

CA Inter Income Tax

MaY/Nov - 22

**All
ICAI Module
Ques Only**

RESIDENCE AND SCOPE OF TOTAL INCOME



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ILLUSTRATION 1

Mr. Anand is an Indian citizen and a member of the crew of a Singapore bound Indian ship engaged in carriage of passengers in international traffic departing from Chennai port on 6th June, 2021. From the following details for the P.Y. 2021-22, determine the residential status of Mr. Anand for A.Y. 2022-23, assuming that his stay in India in the last 4 previous years (preceding P.Y. 2021-22) is 400 days:

<i>Particulars</i>	<i>Date</i>
<i>Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Anand</i>	<i>6th June, 2021</i>
<i>Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Anand</i>	<i>9th December, 2021</i>

SOLUTION

In this case, since Mr. Anand is an Indian citizen and leaving India during P.Y. 2021-22 as a member of the crew of the Indian ship, he would be resident in India if he stayed in India for 182 days or more.

The voyage is undertaken by an Indian ship engaged in the carriage of passengers in international traffic, originating from a port in India (i.e., the Chennai port) and having its destination at a port outside India (i.e., the Singapore port). Hence, the voyage is an eligible voyage for the purposes of section 6(1).

Therefore, the period beginning from 6th June, 2021 and ending on 9th December, 2021, being the dates entered into the Continuous Discharge Certificate in respect of joining the ship and signing off from the ship by Mr. Anand, an Indian citizen who is a member of the crew of the ship, has to be excluded for computing the period of his stay in India. Accordingly, 187 days [25+31+31+30+31+30+9] have to be excluded from the period of his stay in India. Consequently, Mr. Anand's period of stay in India during the P.Y. 2021-22 would be 178 days [i.e., 365 days – 187 days]. Since his period of stay in India during the P.Y. 2021-22 is less than 182 days, he is a non-resident for A.Y. 2022-23.



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ILLUSTRATION 2

Brett Lee, an Australian cricket player visits India for 100 days in every financial year. This has been his practice for the past 10 financial years.

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

SOLUTION**(a) Determination of Residential Status of Mr. Brett Lee for the A.Y. 2022-23:-**

Period of stay during previous year 2021-22 = 100 days

Calculation of period of stay during 4 preceding previous years (100 x 4=400 days)

2020-21	100 days
2019-20	100 days
2018-19	100 days
2017-18	<u>100 days</u>
Total	<u>400 days</u>

Mr. Brett Lee has been in India for a period more than 60 days during previous year 2021-22 and for a period of more than 365 days during the 4 immediately preceding previous years. Therefore, since he satisfies one of the basic conditions under section 6(1), he is a resident for the assessment year 2022-23.

Computation of period of stay during 7 preceding previous years = 100 x 7=700 days

2020-21	100 days
2019-20	100 days
2018-19	100 days
2017-18	100 days
2016-17	100 days
2015-16	100 days
2014-15	<u>100 days</u>
Total	<u>700 days</u>

Since his period of stay in India during the past 7 previous years is less than 730 days, he is a not-ordinarily resident during the assessment year 2022-23. **(See Note below)**

Therefore, Mr. Brett Lee is a resident but not ordinarily resident during the previous year 2021-22 relevant to the assessment year 2022-23.

Note: An individual, not being an Indian citizen, would be not-ordinarily resident person if he satisfies any one of the conditions specified under section 6(6), i.e.,

- (i) If such individual has been non-resident in India in any 9 out of the 10 previous years preceding the relevant previous year, or
- (ii) If such individual has during the 7 previous years preceding the relevant previous year been in India for a period of 729 days or less.

In this case, since Mr. Brett Lee satisfies condition (ii), he is a not-ordinarily resident for the A.Y. 2022-23.

- (b) If the above facts relate to Mr. Srinath, an Indian citizen, who residing in Australia, comes on a visit to India, he would be treated as non-resident in India, irrespective of his total income (excluding income from foreign sources), since his stay in India in the current financial year is, in any case, less than 120 days.
- (c) In this case, if Srinath's total income (excluding income from foreign sources) exceeds ₹ 15 lakh, he would be treated as resident but not ordinarily resident in India for P.Y.2021-22, since his stay in India is 120 days in the P.Y.2021-22 and 480 days (i.e., 120 days x 4 years) in the immediately four preceding previous years.

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

ILLUSTRATION 3

Mr. B, a Canadian citizen, comes to India for the first time during the P.Y. 2017-18. During the financial years 2017-18, 2018-19, 2019-20, 2020-21 and 2021-22, he was in India for 55 days, 60 days, 90 days, 150 days and 70 days, respectively. Determine his residential status for the A.Y. 2022-23.

SOLUTION

During the previous year 2021-22, Mr. B was in India for 70 days and during the 4 years preceding the previous year 2021-22, he was in India for 355 days (i.e. 55+ 60+ 90+ 150 days).

Thus, he does not satisfy the basic condition under section 6(1). Therefore, he is a non-resident for the previous year 2021-22.

ILLUSTRATION 4

The business of a HUF is transacted from Australia and all the policy decisions are taken there. Mr. E, the Karta of the HUF, who was born in Kolkata, visits India during the P.Y. 2021-22 after 15 years. He comes to India on 1.4.2021 and leaves for Australia on 1.12.2021. Determine the residential status of Mr. E and the HUF for A.Y. 2022-23.

SOLUTION

- (a) During the P.Y. 2021-22, Mr. E has stayed in India for 245 days (i.e. 30+31+30+31+31+30+31+30+1 days). Therefore, he is a resident. However, since he has come to India after 15 years, he does not satisfy the condition for being ordinarily resident.

Therefore, the residential status of Mr. E for the P.Y. 2021-22 is resident but not ordinarily resident.

- (b) Since the business of the HUF is transacted from Australia and policy decisions are taken there, it is assumed that the control and management is in Australia i.e., the control and management is wholly outside India. Therefore, the HUF is a non-resident for the P.Y. 2021-22.

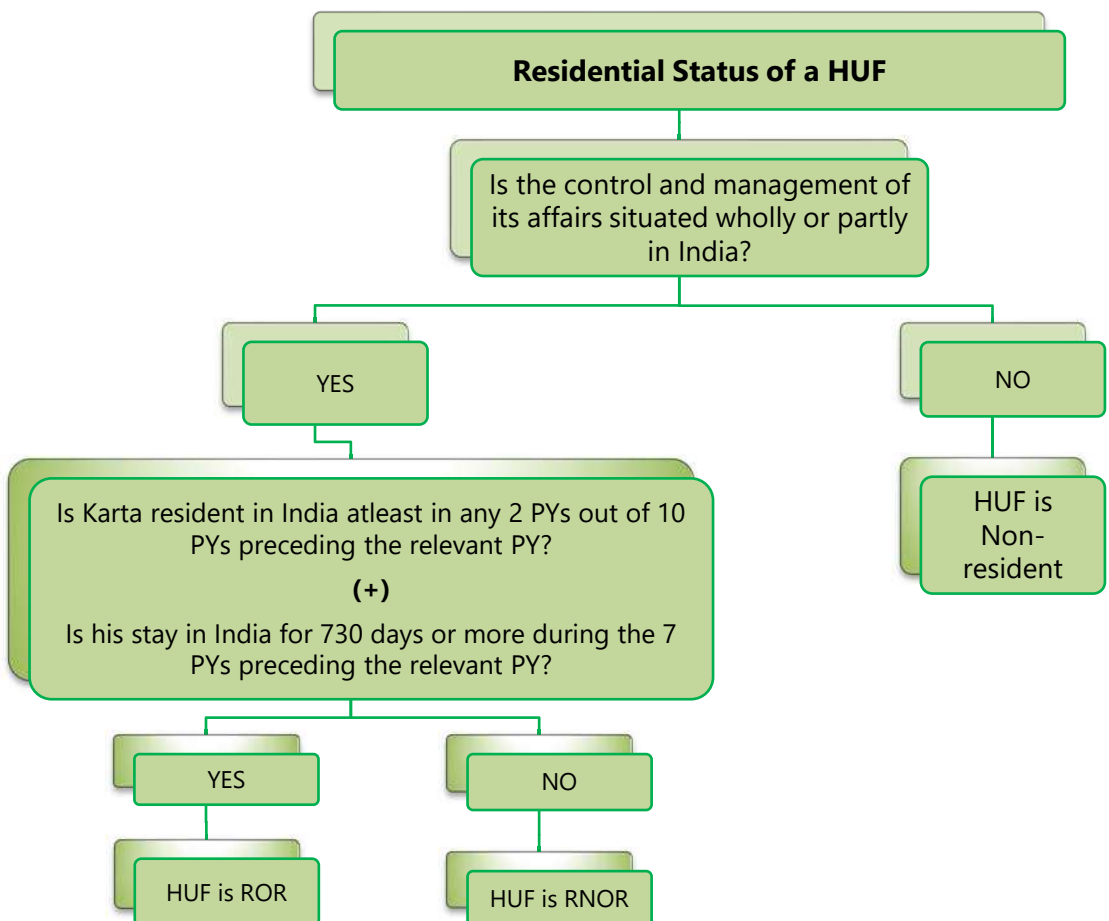


ILLUSTRATION 5

From the following particulars of income furnished by Mr. Anirudh pertaining to the year ended 31.3.2022, compute the total income for the assessment year 2022-23, if he is:

- (i) Resident and ordinary resident;
- (ii) Resident but not ordinarily resident;
- (iii) Non-resident

	Particulars	₹
(a)	Short term capital gains on sale of shares of an Indian Company received in Germany	15,000
(b)	Dividend from a Japanese Company received in Japan	10,000
(c)	Rent from property in London deposited in a bank in London, later on remitted to India through approved banking channels	75,000
(d)	Dividend from RP Ltd., an Indian Company	6,000
(e)	Agricultural income from land in Gujarat	25,000

SOLUTION**Computation of total income of Mr. Anirudh for the A.Y. 2022-23**

Particulars	Resident & ordinarily resident	Resident but not ordinarily resident	Non- Resident
	₹	₹	₹
1) Short term capital gains on sale of shares of an Indian company, received in Germany	15,000	15,000	15,000
2) Dividend from a Japanese company, received in Japan	10,000	-	-
3) Rent from property in London deposited in a bank in London [See Note (i) below]	52,500	-	-
4) Dividend from RP Ltd., an Indian Company	6,000	6,000	6,000
5) Agricultural income from land in Gujarat [See Note (ii) below]	_____ -	_____ -	_____ -
Total Income	<u>83,500</u>	<u>21,000</u>	<u>21,000</u>

Notes:

- (i) It has been assumed that the rental income is the gross annual value of the property. Therefore, deduction @30% under section 24, has been provided and the net income so computed is taken into account for determining the total income of a resident and ordinarily resident.

	₹
Rent received (assumed as gross annual value)	75,000
Less: Deduction under section 24 (30% of ₹ 75,000)	<u>22,500</u>
Income from house property	52,500

- (ii) Agricultural income is exempt under section 10(1).

ILLUSTRATION 6

Mr. David, an Indian citizen aged 40 years, a Government employee serving in the Ministry of External Affairs, left India for the first time on 31.03.2021 due to his transfer to High Commission of Canada. He did not visit India any time during the previous year 2021-22. He has received the following income for the Financial Year 2021-22:

S. No.	Particulars	₹
(i)	Salary (Computed)	5,00,000
(ii)	Foreign Allowance [not included in (i) above]	4,00,000
(iii)	Interest on fixed deposit from bank in India	1,00,000
(iv)	Income from agriculture in Nepal	2,00,000
(v)	Income from house property in Nepal	2,50,000

Compute his Gross Total Income for Assessment Year 2022-23.

SOLUTION

As per section 6(1), Mr. David is a non-resident for the A.Y. 2022-23, since he was not present in India at any time during the previous year 2021-22.

As per section 5(2), a non-resident is chargeable to tax in India only in respect of following incomes:

- (i) Income received or deemed to be received in India; and
- (ii) Income accruing or arising or deemed to accrue or arise in India.

In view of the above provisions, income from agriculture in Nepal and income from house property in Nepal would not be chargeable to tax in the hands of David, assuming that the same were received in Nepal. Income from 'Salaries' payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India as per section 9(1)(iii). Hence, such income is taxable in the hands of Mr. David, even though he is a non-resident.

However, allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India is exempt under section 10(7). Hence, foreign allowance of ₹ 4,00,000 is exempt under section 10(7) in the hands of Mr. David.

Gross Total Income of Mr. David for A.Y. 2022-23

Particulars	₹
Salaries (computed)	5,00,000
Income from other sources (Interest on fixed deposit in India)	<u>1,00,000</u>
Gross Total Income	<u>6,00,000</u>

ILLUSTRATION 7

Miss Vivitha paid a sum of 5000 USD to Mr. Kulasekhara, a management consultant practising in Colombo, specializing in project financing. The payment was made in Colombo. Mr. Kulasekhara is a non-resident. The consultancy is related to a project in India with possible Ceylonese collaboration. Is this payment chargeable to tax in India in the hands of Mr. Kulasekhara, since the services were used in India?

SOLUTION

A non-resident is chargeable to tax in respect of income received outside India only if such income accrues or arises or is deemed to accrue or arise to him in India.

The income deemed to accrue or arise in India under section 9 comprises, *inter alia*, income by way of fees for technical services, which includes any consideration for rendering of any managerial, technical or consultancy services. Therefore, payment to a management consultant relating to project financing is

covered within the scope of “fees for technical services”.

The *Explanation* below section 9(2) clarifies that income by way of, *inter alia*, fees for technical services, from services utilized in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, whether or not such services were rendered in India or whether or not the non-resident has a residence or place of business or business connection in India.

In the instant case, since the services were utilized in India, the payment received by Mr. Kulasekhara, a non-resident, in Colombo is chargeable to tax in his hands in India, as it is deemed to accrue or arise in India.

(8) Any sum of money paid by a resident Indian to a non-corporate non-resident or foreign company [Section 9(1)(viii)]

Income arising outside India, being any sum of money paid without consideration, by an Indian resident person to a non-corporate non-resident or foreign company would be deemed to accrue or arise in India if the same is chargeable to tax under section 56(2)(x) i.e., if the aggregate of such sum received by a non-corporate non-resident or foreign company exceeds ₹ 50,000. You may refer to Unit 5 of Chapter 4 where chargeability of any sum of money received is discussed in detail.

ILLUSTRATION 8

Compute the total income in the hands of an individual aged 35 years, being a resident and ordinarily resident, resident but not ordinarily resident, and non-resident for the A.Y. 2022-23 –

Particulars	Amount (₹)
<i>Interest on UK Development Bonds, 50% of interest received in India</i>	10,000
<i>Income from a business in Chennai (50% is received in India)</i>	20,000
<i>Short term capital gains on sale of shares of an Indian company received in London</i>	20,000
<i>Dividend from British company received in London</i>	5,000
<i>Long term capital gains on sale of plant at Germany, 50% of profits are received in India</i>	40,000
<i>Income earned from business in Germany which is controlled from Delhi (₹ 40,000 is received in India)</i>	70,000

<i>Profits from a business in Delhi but managed entirely from London</i>	15,000
<i>Income from house property in London deposited in a Bank at London, brought to India (Computed)</i>	50,000
<i>Interest on debentures in an Indian company received in London</i>	12,000
<i>Fees for technical services rendered in India but received in London</i>	8,000
<i>Profits from a business in Mumbai managed from London</i>	26,000
<i>Income from property situated in Nepal received there (Computed)</i>	16,000
<i>Past foreign untaxed income brought to India during the previous year</i>	5,000
<i>Income from agricultural land in Nepal, received there and then brought to India</i>	18,000
<i>Income from profession in Kenya which was set up in India, received there but spent in India</i>	5,000
<i>Gift received on the occasion of his wedding</i>	20,000
<i>Interest on savings bank deposit in State Bank of India</i>	12,000
<i>Income from a business in Russia, controlled from Russia</i>	20,000
<i>Dividend from Reliance Petroleum Limited, an Indian Company</i>	5,000
<i>Agricultural income from a land in Rajasthan</i>	15,000

SOLUTION**Computation of total income for the A.Y. 2022-23**

Particulars	Resident and ordinarily resident ₹	Resident but not ordinarily resident ₹	Non-resident ₹
Interest on UK Development Bonds, 50% of interest received in India	10,000	5,000	5,000
Income from a business in Chennai (50% is received in India)	20,000	20,000	20,000

Short term capital gains on sale of shares of an Indian company received in London	20,000	20,000	20,000
Dividend from British company received in London	5,000	-	-
Long term Capital gains on sale of plant at Germany, 50% of profits are received in India	40,000	20,000	20,000
Income earned from business in Germany which is controlled from Delhi, out of which ₹ 40,000 is received in India	70,000	70,000	40,000
Profits from a business in Delhi but managed entirely from London	15,000	15,000	15,000
Income from house property in London deposited in a Bank at London, later on remitted to India	50,000	-	-
Interest on debentures in an Indian company received in London	12,000	12,000	12,000
Fees for technical services rendered in India but received in London	8,000	8,000	8,000
Profits from a business in Mumbai managed from London	26,000	26,000	26,000
Income from property situated in Nepal and received there	16,000	-	-
Past foreign untaxed income brought to India during the previous year	-	-	-
Income from agricultural land in Nepal, received there and then brought to India	18,000	-	-
Income from profession in Kenya which was set up in India, received there but spent in India	5,000	5,000	-
Gift received on the occasion of his wedding [not taxable]	-	-	-
Interest on savings bank deposit in State Bank of India	12,000	12,000	12,000
Income from a business in Russia, controlled from Russia	20,000	-	-

Dividend from Reliance Petroleum Limited, an Indian Company	5,000	5,000	5,000
Agricultural income from a land in Rajasthan [Exempt under section 10(1)]	—	—	—
Gross Total Income	3,52,000	2,18,000	1,83,000
<i>Less:</i> Deduction under section 80TTA			
[Interest on savings bank account subject to a maximum of ₹10,000]	10,000	10,000	10,000
Total Income	3,42,000	2,08,000	1,73,000

TEST YOUR KNOWLEDGE

Question 1

Mr. Ram, an Indian citizen, left India on 22.09.2021 for the first time to work as an officer of a company in Germany. Determine the residential status of Ram for the assessment year 2022-23.

Answer

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 conditions -

- (i) He has been in India during the previous year for a total period of 182 days or more, or
- (ii) 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 previous year.

In the case of Indian citizens leaving India for employment, the period of stay during the previous year must be 182 days instead of 60 days given in (ii) above.

During the previous year 2021-22, Mr. Ram, an Indian citizen, was in India for 175 days only (i.e., 30+31+30+31+31+22 days). Thereafter, he left India for employment purposes.

Since he does not satisfy the minimum criteria of 182 days stay in India during the relevant previous year, he is a non-resident for the A.Y. 2022-23.

Question 2

Mr. Dey, a non-resident, residing in US since 1990, came back to India on 1.4.2020 for permanent settlement. What will be his residential status for assessment year 2022-23?

Answer

Mr. Dey is a resident in A.Y. 2022-23 since he has stayed in India for a period of 365 days (more than 182 days) during the P.Y. 2021-22.

As per section 6(6), a person will be "Not ordinarily Resident" in India in any previous year, if such person, *inter alia*,:

- (a) has been a non-resident in 9 out of 10 previous years preceding the relevant previous year; or

(b) has during the 7 previous years immediately preceding the relevant previous year been in India for 729 days or less.

If he does not satisfy either of these conditions, he would be a resident and ordinarily resident.

For the previous year 2021-22 (A.Y. 2022-23), his status would be "Resident but not ordinarily resident" since he was non-resident in 9 out of 10 previous years immediately preceding the P.Y. 2021-22. He can be resident but not ordinarily resident also due to the fact that he has stayed in India only for 365 days (i.e., less than 730 days) in 7 previous years immediately preceding the P.Y. 2021-22.

Question 3

Mr. Ramesh & Mr. Suresh are brothers and they earned the following incomes during the financial year 2021-22. Mr. Ramesh settled in Canada in the year 1996 and Mr. Suresh settled in Delhi. Compute the total income for the A.Y. 2022-23.

Sr. No.	Particulars	Mr. Ramesh (₹)	Mr. Suresh (₹)
1.	Interest on Canada Development Bonds (only 50% of interest received in India)	35,000	40,000
2.	Dividend from British company received in London	28,000	20,000
3.	Profits from a business in Nagpur, but managed directly from London	1,00,000	1,40,000
4.	Short term capital gain on sale of shares of an Indian company received in India	60,000	90,000
5.	Income from a business in Chennai	80,000	70,000
6.	Fees for technical services rendered in India, but received in Canada	1,00,000	----
7.	Interest on savings bank deposit in UCO Bank, Delhi	7,000	12,000
8.	Agricultural income from a land situated in Andhra Pradesh	55,000	45,000
9.	Rent received in respect of house property at Bhopal	1,00,000	60,000
10.	Life insurance premium paid	---	30,000

Answer**Computation of total income of Mr. Ramesh & Mr. Suresh for the A.Y. 2022-23**

S. No.	Particulars	Mr. Ramesh (Non-Resident) (₹)	Mr. Suresh (Resident) (₹)
1.	Interest on Canada Development Bond (See Note 2)	17,500	40,000
2.	Dividend from British Company received in London (See Note 3)	-	20,000
3.	Profits from a business in Nagpur but managed directly from London (See Note 2)	1,00,000	1,40,000
4.	Short term capital gain on sale of shares of an Indian company received in India (See Note 2)	60,000	90,000
5.	Income from a business in Chennai (See Note 2)	80,000	70,000
6.	Fees for technical services rendered in India, but received in Canada (See Note 2)	1,00,000	-
7.	Interest on savings bank deposit in UCO Bank, Delhi (See Note 2)	7,000	12,000
8.	Agricultural income from a land situated in Andhra Pradesh (See Note 4)	-	-
9.	Income from house property at Bhopal (See Note 5)		
		<u>70,000</u>	<u>42,000</u>
	Gross Total income	4,34,500	4,14,000
	Less: Deduction under Chapter VI-A		
	Section 80C - Life insurance premium	-	30,000
	Section 80TTA (See Note 6)	<u>7,000</u>	<u>10,000</u>
	Total Income	<u>4,27,500</u>	<u>3,74,000</u>

Notes:

- Mr. Ramesh is a non-resident since he has been living in Canada since 1996. Mr. Suresh, is settled in Delhi, and thus, assumed as a resident and ordinarily resident.
- In case of a resident and ordinarily resident, his global income is taxable as per section 5(1). However, as per section 5(2), in case of a non-resident, only the following incomes are chargeable to tax:

- (i) Income received or deemed to be received in India; and
- (ii) Income accruing or arising or deemed to accrue or arise in India.

Therefore, fees for technical services rendered in India would be taxable in the hands of Mr. Ramesh, even though he is a non-resident.

The income referred to in Sl. No. 3,4,5 and 7 are taxable in the hands of both Mr. Ramesh and Mr. Suresh since they accrue or arise/ deemed to accrue or arise in India.

Interest on Canada Development Bond would be fully taxable in the hands of Mr. Suresh, whereas only 50%, which is received in India, is taxable in the hands of Mr. Ramesh.

3. Dividend received from British company in London by Mr Ramesh, a non-resident, is not taxable since it accrued and is received outside India. However, such dividend received by Mr. Suresh is taxable, since he is a resident and ordinarily resident.
4. Agricultural income from a land situated in India is exempt under section 10(1) in the case of both non-residents and residents.
5. Income from house property-

	Mr. Ramesh (₹)	Mr. Suresh (₹)
Rent received	1,00,000	60,000
Less: Deduction under section 24(a) @30%	<u>30,000</u>	<u>18,000</u>
Net income from house property	<u>70,000</u>	<u>42,000</u>

The net income from house property in India would be taxable in the hands of both Mr. Ramesh and Mr. Suresh, since the accrual and receipt of the same are in India.

6. In case of an individual, interest upto ₹ 10,000 from savings account with, *inter alia*, a bank is allowable as deduction under section 80TTA.

Question 4

Examine the correctness or otherwise of the statement - "Income deemed to accrue or arise in India to a non-resident by way of interest, royalty and fees for technical services is to be taxed irrespective of territorial nexus".

Answer

This statement is correct.

As per *Explanation* to section 9, income by way of interest, royalty or fees for technical services which is deemed to accrue or arise in India by virtue of clauses (v), (vi) and (vii) of section 9(1), shall be included in the total income of the non-resident, whether or not -

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

In effect, the income by way of fees for technical services, interest or royalty from services utilised in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, whether or not such services were rendered in India and irrespective of whether the non-resident has a residence or place of business or business connection in India.

Question 5

Examine with reasons whether the following transactions attract income-tax in India in the hands of recipients:

- (i) *Salary paid by Central Government to Mr. John, a citizen of India ₹ 7,00,000 for the services rendered outside India.*
- (ii) *Interest on moneys borrowed from outside India ₹ 5,00,000 by a non-resident for the purpose of business within India say, at Mumbai.*
- (iii) *Post office savings bank interest of ₹ 19,000 received by a resident assessee, Mr. Ram, aged 46 years.*
- (iv) *Royalty paid by a resident to a non-resident in respect of a business carried on outside India.*
- (v) *Legal charges of ₹ 5,00,000 paid in Delhi to a lawyer of United Kingdom who visited India to represent a case at the Delhi High Court.*

Answer

	Taxable / Not Taxable	Amount liable to tax (₹)	Reason
(i)	Taxable	6,50,000	As per section 9(1)(iii), salaries payable by the Government to a citizen of India for service rendered

			outside India shall be deemed to accrue or arise in India. Therefore, salary paid by Central Government to Mr. John for services rendered outside India would be deemed to accrue or arise in India since he is a citizen of India. He would be entitled to standard deduction of ₹ 50,000 under section 16(ia).
(ii)	Taxable	5,00,000	As per section 9(1)(v)(c), interest payable by a non-resident on moneys borrowed and used for the purposes of business carried on by such person in India shall be deemed to accrue or arise in India in the hands of the recipient.
(iii)	Partly Taxable	5,500	The interest on Post Office Savings Bank a/c, would be exempt u/s 10(15)(i), only to the extent of ₹ 3,500 in case of an individual a/c. Further, interest upto ₹ 10,000, would be allowed as deduction u/s 80TTA from Gross Total Income. Balance ₹ 5,500 i.e., ₹ 19,000 - ₹ 3,500 - ₹ 10,000 would be taxable in the hands of Mr. Ram, a resident.
(iv)	Not Taxable	-	Royalty paid by a resident to a non-resident in respect of a business carried outside India would not be taxable in the hands of the non-resident provided the same is not received in India. This has been provided as an exception to deemed accrual mentioned in section 9(1)(vi)(b).
(v)	Taxable	5,00,000	In case of a non-resident, any income which accrues or arises in India or which is deemed to accrue or arise in India or which is received in India or is deemed to be received in India is taxable in India. Therefore, legal charges paid in India to a non-resident lawyer of UK, who visited India to represent a case at the Delhi High Court would be taxable in India.

INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME



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ILLUSTRATION 1

Mr. B grows sugarcane and uses the same for the purpose of manufacturing sugar in his factory. 30% of sugarcane produce is sold for ₹ 10 lacs, and the cost of cultivation of such sugarcane is ₹ 5 lacs. The cost of cultivation of the balance sugarcane (70%) is ₹ 14 lacs and the market value of the same is ₹ 22 lacs. After incurring ₹ 1.5 lacs in the manufacturing process on the balance sugarcane, the sugar was sold for ₹ 25 lacs. Compute B's business income and agricultural income.

SOLUTION

Computation of Business Income and Agriculture Income of Mr. B

Particulars	Business Income	Agricultural Income	
	(₹)	(₹)	(₹)
<u>Sale of Sugar</u>			
<u>Business income</u>			
Sale Proceeds of sugar	25,00,000		
Less: Market value of sugar (70%)	22,00,000		
Less: Manufacturing exp.	<u>1,50,000</u>		
	<u>1,50,000</u>		
<u>Agricultural income</u>			
Market value of sugar (70%)		22,00,000	
Less: Cost of cultivation		<u>14,00,000</u>	
			8,00,000
<u>Sale of sugarcane</u>			
<u>Agricultural Income</u>			
Sale proceeds of sugarcane (30%)		10,00,000	

Less: Cost of cultivation		<u>5,00,000</u>	<u>5,00,000</u>
			<u>13,00,000</u>

- (ii) **Rule 7A – Income from growing and manufacturing of rubber -**
 This rule is applicable when income derived from the sale of centrifuged latex or cenex or latex based crepes or brown crepes or technically specified block rubbers manufactured or processed from field latex or coagulum obtained from rubber plants grown by the seller in India. In such cases 35% profits on sale is taxable as business income under the head “profits and gains from business or profession”, and the balance 65% is agricultural income and is exempt.

ILLUSTRATION 2

Mr. C manufactures latex from the rubber plants grown by him in India. These are then sold in the market for ₹ 30 lacs. The cost of growing rubber plants is ₹ 10 lacs and that of manufacturing latex is ₹ 8 lacs. Compute his total income.

SOLUTION

The total income of Mr. C comprises of agricultural income and business income.

Total profits from the sale of latex = ₹ 30 lacs – ₹ 10 lacs – ₹ 8 lacs
 = ₹ 12 lacs.

Agricultural income = 65% of ₹ 12 lacs = ₹ 7.8 lacs

Business income = 35% of ₹ 12 lacs = ₹ 4.2 lacs

ILLUSTRATION 3

Mr. X, a resident, has provided the following particulars of his income for the P.Y. 2021-22.

i. Income from salary (computed) - ₹ 2,80,000

- ii. Income from house property (computed) - ₹ 2,50,000
 iii. Agricultural income from a land in Jaipur - ₹ 4,80,000
 iv. Expenses incurred for earning agricultural income - ₹ 1,70,000

Compute his tax liability for A.Y. 2022-23 assuming his age is -

- (a) 45 years
 (b) 70 years

Assume that Mr. X does not opt for the provisions of section 115BAC.

SOLUTION

Computation of total income of Mr. X for the A.Y. 2022-23

(a) Computation of tax liability (age 45 years)

For the purpose of partial integration of taxes, Mr. X has satisfied both the conditions i.e.

- Net agricultural income exceeds ₹ 5,000 p.a., and
- Non-agricultural income exceeds the basic exemption limit of ₹ 2,50,000.

His tax liability is computed in the following manner:

Particulars	₹	₹
Income from salary		2,80,000
Income from house property		2,50,000
Net agricultural income [₹ 4,80,000 – ₹ 1,70,000]	3,10,000	
Less: Exempt under section 10(1)	<u>(3,10,000)</u>	-
Gross Total Income		5,30,000
Less: Deductions under Chapter VI-A		-
Total Income		<u>5,30,000</u>

Step 1 : ₹ 5,30,000 + ₹ 3,10,000 = ₹ 8,40,000
 Tax on ₹ 8,40,000 = ₹ 80,500
 (i.e., 5% of ₹ 2,50,000 plus 20% of ₹ 3,40,000)

Step 2 : ₹ 3,10,000 + ₹ 2,50,000 = ₹ 5,60,000
 Tax on ₹ 5,60,000 = ₹ 24,500
 (i.e. 5% of ₹ 2,50,000 plus 20% of ₹ 60,000)

$$\text{Step 3} \quad : \quad ₹ 80,500 - ₹ 24,500 \quad = ₹ 56,000$$

$$\text{Step 4 \& 5} \quad : \quad \text{Total tax payable} \quad = ₹ 56,000$$

$$= ₹ 56,000 + 4\% \text{ of } ₹ 56,000 = ₹ 58,240.$$

(b) Computation of tax liability (age 70 years)

For the purpose of partial integration of taxes, Mr. X has satisfied both the conditions i.e.

1. Net agricultural income exceeds ₹ 5,000 p.a., and
2. Non-agricultural income exceeds the basic exemption limit of ₹ 3,00,000.

His tax liability is computed in the following manner:

$$\text{Step 1} \quad : \quad ₹ 5,30,000 + ₹ 3,10,000 = ₹ 8,40,000$$

$$\text{Tax on } ₹ 8,40,000 \quad = ₹ 78,000$$

(i.e., 5% of ₹ 2,00,000 plus 20% of ₹ 3,40,000)

$$\text{Step 2} \quad : \quad ₹ 3,10,000 + ₹ 3,00,000 = ₹ 6,10,000$$

$$\text{Tax on } ₹ 6,10,000 \quad = ₹ 32,000$$

(i.e. 5% of ₹ 2,00,000 plus 20% of ₹ 1,10,000)

$$\text{Step 3} \quad : \quad ₹ 78,000 - ₹ 32,000 \quad = ₹ 46,000$$

$$\text{Step 4 \& 5} \quad : \quad \text{Total tax payable} \quad = ₹ 46,000$$

$$= ₹ 46,000 + 4\% \text{ of } ₹ 46,000 = ₹ 47,840.$$

ILLUSTRATION 4

Mr. A, a member of a HUF, received ₹ 10,000 as his share from the income of the HUF. Is such income includible in his chargeable income? Examine with reference to the provisions of the Income-tax Act, 1961.

SOLUTION

No. Such income is not includible in Mr. A's chargeable income since section 10(2) exempts any sum received by an individual as a member of a HUF where such sum has been paid out of the income of the family.

ILLUSTRATION 5

Compensation on account of disaster received from a local authority by an individual or his/her legal heir is taxable. Examine the correctness of the statement with reference to the provisions of the Income-tax Act, 1961.

SOLUTION

The statement is **not** correct. As per section 10(10BC), any amount received or receivable as compensation by an individual or his/her legal heir on account of

any disaster from the Central Government, State Government or a local authority is exempt from tax. However, the exemption is not available to the extent such individual or legal heir has already been allowed a deduction under this Act on account of such loss or damage caused by such disaster.

ILLUSTRATION 6

“Exemption is available to a Sikkimese individual, only in respect of income from any source in the State of Sikkim”. Examine the correctness of the statement with reference to the provisions of the Income-tax Act, 1961.

SOLUTION

The statement is **not** correct. Exemption under section 10(26AAA) is available to a Sikkimese individual not only in respect of the said income, but also in respect of income by way of dividend or interest on securities.

Students should carefully note that all the items under section 10 listed above are either wholly or partially exempt from taxation and the exempt portion is not even includible in the total income of the person concerned.

ILLUSTRATION 7

Y Ltd. furnishes you the following information for the year ended 31.3.2022:

Particulars	₹ (in lacs)
Total turnover of Unit A located in Special Economic Zone	100
Profit of the business of Unit A	30
Export turnover of Unit A	50
Total turnover of Unit B located in Domestic Tariff Area (DTA)	200
Profit of the business of Unit B	20

Compute deduction under section 10AA for the A.Y. 2022-23, assuming that Y Ltd. commenced operations in SEZ and DTA in the year 2017-18.

SOLUTION

100% of the profit derived from export of articles or things or services is eligible for deduction under section 10AA, since F.Y. 2021-22 falls within the first five year period commencing from the year of manufacture or production of articles or things or provision of services by the Unit in SEZ. As per section 10AA(7), the profit derived from export of articles or things or services shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of articles or things or services bears to the total turnover of the business carried on by the undertaking.

Deduction under section 10AA

$$\begin{aligned} &= \text{Profit of the business of Unit A} \times \frac{\text{Export Turnover of Unit A}}{\text{Total Turnover of Unit A}} \times 100\% \\ &= ₹ 30 \text{ lakhs} \times \frac{50}{100} \times 100\% = ₹ 15 \text{ lakhs} \end{aligned}$$

Note – No deduction under section 10AA is allowable in respect of profits of business of Unit B located in DTA.

TEST YOUR KNOWLEDGE

Question 1

Examine whether the following incomes are chargeable to tax, and if so, compute the amount liable to tax:

- (i) Arvind received ₹ 20,000 as his share from the income of the HUF.
- (ii) Mr. Xavier, a 'Param Vir Chakra' awardee, who was formerly in the service of the Central Government, received a pension of ₹ 2,20,000 during the financial year 2021-22.
- (iii) Agricultural income of ₹ 1,27,000 earned by a resident of India from a land situated in Malaysia.
- (iv) Rent of ₹ 72,000 received for letting out agricultural land for a movie shooting.

Answer

S. No.	Taxable/ Not Taxable	Amount liable to tax (₹)	Reason
(i)	Not Taxable	-	Share received by member out of the income of the HUF is exempt under section 10(2).
(ii)	Not Taxable	-	Pension received by Mr. Xavier, a former Central Government employee who is a 'Param Vir Chakra' awardee, is exempt under section 10(18).
(iii)	Taxable	1,27,000	Agricultural income from a land in any foreign country is taxable in the case of a resident taxpayer as income under the head "Income from other sources". Exemption under section 10(1) is not available in respect of such income.
(iv)	Taxable	72,000	Agricultural income is exempt from tax as per section 10(1). Agricultural income means, <i>inter alia</i> , any rent or revenue derived from land which is situated in India and is used for agricultural purposes. In the present case, rent is being derived from letting out of agricultural land for a movie shoot, which is not an agricultural purpose. In effect, the land is not

			being put to use for agricultural purposes. Therefore, ₹ 72,000, being rent received from letting out of agricultural land for movie shooting, is not exempt under section 10(1). The same is chargeable to tax under the head "Income from other sources".
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Question 2

Examine the taxability of agricultural income under the Income-tax Act, 1961. How will income be computed where an individual derives agricultural and non-agricultural income?

Answer

Agricultural income is exempt from tax as per section 10(1). However, aggregation of agricultural and non-agricultural income is to be done to determine the rate at which the non-agricultural income shall be chargeable to tax. In case the agricultural income is not more than ₹ 5,000 or the tax-payer has non-agricultural income not more than the basic exemption limit, then no such aggregation needs to be done.

Further, such aggregation has to be done only if the tax-payer is an individual, HUF, AOP, BOI or an artificial juridical person, since the Finance Act prescribes slab rates of income-tax for these assesseees.

In the case of other assesseees such as partnership firms, companies etc., whose income is chargeable to tax at a flat rate, aggregation of agricultural income would have no effect.

Since the second part of the question requires the manner of computation of income where an individual derives agricultural and non-agricultural income, the same can be answered on the basis of Rules 7A, 7B and 8 of the Income-tax Rules, 1962 dealing with composite income.

Rule	Particulars	Business Income	Agricultural Income
Rule 7A	Income from sale of rubber products derived from rubber plants grown by the seller in India.	35%	65%
Rule 7B	Income from sale of coffee		
	- grown and cured by the seller in India	25%	75%

	- grown, cured, roasted and grounded by the seller in India	40%	60%
Rule 8	Income from sale of tea grown and manufactured by the seller in India	40%	60%

Thereafter, income-tax shall be computed by aggregating the agricultural income and the non-agricultural income in the manner described below:

- (1) Aggregate the agricultural income with non-agricultural income and determine tax payable on such amount.
- (2) Aggregate the agricultural income with the basic exemption limit of the assessee i.e., ₹ 2,50,000/ ₹ 3,00,000/ ₹ 5,00,000, as the case may be, and determine tax on such amount.
- (3) Compute the difference between the tax computed in Step (1) and Step (2), which shall be the tax payable in respect of non-agricultural income.
- (4) The tax payable so computed in step (3) shall be increased by surcharge, if applicable or reduced by rebate under section 87A, if the total income does not exceed ₹ 5 lakh. Thereafter, health and education cess@4% has to be added to compute the total tax liability.

Question 3

Whether the income derived from saplings or seedlings grown in a nursery is taxable under the Income-tax Act, 1961? Examine.

Answer

As per *Explanation 3* to section 2(1A) of the Act, income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income and exempt from tax, whether or not the basic operations were carried out on land.

Question 4

Examine with reasons in brief whether the following statements are true or false with reference to the provisions of the Income-tax Act, 1961:

- (i) *Exemption is available to a Sikkimese individual, only in respect of income from any source in the State of Sikkim.*
- (ii) *Pension received by a recipient of gallantry award, who was a former employee of Central Government, is exempt from income-tax.*
- (iii) *Mr. A, a member of a HUF, received ₹ 10,000 as his share from the income of the HUF. The same is to be included in his chargeable income.*

Answer

- (i) **False:** Exemption under section 10(26AAA) is available to a Sikkimese individual not only in respect of the said income, but also in respect of income by way of dividend or interest on securities.
- (ii) **True:** Section 10(18) exempts any income by way of pension received by individual who has been in service of Central Government and has been awarded "ParamVir Chakra" or "MahaVir Chakra" or "Vir Chakra" or such other gallantry award as the Central Government, may, by notification in the Official Gazette, specify in this behalf.
- (iii) **False:** Section 10(2) exempts any sum received by an individual as a member of a HUF where such sum has been paid out of the income of the family. Therefore, ₹ 10,000 should not be included in Mr. A's chargeable income.

Question 5

Rudra Ltd. has one unit at Special Economic Zone (SEZ) and other unit at Domestic Tariff Area (DTA). The company provides the following details for the previous year 2021-22.

Particulars	Rudra Ltd. (₹)	Unit in DTA (₹)
Total Sales	6,00,00,000	2,00,00,000
Export Sales	4,60,00,000	1,60,00,000
Net Profit	80,00,000	20,00,000

Calculate the eligible deduction under section 10AA of the Income-tax Act, 1961, for the Assessment Year 2022-23, in the following situations:

- (i) *If both the units were set up and start manufacturing from 22-05-2014.*
- (ii) *If both the units were set up and start manufacturing from 14-05-2018.*

Answer**Computation of deduction under section 10AA of the Income-tax Act, 1961**

As per section 10AA, in computing the total income of Rudra Ltd. from its unit located in a Special Economic Zone (SEZ), which begins to manufacture or produce articles or things or provide any services during the previous year relevant to the assessment year commencing on or after 01.04.2006 but before 01.04.2021, there shall be allowed a deduction of 100% of the profit and gains derived from export of such articles or things or from services for a period of five

consecutive assessment years beginning with the assessment year relevant to the previous year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, and 50% of such profits for further five assessment years.

Computation of eligible deduction under section 10AA [See Working Note below]:

(i) **If Unit in SEZ was set up and began manufacturing from 22-05-2014:**

Since A.Y. 2022-23 is the 8th assessment year from A.Y. 2015-16, relevant to the previous year 2014-15, in which the SEZ unit began manufacturing of articles or things, it shall be eligible for deduction of 50% of the profits derived from export of such articles or things, assuming all the other conditions specified in section 10AA are fulfilled.

$$= \text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}} \times 50\%$$

$$= 60 \text{ lakhs} \times \frac{300 \text{ lakhs}}{400 \text{ lakhs}} \times 50\% = ₹ 22.50 \text{ lakhs}$$

(ii) **If Unit in SEZ was set up and began manufacturing from 14-05-2018:**

Since A.Y. 2022-23 is the 4th assessment year from A.Y. 2019-20, relevant to the previous year 2018-19, in which the SEZ unit began manufacturing of articles or things, it shall be eligible for deduction of 100% of the profits derived from export of such articles or things, assuming all the other conditions specified in section 10AA are fulfilled.

$$= \text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}} \times 100\%$$

$$= 60 \text{ lakhs} \times \frac{300 \text{ Lakhs}}{400 \text{ Lakhs}} \times 100\% = ₹ 45 \text{ lakhs}$$

The unit set up in Domestic Tariff Area is not eligible for the benefit of deduction under section 10AA in respect of its export profits, in both the situations.

Working Note:

Computation of total sales, export sales and net profit of unit in SEZ

Particulars	Rudra Ltd. (₹)	Unit in DTA (₹)	Unit in SEZ (₹)
Total Sales	6,00,00,000	2,00,00,000	4,00,00,000
Export Sales	4,60,00,000	1,60,00,000	3,00,00,000
Net Profit	80,00,000	20,00,000	60,00,000

HEADS OF INCOME



CHAPTER OVERVIEW



HEADS OF INCOME

	Salaries	Income from house property	Profits and gains from business or profession	Capital Gains	Income from Other sources
Charging Section	15	22	28	45	56
Deeming provisions	-	25A & 27	41	46, 46A, 50B, 50C, 50CA, 50D	59
Deductions allowable	16	24	30 to 37	48(i), (ii) & 54	57
Deductions not allowable	-	25	40 & 40A	Last proviso to section 48	58
Other provisions	17	23 & 26	29, 38, 43, 43A, 43B, 43CA, 44AA, 44AB, 44AD, 44ADA & 44AE	47, 47A, 49, 51, 55 & 55A	-

UNIT – 1 : SALARIES

ILLUSTRATION 1

Mr. Raj Kumar has the following receipts from his employer:

- | | |
|--|----------------------|
| (1) <i>Basic pay</i> | <i>₹ 40,000 p.m.</i> |
| (2) <i>Dearness allowance (D.A.)</i> | <i>₹ 6,000 p.m.</i> |
| (3) <i>Commission</i> | <i>₹ 50,000 p.a.</i> |
| (4) <i>Motor car for personal use (expenses met by the employer)</i> | <i>₹ 1,500 p.m.</i> |
| (5) <i>House rent allowance</i> | <i>₹ 15,000 p.m.</i> |

Find out the amount of HRA eligible for exemption to Mr. Raj Kumar assuming that he paid a rent of ₹ 16,000 p.m. for his accommodation at Kanpur. DA forms part of salary for retirement benefits.

SOLUTION

HRA received	₹ 1,80,000
Less: Exempt under section 10(13A) [Note]	₹ <u>1,36,800</u>
Taxable HRA	₹ <u>43,200</u>

Note: Exemption shall be least of the following three limits:

- (a) the actual amount received ($₹ 15,000 \times 12$) = ₹ 1,80,000
- (b) excess of the actual rent paid by the assessee over 10% of his salary
 = Rent Paid (-) 10% of salary for the relevant period
 = ($₹ 16,000 \times 12$) (-) 10% of [$(₹ 40,000 + ₹ 6,000) \times 12$]
 = ₹ 1,92,000 - ₹ 55,200 = ₹ 1,36,800
- (c) 40% salary as his accommodation is situated at Kanpur
 = 40% of [$(₹ 40,000 + ₹ 6,000) \times 12$] = ₹ 2,20,800

Note: For the purpose of exemption under section 10(13A), salary includes dearness allowance only when the terms of employment so provide, but excludes all other allowances and perquisites.

ILLUSTRATION 2

Mr. Srikant has two sons. He is in receipt of children education allowance of ₹ 150 p.m. for his elder son and ₹ 70 p.m. for his younger son. Both his sons are going to school. He also receives the following allowances:

Transport allowance : ₹ 1,800 p.m.

Tribal area allowance : ₹ 500 p.m.

Compute his taxable allowances.

SOLUTION

Taxable allowance in the hands of Mr. Srikant is computed as under -

Children Education Allowance:

Elder son [(₹ 150 – ₹ 100) p.m. × 12 months] = ₹ 600

Younger son [(₹ 70 – ₹ 70) p.m. × 12 months] = Nil ₹ 600

Transport allowance (₹1,800 p.m. × 12 months)	₹ 21,600
Tribal area allowance [(₹ 500 – ₹ 200) p.m. × 12 months]	<u>₹ 3,600</u>
Taxable allowances	₹ <u>25,800</u>

ILLUSTRATION 3

Mr. Sagar who retired on 1.10.2021 is receiving ₹ 5,000 p.m. as pension. On 1.2.2022, he commuted 60% of his pension and received ₹ 3,00,000 as commuted pension. You are required to compute his taxable pension assuming:

- (a) He is a government employee.
- (b) He is a private sector employee and received gratuity of ₹ 5,00,000 at the time of retirement.
- (c) He is a private sector employee and did not receive any gratuity at the time of retirement.

SOLUTION**(a) He is a government employee**

Uncommuted pension received (October – March)		₹ 24,000
[(₹ 5,000 × 4 months) + (40% of ₹ 5,000 × 2 months)]		
Commuted pension received	₹ 3,00,000	
Less: Exempt u/s 10(10A)	₹ <u>3,00,000</u>	<u>NIL</u>
Taxable pension		<u>₹ 24,000</u>

(b) He is a private sector employee and received gratuity ₹ 5,00,000 at the time of retirement

Uncommuted pension received (October – March)		₹ 24,000
[(₹ 5,000 × 4 months) + (40% of ₹ 5,000 × 2 months)]		
Commuted pension received	₹ 3,00,000	
Less: Exempt u/s 10(10A)		
$\left(\frac{1}{3} \times \frac{₹ 3,00,000}{60\%} \times 100\%\right)$	₹ <u>1,66,667</u>	<u>₹ 1,33,333</u>
Taxable pension		<u>₹ 1,57,333</u>

(c) He is a private sector employee and did not receive any gratuity at the time of retirement

Uncommuted pension received (October – March)		₹ 24,000
[(₹ 5,000 × 4 months) + (40% of ₹ 5,000 × 2 months)]		

Committed pension received	₹ 3,00,000	
Less: Exempt u/s 10(10A)		
$\left(\frac{1}{2} \times \frac{₹ 3,00,000}{60\%} \times 100\% \right)$	₹ <u>2,50,000</u>	₹ <u>50,000</u>
Taxable pension		₹ <u>74,000</u>

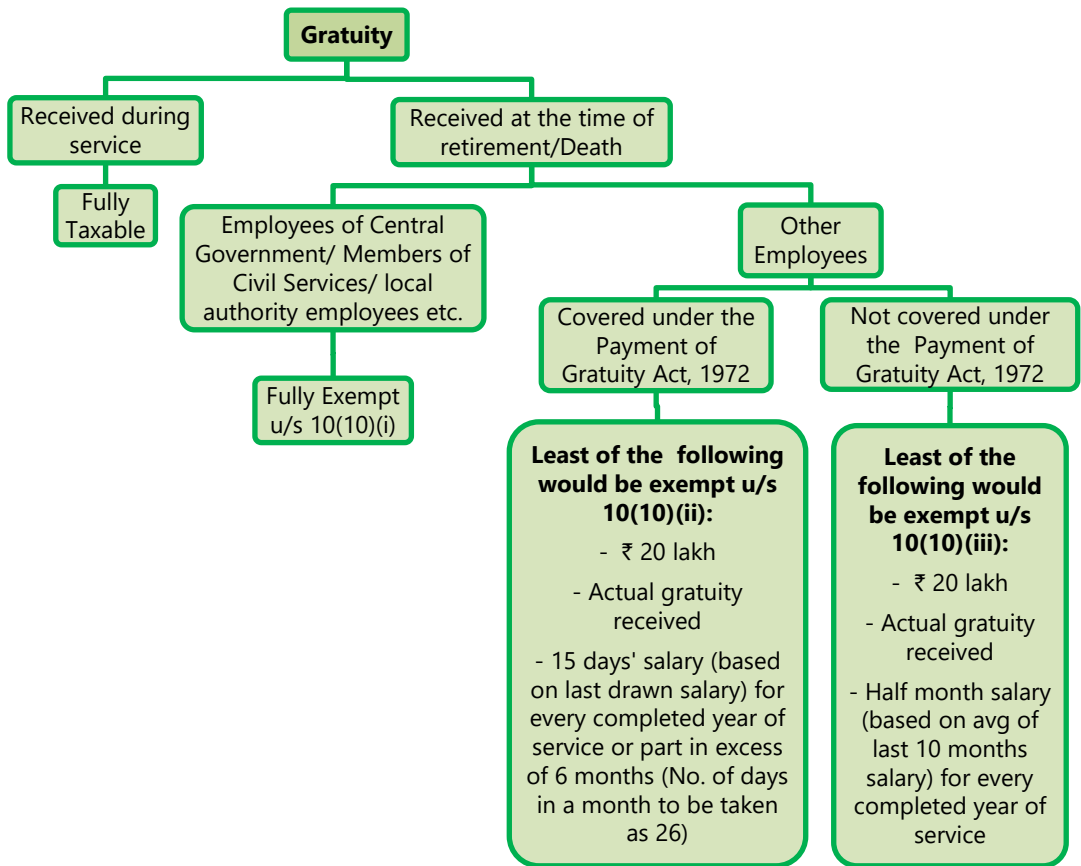


ILLUSTRATION 4

Mr. Ravi retired on 15.6.2021 after completion of 26 years 8 months of service and received gratuity of ₹ 15,00,000. At the time of retirement, his salary was:

Basic Salary : ₹ 50,000 p.m.

Dearness Allowance : ₹ 10,000 p.m. (60% of which is for retirement benefits)

Commission : 1% of turnover (turnover in the last 12 months was ₹ 1,20,00,000)

Bonus : ₹ 25,000 p.a.

Compute his taxable gratuity assuming:

- He is private sector employee and covered by the Payment of Gratuity Act, 1972.
- He is private sector employee and **not** covered by Payment of Gratuity Act, 1972.
- He is a Government employee.

SOLUTION**(a) He is covered by the Payment of Gratuity Act 1972**

Gratuity received at the time of retirement ₹ 15,00,000

Less: Exemption under section 10(10)

Least of the following:

i. Gratuity received ₹ 15,00,000

ii. Statutory limit ₹ 20,00,000

iii. 15 days' salary based on last drawn salary for each completed year of service or part thereof in excess of 6 months

$\frac{15}{26} \times \text{last drawn salary} \times \text{years of service}$

$\frac{15}{26} \times (50,000 + 10,000) \times 27 =$ ₹ 9,34,615 ₹ 9,34,615

Taxable Gratuity ₹ 5,65,385

(b) He is not covered by the Payment of Gratuity Act 1972

Gratuity received at the time of retirement ₹ 15,00,000

Less: Exemption under section 10(10) (**Note**) ₹ 8,58,000

Taxable Gratuity ₹ 6,42,000

Note: Exemption under section 10(10) is least of the following:

(i) Gratuity received ₹ 15,00,000

(ii) Statutory limit ₹ 20,00,000

(iii) Half month's salary based on average salary of last 10 months preceding the month of retirement for each completed year of service.

i.e. $\frac{1}{2} \times \text{Average salary} \times \text{years of service}$

$$= \frac{1}{2} \times \left[\frac{(50,000 \times 10) + (10,000 \times 60\% \times 10) + \left(1\% \times 1,20,00,000 \times \frac{10}{12} \right)}{10} \right] \times 26$$

= ₹ 8,58,000

(c) He is a government employee

Gratuity received at the time of retirement

₹ 15,00,000

Less: Exemption under section 10(10)₹ 15,00,000**Taxable gratuity** **Nil**

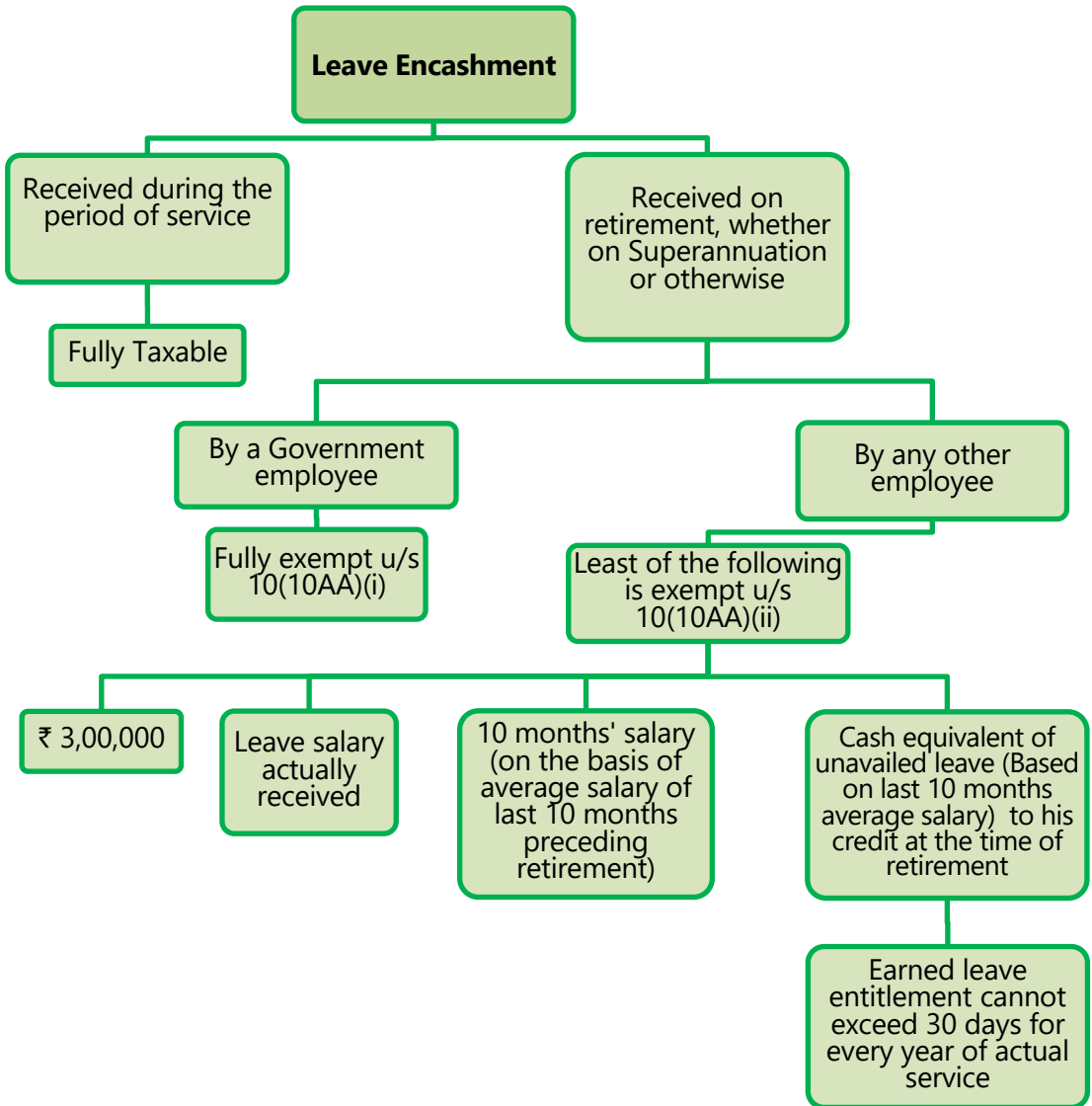


ILLUSTRATION 5

Mr. Gupta retired on 1.12.2021 after 20 years of service and received leave salary of ₹ 5,00,000. Other details of his salary income are:

<i>Basic Salary</i>	: ₹ 5,000 p.m. (₹ 1,000 was increased w.e.f. 1.4.2021)
<i>Dearness Allowance</i>	: ₹ 3,000 p.m. (60% of which is for retirement benefits)
<i>Commission</i>	: ₹ 500 p.m.

Bonus : ₹ 1,000 p.m.

Leave availed during service : 480 days

He was entitled to 30 days leave every year.

You are required to compute his taxable leave salary assuming:

(a) He is a government employee.

(b) He is a non government employee.

SOLUTION

(a) He is a government employee

Leave Salary received at the time of retirement	₹ 5,00,000
Less: Exemption under section 10(10AA)	₹ <u>5,00,000</u>
Taxable Leave salary	<u>Nil</u>

(b) He is a non-government employee

Leave Salary received at the time of retirement	₹ 5,00,000
Less: Exempt under section 10(10AA) [See Note below]	₹ <u>26,400</u>
Taxable Leave Salary	₹ <u>4,73,600</u>

Note: Exemption under section 10(10AA) is least of the following:

- (i) Leave salary received ₹ 5,00,000
- (ii) Statutory limit ₹ 3,00,000
- (iii) 10 months' salary based on average salary of last 10 months

$$\begin{aligned} \text{i.e. } & \left[10 \times \frac{\text{Salary of last 10 months i.e. Feb. - Nov.}}{10 \text{ months}} \right] \\ & = \left[10 \times \frac{(5000 \times 8) + (4000 \times 2) + (60\% \times 3000 \times 10)}{10 \text{ months}} \right] \quad \text{₹ 66,000} \end{aligned}$$

- (iv) Cash equivalent of leave standing at the credit of the employee based on the average salary of last 10 months' (max. 30 days per year of service)

$$\text{Leave Due} = \text{Leave allowed} - \text{Leave taken}$$

$$= (30 \text{ days per year} \times 20 \text{ years}) - 480 \text{ days} = 120 \text{ days}$$

$$\text{i.e. } \left[\frac{\text{Leave due (in days)}}{30 \text{ days}} \times \text{Average salary p.m.} \right]$$

$$= \left[\frac{120 \text{ days}}{30 \text{ days}} \times \frac{\text{₹ } 66,000}{10} \right]$$

₹ 26,400

ILLUSTRATION 6

Mr. A retires from service on December 31, 2021, after 25 years of service. Following are the particulars of his income/investments for the previous year 2021-22:

Particulars	₹
Basic pay @ ₹ 16,000 per month for 9 months	1,44,000
Dearness pay (50% forms part of the retirement benefits) ₹ 8,000 per month for 9 months	72,000
Lumpsum payment received from the Unrecognized Provident Fund	6,00,000
Deposits in the PPF account	40,000

Out of the amount received from the unrecognised provident fund, the employer's contribution was ₹ 2,20,000 and the interest thereon ₹ 50,000. The employee's contribution was ₹ 2,50,000 and the interest thereon ₹ 60,000. What is the taxable portion of the amount received from the unrecognized provident fund in the hands of Mr. A for the assessment year 2022-23?

SOLUTION

Taxable portion of the amount received from the URPF in the hands of Mr. A for the A.Y. 2022-23 is computed hereunder:

Particulars	₹
Amount taxable under the head "Salaries":	
Employer's share in the payment received from the URPF	2,20,000
Interest on the employer's share	50,000
Total	2,70,000
Amount taxable under the head "Income from Other Sources":	
Interest on the employee's share	60,000
Total amount taxable from the amount received from the fund	3,30,000

Note: Since the employee is not eligible for deduction under section 80C for contribution to URPF at the time of such contribution, the employee's share received from the URPF is not taxable at the time of withdrawal as this amount has already been taxed as his salary income.

ILLUSTRATION 7

Will your answer be any different if the fund mentioned above was a recognised provident fund?

SOLUTION

Since the fund is a recognised one, and the maturity is taking place after a service of 25 years, the entire amount received on the maturity of the RPF will be fully exempt from tax.

ILLUSTRATION 8

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

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

SOLUTION

Computation of Gross Salary of Mr. B for the A.Y.2022-23

Particulars	₹	₹
Basic Salary [₹ 10,000 × 12]		1,20,000
Dearness Allowance [₹ 8,000 × 12]		96,000
Commission on turnover [0.1% × ₹ 50,00,000]		5,000
Bonus		40,000

Gratuity [Note 1]		25,000
Employers contribution to RPF [20% of ₹ 1,20,000]	24,000	
Less: Exempt [Note 2]	20,760	3,240
Interest accrued in the RPF @ 13% p.a.	13,000	
Less: Exempt @ 9.5% p.a.	9,500	3,500
Gross Salary		2,92,740

Note 1: Gratuity received during service is fully taxable.

Note 2: Employers contribution in the RPF is exempt up to 12% of the salary.

i.e., 12% of [Basic Salary + Dearness Allowance forming part of retirement benefits + Commission based on turnover] = 12% of [₹ 1,20,000 + (50% × ₹ 96,000) + ₹ 5,000]
= 12% of ₹ 1,73,000 = ₹ 20,760

Note 3: Employee's contribution to RPF is not taxable. It is eligible for deduction under section 80C.

ILLUSTRATION 9

Mr. Dutta received voluntary retirement compensation of ₹ 7,00,000 after 30 years 4 months of service. He still has 6 years of service left. At the time of voluntary

retirement, he was drawing basic salary ₹ 20,000 p.m.; Dearness allowance (which forms part of pay) ₹ 5,000 p.m. Compute his taxable voluntary retirement compensation, assuming that he does not claim any relief under section 89.

SOLUTION

Voluntary retirement compensation received	₹ 7,00,000
Less: Exemption under section 10(10C) [See Note below]	₹ <u>5,00,000</u>
Taxable voluntary retirement compensation	₹ <u>2,00,000</u>

Note: Exemption is to the extent of least of the following:

- | | | |
|---|---|-------------|
| (i) Compensation actually received | = | ₹ 7,00,000 |
| (ii) Statutory limit | = | ₹ 5,00,000 |
| (iii) 3 months' salary × completed years of service | | |
| = (₹ 20,000 + ₹ 5,000) × 3 × 30 years | = | ₹ 22,50,000 |
| (iv) Last drawn salary × remaining months of service left | | |
| = (₹ 20,000 + ₹ 5,000) × 6 × 12 months | = | ₹ 18,00,000 |

ILLUSTRATION 10

Mr. X is appointed as a CFO of ABC Ltd. in Mumbai from 1.5.2020. His basic salary is ₹ 5,50,000 p.m. He is paid 10% as D.A. He contributes 11% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount. The accumulated balance in recognized provident fund as on 1.4.2021 and 31.3.2022 is ₹ 15,35,000 and ₹ 33,55,000. Compute the perquisite value chargeable in the hands of Mr. X u/s 17(2)(vii) and 17(2)(viia) for the P.Y. 2021-22.

SOLUTION

1. Perquisite value taxable u/s 17(2)(vii) = ₹ 7,98,600, being employer's contribution to recognized provident fund during the P.Y. 2021-22 – ₹ 7,50,000 = ₹ 48,600
2. Annual accretion on perquisite taxable u/s 17(2)(vii) = $(PC/2)*R + (PC1 + TP1)*R$
 $= (48,600/2)*0.091 + 0$
 $= ₹ 2,211$

PC ABC Ltd.'s contribution in excess of ₹ 7.5 lakh to recognized provident fund during P.Y. 2021-22 = ₹ 48,600

PC1 Nil since employer's contribution is less than ₹ 7.5 lakh to recognized provident fund in P.Y. 2020-21.

TP1 Nil

R $I/Favg = 2,22,800/24,45,000 = 0.091$

I RPF balance as on 31.3.2022 – employee's and employer's contribution during the year – RPF balance as on 1.4.2021 = ₹ 2,22,800 (₹ 33,55,000 – ₹ 7,98,600 – ₹ 7,98,600 – ₹ 15,35,000)

Favg Balance to the credit of recognized provident fund as on 1st April, 2021 + Balance to the credit of recognized provident fund as on 31st March, 2022)/2 = (₹ 15,35,000 + ₹ 33,55,000)/2 = ₹ 24,45,000

Note – Since the employee's contribution to RPF exceeds ₹ 2,50,000 in the P.Y.2021-22, interest on ₹ 5,48,600 (i.e., ₹ 7,98,600 – ₹ 2,50,000) will also be chargeable to tax.

ILLUSTRATION 11

Mr. D went on a holiday on 25.12.2021 to Delhi with his wife and three children (one son – age 5 years; twin daughters – age 3 years). They went by flight (economy class) and the total cost of tickets reimbursed by his employer was ₹ 60,000 (₹ 45,000 for adults and ₹ 15,000 for the three minor children). Compute the amount of LTC exempt.

SOLUTION

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

ILLUSTRATION 12

In the above illustration 11, will there be any difference if among his three children the twins were 5 years old and the son 3 years old? Discuss.

SOLUTION

Since the twins' age is more than the son, Mr. D cannot avail for exemption for all his three children. LTC exemption can be availed in respect of only two children. Taxable

$$\text{LTC} = 15,000 \times \frac{1}{3} = ₹ 5,000.$$

LTC exempt would be only ₹ 55,000 (i.e. ₹ 60,000 – ₹ 5,000)

ILLUSTRATION 13

Compute the taxable value of the perquisite in respect of medical facilities received by Mr. G from his employer during the P.Y. 2021-22:

<i>Medical premium paid for insuring health of Mr. G</i>	₹ 7,000
<i>Treatment of Mr. G by his family doctor</i>	₹ 5,000
<i>Treatment of Mrs. G in a Government hospital</i>	₹ 25,000
<i>Treatment of Mr. G's grandfather in a private clinic</i>	₹ 12,000
<i>Treatment of Mr. G's mother (68 years and dependant) by family doctor</i>	₹ 8,000
<i>Treatment of Mr. G's sister (dependant) in a nursing home</i>	₹ 3,000
<i>Treatment of Mr. G's brother (independent)</i>	₹ 6,000
<i>Treatment of Mr. G's father (75 years and dependent) abroad</i>	₹ 50,000
<i>Expenses of staying abroad of the patient and</i>	₹ 30,000
<i>Limit specified by RBI</i>	₹ 75,000

SOLUTION**Computation of taxable value of perquisite in the hands of Mr. G**

Particulars	₹	₹
Treatment of Mrs. G in a Government hospital		-
Treatment of Mr. G's father (75 years and dependent) abroad	50,000	
Expenses of staying abroad of the patient and attendant	30,000	
	80,000	
<i>Less: Exempt up to limit specified by RBI</i>	75,000	5,000
Medical premium paid for insuring health of Mr. G		-
Treatment of Mr. G by his family doctor		5,000
Treatment of Mr. G's mother (dependent) by family doctor		8,000
Treatment of Mr. G's sister (dependent) in a nursing home		3,000
Treatment of Mr. G's grandfather in a private clinic		12,000
Treatment of Mr. G's brother (independent)		6,000
Taxable value of perquisite		39,000

SOLUTION

Value of the rent free unfurnished accommodation
 = 15% of salary for the relevant period
 = 15% of [(₹ 6000 × 5) + (₹ 2,000 × 30% × 5) + (₹ 1,500 × 5)] [**See Note below**]
 = 15% of ₹ 40,500 = ₹ 6,075.

Note: Since, Mr. C occupies the house only from 1.11.2021, we have to include the salary due to him only in respect of months during which he has occupied the accommodation. Hence salary for 5 months (i.e. from 1.11.2021 to 31.03.2022) will be considered.

ILLUSTRATION 15

Using the data given in the previous illustration 14, compute the value of the perquisite if Mr. C is required to pay a rent of ₹ 1,000 p.m. to the company, for the use of this accommodation.

SOLUTION

First of all, we have to see whether there is a concession in the matter of rent. In the case of accommodation owned by the employer in cities having a population exceeding 25 lakh, there would be deemed to be a concession in the matter of rent if 15% of salary exceeds rent recoverable from the employee.

In this case, 15% of salary would be ₹ 6,075 (i.e. 15% of ₹ 40,500). The rent paid by the employee is ₹ 5,000 (i.e., ₹ 1,000 × 5). Since 15% of salary exceeds the rent recovered from the employee, there is a deemed concession in the matter of rent. Once there is a deemed concession, the provisions of Rule 3(1) would be applicable in computing the taxable perquisite.

Value of the rent free unfurnished accommodation = ₹ 6,075

Less: Rent paid by the employee (₹ 1,000 × 5) = ₹ 5,000

Perquisite value of unfurnished accommodation given at concessional rent = ₹ 1,075

ILLUSTRATION 16

Using the data given in illustration 14, compute the value of the perquisite if ABC Ltd. has taken this accommodation on a lease rent of ₹ 1,200 p.m. and Mr. C is required to pay a rent of ₹ 1,000 p.m. to the company, for the use of this accommodation.

SOLUTION

Here again, we have to see whether there is a concession in the matter of rent. In the case of accommodation taken on lease by the employer, there would be deemed to be a concession in the matter of rent if the rent paid by the employer or 15% of salary, whichever is lower, exceeds rent recoverable from the employee.

In this case, 15% of salary is ₹ 6,075 (i.e. 15% of ₹ 40,500). Rent paid by the employer is ₹ 6,000 (i.e. ₹ 1,200 × 5). The lower of the two is ₹ 6,000, which exceeds the rent paid by the employee i.e., ₹ 5,000 (₹ 1,000 × 5). Therefore, there is a deemed concession in the matter of rent. Once there is a deemed concession, the provisions of Rule 3(1) would be applicable in computing the taxable perquisite.

Value of the rent-free unfurnished accommodation [**Note**] = ₹ 6,000

Less: Rent paid by the employee (₹ 1,000 × 5) = ₹ 5,000

Value of unfurnished accommodation given at concessional rent = ₹ 1,000

Note: Value of the rent free unfurnished accommodation is lower of

(i) Lease rent paid by the company for relevant period = ₹ 1,200 × 5 = ₹ 6,000

(ii) 15% of salary for the relevant period (computed earlier) = ₹ 6,075

ILLUSTRATION 17

Using the data given in illustration 14, compute the value of the perquisite if ABC Ltd. has provided a television (WDV ₹ 10,000; Cost ₹ 25,000) and two air conditioners. The rent paid by the company for the air conditioners is ₹ 400 p.m. each. The television was provided on 1.1.2021. However, Mr. C is required to pay a rent of ₹ 1,000 p.m. to the company, for the use of this furnished accommodation.

SOLUTION

Here again, we have to see whether there is a concession in the matter of rent. In the case of accommodation owned by the employer in a city having a population exceeding ₹ 25 lakh, there would be deemed to be a concession in the matter of rent if 15% of salary exceeds rent recoverable from the employee. In case of furnished accommodation, the excess of hire charges paid or 10% p.a. of the cost of furniture, as the case may be, over and above the charges paid or payable by the employee has to be added to the value arrived at above to determine whether there is a concession in the matter of rent.

In this case, 15% of salary is ₹ 6,075 (i.e. 15% of ₹ 40,500). The rent paid by the employee is ₹ 5,000 (i.e. ₹ 1,000 × 5). The value of furniture of ₹ 4,625 (**see Note**

below) is to be added to 15% of salary. The deemed concession in the matter of rent is ₹ 6,075 + ₹ 4,625 - ₹ 5,000 = ₹ 5,700. Once there is a deemed concession, the provisions of Rule 3(1) would be applicable in computing the taxable perquisite.

Value of the rent free unfurnished accommodation (computed earlier) = ₹ 6,075

Add: Value of furniture provided by the employer [**Note**] = ₹ 4,625

Value of rent free furnished accommodation = ₹ 10,700

Less: Rent paid by the employee (₹ 1,000 × 5) = ₹ 5,000

Value of furnished accommodation given at concessional rent = ₹ 5,700

Note: Value of the furniture provided = (₹ 400 p.m. × 2 × 5 months) + (₹ 25,000 × 10% p.a. for 3 months) = ₹ 4,000 + ₹ 625 = ₹ 4,625

ILLUSTRATION 18

Using the data given in illustration 17 above, compute the value of the perquisite if Mr. C is a government employee. The licence fees determined by the Government for this accommodation was ₹ 700 p.m.

SOLUTION

In the case of Government employees, the excess of licence fees determined by the employer as increased by the value of furniture and fixture over and above the rent recovered/ recoverable from the employee and the charges paid or payable for furniture by the employee would be deemed to be the concession in the matter of rent. Therefore, the deemed concession in the matter of rent is ₹ 3,125 [i.e. ₹ 3,500 (licence fees: ₹ 700 × 5) + ₹ 4,625 (Value of furniture) – ₹ 5,000 (₹ 1,000 × 5)]. Once there is a deemed concession, the provisions of Rule 3(1) would be applicable in computing the taxable perquisite.

Value of the rent free unfurnished accommodation (₹ 700 × 5) = ₹ 3,500

Add: Value of furniture provided by the employer (computed earlier) = ₹ 4,625

Value of rent free furnished accommodation = ₹ 8,125

Less: Rent paid by the employee (₹ 1,000 × 5) = ₹ 5,000

Perquisite value of furnished accommodation given at concessional rent = ₹ 3,125

(C) Motor Car [Sub-rule (2) of Rule 3]

If motor car is provided by the employer to the employee, it will be perquisite in the hands of specified employees only. However, the use of any vehicle provided

(3) **Meaning of Normal wear and tear of a motor-car** - For computing the perquisite value of motor car, the normal wear and tear of a motor-car shall be taken at 10% per annum of the actual cost of the motor-car or cars.

(D) Valuation of benefit of provision of domestic servants
[Sub-rule (3) of Rule 3]

If servants are engaged by the employee and employer paid or reimbursed the employee for the wages of such servants, it will be perquisite in the hands of all employees. But if the domestic servants are engaged by the employer and facility of such servants is provided to the employee, it will be perquisite in the hands of specified employees only.

- (i) The value of benefit to the employee or any member of his household resulting from the provision by the employer of the services of a sweeper, a gardener, a watchman or a personal attendant, shall be the actual cost to the employer.
- (ii) The actual cost in such a case shall be the total amount of salary paid or payable by the employer or any other person on his behalf for such services **as reduced by** any amount paid by the employee for such services.

ILLUSTRATION 19

Mr. X and Mr. Y are working for M/s. Gama Ltd. As per salary fixation norms, the following perquisites were offered:

- (i) *For Mr. X, who engaged a domestic servant for ₹ 500 per month, his employer reimbursed the entire salary paid to the domestic servant i.e. ₹ 500 per month.*
- (ii) *For Mr. Y, he was provided with a domestic servant @ ₹ 500 per month as part of remuneration package.*

You are required to comment on the taxability of the above in the hands of Mr. X and Mr. Y, who are not specified employees.

SOLUTION

In the case of Mr. X, it becomes an obligation which the employee would have discharged even if the employer did not reimburse the same. Hence, the perquisite will be covered under section 17(2)(iv) and will be taxable in the hands of Mr. X. This is taxable in the case of all employees.

In the case of Mr. Y, it cannot be considered as an obligation which the employee would meet. The employee might choose not to have a domestic servant. This is

Motor cars	Depreciated value of asset [depreciation is computed @20% on WDV for each completed year of usage]
Any other asset	Depreciated value of asset [depreciation is computed @10% on SLM for each completed year of usage]

Note: Where the employee is paying any amount in respect of such asset, the amount so paid shall be deducted from the value of perquisite determined above.

(ix) Other benefit or amenity [Sub-rule 7(ix) of Rule 3]

The value of any other benefit or amenity, service, right or privilege provided by the employer shall be determined on the basis of cost to the employer under an arms' length transaction as reduced by the employee's contribution, if any.

However, there will be **no taxable perquisite in respect of expenses on telephones including mobile phone** actually incurred on behalf of the employee by the employer i.e., if an employer pays or reimburses telephone bills or mobile phone charges of employee, there will be no taxable perquisite.

ILLUSTRATION 20

Mr. X retired from the services of M/s Y Ltd. on 31.01.2022, after completing service of 30 years and one month. He had joined the company on 1.1.1992 at the age of 30 years and received the following on his retirement:

- (i) *Gratuity ₹ 6,00,000. He was covered under the Payment of Gratuity Act, 1972.*
- (ii) *Leave encashment of ₹ 3,30,000 for 330 days leave balance in his account. He was credited 30 days leave for each completed year of service.*
- (iii) *As per the scheme of the company, he was offered a car which was purchased on 30.01.2019 by the company for ₹ 5,00,000. Company has recovered ₹ 2,00,000 from him for the car. Company depreciates the vehicles at the rate of 15% on Straight Line Method.*
- (iv) *An amount of ₹ 3,00,000 as commutation of pension for 2/3 of his pension commutation.*
- (v) *Company presented him a gift voucher worth ₹ 6,000 on his retirement.*

(vi) His colleagues also gifted him a Television (LCD) worth ₹ 50,000 from their own contribution.

Following are the other particulars:

- (i) He has drawn a basic salary of ₹ 20,000 and 50% dearness allowance per month for the period from 01.04.2021 to 31.01.2022.
- (ii) Received pension of ₹ 5,000 per month for the period 01.02.2022 to 31.03.2022 after commutation of pension.

Compute his gross total income from the above for Assessment Year 2022-23 assuming he has not opted for the provisions of section 115BAC.

SOLUTION

Computation of Gross Total Income of Mr. X for A.Y. 2022-23

Particulars	₹
Basic Salary = ₹ 20,000 x 10	2,00,000
Dearness Allowance = 50% of basic salary	1,00,000
Gift Voucher (See Note - 1)	6,000
Transfer of car (See Note - 2)	56,000
Gratuity (See Note - 3)	80,769
Leave encashment (See Note - 4)	1,30,000
Uncommuted pension (₹ 5000 x 2)	10,000
Commuted pension (See Note - 5)	1,50,000
Gross Salary	7,32,769
Less: Standard deduction u/s 16(ia)	50,000
Taxable Salary /Gross Total Income	6,82,769

Notes:

- (1) As per Rule 3(7)(iv), the value of any gift or voucher or token in lieu of gift received by the employee or by member of his household not exceeding ₹ 5,000 in aggregate during the previous year is exempt. In this case, the amount was received on his retirement and the sum exceeds the limit of ₹ 5,000.

Therefore, the entire amount of ₹ 6,000 is liable to tax as perquisite.

Note – An alternate view possible is that only the sum in excess of ₹ 5,000 is taxable. In such a case, the value of perquisite would be ₹ 1,000 and gross taxable income would be ₹ 7,27,769.

- (2) **Perquisite value of transfer of car:** As per Rule 3(7)(viii), the value of benefit to the employee, arising from the transfer of an asset, being a motor car, by the employer is the actual cost of the motor car to the employer as reduced by 20% of WDV of such motor car for each completed year during which such motor car was put to use by the employer. Therefore, the value of perquisite on transfer of motor car, in this case, would be:

Particulars	₹
Purchase price (30.1.2019)	5,00,000
Less: Depreciation @ 20%	1,00,000
WDV on 29.1.2020	4,00,000
Less: Depreciation @ 20%	80,000
WDV on 29.1.2021	3,20,000
Less: Depreciation @ 20%	64,000
WDV on 29.1.2022	2,56,000
Less: Amount recovered	2,00,000
Value of perquisite	56,000

The rate of 15% as well as the straight line method adopted by the company for depreciation of vehicle is **not** relevant for calculation of perquisite value of car in the hands of Mr. X.

- (3) **Taxable gratuity**

Particulars	₹
Gratuity received	6,00,000
Less: Exempt under section 10(10) - Least of the following:	
(i) Notified limit = ₹ 20,00,000	
(ii) Actual gratuity = ₹ 6,00,000	
(iii) $15/26 \times \text{last drawn salary} \times \text{no. of completed years of services or part in excess of 6 months}$	
$15/26 \times ₹ 30,000 \times 30 = ₹ 5,19,231$	5,19,231
Taxable Gratuity	80,769

Note: As per the Payment of Gratuity Act, 1972, D.A. is included in the meaning of salary. Since in this case, Mr. X is covered under payment of Payment of Gratuity Act, 1972, D.A. has to be included within the meaning of salary for computation of exemption under section 10(10).

(4) **Taxable leave encashment**

Particulars	₹
Leave Salary received	3,30,000
Less : Exempt under section 10(10AA) - Least of the following:	
(i) Notified limit	₹ 3,00,000
(ii) Actual leave salary	₹ 3,30,000
(iii) 10 months x ₹ 20,000	₹ 2,00,000
(iv) Cash equivalent of leave to his credit	₹ 2,20,000
$\left(\frac{330}{30} \times 20,000 \right)$	2,00,000
Taxable Leave encashment	1,30,000

Note – It has been assumed that dearness allowance does not form part of salary for retirement benefits. In case it is assumed that dearness allowance forms part of pay for retirement benefits, then, the third limit for exemption under section 10(10AA) in respect of leave encashment would be ₹ 3,00,000 (i.e. 10 x ₹ 30,000) and the fourth limit ₹ 3,30,000, in which case, the taxable leave encashment would be ₹ 30,000 (₹ 3,30,000 - ₹ 3,00,000). In such a case, the gross total income would be ₹ 6,32,769.

(5) **Commuted Pension**

Since Mr. X is a non-government employee in receipt of gratuity, exemption under section 10(10A) would be available to the extent of $\frac{1}{3}$ rd of the amount of the pension which he would have received had he commuted the whole of the pension.

Particulars	₹
Amount received	3,00,000
Exemption under section 10(10A) = $\frac{1}{3} \times \left[3,00,000 \times \frac{3}{2} \right]$	1,50,000
Taxable amount	1,50,000

- (6) The taxability provisions under section 56(2)(x) are not attracted in respect of television received from colleagues, since television is not included in the definition of property therein.

ILLUSTRATION 21

Shri Bala employed in ABC Co. Ltd. as Finance Manager gives you the list of perquisites provided by the company to him for the entire financial year 2021-22:

- (i) *Domestic servant was provided at the residence of Bala. Salary of domestic servant is ₹ 1,500 per month. The servant was engaged by him and the salary is reimbursed by the company (employer).*

In case the company has employed the domestic servant, what is the value of perquisite?

- (ii) *Free education was provided to his two children Arthy and Ashok in a school maintained and owned by the company. The cost of such education for Arthy is computed at ₹ 900 per month and for Ashok at ₹ 1,200 per month. No amount was recovered by the company for such education facility from Bala.*
- (iii) *The employer has provided movable assets such as television, refrigerator and air-conditioner at the residence of Bala. The actual cost of such assets provided to the employee is ₹ 1,10,000.*
- (iv) *A gift voucher worth ₹ 10,000 was given on the occasion of his marriage anniversary. It is given by the company to all employees above certain grade.*
- (v) *Telephone provided at the residence of Shri Bala and the bill aggregating to ₹ 25,000 paid by the employer.*
- (vi) *Housing loan @ 6% per annum. Amount outstanding on 1.4.2021 is ₹ 6,00,000. Shri Bala pays ₹ 12,000 per month towards principal, on 5th of each month.*

Compute the chargeable perquisite in the hands of Mr. Bala for the A.Y. 2022-23.

The lending rate of State Bank of India as on 1.4.2021 for housing loan may be taken as 10%.

SOLUTION

Taxability of perquisites provided by ABC Co. Ltd. to Shri Bala

- (i) Domestic servant was employed by the employee and the salary of such domestic servant was paid/ reimbursed by the employer. It is taxable as perquisite for all categories of employees.

Taxable perquisite value = ₹ 1,500 × 12 = ₹ 18,000.

If the company had employed the domestic servant and the facility of such servant is given to the employee, then the perquisite is taxable only in the case of specified employees. The value of the taxable perquisite in such a case also would be ₹ 18,000.

- (ii) Where the educational institution is owned by the employer, the value of perquisite in respect of free education facility shall be determined with reference to the reasonable cost of such education in a similar institution in or near the locality. However, there would be no perquisite if the cost of such education per child does not exceed ₹ 1,000 per month.

Therefore, there would be no perquisite in respect of cost of free education provided to his child Arthy, since the cost does not exceed ₹ 1,000 per month.

However, the cost of free education provided to his child Ashok would be taxable, since the cost exceeds ₹ 1,000 per month. The taxable perquisite value would be ₹ 14,400 (₹ 1,200 × 12).

Note – An alternate view possible is that only the sum in excess of ₹ 1,000 per month is taxable. In such a case, the value of perquisite would be ₹ 2,400.

- (iii) Where the employer has provided movable assets to the employee or any member of his household, 10% per annum of the actual cost of such asset owned or the amount of hire charges incurred by the employer shall be the value of perquisite. However, this will not apply to laptops and computers. In this case, the movable assets are television, refrigerator and air conditioner and actual cost of such assets is ₹ 1,10,000.

The perquisite value would be 10% of the actual cost i.e., ₹ 11,000, being 10% of ₹ 1,10,000.

- (iv) The value of any gift or voucher or token in lieu of gift received by the employee or by member of his household not exceeding ₹ 5,000 in aggregate during the previous year is exempt. In this case, the amount was received on the occasion of marriage anniversary and the sum exceeds the limit of ₹ 5,000.

Therefore, the entire amount of ₹ 10,000 is liable to tax as perquisite.

Note- An alternate view possible is that only the sum in excess of ₹ 5,000 is taxable. In such a case, the value of perquisite would be ₹ 5,000

- (v) Telephone provided at the residence of the employee and payment of bill by the employer is a tax free perquisite.

- (vi) The value of the benefit to the assessee resulting from the provision of interest-free or concessional loan made available to the employee or any member of his household during the relevant previous year by the employer or any person on his behalf shall be determined as the sum equal to the interest computed at the rate charged per annum by the State Bank of India (SBI) as on the 1st day of the relevant previous year in respect of loans for the same purpose advanced by it. This rate should be applied on the maximum outstanding monthly balance and the resulting amount should be reduced by the interest, if any, actually paid by him.

“Maximum outstanding monthly balance” means the aggregate outstanding balance for loan as on the last day of each month.

The perquisite value for computation is $10\% - 6\% = 4\%$

Month	Maximum outstanding balance as on last date of month (₹)	Perquisite value at 4% for the month (₹)
April, 2021	5,88,000	1,960
May, 2021	5,76,000	1,920
June, 2021	5,64,000	1,880
July, 2021	5,52,000	1,840
August, 2021	5,40,000	1,800
September, 2021	5,28,000	1,760
October, 2021	5,16,000	1,720
November, 2021	5,04,000	1,680
December, 2021	4,92,000	1,640
January, 2022	4,80,000	1,600
February, 2022	4,68,000	1,560
March, 2022	4,56,000	1,520
Total value of this perquisite		20,880

Total value of taxable perquisite

= ₹ 74,280 [i.e. ₹ 18,000 + ₹ 14,400 + ₹ 11,000 + ₹ 10,000 + ₹ 20,880].

Note - In case the alternate views are taken for items (ii) & (iv), the total value of taxable perquisite would be ₹ 57,280 [i.e., ₹ 18,000 + ₹ 2,400 + ₹ 11,000 + ₹ 5,000 + ₹ 20,880].

(I) Valuation of specified security or sweat equity share for the purpose of section 17(2)(vi) [Sub-rule (8)]

The fair market value of any specified security or sweat equity share, being an equity share in a company, on the date on which the option is exercised by the employee, shall be determined in the following manner -

- (1) **If shares are listed on recognized stock exchange** - In a case where, on the date of the exercising of the option, the share in the company is listed on a recognized stock exchange, the fair market value shall be the average of the opening price and closing price of the share on that date on the said stock exchange.

If shares are listed on more than one recognized stock exchange - However, where, on the date of exercising of the option, the share is listed on more than one recognized stock exchanges, the fair market value shall be the average of opening price and closing price of the share on the recognised stock exchange which records the highest volume of trading in the share.

If no trading in share on recognized stock exchange -Further, where on the date of exercising of the option, there is no trading in the share on any recognized stock exchange, the fair market value shall be -

- (a) the closing price of the share on any recognised stock exchange on a date closest to the date of exercising of the option and immediately preceding such date; or
- (b) the closing price of the share on a recognised stock exchange, which records the highest volume of trading in such share, if the closing price, as on the date closest to the date of exercising of the option and immediately preceding such date, is recorded on more than one recognized stock exchange.

“Closing price” of a share on a recognised stock exchange on a date shall be the price of the last settlement on such date on such stock exchange.

However, where the stock exchange quotes both “buy” and “sell” prices, the closing price shall be the “sell” price of the last settlement.

“Opening price” of a share on a recognised stock exchange on a date shall be the price of the first settlement on such date on such stock exchange.

However, where the stock exchange quotes both “buy” and “sell” prices, the opening price shall be the “sell” price of the first settlement.

- (2) **If shares are not listed on recognized stock exchange** - In a case where, on the date of exercising of the option, the share in the company is not listed on a recognised stock exchange, the fair market value shall be such value of the share in the company as determined by a merchant banker on the specified date.

For this purpose, “specified date” means,—

- (i) the date of exercising of the option; or
- (ii) any date earlier than the date of the exercising of the option, not being a date which is more than 180 days earlier than the date of the exercising.

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

ILLUSTRATION 22

AB Co. Ltd. allotted 1000 sweat equity shares to Sri Chand in June 2021. The shares were allotted at ₹ 200 per share as against the fair market value of ₹ 300 per share on the date of exercise of option by the allottee viz. Sri Chand. The fair market value was computed in accordance with the method prescribed under the Act.

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

SOLUTION

- (i) As per section 17(2)(vi), the value of sweat equity shares chargeable to tax as perquisite shall be the fair market value of such shares on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from, the assessee in respect of such shares.

Particulars	₹
Fair market value of 1000 sweat equity shares @ ₹ 300 each	3,00,000

Less: Amount recovered from Sri Chand 1000 shares @ ₹ 200 each	2,00,000
Value of perquisite of sweat equity shares allotted to Sri Chand	1,00,000

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

Therefore, in case of subsequent sale of sweat equity shares by Sri Chand, the cost of acquisition would be ₹ 3,00,000.

(J) Valuation of specified security, not being an equity share in a company for the purpose of section 17(2)(vi) [Sub-rule (9)]

The fair market value of any specified security, not being an equity share in a company, on the date on which the option is exercised by the employee, shall be such value as determined by a merchant banker on the specified date.

For this purpose, “**specified date**” means,—

- (i) the date of exercising of the option; or
- (ii) any date earlier than the date of the exercising of the option, not being a date which is more than 180 days earlier than the date of the exercising.

Tax on perquisite of specified securities and sweat equity shares is required to be paid in the year of exercising of option. However, where such shares or securities are allotted by the current employer, being an eligible start-up[§], the perquisite is taxable in the year

- after the expiry of 48 months from the end of the relevant assessment year
 - in which sale of such security or share are made by the assessee
 - in which the assessee ceases to be the employee of the employer,
- whichever is earlier.

[§] Referred to in section 80-IAC, which will be dealt with in detail at the Final level

ILLUSTRATION 23

X Ltd. provided the following perquisites to its employee Mr. Y for the P.Y. 2021-22 –

- (1) Accommodation taken on lease by X Ltd. for ₹ 15,000 p.m. ₹ 5,000 p.m. is recovered from the salary of Mr. Y.*
- (2) Furniture, for which the hire charges paid by X Ltd. is ₹ 3,000 p.m. No amount is recovered from the employee in respect of the same.*

- (3) A Car of 1,200 cc which is owned by X Ltd. and given to Mr. Y to be used both for official and personal purposes. All running and maintenance expenses are fully met by the employer. He is also provided with a chauffeur.
- (4) A gift voucher of ₹ 10,000 on his birthday.

Compute the value of perquisites chargeable to tax for the A.Y.2022-23, assuming his salary for perquisite valuation to be ₹ 10 lakh.

SOLUTION

Computation of the value of perquisites chargeable to tax in the hands of Mr. Y for the A.Y.2022-23

Particulars		Amount in ₹	
(1)	Value of concessional accommodation		
	Actual amount of lease rental paid by X Ltd.	1,80,000	
	15% of salary i.e., 15% of ₹ 10,00,000	1,50,000	
	Lower of the above		1,50,000
	Less: Rent paid by Mr. Y (₹ 5,000 × 12)		60,000
		90,000	
	Add: Hire charges paid by X Ltd. for furniture provided for the use of Mr. Y (₹ 3,000 × 12)	36,000	1,26,000
(2)	Perquisite value of Santro car owned by X Ltd. and provided to Mr. Y for his personal and official use [(₹ 1,800 + ₹ 900) × 12]		32,400
(3)	Value of gift voucher*		10,000
	Value of perquisites chargeable to tax		1,68,400

* An alternate view possible is that only the sum in excess of ₹ 5,000 is taxable. In such a case, the value of perquisite would be ₹ 5,000

ILLUSTRATION 24

Mr. Goyal receives the following emoluments during the previous year ending 31.03.2022.

<i>Basic pay</i>	₹ 40,000
<i>Dearness Allowance</i>	₹ 15,000

Commission	₹ 10,000
Entertainment allowance	₹ 4,000
Medical expenses reimbursed	₹ 25,000
Professional tax paid	₹ 2,000 (₹ 1,000 was paid by his employer)

Mr. Goyal contributes ₹ 5,000 towards recognized provident fund. He has no other income. Determine the income from salary for A.Y. 2022-23, if Mr. Goyal is a State Government employee.

SOLUTION

Computation of salary of Mr. Goyal for the A.Y.2022-23

Particulars	₹	₹
Basic Salary		40,000
Dearness Allowance		15,000
Commission		10,000
Entertainment Allowance received		4,000
Employee's contribution to RPF [Note]		-
Medical expenses reimbursed		25,000
Professional tax paid by the employer		1,000
Gross Salary		95,000
<i>Less:</i> Deductions under section 16		
under section 16(ia) - Standard deduction of upto ₹ 50,000		50,000
under section 16(ii) - Entertainment allowance being lowest of :		
(a) Allowance received	4,000	
(b) One fifth of basic salary [$1/5 \times ₹ 40,000$]	8,000	
(c) Statutory amount	5,000	4,000
under section 16(iii) - Professional tax paid		2,000
Income from Salary		39,000

Note: Employee's contribution to RPF is not taxable. It is eligible for deduction u/s 80C.

ILLUSTRATION 25

In the case of Mr. Hari, who turned 69 years on 28.3.2022, you are informed that the salary (computed) for the previous year 2021-22 is ₹ 10,20,000 and arrears of salary received is ₹ 3,45,000. Further, you are given the following details relating to the earlier years to which the arrears of salary received is attributable to:

Previous year	Taxable Salary(₹)	Arrears now received (₹)
2010 – 2011	7,10,000	1,03,000

2011 – 2012	8,25,000	1,17,000
2012 – 2013	9,50,000	1,25,000

Compute the relief available under section 89 and the tax payable for the A.Y. 2022-23. Assume that Mr. Hari does not opt for section 115BAC.

Note: Rates of Taxes:

Assessment Year	Slab rates of income-tax			
	For resident individuals of the age of 60 years or more at any time during the previous year		For other resident individuals	
	Slabs	Rate	Slabs	Rate
2011-12	Upto ₹ 2,40,000	Nil	Upto ₹ 1,60,000	Nil
	₹ 2,40,001 - ₹ 5,00,000	10%	₹ 1,60,001 - ₹ 5,00,000	10%
	₹ 5,00,001 - ₹ 8,00,000	20%	₹ 5,00,001 - ₹ 8,00,000	20%
	Above ₹ 8,00,000	30%	Above ₹ 8,00,000	30%
2012-13	Upto ₹ 2,50,000	Nil	Upto ₹ 1,80,000	Nil
	₹ 2,50,001 - ₹ 5,00,000	10%	₹ 1,80,001 - ₹ 5,00,000	10%
	₹ 5,00,001 - ₹ 8,00,000	20%	₹ 5,00,001 - ₹ 8,00,000	20%
	Above ₹ 8,00,000	30%	Above ₹ 8,00,000	30%
2013-14	Upto ₹ 2,50,000	Nil	Upto ₹ 2,00,000	Nil
	₹ 2,50,001 - ₹ 5,00,000	10%	₹ 2,00,001 - ₹ 5,00,000	10%
	₹ 5,00,001 - ₹ 10,00,000	20%	₹ 5,00,001 - ₹ 10,00,000	20%
	Above ₹ 10,00,000	30%	Above ₹ 10,00,000	30%

Note – Education cess@2% and secondary and higher education cess@1% was attracted on the income-tax for all above preceding years.

SOLUTION

Computation of tax payable by Mr. Hari for the A.Y.2022-23

Particulars	Incl. arrears of salary ₹	Excl. arrears of salary ₹
Current year salary (computed)	10,20,000	10,20,000
Add: Arrears of salary	3,45,000	-
Taxable Salary	13,65,000	10,20,000

Income-tax thereon	2,19,500	1,16,000
Add : Health and education cess @4%	8,780	4,640
Total payable	2,28,280	1,20,640

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

Particulars	A.Y. 2011-12		A.Y. 2012-13		A.Y. 2013-14	
	Incl. arrears (₹)	Excl. arrears (₹)	Incl. arrears (₹)	Excl. arrears (₹)	Incl. arrears (₹)	Excl. arrears (₹)
Taxable salary	7,10,000	7,10,000	8,25,000	8,25,000	9,50,000	9,50,000
Add: Arrears of salary	1,03,000	-	1,17,000	-	1,25,000	-
Taxable salary	8,13,000	7,10,000	9,42,000	8,25,000	10,75,000	9,50,000
Tax on the above	97,900	76,000	1,34,600	99,500	1,47,500	1,15,000
Add: Cess@3%	2,937	2,280	4,038	2,985	4,425	3,450
Tax payable	1,00,837	78,280	1,38,638	1,02,485	1,51,925	1,18,450

Computation of relief under section 89

	Particulars	₹	₹
i	Tax payable in A.Y.2022-23 on arrears:		
	Tax on income including arrears	2,28,280	
	Less : Tax on income excluding arrears	1,20,640	1,07,640
ii	Tax payable in respective years on arrears :		
	Tax on income including arrears (₹ 1,00,837 + ₹ 1,38,638 + ₹ 1,51,925)	3,91,400	
	Less: Tax on income excluding arrears (₹ 78,280 + ₹ 1,02,485 + ₹ 1,18,450)	2,99,215	92,185
	Relief under section 89 - difference between tax on arrears in A.Y 2022-23 and tax on arrears in the respective years		15,455

Tax payable for A.Y.2022-23 after relief under section 89

Particulars	₹
Income-tax payable on total income including arrears of salary	2,28,280
Less : Relief under section 89 as computed above	15,455
Tax payable after claiming relief	2,12,825

TEST YOUR KNOWLEDGE

Question 1

Mr. Mohit is employed with XY Ltd. on a basic salary of ₹ 10,000 p.m. He is also entitled to dearness allowance @100% of basic salary, 50% of which is included in salary as per terms of employment. The company gives him house rent allowance of ₹ 6,000 p.m. which was increased to ₹ 7,000 p.m. with effect from 01.01.2022. He also got an increment of ₹ 1,000 p.m. in his basic salary with effect from 01.02.2022. Rent paid by him during the previous year 2021-22 is as under:

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

Compute his gross salary for assessment year 2022-23 assuming he has not opted for the provisions of section 115BAC.

Answer

Computation of gross salary of Mr. Mohit for A.Y. 2022-23

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

Note: Computation of Taxable House Rent Allowance (HRA)

Particulars	April-May (₹)	June-Oct (₹)	Nov-Dec (₹)	Jan (₹)	Feb-March (₹)
Basic salary per month	10,000	10,000	10,000	10,000	11,000
Dearness allowance (included in salary as per terms of employment) (50% of basic salary)	5,000	5,000	5,000	5,000	5,500

Salary per month for the purpose of computation of house rent allowance	15,000	15,000	15,000	15,000	16,500
Relevant period (in months)	2	5	2	1	2
Salary for the relevant period (Salary per month × relevant period)	30,000	75,000	30,000	15,000	33,000
Rent paid for the relevant period	Nil	30,000 (₹ 6,000×5)	16,000 (₹ 8,000×2)	8,000 (₹ 8,000×1)	16,000 (₹ 8,000×2)
House rent allowance (HRA) received during the relevant period (A)	12,000 (₹ 6,000×2)	30,000 (₹ 6,000×5)	12,000 (₹ 6,000×2)	7,000 (₹ 7,000×1)	14,000 (₹ 7,000×2)
Least of the following is exempt [u/s 10(13A)]	N.A.				
1. Actual HRA received	-	30,000	12,000	7,000	14,000
2. Rent paid (-) 10% of salary	-	22,500	13,000	6,500	12,700
3. 40% of salary (Residence at Ghaziabad – June to Oct, 2021)	-	30,000 (40% × ₹ 75,000)	15,000 (50% × ₹ 30,000)	7,500 (50% × ₹ 15,000)	16,500 (50% × ₹ 33,000)
50% of salary (Residence at Delhi– Nov, 21 - March, 22)					
Exempt HRA (B)	Nil	22,500	12,000	6,500	12,700
Taxable HRA [Actual HRA (-) Exempt HRA] (A-B)	12,000	7,500	Nil	500	1,300

Taxable HRA (total) = ₹ 12,000 + ₹ 7,500 + ₹ 500 + ₹ 1,300 = ₹ 21,300

Question 2

Ms. Rakhi is an employee in a private company. She receives the following medical benefits from the company during the previous year 2021-22:

	Particulars	₹
1	<i>Reimbursement of following medical expenses incurred by Ms. Rakhi</i>	
	(A) <i>On treatment of her self employed daughter in a private clinic</i>	4,000
	(B) <i>On treatment of herself by family doctor</i>	8,000
	(C) <i>On treatment of her mother-in-law dependent on her, in a nursing home</i>	5,000
2	<i>Payment of premium on Mediclaim Policy taken on her health</i>	7,500
3	<i>Medical Allowance</i>	2,000 p.m.
4	<i>Medical expenses reimbursed on her son's treatment in a government hospital</i>	5,000
5	<i>Expenses incurred by company on the treatment of her minor son abroad including stay expenses</i>	1,95,000
6	<i>Expenses in relation to foreign travel of Rakhi and her son for medical treatment</i>	1,20,000
	Note - <i>Limit prescribed by RBI for expenditure on medical treatment and stay abroad is USD 2,50,000 per financial year under liberalized remittance scheme.</i>	

Examine the taxability of the above benefits and allowances in the hands of Rakhi.

Answer

Tax treatment of medical benefits, allowances and mediclaim premium in the hands of Ms. Rakhi for A.Y. 2022-23

	Particulars
1.	Reimbursement of medical expenses incurred by Ms. Rakhi
	(A) The amount of ₹ 4,000 reimbursed by her employer for treatment of her self-employed daughter in a private clinic is taxable perquisite.
	(B) The amount of ₹ 8,000 reimbursed by the employer for treatment of Ms. Rakhi by family doctor is taxable perquisite.

	<p>(C) The amount of ₹ 5,000 reimbursed by her employer for treatment of her dependant mother-in-law in a nursing home is taxable perquisite.</p> <p>The aggregate sum of ₹ 17,000, specified in (A), (B) and (C) above, reimbursed by the employer is taxable perquisite</p>
2.	Medical insurance premium of ₹ 7,500 paid by the employer for insuring health of Ms. Rakhi is a tax free perquisite as per clause (iii) of the first proviso to section 17(2).
3.	Medical allowance of ₹ 2,000 per month i.e., ₹ 24,000 p.a. is a fully taxable allowance.
4.	As per clause (ii)(a) of the first proviso to section 17(2), reimbursement of medical expenses of ₹ 5,000 on her son's treatment in a hospital maintained by the Government is a tax free perquisite.
5. & 6.	<p>As per clause (vi) of the first proviso to section 17(2), the following expenditure incurred by the employer would be excluded from perquisite subject to certain conditions –</p> <p>(i) Expenditure on medical treatment of the employee, or any member of the family of such employee, outside India [₹ 1,05,000, in this case];</p> <p>(ii) Expenditure on travel and stay abroad of the employee or any member of the family of such employee for medical treatment and one attendant who accompanies the patient in connection with such treatment [₹ 1,20,000, in this case].</p> <p>The conditions subject to which the above expenditure would be exempt are as follows -</p> <p>(i) The expenditure on medical treatment and stay abroad would be excluded from perquisite to the extent permitted by Reserve Bank of India;</p> <p>(ii) The expenditure on travel would be excluded from perquisite only in the case of an employee whose gross total income, as computed before including the said expenditure, does not exceed ₹ 2 lakh.</p> <p>Since the expenditure on medical treatment and stay abroad does not exceed the limit permitted by RBI, they would be fully exempt. However, the foreign travel expenditure of Ms. Rakhi and her minor son borne by the employer would be excluded from perquisite only if the gross total income of Ms. Rakhi, as computed before including the said expenditure, does not exceed ₹ 2 lakh.</p>

Question 3

Mr. X is employed with AB Ltd. on a monthly salary of ₹ 25,000 per month and an entertainment allowance and commission of ₹ 1,000 p.m. each. The company provides him with the following benefits:

1. A company owned accommodation is provided to him in Delhi. Furniture costing ₹ 2,40,000 was provided on 1.8.2021.
2. A personal loan of ₹ 5,00,000 on 1.7.2021 on which it charges interest @ 6.75% p.a. The entire loan is still outstanding. (Assume SBI rate of interest on 1.4.2021 was 12.75% p.a.)
3. His son is allowed to use a motor cycle belonging to the company. The company had purchased this motor cycle for ₹ 60,000 on 1.5.2018. The motor cycle was finally sold to him on 1.8.2021 for ₹ 30,000.
4. Professional tax paid by Mr. X is ₹ 2,000.

Compute the income from salary of Mr. X for the A.Y. 2022-23 assuming Mr. X has not opted for the provisions of section 115BAC.

Answer

Computation of Income from Salary of Mr. X for the A.Y. 2022-23

Particulars	₹	₹
Basic salary [₹ 25,000 × 12]		3,00,000
Commission [₹ 1,000 × 12]		12,000
Entertainment allowance [₹ 1,000 × 12]		12,000
Rent free accommodation [Note 1]	48,600	
Add : Value of furniture [₹ 2,40,000 × 10% p.a. for 8 months]	16,000	64,600
Interest on personal loan [Note 2]		22,500
Use of motor cycle [₹ 60,000 × 10% p.a. for 4 months]		2,000
Transfer of motor cycle [Note 3]		12,000
Gross Salary		4,25,100
Less : Deduction under section 16		
Under section 16(ia) – Standard deduction	50,000	
Under section 16(iii) - Professional tax paid	2,000	52,000
Income from Salary		3,73,100

Note 1: Value of rent free unfurnished accommodation

= 15% of salary for the relevant period

= 15% of (₹ 3,00,000 + ₹ 12,000 + ₹ 12,000) = ₹ 48,600

Note 2: Value of perquisite for interest on personal loan

= [₹ 5,00,000 × (12.75% - 6.75%) for 9 months] = ₹ 22,500

Note 3: Depreciated value of the motor cycle

= Original cost – Depreciation @ 10% p.a. for 3 completed years.

= ₹ 60,000 – (₹ 60,000 × 10% p.a. × 3 years) = ₹ 42,000.

Perquisite = ₹ 42,000 – ₹ 30,000 = ₹ 12,000.

Question 4

Mr. Balaji, employed as Production Manager in Beta Ltd., furnishes you the following information for the year ended 31.03.2022:

(i) *Basic salary upto 31.10.2021 ₹ 50,000 p.m.*

Basic salary from 01.11.2021 ₹ 60,000 p.m.

Note: Salary is due and paid on the last day of every month.

(ii) *Dearness allowance @ 40% of basic salary.*

(iii) *Bonus equal to one month salary. Paid in October 2021 on basic salary plus dearness allowance applicable for that month.*

(iv) *Contribution of employer to recognized provident fund account of the employee @ 16% of basic salary.*

(v) *Professional tax paid ₹ 2,500 of which ₹ 2,000 was paid by the employer.*

(vi) *Facility of laptop and computer was provided to Balaji for both official and personal use. Cost of laptop ₹ 45,000 and computer ₹ 35,000 were acquired by the company on 01.12.2021.*

(vii) *Motor car owned by the employer (cubic capacity of engine exceeds 1.60 litres) provided to the employee from 01.11.2021 meant for both official and personal use. Repair and running expenses of ₹ 45,000 from 01.11.2021 to 31.03.2022, were fully met by the employer. The motor car was self-driven by the employee.*

(viii) *Leave travel concession given to employee, his wife and three children (one daughter aged 7 and twin sons aged 3). Cost of air tickets (economy class)*

reimbursed by the employer ₹ 30,000 for adults and ₹ 45,000 for three children. Balaji is eligible for availing exemption this year to the extent it is permissible in law.

Compute the salary income chargeable to tax in the hands of Mr. Balaji for the assessment year 2022-23 assuming he has not opted for the provisions of section 115BAC.

Answer

Computation of Taxable Salary of Mr. Balaji for A.Y. 2022-23

Particulars	₹
Basic salary [(₹ 50,000 × 7) + (₹ 60,000 × 5)]	6,50,000
Dearness Allowance (40% of basic salary)	2,60,000
Bonus (₹ 50,000 + 40% of ₹ 50,000) (See Note 1)	70,000
Employers contribution to recognised provident fund in excess of 12% of salary = 4% of ₹ 6,50,000 (See Note 2)	26,000
Professional tax paid by employer	2,000
Perquisite of Motor Car (₹ 2,400 for 5 months) (See Note 4)	12,000
Gross Salary	10,20,000
Less: Deduction under section 16	
Standard deduction u/s 16(ia) ₹ 50,000	50,000
Professional tax u/s 16(iii) (See Note 6) ₹ 2,500	2,500
Taxable Salary	9,67,500

Notes:

1. Since bonus was paid in the month of October, the basic salary of ₹ 50,000 for the month of October is considered for its calculation.
2. It is assumed that dearness allowance does not form part of salary for computing retirement benefits.
3. As per Rule 3(7)(vii), facility of use of laptop and computer is a tax free perquisite, whether used for official or personal purpose or both.
4. As per the provisions of Rule 3(2), in case a motor car (engine cubic capacity exceeding 1.60 liters) owned by the employer is provided to the employee without chauffeur for personal as well as office use, the value of perquisite

shall be ₹ 2,400 per month. The car was provided to the employee from 01.11.2021, therefore the perquisite value has been calculated for 5 months.

5. Mr. Balaji can avail exemption under section 10(5) on the entire amount of ₹ 75,000 reimbursed by the employer towards Leave Travel Concession since the same was availed for himself, his wife and three children and the journey was undertaken by economy class airfare. The restriction imposed for two children is not applicable in case of multiple births which take place after the first child.

It is assumed that the Leave Travel Concession was availed for journey within India.

6. As per section 17(2)(iv), a "perquisite" includes any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee. Therefore, professional tax of ₹ 2,000 paid by the employer is taxable as a perquisite in the hands of Mr. Balaji. As per section 16(iii), a deduction from the salary is provided on account of tax on employment i.e. professional tax paid during the year.

Therefore, in the present case, the professional tax paid by the employer on behalf of the employee ₹ 2,000 is first included in the salary and deduction of the entire professional tax of ₹ 2,500 is provided from salary.

Question 5

From the following details, find out the salary chargeable to tax for the A.Y.2022-23 assuming he has not opted for the provisions of section 115BAC-

Mr. X is a regular employee of Rama & Co., in Gurgaon. He was appointed on 1.1.2021 in the scale of ₹ 20,000 - ₹ 1,000 - ₹ 30,000. He is paid 10% D.A. & Bonus equivalent to one month pay based on salary of March every year. He contributes 15% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount. DA forms part of pay for retirement benefits.

He is provided free housing facility which has been taken on rent by the company at ₹ 10,000 per month. He is also provided with following facilities:

- (i) Facility of laptop costing ₹ 50,000.*
- (ii) Company reimbursed the medical treatment bill of his brother of ₹ 25,000, who is dependent on him.*
- (iii) The monthly salary of ₹ 1,000 of a house keeper is reimbursed by the company.*

- (iv) A gift voucher of ₹ 10,000 on the occasion of his marriage anniversary.
- (v) Conveyance allowance of ₹ 1,000 per month is given by the company towards actual reimbursement of conveyance spent on official duty.
- (vi) He is provided personal accident policy for which premium of ₹ 5,000 is paid by the company.
- (vii) He is getting telephone allowance @ ₹ 500 per month.

Answer

Computation of taxable salary of Mr. X for A.Y. 2022-23

Particulars	₹
Basic pay [(₹ 20,000×9) + (₹ 21,000×3)] = ₹ 1,80,000 + ₹ 63,000	2,43,000
Dearness allowance [10% of basic pay]	24,300
Bonus	21,000
Employer's contribution to Recognized Provident Fund in excess of 12% (15%-12% =3% of ₹ 2,67,300) [See Note 1 below]	8,019
Taxable allowances	
Telephone allowance	6,000
Taxable perquisites	
Rent-free accommodation [See Note 1 & 2 below]	44,145
Medical reimbursement	25,000
Reimbursement of salary of housekeeper	12,000
Gift voucher [See Note 5 below]	10,000
Gross Salary	3,93,464
Less: Deduction under section 16(ia) – Standard deduction	50,000
Salary income chargeable to tax	3,43,464

Notes:

- Since dearness allowance forms part of salary for retirement benefits, the requisite value of rent-free accommodation and employer's contribution to recognized provident fund have been accordingly worked out.
- Where the accommodation is taken on lease or rent by the employer, the value of rent-free accommodation provided to employee would be actual

amount of lease rental paid or payable by the employer or 15% of salary, whichever is lower.

For the purposes of valuation of rent free house, salary includes:

- (i) Basic salary i.e., ₹ 2,43,000
- (ii) Dearness allowance (assuming that it is included for calculating retirement benefits) i.e. ₹ 24,300
- (iii) Bonus i.e., ₹ 21,000
- (iv) Telephone allowance i.e., ₹ 6,000

Therefore, salary works out to

$$₹ 2,43,000 + ₹ 24,300 + ₹ 21,000 + ₹ 6,000 = ₹ 2,94,300.$$

$$15\% \text{ of salary} = ₹ 2,94,300 \times 15/100 = ₹ 44,145$$

Value of rent-free house = Lower of rent paid by the employer (i.e. ₹ 1,20,000) or 15% of salary (i.e., ₹ 44,145).

Therefore, the perquisite value is ₹ 44,145.

3. Facility of use of laptop is not a taxable perquisite.
4. Conveyance allowance is exempt since it is based on actual reimbursement for official purposes.
5. The value of any gift or voucher or token in lieu of gift received by the employee or by member of his household below ₹ 5,000 in aggregate during the previous year is exempt. In this case, the gift voucher was received on the occasion of marriage anniversary and the sum exceeds the limit of ₹ 5,000.

Therefore, the entire amount of ₹ 10,000 is liable to tax as perquisite.

Note - An alternate view possible is that only the sum in excess of ₹ 5,000 is taxable. In such a case, the value of perquisite would be ₹ 5,000.

6. Premium of ₹ 5,000 paid by the company for personal accident policy is not liable to tax.

UNIT – 2 : INCOME FROM HOUSE PROPERTY



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ILLUSTRATION 1

Jayashree owns five houses in India, all of which are let-out. Compute the GAV of each house from the information given below –

<i>Particulars</i>	<i>House I</i> (₹)	<i>House II</i> (₹)	<i>House III</i> (₹)	<i>House IV</i> (₹)	<i>House V</i> (₹)
<i>Municipal Value</i>	80,000	55,000	65,000	24,000	80,000
<i>Fair Rent</i>	90,000	60,000	65,000	25,000	75,000
<i>Standard Rent</i>	N.A.	75,000	58,000	N.A.	78,000
<i>Actual rent received/ receivable</i>	72,000	72,000	60,000	30,000	72,000

SOLUTION

As per section 23(1), Gross Annual Value (GAV) is the higher of Expected rent and actual rent received. Expected rent is higher of municipal value and fair rent but restricted to standard rent.

Computation of GAV of each house owned by Jayashree

	<i>Particulars</i>	<i>House I</i> (₹)	<i>House II</i> (₹)	<i>House III</i> (₹)	<i>House IV</i> (₹)	<i>House V</i> (₹)
(i)	Municipal value	80,000	55,000	65,000	24,000	80,000
(ii)	Fair rent	90,000	60,000	65,000	25,000	75,000
(iii)	Higher of (i) & (ii)	90,000	60,000	65,000	25,000	80,000
(iv)	Standard rent	N.A.	75,000	58,000	N.A.	78,000

(v)	Expected rent [Lower of (iii) & (iv)]	90,000	60,000	58,000	25,000	78,000
(vi)	Actual rent received/receivable	72,000	72,000	60,000	30,000	72,000
	GAV [Higher of (v) & (vi)]	90,000	72,000	60,000	30,000	78,000

ILLUSTRATION 2

Rajesh, a British national, is a resident and ordinarily resident in India during the P.Y. 2021-22. He owns a house in London, which he has let out at £ 10,000 p.m. The municipal taxes paid to the Municipal Corporation of London is £ 8,000 during the P.Y. 2021-22. The value of one £ in Indian rupee to be taken at ₹ 95. Compute Rajesh's Net Annual Value of the property for the A.Y. 2022-23.

SOLUTION

For the P.Y. 2021-22, Mr. Rajesh, a British national, is resident and ordinarily resident in India. Therefore, income received by him by way of rent of the house property located in London is to be included in the total income in India. Municipal taxes paid in London is to be allowed as deduction from the gross annual value.

Computation of Net Annual Value of the property of Mr. Rajesh for A.Y. 2022-23

Particulars	₹
Gross Annual Value ($£ 10,000 \times 12 \times 95$)	1,14,00,000
Less: Municipal taxes paid ($£ 8,000 \times 95$)	7,60,000
Net Annual Value (NAV)	1,06,40,000

ILLUSTRATION 3

Mr. Manas owns two house properties one at Bombay, wherein his family resides and the other at Delhi, which is unoccupied. He lives in Chandigarh for his employment purposes in a rented house. For acquisition of house property at Bombay, he has taken a loan of ₹ 30 lakh@10% p.a. on 1.4.2020. He has not repaid any amount so far. In respect of house property at Delhi, he has taken a loan of ₹ 5 lakh@11% p.a. on 1.10.2020 towards repairs. Compute the deduction which would be available to him under section 24(b) for A.Y.2022-23 in respect of interest payable on such loan.

SOLUTION

Mr. Manas can claim benefit of Nil Annual Value in respect of his house property at Bombay and Delhi, since no benefit is derived by him from such properties, and he cannot occupy such properties due to reason of his employment at Chandigarh, where he lives in a rented house.

Computation of deduction u/s 24(b) for A.Y.2022-23

Particulars	₹
I Interest on loan taken for acquisition of residential house property at Bombay 30,00,000 × 10% = ₹ 3,00,000 Restricted to ₹ 2,00,000	2,00,000
II Interest on loan taken for repair of residential house property at Delhi ₹ 5,00,000 × 11% = ₹ 55,000 Restricted to ₹ 30,000	30,000
Total interest	2,30,000
Deduction under section 24(b) in respect of (I) and (II) above to be restricted to	2,00,000

- (2) **Certificate to be furnished:** For the purpose of claiming deduction of ₹ 2,00,000 as per (b)(i) in the table given above, the assessee should furnish a certificate from the person to whom any interest is payable on the capital borrowed, specifying the amount of interest payable by the assessee for the purpose of such acquisition or construction of the property or conversion of the whole or any part of the capital borrowed which remains to be repaid as a new loan.

ILLUSTRATION 4

Anirudh has a property whose municipal valuation is ₹ 1,30,000 p.a. The fair rent is ₹ 1,10,000 p.a. and the standard rent fixed by the Rent Control Act is ₹ 1,20,000 p.a. The property was let out for a rent of ₹ 11,000 p.m. throughout the previous year.

Unrealised rent was ₹ 11,000 and all conditions prescribed by Rule 4 are satisfied. He paid municipal taxes @10% of municipal valuation. Interest on borrowed capital was ₹ 40,000 for the year. Compute his income from house property for A.Y.2022-23.

SOLUTION**Computation of Income from house property of Mr. Anirudh for A.Y. 2022-23**

Particulars	Amount in ₹	
Computation of GAV		
Step 1 Compute ER		
ER = Higher of MV of ₹ 1,30,000 p.a. and FR of ₹ 1,10,000 p.a., but restricted to SR of ₹ 1,20,000 p.a.	1,20,000	
Step 2 Compute actual rent received/receivable		
Actual rent received/ receivable less unrealized rent as per Rule 4 = ₹ 1,32,000 - ₹ 11,000	1,21,000	
Step 3 Compare ER of ₹ 1,20,000 and Actual rent received/receivable of ₹ 1,21,000		
Step 4 GAV is the higher of ER and Actual rent received/receivable	1,21,000	
Gross Annual Value (GAV)		1,21,000
Less: Municipal taxes (paid by the owner during the previous year) = 10% of ₹ 1,30,000		13,000
Net Annual Value (NAV)		1,08,000
Less: Deductions under section 24		
(a) 30% of NAV	32,400	
(b) Interest on borrowed capital (actual without any ceiling limit)	40,000	72,400
Income from house property		35,600

Note – Alternatively, if as per income-tax returns, unrealized rent is deducted from GAV, then GAV would be ₹ 1,32,000, being higher of expected rent of ₹ 1,20,000 and actual rent of ₹ 1,32,000. Thereafter, unrealized rent of ₹ 11,000 and municipal taxes of ₹ 13,000 would be deducted from GAV of ₹ 1,32,000 to arrive at the NAV of ₹ 1,08,000.

(II) LET OUT PROPERTY VACANT FOR PART OF THE YEAR

Particulars	Amount
Computation of GAV	
Step 1 Compute ER ER = Higher of MV and FR, but restricted to SR	
Step 2 Compute Actual rent received/ receivable Actual rent received/receivable for let out period <i>less</i> unrealized rent as per Rule 4 [See Note below for alternate view]	
Step 3 Compare ER and Actual rent received/ receivable computed for the let-out period	
Step 4 If Actual rent is lower than ER owing to vacancy, then Actual rent is the GAV. If Actual rent is lower than ER due to other reasons, then ER is the GAV. However, in spite of vacancy, if the actual rent is higher than the ER, then Actual rent is the GAV.	
Gross Annual Value (GAV)	A
Less: Municipal taxes (paid by the owner during the previous year)	B
Net Annual Value (NAV) = (A-B)	C
Less: Deductions under section 24	
(a) 30% of NAV	D
(b) Interest on borrowed capital (actual without any ceiling limit)	E
Income from house property (C-F)	F
	G

Note - The income-tax returns, however, permit deduction of unrealized rent from gross annual value. If this view is taken, the unrealized rent should be deducted only after computing gross annual value.

ILLUSTRATION 5

Ganesh has a property whose municipal valuation is ₹ 2,50,000 p.a. The fair rent is ₹ 2,00,000 p.a. and the standard rent fixed by the Rent Control Act is ₹ 2,10,000 p.a. The property was let out for a rent of ₹ 20,000 p.m. However, the tenant vacated the property on 31.1.2022. Unrealised rent was ₹ 20,000 and all conditions

prescribed by Rule 4 are satisfied. He paid municipal taxes @8% of municipal valuation. Interest on borrowed capital was ₹ 65,000 for the year. Compute the income from house property of Ganesh for A.Y. 2022-23.

SOLUTION**Computation of income from house property of Ganesh for A.Y. 2022-23**

Particulars	Amount in ₹	
Computation of GAV		
Step 1 Compute ER Higher of MV of ₹ 2,50,000 p.a. & FR of ₹ 2,00,000 p.a., but restricted to SR of ₹ 2,10,000 p.a.	2,10,000	
Step 2 Compute Actual rent received/ receivable Actual rent received/ receivable for let out period less unrealized rent as per Rule 4 = ₹ 2,00,000 – ₹ 20,000	1,80,000	
Step 3 Compare ER & Actual rent received/ receivable		
Step 4 In this case the actual rent of ₹ 1,80,000 is lower than ER of ₹ 2,10,000 owing to vacancy, since, had the property not been vacant the actual rent would have been ₹ 2,20,000 (₹ 1,80,000 + ₹ 40,000, being notional rent for February and March 2020). Therefore, actual rent is the GAV.	1,80,000	
Gross Annual Value (GAV)		1,80,000
Less: Municipal taxes (paid by the owner during the previous year) = 8% of ₹ 2,50,000		20,000
Net Annual Value (NAV)		1,60,000
Less: Deductions under section 24		
(a) 30% of NAV = 30% of ₹ 1,60,000	48,000	
(b) Interest on borrowed capital (actual without any ceiling limit)	65,000	1,13,000
Income from house property		47,000

Note – Alternatively, if as per income-tax returns, unrealized rent is deducted from GAV, then GAV would be ₹ 2,00,000, being the actual rent, since the actual rent is

lower than the expected rent of ₹ 2,10,000 owing to vacancy. Thereafter, unrealized rent of ₹ 20,000 and municipal taxes of ₹ 20,000 would be deducted from GAV of ₹ 2,00,000 to arrive at the NAV of ₹ 1,60,000.

(III) SELF-OCCUPIED PROPERTIES OR UNOCCUPIED PROPERTIES

Particulars	Amount
Annual value under section 23(2)	Nil
Less: Deduction under section 24	
Interest on borrowed capital	E
(i) Interest on loan taken for acquisition or construction of house on or after 1.4.99 and same was completed within 5 years from the end of the financial year in which capital was borrowed, interest paid or payable <i>in toto</i> for one or two self-occupied properties subject to a maximum of ₹ 2,00,000 (including apportioned pre-construction interest).	
(ii) In case of loan for acquisition or construction taken prior to 1.4.99 or loan taken for repair, renovation or reconstruction at any point of time, interest paid or payable <i>in toto</i> for one or two self-occupied properties subject to a maximum of ₹ 30,000.	
Income from house property	-E
However, aggregate interest on borrowed capital allowable under (i) and (ii) cannot exceed ₹ 2,00,000	

ILLUSTRATION 6

Poorna has one house property at Indira Nagar in Bangalore. She stays with her family in the house. The rent of similar property in the neighbourhood is ₹ 25,000 p.m. The municipal valuation is ₹ 2,80,000 p.a.. Municipal taxes paid is ₹ 8,000. The house construction began in April 2015 with a loan of ₹ 20,00,000 taken from SBI Housing Finance Ltd. @9% p.a. on 1.4.2015. The construction was completed on 30.11.2017. The accumulated interest up to 31.3.2017 is ₹ 3,60,000. On 31.3.2022, Poorna paid ₹ 2,40,000 which included ₹ 1,80,000 as interest. There was no principal repayment prior to this date. Compute Poorna's income from house property for A.Y. 2022-23.

SOLUTION**Computation of income from house property of Smt. Poorna for
A.Y. 2022-23**

Particulars	Amount ₹
Annual Value of house used for self-occupation under section 23(2)	Nil
Less: Deduction under section 24	
Interest on borrowed capital	
Interest on loan was taken for construction of house on or after 1.4.99 and same was completed within the prescribed time - interest paid or payable subject to a maximum of ₹ 2,00,000 (including apportioned pre-construction interest) will be allowed as deduction.	
In this case the total interest is ₹ 1,80,000 + ₹ 72,000 (Being 1/5 th of ₹ 3,60,000) = ₹ 2,52,000. However, the interest deduction is restricted to ₹ 2,00,000.	2,00,000
Loss from house property	(2,00,000)

ILLUSTRATION 7

Smt. Rajalakshmi owns a house property at Adyar in Chennai. The municipal value of the property is ₹ 5,00,000, fair rent is ₹ 4,20,000 and standard rent is ₹ 4,80,000. The property was let-out for ₹ 50,000 p.m. up to December 2021. Thereafter, the tenant vacated the property and Smt. Rajalakshmi used the house for self-occupation. Rent for the months of November and December 2021 could not be realised in spite of the owner's efforts. All the conditions prescribed under Rule 4 are satisfied. She paid municipal taxes @12% during the year. She had paid interest of ₹ 25,000 during the year for amount borrowed for repairs for the house property. Compute her income from house property for the A.Y. 2022-23.

SOLUTION

Computation of income from house property of Smt. Rajalakshmi for A.Y. 2022-23

Particulars	Amount in ₹
Computation of GAV	
Step 1 Compute ER for the whole year ER = Higher of MV of ₹ 5,00,000 and FR of ₹ 4,20,000, but restricted to SR of ₹ 4,80,000	4,80,000
Step 2 Compute Actual rent received/ receivable Actual rent received/receivable for the period let out less unrealized rent as per Rule 4 = (₹ 50,000 × 9) - (₹ 50,000 × 2) = ₹ 4,50,000 - ₹ 1,00,000	3,50,000
Step 3 Compare ER for the whole year with the actual rent received/ receivable for the let out period i.e. ₹ 4,80,000 and ₹ 3,50,000	

Step 4 GAV is the higher of ER computed for the whole year and Actual rent received/receivable computed for the let-out period	4,80,000	
Gross Annual Value (GAV)		4,80,000
<i>Less:</i> Municipal taxes (paid by the owner during the previous year) = 12% of ₹ 5,00,000		60,000
Net Annual Value (NAV)		4,20,000
Less: Deductions under section 24		
(a) 30% of NAV = 30% of ₹ 4,20,000	1,26,000	
(b) Interest on borrowed capital	25,000	1,51,000
Income from house property		2,69,000

Note – Alternatively, if as per income-tax returns, unrealized rent is deducted from GAV, then GAV would be ₹ 4,80,000, being higher of expected rent of ₹ 4,80,000 and actual rent of ₹ 4,50,000. Thereafter, unrealized rent of ₹ 1,00,000 and municipal taxes of ₹ 60,000 would be deducted from GAV of ₹ 4,80,000 to arrive at the NAV of ₹ 3,20,000. The deduction u/s 24(a) would be ₹ 96,000, being 30% of ₹ 3,20,000. The income from house property would, therefore, be ₹ 1,99,000.

ILLUSTRATION 8

Ganesh has three houses, all of which are self-occupied. The particulars of the houses for the P.Y. 2021-22 are as under:

Particulars	House I	House II	House III
Municipal valuation p.a.	₹ 3,00,000	₹ 3,60,000	₹ 3,30,000
Fair rent p.a.	₹ 3,75,000	₹ 2,75,000	₹ 3,80,000
Standard rent p.a.	₹ 3,50,000	₹ 3,70,000	₹ 3,75,000
Date of completion/purchase	31.3.1999	31.3.2002	01.4.2015
Municipal taxes paid during the year	12%	8%	6%
Interest on money borrowed for repair of property during the current year	-	55,000	
Interest for current year on money borrowed in April, 2015 for purchase of property			1,75,000

Compute Ganesh's income from house property for A.Y.2022-23 and suggest which houses should be opted by Ganesh to be assessed as self-occupied so that his tax liability is minimum.

SOLUTION

Let us first calculate the income from each house property assuming that they are deemed to be let out.

Computation of income from house property of Ganesh for the A.Y. 2022-23

Particulars	Amount in ₹		
	House I	House II	House III
Gross Annual Value (GAV)			
ER is the GAV of house property			
ER = Higher of MV and FR, but restricted to SR	3,50,000	3,60,000	3,75,000
Less: Municipal taxes (paid by the owner during the previous year)	36,000	28,800	19,800
Net Annual Value (NAV)	3,14,000	3,31,200	3,55,200

Less: Deductions under section 24			
(a) 30% of NAV	94,200	99,360	1,06,560
(b) Interest on borrowed capital	-	55,000	1,75,000
Income from house property	2,19,800	1,76,840	73,640

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

OPTION 1 (House I and II– self-occupied and House III – deemed to be let out)

If House I and II are opted to be self-occupied, the income from house property shall be –

Particulars	Amount in ₹
House I (Self-occupied)	Nil
House II (Self-occupied) (interest deduction restricted to ₹ 30,000)	(30,000)
House III (Deemed to be let-out)	73,640
Income from house property	43,640

OPTION 2 (House I and III – self-occupied and House II – deemed to be let out)

If House I and III are opted to be self-occupied, the income from house property shall be –

Particulars	Amount in ₹
House I (Self-occupied)	Nil
House II (Deemed to be let-out)	1,76,840
House III (Self-occupied)	(1,75,000)
Income from house property	1,840

OPTION 3 (House II and III – self-occupied and House I – deemed to be let out)

If House II and III are opted to be self-occupied, the income from house property shall be –

Particulars	Amount in ₹
House I (Deemed to be let-out)	2,19,800
House II (Self-occupied) (interest deduction restricted to ₹ 30,000)	(30,000)

House III (Self-occupied)	(1,75,000)	
(Total interest deduction restricted to ₹ 2,00,000)		(2,00,000)
Income from house property		19,800

Since Option 2 is most beneficial, Ganesh should opt to treat House I and III as self-occupied and House II as deemed to be let out. His income from house property would be ₹ 1,840 for the A.Y. 2022-23.

(VI) HOUSE PROPERTY, A PORTION LET OUT AND A PORTION SELF-OCCUPIED

ILLUSTRATION 9

Prem owns a house in Madras. During the previous year 2021-22, 2/3rd portion of the house was self-occupied and 1/3rd portion was let out for residential purposes at a rent of ₹ 8,000 p.m. Municipal value of the property is ₹ 3,00,000 p.a., fair rent is ₹ 2,70,000 p.a. and standard rent is ₹ 3,30,000 p.a. He paid municipal taxes @10% of municipal value during the year. A loan of ₹ 25,00,000 was taken by him during the year 2017 for acquiring the property. Interest on loan paid during the previous year 2021-22 was ₹ 1,20,000. Compute Prem's income from house property for the A.Y. 2022-23.

SOLUTION

There are two units of the house. Unit I with 2/3rd area is used by Prem for self-occupation throughout the year and no other benefit is derived from that unit, hence it will be treated as self-occupied and its annual value will be Nil. Unit 2 with 1/3rd area is let-out throughout the previous year and its annual value has to be determined as per section 23(1).

Computation of income from house property of Mr. Prem for A.Y. 2022-23

Particulars	Amount in ₹	
Unit I (2/3rd area – self-occupied)		
Annual Value		Nil
Less: Deduction under section 24(b)		
2/3 rd of ₹ 1,20,000		80,000
Income from Unit I (self-occupied)		(80,000)

Unit II (1/3rd area – let out)		
Computation of GAV		
Step 1	Compute ER ER = Higher of MV and FR, restricted to SR However, in this case, SR of ₹ 1,10,000 (1/3 rd of ₹ 3,30,000) is more than the higher of MV of ₹ 1,00,000 (1/3 rd of ₹ 3,00,000) and FR of ₹ 90,000 (1/3 rd of ₹ 2,70,000). Hence the higher of MV and FR is the ER. In this case, it is the MV.	1,00,000
Step 2	Compute actual rent received/ receivable ₹ 8,000×12 = ₹ 96,000	96,000
Step 3	Compare ER and Actual rent received/ receivable	
Step 4	GAV is the higher of ER and actual rent received/ receivable i.e. higher of ₹ 1,00,000 and ₹ 96,000	1,00,000
Gross Annual Value(GAV)		1,00,000
Less:	Municipal taxes paid by the owner during the previous year relating to let-out portion 1/3 rd of (10% of ₹ 3,00,000) = ₹ 30,000/3 = ₹10,000	10,000
Net Annual Value(NAV)		90,000
Less:	Deductions under section 24 (a) 30% of NAV = 30% of ₹ 90,000 (b) Interest paid on borrowed capital (relating to let out portion) 1/3 rd of ₹ 1,20,000	27,000 40,000
Income from Unit II (let-out)		23,000
Loss under the head "Income from house property" = (₹ 80,000) + ₹ 23,000 = (₹ 57,000)		



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ILLUSTRATION 10

Mr. Anand sold his residential house property in March, 2021.

In June, 2021, he recovered rent of ₹ 10,000 from Mr. Gaurav, to whom he had let out his house for two years from April 2015 to March 2017. He could not realise

³ under section 163

two months rent of ₹ 20,000 from him and to that extent his actual rent was reduced while computing income from house property for A.Y.2017-18.

Further, he had let out his property from April, 2017 to February, 2021 to Mr. Satish. In April, 2019, he had increased the rent from ₹ 12,000 to ₹ 15,000 per month and the same was a subject matter of dispute. In September, 2021, the matter was finally settled and Mr. Anand received ₹ 69,000 as arrears of rent for the period April 2019 to February, 2021.

Would the recovery of unrealised rent and arrears of rent be taxable in the hands of Mr. Anand, and if so in which year?

SOLUTION

Since the unrealised rent was recovered in the P.Y. 2021-22, the same would be taxable in the A.Y. 2022-23 under section 25A, irrespective of the fact that Mr. Anand was not the owner of the house in that year. Further, the arrears of rent was also received in the P.Y. 2021-22, and hence the same would be taxable in the A.Y. 2022-23 under section 25A, even though Mr. Anand was not the owner of the house in that year. A deduction of 30% of unrealised rent recovered and arrears of rent would be allowed while computing income from house property of Mr. Anand for A.Y. 2022-23.

Computation of income from house property of Mr. Anand for A.Y. 2022-23

Particulars	₹
(i) Unrealised rent recovered	10,000
(ii) Arrears of rent received	69,000
	79,000
Less: Deduction@30%	23,700
Income from house property	55,300

ILLUSTRATION 11

Ms. Aparna co-owns a residential house property in Calcutta along with her sister Ms. Dimple, where her sister's family resides. Both of them have equal share in the property and the same is used by them for self-occupation. Interest is payable in respect of loan of ₹ 50,00,000@10% taken on 1.4.2020 for acquisition of such property. In addition, Ms. Aparna owns a flat in Pune in which she and her parents reside. She has taken a loan of ₹ 3,00,000@12% on 1.10.2020 for repairs of this flat.

Compute the deduction which would be available to Ms. Aparna and Ms. Dimple under section 24(b) for A.Y.2022-23.

SOLUTION

Computation of deduction u/s 24(b) available to Ms. Aparna for A.Y.2022-23

Particulars	₹
I Interest on loan taken for acquisition of residential house property at Calcutta ₹ 50,00,000 x 10% = ₹ 5,00,000 Ms. Aparna's share = 50% of ₹ 5,00,000 = ₹ 2,50,000 Restricted to ₹ 2,00,000	2,00,000
II Interest on loan taken for repair of flat at Pune ₹ 3,00,000 x 12% = ₹ 36,000 Restricted to ₹ 30,000	30,000
Total interest	2,30,000
Deduction under section 24(b) in respect of (I) and (II) above to be restricted to	2,00,000

Computation of deduction u/s 24(b) available to Ms. Dimple for A.Y.2022-23

Particulars	₹
Interest on loan taken for acquisition of residential house property at Calcutta ₹ 50,00,000 x 10% = ₹ 5,00,000 Ms. Dimple's share = 50% of ₹ 5,00,000 = ₹ 2,50,000 Restricted to ₹ 2,00,000	2,00,000
Deduction under section 24(b)	2,00,000

TEST YOUR KNOWLEDGE

Question 1

Mr. Raman is a co-owner of a house property along with his brother holding equal share in the property.

Particulars	₹
Municipal value of the property	1,60,000
Fair rent	1,50,000
Standard rent under the Rent Control Act	1,70,000
Rent received	15,000 p.m.

The loan for the construction of this property is jointly taken and the interest charged by the bank is ₹ 25,000, out of which ₹ 21,000 has been paid. Interest on the unpaid interest is ₹ 450. To repay this loan, Raman and his brother have taken a fresh loan and interest charged on this loan is ₹ 5,000.

The municipal taxes of ₹ 5,100 have been paid by the tenant.

Compute the income from this property chargeable in the hands of Mr. Raman for the A.Y. 2022-23.

Answer

Computation of income from house property of Mr. Raman for A.Y. 2022-23

Particulars	₹	₹
Gross Annual Value (See Note 1 below)		1,80,000
Less: Municipal taxes – paid by the tenant, hence not deductible		Nil
Net Annual Value (NAV)		1,80,000
Less: Deductions under section 24		
(i) 30% of NAV	54,000	
(ii) Interest on housing loan (See Note 2 below)		
- Interest on loan taken from bank	25,000	
- Interest on fresh loan to repay old loan for this property	5,000	84,000
Income from house property		96,000
50% share taxable in the hands of Mr. Raman (See Note 3 below)		48,000

Notes:**1. Computation of Gross Annual Value (GAV)**

GAV is the higher of Expected rent and actual rent received. Expected rent is the higher of municipal value and fair rent, but restricted to standard rent.

Particulars	₹	₹	₹	₹
(a) Municipal value	1,60,000			
(b) Fair rent	1,50,000			
(c) Higher of (a) and (b)		1,60,000		
(d) Standard rent		1,70,000		
(e) Expected rent [lower of (c) and (d)]			1,60,000	
(f) Actual rent [₹ 15,000 x 12]			1,80,000	
(g) Gross Annual Value [higher of (e) and (f)]				1,80,000

- Interest on housing loan is allowable as a deduction under section 24 on accrual basis. Further, interest on fresh loan taken to repay old loan is also allowable as deduction. However, interest on unpaid interest is not allowable as deduction under section 24.
- Section 26 provides that where a house property is owned by two or more persons whose shares are definite and ascertainable, the share of each such person in the income of house property, as computed in accordance with sections 22 to 25, shall be included in his respective total income. Therefore, 50% of the total income from the house property is taxable in the hands of Mr. Raman since he is an equal owner of the property.

Question 2

Mr. X owns one residential house in Mumbai. The house is having two identical units. First unit of the house is self-occupied by Mr. X and another unit is rented for ₹ 8,000 p.m. The rented unit was vacant for 2 months during the year. The particulars of the house for the previous year 2021-22 are as under:

<i>Standard rent</i>	<i>₹ 1,62,000 p.a.</i>
<i>Municipal valuation</i>	<i>₹ 1,90,000 p.a.</i>
<i>Fair rent</i>	<i>₹ 1,85,000 p. a</i>

Municipal tax (Paid by Mr. X)	15% of municipal valuation
Light and water charges	₹ 500 p.m.
Interest on borrowed capital	₹ 1,500 p.m.
Lease money	₹ 1,200 p.a.
Insurance charges	₹ 3,000 p.a.
Repairs	₹ 12,000 p.a.
Compute income from house property of Mr. X for the A.Y. 2022-23.	

Answer**Computation of Income from house property for A.Y. 2022-23**

Particulars	₹	₹
(A) Rented unit (50% of total area – See Note below)		
Step I - Computation of Expected Rent		
Municipal valuation (₹ 1,90,000 x ½)	95,000	
Fair rent (₹ 1,85,000 x ½)	92,500	
Standard rent (₹ 1,62,000 x ½)	81,000	
Expected Rent is higher of municipal valuation and fair rent, but restricted to standard rent	81,000	
Step II - Actual Rent		
Rent receivable for the whole year (₹ 8,000 x 12)	96,000	
Step III – Computation of Gross Annual Value		
Actual rent received owing to vacancy (₹ 96,000 – ₹ 16,000)	80,000	
Since, owing to vacancy, the actual rent received is lower than the Expected Rent, the actual rent received is the Gross Annual Value		
Gross Annual Value		80,000
Less: Municipal taxes (15% of ₹ 95,000)		14,250
Net Annual value		65,750
Less : Deductions under section 24 -		
(i) 30% of net annual value	19,725	

(ii) Interest on borrowed capital (₹ 750 x 12)	9,000	28,725
Taxable income from let out portion		37,025
(B) Self occupied unit (50% of total area – See Note below)		
Annual value	Nil	
Less : Deduction under section 24 -		
Interest on borrowed capital (₹ 750 x 12)	9,000	9,000
Loss from self occupied portion		(9,000)
Income from house property		28,025

Note: No deduction will be allowed separately for light and water charges, lease money paid, insurance charges and repairs.

Question 3

Mr. Vikas owns a house property whose Municipal Value, Fair Rent and Standard Rent are ₹96,000, ₹1,26,000 and ₹1,08,000 (per annum), respectively.

During the Financial Year 2021-22, one-third of the portion of the house was let out for residential purpose at a monthly rent of ₹ 5,000. The remaining two-third portion was self-occupied by him. Municipal tax @ 11 % of municipal value was paid during the year.

The construction of the house began in June, 2014 and was completed on 31-5-2017.

Vikas took a loan of ₹ 1,00,000 on 1-7-2014 for the construction of building.

He paid interest on loan @ 12% per annum and every month such interest was paid.

Compute income from house property of Mr. Vikas for the Assessment Year 2022-23.

Answer

Computation of income from house property of Mr. Vikas for the A.Y. 2022-23

Particulars	₹	₹
Income from house property		
I. Self-occupied portion (Two third)		
Net Annual value		Nil

Less: Deduction under section 24(b)		
Interest on loan (See Note below) (₹ 18,600 x 2/3)		12,400
Loss from self occupied property		(12,400)
II. Let-out portion (One third)		
Gross Annual Value		
(a) Actual rent received (₹ 5,000 x 12)	₹ 60,000	
(b) Expected rent	₹ 36,000	
[higher of municipal valuation (i.e., ₹ 96,000) and fair rent (i.e., ₹ 1,26,000) but restricted to standard rent (i.e., ₹ 1,08,000)] = ₹ 1,08,000 x 1/3		
Higher of (a) or (b)	60,000	
Less: Municipal taxes (₹ 96,000 x 11% x 1/3)		3,520
Net Annual Value		56,480
Less: Deductions under section 24		
(a) 30% of NAV		16,944
(b) Interest on loan (See Note below) (₹ 18,600 x 1/3)		6,200
Income from house property		20,936

Note: Interest on loan taken for construction of building

Interest for the year (1.4.2021 to 31.3.2022) = 12% of ₹ 1,00,000 = ₹ 12,000

Pre-construction period interest = 12% of ₹ 1,00,000 for 33 months (from 1.07.2014 to 31.3.2017) = ₹ 33,000

Pre-construction period interest to be allowed in 5 equal annual installments of ₹ 6,600 from the year of completion of construction i.e. from F.Y. 2017-18 till F.Y. 2021-22.

Therefore, total interest deduction under section 24 = ₹ 12,000 + ₹ 6,600 = ₹ 18,600.

Question 4

Mrs. Rohini Ravi, a citizen of the U.S.A., is a resident and ordinarily resident in India during the financial year 2021-22. She owns a house property at Los Angeles,

U.S.A., which is used as her residence. The annual value of the house is \$ 20,000. The value of one USD (\$) may be taken as ₹ 75.

She took ownership and possession of a flat in Chennai on 1.7.2021, which is used for self-occupation, while she is in India. The flat was used by her for 7 months only during the year ended 31.3.2022. The municipal valuation is ₹ 3,84,000 p.a. and the fair rent is ₹ 4,20,000 p.a. She paid the following to Corporation of Chennai:

Property Tax	₹ 16,200
Sewerage Tax	₹ 1,800

She had taken a loan from Standard Chartered Bank in June, 2019 for purchasing this flat. Interest on loan was as under:

Particulars	₹
Period prior to 1.4.2021	49,200
1.4.2021 to 30.6.2021	50,800
1.7.2021 to 31.3.2022	1,31,300

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

Compute the income chargeable from house property of Mrs. Rohini Ravi for the assessment year 2022-23.

Answer

Since the assessee is a resident and ordinarily resident in India, her global income would form part of her total income i.e., income earned in India as well as outside India will form part of her total income.

She possesses a self-occupied house at Los Angeles as well as at Chennai. She can take the benefit of "Nil" Annual Value in respect of both the house properties.

As regards the Bangalore house, arrears of rent will be chargeable to tax as income from house property in the year of receipt under section 25A. It is not essential that the assessee should continue to be the owner. 30% of the arrears of rent shall be allowed as deduction.

Accordingly, the income from house property of Mrs. Rohini Ravi for A.Y.2022-23 will be calculated as under:

Particulars	₹	₹
1. Self-occupied house at Los Angeles		
Annual value		Nil
Less: Deduction under section 24		Nil
Chargeable income from this house property		Nil
2. Self-occupied house property at Chennai		
Annual value		Nil
Less: Deduction under section 24		
Interest on borrowed capital (See Note below)		1,91,940
		(1,91,940)
3. Arrears in respect of Bangalore property (Section 25A)		
Arrears of rent received	60,000	
Less: Deduction @ 30% u/s 25A(2)	18,000	42,000
Loss under the head "Income from house property"		(1,49,940)

Note: Interest on borrowed capital

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

Question 5

Two brothers Arun and Bimal are co-owners of a house property with equal share. The property was constructed during the financial year 1998-1999. The property consists of eight identical units and is situated at Cochin.

During the financial year 2021-22, each co-owner occupied one unit for residence and the balance of six units were let out at a rent of ₹ 12,000 per month per unit. The municipal value of the house property is ₹ 9,00,000 and the municipal taxes

are 20% of municipal value, which were paid during the year. The other expenses were as follows:

	₹
(i) Repairs	40,000
(ii) Insurance premium (paid)	15,000
(iii) Interest payable on loan taken for construction of house	3,00,000

One of the let out units remained vacant for four months during the year.

Arun could not occupy his unit for six months as he was transferred to Chennai. He does not own any other house.

The other income of Mr. Arun and Mr. Bimal are ₹ 2,90,000 and ₹ 1,80,000, respectively, for the financial year 2021-22.

Compute the income under the head 'Income from House Property' and the total income of two brothers for the assessment year 2022-23.

Answer

Computation of total income for the A.Y. 2022-23

Particulars	Arun (₹)	Bimal (₹)
Income from house property		
I. Self-occupied portion (25%)		
Annual value	Nil	Nil
Less: Deduction under section 24(b)		
Interest on loan taken for construction ₹ 37,500 (being 25% of ₹ 1.5 lakh) restricted to maximum of ₹ 30,000 for each co-owner since the property was constructed before 1.04.1999. Hence, it is assumed that loan was taken before 1.4.1999	30,000	30,000
Loss from self occupied property	(30,000)	(30,000)
II. Let-out portion (75%) – See Working Note below	1,25,850	1,25,850
Income from house property	95,850	95,850
Other Income	2,90,000	1,80,000
Total Income	3,85,850	2,75,850

Working Note – Computation of Income from Let-Out Portion of House Property

Particulars	₹	₹
Let-out portion (75%)		
Gross Annual Value		
(a) Municipal value (75% of ₹ 9 lakh)	6,75,000	
(b) Actual rent [(₹ 12000 x 6 x 12) – (₹ 12,000 x 1 x 4)] = ₹ 8,64,000 - ₹ 48,000 - whichever is higher	8,16,000	8,16,000
Less: Municipal taxes 75% of ₹ 1,80,000 (20% of ₹ 9 lakh)		1,35,000
Net Annual Value (NAV)		6,81,000
Less: Deduction under section 24		
(a) 30% of NAV	2,04,300	
(b) Interest on loan taken for the house [75% of ₹ 3 lakh]	2,25,000	4,29,300
Income from let-out portion of house property		2,51,700
Share of each co-owner (50%)		1,25,850

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ILLUSTRATION 1

Mr. X, a proprietor engaged in manufacturing business, furnishes the following particulars:

	Particulars	₹
(1)	Opening balance of plant and machinery as on 1.4.2021 (i.e., WDV as on 31.3.2021 after reducing depreciation for P.Y. 2020-21)	30,00,000
(2)	New plant and machinery purchased and put to use on 08.06.2021	20,00,000
(3)	New plant and machinery acquired and put to use on 15.12.2021	8,00,000
(4)	Computer acquired and installed in the office premises on 2.1.2022	3,00,000

Compute the amount of depreciation and additional depreciation as per the Income-tax Act, 1961 for the A.Y. 2022-23. Assume that all the assets were purchased by way of account payee cheque.

SOLUTION

Computation of depreciation and additional depreciation for A.Y. 2022-23

Particulars	Plant & Machinery (15%)	Computer (40%)
Normal depreciation		
@15% on ₹ 50,00,000 [See Working Notes 1 & 2]	7,50,000	-
@7.5% (50% of 15%, since put to use for less than 180 days) on ₹ 8,00,000	60,000	-

@20% (50% of 40%, since put to use for less than 180 days) on ₹ 3,00,000	-	60,000
Additional Depreciation		
@20% on ₹ 20,00,000 (new plant and machinery put to use for more than 180 days)	4,00,000	-
@10% (50% of 20%, since put to use for less than 180 days) on ₹ 8,00,000	80,000	-
Total depreciation	12,90,000	60,000

Working Notes:**(1) Computation of written down value of Plant & Machinery**

Particulars	Plant & Machinery (₹)	Computer (₹)
Opening balance as on 1.4.2021	30,00,000	-
Add: Plant & Machinery purchased on 08.6.2021	20,00,000	-
Add: Plant & Machinery acquired on 15.12.2021	8,00,000	-
Computer acquired and installed in the office premises	-	3,00,000
Written down value as on 31.03.2022	58,00,000	3,00,000

(2) Composition of plant and machinery included in the WDV

Particulars	Plant & Machinery (₹)	Computer (₹)
Plant and machinery put to use for 180 days or more [₹ 30,00,000 (WDV) + ₹ 20,00,000 (purchased on 8.6.2021)]	50,00,000	-
Plant and machinery put to use for less than 180 days	8,00,000	-
Computers put to use for less than 180 days	-	3,00,000
	58,00,000	3,00,000

Notes:

- (1) As per the second proviso to section 32(1)(ii), where an asset acquired during the previous year is put to use for less than 180 days in that previous year, the amount of deduction allowable as normal depreciation and additional depreciation would be restricted to 50% of amount computed in accordance with the prescribed percentage.

Therefore, normal depreciation on plant and machinery acquired and put to use on 15.12.2021 and computer acquired and installed on 02.01.2022, is restricted to 50% of 15% and 40%, respectively. The additional depreciation on the said plant and machinery is restricted to ₹ 80,000, being 10% (i.e., 50% of 20%) of ₹ 8 lakh

- (2) As per third proviso to section 32(1)(ii), the balance additional depreciation of ₹ 80,000 being 50% of ₹ 1,60,000 (20% of ₹ 8,00,000) would be allowed as deduction in the A.Y.2023-24.

- (3) As per section 32(1)(iia), additional depreciation is allowable in the case of any new machinery or plant acquired and installed after 31.3.2005 by an assessee engaged, *inter alia*, in the business of manufacture or production of any article or thing, @20% of the actual cost of such machinery or plant.

However, additional depreciation shall not be allowed in respect of, *inter alia*, any machinery or plant installed in office premises, residential accommodation or in any guest house.

Accordingly, additional depreciation is not allowable on computer installed in the office premises.

(5) Actual Cost [Section 43(1)]

The expression "actual cost" means the actual cost of the asset to the assessee as reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority.

However, where an assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account or through such other prescribed electronic mode, exceeds ₹ 10,000, such expenditure shall not form part of actual cost of such asset [Second proviso to section 43(1)].

In the *Explanation 4A*, a *non-obstante* clause has been included to the effect that *Explanation 4A* will have an overriding effect over *Explanation 3*. The result of this is that there is no necessity of finding out whether the main purpose of the transaction is reduction of tax liability. *Explanation 4A* is activated in every situation described above without inquiring about the main purpose.

- (vii) **Building previously the property of the assessee:** Where a building which was previously the property of the assessee is brought into use for the purposes of the business or profession, its actual cost to the assessee shall be the actual cost of the building to the assessee, as reduced by an amount equal to the depreciation calculated at the rates in force on that date that would have been allowable had the building been used for the purposes of the business or profession since the date of its acquisition by the assessee [*Explanation 5*].

ILLUSTRATION 2

A car purchased by Dr. Soman on 10.08.2018 for ₹5,25,000 for personal use is brought into professional use on 1.07.2021 by him, when its market value was ₹2,50,000.

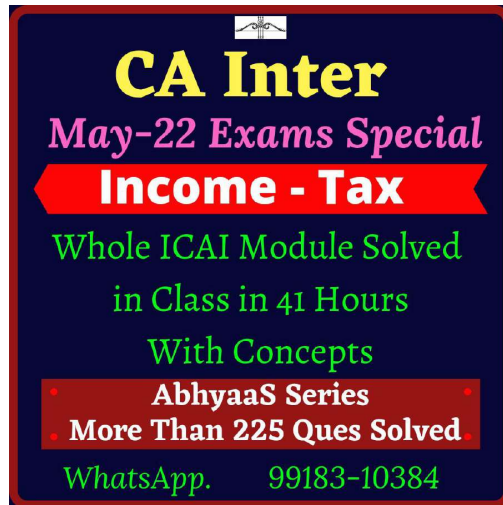
Compute the actual cost of the car and the amount of depreciation for the assessment year 2022-23 assuming the rate of depreciation to be 15%.

SOLUTION

As per section 43(1), the expression "actual cost" would mean the actual cost of asset to the assessee.

The purchase price of ₹5,25,000 is, therefore, the actual cost of the car to Dr. Soman. Market value (i.e. ₹2,50,000) on the date when the asset is brought into professional use is not relevant.

Therefore, amount of depreciation on car as per section 32 for the A.Y.2022-23 would be ₹78,750, being ₹5,25,000 x 15%.



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ILLUSTRATION 3

A newly qualified Chartered Accountant Mr. Dhaval, commenced practice and has acquired the following assets in his office during F.Y. 2021-22 at the cost shown against each item. Calculate the amount of depreciation that can be claimed from his professional income for A.Y.2022-23. Assume that all the assets were purchased by way of account payee cheque.

Sl. No.	Description	Date of acquisition	Date when put to use	Amount ₹
1.	Computer including computer software	27 Sept., 21	1 Oct., 21	35,000
2.	Computer UPS	2 Oct., 21	8 Oct., 21	8,500
3.	Computer printer	1 Oct., 21	1 Oct., 21	12,500
4.	Books (other than annual publications are of ₹ 12,000)	1 Apr., 21	1 Apr., 21	13,000
5.	Office furniture (Acquired from a practicing C.A.)	1 Apr., 21	1 Apr., 21	3,00,000
6.	Laptop	26 Sep., 21	8 Oct., 21	43,000

SOLUTION

Computation of depreciation allowable for A.Y.2022-23

Asset	Rate	Depreciation (₹)
Block 1 Furniture [See working note below]	10%	30,000
Block 2 Plant (Computer including computer software, Computer UPS, Laptop, Printers and Books) [See working note below]	40%	34,500
Total depreciation allowable		64,500

Working Note:

Computation of depreciation

Block of Assets	₹
Block 1: Furniture – [Rate of depreciation - 10%]	
Put to use for more than 180 days [₹ 3,00,000@10%]	30,000
Block 2: Plant [Rate of depreciation- 40%]	
(a) Computer including computer software (put to use for more than 180 days) [₹ 35,000 @ 40%]	14,000

(b) Computer UPS (put to use for less than 180 days) [₹ 8,500@ 20%] [See note below]	1,700
(c) Computer Printer (put to use for more than 180 days) [₹ 12,500 @ 40%]	5,000
(d) Laptop (put to use for less than 180 days) [₹ 43,000 @ 20%] [See note below]	8,600
(e) Books (being annual publications or other than annual publications) (Put to use for more than 180 days) [₹ 13,000 @ 40%]	5,200
	34,500

Note - Where an asset is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than 180 days, the deduction on account of depreciation would be restricted to 50% of the prescribed rate. In this case, since Mr. Dhaval commenced his practice in the P.Y. 2021-22 and acquired the assets during the same year, the restriction of depreciation to 50% of the prescribed rate would apply to those assets which have been put to use for less than 180 days in that year, namely, laptop and computer UPS.

ILLUSTRATION 4

Mr. Gamma, a proprietor started a business of manufacture of tyres and tubes for motor vehicles on 1.1.2021. The manufacturing unit was set up on 1.5.2021. He commenced his manufacturing operations on 1.6.2021. The total cost of the plant and machinery installed in the unit is ₹ 120 crore. The said plant and machinery included second hand plant and machinery bought for ₹ 20 crore and new plant and machinery for scientific research relating to the business of the assessee acquired at a cost of ₹ 15 crore.

Compute the amount of depreciation allowable under section 32 of the Income-tax Act, 1961 in respect of the assessment year 2022-23. Assume that all the assets were purchased by way of account payee cheque and Mr. Gamma has not opted for the provisions of section 115BAC.

SOLUTION**Computation of depreciation allowable for the A.Y. 2022-23 in the hands of Mr. Gamma**

Particulars	₹ in crore	
Total cost of plant and machinery	120.00	
Less: Used for Scientific Research (Note 1)	15.00	
	105.00	
Normal Depreciation at 15% on ₹ 105 crore		15.75
Additional Depreciation:		
Cost of plant and machinery	120.00	
Less: Second hand plant and machinery (Note 2)	20.00	
Plant and machinery used for scientific research, the whole of the actual cost of which is allowable as deduction under section 35(1)(iv) read with section 35(2)(ia) (Note 2)	15.00	35.00
	85.00	
Additional Depreciation at 20%		17.00
Depreciation allowable for A.Y.2022-23		32.75

Notes:

- As per section 35(2)(iv), no depreciation shall be allowed in respect of plant and machinery purchased for scientific research relating to assessee's business, since deduction is allowable under section 35 in respect of such capital expenditure.
- As per section 32(1)(ia), additional depreciation is allowable in the case of any new machinery or plant acquired and installed after 31.3.2005 by an assessee engaged in, *inter alia*, the business of manufacture or production of any article or thing, at the rate of 20% of the actual cost of such machinery or plant.

However, additional depreciation shall not be allowed in respect of, *inter alia*, –

- (i) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person;
- (ii) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profit and gains of business or profession" of any one previous year.

In view of the above provisions, additional depreciation cannot be claimed in respect of -

- (i) Second hand plant and machinery;
- (ii) New plant and machinery purchased for scientific research relating to assessee's business in respect of which the whole of the capital expenditure can be claimed as deduction under section 35(1)(iv) read with section 35(2)(ia) & (iv).

ILLUSTRATION 5

Mr. A, furnishes the following particulars for the P.Y.2021-22. Compute the deduction allowable under section 35 for A.Y.2022-23, while computing his income under the head "Profits and gains of business or profession".

	Particulars	₹
1.	Amount paid to notified approved Indian Institute of Science, Bangalore, for scientific research	1,00,000
2.	Amount paid to IIT, Delhi for an approved scientific research programme	2,50,000
3.	Amount paid to X Ltd., a company registered in India which has as its main object scientific research and development, as is approved by the prescribed authority	4,00,000
4.	Expenditure incurred on in-house research and development facility as approved by the prescribed authority	
	(a) Revenue expenditure on scientific research	3,00,000
	(b) Capital expenditure (including cost of acquisition of land ₹ 5,00,000) on scientific research	7,50,000

SOLUTION**Computation of deduction under section 35 for the A.Y.2022-23**

Particulars	₹	Section	% of deduction	Amount of deduction (₹)
Payment for scientific research				
Indian Institute of Science	1,00,000	35(1)(ii)	100%	1,00,000
IIT, Delhi	2,50,000	35(2AA)	100%	2,50,000
X Ltd.	4,00,000	35(1)(ia)	100%	4,00,000
Expenditure incurred on in-house research and development facility				
Revenue expenditure	3,00,000	35(1)(i)	100%	3,00,000
Capital expenditure (excluding cost of acquisition of land ₹ 5,00,000)	2,50,000	35(1)(iv) read with 35(2)(ia)	100%	2,50,000
Deduction allowable under section 35				13,00,000

Note: Only company assessee are entitled to deduction @100% under section 35(2AB) in respect of in-house research and development expenditure incurred. However, in this case, the assessee is an individual. Therefore, he would be entitled to deduction@100% of the revenue expenditure incurred under section 35(1)(i) and 100% of the capital expenditure incurred under section 35(1)(iv) read with section 35(2), assuming that such expenditure is laid out or expended on scientific research related to his business.

ILLUSTRATION 6

Mr. A commenced operations of the businesses of setting up a warehousing facility for storage of food grains, sugar and edible oil on 1.4.2021. He incurred capital expenditure of ₹ 80 lakh, ₹ 60 lakh and ₹ 50 lakh, respectively, on purchase of land and building during the period January, 2021 to March, 2021 exclusively for the above businesses, and capitalized the same in its books of account as on 1st April, 2021. The cost of land included in the above figures is ₹ 50 lakh, ₹ 40 lakh and ₹ 30 lakh, respectively. During the P.Y. 2021-22, he incurred capital expenditure of ₹ 20 lakh, ₹ 15 lakh & ₹ 10 lakh, respectively, for extension/ reconstruction of the building purchased and used exclusively for the above businesses.

Compute the income under the head "Profits and gains of business or profession" for the A.Y.2022-23 and the loss to be carried forward, assuming that Mr. A has fulfilled all the conditions specified under section 35AD and wants to claim deduction under section 35AD and has not claimed any deduction under Chapter VI-A under the heading "C – Deductions in respect of certain incomes".

The profits from the business of setting up a warehousing facility for storage of food grains, sugar and edible oil (before claiming deduction under section 35AD and section 32) for the A.Y. 2022-23 is ₹ 16 lakhs, ₹ 14 lakhs and ₹ 31 lakhs, respectively. Also, assume in respect of expenditure incurred, the payments are made by account payee cheque or use of ECS through bank account.

SOLUTION

Computation of profits and gains of business or profession for A.Y.2022-23

Particulars	₹ (in lakhs)
Profit from business of setting up of warehouse for storage of edible oil (before providing for depreciation under section 32)	31
Less: Depreciation under section 32	
10% of ₹ 30 lakh, being (₹ 50 lakh – ₹ 30 lakh + ₹ 10 lakh)	3
Income chargeable under "Profits and gains from business or profession"	28

Computation of income/loss from specified business under section 35AD

Particulars	Food Grains	Sugar	Total
	₹ (in lakhs)		
(A) Profits from the specified business of setting up a warehousing facility (before providing deduction under section 35AD)	16	14	30
Less: Deduction under section 35AD			
(B) Capital expenditure incurred prior to 1.4.2021 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2021 (excluding the expenditure incurred on acquisition of land) = ₹ 30 lakh (₹ 80 lakh – ₹ 50 lakh) and ₹ 20 lakh (₹ 60 lakh – ₹ 40 lakh)	30	20	50
(C) Capital expenditure incurred during the P.Y. 2021-22	20	15	35
(D) Total capital expenditure (B + C)	50	35	85
(E) Deduction under section 35AD			
100% of capital expenditure (food grains/ sugar)	50	35	85
Total deduction u/s 35AD for A.Y.2022-23	50	35	85
(F) Loss from the specified business of setting up and operating a warehousing facility (after providing for deduction under section 35AD) to be carried forward as per section 73A (A-E)	(34)	(21)	(55)

Notes:

- (i) Deduction of 100% of the capital expenditure is available under section 35AD for A.Y.2022-23 in respect of specified business of setting up and operating a warehousing facility for storage of sugar and setting up and operating a warehousing facility for storage of agricultural produce where operations are commenced on or after 01.04.2012 or on or after 01.04.2009, respectively.
- (iii) However, since setting up and operating a warehousing facility for storage of edible oils is not a specified business, Mr. A is not eligible for deduction under section 35AD in respect of capital expenditure incurred in respect of such business.
- (iv) Mr. A can, however, claim depreciation@10% under section 32 in respect of the capital expenditure incurred on buildings. It is presumed that the buildings were put to use for more than 180 days during the P.Y.2021-22.
- (v) Loss from a specified business can be set-off only against profits from another specified business. Therefore, the loss of ₹ 55 lakh from the specified businesses of setting up and operating a warehousing facility for storage of food grains and sugar cannot be set-off against the profits of ₹ 28 lakh from the business of setting and operating a warehousing facility for storage of edible oils, since the same is not a specified business. Such loss can, however, be carried forward indefinitely for set-off against profits of the same or any other specified business.

ILLUSTRATION 7

Mr. Suraj, a proprietor, commenced operations of the business of a new three-star hotel in Madurai, Tamil Nadu on 1.4.2021. He incurred capital expenditure of ₹ 50 lakh during the period January, 2021 to March, 2021 exclusively for the above business, and capitalized the same in his books of account as on 1st April, 2021. Further, during the P.Y. 2021-22, he incurred capital expenditure of ₹ 2 crore (out of which ₹ 1.50 crore was for acquisition of land) exclusively for the above business.

Compute the income under the head "Profits and gains of business or profession" for the A.Y.2022-23, assuming that he has fulfilled all the conditions specified under section 35AD and opted for claiming deduction under section 35AD; and he has not claimed any deduction under Chapter VI-A under the heading "C – Deductions in respect of certain incomes".

The profits from the business of running this hotel (before claiming deduction under section 35AD) for the A.Y.2022-23 is ₹ 25 lakhs. Assume that he also has another existing business of running a four-star hotel in Coimbatore, which commenced operations fifteen years back, the profits from which are ₹ 120 lakhs for the A.Y.2022-23. Also, assume that payments for capital expenditure were made by net banking.

SOLUTION

Computation of profits and gains of business or profession for A.Y. 2022-23

Particulars	₹
Profits from the specified business of new hotel in Madurai (before providing deduction under section 35AD)	25 lakh
Less: Deduction under section 35AD	
Capital expenditure incurred during the P.Y.2021-22 (excluding the expenditure incurred on acquisition of land) = ₹ 200 lakh – ₹ 150 lakh	50 lakh
Capital expenditure incurred prior to 1.4.2021 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2021	50 lakh
Total deduction under section 35AD for A.Y.2022-23	100 lakh
Loss from the specified business of new hotel in Madurai	(75 lakh)
Profit from the existing business of running a hotel in Coimbatore	120 lakh
Net profit from business after set-off of loss of specified business against profits of another specified business under section 73A	45 lakh

(8) Other conditions contained under section 35AD

S. No.	Particulars	Condition
1.	Audit of accounts	The deduction shall be allowed to the assessee only if the accounts of the assessee for the relevant previous year have been audited by a chartered accountant and the assessee furnishes the audit report in the prescribed form, duly signed and verified by such accountant.

ILLUSTRATION 8

Mr. Arnav is a proprietor having two units – Unit A carries on specified business of setting up and operating a warehousing facility for storage of sugar; Unit B carries on non-specified business of operating a warehousing facility for storage of edible oil.

Unit A commenced operations on 1.4.2020 and it claimed deduction of ₹ 100 lacs incurred on purchase of two buildings for ₹ 50 lacs each (for operating a warehousing facility for storage of sugar) under section 35AD for A.Y.2021-22. However, in February, 2022, Unit A transferred one of its buildings to Unit B.

Examine the tax implications of such transfer in the hands of Mr. Arnav.


SOLUTION

Since the capital asset, in respect of which deduction of ₹ 50 lacs was claimed under section 35AD, has been transferred by Unit A carrying on specified business to Unit B carrying on non-specified business in the P.Y.2021-22, the deeming provision under section 35AD(7B) is attracted during the A.Y.2022-23.

Particulars	₹
Deduction allowed under section 35AD for A.Y.2021-22	50,00,000
Less: Depreciation allowable u/s 32 for A.Y.2021-22 [10% of ₹ 50 lacs]	5,00,000
Deemed income under section 35AD(7B)	45,00,000

Mr. Arnav, however, by virtue of *proviso to Explanation 13 to section 43(1)*, can claim depreciation under section 32 on the building in Unit B for A.Y.2022-23. For the purpose of claiming depreciation on building in Unit B, the actual cost of the building would be:

Particulars	₹
Actual cost to the assessee	50,00,000
Less: Depreciation allowable u/s 32 for A.Y.2021-22 [10% of ₹ 50 lacs]	5,00,000
Actual cost in the hands of Mr. Arnav in respect of building in its Unit B	45,00,000



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ILLUSTRATION 9

X Ltd. contributes 20% of basic salary to the account of each employee under a pension scheme referred to in section 80CCD. Dearness Allowance is 40% of basic salary and it forms part of pay of the employees.

Compute the amount of deduction allowable under section 36(1)(iva), if the basic salary of the employees aggregate to ₹ 10 lakh. Would disallowance under section 40A(9) be attracted, and if so, to what extent?

SOLUTION

Computation of deduction u/s 36(1)(iva) and disallowance u/s 40A(9)

Particulars	₹
Basic Salary	10,00,000

Dearness Allowance@40% of basic salary [DA forms part of pay]	4,00,000
Salary for the purpose of section 36(1)(iva) (Basic Salary + DA)	14,00,000
Actual contribution (20% of basic salary i.e., 20% of ₹ 10 lakh)	2,00,000
Less: Permissible deduction under section 36(1)(iva) (10% of basic salary plus dearness pay = 10% of ₹ 14,00,000 = ₹ 1,40,000)	1,40,000
Excess contribution disallowed under section 40A(9)	60,000

ILLUSTRATION 10

Delta Ltd. credited the following amounts to the account of resident payees in the month of March, 2022 without deduction of tax at source. What would be the consequence of non-deduction of tax at source by Delta Ltd. on these amounts during the financial year 2021-22, assuming that the resident payees in all the cases mentioned below, have not paid the tax, if any, which was required to be deducted by Delta Ltd.?

	Particulars	Amount in ₹
(1)	<i>Salary to its employees (credited and paid in March, 2022)</i>	<i>12,00,000</i>
(2)	<i>Directors' remuneration (credited in March, 2022 and paid in April, 2022)</i>	<i>28,000</i>

Would your answer change if Delta Ltd. has deducted tax on directors' remuneration in April, 2022 at the time of payment and remitted the same in July, 2022?

SOLUTION

Non-deduction of tax at source on any sum payable to a resident on which tax is deductible at source as per the provisions of Chapter XVII-B would attract disallowance u/s 40(a)(ia).

Therefore, non-deduction of tax at source on any sum paid by way of salary on which tax is deductible u/s 192 or any sum credited or paid by way of directors' remuneration on which tax is deductible under section 194J, would attract disallowance@30% u/s 40(a)(ia). Whereas in case of salary, tax has to be deducted u/s 192 at the time of payment, in case of directors' remuneration, tax has to be deducted at the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier. Therefore, in both the cases i.e., salary and directors' remuneration, tax is deductible in the P.Y.2021-22, since salary was paid in that year and directors' remuneration was credited in that year. Therefore, the amount to be disallowed u/s 40(a)(ia) while computing business income for A.Y.2022-23 is as follows –

Particulars		Amount paid in ₹	Disallowance u/s 40(a)(ia) @30%
(1)	Salary [tax is deductible under section 192]	12,00,000	3,60,000
(2)	Directors' remuneration [tax is deductible under section 194J without any threshold limit]	28,000	8,400
Disallowance under section 40(a)(ia)			3,68,400

If the tax is deducted on directors' remuneration in the next year i.e., P.Y.2022-23 at the time of payment and remitted to the Government, the amount of ₹ 8,400 would be allowed as deduction while computing the business income of A.Y. 2023-24.

In case, assessee fails to deduct the whole or any part of tax on any such sum but is not deemed as assessee in default under the first proviso to section 201(1) by reason that such payee –

- (i) has furnished his return of income under section 139;
- (ii) has taken into account such sum for computing income in such return of income; and
- (iii) has paid the tax due on the income declared by him in such return of income, and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed,

it would be deemed that the assessee has deducted and paid the tax on such sum.

The date of deduction and payment of taxes by the payer shall be deemed to be the date on which return of income has been furnished by the payee.

Since the date of furnishing the return of income by the payee is taken to be the date on which the payer has deducted tax at source and paid the same, 30% of such expenditure/payment in respect of which the payer has failed to deduct tax at source shall be disallowed under section 40(a)(ia) in the year in which the said expenditure is incurred. However, 30% of such expenditure will be allowed as deduction in the subsequent year in which the return of income is furnished by the payee, since tax is deemed to have been deducted and paid by the payer in that year.

ILLUSTRATION 11

During the financial year 2021-22, the following payments/expenditure were made/incurred by Mr. Yuvan Raja, a resident individual (whose turnover during the year ended 31.3.2021 was ₹ 99 lacs):

- (i) Interest of ₹ 45,000 was paid to Rehman & Co., a resident partnership firm, without deduction of tax at source;*
- (ii) ₹ 10,00,000 was paid as salary to a resident individual without deduction of tax at source;*
- (iii) Commission of ₹ 16,000 was paid to Mr. Vidyasagar, a resident, on 2.7.2021 without deduction of tax at source.*

Briefly discuss whether any disallowance arises under the provisions of section 40(a)(ia) of the Income-tax Act, 1961 assuming that the payees in all the cases mentioned above, have not paid the tax, if any, which was required to be deducted by Mr. Raja?

SOLUTION

Disallowance under section 40(a)(ia) of the Income-tax Act, 1961 is attracted where the assessee fails to deduct tax at source as is required under the Act, or having deducted tax at source, fails to remit the same to the credit of the Central Government within the stipulated time limit.

- (i) The obligation to deduct tax at source from interest paid to a resident arises under section 194A in the case of an individual, whose total turnover in the immediately preceding previous year, i.e., P.Y.2020-21 exceeds ₹ 1 crore. Thus, in present case, since the turnover of the assessee is less than ₹ 1 crore, he is not liable to deduct tax at source. Hence, disallowance under section 40(a)(ia) is not attracted in this case.
- (ii) The disallowance of 30% of the sums payable under section 40(a)(ia) would be attracted in respect of all sums on which tax is deductible under Chapter XVII-B. Section 192, which requires deduction of tax at source from salary paid, is covered under Chapter XVII-B. The obligation to deduct tax at source under section 192 arises, in the hands all assessee-employer even if the turnover amount does not exceed ₹ 1 crore in the immediately preceding previous year.

Therefore, in the present case, the disallowance under section 40(a)(ia) is attracted for failure to deduct tax at source under section 192 from salary payment. However, only 30% of the amount of salary paid without deduction of tax at source would be disallowed.

- (iii) The obligation to deduct tax at source under section 194-H from commission paid in excess of ₹ 15,000 to a resident arises in the case of an individual, whose total turnover in the immediately preceding previous year, i.e., P.Y.2020-21 exceeds ₹ 1 crore. Thus, in present case, since the turnover of the assessee is less than ₹ 1 crore, he is not liable to deduct tax at source u/s 194-H. Mr. Raja is not required to deduct tax at source u/s 194M also since the aggregate of such commission to Mr. Vidyasagar does not exceed ₹ 50 lakh during the P.Y. 2021-22. Therefore, disallowance under section 40(a)(ia) is not attracted in this case.

ILLUSTRATION 12

A firm has paid ₹ 7,50,000 as remuneration to its partners for the P.Y.2021-22, in accordance with its partnership deed, and it has a book profit of ₹ 10 lakh. What is the remuneration allowable as deduction?

SOLUTION

The allowable remuneration calculated as per the limits specified in section 40(b)(v) would be –

Particulars	₹
On first ₹ 3 lakh of book profit [₹ 3,00,000 × 90%]	2,70,000
On balance ₹ 7 lakh of book profit [₹ 7,00,000 × 60%]	4,20,000
	6,90,000

The excess amount of ₹ 60,000 (i.e., ₹ 7,50,000 – ₹ 6,90,000) would be disallowed as per section 40(b)(v).

ILLUSTRATION 13

Rao & Jain, a partnership firm consisting of two partners, reports a net profit of ₹ 7,00,000 before deduction of the following items:

- (1) Salary of ₹ 20,000 each per month payable to two working partners of the firm (as authorized by the deed of partnership).
- (2) Depreciation on plant and machinery under section 32 (computed) ₹ 1,50,000.
- (3) Interest on capital at 15% per annum (as per the deed of partnership). The amount of capital eligible for interest is ₹ 5,00,000.

Compute:

- (i) Book-profit of the firm under section 40(b) of the Income-tax Act, 1961.
- (ii) Allowable working partner salary for the assessment year 2022-23 as per section 40(b).

SOLUTION

- (i) As per *Explanation 3* to section 40(b), "book profit" shall mean the net profit as per the profit and loss account for the relevant previous year computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to the partners of the firm if the same has been already deducted while computing the net profit.

In the present case, the net profit given is before deduction of depreciation on plant and machinery, interest on capital of partners and salary to the working partners. Therefore, the book profit shall be as follows:

Computation of Book Profit of the firm under section 40(b)

Particulars	₹	₹
Net Profit (before deduction of depreciation, salary and interest)		7,00,000
Less: Depreciation under section 32	1,50,000	

Interest @ 12% p.a. [being the maximum allowable as per section 40(b)] (₹ 5,00,000 × 12%)	60,000	2,10,000
Book Profit		4,90,000

(ii) Salary actually paid to working partners = ₹ 20,000 × 2 × 12 = ₹ 4,80,000.

As per the provisions of section 40(b)(v), the salary paid to the working partners is allowed subject to the following limits -

On the first ₹ 3,00,000 of book profit or in case of loss	₹ 1,50,000 or 90% of book profit, whichever is more
On the balance of book profit	60% of the balance book profit

Therefore, the maximum allowable working partners' salary for the A.Y. 2022-23 in this case would be:

Particulars	₹
On the first ₹ 3,00,000 of book profit [(₹ 1,50,000 or 90% of ₹ 3,00,000) whichever is more]	2,70,000
On the balance of book profit [60% of (₹ 4,90,000 - ₹ 3,00,000)]	1,14,000
Maximum allowable partners' salary	3,84,000

Hence, allowable working partners' salary for the A.Y.2022-23 as per the provisions of section 40(b)(v) is ₹ 3,84,000.

ILLUSTRATION 14

Hari, an individual, carried on the business of purchase and sale of agricultural commodities like paddy, wheat, etc. He borrowed loans from Andhra Pradesh State Financial Corporation (APSFC) and Indian Bank and has not paid interest as detailed hereunder:

		₹
(i)	Andhra Pradesh State Financial Corporation (P.Y. 2020-21 & 2021-22)	15,00,000
(ii)	Indian Bank (P.Y. 2021-22)	30,00,000
		45,00,000

Both APSFC and Indian Bank, while restructuring the loan facilities of Hari during the year 2021-22, converted the above interest payable by Hari to them as a loan repayable in 60 equal installments. During the year ended 31.3.2022, Hari paid 5 installments to APSFC and 3 installments to Indian Bank.

Hari claimed the entire interest of ₹ 45,00,000 as an expenditure while computing the income from business of purchase and sale of agricultural commodities. Examine whether his claim is valid and if not what is the amount of interest, if any, allowable.

SOLUTION

According to section 43B, any interest payable on the term loans to specified financial institutions and any interest payable on any loans and advances to, *inter alia*, scheduled banks shall be allowed only in the year of payment of such interest irrespective of the method of accounting followed by the assessee. Where there is default in the payment of interest by the assessee, such unpaid interest may be converted into loan. Such conversion of unpaid interest into loan shall not be construed as payment of interest for the purpose of section 43B. The amount

of unpaid interest so converted as loan shall be allowed as deduction only in the year in which the converted loan is actually paid.

In the given case of Hari, the unpaid interest of ₹ 15,00,000 due to APSFC and of ₹ 30,00,000 due to Indian Bank was converted into loan. Such conversion would not amount to payment of interest and would not, therefore, be eligible for deduction in the year of such conversion. Hence, claim of Hari that the entire interest of ₹ 45,00,000 is to be allowed as deduction in the year of conversion is not tenable. The deduction shall be allowed only to the extent of repayment made during the financial year. Accordingly, the amount of interest eligible for deduction for the A.Y.2022-23 shall be calculated as follows:

	Interest outstanding	Number of Instalments	Amount per instalment	Instalments paid	Interest allowable (₹)
APSFC	15 lakh	60	25,000	5	1,25,000
Indian Bank	30 lakh	60	50,000	3	1,50,000
Total amount eligible for deduction					2,75,000

ILLUSTRATION 15

Vinod is a person carrying on profession as film artist. His gross receipts from profession are as under:

Particulars	₹
<i>Financial year 2018-19</i>	<i>1,15,000</i>
<i>Financial year 2019-20</i>	<i>1,80,000</i>
<i>Financial year 2020-21</i>	<i>2,10,000</i>

What is his obligation regarding maintenance of books of accounts for Assessment Year 2022-23 under section 44AA of Income-tax Act, 1961?

SOLUTION

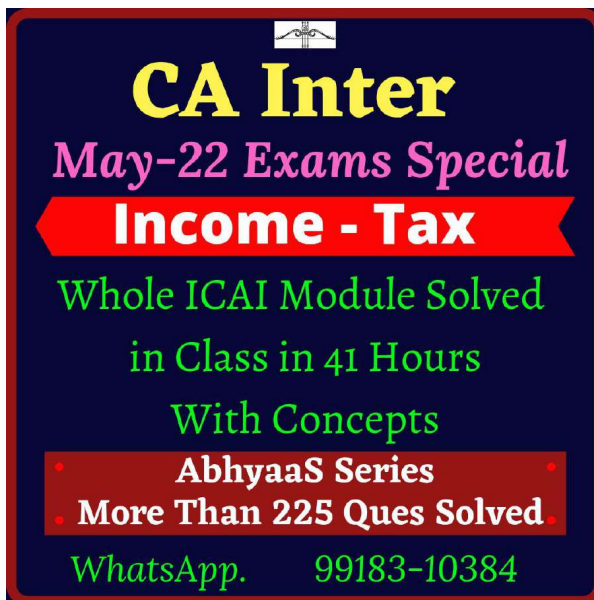
Section 44AA(1) requires every person carrying on any profession, notified by the Board in the Official Gazette (in addition to the professions already specified therein), to maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of the Income-tax Act, 1961.

As per Rule 6F, a person carrying on a notified profession shall be required to maintain specified books of accounts:

- (i) if his gross receipts in all the three years immediately preceding the relevant previous year has exceeded ₹ 1,50,000; or
- (ii) if it is a new profession which is setup in the relevant previous year, it is likely to exceed ₹ 1,50,000 in that previous year.

In the present case, Vinod is a person carrying on profession as film artist, which is a notified profession. Since his gross receipts have not exceeded ₹ 1,50,000 in financial year 2018-19, the requirement under section 44AA to compulsorily maintain the prescribed books of account is not applicable to him.

Mr. Vinod, however, required to maintain such books of accounts as would enable the Assessing Officer to compute his total income.





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ILLUSTRATION 16

Mr. Praveen engaged in retail trade, reports a turnover of ₹ 1,98,50,000 for the financial year 2021-22. His income from the said business as per books of account is ₹ 13,20,000 computed as per the provisions of Chapter IV-D "Profits and gains from business or Profession" of the Income-tax Act, 1961. Retail trade is the only source of income for Mr. Praveen. A.Y. 2021-22 was the first year for which he declared his business income in accordance with the provisions of presumptive taxation u/s 44AD.

- (i) *Is Mr. Praveen also eligible to opt for presumptive determination of his income chargeable to tax for the assessment year 2022-23?*
- (ii) *If so, determine his income from retail trade as per the applicable presumptive provision assuming that whole of the turnover represents cash receipts.*
- (iii) *In case Mr. Praveen does not opt for presumptive taxation of income from retail trade, what are his obligations under the Income-tax Act, 1961?*
- (iii) *What is the due date for filing his return of income under both the options?*

SOLUTION

- (i) Yes. Since his total turnover for the F.Y.2021-22 is below ₹ 200 lakhs, he is eligible to opt for presumptive taxation scheme under section 44AD in respect of his retail trade business.
- (ii) His income from retail trade, applying the presumptive tax provisions under section 44AD, would be ₹ 15,88,000, being 8% of ₹ 1,98,50,000.
- (iii) Mr. Praveen had declared profit for the previous year 2020-21 in accordance with the presumptive provisions and if he does not opt for presumptive provisions for any of the five consecutive assessment years i.e., A.Y. 2022-23

to A.Y. 2026-27, he would not be eligible to claim the benefit of presumptive taxation for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance the presumptive provisions i.e. if he does not opt for presumptive taxation in say P.Y. 2021-22 relevant to A.Y.2022-23, then he would not be eligible to claim the benefit of presumptive taxation for A.Y. 2023-24 to A.Y. 2027-28.

Consequently, Mr. Praveen is required to maintain the books of accounts and get them audited under section 44AB, since his income exceeds the basic exemption limit.

- (iv) In case he opts for the presumptive taxation scheme under section 44AD, the due date would be 31st July, 2022.

In case he does not opt for presumptive taxation scheme, he is required to get his books of account audited, in which case the due date for filing of return of income would be 31st October, 2022

ILLUSTRATION 17

Mr. X commenced the business of operating goods vehicles on 1.4.2021. He purchased the following vehicles during the P.Y.2021-22. Compute his income under section 44AE for A.Y.2022-23.

	Gross Vehicle Weight (in kilograms)	Number	Date of purchase
(1)	7,000	2	10.04.2021
(2)	6,500	1	15.03.2022
(3)	10,000	3	16.07.2021
(4)	11,000	1	02.01.2022
(5)	15,000	2	29.08.2021
(6)	15,000	1	23.02.2022

Would your answer change if the goods vehicles purchased in April, 2021 were put to use only in July, 2021?

SOLUTION

Since Mr. X does not own more than 10 vehicles at any time during the previous year 2021-22, he is eligible to opt for presumptive taxation scheme under section

44AE. ₹ 1,000 per ton of gross vehicle weight or unladen weight per month or part of the month for each heavy goods vehicle and ₹ 7,500 per month or part of month for each goods carriage other than heavy goods vehicle, owned by him would be deemed as his profits and gains from such goods carriage.

Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kg.

(1)	(2)	(3)	(4)
Number of Vehicles	Date of purchase	No. of months for which vehicle is owned	No. of months × No. of vehicles [(1) × (3)]
For Heavy goods vehicle			
2	29.08.2021	8	16
1	23.02.2022	2	2
			18

For goods vehicle other than heavy goods vehicle			
2	10.4.2021	12	24
1	15.3.2022	1	1
3	16.7.2021	9	27
1	02.1.2022	3	3
			55

The presumptive income of Mr. X under section 44AE for A.Y.2022-23 would be - ₹ 6,82,500, i.e., 55 × ₹ 7,500, being for other than heavy goods vehicle + 18 × ₹ 1,000 × 15 ton being for heavy goods vehicle .

The answer would remain the same even if the two vehicles purchased in April, 2021 were put to use only in July, 2021, since the presumptive income has to be calculated per month or part of the month for which the vehicle is owned by Mr. X.

ILLUSTRATION 18

Miss Vivitha, a resident and ordinarily resident in India, has derived the following income from various operations (relating to plantations and estates owned by her) during the year ended 31-3-2022:

S. No.	Particulars	₹
(i)	<i>Income from sale of centrifuged latex processed from rubber plants grown in Darjeeling.</i>	3,00,000
(ii)	<i>Income from sale of coffee grown and cured in Yercaud, Tamil Nadu.</i>	1,00,000

(iii)	Income from sale of coffee grown, cured, roasted and grounded, in Colombo. Sale consideration was received at Chennai.	2,50,000
(iv)	Income from sale of tea grown and manufactured in Shimla.	4,00,000
(v)	Income from sapling and seedling grown in a nursery at Cochin. Basic operations were not carried out by her on land.	80,000

You are required to compute the business income and agricultural income of Miss Vivitha for the A.Y. 2022-23.


SOLUTION

Computation of business income and agricultural income of Ms. Vivitha for the A.Y.2022-23

Sr. No.	Source of income	Gross (₹)	Business income		Agricultural income
			%	₹	₹
(i)	Sale of centrifuged latex from rubber plants grown in India.	3,00,000	35%	1,05,000	1,95,000
(ii)	Sale of coffee grown and cured in India.	1,00,000	25%	25,000	75,000
(iii)	Sale of coffee grown, cured, roasted and grounded outside India. (See Note 1 below)	2,50,000	100%	2,50,000	-
(iv)	Sale of tea grown and manufactured in India	4,00,000	40%	1,60,000	2,40,000
(v)	Saplings and seedlings grown in nursery in India (See Note 2 below)	80,000		Nil	80,000
	Total			5,40,000	5,90,000

Notes:

1. Where income is derived from sale of coffee grown, cured, roasted and grounded by the seller in India, 40% of such income is taken as business income and the balance as agricultural income. However, in this question, these operations are done in Colombo, Sri Lanka. Hence, there is no question of such apportionment and the whole income is taxable as business income. Receipt of sale proceeds in India does not make this agricultural income. In the case of an assessee, being a resident and ordinarily resident, the income arising outside India is also chargeable to tax.
2. *Explanation 3* to section 2(1A) provides that the income derived from saplings or seedlings grown in a nursery would be deemed to be agricultural income whether or not the basic operations were carried out on land.



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TEST YOUR KNOWLEDGE

Question 1

Mr. Venus., engaged in manufacture of pesticides, furnishes the following particulars relating to its manufacturing unit at Chennai, for the year ending 31-3-2022:

	(₹ in lacs)
WDV of Plant and Machinery on 31.3.2021	30
Depreciation including additional depreciation for P.Y. 2020-21	4.75
New machinery purchased on 1-9-2021	10
New machinery purchased on 1-12-2021	8
Computer purchased on 3-1-2022	4

Additional information:

- All assets were purchased by A/c payee cheque.
- All assets were put to use immediately.
- New machinery purchased on 1-12-2021 and computer have been installed in the office.
- During the year ended 31-3-2021, a new machinery had been purchased on 31-10-2020, for ₹ 10 lacs. Additional depreciation, besides normal depreciation, had been claimed thereon.
- Depreciation rate for machinery may be taken as 15%.

Compute the depreciation available to the assessee as per the provisions of the Income-tax Act, 1961 and the WDV of different blocks of assets as on 31-3-2022. Assume that he does not opt for section 115BAC.

Answer

Computation of written down value of block of assets of Venus Ltd. as on 31.3.2022

Particulars	Plant & Machinery (₹ in lacs)	Computer (₹ in lacs)
Written down value (as on 31.3.2021)	30.00	Nil
Less: Depreciation including additional depreciation for P.Y. 2020-21	4.75	-
Opening balance as on 1.4.2021	25.25	

<i>Add:</i> Actual cost of new assets acquired during the year		
New machinery purchased on 1.9.2021	10.00	-
New machinery purchased on 1.12.2021	8.00	-
Computer purchased on 3.1.2022	-	4.00
	43.25	4.00
<i>Less:</i> Assets sold/discarded/destroyed during the year	Nil	Nil
Written Down Value (as on 31.03.2022)	43.25	4.00

Computation of Depreciation for A.Y. 2022-23

	Particulars	Plant & Machinery (₹ in lacs)	Computer (₹ in lacs)
I.	Assets put to use for more than 180 days, eligible for 100% depreciation calculated applying the eligible rate of normal depreciation and additional depreciation		
	<u>Normal Depreciation</u>		
	- WDV of plant and machinery (₹ 25.25 lacs x 15%)	3.79	-
	- New Machinery purchased on 1.9.2021 (₹ 10 lacs x 15%)	1.50	-
	(A)	5.29	-
	<u>Additional Depreciation</u>		
	New Machinery purchased on 1.9.2021 (₹ 10 lakhs x 20%)	2.00	-
	Balance additional depreciation in respect of new machinery purchased on 31.10.2020 and put to use for less than 180 days in the P.Y. 2020-21 (₹ 10 lakhs x 20% x 50%)	1.00	-
	(B)	3.00	-

II.	Assets put to use for less than 180 days, eligible for 50% depreciation calculated applying the eligible rate of normal depreciation and additional depreciation, if any		
	<u>Normal Depreciation</u>		
	New machinery purchased on 1.12.2021 [₹ 8 lacs x 7.5% (i.e., 50% of 15%)]	0.60	-
	Computer purchased on 3.1.2022 [₹ 4 lacs x 20% (50% of 40%)]	-	0.80
	(C)	0.60	0.80
Total Depreciation (A+B+C)	8.89	0.80	

Notes:

- (1) As per section 32(1)(ia), additional depreciation is allowable in the case of any new machinery or plant acquired and installed after 31.3.2005, by an assessee engaged, *inter alia*, in the business of manufacture or production of any article or thing, at the rate of 20% of the actual cost of such machinery or plant.

However, additional depreciation shall not be allowed in respect of, *inter alia*,—

- (i) any office appliances or road transport vehicles;
- (ii) any machinery or plant installed in, *inter alia*, office premises.

In view of the above provisions, additional depreciation cannot be claimed in respect of -

- (i) Machinery purchased on 1.12.2021, installed in office and
- (ii) Computer purchased on 3.1.2022, installed in office.

- (2) Balance additional depreciation@10% on new plant or machinery acquired and put to use for less than 180 days in the year of acquisition which has not been allowed in that year, shall be allowed in the immediately succeeding previous year.

Hence, in this case, the balance additional depreciation@10% (i.e., ₹ 1 lakhs, being 10% of ₹ 10 lakhs) in respect of new machinery which had been purchased during the previous year 2020-21 and put to use for less than 180 days in that year can be claimed in P.Y. 2021-22 being immediately succeeding previous year.

Question 2

Mr. Abhimanyu is engaged in the business of generation and distribution of electric power. He opts to claim depreciation on written down value for income-tax purposes. From the following details, compute the depreciation allowable as per the provisions of the Income-tax Act, 1961 for the assessment year 2022-23, assuming that he does not opt for section 115BAC:

	(₹ in lacs)
(i) WDV of block as on 31.3.2021 (15% rate)	50
(ii) Depreciation for P.Y. 2020-21	7.50
(iii) New machinery purchased on 12-10-2021	10
(iv) Machinery imported from Colombo on 12-4-2021.	9
<i>This machine had been used only in Colombo earlier and the assessee is the first user in India.</i>	
(v) New computer installed in generation wing unit on 15-7-2021	2
<i>All assets were purchased by A/c payee cheque.</i>	

Answer**Computation of depreciation under section 32 for A.Y.2022-23**

Particulars	₹	₹
Normal Depreciation		
Depreciation@15% on ₹ 51,50,000, being machinery put to use for more than 180 days [WDV as on 31.3.2021 of ₹ 50,00,000 – Depreciation for P.Y. 2020-21 of ₹ 7,50,000+ Purchase cost of imported machinery of ₹ 9,00,000]	7,72,500	
Depreciation@7.5% on ₹ 10,00,000, being new machinery put to use for less than 180 days	75,000	
	8,47,500	
Depreciation@40% on computers purchased ₹ 2,00,000	80,000	9,27,500
Additional Depreciation (Refer Note below)		
Additional Depreciation@10% of ₹ 10,00,000 [being	1,00,000	

actual cost of new machinery purchased on 12-10-2021]		
Additional Depreciation@20% on new computer installed in generation wing of the unit [20% of ₹ 2,00,000]	40,000	1,40,000
Depreciation on Plant and Machinery		10,67,500

Note:-

The benefit of additional depreciation is available to new plant and machinery acquired and installed in power sector undertakings. Accordingly, additional depreciation is allowable in the case of any new machinery or plant acquired and installed by an assessee engaged, *inter alia*, in the business of generation, transmission or distribution of power, at the rate of 20% of the actual cost of such machinery or plant.

Therefore, new computer installed in generation wing units eligible for additional depreciation@20%.

Since the new machinery was purchased only on 12.10.2021, it was put to use for less than 180 days during the previous year, and hence, only 10% (i.e., 50% of 20%) is allowable as additional depreciation in the A.Y.2022-23. The balance additional depreciation would be allowed in the next year.

However, additional depreciation shall not be allowed in respect of, *inter alia*, any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person. Therefore, additional depreciation is not allowable in respect of imported machinery, since it was used in Colombo, before its installation by the assessee.

Question 3

Examine with reasons, the allowability of the following expenses incurred by Mr. Manav, a wholesale dealer of commodities, under the Income-tax Act, 1961 while computing profit and gains from business or profession for the Assessment Year 2022-23.

- (i) *Construction of school building in compliance with CSR activities amounting to ₹ 5,60,000.*
- (ii) *Purchase of building for the purpose of specified business of setting up and operating a warehousing facility for storage of food grains amounting to ₹ 4,50,000.*

- (iii) *Interest on loan paid to Mr. X (a resident) ₹ 50,000 on which tax has not been deducted. The sales for the previous year 2020-21 was ₹ 202 lakhs. Mr. X has not paid the tax, if any, on such interest.*
- (iv) *Commodities transaction tax paid ₹ 20,000 on sale of bullion.*

Answer

Allowability of the expenses incurred by Mr. Manav, a wholesale dealer in commodities, while computing profits and gains from business or profession

(i) Construction of school building in compliance with CSR activities

Under section 37(1), only expenditure not being in the nature of capital expenditure or personal expense and not covered under sections 30 to 36, and incurred wholly and exclusively for the purposes of the business is allowed as a deduction while computing business income.

However, any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to have been incurred for the purpose of business and hence, shall **not** be allowed as deduction under section 37.

Accordingly, the amount of ₹ 5,60,000 incurred by Mr. Manav, towards construction of school building in compliance with CSR activities shall **not** be allowed as deduction under section 37.

(ii) Purchase of building for setting up and operating a warehousing facility for storage of food grains

Mr. Manav, would be eligible for investment-linked tax deduction under section 35AD @100% in respect of amount of ₹ 4,50,000 invested in purchase of building for setting up and operating a warehousing facility for storage of food grains which commences operation on or after 1st April, 2009 (P.Y.2021-22, in this case), if Mr. Manav does not opt for section 115BAC.

Therefore, the deduction under section 35AD while computing business income of such specified business would be ₹ 4,50,000, if Mr. Manav opts for section 35AD.

(iii) Interest on loan paid to Mr. X (a resident) ₹ 50,000 on which tax has not been deducted

As per section 194A, Mr. Manav, being an individual is required to deduct tax at source on the amount of interest on loan paid to Mr. X, since his turnover during the previous year 2020-21 exceeds ₹ 100 lacs.

Therefore, ₹ 15,000, being 30% of ₹ 50,000, would be disallowed under section 40(a)(ia) while computing the business income of Mr. Manav for non-deduction of tax at source under section 194A on interest of ₹ 50,000 paid by it to Mr. X.

The balance ₹ 35,000 would be allowed as deduction under section 36(1)(iii), assuming that the amount was borrowed for the purposes of business.

(iv) Commodities transaction tax of ₹ 20,000 paid on sale of bullion

Commodities transaction tax paid in respect of taxable commodities transactions entered into in the course of business during the previous year is allowable as deduction, provided the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Taking that income from this commodities transaction is included while computing the business income of Mr. Manav, the commodity transaction tax of ₹ 20,000 paid is allowable as deduction under section 36(1)(xvi).

Question 4

Examine with reasons, for the following sub-divisions, whether the following statements are true or false having regard to the provisions of the Income-tax Act, 1961:

- (i) For a dealer in shares and securities, securities transaction tax paid in a recognized stock exchange is permissible business expenditure.*
- (ii) Where a person follows mercantile system of accounting, an expenditure of ₹ 25,000 has been allowed on accrual basis and in a later year, in respect of the said expenditure, assessee makes the payment of ₹ 25,000 through a crossed cheque, ₹ 25,000 can be the profits and gains of business under section 40A(3A) in the year of payment.*
- (iii) It is mandatory to provide for depreciation under section 32 of the Income-tax Act, 1961, while computing income under the head "Profits and Gains from Business and Profession".*

- (iv) *The mediclaim premium paid to GIC by Mr. Lomesh for his employees, by a draft, on 27.12.2021 is a deductible expenditure under section 36.*
- (v) *Under section 35DDA, amortization of expenditure incurred under eligible Voluntary Retirement Scheme at the time of retirement alone, can be done.*
- (vi) *An existing assessee engaged in trading activities, can claim additional depreciation under section 32(1)(iia) in respect of new plant acquired and installed in the trading concern, where the increase in value of such plant as compared to the approved base year is more than 10%.*

Answer

- (i) **True:** Section 36(1)(xv) allows a deduction of the amount of securities transaction tax paid by the assessee in respect of taxable securities transactions entered into in the course of business during the previous year as deduction from the business income of a dealer in shares and securities.
- (ii) **True:** As per section 40A(3A), in the case of an assessee following mercantile system of accounting, if an expenditure has been allowed as deduction in any previous year on due basis, and payment exceeding ₹ 10,000 has been made in the subsequent year otherwise than by an account payee cheque or an account payee bank draft or use of ECS through a bank account or through such other prescribed electronic modes such as credit card, debit card, net banking, IMPS, UPI, RTGS, NEFT, and BHIM Aadhar Pay, then, the payment so made shall be deemed to be the income of the subsequent year in which such payment has been made.
- (iii) **True:** According to the *Explanation 5* to section 32(1), allowance of depreciation is mandatory. Therefore, depreciation has to be provided mandatorily while calculating income from business/ profession whether or not the assessee has claimed the same while computing his total income.
- (iv) **True:** Section 36(1)(ib) provides deduction in respect of premium paid by an employer to keep in force an insurance on the health of his employees under a scheme framed in this behalf by GIC or any other insurer. The medical insurance premium can be paid by any mode other than cash, to be eligible for deduction under section 36(1)(ib).
- (v) **False:** Expenditure incurred in making payment to the employee in connection with his voluntary retirement either in the year of retirement or in any subsequent year, will be entitled to deduction in 5 equal annual

installments beginning from the year in which each payment is made to the employee.

- (vi) False:** Additional depreciation can be claimed only in respect of eligible plant and machinery acquired and installed by an assessee engaged in the business of manufacture or production of any article or thing or in the business of generation or transmission or distribution of power.

In this case, the assessee is engaged in trading activities and the new plant has been acquired and installed in a trading concern. Hence, the assessee will not be entitled to claim additional depreciation under section 32(1)(ia).

Question 5

Examine, with reasons, the allowability of the following expenses under the Income-tax Act, 1961 while computing income from business or profession for the Assessment Year 2022-23:

- (i) *Provision made on the basis of actuarial valuation for payment of gratuity ₹ 5,00,000. However, no payment on account of gratuity was made before due date of filing return.*
- (ii) *Purchase of oil seeds of ₹ 50,000 in cash from a farmer on a banking day.*
- (iii) *Tax on non-monetary perquisite provided to an employee ₹ 20,000.*
- (iv) *Payment of ₹ 50,000 by using credit card for fire insurance.*
- (v) *Salary payment of ₹ 4,00,000 to Mr. X outside India by a company without deduction of tax assuming Mr. X has not paid tax on such salary income.*
- (vi) *Payment made in cash ₹ 30,000 to a transporter in a day for carriage of goods*

Answer

- (i) Not allowable as deduction:** As per section 40A(7), no deduction is allowed in computing business income in respect of any provision made by the assessee in his books of account for the payment of gratuity to his employees except in the following two cases:

- (1) where any provision is made for the purpose of payment of sum by way of contribution towards an approved gratuity fund; or
- (2) where any provision is made for the purpose of making any payment on account of gratuity that has become payable during the previous year.

Therefore, in the present case, the provision made on the basis of actuarial valuation for payment of gratuity has to be disallowed under section 40A(7), since, no payment has been actually made on account of gratuity.

Note: It is assumed that such provision is not for the purpose of contribution towards an approved gratuity fund.

- (ii) **Allowable as deduction:** As per Rule 6DD, in case the payment is made for purchase of agricultural produce directly to the cultivator, grower or producer of such agricultural produce, no disallowance under section 40A(3) is attracted even though the cash payment for the expense exceeds ₹ 10,000.

Therefore, in the given case, disallowance under section 40A(3) is not attracted since, cash payment for purchase of oil seeds is made directly to the farmer.

- (iii) **Not allowable as deduction:** Income-tax of ₹ 20,000 paid by the employer in respect of non-monetary perquisites provided to its employees is exempt in the hands of the employee under section 10(10CC).

As per section 40(a)(v), such income-tax paid by the employer is not deductible while computing business income.

- (iv) **Allowable as deduction:** Payment for fire insurance is allowable as deduction under section 36(1). Since payment is made by credit card, which is a prescribed electronic mode, disallowance under section 40A(3) is not attracted in this case.

- (v) **Not allowable as deduction:** Disallowance under section 40(a)(iii) is attracted in respect of salary payment of ₹ 4,00,000 outside India by a company without deduction of tax at source.

- (vi) **Allowable as deduction:** The limit for attracting disallowance under section 40A(3) for payment otherwise than by way of account payee cheque or account payee bank draft or use of ECS through a bank account or through such other prescribed electronic mode is ₹ 35,000 in case of payment made for plying, hiring or leasing goods carriage. Therefore, in the present case, disallowance under section 40A(3) is not attracted for payment of ₹ 30,000 made in cash to a transporter for carriage of goods.

Question 6

Examine with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

- (a) *Payment made in respect of a business expenditure incurred on 16th February, 2022 for ₹ 25,000 through a crossed cheque is hit by the provisions of section 40A(3).*
- (b) (i) *It is a condition precedent to write off in the books of account, the amount due from debtor to claim deduction for bad debt.*
- (ii) *Failure to deduct tax at source in accordance with the provisions of Chapter XVII-B, inter alia, from the amounts payable to a non-resident as rent or royalty, will result in disallowance while computing the business income where the non-resident payee has not paid the tax due on such income.*

Answer

- (a) **True:** In order to escape the disallowance specified in section 40A(3), payment in respect of the business expenditure ought to have been made through an account payee cheque. Payment through a crossed cheque will attract disallowance under section 40A(3).
- (b) (i) **True:** It is mandatory to write off the amount due from a debtor as not receivable in the books of account, in order to claim the same as bad debt under section 36(1)(vii). However, where the debt has been taken into account in computing the income of the assessee on the basis of ICDSs notified under section 145(2), without recording the same in the accounts, then, such debt shall be allowed in the previous year in which such debt becomes irrecoverable and it shall be deemed that such debt or part thereof has been written off as irrecoverable in the accounts for the said purpose.
- (ii) **True:** Section 40(a)(i) provides that failure to deduct tax at source from, *inter alia*, rent or royalty payable to a non-resident, in accordance with the provisions of Chapter XVII-B, will result in disallowance of such expenditure, where the non-resident payee has not paid the tax due on such income.

Question 7

Mr. Sivam, a retail trader of Cochin gives the following Trading and Profit and Loss Account for the year ended 31st March, 2022:

Trading and Profit and Loss Account for the year ended 31.03.2022

Particulars	₹	Particulars	₹
To Opening stock	90,000	By Sales	1,12,11,500
To Purchases	1,10,04,000	By Closing stock	1,86,100
To Gross Profit	3,03,600		-
	1,13,97,600		1,13,97,600
To Salary	60,000	By Gross profit b/d	3,03,600
To Rent and rates	36,000	By Income from UTI	2,400
To Interest on loan	15,000		
To Depreciation	1,05,000		
To Printing & stationery	23,200		
To Postage & telegram	1,640		
To Loss on sale of shares (Short term)	8,100		
To Other general expenses	7,060		
To Net Profit	50,000		
	3,06,000		3,06,000

Additional Information:

(i) It was found that some stocks were omitted to be included in both the Opening and Closing Stock, the values of which were:

Opening stock ₹ 9,000

Closing stock ₹ 18,000

(ii) Salary includes ₹ 10,000 paid to his brother, which is unreasonable to the extent of ₹ 2,000.

(iii) The whole amount of printing and stationery was paid in cash by way of one time payment to Mr. Ramesh.

- (iv) The depreciation provided in the Profit and Loss Account ₹ 1,05,000 was based on the following information:

The opening balance of plant and machinery(i.e., the written down value as on 31.3.2021 minus depreciation for P.Y. 2020-21) is ₹ 4,20,000. A new plant falling under the same block of depreciation was bought on 01.7.2021 for ₹ 70,000. Two old plants were sold on 1.10.2021 for ₹ 50,000.

- (v) Rent and rates includes GST liability of ₹ 3,400 paid on 7.4.2022.
- (vi) Other general expenses include ₹ 2,000 paid as donation to a Public Charitable Trust.

You are required to compute the profits and gains of Mr. Sivam under presumptive taxation under section 44AD and profits and gains as per normal provisions of the Act assuming he has not opted for the provisions of section 115BAC. Assume that the whole of the amount of turnover received by account payee cheque or use of electronic clearing system through bank account during the previous year.

Answer

Computation of business income of Mr. Sivam for the A.Y. 2022-23

Particulars	₹	₹
Net Profit as per profit and loss account		50,000
<i>Add:</i> Inadmissible expenses/ losses		
Under valuation of closing stock	18,000	
Salary paid to brother – unreasonable [Section 40A(2)]	2,000	
Printing and stationery -whole amount of printing & stationery paid in cash would be disallowed, since such amount exceeds ₹ 10,000 [Section 40A(3)]	23,200	
Depreciation (considered separately)	1,05,000	
Short term capital loss on shares	8,100	
Donation to public charitable trust	2,000	1,58,300
		2,08,300
<i>Less:</i> Items to be deducted:		
Under valuation of opening stock	9,000	

	Income from UTI [Chargeable under the head "Income from Other Sources"]	2,400	11,400
	Business income before depreciation		1,96,900
Less:	Depreciation (See Note 1)		66,000
			1,30,900

Computation of business income as per section 44AD :

As per section 44AD, where the amount of turnover is received, *inter alia*, by way of account payee cheque or use of electronic clearing system through bank account or through such other prescribed electronic modes, the presumptive business income would be 6% of turnover, i.e., ₹ 1,12,11,500 x 6 /100 = ₹ 6,72,690

Notes:

1. Calculation of depreciation

Particulars	₹
Opening balance of plant & machinery as on 1.4.2021 (i.e. WDV as on 31.3.2021 (-) depreciation for P.Y. 2020-21)	4,20,000
Add : Cost of new plant & machinery	70,000
	4,90,000
Less : Sale proceeds of assets sold	50,000
WDV of the block of plant & machinery as on 31.3.2022	4,40,000
Depreciation @ 15%	66,000
No additional depreciation is allowable as the assessee is not engaged in manufacture or production of any article.	

2. Since GST liability has been paid before the due date of filing return of income under section 139(1), the same is deductible.

Question 8

Mr. Sukhvinder is engaged in the business of plying goods carriages. On 1st April, 2021, he owns 10 trucks (out of which 6 are heavy goods vehicles, the gross vehicle weight of such goods vehicle is 15,000 kg each). On 2nd May, 2021, he sold one of the heavy goods vehicles and purchased a light goods vehicle on 6th May, 2021. This new vehicle could however be put to use only on 15th June, 2021.

Compute the total income of Mr. Sukhvinder for the assessment year 2022-23, taking note of the following data:

<i>Particulars</i>	₹	₹
<i>Freight charges collected</i>		12,70,000
<i>Less : Operational expenses</i>	6,25,000	
<i>Depreciation as per section 32</i>	1,85,000	
<i>Other office expenses</i>	15,000	8,25,000
<i>Net Profit</i>		4,45,000
<i>Other business and non-business income</i>		70,000

Answer

Section 44AE would apply in the case of Mr. Sukhvinder since he is engaged in the business of plying goods carriages and owns not more than ten goods carriages at any time during the previous year.

Section 44AE provides for computation of business income of such assessee on a presumptive basis. The income shall be deemed to be ₹ 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, per month or part of the month for each heavy goods vehicle and ₹ 7,500 per month or part of month for each goods carriage other than heavy goods vehicle, owned by the assessee in the previous year or such higher sum as declared by the assessee in his return of income.

Mr. Sukhvinder's business income calculated applying the provisions of section 44AE is ₹ 13,72,500 (**See Notes 1 & 2 below**) and his total income would be ₹ 14,42,500.

However, as per section 44AE(7), Mr. Sukhvinder may claim lower profits and gains if he keeps and maintains proper books of account as per section 44AA and gets the same audited and furnishes a report of such audit as required under section 44AB. If he does so, then his income for tax purposes from goods carriages would be ₹ 4,45,000 instead of ₹ 13,72,500 and his total income would be ₹ 5,15,000.

Notes:

1. Computation of total income of Mr. Sukhvinder for A.Y. 2022-23

Particulars	Presumptive income ₹	Where books are maintained ₹
Income from business of plying goods carriages [See Note 2 Below]	13,72,500	4,45,000

Other business and non-business income	70,000	70,000
Total Income	14,42,500	5,15,000

2. Calculation of presumptive income as per section 44AE

Type of carriage	No. of months	Rate per ton per month/ per month	Ton	Amount ₹
(1)	(2)		(3)	(4)
Heavy goods vehicle				
1 goods carriage upto 1 st May	2	1,000	15 (15,000/1,000)	30,000
5 goods carriage held throughout the year	12	1,000	15 (15,000/1,000)	9,00,000
Goods vehicle other than heavy goods vehicle				
1 goods carriage from 6 th May	11	7,500	-	82,500
4 goods carriage held throughout the year	12	7,500	-	3,60,000
Total				13,72,500

Question 9

Mr. Raju, a manufacturer at Chennai, gives the following Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2022:

Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2022

Particulars	₹	Particulars	₹
To Opening Stock	71,000	By Sales	2,32,00,000
To Purchase of Raw Materials	2,16,99,000	By Closing stock	2,00,000
To Manufacturing Wages & Expenses	5,70,000		
To Gross Profit	10,60,000		
	2,34,00,000		2,34,00,000

To Administrative charges	3,26,000	By Gross Profit	10,60,000
To SGST penalty	5,000	By Dividend from domestic companies	15,000
To GST paid	1,10,000	By Income from agriculture (net)	1,80,000
To General Expenses	54,000		
To Interest to Bank (On machinery term loan)	60,000		
To Depreciation	2,00,000		
To Net Profit	5,00,000		
	12,55,000		12,55,000

Following are the further information relating to the financial year 2021-22:

- (i) Administrative charges include ₹ 46,000 paid as commission to brother of the assessee. The commission amount at the market rate is ₹ 36,000.
- (ii) The assessee paid ₹ 33,000 in cash to a transport carrier on 29.12.2021. This amount is included in manufacturing expenses. (Assume that the provisions relating to TDS are not applicable to this payment)
- (iii) A sum of ₹ 4,000 per month was paid as salary to a staff throughout the year and this has not been recorded in the books of account.
- (iv) Bank term loan interest actually paid upto 31.03.2022 was ₹ 20,000 and the balance was paid in November 2022.
- (v) Housing loan principal repaid during the year was ₹ 50,000 and it relates to residential property acquired by him in P.Y. 2020-21 for self-occupation. Interest on housing loan was ₹ 23,000. Housing loan was taken from Canara Bank. These amounts were not dealt with in the profit and loss account given above.
- (vi) Depreciation allowable under the Act is to be computed on the basis of following information:

Plant & Machinery (Depreciation rate @ 15%)	₹
WDV (as on 31.03.2021)	14,00,000
Less: Depreciation for P.Y. 2020-21	2,10,000
Additions during the year (used for more than 180 days)	2,00,000
Total additions during the year	4,00,000
Note: Ignore additional depreciation under section 32(1)(iia)	

Compute the total income of Mr. Raju for the assessment year 2022-23 assuming he has not opted for the provisions of section 115BAC.

Note: Ignore application of section 14A for disallowance of expenditures in respect of any exempt income.

Answer

Computation of total income of Mr. Raju for the A.Y. 2022-23

Particulars		₹	₹
Profits and gains of business or profession			
	Net profit as per profit and loss account		5,00,000
Add:	Excess commission paid to brother disallowed under section 40A(2)	10,000	
	Disallowance under section 40A(3) is not attracted since the limit for one time cash payment is ₹ 35,000 in respect of payment to transport operators. Therefore, amount of ₹ 33,000 paid in cash to a transport carrier is allowable as deduction.	Nil	
	Salary paid to staff not recorded in the books (Assuming that the expenditure is in the nature of unexplained expenditure and hence, is deemed to be income as per section 69C and would be taxable @ 60% under section 115BBE – no deduction allowable in respect of such expenditure) [See Note 1 below]	48,000	
	Bank term loan interest paid after the due date of filing of return under section 139(1) – disallowed as per section 43B	40,000	
	State GST penalty paid disallowed [See Note 2 below]	5,000	
	Depreciation debited to profit and loss account	2,00,000	3,03,000
			8,03,000
Less:	Dividend from domestic companies [Chargeable to tax under the head “Income from Other Sources”]	15,000	

Income from agriculture [Exempt under section 10(1)]	1,80,000	
Depreciation under the Income-tax Act, 1961 (As per working note)	2,23,500	4,18,500
		3,84,500
Income from house property		
Annual value of self-occupied property	Nil	
Less: Deduction u/s 24(b) – interest on housing loan	23,000	(23,000)
Income from Other Sources		
Dividend from domestic companies		15,000
Gross Total Income		3,76,500
Less: Deduction under section 80C in respect of Principal repayment of housing loan		50,000
Total Income		3,26,500

Working Note:**Computation of depreciation under the Income-tax Act, 1961**

Particulars	₹
Depreciation@15% on ₹ 14 lakh (WDV as on 31.3.2021 of ₹ 14 lakh less Depreciation for P.Y. 2020-21 of ₹ 2.10 lakh plus assets purchased during the year and used for more than 180 days ₹ 2 lakh)	2,08,500
Depreciation @7.5% on ₹ 2 lakh (Assets used for < 180 days)	15,000
	2,23,500

Notes (Alternate views):

- It is also possible to take a view that the salary not recorded in the books of account was an erroneous omission and that the assessee has offered satisfactory explanation for the same. In such a case, the same should not be added back as unexplained expenditure, but would be allowable as deduction while computing profits and gains of business and profession.
- Where the imposition of penalty is not for delay in payment of sales tax or VAT or GST but for contravention of provisions of the Sales Tax Act or VAT Act or GST Law, the levy is not compensatory and therefore, not deductible.

However, if the levy is compensatory in nature, it would be fully allowable. Where it is a composite levy, the portion which is compensatory is allowable and that portion which is penal is to be disallowed.

Since the question only mentions "GST penalty paid" and the reason for levy of penalty is not given, it has been assumed that the levy is not compensatory and therefore, not deductible. It is, however, possible to assume that such levy is compensatory in nature and hence, allowable as deduction. In such a case, the total income would be ₹ 3,21,500.

Question 10

Mr. Tenzingh is engaged in composite business of growing and curing (further processing) coffee in Coorg, Karnataka. The whole of coffee grown in his plantation is cured. Relevant information pertaining to the year ended 31.3.2022 are given below:

<i>Particulars</i>	<i>₹</i>
<i>Opening balance of car (only asset in the block) as on 1.4.2021 (i.e. WDV as on 31.3.2021 (-) depreciation for P.Y. 2020-21)</i>	<i>3,00,000</i>
<i>Opening balance of machinery as on 1.4.2021 (i.e., WDV as on 31.3.2021 (-) depreciation for P.Y. 2020-21)</i>	<i>15,00,000</i>
<i>Expenses incurred for growing coffee</i>	<i>3,10,000</i>
<i>Expenditure for curing coffee</i>	<i>3,00,000</i>
<i>Sale value of cured coffee</i>	<i>22,00,000</i>

Besides being used for agricultural operations, the car is also used for personal use; disallowance for personal use may be taken at 20%. The expenses incurred for car running and maintenance are ₹ 50,000. The machines were used in coffee curing business operations.

Compute the income arising from the above activities for the A.Y. 2022-23.

Answer

Where an assessee is engaged in the composite business of growing and curing of coffee, the income will be segregated between agricultural income and business income, as per Rule 7B of the Income-tax Rules, 1962.

As per the above Rule, income derived from sale of coffee grown and cured by the seller in India shall be computed as if it were income derived from business, and 25% of such income shall be deemed to be income liable to tax. The balance 75% will be treated as agricultural income.

Particulars	₹	₹	₹
Sale value of cured coffee			22,00,000
<i>Less:</i> Expenses for growing coffee		3,10,000	
Car expenses (80% of ₹ 50,000)		40,000	
Depreciation on car (80% of 15% of ₹ 3,00,000) [See Computation below]		36,000	
Total cost of agricultural operations		3,86,000	
Expenditure for coffee curing operations	3,00,000		
<i>Add:</i> Depreciation on machinery (15% of ₹ 15,00,000) [See Computation below]	2,25,000		
Total cost of the curing operations		5,25,000	
Total cost of composite operations			9,11,000
Total profits from composite activities			12,89,000
Business income (25% of above)			3,22,250
Agricultural income (75% of above)			9,66,750

Computation of depreciation for P.Y. 2021-22

Particulars	₹	₹
Car		
Opening balance as on 1.4.2021 (i.e., WDV as on 31.3.2021 (-) depreciation for P.Y.2020-21)		3,00,000
Depreciation thereon at 15%	45,000	
<i>Less:</i> Disallowance @20% for personal use	9,000	
Depreciation actually allowed		36,000
Machinery		
Opening balance as on 1.4.2021 (i.e., WDV as on 31.3.2021 (-) depreciation for P.Y.2020-21)		15,00,000
Depreciation @ 15% for P.Y. 2021-22		2,25,000

Explanation 7 to section 43(6) provides that in cases of 'composite income', for the purpose of computing written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire composite income of the assessee (and not just 25%) is chargeable under the head "Profits and gains of business or profession". The depreciation so computed shall be deemed to have been "actually allowed" to the assessee.

UNIT – 4 : CAPITAL GAINS



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ILLUSTRATION 1

How will you calculate the period of holding in case of the following assets?

- (1) *Shares held in a company in liquidation*
- (2) *Bonus shares*
- (3) *Flat in a co-operative society*

SOLUTION

- (1) **Shares held in a company in liquidation** - The period after the date on which the company goes into liquidation shall be excluded while calculating the period of holding. Therefore, the period of holding shall commence from the date of acquisition and end with the date on which the company goes into liquidation.
- (2) **Bonus shares** - The period of holding shall be reckoned from the date of allotment of bonus shares and will end with the date of transfer.
- (3) **Flat in a co-operative society** - The period of holding shall be reckoned from the date of allotment of shares in the society and will end with the date of transfer.

Note – Any transaction whether by way of becoming a member of, or acquiring shares in, a co-operative society or by way of any agreement or any arrangement or in any other manner whatsoever which has the effect of

transferring, or enabling enjoyment of, any immovable property is a transfer as per section 2(47)(vi).

Hence, it is possible to take a view that any date from which such right is obtained may be taken as the date of acquisition.

ILLUSTRATION 2

A is the owner of a car. On 1-4-2021, he starts a business of purchase and sale of motor cars. He treats the above car as part of the stock-in-trade of his new business. He sells the same on 31-3-2022 and gets a profit of ₹ 1 lakh. Discuss the tax implication in his hands under the head "Capital gains".

SOLUTION

Since car is a personal asset, conversion or treatment of the same as the stock-in-trade of his business will not be trapped by the provisions of section 45(2). Hence, A is not liable to capital gains tax.

ILLUSTRATION 3

X converts his capital asset (acquired on June 10, 2003 for ₹ 60,000) into stock-in-trade on March 10, 2021. The fair market value on the date of the above conversion was ₹ 5,50,000. He subsequently sells the stock-in-trade so converted for ₹ 6,00,000 on June 10, 2021. Discuss the year of chargeability of capital gain and business income.

SOLUTION

Since the capital asset is converted into stock-in-trade during the previous year 2020-21 relevant to the A.Y. 2021-22, it will be a transfer under section 2(47) during the P.Y. 2020-21. However, the profits or gains arising from the above conversion will be chargeable to tax during the A.Y. 2022-23, since the stock-in-trade has been sold only on June 10, 2021. For this purpose, the fair market value on the date of such conversion (i.e. 10th March, 2021) will be the full value of consideration for computation of capital gains. The business income of ₹ 50,000 (i.e., ₹ 6,00,000 (-) ₹ 5,50,000, being the fair market value on the date of conversion) would also be taxable in the A.Y.2022-23. Thus, both capital gains and business income would be chargeable to tax in the A.Y.2022-23.

ILLUSTRATION 4

M held 2000 shares in a company ABC Ltd., an Indian company. This company amalgamated with another Indian company XYZ Ltd. during the previous year ending 31-3-2022. Under the scheme of amalgamation, M was allotted 1000 shares in the new company. The market value of shares allotted is higher by ₹ 50,000 than the value of holding in ABC Ltd. The Assessing Officer proposes to treat the transaction as an exchange and to tax ₹ 50,000 as capital gain. Is he justified?

SOLUTION

In the above example, , the transaction is squarely covered by the exemption explained above and the proposal of the Assessing Officer to treat the transaction as a transfer is not justified.

ILLUSTRATION 5

In which of the following situations capital gains tax liability does not arise?

- (i) *Mr. A purchased gold in 1970 for ₹ 25,000. In the P.Y. 2021-22, he gifted it to his son at the time of marriage. Fair market value (FMV) of the gold on the day the gift was made was ₹ 1,00,000.*
- (ii) *A house property is purchased by a Hindu undivided family in 1945 for ₹ 20,000. It is given to one of the family members in the P.Y. 2021-22 at the time of partition of the family. FMV on the date of partition was ₹ 12,00,000.*
- (iii) *Mr. B purchased 50 convertible debentures for ₹ 40,000 in 1995 which are converted into 500 shares worth ₹ 85,000 in November 2021 by the company.*

SOLUTION

We know that capital gains arises only when we transfer a capital asset. The liability of capital gains tax in the situations given above is discussed as follows:

- (i) As per the provisions of section 47(iii), transfer of a capital asset under a gift is **not** regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.
- (ii) As per the provisions of section 47(i), transfer of a capital asset (being in kind) on the total or partial partition of Hindu undivided family is **not** regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.
- (iii) As per the provisions of section 47(x), transfer by way of conversion of bonds or debentures, debenture stock or deposit certificates in any form of a company into shares or debentures of that company is **not** regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.

ILLUSTRATION 6

Mr. Abhishek a senior citizen, mortgaged his residential house with a bank, under a notified reverse mortgage scheme. He was getting loan from bank in monthly installments. Mr. Abhishek did not repay the loan on maturity and hence gave possession of the house to the bank, to discharge his loan. How will the treatment of long-term capital gain be on such reverse mortgage transaction?

SOLUTION

Section 47(xvi) provides that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be considered as a transfer for the purpose of capital gain.

Accordingly, the mortgaging of residential house with bank by Mr. Abhishek will not be regarded as a transfer. Therefore, no capital gain will be charged on such transaction.

Further, section 10(43) provides that the amount received by the senior citizen as a loan, either in lump sum or in installment, in a transaction of reverse mortgage would be exempt from income-tax. Therefore, the monthly installment amounts received by Mr. Abhishek would not be taxable.

ILLUSTRATION 7

Examine, with reasons, whether the following statements are True or False.

- (i) *Alienation of a residential house in a transaction of reverse mortgage under a scheme made and notified by the Central Government is treated as "transfer" for the purpose of capital gains.*
- (ii) *Zero coupon bonds of eligible corporation, held for 14 months, will be long-term capital assets.*
- (iii) *Zero Coupon Bond means a bond on which no payment and benefits are received or receivable before maturity or redemption.*

SOLUTION

- (i) **False:** As per section 47(xvi), such alienation in a transaction of reverse mortgage under a scheme made and notified by the Central Government is not regarded as "transfer" for the purpose of capital gains.
- (ii) **True:** Section 2(42A) defines the term 'short-term capital asset'. Under the proviso to section 2(42A), zero coupon bond held for not more than 12 months will be treated as a short-term capital asset. Consequently, such bond held for more than 12 months will be a long-term capital asset.
- (iii) **True:** As per section 2(48), 'Zero Coupon Bond' means a bond issued by any infrastructure capital company or infrastructure capital fund or infrastructure debt fund or a public sector company, or Scheduled Bank on or after 1st June 2005, in respect of which no payment and benefit is received or receivable before maturity or redemption from such issuing entity and which the Central Government may notify in this behalf.

		on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.
	Where capital assets became the property of the assessee by way of distribution of assets on total or partial partition of HUF, under a gift or will, by succession, inheritance, distribution of assets on liquidation of a company, etc. and the capital asset became the property of the previous owner before 1.4.2001	Cost to the previous owner or FMV as on 1.4.2001, at the option of the assessee. However, in case of capital asset being land or building, FMV as on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.
6	Where cost of the property in the hands of previous owner cannot be ascertained	The FMV on the date on which the capital asset become the property of the previous owner would be considered as cost of acquisition.

ILLUSTRATION 8

Mr. A converts his capital asset acquired for an amount of ₹ 50,000 in June, 2003 into stock-in-trade in the month of November, 2019. The fair market value of the asset on the date of conversion is ₹ 4,50,000. The stock-in-trade was sold for an amount of ₹ 6,50,000 in the month of September, 2021. What will be the tax treatment?

Financial year	Cost Inflation Index
2003-04	109
2019-20	289


SOLUTION

The capital gains on the sale of the capital asset converted to stock-in-trade is taxable in the given case. It arises in the year of conversion (i.e. P.Y. 2019-20) but will be taxable only in the year in which the stock-in-trade is sold (i.e. P.Y. 2021-22). Profits from business will also be taxable in the year of sale of the stock-in-trade (P.Y. 2021-22).

The long-term capital gains and business income for the A.Y.2022-23 are calculated as under:

Particulars	₹	₹
Profits and Gains from Business or Profession		
Sale proceeds of the stock-in-trade	6,50,000	
Less: Cost of the stock-in-trade (FMV on the date of conversion)	4,50,000	2,00,000
Long Term Capital Gains		
Full value of the consideration (FMV on the date of the conversion)	4,50,000	
Less: Indexed cost of acquisition (₹ 50,000 x 289/109)	1,32,569	3,17,431

Note: For the purpose of indexation, the cost inflation index of the year in which the asset is converted into stock-in-trade should be considered.



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ILLUSTRATION 9

Singhania & Co., a sole proprietorship owns six machines, put in use for business in March, 2020. The depreciation on these machines is charged @15%. The opening balance of these machines after providing depreciation for P.Y. 2020-21 was ₹ 8,50,000. Three of the old machines were sold on 10th June, 2021 for ₹ 11,00,000. A second hand plant was bought for ₹ 8,50,000 on 30th November, 2021.

You are required to:

- (i) *determine the claim of depreciation for Assessment Year 2022-23.*
- (ii) *compute the capital gains liable to tax for Assessment Year 2022-23.*
- (iii) *If Singhania & Co. had sold the three machines in June, 2021 for ₹ 21,00,000, will there be any difference in your above workings? Explain.*

SOLUTION**(i) Computation of depreciation for A.Y.2022-23**

Particulars	₹
Opening balance of the block as on 1.4.2021 [i.e., W.D.V. as on 31.3.2021 after providing depreciation for P.Y. 2020-21]	8,50,000
Add: Purchase of second hand plant during the year	8,50,000
	17,00,000
Less: Sale consideration of old machinery during the year	11,00,000
W.D.V of the block as on 31.03.2022	6,00,000

Since the value of the block as on 31.3.2022 comprises of a new asset which has been put to use for less than 180 days, depreciation is restricted to 50% of the prescribed percentage of 15% i.e. depreciation is restricted to 7½%. Therefore, the depreciation allowable for the year is ₹ 45,000, being 7½% of ₹ 6,00,000.

- (ii) The provisions under section 50 for computation of capital gains in the case of depreciable assets can be invoked only under the following circumstances:
 - (a) When one or some of the assets in the block are sold for consideration more than the value of the block.
 - (b) When all the assets are transferred for a consideration more than the value of the block.

- (c) When all the assets are transferred for a consideration less than the value of the block.

Since in the first two cases, the sale consideration is more than the written down value of the block, the computation would result in short term capital gains.

In the third case, since the written down value of the block exceeds the sale consideration, the resultant figure would be a short-term capital loss of the block.

In the given case, capital gains will not arise as the block of asset continues to exist, and some of the assets are sold for a price which is lesser than the written down value of the block.

- (iii) If the three machines are sold in June, 2021 for ₹ 21,00,000, then short term capital gains would arise, since the sale consideration is more than the aggregate of the written down value of the block at the beginning of the year and the additions made during the year.

Particulars	₹	₹
Sale consideration		21,00,000
<i>Less:</i> Opening balance of the block as on 1.4.2021 [i.e., W.D.V. as on 31.3.2021 after providing depreciation for P.Y. 2020-21]	8,50,000	
Purchase of second plant during the year	8,50,000	17,00,000
Short term capital gains		4,00,000

ILLUSTRATION 10

Mr. A is a proprietor of Akash Enterprises having 2 units. He transferred on 1.4.2021 his Unit 1 by way of slump sale for a total consideration of ₹ 25 lacs. The fair market value of the unit on 1.4.2021 is ₹ 30 lacs. Unit 1 was started in the year 2005-06. The expenses incurred for this transfer were ₹ 28,000. His Balance Sheet as on 31.3.2021 is as under:

Liabilities	Total (₹)	Assets	Unit 1 (₹)	Unit 2 (₹)	Total (₹)
Own Capital	15,00,000	Building	12,00,000	2,00,000	14,00,000
Revaluation Reserve (for building of unit 1)	3,00,000	Machinery	3,00,000	1,00,000	4,00,000
Bank loan (70% for unit 1)	2,00,000	Debtors	1,00,000	40,000	1,40,000
Trade creditors (25% for unit 1)	1,50,000	Other assets	1,50,000	60,000	2,10,000
Total	21,50,000	Total	17,50,000	4,00,000	21,50,000

Other information:

- (i) Revaluation reserve is created by revising upward the value of the building of Unit 1.
- (ii) No individual value of any asset is considered in the transfer deed.
- (iii) Other assets of Unit 1 include patents acquired on 1.7.2019 for ₹ 50,000 on which no depreciation has been charged.

Compute the capital gain for the assessment year 2022-23.

SOLUTION**Computation of capital gains on slump sale of Unit 1**

Particulars	₹
Full value of consideration [Fair market value on 1.4.2021]	30,00,000
Less: Expenses for transfer	28,000
	29,72,000
Less: Net worth (See Note 1 below)	12,50,625
Long-term capital gain	17,21,375

Notes:**1. Computation of net worth of Unit 1 of Akash Enterprises**

Particulars	₹	₹
Building (excluding ₹ 3 lakhs on account of revaluation)		9,00,000
Machinery		3,00,000
Debtors		1,00,000
Patents (See Note2 below)		28,125
Other assets (₹ 1,50,000 – ₹ 50,000)		1,00,000
Total assets		14,28,125
Less: Creditors (25% of ₹ 1,50,000)	37,500	
Bank Loan (70% of ₹ 2,00,000)	1,40,000	1,77,500
Net worth		12,50,625

2. Written down value of patents as on 1.4.2021

Value of patents:	₹
Cost as on 1.7.2019	50,000
Less: Depreciation @ 25% for Financial Year 2019-20	12,500
Balance as on 1.4.2020	37,500
Less: Depreciation for Financial Year 2020-21	9,375
Balance as on 1.4.2021	28,125

For the purposes of computation of net worth, the written down value determined as per section 43(6) has to be considered in the case of depreciable assets. The problem has been solved assuming that the Balance Sheet values of ₹ 3 lakh and ₹ 9 lakh (₹ 12 lakh – ₹ 3 lakh) represent the written down value of machinery and building, respectively, of Unit 1.

- 3.** Since the Unit is held for more than 36 months, capital gain arising would be long term capital gain. However, indexation benefit is not available in case of slump sale.

- If cost of new residential house or houses, as the case may be < long term capital gains, long term capital gains to the extent of cost of new residential house is exempt.

Example 7: If the long-term capital gains is ₹ 2.05 crore and the cost of the new house is ₹ 3 crore, then, the entire long-term capital gains of ₹ 2.05 crore is exempt.

Example 8: If long-term capital gains is ₹ 2.05 crore and cost of new house is ₹ 1.55 crore, then, long-term capital gains is exempt only upto ₹ 1.55 crore. Balance ₹ 50 lakhs is taxable @ 20%.

Consequences of transfer of new asset before 3 years

- If the new asset is transferred before 3 years from the date of its acquisition or construction, then cost of the asset will be reduced by capital gains exempted earlier for computing capital gains.
- Continuing Example 7, if the new house was sold after 18 months for ₹ 5 crore, then short term capital gain chargeable to tax would be –

Particulars	₹
Net Consideration	5,00,00,000
Less: Cost of acquisition minus capital gains exempt earlier (₹ 3,00,00,000 – ₹ 2,05,00,000)	95,00,000
Short term capital gains chargeable to tax	4,05,00,000

ILLUSTRATION 11

Mr. Cee purchased a residential house on July 20, 2019 for ₹ 10,00,000 and made some additions to the house incurring ₹ 2,00,000 in August 2019. He sold the house property in April 2021 for ₹ 20,00,000. Out of the sale proceeds, he spent ₹ 5,00,000 to purchase another house property in September 2021.

What is the amount of capital gains taxable in the hands of Mr. Cee for the A.Y.2022-23?

SOLUTION

The house is sold before 24 months from the date of purchase. Hence, the house is a short-term capital asset and no benefit of indexation would be available.

Particulars	₹
Sale consideration	20,00,000
Less: Cost of acquisition	10,00,000

Cost of improvement	2,00,000
Short-term capital gains	8,00,000

Note: The exemption of capital gains under section 54 is available only in case of long-term capital asset. As the house is short-term capital asset, Mr. Cee cannot claim exemption under section 54. Thus, the amount of taxable short-term capital gains is ₹8,00,000.

ILLUSTRATION 12

Long term capital gain of ₹ 75 lakh arising from transfer of building on 1.5.2021 will be exempt from tax if such capital gain is invested in the bonds redeemable after five years, issued by NHAI under section 54EC. Examine with reasons whether the given statement is true or false having regard to the provisions of the Income-tax Act, 1961.

SOLUTION

False: The exemption under section 54EC has been restricted, by limiting the maximum investment in long term specified assets (i.e. bonds of NHAI or RECL or any other bond notified by Central Government in this behalf, redeemable after 5 years) to ₹ 50 lakh, whether such investment is made during the relevant previous year or the subsequent previous year, or both. Therefore, in this case, the exemption under section 54EC can be availed only to the extent of ₹ 50 lakh, provided the investment is made before 1.11.2021 (i.e., within six months from the date of transfer).

ILLUSTRATION 13

Calculate the income-tax liability for the assessment year 2022-23 in the following cases:

	Mr. A (age 45)	Mrs. B (age 62)	Mr. C (age 81)	Mr. D (age 82)
Status	Resident	Non-resident	Resident	Non-resident
Total income other than long-term capital gain	2,40,000	2,80,000	5,90,000	4,80,000
Long-term capital gain	15,000 from sale of vacant site	10,000 from sale of listed equity shares (STT paid on sale and purchase of shares)	60,000 from sale of agricultural land in rural area	Nil

Note - Assume that Mr. A, Mrs. B, Mr. C and Mr. D do not opt for section 115BAC.


SOLUTION**Computation of income-tax liability for the A.Y.2022-23**

Particulars	Mr. A (age 45)	Mrs. B (age 62)	Mr. C (age 81)	Mr. D (age 82)
Residential Status	Resident	Non-resident	Resident	Non-resident
Applicable basic exemption limit	₹ 2,50,000	₹ 2,50,000	₹ 5,00,000	₹ 2,50,000
Asset sold	Vacant site	Listed equity shares (STT paid on both sale and purchase of shares)	Rural agricultural land	-
Long-term capital gain (on sale of above asset)	₹ 15,000 [Taxable @20% u/s 112]	₹ 10,000 [exempt u/s 112A since it is less than ₹ 1,00,000]	₹ 60,000 (Exempt – not a capital asset)	-
Other income	₹ 2,40,000	₹ 2,80,000	₹ 5,90,000	₹ 4,80,000

Tax liability				
On LTCG (after adjusting unexhausted basic exemption limit of ₹ 10,000)	₹ 1,000	-	-	-
On Other income	Nil	₹1,500	₹ 18,000	₹11,500
	₹ 1,000	₹1,500	₹ 18,000	₹11,500
<i>Less:</i> Rebate u/s 87A	<u>₹ 1,000</u>	<u>-</u>	<u>-</u>	<u>-</u>
	₹ Nil	₹1,500	₹ 18,000	₹11,500
<i>Add:</i> Health & education cess (HEC) @4%	Nil	₹60	₹720	₹460
Total tax liability	Nil	₹ 1,560	₹ 18,720	₹ 11,960

Notes:

1. Since Mrs. B and Mr. D are non-residents, they cannot avail the higher basic exemption limit of ₹ 3,00,000 and ₹ 5,00,000 for persons over the age of 60 years and 80 years, respectively.
2. Since Mr. A is a resident whose total income does not exceed ₹ 5 lakhs, he is eligible for rebate of ₹ 12,500 or the actual tax payable, whichever is lower, under section 87A.



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Question 1

Mr. Mithun purchased 100 equity shares of M/s Goodmoney Co. Ltd. on 01-04-2005 at rate of ₹ 1,000 per share in public issue of the company by paying securities transaction tax.

Company allotted bonus shares in the ratio of 1:1 on 01.12.2020. He has also received dividend of ₹ 10 per share on 01.05.2021.

He has sold all the shares on 01.10.2021 at the rate of ₹ 4,000 per share through a recognized stock exchange and paid brokerage of 1% and securities transaction tax of 0.02% to celebrate his 75th birthday.

Compute his total income and tax liability for Assessment Year 2022-23, assuming that he is having no income other than given above. Fair market value of shares of M/s Goodmoney Co. Ltd. on 31.1.2018 is ₹ 2,000.

Answer

Computation of total income and tax liability of Mr. Mithun for A.Y. 2022-23

Particulars	₹
Long term capital gains on sale of original shares	
Gross sale consideration (100 x ₹ 4,000)	4,00,000
Less: Brokerage@1%	4,000
Net sale consideration	3,96,000
Less: Cost of acquisition (100 x ₹ 2,000) (Refer Note 2)	2,00,000
Long term capital gains	1,96,000
Short term capital gains on sale of bonus shares	
Gross sale consideration (100 x ₹ 4,000)	4,00,000
Less: Brokerage@1%	4,000
Net sale consideration	3,96,000
Less: Cost of acquisition of bonus shares	NIL
Short term capital gains	3,96,000
Income from other sources	
Dividend received from M/s Goodmoney Co. Ltd. is taxable in the hands of shareholders [200 shares x 10 per share]	2,000
Total Income	5,94,000

Tax Liability	
Tax on dividend	Nil
15% of (₹ 3,96,000-₹ 2,98,000, being unexhausted basic exemption limit)	14,700
10% of (₹ 1,96,000 - ₹ 1,00,000)	9,600
	24,300
Add: Health and education cess @4%	972
Tax payable	25,272
Tax payable (rounded off)	25,270

Notes:

- (1) Long-term capital gains exceeding ₹ 1 lakh on sale of original shares through a recognized stock exchange (STT paid at the time of acquisition and sale) is taxable under section 112A at a concessional rate of 10%, without indexation benefit.
- (2) Cost of acquisition of such equity shares acquired before 1.2.2018 is higher of
 - Cost of acquisition i.e., ₹ 1,000 per share and
 - lower of
 - Fair market value of such asset i.e., ₹ 2,000 per share and
 - Full value of consideration i.e., ₹ 4,000 per share.
 So, the cost of acquisition of original share is ₹ 2,000 per share.
- (2) Since bonus shares are held for less than 12 months before sale, the gain arising there from is a short-term capital gain chargeable to tax@15% as per section 111A after adjusting the unexhausted basic exemption limit (₹ 3,00,000 less ₹ 2,000, being the amount of dividend). Since Mr. Mithun is over 60 years of age, he is entitled for a higher basic exemption limit of ₹ 3,00,000 for A.Y. 2022-23.
- (4) Brokerage paid is allowable since it is an expenditure incurred wholly and exclusively in connection with the transfer. Hence, it qualifies for deduction under section 48(i).
- (5) Cost of bonus shares will be Nil as such shares are allotted after 1.04.2001.
- (6) Securities transaction tax is not allowable as deduction.

Question 2

Aarav converts his plot of land purchased in July, 2003 for ₹ 80,000 into stock-in-trade on 31st March, 2021. The fair market value as on 31.3.2021 was ₹ 3,00,000. The stock-in-trade was sold for ₹ 3,25,000 in the month of January, 2022.

Find out the taxable income, if any, and if so under which head of income and for which Assessment Year?

Cost Inflation Index: F.Y. 2003-04:109; F.Y. 2020-21: 301.

Answer

Conversion of a capital asset into stock-in-trade is a transfer within the meaning of section 2(47) in the previous year in which the asset is so converted. However, the capital gains will be charged to tax only in the year in which the stock-in-trade is sold.

The cost inflation index of the financial year in which the conversion took place should be considered for computing indexed cost of acquisition. Further, the fair market value on the date of conversion would be deemed to be the full value of consideration for transfer of the asset as per section 45(2). The sale price less the fair market value on the date of conversion would be treated as the business income of the year in which the stock-in-trade is sold.

Therefore, in this problem, both capital gains and business income would be charged to tax in the A.Y. 2022-23.

Particulars	₹
Capital Gains	
Full value of consideration (Fair market value on the date of conversion)	3,00,000
Less: Indexed cost of acquisition (₹ 80,000 × 301/109)	2,20,917
Long-term capital gain	79,083
Profits & Gains of Business or Profession	
Sale price of stock-in-trade	3,25,000
Less: Fair market value on the date of conversion	3,00,000
	25,000

Computation of taxable income of Mr. Aarav for A.Y.2022-23

Particulars	₹
Profits and gains from business or profession	25,000
Long term capital gains	79,083
Taxable Income	1,04,083

Question 3

Mrs. Harshita purchased a land at a cost of ₹ 35 lakhs in the financial year 2003-04 and held the same as her capital asset till 20th March, 2021.

She started her real estate business on 21st March, 2021 and converted the said land into stock-in-trade of her business on the said date, when the fair market value of the land was ₹ 210 lakhs.

She constructed 15 flats of equal size, quality and dimension. Cost of construction of each flat is ₹ 10 lakhs. Construction was completed in February, 2022. She sold 10 flats at ₹ 30 lakhs per flat in March, 2022. The remaining 5 flats were held in stock as on 31st March, 2022.

She invested ₹ 50 lakhs in bonds issued by National Highways Authority of India on 31st March, 2022 and another ₹ 50 lakhs in bonds of Rural Electrification Corporation Ltd. in April, 2022.

Compute the amount of chargeable capital gain and business income in the hands of Mrs. Harshita arising from the above transactions for Assessment Year 2022-23 indicating clearly the reasons for treatment for each item.

[Cost Inflation Index: F.Y. 2003-04: 109; F.Y. 2020-21: 301].

Answer**Computation of capital gains and business income of Harshita for A.Y. 2022-23**

Particulars	₹
Capital Gains	
Fair market value of land on the date of conversion deemed as the full value of consideration for the purposes of section 45(2)	2,10,00,000
Less: Indexed cost of acquisition [₹ 35,00,000 × 301/109]	96,65,138
	1,13,34,862

Proportionate capital gains arising during A.Y. 2022-23 [₹ 1,13,34,862 x 2/3]	75,56,575
Less: Exemption under section 54EC	50,00,000
Capital gains chargeable to tax for A.Y.2022-23	25,56,575
Business Income	
Sale price of flats [10 × ₹ 30 lakhs]	3,00,00,000
Less: Cost of flats	
Fair market value of land on the date of conversion [₹ 210 lacs × 2/3]	1,40,00,000
Cost of construction of flats [10 × ₹ 10 lakhs]	1,00,00,000
Business income chargeable to tax for A.Y.2022-23	60,00,000

Notes:

- (1) The conversion of a capital asset into stock-in-trade is treated as a transfer under section 2(47). It would be treated as a transfer in the year in which the capital asset is converted into stock-in-trade (i.e., P.Y.2020-21, in this case).
- (2) However, as per section 45(2), the capital gains arising from the transfer by way of conversion of capital assets into stock-in-trade will be chargeable to tax only in the year in which the stock-in-trade is sold.
- (3) The indexation benefit for computing indexed cost of acquisition would, however, be available only up to the year of conversion of capital asset into stock-in-trade (i.e., P.Y.2020-21) and not up to the year of sale of stock-in-trade (i.e., P.Y.2021-22).
- (4) For the purpose of computing capital gains in such cases, the fair market value of the capital asset on the date on which it was converted into stock-in-trade shall be deemed to be the full value of consideration received or accruing as a result of the transfer of the capital asset.
In this case, since only 2/3rd of the stock-in-trade (10 flats out of 15 flats) is sold in the P.Y.2021-22, only proportionate capital gains (i.e., 2/3rd) would be chargeable to tax in the A.Y.2022-23.
- (5) On sale of such stock-in-trade, business income would arise. The business income chargeable to tax would be the difference between the price at

which the stock-in-trade is sold and the fair market value on the date of conversion of the capital asset into stock-in-trade.

- (6) In case of conversion of capital asset into stock-in-trade and subsequent sale of stock-in-trade, the period of 6 months is to be reckoned from the date of sale of stock-in-trade for the purpose of exemption under section 54EC [CBDT Circular No.791 dated 2.6.2000]. In this case, since the investment in bonds of NHAI has been made within 6 months of sale of flats, the same qualifies for exemption under section 54EC. With respect to long-term capital gains arising on land or building or both in any financial year, the maximum deduction under section 54EC would be ₹ 50 lakhs, whether the investment in bonds of NHAI or RECL are made in the same financial year or next financial year or partly in the same financial year and partly in the next financial year.

Therefore, even though investment of ₹ 50 lakhs has been made in bonds of NHAI during the P.Y. 2021-22 and investment of ₹ 50 lakhs has been made in bonds of RECL during the P.Y. 2022-23, both within the stipulated six month period, the maximum deduction allowable for A.Y. 2022-23, in respect of long-term capital gain arising on sale of long-term capital asset(s) during the P.Y. 2021-22, is only ₹ 50 lakhs.

Question 4

Mr. A is an individual carrying on business. His stock and machinery were damaged and destroyed in a fire accident.

The value of stock lost (total damaged) was ₹ 6,50,000. Certain portion of the machinery could be salvaged. The opening balance of the block as on 1.4.2021 (i.e., WDV as on 31.3.2021 after providing depreciation for P.Y. 2020-21) was ₹ 10,80,000.

During the process of safeguarding machinery and in the fire fighting operations, Mr. A lost his gold chain and a diamond ring, which he had purchased in April, 2004 for ₹ 1,20,000. The market value of these two items as on the date of fire accident was ₹ 1,80,000.

Mr. A received the following amounts from the insurance company:

(i) Towards loss of stock	₹ 4,80,000
(ii) Towards damage of machinery	₹ 6,00,000
(iii) Towards gold chain and diamond ring	₹ 1,80,000

You are requested to briefly comment on the tax treatment of the above three items under the provisions of the Income-tax Act, 1961.

Answer

- (i) **Compensation towards loss of stock:** Any compensation received from the insurance company towards loss/damage to stock in trade is to be construed as a trading receipt. Hence, ₹ 4,80,000 received as insurance claim for loss of stock has to be assessed under the head "Profit and gains of business or profession".

Note - The assessee can claim the value of stock destroyed by fire as revenue loss, eligible for deduction while computing income under the head "Profits and gains of business or profession".

- (ii) **Compensation towards damage to machinery:** The question does not mention whether the salvaged machinery is taken over by the Insurance company or whether there was any replacement of machinery during the year. Assuming that the salvaged machinery is taken over by the Insurance company, and there was no fresh addition of machinery during the year, the block of machinery will cease to exist. Therefore, ₹ 4,80,000 being the excess of written down value (i.e. ₹ 10,80,000) over the insurance compensation (i.e. ₹ 6,00,000) will be assessable as a short-term capital loss.

Note – If new machinery is purchased in the next year, it will constitute the new block of machinery, on which depreciation can be claimed for that year.

- (iii) **Compensation towards loss of gold chain and diamond ring:** Gold chain and diamond ring are capital assets as envisaged by section 2(14). They are not "personal effects", which alone are to be excluded. If any profit or gain arises in a previous year owing to receipt of insurance claim, the same shall be chargeable to tax as capital gains. The capital gains has to be computed by reducing the indexed cost of acquisition of jewellery from the insurance compensation of ₹ 1,80,000.

Question 5

Mr. Sarthak entered into an agreement with Mr. Jaikumar to sell his residential house located at Kanpur on 16.08.2021 for ₹ 1,50,00,000.

The sale proceeds were to be paid in the following manner:

- (i) *20% through account payee bank draft on the date of agreement.*
- (ii) *60% on the date of the possession of the property.*
- (iii) *Balance after the completion of the registration of the title to the property.*

Mr. Jaikumar was handed over the possession of the property on 15.12.2021 and the registration process was completed on 14.01.2022. He paid the sale proceeds as per the sale agreement.

The value determined by the Stamp Duty Authority-

- (a) on 16.08.2021 was ₹ 1,70,00,000;
- (b) on 15.12.2021 was ₹ 1,71,00,000; and
- (c) on 14.01.2022 was ₹ 1,71,50,000.

Mr. Sarthak had acquired the residential house at Kanpur on 01.04.2001 for ₹ 30,00,000. After recovering the sale proceeds from Jaikumar, he purchased two residential house properties, one in Kanpur for ₹ 20,00,000 on 24.3.2022 and another in Delhi for ₹ 35,00,000 on 28.5.2022.

Compute the income chargeable under the head "Capital Gains" of Mr. Sarthak for the Assessment Year 2022-23.

Cost Inflation Index for Financial Year(s): 2001-02 - 100; 2021-22 - 317

Answer

Computation of income chargeable under the head "Capital Gains" of Mr. Sarthak for A.Y. 2022-23

Particulars	₹
Capital Gains on sale of residential house	
Actual sale consideration	₹ 1,50,00,000
Value adopted by Stamp Valuation Authority on the date of agreement	₹ 1,70,00,000
[As per section 50C, where the actual sale consideration is less than the value adopted by the Stamp Valuation Authority for the purpose of charging stamp duty, and such stamp duty value exceeds 110% of the actual sale consideration, then, the value adopted by the Stamp Valuation Authority shall be taken to be the full value of consideration.	
In a case where the date of agreement is different from the date of registration, stamp duty value on the date of agreement can be considered provided the whole or part of the consideration is paid by way of account payee cheque/bank draft or by way of ECS through bank account or through such	

other electronic mode as may be prescribed, on or before the date of agreement.	
In this case, since 20% of ₹ 150 lakhs is paid through account payee bank draft on the date of agreement, stamp duty value on the date of agreement would be considered for determining the full value of consideration]	
Full value of sale consideration [Stamp duty value on the date of agreement, since it exceeds 110% of the actual sale consideration]	1,70,00,000
Less: Indexed cost of acquisition of residential house [₹ 30 lakhs x 317/100]	95,10,000
Long-term capital gains [Since the residential house property was held by Mr. Sarthak for more than 24 months immediately preceding the date of its transfer]	74,90,000
Less: Exemption u/s 54	55,00,000
Since, long-term capital gains does not exceed ₹ 2 crore, he would be eligible for exemption in respect of both the residential house properties purchased in India. The capital gain arising on transfer of a long-term residential property shall not be chargeable to tax to the extent such capital gain is invested in the purchase of these residential house properties in India within one year before or two years after the date of transfer of original asset. Thus, he would be eligible for exemption of ₹ 55,00,000 being ₹ 20,00,000 and ₹ 35,00,000 invested on acquisition of residential house property in Kanpur and Delhi, respectively.	
Long term capital gains chargeable to tax	19,90,000

Question 6

Mrs. Yuvika bought a vacant land for ₹ 80 lakhs in May 2004. Registration and other expenses were 10% of the cost of land. She constructed a residential building on the said land for ₹ 100 lakhs during the financial year 2006-07.

She entered into an agreement for sale of the above said residential house with Mr. Johar (not a relative) in April 2015. The sale consideration was fixed at ₹ 700 lakhs and on 23-4-2015, Mrs. Yuvika received ₹ 20 lakhs as advance in cash by executing an agreement. However, due to failure on part of Mr. Johar, the said negotiation could not materialise and hence, the said amount of advance was forfeited by Mrs. Yuvika.

Mrs. Yuvika, again entered into an agreement on 01.08.2021 for sale of this house at ₹ 810 lakhs. She received ₹ 80 lakhs as advance by RTGS. The stamp duty value on the date of agreement was ₹ 890 lakhs. The sale deed was executed and registered on 14-1-2022 for the agreed consideration. However, the State stamp valuation authority had revised the values, hence, the value of property for stamp duty purposes was ₹ 900 lakhs. Mrs. Yuvika paid 1% as brokerage on sale consideration received.

Subsequent to sale, Mrs. Yuvika made following investments:

- (i) Acquired two residential houses at Delhi for ₹ 130 lakhs and ₹ 50 lakhs on 31.1.2022 and 15.5.2022
- (ii) Acquired a residential house at UK for ₹ 180 lakhs on 23.3.2022.
- (iii) Subscribed to NHAI capital gains bond (approved under section 54EC) for ₹ 50 lakhs on 29-3-2022 and for ₹ 40 lakhs on 12-5-2022.

Compute the income chargeable under the head 'Capital Gains' of Mrs. Yuvika for A.Y.2022-23. The choice of exemption must be in the manner most beneficial to the assessee.

Cost Inflation Index: F.Y. 2004-05 – 113; F.Y. 2006-07 – 122; F.Y. 2021-22 - 317.

Answer

Computation of income chargeable under the head "Capital Gains" of Mrs. Yuvika for A.Y.2022-23

Particulars	₹ (in lakhs)	₹ (in lakhs)
Capital Gains on sale of residential building		
Actual sale consideration ₹ 810 lakhs		
Value adopted by Stamp Valuation Authority ₹ 890 lakhs [Where the actual sale consideration is less than the value adopted by the Stamp Valuation Authority for the purpose of charging stamp duty, and such stamp duty		

value exceeds 110% of the actual sale consideration, then, the value adopted by the Stamp Valuation Authority shall be taken to be the full value of consideration as per section 50C.

However, where the date of agreement is different from the date of registration, stamp duty value on the date of agreement can be considered provided the whole or part of the consideration is received by way of account payee cheque/bank draft or by way of ECS through bank account or through prescribed electronic modes on or before the date of agreement.

In this case, since advance of ₹ 80 lakh is received by RTGS, i.e., one of the prescribed modes, stamp duty value on the date of agreement can be adopted as the full value of consideration. However, in the present case since stamp duty value on the date of agreement does not exceed 110% of the actual consideration, actual sale consideration would be taken as the full value of consideration)

Gross Sale consideration (actual consideration, since stamp duty value on the date of agreement does not exceed 110% of the actual consideration)

810.00

Less: Brokerage @1% of sale consideration (1% of ₹ 810 lakhs)

8.10

Net Sale consideration

801.90

Less: Indexed cost of acquisition

- Cost of vacant land, ₹ 80 lakhs, plus registration and other expenses i.e., ₹ 8 lakhs, being 10% of cost of land [₹ 88 lakhs × 317/113]
- Construction cost of residential building (₹ 100 lakhs × 317/122)

246.87

259.84

506.71

Long-term capital gains

295.19

Since the residential house property was held by Mrs. Yuvika for more than 24 months immediately preceding the date of its transfer, the resultant gain is a long-term capital gain]

<p>Less: Exemption under section 54</p> <p>Where long-term capital gains exceed ₹ 2 crore, the capital gain arising on transfer of a long-term residential property shall not be chargeable to tax to the extent such capital gain is invested in the purchase of one residential house property in India, one year before or two years after the date of transfer of original asset.</p> <p>Therefore, in the present case, the exemption would be available only in respect of the one residential house acquired in India and not in respect of the residential house in UK. It would be more beneficial for her to claim the cost of acquisition of residential house at Delhi, i.e., ₹ 130 lakhs as exemption.</p>		130.00
<p>Less: Exemption under section 54EC</p> <p>Amount invested in capital gains bonds of NHAI within six months after the date of transfer (i.e., on or before 13.7.2022), of long-term capital asset, being land or building or both, would qualify for exemption, to the maximum extent of ₹ 50 lakhs, whether such investment is made in the current financial year or subsequent financial year.</p> <p>Therefore, in the present case, exemption can be availed only to the extent of ₹ 50 lakh out of ₹ 90 lakhs, even if the both the investments are made on or before 13.7.2022(i.e., within six months after the date of transfer).</p>		50.00
<p>Long term capital gains chargeable to tax</p>		115.19

Note: Advance of ₹ 20 lakhs received from Mr. Johar, would have been chargeable to tax under the head "Income from other sources", in the A.Y. 2016-17, as per section 56(2)(ix), since the same was forfeited on or after 01.4.2014 as a result of failure of negotiation. Hence, the same should not be deducted while computing indexed cost of acquisition.

Question 7

Mr. Shiva purchased a house property on February 15, 1979 for ₹ 3,24,000. In addition, he has also paid stamp duty value @10% on the stamp duty value of ₹ 3,50,000.

In April, 2007, Mr. Shiva entered into an agreement with Mr. Mohan for sale of such property for ₹ 14,35,000 and received an amount of ₹ 1,11,000 as advance. However, the sale consideration did not materialize and Mr. Shiva forfeited the advance. In May 2014, he again entered into an agreement for sale of said house for ₹ 20,25,000 to Ms. Deepshikha and received ₹ 1,51,000 as advance. However, as Ms. Deepshikha did not pay the balance amount, Mr. Shiva forfeited the advance. In August, 2014, Mr. Shiva constructed the first floor by incurring a cost of ₹ 3,90,000.

On November 15, 2021, Mr. Shiva entered into an agreement with Mr. Manish for sale of such house for ₹ 30,50,000 and received an amount of ₹ 1,50,000 as advance through an account payee cheque. Mr. Manish paid the balance entire sum and Mr. Shiva transferred the house to Mr. Manish on February 20, 2022. Mr. Shiva has paid the brokerage @1% of sale consideration to the broker.

On April 1, 2001, fair market value of the house property was ₹ 11,85,000 and Stamp duty value was ₹ 10,70,000. Further, the Valuation as per Stamp duty Authority of such house on 15th November, 2021 was ₹ 39,00,000 and on 20th February, 2022 was ₹ 41,00,000.

Compute the capital gains in the hands of Mr. Shiva for A.Y.2022-23.

CII for F.Y. 2001-02: 100; F.Y. 2007-08: 129; F.Y. 2014-15: 240; F.Y. 2021-22: 317

Answer

**Computation of Capital gains in the hands of Mr. Shiva
for A.Y. 2022-23**

Particulars	Amount (₹)	Amount (₹)
Actual sale consideration	30,50,000	
Valuation as per Stamp duty Authority on the date of agreement	39,00,000	
(Where the actual sale consideration is less than the value adopted by the Stamp Valuation Authority for the purpose of charging stamp duty, and such stamp duty		

value exceeds 110% of the actual sale consideration then, the value adopted by the Stamp Valuation Authority shall be taken to be the full value of consideration as per section 50C.

However, where the date of agreement is different from the date of registration, stamp duty value on the date of agreement can be considered, provided the whole or part of the consideration is received by way of account payee cheque/bank draft or by way of ECS through bank account or such other electronic mode as may be prescribed on or before the date of agreement.

In the present case, since part of the payment is made by account payee cheque on the date of agreement, the stamp duty value on the date of agreement would be considered as full value of consideration)

Deemed Full value of consideration [Since stamp duty value on the date of agreement exceeds 110% of the actual consideration, stamp duty value would be deemed as Full Value of Consideration]

Less: Expenses on transfer (Brokerage @1% of ₹ 30,50,000)

Net sale consideration

Less: Indexed cost of acquisition (**Note 1**)

Less: Indexed cost of improvement (**Note 2**)

Long term capital gain

39,00,000

30,500

38,69,500

30,40,030

5,15,125

35,55,155

3,14,345

Notes:**(1) Computation of indexed cost of acquisition**

Particulars	Amount (₹)	Amount (₹)
Cost of acquisition, Being the higher of		10,70,000
(i) lower of Fair market value i.e., ₹ 11,85,000 and Stamp duty value i.e., ₹ 10,70,000, on April 1, 2001	10,70,000	
(ii) Actual cost of acquisition (₹ 3,24,000 + ₹ 35,000, being stamp duty @10% of ₹ 3,50,000	3,59,000	
Less: Advance money taken from Mr. Mohan and forfeited		1,11,000
Cost of acquisition for indexation		9,59,000
Indexed cost of acquisition (₹ 9,59,000 x 317/100)		30,40,030

(2) Computation of indexed cost of improvement

Particulars	Amount (₹)
Cost of construction of first floor in August, 2014	3,90,000
Indexed cost of improvement (₹ 3,90,000 x 317/240)	5,15,125

- (3)** Where advance money has been received by the assessee, and retained by him, as a result of failure of the negotiations, section 51 will apply. The advance retained by the assessee will go to reduce the cost of acquisition. Indexation is to be done on the cost of acquisition so arrived at after reducing the advance money forfeited [i.e. ₹ 10,70,000 – ₹ 1,11,000 (being the advance money forfeited during the P.Y.2007-08) = ₹ 9,59,000]. However, where the advance money is forfeited during the previous year 2014-15 or thereafter, the amount forfeited would be taxable under the head "Income from Other Sources" and such amount will not be deducted from the cost of acquisition of such asset while calculating capital gains. Hence, ₹ 1,51,000, being the advance received from Ms. Deepshikha and retained by him, would have been taxable under the head "Income from other sources" in the hands of Mr. Shiva in A.Y.2015-16.

UNIT – 5 : INCOME FROM OTHER SOURCES



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ILLUSTRATION 1

Rahul, a resident Indian, holding 28% of equity shares in a company, took a loan of ₹ 5,00,000 from the same company. On the date of granting the loan, the company had accumulated profit of ₹ 4,00,000. The company is engaged in some manufacturing activity.

- (i) Is the amount of loan taxable as deemed dividend, if the company is a company in which the public are substantially interested?*
- (ii) What would be your answer, if the lending company is a private limited company (i.e. which is not a company in which the public are substantially interested)?*

SOLUTION

Any payment by a company, other than a company in which the public are substantially interested, of any sum by way of advance or loan to an equity shareholder, being a person who is the beneficial owner of shares holding not less than 10% of the voting power, is deemed as dividend under section 2(22)(e), to the extent the company possesses accumulated profits.

- (i) The provisions of section 2(22)(e), however, will not apply where the loan is given by a company in which public are substantially interested. In such a case, the loan would not be taxable as deemed dividend.
- (ii) However, if the loan is taken from a private company (i.e. a company in which the public are not substantially interested), which is a

manufacturing company and not a company where lending of money is a substantial part of the business of the company, then, the provisions of section 2(22)(e) would be attracted, since Rahul holds more than 10% of the equity shares in the company.

The amount chargeable as deemed dividend cannot, however, exceed the accumulated profits held by the company on the date of giving the loan. Therefore, the amount taxable as deemed dividend would be limited to the accumulated profit i.e., ₹ 4,00,000 and not the amount of loan which is ₹ 5,00,000.

ILLUSTRATION 2

Mr. A, a dealer in shares, received the following without consideration during the P.Y. 2021-22 from his friend Mr. B, -

- (1) Cash gift of ₹75,000 on his anniversary, 15th April, 2021.
- (2) Bullion, the fair market value of which was ₹ 60,000, on his birthday, 19th June, 2021.
- (3) A plot of land at Faridabad on 1st July, 2021, the stamp value of which is ₹5 lakh on that date. Mr. B had purchased the land in April, 2009.

Mr. A purchased from his friend Mr. C, who is also a dealer in shares, 1000 shares of X Ltd. @ ₹400 each on 19th June, 2021, the fair market value of which was ₹600 each on that date. Mr. A sold these shares in the course of his business on 23rd June, 2021.

Further, on 1st November, 2021, Mr. A took possession of property (office building) booked by him two years back at ₹20 lakh. The stamp duty value of the property as on 1st November, 2021 was ₹32 lakh and on the date of booking was ₹23 lakh. He had paid ₹1 lakh by account payee cheque as down payment on the date of booking.

On 1st March, 2022, he sold the plot of land at Faridabad for ₹7 lakh.

Compute the income of Mr. A chargeable under the head "Income from other sources" and "Capital Gains" for A.Y. 2022-23.

SOLUTION**Computation of "Income from other sources" of Mr. A for the A.Y. 2022-23**

	Particulars	₹
(1)	Cash gift is taxable under section 56(2)(x), since it exceeds ₹ 50,000	75,000
(2)	Since bullion is included in the definition of property, therefore, when bullion is received without consideration, the same is taxable, since the aggregate fair market value exceeds ₹ 50,000	60,000
(3)	Stamp value of plot of land at Faridabad, received without consideration, is taxable under section 56(2)(x)	5,00,000
(4)	Difference of ₹ 2 lakh in the value of shares of X Ltd. purchased from Mr. C, a dealer in shares, is not taxable as it represents the stock-in-trade of Mr. A. Since Mr. A is a dealer in shares and it has	-

	Particulars	₹
(5)	been mentioned that the shares were subsequently sold in the course of his business, such shares represent the stock-in-trade of Mr. A. Difference between the stamp duty value of ₹ 23 lakh on the date of booking and the actual consideration of ₹ 20 lakh paid is taxable under section 56(2)(x) since the difference exceeds ₹ 2,00,000, being the higher of ₹ 50,000 and 10% of consideration	3,00,000
Income from Other Sources		9,35,000

Computation of "Capital Gains" of Mr. A for the A.Y.2022-23

Particulars	₹
Sale Consideration	7,00,000
Less: Cost of acquisition [deemed to be the stamp value charged to tax under section 56(2)(x) as per section 49(4)]	5,00,000
Short-term capital gains	2,00,000

Note – The resultant capital gains will be short-term capital gains since for calculating the period of holding, the period of holding of previous owner is not to be considered.

ILLUSTRATION 3

Discuss the taxability or otherwise of the following in the hands of the recipient under section 56(2)(x) the Income-tax Act, 1961 -

- (i) Akhil HUF received ₹ 75,000 in cash from niece of Akhil (i.e., daughter of Akhil's sister). Akhil is the Karta of the HUF.
- (ii) Nitisha, a member of her father's HUF, transferred a house property to the HUF without consideration. The stamp duty value of the house property is ₹ 9,00,000.
- (iii) Mr. Akshat received 100 shares of A Ltd. from his friend as a gift on occasion of his 25th marriage anniversary. The fair market value on that date was ₹ 100 per share. He also received jewellery worth ₹ 45,000 (FMV) from his nephew on the same day.

- (iv) Kishan HUF gifted a car to son of Karta for achieving good marks in XII board examination. The fair market value of the car is ₹5,25,000.

SOLUTION

	Taxable/ Non- taxable	Amount liable to tax (₹)	Reason
(i)	Taxable	75,000	Sum of money exceeding ₹ 50,000 received without consideration from a non-relative is taxable under section 56(2)(x). Daughter of Mr. Akhil's sister is not a relative of Akhil HUF, since she is not a member of Akhil HUF.
(ii)	Non- taxable	Nil	Immovable property received without consideration by a HUF from its relative is not taxable under section 56(2)(x). Since Nitisha is a member of the HUF, she is a relative of the HUF. However, income from such asset would be included in the hands of Nitisha under 64(2).
(iii)	Taxable	55,000	As per provisions of section 56(2)(x), in case the aggregate fair market value of property, other than immovable property, received without consideration exceeds ₹ 50,000, the whole of the aggregate value shall be taxable. In this case, the aggregate fair market value of shares (₹ 10,000) and jewellery (₹ 45,000) exceeds ₹ 50,000. Hence, the entire amount of ₹ 55,000 shall be taxable.
(iv)	Non- taxable	Nil	Car is not included in the definition of property for the purpose of section 56(2)(x), therefore, the same shall not be taxable.

ILLUSTRATION 4

Mr. Hari, a property dealer, sold a building in the course of his business to his friend Rajesh, who is a dealer in automobile spare parts, for ₹ 90 lakh on 1.1.2022, when the stamp duty value was ₹ 150 lakh. The agreement was, however, entered into on 1.9.2021 when the stamp duty value was ₹ 140 lakh. Mr. Hari had received a down payment of ₹ 15 lakh by a crossed cheque from Rajesh on the date of agreement. Discuss the tax implications in the hands of Hari and Rajesh, assuming that Mr. Hari has purchased the building for ₹ 75 lakh on 12th July, 2020.

Would your answer be different if Hari was a share broker instead of a property dealer?

SOLUTION**Case 1: Tax implications if Mr. Hari is a property dealer**

In the hands of the seller, Mr. Hari	In the hands of the buyer, Mr. Rajesh
<p>In the hands of Hari, the provisions of section 43CA would be attracted, since the building represents his stock-in-trade and he has transferred the same for a consideration less than the stamp duty value; and the stamp duty value exceeds 110% of consideration.</p> <p>Under section 43CA, the option to adopt the stamp duty value on the date of agreement can be exercised only if whole or part of the consideration has been received on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay on or before the date of agreement. In</p>	<p>Since Mr. Rajesh is a dealer in automobile spare parts, the building purchased would be a capital asset in his hands. The provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration and the difference between the consideration and stamp duty value exceeds ₹ 9,00,000, being the higher of ₹ 50,000 and 10% of consideration.</p> <p>Therefore, ₹ 60 lakh, being the difference between the stamp duty value of the property on the date of registration (i.e., ₹ 150 lakh) and the actual consideration (i.e., ₹ 90 lakh) would be taxable under section 56(2)(x) in the hands of Mr. Rajesh, since the payment on the date of agreement is made by crossed</p>

In the hands of the seller, Mr. Hari	In the hands of the buyer, Mr. Rajesh
<p>this case, since the down payment of ₹ 15 lakh is received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised.</p> <p>Therefore, ₹ 75 lakh, being the difference between the stamp duty value on the date of transfer i.e., ₹ 150 lakh, and the purchase price i.e., ₹ 75 lakh, would be chargeable as business income in the hands of Mr. Hari, since stamp duty value exceeds 110% of the consideration</p>	<p>cheque and not account payee cheque/draft or ECS or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay.</p>

Case 2: Tax implications if Mr. Hari is a share broker

In the hands of the seller, Mr. Hari	In the hands of the buyer, Mr. Rajesh
<p>In case Mr. Hari is a share broker and not a property dealer, the building would represent his capital asset and not stock-in-trade. In such a case, the provisions of section 50C would be attracted in the hands of Mr. Hari, since building is transferred for a consideration less than the stamp duty value; and the stamp duty value exceeds 110% of consideration.</p> <p>Thus, ₹ 75 lakh, being the difference between the stamp duty value on the date of registration (i.e., ₹ 150 lakh) and the purchase price (i.e., ₹ 75 lakh) would be chargeable as short-term capital gains.</p> <p>It may be noted that under section 50C,</p>	<p>There would be no difference in the taxability in the hands of Mr. Rajesh, whether Mr. Hari is a property dealer or a stock broker, (except where the property transferred in a residential unit fulfilling the stipulated conditions, which is not so in this case).</p> <p>Therefore, the provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration and the difference between the consideration and stamp duty value exceeds ₹ 9,00,000, being the higher of</p>

the option to adopt the stamp duty value on the date of agreement can be exercised only if whole or part of the consideration has been received on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay on or before the date of agreement. In this case, since the down payment of ₹ 15 lakhs has been received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised.

₹ 50,000 and 10% of consideration.

Therefore, ₹ **60 lakh**, being the difference between the stamp duty value of the property on the date of registration (i.e., ₹ 150 lakh) and the actual consideration (i.e., ₹ 90 lakh) would be taxable under section 56(2)(x) in the hands of Mr. Rajesh, since the payment on the date of agreement is made by crossed cheque and not account payee cheque/draft or ECS or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay.

ILLUSTRATION 5

Interest on enhanced compensation received by Mr. G during the previous year 2021-22 is ₹ 5,00,000. Out of this interest, ₹ 1,50,000 relates to the previous year 2017-18, ₹ 1,65,000 relates to previous year 2018-19 and ₹ 1,85,000 relates to previous year 2019-20. Discuss the tax implication, if any, of such interest income for A.Y.2022-23.

SOLUTION

The entire interest of ₹ 5,00,000 would be taxable in the year of receipt, namely, P.Y. 2021-22.

Particulars	₹
Interest on enhanced compensation taxable u/s 56(2)(viii)	5,00,000
Less: Deduction under section 57(iv) @50%	2,50,000
Interest chargeable under the head "Income from other sources"	2,50,000

				<i>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 \leq ₹ 2 crores.</i>
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TEST YOUR KNOWLEDGE

Question 1

Examine under which heads the following incomes are taxable:

- (i) Rental income in case property held as stock-in-trade for 3 years
- (ii) Dividend on shares in case of a dealer in shares
- (iii) Salary received by a partner from his partnership firm
- (iv) Rental income of machinery
- (v) Winnings from lotteries by a person having the same as business activity
- (vi) Salaries payable to a Member of Parliament
- (vii) Receipts without consideration
- (viii) In case of retirement, interest on employee's contribution if provident fund is unrecognized.
- (ix) Rental income in case of a person engaged in the business of letting out of properties.

Answer

	Particulars	Head of Income
(i)	Rental income in case property held as stock-in trade for 3 years	Income from house property
(ii)	Dividend on shares in case of a dealer in shares	Income from other sources
(iii)	Salary by partner from his partnership firm	Profits and gains of business or profession
(iv)	Rental income of machinery (See Note below)	Profits and gains of business or profession/Income from other sources
(v)	Winnings from lotteries by a person having the same as business activity	Income from other sources
(vi)	Salaries payable to a Member of Parliament	Income from other sources

(vii)	Receipts without consideration	Income from other sources
(viii)	In case of retirement, interest on employee's contribution if provident fund is unrecognized	Income from other sources
(xi)	Rental income in case of a person engaged in the business of letting out of properties	Profits and gains from business or profession

Note - As per section 56(2)(ii), rental income of machinery would be chargeable to tax under the head "Income from Other Sources", if the same is not chargeable to income-tax under the head "Profits and gains of business or profession".

Question 2

Examine whether the following are chargeable to tax and the amount liable to tax :

- (i) A sum of ₹ 1,20,000 was received as gift from non-relatives by Raj on the occasion of the marriage of his son Pravin.
- (ii) Interest on enhanced compensation of ₹ 96,000 received on 12-3-2022 for acquisition of urban land, of which 40% relates to P.Y.2020-21.

Answer

S. No.	Taxable/ Not Taxable	Answer Amount liable to tax (₹)	Reason
(i)	Taxable	1,20,000	The exemption from applicability of section 56(2)(x) would be available if, <i>inter alia</i> , gift is received from a relative or gift is received on the occasion of marriage of the individual himself. In this case, since gift is received by Mr. Raj from a non-relative on the occasion of marriage of his son, it would be taxable in his hands under section 56(2)(x).

(ii)	Taxable	48,000	<p>As per section 145B(1), interest received by the assessee on enhanced compensation shall be deemed to be the income of the year in which it is received, irrespective of the method of accounting followed by the assessee.</p> <p>Interest of ₹ 96,000 on enhanced compensation is chargeable to tax in the year of receipt i.e. P.Y. 2021-22 under section 56(2)(viii) after providing deduction of 50% under section 57(iv). Therefore, ₹ 48,000 is chargeable to tax under the head "Income from other sources".</p>
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Question 3

On 10.10.2021, Mr. Govind (a bank employee) received ₹ 5,00,000 towards interest on enhanced compensation from State Government in respect of compulsory acquisition of his land effected during the financial year 2014-15.

Out of this interest, ₹ 1,50,000 relates to the financial year 2015-16; ₹ 1,65,000 to the financial year 2016-17; and ₹ 1,85,000 to the financial year 2017-18. He incurred ₹ 50,000 by way of legal expenses to receive the interest on such enhanced compensation.

How much of interest on enhanced compensation would be chargeable to tax for the assessment year 2022-23?

Answer

Section 145B provides that interest received by the assessee on enhanced compensation shall be deemed to be the income of the assessee of the year in which it is received, irrespective of the method of accounting followed by the assessee and irrespective of the financial year to which it relates.

Section 56(2)(viii) states that such income shall be taxable as 'Income from other sources'.

50% of such income shall be allowed as deduction by virtue of section 57(iv) and no other deduction shall be permissible from such Income.

Therefore, legal expenses incurred to receive the interest on enhanced compensation would not be allowed as deduction from such income.

Computation of interest on enhanced compensation taxable as "Income from other sources" for the A.Y 2022-23:

Particulars	₹
Interest on enhanced compensation taxable u/s 56(2)(viii)	5,00,000
Less: Deduction under section 57(iv) (50% x ₹ 5,00,000)	2,50,000
Taxable interest on enhanced compensation	2,50,000

Question 4

The following details have been furnished by Mrs. Hemali pertaining to the year ended 31.3.2022:

- (i) Cash gift of ₹ 51,000 received from her friend on the occasion of her "Shastiaptha Poorthi", a wedding function celebrated on her husband completing 60 years of age. This was also her 25th wedding anniversary.
- (ii) On the above occasion, a diamond necklace worth ₹ 2 lacs was presented by her sister living in Dubai.
- (iii) When she celebrated her daughter's wedding on 21.2.2022, her friend assigned in Mrs. Hemali's favour, a fixed deposit held by the said friend in a scheduled bank; the value of the fixed deposit and the accrued interest on the said date was ₹ 52,000.

Compute the income, if any, assessable as income from other sources.

Answer

- (i) Any sum of money received by an individual on the occasion of the marriage of the individual is exempt. This provision is, however, not applicable to a cash gift received during a wedding function celebrated on completion of 60 years of age.

The gift of ₹ 51,000 received from a non-relative is, therefore, chargeable to tax under section 56(2)(x) in the hands of Mrs. Hemali, since the same exceeds ₹ 50,000.

- (ii) The provisions of section 56(2)(x) are not attracted in respect of any sum of money or property received from a relative. Thus, the gift of diamond necklace received from her sister, being a relative, is not taxable under section 56(2)(x), even though jewellery falls within the definition of "property".

- (iii) To be exempt from applicability of section 56(2)(x), the property should be received on the occasion of the marriage of the individual, not that of the individual's son or daughter. Therefore, this exemption provision is not attracted in this case.

Any sum of money received without consideration by an individual is chargeable to tax under section 56(2)(x), if the aggregate value exceeds ₹ 50,000 in a year. "Sum of money" has, however, not been defined under section 56(2)(x).

Therefore, there are two possible views in respect of the value of fixed deposit assigned in favour of Mrs. Hemali –

- (1) The first view is that fixed deposit does not fall within the meaning of "sum of money" and therefore, the provisions of section 56(2)(x) are not attracted. It may be noted that fixed deposit is also not included in the definition of "property".
- (2) However, another possible view is that fixed deposit assigned in favour of Mrs. Hemali falls within the meaning of "sum of money" received.

Income assessable as "Income from other sources"

If the first view is taken, the total amount chargeable to tax as "Income from other sources" would be ₹ 51,000, being cash gift received from a friend on her Shastiapha Poorthi.

As per the second view, the provisions of section 56(2)(x) would also be attracted in respect of the fixed deposit assigned and the "Income from other sources" of Mrs. Hemali would be ₹ 1,03,000 (₹ 51,000 + ₹ 52,000).

Question 5

Examine the following transactions in the context of Income-tax Act, 1961:

- (i) *Mr. B transferred 500 shares of R (P) Ltd. to M/s. B Co. (P) Ltd. on 10.10.2021 for ₹ 3,00,000 when the market price was ₹ 5,00,000. The indexed cost of acquisition of shares for Mr. B was computed at ₹ 4,45,000. The transfer was not subjected to securities transaction tax.*

Determine the income chargeable to tax in the hands of Mr. B and M/s. B Co. (P) Ltd. because of the above said transaction.

- (ii) *Mr. Chezian is employed in a company with taxable salary income of ₹ 5,00,000. He received a cash gift of ₹ 1,00,000 from Atma Charitable Trust (registered under section 12AB) in December 2021 for meeting his medical expenses.*

Is the cash gift so received from the trust chargeable to tax in the hands of Mr. Chezian?

Answer

- (i) Any movable property received for inadequate consideration by any person is chargeable to tax under section 56(2)(x), if the difference between aggregate Fair Market Value of the property and consideration exceeds ₹ 50,000.

Thus, share received by M/s B. Co. (P) Ltd. from Mr B for inadequate consideration is chargeable to tax under section 56(2)(x) to the extent of ₹ 2,00,000.

As per section 50CA, since, the consideration is less than the fair market value of unquoted shares of R (P) Ltd., fair market value of shares of the company would be deemed to be the full value of consideration. It is presumed that the shares of R (P) Ltd are unquoted shares.

The full value of consideration (₹ 5,00,000) less the indexed cost of acquisition (₹ 4,45,000) would result in a long term capital gains of ₹ 55,000 in the hands of Mr. B.

- (ii) The provisions of section 56(2)(x) would not apply to any sum of money or any property received from any trust or institution registered under section 12AB. Therefore, the cash gift of ₹ 1 lakh received from Atma Charitable Trust, being a trust registered under section 12AB, for meeting medical expenses would not be chargeable to tax under section 56(2)(x) in the hands of Mr. Chezian.

INCOME OF OTHER PERSONS INCLUDED IN ASSESSEE'S TOTAL INCOME



ILLUSTRATION 1

Mr. Vatsan has transferred, through a duly registered document, the income arising from a godown to his son, without transferring the godown. In whose hands will the rental income from godown be charged?

SOLUTION

Section 60 expressly states that where there is transfer of income from an asset without transfer of the asset itself, such income shall be included in the total income of the transferor. Hence, the rental income derived from the godown shall be clubbed in the hands of Mr. Vatsan.

ILLUSTRATION 2

Mr. A holds shares carrying 25% voting power in X (P) Ltd. Mrs. A is working as a computer software programmer in X (P) Ltd. at a salary of ₹ 30,000 p.m. She is, however, not qualified for the job. The other income of Mr. A & Mrs. A are ₹ 7,00,000 & ₹ 4,00,000, respectively. Compute the gross total income of Mr. A and Mrs. A for the A.Y.2022-23, assuming that they do not opt for section 115BAC.

SOLUTION

Mr. A holds shares carrying 25% voting power in X (P) Ltd i.e., a substantial interest in the company. His wife is working in the same company without any professional qualifications for the same. Thus, by virtue of the clubbing provisions of the Act, the salary received by Mrs. A from X (P) Ltd. will be clubbed in the hands of Mr. A.

Computation of Gross total income of Mr. A

Particulars	₹	₹
Salary received by Mrs. A (₹30,000 × 12)	3,60,000	
Less: Standard deduction under section 16(ia)	50,000	3,10,000
Other Income		7,00,000
Gross total income		10,10,000

The gross total income of Mrs. A is ₹ 4,00,000.

ILLUSTRATION 3

Will your answer be different if Mrs. A was qualified for the job?

SOLUTION

If Mrs. A possesses professional qualifications for the job, then the clubbing provisions shall not be applicable.

Gross total income of Mr. A = ₹ 7,00,000 [other income].

Gross total income of Mrs. A = Salary received by Mrs. A [₹ 30,000×12] less ₹ 50,000, being the standard deduction under section 16(ia) plus other income [₹ 4,00,000] = ₹ 7,10,000

ILLUSTRATION 4

Mr. B holds shares carrying 30% voting power in Y (P) Ltd. Mrs. B is working as accountant in Y (P) Ltd. getting income under the head salary (computed) of ₹ 3,44,000 without any qualification in accountancy. Mr. B also receives ₹ 30,000 as interest on securities. Mrs. B owns a house property which she has let out. Rent received from tenants is ₹ 6,000 p.m. Compute the gross total income of Mr. B and Mrs. B for the A.Y.2022-23.

SOLUTION

Since Mrs. B is not professionally qualified for the job, the clubbing provisions shall be applicable.

Computation of Gross total income of Mr. B

Particulars	₹
Income under the head salary of Mrs. B (Computed)	3,44,000
Income from other sources	
- Interest on securities	30,000
	3,74,000

Computation of Gross total income of Mrs. B

Particulars	₹	₹
Income from Salary [clubbed in the hands of Mr. B]		Nil
Income from house property		
Gross Annual Value [₹ 6,000 × 12]	72,000	
Less: Municipal taxes paid	-	
Net Annual Value (NAV)	72,000	
Less: Deductions under section 24		
- 30% of NAV i.e., 30% of ₹ 72,000	21,600	
- Interest on loan	-	50,400
Gross total income		50,400

ILLUSTRATION 5

Mr. Vaibhav started a proprietary business on 01.04.2020 with a capital of ₹ 5,00,000. He incurred a loss of ₹ 2,00,000 during the year 2020-21. To overcome the financial position, his wife Mrs. Vaishaly, a software Engineer, gave a gift of ₹ 5,00,000 on 01.04.2021, which was immediately invested in the business by Mr. Vaibhav. He earned a profit of ₹ 4,00,000 during the year 2021-22. Compute the amount to be clubbed in the hands of Mrs. Vaishaly for the Assessment Year 2022-23. If Mrs. Vaishaly gave the said amount as loan, what would be the amount to be clubbed?

SOLUTION

Section 64(1)(iv) of the Income-tax Act, 1961 provides for the clubbing of income in the hands of the individual, if the income earned is from the assets (other than house property) transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration or in connection with an agreement to live apart.

In this case, Mr. Vaibhav received a gift of ₹ 5,00,000 on 1.4.2021 from his wife Mrs. Vaishaly, which he invested in his business immediately. The income to be clubbed in the hands of Mrs. Vaishaly for the A.Y. 2022-23 is computed as under:

Particulars	Mr. Vaibhav's capital contribution (₹)	Capital contribution out of gift from Mrs. Vaishaly (₹)	Total (₹)
Capital as on 1.4.2021	3,00,000 (5,00,000 – 2,00,000)	5,00,000	8,00,000
Profit for P.Y.2021-22 to be apportioned on the basis of capital employed on the first day of the previous year i.e. as on 1.4.2021 (3:5)	1,50,000 $\left(4,00,000 \times \frac{3}{8}\right)$	2,50,000 $\left(4,00,000 \times \frac{5}{8}\right)$	4,00,000

Therefore, the income to be clubbed in the hands of Mrs. Vaishaly for the A.Y.2022-23 is ₹ 2,50,000.

be included in the total income of the individual to the extent such income is used by the transferee for the immediate or deferred benefit of the transferor's son's wife.

Note: *Where any asset is transferred by a person to any other person without consideration or for inadequate consideration, the provisions of 56(2)(x) would get attracted in the hands of transferee, if conditions specified thereunder are satisfied.*

ILLUSTRATION 6

Mrs. Kasturi transferred her immovable property to ABC Co. Ltd. subject to a condition that out of the rental income, a sum of ₹ 36,000 per annum shall be utilized for the benefit of her son's wife.

Mrs. Kasturi claims that the amount of ₹ 36,000 (utilized by her son's wife) should not be included in her total income as she no longer owned the property.

Examine with reasons whether the contention of Mrs. Kasturi is valid in law.

SOLUTION

The clubbing provisions under section 64(1)(viii) are attracted in case of transfer of any asset, directly or indirectly, otherwise than for adequate consideration, to any person to the extent to which the income from such asset is for the immediate or deferred benefit of son's wife. Such income shall be included in computing the total income of the transferor-individual.

Therefore, income of ₹ 36,000 meant for the benefit of daughter-in-law is chargeable to tax in the hands of transferor i.e., Mrs. Kasturi in this case.

The contention of Mrs. Kasturi is, hence, not valid in law.

Note - *In order to attract the clubbing provisions under section 64(1)(viii), the transfer should be otherwise than for adequate consideration. In this case, it is presumed that the transfer is otherwise than for adequate consideration and therefore, the clubbing provisions are attracted. Moreover, the provisions of section 56(2)(x) would also get attracted in the hands of ABC Co Ltd., if the conditions specified thereunder are satisfied.*

If it is presumed that the transfer was for adequate consideration, the provisions of section 64(1)(viii) would not be attracted.

However, if the house property is transferred by a parent to his or her minor married daughter, without consideration or for inadequate consideration, then, section 27(i) is **not** attracted. In such a case, the income from house property will be included u/s 64(1A) in the hands of that parent, whose total income before including minor child's income is higher; and benefit of exemption u/s 10(32) can be availed by that parent in respect of the income so included.

ILLUSTRATION 7

Mr. A has three minor children – two twin daughters, aged 12 years, and one son, aged 16 years. Income of the twin daughters is ₹ 2,000 p.a. each and that of the son is ₹ 1,200 p.a. Mrs. A has transferred her flat to her minor son on 1.4.2021 out of natural love and affection. The flat was let out on the same date and the rental income from the flat is ₹ 10,000 p.m. Compute the income, in respect of minor children, to be included in the hands of Mr. A and Mrs. A u/s 64(1A) (assuming that Mr. A's total income is higher than Mrs. A's total income, before including the income of minor children).

SOLUTION

Taxable income, in respect of minor children, in the hands of Mr. A is:

Particulars	₹	₹
Twin minor daughters [₹ 2,000 × 2]	4,000	
Less: Exempt under section 10(32) [₹ 1,500 × 2]	3,000	1,000
Minor son	1,200	
Less: Exempt under section 10(32)	1,200	Nil
Income to be clubbed in the hands of Mr. A		1,000

Note – As per section 27(i), Mrs. A is the deemed owner of house property transferred to her minor son. Natural love and affection do not constitute adequate consideration for this purpose. Accordingly, the income from house property of ₹ 84,000 [i.e., ₹ 1,20,000 (-) ₹ 36,000, being 30% of ₹ 1,20,000) would be taxable directly in her hands as the deemed owner of the said property. Consequently, clubbing provisions under section 64(1A) would not be attracted in respect of income from house property, owing to which exemption u/s 10(32) cannot be availed by her.

ILLUSTRATION 8

Compute the gross total income of Mr. & Mrs. A from the following information:

	Particulars	₹
(a)	Salary income (computed) of Mrs. A	2,30,000
(b)	Income from profession of Mr. A	3,90,000
(c)	Income of minor son B from company deposit	15,000
(d)	Income of minor daughter C from special talent	32,000
(e)	Interest from bank received by C on deposit made out of her special talent	3,000
(f)	Gift received by C on 30.09.2021 from friend of Mrs. A	2,500

Brief working is sufficient. Detailed computation under various heads of income is not required.

SOLUTION

As per the provisions of section 64(1A) of the Income-tax Act, 1961, all the income of a minor child has to be clubbed in the hands of that parent whose total income (excluding the income of the minor) is greater. The income of Mr. A is ₹ 3,90,000 and income of Mrs. A is ₹ 2,30,000. Since the income of Mr. A is greater than that of Mrs. A, the income of the minor children have to be clubbed in the hands of Mr. A. It is assumed that this is the first year when clubbing provisions are attracted.

Income derived by a minor child from any activity involving application of his/her skill, talent, specialised knowledge and experience is not to be clubbed. Hence, the income of minor child C from exercise of special talent will not be clubbed.


However, interest from bank deposit has to be clubbed even when deposit is made out of income arising from application of special talent.

The Gross Total Income of Mrs. A is ₹ 2,30,000. The total income of Mr. A giving effect to the provisions of section 64(1A) is as follows:

Computation of gross total income of Mr. A for the A.Y. 2022-23

Particulars	₹	₹
Income from profession		3,90,000
Income of minor son B from company deposit	15,000	
Less: Exemption under section 10(32)	1,500	13,500

Income of minor daughter C		
From special talent – not to be clubbed	-	
Interest from bank	3,000	
Gift of ₹ 2,500 received from a non-relative is not taxable under section 56(2)(x) being less than the aggregate limit of ₹ 50,000	Nil	
	3,000	
Less : Exemption under section 10(32)	1,500	1,500
Gross Total Income		4,05,000



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ILLUSTRATION 9

Mr. Vasudevan gifted a sum of ₹ 6 lakhs to his brother's wife on 14-6-2021. On 12-7-2021, his brother gifted a sum of ₹ 5 lakhs to Mr. Vasudevan's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and wife of Mr. Vasudevan's brother on 01-8-2021 at 9% interest. Examine the consequences of the above under the provisions of the Income-tax Act, 1961 in the hands of Mr. Vasudevan and his brother.

SOLUTION

In the given case, Mr. Vasudevan gifted a sum of ₹ 6 lakhs to his brother's wife on 14.06.2021 and simultaneously, his brother gifted a sum of ₹ 5 lakhs to Mr. Vasudevan's wife on 12.07.2021. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and his brother's wife. These transfers are in the nature of cross transfers. Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. It was so held by the Apex Court in *CIT vs. Keshavji Morarji (1967) 66 ITR 142*.

Accordingly, the interest income arising to Mrs. Vasudevan in the form of interest on fixed deposits would be included in the total income of Mr. Vasudevan and interest income arising in the hands of his brother's wife would be taxable in the hands of Mr. Vasudevan's brother as per section 64(1), to the extent of amount of cross transfers i.e., ₹ 5 lakhs.

This is because both Mr. Vasudevan and his brother are the indirect transferors of the income to their respective spouses with an intention to reduce their burden of taxation.

However, the interest income earned by his spouse on fixed deposit of ₹ 5 lakhs alone would be included in the hands of Mr. Vasudevan's brother and not the interest income on the entire fixed deposit of ₹ 6 lakhs, since the cross transfer is only to the extent of ₹ 5 lakhs.

TEST YOUR KNOWLEDGE

Question 1

Mr. Sharma has four children consisting 2 daughters and 2 sons. The annual income of 2 daughters were ₹ 9,000 and ₹ 4,500 and of sons were ₹ 6,200 and ₹ 4,300, respectively. The daughter who has income of ₹ 4,500 was suffering from a disability specified under section 80U.

Compute the amount of income earned by minor children to be clubbed in hands of Mr. Sharma.

Answer

As per section 64(1A), in computing the total income of an individual, all such income accruing or arising to a minor child shall be included. However, income of a minor child suffering from disability specified under section 80U would not be included in the income of the parent but would be taxable in the hands of the minor child. Therefore, in this case, the income of daughter suffering from disability specified under section 80U should not be clubbed with the income of Mr. Sharma.

Under section 10(32), income of each minor child includible in the hands of the parent under section 64(1A) would be exempt to the extent of the actual income or ₹ 1,500, whichever is lower. The remaining income would be included in the hands of the parent.

Computation of income earned by minor children to be clubbed with the income of Mr. Sharma:

	Particulars	₹
(i)	Income of one daughter	9,000
	Less: Income exempt under section 10(32)	1,500
	Total (A)	7,500
(ii)	Income of two sons (₹ 6,200 + ₹ 4,300)	10,500
	Less: Income exempt under section 10(32)	
	(₹ 1,500 + ₹ 1,500)	3,000
	Total (B)	7,500
	Total Income to be clubbed as per section 64(1A) (A+B)	15,000

Note: It has been assumed that:

- (1) All the four children are minor children;
- (2) The income does not accrue or arise to the minor children on account of any manual work done by them or activity involving application of their skill, talent or specialized knowledge and experience;
- (3) The income of Mr. Sharma, before including the minor children's income, is greater than the income of Mrs. Sharma, due to which the income of the minor children would be included in his hands; and
- (4) This is the first year in which clubbing provisions are attracted.

Question 2

During the previous year 2021-22, the following transactions occurred in respect of Mr. A.

- (a) *Mr. A had a fixed deposit of ₹ 5,00,000 in Bank of India. He instructed the bank to credit the interest on the deposit @ 9% from 1-4-2021 to 31-3-2022 to the savings bank account of Mr. B, son of his brother, to help him in his education.*
- (b) *Mr. A holds 75% profit share in a partnership firm. Mrs. A received a commission of ₹ 25,000 from the firm for promoting the sales of the firm. Mrs. A possesses no technical or professional qualification.*
- (c) *Mr. A gifted a flat to Mrs. A on April 1, 2021. During the previous year 2021-22, Mrs. A's "Income from house property" (computed) was ₹ 52,000 from such flat.*
- (d) *Mr. A gifted ₹ 2,00,000 to his minor son who invested the same in a business and he derived income of ₹ 20,000 from the investment.*
- (e) *Mr. A's minor son derived an income of ₹ 20,000 through a business activity involving application of his skill and talent.*

During the year, Mr. A got a monthly pension of ₹ 10,000. He had no other income. Mrs. A received salary of ₹ 20,000 per month from a part time job.

Examine the tax implications of each transaction and compute the total income of Mr. A, Mrs. A and their minor child assuming they do not wish to opt for section 115BAC.

Answer**Computation of total income of Mr. A, Mrs. A and their minor son for the A.Y. 2022-23**

Particulars	Mr. A (₹)	Mrs. A (₹)	Minor Son (₹)
Income under the head "Salaries"			
Salary income (of Mrs. A)	-	2,40,000	-
Pension income (of Mr. A) (₹ 10,000×12)	1,20,000	-	-
Less: Standard deduction under section 16(ia)	50,000	50,000	-
	70,000	1,90,000	-
Income from House Property <i>[See Note (3) below]</i>	52,000	-	-
Income from other sources			
Interest on Mr. A's fixed deposit with Bank of India (₹ 5,00,000×9%) <i>[See Note (1) below]</i>	45,000	-	-
Commission received by Mrs. A from a partnership firm, in which Mr. A has substantial interest <i>[See</i> <i>Note (2) below]</i>	25,000	70,000	-
Income before including income of minor son under section 64(1A)	1,92,000	1,90,000	-
Income of the minor son from the investment made in the business out of the amount gifted by Mr. A <i>[See Note (4) below]</i>	18,500	-	-
Income of the minor son through a business activity involving application of his skill and talent <i>[See Note (5) below]</i>	-	-	20,000
Total Income	2,10,500	1,90,000	20,000

Notes:

- (1) As per section 60, in case there is a transfer of income without transfer of asset from which such income is derived, such income shall be treated as income of the transferor. Therefore, the fixed deposit interest of ₹ 45,000 transferred by Mr. A to Mr. B shall be included in the total income of Mr. A.
- (2) As per section 64(1)(ii), in case the spouse of the individual receives any amount by way of income from any concern in which the individual has substantial interest (i.e. holding shares carrying at least 20% voting power or entitled to at least 20% of the profits of the concern), then, such income shall be included in the total income of the individual. The only exception is in a case where the spouse possesses any technical or professional qualifications and the income earned is solely attributable to the application of her technical or professional knowledge and experience, in which case, the clubbing provisions would not apply.

In this case, the commission income of ₹ 25,000 received by Mrs. A from the partnership firm has to be included in the total income of Mr. A, as Mrs. A does not possess any technical or professional qualification for earning such commission and Mr. A has substantial interest in the partnership firm as he holds 75% profit share in the firm.

- (3) According to section 27(i), an individual who transfers any house property to his or her spouse otherwise than for adequate consideration or in connection with an agreement to live apart, shall be deemed to be the owner of the house property so transferred. Hence, Mr. A shall be deemed to be the owner of the flat gifted to Mrs. A and hence, the income arising from the same shall be computed in the hands of Mr. A.

Note: *The provisions of section 56(2)(x) would not be attracted in the hands of Mrs. A, since she has received immovable property without consideration from a relative i.e., her husband.*

- (4) As per section 64(1A), the income of the minor child is to be included in the total income of the parent whose total income (excluding the income of minor child to be so clubbed) is greater. Further, as per section 10(32), income of a minor child which is includible in the income of the parent shall be exempt to the extent of ₹ 1,500 per child.

Therefore, the income of ₹ 20,000 received by minor son from the investment made out of the sum gifted by Mr. A shall, after providing for exemption of ₹ 1,500 under section 10(32), be included in the income of Mr.

A, since Mr. A's income of ₹ 1,92,000 (before including the income of the minor child) is greater than Mrs. A's income of ₹ 1,90,000. Therefore, ₹ 18,500 (i.e., ₹ 20,000 – ₹ 1,500) shall be included in Mr. A's income. It is assumed that this is the first year in which clubbing provisions are attracted.

Note—The provisions of section 56(2)(x) would not be attracted in the hands of the minor son, since he has received a sum of money exceeding ₹ 50,000 without consideration from a relative i.e., his father.

- (5) In case the income earned by the minor child is on account of any activity involving application of any skill or talent, then, such income of the minor child shall not be included in the income of the parent, but shall be taxable in the hands of the minor child.

Therefore, the income of ₹ 20,000 derived by Mr. A's minor son through a business activity involving application of his skill and talent shall not be clubbed in the hands of the parent. Such income shall be taxable in the hands of the minor son.

Question 3

Mr. A has gifted a house property valued at ₹ 50 lakhs to his wife, Mrs. B, who in turn has gifted the same to Mrs. C, their daughter-in-law. The house was let out at ₹ 25,000 per month throughout the year. Compute the total income of Mr. A and Mrs. C.

Will your answer be different if the said property was gifted to his son, husband of Mrs. C?

Answer

As per section 27(i), an individual who transfers otherwise than for adequate consideration any house property to his spouse, not being a transfer in connection with an agreement to live apart, shall be deemed to be the owner of the house property so transferred.

Therefore, in this case, Mr. A would be the deemed owner of the house property transferred to his wife Mrs. B without consideration.

As per section 64(1)(vi), income arising to the son's wife from assets transferred, directly or indirectly, to her by an individual otherwise than for adequate consideration would be included in the total income of such individual.

Income from let-out property is ₹ 2,10,000 [i.e., ₹ 3,00,000, being the actual rent calculated at ₹ 25,000 per month less ₹ 90,000, being deduction under section 24@30% of ₹ 3,00,000]

In this case, income of ₹ 2,10,000 from let-out property arising to Mrs. C, being Mr. A's son's wife, would be included in the income of Mr. A, applying the provisions of section 27(i) and section 64(1)(vi). Such income would, therefore, not be taxable in the hands of Mrs. C.

In case the property was gifted to Mr. A's son, the clubbing provisions under section 64 would not apply, since the son is not a minor child. Therefore, the income of ₹ 2,10,000 from letting out of property gifted to the son would be taxable in the hands of the son.

It may be noted that the provisions of section 56(2)(x) would not be attracted in the hands of the recipient of house property, since the receipt of property in each case was from a "relative" of such individual. Therefore, the stamp duty value of house property would not be chargeable to tax in the hands of the recipient of immovable property, even though the house property was received by her or him without consideration.

Note - *The first part of the question can also be answered by applying the provisions of section 64(1)(vi) directly to include the income of ₹ 2,10,000 arising to Mrs. C in the hands of Mr. A. [without first applying the provisions of section 27(i) to deem Mr. A as the owner of the house property transferred to his wife Mrs. B without consideration], since section 64(1)(vi) speaks of clubbing of income arising to son's wife from indirect transfer of assets to her by her husband's parent, without consideration. Gift of house property by Mr. A to Mrs. C, via Mrs. B, can be viewed as an indirect transfer by Mr. A to Mrs. C.*

Question 4

A proprietary business was started by Smt. Rani in the year 2019. As on 1.4.2020 her capital in business was ₹ 3,00,000.

Her husband gifted ₹ 2,00,000 on 10.4.2020 to her and such sum is invested by Smt. Rani in her business on the same date. Smt. Rani earned profits from her proprietary business for the Financial year 2020-21, ₹ 1,50,000 and Financial year 2021-22 ₹ 3,90,000. Compute the income, to be clubbed in the hands of Rani's husband for the Assessment year 2022-23 with reasons.

Answer

Section 64(1) of the Income-tax Act, 1961 provides for the clubbing of income in the hands of the individual, if the income earned is from the assets transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration. In this case Smt. Rani received a gift of ₹ 2,00,000 from her

husband which she invested in her business. The income to be clubbed in the hands of Smt. Rani's husband for A.Y.2022-23 is computed as under:

Particulars	Smt. Rani's Capital Contribution	Capital Contribution Out of gift from husband	Total
	₹	₹	₹
Capital as at 1.4.2020	3,00,000	-	3,00,000
Investment on 10.04.2020 out of gift received from her husband		2,00,000	2,00,000
Profit for F.Y. 2020-21 to be apportioned on the basis of capital employed on the first day of the previous year i.e., on 1.4.2020	3,00,000	2,00,000	5,00,000
	1,50,000		1,50,000
Capital employed as at 1.4.2021	4,50,000	2,00,000	6,50,000
Profit for F.Y.2021-22 to be apportioned on the basis of capital employed as at 1.4.2021 (i.e., 45 : 20)	2,70,000	1,20,000	3,90,000

Therefore, the income to be clubbed in the hands of Smt. Rani's husband for A.Y.2022-23 is ₹ 1,20,000.

Question 5

Mr. B is the Karta of a HUF, whose members derive income as given below:

	Particulars	₹
(i)	Income from B's profession	45,000
(ii)	Mrs. B's salary as fashion designer	76,000
(iii)	Minor son D (interest on fixed deposits with a bank which were gifted to him by his uncle)	10,000
(iv)	Minor daughter P's earnings from sports	95,000
(v)	D's winnings from lottery (gross)	1,95,000

Examine the tax implications in the hands of Mr. and Mrs. B.

Answer

Clubbing of income and other tax implications

As per the provisions of section 64(1A), in case the marriage of the parents subsist, the income of a minor child shall be clubbed in the hands of the parent whose total income, excluding the income of the minor child to be clubbed, is greater. In this problem, it has been assumed that the marriage of Mr. B and Mrs. B subsists.

Further, in case the income arises to the minor child on account of any manual work done by the child or as a result of any activity involving application of skill, talent, specialized knowledge or experience of the child, then, the same shall not be clubbed in the hands of the parent.

Tax implications

- (i) Income of ₹ 45,000 from Mr. B's profession shall be taxable in the hands of Mr. B under the head "Profits and gains of business or profession".
- (ii) Salary of ₹ 26,000 (₹ 76,000 less standard deduction under section 16(ia) of ₹ 50,000) shall be taxable as "Salaries" in the hands of Mrs. B.
- (iii) Income from fixed deposit of ₹ 10,000 arising to the minor son D, shall be clubbed in the hands of the father, Mr. B as "Income from other sources", since Mr. B's income is greater than income of Mrs. B before including the income of the minor child.

As per section 10(32), income of a minor child which is includible in the income of the parent shall be exempt to the extent of ₹ 1,500 per child. The balance income would be clubbed in the hands of the parent as "Income from other sources".

- (iv) Income of ₹ 95,000 arising to the minor daughter P from sports shall not be included in the hands of the parent, since such income has arisen to the minor daughter on account of an activity involving application of her skill.
- (v) Income of ₹ 1,95,000 arising to minor son D from lottery shall be included in the hands of Mr. B as "Income from other sources", since Mr. B's income is greater than the income of Mrs. B before including the income of minor child.

Note—Mr. B can reduce the tax deducted at source from such lottery income while computing his net tax liability.

AGGREGATION OF INCOME, SET-OFF AND CARRY FORWARD OF LOSSES



CHAPTER OVERVIEW

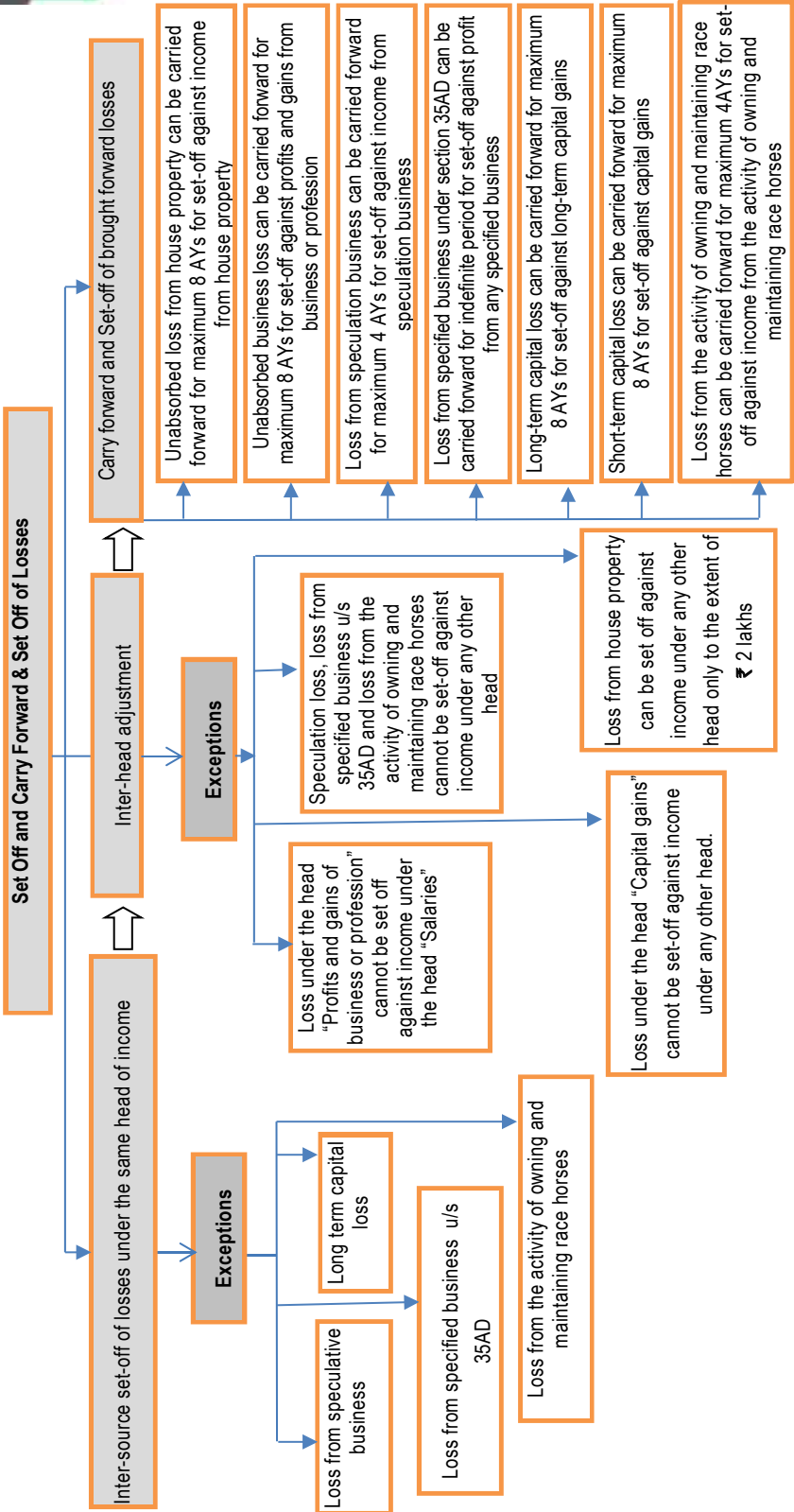


ILLUSTRATION 1

Mr. A (aged 35 years) submits the following particulars pertaining to the A.Y.2022-23:

Particulars	₹
<i>Income from salary (computed)</i>	4,00,000
<i>Loss from self-occupied property</i>	(-)70,000
<i>Loss from let-out property</i>	(-) 1,50,000
<i>Business loss</i>	(-)1,00,000
<i>Bank interest (FD) received</i>	80,000

Compute the total income of Mr. A for the A.Y.2022-23, assuming that he does not opt for the provisions of section 115BAC.

SOLUTION

Computation of total income of Mr. A for the A.Y.2022-23

Particulars	Amount (₹)	Amount (₹)
Income from salary	4,00,000	
Less: Loss from house property of ₹ 2,20,000 to be restricted to ₹ 2 lakhs by virtue of section 71(3A)	(-) 2,00,000	2,00,000
Balance loss of ₹ 20,000 from house property to be carried forward to next assessment year		
Income from other sources (interest on fixed deposit with bank)	80,000	
Business loss of ₹ 1,00,000 set-off to the extent of ₹ 80,000	(-) 80,000	-
Business loss of ₹ 20,000 to be carried forward for set-off against business income of the next assessment year		
Gross total income [See Note below]		2,00,000
Less: Deduction under Chapter VI-A		Nil
Total income		2,00,000

Notes: (i) Gross Total Income includes salary income of ₹ 2,00,000 after adjusting loss of ₹ 2,00,000 from house property. The balance loss of ₹ 20,000 from house property to be carried forward to next assessment year for set-off against income from house property of that year.

(ii) Business loss of ₹ 1,00,000 is set off against bank interest of ₹ 80,000 and remaining business loss of ₹ 20,000 will be carried forward as it cannot be set off against salary income.

ILLUSTRATION 2

Mr. B, a resident individual, furnishes the following particulars for the P.Y.2021-22:

Particulars	₹
<i>Income from salary (computed)</i>	45,000
<i>Income from house property</i>	(24,000)
<i>Income from non-speculative business</i>	(22,000)
<i>Income from speculative business</i>	(4,000)
<i>Short-term capital losses</i>	(25,000)
<i>Long-term capital gains taxable u/s 112</i>	19,000

What is the total income chargeable to tax for the A.Y.2022-23, assuming that he does not opt for the provisions of section 115BAC?

SOLUTION

Total income of Mr. B for the A.Y. 2022-23

Particulars	Amount (₹)	Amount (₹)
Income from salaries	45,000	
Income from house property	(24,000)	21,000

Profits and gains of business and profession		
Business loss to be carried forward [Note (i)]	(22,000)	
Speculative loss to be carried forward [Note (ii)]	(4,000)	
Capital Gains		
Long term capital gain taxable u/s 112	19,000	
Short term capital loss ₹ 25,000 set off against long-term capital gains to the extent of ₹ 19,000 [Note (iii)]	(19,000)	
	Nil	
Balance short term capital loss of ₹ 6,000 to be carried forward [Note (iii)]		
Taxable income		21,000

Notes: (i) Business loss cannot be set-off against salary income. Therefore, loss of ₹ 22,000 from the non-speculative business cannot be set off against the income from salaries. Hence, such loss has to be carried forward to the next year for set-off against business profits, if any.

(ii) Loss of ₹ 4,000 from the speculative business can be set off only against the income from the speculative business. Hence, such loss has to be carried forward.

(iii) Short term capital loss can be set off against both short term capital gain and long-term capital gain. Therefore, short term capital loss of ₹ 25,000 can be set-off against long-term capital gains to the extent of ₹ 19,000. The balance short term capital loss of ₹ 6,000 cannot be set-off against any other income and has to be carried forward to the next year for set-off against capital gains, if any.

ILLUSTRATION 3

During the P.Y. 2021-22, Mr. C has the following income and the brought forward losses:

Particulars	₹
Short term capital gains on sale of shares	1,50,000
Long term capital loss of A.Y.2020-21	(96,000)
Short term capital loss of A.Y.2021-22	(37,000)
Long term capital gain u/s 112	75,000

What is the capital gain taxable in the hands of Mr. C for the A.Y.2022-23?

SOLUTION

Taxable capital gains of Mr. C for the A.Y. 2022-23

Particulars	₹	₹
Short term capital gains on sale of shares	1,50,000	
Less: Brought forward short term capital loss of the A.Y.2021-22	(37,000)	1,13,000
Long term capital gain	75,000	
Less: Brought forward long-term capital loss of A.Y.2020-21 ₹ 96,000 set off to the extent of ₹ 75,000	(75,000)	Nil
[See Note below]		
Taxable short-term capital gains		1,13,000

thereof on account of the horse or horses or anyone or more of the horses winning or being placed second or in any lower position in horse races.

ILLUSTRATION 4

Mr. D has the following income for the P.Y.2021-22:

<i>Particulars</i>	<i>₹</i>
<i>Income from the activity of owning and maintaining the race horses</i>	<i>75,000</i>
<i>Income from textile business</i>	<i>85,000</i>
<i>Brought forward textile business loss (relating to A.Y. 2021-22)</i>	<i>50,000</i>
<i>Brought forward loss from the activity of owning and maintaining the race horses (relating to A.Y.2019-20)</i>	<i>96,000</i>

What is the total income in the hands of Mr. D for the A.Y. 2022-23?

SOLUTION

Total income of Mr. D for the A.Y. 2022-23

<i>Particulars</i>	<i>₹</i>	<i>₹</i>
Income from the activity of owning and maintaining race horses	75,000	
Less: Brought forward loss of ₹ 96,000 from the activity of owning and maintaining race horses set-off to the extent of ₹ 75,000	75,000	
	Nil	
Balance loss of ₹ 21,000 (₹ 96,000 – ₹ 75,000) from the activity of owning and maintaining race horses to be carried forward to A.Y.2023-24		
Income from textile business	85,000	
Less: Brought forward business loss from textile business.	50,000	35,000
Total income		35,000

Note: Loss from the activity of owning and maintaining race horses cannot be set-off against any other source/head of income.



11. ORDER OF SET-OFF OF LOSSES

As per the provisions of section 72(2), brought forward business loss is to be set-off before setting off unabsorbed depreciation. Therefore, the order in which set-off will be effected is as follows -

- (a) Current year depreciation [Section 32(1)];
- (b) Current year capital expenditure on scientific research and current year expenditure on family planning, to the extent allowed.
- (c) Brought forward loss from business/profession [Section 72(1)];
- (d) Unabsorbed depreciation [Section 32(2)];
- (e) Unabsorbed capital expenditure on scientific research [Section 35(4)];
- (f) Unabsorbed expenditure on family planning [Section 36(1)(ix)].

ILLUSTRATION 5

Mr. E has furnished his details for the A.Y.2022-23 as under:

<i>Particulars</i>	<i>₹</i>
<i>Income from salaries (computed)</i>	<i>1,50,000</i>
<i>Income from speculation business</i>	<i>60,000</i>
<i>Loss from non-speculation business</i>	<i>(40,000)</i>
<i>Short term capital gain</i>	<i>80,000</i>
<i>Long term capital loss of A.Y.2020-21</i>	<i>(30,000)</i>
<i>Winning from lotteries (Gross)</i>	<i>20,000</i>

What is the taxable income of Mr. E for the A.Y.2022-23?

SOLUTION

Computation of taxable income of Mr. E for the A.Y.2022-23

Particulars	₹	₹
Income from salaries		1,50,000
Income from speculation business	60,000	
Less : Loss from non-speculation business	(40,000)	20,000
Short-term capital gain		80,000
Winnings from lotteries		20,000
Taxable income		2,70,000

Note: Long term capital loss can be set off only against long term capital gain. Therefore, long term capital loss of ₹ 30,000 has to be carried forward to the next assessment year.



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Question 1

Compute the gross total income of Mr. F for the A.Y. 2022-23 from the information given below –

Particulars	₹
Income from house property (computed)	1,25,000
Income from business (before providing for depreciation)	1,35,000
Short term capital gains on sale of unlisted shares	56,000
Long term capital loss from sale of property (brought forward from A.Y. 2021-22)	(90,000)
Income from tea business	1,20,000
Dividends from Indian companies carrying on agricultural operations (Gross)	80,000
Current year depreciation	26,000
Brought forward business loss (loss incurred six years ago)	(45,000)

Answer

Gross Total Income of Mr. F for the A.Y. 2022-23

Particulars	₹	₹
Income from house property (Computed)		1,25,000
Income from business		
Profits before depreciation	1,35,000	
Less: Current year depreciation	26,000	
Less: Brought forward business loss	45,000	
	64,000	
Income from tea business (40% is business income)	48,000	1,12,000
Capital gains		
Short term capital gains		56,000
Income from Other Sources		
Dividend income (taxable in the hands of shareholders)		80,000
Gross Total Income		3,73,000

Note:

- (1) Dividend from Indian companies is fully taxable in the hands of shareholders at normal rates of tax.
- (2) 60% of the income from tea business is treated as agricultural income and therefore, exempt from tax;
- (3) Long-term capital loss can be set-off only against long-term capital gains. Therefore, long-term capital loss of ₹ 90,000 brought forward from A.Y.2021-22 cannot be set-off in the A.Y.2022-23, since there is no long-term capital gains in that year. It has to be carried forward for set-off against long-term capital gains, if any, during A.Y.2023-24.

Question 2

Mr. Soohan submits the following details of his income for the assessment year 2022-23:

Particulars	₹
<i>Income from salary (computed)</i>	3,00,000
<i>Loss from let out house property</i>	(-) 40,000
<i>Income from sugar business</i>	50,000
<i>Loss from iron ore business b/f (discontinued in P.Y. 2016-17)</i>	(-) 1,20,000
<i>Short term capital loss</i>	(-) 60,000
<i>Long term capital gain</i>	40,000
<i>Dividend</i>	5,000
<i>Income received from lottery winning (Gross)</i>	50,000
<i>Winnings from card games (Gross)</i>	6,000
<i>Agricultural income</i>	20,000
<i>Short-term capital loss under section 111A</i>	(-) 10,000
<i>Bank interest on Fixed deposit</i>	5,000

Calculate gross total income and losses to be carried forward, assuming that he does not opt for the provisions of section 115BAC.

Answer

Computation of Gross Total Income of Mr. Soohan for the A.Y.2022-23

Particulars	₹	₹
Salaries		
Income from salary	3,00,000	
<i>Less:</i> Loss from house property set-off against salary income as per section 71	(40,000)	2,60,000
Profits and gains of business or profession		
Income from sugar business	50,000	
<i>Less:</i> Brought forward loss of ₹ 1,20,000 from iron-ore business set-off as per section 72(1) to the extent of ₹ 50,000	(50,000)	Nil
Balance business loss of ₹ 70,000 of P.Y.2015-16 to be carried forward to A.Y.2023-24		
Capital gains		
Long term capital gain	40,000	
<i>Less:</i> Short term capital loss of ₹ 60,000 set-off to the extent of ₹ 40,000	(40,000)	Nil
Balance short-term capital loss of ₹ 20,000 to be carried forward		
Short-term capital loss of ₹ 10,000 u/s 111A also to be carried forward		
Income from other sources		
Dividend (fully taxable in the hands of shareholders)	5,000	
Winnings from lottery	50,000	
Winnings from card games	6,000	
Bank FD interest	5,000	66,000
Gross Total Income		3,26,000
Losses to be carried forward to A.Y.2023-24		
Loss of iron-ore business (₹ 1,20,000 – ₹ 50,000)	70,000	
Short term capital loss (₹ 20,000 + ₹ 10,000)	30,000	

Notes:

1. Agricultural income is exempt under section 10(1)
2. It is presumed that loss from iron-ore business relates to P.Y.2016-17, the year in which the business was discontinued.

Question 3

Mr. Batra furnishes the following details for year ended 31.03.2022:

<i>Particulars</i>	<i>₹</i>
<i>Short term capital gain</i>	<i>1,40,000</i>
<i>Loss from speculative business</i>	<i>60,000</i>
<i>Long term capital gain on sale of land</i>	<i>30,000</i>
<i>Long term capital loss on sale of unlisted shares</i>	<i>1,00,000</i>
<i>Income from business of textile (after allowing current year depreciation)</i>	<i>50,000</i>
<i>Income from activity of owning and maintaining race horses</i>	<i>15,000</i>
<i>Income from salary (computed)</i>	<i>1,00,000</i>
<i>Loss from house property</i>	<i>40,000</i>

Following are the brought forward losses:

- (i) Losses from activity of owning and maintaining race horses-pertaining to A.Y.2019-20 ₹25,000.
- (ii) Brought forward loss from business of textile ₹ 60,000 - Loss pertains to A.Y. 2014-15.

Compute gross total income of Mr. Batra for the Assessment Year 2022-23, assuming that he does not opt for the provisions of section 115BAC. Also determine the losses eligible for carry forward to the Assessment Year 2023-24.

Answer**Computation of Gross Total Income of Mr. Batra for the A.Y. 2022-23**

Particulars	₹	₹
Salaries	1,00,000	
Less: Current year loss from house property	(40,000)	60,000

Profit and gains of business or profession		
Income from textile business	50,000	
Less: Loss of ₹ 60,000 from textile business b/f from A.Y. 2014-15 set-off to the extent of ₹ 50,000	50,000	NIL
Income from the activity of owning and maintaining race horses	15,000	
Less: Loss of ₹ 25,000 from activity of owning and maintaining race horses b/f from A.Y. 2019-20 set-off to the extent of ₹ 15,000	15,000	NIL
Balance loss of ₹ 10,000 to be carried forward to A.Y. 2023-24 [See Note 2]		
Capital Gain		
Short term capital gain		1,40,000
Long term capital gain on sale of land	30,000	
Less: Long term capital loss of ₹ 1,00,000 on sale of unlisted shares set-off to the extent of ₹ 30,000	30,000	NIL
Balance loss of ₹ 70,000 to be carried forward to A.Y. 2023-24 [See Note 3]		
Gross Total Income		2,00,000

Losses to be carried forward to A.Y. 2023-24

Particulars	₹
Current year loss from speculative business [See Note-4]	60,000
Current year long term capital loss on sale of unlisted shares	70,000
Loss from activity of owning and maintaining of race horse pertaining to A.Y.2019-20	10,000

Notes:-

- (1) As per section 72(3), business loss can be carried forward for a maximum of eight assessment years immediately succeeding the assessment year for which the loss was first computed. Since the eight year period for carry forward of business loss of A.Y. 2014-15 expired in the A.Y. 2022-23, the balance unabsorbed business loss of ₹ 10,000 cannot be carried forward to A.Y. 2023-24.

- (2) As per section 74A(3), the loss incurred on maintenance of race horses cannot be set-off against income from any source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of 4 assessment years.
- (3) Long-term capital loss on sale of unlisted shares can be set-off against long-term capital gain on sale of land. The balance loss of ₹ 70,000 cannot be set-off against short term capital gain or against any other head of income. The same has to be carried forward for set-off against long-term capital gain of the subsequent assessment year. Such long-term capital loss can be carried forward for a maximum of eight assessment years.
- (4) Loss from speculation business cannot be set-off against any income other than profit and gains of another speculation business. Such loss can, however, be carried forward for a maximum of four years as per section 73(4) to be set-off against income from speculation business.

Question 4

Mr. A furnishes you the following information for the year ended 31.03.2022:

	(₹)
(i) <i>Income from plying of vehicles (computed as per books) (He owned 5 light goods vehicle throughout the year)</i>	3,20,000
(ii) <i>Income from retail trade of garments (Computed as per books) (Sales turnover ₹ 1,35,70,000) Mr. A had declared income on presumptive basis under section 44AD for the first time in A.Y. 2021-22. Assume 10% of the turnover during the previous year 2021-22 was received in cash and balance through A/c payee cheque and all the payments in respect of expenditure were also made through A/c payee cheque or debit card.</i>	7,50,000
(iii) <i>He has brought forward depreciation relating to A.Y. 2020-21</i>	1,00,000

Compute taxable income of Mr. A and his tax liability for the assessment year 2022-23 with reasons for your computation, assuming that he does not opt for section 115BAC.

Answer**Computation of total income and tax liability of Mr. A for the A.Y. 2022-23**

Particulars	₹
Income from retail trade – as per books (See Note 1 below)	7,50,000
Income from plying of vehicles – as per books (See Note 2 below)	3,20,000
	10,70,000
Less : Set off of b/f depreciation relating to A.Y. 2020-21	1,00,000
Total income	9,70,000
Tax liability	1,06,500
Add: Health and Education cess @4%	4,260
Total tax liability	1,10,760

Note:

1. **Income from retail trade:** Presumptive business income under section 44AD is ₹ 8,41,340 i.e., 8% of ₹ 13,57,000, being 10% of the turnover received in cash and 6% of ₹ 1,22,13,000, being the amount of sales turnover received through A/c payee cheque. However, the income computed as per books is ₹ 7,50,000 which is to be further reduced by the amount of unabsorbed depreciation of ₹ 1,00,000. Since the income computed as per books is lower than the income deemed under section 44AD, the assessee can adopt the income as per books.

However, if he does not opt for presumptive taxation under section 44AD, he has to get his books of accounts audited under section 44AB, since his turnover exceeds ₹ 1 crore (the enhanced limit of ₹ 10 crore would not be available, since more than 5% of the turnover is received in cash). Also, his case would be falling under section 44AD(4) and hence tax audit is mandatory. It may further be noted that he cannot opt for section 44AD for next five A.Ys, if he does not opt for section 44AD this year.

2. **Income from plying of light goods vehicles:** Income calculated under section 44AE(1) would be ₹ 7,500 x 12 x 5 which is equal to ₹ 4,50,000. However, the income from plying of vehicles as per books is ₹ 3,20,000, which is lower than the presumptive income of ₹ 4,50,000 calculated as per section 44AE(1). Hence, the assessee can adopt the income as per books i.e. ₹ 3,20,000, provided he maintains books of account as per section 44AA and

gets his accounts audited and furnishes an audit report as required under section 44AB.

It is to be further noted that in both the above cases, had presumptive income provisions been opted, all deductions under sections 30 to 38, including depreciation would have been deemed to have been given full effect to and no further deduction under those sections would be allowable.

If the assessee opted for income to be assessed on presumptive basis, his total income would be as under:

Particulars	₹
Income from retail trade under section 44AD [₹ 13,57,000 @ 8% plus ₹ 1,22,13,000 @6%]	8,41,340
Income from plying of light goods vehicles under section 44AE [₹ 7,500 x 12 x 5]	4,50,000
	12,91,340
<i>Less:</i> Set off of brought forward depreciation – not possible as it is deemed that it has been allowed and set off	Nil
Total income	12,91,340
Tax thereon	1,99,902
<i>Add :</i> Health and Education cess @4%	7,996
Total tax liability	2,07,898
Total tax liability (rounded off)	2,07,900

Question 5

Mr. Aditya furnishes the following details for the year ended 31-03-2022:

Particulars	Amount (₹)
<i>Loss from speculative business A</i>	25,000
<i>Income from speculative business B</i>	5,000
<i>Loss from specified business covered under section 35AD</i>	20,000
<i>Income from salary (computed)</i>	3,00,000
<i>Loss from let out house property</i>	2,50,000

Income from trading business	45,000
Long-term capital gain from sale of urban land	2,00,000
Long-term capital loss on sale of shares (STT not paid)	75,000
Long-term capital loss on sale of listed shares in recognized stock exchange (STT paid at the time of acquisition and sale of shares)	1,02,000

Following are the brought forward losses:

- (1) Losses from owning and maintaining of race horses pertaining to A.Y. 2020-21 ₹2,000.
- (2) Brought forward loss from trading business ₹5,000 relating to A.Y.2017-18.

Compute the total income of Mr. Aditya and show the items eligible for carry forward, assuming that he does not opt for the provisions of section 115BAC.

Answer

Computation of total income of Mr. Aditya for the A.Y.2022-23

Particulars	₹	₹
Salaries		
Income from Salary	3,00,000	
Less: Loss from house property set-off against salary income as per section 71(3A)	<u>2,00,000</u>	1,00,000
Loss from house property to the extent not set off i.e. ₹ 50,000 (₹ 2,50,000 – ₹ 2,00,000) to be carried forward to A.Y. 2023-24		
Profits and gains of business or profession		
Income from trading business	45,000	
Less: Brought forward loss from trading business of A.Y. 2017-18 can be set off against current year income from trading business as per section 72(1), since the eight year time limit as specified under section 72(3), within which set-off is permitted, has not expired.	5,000	40,000
Income from speculative business B	5,000	
Less: Loss of ₹ 25,000 from speculative business A set-off as per section 73(1) to the extent of ₹ 5,000	5,000	

Balance loss of ₹ 20,000 from speculative business A to be carried forward to A.Y.2023-24 as per section 73(2)		Nil
Loss of ₹ 20,000 from specified business covered under section 35AD to be carried forward for set-off against income from specified business as per section 73A.		
Capital Gains		
Long term capital gain on sale of urban land	2,00,000	
Less: Long term capital loss on sale of shares (STT not paid) set-off as per section 74(1)]	75,000	
Less: Long-term capital loss on sale of listed shares on which STT is paid can also be set-off as per section 74(1), since long-term capital arising on sale of such shares is taxable under section 112A	1,02,000	23,000
Total Income		1,63,000

Items eligible for carried forward to A.Y.2023-24

Particulars	₹
<u>Loss from House property</u>	50,000
As per section 71(3A), Loss from house property can be set-off against any other head of income to the extent of ₹ 2,00,000 only.	
As per section 71B, balance loss not set-off can be carried forward to the next year for set-off against income from house property of that year. It can be carried forward for a maximum of eight assessment years i.e., upto A.Y.2030-31, in this case.	
<u>Loss from speculative business A</u>	20,000
Loss from speculative business can be set-off only against profits from any other speculation business. As per section 73(2), balance loss not set-off can be carried forward to the next year for set-off against speculative business income of that year. Such loss can be carried forward for a maximum of four assessment years i.e., upto A.Y.2026-27, in this case, as specified under section 73(4).	

<p><u>Loss from specified business</u></p> <p>Loss from specified business under section 35AD can be set-off only against profits of any other specified business. If loss cannot be so set-off, the same has to be carried forward to the subsequent year for set off against income from specified business, if any, in that year. As per section 73A(2), such loss can be carried forward indefinitely for set-off against profits of any specified business .</p> <p><u>Loss from the activity of owning and maintaining race horses</u></p> <p>Losses from the activity of owning and maintaining race horses (current year or brought forward) can be set-off only against income from the activity of owning and maintaining race horses. If it cannot be so set-off, it has to be carried forward to the next year for set-off against income from the activity of owning and maintaining race horses, if any, in that year. It can be carried forward for a maximum of four assessment years, i.e., upto A.Y.2024-25, in this case, as specified under section 74A(3).</p>	<p>20,000</p> <p>2,000</p>
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Question 6

Mr. Garg, a resident individual, furnishes the following particulars of his income and other details for the previous year 2021-22.

	Particulars	₹
(1)	Income from Salary (computed)	15,000
(2)	Income from business	66,000
(3)	Long term capital gain on sale of land	10,800
(4)	Loss on maintenance of race horses	15,000
(5)	Loss from gambling	9,100

The other details of unabsorbed depreciation and brought forward losses pertaining to Assessment Year 2021-22 are as follows:

	Particulars	₹
(1)	Unabsorbed depreciation	11,000
(2)	Loss from Speculative business	22,000
(3)	Short term capital loss	9,800

Compute the Gross total income of Mr. Garg for the Assessment Year 2022-23 and the amount of loss, if any that can be carried forward or not.

Answer

Computation of Gross Total Income of Mr. Garg for the A.Y. 2022-23

Particulars	₹	₹
(i) Income from salary		15,000
(ii) Profits and gains of business or profession	66,000	
Less: Unabsorbed depreciation brought forward from A.Y.2021-22	<u>11,000</u>	55,000
(Unabsorbed depreciation can be set-off against any head of income other than "salary")		
(iii) Capital gains		
Long-term capital gain on sale of land	10,800	
Less: Brought forward short-term capital loss		
[Short-term capital loss can be set-off against both short-term capital gains and long-term capital gains as per section 74(1)]	9,800	1,000
Gross Total Income		71,000

Amount of loss to be carried forward to A.Y.2023-24

	Particulars	₹
(1)	Loss from speculative business [to be carried forward as per section 73]	22,000
	[Loss from a speculative business can be set off only against income from another speculative business. Since there is no income from speculative business in the current year, the entire loss of ₹ 22,000 brought forward from A.Y.2021-22 has to be carried forward to A.Y. 2023-24 for set-off against speculative business income of that year. It may be noted that speculative business loss can be carried forward for a maximum of four years as per section 73(4), i.e., upto A.Y.2025-26]	

(2)	Loss on maintenance of race horses [to be carried forward as per section 74A] [As per section 74A(3), the loss incurred in the activity of owning and maintaining race horses in any assessment year cannot be set-off against income from any other source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum of four assessment years i.e., upto A.Y.2026-27]	15,000
(3)	Loss from gambling can neither be set-off nor be carried forward.	

Question 7

The following are the details relating to Mr. Srivatsan, a resident Indian, aged 57, relating to the year ended 31.3.2022:

Particulars	₹
Income from salaries (computed)	2,20,000
Loss from house property	1,90,000
Loss from cloth business	2,40,000
Income from speculation business	30,000
Loss from specified business covered by section 35AD	20,000
Long-term capital gains from sale of urban land	2,50,000
Loss from card games	32,000
Income from betting (Gross)	45,000
Life Insurance Premium paid (10% of the capital sum assured)	45,000

Compute the total income and show the items eligible for carry forward, assuming that he does not opt for the provisions of section 115BAC.

Answer

Computation of total income of Mr. Srivatsan for the A.Y.2022-23

Particulars	₹	₹
Salaries		
Income from salaries	2,20,000	
Less: Loss from house property	1,90,000	30,000

Profits and gains of business or profession		
Income from speculation business	30,000	
<i>Less: Loss from cloth business of ₹ 2,40,000 set off to the extent of ₹ 30,000</i>	30,000	Nil
Capital gains		
Long-term capital gains from sale of urban land	2,50,000	
<i>Less: Set-off of balance loss of ₹ 2,10,000 from cloth business</i>	2,10,000	40,000
Income from other sources		
Income from betting		45,000
Gross Total Income		1,15,000
<i>Less: Deduction under section 80C (life insurance premium paid) [See Note (iv) below]</i>		30,000
Total income		85,000

Losses to be carried forward:

Particulars	₹
(1) Loss from cloth business (₹ 2,40,000 – ₹ 30,000 – ₹ 2,10,000)	Nil
(2) Loss from specified business covered by section 35AD	20,000

Notes:

- (i) Loss from specified business covered by section 35AD can be set-off only against profits and gains of any other specified business. Therefore, such loss cannot be set off against any other income. The unabsorbed loss has to be carried forward for set-off against profits and gains of any specified business in the following year.
- (ii) Business loss cannot be set off against salary income. However, the balance business loss of ₹ 2,10,000 (₹ 2,40,000 – ₹ 30,000 set-off against income from speculation business) can be set-off against long-term capital gains of ₹ 2,50,000 from sale of urban land. Consequently, the taxable long-term capital gains would be ₹ 40,000.
- (iii) Loss from card games can neither be set off against any other income, nor can be carried forward.

- (iv) For providing deduction under Chapter VI-A, gross total income has to be reduced by the amount of long-term capital gains and casual income. Therefore, the deduction under section 80C in respect of life insurance premium of ₹ 45,000 paid has to be restricted to ₹ 30,000 [i.e., Gross Total Income of ₹ 1,15,000 – ₹ 40,000 (LTCG) – ₹ 45,000 (Casual income)].
- (v) Income from betting is chargeable at a flat rate of 30% under section 115BB and no expenditure or allowance can be allowed as deduction from such income, nor can any loss be set-off against such income.

Question 8

Mr. Rajat submits the following information for the financial year ending 31st March, 2022. He desires that you should:

- (a) Compute the total income and
 (b) Ascertain the amount of losses that can be carried forward.

Particulars		₹
(i)	He has two houses:	
	(a) House No. I – Income after all statutory deductions	72,000
	(b) House No. II – Current year loss	(30,000)
(ii)	He has three proprietary businesses:	
	(a) Textile Business:	
	(i) Discontinued from 31 st October, 2021 – Current year loss	40,000
	(ii) Brought forward business loss of A.Y.2017-18	95,000
	(b) Chemical Business:	
	(i) Discontinued from 1 st March, 2019 – hence no profit/loss	Nil
	(ii) Bad debts allowed in earlier years recovered during this year	35,000
	(iii) Brought forward business loss of A.Y. 2018-19	50,000
	(c) Leather Business: Profit for the current year	1,00,000
	(d) Share of profit in a firm in which he is partner since 2008	16,550
(iii)	(a) Short-term capital gain	60,000

(b) Long-term capital loss	35,000
(iv) Contribution to LIC towards premium	10,000

Answer**Computation of total income of Mr. Rajat for the A.Y. 2022-23**

Particulars	₹	₹
1. Income from house property		
House No.1	72,000	
House No.2	(-) 30,000	42,000
2. Profits and gains of business or profession		
Profit from leather business	1,00,000	
Bad debts recovered taxable under section 41(4)	35,000	
	1,35,000	
Less: Current year loss of textile business	(-) 40,000	
	95,000	
Less: Brought forward business loss of textile business for A.Y.2017-18 set off against the business income of current year	95,000	Nil
3. Capital Gains		
Short-term capital gain		60,000
Gross Total Income		1,02,000
Less: Deduction under Chapter VI-A		
Under section 80C – LIC premium paid		10,000
Total Income		92,000

Statement of losses to be carried forward to A.Y. 2023-24

Particulars	₹
Brought forward chemical business loss of A.Y. 2018-19 to be carried forward u/s 72	50,000
Long term capital loss of A.Y. 2022-23 to be carried forward u/s 74	35,000

Notes:

- (1) Share of profit from firm of ₹ 16,550 is exempt under section 10(2A).
- (2) Long-term capital loss cannot be set-off against short-term capital gains. Therefore, it has to be carried forward to the next year to be set-off against long-term capital gains of that year.

Question 9

Ms. Geeta, a resident individual, provides the following details of her income / losses for the year ended 31.3.2022:

- (i) *Salary received as a partner from a partnership firm ₹ 7,50,000. The same was allowed to the firm.*
- (ii) *Loss on sale of shares listed in BSE ₹ 3,00,000. Shares were held for 15 months and STT paid on sale and acquisition.*
- (iii) *Long-term capital gain on sale of land ₹ 5,00,000.*
- (iv) *₹ 51,000 received in cash from friends in party.*
- (v) *₹ 55,000, received towards dividend on listed equity shares of domestic companies.*
- (vi) *Brought forward business loss of assessment year 2020-21 ₹ 12,50,000.*

Compute gross total income of Ms. Geeta for the Assessment Year 2022-23 and ascertain the amount of loss that can be carried forward.

Answer

**Computation of Gross Total Income of Ms. Geeta for the
Assessment Year 2022-23**

Particulars	₹
Profits and gains of business and profession	
Salary received as a partner from a partnership firm is taxable under the head "Profits and gains of business and profession"	7,50,000
Less: B/f business loss of A.Y. 2020-21 ₹ 12,50,000 to be set-off to the extent of ₹ 7,50,000	7,50,000
	Nil
(Balance b/f business loss of ₹ 5,00,000 can be carried forward to the next year)	

Capital Gains		
Long term capital gain on sale of land	5,00,000	
Less: Long-term capital loss on shares on STT paid (See Note 2 below)	3,00,000	2,00,000
Income from other sources		
Cash gift received from friends - since the value of cash gift exceeds ₹ 50,000, the entire sum is taxable	51,000	
Dividend received from a domestic company is fully taxable in the hands of shareholders	55,000	1,06,000
Gross Total Income		3,06,000

Notes:

- Balance brought forward business loss of assessment year 2020-21 of ₹ 5,00,000 has to be carried forward to the next year.
- Long-term capital loss on sale of shares on which STT is paid at the time of acquisition and sale can be set-off against long-term capital gain on sale of land since long-term capital gain on sale of shares (STT paid) is taxable under section 112A. Therefore, it can be set-off against long-term capital gain on sale of land as per section 70(3).

Question 10

Mr. P, a resident individual, furnishes the following particulars of his income and other details for the previous year 2021-22:

Sl. No.	Particulars	₹
(i)	Income from salary (computed)	18,000
(ii)	Net annual value of house property	70,000
(iii)	Income from business	80,000
(iv)	Income from speculative business	12,000
(v)	Long term capital gain on sale of land	15,800
(vi)	Loss on maintenance of race horse	9,000
(vii)	Loss on gambling	8,000

Depreciation allowable under the Income-tax Act, 1961, comes to ₹ 8,000, for which no treatment is given above.

The other details of unabsorbed depreciation and brought forward losses (pertaining to A.Y. 2021-22) are:

Sl. No.	Particulars	₹
(i)	Unabsorbed depreciation	9,000
(ii)	Loss from speculative business	16,000
(iii)	Short term capital loss	7,800

Compute the gross total income of Mr. P for the Assessment year 2022-23, and the amount of loss that can or cannot be carried forward.

Answer

Computation of Gross Total Income of Mr. P for the A.Y. 2022-23


Particulars	₹	₹
(i) Income from salary		18,000
(ii) Income from House Property		
Net Annual Value	70,000	
Less: Deduction under section 24 (30% of ₹ 70,000)	21,000	49,000
(iii) Income from business and profession		
(a) Income from business	80,000	
Less : Current year depreciation	8,000	
	72,000	
Less : Unabsorbed depreciation	9,000	63,000
(b) Income from speculative business	12,000	
Less : B/f loss of ₹ 16,000 from speculative business s/o to the extent of ₹ 12,000	12,000	Nil
(Balance loss of ₹ 4,000 (i.e. ₹ 16,000 – ₹ 12,000) can be carried forward to the next year)		
(iv) Income from capital gain		
Long-term capital gain on sale of land	15,800	
Less: Brought forward short-term capital loss	7,800	8,000
Gross total income		1,38,000

Amount of loss to be carried forward to the next year

Particulars	₹
Loss from speculative business (to be carried forward as per section 73)	4,000
Loss on maintenance of race horses (to be carried forward as per section 74A)	9,000

Notes:

- (i) Loss on gambling can neither be set-off nor be carried forward.
- (ii) As per section 74A(3), the loss incurred on maintenance of race horses cannot be set-off against income from any other source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of 4 assessment years.
- (iii) Brought forward speculative business loss can be set off only against income from speculative business of the current year and the balance loss can be carried forward to A.Y. 2023-24. It may be noted that speculative business loss can be carried forward for a maximum of four years as per section 73(4).



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DEDUCTIONS FROM GROSS TOTAL INCOME




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CHAPTER OVERVIEW

Deductions from Gross Total Income

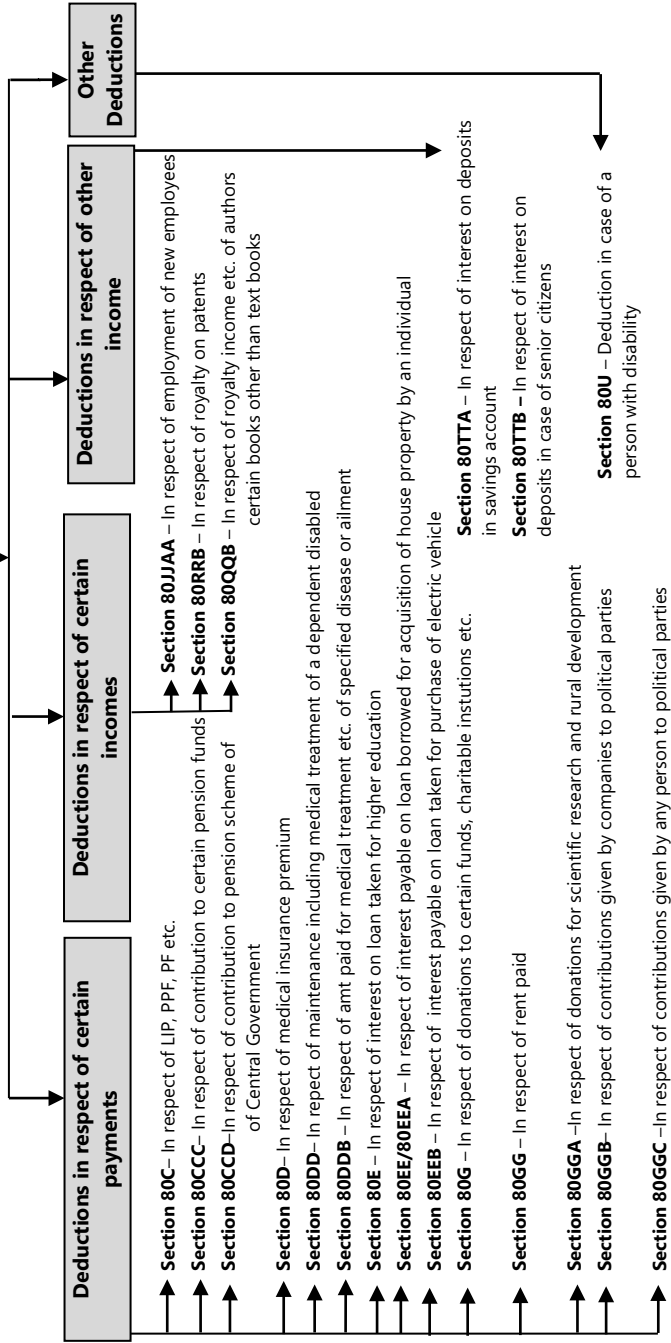


ILLUSTRATION 1

Examine the following statements with regard to the provisions of the Income-tax Act, 1961:

- (a) For grant of deduction under section 80JJAA, filing of audit report in prescribed form is must for a corporate assessee; filing of return within the due date laid down in section 139(1) is not required.
- (b) Filing of belated return under section 139(4) of the Income-tax Act, 1961 will debar an assessee from claiming deduction under section 80QQB

SOLUTION

- (a) **The statement is not correct.** Section 80AC stipulates compulsory filing of return of income on or before the due date specified under section 139(1), as a pre-condition for availing the benefit of deduction, *inter alia*, under section 80JJAA.
- (b) **The statement is correct.** As per section 80AC, the assessee has to furnish his return of income on or before the due date specified under section 139(1), to be eligible to claim deduction under, *inter alia*, section 80QQB.

ILLUSTRATION 2


Compute the eligible deduction under section 80C for A.Y.2022-23 in respect of life insurance premium paid by Mr. Ganesh during the P.Y.2021-22, the details of which are given hereunder –

	Date of issue of policy	Person insured	Actual capital sum assured (₹)	Insurance premium paid during 2021-22 (₹)
(i)	30/3/2012	Self	6,00,000	51,000
(ii)	1/5/2017	Spouse	1,50,000	20,000
(iii)	1/6/2019	Handicapped son (section 80U disability)	4,00,000	80,000

SOLUTION

	Date of issue of policy	Person insured	Actual capital sum assured (₹)	Insurance premium paid during 2021-22 (₹)	Deduct-ion u/s 80C for A.Y.2022-23 (₹)	Remark (restricted to % of sum assured) (₹)
(i)	30/3/2012	Self	6,00,000	51,000	51,000	20%
(ii)	1/5/2017	Spouse	1,50,000	20,000	15,000	10%

(iii)	1/6/2019	Handicapped son (section 80U disability)	4,00,000	80,000	60,000	15%
Total					1,26,000	



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ILLUSTRATION 3

An individual assessee, resident in India, has made the following deposit/payment during the previous year 2021-22:

Particulars	₹
Contribution to the public provident fund	1,50,000
Insurance premium paid on the life of the spouse (policy taken on 1.4.2016) (Assured value ₹2,00,000)	25,000

What is the deduction allowable under section 80C for A.Y.2022-23?

SOLUTION**Computation of deduction under section 80C for A.Y.2022-23**

Particulars	₹
Deposit in public provident fund	1,50,000
Insurance premium paid on the life of the spouse (Maximum 10% of the assured value ₹ 2,00,000, as the policy is taken after 31.3.2012)	20,000
Total	1,70,000
However, the maximum permissible deduction u/s 80C is restricted to	1,50,000

Note: For computation of limit under section 80CCD(1) and (2), salary includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

ILLUSTRATION 4

The basic salary of Mr. A is ₹ 1,00,000 p.m. He is entitled to dearness allowance, which is 40% of basic salary. 50% of dearness allowance forms part of pay for retirement benefits. Both Mr. A and his employer, ABC Ltd., contribute 15% of basic salary to the pension scheme referred to in section 80CCD. Explain the tax treatment in respect of such contribution in the hands of Mr. A.

SOLUTION

Tax treatment in the hands of Mr. A in respect of employer's and own contribution to pension scheme referred to in section 80CCD

- (a) Employer's contribution to such pension scheme would be treated as salary since it is specifically included in the definition of "salary" under section 17(1)(viii). Therefore, ₹ 1,80,000, being 15% of basic salary of ₹ 12,00,000, will be included in Mr. A's salary.
- (b) Mr. A's contribution to pension scheme is allowable as deduction under section 80CCD(1). However, the deduction is restricted to 10% of salary. Salary, for this purpose, means basic pay plus dearness allowance, if it forms part of pay.

Therefore, "salary" for the purpose of deduction under section 80CCD for Mr. A would be –

Particulars	₹
Basic salary = ₹ 1,00,000 × 12 =	12,00,000
Dearness allowance = 40% of ₹ 12,00,000 = ₹ 4,80,000	
50% of Dearness Allowance forms part of pay = 50% of ₹ 4,80,000	2,40,000
Salary for the purpose of deduction under section 80CCD	14,40,000
Deduction under section 80CCD(1) is restricted to 10% of ₹ 14,40,000 (as against actual contribution of ₹ 1,80,000, being 15% of basic salary of ₹ 12,00,000)	1,44,000
As per section 80CCD(1B), a further deduction of upto ₹ 50,000 is allowable. Therefore, deduction under section 80CCD(1B) is ₹ 36,000 (₹ 1,80,000 - ₹ 1,44,000).	36,000

₹ 1,44,000 is allowable as deduction under section 80CCD(1). This would be taken into consideration and be subject to the overall limit of ₹ 1,50,000 under section 80CCE. ₹ 36,000 allowable as deduction under section 80CCD(1B) is outside the overall limit of ₹ 1,50,000 under section 80CCE.

In the alternative, ₹ 50,000 can be claimed as deduction under section 80CCD(1B). The balance ₹ 1,30,000 (₹ 1,80,000- ₹ 50,000) can be claimed as deduction under section 80CCD(1).

- (c) Employer's contribution to pension scheme would be allowable as deduction under section 80CCD(2), subject to a maximum of 10% of salary. Therefore, deduction under section 80CCD(2), would also be restricted to ₹ 1,44,000, even though the entire employer's contribution of ₹ 1,80,000 is included in salary under section 17(1)(viii). However, this deduction of employer's contribution of ₹ 1,44,000 to pension scheme would be outside the overall limit of ₹ 1,50,000 under section 80CCE i.e., this deduction would be over and above the other deductions which are subject to the limit of ₹ 1,50,000.

ILLUSTRATION 5

The gross total income of Mr. X for the A.Y.2022-23 is ₹ 8,00,000. He has made the following investments/payments during the F.Y.2021-22 –

Particulars		₹
(1)	Contribution to PPF	1,10,000
(2)	Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI	45,000
(3)	Repayment of housing loan taken from Standard Chartered Bank	25,000
(4)	Contribution to approved pension fund of LIC	1,05,000

Compute the eligible deduction under Chapter VI-A for the A.Y.2022-23.

SOLUTION

Computation of deduction under Chapter VI-A for the A.Y.2022-23

Particulars	₹
Deduction under section 80C	
- Contribution to PPF	1,10,000

- Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI	45,000
- Repayment of housing loan	25,000
	1,80,000
Restricted to ₹ 1,50,000, being the maximum permissible deduction u/s 80C	1,50,000
Deduction under section 80CCC	
- Contribution to approved pension fund of LIC ₹ 1,05,000	1,05,000
	2,55,000
As per section 80CCE, the aggregate deduction under section 80C, 80CCC and 80CCD(1) has to be restricted to ₹ 1,50,000	
Deduction allowable under Chapter VIA for the A.Y. 2022-23	1,50,000

ILLUSTRATION 6

Mr. A, aged 40 years, paid medical insurance premium of ₹ 20,000 during the P.Y. 2021-22 to insure his health as well as the health of his spouse. He also paid medical insurance premium of ₹ 47,000 during the year to insure the health of his father, aged 63 years, who is not dependent on him. He contributed ₹ 3,600 to Central Government Health Scheme during the year. He has incurred ₹ 3,000 in cash on preventive health check-up of himself and his spouse and ₹ 4,000 by cheque on preventive health check-up of his father. Compute the deduction allowable under section 80D for the A.Y. 2022-23.

SOLUTION

Deduction allowable under section 80D for the A.Y.2022-23

	Particulars	Actual Payment ₹	Maximum deduction allowable ₹
A.	Premium paid and medical expenditure incurred for self and spouse		
(i)	Medical insurance premium paid for self and spouse	20,000	20,000
(ii)	Contribution to CGHS	3,600	3,600
(iii)	Exp. on preventive health check-up of self & spouse	3,000	1,400
		26,600	25,000
B.	Premium paid or medical expenditure incurred for father, who is a senior citizen		
(i)	Mediclaime premium paid for father, who is over 60 years of age	47,000	47,000

(ii)	Expenditure on preventive health check-up of father	4,000	3,000
		51,000	50,000
	Total deduction under section 80D (₹ 25,000 + ₹ 50,000)		75,000

Notes:

- (1) The total deduction under A. (i), (ii) and (iii) above should not exceed ₹ 25,000. Therefore, the expenditure on preventive health check-up for self and spouse would be restricted to ₹ 1,400, being (₹ 25,000 – ₹ 20,000 – ₹ 3,600).
- (2) The total deduction under B. (i) and (ii) above should not exceed ₹50,000. Therefore, the expenditure on preventive health check-up for father would be restricted to ₹ 3,000, being (₹ 50,000 – ₹ 47,000).
- (3) In this case, the total deduction allowed on account of expenditure on preventive health check-up of self, spouse and father is ₹ 4,400 (i.e., ₹ 1,400 + ₹ 3,000), which is within the maximum permissible limit of ₹ 5,000.

ILLUSTRATION 7

Mr. Y, aged 40 years, paid medical insurance premium of ₹ 22,000 during the P.Y. 2021-22 to insure his health as well as the health of his spouse and dependent children. He also paid medical insurance premium of ₹ 33,000 during the year to insure the health of his mother, aged 67 years, who is not dependent on him. He incurred medical expenditure of ₹ 20,000 on his father, aged 71 years, who is not covered under mediclaim policy. His father is also not dependent upon him. He contributed ₹ 6,000 to Central Government Health Scheme during the year. Compute the deduction allowable under section 80D for the A.Y. 2022-23.

SOLUTION**Deduction allowable under section 80D for the A.Y.2022-23**

Particulars		₹	₹
(i)	Medical insurance premium paid for self, spouse and dependent children	22,000	
(ii)	Contribution to CGHS	6,000	
		28,000	
	restricted to		25,000

(iii) Medclaim premium paid for mother, who is over 60 years of age	33,000	
(iv) Medical expenditure incurred for father, who is over 60 years of age and not covered by any insurance	20,000	
	53,000	
restricted to		50,000
		75,000

ILLUSTRATION 8

Mr. X is a resident individual. He deposits a sum of ₹ 50,000 with Life Insurance Corporation every year for the maintenance of his disabled grandfather who is wholly dependent upon him. The disability is one which comes under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act,

1995. A copy of the certificate from the medical authority is submitted. Compute the amount of deduction available under section 80DD for the A.Y. 2022-23.

SOLUTION

Since the amount deposited by Mr. X was for his grandfather, he will not be allowed any deduction under section 80DD. The deduction is available if the individual assessee incurs any expense for a "dependant" disabled person. Grandfather does not come within the meaning of "dependant" as defined under section 80DD.

ILLUSTRATION 9

What will be the deduction if Mr. X had made this deposit for his dependant father?

SOLUTION

Since the expense was incurred for a dependant disabled person, Mr. X will be entitled to claim a deduction of ₹ 75,000 under section 80DD, irrespective of the amount deposited. In case his father has severe disability, the deduction would be ₹ 1,25,000.

ILLUSTRATION 10

Mr. B has taken three education loans on April 1, 2021, the details of which are given below:

	Loan 1	Loan 2	Loan 3
<i>For whose education loan was taken</i>	<i>B</i>	<i>Son of B</i>	<i>Daughter of B</i>
<i>Purpose of loan</i>	<i>MBA</i>	<i>B. Sc.</i>	<i>B.A.</i>
<i>Amount of loan (₹)</i>	<i>5,00,000</i>	<i>2,00,000</i>	<i>4,00,000</i>
<i>Annual repayment of loan (₹)</i>	<i>1,00,000</i>	<i>40,000</i>	<i>80,000</i>
<i>Annual repayment of interest (₹)</i>	<i>20,000</i>	<i>10,000</i>	<i>18,000</i>

Compute the amount deductible under section 80E for the A.Y.2022-23.

³ under section 10(23C)

SOLUTION

Deduction under section 80E is available to an individual assessee in respect of any interest paid by him in the previous year in respect of loan taken for pursuing his higher education or higher education of his spouse or children. Higher education means any course of study pursued after senior secondary examination.

Therefore, interest repayment in respect of all the above loans would be eligible for deduction.


Deduction under section 80E = ₹ 20,000 + ₹ 10,000 + ₹ 18,000 = ₹ 48,000.

ILLUSTRATION 11

Mr. A purchased a residential house property for self-occupation at a cost of ₹ 45 lakh on 1.4.2017, in respect of which he took a housing loan of ₹ 35 lakh from Bank of India@11% p.a. on the same date. The loan was sanctioned on 28th March, 2017. Compute the eligible deduction in respect of interest on housing loan for A.Y.2022-23 under the provisions of the Income-tax Act, 1961, assuming that the entire loan was outstanding as on 31.3.2022 and he does not own any other house property.

SOLUTION

Particulars	₹
Interest deduction for A.Y.2022-23	
(i) Deduction allowable while computing income under the head "Income from house property"	
Deduction under section 24(b) ₹ 3,85,000 [₹ 35,00,000 × 11%]	
Restricted to	2,00,000
(ii) Deduction under Chapter VI-A from Gross Total Income	
Deduction under section 80EE ₹ 1,85,000 (₹ 3,85,000 – ₹ 2,00,000)	
Restricted to	50,000



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ILLUSTRATION 12

The following are the particulars relating to Mr. A, Mr. B, Mr. C and Mr. D, salaried individuals, for A.Y. 2022-23 –

Particulars	Mr. A	Mr. B	Mr. C	Mr. D
Amount of loan taken	₹ 43 lakhs	₹ 45 lakhs	₹ 20 lakhs	₹ 15 lakhs
Loan taken from	HFC	Deposit taking NBFC	Deposit taking NBFC	Public sector bank

Date of sanction of loan	1.4.2021	1.4.2020	1.4.2020	30.3.2019
Date of disbursement of loan	1.5.2021	1.5.2020	1.5.2020	1.5.2019
Purpose of loan	Acquisition of residential house property for self-occupation	Acquisition of residential house property for self-occupation	Purchase of electric vehicle for personal use	Purchase of electric vehicle for personal use
Stamp duty value of house property	₹45 lakhs	₹48 lakhs	-	-
Cost of electric vehicle	-	-	₹22 lakhs	₹18 lakhs
Rate of interest	9% p.a.	9% p.a.	10% p.a.	10% p.a.

Compute the amount of deduction, if any, allowable under the provisions of the Income-tax Act, 1961 for A.Y.2022-23 in the hands of Mr. A, Mr. B, Mr. C and Mr. D. Assume that there has been no principal repayment in respect of any of the above loans upto 31.3.2022.

SOLUTION

Particulars	₹
Mr. A	
Interest deduction for A.Y.2022-23	
(i) Deduction allowable while computing income under the head "Income from house property"	
Deduction u/s 24(b) ₹ 3,54,750 [₹ 43,00,000 × 9% × 11/12]	
Restricted to	2,00,000
(ii) Deduction under Chapter VI-A from Gross Total Income	
Deduction u/s 80EEA ₹ 1,54,750 (₹ 3,54,750 – ₹ 2,00,000)	
Restricted to	1,50,000

<p>Mr. B</p>	
<p>Interest deduction for A.Y.2022-23</p>	
<p>(i) Deduction allowable while computing income under the head "Income from house property"</p>	
<p>Deduction u/s 24(b) ₹ 4,05,000</p>	
<p>[₹ 45,00,000 × 9%]</p>	
<p>Restricted to</p>	<p>2,00,000</p>
<p>(ii) Deduction under Chapter VI-A</p>	
<p>Deduction u/s 80EEA is not permissible since:</p>	
<p>(i) loan is taken from NBFC</p>	
<p>(ii) stamp duty value exceeds ₹ 45 lakh.</p>	<p>Nil</p>
<p>Deduction under section 80EEA would not be permissible due to either violation listed above.</p>	
<p>Mr. C</p>	
<p>Deduction under Chapter VI-A</p>	
<p>Deduction u/s 80EEB for interest payable on loan taken for purchase of electric vehicle [₹ 20 lakhs × 10% = ₹ 2,00,000, restricted to ₹ 1,50,000, being the maximum permissible deduction]</p>	<p>1,50,000</p>
<p>Mr. D</p>	
<p>Deduction under Chapter VI-A</p>	
<p>Deduction u/s 80EEB is not permissible since loan was sanctioned before 1.4.2019.</p>	<p>Nil</p>

ILLUSTRATION 13

Mr. Shiva aged 58 years, has gross total income of ₹ 7,75,000 comprising of income from salary and house property. He has made the following payments and investments:

- (i) Premium paid to insure the life of her major daughter (policy taken on 1.4.2018) (Assured value ₹ 1,80,000) – ₹ 20,000.*

- (ii) Medical Insurance premium for self – ₹ 12,000; Spouse – ₹ 14,000.
- (iii) Donation to a public charitable institution ₹ 50,000 by way of cheque.
- (iv) LIC Pension Fund – ₹ 60,000.
- (v) Donation to National Children's Fund - ₹ 25,000 by way of cheque
- (vi) Donation to Jawaharlal Nehru Memorial Fund - ₹ 25,000 by way of cheque
- (vii) Donation to approved institution for promotion of family planning - ₹ 40,000 by way of cheque
- (viii) Deposit in PPF – ₹ 1,00,000

Compute the total income of Mr. Shiva for A.Y. 2022-23.

SOLUTION

Computation of Total Income of Mr. Shiva for A.Y. 2022-23

Particulars	₹	₹
Gross Total Income		7,75,000
Less: Deduction under section 80C		
Deposit in PPF	1,00,000	
Life insurance premium paid for insurance of major daughter (Maximum 10% of the assured value ₹1,80,000, as the policy is taken after 31.3.2012)	18,000	
	1,18,000	
Deduction under section 80CCC in respect of LIC pension fund	60,000	
	1,78,000	
As per section 80CCE, deduction under section 80C & 80CCC is restricted to		1,50,000
Deduction under section 80D		
Medical Insurance premium in respect of self and spouse	26,000	
Restricted to		25,000
Deduction under section 80G (See Working Note below)		
		87,500
Total income		5,12,500

Working Note: Computation of deduction under section 80G

	Particulars of donation	Amount donated (₹)	% of deduction	Deduction u/s 80G (₹)
(i)	National Children's Fund	25,000	100%	25,000
(ii)	Jawaharlal Nehru Memorial Fund	25,000	50%	12,500
(iii)	Approved institution for promotion of family planning	40,000	100%, subject to qualifying limit	40,000
(iv)	Public Charitable Trust	50,000	50% subject to qualifying limit (See Note below)	10,000
				87,500

Note - Adjusted total income = Gross Total Income – Amount of deductions under section 80C to 80U except section 80G i.e., ₹ 6,00,000, in this case.

₹ 60,000, being 10% of adjusted total income is the qualifying limit, in this case.

Firstly, donation of ₹ 40,000 to approved institution for family planning qualifying for 100% deduction subject to qualifying limit, has to be adjusted against this amount. Thereafter, donation to public charitable trust qualifying for 50% deduction, subject to qualifying limit is adjusted. Hence, the contribution of ₹ 50,000 to public charitable trust is restricted to 20,000 (being, ₹ 60,000 - ₹ 40,000), 50% of which would be the deduction under section 80G. Therefore, the deduction under section 80G in respect of donation to public charitable trust would be ₹ 10,000, which is 50% of ₹ 20,000.

ILLUSTRATION 14

Mr. Ganesh, a businessman, whose total income (before allowing deduction under section 80GG) for A.Y.2022-23 is ₹ 4,60,000, paid house rent at ₹ 12,000 p.m. in respect of residential accommodation occupied by him at Mumbai. Compute the deduction allowable to him under section 80GG for A.Y.2022-23.

SOLUTION

The deduction under section 80GG will be computed as follows:

(i) Actual rent paid less 10% of total income

$$₹ 1,44,000 (-) \frac{(10 \times 4,60,000)}{100} = ₹ 98,000 \text{ (A)}$$

(ii) 25% of total income = $\frac{25 \times 4,60,000}{100} = ₹ 1,15,000 \text{ (B)}$

(iii) Amount calculated at ₹ 5,000 p.m. = ₹ 60,000 (C)

Deduction allowable u/s 80GG [least of (i), (ii) and (iii)] = ₹ 60,000

ILLUSTRATION 15

During the P.Y. 2021-22, ABC Ltd., an Indian company,

(1) contributed a sum of ₹ 2 lakh to an electoral trust; and

⁴Now section 182 of the Companies Act, 2013

(2) *incurred expenditure of ₹ 25,000 on advertisement in a brochure of a political party.*

Is the company eligible for deduction in respect of such contribution/expenditure, assuming that the contribution was made by cheque? If so, what is the quantum of deduction?

SOLUTION

An Indian company is eligible for deduction under section 80GGB in respect of any sum contributed by it in the previous year to any political party or an electoral trust. Further, the word "contribute" in section 80GGB has the meaning assigned to it in section 293A of the Companies Act, 1956, and accordingly, it includes the amount of expenditure incurred on advertisement in a brochure of a political party.

Therefore, ABC Ltd. is eligible for a deduction of ₹ 2,25,000 under section 80GGB in respect of sum of ₹ 2 lakh contributed to an electoral trust and ₹ 25,000 incurred by it on advertisement in a brochure of a political party.

It may be noted that there is a specific disallowance under section 37(2B) in respect of expenditure incurred on advertisement in a brochure of a political party. Therefore, the expenditure of ₹ 25,000 would be disallowed while computing business income/gross total income. However, the said expenditure incurred by an Indian company is allowable as a deduction from gross total income under section 80GGB.

ILLUSTRATION 16

Mr. A has commenced the business of manufacture of computers on 1.4.2021. He employed 350 new employees during the P.Y. 2021-22, the details of whom are as follows –

	No. of employees	Date of employment	Regular/Casual	Total monthly emoluments per employee (₹)
(i)	75	1.4.2021	Regular	24,000
(ii)	125	1.5.2021	Regular	26,000
(iii)	50	1.8.2021	Casual	24,500
(iv)	100	1.9.2021	Regular	24,000

The regular employees participate in recognized provident fund while the casual employees do not. Compute the deduction, if any, available to Mr. A for A.Y. 2022-23, if the profits and gains derived from manufacture of computers that year is ₹ 75 lakhs and his total turnover is ₹ 10.16 crores.

What would be your answer if Mr. A has commenced the business of manufacture of footwear on 1.4.2021?

SOLUTION

Mr. A is eligible for deduction under section 80JJAA since he is subject to tax audit under section 44AB for A.Y. 2022-23 and he has employed "additional employees" during the P.Y. 2021-22.

I If Mr. A is engaged in the business of manufacture of computers

Additional employee cost = ₹ 24,000 × 12 × 75 [See Working Note below]
= ₹ 2,16,00,000

Deduction under section 80JJAA = 30% of ₹ 2,16,00,000 = ₹ 64,80,000.

Working Note:

Number of additional employees

Particulars	No. of workmen	
Total number of employees employed during the year		350
Less: Casual employees employed on 1.8.2021 who do not participate in recognized provident fund	50	
Regular employees employed on 1.5.2021, since their total monthly emoluments exceed ₹ 25,000	125	

Regular employees employed on 1.9.2021 since they have been employed for less than 240 days in the P.Y.2021-22.	100	275
Number of "additional employees"		75

Notes –

- (i) *Since casual employees do not participate in recognized provident fund, they do not qualify as additional employees. Further, 125 regular employees employed on 1.5.2021 also do not qualify as additional employees since their monthly emoluments exceed ₹ 25,000. Also, 100 regular employees employed on 1.9.2021 do not qualify as additional employees for the P.Y.2021-22, since they are employed for less than 240 days in that year.*

Therefore, only 75 employees employed on 1.4.2021 qualify as additional employees, and the total emoluments paid or payable to them during the P.Y.2021-22 is deemed to be the additional employee cost.

- (ii) *As regards 100 regular employees employed on 1.9.2021, they would be treated as additional employees for previous year 2022-23, if they continue to be employees in that year for a minimum period of 240 days. Accordingly, 30% of additional employee cost in respect of such employees would be allowable as deduction under section 80JJAA in the hands of Mr. A for the A.Y. 2023-24.*

II If Mr. A is engaged in the business of manufacture of footwear

If Mr. A is engaged in the business of manufacture of footwear, then, he would be entitled to deduction under section 80JJAA in respect of employee cost of regular employees employed on 1.9.2021, since they have been employed for more than 150 days in the previous year 2021-22.

Additional employee cost = ₹ 2,16,00,000 + ₹ 24,000 × 7 × 100 = ₹ 3,84,00,000

Deduction under section 80JJAA = 30% of ₹ 3,84,00,000 = ₹ 1,15,20,000

authority may allow in this behalf for the purpose of claiming deduction under this section.

The competent authority shall mean the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

ILLUSTRATION 17

Mr. Aakash received royalty of ₹ 2,88,000 from a foreign country for a book authored by him, being a work of literary nature. The rate of royalty is 18% of value of books. The expenditure incurred by him for earning this royalty was ₹ 40,000. The amount remitted to India till 30th September, 2021 is ₹ 2,30,000. The remaining amount was not remitted till 31st March, 2022. Compute the amount includible in the gross total income of Mr. Aakash and the amount of deduction which he will be eligible for under section 80QQB.

SOLUTION

The net royalty of ₹ 2,48,000 (i.e., royalty of ₹ 2,88,000 less ₹ 40,000, being expenditure to earn such income) is includible in gross total income.

Deduction u/s 80QQB:	₹
Royalty ₹ 2,88,000 × 15/18 = ₹ 2,40,000	
Restricted to	
Amount brought into India in convertible foreign exchange within the prescribed time	2,30,000
Less: Expenses already allowed as deduction while computing royalty income	<u>40,000</u>
Deduction u/s 80QQB	<u>1,90,000</u>

ILLUSTRATION 18

Mr. A, a resident individual aged 61 years, has earned business income (computed) of ₹ 1,35,000, lottery income of ₹ 1,20,000 (gross) during the P.Y. 2021-22. He also has interest on Fixed Deposit of ₹ 30,000 with banks. He invested an amount of ₹ 1,50,000 in Public Provident Fund account. What is the total income of Mr. A for the A.Y. 2022-23, assuming that he does not opt for section 115BAC?

SOLUTION**Computation of total income of Mr. A for A.Y.2022-23**

Particulars	₹	₹
Profits and gains of business or profession		1,35,000
Income from other sources		
- Interest on Fixed Deposit with banks		30,000
- lottery income		1,20,000
Gross Total Income		2,85,000
Less: Deductions under Chapter VIA [See Note below]		
Under section 80C		
- Deposit in Public Provident Fund	1,50,000	
Under section 80TTB		
- Interest on fixed deposits with banks	30,000	
	1,80,000	
Restricted to		1,65,000
Total Income		1,20,000

Note: In case of resident individuals of the age of 60 years or more, interest on bank fixed deposits qualifies for deduction upto ₹ 50,000 under section 80TTB.

Though the aggregate of deductions under Chapter VI-A is ₹ 1,80,000, however, the maximum permissible deduction cannot exceed the gross total income exclusive of long term capital gains taxable under section 112 and section 112A, short-term capital gains covered under section 111A and winnings from lotteries of the assessee.

Therefore, the maximum permissible deduction under Chapter VI-A = ₹ 2,85,000 – ₹ 1,20,000 = ₹ 1,65,000.

ILLUSTRATION 19

Mr. Gurnam, aged 42 years, has salary income (computed) of ₹ 5,50,000 for the previous year ended 31.03.2022. He has earned interest of ₹ 14,500 on the saving bank account with State Bank of India during the year. Compute the total income of Mr. Gurnam for the assessment year 2022-23 from the following particulars, assuming that he does not opt for section 115BAC:

- (i) Life insurance premium paid to Birla Sunlife Insurance in cash amounting to ₹ 25,000 for insurance of life of his dependent parents. The insurance policy

was taken on 15.07.2019 and the sum assured on life of his dependent parents is ₹2,00,000.

- (ii) Life insurance premium of ₹25,500 paid for the insurance of life of his major son who is not dependent on him. The sum assured on life of his son is ₹3,50,000 and the life insurance policy was taken on 30.3.2012.
- (iii) Life insurance premium paid by cheque of ₹22,500 for insurance of his life. The insurance policy was taken on 08.09.2018 and the sum assured is ₹2,00,000.
- (iv) Premium of ₹26,000 paid by cheque for health insurance of self and his wife.
- (v) ₹1,500 paid in cash for his health check-up and ₹4,500 paid in cheque for preventive health check-up for his parents, who are senior citizens.
- (vi) Paid interest of ₹6,500 on loan taken from bank for MBA course pursued by his daughter.
- (vii) A sum of ₹5,000 donated in cash to an institution approved for purpose of section 80G for promoting family planning.

SOLUTION

Computation of total income of Mr. Gurnam for the Assessment Year 2022-23

Particulars	₹	₹	₹
Income from salary			5,50,000
Interest on saving bank deposit			14,500
Gross Total Income			5,64,500
Less: Deduction under Chapter VIA			
Under section 80C (See Note 1)			
Life insurance premium paid for life insurance of:			
- major son	25,500		
- self ₹22,500 restricted to 10% of ₹2,00,000	20,000	45,500	
Under section 80D (See Note 2)			
Premium paid for ₹26,000 health insurance of self and wife by cheque, restricted to	25,000		
Payment made for health check-up for parents	4,500	29,500	

Under section 80E			
For payment of interest on loan taken from bank for MBA course of his daughter		6,500	
Under section 80TTA (See Note 4)			
Interest on savings bank account ₹ 14,500 restricted to		10,000	91,500
Total Income			4,73,000

Notes:

- (1) As per section 80C, no deduction is allowed in respect of premium paid for life insurance of parents, whether they are dependent or not. Therefore, no deduction is allowable in respect of ₹ 25,000 paid as premium for life insurance of dependent parents of Mr. Gurnam.

In respect of insurance policy issued on or after 01.04.2012, deduction shall be allowed for life insurance premium paid only to the extent of 10% of sum assured. In case the insurance policy is issued before 01.04.2012, deduction of premium paid on life insurance policy shall be allowed up to 20% of sum assured.

Therefore, in the present case, deduction of ₹ 25,500 is allowable in full in respect of life insurance of Mr. Gurnam's son since the insurance policy was issued before 01.04.2012 and the premium amount is less than 20% of ₹ 3,50,000. However, in respect of premium paid for life insurance policy of Mr. Gurnam himself, deduction is allowable only up to 10% of ₹ 2,00,000 since, the policy was issued on or after 01.04.2012 and the premium amount exceeds 10% of sum assured.

- (2) As per section 80D, in case the premium is paid in respect of health of a person specified therein and for health check-up of such person, deduction shall be allowed up to ₹ 25,000. Further, deduction up to ₹ 5,000 in aggregate shall be allowed in respect of health check-up of self, spouse, children and parents. In order to claim deduction under section 80D, the payment for health-checkup can be made in any mode including cash. However, the payment for health insurance premium has to be paid in any mode other than cash.

Therefore, in the present case, in respect of premium of ₹ 26,000 paid for health insurance of self and wife, deduction would be restricted to ₹ 25,000. Since the limit of ₹ 25,000 has been exhausted against medical insurance premium, no deduction is allowable for preventive health check-up for self and wife. However, deduction of ₹ 4,500 is allowable in respect of health check-up of his parents, since it falls within the limit of ₹ 5,000.

- (3) No deduction shall be allowed under section 80G in case the donation is made in cash of a sum exceeding ₹ 2,000. Therefore, deduction under section 80G is not allowable in respect of **cash donation** of ₹ 5,000 made to an institution approved for the purpose of section 80G for promotion of family planning.
- (4) As per section 80TTA, deduction shall be allowed from the gross total income of an individual or Hindu Undivided Family in respect of income by way of interest on deposit in the savings account included in the assessee's gross total income, subject to a maximum of ₹ 10,000. Therefore, deduction of ₹ 10,000 is allowable from the gross total income of Mr. Gurnam, though the interest from savings bank account is ₹ 14,500.

TEST YOUR KNOWLEDGE

Question 1

Examine the following statements with regard to the provisions of the Income-tax Act, 1961:

- (i) *During the financial year 2021-22, Mr. Amit paid interest on loan availed by him for his son's higher education. His son is already employed in a firm. Mr. Amit will get the deduction under section 80E.*
- (ii) *Subscription to notified bonds of NABARD would qualify for deduction under section 80C.*
- (iii) *In order to be eligible to claim deduction under section 80C, investment/contribution/subscription etc. in eligible or approved modes, should be made from out of income chargeable to tax.*
- (iv) *Where an individual repays a sum of ₹ 30,000 towards principal and ₹ 14,000 as interest in respect of loan taken from a bank for pursuing eligible higher studies, the deduction allowable under section 80E is ₹ 44,000.*
- (v) *Mrs. Sheela, widow of Mr. Satish (who was an employee of M/s. XYZ Ltd.), received ₹ 7 lakhs on 1.5.2021, being amount standing to the credit of Mr. Satish in his NPS Account, in respect of which deduction has been allowed under section 80CCD to Mr. Satish in the earlier previous years. Such amount received by her as a nominee on closure of the account is deemed to be her income for A.Y.2022-23.*
- (vi) *Mr. Vishal, a Central Government employee, contributed ₹ 50,000 towards Tier II account of NPS. The same would be eligible for deduction under section 80CCD.*

Answer

- (i) **The statement is correct.** The deduction under section 80E available to an individual in respect of interest on loan taken for his higher education or for the higher education of his relative. For this purpose, relative means, *inter alia*, spouse and children of the individual. Therefore, Mr. Amit will get the deduction under section 80E in respect of interest on loan availed by him for his son's higher education. It is immaterial that his son is already employed in a firm. This would not affect Mr. Amit's eligibility for deduction under section 80E.

- (ii) **The statement is correct.** Under section 80C(2) subscription to such bonds issued by NABARD (as the Central Government may notify in the Official Gazette) would qualify for deduction under section 80C.
- (iii) **The statement is not correct.** There is no stipulation under section 80C that the investment, subscription, etc. should be made from out of income chargeable to tax.
- (iv) **The statement is not correct.** Deduction under section 80E is in respect of interest paid on education loan. Hence, the deduction will be limited to ₹14,000.
- (v) **The statement is not correct.** The proviso to section 80CCD(3) provides that the amount received by the nominee, on closure of NPS account on the death of the assessee, shall not be deemed to be the income of the nominee. Hence, amount received by Mrs. Sheela would not be deemed to be her income for A.Y. 2022-23.
- (vi) **The statement is not correct.** Contribution to Tier II account of NPS would qualify for deduction under section 80C and not section 80CCD.

Question 2

Examine the allowability of the following:

- (i) *Rajan has to pay to a hospital for treatment ₹ 62,000 and spent nothing for life insurance or for maintenance of dependent disabled.*
- (ii) *Raja, a resident Indian, has spent nothing for treatment in the previous year and deposited ₹ 25,000 with LIC for maintenance of dependant disabled.*
- (iii) *Rajan has incurred ₹ 20,000 for treatment and ₹ 25,000 was deposited with LIC for maintenance of dependant disabled.*
- (iv) *Payment of ₹ 50,000 by cheque to an electoral trust by an Indian company.*

Answer

- (i) The deduction of ₹ 75,000 under section 80DD is allowed, irrespective of the amount of expenditure incurred or paid by the assessee. If the expenditure is incurred in respect of a dependant with severe disability, the deduction allowable is ₹ 1,25,000.
- (ii) The assessee Rajan has deposited ₹ 25,000 for maintenance of dependent disabled. The assessee is, however, eligible to claim ₹ 75,000 since the deduction of ₹ 75,000 is allowed, irrespective of the amount deposited with

LIC. In the case of dependant with severe disability, the deduction allowable is ₹ 1,25,000.

- (iii) Section 80DD allows a deduction of ₹ 75,000 irrespective of the actual amount spent on maintenance of a dependent disabled and/or actual amount deposited with LIC. Therefore, the deduction will be ₹ 75,000 even though the total amount incurred/deposited is only ₹ 45,000. If the dependant is a person with severe disability the quantum of deduction is ₹ 1,25,000.
- (iv) Amount paid by an Indian Company to an electoral trust is eligible for deduction under section 80GGB from gross total income, since such payment is made otherwise than by way of cash.

Question 3

For the Assessment year 2022-23, the Gross Total Income of Mfr. Chaturvedi, a resident in India, was ₹ 8,18,240 which includes long-term capital gain of ₹ 2,45,000 taxable under section 112 and Short-term capital gain of ₹ 58,000. The Gross Total Income also includes interest income of ₹ 12,000 from savings bank deposits with banks and ₹ 40,000 interest on fixed deposits with banks. Mr. Chaturvedi has invested in PPF ₹ 1,20,000 and also paid a medical insurance premium ₹ 51,000. Mr. Chaturvedi also contributed ₹ 50,000 to Public Charitable Trust eligible for deduction under section 80G by way of an account payee cheque. Compute the total income and tax thereon of Mr. Chaturvedi, who is 70 years old as on 31.3.2022. Ignore the provisions of section 115BAC.

Answer

Computation of total income and tax payable by Mr. Chaturvedi for the A.Y. 2022-23

Particulars	₹	₹
Gross total income including long term capital gain		8,18,240
Less: Long term capital gain		2,45,000
		5,73,240
Less: Deductions under Chapter VI-A:		
Under section 80C in respect of PPF deposit	1,20,000	
Under section 80D (it is assumed that premium of ₹ 51,000 is paid by otherwise than by cash. The	50,000	

deduction would be restricted to ₹ 50,000, since Mr. Chaturvedi is a senior citizen)		
Under section 80G (See Notes 1 & 2 below)	17,662	
Under section 80TTB (See Note 3 below)	50,000	2,37,662
Total income (excluding long term capital gains)		3,35,578
Total income (including long term capital gains)		5,80,578
Total income (rounded off)		5,80,580
Tax on total income (including long-term capital gains of ₹ 2,45,000)		
LTCG ₹ 2,45,000 x 20%		49,000
Balance total income ₹ 3,35,580 (See Note 4 below)		1,779
		50,779
<i>Add:</i> Health and Education cess @4%		2,031
Total tax liability		52,810

Notes:

1. Computation of deduction under section 80G:

Particulars	₹
Gross total income (excluding long term capital gains)	5,73,240
Less : Deduction under section 80C, 80D & 80TTB	2,20,000
	3,53,240
10% of the above	35,324
Contribution made	50,000
Lower of the two eligible for deduction under section 80G	35,324
Deduction under section 80G – 50% of ₹ 35,324	17,662

2. Deduction under section 80G is allowed only if amount is paid by any mode other than cash, in case of amount exceeding ₹ 2,000. Therefore, the contribution made to public charitable trust is eligible for deduction since it is made by way of an account payee cheque.

3. Deduction of upto ₹ 50,000 under section 80TTB is allowed to a senior citizen if gross total income includes interest income on bank deposits, both fixed deposits and savings account.
4. Mr. Chaturvedi, being a senior citizen is eligible for a higher basic exemption of ₹ 3,00,000.

Question 4

Mr. Rajmohan whose gross total income was ₹ 6,40,000 for the financial year 2021-22, furnishes you the following information:

- (i) Stamp duty paid on acquisition of residential house (self-occupied) - ₹ 50,000.
- (ii) Five year post office time deposit - ₹ 20,000.
- (iii) Donation to a recognized charitable trust ₹ 25,000 which is eligible for deduction under section 80G at the applicable rate.
- (iv) Interest on loan taken for higher education of spouse paid during the year - ₹ 10,000.

Compute the total income of Mr. Rajmohan for the Assessment year 2022-23, assuming that he has not opted for section 115BAC.

Answer

Computation of total income of Mr. Rajmohan for the A.Y.2022-23

Particulars	₹	₹
Gross Total Income		6,40,000
Less: Deduction under Chapter VI-A		
<u>Under section 80C</u>		
Stamp duty paid on acquisition of residential house	50,000	
Five year time deposit with Post Office	20,000	
	70,000	
<u>Under section 80E</u>		
Interest on loan taken for higher education of spouse, being a relative.	10,000	
<u>Under section 80G (See Note below)</u>		
Donation to recognized charitable trust (50% of ₹ 25,000)	12,500	92,500
Total Income		5,47,500

Note: In case of deduction under section 80G in respect of donation to a charitable trust, the net qualifying amount has to be restricted to 10% of adjusted total income, i.e., gross total income less deductions under Chapter VI-A except 80G. The adjusted total income is, therefore, ₹ 5,60,000 (i.e. 6,40,000 – ₹ 80,000), 10% of which is ₹ 56,000, which is higher than the actual donation of ₹ 25,000. Therefore, the deduction under section 80G would be ₹ 12,500, being 50% of the actual donation of ₹ 25,000.

Question 5

Compute the eligible deduction under Chapter VI-A for the A.Y. 2022-23 of Ms. Roma, aged 40 years, who has a gross total income of ₹ 15,00,000 for the A.Y. 2022-23 and provides the following information about her investments/payments during the P.Y. 2021-22:


Sl. No.	Particulars	Amount (₹)
1.	Life Insurance premium paid (Policy taken on 31-03-2012 and sum assured is ₹ 4,40,000)	35,000
2.	Public Provident Fund contribution	1,50,000
3.	Repayment of housing loan to Bhartiya Mahila Bank, Bangalore	20,000
4.	Payment to L.I.C. Pension Fund	1,40,000
5.	Mediclaim Policy taken for self, wife and dependent children, premium paid by cheque	30,000
6.	Medical Insurance premium paid by cheque for parents (Senior Citizens)	52,000

Answer

Computation of eligible deduction under Chapter VI-A of Ms. Roma for A.Y. 2022-23

Particulars	₹	₹
Deduction under section 80C		
Life insurance premium paid ₹ 35,000 (allowed in full since the same is within the limit of 20% of the sum assured, the policy being taken before 1.4.2012)	35,000	
Public Provident Fund	1,50,000	

Repayment of housing loan to Bhartiya Mahila Bank, Bangalore	20,000	
	2,05,000	
Restricted to a maximum of ₹ 1,50,000	1,50,000	
Deduction under section 80CCC for payment towards LIC pension fund	1,40,000	
	2,90,000	1,50,000
As per section 80CCE, aggregate deduction under, <i>inter alia</i> , section 80C and 80CCC, is restricted to		
Deduction under section 80D		
Payment of medical insurance premium of ₹ 30,000 towards medical policy taken for self, wife and dependent children restricted to	25,000	
Medical insurance premium paid ₹ 52,000 for parents, being senior citizens, restricted to	50,000	75,000
Eligible deduction under Chapter VI-A		2,25,000



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COMPUTATION OF TOTAL INCOME AND TAX PAYABLE



TEST YOUR KNOWLEDGE

Question 1

Miss Charlie, an American national, got married to Mr. Radhey of India in USA on 2.03.2021 and came to India for the first time on 16.03.2021. She left for USA on 19.9.2021. She returned to India again on 27.03.2022. While in India, she had purchased a show room in Mumbai on 30.04.2021, which was leased out to a company on a rent of ₹ 25,000 p.m. from 1.05.2021. She had taken loan from a bank for purchase of this show room on which bank had charged interest of ₹ 97,500 upto 31.03.2022. She had received the following cash gifts from her relatives and friends during 1.4.2021 to 31.3.2022:

- From parents of husband ₹ 51,000
- From married sister of husband ₹ 11,000
- From two very close friends of her husband (₹ 1,51,000 and ₹ 21,000) ₹ 1,72,000

- (a) Determine her residential status and compute the total income chargeable to tax along with the amount of tax liability on such income for the Assessment Year 2022-23.
- (b) Would her residential status undergo any change, assuming that she is a person of Indian origin and her total income from Indian sources is ₹ 18,00,000 and she is not liable to tax in USA?

Answer

- I. Under section 6(1), an individual is said to be resident in India in any previous year, if he/she satisfies any one of the following conditions:
 - (i) He/she has been in India during the previous year for a total period of 182 days or more, or
 - (ii) He/she 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 previous year.

If an individual satisfies any one of the conditions mentioned above, he/she is a resident. If both the above conditions are not satisfied, the individual is a non-resident.

Therefore, the residential status of Miss Charlie, an American National, for A.Y.2022-23 has to be determined on the basis of her stay in India during

the previous year relevant to A.Y. 2022-23 i.e., P.Y.2021-22 and in the preceding four assessment years.

Her stay in India during the previous year 2021-22 and in the preceding four years are as under:

P.Y. 2021-22

01.04.2021 to 19.09.2021	-	172 days
27.03.2022 to 31.03.2022	-	<u>5 days</u>
Total		<u>177 days</u>

Four preceding previous years

P.Y. 2020-21 [1.4.2020 to 31.3.2021]	-	16 days
P.Y.2019-20 [1.4.2019 to 31.3.2020]	-	Nil
P.Y.2018-19 [1.4.2018 to 31.3.2019]	-	Nil
P.Y.2017-18 [1.4.2017 to 31.3.2018]	-	<u>Nil</u>
Total		<u>16 days</u>

The total stay of the assessee during the previous year in India was less than 182 days and during the four years preceding this year was for 16 days. Therefore, due to non-fulfillment of any of the two conditions for a resident, she would be treated as non-resident for the Assessment Year 2022-23.

Computation of total income of Miss Charlie for the A.Y. 2022-23

Particulars	₹	₹
Income from house property		
Show room located in Mumbai remained on rent from 01.05.2021 to 31.03.2022 @ ₹ 25,000/- p.m.	2,75,000	
Gross Annual Value [₹ 25,000 x 11] (See Note 1 below)		
Less: Municipal taxes	Nil	
Net Annual Value (NAV)	2,75,000	
Less: Deduction under section 24		
30% of NAV	82,500	
Interest on loan	97,500	95,000

Income from other sources		
Cash gifts received from non-relatives is chargeable to tax as per section 56(2)(x), if the aggregate value of such gifts exceeds ₹ 50,000.		
- ₹ 50,000 received from parents of husband would be exempt, since parents of husband fall within the definition of 'relative' and gifts from a relative are not chargeable to tax.	Nil	
- ₹ 11,000 received from married sister of husband is exempt, since sister-in-law falls within the definition of relative and gifts from a relative are not chargeable to tax.	Nil	
- Gift received from two friends of husband ₹ 1,51,000 and ₹ 21,000 aggregating to ₹ 1,72,000 is taxable under section 56(2)(x) since the aggregate of ₹ 1,72,000 exceeds ₹ 50,000. (See Note 2 below)	1,72,000	1,72,000
Total income		2,67,000

Computation of tax liability by Miss Charlie for the A.Y. 2022-23

Particulars	₹
Tax on total income of ₹ 2,67,000	850
Add: Health and Education cess@4%	34
Total tax liability	884
Total tax liability (rounded off)	880

Notes:

- Actual rent received has been taken as the gross annual value in the absence of other information (i.e. Municipal value, fair rental value and standard rent) in the question.
- If the aggregate value of taxable gifts received from non-relatives exceed ₹ 50,000 during the year, the entire amount received (i.e. the aggregate value of taxable gifts received) is taxable. Therefore, the entire amount of ₹ 1,72,000 is taxable under section 56(2)(x).

3. Since Miss Charlie is a non-resident for the A.Y. 2022-23, rebate under section 87A would not be available to her, even though her total income does not exceed ₹ 5 lacs.
4. The tax liability of Miss Charlie would be the same even if she opts to pay tax as per section 115BAC, since she would be eligible for deduction under section 24(b), for interest on housing loan in respect of let out property under regular provisions as well as under section 115BAC of the Income-tax Act, 1961.

II. Residential status of Miss Charlie in case she is a person of Indian origin and her total income from Indian sources exceeds ₹ 18,00,000

If she is a person of Indian origin and her total income from Indian sources exceeds ₹ 15,00,000 (₹ 18,00,000, in her case), the condition of stay in India for a period exceeding 120 days during the previous year and 365 days during the four immediately preceding previous years would be applicable for being treated as a resident. Since her stay in India exceeds 120 days in the P.Y.2021-22 but the period of her stay in India during the four immediately preceding previous years is less than 365 days (only 16 days), her residential status as per section 6(1) would continue to be same i.e., non-resident in India.

Further, since she is not a citizen of India, the provisions of section 6(1A) deeming an individual to be a citizen of India would not get attracted in her case, even though she is a person of Indian origin and her total income from Indian sources exceeds ₹ 15,00,000 and she is not liable to pay tax in USA.

Therefore, her residential status would be non-resident in India for the previous year 2021-22.

Question 2

Dr. Niranjana, a resident individual, aged 60 years is running a clinic in Surat. Her Income and Expenditure Account for the year ending March 31st, 2022 is as under:

Expenditure	₹	Income	₹
To Medicine consumed	35,38,400	By Consultation and medical charges	58,85,850
To Staff salary	13,80,000	By Income-tax refund (principal ₹ 5,000, interest ₹ 450)	5,450

To Clinic consumables	1,10,000	By Dividend from units of UTI (Gross)	10,500
To Rent paid	90,000	By Winning from game show on T.V. (net of TDS of ₹ 15,000)	35,000
To Administrative expenses	2,55,000	By Rent	27,000
To Amount paid to scientific research association approved u/s 35	1,50,000		
To Net profit	4,40,400		
	59,63,800		59,63,800

- (i) Rent paid includes ₹ 30,000 paid by cheque towards rent for her residential house in Surat.
- (ii) Clinic equipments are:
- | | | |
|-----------|---------------------------|--------------|
| 1.4.2021 | Opening W.D.V. | - ₹ 5,00,000 |
| 7.12.2021 | Acquired (cost) by cheque | - ₹ 2,00,000 |
- (iii) Rent received relates to residential house property situated at Surat. Gross Annual Value ₹ 27,000. The municipal tax of ₹ 2,000, paid in December, 2021, has been included in "administrative expenses".
- (iv) She received salary of ₹ 7,500 p.m. from "Full Cure Hospital" which has not been included in the "consultation and medical charges".
- (v) Dr. Niranjana availed a loan of ₹ 5,50,000 from a bank for higher education of her daughter. She repaid principal of ₹ 1,00,000, and interest thereon ₹ 55,000 during the previous year 2021-22.
- (vi) She paid ₹ 1,00,000 as tuition fee (not in the nature of development fees/donation) to the university for full time education of her daughter.
- (vii) An amount of ₹ 28,000 has also been paid by cheque on 27th March, 2022 for her medical insurance premium.

From the above, compute the total income of Dr. Smt. Niranjana for the A.Y. 2022-23 under the regular provisions of the Income-tax Act, 1961, assuming that she has not opted for to pay tax under section 115BAC.

Answer

**Computation of total income of Dr. Niranjana for
A.Y. 2022-23**

	Particulars	₹	₹	₹
I	Income from Salary			
	Basic Salary (₹ 7,500 x 12)		90,000	
	Less: Standard deduction u/s 16(ia)		50,000	40,000
II	Income from house property			
	Gross Annual Value (GAV)		27,000	
	Less : Municipal taxes paid		2,000	
	Net Annual Value (NAV)		25,000	
	Less: Deduction u/s 24@30% of ₹ 25,000		7,500	17,500
III	Income from profession			
	Net profit as per Income and Expenditure account		4,40,400	
	Less: Items of income to be treated separately			
	(i) Rent received (taxable under the head "Income from house property")	27,000		
	(ii) Dividend from units of UTI (taxable under the head "Income from other sources")	10,500		
	(iii) Winning from game show on T.V.(net of TDS) – taxable under the head "Income from other sources"	35,000		
	(iv) Income tax refund	5,450	77,950	
			3,62,450	
	Less: Allowable expenditure			
	Depreciation on clinic equipments on ₹ 5,00,000@15%	75,000		
	on ₹ 2,00,000@7.5%	15,000		
	(On equipments acquired during the			

<p>year in December 2021, she is entitled to depreciation @50% of normal depreciation, since the same are put to use for less than 180 days during the year)</p> <p>100% deduction is allowable in respect of the amount paid to scientific research association allowable, since whole of the amount is already debited to Income & Expenditure A/c, no further adjustment is required.</p>	-	90,000	
<p><i>Add:</i> Items of expenditure not allowable while computing business income</p> <p>(i) Rent for her residential accommodation included in Income and Expenditure A/c</p> <p>(ii) Municipal tax paid relating to residential house at Surat included in administrative expenses</p>	30,000	2,72,450	
<p>IV Income from other sources</p>			3,04,450
<p>(a) Interest on income-tax refund</p> <p>(b) Dividend from UTI (taxable in the hands of unit holders)</p> <p>(c) Winnings from TV game show (₹ 35,000 + ₹ 15,000)</p>		450 10,500 50,000	60,950
<p>Gross Total Income</p>			4,22,900
<p><i>Less: Deductions under Chapter VI-A:</i></p>			
<p>(a) Section 80C - Tuition fee paid to university for full time education of her daughter</p>		1,00,000	
<p>(b) Section 80D - Medical insurance premium (fully allowed since she is a senior citizen)</p>		28,000	

(c) Section 80E - Interest on loan taken for higher education is deductible		55,000	1,83,000
Total income			2,39,900

Notes:

- (i) The principal amount received towards income-tax refund will be excluded from computation of total income. Interest received will be taxed under the head "Income from other sources".
- (ii) Winnings from game show on T.V. should be grossed up for the chargeability under the head "Income from other sources" (₹ 35,000 + ₹ 15,000). Thereafter, while computing tax liability, TDS of ₹ 15,000 should be deducted to arrive at the tax payable. Winnings from game show are subject to tax @30% as per section 115BB.
- (iii) Dr. Niranjana would not be eligible for deduction u/s 80GG, as she owns a house in Surat, a place where she is residing as well as carrying on her profession.

Question 3

Ms. Purvi, aged 55 years, is a Chartered Accountant in practice. She maintains her accounts on cash basis. Her Income and Expenditure account for the year ended March 31, 2022 reads as follows:

Expenditure	(₹)	Income	(₹)	(₹)
Salary to staff	15,50,000	Fees earned:		
Stipend to articled Assistants	1,37,000	Audit	27,88,000	
Incentive to articled Assistants	13,000	Taxation services	15,40,300	
Office rent	12,24,000	Consultancy	12,70,000	55,98,300
Printing and stationery	12,22,000	Dividend on shares of X Ltd., an Indian company (Gross)		10,524
		Income from UTI (Gross)		7,600
		Honorarium received from various institutions for		15,800

Meeting, seminar and conference	31,600	valuation of answer papers	85,600
Purchase of car (for official use)	80,000	Rent received from residential flat let out	
Repair, maintenance and petrol of car	4,000		
Travelling expenses	5,25,000		
Municipal tax paid in respect of house property	3,000		
Net Profit	9,28,224		
	57,17,824		57,17,824

Other Information:

- (i) Allowable rate of depreciation on motor car is 15%.
- (ii) Value of benefits received from clients during the course of profession is ₹ 10,500.
- (iii) Incentives to articled assistants represent amount paid to two articled assistants for passing IPCC Examination at first attempt.
- (iv) Repairs and maintenance of car include ₹ 2,000 for the period from 1-10-2021 to 30-09-2022.
- (v) Salary includes ₹ 30,000 to a computer specialist in cash for assisting Ms. Purvi in one professional assignment.
- (vi) The travelling expenses include expenditure incurred on foreign tour of ₹ 32,000 which was within the RBI norms.
- (vii) Medical Insurance Premium on the health of dependent brother and major son dependent on her amounts to ₹ 5,000 and ₹ 10,000, respectively, paid in cash.
- (viii) She invested an amount of ₹ 10,000 in National Saving Certificate.
- (ix) She has paid ₹ 70,000 towards advance tax during the P.Y. 2021-22.

Compute the total income and tax payable of Ms. Purvi for the assessment year 2022-23.

Answer**Computation of total income and tax payable of Ms. Purvi for the A.Y. 2022-23 under the regular provisions of the Act**

Particulars	₹	₹
Income from house property (See Working Note 1)		57,820
Profit and gains of business or profession (See Working Note 2)		9,20,200
Income from other sources (See Working Note 3)		33,924
Gross Total Income		10,11,944
Less: Deductions under Chapter VI-A (See Working Note 4)		10,000
Total Income		10,01,944
Total Income (rounded off)		10,01,940
Tax on total income		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 - ₹ 5,00,000 @5%	12,500	
₹ 5,00,001 - ₹ 10,00,000 @20%	1,00,000	
₹ 10,00,001 - ₹10,01,940 @ 30%	582	1,13,082
Add: Health and Education cess @ 4%		4,523
Total tax liability		1,17,605
Less: Advance tax paid		70,000
Less: Tax deducted at source on dividend income from an Indian Company u/s 194	1,052	
Tax deducted at source on income from UTI u/s 194K	760	1,812
Tax Payable		45,793
Tax Payable (rounded off)		45,790

Computation of tax payable in accordance with the provisions of section 115BAC

Particulars	₹	₹
Gross Total Income		10,11,944
[Income under the "Income from house property"]		

“Profits and gains from business or profession” and “Income from other sources” would remain the same even if Ms. Purvi opts for special provisions under section 115BAC, since deduction claimed by her under these heads is allowable even under section 115BAC]		
<i>Less:</i> Deductions under Chapter VI-A [No deduction is allowable under Chapter VI-A, by virtue of section 115BAC(2)]		Nil
Total Income		10,11,944
Total Income (rounded off)		10,11,940
Tax on total income		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000 @5%	12,500	
₹ 5,00,000 - ₹ 7,50,000 @10%	25,000	
₹ 7,50,000 - ₹ 10,00,000 @15%	37,500	
₹ 10,00,000 – ₹ 10,11,940 @ 20%	2,388	77,388
<i>Add:</i> Health and Education cess @ 4%		3,096
Total tax liability		80,484
<i>Less:</i> Advance tax paid		70,000
<i>Less:</i> Tax deducted at source on dividend income from Indian Companies u/s 194	1,052	
Tax deducted at source on income from UTI u/s 194K	760	1,812
Tax Payable		8,672
Tax Payable (rounded off)		8,670

Since tax payable as per the provisions of section 115BAC is lower than the tax payable under the regular provisions of the Income-tax Act, 1961, it would be beneficial for Ms. Purvi to opt for section 115BAC. She has to exercise this option on or before the due date of furnishing the return of income i.e., 31st October 2022, in her case since she is liable to get her books of account audited. Further, since she is having income from business or profession during the previous year 2021-22, if she opts for section 115BAC for this previous year, the said provisions would apply for subsequent assessment years as well.

Working Notes:**(1) Income from House Property**

Particulars	₹	₹
Gross Annual Value under section 23(1)	85,600	
Less: Municipal taxes paid	3,000	
Net Annual Value (NAV)	82,600	
Less: Deduction u/s 24@30% of NAV	24,780	57,820

Note - Rent received has been taken as the Gross Annual Value in the absence of other information relating to Municipal Value, Fair Rent and Standard Rent.

(2) Income under the head "Profits & Gains of Business or Profession"

Particulars	₹	₹
Net profit as per Income and Expenditure account		9,28,224
<i>Add:</i> Expenses debited but not allowable		
(i) Salary paid to computer specialist in cash disallowed under section 40A(3), since such cash payment exceeds ₹ 10,000	30,000	
(ii) Amount paid for purchase of car is not allowable under section 37(1) since it is a capital expenditure	80,000	
(ii) Municipal Taxes paid in respect of residential flat let out	3,000	1,13,000
		10,41,224
<i>Add:</i> Value of benefit received from clients during the course of profession [taxable as business income under section 28(iv)]		10,500
		10,51,724
<i>Less:</i> Income credited but not taxable under this head:		
(i) Dividend on shares of X Ltd., an Indian company (taxable under the head "Income from other sources")	10,524	

(ii) Income from UTI (taxable under the head "Income from other sources")	7,600	
(iii) Honorarium for valuation of answer papers	15,800	
(iv) Rent received from letting out of residential flat	85,600	1,19,524
		9,32,200
Less: Depreciation on motor car @15% (See Note (i) below)		12,000
		9,20,200

Notes :

- (i) It has been assumed that the motor car was put to use for more than 180 days during the previous year and hence, full depreciation @ 15% has been provided for under section 32(1)(ii).

Note: Alternatively, the question can be solved by assuming that motor car has been put to use for less than 180 days and accordingly, only 50% of depreciation would be allowable as per the second proviso below section 32(1)(ii).

- (ii) Incentive to articled assistants for passing IPCC examination in their first attempt is deductible under section 37(1).
- (iii) Repairs and maintenance paid in advance for the period 1.4.2022 to 30.9.2022 i.e. for 6 months amounting to ₹ 1,000 is allowable since Ms. Purvi is following the cash system of accounting.
- (iv) ₹ 32,000 expended on foreign tour is allowable as deduction assuming that it was incurred in connection with her professional work. Since it has already been debited to income and expenditure account, no further adjustment is required.

(3) Income from other sources

Particulars	₹
Dividend on shares of X Ltd., an Indian company (taxable in the hands of shareholders)	10,524
Income from UTI (taxable in the hands of unit holders)	7,600
Honorarium for valuation of answer papers	15,800
	33,924

(4) Deduction under Chapter VI-A :

Particulars	₹
Deduction under section 80C (Investment in NSC)	10,000
Deduction under section 80D (See Notes (i) & (ii) below)	Nil
Total deduction under Chapter VI-A	10,000

Notes:

- (i) Premium paid to insure the health of brother is not eligible for deduction under section 80D, even though he is a dependent, since brother is not included in the definition of "family" under section 80D.
- (ii) Premium paid to insure the health of major son is not eligible for deduction, even though he is a dependent, since payment is made in cash.

Question 4

Mr. Y carries on his own business. An analysis of his trading and profit & loss for the year ended 31-3-2022 revealed the following information:

- (1) The net profit was ₹ 11,20,000.
- (2) The following incomes were credited in the profit and loss account:
 - (a) Income from UTI ₹ 22,000 (Gross)
 - (b) Interest on debentures ₹ 17,500 (Gross)
 - (c) Winnings from horse races ₹ 15,000 (Gross)
- (3) It was found that some stocks were omitted to be included in both the opening and closing stocks, the value of which were:

Opening stock ₹ 8,000.

Closing stock ₹ 12,000.
- (4) ₹ 1,00,000 was debited in the profit and loss account, being contribution to a University approved and notified under section 35(1)(ii).
- (5) Salary includes ₹ 20,000 paid to his brother which is unreasonable to the extent of ₹ 2,500.
- (6) Advertisement expenses include 15 gift packets of dry fruits costing ₹ 1,000 per packet presented to important customers.

- (7) Total expenses on car was ₹ 78,000. The car was used both for business and personal purposes. $\frac{3}{4}$ th is for business purposes.
- (8) Miscellaneous expenses included ₹ 30,000 paid to A & Co., a goods transport operator in cash on 31-1-2022 for distribution of the company's product to the warehouses.
- (9) Depreciation debited in the books was ₹ 55,000. Depreciation allowed as per Income-tax Rules, 1962 was ₹ 50,000.
- (10) Drawings ₹ 10,000.
- (11) Investment in NSC ₹ 15,000.

Compute the total income of Mr. Y for the assessment year 2022-23, assuming that he has not opted to pay tax under section 115BAC.

Answer

Computation of total income of Mr. Y for the A.Y. 2022-23

Particulars	₹
Profits and gains of business or profession (See Working Note 1 below)	11,21,500
Income from other sources (See Working Note 2 below)	54,500
Gross Total Income	11,76,000
Less: Deduction under section 80C (Investment in NSC)	15,000
Total Income	11,61,000

Working Notes:

1. Computation of profits and gains of business or profession

Particulars	₹	₹
Net profit as per profit and loss account		11,20,000
Add: Expenses debited to profit and loss account but not allowable as deduction		
Salary paid to brother disallowed to the extent considered unreasonable [Section 40A(2)]	2,500	
Motor car expenses attributable to personal use not allowable (₹ 78,000 × $\frac{1}{4}$)	19,500	

Depreciation debited in the books of account	55,000	
Drawings (not allowable since it is personal in nature) [See Note (iii)]	10,000	
Investment in NSC [See Note (iii)]	15,000	1,02,000
		12,22,000
<i>Add:</i> Under statement of closing stock		12,000
		12,34,000
<i>Less:</i> Under statement of opening stock		8,000
<i>Less:</i> Contribution to a University approved and notified under section 35(1)(ii) is eligible for 100% deduction. Since whole of the actual contribution (100%) has been debited to profit and loss account, no further adjustment is required.		-
		12,26,000
<i>Less:</i> Incomes credited to profit and loss account but not taxable as business income		
Income from UTI [taxable under the head "Income from other sources"]	22,000	
Interest on debentures (taxable under the head "Income from other sources")	17,500	
Winnings from horse races (taxable under the head "Income from other sources")	15,000	54,500
		11,71,500
<i>Less:</i> Depreciation allowable under the Income-tax Rules, 1962		50,000
		11,21,500

Notes:

- (i) Advertisement expenses of revenue nature, namely, gift of dry fruits to important customers, is incurred wholly and exclusively for business purposes. Hence, the same is allowable as deduction under section 37.

- (ii) Disallowance under section 40A(3) is not attracted in respect of cash payment exceeding ₹ 10,000 to A & Co., a goods transport operator, since, in case of payment made for plying, hiring or leasing goods carriages, an increased limit of ₹ 35,000 is applicable (i.e. payment of upto ₹ 35,000 can be made in cash without attracting disallowance under section 40A(3))
- (iii) Since drawings and investment in NSC have been given effect to in the profit and loss account, the same have to be added back to arrive at the business income.
- (iv) In point no. 9 of the question, it has been given that depreciation as per Income-tax Rules, 1962 is ₹ 50,000. It has been assumed that, in the said figure of ₹ 50,000, only the proportional depreciation (i.e., 75% for business purposes) has been included in respect of motor car.

2. Computation of "Income from Other Sources"

Particulars	₹
Dividend from UTI	22,000
Interest on debentures	17,500
Winnings from races	15,000
	54,500

Question 5

Balamurugan furnishes the following information for the year ended 31-03-2022:

Particulars	₹
Income from textile business	(1,35,000)
Income from house property	(15,000)
Lottery winning (Gross)	5,00,000
Speculation business income	1,00,000
Income by way of salary (Computed)	60,000
Long term capital gain u/s 112	70,000

Compute his total income, tax liability and advance tax obligations. Assume he does not opt for section 115BAC.

Answer**Computation of total income of Balamurugan for the year ended 31.03.2022**

Particulars	₹	₹
Salaries	60,000	
Less: Loss from house property (Can be set off from long term capital gain also)	(15,000)	
Net Salary (after set off of loss from house property)		45,000
Profits and gains of business or profession		
Speculation business income	1,00,000	
Less: Business loss of ₹ 1,35,000 set-off to the extent of ₹ 1,00,000	(1,00,000)	
	Nil	
Balance current year business loss of ₹ 35,000 to be set-off against long-term capital gain		
Capital Gains		
Long term capital gain	70,000	
Less: Balance current year business loss set-off	(35,000)	
Long term capital gain after set off of business loss		35,000
Income from other sources		
Lottery winnings (Gross)		5,00,000
Total Income		5,80,000

Computation of tax liability for A.Y.2022-23

Particulars	₹
On total income of ₹ 45,000 (excluding lottery winning and LTCG)	Nil
On LTCG of ₹ 35,000 (unexhausted basic exemption limit can be adjusted against LTCG taxable u/s 112)	Nil
On lottery winnings of ₹ 5,00,000 @ 30%	<u>1,50,000</u>
	1,50,000
Add: Health and Education cess @ 4%	6,000
Total tax liability	1,56,000

The assessee need not pay advance tax since the total income (excluding lottery income) liable to tax is below the basic exemption limit. Further, in respect of lottery income, tax would have been deducted at source @ 30% under section 194B. Since the remaining tax liability of ₹ 6,000 (₹ 1,56,000 – ₹ 1,50,000) is less than ₹ 10,000, advance tax liability is not attracted.

Notes:

- (1) The basic exemption limit of ₹ 2,50,000 has to be first exhausted against salary income of ₹ 45,000. The unexhausted basic exemption limit of ₹ 2,05,000 can be adjusted against long-term capital gains of ₹ 35,000 as per section 112, but not against lottery winnings which are taxable at a flat rate of 30% under section 115BB.
- (2) The first proviso to section 234C(1) provides that since it is not possible for the assessee to estimate his income from lotteries, the entire amount of tax payable (after considering TDS) on such income should be paid in the remaining instalments of advance tax which are due. Where no such instalment is due, the entire tax should be paid by 31st March, 2022. The first proviso to section 234C(1) would be attracted only in case of non-deduction or short-deduction of tax at source under section 194B. In this case, it has been assumed that tax deductible at source under section 194B has been fully deducted from lottery income. Since the remaining tax liability of ₹ 6,000 (₹ 1,56,000 – ₹ 1,50,000) is less than ₹ 10,000, advance tax liability is not attracted.

Question 6

Mr. Rajiv, aged 50 years, a resident individual and practicing Chartered Accountant, furnishes you the receipts and payments account for the financial year 2021-22.

Receipts and Payments Account

Receipts	₹	Payments	₹
Opening balance (1.4.2021)	12,000	Staff salary, bonus and stipend to articulated clerks	21,50,000
Cash on hand and at Bank		Other administrative expenses	11,48,000
Fee from professional services (Gross)	59,38,000	Office rent	30,000
Rent	50,000	Housing loan repaid to SBI (includes interest of ₹ 88,000)	1,88,000
Motor car loan from Canara Bank (@ 9% p.a.)	2,50,000		

	Life insurance premium (10% of sum assured)	24,000
	Motor car (acquired in Jan. 2022 by A/c payee cheque)	4,25,000
	Medical insurance premium (for self and wife)(paid by A/c Payee cheque)	18,000
	Books bought on 1.07.2021 (annual publications by A/c payee cheque)	20,000
	Computer acquired on 1.11.2021 by A/c payee cheque (for professional use)	30,000
	Domestic drawings	2,72,000
	Public provident fund subscription	20,000
	Motor car maintenance	10,000
	Closing balance (31.3.2022) Cash on hand and at Bank	19,15,000
	62,50,000	62,50,000

Following further information is given to you:

- (1) He occupies 50% of the building for own residence and let out the balance for residential use at a monthly rent of ₹ 5,000. The building was constructed during the year 1997-98, when the housing loan was taken.
- (2) Motor car was put to use both for official and personal purpose. One-fifth of the motor car use is for personal purpose. No car loan interest was paid during the year.
- (3) The written down value of assets as on 1-4-2021 are given below:

Furniture & Fittings	₹ 60,000
Plant & Machinery	₹ 80,000
(Air-conditioners, Photocopiers, etc.)	
Computers	₹ 50,000

Note: Mr. Rajiv follows regularly the cash system of accounting.

Compute the total income of Mr. Rajiv for the assessment year 2022-23 assuming that he has not opted to pay tax under section 115BAC.

Answer

Computation of total income of Mr. Rajiv for the assessment year 2022-23

Particulars	₹	₹	₹
Income from house property			
Self-occupied			
Annual value	Nil		
Less: Deduction under section 24(b)			
Interest on housing loan			
50% of ₹ 88,000 = 44,000 but limited to	30,000		
Loss from self occupied property		(30,000)	
Let out property			
Annual value (Rent receivable has been taken as the annual value in the absence of other information)	60,000		
Less: Deductions u/s 24			
30% of Net Annual Value	18,000		
Interest on housing loan (50% of ₹ 88,000)	44,000		
	62,000	(2,000)	
Loss from house property			(32,000)
Profits and gains of business or profession			
Fees from professional services		59,38,000	
Less: Expenses allowable as deduction			
Staff salary, bonus and stipend	21,50,000		
Other administrative expenses	11,48,000		
Office rent	30,000		
Motor car maintenance (10,000 x 4/5)	8,000		
Car loan interest – not allowable (since the same has not been paid and the assessee follows cash system of accounting)	Nil	33,36,000	
		26,02,000	

Motor car ₹ 4,25,000 x 7.5% x 4/5	25,500		
Books being annual publications@40%	8,000		
Furniture and fittings@10% of ₹ 60,000	6,000		
Plant and machinery@15% of ₹ 80,000	12,000		
Computer@40% of ₹ 50,000	20,000		
Computer (New) ₹ 30,000 @ 40% x 50%	6,000	77,500	25,24,500
Gross Total income			24,92,500
<i>Less: Deductions under Chapter VI-A</i>			
Deduction under section 80C			
Housing loan principal repayment	1,00,000		
PPF subscription	20,000		
Life insurance premium	24,000		
Total amount of ₹ 1,44,000 is allowed as deduction since it is within the limit of ₹ 1,50,000		1,44,000	
Deduction under section 80D			
Medical insurance premium paid ₹ 18,000		18,000	1,62,000
Total income			23,30,500

Question 7

From the following details, compute the total income and tax liability of Siddhant, aged 31 years, of Delhi both as per the regular provisions of the Income-tax Act, 1961 and as per section 115BAC for the A.Y.2022-23. Advise Mr. Siddhant whether he would opt for section 115BAC :

Particulars	₹
Salary including dearness allowance	3,35,000
Bonus	11,000
Salary of servant provided by the employer	12,000
Rent paid by Siddhant for his accommodation	49,600
Bills paid by the employer for gas, electricity and water provided free of cost at the above flat	11,000

Siddhant purchased a flat in a co-operative housing society in Delhi for ₹ 4,75,000 in April, 2015, which was financed by a loan from Life Insurance Corporation of India of ₹ 1,60,000@15% interest, his own savings of ₹ 65,000 and a deposit from a nationalized bank for ₹ 2,50,000 to whom this flat was given on lease for ten years. The rent payable by the bank was ₹ 3,500 per month. The following particulars are relevant:

- (a) Municipal taxes paid by Mr. Siddhant ₹ 4,300 (per annum)
- (b) House Insurance ₹ 860
- (c) He earned ₹ 2,700 in share speculation business and lost ₹ 4,200 in cotton speculation business.
- (d) In the year 2016-17, he had gifted ₹ 30,000 to his wife and ₹ 20,000 to his son who was aged 11. The gifted amounts were advanced to Mr. Rajesh, who was paying interest@19% per annum.
- (e) Siddhant received a gift of ₹ 30,000 each from four friends.
- (f) He contributed ₹ 50,000 to Public Provident Fund.

Answer

Computation of total income and tax liability of Siddhant for the A.Y. 2022-23

Particulars	₹	₹
Salary Income		
Salary including dearness allowance		3,35,000
Bonus		11,000
Value of perquisites:		
(i) Salary of servant	12,000	
(ii) Free gas, electricity and water	11,000	23,000
		3,69,000
Less: Standard deduction under section 16(ia)		50,000
		3,19,000
Income from house property		
Gross Annual Value (GAV) (Rent receivable is taken as GAV in the absence of other information) (₹ 3,500 × 12)	42,000	

Less: Municipal taxes paid	4,300	
Net Annual Value (NAV)	37,700	
Less: Deductions under section 24		
(i) 30% of NAV	₹ 11,310	
(ii) Interest on loan from LIC @15% of ₹ 1,60,000 [See Note 2]	₹ 24,000	
	35,310	2,390
Income from speculative business		
Income from share speculation business	2,700	
Less: Loss of ₹ 4,200 from cotton speculation business set-off to the extent of ₹ 2,700	2,700	Nil
Balance loss of ₹ 1,500 from cotton speculation business has to be carried forward to the next year as it cannot be set off against any other head of income.		
Income from Other Sources		
(i) Income on account of interest earned from advancing money gifted to his minor son is includible in the hands of Siddhant as per section 64(1A)	3,800	
Less: Exempt under section 10(32)	1,500	
	2,300	
(ii) Interest income earned from advancing money gifted to wife has to be clubbed with the income of the assessee as per section 64(1)	5,700	
(iii) Gift received from four friends (taxable under section 56(2)(x) as the aggregate amount received during the year exceeds ₹ 50,000)	1,20,000	1,28,000
Gross Total Income		4,49,390
Less: Deduction under section 80C		
Contribution to Public Provident Fund		50,000
Total Income		3,99,390

Particulars	₹
Tax on total income of ₹ 3,99,390 [₹ 3,99,390 – ₹ 2,50,000 = ₹ 1,49,390@5%]	7,470
Less: Rebate u/s 87A, since total income does not exceed ₹ 5,00,000	7,470
Tax liability	Nil

Computation of total income and tax liability of Siddhant in accordance with the provisions of section 115BAC for the A.Y. 2022-23

Particulars	₹	₹
Salary Income		
Salary including dearness allowance		3,35,000
Bonus		11,000
Value of perquisites:		
(i) Salary of servant	12,000	
(ii) Free gas, electricity and water	11,000	23,000
		3,69,000
Less: Standard deduction under section 16(ia) [not allowable as per section 115BAC(2)]		Nil
		3,69,000
Income from house property		
Gross Annual Value (GAV) (Rent receivable is taken as GAV in the absence of other information) (₹ 3,500 × 12)	42,000	
Less: Municipal taxes paid	4,300	
Net Annual Value (NAV)	37,700	
Less: Deductions under section 24		
(i) 30% of NAV	₹ 11,310	
(ii) Interest on loan from LIC @15% of ₹ 1,60,000 [See Note 2]	₹ 24,000	
	35,310	2,390
Income from speculative business		
Income from share speculation business	2,700	

Less: Loss of ₹ 4,200 from cotton speculation business set-off to the extent of ₹ 2,700	2,700	Nil
Balance loss of ₹ 1,500 from cotton speculation business has to be carried forward to the next year as it cannot be set off against any other head of income.		
Income from Other Sources		
(i) Income on account of interest earned from advancing money gifted to his minor son is includible in the hands of Siddhant as per section 64(1A) [Exemption under section 10(32) would not be available]	3,800	
(ii) Interest income earned from advancing money gifted to wife has to be clubbed with the income of the assessee as per section 64(1)	5,700	
(iii) Gift received from four friends (taxable under section 56(2)(x) as the aggregate amount received during the year exceeds ₹ 50,000)	1,20,000	1,29,500
Gross Total Income		5,00,890
Deduction under section 80C [No deduction under Chapter VI-A would be allowed as per section 115BAC(2)]		Nil
Total Income		5,00,890

Particulars	₹
Tax on total income [5% of ₹ 2,50,000 + 10% of ₹ 890]	12,589
Add: Health and education cess @4%	504
Tax liability	13,093
Tax liability (rounded off)	13,090

Since Mr. Siddhant is not liable to pay any tax as per the regular provisions of the Income-tax Act, 1961, it would be beneficial for him to **not** opt for section 115BAC for A.Y.2022-23.

Notes:

- (1) It is assumed that the entire loan of ₹ 1,60,000 is outstanding as on 31.3.2022;

- (2) Since Siddhant's own flat in a co-operative housing society, which he has rented out to a nationalized bank, is also in Delhi, he is not eligible for deduction under section 80GG in respect of rent paid by him for his accommodation in Delhi, since one of the conditions to be satisfied for claiming deduction under section 80GG is that the assessee should not own any residential accommodation in the same place.
- (3) Alternatively, computation total income as per the special provisions of section 115BAC can also be presented as follows:

Particulars	₹	₹
Total Income as per regular provisions of the Income-tax Act		3,99,390
Add:(i) Standard deduction u/s 16(ia), as it would not be allowable under the special provisions	50,000	
(ii) Exemption under section 10(32), as it would not be available under the special provisions	1,500	
(iii) Deduction under section 80C, as no deduction under Chapter VI-A would be allowed under the special provisions	<u>50,000</u>	1,01,500
Total Income		5,00,890

Question 8

Ramdin, aged 33 years, working as Manager (Sales) with Frozen Foods Ltd., provides the following information for the year ended 31.03.2022:

- Basic Salary ₹ 15,000 p.m.
- DA (50% of it is meant for retirement benefits) ₹ 12,000 p.m.
- Commission as a percentage of turnover of the Company 0.5 %
- Turnover of the Company ₹ 50 lacs
- Bonus ₹ 50,000
- Gratuity ₹ 30,000
- Own Contribution to R.P.F. ₹ 30,000
- Employer's contribution to R.P.F. 20% of basic salary
- Interest credited in the R.P.F. account @ 15% p.a. ₹ 15,000
- Gold Ring worth ₹ 10,000 was given by employer on his 25th wedding anniversary.

- Music System purchased on 01.04.2021 by the company for ₹ 85,000 and was given to him for personal use.
- Two old light goods vehicles owned by him were leased to a transport company against the fixed charges of ₹ 6,500 p.m. Books of account are not maintained.
- Received interest of ₹ 5,860 on bank FDRs on 24.4.2021 and interest of ₹ 6,786 (Net) from the debentures of Indian Companies on 5.5.2021.
- Made payment by cheques of ₹ 15,370 towards premium on Life Insurance policies and ₹ 22,500 for Mediclaim Insurance policy for self and spouse.
- Invested in NSC ₹ 30,000 and in FDR of SBI for 5 years ₹ 50,000.
- Donations of ₹ 11,000 to an institution approved u/s 80G and of ₹ 5,100 to Prime Minister's National Relief Fund were given during the year by way of cheque.

Compute the total income and tax payable thereon for the A.Y. 2022-23. Assume Ramdin does not opt for section 115BAC.

Answer

Computation of Total Income for the A.Y.2022-23

Particulars	₹	₹
Income from Salaries		
Basic Salary (₹ 15,000 x 12)		1,80,000
Dearness Allowance (₹ 12,000 x12)		1,44,000
Commission on Turnover (0.5% of ₹ 50 lacs)		25,000
Bonus		50,000
Gratuity (See Note 1)		30,000
Employer's contribution to recognized provident fund		
Actual contribution [20% of ₹ 1,80,000]	36,000	
Less: Exempt (See Note 2)	33,240	2,760
Interest credited in recognized provident fund account @15% p.a.	15,000	
Less: Exempt upto 9.5% p.a.	9,500	5,500
Gift of gold ring worth ₹ 10,000 on 25 th wedding anniversary by employer (See Note 3)		10,000

Perquisite value of music system given for personal use (being 10% of actual cost) i.e. 10% of ₹ 85,000		8,500
		4,55,760
Less: Standard deduction under section 16(ia)		50,000
		4,05,760
Profits and Gains of Business or Profession		
Lease of 2 light goods vehicles on contract basis against fixed charges of ₹ 6,500 p.m. In this case, presumptive tax provisions of section 44AE will apply i.e. ₹ 7,500 p.m. for each of the two light goods vehicle (₹ 7,500 x 2 x 12). He cannot claim lower profits and gains since he has not maintained books of account.		1,80,000
Income from Other Sources		
Interest on bank FDRs	5,860	
Interest on debentures (₹ 6786 x 100/90)	7,540	13,400
Gross total Income		5,99,160
Less: Deductions under Chapter VI-A		
Section 80C		
Premium on life insurance policy	15,370	
Investment in NSC	30,000	
FDR of SBI for 5 years	50,000	
Employee's contribution to recognized provident fund	30,000	1,25,370
Section 80D – Mediclaim Insurance		22,500
Section 80G (See Note 4)		10,600
Total Income		4,40,690
Tax on total income		
Income-tax [5% of ₹ 1,90,690 (i.e., ₹ 4,40,690 – ₹ 2,50,000)]		9,535
Add: Rebate u/s 87A, since total income does not exceed ₹ 5,00,000		9,535
Tax liability		Nil
Less: Tax deducted at source (₹ 7,540 – ₹ 6,786)		754
Net tax refundable		754
Tax refundable (rounded off)		750

Notes:

1. Gratuity received during service is fully taxable.
2. Employer's contribution in the recognized provident fund is exempt up to 12% of the salary i.e. 12% of (Basic Salary + DA for retirement benefits + Commission based on turnover)
 $= 12\% \text{ of } (\text{₹ } 1,80,000 + (50\% \text{ of } \text{₹ } 1,44,000) + \text{₹ } 25,000)$
 $= 12\% \text{ of } 2,77,000 = \text{₹ } 33,240$
3. An alternate view possible is that only the sum in excess of ₹ 5,000 is taxable in view of the language of *Circular No.15/2001 dated 12.12.2001* that such gifts upto ₹ 5,000 in the aggregate per annum would be exempt, beyond which it would be taxed as a perquisite. As per this view, the value of perquisite would be ₹ 5,000. In such a case the Income from Salaries would be ₹ 4,00,760.
4. Deduction under section 80G is computed as under:

Particulars	₹
Donation to PM National Relief Fund (100%)	5,100
Donation to institution approved under section 80G (50% of ₹ 11,000) (amount contributed ₹ 11,000 or 10% of Adjusted Total Income i.e. ₹ 45,129, whichever is lower)	5,500
Total deduction	10,600

Adjusted Total Income = Gross Total Income – Deductions under section 80C and 80D = ₹ 5,99,160 – ₹ 1,47,870 = ₹ 4,51,290.

Question 9

From the following particulars furnished by Mr. X for the year ended 31.3.2022, you are requested to compute his total income and tax payable for the assessment year 2022-23, assuming that he does not opt for paying tax under section 115BAC.

- (a) Mr. X retired on 31.12.2021 at the age of 58, after putting in 26 years and 1 month of service, from a private company at Mumbai.
- (b) He was paid a salary of ₹ 25,000 p.m. and house rent allowance of ₹ 6,000 p.m. He paid rent of ₹ 6,500 p.m. during his tenure of service.

- (c) On retirement, he was paid a gratuity of ₹ 3,50,000. He was covered by the payment of Gratuity Act. Mr. X had not received any other gratuity at any point of time earlier, other than this gratuity.
- (d) He had accumulated leave of 15 days per annum during the period of his service; this was encashed by Mr. X at the time of his retirement. A sum of ₹ 3,15,000 was received by him in this regard. His average salary for last 10 months may be taken as ₹ 24,500. Employer allowed 30 days leave per annum.
- (e) After retirement, he ventured into textile business and incurred a loss of ₹ 80,000 for the period upto 31.3.2022.
- (f) Mr. X has deposited ₹ 1,00,000 in public provident fund.

Answer

Computation of total income of Mr. X for A.Y.2022-23

Particulars	₹	₹
Income from Salaries		
Basic salary (₹ 25,000 x 9 months)		2,25,000
House rent allowance:		
Actual amount received (₹ 6,000 x 9 months)	54,000	
Less : Exemption under section 10(13A)(Note 1)	36,000	18,000
Gratuity:		
Actual amount received	3,50,000	
Less: Exemption under section 10(10)(ii) (Note 2)	3,50,000	-
Leave encashment:		
Actual amount received	3,15,000	
Less : Exemption under section 10(10AA) (Note 3)	2,45,000	70,000
Gross Salary		3,13,000
Less: Standard deduction under section 16(ia)		50,000
		2,63,000
Profits and gains of business or profession		
Business loss of ₹ 80,000 to be carried forward as the same cannot be set off against salary income		Nil
Gross Total income		2,63,000

Less : Deduction under section 80C		
Deposit in Public Provident Fund		1,00,000
Total income		1,63,000
Tax on total income (Nil, since it is lower than the basic exemption limit of ₹ 2,50,000)		Nil

Notes:

- (1) As per section 10(13A), house rent allowance will be exempt to the extent of least of the following three amounts:

	₹
(i) HRA actually received (₹ 6,000 x 9)	54,000
(ii) Rent paid in excess of 10% of salary (₹ 6,500 – ₹ 2,500) x 9 months	36,000
(iii) 50% of salary	1,12,500

- (2) Gratuity of ₹ 3,50,000 is exempt under section 10(10)(ii), being the minimum of the following amounts:

	₹
(i) Actual amount received	3,50,000
(ii) Half month salary for each year of completed service [(₹ 25,000 x 15/26) x 26 years]	3,75,000
(iii) Statutory limit	20,00,000

- (3) Leave encashment is exempt upto the least of the following:

	₹
(i) Actual amount received	3,15,000
(ii) 10 months average salary (₹ 24,500 x 10)	2,45,000
(iii) Cash equivalent of unavailed leave calculated on the basis of maximum 30 days for every year of actual service rendered to the employer from whose service he retired (See Note 4 below)	3,18,500
(iv) Statutory limit	3,00,000

- (4) Since the leave entitlement of Mr. X as per his employer's rules is 30 days credit for each year of service and he had accumulated 15 days per annum

during the period of his service, he would have availed/taken the balance 15 days leave every year.

Leave entitlement of Mr. X on the basis of 30 days for every year of actual service rendered by him to the employer	= 30 days/year x 26 = 780 days
Less: Leave taken /availed by Mr. X during the period of his service	= 15 days/year x 26 = 390 days
Earned leave to the credit of Mr. X at the time of his retirement	390 days
Cash equivalent of earned leave to the credit of Mr. X at the time of his retirement	= 390 × ₹ 24,500 /30 = ₹ 3,18,500

Question 10

Rosy and Mary are sisters, born and brought up at Mumbai. Rosy got married in 1982 and settled at Canada since 1982. Mary got married and settled in Mumbai. Both of them are below 60 years. The following are the details of their income for the previous year ended 31.3.2022:

S. No.	Particulars	Rosy ₹	Mary ₹
1.	Pension received from State Government	--	60,000
2.	Pension received from Canadian Government	20,000	--
3.	Long-term capital gain on sale of land at Mumbai	1,00,000	1,00,000
4.	Short-term capital gain on sale of shares of Indian listed companies in respect of which STT was paid	20,000	2,50,000
5.	LIC premium paid	--	10,000
6.	Premium paid to Canadian Life Insurance Corporation at Canada	40,000	--
7.	Mediclaim policy premium paid by A/c Payee Cheque	--	25,000
8.	Deposit in PPF	--	20,000

9.	Rent received in respect of house property at Mumbai	60,000	30,000
----	--	--------	--------

Compute the taxable income and tax liability of Mrs. Rosy and Mrs. Mary for the Assessment Year 2022-23 and tax thereon. Ignore the provisions of section 115BAC.

Answer

Computation of taxable income of Mrs. Rosy and Mrs. Mary for the A.Y.2022-23

S. No.	Particulars	Mrs. Rosy (Non-resident)	Mrs. Mary (ROR)
		₹	₹
(I)	Salaries		
	Pension received from State Govt. ₹ 60,000		
	Less: Standard deduction u/s 16(ia) ₹ 50,000	-	10,000
	Pension received from Canadian Government is not taxable in the case of a non-resident since it is earned and received outside India	-	-
		-	10,000
(II)	Income from house property		
	Rent received from house property at Mumbai (assumed to be the annual value in the absence of other information i.e. municipal value, fair rent and standard rent)	60,000	30,000
	Less: Deduction under section 24(a)@30%	18,000	9,000
		42,000	21,000
(III)	Capital gains		
	Long-term capital gain on sale of land at Mumbai	1,00,000	1,00,000
	Short term capital gain on sale of shares of Indian listed companies in respect of which STT was paid	20,000	2,50,000
		1,20,000	3,50,000

(A)	Gross Total Income [(I)+(II)+(III)]	1,62,000	3,81,000
	<i>Less: Deductions under Chapter VIA</i>		
1.	Deduction under section 80C		
	1. LIC Premium paid	-	10,000
	2. Premium paid to Canadian Life Insurance Corporation	40,000	-
	3. Deposit in PPF	-	20,000
		40,000	30,000
2.	Deduction under section 80D – Medclaim premium paid		25,000
		40,000	55,000
(B)	Total deduction under Chapter VI-A is restricted to income other than capital gains taxable under sections 111A & 112	40,000	31,000
(C)	Total income (A-B)	1,22,000	3,50,000
	Tax liability of Mrs. Rosy for A.Y.2022-23		
	Tax on long-term capital gains @20% of ₹ 1,00,000	20,000	
	Tax on short-term capital gains @15% of ₹ 20,000	3,000	
	Tax on balance income of ₹ 2,000	Nil	
		23,000	
	Tax liability of Mrs. Mary for A.Y.2022-23		
	Tax on STCG @15% of ₹ 1,00,000 [i.e. ₹ 2,50,000 less ₹ 1,50,000, being the unexhausted basic exemption limit as per proviso to section 111A] [See Notes 3 & 4 below]		15,000
	<i>Less: Rebate under section 87A would be lower of ₹ 12,500 or tax liability, since total income does not exceed ₹ 5,00,000</i>		12,500
			2,500
	<i>Add: Health and Education cess@4%</i>	920	100
	Total tax liability	23,920	2,600

Notes:

- (1) Long-term capital gains on sale of land is chargeable to tax@20% as per section 112.
- (2) Short-term capital gains on transfer of equity shares in respect of which securities transaction tax is paid is subject to tax@15% as per section 111A.
- (3) In case of resident individuals, if the basic exemption limit is not fully exhausted against other income, then, the long-term capital gains u/s 112/short-term capital gains u/s 111A will be reduced by the unexhausted basic exemption limit and only the balance will be taxed at 20%/15%, respectively. However, this benefit is not available to non-residents. Therefore, while Mrs. Mary can adjust unexhausted basic exemption limit against long-term capital gains taxable under section 112 and short-term capital gains taxable under section 111A, Mrs. Rosy cannot do so.
- (4) Since long-term capital gains is taxable at the rate of 20% and short-term capital gains is taxable at the rate of 15%, it is more beneficial for Mrs. Mary to first exhaust her basic exemption limit of ₹ 2,50,000 against long-term capital gains of ₹ 100,000 and the balance limit of ₹ 1,50,000 (i.e., ₹ 2,50,000 – ₹ 1,50,000) against short-term capital gains.
- (5) Rebate under section 87A would not be available to Mrs. Rosy even though her total income does not exceed ₹ 5,00,000, since she is non-resident for the A.Y. 2022-23.

Question 11

Mr. X, an individual set up a unit in Special Economic Zone (SEZ) in the financial year 2017-18 for production of washing machines. The unit fulfills all the conditions of section 10AA of the Income-tax Act, 1961. During the financial year 2020-21, he has also set up a warehousing facility in a district of Tamil Nadu for storage of agricultural produce. It fulfills all the conditions of section 35AD. Capital expenditure in respect of warehouse amounted to ₹ 75 lakhs (including cost of land ₹ 10 lakhs). The warehouse became operational with effect from 1st April, 2021 and the expenditure of ₹ 75 lakhs was capitalized in the books on that date.

Relevant details for the financial year 2021-22 are as follows:

Particulars	₹
<i>Profit of unit located in SEZ</i>	<i>40,00,000</i>

Export sales of above unit	80,00,000
Domestic sales of above unit	20,00,000
Profit from operation of warehousing facility (before considering deduction under Section 35AD)	1,05,00,000

Compute income-tax (including AMT under Section 115JC) liability of Mr. X for Assessment Year 2022-23 both as per regular provisions of the Income-tax Act and as per section 115BAC for Assessment Year 2022-23. Advise Mr. X whether he should opt for section 115BAC.

Answer

Computation of total income and tax liability of Mr. X for A.Y.2022-23 (under the regular provisions of the Income-tax Act, 1961)

Particulars	₹	₹
Profits and gains of business or profession		
Profit from unit in SEZ	40,00,000	
Less: Deduction u/s 10AA [See Note (1) below]	32,00,000	
Business income of SEZ unit chargeable to tax		8,00,000
Profit from operation of warehousing facility	1,05,00,000	
Less: Deduction u/s 35AD [See Note (2) below]	65,00,000	
Business income of warehousing facility chargeable to tax		40,00,000
Total Income		48,00,000
Computation of tax liability (under the normal/regular provisions)		
Tax on ₹ 48,00,000		12,52,500
Add: Health and Education cess@4%		50,100
Total tax liability		13,02,600

Computation of adjusted total income of Mr. X for levy of Alternate Minimum Tax

Particulars	₹	₹
Total Income (computed above as per regular provisions of income tax)		48,00,000
Add: Deduction under section 10AA		32,00,000
		80,00,000
Add: Deduction under section 35AD	65,00,000	
Less: Depreciation under section 32		
On building @10% of ₹ 65 lakhs ²	6,50,000	58,50,000
Adjusted Total Income		1,38,50,000
Alternate Minimum Tax@18.5%		25,62,250
Add: Surcharge@15% (since adjusted total income > ₹ 1 crore)		3,84,338
		29,46,588
Add: Health and Education cess@4%		1,17,863
		30,64,451
Tax liability u/s 115JC (rounded off)		30,64,450

Since the regular income-tax payable is less than the alternate minimum tax payable, the adjusted total income shall be deemed to be the total income and tax is leviable @18.5% thereof *plus* surcharge@15% and cess@4%. Therefore, tax liability as per section 115JC is ₹ 30,64,450.

Computation of total income and tax liability of Mr. X for A.Y.2022-23 (under the provisions of section 115BAC of the Income-tax Act, 1961)

Particulars	₹	₹
Total Income (as computed above as per regular provisions of income tax)		48,00,000
Add: Deduction under section 10AA (not allowable)		32,00,000
		80,00,000

² Assuming the capital expenditure of ₹ 65 lakhs is incurred entirely on buildings

Add: Deduction under section 35AD	65,00,000	
Less: Depreciation under section 32 On building @10% of ₹ 65 lakhs ³ (normal depreciation under section 32 is allowable)	6,50,000	58,50,000
Total Income		1,38,50,000
Computation of tax liability as per section 115BAC		
Tax on ₹ 1,38,50,000		38,92,500
Add: Surcharge@15%		5,83,875
		44,76,375
Add: Health and Education cess@4%		1,79,055
Total tax liability		46,55,430

Notes:

- (1) Deductions u/s 10AA and 35AD are **not** allowable as per section 115BAC(2). However, normal depreciation u/s 32 is allowable.
- (2) Individuals or HUFs exercising option u/s 115BAC are **not** liable to alternate minimum tax u/s 115JC.

Since the tax liability of Mr. X under section 115JC is lower than the tax liability as computed u/s 115BAC, it would be beneficial for him **not to opt for section 115BAC for A.Y. 2022-23**. Moreover, benefit of alternate minimum tax credit is also available to the extent of tax paid in excess over regular tax.

AMT Credit to be carried forward under section 115JEE

	₹
Tax liability under section 115JC	30,64,450
Less: Tax liability under the regular provisions of the Income-tax Act, 1961	13,02,600
	17,61,850

³ Assuming the capital expenditure of ₹ 65 lakhs is incurred entirely on buildings

Notes:**(1) Deduction under section 10AA in respect of Unit in SEZ =**

$$\text{Profit of the Unit in SEZ} \times \frac{\text{Export turnover of the Unit in SEZ}}{\text{Total turnover of the Unit in SEZ}}$$

$$₹40,00,000 \times \frac{₹80,00,000}{₹1,00,00,000} = ₹ 32,00,000$$

(2) Deduction@100% of the capital expenditure is available under section 35AD for A.Y.2022-23 in respect of specified business of setting up and operating a warehousing facility for storage of agricultural produce which commences operation on or after 01.04.2009.

Further, the expenditure incurred, wholly and exclusively, for the purposes of such specified business, shall be allowed as deduction during the previous year in which he commences operations of his specified business if the expenditure is incurred prior to the commencement of its operations and the amount is capitalized in the books of account of the assessee on the date of commencement of its operations.

Deduction under section 35AD would, however, **not** be available on expenditure incurred on acquisition of land.

In this case, since the capital expenditure of ₹ 65 lakhs (i.e., ₹ 75 lakhs – ₹ 10 lakhs, being expenditure on acquisition of land) has been incurred in the F.Y.2020-21 and capitalized in the books of account on 1.4.2021, being the date when the warehouse became operational, ₹ 65,00,000, being 100% of ₹ 65 lakhs would qualify for deduction under section 35AD.

**ADVANCE TAX, TAX
DEDUCTION AT SOURCE
AND INTRODUCTION TO
TAX COLLECTION
AT SOURCE**



ILLUSTRATION 1

Examine the TDS implications under section 194A in the cases mentioned hereunder—

- (i) On 1.10.2021, Mr. Harish made a six-month fixed deposit of ₹ 10 lakh@9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2022.
- (ii) On 1.6.2021, Mr. Ganesh made three nine months fixed deposits of ₹ 3 lakh each, carrying interest@9% p.a. with Dwarka Branch, Janakpuri Branch and Rohini Branch of XYZ Bank, a bank which has adopted CBS. The fixed deposits mature on 28.2.2022.
- (iii) On 1.10.2021, Mr. Rajesh started a six months recurring deposit of ₹ 2,00,000 per month@8% p.a. with PQR Bank. The recurring deposit matures on 31.3.2022.

SOLUTION

- (i) ABC Co-operative Bank has to deduct tax at source@10% on the interest of ₹ 45,000 ($9\% \times ₹ 10 \text{ lakh} \times \frac{1}{2}$) under section 194A. The tax deductible at source under section 194A from such interest is, therefore, ₹ 4,500.
- (ii) XYZ Bank has to deduct tax at source@10% u/s 194A, since the aggregate interest on fixed deposit with the three branches of the bank is ₹ 60,750 [$3,00,000 \times 3 \times 9\% \times \frac{9}{12}$], which exceeds the threshold limit of ₹ 40,000. Since XYZ Bank has adopted CBS, the aggregate interest credited/paid by all branches has to be considered. Since the aggregate interest of ₹ 60,750 exceeds the threshold limit of ₹ 40,000, tax has to be deducted@10% u/s 194A.
- (iii) No tax has to be deducted under section 194A by PQR Bank on the interest of ₹ 28,000 falling due on recurring deposit on 31.3.2022 to Mr. Rajesh, since such interest does not exceed the threshold limit of ₹ 40,000.

the amounts of such sums credited or paid or likely to be credited or paid to the contractor during the financial year exceeds ₹ 1,00,000.

ILLUSTRATION 2

ABC Ltd. makes the following payments to Mr. X, a contractor, for contract work during the P.Y.2021-22-

₹ 20,000 on 1.5.2021

₹ 25,000 on 1.8.2021

₹ 28,000 on 1.12.2021

On 1.3.2022, a payment of ₹ 30,000 is due to Mr. X on account of a contract work.

Discuss whether ABC Ltd. is liable to deduct tax at source under section 194C from payments made to Mr. X.

SOLUTION

In this case, the individual contract payments made to Mr. X does not exceed ₹ 30,000. However, since the aggregate amount paid to Mr. X during the P.Y. 2021-22 exceeds ₹ 1,00,000 (on account of the last payment of ₹ 30,000, due on 1.3.2022, taking the total from ₹ 73,000 to ₹ 1,03,000), the TDS provisions under section 194C would get attracted. Tax has to be deducted@1% on the entire amount of ₹ 1,03,000 from the last payment of ₹ 30,000 and the balance of ₹ 28,970 (i.e., ₹ 30,000 – ₹ 1,030) has to be paid to Mr. X.

ILLUSTRATION 3

Certain concessions are granted to transport operators in the context of cash payments u/s 40A(3) and deduction of tax at source u/s 194-C. Elucidate.

SOLUTION

Section 40A(3) provides for disallowance of expenditure incurred in respect of which payment or aggregate of payments made to a person in a day exceeds ₹ 10,000, and such payment or payments are made otherwise than by account payee cheque or account payee bank draft or use of electronic clearing system through bank account or through other prescribed electronic modes.

However, in case of payment made to transport operators for plying, hiring or leasing goods carriages, the disallowance will be attracted only if the payment made to a person in a day exceeds ₹ 35,000. Therefore, payment or aggregate of payments up to ₹ 35,000 in a day can be made to a transport operator otherwise than by way of account payee cheque or account payee bank draft or use of electronic system through bank account or through other prescribed electronic modes, without attracting disallowance u/s 40A(3).

Under section 194C, tax had to be deducted in respect of payments made to contractors at the rate of 1%, in case the payment is made to individual or Hindu Undivided Family or at the rate of 2%, in any other case.

However, no deduction is required to be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor, during the course of the business of plying, hiring or leasing goods carriages, if the following conditions are fulfilled:-

- (1) He owns ten or less goods carriages at any time during the previous year.
- (2) He is engaged in the business of plying, hiring or leasing goods carriages;
- (3) He has furnished a declaration to this effect along with his PAN.

- (i) *Mr. X, a resident, is due to receive ₹ 4.50 lakhs on 31.3.2022, towards maturity proceeds of LIC policy taken on 1.4.2019, for which the sum assured is ₹ 4 lakhs and the annual premium is ₹ 1,25,000.*
- (ii) *Mr. Y, a resident, is due to receive ₹ 3.95 lakhs on 31.3.2022 on LIC policy taken on 31.3.2012, for which the sum assured is ₹ 3.50 lakhs and the annual premium is ₹ 30,100.*
- (iii) *Mr. Z, a resident, is due to receive ₹ 95,000 on 1.8.2021 towards maturity proceeds of LIC policy taken on 1.8.2015 for which the sum assured is ₹ 90,000 and the annual premium was ₹ 10,000.*

SOLUTION

- (i) Since the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, the maturity proceeds of ₹ 4.50 lakhs due on 31.3.2022 are not exempt under section 10(10D) in the hands of Mr. X. Therefore, tax is required to be deducted@5% under section 194DA on the amount of income comprised therein i.e., on ₹ 75,000 (₹ 4,50,000, being maturity proceeds - ₹ 3,75,000, being the aggregate amount of insurance premium paid).
- (ii) Since the annual premium is less than 20% of sum assured in respect of a policy taken before 1.4.2012, the sum of ₹ 3.95 lakhs due to Mr. Y would be exempt under section 10(10D) in his hands. Hence, no tax is required to be deducted at source under section 194DA on such sum payable to Mr. Y.
- (iii) Even though the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, and consequently, the maturity proceeds of ₹ 95,000 due on 1.8.2021 would not be exempt under section 10(10D) in the hands of Mr. Z, the tax deduction provisions under section 194DA are not attracted since the maturity proceeds are less than ₹ 1 lakh.

ILLUSTRATION 5

Calculate the amount of tax to be deducted at source (TDS) on payment made to Ricky Ponting, an Australian cricketer non-resident in India, by a newspaper for contribution of articles ₹ 25,000.

SOLUTION

Under section 194E, the person responsible for payment of any amount to a non-resident sportsman for contribution of articles relating to any game or sport in India in a newspaper shall deduct tax @20%. Further, since Ricky Ponting is a

non-resident, health and education cess @4% on TDS would also be added.

Therefore, tax to be deducted = ₹ 25,000 x 20.8% = ₹ 5,200.

ILLUSTRATION 6

Moon TV, a television channel, made payment of ₹ 50 lakhs to a production house for production of programme for telecasting as per the specifications given by the channel. The copyright of the programme is also transferred to Moon TV. Would such payment be liable for tax deduction at source under section 194C? Discuss.

Also, examine whether the provisions of tax deduction at source under section 194C would be attracted if the payment was made by Moon TV for acquisition of telecasting rights of the content already produced by the production house.

SOLUTION

In this case, since the programme is produced by the production house as per the specifications given by Moon TV, a television channel, and the copyright is also transferred to the television channel, the same falls within the scope of definition of the term 'work' under section 194C. Therefore, the payment of ₹ 50 lakhs made by Moon TV to the production house would be subject to tax deduction at source under section 194C.

If, however, the payment was made by Moon TV for acquisition of telecasting rights of the content already produced by the production house, there is no contract for "carrying out any work", as required in section 194C(1). Therefore, such payment would not be liable for tax deduction at source under section 194C.

ILLUSTRATION 7


Mr. X sold his house property in Bangalore as well as his rural agricultural land for a consideration of ₹ 60 lakh and ₹ 15 lakh, respectively, to Mr. Y on 1.8.2021. He has purchased the house property and the land in the year 2020 for ₹ 40 lakh and ₹ 10 lakh, respectively. The stamp duty value on the date of transfer, i.e., 1.8.2021, is ₹ 85 lakh and ₹ 20 lakh for the house property and rural agricultural land, respectively. Examine the tax implications in the hands of Mr. X and Mr. Y and the TDS implications, if any, in the hands of Mr. Y, assuming that both Mr. X and Mr. Y are resident Indians.

SOLUTION

(i) Tax implications in the hands of Mr. X

As per section 50C, the stamp duty value of house property (i.e. ₹ 85 lakh) would be deemed to be the full value of consideration arising on transfer of property, since the stamp duty value exceeds 110% of the consideration received. Therefore, ₹ 45 lakh (i.e., ₹ 85 lakh – ₹ 40 lakh, being the purchase price) would be taxable as short-term capital gains in the A.Y.2022-23.

Since rural agricultural land is not a capital asset, the gains arising on sale of such land is not taxable in the hands of Mr. X.



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ILLUSTRATION 8

Mr. X, a salaried individual, pays rent of ₹ 55,000 per month to Mr. Y from June, 2021. Is he required to deduct tax at source? If so, when is he required to deduct tax? Also, compute the amount of tax to be deducted at source.

Would your answer change if Mr. X vacated the premises on 31st December, 2021?

Also, what would be your answer if Mr. Y does not provide his PAN to Mr. X?

SOLUTION

Since Mr. X pays rent exceeding ₹ 50,000 per month in the F.Y. 2021-22, he is liable to deduct tax at source @5% of such rent for F.Y. 2021-22 under section 194-IB. Thus, ₹ 27,500 [₹ 55,000 x 5% x 10] has to be deducted from rent payable for March, 2022.

If Mr. X vacated the premises in December, 2021, then tax of ₹ 19,250 [₹ 55,000 x 5% x 7] has to be deducted from rent payable for December, 2021.

In case Mr. Y does not provide his PAN to Mr. X, tax would be deductible@20%, instead of 5%.

In case 1 above, this would amount to ₹ 1,10,000 [$₹ 55,000 \times 20\% \times 10$], but the same has to be restricted to ₹ 55,000, being rent for March, 2022.

In case 2 above, this would amount to ₹ 77,000 [$₹ 55,000 \times 20\% \times 7$], but the same has to be restricted to ₹ 55,000, being rent for December, 2021.

ILLUSTRATION 9

XYZ Ltd. makes a payment of ₹ 28,000 to Mr. Ganesh on 2.8.2021 towards fees for professional services and another payment of ₹ 25,000 to him on the same date towards fees for technical services. Discuss whether TDS provisions under section 194J are attracted.

SOLUTION

TDS provisions under section 194J would not get attracted, since the limit of ₹ 30,000 is applicable for fees for professional services and fees for technical services, separately. It is assumed that there is no other payment to Mr. Ganesh towards fees for professional services and fees for technical services during the P.Y.2021-22.

ILLUSTRATION 10

Examine whether TDS provisions would be attracted in the following cases, and if so, under which section. Also specify the rate of TDS applicable in each case. Assume that all payments are made to residents.

	Particulars of the payer	Nature of payment	Aggregate of payments made in the F.Y.2021-22
1	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y.2020-21	Contract Payment for repair of residential house	₹5 lakhs
		Payment of commission to Mr. Vallish for business purposes	₹ 80,000
2.	Mr. Rajesh, a wholesale trader whose turnover was ₹95 lakhs in P.Y. 2020-21.	Contract Payment for reconstruction of residential house (made during the period January-March, 2022)	₹ 20 lakhs in January, 2022, ₹ 15 lakhs in Feb 2022 and ₹ 20 lakhs in March 2022.

3.	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house in March, 2022	₹51 lakhs
4.	Mr. Dheeraj, a pensioner	Contract payment made during October-November 2021 for reconstruction of residential house	₹48 lakhs

SOLUTION

	Particulars of the payer	Nature of payment	Aggregate of payments in the F.Y.2021-22	Whether TDS provisions are attracted?
1	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y.2020-21	Contract Payment for repair of residential house	₹ 5 lakhs	No; TDS under section 194C is not attracted since the payment is for personal purpose. TDS under section 194M is not attracted as aggregate of contract payment to the payee in the P.Y.2021-22 does not exceed ₹ 50 lakh.
		Payment of commission to Mr. Vallish for business purposes	₹ 80,000	Yes, u/s 194H, since the payment exceeds ₹ 15,000, and Mr. Ganesh's turnover exceeds ₹ 1 crore in the P.Y.2020-21.
2.	Mr. Rajesh, a wholesale trader whose turnover was ₹ 95 lakhs in P.Y. 2020-21	Contract Payment for reconstruction of residential house	₹ 55 lakhs	Yes, u/s 194M, since the aggregate of payments (i.e., ₹ 55 lakhs) exceed ₹ 50 lakhs. Since, his turnover does not exceed 1 crore in the P.Y.2020-21, TDS provisions under section 194C are not attracted in respect of payments made in the P.Y.2021-22.

3.	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house	₹ 51 lakhs	Yes, u/s 194M, since the payment of ₹ 51 lakhs made in March 2022 exceeds the threshold of ₹ 50 lakhs. Since Mr. Satish is a salaried individual, the provisions of section 194H are not applicable in this case.
4.	Mr. Dheeraj, a pensioner	Contract payment for reconstruction of residential house	₹ 48 lakhs	TDS provisions under section 194C are not attracted since Mr. Dheeraj is a pensioner. TDS provisions under section 194M are also not applicable in this case, since the payment of ₹ 48 lakhs does not exceed the threshold of ₹ 50 lakhs.

ILLUSTRATION 11

Mr. Sharma, a resident Indian aged 77 years, gets pension of ₹ 52,000 per month from the UP State Government. The same is credited to his savings account in SBI, Lucknow Branch. In addition, he gets interest@8% on fixed deposit of ₹ 20 lakh with the said bank. Out of the deposit of ₹ 20 lakh, ₹ 2 lakh represents five year term deposit made by him on 1.4.2021. Interest on savings bank credited to his SBI savings account for the P.Y.2021-22 is ₹ 9,500.

- (1) From the above facts, compute the total income and tax liability of Mr. Sharma for the A.Y. 2022-23, assuming that he has not opted for section 115BAC.
- (2) What would be the amount of tax deductible at source by SBI, assuming that the same is a specified bank? Is Mr. Sharma required to file his return of income for A.Y.2022-23, if tax deductible at source has been fully deducted? Examine.
- (3) Would your answer to Q.2 be different if the fixed deposit of ₹ 20 lakh was with Canara Bank instead of SBI, other facts remaining the same?

SOLUTION**(1) Computation of total income of Mr. Sharma for A.Y.2022-23**

Particulars	₹	₹
I Salaries		
Pension (52,000 x 12)	6,24,000	
Less: Standard deduction u/s 16(ia)	50,000	
		5,74,000
II Income from Other Sources		
Interest on fixed deposit (₹ 20 lakh x 8%)	1,60,000	
Interest on savings account	9,500	1,69,500
Gross total income		7,43,500
Less: Deductions under Chapter VI-A		
Under Section 80C		
Five year term deposit (₹ 2 lakh, restricted to ₹ 1.5 lakh)	1,50,000	
Under section 80TTB		
Interest on fixed deposit and savings account, restricted to 50,000, since Mr. Sharma is a resident Indian of the age of 77 years.	50,000	2,00,000
Total Income		5,43,500

Computation of tax liability for A.Y.2022-23	
Tax payable [₹ 43,500 x 20% + ₹ 10,000]	18,700
Add: Health and Education Cess@4%	748
Tax liability	19,448
Tax liability (rounded off)	19,450

- (2) SBI, being a specified bank, is required to deduct tax at source u/s 194P (after considering the tax, if any, deducted on pension u/s 192) and remit the same to the Central Government. In such a case, Mr. Sharma would not be required to file his return of income u/s 139.
- (3) If the fixed deposit of ₹20 lakh is with a bank other than SBI, which is the bank where his pension is credited, then, Mr. Sharma would not qualify as a "specified senior citizen", consequent to which SBI would not be liable to deduct tax under section 194P. In this case, Mr. Sharma would have to file his return of income u/s 139, since his total income (without giving effect to deduction under Chapter VI-A) exceeds the basic exemption limit.

It may be noted that in this case, TDS provisions u/s 192 would, in any case, be attracted in respect of pension income. Further, Canara Bank would, be liable to deduct tax@10% under section 194-A on interest on fixed deposit, since the same exceeds ₹50,000.

ILLUSTRATION 12

Mr. Gupta, a resident Indian, is in retail business and his turnover for F.Y.2020-21 was ₹ 12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler, and the aggregate payments during the F.Y.2021-22 was ₹ 95 lakh (₹ 20 lakh on 1.6.2021, ₹ 25 lakh on 12.8.2021, ₹ 22 lakh on 23.11.2021 and ₹ 28 lakh on 25.3.2022). Assume that the said amounts were credited to Mr. Agarwal's

account in the books of Mr. Gupta on the same date. Mr. Agarwal's turnover for F.Y.2020-21 was ₹ 15 crores.

- (1) Based on the above facts, examine the TDS/TCS implications, if any, under the Income-tax Act, 1961.
- (2) Would your answer be different if Mr. Gupta's turnover for F.Y.2020-21 was ₹ 8 crores, all other facts remaining the same?
- (3) Would your answer to (1) and (2) change, if PAN has not been furnished by the buyer or seller, as required?

SOLUTION

- (1) Since Mr. Gupta's turnover for F.Y.2020-21 exceeds 10 crores, and payments made by him to Mr. Agarwal, a resident seller exceed ₹ 50 lakhs in the P.Y.2021-22, he is liable to deduct tax@0.1% of ₹ 45 lakhs (being the sum exceeding ₹ 50 lakhs) in the following manner –

No tax is to be deducted u/s 194Q on the payments made on 1.6.2021 and 12.8.2021, since the aggregate payments till that date i.e. 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.

Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 22 lakh on 23.11.2021 [₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit].

Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 28 lakhs on 25.3.2022.

Note – In this case, since both section 194Q and 206C(1H) applies, tax has to be deducted u/s 194Q.

- (2) If Mr. Gupta's turnover for the F.Y.2020-21 was only ₹ 8 crores, TDS provisions under section 194Q would not be attracted. However, TCS provisions under section 206C(1H) would be attracted in the hands of Mr. Agarwal, since his turnover exceeds ₹ 10 crores in the F.Y.2020-21 and his receipts from Mr. Gupta exceed ₹ 50 lakhs.

No tax is to be collected u/s 206C(1H) on 1.6.2021 and 12.8.2021, since the aggregate receipts till that date i.e. 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.

Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be collected u/s 206C(1H) on 23.11.2021 (₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit).

Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be collected u/s 206C(1H) on 25.3.2022.

- (3) In case (1), if PAN is not furnished by Mr. Agarwal to Mr. Gupta, then, Mr. Gupta has to deduct tax@5%, instead of 0.1%. Accordingly, tax of ₹ 85,000 (i.e., 5% of ₹ 17 lakhs) and ₹ 1,40,000 (5% of ₹ 28 lakhs) has to be deducted by Mr. Gupta u/s 194Q on 23.11.2021 and 25.3.2022, respectively.

In case (2), if PAN is not furnished by Mr. Gupta to Mr. Agarwal, then, Mr. Agarwal has to collect tax@1% instead of 0.1%. Accordingly, tax of ₹ 17,000 (i.e., 1% of ₹ 17 lakhs) and ₹ 28,000 (1% of ₹ 28 lakhs) has to be collected by Mr. Agarwal u/s 206C(1H) on 23.11.2021 and 25.3.2022, respectively.

ILLUSTRATION 13

An amount of ₹ 40,000 was paid to Mr. X on 1.7.2021 towards fees for professional services without deduction of tax at source. Subsequently, another payment of ₹ 50,000 was due to Mr. X on 28.2.2022, from which tax@10% (amounting to ₹ 9,000) on the entire amount of ₹ 90,000 was deducted. However, this tax of ₹ 9,000 was deposited only on 22.6.2022. Compute the interest chargeable under section 201(1A).

SOLUTION

Interest under section 201(1A) would be computed as follows –

Particulars	₹
1% on tax deductible but not deducted i.e., 1% on ₹ 4,000 for 8 months	320
1½% on tax deducted but not deposited i.e. 1½% on ₹ 9,000 for 4 months ⁷	540
	860

- (ii) Such interest should be paid before furnishing the statements in accordance with section 200(3).
- (iii) Where the payer fails to deduct the whole or any part of the tax on the amount credited or payment made to a payee and is not deemed to be an assessee-in-default under section 201(1) on account of payment of taxes by such payee, interest under section 201(1A)(i) i.e., @1% p.m. or part of month, shall be payable by the payer from the date on which such tax was deductible to the date of furnishing of return of income by such payee. The date of deduction and payment of taxes by the payer shall be deemed to be the date on which return of income has been furnished by the payee.
- (iv) Where the tax has not been paid after it is deducted, the amount of the tax together with the amount of simple interest thereon shall be a charge upon all the assets of the person or the company, as the case may be.

TEST YOUR KNOWLEDGE

Question 1

Ashwin doing manufacture and wholesale trade furnishes you the following information:

Total turnover for the financial year

Particulars	₹
2020-21	1,05,00,000
2021-22	95,00,000

Examine whether tax deduction at source provisions are attracted for the below said expenses incurred during the financial year 2021-22:

Particulars	₹
Interest paid to UCO Bank on 15.8.2021	41,000
Contract payment to Raj (2 contracts of ₹ 12,000 each) on 12.12.2021	24,000
Shop rent paid (one payee) on 21.1.2022	2,50,000
Commission paid to Balu on 15.3.2022	7,000

Answer

As the turnover of business carried on by Ashwin for F.Y. 2020-21, has exceeded ₹ 1 crore, he has to comply with the tax deduction provisions during the financial year 2021-22, subject to, the exemptions provided for under the relevant sections for applicability of TDS provisions.

Interest paid to UCO Bank

TDS under section 194A is not attracted in respect of interest paid to a banking company.

Contract payment of ₹ 24,000 to Raj for 2 contracts of ₹ 12,000 each

TDS provisions under section 194C would not be attracted if the amount paid to a contractor does not exceed ₹ 30,000 in a single payment or ₹ 1,00,000 in the aggregate during the financial year. Therefore, TDS provisions under section 194C are not attracted in this case.

Shop Rent paid to one payee – Tax has to be deducted @10% under section 194-I as the annual rental payment exceeds ₹ 2,40,000.

Commission paid to Balu – No, tax has to be deducted under section 194H in this case as the commission does not exceed ₹ 15,000.

Question 2

Compute the amount of tax deduction at source on the following payments made by M/s. S Ltd. during the financial year 2021-22 as per the provisions of the Income-tax Act, 1961.

Sr. No.	Date	Nature of Payment
(i)	1-10-2021	Payment of ₹ 2,00,000 to Mr. R, a transporter who owns 8 goods carriages throughout the previous year and furnishes a declaration to this effect alongwith his PAN.
(ii)	1-11-2021	Payment of fee for technical services of ₹ 25,000 and Royalty of ₹ 20,000 to Mr. Shyam who is having PAN.
(iii)	30-06-2021	Payment of ₹ 25,000 to M/s X Ltd. for repair of building.
(iv)	01-01-2022	Payment of ₹ 2,00,000 made to Mr. A for purchase of diaries made according to specifications of M/s S Ltd. However, no material was supplied for such diaries to Mr. A by M/s S Ltd or its associates.
(v)	01-01-2022	Payment of ₹ 2,30,000 made to Mr. Bharat for compulsory acquisition of his house as per law of the State Government.
(vi)	01-02-2022	Payment of commission of ₹ 14,000 to Mr. Y.

Answer

(i) No tax is required to be deducted at source under section 194C by M/s S Ltd. on payment to transporter Mr. R, since he satisfies the following conditions:

- (1) He owns ten or less goods carriages at any time during the previous year.
- (2) He is engaged in the business of plying, hiring or leasing goods carriages;
- (3) He has furnished a declaration to this effect along with his PAN.

(ii) As per section 194J, liability to deduct tax is attracted only in case the payment made as fees for technical services and royalty, individually, exceeds ₹ 30,000 during the financial year. In the given case, since, the

individual payments for fee of technical services i.e., ₹ 25,000 and royalty ₹ 20,000 is less than ₹ 30,000 each, there is no liability to deduct tax at source. It is assumed that no other payment towards fees for technical services and royalty were made during the year to Mr. Shyam.

- (iii) Provisions of section 194C are not attracted in this case, since the payment for repair of building on 30.06.2021 to M/s. X Ltd. is less than the threshold limit of ₹ 30,000.
- (iv) According to section 194C, the definition of “work” does not include the manufacturing or supply of product according to the specification by customer in case the material is purchased from a person other than the customer or associate of such customer.

Therefore, there is no liability to deduct tax at source in respect of payment of ₹ 2,00,000 to Mr. A, since the contract is a contract for ‘sale’.

- (v) As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is responsible for deduction of tax at source if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 2,50,000.

In the given case, no liability to deduct tax at source is attracted as the payment made does not exceed ₹ 2,50,000.

- (vi) As per section 194H, tax is deductible at source if the amount of commission or brokerage or the aggregate of the amounts of commission or brokerage credited or paid during the financial year exceeds ₹ 15,000.

Since the commission payment made to Mr. Y does not exceed ₹ 15,000, the provisions of section 194H are not attracted.

Question 3

Examine the applicability of TDS provisions and TDS amount in the following cases:

- (a) *Rent paid for hire of machinery by B Ltd. to Mr. Raman ₹ 2,60,000 on 27.9.2021.*
- (b) *Fee paid on 1.12.2021 to Dr. Srivatsan by Sundar (HUF) ₹ 35,000 for surgery performed on a member of the family.*
- (c) *ABC and Co. Ltd. paid ₹ 19,000 to one of its Directors as sitting fees on 01-01-2022.*

Answer

- (a) Since the rent paid for hire of machinery by B. Ltd. to Mr. Raman exceeds ₹ 2,40,000, the provisions of section 194-I for deduction of tax at source are attracted.

The rate applicable for deduction of tax at source under section 194-I on rent paid for hire of plant and machinery is 2%, assuming that Mr. Raman had furnished his permanent account number to B Ltd.

Therefore, the amount of tax to be deducted at source:

$$= ₹ 2,60,000 \times 2\% = ₹ 5,200.$$

Note: In case Mr. Raman does not furnish his permanent account number to B Ltd., tax shall be deducted @ 20% on ₹ 2,60,000, by virtue of provisions of section 206AA.

- (b) As per the provisions of section 194J, a Hindu Undivided Family is required to deduct tax at source on fees paid for professional services only if the total sales, gross receipts or turnover from the business or profession exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession, as the case may be, in the financial year preceding the current financial year and such payment made for professional services is not exclusively for the personal purpose of any member of Hindu Undivided Family.

Section 194M, provides for deduction of tax at source by a HUF (which is not required to deduct tax at source under section 194J) in respect of fees for professional service if such sum or aggregate of such sum exceeds ₹ 50 lakhs during the financial year.

In the given case, the fees for professional service to Dr. Srivatsan is paid on 1.12.2021 for a personal purpose, therefore, section 194J is not attracted. Section 194M would have been attracted, if the payment or aggregate of payments exceeded ₹ 50 lakhs in the P.Y.2021-22. However, since the payment does not exceed ₹ 50 lakh in this case, there is no liability to deduct tax at source under section 194M also.

- (c) Section 194J provides for deduction of tax at source @10% from any sum paid by way of any remuneration or fees or commission, by whatever name called, to a resident director, which is not in the nature of salary on which tax is deductible under section 192. The threshold limit of ₹ 30,000 upto which the provisions of tax deduction at source are not attracted in respect of every other payment covered under section 194J is, however, not applicable in respect of sum paid to a director.

Therefore, tax@10% has to be deducted at source under section 194J in respect of the sum of ₹ 19,000 paid by ABC Ltd. to its director.

Therefore, the amount of tax to be deducted at source:

$$= ₹ 19,000 \times 10\% = ₹ 1,900$$

Question 4

Examine the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the financial year 2021-22:

- (1) *Payment of ₹ 27,000 made to Jacques Kallis, a South African cricketer, by an Indian newspaper agency on 02-07-2021 for contribution of articles in relation to the sport of cricket.*
- (2) *Payment made by a company to Mr. Ram, sub-contractor, ₹ 3,00,000 with outstanding balance of ₹ 1,20,000 shown in the books as on 31-03-2022.*
- (3) *Winning from horse race ₹ 1,50,000 paid to Mr. Shyam, an Indian resident.*
- (4) *₹ 2,00,000 paid to Mr. A, a resident individual, on 22-02-2022 by the State of Uttar Pradesh on compulsory acquisition of his urban land.*

Answer

- (1) Section 194E provides that the person responsible for payment of any amount to a non-resident sportsman who is not a citizen of India for contribution of articles relating to any game or sport in India in a newspaper has to deduct tax at source@20%. Further, since Jacques Kallis, a South African cricketer, is a non-resident, health and education cess@4% on TDS should also be added.

Therefore, tax to be deducted = ₹ 27,000 x 20.80% = **₹ 5,616.**

- (2) Provisions of tax deduction at source under section 194C are attracted in respect of payment by a company to a sub-contractor. Under section 194C, tax is deductible at the time of credit or payment, whichever is earlier @ 1% in case the payment is made to an individual.

Since the aggregate amount credited or paid during the year is ₹ 4,20,000, tax is deductible @ 1% on ₹ 4,20,000.

Tax to be deducted = ₹ 4,20,000 x 1% = **₹ 4,200**

- (3) Under section 194BB, tax is to be deducted at source, if the winnings from horse races exceed ₹ 10,000. The rate of deduction of tax at source is 30%.

Hence, tax to be deducted = ₹ 1,50,000 x 30% = ₹ 45,000.

- (4) As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is required to deduct tax at source, if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 2,50,000.

In the given case, there is no liability to deduct tax at source as the payment made to Mr. A does not exceed ₹ 2,50,000.

Question 5

Briefly discuss the provisions relating to payment of advance tax on income arising from capital gains and casual income.

Answer

The proviso to section 234C contains the provisions for payment of advance tax in case of capital gains and casual income.

Advance tax is payable by an assessee on his/its total income, which includes capital gains and casual income like income from lotteries, crossword puzzles, etc.

Since it is not possible for the assessee to estimate his capital gains, or income from lotteries etc., it has been provided that if any such income arises after the due date for any instalment, then, the entire amount of the tax payable (after considering tax deducted at source) on such capital gains or casual income should be paid in the remaining instalments of advance tax, which are due.

Where no such instalment is due, the entire tax should be paid by 31st March of the relevant financial year.

No interest liability on late payment would arise if the entire tax liability is so paid.

Note: *In case of casual income the entire tax liability is fully deductible at source @30% under section 194B and 194BB. Therefore, advance tax liability would arise only if the surcharge, if any, and health and education cess@4% in respect thereof, along with tax liability in respect of other income, if any, is ₹ 10,000 or more.*

Question 6

Mr. Jay having total income of ₹ 8,70,000, did not pay any advance tax during the previous year 2021-22. He wishes to pay the whole of the tax, along with interest if any, on filing the return in the month of July, 2022. What is total tax which Mr. Jay has to deposit as self-assessment tax along with interest, if he files the return on 29.07.2022? Assume that he does not exercise the option under section 115BAC.

Answer

Obligation to pay advance tax arises in every case, where the advance tax payable is ₹ 10,000 or more. As a consequence of such failure, assessee may be charged with interest under section 234B and 234C.

In the given case, since Mr. Jay did not deposit any amount of advance tax during the previous year, he will need to pay the total tax due on his income along with interest for default in payment of advance tax [under section 234B] and interest for deferment of advance tax [under section 234C] before filing of his return.

Total tax due on returned income of ₹ 8,70,000 is ₹ 89,960 [(20% of ₹ 3,70,000 + ₹ 12,500) + cess@4%]

Interest under section 234B

Interest under section 234B is attracted - a) When the assessee, who is liable to pay advance tax has failed to pay such tax; or b) Where the advance tax paid by the assessee is less than 90% of the assessed tax.

Since, Mr. Jay did not pay any amount as advance tax, interest under section 234B at 1% per month or part of the month will be levied beginning from 1st April of the following year i.e., 01.04.2022 till the time he deposits the whole tax under self-assessment.

Interest will be levied on tax liability of ₹ 89,900 (rounded off to nearest hundred, ignoring fraction) at 1% for four months i.e., from 1st April to 29th July.

The interest under section 234B amount to ₹ 3,596

Interest under section 234C

Assessees, other than assessee who declare profits and gains in accordance with provision of section 44AD(1) or section 44ADA(1), are liable to pay advance tax in 4 installments during the previous year. Section 234C is attracted, if the actual installment paid by the assessee is the less than the amount required to be paid by him on such instalments. The interest shall be calculated at 1% per month or

part of the month for short payment or non-payment of each instalment.

In the given scenario, since Mr. Jay, did not deposit any amount as advance tax, the interest under section 234C is calculated as under –

Date of Instalment	Specified % of estimated tax	Amount due and unpaid (rounded off to nearest ₹ 100, ignoring fraction)	Period	Interest @ 1%
15 th June 2021	15%	13,400	3 months	402
15 th September 2021	45%	40,400	3 months	1,212
15 th December 2021	75%	67,400	3 months	2,022
15 th March 2022	100%	89,900	1 month	899
Total interest under section 234C				4,535

Mr. Jay needs to pay ₹ 98,091 as total of tax and interest on or before filing of return in the month of July, 2022.

PROVISIONS FOR FILING RETURN OF INCOME AND SELF ASSESSMENT



ILLUSTRATION 1

Paras aged 55 years is a resident of India. During the F.Y. 2021-22, interest of ₹ 2,88,000 was credited to his Non-resident (External) Account with SBI. ₹ 30,000, being interest on fixed deposit with SBI, was credited to his saving bank account during this period. He also earned ₹ 3,000 as interest on this saving account. Is Paras required to file return of income?

² or the spouse of such partner if the provisions of section 5A applies to such spouse

What will be your answer, if he has incurred ₹ 3 lakhs as travel expenditure of self and spouse to US to stay with his married daughter for some time?

SOLUTION

An individual is required to furnish a return of income under section 139(1) if his total income, before giving effect to the deductions under Chapter VI-A or exemption under section or section 54/54B/54D/54EC or 54F, exceeds the maximum amount not chargeable to tax i.e. ₹ 2,50,000 (for A.Y. 2022-23).

Computation of total income of Mr. Paras for A.Y. 2022-23

Particulars	₹
Income from other sources	
Interest earned from Non-resident (External) Account ₹ 2,88,000 [Exempt under section 10(4)(ii), assuming that Mr. Paras has been permitted by RBI to maintain the aforesaid account]	NIL
Interest on fixed deposit with SBI	30,000
Interest on savings bank account	3,000
Gross Total Income	33,000
Less: Deduction u/s 80TTA (Interest on saving bank account)	3,000
Total Income	30,000

Since the total income of Mr. Paras for A.Y.2022-23, before giving effect, *inter alia*, to the deductions under Chapter VI-A, is less than the basic exemption limit of ₹ 2,50,000, he is not required to file return of income for A.Y.2022-23.

Note: In the above solution, interest of ₹ 2,88,000 earned from Non-resident (External) account has been taken as exempt on the assumption that Mr. Paras, a resident, has been permitted by RBI to maintain the aforesaid account. However, in case he has not been so permitted, the said interest would be taxable. In such a case, his total income, before giving effect, *inter alia*, to the deductions under Chapter VI-A, would be ₹ 3,21,000 (₹ 30,000 + ₹ 2,88,000 + ₹ 3,000), which is higher than the basic exemption limit of ₹ 2,50,000. Consequently, he would be required to file return of income for A.Y.2022-23.

If he has incurred expenditure of ₹ 3 lakhs on foreign travel of self and spouse, he has to mandatorily file his return of income on or before the due date under section 139(1), even if his income is less than the basic exemption limit.

ILLUSTRATION 2

Explain with brief reasons whether the return of income can be revised under section 139(5) of the Income-tax Act, 1961 in the following cases:

- (i) Belated return filed under section 139(4).*
- (ii) Return already revised once under section 139(5).*
- (iii) Return of loss filed under section 139(3).*

SOLUTION

Any person who has furnished a return under section 139(1) or 139(4) can file a revised return at any time before three months prior to the end of the relevant assessment year or before the completion of assessment, whichever is earlier, if he discovers any omission or any wrong statement in the return filed earlier. Accordingly,

- (i) A belated return filed under section 139(4) can be revised.
- (ii) A return revised earlier can be revised again as the first revised return replaces the original return. Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. at any time before three months prior to the end of the relevant assessment year or before the completion of assessment, whichever is earlier. It implies that a return of income can be revised more than once within the prescribed time.
- (iii) A return of loss filed under section 139(3) is deemed to be return filed under section 139(1), and therefore, can be revised under section 139(5).



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ILLUSTRATION 3

Mrs. Hetal, an individual engaged in the business of Beauty Parlour, has got her books of account for the financial year ended on 31st March, 2022 audited under section 44AB. Her total income for the assessment year 2022-23 is ₹ 6,35,000. She wants to furnish her return of income for assessment year 2022-23 through a tax return preparer. Can she do so?

SOLUTION

Section 139B provides a scheme for submission of return of income for any assessment year through a Tax Return Preparer. However, it is not applicable to persons whose books of account are required to be audited under section 44AB. Therefore, Mrs. Hetal cannot furnish her return of income for A.Y.2022-23 through a Tax Return Preparer.

TEST YOUR KNOWLEDGE

Question 1

State with reasons whether you agree or disagree with the following statements:

- (a) Return of income of Limited Liability Partnership (LLP) could be verified by any partner.
- (b) Time limit for filing return under section 139(1) in the case of Mr. A having total turnover of ₹ 160 lakhs (₹ 100 lakhs received in cash) for the year ended 31.03.2022, whether or not opting to offer presumptive income under section 44AD, is 31st October, 2022.

Answer

(a) Disagree

The return of income of LLP should be verified by a designated partner.

Any other partner can verify the Return of Income of LLP only in the following cases:-

- (i) where for any unavoidable reason such designated partner is not able to verify the return, or,
- (ii) where there is no designated partner.

(b) Disagree

In case Mr. A opts to offer his income as per the presumptive taxation provisions of section 44AD, then, the due date under section 139(1) for filing of return of income for the year ended 31.03.2022, shall be 31st July, 2022.

In case, Mr. A does not opt for presumptive taxation provisions under section 44AD, he has to get his accounts audited under section 44AB, since his turnover exceeds ₹ 1 crore, in which case, the due date for filing return would be 31st October, 2022.

Question 2

Mr. Vineet submits his return of income on 12-09-2022 for A.Y 2022-23 consisting of income under the head "Salaries", "Income from house property" and bank interest. On 21-12-2022, he realized that he had not claimed deduction under section 80TTA in respect of his interest income on the Savings Bank Account. He wants to revise his return of income. Can he do so? Examine. Would your answer be different if he discovered this omission on 21-03-2023?

Answer

Since Mr. Vineet has income only under the heads "Salaries", "Income from house property" and "Income from other sources", he does not fall under the category of a person whose accounts are required to be audited under the Income-tax Act, 1961 or any other law in force. Therefore, the due date of filing return for A.Y.2022-23 under section 139(1), in his case, is 31st July, 2022. Since Mr. Vineet had submitted his return only on 12.9.2022, the said return is a belated return under section 139(4).

As per section 139(5), a return furnished under section 139(1) or a belated return u/s 139(4) can be revised. Thus, a belated return under section 139(4) can also be revised. Therefore, Mr. Vineet can revise the return of income filed by him under section 139(4) in December 2022, to claim deduction under section 80TTA, since the time limit for filing a revised return is three months prior to the end of the relevant assessment year, which is 31.12.2022.

However, he cannot revise return had he discovered this omission only on 21-03-2023, since it is beyond 31.12.2022.

Question 3

Examine with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

- (i) *The Assessing Officer has the power, inter alia, to allot PAN to any person by whom no tax is payable.*
- (ii) *Where the Karta of a HUF is absent from India, the return of income can be verified by any male member of the family.*

Answer

- (i) **True** : Section 139A(2) provides that the Assessing Officer may, having regard to the nature of transactions as may be prescribed, also allot a PAN to any other person, whether any tax is payable by him or not, in the manner and in accordance with the procedure as may be prescribed.
- (ii) **False** : Section 140(b) provides that where the Karta of a HUF is absent from India, the return of income can be verified by any other adult member of the family; such member can be a male or female member.

Question 4

Explain the term "return of loss" under the Income-tax Act, 1961. Can any loss be carried forward even if return of loss has not been filed as required?

Answer

A return of loss is a return which shows certain losses. Section 80 provides that the losses specified therein cannot be carried forward, unless such losses are determined in pursuance of return filed under the provisions of section 139(3).

Section 139(3) states that to carry forward the losses specified therein, the return should be filed within the time specified in section 139(1).

Following losses are covered by section 139(3):

- business loss to be carried forward under section 72(1),
- speculation business loss to be carried forward under section 73(2),
- loss from specified business to be carried forward under section 73A(2).
- loss under the head "Capital Gains" to be carried forward under section 74(1); and
- loss incurred in the activity of owning and maintaining race horses to be carried forward under section 74A(3)

However, loss from house property to be carried forward under section 71B and unabsorbed depreciation under section 32 can be carried forward even if return of loss has not been filed as required under section 139(3).

Question 5

Mr. Aakash has undertaken certain transactions during the F.Y.2021-22, which are listed below. You are required to identify the transactions in respect of which quoting of PAN is mandatory in the related documents –

S.No.	Transaction
1.	<i>Payment of life insurance premium of ₹ 45,000 in the F.Y.2021-22 by account payee cheque to LIC for insuring life of self and spouse</i>
2.	<i>Payment of ₹ 1,00,000 to a five-star hotel for stay for 5 days with family, out of which ₹ 60,000 was paid in cash</i>
3.	<i>Payment of ₹ 80,000 by ECS through bank account for acquiring the debentures of A Ltd., an Indian company</i>
4.	<i>Payment of ₹ 95,000 by account payee cheque to Thomas Cook for travel to Dubai for 3 days to visit relatives</i>
5.	<i>Applied to SBI for issue of credit card.</i>

Answer

	Transaction	Is quoting of PAN mandatory in related documents?
1.	Payment of life insurance premium of ₹ 45,000 in the F.Y.2021-22 by account payee cheque to LIC for insuring life of self and spouse	No, since the amount paid does not exceed ₹ 50,000 in the F.Y.2021-22.
2.	Payment of ₹ 1,00,000 to a five-star hotel for stay for 5 days with family, out of which ₹ 60,000 was paid in cash	Yes, since the amount paid in cash exceeds ₹ 50,000
3.	Payment of ₹ 80,000, by ECS through bank account, for acquiring the debentures of A Ltd., an Indian company	Yes, since the amount paid for acquiring debentures exceeds ₹ 50,000. Mode of payment is not relevant in this case.
4.	Payment of ₹ 95,000 by account payee cheque to Thomas Cook for travel to Dubai for 3 days to visit relatives	No, since the amount was paid by account payee cheque, quoting of PAN is not mandatory even though the payment exceeds ₹ 50,000
5.	Applied to SBI for issue of credit card.	Yes, quoting of PAN is mandatory on making an application to a banking company for issue of credit card.