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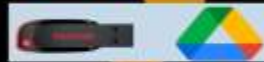


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INTRODUCTION & TAX RATES

OVERVIEW OF INCOME-TAX LAW IN INDIA

INCOME TAX is the most significant direct tax. **The Parliament** has been empowered by **Entry No. 82 of the Union List of Schedule VII to Article 246 of the Constitution of India** to levy tax on all income other than agriculture income. **Various Components of the income-tax law in India are:**

- The levy of income-tax in India is governed **by the Income-tax Act, 1961**.
- Once the Finance Bill is approved by the Parliament and gets the assent of the President, it becomes the Finance Act.
- The CBDT is empowered to make rules for carrying out the purposes of the Act. These rules are collectively called **Income-tax Rules, 1962**.
- Circulars are issued by the CBDT from time to time to deal with clarify doubts about certain specific problems regarding the provisions.
- The study of case laws is an **important and unavoidable part of the study** of income-tax law.

LEVY OF INCOME-TAX

Income-tax is **a tax levied on the Total Income** of the **previous year** of every person.

COMPUTATION OF INCOME FOR AN ASSESSMENT YEAR

| | | |
|---|------|--|
| 1. Income from salaries [Section 15 – 17] | .... |  |
| Income from salary | .... |  |
| Income by way of allowances | .... |  |
| Taxable value of perquisites | .... |  |
| Gross salary | .... |  |
| Less: Deduction under section 16 | .... |  |
| Statutory Deduction @ 50,000 | .... |  |
| Entertainment allowance | .... |  |
| Professional tax | .... |  |
| Income from salaries | .... |  |
| 2. Income from house property [Section 22 – 27] | .... |  |
| Adjusted Net Annual Value | .... |  |
| Less: Deduction under section 24 | .... |  |
| Income from house property | .... |  |
| 3. Profits and gains of business or profession [Section 28 – 44DB] | .... |  |
| Net profit as per profit and loss account | .... |  |
| Add: Amounts which are debited to P & L a/c but are not allowable as deduction under the Act | .... |  |
| Less: Expenditure which are not debited to P & L a/c but are allowable as deduction under the Act | .... |  |
| Less: Income which are credited to P & L a/c but are exempt under section 10 or are taxable under other heads of income | .... |  |

| | | |
|--|------|--|
| Add: Those income which are not credited to P & L a/c but are taxable under the head "Profits and gains of business or profession" | .... |  |
| Profits and gains of business or profession | .... |  |
| 4. Capital gains [Section 45 – 55A] | .... |  |
| Amount of capital gains | .... |  |
| | | |
| Less: Amount exempt under sections 54, 54B, 54D, 54EC, 54F, 54G, 54GA, 54GB or 54H | .... |  |
| Income from capital gains | .... |  |
| 5. Income from other sources [Section 56 – 59] | .... |  |
| Gross income | .... |  |
| Less: Deductions under section 57 | .... |  |
| Income from other sources | .... |  |
| GROSS TOTAL [(1) + (2) + (3) + (4) + (5)] | .... |  |
| Add: Clubbing of Income [Loss] [Section 60 – 69D] | | |
| Less: Adjustment on account of set-off and carry forward of losses [Section 70 – 80] | | |
| GROSS TOTAL INCOME | | |
| Less: Deductions under sections 80C to 80U [Chapter VIA] | | |
| Total Income or Net Income or Taxable Income | | |

| | |
|---|--|
| COMPUTATION OF TAX LIABILITY | |
| Tax on Net Income [As per applicable Rates] | |
| Less: Rebate u/s 87A | |
| Total | |
| Add: Surcharge, if applicable | |
| Tax and surcharge | |
| Add: Health and Education cess – 4% | |
| Total Tax (After Surcharge & Cess) | |
| Less: Relief under section 89 (Salary Chapter) | |
| Tax after Relief | |
| Less: Pre-paid taxes | |
| TDS [Tax Deducted at Source] [Section 190 – 206AA] or TCS | |
| Advance Tax [Section 207 – 219] | |
| Self-Assessment Paid u/s 140A | |
| NET TAX LIABILITY | |

MEANING OF ASSESSMENT YEAR AND PREVIOUS YEAR [SECTION: 4]

➤ **Assessment year [Section 2(9)]**

“This means a period of 12 months commencing on 1st April every year”. The year in which tax is paid is called the assessment year while the year in respect of the income of which the tax is levied is called the previous year. *For example, for the AY 2022-23, the relevant PY is 2021-22 (1.4.2021 to 31.3.2022).*

➤ **Previous year [Section 3]**

It means the financial year immediately preceding the assessment year. The income earned during the previous year is taxed in the assessment year.

Business or profession newly set up during the financial year - In such a case, the previous year shall be the period beginning on the date of setting up of the business or profession and ending with 31st March of the said financial year.

Newly Source of Income: In such a case, the previous year will commence from the date on which the source of income newly comes into existence and will end with 31st March of the financial year.

CERTAIN CASES WHEN INCOME OF A PREVIOUS YEAR WILL BE ASSESSED IN THE PREVIOUS YEAR ITSELF – EXCEPTION TO SECTION 4

The income of an assessee for a previous year is charged to income-tax in the assessment year following the previous year. **The exceptions are as follows:**

1. Income of a Non resident from Shipping Business;
2. Income of persons Leaving India either permanently or for a long period of time;
3. Income of bodies formed for short duration;
4. Income of a person trying to alienate his assets with a view to avoiding payment of tax **and**
5. Income of a discontinued Business

PERSON [SECTION 2(31)]

Section 2(31) - The definition is inclusive i.e. a person includes,

- a. An Individual
- b. A Hindu Undivided family [HUF]
- c. A Company
- d. A Firm (including LLP)
- e. An AOP or a BOI, whether incorporated or not
- f. A local authority
- g. Every artificial juridical person, not covered above.

DOMESTIC COMPANY [SECTION 2(22A)]

Domestic Company means an Indian company or any other company which, in respect of its income liable to income-tax, has **made the prescribed arrangements** for the declaration and payment of dividends within India, payable out of such income.

INDIAN COMPANY [SECTION 2(26)]:

If 2 conditions are satisfied a company can be regarded as an Indian company:

- a. the company formed and registered under any law relating to companies which was or is in force in any part of India, **and**
- b. the registered office or the principal office of the company should be in India.

FOREIGN COMPANY [SECTION 2(23A)]:

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

DEFINITION OF “ASSESSEE”

As per **Section 2(7)**, “assessee” means a person by whom any tax or any other sum of money is payable under the Income-tax Act, 1961. In addition, the term includes –

- Every person in respect of whom any proceeding under the Income-tax Act, 1961 has been taken for the assessment of –
 - his income; or
 - the income of any other person in respect of which he is assessable; or
 - the loss sustained by him or by such other person; or
 - the amount of refund due to him or to such other person.
- Every person who **is deemed to be an assessee** under any provision of the IT Act, 1961;
- Every person who **is deemed to be an assessee-in-default** under any provision of the IT Act, 1961.

APPLICABLE RATE OF TAX – AY 2022-23**1. Individuals [except (2) & (3)], HUF, AOP’s & BOI’s & every Artificial Juridical Person:**

| <u>TOTAL INCOME</u> | <u>AMOUNT OF TAX</u> |
|--|-----------------------------|
| Up to ` 2,50,000 | NIL |
| On next ` 2,50,001 - 500,000 | 5% |
| On next ` 5,00,001 – 10,00,000 | 20% |
| On the balance amount [Above ` 10,00,000] | 30% |

2. For a Resident individual, being a Sr. Citizen, Age > 60 yrs (but less than 80 years) at any time during the PY.

| <u>TOTAL INCOME</u> | <u>AMOUNT OF TAX</u> |
|--|-----------------------------|
| Up to ` 3,00,000 | NIL |
| On next ` 300,001 - ` 500,000 | 5% |
| On next ` 500,001 - ` 10,00,000 | 20% |
| On the balance amount [Above ` 10,00,000] | 30% |

3. For a resident individual, being a *Very Sr. Citizen*, Age > 80 yrs:

| <u>TOTAL INCOME</u> | <u>AMOUNT OF TAX</u> |
|--|-----------------------------|
| Up to ` 5,00,000 | NIL |
| On next ` 500,001 – ` 10,00,000 | 20% |
| On the balance amount ` 10,00,001 & above | 30% |

Alternate Taxation Regime for Individual & HUF

| Section | Total Income (NTI) | Rate of Tax |
|--|-----------------------------|--------------------|
| 115BAC: Tax on Income of Individual & HUF | Upto 2,50,000 | Nil |
| | From 2,50,000 to 5,00,000 | 5% |
| | From 5,00,000 to 7,50,000 | 10% |
| | From 7,50,000 to 10,00,000 | 15% |
| | From 10,00,000 to 12,50,000 | 20% |
| | From 12,50,000 to 15,00,000 | 25% |
| | Above 15,00,000 | 30% |
| <p>1. Above tax rates applicable only if assessee satisfied following conditions:</p> <p>a. Assessee should not claim any benefit of section 10(5) or 10(13A) or 10(14) or 10(17) or 10(32) or 10AA or 16 or 24(b) or 32(1)(iia) or 32AD or 33AB or 33ABA or 35(1)(ii), 35(1)(iia), 35(1)(iii), 35(2AA) or 35AD or 35CC or 57(iia) or under any of the provisions of Chapter VI-A other than the provisions of sec 80CCD(2) OR 80JJAA.</p> <p>b. Further such Individual or HUF opting the aforesaid concessional rate of tax would also be:</p> <ul style="list-style-type: none"> • Not allowed to set off any loss or depreciation attributable to any of the deductions referred above; • Not allowed to set off of any loss from house property against any other head; • Depreciation u/s 32 (except additional dep u/s 32(1)(iia) as may be prescribed); • He shall not be allowed to claim any exemption or deduction for allowances or perquisite provided under any law. <p>c. Where there is a depreciation in respect of a block of assets which has not been given full effect to prior to the AY 21-22, corresponding adjustment shall be made to the WDV of such block of assets as on the 1.4.20 in the prescribed manner.</p> <ul style="list-style-type: none"> ➤ If assessee opted sec 115BAC or & if any unabsorbed additional dep of earlier years then it will not be allowed to be set off but shall be added to opening WDV of the block in the year in which assessee opted such section. ➤ If assessee opted sec 115BAC then maximum depreciation allowed @ 40%. | | |

Surcharge on Individual / HUF / AOP / BOI / Artificial Juridical Person

| Total Income | Surcharge Rate |
|--|--------------------------|
| Total Income (including the income under the provisions of Section 111A & 112A, dividend)** exceeds ` 50 Lakhs but not exceeding ` 1 crores | 10% of income-tax |

| | |
|--|--|
| <i>Total Income (including the income under the provisions of Section 111A & 112A, dividend) exceeds ` 1 crores but not exceeding ` 2 crores Or Total Income (including the income under the provisions of Section 111A & 112A, dividend) exceeds ` 2 crores but not covered below</i> | <i>15% of income-tax</i> |
| <i>Total Income* (excluding the income under the provisions of Section 111A & 112A, dividend)** exceeds ` 2 crores but not exceeding ` 5 crores</i> | <i>25% of income-tax *** (15% of income tax related to Income covered u/s 111A & 112A, dividend)</i> |
| <i>Total Income* (excluding the income under the provisions of Section 111A & 112A, dividend)** exceeds ` 5 crores</i> | <i>37% of income-tax *** above applicable</i> |

Health and Education Cess

From AY 19-20, in all above cases, Income Tax (including surcharge, if any) shall be further increased by Health and Education Cess @ 4% .

Clarification regarding attaining prescribed age of 60 years/80 years on 31st March itself, in case of senior/very senior citizens whose date of birth falls on 1st April

A resident individual whose 60th/80th birthday falls on 1st April, 2022, would be treated as having attained the age of 60/80 years in the P.Y. 2021-22, and would be eligible for higher basic exemption limit of 3/5 lakh in computing his tax liability for A.Y. 2022-23.

CONCEPT OF MARGINAL RELIEF

Applicable in case of all assessee

The additional amount of Income tax payable with surcharge in excess of income over 1 Crore should not be more than the amount in excess of ` 1 Crore.

Calculation of Marginal Relief:

| | |
|--------------------------|---|
| Marginal Relief = | Tax on Total Income including Surcharge Less: (Total Income - 1 Crore) + (Tax on 1 Crore including surcharge if applicable) |
| Tax Payable = | Tax on Total Income including Surcharge Less: Marginal Relief as computed above Add: H&EC |

Note:

Marginal Relief is available at all levels – 50 Lakhs / 1 Crores / 2 Crores / 5 Crores / 10 Crores

ROUNDING-OFF OF INCOME [SECTION 288A]:

The Total Income computed under this Act, shall be rounded off to the nearest multiple of ` 10.

ROUNDING-OFF OF TAX [SECTION 288B]:

The amount of tax including Tax Deducted at Source (TDS) and advance tax, interest, penalty, fine or any other sum payable, and the amount of refund due under the Income Tax Act, shall be rounded off to the nearest multiple of ` 10.

REBATE OF 12,500 FOR RESIDENT INDIVIDUALS HAVING TOTAL INCOME UP TO 5 LAKH**[SEC. 87A]**

The amount of rebate is

- 100% tax payable or
- 12,500 , whichever is less.

This rebate will be available from income-tax (before adding Health & Education Cess).

IN CASE OF OTHER CATEGORY OF PERSONS

| OTHERS | AMOUNT OF TAX | SURCHARGE |
|-------------------------------|---|--|
| FIRM & LLP | @30% | @ 12% of Tax Payable if TOTAL INCOME > ` 1 Crore |
| Local Authority | @30% | @ 12 % of Tax Payable if TOTAL INCOME > ` 1 Crore |
| Co-operative Societies | On first ` 10,000 @10% On next ` 10,000 @20% For the Balance @30% | @ 12 % of Tax Payable if TOTAL INCOME > ` 1 Crore |
| Companies | Domestic Co.: @30% (If Total Turnover / Gross receipts during PY 19-20 does not exceeds 400 Crore then Taxrate is 25%) | @ 7 % of Tax Payable if TOTAL INCOME > ` 1 Crore @ 12 % of Tax Payable if TOTAL INCOME > ` 10 Crore |
| | Foreign Co.: @40% | @ 2 % of Tax Payable if TOTAL INCOME > ` 1 Crore @ 5 % of Tax Payable if TOTAL INCOME > ` 10 Crore |

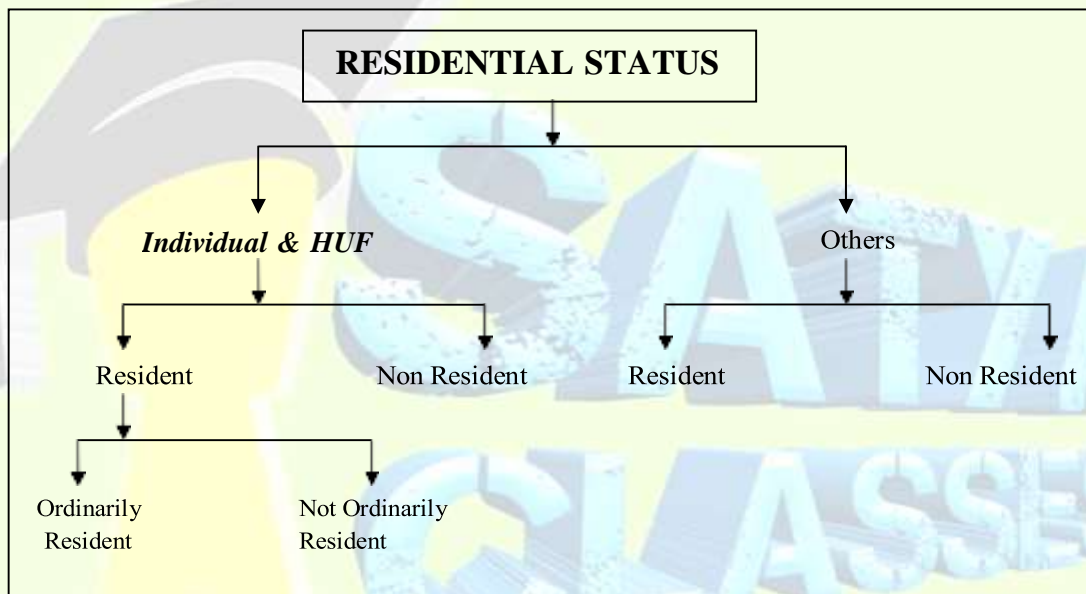
RESIDENTIAL STATUS

The taxability of a particular receipt would thus depend upon not only the nature of the income and the place of its accrual or receipt but also upon the assessee's residential status.

Broad Category of Tax-Payers

Taxpayers are classified into 3 broad categories on the basis of their residential status:

1. Resident and Ordinarily Resident ["ROR"]
2. Resident but Not Ordinarily Resident ["RNOR"]
3. Non-Resident ["NR"]



IMPORTANT CONCEPT

- For the purpose of counting the number of days stayed in India, both the date of departure as well as the date of arrival are considered to be in India.
- **Citizenship Vs Residential Status:**
The residence of an individual for income-tax purpose has nothing to do with citizenship, place of birth or domicile. A person may be an Indian National / Citizen, but he may not be a Resident of India and vice-versa.

RESIDENTIAL STATUS OF AN INDIVIDUAL [SECTION 6(1)]

Under section 6(1), an individual is said to be **Resident in India** in any previous year, if he satisfies **any one** of the following **BASIC conditions**:

1. He has been in India during the previous year for a total period of **182 days or more, OR**
2. He has been in India **during the 4 years immediately preceding the previous year** for a total period of **365 days or more** **AND** has been in India for **at least 60 days in the relevant PY.**

NOTE: IF BOTH THE ABOVE CONDITIONS ARE NOT SATISFIED, THE INDIVIDUAL IS ANON-RESIDENT.

Exceptions:

The following categories of individuals will be treated as Residents **only if** the period of their stay during the relevant previous year amounts to 182 days or more.

1. **Indian Citizen** who leaves India **as a member of the crew of an Indian ship,**
2. **Indian Citizen** who leaves India **for the purpose of employment** outside India **OR**
3. **Indian Citizen or Person of Indian origin** engaged outside India **coming on a visit to India.**

Note: A person is said to be of Indian origin *if he or either of his parents or either of his grandparents were born in undivided India.*

Period of stay of Crew Member (Indian Citizen) of Foreign Bound Ship

For the purposes of Section 6(1), in case of an individual, being a citizen of India and a member of the crew of a ship, the period or periods of stay in India shall, in respect of an Ship, **not include the period beginning on the date entered into the Continuous Discharge Certificate** in respect of joining the ship by the said individual and **ending on the date entered into the Continuous Discharge Certificate in respect of signing off** by that individual from the ship.

Resident but not ordinarily resident (RNOR)

An Indian citizen or a person of Indian origin who, being outside India, comes on a visit to India during the previous year (having total income, other than the income from foreign sources), exceeding 15 lakhs during the previous year would be resident if his period of stay is

- 182 days or more during the previous year [First condition]; **or**
- 120 days or more during the previous year **and** 365 days or more during the 4 years immediately preceding the previous year [Second condition].

Such individual would, however, be resident but not ordinarily resident if he satisfies only the second condition mentioned above but not the first condition (i.e., the period of his stay in India during the relevant previous year is ≥ 120 days but < 182 days). [No need to check Additional conditions]

Note – “Income from foreign sources” means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

Deemed resident in India [Section 6(1A)] - An individual, being an Indian citizen, having total income, other than the income from foreign sources, exceeding 15 lakhs during the previous year would be deemed to be **resident but not ordinarily resident in India** in that previous year, if 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.

This provision would not apply in case of an individual who is said to be resident in India in the previous year under section 6(1).

ADDITIONAL CONDITION [SECTION 6(6)]: RESIDENT BUT NOT-ORDINARILY RESIDENT

Only Individuals and HUF can be Resident but Not Ordinarily Resident in India.

An Individual has to satisfy the both additional conditions in order to become Ordinarily Resident (ROR) in India:-

1. Resident in India in **any 2 out of the last 10 previous years** immediately preceding the relevant previous year **AND**
2. Total stay in India for **730 days or more during 7 previous years** immediately preceding the relevant previous year.

RESIDENTIAL STATUS OF HINDU UNDIVIDED FAMILY (HUF) [SECTION 6(2)]

A HUF would be **Resident in India** if the control and management of its affairs is situated **wholly or partly** in India. If the control and management of the affairs is situated **wholly outside India** it would become a non-resident.

STATUS

If Control & Management of its affairs is wholly / partly situated in India - Resident

If Control & Management of its affairs is wholly situated outside India - Non-Resident

Resident and Ordinarily Resident (HUF)

If the HUF is Resident, then the status of the Karta determines whether it is ROR or RNOR. For this purpose, additional conditions of Section 6(6) are relevant.

RESIDENTIAL STATUS OF A COMPANY [SECTION 6(3)]**IF PERSON IS:****STATUS**

An Indian Company [as defined under section 2(26)] - Resident

Company other than Indian Company will be Resident in India in any previous year **if its Place of Effective Management [POEM], in that year, is in India.**

“POEM” to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

RESIDENTIAL STATUS OF PERSONS OTHER THAN ABOVE [SECTION 6(4)]

(FIRMS/AOP/BOI/Local Authority/Artificial Judicial Persons)

STATUS

If Control & Management of its affairs is wholly / partly situated in India - Resident

If Control & Management of its affairs is wholly situated outside India - Non-Resident

SCOPE OF TOTAL INCOME [SECTION 5] – TAX INCIDENCE VS RESIDENTIAL STATUS

The scope of Total Income of an assessee depends upon the following three important considerations:

- The Residential Status of the assessee;
- The place of accrual or receipt of income, whether actual or deemed; and
- The point of time at which the income had accrued to or was received by or on behalf of the assessee.

A Tabular Presentation:

| NATURE OF INCOME | R & OR | RNOR | NR |
|---|--------------------|----------------|-------------|
| a) Income received or deemed to be received in India during the year (whether accrues in India or not)[Indian Income] | Taxable | Taxable | Taxable |
| b) Income accrues/arises or deemed to accrue/ arise in India during year - whether received in India or not [Indian Income] | Taxable | Taxable | Taxable |
| (c) <u>Income accrues/arises and received outside India and derived from:</u> [Foreign Income] | | | |
| (i) A business / Profession controlled/setup in India | Taxable | Taxable | Not Taxable |
| (ii) A business / Profession controlled/setup from outside India | Taxable | Not Taxable | Not Taxable |
| (d) Past income (earned and received abroad) remitted to India in Previous year | Not Taxable | Not Taxable | Not Taxable |

INCOME DEEMED TO ACCURE OR ARISE IN INDIA [SECTION 9]

Section 9 applies to all assesses irrespective of their residential status and place of business.

Income deemed to accrue in India [Section 9(1)]

| | |
|--|--|
| Income accruing or arising outside India, directly or indirectly through or from: | |
| <ul style="list-style-type: none"> ✓ Any Business Connection in India ✓ Any property/asset or source of income in India ✓ transfer of capital asset situated in India | |
| Salary earned for services rendered in India | |
| Salary payable by the Government to Indian Citizen for services rendered outside India | |
| Dividend paid by an Indian Company outside India | |
| 1. Interest, if payable by 2. Royalty, if payable by 3. Fees for technical services, if payable by | A non resident: <ul style="list-style-type: none"> • If money is borrowed and used for the purpose of business or profession carried on in India • If technical services or royalty services are utilised for the purpose of business or profession carried on in India or making income from any source in India |
| | Government |
| | Person resident in India. Exceptions: <ul style="list-style-type: none"> ➤ If the money borrowed and used or technical services or royalty services are utilised for the purpose of business or profession carried on outside India ➤ If the money borrowed and used or technical services or royalty services are utilised for making income from any source outside India |
| Income arising outside India, being any sum of money paid without consideration, by a resident Indian to a non-corporate non-resident or foreign company, where aggregate of such sum > 50,000 | |

Explanation to section 9:

Income by way of interest, royalty or fees for technical services which is deemed to accrue or arise in India shall be included in the total income of the non-resident, whether or not

- (i) the NR has a residence or place of business or business connection in India; or
- (ii) the NR has rendered services in India.

Business Connection in India

Business Connection in India shall include: Any business activity carried out through a person acting on behalf of the non-resident and such person

- a. *has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident or habitually concludes contracts or habitually plays the principal role and the contracts are-*
 - *in the name of the non-resident; or*
 - *for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that non-resident has the right to use; or*
 - *for the provision of services by the non-resident;*
- b. **maintains in India a stock of goods** for deliver of goods on behalf of the non-resident or
- c. **secures orders in India, mainly or wholly** for the non-resident

Following cases shall not be treated as Business connection in India: No income shall be deemed to accrue or arise in India to NR

1. **In the case of a business, in respect of which all the operations are not carried out in India. But following activities are carried out in India:**

| | |
|---|--|
| Income attributable to the operations carried out in India includes: | Income from advt. targetting customers residing in India or accessing advt. through IPA (Internet Protocol Address) located in India |
| | Income from sale of data collected from persons residing in India or using IPA located in India |
| | Income from sale of goods and services using data collected from persons residing in India or using IPA located in India |

2. for **purchase of goods in India for the purpose of export.**
3. **engaged in the business of running a news agency** or publishing newspapers, magazines or journals.
4. For **shooting of cinematography films in India but if NR is**
 - a. **An Individual** - He should not be citizen of India.
 - b. **A Firm**- No partner should be citizen of India or Resident in India.
 - c. **A Company** - None of the shareholder should be citizen of India or Resident in India.
5. a foreign company **engaged in the display of uncut and unassorted diamond in any special zone notified** by the Central Government in the Official Gazette in this behalf.

Significant economic presence of a non-resident in India shall constitute "business connection" in India

Significant economic presence for this purpose, shall mean-

- a. transaction of goods, services or property **carried out by a non-resident** in India **including provision of download of data or software**, if the aggregate of payments arising from such transaction during the previous year **exceeds 2 crores**; or
- b. **systematic and continuous soliciting of business activities** or engaging in interaction **with atleast 3 lakhs number of users** in India.

INCOME WHICH DO NOT FORM PART OF TOTAL INCOME (EXEMPT INCOME)

AGRICULTURE INCOME - Exempt u/s Section 10(1)

CONCEPT OF TAXATION OF THE AGRICULTURE INCOME

Agriculture Income is totally exempt under the Act, **but shall be included in the total income in case of *Individuals, HUF, AOP, BOI and Artificial Juridical Persons [Except company, firm, co-operative society and local authority]* for determining the rate of tax** on the non-agriculture income known as *partial integration of taxes*.

Two conditions which need to be satisfied for partial integration are:

1. The Net Agricultural Income should **exceed 5,000 p.a., AND**
2. Non-Agricultural Income should **exceed 500,000** for Very Senior Citizen, **3,00,000** for Senior Citizens, **2,50,000** for all other individuals.)

Tax calculation in such cases is as follows:

Step 1: Add non-agricultural income with net agricultural income. Compute tax on the aggregate amount.

Step 2: Add net agricultural income and the maximum exemption limit available to the assessee (i.e. 2,50,000 / 3,00,000 / 500,000). Compute tax on the aggregate amount.

Step 3: Deduct the amount of income tax calculated in step 2 from the income tax calculated in step 1 i.e. Step 1 – Step 2.

Step 4: The sum so arrived at shall be increased by Health & Education Cess @4%.
[Deduct Rebate u/s 87A before cess if applicable]

DEFINITION OF AGRICULTURAL INCOME [Section 2(1A)]

Agricultural income may arise in any one of the following 5 ways:-

1. Rent from **land situated in India** and used for agricultural purposes.
2. It may be derived from any Farm Building for agricultural operations
3. Income from nursery.
4. Rent from house use as dwelling house, store house.
5. **Income from sale of agriculture produce (Rule 7)**
 - a. Sale in raw form – Total agriculture income.
 - b. Sale after process
 - i. Process is compulsory for sale – Total agriculture income
 - ii. Process is optional for sale

- **Agriculture income:**

| | |
|--|-----|
| FMV of agriculture product further process | xxx |
| (-) Cost of agriculture product | xxx |
| Agriculture income | xxx |

- **PGBP**

| | |
|-----------------------|-----|
| Sale of final product | xxx |
|-----------------------|-----|

| | |
|-----------------------------|-----|
| (-) FMV of agriculture used | xxx |
| (-) Further process cost | xxx |
| PGBP | xxx |

DEDUCTION TO NEWLY ESTABLISHED UNITS IN SEZs [SECTION 10AA]

1. Eligible Assessee: All categories of assessee

2. Conditions:

- It has begun or begins to manufacture or **service on or after 1.4.2005 (PY 05-06) in any SEZ. [No Deduction from AY 21-22]**
- The sale proceeds from exports brought into India, in convertible foreign exchange, **within a period of 6 months from the end of the Previous Year.**

3. Quantum and Period of Deduction:

- For First 5 AYS** : 100% of the profits derived from exports.
- For next 5 Consecutive AYS** : 50% of such profits
- For next 5 Consecutive AYS** : **Least of the below two:**
 - 50% of Such Profits
 - Reserve credited to **SEZ Re-Investment Allowance Reserve Account**

4. The amount credited to the Special Economic Zone Re-investment Reserve Account is **utilized- for *acquiring machinery or plant* use before the expiry of **three years** following the previous year in which the reserve was created.**

5. CONSEQUENCES OF MIS-UTILISATION / NON-UTILISATION OF RESERVE:

- Mis-Utilised amount shall be deemed to be the **profits in the year in which the amount was *soutilised***; or
- Unutilised amount shall be deemed to be the profits **in the year immediately following the said period of three years.**

6. Computation of Exemption u/s 10AA:

The profits derived from export of articles or things or services (including computer software) shall be:

| | | |
|--|---|--|
| Profits of the Business of the undertaking | X | $\frac{\text{Export Turnover}}{\text{Total Turnover}}$ |
|--|---|--|

Note:

- “Export Turnover” means the consideration received in or brought into India by the assessee in convertible foreign exchange **but does not include:**
- Freight, Telecommunication Charges and Insurance **attributable to the delivery** of the articles or things outside India; or
 - Expenses incurred in foreign exchange** in providing the technical services outside India.

7. OTHER COMMON POINTS:

- AUDIT:** Accounts of the assessee for the relevant year should be audited.

- b. **INTER-UNIT TRANSFER**: Where any goods or services of eligible business are transferred to any other business (or vice versa) otherwise than at Market Value on date of transfer, *then the profits computed as if the transfer was made at market value.*
- c. **NO DOUBLE OR EXCESS DEDUCTION**: The deductions claimed and allowed under this section *shall not exceed the profits and gains of the eligible business.*

SECTION 10: INCOMES NOT INCLUDED IN TOTAL INCOME

- *Amounts received by a member from the income of the HUF [Section 10(2)]*
- *Share Profit of a partner from partnership firm [Section 10(2A)]*
- *Exemption to non-residents and person resident outside India from Interest credited in Non-resident (External) Account in India [Sec 10(4)]*
- **Exemption to Individuals who are not citizens of India [Sec 10(6)]**

SALARY OF DIPLOMATIC PERSONNEL - Section 10(6)(ii) grants exemption to a person in respect of the remuneration received by him for services as an official of an embassy, high commission, legation, consulate or the trade representation of a foreign State or as a member of the staff of any of these officials.

SALARY OF FOREIGN EMPLOYEES - Section 10(6)(vi) provides that remuneration received by a foreign national as an employee of a foreign enterprise for service rendered by him during his stay in India is also exempt from tax.

Conditions -

- a. The foreign enterprise is not engaged in a business activity in India;
- b. The employee's stay in India does not exceed a total of 90 days in the previous year;
- c. The remuneration is not liable to be deducted from the employer's income chargeable to tax under the Act.

SALARY RECEIVED BY A SHIP CREW - Section 10(6)(viii) provides that salary income received by or due to a non-citizen of India who is also non-resident for services rendered in connection with his employment on a foreign ship where his total stay in India does not exceed a total of 90 days in the previous year.

- **Royalty income or fees for technical services received from National Technical Research Organisation (NTRO) [Section 10(6D)]**
- *Allowances payable outside India [Section 10(7)]*
- *Payments to Bhopal Gas Victims [Section 10(10BB)]*
- **Exemption of compensation received on account of disaster from CG/SG or local authority to Individual or legal heirs [Sec 10(10BC)]** Exemption is available to the extent such amount has been allowed a deduction on account of any loss or damage caused by such disaster under this Act.
- *Any Payment from Sukanya Samridhi Account [Section 10(11A)]*
- **Education Scholarship - Exempt [Section 10(16)]**

- **Daily Allowance & Constituency Allowances to MP/MLA - Exempt [Section 10(17)]**

- **Government Rewards / Awards [Sec. 10(17A)]**

The reward or award may be instituted in the public interest, by the Central or State Government or any other body approved by the Central or State Government.

- **Exemption of income of a Sikkimese Individual [Section 10(26AAA)]**

Income of a Sikkimese individual from any source in the State of Sikkim; or by way of dividend or interest on securities. However, no exemption will be available to a Sikkimese woman who (on or after 01.04.2008) marries a non-Sikkimese Individual.

Sec 14A: Expenditure incurred in relation to Exempt income

No deduction shall be allowed in respect of expenditure incurred by assessee in relation to income which do not form part of total income (exempt income) under the Act.

Rule 8D: Expenditure relating to exempt income.

- | | |
|---|-----|
| a. Amount of expenses directly relating to exempt income | xxx |
| b. Amount equal to 1% of this annual average of the monthly average of the Opening & closing balances of investment, income from which exempt. <u>xxx</u> | |
| Total amount disallowable u/s 14A | xxx |

Note:

Provided that amount referred in (a) & (b) shall not be more than total expenditure claimed by assessee.

ALTERNATE MINIMUM TAX (AMT)

Section 115JC Where the regular income-tax payable for a previous year by a person (other than company) is *less than 18.5% of its Adjusted Total Income (AMT), such adjusted total income shall be deemed to be the total income* of such person and it shall be liable to pay income-tax on such total income **at the rate of 18.5%**.

Adjusted Total Income shall be the **Total Income as increased by**

- Deductions **claimed** under any section in chapter VIA (Other than 80P),
- Deduction **claimed** u/s 10AA &
- Deduction **claimed** u/s 35AD as reduced by the **amount of depreciation** allowable u/s 32 as if no deduction u/s 35AD was allowed.

To whom Alternate Minimum Tax shall not be applicable

However, provisions of AMT is not applicable if, Adjusted TI of

- Individual
- HUF
- AOP/BOI
- AJP; doesn't exceeds 20,00,000.

Steps involving calculation of Tax where Alternate Minimum Tax provisions applies:

Step 1: Calculate the **regular Income-tax liability** of the non-corporate assessee ignoring the provisions of Sections 115JC to 115JF.

Step 2: Calculate **Adjusted Total Income** of the non-corporate assessee.

Step 3: Calculate **Alternate Minimum Tax** by applying **18.5% + Surcharge (if applicable) + 4% H & EC** on Adjusted Total Income computed under Step 2.

Step 4: Compare tax liability computed under Step 1 and AMT computed under Step 3. If amount computed under Step 1 is equal to or more than amount computed under Step 3, then the provisions of Alternate Minimum Tax **will not apply**.

Step 5: If amount computed under Step 1 is less than amount computed under Step 3, then amount computed under Step 3 will be deemed as tax liability of the non-corporate assessee for such Previous Years.

Tax credit for Alternate Minimum Tax [Section 115JD]:

- The credit for tax (tax credit) paid shall be allowed to the extent of the excess of the AMT paid over the regular income-tax.
- This tax credit carried forward **up to the 15th assessment year**.

It shall be allowed to be set off for an assessment year in which the regular income-tax exceeds the AMT **to the extent of the excess of the regular income-tax over**

INCOME FROM COMPOSITE ACTIVITY OF AGRICULTURE AND BUSINESS

Where the agricultural produce like tea, cotton, tobacco, sugarcane etc after a manufacturing process is sold, the profit on such sales will consist of agricultural income as well as business income. That portion of the profit representing agricultural income will be exempted.

| Nature of Income | Amount of Agricultural Income | Non-agricultural Income i.e. business income |
|---|-------------------------------|--|
| • Income from sale of TEA Grown and Manufactured by the assessee in India | 60% | 40% |
| • Income from RUBBER plants Grown by the seller in India | 65% | 35% |
| • Income derived from the sale of COFFEE Grown and Cured by the seller in India | 75% | 25% |
| • Income derived from the sale of COFFEE Grown, Cured, Roasted and Grounded by the seller in India | 60% | 40% |
| • Income from a land situated outside india | 0% | 100% |

INCOME UNDER THE HEAD OF SALARIES

| | | |
|--|---------------|------------|
| Income from Salary | | XXX |
| Add: Income by way of Allowances | | XXX |
| Add: Taxable Value of Perquisites | | XXX |
| Gross Salary | | XXX |
| Less: <u>Deduction under section 16</u> | | |
| (ia) Statutory Deduction | 50,000 | |
| (ii) Entertainment Allowances | XXX | |
| (iii) Professional Tax | XXX | XXX |
| INCOME UNDER THE HEAD “SALARIES” | | XXX |

CONDITION FOR CHARGING INCOME UNDER THE HEAD OF “SALARIES”

Income is taxable under the head ‘salaries’ only if there exists employer-employee relationship between the payer and the payee. **Contract of Services (Salary) Vs Contract for services (PGBP)**

INSTANCES WHERE EMPLOYER-EMPLOYEE RELATIONSHIP EXISTS/ DOES NOT EXIST

1. **Director of a company**: Generally employer – employee relationship cannot be presumed but should be ascertained based on the service agreement’
2. **MPs/MLAs**: salaries of MPs and MLAs is chargeable under the head ‘IFOS’.
3. **Paper-setters/Examiners**: remuneration taxable under the head ‘IFOS’.
4. **Judges**: It receive his salary since there is employment as created by the constitution of India.

SECTION 17(1) - ‘SALARY’ INCLUDES:

- a. Wages,
- b. any Annuity or **Pension**,
- c. any **Gratuity**,
- d. any Fees, Commission, **Perquisite** or **Profits in lieu of or in addition to any Salary**,
- e. any Advance of salary,
- f. **Leave Salary** or leave encashment,
- g. the portion of the annual accretion in any previous year to the balance at the credit of an employee participating in a **recognised provident fund to the extent it is taxable**,
- h. the aggregate of all sums that are **comprised in the transferred balance** of an employee participating in a recognized provident fund to the extent it is taxable,
- i. the **contribution made by the Central Government or any other employer** in the previous year to the account of an employee **under a pension scheme referred to in section 80CCD**.

TAX TREATMENT OF DIFFERENT FORM OF ‘SALARY’

Advance Salary:

Salary can't be taxed twice i.e. where any salary paid in advance is taxed on receipt basis (in the yr. of receipt) it can't be taxed again on the due basis (in the yr. in which it becomes due).

Arrear of Salary:

Arrear of Salary received by an assessee is charged to tax on receipt basis (if it was not taxed earlier on due basis).

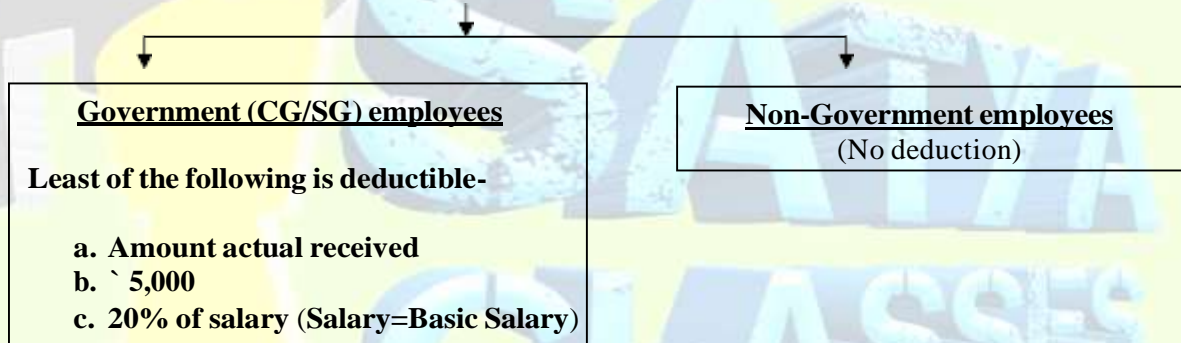
SECTION 17(3) – “PROFITS IN LIEU OF SALARY” INCLUDES

- any compensation due to or received in termination or modification of the terms and conditions of employment.
- Any amount received before joining employment, or after cessation of his employment with that person.

DEDUCTIONS FROM SALARY

ENTERTAINMENT ALLOWANCE [SEC.16 (ii)]

- First the entire entertainment allowance received by an employee is *added to the gross salary*.
- Then deduction u/s 16(ii) shall be allowed as under.



PROFESSIONAL TAX [SEC. 16 (iii)]

If professional tax is paid by the employer, the amount so paid is *first included as salary income and then allowed as a deduction under section 16*. If paid by the employee then only deduction allowed. [deduction on paid basis]

Standard Deduction:

A standard deduction of 50,000 or the amount of salary, whichever is lower.

GRATUITY [SECTION 10(10)]

Any gratuity received by an Individual on his death or retirement is eligible for exemption u/s 10(10) as under –

| GOVT. EMPLOYEES | OTHER EMPLOYEES | |
|-----------------|---|---|
| Fully exempt | <u>Covered under Payment of Gratuity Act, 1972 (POGA)</u> then <u>least of the following</u> is exempt:- | <u>Not Covered under Payment of Gratuity Act, 1972 (POGA)</u> then <u>least of the following</u> is exempt:- |

| | |
|--|--|
| <p>(i) Actual Amount received (ii) 20,00,000 (iii) 15/26 days *last drawn salary for each completed year of service or part thereof in excess of 6 months [Basic Salary +DA(Both)] SEASONAL ESTABLISHMENT – “15 days” will be replaced with “7 days”.</p> | <p>(i) Actual Amount received (ii) 20,00,000 (iii) Half month’s salary (based on last 10 months’ average salary <i>immediately preceding the month</i> of retirement or death) for each completed year of service (fraction to be ignored) [Basic Salary +DA(R)+ Comm(%)]</p> |
|--|--|

PENSION [SEC 10(10A)]

Uncommuted Pension: pension received periodically & fully taxable for both govt. & non-govt employees.

Commuted Pension: lump sum amount.

| Govt. Employees | Others Employees | |
|-----------------|---|---|
| fully exempt | Gratuity also received | Gratuity not received |
| | Exemption amount = 1/3 * Full Commutable value of Pension. | Exemption amount = 1/2 * Full Commutable value of Pension. |

Here, Full Commutable value of Pension = $\frac{\text{Commuted Amount}}{\% \text{ of Commutation}}$

LEAVE SALARY [SECTION 10(10AA)]

It provides exemption of amount received by way of encashment of unutilised earned leave.

- Leave salary during employment – Fully taxable for all employees.
- Leave salary at the time of retirement then -

| Govt. Employees | Others Employees |
|---------------------|--|
| Fully Exempt | Exempt amount least of the following: (i) 3,00,000 (ii) Leave salary actually received (iii) 10 months X Average Salary p.m (iv) Leave to the credit of employee x Average Salary p.m |

- ‘Average salary’ means salary drawn during the period of 10 months immediately preceding **the date** of his retirement.
- Salary means Basis Salary + DA (R) + Commission (Sales).
- Earned leave to the credit of the employee** = {Annual Leave Entitlement (Not exceeding 30 days) X Completed years of actual service rendered (**Fractions will be ignored**)} – Leave availed during the service.

RETRENCHMENT COMPENSATION [SECTION 10(10B)]

Any compensation received by a workman at the time of his retrenchment, shall be exempt to the extent of **least of the following:**

- (i) Actual amount received;
- (ii) 15 / 26 day's average pay [3 months basis] for every completed year of service or part thereof in excess of 6 months;
- (iii) 5,00,000.

[In case retrenchment scheme is approved by the CG, the entire amount is exempt.]

Note: Pay will include Basic Salary + D.A(Both).

COMPENSATION RECEIVED at the time VRS / VSS under Golden Handshake Scheme – [SECTION 10(10C)] *Least of the following is exempt:*

- Actual Compensation Received
- **Statutory Limit: ` 5,00,000**
- 3 months' salary for each completed year of service [fraction ignored]
- Salary at the time of retirement x balance months of service left

[Salary = Last drawn Basic Pay + DA (R) + Comm. (Sales)]

VALUATION OF LEAVE TRAVEL CONCESSION [Section 10(5)]

- LTC is available in journey to any place in India after retirement from service.
- LTC is available to employee, his Spouse, Children & Dependent Parents / Brothers / Sisters of the individual.
- Exemption is available in respect of **2 journeys performed in a block of 4 calendar years.**
- Exemption **shall not be available to more than 2 surviving children** of an individual after 1.10.1998. However, this restriction does not apply in respect of children born before 1.10.1998 & also in respect of multiple births after one child.

Example:

- (1) 1st time = 1 child & 2nd time = Twins. Here total 3 children & Exemption is allowed to all 3 children.
- (2) 1st time = Twins & 2nd time = 1 child. Here total 3 children & Exemption is allowed to only 2 children.

| <u>Different situations</u> | <u>Amount of Exemption</u> |
|---|--|
| Where journey is performed by AIR | Amount of <u>ECONOMY CLASS AIR FARE OF NATIONAL CARRIER by the shortest route</u> OR the amount spent, whichever is less |
| Where journey is performed by RAIL | Amount of <u>AC 1st CLASS RAIL FARE</u> by the shortest route OR amount spent, whichever is less. |
| Where the places of origin of journey and destination or part thereof are not connected by RAIL: | |
| ➤ Where a Recognised Public Transport System exists | ➤ <u>FIRST CLASS OR DELUXE CLASS FARE</u> by the shortest route OR the amount spent, whichever is less. |
| ➤ Where a Recognised Public Transport System does not exist | ➤ <u>AC FIRST CLASS RAIL FARE</u> by the shortest route (as if the journey had been performed by rail) OR the amount actually spent, whichever is less. |

HOUSE RENT ALLOWANCE [Section 10(13A)]

If HRA is received by the assessee and he incurs the expenditure of rent on residential accommodation, then an exemption **of least of the following** amount is allowed:

- Actual Amount received [HRA]
- Rent Paid Less 10% of **Salary**
- 50% of Salary (in Metro cities) **OR** 40% of Salary (in other cities)

Salary = Basic Pay + DA (forming part) + Commission (based on % of Sales Turnover)

ALLOWANCES U/S 10(14)

| S.No. | Allowances | Extent of Exemption |
|-------|--|--|
| 1 | Children Education Allowance | 100 p.m. per child upto a max. of two children |
| 2 | Hostel Expenditure Allowance: | 300 p.m. per child upto a max. of two children. |
| 3 | Tribal or Scheduled Area Allowance | 200 P.M. |
| 4 | Transport Allowance | 3,200 PM in case of Blind/Handicapped Employee |
| 5 | Underground Allowance (In coal Mines) | ` 800 P.M. |
| 6 | Allowances granted to employees of transport system to meet personal expenditure during his duty, provided he is not in receipt of daily allowances | Lower of below two is exempt: - 70% of allowance received from the Employer; OR - ` 10,000 P.M. |
| 7 | Hill Compensatory Allowances | ` 300 p.m. |

Expenditure allowed as exemption on the basis of expenditure actually spent for official purposes:

Traveling allowance, Daily allowance, Conveyance allowance, Helper allowance, Academic/Research allowance, Uniform allowance.

ALLOWANCES WHICH ARE FULLY TAXABLE

1. **City Compensatory Allowance:** is given to compensate the employees for the higher cost of living in cities.
2. **Dearness Allowance:**
It is fully taxable allowance. It is of following 2 types:
 - a. DA which is forming part of salary for computation of retirement benefits.
 - b. DA which is NOT forming part of salary for computation of retirement benefits.**Note:** If the Question is silent, it is to be assumed that DA is not forming part of salary.
3. **Medical Allowance:** It is a fully taxable allowance.
4. Lunch Allowances / Tiffin Allowances / Cash Allowance / Deputation Allowance
5. Overtime Allowances / Servant Allowances / Warden Allowance / Family Allowance etc.

SECTION 10(11) AND (12) – PAYMENT FROM PROVIDENT FUNDS**THE TAX TREATMENT IS GIVEN BELOW:**

| Particulars | SPF | PPF | SAF | RPF | URPF |
|--|--------------------------|--------------------------|-----------------------|--|--|
| Employer's Contribution | Fully Exempt | N.A. | Exempt up to 1,50,000 | in excess of 12% of salary* is taxable | Not taxable at the time of contribution |
| Ded. u/s 80C (Employee's Cont) | Available | Available | available | Available | Not Available |
| Interest credited | Fully Exempt | Fully Exempt (IOS Head) | Fully exempt | in excess of 9.5% p.a. is taxable (Salary) | ---- |
| Amount received on retirement, death etc. | Fully Exempt u/s. 10(11) | Fully Exempt u/s. 10(11) | Exempt u/s 10(13) | Fully Exempt sub. to condition u/s. 10(12) | <ul style="list-style-type: none"> ➤ Intt. On Employee's Contribution is Taxable u/h. "IOS" ➤ Employer's Contribution and intt. On such Contribution is fully taxable as salary u/s. 17(3) |

***Salary = Basic Pay + DA (if forming part of Ret. Benefits) + Comm. (if based on % of Sales T/O)**

The payment from R.P.F. balance is fully exempt from tax in following cases:

Accumulated balance in RPF payable to an employee (subject to certain following conditions) Employee has rendered continuous service for a period of at least 5 years; but exception:

- a. ill-health; or
- b. discontinuance of the employer's business or
- c. other cause beyond the control of the employee.

1. Section 10(13) grants exemption in respect of payment from the fund—

- a. Paid to legal heirs on death of the employee, or
 - b. Paid to employee on his retirement or
 - c. Paid to employee on his becoming incapacitated prior to such retirement.
2. Any payment from fund by way of transfer to the account of the employee under a pension scheme (New Pension Scheme u/s 80CCD) shall be EXEMPT.

3. As per section 10(11), any payment from a Provident Fund (PF) to which Provident Fund Act, 1925, applies or from Public Provident Fund would be exempt.

Accumulated balance due and becoming payable to an employee participating in a Recognized Provident Fund (RPF) would be exempt under section 10(12).

However, the exemption under section 10(11) or 10(12) would not be available in respect of income by way of interest accrued during the previous year to the extent it relates to the amount or the aggregate of amounts of contribution made by that person/employee exceeding 2,50,000 in any previous year in that fund, on or after 1st April, 2021.

If the contribution by such person/employee is in a fund in which there is no employer's contribution, then, a higher limit of ₹ 5,00,000 would be applicable for such contribution, and interest accrued in any previous year in that fund, on or after 1st April, 2021 would be exempt upto that limit.

It may be noted that 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.

PERQUISITES

Exempted Perquisites

- Goods sold to employee at concessional rate:** Goods manufactured by employer and sold by him to his employees at concessional (not free) rates.

VALUATION OF RENT FREE UNFURNISHED ACCOMMODATION

| S. No. (A) | Category of Employee (B) | Unfurnished accommodation (C) | Furnished accommodation (D) | | | | | | | | |
|--|--------------------------|--|--|------------------|--|---------------|--|---------------|----------------|----------------|--|
| 1 | Government employee | License fee determined as per Government rules as reduced by the rent actually paid by the employee. | Value determined under column (C) Add: 10% p.a. of the furniture cost. However, if the furniture is hired, then hire charges payable/paid should be added to the value determined under column (C), as reduced by charges recovered from employee. | | | | | | | | |
| 2 | Non-government employee | <p>Where accommodation is owned by employer</p> <table border="1"> <thead> <tr> <th>Location</th> <th>Perquisite value</th> </tr> </thead> <tbody> <tr> <td>In cities having a population > 25 lacs as per 2001 census</td> <td>15% of salary</td> </tr> <tr> <td>In cities having a population > 10 lacs ≤ 25 lacs as per 2001 census</td> <td>10% of salary</td> </tr> <tr> <td>In other areas</td> <td>7.5% of salary</td> </tr> </tbody> </table> <p>The perquisite value should be arrived at by reducing the rent, if any, actually paid by the employee, from the above value.</p> | Location | Perquisite value | In cities having a population > 25 lacs as per 2001 census | 15% of salary | In cities having a population > 10 lacs ≤ 25 lacs as per 2001 census | 10% of salary | In other areas | 7.5% of salary | Value determined under column (C) Add: 10% p.a. of the furniture cost. However, if the furniture is hired, then hire charges payable/paid should be added to the value determined under column (C), as reduced by charges recovered from employee. |
| Location | Perquisite value | | | | | | | | | | |
| In cities having a population > 25 lacs as per 2001 census | 15% of salary | | | | | | | | | | |
| In cities having a population > 10 lacs ≤ 25 lacs as per 2001 census | 10% of salary | | | | | | | | | | |
| In other areas | 7.5% of salary | | | | | | | | | | |
| | | <p>Where the accommodation is taken on lease or rent by employer Lower of the following is taxable:</p> <p>(a) actual amount of lease rent paid or payable by employer or</p> <p>(b) 15% of salary</p> <p>The lower of the above should be reduced by the rent, actually paid by the employee, to arrive at the perquisite value.</p> | Value determined under column (C) Add: 10% p.a. of the furniture cost. However, if the furniture is hired, then hire charges payable/paid should be added to the value determined under column (C), as reduced by charges recovered from employee. | | | | | | | | |

SALARY FOR THE PURPOSE OF VALUATION OF ACCOMMODATION

Basic Salary + DA (Forming Part of Salary) + Bonus + Fees + Commission + All other Taxable Allowance + Any monetary payment by employer to employee [Above does not include Perquisites (Monetary or Non-Monetary) and Employer's contribution to PF + Arrear Salary + Advance Salary, Gratuity, Pension, VRS, Leave Salary, Retrenchment Compensation]

VALUATION OF ACCOMMODATION PROVIDED IN A HOTEL:

The value of the perquisite will be lower of:

- a. 24% OF SALARY OR
- b. the actual charges paid or payable

The above value is reduced by the rent, if any, actually paid or payable by the employee.

MOTOR CAR [RULE 3(2)] – SPECIFIED EMPLOYEE

| Owner of Car | Expenses met by | Purpose | Taxable Value of Perquisite |
|---|-----------------|--|--|
| 1(a) Employer | Employer | Fully Official use | Not a Perquisite, provided the documents specified in Rule 3(2)(B) are maintained. [See Note] |
| 1(b) Employer | Employer | Fully Personal use | Aggregate of (a) Actual expenditure on Car (b) Remuneration to Chauffeur (c) 10% p.a. of the Cost of Car (normal wear & tear) Less: Amount charged from Employee |
| 1(c)(i) Employer | Employer | Partly for Official and partly for Personal use | Cubic Capacity of Car Engine upto 1.6 Litres: 1,800 p.m. + 900 p.m. for Chauffeur above 1.6 Litres: 2,400 p.m. + 900 p.m. for Chauffeur |
| 1(c)(ii) Employer | Employee | Partly for Official and partly for Personal use | Cubic Capacity of Car Engine upto 1.6 Litres 600 p.m. + 900 p.m. for Chauffeur above 1.6 Litres 900 p.m. + 900 p.m. for Chauffeur |
| 2(i) Employee | Employer | Fully Official use | Not a Perquisite, provided the documents specified in Rule 3(2)(B) are maintained. [See Note] |
| 2(ii) Employee | Employer | Partly for Official and partly for Personal use | Subject to Rule 3(2)(B) Actual Expenditure incurred Less upto 1.6 Litres: 1,800 p.m. + 900 p.m. for Chauffeur above 1.6 Litres: 2,400 p.m. + 900 p.m. for Chauffeur |
| 3(i) Employee owns other automotive but not Car | Employer | Fully Official use | Not a Perquisite, provided the documents specified in Rule 3(2)(B) are maintained. [See Note] |
| 3(ii) Employee owns other automotive but not Car | Employer | Partly for Official and partly for Personal use | Subject to Rule 3(2)(B) Actual expenditure incurred by Employer Less: 900 p.m. |

Notes: Rule 3(2)(B):

Employee should maintain complete details of journey undertaken for official purpose, which includes date of journey, destination, mileage and amount of expenditure incurred thereon.

PROVISION OF DOMESTIC SERVANTS

(Sweeper, Gardener, watchman or a personal attendant)

| Servant appointed by | Servant's salary paid by | Value of perquisite | Taxable in the hands of |
|----------------------|--------------------------|---|---------------------------|
| Employee | Employee | Nil | Not applicable |
| Employee | Employer | Actual cost incurred by the Employer on the servant | All employees |
| Employer | Employer | Actual cost incurred by the Employer on the servant | Specified employee |
| Employer | Employee | Nil | Not applicable |

Note:

- Where the employee is paying any amount then deducted from the value of perquisite.
- Domestic Servant Allowance** given to an employee is always chargeable to tax.

SUPPLY OF GAS, ELECTRICITY OR WATER FACILITY

| Facility in the name of | VALUE OF PERQUISITE | | Taxable in the hands of |
|-------------------------|---------------------------|-----------------------------|-------------------------|
| | Provided from own source | Provided from outside | |
| Employer | Mfg. cost to the employer | Amount paid to the supplier | Specified employees |
| Employee | Mfg. cost to the employer | Amount paid to the supplier | All employees |

Note:

- Where the employee is paying any amount then deducted from the value of perquisite.
- Gas/Electricity/Water Allowance** given to an employee is always fully chargeable to tax.

FREE OR CONCESSIONAL EDUCATION FACILITY

- **For employee** – Fully exempt
- **For children** – It is exempt if value of education is up to 1000p.m per child & education is provided in employer's own institution or institution where employer have tie-ups, otherwise fully taxable.
- **For other relatives**- Fully taxable.

VALUATION IN RESPECT OF FREE TRANSPORT

| In case of employees of | Taxable value | |
|---------------------------------|--|-----|
| Railways / Airlines | Nil | |
| Any other transport undertaking | Value at which such benefit is offered by the employer to the public | xxx |
| | Less: Recovery from the employee | xxx |

VALUATION IN RESPECT OF SHARES & SECURITIES ISSUED UNDER ESOP [SECTION 17(2)(vi)]

- Any specified security or sweat equity shares **allotted**, by the employer, free of cost or at concessional rate to the assessee shall be taxable as perquisite.
- **The Taxable value = FMV of shares** on the date on which the option is exercised – **Issue price.**
- **FMV FOR LISTED SHARES:**
Perquisite Value is average of opening and closing price of shares listed on stock exchange on date of exercise of option less any amount recovered from the employee.

INTEREST FREE OR CONCESSIONAL LOAN

1. Value of perquisite = Loan amount * (SBI Interest rate – Actual interest rate) xxx
 Less: Interest recovered by from the employee **xxx**
2. Nothing is taxable if-
 - Amount of Such Loans are not exceeding in the aggregate` 20,000
 - Such loans are given for medical treatment in respect of specified diseases

Travelling, Touring & Accommodation

(a) Where such facility is maintained by the employer and available uniformly to all employees, then value shall be:- Expenditure incurred by the employer **LESS** Amount recovered from the employee.

(b) Where such facility is maintained by employer and not available uniformly to all employees, then value shall be:- Value at which such facilities are offered by other agencies to the public **LESS** Amount recovered from the employee.

Free LUNCH/refreshment/ Beverages etc [Rule 3(7)(iii)]

THE PERQUISITE is exempt UPTO RS. 50 PER MEAL during working hours at office premises through paid voucher;

- Tea or snacks provided during working hours is exempt.
- Lunch during working hours provided in a remote area is exempt

GIFT, VOUCHER OR TOKEN [Rule 3(7)(iv)]

- The Value of gift/ voucher/ token made by employer to **THE EMPLOYEE > 5,000**, is fully taxable otherwise is fully exempt
- The aforesaid exemption of` 5,000 shall be denied in case of cash gift.

CREDIT CARD

- The perquisite = amount of expenses on credit card provided by the employer - **Amount recovered from such employee.**
- However, such expenses incurred for official purposes then fully exempt.

CLUB EXPENDITURE Same as Credit card treatment.

USE of Employer’s MOVABLE ASSETS

| Asset given | Value of benefit |
|---|--|
| (a) Use of laptops and computers | Nil |
| (b) Movable assets, other than - (i) Laptops and computers; and (ii) Assets already specified | 10% p.a. of the actual cost of such asset, or the amount of rent or charge paid, or payable by the employer, as the case may be (-) Amount recovered from employee |

TRANSFER of any Movable Asset

Actual cost to the employer - Dep. for *every completed year* - amount charged from the employee.

The following will be the rate and method of depreciation:

| <u>S.N.</u> | <u>Asset</u> | <u>Rate</u> | <u>Method</u> |
|-------------|---|-------------|---------------|
| 1. | Computer & electronic items [Not covering Household appliances] | 50% | W.D.V. |
| 2. | Motor Car | 20% | W.D.V. |
| 3. | Any other asset | 10% | Straight Line |

Medical Facilities Provided by Employer**MEDICAL TREATMENT IN INDIA:**

| | |
|--|---------------|
| Treatment in Govt. Hospital | Fully Exempt |
| Treatment in Employer's own Hospital | |
| Treatment in Govt. Recognised Hospital | |
| In any other case | Fully Taxable |

MEDICAL TREATMENT OUTSIDE INDIA:

| | |
|----------------------|--|
| Benefit of treatment | Exempt to the extent permitted by RBI |
| Benefit of Stay | |
| Benefit of Travel | It is wholly exempt if the employee's GTI ≤ 2,00,000. |

Notes:

- **Family = Spouse + Children + Dependent [Parents + Brothers + Sister]**
- **Medical insurance premium is fully exempt.**
- **Exemption of stay & travel is allowed only for 1 patient & 1 attendant.**

Manner for computation of taxable perquisite under section 17(2)(viia)

The amount or aggregate of amounts of any contribution made in a recognised provident fund, in NPS referred to in section 80CCD(1) and in an approved superannuation fund by the employer to the account of the assessee, to the extent it exceeds Rs. 7,50,000 would be perquisite by virtue of section 17(2)(vii). Consequently, section 17(2)(viia) provides that any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the recognized provident fund or NPS or approved superannuation fund to the extent it relates to the employer's contribution in excess of 7,50,000 included in total income in any previous year under section 17(2)(vii), computed in the following formula would also be perquisite taxable under the head "Salaries".

| TP = (PC/2)*R + (PC1+ TP1)*R | |
|-------------------------------------|---|
| TP | Taxable perquisite under of section 17(2)(viia) for the current previous year i.e. P.Y. 2021-22; |
| TP1 | Aggregate of taxable perquisite under section 17(2)(viia) for the previous year or years commencing on or after 1.4.2021 other than the current previous year (See Note) |
| PC | Amount or aggregate of amounts of employer's contribution in excess of Rs. 7.5 lakh to the specified fund or scheme during the previous year i.e., P.Y. 2021-22 |
| PC1 | Amount or aggregate of amounts of employer's contribution in excess of Rs. 7.5 lakh to the specified fund or scheme for the previous year or years commencing on or after 1st April, 2021 other than the current previous year (See Note) |
| R | I/ Favg ; |

| | |
|------|---|
| I | Amount or aggregate of amounts of income accrued during the current previous year in the specified fund or scheme account |
| Favg | (Amount or aggregate of amounts of balance to the credit of the specified fund or scheme on the first day of the current previous year i.e., on 1 st April, 2021 + Amount or aggregate of amounts of balance to the credit of the specified fund or scheme on the last day of the current previous year i.e., on 31 st March, 2022)/2 |

Note: Where the amount or aggregate of amounts of TP1 and PC1 exceeds the amount or aggregate of amounts of balance to the credit of the specified fund or scheme on the first day of the current previous year, 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 and PC1.

Example: Suppose X Pvt. Ltd. contributed Rs. 8,50,000 during the previous year 2021-22 towards recognised provident fund to the account of Mr. A. Mr. A had also made an equivalent contribution. Balance in his RPF A/c as on 1.4.2021 is Rs. 32,00,000. Interest accrued in his RPF during the previous year 2021-22 is Rs. 3,44,250. The taxable perquisite under section 17(2)(vii) for P.Y.2021-22 would be computed in the following manner:

| | |
|---|---|
| TP = (PC/2)*R + (PC1 + TP1)*R = (1,00,000/2) x 0.08153 + (Nil + Nil) x 0.08153 = | |
| TP | 4,077 |
| TP1 | Nil (since this is the first year of taxability of such perquisite) |
| PC | Rs.1,00,000 (i.e., Rs.8,50,000 - Rs.7,50,000) |
| PC1 | Nil (Since this is the first previous year for taxability of such perquisite) |
| R | I/ Favg = 0.08153 (3,44,250/42,22,125) |
| I | Rs. 3,44,250 |
| Favg | (Rs. 32,00,000 + Rs. 52,44,250)/2 = Rs. 42,22,125 Note = Rs.32,00,000 + Rs.8,50,000 + Rs. 8,50,000 + Rs.3,44,250 = Rs.52,44,250 |

RELIEF UNDER SECTION 89

COMPUTATION OF RELIEF IF SALARY RECEIVED IN ARREARS OR IN ADVANCE

| Steps | Procedure |
|-------|--|
| 1 | Compute the tax payable (after HEC) on the total income, <u>including</u> the <i>additional salary</i> , of the relevant previous year in which the same is received. |
| 2 | Compute the tax payable (after HEC) on the total income, <u>excluding</u> the <i>additional salary</i> , of the relevant previous year in which the same is received. |
| 3 | Find out the difference between the tax at (1) and (2). |
| 4 | Compute the tax (after HEC) on the total income after <u>including</u> the <i>additional salary</i> in the previous year to which such salary relates. |
| 5 | Compute the tax (after HEC) on the total income after <u>excluding</u> the <i>additional salary</i> in the previous year to which such salary relates. |
| 6 | Find out the difference between tax at (4) and (5). |

| | |
|---|--|
| 7 | <p>➤ <u>If tax computed in step (3) > tax computed in step (6) then the excess amount is admissible as relief u/s 89.</u></p> <p>➤ <u>If tax computed in step (3) < tax computed in step (6) then NO RELIEF is admissible u/s 89. In such a case, the assessee employee need not apply for relief.</u></p> |
|---|--|

MEANING OF SALARY FOR COMPUTATION

| SECTION | Purpose of computation | Salary includes |
|---------------------------------|--|---|
| 16(ii) | Entertainment allowance | Basic salary |
| 10(10) | Gratuity [if gratuity Act, 1972 is applicable] | Basic salary + DA |
| 10(10) | Gratuity [it Act not applicable] | Basic salary + DA (R) + % Commission on Sales. |
| 10(10AA) | Leave Salary | DO |
| 10(10B) | Retrenchment Compensation | Basic salary + DA |
| 10(13A) | HRA | Basic salary + DA (R) + % Commission on Sales. |
| 10(10C) | VRS | DO |
| 10(12) | RPF | DO |
| 17(2)(i) & 17(2)(ii) | RENT FREE ACC [RFA] OR ACCOMMODATION AT CONFESIONAL RATE | Basic + Allowance + Bonus + Commission + DA(R) + Any money payment (which in chargeable to tax) But does not include – 1. Employer's contribution to RPF 2. Value of perquisite specified in Sec 17(2)[from one or more employer] |
| 17(2)(iii) | SPECIFIED EMPLOYEE | Basic Salary + D.A. + Commission, whether payable monthly or turnover based + Bonus + Fees + <u>Advance Salary</u> + <u>Arrear Salary</u> + Any other taxable payment + Any taxable allowances + Any other monetary benefits – Deductions under section 16 [from one or more employer] |

INCOME FROM HOUSE PROPERTY

HOW TO COMPUTE INCOME FROM HOUSE PROPERTY:

| | | |
|--|-----|--------|
| Gross Annual Value [GAV] | XXX | |
| Less: Municipal Taxes <u>PAID</u> by owner during the P.Y. | XXX | |
| Net Annual Value (Sec 23) [NAV] | XXX | |
| Less: <u>Deductions u/s 24</u> | | |
| (a) Statutory deduction @ 30% of NAV | XXX | |
| (b) Interest on Loan | XXX | _____. |
| Income from House Property (Computed) | | XXX |

CHARGEABILITY [SECTION 22]

1. Property should consist of any building or land appurtenant thereto
2. Assessee must be the owner of the property
3. Property must not be used by the assessee for his own business/profession.

Property held as stock-in-trade etc.

The annual value of property being held as stock in trade would be treated as NIL for a period of *two year* from the end of the financial year in which certificate of completion of construction of the property is obtained from the competent authority, if such property is not let-out during such period. [Section 23(5)]

COMPOSITE RENT

The owner of a property may sometimes receive rent in respect of building as well as other assets is known as “COMPOSITE RENT”.

| Agreement is separable | | Agreement is not separable |
|---|--|---------------------------------------|
| <u>Rent from House property :</u> Taxable under HP | <u>Rent from Other assets :</u> Taxable under IFOS/PGBP | Total rent taxable under IFOS/PGBP |

If the same is not separable, then whole such sum is taxable either as business income or income from other sources:

INCOME FROM HOUSE PROPERTY SITUATED OUTSIDE INDIA

1. In case of a *Resident (ROR in case of Individuals and HUF)*, Income from property situated outside India is always taxable in India, whether such income is brought into India or not.
2. In case of a NR or RNOR (Individual/HUF), Income from a property situated outside India is taxable in India **only if Rent is received in India.**
3. Any expenditure incurred towards earning such income shall be allowed as a deduction.
4. Income accruing or received in Foreign Currency should be converted into Indian Rupees in *TT Buying Rate on the last day of the previous year.*

DETERMINATION OF ANNUAL VALUE [SECTION 23]

Annual value is the amount arrived after deducting the municipal taxes **actually paid by the owner** during the previous year from the Gross Annual Value (GAV). The GAV of Let-out property would be determined in the following manner.

DETERMINATION OF ANNUAL VALUE IN DIFFERENT SITUATION**1. Where the property is let out throughout the previous year**

Where the property is let out for the whole year, then the GAV would be **the higher of** –

- a. Annual Letting Value (ALV) **OR EXPECTED RENT** and
- b. Actual rent **received or receivable** during the year as reduced by Unrealised Rent.

ALV (or Expected Rent) means Municipal Valuation or Fair Rent (Market Rent), whichever is more, subject to maximum of Standard Rent. In brief,

i. Municipal

Valuation Higher

ii. Fair Rent

Lower
(ALV)

iii. Std. Rent

Higher will be GAV.

iv. Actual Rent [Less Unrealised Rent]**NOTE:**

1. **Municipal value** is the value determined by the municipal authorities.
2. **Fair Rent** means rent which similar property in the same locality would fetch.
3. The **Standard Rent** is fixed by the Rent Control Act.
4. **Municipal Tax paid by Tenant** is not added to the Actual Rent, not allowed as deduction.
5. **Repair Expenses** met by the Tenant shall not be added to Actual Rent.
6. **Commission** paid by owner of a property to a broker for rental income is **not deductible**.

TREATMENT OF UNREALISED RENT

The Actual rent received not include any amount of rent **which is not capable of being realised**. **However the conditions prescribed in Rule 4 should be satisfied. They are**

- a. tenancy is *bona fide*;
- b. tenant has vacated, or steps have been taken to compel him to vacate the property;
- c. tenant is not in occupation of any other property of the assessee;
- d. all reasonable steps should have been taken for recovery of unrealized rent.

Where Let Out Property is vacant for part of the year

$ER \leq AR + VR$, Then AR is GAV

$ER > AR + VR$, Then ER is GAV

Here AR is after deducting Unrealised Rent.

In case of Self-Occupied Property or Unoccupied Property

Where the property is self-occupied throughout the previous year, **its ANNUAL VALUE WILL BE NIL** & the benefit is available **only to an individual/HUE**.

Where a house property is Let-out for Part of the year and Self-occupied for part of the year

Then that property assume let-out property for whole of the year & treatment of let-out property taken.

In case of Deemed to be Let Out Property

Where the assessee owns more than **TWO** properties for self-occupation, then the income from any **TWO** such property, **at the option of the assessee** and its annual value will be NIL. ***The other self occupied shall be treated as “deemed let out properties” & the ALV is GAV.***

In case of a house property, a portion let out and a portion self-occupied

1. Income from any portion or part of a property which is let out shall be computed separately under the “let out property” category **AND** the other portion or part which is self occupied shall be computed under the “self-occupied property” category.
2. Municipal valuation/fair rent/standard rent, if not given separately, shall be apportioned between the let-out portion and self-occupied portion either on plinth area or built-up floor space or on such other reasonable basis.

PROPERTY TAXES [MUNCIPAL TAXES]

1. **Property taxes levied** are allowable as deduction from the GAV, if **actually paid by the assessee (owner)** during the previous year.
2. *However, if in any subsequent year the arrears are paid, then allowed as deduction.*
3. Municipal Tax includes **Water Tax and Sewerage Tax** levied by any Local Authority.
4. Municipal Tax can be claimed as a deduction **only in respect of let-out or deemed to be let-out** properties (i.e. more than 2 property self-occupied).

DEDUCTIONS FROM ANNUAL VALUE [SECTION 24]

There are Two Deductions from Annual Value. They are:

1. **30% of NAV is allowed as deduction under section 24(a)**
 - This is a flat deduction and is allowed **irrespective of the actual expenditure** incurred (Repairs, Land Revenue, Brokerage, Recovery agent charges etc).
 - In case of **self-occupied property** where the annual value is nil, the assessee will not be entitled to deduction of 30%, as the annual value itself is nil.
2. **Interest on borrowed capital is allowed as deduction under section 24(b)**
 - a. Interest payable on loans borrowed **for the purpose of Acquisition, Construction, Repairs, Renewal or Reconstruction** can be claimed as deduction.
 - b. **Interest payable on a fresh loan taken to repay the original loan** raised earlier for the aforesaid purposes is also admissible as a deduction.
 - c. **ACCRUAL BASIS:** The interest accrued but not paid during the year **can also be claimed** as deduction.
 - d. **Interest payable outside India without deduction of TDS** shall not allowed.

Pre-acquisition/pre-construction period Interest: 1/5th of the interest of pre-acquisition or pre-construction period, for 5 consecutive years starting from the previous year in which the property is acquired or constructed. **Deduction of 5 installment will be available even if the loan outstanding is repaid before 5 year period**

| | | |
|----------|---|----------------------------|
| A | In Normal case | Maximum of 30,000. |
| B | Where the property is acquired or constructed with capital borrowed on or after 1.4.99 and such acquisition or construction is completed within 5 years from the end of the financial year in which the capital was borrowed. | Maximum of 2,00,000 |

Note: Total deduction for all loans cannot exceeds ` 200,000 in case of TWO Self-occupied Property.

INADMISSIBLE DEDUCTIONS [SECTION 25]

Interest is *payable outside India* shall not be deducted if tax has not been paid or deducted from such interest *or* there is no agent in India.

TAXABILITY OF RECOVERY OF UNREALISED RENT & ARREARS OF RENT RECEIVED

| S.N. | Unrealised rent [Section 25A] | Arrears of rent [Section 25A] |
|------|---|---|
| 1 | Taxable in the hands of assessee whether he is the owner of that property or not. | Taxable in the hands of assessee whether he is the owner of that property or not. |
| 2 | Taxable as income of the previous year in which he recovers the unrealized rent. | Taxable as income of the year in which hereceives the arrears of rent. |
| 3 | 30% of the amount of recovery shall be allowed as deduction. | 30% of the amount of arrears shall be allowed as deduction. |

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

1. Co-owned property means property is owned by two or more persons then the income from such property is calculated normally & thereafter it should be divided between co-owners in their ownership ratio.

2. **Interest on loan**

| | |
|--|---|
| Let-out property/ Deemed let-out property: 100% interest is allowed. | Self occupied property: 30,000/2,00,000 for No. of co-owner |
|--|---|

DEEMED OWNERSHIP [SECTION 27]

The following persons, not legal owners of a property, *are deemed owners:*

- *Transfer of property by an individual to his or her spouse for inadequate consideration.*
- *In case of transfer of house property by an Individual to his or her MINOR CHILD*
- **HOLDER OF AN IMPARTIBLE ESTATE.**
- *A member of a co-operative society, company or AOP to whom a building or part is allotted.*
- *A person who is allowed to take or retain the possession of any building or part thereof.*
- *Person having right in a property for a period not less than 12 years*
- *The title of ownership is disputed in a court, the income is taxable in the hands of recipient.*

INCOME UNDER THE HEAD “PGBP”

Section 28 – CHARGING SECTION

1. Profits and gains from the business or profession.
2. Any compensation or other payment due or received for *Termination or the modification of the terms and conditions, of any contract relating to his business*
3. Income derived by **any trade, professional or similar associations** from specific services rendered by them to their members.
4. Profits on sale of a **Import Entitlement licence**.
5. **Cash assistance** received by any person against exports scheme.
6. Any **Customs duty or Excise duty drawback** against export.
7. Any benefit or perquisite arising from business or the exercise of any profession
8. Any interest, salary, bonus, commission, due to or received by a partner from such firm.
9. Any sum received by employer under a Keyman insurance policy.
10. *FMV of inventory as on the date on which it is converted into a capital asset.*
11. **Non-compete fees** [for not carrying out any activity in relation to any Business **or Profession**; or not to share any know-how, patent, copyright, trade mark, licence;].

COMPUTATION OF INCOME FROM BUSINESS [SECTION 29]

Income under PGBP shall be computed in accordance with provisions in *Sec. 30 to 43D*

| | |
|---|-----|
| Net profit as per Profit & Loss Account | xxx |
| Add: Non-allowable expenses debited to Profit & Loss Account (P&L) | xxx |
| Add: Expenses allowable under any other head or Capital Exp./Personal Exp. | xxx |
| Add: Income chargeable under this head but not credited to P/L | xxx |
| Less: Expenses allowable under this head but not debited to P&L | xxx |
| Less: Income credited to P & L A/c but not chargeable under this head | xxx |
| Profits & Gains from Business or Profession | xxx |

RENT, RATES, REPAIRS AND INSURANCE FOR BUILDINGS [Section 30]

| Particulars | Owner | Tenant |
|--------------------------|--------------------|--------------------|
| Rent | Not Allowed | Allowed |
| Rates & Taxes | Allowed | Allowed |
| Insurance | Allowed | Allowed |
| Revenue Repair | Allowed | Allowed |
| Capital Repair | Not Allowed | Not Allowed |

REPAIRS AND INSURANCE OF MACHINERY, PLANT AND FURNITURE [Section 31]

| Particulars | Owner | Tenant |
|-----------------------|--------------------|--------------------|
| Rent | Not Allowed | Allowed |
| Insurance | Allowed | Allowed |
| Revenue Repair | Allowed | Allowed |
| Capital Repair | Not Allowed | Not Allowed |

Depreciation [Sec 32]

- a. Asset should be used for business or profession purposes whether active or passive.
- b. Assessee should be Owner of such asset.

No depreciation is allowable on the cost of the land.

Some Important Points:

- Assessee need not be a registered owner, even a beneficial owner can claim depreciation.
- In case of joint ownership, depreciation is allowed on proportionate basis.
- In case of hire purchase, the buyer can claim depreciation even though he does not get legal title of the asset till he pays the last installment.
- If an asset is partly used for business or profession and partly used for personal purpose, then proportionate depreciation shall be allowed.

SIGNIFICANCE OF DATE OF PURCHASE (EFFECT OF TIME ON DEPRECIATION)

- a. an asset is acquired by the assessee during the previous year, **and**
- b. is put to use in the **same previous year** for **less than 180 days**, **the depreciation is restricted to 50% of the normal depreciation [4th October onwards]**

Methods of Depreciation

| | |
|---|--------------------------|
| Business of Generation or Generation & distribution of power (Individual asset system). | Either SLM or WDV method |
| Other Assessee (Block of Asset system). | WDV method |

Block of Assets:

A “block of assets” is defined as a group of assets falling within a class of assets comprising:

- a. **tangible assets** being buildings, machinery, plant or furniture;
- b. **intangible assets** being know-how, patents, copyrights, trademarks, licenses but not Goodwill.

WRITTEN DOWN VALUE

| | |
|--|------------|
| Opening value of the block at the beginning of the Previous Year | xxx |
| Add: ACTUAL COST of assets acquired during the Previous Year | xxx |
| Less: MONEYS PAYABLE (i.e. sale price & insurance compensation) | xxx |
| WDV for the purpose of depreciation | xxx |
| Depreciation at prescribed percentage | xxx |
| Closing value of the block | xxx |

RATES OF DEPRECIATION

PART A - TANGIBLE ASSETS

| | |
|--|-----|
| I. Buildings | |
| Block 1. Residential | 5% |
| Block 2. Non Residential | 10% |
| Block 3. Temporary Erections (Wooden Structure) | 40% |
| II. Furniture and Fittings | |
| Furniture and fittings including electrical fittings | 10% |

III. Plant & Machinery

| | | |
|-----------------|---|------------|
| Block 1. | (a) Plant & machinery (General rate) | 15% |
| | (b) Motor cars not used for hiring purpose | |
| | [If acquired & put to use between 23.08.2019 to 31.03.2020] | 30% |
| Block 2. | Motors buses, motor lorries, motor taxis used in a business of running them on hire | 30% |
| | [If acquired & put to use between 23.08.2019 to 31.03.2020] | 45% |
| Block 3. | Energy Saving Devices | |
| | Air, Water Pollution control equipments, Solid wastecontrol equipment | |
| | All Kind of Books | |
| | Computers (Laptops) <i>including computer printer & software</i> | 40% |
| | Aeroplanes, aeroengines | |
| Block 4. | Ships or Vessels | 20% |

PART B INTANGIBLE ASSETS 25% but not Goodwill of Business or Profession.
Now, there is no block with depreciation rate higher than 40%.

COMPUTATION OF CAPITAL GAINS IN CASE OF DEPRECIABLE ASSETS

In the following 2 cases, the capital gains shall be calculated:

1. Block ceases to exist.
2. Value of some assets of block transfer more than value of block.

SECTION 50: SHORT-TERM CAPITAL GAINS SHALL BE COMPUTED AS UNDER:

| | |
|--|-----|
| Full value of consideration received /receivable | xxx |
|--|-----|

Less: Aggregate of following amounts:

- Expenditure incurred wholly & exclusively for transfer xxx
- WDV of the block of assets at the Beginning of the Previous Year xxx
- Actual Cost of asset acquired during the Previous Year xxx

| | |
|---------------------------------------|-----|
| STCG (if positive)/STCL (if negative) | xxx |
|---------------------------------------|-----|

ADDITIONAL DEPRECIATION 20%:

It is allowed on any **new machinery or plant acquired** by an assessee engaged in the business of manufacture of any article or *Generation, Transmission or Distribution* of power or the business of printing or printing & publishing at the rate of 20% of the actual cost.

It will be restricted to 50% in case the asset is put to use for less than 180 days during the previous year & the balance 50% allowed in the immediately succeeding previous year.

Such additional depreciation will not be available in respect of:

- a. Second hand P&M; or
- b. any P&M installed in office premises, residential accommodation, guest house; or
- c. any P&M, on which 100% deduction allowed.
- d. Ships and Aircrafts.

Expenditures allowed on Cash Basis [SECTION 43B]

Following expenses are allowed **only if payment is made upto the due date of return filing u/s 139(1) :**

- a. Any sum payable by way of Tax, Duty, Cess or Fee.
- b. Interest on any loan or advances *from a scheduled bank or a cooperative bank.*
- c. Interest on any loan from PFI, SFC, State Industrial Investment Corporation.

- d. Interest on loan from a deposit taking NBFC or systemically important non-deposit taking NBFC.
- e. Bonus or Commission payable to employees.
- f. Leave encashment payable to employees.
- g. Employer's contribution to any PF or SF or Gratuity Fund or any other fund.
- h. Any sum payable to the Indian Railways for the use of railway assets

Note: Deduction can, however, be claimed in the year of payment.

Cash payments in excess of ` 10,000 / ` 35,000 – Section 40A(3) & 40A(3A) read with Rule 6DD

1. Where the assessee incurs any expenditure, in respect of which **payment or aggregate of payments made to a person in a day** other than by **an account payee cheque or by an account payee bank draft** or use of electronic *or through such other prescribed electronic modes(cash)* exceeds 10,000/35,000 for transporter, ***such expenditure shall disallowed.***
2. ***If an expenditure has been allowed as deduction in any previous year on due basis,*** and payment has been made in a subsequent year in cash, then the payment so made ***shall be deemed to be the income of the subsequent year if such payment or aggregate of payments made to a person in a day exceeds 10,000/35,000 for transporter. Section 40A(3A).***
3. **Rule 6DD:** Cases where above restriction of payment mode is not applicable:
 - a. Payment is made to RBI, SBI and any banks, LIC, Govt etc;
 - b. Payment is made through NEFT/ RTGS/ Debit Card/ ECS/ Credit Card.
 - c. Payment is made of producers of agriculture product, dairy, poultry farming; fish, fish products; the products of horticulture or apiculture;
 - d. payment is made in a village or town, **which on the date of such payment is not served by any bank;**
 - e. Payment of Retirement benefits, **aggregate amount not exceed 50,000;**
 - f. payment of salary to his employee who is posted for **15 days or more** in a place other than his normal place of duty or on a ship
 - g. Payment required to be made on a **day on which the banks were closed;**
 - h. where the payment is made by any person to his agent;
 - i. payment is made **by an authorised dealer or a money changer** against purchase of foreign currency.
 - j. where the **payment is made for book entry.**

ACTUAL COST [SECTION 43(1)]

| | |
|---|------------|
| PURCHASE PRICE | xxx |
| Add: Interest on loan borrowed for period up to the date of put to use [Sec. 36(1)(iii)] | xxx |
| Add: Expenses incurred for freight/insurance/loading/Unloading | xxx |
| Add: Trial Run Expenses, if any | xxx |
| Less: Amount met by any authority or other person by way of subsidy etc. | xxx |
| Less: <i>Adjustment as per explanation 1 to 13 to Sec. 43(1), if applicable</i> | xxx |
| ACTUAL COST TO BE ADDED IN THE RELEVANT BLOCK OF ASSETS | xxx |

Where an assessee incurs any expenditure for any asset in respect which a payment in cash exceeds 10,000, such payment shall be ignored for calculation of "Actual Cost" of such asset.

ACTUAL COST IN CERTAIN SPECIAL SITUATIONS [EXPLANATIONS TO SEC 43(1)]

| S.N | Mode of Acquisition | Actual Cost |
|-----|--|---|
| (1) | Asset acquired by way of <u>gift or inheritance</u> . | WDV to the previous owner. |
| (2) | <u>Building previously used for private purposes</u> , now brought into use for the business of the assessee. [Note: Rate of depreciation applicable in previous year of bringing the asset into business use is applied.] | Actual cost of building <u>less</u> notional depreciation upto year of bringing it to business use. |
| (3) | Asset purchased for personal but brought into business. [In Building Notional depreciation is reduce from purchase date to business use]. | Actual cost ^Y of asset to the assessee. |

EXPENDITURE ON SCIENTIFIC RESEARCH [Section 35]

| Sec 35 | Expenditure incurred | Deduction |
|----------|--|--|
| (1)(i) | 1. Revenue expenditure on scientific research incurred after commencement of business. 2. Subject to conditions, Expenditure on scientific research <u>before commencement of business</u> by way of a. Purchase of materials; or b. Salary (except perquisite) of employees <u>[Expenditure incurred within 3 years immediately preceding the date of commencement of business is allowed].</u> | Amount of expenditure incurred [100%] |
| (1)(ii) | Sum paid to a Approved Research Association, University, College or Institution whose object is undertaking of scientific research | 100% x Sum paid |
| (1)(ia) | <u>Sum paid to an Approved Indian company engaged in R&D</u> to be used by it for scientific research | 100% x Sum paid |
| (1)(iii) | <u>Sum paid for Social Science or Statistical Research</u> to an Approved Research Association, University, College or Institution | 100% x Sum paid |
| (2) | Capital expenditure (except expenditure on the purchase of land) on scientific research related to business or <u>incurred within 3 years immediately preceding the date of commencement of business</u> . | Amount of expenditure incurred [100%] |
| (2AA) | Sum paid for Scientific research to - a. a National Laboratory; or b. a University; or c. an Indian Institute of technology; or d. a specified person | 100% x Sum paid |

| | | |
|--------------|--|--|
| (2AB) | <u>Research after commencement of business</u> Assessee- Company Engaged- Manufacturing or Bio-technology business R&D – Approved | Amount of expenditure incurred [100%] |
|--------------|--|--|

Other points:

1. **Deduction u/s 35(1)(ii)/(iii)/35(2AA) not to be denied even if approval withdrawn subsequently after payment of sum by assessee.**
2. **No depreciation allowed on assets if deduction u/s 35 claimed.**
3. The treatment for Set off and carry forward of unabsorbed scientific research capital expenditure shall be done in the same manner as that of unabsorbed depreciation.

AMORTISATION OF PRELIMINARY EXPENSES [Section 35D]

1. It provides for the amortisation of preliminary expenses incurred by Indian companies and other resident non-corporate taxpayers.
2. It shall be amortised over a period of 5 successive PYs.
3. **Eligible expenses - Expenditure in connection with-**
 - a. the preparation of feasibility report / project report;
 - b. conducting market survey or any other business survey;
 - c. engineering services relating to the business;
 - d. legal charges;
4. **Where the assessee is a company, in addition to the above, expenditure incurred:**
 - a. by way of legal charges for drafting the MOA/AOA of the company and on its printing;
 - b. by way of fees for registering the company under the Companies Act;
 - c. in connection with the issue, for public subscription, of the shares in or debentures;
5. **Maximum Expenditure allowed to be amortized:**

| | |
|---------------------------|--|
| In case of Indian Company | <u>Higher of the following:</u> (a) 5% of the Capital Employed, or (b) 5% of the Cost of project. |
| Other Assessee | 5% of the cost of the project |

6. **‘Cost of the project’ means:** Actual cost of the fixed assets shown in the books **as on the last day of the previous year.**
7. **“Capital Employed” means:** Issued share capital + Debentures + **Long-term borrowings (7 years or more)** as on the last day of the previous year [Reserve & surplus including Security Premium shall not part of capital employed.
8. **AUDIT:** Audit of accounts by a Chartered Accountant is necessary for claiming deduction u/s 35D.

AMORTISATION OF EXPENDITURE INCURRED UNDER VOLUNTARY RETIREMENTSCHEME [Section 35DDA]

- a. This Section applies to all assessee who has incurred expenditure for VRS Payment.
- b. The amount of deduction **allowable is one-fifth for 5 successive previous years.**

Section 35AD - DEDUCTION IN RESPECT OF EXPENDITURE ON SPECIFIED BUSINESS

A. Deduction u/s 35AD is available only in the case of a “specified business”:

1. *Setting up and operating a cold chain facility*
2. *setting up and operating a warehousing facility for storage of agriculture produce;*
3. *laying and operating a cross-country natural gas or crude or petroleum oil for distribution.*
4. *building and operating, anywhere in India, a hotel of two-star or above category;*
5. *building and operating, anywhere in India, a hospital with atleast 100 beds for patients;*
6. *developing and building a housing project under a scheme for slum redevelopment;*
7. *developing and building a housing project under a scheme for affordable housing*
8. *Production of fertilizer in India*
9. *Setting up and operating an inland container depot or a container freight station;*
10. *Bee-keeping and production and production of honey and beeswax; and*
11. *Setting up and operating a warehousing facility for storage of sugar*
12. *Laying & Operating a slurry pipeline for the transportation of iron ore*
13. *Setting up and operating a semiconductor wafer fabrication manufacturing unit, if notified*
14. *Developing or Operating & Maintaining or Developing any **Infrastructure facility**;*

B. Specified business should be new business:

- *Not be set up by splitting up, or the reconstruction, of a business already in existence.*
- It should not be set up by the *transfer of old plant and machinery.*
 - **20% old machinery is permitted:**
 - **Second-hand imported machinery is treated as new:**

C. Audit of the books of account – Books of account of the assessee should be audited.

D. AMOUNT OF DEDUCTION:

- **100% of capital expenditure is deductible [except any land or goodwill or financial instrument]**
- *Any expenditure in respect which payment (or aggregate of payments made to a person in a day) made in cash exceeds 10,000, no deduction shall be allowed in respect of such payment under section 35AD.*
- Expenditure incurred prior to the commencement of, shall be allowed as deduction ***if the amount capitalized in the books of account of the assessee on the date of commencement.***

CONSEQUENCES OF CLAIMING DEDUCTION U/S 35AD :

- ❖ If deduction is allowed u/s 35AD, the assessee shall not be allowed any deduction.
- ❖ Any **loss under specified business u/s 35AD** shall not to be set off except against profits of other specified business u/s 73A & no time-limit for carry forward such loss.
- ❖ Any **sum received on account of any capital asset**, on which deduction allowed u/s 35AD, being destroyed, discarded, or transferred shall be treated as income of the assessee.
- ❖ It **provides** that any asset on which a deduction is allowed u/s 35AD shall be used only for the specified business **for a period of 8 years**, if such asset is used for other purpose, then total amount of deduction so claimed **as reduced by depreciation allowable shall be deemed to be income** of the assessee [Except Sick company].

ALLOWABLE DEDUCTION IN COMPUTING PGBP

PREMIUM PAID FOR INSURANCE OF STOCK IN TRADE [Section 36(1)(i)]

The **premium paid** is allowable as deductible.

PREMIUM PAID FOR HEALTH INSURANCE OF EMPLOYEES [SECTION 36(1)(ib)]

A deduction is allowed **IF premium paid by him by any mode of payment other than cash.**

BONUS & COMMISSION [Section 36(1)(ii)]

Deduction is allowed subject to the provisions of Section 43B.

INTEREST ON BORROWED CAPITAL [Section 36(1)(iii)]

a. Loan taken for business/ profession purpose

- Loan from Schedule Bank, PFI, State Financial Corp., State Industrial Investment Corp. – Allowed [Subject to Sec 43B].
- Loan from others – Allowed.

b. Personal Purpose – Not allowed.

DEDUCTIBILITY OF DISCOUNT ON ZERO COUPON BONDS [Sec 36(1)(iiia)]

Deduction for discount on ZCB on pro rata basis having regard to the period of life of the bond.

Section 36(1)(iva)–Employer’s contribution towards pension scheme as referred u/s 80CCD

Deduction allowed subject to Section 43B & 40A(9), **Least of the following:**

- Actual Contribution; or
- 10% of salary. [Basic Salary + DA(R)]

DEDUCTIONS IN RESPECT OF BAD DEBTS [Section 36(1)(vii)]

1. If the bad debt is **written off as irrecoverable** in the accounts then allowed as deduction.
2. **The debt has been taken into account in computing the income** of the assessee.
3. The Successor is entitled to deduction in respect of debt incurred by predecessor.

| Actual Bad debts | | Provision for Bad debts |
|------------------------|--|---------------------------------------|
| Sales related: Allowed | Loan related: Not allowed. [Except Money lending business] | Not allowed [Except allowed to Banks] |

Recovery of a bad debt subsequently [Section 41(4)]

If a deduction has been allowed in respect of a bad debt and subsequently the amount recovered is taxable under PGBP in the year of recovery, **whether or not the business is in existence in the year of recovery.**

EXPENSES ON FAMILY PLANNING [Section 36(1)(ix)] – ADMISSABLE ONLY TO COMPANIES

- ❖ **Revenue Expenditure:** fully allowed as a deduction.
- ❖ **Capital Expenditure:** allowed in **5 years in equal installments.**

SECURITIES/ COMMODITIES TRANSACTION TAX PAID [Section 36(1)(xv)]

Allowed as deduction. *[In CG, benefit of STT is not available to investor]*

Marked to market loss or other expected loss [Section 36(1)(xviii)]:

If it as per ICDS allowed & however for Others Not allowed.

Residuary Expenses [Section 37]

Revenue expenditure incurred for purposes of carrying on the business, profession.

Conditions for allowance:

- a. The expenditure should not be of the nature described in sections 30 to 36.
- b. It should be in respect of a business carried on by the assessee.
- c. It should not be in the nature of any personal expenses of the assessee.
- d. It should have been expended wholly and exclusively for the purposes of such business.
- e. Expenditure should be legal [not an offence or is prohibited by law].

DEDUCTIBILITY OF PENALTIES & INTEREST UNDER VARIOUS LAWS

| | Tax | Interest | Penalty |
|------------|-------------|-------------|-------------|
| Income Tax | Not allowed | Not allowed | Not allowed |
| GST | allowed | allowed | Not allowed |

1. **Penalty for infraction of any law:** Not deductible.
2. **Penalty for breach of Contract** – Allowable as deduction.

ALLOWABILITY OF CERTAIN EXPENSES

1. Dividend and Dividend distribution tax u/s 115O is not allowed as deduction.
2. Income tax, surcharge & education cess is not allowable as deduction.
3. Provision for unascertained liability is not allowable as deduction.
4. Prior period expenses are not allowable as deduction.
5. Freebies such as gifts, cash, travel facility provided by company to doctors is disallowed.
6. Tax audit fees or litigation expenses in relation to income tax is disallowed.

SHARES & DEBENTURES ISSUE EXPENSES

| | |
|--|---|
| IPO, FPO, Right shares (Capital Expenditure): Not allowed. | Buy back of shares, Bonus shares, Debentures issue expenses (Revenue expenses): Allowed |
|--|---|

Advertisements in Publication of political parties – SECTION 37(2B)

Expenditure incurred on advertisement in any souvenir, brochure, tract or the like published by any political party is disallowed. **But the expenditure is allowed u/s 80GGB and 80GGC.**

Disallowance of CSR expenditure

Expenditure incurred by an assessee on the activities relating to Corporate Social Responsibility (CSR) ***shall not be allowed as deduction.***

Section 40(a)(i)– Payment is made to Non-Resident or to any person outside India

No Deduction is allowed where payment made to a Non-Resident or Foreign Company, on which TDS is ***not deducted or, after deduction, has not been paid on or before the due date specified in section 139(1).***

Section 40(a)(ia) – Payment is made to Resident in India

30% of any sum payable to a Resident is disallowed if- TDS is not deducted or, after deduction, has not been paid on or before the due date specified in section 139(1).

Points for Sec 40(a)(i)/(ia):

- ❖ *However, the tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in Section 139(1), **30%/100% of such sum** shall be allowed as a deduction in the previous year in which such tax has been paid.*
- ❖ *If tax has not been deducted & the deductor is able to establish that the payee has furnished the return of income by including such income in his return and paid tax due on income declared by him in such return of income, it shall be deemed that the assessee has deducted and paid tax on such income on the date of furnishing return of income by the resident payee.*

Section 40(a)(iii)

Any sum which is chargeable under the head ‘Salaries’ shall be disallowed ***if it is payable outside India or to a non-resident in India*** and if the tax has not been paid thereon nor deducted there from within the time prescribed under the Act.

[Once paid without deduction of TDS, deduction can never be claimed even if tax is later deducted and paid].

Section 40(a)(v)– Any Tax on the value of perquisite provided to the employee paid by the employer u/s 10(10CC), shall not be allowed as deduction.

Excess Payments to Relatives and Associates – Section 40A(2)

1. If payment of expenditure made **to Specified Person**, so much of the expenditure as is considered to be **excessive or unreasonable** shall be disallowed by the Assessing Officer.
2. **Specified person means:**

| For the Assessee | Specified Person means |
|----------------------|---|
| An Individual | <i>Spouse, brother or sister or any lineal ascendant or descendant.</i> |
| HUF | <i>Member & their relatives.</i> |
| Firm or LLP | <i>Partners & their relatives.</i> |
| Company | <i>Director & their relatives</i> |
| AOP or BOI | <i>Member & their relatives.</i> |

- a. A person shall be deemed to have a substantial interest in a business or profession if:
 - The business is carried on by a company, such person in the previous year, carrying > 20% of the voting power **and**
 - in any other case such person in the previous year, entitled to > 20% the profits.
- b. If 2 or more subsidiary co. of same Holding co. then each other subsidiary is relative.
- c. Amount disallowed u/s 40A(2) is however taxable as income in the hands of recipient.

SECTION 41 – DEEMED INCOME/PROFITS CHARGEABLE TO TAX

Section 41(1): Recovery against any deduction

- a. Where an allowance or deduction is allowed in any AY in **respect of loss, expenditure** incurred by the assessee **and subsequently during any PY** such assessee has obtained.
- b. The amount obtained shall be **deemed to be income under PGBP**.
- c. If such benefit **obtained by the successor**, then shall be taxable in the hands of successor.

Section 41(2) – Balancing Charges

Section 41(3) – Any amount realised on transfer scientific research asset is taxable as business income to the extent of deduction allowed u/s 35 in the year in which the transfer takes place.

Section 41(4) – Recovery amount shall be taxable in the year in which it is received.

EMPLOYEES' CONTRIBUTION FOR THE BENEFIT OF EMPLOYEE [36(1)(iv) & (v)]

- a. In case of recognised or approved Provident or a superannuation or a Gratuity Fund, it should be allowed subject to Sec 43B.
- b. In case of unrecognised or unapproved Provident or a superannuation or a Gratuity Fund, it should be disallowed.

EMPLOYEES CONTRIBUTION TOWARDS WELFARE FUND [36(1)(va)]:

Deduction **will be allowed** "only if such sum is credited by the taxpayer to the employee's account in the relevant fund on or before the due date.

DISALLOWANCE OF PROVISION FOR GRATUITY – SECTION 40A(7)

Deduction allowed if payment made to an **approved gratuity fund** or provision for gratuity that has **become payable during the PY**.

MAINTENANCE OF BOOKS OF ACCOUNTS [SECTION 44AA]**1. In case of Specified Professionals: [Subject to Section 44ADA]**

Every person carrying on the specified profession shall keep and maintain the specified books of account if his gross receipts **exceed 1,50,000 in each of the 3 years** immediately preceding the PY or for newly set up profession in the PY, his gross receipts are likely **to exceed ` 1,50,000 in that year.**

a. Specified Professions are:

| | | |
|----------------------------|-------------------------------|-----------------------|
| (a) Legal | (b) Accountancy | (c) Company Secretary |
| (d) Medical | (e) Engineering | (f) Architectural |
| (g) Information Technology | (h) Interior Decorator | (i) Film Artist |
| (j) Technical Consultancy | (k) Authorised Representative | |

b. Specified Books of Accounts:

- i. a Cash Book;
- ii. a journal;
- iii. a ledger;
- iv. Carbon copies for bills exceeds 25;
- v. Original bills for expenditure exceeding 50.
- vi. **In case of medical practitioner additional books** Daily Cash Register & Inventory records of drugs, medicines.

2. In case of Other Profession or Business:

- a. **Where the income** from the business or profession **exceeds 1,20,000** or the turnover or gross receipts, **exceed 10,00,000 in any one of three years immediately preceding the accounting year;** or **For an Individual/HUF assessee, the above limit is 250,000 & 25,00,000.**
- b. Where the business or profession is newly set up in any PY, if his income is **likely to exceed 1,20,000** or his turnover or gross receipts, are **likely to exceeds 10,00,000 during the previous year or For an Individual/HUF assessee, the above limit is 250,000 & 25,00,000.**

COMPULSORY AUDIT OF ACCOUNTS [SECTION 44AB]**1. Applicability:** It is obligatory in the following cases:

- a. **Business:** if the total sales **exceeds 1 Crores** in any PY; **Business: (i) Aggregate cash receipts in the relevant PY < 5% of Total receipts and (ii) Aggregate cash payments in the relevant PY < 5% of Total payments then if total sales exceeds 10 crores in any PY;**
Here receipts or payments through cheque drawn on a bank or bank draft which is not account payee is deemed to be receipts or payment in **CASH.**
- b. **Profession:** if the gross receipts **exceeds ` 50 lakh** in any PY;
- c. **Assessee covered u/s 44AE/44BB/44BBB:** claims his income is lower than the profits computed on a presumptive basis.
- d. **Assessee covered u/s 44ADA:** claims his income is lower than the profits computed on a presumptive basis **and his income exceeds the basic exemption limit.**

2. Report & Form: The accounts is audited by a Chartered Accountant ***before the 30th September of the relevant AY.*****3. Consequence for non-compliance:** Penalty being lower of the following:

- (a) ½ percent of turnover or gross receipt; or

(b) ` 150,000.

PRESUMPTIVE INCOME IN CASE OF SPECIFIC BUSINESS OR PROFESSION [SECTION 44AD/SECTION 44AE]

| | 44AD | 44AE |
|--|---|---|
| Eligible Assessee | Resident Individual/HUF/Firm, but not a LLP & has not claimed deduction u/s 10AA or other Income Based Deduction under chapter VIA | Any Assessee |
| Eligible Business | Any business except the business of Section 44AE; & whose turnover/ gross receipts does not exceed 2 Crores | Business of Plying, hiring or leasing of Good carriage where the Assessee is owning not more than 10 Goods Carriage at any time during the PY. |
| Amount of Presumptive Income | 8% of total turnover or gross receipts or higher sum [6% in case payment is received by (Other than CASH) account payee cheque/draft/use of electronic clearing system through a bank account or through such other prescribed electronic modes AND payment is received during the year or before the due date of ROI] | In case of HEAVY GOODS VEHICLE (Gross Vehicle Weight exceeds 12000 kilograms) 1,000 per ton of gross vehicle weight or unladen weight, for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the PY OTHER THAN HEAVY GOODS VEHICLE: 7,500 p.m or part of month [For each vehicle owned by Assessee- Hire Purchase/installment] |
| Provisions of Advance Tax | Advance tax is required to be paid by 15th March – 100% in 1 installment) | Applicable |
| Effect if the assessee declares lower Income: | Then Maintain books of account and get his accounts audited and other documents as required u/s 44AA if his total income exceeds the maximum exemption limit; | Then Maintain books of account and get accounts audited and other documents as required u/s 44AA |

PRESUMPTIVE INCOME IN CASE OF NOTIFIED PROFESSIONALS SECTION 44ADA

| | |
|--|--|
| Eligible Assessee | Resident Assessee engaged in Notified Profession u/s 44AA |
| Eligible profession | Total Gross receipts does not exceed 50 Lakhs |
| Amount of Presumptive Income | 50% of gross receipts or higher sum |
| Effect if the assessee declares lower Income: | Then Maintain books of account and get his accounts audited and other documents u/s 44AA if his total income exceeds the maximum exemption limit; |

Common Note:

1. The assessee will be deemed to have been allowed the deductions under sections 30 to 38.
2. Depreciation is deemed to have been allowed. The WDV of asset will be calculated, as if depreciation has been allowed.
3. The set off of losses & brought forward losses and deductions under chapter VIA are available against the income deemed under this section
4. **The provisions of Section 44AD is not applicable in following cases:**

- a. A person carrying on *specified profession* as referred to in Section 44AA;
 - b. A person earning *income in the nature of commission or brokerage*; or
 - c. A person carrying on any *Agency Business*.
5. Where an eligible assessee declares profit for any PY as per this section and he declares profit for **any of the 5 consecutive AYs relevant to the PY succeeding such PY not as per Section 44AD, he shall not be eligible to claim the benefit of the provisions of this section for 5 AYs subsequent to the AY relevant to the PY in which the profit has not been declared as per the Sec 44AD.**

Method of Accounting [Section 145]

Income chargeable under the head "PGBP" or "IOFS" shall be computed in accordance with *either cash or mercantile system of accounting regularly employed by the assessee.*

FIRMS – SECTION 40(B)

- 1. The partners' share of profit shall be exempt from tax in the hands of partner.
- 2. Interest, salary, bonus, commission or other remuneration received by a partner from a firm shall be chargeable to tax under the head PGBP.
- 3. Where a change occurs in the constitution of firm, on account of retirement or death of a partner, the proportionate loss of the retired or deceased partner shall not be carried forward. However, this section shall not apply in case of unabsorbed depreciation.
- 4. **Allowance of interest & remuneration to partners:** In the following cases:
 - a. Remuneration paid to only working partner.
 - b. Any remuneration or interest is **authorised by the partnership deed**.
 - c. **Interest on partner's capital & loan allowed maximum** 12% simple interest p.a.
 - d. **Any remuneration & interest should relate to period** falling after the date of Partnership deed.

| | |
|---|--|
| <i>On the <u>First ` 3 lakh of book profit</u> or in case of "Loss"</i> | <i><u>Higher of 1,50,000 or 90% of book profit</u></i> |
| <i>On the balance</i> | <i><u>60% of Book Profit.</u></i> |

5. **Computation of Book Profits for determining remuneration:**

| | |
|--|-----|
| Profits and Gains of Business or Profession of Firm computed as per Sec. 28 to 44D | Xxx |
| Add: Interest to partners disallowed as per above provisions | Xxx |
| Add: Remuneration to partners, if debited to P&L A/c | Xxx |
| Book Profits | xxx |

6. **Important Points for section 40(b):**

a. **If an individual is a partner in firm on representative capacity), then —**

- Interest paid to such individual in his individual capacity shall be allowed.
- Interest paid to such individual as partner in representative capacity then disallowed.

Example: If Mr. Ram is a partner in the firm on behalf of his wife, interest paid to Ram in his individual capacity will be allowed while interest paid to Ram on behalf of his wife as well as interest paid to his wife directly, both will be taken into account for the purposes of

disallowance.

b. If an individual is a partner in a firm in his individual capacity -

- Interest paid to such individual in his individual capacity shall be disallowed.
- Interest paid to such individual as partner in representative capacity then allowed.

Example: If Mr. Sohan is a partner in the firm in his individual capacity, then interest paid to him on behalf of any other person will not be disallowed, while interest paid to him in his individual capacity will be taken into account for the purposes of disallowance.



INCOME UNDER THE HEAD OF “CAPITAL GAINS”

SEC. 45(1) CHARGING SECTION

Any *profits or gains* arising from the **TRANSFER** of a **CAPITAL ASSET** shall be chargeable under the head “Capital Gain” in the **PY in which the transfer took place**.

DEFINITION OF CAPITAL ASSET [SECTION 2(14)]

Capital asset *includes*

- a. **property of any kind** held by an assessee, whether or not connected with his business,
- b. any *securities held by a Foreign Institutional Investor (FII)*.
- ~~c. any unit linked insurance policy (ULIP) issued on or after 1.2.2021, to which exemption under section 10(10D) does not apply on account of—~~
 - ~~• premium payable exceeding ₹ 2,50,000 for any of the PY during the term of such policy; or~~
 - ~~• the aggregate amount of premium exceeding ₹ 2,50,000 in any of the previous years during the term of any such ULIP(s), in a case where premium is payable by a person for more than one ULIP issued on or after 1.2.2021.~~

But excludes

- ✓ any stock-in-trade [Raw materials, Work-in process, Finished goods];
- ✓ **PERSONAL EFFECTS**, for personal use by assessee or dependent member of his family;

Excluding (i.e. these are capital Assets):

| | | |
|-------------------------------|--------------|--------------------|
| a) Jewellery | b) Drawings | c) Sculptures |
| d) Archaeological Collections | e) Paintings | f) Any work of art |

- ✓ **Agricultural land situated in Rural Area**
- ✓ **Gold Deposit Bonds 1999 or Deposit Certificates issued under the Gold Monetisation Scheme 2015.**

Definition of Rural Area:

Rural area means any area which is outside the municipality or cantonment board having a population of 10,000 or more *and also which does not fall within distance given below* –

| Shortest aerial distance from the local limits of municipality/ cantonment board | Population according to the last preceding census |
|--|---|
| 2 km | If the population is more than 10,000 but not more than 1 lakh |
| 6 km | If the population is more than 1 lakh but not more than 10 lakh |
| 8 km | If the population is more than 10 lakh |

Treatment of Agricultural Land

Capital Gains arising from transfer of any agricultural land situated in Urban Area will not constitute agricultural income for the purpose of exemption u/s 10(1). Hence, such gains would be liable to tax under Section 45.

DEFINITION OF TRANSFER [SECTION 2(47)]

“TRANSFER” INCLUDES:

- i. Sale, *Exchange* or Relinquishment of the asset; or

- ii. Reduction of Share Capital; or
- iii. Compulsory Acquisition thereof under any law; or
- iv. Conversion of Capital Asset into Stock In Trade; or
- v. Maturity or Redemption of a Zero Coupon Bond; or
- vi. Allowing of the possession of any immovable property in part performance of a contract;
- vii. Any transaction *which has the effect of transferring enjoyment of any immovable property.*

NATURE OF CAPITAL ASSETS

| Short-term capital asset | Asset | Period of holding to be treated as STCA |
|--------------------------|--|---|
| | A security (other than a unit) listed in a recognized stock exchange, a unit of UTI or a unit of an equity oriented fund or a zero coupon bond | not more than 12 months |
| | A share of a company (not being a share listed in a recognized stock exchange in India) | not more than 24 months |
| | An immovable property, being land or building or both | not more than 24 months |
| | Any other capital asset | not more than 36 months |

Treatments:

- a. If more than **36/24/12 months then LTCA** but **for exactly 36/24/12 months will be a STCA.**
- b. In the case of transfer of a depreciable asset (WDV Method), Capital Gain (if any) **is taken as STCG, irrespective of period of holding.**

TYPE OF CAPITAL GAINS

Short-Term Capital Gains: Gain arising on transfer of STCA [Section 2(42B)]

Long-Term Capital Gains: Gain arising on transfer of LTCA [Section 2(29B)]

Cost Of Acquisition:

Cost of Acquisition of assets is the value for which it was acquired by the assessee. Expenses of capital nature for acquiring the capital assets are includible in the COA.

COA IN CASE OF FOLLOWING INTANGIBLE ASSETS [SECTION 55(2)(a)]:

| | |
|---|--|
| a) Goodwill of a business | d) Tenancy rights |
| b) Right to carry on any business | e) Trade mark or brand name associated with a business |
| c) Right to manufacture, produce / process any article or thing | f) Stage carriage permits (Route Permits) |
| | g) Loom Hours |

- ❖ If above assets are Self Generated: COA shall be **NIL**
- ❖ If Goodwill of a business or profession on which depreciation is charged till PY 2019-20: Purchase price less Depreciation.
- ❖ If any other case: COA shall be purchase price.

COA WHEN THE ASSET IS ACQUIRED BEFORE 01/04/2001 [SECTION 55(2)(b)]

When an asset has been acquired by the assessee or by the previous owner from whom the asset was acquired by the assessee u/s 49(1), before 01/04/2001, then **Higher of actual COA or FMV as on 01/04/2001** to be the COA for computation of CG. In case of immovable properties if SDV as on 01.04.2001 available then FMV as on 01.04.2001 should not be more than SDV as on 01.04.2001.

Cost of Improvement:

COI is capital expenditure incurred by an assessee in making any additions/improvement to the capital assets.

- a. Any COI incurred by the Assessee/Previous Owner is to be considered.
- b. Any COI incurred before 01-04-2001 is to be completely ignored.
- c. **COI in respect of following assets is taken at NIL:**
 - Goodwill of Business;
 - Right to manufacture, produce or process any article or thing;
 - Right to carry on any business.

COST INFLATION INDEX

| <u>F/Y</u> | <u>CII</u> | <u>F/Y</u> | <u>CII</u> |
|------------|------------|------------|------------|
| 2001-02 | 100 | 2011-12 | 184 |
| 2002-03 | 105 | 2012-13 | 200 |
| 2003-04 | 109 | 2013-14 | 220 |
| 2004-05 | 113 | 2014-15 | 240 |
| 2005-06 | 117 | 2015-16 | 254 |
| 2006-07 | 122 | 2016-17 | 264 |
| 2007-08 | 129 | 2017-18 | 272 |
| 2008-09 | 137 | 2018-19 | 280 |
| 2009-10 | 148 | 2019-20 | 289 |
| 2010-11 | 167 | 2020-21 | 301 |
| | | 2021-22 | 317 |

SECTION 48 - MODE OF COMPUTATION OF CAPITAL GAINS

| Computation of Short Term Capital Gains | | |
|---|------|-------------|
| Full value of Consideration | | Xxxx |
| Less: Expenditure in connection with transfer [Cost of Transfer - COT] | | Xxxx |
| Net Sales Consideration | | Xxxx |
| Less: Cost of Acquisition (as defined in Section 49, 51 and 55) [COA] | xxxx | |
| Less: Cost of Improvement [COI] | xxxx | xxxx |
| Gross Short Term Capital Gain | | xxxx |
| Less: Exemption u/s 54B | | Xxxx |
| Taxable STCG | | Xxxx |
| Computation of Long Term Capital Gains [Indexation] | | |
| Full value of Consideration | | Xxxx |
| Less: Expenditure incurred wholly and exclusively in connection with such a transfer [COT] | | Xxxx |
| Net Sales Consideration | | Xxxx |
| Less: Indexed Cost of Acquisition [ICOA] | xxxx | |
| Less: Indexed Cost of Improvement [ICOI] | xxxx | Xxxx |
| Gross Long Term Capital Gain | | Xxxx |

| | | |
|--|--|-------------|
| Less: Exemption U/s 54 / 54B / 54EC / 54F | | Xxxx |
| Taxable LTCG | | Xxxx |

Note: Benefit of Indexation is available only in case of Long-Term Capital Assets.
CII for the year in which asset is transferred

$$\text{ICOA means} = \text{COA} \times \frac{\text{CII for the P. Y. in which the asset was first held by the assessee}}{\text{CII for the year of 2001-02, whichever is later.}}$$

*As per the Case **Manjula J. Shah**, the COA of the capital asset in the hands of the assessee is taken to be cost of such asset in the hands of the previous owner, the indexation benefit would be available from the year in which the capital asset is acquired by the previous owner.*

$$\text{ICOI means} = \text{COI} \times \frac{\text{CII for the year in which asset is transferred}}{\text{CII for the year in which the improvement to the asset took place}}$$

Cases where Benefit of Indexation is Not Available even in case of LTCA:

- Transfer of a bond or a debenture. (Index benefit is available on transfer of **Capital Indexed Bonds issued by the Govt. OR Sovereign Gold Bond issued by the RBI**).
- Transfer of undertaking or division in a **Slump Sale under Section 50B**.
- Transfer of shares/debentures of an Indian company *by a Non-Resident in foreign currency*.
- Transfer of Depreciation Assets;**

SECTION 51 - ADVANCE MONEY RECEIVED & FORFEITED

Where any **advance or other money** is forfeited *by the Assessee (current owner)*, before 01/04/2014 then it shall be deducted from COA before indexation. *Amount forfeited on or after 01/04/2014 will be taxable as IOS.*

Section 50D – FMV as a Full Value of Consideration

Fair market value of the capital asset on the date of transfer to be taken as sale consideration, in cases where the consideration is not determinable.

SECTION 50C – SALE CONSIDERATION IN SPECIAL CASES

Where the consideration received (as declared) for **LAND OR BUILDING OR BOTH** is **LESS THAN** the value adopted or assessed or assessable by **Stamp Valuation Authority (SVA)** *then, sales consideration shall be taken to be the value so adopted or assessed or assessable by SVA.*

Where the date of the agreement and date of registration are not the same, the value adopted by SVA on the date of agreement may be taken for computation of FVOC if amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic modes on or before the date of the agreement for transfer.

Where the assessee can claim that the value adopted by SVA is > the FMV of the property & **not disputed** before any Court, **then A.O. may refer the case to a Valuation Officer.**

| <u>Different situation</u> | | <u>Consideration</u> |
|---|---|---|
| <u>Where value ascertained by a valuation officer</u> | > | Value adopted by the SVA |
| | < | <u>Value adopted or assessed or assessable by the SVA but more than 110% of declared value</u> |
| | < | Declared value in the ROI or 110% of declared value |
| | | Value adopted by the SVA |
| | | <u>Value ascertained by a valuation officer Under Section 55A</u> |
| | | Section 50C is not attracted. Therefore, declared value in the ROI will be sales consideration. |

SECTION 50CA – SALE CONSIDERATION IN CASE OF UNLISTED SHARES

Where the consideration received by transfer of an by an unquoted share, < FMV, then FMV shall be deemed to be the FVOC.

Explanation-

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

EXEMPTED TRANSFER [Section 47]

Following transactions are not regarded as transfer, so no capital gain

1. Distribution of Capital Asset in total or partial partition of HUF. [Section 47(i)]
2. TRANSFER OF CAPITAL ASSETS UNDER GIFT / WILL/ IRREVOCABLE TRUST. However Shares, Debentures or Warrants allotted under ESOP this clause is not applicable. FMV on the date of transfer of Gift or Will shall be treated as FVOC of shares, debentures, warrants.
3. CONVERSION OF BONDS/DEBENTURES OF A COMPANY INTO SHARES/DEBENTURES OF THAT COMPANY: COA of such shares / debenture received on conversion shall be Cost of that part of the debenture, bond, debenture stock or deposits certificate, which is so converted. POH of such converted shares or debentures shall include the period for which the bond, debentures held by the assessee before conversion.
4. Any transfer of capital asset in a transaction of reverse mortgage under a scheme made and notified by the Govt. [Section 47(xvi)]
5. Transfer of Govt. **securities** carrying a periodic payment of interest, made **outside India** through an intermediary dealing in settlement of securities, **by a NR to another NR.**
6. *Transfer of Sovereign Gold Bond issued by the RBI under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an assessee being an individual.*
7. Transfer of Rupee denominated bond of an Indian Company by a non-resident to another non-resident outside India.
8. **Conversion of Preference Shares into Equity Shares:** *COA of equity shares received on conversion shall be cost of preference shares which so converted. POH of equity shares shall include the period for which the preference shares held by assessee.*

ESOP: TRANSFER OF SPECIFIED SECURITY/SWEAT SHARES ALLOTTED

- a. COA: FMV of the shares and securities.
 b. POH: From the date of allotment or transfer specified security or sweat equity shares.

COA IN CASE OF FINANCIAL ASSETS

| Capital asset | Cost Of Acquisition | POH Will Start From |
|---|--------------------------------------|--|
| Shares/securities originally purchased | Allotment price | Date of Allotment |
| Right Share / Securities | Offer price by the Co. | Date of Allotment |
| Renouncement of right: > For the person who renounces the right. > For the person who purchased the right. | Nil Offer price + Amount paid | Date of offer Date of Allotment |
| Bonus shares / Securities | Nil | Date of Allotment |

Note: The option to take FMV as on 01-04-2001 as COA is available if such assets were acquired before 01-04-2001. [Even in case of Bonus shares]

SECTION 45 - SCOPE AND YEAR OF CHARGEABILITY OF CAPITAL GAINS**Section 45(1)**

Any *profits* from the **TRANSFER** of a **CAPITAL ASSET** effected in the **PY** shall be Taxable in the **PY in which the transfer took place**. But 4 Exceptions are as follows

| Section | Profits and gains arising from the following transactions chargeable as income | P.Y. in which income is chargeable totax | Deemed Full Value of consideration for computation of capital gains under section 48 |
|---------|--|---|---|
| 45(1A) | Money or other asset received under an insurance from an insurer on account of damage/destruction of any capital asset, as a result of, flood, hurricane, cyclone, earthquake or other convulsion of nature, riot or civil disturbance, accidental fire or explosion, action by an enemy or action taken in combating an enemy | The previous year in which such money or other asset is received. | The value of money or the fair market value of other asset received. |
| 45(1B) | <u>Receipt by any person, at any time during any P.Y., any amount, under a ULIP issued on or after 1.2.2021</u> | <u>The previous year in which any amount is received</u> | <u>The manner of calculation as may be prescribed by Rules.</u> |
| 45(2) | Transfer by way of conversion by the owner of a capital asset into stock-in-trade of a business carried on by him. | The PY in which such stock-in-trade is sold or otherwise transferred by him | The fair market value of the capital asset on the date of such conversion |
| 45(5) | Transfer by way of compulsory acquisition under any law, or a transfer, the consideration for which was determined or approved by the Central Government or RBI | The previous year in which the consideration or part thereof is first received. | Compensation or consideration determined or approved in the first instance by the CG or RBI |

| | | | |
|--------|---|---|--|
| | If the compensation or consideration is further enhanced by any court, Tribunal or other authority, the enhanced amount will be deemed to be the income. However, any amount of compensation received in pursuance of an interim order of a court, Tribunal or other authority shall be deemed to be income chargeable under the head "Capital Gains" of the previous year in which the final order of such court, Tribunal or other authority is made. | The previous year in which the amount was received by the assessee. | Amount by which the compensation or Consideration is enhanced or further enhanced. For this purpose cost of acquisition and cost of improvement shall be taken as 'Nil'. |
| 45(5A) | Transfer of a capital asset, being land or building or both, by an individual or Hindu undivided family, who enters into a specified agreement for development of a project, provided he does not transfer his share in project on or before the date of issuance of completion certificate. | The previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority. | The stamp duty value of his share in the project, being land or building or both, on the date of issuing of said certificate of completion + Consideration received in cash, if any, |

Taxability on conversion of Inventory into Capital Asset

Section 28(via) *The FMV of inventory as on the date on which it is converted into, or treated as, a capital asset shall be taxable under PGBP.*

Section 2(24)(xiia) *The FMV of inventory referred u/s 28(via).*

Section 49(9) *For capital gain computation COA of such asset shall be FMV referred u/s 28(via).*

Section 2(42A) *POH shall be reckoned from the date of conversion or treatment into CA.*

EXEMPTION OF CAPITAL GAINS

| S.No. | Particulars | Section 54 | Section 54B | Section 54D | Section 54EC | Section 54F |
|-------|-------------------|--------------------------|----------------------------|---|--------------------|--|
| 1 | Eligible Assessee | Individual / HUF | Individual/ HUF | Any assessee | Any assessee | Individual / HUF |
| 2 | Asset transferred | Residential House (LTCA) | Urban Agricultural Land | Land & building forming part of an industrial undertaking | L&B or both (LTCA) | Any LTCA other than Residential House. |

| | | | | | | |
|---|---|--|--|---|---|---|
| 3 | Other Conditions | Income from such house should be chargeable under the head "Income from house property" | Land should be used for agricultural purposes by assessee or his parents or HUF for 2 years immediately preceding the date of transfer | Land & building have been used for business of undertaking for at least 2 years immediately preceding the date of transfer. The transfer should be by way of compulsory acquisition of the industrial undertaking | - | Assessee should < 1 residential house on the date of transfer. He should not purchase within 2 years or construct within 3 years after the date of transfer, another residential house. |
| 4 | Qualifying asset i.e., asset in which capital gains has to be invested | 1/2 Residential House situated in India at the option of the assessee, where capital gains does not exceed 2 crore | Land for being used for agricultural purpose (Urban/Rural) | Land or Building or right in land or building | Bonds of NHAI or RECL or any other bond notified by C.G. (Redeemable after 5 years) | One Residential House situated in India |
| 5 | Time limit for purchase/ construction | Purchase within 1 year before or 2 years after the date of transfer (or) construct within 3 years after the date of transfer | Purchase within a period of 2 years after the date of transfer | Purchase/construct within 3 years after the date of transfer, for shifting or re-establishing the existing undertaking or setting up a new industrial undertaking. | Purchase within a period of 6 months after the date of transfer | Purchase within 1 year before or 2 years after the date of transfer (or) Construct within 3 years after the date of transfer |
| 6 | Amount of Exemption | Cost of new Residential House or two houses, as the case may be or Capital Gain, whichever is lower, is exempt | Cost of new Agricultural Land or Capital Gain, whichever is lower, is exempt | Cost of new asset or Capital Gain, whichever is lower. | CG or amount invested in specified bonds, whichever is lower. Maximum permissible investment out of CG arising in any FY is 50 lakhs, whether such investment is made in the current FY or subsequent FY or both. | Cost of new Residential House \geq Net sale consideration of original asset, entire CG is exempt. Cost of new Residential House < Net sale consideration of original asset, proportionate CG is exempt. |

SEC. 10(37)– Exemption on CG from Agricultural Land**Eligible Assessee:** Individual & HUF.**Eligible Asset:** Agricultural Land Situated in Urban Area.**Conditions:**

1. If such land, during the period of 2 years immediately preceding the date of transfer,

- was being used for agricultural purposes by such HUF or individual or a parent of individual,
2. The transfer is by way of compulsory acquisition, or a transfer the consideration for which is determined or approved by the CG or the RBI.
 3. Compensation must have been received on or after 01/04/2004.
 4. Compensation as well as Enhanced Compensation both will be exempt.

TAX ON STCG ON SHARES/UNITS [SECTION 111A]

- a. This Section provides for a **concessional rate of tax (i.e. 15%)** on the STCG on transfer of **Equity Share of a company or Unit of an Equity Oriented Mutual Fund or Unit of Business Trust** on or after 1.10.2004 where *transaction is subjected to STT*.
- b. 15% is also applicable in a transaction undertaken in **foreign currency** on a recognized stock exchange **located in an IFSC located in SEZ (even if STT is not applicable)**.
- c. **RESIDENT IND/HUF**: STCG will be reduced by the **unexhausted basic exemption limit**.
- d. **No Deductions under Chapter VI-A.**

SECTION 112: TAX ON LTCG OTHER THAN THOSE COVERED U/S 112A

- ❖ Where the Total Income of an assessee includes LTCG, tax is payable by the assessee @ **20% on such LTCG**.
- ❖ **RESIDENT IND/HUF**: LTCG will be reduced by the unexhausted basic exemption limit.
- ❖ **No Deductions under Chapter VI-A.**

PROVISO TO SECTION 112:

The tax on LTCG from transfer of **Listed Securities (other than Units) / Zero Coupon Bond** shall be the **lower of the following**:

- Tax on LTCG (**with Indexation & Basic Exemption, if applicable**), @ **20% OR**
- Tax on LTCG (**without indexation & Basic Exemption**), @ **10%**

SECTION 112A: TAXATION OF LTCG ON SALE OF LISTED EQUITY SHARES ETC.

1. ***LTCG on transfer of equity share or unit of equity oriented fund or unit of business trust in excess of 1,00,000 shall be taxable @ 10% satisfying the following conditions:***
 - i. ***STT paid on acquisition and transfer of equity shares; or***
 - ii. ***STT paid on acquisition and transfer of equity oriented fund or a unit of a business trust.***
2. ***RESIDENT IND/HUF: Such LTCG will be reduced by the unexhausted basic exemption limit.***
3. ***No STT paid on transfer undertaken on a recognised stock exchange located in any IFSC and where the consideration for such transfer is received or receivable in foreign currency..***
4. ***Deductions under Chapter VI-A cannot be availed in respect of such LTCG.***
5. ***Indexation is not permitted to compute LTCG chargeable to tax under Section 112A***
6. ***Rebate under Section 87A is not available against tax computed under Section 112A.***

SECTION 55(2)(AC) – COA

Cost of Acquisition of an equity share or a unit of equity oriented fund or a unit of a business trust referred u/s 112A, acquired before the 1st day of February, 2018 shall be higher of-

- i. the COA; and
- ii. lower of –
 - a. the FMV of such asset as on 31.01.2018; and
 - b. the FVOC (Sale value).

Meaning of Fair Market value:

| S.N. | Circumstance | Fair Market Value |
|-------|---|---|
| (i) | In a case where the capital asset is listed on any recognized stock exchange as on 31.01.2018 | If there is trading in such asset on such exchange on 31.01.2018, The highest price of the CA quoted on such exchange on the said date If there is no trading in such asset on such exchange on 31.01.2018, The highest price of such asset on such exchange on a date immediately preceding 31.01.2018 when such asset was traded on such exchange. |
| (ii) | In a case where the capital asset is a unit which is not listed on any recognized stock exchange as on 31.01.2018 | The net asset value of such unit as on the said date |
| (iii) | In a case where the capital asset is an equity share in a company which is - not listed on a recognized stock exchange as on 31.01.2018 but listed on such exchange on the date of transfer | An amount which bears to the cost of acquisition the same proportion as CII for the financial year 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. |
| | - listed on a recognized stock exchange on the date of transfer and which became the property of the 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 | |

Section 94(7) DIVIDEND STRIPPING

Where any person buys or acquires any securities or unit within a period of 3 months prior to the record date and such person sells or transfers –

- a. such securities within a period of 3 months after such date, **OR**
- b. such unit within a period of 9 months after such date

and the dividend or income on such securities or unit received or receivable by such person is exempted, then, the loss, if any, arising therefrom shall be ignored to the extent of exempted income for the purposes of computing his income chargeable to tax.

Section 94(8) BONUS STRIPPING

Where any person acquires any units (i.e., **original units**) within a period of 3 months prior to the record date & such person is allotted **additional units** without any payment & such person

transfers all or any of the **original units** within a period of **9 months** after such date, while continuing to hold all or any of the additional units, then,

- the loss, if any, arising to him on account of such purchase and sale of all or any such units shall be ignored for the purposes of computing his income chargeable to tax **AND**
- the amount of loss so ignored shall be deemed to be the **cost of purchase or acquisition** of such additional units as are held by him on the date of such sale or transfer.

BOND WASHING TRANSACTIONS [Section 94]

A **bond-washing transaction** is a transaction where securities are sold some time before the due date of interest and reacquired after the due date is over. In order to discourage such practice, **section 94(1) provides** that where the owner of a security transfers the security just before the due date of interest and buys back the same immediately after the due date **and interest is received by the transferee, such interest income will be deemed to be the income of the transferor and would be taxable in his hands.**

SECTION 46 - CAPITAL GAINS ON DISTRIBUTION OF ASSETS BY IN LIQUIDATION

TAXABILITY IN THE HANDS OF COMPANY: [EXEMPT]

Where the assets of a company are distributed to **its shareholders on its liquidation** shall **not be regarded as a transfer** by the company. But the **liquidator sells the assets of the company resulting in a capital gain** then **the company will be liable to pay tax on such gains.**

TAXABILITY IN THE HANDS OF SHAREHOLDERS:

- ❖ Shareholders **receive money or other assets** from the company on its liquidation then capital gains is applicable in the hands of shareholders.
 - ❖ The **portion of the distribution which is attributable to the accumulated profits** is to be treated as **DIVIDEND INCOME** of the shareholder u/s 2(22)(c). The same will be **deducted from the amount received/FMV of the assets received.**
- a. **POH:** Date of acquisition to the date of liquidation.
 - b. **Capital Gains Tax on subsequent sale of the Capital Assets by the shareholders: COA** shall be the market value of the asset on the date of acquisition. POH will start from the date on which such assets are received by the shareholder.

TAXABILITY ON PURCHASE OF OWN SECURITIES [SECTION 46A] – BUY BACK

1. In the hands of Company

In case of buyback of shares **by domestic companies**, additional income tax @ 20% (plus surcharge @ 12% and cess @ 4%) is leviable in the hands of the company **u/s 115QA**.

Distributed income = Buyback price – issue price (including premium)

2. In the hands of Shareholders

Consequently, the income arising to the shareholders in respect of such buyback of unlisted shares by the domestic company would be exempt under section 10(34A).

- Redemption of the preference shares also amounts to buyback of shares.

SECTION 50B – SPECIAL PROVISIONS FOR SLUMP SALE

SLUMP SALE means transfer of **one or more undertakings** as a result of the sale **for a lump sum consideration without values assigned to the individual assets** and liabilities.

NATURE OF CAPITAL GAINS: If the undertaking was held by the assessee for **not more than 36 months**, the capital gains will be STCG. In any other case, it shall result into LTCG.

Mode of computation of capital gains

| | |
|--|-------------|
| Full Value of consideration | XXXX |
| Less: Expenses wholly and exclusively in connection with such transfer | XXXX |
| Less: Cost of acquisition and cost of improvement being net worth of the undertaking (no indexation benefit even in case of long-term capital asset) | XXXX |
| Short Term/Long Term Capital gains | XXXX |

- Full Value of the Consideration shall be the fair market value (FMV) of capital assets would be the higher of –
 - (i) **FMV 1**, being the fair market value of capital assets transferred by way of slump sale; and
 - (ii) **FMV 2**, being the fair market value of the consideration (monetary and non-monetary) received or accruing as a result of transfer by way of slump sale

For calculating the Net Worth, the Aggregate VALUE of total assets, ignoring revaluation effect, shall be-

- a. **In case of depreciable assets:** the WDV of block of assets as per IT Act.
 - b. **In case of capital Assets for which the whole of the expenditure has been allowed or is allowable as a deduction u/s. 35AD:** NIL; AND
 - c. **In the case of any other assets:** The book value of such assets
- Less: Value of liability (as appearing in the books of a/c on the date of transfer of undertaking)

SECTION 55A - REFERENCE TO VALUATION OFFICER

The AO may refer to a Valuation Officer in the following case –

1. In a case where the value of the asset **as claimed by the assessee is as per registered valuer:** “if the AO is of the opinion that the value so claimed is **at variance** with its FMV.”
2. **In other case, If** the AO is of the opinion that the FMV of the asset exceeds the value of the asset as claimed by the assessee by **> 15% of the value of asset as claimed or by > 25,000 of the value of the asset** as claimed by the assessee.
3. Further, if the AO is of the opinion that, having regard to the nature of asset and other relevant circumstances, it is necessary to make the reference.

AMALGAMATION – SECTION 2 (1B)

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

- ❖ **All the assets & liabilities** of the amalgamating company becomes the assets & liabilities of the amalgamated company.
- ❖ Shareholders **holding > 75% in value of** shares in amalgamating company become shareholders of the amalgamated company.

1. Taxation in the hands of Amalgamating company:

Transfer of capital assets by Amalgamating Company to the **Indian** Amalgamated Company is not considered as transfer and not chargeable to CG tax. [Sec 47(vi)]

a. **Condition to be fulfilled:** Scheme approved by CG.

b. **Holding Period** in the hands of the transferee in case of subsequent transfer: Previous Owner's holding period shall be included.

c. **Cost in the hands of Transferee [Sec 49]:** Cost to the Amalgamating Company.

2. Taxation in the hands of shareholder

When shareholders allotted shares of Amalgamated Company in exchange of

shares of Amalgamating Company is not chargeable to capital gain tax. [Sec 47(vii)]

- a. **POH:** Period of holding of Amalgamating Company's Shares & Period in Amalgamated Company.
- b. **COA:** Cost to original shares in Amalgamating Company.

3. **Taxation in the hands of Amalgamated Company:**

- a. **POH:** Period of Amalgamating Company + Amalgamated Company.
- b. **COA:** COA of Amalgamating Company (Cost of previous owner).

4. **Transfer of Capital Asset by Holding Company to its subsidiary** is not considered as transfer and not chargeable to capital gain tax [Sec 47(iv)]

a. **Conditions to be fulfilled:**

- Holding Company or its Nominees shall hold 100% Shares in Subsidiary Company.
- Subsidiary Company should be an Indian Company.

b. **Holding period in the hands of the Transferee in case of subsequent transfer Sec. 2(42A):** Previous owner's holding periods shall be included.

c. **Cost in the hands of Transferee [Sec 49]:** Cost to Previous Owner.

DEMERGER [SECTION 2 (19AA)]

Demerger means the transfer by a demerged company of its one or more undertakings to any resulting company and **all the following conditions** are fulfilled:-

- ❖ **All the assets & liabilities** of the demerged company becomes the assets & liabilities of the resulting company.
- ❖ All the assets & liabilities are **transferred at book values [ignoring revaluation]**.
- ❖ The resulting company issues, in consideration of the demerger, **its shares** to the shareholders of the demerged company **on a proportionate basis**.
- ❖ The shareholders holding **> 75% in value** of the shares in the demerged company becomes the shareholders of resulting company.
- ❖ The transfer of undertaking is on a **going concern basis**.

1. **Transfer of capital asset**, by a demerged company to the resulting company is not considered as transfer and not chargeable to capital gain tax. [sec. 47(vib)]

- a. **Condition:** Resulting company shall be an Indian company.
- b. **Holding Period in the hands of the transferee in case of subsequent transfer:** Previous Owner's holding period shall be included.
- c. **Cost in the hands of transferee [Sec. 49]:** Cost to the demerged company.

2. **In the hands of Shareholder:**

When the shareholder of demerged company receive shares of resulting company is not chargeable to capital gain tax.

3. **Transfer of shares**, by the Resulting Company to the shareholders of the demerged company if the transfer is made in consideration of Demerger [Sec 47(vi)]
- a. **Holding Period in the hands of the transferee** for subsequent transfer: Period of holding of Demerged Company's Shares shall be included.
- b. **Cost of acquisition of Resulting Company's Shares on demerger** [Sec. 49(2C)]

$$\frac{\text{Cost of acquisition of Demerged Co's Shares} \times \text{Net book value of Assets transferred to resulting company}}{\text{net worth of the demerged company before demerger}}$$

[Net Worth] = Paid up share Capital and General reserve before demerger.]

- c. **Cost of Acquisition of Demerged Company's Shares after demerger** [Sec. 49(2D)]

Original Cost of Acquisition of shares in Demerged Company XXX

Less: Cost of acquisition of resulting company shares as per Section 49(2C) (XXX)

4. **Transfer of Capital Asset by Subsidiary Company to its Holding Company** is not considered as transfer and not chargeable to capital gain tax [Sec. 47(v)]
- a. **Conditions to be fulfilled:**
- Whole of the Share Capital of the subsidiary Company shall be held by Holding Company
 - Holding Company should be an Indian Company.
- b. **Holding period in the hands of the Transferee in case of subsequent transfer Sec. 2(42A):** Previous owner's holding periods shall be included.
- c. **Cost in the hands of Transferee [Sec 49]:** Cost to Previous Owner.

INCOME FROM OTHER SOURCES

Any income includible in the total income of an assessee, which cannot be included under any of the first four heads of income, is chargeable under the head 'IFOS'.

IFOS Income may include:

- Dividend Income
- Casual Income
- Gift
- Income from Sub-Letting of a House Property
- Family Pension
- Director's Sitting Fee
- Remuneration received by MP/MLA
- Interest on bank deposit / deposits with companies or on loan
- Income from undisclosed sources
- Examiner-ship fee from non-employer
- Rent from a vacant piece of plot of land
- Agricultural Income from land situated outside India
- Interest on Income Tax Refunds
- Sum received from Keyman Insurance Policy
- Dividend income from foreign company
- Premium amount (shares issued on premium)
- Advance money forfeited in the course of negotiation for transfer of a capital asset.
- **Compensation in connection with termination/modification of employment**

The following income is chargeable u/h IFOS only if such income is not chargeable u/h PGBP

- ❖ Income from letting out of plant, machinery or furniture.
- ❖ If letting out of buildings is inseparable from letting out of P&M, the income from such letting.
- ❖ Insurance Commission
- ❖ Income from Royalty
- ❖ Interest on Securities

CASUAL INCOME

1. **Casual income includes** winning from lotteries, crossword puzzles, horse races, card games, gambling, betting etc. taxable @ **flat rate of 30% u/s 115BB [plus surcharge, if applicable, plus H&ECL]**.
2. Loss under other head including IFOS is not allowed to be set off with casual income.
3. **No Deduction** under Chapter VI-A [Section 80C to 80U]
4. Adjustment of **unexhausted basic exemption limit** is **also not allowed.**

5. Income *from Casual income exceeding 10,000/-* is subject to TDS @ 30%] Thus, it is included in total income of the assessee after being grossed up as follows: **Gross Winnings= [Net winnings × 100 / (100 - Rate of TDS)]**
6. **Income derived from owning & maintaining racehorses is not a casual income and normal slab rate will be applicable on such income.**

SUM RECEIVED UNDER A KEYMAN INSURANCE POLICY

- ❖ If it is received by Employer: PGBP
- ❖ If it is received by Employee: Salary
- ❖ If it is not taxable in Salary or PGBP: IFOS

Taxability of Allowances to MLA/MP

Daily Allowances & Constituency Allowances to MLA & MP are exempt from tax u/s 10(17).

Section 10(15) – EXEMPTED INTEREST INCOME

Interest from Post Office Saving Bank Accounts: Interest from Post Office Saving Bank Accounts is exempt to the extent of 3,500 in case of an Individual Account and 7,000 in the case of Joint Account.

DEDUCTIONS ALLOWABLE [SECTION 57]

- a. **Dividend (other than dividends referred to in section 115-O) or Interest on Securities:** Any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend or interest on behalf of the assessee.
- b. **Income consists of recovery from employees as contribution to any provident fund etc.:** To the extent the contribution is remitted before the due date under the respective acts.
- c. **Income from letting on hire of machinery, plant and furniture, with or without building:** Deduction allowable are: any current repairs, insurance premium, normal depreciation allowance
- d. **Interest Received on Compensation / Enhanced Compensation:** Deduction allowed is **50% of income by way of interest received** on compensation/enhanced compensation received chargeable to tax. No further deduction of any expenses will be allowed

DEDUCTIONS NOT ALLOWABLE [SECTION 58]

- a. Personal Expenses of the assessee
- b. Any Interest / Salary payable outside India where TDS has not been paid or deducted.
- c. Payment in the nature specified in Section 40(a)(ia)
- d. Payments of expenses in the nature specified in Section 40A(2) & Section 40A(3)
- e. Income - Tax Paid.
- f. No deduction in respect of any expenditure incurred for earning Casual Income

TAXABILITY OF GIFTS

Section 56(2)(x) - Gift of any sum of money or property or transfer of property for inadequate consideration on or after 1st April, 2017 to be subject to tax in the hands of **Any Person as IOS**

| Nature of asset | Particulars | Taxable value |
|-------------------------|-----------------------|---|
| Money | Without consideration | The whole of aggregate amount if the same exceeds 50,000. |
| Movable property | Without consideration | The aggregate Fair Market Value (FMV) of the property, if it exceeds 50,000. |

| | | |
|---------------------------|---------------------------------|--|
| Movable property | Inadequate consideration | <i>The difference between the aggregate FMV and the consideration, <u>if such difference exceeds 50,000.</u></i> |
| Immovable property | Without consideration | <i>The Stamp Duty Value [SDV] of the property, if it exceeds 50,000. [Each Property Separately]</i> |
| Immovable property | Inadequate consideration | <i>The difference between the SDV and the consideration, <u>if such difference exceeds higher of the following amount:</u> a) 50,000 or b) 10% of the consideration [Each Property Separately] <u>The difference between the stamp duty value and the consideration, if such difference is more than the higher of 50,000 and 20% of consideration, in case the immovable property is a residential unit which is held as stock-in-trade by the seller and transferred between 12.11.2020 and 30.6.2021 by way of first time allotment to the buyer and the consideration for transfer ≤ 2 crores.</u></i> |

Note:

1. Gift provisions will not be applicable if property is received as stock in trade, consumable stores and raw materials.
2. For this purpose, “property” means the capital Asset of the assessee namely immovable property being land or building or both, shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures or any work of art or bullion.

Section 43CA & 50C: SDV shall be treated as sales consideration:

In case of immovable property held as capital assets or stock-in trade, if sales consideration < SDV then such SDV shall be deemed to be sales consideration for computing PGBP or Capital gain. However, where the SDV does not > 110% of sales consideration, then sales consideration shall be treated as FVOC. If assessee not satisfied with SDV then his case may be transferred to a Valuation Officer.

In case Section 43A, the difference between the stamp duty value and the consideration, if such difference is more than the higher of 50,000 and 20% of consideration, in case the immovable property is a residential unit which is held as stock-in-trade by the seller and transferred between 12.11.2020 and 30.6.2021 by way of first time allotment to the buyer and the consideration for transfer ≤ 2 crores.

Note – Though the residential unit should be the stock in trade of the seller for applicability of the higher threshold of 20%, it should be a capital asset in the hands of the buyer in the first place for attracting the provisions of section 56(2)(x).

| Immovable Property | |
|--------------------|-----------------|
| Capital asset | Stock-in –trade |
| Section 50C | Section 43CA |
| Capital gain | PGBP |

Section 43CA & 50C & 56(2)(x): Date of SDV = Date of Agreement or Registration:

Mainly SDV is taken on the Date of Registration. But when date of agreement and date of registration are not same -

| | | |
|--|---|--|
| SDV on the Date of agreement can be considered, if full or part consideration received/ paid upto date of agreement in | | |
| <u>Section 50C:</u> Account payee cheque or an account payee draft or by | <u>Section 43CA:</u> Account payee cheque or an account payee draft or by use of electronic | <u>Section 56(2)(x):</u> Account payee cheque or an account payee draft or by use of |

| | | |
|---|---|--|
| use of electronic clearing system through a bank account or through such other electronic modes as may be prescribed. | clearing system through a bank account or through such other electronic modes as may be prescribed. | electronic clearing system through a bank account or through such other electronic modes as may be prescribed. |
|---|---|--|

Exceptions: However, any gift received from following ways would be outside the ambit of Section 56(2)(x):

1. from any relative; or
2. on the occasion of the marriage; or
3. under a will or by way of inheritance; or
4. in contemplation of death; or
5. from any local authority; or
6. from any fund, foundation, university, educational institution, hospital, medical institution, trust, institution referred to in section 10(23C); or
7. from or by any trust registered u/s 12AA [Charitable or Religious Trust]; or
8. by way of transaction not regarded as transfer u / s 47; or
9. from an Individual by a Trust created solely for the benefit of relative of the Individual.
10. from such class of persons and subject to such conditions, as may be prescribed.

For the purpose of this clause, the expression **“RELATIVE”** means

In Case of Individual:

- spouse of the individual,
- brother or sister of the **individual**,
- brother or sister of the **spouse** of the individual,
- brother or sister of **either of the parents** of the individual,
- any lineal ascendant or descendant of the individual,
- any lineal ascendant or descendant of the spouse of the individual, and
- spouse of a person referred to in items (ii) to (vi) mentioned above.

In Case of HUF: Any Member

Other receipts chargeable under this head

| Section | Provision |
|--------------|---|
| 56(2) (viib) | Consideration received in excess of FMV of shares issued by a closely held company to any person, being a resident, to be treated as income of such company, where shares are issued at a premium |

Deductions allowable [Section 57]

| S.N. | Particulars | Deduction |
|------|---|--|
| 1. | In case of dividend or income in respect of units of mutual fund or income in respect of units from a specified company | Interest expenditure to earn such income. However, such interest expenses cannot exceed 20% of such income included in total income, without deduction under this section. |
| 2. | Family Pension | Sum equal to <ul style="list-style-type: none"> • 33 1/3% of such income or |

- 15,000, whichever is less

DEEMED DIVIDEND

| Dividend income | |
|--|---|
| From Domestic company: Taxable in hands of Shareholder at Normal Tax Rate | From Foreign company: Taxable in hands of Shareholder at Normal Tax Rate |

Dividend from Indian company u/s 2(22)(a)/(b)/(c)/(d)/(e) is taxed at Normal rates in the hands of the Shareholders

- Any distribution of assets by a company to its shareholders shall be deemed to be the dividend [FMV of Assets] to the extent the company possesses **accumulated profits whether capitalized or not** **Sec. 2(22)(a)**
- Any distribution of debentures / debenture-stock / deposit certificates etc. by a company to its shareholders

OR

Any distribution of shares by way of bonus by a company to its preference shareholders shall be deemed to be the dividend to the extent the company possesses accumulated profits whether capitalized or not **Sec. 2(22)(b)**

- Any distribution of assets by a company on its liquidation extent to which possesses accumulated profits of the company standing immediately before its liquidation whether capitalized or not. **Sec. 2(22)(c)**
- Any Distribution to its shareholders by a company on reduction of its capital to the extent to which company possesses accumulated profits whether capitalized or not. **Sec. 2(22)(d)**

e. Advance or loan by a Closely Held Company to its Shareholder [Sec. 2(22)(e)]

Any payment, by a closely held company, of any sum by way of loan or advance:

- to a shareholder, being the beneficial owner holding >10% of voting power, **OR**
- to any concern, in which he is a member/partner and has a substantial interest, **OR**
- to any persons on behalf of such a shareholder, shall be deemed to be the dividend to the extent to which the company possesses **accumulated profits**.

Notes

- Where loan is given and accumulated profits exceeds the loan, then the entire loan will be deemed as dividend.
- Dividend shall not include** any advance or loan made to a shareholder or a concern by a company in the ordinary course of its business where the money lending is substantial part of the business of the company.
- Buy Back of Own Shares:** Any payment made by a company on purchase of its own shares from a shareholder is not a deemed dividend.
- Any dividend paid by a company, which is set off by company against the loan which has been deemed as dividend u/s 2(22)(e) is not a deemed dividend.
- Shares allotted to shareholder of demerged company by resulting company under scheme of Demerger.

PREVIOUS YEAR FOR UNDISCLOSED SOURCES OF INCOME**Unexplained Cash Credits [Sec. 68]**

- ❖ The sum is found credited in the books of assessee & he offers no explanation about its nature and source OR the explanation offered is not satisfactory to the AO.
- ❖ The amount so credited is treated as the **income u/h IFOS in the year of credit**.

Unexplained Investment [Sec. 69]

- ❖ The assessee made investments & he offers no explanation about its nature and source OR the explanation offered is not satisfactory to AO.
- ❖ The investment is treated as the income u/h IFOS in the Year of investment is made.

Unexplained Money etc. [Sec. 69A]

- ❖ In search, the assessee was found to be owner of any money, bullion or jewellery or other valuable article & not recorded in the books of accounts & he offers no explanation about its nature and source or the explanation offered is not satisfactory.
- ❖ The value of such items is treated as the income u/h IFOS in the year in which it is found.

Investment not fully disclosed [Sec. 69B]

- ❖ The assessee made investments & not fully recorded in his books of accounts & he offers no explanation or the explanation offered is not satisfactory.
- ❖ The investment shall be treated as the income u/h IFOS in the Year of investment is made.

Unexplained Expenditure [Sec. 69C]

- ❖ The assessee has incurred expenditure & he offers no explanation about such expenditure or the explanation offered is not satisfactory.
- ❖ The expenditure shall be treated as income u/h IFOS of Year in which it was incurred.

Amount borrowed or repaid on Hundi [Sec. 69D]

- ❖ Where any amount is borrowed or repaid on a hundi other than through an *account-payee cheque* drawn on a bank,
- ❖ the amount shall be income in the year in which amount was borrowed or repaid.

TAXATION OF CASH CREDIT, UNEXPLAINED MONEY, UNEXPLAINED INVESTMENT ETC. COVERED U/S 68, 69, 69A, 69B, 69C & 69D [SECTION 115BBE]

1. **Tax Rate: 60% [plus surcharge (25%) and cess (4%) as applicable]**
2. No deduction in respect of **Benefit of Basic Exemption Limit** and for any expenditure or allowances or Set off of any loss shall be allowed in computing **above deemed income.**

DEDUCTIONS FROM GROSS TOTAL INCOME

1. Deduction under chapter VI-A is restricted to Gross Total Income & deduction cannot be carry forward.
2. Deduction under chapter VI-A is not allowed against LTCG, LTCG u/s 112A, STCG 111A & special rates of tax income.

Deduction in respect of investment in specified assets [Section 80C]

Applicability: Individual or HUF

Maximum Qualifying Amount: 150,000

The following are the investments/contributions eligible for deduction –

| Name of the investment / payment | Payment made by the | |
|--|--------------------------------------|------------------------|
| | Individual | HUF |
| Subscription to NSC (including Interest Accrued thereon) | Self | Any member |
| Tuition Fees paid for education of children in India of maximum 2 children. | Maximum up to 2 children | NA |
| Contribution to Unit-Linked Insurance Plan (ULIP) of UTI Contribution to Unit-Linked Insurance Plan (ULIP) of LIC-Mutual Fund | Self, Spouse & Child | Any member |
| Contribution to Units of Mutual Funds or UTI | Self | Any member |
| Contribution to Notified Annuity Plan of LIC. | Self | Any member |
| Life Insurance Premium on Life Policy or Endowment Policy Maximum Amount of Deduction: • 10% of Sum Assured if policy issued on or after 1.4.2012 • [15% of sum assured if policy issued on or after 1.4.2013 on life of any person with disability (u/s 80U) or person suffering from specified disease (u/s 80DDB)] • 20% of Sum Assured if policies issued before 1.4.2012. | Self, Spouse & child | Any member |
| Contribution towards ▪ Statutory Provident Fund/Recognized Provident Fund ▪ PPF ▪ Approved Superannuation Fund (ASF) | Self Self, Spouse & Child Self | NA Any member NA |
| Contribution to Notified Pension Fund of Mutual fund or UTI | Self | NA |

Contribution by a CG employee to additional account under NPS u/s 80CCD for a fixed period > 3 years and which is in accordance with the scheme notified by the CG for this purpose qualifies for deduction u/s 80C.

| | | |
|---|------|------------|
| Term Deposit of 5 year or more with a scheduled bank; | Self | N A |
| Subscription to 5 year Time Deposit in an a/c under the Post Office; | Self | Any member |
| Subscription to an account under Senior Citizens Saving Scheme; | Self | Any member |
| Subscription to notified NABARD Bonds | Self | Any member |
| Any payment loan from bank, FI towards the cost of purchase/ construction of a residential property. | Self | Any Member |
| Amount invested in Approved debentures/ equity shares/ Units of MF in a public Co. engaged in infrastructure facility; | Self | Any Member |

| | |
|---|---|
| Amount deposited in Sukanya Samridhi Account Scheme | Self, Girl Child or Girl Child for whom Individual is a Legal Guardian. |
|---|---|

Note: Child may be Dependent/Independent/Male/Female/Minor/Major/Married/Unmarried.

Contribution to certain pension funds [Section 80CCC]

1. Applicability: **ANY INDIVIDUAL** Maximum Limit: 150,000
2. Amount paid or deposited for any annuity plan of LIC/ Any other Insurer for receiving Pension from the Pension Fund,

CONTRIBUTION TO NPS OF CG & ATAL PENSION YOJNA U/S 80CCD)

1. **Applicability:** ANY INDIVIDUAL
 - a. **In Case of Employment:** Contribution of employee **or 10% of Salary** *whichever is lower*
 - b. **In Case of Others:** Contribution of assessee **or 20% of GTI**, *whichever is less [80CCD(1)]*
2. Contribution of employer **or 10% of Salary** (14% of salary, in case of contribution made by the CG) *whichever is lower [80CCD(2)]*
3. **80CCD(1B)** – An Individual is eligible for additional deduction of upto 50,000, *whether or not any deduction is allowed under section 80CCD(1).*
4. “Salary” means **[Basic Salary + DA (R)]**, but excludes all other allowances and perquisites
5. Any amount received by nominee **on the death** of the assessee shall not be taxable.
6. *Any amount received on maturity will not be taxable if the same is used for purchasing an annuity plan in the same PY.*
7. *Any payment from NPS to assessee on closure of account/scheme as referred in Section 80CCD, to the extent of 60% amount payable is Exempt. [Sec 10(12A)]*
8. *Any payment from NPS to an Employee on partial withdrawal made out of his account, to the extent it does not exceed 25% of the amount of contributions made by him is Exempt.*

Limit on deductions under sections 80C, 80CCC & 80CCD [Section 80CCE]

The aggregate deduction u/s 80C, 80CCC and 80CCD(1) to 1,50,000 except u/s 80CCE.

Deduction in respect of Health insurance premium [Section 80D]

1. Applicability: **INDIVIDUAL** or **HUF**
2. **Nature of payment:**
 - a. Premium towards **Mediclaim Health Insurance Policy** taken
 - **In case of an Individual:** Individual, Spouse, Parents and **dependent** children
 - **In case of HUF:** In the name of any Member
 - b. In case of **Senior Citizen**, Medical expenditure incurred *if no payment is made for health insurance premium. (HUF – Any Member being Senior Citizen)*
 - c. Contribution to CG Health Scheme **or other health scheme as notified by CG** is also eligible for deduction if it is taken for Individual, Spouse or Dependent Children.

- d. Any payment made by an individual on account of preventive health checkup of self, spouse, dependent children or parent(s) during the PY upto maximum 5,000.

3. Maximum Amount of Deduction:

| Particulars | Individual | | HUF |
|--|---|---------------------------------------|---------------------------------------|
| | Individual, Spouse & Dependent Children | Parents (Whether dependent or not) | Any Member |
| Premium/Contribution for | Individual, Spouse & Dependent Children | Parents (Whether dependent or not) | Any Member |
| Deduction being lower of | a. Premium Paid, or b. 25,000 p.a. | a. Premium Paid, or b. 25,000 p.a. | a. Premium Paid, or b. 25,000 p.a. |
| Additional Deduction for Senior Citizen [The person who is insured] | 25,000 | 25,000 | 25,000 |

4. Senior Citizen means an **Individual + Resident in India + *the age of 60 years or more***
5. Payment made ***by any mode other than cash, but payment of preventive health checkup, can be made in cash.***

Deduction in respect of maintenance including medical treatment of a dependent disabled [Section 80DD]

1. Applicability: **Resident INDIVIDUAL OR RESIDENT HUF.**

2. Assessee must have a Dependent Disabled Relative:

| Situation | Relative Includes |
|-----------------------|---|
| In case of Individual | Spouse, Children, Parents, Brothers & Sisters of the Individual |
| In case of HUF | Any Member |

Disability includes Blindness, Low Vision, Hearing impairment, mental illness etc.

Quantum of Deduction:

| | |
|---|---------|
| Relative suffering with Disability | 75,000 |
| Relative suffering with Severe Disability [80% or more] | 125,000 |
| Tax Point: Deduction shall be irrespective of actual expenditure incurred. | |

Deduction in the case of a Person with Disability [Section 80U]

1. **ELIGIBLE ASSESSEE:** Applicable to a **RESIDENT INDIVIDUAL.**
2. **FIXED DEDUCTION:** **[Irrespective of any expenditure]** In case of
- | | | |
|-------------------------------|---|----------|
| Person with Disability | - | 75,000 |
| Person with severe disability | - | 1,25,000 |

Deduction in respect of medical treatment etc. [Section 80DDB]

1. Applicability: **RESIDENT INDIVIDUAL & RESIDENT HUF**
2. The assessee **has actually paid** any amount for the medical treatment of Specified Disease for

| Situation | Relative Includes |
|------------|--|
| Individual | Self or dependent relative [Spouse, Children, Parents, Brothers & Sisters] |
| HUF | Any Member |

3. **Quantum of Deduction:** Lower of the Two:
- Amount actually paid or
 - 40,000 / In case of Senior Citizen – 100,000

Deduction in respect of Interest on loan taken for higher education in India or abroad [Section 80E]

1. **Applicability:** Individual
2. The loan taken by him from any **Financial Institution, Banks, Charitable Institution.**
3. The loan must have been taken **education** of **Self, Spouse, Children and student for whom the individual is the legal guardian.**
4. Interest paid for **8 Assessment Years** starting from the AY in which the assessee starts paying the interest on loan.

Deduction in respect of interest on loan taken for residential house property [Sec. 80EE]

1. **Conditions -**
 - ❖ The assessee is *an Individual*.
 - ❖ Loan is taken from **Financial Institution** (includes Banks/Housing finance Companies).
 - ❖ **Loan has been sanctioned during April 1, 2016 and March 31, 2017.**
 - ❖ The amount of loan sanctioned for residential house property *does not exceed 35 lakh.*
 - ❖ The value of residential house property *does not exceed 50 lakh.*
 - ❖ The assessee *not own any residential house property* on the date of sanction of loan.
2. **Amount of Deduction:** interest payable on the above loan or 50,000, whichever is less.
3. Assessee first claim deduction u/s 24(b) in IFHP and balance interest u/s 80EE.

Deduction in respect of interest payable on loan taken for house property [Section 80EEA]

Eligible assessee: An individual Other than covered u/s 80EE.

Conditions:

1. *the loan has been sanctioned by the financial institution during 1/4/19 TO 31/3/22;*
2. *the stamp duty value of residential house property does not exceed 45 lakh rupees;*
3. *the assessee does not own any residential house property on the date of sanction of loan.*
4. *The interest allowed as deduction u/s 80EEA will not be allowed as deduction.*

Quantum of deduction: The maximum deduction allowable is 1,50,000.

First deduction should be claimed u/s 24(b) of house property & remaining interest deduction u/s 80EEA.

Deduction in respect of interest payable on loan taken for electric vehicle [Section 80EEB]

Eligible Assessee: An Individual

Conditions:

- a. *Loan has been sanctioned by the financial institution during 1/4/19 TO 31/3/23.*
- b. *The interest allowed as deduction u/s 80EEB will not be allowed as deduction.*

Quantum of deduction: Interest payable, subject to a maximum of 1,50,000.

Electric Vehicle:

A vehicle which is powered exclusively by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle. The vehicle should have electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy.

Donation [Section 80G]

Applicability: All assessee

Nature: Donation in Kind is **not eligible**. No deduction for donation > 2,000 if paid in cash.

A. No ceiling limit for amount of donation and deduction of such donation

| (1) <u>Deduction = 100% of donation</u> | (2) <u>Deduction = 50% of donation</u> |
|--|---|
| <ol style="list-style-type: none"> 1. National Defence Fund 2. PM National Relief Fund 3. PM Earthquake Relief Fund 4. Zila Saksharta Samiti 5. CM Relief Fund 6. National Sports Fund 7. National Cultural Fund 8. Fund for Army 9. The National Children’s Fund 10. <u>National Fund for Control of Drug Abuse</u> 11. <u>Swachh Bharat Kosh</u> 12. <u>Clean Ganga Fund</u> 13. <u>PM Care Fund.</u> | <ol style="list-style-type: none"> 1. Jawaharlal Nehru Memorial Fund 2. PM Drought Relief Fund 3. Indira Gandhi Memorial Trust 4. Rajiv Gandhi Foundation |

B. Deduction of some donation is subject to QUALIFYING AMOUNT [In aggregate]

| | |
|---|---|
| <p>3) <u>100% deduction</u></p> <ul style="list-style-type: none"> • Donation to Govt., or approved institution for promoting family planning; • <u>Donation by company to Indian Olympic Association</u> or Notified institution for the development of Infrastructure for sports <u>in India.</u> | <p>4) <u>50% deduction</u></p> <ul style="list-style-type: none"> • Donation to Charitable Trust. • Donation for benefit of minority community. • Donation for renovation or for repair of temple, mosque, Gurudwara, church, etc. • Donation to housing development authority constituted in India. |
|---|---|

QUALIFYING AMOUNT: It means 10% of Adjusted GTI or the Donations given [in Aggregate] whichever is less.

[Adjusted GTI means: GTI – LTCG – STCG u/s 111A – All deduction of Chapter VIA except 80G]

WORKING FORMAT:

| Donation to - | Qualifying Amt. | % Eligible | Deduction |
|--|-----------------|------------|-----------|
| 1. Donation without any qualifying limit: | | | |
| 1. PMNRF | | 100% | |
| 2. Zila Saksharta Samiti | | 100% | |
| 3. Indra Gandhi Memorial Trust | | 50% | |
| Total deduction under (A) | | | |
| 2. Donation subject to qualifying limit of total donation of 10% of Adjusted GTI: | | | |
| 1. Government for the promotion of family planning. | | 100% | |
| 2. An approved charitable institution (the qualifying amount = 10% of Adj. GTI - Donation for family planning, which is eligible for 100% deduction) | | 50% | |
| Qualifying amount under (B) = 10% of Adj. GTI | | | |
| Total Deduction u/s 80G [(A) + (B)] | | | |
| **Adjusted GTI = GTI - Deduction u/s 80C to 80G – STCG referred u/s 111A -LTCG (Section 112 or 112A) | | | |

Deduction in respect of Rent paid [Section 80GG]

1. **Applicability:** Individual.
2. **Quantum of deduction:** **Least of the following**
 - a. Actual rent paid - 10% of the Adjusted GTI, or
 - b. 25% of the Adjusted GTI, or
 - c. 5,000 p.m.

Adjusted GTI means

| | |
|---|-------|
| Gross Total Income | XXX |
| Less: LTCG u/s 112 or 112A | (XXX) |
| Less: STCG u/s 111A | (XXX) |
| Less: Deduction u/s 80C to 80U except 80GG | (XXX) |

Deduction in respect of Donation for scientific research or rural development [Sec 80GGA]

1. Eligible assessee: All assessee (except assessee having income under the head PGBP).
2. Amount of deduction: 100% of donation.
3. If donation amount is more than 2,000 then should be made other than cash.

Donation to Political parties or Electoral Trust [Sec 80GGB]

1. Eligible assessee: Indian Company
2. Amount of deduction: 100% of donation.
3. Donation other than cash.

Donation to Political Parties or Electoral Trust [Sec 80GCC]

1. Eligible assessee: Any person (other than Indian Company)
2. Amount of deduction: 100% of donation.
3. Donation other than cash.

DEDUCTION IN RESPECT OF ROYALTY INCOME ON BOOKS [Sec 80QQB]

1. **ELIGIBLE ASSESSEE:** Resident individual being an author who's GTI includes INCOME in the nature of
 - a. *Lump sum consideration* for his interests in the copyright of any book being a work of literary, artistic, scientific nature **or**
 - b. *Royalty or copyright fees* in respect of such book.
2. **DEDUCTION: LOWER OF**
 - a. 100% of such lump sum income [15% of the value of books in case of Royalty] (Less: Related Expenses) **OR**
 - b. 3,00,000

DEDUCTION IN RESPECT OF ROYALTY INCOME ON PATENTS [Sec 80RRB]

1. **ELIGIBLE ASSESSEE:** *RESIDENT Individual* whose GTI includes Royalty Income from Patent.
2. **DEDUCTION:** lower of
 - a. 100% of such income; or
 - b. 3,00,000

COMMON FOR 80QOB/80RRB BOTH

If income earned from foreign sources: Deduction is allowed to the extent the income is brought into India in Convertible Foreign Exchange **within 6 months from end of Previous Year** or such extended period as allowed by RBI / competent authority.

Deduction in respect of interest on deposits in saving accounts to the extent of Rs. 10,000 [Section 80TTA]

1. **Applicability: Individual or HUF (Other than senior citizen covered u/s 80TTB)**
2. **Maximum Qualifying Amount of deduction under section 80TTA: 10,000**
3. GTI includes ***interest on deposits (not being time deposit)*** in a ***Saving Bank Account*** with Banks, Co-operative society or Post Office.

Deduction in respect of interest on deposits to the extent of 50,000 [Section 80TTB]

1. **Applicability: Senior Citizen**
2. **Maximum Qualifying Amount of deduction under section 80TTB: 50,000**
3. GTI includes ***interest on deposits*** with Banks, Co-operative society or Post Office.

Note: Senior citizen who is eligible for deduction u/s 80TTB will not be able to claim deduction u/s 80TTA.

Deduction in respect of employment of new Workmen/Employees [Section 80JJAA]

1. Where the GTI of **an assessee** (any person) to whom **section 44AB applies**, includes any profits and gains derived from business, a deduction of an amount equal to **30% of additional employeecost** incurred in the course of such business in the previous year shall be allowed, **for 3 assessment years** including the assessment year relevant to the previous year in which such employment is provided.
2. **"Additional Employee Cost"** means total emoluments paid or payable to **additional employees employed** during the PY: **Provided** that in the case of an existing business, the additional employee cost shall be NIL, if-
 - a. there is **no increase in the number of employees**;
 - b. emoluments are paid **otherwise than by an a/c payee cheque or draft or NEFT or RTGS or any electronic mode or through any other prescribed electronic mode.:** **Provided that in new business**, emoluments paid or payable to employees employed during that PY **shall be deemed to be the additional employeecost**;
3. **"Additional Employee" does not include,-**
 - a. an employee whose total emoluments are **more than 25,000 per month**; or
 - b. an employee for whom the **entire contribution is paid by the Govt.** under the Employees' Pension Scheme; or
 - c. an employee employed for a period of **less than 240 days** during the PY (150 days in case of Apparel, **footwear or leather products**); or
 - d. an employee who **does not participate in the RPF**;

where an employee is employed during the PY for a period of less than 240/ 150 days, as the case may be, but is employed for a period of 240/ 150 days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year and the provisions of this section shall apply accordingly

CLUBBING OF INCOME

TRANSFER OF INCOME WITHOUT TRANSFER OF THE ASSET [SEC 60]

If any person transfers the income from any asset without transferring the asset itself, such income is to be included in the total income of the transferor.

INCOME ARISING FROM REVOCABLE TRANSFER OF ASSETS [SECTION 61]

All income arising to any person *by virtue of a revocable transfer of assets* is to be included in the total income of the transferor.

EXCEPTIONS WHERE CLUBBING PROVISIONS ARE NOT ATTRACTED EVEN IN CASE OF REVOCABLE TRANSFER [SECTION 62]:

1. Transfer not revocable during the life time of the beneficiary or the transferee;
2. Transfer is made before 01.04.1961 & transfer is not revocable for a period > 6 years.

SECTION 64(1)(II): INCOME OF SPOUSE FROM A CONCERN IN WHICH THE INDIVIDUAL HAS SUBSTANTIAL INTEREST

Any remuneration derived by a spouse from a concern in which the *other spouse has a substantial interest*, shall be **clubbed in the hands of the spouse who has a substantial interest in that concern.**

- a. No clubbing if remuneration is due to technical or professional qualifications of spouse.
- b. **If the husband and wife both have substantial interest in the concern and**
 - ❖ both are in receipt of remuneration from the concern,
 - ❖ then the remuneration of *both* shall be clubbed in the hands of *that spouse*
 - ❖ whose **total income, before including such remuneration, is greater.**

Where any such income is once included in the total income of either spouse, income arising in the succeeding year shall **not be included in the total income of the other spouse unless the Assessing Officer is satisfied**, after giving that spouse an opportunity of being heard, that it is necessary to do so.

Meaning of substantial interest:

An individual shall be deemed to have a substantial interest in the concern:

For company - at least 20% equity shares of such company **at any time** during the PY are held by individual **along with his relatives.**

For any other case-at least 20% of the profits of such concern **at any time** during the PY is held by individual **along with his relatives.**

“Relative” means the spouse, brother or sister or any *lineal ascendant or descendant* of the individual.

INCOME ARISING TO THE SPOUSE FROM AN ASSET TRANSFERRED WITHOUT ADEQUATE CONSIDERATION [SECTION 64(1)(iv)]

If an individual transfers directly or indirectly any asset *other than house property* to his/her spouse, the income from such an asset shall be included in the total income of the transferor.

The income from the transferred assets shall not be clubbed in the following cases:

- i. if the transfer is for adequate consideration;
- ii. the transfer is under an agreement to live apart;

Note:

1. If an individual transfers a house property to his spouse, without adequate consideration or otherwise than in connection with an agreement to live apart, the transferor shall be deemed to be the owner of the house property and its annual value will be taxed in his hands. [Section 27]
2. It is also to be noted that natural love and affection do not constitute adequate consideration.

INCOME ARISING TO SON'S WIFE FROM THE ASSETS TRANSFERRED WITHOUT ADEQUATE CONSIDERATION BY THE FATHER-IN-LAW OR MOTHER-IN-LAW [SECTION 64(1)(vi)]

Where an asset is transferred, directly or indirectly, by an individual to his or her son's wife without adequate consideration, the income from such asset is to be included in the total income of the transferor.

For the purpose of Clause (iv) & (vi) [Asset transferred to Spouse or Son's wife] above, following points must be noted:

1. The relationship must exist on the date of transfer as well as at the time of accrual of income during the P.Y.
2. Clubbing is not applicable on any income which arises on accretion of the transferred asset.
3. Where the transferred assets is invested by the transferee in any business by way of capital contribution then, the following proportionate income shall be clubbed with the income of the individual:

| | | |
|---|---|--|
| Investment made by transferee out of transferred asset As on the first day of Previous Year | X | <u>Total income from such business</u> |
| Total Investment in the business as on the first day of Previous Year | | |

TRANSFER OF ASSETS FOR THE BENEFIT OF THE SPOUSE [SECTION 64(1)(vii)]

Where any asset is transferred by an individual, without adequate consideration, to any person for the benefit of Spouse, then any income arising from such transferred asset, is liable to be taxed in the hands of the transferor, to the extent such income is used for the immediate / deferred benefit of such spouse.

TRANSFER OF ASSETS FOR THE BENEFIT OF SON'S WIFE [SECTION 64(1)(viii)]

Where any asset is transferred by an individual, without adequate consideration, to any person for the benefit of Son's wife, then any income arising from such transferred asset, is liable to be taxed in the hands of the transferor, to the extent such income is used for the immediate / deferred benefit of the Son's wife

CLUBBING OF MINOR'S INCOME [SECTION 64(1A)]

The income of the minor child [including minor married daughter] is liable to be taxed in the hands of that parent, whose total income, excluding income of minor child, is Greater.

Exception: No clubbing shall apply in case of following incomes:

1. Where a **minor child is suffering from disability** of the nature specified in Sec. 80U.
2. Where such income as arises / accrues to the minor child **on account of any manual work** done by him or **activity involving application of his skill, talent or specialized knowledge** and experience.

Notes:

- ❖ **Section 10(32) provides** that where the income of an individual includes the income of his minor child due to the operation of Section 64(1A), the individual shall be entitled to exemption of such income subject to a maximum of ` 1,500 per child. [**Not applicable in case of Section 27 – Deemed Owner**]
- ❖ Once clubbing of minor's income is done with that of one parent, it will continue to be clubbed with that parent only, in subsequent years. The Assessing Officer, may, however, club the minor's income with that of the other parent, if, after giving the other parent an opportunity to be heard, he is satisfied that it is necessary to do so.
- ❖ Where **the marriage of his parents does not subsist**, income of the minor shall be clubbed in the income of that parent who maintains the minor child in the relevant previous year.
- ❖ If the income by way of manual work or activity involving application or skill, etc. which was not clubbed, *invested, and income is earned thereon*, **such investment income shall be clubbed.**
- ❖ If the minor child becomes major during the P.Y., ***then the incomes till the date he remained minor*** in that P.Y. shall be clubbed with the parent.
- ❖ **Minor Child includes step or adopted child.**

Cross Transfers

In the case of cross transfers also (e.g., A making gift of ` 50,000 to the wife of his brother B for the purchase of a house by her and a simultaneous gift by B to A's minor son of shares in a foreign company worth ` 50,000 owned by him), the income from the assets transferred 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 by being mutual or otherwise. Thus, in the instant case, the transfers have been made by A and B to persons who are not their spouse or minor child so as to circumvent the provisions of this section, showing that such transfers constituted consideration for each other.

CONVERSION OF SELF-ACQUIRED PROPERTY INTO THE PROPERTY OF A HUF [SECTION 64(2)]

Where an individual, who is a member of the Hindu Undivided Family transfers his individual property to the family, otherwise than for adequate consideration, ***then the income from such property shall continue to be included in the total income of the individual.***

Implication in the case of subsequent partition:

Where the converted property has been the subject matter of partition (whether partial or total) amongst the members of the family, the income derived from such, ***converted property as is received by the spouse***, on partition, shall be deemed to arise to the spouse from assets transferred indirectly by the individual to the spouse ***and the income from the portion, received by the spouse, shall be clubbed in the hands of the transferor.***

INCOME INCLUDES LOSS [CLUBBING OF NEGATIVE INCOME]

'Income' would include 'loss'. Accordingly, where the specified income to be included in the total income of the individual is a loss, such loss will be taken into account while computing the total income of the individual.

SET OFF & CARRY FORWARD OF LOSSES

| Inter-source and Inter-head set-off of losses [Sections 70 & 71] | | | |
|---|--|--|--|
| Section | Provision | Exceptions | |
| 70 | <p><u>Inter-source set-off of losses under the same head of income</u></p> <p>Any loss in respect of one source shall be set-off against income from any other source under the same head of income. For example,</p> <ul style="list-style-type: none"> -loss from textile business can be set-off against profit from printing business. -loss from one HP can be set-off against income from another HP. -STCL can be set-off against both STCG and LTCG. | (i) | Loss from speculation business can be set-off only against profits from another speculation business. |
| | | (ii) | Loss from specified business under section 35AD can be set-off only against profits from any other specified business. |
| | | (iii) | Long term capital loss (LTCL) can be set-off only against Long term capital gains (LTCG). |
| | | (iv) | Loss from the activity of owning and maintaining race horses can be set-off only against income from the activity of owning and maintaining race horses. |
| 71 | <p><u>Inter head adjustment</u></p> <p>Loss under one head of income can be set-off against income assessable under any other head of income.</p> <p>For example, business loss can be set-off against income from house property.</p> | (i) | Loss under the head "PGBP" cannot be set off against income under the head "Salaries" |
| | | (ii) | Loss under the head "CG" cannot be set-off against income under any other head. |
| | | (iii) | <u>Speculation loss, losses from specified business u/s 35AD and loss from the activity of owning and maintaining race horses cannot be set-off against income under any other head.</u> |
| | | (iv) | <u>Loss from HP can be set-off against income under any other head only to the extent of 2 lakhs. The remaining loss can be carried forward for set-off against income from HP of the succeeding year(s).</u> |
| Losses which cannot be set-off or carried forward | | | |
| Loss from gambling, betting, card games etc. | | | |
| Loss from an exempt source [for example, share of loss of partnership firm cannot be set-off against any other business income] | | | |
| Maximum period of c/f of losses & Manner of set-off of brought forward losses | | | |
| Section | Nature of loss to be carried forward | Income against which the brought forward loss can be set-off | Maximum period [from the end of the relevant AY] for carry forward of losses |
| 32(2) | Unabsorbed depreciation | Income under any head other than salaries | Indefinite period |
| 71B | Unabsorbed loss from HP | Income from HP | 8 assessment years |
| 72 | Unabsorbed business loss | Profits and gains from business or profession | 8 assessment years |
| 73 | Loss from speculation | Income from any | 4 assessment years |

| | business | speculation business | |
|--|---|---|--------------------|
| 73A | Loss from specified business under section 35AD | Profit from any specified business, irrespective of whether such business is eligible for deduction u/s 35AD. | Indefinite period |
| 74 | Long-term capital loss | Long-term capital gains | 8 assessment years |
| | Short-term capital loss | STCG/LTCG | 8 assessment years |
| 74A | Loss from the activity of owning and maintaining race horses | Income from the activity of owning and maintaining race horses. | 4 assessment years |
| Order of set-off of losses | | | |
| 1. | Current year depreciation / Current year capital expenditure on scientific research and current year expenditure on family planning, to the extent allowed. | | |
| 2. | Brought forward loss from business/profession [Section 72(1)] | | |
| 3. | Unabsorbed depreciation [Section 32(2)] | | |
| 4. | Unabsorbed capital expenditure on scientific research [Section 35(4)]. | | |
| 5. | Unabsorbed expenditure on family planning [Section 36(1)(ix)] | | |
| <i>Note - As per section 80, filing of loss return under section 139(3) within the due date specified under section 139(1) is mandatory for carry forward of the above losses except loss from house property and unabsorbed depreciation.</i> | | | |

ADVANCE TAX

LIABILITY FOR PAYMENT OF ADVANCE TAX

1. Tax shall be payable in advance during any FY in respect of Total Income of the assessee which would be chargeable to tax for the AY immediately following that financial year.
2. Under section 208, obligation to pay advance tax arises in every case where the advance tax payable is **10,000 or more**.
3. **However, A Resident Senior Citizen, not having any income chargeable u/h "PGBP" shall not be liable to pay advance tax.**

Section 211: Advance tax is payable in the following installments

For Assessee who declares profits or gains in accordance with the Sec 44AD or Sec 44ADA

Advance tax is payable to the extent of the whole amount of such advance tax during each financial year on or before the 15th March

For other Assessee:

| Due date of installment | Installment Amount |
|--|---|
| On or before 15th June | 15% of the advance tax liability |
| On or before 15th Sept | 45% of the Advance tax liability <i>as reduced</i> by the amount, of any, paid in earlier installment. |
| On or before 15th Dec | 75% of the advance tax liability <i>as reduced</i> by the amount, if any, paid in earlier installments. |
| On or before 15th Mar | 100% of the advance tax liability <i>as reduced</i> by the amount, if any, paid in earlier installments. |

SECTION 234A - INTEREST FOR DEFAULT IN FURNISHING OF ROI

| | | |
|---|---|-------------------|
| <u>Applicability:</u> | <ol style="list-style-type: none"> 1. The ROI is not filed within the due date u/s 139(1) or within the time allowed by the notice u/s 142(1), or 2. The ROI is not furnished | |
| <u>Rate of Interest</u> | 1% for every month or part of the month | |
| <u>Period of Interest</u> | <ol style="list-style-type: none"> 1. When the ROI is filed: From the due date of filing the return, till the date of furnishing the ROI. 2. Where ROI is not filed: From the due date of filing Return of Income, upto the date of completion of assessment. | |
| <u>Amount on which interest is payable</u> | Tax Payable Less: TDS/TCS/Advance Tax Paid/Relief u/s 89 Tax Amount on which interest is payable: | XXX XXX XXX |

Interest for non-payment or short-payment of advance tax [Section 234B]

1. Interest under section 234B is attracted for non-payment of advance tax or payment of advance tax of an amount **less than 90% of assessed tax**. But not applicable if assessee paid more than 90% of advance tax payable.
2. The interest liability would be **1% per month or part of the month** starting from 1st April following the financial year and ending on the date of payment of Income Tax.
3. Such interest is calculated on the amount of **difference between the assessed tax and the advance tax paid**.

4. **Assessed tax** is the *tax calculated on total income less TDS/TCS/Relief u/s 89*

Interest payable for deferment of advance tax [Section 234C]

1. Interest under section 234C is attracted for deferment of advance tax beyond the due dates.
2. The interest liability would be 1% per month, for a period of 3 months, for every deferment.
3. **However, for the installment due on 15th March, the interest liability under this section would be 1% for one month.**
4. **In case of Assessee covered in Section 44AD/Section 44ADA, Interest@1% on amount of shortfall [Installment due on 15th March i.e. 100% less Advance Tax Paid]**
5. The interest is to be calculated on the difference between the amount arrived at by applying the specified percentage of **Tax due on Returned Income [Tax less TDS/TCS/Relief u/s 89]** and the actual amount paid by the due date

6.

| Specified date (1) | Specified % (2) | Shortfall in advance tax (3) | Period (4) |
|-----------------------|--------------------|--|---------------|
| 15 th June | 15% | 15% of tax due on returned income (-) advance tax paid up to 15 th June | 3 months |
| 15th September | 45% | 45% of tax due on returned income (-) advance tax paid up to 15th September | 3 months |
| 15th December | 75% | 75% of tax due on returned income (-) advance tax paid up to 15th December | 3 months |
| 15th March | 100% | 100% of tax due on returned income (-) advance tax paid up to 15th March | 1 month |

7. If advance tax paid in case of *1st & 2nd installment is 12% or more and 36% or more respectively*, then no interest shall be payable by any assessee.
8. The amount of tax in respect of which interest is to be calculated is to be **rounded off to the nearest multiple of rupees hundred and any fraction of hundred is to be ignored.**
9. **Non-applicability of interest under section 234C in certain cases:** Interest under section 234C shall not be leviable in respect of any shortfall in payment of tax due on returned income, where such shortfall is on account of under-estimate or failure to estimate –
 - (i) the amount of capital gains;
 - (ii) income of nature referred to in section 2(24)(ix) i.e., winnings from lotteries, crossword puzzles etc.;
 - (iii) income under the head “PGBP” in cases where the income accrues or arises under the said head for the first time.
 - (iv) *the amount of dividend income u/s 2(22)(a)/(b)/(c)/(d)*
10. However, the assessee should have paid the whole of the amount of tax payable in respect of such income referred to in (i), (ii), (iii) and (iv), as the case may be, had such income been a part of the total income, as part of the remaining instalments of advance tax which are due or where no such instalments are due, by 31st March of the financial year.

Return filed late, but tax paid before due date: No Interest u/s 234.

TAX DEDUCTED AT SOURCE

| I. TAX DEDUCTION AT SOURCE | | | | | | |
|-----------------------------------|---|---|---|-----------------------|---|--|
| Section | Nature of payment | Threshold Limit for deduction of tax at source | Payer | Payee | Rate of TDS | Time of deduction |
| 192 | Salary | Basic exemption limit (2,50,000/3,00,000, as the case may be). This is taken care of in computation of the average rate of income-tax. | Any person responsible for paying any income chargeable under the head "Salaries" | Individual (Employee) | Average rate of income-tax computed on the basis of the rates in force. | At the time of payment* |
| 192A | Premature withdrawal from Employee Provident Fund | Payment or aggregate payment \geq 50,000 | Trustees of the EPF Scheme or any authorised person under the Scheme | Individual (Employee) | 10% [In case of failure to furnish PAN, TDS @ Maximum Marginal Rate] | At the time of payment |
| 193 | Interest on Securities | <p>>10,000 in a F.Y., in case of interest on 8% Savings (Taxable) Bonds, 2003/ 7.75% Savings (Taxable) Bonds, 2018.</p> <p>>5,000 in a F.Y., in case of interest on debentures issued by a Co. in which the public are substantially interested, paid or credited to a resident individual or HUF by an A/c payee cheque.</p> <p>> No threshold specified in any other case.</p> | Any person responsible for paying any income by way of interest on securities | Any resident | 10% | At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier. |
| 194 | Dividend (including dividends on preference shares) | <p>>5,000 in a F.Y., in case of dividend paid or credited to an individual shareholder by any mode other than cash</p> <p>>No threshold in other cases</p> | The Principal Officer of a domestic company | Resident shareholder | 10% | Before making any payment by any mode in respect of any dividend or before making any distribution or payment of dividend. |

* Except in case of TDS on perquisite of ESOP provided by eligible start-up

| Section | Nature of payment | Threshold Limit for deduction of tax at source | Payer | Payee | Rate of TDS | Time of deduction |
|---------|--|---|---|---|---|--|
| 194A | Interest other than interest on securities | > 40,000 in a F.Y., in case of interest credited or paid by – (i) a banking company; (ii) A co-operativesociety engaged in banking business; (iii) a post office on any deposit under a notified Scheme. In all the above cases, if payee is a resident senior citizen, tax deduction limit is > 50,000. > 5,000 in a F.Y, in other cases. | Any person (other than an individual or HUF whose total sales, gross receipts or turnover from business or profession do not exceed ` 1 crore in case of business or ` 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for paying interest other than Interest on securities. | Any Resident | 10% | At the time of credit or at the time of payment, whichever is earlier. |
| 194B | Winnings from any lottery, crossword puzzle or card game or other game | > ` 10,000 | The person responsible for paying income by way of such winnings | Any Person | 30% | At the time of payment |
| 194B B | Winnings from horse race | > ` 10,000 | Book Maker or a person holding licence for horse racing or for arranging for wagering or betting in any race course. | Any Person | 30% | At the time of payment |
| 194C | Payments to Contractors | Single sum credited or paid > ` 30,000 (or) The aggregate of sums credited or paid to a contractor during the F.Y. > ` 1,00,000 Individual/HUF need not deduct tax where sum is credited or paid exclusively or for personal purposes | CG/SG., Local authority Central/State/ Provincial Corpn., company, firm, trust, registered society, co-operative society, university established under Central/ State/ Provincial Act declared university under the UGC Act Govt. of Foreign State or a foreign enterprise, individual/HUF whose total sales, gross receipts or turnover from business or profession exceed 1 crore in case of business or 50 lakhs in case of profession during the preceding F.Y. | Any Resident Contractor for carrying out any work | 1% Of sum paid or credited, if the payee is an Individual or HUF 2% of sum paid or credited, if the payee is any other person. | At the time of credit or at the time of payment, whichever is earlier |
| 194D | Insurance Commission | > 15,000 in a financial year | Any person responsible for paying any income by way of remuneration or reward for soliciting or procuring insurance business | Any Resident | 5% | At the time of credit or payment, whichever is earlier. |

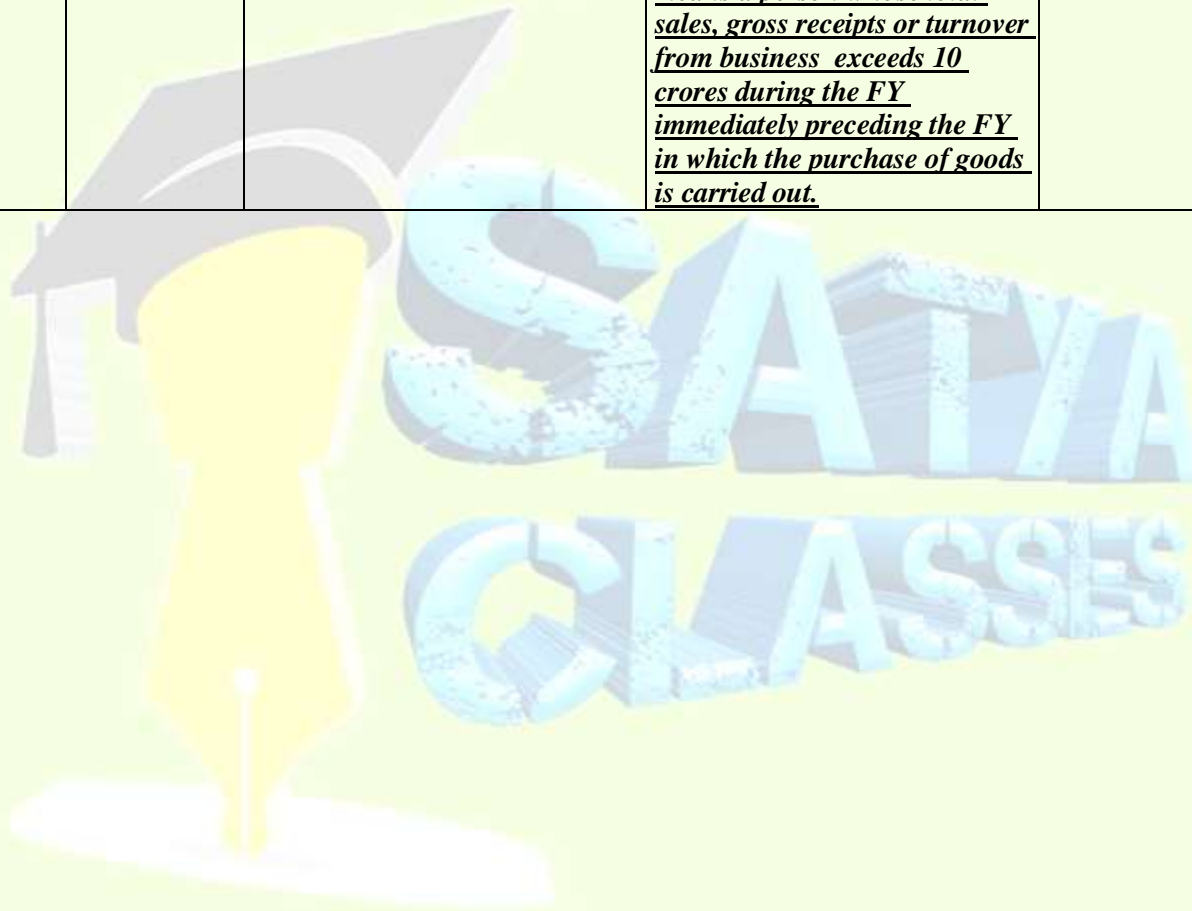
| Secti on | Nature of payment | Threshold Limit for deduction of tax atsource | Payer | Payee | Rate of TDS | Time of deduction |
|----------|--|---|---|--|--|--|
| 194D A | Any under a sum Life Insurance Policy | ≥ 1,00,000 (aggregate amount of payment to a payee in a financial year) | Any person responsible for paying any sum under a LIP, including the sum allocated by way of bonus | Any resident | 5% of the amount of income comprise | At the time of payment |
| 194E | Payment to non-resident sportsmen or sports associations of income referred to in section 115BBA | | Any person responsible for making the payment | Nonresident sportsman or entertainer who is not a citizen of India or non-resident sports association or institution | 20.8% (including health and Education cess @ 4%) | At the time of credit or at the time of payment, whichever is earlier. |
| 194EE | Payment of deposit under National Saving Scheme | ≥ 2,500 in a financial year | Any person responsible for Paying | Individual or HUF | 10% | At the time of payment |
| 194G | Commission on sale of lottery tickets | > 15,000 in a financial year | Any person responsible for paying any income by way of commission, remuneration or prize (by whatever name called) on lottery tickets | Any person stocking, distributing, purchasing or selling lottery tickets | 5% | At the time of creditor at the time of payment, whichever is earlier. |
| 194H | Commission or brokerage | > 15,000 in a financial year | Any person (other than an Individual or HUF whose total sales, gross receipts or business or profession do not exceed 1 crore in case of business or 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for Paying commission or brokerage. | Any resident | 5% | At the time of credit or at the time of payment whichever is earlier. |
| 194-I | Rent | > 2,40,000 in a financial year | Any person (other than an individual or HUF whose total sales, gross receipts or turnover from business or profession carried on by him do not exceed 1 crore in case of business or 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for paying rent. | Any resident | For P & M or equipment - 2%. For land or building, furniture or fittings - 10% | At the time of credit or at the time of payment, whichever is earlier. |

| Secti on | Nature of payment | Threshold Limit for deduction of tax atsource | Payer | Payee | Rate of TDS | Time of deduction |
|----------|---|---|---|---------------------|--|---|
| 194-IA | Payment on transfer of certain immovable property other than agricultural land | ≥ 50lakh (Consideration for transfer) | Any person, Being a transferee (other than a person referred to in section 194LA responsible for paying compensation for Compulsory acquisition of Immovable property other than rural agricultural land) | Resident transferor | 1% | At the time of credit or at the time of payment, whichever is earlier. |
| 194-IB | Payment of rent by certain individuals or HUF | > 50,000 for a month or part of a month | Individual/ HUF (other than Individual/HUF whose total sales, gross receipts or turnover from business or Profession carried on by him exceeds 1 crore in case of business or 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for paying rent. | Any Resident | 5% | At the time of credit of rent, for the last month of the PY or the last month of tenancy, or at the time of payment, whichever is earlier |
| 194-IC | Payment under specified agreement referred to in section 45(5A) | No threshold specified. | Any person Responsible for paying any sum by way of consideration, not being consideration in kind, under a Registered agreement, wherein L or B or both are handed over by the owner for development of real estate project, for a consideration, being a share in L or B or both in such project, with payment of part consideration in cash. | Any Resident | 10% | At the time of Credit or at the time of payment, whichever is earlier. |
| 194J | Fees for professional or technical services/ Royalty/ Non compete fees/ Director's remuneration | > 30,000 in a financial year, for each category of income. (However, this limit does not apply in case of payment made to director of a company). | Any person, other than an individual or HUF; However, in case of fees for professional or technical services paid or credited, individual/HUF, whose total sales, gross receipts or turnover from Business or profession exceeds 1 crore in case of business or 50 lakhs in case of profession during the immediately preceding F.Y., | Any Resident | 2% Payee engaged in call centre 2% - In case of fees for technical services or royalty, for sale, distributio | At the time of credit of such sum to the account of the payee or at the |

| | | | | | | |
|-------------|--|--|--|----------------------------|--|--|
| | | | liable to deduct tax u/s 194J, except where fees for professional services is credited or paid exclusively for his personal purposes. | | on or exhibition of cinematographic films 10% - Other payments | time of payment, whichever is earlier. |
| 194K | <u>Income on units other than in the nature of capital gains</u> | <u>> 5,000 in a financial year</u> | <u>Any person responsible for paying any income in respect of units of a mutual fund/Administrator of the specified undertaking/ specified company</u> | <u>Any resident</u> | <u>10%</u> | <u>At the time of credit or at the time of payment, whichever is earlier.</u> |
| 194LA | Compensation on acquisition of immovable property other than agricultural land | > 2,50,000 in a financial year | Any person responsible for paying any sum in the nature of compensation or enhanced compensation on compulsory acquisition of immovable Property | Any Resident | 10% | At the time of payment |
| 194M | - Payments to Contractors - Commission or brokerage - Fees for professional services | > 50,00,000 in a financial year | Individual or HUF other than those who are required to deduct tax at source under section 194C or 194H or 194J | Any Resident | 5% | At the time of credit or at the time of payment, whichever is earlier. |
| 194N | Cash withdrawals | >1 crore | - a banking company or any bank or banking institution - a co-operative society engaged in carrying on the business of banking or - a post office who is responsible for paying any sum, being the amount or the aggregate of amounts, as the case may be, in cash exceeding 1 crore during the previous year, to any person from one or more accounts maintained by the recipient | Any person | @2% of such sum If payee not filed ROI for all the 3 immediately preceding P.Y.s, such sum shall be the amt or agg. of amts, in cash >20 lakh during the P.Y. TDS @2% of the sum, where cash | At the time of payment of such sum |

| | | | | | | |
|-------|--|--|--|---|--|---|
| | | | | | withdrawal > 20 lakhs but ≤ 1 crore - @5% of sum, where cash withdrawal exceeds 1 crore | |
| 194-O | <u>Sale consideration or consideration for services facilitated through digital or electronic facility or platform</u> | <u>>` 5 lakhs, being gross amount of sales or service or both in a financial year to an e-commerce participant, being individual or HUF and such e-commerce participant has furnished PAN or Aadhar number to the e-commerce operator</u> <u>> No threshold in other cases</u> | <u>E-commerce operator, who facilitates sale of goods or Provision of services of an e-commerce participant through digital or electronic facility or platform</u> | <u>E-commerce participant</u> | <u>1% of gross amount of Sale or service or both</u> <u>[If failure to furnish PAN, Maximum TDS@5%]</u> | <u>At the time of credit or at the time of payment, whichever is earlier.</u> |
| 194P | <u>Pension (along with interest on bank account)</u> | <u>Basic exemption limit (3,00,000/ 5,00,000, as the case may be)</u> <u>The Specified Bank has to compute the total income after giving effect to the deduction allowable under Chapter VI-A should exceed the basic exemption limit.</u> <u>Further, in case the individual is entitled to rebate under section 87A from tax payable, then the same should be given effect to.</u> <u>The declaration given in the prescribed form and evidence submitted for claiming deduction under Chapter VI-A by the specified senior citizen has to be properly maintained by the Specified Bank and made available to the Principal Chief Commissioner of Income-tax or Chief Commissioner of Income-tax, as and when required.</u> | <u>Notified specified bank to mean a banking company which is a scheduled bank and has been appointed as agents of RBI</u> | <u>Specified senior citizen</u> <u>i.e., An individual, being a resident in India, who</u> <u>- is of the age of 75 years or more at any time during the PY;</u> <u>- is having pension income and no other income except interest received from any a/c maintained by such individual in the same specified bank in which he is</u> | <u>Rates in force</u> | |

| | | | | | | |
|-------------|---------------------------------|--|--|---|--|--|
| | | | | <u>receiving his pension income; and - has furnished a declaration to the specified bank.</u> | | |
| 194Q | <u>Purchase of goods</u> | <u>> ` 50 lakhs in a previous year</u> | <u>Buyer, who is responsible for paying any sum to any resident for purchase of goods. Buyer means a person whose total sales, gross receipts or turnover from business exceeds 10 crores during the FY immediately preceding the FY in which the purchase of goods is carried out.</u> | <u>Any resident</u> | <u>0.1% of sum exceeding ` 50 lakhs</u> | <u>At the time of credit or at the time of payment, whichever is earlier.</u> |



Guidelines under section 194Q

1. Applicability on transactions carried through various Exchanges:

Section 194Q shall **not** be applicable in relation to,-

- (i) transactions in securities and commodities which are traded through recognized stock exchanges.
- (ii) transactions in electricity, renewable energy certificates and energy saving certificates traded through registered power exchanges.

2. Calculation of threshold limit of 50 lakhs for Section 194Q:

The threshold of `50 lakhs is with respect to the previous year, calculation of sum for triggering TDS u/s 194Q shall be computed from 1st April, 2021. The provisions of this section shall **not** apply on any sum credited or paid before 1st July 2021. If either of the two events had happened before 1st July 2021.

3. Adjustment for GST & various state levies & taxes and Purchase returns:

| | Condition | Amount on which tax is to be deducted u/s 194Q |
|-------|---|---|
| (i) | Where tax is deducted at the time of credit; and The component of GST, VAT/Sales tax/Excise duty/CST is indicated separately in the invoice | Tax has to be deducted on the amount credited (without including such GST/VAT/ Sales tax/ Excise duty/CST) |
| (ii) | Where tax is deducted on payment basis (if payment is earlier than the credit) | Tax has to be deducted on the whole amount (since it is not possible to identify) |
| (iii) | In case of purchase returns, where the money is refunded by the seller | Tax deducted earlier u/s 194Q on such purchase (which is now returned) may be adjusted against the next purchase from the same seller |
| (iv) | In case of purchase returns, where goods are replaced by the seller | No adjustment is required. |

4. Whether non-resident can be buyer under section 194Q?

Section 194Q shall **not** apply to a non-resident whose purchase of goods from seller resident in India is not effectively connected with the permanent establishment of such non-resident in India.

5. Whether tax is to be deducted when the seller is a person whose income is exempt?

- Section 194Q would **not** apply on purchase of goods from a person, being a seller, who as a person is exempt from income tax under the Act
- Section 206C(1H) would not apply to sale of goods to a person, being a buyer, who as a person is exempt from income-tax
- This would not apply if only part of the income of a seller or a buyer, as the case may be) is exempt.

6. Whether tax is to be deducted on advance payment?

Section 194Q would apply to advance payment made by the buyer, since the provisions apply on payment or credit whichever is earlier, the provisions of section 194Q shall apply to advance payment made by the buyer to the seller.

7. Whether provisions of section 194Q shall apply to buyer in the year of incorporation?

Section 194Q would apply, if in the year of incorporation the total sales or gross receipts or turnover exceeding 10 crores during the financial year in which the purchase of goods is carried out.

8. Whether provisions of section 194Q shall apply to buyer if the turnover from business is ` 10 crore or less?

Section 194Q would apply, if the sales or gross receipts or turnover from business carried on by him must exceed 10 crore. His turnover or receipts from non-business activity is not to be counted for this purpose.

9. Cross application of section 194-O, section 206C(1H) and section 194Q

- If Section 194-O apply, then Sec 194Q & 206C(1H) Not apply on the same transaction.
- If Section 194Q apply, then Sec 206C(1H) Not apply on the same transaction.
- If Section 194-O & 194Q not apply, then Sec 206C(1H) apply.

10. Applicability of section 194Q in cases where exemption has been provided under section 206C(1A)

Section 206C(1A), tax is not required to be collected in the case of a resident buyer who furnishes declaration to the effect that the goods are to be utilised for the purposes of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

Section 194Q will apply in such cases covered u/s 206C(1A) and So TCS provisions are not attracted and the buyer is to be liable to deduct tax u/s 194Q.

11. Applicability of the provisions of section 194Q in case of department of Government

| | <i>Issue</i> | <i>Would TDS u/s 194Q be attracted?</i> |
|------|---|---|
| (i) | Can Department of Government be a “buyer” for the purposes of section 194Q? - If it is carrying on business/ commercial activity | Yes (subject to fulfillment of other conditions) |
| | - If it is not carrying on any business/ commercial activity | No, since it will not be considered as a buyer |
| (ii) | Can Department of Central/State Government be considered as “seller” for the purpose of section 194Q? | No[Hence, no TDS u/s 194Q by the buyer] |

Notes –

- (1) Section 206AA requires furnishing of PAN by the deductee to the deductor, failing which the deductor has to deduct tax at the higher of the following rates, namely, -
- (i) at the rate specified in the relevant provision of the Income-tax Act, 1961; or
 - (ii) at the rate or rates in force; or
 - (iii) at the rate of 20% and in case of section 194-O *and* 194-Q, 5%
- (2) 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 –
- (i) at twice the rate prescribed in the relevant provision of the Act;
 - (ii) at twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or
 - (iii) at 5%

However, section 206AB is **not** applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BB¹⁴ or 194N.

*Meaning of “specified person” – A person who has **not** filed the returns of income for both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be deducted, for which the time limit of filing return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is ` 50,000 or more in each of these two previous years.*

- (3) In case the provisions of section 206AA are also applicable to the specified person, in addition to the provisions of this section, then, tax is required to be deducted at higher of the two rates provided in section 206AA and section 206AB.
- (4) The threshold limit given in column (3) of the table is with respect to each payee.

Non-applicability of TDS under section 194N

Liability to deduct tax at source under section 194N shall not be applicable to any payment made to-

- ❖ the **Government**
- ❖ any **banking company** or co-operative society.
- ❖ any **business correspondent** of a banking company or co-operative society.
- ❖ any **white label ATM operator** of a banking company or co-operative society engaged in carrying on the business of banking.
- ❖ such **other person or class of persons notified** by the Central Government .

AMOUNT PAYABLE TO GOVERNMENT/RBI ETC [SECTION 196]

No Deduction of Tax shall be made by any person from any sums payable to:

- ❖ CG/SG
- ❖ RBI
- ❖ Statutory Corporation which is exempt from Tax
- ❖ Mutual Fund [Section 10(23D)].

Consequences of failure to deduct or pay [Section 201]

Such person shall also be liable to pay simple interest:

- i. At **one percent [1%]** for every month or part of a month on the amount of such tax was deductible to the date on which such tax is deducted; and
- ii. At **one and one-half percent [1.5%]** for every month or part of a month on the amount of such tax was deducted to the date on which such tax is actually paid.

Provided that if payee has furnished his ROI as aforesaid, the interest shall be payable from date on which tax was deductible to the date of furnishing ROI only.

TAX COLLECTION AT SOURCE

Every Seller at the time of debiting the buyer with the amount payable or receiving payments **from buyers engaged in business** of alcoholic liquor, forest produce, scrap, timber, tendu leaves, etc. **shall collect tax** at the following rates:

| Sr. No. | Nature of goods | TCS Rate |
|---------|--|----------|
| 1 | Alcoholic liquor for human consumption (other than Indian made foreign liquor) | 1% |
| 2 | Tendu Leaves | 5% |
| 3 | Timber obtained under a forest lease | 2.5% |
| 4 | Timber obtained by mode other than under a forest lease | 2.5% |
| 5 | Any other forest produced not being timber or tendu leaves | 2.5% |
| 6 | Scrap | 1% |
| 7 | Minerals, being Coal or lignite or iron ore | 1% |

1. **Such tax is not to be collected if the purchase of above goods is made by buyer for the purpose of manufacturing, processing or producing articles or things or for the purposes of generation of power.**
2. **Every person, who grants a lease or a license or enters into a contract, etc for the purpose mentioned below shall collect tax at the following rates:**

| Sl. No. | Nature of contract or license or lease, etc. | TCS Rate |
|---------|--|----------|
| (i) | Parking Lot | 2% |
| (ii) | Toll plaza | 2% |
| (iii) | Mining and quarrying (excluding mineral oils, petroleum & natural gas) | 2% |

3. **Every Person, being a Seller, who receives any amount as consideration for sale of a motor vehicle (at retail level) of the value exceeding ten lakh rupees, shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 1% of the sale consideration (any mode) as income-tax.**
4. **"Seller" means the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm or co-operative society and also includes an individual or a Hindu undivided family whose accounts are audited u/s 44AB.**

5. Buyer for Point 1:

- ❖ Buyer does not include a Public Sector Company, the CG, SG and an Embassy, a High Commission, Legation, Commission, Consulate of a foreign state and a club
- ❖ A buyer in the retail sale of such goods purchased by him for personal consumption.

6. Buyer for Point 3: Buyer doesn't include

- a. Public Sector company or A Local Authority.
- b. CG, SG and an Embassy, High Commission, Legation, Commission, Consulate of a foreign State.

Every person,

- being an authorized dealer, who receives amount under the Liberalised Remittance Scheme of the RBI for overseas remittance from a buyer, being a person remitting such amount out of India,
- being seller of an overseas tour programme package who receives any amount from the buyer who purchases the package has to collect tax at the rate of 5% of such amount at the time of debiting of the amount payable by the buyer or at the time of receipt of such amount from the said buyer by any mode, whichever is earlier.

| S.No | Amount and purpose of remittance | Rate of TCS |
|--|--|---|
| (i) | (a) Where the amount is remitted for a purpose other than purchase of overseas tour programme package; and (b) the amount or aggregate of the amounts being remitted by a buyer is less than 7 lakhs in a financial year | Nil (No tax to be collected at source) |
| (ii) | (a) Where the amount is remitted for a purpose other than purchase of overseas tour programme package; and (b) the amount or aggregate of the amounts in excess of 7 lakhs is remitted by the buyer in a financial year | 5% of the amt or agg. of amts in excess of 7 lakh |
| (iii) | (a) where the amount being remitted out is a loan obtained from any financial institution, for the purpose of pursuing any education; and (b) the amount or aggregate of the amounts in excess of 7 lakhs is remitted by the buyer in a financial year | 0.5% of the amt or agg. of amts in excess of 7 lakh |
| Cases where no tax is to be collected | | |
| (i) | No TCS by the authorized dealer on an amount in respect of which the sum has been collected by the seller | |
| (ii) | No TCS, if the buyer is liable to deduct tax at source under any other provision of the Act and has deducted such tax | |
| (iii) | No TCS, if the buyer is the CG, a SG, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority. | |
| (iv) | <i>No TCS, if the buyer TCS u/s 206C(1G) would <u>not</u> be applicable, if the buyer is <u>not</u> a resident in India and who is visiting India.</i> | |

Every person, being a seller, who receives any amount as consideration for sale of goods of the value exceeding ` 50 lakhs in a previous year, other than exported goods or goods covered in (a)/(c)/(d)], is required to collect tax at source, at the time of receipt of such amount, @0.1% of the sale consideration exceeding ` 50 lakhs.

However, tax is not required to be collected if the buyer is liable to deduct tax at source under any other provision of the Act on the goods purchased by him from the seller and has deducted such tax.

In case of non-furnishing of PAN by the collectee to the collector, tax is required to be collected at the higher of –

- (i) twice the rate specified in the relevant provisions of the Act; or
- (ii) at 5% [1%, in case tax is required to be collected at source u/s 206C(1H)]. [Section 206CC]

The provisions of section 206CC does **not** apply to a non-resident who does not have a permanent establishment in India.

Section 206CCA requires tax to be collected at source on any sum or amount received by a person (collectee) **from a specified person**, at higher of the following rates –

- (a) at twice the rate specified in the relevant provision of the Act;
- (b) at 5%

In case the provisions of section 206CC are also applicable to the specified person, in addition to the provisions of section 206CCA, then, tax is required to be collected at higher of the two rates provided in section 206CC and section 206CCA.

Meaning of “specified person” – A person who has not filed the returns of income for both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be collected, for which the time limit of filing return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is 50,000 or more in each of these two previous years.

However, the specified person does **not** include a non-resident who does not have a permanent establishment in India

RETURN OF INCOME

COMPULSORY FILING OF RETURN OF INCOME [SECTION 139(1)]

1. It is mandatory for **COMPANIES AND FIRMS** to file a return of income or loss for every previous year on or before the due date.
2. **Further, every person, being an Individual / HUF / AOP / BOI / AJP:**
 - ❖ whose **TOTAL INCOME** during the previous year
 - ❖ without giving effect to the provisions of Chapter VI-A or Section 54/54B/54D/54EC/54F/54G/54GA/54GB exceeded the basic exemption limit [250,000 / 300,000 / ` 500,000 as the case may be]
 - ❖ is required to file a return of income on or before the due date.
3. In case of **person other than above**, filing of return on or before the due date is mandatory, if Total Income exceeds Basic Exemption Limits.

Compulsory filing of income tax return in relation to assets located outside India

Any Resident person (other than RNOR) who during the PY:

- a. *holds (beneficial Owner) any asset (including any financial interest in any entity) located outside India or has a signing authority in any account located outside India or*
- b. **is a beneficiary of any asset (including financial interest in any entity) located outside India** Shall furnish, on or before the due date, a return in respect of his Income or loss for the PY in prescribed manner. *However, an individual being a beneficiary of any asset (including any financial interest in any entity) located outside India would not be required to file return of income under this clause, where, income, if any, arising from such asset is includible in the income of the person referred to in (a) above.*

Any person is required to file income-tax return on or before the due date if, during the previous year, such person –

- ❖ *has deposited an amount or aggregate of the amounts exceeding 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or*
- ❖ *has incurred expenditure of an amount or aggregate of the amounts exceeding 2 lakh for himself or any other person for travel to a foreign country; or*
- ❖ *has incurred expenditure of an amount or aggregate of the amounts exceeding 1 lakh towards consumption of electricity;*

Requirement of filing return of income u/s 139(1) by certain persons

| | <i>Case</i> | <i>Prescribed transaction(s)</i> | <i>Prescribed Monetary threshold</i> |
|-------|--|---|---|
| (i) | <i>A person carrying on business</i> | <i>His total sales, turnover or gross receipts, as the case may be, in the business</i> | <i>> 60 lakhs during the relevant P.Y.</i> |
| (ii) | <i>A person carrying on profession</i> | <i>His total gross receipts in profession</i> | <i>>10 lakhs during the relevant P.Y.</i> |
| (iii) | <i>(a) A resident individual aged ≥ 60 years at any time during the P.Y.</i> | <i>The aggregate of TDS and TCS in his case</i> | <i>≥ 50,000 during the relevant P.Y.</i> |
| | <i>(b) Any other person</i> | <i>he aggregate of TDS and TCS in his case</i> | <i>≥ 25,000 during the relevant P.Y.</i> |
| (iv) | <i>A person having savings bank account</i> | <i>The deposit in one or more savings bank account of the person, in aggregate</i> | <i>≥ 50 lakhs during the relevant P.Y.</i> |

'DUE DATE'

1. 30th November of the AY, where the assessee is required to furnish a report u/s 92E = Transfer Pricing Report for International & Specified Domestic Transactions
2. 31st October of the AY, where the assessee is:
 - a. A company [Other than a company covered above]; or
 - b. A person whose *accounts are required to be audited*; or
 - c. A *working partner of a firm* whose accounts are required to be audited.
3. 31st July of the AY, in the case of any other assessee.

Note: If on the last date on which Income tax Return ought to be filed is a holiday then it can be filed on the next working day and it will be assumed as if return was filed on the due date.

Fee for Default in furnishing Return of Income [SECTION 234F]

Where a person, who is required to furnish a return of income under section 139, fails to do so, he shall pay, by way of fee, a sum of-

- a. **5,000** if the return is furnished **on or before the 31st December of AY**;
- b. **10,000** in any other case

However, if the total income of the person does not exceed ` 500,000, the fees payable shall not exceed 1,000

BELATED RETURN [SECTION 139(4)]

Any person who has not furnished a return within the time allowed to him under section 139(1) may furnish the return for any previous year at any time –

- a. 3 Months before the end of the relevant assessment year; or
- b. before the completion of the assessment, **whichever is earlier**.

REVISED RETURN [SECTION 139(5)]

1. If any person having furnished a return under section 139(1) or 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time 3 Months before the end of the relevant assessment year **OR** before completion of assessment, whichever is earlier.
2. **It may be noted that a belated return can be revised now.**
3. Once a revised return is filed, the original filed return must be taken to have been withdrawn & substituted by the revised return.
4. **CAN A LOSS RETURN BE REVISED:** Assessee files a loss return u/s. 139(3). Later it revises the return u/s. 139(5) and claims enhanced amount of loss. According to section 139(3), once a return is filed, all the provisions of the Income-tax Act shall apply as if such return has been filed u/s. 139(1).

DEFECTIVE RETURN [SECTION 139(9)]

1. Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he **may intimate the defect to the assessee and give him an opportunity to rectify the defect** within a period of 15 days from the date of such intimation.

2. The Assessing Officer has the discretion to extend the **time period beyond 15 days**, on an application made by the assessee.
3. If the defect is not rectified within the period of 15 days or such further extended period, then the return would be **treated as an invalid return**.
4. **The consequential effect would be the same as if the assessee had failed to furnish the return. However, the Assessing Officer can condone the delay and treat the return as a valid return.**
5. **A return of income shall be regarded as defective unless** the annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computations of gross total income and total income have been duly filled in.

PERMANENT ACCOUNT NUMBER (PAN) [SECTION 139A]

1. **Following persons, who have not been allotted a permanent account number (PAN), are liable to apply to the AO within the prescribed time for the allotment of a PAN:**
 - a. Every person whose total income or the total income of any other person in respect of which he is assessable under this Act **during any previous year exceeded the basic exemption limit**; or
 - b. Every person carrying on **any business or profession whose total sales, turnover or gross receipts exceeds or is likely to exceed ` 5 lakh** in any previous year; or
 - c. Every person, being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to ` 2,50,000 or more in a financial year.
 - d. Every person who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person mentioned in (c) above or any person competent to act on behalf of such person.

PENALTY FOR FAILURE TO COMPLY WITH THE PROVISIONS OF SECTION 139A or for quoting or intimating wrong PAN or possessing more than one PAN (Section 272B): ` 10,000. [No Penalty, if defaulter has reasonable cause of such failure.]

Monetary limits of specified transactions which require quoting of PAN:

| S.No. | Nature of transaction | Value of transaction |
|-------|---|-----------------------|
| 1. | Sale or purchase of motor vehicle (other than two wheeled motor vehicle) which requires registration | All such transactions |
| 2. | Opening an account [other than a time-deposit referred to at Sl. No.12 and a Basic Savings Bank Deposit Account] with a bank etc | All such transactions |
| 3. | Making an application to any bank etc for issue of a credit or debit card. | All such transactions |
| 4. | Opening of a Demat account | All such transactions |

| | | |
|----|---|---|
| 5. | Payment to a hotel or restaurant against a bill or bills at any one time | Payment in cash of an amount exceeding ` 50,000. |
| 6. | Payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time | Payment in cash of an amount exceeding ` 50,000. |
| 7. | Payment to a Mutual Fund for purchase of its units | Amount exceeding ` 50,000. |
| 8. | Payment to a company or an institution for acquiring debentures or bonds | Amount exceeding ` 50,000. |

| | | |
|-----|---|--|
| 9. | Payment to the Reserve Bank of India for acquiring bonds | Amount exceeding ` 50,000. |
| 10. | Cash with a banking company or a Deposit cooperative bank | Deposits in cash exceeding ` 50,000 during any one day. |
| 11. | Purchase of bank drafts or pay orders or banker's cheques | Payment in cash of an amount exceeding ` 50,000 during any one day. |
| 12. | A Time Deposit with, - (i) a banking company or a co-operative bank (ii) a Post Office; (iii) a Nidhi referred in Companies Act, 2013; or (iv) a NBFC | Amount exceeding ` 50,000 or aggregating to more than ` 5 lakh during a financial year |
| 13. | Payment for one or more pre-paid payment instruments | Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than ` 50,000 in a financial year. |

| | | |
|-----|---|---|
| 14. | Payment as life insurance premium | Amount aggregating to more than ` 50,000 in a financial year. |
| 15. | A contract for sale or purchase of securities (other than shares) | Amount exceeding ` 1 lakh per transaction |
| 16. | Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange. | Amount exceeding ` 1 lakh per transaction. |
| 17. | Sale or purchase of any immovable property | Amount exceeding ` 10 lakh or valued by stamp valuation authority referred to in section 50C of the Act at an amount exceeding ` 10 lakh |
| 18. | Sale or purchase, by any person, of goods or services of any nature other than above. | Amount exceeding ` 2 lakh per transaction |

Note:

- ❖ In case of minor who does not have any income chargeable to income-tax, PAN of his father or mother or guardian is required.
- ❖ Also, the provisions of this rule shall not apply to the Central Government, the State Governments and the Consular Offices

Inter-changeability of PAN with the Aadhaar number

Every person who is required to furnish or intimate or quote his PAN may furnish or intimate or quote his Aadhaar Number in lieu of the PAN w.e.f. 1.9.2019 if he

- ❖ *has not been allotted a PAN but possesses the Aadhaar number*
- ❖ *has been allotted a PAN and has intimated his Aadhaar number 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 Aadhaar number.

Section 139AA - Quoting of Aadhaar number

1. Every person who is eligible to obtain Aadhaar number shall, on or after the 1st day of July, 2017, quote Aadhaar number—
 - i. in the application form for allotment of permanent account number;
 - ii. in the return of income:
2. Every person who has been allotted permanent account number as on the 1st day of July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority in such form and manner as may be prescribed, on or before **31st March, 2022**:

Section 234H: Where a person, who is required to intimate his Aadhaar Number under section 139AA(2), fails to do so on or before the notified date i.e., **31st March, 2022**, he shall be liable to pay such fee, as may be prescribed, at the time of making intimation under section 139AA(2) after **31st March, 2022**. However, such fee shall not exceed 1,000.

Also the PAN allotted to the person would be made inoperative, from 1st April, 2023.

If such person fails to do so by the date 31st March, 2022, then, at the time of subsequent intimation of his Aadhaar number to the prescribed authority, such person would be liable to pay, by way of fee, an amount equal to,—

- (a) *500, in a case where such intimation is made within three months from the 31st March, 2022 i.e., by 30.06.2022; and*
- (b) *1,000, in all other cases.*

As per Central Government Notification provisions of section 139AA relating to quoting of Aadhaar Number would not apply to an individual who does not possess the Aadhaar number or Enrolment ID and is:

- a. residing in the States of Assam, Jammu & Kashmir and Meghalaya;
- b. a non-resident as per Income-tax Act, 1961;
- c. of the age of 80 years or more at any time during the previous year;
- d. not a citizen of India

TAX RETURN PREPARERS SCHEME [SECTION 139B]

| Particulars | Contents |
|--|---|
| Applicability of the scheme | The scheme is applicable to all eligible persons. |
| Eligible person | Any person <i>being an individual or a Hindu undivided family.</i> |
| Tax Return Preparer | Any individual who has been issued a "Tax Return Preparer Certificate" and a "unique identification number" to carry on the profession of preparing the returns of income. However, the following person are not entitled to act as TRP: (i) any officer of a scheduled bank. (ii) any legal practitioner. (iii) A chartered accountant. |
| Preparation of and Furnishing the Return of Income by the TRP | An eligible person may, at his option, furnish his return of income u/s 139 for any assessment year after getting it prepared through a TRP: Except: <ul style="list-style-type: none"> • A Company. • Any other person whose books of accounts are audited u/s 44AB. |

RETURN BY WHOM TO BE VERIFIED [Section 140]:

| Assessee | Case | Verified by |
|--------------------------------------|---|--|
| Individual | In General | Individual himself |
| | Where the individual concerned is absent from India | Individual himself or by the duly authorized person of such individual |
| HUF | In General | Karta |
| | Where the 'Karta' is absent from India or is mentally incapacitated | Any adult member of the family |
| Firm | In General | Managing Partner |
| | If no managing partner | Any adult partner |
| Limited liability partnership | In General | Designated partner |
| | If not designated partner <i><u>Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.</u></i> | Any partner <i><u>insolvency professional, interim resolution professional, or a liquidator appointed by such Adjudicating Authority.</u></i> |

| | | |
|------------------------|--|---|
| Local authority | Principal Officer | |
| Political party | Chief Executive Officer | |
| Company | In General | Managing Director (MD) |
| | No MD | Any director |
| | Non-Resident company | A person holding a valid power of attorney. Copy of such power of attorney must be attached with the return. |
| | Company under liquidation | Liquidator |
| | <i><u>Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.</u></i> | <i><u>insolvency professional, interim resolution professional, or a liquidator appointed by such Adjudicating Authority.</u></i> |

SELF-ASSESSMENT [SECTION 140A]

Where any tax is payable on the basis of any return required to be furnished under section 139, after taking into account –

- (i) the amount of tax, already paid,
- (ii) the tax deducted or collected at source
- (iii) any relief of tax claimed under section 89
- (iv) any tax credit claimed to be set-off in as per provisions of section 115JD; and
- (v) any tax and interest payable as per the provisions of section 191(2)

the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return.