Income from House Property

(section 22 to section 27)

Concept 1: **Basic Concept:**

Concept 1.1] → Income from House property is taxable only when the following conditio are satisfied.

1. There must be house property.
2. Assessee must be the owner of house property.
3. Assessee must not use house property for his own business or profession.
4. The anual value of house property being held as stock in trade would be treated as NIL for a period of two years, from the end of the financial year in which certificate of completion of construction of the property is obtained from competent.

→ Explanation:

Builder constructed 10 offices.

Completion certificate → sold 6 offices
→ 4 offices are stock in trade.

↓

September 22, PY-22-23

∴ PY 23-24 - GAV NIL.

PY 24-25 - GAV NIL.

PY 25-26 - will treated as DLO.

↓ DLO.

Income from HP (after 2 yrs)

Notes :

① House property means building & building should be a permanent structure. It cannot be a temporary structure.

② House rent received from letting out vacant plot of land (cannot be treated as HP) cannot be taxed under HP.

③. Rental income from subletting cannot be taxed under Income from House property. It will taxed under PGBP or IOS.

④ Propeety situated in foreign country shall be taxed similar to property situated in India.

Concept 1.2] Different types of property:

- Self Occupied (SO)

Ownee use property for his own residence.

- Let - out (LO)

propeety which is given by the owner to the tenant foe residential or commercial purpose on rent.

- Deemed Let-Out (DLO)

SO property more than two, will be treated as Deemed let out property.

DLO property aee taxable.

Concept 1.3] As per section 22: Basis of charge is GAV

→ GAV of SO property is NIL.

→ However, as per income tax assessee can treat only two houses as SO.

→ deduction under section 24 b (Interest on self borrowed capital) in respect of two SO properties will be limited to 200,000 / 30,000 as the case may be. (refer note: 2).

Concept 1.4] Computation of House property.

Particulars.	SO	LO	DLO.
Gross Annual value (GAV)	NIL	step 1, 2, 3	step 1.
(-) Municipal taxes.	NIL	XXX	XXX
Net Annual value (NAV).	NIL	XXX	XXX
(-) Deduction u/s 24.			
24a. standard deduction. (30% of NAV).	NIL	XXX	XXX
24b. Interest on borrowed capital.	~~NIL~~ XXX*	XXX	XXX
Income from House property.	(XXX)	XXX.	XXX

Note:

1. Interest on borrowed capital is allowed as deduction (24b) if loan is taken for:
   a) Purchase.
   b) Construction
   c) Reconstruction
   d) Repairs.
   e) Renovation.

2. There is maximum ceiling for interest on borrowed capital in case of SO property.

₹2,00,000.
→ All 3 conditions should be satisfied.
1. Loan taken on or after 1.4.1999.
2. Loan taken for purchase or Construction.
3. If Loan is for Construction, construction should be done within 5 years

₹30,000
→ Any other case.

Concept 2] Calculation of Gross Annual value (GAV)

Step 1: expected Rent (ER)

Municipal valuation or fair rent whichevee is higher, subject to Standard Rent.

MV	or	fair Rent.	↑ subject to standard Rent
↓		↓	↓
Local Authority Levy Municipal Taxes.		Rent of Similar property.	Maximum limit decided by Rent control Act.

Step 2: Actual Rent:

→ Accrual Basis.

Annual Rent Received / Receivable	xx
(-) unrealised Rent for current year	(xx)
(-) loss due to vacancy.	(xx)
Step 2: Actual Rent	xx

Step 3: is applicable if.

~~If applicable.~~

① step 2 is less than step 1 and:

② There is loss due to vacancy.

If step 3 is not applicable,

→ final GAV = step 1 or step 2 whichever is higher.

• If step 3 is applicable then find out reason.

only vacancy.	vacancy + others
∴ final GAV = step 2.	∴ final GAV = step 1 - vacancy loss.

Concept 3] Municipal Taxes.

→ allowed only on payment basis.

→ only when payment done by owner.

→ GAV	XX.
(-) Municipal Taxes. (% of Municipal valuation)	(XX)
NAV.	XX.

Concept 4] Deductions u/s 24.

① Standard deduction u/s 24(a)
→ 30% of NAV.
→ No standard deduction is available for SO property.

Particulars.	SO	LO/DLO.
NAV.	~~XX~~ NIL.	XX
(-) deduction u/s 24		30%.
24(a) Std. deduction (30% of NAV).	NIL.	XX.

② Interest on borrowed capital u/s 24(b)
(refer concept 1.4, note 1 & 2).

Pre- Construction Interest:

Calculation of pre- construction interest.

step 1: Pre- construction period.

Date of Taking loan. → Date of Repayment. OR 31st March immediately preceding completion of construction. whichever is earlier.

step 2: pre - construction int.

Loan Amt x % given x pre construction period.

step 3: Income tax allowable preconstruction interest. = $\frac{\text{Total pre-construction int.}}{\text{5 yrs.}}$

∴ Total deduction u/s 24(b). for current year. = step 3 + int. for current year.

↓

Subject to limits.
(refer concept 1.4, note 1 & 2)

Particulars	SO	LO/DLO.
NAV	NIL	XX.
(-) deduction u/s 24		
24(a) Std. deduction,	NIL.	XX.
24(b) Int. on borrowed capital.	(XXX). subject to limit.	XX.

Concept 5] **Othee points:**

→ HP - a paet is LO & othee paet is SO, then income will be computed separately.

→ HP - let out foe peeiod & SO for period teeat it as a LO.

→ Resident and oedinary resident, their global income is taxed in India.

→ House propeety situated in foreign country is taxable in India. in case of R-OR.

→ Sometimes notional income is taxed insted of real income. (refee concept 1.1 + point 4.)

Concept 6] **Exceptions:** when income will not be taxed under income from HP.

① In case of composit rent, the letting out property is inseparable. (refer concept 11.)

② If the letting out property is incidental or subservient to the business then the income shall be taxed under PGBP.
↳ letting out is done as a regular business.

Concept 7] Cases when GAV of HP is NIL

① Self occupied.
② A LO propeety which is vacant foe 12 months
③ when a house property is not occupied due to business or employement.
④ Any propeety is held as stock in trade. (refoe concept 1.1 → point ④).

Concept 8] loss from house propeety.

The house propeety loss of the current year can be set off against any head of income only up to 2,00,000/- & balance shall be caseied foewaed.

Imp
Concept 9] Aeeeaes of Rent / unrealised Rent :

① Both will be chaegeable to tax in the yeae of receipt / realised.
② Irrespective of whether the assessee is or is not the ownee of house property.
③ 30% standard deduction is available from both.

Concept 10] property owned by co-owner

a] If a property is owned by two or more persons.

This is applicable if following conditio[ns] are satisfied.

→ owned by two or more persons.

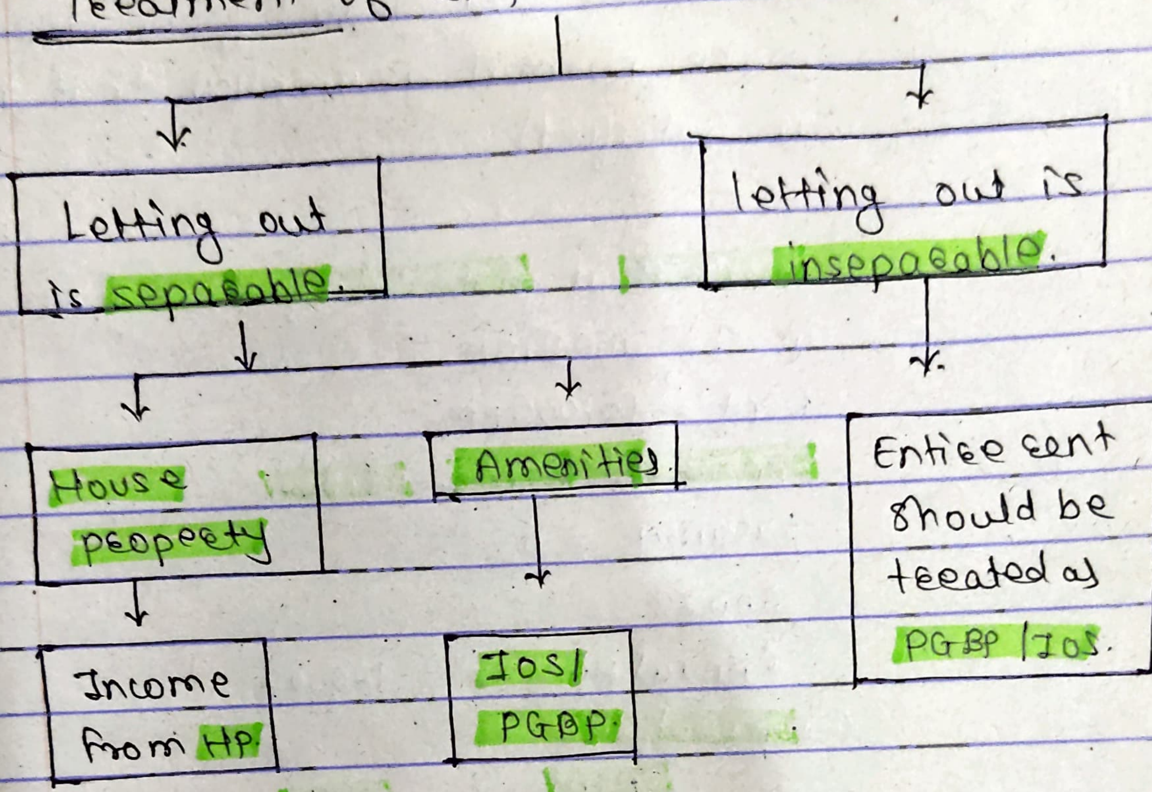
→ respective shares are definite and ascertainable.

b] If both conditions are satisfied then share of each co-owner in the income of property shall be included in the total income of each co-owner.

Concept 11] Composite Rent.

Rent for the Building + Rent for facilities like lift, furniture & other assets.

Treatment of Composite Rent.



Concept 12] Conditions of Rule. 4.

The following conditions of rule 4 are satisfied then unrealized rent will be treated as a deduction while calculating step 2

1. Tenancy is a bonafide.
2. They defaulting tenant has vacated the property.
3. He does not occupy any other property of the assessee.
4. Legal action has been initiated or assessee can convince the AO that taking legal action is of no use.

Question

① Unrealised rent deduct from step 2
(make normal assumption that rule 4 is satisfied)

② Rule 4 is not satisfied is given in the question.

Rent = 10,000 pm.

Unrealised Rent = 15,000.

vacancy = 0.

∴ Step 2:

Annual Rent	=	120,000
(-) unrealised Rent	=	-
(-) vacancy	=	-
		120,000

Concept 13] Deemed Owner

① Transfer to spouse:
The transferee is deemed to be the owner of property.

Exception → Live apart, Then transferee will be the owner.

② Transfer to minor child:
The transferee is deemed to be the owner of houses property.

Exception → minor married daughters, the transferee is not be deemed to be the owner.

③ Holder of impartiable estate:
The holder of impartiable estate shall be deemed to be the individual owner of all properties comprised in the estate.

④ Person having right in property for a period not less than 12 yrs:
A person who acquires any rights by way of lease for not less than 12 yrs, shall be deemed to be owner of that building.