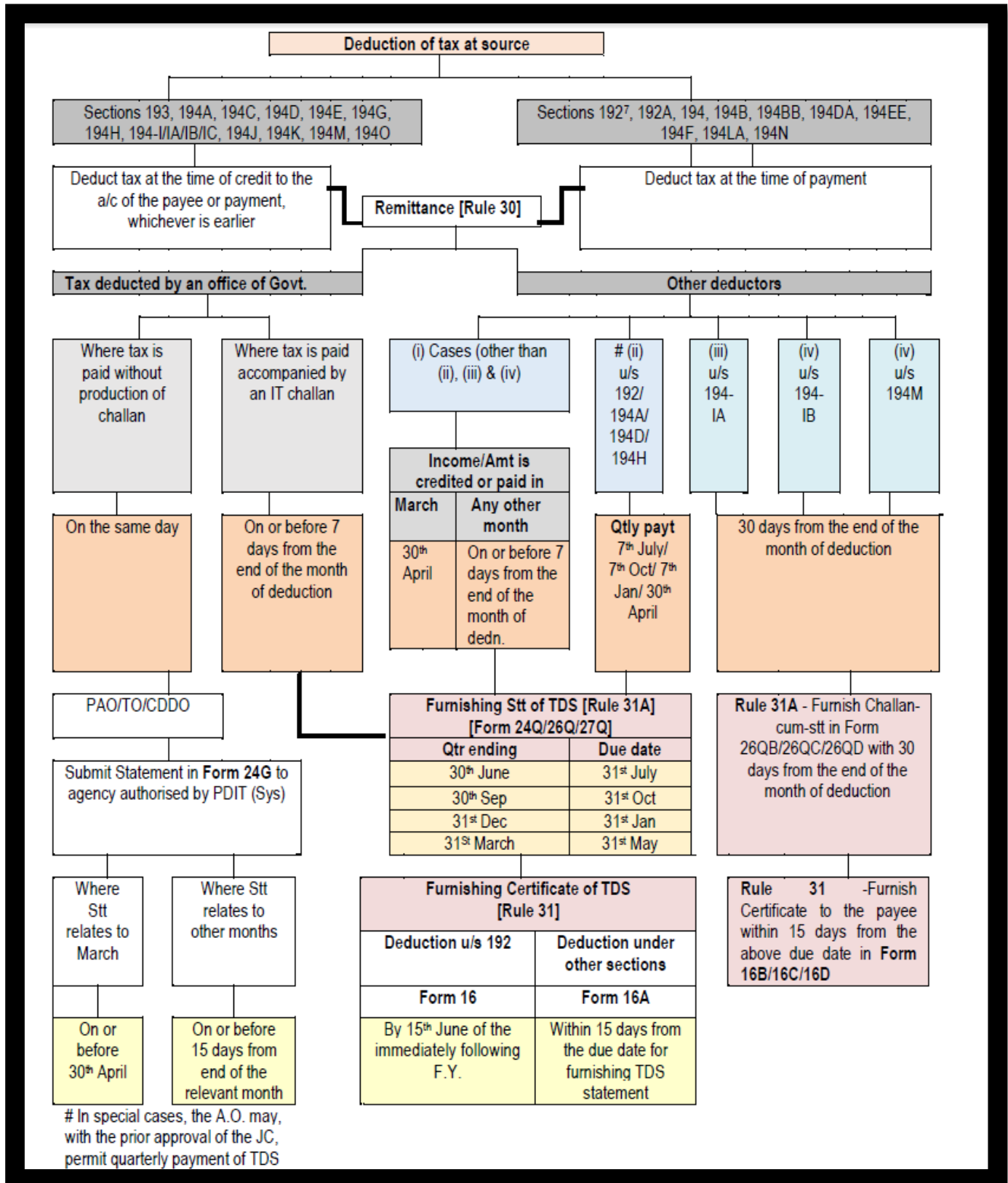
STATEMENT, I.R.O PAYMENT OF INTEREST TO RESIDENTS WITHOUT TDS [SEC. 206A]

1. Every banking company or co-operative society or public company referred to in the proviso to section 194A(3)(i) shall prepare prescribed statements if it is responsible for paying interest u/s 194 to a resident not exceeding Rs. 40,000 & Rs. 5,000 in any other case.
2. Such persons should prepare & deliver or cause to be delivered statements within the prescribed time to the prescribed income-tax authority or the person authorized by such authority.
3. Such statements should be on floppy disk, magnetic tape, CD- ROM etc.

SUMMARY OF SOME OTHER SECTIONS

Section	Provision
195A	<p><u>INCOME PAYABLE NET OF TAX</u></p> <ul style="list-style-type: none"> ❖ If Tax is to be borne by Payer: Income of Payee = Income Received + Tax Paid by the payer. ❖ However, no grossing up is required in case of tax paid [u/s 192(1A)] by an employer on non-monetary perquisites provided to the employee.
197A(1F)	<p>NO TDS on following payments in case such payment is made by a person to a bank (excluding a foreign bank) or to any payment systems company authorised by RBI:</p> <ul style="list-style-type: none"> ❖ Bank guarantee commission; credit card or debit card commission for transaction between the merchant establishment & acquirer bank, Depository charges on maintenance of DEMAT accounts; ❖ Cash management service charges; underwriting service charges; charges for warehousing services; ❖ Clearing charges (MICR charges) including interchange fee or any other similar charges charged at the time of settlement or for clearing activities under Payment & Settlement Systems Act, 2007.
198	<p>Tax deducted is treated as Income of the payee & tax credit is available to him.</p> <p>However, tax deducted u/s 194N & tax paid by an employer u/s 192 (1A) on Non-monetary perquisites provided to the employees shall not be deemed to be income received by deductor.</p>
199	<p>Credit for TDS → Amount of TDS shall be allowed as Set off in the year in which income is assessed. Any sum referred to in Section 192(1A) & paid to CG, shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.</p>
200	<p><u>DUTY OF PERSON DEDUCTING TAX</u></p> <ol style="list-style-type: none"> 1. Persons responsible for deducting the tax at source should deposit the sum so deducted to the credit of CG within the prescribed time. 2. Employer paying tax on non-monetary perquisites provided to employees as per section 192(1A) should deposit tax to the credit of CG within prescribed time or as Board directs.
202	<p><u>DEDUCTION ONLY ONE MODE OF RECOVERY</u></p> <ul style="list-style-type: none"> ❖ Recovery of tax through deduction at source is one of the methods of recovery of Tax. ❖ AO can use any other prescribed methods of recovery in addition to tax deducted at source.
203AA	<p><u>FURNISHING OF STATEMENT OF TAX DEDUCTED</u></p> <ul style="list-style-type: none"> ❖ Prescribed Income - Tax Authority or person authorised by such authority shall prepare & deliver to every person from whose income, tax has been deducted/paid. ❖ Such statement should specify amount of tax deducted or paid. ❖ DGIT (Systems) has to deliver statement of TDS in Form 26AS by 31st July of following year.
205	<p><u>BAR AGAINST DIRECT DEMAND OF TAX FROM ASSESSEE</u></p> <ul style="list-style-type: none"> ❖ Assessee cannot be asked to pay the tax on income on which tax has already been deducted. ❖ If Deductor has not paid tax to government, department cannot recover tax from assessee. ❖ Only the person deducting the tax shall be liable to pay tax to the government.

PC NOTE: Rule Numbers & Form Numbers are only for the reference. No Need to memorize them.



CHAPTER 12B. TAX COLLECTED AT SOURCE

BASIC CONCEPTS & RATES OF TCS [SECTION 206C]		
Nature of Goods/Services		% of TCS
1	Sale of Certain Goods [Section 206C(1)]	
	1. Alcoholic liquor for human consumption	1%
	2. Tendu Leaves	5%
	3. Timber obtained under a forest Lease	2.5%
	4. Timber obtained by any other mode than under a forest lease	2.5%
	5. Any other forest produce not being timber or tendu leaves	2.5%
	6. Scrap	1%
	7. Minerals (Being Coal, Lignite or Iron Ore)	1%
2	Leasing/Licensing Services [Parking lot/Toll Plaza or Mining/Quarry] [Section 206(1C)]	2%
	Every person who grants a lease or a licence or enters into a contract or otherwise transfers any right/interest in any parking lot/Toll Plaza or Mining/Quarry (Other than Mineral oil, Petroleum, Natural Gas) to any person other than Public Sector Company.	
3	Sale of Motor Vehicle of value > Rs. 10 lacs [Only for Retail Sale] [Section 206C(1F)]	1%
	<ul style="list-style-type: none"> ▪ Limit of Rs. 10 Lacs is applicable to Single sale & not to Aggregate value of sale made during FY. ▪ Mode of Payment is irrelevant to attract TCS in case of Sale of Motor Vehicle. ▪ No TCS on sale of Motor Vehicle by manufacturers to dealers/ distributors. ▪ This Provision is applicable for ANY Motor Vehicles including Luxury Cars. ▪ No TCS on sale made to Government, institutions notified under UN (Privileges & Immunities) Act 1947 & Embassies, Consulates, High Commission, Legation, Commission & trade representation of a foreign State. 	
4	TCS on sale of goods of value exceeding Rs. 50 lacs [Section 206C(1H)]	0.1%
	<ul style="list-style-type: none"> ▪ As per section 206C(1H), tax is also required to be collected by a seller, who receives any amount as consideration for sale of goods of the value or aggregate of such value exceeding Rs. 50 lacs in a PY [other than exported goods or goods covered under sub-sections (1)/(1F)/(1G)]. ▪ Rate of TCS = 0.1% of sale consideration exceeding Rs. 50 lacs. ▪ Time of TCS → At the time of receipt of consideration. ▪ However, tax is not required to be collected if buyer is liable to deduct tax at source under any other provision of the Act on goods purchased by him from the seller & has deducted such tax. ▪ Non-furnishing of PAN or Aadhar by buyer to seller → Rate of TCS = Higher of (a) Twice the rate specified in this sub-section; & (b) 1%. 	
5	Overseas remittance or overseas tour package [w.e.f. 1.10.2020] [Section 206C(1G)]	5%
	<ul style="list-style-type: none"> ❖ Authorized dealer, who receives amount, for overseas remittance from a buyer (being a person remitting such amount out of India); ❖ Seller of an overseas tour programme package who receives any amount from the buyer who purchases the package. ❖ Meaning of Overseas tour program package → Any tour package which offers visit to a country or territory outside India. It includes expenses for travel/stay/boarding/lodging or any other expenditure of similar nature or in relation thereto. [Clause (ii) of Explanation to sec. 206C(1G)]. 	

RATE OF TCS IN CASE OF COLLECTION BY AN AUTHORIZED DEALER		
	Amount and purpose of remittance	Rate of TCS
1	(a) Where amount is remitted for a purpose other than purchase of overseas tour programme package; & (b) Aggregate amounts being remitted by a buyer < Rs. 7 lacs in a FY.	Nil (No tax to be collected at source)
2	(a) where the amount is remitted for a purpose other than purchase of overseas tour programme package; & (b) Aggregate of the amounts in excess of Rs. 7 lacs is remitted by the buyer in a FY.	5% of aggregate amount in excess of Rs. 7 lacs
3	(a) Where the amount being remitted out is a loan obtained from any financial institution, for the purpose of pursuing any education; & (b) Aggregate amounts in excess of Rs. 7 lacs is remitted by buyer in FY	0.5% of aggregate amounts in excess of Rs. 7 lacs

CASES WHERE NO TAX IS TO BE COLLECTED	
1	No TCS by the authorized dealer on an amount i.r.o which the sum has been collected by the seller.
2	No TCS, if buyer is liable to deduct tax at source under any other provision of the Act & has deducted such tax.
3	No TCS, if the buyer is CG/SG/Embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority or any other person notified by CG, subject to fulfillment of conditions stipulated thereunder.

TIME OF TCS [SECTION 206C(1)/(1C)/(1F)]	
❖	Tax should be collected at the time of - (a) Debiting of the amount payable by the buyer/licensee/leasee to his account or (b) Receipt of such amount from the buyer/licensee/leasee [whichever is earlier]
❖	Sale of Motor Vehicle > Rs. 10 Lacs & Sale of goods > Rs. 50 Lacs → Receipt of consideration.

NON-APPLICABILITY OF TCS PROVISIONS [SECTION 206C(1A)]	
No TCS if the resident buyer furnishes to the collector a declaration in writing in duplicate that	
▪	Goods are to be utilised for Manufacturing/Processing/Producing articles or for generation of power &
▪	not for trading purposes.

TIME LIMIT FOR PAYING COLLECTED TAX TO THE CG [RULE 37CA]			
SN	Person	Circumstances	Time Limit
1	Government	Tax paid without production of Income Tax Challan	Same Day of TCS
		Tax paid accompanied by Income Tax Challan	7 days from end of month
2	Other than Government → Within 1 Week from last day of Month of TCS.		

MEANING OF “BUYER” FOR THE PURPOSE OF TCS PROVISION
1 For “Sale of goods of value > Rs. 50 Lacs [Section 206C(1H)]

A person who purchases any goods **but does not include** –

- (a) CG/SG, an embassy, a High Commission, legation, commission, consulate & trade representation of a foreign State, or
- (b) Local authority
- (c) Person importing goods into India or any other person as CG may, by notification in the Official Gazette, specify for this purpose, subject to stipulated conditions.

2 For ‘Sale of Certain Goods & Leasing/Licensing services’ [Section 206C(1) & 206(1C)]

A person who obtains in any sale (Auction/Tender/Any other mode) goods specified above or right to receive any such goods **but does not include:**

- (a) Public sector company, CG, SG & Embassy, High commission, legation, commission, consulate & the trade representation, of a foreign State & a club, or
- (b) Buyer in the Retail sale of such goods purchased by him for personal consumption.

3 For “Sale of motor vehicle > Rs. 10 Lacs [Section 206C(1F)]

A person who obtains in any sale, goods of the nature specified therein, **but does not include:**

- (a) CG, SG, & Embassy, High Commission, legation, commission, consulate & trade representation of a foreign State; or Local authority; or
- (b) Public sector company which is engaged in the business of carrying passengers.

MEANING OF “SELLER” FOR THE PURPOSE OF TCS PROVISION
1 For “Sale of goods of value > Rs. 50 Lacs [Section 206C(1H)]

Person whose total sales, gross receipts or turnover from the business carried on by him **exceed Rs. 10 crores** during FY immediately preceding the financial year in which goods are sold.

2 For “Sale of Certain Goods & Motor Vehicles” [Section 206C(1) & 206C(1F)]

- CG/SG/LA or corporation;
- Authority established by or under a Central, State or Provincial Act;
- Any Company or a Firm or Co-operative society
- **Individual/HUF** [Tax audit u/s 44AB(a)/(b) is done in last PY].
- **Seller includes Individual/HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed Rs. 1 Crores in case of business & Rs. 50 Lacs in case of profession** during FY immediately preceding the financial year in which the goods of the nature specified in the Table in point (1) are sold. [Explanation to section 206C] [**W.e.f. 1st October, 2020**]

MEANING OF SCRAP

Waste & scrap from the manufacture or mechanical working of materials which is definitely not usable **as such** due to breakage, cutting up, wear & other reasons [Explanation to section 206C].

COMMON NUMBER FOR TDS & TCS [SECTION 203A]

- ❖ Persons responsible for deducting tax or collecting tax at source should **apply to AO** for the allotment of a 'Tax-deduction & Collection-account number'.
- ❖ Documents/certificates/returns/challans in which TAN has to be compulsorily quoted:
 - Challans for payment of any sum in accordance with the provisions of section 200/206C(3);
 - Certificates furnished u/s 203/206C(5);
 - Statements prepared & delivered as per the provisions of section 200(3)/206C(3).
 - Returns delivered in accordance with the provisions of section 206/206C(5B); &
 - All other documents pertaining to such transactions prescribed in the interests of revenue.
- ❖ Requirement of obtaining & quoting of TAN shall not apply to such person notified by CG.

DIFFERENCE BETWEEN TDS & TCS

TDS	TCS
<ul style="list-style-type: none"> ▪ TDS is Tax Deduction at Source 	<ul style="list-style-type: none"> ▪ TCS is Tax Collection at Source.
<ul style="list-style-type: none"> ▪ Payer is required to deduct tax at source at the prescribed rate. 	<ul style="list-style-type: none"> ▪ Seller of certain goods/services is responsible for collecting tax at source at prescribed rate.
<ul style="list-style-type: none"> ▪ Tax is required to be deducted at the time of credit or payment, whichever is earlier. ▪ However, in certain cases, tax is required to be deducted at the time of payment. 	<ul style="list-style-type: none"> ▪ Tax is required to be collected at source at the time of debit or receipt whichever is earlier. ▪ In case of sale of Motor-Vehicle, tax shall be collected at the time of receipt of amount.

HIGHER RATE OF TCS FOR NON-FILERS OF RETURN & NON-FURNISHERS OF PAN [SECTION 206CCA & 206CC]

- ❖ Section 206CCA requires tax to be collected at source under the provisions of this Chapter on any sum or amount received by a person (collectee) from a specified person, at higher of the following rates:
 - (a) Twice the rate specified in the relevant provision of the Act;
 - (b) at 5%
- ❖ In case both provisions of section 206CC & 206CCA are applicable to specified person, then, tax is required to be collected at higher of the two rates provided in section 206CC & 206CCA.

Section 206CC require TCS at higher of following rates, in case of failure by person paying any sum on which tax is collectible at source to furnish PAN to person responsible for collecting tax at source -

- (a) Twice the rate specified in the relevant provision of the Act
- (b) at 5% [1% in case tax is required to be collected at source u/s 206C(1H)]

Section 206CC does not apply to NR who does not have a permanent establishment in India.

It may be noted that whereas section 206CC is applicable to persons paying any sum or amount (on which tax is collectible at source) who have not furnished PAN, section 206CCA is applicable to specified persons who have failed to file ROI [See definition of specified person in (iii) below].

- ❖ **Meaning of Specified person:** A person who has not filed ROI for both of 2 AYs relevant to 2 PYs immediately prior to the PY in which tax is required to be deducted, for which time limit of filing ROI u/s 139(1) has expired, & aggregate of TDS & TCS is Rs. 50,000 or more in each of these 2 PYs.

Note: Specified person does not include a NR who does not have a permanent establishment in India.

CHAPTER 12C. ADVANCE TAX

INTRODUCTION

- We know that income earned during PY 2021-22 shall be taxed in AY 2022-23.
- But assessee is required to pay tax, in advance, on taxable income of PY 2021-22 during PY 2021-22 itself. Such tax paid is known as Advance Tax.
- Advance tax is payable on estimated current income in installments during the previous year.
- Such advance tax is in addition to TDS/TCS.
- **Credit for Advance Tax [Section 219]:** Advance tax paid by the assessee is treated as payment of tax for PY & Credit of Advance Tax paid is given to him while calculating tax payable u/s 140A.

WHO IS LIABLE TO PAY ADVANCE TAX [SECTION 207 – SECTION 219]

- ❖ Any person whose **Advance Tax liability \geq Rs 10,000** in the FY on estimated current income is liable to pay Advance Tax.
- ❖ **Exception:** Senior Resident Individual (Age \geq 60 yrs during PY) & does not have any Income u/h PGBP
→ Not required to pay Advance Tax even if his Advance Tax liability \geq Rs. 10,000.
- ❖ **Advance Tax is payable on Estimated Current Income**
 - Estimated Current Income = Expected Income during current PY under 5 heads of Income.
 - Thereafter, brought forward losses shall be set off.
 - From Estimated GTI, deductions likely to be claimed u/s 80C to 80U will be deducted.
- ❖ **How to calculate ADVANCE TAX LIABILITY?**

Tax on Estimated Total Income

Less: Rebate u/s 87A or Relief u/s 89

Add: Surcharge + Health & Edu. Cess

Less: TDS/TCS

If this amount comes out to be \geq Rs. 10,000;
then such person is liable to pay advance tax.

PC Note:

1. Assessee is not required to submit any estimate or statement of estimated income to AO unless he has been asked (served with notice) by AO to submit the estimates.
2. **Proviso to Section 209(1)(d):** Tax deductible but not so deducted cannot be reduced for computing Advance Tax liability of the payee.
3. Estimated Net Agricultural Income of the PY has to be considered for computing advance tax.

INSTALLMENTS OF ADVANCE TAX & DUE DATES

A ASSESSEE COMPUTING PROFITS ON PRESUMPTIVE BASIS U/S 44AD or 44ADA

- Pay **whole amount** of Advance Tax **on/before 15th March** of the PY in **one installment**.
- This option is not available for Section 44AE.

Space for PC Note:

B ASSESSEES OTHER THAN MENTIONED ABOVE IN (A)	
Schedule of Payment of Advance Tax (Minimum Installments)	
Payment date	All Assesseees (other than eligible person u/s 44AD)
15 June	15% of Advance Tax Liability
15 September	45% of Advance Tax Liability - Amount paid in 1 st Installment
15 December	75% of Advance Tax Liability - Amount paid in 1 st & 2 nd Installments
15 March	100% of Advance Tax Liability - Amount paid in 1 st , 2 nd & 3 rd Installments

PC Note:

- ✓ **Revision of Estimated Income:** Each installment shall be calculated on estimated income on cumulative basis after revision of estimated income @ every date of payment (15th of June/Sep/Dec/March).
- ✓ Any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year on or before 15th March.
- ✓ **Assessed in Default:** Where the assessee does not pay any installment by the due date, he shall be deemed to be an assessee in default in respect of such installment.
- ✓ If Banks are closed on Last day for Payment of any instalment of Advance Tax → Assessee can pay such installment on next working day; No Interest u/s 234B/234C will be charged.

SOME OTHER IMPORTANT POINTS

<p>Q1. Can AO issue order to an assessee to pay Advance Tax?</p> <p>Answer:</p> <p>(a) If the person was required to pay advance tax & such person has not paid it. OR</p> <p>(b) If any person has been already assessed by way of regular assessment for any earlier PY, AO can serve an order u/s 210(3) to such person to pay advance tax specifying the amount of Advance Tax & Installments in which such advance tax is to be paid. Such order may be served at any time but latest by last day of February.</p> <p>What shall be the basis for computation of Advance Tax payable?</p> <p>For this purpose, basis for computation of advance tax payable shall be higher of (i) or (ii):</p> <p>(i) Total income of latest PY in which assessee has been assessed by way of regular assessment.</p> <p>(ii) Total income declared by assessee in any ROI for any subsequent PY of regular assessment.</p>
<p>Q2. Can AO revise demand notice sent to the assessee?</p> <p>Answer: If after making demand notice (order) by AO, but before 1st March of the FY,</p> <p>(i) ROI is furnished by assessee u/s 139(1)/142(1);</p> <p>(ii) Regular assessment is completed for any later PY for higher amount of income,</p> <p>AO may revise such demand order u/s 210(4) on the basis of the computation of the returned income or assessed income. Such revision shall be made by AO before 1st March of the PY.</p>
<p>Q3. Whether Assessee has the option to pay less advance tax than specified by AO in notice?</p> <p>Answer: Such person to whom the order has been passed by AO has the option to show lesser liability of advance tax than specified by AO in demand order by filing declaration in form no. 28A to AO & showing the calculation of his estimate on or before the due date of last installment.</p>
<p>Q4. Whether assessee has option to show higher liability than specified by AO in notice?</p> <p>Answer: Option to show higher liability always exists & tax shall be paid on such higher income.</p>

SHORTFALL IN ADVANCE TAX DUE TO CAPITAL GAINS/CASUAL INCOMES

- It is not possible for an assessee to estimate certain incomes which are generally unexpected.
- Such incomes include:
 - ✓ Capital gains & Winnings from lotteries, crossword puzzles etc;
 - ✓ Dividend referred in [Sec 115BBDA](#) [Aggregate Dividend received in PY > Rs. 10 lacs].
 - ✓ [Income u/h 'PGBP'](#) in cases where income accrues or arises for the **first time**.
 - ✓ **Dividend income u/s 2(22)(a)/(b)/(c)/(d)**
- If any such **income arises after DD** of any installment, then **entire** amount of **advance tax** payable (after TDS) on such income, shall be **paid in remaining installments** of advance tax or **by 31st March** of the relevant PY (**if no installment is remaining**).
- If entire amount of tax payable is paid, then **No Interest u/s 234B or 234C** shall be payable.

CQ1. Mr. Amol Chandak estimates his income for PY 2021-22 at Rs. 5,00,000. Besides this income, he has LTCG of Rs. 1,00,000 on transfer of gold on 1.12.2021. He has won a lottery on 25th March 2022 of Rs. 2,00,000. Compute the advance tax payable by Mr. Amol Chandak in various instalments.

Solution:

- In this question, Mr. Amol has LTCG on 1.12.2021 which falls after payment of 2 installment of advance Tax.
- Thus, for calculating first 2 installments, LTCG will not be considered.
- **Tax Liability of Mr. Amol Chandak for AY 2022-23 for 1st & 2nd Installment:** Rs. 12,500 + Rs. 500 = Rs. 13,000.
 - (i) **First Installment** of Advance Tax payable on 15.6.2021 = 15% of Rs. 13,000 = **Rs. 1950**.
 - (ii) **Second Installment** of Advance Tax payable on 15.9.2021 = 45% of Rs. 13,000 – Rs 1950 = **Rs. 3900**.
- **Tax Liability of Mr. Amol Chandak for AY 2022-23 for 3rd & 4th Installment:**

Tax on Rs. 5,00,000	Rs. 12,500
Tax on LTCG of Rs. 1 Lac @ 20%	Rs. 20,000
Add: Health & Education cess @ 4% of Tax	Rs. 1,300
Total Tax Liability	Rs. 33,800

- (iii) **Third Installment** payable on 15.12.2021 = 75% of Rs. 33,800 – Rs 1950 – Rs. 3900 = **Rs. 19,500**.
- (iv) **Fourth Installment** payable on 15.03.2022 = 100% of Rs. 33,800 – Rs 1950 – Rs. 3900 - Rs. 19,500 = **Rs. 8450**.
- Now, Mr Amol has won a lottery on 25th March 2022 which falls after the payment of all installments. Thus, he will have to pay the tax on such amount before 31st march.
- If paid before 31st march, it will be considered to have been paid before the due date & thus No interest u/s 234B or 234C will be levied.
- Tax on Rs. 2 Lacs @ 30% = Rs. 60,000. Thus Mr. Amol has to pay Rs. 60,000 as tax on lottery before 31st March 2021. Otherwise, Sec. 234B & 234C will get attracted.
- Since Tax on Lottery would have been deducted (TDS) @ 30% [i.e Rs. 60,000] Mr. Amol will not be required to pay any tax. He will only have to give details about this transaction (Income & TDS) to prescribed authority.

CQ2. Following are the particulars of estimated income of Mr. Pranav Chandak for PY 2021-22:

(a)	Salary Income (after standard deduction of Rs. 50,000)	Rs. 5,00,000
(b)	Income u/h House Property @ Rs. 10,000 p.m.	Rs. 1,20,000
(c)	Income from Interest on Government securities	Rs. 50,000
(d)	Winnings from lotteries (Gross)	Rs. 40,000
(e)	Share of profit from the Income of HUF	Rs. 1,50,000

Calculate the amount of Advance Tax payable by him in various instalments. Tax of Rs. 12,000 has been deducted at source out of the lottery. He has deposited Rs. 10,000 in PPF.

Solution: Computation of Total Income of Mr. Pranav Chandak for AY 2022-23

Particulars	Rs.
Salary	Rs. 5,00,000
House Property (Rs. 1,20,000 - 30% Standard Deduction u/s 24(a))	Rs. 84,000
Interest on Govt. Securities	Rs. 50,000
Winning of Lottery	Rs. 40,000
Gross Total Income	Rs. 6,74,000
Less: Deduction u/s 80C	(Rs. 10,000)
Taxable Income	Rs. 6,64,000
Computation of Advance Tax Liability	
Tax on Lottery Income of Rs. 40,000 @ 30%	Rs. 12,000
Tax on other income of Rs. 6,24,000 [Rs. 12,500 + Rs. 24,800]	Rs. 37,300
Total Tax payable + Health & Education cess @ 4% of Tax	Rs. 51,272
Less: TDS	(Rs. 12,000)
Advance Tax Payable (rounded off)	Rs. 39,270
Computation of Minimum Installments of Advance Tax	
1 st Installment [on/before 15.6.2021] (15% of Rs. 39,270)	Rs. 5891
2 nd Installment [on/before 15.9.2021] (45% of Rs. 39,270) - Rs. 5891	Rs. 11780
3 rd Installment [on/before 15.12.2021] (75% of Rs. 39,270) - Rs. 5891- Rs. 11780	Rs. 11781
4 th Installment [on/before 15.3.2021] (100% of Rs. 39,270) - Rs. 5891- 11780 - 11781	Rs. 9818

INTEREST UNDER SECTION 234A/234B/234C

INTEREST FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 234A]

Circumstances	► If No ROI is filed; OR ► ROI is filed after the Due Date u/s 139(1).		
Consequences	Simple Interest @ 1% p.m (or part of the month) is payable on Tax on Assessed Income - TDS/TCS - Advance Tax – Relief u/s 89.		
Time for Levy of Interest	From	Next day following the Due Date for filing ROI.	
	Upto	(i) If ROI is filed after DD	Date of filing ROI
		(ii) If NO ROI is filed	Date of Completion of BJA u/s 144

PC Note:

- No Interest u/s 234A shall be charged on SAT u/s 140A paid by assessee on/before DD of filing ROI (even if ROI is submitted after DD of filing ROI).
If SAT u/s 140A is paid after DD of filing ROI, Interest u/s 234A is applicable.
- Interest payable u/s 234A shall be reduced by Interest paid on SAT u/s 140A towards interest u/s 234A.

CQ3. Determine the interest payable u/s 234A in the following cases:

Particulars	X	Y	Z
DD of filing ROI	31.07.2022	31.07.2022	30.09.2022
Date of filing ROI	15.08.2022	06.11.2022	15.12.2022
Tax on Assessed Income by AO	Rs. 1,09,000	Rs. 60,000	Rs. 65,000
Advance Tax + TDS	Rs. 74,000	Rs. 35,000	Rs. 35,000
SAT paid u/s 140A	Rs. 35,000	Rs. 20,000	Rs. 20,000
Date of Payment of SAT u/s 140A	25.07.2022	25.07.2022	10.10.2022

Solution:

Particulars	X	Y	Z
Tax on Assessed Income – (Advance Tax + TDS)	Rs. 35,000	Rs. 25,000	Rs. 30,000
Less: SAT u/s 140A paid before DD of filing ROI	(Rs. 35,000)	(Rs. 20,000)	(Rs. 20,000)
Balance Tax payable	Nil	Rs. 5,000	Rs. 10,000

Calculation of Interest u/s 234A

- In case of Mr. X:** Entire outstanding amount is paid by way of SAT on 25.07.2022 (i.e before DD of filing ROI). However, ROI is submitted after DD. Since whole amount of tax has been paid before DD of filing ROI by way of SAT, Interest u/s 234A is not applicable.
- In case of Y:** SAT is paid partly (Rs. 20,000) before DD of filing ROI & ROI is filed belatedly. Thus, Interest u/s 234A is payable on Rs. 5,000 for 4 months @ 1% p.m.
- In case of Z:** SAT is paid partly (Rs. 20,000) after DD of filing ROI & ROI is filed also belatedly. Interest u/s 234A is payable on Rs. 30,000 @ 1% for 1 month (part thereof) [till date of payment of SAT] & on remaining tax of Rs. 10,000 for 2 Months @ 1% p.m till ROI is filled. Interest u/s 234A = Rs. 300 = Rs. 200 = Rs. 500.

CQ4. Compute Interest payable u/s 234A by Mr. Thermal Gattu for AY 2022-23.

- (a) DD of ROI: 30.9.2022; (b) Actual Date of filing ROI: 20.3.2023; (c) TDS = Rs. 5000;
 (d) Advance Tax paid = Rs. 15000; (e) Tax paid on Self-assessment before DD of filing ROI = Rs. 2,000;
 (f) Tax determined on Regular Assessment on the basis of Returned Income = Rs. 25,000.

Solution:

- Due Date of filing ROI: 30.9.2022; Date of Filing ROI: 20.3.2023.
- Delay in filing ROI: 5 months & 20 days = 6 months (part of the month is treated as full)
- **Interest u/s 234A** = [Tax determined on Assessment – TDS – Advance Tax] × 1% p.m * No. of Months.
= 25,000 – 5,000 – 15,000 – 2,000 (SAT paid before DD) = 3,000 × 1% p.m × 6 Months = Rs. 180.

PC Note: For computing interest u/s 234A, SAT u/s 140A shall be deducted if paid before DD of filing ROI.

FEE FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 234F]

If a person who is required to file ROI u/s 139 does not file ROI within time limit prescribed u/s 139(1), he shall pay fees of Rs. 5,000.

PC Note: If Total Income of the person ≤ **Rs. 5 lacs**, fees payable shall **not exceed Rs. 1,000**.

INTEREST FOR NON-PAYMENT/SHORT-PAYMENT OF ADVANCE TAX [SECTION 234B]

Circumstances	► No Advance Tax is paid OR ► Advance Tax paid is < 90% of Assessed Tax	
Consequences	SI @ 1% p.m (or part) is payable on Assessed Tax – Advance Tax paid Note: Assessed Tax = Tax on Total Income - TDS/TCS – Advance Tax – Relief u/s 89 – Tax credit allowed to be set off in accordance with section 115JD.	
Time for Levy of Interest	From	1 st April of the relevant AY
	Upto	Date of determination of total income u/s 143(1).

PC Note: Where self-assessment tax is paid by assessee u/s 140A or otherwise, interest shall be calculated upto the date of payment of such tax & reduced by the interest (if any) paid u/s 140A towards the interest chargeable under this section. Thereafter, interest shall be calculated at 1% on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

INTEREST FOR DEFERMENT OF ADVANCE TAX [SECTION 234C]

1	Assesseees opting for Presumptive Scheme u/s 44AD OR 44ADA		
	❖ Interest u/s 234C = [Advance Tax Payable – Advance Tax paid] × 1%.		
2	Assesseees [other than (1)]		
	DD	Adv Tax	INTEREST PAYABLE u/s 234C
	15 June	15%	S.I @ 1% p.m for 3 months on shortfall from 15%. (No Interest if Advance Tax paid ≥ 12%)
	15 Sep	45%	S.I @ 1% p.m for 3 months on shortfall from 45%. (No Interest if Advance Tax paid ≥ 36%)
	15 Dec	75%	S.I @ 1% p.m for 3 months on shortfall from 75%.
	15 Mar	100%	S.I @ 1% p.m for 1 month on shortfall from 100%.
	Shortfall = [Advance Tax Payable – Advance Tax paid]		

CHAPTER 13. RETURN OF INCOME

PROVISIONS REGARDING FILING OF RETURN OF INCOME [SECTION 139(1)]

1	Companies & Firms	<ul style="list-style-type: none"> ▪ Companies & Firms are compulsorily required to file ROI for every PY on/before the due date in the prescribed form. <li style="color: #0070c0;">PC Note: Even in case of Loss, they are compulsorily required to file ROL.
2	Others (than 1)	<ul style="list-style-type: none"> ▪ Person other than a company/firm are required to file ROI only if ▪ his Total Income or total income of 'any other person' i.r.o which he is assessable during PY exceeds BEL before claiming Chapter VI-A deductions or Section 54/54B/54D/54EC/54F.

PC Note:

1. Total Income for determining whether a person is required to file ROI or not = Income before claiming deductions under Chapter VI-A & Section 10A, 10AA.
2. 'Any other person' includes 'Representative assesses' & 'Legal Representatives'.

CQ1. Mr. X, a non-resident (age 82 years) having total income of Rs. 1,60,000 after deduction of Rs. 1,20,000 u/c VI-A. His total income comprises of property & interest income. Whether he is required to file ROI.

Answer: As per section 139(1), every person, whose total income without giving effect to the provisions of Chapter VI-A exceeds BEL is required to furnish ROI for the relevant AY on/before the due date.

GTI of Mr. X (before deduction under Chapter VI-A) is Rs. 2,80,000 which exceeds BEL of Rs. 2,50,000. Therefore, Mr. X has to furnish his ROI for AY 2022-23.

Any Person (other than a company/firm) who is not required to furnish a return u/s 139(1), shall be required to file Return of Income if (during PY), such person:

1	Deposit in bank A/c > Rs. 1 Crore: has deposited an amount or aggregate of the amounts > Rs. 1 Cr in one or more current A/c with a banking company or a co-operative bank.
2	Foreign Travel > Rs. 2 Lacs: has incurred expenditure of an amount or aggregate of the amounts > Rs. 2 lacs for himself or any other person for travel to a foreign country;
3	Electricity Bill > Rs. 1 Lac: has incurred expenditure of an amount or aggregate of the amounts > Rs. 1 lac towards consumption of electricity; or

ROR holding Foreign Assets - 4th Proviso to Section 139(1)

- ROR who is not required to furnish ROI u/s 139(1) in normal circumstances,
- would be required to file ROI or ROL for the PY,
- if such person, at any time during the previous year:
 - (a) **holds** (as a beneficial owner or otherwise) any **asset located outside India** or has a **signing authority** in any **A/c located outside India.**
 - (b) is a **beneficiary** of any **asset located outside India.**

PC Note: Asset includes any financial interest in any entity o/s India.

❖ **This proviso is not applicable to RNOR.**

5th Proviso to Section 139(1)	<ul style="list-style-type: none"> ▪ An Individual who is a beneficiary of any asset located outside India ▪ is not required to file ROI under 4th proviso to section 139(1), ▪ if such income is includible in the Income of the Beneficial owner.
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PC Note: Assessee can furnish his ROI even if his Total Income < Basic Exemption Limit. The Law doesn't prohibit the assessee to file ROI if his total income does not exceed BEL.

CQ2. Paras is resident of India. During PY 2021-22, interest of Rs. 2,88,000 was credited to his Non-resident (External) Account with SBI. Rs. 30,000, being interest on fixed deposit with SBI, was credited to his saving bank A/c during this period. He also earned Rs. 3,000 as interest on this saving account. **(a)** Is Paras required to file ROI?

(b) What will be your answer, if he owns one shop in Kerala having area of 150 sq. ft.?

(c) What if he has incurred Rs. 3 lacs as travel expenditure of self & spouse to US to stay with his married daughter?

Solution:

(a) Individual is required to furnish a ROI u/s 139(1) if his total income, before giving effect to the deductions under Chapter VI-A & exemption u/s 10(38), exceeds BEL.

Computation of Total Income of Mr. Paras for AY 2022-23	
Income from other sources	
Interest earned from Non-resident (External) Account Rs. 2,88,000 [Exempt u/s 10(4)(ii), assuming that Mr. Paras has been permitted by RBI to maintain the aforesaid account]	Nil
Interest on fixed deposit with SBI	30,000
Interest on savings bank account	3,000
Gross Total Income	33,000
Less: Deduction u/s 80TTA (Interest on saving bank account)	(3,000)
Total Income	30,000

Since total income of Mr. Paras for AY 2022-23, before giving effect to the deductions u/c VI-A, is less than BEL of Rs. 2,50,000, he is not required to file return of income for AY 2022-23.

Owning a shop having area of 150 sq. ft in Kerala would not make any difference to the answer.

Note: In the above solution, Interest of Rs. 2,88,000 earned from NR (External) A/c has been taken as exempt assuming that Mr. Paras, a resident, has been permitted by RBI to maintain aforesaid account.

(b) However, if he is not permitted, interest would be taxable. In such case, his TI, before giving effect to the deductions under Chapter VIA, would be Rs. 3,21,000 (Rs. 30,000 + Rs. 2,88,000 + Rs. 3,000), which is > BEL. Consequently, he would be required to file ROI for AY 2022-23. Ownership of shop in Kerala is immaterial.

(c) If he has incurred expenditure of Rs. 3 lacs on foreign travel of self and spouse, he has to mandatorily file his return of income on or before the due date u/s 139(1).

DUE DATE FOR FILING ROI [SECTION 139(1)]		
	Assessee	Due date
1	Assessee (including partners) who is required to furnish TPR u/s 92E relating to International transaction or specified domestic transaction.	30 November of relevant AY
2	<ul style="list-style-type: none"> ▪ Any Company (other than company required to furnish TPR u/s 92E); ▪ Any other person whose books of A/cs are required to be audited under this Act or under any other law for the time being in force; or ▪ Working Partner of Firm whose Accounts are required to be Audited under this Act or under any other law for the time being in force. 	31st October of the relevant AY
3	Any other Assessee.	31 July of relevant AY.

PC Note:

1. **Firm whose A/cs are not required to be audited** → Last date for filing ROI by firm as well as partners (whether working or non-working) shall be **31st July of the AY.**

2. If last date of filing of ROI/ROL is **public holiday** → Assessee can file ROI/ROL on **next working day.**

Ex: Mr. X has his own business & his turnover for PY 2020-21 is Rs. 102 lacs. In this case, the last date of filing the return of income shall be 30.09.2021, but if turnover is Rs. 97 lacs, the last date shall be 31.07.2021.

RETURN OF LOSS [SECTION 139(3)]

- ❖ ROL is required to be furnished if a person wants to carry forward his losses.
 - ❖ **ROL** shall be furnished in same manner as of ROI within the time allowed u/s 139(1).
 - ❖ If any person has sustained any loss in PY & he wants to carry forward following losses:
 - Business loss u/s 72(1); Speculation business loss u/s 73(2); Specified business Loss u/s 73A(2);
 - Loss u/h "Capital Gains" u/s 74(1);
 - Loss from the activity of owning & maintaining race horses u/s 74A(3);
 he shall mandatorily furnish a ROL within the time prescribed u/s 139(1) to carry forward loss.
 - ❖ Section 139(3) r/w sec. 80 require the assessee to file ROL in same manner as that of ROI within the time allowed u/s 139(1) & all the provisions of this Act shall apply to ROL as if it is a ROI u/s 139(1).
- PC Note:** It is not mandatory to file ROL (Except in case of Company/Firm) as there is no income.

Requirement of Section 80: In order to carry forward the above losses, assessee shall file ROL u/s 139(3) on/before DD specified u/s 139(1).

Losses which can be carried forward even if ROL is filed after DD u/s 139(1)

- (i) Loss u/h "Income from house property" u/s 71B & (ii) Unabsorbed depreciation u/s 32.

PC Note:

1. Section 139(3) r/w section 80 does not prohibit the set off of losses of the current year even if ROI is filed after the due date u/s 139(1). It only prohibits the carry forward of such losses.
Thus, Loss can be set off (Inter - Source Set off u/s 70 & Inter - Head Set off u/s 71) even if the ROL is filed after the DD u/s 139(1).
2. Loss of Current Year cannot be Carried Forward unless ROL is submitted before the Due Date.
But Brought Forward Losses can be carried forward (Loss of earlier years for which ROL was filed within DD in that year) even if No ROL is filed in Current Year.
3. Belated ROL filed u/s 139(4) cannot be said to be filed in accordance with section 139(3) & thus loss cannot be carried forward. However, the assessee may seek remedy by making an application to CBDT for relaxation of time to carry forward the loss. – Circular 8/2001.

CONCEPTUAL QUESTIONS

CQ3. Whether loss can be carried forward if ROI is furnished after DD specified in section 139(1)?

Answer: Section 80 r/w section 139(3) provides that the loss u/s 72(1)/73(2)/73A(2)/74(1)/74A(3) cannot be carried forward if ROL is filed after DD u/s 139(1). However, HP loss & unabsorbed depreciation can be carried forward even if ROI is furnished after DD of filing ROI.

CQ4. Can loss be set off if ROI is furnished after the due date specified in Section 139(1)?

Answer: Section 80 r/w section 139(3) prohibits the "carry forward of losses" if ROI is filed after DD u/s 139(1). It does not prohibit the set off of losses. Therefore, losses can be set-off even if ROI is furnished after DD.

CQ5. DD of filing ROI is 30.09.2022 of Mr. A. ROI is filed on 15 Oct 2022 as follows: Loss from Business: (Rs. 8 Lacs); IFOS: Rs. 6 Lacs; Total Income: (Rs. 2 lacs). Is set off of loss u/h "PGBP" correct as per Section 80 r/w Sec 139(3)?

Answer: Yes. Loss can be set off (Inter- source Set off u/s 70 & Inter-Head set off u/s 71) even if the ROL is filed after the DD u/s 139(1). However, loss of Rs. 2 Lacs cannot be carried forward.

CQ6. Due Date of filing ROI is September 30, 2022 in case of Mr. C. ROI is filed on October 15, 2022 as follows: Current Year Business Loss: (Rs. 1 Lacs); B/F losses for AY 2021-22 (ROL filed w/I DD): (Rs. 3,00,000). Whether losses can be carried forward?

Answer: Losses of AY 2021-22 of Rs. 3,00,000 are carried forward to AY 2022-23 as ROI for AY 2021-22 has been filed within the due date. However, Loss of AY 2022-23 shall not be carried forward to AY 2022-23.

BELATED RETURN [SECTION 139(4)]

➤ If any person has **not furnished a ROI within time allowed u/s 139(1)**, he may still furnish the ROI for any PY at any time

- (a) **Before 3 months prior to the end of the relevant AY** or
- (b) Before the completion of Assessment u/s 144, **whichever is earlier.**

Ex: Last date for filing ROI for PY 2021-22 (AY 2022-23) is 30.09.2022; but a belated return may be filed at any time on/before 31.12.2022 (before 2 month prior to the end of AY 2022-23).

CONCEPTUAL QUESTIONS

CQ7. For PY 2021-22, upto what date can the assessee file ROI if no ROI has been filed & no assessment order has been made u/s 144 till date.

Answer: Belated ROI can be filed before the end of AY 2022-23. i.e before 31.12.2022.

CQ8. For PY 2021-22, no ROI has been filed. AO makes a BJA u/s 144 on 25.12.2022. Upto what date can assessee file Belated ROI u/s 139(4).

Answer: Belated ROI can be filed before 3 months prior to the end of AY 2022-23. (i.e before 31.12.2022) OR before assessment (i.e before 25.12.2022) whichever is earlier. Thus, belated ROI can be filed before 25.12.2022.

REVISED RETURN [SECTION 139(5)]

When a ROI can be revised	If an assessee after filing ROI (a) u/s 139(1) → [Original ROI]; (b) u/s 139(4) → [Belated ROI] Discover any omission or wrong statement in filed ROI, he may file a revised return.
Time Limit of filing Revised ROI	Such revised return can be filed at any time: (whichever is earlier) (a) Before 3 months prior to the end of the relevant AY or (b) Before the completion of assessment u/s 143(3) or u/s 144

Ex: If ROI is filed by the assessee for AY 2022-23 on 15.09.2022 & he afterwards discovers some mistake, he can file a revised return at any time upto 31.12.2022 or before the completion of the assessment, whichever is earlier.

PC Note:

1. ROL u/s 139(3) is deemed as ROI u/s 139(1). Thus, **ROL can be revised u/s 139(5).**
2. **If original ROL is revised** as per section 139(5), then **Revised ROL** shall **substitute the original ROL** from the date original ROI is filled & such revised ROL shall be deemed to be filed within time limit of section 139(1) & **loss claimed in revised ROL can be carried forward.**
3. Revised return substitutes the original return.
4. There is no provision in Income Tax Act to enable assessee to revise his income by filing a revised statement of income to AO. The only option available to the assessee is to file revised return.
5. **Belated Return u/s 139(5) can be revised.**
6. Even a **Revised Return** can be **revised again** within the time limit of section 139(5).

CQ9. Mr. X filed a ROI for PY 2021-22 on 31.07.2022. He later files a revised return on 15.12.2022 declaring a loss of Rs. 1,00,000. Can the loss be allowed to be carried forward?

Answer: Revised return substitutes the original return. Since original ROI was filed within DD u/s 139(1), revised ROL shall be deemed to have been filed within DD & thus loss of Rs. 1,00,000 shall be allowed to be carried forward.

CQ10. Original return for PY 2021-22 was submitted by X on 15.6.2022. Return was processed u/s 143(1) on 5.8.2022. X wishes to file revised return. (a) Upto what time can he do? (b) What if regular assessment is completed on 31.8.2022.

Answer: (a) He can file a revised return, processing of return u/s 143(1) is not treated as assessment for this purpose.

Revised return can be filed at any time before 3 months prior to the end of AY 2022-23 i.e upto 31.12.2022.
 (b) In this case revised return can be filed before completion of Assessment i.e. upto 30.08.2022.

CQ11. How many times can a return be revised? **Any Number of times but within the time limit of Section 139(5).**

CQ12. Can a return filed within time extended by CBDT u/s 119 be revised?

Answer: Yes, as return filed within the extended time limit is deemed to be filed within time limit of 139(1).

CQ13. Explain with brief reasons whether ROI can be revised u/s 139(5) in the following cases:

- (i) Belated return filed u/s 139(4).
- (ii) Return already revised once u/s 139(5).
- (iii) ROL filed u/s 139(3).

Solution:

- (i) A belated return filed u/s 139(4) can be revised.
- (ii) Return revised earlier can be revised again as the first revised return replaces original return. Therefore, if the assessee discovers any omission or wrong statement in such revised return, he can furnish 2nd revised return before 3 months prior to the end of relevant AY or before completion of assessment, whichever is earlier.
- (iii) ROL filed u/s 139(3) is deemed to be return filed u/s 139(1) & thus can be revised u/s 139(5).

DEFECTIVE RETURN [SECTION 139(9)]	
Power of AO	AO has the power to call upon the assessee to rectify a defective return .
Intimation of defect	If AO considers that ROI filed by assessee is defective, he may intimate the defect to assessee & give him an opportunity to rectify defect within 15 days from the date of such intimation.
Extension of Time by AO	AO has the discretion to extend the time beyond 15 days on application by assessee .
Consequences of Non-rectification	If the defect is not rectified within 15 days or such further extended period as allowed by AO, then the return would be treated as an invalid return and it would be deemed that the assessee had failed to furnish the return .
Condonation of Delay	Where the assessee rectifies the defect after the expiry 15 days or the further extended period, but before assessment is made , AO <u>may</u> can condone the delay & treat the return as a valid return .
ROI SHALL BE REGARDED AS DEFECTIVE IN THE FOLLOWING CONDITIONS	
1. Annexures, Statements & columns in ROI relating to computation of income chargeable under each head of income, computations of GTI & total income have NOT been duly filled in. 2. ROI is NOT Accompanied by the following: <ul style="list-style-type: none"> (a) Statement showing the computation of tax payable on the basis of the return. (b) Audit Report u/s 44AB. (If such report has been furnished prior to furnishing ROI, a copy of such report & the proof of furnishing the report should be attached). (c) Proof regarding the tax claimed to have been deducted or collected at source & Advance tax & SAT claimed to have been paid. (However, the return will not be regarded as defective if (a) TDS/TCS certificate was not furnished u/s 203/206C to the person furnishing his ROI, (b) such certificate is produced within 2 years). (d) Proof of the amount of compulsory deposit claimed to have been paid under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974; 	

3. **If Regular books of A/c are maintained by Assessee → ROI is NOT Accompanied by:**
- (i) Copies of Manufacturing A/c; (ii) Trading A/c; (iii) P&L A/c; (iv) Balance sheet;
 (v) Personal accounts as detailed below:
- Personal Accounts of the Proprietor
 - Personal Accounts of Partners (Members in case of AOP)
4. **Regular books of A/c are not maintained by assessee → ROI is NOT Accompanied by**
- (i) Statement indicating Amount of turnover or gross receipts, gross profit, expenses; & net profit.
 (ii) Basis on which such amounts mentioned in (i) above have been computed,
 (iii) Amount of total sundry debtors, sundry creditors, SIT & cash balance as at the end of PY.
5. Copies of Audited P&L A/c, Balance sheet & Auditor's report.
 Cost Audit Report (If Cost A/c of an assessee have been audited u/s 148 of CA, 2013).

APPLICATION FOR PERMANENT ACCOUNT NUMBER [SECTION 139A]

1	LEGAL REQUIREMENT	
	Every person who has not been allotted a PAN shall (within such time as may be prescribed) apply to AO for the allotment of PAN in the following cases:	
	SN	Persons required to apply for PAN
	1	Every person whose his TI or total income of any other person i.r.o. which he is assessable > BEL
	2	Every person carrying on any business/profession whose total sales, turnover or gross receipts are or is likely to exceed Rs. 5 Lacs in any previous year
	3	Every person being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to Rs. 2,50,000 or more in a financial year
	4	Every person who is a MD, director, partner, trustee, author, founder, karta, CEO, principal officer or office bearer of any person referred in (iv) above or any person competent to act on behalf of such person referred in (iv) above
2	POWER OF CG	
	<ul style="list-style-type: none"> ➤ CG is empowered to specify any class/classes of persons by whom tax is payable by notification in OG for allotment of PAN. Such persons are required to apply within prescribed time in notification for the allotment of a PAN [Sub-section (1A)]. ➤ For collecting any useful/relevant information, CG may notify any class or classes of persons & such persons shall apply to AO for allotment of a PAN [Sub-section (1B)]. 	
3	POWER OF AO	
	<ul style="list-style-type: none"> ➤ AO may allot PAN to any other person having regard to nature of transactions (whether any tax is payable by him or not) in the prescribed manner. 	
4	SUO MOTO APPLICATION BY THE ASSESSEE	
	<ul style="list-style-type: none"> ➤ Any person (other than mentioned above) may apply to AO for allotment of PAN. 	

QUOTING OF PAN

A Person must quote PAN in all the following documents:

- (a) All Returns to any authority/All challans for the payment of any sum due under the Act;
- (b) All documents pertaining to the following transactions entered into by any person.

TRANSACTIONS WHERE QUOTING OF PAN IS COMPULSORY [Rule 114B]

A PURCHASE OR SALE OF SECURITIES & ASSETS	
Nature of transaction	Value of transaction
Sale or Purchase of securities	Transaction Value > Rs. 1 lac
Sale/purchase of Unlisted shares from open market	Transaction Value > Rs. 1 lac
Payment for Purchase of units of MF	Transaction Value > Rs. 50,000.
Payment for acquiring Debenture/Bonds	Transaction Value > Rs. 50,000
Payment to RBI for acquiring Bonds issued by it	Transaction Value > Rs. 50,000
OTHER ASSETS	
Sale/Purchase of Immovable property	If SC/SDV referred in 50C > Rs. 10 lacs.
Sale/Purchase of Goods or Services	Transaction Value > Rs. 2 lacs
Sale/Purchase of Vehicle which requires registration	All Transactions (other than two-wheeler)
B TRANSACTION WITH BANKING COMPANY/CO-OPERATIVE BANK/POST OFFICE	
Nature of transaction	Value of transaction
Opening a Bank account (other than Time Deposit)	All Transactions
Making Application for Issue of Credit/Debit Card	All Transactions.
Opening Demat Account	All Transactions.
Cash Deposit with Bank	Total Cash Deposit > Rs. 50,000 in a day
Note: Cash Deposits > Rs. 2,50,000 during 9 th Nov 2016 - 30 th Dec 2016 → PAN required.	
Purchase of Bank Draft/Pay orders/Cheque	Payment in cash > Rs. 50,000 in one day.
Time deposit with (i) Banking company/Co-operative bank/Post office (ii) Nidhi Company [Ref. in Sec 406 of CA, 2013] (iii) Registered NBFC.	Deposit > Rs. 50,000 at a time OR Total Deposit > Rs. 5 Lacs during a FY.
Payment for Prepaid Payment Instruments to Banking company/Co-operative bank.	Total Payment in cash/bank draft/pay order > 50,000 during the FY.
C OTHER TRANSACTIONS	
Nature of Transactions	Value of Transaction
Hotels/Restaurants bills at any one time	Cash Payment > Rs. 50,000
Payment for Travel to Foreign Country or Payment for Purchase of Foreign Currency at any one time	Cash Payment > Rs. 50,000
Payment of Life Insurance Premium to Insurer	Total amount >Rs 50,000 in a FY

PC Note: In case of **Change** in Address/Name & Nature of Business → **Intimate** such change to **AO**.

- ❖ **MINOR** → shall quote PAN of his Parent or Guardian while entering into above transactions.
- ❖ **PERSON NOT HAVING PAN** → Declaration in Form No. 60 giving details of such transaction.
- ❖ **NON-APPLICABILITY:** Provisions of this rule shall not apply to: (i) **CG/SG**; (ii) Consular Offices.

INTIMATION OF PAN TO THE DEDUCTOR OF TAX (TDS) [Sub-section (5A)]

Every Payee (person who receives any amount from which tax has been deducted at source) shall intimate his PAN to the deductor (person responsible for deducting such tax).

QUOTING OF PAN IN CERTAIN DOCUMENTS [Sub-section (5B)]

- ❖ Where any amount has been paid after deducting tax at source, deductor shall quote the PAN of payee (person to whom the amount was paid) in the following documents:
 - Statement furnished u/s 192(2C) giving particulars of Perquisites/Profits in lieu of salary;
 - Certificates for Tax Deducted issued to the person to whom payment is made (payee);
 - Returns made to the prescribed income-tax authority u/s 206;
 - Statements prepared & delivered in accordance with section 200(3).
- ❖ Every person collecting tax in accordance with section 206C shall quote PAN of every buyer/licensee or lessee in the following documents:
 - in all certificates issued for tax collected in accordance with the provisions of section 206C(5);
 - in all returns prepared and delivered or caused to be delivered to any income-tax authority in accordance with the provisions of section 206C(5A)/(5B)
 - in all statements prepared and delivered or caused to be delivered in accordance with the provisions of section 206C(3) [Sub-section (5D)].
- ❖ **Exception to sub-sections (5A) & (5B):** Above sub-sections (5A) & (5B) shall NOT apply to:
 - (i) Person who does not have taxable income or
 - (ii) Person who is not required to obtain PAN;
 if such person furnishes a **declaration u/s 197A** that **Tax** on his Total Income for PY will be **NIL**.

INTER-CHANGEABILITY OF PAN WITH AADHAAR NUMBER

- ❖ Every person who is required to furnish or intimate or quote his PAN **may furnish or intimate or quote his Aadhar Number in lieu of the PAN** w.e.f. 1.9.2019 if:
 - he has not been allotted a PAN but possesses the Aadhar No.;
 - he has been allotted a PAN & has intimated his Aadhar No. to prescribed authority in accordance with the requirement contained in section 139AA(2);**& PAN would be allotted in prescribed manner to a person who has not been allotted a PAN but possesses Aadhar number.**
- ❖ **Manner for Allotment of PAN to a person who has not been allotted a PAN but possesses Aadhaar [NN 59/2019]**
 - Rule 114(4) requires submission of application for allotment of PAN by the applicant in prescribed form accompanied by prescribed documents as proof of identity, address & DOB of such applicant.
 - **Sub-rule (1A) to Rule 114 (w.e.f. 1.9.2019): [Newly Inserted]**
Any person who has not been allotted PAN but possesses Aadhaar no. & has furnished/intimated or quoted his Aadhaar no. in lieu of PAN in accordance with section 139A(5E), shall be deemed to have applied for allotment of PAN & shall not be required to apply or submit any documents u/r 114.
 - **Sub-rule (1B) to Rule 114 (w.e.f. 1.9.2019): [Newly Inserted]**
Any person who has not been allotted PAN but possess Aadhaar no. may apply for allotment of PAN u/s 139A(1)/(1A)/(3) by intimating his Aadhaar no. & he shall not be required to apply or submit any documents u/r 114.

COMPUTERIZED PAN

- CBDT had introduced a new scheme of allotment of computerized 10-digit PAN.
- Such PAN comprises of **10 Alphanumeric characters** & is issued in the form of laminated card.
- All person who were allotted PAN earlier (Old PAN) & all person who were required to apply for PAN & did not apply, shall apply to AO for new series PAN within specified time.
- Once the new series PAN is allotted to any person, the old PAN shall cease to have effect.
- No person who has obtained the new series PAN shall apply, obtain or process another PAN.

QUOTING OF AADHAR NUMBER [SECTION 139AA]

Mandatory Quoting of Aadhar No.	Every person eligible to obtain Aadhar Number must mandatorily quote Aadhar Number in: (a) Application form for Allotment of PAN; (b) ROI.
NO Aadhar → Quote Enrolment Id	If a person does not have Aadhar Number, he is required to quote Enrolment ID of Aadhar application form. Enrolment ID: 28 Digit Enrolment Identification Number issued to a resident at the time of enrolment for Aadhar.
Update Aadhar No. to Authorities	Every person who has been allotted PAN & who is eligible to obtain Aadhar Number, shall intimate his Aadhar No. to the prescribed authority before date notified by CG.
Consequences of Failure	If a person fails to intimate Aadhar Number, PAN allotted to such person shall be deemed to be invalid & Provisions of the Act shall apply, as if the person had not applied for allotment of PAN. Accordingly, Rule 114AAA specifies the manner of making permanent account number inoperative.

Exceptions: Provisions of Sec 139AA would not apply to Individual who does not possess Aadhar number or Enrolment ID & is:

- | | |
|--|-----------------------------|
| (a) Residing in States of Assam, Jammu & Kashmir and Meghalaya; | (b) Non-Resident; |
| (b) Super Senior Citizen [Age ≥ 80 years at any time during PY]; | (d) Not a Citizen of India. |

Accordingly, Rule 114AAA specifies the manner of making permanent account number inoperative.

Rule	Provision
(1)	If a person, who has been allotted PAN as on 1 st July, 2017 & is required to intimate his Aadhaar number u/s 139AA(2), has failed to intimate the same on/before 31 st March 2021, PAN of such person would become inoperative immediately after the said date (i.e., after 31 st March 2021) for the purposes of furnishing, intimating or quoting under Income-tax Act, 1961.
(2)	Accordingly, where a person, whose PAN has become inoperative, is required to furnish, intimate or quote his PAN under the Act, it shall be deemed that he has not furnished, intimated or quoted PAN in accordance with the provisions of the Act. Consequently, he would be liable for all the consequences under the Act for not furnishing, intimating or quoting the PAN.
(3)	Where such person who has not intimated his Aadhaar No. on/before 31 st March 2021, intimates his Aadhaar No. u/s 139AA(2) after 31 st March 2020, his PAN would become operative from the date of intimation of Aadhaar No. for the purposes of furnishing, intimating or quoting under the Act. Accordingly, consequences in sub-rule (2) would not be applicable from date of intimation.
(4)	PDGIT (Systems) or DGIT (Systems) has to specify the formats and standards along with the procedure for verifying the operational status of PAN under sub-rules (1) and (2).

SUBMISSION OF ROI THROUGH TAX RETURN PREPARERS [SECTION 139B]	
1	<p>OBJECTIVE OF FRAMING THE SCHEME</p> <ul style="list-style-type: none"> ▪ To enable any specified class or classes of persons to prepare & furnish their ROI through TRP authorized to act as TRP under the Scheme. ▪ TRP shall assist the persons furnishing ROI in a manner that will be specified in the Scheme & shall also affix his signature on such ROI.
2	<p>NOTIFIED SCHEME</p> <ul style="list-style-type: none"> ▪ CBDT has framed the Tax Return Preparer Scheme, 2006, which came into force from 1.12.2006. ▪ TRP → Any Individual who has been issued a TRP Certificate & Unique Identification Number to carry on the profession of preparing ROI as per the provisions of this Scheme. <p>Scheme may provide for the following:</p> <ul style="list-style-type: none"> - Manner & Time Period for which TRPs shall be authorized; - Educational & other qualifications, & training etc. to act as a TRP; - Code of conduct for TRP & Duties & Obligations of TRP; - Circumstances under which authorization given to TRP may be withdrawn; & - Any other relevant matter as may be specified by the Scheme.
3	<p>EDUCATIONAL QUALIFICATION FOR TAX RETURN PREPARERS</p> <ul style="list-style-type: none"> ▪ Individual, who holds a bachelor's degree from recognised Indian University/institution, or ▪ Individual who has passed Intermediate level exam conducted by ICAI, ICSI, ICAI(CMA).
4	<p>WHO CAN ACT AS TAX RETURN PREPARER? [V. Imp]</p> <ul style="list-style-type: none"> ▪ Tax Return Preparer can be any Individual, OTHER THAN <ol style="list-style-type: none"> (a) Officer of Scheduled bank in which assessee maintain current A/c or has regular dealings. (b) Legal practitioner who is entitled to practice in any civil court in India. (c) Chartered Accountant. (d) Employee of "Specified class of Person". <p>"SPECIFIED CLASS OF PERSONS" → ANY PERSON OTHER THAN</p> <ol style="list-style-type: none"> (a) Company; (b) Person whose accounts are required to be audited u/s 44AB & is required to furnish ROI. <p>PC Note: We have studied that Employees of "specified class of persons" cannot act as TRP & we know that "Specified class of persons" excludes Company & Person whose accounts are required to be audited u/s 44AB & who is required to furnish ROI. Thus, Employees of companies & persons whose accounts are required to be audited u/s 44AB can act as TRP.</p>
5	<p>FOLLOWING PERSONS CANNOT FURNISH ROI THROUGH TRPs:</p> <ol style="list-style-type: none"> (a) Any Person other than Individual & HUF. [Only Individual & HUF are eligible person] (b) Individual/HUF carrying out Business or Profession during PY & their Accounts are required to be audited u/s 44AB or under any other law for the time being in force; or (c) Individual/HUF who is a Non-Resident in India during the previous year. <p>PC Note: Eligible person cannot furnish a Revised ROI for any AY through a TRP unless he has furnished original ROI for that AY through such or any other Tax Return Preparer.</p>

CQ14. Mrs. Hetal, an individual engaged in the business of Beauty Parlour, has got her books of account for FY ended on 31.03.2022 audited u/s 44AB. Her total income for AY 2022-23 is Rs. 3,35,000. She wants to furnish her ROI for AY 2022-23 through a tax return preparer. Can she do so?

Answer: Section 139B provides a scheme for submission of ROI for any AY through a TRP. However, it is not applicable to persons whose books of account are required to be audited u/s 44AB. Therefore, Mrs. Hetal cannot furnish her return of income for AY 2022-23 through a TRP.

POWER OF CBDT TO DISPENSE WITH FURNISHING DOCUMENTS WITH THE ROI & FILING OF ROI IN ELECTRONIC FORM [SECTION 139C & 139D] [To be Read Once]

- CBDT has power to may make rules to exempt any class/classes of persons from the requirement to furnish documents, statements, receipts, certificate, audit reports etc, along with ROI.
- However, on demand, the said documents, statements, receipts, certificate, reports of audit or any other documents have to be produced before the Assessing Officer – [Section 139C]

Section 139D empowers the CBDT to make Rules related to:

- (a) Class or classes of persons who shall be required to furnish ROI in electronic form;
- (b) Form & Manner in which ROI in electronic form may be furnished;
- (c) Documents, statements, receipts, certificates or audited reports which may not be furnished along with ROI in electronic form but have to be produced before AO on demand;
- (d) Computer resource or Electronic Record to which ROI in electronic form may be transmitted.

SELF-ASSESSMENT TAX [SECTION 140A]
1 Payment of Tax, Interest & Fee before filing ROI

- If any tax is payable on the basis of Total Income in ROI filed u/s 139(1), such tax shall be paid by the assessee himself after taking credit of (i) Any Tax already paid (ii) TDS/TCS (iii) Advance Tax (iv) Relief u/s 89.
- Any Interest u/s 234A/B/C or Fees payable for any delay in filing ROI or any default Shall also be paid with the tax payable before filing ROI.
- **ROI shall be accompanied by Proof of Payment.**

2 Order of Adjustment of Amount paid by the Assessee

- If **SAT paid u/s 140A(1) < Tax + Interest + Fees**, then amount so paid shall first be adjusted towards
 - ✓ **fees** payable &
 - ✓ thereafter towards **Interest** &
 - ✓ **Balance** amount shall be adjusted towards **Tax payable.**

Order of Adjustment
3 Consequence of Failure to Pay Tax or Interest or Fees

- Assessee shall be deemed to be **Assessee in Default** in respect of such unpaid Tax or Interest or fees.

BEST JUDGMENT ASSESSMENT [SECTION 144] – Theory Question [2M]

AO shall **make assessment of Total Income or Loss** to the **best of his judgment** & determine tax payable by the assessee, if:

- (a) Assessee does **not file ROI** u/s 139.
- (b) Does **not comply with notice issued u/s 142** to file ROI/books/furnish required information.
- (c) Does **not get his Accounts Audited** as **directed** by AO.
- (d) **Does not comply** with all the **terms of a notice** issued u/s 143(2).

PERSONS AUTHORISED TO VERIFY RETURN OF INCOME [SECTION 140]	
Assessee	ROI Verified by:
1 Individual	Himself
Individual is Absent from India	Person duly authorised by him in this behalf holding a valid power of attorney from such individual. (Such power of attorney should be attached to ROI).
Individual is Mentally Incapacitated from attending to his affairs	His guardian; or Any other person competent to act on his behalf
Individual cannot to verify ROI for any other reason	Any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to ROI).
2 Hindu Undivided Family	Karta
Karta is Absent from India or Mentally Incapacitated from Attending to his affairs	Any other adult member of the HUF.
3 Company	Managing Director
There is No MD or MD cannot verify ROI for any unavoidable reason	By any Director
Company is Non- Resident	Any person who holds Valid Power of Attorney. Such Power of attorney should be attached to ROI.
Company in Liquidation/Winding up	The Liquidator
Company's Management is taken over by CG/SG.	The Principal Officer.
Where an application for corporate Insolvency Resolution Process has been admitted by Adjudicating Authority under the Insolvency & Bankruptcy Code, 2016.	Insolvency Professional appointed by such Adjudicating Authority
4 Firm/LLP	Managing Partner/ Designated partner
There is No MP/DP or MP/DP cannot verify ROI for unavoidable reason	Firm: Partner of the firm not being a minor. LLP: Any Partner
5 Local authority	Principal officer thereof
6 Political party	CEO of such party (whether known as Secretary or by any other designation).
7 Any other association	Any Member of Association or Principal Officer.
8 Any other person	Such Person or his Agent.

OTHER RESIDUAL SECTIONS

OPTION TO FURNISH ROI TO THE EMPLOYER [SECTION 139(1A)]

- Salaried employee of **eligible employer** has the option to file ROI for any PY to his employer, in accordance with the scheme notified by CBDT & subject to specified conditions.
- Such employer shall furnish all the ROIs received by him on/before DD in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM) & manner specified in that scheme.
- Any employee who has filed ROI to his employer is deemed to have filed ROI u/s 139(1).

Specified Terms & Conditions are:

- This option is not available to employee having PGBP income.
- 'Eligible Employer' means an employer having minimum 50 employees with income exceeding BEL & who has been **allotted Tax Deduction Account number (TAN)**.

TAX RETURN THROUGH COMPUTER READABLE MEDIA [SECTION 139(1B)]

- It enables taxpayer to file ROI in computer readable media, without interface with the department.
- Such person may furnish ROI in accordance with scheme notified by CBDT, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM) & manner as may be prescribed.
- Such return shall be deemed to be a return furnished u/s 139(1).

POWER OF CG TO EXEMPT SPECIFIED PERSONS FROM FILING ROI [SECTION 139(1C)]

- CG may by notification in OG exempt any class or classes of persons from filing ROI subject to satisfying prescribed conditions.
- PC Note:** This section has been inserted for reducing the compliance burden of small taxpayers.

PARTICULARS TO BE FURNISHED WITH THE RETURN [SECTION 139(6)]

The prescribed form of the return shall require the assessee to furnish the particulars of:

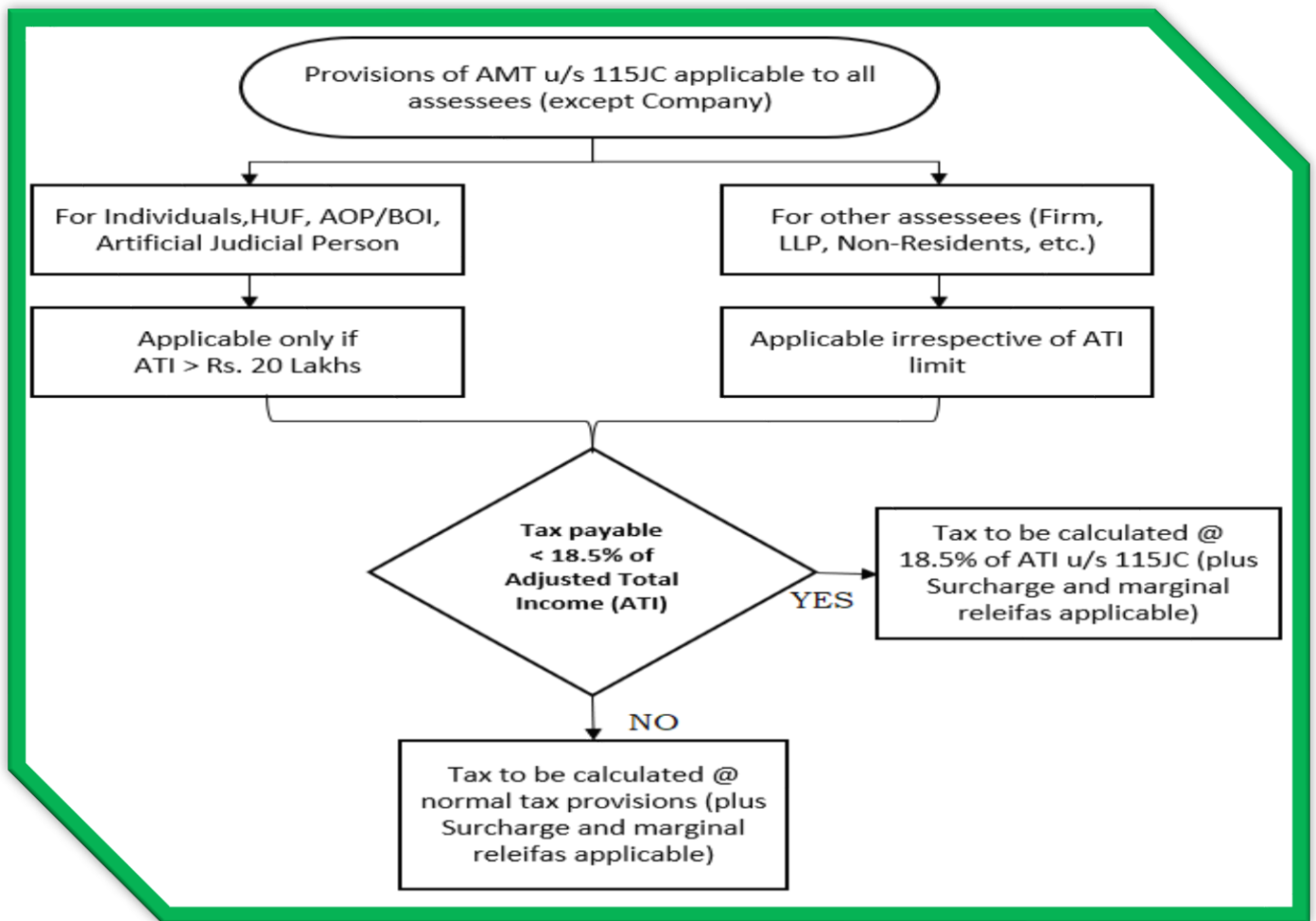
- Incomes exempt from tax;
- Assets of the prescribed nature & value, held by him as a beneficial owner or otherwise or in which he is a beneficiary;
- His bank account & credit card held by him;
- Expenditure exceeding the prescribed limits incurred by him under prescribed heads; &
- Such other outgoings as may be prescribed.

PARTICULARS TO BE FURNISHED WITH ROI BY ASSESSEE ENGAGED IN BUSINESS [SECTION 139(6A)]

- Audit Report referred to in section 44AB.
- Particulars of the location & style of the principal place where he carries on the business or profession & all the branches thereof.
- Names & addresses of his partners in such business or profession.
- If he is a member of AOP/BOI:
 - ✓ Names of the other members of AOP/BOI &
- Extent of the share of the assessee & the shares of all such partners or members in the profits of the business or profession.

CHAPTER 14A. ALTERNATE MINIMUM TAX

1	APPLICABILITY OF AMT [CHAPTER XII-BA] [SECTION 115JEE(1)]	
	<ul style="list-style-type: none"> ▪ Any Person (other than a company as they are covered by MAT) ▪ who has claimed any 'income-based deduction' under any section included in Chapter VI-A - heading 'C: Deductions i.r.o certain incomes' i.e Sec 80IA – 80 RRB (other than Sec. 80P) or Section 10AA or Section 35AD; ▪ would be subject to AMT. 	
2	EXCEPTIONS [PROVISIONS OF AMT – NA]	
	<ul style="list-style-type: none"> ▪ Individual/HUF/AOP/BOIs (whether incorporated or not)/AJP if Adjusted TI ≤ Rs. 20 lacs. ▪ This exception is not applicable to Firm/LLP. ▪ It means, AMT is applicable on Firm/LLP even though its Adjusted TI ≤ 20 Lacs. [MCQ Point] ▪ Individual/HUF opting for concessional rate of tax u/s 115BAC → AMT not applicable. 	
3	WHAT IS AMT [SECTION 115JC]	
	<ul style="list-style-type: none"> ▪ If Regular tax payable by an individual for a PY computed as per the normal provisions of the Act < AMT payable for such PY, then ▪ Adjusted TI shall be deemed to be the TI of the person & ▪ Such person shall be liable to pay tax on Adjusted TI @ 18.5% + 4% HEC. <p>PC Note: AMT is levied @ 9% in case of non-corporate assessee being a unit located in International Financial Services Centre & deriving its income solely in convertible foreign exchange. Surcharge & cess as applicable will also be levied.</p>	
4	MEANING OF “ADJUSTED TOTAL INCOME”	
	Total Income of the Assessee (as per normal provisions)	XXX
	Add:	
	(a) Income-based Deductions claimed u/ 80IA-Sec 80 RRB	Xx
	(b) Deductions claimed u/s 10AA	Xx
	(c) Deduction claimed u/s 35AD - Depreciation allowable u/s 32 (as if no deduction u/s 35AD was allowed i.r.o the asset for which such deduction is claimed)	Xx
	Adjusted Total Income	XXX
	<p>PC Analysis:</p> <ul style="list-style-type: none"> ☞ If (a), (b), (c) is 'Nil', provisions of AMT is not applicable to such assessee. ☞ If Adjusted TI ≤ 20 lacs, provisions of AMT is not applicable to Individual/HUF/AOP/BOIs (whether incorporated or not)/AJP. This exception is not applicable to Firm/LLP. It means, AMT is applicable on Firm/LLP even though its Adjusted TI ≤ 20 Lacs. [MCQ Point] 	
	<p>Space for PC Diagram</p>	


CQ1. Compute the tax of the following assessee:
[CMA SM]

Particulars	Mr. Akshay	Mr. Bharat	Mr. Shree	M/s SS (Firm)	AC LLP
Gross Total Income (Business Income)	15,00,000	25,00,000	27,00,000	32,00,000	8,00,000
Deduction u/s 80C	1,00,000	1,00,000	1,00,000	Nil	Nil
Deduction u/s 80G	25,000	1,00,000	Nil	1,00,000	1,00,000
Deduction u/s 80IE	7,75,000	Nil	8,00,000	Nil	2,00,000
Total Income	6,00,000	23,00,000	18,00,000	31,00,000	5,00,000
Regular Tax	32,500	5,02,500	3,52,500	9,30,000	1,50,000
Adjusted Total Income	13,75,000	23,00,000	26,00,000	31,00,000	7,00,000
Whether sec. 115JC is applicable or not	No	No	Yes	No	Yes
AMT u/s 115JC [18.5% of Adjusted TI]	NA	NA	4,81,000	NA	1,29,500
Tax (Higher of Regular Tax or AMT)	32,500	5,02,500	4,81,000	9,30,000	1,50,000
Add: HEC @ 4%	1,300	20,100	19,240	37,200	6,000
Tax Liability (Rounded off)	33,800	5,22,600	5,00,240	9,67,200	1,56,000

TAX CREDIT FOR AMT [SECTION 115JD]

- **Tax credit** = Excess of AMT paid over regular tax payable under the provisions of the Act for PY.
- **Tax Credit = Tax paid u/s 115JC – Normal Tax Payable.**
- Such tax credit shall be **carried forward & set-off** against tax payable in later AY to the extent of **excess of regular tax payable** over AMT payable in that AY.
- Balance Tax credit shall be c/f to next AY for set-off in a similar manner.
- **No Interest shall be payable on the tax credit allowed.** **[MCQ Point]**

Maximum Period for carry forward of AMT: AMT credit can be c/f for set-off upto a maximum of **15 AYs** succeeding the AY in which the credit becomes allowable.

PC Note: Tax Credit allowable even if Adjusted TI ≤ Rs. 20 lacs in the year of set-off [Sec 115JEE(3)]

In case where the assessee has not claimed any deduction u/s 10AA or section 35AD or deduction u/s 80JJAA, 80QQB & 80RRB in any PY and the adjusted TI of that year does not exceed Rs. 20 lacs, it would still be entitled to set-off his brought forward AMT credit in that year.

SOME OTHER POINTS:

- ☞ All other provisions of the Act, like advance tax, interest u/s 234A/B/C shall apply to assessee who is liable to pay AMT.
- ☞ A report in Form 29C from a chartered accountant is required to be obtained on or before the due date of furnishing of return of income u/s 139(1).
- ☞ If AMT is payable, rate of surcharge shall be determined on the basis of Adjusted TI.

CQ2. Compute tax liability of the firm X & Co. for AY 2022-23 considering the provisions of section 115JC. Business income is Rs. 21,00,500 before deduction u/s 35AD of Rs. 11 Lacs because of which depreciation of Rs. 40, 000 cannot be claimed. Deduction u/s 80IB Rs. 1 Lac. Donation paid to political party is Rs. 85,000. **[CS Module Q3]**

Solution:

Business Income before deduction u/s 35AD	Rs. 21,00,500
Less: Deduction u/s 35AD	(Rs. 11,00,000)
Income u/h 'PGBP' or Gross Total Income	Rs. 10,00,500
Less: Chapter VI-A Deductions	
Donation to Political Party – u/s 80GGC	(Rs. 85,000)
Deduction u/s 80IB	(Rs. 1,00,000)
Total Income	8,15,500
Normal Tax on Rs. 8,15,500 @ 30% + HEC @ 4% of Tax	2,54,436
Computation of Adjusted total income	
Total Income	8,15,500
Add: Deduction u/s 80IB	1,00,000
Add: Deduction u/s 35AD – Depreciation u/s 32 = 11,00,000 – 40,000	10,60,00
Adjusted Total Income	19,75,500
AMT on Rs. 19,75,500 @ 18.5% + HEC @ 4%	3,80,085
Tax payable is Rs. 3,80,090 being higher of tax liability Rs. 2,54,436 and AMT Rs. 3,80,090.	
Tax Credit = Rs. 3,80,090 - Rs. 2,54,436 = Rs. 1,25,654.	

CQ3. Mr. X, carrying on the business of operating a warehousing facility for storage of sugar, has a total income of Rs. 80 lacs. In computing the total income, he had claimed deduction u/s 35AD of Rs. 70 lacs on investment in building (on 1.4.2021) for operating warehousing facility for storage of sugar. Compute his tax liability for AY 2022-23. **[CS SM Q5]**

Solution:
Computation of Tax payable by Mr. X for AY 2022-23

Computation of Normal Tax	
Particulars	Amount (Rs. in lacs)
Tax liability under the normal provisions of the Income-tax Act, 1961	22.125
Add: Surcharge @ 10% of Total income > 50 lacs	2.2125
Add: Health and Education Cess @ 4% of 24.3375	0.9735
Total Tax Liability	25.311
Computation of Alternate Minimum Tax	
Particulars	Amount (Rs. in lacs)
Adjusted Total Income	80.00
Add: Deduction u/s 35AD - Depreciation u/s 32 [70 - 7]	63.00
Adjusted Total Income	143.00
AMT @18.5%	26.46
Surcharge @ 15% (since Adjusted TI > Rs. 100 lacs)	3.97
Tax	30.43
Add: Health and Education Cess @ 4%	1.217
Total tax Liability	31.647

Since regular income tax payable < AMT payable, Adjusted TI of Rs. 143 lacs shall be deemed to be total income of Mr. X & tax is payable @18.5% + SC @ 15% & HEC @4%. Therefore, tax liability is 31.647 lacs. However, Mr. X would be eligible for credit in 15 subsequent years to the extent of difference b/w AMT & Normal Tax i.e. Rs. 6.336 lacs.

CQ4. Mr. Rajesh has income of Rs. 45 lacs u/h 'PGBP'. One of his businesses is eligible for deduction @ 100% of profits u/s 80-IB for AY 2022-23. The profit from such business included in the business income is Rs. 20 lacs. Compute tax payable by Mr. Rajesh, assuming that he has no other income during PY 2021-22. **[CA Final SM Q9]**

Solution:

Computation of Regular Income-tax payable under the provisions of the Act	
Particulars	Rs.
Profits and gains of business or profession	45,00,000
Less: Deduction u/s 80-IB	20,00,000
Total Income	25,00,000
Tax on Rs. 25 Lacs	5,62,500
Computation of Alternate Minimum Tax (AMT)	
Particulars	Rs.
Total Income as per the Income-tax Act, 1961	25,00,000
Add: Deduction u/s 80-IB	20,00,000
Adjusted Total Income	45,00,000
AMT = 18.5% × 45,00,000	8,32,500

- ❖ Since regular tax payable < AMT, Adjusted total income of Rs. 45 lacs would be deemed to be the total income of Mr. Rajesh and he would be liable to pay tax @ 18.5% thereof.
- ❖ **Tax payable by Mr. Rajesh for AY 2020-21 = Rs. 8,32,500 + 4% HEC = Rs. 8,65,800.**
- ❖ **Tax Credit:** Mr. Rajesh would be eligible for credit to the extent of Rs. 2,80,800 [Rs. 8,65,800 – Rs. 5,85,000 (i.e., Rs. 5,62,500 + 4% cess)] to be set-off in the year in which tax on total income computed under the regular provisions of the Act exceeds the AMT. Such credit can be carried forward for succeeding 15 assessment years.

CHAPTER 14B. COMPUTATION OF TOTAL INCOME

STEPS INVOLVED IN COMPUTATION OF TOTAL INCOME OF INDIVIDUAL

1	Determine the residential status of the person as per section 6 of the Act.
2	Calculate the income as per the provisions of respective heads of income. Section 14 classifies the income under five heads. <ul style="list-style-type: none"> ▪ Income from salaries ▪ Income from House Property ▪ Profits and gains of business or Profession ▪ Capital Gains ▪ Income from other sources
	Exclude the incomes exempt u/s 10 of the Act.
3	Consider all the deductions & allowances given under the respective heads before arriving at net income under each head.
4	Gross Total Income = Aggregate of incomes computed under 5 heads of income after applying clubbing provisions & making adjustments of set off & carry forward of losses.
5	Deduct the deductions admissible u/s 80C to 80U. The balance is called Total income.
6	Total Income = Gross Total Income – Chapter VI-A Deductions
7	Total income is rounded off to the nearest multiple of Rupees ten. (Section 288A)
8	Add Agriculture income in the total income calculated above. Calculate tax on Agricultural Income + Non-agricultural Income as if such aggregate income is TI.
9	Calculate Tax on Net Agricultural Income + BEL as if such increased net agricultural income.
10	Tax determined under (9) above will be deducted from the amount of tax determined under (8). Tax Payable = Tax calculated in 8 - Tax calculated in 9.
11	Calculate tax on capital gains u/s 112, 112A, 111A & on other income at specified rates.
12	Total Income Tax Payable = Tax Payable under 10 + tax Payable under 11.
13	Deduct the following from the amount of tax calculated under (12) above. <ul style="list-style-type: none"> ▪ Rebate under section 87A (if applicable). ▪ Tax deducted and collected at source. ▪ Advance tax paid. ▪ Double taxation relief (Section 90 or 91).
14	Balance of amount left after deduction of items given in (13) above, shall be the net tax payable or net tax refundable for the assessee.
15	Net tax payable/refundable shall be rounded off to the nearest multiple of Ten rupees (Section 288B).
16	Along with the amount of net tax payable, the assessee shall have to pay penalties or fines, if any, imposed on him under the Income-tax Act.

TABLE - COMPUTATION OF TOTAL INCOME OF INDIVIDUAL

Computation of Tax Liability	Sections	Amount
1. INCOME FROM SALARY	15 to 17	
Less: Deductions u/s 16		
16(ia): Standard Deduction of Rs. 50,000		
16(ii): Entertainment Allowance		
16(iii): Professional Tax Paid		XXX
2. INCOME FROM HOUSE PROPERTY	22 to 27	
Less: Deduction u/s 24		
24(a): Standard Deduction		
24(b): Interest on House Property Loan		XXX
3. PROFITS & GAINS FROM BUSINESS & PROFESSION	28 to 44	XXX
4. INCOME FROM CAPITAL GAINS	45 to 55A	
Less: Deduction u/s 54		XXX
5. INCOME FROM OTHER SOURCES	56 to 59	XXX
Add/Less: Apply Provisions of Clubbing & Set Off & Carry Forward		
Gross Total Income [GTI]		XXX
Less: Deductions under Chapter VIA	80C to 80U	(XXX)
TOTAL INCOME (Rounded off to nearest Rs.10 U/s 288A)		XXX
Tax on Total Income		XXX
Add: Surcharge on Total Tax (if applicable)		XXX
Less: Rebate U/s 87A		(XXX)
Add: 4% Health & Education Cess on [Total tax + Surcharge – Rebate]		XXX
Net Tax Liability		XXX
Less: (i) TDS (ii) Advance Tax (iii) Relief u/s 89		(XXX)
Balance tax payable on Self Assessment U/s 140A		XXX
Less: Self Assessment tax paid		XXX
Balance Tax		NIL

INCOME TO BE CONSIDERED WHILE COMPUTING TOTAL INCOME OF INDIVIDUALS

SN	Capacity in which income is earned	Treatment of income earned in each capacity
1	In his personal capacity	Income from salaries, Income from HP, PGBP, Capital gains & IFOS.
2	As a partner of a firm	(i) Salary, bonus etc. received by a partner from firm is taxable as his business income. (ii) Interest on capital & loans to the firm is taxable as business income of the partner. Share of profit in the firm is exempt in the hands of the partner. PC Note: Income mentioned in (i) & (ii) above are taxable to the extent they are allowed as deduction to the firm.
3	As a member of HUF	Share of Income of HUF → Exempt in the hands of the member Income from Impartible estate of HUF → Taxable in the hands of the holder of the estate who is the eldest member of the HUF. Income from self-acquired property converted into HUF property.
4	Income of other persons included in the income of the individual	Transferee's income, where there is a transfer of income without transfer of assets Income arising to transferee from a revocable transfer of an asset. PC Note: In (i) & (ii), income is includible in the hands of transferor. Income of spouse as mentioned in section 64(1). Income from assets transferred otherwise than for adequate consideration to son's wife or to any person for benefit of son's wife. Income of minor child as mentioned in section 64(1A)

Space for PC Class Note:

NEW TAX REGIME [SECTION 115BAC]

[INSERTED BY FINANCE ACT, 2020]

1 Option to pay tax at concessional slab rates

- Individuals or HUFs have an option to pay tax i.r.o. their total income at the concessional rate
- other than income taxable at special rates u/s 111A, 112, 112A, 115BB etc.
- subject to certain conditions specified u/s 115BAC(2).

Income	≤ 2.5 L	> 2.5 L ≤ 5 L	> 5 L ≤ 7.5 L	> 7.5 L ≤ 10 L	> 10 L ≤ 12.5 L	> 12.5 L ≤ 15 L	> 15 L
Rate	Nil	5%	10%	15%	20%	25%	30%

2 Conditions to be satisfied for availing concessional rates of tax
(a) Certain deductions/exemptions not allowable

Section 115BAC(2) provides that while computing total income, following deductions/exemptions would not be allowed, if an individual or HUF opts for concessional rates of taxes u/s 115BAC(1):

Section	Exemption/Deduction
10(5)	Leave travel concession
10(13A)	House rent allowance
10(14)	Exemption i.r.o. special allowances or benefit to meet expenses relating to duties or personal expenses (other than those as may be prescribed for this purpose)
10(17)	Daily allowance or constituency allowance of MPs and MLAs
10(32)	Exemption i.r.o. income of minor child included in the income of parent
10AA	Tax holiday for units established in SEZ
16	<ul style="list-style-type: none"> ▪ Standard deduction u/h "Salaries" ▪ Entertainment allowance ▪ Professional tax
24(b)	Interest on loan in respect of self-occupied property
32(1)(iia)	Additional depreciation
35	Deduction in respect of contribution to - <ul style="list-style-type: none"> ▪ Notified approved research association/ university/college/other institutions for scientific research [Section 35(1)(ii)] ▪ approved Indian company for scientific research [Section 35(1)(iia)] ▪ notified approved research association/ university/college/other institutions for research in social science or statistical research [Section 35(1)(iii)] ▪ An approved National laboratory/university/ IIT/ specified person for scientific research undertaken under an approved programme [Section 35(2AA)]
35AD	Investment linked tax incentives for specified businesses
35CCC	Deduction i.r.o. expenditure incurred on notified agricultural project
57(iia)	Deduction i.r.o. family pension
80C to 80U	Deductions under Chapter VI-A. However, following deductions will be available <ul style="list-style-type: none"> ▪ Employers contribution towards NPS u/s 80CCD(2) & ▪ Deduction i.r.o. employment of new employees un/s 80JJAA)

	(b)	Certain losses not allowed to be set-off
		<p>While computing total income, set-off of following losses would not be allowed.</p> <ul style="list-style-type: none"> - Loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in (a) above; or [Such loss & depreciation would be deemed to have been already given effect to & no further deduction for such loss or depreciation shall be allowed for any subsequent year] - u/h house property with any other head of income.
	(c)	Depreciation
		<p>Depreciation i.r.o. any block of assets entitled to more than 40% ROD, would be restricted to 40% on WDV of such block of assets. Additional depreciation u/s 32(1)(ia) cannot be claimed.</p> <p>Where there is a depreciation allowance i.r.o. a block of asset from earlier AY attributable to additional depreciation u/s 32(1)(ia), which has not been given full effect to prior to AY 2022-23 & which is not allowed to be set-off in AY 2022-23 due to exercise of option u/s 115BAC from that year, corresponding adjustment shall be made to WDV of such block of assets as on 1.4.2021 in the prescribed manner i.e., WDV as on 1.4.2021 will be increased by unabsorbed additional depreciation not allowed to be set-off.</p> <p>Ex: Mr.X, who carries on business of manufacturing of steel. He has unabsorbed depreciation as on 1.4.2021, which includes amount attributable to additional depreciation u/s 32(1)(ia) of PY 2020-21 or any earlier PY i.r.o. block of P&M. If he exercises option u/s 115BAC for PY 2021-22 relevant to AY 2022-23, amount so attributable to additional depreciation of earlier years remaining unabsorbed as on 1.4.2021 would not be eligible for set-off against current year income. Accordingly, WDV of the block as on 1.4.2021 has to be increased by the said amount not allowed to be set-off.</p>
3	Time limit for exercise of option	
	(a)	<p>In case of individual/HUF having NO income from business or profession:</p> <p>Option has to be exercised along with ROI to be furnished u/s 139(1) for PY relevant to the AY.</p> <p>PC Note: Such individual/HUF can choose whether or not to exercise the option in each PY. He may choose to exercise the option in one year & not to exercise the option in another year.</p>
	(b)	<p>In case of individual/HUF having income from business or profession:</p> <p>Option has to be exercised on/before the due date specified u/s 139(1) for furnishing ROI for any PY relevant to AY 2022-23 or any later AY & once such option is exercised, it would apply to subsequent AYs.</p> <p>Option can be withdrawn only once where it was exercised by individual/HUF having business income for a PY other than the year in which it was exercised. Thereafter, individual/HUF shall never be eligible to exercise option under this section, except where such individual or HUF ceases to have any business income in which case, option under (i) above shall be available.</p>
4	Consequences for failure to satisfy conditions mentioned in section 115BAC(2)	
	(a)	<p>In case of individual/HUF having NO income from business or profession:</p> <p>On failure to satisfy the conditions mentioned in point no.(1), (2) and (3) of II above in any previous year, the option exercised would be <u>invalid</u> i.r.o. the AY relevant to that PY.</p> <p>Consequently, the other provisions of the Income-tax Act, 1961 would apply as if the option had not been exercised for the AY relevant to that previous year.</p>

(b)	<p>In case of an individual or HUF having income from business or profession:</p> <p>On failure to satisfy the conditions mentioned in point no. (1),(2) and (3) above in any previous year, option exercised would be invalid i.r.o. the AY relevant to that PY & subsequent AYs. Consequently, the other provisions of the Income-tax Act, 1961 would apply to the person as if the option had not been exercised for the AY relevant to that PY & subsequent AYs.</p>
<p>PC Note: Individuals or HUFs exercising option u/s 115BAC are not liable to AMT u/s 115JC.</p>	

SOME OTHER POINTS

- In case of individuals or HUFs not having income from business or profession, total income & tax liability (including provisions relating to AMT, if applicable under normal provisions) may be computed every year both in accordance with normal provisions of the Income-tax Act, 1961 & in accordance with the provisions of section 115BAC, in order to determine which is more beneficial & accordingly decide whether or not to opt for section 115BAC for that year.
- For the purpose of tax deduction at source, CBDT has, vide Circular No. C1 of 2020, dated 13 April, 2020, clarified that an employee, having income other than income u/h "Profits & gains of business or profession" & intending to opt for concessional rate u/s 115BAC, is required to intimate to the deductor, being his employer, of such intention for each previous year & upon such intimation, deductor shall compute his total income, & make TDS thereon in accordance with the provisions of section 115BAC. If such intimation is not made by the employee, employer shall make TDS without considering the provisions of section 115BAC.

It is also clarified that the intimation so made to the deductor shall be only for the purposes of TDS during the previous year and cannot be modified during that year. However, the intimation would not amount to exercising option in terms of section 115BAC and the person shall be required to do so alongwith the return to be furnished under section 139(1) for that previous year. Thus, option at the time of filing of return of income under section 139(1) could be different from the intimation made by such employee to the employer for that previous year.

Further, in case of a person who has income u/h "Profit and gains of business or profession" also, the option for taxation u/s 115BAC once exercised for a previous year at the time of filing of return of income u/s 139(1) cannot be changed for subsequent previous years except in certain circumstances.

Accordingly, a person having income u/h "Profits and gains from business or profession" also shall also intimate to his employer. However, the intimation to the employer in his case for subsequent previous years must not deviate from the option under section 115BAC once exercised in a PY.

CQ1. Mr. Ram, who is 58 years old, resident in India, furnishes the following information:

[CS SM Q3]

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

He owns a house property in Mumbai whose construction is completed in 2006 and which is let out for Rs. 40,000 pm. The standard rent as per Rent Control Act is Rs. 3, 10,000. He pays Rs. 32,000 for municipal taxes and interest on capital borrowed for construction of house Rs. 75,000. Further, he incurs Rs. 10,000 on repairs of the house.

- ✍ Long-term capital gains: Rs. 2,25,000
- ✍ Short term capital gains for the year: Rs. 1,01,000 (STT not applicable).
- ✍ Dividend received from Indian Company X Ltd: Rs. 12,000.
- ✍ Interest received @10% on listed debentures of face value: Rs. 13,00,000.
- ✍ Diwali Gift of gold coins received from a friend. Market value: Rs. 60,000
- ✍ Share of profit from a Firm: Rs. 40,000; Share of profit from HUF: Rs. 34,000.
- ✍ Income from Lotteries (gross): 50,000
- ✍ Mr. Ram invested in PPF Rs. 1,50,000 and also paid a life insurance premium of Rs. 21,000.
- ✍ Donation to National Defence Fund: Rs. 10,000.

Compute the total income & Tax liability of Mr. Ram for AY 2022-23.

Solution:

Computation of Total Income

Particulars	Rs.	Rs.
1. Income from Salary		
Basic salary (15000 x 12)	1,80,000	
Dearness Allowance (180,000 x 0.40)	72,000	
CCA (fully taxable) (300 x 12)	3,600	
Children Education Allowance [Rs. 4800 – Rs. 2400]	2400	
Transport allowance	24,000	
House Rent Allowance (Note)	7440	
Lunch Allowance	2400	
Medical Allowance	12000	
Less: Standard Deduction u/s 16(ia)	(50,000)	2,53,840
2. Income from house property		
Gross annual Value (Rent Received: 40,000 x 12)	4,80,000	
Less: Municipal Taxes	(32,000)	
Net annual Value	4,48,000	

Less: Standard Deduction [30% of Rs. 4,48,000]	(1,34,400)	
Less: Interest on capital borrowed	(75,000)	2,38,600
3. Profits & Gains from Business & Profession		
Share of Profit from Firm – Exempt u/s 10(2A)	Nil	
Share of Profit from HUF - Exempt u/s 10(2)	Nil	Nil
4. Income under the head Capital Gains		
Long-term capital gains u/s 112	2,25,000	
Short term Capital Gain u/s 111A	1,01,000	3,26,000
5. Income from other sources		
Dividend received from Indian Company X Ltd. (Exempt)	Nil	
Interest received on listed debentures	1,30,000	
Winning from Lotteries	50,000	
Gift in kind	60,000	2,40,000
Gross Total Income		10,58,440
Less: Deduction u/s 80C to 80U		
(i) u/s 80C	(150,000)	
(ii) u/s 80G	(10,000)	(1,60,000)
Total Income		8,98,440

Computation of Tax on Total Income	
Total Income	Rs. 8,98,440
Tax on winning from lotteries (30% of Rs. 50,000)	Rs. 15,000
Tax on long-term capital gains (20% of Rs. 2,25,000)	Rs. 45,000
Balance of Total Income Rs. 6,33,440 on slab rate	Rs. 37,188
Total tax	Rs. 97,188
Add: Health and Education cess at 4%	Rs. 3,888
Total liability	Rs. 1,01,076
Total liability (round off)	Rs. 1,01,080

Notes:

1. House Rent Allowance: Least of the following is exempt:

(a) HRA received = Rs. 72,000

(b) 50% of the salary (house is in Delhi) = $1,94,400 \times 50\% = \text{Rs. } 97,200$.

(c) Rent paid – 10% of the salary = $(7000 \times 12) - 0.10 \times 194400 = 84000 - 19440 = \text{Rs. } 64,560$

Exempted HRA = Rs. 64,560; taxable HRA = Rs. 72,000 - Rs. 64,560 = Rs. 7,440.

Salary for HRA = Basic salary + Dearness allowance (retirement benefits)

= Rs. 1,80,000 + Rs. 1,80,000 x 40% x 20% = Rs. 1,94,400

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

PC NOTE: STUDENTS SHOULD COMPULSORILY SOLVE ALL THE QUESTIONS OF THIS TOPIC GIVEN IN PRACTICE QUESTION BOOK.