SATC
SURAJ AGRAWAL TAX CLASS

CA INTERMEDIATE
21st Edition

A.Y. 2024-25

INCOME TAX

Volume-II

CONTENT

- ★ Depreciation
- ★ PGBP
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CA SURAJ AGRAWAL
CA Rank Holder, CPA (USA), B.COM (H)

Education is a Journey

32 Rank Holder from Tax Batch of CA Suraj Agrawal Sir

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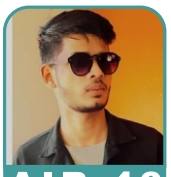

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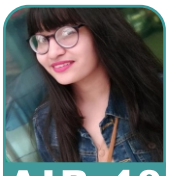

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CMA Intermediate

SURAJ AGRAWAL TAX CLASS

Suite No. 103, First Floor, D-355, Vikas Marg,
Laxmi Nagar, New Delhi-110092, Contact : +91-8527230445
Email: suraj.agrawal@hotmail.com, http://www.facebook.com/suraj.agrawal.564

MRP.400/-

THIS BOOK HAS BEEN A REALITY ONLY BECAUSE OF MY FAMILY & STUDENTS.

CA SURAJ AGRAWAL

Income Tax - Volume II (21st Edition - 1st Print) for CA INTERMEDIATE - MAY & NOV 2024 Exam
Assessment Year 2024-25 (updated with Finance Act 2023)
Updated as on 31.01.2024

PREFACE

Taxation is a dynamic subject, which is not only a vast subject but also difficult to comprehend in view of frequent amendments. Yet it is the scoring subject of your syllabus. In addition, practice in the field of Taxation is also highly remunerative.

My association with the students has helped me to bring this book in its present form – simplified, comprehensive and easy to understand.

The present edition of this book **[VOLUME II]** is designed to bridge the gap between theory & applications and incorporates the following:

- ***Updated with Finance Act 2023 [Assessment Year 2024-25]***
- Covers entire syllabus with theoretical concepts, examples etc
- Contains **more than 1000 practical problems** with solutions
- Chapter-wise short notes (separate volume) for revision purpose.

Hope this book serves the purpose of the students. I shall be thankful to the readers for their suggestions, criticism and feedback if any.

Email: suraj.agrawal@hotmail.com

Contact: **8527230445 (11am to 6pm)**

ACKNOWLEDGEMENT

This book is a result of sincere efforts of our family members, colleagues, associates, well-wishers and students, whose contribution cannot go unacknowledged.

Master Reyaan, my wife **CA Monika Agrawal** and my mother deserve special mention for the time (on which they had the first right) they allowed me for this book.

I dedicate this book to my beloved late grandparents & Papa.

CA Suraj Agrawal

Income Tax - Volume II (21st Edition - 1st Print) for CA INTERMEDIATE - MAY & NOV 2024 Exam
Assessment Year 2024-25 (updated with Finance Act 2023)
Updated as on 31.01.2024

"One more step towards success"

PROFILE – CA SURAJ AGRAWAL

CA Suraj Agrawal is a Commerce Graduate [B.Com (H)] from Kolkata University and has qualified CA in November 2005 in **First Attempt** from Kolkata. He has also secured All India **27th Rank in CA-Foundation** - 1st level (First Attempt).

Besides CA, he has completed **Certification Course of International Taxation** of the ICAI in 2009. He has also qualified **CPA (Certified Public Accountant) examination from AICPA (USA)** in 2009 with **more than 90 Marks in each of four papers** in First Attempt ***[Presently, he is inspired to complete CIMA, London as well as LLM in International Taxation (UK)]***

He has started his career by joining Direct Tax Department of **Reliance Industries Limited, Mumbai** and worked for near 2 years in core tax team. He has also worked in Taxation Division of **Chaturvedi & Shah (Chartered Accountants), Delhi** followed by Tax Division of **Ernst & Young, Gurgaon**, India (A Leading Big 4 Firm having International Presence). During the working tenure of more than 4 years, he is exposed to in-depth theoretical and practical knowledge of Direct Taxation & has a consultancy exposure in various industries including Energy - Oil & Gas, Airlines, Retail, Infrastructure and Shipping Industries.

With the above academic and practical knowledge, he is in teaching profession since 2010 to serve professional students (taught **24,000 CA/CMAs** Students till date). ***His in-depth coverage of legal provisions in Tax with practical approach is very well recognized among the students***. He is also an associate member of ICAI and is also providing services as Tax Consultant to various organisations.

He was also a member in WTO, FEMA & International Tax Study Group of the NIRC of the ICAI for the year 2011-12 and was member of ***International Taxation & FEMA Research Study Group of NIRC of the ICAI*** for the year 2010-11. He is regularly contributing tax articles and various opinions on subjects of Direct Taxation including International Taxation in various leading magazines [Taxmann] and professional forums.

CA Suraj Agrawal

"CA Rank Holder, Qualified CPA (USA), B.Com (H)"

Email: suraj.agrawal@hotmail.com
Contact: +91 85272 30445
Subjects: **DIRECT TAX & INDIRECT TAX**
YouTube: CA Suraj Agrawal - SATC

https://www.youtube.com/c/CASURAJAGRAWALSATC/videos

VOLUME II – INDEX

FROM 21st EDITION – CA INTERMEDIATE EXAM (Not for CMA Students)
Assessment Year 2024-25 (MAY & NOV 2024 Exams)

Depreciation [Section 32]

Assessment Year 2024-25 (Amended with Finance Act 2023)

The assets in respect of which depreciation is claimed must belong to either of the following categories, namely:

(a) buildings, machinery, plant or furniture, ***being tangible assets*;**

(b) know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, ***being intangible assets not being goodwill of a business or profession*** **[Goodwill is excluded from PY 2020-21, amended by FA 2021].**

No depreciation is allowable on the cost of the land.

Goodwill is NOT eligible for Depreciation as Intangible Assets.

Some Important Points:

1) ***Beneficial owner****:* Assessee need not be a registered owner, even a beneficial owner can claim depreciation	**2)** ***Passive use vs. Active use:*** Use includes active use as well as passive use. Active use means actual use of the property for the purpose of business or profession. Whereas passive use includes "ready to use". It means, if a property was not actually used for business or profession but was ready to use in the PY, in such case, assessee can claim depreciation to such assets
3) ***Co-owner:*** In case of joint ownership, depreciation is allowed on proportionate basis.	
4) ***Property acquired on hire purchase****:* in case of hire purchase, the buyer can claim depreciation even though he does not get legal title of the asset till he pays the last installment. **a.** Depreciation can be claimed on cash price of such asset on the date of agreement **b.** Hire charges will be allowed as deduction under section 37(1).	***5)*** ***Partly used for business or profession:*** As per Sec. 38, if an asset is partly used for business or profession and partly used for personal purpose, then proportionate depreciation (as determined by the Assessing Officer) shall be allowed.
6) ***Capital expenditure on a property by the lessee:*** Where an assessee being a lessee of a property incurs any capital expenditure by way of improvement, extension, super construction, etc. on building being used for his business or profession, he is entitled to depreciation in respect of such capital expenditure.	**7)** ***House property let out to tenant for smooth running of the business:*** If an assessee lets out a property to his employee/others and where such letting out supports smooth flow of his business, then rent received from employees/others shall be chargeable under the head "PGBP" and such property shall be eligible for depreciation u/s 32.
8) ***Sec. 53A of Transfer of Property Act:*** Possessor of an Immovable Property u/s 53A Of Transfer of Property Act can claim depreciation even though he is not the registered owner of the property.	**9)** **Deduction on account of depreciation shall be made compulsorily**, whether or not the assessee has claimed the deduction in computing his total income.

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

Where-

(a) an asset is acquired by the assessee during the previous year, ***and***

(b) is put to use in the **same previous year** for **less than 180 days**,

- ***the depreciation in respect of such asset is restricted to 50% of the normal depreciation***. ***[Both conditions should be satisfied together]*** ***- 5th October onwards***

[There is no significance of date of sale for computation of depreciation]

DEPRECIATION FOR UNDERTAKINGS OTHER THAN POWER GENERATING UNITS

In respect of –

(a) buildings, machinery, plant or furniture, ***being tangible assets***;

(b) know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, ***being intangible assets*** ***not being goodwill of a business or profession***,

owned, wholly or partly, by the assessee and used for the purpose of the business or profession, depreciation shall be allowed on the **Written Down Value** of **the block of assets** at such percentage as may be prescribed **[Section 32(1)(ii)]**

Block of Assets [Section 2(11)]:

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

(a) ***tangible assets*** being buildings, machinery, plant or furniture;

(b) ***intangible assets*** being know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature, ***not being goodwill of a business or profession***,

in respect of which the same percentage of depreciation is prescribed.

[Note: Each class of Assets has been further divided into blocks with a particular rate of depreciation for each block. However, Intangible assets, have been granted into one block only with a depreciation rate of 25%.]

WRITTEN DOWN VALUE [Section 43(6)]

[Clause 6 of Section 43]

In the case of assets acquired by the assessee during the previous year, the WDV means the actual cost to the assessee.

In the case of assets acquired before the previous year, the WDV shall be worked out as follows:

WRITTEN DOWN VALUE OF BLOCK OF ASSETS

Opening value of the block at the beginning *of the Previous Year*	***xxx***
Add: ACTUAL COST *of assets acquired during the Previous Year & falling within this block,*	***xxx***
Total	
Less: *(A)* ***MONEYS PAYABLE*** *(i.e. sale price & insurance compensation) in respect of asset,* ***which is sold, discarded, demolished or destroyed, together with the scrap value****, if any.*	***xxx***
(B) In case of slump sale*, actual cost of the asset (-) amount of depreciation that would have been allowable to the assessee for any assessment year as if the asset was the only asset in the block.* ***However, such amount of reduction cannot exceed the WDV.*** ***[Refer Class Example]***	***xxx***
WDV at the end of the year for the purpose of depreciation	***xxx***
Depreciation at prescribed percentage	***xxx***

***Notes*:**

1) The deduction of moneys payable shall only be to the extent that WDV becomes NIL

2) **MONEYS PAYABLE** means the sale price of the asset and includes any insurance, salvage or compensation payable in respect of the asset.

3) ***Depreciation will not be charged in the following two cases*:**

- ***a.*** When Money payable exceeds the amount of "Opening WDV + Assets acquired"
- ***b.*** When block cease to exist (means when all the assets is sold).

RATES OF DEPRECIATION

PART A - TANGIBLE ASSETS

I Buildings		
Block 1.	Residential	5%
Block 2.	Non Residential	10%
Block 3.	**Temporary Erections (Wooden Structure)**	**40%**
II Furniture and Fittings		
	Furniture and fittings **including electrical fittings**	10%
III Plant & Machinery		
Block 1.	(a) Plant & machinery (General rate)	15%
	(b) Motor cars not used for hiring purpose **except below**	
	Motor cars acquired during the period from 23.8.2019 to 31.03.2020 and put to use on or before 31.03.2020	***30%***
Block 2.	Motors buses, motor lorries, motor taxis used in a business of running them on hire **except below**	30%
	If acquired during the period from 23.8.2019 to 31.03.2020 and put to use on or before 31.03.2020	***45%***
Block 3.	Energy Saving Devices (as specified)	**40%**
	Air, Water Pollution control equipments, Solid waste control equipment (Specified)	
	All Kind of Books	
	Computers (Laptops) *including computer printer*	
	Aeroplanes, aeroengines	
Block 4.	Ships or Vessels	20%

PART B INTANGIBLE ASSETS

Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature *[not being goodwill of a business or profession]*	**25%**
Goodwill (as decided by the Supreme Court in case of Smifs Securities Ltd. v CIT) [upto AY 2020-21]	25%

DIFFERENT SITUATION FOR DEPRECIATION CALCULATION:

1. Assets purchased and put to use for 180 days or more
2. Asset purchased and put to use for less than 180 days
3. Asset put to use for less than 180 days and the WDV is less than the actual cost of the asset purchased
4. Where any asset is sold at a price more than the WDV of the block of assets
5. When all the assets of block are sold at a price less than the WDV of the block of assets

Section 43(1) – ACTUAL COST [Clause (1) of Section 43]

Where an assessee incurs any expenditure for acquisition of any asset in respect which a payment (or aggregate of payments made to a person in a day), otherwise than by an account payee cheque/draft/use of electronic clearing system through a bank account or through such other electronic modes as may be prescribed, exceeds ₹ 10,000, such payment shall be ignored for the purposes of determination of "Actual Cost" of such asset.

Consequently, Depreciation/Additional Depreciation under Section 32 pertaining to such payment is not available. Moreover, such expenditure will not be considered for the purpose of Section 50.

The prescribed electronic modes include

- ✓ ***credit card,***
- ✓ ***debit card,***
- ✓ ***net banking,***
- ✓ ***IMPS (Immediate payment Service),***
- ✓ ***UPI (Unified Payment Interface),***
- ✓ ***RTGS (Real Time Gross Settlement),***
- ✓ ***NEFT (National Electronic Funds Transfer), and***
- ✓ ***BHIM (Bharat Interface for Money) Aadhar Pay.***

COMPUTATION OF CAPITAL GAINS IN CASE OF DEPRECIABLE ASSETS

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

(1) When value of block ceases to exist; or

(2) Block ceases to exist.

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

Full value of consideration received /receivable	**xxx**
Less: Aggregate of following amounts:	
▪ Expenditure incurred wholly & exclusively for transfer	**xxx**
▪ WDV of the block of assets at the Beginning of the Previous Year	**xxx**
▪ Actual Cost of any asset falling within the block of assets acquired during the Previous Year	**xxx**
Short-term capital gains (if positive)/Short-term capital loss (if negative)	**xxx**

Notes:

1) If Sec. 50 is not attracted than expenditure on transfer of assets from block of assets is allowable as business expenditure u/s 37(1).

2) Short term Capital Loss arises when relevant Block of Asset ceases to exist (i.e. all assets in a block are transferred).

3) Insurance compensation in respect of asset destroyed shall be deducted from WDV of Block under section 43(6) even if the same has not been actually received. **(Mercantile Basis)**

4) However, if STCG arises under section 50 because of insurance compensation then such STCG shall be taxable in the previous year in which insurance compensation is actually received as per section 45(1A).

Example:

a.	Opening WDV of block as on 1-4-2023 (15%)(Assets A,B,C,D & E)	5,00,000
b.	Asset F acquired 30-6-2023	2,00,000
c.	Asset A destroyed in fire on 31.12.2023	
d.	Insurance Compensation payable	10,00,000

Compensation is determined on 28.02.2024 and received on 31.12.2024.

Answer:

Assessment Year 2024-25

Opening WDV as on 01.04.2023	5,00,000
Add: Actual cost of assets acquired during the P/Y	2,00,000
Less: Moneys payable in respect of insurance compensation receivable during the P/Y (Restricted to ₹ 7,00,000)	7,00,000
WDV	Nil

Assessment Year 2025-26

Short Term Capital Gain under section 50

Insurance compensation Received	10,00,000
Less: Opening WDV as on 01.04.2023	5,00,000
Less: Assets acquired	2,00,000
Short Term Capital Gain	**3,00,000**

Note: Short Term Capital Gain u/s 50 shall be taxable in AY 2025-26, as per section 45(1A). As per Section 45(1A) the Capital gains shall be taxable in the year in which insurance compensation is received.

DEPRECIATION FOR POWER GENERATING UNDERTAKINGS

Assessee is in the business of generation or generation & distribution of power **have the option to claim depreciation on**

- ✓ **Straight Line Method on each asset or**
- ✓ **WDV method on Block of Assets**.

Depreciation under Straight Line Method (SLM) [Section 32(1)(i)]

An assesses in the business of generation or generation & distribution of power will be allowed Depreciation in respect of

- building, machinery, plant or furniture ***being tangible assets***;
- Know-how, patents, copyrights, trademarks etc. ***being intangible assets not being goodwill of a business or profession.***

owned wholly or partly by the assesses and used for the purposes of business at the prescribed rates on actual cost of each assets on the basis of ***Straight Line Method*** of depreciation.

Note:

1. Assesses have to ***exercise such option before the due date of furnishing the ROI*** relevant to the Previous Year in which they begin to generate power.
2. The option once exercised shall be ***FINAL for all subsequent assessment years***.
3. The aggregate depreciation u/s. 32(1)(i) shall not exceed the actual cost of the assets.
4. ***Restriction of 50% of Depreciation*** shall apply if the asset is put to use for less than 180 days in the year of acquisition.
5. ***Additional depreciation under section 32(1)(iia) is also available to power generating undertakings following WDV methods.***

Terminal Depreciation [Section 32(1)(iii)]

In the case of any building, machinery, plant or furniture or intangible assets

- ➢ on which depreciation has been claimed and allowed u/s. 32(1)(i) i.e. under SLM and
- ➢ which is sold, discarded etc. in the Previous Year, and moneys payable for such assets is less than the WDV, then
- ➢ TERMINAL DEPRECIATION i.e. WDV of such asset (-) Moneys Payable for such assets,
- ➢ shall be allowed as deduction **only if such loss is actually written off** in the books.
- ➢ **However, If asset is sold in the same Previous Year in which it was acquired, then there will be STCL under section 45(1)**

Balancing Charge [Section 41(2)]

In the case of any building, machinery, plant or furniture or intangible assets

- ➢ in respect of which depreciation is claimed and allowed under section 32(1)(i) i.e. under SLM and
- ➢ which is sold, discarded etc. in the Previous Year and moneys payable for such assets is more than the WDV, then
- ➢ BALANCE AMOUNT shall be chargeable to tax as PGBP ***to the extent it does not exceeds the amount of depreciation already allowed.***
- ➢ **Even if business is no longer in existence, the above provisions shall apply.**
- ➢ If assets is sold in the same Previous Year in which it was acquired, then there will be STCG under section 45(1)

Special provision for COA in case of Depreciable Assets under SLM [Section 50A]

If an asset on which depreciation is allowed under SLM u/s. 32(1)(i) is sold during the Previous Year,

- ➢ then for computing Capital Gain, the ***WDV as adjustment is taken as COA***.
- ➢ **WDV as adjusted should mean:**

WDV of asset	xxx
Add: Income assessed under section 41(2)	xxx

ADDITIONAL DEPRECIATION [ON PLANT & MACHINERY ACQUIRED BY AN INDUSTRIAL UNDERTAKING] - Section 32(1)(iia)

Additional depreciation is allowed on any **new machinery or plant** (other than ships and aircraft) ***acquired and installed after 31.3.2005*** by an **assessee engaged 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***.

Additional Depreciation will be restricted to 50% in case the asset is put to use for less than 180 days during the previous year.

Further, the balance 50% of the additional depreciation on new plant or machinery acquired and used for less than 180 days, shall be allowed in the immediately succeeding previous year.

Such additional depreciation will not be available in respect of:

(a) any machinery or plant which, before its installation by the assessee, **was used within or outside India by any other person**; or
(b) any machinery or plant **installed in office premises, residential accommodation, or in any guest** house; or
(c) **office appliances or road transport vehicles**; or
(d) any machinery or plant, **the whole of the actual cost of which is allowed as a deduction** (whether by way of depreciation or otherwise)
(e) Ships and Aircrafts.

Note:

1. Additional depreciation is allowed even if the block has NIL value.
2. Additional depreciation is not available if the new plant and machinery is sold in the year of acquisition
3. Additional depreciation shall be subtracted while computing next year opening WDV.
4. An assessee engaged in the business of ***Generation, Transmission or Distribution*** of power shall also be allowed additional depreciation at the rate of 20% of actual cost of eligible new machinery or plant (other than ships and aircrafts) acquired and installed in a previous year. [Only in WDV Method]
5. The CBDT has clarified that the ***business of printing or printing and publishing amounts to manufacture or production of an article or thing and is, therefore, eligible for additional depreciation under section 32(1)(iia).***
6. Assessee covered under **Section 115BAC, Section 115BAD, Section 115BAE, Section 115BAA or Section 115BAB are NOT ELIGIBLE for Additional Depreciation**.

DEPRECIATION IN CASE OF COMPOSITE INCOME (TEA, RUBBER, COFFEE etc)

Important: 4-5 Marks

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 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.

Explanation 7 to Section 43(6) - "Where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the previous year, ***the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act."***

Example:

Mr. X, a grower and manufacturer of tea, purchased machinery (15%) on 10-04-2022 for ₹ 10 lakh. He computed depreciation for A.Y. 2024-25 as given below; needs your comment on his working:

Particulars	Amount
Opening W.D.V. as on 1/4/2022	**Nil**
Add: Assets purchased during the year	**10,00,000**
	10,00,000
Less: Depreciation for the P.Y. 2022-23 [₹ 10,00,000 * 15% * 40%] **(As he is engaged in the business of growing and manufacturing tea; hence 60% is considered as part of agricultural income)**	**60,000**
Opening W.D.V. as on 1/4/2023	**9,40,000**
Less: Depreciation for the P.Y. 2023-24 [₹ 9,40,000 * 15% * 40%]	**56,400**
Opening W.D.V. as on 1/4/2024	**8,83,600**

Further, compute his business income for A.Y. 2024-25 assuming that his income before depreciation and without reducing element of agricultural income is ₹ 8,00,000/-

Solution:

The method of computation of depreciation followed by Mr. X is **not correct** as per Explanation 7 to section 43(6) provides that: "Where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the previous year, **the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession**" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act."

The correct computation of depreciation is as follow:

Particulars	Amount
Opening W.D.V. as on 1/4/2022	Nil
Add: Assets purchased during the year	10,00,000
	10,00,000
Less: Depreciation for the P.Y. 2022-23 [₹ 10,00,000 * 15%]	
(Considering the entire income as taxable income)	1,50,000
Opening W.D.V. as on 1/4/2023	8,50,000
Less: Depreciation for the P.Y. 2023-24 [₹ 8,50,000 * 15%]	1,27,500
Opening W.D.V. as on 1/4/2024	**7,22,500**

Computation of business income of Mr. X for A.Y. 2024-25

Particulars	Amount
Income before depreciation and without reducing element of agricultural income	8,00,000
Less: Depreciation	1,27,500
Income from tea growing & manufacturing business	**6,72,500**
Less: Agricultural Income being 60% of above	4,03,500
Profits and Gains of Business or Profession	**2,69,000**

QUESTIONs *for* Practice - SET 'A'

1. M/s. Dollar Ltd., a manufacturing concern, furnishes the following particulars:

	(₹)
(i) Opening Written Down Value of plant and machinery (15% block)	5,00,000
(ii) Purchase of plant and machinery (put to use before 01.10.2023)	2,00,000
(iii) Sale proceeds of plant and machinery which became obsolete- the plant and machinery was purchased on 01-04-2021 for ₹ 5,00,000.	5,000

Further, out of purchase of plant and machinery:

(a) Plant and machinery of ₹ 20,000 has been installed in office.

(b) Plant and machinery of ₹ 20,000 was used previously for the purpose of business by the seller.

Compute depreciation and additional depreciation as per Income-tax Act, 1961 for the AY 2024-25.

2. Gopichand Industries furnishes you the following information:

	(₹)
Block I WDV of Plant and machinery (consisting of 10 looms)	5,00,000
Rate of depreciation	15%
Acquired on 5-07-2023 – 5 looms for	4,00,000
Sold on 7-12-2023 – 15 looms for	10,00,000
Acquired on 10-01-2024 – 2 looms for	3,00,000
Block II WDV of Buildings (consisting of 3 buildings)	12,50,000
Rate of depreciation	10%

Compute depreciation claim for the Assessment year 2024-25.

3. Honest Industry furnishes you the following details pertaining to the financial year 2023-24:

Description	Plant & Machinery	Building	Intangible Assets (patents)
➢ Rate of depreciation	15%	10%	25%
➢ Opening balance as on 01-04-2023	14,50,000	25,00,000	15,00,000
➢ Acquired before 30-09-2023	12,00,000	Nil	5,00,000
➢ Acquired after 01-12-2023	4,00,000	18,00,000	Nil
➢ Transferred in March 2024, one of the patents held for the past 2 years	-	-	3,00,000

A machinery acquired in July 2023 original cost ₹ 1,50,000 was destroyed by fire and the assessee received compensation of ₹ 50,000 from the insurance company. Newly acquired building given above includes value of land of ₹ 3,00,000.

Calculate the eligible depreciation claim for the assessment year 2024-25.

Note: Ignore additional/accelerated depreciation.

4. Determine the tax consequences in following cases for AY 2024-25:

(a) X Co., an undertaking established in 2016 for generation and distribution of power, has opted for SLM method of depreciation. The written down value of its machinery as on 1.4.2023 was ₹ 5,10,000. The machinery is sold for ₹ 4,60,000 on 1.5.2023.

(b) A Co. a power-generating unit (opted for SLM) has purchased machinery on 1-5-2023 for ₹ 5,10,000 which is destroyed by fire on 15-09-2023 and an insurance claim of ₹ 3,00,000 is received on 31-1-2024.

(c) X Co., an undertaking established in 2009 for generation of power, has opted for SLM method of depreciation. The company had purchased machinery for ₹ 4,50,000. The written down value of its machinery as on 1.4.2023 is ₹ 3,00,000. The machinery is sold for ₹ 4,60,000 on 1-10-2023.

5. An industrial undertaking which commenced the manufacturing activity with effect from 1st September, 2023 has acquired the following assets during the previous year 2023-24:

Assets	Date of acquisition	Date when put to use	Cost of acquisition
Factory buildings	04.04.2023	01.09.2023	50,00,000
Plant and Machinery:			
Air pollution control equipment	04.05.2023	01.09.2023	400,000
Machinery A	05.05.2023	01.09.2023	200,000
Machinery B	07.06.2023	01.09.2023	500,000
Machinery C	30.08.2023	01.09.2023	10,00,000
Machinery D	01.09.2023	31.10.2023	400,000
Machinery E	01.01.2024	28.02.2024	300,000
Machinery F (second hand)	11.01.2024	13.01.2024	200,000
Motor car	01.07.2023	01.02.2024	500,000
Air conditioner (installed in the office)	01.02.2024	02.02.2024	100,000

Compute depreciation allowable for AY 2024-25 and the WDV as on 1-4-2024.

6. Singhania & Co. own six machines, put in use for business in March, 2023. The depreciation on these machines is charged @ 15%. The written down value of these machines as on 1st April, 2023 was ₹ 8,50,000. Three of the old machines were sold on 10th June, 2023 for ₹ 11,00,000. A new plant was bought for ₹ 8,50,000 on 30th November, 2023.

You are required to:

(a) determine the claim of depreciation for Assessment Year 2024-25.
(b) compute the capital gains liable to tax for Assessment Year 2024-25.
(c) If Singhania & Co. had sold the three machines in June, 2023 for ₹ 21,00,000, will there be any difference in your above workings? Explain.

7. The written down value of the block of assets of Rosy Ltd. as on 1st April, 2023 was ₹ 5 lakh. An asset of the same block was acquired on 11th May, 2023 for ₹ 3 lakh. There was a fire on 18th September, 2023 and the assets were destroyed by fire and the assessee received a sum of ₹ 11 lakh from the insurance company.

Compute the capital gain assuming
(a) All the assets were destroyed by fire; and
(b) Part of the block of assets was destroyed by fire.

What will be the answer if assessee received ₹ 6 lakh from insurance company instead of ₹ 11 lakhs? Ignore Additional Depreciation!

8. X owns the following assets on April 1, 2023 (rate of depreciation: 15 per cent)

Assets	Written down value on April 1, 2023 ₹	Date of acquisition
Plant A	3.00,000	April 1, 2017
Plant B	2,00,000	May 10, 2016
Plant C	5,00,000	March 13, 2019

During the previous year 2023-24, the following plants ore purchased/sold by X:

Assets	Rate of Depn.	Date of purchase/sale	Selling price ₹	Cost price ₹	Date when the asset is put to use
Plant D (office air conditioner)	15%	March 10, 2024		4,08,000	March 30, 2024
Plant E (old)	15%	March 1, 2024		20,000	March 31, 2024
Plant A	15%	April 1, 2023	6,00,000		
Building A	10%	June 10, 2023		2,00,000	July 5, 2023
Plant C	15%	May 10, 2023	12,50,000		-
Plant F (second-hand)	40%	June 10, 2023		15,00,000	December 31, 2023

Determine the amount of depreciation and capital gain/loss for the assessment year 2024-25 (expenditure incurred on sale of plants A and C is ₹ 10,000). Assume that additional depreciation is not available.

9. X starts a new business on April 10, 2023 and he purchases the following assets.

	Cost (₹ in lakh)
Building A - Office building	60.70
Building B - Residential building for manager	40.10
Building C - Factory building	70.40
Plant and machinery A - Office computer	**1.20**
Plant and machinery B - Fax machine	0.60
Plant and machinery C – Cars	6.10
Plant and machinery D - Air pollution control equipment	**2.40**
Plant and machinery E - PABX telephone system	1.10
Plant and machinery F - Air-conditioners	6.80
Plant and machinery G - Scooters for employees	1.90
Furniture - Office furniture	2.85
Furniture - Furniture for welfare centre of employees	4.10
Know-how - Know-how to manufacture goods	18.70

Categorise these asset in different blocks of assets.

SOLUTION – SET A

1. Computation of written down value of Plant and Machinery of M/s. Dollar Ltd. for the A.Y. 2024-25

Particulars	₹
Opening written down value (as on 01.04.2023)	5,00,000
Add: Purchase of plant and machinery during the previous year	2,00,000
	7,00,000
Less: Sale proceeds of obsolete plant and machinery sold during the year	5,000
Closing Written Down Value (as on 31.03.2024)	**6,95,000**

Computation of Depreciation and Additional Depreciation for A.Y. 2024-25 as per section 32 of the Income-tax Act, 1961

Particulars	₹
Normal Depreciation (₹ 6,95,000 x 15%)	1,04,250
Additional Depreciation(Refer Note 2)(₹ 2,00,000 – ₹ 20,000 - ₹ 20,000) x 20%	32,000
Depreciation on Plant and Machinery	**1,36,250**

Notes:-

(1) Since the new plant and machinery was purchased and put to use before 1.10.2023, it was put to use for 180 days or more in the year. Hence, full depreciation is allowable for A.Y. 2024-25.

(2) As per section 32(1)(iia), additional depreciation is allowable in the case of any new machinery or plant acquired 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 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 installed in office premises, residential accommodation or in any guest house.

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

(i) Plant and machinery of ₹ 20,000 used previously for the purpose of business by the seller.

(ii) Plant and machinery of ₹ 20,000, installed in office.

Therefore, in the given case additional depreciation has to be provided only on ₹ 1,60,000 (i.e., ₹ 2,00,000 - ₹ 40,000).

2.

Computation of depreciation for Gopichand Industries for A.Y. 2024-25

Particulars	₹	₹
Block I: Plant & machinery (Rate of depreciation – 15%)		
WDV as on 1st April (10 looms)	5,00,000	
Add: Additions during the year		
- 5 looms acquired on 5th July	4,00,000	
- 2 looms acquired on 10th January	3,00,000	
	12,00,000	
Less : Assets sold during the year		
- 15 looms sold on 7th December	10,00,000	
W.D.V. as on 31st March (2 looms)	2,00,000	
Depreciation on ₹ 2 lakhs @ 15% (limited to 50%)		15,000
Block II: Buildings (Rate of depreciation – 10%)	12,50,000	
WDV as on 1st April (3 buildings)		1,25,000
Depreciation on ₹ 12,50,000 @ 10%		
Total depreciation for the year		**1,40,000**

Notes:

(i) Closing balance of Block I: Plant and machinery represents the looms acquired on 10th January. These looms have been put to use or less than 180 days during the previous year, and therefore, only 50% of normal depreciation is permissible.

(ii) No additional depreciation @ 20% of the cost of new plant and machinery is provided for **assuming that all conditions contained in the section 32(1)(iia) have not been fulfilled [Students may choose to claim AD]**

3.

Computation of depreciation allowable to Honest Industry for the A.Y. 2024-25

Particulars	Plant & Machinery	Building	Intangible assets (patents)	Total (₹)
Rate of depreciation	15%	10%	25%	
Opening Balance as on 1.04.2023	14,50,000	25,00,000	15,00,000	
Add: Assets acquired during the year	16,00,000	**15,00,000**	5,00,000	
	30,50,000	40,00,000	20,00,000	
Less: Moneys payable in respect of asset sold or destroyed	50,000	-	3,00,000	
W.D.V as on 31.03.2024	30,00,000	40,00,000	17,00,000	
Asset held for less than 180 days	**4,00,000**	**15,00,000**	-	
Depreciation@50% of applicable rate	30,000	75,000	-	1,05,000
Asset held for more than 180 days	**26,00,000**	**25,00,000**	**17,00,000**	
Depreciation at the applicable rates	3,90,000	2,50,000	4,25,000	10,65,000
Total Depreciation allowable				**11,70,000**

Note - Land is not a depreciable asset. Therefore, ₹ 3 lacs, being the value of land, has been reduced from ₹ 18 lacs, being the value of building acquired during the year, for the purpose of computing depreciation.

4. The tax consequences in aforesaid cases shall be as follows -

(a) In this case, moneys payable is less man written down value of the asset. So, deduction for terminal depreciation shall be allowed. Terminal Depreciation u/s 32(1)(iii) = 5,10,000 - 4,60,000 = ₹ 50000.

(b) In this case, machine is destroyed in the same previous year in which it is first brought into use. So, no terminal depreciation will be allowed. The deficiency of ₹ 2,10,000 [₹ 5,10,000 - ₹ 3,00,000] shall be treated as Short-Term Capital Loss

(c) In this case moneys payable exceed actual cost.
So, Balancing Charge u/s 41(2) = [(Lower of 4,50,000 or 4,60,000) - 3,00,000] = ₹ 1,50,000; and Capital Gains = 4,60,000 - 4,50,000 = ₹ 10,000 ignoring indexation.

5. Computation of the depreciation allowable for the Assessment Year 2024-25 and the written down value as on 1st April, 2024.

Nature of Asset	Actual Cost	Rate of dep.	Normal Depreciation	Additional Depreciation	WDV as on 1-4-2024
Factory buildings	50,00,000	10%	5,00,000	0	45,00,000
Plant & machinery:					
Air pollution control equipment	4,00,000	40%	**1,60,000**	**80,000**	**160,000**
Machinery A, B & C	17,00,000	15%	2,55,000	3,40,000	11,05,000
Machinery D & E (used for less than 180 days)	7,00,000	15%	52,500	70,000	5,77,500
Machinery F, motor car & AC (used for less than 180 days)	8,00,000	15%	60,000	Not Eligible	7,40,000

6.

(i) Computation of depreciation for A.Y. 2024-25

Particulars	₹
W.D.V. of the block as on 1.4.2023	8,50,000
Add: Purchase of new 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 31.03.2024	6,00,000

Since the value of the block as on 31.3.2024 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.

Note: It is assumed that the firm is not eligible for additional depreciation under section 32(1)(iia).

(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 exceeds the sale consideration, the resultant figure would be a short term capital loss.
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, 2023 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
Less:		
W.D.V. of the machines as on 1.4.2023	8,50,000	
Purchase of new plant during the year	8,50,000	17,00,000
Short term capital gains		**4,00,000**

7.

(1) Compensation received is ₹ 11 lakh: Computation of Capital gains

Written down value of the block on 1/4/2023	5,00,000
Add: Asset acquired during the year	3,00,000
	8,00,000
Less: Sum received from the insurance company - ₹ 11 Lakh Maximum	8,00,000
WDV for Depreciation	***NIL***

Note : In case (i) and (ii), both, i.e. whether the block is fully destroyed or partly destroyed by fire, there will , be STCG of ₹ 3,00,000, since the sum received is more than the WDV of the block.

If compensation received is ₹ 6 lakh:
- **(i) If the block is fully destroyed:** The difference between WDV of ₹ 8 lakh and insurance money of ₹ 6 lakh will be short-term capital loss.
- **(ii) If the block is partly destroyed:** There will be no capital gains. Since the block and WDV both exist therefore, the balance WDV of ₹ 2 lakh will be eligible for depreciation.

8.

First block: Plant (rate of depreciation: 15%)	***₹***
Depreciated value of the block on April 1, 2023 (₹ 3,00,000 + ₹ 2,00,000 + ₹ 5,00,000)	10,00,000
Add : Cost of plant (falling in this block) acquired during the previous year 2023-24 (i.e., Plant D : ₹ 4,08,000 + Plant E : ₹ 20,000)	4,28,000
	14,28,000
Less : Sale consideration of plants A and C sold curing the previous year 2023-24 (i.e., ₹ 6,00,000 + ₹ 12,50,000 ; subject to a maximum of ₹ 14,28,000)	14,28,000
Written down value	**Nil**
Depreciation on first block	**Nil**

Capital gain on sale of plants A and C

Sale consideration		**18,50,000**
Less : Cost of acquisition	₹	
• Depreciated value of the block on April 1, 2023	10,00,000	
• Cost of assets falling in the block acquired during the previous year	4,28,000	
• Expenses on transfer	10,000	14,38,000
Short-term capital gain		***412,000***

Depreciation on other assets will be determined as under :

	Second block	**Third block**
Name of assets	Plant	Building
Rate of depreciation	40%	10%
	₹	₹
	Nil	Nil
Add : Cost of assets purchased during 2023-24	15,00,000	2,00,000
Less : Sale consideration of assets transferred during the year	—	—
Written down value	15,00,000	2,00,000
Depreciation (*50% of 40% of ₹ 15,00,000, as Plant F is purchased during the previous year and put to use for less than 180 days]	**3,00,000**	**20,000**

9.

Block 1- Building (rate of depreciation: 5%)	
Building B- Residential building	**40.10**
Block 2- Building (rate of depreciation: 10%)	
Building A- Office building	60.70
Building C- Factory building	70.40
Total	**131.10**
Block 3- Plant and machinery (rate of depreciation 15%)	
Plant B- Fax machine	0.60
Plant E- PBAX telephone	1.10
Plant F- Air-conditioner	6.80
Plant G- Scooters	1.90
Plant C- Cars	6.10
Total	**16.50**
Block 4- Plant and machinery (rate of depreciation 40%)	
Plant A- Office Computer	**1.20**
Plant D- Air Pollution control equipment	**2.40**
Block 5- Furniture (rate of depreciation: 10%)	
Office furniture	2.85
Furniture for welfare centre	4.10
Total	**6.95**
Block 6- Know-how (rate of depreciation: 25%)	
Know-how to manufacture goods	**18.70**

INCOME UNDER THE HEAD "PGBP"

[Chapter IV-D | SECTION 28 to 44DB]

Assessment Year 2024-25 (Amended with Finance Act 2023)

Page 11.2; 11.4; 11.31; 11.54; 11.56 & 11.60 are amended

*The tax payable by an assessee on his income under this head is in respect of the profits and gains of **any business or profession**, carried on by him or on his behalf during the previous year.*

MEANING OF 'BUSINESS' AND 'PROFESSION'

Business	Profession
The term **"business"** has been defined in section 2(13) to "include any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture".	The term **"profession"** has not been defined in the Act. It means an occupation requiring some degree of learning. The term 'profession' includes vocation as well [Section 2(36)]

Thus, a painter, a sculptor, an author, an auditor, a lawyer, a doctor, an architect and even an astrologer are persons **who can be said to be carrying on a profession** but not business.

However, it is not material whether a person is carrying on a 'business' or 'profession' or 'vocation' since for purposes of assessment, **profits from all these sources** are treated and taxed alike.

Business necessarily means a continuous exercise of an activity; nevertheless, profit from **a single venture in the nature of trade** may also be treated as business.

COMPUTATION OF INCOME FROM BUSINESS [SECTION 29]

Income under the head PGBP (referred to in Section 28) shall be computed in accordance with provisions contained in ***Section 30 to 43D***

Sample Format

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

Section 28: CHARGING SECTION INCOME CHARGEABLE UNDER THIS HEAD

The various items of income chargeable to tax as income under the head 'profits and gains of business or profession' are as under:

1. **Income from business or profession**
   Income arising to any person by way of profits and gains from the business or profession carried on by him at any time during the previous year.

2. **Any compensation or other payment due to or received by:**
   - **a.** any person, by whatever name called, managing the whole or substantially the whole of-
     i. the affairs of an Indian company or
     ii. the affairs in India of any other company
     at or in connection with the **termination of his management or office or the modification** of any of the terms and conditions relating thereto;
   - **b.** any person, by whatever name called, **holding an agency in India** for any part of the activities relating to the business of any other person, at or **in connection with the termination of the agency or the modification** of any of the terms and conditions relating thereto;
   - **c.** any person, for or in connection with the **vesting in the Government** or in any corporation owned or controlled by the Government under any law for the time being in force, **of the management of any property or business;**
   - **d.** any person, by whatever name called, **at or in connection with the termination or modification** of the terms and conditions, of any contract relating to his business.

3. **INCOME OF TRADE OR PROFESSIONAL ASSOCIATION**
   Income derived by **any trade, professional or similar associations** from specific services rendered by them ***to their members***.

4. **EXPORT INCENTIVES:** In case of an assessee engaged in the business of export/import:
   - Profits on sale of an **Import Entitlement licence** granted
   - **Cash assistance** received or receivable by any person against exports under any scheme of the Government of India
   - Any **Customs duty or Excise duty drawback repaid or repayable** against export
   - **Profit on transfer of Duty Entitlement Pass Book Scheme or Duty Free Replenishment Certificate**

5. **BENEFITs OR PERQUISITES**
   ~~The value of any benefit or perquisite whether convertible into money or not, arising from business or the exercise of any profession~~

   The value of any benefit or perquisite arising from business or the exercise of a profession, whether-

   (a) convertible into money or not; or

   (b) in cash or in kind or partly in cash and partly in kind;

   [Amended by Finance Act 2023]

6. PAYMENTS RECEIVED BY A PARTNER FROM A PARTNERSHIP FIRM

Any interest, salary, bonus, commission or remuneration, by whatever name called, due to or received by a partner of a firm from such firm.

However, where any interest, salary, bonus, commission or remuneration by whatever name called, or any part thereof **has not been allowed to be deducted under section 40(b),** in the computation of the income of the firm, the income to be taxed shall be adjusted to the extent of the amount disallowed.

7. SUMS RECEIVED UNDER A KEYMAN INSURANCE POLICY

Any sum received by employer under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

8. Conversion of Stock in Trade into Capital Asset [Also refer CG Notes]

Fair market value of inventory on the date of its conversion or treatment as capital asset, determined in the prescribed manner, would be chargeable to tax as business income.

9. Sum received on account of capital asset referred under section 35AD

*Any sum received or receivable, in cash or kind**, on account of any capital asset (other than land or goodwill or financial instrument)** being demolished, destroyed, discarded or transferred if the whole of the expenditure on such capital asset has been allowed as a deduction under Section 35AD.*

10. Any sum whether received or receivable, in cash or kind, under an agreement

a) for not carrying out any activity in relation to any Business **or Profession**; or

b) not to share any know-how, patent, copyright, trade mark, license, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services.

However, the above sub-clause (a) shall not apply to any sum receivable on account of transfer of the ***right to manufacture, produce or process any article or thing or right to carry on any business or Profession,*** which is **chargeable under the head "Capital gains**";

SPECULATION BUSINESS including Speculative Transactions

Refer 'Setoff of loss' Chapter

Expenditures allowed on actual payment basis [Section 43B]

A. Deduction in respect of following expenses are allowed **only if payment is made on or before the due date for furnishing return of income u/s 139(1) of the previous year in which such liability is incurred [i.e. before 31st July / 31st October / 30th Nov]**

[If the payment is not made before the date mentioned above, then no allowance shall be allowed in respect of the outstanding liability. ***Deduction can, however, be claimed in the year of payment]***

a) Any **sum payable by way of Tax, Duty, Cess or Fee**, by whatever name called, under any law for the time being in force.

b) **Interest on** any loan or advances ***from a scheduled bank or a cooperative bank*** on actual payment basis.

c) Any sum payable by the assessee as **interest on any loan or borrowing** from

- any *public financial institution or*
- *a State Financial Corporation or*
- *a State Industrial Investment Corporation*.

d) **Any sum payable by the assessee as interest on any loan or borrowing from such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf ~~a deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company~~**

[Amended by Finance Act 2023]

e) **Bonus or Commission** (for services rendered) **payable to employees**.

f) **Leave encashment payable to employees**.

g) Any sum payable by the **assessee as an employer** by way of **contribution to any Provident Fund or Superannuation Fund or Gratuity Fund or any other fund for the welfare of employees**.

h) **Any sum payable to the Indian Railways for the use of railway assets**

B. **Deduction in respect of any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 shall be allowed on paid basis.**

Section 15 of MSMED Act mandates payment to MSE within the time as per written agreement, which cannot be more than 45 days. If there is no such written agreement, the section mandates that the payment shall be made within 15 days. Time limit of filing ROI u/s 139(1) shall not be applicable in this case.

[Added by Finance Act 2023]

Meaning of Micro and Small enterprise

S. No.	*Meaning*	
(1)	***In case of enterprises engaged in the manufacture or production of goods pertaining to specified industries***	
	Micro enterprise *Where the investment in plant and machinery ≤ ₹ 25 lakhs*	***Small enterprise*** *Where the investment in plant and machinery > ₹ 25 lakhs ≤ ₹ 5 crores*
	Note: *For calculating investment in plant and machinery, the cost of pollution control, research and development, industrial safety devices and such notified items* ***shall be excluded.***	
(2)	***In case of enterprises engaged in providing or rendering services***	
	Micro enterprise *Where the investment in equipment ≤ ₹ 10 lakhs*	***Small enterprise*** *Where the investment in equipment > ₹ 10 lakhs ≤ ₹ 2 crores*

Note:

1. Section 43B is applicable only if the assessee is following mercantile system of accounting.
2. **Cooperative banks excludes Primary Agriculture Credit Society or a primary co-operative agriculture & rural development Bank**
3. **No deduction for interest converted into loan/advance *or debenture or any other instrument*:**

   Any interest falling under (b), (c) & (d), which has been converted into a loan or borrowing or advance ***or debenture or any other instrument by which the liability to pay is deferred to a future date, shall not be regarded as "actually paid" and shall not be allowed as deductions.***

4. ***Section 43B shall not apply to a sum received by the assessee from any of his employees* as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948, or any other fund for the welfare of such employees**

   In other words, Section 43B is applicable on Employers contribution to PF, ESI etc and not employee contributions recovered by the employer which is being paid subsequently as per respective Acts.

Example:

Debit side of the profit and loss account of Mayank Ltd. shows the following expenses, which have been due but are outstanding as on 31-3-2024

Payment outstanding on 31-3-2024		*First payment*		*Second payment*	
Particulars	*Amount*	*Date*	*Amount paid*	*Date*	*Amount paid*
Leave encashment expenses	*65,000*	*1-6-2024*	*15,000*	*25-12-2024*	*50,000*
Excise duty payable	*14,000*	*10-6-2024*	*3,000*	*13-12-2024*	*11,000*
Sales tax payable	*48,000*	*5-10-2024*	*48,000*	*-*	*-*
Bonus payable to employees	*87,000*	*2-5-2024*	*30,000*	*31-10-2024*	*57,000*
Interest payable to LIC loan	*75,000*	*13-5-2024*	*50,000*	*10-01-2025*	*25,000*

Due date for filing of return of income is 31-10-2024

Find out the previous years in which the aforesaid payments are deductible. The company maintains books of accounts on the basis of mercantile system of accounting.

Solution:

As per provision of sec. 43B following payment if made before due date of filing of return (i.e. 31/10/2024) then only it shall be allowed.

Particulars	Amount paid	Deduction allowed in the previous year	
		2023-24	2024-25
Leave encashment expense	65,000	15,000	50,000
Excise duty payable	14,000	3,000	11,000
Sales tax payable	48,000	48,000	-
Bonus payable to employees	87,000	87,000	-
Interest payable to LIC loan	75,000	50,000	25,000

Example:

An analysis of the profit and Loss Account and the Balance Sheet of Kapil as at March 31, 2024 reveals that the following expenses which were due, were though debited to Profit and Loss account, but have been paid after 31-3-2024:

- ***Sales tax ₹ 50,000 (₹ 20,000 paid on 14-10-2024; and ₹ 30,000 paid on 15-12-2024)***
- ***Excise duty ₹ 120,000 (₹ 40,000 paid on 14-10-2024; ₹ 40,000 paid on 15-12-2024; and ₹ 40,000 paid on 24-12-2024)***
- ***Bonus to staff ₹ 60,000 (₹ 58,000 paid on 10-10-2024; and ₹ 2,000 paid on 15-12-2024)***
- ***Employers contribution to provident fund ₹ 55,000 (₹ 25,000 paid on 15-7-2024; ₹ 10,000 paid on 30-10-2024; and ₹ 20,000 paid on 15-12-2024)***

The due date for filing of return is 31-10-2024. In which previous years can the above payments be claimed as a deduction?

Solution

As per Sec. 43B certain expenditure (like sales tax, excise duty, bonus to staff, etc.) are not allowed if payment is not made before the due date of furnishing return of income. Deduction can, however, be claimed in the year of payment.

Statement showing previous year in which deduction can be claimed.

Particulars	Amount	Previous year in which deduction can be claimed
Sales tax		
• Paid on 14-10-2024	20000	2023-24
• Paid on 15-12-2024	30000	2024-25
Excise duty		
• Paid on 14-10-2024	40000	2023-24
• Paid on 15-12-2024	40000	2024-25
• Paid on 24-12-2024	40000	2024-25
Bonus to staff		
• Paid on 10-10-2024	58000	2023-24
• Paid on 15-12-2024	2000	2024-25
Employers contribution to provident fund		
• Paid on 15-07-2024	25000	2023-24
• Paid on 30-10-2024	10000	2023-24
• Paid on 15-12-2024	20000	2024-25

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

1) Where the assessee incurs any expenditure, in respect of which **payment or aggregate of payments** made **to a person in a day** otherwise than by **an account payee cheque or by an account payee bank draft** or use of electronic system through bank account ***or through such other prescribed electronic modes*** exceeds ₹ 10,000, ***such expenditure [100%] shall not be allowed as a deduction***. [**Section 40A(3)]**

[Rule 6ABBA] The prescribed electronic modes are 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.

2) Further, In 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 has been made in a subsequent year otherwise than by account payee cheque or account payee bank draft or use of electronic system through bank account ***or through such other prescribed electronic modes***, then the payment so made ***shall be deemed to be the income of the subsequent year if such payment or aggregate of payments made to a person in a day exceeds ₹ 10,000***.**Section 40A(3A)**

3) *This limit of ₹ 10,000 has been raised to ₹ 35,000 in case of* ***payment made to transport operators for plying, hiring or leasing goods carriages.***

4) Section 40A(3) & Section 40A(3A) is applicable only for computing income under PGBP and IOS.

5) The provisions regarding payments by account payee cheque, draft etc. apply equally to payments made for goods purchased on credit.

6) If ***aggregate payment in a day*** (otherwise than by an account payee cheque/draft) to the same person in respect of an expenditure exceeds ₹ 10,000, it will be disallowed under section 40A(3), even if none of each payment in the day exceeds ₹ 10,000.

7) If an assessee makes payment of ***two different bills*** (none of them exceeds ₹ 10,000) at the same time in cash or by bearer cheque, section 40A(3) is not applicable even if the aggregate payment is more than ₹ 10,000. ***In other words unless the amount of the bill and the amount of payment exceed ₹ 10,000, section 40A(3) is not applicable.***

8) Where the assessee makes payment over ₹ 10,000 at a time, partly by an account payee cheque ***and partly in cash or bearer cheque or crossed cheque to some parties*** but the payment in cash (or by bearer cheque or crossed cheque) alone at one time does not exceed ₹ 10,000, section 40A(3) is not attracted.

9) Provision of section 40A(3) does not apply in respect of an expenditure which is not to be claimed as deduction u/s 30 to 37.

10) Rule 6DD

"Cases and circumstances in which a payment or aggregate of payments exceeding ten thousand rupees may be 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 electronic mode as prescribed in rule 6ABBA"

*No disallowance under sub-section (3) of section 40A shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3A) of section 40A where 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 electronic mode as prescribed under rule 6ABBA, **exceeds ₹10,000**, in the cases and circumstances specified hereunder, namely:-*

(a) *where the payment is made to—*

- ***(i)*** *the Reserve Bank of India or any banking company;*
- ***(ii)*** *the State Bank of India;*
- ***(iii)*** *any co-operative bank or land mortgage bank;*
- ***(iv)*** *any primary agricultural credit society or any primary credit society;*
- ***(v)*** *the Life Insurance Corporation of India;*

(b) *where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;*

(c) *where the payment is made by—*

- ***i.*** *any letter of credit arrangements through a bank;*
- ***ii.*** *a mail or telegraphic transfer through a bank*
- ***iii.*** *a book adjustment from any account in a bank to any other account in that or any other bank*
- ***iv.*** *a bill of exchange made payable only to a bank*

(d) *where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;*

(e) *where the payment is made for the purchase of—*

- ***(i)*** *agricultural or forest produce; or*
- ***(ii)*** *the produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or*
- ***(iii)*** *fish or fish products; or*
- ***(iv)*** *the products of horticulture or apiculture,*

to the cultivator, grower or producer of such articles, produce or products;

(f) *where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;*

(g) *where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;*

(h) *where any payment is made to an employee of the assessee or the heir of any such employee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit **and the aggregate of such sums payable to the employee or his heir does not exceed ₹50,000;***

(i) *where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Act, and when such employee—*

(i) *is temporarily posted for a continuous period of fifteen days or more in a place other than his normal place of duty or on a ship; and*

(ii) *does not maintain any account in any bank at such place or ship;*

(j) ~~*where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike*~~*;*

(k) *where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person;*

(l) *where the payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business*

Cases where disallowances would not be attracted:

1. **Loan transactions:** It does not apply to loan transactions because advancing of loans or repayments of the principal amount of loan does not constitute an expenditure deductible in computing the taxable income.

   However, interest payments of amounts exceeding ₹ 10,000 at a time are required to be made by account payee cheques or drafts or electronic clearing system or through such other prescribed electronic modes such as *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* **as interest is a deductible expenditure.**

2. **Payment made by commission agents:** This requirement does not apply to payment made by commission agents for goods received by them for sale on commission or consignment basis **because such a payment is not an expenditure deductible in computing the taxable income of the commission agent.**

   For the same reason, this requirement does not apply to advance payment made by the commission agent to the party concerned against supply of goods.

   However, where commission agent **purchases goods on his own account** but not on commission basis, the requirement will apply. The provisions regarding payments by account payee cheque or draft or electronic clearing system or through such other prescribed electronic modes such as *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* **apply equally to payments made for goods purchased on credit.**

Question:

Determine the amount of disallowances in the cases given below-

1. ***Generally X pays salary to his employees by account payee cheques. Salary of December 2023 is, however, paid to three employees A, B and C by bearer cheques (payment being ₹ 6,000, ₹ 10,000 and ₹ 10,500 respectively).***
2. ***X Ltd. purchases goods on credit from Y Ltd. on May 6, 2023 for ₹ 86,000 which is paid as follows –***
   a) ***₹ 5,000 in cash on May 11, 2023;***
   b) ***₹ 40,000 by a bearer cheque on May 31, 2023;***
   c) ***₹ 41,000 by an account payee cheque on May 16, 2023.***
3. ***Z Ltd. purchases goods on credit from A Ltd. on May 10, 2023 for ₹ 6,000 and on May 30, 2023 for ₹ 5,000. The total payment of ₹ 11,000 is made by a crossed cheque on June 1, 2023.***
4. ***A Ltd. purchases goods on credit from a relative of a director on June 20, 2023 for ₹ 50,000 (market value: ₹ 42,000). The amount is paid in cash on June 25, 2023.***
5. ***B Ltd. purchases raw material on credit from A who holds 20% equity share capital in B Ltd. (the amount of bill being ₹ 36,000, market price being ₹ 9,000). It is paid in cash on July 26, 2023.***

Solution:

1. ₹ 10,500, being 100% of salary paid by bearer cheque to C, will be disallowed.
2. Nothing will be disallowed out of the payment of ₹ 5,000 in cash on May 11, 2023, as the payment does not exceed ₹ 10,000. 100% of ₹ 40,000 will be disallowed. Nothing will be disallowed out of ₹ 41,000.
3. Though the amount of payment exceeds ₹ 10,000, nothing shall be disallowed. To attract disallowances, the amount of bill as well as the amount of payment should be more than ₹ 10,000.
4. Out of the payment of ₹ 50,000, ₹ 8,000 (being the excess payment to a relative) shall be disallowed u/s 40A(2). As the payment is made in cash and the remaining amount exceeds ₹ 10,000, 100% of the balance (i.e., ₹ 42,000) shall be disallowed u/s 40A(3).
5. Out of the payment of ₹ 36,000, ₹ 27,000 (being the excess payment to a person holding a substantial interest) shall be disallowed u/s 40A(2). The remaining amount (i.e., ₹ 9,000) does not exceed ₹ 10,000. Nothing shall be disallowed u/s 40A(3) even if the payment is made in cash.

ADMISSABLE DEDUCTIONS

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

- **Business Use:** Section 30 allows deduction in respect of the **rent, rates, taxes, repairs and insurance** of buildings used by the assessee for the purpose of his business or profession.

  However, where the **premises are used partly for business and partly for other purposes,** only a proportionate part of the expenses attributable to that part of the premises used for purposes of business will be allowed as a deduction.

- **Notional Rent:** Rent paid to proprietor is disallowed ***but rent paid by firm to its partner for using his premises is an allowed expenditure***.

- **Current Repairs Vs Capital Repair:** This section allows deductions in respect of expenses incurred on account of **current repairs [Revenue in Nature]** to building in case where (i) the assessee is the owner of the building or (ii) the assessee is a tenant who has undertaken to bear the cost of repairs to the premises.

  But if capital Expenditure is incurred on repair:

  - ***By the owner***: then, it shall be added to the cost of building & Depn. shall be allowed u/s. 32(1)(ii)

  - ***By the tenant***: then, the depreciation shall be allowed as per Expln. 1 to Section 32(1).

- **Municipal Taxes:** By virtue of section 43B, rates and taxes are deductible on cash basis.

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

- **Business Use of Asset:** Section 31 allows deduction in respect of the expenses on **current repairs (not being capital expenditure) and insurance** of machinery, plant and furniture used for the purposes of business or profession carried on by the assessee.

- Capital Expenditure incurred on repair shall be added to the cost of plant & machinery or furniture and depreciation shall be allowed under Section 32.

- ***Rent payable for use of above assets*** is not covered by section 31, but shall be allowed as deduction under section 37(1).

- Replacement of old frames for efficient functioning of machines without breakdowns, is allowable as deduction u/s 37 and not u/s 31 because it is not current repairs, **but accumulated repairs**

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.

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

Where an assessee incurs any expenditure for acquisition of any asset in respect which a payment (or aggregate of payments made to a person in a day), otherwise than by an account payee cheque/draft/use of electronic clearing system through a bank account or through such other prescribed electronic mode, exceeds ₹ 10,000, such payment shall be ignored for the purposes of determination of "Actual Cost" of such asset.

Consequently, Depreciation/Additional Depreciation under Section 32 pertaining to such payment is not available. Moreover, such expenditure will not be considered for the purpose of Section 50.

The prescribed electronic modes are 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.

Actual cost in certain special situations [Explanations to section 43(1)]

READING PURPOSE

1. ***Asset used for business after it ceases to be used for scientific research:*** *Where an asset is used for the purposes of business after it ceases to be used for scientific research related to that business, the actual cost to the assessee for depreciation purposes shall be the actual cost to the assessee as reduced by any deduction allowed under section 35(1)(iv)* ***(i.e. NIL)*** *[Explanation 1].*

2. ***Inventory converted into capital asset and used for business or profession:*** *Where inventory is converted or treated as a capital asset and is used for the purpose of business or profession, the fair market value of such inventory as on the date of its conversion into capital asset determined in the prescribed manner, shall be the actual cost of such capital asset to the assessee [Explanation 1A].*

3. ***Asset is acquired by way of gift or inheritance:*** *Where an asset is acquired by way of gift or inheritance, its actual cost shall be the actual cost to the previous owner minus depreciation allowable to the assessee as if asset was the only asset in the relevant block of assets [Explanation 2].*

   Further, any expenditure incurred by the assessee such as expenditure on freight, installation etc. of such asset would also be includible in the actual cost.

4. ***Second hand asset:*** *Where, before the date of its acquisition by the assessee, the asset was at any time used by any other person for the purposes of his business or profession, and the Assessing Officer is satisfied that the main purpose of the transfer of the asset directly or indirectly to the assessee was the reduction of liability of income-tax directly or indirectly to the assessee (by claiming depreciation with reference to an enhanced cost) the actual cost to the assessee shall be taken to be such an amount which the Assessing Officer may, with the previous approval of the Joint Commissioner, determine, having regard to all the circumstances of the case [Explanation 3].*

5. ***Re-acquisition of asset:*** *Where any asset which had once belonged to the assessee and had been used by him for the purposes of his business or profession and thereafter ceased to be his property by reason of transfer or otherwise, is re-acquired by him, the actual cost to the assessee shall be-*
   - ***a.*** *the actual cost when he first acquired the asset minus depreciation allowable to the assessee as if asset was the only asset in the relevant block of assets; or*
   - ***b.*** *the actual price for which the asset is re-acquired by him*

   whichever is less [Explanation 4].

6. ***Acquisition of asset previously owned by any person to whom such asset is given on lease, hire or otherwise:*** *Where before the date of acquisition by the assessee say, Mr. A, the assets were at any time used by any other person, say Mr. B, for the purposes of his business or profession and depreciation allowance has been claimed in respect of such assets in the case of Mr. B and such person acquires on lease, hire or otherwise, assets from Mr. A, then, the actual cost of the transferred assets, in the case of Mr. A, shall be the same as the written down value of the said assets at the time of transfer thereof by Mr. B [Explanation 4A]. Here,* ***Explanation 4A overrides Explanation 3.***

   Example:
   A person (say "A") owns an asset and uses it for the purposes of his business or profession. A has claimed depreciation in respect of such asset. The said asset is transferred by A to another person (say "B"). A then acquires the same asset back from B on lease, hire or otherwise. B being the new owner will be entitled to depreciation. ***In the above situation, the cost of acquisition of the transferred assets in the hands of B shall be the same as the written down value of the said assets at the time of transfer.***

7. ***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].*

8. ***Capitalization of interest paid or payable in connection with acquisition of an asset:*** *Certain taxpayers have, with a view to obtain more tax benefits and reduce the tax outflow, resorted to the method of capitalising interest paid or payable in connection with acquisition of an asset relatable to the period after such asset is first put to use.*

   This capitalisation implies inclusion of such interest in the 'Actual Cost' of the asset for the purposes of claiming depreciation, investment allowance etc. under the Income-tax Act, 1961. This was never the legislative intent nor was it in accordance with recognised accounting practices. Therefore, with a view to counter-acting tax avoidance through this method and placing the matter beyond doubt, Explanation 8 to section 43(1) provides that any amount paid or payable as interest in connection with the acquisition of an asset and relatable to period after asset is first put to use ***shall not be included*** *and shall be deemed to have never been included in the actual cost of the asset [Explanation 8].*

9. ***Subsidy or grant or reimbursement:*** *Where a portion of the cost of an asset acquired by the assessee has been met directly or indirectly by the Central Government or a State Government or any authority established under any law or by any other person, in the form of a subsidy or grant or reimbursement (by whatever name called), then, so much of the cost as is relatable to such subsidy or grant or reimbursement shall not be included in the actual cost of the asset to the assessee.*

   However, where such subsidy or grant or reimbursement is of such nature that it cannot be directly relatable to the asset acquired, so much of the amount which bears to the total subsidy or reimbursement or grant the same proportion as such asset bears to all the assets in respect of or with reference to which the subsidy or grant or reimbursement is so received, shall not be included in the actual cost of the asset to the assessee [Explanation 10].

10. ***Asset is acquired outside India by an assessee, being a non-resident and such asset is brought by him to India:*** *Where an asset is acquired outside India by an assessee, being a non-resident and such asset is brought by him to India and used for the purposes of his business or profession,* ***the actual cost of asset to the assessee shall be the actual cost the asset to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition by the assessee*** *[Explanation 11].*

11. ***Capital asset on which deduction is allowable under section 35AD:*** *Explanation 13 to section 43(1) provides that the actual cost of any capital asset, on which deduction has been allowed or is allowable to the* ***assessee (or previous owner in case of gift, death, amalgamation etc)*** *under section 35AD,* ***shall be nil.***

    However, where an asset, in respect of which deduction is claimed and allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of section 35AD(7B) (on account of asset, being used for a purpose other than specified business under section 35AD), the actual cost of the asset to the assessee shall be actual cost to assessee ***as reduced*** *by the amount of depreciation allowable had the asset been used for the purpose of business, calculated at the rate in force, since the date of its acquisition.*

    [Proviso to Explanation 13 to section 43(1)].

Example: ***Compute the amount of depreciation allowable in the following cases - Dr. Jolly purchased a house property on 1-12-2021 for ₹ 10,00,000. Till 1-6-2023, the same was self -occupied as a residence. On this date, the building was brought into use for his medical profession. Rate of depreciation on buildings at the time of purchase of house property was 15 %.***

Solution: Explanation 5 to section 43(1) provides mode of computation of actual cost when a building initially used for personal purposes is brought into business use. *The rate of depreciation to be applied is the rate in force in the year in which building is brought into business use i.e. 10%.*

Computation of the amount of depreciation allowable (amounts in ₹)

WDV as on 31.3.2022	10,00,000
Less: Depreciation @ (10% x 50%) of ₹ 10,00,000 (use for less than 180 days)	50,000
WDV as on 1.04.2022	**9,50,000**
Less: Depreciation (10% of ₹ 9,50,000)	95,000
WDV as on 1.4.2023 (Actual cost of building)	**855,000**
Depreciation for the current year (10% of ₹ 8,55,000)	85,500

TREATMENT OF EXCHANGE RATE FLUCTUATIONS IN CASE OF PURCHASE OF AN ASSET FROM OUTSIDE INDIA [SECTION 43A]

- The assessee has acquired any capital asset from abroad on credit or on deferred payment or from money representing in foreign currency
- subsequently, after the date of acquisition, there is an **increase or reduction in the liability *at the time of making the payment*** towards the cost of the asset or repayment of money borrowed in any foreign currency along with interest due to foreign exchange rate fluctuation
- Such increase or reduction shall be added to or reduced from the cost of the assets.

[Refer Class notes for example]

Example:
Narang Textiles Ltd. purchased a machinery from Germany for Euro 1,00,000 on 03-09-2022 through a term loan from Fortune Bank Ltd. The exchange rate on the date of acquisition was ₹ 65. The assessee took a forward exchange rate on 05-10-2023 when the rate specified in the contract was ₹ 67 per Euro. Compute depreciation for the assessment years 2023-24 and 2024-25. Ignore additional depreciation.

Solution:

Computation of Depreciation

Particulars	**Amount**
Opening W.D.V. as on 1/4/2022	Nil
Add: Assets purchased during the year [Euro 1,00,000 * ₹ 65]	65,00,000
	65,00,000
Less: Depreciation for the P.Y. 2022-23 [₹ 65,00,000 * 15%]	9,75,000
Opening W.D.V. as on 1/4/2023	55,25,000
Add: Difference in Conversion rate [Euro 1,00,000 * ₹ 2]	2,00,000
	57,25,000
Less: Depreciation for the P.Y. 2023-24 [₹ 57,25,000 * 15%]	8,58,750
Opening W.D.V. as on 1/4/2024	**48,66,250**

EXPENDITURE ON SCIENTIFIC RESEARCH [Section 35]

Sec 35	Expenditure incurred	Deduction	Conditions / Remarks
(1)(i)	**1.** Revenue expenditure on scientific research incurred after commencement of business. **2.** Subject to conditions, Expenditure on scientific research ***before commencement of business*** by way of **a.** Purchase of materials; or **b.** Salary (except perquisite) of employees	**Amount of expenditure incurred** **[100%]**	***Expenditure incurred within 3 years immediately preceding the date of commencement of business*** is allowed as deduction in the year of commencement of business **to the extent certified by the prescribed authority.**
(1)(ii)	Sum paid to a Research Association, University, College or Institution whose object is undertaking of scientific research	**100% x Sum paid**	➢ Such association, university college or institution must be approved and notified by the CG. ➢ Deduction is allowed even if research is not related to business.
(1)(iia)	***Sum paid to a company*** to be used by it for scientific research	**100% x Sum paid**	Such company is ***registered*** in India, is ***approved*** by prescribed authority and has the ***main object of 'scientific research and development'***
(1)(iii)	***Sum paid for Social Science or Statistical Research*** to a Research Association which has as its object the undertaking of research in social science or statistical science or to a University, College or Institution	**100% x Sum paid**	➢ Such association, university college or institution must be approved and notified by the CG. ➢ Deduction is allowed even if research is not related to business.
(1)(iv) & (2)	➢ Capital expenditure (except expenditure on the purchase of land) on scientific research related to business. ➢ Capital expenditure (except expenditure on the purchase of land) ***incurred within 3 years immediately preceding the date of commencement of business***.	**Amount of expenditure incurred**	➢ Pre-commencement expenditure is allowed in the year of the commencement of the business. ➢ No depreciation is allowable.
(2AA)	**Sum paid to -** **a.** a National Laboratory; or **b.** a University; or **c.** an Indian Institute of technology; or **d.** a specified person	**100% x Sum paid**	➢ Sum is paid with a ***specific direction that it shall be used for scientific research undertaken under a programme approved*** in this behalf by prescribed authority.

(2AB)	Expenditure ***(not being in nature of cost of any land or buildings)*** incurred on scientific research on in-house research and development facility incurred ***by a company engaged in the business of bio-technology, or, any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule*** [Cost of building shall be allowed u/s 35(1)(iv) @100%]	**Amount of expenditure incurred**	➢ Such Research and development facility is approved by prescribed authority. ➢ Such assessee should enter into an agreement with prescribed authority for co-operation in such Research and development facility and audit of accounts maintained for that facility. ➢ No deduction shall be allowed in respect of such sum under any other provision of the Act. ➢ No deduction shall be allowed in this sub-section to a company approved u/s 35(1)(iia).

Other points:

1. **Deduction not to be denied even if approval withdrawn subsequently :** The deduction allowable under this section shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee-
   - **(a)** the approval granted to association, university, college, other institution referred to u/s 35(1)(ii)/ (iii), **or to a company referred to u/s 35(1)(iia)** or, the Laboratory or specified person referred to u/s 35(2AA) has been withdrawn; or
   - **(b)** the approval granted to the programme undertaken by the National Laboratory, University, Indian Institute of Technology or specified person, has been withdrawn.

2. ***Actual use for scientific research during the previous year - not necessary:***
   Deduction under section 35(1)(iv) is available only if the asset was acquired during the previous year for the purposes of scientific research. There is no further requirement that asset must be put to use in the relevant previous year.

3. **In case of sale of assets used for research purpose & on which deduction is allowed u/s 35, money payable on sale will be considered as deemed income u/s 41(3) u/h PGBP to the extent deduction is allowed. Amount in excess of Cost of such asset will be liable for Capital Gain.**

4. **SET OFF OF UNABSORBED CAPITAL EXPENDITURE:**
   The treatment for Set off and carry forward of unabsorbed scientific research capital expenditure shall be done in the same manner as that of unabsorbed depreciation.

5. **Deduction under Section 35(1)(ii), 35(1)(iia), 35(1)(iii) & 35(2AA) are not available to Individual & HUF in case they pays tax as per Section 115BAC.**

6. ***The deduction with respect to the donation given by the assessee to any research association, university, college or other institution referred to in section 35(1)(ii)/(iii) or the company referred to in section 35(1)(iia) would not be allowed unless***
   - ***such research association, university, college or other institution or company files the statement of donations to the prescribed income tax authority &***
   - ***furnishes certificate of donations to donor.***

Question: K Bio-medicals Ltd. is engaged in the business of manufacture of bio-medical items. The following expenses were incurred in respect of activities connected with scientific research:

Year ended	Item	Amount (₹)
31.03.2021 (Incurred after 01.09.2020)	Land	12,00,000
	Building	28,00,000
31.03.2022	Plant & Machinery	7,00,000
31.03.2023	Raw materials (allowed by prescribed authority)	3,20,000
31.03.2024	Raw materials and salaries (After commencement)	2,80,000

The business was commenced on 01.09.2023. In view of availability of better model plant and machinery, the existing plant and machinery were sold for ₹ 10,00,000 on 01.03.2024.

Discuss the implication of the above for the AY 2024-25 alongwith brief computation of deduction permissible under section 35.

SOLUTION:

	₹
Expenditure allowed	
Land	Not Allowed
Building	28,00,000
Plant and machinery	7,00,000
Raw materials	3,20,000
Raw materials and salaries **(2,80,000 × 100%)**	2,80,000

On sale of existing P&M, ₹ 7,00,000 will be deemed to be business profits under section 41(3)

Short term capital gains on sale of plant and machinery	
Full value of consideration	10,00,000
Less: cost of acquisition	7,00,000
Short term capital gains	**3,00,000**

Question: A Ltd. furnishes the following particulars for the PY 2023-24. Compute the deduction allowable under section 35 for AY 2024-25, while computing its income under the head "PGBP":

	Particulars	₹
1.	Amount paid to Indian Institute of Science, Bangalore, for scientific research	2,00,000
2.	Amount paid to IIT, Delhi for an approved scientific research programme	3,00,000
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	6,00,000
4.	**Expenditure incurred on in-house research and development facility as approved by the prescribed authority**	
	(a) Revenue expenditure on scientific research	4,00,000
	(b) Capital expenditure (including cost of acquisition of land ₹ 5,00,000) on scientific research	8,00,000

Solution: Computation of deduction under section 35 for the AY 2024-25

Particulars	₹	% of weighted deduction	Amount of deduction (₹)
Payment for scientific research			
Indian Institute of Science	2,00,000	**100%**	2,00,000
IIT, Delhi	3,00,000	**100%**	3,00,000
X Ltd.	6,00,000	100%	6,00,000
Expenditure incurred on in- house research and development facility			
Revenue expenditure	4,00,000	**100%**	4,00,000
Capital expenditure (**excluding** cost of acquisition of land ₹ 5,00,000)	3,00,000	**100%**	3,00,000
Deduction allowable u/s 35			**18,00,000**

Deduction in respect of donations for scientific research and rural development [Section 80GGA]

1) Any assessee not having income u/h "PGBP".

2) No Deduction for cash donations/contributions exceeding ₹ 2,000

*No deduction shall be allowed under this section in respect of donation of any sum **exceeding ₹ 2,000** unless such sum is paid by any mode other than cash.*

3) 100% deduction of contribution made to:

a) Research association/University/College/Other Institution approved u/s 35(1)(ii) for scientific research;

b) Research association/University/College/Other Institution approved u/s 35(1)(iii) for *research in social science or statistical research*

c) Public Sector Company/Local Authority/Association or institution (approved by the National Committee) for carrying out any eligible project or scheme approved under section 35AC

d) Association/Institution which undertaking any programme of rural development u/s 35CCA or which has undertaking training of persons for implementation of such programmes.

e) *National Rural Development Fund or National Urban Poverty Eradication Fund (NUPEF)* set up and notified under section 35CCA.

Note*: The claim of the assessee for a deduction in respect of any sum referred to in this Section in the return of income for any assessment year filed by him, shall be allowed on the basis of information relating to such sum furnished by the payee to the prescribed income-tax authority or the person authorised by such authority, subject to verification in accordance with the risk management strategy formulated by the Board from time to time*.

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

"Deduction under Sec 35AD is not available to Ind./HUF in case Section 115BAC is applicable"

A. Specified business – Deduction u/s 35AD is available only in the case of a "specified business":

W.e.f 01/04/2009

(1) *Setting up and operating a cold chain facility*

(2) *setting up and operating a warehousing facility for storage of agriculture produce;*

(3) *laying and operating a cross-country natural gas (w.e.f.01/04/2007) or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network (only Company)*

W.e.f 01/04/2010

(4) *building and operating, anywhere in India, a hotel of two-star or above category;*

[Owner of Hotel is eligible for deduction even if owner transfers the operation of the hotel to another person]

(5) *building and operating, anywhere in India, a hospital with atleast 100 beds for patients;*

(6) *developing and building a housing project under a scheme for slum redevelopment or rehabilitation;*

W.e.f 01/04/2011

(7) *developing and building a housing project under a scheme for affordable housing*

(8) *Production of fertilizer in India*

W.e.f 01/04/2012

(9) *Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962*

(10) *Bee-keeping and production and production of honey and beeswax; and*

(11) *Setting up and operating a warehousing facility for storage of sugar*

W.e.f 01/04/2014

(12) *Laying & Operating a slurry pipeline for the transportation of iron ore*

(13) *Setting up and operating a semiconductor wafer fabrication manufacturing unit, if notified*

W.e.f 01/04/2017 [AY 18-19]

(14) *Developing* ***or*** *Operating & Maintaining* ***or*** *Developing, Operating & Maintaining any* ***Infrastructure facility (Port, Airport, Rail system, Road, Highway Projects, Water Supply, Sewerage system, Solid waste management system etc) [Approved company assessee or Govt bodies]***

B. *Specified business should be new business*:

(1) The specified business *should not be set up by splitting up, or the reconstruction, of a business already in existence*.

(2) It should not be set up by the *transfer of old plant and machinery*.

(a) *20% old machinery is permitted*:

If the value of the transferred assets does not exceed 20% of the total value of the machinery or plant used in the business, this condition is deemed to have been satisfied.

(b) Second-hand imported machinery is treated as new:

Any machinery or plant which was used outside India by any person (other than the assessee) shall not be regarded as machinery or plant previously used for any purpose, **if the following conditions are fulfilled-**

(i) Such machinery or plant was never used in India.
(ii) Such machinery or plant is imported into India from any other Country.
(iii) No deduction on account of depreciation in respect of such machinery or plant has been allowed to any assessee previously.

C. Audit of the books of account – Books of account of the assessee should be audited by an accountant **before the specified date referred to in Section 44AB** & the assessee furnishes by that date, the report in prescribed form.

D. AMOUNT OF DEDUCTION:

1. ***100% of capital expenditure is deductible if assessee is opting for deduction under Section 35AD.***

2. ***Any expenditure in respect which payment (or aggregate of payments made to a person in a day), otherwise than by an account payee cheque/draft/use of electronic clearing system through a bank account or through such other prescribed electronic mode, exceeds ₹ 10,000, no deduction shall be allowed in respect of such payment under section 35AD.***

   The prescribed electronic modes include ***credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay.***

3. ***Expenditure incurred on the acquisition of any land or goodwill or financial instrument*** is not eligible for any deduction u/s 35AD.

4. Expenditure incurred prior to the commencement of operation, wholly and exclusively, for the purpose of any specified business, shall be allowed as deduction during the previous year in which the assessee commences the operation of his specified business, ***if the amount is capitalized in the books of account of the assessee on the date of commencement of operation***.

CONSEQUENCES OF CLAIMING DEDUCTION U/S 35AD:

(i) If deduction is claimed and allowed u/s 35AD, the assessee shall not be allowed any deduction in respect of the specified business ***under Section 10AA*** or under the provisions of Chapter VIA [u/s 80-IA to 80RRB] for the same or any other assessment year.

(ii) No deduction allowable under the Act in respect of expenditure for which deduction allowed under this section:
The assessee cannot claim deduction in respect of such expenditure incurred for specified business under any other provision of the Income-tax Act, 1961 in the current year or under this section for any other year, ***if the deduction has been claimed or opted by him and allowed to him under section 35AD.***

(iii) Any ***loss computed in respect of the specified business u/s 35AD*** shall not to be set off except against profits and gains, if any, of other specified business u/s 73A (whether or not eligible for deduction u/s 35AD). To the extent the loss is unabsorbed, the same will be carried forward for set off against profits and gains from any specified business in the following assessment year and so on (no time-limit for carry forward such loss).

(iv) Any ***sum received or receivable on account of any capital asset***, in respect of which deduction has been allowed u/s 35AD, being demolished, destroyed, discarded, or transferred shall be treated as income of the assessee and chargeable to income tax under the head "Profits and gains of business or profession".

(v) Section **35AD(7A) provides** that any asset in respect of which a deduction is claimed and allowed under section 35AD shall be used only for the specified business ***for a period of 8 years*** beginning with the previous year in which such asset is acquired or constructed.

(vi) Sub-section (7B) has been inserted to provide that if such asset is used for any purpose other than the specified business, the total amount of deduction so claimed and allowed in any previous year in respect of such asset, **as reduced by the amount of depreciation allowable** in accordance with the provisions of section 32 as if no deduction had been allowed under section 35AD, **shall be deemed to be income** of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the asset is so used.

(vii) However, the deeming provision under sub-section (7B) shall not be applicable to a Sick company.

Example:

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 1.4.2022 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. 2023-24. However, in February, 2024, 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. 2023-24, the deeming provision under section 35AD(7B) is attracted during the A.Y. 2024-25.

Particulars	₹
Deduction allowed under section 35AD for A.Y. 2023-24	50,00,000
Less: Depreciation allowable u/s 32 for A.Y. 2023-24 [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. 2024-25. For the purpose of claiming depreciation on building in Unit B, the actual cost of the building would be:

Particulars	₹
Actual cost to the assesse	50,00,000
Less: Depreciation allowable u/s 32 for A.Y. 2023-24 [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**

Example: On April 1, 2023, X Ltd. commences the operation of a warehousing facility in Andhra Pradesh for storage of Sugar. The following information is available from the records of company –

Expenses incurred prior to April 1, 2023	₹
Purchase of land for warehouse	50,00,000
Construction cost of warehouse	8,00,000
Purchase of know-how for warehouse	10,00,000
Salary to staff	78,000

These expenses are capitalized on March 31, 2023.

Expenses incurred during PY 2023-24	
Construction cost of warehouse	60,00,000
Purchase of old plant and machinery (from domestic market)	2,00,000
Purchase of old plant and machinery (from Germany)	4,00,000
Purchase of new plant and machinery	9,00,000
Purchase of goodwill	3,50,000

Profit and loss account for the year PY 2023-24

	₹		₹
Depreciation of building (@ 5%)	3,40,000	Amount collected from persons	
Depreciation of machinery (@ 23.333%)	3,50,000	using warehouse	78,00,000
Cost of know-how (amount written off)	10,00,000		
Other operating expenses	7,51,000		
Donation to a political party	10,000		
Net Profit	53,49,000		
	78,00,000		**78,00,000**

Out of other operating expenses, a payment of ₹ 40,000 is made in cash. Other operating expenses are deductible u/s 37. **Find out the taxable income of X Ltd. for the AY 2024-25 on the assumption that X Ltd. has opted for deduction u/s 35AD & has the following income from other sources – income from the business of commission agency: ₹ 20,15,000 (computed under the provision of the Income-tax Act) and dividend from a foreign company (Holding – 15%): ₹ 50,000**

Solution: **Amount deductible u/s 35AD**.

Expenditure incurred prior to the commencement of operation of operation (to the extent these are capitalized)	
Purchase of land (not qualified for deduction)	Nil
Construction cost of warehouse	8,00,000
Purchase of know-how	10,00,000
Salary to staff	78,000
Expenditure incurred during the previous year	
Construction cost or warehouse	60,00,000
Purchase of machinery (₹ 2,00,000 + ₹ 4,00,000 + ₹ 9,00,000)	15,00,000
Amount deductible u/s 35AD	**93,78,000**

Computation of income from warehouse

Net profit as per profit and loss account	**53,49,000**
Add: Depreciation of building (not deductible as cost of building is eligible for deduction u/s 35AD)	3,40,000
Add: Depreciation of machinery (not deductible as cost of machinery is qualified for deduction u/s 35AD)	3,50,000
Add: Cost of Know-how (not deductible as deduction is available u/s 35AD)	10,00,000
Add: Amount paid in cash (operating expenses)	40,000
Add: Donation to political party	10,000
Less: Deduction u/s 35AD	(-)93,78,000
Loss from warehouse	**(-)22,89,000**

Computation of Income	**₹**	**₹**
Commission agency business	20,15,000	
Warehouse Business	(-)22,89,000	
Business income (Set off not permissible)		20,15,000
Income from other sources (dividend from foreign company)		50,000
Gross total income		**20,65,000**
Less: Deduction u/s 80GGB (donation to a political party)		10,000
Net income		**20,55,000**

Notes:

1. Second hand imported machinery is taken as new machinery. The business of operating warehouse is formed by using new machinery of ₹ 13,00,000 and old machinery of ₹ 2,00,000. Value of old plant and machinery does not exceed 20% of the total value of plant & machinery. **Other conditions of section 35AD are satisfied X Ltd. is, therefore, eligible for deduction u/s 35AD.**

2. Loss from operating warehouse (by virtue section 73A) can be set off only against profit and gains, if any, of any other business specified u/s 35AD. In this case, X Ltd. does not have any other specified business. ***Loss will be carried forward (without any time-limit) for being set off against income from operating warehouse or any other specified business u/s 35AD***.

Example: ***XYZ Ltd. commenced operations of the business of laying and operating a cross-country natural gas pipeline network for distribution on 1st April, 2023. The company incurred capital expenditure of ₹ 32 lakh during the period January to March, 2023 exclusively for the above business, and capitalized the same in its books of account as on 1st April, 2023.***

Further, during the financial year 2023-24, it incurred capital expenditure of ₹ 95 lakh (out of which ₹ 60 lakh was for acquisition of land) exclusively for the above business. Compute the deduction under section 35AD for the AY 2024-25, assuming that XYZ Ltd. has fulfilled all the conditions specified in section 35AD.

Answer:

The amount of deduction allowable under section 35AD for AY 2024-25 would be:

Particulars	₹
Capital expenditure incurred during the PY 2023-24 (excluding the expenditure incurred on acquisition of land) = ₹ 95 lakh – ₹ 60 lakh	35 lakh
Capital expenditure incurred prior to 1.4.2023 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2023	32 lakh
Total deduction under section 35AD for AY 2024-25	**67 lakh**

AMORTISATION OF PRELIMINARY EXPENSES [Section 35D]

(a) Section 35D provides for the amortisation of preliminary expenses incurred by ***Indian companies and other resident non-corporate taxpayers*** for the establishment of business concerns or the expansion of the business of existing concerns.

(b) This section applies i**n the case of new companies,** to expenses incurred before the commencement of the business or **in the case of extension of an existing undertaking,** to expenses incurred till the extension is completed or till the setting up a new unit.

(c) Such preliminary expenditure incurred **shall be amortised over a period of 5** successive PYs beginning with the PY in which the business commences or, the PY in which the extension of the undertaking is completed or new unit commences production.

(d) **Eligible expenses - The following expenditure are eligible for amortisation:**

(1) **Expenditure in connection with–**

(a) the preparation of feasibility report / project report;

(b) conducting market survey or any other business survey;

(c) engineering services relating to the business;

~~**The above work must be carried out by the *assessee himself or by a concern* which is for the time being approved in this behalf by the Board.**~~

The assessee shall furnish a statement containing the particulars of above expenditure within 1 month prior to the due date for furnishing the return of income as specified under section 139(1), to such income-tax authority as prescribed in the rule [Rule 6ABBB], in the Form No. 3AF for each previous year electronically.

[Amended by Finance Act 2023]

(2) **Legal charges** for drafting any agreement between the assessee and any other person for any purpose relating to the setting up to conduct the business of assessee.

(3) **Where the assessee is a company, in addition to the above, expenditure incurred:**

(a) by way of legal charges for drafting the MOA/AOA of the company and on its printing;

(b) by way of fees for registering the company under the Companies Act;

(c) in connection with the issue, for public subscription, of the shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, printing and advertisement of the prospectus;

(e) **Maximum Expenditure allowed to be amortized:**

In case of Indian Company	***Higher of the following***: **(a)** 5% of the Capital Employed, or **(b)** 5% of the Cost of project.
Other Assessee	**5% of the cost of the project**

(f) '**Cost of the project**' **means:** Actual cost of the fixed assets shown in the books **as on the last day of the previous year**.

(g) ***"Capital Employed" means***: **Issued share capital + Debentures + Long-term borrowings (7 years or more)** as on the last day of the previous year

(h) ***Audit of accounts:***

In cases where the assessee is a person ***other than a company or a co-operative society,*** *the deduction would be allowable only if the accounts of the assessee for the year or years in which the expenditure is incurred have been audited by a Chartered Accountant* ***before the date specified in section 44AB i.e., one month prior to the due date for furnishing return of income u/s 139(1); and the assessee has, by that date, furnished for the first year in which the deduction is claimed, the report of such audit*** *in the prescribed form duly signed and verified by the auditor and setting forth such other particulars as may be prescribed.*

(i) **No other deduction under any provision of the Act:** It has been clarified that in case where a deduction under this section is claimed and allowed for any assessment year in respect of any item of expenditure, the expenditure in respect of which deduction is so allowed shall not qualify for deduction under any other provision of the Act for the same or any other assessment year.

Important Note:

- ✓ Expenditure on issue of shares which is not covered by section 35D is not allowable as revenue expenditure. **Therefore expenses incurred on –**
  - ***Issue of Right shares***
  - ***Fees paid to ROC for enhancement of authorized share capital***
  - ***Issue of shares to public***

  Will not be ALLOWED IF IT IS NOT COVERED BY SECTION 35D.
- ✓ **HOWEVER *EXPENDITURE INCURRED ON ISSUE OF BONUS SHARES* IS ALLOWABLE AS REVENUE EXPENDITURE.**
- ✓ **Discount on issue of debentures & premium on redemption of debentures** can be claimed as deduction proportionately during the period of life of debentures.

Example: X Ltd. is incorporated in Bangalore on September 6, 2023. It commences production on March 15, 2024. The following expenses are incurred by the company before commencement of business:

a. Expenses on incorporation, issue of shares, etc. : ₹ 82,000

b. Preparation of feasibility report, project report and conducting market survey (the work is completed by the taxpayer itself): ₹ 1,50,000.

Determine the amount of deduction u/s 35D assuming the following figures of fixed assets and capital on March 31, 2024 (i.e., the last day of the year in which the taxpayer starts production) –

	₹ In lakhs
Cost of fixed asset	45
Share capital	50
Debentures	12
Long-term borrowing from a financial institution (repayable for not less than 7 years)	8

Solution	₹
Cost of project	45,00,000
Capital employed (i.e., ₹ 50 lakhs + ₹ 12 lakhs + ₹ 8 lakhs)	70,00,000
Maximum qualifying expenditure [i.e., 5% of ₹ 45 lakhs or ₹ 70 lakhs, whichever is higher] (a)	**3,50,000**
Qualifying expenditure	
Expenditure on incorporation	82,000
Preparation of feasibility report, project report and conducting market survey	1,50,000
Total (b)	**2,32,000**
Amount eligible for amortisation [(a) or (b), whichever is lower]	2,32,000
Amount deductible in 5 years for the assessment years 2024-25 to 2028-29	**46,400**

AMORTISATION OF EXPENSES FOR AMALGAMATION/DEMERGER [Section 35DD]

An Indian company, incurred expenditure wholly and exclusively for the purpose of amalgamation or demerger, shall be allowed a deduction equal to **one-fifth of such expenditure for 5 successive previous years** beginning with the previous year in which amalgamation or demerger takes place.

AMORTISATION OF EXPENDITURE INCURRED UNDER VOLUNTARY RETIREMENT SCHEME [Section 35DDA]

a) This Section applies to an assessee who has incurred expenditure in any previous year in the form of payment ***to any employee in connection with his voluntary retirement*** [VRS Payment]

b) The amount of deduction **allowable is one-fifth of the amount paid for that previous year**, and the balance in four equal installments in the four immediately succeeding previous years.

c) In case of Amalgamation/Demerger (Transferee must be Indian Company) or Business Reorganisation being succession of business [Section 47(xiii)/47(xiiib)/47(xiv)] during the intervening period of the said 5 years, **the benefit of deduction will be available to the "New Company/LLP" for the balance period including the year in which such amalgamation/demerger/reorganisation or succession takes place**.

ALLOWABLE DEDUCTION IN COMPUTING PGBP

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

If insurance policy has been taken out against risk, damage or destruction of the stock of the business or profession, the **premium paid** is deductible.

Insurance premia paid by a Federal Milk Co-operative Society [Section 36(1)(ia)]

Deduction is allowed in respect of the amount of premium paid by a Federal Milk Co-operative Society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society, being a primary society engaged in supply of milk raised by its members to such Federal Milk Co-operative Society. The deduction is admissible without any monetary or other limits.

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

A deduction is allowed to an employer in respect of **premium paid by him by any mode of payment other than cash** to effect or to keep in force an insurance on the health of his employees in accordance with a scheme framed by (i) the GIC and approved by the CG; or (ii) any other insurer and approved by the IRDA.

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

Deduction is allowed in respect of the sum paid to the employees as bonus or commission (Other than in lieu of profit or dividend).

Note:

1. Deduction is subject to the provisions of Section 43B & 40A(2).
2. Voluntary payments are deductible if it is for service rendered.
3. Any bonus exceeding the statutory amount is allowed if such excess payment has been made on account of commercial expediency.

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

Amount of interest paid in respect of capital borrowed **for the purposes of** business or profession shall be allowed as deduction.

Conditions:

1. The assessee must have borrowed money
2. The money so borrowed must have been used for business or profession
3. The assessee must have incurred interest on borrowed amount.

Other Points:

1. Capital may be borrowed either to incur revenue expenditure or to incur capital expenditure.
2. The scope of the expression 'for the purposes of business' is very wide. Capital may be borrowed in the course of the existing business as well as for acquiring assets for extension of existing business.
3. As per proviso to section 36(1)(iii), deduction in respect of any amount of interest paid, in respect of capital borrowed for acquisition of new asset (whether capitalised in the books of account or not) for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use shall not be allowed.
4. Section 43(1) clarifies that interest relatable to a period after the asset is first put to use cannot be capitalised. Interest in respect of capital borrowed for any period from the date of borrowing to the date on which the asset was first put to use should, therefore, be capitalised.
5. **Interest on own capital is not deductible. Interest to member in case of AOP is not deductible. However, Interest to partner's are deductible**.
6. Deduction of interest is subject to Section 43B & Section 40(a)(i)& 40(a)(ia)
7. In the case of genuine business borrowings, the department cannot disallow any part of the interest on the ground that the rate of interest is unreasonably high except in cases falling under section 40A.
8. Interest on money borrowed for payment of Income tax or interest on late payment of advance tax or for late filling of return is not deductible.
9. Interest paid by the assessee on money borrowed for payment of dividends is an allowable deduction.

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

Section 36(1)(iiia) provides deduction for the discount on ZCB on pro rata basis having regard to the period of life of the bond.

Example: C ltd. (an infrastructure company) issued ZCB on 1/8/2023 @ ₹ 45 (face value ₹ 100) redeemable at par after 125 months. Public subscribed for 50,000 bonds, find amount allowed as deduction u/s 36(1)(iiia).

Solution Deduction allowed u/s 36(1)(iiia)

Total amount of discount	50000*(₹ 100 - ₹ 45)	₹ 2750000
Period of life of the bond		125 months
Cost per month	₹ 2750000/125 months	₹ 22000
No. of months in the PY 2023-24 for which the bonds remains outstanding	Period from 01/08/2023 to 31/03/2024	8 months
Amount allowed as deduction in the PY 2023-24	₹ 22000 * 8 months	₹ 176000

Section 36(1)(iva) – Deduction of expenses in the nature of Employer's contribution towards a pension scheme as referred in Section 80CCD

Section 36(1)(iva) provides that any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD on account of an employee *to the extent it does not exceed 10% of the salary of the employee* in the previous year, shall be allowed as deduction.

["Salary" means Basic Salary + DA (forming part of retirement benefits)].

Example: 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?

Computation of deduction allowable under section 36(1)(iva) and disallowance under section 40A(9)

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**

Allowance for Animals [Section 36(1)(vi)]

This clause grants an allowance in respect of animals which have died or become permanently useless. The amount of the allowance is the difference between the actual cost of the animals and the price realized on the sale of the animals themselves or their carcasses.

The allowance under the clause would thus recoup to the assessee the entire capital expenditure in respect of animal.

DEDUCTIONS IN RESPECT OF BAD DEBTS [Section 36(1)(vii) and sub-section (2)]

These can be deducted subject to the following conditions:

a. The debts or loans should be in respect of a business which was carried on by the assessee during the relevant previous year.

b. The debt should have been taken into account in computing the income of the assessee of the previous year **in which such debt is written off** or of an earlier previous year or should represent money lent by the assessee in the ordinary course of his business of banking or money lending.

I. Amount of debt taken into account in computing the income of the assessee on the basis of notified ICDSs to be allowed as deduction in the previous year in which such debt or part thereof becomes irrecoverable

(i) Under section 36(1)(vii), deduction is allowed in respect of the amount of any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year.

(ii) Therefore, write off in the books of account is an essential condition for claim of bad debts under section 36(1)(vii).

(iii) Amount of debt taken into account in computing the income of the assessee on the basis of notified ICDSs to be allowed as deduction in the previous year in which such debt or part thereof becomes irrecoverable.

If a debt, **which has not been recognized in the books of account** as per the requirement of the accounting standards but has been taken into account in the computation of income as per the notified ICDSs, has become irrecoverable, it can still be claimed as bad debts under section 36(1)(vii) since **it shall be deemed that the debt has been written off as irrecoverable in the books of account by virtue of the second proviso to section 36(1)(vii).**

This is because some ICDSs require recognition of income at an earlier point of time (prior to the point of time such income is recognised in the books of account). ***Consequently, if the whole or part of such income recognised at an earlier point of time for tax purposes becomes irrecoverable, it can be claimed as bad debts.***

II. Deduction of differential amount of debts due as bad debts in the year of recovery, to the extent of deficiency in recovery

If on the final settlement the amount recovered in respect of any debt, where deduction had already been allowed, **falls short of the difference between the debt due and the amount of debt allowed**, the deficiency can be claimed as a deduction from the income of the previous year in which the ultimate recovery out of the debt is made.

It is permissible for the Assessing Officer to allow deduction in respect of a bad debt or any part thereof in the assessment of a particular year and subsequently to allow the balance of the amount, if any, in the year in which the ultimate recovery is made, that is to say, when the final result of the process of recovery comes to be known.

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

If a deduction has been allowed in respect of a bad debt under section 36, and subsequently the amount recovered in respect of such debt is more than the amount due after the allowance had been made, the excess shall be deemed to be the profits and gains of business or profession and will be chargeable as income of the previous year in which it is recovered, whether or not the business or profession in respect of which the deduction has been allowed is in existence at the time.

IV. Provisions for bad debt are not allowed as deduction.

V. Bad debt is not allowed as deduction to the assessee who maintains accounts on cash basis.

VI. ***Successor of Business*:**

The Successor to the business is entitled to deduction in respect of the debt incurred by the predecessor if the business is not dissolved and the identity of business after succession remains the same. ***Deduction for bad debt is allowed business wise and not the assessee-wise***.

Example:

X, a trader, sells goods on credit to Y (outstanding balance on April 1, 2023: ₹ 40,000 and total bills issued during 2023-24: ₹ 60,000. Out of ₹ 1,00,000, he recovers only ₹ 10,000 from Y during 2023-24. On March 31, 2024, he writes off ₹ 32,000 as bed debt. However, on December 19, 2024, X receives from Y as full and final payment (a) ₹ 15,000, or (b) ₹ 55,000, or (c) ₹ 70,000. Find out the tax consequences for different assessment years.

Solution:

AY 2024-25 During the previous year 2023-24, X writes off ₹ 32,000 as bad debt. It is, therefore, deductible for the AY 2024-25.

AY 2025-26: Tax treatment, when recovery is made during the previous year 2024-25, will be as follows:

Amount of debt as on April 1, 2024 (i.e., ₹ 1 lakhs – ₹ 10,000 – ₹ 32,000 being the amount written off) (1) ₹	Amount recovered as full and final payment (2) ₹	Deduction/Income (2) – (1) ₹
a) 58,000	15,000	(-) 43,000
b) 58,000	55,000	(-) 3,000
c) 58,000	70,000	***12,000 [Sec 41(4)]***

In situation (a) ₹ 43,000 is deductible as bad debts if he writes off ₹ 43,000 in his books of account as bad debt during the previous year 2024-25. Likewise, in situation (b) ₹ 3,000 is deductible as bad debts if X writes off ₹ 3,000 in his books of account for the year ending March 31, 2025. *In situation (c), however, ₹ 12,000, being the excess recovery, is taxable as business income by virtue of section 41(4) for the previous year 2024-25* ***[irrespective of the fact whether the business is in existence during the previous year 2024-25 or not]*.**

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

- ➔ **Any expenditure of revenue nature *bona fide* incurred by a company for the purpose of promoting family planning amongst its employees will be allowed as a deduction in computing the company's business income;**
- ➔ Where the expenditure is of a capital nature, one-fifth of such expenditure will be deducted in the previous year in which it was incurred and in each of the four immediately succeeding previous years.
- ➔ This deduction is allowable **only to companies** and not to other assessees.
- ➔ The assessee would be entitled to carry forward and set off the unabsorbed part of the allowance in the same way as unabsorbed depreciation.

DEDUCTION OF BANKING CASH TRANSACTION TAX PAID [Section 36(1)(xiii)]

Any amount of Banking Cash Transaction Tax paid by assessee during the previous year on the taxable baking transactions entered shall be allowed as deduction.

DEDUCTION OF SECURITIES TRANSACTION TAX PAID [Section 36(1)(xv)]

The amount of STT paid by the assessee during the year in respect of taxable securities transactions entered into in the course of business shall be allowed as deduction.***[In CG, benefit of STT is not available to investor]***

DEDUCTION OF COMMODITIES TRANSACTION TAX PAID [Section 36(1)(xvi)]

The amount of CTT paid by the assessee during the year in respect of taxable commodities transactions entered into in the course of business shall be allowed as deduction , if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Residuary Expenses [Section 37(1)]

Revenue expenditure incurred for purposes of carrying on the business, profession or vocation:

- *This is a residuary section under which only business expenditure is allowable but not the business losses, e.g., those arising out of embezzlement, theft, destruction of assets, misappropriation by employees etc. (Business Losses are allowable under section 29 as losses incidental to the business).*

- *The deduction is limited only to the amount actually expended and does not extend to a reserve created against a contingent liability.*

Conditions for allowance:

a) *The expenditure should not be of the nature described in sections 30 to 36.*

b) *It should have been incurred by the assessee in the accounting year.*

c) *It should be in respect of a business carried on by the assessee the profits of which are being computed and assessed.*

d) *It must have been incurred after the business was set up.*

e) *It should not be in the nature of any personal expenses of the assessee.*

f) *It should have been laid out or expended wholly and exclusively for the purposes of such business.*

g) *It should not be in the nature of capital expenditure.*

Explanation 1 to section 37(1):

This Explanation provides that any expenditure incurred by the assessee for any purpose which is an offence or which is prohibited by law shall not be allowed as a deduction or allowance.

Explanation 3 to section 37(1):

The expression "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law" shall include and shall be deemed to have always included the expenditure incurred by an assessee, -

i. *for any purpose which is an offence under any law for the time being in force, **in India or outside India** or which is prohibited by any law for the time being in force, in India or outside India; or*

ii. *to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person **is in violation of any law or rule or regulation or guidelines**, as the case may be, for the time being in force, governing the conduct of such person; or*

iii. ***to compound an offence** under any law for the time being in force, in India or outside India.*

CBDT Circular:

Expenses incurred in providing freebies to medical practitioner by pharmaceutical and allied health sector industry. These expenses are is in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations. Hence, such expenditure are considered to be expenses prohibited by the law and not allowed in the hands of such pharmaceutical or allied health sector industry or other assessee which has provided aforesaid freebies.

This circular has also clarified that a sum equivalent to value of freebees enjoyed by the aforesaid medical practitioner or professional associations is also taxable as business income or income from other sources, as the case may be, depending on the facts of each case.

Disallowance of CSR expenditure

(i) For the purposes of Section 37(1), 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.

(ii) The rationale behind the disallowance is that CSR expenditure, being an application of income, is not incurred wholly and exclusively for the purposes of carrying on business.

(iii) However, ***CSR expenditure, which is of the nature described in sections 30 to 36, shall be allowed as deduction under those sections subject to fulfillment of conditions, if any, specified therein.***

Allowable Expenditure u/s 37 under specific instructions of CBDT:

a) Diwali and Muharat Expenses.

b) Telephone Deposit paid under Tatkal Telephone Deposit Scheme

c) Expenditure on Fluorescent Tubes including wiring and fitting expenditure - Initial expenditure is of capital nature but all replacement expenditure should be treated as revenue nature.

d) Insurance Premium paid on account of loss of profits.

e) Lagan or mahamai contribution collection by the Trade Association from their Members, on the business transactions.

f) Annual Listing Fees paid to Stock Exchange.

g) Commitment Charges paid by Borrower to Lender.

h) Training Expenditure.

i) Expenditure incurred by business concern on civil defence measures.

j) Professional Tax paid.

LOSSES ALLOWABLE AS DEDUCTION:

a) Loss on account of embezzlement, in the previous year in which embezzlement is discovered.

b) Loss caused by forfeiture of Security Deposits given at the time of submission of tenders for supply of goods.

c) Loss of Stock-in-Trade by fire and other natural calamities, or due to negligence of the employees or due to enemy action, or in transit.

d) Loss on account of robbery or theft, provided it is in the course of business and incidental to the trade whichever trade it is.

e) Loss caused by non-recovery of advances made in course of business, provided it is a Trading Loss

f) Loss caused on account of fluctuations in exchange rate, at the time of remitting the money for purchase of raw material,

g) Loss caused due to breach of contract for delivery of goods by either party.

LOSSES NOT ALLOWABLE AS DEDUCTION:

1) Loss relating to any business or profession discontinued before the commencement of the previous year.

2) Violation of law is not a normal incident of trade and an expense incurred by way of penalty for infraction of laws is not deductible.

3) Loss incurred due to damage, destruction, etc. of capital assets.

4) Loss which is not incidental to the carrying on of the business of the assessee

5) Loss due to sale of securities held as Investments.

6) Loss caused by forfeiture of advances given for purchase of Capital Assets.

7) Anticipated losses of subsequent years cannot be allowed as a deduction in the current year.

DEDUCTIBILITY OF PENALTIES & INTEREST UNDER VARIOUS LAWS

1. **Penalty for infraction of any law:** Not deductible

   Exception:

   a) **If penalty is in nature of compensation –** Allowable as deduction

   b) **Penalty for breach of Contract –** Allowable as deduction since there is no infraction of any law.

2. **Interest paid under any other law –** Allowable as a deduction if interest is compensatory in nature
   – If interest is in nature of penalty then no deduction is allowable.

   Note: Penal interest paid to bank is allowable as deduction since penal interest is payable as per the agreement between banker and borrower. There is no infraction of law.

3. **Interest paid under Section 234A, Section 234B & Section 234C under IT Act, 1961 – Not allowable**

4. **Interest on loan taken to pay the income-tax is not allowable as deduction.**

ALLOWABILITY OF CERTAIN EXPENSES

1. Dividend and Dividend distribution tax u/s 115-O is not allowed as deduction.
2. Income tax, surcharge & education cess is not allowable as deduction.
3. Provision for unascertained liability is not allowable as deduction.
4. Prior period expenses are not allowable as deduction, but they are allowable if liability to pay crystallized during the previous year. (Ex: Increased salary is paid in current year under increased pay commission policy).

Advertisements in Publication of political parties - Section 37(2B)

Section 37(2B) disallows any deduction on account of expenditure incurred on advertisement in any souvenir, brochure, tract or the like published by any political party, whether it is registered with the Election Commission of India or not, *made by any person carrying on business or profession in computing the profits and gains of the business or profession*.

However, a deduction for the same or/and similar expenditure is allowed under Section 80GGB and 80GGC.

Deduction to Indian Companies for Donation to Political Parties etc [Section 80GGB]

In computing the total income of an assessee, ***being an Indian company****, there shall be deducted any sum contributed by it (100% deduction), in the previous year* ***to any political party or an electoral trust:***

Provided *that* ***no deduction*** *shall be allowed under this section in respect of any sum contributed* ***by way of cash****.*

Here, contribution includes the amount of expenditure incurred on advertisement in a brochure of a political party. [No such deduction under Section 80GGC]

Deduction to Any Person for Donation to Political Parties etc [Section 80GGC]

In computing the total income of an assessee, **being any person, except local authority and every artificial juridical person wholly or partly funded by the Government**, there shall be deducted any amount of contribution made by him (100% deduction), in the previous year, **to a political party or an electoral trust :**

Provided that **no deduction** shall be allowed under this section in respect of any sum contributed **by way of cash.**

Example:

During the P.Y. 2023-24, ABC Ltd., an Indian company,

(1) contributed a sum of ₹ 2 lakh to an electoral trust; and

(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 Companies Act, 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.

INADMISSIBLE DEDUCTIONS [SECTION 40]

Section 40(a)(i)–Non-compliance of provisions of TDS where payment is made to Non-Resident or to any person outside India

- No Deduction will be allowed where any Interest, Royalty, Fees for technical services **or other sum chargeable** under this Act, which is payable, -

  (i) outside India;

  (ii) in India to a Non-Resident, not being a Company or to a Foreign Company,

  on which tax is deductible at source and ***such tax has not been deducted or, after deduction, has not been paid*** **on or before the due date specified in section 139(1)**.

- *However, it is provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in Section 139(1), such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.*

- ***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 on the date on which return of income has been furnished by the payee.

Note: 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, such expenditure/payment in respect of which the payer has failed to deduct tax at source shall be disallowed under section 40(a)(i) in the year in which the said expenditure is incurred. However, such expenditure will be allowed as deduction in the subsequent year in which 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.

Example:

Date on which TDS should have been deducted	Actual Date of Deduction	Time limit as per section 200(1)	Date of Payment of TDS	Previous year in which deductible
26.06.2023	26.06.2023	07.07.2023	07.07.2023	**2023-24**
26.07.2023	**26.07.2023**	07.08.2023	02.09.2023	**2023-24**
31.03.2024	31.03.2024	30.04.2024	30.04.2024	**2023-24**
31.03.2024	31.03.2024	30.04.2024	30.12.2024	2024-25
16.05.2023	16.05.2023	07.06.2023	Not Deposited	Not Deductible
10.06.2023	20.04.2024	07.07.2023	20.07.2026	**2026-27**

Section 40(a)(ia) – Non-compliance of provisions of TDS where payment is made to Resident in India

30% of any sum payable (paid or payable during the PY) to a Resident in India on which tax is deductible at source, shall be disallowed if-

(i) such tax has not been deducted; or

(ii) such tax, after deduction, **has not been paid on or before the due date specified in section 139(1)**.

***Tax Points**:*

1) *However, it is provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in Section 139(1), **30% of such sum** shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.*

2) *If tax has not been deducted & the deductor is able to establish that the payee has furnished the return of income by including such income in his return and paid tax due on income declared by him in such return of income, **it shall be deemed that the assessee has deducted and paid tax on such income on the date of furnishing return of income by the resident payee***

Example:

XYZ Ltd. made the following payments in the month of March 2024 to residents without deduction of tax at source. What would be the tax consequence for A.Y. 2024-25, 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 XYZ Ltd.?

Particulars	Amount in ₹
Salary to its employees	**15,00,000**
Non-compete fees to Mr. X	**70,000**
Directors' remuneration	**25,000**

Would your answer change if XYZ Ltd. has deducted tax on the above in April, 2024 from subsequent payments made to these persons and remitted the same in July, 2024?

Answer

Non-deduction of tax at source on any payment on which tax is deductible as per the provisions of Chapter XVII-B would attract disallowance under section 40(a)(ia). Therefore, non-deduction of tax at source on salary payment on which tax is deductible under section 192 and non-compete fees and directors' remuneration on which tax is deductible under section 194J, would attract disallowance@30% of sum paid under section 40(a)(ia). Therefore, the amount to be disallowed under section 40(a)(ia) while computing business income for A.Y. 2024-25 is as follows –

Particulars	Amount paid	Disallowance u/s 40(a)(ia) @ 30% of sum paid
(1) Salary [tax is deductible under section 192]	15,00,000	4,50,000
(2) Non-compete fees to Mr. X [tax is deductible under section 194J]	70,000	21,000
(3) Directors' remuneration [tax is deductible under section 194J without any threshold limit]	25,000	7,500
Disallowance under section 40(a)(ia)		**4,78,500**

If the tax is deducted and paid in the next year i.e., P.Y. 2024-25, the amount of ₹ 4,78,500 would be allowed as deduction while computing the business income of A.Y. 2025-26.

Section 40(a)(ii)

Any sum paid on account of any rate or tax levied on profits on the basis of or in proportion to the profits and gains of any business or profession.

It is clarified that the term "tax" shall include and shall be deemed to have always included any surcharge or cess on such tax. Hence, tax including surcharge and cess would be disallowed while computing business income.

Section 40(a)(iib)

i. *any amount paid by way of royalty, licence fee, service fee, privilege fee, service charge, etc., which is levied exclusively on, or*

ii. *any amount appropriated, directly or indirectly, from*

a State Government undertaking by the State Government (SG)

Section 40(a)(iii)

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

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

Section 40(a)(iv)

Any contribution to a provident fund or the fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to make sure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head 'Salaries'.

Section 40(a)(v)

Tax paid on perquisites on behalf of employees is not deductible - *In case of an employee, deriving income in the nature of perquisites (other than monetary payments), the amount of tax on such income paid by his employer is exempt from tax in the hands of that employee [Section 10(10CC)].*

Correspondingly, such payment is not allowed as deduction from the income of the employer. Thus, the payment of tax on non-monetary perquisites by an employer on behalf of employee will be exempt from tax in the hands of employee but will not be allowable as deduction in the hands of the employer.

EXPENSES OR PAYMENTS NOT DEDUCTIBLE IN CERTAIN CIRCUMSTANCES [SECTION 40A]

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

A. Where the assessee incurs any expenditure in respect of which a payment has been or is to be made **to Specified Person,** so much of the expenditure as is considered to be **excessive or unreasonable** (having regard to FMV of goods, services / Legitimate needs of business) shall be disallowed by the Assessing Officer.

B. Specified person means:

For the Assessee	Specified Person means
An Individual	Relative
	A person in whose business/profession the individual has substantial interest
A Company /Firm/AOPs/HUF	Any director of the company, partner of the firm, or member of the association or family, **or any relative** of such director, partner or member
	A person in whose business/profession the assessee or above individuals have substantial interest
Any Assessee	- An ***individual who has a substantial interest*** in the business or profession or any relative of such individual - a Company, Firm, AOPs or HUF ***having a substantial interest in the business or profession of the assessee*** or any director, partner or member of such Company, Firm, AOPs or HUF, or any relative of such director, partner or member, ***or any other company carrying on business or profession in which the first mentioned company has substantial interest*** - a Company, Firm, AOPs or HUF ***of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the assessee***; or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;

C. The word "relative" as defined in the section 2(41) of the Act, means, **in relation to individual**, the *spouse, brother or sister or any lineal ascendant or descendant* of that individual.

D. A person shall be deemed to have a substantial interest in a business or profession if:

- in a case where the **business or profession is carried on by a company**, such person is, **at any time** during the previous year, the beneficial owner of equity shares carrying **not less than 20% of the voting power *and***
- **in any other case such person is**, **at any time** during the previous year, beneficially entitled to **not less than 20% the profits** of such business or profession.

E. Amount disallowed under section 40A(2) is however taxable as income in the hands of recipient.

Section 41 – DEEMED INCOME/PROFITS CHARGEABLE TO TAX

EXCEPTION TO THE RULE THAT INCOME FROM BUSINESS CAN BE ASSESSED ONLY IF THE BUSINESS IS CARRIED ON DURING THE PREVIOUS YEAR:

Section 41(1): Recovery against any deduction

A. Conditions:

1. Where an **allowance or deduction is allowed** in any assessment year in **respect of loss, expenditure or trading liability** incurred by the assessee ***and***

2. ***subsequently during any previous year*** such assessee has obtained, whether in cash or in any other manner whatsoever, any amount in respect of **such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof**,

B. Treatment: the amount obtained or benefit accrued shall be ***deemed to be profits and gains of business or profession*** and accordingly chargeable to income-tax as the income of that previous year.

C. Tax Points: Where such benefit has been ***obtained by the successor in business***, such benefit shall be taxable in the hands of successor.

Section 41(2) – Balancing Charges

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

Section 41(4) –Any amount recovered by the assessee against bad debt earlier allowed as deduction shall be taxed as income in the year in which it is received.

Section 41(4A) - The withdrawal from special reserve created and maintained under section 36(1)(viii) will be deemed to be profits and gains of business and charged accordingly in the year of withdrawal. Even if the business is closed, it will be deemed to be in existence for this purpose.

Section 41(5)- ***Adjustment of loss - Generally, loss of a business cannot be carried forward after 8 years. An exception is, however, provided by section 41(5), This exception is applicable if the following condition are satisfied:***

Condition 1	The business or profession is discontinued.
Condition 2	Loss of such business or profession pertaining to the year in which it is discontinued could not be set-off against any other income.
Condition 3	Such business is not speculation business.
Condition 4	After discontinued of such business or profession, there is a receipt which is deemed as business income under section 41(1), (3), (4) or (4A).

The unabsorbed loss pertaining to the year in which business/profession was discontinued is permitted to be set off against notional business income under section 41(1), (3), (4) or (4A) even after 8 years. It can be set off even if the return of the loss is not submitted in time.

Ques: ***A business (not being a speculation business) is discontinued on December 10, 1989. At the time there is unadjusted business loss of ₹ 35,000 (i.e., ₹ 10,000 of the previous year 1988-89 and ₹ 25,000 pertaining to the period commencing on April 1, 1989 and ending on December 10, 1989). On May 20, 2023, the assessee recovers a debt of ₹ 48,000 from a debtor which was allowed as bad debt in 1988-89. Find out the notional profit chargeable to tax for the previous year 2023-24 under section 41.***

Solution:

Recovery of bad debt earlier allowed as bad debt [chargeable to tax under Section 41(4) In spite of the fact that the business was discontinued on December 10, 1988]	***48,000***
Less: Unabsorbed business loss of the previous year in which the business was discontinued (i.e., April 1, 1989 to December 10, 1989) by virtue of section 41(5)	25,000
Business income chargeable to tax for the assessment year 2024-25	***23,000***

CONTRIBUTIONS TO PROVIDENT AND OTHER FUNDS

CONTRIBUTION TO THE EMPLOYEES' PROVIDENT AND OTHER FUNDS ARE ALLOWABLE SUBJECT TO THE FOLLOWING CONDITIONS: [36(1)(iv) & (v)]

(i) In case of Provident or a superannuation or a Gratuity Fund, it should be one recognised or approved under the Income-tax Act.
(ii) The amount contributed should be periodic payment and not an adhoc payment to start the fund.
(iii) The fund should be for exclusive benefit of the employees.

The nature of the benefit available to the employees from the fund is not material; it may be pension, gratuity or provident fund.

Provisions of Section 43B will be applicable while allowing deduction.

AMOUNT RECEIVED BY ASSESSEE AS CONTRIBUTION FROM HIS EMPLOYEES TOWARDS THEIR WELFARE FUND TO BE ALLOWED ONLY IF SUCH AMOUNT IS CREDITED ON OR BEFORE DUE DATE:

Section 36(1)(va) and Section 57 provide that deduction in respect of any sum received by the taxpayer as contribution from his employees towards any welfare fund of such employees [Such sum is income u/s 2(24)] ***will be allowed***

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

It is hereby clarified that the provisions of section 43B shall not apply and shall be deemed never to have been applied for the purposes of determining the "due date" under this clause

[Section 2(24)(x) – 'Income' includes any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948, or any other fund for the welfare of such employees]

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

Section 40A(7) provides any provision for Gratuity made by the assessee is not allowed deduction.

However, no such disallowance would be made if
(a) it is made towards **contribution to an approved gratuity fund or,**
(b) for the purpose of making payment of any gratuity that has **become payable**

[However, the deduction allowed shall be subject to the provisions of Section 43B]

CONTRIBUTIONS BY EMPLOYERS TO FUNDS, TRUST ETC. [SECTIONS 40A (9) TO (11)]

No deduction will be allowed where the assessee pays in his capacity as an employer, any sum towards setting up or formation of or as contribution to any fund, trust, company, association of persons, body of individuals, society etc. other than ***funds covered by sections 36(1)(iv), 36(1)(iva) and 36(1)(v), then the deduction will not be denied.***

MAINTENANCE OF BOOKS OF ACCOUNTS [Section 44AA & Rule 6F]

A. ***In case of Notified Professionals***: **[Subject to Section 44ADA]**

(i) Every person carrying on the specified profession shall keep and maintain the specified books of account:

a) if his gross receipts **exceed ₹ 1,50,000 in each of the 3 years** immediately preceding the previous year; or

b) if, where the profession has been newly set up in the previous year, his gross receipts are likely **to exceed ₹ 1,50,000 in that year**.

(ii) Notified Professions are:

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

Here, Film Artists includes actor, camera man, director, music director, art director, editor, singer, lyricist, story writer, screen play writer, dialogue writer and dress designer.

(iii) Specified Books of Accounts:

a) a Cash Book;
b) a journal, if mercantile basis is being followed.
c) a ledger;
d) Carbon copies of bills and receipts issued where sums exceeds ₹ 25;
e) Original bills for expenditure exceeding ₹ 50.
f) In case of a person carrying on medical profession, he will be required to maintain the following in addition to the list given above:

I. a **Daily Case Register** in Form 3C.
II. Inventory records of drugs, medicines and other consumable accessories used for his profession.

Place at which books to be kept and maintained:
The books and documents shall be kept and maintained at the place where the person is carrying on the profession, or where there is more than one place, at the principal place of his profession. However, if he maintains separate set of books for each place of his profession, such books and documents may be kept and maintained at the respective places.

Period for which the books of account and other documents are required to be kept and maintained by notified professions:
The Central Board of Direct Taxes has also been empowered to prescribe, by rules, the period for which the books of account and other documents are required to be kept and maintained by the taxpayer.

The above books of account and documents shall be kept and maintained **for a minimum of 6 years from the end of the relevant assessment year.**

"The term "books or books of account" as defined under section 2(12A) includes *ledgers, day-books, cash books, account-books and other books,* ***whether kept in the written form or in electronic form or in digital form or as print-outs of data stored in such electronic form or in digital form*** *or in a floppy, disc, tape or any other form of electro-magnetic data storage device."*

B. ***In case of Other Profession or Business***:

Every taxpayer carrying on any business or profession (other than the professions specified above) must maintain the books of account prescribed by the CBDT in the following circumstances:

I. **Existing Business or Profession**: in cases ***where the income*** from the business or profession **exceeds ₹ 1,20,000** or the total sales turnover or gross receipts, as the case may be, in the business or profession **exceed ₹ 10,00,000** in **any one of three years immediately preceding the accounting year**; or

For an Individual/HUF assessee, the above limit is ₹ 250,000 & ₹ 25,00,000.

II. **Newly Setup Business or Profession**: in cases where the business or profession is newly set up in any previous year, if his income from business or profession is **likely to exceed ₹ 1,20,000** or his total sales turnover or gross receipts, as the case may be, in the business or profession are **likely to exceed ₹ 10,00,000 during the previous year**

For an Individual/HUF assessee, the above limit is ₹ 250,000 & ₹ 25,00,000.

III. **Showing lower income as compared to income computed on presumptive basis under section 44AE or section 44BB or section 44BBB**

Where profits and gains from the business are calculated on a presumptive basis under section 44AE (or section 44BB or section 44BBB) and the assessee has claimed that his income is lower than the profits or gains so deemed to be the profits and gains of his business.

IV. **Where the provisions of section 44AD(4) are applicable in his case and his income exceeds the basic exemption limit in any previous year:**

In cases, where an assessee not eligible to claim the benefit of the provisions of section 44AD(1) for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of 44AD(1) and his income exceeds the basic exemption limit during the previous year.

COMPULSORY AUDIT OF ACCOUNTS [Section 44AB]

1. **Applicability:** It is obligatory in the following cases for a person carrying on business or profession to get his accounts audited:

a) ***Business:*** if the total sales, turnover or gross receipts in business **exceeds ₹ 1 Crores** in any previous year; or

However, in case of person carrying on such business whose

i. ***aggregate cash receipts in the relevant PY ≤ 5% (5% or less) of total receipts (incl. receipts for sales, turnover, gross receipts); and***

ii. ***aggregate cash payments in the relevant PY ≤ 5% (5% or less) of total payments (incl. amount incurred for expenditure)***

If his total sales, turnover or gross receipts in business exceeds ₹ 10 crore in the relevant PY

For this purpose, the payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the payment or receipt, as the case may be, in cash.

~~*The requirement of audit u/s 44AB does not apply to a person who declares profits and gains on presumptive basis u/s 44AD and his total sales, turnover, or gross receipts does not exceed ₹ 2 crore*~~

b) ***Business where Section 44AD(4) is applicable*:**

Where the provisions of Section 44AD(4) are applicable & Income exceeds the maximum amount which is not chargeable to income-tax in any PY

c) ***Business covered u/s 44AE/44BB/44BBB***: if the assessee claims that his income is lower than the profits and gains computed on a presumptive basis.

d) ***Profession:*** if the gross receipts in profession **exceeds ₹ 50 lakh** in any previous year; or

e) ***Profession covered u/s 44ADA***: If he claims that his income is lower than the profits and gains computed on a presumptive basis **and his income exceeds the basic exemption limit**.

This section shall NOT apply to a person, who declares profits and gains for the previous year in accordance with the provisions of Section 44AD(1) or Section 44ADA(1)

[Added by Finance Act 2023]

2. **Report & Form:** The Assessee is required to get his accounts of such previous year audited by a Chartered Accountant ***before the specified date*** and report thereof is furnished in prescribed forms.

For this purpose, the Board has prescribed under Rule 6G, Forms 3CA/3CB/3CD containing forms of audit report and particulars to be furnished therewith.

Accounts audited under other statutes are considered: In cases where the accounts of a person are required to be audited by or under any other law before the specified date, it will be sufficient if the person gets his accounts audited under such other law before the specified date and also furnish by the said date the report of audit in the prescribed form in addition to the report of audit required under such other law.

Thus, for example, the provision regarding compulsory audit does not imply a second or separate audit of accounts of companies whose accounts are already required to be audited under the Companies Act, 2013. The provision only requires that companies should get their accounts audited under the Companies Act, 2013 before the specified date and in addition to the report required to be given by the auditor under the Companies Act, 2013 furnish a report for tax purposes in the form to be prescribed in this behalf by the CBDT.

Specified Date:

The expression "specified date" in relation to the accounts of the previous year or years relevant to any assessment year means *the date one month prior to* the due date for furnishing the return of income under section 139(1).

(a) Where the assessee has under taken any international transaction as per Section 92B or specified domestic transaction as per section 92BA:
31st October of the relevant AY
(ROI Due date is 30th November)

(b) In any other case:
30th September of the relevant AY
(ROI Due date is 31st October)

[Example: The due date for filing return of income in case of assessees (other than companies) who are required to get their accounts audited is 31st October of the relevant assessment year. Hence, the specified date for tax audit would be 30th September of the relevant assessment year]

3. ***Consequence for non-compliance*:**

Section 271B provides for penal action for not getting the accounts audited and for not filing the audit report by the **specified date. Penalty being lower of the following:**

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

(b) ₹ 150,000.

4. ***This Section does not apply*** to a person who derives income of the nature referred to in sections 44B and 44BBA.

PRESUMPTIVE INCOME IN CASE OF SPECIFIC BUSINESS OR PROFESSION [Section 44AD & Section 44AE]

	Section 44AD	Section 44AE
Eligible Assessee	***Resident*** Individual/HUF/Firm, ***but not a LLP &*** *has not claimed deduction u/s 10AA or other Income Based Deduction under chapter VIA*	Any Assessee
Eligible Business	Any business except the business of Section 44AE; ***&*** whose turnover/gross receipts **does not exceed *₹ 2 Crore*** ***[₹3 crores in the relevant P.Y., if aggregate cash receipts in the relevant PY ≤ 5% of total turnover or gross receipts]*** ***Note:*** ***For this purpose, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the receipt in cash.*** ***[Amended by Finance Act 2023]***	Business of Plying, hiring or leasing of Good carriage where the Assessee is ***owning not more than 10 Goods Carriage*** at any time during the previous year.
Amount of Presumptive Income	***8% of total turnover*** or gross receipts or higher sum [**6% in case payment** is received by account payee cheque/draft/use of electronic clearing system through a bank account *or through such other prescribed electronic modes like 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* ***AND*** payment is received during the year or before the due date of ROI] **– 2 Conditions**	***In case of HEAVY GOODS VEHICLE*** ***(Gross Vehicle Weight exceeds 12000 kilograms)*** ***₹ 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year*** ***OTHER THAN HEAVY GOODS VEHICLE*:** ₹ 7,500 for every month or part of a month [***For each vehicle owned by Assessee-Hire Purchase/installment***] **"A higher income can also be declared as per books"**
Provisions of Advance Tax	**Advance tax is required to be paid by 15th March – 100% in 1 installment)**	**Applicable**
Effect if the assessee declares lower Income:	**If Section 44AD(4) is applicable**, he will have to: **a.** Maintain books of account and other documents as required u/s 44AA ***if his total income exceeds the maximum exemption limit***; and **b.** Get his accounts audited and furnish a report of such audit as prescribed u/s 44AB ***if his total income exceeds the maximum exemption limit***. [Section 44AD(5)]	An assessee can declare his income lower than the prescribed, he will have to: **a.** Maintain books of account and other documents as required u/s 44AA ***and*** **b.** Get his accounts audited and furnish a report of such audit as prescribed u/s 44AB

Common Note:

1. **Deduction u/s 30 to 38:** The assessee will be deemed to have been allowed the deductions under sections 30 to 38. No further Deduction is allowed.

2. **Deduction u/s 40(b)** ***for assessee covered u/s 44AE***: Where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed above subject to the conditions and limits specified in clause (b) of section 40. ***[No Such Deduction to assessee covered u/s 44AD & 44ADA]***

3. **Depreciation**: Depreciation is deemed to have been allowed. The WDV of asset will be calculated, as if depreciation has been allowed.

4. **Section 44AD & 44AE *overrides Section 28 to 43C but does not override Chapter VI & Chapter VIA*:** Therefore, the set off of current year losses & brought forward losses and deductions under chapter VIA are available against the income deemed under this section.
   However, current year and brought forward depreciation cannot be set off against the deemed income since that is governed by section 32.

5. ***The provisions of Section 44AD is not applicable in following cases:***

   a. A person carrying on ***specified profession*** as referred to in Section 44AA;

   b. A person earning ***income in the nature of commission or brokerage***; or

   c. A person carrying on any ***Agency Business***.

6. Where an eligible assessee declares profit for any PY as per this section and he declares profit for **any of the 5 consecutive AYs relevant to the PY succeeding such PY not as per Section 44AD**, **he shall not be eligible to claim the benefit of the provisions of this section for 5 AYs subsequent to the AY relevant to the PY in which the profit has not been declared as per the Sec 44AD [Sec 44AD (4)]**

7. An eligible assessee to whom the provisions of Section 44AD(4) are applicable ***and whose total income exceeds the maximum amount which is not chargeable to income-tax***, shall be required to keep and maintain such books of account and other documents as required under section 44AA and get them audited and furnish a report of such audit as required under section 44AB. **[Sec 44AD (5)]**

1. Example:

Let us consider the following particulars relating to a resident individual, Mr. A, being an eligible assessee whose gross receipts do not exceed ₹ 2 crore in any of the assessment years between A.Y. 2024-25 to A.Y. 2026-27:

Particulars	A.Y. 2024-25	A.Y. 2025-26	A.Y. 2026-27
Total turnover (₹)	1,80,00,000	1,90,00,000	2,00,00,000
Amount received through prescribed electronic modes on or before 31st July of the A.Y.	1,60,00,000	1,45,00,000	1,80,00,000
Income offered for taxation (₹)	11,20,000	12,30,000	10,00,000
% of gross receipts	6% on ₹ 1.60 crore and 8% on ₹ 20 lakhs	6% on ₹ 1.45 crore and 8% on ₹ 45 lakhs	5% on ₹ 2 crore
Offered income as per presumptive taxation scheme u/s 44AD	Yes	Yes	No

In the above case, Mr. A, an eligible assessee, opts for presumptive taxation under section 44AD for A.Y. 2024-25 and A.Y. 2025-26 and offers income of ₹ 11.20 lakh and ₹ 12.30 lakh on gross receipts of ₹ 1.80 crore and ₹ 1.90 crore, respectively.

However, for A.Y. 2026-27, he offers income of only ₹ 10 lakh on turnover of ₹ 2 crore, which amounts to 5% of his gross receipts. He maintains books of account under section 44AA and gets the same audited under section 44AB. Since he has not offered income in accordance with the provisions of section 44AD(1) for five consecutive assessment years, after A.Y. 2024-25, he will not be eligible to claim the benefit of section 44AD for next five assessment years succeeding A.Y. 2026-27 i.e., from AY 2027-28 to AY 2031-32.

2. Mr. Praveen engaged in retail trade, reports a turnover of ₹ 1,98,50,000 for the financial year 2023-24. 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. 2023-24 was the first year for which he declared his business income in accordance with the provisions of presumptive taxation under section 44AD.

(i) Is Mr. Praveen also eligible to opt for presumptive determination of his income chargeable to tax for the assessment year 2024-25?

(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?

(iv) 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. 2023-24 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 2022-23 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. 2024-25 to A.Y. 2028-29, 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. 2023-24 relevant to A.Y. 2024-25, then he would not be eligible to claim the benefit of presumptive taxation for A.Y. 2025-26 to A.Y. 2029-30.

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, 2024.

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, 2024.**

PRESUMPTIVE INCOME IN CASE OF NOTIFIED PROFESSIONALS [SECTION 44ADA] Resident Individual & Resident Firm

Eligible Assessee	***Resident Assessee being an Individual or a Partnership Firm (but not LLP) engaged in Notified Profession as per Section 44AA***
Eligible profession	Total Gross receipts **does not exceed *₹ 50 Lakhs*** ***[₹ 75 Lakhs in the relevant P.Y., if aggregate cash receipts in the relevant PY ≤ 5% of total gross receipts]*** ***Note:*** ***For this purpose, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the receipt in cash.*** ***[Amended by Finance Act 2023]***
Amount of Presumptive Income	***50% of gross receipts or higher sum***
Requirement of maintenance of books of account u/s 44AA and audit u/s 44AB	If eligible assessee declares profits and gains in accordance with the provisions of section 44ADA, he is **not** required to maintain books of account u/s 44AA or get them audited u/s 44AB.
Effect if the assessee declares lower Income:	**a.** Maintain books of account and other documents as required u/s 44AA ***if his total income exceeds the maximum exemption limit***; and **b.** Get his accounts audited and furnish a report of such audit as prescribed u/s 44AB ***if his total income exceeds the maximum exemption limit***.

Common Note:

1. **Deduction u/s 30 to 38:** The assessee will be deemed to have been allowed the deductions under sections 30 to 38. No further Deduction is allowed.

   Note: Even in case of a firm, salary and interest paid to partners is **not** deductible.

2. **Depreciation**: Depreciation is deemed to have been allowed. The WDV of asset will be calculated, as if depreciation has been allowed.

3. **Section 44ADA *overrides Section 28 to 43C but does not override Chapter VI & Chapter VIA*:** Therefore, the set off of current year losses & brought forward losses and deductions under chapter VIA are available against the income deemed under this section.

   However, current year and brought forward depreciation cannot be set off against the deemed income since that is governed by section 32.

4. **Advance Tax provisions are applicable (similar to Section 44AD)**
   Advance tax is payable to the extent of the whole amount of such advance tax during each financial year on or before the 15th March (only 1 installment of 100%)

Computation of income under the head "Profits and gains of business or profession" for transfer of immovable property in certain cases [Section 43CA]

1. ***Section 43CA*** provides that where the consideration for the transfer of an asset (other than capital asset), being land or building or both, is less than the stamp duty value, the SDV shall be deemed to be the full value of the consideration for the purposes of computing income under the head "Profits and gains of business or profession".

   *However, if Stamp Duty Value does not exceeds 110% of the consideration received or accruing as a result of the transfer, the consideration so received or accruing shall be deemed to be the full value of the consideration. [**Hint:** SDV does not exceeds 110% of sales consideration]*

2. ***When date of agreement and date of registration are not same**:*
   SDV may be taken as on the date of the agreement for transfer and not as on the date of registration for such transfer if amount of consideration (or a part thereof) for the transfer has been received ***by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account or through such other prescribed electronic modes*** on or before the date of the agreement.

   The prescribed electronic modes include credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay.

3. ***Can an assessee challenge stamp duty valuation* –** *Yes. In that case, VO will be appointed.*

Method of Accounting [Section 145]

1. Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, subject to the provisions of sub-section (2), be computed in accordance with ***either cash or mercantile system of accounting regularly employed by the assessee.***

2. The Central Government may notify in the Official Gazette from time to time **Income Computation and Disclosure Standards (ICDSs)** to be followed by any class of assessees or in respect of any class of income.

3. Where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) has not been regularly followed by the assessee, or income has not been computed in accordance with the standards notified under sub-section (2), **the Assessing Officer may make an assessment in the manner provided in section 144.**

Taxability of certain income [Section 145B]

1. Notwithstanding anything to the contrary contained in Section 145, the ***interest received by an assessee on any compensation or on enhanced compensation***, as the case may be, **shall be deemed to be the income of the previous year in which it is received.**

2. ***Any claim for escalation of price in a contract or export incentives*** shall be deemed to be the income of the previous year **in which reasonable certainty of its realisation is achieved**.

3. The income referred to in **sub-clause (xviii) of clause (24) of section 2** shall be deemed to be the income of the previous year in which it is received, if not charged to income-tax in any earlier previous year.

Income as referred in Section 2(24)(xviii)

Assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) **by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee** ***other than***-

- **a.** the subsidy or grant or reimbursement **which is taken into account for determination of the actual cost of the asset** in accordance with the provisions of Explanation 10 to clause (1) of section 43; or
- **b.** the subsidy or grant **by the Central Government** for the purpose of the **corpus of a trust or institution established by the Central Government or a State Government**, as the case may be;

Note: Section 145A & Various ICDS are not in CA-Intermediate Syllabus.

QUESTIONs for Practice - SET A

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

	Particulars	₹
(1)	Opening WDV of plant and machinery as on 1.4.2023	30,00,000
(2)	New plant and machinery purchased and put to use on 08.06.2023	20,00,000
(3)	New plant and machinery acquired and put to use on 15.12.2023	8,00,000
(4)	Computer acquired and installed in the office premises on 2.1.2024	3,00,000

Compute the amount of depreciation and additional depreciation as per the Income- tax Act, 1961 for the A.Y. 2024-25. Assume that all the assets were purchased by way of account payee cheque.

Solution:

Computation of depreciation and additional depreciation for A.Y. 2024-25

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 as on 31.03.2024

Particulars	Plant & Machinery (₹)	Computer (₹)
Written down value as on 1.4.2023	30,00,000	-
Add: Plant & Machinery purchased on 08.6.2023	20,00,000	-
Add: Plant & Machinery acquired on 15.12.2023	8,00,000	-
Computer acquired and installed in the office premises	-	3,00,000
Written down value as on 31.03.2024	**58,00,000**	**3,00,000**

2. Composition of plant and machinery included in the WDV as on 31.3.2024

Particulars	Plant & Machinery (₹)	Computer (₹)
Plant and machinery put to use for 180 days or more [₹ 30,00,000 (Opening WDV) + ₹ 20,00,000 (purchased on 8.6.2022)]	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 15.12.2023 and computer acquired and installed on 02.01.2024, 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 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. 2025-26.

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.

2. A car purchased by Dr. Soman on 10.08.2020 for ₹ 5,25,000 for personal use is brought into professional use on 1.07.2023 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 2024-25 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. 2024-25 would be ₹ 78,750, being ₹ 5,25,000 x 15%.

Note: Explanation 5 to section 43(1) providing for reduction of notional depreciation from the date of acquisition of asset for personal use to determine actual cost of the asset **is applicable only in case of building** which is initially acquired for personal use and later brought into professional use. It is not applicable in respect of other assets.

3. A newly qualified Accountant Mr. Dhaval, commenced practice and has acquired the following assets in his office during F.Y. 2023-24 at the cost shown against each item. Calculate the amount of depreciation that can be claimed from his professional income for A.Y. 2024-25. 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	27 Sept., 23	1 Oct., 23	35,000
2.	Computer UPS	2 Oct., 23	8 Oct., 23	8,500
3.	Computer printer	1 Oct., 23	1 Oct., 23	12,500
4.	Books (other than annual publications are of ₹ 12,000)	1 Apr., 23	1 Apr., 23	13,000
5.	Office furniture (Acquired from a practicing C.A.)	1 Apr., 23	1 Apr., 23	3,00,000
6.	Laptop	26 Sep., 23	8 Oct., 23	43,000

Solution:

Computation of depreciation allowable for A.Y. 2024-25

Asset		Rate	Depreciation (₹)
Block 1	Furniture **[See working note below]**	10%	30,000
Block 2	Plant (Computer, 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 (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. 2023-24 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.

4. Mr. Gamma, a proprietor started a business of manufacture of tyres and tubes for motor vehicles on 1.1.2023. The manufacturing unit was set up on 1.5.2023. He commenced his manufacturing operations on 1.6.2023. 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 2024-25. 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. 2024-25 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	

Additional Depreciation at 20%		85.00	17.00
Depreciation allowable for A.Y. 2024-25			**32.75**

Notes:

1. 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.

2. 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 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.

5. Mr. A, furnishes the following particulars for the P.Y. 2023-24. Compute the deduction allowable under section 35 for A.Y. 2024-25, 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. 2024-25

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

Note: Only company assessees 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.

6. Mr. A commenced operations of the businesses of setting up a warehousing facility for storage of food grains, sugar and edible oil on 1.4.2023. He incurred capital expenditure of ₹ 80 lakh, ₹ 60 lakh and ₹ 50 lakh, respectively, on purchase of land and building during the period January, 2023 to March, 2023 exclusively for the above businesses, and capitalized the same in its books of account as on 1st April, 2023. The cost of land included in the above figures is ₹ 50 lakh, ₹ 40 lakh and ₹ 30 lakh, respectively. During the P.Y. 2023-24, 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. 2024-25 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. 2024-25 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. 2024-25

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 1.4.2023 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2023 (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. 2023-24	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
F. Total deduction u/s 35AD for A.Y. 2024-25	50	35	85
G. 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. 2024-25 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.

(ii) 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.

(iii) 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. 2023-24.

(iv) 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.

7. Mr. Suraj, a proprietor, commenced operations of the business of a new three-star hotel in Madurai, Tamil Nadu on 1.4.2023. He incurred capital expenditure of ₹ 50 lakh during the period January, 2023 to March, 2023 exclusively for the above business, and capitalized the same in his books of account as on 1st April, 2023. Further, during the P.Y. 2023-24, 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. 2024-25, 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. 2024-25 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. 2024-25. 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. 2024-25

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. 2023-24 (excluding the expenditure incurred on acquisition of land) = ₹ 200 lakh – ₹ 150 lakh	50 lakh	
Capital expenditure incurred prior to 1.4.2023 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2023	50 lakh	
Total deduction under section 35AD for A.Y. 2024-25		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. Delta Ltd. credited the following amounts to the account of resident payees in the month of March, 2024 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 2023-24, 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)	Salary to its employees (credited and paid in March, 2024)	12,00,000
(2)	Directors' remuneration (credited in March, 2024 and paid in April, 2024)	28,000

Would your answer change if Delta Ltd. has deducted tax on directors' remuneration in April, 2024 at the time of payment and remitted the same in July, 2024?

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. 2023-24, 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. 2024-25 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. 2024-25 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. 2025-26.

9. During the financial year 2023-24, the following payments/expenditure were made/ incurred by Mr. Yuvan Raja, a resident individual (whose turnover during the year ended 31.3.2023 was ₹ 99 lacs):

(i) Interest of ₹ 45,000 was paid to Rehman & Co., a resident partnership firm, without deduction of tax at source;

(ii) ₹ 8,00,000 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 2.7.2023 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. 2022-23 exceeds ₹ 100 lakhs.** Thus, in present case, since the turnover of the assessee is less than ₹ 100 lakhs, 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 ₹ 100 lakhs 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. 2022-23 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. 2023-24. Therefore, disallowance under section 40(a)(ia) is not attracted in this case.

10. 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. 2022-23 & 2023-24)**	**15,00,000**
(ii)	**Indian Bank (P.Y. 2023-24)**	**30,00,000**
		45,00,000

Both APSFC and Indian Bank, while restructuring the loan facilities of Hari during the year 2023-24, converted the above interest payable by Hari to them as a loan repayable in 60 equal installments. During the year ended 31.3.2024, 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 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. 2024-25 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**

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

	₹
Financial year 2020-21	1,15,000
Financial year 2021-22	1,80,000
Financial year 2022-23	2,10,000

What is his obligation regarding maintenance of books of accounts for Assessment Year 2024-25 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 2020-21, 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.

12. Mr. X commenced the business of operating goods vehicles on 1.4.2023. He purchased the following vehicles during the P.Y. 2023-24. Compute his income under sec. 44AE for A.Y. 2024-25.

	Gross Vehicle Weight (in kilograms)	Number	Date of purchase
(1)	7,000	2	10.04.2023
(2)	6,500	1	15.03.2024
(3)	10,000	3	16.07.2023
(4)	11,000	1	02.01.2024
(5)	15,000	2	29.08.2023
(6)	15,000	1	23.02.2024

Would your answer change if the goods vehicles purchased in April, 2023 were put to use only in July, 2023?

Solution:

Since Mr. X does not own more than 10 vehicles at any time during the previous year 2023-24, 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	29.08.2023	8	16
1	23.02.2024	2	2
			18
For goods vehicle other than heavy goods vehicle			
2	10.4.2023	12	24
1	15.3.2024	1	1
3	16.7.2023	9	27
1	2.1.2024	3	3
			55

The presumptive income of Mr. X under section 44AE for A.Y. 2024-25 would be -

₹ 6,82,500, i.e., 55 × ₹ 7,500, being for other than heavy goods vehicle + 18 x ₹ 1,000 x 15 ton being for heavy goods vehicle .

The answer would remain the same even if the two vehicles purchased in April, 2023 were put to use only in July, 2023, since the presumptive income has to be calculated per month or part of the month for which the vehicle is owned by Mr. X.

13. 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 31-3-2024:

S. No.	Particulars	₹
(i)	Income from sale of centrifuged latex processed from rubber plants grown in Darjeeling.	3,00,000
(ii)	Income from sale of coffee grown and cured in Tamil Nadu.	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 assessment year 2024-25.

Solution:

Computation of business income and agricultural income of Ms. Vivitha for the A.Y. 2024-25

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.

14. Mr. Venus., engaged in manufacture of pesticides, furnishes the following particulars relating to its manufacturing unit at Chennai, for the year ending 31-3-2024:

	(₹ in lacs)
Opening WDV of Plant and Machinery	**20**
New machinery purchased on 1-9-2023	**10**
New machinery purchased on 1-12-2023	**8**
Computer purchased on 3-1-2024	**4**

- **All assets were purchased by A/c payee cheque.**
- **All assets were put to use immediately.**
- **New machinery purchased on 1-12-2023 and computer have been installed in the office.**
- **During the year ended 31-3-2023, a new machinery had been purchased on 31-10-2022, 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 31-3-2024.

Solution:

Computation of written down value of block of assets of Venus Ltd. as on 31.3.2024

Particulars	Plant & Machinery (₹ in lacs)	Computer (₹ in lacs)
Opening written down value (as on 01.04.2023)	**20**	**Nil**
Add: Actual cost of new assets acquired during the year New machinery purchased on 1.9.2023	10	-
New car purchased on 1.12.2023	8	-
Computer purchased on 3.1.2024	-	4
TOTAL	**38**	**4**
Less: Assets sold/discarded/destroyed during the year	Nil	Nil
Closing Written Down Value (as on 31.03.2024)	**38**	**4**

Computation of Depreciation for A.Y. 2024-25

	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**		
	Normal Depreciation		
	- Opening WDV of plant and machinery (₹ 20 lacs x 15%)	3.00	-
	- New Machinery purchased on 1.9.2023 (₹ 10 lacs x 15%)	1.50	-
	(A)	4.50	-
	Additional Depreciation		
	New Machinery purchased on 1.9.2023 (₹ 10 lakhs x 20%)	2.00	-
	Balance additional depreciation in respect of new machinery purchased on 31.10.2022 and put to use for less than 180 days in the P.Y. 2022-23 (₹ 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**		
	Normal Depreciation		
	New machinery purchased on 1.12.2023 [₹ 8 lacs x 7.5% (i.e., 50% of 15%)]	0.60	-
	Computer purchased on 3.1.2024 [₹ 4 lacs x 20% (50% of 40%)]	-	0.80
	(C)	0.60	0.80
	Total Depreciation (A+B+C)	**8.10**	**0.80**

Notes:

(1) 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, 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,–

- ✓ any office appliances or road transport vehicles;
- ✓ any machinery or plant installed in, inter alia, office premises.

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

- ✓ **New Machine** purchased on 1.12.2023 and
- ✓ Computer purchased on 3.1.2024, installed in office.

(2) As per third proviso to section 32(1)(ii), balance 50% of additional depreciation 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 2022-23 and put to use for less than 180 days in that year can be claimed in P.Y. 2023-24 being immediately succeeding previous year.

15. Mr. Abhimanyu is engaged in the business of generation and distribution of electric power. He always 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 2024-25:

		(₹ in lacs)
(i)	Opening WDV of block (15% rate)	42
(ii)	New machinery purchased on 12-10-2023	10
(iii)	Machinery imported from Colombo on 12-4-2023. This machine had been used only in Colombo earlier and the assessee is the first user in India.	9
(iv)	New computer installed in generation wing unit on 15-7-2023	₹ 2,00,000

All assets were purchased by A/c payee cheque.

Solution:

Computation of depreciation under section 32 for A.Y. 2024-25

Particulars	₹	₹
Normal Depreciation		
Depreciation@15% on ₹ 51,00,000, being machinery put to use for more than 180 days [Opening WDV of ₹ 42,00,000 + Purchase cost of imported machinery of ₹ 9,00,000]	7,65,000	
Depreciation@7.5% on ₹ 10,00,000, being new machinery put to use for less than 180 days	75,000	
	8,40,000	
Depreciation@40% on computers purchased ₹ 2,00,000	80,000	9,20,000
Additional Depreciation (Refer Note below)		
Additional Depreciation@10% of ₹ 10,00,000 [being actual cost of new machinery purchased on 12-10-2023]	1,00,000	
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		**10,60,000**

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 12.10.2023, 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. 2024-25. 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.

16. 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 2024-25.

(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 2022-23 was ₹ 202 lakhs.

(iv) Commodities transaction tax paid ₹ 20,000 on sale of bullion.

Solution:

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. 2023-24, in this case).

Therefore, the deduction under section 35AD while computing business income of such specified business would be ₹ 4,50,000.

(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 2022-23 exceeds the monetary limit of ₹ 100 lacs. (Reference of Tax audit is removed now)**

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).

17. 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 cheque crossed as "& Co., ₹ 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 27.12.2023 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%.

Solution:

(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, 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)(iia).

18. 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 2024-25:

(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

Solution:

(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:

- where any provision is made for the purpose of payment of sum by way of contribution towards an approved gratuity fund or;
- 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 by credit card is covered under Rule 6DD, which contains the exceptions to section 40A(3), 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.

19. 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, 2024 for ₹ 25,000 through a cheque duly crossed as "& Co." 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.

Solution:

(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 cheque crossed as "& Co." 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 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.

20. Mr. Sivam, a retail trader of Cochin gives the following Trading and Profit and Loss Account for the year ended 31st March, 2024:

Trading and Profit and Loss Account for the year ended 31.03.2024

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.

(iv) The depreciation provided in the Profit and Loss Account ₹ 1,05,000 was based on the following information:

The written down value of plant and machinery is ₹ 4,20,000 as on 01.04.2023. A new plant falling under the same block of depreciation was bought on 01.7.2023 for ₹ 70,000. Two old plants were sold on 1.10.2023 for ₹ 50,000.

(v) Rent and rates includes GST liability of ₹ 3,400 paid on 7.4.2024.

(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.

Solution:

Computation of business income of Mr. Sivam for the A.Y. 2024-25

Particulars	₹	₹
Net Profit as per profit and loss account		50,000
Add: 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& stationary 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
Less: Deductions items:		
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
PGBP		**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	₹
WDV of the block of plant & machinery as on 1.4.2023	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 31.3.2024	4,40,000
Depreciation @ 15% No additional depreciation is allowable as the assessee is not engaged in manufacture or production of any article.	66,000

2. Since GST liability has been paid before the due date of filing return of income under section 139(1), the same is deductible.

21. Mr. Sukhvinder is engaged in the business of plying goods carriages. On 1st April, 2023, 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, 2023, he sold one of the heavy goods vehicles and purchased a light goods vehicle on 6th May, 2023. This new vehicle could however be put to use only on 15th June, 2022.

Compute the total income of Mr. Sukhvinder for the AY 2024-25, taking note of the following data:

Particulars	₹	₹
Freight charges collected		12,70,000
Less : Operational expenses	6,25,000	
Depreciation as per section 32	1,85,000	
Other office expenses	15,000	8,25,000
Net Profit		4,45,000
Other business and non- business income		70,000

Solution:

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 assessees 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. 2024-25

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 1st May	2	1,000	15	30,000
			(15,000/ 1,000)	
5 goods carriage held throughout the year	12	1,000	15	9,00,000
			(15,000/ 1,000)	
Goods vehicle other than heavy goods vehicle				
1 goods carriage from 6th May	11	7,500	-	82,500
4 goods carriage held throughout the year	12	7,500	-	3,60,000
Total				**13,72,500**

22. Mr. Raju, a manufacturer at Chennai, gives the following Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2024:

Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2024

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		
To General Expenses	54,000	By Income from agriculture (net)	1,80,000
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 2023-24:

(a) Administrative charges include ₹ 46,000 paid as commission to brother of the assessee. The commission amount at the market rate is ₹ 36,000.

(b) The assessee paid ₹ 33,000 in cash to a transport carrier on 29.12.2023. This amount is included in manufacturing expenses. (Assume that the provisions relating to TDS are not applicable to this payment)

(c) 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.

(d) Bank term loan interest actually paid upto 31.03.2024 was ₹ 20,000 and the balance was paid in November 2024.

(e) Housing loan principal repaid during the year was ₹ 50,000 and it relates to residential property acquired by him in P.Y. 2022-23 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.

(f) Depreciation allowable under the Act is to be computed on the basis of following information:

Plant & Machinery (Depreciation rate @ 15%)	₹
Opening WDV (as on 01.04.2023)	12,00,000
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 2024-25 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.

Solution:

Computation of total income of Mr. Raju for the A.Y. 2024-25

Particulars	₹	₹
Income from house property		
Annual value of self-occupied property	Nil	
Less: Deduction under section 24(b) – interest on housing loan	23,000	(23,000)
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 (Alternate views)]**	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)**	2,25,000	4,20,000
		3,83,000
Income from Other Sources Dividend from domestic companies		15,000
Gross Total Income		**3,75,000**
Less: Deduction under section 80C in respect of Principal repayment of housing loan		50,000
Total Income		**3,25,000**

Working Note:

Computation of depreciation under the Income-tax Act, 1961

Particulars	₹
Depreciation@15% on ₹ 14 lakh (Opening WDV of ₹ 12 lakh plus assets purchased during the year and used for more than 180 days ₹ 2 lakh)	2,10,000
Depreciation @7.5% on ₹ 2 lakh (Assets used for less than 180 days)	15,000
	2,25,000

Notes (Alternate views):

1. 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.

2. 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 ₹ 3,20,000.

23. 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 31.3.2024 are given below:

Particulars	₹
WDV of car as on 1.4.2023	**3,00,000**
WDV of machinery as on 1.4.2023 (15% rate)	**15,00,000**
Expenses incurred for growing coffee	**3,10,000**
Expenditure for curing coffee	**3,00,000**
Sale value of cured coffee	**22,00,000**

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 assessment year 2024-25. Show the WDV of the assets as on 1.4.2024.

Solution:

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
Less: 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		
Add: 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 value of depreciable assets as on 31.3.2024

Particulars	₹	₹	₹
Car			
Opening value as on 1.4.2023		3,00,000	
Depreciation thereon at 15%	45,000		
Less: Disallowance @20% for personal use	9,000		
Depreciation actually allowed		36,000	
WDV as on 1.4.2024			2,64,000
Machinery			
Opening value as on 1.4.2023		15,00,000	
Less: Depreciation @ 15%		2,25,000	
WDV as on 1.4.2024			12,75,000

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.**

QUESTIONs for Practice - SET B

1. Mr. Praveen Kumar has furnished the following particulars relating to payments made towards scientific research for the year ended 31.3.2024:

Particulars	₹ (in lacs)
(i) Payments made to K Research Ltd.	20
(ii) Payment made to LMN College	15
(iii) Payment made to OPQ College	10
(iv) Payment made to National Laboratory	8
(v) Machinery purchased for in-house scientific research	25
(vi) Salaries to research staff engaged in in-house scientific research	12

Note: K Research Ltd. and LMN College are approved research institutions and these payments are to be used for the purposes of scientific research.

Compute the amount of deduction available under section 35 of the Income-tax Act, 1961 while arriving at the business income of the assessee.

2. Win Limited commenced the business of operating a three star hotel in Tirupati on 1-4-2023. It furnishes you the following information:

(a) Cost of land (acquired in June 2019) ₹ 60 lakhs

(b) Cost of construction of hotel building

Financial year 2021-22 ₹ 30 lakhs

Financial year 2022-23 ₹ 150 lakhs

(c) Plant and Machineries (all new) acquired during financial year 2022-23 ₹ 30 lakhs [All the above expenditures were capitalized in the books of the company]. Net profit before depreciation for the financial year 2023-24 ₹ 80 lakhs

Determine the amount eligible for deduction under section 35AD of the Income-tax Act, 1961, for the assessment year 2024-25.

3. Briefly discuss about the provisions relating to deductibility of interest on capital borrowed for the purpose of business or profession.

4. What are the conditions to be satisfied for the allowability of expenditure under section 37 of the Income-tax Act, 1961?

5. Ramji Ltd., engaged in manufacture of medicines (pharmaceuticals), furnishes the following information for the year ended 31.03.2024:

(i) Municipal tax relating to office building ₹ 51,000 not paid till 31.10.2024.

(ii) Patent acquired for ₹ 20,00,000 on 01.09.2023 and used from the same month.

(iii) Capital expenditure on scientific research ₹ 10,00,000, which includes cost of land ₹ 2,00,000.

(iv) Amount due from customer X outstanding for more than 3 years written off as bad debt in the books ₹ 5,00,000.

(v) Income tax paid ₹ 90,000 by the company in respect of non-monetary perquisites provided to its employees.

(vi) Provident fund contribution of employees ₹ 5,50,000 remitted in July 2024.

(vii) Expenditure towards advertisement in souvenir of a political party ₹ 1,50,000.

(viii) Refund of GST ₹ 75,000 received during the year, which was claimed as expenditure in an earlier year.

State with reasons the taxability or deductibility of the items given above under the Income-tax Act, 1961.

Note: Computation of total income is not required.

6. Answer the following with reference to the provisions of the Income-tax Act, 1961:

(a) Bad debt claim disallowed in an earlier assessment year, recovered subsequently. Is the sum recovered chargeable to tax?

(b) Tax deducted at source on salary paid to employees not remitted till the 'due date' for filing the return prescribed in section 139. Is the expenditure to be disallowed under section 40(a)(ia)?

(c) X Co. Ltd. paid ₹ 120 lakhs as compensation as per approved Voluntary Retirement Scheme (VRS) during the financial year 2023-24. How much is deductible under section 35DDA for the assessment year 2024-25?

(d) Bad debt of ₹ 50,000 written off and allowed in the financial year 2021-22 recovered in the financial year 2023-24.

7. M/s. Arora Ltd., submits the following details of expenditure pertaining to the financial year 2023-24:

(i) Payment of professional fees to Mr. Mani ₹ 50,000. Tax was not deducted at source.

(ii) Interior works done by Mr. Hari for ₹ 2,00,000 on a contract basis. Payment made in the month of March 2024. Tax deducted in March 2024 was paid on 30.06.2024.

(iii) Factory Rent paid to Mr. Rao ₹ 15,00,000. Tax deducted at source and paid on 01.11.2024.

(iv) Interest paid on Fixed Deposits ₹ 2,00,000. Tax deducted on 31.12.2023 and paid on 28.10.2024.

Examine the above with reference to allowability of the same in the assessment year 2024-25 under the Income-tax Act, 1961. You answer must be with reference to section 40(a) read with relevant tax deduction at source provisions. Assume that the due date of filing the return of income is 31.10.2024. [After TDS Chapter]

8. Ramamurthy had 4 **non heavy goods** vehicles as on 1.4.2023. He acquired 7 non-heavy goods vehicles on 27.6.2023. He sold 2 non-heavy goods vehicles on 31.5.2023. He has brought forward business loss of ₹ 50,000 relating to assessment year 2019-20 of a discontinued business. **Assuming that he opts for presumptive taxation of income as per section 44AE, compute his total income chargeable to tax for the assessment year 2024-25.**

9. X Ltd. follows mercantile system of accounting. After negotiations with the bank, interest of ₹ 4 lakhs (including interest of ₹ 1.2 lakhs pertaining to year ended 31.03.2024 has been converted into loan. **Can the interest of ₹ 1.2 lakhs so capitalized be claimed as business expenditure?**

10. List **Eight items** of expenses which otherwise are deductible shall be disallowed, unless payments are actually made within the due date for furnishing the return of income under Section 139(1). **When can the deduction be claimed, if paid after the said date?**

11. Mr. Gupta is having a trading business and his Trading and Profit & Loss Account for the financial year 2023-24 is as under:

Particulars	Amount (₹)	Particulars	Amount (₹)
To Opening stock	1,00,000	By Sales	70,00,000
To Purchase	49,00,000	By Closing stock	50,000
To Gross profit	20,50,000		
Total	**70,50,000**	**Total**	**70,50,000**
Salary to employees (Including Contribution to PF)	5,00,000	By Gross Profit b/d	20,50,000
Donation to Prime Minister Relief Fund	1,00,000		
Provision for bad debts	50,000		
Bonus to employees	50,000		
Interest on bank loan	50,000		
Family planning expenditure incurred on employees	20,000		
Depreciation	30,000		
Income-tax	1,00,000		
To Net profit	11,50,000		
	20,50,000	Total	20,50,000

Other information:

(a) Depreciation allowable ₹ 40,000 as per Income-tax Rules, 1962.

★**(b)** No deduction of tax at source on payment of interest on bank loan has been made.

(c) Payment of bonus to workers made in the month of October, 2023 on the occasion of Diwali festival.

★**(d)** Out of salary, ₹ 25,000 pertains to his contributions to recognized provident fund which was deposited after the due date of filing return of income. Further, employees contribution of ₹ 25,000 was also deposited after the due date of filing return of income.

Calculate gross total income of Mr. Gupta for the Assessment Year 2024-25.

12. Following is the profit and loss account of Mr. Q for the year ended 31-03-2024:

Particulars	₹	Particulars	₹
To Repairs on Building	1,81,000	By Gross Profit	6,01,000
To Amount paid to IIT, Mumbai for an approved scientific research programme	1,00,000	By I.T. Refund By Interest on Company Deposits	8,100 6,400
To Interest	1,10,000		
To Travelling	1,30,550		
To Net Profit	93,950		
	6,15,500		6,15,500

Following additional information is furnished:

(1) Repairs on building includes ₹ 1,00,000 being cost of building a new toilet.

(2) Interest payments include ₹ 50,000 on which tax has not been deducted and penalty for contravention of Central GST Act of ₹ 24,000.

Compute the income chargeable under the head "Profits and gains of Business or Profession" of Mr. Q for the year ended 31-03-2024 ignoring depreciation.

13. Following is the profit and loss account of Mr. A for the year ended 31.3.2024:

Particulars	₹	Particulars	₹
To Repairs on building	1,30,000	By Gross profit	6,01,000
To Advertisement	51,000	By Income Tax Refund	4,500
To Amount paid to Scientific Research Association approved u/s 35	1,00,000	By Interest from company deposits By Dividends	6,400 3,600
To Interest	1,10,000		
To Traveling	1,30,000		
To Net Profit	94,500		
	6,15,500		6,15,500

Following additional information is furnished:

(1) Repairs on building includes ₹ 95,000 being cost of raising a compound wall for the own business premises.

(2) Interest payments include interest of ₹ 12,000 payable outside India to a non-resident Indian on which tax has not been deducted and penalty of ₹ 24,000 for contravention of Central GST Act.

Compute the income chargeable under the head 'Profits and gains of business or profession' of Mr. A for the year ended 31.3.2024 ignoring depreciation.

14. Briefly explain the term "substantial interest". State three situations in which the same assumes importance.

15. Raghav Industries Ltd. furnishes you the following information for the year ended 31-03-2024:

(a) Scientific research expenditure related to its business ₹ 2,40,000 fully revenue in nature.

(b) Building acquired for scientific research (including cost of land ₹ 5,00,000) in June 2023 for ₹ 12,00,000.

(c) Amount paid to Indian Institute of Science, Bangalore for scientific research ₹ 50,000.

(d) Demerger expenses incurred in financial year 2023-24 ₹ 5,00,000.

(e) Contribution to the account of employees as per pension scheme referred to in section 80CCD amounted to ₹ 30,00,000. Amount above 10% of the salary of employees is ₹ 7,00,000.

(f) Amount recovered from employees towards provident fund contribution ₹ 12,00,000 of which amount remitted upto the end of the year was ₹ 7,00,000 and the balance was remitted before the 'due date' for filing the return prescribed in Section 139(1).

★**(g)** Tax on non-monetary perquisites provided to the employees, borne by the employer ₹ 4,50,000.

★**(h)** Gain due to change in the rate of exchange of foreign currency ₹ 1,00,000 related to import of machinery. The machinery was acquired two years ago and put to regular use since then.

Explain in brief how the above said items would be dealt with for the A.Y. 2024-25.
Note: Computation of total income not required.

16. Advise an assessee on the admissibility or otherwise on the following aspects giving reasons in respect of its business income :

(i) Brokerage paid for raising loan for the business.

(ii) Cost of erecting medical unit annexed to the factory for emergency treatment of the employees.

(iii) Compensation paid to an employee for the premature termination of his services.

(iv) Travelling expenses of a director, who went to Japan for negotiating the purchase of a new heavy machinery, which was to be installed during next year.

(v) Lump sum consideration of ₹ 5 lakh paid for acquiring know-how.

17. State, with reasons in brief, whether following receipts/expenses are capital or revenue in nature -

(i) Ankit Ltd. received ₹ 3 lakh as compensation from Bhushan Ltd. for premature termination of a contract of agency;

(ii) GST collected from the buyer of goods;

(iii) Pretty Ltd., instead of receiving royalty year by year, received it in advance in lumpsum;

(iv) Payment of ₹ 60,000 as compensation for cancellation of a contract for the purchase of machinery with a view to avoid an unnecessary expenditure;

(v) An employee director of a company was paid ₹ 1.5 lakh as a lumpsum consideration for not resigning from the directorship.

18. Jardine Ltd. is an existing Indian Company, engaged in developing and providing computer software services which sets up a new industrial unit. It incurs the following expenditure in connection with the new unit:

	₹
Preparation of project report	4,00,000
Market Survey	5,00,000
Legal and other charges for issue of additional capital required for the new unit	2,00,000
Total	11,00,000
The following further data is given :	
Cost of project	30,00,000
Capital employed in the new unit	40,00,000

What is the deduction admissible to the company under section 35D for AY 2024-25?

19. In the financial year 2021-22, RK Ltd. had prepared a Voluntary Retirement Scheme for its employees in accordance with which it paid ₹ 10 lakhs, ₹ 15 lakhs and ₹ 5 lakhs to its employees in the financial years 2021-22, 2022-23 and 2023-24 respectively. **Compute the amount of deduction admissible u/s 35DDA to RK Ltd. in AY 2024-25.**

20. Following is the Profit & Loss account of Mr. A a dealer in shares and securities for the year ended on 31.3.2024 (amounts in ₹)

To Trading Expenses	62,60,000	By Sales	72,54,000
To Administrative Exp.	1,05,000	By Interest on FD with bank	16,500
To Financial Expenses	48,265	By Dividend from Indian Co	64,360
To Demat & delivery charges	4,350	By Interest on I.T. Refund	230
To Securities transaction tax	5,500		
To Net Profit before depreciation	9,11,975		
	73,35,090		**73,35,090**

Compute total income.

21. Computation of taxable income: Ram, who is 28 years of age, is a businessman in Delhi. On the basis of the following profit and loss account for the financial year 2023-24, compute his taxable income :

Opening stock	20,700	Sales	1,500,000
Purchases	1,000,000	Closing stock	25,200
Household expenses	10,000		
Income-tax for the financial year 2022-23	30,000		
Interest on capital	8,400		
Depreciation on furniture	12,000		
Reserve for bad debts	1,200		
Salaries and wages	60,000		
Rent and rates	25,000		
Net profit	357,900		
	1,525,200		**1,525,200**

Other relevant particulars are as follows:

(i) Opening stock and closing stock have consistently been valued at 10% below cost price.

(ii) Household expenses include a contribution of ₹ 1,500 towards public provident fund.

(iii) Amount of depreciation on furniture as per income-tax provisions is ₹ 10,000.

22. Mrs. Thakur carries on a textile manufacturing business. Her Profit and Loss Account for the year ending 31st March 2024 is as follows (amounts in ₹) :

To Office Expenses	8,500	By Gross Profit	106,000
To Sundry Expenses	7,500	By Misc. Receipts	6,000
To Staff Welfare Expenses	750	By Income tax Refund	20,000
To Legal Expenses	5,000	By Bad debts recovered	4,500
To Salaries	17,000	By Gift from Mr. Thakur	10,000
To Outstanding liability for CGST	7,500		
To Bonus to staff	6,000		
To Depreciation	4,000		
To Contribution to Approved provident fund	7,000		
To Audit fees	32,500		
To Net profit	50,750		
Total	**146,500**	**Total**	**146,500**

Notes:

(1) Depreciation as per Income-tax Act comes to ₹ 2,700.

★**(2)** Bonus payable under the Payment of Bonus Act, 1965 amounts to ₹ 2,500.

(3) Sundry expenses include ₹ 1,500 paid as donation to her son's school for their annual function.

(4) Office expenses include a capital expenditure of ₹ 5,000 on additional furniture purchased on 1.12.2023. No depreciation has been provided for in the books.

(5) Liability for CGST/SGST was paid as follows :
On 13.4.2024 ₹ 3,500 On 2.5.2024 ₹ 1,000 On 30.7.2024 ₹ 1,800; The return was filed on 31.7.2024 (last date for filing).

★**(6)** No tax has been deducted at source on the audit fees of ₹ 32,500.

(7) Bad debts recovered were allowed as deduction in an earlier assessment.

You are required to compute Mrs. Thakur's business income.

23. Shri Nagesh's Profit and loss A/c for the year ended 31st March 2024 is as under (Amount in ₹) :

Opening Stock	40,000	Sales	540,000
Purchases	205,000	Closing Stock	60,000
Royalty	26,000	Commission	8,000
Wages	95,000	Interest from customers	2,000
Factory expense	45,000	Dividends	5,000
Rent rates and taxes	3,000	Contribution by employees towards RPF	2,100
Sundry expenses	5,300	Profit on sale of building	16,500
Salaries and bonus	9,500		
Contribution to RPF	2,100		
Legal expenses	1,800		
Provision for depreciation	1,500		
Travelling expenses	4,000		
Repairs	5,800		
Entertainment expenses	14,400		
Rural development expenses	1,000		
Advertisement expenses	4,900		
Miscellaneous expenses	2,800		
Net profits	166,500		
	633600		633600

Other information:

(1) Opening and closing stock valued at 20% below cost price. Market price was higher than cost price.

(2) A sum of ₹ 1,500 paid on the accident of an employee is included in the factory expenses.

(3) Allowable depreciation is ₹ 1,800

(4) Advertisement expenses include ₹ 3,000 for advertisement in souvenir published by political party.

(5) Rural development expenses include ₹1,000 paid to an approved institution for carrying out an approved rural development programme. The approval was withdrawn after payment of such sum.

(6) Sundry expenses ₹ 1,000 and contribution to recognised provident fund are unpaid.

Determine his taxable profits of business.

24. Mr. Rameshwar is registered Medical practitioner. He keeps his book on cash basis and his summarised cash account for year ended 31 March 2024 is as under (amounts in ₹)

To Balance b/d	2,700	By costs of medicines	20,000
To loan from Bank	6,000	By surgical equipments	6,000
To sale of medicines	30,500	By motor car purchased	12000
To consultation fees	10,000	By car expenses	1,800
To visiting fees	8,000	By salaries	1,200
To interest on investments	9,000	By rent on dispensary	1,200
To dividend on shares	7,200	By General expenses	600
To sale of building	15,000	By personal expenses	3,600
To sale of furniture	5,000	By Life insurance premium	2,000
		By Interest on bank loan for investment	360
		By insurance of property	400
		By Fixed Deposit in Bank	30,000
		By balance c/d	14,240
	93,400		93,400

Compute his Income from profession taking into account the following further information:

(1) 1/3rd of the motorcar expenses is in respect of his personal use.

(2) The original cost of the building was ₹ 20,000 and written down value of furniture as on 1st April 2023 was ₹ 4,000. There was no other asset in this block.

(3) The rate of depreciation on motorcar and on surgical equipments is 15%. An old car was purchased in May 2023 while the surgical equipments were purchased in Dec. 2023.

★**(4)** Outstanding consultancy fees and outstanding salaries are ₹ 20,000 and ₹ 1,000 respectively. Further, medicines valuing ₹ 5,000 were sold to Mr. Babu on credit.

25. Shri Mohit Jain, a resident assessee, has given the following Profit and Loss Account for the year ended 31st March 2024: (All amount in ₹)

To Office Salaries	26,000	By Gross profit	299,400
To Staff welfare Expenses	12,000	By Sundry receipts	8,800
To General expenses	13,000		
To Bad debts	6,000		
To Advance tax	800		
To Fire insurance	8,000		
To Advertisement expenses	22,000		
To Interest on Mohit's capital and loan	7,200		
To Expenditure incurred on acquisition of copyright on 1-2-2024 (it is put to use on the same day).	5,600		
To Lump sum consideration for acquiring know-how incurred on 5-3-2024 (it is put to use on April 1, 2024)	24,000		
To Depreciation on other business assets	12,000		
To Provision for income-tax	4,000		
To Contribution to a political party	2,000		
To Net profit	165,600		
	308,200		308,200

Other information:

(1) Salary to staff includes salary paid to a relative, which is unreasonable to the extent of ₹ 4,800.

(2) Depreciation on other assets according to income-tax provision comes to ₹ 19,200.

(3) Provision for income tax is excessive to the extent of ₹ 1,200.

(4) General expenses include an expenditure of ₹ 3,560 for arranging a long-term loan.

★**(5)** **During the previous year 2023-24, the following payments are made:**

(a) ₹ 14,000 paid on 5-5-2023 on account of outstanding customs duty of previous year 2022-23; and

(b) ₹ 10,000 paid on 3-1-2024 on account of outstanding SGST of the previous year 2022-23.

Find out the business income of Mr. Mohit Jain for the AY 2024-25. Due date of filing return of income is July 31, 2023 for AY 2023-24 and July 31, 2024 for AY 2024-25.

26. Alpha Ltd. a manufacturing company, which maintains accounts under mercantile system, has disclosed a net profit of ₹ 12.50 lakhs for the year ending 31st March 2024. **You are required to compute the taxable income of the company for the assessment year 2024-25 after considering the following information, duly explaining the reasons for each item of adjustment:**

(a) Advertisement expenditure includes the sum of ₹ 60,000/- paid in cash to the sister concern of a director, the market value of which is ₹ 52,000/-.

(b) Legal charges include a sum of ₹ 45,000/- paid to a consultant for framing a scheme of amalgamation duly approved by the Central Government.

(c) Repairs of plant and machinery include ₹ 1.80 lakhs towards replacement of worn out parts.

★ **(d)** A sum of ₹ 6,000/- on account of liability foregone by a creditor has been taken to general reserve. The same was charged to the Revenue Account in the assessment year 2022-23.

(e) Sale proceeds of import entitlements amounting to ₹ 1 lakh has been credited to Profit and Loss A/c, which company claims as capital receipt not chargeable to Income tax.

(f) Being also engaged in the biotechnology business, the company incurred the following expenditure on in-house research and development as approved by prescribed authority: -

a) Research equipments purchased ₹ 1,50,000/-

b) Remuneration paid to scientists ₹ 50,000/-

The Total amount of ₹ 2,00,000/- is debited to Profit and Loss A/c.

27. [Also refer Agriculture Chapter] - The following is the profit and loss account for year ended 31st March, 2024 of Western Sugar Mills of which Shri Daga is the owner:

	₹		₹
To Manufacturing expenses	7,01,000	By Sale of Sugar and molasses	11,62,300
To GST	92,795	By Rent from agricultural land	950
To Establishment charges	49,200	By Revenue from fisheries	4,000
To Fine paid to GST dept	2,000	By Sale proceeds from Sugar canes	6,05,055
To Salary and wages	1,21,445	By Profit on sale of motor truck	3,230
To General charges	16,750		
To Interest on bank loan	21,000		
To Daga's remuneration	38,750		
To Depreciation	91,000		
To Income-tax	25,000		
To Cultivation expenses	4,37,500		
To Net profit	1,79,095		
	17,75,535		17,75,535

Compute the income from business of Shri Daga from the Sugar Mill for the AY 2024-25 after taking the following information into consideration:

★ **a)** Sale proceeds of cane include ₹ 5,32,000 on account of cane produced and consumed in the factory and debited to manufacturing expenses, the average market price of such cane being ₹ 6,00,000.

b) The motor truck sold during the year for ₹ 7,230 was purchased in the past for ₹ 19,000. Depreciation claimed in respect thereof in past assessment was ₹ 15,000.

c) General charges include —

i) ₹ 2,000 being the legal expenses incurred in defending a suit regarding the company's title to certain agricultural lands and

ii) ₹ 10,000 paid to Shri Daga's son who is an employee in the Sugar Mill for a trip to Hawai to study modern methods of manufacture.

d) Depreciation in respect of all assets has been ascertained at ₹ 50,000 as per Income-tax Rules.

SOLUTION – SET B

1.

Computation of deduction allowable under section 35

Particulars	Amount (₹ In lacs)	Section	% of deduction	Amount of deduction **(₹ in lacs)**
Payment for scientific research				
K Research Ltd.	20	35(1)(iia)	100%	20.00
LMN College	15	35(1)(ii)	100%	15.00
OPQ College [See Note 1]	10	-	Nil	Nil
National Laboratory [See Note 4]	8	35(2AA)	100%	8.00
In-house research [See Note 2]				
Capital expenditure	25	35(1)(iv) r.w. 35(2)	100%	25.00
Revenue expenditure	12	35(1)(i)	100%	12.00
Deduction allowable under section 35				**80.00**

Notes:-

1. **Payment to OPQ College:** Since the note in the question below item (iii) clearly mentions that only K Research Ltd. and LMN College (mentioned in item (i) and (ii), respectively) are approved research institutions, it is a logical conclusion that OPQ College mentioned in item (iii) is not an approved research institution. Therefore, payment to OPQ College would not qualify for deduction under section 35.

2. **Deduction for in-house research and development:** Only company assessees are entitled to 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.

2. Under section 35AD, 100% of the capital expenditure incurred during the previous year, wholly and exclusively for the specified business, which includes the business of building and operating a hotel of two-star or above category anywhere in India which commences its operations on or after 1.4.2010, would be allowed as deduction from the business income.

However, expenditure incurred on acquisition of any land, goodwill or financial instrument would not be eligible for deduction.

Further, the expenditure incurred, wholly and exclusively, for the purpose of specified business prior to commencement of operation would be allowed as deduction during the previous year in which the assessee commences operation of his specified business. A condition has been inserted that such amount incurred prior to commencement should be capitalized in the books of account of the assessee on the date of commencement of its operations.

Accordingly, the deduction under section 35AD for the A.Y. 2024-25 in the case of Win Ltd. would be calculated as follows, assuming that the expenditures were capitalised in the books of the company on 1.4.2023, being the date of commencement of operations-

Particulars	**₹**
Cost of land (not eligible for deduction under section 35AD)	Nil
Cost of construction of hotel building (₹ 30 lakhs + ₹ 150 lakhs)	180
Cost of plant and machinery	30
Deduction under section 35AD	**210**

Note:-

(1) For A.Y. 2024-25, the loss from specified business of operating a three star hotel would be ₹ 130 lakhs (i.e. ₹ 210 lakhs – ₹ 80 lakhs). As per section 73A, any loss computed in respect of the specified business referred to in section 35AD shall be set off only against profits and gains, if any, of any other specified business. The unabsorbed loss, if any, will be carried forward for set off against profits and gains of any specified business in the following assessment year.

(2) Since the entire cost of plant and machinery and building qualifies for deduction under section 35AD, the same does not qualify for deduction under section 32.

3. Under section 36(1)(iii), deduction is allowed in respect of interest on capital borrowed for the purposes of business or profession while computing income under the head "Profits and gains of business or profession".

Further, Explanation 8 to section 43(1) clarifies that interest relatable to a period after the asset is first put to use cannot be capitalized. Interest in respect of capital borrowed for any period from the date of borrowing to the date on which the asset was first put to use should, however, be capitalized in the case of extension of existing business or profession.

The proviso to section 36(1)(iii) provides that no deduction shall be allowed in respect of any amount of interest paid, in respect of capital borrowed for acquisition of a new asset or for extension of existing business or profession (whether capitalized in the books of account or not) for any period beginning from the date on which the capital was borrowed for acquisition of the asset, till the date on which such asset was first put to use.

4.

(a) The following conditions are to be fulfilled for the allowability of expenditure under section 37 -

(1) The expenditure should not be of the nature described in section 30 to 36;
(2) It should not be in the nature of personal expenditure of the assessee;
(3) It should have been incurred by the assessee during the previous year;
(4) The expenditure should have been laid out or expended wholly or exclusively for the purposes of the business or profession;
(5) It should not be in the nature of a capital expenditure; It should not have been incurred for any propose which is an offence or which is prohibited by law.

(b) No deduction is allowable for expenditure incurred by the assessee on advertisement in any souvenir, brochure, tract pamphlet or the like published by a political party [Section 37(2B)]

(c) As per Explanation 2 to Section 37(1), any expenditure incurred by the assessee on the activities relating to Corporate Social Responsibility referred to in Section 135 of the Companies Act, 2013 shall **not** be deemed to be an expenditure incurred for the purpose of business or profession. Hence, such expenditure shall be disallowed while computing total income.

5.

(i) As per section 43B, municipal tax is not deductible for A.Y. 2024-25 since it is not paid on or before 31.10.2024, being the due date of filing the return for A.Y. 2024-25.

Note – It is assumed that the company has not undertaken any international transaction during the year, and therefore does not have to file a transfer pricing report under section 92E. Therefore, the due date of filing of return of the company would be 31st October, 2024.

(ii) Patent is an intangible asset eligible for depreciation@25%. Since it has been acquired and put to use for more than 180 days during the previous year 2023-24, full depreciation of ₹ 5,00,000 (i.e. 25% of ₹ 20,00,000) is allowable as deduction under section 32.

(iii) Deduction@100% is available under section 35(2AB) in respect of expenditure incurred by a company on scientific research on in-house research and development facility as approved by the prescribed authority. However, cost of land is not eligible for deduction. Deduction under section 35(2AB) = 100% of ₹ 8 lakhs = ₹ 8,00,000.

Note: It is presumed that the in-house research and development facility is approved by the prescribed authority and is hence, eligible for the deducteion@100% under section 35(2AB).

(iv) Bad debts i.e. ₹ 5,00,000 written off in the books of account as irrecoverable is deductible under section 36(1)(vii), provided the debt has been taken into account in computing the income of the company in the current previous year or any of the earlier previous years.

(v) As per section 40(a)(v), income-tax of ₹ 90,000 paid by the company in respect of nonmonetary perquisites provided to its employees, exempt in the employee's hands under section 10(10CC), is not deductible while computing business income of the employer– company.

(vi) The employees' contribution to provident fund is taxable in the hands of the company since it is included in the definition of income under section 2(24)(x). As per section 36(1)(va), provident fund contribution of employees is deductible only if such sum is credited to the employee's provident fund account on or before the due date under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. In this case, since it is remitted after the due date under the said Act, it is not deductible.

(vii) Expenditure towards advertisement in souvenir of a political party is disallowed under section 37(2B) while computing business income. However, the same is deductible under section 80GGB from gross total income.

(viii) Refund of a trading liability is taxable under section 41(1), if a deduction was allowed in respect of the same to the taxpayer in an earlier year. Since GST was claimed as expenditure in an earlier year, refund of the same during the year would attract the provisions of section 41(1).

6.

(a) Recovery of a bad debt claim disallowed in the earlier year cannot be brought to tax under section 41(4). Section 41(4) can be invoked only in a case where bad debts or part thereof has been allowed as deduction earlier under section 36(1)(vii).

(b) The scope of section 40(a)(ia) has been expanded to cover all sums in respect of which tax is deductible under Chapter VII-B. Section 192, which requires deduction of tax at source from salary income, forms part of Chapter VII-B. Therefore, salary payment without deduction of tax at source would attract disallowance under section 40(a)(ia). However, only 30% of salary paid without deduction tax at source would be disallowed under section 40(a)(ia).

(c) It is deductible in 5 equal annual instalments commencing from the previous year of payment. ₹ 24 lakhs, being 1/5th of ₹ 120 lakhs, is deductible under section 35DDA for the A.Y. 2024-25.

(d) As per section 41(4), any amount recovered by the assessee against bad debt earlier allowed as deduction shall be taxed as income in the year in which it is received. Therefore, in this case, ₹ 50,000 would be taxable in the F.Y. 2023-24 (A.Y. 2024-25).

7. Allowability of expenses of M/s. Arora Ltd. for the A.Y. 2024-25

(i) Payment of professional fees is subject to TDS under section 194J. Since no tax is deducted at source, ₹ 15,000, being 30% of the expenditure of ₹ 50,000 is disallowed under section 40(a)(ia).

(ii) Since the tax was deducted in March, 2024 and paid on or before the due date of filing the return (i.e., on or before October 31st, 2024), the expenditure on interior works will be allowed as deduction. Hence, disallowance under section 40(a)(ia) is not attracted.

(iii) The maximum time allowable for deposit of tax deducted at source is upto the due date of filing of return i.e., 31st October, 2024. In this case, since tax deducted under section 194-I was paid after the due date of filing the return, ₹ 4,50,000 being 30% of ₹ 15,00,000 is disallowed under section 40(a)(ia) for the previous year 2023-24.

(iv) The tax deducted at source can be deposited on or before the due date of filing of return to avoid disallowance under section 40(a)(ia). In this case, disallowance would not be attracted since tax deducted during December 2023 was deposited before 31st October 2024 i.e. on 28.10.2024.

8.

Computation of total income of Mr. Ramamurthy for A.Y. 2024-25

Particulars	₹
Presumptive business income under section 44AE	
4 non heavy goods vehicles for 2 months (4 x ₹ 7,500 x 2)	60,000
Balance 2 non-heavy goods vehicles for 10 months (2 x ₹ 7,500 x 10)	1,50,000
7 non- heavy goods vehicles for 10 months (7 x ₹ 7,500 x10)	5,25,000
Business Income	7,35,000
Less: Brought forward business loss of discontinued business	50,000
Total Income	**6,85,000**

Note: The assessee is eligible for computing the income from goods carriages applying the presumptive provisions of section 44AE, since he does not own more than 10 goods carriages at any time during the previous year.

9. Under section 43B, interest on term loans and advances to scheduled banks shall be allowed only in the year of payment of such interest irrespective of the method of accounting followed by the assessee.

Explanation 3D to section 43B provides that if any interest payable by the assessee is converted into a loan, the interest so converted and not "actually paid" shall not be deemed as actual payment, and hence would not

be allowed as deduction. Therefore, the interest of ₹ 1.2 lakhs converted into loan cannot be claimed as business expenditure.

10. Section 43B provides that the following expenses shall not be allowed as deduction unless the payments are actually made within the due date for furnishing the return of income under section 139(1):

(i) Any tax, duty, cess or fees under any law in force.
(ii) Any sum payable by the assessee as an employer by way of contribution to provident fund or superannuation fund or gratuity fund or any other fund for the welfare of the employees;
(iii) Any bonus or commission for services rendered payable to employees;
(iv) Any interest on any loan or borrowings from any public financial institution or State financial corporation or State industrial investment corporation;
(v) Interest on loans and advances from a scheduled bank;
(vi) *Any sum payable by the assessee as interest on any loan or borrowing from a deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company, in accordance with the terms and conditions of the agreement governing such loan or borrowing,*
(vii) Any sum paid as an employer in lieu of earned leave at the credit of his employee.
(viii) **Any sum payable to the Indian Railways for the use of railway assets**

In case the payment is made after the due date of filing of return of income, deduction can be claimed only in the year of actual payment.

11. Computation of Gross Total Income of Mr. Gupta for the A.Y. 2024-25

Particulars	₹	₹
Income from Business or profession		
Net profit as per Profit and Loss Account		11,50,000
Add : Expenses not deductible		
➢ Donation to Prime Minister Relief Fund (Refer Note -1)	1,00,000	
➢ Provision for bad debts	50,000	
➢ Family planning expenditure incurred on employees (Refer Note -2)	20,000	
➢ Depreciation as per Profit and Loss Account	30,000	
➢ Income-tax (Refer Note -3)	1,00,000	
➢ Employer's contribution to recognized provident fund (Note-4)	25,000	3,25,000
Less : Expense allowed		**14,75,000**
Depreciation as per Income- tax Rules, 1962		40,000
		14,35,000
Add : Employee's contribution included in income as per Section 2(24)(x) (Refer Note-5)		25,000
Business Income / Gross Total Income		**14,60,000**

Notes:-

(1) Donation to Prime Minister Relief Fund is not allowed as deduction from the business income. It is allowed as deduction under section 80G from the gross total income.
(2) Expenditure on family planning is allowed as deduction under section 36(1)(ix) only to a company assessee. Therefore, such expenditure is not allowable as deduction in the hands of Mr. Gupta.
(3) Income-tax paid is not allowed as deduction as per the provisions of section 40(a)(ii).
(4) Since, Mr. Gupta's contribution to recognized provident fund is deposited after the due date of filing return of income, the same is disallowed as per provisions of section 43B.
(5) Employee's contribution is includible in the income of the employer by virtue of Section 2(24)(x). The deduction for the same is not provided for as it was deposited after the due date. It has been assumed that it has not been already debited in the given profit and loss account.
(6) TDS provisions under section 194A are not attracted in respect of payment of interest on bank loan. Therefore, disallowance under section 40(a)(ia) is not attracted in this case.
(7) Since, the payment of bonus is made in October 2023, hence, no disallowance is attracted.

12.

Computation of income under the head "Profits and gains of business or profession" of Mr. Q for the A.Y. 2024-25

Particulars	₹	₹
Net profit as per profit and loss account		93,950
Add: Expenses not allowable		
➢ Expenses on building a new toilet – Capital expenditure, hence not allowable as per section 37(1).	1,00,000	
➢ Interest payable on which tax has not been deducted at source [disallowed under section 40(a)] [See Note 1]	15,000	
➢ Penalty for contravention of Central GST Act [Penalty paid for violation or infringement of any law is not allowable as deduction under section 37(1)]	24,000	1,39,000
		2,32,950
Less: Income not forming part of business income		
➢ Interest from company deposits (chargeable under the head "Income from other sources")**(See Note 2 below)**	6,400	
➢ Income-tax refund (not an income chargeable to tax)	8,100	14,500
Profit and gains of business or profession		**2,18,450**

Note –

1. Section 40(a)(ia) provides for disallowance of 30% of any sum paid, on which tax is deductible under Chapter XVII-B, but the same has not been deducted. Hence, ₹ 15,000 being 30% of ₹ 50,000 has to be added back while computing business income.

2. Interest on company deposits may also be treated as business income presuming that the interest has been earned by Mr. Q out of available temporary surplus funds which are not immediately required for his business purposes but nevertheless meant only for Mr. Q's business activities. In such a case, income under the head "Profit and gains of business or profession" would be ₹ 1,24,850.

13.

Profits and gains of business or profession of Mr. A for the year ended 31.3.2024

Particulars	₹	₹
Net profit as per profit and loss account		94,500
Add: Expenses not allowable		
(a) Expenses on raising compound wall – capital expenditure, hence disallowed	95,000	
(b) Interest payable outside India to a non-resident, as tax has not been deducted at source [Section 40(a)(i)]	12,000	
(c) Penalty for contravention of CGST Act [Penalty paid for violation or infringement of any law is not allowable as deduction under section 37(1)]	24,000	1,31,000
		2,25,500
Less: Income not forming part of business income		
(a) Interest from company deposits	6,400	
(b) Dividend	3,600	
(c) Income-tax refund	4,500	14,500
Profit and gains of business or profession		**2,11,000**

Note: Contribution to approved scientific research association qualifies for deduction @ 100% under section 35(1)(ii). Hence, no adjustment is needed.

14. As per Explanation to section 40A(2), a person shall be deemed to have a substantial interest in a business or profession, if, -

(1) in case where the business or profession is carried on by a company, such person who, at any time during the previous year, is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits), carrying not less than 20% of the voting power.

(2) In any other case, such person who, at any time during the previous year, is beneficially entitled to not less than 20% of the profits of such business or profession.

Following are the situations under which the substantial interest assumes importance -

(a) Taxability of deemed dividend under section 2(22)(e);

(b) Disallowance of excessive or unreasonable expenditure under section 40A(2) to an individual who has a substantial interest in the business or profession of the assessee, and

(c) Clubbing of salary income of spouse, under section 64(1)(ii) in respect of remuneration received by the spouse from a concern in which the individual has a substantial interest.

15.

(a) The entire revenue expenditure of ₹ 2,40,000 on scientific research related to the business of the company qualifies for deduction under section 35.

(b) As per section 35(1)(iv) read with section 35(2), if any capital expenditure (other than expenditure on acquisition of land) is incurred on scientific research related to the business carried on by the assessee, the whole of such capital expenditure is allowable as deduction in the previous year in which it is incurred. Therefore, ₹ 7,00,000 (i.e. ₹ 12,00,000 – ₹ 5,00,000, being the cost of land) is allowable as deduction for the A.Y. 2024-25. It is assumed that the scientific research is related to the business of Raghav Industries Ltd.

(c) The amount of ₹ 50,000 paid to Indian Institute of Science, Bangalore, for scientific research qualifies for a deduction@100% of the sum paid as per section 35(1)(ii). Therefore, Raghav Industries Ltd. would be entitled to a deduction of ₹ 50,000 for the A.Y. 2024-25.

(d) As per section 35DD, one-fifth of the expenditure incurred on demerger would be allowable as deduction for five successive previous years beginning from previous year 2023-24. Therefore, in the previous year 2023-24, ₹ 1,00,000, being one-fifth of ₹ 5,00,000 would be allowable as deduction.

(e) The employer's contribution to the account of an employee under a pension scheme referred to in section 80CCD, upto 10% of salary of the employee in the previous year, is allowable as deduction under section 36(1)(iva) while computing business income. Disallowance under section 40A(9) would be attracted only in respect of the amount in excess of 10% of salary. Accordingly, ₹ 23 lakhs would be allowed as deduction and ₹ 7 lakhs would be disallowed.

(f) As per section 2(24)(x), the amount of provident fund contribution recovered from employees i.e. ₹ 12 lakhs would be taxable as income of Raghav Industries Ltd.

However, the company can claim deduction under section 36(1)(va) of amount credited to the account of the employee in the provident fund before the due date under the relevant Act.

If ₹ 7 lakhs has been remitted before the said due date, the same is allowable as deduction. If it has not been so remitted, then the same is not allowable as deduction. The deduction would be restricted to the amount remitted before the due date. The balance ₹ 5 lakhs remitted after the due date under the said Act but before the due date of filing the return is not allowable as deduction.

(g) The tax of ₹ 4,50,000 borne by the employer on non-monetary perquisites provided to the employees is disallowed under section 40(a)(v).

(h) As per section 43A, the gain of ₹ 1,00,000, arising at the time of making payment in respect of an imported machinery, due to change in rate of exchange of foreign currency, has to be reduced from the actual cost of machinery, and depreciation would be computed on such reduced cost.

16. Answer:

(i) Allowable, being business expenditure,

(ii) Capital expenditure eligible for depreciation

(iii) Allowable, if it is incurred on account of commercial expediency,

(iv) Capital expenditure. It will form part of actual cost of machinery

(v) Capital expenditure eligible for depreciation @ 25%.

17. Answer:

(i) Capital receipt but chargeable to tax as business income, specifically covered by section 28;

(ii) Revenue receipt, as the same is received in the course of business;

(iii) Revenue receipt, though chargeable to tax as per system of accounting (mercantile or cash) followed by the assessee;

(iv) Capital expenditure, as the same is incurred on capital account;

(v) Revenue expenditure for the company; Taxable as 'Salaries' in the hands of the employee-director.

18. Answer: Computation of Deduction u/s 35D for AY 2024-25 [Discuss the provisions of 35D]

Amount qualifying for deduction is
5% of the cost of the project [5% × 30,00,000] = ₹ 1,50,000, or
5% of the capital employed in the new unit i.e. 5% ₹ 40,00,000 = ₹ 2,00,000.
Whichever is beneficial to the company.

Therefore, the higher of the above two is ₹ 2,00,000 which is the qualifying amount.
Net qualifying amount - **It is the lower of the following two.**
a) Gross qualifying amount ₹ 2,00,000 or.
b) Actual amount of preliminary expenses i.e. ₹ 11,00,000.
The lower of these two being ₹ 2,00,000 is the net qualifying amount.

Amount deductible for AY 24-25: **- 1/5th of the net qualifying amount i.e. 1/5 ₹ 2,00,000 = ₹ 40,000.**

19. Answer: Each part payment made to employees in connection their voluntary retirement is deductible in five equal installments beginning from the year in which such part payment is made to the employees. The following table shows the deduction available u/s 35DDA to RK Ltd. in various financial years –

Financial Year	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28
Payment of ₹ 10 lakhs in 2021-22	2	2	2	2	2		
Payment of ₹ 15 lakhs in 2022-23		3	3	3	3	3	
Payment of ₹ 5 lakhs in 2023-24			1	1	1 ,	1	1
Total (₹ in lakhs)	**2**	**5**	**6**	**6**	**6**	**4**	**1**

Thus, the amount of deduction allowable u/s 35DDA to RK Ltd. in assessment year 2024-25 is ₹ 6 lakhs.

20. Answer:

Net profit as per profit and loss account	**9,11,975**
Less : (i) Interest on FD with bank - Taxable as Income from other sources	16,500
(ii) Dividend from Indian Co. – Taxable as IOS	64,360
(iii) Interest on I.T. Refund - Taxable as Income from other sources	230
Profits and gains of business or profession	8,30,885
Add: Income from other sources (Interest on FD, Dividend & IT Refund)	81,090
Total Income	**9,11,975**
Rounded off-	**9,11,980**

Note: Securities transaction tax is an allowable expenditure.

21. Answer: Computation of taxable income of Mr. Ram

Net profit as per Profit and Loss A/c	**357,900**
Add: Not allowable (Household Exp. + Income-tax + Interest on capital + Reserve for Bad debts) – 10000 + 30000 + 8400 + 1200	49,600
Add : Excess Depreciation debited to P&L A/c (12000 - 10000)	2,000
Add: Undervaluation of closing stock (25,200 x 1/9) (assuming that NRV exceeds cost)	2,800
Less : Undervaluation of opening stock (20,700 x 1/9) (assuming that NRV exceeds cost)	-2,300
Gross Total Income	410,000
Less : Deduction u/s 80C for contribution to PPF	1,500
Total income	**408,500**

22. Answer: Computation of business income of Mrs. Thakur for A.Y. 2024-25 (Amounts in ₹)

Net Profit as per Profit & Loss Account for the year ended 31.3.2024		**50,750**
Add: Expenses not admissible under the Income-tax Act:		
Donation paid to son's school	1,500	
Capital expenditure (Furniture)	5,000	
Depreciation as per books of account (considered separately)	4,000	
CGST unpaid till 31-7-2024	1,200	
(7,500 - 3,500 - 1,000 - 1,800)		
30% of Audit fees (being fees for professional services, on which TDS not made)	9,750	21,450
		72,200

Less: Amounts not taxable under the Income-tax Act:		
Gift from husband	10,000	
Income-tax refund	20,000	30,000
		42,200
Less: Depreciation under Income-tax Act:		
On items already included	2,700	
On new furniture (5,000 × 10% ×1/2) (used for less than 180 days)	250	2,950
Profits and gains from business		**39,250**

23. Answer: Computation of Income from Business (amounts in ₹)

Net profit as per Profit and Loss Account		**1,66,500**
Add: (1) Advertisement in a souvenir of political party	3,000	
(2) Contribution to RPF (outstanding)	2,100	
(3) Under valuation of closing stock [{(60000 x 100) / 80} - 60000]	15,000	20,100
Less : (1) **Dividend (Taxable under the head IOS)**	5,000	
(2) Profit on sale of building (not taxable under this head)	16,500	
(3) Under valuation of opening stock [{(40000 x 100) / 80} - 40000]	10,000	
(4) Extra Depreciation allowable (1,800 -1,500)	300	31,800
Taxable Profits		**1,54,800**

24. Answer: Computation of taxable income from Business (amounts in ₹)

Gross earnings: Sale of medicines	30,500	
Consultation fees	10,000	
Visiting fees	8,000	48,500
Less: Allowable expenses viz. Cost of medicines	20,000	
Car expenses (1800 × 2 ÷ 3)	1,200	
Salaries	1,200	
Rent of dispensary	1,200	
General Expenses	600	
Depreciation allowed Motor car (12000 x 15%) x 2/3	1,200	
Surgical equipment (15% × 50% x 6000)	450	25,850
		22,650

Note: Since the assessee maintains accounts as per cash basis, therefore, outstanding consultancy fees, outstanding salaries and sale of medicines on credit will not be considered.

25. Answer: Computation of Income from Business for the Assessment Year 2024-25 (all amounts in ₹)

Profit as per Profit and Loss Account		**165,600**
Add: Advance tax	800	
Salary to staff (salary paid to relative to the extent it is treated as excessive)	4,800	
Interest on Mohit's capital and loan	7,200	
Expenditure on acquisition of copy right (being capital expenditure)	5,600	
Expenditure for acquiring know how (capital expenditure, no depreciation will be allowed thereon as the same was not put to use during the previous year)	24,000	
Depreciation	12,000	
Provision for Income tax	4,000	
Contribution to political party	2,000	60,400
Less: Depreciation as per Income tax	19,200	
Depreciation on copyright (5600 x 25% x 1/2) (used for less than 180 days)	700	
Outstanding CGST paid during the previous year	10,000	29900
Income from Business		**1,96,100**

Note : Expenses for arranging a long-term loan are covered by the term 'interest' and are, therefore, allowable as deduction. Further, since outstanding customs duty of previous year 2022-23 was paid before due date of furnishing return of income for that year, therefore, the same had been allowed in that year.

However, outstanding SGST of previous year 2022-23 paid after such due date but during the previous year 2023-24 will be allowed during the previous year 2023-24.

26. **Assessee: Alpha Ltd. Assessment Year 2024-25 (amounts in ₹)**

Net Profit as per Profit and Loss Account		**1,250,000**
Add: Expenses disallowed or considered separately: -		
Excessive payment to relatives u/s 40A(2) [60,000 - 52,000]	8,000	
Cash payment in excess of ₹ 10,000 (whole of ₹ 52,000)	52,000	
Legal expenses	45,000	
Scientific research expenses (no adjustment required as now there is no weighted deduction)	-	105,000
		13,55,000
Add: Amount foregone by the creditor is taxable u/s 41(1)		6,000
		13,61,000
Less: Admissible expenditure: -		
1/5th of amalgamation expenditure of ₹ 45,000 u/s 35DD		9,000
Taxable Income		**13,52,000**

Notes:

(a) Cost of replacement of worn out part of machineries is revenue expenses. Since cost of replacement is included in Repairs, no adjustment is required.

(b) Sale of import entitlements is chargeable as business income under section 28(iiia). Since it is already credited to profit and loss account, no adjustment is required.

27. **Computation of Income from business of Shri Daga**
[for the assessment year 2024-25]

	₹	₹
Net profit as per profit & loss account		1,79,095
Less: Items of income credited to Profit & Loss account but are not taxable under the head "Profit & gains of business of profession"		
Rent from agricultural land	950	
Revenue from fisheries	4,000	
Sale proceeds from canes	6,05,055	
Profit on sale of Motor Truck	3,230	(-) 6,13,235
		(-) 4,34,140
Add: Expenses not allowable		
Fine paid to GST department (see working note 1)	2000	
Legal Expenses incurred on defending suit **[Capitalised]**	2000	
Daga's Remuneration (see working note 2)	38,750	
Depreciation (considered separately)	91,000	
Income tax	25,000	
Cultivate on expenses (see working note 3)	4,37,500	(+) 5,96,250
		1,62,110
Less: **Expenses allowable u/s 28 to 44D but not debited to p & l**		
Depreciation's per Income-tax Rules	50,000	
Manufacturing expenses on cane produced and consumed in the factory **(see working note 4)**	68,000	1,18,000
Income from business		***44,110***

Working Notes:

1. Fine paid to GST department. It is presumed that fine is paid for infringement of central excise law.
2. Salary paid to the proprietor of the firm is not allowable.
3. **Cultivate on expenses:** Since the agricultural income on account of sale proceeds of cane has been taken out from the normal business receipts, any expenditure incurred towards this account (i.e. to earn agricultural income) is also not allowable.
4. **Manufacturing expenses:** If any item is produced in the factory, the income from which is considered separately, and the same item is used in normal business, the fair market value of the item produced has to be charged as expenditure in the normal business. Therefore, the average market price of the cane produced and consumed in the factory is allowable as business expenditure. **The expenses is under charged by ₹ 68,000 [i.e. ₹ 6,00,000 - ₹ 5,32,000].**

AOPs AND BOIs – Section 40(ba)

Point	AOP	BOI
1. Creation	Created by two or more persons voluntarily.	Created by operation of law.
2. Members	Companies, firms, HUFs or individuals.	Only Individuals.
3. Features	Persons join in a common purpose or action. Mere joint receipt of income not enough. Different from partnership.	It merely receives the income jointly and is assessable in the like manner and to the same extent as the beneficiaries.
4. Assessee	Not a representative assessee	A representative assessee

Section 40(ba) – Disallowances in case of AOPs or BOIs

1. Any payment of interest, salary, commission, bonus or remuneration made by an AOPs or BOIs to its members shall be disallowed.

2. Where interest is paid by an AOP or BOI to a member who has also paid interest to the AOP/BOI, the amount of interest to be disallowed under clause (ba) **shall be limited to the net amount of interest paid by AOP/BOI to the members**.

3. Where an individual is a member in his individual capacity, **interest paid to him in his representative capacity shall not be taken into account**.

4. Where an individual is a member in representative capacity, **interest paid to him in his individual capacity shall not be taken into account**.

Example: Mr. T and Mr. Q are individuals, who constitute an Association of persons, sharing profit and losses in the ratio of 2 : 1. For the accounting year ended 31st March, 2024, the Profit and Loss account of the business was as under:

Cost of goods sold	42,50,000	Sales	49,00,000
Remuneration to: T	1,30,000	Dividend from companies	25,000
Q	1,70,000	Capital gains (long term)	6,40,000
Employees	2,56,000		
Interest to: T	48,300		
Q	35,700		
Other expenses	1,11,700		
Sales tax penalty due	39,000		
Net Profit	5,24,000		
	55,65,000		55,65,000

Additional information furnished -

1) Other expenses included -
- **a)** Entertainment expenses of ₹ 35,000;
- **b)** Wristwatches costing ₹ 2,500 each were given to 12 dealers, who had exceeded the sales quota prescribed under a sales promotion scheme;
- **c)** Employer's contribution of ₹ 6,000 to the Provident Fund was paid on 14th January 2025.
- **d)** ₹ 30,000 was paid in cash to an advertising agency for publicity.

2) Outstanding sales tax penalty was paid on 15th October 2023. The penalty was imposed by the Sales-tax Officer for non-filing of returns and statements by the due dates.

3) T and Q had, for this year, income from other sources of ₹ 1,88,000 and ₹ 64,000 respectively.

Required to compute the total income of the AOP for the Assessment Year 2024-25.

Solution: Computation of total income and tax liability of AOP (amounts in ₹)

Net profit an per Profit and Loss Account		5,24,000
Add: Remuneration to members T and Q	3,00,000	
Interest to members T and Q	84,000	
Employer's contribution to PF not paid within due date	6,000	
Advertising expenses paid in cash (100% of 30,000)	30,000	
Sales tax penalty for non-filing of returns by due date (Not allowable as it is incurred for a purpose, which is prohibited by law - Explanation to Section 37(1))	39,000	4,59,000
		9,83,000
Less: Incomes taxable under other heads :		
Dividends [Taxable now under the head "IOS"]	25,000	
Long-term capital gains	6,40,000	6,65,000
Profits and gains of business		3,18,000
LTCG		6,40,000
Income from Other Sources (Dividend)		**25,000**
Total income of the AOP		9,83,000

FIRMs Taxation [Section 40(b)]

1) **"Firm", "Partners" and "Partnership" to include "Limited Liability Partnership (LLP)":**

   a) "Firm" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a LLP as defined in the LLP Act, 2008.

   b) "Partner" shall have meaning assigned to it in Indian Partnership Act, 1932, and shall include:

      i) any person who, being a minor, has been admitted to the benefits of partnership; and

      ii) a partner of a LLP as defined in LLP Act, 2008;

   c) "Partnership" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a LLP as defined in the LLP Act, 2008.

   Provisions of the Indian Partnership Act, 1932: Partnership is the relation between persons who have agreed to share profits of business carried on by all or any of them acting for all. Persons who have entered into partnership with one another are called individually "partners" & collectively "a firm".

2) **Exemption in respect of partner's share - Section 10(2A):** The partners' share in the total income of the firm shall be exempt from tax in the hands of partner.

3) **Under Income Tax Act, a partnership firm has a separate identity apart from its partner.** It is taxed as a separate entity at a flat rate of 30% + surcharge + Health & Education Cess @ 4%.

4) **Interest and remuneration received by partner - business income [Sec. 28(v)]:** Interest, salary, bonus, commission or other remuneration received by a partner from a firm shall be chargeable to tax under the head PGBP. ***However, any payment of remuneration etc to partners, not allowed as deduction to the firm, shall not be taxed in the hands of partners***.

5) **Carry forward & set-off of loss of Firm on change in constitution of firm [Sec. 78]:** where a change occurs in the constitution of firm, on account of retirement or death of a partner, the ***proportionate loss of the retired or deceased partner*** shall not be carried forward. However, this section ***shall not apply in case of unabsorbed depreciation***.

6) **Disallowance of interest & remuneration to partners in excess of specified limits [Sec 40(b)]**
In the case of any firm assessable as such *or a Limited Liability Partnership (LLP)* the following amounts shall not be deducted in computing the income from business of any firm/*LLP*:

   a) Any salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as "remuneration"), **to any partner *who is not a working partner*.**

   b) Any remuneration **paid to the working partner** or interest **to any partner which is not authorised by or which is inconsistent with the terms of the partnership deed**.

   c) **Any interest payment** in excess of 12% simple interest p.a. as **authorised** by the partnership deed falling after the date of such deed.

   d) **Any remuneration paid to a partner**, authorised by a partnership deed and falling after the date of the deed **in excess of the following limits**:

On the First ₹ 3 lakh of book profit or in case of "Loss"	***Higher of ₹ 1,50,000 or 90% of book profit***
On the balance	***60% of Book Profit.***

7) Computation of Book Profits for determining remuneration:

Profits and Gains of Business or Profession of Firm computed as per Sec. 28 to 44D	XXX
Add: Interest to partners disallowed as per above provisions (if not already considered)	XXX
Add: Remuneration to partners, if debited to P&L A/c	XXX
Book Profits	**XXX**

Note: Unabsorbed depreciation, if given, will also be reduced for computing Book Profits.

8) CBDT Circular: *CBDT has clarified that income of a firm is to be taxed in the hands of the firm only & the same can under no circumstances be taxed in the hands of its partners.*

It is exempt in the hands of partners even if the income chargeable to tax become NIL in the hands of Firm on account of any exemption or deduction.

9) Important Points for section 40(b) :

(A) If an individual is a partner in firm on behalf of other person (i.e. in representative capacity),then —

- Interest paid to such individual in his individual capacity shall not be disallowed.
- Interest paid to such individual as partner in representative capacity and interest paid to the person ***so represented shall be taken into account for disallowance as given above***.

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

(B) If an individual is a partner in a firm in his individual capacity -

- Interest paid to him on behalf, or for the benefit, of any other person is not disallowed; and
- ***Interest paid to him in his personal capacity is taken into account for disallowance***.

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

10) Conditions: As per section 185, **to claim deduction u/s 40(b),** the firm shall have to fulfil the following conditions as laid down u/s 184.

a) The partnership must be evidenced by an instrument.
b) A certified copy of the instrument of partnership shall accompany the return of income of the year in which assessment as a firm is first sought.
c) The individual shares of the partners must be specified in the instrument.
d) There is no failure as specified u/s 144 (Best Judgement Assessment) on part of the firm.

Effect of non-fulfilment of above conditions: As per sec. 185, where a firm does not comply with the provisions of sec. 184 for any assessment year, **then no deduction by way of interest to partner or remuneration to partner shall be allowed.**

QUESTIONs for Practice - SET A

Question No. 1:

A firm has paid ₹ 7,50,000 as remuneration to its partners for the P.Y. 2023-24, 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) 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).

Question No. 2:

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 2024-25 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 under PGBP head 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:

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), 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. 2024-25 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. 2024-25 as per the provisions of section 40(b) is ₹ 3,84,000.

Question No. 3:

Nikihil, Gagan and Suman are partners in a firm with equal shares. The profit and loss account for the year ending 31st March, 2024 shows a net profit of ₹ 42,300 after debiting the following items:

(i) Salary of ₹ 24,000 each to Nikhil and Gagan.
(ii) Bonus to Suman ₹ 18,000.
(iii) Commission of ₹ 9,000, ₹ 10,000 and ₹ 15,000 to Nikhil, Gagan and Suman respectively.
(iv) Interest on capital @ 15% amounting to ₹ 4,500, ₹ 6,000 and ₹ 15,000 paid to Nikhil, Gagan and Suman respectively.

Assuming that all partners are working partners and the firm fulfils the conditions of Section 184, compute the total income of the firm and taxable income of the partners in the firm.

Solution: **Computation of total income of the firm**

Net profit as per Profit and Loss A/c		42,300
Add :		
Remuneration i.e. Salary, bonus and commission to partners		100,000
Interest to partners in excess of 12% p.a. [(4500 + 6000 + 15000) × 3 ÷ 15]		5100
Book profits		147,400
Less : Remuneration allowable as per section 40(b), being the lower of the following -		
(a) Actual remuneration	100,000	
(b) Limit as per section 40(b)	150,000	100,000
Total income		**47,400**

Computation of total income of each partner of the firm

	Nikhil	**Gagan**	**Suman**
Interest on capital @ 12% (to the extent allowed in hands of the firm)	3,600	4,800	12,000
Salary, Bonus & Commission (fully taxable; as fully allowed in the hands of firm)	33,000	34,000	33,000
Total income	**36,600**	**38,800**	**45,000**

Question No. 4:

Profit and loss account of a partnership firm for the year ended 31st March, 2024 is as follows (amounts in ₹) : -

Cost of goods sold	10,00,000	Sales	15,00,000
Remuneration to Partners	1,45,000	Rent of House Property	60,000
Interest to Partners @ 20% p.a.	40,000	Dividend	1,70,000
Municipal Taxes of house property	25,000		
Other expenses	2,40,000		
Net Profit	2,80,000		
	17,30,000		**17,30,000**

Other information:

(i) Out of other expenses, ₹ 18,400 is not deductible under sections 36, 37(1) and 43B.
(ii) On 15th January 2024, the firm pays an outstanding GST liability of ₹ 54,700 for the previous year 2022-23. As this amount pertains to the previous year 2022-23, it has not been debited to the aforesaid profit and loss account

Calculate remuneration deductible under section 40(b).

Question No. 5:

The net profits of Jolly Brothers, a partnership firm, consisting of three partners carrying on business for the accounting year ended 31st March, 2024 was ₹ 5,40,000. The said net profits after charging salary payable to all the partners were amounting to ₹ 1,08,000, but before crediting interest to partners' accounts on their fixed capitals amounting to ₹ 10 lakh totally. The partnership deed provided for payment of interest on fixed capital at 18% per annum. The partnership deed does not, however, specify any salary entitlement to partners.

On this information, you are required to —

(i) Compute the taxable income of the firm; and
(ii) Calculate the remuneration allowable under provisions of the Income-tax Act, 1961 to all the partners, if the partnership deed had provided for the payment of remuneration to them.

Question No. 6:

A firm consisting of 3 partners earned a net surplus of ₹ 2,08,000 during the accounting year ended 31st March, 2024 after charging interest on capitals amounting to ₹ 36,000 calculated @ 18% per annum on the capitals of partners but before charging remuneration to partners. You are required to calculate the taxable income of the firm and tax thereon after allowing the maximum allowable remuneration to partners under the provisions of the Income-tax Act, 1961.

Question No. 7:

X & Co., a partnership firm as such, furnishes the following Profit and Loss Account for the previous year ending 31-3-2024 (amounts in ₹):

To cost of Goods	280000	By Sales	292000
To other Expenses	91,000	By Net Loss	172000
To Interest to Partners	25000		
To Remuneration to Partners	68000		
	464000		464000

The other expenses debited include ₹ 13,600 not allowable under section 37(1) of the Act. Interest to partners is in Excess by ₹ 7,100 (not statutory allowable)

You are required to compute for the AY 2024-25:

(1) Book profits of the firm,
(2) Permissible remuneration to partners under section 40(b)
(3) The income of the firm.

Question No. 8:

Chatterjee and Co., a firm of Company Secretaries at Kolkata, has furnished the profit and loss account for the year ended 31st March, 2024 as under **(Amounts in ₹):**

Expenses	165000	Gross receipts from profession	220000
Depreciation on assets	45,000	Net loss	131000
Remuneration to partners	141000		
	351000		351000

Additional information:

(a) Expenses include an amount of ₹ 22,500 being interest on capital to partners credited @ 12% per annum on the balances and ₹ 22,500 being the expenditure not allowable under section 37.
(b) Depreciation as per the income-tax rules is ₹ 48,000.

Compute the taxable income of the firm indicating the maximum permissible remuneration and interest allowable to partners under the provisions of the Income-tax Act, 1961.

Solution: Computation of remuneration allowed to the partner (amounts in ₹)

Net loss as per Profit & Loss account			-131000
Add: **(a)** Remuneration to partners		141000	
(b) Expenses disallowed u/s 37		22500	163500
			32500
Less: Depreciation not debited to P & L A/c (₹ 48000 - ₹ 45000)	.		3000
Book profit			**29500**
Less: Remuneration allowable u/s 40(b), being the lower of			
(a) Higher of - (i) 90% of 29,500	26550		
(ii) Minimum statutory limit	150000	150000	
(b) Actual Remuneration		141000	141000
Total Income (Business loss to be carried forward)			**-111500**

Note : Interest on capital ₹ 22,500 paid to partner is allowable, as interstate doesn't exceed 12% p.a.

Question No. 9:

ABC is a partnership firm carrying on business, in which A, B and C are partners sharing profits and losses equally. In respect of **Assessment Year 2024-25**, it furnishes the following particulars (amounts in ₹):

1.	Loss as per Profit and Loss A/c after debiting remuneration to partners and interest on their capital -	₹ 250,000	
2.	**Remuneration to Partners:**		
	A	90,000	
	B	60,000	
	C	30,000	
3.	**Interest paid on Capital as on 1-4-2023**	**Capital**	**Interest**
	A	100000	20,000
	B	100000	20,000
	C	100000	20,000

You are required to work out the income of the firm and of the partners A, B and C assuming that the partners have no other income.

TAXABILITY OF HINDU UNDIVIDED FAMILY

1) **Definition:** HUF is not defined under the Income-tax law. However, **as per Hindu law it means** "a family, which consists of all males lineally descended from a common ancestor and includes their wives and unmarried daughters". The **head of a HUF is termed as 'Karta**'.

2) **Origin:** The relation of a HUF does not arise from a contract but arises from status. A person becomes a member of the HUF not by virtue of contract but by his birth.

3) **Cessation of membership:**

- ✓ A male member continues to be a member of the HUF until partition of the HUF. On partition, he ceases to be a member of the earlier larger HUF and becomes member of another smaller HUF.
- ✓ A female member ceases to be a member of the HUF in which she was born, when she gets married; in that case, she becomes a member of the HUF of her husband.

4) **Conditions for HUF: In order to be assessed as a HUF the following conditions are to be fulfilled –**
   a) there should be coparcenership; and
   b) there should be a Joint Family Property.

5) **Co-parcenership:** Co-parcener refers to those members of an HUF who acquire by birth an interest in the joint family property. Only the coparceners have a right to partition. **Now, the female members have been brought at par with the male members. Hence, now**
   a) daughter of a coparcener becomes a coparcener by birth in her own right in the same manner as son. She will have the **same rights and liabilities** in respect of coparcenary property as of a son.
   b) daughter shall be **entitled to same share** on partition of coparcenary property as that of the son.
   c) female heir can **demand the partition** of a coparcenary property in the same manner as the son.

6) **HUF v. Hindu Coparcenery:** While-an HUF covers all members; the Hindu coparcenery is limited to male members (viz. the common ancestor, sons, grandsons and great grandsons) and the daughters of such coparceners. Hence, HUF is a wider body than coparcenery.

7) **Exemption to the members of HUF in relation to income of HUF [Section 10(2)]:** Any sum received by a member of a Hindu Undivided Family out of the income of the family or, in the case of any impartible estate, out of the income of the estate belonging to the family shall be exempt from tax.

8) **Partition:** Partition means physical or other division of property. ***However, physical division of income without physical division of property producing the income is not partition.*** Partial partition means a partition, which is partial as regards members or properties of HUF or both.

9) **Assessment after partition [Section 171]:** The law doesn't recognise any partial partition of HUF. Hence in case of partial partition, HUF shall be assessed as if no partition had taken place. **However, in case of total partition, the assessment will be made as follows -**
   a) the Assessing Officer shall, after making inquiry, record the date of effect of such partition; and
   b) the total income of HUF shall be assessed as that of HUF only upto the date of such partition.

10) **[2 Marks] Schools of Hindu Law: There are two schools of Hindu law. They are –**
   (1) Mitakshara school of Hindu law
   (2) Dayabhaga school of Hindu law

Mitakshara law is followed by entire India except West Bengal and Assam. There is a basic difference between the two schools of thought with regard to succession.

Under the Mitakshara law, the inheritance is by birth. One acquires the right to the family property by his birth and not by succession irrespective of the fact that his elders are living. Thus every child born in the family acquires a right/share in the family property.

Dayabagha law prevails in West Bengal and Assam. In ***Dayabagha law, nobody acquires the right, share in the property by birth as long as the head of family is living***, that is, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property. Thus, the father and his brothers would be the coparceners of the HUF

11) ASSESSMENT OF HUF:

The income of a HUF is to be assessed in the hands of the HUF and not in the hands of any of its members. This is because HUF is a separate and a distinct tax entity.

12) FOLLOWING POINTS SHALL BE CONSIDERED:

1. **Remuneration to member of HUF due to investment of HUF fund:** Where joint fund is invested in a company or a firm, fees or remuneration received by any member of HUF as a director or partner from such company or firm by virtue of such investment shall be treated as income of the HUF. On the other hand., where such remuneration or fees is received by virtue of service rendered by such member (in his personal capacity) then such amount shall be taxable in hands of such member

2. **Remuneration to Karta:** Any genuine (not excessive) remuneration paid to the Karta for conducting business of the HUF is allowed expenditure in the hands of the HUF provided such remuneration is paid under a bonafide agreement and is in the interest of the family business.

3. **Personal income of the members:** income of the member of HUF acquired in his personal capacity shall not be taxable in the hands of HUF.

4. **Income from impartible estate:** Though the impartible estate belongs to the family, income arising there from is taxable in the hands of the holder of the 'estate' and not in the hands of the HUF.

13) STEPS FOR COMPUTATION OF INCOME TAX OF HUF

Step 1 The Gross Total Income of HUF, like any other person, shall be computed under four heads of income, on the basis of their residential status. There can be no income under the head income from salaries in the case of HUF.

Step 2 Sections 60 to 63 relating to income of other person included in the assessee's total income are applicable in case of HUF but section 64 is not applicable to HUF as it is applicable in case of individual assessee only.

Step 3 Set off of losses is permissible while aggregating the income under different heads of income.

Step 4 Carry forward and set off of losses of past years, if permissible, is allowed.

Step 5 **The income computed in steps 1 to 4 is known as gross total income from which the following deductions u/s 80C to 80U (not a complete list) will be allowed:**

Sl. No.	Section	Nature of Deductions
1	80C	Deduction in respect of Life Insurance Premium, deferred annuity, contribution to PF, subscription to certain equity shares or debentures, etc.
2	80D	Payment of medical insurance premium
3	80DD	Medical treatment of handicapped dependents and deposits made for maintenance of handicapped dependents
4	80DDB	Deduction in respect of medical treatment, etc.
5	80G	Donations to certain funds/charitable institutions etc.
6	80GGA	Certain donations for scientific research or rural development
7	80GGC	Deduction in respect of contribution given by any person to political parties
8	80JJA	Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste
9	80TTA	Deduction is respect of Saving Bank Account Interest

Step 6 The balance income after allowing the deductions is known as Total Income which will be rounded off to the nearest ₹ 10.

Step 7 Compute the tax on such total income at the prescribed rates of tax.

Step 8 **Add Health & Education Cess @ 4%** on the tax shall be levied.

Step 9 Deduct TDS and advance tax paid for the relevant assessment year. The balance is the net tax payable which must be rounded off to the nearest ten rupees. This tax has to be paid as self-assessment tax before submitting the return of income.

NOTE: AMT under Section 115JC may also be applicable on HUF

Question 1:

X is the coparcener of a Hindu Undivided Family consisting of himself, his father and two elder brothers. The assets of the family have not yet been partitioned. From out of the rental income of the family, X's father sends X ₹ 16,000 to enable him to maintain his family. Besides the above receipt, X has received a salary of ₹ 60,000 from his employer. Discuss the tax liability/ exemptions that Mr. X gets.

Solution: As per section 10(2), any sum received by a member of a HUF out of the income of the family is exempt from tax. Hence, share in HUF income received by X is exempt from tax. **However, salary of ₹ 60,000 is taxable. The tax liability in respect thereof shall be NIL.**

Question 2:

Mr. Prasad is a karta of a HUF. The family declares GTI of ₹ 4,00,000 for the assessment year. The gross total income includes taxable long-term capital gains of ₹ 65,000 (taxable u/s Section 112) and short-term capital gains of ₹ 35,000 which is taxable under section 111A. The details of HUF funds investment made during the previous year are as follows (amounts in ₹):

Amount deposited in PPF in the name of members of HUF	10,000
Medical insurance premium paid by cheque:	
(a) in the name of the karta	4,000
(b) in the personal name of Mr. Prasad	5,000
Contributions made to:	
(a) Prime Minster Drought Relief Fund	7,000
(b) Delhi university (declared as an institution of national eminence)	3,000
(c) Zila saksharta samiti	5,000
(d) An approved charitable institution	30,000
(e) Government for the promotion of family planning	10,000
(f) Hanuman temple in the local mohalla	20,000

Compute the total income of HUF which is chargeable to tax for the AY. Ignore Section 115BAC

Solution: **Computation of the Total Income of HUF**

LTCG income (Taxable under Section 112)	65,000
STCG income (Taxable under Section 111A)	35,000
Other income	300,000
Gross Total Income	**400,000**
Less : Deduction u/s 80C (PPF deposit in the name of member of HUF)	10,000
Less : Deduction u/s 80D (Medical insurance premium paid to effect/keep in force insurance on the health of a member viz. Karta - whether in his personal name or in his name as Karta. Since payment is out of funds of the HUF, hence, deductible in computing total income of the HUF)	9,000
Less: Deduction under section 80G (See Note)	30,550
Total income	**350,450**

Note: Computation of deduction under section 80G

Donation to -	**Qualifying Sum**	**% Eligible**	**Deduction**
(A) Donation without any qualifying limit:			
1. Delhi university	3,000	100%	3000
2. Zila Saksharta Samiti	5,000	100%	5000
3. PMRF	7,000	50%	3500

(B) Donation subject to qualifying limit of total donation of 10% of Adjusted GTI:

1. Government for the promotion of family planning.	10,000	100%	10,000
2. An approved charitable institution (While total donation is ₹ 30,000; the qualifying amount = 10% of Adj. GTI - Donation for family planning, which is eligible for 100% deduction)	18,100	50%	9,050
Qualifying amount under (B) = 10% of Adj. GTI	28,100		
Total Deduction u/s 80G			30,550
****Adjusted GTI = GTI - Deduction u/s 80C & 80D - LTCG - STCG referred u/s 111A**			**281,000**

Question 3:

The following details of income for the FY have been supplied by R who is Karta of HUF:

a.	Profit from family business	1,44,000
b.	Salary received by a member of family for looking after the family business	20,000
c.	Remuneration received by Karta for working as secretary in a company	30,000
d.	Municipal value of ancestral house let out	24,000
e.	Local taxes of house	1,200
f.	Long term capital gain	19,000
g.	Long term capital gain from transfer of Investment	20,000
h.	Profit from a firm in which Karta is a partner on behalf of HUF	28,000
i.	Donation to recognized education institution	15,000
j.	Life Insurance Premium paid	26,000

Compute the TI of the family for the AY. Ignore Section 115BAC

Solution: Gross Total Income of HUF for the AY

Income from house property:-		
Annual value	24,000	
Less: Local taxes of house	(1,200)	
Net annual value	22,800	
Less: Standard deduction @ 30%	6,840	15,960
Profit gain of business or profession -		
Profit from business		1,44,000
Capital Gain –		
Long term capital gain	19,000	
Long term capital gain from transfer of Investment	20,000	39,000
Gross Total income		**1,98,960**
Less: Deduction		
U/s 80C	26,000	
U/s 80G 50% - (Donation to a recognized education institution ₹ 15,000 but limited to 10% of Adj GTI = ₹ 13,396		
50% of ₹ 13,396	6,698	32,698
Total income		**1,66,260**

Notes: -

1. Income from long-term capital gain is assumed to be the income of HUF though specifically not mentioned in question.
2. Profit from a firm in exempt
3. Adjusted Gross Total Income ₹ 1,98,960 – ₹ 39,000 (LTCG) – ₹ 26,000 (80C) = ₹ 1,33,960.
4. Salary to member is allowable expenses hence not added back.

Question 4:

The Karta of an HUF furnished the following particulars of the income of the HUF for the AY:

Interest on Debentures	45,000
Interest on Govt. Securities	4,000
Dividend from UTI	6,000
Rent of House Property	20,000
Profit from an industrial undertaking	90,000
Long term Capital Gain	50,000
Agricultural income	60,000

The family paid ₹ 12,000 by way of insurance premium of its members and donated ₹ 16,000 to a recognized charitable institution. **Compute the amount of tax payable by the HUF. Ignore Section 115BAC.**

Solution:

Computation of income of HUF

	Income from house property		
	Annual value	20,000	
Less:	Standard deduction @ 30% u/s 24(a)	6,000	14,000
	Income from business & profession		
	Profit from newly established industrial undertaking		90,000
	Income from long term capital gain		**50,000**

	Income from other sources		
	Interest on debentures	45,000	
	Interest on Govt. securities	4,000	
	Dividend from UTI	6,000	55,000
	Gross total income		**2,09,000**
Less:	**Deductions**		
	U/s 80C	12,000	
	U/s 80G – ₹ 16,000 donated to a charitable institution 50% of [10% of ₹ 1,47,000]	7,350	19,350
	Total income		**1,89,650**
	Tax on Total income excluding of LTCG (₹ 1,89,650 – ₹ 50,000)	1,39,650	NIL
	Tax on long term capital gain of ₹ 50,000 (as unexhausted basic exemption limit is ₹ 110,350)		**NIL**

1. No partial integrate of agricultural income with non-agricultural income as agricultural income exclusive of LTCG is **less than the exemption limit**

2. Adjusted GTI is ₹ 209,000 (GTI) – ₹ 50,000 (LTCG) – ₹ 12,000 (80C) = ₹ 147,000

Question 5:

A HUF has three coparceners: X (Karta), Y and Z. The family has the following incomes for the year ending March 31, 20XX:

	₹
Interest on securities	5,00,000
Rent (House 1)	6,00,000
Rent of a House 2 (purchased in 1946 in the name of Mrs. X out of funds of the family)	3,50,000
Income from family business	9,70,000
Bank interest [Term Deposits]	3,12,000
Salary of Y from a company	6,00,000
One-third share from a partnership firm in which Y is a partner, representing the family	8,00,000

Determine the total income of the family for the AY 20XX-XY, assuming that the family pays life insurance premium of ₹ 14,000 (sum assured: ₹ 1,40,000) on the life of X and medical insurance premium of ₹ 36,000 for Mr. X. Ignore Section 115BAC

Solution:

Interest on securities	5,00,000
Income from house property [(₹ 6,00,000 + ₹ 3,50,000) Less: Deduction u/s 24(a) - 30%]	6,65,000
Business income	9,70,000
Income from other sources	3,12,000
Gross Total Income	**24,47,000**
Less: Deductions	
U/s 80C	14,000
U/s 80D (subject to a **maximum of ₹ 50,000**)	**36,000**
Net income	**23,97,000**

Note – age of X is not given in the problem. However, the family purchased house in the name of Mrs. X in the year 1946. Since X was married in 1946, his age on March 31, 20XX should be at least of 60 years. Consequently, **deduction up to ₹ 50,000 is available u/s 80D**.

CLUBBING OF INCOME

Assessment Year 2024-25 (Amended with Finance Act 2023)
[No Amendments]

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

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

Example:
Mr. A confers the right to receive rent in respect of his house property on his wife, Mrs. A, without transferring the house itself to her. In this case, rent received by Mrs. A will be clubbed with the income of Mr. A.

INCOME ARISING FROM REVOCABLE TRANSFER OF ASSETS [SECTION 61]

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

(ii) **As per section 63,** the transfer is deemed to be revocable ***if whole or any part*** of income or assets is **re-transferred** to the transferor or **transferor gets the right over** such income or assets.

Note: This clubbing provision will operate **even if only part of income** of the transferred asset had been applied for the benefit of the transferor. **Once the transfer is revocable**, the ***entire income*** from the transferred asset is includible in the total income of the transferor.

EXCEPTIONS WHERE CLUBBING PROVISIONS ARE NOT ATTRACTED EVEN IN CASE OF REVOCABLE TRANSFER [SECTION 62]: Section 61 will not apply in the following 2 cases -

1. Transfer not revocable during the life time of the Beneficiary or the Transferee:

If there is a transfer of asset which is not revocable during the life time of the **Transferee** (Direct Transfer) or **Beneficiary** (in case of transfer by way of Trust), the income from the transferred asset is not includible in the total income of the transferor ***provided the transferor derives no direct or indirect benefit from such income***.

Note: In the above case, *as and when the power to revoke the transfer arises*, the income arising by virtue of such transfer will be included in the total income of the transferor.

2. Transfer is made before 01.04.1961 & transfer is not revocable for a period exceeding 6 years.

CLUBBING OF INCOME ARISING TO SPOUSE FROM A CONCERN [SECTION 64(1)(ii)]

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

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

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

***Meaning of substantial interest*:**

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

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

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

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

Question 1: Mr. A is an employee of X Ltd. and he has 25% shares of that company. His salary is ₹ 50,000 p.m. Mrs. A is working as a computer software programmer in X Ltd. at a salary of ₹ 30,000 p.m. She is, however, not qualified for the job. Compute the gross total income of Mr. A and Mrs. A, assuming that they do not have any other income.

Solution: Mr. A is an employee of X Ltd and has 25% shares of X 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 Ltd. will be clubbed in the hands of Mr. A.

Computation of GTI of Mr. A

Salary Income of Mr. A [₹ 50,000 × 12 **– ₹ 50,000**]	₹ 5,50,000
Salary Income of Mrs. A clubbed here [₹ 30,000 × 12 **– ₹ 50,000]**	₹ 3,10,000
Gross total income	**₹ 8,60,000**

The GTI of Mrs. A is NIL.

Question 2: Mr. Raman is a Chartered Accountant in practice. He engages his wife Mrs. Seetha as an employee for audit works and pays a sum of ₹ 20,000/ – p.m. towards salary. Mrs. Seetha before marriage has completed her C.A. articleship training and is presently awaiting result of the final examination. Examine the tax implication in respect of the above transaction.

Solution: Where the spouse of the assessee has qualification and experience, the remuneration obtained by virtue of the exercise or application of such qualification, experience and skill will not be subjected to clubbing because of the proviso to Sec. 64(1). Therefore, the income of Mrs. Seetha should not be clubbed with that of Mr. Raman. However, the Assessing Officer has power under section 40A(2) (refer PGBP Chapter) to examine the reasonableness of the salary paid to a relative and disallow to the extent it is excessive or unreasonable.

Question 3: Mr B holds 5% shares in A Ltd., where his brother and nephew hold 11% and 6% shares, respectively. Mrs B gets commission of ₹ 1,00,000 from A Ltd. for canvassing orders. She holds no technical/professional qualification. Mr B earns income of ₹ 5,00,000 from sugar business. Compute their total income.

Solution: **Computation of Total Income**

Particulars of income	**Mr. B ₹**	**Mrs. B ₹**
Income from sugar business	5,00,000	
Commission for canvassing orders from Z Ltd.		100,000
Total Income	5,00,000	100,000

Note: In the instant case, Mr B holds 5% and his brother holds only 11% shares in A Ltd. The total of their shareholding is less than 20%. They have no substantial interest. Therefore, commission income is assessable as income of Mrs B. [Nephew is not a relative for clubbing purpose]

Question 4:
Mr. J and Mrs. J holds 15% and 10% shares in A Ltd. and both are employed by A Ltd. getting salary income (computed) of ₹ 2,40,000 respectively. Their remuneration does not match their technical or professional knowledge or experience. Apart from the salary income Mr. J has business income of ₹ 300,000 & Mrs. J has earned ₹ 3,00,000 as rent of the house property. Mr. J has invested ₹ 120,000 in PPF account and another ₹ 60,000 in NSC. While Mrs. J has invested ₹ 1,10,000 in NSC and has donated ₹ 10,000 to PMNRF. Calculate the Total Income of Mr. J and Mrs. J.

Solution:
When both, husband and wife, have substantial interest in a concern and both are drawing remuneration from that concern without possessing any specific qualification, remuneration from such concern will be included in the total income of husband or wife, whose total income excluding such remuneration, is higher.

In given case, both has a substantial interest [shareholding with relative is 25%] & therefore remuneration will be clubbed in the hands of spouse whose total income [Excluding salary from A Ltd.] is higher.

Calculation to check higher total income (ignoring salary income)

		Mr. J	Mrs. J
Income under the head Salary		Ignore	Ignore
Income under the head house property		NIL	
GAV	3,00,000		
Less: Municipal Taxes	NIL		
NAV	3,00,000		
Less: Statutory deduction	90,000		2,10,000
Income under the head PGBP		**3,00,000**	**NIL**
Gross Total Income		**3,00,000**	**2,10,000**
Less: Deduction u/s 80C		1,50,000	1,10,000
Deduction u/s 80G		NIL	10,000
Taxable Income		**1,50,000**	**90,000**

Calculation of total income

	Mr. J	Mrs. J
Income under the head Salary Mr. J's own 2,40,000 Mrs. J's 2,40,000 clubbed u/s 64(1)(ii)	4,80,000	NIL
Income under the head house property	NIL	2,10,000
Income under the head PGBP	3,00,000	NIL
Gross Total Income	**7,80,000**	**2,10,000**
Less: Deduction u/s 80C	1,50,000	1,10,000
Deduction u/s 80G		10,000
Taxable Income	**6,30,000**	**90,000**

CASE STUDY:

When other spouse is not beneficially holding Substantial Interest in the Concern

The HUF is a partner in the firm ABC through its Karta "Mr. X" and has 25% shares in the profits of the firm. Wife of Mr. X is employed by firm ABC. In this case, clubbing shall not apply because Mr. X is partner in representative capacity and not in individual capacity. Clubbing applies where an individual is a partner in his individual capacity and has substantial interest in the firm and his spouse get remuneration from the firm.

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

Subject to Section 27, If an individual transfers directly or indirectly any asset to his/her spouse, the income from such an asset shall be included in the total income of the transferor.

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

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

Note:

1. If an ***individual transfers a house property*** to his spouse, without adequate consideration or otherwise than in connection with an agreement to live apart, the transferor shall be deemed to be the owner of the house property and its annual value will be taxed in his hands**. [Section 27]**

2. **It is also to be noted that natural love and affection do not constitute adequate consideration**.

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

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

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

1) The relationship **must exist on the date of transfer as well as at the time of accrual of income during the P.Y**.

2) Clubbing is not applicable on any income which arises **on accretion of the transferred asset**.

3) Section 64(1)(iv) will not be applicable if the property is acquired by the spouse out of Pin Money.

4) Where the transferred assets is invested by the transferee in any business by way of capital contribution then, the following proportionate income shall be clubbed with the income of the individual:

$$\frac{\text{Investment made by transferee out of transferred asset As } \textbf{on the first day of Previous Year}}{\text{Total Investment in the business as on the } \textbf{first day of Previous Year}} \times \underline{\textbf{Total income from such business}}$$

Question No. 5:

Mr A gifts ₹ 4,00,000 to Mrs A 1st February 2024. Mrs A starts crockery business and invests ₹ 1,00,000 from her account also. She earns profit of ₹ 60,000 during the period ending on 31 March 2024. How would you tax the business profits?

Answer:

Proportionate profits, in proportion the gifted amount from the spouse on the first day of the previous year bears to the total investment in the business on the first day of the previous year, will be taxable in the income of the transferor spouse.

As Mrs A has started the new business, the first previous year will begin on the date of setting up and will end on 31 March, immediately following. Thus, the first previous year will consist a period of 2 months from 1 February 2024 to 31 March 2024.

Therefore, proportionate profit of ₹ 48,000, computed as below, will be included in the income of Mr. A:

$$\frac{4,00,000}{5,00,000} \times 60,000 = 48,000$$

Question No. 6:

Mr A gifts ₹ 3,00,000 to Mrs A on 1st February 2024. Mrs A invests the same in the existing crockery business where she has already invested ₹ 5,00,000. Mrs A earns ₹ 3,00,000 from the business during the year 2023-24 ending on 31 March 2024. How would you assess the profits?

Answer: The previous year of the existing business is April to March. On the first day of the previous year (i.e. 1 April 2023), total investment has come from Mrs A account. As the proportion of the gifted amount from spouse on 1 April 2023 to the total investment in business on the same day is **NIL**, the whole of the profits of ₹ 3,00,000 for the year 2023-24 will be included in the total income of Mrs A.

Question No. 7: [INCOME ARISING FROM INCOME EARNED IS NOT TO BE CLUBBED]

Mr Goutam, out of his own funds, had taken a FDR for ₹ 1,00,000 bearing interest @ 10% p.a. payable half-yearly in the name of his wife Latika. The interest earned for the year 2023-24 of ₹ 10,000, was invested by Mrs Latika in the business of packed spices which resulted in a net profit of ₹ 55,000 for the year ended 31st March 2024. How shall the interest on FDR and income from business be taxed for the AY 2024-25?

Answer: Where an individual transfers an asset (excluding house property), directly or indirectly to his/her spouse, otherwise than for adequate consideration, or in connection with an agreement to live apart, income from such asset is included in the total income of such individual [Sec. 64(1)(iv)]. Accordingly, interest on FDR, accruing to wife, is included in the total income of her husband.

However, business profits cannot be clubbed with total income of husband. Clubbing applies only to the income from assets transferred without adequate consideration. It does not apply to the income from accretion of the transferred assets. Hence, business profit is taxable as the income of wife.

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

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

IMP: *Where any asset is transferred by any person to any 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.*

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

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

IMP: *Where any asset is transferred by any person to any 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.*

Question 8:

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.

Answer:

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) will also get attract in the hands of ABC Co Ltd. if stamp duty value exceeds ₹ 50,000 and 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.

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

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

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

1) Where a **minor child is suffering from disability** of the nature specified in Section 80U.

2) Where such income as arises / accrues to the minor child **on account of any manual work** done by him or **activity involving application of his skill, talent or specialized knowledge** and experience.

Notes:

1. **Section 10(32) provides** that where the income of an individual includes the income of his minor child due to the operation of Section 64(1A), the individual shall be entitled to exemption of such income subject to a maximum of ₹ 1,500 per child. **[Not applicable in case of Section 27 – Deemed Owner]**

   Imp: Exemption under Section 10(32) would not be available in case of an Individual, being an assessee, who pays tax as per section 115BAC [Default Tax Regime].

2. Once clubbing of minor's income is done with that of one parent, it will continue to be clubbed with that parent only, in subsequent years. The Assessing Officer, may, however, club the minor's income with that of the other parent, if, after giving the other parent an opportunity to be heard, he is satisfied that it is necessary to do so.

3. Where **the marriage of his parents does not subsist,** income of the minor shall be clubbed in the income of that parent who maintains the minor child in the relevant previous year.

4. If the income by way of manual work or activity involving application or skill, etc. which was not clubbed, *in invested, and income is earned thereon,* **such investment income shall be clubbed**.

5. If the minor child becomes major during the P.Y., ***then the incomes till the date he remained minor*** in that P.Y. shall be clubbed with the parent.

6. **Minor Child includes step or adopted child.**

CROSS TRANSFER

In the case of cross transfers also (e.g., A making gift of ₹ 50,000 to the wife of his brother B for the purchase of a house by her and a simultaneous gift by B to A's minor son of shares in a foreign company worth ₹ 50,000 owned by him), the income from the assets transferred would be assessed **in the hands of the deemed transferor** if the transfers are so intimately connected as to form part of a single transaction, and each transfer constitutes consideration for the other by being mutual or otherwise.

Thus, in the instant case, the transfers have been made by A and B to persons who are not their spouse or minor child so as to circumvent the provisions of this section, showing that such transfers constituted consideration for each other.

The Supreme Court, in case of CIT v. Keshavji Morarji, observed that if two transactions are inter-connected and are parts of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted.

Accordingly, the income arising to Mrs. B from the house property should be included in the total income of B and the dividend from shares transferred to A's minor son would be taxable in the hands of A. This is because A and B are the indirect transferors to their minor child and spouse, respectively, of income-yielding assets, so as to reduce their burden of taxation.

Question 9: ***Mr. Vasudevan gifted a sum of ₹ 6 lakhs to his brother's wife on 14-6-2023. On 12-7-2023, 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 01-8-2023 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.***

Answer:

In the given case, Mr. Vasudevan gifted a sum of ₹ 6 lakhs to his brother's wife on 14.06.2023 and simultaneously, his brother gifted a sum of ₹ 5 lakhs to Mr. Vasudevan's wife on 12.07.2023. 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.*

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.

Question 10: Mr. Ram gave cash gift of ₹ 10 lakhs to his younger brother Mr. Bharat's wife Smt. Mandavi. On the same date Mr. Bharat gave gift to wife of Mr. Ram viz, Smt. Sita a vacant land measuring 2000 sq.ft. The stamp duty valuation of the land on the date of gift was 8 lakhs. Smt. Mandavi invested ₹ 8 lakhs in bank fixed deposit fetching interest at 7 % per annum and commenced a business with the balance of ₹ 2 lakhs along with her own capital of ₹ 3 lakhs. The profit for the year from the business amounts to ₹ 1,50,000.

Determine the tax implication of the above transaction in the hands of all the parties.

Would your answer be different if all of them are non-relatives?

Solution:

The amount gifted by Mr. Ram and Mr. Bharat would fall in the exceptions to section 56(2)(x) as they are 'relatives'. The amount gifted hence would not be liable to tax as income.

The relationship from donee's perspective it would be brother of spouse. The gift up to ₹ 8 lakhs is covered by cross-transfer. Hence, the income arising therefrom is liable for clubbing in the hands of spouse of the person deriving such income.

In the case of Smt. Sita, who received vacant site there is no income. Hence, the clubbing provision will not operate.

As regards Smt. Mandavi, the interest income of 56,000 (₹ 8 lakhs × 7%) is liable for clubbing in the hands of Mr. Bharat.

As regards income from business which includes the extra gift of ₹ 2 lakhs by Mr. Ram (brother of her spouse) is **not liable for clubbing**. Hence the business income will have no tax implication.

In case they are not relatives:

The principles relating to cross-transfer will not apply when they are not relatives. The amount received by Smt. Mandavi from Mr. Ram would be assessed as income under section 56(2)(x).

The business income of Smt. Mandavi and interest income will not be liable for any clubbing and hence would be taxed in her hands. The stamp duty value of land received by Smt. Sita is assessable to tax as income under the head 'other sources'.

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

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

Implication in the case of subsequent partition:

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

DISTINCTION BETWEEN SECTION 61 AND SECTION 64

It may be noted that the main distinction between the two sections is that S**ection 61 applies only to a revocable transfer** made by any person while ***Section 64 applies to revocable as well as irrevocable transfers made only by individuals.***

LIABILITY OF THE TRANSFREE IN RESPECT OF CLUBBED INCOME [SECTION 65]

Sections 61 to 64 provide for clubbing of income of one person in the hands of the other in circumstances specified therein. However, service of notice of demand (in respect of tax on such income) may be made upon the person to whom such asset is transferred (i.e. the transferee). In such a case, the transferee is liable to pay that portion of tax levied on the transferor which is attributable to the income so clubbed.

INCOME INCLUDES LOSS [CLUBBING OF NEGATIVE INCOME]

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

Example: Consider the following cases:

a) X transfers ₹ 1,00,000 to Mrs. X. By investing ₹ 1,00,000, Mrs. X sets up a business (total investment only ₹ 1,00,000). For the previous year, income from business is (–) ₹ 40,000. The loss of ₹ 40,000 will be included in the income of X.

b) Minor son of Y has a business. For the previous year, loss from business is ₹ 20,000. The loss of ₹ 20,000 will be included in the income of Y or Mrs. Y whosoever has higher income.

IMPORTANT POINTS

1) **LOAN Vs TRANSFER: Giving a loan / Interest free Loan is not a transfer of assets**. Therefore, if interest free loan is given by husband to wife/individual to son's wife/individual to his HUF, and the person to whom the loan is given purchases an asset out of the loan, then income from such asset shall not be clubbed in the hands of the person who has given the loan.

2) **CONVERSION OF TRANSFERRED PROPERTY**: The clubbing shall continue to apply even if the transferee has converted the transferred assets to some other form. For example, a house property is transferred to son's wife and she sells the house property and buys debentures, then income from debentures shall be clubbed with the income of transferor.

3) **CLUBBING OF CAPITAL GAIN INCOME:** If the transferee sells the transferred assets, then capital gains shall also be clubbed with the income of the transferor.

4) **INCOME ON INCOME/ACCRETIONS TO THE ASSETS TRANSFERRED: *Income arising out of income earned on transferred assets*** has not to be clubbed. Therefore, if debentures are transferred to son's wife without consideration and she receives debenture interest which is invested in bank FDR, then debenture interest shall be clubbed with the income of the transferor **but interest on shall bank FDRs shall not be clubbed.**

   Similarly ***income arising from accretions to assets*** transferred has not to be clubbed. Therefore, capital gains on bonus shares will not be clubbed with income of transferor where shares have been transferred and the transferee receives bonus shares

5) **INADEQUATE TRANSFER:** If property has been transferred to spouse or son's wife directly or indirectly for a consideration **which is inadequate**, then only the part of income which is related to transfer of inadequate, shall be clubbed.

6) The clubbing provisions of section 64(1)(iv) is not applicable if the property is transferred by a Karta of HUF, gifting the **coparcenary property to his wife**.

SUMMARY OF CLUBBING CHAPTER

Section	Important Provisions
60	**If any person transfers the income from any asset without transferring the asset itself, such income is to be included in the total income of the transferor.**
61	**1.** All income arising to any person ***by virtue of a revocable transfer of assets*** is to be included in the total income of the transferor. **2.** The transfer is deemed to be revocable ***if whole or any part*** of income or assets is re-transferred to the transferor or transferor gets the right over such income or assets. **3.** ***Exception:*** If there is a transfer of asset which is ***not revocable during the life time of the transferee***, the income from the transferred asset is not includible in the total income of the transferor
64(1)(ii)	***Remuneration of spouse from a concern in which another spouse has substantial interest*** **1.** Any remuneration derived by a spouse from a concern in which the *other spouse has a substantial interest*, shall be clubbed in the hands of the *spouse who has a substantial interest in that concern*. **2.** No clubbing if remuneration is due to technical or professional qualifications of spouse. **3.** ***If the husband and wife both have substantial interest in the concern and both are in receipt of remuneration from the concern***, then the remuneration of *both* shall be clubbed in the hands *of that spouse whose* total income*, before including such remuneration, is greater*. ***4. Meaning of substantial interest:*** Ownership of atleast 20% equity shares / 20% of the profits of such concern at ***any time during the PY*** *is held* ***by individual along with his relatives***. *["Relative" **means the spouse**, brother or sister or any lineal ascendant or descendant of the individual]*
64(1)(iv)	**Income from assets transferred to the spouse for without adequate consideration** If an individual transfers (otherwise than as a consideration to live apart) directly or indirectly any asset ***other than house property*** to his/her spouse, the income from such an asset shall be included in the total income of the transferor.
64(1)(vi)	**Income from assets transferred to son's wife for without adequate consideration** Where an asset is transferred, directly or indirectly, by an individual to ***his or her son's wife*** without adequate consideration, the income from such asset is to be included in the total income of the transferor.
	Common points: **1)** The relationship **must exist on the date of transfer as well as at the time of accrual of income during the P.Y**. **2)** Clubbing is not applicable on any income which arises **on accretion of the transferred asset**. [Say bonus shares allotted after transfer of shares] **3)** **Where the transferred assets is invested by the transferee in any business by way of capital contribution then, the following proportionate income shall be clubbed with the income of the individual:** Investment made by transferee out of transferred asset as **on the first day of Previous Year** / Total Investment in the business as on the **first day of Previous Year** X **Total income from such business**

64(1)(vii)	Where any asset is transferred by an individual, without adequate consideration, to any person ***for the benefit of Spouse***, then *any income arising from such transferred asset*, is liable to be taxed in the hands of the transferor, ***to the extent such income is used for the immediate / deferred benefit of such spouse.***	
64(1)(viii)	Where any asset is transferred by an individual, without adequate consideration, to any person ***for the benefit of Son's wife***, then *any income arising from such transferred asset*, is liable to be taxed in the hands of the transferor, ***to the extent such income is used for the immediate / deferred benefit of the Son's wife***	
64(1A)	**Clubbing of income of a minor child**	The income of the minor child [including minor married daughter] is liable to be taxed in the hands of that parent, **whose Total Income**, excluding income of minor child, **is Greater**.
	Exception: No clubbing shall apply in case of following incomes: **1.** Where a **minor child is suffering from disability** of the nature specified in Sec. 80U. **2.** Where such income as arises / accrues to the minor child **on account of any manual work** done by him or **activity invoking application or his skill, talent or specialized knowledge** and experience.	
	1. **Exemption u/s Section 10(32):** Maximum exemption of ₹ 1,500 per annum per child. **2.** **Marriage of his parents does not subsist :** Clubbing to that parent who maintains the minor child **3.** If the income by way of manual work or activity involving application or skill, etc. which was not clubbed, *in invested, and income is earned thereon,* **such investment income shall be clubbed**. **4.** If the minor child becomes major during the P.Y., ***then the incomes till the date he remained minor*** in that P.Y. shall be clubbed with the parent.	
64(2)	***Income from self acquired property converted to joint family property for inadequate consideration*** 1. **Where an individual, who is a member of the HUF** converts, his separate property as the property of the HUF otherwise than for adequate consideration, ***then the income from such property shall continue to be included in the total income of the individual.*** 2. **Implication in the case of subsequent partition**: Where the above converted property has been distributed on partition among members of the family, the income derived from such, converted property as is received by the spouse, after partition, shall be deemed to arise to the spouse ***from assets transferred indirectly by the individual to the spouse and the income from the portion, received by the spouse, shall be clubbed in the hands of the transferor.***	
65	***Liability of transferee:*** The transferee is always liable to pay that portion of tax levied on the transferor which is attributable to the income so clubbed.	
Other Common Points	**1.** **Loan is not a transfer,** so clubbing will not apply on Loan amount (even if it given interest free to spouse, son's wife etc.) **2.** The clubbing provisions of section 64(1)(iv) is not applicable if the property is transferred by a Karta of HUF, gifting the coparcenary property to his wife. **3.** Income accruing or arising from transferred assets only will be clubbed. ***Any income earned out of such income [accreted assets] should not be clubbed*** [Dividend/CG from Bonus Shares allotted to transferee] **4.** The clubbing shall continue to apply even if the transferee has converted the transferred assets to some other form. **5.** If property has been transferred to spouse or son's wife directly or indirectly for a consideration **which is inadequate**, then only the ***part of income which is related to transfer of inadequate***, shall be clubbed	

QUESTIONs for Practice - SET A

In all questions, assume the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A) i.e., he pays tax under the optional tax regime (normal provisions) of the Act.

1) X holds 20 per cent equity share capital in Y Ltd. Mrs. X is employed by Y Ltd. (salary being ₹ 40,000 per month) as general manager (finance). She does not have any professional qualification to justify remuneration. **Ascertain in whose hands salary income is chargeable to tax. Does it make any difference if Mrs. X was employed by Y Ltd. even prior to her marriage?**

2) Shankar has transferred a house property to Uma on 1st April 2019. Uma married Shekar, who is the son of Shankar on 1st April 2023. The income from the property received by Uma during the previous year 2023-24 is ₹ 1,20,000. The assessing officer has clubbed the above income in the hands of Shankar. **Is the action of assessing officer tenable under the law**?

3) **Important:** Mr. Vaibhav started a proprietary business on 01.04.2022 with a capital of ₹ 5,00,000. He incurred a loss of ₹ 2,00,000 during the year 2022-23. To overcome the financial position, his wife Mrs. Vaishaly, a software Engineer, gave a gift of ₹ 5,00,000 on 01.04.2023, which was immediately invested in the business by Mr. Vaibhav. He earned a profit of ₹ 4,00,000 during the year 2023-24. **Compute the amount to be clubbed in the hands of Mrs. Vaishaly for the Assessment Year 2024-25.**

If Mrs. Vaishaly gave the said amount as loan, what would be the amount to be clubbed?

4) **Important:** **X and Y form a partnership firm on April 1, 2023 (profit sharing ratio - 2: 3) by investing ₹ 10 lakhs and ₹ 15 lakhs respectively. The investment has been financed from the following sources—**

	X ₹	Y ₹
Gift from Mrs. X	6,60,000	—
Gift from Mrs. Y	—	8,00,000
Past savings of X and Y	3,40,000	7,00,000

For the year ending March 31, 2024, share of profit from the firm is as follows—

	X ₹	Y ₹
Interest on capital @ 12 per cent	1,20,000	1,80,000
Salary as working partner	24,000	24,000
Share of profit	1,08,000	1,62,000

Find out the income chargeable to tax in the hands of X and Mrs. X.

5) Raja gifts ₹ 2 lakh to his wife on 1-4-2023 which she invests in a firm on interest @ 18% p.a. On 1-1-2024, Mrs. Raja withdraws the money and gifts it to their son's wife. She claims that the interest which has accrued to the daughter – in – law from 1-1-2024 to 31-3-2024 on the investment made by the daughter-in-law is not assessable in her hands but in the hands of Raja. **Is this correct? What would be the position, if Mrs. Raja had gifted the money to their minor son, instead of the daughter-in-law**?

6) A and B are minor sons of X and Mrs. X. Business income of X is ₹ 3,40,000. Income from house property of Mrs. X is ₹ 1,90,000. Income of A and B from stage acting is ₹ 60,000 and ₹ 70,000 respectively. Besides interest on company deposits of A and B (deposit was made out of income from acting) is ₹ 30,000 and ₹ 1,000, respectively. A and B have received following birthday gifts: on May 20, 2023, gift received by B from his grandfather: ₹ 80 000; On September 14, 2023, gift received by A ₹ 60,000 from X's friend and ₹ 35,000 from a relative. **Find out the income of X, Mrs. X, A and B for the AY 2024-25.**

7) **Important: Mr. Singh is a trader. Particulars of his income and those of the members of his family are given below. These incomes relate to the previous year ended 31st March, 2024.**

		₹
(i)	Income from business— Mr. Singh's	90,000
(ii)	**Salary income (computed)** from an educational institution by Mrs. Singh, she is the Principal of the institution	50,000
(iii)	Interest on company deposits derived by Master Deep Singh (minor son). These deposits were made in the name of Deep Singh by his father's father about 6 years ago.	12,000
(iv)	Receipts from sale of paintings and drawings made by Minor Dipali Singh (minor daughter of Mr. and Mrs. Singh and a noted child artist)	60,000
(v)	Income by way of lottery earnings by Master Dipender Singh (minor – son of Mr. Singh)	6,000

Discuss whether the above will form part of the assessable income of any individual and also compute the assessable income of Mr. Singh.

8) Mr. Sharma has four minor 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.

9) **Mr. Dhaval and his wife Mrs. Hetal furnish the following information:**

Particulars	₹
(i) Salary income **(computed)** of Mrs. Hetal	4,60,000
(ii) Income of minor son 'B' who suffers from disability specified in Section 80U	1,08,000
(iii) Income of minor daughter 'C' from singing	86,000
(iv) Income from profession of Mr. Dhaval	7,50,000
(v) Cash gift received by 'C' on 2.10.2023 from friend of Mrs. Hetal on winning of singing competition	48,000
(vi) Income of minor married daughter 'A' from company deposit	30,000

Compute the total Income of Mr. Dhaval and Mrs. Hetal for the AY 2024-25.

10) **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 30.09.2023 from friend of Mrs. A	2,500

Brief working is sufficient. Detailed computation under various heads of income is NOT required.

11) Mr. A is an employee of Larsen Limited and has substantial interest in the company. His salary is ₹ 25,000 p.m. Mrs. A also is working in that company at a salary of ₹ 10,000 p.m. without any professional qualification. Mr. A also receives ₹ 30,000 as income from securities, Mrs. A owns a house property which she has let out. Rent received from such house property is ₹ 12,000 p.m.

Mr. & Mrs. A have three minor children-two twin daughters and one son. Income of the twin daughters is ₹ 2,000 p.a. and that of his son is ₹ 1,200 p.a. **Compute the income of Mr. A and Mrs. A.**

12) Mr. Dhaval has an income from salary (computed) of ₹ 3,50,000 and his minor children's income are as under:

Particulars	₹
Minor daughter has earned the following income:	
From a TV show	50,000
From interest on FD with a bank (deposited by Mr. Dhaval from his income)	5,000
Minor son has earned the following income:	
From the sale of a own painting	10,000
From interest on FD with a bank (deposited by Mr. Dhaval from his income)	1,000

Compute the gross total income of Mr. Dhaval.

13) Mr. B is the Karta of a HUF, whose members derive income as given below:

Particulars	₹
(a) Income from B' s profession	**45,000**
(b) Mrs. B' s salary income (computed) as fashion designer	**76,000**
(c) Minor son D (interest on fixed deposits with a bank which were gifted to him by his uncle)	**10,000**
(d) Minor daughter P's earnings from sports	**95,000**
(e) D's winnings from lottery (gross)	**1,95,000**

Discuss the tax implications in the hands of Mr. and Mrs. B.

14) Important: The following details are furnished in respect of Mr. X and his family members. Determine the gross total income:

Particulars	**Mr. X**	**Mrs. X**	**Minor Child**
	₹	₹	₹
Income as a child artist in films	—	—	60,000
Business Income (Own)	(40,000)		
Salary income from X Ltd. In which Mr. X holds 25% voting power @ ₹ 6,500 p.m.	—	78,000	—
Share of profit from Firm AB & Co.	(40%) 80,000	—	(10%) 20,000
Commission from AB & Co.	—	20,000	—
Interest income	8,000	5,000	4,000

Note:

a) Mrs. X possesses B.Com degree and works as accountant of X Ltd.,

b) Mrs. X does not render any services to M/s. AB & Co.,

c) Interest income received by Mrs. X is from an investment of ₹ 40,000 gifted by Mr. X and ₹ 40,000 invested from her own resource.

15) Important: Determine the GTI of R and his wife from the following particulars for the year ending 31.3.2024:

i) R and his wife are partners in a firm carrying on garments business, their respective shares of profit being ₹ 35,000 and ₹ 40,000.

ii) Their 17 year old son has been admitted to the benefits of another firm, from which he received ₹ 25,000 as his share of profit in the firm and ₹ 24,000 as interest on capital. The capital, was invested out of the minor's **own funds amounting to ₹ 3,00,000.**

iii) A house property in the name of R was transferred to his wife on 1.12.2023 for adequate consideration. The property has been let at a rent of ₹ 5,000 p.m.

iv) Debentures of a company of ₹ 2,00,000 and ₹ 1,00,000 purchased two years ago are in the names of R and his wife respectively, on which interest is receivable at 14% p.a. His wife had in the past transferred ₹ 1,00,000 out of her income to R for the purchase of the debentures in R's name.

v) R had transferred ₹ 60,000 to his wife in the year 1990 without any consideration which was given as a loan by her to G. She earned ₹ 15,000 as interest during the earlier previous years which was also given on loan to G. During the financial year 2023-24, she received interest at 10% p.a. on ₹ 75,000.

vi) R transferred ₹ 60,000 to a trust, the income accruing from its investment as interest amounted to ₹ 9,000, out of which ₹ 6,000 shall be utilised for the benefit of his son's wife and ₹ 3,000 for the benefit of his son's minor child.

16) During the previous year 2023-24, 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 1-4-2023 to 31-3-2024 to the savings bank account of Mr. B, son of his brother, to help him in his education.
(b) Mr. A holds 75% 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, 2023. During the previous year 2023-24, Mrs. A's "Income from house property" (computed) was ₹ 52,000.
(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.

Discuss the tax implications of each transaction and compute the total income of Mr. A, Mrs. A and their minor child.

17) Discuss the tax implications of income arising from revocable transfer of assets. When will the clubbing provisions not apply at present, even where there is revocable transfer of assets?

18) Explain the provisions of the Income-tax Act, 1961, with regard to clubbing of income of spouse u/s 64.

19) State True or False, with reasons:

Mr. Y, who is a physically handicapped minor (suffering from a disability of the nature specified in section 80U), earns bank interest of ₹ 50,000 and ₹ 60,000 from marking bags manually by himself. The total income of Mr. Y shall be computed in his hands separately.

20) 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.

State with reasons whether the contention of Mrs. Kasturi is valid in law.

SOLUTION – SET A

Solution 1: In this case, X has substantial interest in Y Ltd. where Mrs. X is employed. Mrs. X does not have any professional qualification to justify the remuneration of ₹ 40,000 per month. Her salary income of ₹ 4,30,000 (i.e., ₹ 40,000 X 12 **– deduction u/s 16(ia) 50,000**) will be taxable in the hands of X. It does not make any difference even if Mrs. X was employed by Y Ltd. prior to her marriage.

Solution 2:
Income arising out of asset transferred without adequate consideration to son's wife is liable to clubbed in the hands of the assessee, if the said relationship exists both at the time of transfer of property and at the time of accrual of income. Since, in this case, the said relationship didn't exist between Uma and Shankar at the time of transfer of house property, the income of ₹ 1,20,000 arising to Uma cannot be clubbed with the income of Shankar. Hence, the action of the assessing officer is untenable in law.

Solution 3:

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 01.04.2023 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. 2024-25 is computed as under:

Particulars	Mr. Vaibhav's capital contribution (₹)	Capital contribution out of gift from Mrs. Vaishaly (₹)	Total (₹)
Capital as on 01.04.2023	3,00,000 (5,00,000 - 2,00,000)	5,00,000	8,00,000
Profit **for F.Y. 2023-24** to be apportioned on the basis of capital employed on the first day of the previous year i.e. as on 1.4.2023 (3:5)	1,50,000 [4,00,000×3/8]	2,50,000 [4,00,000x5/8]	4,00,000

Therefore, the income to be clubbed in the hands of Mrs. Vaishaly for the **A.Y. 2024-25** is ₹ 2,50,000.

In case Mrs. Vaishaly gave the said amount of ₹ 5,00,000 as a bona fide loan, then, clubbing provisions would not be attracted.

Solution 4:

	X ₹	Mrs. X ₹
Share of profit [exempt under section 10(2A)]	Nil	—
Salary from the firm	24,000	—
Interest on capital [*₹ 1,20,000 x ₹ 6.6 lakh / ₹10 lakh)	40,800**	79,200*
Business income	**64,800**	**79,200**

** 120,000 – 79,200 = 40,800.

Solution 5:
This case is analyses as under -

1) In this case, interest from the firm received by Mrs. Raja for the period 1.4.2023 to 31.12.2023 shall be clubbed in the hands of Mr. R under section 64(1)(iv) as the said interest accrues to Mrs. Raja.

2) Thereafter, Mrs. Raja has gifted ₹ 2 lakh to their son's wife on 1.1.2024. Now, no income accrues to Mrs. Raja on the money gifted and the income is derived only by the son's wife.

3) In this case, it is an indirect transfer of assets by Mr. Raja to their son's wife. This case will clearly fall under section 64(1)(vi) and the income accruing to son's wife will be included in Mr. Raja's total income. Thus, Mrs. Raja's contention is correct.

4) However, if Mrs. Raja had gifted the money to minor son, then by virtue of sec. 64(1A), the income accruing to the minor son would have been clubbed with the total income of Mr. Raja or Mrs. Raja whose total income, before such clubbing, had been greater.

Solution 6:

	X	Mrs. X	A	B
	₹	₹	₹	₹
Income from house property	-	1,90,000	-	-
Business income	3,40,000	-	-	-
Income from stage acting	-	-	60,000	70,000
Income from other sources				
Gift received by B on May 20, 2023 from grandfather (gift from a relative is not taxable)	-	-	-	-
Gift received by A on September 14, 2023 from X's friend (to be clubbed in the hands of X after giving exemption of ₹ 1,500)	58,500			
Gift received by A on September 14, 2023 from relatives (gift from a relative is not taxable)	-			
Interest from company deposit received by A (to be clubbed in the hands of X)	30,000			
Interest from company deposit received by B (to be clubbed in the hands of X after giving exemption of ₹ 1,500, amount to be clubbed is ₹ 1,000 - ₹ 1,000)	Nil			
Net income	**4,28,500**	**1,90,000**	**60,000**	**70,000**

Solution 7:

Assessee: Mr. Singh **Previous Year: 2023-24** **Assessment Year: 2024-25**

Computation of Total Income

Particulars	₹	₹
Profits and Gains of Business or Profession		90,000
Add: Income of Minor Children: (Note 1)		
(a) Interest on Company Deposits of Master Deep Singh	12,000	
Less: Exemption u/s 10(32)	(1,500)	10,500
(b) Lottery winnings of Master Dipender Singh	6,000	
Less: Exemption u/s 10(32)	(1,500)	4,500
Total Income		**1,05,000**

Notes:

1) U/s 64(1A), income of a Minor Child shall be clubbed in the hands of the Parent whose total income is greater before such clubbing. Exemption of ₹ 1,500 per child shall be allowed in respect of such income.
2) If the Minor receives income by exercise of labour, hard work, skill, knowledge or experience, then such income shall not be clubbed. Hence, Income of Dipali Singh, Minor Daughter of Mr. Singh is not clubbed in his hands.
3) Since Mr. Singh does not have substantial interest in the educational institution employing Mrs. Singh, provisions of Sec. 64(1)(ii) is not attracted.

Solution 8:

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.

Solution 9:

Computation of Total Income of Mr. Dhaval and Mrs. Hetal for the AY 2024-25

Particulars		**Mr. Dhaval**	**Mrs. Hetal**
		₹	₹
Salaries (Computed)		—	4,60,000
Profits and gains of business or profession		7,50,000	—
Income from other sources			
Income by way of interest from company deposit earned by minor daughter A [See Note (4)]	30,000		
Less: Exemption under section 10(32)	1,500	28,500	
Total Income		**7,78,500**	**4,60,000**

Notes:

1) The income of a minor child suffering from any disability of the nature specified in section 80U shall not be included in the hands of the parents. Hence, ₹ 1,08,000 being the income of minor son 'B' who suffers from disability specified under section 80U shall not be included in the hands of either of his parents.

2) The income derived by the minor from manual work or from any activity involving exercise of his skill, talent or specialized knowledge or experience will not be included in the income of his parent. Hence, in the given case ₹ 86,000 being the income off the minor daughter C shall not be clubbed in the hands of the parents.

3) Under section 56(2)(x), cash gifts received from any person/persons exceeding ₹ 50,000 during the year in aggregate is taxable. Since the case gift in this case does not exceed ₹ 50,000 the same is not taxable.

4) The clubbing provisions are attracted even in respect of income of minor married daughter. The income of the minor will be included in the income of that parent whose total income is greater. Hence, income of minor married daughter 'A' from company deposit shall be clubbed in the hands of the Mr. Dhaval and exemption under section 10(32) of ₹ 1,500 per child shall be allowed in respect of such income.

Solution 10:

1. 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. 2024-25

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**

Solution 11:

Computation of Total Income of Mr. A and Mrs. A for the A.Y. 2024-25

Particulars		Mr. A (₹)	Mrs. A (₹)
Income from Salaries			
Salary income of Mr. A (₹ 25,000 × 12 **– (u/s 16) 50,000**)		2,50,000	
Salary income of Mrs. A (₹ 10,000 × 12 **– (u/s 16) 50,000**) **(See Note 1)**		70,000	
Income from House Property			
Rent received (₹ 12,000×12)	1,44,000		
Less: Deduction under section 24@30%	43,200		1,00,800
Income from other sources			
Income from securities		30,000	
Income before including income of minor children under section 64(1A) (See Note 2)		**3,50,000**	**1,00,800**
Income of twin daughters (₹ 2,000 per child x 2)	₹ 4,000		
Less: Exempt u/s 10(32) (₹ 1,500 x 2)	₹ 3,000	1,000	-
Income of the minor son	₹ 1,200		
Less: Exempt u/s 10(32)	₹ 1,200	-	
Total Income		**3,51,000**	**1,00,800**

Notes:

(1) As per section 64(1), in case the spouse of the individual receives any amount by way of income from any concern in which the individual has substantial interest, 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 salary of ₹ 10,000 p.m. received by Mrs. A from the company 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 income and Mr. A has substantial interest in the company.

(2) As per section 64(1A), the income of a 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 minor children shall be included in the income of Mr. A, since Mr. A's income of ₹ 3,50,000 (before including the income of the minor child) is greater than Mrs. A's income of ₹ 1,00,800.

Solution 12:

Computation of Gross Total Income of Mr. Dhaval

Particulars	₹	₹
Income from Salary (computed)		3,50,000
Income from other sources:		
Minor Daughter's income		
Income from T.V. show (See Note below)		Nil
Interest income from FD with a Bank	5,000	
Less : Exempt under section 10(32)	1,500	3,500
Minor son's income		
Income from sale of self made painting (See Note below)		Nil
Interest income from FD with a Bank	1,000	
Less : Exempt under section 10(32)	1,000	Nil
Gross Total Income		**3,53,500**

Note: The income derived by the minor from manual work or from any activity involving exercise of his skill, talent or specialised knowledge or experience will not be included in the income of his parent. Hence, in the given case ₹ 50,000 being the income of the minor daughter from TV show and ₹ 10,000 being the income of minor son from sale of own painting, shall not be clubbed in the hands of Mr. Dhaval.

Solution 13:

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 income (computed) of ₹ 76,000 of Mrs. B as a fashion designer 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 mother, Mrs. B as "Income from other sources", since her income is greater than income of Mr. 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 Mrs. B as "Income from other sources", since her income is greater than the income of Mr. B before including the income of minor child.

Note – Mrs. B can reduce the tax deducted at source from such lottery income while computing her net tax liability.

Solution 14: Computation of gross total income

Particulars		Mr. X ₹	Mrs. X ₹	Minor Child ₹
I. Salaries :				
Salary from X Ltd			28,000	
[6,500 p.m x 12 less deduction u/s 16 - 50,000]				
II. Profits and gains from business/profession :				
Income / (Loss)		(40,000)	—	60,000
III. Income from other sources :				
Interest income Own (Mr. X)	8,000			
Add : Spouse -Sec. 64(1)	2,500	10,500	—	----
Interest income own (Mrs. X)	2,500			
Interest income of minor child	4,000			
Less : Exempt u/s. 10(32)	(1500)	—	5,000	—
Commission income of spouse u/s 64(1)		20,000		
Gross Total Income		**(9,500)**	**33,000**	**60,000**

Note: Share of profit from firm is exempt from tax u/s. 10(2A). It is assumed that the expenditure attributable to exempt income have not been claimed as deduction.

Solution 15:

Computation of Gross Total Income of R
(For the Assessment Year 2024-25)

	₹	₹
1. Income from House Property:		
Rental value for 8 months (i.e., before transfer) (8 x 5,000)	40,000	
Less: Statutory deduction @ 30%	12,000	28,000
2. Profit from Business:		
(i) Share from firm (Exempt)	Nil	
(ii) Minor Son's share in another firm (Exempt)	Nil	
(iii) Interest on minor's capital with firm (₹ 24,000 - Exemption u/s 10(32) ₹ 1,500)	22,500	22,500
3. Income from other Sources:		
(i) Interest @ 14% on ₹ 1,00,000 Debentures (only one-half of ₹ 2,00,000 were bought by own funds)	14,000	
(ii) Interest received by his wife @ 10% on ₹ 60,000 (being transferred without any consideration)	6,000	
(iii) Interest on ₹ 6,000 from his trust (Interest income utilised for the benefit of son's wife)		
Gross Total Income		**76,500**

Computation of Gross Total Income of Mrs. R
(For the Assessment Year 2024-25)

	₹	₹
Income from House Property:		
Rental value for 4 months (i.e., after transfer) (₹ 5,000 x 4)	20,000	
Less: Statutory deduction @ 30%	6,000	14,000
Income from business:		
Share from firm (Exempt)	Nil	
Income from Other Sources:		
(i) Interest on ₹ 1,00,000 14% Debentures	14,000	
(ii) interest on ₹ 1,00,000 14% Debentures in husband's name but funds invested by her	14,000	
(iii) Interest on ₹ 15,000 @10%	1,500	29,500
(This interest is on accrued income of ₹ 60,000, which have been transferred to her by the husband and interest on such accrued income is treated as the income of the transferee, although the income on the transferred amounts is treated as the income of the transferor as it was transferred without any consideration.)		
Gross Total Income		**43,500**

Solution 16:

Computation of total income of Mr. A, Mrs. A and their minor son for the A.Y. 2024-25

Particulars	**Mr. A** (₹)		**Mrs. A** (₹)	**Minor Son** (₹)
Salary income (of Mrs. A) [2,40,000 - 50,000]		-	1,90,000	-
Pension income (of Mr. A) (₹ 10,000×12 - 50,000)		70,000		
Income from House Property **[See Note (3) below)**		52,000	-	-
				-
Income from other sources			-	-
Interest on Mr. A's fixed deposit with Bank of India (₹ 5,00,000 × 9%) **[See Note (1) below]**	45,000		-	
Commission received by Mrs. A from a partnership firm, in which Mr. A has substantial interest **[See Note (2) below]**	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 **[See Note (4) below]**		18,500	**-**	**-**

Income of the minor son through a business activity involving application of his skill and talent **[See Note (5) below]**		-	-	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% share in the firm.

(3) According to section 27, 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 ₹ 2,02,000 (before including the income of the minor child) is greater than Mrs. A's income of ₹ 2,00,000.

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.

Solution 17:

Income arising from revocable transfer of assets [Sections 61 & 63]

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

(ii) A transfer is deemed to be revocable if:

(a) it contains any provision for the re-transfer, directly or indirectly, of the whole or any part of the income or assets to the transferor, or

(b) it gives, in any way, the transferor, a right to re-assume power, directly or indirectly, over the whole or any part of the income or the assets.

Transfer not revocable during the life time of the beneficiary or the transferee [Section 62] If there is a transfer of asset which is not revocable during the life time of the beneficiary or transferee, the income from the transferred asset is not includible in the total income of the transferor provided the transferor derives no direct or indirect benefit from such income. If the transferor receives direct or indirect benefit from such income, such income is to be included in his total income even though the transfer may not be revocable during the life time of the beneficiary or transferee.

Solution 18:

As per section 64(1)(ii), any income arising directly or indirectly to the spouse of an individual by way of salary, commission, fees or any other form of remuneration, whether in cash or in kind, from a concern in which such individual has a substantial interest, would be clubbed. However, such rule does not apply where the spouse possesses technical or professional qualification and the income of the spouse is solely attributable to the application of his or her technical or professional knowledge and experience.

Where both husband and wife have substantial interest in a concern and both are in receipt of salary etc. from the said concern, such income will be clubbed with the income of the spouse whose total income, excluding such income**,** is greater.

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

(a) If the concern is a company, equity shares carrying not less than 20% of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of his relatives.

(b) In any other case, if such person is entitled, or such person and one or more of his relatives are entitled in the aggregate, at any time during the previous year, to not less than 20% of the profits of such concern.

As per section 64(1)(iv), where there is a transfer of an asset other than house property, directly or indirectly from one spouse to another, otherwise than for adequate consideration or in connection with an agreement to live apart, any income that arises either directly or indirectly to the transferee from the transfer of the asset shall be included in the total income of the transferor.

However, any income from the accretion of transferred asset is not liable to be clubbed. It may be noted that natural love and affection will not constitute adequate consideration for the purpose of section 64(1).

Solution 19:

True. The clubbing provisions of section 64(1A) are not applicable in a case where the minor child is suffering from any disability of the nature specified in section 80U. The income of such minor child will not be clubbed in the hands of either of the parents. Consequently, the total income of Mr. Y will be assessed in his hands.

Solution 20:

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.

If it is presumed that the transfer was for adequate consideration, the provisions of section 64(1)(viii) would not be attracted.

QUESTIONs for Practice - SET B

In case any Individual opts for the provisions of Sec 115BAC, exemption of ₹ 1,500 would not be available.

1. Mrs. G holds 7% equity shares in B Ltd., where her married sister, Mrs. N also holds 14% equity shares. Mr. G is employed with B Ltd., without holding technical professional qualification. The particulars of their income for the Previous Year 2023-24 are given as follows:

Income	*Mr. G (₹)*	*Mrs. G (₹)*
(a) Gross Salary from B Ltd.	*1,12,000*	*—*
(b) Dividend from B Ltd.	*—*	*6,000*
(c) Income from House Property	*90,000*	*—*

Solution:

Computation of Total Income of Mr. G & Mrs. G for the A.Y. 2024-25

Particulars	Mr. G ₹	Mrs. G ₹
Taxable Salary to be included in the total income of Mrs G [Sec. 64(1)(ii)] **[Gross Salary (₹ 1,12,000) less Deduction u/s 16(ia) ₹ 50,000]**	—	62,000
Add: Income from House Property	90,000	—
Add: Income from Other Sources : **Dividends to Mrs G**	—	6,000
Total Income	90,000	68,000

Note:

(a) In the instant case, Mrs. G along with his sister, holds substantial interest in B Ltd. and Mr. G does not hold professional qualification. Accordingly, remuneration of Mr. G has been included in the total income of Mrs. G.

(b) If the requisite conditions of clubbing are satisfied, clubbing provision will apply even if their application results into lower incidence of tax.

2. Mr. B holds 5% shares in A Ltd., where his brother and nephew hold 11% and 6% shares, respectively. Mrs. B gets commission of ₹ 1,00,000 from A Ltd. for canvassing orders. She holds no technical/professional qualification. Mr. B earns income of ₹ 5,00,000 from sugar business. Compute their Total Income for the Assessment Year 2024-25.

Solution:

Computation of Total Income for the AY 2024-25

Particulars of income	Mr. B (₹)	Mrs. B (₹)
Income from sugar business	5,00,000	—
Commission for canvassing orders from A Ltd.	—	1,00,000
Total Income	5,00,000	1,00,000

Note: In the instant case, Mr. B holds 5% and his brother holds only 11% shares in A Ltd. The total of their shareholding is less than 20%. They have no substantial interest.

Therefore, commission income is assessable as income of Mrs. B.

3. The shareholding of Mr. K and Mrs. K in S Ltd, is given as follows:

(a) Shareholding of K	*7%*
(b) Shareholding of Mrs. K	*9%*
(c) Shareholding of M, brother of K	*8%*
(d) Shareholding of F, father of Mrs. K	*5%*

Mr. K and Mrs. K are employed with S Ltd. None of them hold technical qualification. Mr. K gets salary @ ₹ 10,000 p.m. and Mrs. K gets @ ₹ 12,000 p.m.

Income from Other Sources:	*₹*
Mr. K	*80,000*
Mrs. K	*1,00,000*

Compute total income for the Assessment Year 2024-25.

Solution: **Computation of Total Income for the AY 2024-25**

Particulars	Mr. K (₹)	Mrs. K (₹)
1. Salary Income (1,44,000 – 50,000)		94,000
Salary income of Mr. K (120,000 – 50,000) to be included in the total income of Mrs. K as her Income from Other Sources is greater and both of them have substantial interest along with their relative in S Ltd.	80,000	70,000
		1,00,000
2. Income from Other Sources		
Total Income	**80,000**	**2,64,000**

4. Mrs. Z is the owner of the business units A and B. A unit has been started with capital contribution from Mr. Z and B unit has been started out of capital contribution from Mrs. Z. The particulars of their income for the Previous Year 2023-24 are as follows:

Particulars	Mrs. Z	Mr. Z
(a) Income from A unit	(–) 6,00,000	—
(b) Income from B unit	4,00,000	—
(c) Income from House Property	—	2,50,000

How would you assess them for the Assessment Year 2024-25?

Solution:

(a) Mrs. Z is assessable on the profits from B unit. She cannot set-off the loss from A unit against the profits of B unit. Thus, she would be assessed on ₹ 4,00,000.

(b) The loss from A unit will be included in the total income of Mr Z in view of Sec. 64(1)(iv). "Income" includes "loss" also. Mr Z is entitled to set-off business loss of A's unit against Income from House Property. **Thus, loss of ₹ 3,50,000 would be carried forward but could be set-off only against business profits.**

5. Sawant is a fashion designer having lucrative business. His wife is a model. Sawant pays her a monthly salary of ₹ 20,000. The Assessing Officer, while admitting that the salary is an admissible deduction, in computing the total income of Sawant, had applied the provisions of Sec. 64(1) and had clubbed the income (salary) of his wife in Sawant's hands. Discuss the correctness of the action of the Assessing Officer.

Solution:

Where an individual has got substantial interest in a concern and his spouse derives any income from such concern by way of salary, commission, fees or by any other mode, such income is clubbed with the total income of such individual [Sec. 64(1)(ii)].

However, clubbing provision does not apply if the earning spouse holds technical or professional qualification and the income is solely attributable to the application of such knowledge and experience. Salary earned by wife as model from the concern where her husband holds substantial interest is assessable as her income.

6. Mr. Rose, out of his own funds, had taken an FDR for ₹ 10,00,000 bearing interest @ 10% p.a. payable half-yearly in the name of his wife Lilly. The interest earned during the financial year 2023-24 of ₹ 1,00,000 was invested by Mrs. Lilly in the business of packed spices which resulted in a net profit of ₹ 55,000 for the year ended 31.03.2024. How shall the interest on FDR and income from business be taxed for the Assessment Year 2024-25?

Answer

Section 64(1)(iv) of the Act specifies that the income derived by the spouse of an assessee from the assets transferred directly or indirectly without adequate consideration or intention to live apart shall be clubbed with the income of the transferor. Therefore, the interest income of ₹ 1 lac on the FDR of ₹ 10 lacs for the F.Y. 2023-24 shall be clubbed with the income of Mr. Rose.

When Mrs. Lilly invested the interest income in a business and earned profits therefrom, such profits shall not be clubbed with the income of her husband but shall be taxable in her individual capacity. ***This is so because the income from the accretion of the transferred assets is not to be clubbed with the income of the transferor.***

7. Mr. Siddharth was a partner in a firm, representing his HUF, holding 25% of the share in the firm. His wife Vineeta, a house lady, was admitted in her individual capacity in the firm for 25% share. She was paid remuneration which has been proposed by the Assessing Officer to be clubbed in the hands of Siddharth-HUF by invoking section 64 of the Act.

Answer

As per section 64(1)(ii), in computing the total income of any "individual", the remuneration paid to spouse by a firm in which the individual has substantial interest shall be liable for clubbing. In the present case, Mr. Siddharth is not a partner in his individual capacity, but a partner in representative capacity.

Where a person is a partner as the Karta of a Hindu undivided family, the capacity in which he is a partner in the partnership firm is relevant as between him and the other members of the Hindu undivided family. The income the Karta receives as a partner is not his individual income; it is the income of the Hindu undivided family and he receives it on behalf of the Hindu undivided family.

It is for this reason that the income of the wife arising from her membership of the partnership firm, is held not includible in the income of the Hindu undivided family since the total income of the Hindu undivided family is not the total income of the individual (husband). ***For section 64(1) to get attracted, it is necessary that the spouse should be a partner in a partnership firm in his individual capacity. It is not attracted where he is a partner as the Karta of the Hindu undivided family to which his wife belongs. The action of the Assessing Officer in this case is, therefore, not correct.***

8. Important: Dinesh, an individual engaged in the business of finance, advances ₹ 5 lacs to his HUF on interest at 12% p.a., which is the prevailing market rate. The HUF invests the amount in its business and earns profit of ₹ 2 lacs from this money. Can the Assessing Officer add a sum of ₹ 1,40,000 (i.e. ₹ 2,00,000 - ₹ 60,000) as income of Dinesh under section 64(2) of the I. Tax Act, 1961?

Answer

Section 64(2) shall be applicable only where an individual member of HUF converts his property into the property of HUF or throws it into the common stock of the HUF without adequate consideration.

In this case, Dinesh does not transfer money to his HUF but only lends an amount of ₹ 5 Lacs to his HUF at an interest of 12%, which is the prevailing market rate. This is a transaction of loan, which pre-supposes, repayment. Dinesh continues to be the owner of the amount lent. Thus, there is no transfer of property from Dinesh to the HUF.

Therefore, the Assessing Officer cannot add the profit arising to HUF in the total income of Dinesh by invoking section 64(2).

QUESTIONs for Practice - SET C

1. Mr. B holds shares carrying 30% voting power in Y Ltd. Mrs. B is working as accountant in Y Ltd. getting income from 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. 2024-25.

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 from 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**

2. A proprietary business was started by Smt. Rani in the year 2021. As on 01.04.2022 her capital in business was ₹ 3,00,000. Her husband gifted ₹ 2,00,000 on 10.04.2022, 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 2022-23, ₹ 1,50,000 and financial year 2023-24 ₹ 3,90,000. Compute the income, to be clubbed in the hands of Rani's husband for the Assessment Year 2024-25 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. 2024-25 is computed as under:

Particulars	**Smt. Rani's Capital Contribution**	**Capital Contribution Out of gift from husband**	**Total**
Capital as at 01.04.2022	3,00,000	--	3,00,000
Investment on 10.04.2022 out of gift received from her husband		2,00,000	2,00,000
	3,00,000	2,00,000	5,00,000
Profit for F.Y. 2022-23 to be apportioned on the basis of capital employed on the first day of the previous year i.e., on 01.04.2022	1,50,000		1,50,000
Capital employed as at 01.04.2023	**4,50,000**	**2,00,000**	**6,50,000**
Profit for F.Y. 2023-24 to be apportioned on the basis of capital employed as at 01.04.2023 (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. 2024-25 is ₹ 1,20,000.

3. Important: Mrs. E, wife of Mr. F, is a partner in a firm. Her capital contribution to the firm as on 01-04-2023 was ₹ 5 lacs, out of which ₹ 3 lacs was contributed out of her own sources and ₹ 2 lacs was contributed out of gift from her husband.

As further capital was needed by the firm, she further invested ₹ 2 lacs on 01.05.2023 out of the funds gifted by her husband. The firm paid interest on capital of ₹ 80,000 and share of profit of ₹ 60,000 for the financial year 2023-24.

Advise Mr. F as to the applicability of the provisions of section 64(1)(iv) and the manner thereof in respect of the above referred transactions.

Answer:

As per section 64(1)(iv), in computing the total income of any individual, there shall be included all such income as arises, directly or indirectly, to the spouse of such individual from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart.

In this instant case, Mr. F has gifted money to his wife, Mrs. E. Mrs. E, in turn, invested such gifted money in the capital of a partnership firm, of which she is a partner. Mrs. E has also contributed a sum of ₹ 3 lacs out of her own resources to the capital of the firm.

For the purpose of clubbing under section 64(1)(iv),where the assets transferred, directly or indirectly, by an individual to his spouse are invested by the transferee in the nature of contribution of capital as a partner in a firm, proportionate interest on capital will be clubbed with the income of the transferor.

Such proportion has to be computed by taking into account the value of the aforesaid investment as on the first day of the previous year to the total investment by way of capital contribution as a partner in the firm as on that day.

In view of the above provision, interest received by Mrs. E from the firm shall be included in total income of Mr. F to the extent of ₹ 32,000 i.e., ₹ 80,000 x ₹ 2,00,000/ ₹ 5,00,000.

Share of profit amounting to ₹ 60,000 is exempt from income-tax under the provisions of section 10(2A). The provisions of section 64 will not apply, if the income from the transferred asset itself is exempt from tax.

Note: It is assumed that rate of interest on capital contributed by Mrs. E does not exceed 12% p.a.

4. Important: 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:

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.

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.

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, Income from House property arising to Mrs. C can be clubbed & taxable in the hands of Mr. A.

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 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.

5. Mr. Korani transferred 2,000 debentures of ₹ 100 each of Wild Fox Ltd. to his wife Mrs. Rekha Korani on 03.10.2022 without consideration. The company paid interest of ₹ 30,000 in September, 2023 which was deposited by Mrs. Korani with Kartar Finance Co. in October, 2023. Kartar Finance Co. paid interest of ₹ 3,000 upto March, 2024. How would both the interest income be charged to tax in A.Y. 2024-25?

Answer:

As per section 64(1)(iv), income arising from assets transferred without adequate consideration by an individual to his spouse is liable to be clubbed in the hands of the individual. It may be noted that income on the asset transferred has to be clubbed but if there is accretion to the asset, any further income derived on such accretion should not be clubbed.

Therefore, applying the provisions of section 64(1)(iv), ₹ 30,000, being the interest on debentures received by Mrs. Rekha Korani in September, 2023 will be clubbed with the income of Mr. Korani, since he had transferred the debentures of the company without consideration to her in October, 2022.

However, the interest of ₹ 3,000 upto March 2024 earned by Mrs. Rekha Korani on the interest on the debentures deposited by her with Kartar Finance Company shall be taxable in her individual capacity and will not be clubbed with the income of Mr. Korani.

6. Mr. Ravi has gifted his only house property to his wife, Mrs. Ravi, and his married daughter, Mrs. Divya (age 23 years). The Assessing Officer has served a notice of demand on Mr. Ravi for payment of tax for the income derived from the said house property. Examine the validity of the Assessing Officer's action.

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, **or to a minor child not being a married daughter** shall be deemed to be the owner of the house property so transferred.

Mr. Ravi, in this case, would be the deemed owner only in respect of the share of house property transferred to his wife Mrs. Ravi without consideration **and not for the share of the house property transferred to his married daughter Mrs. Divya, even if she is a minor.**

Since Mr. Ravi is the deemed owner of the share of house property transferred to his wife without consideration, the income derived from the house property, to the extent attributable to the share of property transferred to his wife without consideration, **would be taxable in his hands under the head "Income from house property".**

As per Section 65, the notice of demand can, however, be served on Mrs. Ravi for payment of that portion of tax levied on Mr. Ravi attributable to the income derived [by virtue of section 27(i)], from the share of house property transferred to Mrs. Ravi, and standing in her name.

However, the income derived from house property, attributable to the share of property transferred to his **married daughter without consideration, would be taxable in the hands of his daughter**. Such income would not be taxable in the hands of Mr. Ravi. Mr. Ravi will not be responsible for the payment of tax attributable to aforesaid share of income of daughter from house property.

Thus, the action of the Assessing Officer in serving notice of demand on Mr. Ravi for payment of tax for the entire income derived from the said house property is not valid.

7. Mrs. Komal transferred her immovable property to TPS Co. Ltd. subject to a condition that out of the rental income, a sum of ₹ 42,000 per annum shall be utilized for the benefit of her son's wife.

Mrs. Komal claims that the amount of ₹ 42,000 (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. Komal 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 ₹ 42,000 meant for the benefit of daughter-in-law is chargeable to tax in the hands of transferor i.e., Mrs. Komal in this case.

Hence, the contention of Mrs. Komal is not valid in law.

8. Mr. Arvind has three minor children – two twin daughters and one son. Income of the twin daughters is ₹ 2,500 p.a. each and that of the son is ₹ 1,200 p.a. Compute the income, in respect of minor children, to be clubbed in the hands of Mr. Arvind.

Solution:

Taxable income, in respect of minor children, in the hands of Mr. Arvind is

Particulars	₹	₹
Twin minor daughters [₹ 2,500 × 2]	5,000	
Less: Exempt under section 10(32) [₹ 1,500 × 2]	3,000	2,000
Minor son	1,200	
Less: Exemption under section 10(32) would be lower of ₹ 1200, being the income of minor son or ceiling limit of ₹ 1500	1,200	Nil
Income to be clubbed in the hands of Mr. Arvind		**2,000**

9. Mayur gifted amount of ₹ 5,00,000 to the wife of his brother which was used by her for the purchase of a house and simultaneously, on the same day, Mayur's brother gifted shares owned by him in a foreign company worth ₹ 5,00,000 to the minor son of Mayur. What will be the impact of such transfers in the hands of both the transferors and the transferees?

Answer:

In the given case, Mayur is making a gift of ₹ 5,00,000 to the wife of his brother for the purchase of a house by her and simultaneously, his brother is making a gift to the minor son of Mayur, shares owned by him in a foreign company worth ₹ 5,00,000. 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.

The **Supreme Court has, in CIT vs. Keshavji Morarji**, held that 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.

Accordingly, the income arising to the wife of Mayur's brother from the house property would be included in the total income of his brother and the dividend from shares transferred to Mayur's minor son would be taxable in the hands of Mayur. This is because both Mayur and his brother are the indirect transferors of the income yielding assets to their minor child and spouse, respectively, with an intention to reduce their burden of taxation.

However, since husband's brother and father's brother fall within the definition of "relative" under Section 56(2)(x), hence , the sum of money and property, respectively, received from them would be exempt in the hands of the concerned transferee.

10. Important: Mr. Madan gifted a sum of ₹ 6.5 lakhs to his brother's wife on 14-06-2023. On 12-07-2023, his brother gifted a sum of ₹ 5.2 lakhs to Mr. Madan's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Madan and wife of Mr. Madan's brother on 01-08-2023 at 9% interest. Discuss the consequences of the above under the provisions of the Income-tax Act, 1961 in the hands of Mr. Madan and his brother.

Solution:

In the given case, Mr. Madan gifted a sum of ₹ 6.5 lakhs to his brother's wife on 14.06.2023 and simultaneously, his brother gifted a sum of ₹ 5.2 lakhs to Mr. Madan's wife on 12.07.2023. The gifted amounts were invested as fixed deposits in banks by Mrs. Madan 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.**

Accordingly, the interest income arising to Mrs. Madan in the form of interest on fixed deposits would be included in the total income of Mr. Madan and interest income arising in the hands of his brother's wife would be taxable in the hands of Mr. Madan's brother as per section 64(1), to the extent of amount of cross transfers i.e., ₹ 5.2 lakhs.

This is because both Mr. Madan 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 ₹ 5.2 lakhs alone would be included in the hands of Mr. Madan's brother and not the interest income on the entire fixed deposit of ₹ 6.5 lakhs, since the cross transfer is only to the extent of ₹ 5.2 lakhs.

11. Explain in brief about the treatment to be given in the following case under the Income-tax Act, 1961, for A.Y. 2024-25:

Interest of ₹ 20,000 on bank FDRs received by minor son of Rajesh. These FDRs were made by the minor son out of his earnings from stage acting.

Answer:

According to section 64(1A), all income accruing or arising to a minor is to be included in the income of his parent, whose total income [excluding the income includible under section 64(1A)] is higher. The income derived by the minor from manual work or from any activity involving his skill, talent or specialised knowledge or experience will not be included in the income of his parent.

Since, interest of ₹ 20,000 on bank FDRs received by minor son of Rajesh does not arise to minor on account of his manual work or on account of an activity involving his skill, talent or specialized knowledge or experience, therefore, such interest should be included in income of Mr. Rajesh or Mrs. Rajesh, whosoever total income (before including minor's income) is higher.

However, exemption of ₹ 1,500 under section 10(32) shall be provided from interest of ₹ 20,000 to be clubbed.

In case assessee pay tax as per the provisions of Section 115BAC, exemption of ₹ 1,500 would not be available.

12. H, a mentally retarded minor, has a total income of ₹ 1,20,000 for the assessment year 2024-25. The total income of his father L and of his mother R for the relevant assessment year is ₹ 3,40,000 and ₹ 2,80,000, respectively. Discuss the treatment to be accorded to the total income of H for the relevant assessment year.

Answer:

Section 64(1A) provides that all income accruing or arising to a minor child has to be included in the income of that parent, whose total income is greater. However, the income of a minor child suffering from any disability of the nature specified in section 80U shall not be included in the income of the parents but shall be assessed in the hands of the child.

Thus, the total income of H has to be assessed in his hands and cannot be included in the total income of either his father or his mother.

13. Important: Mr. Ghosh held 15% equity shares in ABC Ltd., a private limited company. He gifted all the shares held by him in ABC Ltd., to his wife Mrs. Ghosh on 25/05/2023. The transfer was made without adequate consideration. On 20/06/2023, Mrs. Ghosh obtained a loan of ₹ 80,000 from ABC Ltd., when the company's accumulated profit was ₹ 50,000. What are the tax implications of the above transactions?

Answer:

Under section 2(22)(e), any payment by a closely-held company by way of loan or advance to its shareholder, being a person who is the beneficial owner of shares, holding not less than 10% of the voting power, is deemed as dividend to the extent to which the company possesses accumulated profits.

Accordingly, in this case, ₹ 50,000 (i.e., loan to the extent of accumulated profits of ABC Ltd.) would be deemed as dividend in the hands of Mrs. Ghosh, who holds 15% equity shares in ABC Ltd., under section 2(22)(e).

Thereafter, the clubbing provisions under section 64(1)(iv) would be attracted, as per which, income as arises, directly or indirectly, from asset transferred to spouse, otherwise than for adequate consideration, would be included in the hands of the transferor.

If the assets so transferred are shares in a company, the loan taken from the company is deemed as dividend income of the shareholder under section 2(22)(e) to the extent to which the company possesses accumulated profits. Thus, on account of this deeming provision, such loan is treated as income arising from the shares.

Accordingly, as per section 64(1)(iv), such income arising in the hands of the shareholder, Mrs. Ghosh, by virtue of section 2(22)(e) (i.e., deemed dividend of ₹ 50,000) would be included in the total income of Mr. Ghosh, who had transferred the said shares to Mrs. Ghosh without consideration.

Note: Dividend Income u/s 2(22)(e) is taxable in the hands of shareholders.

SET OFF, OR CARRY FORWARD & SET OFF OF LOSSES

Assessment Year 2024-25 [Finance Act 2023]

[No Amendments at CA-Intermediate Level]

Section	Particulars
70	**Inter Source** - Set off of loss from one source against income from another source under the same head of income
71	**Inter Head** - Set off of loss from one head against income from another Head
71B	Carry forward and set off of loss from house property
72	Carry forward and set off of Business Losses [Non-Speculative]
72A	Carry forward and set off of **accumulated loss and unabsorbed depreciation allowances in amalgamation or demerger, etc.** - Amended **(will be covered in CA FINAL)**
72AA	Carry forward and set off of **accumulated loss and unabsorbed depreciation allowances in scheme of amalgamation in certain cases (Banking company, Government company doing general insurance business etc)** - Amended **(will be covered in CA FINAL)**
72AB	Carry forward and set off of accumulated loss and unabsorbed depreciation allowances in business reorganization of co-operative banks **(will be covered in CA FINAL)**
73	Losses **in Speculation Business**
73A	Carry forward and set off of Losses by **Specified Business referred to in Section 35AD**
74	Losses under the head “Capital gains”
74A	Losses from certain specified sources falling under the head "income from other sources" **[Owning & Maintaining Race Horses]**
78	Carry forward and set off of losses **in case of change in constitution of firm or on succession** **(will be covered in CA FINAL)**
79	Carry forward and set off of losses **in the case of certain companies [Closely Held Companies]** - Amended **(will be covered in CA FINAL)**
79A	**No set off of losses consequent to Search, Requisition and Survey** **(will be covered in CA FINAL)**
80	Submission of **Return for Losses** [Read with Section 139(3)]

INTER SOURCE ADJUSTMENT / SET OFF [INTRA HEAD or WITHIN HEAD] [SECTION 70]

The LOSS in respect of any source of income under any head of income shall be set off against INCOME from any other source under the same head.

However, **Long term Capital Loss** can only be set off against Long term Capital Gains. **Short-term capital loss** is allowed to be set off against both short-term capital gain and long-term capital gain

Inter-source set-off, however, is not permissible in the following cases [Due to restrictions provided in other part of the Act]

I. **Loss from a source, the income from which is exempt,** cannot be set off against any income.
II. **A loss cannot be set off against winnings from lotteries**, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature.
III. **Loss from lottery, card games etc.** cannot be set off against any income.
IV. **Loss from activity of owning and maintaining race-horses** can be set off only against income from owning and maintaining race- horses.
V. **Speculation business loss** can be set off only against speculation business income. However, losses from other business can be adjusted against profits from speculation business.
VI. **Loss from a Specified Business [Referred to in Section 35AD]** shall be set off only against profits and gains, if any, of any other specified business.

INTER HEAD ADJUSTMENT [SECTION 71]

Loss under one head of income can be adjusted or set of against income under another head. However,

i) **Loss under the head "PGBP"** cannot be set off against income under the head "Salaries".
ii) **Loss under the head 'Capital Gains'** cannot be set-off against income under any other head.
iii) ***Loss under the head House Property will be setoff with other head's income to the extent of Only ₹ 200,000. Excess shall be allowed to carry forward under Section 71B.***

Following points should be considered due to restrictions in other relevant Sections:

i) **Speculation loss and Loss from the activity of owning and maintaining** race horses cannot be set off against income under any other head.
ii) **Loss from a Specified Business [Referred to in Section 35AD]** cannot be set off against any other income.
iii) **A loss cannot be set off against winnings from lotteries**, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature.

Other Points:

1. Before adjusting the loss under section 71, one has to set off the loss under section 70.
2. No option is available to set off a loss or not to set off a loss
3. No order of priority is given to set off.
4. Carry forward of Loss under the head "Income from Other Sources" is not permissible in the Act:

MANDATORY FILLING OF RETURN [ITR] TO CARRY FORWARD LOSSES [Section 80]

As per section 80, the assessee ***must have filed a RETURN OF LOSS under section 139(3)*** in order to carry forward and set off a loss. **Such a return should be filed within the time allowed under section 139(1). [31st July / 31st October / 30th November]**

Following losses cannot be carried forward if Return of Loss is not filled within due date:

1. Loss from Non-Speculative Business **under Section 72**
2. Loss from Speculative Business **under Section 73**
3. Capital Loss **under Section 74**
4. Loss from the activity of owning and maintaining race horses **under Section 74A.**
5. Loss from the Specified Business (as referred in Section 35AD) ***under Section 73A***.

However, **this condition does not apply** to carry forward of following losses: [means these losses can be c/f even if no ROI has been filled on time]:

1. Loss from House Property carried forward under section 71B
2. Unabsorbed Depreciation
3. Capital Expenditure on Scientific Research
4. Capital Expenditure on Family Planning

Note:

1. **Non-Filling of Return of Loss will not affect the Inter Source Adjustment u/s 70 or Inter-head Adjustment u/s 71 or adjustment of brought forward losses of previous year with current year Income.**

2. Also, Loss of the earlier year can be carried forward to next year(s) ***if the return of loss of that year(s) was submitted within due date***.

SET -OFF AND CARRY FORWARD OF LOSS FROM HOUSE PROPERTY [SECTION 71B]

A Loss under the head house property, to the extent not set off u/s 70 & 71, shall be carried forward to the next 8 AYs to be set-off ***against income under the head 'Income from house property'***.

[**Note:** In any assessment year, if there is a loss under the head 'Income from house property' after Inter source adjustment under section 70, such loss will first be set-off against income from any other head during the same year as per Section 71]

NOTE:

1. Loss under this head can be carried forward even if ROI is filed after the due date of filing ROI u/s 139(1).
2. There is no condition that assessee should own the house for which the loss is to be carried forwarded.
3. Once a particular loss is carried forward, ***it can be set off only against the income from the same head*** in the forthcoming assessment years.

CARRY FORWARD AND SET-OFF OF BUSINESS LOSSES [SECTIONS 72]

1. **Business loss** to the extent not set-off under section 70 & 71 shall be carried forward to the next assessment year and set-off against the income **under head PGBP** of the next assessment year(s) up to maximum for **EIGHT ASSESSMENT YEARS** [8 A.Y.'s] immediately succeeding the assessment year in which loss was first computed.

2. **The term Business Loss will not include:**

- **a)** Unabsorbed Depreciation
- **b)** Capital Expenditure on Scientific Research
- **c)** Capital Expenditure on Family Planning
- **d)** Speculative Business Loss
- **e)** Loss from Specified Business u/s 35AD

3. Business may or may not be continued for which the carry forward and set off is desired.

4. ***Loss from normal business can be set off from the speculation incomes or income from specified business u/s 35AD in subsequent AYs but opposite is not permissible.***

5. Loss of business shall be allowed to be carry forward only if ITR has been filed as per the time period mentioned in section 139(1).

6. Loss of business can be carry forward and ***set off against income from professions*** being carried on by the assessee.

CARRY FORWARD AND SET-OFF OF SPECULATION BUSINESS LOSSES [Section 73]

SPECULATIVE TRANSACTIONS to mean a transaction in which a contract for purchase or sale of any commodity, including stocks & shares is periodically or ultimately settled ***Otherwise than by actual delivery or transfer of the commodity***.

SPECULATION BUSINESS - Where the speculative transactions carried on by assessee are of such a nature as to constitute a business, the business shall be deemed to be distinct and separate from any other business.

Note: If the assessee is maintaining same books of account for speculative and non- speculative transactions, then the speculative transactions shall be segregated and treated as a separate business.

Deemed Speculative Business:

Where any part of the **business of a Company** consists of ***sale and purchase of shares***, such company for the purposes of section 73, be deemed to be carrying on a speculation business to the extent to which the business consists of sale and purchase of shares.

This shall not apply to the following companies:

a) **Investment Company** i.e., the company whose total income mainly consists of income from house property, capital gains and income from other sources.

b) Company whose **principal business is *Business of Trading in Shares* OR Banking or Granting loans and advances**.

THE FOLLOWING SHALL NOT BE DEEMED TO SPECULATIVE TRANSACTIONS:

a. a contract in respect of ***raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business*** to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him;

b. an eligible transaction in respect of ***trading in derivatives*** carried out in a recognised stock exchange;

c. an eligible transaction in respect of ***trading in commodity derivatives*** carried out in a **recognised Stock exchange**, which is chargeable to commodities transaction tax.

Provided *in respect of trading in agricultural commodity derivatives, the requirement of chargeability of commodity transaction tax shall not apply.*

IMPORTANT POINTS

1. The loss of a speculation business shall be set off only against the profits and gains of another speculation business.

2. The loss to the extent not set –off shall be carried forward to the next assessment year and set-off against the profits from speculation business of the next assessment year.

3. The loss from speculation business can be carried forward for ***FOUR ASSESSMENT YEARS.***

4. Loss in a speculative transaction entered into on behalf of principle, is non-speculative loss of agent.

SET OFF AND CARRY FORWARD OF UNABSORBED DEPRECIATION

Set off and carry forward of unabsorbed depreciation shall be governed by Sec. 32(2) and not be Sec. 72

Meaning: Depreciation, which could not be fully absorbed in any previous year, owing to –

- There being no profits or gains chargeable for that previous year; or
- The profits or gains chargeable being less than the amount of depreciation.

Tax treatment:

Allowances or the part of the allowances of depreciation which remains unabsorbed shall be (Subject to Sec. 72 and Sec. 73) added to the amount of the depreciation for the following previous year and deemed to be the depreciation allowances for that previous year, and so on for the succeeding previous years.

Tax point:

Unabsorbed depreciation shall be allowed to be carried forward for any number of years and such carried forward unabsorbed depreciation **may be set off against any income, other than –**

- ***Income under the head "Salaries"***
- ***Winning from lotteries, cross word puzzles, etc.***

Note:

1. **Continuation of business is not important:** Unabsorbed depreciation can be carried forward even if the business, in respect of which the loss was originally computed, is not carried on during the previous year.

2. **Filling of return within due date is not mandatory:** Unabsorbed depreciation can be carried forward even if the return of income has not been filed within time.

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 / Current year capital expenditure on scientific research and current year expenditure on family planning, to the extent allowed.

b) Inter Source & Inter Head Adjustments [Section 70 & Section 71]

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 Capital expenditure on family planning [Section 36(1)(ix)]

CARRY FORWARD & SET OFF OF LOSSES BY SPECIFIED BUSINESS [SECTION 73A]

i) Any loss computed in respect of the **eligible specified business** referred to in Section 35AD shall be set off only against profits and gains, if any, of any other specified business ***whether eligible or not***.

ii) **No Inter Head Set off:** The unabsorbed loss, if any, will be carried forward for set off against profits and gains of any specified business in the following assessment year and so on.

iii) **No Time Limit:** There is **no time limit** specified for carry forward and set-off and therefore, such loss can be carried forward indefinitely for set-off against income from specified business.

Specified Business u/s 35AD are:

- ***(i)*** *Setting up and operating a cold chain facility*
- ***(ii)*** *Setting up and operating a warehousing facility for storage of agriculture produce;*
- ***(iii)*** *Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network*
- ***(iv)*** *Building and operating, anywhere in India, a hotel of two-star or above category;*
- ***(v)*** *Building and operating, anywhere in India, a hospital with atleast 100 beds for patients;*
- ***(vi)*** *Developing and building a housing project under a scheme for slum redevelopment or rehabilitation;*
- ***(vii)*** *Developing and building a housing project under a scheme for affordable housing*
- ***(viii)*** *Production of fertilizer in India*
- ***(ix)*** *Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962*
- ***(x)*** *Bee-keeping and production of honey and beeswax;*
- ***(xi)*** *Setting up and operating a warehousing facility for storage of sugar*
- ***(xii)*** *Laying & Operating a slurry pipeline for the transportation of iron ore*
- ***(xiii)*** *Setting up and operating a semiconductor wafer fabrication manufacturing unit, if notified*
- ***(xiv)*** *Developing or operating and maintaining or developing, operating and maintaining, any infrastructure facility*

Note *- The loss of an assessee claiming deduction under section 35AD in respect of a specified business can be set-off against the profit of another specified business under section 73A,* ***irrespective of whether the latter is eligible for deduction under section 35AD.***

An assessee can, therefore, set-off the losses of a hospital or hotel which begins to operate after 1st April, 2010 and which is eligible for deduction under section 35AD, ***against the profits of the existing business of operating a hospital (with atleast 100 beds for patients) or a hotel (of two-star or above category), even if the latter is not eligible for deduction under section 35AD.***

LOSSES UNDER THE HEAD 'CAPITAL GAINS' [SECTION 74]

The loss under the head Capital Gain shall be carried forward to the following assessment year to be set off in the following manner:

1. Net loss under the head capital gains **cannot be set off against income under any other head during the previous year**.
2. Where the loss so carried forward is a STCL, it shall be set off against **any capital gains**, short term or long term, **arising in that year.**
3. Where the loss so carried forward is a LTCL, it shall be set off only against long term capital gain **arising in that year**.
4. Any unabsorbed loss shall be carried forward to the following assessment year up to a ***maximum of 8 assessment years*** immediately succeeding the assessment year for which the loss was first computed.
5. **Here also, it is necessary that a return of loss is furnished before the due date.**

Question: Compute the Gross total income of Mr. F from the information given below:

Particulars	**₹**
Net income from house property	***1,25,000***
Income from business (before providing for depreciation)	***1,35,000***
Short term capital gains on sale of shares	***56,000***
Long term capital loss from sale of property (brought forward from AY 2022-23)	***(90,000)***
Income from tea business	***1,20,000***
Dividends from Indian companies carrying on agricultural operations	***80,000***
Current year depreciation	***26,000***
Brought forward business loss (loss incurred six years ago)	***(45,000)***

Solution:

The gross total income of Mr. F is calculated as under:

Particulars	**₹**	**₹**
Income from house property		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
Income from the capital gains		
Short term capital gains	56,000	
Long term capital loss from property (cannot be set off)	Nil	56,000
Income from other sources – Dividend Income		80,000
Gross Total Income		**3,73,000**

Note: 60% of the income from tea business is treated as agricultural income and therefore, exempt from tax.

LOSSES FROM THE ACTIVITY OF OWNING AND MAINTAINING RACE HORSES [SECTION 74A]

1. The losses incurred by an assessee from the activity of owning and maintaining race horses **can only be set-off against the income from** the activity of owning and maintaining race horses.
2. Such loss can be carried forward for a ***maximum period of 4 assessment years*** immediately succeeding the assessment year for which the loss was first computed for being set-off against the income from the activity of owning and maintaining race horses.
3. The carry forward and set-off is permissible only if the activity of owning & maintaining race-horses is carried on by Assessee in the previous year relevant to the assessment year in which such loss is carried forward and set-off.
4. **Filing of returns before the due date prescribed u/s 139(1) is necessary to carry forward the loss.**

CONDITION FOR CARRIED FORWARD & SET-OFF

Assessee must be the same i.e., the Assessee who incurred the loss and the Assessee who claims the carry forward and set-off, must be the same.

> ***Example***: A HUF has brought forward the losses of ₹ 2,50,000 and depreciation of ₹ 2,00,000. The business of the HUF on partition is taken over by an erstwhile member. The losses and depreciation of HUF cannot be carried forward by such member since the Assessee has changed.

EXCEPTION:

Where any person carrying on any business or profession has been succeeded by another person by way of inheritance, then losses incurred by the predecessor shall be allowed to be carried forward and set-off by such another person (successor) ---S**ection 78(2).**

***More Cases of Exception*:**

	Unabsorbed Business losses and Depn Sustained by	Unabsorbed Business losses & Depn can be C/F Set-off by	Subject to conditions given
1)	Amalgamating company	Amalgamated company	Section 72A
2)	Partnership firm	Successor Company	Section 47(xiii) read with 72A
3)	Proprietorship concern	Successor Company	Section 47(xiv) read with 72A
4)	Demerged company	Resulting Company	Section 72A
5)	**Private & Unlisted Public Co.**	**LLP**	**Section 47(xiiib) read with 72A**

FOLLOWING CASES WHERE LOSSES CANNOT BE CARRIED FORWARD

(i) Business of an HUF where the business of HUF is taken over by the Karta of HUF;

(ii) Proprietorship Business, where such business is taken over by a firm in which proprietor is one of the partner;

(iii) A firm being succeeded by another firm;

(iv) A firm where the business of the firm is taken over by one of the partner of the firm.

SUMMARY

Nature of income		Set – Off			Carry Forward	Set – Off
		Same Source under same head	Inter – Source under same head	Inter – Head	For Assessment Year	From
Salary		**N.A**				
House property		✓	✓	✓ **Max. 2 Lakhs**	8 Years	Same Head
PGBP	Non – Speculation	✓	✓	✓ Except from Salary	8 Years	Same Head
	Speculation	✓	×	×	**4 Years**	**Same Source**
	Specified Business u/s 35AD	✓	×	×	**Indefinite**	**Same Source**
	Unabsorbed Depreciation Cap Exp on Sci. Research Cap Exp on F. Plan by Co	✓	✓	✓ Except from Salary	**Indefinite**	**Any Income** Except from Salary
CGs	Short Term	✓	✓	×	8 Years	LTCG/STCG
	Long Term	✓	×	×	8 Years	**Only LTCG**
IOS	Owing & Maintenance race horses	✓	×	×	**4 Years**	**Same Source**
	Winning from Lottery etc.	×	×	×	**Carry forward of loss under the head IOS is not permissible.**	
	Interest etc.	✓	✓	✓		

NOTE:

i) **Speculation business loss** can be set off only against speculation business income. However, losses from other business can be adjusted against profits from speculation business.

ii) **Loss from the activity of trading in derivatives, however, is not to be treated as speculative loss.**

iii) **Loss under the head "PGBP"** cannot be set off against income under the head "Salaries".

iv) **Long term Capital Loss** can be set off against Long term Capital Gains. Thus, short-term capital loss is allowed to be set off against both short-term capital gain and long-term capital gain.

v) **Loss under the head 'Capital Gains'** cannot be set-off against income under any other head.

vi) **Loss from activity of owning and maintaining race-horses** can be set off only against income from owning and maintaining race- horses.

vii) **Loss from a Specified Business [Referred to in Section 35AD]** can be set off against profits and gains, if any, of any other specified business **whether eligible or not**. **[14 Business]**

viii) **Loss from a source, the income from which is exempt,** cannot be set off against any income. **[Say 10(1)]**

ix) **Loss from lottery, card games etc.** cannot be set off against any income.

x) **A loss cannot be set off against winnings from lotteries**, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature.

xi) **In case the assessee is lower income group, It's prefer to set off losses with LTCG first as the same is taxed @ 20% and also deductions under chapter VIA against such loss is not available.**

Important Notes:

A. Where the losses incurred are not set – off against the income of the immediately succeeding year, such losses cannot be set – off at a later date. However, the benefit to be denied is limited to the loss which could be set – off and not the entire loss which is being carried forward.

B. Order of Set-off:

Section 70 [Inter Source]; Section 71[Inter Head]; Adjustment of B/f Losses and then finally Carry forward of losses

C. *Section 80*:

Following losses cannot be carried forward if Return of Loss is not filled within Due Date u/s 139(1):

1. Loss from Non-Speculative Business under Section 72
2. Loss from Speculative Business under Section 73
3. **Loss from Specified Business u/s 73A**
4. Capital Loss under Section 74
5. Loss from the activity of owning and maintaining race horses under Section 74A.

[Note: Non-Filling of Return of Loss will not affect the Inter Source Adjustment u/s 70 or Inter-head Adjustment u/s 71 or adjustment of brought forward losses of previous year with current year Income]

PRACTICAL QUESTION - SET A

ASSUMPTION FOR ALL QUESTIONS - Assessee (If Individual) has shifted out from Sec 115BAC

1) X, an individual, submits the following information relevant for the AY 2024-25

	Profit - ₹	Loss - ₹
Salary income	1,42,000	
Income from house property:		
House A	1,15,000	
House B		1,17,000
House C		1,21,000
Profits and gains of business or profession :		
Business A	1,08,000	
Business B		1,18,000
Business C (speculative)	1,11,000	
Business D (speculative)		1,23,000
Capital gains :		
Short – term capital gains	1,06,000	
Short – term capital loss		1,28,000
Long – term capital gains on sale of building	12,500	
Income from other sources :		
Income from card games	1,08,000	
Loss from card games		1,07,010
Loss on maintenance of race horses		1,06,000
Interest on securities	1,04,000	—

Determine the net income of X for the AY 2024-25

2) Imp: Rajesh submits the following information for previous year 2023-24 relevant to the AY 2024-25:

		₹
1.	Profit from Business X situated in Bangalore	2,80,000
2.	Profit from Business Y situated in Hyderabad	1,25,000
3.	Loss from Business Z carried in Germany (the business is controlled from India but profits are not received in India)	85,000
4.	Unabsorbed depreciation of business Z	45,000
5.	Income from house property situated in India	30,000
6.	Income from house property situated in London (rent received in London)	50,000

Find out the Gross Total Income of Rajesh for the AY 2024-25 if he is (a) ROR in India (b) Not ordinarily resident in India and (c) Non – resident in India. (after Residential Status)

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3) Mr. B has furnished you the following data –

	₹
Income from house property	(–) 130000
Salaries (computed)	80000
Income from other sources	(–) 90000
Income from lotteries	350000

Mr. B is seeking your advice relating to set off and carry – forward.

4) Mr. S has furnished following details to compute his gross total income: (After Clubbing)

Income from house property	(-) 20000
Profits and gains of business or profession	15000
Taxable income of minor son from investment	175000

5) Imp: Compute GTI of Mr. X in following cases –

Source of income	Case – I	Case – II
Income from house property (A)	40000	50000
Income from house property (B)	(20000)	(35000)
Speculation income	80000	(60000)
Business income	(30000)	50000
Income from activity of owning and maintaining race – horses business (A)	(60000)	20000
Income from activity of owning and maintaining race – horses business (B)	30000	(16000)
Income from agricultural business	(35000)	20000
Short term capital gain (transaction A)	40000	(30000)
Short term capital gain (transaction B)	(20000)	15000
Long term capital gain (transaction A)	(30000)	47000
Long term capital gain (transaction B)	10000	(4000)
Income from lottery	40000	—
Income from horse races	10000	25000
Income on card games	(15000)	(30000)
Interest on securities	20000	10000

6) Mr. X submits the following particulars pertaining to the A.Y. 2024-25:

Particulars	₹
Income from salary (computed)	5,00,000
Loss from self – occupied property	(–) 70,000
Business loss	(–) 1,00,000
Bank interest (FD) received (gross)	90,000

Compute the taxable income of Mr. X for the A.Y. 2024-25.

7) Imp: Mrs. Amutha submits the following information for the year ending 31.3.2024:

Particulars	₹
Income from salaries (computed))	60,000
Income from house property	
House 1	16,000
House 2	(–)20,000
House 3 (self – occupied property]	(–)12,000
Profits and gains of business/profession	
Business A	(–)25,000
Business B (Speculative)	35,000
Capital gains	
Short term capital loss	(–)18,000
Long term capital gain	10,000
Income from other sources	
Income from betting	9,000
Loss on maintenance of race horses	(–)12,000
Interest on securities (gross)	18,000
Interest on loan borrowed to invest in securities	20,000

Determine the gross total income for the AY 2024-25.

8) Simran, engaged in various types of activities, gives the following particulars of her income for the year ended 31.3.2024:

		₹
(a)	Profit of business of consumer and household products	50,000
(b)	Loss of business of readymade garments	10,000
(c)	Brought forward loss of catering business which was closed in Asst. Year 2022-23	15,000
(d)	Short – term loss on sale of securities and shares	15,000
(e)	Profit of speculative transactions entered into during the year	12,500
(f)	Loss of speculative transactions of Asst. Year 2019-20 not set off till Asst Year 2023-24	15,000

Compute the total income of Simran for the AY 2024-25.

9) R, a resident individual – submits the following information relevant for the previous year ending on 31.3.2024:

		₹
(a)	Income from salary (computed)	+ 72,000
(b)	Interest on securities	+ 12,000
(c)	Income from House Property	
	House No. 1	+ 22,000
	House No. 2	– 60,000
	House No. 3	– 10,000
(d)	Profit and Gains from Business :	
	Business No. 1	+ 26,000
	Business No. 2	– 22,000
	Business No. 3 (speculative)	– 74,000
	Business No. 4 (speculative)	+ 46,000
(e)	Capital gains :	
	Short – term capital gain (computed)	– 70,000
	Long – term capital gain (computed)	+ 64,000
(f)	Income from card games and betting (gross)	+ 70,000
	Loss from maintenance of horse races	– 56,000
	Income from owning & maintaining horse races	+ 30,000

Determine the total income of R for the AY 2024-25.

10) Imp: X, a resident individual submits the following information for the AY 2024-25:

BUSINESS A	₹
Loss of the previous year 2023-24	(–) 1,20,000
Brought forward loss of the previous year 2022-23	(–) 1,45,000
BUSINESS B	
Profit of previous year 2023-24	1,35,000
BUSINESS C (previous year ends on March 31, business discontinued on April 10, 2023)	
Profits of the period April 1, 2023 to April 10, 2023	Nil
Brought forward loss of previous year 2022-23	(–) 1,16,000
BUSINESS D (PY ends on March 31, business discontinued on Mar 31, 2023)	
Brought forward loss of previous year 2021-22	(–) 1,04,000
OTHER INCOME	
Interest on debentures held as stock-in-trade	1,48,000
Interest on bonds held as investments	1,60,000
Long – term capital loss on sale of shares (STT not paid)	(–) 1,46,400
Income from house property	1,17,000

Dividend [deemed dividend under section 2(22)(e)] on September 3, 2023 held as investment 1,80,000.

Determine the net income of X for the AY 2024-25. Also calculate the amount of loss which can be carried forward for being set off to the next assessment year.

11) Mr. X informs you the following for AY 2024-25:

a) Taxable salary ₹ 5,20,000/ –
b) Loss from House property A ₹ 60,000/ –
c) Income from House property B ₹ 40,000/ –
d) Brought forward business loss [AY 2016-17] - ₹ 1,00,000/ –
e) Current year business income – ₹ 80,000/ –
f) Bank interest – ₹ 20,000/ – **Determine total income and carry forward loss, if any.**

12) From the following particulars of Mr. Naresh for the previous year ending 31.03.2024 compute the income under each head and the taxable income with reasons and also explain the provisions of carry forward of such loss, that could not be absorbed:

(i)	Income from business (Proprietary concern)	
	(a) Net adjusted profit from Textile Trade	20,000
	(b) Net adjusted loss from Automotive Trade	30,000
	(c) Loss in shares trade (Shares were never taken delivery)	40,000
(ii)	Negative income from House Property	(–) 25,000
(iii)	Capital Gain:	
	(a) Short – term Loss	(–) 20,000
	(b) Long – term gain	30,000

13) Imp: The summarized p & l a/c of Y (from his grocery stores) for the PY ended 31/3/2024 is as under:

Particulars	Amount	Particulars	Amount
Expenses	420000	Gross profit	600000
Net profit	280000	Dividends (from Indian listed companies)	100000
	700000		700000

The following further information was provided for the same previous year: Y had other business (proprietary)

Cloth trade (loss)	₹ 42000
Speculation (profit)	₹ 30000
Loss in proprietary business carried on in the name of his minor son	₹ 45000
He had carried forward loss in electrical spares for assessment year 2022-23, which business was closed down (return filed in time)	₹ 39000
Income of Mrs. Y	₹ 55000

Compute the assessable income of Y for the assessment year 2024-25 under the head "PGBP".

14) [Imp] Compute the total income of Mr. Krishna for the assessment year 2024-25 from the following particulars:

Particulars	Amount (₹)
Income from business before adjusting the following items:	1,75,000
(a) Business loss brought forward from assessment year 2021-22	70,000
(b) Current depreciation	40,000
(c) Unabsorbed depreciation of earlier year	1,55,000
Income from house property (Gross Annual Value)	4,32,000
Municipal taxes paid	32,000
Mr. Krishna sold a plot at Noida on 12th September, 2023 for a consideration of ₹ 6,40,000, which had been purchased by him on 20th December, 2021 at a cost of ₹ 4,10,000	
Long-term capital gain on sale of debentures	60,000
Dividend on shares	22,000
Dividend from a company carrying on agri business	10,000

During the previous year 2023-24, Mr. Krishna has repaid ₹ 1,67,000 towards housing loan from a scheduled bank. Out of ₹ 1,67,000, ₹ 97,000 was towards payment of interest and rest towards principal payments.

SOLUTION – SET A

Solution 1:

Net income **(Hint)**	2,21,000
Loss to be carried forward	
Speculative business loss	12,000
Short-term capital loss	9,500
Loss from the activity of owning and maintaining race horses	1,06,000

Solution 2:

Business Income	***Resident (₹)***	***NOR (₹)***	***NR (₹)***
Business X (Profit)	2,80,000	2,80,000	2,80,000
Business Y (Profit)	1,25,000	1,25,000	1,25,000
	4,05,000	4,05,000	4,05,000
Business Z (Loss); (controlled from India but received out of India)	(-) 85,000	(-) 85,000	Nil
	3,20,000	3,20,000	4,05,000
Unabsorbed depreciation of business Z	(-) 45,000	(-) 45,000	Nil
	2,75,000	2,75,000	4,05,000
Income from house property	---		
Property in India	30,000	30,000	30,000
Property in London	50,000	---	---
Gross Total Income	**3,55,000**	**3,05,000**	**4,35,000**

Solution 3:

Statement showing application of sec. 71

Particulars		**Amount**
Salaries	80,000	
Income from house property	(-) 130,000	
Income from other sources		
Winning from lotteries		350,000
Other income	(90,000)	
Gross total income		**350,000**

Conclusion

Casual income shall be fully taxable as no loss can be set off against such income.	350000

Losses to be carried forward

(a) Loss under the head "Income from house property"	(130000)
(b) Loss under the head "Income from other sources", as such loss cannot be carried forward.	Nil

Income under the head 'Salaries' is first adjusted with the loss under the head 'IOS' as the same cannot be carried forward. Though loss under the head 'IOS' is ₹ 90,000 and such loss could be adjusted with income under the head "Salaries' only to the extent of ₹ 80,000 still the remaining loss of ₹ 10,000 cannot be carried forward.

Solution 4:

Computation of gross total income of Mr. S for the A.Y. 2024-25

Particulars	**Details**	**Amount**
Income from house property		(-) 20000
Profits & gains of business or profession		15000
Income from other sources		
Taxable income of minor son from investment u/s 64(1A)	175000	
Less: Exemption u/s 10(32)	(-)1500	173500
Gross Total Income		**168500**

Solution 5: **Computation of Gross Total Income of Mr. X for the AY 2024-25**

Particulars	Case -I (₹)		Case-II (₹)	
Income from House Property				
House property A	40000		50000	
House Property B	(-)20000	20000	(-) 35000	15000
Profits & Gains of Business or Profession				
Speculation income	80000		(-) 60000	Nil
Other business	(-) 30000	50000		50000
Income from agricultural business (Exempted)	Nil			Nil
Capital Gains				
Short term capital Gain				
Transaction A	40000	-.	(-) 30000	
Transaction B	(-) 20000	20000	15000	
Long term capital gain				
Transaction A	(-) 30000		47000	
Transaction B	10000	Nil	(-) 4000	28000
Income from other sources				
Casual income				
Income from lottery	40000		—	
Income from horse races	10000		25000	
Income on card games (losses not to be considered)	Nil	50000	Nil	25000
Income from activity of owning & maintaining race-horses				
Business (A)	(-) 60000		20000	
Business (B)	30000	Nil	(-) 16000	4000
Other income				
Interest on securities		20000		10000
Gross Total Income		**160000**		**132000**
Losses to be carried forward				
Loss from activity of owning & maintaining race horse		(-) 30000		—
Long term capital loss		(-) 20000		-
Speculation loss		-		(60000)

Solution 6:

Computation of taxable income of Mr. X for the A. Y. 2024-25

Particulars	**Amount (₹)**	**Amount (₹)**
Income from salary	5,00,000	
Income from house property	(-)70,000	4,30,000
Business income	(-) 1,00,000	
Income from other sources (bank interest)	90,000	
Business loss to be carried forward	(-) 10,000	-
Gross total income [See Note below]		**4,30,000**

Note: Business loss of ₹ 1,00,000 is set off against bank interest of ₹ 90,000 and remaining business loss of ₹ 10,000 shall be carried forward as it cannot be set off against salary income.

Solution 7:

Computation of gross total income of Mrs. Amutha for A.Y. 2024-25

Particulars	₹	₹
I. Salaries:		
Salary		60,000
II. Income from house property :		
House 1	16,000	
House 2	(20,000)	
House 3	(12,000)	(16,000)
III. Profits and gains of business :		
Business A	(25,000)	
Business B (Speculation)	35,000	10,000
IV. Capital gains :		
Short term capital loss	(18,000)	
Long term capital gains	10,000	
To be carried forward to A.Y 2025-26	(8,000)	Nil

V.	**Income from other sources :**		
	i) Interest on Securities (Gross)	18,000	
	Less: Interest on loan	20,000	(2,000)
	ii) Loss on maintenance of race horses carried forward to A.Y 2025-26	(12,000)	
	iii) Income from betting		9,000
	Gross total income		**61,000**

Note: Net loss of ₹ 2,000 on account of interest on securities cannot be set off against income from betting. However, this loss can be adjusted against any other head of income available to the assessee.

Solution 8:

Computation of total income of Simran for the A.Y. 2024-25

	₹	₹
Profit of business of consumer and house-hold products		50,000
Less: Loss of business of readymade garments for the year adjusted under section 70(1)	10,000	
Less: Brought forward loss of catering business closed in assessment year 2022-23 set off against business income for the year as per section 72(1)	15,000	25,000
Profit of speculative transaction		12,500
Total Income		**37,500**

Notes:

1. Loss of speculative transaction of assessment year 2019-20 is not allowed to be set off against the profit of speculative transaction of the assessment year 2024-25, since, as per the provisions of section 73(4), such loss can be carried forward for set-off for a maximum period of 4 years. This time limit of 4 years expired in assessment year 2023-24.

2. Short term capital loss of ₹ 15,000 on sale of securities and shares has to be carried forward as per section 74 since there is no income under the head Capital Gains for the assessment year 2024-25. The loss is to be carried forward for set off in future years against income chargeable under the head Capital Gains. Such loss can be carried forward for a maximum period of 8 assessment years.

Solution 9

Total Income of R
(For the assessment year 2024-25)

Income from salary		72,000
Income from House Property (22,000 - 60,000 - 10,000)		(-) 48,000
Income from Profits and Gains from business		
Non-Speculative Business [26,000- 22,000]		4,000
Speculative Business- 3	- 74,000	
Speculative Business- 4	+ 46,000	
Carried forward	- 28,000	
Income from capital gain		
Short-term capital loss	- 60,000	
Long-term capital gain	54,000	
Carried forward capital loss	- 6,000	
Income from other sources		
Interest on securities	12,000	
Income from card game and betting	70,000	82,000
Income from maintaining horses	30,000	
Loss from maintenance of race horses	(-) 56,000	
To be carried forward	(-) 26,000	
Gross Total Income		110,000

Solution 10:

	₹
Loss of Business A for the previous year 2023-24	(-) 1,20,000
Profit of Business B for the previous year 2023-24	1,35,000
Profit of Business C for the period April 1, 2023 to April 10, 2023	Nil
Interest on debentures held as stock-in-trade	1,48,000
Current business profit	1,63,000
Less : Brought forward loss of Business A, Business C and Business D [i.e., (1,45,000 + 1,16,000 + 1,04,000) subject to the maximum of ₹ 1,63,000]	1,63,000
Income under the head "Profits and gains of business or profession"	Nil

Computation of Net Income

Income from house property	1,17,000
Profits and gains of business or profession	Nil
Capital gains	Nil
(Loss of ₹ 1,46,400 will be carried forward for next 8 years for set off against long-term capital gain)	
Income from other sources	
Interest on bonds held as investment	1,60,000
Deemed dividend on shares (now taxable from AY 2024-25)	1,80,000
Gross total income	**4,57,000**
Less: Deduction under sections 80C to 80U	Nil
Net income	**4,57,000**

***Note*:**

1. As debentures are held by X as stock-in-trade, interest income is a part of business profits. Interest income can, therefore, be utilised for claiming set off of brought forward business losses. This rule is, however, not applicable in the case of interest on bonds as bonds are held by X as investment.

2. Though Business D was not in existence during the previous year 2023-24, yet the brought forward business loss of the year 2022-23 can be set off against the income of the assessment year 2024-25

Solution 11:

Computation of Total Income of Mr. X:

Particulars	₹
Salary Income	5,20,000
Income from House Property - as given	(20,000)
Profits & Gains of Business or Profession	80,000
Income from Other Sources - Bank interest	20,000
	6,00,000
Brought forward loss - Business loss (A.Y. 2016-17) - restricted to	(80,000)
Gross Total Income ₹	**5,20,000**

Note: The assessee is not eligible to carry forward unabsorbed business loss of ₹ 20,000/- (₹ 1 lakh less ₹ 80,000 set off) to assessment year 2025-26 since the period of eight assessment years eligible for carry forward has expired.

Solution 12:

Computation of Income under the head 'Profits and gains of business or profession'
[for the assessment year 2024-25]

	₹	₹
Income from house property		(-) 25,000
Profit and gains of business or profession		
Net adjusted profit of textile trade	20,000	
Net loss of automotive trade	(-) 30,000	(-) 10,000
Speculative loss in shares business		
[Not allowed to be set off against any income except profit of speculative shares business]	(-) 40,000	
Capital gains		
Long term capital gain	30,000	
Less : Short term capital loss	(-) 20,000	10,000
Taxable income		**NIL**

Statement of losses to be carried forward to assessment year 2025-26

If LTCG is adjusted against business loss	
Loss from house property	25,000
Speculative loss from shares	40,000

If LTCG is adjusted against loss from house property

Loss from house property	15,000
Loss from business	10,000
Loss from speculative business	40,000

Solution 13:

Computation of Profits & gains of business or profession of Mr. Y for the PY: 2023-24

Particulars	**Amount**
Net profit as per Profit and Loss account	280000
Less: Income not taxable under this head but credited to P/L A/c	
Dividends	100000
Profits and gains of business of grocery shop	**180000**
Add: Income from speculation business	30000
Less: Loss from cloth trade	(42000)
Less: Loss from business of minor clubbed u/s 64(1A)	(45000)
Profits and gains of business after application of sec. 70 but before application of sec. 72	123000
Less: Brought forward loss of electric spare business	(39000)
Profits & gains of business or profession	**84000**

Solution 14:

Computation of Total Income of Mr. Krishna for the AY 2024-25

Particulars	**₹**	**₹**
(1) Income from house property		
Gross Annual Value	4,32,000	
Less: Municipal taxes paid	32,000	
Net Annual Value (NAV)	4,00,000	
Less: Deductions under section 24		
(a) 30% of NAV	1,20,000	
(b) Interest on housing loan	97,000	1,83,000
(2) Income from business		
Income from business	1,75,000	
Less : Current year depreciation under section 32(1)	40,000	
	1,35,000	
Less: Set-off of brought forward business loss of AY 2021-22 under section 72	70,000	
	65,000	
Less: Unabsorbed depreciation set-off **[See Note 2]**	65,000	Nil
(3) Capital gains		
Long term capital gain on sale of debentures	60,000	
Less: Unabsorbed depreciation set-off **[See Note 2]**	60,000	Nil
Short term capital gain on sale of land **[See Note 1]**	2,30,000	
Less: Unabsorbed depreciation set-off **[See Note 2]**	30,000	2,00,000
(4) Income from other sources		
Dividend on shares	22,000	
Dividend from a company carrying on agri business	10,000	**32,000**
Gross Total Income		**4,15,000**
Less : Chapter VI-A deduction		
Section 80C [Principal repayment of housing loan]		70,000
Total income		**3,45,000**

Notes:

(1) Since land is held for a period of less than 24 months, the gain of ₹ 2,30,000 arising from sale of such land is a short-term capital gain.

(2) Brought forward unabsorbed depreciation can be adjusted against any head of income. However, it is most beneficial to set-off unabsorbed depreciation first against long-term capital gains, since it is taxable at a higher rate of 20% (the other income of the assessee falling in the 5% slab rate).

PRACTICAL QUESTION - SET B

ASSUMPTION FOR ALL QUESTIONS - Assessee (If Individual) has shifted out from Sec 115BAC

1. Mr. A (aged 35 years) submits the following particulars pertaining to the A.Y. 2024-25:

Particulars	₹
Income from salary (computed)	**4,00,000**
Loss from self-occupied property	**(-)70,000**
Loss from let-out property	**(-) 1,50,000**
Business loss	**(-)1,00,000**
Bank interest (FD) received	**80,000**

Compute the total income of Mr. A for the A.Y. 2024-25.

Solution:

Computation of total income of Mr. A for the A.Y. 2024-25

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	(-) 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 set-off	(-) 1,00,000	-
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**

Note: 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.

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.

2. Mr. B, a resident individual, furnishes the following particulars for the P.Y. 2023-24:

Particulars	₹
Income from salary (computed)	**45,000**
Income from house property	**(24,000)**
Income from non-speculative business	**(22,000)**
Income from speculative business	**(4,000)**
Short-term capital losses	**(25,000)**
Long-term capital gains	**19,000**

What is the total income chargeable to tax for the A.Y. 2024-25?

Solution:

Total income of Mr. B for the A.Y. 2024-25

Particulars	Amount (₹)	Amount (₹)
Income from salaries	45,000	21,000
Income from house property	(24,000)	
Profits and gains of business and profession		
Business loss to be carried forward **[Note 1]**	(22,000)	
Speculative loss to be carried forward **[Note 2]**	(4,000)	
Capital Gains		
Long term capital gain	19,000	
Short term capital loss	(25,000)	
Short term capital loss to be carried forward **[Note 3]**	(6,000)	
Taxable income		**21,000**

Note 1: 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.

Note 2: 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.

Note 3: 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.

3. During the P.Y. 2023-24, 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. 2022-23	**(96,000)**
Short term capital loss of A.Y. 2023-24	**(37,000)**
Long term capital gain	**75,000**

What is the capital gain taxable in the hands of Mr. C for the A.Y. 2024-25?

Solution:

Taxable capital gains of Mr. C for the A.Y. 2024-25

Particulars	₹	₹
Short term capital gains on sale of shares	1,50,000	
Less: Brought forward short term capital loss of the A.Y. 2023-24	(37,000)	1,13,000
Long term capital gain	75,000	
Less: Brought forward long term capital loss of A.Y. 2022-23 **[See Note below]**	(75,000)	Nil
Taxable short-term capital gains		**1,13,000**

Note: Long-term capital loss cannot be set off against short-term capital gain. Hence, the unadjusted long-term capital loss of A.Y. 2022-23 of ₹ 21,000 (i.e. ₹ 96,000 – ₹ 75,000) can be carried forward to the next year to be set-off against long-term capital gains of that year.

4. Mr. D has the following income for the P.Y. 2023-24:

Particulars	₹
Income from the activity of owning and maintaining the race horses	**75,000**
Income from textile business	**85,000**
Brought forward textile business loss (relating to A.Y. 2023-24)	**50,000**
Brought forward loss from the activity of owning and maintaining the race horses (relating to A.Y. 2021-22)	**96,000**

What is the total income in the hands of Mr. D for the A.Y. 2024-25?

Solution:

Total income of Mr. D for the A.Y. 2024-25

Particulars	₹	₹
Income from the activity of owning and maintaining race horses	**75,000**	
Less: Brought forward loss from the activity of owning and maintaining race horses	96,000	
Loss from the activity of owning and maintaining race horses to be carried forward to A.Y. 2025-26	(21,000)	
Income from textile business	**85,000**	
Less: Brought forward business loss from textile business.	50,000	35,000
Total income		**35,000**

Note: Loss from the activity of owning and maintaining race horses cannot be set- off against any other source/head of income.

5. Mr. E has furnished his details for the A.Y. 2024-25 as under:

Particulars	₹
Income from salaries (computed)	**1,50,000**
Income from speculation business	**60,000**
Loss from non-speculation business	**(40,000)**
Short term capital gain	**80,000**
Long term capital loss of A.Y. 2022-23	**(30,000)**
Winning from lotteries (Gross)	**20,000**

What is the taxable income of Mr. E for the A.Y. 2024-25?

Solution:

Computation of taxable income of Mr. E for the A.Y. 2024-25

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.

6. Compute the gross total income of Mr. F for the A.Y. 2024-25 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. 2023-24)	**(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)**

Solution:

Gross Total Income of Mr. F for the AY 2024-25

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. 2023-24 cannot be set-off in the A.Y. 2024-25, 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. 2025-26.

7. Mr. Sohan submits the following details of his income for the Assessment Year 2024-25:

Particulars	₹
Income from salary	**3,00,000**
Loss from let out house property	**(-) 40,000**
Income from sugar business	**50,000**
Loss from iron ore business b/f (discontinued in P.Y. 2018-19)	**(-) 1,20,000**
Short term capital loss	**(-) 60,000**
Long term capital gain	**40,000**
Dividend	**5,000**
Income received from lottery winning (Gross)	**50,000**
Winnings from card games (Gross)	**6,000**
Agricultural income	**20,000**
Short-term capital loss under section 111A	**(-) 10,000**
Bank interest on Fixed deposit	**5,000**

Calculate gross total income and losses to be carried forward.

Solution:

Computation of Gross Total Income of Mr. Sohan for the A.Y. 2024-25

Particulars	₹	₹
Salaries		
Income from salary	3,00,000	
Less: 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	
Less: Brought forward loss from iron-ore business set- off as per section 72(1)	(50,000)	Nil
Balance business loss of ₹ 70,000 of P.Y. 2018-19 to be carried forward to A.Y. 2025-26		
Capital gains		
Long term capital gain	40,000	
Less: Short term capital loss set-off	(40,000)	Nil
Balance short-term capital loss of ₹ 20,000 to be carried forward **Short-term capital loss of ₹ 10,000 under section 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 interest	5,000	66,000
Gross Total Income		**3,26,000**
Losses to be carried forward to A.Y. 2025-26		
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. 2018-19, the year in which the business was discontinued.

8. Mr. Batra furnishes the following details for year ended 31.03.2024:

Particulars	₹
Short term capital gain	**1,40,000**
Loss from speculative business	**60,000**
Long term capital gain on sale of land	**30,000**
Long term capital loss on sale of unlisted shares	**1,00,000**
Income from business of textile (after allowing current year depreciation)	**50,000**
Income from activity of owning and maintaining race horses	**15,000**
Income from salary (computed)	**1,00,000**
Loss from house property	**40,000**

Following are the brought forward losses:

(i) Losses from activity of owning and maintaining race horses-pertaining to A.Y. 2021-22 ₹ 25,000.

(ii) Brought forward loss from business of textile ₹ 60,000 - Loss pertains to A.Y. 2016-17.

Compute gross total income of Mr. Batra for the Assessment Year 2024-25. Also determine the losses eligible for carry forward to the Assessment Year 2025-26.

Solution:

Computation of Gross Total Income of Mr. Batra for the A.Y. 2024-25

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 from textile business brought forward from A.Y. 2016-17	60,000	
Balance business loss of A.Y. 2016-17 **[See Note 1]**	(10,000)	NIL
Income from the activity of owning and maintaining race horses	15,000	
Less: Loss from activity of owning and maintaining race horses brought forward from A.Y. 2021-22	25,000	
Loss to be carried forward to A.Y. 2025-26 **[See Note 2]**	(10,000)	NIL
Capital Gain		
Short term capital gain		1,40,000
Long term capital gain on sale of land	30,000	
Less: Long term capital loss on sale of unlisted shares	1,00,000	
Loss to be carried forward to A.Y. 2025-26 **[See Note 3]**	(70,000)	NIL
Gross Total Income		**2,00,000**

Losses to be carried forward to A.Y. 2025-26

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. 2021-22	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. 2016-17 expired in the A.Y. 2024-25**, the balance unabsorbed business loss of ₹ 10,000 cannot be carried forward to A.Y. 2025-26.**

(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.

9. Important (After PGBP Class): Mr. A furnishes you the following information for the year ended 31.03.2024:

		(₹)
(i)	**Income from plying of vehicles (computed as per books) (He owned 5 light goods vehicle throughout the year)**	**3,20,000**
(ii)	**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. 2023-24. Assume 10% of the turnover during the previous year 2023-24 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.**	**7,50,000**
(iii)	**He has brought forward depreciation relating to A.Y. 2022-23**	**1,00,000**

Compute taxable income of Mr. A and his tax liability for the assessment year 2024-25 with reasons for your computation.

Solution:

Computation of total income and tax liability of Mr. A for the A.Y. 2024-25

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 brought forward 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 ₹ 5 crore would not 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
Less: 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
Add : Health and Education cess @4%	7,996
Total tax liability	**2,07,898**
Total tax liability (rounded off)	**2,07,900**

10. Mr. Aditya furnishes the following details for the year ended 31-03-2024:

Particulars	Amount (₹)
Loss from speculative business A	**25,000**
Income from speculative business B	**5,000**
Loss from specified business covered under section 35AD	**20,000**
Income from salary (computed)	**3,00,000**
Loss from house property	**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. 2022-23 ₹ 2,000.**
2. **Brought forward loss from trading business ₹ 5,000 relating to A.Y. 2019-20. Compute the total income of Mr. Aditya and show the items eligible for carry forward.**

Solution:

Computation of total income of Mr. Aditya for the A.Y. 2024-25

Particulars	₹	₹
Salaries		
Income from Salary	3,00,000	
Less: Loss from house property set-off against salary income as per section 71(3A)	2,00,000	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 AY 2025-26	50,000	
Profits and gains of business or profession		
Income from trading business	45,000	
Less: Brought forward loss from trading business of A.Y. 2019-20 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 from speculative business A set-off as per section 73(1)	25,000	
Loss from speculative business A to be carried forward to A.Y. 2025-26 as per section 73(2)	**20,000**	
Loss from specified business covered under section 35AD to be carried forward for set-off against income from specified business as per section 73A.	20,000	
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. 2025-26

Particulars	**₹**
Loss from House property 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. 2032-33, in this case.	50,000
Loss from speculative business A 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. 2028-29, in this case, as specified under section 73(4).	20,000
Loss from specified business 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 .	20,000
Loss from the activity of owning and maintaining race horses Losses Loss from the activity of owning and maintaining race horses 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. 2026-27, in this case, as specified under section 74A(3).	2,000

11. Mr. Garg, a resident individual, furnishes the following particulars of his income and other details for the previous year 2023-24:

	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 2023-24 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 2024-25 and the amount of loss, if any that can be carried forward or not.

Solution:

Computation of Gross Total Income of Mr. Garg for the A.Y. 2024-25

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. 2023-24 (Unabsorbed depreciation can be set-off against any head of income other than "salary")	11,000	55,000
(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. 2025-26

	Particulars	₹
(1)	**Loss from speculative business [to be carried forward as per section 73]** [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. 2023-24 has to be carried forward to A.Y. 2025-26 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. 2027-28]	22,000
(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. 2028-29]	15,000
(3)	**Loss from gambling can neither be set-off nor be carried forward.**	

12. The following are the details relating to Mr. Srivatsan, a resident Indian, aged 57, relating to the year ended 31.3.2024:

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.

Solution:

Computation of total income of Mr. Srivatsan for the A.Y. 2024-25

Particulars	₹	₹
Salaries		
Income from salaries	2,20,000	
Less: Loss from house property (₹ 190,000 - ₹ 40,000)	**1,50,000**	**70,000**
Profits and gains of business or profession		
Income from speculation business	30,000	
Less: Loss from cloth business set off	30,000	Nil
Capital gains		
Long-term capital gains from sale of urban land	2,50,000	
Less: Loss from cloth business set off **Loss from House Property**	**2,10,000** **40,000**	**Nil**

Income from other sources		
Income from betting		45,000
Gross Total Income		1,15,000
Less: Deduction under section 80C (life insurance premium paid)		45,000
Total income		**70,000**

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.

(iii) Loss from card games can neither be set off against any other income, nor can be carried forward.

(iv) 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.

13. Mr. Rajat submits the following information for the financial year ending 31st March, 2024. 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 31st October, 2023 – Current year loss	**40,000**
(ii) Brought forward business loss of A.Y. 2019-20	**95,000**
(b) Chemical Business:	
(i) Discontinued from 1st March, 2022 – 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. 2020-21	**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 2014	**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**

Solution:

Computation of total income of Mr. Rajat for the A.Y. 2024-25

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.2019-20 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. 2025-26

Particulars	₹
Business loss of A.Y. 2020-21 to be carried forward under section 72	50,000
Long term capital loss of A.Y. 2024-25 to be carried forward under section 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.

14. Ms. Geeta, a resident individual, provides the following details of her income / losses for the year ended 31.3.2024:

(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 2021-22 ₹ 12,50,000.

Compute gross total income of Ms. Geeta for the Assessment Year 2024-25 and ascertain the amount of loss that can be carried forward.

Solution:

Computation of Gross Total Income of Ms. Geeta for the Assessment Year 2024-25

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: Brought forward business loss of Assessment Year 2022-23 to be set-off against business income		7,50,000
Capital Gains		Nil
Long term capital gain on sale of land	5,00,000	
Less: Long-term capital loss on shares on STT paid (See Note 2)	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:

1. Balance brought forward business loss of assessment year 2022-23 of ₹ 5,00,000 has to be carried forward to the next year.

2. 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).

15. Mr. P, a resident individual, furnishes the following particulars of his income and other details for the previous year 2023-24:

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. 2023-24) 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 2024-25, and the amount of loss that can or cannot be carried forward.

Solution:

Computation of Gross Total Income of Mr. P for the A.Y. 2024-25

Particulars	₹	₹
(i) Income from salary		18,000
(ii) Income from House Property	70,000	
Net Annual Value	21,000	
Less : Deduction under section 24 (30% of ₹ 70,000)		
		49,000
(iii) Income from business and profession		
(a) Income from business		
Less : Current year depreciation	80,000 8,000	
Less : Unabsorbed depreciation	72,000 9,000	63,000
(b) Income from speculative business	12,000	
Less : Brought forward loss from speculative business	12,000	
(Balance loss of ₹ 4,000 (i.e. ₹ 16,000 – ₹ 12,000) can be carried forward to the next year)		Nil
(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) Speculative business loss can set off only against income from speculative business of the current year and the balance loss can be carried forward to A.Y. 2025-26. It may be noted that speculative business loss can be carried forward for a maximum of four years as per section 73(4).

16. A discloses the following incomes from business or profession for the PY 2023-24:

	₹
(i) Proft from A business	**7,00,000**
(ii) Loss from B business	**(-) 3,00,000**
(iii) Loss from profession C	**(-) 3,50,000**
(iv) Proft from speculation business – P	**3,00,000**
(v) Loss from speculation business – Q	**(-) 4,00,000**

Determine the Income from Business or Profession for the AY 2024-25.

Solution:

Income from Business or Profession for the AY 2024-25:

Particulars	**₹**
(i) A	7,00,000
(ii) B	(-) 3,00,000
(iii) C	(-) 3,50,000
Total Income from Non Speculation Business and Profession	50,000
Income from Speculation Business	
(i) P	3,00,000
(ii) Q	(-) 4 ,00,000
Loss from Speculation Business	**(-) 1,00,000**

Loss cannot be set-off against the income from business profit, though both of them fall under the same head of income. Thus, taxable business profits for the AY 2024-25 is ₹ 50,000.

The speculation loss will be carried forward for future set-off for 4 AYs, immediately succeeding the Assessment Year for which it was first computed [Sec. 73(4)]. The time-limit of 4 years is applicable from the AY 2025-26 and subsequent year.

17. The following are the broad details pertaining to Excel Pvt. Ltd., for the AY 2023-24 (all amounts are (₹ in lacs):

From specified business covered by section 35AD: **Loss**	12
From other non-speculation business:	
Unabsorbed depreciation	8
Business loss excluding depreciation	7

The return of income had been filed on 11.12.2023

For the assessment year 2024-25, the broad position is as under:

From specified business covered by section 35AD: **Profit**	9
From other non-speculation business:	
Depreciation of FY 2023-24 alone	3
Business income before depreciation	22

How will the brought forward items be set off in the assessment year 2024-25 and what is the business income for the assessment year 2024-25?

Answer:

Set off and carry forward of business loss

In terms of sec 80 and 139(3), for carrying forward business loss covered by sec 72 & section 73A (Specified Business), the return of income should be filed within the due date as per sec 139(1). Hence the assessee cannot carry forward the non-speculation business loss of ₹ 7 lacs & loss of ₹ 12 lakhs from specified businesses.

Unabsorbed depreciation is not covered by above and hence the unabsorbed depreciation of ₹ 8 lacs can be carried forward and the same will be deemed to be current depreciation.

Income for AY 2024-25:	**(₹ in lacs)**
From specified business covered by section 35AD : Profit	9
Less: brought forward loss from specified business set off	NIL
Balance income	9
From other non-speculation business:	
Business income before depreciation	22
Less: Current depreciation as per sec 32(2) [3+8]	11
Balance income	11
Business income chargeable to tax	20

18. Following details pertaining to Mr. Vaamana, a resident Indian aged 58 years, are furnished to you.

Particulars	**₹**
(i) Salary received from ABC Ltd.	**7,30,000**
(ii) Profession tax paid by employer	**12,000**
(iii) Loss from own business not covered by section 35AD	**2,20,000**
(iv) Long term capital gains from sale of residential house property	**1,20,000**
(v) Winning from T.V. games show (Net of TDS ₹ 30,000)	**70,000**
Expenses incurred for participating in the show	**5,000**
(vi) Loss in card games	**12,000**
(vii) Loss from agricultural lands in India	**32,000**

Answer:

Computation of Total Income Mr. Vaamana
Assessment Year 2024-25

Particulars	**Amount (₹)**	**Amount (₹)**
Salaries		
Received from employer	7,30,000	
Profession tax paid by employer (to be treated as perquisite)	12,000	
Gross Salary:	7,42,000	
Less: **Statutory Deduction u/s 16(ia)**	50,000	
Professional tax paid	12,000	
Income chargeable under this head		6,80,000
Profits and gains of business or profession		
Loss from non-speculative business not covered by Sec 35AD	**2,20,000**	
(Cannot be set off against salaries)		
Capital gains		
Long-term capital gains from sale of residential house property	1,20,000	
Business loss can be set off against LTCG	**1,20,000**	
Hence chargeable LTCG is		NIL
Balance business loss ₹ 1 lac to be carried forward		
Income from other sources		
(a) **Income from T.V. Games show Gross**		
No expenditure is allowable from this income u/s 58(4)	1,00,000	
(No other loss can be set off against this winnings)		
(b**) Loss from card games - ₹ 12,000**		
(Can neither be set off, nor carried forward)	NIL	
Income chargeable under this head		**1,00,000**
Gross total income/Total income		**7,80,000**

Note:

1. Agricultural income being net loss, the same has to be ignored.

RETURN OF INCOME

Assessment Year 2024-25 (Amended with Finance Act 2023)

Page 17.16; 17.19 & 17.28 are amended

The Income-tax Act, 1961 contains provisions for filing of return of income. Return of income is the format in which the assessee furnishes information as to his total income and tax payable. The format for filing of returns by different assessee is notified by the CBDT.

The particulars of income earned under different heads, gross total income, deductions from gross total income, total income and tax payable by the assessee are generally required to be furnished in a return of income.

In short, a return of income is the declaration of income and the resultant tax by the assessee in the prescribed format.

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

[4 Marks]

1. It is mandatory **for COMPANIES AND FIRMS (including LLPs)** to file a return of **income or loss** for every previous year on or before the due date.

2. **Further, every person, being an Individual / HUF / AOP / BOI / AJP:**

   - ✓ whose ***TOTAL INCOME*** during the previous year
   - ✓ without giving effect **to the provisions of Chapter VI-A [Section 80C to 80U]** ***or Section 54 / 54B / 54D / 54EC / 54F / 54G / 54GA / 54GB*** exceeded the basic exemption limit **[₹ 250,000 / ₹ 300,000 / ₹ 500,000 as the case may be]**
   - ✓ is required to file a return of income on or before the due date.

3. In case of **person other than above**, filing of return on or before the due date is mandatory, if Total Income **exceeds Basic Exemption Limits**.

Mandatory requirement to file return of income by Resident person (other than RNOR)

Any Resident person (other than RNOR) who is not required to furnish a return under section 139(1) and who during the PY:

a) ***holds (beneficial Owner) any asset (including any financial interest in any entity)*** *located outside India or*

b) *has a* ***signing authority in any account*** *located outside India or*

c) ***is a beneficiary of any asset (including financial interest in any entity) located outside India***

shall furnish, on or before the due date, a return in respect of his Income or loss for the PY in prescribed manner.

However, an individual being a beneficiary of any asset (including any financial interest in any entity) located outside India ***would not be required to file return of income*** *under this clause, where, income, if any, arising from such asset is includible in the income of the person referred to in (a) above in accordance with the provisions of the Income-tax Act, 1961.*

Mandatory furnishing of return in case of high value transactions [7th proviso to Sec 139(1)]

***Any person <u>other than a company or a firm</u>**, who is not required to furnish a return under section 139(1), is required to file income-tax return in the prescribed form and manner on or before the due date if, during the previous year, such person –*

*i. has **<u>deposited an amount or aggregate of the amounts exceeding ₹ 1 crore in one or more current accounts</u>** maintained with a banking company or a co-operative bank; or*

*ii. has incurred **<u>expenditure of an amount or aggregate of the amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country</u>**; or*

*iii. has incurred **<u>expenditure of an amount or aggregate of the amounts exceeding ₹ 1 lakh towards consumption of electricity</u>**; or*

iv. fulfils such other prescribed conditions.

Rule 12AB has been inserted to prescribe the following other conditions for furnishing mandatory return u/s 139(1):

A. If his total sales, turnover or gross receipts, as the case may be, in the business <u>exceeds ₹ 60 lakhs</u> during the previous year; or

B. If his total gross receipts in profession <u>exceeds ₹ 10 lakh</u> during the previous year; or

C. If the aggregate of TDS and TCS during the previous year, in the case of the person, is <u>₹ 25,000 or more</u> (in case of senior citizen ₹ 50,000 or more); or

D. The deposit in one or more savings bank account of the person, in aggregate, is <u>₹ 50 lakh or more</u> during the previous year

Question 1:

Mr. Ravi Prakash, a resident Indian aged 52 years, gifted a sum of ₹ 30 lakhs to his wife Mrs. Sudha on the occasion of her 50th birthday.

Out of the said sum, Mrs. Sudha purchased a car for ₹ 29,52,000 inclusive of RTO charges of ₹ 2,15,000, insurance of ₹ 51,575, extended warranty of ₹ 25,255 and accessories charges of ₹ 35,460 during the P.Y. 2023-24. These charges were shown separately in the invoice. Mrs. Sudha's furnished her Aadhaar No. to the dealer.

She is a housewife and does not have any income except rental income of ₹ 25,000 p.m. in respect of a house property gifted to her by her father.

Mr. Ravi Prakash is of the opinion that his wife is not required to furnish return of income, since her total income does not exceed the basic exemption limit. Examine.

Solution:

Mrs. Sudha's income from house property would be ₹ 2,10,000 (₹ 3,00,000 *less* 30% of net annual value). Since this is her only source of income, her gross total income/total income for A.Y. 2024-25 would be ₹ 2,10,000, which is lower than the basic exemption limit.

Hence, she is not required file her return of income for A.Y. 2024-25 as per section 139(1), since her gross total income/total income does not exceed the basic exemption limit of ₹ 2,50,000.

However, Rule 12AB, *inter alia,* prescribes that any person other than a company or a firm, who is not required to furnish a return under section 139(1), has to file income-tax return in the prescribed form and manner on or before the due date **if, the aggregate of tax deducted at source and tax collected at source during the previous year, in case of such person, is ₹ 25,000 or more.**

Accordingly, it has to be examined whether, in Mrs. Sudha's case, the requirement to file return for A.Y. 2024-25 **arises due to TDS/TCS, in her case, exceeding ₹ 25,000 in the P.Y. 2023-24.**

As per Section 206C(1F), every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the **value exceeding ₹ 10 lakhs**, has to collect tax from the buyer @1% of the sale consideration.

Accordingly, **dealer of the car is required to collect tax at source of ₹ 26,247 @1% on ex-showroom price i.e., ₹ 26,24,710** (₹ 29,52,000 - ₹ 2,15,000 - ₹ 51,575 - ₹ 25,255 - ₹ 35,460) from Mrs. Sudha, being the buyer of the car.

Hence, as per the seventh proviso to section 139(1) read with Rule 12AB, Mrs. Sudha is required to mandatorily file her return of income for A.Y. 2024-25, **even though her gross total income/total income does not exceed the basic exemption limit, since tax collected at source during the P.Y. 2023-24, in her case is ₹ 26,247 which exceeds the threshold of ₹ 25,000**.

Question 2:

Mr. Vikas, a resident in India aged 80 years, is having a house property in Mumbai. He has let out the house property to ABC Ltd. for a rent of ₹ 50,000 per month from 1.4.2023. He does not have any other source of income. Is Mr. Vikas required to file his return of income for A.Y. 2024-25. If yes, why?

Solution:

An individual whose total income exceeds the maximum amount not chargeable to tax i.e., ₹ 5,00,000 in this case since Mr. Vikas is of 80 years, is required to file a return of income on or before the due date under section 139(1) i.e., 31st July, 2024.

Clause (iv) of seventh proviso to section 139(1) provides that a person (other than a company or a firm) who is not required to furnish a return u/s 139(1) has to furnish return on or before the due date **if the person fulfills such other conditions as may be prescribed.**

Accordingly, the **CBDT inserted Rule 12AB which prescribes, *inter alia*, that** in case of resident individual who is aged **60 years** or more at any time during the relevant P.Y. is required to file his return of income **if the aggregate of tax deducted at source and tax collected at source, in his case, during the P.Y. is ₹ 50,000 or more.**

In this case, Mr. Vikas's total income would comprise of only income from house property from let out of house property in Mumbai. His total income would be ₹ 4,20,000 [₹ 6,00,000 – 30% under section 24(a)], which is below the basic exemption limit of ₹ 5,00,000.

ABC Ltd. is required to deduct tax at source u/s 194-I @10% of ₹ 6,00,000. Tax deductible would be ₹ 60,000. Since tax deducted at source in case of Mr. Vikas is more than ₹ 50,000, he has to furnish his return of income for A.Y. 2024-25 on or before 31.07.2024, **even though his total income is below the basic exemption limit of ₹ 5,00,000.**

Note – It is assumed that Mr. Vikas has neither made an application to the Assessing Officer u/s 197 nor furnished declaration to ABC Ltd. u/s 197A for non-deduction of tax. In case, he has obtained the certificate u/s 197 or furnished declaration to ABC Ltd. u/s 197A, **no tax would have been deducted by ABC Ltd. on rental income. Consequently, Mr. Vikas would not be required to file his return of income.**

Question 3:

Mr. Laxman, born on 1.4.1964, has a gross total income of ₹ 2,85,000 for A.Y. 2024-25 comprising of his salary income. He does not claim any deduction under Chapter VI-A. He pays electricity bills of ₹ 10,000 per month. He made a visit to Canada along with his wife for a month in January, 2024 for which he incurred to and fro flight charges of ₹ 1.20 lakhs. The remaining expenditure for his visa, stay and sightseeing amounting to ₹ 70,000 was met by his son residing in Canada. Is Mr. Laxman required to file return of income for A.Y. 2024-25, and if so, why?

A. No, Laxman is not required to file his return of income

B. Yes, Laxman is required to file his return of income, since his gross total income/total income exceeds the basic exemption limit

C. Yes, Laxman is required to file his return of income since he pays electricity bills of ₹ 10,000 per month, which exceeds the prescribed annual threshold

D. Yes, Laxman is required to file his return of income since he has incurred foreign travel expenditure exceeding ₹ 1 lakh

[Correct Answer: Option 'C']

Question 4:

State any three conditions <u>when a person</u> is required to furnish Income-tax return in the prescribed form & manner on or before the due date even if such person (other than a company or a firm) is not otherwise required to furnish a return u/s 139(1).

Solution:

<u>Conditions when a person is required to furnish return of income on or before the due date even if he is otherwise not required to furnish return under section 139(1)</u>

Any person, other than a company or a firm, who is not required to furnish a return under section 139(1), is required to file income-tax return in the prescribed form and manner on or before the due date if, during the previous year, such person

(i) has **deposited** an amount or aggregate of the amounts **exceeding ₹ 1 crore in one or more current accounts** maintained with a banking company or a co-operative bank; or

(ii) has incurred expenditure of an amount or aggregate of the amounts **exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country**; or

(iii) has incurred expenditure of an amount or aggregate of the amounts **exceeding ₹ 1 lakh towards consumption of electricity**; or

(iv) **fulfils such other prescribed conditions [Here, Rule 12AB is prescribed].**

Rule 12AB provides that a person, other than a company or a firm, who is not required to furnish a return under section 139(1), and who fulfils any of the following conditions during the previous year has to file their return of income on or before the due date in the prescribed form and manner -

a) if his total sales, turnover or gross receipts, as the case may be, **in the business exceeds ₹ 60 lakhs** during the previous year; or

b) if his total gross receipts **in profession exceeds ₹ 10 lakhs** during the previous year; or

c) if the **aggregate of TDS and TCS** during the previous year, in the case of the person, is **₹ 25,000 or more** (in case of Senior citizen, limit is **₹ 50,000 or more**); or

d) the **deposit** in one or more **savings bank account** of the person, **in aggregate, is ₹ 50 lakhs or more** during the previous year.

'DUE DATE" – SECTION 139(1) [4 Marks]

a) ***30th November of the AY****, where the assessee is required to furnish a report u/s 92E [Transfer Pricing Report for International & Specified Domestic Transactions]*

Assessee includes

- ***Partners of the firm, if firm is required to furnish such report***
- ***The spouse of such partners if the provisions of Section 5A applies to such spouse.***

b) **31st October of the AY**, where the assessee [not covered in point 'a'] is:

(i) A company; or

(ii) A person whose ***accounts are required to be audited*** under the Income-tax Act, 1961 or any other law in force; or

(iii) A ***any partner (working or non-working) of a firm*** whose accounts are required to be audited under the Income-tax Act, 1961 or any other law for the time being in force ***or the spouse of such partner if the provisions of Section 5A applies to such spouse***.

c) **31st July of the AY**, in the case of any other assessee.

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

SECTION 5A - Apportionment of income between spouses governed by Portuguese Civil Code:

(Reading purpose only – Not in a syllabus)

1. *Where the* ***husband and wife are governed by the system of community of property*** *(known under the Portuguese Civil Code of 1860 as "COMMUNIAO DOS BENS")* ***in force in the State of Goa and in the Union territories of Dadra and Nagar Haveli and Daman and Diu****, the income of the husband and of the wife under any head of income shall not be assessed as that of such community of property (whether treated as an association of persons or a body of individuals), but such income of the husband and of the wife* ***under each head of income (other than under the head "Salaries") shall be apportioned equally between the husband and the wife*** *and the income so apportioned shall be included separately in the total income of the husband and of the wife respectively, and the remaining provisions of this Act shall apply accordingly.*

2. *Where the husband or, as the case may be, the wife governed by the aforesaid system of community of property has any income under the head "Salaries",* ***such income shall be included in the total income of the spouse who has actually earned it.***

Consequences for default in Furnishing Income tax Return

i) *Interest u/s 234A &* ***late fee u/s 234F (No Penalty)***

ii) *Losses (Selected) can not be carried forwarded.*

iii) ***Income based deductions [Section 80-IA to Section 80RRB] will not be available.***

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

Where a person, who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, **a sum of ₹ 5,000.**

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

RETURN OF LOSS [SECTION 139(3)]

If any person who has sustained a loss in any previous year and claims that the loss or any part thereof **should be carried forward**

- ✓ under sub-section (1) of section 72, or
- ✓ sub-section (2) of section 73, or
- ✓ sub-section (2) of section 73A or
- ✓ sub-section (1) or sub-section (3) of section 74, or
- ✓ sub-section (3) of section 74A,

he may furnish, within the time allowed under sub-section (1) of Section 139, a return of loss in the prescribed manner.

Section 80

No loss which has not been determined in pursuance of a return filed in accordance with the provisions of sub-section (3) of section 139, **shall be carried forward and set off** under

- ✓ sub-section (1) of section 72 or
- ✓ sub-section (2) of section 73 or
- ✓ sub-section (2) of section 73A or
- ✓ sub-section (1) or sub-section (3) of section 74 or
- ✓ sub-section (3) of section 74A.

(Refer "Setoff & carry forward of loss" chapter for detailed understanding)

BELATED RETURN [SECTION 139(4)] – 4 Marks

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

(i) before ***3 months prior to*** **the end of the relevant assessment year (i.e., 31.12.2024 for P.Y. 2023-24);** or

(ii) before the completion of the assessment,

whichever is earlier.

REVISED RETURN [SECTION 139(5)] – 4 Marks

(1) If any person having furnished a return under section 139(1) ***or 139(4)***, discovers any omission or any wrong statement therein, he may furnish a revised return at any time

(i) before *3 months prior to* the end of the relevant assessment year OR

(ii) before completion of assessment,

whichever is earlier.

(2) **Belated return can be revised.**

(3) Once a revised return is filed, the original filed return must be taken to have been withdrawn & substituted by the revised return.

(4) ***CAN A LOSS RETURN BE REVISED*:**

Assessee files a loss return u/s. 139(3). Later it revises the return u/s. 139(5) and claims enhanced amount of loss. According to section 139(3), once a return is filed, all the provisions of the Income-tax Act shall apply as if such return has been filed u/s.139(1). Consequently, the filing of revised loss return is valid **and section 80 does not come in the way of disallowing the carry forward of such increased amount of loss**.

OPTION TO FILE UPDATED RETURN OF INCOME [SECTION 139(8A)] "ITR-U"

1. ***Option to file updated return of income:***

   *Any person **may furnish** an updated return of his income or the income of any other person in respect of which he is assessable, for the previous year relevant to the assessment year **at any time within 24 months from the end of the relevant assessment year**.*

   *This is irrespective of **whether or not** he has furnished a return under section 139(1) or belated return under section 139(4) or revised return under section 139(5) for that assessment year.*

   For example, an updated return for A.Y. 2024-25 can be filed till 31.3.2027.

2. ***Non applicability of the provisions of updated return:***

   The provisions of updated return would not apply, if the updated return of such person for that assessment year –

   i. *is **a loss return**; or*
   ii. *has the effect of **decreasing the total tax liability** determined on the basis of return furnished under section 139(1) or section 139(4) or section 139(5); or*
   iii. ***results in refund or increases the refund due** on the basis of return furnished under section 139(1) or section 139(4) or section 139(5)*

3. ***Updated return can be filed if original return is a loss return and updated return is a return of income:***

   *If any person has a loss in any previous year **and has furnished a return of loss on or before the due date of filing return of income under section 139(1)**, he shall be allowed to furnish an updated return if such updated return is a return of income.*

   For example**: If Mr. X has furnished his return of loss for A.Y. 2022-23 on 31.5.2022 consisting of ₹ 5,00,000 as business loss, **he can furnish an updated return for A.Y. 2022-23 upto 31.3.2025 if such updated return is a return of income.

4. ***Updated return to be furnished for subsequent previous year in case (3) above:***

   *If the loss or any part thereof carried forward under Chapter VI or unabsorbed depreciation carried forward under section 32(2) or tax credit carried forward under section 115JD **is to be reduced** for any subsequent previous year as a result of furnishing of updated return of income for a previous year, **an updated return is required to be furnished for each such subsequent previous year.***

5. ***Circumstances in which updated return cannot be furnished:***

   ***A.* A person shall not be eligible to furnish an updated return, where:**

   a) a search has been initiated u/s 132 or books of account or other documents or any assets are requisitioned u/s 132A in the case of such person; or

   b) a survey has been conducted u/s 133A [other than sec. 133A(2A) – TDS Survey], in the case such person; or

   c) a notice has been issued to the effect that any **money, bullion, jewellery or valuable article or thing**, seized or requisitioned u/s 132 or 132A in the case of any other person belongs to such person; or

d) a notice has been issued to the effect that any **books of account or documents**, seized or requisitioned u/s 132 or 132A in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, such person,

for the assessment year relevant to the previous year in which such search is initiated or survey is conducted or requisition is made and any assessment year preceding such assessment year.

[Updated return cannot be furnished in case of Search or Survey is initiated under the Act. These Sections are not in Intermediate syllabus]

B. No updated return can be furnished by any person for the relevant assessment year, where:

a) *an updated return has been furnished by him under this sub-section for the relevant assessment year; or*

b) *any proceeding for assessment or reassessment or re-computation or revision of income* ***is pending or has been completed*** *for the relevant assessment year in his case; or*

c) *the Assessing Officer* ***has information in his possession*** *for the relevant assessment year in respect of a person under the*

- *Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 or*
- *Prohibition of Benami Property Transactions Act, 1988 or*
- *Prevention of Money-laundering Act, 2002 or*
- *Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015*

and the same has been communicated to him, prior to the date of furnishing of updated return.

d) *Information, for the relevant assessment year has been received under an agreement referred to in section 90 or section 90A [DTAA] in respect of such person* ***and the same has been communicated to him,*** *prior to the date of furnishing of updated return.*

e) ***any prosecution proceedings for any offences*** *have been initiated for the relevant assessment year in respect of a person prior to the date of furnishing of return under this sub-section.*

f) *he is such person or belongs to such class of persons,* ***as may be notified by the CBDT.***

DEFECTIVE RETURN [SECTION 139(9)]

"Under this section, the Assessing Officer has the power to call upon the assessee to rectify a defective return"

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

2. The Assessing Officer has the discretion to extend the **time period beyond 15 days**, on an application made by the assessee.

3. If the defect is not rectified within the period of 15 days or such further extended period, then the return would be **treated as an invalid return**.

4. **The consequential effect would be the same as if the assessee had failed to furnish the return.**

5. **Where, however, the assessee rectifies the defect after the expiry of the period of 15 days or the further extended period, but before assessment is made, the Assessing Officer can condone the delay and treat the return as a valid return.**

6. ***A return of income shall be regarded as defective unless all the following conditions are fulfilled, namely (4 Marks - Theory question) :—***

   a) *the annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computation of gross total income and total income* ***have been duly filled in;***

   b) ~~***the tax together with interest, if any, payable in accordance with the provisions of Section 140A has been paid on or before the date of furnishing of the return.***~~

   c) *the return is accompanied by*

      i. *a statement showing the* ***computation of the tax payable*** *on the basis of the return;*

      ii. *the return is accompanied by the* ***report of the audit*** *referred to in Section 44AB, or, where the report has been furnished* ***prior to the furnishing of the return****, by a copy of such report together with proof of furnishing the report;*

      iii. *the return is accompanied by the* ***proof of tax*** *deducted or collected at source, advance tax paid and tax paid on self-assessment;*

      iv. ***[2 Marks] the proof of payment the tax as required under section 140B, if the return of income is a updated return furnished under section 139(8A).***

   d) ***where regular books of account are maintained by the assessee, the return is accompanied by:***

      i. *copies of Manufacturing A/c, Trading A/c, Profit and Loss A/c or Income and Expenditure A/c or any other similar account and Balance Sheet;*

      ii. ***in the case of***

      - ***A proprietary business or profession*** *- the personal account of the proprietor;*
      - ***A firm, AOP or BOI*** *- personal account of the partners or members; or*
      - ***A partner or member of the firm, AOP or BOI*** *- his personal account in the firm, association of persons or body of individuals;*

e) ***where the accounts of the assessee have been audited,*** *the return is accompanied by copies of the audited profit and loss account and balance sheet and the auditor's report and,*

where an audit of cost accounts *of the assessee has been conducted, under section 148 of the Companies Act, 2013, also the report under that section;*

f) ***where regular books of account are not maintained*** *by the assessee,*

- ✓ *the return is accompanied by a statement indicating the amounts of turnover or, as the case may be, gross receipts, gross profit, expenses and net profit of the business or profession and the basis on which such amounts have been computed,*
- ✓ *and also disclosing the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year:*

Provided that the Board may, by notification in the Official Gazette, specify that any of the conditions specified in clauses (a) to (h) to the Explanation shall not apply to such class of assessees or shall apply with such modifications, as may be specified in such notification.

Note: *Currently, the assessee is required to furnish paper-less return. i.e., no documents, proof or report (other than some specified report required to be furnished electronically) is required to be attached with return of income. In this regard, return of income shall not be considered as defective return. However, the assessee should retain these documents, proof or report with himself. If called for by the income-tax authority during any proceeding, it shall be incumbent upon the assessee to furnish/produce the same.*

PERMANENT ACCOUNT NUMBER (PAN) [SECTION 139A & Rule 114]

1. Form of Application:

Form 49A	For Indian Citizen / Indian Company / Entities incorporated in India / Unincorporated entities formed in India
Form 49AA	In other cases

2. Compulsory application for allotment of PAN

As per Section 139A & rule 114, following persons are under statutory obligation to apply for PAN within the time limit stated as under:

Who is to apply for PAN	When to apply for PAN
a) Every person, if his total income or the total income of any other person in respect of which he is assessable under the Act during any previous year **exceeds the maximum amount which is not chargeable to income-tax**	**On or before 31st May of the relevant assessment year.**
b) Every person **being a resident, other than an individual**, which enters into a **financial transaction of an amount aggregating to ₹ 2,50,000 or more in a financial year** Every person who is a managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of any person referred above or any person competent to act on behalf of such person referred above	
c) Every person carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to **exceed ₹ 5 lakhs** in any previous year	**On or before the end of the relevant financial year**
d) Any person who is required to furnish return u/s 139(4A) i.e. trust and charitable institution	
e) Any person who is entitled to receive any sum or income, on which tax is deductible under in any financial year	
f) Any person intends to enter into **specified transactions***	**7 days before entering into such transactions**

***Specified transactions are:**

1. Cash deposit or deposits **aggregating to ₹ 20 lakh or more in a financial year**, in one or more account of a person with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies **or a Post Office**;
2. Cash withdrawal or withdrawals **aggregating to ₹ 20 lakh or more in a financial year**, in one or more account of a person with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies **or a Post Office**;
3. **Opening of a current account or cash credit account** by a person with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies **or a Post Office**

Further, such person is required to quote PAN or Aadhaar number on any document pertaining to such transactions.

W.e.f. 10.10.2023, a person is not required to apply for PAN or quote PAN, in a case –

a) **where the person, making the deposit or withdrawal of an amount otherwise than by way of cash as per (i) or (ii) above, or opening a current account not being a cash credit account as per (iii) above, is a non-resident (not being a company) or a foreign company;**

b) **the transaction is entered into with an IFSC banking unit; and**

c) **such non-resident (not being a company) or the foreign company does not have any income chargeable to tax in India.**

3. **Voluntary application for allotment of PAN**

The section empowers a person to apply for a PAN, even though, the person does not fall under any of the categories as mentioned above. However, a person, who has been already allotted a PAN, shall not apply for another PAN.

4. **Every person shall—**

a) quote such number in **all his returns** to, or correspondence with, any income-tax authority;

b) quote such number in **all challans** for the payment of any sum due under this Act;

c) quote such number in all documents pertaining to such transactions as may be prescribed [Rule 114B] by the Board in the interests of the revenue, and entered into by him:

d) intimate the Assessing Officer any change in his address or in the name and nature of his business on the basis of which the permanent account number was allotted to him.

Every person **receiving any document** relating to a transaction prescribed under clause (*c*) shall ensure that the ***Permanent Account Number or the Aadhaar number, as the case may be,*** has been duly quoted in the document.

5. Every person receiving any sum or income or amount from which tax has been deducted, **shall intimate** his PAN to the person responsible for deducting such tax (TDS).

6. Where any sum or income or amount has been paid after deducting TDS, **every person deducting tax shall quote the PAN of the person to whom such sum or income or amount has been paid by him—**

i. **in the statement** furnished in accordance with the provisions of sub-section (2C) of section 192;

ii. **in all certificates** furnished in accordance with the provisions of section 203 **[TDS Certificate]**;

iii. **in all statements** prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 200 **[TDS return]**

Further, above provisions shall not apply in case of a person whose total income is not chargeable to income-tax or who is not required to obtain permanent account number under any provision of this Act **if such person furnishes to the person responsible for deducting tax, a declaration referred to in section 197A in the prescribed form and manner that the tax on his estimated total income for that previous year will be nil.**

7. Every buyer or licensee or lessee referred to in section 206C **shall intimate his PAN to the person responsible for collecting tax referred to in that section.**

8. **Every person collecting tax in accordance with the provisions of section 206C shall quote the PAN of every buyer or licensee or lessee referred to in that section—**

(i) in all TCS related certificates;

(ii) in all TCS return.

9. ***Inter-changeability of PAN with the Aadhaar Number [3 Marks]:***

Every person who is required to furnish or intimate or quote his permanent account number under this Act, and who,-

a) *has not been allotted a permanent account number but possesses the Aadhaar number,* ***may furnish or intimate or quote his Aadhaar number in lieu of the permanent account number****, and such person shall be allotted a permanent account number in such manner as may be prescribed;*

b) *has been allotted a permanent account number, and who has intimated his Aadhaar number in accordance with provisions of section 139AA,* ***may furnish or intimate or quote his Aadhaar number in lieu of the permanent account number.***

10. ***Every person entering into such transaction, as may be prescribed, shall quote his permanent account number or Aadhaar number, as the case may be, in the documents pertaining to such transactions and also authenticate such permanent account number or Aadhaar number, in such manner as may be prescribed.***

Every person receiving any document relating to the above transactions, shall ensure that permanent account number or Aadhaar number, as the case may be, has been duly quoted in such document and also ensure that such permanent account number or Aadhaar number is so authenticated.

11. ***Power to make rules in relation to PAN [Section 139A(8)]***

The CBDT is empowered to make rules with regard to the following:

a) the form and manner in which an application for PAN may be made and the particulars to be given therein;

b) the categories of transactions in relation to which PAN or the Aadhaar number, as the case may be, is **required to be quoted** on the related documents;

c) the categories of documents pertaining to business or profession in which PAN or the Aadhaar number, as the case may be, **shall be quoted** by every person;

d) the class or classes of persons to whom the provisions of this section **shall not apply**;

e) the form and manner in which a person who has not been allotted a PAN **shall make a declaration**;

f) the **manner i**n which PAN or the Aadhaar number, as the case may be, shall be quoted for transactions cited in (b) above;

g) the **time and manner** in which such transactions cited in (b) above shall be intimated to the prescribed authority.

12. **Important Point:**

A. No person who has already been allotted a permanent account number under the new series shall apply, obtain or possess another permanent account number.

B. Such PAN ***comprises of 10 alphanumeric characters*** and is issued in the form of a laminated card.

C. Persons, who have agricultural income and are not in receipt of any other taxable income, **are exempt from the provisions of section 139A.**

PENALTY: [2 Marks]

Penalty for failure to comply with the provisions of section 139A or for quoting or intimating wrong PAN or possessing more than one PAN (Section 272B): [1 Marks]

₹ 10,000. [No Penalty, if defaulter has reasonable cause of such failure.]

Monetary limits of specified transactions which require quoting of PAN [Rule 114B] [4 Marks]

S.No.	Nature of transaction	Value of transaction
1.	Sale or purchase of **motor vehicle** (other than two wheeled motor vehicle) which requires registration	All such transactions
2.	**Opening an account** [other than a time-deposit referred to at Sl. No.12 and a Basic Savings Bank Deposit Account] with a bank etc	All such transactions
3.	Making an application to any bank etc for issue of a **credit or debit card.**	All such transactions
4.	Opening of a **Demat account**	All such transactions
5.	Payment to a **hotel or restaurant against a bill** or bills at any one time	Payment **in cash** of an amount **exceeding ₹ 50,000.**
6.	Payment in connection with **travel to any foreign country or payment for purchase of any foreign currency** at any one time	Payment **in cash** of an amount **exceeding ₹ 50,000.**
7.	Payment to a **Mutual Fund** for purchase of its units	Amount **exceeding ₹ 50,000.**
8.	Payment to a company or an institution for **acquiring debentures or bonds**	Amount **exceeding ₹ 50,000.**
9.	Payment to the **Reserve Bank of India for acquiring bonds**	Amount **exceeding ₹ 50,000.**
10.	**Cash Deposit** with a banking company or a cooperative bank or Post office	Deposits in cash **exceeding ₹ 50,000** during any one day.
11.	Purchase of **bank drafts or pay orders or banker's cheques**	Payment in cash of an amount **exceeding ₹ 50,000** during any one day.
12.	A **Time Deposit** with, - **(i)** a banking company or a co-operative bank **(ii)** a Post Office; **(iii)** a Nidhi referred in Companies Act, 2013; or **(iv)** a NBFC	Amount exceeding **₹ 50,000 or aggregating to more than ₹ 5 lakh** during a financial year
13.	Payment for one or more **pre-paid payment instruments**	Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to **more than ₹ 50,000** in a financial year.
14.	Payment as **life insurance premium**	Amount aggregating to **more than ₹ 50,000** in a financial year.
15.	A contract for sale or purchase of **securities (other than shares)**	Amount **exceeding ₹ 1 lakh** per transaction
16.	Sale or purchase, by any person, of shares of a company **not listed** in a recognised stock exchange.	Amount **exceeding ₹ 1 lakh** per transaction.
17.	Sale or purchase of **any immovable property**	Amount **exceeding ₹ 10 lakh** or valued by stamp valuation authority referred to in section 50C of the Act at an amount exceeding ₹ 10 lakh
18.	Sale or purchase, by any person, of goods or services of any nature other than above.	Amount **exceeding ₹ 2 lakh** per transaction

Note:

a. **In case of minor** who does not have any income chargeable to income-tax, PAN of his father or mother or guardian is required.

b. Further, any person **[Other than company & Firm (amended from 10.10.2023)]** who does not have a PAN and who enters into any transaction specified above, shall make a **declaration in Form No. 60** giving therein the particulars of such transaction

However, a foreign company who does not have any income chargeable to tax in India and does not have a PAN and enters into the transactions specified in S. No. 2 & S. No. 12, in an IFSC banking unit, has to make a declaration in Form No. 60.

c. Also, the provisions of this rule **shall not apply** to the

- ✓ Central Government,
- ✓ State Governments and
- ✓ Consular Offices

Section 139AA - Quoting of Aadhaar number

1. **[3 Marks] Every person who is eligible to obtain Aadhaar number shall quote Aadhaar number -**

(i) in the application form for allotment of permanent account number;

(ii) in the return of income:

Where the person does not possess the Aadhaar Number, the **Enrolment ID** [28 Digit Enrolment Identification Number] of Aadhaar application form issued to him at the time of enrolment **shall be quoted** in the application for permanent account number or, as the case may be, in the return of income furnished by him.

2. **[Section 139AA(2)]** Every person who has been allotted permanent account number as on the 1st day of July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority in such form and manner as may be prescribed, on or before a date to be notified **(i.e. 31.03.2022)** by the Central Government in the Official Gazette:

In case of failure to intimate the Aadhaar number, the permanent account number allotted to the person shall be ***made inoperative after the date so notified in such manner as may be prescribed [Rule 114AAA].***

3. The provisions of this section **shall not apply** to such person or class or classes of persons or any State or part of any State, as may be notified by the Central Government in this behalf, in the Official Gazette.

[Imp: 4 Marks] Accordingly, the Central Government has notified that the provisions of section 139AA relating to quoting of Aadhar Number would not apply to an individual who does not possess the Aadhar number or Enrolment ID and is:

a. residing in the States of Assam, Jammu & Kashmir and Meghalaya; or

b. a non-resident as per Income-tax Act, 1961; or

c. of the age of 80 years or more at any time during the previous year; or

d. not a citizen of India

RULE 114AAA

Rule 114AAA specifies the manner of making permanent account number inoperative.

(1) If a person, who has been allotted PAN as on 1st July, 2017 and is required to intimate his Aadhaar number under section 139AA(2), has failed to intimate the same **on or before 31st March, 2022**, **the PAN of such person would become inoperative immediately after the said date for the purposes of furnishing, intimating or quoting under the Income-tax Act, 1961.**

This will have a number of implications such as: -

(i) The person would not be able to file return using the inoperative PAN

(ii) Pending returns will not be processed

(iii) Pending refunds cannot be issued to inoperative PANs

(iv) Pending proceedings as in the case of defective returns cannot be completed once the PAN is inoperative

(v) Tax will be required to be deducted at a higher rate as PAN becomes inoperative

(2) Accordingly, where a person, whose PAN has become inoperative, is required to furnish, intimate or quote his PAN under the Act, **it shall be deemed that he has not furnished, intimated or quoted the PAN**, as the case may be, in accordance with the provisions of the Act. Consequently, **he would be liable for all the consequences under the Act for not furnishing, intimating or quoting the PAN.**

[However, these consequences will be applicable from 1.4.2023, being the date specified by the Board.]

(3) Where such person who has not intimated his Aadhaar number on or before 31st March, 2022, intimates his Aadhar number under section 139AA(2) **after 31st March, 2022**, his PAN would become operative from the date of intimation of Aadhaar number for the purposes of furnishing, intimating or quoting under the Act.

Accordingly, the consequences in sub-rule (2) would not be applicable from such date of intimation.

FEE FOR DEFAULT RELATING TO INTIMATION OF AADHAAR NUMBER [SECTION 234H]

[2 Marks]

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

Accordingly, the CBDT has inserted Rule 114(5A) to provide that if such person fails to do so by the date notified in section 139AA(2) i.e., 31st March, 2022, **then, at the time of subsequent intimation of his Aadhaar number to the prescribed authority, such person would be liable to pay, by way of fee, an amount equal to,**-

a) ₹ 500, in a case where such intimation is made **within 3 months** from the date referred in section 139AA(2) i.e., by 30.06.2022; and

b) ₹ 1,000, in all other cases.

Important: In order to have smooth application of section 234H and existing rule 114AAA, **it is clarified that the impact of Rule 114AAA(2) would come into effect from 1st April, 2023**; and the period from 1st April, 2022 to 31st March, 2023, would be the period during which Rule 114AAA(2) **would not have its negative consequences.**

Manner for allotment of PAN to a person who has not been allotted a PAN but possesses Aadhaar number

Section 139A provides that every person who is required to furnish or intimate or quote his PAN and who has not been allotted a PAN but possesses the Aadhaar number, ***may furnish or intimate or quote his Aadhaar Number in lieu of the PAN*** *and such person would be allotted a PAN in such manner as may be prescribed.*

Rule 114 requires submission of application for allotment of PAN by the applicant in the prescribed form ***accompanied by the prescribed documents as proof of identity, address and date of birth of such applicant.***

Rule 114 provides that any person, ***who has not been allotted a PAN but possesses the Aadhaar number*** *and has furnished or intimated or quoted his Aadhaar number in lieu of the PAN in accordance with section 139A,* ***shall be deemed to have applied for allotment of PAN and he shall not be required to apply or submit any documents under Rule 114.***

Further, any person, who has not been allotted a PAN but possesses the Aadhaar number may apply for allotment of the PAN under section 139A ***by intimating his Aadhaar number and he shall not be required to apply or submit any documents under Rule 114.***

RETURN BY WHOM TO BE VERIFIED [Section 140]: 4 Marks

Assessee	Case	Verified by
Individual	In General	Individual himself
	Where the individual concerned is absent from India	Individual himself or by the duly authorized person of such individual
	Where the individual is mentally incapacitated	Guardian of such individual or any other person competent to act on his behalf
	Where by any other reason it is not possible to verify the return.	Any person duly authorized by him
	Note: when return is verified by any authorized person in that case the return should be accompanied with power of attorney.	
HUF	In General	Karta
	Where the 'Karta' is absent from India or is mentally incapacitated	Any **adult member** of the family
Firm	In General	Managing Partner
	If due to any reason it is not possible for managing partner to verify or where there is no managing partner	Any adult partner
Limited liability partnership	In General	Designated partner
	If due to any unavoidable reason such designated partner is not able to verify and verify the return, or where there is not designated partner	Any partner of the LLP, ***or any other person* as may be prescribed for this purpose.***
Local authority	Principal Officer	
Political party	Chief Executive Officer	
Company	In General	Managing Director (MD)
	If due to any reason it is not possible for MD to verify or where there is no MD	Any director, ***or any other person* as may be prescribed for this purpose.***
	Non-Resident company	A person holding a valid power of attorney. Copy of such power of attorney must be attached with the return.
	Where the company is being wound up (whether under the orders of a court or otherwise); or where any person has been appointed as the receiver of any assets of the company	Liquidator
	Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.	**Insolvency Professional appointed by such Adjudicating Authority**

*The CBDT has notified that "any other person" referred above shall be the person, appointed by the Adjudicating Authority (i.e., National Company Law Tribunal constituted under section 408 of the Companies Act, 2013) for discharging the duties and functions of ***an interim resolution professional, a resolution professional, or a liquidator, as the case may be, under the Insolvency and Bankruptcy Code, 2016*** and the rules and regulations made thereunder.

TAX RETURN PREPARERS SCHEME [SECTION 139B]

Section 139B provides that for the purpose of enabling any specified class or classes of persons in preparing and furnishing returns of income, the CBDT may, without prejudice to the provisions of section 139, frame a Scheme, by notification in the Official Gazette, providing that such persons may furnish their returns of income through a Tax Return Preparer (TRP) authorised to act as such under the Scheme.

CBDT had notified the "Tax Return Preparer Scheme, 2006". Content of amended scheme are:

Particulars	Contents [4 Marks]
Applicability of the scheme	The scheme is applicable to **all eligible persons.**
Eligible person	Any person ***being an individual or a Hindu undivided family***.
Tax Return Preparer	Any individual who has been issued a "Tax Return Preparer Certificate" and a "unique identification number" under this Scheme by the Partner Organisation to carry on the profession of preparing the returns of income in accordance with the Scheme. **However, the following person are not entitled to act as TRP:** (i) any officer of a scheduled bank with which the assesse maintains a current account or has other regular dealings. (ii) any legal practitioner who is entitled to practice in any civil court in India. (iii) A chartered accountant.
Educational qualification for Tax Return Preparers	An **individual, who holds a bachelor degree** from a recognised Indian University or institution, or **has passed the intermediate level examination** conducted by the Institute of **Chartered Accountants** of India or the Institute of **Company Secretaries** of India or the Institute of **Cost Accountants** of India, **shall be eligible to act as TRP.**
Preparation of and Furnishing the Return of Income by the TRP	An eligible person may, at his option, furnish his return of income u/s 139 for any assessment year after getting it prepared through a TRP: **However, the following eligible persons (an individual or a HUF) cannot furnish a return of income for an assessment year through a TRP:** **(i)** who is carrying out business or profession during the previous year and accounts of the business or profession for that previous year **are required to be audited under section 44AB or under any other law** for the time being in force; or **(ii)** who is **not a resident in India** during the previous year. An eligible person cannot furnish a revised return of income for any assessment year through a TRP **unless he has furnished the original return of income for that assessment year through such or any other TRP.** Further, a return of income which is required to be furnished in response to a notice under section 142(1)(i) or under section 148 **cannot be prepared or furnished through a TRP.**

SELF-ASSESSMENT [SECTION 140A]

Payment of tax, interest and fee before furnishing return of income

Where any tax is payable on the basis of any return required to be furnished ***under, inter alia, section 139***, after taking into account -

- **a.** the amount of tax, already paid, under any provision of the Income-tax Act, 1961
- **b.** any tax deducted or collected at source;
- **c.** any relief of tax allowed under section 89;
- **d.** any tax credit allowed to be set off in accordance with the provisions of section 115JD [AMT Credit]
- **e.** ***any tax or interest payable as per the provisions of section 191(2) [refer TDS Class]***

the assessee **shall be liable to pay such tax together with interest and fees** payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return. **The return shall be accompanied by the proof of payment of such tax, interest and fee.**

Order of adjustment of amount paid by the assessee ***[2 Marks]***

Where the amount paid by the assessee under section 140A(1) falls short of the aggregate of the tax, interest and fees as aforesaid, the amount so paid shall **first be adjusted towards the fees payable and thereafter towards interest and the balance, if any, shall be adjusted towards the tax payable.**

Interest under section 234A

For the above purpose, interest payable under section 234A shall be computed on the amount of tax on the **total income as declared in the return**, **as reduced by the amount of**-

- **a.** advance tax paid, if any;
- **b.** any tax deducted or collected at source;
- **c.** ***any relief of tax claimed under section 89***
- **d.** any tax credit allowed to be set off in accordance with the provisions of section 115JD [AMT Credit]

Interest under section 234B

Interest payable under section 234B shall be computed on the assessed tax or on the amount by which the advance tax paid falls short of the assessed tax.

For this purpose "assessed tax" means the **tax on total income declared in the return as reduced by the amount of**

- **a.** any tax deducted or collected at source;
- **b.** ***any relief of tax claimed under section 89***
- **c.** any tax credit allowed to be set off in accordance with the provisions of section 115JD [AMT Credit]

Consequence of failure to pay tax, interest or fee

If any assessee fails to pay the whole or any part of **such of tax or interest or fees**, he shall be deemed to be an **assessee in default** in respect of such tax or interest or fees remaining unpaid and all the provisions of this Act shall apply accordingly.

TAX ON UPDATED RETURN [SECTION 140B]

(1) Payment of tax, additional tax, interest and fee before furnishing updated return of income

a) If no return is furnished earlier [Section 140B(1)]

Where no return of income under section 139(1) or 139(4) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together with interest ***and fee payable*** *under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax****, along with the payment of additional tax computed under section 140B(3),*** *before furnishing the return.*

The tax payable is to be computed after taking into account the following -

i. *the amount of tax, if any, already paid, as advance tax*
ii. *the tax deducted or collected at source*
iii. *any relief of tax claimed under section 89; and*
iv. *any tax credit claimed to set-off in accordance with the provisions of section 115JD etc.*

[Not a complete list]

The return has to be accompanied by the proof of payment of such tax, additional tax, interest and fee.

b) ***If return is furnished earlier [Section 140B(2)]***

Where, return of income under section 139(1) or 139(4) or 139(5) has been furnished by an assessee ***and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A),*** *the assessee would be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax, along with the payment of additional tax computed under section 140B(3)* ***(as reduced by the amount of interest paid under the provisions of this Act in the earlier return) before furnishing the return.***

The tax payable has to be computed after taking into account the following -

i. ***the amount of relief or tax referred to in section 140A, the credit for which has been taken in the earlier return***
ii. *the tax deducted or collected at source on any income which is subject to such deduction or collection* ***and which is taken into account in computing total income and which has not been included in the earlier return***
iii. *any tax credit claimed to set-off in accordance with the provisions of section 115JD, which has not been claimed in the earlier return.*

[Not a complete list]

The aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return.

The return has to be accompanied by the proof of payment of such tax, additional tax, interest and fee.

(2) *Additional income-tax payable at the time of updated return [Section 140B(3)]* *VERY IMP.*

The additional income-tax payable at the time of furnishing the updated return under section 139(8A) would be –

i. ***25% of aggregate of tax and interest payable****, as determined above, if such return is furnished after expiry of the time available under section 139(4) or 139(5)* ***and before completion of the period of 12 months from the end of the relevant assessment year****; or*

ii. ***50% of aggregate of tax and interest payable****, as determined above, if such return is furnished after the expiry of 12 months from the end of the relevant assessment year* ***but before completion of the period of 24 months from the end of the relevant assessment year****.*

[SATC Note: Additional income tax will not be computed on Late Fee or Penalty]

(3) *Interest under section 234B where earlier return has been furnished [Section 140B(4)]*

In a case where an earlier return has been furnished, interest payable under section 234B has to be computed on the assessed tax ~~or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax~~.

"Assessed tax" means the tax on the total income as declared in the updated return to be furnished under section 139(8A), *after taking into account the following:*

i. *the amount of relief or tax referred to in section 140A, the credit for which has been taken in the earlier return,* ***if any***

ii. *the tax deducted or collected at source on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return*

iii. *any tax credit claimed to set-off in accordance with the provisions of section 115JD, which has not been claimed in the earlier return*

[Not a complete list]

The aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return.

(4) *Power to CBDT to issue guidelines*

In case of any difficulty arises in giving effect to the provisions of this section, the CBDT may issue guidelines for the purpose of removing the difficulty, with the approval of the Central Government. Every guideline issued shall be laid before each House of Parliament.

(5) *Computation of Additional income-tax*

For the purpose of computation of Additional income-tax",

- ***tax would include surcharge and cess****, by whatever name called, on such tax*
- *the interest payable would be* ***interest chargeable under any provision of the Act, on the income as per updated return furnished under section 139(8A), as reduced by interest paid in the earlier return, if any.***

  However, the interest paid in the earlier return would be considered to be nil, if no earlier return has been furnished.

[Additional income tax will not be computed on Late Fee or Penalty]

(6) *Interest under section 234A if no earlier return has been furnished*

In a case, where no earlier return has been furnished, the interest payable under section 234A has to be computed on the amount of the ***tax on the total income as declared in the updated return under section 139(8A)****,* ***in accordance with the provisions of section 140A****.*

(7) *Interest under section 234C if earlier return has been furnished*

Interest payable under section 234C, where an earlier return has been furnished, has to be computed after taking into account the ***income furnished in the return under section 139(8A) as the returned income.***

ILLUSTRATION: 4 Marks

Mr. X would like to furnish his updated return for the A.Y. 2021-22. In case he furnished his updated return of income, he would be liable to pay ₹ 2,50,000 towards tax and ₹ 35,000 towards interest after adjusting tax and interest paid at the time filing earlier return.

You are required to examine whether Mr. X can furnish updated return

i. ***as on 31.3.2023***
ii. ***as on 28.2.2024***
iii. ***as on 31.5.2024***

If yes, compute the amount of additional income-tax payable by Mr. X at the time of filing his updated return.

Would your answer be different with respect to filing of updated return in case of (ii) above, where he has received a notice under section 147 for the said A.Y. 2021-22 on 23.7.2023

SOLUTION:

Mr. X may furnish an updated return of his income for A.Y. 2021-22 at any time within 24 months from the end of the relevant assessment year i.e., 31.3.2024.

Accordingly, Mr. X can furnish updated return for A.Y. 2021-22 as on 31.3.2023 and on 28.2.2024. ***However, he cannot furnish such return as on 31.5.2024, since such date falls after 31.3.2024.***

Mr. X would be liable to pay additional income-tax

- ***@25% of tax and interest payable, if updated return is furnished after the expiry of the time limit available under section 139(4) or 139(5) i.e., 31st December 2022*** *and before the expiry of 12 months from end of relevant assessment year i.e., 31.3.2023*

- ***@50% of tax and interest payable, if updated return is furnished after the expiry of 12 months from end of relevant assessment year i.e., 31.3.2023*** *and before the expiry of 24 months from end of relevant assessment year i.e., 31.3.2024.*

Accordingly, Mr. X is liable to pay additional income-tax in case he furnished his updated return as on

i. ***31.3.2023*** *- ₹ 71,250 [25% of 2,85,000, being tax of ₹ 2,50,000 plus interest of ₹ 35,000]*
ii. ***28.2.2024*** *- ₹ 1,42,500 [50% of 2,85,000, being tax of ₹ 2,50,000 plus interest of ₹ 35,000]*

He cannot furnish updated return where he has received notice u/s 147, since proceeding for income escaping assessment for the A.Y. 2021-22 are pending.

PRACTICAL QUESTION - SET A

1. Paras aged 55 years is a resident of India. During the F.Y. 2023-24, 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?

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 54/54B/54D/54EC/54F etc, **exceeds the maximum amount not chargeable to tax i.e. ₹ 2,50,000**.

Computation of total income of Mr. Paras for A.Y. 2024-25

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 under section 80TTA (Interest on saving bank account)	3,000
Total Income	**30,000**

Since the total income of Mr. Paras for A.Y. 2024-25, 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. 2024-25.

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).

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. 2024-25.

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:
(a) Belated return filed under section 139(4).
(b) Return already revised once under section 139(5).
(c) 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 ***3 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,

(a) A belated return filed under section 139(4) can be revised.

(b) 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.

(c) 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).

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, 2024 audited under section 44AB. Her total income for the assessment year 2024-25 is ₹ 6,35,000. She wants to furnish her return of income for assessment year 2024-25 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. 2024-25 through a Tax Return Preparer.

4. 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 (₹ 110 lakhs received in cash) for the year ended 31.03.2024, whether or not opting to offer presumptive income under section 44AD, is 31st October 2024.

Solution:

(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 31.03.2024, shall be 31st July, 2024.

In case Mr. A does not opt for presumptive taxation provisions under section 44AD and, has to get his accounts audited under section 44AB, **since his turnover exceeds ₹ 1 crore, the due date for filing return would be 31st October, 2024.**

5. Mr. Vineet submits his return of income on 12-09-2024 for A.Y 2024-25 consisting of income under the head "Salaries", "Income from house property" and bank interest. On 21-11-2024, 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 21-01-2025?

Solution:
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. 2024-25 under section 139(1), in his case, is 31st July, 2024. **Since Mr. Vineet had submitted his return only on 12.9.2024, 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 **November 2024**, to claim deduction under section 80TTA, since the time limit for filing a revised return is ***3 months prior to the end of the relevant assessment year, which is 31.12.2024 (assuming no assessment is made).***

However, he cannot revise return had he discovered this omission only on 21-01-2025, **since it is beyond 31.12.2024.**

6. 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 <u>any male</u> member of the family.

Solution:

(i) <u>True:</u> Section 139A 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) <u>False:</u> Section 140 provides that where the Karta of a HUF is absent from India, the return of income can be verified by any **<u>other adult member</u>** of the family; such member can be a male or female member.

7. 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?

Solution:

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).

<u>Following losses are covered by section 139(3):</u>

- 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 can be carried forward even if return of loss has not been filed as required under section 139(3).

8. Ms. Priyanka is a partner in a firm but not a working partner, whose turnover for the previous year 2023-24 is ₹ 275 lacs (Cash sales). The due date of filing the return of income by Mr. Priyanka is 31st July, 2024, if he is getting only interest on capital from the firm. Whether this statement is correct.

Solution:

Incorrect as the due date u/s 139(1) is **31st October** in respect of **any partners of firms in case tax audit is applicable.**

9. Mr. Sharma's sales for year ended 31-3-2024 were ₹ 10,00,000 and his income for the same year was ₹ 2,10,000. As his income doesn't exceed maximum amount not chargeable to tax, he is of the opinion that neither he is required to apply for PAN nor he is required to furnish his return of income.

Solution:

Mr. Sharma is liable to apply for PAN, as his sales exceed ₹ 5 lakhs, but he is not required to furnish return of income, as his income doesn't exceed ₹ 2,50,000.

10. Specify the persons who are authorized to verify under section 140, the return of income filed under section 139 of the Income-tax Act, 1961 in the case of:

i. Political party;
ii. Local authority;
iii. Association of persons, and
iv. Limited Liability Partnership (LLP).

Solution:
The following persons (mentioned in Column III below) are authorised as per section 140, to verify the return of income filed under Section 139:

I	II	III
(i)	Political party	Chief Executive Officer of such party (whether known as secretary or by any other designation).
(ii)	Local authority	Principal Officer thereof.
(iii)	Association of Persons	Any member of the association or the principal officer thereof.
(iv)	LLP	**Designated partner,** or ***Any partner of the LLP or any other person as may be prescribed for this purpose*** ➢ where the designated partner is not able to verify the return for any unavoidable reason; ➢ where there is no designated partner.

11. State whether filing of income-tax return is mandatory for the AY 2024-25 in respect of the following cases:

A Limited Liability Partnership (LLP) with business loss of ₹ 1,30,000.

Solution:
As per section 139(1), every company or firm shall furnish on or before the due date the return in respect of its income or loss in every previous year.

Since LLP is included in the definition of "firm" under the Income-tax Act, 1961, it has to file its return mandatorily, even though it has incurred a loss.

12. Can an individual, who is not in India, verify the return of income from outside India? Is there any other option?

Solution:
As per section 140, return of income can be verified by an individual even if he is absent from India. Hence, an individual can himself **verify** the return of income from a place outside India. Alternatively, any person holding a valid power of attorney and duly authorised by the individual can also **verify** the return of income.

13. Enumerate the circumstances in which an individual assessee is empowered to verify his return of income under section 139 by himself or otherwise by any authorized person.

Solution:
The following table enumerates the specific circumstances and the authorized persons empowered to verify the return of income of an individual assessee filed under section 139(1) in each such circumstance:

	Circumstance	Return of income, to be verified by
(i)	Where he is absent from India	➢ the individual himself; or ➢ any person duly authorised by him in this behalf holding a valid power of attorney from the individual. (Such power of attorney should be attached to the return of income)
(ii)	Where he is mentally incapacitated from attending to his affairs	➢ his guardian; or ➢ any other person competent to act on his behalf.

(iii)	Where, for any other reason, it is not possible for the individual to verify the return	➢ any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)
(iv)	In circumstances not covered under (i), (ii) & (iii) above	➢ the individual himself

14. Mr. Aakash has undertaken certain transactions during the F.Y. 2023-24, 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.	**Payment of life insurance premium of ₹ 45,000 in the F.Y. 2023-24 by account payee cheque to LIC for insuring life of self and spouse**
2.	**Payment of ₹ 1,00,000 to a five-star hotel for stay for 5 days withfamily, out of which ₹ 60,000 was paid in cash**
3.	**Payment of ₹ 80,000 by ECS through bank account for acquiring the debentures of A Ltd., an Indian company**
4.	**Payment of ₹ 95,000 by account payee cheque to Thomas Cook fortravel to Dubai for 3 days to visit relatives**
5.	**Applied to SBI for issue of credit card.**

Answer

	Transaction	Is quoting of PAN mandatory inrelated documents?
1.	Payment of life insurance premium of ₹ 45,000 in the F.Y. 2023-24 by account payee cheque to LIC forinsuring life of self and spouse	No, since the amount paid does not exceed ₹ 50,000 in the F.Y. 2023-24.
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 creditcard.	Yes, quoting of PAN is mandatory on making an application to a banking company for issue of credit card.

PRACTICAL QUESTION - SET B

1. **A Firm carrying on business filed a return of income disclosing an income of ₹ 85,000 in 28th November, 2024 in respect of assessment year 2024-25 (Due date is 31.07.2024). It discovered an omission therein and therefore filed a revised return u/s 139(5) in 27th December, 2024 showing a revised income of ₹ 60,000. The Assessing Officer, however, ignored the revised return and proceeded to process u/s 143(1)(a) on the original return. Comment.**

   Solution: Section 139(5) provides that any return filed within the time limit u/s 139(1) or u/s 139(4) can be revised if there is any omission or error in the original return.

   In the given case, the original return is filed belatedly u/s 139(4), which can be revised u/s 139(5) **before 3 months prior to the end of AY (i.e. 31.12.2024).**

   Hence, the revised return should be accepted by AO before to proceed u/s 143(1).

2. **What is the due date of filling of return of income in case of a non-working partner of a firm whose accounts are not liable to be audited?**

   Solution: Due date of furnishing return of income in case of non-working partner **shall be 31st July** of the assessment year where the accounts of the firm are not required to be audited.

3. ***The accounts of a firm are subject to tax audit under section 44AB of the Income-tax Act, 1961. Mr. X. is a working partner of the firm; he is however not entitled to receive any remuneration as per the partnership deed. He files his return of income for the assessment year 2024-25 on October 31, 2024. The Assessing' Officer charges interest u/s. 234A for delay in filing of return. Is the Assessing Officer justified?***

   Solution: Where the accounts of the firm are subject to tax audit then, for **any partner** of such firm as per section 139(1), the **due date is 31.10.2024**. ***For fixation of due date, receipt of any remuneration from the firm is not required.*** Mr. X is a partner of the firm. So he can submit his return of income on 31.10.2024 which is the due date to Mr. X for filing return of income. Therefore, the assessing officer is wrong here in charging interest u/s 234A.

4. **Discuss under what circumstance revised returns of income can be filed.**

   Solution: If an assessee **discovers any omission or a wrong statement** in the return already filed by him u/s 139(1) or u/s 139(4), he may furnish a revised return at any time **before 3 months prior to the end of relevant assessment year** or before the assessment is made, whichever is earlier.

   A return may be revised any number of times. However**, filing of a false return deliberately is not condoned** by the filing of a revised return. If it is found that a false return has been filed willfully, the assessee will be subject to penalty, prosecution, etc.

   It may be noted that a belated return filed under section 139(4) can also be revised.

5. **What is a defective return under Income Tax Act, 1961? What are remedies available for the same?**

   Solution:
   Defective Return [Section 139(9)] of Income Tax Act, 1961
   1. Under this sub-section, the Assessing Officer has the power to call upon the assessee to rectify a defective return.

   2. Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of 15 days from the date of such intimation. The Assessing Officer has the discretion to extend the time period beyond 15 days, on an application made by the assessee.

   3. If the defect is not rectified within the period of 15 days or such further extended period, then there turn would be treated as an invalid return. The consequential effect would be the same as if the assessee had failed to furnish the return.

4. Where, however, the assessee rectifies the defect after the expiry of the period of 15 days or the further extended period, but before assessment is made, the Assessing Officer can condone the delay and treat the return as a valid return.

5. A return can be treated as defective if it is not properly filed in or the necessary enclosures are not accompanying the return.

6. X, an individual, has got his books of account for the year ending 31.3.2024 audited under section 44AB. His total income for the assessment year 2024-25 is ₹ 5,20,000. He desires to know if he can furnish his return of income for the assessment year 2024-25 through a Tax Return Preparer.

Solution:
Section 139B provides for submission of return of income through Tax Return Preparers. It empowers the Central Board of Direct Taxes (CBDT) to frame a scheme for the purpose of enabling any specified class or classes of persons to prepare and furnish their returns of income through Tax Return Preparers. Specified class or classes of persons have been defined to mean any person, other than a company or a person whose accounts are required to be audited under section 44AB or under any other existing law, who is required to furnish a return of income under the Act.

Thus, companies and persons whose accounts are liable for tax audit under section 44AB do not fall within the definition of 'specified class or classes of persons' and consequently, cannot furnish their returns of income through Tax Return Preparers.

In the instant case, the books of account of X for the year ending 31.3.2024 have been audited under section 44AB. As such, he cannot furnish his return of income for the A.Y. 2024-25 through a Tax Return Preparer.

7. Smt. Kanti engaged in the business of growing, curing, roasting and grounding of coffee after mixing chicory had a total income of ₹ 6,00,000 from this business which was her only source of income during the year ended on 31.3.2024. She consults you to have an opinion whether she is required to file return of income for the A.Y. 2024-25 as per provisions of section 139(1).

Would your answer change if she had travelled to USA during the P.Y. 2023-24 and incurred ₹ 2.20 lakhs for the same?

Solution:
An individual deriving income from growing, curing, roasting and grounding of coffee with or without mixing chicory, would not be required to file the return of income if the aggregate of 40% of his or her income from growing, curing, roasting and grounding of coffee with or without mixing chicory and income from all other sources liable to tax in accordance with the provisions of this Act, **is equal to or less than the basic exemption limit prescribed.**

In this case, Smt. Kanti has a total income of ₹ 6,00,000 from this business, which was her only source of income for P.Y. 2023-24. 40% of her total income works out to ₹ 2,40,000, which is less than the basic exemption limit of ₹ 2,50,000 in respect of an individual assessee.

Therefore, Smt. Kanti is not required to file a return of income for the A.Y. 2024-25 as per the provisions of section 139(1).

If Smt. Kanti had travelled to USA during the P.Y. 2023-24 and incurred ₹2.20 lakhs on such travel, she would be required to **mandatorily** file a return of income for A.Y. 2024-25 **on or before the due date u/s 139(1), even though her total income does not exceed the basic exemption limit.**

8. What will be the consequences when Mr. Raghav made payment of ₹ 75,000 in cash to a travel agent for his travel to Saudi Arabia to be undertaken for business purposes by quoting intentionally the wrong PAN? Would your answer be different if such cash payment was made for his travel to Nepal, instead of Saudi Arabia?

Solution:
If a person who is required to quote his permanent account number in any document referred to in section 139A, quotes a number which is false, and which he either knows or believes to be false or does not believe to be true, the Assessing Officer may direct that such a person shall pay by way of penalty a sum of ₹ 10,000 under section 272B.

In the given case, if Mr. Raghav travels to Saudi Arabia and pays his travel agent cash in excess of ₹ 50,000, such a transaction is covered by section 139A and therefore, Mr. Raghav has to quote his PAN.

Since Mr. Raghav has misquoted his PAN, penalty under section 272B is leviable. Mr. Raghav has to be given an opportunity of being heard in the matter. If Mr. Raghav is not able to prove that there was a reasonable cause for the said failure, penalty under section 272B would be imposable.

The answer would remain the same even if such cash payment was made for his travel to Nepal.

9. The Assessing Officer issued a notice under section 142(1) on the assessee on 24th December, 2024 calling upon him to file return of income for Assessment Year 2024-25. In response to the said notice, the assessee furnished a return of loss and claimed carry forward of business loss and unabsorbed depreciation. State whether the assessee would be entitled to carry forward as claimed in the return.

Solution:

As per the provisions of section 139(3), any person who has sustained loss under the head 'Profit and gains of business or profession' is allowed to carry forward such a loss under section 72(1) or section 73(2), **only if he has filed the return of loss within the time allowed under section 139(1).**

Also, the provisions of section 80 specify that a loss which has not been determined as per the return filed under section 139(3) shall not be allowed to be carried forward and set-off under, inter alia, section 72(1) (relating to business loss) or section 73(2) (losses in speculation business) or section 74(1) (loss under the head "Capital gains") or section 74A(3) (loss from the activity or owning and maintaining race horses) or section 73A (loss relating to a "specified business"). **However, there is no such condition for carry forward of unabsorbed depreciation under section 32.**

In the given case, the assessee has filed its return of loss in response to notice under section 142(1). **As per the provisions stated above, the return filed by the assessee in response to notice under section 142(1) is a belated return** and therefore, the benefit of carry forward of business loss under section 72(1) or section 73(2) or section 73A shall **not** be available.

The assessee shall, however be entitled to carry forward the unabsorbed depreciation as per provisions of section 32(2).

10. State with reasons whether return of income is to be filed in the following cases for the Assessment Year 2024-25:

(i) Mr. X, a resident individual, aged 80 years, has a total income of ₹ 2,85,000. He has claimed deduction of ₹ 1,50,000 under section 80C. Long-term capital gains of ₹ 80,000 is not taxable by virtue of the exemption available upto specified threshold under section 112A. Assume that he has not opted for the special provisions under section 115BAC.

Would your answer change if Mr. X has incurred ₹ 1,05,000 towards payment of electricity bills for F.Y. 2023-24?

(ii) ABC, a partnership firm, has a loss of ₹ 10,000 during the previous year 2023-24.

(iii) Mr. Y, aged 45 years, an employee of ABC (P) Ltd, draws a salary of ₹ 5,90,000 and has income from fixed deposits with bank of ₹ 10,000.

Solution:

S. No.	Is filing of return required?	Reason
(i)	No	As per the provisions of section 139(1), every person, whose total income without giving effect to the provisions of Chapter VI-A exceeds the maximum amount not chargeable to tax, is required to furnish the return of income for the relevant assessment year on or before the due date. The gross total income of Mr. X before giving effect to deduction of ₹ 1,50,000 under section 80C is ₹ 4,35,000, which is less than the basic exemption limit of ₹ 5,00,000 applicable to an individual aged 80 years or more. **Therefore, Mr. X need not furnish his return of income for the A.Y. 2024-25.** **Note** – Yes, the answer would change, since Mr. X has incurred expenditure of an amount exceeding ₹ 1 lakh towards consumption of electricity. In such a case, he would have to file his return for A.Y. 2024-25 on or before the due date u/s 139(1).
(ii)	Yes	As per section 139(1), it is mandatory for a firm to furnish its return of income or loss on or before the specified due date. Therefore, M/s ABC has to furnish its return of loss for the A.Y. 2024-25 on or before the due date under section 139(1), even if it has incurred a loss.
(iii)	Yes	As per the provisions of section 139(1), every person, whose gross total income exceeds the maximum amount not chargeable to tax, is required to furnish the return of income for the relevant assessment year on or before the due date. Mr. Y's salary income is ₹ 5,40,000 (i.e., ₹ 5,90,000 less standard deduction of ₹ 50,000). The gross total income of Mr. Y is ₹5,50,000 (₹ 5,40,000 + ₹10,000) which exceeds the basic exemption limit of ₹ 2,50,000 applicable to an individual. **Therefore, Mr. Y has to furnish his return of income for the A.Y. 2024-25.**

ADVANCE TAX [Sec 207 TO Sec 219]

Assessment Year 2024-25 (Amended with Finance Act 2023)

[No Amendments]

Liability for payment of Advance Tax [Section 207]

1) Tax shall be payable in advance **during any financial year**, in accordance with the provisions of sections 208 to 219 (both inclusive), in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year.

2) The provisions of sub-section (1) shall not apply to an individual resident in India, who-

- **a.** does not have any income chargeable under the head "Profits and gains of business or profession"; **and**
- **b.** is of the age of **60 years or more** at any time during the previous year.

Conditions of liability to pay advance tax [Section 208]

Advance tax shall be payable during a FY in every case where the amount of such tax payable by the assessee during that year, as computed in accordance with the provisions of this Chapter, is ***₹ 10,000 or more.***

Note - *An assessee who is liable to pay advance tax of less than ₹ 10,000 will not be saddled with interest under sections 234B and 234C for defaults in payment of advance tax.* ***However, the consequences under section 234A regarding interest for belated filing of return would be attracted.***

Section 211 – Installments of Advance Tax & due dates

1. Common advance tax payment schedule for both corporates and non-corporates (other than assessee computing profits on presumptive basis under section 44AD(1) or section 44ADA(1)]:

Due date of instalment	Amount payable
On or before 15th June	Not less than 15% of advance tax liability
On or before 15th September	Not less than 45% of advance tax liability, as reduced by the amount, if any, paid in the earlier instalment.
On or before 15th December	Not less than 75% of advance tax liability, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before 15th March	The whole amount of advance tax liability as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

Note - Any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year ending on 31st March.

2. Advance tax payment by assessees computing profits on presumptive basis under section 44AD(1) or section 44ADA(1)

An eligible assessee, opting for computation of profits or gains of business on presumptive basis in respect of eligible business referred to in section 44AD(1) or for computation of profits or gains of profession on presumptive basis in respect of eligible profession referred to in section 44ADA(1), **shall be required to pay advance tax of the whole amount in one instalment on or before the 15th March of the financial year.**

However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year ending on 31st March.

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

1. Interest under Section 234B is attracted for non-payment of advance tax or payment of advance tax of an amount **less than 90% of assessed tax.**

2. The interest liability would be **1% per month or part of the month** from 1st April following the financial year **upto the date of determination of income under section 143(1) and where a regular assessment is made, to the date of such regular assessment.**

3. Such interest is calculated on the amount of difference **between the assessed tax and the advance tax paid.**

4. In this section**, "assessed tax" means** the **tax on the total income** determined under sub-section (1) of section 143 and where a regular assessment is made, the tax on the total income determined under such regular assessment **as reduced by the amount of**,-
   - **i.** any tax deducted or collected at source;
   - **ii.** any relief of tax allowed under section 89;
   - **iii.** any tax credit allowed to be set off in accordance with the provisions of section 115JD [AMT Credit] etc

   [Not a complete list]

   Tax on total income as determined under section 143(1) or on regular assessment would not include the additional income-tax, if any, payable under section 140B.

> ***Section 143(1) provides*** *that if* ***any sum is found due*** *on the basis of a return of income after adjustment of advance tax, relief of tax allowed under section 89, tax deducted at source, tax collection at source, self-assessment tax etc., an intimation under section 143(1) would be sent to the assessee and such intimation is deemed to be a notice of demand issued under section 156.*
>
> *If any refund is due on the basis of the return, it shall be granted to the assessee and an intimation to this effect would be sent to the assessee.*
>
> *Where no tax or refund is due,* ***the acknowledgement of the return is deemed to be an intimation under section 143(1).***

Interest payable for deferment of Advance Tax [Section 234C]

1. **Manner of computation of interest under section 234C for deferment of advance tax**
In case an assessee, other than **an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1)**, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by such assessee on its current income on or before the dates specified in column (1) **is less than** the specified percentage [given in column (2)] of **tax due on returned income**, then simple interest@1% per month for the period specified in column (4) on the amount of shortfall, as per column (3) is leviable under section 234C:

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

Note – However, if the advance tax paid by the assessee on the current income, on or before 15th June or 15th September, is not less than 12% or 36% of the tax due on the returned income, respectively, **then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.**

2. **Computation of interest under section 234C in case of an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1)**:
In case an assessee who declares profits and gains in accordance with the section 44AD(1) or section 44ADA(1), as the case may be, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before 15th March is less than the tax due on the returned income, then, ***the assessee shall be liable to pay simple interest at the rate of 1% on the amount of the shortfall from the tax due on the returned income.***

3. **Tax due on the returned income:**
"Tax due on the returned income" means the tax chargeable on the total income declared in the return of income furnished by the assessee for the assessment year commencing on the 1st day of April immediately following the financial year in which the advance tax is paid or payable, **as reduced by the amount of,-**
   - **i.** any tax deducted or collected at source;
   - **ii.** any relief of tax allowed under section 89;
   - **iii.** any tax credit allowed to be set off in accordance with the provisions of section 115JD [AMT Credit]

4. Non-applicability of interest under section 234C in certain cases: **IMPORTANT**

[First Proviso to Section 234C] ***[Theory Question – 4 Marks]***

Interest under Section 234C **shall not be leviable** in respect of any shortfall in payment of tax due on returned income, where **such shortfall is on account of under-estimate or failure to estimate**-

(i) The amount of Capital Gain

(ii) Casual Income

(iii) PGBP Income where the income accrues or arises under the said head for the first time

(iv) ***the amount of dividend income [other than dividend under Section 2(22)(e)]***

However, the assessee should have paid the whole of the amount of tax payable in respect of such income referred to in (i), (ii), (iii) or (iv), as the case may be, had such income been a part of the Total Income, as part of the remaining installments of advance tax which are due or where no such installments are due, by 31st March of the financial year.

SECTION 234A - INTEREST FOR DEFAULT IN FURNISHING OF ROI

1. Interest under section 234A is attracted for failure to file a return of income on or before the due date under section 139(1) i.e., **interest is payable where an assessee furnishes the return of income after the due date or does not furnish the return of income.**

2. Simple interest @1% per month or part of the month is payable for the period commencing from the date immediately following the due date and ending on the following dates-

Circumstances	Ending on the following dates
Where the return is furnished after due date	the date of furnishing of the return
Where no return is furnished	the date of completion of assessment

3. The interest has to be calculated on the amount of **tax on total income as determined under section 143(1) or on regular assessment as reduced** by

- ✓ the advance tax paid
- ✓ any tax deducted or collected at source,
- ✓ any relief of tax allowed under section 89;
- ✓ any tax credit allowed to be set off in accordance with the provisions of section 115JD [AMT Credit] **etc**

[not a complete list]

Tax on total income as determined under section 143(1) or on regular assessment would not include the additional income-tax, if any, payable under section 140B.

Note: At the time of Self-Assessment tax, Total income means total income as declared in the return.

4. No interest under section 234A **shall be charged on self-assessment tax paid by the assessee on or before the due date of filing of return.**

Additional Points

a) Under the provisions of Section 234A and 234B, interest is chargeable **per month or part of a month**. This means that even where the delay is for part of a month, say even for one day, interest shall be charged for whole month.

b) **Rule 119A:**

(i) Where interest is to be calculated for every month or part of a month comprised in a period, **any fraction of a month shall be deemed to be a full month.**

(ii) Where interest is to be calculated on annual basis, any fraction of a month shall be ignored.

(iii) The amount of tax in respect of which interest is to be calculated is to be **rounded off to the nearest multiple of rupees hundred and any fraction of hundred is to be ignored**.

c) Any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during the financial year for all purposes of the Act.

d) Where the assessee does not pay any installment by the due date, he shall be **deemed to be an assessee in default** in respect of such installment.

e) if the last day for payment of any installment of advance tax is a day **on which bank is closed**, then the assessee can make payment on the **next immediately following working day,** and in such cases, the interest under sections 234B and 234C shall be not be charged.

f) **Net agricultural income has to be considered for the purpose of computing advance tax**.

Problems on Advance Tax & Interest

1. IMP (4 Marks): Briefly discuss the provisions relating to payment of advance tax on income arising from capital gains, casual income etc.

Answer: Interest under Section 234C shall not be leviable in respect of any shortfall in payment of tax due on returned income, where such shortfall is on account of under-estimate or failure to estimate-

(i) The amount of Capital Gain
(ii) Casual Income
(iii) PGBP Income where the income accrues or arises under the said head for the first time
(iv) the amount of dividend income [other than dividend under Section 2(22)(e)]

However, the assessee should have paid the whole of the amount of tax payable in respect of such income referred to in (i), (ii), (iii) or (iv) as the case may be, had such income been a part of the Total Income, as part of the remaining installments of advance tax which are due or where no such installments are due, by 31st March of the financial year.

2. The following particulars are furnished by SATC for the FY 2023-24 (AY 2024-25):

Tax on total income (paid on 31.10.2024)	₹ 1,50,000
Due date for filing the return	31-10-2024
Actual date of filing the return	1-11-2024

Calculate the total interest payable under sections 234A, 234B and 234C.

Answer: **Computation of Interest payable by SATC (amount in ₹)**

Interest under section 234A (Since the tax has been paid **on 31-10-2024** i.e. on or before the due date of filing of return of income and no tax is due on 1-11-2024 on the date of filing of the return, therefore, no interest can be charged.)		NIL
Interest under section 234B for 7 months i.e. 1-4-2024 to 31-10-2024 (1,50,000*1%*7)		10,500
Interest under section 234C as follows-		
15% of ₹ 1,50,000 i.e. ₹ 22,500*1%*3 months	675	
45% of ₹ 1,50,000 i.e. ₹ 67,500 *1%*3 months	2,025	
75% of ₹ 1,50,000 i.e. ₹ 1,12,500*1%*3 months	3,375	
100% of ₹ 1,50,000 i.e. ₹ 1,50,000*1%*1 months	1,500	7,575
Total interest payable		**18,075**

3. The following particulars are furnished by Ms. Madhuri for the financial year 2023-24 (assessment year 2024-25):

Tax on total income (paid on 31.7.2024) - ₹ 50,000

Date of filing the return 1.8.2024

Due date for filing the return 31.7.2024

Compute the total interest payable under sections 234A, 234B and 234C.

Answer:

The total interest payable by Ms. Madhuri under section 234 is computed as under:

Interest for	Calculation	Amount (₹)
Delay in filing under section 234A	NIL, as tax fully paid on due date	NIL
Default in payment of advance tax u/s 234B	50,000*1%*4 months	2,000
Deferment of Advance Tax u/s 234C	15% of ₹ 50,000*1%*3 months	225
	45% of ₹ 50,000*1%* 3months	675
	75% of ₹ 50,000*1%*3 months	1125
	100% of ₹ 50,000*1%*1 months	500
Total Interest Payable		**4525**

4. Mr. Jay having total income of ₹ 8,70,000, did not pay any advance tax during the previous year 2023-24. He wishes to pay the whole of the tax, along with interest if any, on filing the return in the month of July, 2024. What is total tax which Mr. Jay has to deposit as self-assessment tax along with interest, if he files the return on 29.07.2024? Assume that he has shifted out from section 115BAC.

Solution:

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 chargedwith 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., 01.04.2024 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 assessees 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 Installment	Specified % of estimatedtax	Amount due andunpaid (roundedoff to nearest ₹ 100, ignoring fraction)	Period	Interest @ 1%
15th June 2023	15%	13,400	3 months	402
15th September 2023	45%	40,400	3 months	1,212
15th December 2023	75%	67,400	3 months	2,022
15th March 2024	100%	89,900	1 month	899
Total interest under section 234C				**4,535**

Mr. Jay needs to pay ₹ 98,091 (Rounded off to ₹ 98,090) as total of tax and interest on or before filing of return in the month of July, 2024.

TAX DEDUCTED AT SOURCE

Assessment Year 2024-25 (Amended with Finance Act 2023)

Page 19.5; 19.6; 19.9; 19.10; 19.11; 19.28; 19.42; 19.50; 19.58 are amended [TDS]

Page 19A.4; 19A.5; 19A.6; 19A.7; 19A.10 & 19A.11 are amended [TCS]

DEDUCTION OF TAX AT SOURCE AND ADVANCE PAYMENT [Sec 190]

The total income of an assessee for the previous year is taxable in the relevant assessment year. However, the income-tax is recovered from the assessee in the previous year itself through –

(1) Tax deduction at Source (TDS)
(2) Tax collection at source (TCS)
(3) Payment of Advance Tax

Another mode of recovery of tax is from the employer through tax paid by him under section 192(1A) ***on the non-monetary perquisites provided to the employee [example Rent Free Accommodation]***.

Note: These taxes are deductible from the total tax due from the assessee. The assessee, while filing his return of income, has to pay self-assessment tax under section 140A, if tax is due on the total income as per his return of income **after adjusting, inter alia, TDS, TCS, Advance Tax, Relief of tax claimed under section 89 or Section 90 or Section 91, MAT/AMT Credit etc.**

DIRECT PAYMENT [Section 191]

[Section 191(1)] *In the case of income in respect of which provision is not made under this Chapter for deducting income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of this Chapter, income-tax shall be payable by the assessee direct.*

[Section 191(2)] - ***Direct payment of tax, where income of the assessee includes value of specified security or sweat equity shares allotted or transferred free of cost or at a concessional rate to the assessee by an employer being an eligible start up***

*For the purposes of paying income-tax directly by the assessee, if the income of the assessee in any assessment year, beginning on or after the 1st day of April, 2021, includes income of the nature specified in Section 17(2)(vi) [i.e. Value of any specified security or sweat equity shares allotted or transferred] and such security or shares are allotted or transferred directly or indirectly by the **current employer, being an eligible start-up referred to in section 80-IAC**, the income-tax on such income shall be payable by the assessee **within 14 days** -*

- ***i.*** *after the expiry of **48 months from the end of the relevant assessment year**; or*
- ***ii.*** *from the **date of the sale** of such specified security or sweat equity share by the assessee; or*
- ***iii.*** *from the **date of the assessee ceasing to be the employee** of the employer who allotted or transferred him such specified security or sweat equity share,*

whichever is the earliest.

Explanation*: If any person including the principal officer of a company,-*

- ***a.*** *who is required to deduct any sum in accordance with the provisions of this Act; or*
- ***b.*** *referred to in section 192(1A), being an employer,*

*does not deduct, or after so deducting fails to pay, or does not pay, the whole or any part of the tax, as required by or under this Act, **and** **where the assessee has also failed to pay such tax directly**, **then, such person shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default within the meaning of section 201(1), in respect of such tax.***

NOTE:

Eligible start-up referred to in Section 80-IAC

Eligible Startup means a Company/LLP engaged in eligible business which fulfils the following conditions, namely:—

- ***i.*** *it is incorporated on or after the 1st day of April, 2016 but* ***before the 1st day of April, 2024;***
- ***ii.*** *the total turnover of its business* ***does not exceed ₹ 100 crores*** *in any of the previous year relevant to the Assessment year for which deduction is claimed under section 80-IAC; and*
- ***iii.*** *it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government*

"Eligible Business" means *a business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth creation;*

SURCHARGE & CESS

Surcharge (when receipts payable **exceeds 5 Crores / 2 Crores /** 1 Crores / 10 Crores / 50 Lakhs etc) **or H & EC** is applicable when TDS is deducted either **from Salary payment to any person (Res / NR)** OR **from the payment to NR / Foreign Company**.

NO TDS on GST Component

CBDT Circular: Tax shall be deducted at source on the amount paid/payable to Resident **without GST component if such GST component is indicated separately.**

SALARY [Section 192]

Person Responsible to deduct Tax	**ANY PERSON** responsible for paying ***any income chargeable to tax*** under the head 'Salaries' i.e. Employers
Category of Payee	Employee [Resident as well as Non-Resident]
Rate of TDS	**Average rate of income tax** computed on the basis of the rates in force for the relevant financial year in which the payment is made, on the estimated total income of the assessee. **[Benefit of lower or NIL TDS Tax under Section 197 is available]**
Time for Deduction of Tax	**At the time of Payment**. [Due date is irrelevant]
Tax on Non-Monetary Perquisite	• U/s 192(1A), the employer may, at his option, pay income-tax on the whole or part of perquisite provided by way of non-monetary payments. • The tax so payable shall be construed as if it were, a tax deductible at source, from the income under the head "Salaries"
Other Income	A tax payer having salary income in addition to other income chargeable to tax for that financial year, may send to the employer, the following: **a.** particulars of such other income and particulars of any tax deducted under any other provision; **b. loss, if any, under the head 'Income from house property'.** The employer shall take the above particulars into account while calculating tax deductible at source.

Section 192(1C):

For the purposes of deducting or paying tax under sub-section (1) or sub-section (1A), as the case may be, ***a person, being an eligible start-up referred to in section 80-IAC****, responsible for paying any income to the assessee being perquisite of the nature specified in Section 17(2)(vi) in any previous year relevant to the assessment year, beginning on or after the 1st day of April, 2021,* ***shall deduct or pay, as the case may be, tax on such income within 14 days-***

(i) *after the* ***expiry of 48 months*** *from the end of the relevant assessment year; or*

(ii) *from the* ***date of the sale of such specified security or sweat equity share*** *by the assessee; or*

(iii) *from the* ***date of the assessee ceasing to be the employee*** *of the person,*

whichever is the earliest, ***on the basis of rates in force for the financial year in which the said specified security or sweat equity share is allotted or transferred.***

Furnishing of statement of particulars of perquisites or profits in lieu of salary by employer to employee

Sub-section (2C) provides that the employer shall furnish to the employee, **a statement (in Form No. 12BA)** giving correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof.

This requirement is applicable only where the salary paid/payable to an employee exceeds ₹ 1,50,000. **For other employees, the particulars of perquisites/profits in lieu of salary shall be given in Form 16 itself.**

Requirement to obtain evidence/ proof/ particulars of claims from the employee by the employer

S. No.	Nature of Claim	Evidence or particulars
1	House Rent Allowance	Name, address and PAN of the landlord(s) where the aggregate rent paid during the previous year exceeds ₹ 1 lakh.
2	Leave Travel Concession or Assistance	Evidence of expenditure
3	Deduction of interest under the head "Income from house property"	Name, address and PAN/Aadhaar of the lender
4	Deduction under Chapter VIA	Evidence of investment or expenditure.

Taxable Withdrawal from Employee Provident Fund [Sec 192A]

For the purpose of discouraging pre-mature withdrawal and promoting long term savings, if the employee makes withdrawal before continuous service of five years (other than the cases of termination due to ill health, contraction or discontinuance of business, cessation of employment etc.) and does not opt for transfer of accumulated balance to new employer, the withdrawal would be subject to tax.

1. TDS rate is **10%** in case of **premature taxable withdrawal** from EPF (at the time of payment)

> *Accordingly, in a case where the accumulated balance due to an employee participating in a recognized provident fund* ***is includible in his total income*** *owing to the provisions of Rule 8 of Part A of the Fourth Schedule not being applicable, the trustees of the Employees Provident Fund Scheme, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees are required to deduct income-tax @* ***10%****.*
>
> *Rule 8 of Part A of the Fourth Schedule, inter alia, provides that only if an employee has rendered continuous service of five years or more with the employer,* ***then accumulated balance in a recognized provident fund payable to an employee would be excluded from the total income of that employee.***

2. No TDS if payment **is Less than ₹ 50,000**

3. ~~**In case PAN is not furnished,** ***TDS rate will be MMR***~~**.** **[Amended by Finance Act 2023]**

EXAMPLE:
Mr. Sharma, an employee of M/s. ABC Ltd. since 10-04-2020, resigned on 31-03-2024 and withdrew ₹ 60,000 being the balance in his EPF account. Discuss with reasons whether the provisions of Chapter XVII-B are attracted and if so, what is the net amount receivable by the payee, Mr. Sharma?

SOLUTION:
As per Section 192A, in a case where the accumulated balance due to an employee participating in a recognized provident fund is includible in his total income **owing to the provisions of Rule 8 of Part A of the Fourth Schedule not being applicable,** the trustees of the Employees' Provident Fund Scheme, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees are required to deduct income-tax@10% at the time of payment of accumulated balance due to the employee.

Tax deduction at source has to be made only if the amount of such payment or aggregate amount of such payment of the payee is ₹ 50,000 or more.

Rule 8 of Part A of the Fourth Schedule, inter alia, provides that only if an employee has rendered continuous service of five years or more with the employer, then accumulated balance in a recognized provident fund payable to an employee would be excluded from the total income of that employee.

In the present case, Mr. Sharma has withdrawn an amount exceeding ₹ 50,000 on his resignation after rendering a continuous service of four years with M/s. ABC Ltd. Therefore, tax has to be deducted at source@10% under section 192A on ₹ 60,000, being the amount withdrawn on his resignation without rendering continuous service of a period of five years with M/s. ABC Ltd.

The net amount receivable by Mr. Sharma is ₹ 54,000 [i.e., ₹ 60,000 – ₹ 6,000, being tax deducted at source].

Note- It is assumed that Mr. Sharma has furnished his permanent account number (PAN) to the person responsible for deducting tax at source. **Otherwise, tax would be deductible at 20%.**

Interest on securities [Section 193]

Amended by Finance Act 2023

Person Responsible to deduct Tax & Payee	Every person responsible for paying ***to a resident*** any income by way of interest on securities.
Rate of TDS	*10% [only Resident payee are covered here]* **[Benefit of lower or NIL TDS Tax under Section 197 is available]**
Time for Deduction of Tax	**At the time of credit to the account of payee or payment, whichever is earlier.**

TDS SHALL NOT BE DEDUCTED IN THE FOLLOWING CASES:

1. Interest payable on any **Security of the CG/SG**
2. **Interest payable upto ₹ 10,000 on 8% Taxable Savings Bonds 2003.**
3. **Interest payable upto ₹ 10,000 on 7.75% GOI Savings (Taxable) Bonds, 2018**
4. ***Interest payable on "Power Finance Corporation Limited 54EC Capital Gains Bond" and "Indian Railway Finance Corporation Limited 54EC Capital Gains Bond.***
5. Interest paid to **Resident Individual *'or' HUF*** on ***listed or unlisted debentures*** of **widely held company by account payee cheque** of an amount **not exceeding ₹ 5,000** during a financial year.
6. Interest payable on **Securities to LIC, GIC, subsidiaries of GIC or any other insurer**.
7. ~~**Interest payable on securities issued by a company, where such security is in demat form and is listed on a recognised stock exchange.**~~
8. Interest payable on National Development Bond
9. Interest on 6% Gold Bond, 1977 or 7% Gold Bonds 1980 held by a **Resident individual** only if the **total nominal value** of the bonds **doesn't exceeds ₹ 10,000** at any time during the period to which the interest relates.
10. ***Interest payable to a "business trust", as defined in Section 2(13A), in respect of any securities, by a special purpose vehicle referred to in Section 10(23FC).***

TDS on Dividend payable to Resident Shareholders [Section 194]

1. ***Applicability of TDS under section 194***
   The principal officer of a domestic company is required to deduct tax on dividend distributed or paid by it to its ***resident shareholders.***

2. ***Rate of TDS***
   The rate of deduction of tax in respect of such dividend is ***10%****.*

   [Benefit of lower or NIL TDS Tax under Section 197 is available]

3. ***Time of tax deduction at source***
   The deduction of tax has to be made ***before making any payment by any mode*** *in respect of any dividend* ***or before making any distribution or payment*** *to a resident shareholder of any amount deemed* ***as dividend under section 2(22)(a)/(b)/(c)/(d)/(e).***

4. ***Non-applicability of TDS under Section 194***
   - **i.** ***No tax is to deducted in case of a shareholder, being an individual, where -***
     - **a.** *the dividend is paid by* ***any mode other than cash****;* ***and***
     - ***b.*** *the amount of such dividend or aggregate of dividend distributed or paid or likely to be distributed or paid during the financial year by the company to such shareholder* ***does not exceed ₹ 5,000****.*
   - **ii.** *The TDS provisions will not apply to such* ***dividend credited or paid to*** *LIC, GIC, subsidiaries of GIC or any other insurer provided the shares are owned by them, or they have full beneficial interest in such shares*
   - ***iii. Dividend income credited or paid to a "Business Trust" by a Special Purpose Vehicle (an Indian company in which Business Trust holds controlling interest);***
   - ***iv. Dividend income credited or paid to any other person as may be notified by the Central Government in the Official Gazette in this behalf.***

Interest other than interest on securities [Section 194A]

Person Responsible to deduct Tax	***All assessee other than individual and HUF*** - Paying Interest other than Interest on Securities ***In case of individual or a Hindu undivided family:*** *whose total sales, gross receipts or turnover from the business or profession carried on by him* ***exceed ₹ 1 crore in case of business or ₹ 50 lakh in case of profession*** *during the financial year immediately preceding the financial year in which such interest is credited or paid, shall be liable to deduct income-tax under this section.*
Payee	**RESIDENT PERSON**
Rate of Deduction of Tax [TDS Rate]	*10%* **[Benefit of lower or NIL TDS Tax under Section 197 is available]**
Time for Deduction of Tax	**At the time of credit to the account of payee or payment, whichever is earlier.**
Non-deduction of TDS	**NO TDS If aggregate amount of interest credited or paid does not exceed-** **a)** Where the payer is (i) a Banking Company, or (ii) A Co-operative Society engaged in banking business, or (iii) **in respect of Deposit with post office notified by the central Government** **[Time deposits including recurring deposits in case of banks]** **- ₹ 40,000 (₹ 50,000 in case of senior citizen)** **b) In any other case - ₹ 5,000**

The threshold limit will be reckoned with reference to the total interest credited or paid by the banking company or the co-operative society or the public company, as the case may be, (and not with reference to each branch), **where such banking company or co-operative society or public company has adopted core banking solutions.**

NO TDS IS DEDUCTED U/S 194A IN THE FOLLOWING CASES:

1. *Interest paid or credited by a firm to any of its partners;*
2. ***Interest income credited or paid by the Central Government*** *under any provisions of the Income-tax Act.*
3. ***Interest income credited or paid to -***
   - ***a.*** *any banking company to which the Banking Regulation Act, 1949, applies, or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank), or*
   - ***b.*** *any financial corporation established by or under a Central, State or Provincial Act, or*
   - ***c.*** *the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, or*
   - ***d.*** *the Unit Trust of India established under the Unit Trust of India Act, 1963, or*
   - ***e.*** *any company or co-operative society carrying on the business of insurance.*
4. *Interest income paid or payable by an Infrastructure Capital Company or Infrastructure Capital Fund* ***or Infrastructure Debt Fund*** *or Public Sector Company in relation to a* ***Zero Coupon Bond issued.***
5. ***Interest income as referred to in Section 10(23FC) [Interest income to Business trust from Special Purpose Vehicle]***
6. ***Interest income credited or paid in respect of deposits (other than time deposits or recurring deposits) with a bank to which the Banking Regulation Act, 1949 applies;***

7. ***Income credited*** *by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;*

8. ***Income paid*** *by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income* ***paid during the financial year does not exceed ₹ 50,000****;*

9. ***Income paid or credited by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society;***

10. ***Interest income credited or paid in respect of -***
    i. ***deposits with primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;***
    ii. ***deposit (other than time deposits) with a co-operative society [other than cooperative society or bank referred to in (i)] engaged in carrying on the business of banking.***

    However, a cooperative society referred to in (9) or (10) is liable to deduct tax if –
    1. *the total sales, gross receipts or turnover of the co-operative society* ***exceeds ₹ 50 crore*** *during the financial year immediately preceding the financial year in which interest is credited or paid;* ***and***
    2. *the amount of interest or the aggregate amount of interest credited or paid, or is likely to be credited or paid,* ***during the financial year is more than ₹ 50,000 in case of payee being a senior citizen and ₹ 40,000, in any other case.***

11. **Effective from 16.05.2023: "Mahila Samman Savings Certificate, 2023"** is a one-time scheme available for two years i.e., from 1st April, 2023 to 31st March, 2025. It offers a maximum deposit facility of upto ₹ 2 lakh in the name of women or a girl for 2 years at a fixed interest rate of 7.5% p.a., compounded quarterly.

    Consequently, **no tax under section 194A would be deductible by the post office on interest paid or credited under this scheme** since the amount of interest would not exceed ₹ 40,000.

QUESTION:

Examine the TDS implications under section 194A in the cases mentioned hereunder–

1. ***On 1.10.2023, Mr. Harish made a six-month fixed deposit of ₹ 10 lakh@9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2024.***

2. ***On 1.6.2023, Mr. Ganesh made three nine month fixed deposits of ₹ 3 lakh each, carrying interest@9% with Dwarka Branch, Janakpuri Branch and Rohini Branch of XYZ Bank, a bank which has adopted CBS. The fixed deposits mature on 28.2.2024.***

3. ***On 1.10.2023, 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 31.3.2024.***

SOLUTION

1. ABC Co-operative Bank has to deduct tax at source@10% on the interest of ₹ 45,000 (9% × ₹ 10 lakh × 1/2) under section 194A. The tax deductible at source under section 194A from such interest is, therefore, ₹ 4,500.
2. 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 × 3 × 9% × 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.
3. No tax has to be deducted under section 194A by PQR Bank on the interest of ₹ 28,000 falling due on recurring deposit on 31.3.2024 to Mr. Rajesh, since such interest does not exceed the threshold limit of ₹ 40,000.

Winnings from lotteries, crossword puzzles, Games etc [Section 194B, 194BA & 194BB]

Particulars	Section 194B	Section 194BA	Section 194BB
Nature of Payment	Winnings from any lottery, crossword puzzle or card game or other game of any sort **or from gambling or betting of any form or nature [other than winnings from any online game in respect of which TDS u/s 194BA would be applicable]**	**Winnings from online games [Inserted by Finance Act 2023]**	**Winnings from horse race**
Person Responsible to deduct Tax	The person responsible for paying income by way of such winnings	Any person responsible for paying income by way of such winnings	Book Maker or a person holding licence for horse racing or for arranging for wagering or betting in any race course.
Non-deduction of TDS	**If the amount or aggregate of the amounts does not exceed ₹ 10,000 during a financial year.**	**On the net winnings in a person's user account as computed in prescribed manner [Rule 133] [Read Note]**	**If the amount or aggregate of the amounts does not exceed ₹ 10,000 during a financial year.**
Time of deduction	At the time of payment.	**At the end of the F.Y** In case, there is withdrawal from user account during the F.Y., tax would be deducted at the time of such withdrawal on net winnings comprised in such withdrawal. In addition, tax would also be deducted on the remaining amount of net winnings in the user account as computed in prescribed manner **at the end of the F.Y.**	At the time of payment
Other relevant points	**a)** Where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings. **b)** Where winnings are to be credited and losses are to be debited to the individual a/c of the punter, tax has to be deducted on winnings before set-off of losses. Thereafter, the net amount, after deduction of tax and losses, has to be paid to the winner.	***Where the net winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings.***	-

Payee	**All Assessee [Resident as well as Non-Resident]**
Rate of Deduction of Tax [TDS Rate]	30% **[Benefit of lower or NIL Tax under Section 197 is not applicable]**

Note: CBDT Circular No. 5/2023 dated 22.5.2023

Section 194BA: There are a large number of gamers who play with very insignificant amount and withdraw also very small amount. Deducting tax at source under section 194BA for each insignificant withdrawal would increase compliance for tax deductor. Can there be relaxation to ease compliance?

Answer:
Tax may not be deducted on withdrawal on satisfaction of all of the following conditions, namely:-

i. net winnings comprised in the amount withdrawn **does not exceed ₹ 100 in a month**;

ii. tax not deducted on account of this concession **is deducted** at a time when the net winnings comprised in withdrawal **exceeds ₹ 100 in the same month or subsequent month** or if there is no such withdrawal, **at the end of the financial year**; and

iii. the **deductor undertakes responsibility** of paying the difference if the balance in the user account at the time of tax deduction under section 194BA is not sufficient to discharge the tax deduction liability.

Section 194BA: How will the valuation of winnings in kind required to be carried out?

Answer:
The valuation would be based on **fair market value of the winnings in kind** except in following cases:-

i. The online game intermediary has purchased the winnings before providing it to the user**. In that case the purchase price shall be the value for winnings.**

ii. The online game intermediary manufactures such items given as winnings. **In that case, the price that it charges to its customers for such items shall be the value for such winnings.**

It is further clarified that **GST will not be included for the purposes of valuation** of winnings for TDS under section 194BA.

Payments to contractors and sub-contractors [Section 194C]

Person Responsible to deduct Tax	***Any Person other than Individual / HUF / AOP / BOI*** - Paying any sum to a resident contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract ***In case of Individual / Hindu Undivided Family / AOP / BOI:*** *whose total sales, gross receipts or turnover from the business or profession carried on by him* ***exceed ₹ 1 crore in case of business or ₹ 50 lakh in case of profession*** *during the financial year immediately preceding the financial year in which such sum is credited or paid.*
Payee	Any person Resident in India
TDS on	Payment for work contract
Time for Deduction of Tax	At the time of Credit or Payment, whichever is earlier.
Rate of Deduction of Tax [TDS Rate]	**For all Contractors and Sub Contractors:** **(a) If payee is Ind. & HUF** – 1% **(b) for others payee** – 2% **[Benefit of lower or NIL TDS Tax under Section 197 is available]**

Non Deduction of TDS:

(1) No deduction will be required to be made ***if the consideration for the contract*** (payee-wise) does not exceed **₹ 30,000.**

Further, tax will be required to be deducted at source where the amount being credited or paid to a contractor/sub -contractor **exceeds ₹ 30,000 in a single payment or ₹ 100,000 in the aggregate during a financial year**.

(2) ***No Individual or HUF*** *shall be liable to deduct tax on sum credited or paid to the account of the contractor where such sum is* ***credited or paid exclusively for personal purposes*** *of such individual or any member of HUF.*

(3) ***In case of Contractor in the business of Plying, Hiring or Leasing goods Carriages:***
No deduction on payment ***to a contractor, during the course of the business of plying, hiring or leasing goods carriages, if he furnishes his PAN to the deductor & owns 10 or Less goods carriage at any time during the PY***

If PAN is not quoted by the Transporter, TDS Rate will be 20% as per Section 206AA.

(4) The deduction of income-tax will be made from sums paid for carrying out any work or for supplying labour for carrying out any work. In other words, **the section will apply only in relation to 'works contracts' and 'labour contracts' and will not cover contracts for sale of goods.**

(5) **Work includes –**
- **(a)** advertising;
- **(b)** broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
- **(c)** carriage of goods or passengers by any mode of transport **other than by railways**;
- ***(e)*** *manufacturing or supplying a product according to the requirement or specification of a customer* ***by using material purchased from such customer or its associate, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee under the provisions contained in Section 40A(2)(b)*** *but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer* ***or associate of such customer.***

  [It may be noted that the term "work" would include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer. ***In such a case, tax shall be deducted on the invoice value excluding the value of material purchased from such customer if such value is mentioned separately in the invoice. Where the material component has not been separately mentioned in the invoice, tax shall be deducted on the whole of the invoice value.]***

Insurance commission [Section 194D]

Person Responsible to deduct Tax	Any Insurance company paying Insurance Commission
Payee	Resident Assessee
Rate of TDS	**5% if recipient is resident other than company** **10% if recipient is domestic company** **[Benefit of lower or NIL TDS Tax under Section 197 is available]**
Time for Deduction of Tax	At the Time of Credit or payment, whichever is earlier.
Non-deduction of TDS	If the payment does not exceed **₹ 15,000** during financial Year

Payment in respect of life insurance policy [Section 194DA]

Person Responsible to deduct Tax	**Insurance Company issuing Life Insurance Policy** - Responsible for paying **to a Resident** any sum under a Life insurance policy, including the sum allocated by way of bonus on such policy
Rate of Deduction of Tax [TDS Rate]	***5%*** *on the* ***amount of income comprised*** *in sum paid under life insurance policies i.e.,* ***after deducting the amount of insurance premium paid by the resident assessee from the total sum received.***
Time for Deduction of Tax	At the Time of Payment
Non-deduction of TDS	**1. No TDS, if the aggregate payment is less than ₹ 100,000.** **2. No TDS, if maturity is exempt under Section 10(10D).**

QUESTION:

Examine the applicability of the provisions for TDS under section 194DA in the above cases -

(i) Mr. X, a resident, is due to receive ₹ 4.50 lakhs on 31.3.2024, towards maturity proceeds of LIC policy taken on 1.4.2021, 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 ₹ 3.25 lakhs on 31.3.2024 on LIC policy taken on 31.3.2012, for which the sum assured is ₹ 3 lakhs and the annual premium is ₹ 30,100.

(iii) Mr. Z, a resident, is due to receive ₹ 95,000 on 1.8.2023 towards maturity proceeds of LIC policy taken on 1.08.2014 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 31.3.2024 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 entire 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 ₹ 3.25 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 1.8.2023 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.

Payments to Non-Resident Sportsmen or Sports Association [Section 194E]

Person Responsible to deduct Tax	Any person making payment in nature of income as referred in Section 115BBA
Payee	Non-Resident Sportsman (including athlete) or Entertainer who is not an Indian Citizen / Non-Resident Sports Association
Rate of Deduction of Tax [TDS Rate]	20% ***+ surcharge + cess***
Time for Deduction of Tax	At the Time of Credit or payment, whichever is earlier.

Income referred to in Section 115BBA

1. income received or receivable **by a non-resident sportsman (including an athlete)** by way of-
   a. participation in any game or sport in India (However, games like crossword puzzles, horse races etc. taxable under section 115BB are not included herein); or
   b. advertisement; or
   c. contribution of articles relating to any game or sport in India in newspapers, magazines or journals.
2. Guarantee amount paid or payable **to a non-resident sports association or institution** in relation to any game or sport played in India. **However, games like crossword puzzles, horse races etc. taxable under section 115BB are not included herein.**
3. income received or receivable **by a non-resident entertainer (who is not a citizen of India)** from his performance in India.

QUESTION:
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 nonresident 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.

Payments in respect of deposits under National Savings Scheme [Section 194EE]

1. The person responsible for paying to any person any amount from NSS as mentioned in section 80CCA shall, at the time of payment thereof, deduct income-tax thereon ***at the rate of 10%***
2. No deduction if payment is less than **₹** 2,500 during the financial year.
3. No TDS in case of payment on death to legal heirs of the assessee.

Commission etc. on the sale of lottery tickets [Section 194G]

Under Section 194G, the person responsible for paying any income by way of commission, remuneration or prize (by whatever name called) on lottery tickets in an **amount exceeding ₹ 15,000 shall deduct income-tax thereon *at the rate of 5%.***

Such deduction should be made at the time of credit or payment, whichever is earlier.

[Benefit of lower or NIL TDS Tax under Section 197 is available]

Commission or brokerage [Section 194H]

Person Responsible to deduct Tax	***Any Person other than individual and HUF*** - Responsible for paying any income by way of commission (other than insurance commission) or brokerage ***In case of individual or a Hindu undivided family:*** *whose total sales, gross receipts or turnover from the business or profession carried on by him* ***exceed ₹ 1 crore in case of business or ₹ 50 lakh in case of profession*** *during the financial year immediately preceding the financial year in which such commission or brokerage is credited or paid, shall be liable to deduct income-tax under this section.*
Payee	Resident Person
Rate of Deduction of Tax [TDS Rate]	**5%** **[Benefit of lower or NIL TDS Tax under Section 197 is available]**
Time for Deduction of Tax	At the Time of Credit or payment, whichever is earlier.
Non-deduction of TDS	**No TDS, If the aggregate payment does not exceed ₹ 15,000.**

"Commission or brokerage" includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered, or for any services in the course of buying or selling of goods, or in relation to any transaction relating to any asset, valuable article or thing, other than securities.

Further, there would be no requirement to deduct tax at source on commission or brokerage payments by BSNL or MTNL to their public call office (PCO) franchisees.

Applicability of TDS provisions on payments by television channels and publishing houses to advertisement companies for procuring or canvassing for advertisements [CBDT Circular]

There are two types of payments involved in the advertising business:

1. ***Payment by client to the advertising agency, and***
2. ***Payment by advertising agency to the television channel/newspaper company***

CBDT has clarified that TDS under section 194C (as work contract) will be applicable on the first type of payment, there will be no TDS under section 194C on the second type of payment e.g. payment by advertising agency to the media company.

However, another issue has been raised in various cases as to whether the fees/charges taken or retained by advertising companies from media companies for canvasing/booking advertisements (typically 15% of the billing) is 'commission' or 'discount' for attracting the provisions of section 194H.

The CBDT has now clarified that ***no TDS is attracted on payments made by television channels/newspaper companies to the advertising agency for booking or procuring of or canvassing for advertisements.***

QUESTION:

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.

RENT [SECTION 194-I]

<table>
<tr><td>Person Responsible to deduct Tax</td><td colspan="2">Any Person <u>other than individual and HUF</u>

– Responsible for paying Rent.

<u>In case of individual or a Hindu undivided family:</u>
whose total sales, gross receipts or turnover from the business or profession carried on by him <u>exceed ₹ 1 crore in case of business or ₹ 50 lakh in case of profession</u> during the financial year immediately preceding the financial year in which such Rent is credited or paid, shall be liable to deduct income-tax under this section.

“RENT” means any payment under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any –

i. land; or
ii. building (including factory building); or
iii. land appurtenant to a building (including factory building); or
iv. machinery; or
v. plant; or
vi. equipment; or
vii. furniture; or
viii. fittings,

whether or not any or all of the above are owned by the payee.</td></tr>
<tr><td>Payee</td><td colspan="2">Any person being Resident</td></tr>
<tr><td rowspan="3">TDS Rate</td><td>Land/Building/ Furniture/Fittings</td><td>Machinery/Plant/Equipment</td></tr>
<tr><td>10% for all</td><td>2 %</td></tr>
<tr><td colspan="2">[Benefit of lower or NIL TDS Tax under Section 197 is available]</td></tr>
<tr><td>Time for Deduction of Tax</td><td colspan="2">At the Time of Credit or payment, whichever is earlier.</td></tr>
<tr><td>Non-deduction of TDS</td><td colspan="2">• No deduction if amount of rent paid/payable does not exceed ₹ 2,40,000 during any financial year.

• Further, no deduction shall be made under this section from rent credited or paid to a business trust, being a REIT, in respect of any real estate asset owned directly by it.

• NO TDS if the payee is the Government or a local authority.</td></tr>
</table>

Tax Points: – 194-I applicable

- ✓ If a person has taken a particular space on rent and thereafter sub-lets the same fully or in part for putting up hoarding, he would be liable to TDS u/s 194-I and not u/s 194C.
- ✓ Payment made for the rent to the co-owner each having a definite and ascertainable share in the property is **exceeds the limit of ₹ 2,40,000** per annum in the hands of **each co-owner separately**
- ✓ Payment made to landlord as deposit **if in the nature of advance rent or non-refundable deposit**.
- ✓ **Payment made for Warehousing Charges**.
- ✓ Treatment of tax credit in the hands of the Payee, for TDS on Advance Rent: - ***pro-rata TDS is allowed according to the rent offered for taxation***.

Applicability of TDS provisions under section 194-I to payments made by the customers on account of cooling charges to the cold storage owners [CBDT Circular]

The main function of the cold storage is to preserve perishable goods by means of a mechanical process, and storage of such goods is only incidental in nature. The customer is also not given any right to use any demarcated space/place or the machinery of the cold store and thus does not become a tenant. Therefore, the provisions of 194-I are not applicable to the cooling charges paid by the customers of the cold storage.

However, since the arrangement between the customers and cold storage owners are basically contractual in nature, the provision of section 194-C will be applicable to the amounts paid as cooling charges by the customers of the cold storage.

No requirement to deduct tax at source under section 194-I on remittance of Passenger Service Fees (PSF) by an Airline to an Airport Operator [CBDT Circular]

Section 194-I requires deduction of tax at source at specified percentage on any income payable to a resident by way of rent. *Explanation* to this section defines the term "rent" as any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any (a) land; or (b) building; or (c) land appurtenant to a building; or (d) machinery; (e) plant; (f) equipment (g) furniture; or (h) fitting, whether or not any or all of them are owned by the payee.

The primary requirement of any payment to qualify as rent is that the payment must be for the use of land and building and ***mere incidental/minor/ insignificant use of the same while providing other facilities and service would not make it a payment for use of land and buildings so as to attract section 194-I.***

Accordingly, the CBDT has, *vide* this circular, clarified that the provisions of section 194-I shall **not** be applicable on payment of PSF by an airline to Airport Operator.

Clarification on applicability of TDS provisions of section 194-I on lumpsum lease premium paid for acquisition of long term lease [CBDT Circular]

The issue of whether or not TDS under section 194-I is applicable on 'lump sum lease premium' or 'one-time upfront lease charges" paid by an assessee for acquiring long-term leasehold rights for land or any other property has been examined by the CBDT.

Accordingly, the CBDT has, vide this Circular, clarified that lump sum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent, paid or payable for acquisition of long-term leasehold rights over land or any other property ***are not payments in the nature of rent*** within the meaning of section 194-I. Therefore, such payments are not liable for TDS under section 194-I.

NO REQUIREMENT TO DEDUCT TAX AT SOURCE UNDER SECTION 194-I ON PAYMENT IN THE NATURE OF LEASE RENT OR SUPPLEMENTAL LEASE RENT, MADE BY A 'LESSEE' TO A LESSOR, BEING A UNIT LOCATED IN IFSC FOR LEASE OF AN AIRCRAFT

*The Central Government has, vide Notification No. 65/2022, dated 16.06.2022 specified that no tax is required to be deducted under section 194-I on payment in the nature of **lease rent or supplemental lease rent, as the case may be, made by a lessee to a lessor, being a Unit located in IFSC, for lease of an aircraft** subject to the following conditions-*

a. The lessor has to, -

- ***i.*** *furnish a statement-cum-declaration **to the lessee** giving details of previous years relevant to the 10 consecutive assessment years for which the lessor opts for claiming deduction under section 80LA; and*
- ***ii.*** *such statement-cum-declaration has to be furnished for **each previous year** relevant to the 10 consecutive assessment years for which the lessor opts for claiming deduction.*

b. The lessee would -

- ***i.*** *not deduct tax on payment made or credited to lessor **after** **the date of receipt of copy of statement cum-declaration** from the lessor; and*
- ***ii.*** *furnish the particulars of all the payments made to lessor on which tax has not been deducted in view of this notification **in the statement of deduction of tax**.*

"NO TDS ON AIRCRAFT LEASE RENT PAYABLE TO IFSC UNITS ELIGIBLE FOR DEDUCTION UNDER SECTION 80LA ON RECEIPT OF STATEMENT-CUM-DECLARATION FROM LESSOR."

TDS ON PURCHASE OF IMMOVABLE PROPERTY [Section 194-IA]

Person Responsible to deduct Tax	Any person (being a transferee) responsible for paying (other than the person referred to in section 194LA)
Payee	***Resident transferor***
Payments Covered	Any sum by way of consideration for transfer of any immovable property (other than ***agricultural land in rural area in India***). **[Situated in or outside India]**
Consideration includes	***Consideration for transfer of immovable property include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.***
Rate of Deduction of Tax	**1% of sum payable or SDV, whichever is higher**
Time for Deduction of Tax	At the Time of Credit or payment, whichever is earlier.
Non-deduction of TDS	No tax is deductible where the total amount of consideration paid or payable for the transfer of an immovable property **and the stamp duty value of such property, are both *less than* ₹ *50,00,000.***
NOTE: Provisions of section 203A (pertaining to TAN) shall not apply in respect of tax deducted	

TDS ON PAYMENT OF RENT BY CERTAIN IND/HUF [Section 194-IB]

Person Responsible to deduct Tax	***Individual or HUF, other than those individual or HUF whose total sales, gross receipts or turnover from the business or profession exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession in the financial year immediately preceding the financial year in which such rent was credited or paid***
Payee	***Resident***
Payments Covered	Rent Exceeding ₹ 50,000 p.m.
Rate of Deduction of Tax	**5% of aggregate rent**
Time for Deduction of Tax	At the Time of **Credit of Rent for the Last Month** or Payment, whichever is earlier.

NOTE:

1. Provisions of Section 203A (pertaining to TAN) shall not apply in respect of tax deducted
2. In case **Section 206AA ~~or Section 206AB~~** applies, TDS amount shall not exceed the amount of Rent payable for the last month of the Previous Year/Tenancy Period.

QUESTION:

Mr. X, a salaried individual, pays rent of ₹ 55,000 per month to Mr. Y from June, 2023. 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, 2023? 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. 2023-24, he is liable to deduct tax at source @5% of such rent for F.Y. 2023-24 under section 194-IB. Thus, ₹ 27,500 [₹ 55,000 x 5% x 10] has to be deducted from rent payable for March, 2024.

If Mr. X vacated the premises in December, 2023, then tax of ₹ 19,250 [₹ 55,000 x 5% x 7] has to be deducted from rent payable for December, 2023. 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 x 20% x 10] but the same has to be restricted to ₹ 55,000, being rent for March, 2024.

In case 2 above, this would amount to ₹ 77,000 [₹ 55,000 x 20% x 7] but the same has to be restricted to ₹ 55,000, being rent for December, 2023.

Payment under specified agreement [Section 194-IC]

[ALSO REFER CG CLASS – SECTION 45(5A)]

1. ***Applicability and Rate***
   *This section casts responsibility on any person responsible for paying to a resident any sum by way of consideration, **not being consideration in kind**, under a specified agreement under section 45(5A), to deduct income-tax at the rate of 10%.*

2. ***Time of deduction***
   *This deduction is to be made at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of cheque or draft or by any other mode, **whichever is earlier.***

3. ***Non-applicability of section 194-IA***
   *Since tax deduction at source for specified agreement under section 45(5A) is covered under section 194-IC, **the provisions of section 194-IA do not get attracted in the hands of the transferee in such cases.***

4. ***Meaning of specified agreement***
   Specified agreement under section 45(5A):
   - *It means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both.*
   - *The consideration, in this case, is a share, being land or building or both in such project; Part of the consideration may also be in cash.*

Fees for Professional or Technical Services [Section 194J]

Person Responsible to deduct Tax	Any person, other than an individual or a HUF, who is responsible for paying income of specified nature. Individual/HUF, **whose total sales, gross receipts or turnover from business or profession carried by him exceeds ₹ *1 crore in case of business or ₹ 50 lakhs in case of profession* in the financial year immediately preceding the financial year in which the *fees for professional services or fees for technical services is credited or paid* is required to deduct tax on such fees.**
Payee	**Any person being Resident**
Payments Covered	**(a) Fees for Professional Services** **(b) Fees for Technical Services** **(c) Royalty** **(d) Payments referred u/s 28(va) - Sum received for not carrying out any activity in relation to Business/Profession or not sharing any Know-How, Patent etc. [Non-Compete Fees)**
Rate of Deduction of Tax [TDS Rate]	***(a) 2% of such sum in case of fees for technical services (not being a professional services) or royalty where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films and*** ***(b) 10% of such sum in other cases*** ***[2% if payee is engaged only in the business of Operation of Call Centre.]*** **[Benefit of lower or NIL TDS Tax under Section 197 is available]**
Time for Deduction of Tax	At the Time of Credit or payment, whichever is earlier.
Non-deduction of TDS	• No tax deduction is required if the **amount being** credited or paid **during a financial year does not exceed ₹ 30,000 for each of four payments separately.** • No TDS on Sum paid **by Individual / HUF** towards **professional services exclusively for their personal purposes**. • **Individuals and HUFs are not required to deduct tax at source under section 194J on royalty and non-compete fees.**
TDS on remuneration other than salary to a director [Section 194J] Section 194J has been amended to provide that tax is required to be deducted on the remuneration or fee or commission etc paid to a director, which is not in the nature of salary, at the rate of 10% of such remuneration.	

Meaning of "Professional services"

"Professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the CBDT for the purposes of section 44AA or of this section.

Other professions notified for the purposes of section 44AA are as follows:

a. Profession of "authorised representatives";
b. Profession of "film artist";
c. Profession of "company secretary".

The CBDT has notified the services rendered by following persons in relation to the sports activities as Professional Services for the purpose of the section 194J:

a. Sports Persons,
b. Umpires and Referees,
c. Coaches and Trainers,
d. Team Physicians and Physiotherapists,
e. Event Managers,
f. Commentators,
g. Anchors and
h. Sports Columnists.

Accordingly, the requirement of TDS as per section 194J would apply to all the aforesaid professions. The term "profession", as such, is of a very wide import. However, the term has been defined in this section exhaustively.

For the purposes of TDS, therefore, all other professions would be outside the scope of section 194J. For example, this section will not apply to professions of teaching, sculpture, painting etc. unless they are notified.

Meaning of "Fees for technical services"

Section 194J provides that the term 'fees for technical services' shall have the same meaning as defined in Section 9(1)(vii).

The term 'fees for technical services' as defined in Section 9(1)(vii) **means any consideration (including any lump sum consideration) for rendering of any of the following services:**

(i) Managerial services;
(ii) Technical services;
(iii) Consultancy services;
(iv) Provision of services of technical or other personnel.

It is expressly provided that the term 'fees for technical services' will not include following types of consideration:

(i) Consideration for any construction, assembly, mining or like project, or
(ii) Consideration which is chargeable under the head 'Salaries'.

Example:

East Bengal Club, a renowned football club, has engaged Raghu, a resident in India, as its coach at a remuneration of ₹ 6 lacs per annum. The club wants to know from you whether it is liable to deduct tax at source from such remuneration.

SOLUTION:

Section 194J requires deduction of tax at source @10% from the amount credited or paid by way of fees for professional services, where such amount or aggregate of such amounts credited or paid to a person exceeds ₹ 30,000. As per *Explanation (a)* to section 194J, professional services include services rendered by a person in the course of carrying on such other profession as is notified by the CBDT for the purposes of section 194J.

Accordingly, the CBDT has notified the services rendered by coaches and trainers in relation to the sports activities as professional services for the purposes of section 194J.

Therefore, the club is liable to deduct tax at source under section 194J from the remuneration payable to the Coach, Raghu.

Consideration for use or right to use of computer software is royalty within the meaning of section 9(1)(vi)

As per section 9(1)(vi), any income payable by way of royalty in respect of any right, property or information is deemed to accrue or arise in India. The term "royalty" means consideration for transfer of all or any right in respect of certain rights, property or information.

The consideration for use or right to use of computer software is royalty by clarifying that, transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

Consequently, the provisions of tax deduction at source under section 194J would be attracted in respect of consideration for use or right to use computer software since the same falls within the definition of royalty.

Note:
The Central Government has exempted certain software payments from the applicability of tax deduction under section 194J. ***Where payment is made by the transferee for acquisition of software from a resident transferor, the provisions of section 194J would not be attracted if -***

- **a.** the software is acquired in a subsequent transfer without any modification by the transferor;
- **b.** tax has been deducted under section 194J or Section 195 (Payment to non-resident) on payment for any previous transfer of such software; and
- **c.** the transferee obtains a declaration from the transferor that tax has been so deducted along with the PAN of the transferor.

TPAs liable to deduct tax under section 194-J on payment to hospitals on behalf of insurance companies

The CBDT has clarified that TPAs (Third Party Administrator's) who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. under various schemes including cashless schemes are liable to deduct tax at source under section 194J on all such payments to hospitals etc.

This is because the services rendered by hospitals to various patients are primarily medical services and, therefore, the provisions of section 194J are applicable to payments made by TPAs to hospitals etc.

SECTION 194K [TDS on Income in respect of Units]

Applicability and rate of tax

*Section 194K provides for deduction of tax at source @**10%** by any person responsible for paying to a resident any income in respect of –*

- ***a.*** *units of a Mutual fund*
- ***b.*** *units from Administrator of the specified undertaking (Units of UTI)*
- ***c.*** *units from the specified company*

[Benefit of lower or NIL TDS Tax under Section 197 is available]

Time of deduction

*The deduction is to be made at the time of credit of such sum to the account of the payee or at the time of payment by any mode, **whichever is earlier.***

Non-applicability of section 194K

No tax is required to be deducted if -

- ***a.*** *the amount of such income or the **aggregate of the amounts** of such income credited or paid or likely to be credited or paid **during a financial year does not exceed ₹ 5,000; or***

- ***b.*** *the income is of **the nature of capital gains**.*

Payment of compensation on acquisition of certain immovable property [Section 194LA]

Person Responsible to deduct Tax	Any person
Payee	**Any person being Resident**
Payments Covered	Any payment in the nature of compensation/ enhanced compensation on account of compulsory acquisition of any immovable property **(other than agricultural land).** **Here Agricultural land includes Urban Land also.**
TDS Rate	**10%** **[Benefit of lower or NIL TDS Tax under Section 197 is available]**
Time for Deduction of Tax	At the time of payment
Non-deduction of TDS	No tax deduction is required if the aggregate amount during the financial year **does not exceed ₹ 250,000**

Payment made by an individual or a HUF for contract work or by way of fees for professional services or commission or brokerage [Section 194M]

A. Applicability and rate of TDS

*Section 194M provides for deduction of tax at source @**5% by an individual or a HUF** responsible for paying any sum during the financial year **to any resident** –*

i. for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or

ii. by way of commission (not being insurance commission referred to in section 194D) or brokerage; or

iii. by way of fees for professional services.

It may be noted that only individuals and HUFs (other than those who are required to deduct income-tax as per the provisions of section 194C or 194H or 194J) are required to deduct tax in respect of the above sums payable during the financial year to a resident.

[Benefit of lower or NIL TDS Tax under Section 197 is available]

B. Time of deduction

The tax should be deducted at the time of credit of such sum or at the time of payment of such sum, whichever is earlier.

C. Threshold limit

*No tax is required to be deducted where such sum or, as the case may be, aggregate amount of such sums credited or paid to a resident during the financial year does not exceed ₹ **50,00,000.***

D. Non-applicability of TDS under section 194M

*An individual or a Hindu undivided family is **not liable to deduct tax at source** under section 194M if –*

i. *they are required to deduct tax at source under section 194C for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract i.e., an individual or a HUF **whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession** in the immediately preceding financial year and such amount is not exclusively credited or paid for personal purposes of such individual or HUF.*

ii. *they are required to deduct tax at source under section 194H on commission (not being insurance commission referred to in section 194D) or brokerage i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him **exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession** during the immediately preceding financial year.*

iii. *they are required to deduct tax at source under section 194J on fees for professional services i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him **exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession** during the immediately preceding financial year and such amount is not exclusively credited or paid for personal purposes of such individual or HUF.*

E. No requirement to obtain TAN

The provisions of section 203A containing the requirement of obtaining Tax deduction account number (TAN) shall not apply to the person required to deduct tax in accordance with the provisions of section 194M.

QUESTION:

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.

S. No.	*Particulars of the payer*	*Nature of payment*	*Aggregate of payments made in the F.Y. 2023-24*
1	*Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y. 2022-23*	*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. 2022-23.**	*Contract Payment for reconstruction of residential house (made during the period January- March, 2024)*	*₹ 20 lakhs in January, 2024, ₹ 15 lakhs in Feb 2024 and ₹ 20 lakhs in March 2024.*
3	*Mr. Satish, a salaried individual*	*Payment of brokerage for buying a residential house in March, 2024*	*₹ 51 lakhs*
4	*Mr. Dheeraj, a pensioner*	*Contract payment made during October-November 2023 for reconstruction of residential house*	*₹ 48 lakhs*

SOLUTION

S. No.	**Particulars of the payer**	**Nature of payment**	**Aggregate of payments in the F.Y. 2023-24**	**Whether TDS provisions are attracted?**
1	**Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y. 2022-23**	Contract Payment for repair of residential house	₹ 5 lakhs	No, TDS under section 194C is not attracted since the payment is for personal purpose and TDS under section 194M is not attracted as aggregate of contract payment to the payee in the P.Y. 2023-24 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. 2022-23.
2	**Mr. Rajesh, a wholesale trader whose turnover was ₹ 95 lakhs in P.Y. 2022-23**	Contract Payment for reconstruction of residential house	₹ 55 lakhs	Yes, under section 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. 2022-23, TDS provisions under section

				194C are not attracted in respect of payments made in the P.Y. 2023-24.
3	**Mr. Satish, a salaried individual**	Payment of brokerage for buying a residential house	₹ 51 lakhs	Yes, under section 194M, since the payment of ₹ 51 lakhs made in March 2024 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.

Time and mode of payment of tax deducted at source under section 194-IA, 194-IB and 194M to the credit of Central Government, furnishing challan-cum-statement and TDS Certificate

[Rules 30, 31A & 31]

READING PURPOSE ONLY

a. *Such sum deducted u/s 194-IA, 194-IB and 194M shall be paid to the credit of the Central Government* ***within a period of 30 days from the end of the month*** *in which the deduction is made and* ***shall be accompanied by a challan-cum-statement in Form No. 26QB, 26QC and 26QD, respectively [Rule 30].***

b. *Every person responsible for deduction of tax u/s 194-IA, 194-IB and 194M shall also furnish to the PDGIT (Systems)(in case of section 194-IB and 194M) or DGIT (Systems) or any person authorized by them, a challan-cum-statement in Form No. 26QB, 26QC and 26QD, respectively, electronically within 30 days from the end of the month in which the deduction is made [Rule 31A].*

c. *Every person responsible for deduction of tax u/s 194-IA, 194-IB and 194M shall* ***furnish the TDS certificate in Form No. 16B, 16C and 16D, respectively,*** *to the payee within 15 days from the due date for furnishing the challan-cum-statement in Form No. 26QB, 26QC and 26QD, respectively.*

TDS on cash withdrawal [Section 194N]

1. ***Applicability and rate of TDS***

Every person, being

- *a **banking company** to which the Banking Regulation Act, 1949 applies (**including any bank or banking institution**)*
- *a co-operative society engaged in carrying on the business of banking, or*
- *a post office*

*who is responsible for paying, in cash, **any sum or aggregate of sums** exceeding ₹ 1 crore during the previous year to any person **from one or more accounts** maintained by such recipient-person with it, shall deduct tax at source **@2% of sum exceeding ₹ 1 crore.***

Finance Act 2023: TDS Limit is increased to ₹ 3 Crores if the recipient is a co-operative society.

2. ***Modification in rate of TDS and threshold limit of withdrawal for recipient who has not furnished return of income for last 3 years***

***If the recipient has not furnished the returns of income for all the three assessment years relevant to the three previous years, for which the time limit of file return of income under section 139(1) has expired**, immediately preceding the previous year in which the payment of the sum is made, **the sum shall mean the amount or the aggregate of amounts, as the case may be, in cash exceeding ₹ 20 lakhs during the previous year**, and the tax shall be deducted at the rate of-*

- ***2%** of the sum, where the amount or aggregate of amounts, as the case may be, being paid in cash **> ₹ 20 lakhs but ≤ ₹ 1 crore** **[₹ 3 Crore if the recipient is a co-operative society]***
- ***5%** of the sum, where the amount or aggregate of amounts, as the case may be, being paid in cash **> ₹ 1 crore** **[₹ 3 Crore if the recipient is a co-operative society].***

*However, the Central Government is empowered to specify, with the consultation of RBI, by notification, **the recipient in whose case this provision shall not apply or apply at reduced rate, subject to the satisfaction of the conditions specified in such notification.***

3. ***Time of deduction***

*This deduction is to be made **at the time of payment of such sum**.*

4. ***Non-applicability of TDS under section 194N***

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

- *the **Government***
- *any **banking company** or co-operative society engaged in carrying on the business of banking or a post-office*
- *any **business correspondent** of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the RBI guidelines*
- *any **white label ATM operator** of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the RBI under the Payment and Settlement Systems Act, 2007*
- *such **other person or class of persons notified** by the Central Government in consultation with the RBI.*

No tax is required to be deducted at source under section 194N on cash withdrawals by persons or class of persons as notified by the Central Government

The Central Government may specify, with the consultation of RBI, by notification, the recipient in whose case section 194N shall not apply or apply at reduced rate, subject to the satisfaction of the conditions specified in such notification.

Accordingly, the Central Government has, after consultation with the Reserve Bank of India (RBI), specified-

I. ***Cash Replenishment Agencies (CRA's) and franchise agents of White Label Automated Teller Machine Operators (WLATMO's)*** *maintaining a separate bank account from which withdrawal is made only for the purposes of replenishing cash in the Automated Teller Machines (ATM's) operated by such WLATMO's and the WLATMO have furnished a certificate every month to the bank certifying that the bank account of the CRA's and the franchise agents of the WLATMO's have been examined and the amounts being withdrawn from their bank accounts has been reconciled with the amount of cash deposited in the ATM's of the WLATMO's.*

II. ***Commission agent or trader, operating under Agriculture Produce Market Committee (APMC), and registered under any Law relating to Agriculture Produce Market*** *of the concerned State, who has intimated to the banking company or co-operative society or post office his account number through which he wishes to withdraw cash in excess of ₹ 1 crore in the previous year along with his Permanent Account Number (PAN) and the details of the previous year and has certified to the banking company or co-operative society or post office that the withdrawal of cash from the account in excess of ₹ 1 crore during the previous year is* ***for the purpose of making payments to the farmers on account of purchase of agriculture produce*** *and the banking company or co-operative society or post office has ensured that the PAN quoted is correct and the commission agent or trader is registered with the APMC, and for this purpose necessary evidences have been collected and placed on record.*

III. ***(a)*** *the authorised dealer and its franchise agent and sub-agent; and*
(b) *Full-Fledged Money Changer (FFMC) licensed by the RBI and its franchise agent;*

Such persons should maintain a separate bank account from which withdrawal is made only for the purposes of –

i. *purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians* ***on their return to India****, in cash as per the directions or guidelines issued by RBI; or*

ii. *disbursement of* ***inward remittances to the recipient beneficiaries in India in cash*** *under Money Transfer Service Scheme (MTSS) of the RBI;*

The exemption from the requirement to deduct tax u/s 194N would be available only if a certificate is furnished by the authorised dealers and their franchise agent and sub-agent, and the Full-Fledged Money Changers (FFMC) and their franchise agent ***to the bank that withdrawal is only for the purposes specified above and the directions or guidelines issued by the RBI have been adhered to.***

Certain payment by e-commerce operator to e-commerce participant [Section 194-O]

(1) Applicability and rate of TDS

*Notwithstanding anything to the contrary contained in any of the provisions of this Chapter, Section 194-O provides that **where sale of goods or provision of services of an e-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform**, such e-commerce operator is liable to deduct tax at source **@1%** of the gross amount of such sales or services or both.*

[Benefit of lower or NIL TDS Tax under Section 197 is available]

(2) Time of deduction

*The deduction is to be made at the time of credit of amount of such sale or services or both to the account an e-commerce participant or at the time of payment thereof to such e-commerce participant by any mode, **whichever is earlier.***

(3) Deemed credit

*Any payment made by a purchaser of goods or recipient of services directly to **an e-commerce participant** for the sale of goods or provision of services or both, facilitated by an e-commerce operator**, would be deemed to be amount credited or paid by the e-commerce operator to the e-commerce participant.** Accordingly, such payment would be included in the gross amount of such sales or services for the purpose of deduction of income-tax under this section.*

(4) Non-applicability of TDS under section 194-O

No tax is required to be deducted under section 194-O

- ✓ *in case of any sum credited or paid to an e-commerce participant, being an individual or HUF,*
- ✓ *where the gross amount of such sale or services or both **during the previous year** does not exceed ₹ 5 lakh **and***
- ✓ *such **e-commerce participant** has furnished his PAN/ Aadhaar number to e-commerce operator.*

(5) Non-applicability of TDS under any other section

*A transaction in respect of which tax has been deducted by the e-commerce operator under this section or which is not liable to tax deduction under this section on account of the exemption discussed in point (4) above, **would not be liable to tax deduction at source under any other provision of Chapter XVII-B of the Act.***

*However, this exemption from TDS under Chapter XVII-B would not apply to any amount or aggregate of amounts received or receivable by an e-commerce operator **for hosting advertisements or providing any other services which are not in connection with the sale of goods or services referred to in point (1) above.***

(6) CBDT Guidelines

1. ***Applicability on transactions carried through various Exchanges:***
   In order to remove practical difficulties in implementing section 194-O in case of certain exchanges and clearing corporations, it has been provided that section 194-O shall ***not be applicable*** *in relation to-*
   - *transactions in securities and commodities which* ***are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation****, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre;*
   - *transactions in electricity, renewable energy certificates and energy saving certificates* ***traded through power exchanges*** *registered in accordance with Regulation 21 of the CERC (Central Electricity Regulatory Commission).*

2. ***Applicability on payment gateway:***
   In e-commerce transactions, the payments are generally facilitated by payment gateways. Consequently, it is possible that there may be applicability of section 194-O twice i.e., once on the main ecommerce operator who is facilitating sale of goods or provision of services or both and once on payment gateway who also happen to qualify as e-commerce operator for facilitating service.

   To illustrate, a buyer buys goods worth ₹ 1 lakh on e-commerce website "XYZ". He makes payment of ₹ 1 lakh through digital platform of "ABC". On these facts, liability to deduct tax under Section 194-O may fall on both "XYZ" and "ABC".

   In order to remove this difficulty, it is provided that the payment gateway will not be required to deduct tax under section 194-O of the Act on a transaction, if the tax has been deducted by the ecommerce operator under Section 194-O of the Act, on the same transaction.

   Hence, in the above example, if "XYZ" has deducted tax under section 194-O on ₹ 1 lakh, "ABC" will not be required to deduct tax under section 194-O of the Act on the same transaction. To facilitate proper implementation, "ABC" may take an undertaking from "XYZ" regarding deduction of tax.

3. ***Applicability on insurance agent or insurance aggregator:***
   Insurance agents or insurance aggregators in many cases have no involvement in transactions between the insurance company and the buyer for subsequent years. Therefore, in subsequent years, the liability to deduct tax may arise on the insurance agents or insurance aggregators, even if the transactions have been completed directly with the insurance company. This may result into hardship for the insurance agents/aggregators.

   In order to remove difficulty, it is provided that in years subsequent to the first year, if the insurance agent or insurance aggregator has no involvement in transactions between the insurance company and the buyer of insurance policy, he would not be liable to deduct tax under section 194-O for those subsequent years. ***However, the insurance company shall be required to deduct tax on commission payment, if any, made to the insurance agent or insurance aggregator for those subsequent years under the relevant provision of the Act.***

(7) Person responsible for paying

*For the purpose of this section, **e-commerce operator** shall be deemed to be the person responsible for paying to e-commerce participant.*

(8) Meaning of certain terms

S. No.	Terms	Meaning
(i)	*Electronic commerce*	*The supply of goods or service or both, including digital products, over digital or electronic network.*
(ii)	*E-commerce operator*	*A person who owns, operates or manages digital or electronic facility or platform for electronic commerce.*
(iii)	*E-commerce participant*	*A person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce.*
(iv)	*Services*	*It includes fees for technical services and fees for professional services **as defined in section 194J.***

Deduction of tax by a specified bank in case of specified senior citizen [Section 194P]

1. ***Applicability and rate of TDS***

Section 194P requires deduction of tax at source on the basis of ***rates in force*** ***by a specified bank****, being a notified banking company, on* ***the total income of specified senior citizen*** *for the relevant assessment year, computed* ***after giving effect to*** *-*

a) *deduction allowable under Chapter VI-A;* ***and***
b) *rebate allowable under section 87A*

2. ***Exemption from filing return of income***

The specified senior citizen is ***exempted from filing his return of income*** *for the assessment year relevant to the previous year in which the tax has been deducted under this section.*

3. ***Meaning of certain terms***

- ***Specified bank***

A banking company as notified by the Central Government

Notified specified bank *to mean a* ***banking company which is a scheduled bank*** *and has been appointed as agents of RBI under section 45 of the RBI Act, 1934.*

- ***Specified senior citizen***

An individual, being a resident in India, who

- *is of the age of* ***75 years or more*** *at any time during the previous year;*
- *is* ***having pension income*** *[Also, he should have no other income* ***except*** *interest income received or receivable from any account maintained by such individual in the* ***same specified bank*** *in which he is receiving his pension income]; and*
- *has furnished* ***a declaration to the specified bank*** *containing such particulars, in the prescribed form and verified in the prescribed manner.*

Further, the CBDT has notified that on furnishing of such declaration in the prescribed form by the specified senior citizen, the ***specified bank has to compute the total income of such specified senior citizen*** for the relevant assessment year and deduct income-tax on such total income on the basis of the rates in force, **after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A.**

The effect to the deduction allowable under Chapter VI-A has to be given based on the evidence furnished by the specified senior citizen during the previous year.

The declaration given in the prescribed form and evidence submitted for claiming deduction under Chapter VI-A **by the specified senior citizen has to be properly maintained by the Specified Bank** and **made available to the Principal Chief Commissioner of Income-tax or Chief Commissioner of Income-tax, as and when required.**

Question:

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 1.4.2023. Interest on savings bank credited to his SBI savings account for the P.Y. 2023-24 is ₹ 9,500.

(1) From the above facts, compute the total income and tax liability of Mr. Sharma for the A.Y. 2024-25, 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. 2024-25, 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. 2024-25

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. 2024-25	
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.

Deduction of tax at source on purchase of goods [Section 194Q]

(1) Applicability and rate of TDS

Section 194Q requires any person, being a ***buyer who is responsible for paying any sum to any resident-seller for purchase of goods*** *of the* ***value or aggregate of such value exceeding ₹ 50 lakhs*** *in a previous year, to deduct tax at source* ***@0.1% of such sum exceeding ₹ 50 lakhs****.*

(2) Time of deduction

The deduction is to be made at the time of credit of such sum to the ***account of the resident-seller*** *or at the time of payment thereof by any mode, whichever is earlier.*

Where such sum is credited to any account in the books of account of the person liable to pay such income, such credit of income is deemed to be credit of such income to the account of the payee and tax has to be deducted at source. The account to which such sum is credited may be called "Suspense account" or by any other name.

(3) Non-applicability of TDS under section 194Q

Tax is ***not*** *required to be deducted under this section in respect of a transaction on which -*

- ***a.*** *tax is deductible under any of the provisions of this Act; and*
- ***b.*** *tax is collectible under the provisions of section 206C,* ***other than section 206C(1H).***

In case of a transaction to which both section 206C(1H) and section 194Q applies, tax is required to be deducted under section 194Q.

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

Section 194Q does not apply in respect of transactions where tax is collectible u/s 206C [except sale of goods under section 206C(1H)].

Section 206C(1H) requires to collect tax at source in respect of sale of goods **other than goods which have been covered u/s 206C(1)/ (1F)/(1G).**

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

In case of goods which are covered u/s 206C(1) but exempted u/s 206C(1A), tax would not be collectible u/s 206C(1)/(1H).

It is clarified that the provisions of section 194Q will apply in such cases covered under section 206C(1A) and the buyer is to be liable to deduct tax u/s 194Q, if the conditions specified therein are fulfilled.

(4) Meaning of buyer

***"Buyer" means** a person whose **total sales, gross receipts or turnover** from the business carried on by him **exceed ₹ 10 crores** during the financial year immediately preceding the financial year in which the purchase of goods is carried out.*

*However, **buyer does not include** a person as notified by the Central Government for this purpose, subject to fulfillment of the stipulated conditions.*

CBDT Guidelines

A. Applicability on transactions carried through various Exchanges:

*In order to remove such difficulties, it is provided that the provisions of section 194Q of the Act shall **not be applicable** in relation to-*

- ***i. transactions in securities and commodities** which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre;*
- ***ii. transactions in electricity**, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of the CERC;*

B. Adjustment for GST, purchase returns

i. *CBDT has clarified that **no adjustment on account of GST is required to be made for collection of tax under section 206C(1H) of the Act** since the collection is made with reference to receipt of amount of sale consideration. However, the situation is different so far as TDS is concerned.*

*It has been clarified in **circular no 23 of 2017 dated 19th July 2017** as under "wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid or payable **without including such 'GST on services' component**. GST for these purposes shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Good~ and Services Tax. "*

ii. *Accordingly, with respect to TDS under section 194Q of the Act, it is clarified that when tax is deducted **at the time of credit** of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of GST comprised in the amount payable to the seller is indicated separately, **tax shall be deducted under section 194Q of the Act on the amount credited without including such GST (or without VAT/CST/Sales Tax/Excise Duty in case GST is not applicable).***

*However, **if the tax is deducted on payment basis** because the payment is earlier than the credit, the tax would be deducted on the **whole amount** as it is not possible to identity that payment with GST component of the amount to be invoiced in future.*

iii. *Further, **with respect to purchase return** it is clarified that the tax is required to be deducted at the time of payment or credit, whichever is earlier. Thus, before purchase return happens, the tax must have already been deducted under section 194Q of the Act on that purchase.* ***If that is the case and against this purchase return the money is refunded by the seller, then this tax deducted may be adjusted against the next purchase against the same seller.***

No adjustment is required if the purchase return is replaced by the goods by the seller *as in that case the purchase on which tax was deducted under section 194Q of the Act has been completed with goods replaced.*

C. Whether non-resident can be buyer under section 194Q of the Act?

It is requested to clarity if the provisions of section 194Q of the Act shall apply to a buyer being a non-resident. To remove difficulties, it is clarified that the provisions of section 194Q of the Act shall not apply to a non-resident whose purchase of goods from seller resident in India ***is not effectively connected with the permanent establishment of such nonresident in India.***

For this purpose, "permanent establishment" shall mean to include a fixed place of business through which the business of the enterprise is wholly or partly carries on.

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

i. *CBDT has clarified that the provisions of Section 194Q of the Act shall not apply on purchase of goods from a person, being a seller, who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).*

ii. Similarly, with respect to section 206C(1H) of the Act, it is clarified that the provisions of this sub-section shall not apply to sale of goods to a person, being a buyer, who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).

iii. *The above clarifications would not apply if only part of the income of the person (being a seller or being a buyer, as the case may be) is exempt.*

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

Since the provisions apply on payment or credit whichever is earlier, the provisions of section 194Q of the Act ***shall apply to advance payment made by the buyer to the seller.***

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

Under section 194Q of the Act, a buyer is required to have total sales or gross receipts or turnover from the business carried on by him ***exceeding ten crore rupees*** *during the financial year immediately preceding the financial year in which the purchase of good is carried out.*

Since this condition would not be satisfied in the year of incorporation, the provisions of section 194Q of the Act shall not apply in the year of incorporation.

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

*It is clarified that for the purposes of section 194Q of the Act, a buyer is required to have total sales or gross receipts or turnover **from the business** carried on by him exceeding ₹10 crore during the financial year immediately preceding the financial year in which the purchase of good is carried out. Hence, the sales or gross receipts or turnover **from business** carried on by him must exceed ₹10 crore.*

His turnover or receipts from non-business activity is not to be counted for this purpose.

H. Applicability of the provisions of section 194Q in case of department of Government not being a public sector undertaking or corporation

To be considered as a buyer for the purposes of 194Q, such person should be carrying out a business/commercial activity; and the total sales, gross receipts or turnover from such business/commercial activity **should be more than ₹ 10 crore** during the financial year immediately preceding the financial year in which goods are being purchased by such person.

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

Note - A ***Public Sector Undertaking or Corporation established under Central or State Act or any other such body, authority or entity***, would, however, be required to comply with the provisions of section 194Q and tax shall be deducted accordingly.

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

i. *Under sub-section (3) of section 194-O of the Act, a transaction in respect of which tax has been deducted by the e-commerce operator , or which is not liable to deduction under this section,* ***shall not be liable to tax deduction at source under any other provision of the Act.***

ii. *As per section 206C(1H) of the Act, provisions of this sub-section shall not apply,* ***if the buyer is liable to deduct tax at source under any other provisions of this Act on the goods purchased by him from the seller and has deducted such tax.***

iii. *Under section 194Q of the Act, the provision of this section* ***shall not*** *apply to a transaction on which*

- ***a)*** *tax is deductible under any of the provisions of this Act; and*
- ***b)*** *tax is collectible under the provisions of section 206C, other than a transactions on which section 206C(1H) applies*

J. After conjoint reading of all these provisions, the following is clarified: VERY IMP.

i. *If tax has been deducted by the e-commerce operator on a transaction under section 194-0 of the Act [including transactions on which tax is not deducted on account of sub-section (2) of section 194-0],* ***that transaction shall not be subjected to tax deduction under section 194Q of the Act.***

ii. *Though section 206C(1H) of the Act provides exemption from TCS if the buyer has deducted tax at source on goods purchased by him, to remove difficulties it is clarified that this exemption would also cover a situation* ***where instead of the buyer*** *the e-commerce operator has deducted tax at source on that transaction of sale of goods by seller to buyer through e-commerce operator.*

iii. *If a transaction is both within the purview of section 194-O of the Act as well as section 194Q of the Act,* ***tax is required to be deducted under section 194-O of the Act and not under section 194Q of the Act.***

iv. *Similarly, if a transaction is both within the purview of section 194-O of the Act as well as section 206C(1H) of the Act, tax is required to be deducted under section 194-O of the Act. The transaction shall come out of the purview of section 206C(1H) of the Act after tax has been deducted by the e-commerce operator on that transaction. Once the e-commerce operator has deducted the tax on a transaction, the seller is not required to collect the tax under section 206C(1H) of the Act on the same transaction.*

It is clarified that here primary responsibility is on e-commerce operator to deduct the tax under section 194-0 of the Act and that responsibility cannot be condoned if the seller has collected the tax under section 206C(1H) of the Act. ***This is for the reason that the rate of TDS under section 194-0 is higher than rate of TCS under section 206C(1H) of the Act.***

v. *If a transaction is both within the purview of section 194-Q of the Act as well as section 206C(1H) of the Act, the tax is required to be deducted under section 194-Q of the Act. The transaction shall come out of the purview of section 206C(1H) of the Act after tax has been deducted by the buyer on that transaction.*

Once the buyer has deducted the tax on a transaction, the seller is not required to collect the tax under section 206C(1H) of the Act on the same transaction.

However, if, for any reason, tax has been collected by the seller under section 206C(1H) of the Act, before the buyer could deduct tax under section 194-Q of the Act on the same transaction, such transaction ***would not be subjected to tax deduction*** *again by the buyer.* ***This concession is provided to remove difficulty, since tax rate of deduction and collection are same in section 194Q and section 206C(1H) of the Act.***

Question:

Mr. Gupta, a resident Indian, is in retail business and his turnover for F.Y. 2022-23 was ₹ 12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler, and the aggregate payments during the F.Y. 2023-24 was ₹ 95 lakh (₹ 20 lakh on 1.6.2023, ₹ 25 lakh on 12.8.2023, ₹ 22 lakh on 23.11.2023 and ₹ 28 lakh on 25.3.2024).

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. 2022-23 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. 2022-23 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. 2022-23 exceeds 10 crores, and payments made by him to Mr. Agarwal, a resident seller exceed ₹ 50 lakhs in the P.Y. 2023-24, **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 1.6.2023 and 12.8.2023, 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 23.11.2023 [₹ 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 25.3.2024.

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. 2022-23 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. 2022-23 and his receipts from Mr. Gupta exceed ₹50 lakhs.**

No tax is to be collected u/s 206C(1H) on 1.6.2023 and 12.8.2023, 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 23.11.2023 (₹ 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 25.3.2024.

(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 23.11.2023 and 25.3.2024, 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 23.11.2023 and 25.3.2024, respectively.

DEDUCTION OF TAX AT SOURCE ON BENEFIT OR PERQUISITE IN RESPECT OF BUSINESS OR PROFESSION [SECTION 194R] - Page 19.41 to Page 19.48

(1) Applicability and rate of TDS [Section 194R(1)]

Any person who is responsible for providing, ***to a resident****,*

- *any benefit or perquisite* ***whether convertible into money or not****,*
- *arising from business or the exercise of a profession,* ***by such resident***

has to, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite ***@10% of the value or aggregate of value of such benefit or perquisite****.*

Finance Act 2023*:* ***It is clarified that the TDS provisions shall apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind.***

(2) Meaning of "Person responsible for providing"

"Person responsible for providing" means the person providing such benefit or perquisite. ***In case of a company, it means the company itself including the principal officer thereof***

(3) Cases where benefit or perquisite is wholly in kind or partly in kind and partly in cash

Where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, ***the person responsible for providing such benefit or perquisite has to, before releasing the benefit or perquisite, ensure that tax required to be deducted has been paid in respect of the benefit or perquisite.***

(4) Cases where no tax is required to be deducted under section 194R

No tax is required to be deducted under section 194R in the following cases:

- *In case of a resident, where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to such resident* ***during the financial year does not exceed ₹ 20,000; or***
- *Where a person responsible for providing such benefit or perquisite* ***is an individual or HUF****, whose total sales, gross receipts or turnover from business or profession does not exceed* ***₹ 1 crore in case of business or ₹ 50 lakhs in case of profession****, during preceding financial year.*

(5) Power of CBDT to issue guidelines

In case any difficulty arises in giving effect to the provisions of this section, the CBDT may issue guidelines for the purpose of removing the difficulty with the previous approval of the Central Government.

Every guidelines issued by the CBDT would be laid before each House of Parliament, and would be binding on the income-tax authorities and on the person providing such benefit or perquisite.

CBDT guidelines on Section 194R

Question 1: Is it necessary that the person providing benefit or perquisite needs to check if the amount is taxable under section 28(iv), before deducting tax under section 194R?

Answer:

No. The deductor is ***not required to check*** *whether the amount of benefit or perquisite that he is providing would be taxable in the hands of the recipient under section 28(iv). The amount could be taxable under any other section like section 41(1) etc. Section 194R casts an obligation on the person responsible for providing any benefit or perquisite to a resident, to deduct tax at source @10%.* ***There is no further requirement to check whether the amount is taxable in the hands of the recipient or under which section it is taxable.***

Question 2: Is it necessary that the benefit or perquisite must be in kind for section 194R to operate?

Answer:

Tax under section 194R is required to be deducted whether the benefit or perquisite is in cash or in kind. Section 194R(1) clearly indicates the intent of legislature that there could also be situations where benefit or perquisite is in cash or the benefit or perquisite is in kind or partly in cash and partly in kind. ***Thus, section 194R clearly brings in its scope the situation where the benefit or perquisite is in cash or in kind or partly in cash or partly in kind.***

Question 3: Is there any requirement to deduct tax under section 194R, when the benefit or perquisite is in the form of capital asset?

Answer: Section 194R applicable

As has been stated in answer to question no 1, there is no requirement to check whether the perquisite or benefit is taxable in the hands of the recipient and the section under which it is taxable.

> ***If loan settlement/waiver by a bank is to be treated as benefit/ perquisite, it would lead to hardship as the bank would need to incur the additional cost of tax deduction in addition to the haircut that he has taken. Will section 194R apply in such a situation? – NO TDS***

Question 4: Whether sales discount, cash discount and rebates are benefit or perquisite?

Answer:

Sales discounts, cash discount or rebates allowed to customers from the listed retail price represent lesser realization of the sale price itself. To that extent purchase price of customer is also reduced.

These are also benefits though related to sales/purchase. Since TDS under section 194R is applicable on all forms of benefit/perquisite, tax is required to be deducted. ***However, subjecting these to tax deduction would put seller to difficulty. To remove such difficulty it has been clarified that no tax is required to be deducted under section 194R on sales discount, cash discount and rebates allowed to customers.***

Where a seller is selling its items from its stock in trade to a buyer, the seller offers two items free with purchase of 10 items. In substance, the seller is actually selling 12 items at a price of 10 items. Let us assume that the price of each item is ₹ 12. In this case, the selling price for the seller would be ₹ 120 for 12 items. For buyer, he has purchased 12 items at a price of 10. Just like seller, the purchase price for the buyer is ₹ 120 for 12 items and he is expected to record so in his books. ***In such a situation, again there could be difficulty in applying section 194R provision. Hence, it has been clarified that on the above facts no tax is required to be deducted under section 194R.***

It has been clarified that situation is different when free samples are given and the above relaxation would not apply to a situation of free samples.

Similarly, this relaxation should not be extended to other benefits provided by the seller in connection with its sale. To illustrate, the following are some of the examples of benefits/perquisites on which tax is required to be deducted under section 194R (the list is not exhaustive):

- ***A.*** *When a person gives incentives (other than discount, rebate) in the form of cash or kind such as car, TV, computers, gold coin, mobile phone etc.*
- ***B.*** *When a person sponsors a trip for the recipient and his/her relatives upon achieving certain targets*
- ***C.*** *When a person provides free ticket for an event*
- ***D.*** *When a person gives medicine samples free to medical practitioners.*

[Important] *It has been further clarified that these benefits/perquisites may be used by owner/ director/ employee of the recipient entity* ***or their relatives who in their individual capacity may not be carrying on business or exercising a profession****.* ***However, the tax is required to be deducted by the person in the name of recipient entity since the usage by owner/ director/ employee/ relative is by virtue of their relation with the recipient entity and in substance the benefit/perquisite has been provided by the person to the recipient entity.***

To illustrate*, the free medicine sample may be provided by a company to a doctor who is an employee of a hospital.* ***The TDS under section 194R is required to be deducted by the company in the hands of hospital as the benefit/perquisite is provided to the doctor on account of him being the employee of the hospital.*** *Thus, in substance, the benefit/perquisite is provided to the hospital.* ***The hospital may subsequently treat this benefit/perquisite as the perquisite given to its employees (if the person who used it is his employee) under section 17 and deduct tax under section 192.***

In such a case it would be first taxable in the hands of the hospital and then allowed as deduction as salary expenditure. Thus, ultimately the amount would get taxed in the hands of the employee and not in the hands of the hospital. Hospital can get credit of tax deducted under section 194R by furnishing its tax return.

Similarly*, the tax is required to be deducted under section 194R if the benefit or perquisite is provided to* ***a doctor who is working as a consultant in the hospital****. In this case the benefit or perquisite provider may deduct tax under section 194R with hospital as recipient and then hospital may again deduct tax under section for providing the same benefit or perquisite to the consultant.* ***To remove difficulty, as an alternative, the original benefit or perquisite provider may directly deduct tax under section 194R in the case of the consultant as a recipient.***

[2 Marks] <u>The provisions of section 194R would not apply if the benefit or perquisite is being provided to a Government entity, like Government hospital, not carrying on business or profession.</u>

Question 5: How is the valuation of benefit/perquisite required to be carried out?

Answer:

*The valuation **<u>would be based on fair market value of the benefit or perquisite</u>** except in following cases:-*

The benefit/perquisite provider has purchased the benefit/perquisite before providing it to the recipient	*purchase price*
The benefit/perquisite provider manufactures such items given as benefit/perquisite	*the price that it charges to its customers for such items*

It has been further clarified that <u>GST would not be included</u> for the purposes of valuation of benefit/perquisite for TDS under section 194R.

Question 6: Many a times, a social media influencer is given a product of a manufacturing company so that he can use that product and make audio/video to speak about that product in social media. Is this product given to such influencer a benefit or perquisite?

Answer:

Whether this is benefit or perquisite will depend upon the facts of the case.

In case of benefit or perquisite being a product like car, mobile, outfit, cosmetics etc. and if the product is returned to the manufacturing company after using for the purpose of rendering service, then it will not be treated as a benefit/perquisite for the purposes of section 194R.

<u>However, if the product is retained then it would be in the nature of benefit/perquisite and tax is required to be deducted accordingly under section 194R.</u>

Question 7: Whether reimbursement of out of pocket expense incurred by service provider in the course of rendering service is benefit/perquisite?

Answer:

*Any expenditure which is the liability of a person carrying out business or profession, if met by the other person **is in effect benefit/perquisite provided by the second person to the first person in the course of business/profession.***

*For example, a consultant is rendering service to a person "X" for which he is receiving consultancy fee. In the course of rendering that service, he has to travel to different city from the place where is regularly carrying on business or profession. For this purpose, he pays for boarding and lodging expense incurred exclusively for the purposes of rendering the service to "X". Ordinarily, the expenditure incurred by the consultant is part of his business expenditure which is deductible from the fee that he receives from company "X". **<u>In such a case, the fee received by the consultant is his income and the expenditure incurred on travel is his expenditure deductible from such income in computing his total income.</u>***

If this travel expenditure is met by the company "X", it is benefit or perquisite provided by "X" to the consultant.

However, sometimes the invoice is obtained in the name of "X" and accordingly, if paid by the consultant, is reimbursed by "X". ***In this case, since the expense paid by the consultant (for which reimbursement is made) is incurred wholly and exclusively for the purposes of rendering services to "X" and the invoice is in the name of "X", then the reimbursement made by "X" being the service recipient will not be considered as benefit/perquisite for the purposes of section 194R.***

If the invoice is not in the name of "X" and the payment is made by "X" directly or reimbursed, it is the benefit/perquisite provided by "X" to the consultant for which deduction is required to be made under section 194R.

However, it has been clarified that in case of a supplier who is a "pure agent" fulfilling the following conditions, the reimbursement would not be treated as benefit/ perquisite for the purpose of section 194R -

i. *the supplier acts as a pure agent of the recipient of the supply, when he makes payment to the third party on authorization by such recipient;*
ii. *the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and*
iii. *the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.*

In case these conditions are not satisfied, such expenditure incurred is included in the value of supply under GST. However, in the abovementioned case of "pure agent", if all the conditions are satisfied, the GST input credit is allowed to the recipient and it is not considered as supply of the pure agent.

In such a case, it is clarified that amount incurred by such "pure agent" for which he is reimbursed by the recipient would not be treated as benefit/perquisite for the purpose of section 194R.

Meaning of "Pure Agent":

A "pure agent" means a person who

a) *enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;*
b) *neither intends to hold nor holds any title to the goods or services or both, so procured or provided as pure agent of the recipient of supply;*
c) *does not use for his own interest such goods or services so procured; and*
d) *receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.*

Important: Tax deduction under section 194C and 194J is required to be made from the gross amount of bill including the reimbursement. A person has provided service to a company and out of pocket expenses are charged by him to the company along with service fee in the same bill. Company deducts tax under section 194J on both service fee component as well as on out of pocket expense. Is there a noncompliance with the provision of section 194R?

If out of pocket expenses (reimbursement) are already part of the consideration in the bill ***on which tax is deducted under the relevant provisions of the Act, other than section 194R, it is clarified, that there will not be further liability for tax deduction under section 194R.***

In the above example, out of pocket expense is part of the consideration in the bill for professional fee that is charged to the company and the tax is deducted under section 194J on the entire consideration including on out of pocket expense.

In such a case, the out of pocket expense is already included as part of professional fee. Hence, there is no further benefit/perquisite which requires tax deduction under section 194R.

Question 8: If there is a dealer conference to educate the dealers about the products of the company - Is it benefit/perquisite?

Answer:

The expenditure pertaining to dealer/ business conference ***would not be considered*** *as benefit/ perquisite for the purposes of section 194R in a case where dealer/ business conference is held* ***with the prime object to educate dealers/customers*** *about any of the following or similar aspects:*

i. *new product being launched*
ii. *discussion as to how the product is better than others*
iii. *obtaining orders from dealers/customers*
iv. *teaching sales techniques to dealers/customers*
v. *addressing queries of the dealers/customers*
vi. *reconciliation of accounts with dealers/customers*

However, such conference must not be in the nature of incentives/ benefits to select dealers/customers who have achieved particular targets.

Further, in the following cases the expenditure would be considered as benefit or perquisite for the purposes of section 194R –

i. *Expense attributable to leisure trip or leisure component, even if it is incidental to the dealer/ business conference.*
ii. *Expenditure incurred for family members accompanying the person attending dealer/ business conference*
iii. *Expenditure on participants of dealer/ business conference for days which are on account of prior stay or overstay beyond the dates of such conference.* ***However, a day immediately prior to actual start date of conference and a day immediately following the actual end date of conference would not be considered as over stay.***

Important: If there is a dealer conference to educate the dealers about the products of the company - (i) is there a requirement that all dealers must be invited in the conference, (ii) how to identify benefit against individual dealers in a group activity?

It has been clarified that it is not necessary that all dealers are required to be invited in a dealer/business conference ***for the expenses to be not considered as benefit/perquisite*** *for the purposes of tax deduction under section 194R.*

There may be expenses during such dealer/business conference which need to be classified as benefit/perquisite and tax is required to be deducted under section 194R. ***However, there may be practical difficulties in identifying such benefit/perquisite to actual recipient due to the fact that it is a group activity and reasonable allocation is not possible.*** *Non-compliance of the provision of section 194R, in such a case, would not only result in disallowance under section 40(ia) but may also result in treating the benefit/perquisite provider as assessee in default under section 201 with all other consequences.*

In order to remove these practical difficulties, ***it has been clarified that if benefit/perquisite is provided in a group activity in a manner that it is difficult to match such benefit/perquisite to each participant using a reasonable allocation key, the benefit/perquisite provider may at his option not claim the expense, representing such benefit/perquisite, as deductible expenditure for calculating his total income.***

(ii)

If he decides to opt so, he will not be required to deduct tax under section 194R on such benefit/perquisite and therefore he will not be treated as assessee in default under section 201.

(iii)

Thus, in such a case he must add back the expenditure, representing such benefit/perquisite, to calculate his total income if such expenditure is debited in the account.

Question 9: Section 194R provides that if the benefit/ perquisite is in kind or partly in kind (and cash is not sufficient to meet TDS) then the person responsible for providing such benefit or perquisite is required to ensure that tax required to be deducted has been paid in respect of the benefit or perquisite, before releasing the benefit or perquisite. How can such person be satisfied that tax has been deposited?

Answer:

The requirement of law is that if a person is providing benefit in kind to a recipient and tax is required to be deducted under section 194R, ***the person is required to ensure that tax required to be deducted has been paid by the recipient.*** *Such recipient would pay tax in the form of advance tax.*

The tax deductor may rely on a declaration along with a copy of the advance tax payment challan provided by the recipient confirming that the tax required to be deducted on the benefit/perquisite has been deposited.

Company "A" gifts a car to its dealer "B" and deducted tax on this benefit under section 194R. Dealer "B" uses this car in his business. Will he get deduction for depreciation in calculating his income under the head "profits and gains of business or profession"?

It has been clarified that once Company "A" has deducted tax on gifting of car in accordance with section 194R (or released the car after dealer "B" showed him payment of tax on such benefit) and dealer "B" has included this benefit as income in his income tax return, ***it would be deemed that the "actual cost" of the car for the purposes of section 32 shall be the amount of benefit included by dealer "B" as income in his income-tax return. Hence, dealer "B" can get depreciation on fulfilment of other conditions for claiming depreciation.***

Question 10: Whether Embassy/High Commissions are required to deduct tax under section 194R?

Answer:

It has been clarified that the provision of section 194R is not applicable on benefit/perquisite provided by, an organization in scope of The United Nations (Privileges and Immunity Act) 1947, an international organization whose income is exempt under specific Act of Parliament (such as the Asian Development Bank Act 1966), an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign state.

Question 11: Whether issuance of bonus share/right share is a benefit or perquisite if issued by a company in which the public are substantially interested and whether tax is required to be deducted under section 194R?

Answer:

It has been clarified that the tax under section 194R is not required to be deducted on issuance of bonus or right shares by a company in which the public are substantially interested, ***where bonus shares are issued to all shareholders by such a company or right shares are offered to all shareholders by such a company, as the case may be.***

MISCELLANEOUS PROVISIONS

Income payable "net of tax" [Section 195A]

1. *Where, under an agreement or other arrangement, the tax chargeable on any income referred to in the foregoing provisions of this Chapter is to be borne by the person by whom the income is payable, then,* ***for the purposes of deduction of tax under those provisions such income shall be increased to such amount as would, after deduction of tax thereon, be equal to the net amount payable under such agreement or arrangement.***

2. *However, no grossing up is required in the case of tax paid under section 192(1A) by an employer on the non-monetary perquisites provided to the employee.*

Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations [Section 196]

No deduction of tax shall be made by any person from any sums payable to-

i. *the Government; or*
ii. *the Reserve Bank of India; or*
iii. *a corporation established by or under a Central Act, which is, under any law for the time being in force, exempt from income-tax on its income; or*
iv. *a Mutual Fund.*

CERTIFICATE FOR DEDUCTION OF TAX AT A LOWER RATE [SECTION 197]

1. *This section applies where, in the case of any income of any person or sum payable to any person, income-tax is required to be deducted at the time of credit or payment, as the case may be at the rates in force* ***as per the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA, 194LBA, 194LBB, 194LBC, 194M, 194-O and 195.***

2. *In such cases, the* ***assessee can make an application to the Assessing Officer*** *for deduction of tax at a lower rate or for non-deduction of tax.*

3. *If the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at lower rates or no deduction of income-tax, as the case may be,* ***he may give to the assessee such certificate, as may be appropriate.***

4. *Where the Assessing Officer issues such a certificate, then the person responsible for paying the income shall deduct income-tax at such lower rates* ***specified in the certificate*** *or deduct no tax, as the case may be****, until such certificate is cancelled by the Assessing Officer****.*

NO DEDUCTION IN CERTAIN CASES [SECTION 197A]

(1) Enabling provision for filing of declaration for receipt of NSS payment (Section 194EE) and dividend (Section 194) without deduction of tax [Sub-section (1)]

*This sub-section enables **an individual, who is resident in India**, to receive dividend or any sum out of National Savings Scheme Account, without deduction of tax at source under section 194 or 194EE, respectively, on furnishing a **declaration (Form 15G)** in duplicate in the prescribed form and verified in the prescribed manner to the effect that the **tax on the estimated total income of the declarant of the previous year** in which such income is to be included in computing his total income will be **Nil**.*

(2) Enabling provision for filing of declaration for non-deduction of tax under section 192A or 193 or 194A or 194D or 194DA or 194-I or 194K by persons, other than companies and firms [Sub-section (1A)]

*No deduction of tax shall be made under the above provisions of the Act, where **a person, who is not a company or a firm**, furnishes to the person responsible for paying any income of the nature referred to in these sections, a declaration in writing in duplicate in the prescribed form to the effect that the **tax on his estimated total income** of the previous year in which such income is to be included in computing his total income will be **Nil.***

(3) Filing declaration not permissible if income/aggregate of incomes exceed basic exemption limit [Sub-section (1B)]

Declaration cannot be furnished as per the above provisions, where-

- ***i.*** *payments of dividend; or*
- ***ii.*** *payments in respect of deposits under National Savings Schemes, etc.; or*
- ***iii.*** *payment of premature withdrawal from Employee Provident Fund; or*
- ***iv.*** *income from interest on securities or interest other than "interest on securities" or units; or*
- ***v.*** *insurance commission; or*
- ***vi.*** *payment in respect of life insurance policy; or*
- ***vii.*** *rent; or*
- ***viii.*** *income from units; or*
- ***ix.*** *the aggregate of the amounts of such incomes in (i) to (viii) above*

*credited or paid or likely to be credited or paid during the previous year in which such income is to be included **exceeds the basic exemption limit.***

(4) Enabling provision for filing of declaration by resident senior citizens for non-deduction of tax at source [Sub-section (1C)]

*For a resident individual, who is of the age of 60 years or more at any time during the previous year, no deduction of tax shall be made under section 192A or section 193 or section 194 or section 194A or section 194D or section 194DA or section 194EE or section 194-I or section 194K, if such individual furnishes **a declaration (Form 15H)** in writing in duplicate to the payer, that **tax on his estimated total income of the previous year** in which such income is to be included in computing his total income is **Nil**.*

The restriction contained in sub-section (1B) will not apply to resident senior citizens.

(5) Non-deduction of tax in certain cases

(a) Interest payments by an Offshore Banking Unit to a non-resident/not ordinarily resident in India [Sub-section (1D)]

No deduction of tax shall be made by an Offshore Banking Unit from the interest paid on-

- ***a.*** *deposit made by a non-resident/not-ordinarily resident on or after 1.4.2005; or*
- ***b.*** *borrowing from a non-resident/not-ordinarily resident on or after 1.4.2005.*

(b) Payment to any person for, or on behalf of, the NPS Trust [Sub-section (1E)]

No deduction of tax at source shall be made from any payment to any person for, or on behalf of, the New Pension System Trust.

(c) Payments to notified person or class of persons including institutions/class of institutions etc. [Sub-section (1F)]

No deduction of tax shall be made ***or deduction of tax shall be made at such lower rate****, from such payment to such person or class of persons, including institution, association or body or class of institutions or associations or bodies* ***as may be notified by the Central Government in the Official Gazette in this behalf.***

Therefore, in respect of such payments made to notified person or class of persons, no tax is to be deducted at source or tax is to be deducted at lower rate.

(6) Time limit for delivery of one copy of declaration [Sub-section (2)]

On receipt of the declaration referred to in sub-sections (1), (1A) or (1C), the person responsible for making the payment will be required to deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, one copy of the declaration ***on or before the 7th of the month following the month*** ***in which the declaration is furnished*** *to him.*

Tax Deducted is income received [Section 198]

(1) All sums deducted in accordance with the foregoing provisions shall, for the purpose of computing the income of an assessee**, be deemed to be income received**.

(2) However, the following tax paid or deducted would not be deemed to be income received by the assessee for the purpose of computing the total income–

i. the tax paid by an employer under section 192(1A) on non-monetary perquisites provided to the employees

ii. tax deducted under section 194N

Credit for Tax Deducted At Source [Section 199]

1. *Tax deducted at source in accordance with the above provisions and paid to the credit of the Central Government shall be treated as payment of tax on behalf of the deductee.*

2. *Any sum referred to in section 192(1A) and paid to the Central Government, shall be treated as the tax paid on behalf of the employee. [Tax on Non-Monetary Perquisite]*

3. *The CBDT is empowered to frame rules for the purpose of giving credit in respect of tax deducted or tax paid under this Chapter. The CBDT also has the power to make rules for giving credit to a person other than the persons mentioned in (1) and (2) above. Further, the CBDT can specify the assessment year for which such credit may be given.*

Rule 37BA – Credit for tax deducted at source for the purposes of section 199

1. *Credit for tax deducted at source and paid to the Central Government would be given to the person to whom the payment has been made or credit has been given (i.e., the deductee) on the basis of information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorized by such authority.*

2. *Where under any provisions of the Act, the whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee,* ***credit for the whole or any part of the tax deducted at source, as the case may be, shall be given to the other person and not to the deductee.***

3. *Credit for tax deducted at source and paid to the Central Government, shall be given for the assessment year for which such income is assessable.*

Where tax has been deducted at source and paid to the Central Government and the income is assessable over a number of years, ***credit for tax deducted at source shall be allowed across those years in the same proportion in which the income is assessable to tax.***

4. ***For the purposes of section 194N****, credit for tax deducted at source shall be given to the person from whose account tax is deducted and paid to the Central Government account for the assessment year relevant to the previous year in which such tax deduction is made.*

Duty of person deducting tax - Section 200

1. *Any person deducting TDS* ***shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs.***

2. *Any person being an employer, referred to in section 192(1A)* ***shall pay, within the prescribed time, the tax to the credit of the Central Government or as the Board directs.***

Rule 30 – Prescribed time and mode of payment to Government account of TDS or tax paid under section 192(1A)

a. *All sums deducted in accordance with Chapter XVII-B* ***by an office of the Government*** *shall be paid to the credit of the Central Government on*
- *the* ***same day*** *where the tax is paid* ***without production of an income-tax challan*** *and*
- ***on or before 7 days*** *from the end of the month in which the deduction is made or income-tax is due under section 192(1A), where tax is paid accompanied by an income-tax challan.*

b. *All sums deducted in accordance with Chapter XVII-B* ***by deductors other than a Government office*** *shall be paid to the credit of the Central Government*
- ***on or before 30th April****, where the income or amount is credited or paid in the month of March.*
- *In any other case, the tax deducted should be* ***paid on or before 7 days*** *from the end of the month in which the deduction is made or income-tax is due under section 192(1A).*

c. ***Tax deducted under sections 194-IA, 194-IB and 194M*** *have to be remitted within 30 days from the end of the month of deduction.* ***A challan-cum-statement in Form 26QB/26QC/26QD has to be furnished within 30 days from the end of the month of deduction.***

3. ***[SECTION 200(3)]*** *Any person deducting any sum or, as the case may be, any person being an employer referred to in section 192(1A) shall,* ***after paying the tax deducted*** *to the credit of the Central Government within the prescribed time,* ***prepare & submit prescribed statements or corrected statements.***

Rule 31A – Submission of quarterly statements

Every person responsible for deduction of tax under Chapter XVII-B shall deliver, or cause to be delivered, ***the following quarterly statements to the DGIT (Systems) or any person authorized by him, in accordance with section 200(3):***

i. *Statement of TDS under section 192* ***& section 194P*** *in Form No. 24Q;*

ii. *Statement of TDS under other sections* ***from section 193 to section 196D other than section 194P*** *in Form No. 26Q in respect of all deductees* ***other than a deductee being a non-corporate non-resident or a foreign company or resident but not ordinarily resident in which case the relevant form would be Form No. 27Q.***

Such statements have to be furnished within the due date for each quarter specified below:

S. No.	Date of ending of the quarter of the financial year	Due date
1	30th June	31st July of the financial year
2	30th Sept	31st October of the financial year
3	31st Dec	31st January of the financial year
4	31st March	31st May of the financial year immediately following the financial year in which the deduction is made.

Processing of statements of tax deducted at source – Section 200A

READING PURPOSE

Correction of arithmetic mistakes and adjustment of incorrect claim during computerized processing of TDS statements

[At present, all statements of tax deducted at source are filed in an electronic mode, thereby facilitating computerised processing of these statements. Therefore, in order to process TDS statements on computer, electronic processing on the same lines as processing of income-tax returns has been provided in section 200A]

1. *Where a statement of tax deduction at source or a correction statement has been made by a person deducting any sum (hereafter referred to in this section as deductor) under section 200,* ***such statement shall be processed in the following manner, namely:-***

a. *the sums deductible under this Chapter shall be computed after making the following adjustments, namely:-*

(i) *any arithmetical error in the statement; or*

(ii) *an incorrect claim, apparent from any information in the statement;*

b. *the interest, if any, shall be computed on the basis of the sums deductible as computed in the statement;*

c. *the fee, if any, shall be computed in accordance* ***with the provisions of section 234E****;*

[Setion 234E - A fee of ₹ 200 for every day would be levied under section 234E for late furnishing of TDS/TCS statement from the due date of furnishing of TDS/TCS statement to the date of furnishing of TDS/TCS statement. However, the total amount of fee shall not exceed the total amount of tax deductible/collectible and such fee has to be paid before delivering the TDS/TCS statement.]

d. *the sum payable by, or the amount of refund due to, the deductor shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee;*

e. *an intimation shall be prepared or generated and sent to the deductor specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and*

f. *the amount of refund due to the deductor in pursuance of the determination under clause (d) shall be granted to the deductor:*

Provided *that no intimation under this sub-section shall be sent after the expiry of 1 year from the end of the financial year in which the statement is filed.*

Explanation-

For the purposes of this sub-section, "an incorrect claim apparent from any information in the statement" shall mean a claim, on the basis of an entry, in the statement-

(i) *of an item, which is inconsistent with another entry of the same or some other item in such statement;*

(ii) *in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of this Act.*

2. *For the purposes of processing of statements under sub-section (1), the* ***Board may make a scheme for centralised processing of statements of tax deducted at source*** *to expeditiously determine the tax payable by, or the refund due to, the deductor as required under the said sub-section.*

Consequences of failure to deduct or pay [Section 201]

(1) The following persons **shall be deemed to be an assessee in default** if they do not deduct the whole or any part of the tax or after deducting fails to pay the tax -

(i) any person including the principal officer of a company, who is required to deduct any sum in accordance with the provisions of the Act; and

(ii) an employer paying tax on non-monetary perquisites under section 192(1A) .

Provided such person shall not be deemed to be an assessee in default in respect of such tax if payee (resident or non-resident)-

(a) has furnished his ROI u/s 139;

(b) has taken into account such sum for computing income in his ROI; and

(c) has paid the tax due on the income declared by him,

and the person furnishes a certificate from a chartered accountant in prescribed manner.

(2) Such person shall also be liable to pay simple interest:

(i) *At **one percent [1%]** for every month or part of a month on the amount of such tax was deductible to the date on which such tax is deducted; and*

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

Note:

1. ***if payee has furnished his ROI as aforesaid, the interest shall be payable from date on which tax was deductible to the date of furnishing ROI only.***
2. ***Where any order is made by the Assessing Officer for the default under section 201(1), the interest shall be paid by the person in accordance with such order.***

(3) *No order shall be made under this Section deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India, at any time **after the expiry of***

- ***7 years from the end of the financial year** in which the payment is made or credit is given OR*
- ***2 years from the end of financial year in which the correction statement is delivered under proviso to Section 200(3),***

whichever is later.

QUESTION:

An amount of ₹ 40,000 was paid to Mr. X on 1.7.2023 towards fees for professional services without deduction of tax at source. Subsequently, another payment of ₹ 50,000 was due to Mr. X on 28.2.2024, 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 22.6.2024. Compute the interest chargeable under section 201(1A).

SOLUTION

Interest under section 201(1A) would be computed as follows:

Particulars	Amount (₹)
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	540
Total	860

Deduction only one mode of recovery [Section 202]

1. *Recovery of tax through deduction at source is only one method of recovery.*

2. *The Assessing Officer can use any other prescribed methods of recovery in addition to tax deducted at source.*

Certificate for tax deducted [Section 203]

1. *Every person deducting tax at source have to issue a certificate to the effect that tax has been deducted and specify the amount so deducted, the rate at which tax has been deducted and such other particulars as may be prescribed.*

2. *Every person, being an employer,* ***referred to in section 192(1A)*** *shall, within such period, as may be prescribed, furnish to the person in respect of whose income such payment of tax has been made, a certificate to the effect that tax has been paid to the Central Government, and specify the amount so paid, the rate at which the tax has been paid and such other particulars as may be prescribed.*

3. ***Certificate of TDS to be furnished under section 203 [Rule 31]***
   The certificate of deduction of tax at source to be furnished under section 203 ***shall be in Form No. 16 in respect of tax deducted or paid under section 192 or section 194P and in any other case, Form No. 16A.***

   Form No. 16 shall be issued to the employee annually by 15th June of the financial year immediately following the financial year in which the income was paid and tax deducted.

   Form No. 16A shall be issued quarterly within 15 days from the due date for furnishing the statement of TDS under Rule 31A.

   Form No. 16B, 16C or 16D shall be issued by the every person responsible for deduction of tax under section 194-IA, 194-IB or 194M to the payee within 15 days from the due date for furnishing the challan-cum-statement in Form No. 26QB, 26QC or 26QD, respectively, under rule 31A.

Common number for TDS [Section 203A]

A. Persons responsible for deducting tax shall apply to the AO for the allotment of a "**Tax deduction and Collection account number"** ***in Form No. 49B***. **[TAN]**

B. The same is to be obtained **within 1 month from the end of the month** in which the tax was deducted.

C. **TDS No. [TAN] has to be compulsorily quoted in** challans for payment of any tax deducted; TDS Certificates; TDS Statements; TDS Returns; and other documents as prescribed.

No Direct Demand on Assessee/Payee [Section 205]

Where tax is deductible at source under the forgoing provisions of this chapter, the assessee shall not be called upon to pay the tax himself ***to the extent to which tax has been deducted from that income***.

Mandatory requirement of furnishing PAN in all TDS Matters *[Sec 206AA]:*

A. Any person whose receipts are subject to TDS i.e. the deductee, **shall mandatorily furnish his PAN** to the deductor ***otherwise the deductor shall deduct tax at source at higher of the following rates*** **–**

- **(i)** the rate prescribed in the Act;
- **(ii)** at the rate in force i.e., the rate mentioned in the Finance Act; or
- **(iii) at the rate of 20% (5% in case of Section 194-O & Section 194Q).**

B. Furnishing of PAN is mandatory also in cases where the taxpayer files a declaration **in Form 15G or 15H (under section 197A) for non deduction of TDS otherwise, abovementioned rates will apply.**

C. Further, No certificate u/s 197 (Lower TDS) will be granted by the AO unless the PAN is furnished by the applicants.

Higher rate of TDS for non-filers of income-tax return [Section 206AB]

1. ***Section 206AB requires*** *tax to be deducted at source under the provisions of this Chapter on any sum or income or amount paid, or payable or credited, by a person* ***to a specified person****,* ***at higher of the following rates –***
   - ***(i)*** *at* ***twice the rate*** *prescribed in the relevant provisions of the Act;*
   - ***(ii)*** *at* ***twice the rate or rates in force*** *i.e., the rate mentioned in the Finance Act; or*
   - ***(iii)*** ***at 5%***

   However, section 206AB is not applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BA, 194BB, 194-IA, 194-IB, 194LBC, 194M or 194N.

2. ***In case the provisions of section 206AA are also applicable*** *to the specified person, in addition to the provisions of this section, then, tax is required to be deducted* ***at higher of the two rates*** *provided in section 206AA and section 206AB.*

3. ***"Specified person" means a person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under*** **section 139*(1)*** ***has expired and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in the said previous year***

   Note:

   Specified person shall not include

   - ***(a) a non-resident who does not have a permanent establishment in India.***

     "Permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.

   - ***(b) a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in the Official Gazette in this behalf.***

     [Amended by Finance Act 2023]

TAX COLLECTION AT SOURCE [Section 206C]

1. ***[Section 206C(1)] Every Seller shall,*** *at the time of debiting the buyer with the amount payable by the buyer or at the time of receipt of such amount from the said buyer,* ***whichever is earlier****,* ***collect tax at the followings rates*** *from* ***buyers engaged in business*** *of alcoholic liquor, forest produce, scrap, timber, tendu leaves, etc.:*

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

Non-applicability of TCS [Section 206C(1A)]

No collection of tax shall be made under section 206C(1), in the case of a ***resident buyer****, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form [Form 27C] to the effect that goods referred to in section 206C(1)* ***are to be utilised for the purpose of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes. [Note: Section 206C(1H) is also not applicable in this situation, but Section 194Q may apply]***

Note: No declaration shall be valid ***unless the person furnishes his Permanent Account Number in such declaration****.*

Here, Buyer does not include

- *a Public Sector Company, the CG, SG and an Embassy, a High Commission, Legation, Commission, Consulate and the trade representation of a foreign state* ***and a club***
- *A buyer in the* ***retail sale of such goods*** *purchased* ***by him for personal consumption.***

Here "Seller" means

- *the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm or co-operative society and*
- *also* ***includes an individual or a HUF*** *whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately* ***preceding the financial year in which the goods of the nature specified above are sold.***

2. ***[Section 206C(1C)]*** *It provides for collection of tax* ***[at the rate of 2%]*** *by every person who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest in any*
   - ***parking lot or***
   - ***toll plaza or***
   - ***a mine or a quarry***

   to ***another person (other than a public sector company)*** *for the use of such parking lot or toll plaza or mine or quarry* ***for the purposes of business.***

   Note: Here, mining & quarrying shall not include mining and quarrying of Mineral oil including Petroleum & Natural gas]

3. ***[Section 206C(1F)]*** *Every Person, being a Seller, who receives any amount as consideration for sale of a motor vehicle (at retail level) of the* ***value exceeding ₹ 10,00,000****, shall,* ***at the time of receipt*** *of such amount, collect from the buyer, a sum equal to* ***1% of the sale consideration*** *(any mode) as income-tax.*

   Here, Buyer doesn't include
   (a) *Public Sector company which is engaged in the business of carrying passengers*
   (b) *A Local Authority*
   (c) *CG, SG and an Embassy, High Commission, Legation, Commission, Consulate & the Trade representation of a foreign State.*

   Here "Seller" means [Same as Section 206C(1)]

   - *the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm or co-operative society and*

   - ***also includes an individual or a HUF*** *whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding the financial year in which the motor vehicle is sold.*

CBDT Clarification relating to certain issues with respect to section 206C(1F)

1. ***Whether TCS@1% is on sale of motor vehicle at retail level or also on sale of motor vehicles by manufacturers to dealers/ distributors?***

   Answer:
   To bring high value transactions within the tax net, section 206C has been amended to provide that the seller shall collect the tax @ 1% from the purchaser on sale of motor vehicle of the value exceeding ₹ 10 lakhs. This is brought to cover all transactions of retail sales and accordingly, it **will not apply on sale of motor vehicles by manufacturers to dealers/distributors.**

2. ***Whether TCS@1% on sale of motor vehicle is applicable only to luxury cars?***

   Answer:
   No, as per section 206C(1F), the seller shall collect tax@1% from the purchaser on sale of any motor vehicle of the value exceeding ₹ 10 lakhs.

3. ***Whether TCS@1% is applicable in the case of sale to Government Departments, Embassies, Consulates and United Nation Institutions, of motor vehicle or any other goods or provision of services?***

   Answer:
   Government, institutions notified under United Nations (Privileges and Immunities) Act 1947, and Embassies, Consulates, High Commission, Legation, Commission and trade representation of a foreign State shall not be liable to levy of TCS@1% under sub-section (IF) of section 206C.

4. ***Whether TCS is applicable on each sale of motor vehicle or on aggregate value of sale during the year?***

   Answer:
   Tax is to be collected at source@1% on sale consideration of a motor vehicle exceeding ₹ 10 lakhs. It is applicable to each sale and not to aggregate value of sale made during the year.

5. ***Whether TCS@1% on sale of motor vehicle is applicable in case of an individual?***

   Answer:
   Seller includes an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding the financial year in which the goods of the nature specified in the Table are sold.

   Hence, TCS is applicable in case of Individual seller also.

6. ***How would the provisions of TCS on sale of motor vehicle be applicable in a case where part of the payment is made in cash and part is made by cheque?***

   Answer:
   The provisions of TCS on sale of motor vehicle exceeding ₹ 10 lakhs is not dependent on mode of payment. Any sale of motor vehicle exceeding ₹ 10 lakhs would attract TCS@1%.

4. [Section 206C(1G)] Overseas remittance OR an overseas tour package

[Amended by Finance Act 2023 read with CBDT Circular No. 10/2023 dated 30.06.2023]

Section 206C(1G) provides for collection of tax by every person,

- *being **an authorized dealer**, who receives amount, under the Liberalised Remittance Scheme of the RBI, for remittance from a buyer, being a person remitting such amount under LRS;*
- *being **a seller of an overseas tour programme package** who receives any amount from the buyer who purchases the package*

Tax has to be collected at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier.

Overseas tour program package

Any tour package which offers visit to a country/(ies) or territory/(ies) outside India. It includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

Rate of TCS

S. No.	Particulars	Rate of TCS	
		Before 01.10.2023	On or after 01.10.2023
(i)	Remittances for the purpose of education **[other than (ii) below] or** medical treatment;	**No TCS upto ₹ 7 lakhs** 5% on the amount or aggregate of amounts in excess of ₹ 7 lakh	
(ii)	Remittances **out of loan obtained from any financial institution as referred under section 80E**, for the purpose of pursuing any education	**No TCS upto ₹ 7 lakhs** 0.5% on the amount or aggregate of amounts in excess of ₹ 7 lakh	
(iii)	Remittances for purposes **other than mentioned in (i) to (ii)**	**No TCS upto ₹ 7 lakhs** 5% on the amount or aggregate of amounts in excess of ₹ 7 lakhs	**No TCS upto ₹ 7 lakhs** **20% on the amount or aggregate of amounts in excess of ₹ 7 lakhs**
(iv)	**Overseas Tour Program Package**	5% without any threshold limit	**5% upto ₹ 7 lakhs and 20% above ₹ 7 lakhs**

Cases where no tax is to be collected

(i)	*No TCS by the authorized dealer on an amount **in respect of which the sum has been collected by the seller***
(ii)	*No TCS, if the buyer is liable to deduct tax at source under any other provision of the Act **and has deducted such tax***
(iii)	*No TCS, if the **buyer is** the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority or any other person notified by the Central Government, subject to fulfillment of conditions stipulated thereunder*
(iv)	*No TCS, **if the buyer is an individual who:*** ➢ *is **not** a resident in India [in terms of section 6(1) and (1A)]; **and*** ➢ *who is **visiting India**.*

Guidelines by CBDT [Circular No. 10/2023 dated 30.06.2023]

1. **Whether payment through overseas credit card would be counted in LRS?**

   Answer:
   No TCS shall be applicable on expenditure through international credit card **while being overseas till further order.**

2. **[Important] Whether the threshold of ₹ 7 lakh, for TCS to become applicable on LRS, applies separately for various purposes like education, health treatment and others? For example, if remittance of ₹ 7 lakh under LRS is made in a financial year for education purpose and other remittances in the same financial year of ₹ 7 lakh is made for medical treatment and ₹ 7 lakh for other purposes, whether the exemption limit of ₹ 7 lakh shall be given to each of the three separately?**

   Answer:
   It is clarified that the threshold of ₹ 7 lakh for LRS is **combined threshold** for applicability of the TCS on LRS irrespective of the purpose of the remittance.

   Thus, in the given example, upto ₹ 7 lakh remittance under LRS during a financial year shall not be liable for TCS. However, subsequent ₹ 14 lakh remittance under LRS shall be liable for TCS in accordance with the TCS rates applicable for such remittance.

   In the example, if the remittances under LRS are made in the current financial year at different point of time, TCS rates for the remaining ₹ 14 lakh remittances under LRS would depend on the time of remittance as TCS rates changes from 1st October 2023.

   TCS rates would be applicable as under:-

Remittances	Rate of TCS
First ₹ 7 lakh remittance under LRS during the financial year 2023-24 for education purpose (or for that matter any purpose)	No TCS
Remittances beyond ₹ 7 lakh under LRS during the financial year 2023-24, if on or before 30th September 2023	**TCS at 5%** (irrespective of the purpose **unless** it is for education purpose financed by loan from a financial institution when the rate is 0.5%)
Remittances beyond ₹ 7 lakh under LRS during the financial year 2023-24, if on or after 1st October 2023.	**TCS Rate** ➢ **0.5%** (if it is for **education purpose** financed by loan from a financial institution), ➢ **5%** (if it is for **education or medical** treatment) and ➢ **20%** (if it is for **other purposes**)

3. **[Important] Since there are different TCS rates on LRS for the first six months and next six months of the financial year 2023-24, whether the threshold of ₹ 7 lakh, for the TCS to become applicable on LRS, applies separately for each six months?**

   Answer: No. The threshold of ₹ 7 lakh, for the TCS to become applicable on LRS, applies for the full financial year. If this threshold has already been exhausted; all subsequent remittances under LRS, whether in the first half or in the second half, would be liable for TCS at applicable rate.

4. **Whether the threshold of ₹ 7 lakh, for TCS to become applicable on LRS, applies separately for each remittance through different authorised dealers? If not, how will authorised dealer know about the earlier remittances by that remitter through some other authorised dealer?**

   Answer:
   It is clarified that the threshold of ₹ 7 lakh for LRS is qua remitter and not qua authorised dealer.

   Since the facility to provide real time update of remittance under LRS by remitter is still under development by the RBI, it is clarified that the details of earlier remittances under LRS by the remitter during the financial year **may be taken by the authorised dealer through an undertaking at the time of remittance.**

   If the authorised dealer correctly collects the tax at source based on information given in this undertaking, he will not be treated as "assessee in default". However, for any false information in the undertaking, appropriate action may be taken against the remitter under the Act.

   It is further clarified that same methodology of taking undertaking from the buyer of overseas tour program package may be followed by the seller of such package.

5. **[Important] There is threshold of ₹ 7 lakh for remittance under LRS for TCS to become applicable while there is another threshold of ₹ 7 lakh for purchase of overseas tour program package where reduced rate of 5% of TCS applies. Whether these two thresholds apply independently?**

   Answer:
   Yes, these two thresholds apply independently. For LRS, the threshold of ₹ 7 lakh applies to make TCS applicable. For purchase of overseas tour program package, the threshold of ₹ 7 lakh applies to determine the applicable TCS rate as 5% or 20%.

6. **[Important] A resident individual spends ₹ 3 lakh for purchase of overseas tour program package from a foreign tour operator and remits money which is classified under LRS. There is no other remittance under LRS or purchase of overseas tour program during the financial year. Whether TCS is applicable?**

   Answer:
   In case of purchase of overseas tour program package which is classified under LRS, **TCS provision for purchase of overseas tour program package shall apply** and not TCS provisions for remittance under LRS.

   Since for purchase of overseas tour program package, the threshold of ₹ 7 lakh for applicability of TCS does not apply, TCS is applicable and tax is required to be collected by the seller.

   In this case the tax shall be required to be collected at 5% since the total amount spent on purchase of overseas tour program package during the financial year is less than ₹ 7 lakh. The TCS should be made by the seller.

7. There are different rates for remittance under LRS for medical treatment/education purposes and for other purposes. What is the scope of remittance under LRS for medical treatment/education purposes?

Answer:

As per the clarification by the RBI, remittance for the purposes of **medical treatment** shall include

i. remittance for purchase of tickets of the person to be treated medically overseas (and his attendant) for commuting between India and the overseas destination;
ii. his medical expense; and
iii. other day to day expenses required for such purpose.

Education

Remittance for purpose of education shall include

i. remittance for purchase of tickets of the person undertaking study overseas for commuting between India and the overseas destination;
ii. the tuition and other fees to be paid to educational institute; and
iii. other day to day expenses required for undertaking such study.

8. Whether purchase of international travel ticket or hotel accommodation on standalone basis is purchase of overseas tour program package?

Answer:

The term 'overseas tour program package' is defined as to mean any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

It is clarified that purchase of **only** international travel ticket or purchase of **only** hotel accommodation, by in itself is **not covered within the definition of 'overseas tour program package'.**

To qualify as 'overseas tour program package', the package should include at least two of the followings:-

(i) international travel ticket,
(ii) hotel accommodation (with or without food)/boarding/lodging,
(iii) any other expenditure of similar nature or in relation thereto.

5. [Section 206C(1H)] Sale of goods of value exceeding ₹ 50 lakh

(a) *As per section 206C(1H), tax is also required to be collected by a seller, who receives any amount as consideration for sale of goods of the value or aggregate of such value exceeding ₹ 50 lakhs in a previous year* ***[other than exported goods or goods covered under sub-sections (1)/(1F)/(1G)].***

(b) *Tax is to be collected at source @ 0.1% u/s 206C(1H) of the sale consideration exceeding ₹ 50 lakhs,* ***at the time of receipt of consideration.***

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

(d) *In case of non-furnishing of PAN or Aadhar number by the buyer to the seller, tax is required to be collected* ***at the higher of –***

(i) *twice the rate specified in this sub-section; and*

(ii) 1%.

Here, Buyer means a person who purchases any goods but does not include –

- **A.** *the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State, or*
- **B.** *a local authority; or*
- **C.** *a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to stipulated conditions.*

Further, Seller means *a person whose total sales, gross receipts or turnover from the business carried on by him exceed ₹ 10 crores during the financial year immediately preceding the financial year in which sale of goods is carried out.* ***However, seller does not include a person as notified by the Central Government for this purpose, subject to fulfillment of conditions stipulated***

Clarification relating to certain issues with respect to Section 206C(1H)

CBDT Circular

1. ***Applicability on transactions carried through various Exchanges:***

   Section 206C(1H) shall ***not be applicable*** *in relation to -*

   - ***transactions in securities and commodities*** *which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre;*
   - ***transactions in electricity, renewable energy certificates and energy saving certificates*** *traded through power exchanges registered in accordance with Regulation 21 of the CERC (Central Electricity Regulatory Commission).*

2. ***Applicability on sale of Motor vehicle:***

   The provisions of section 206C(1F) apply to sale of motor vehicle of the value exceeding ₹ 10 lakhs. Section 206C(1H) excludes from its applicability goods covered under section 206C(1F). It may be noted that the scope of sections 206C(1H) and (1F) are different.

   While section 206C(1F) is based on single sale of motor vehicle, section 206C(1H) is for receipt above ₹ 50 lakhs.

   Hence, in order to remove difficulty that whether all motor vehicles are excluded from the applicability of section 206C(1H), it is clarified that,-

   - *Receipt of sale consideration from a dealer would be subjected to TCS under section 206C(1H), if such sales are not subjected to TCS under section 206C(1F)*
   - *In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value of ₹ 10 lakhs or less to a buyer would be subjected to TCS under section 206C(1H), if the receipt of sale consideration for such vehicles during the previous year exceeds ₹ 50 lakhs during the previous year.*
   - *In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value exceeding ₹ 10 lakhs would not be subjected to TCS under section 206C(1H) if such sales are subjected to TCS under section 206C(1F).*

3. ***Adjustment for sale return, discount or indirect taxes:***

   It is been clarified that no adjustment on account of sale return or discount or indirect taxes including GST is required to be made for collection of tax under section 206C(1H) ***since the collection is made with reference to receipt of amount of sale consideration.***

4. ***Fuel supplied to non-resident airlines at airports in India:***

   It is provided that the provisions of section 206C(1H) ***shall not apply on the sale consideration received for fuel supplied to non-resident airlines at airports in India.***

Time of Collection of tax

The tax should be collected at the time of debiting of the amount payable by the buyer or licensee or lessee, as the case may be, to his account or at the time of receipt of such amount from the buyer or licensee or lessee, as the case may be, by any mode, whichever is earlier.

In case of sale of a motor vehicle of the value exceeding ₹ 10 lakhs or sale of goods exceeding ₹ 50 lakhs [other than exported goods and goods mentioned in section 206C(1)], ***tax shall be collected at the time of receipt of such amount under section 206C(1F) and 206C(1H), respectively.***

Section 206CC - Requirement to furnish Permanent Account number by collectee.

(1) Notwithstanding anything contained in any other provisions of this Act, any person paying any sum or amount, on which tax is collectible at source under Chapter XVII-BB (herein referred to as collectee) **shall furnish his Permanent Account Number** to the person responsible for collecting such tax (herein referred to as collector), failing which tax shall be collected at the ***higher of the following rates***, namely:—

a. **at twice the rate** specified in the relevant provision of this Act; or

b. at the rate of 5% **[1% in case of Section 206C(1H)]**

However, the rate of TCS under this section shall not exceed 20%.

[Amended by Finance Act 2023]

(2) The provisions of this section **shall not apply to a non-resident who does not have permanent establishment** in India.

Special provision for collection of tax at source for non-filers of income-tax return [Section 206CCA]

1. ***Notwithstanding anything contained in any other provisions of this Act****, where tax is required to be collected at source under the provisions of this Act, on any sum or amount received by a person* ***from a specified person****, the tax shall be collected at the* ***higher of the following two rates****, namely:—*

   (i) *at* ***twice*** *the rate specified in the relevant provision of the Act; or*

   (ii) *at the rate of 5%.*

   However, the rate of TCS under this section shall not exceed 20%.

   [Amended by Finance Act 2023]

2. *If the provisions of section 206CC is applicable to a specified person, in addition to the provisions of this section,* ***the tax shall be collected at higher of the two rates provided in section 206CCA and in section 206CC.***

3. ***"Specified person" means*** ***a person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be collected, for which the time limit for furnishing the return of income under*** **section 139*(1)*** ***has expired and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in the said previous year.***

   Note:

   Specified person shall not include

   (a) ***a non-resident who does not have a permanent establishment in India.***

   "Permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.

   (b) ***a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in the Official Gazette in this behalf.***

   [Amended by Finance Act 2023]

Main differences between TDS and TCS [4 Marks]

S. No.	TDS	TCS
(1)	TDS is tax deduction at source	TCS is tax collection at source.
(2)	Person responsible for paying is required to deduct tax at source at the prescribed rate.	i. Seller of certain goods is responsible for collecting tax at source at the prescribed rate from the buyer. ii. Person who grants licence or lease (in respect of any parking lot, toll plaza, mine or quarry) is responsible for collecting tax at source at the prescribed rate from the licensee or lessee, as the case may be. iii. Authorised dealer receiving amount for remittance out of India under the LRS of the RBI or seller of an overseas tour program package is responsible for collecting tax at source at the prescribed rate from the buyer.
(3)	Generally, tax is required to be deducted at the time of credit to the account of the payee or at the time of payment, **whichever is earlier.** However, in case of payment of salary, payment in respect of life insurance policy etc. **tax is required to be deducted at the time of payment.**	Generally, tax is required to be collected at source at the time of debiting of the amount payable by the buyer of certain goods to the account of the buyer or at the time of receipt of such amount from the said buyer, **whichever is earlier.** However, in case of sale of motor vehicle of the value exceeding ₹ 10 lakhs and sale of goods exceeding ₹ 50 lakhs other than exported goods and goods mentioned in section 206C(1), **tax collection at source is required at the time of receipt of sale consideration.**

PRACTICAL QUESTIONs

1. Compute the amount of tax deduction at source on the following payments made by M/s. S Ltd. during the FY 2023-24 as per the provisions of the Income-tax Act, 1961.

S. No.	*Date*	*Nature of Payment*
(i)	*1-10-2023*	*Payment of ₹ 2,00,000 to Mr. "R" a transporter (owns 8 Truck) who is having PAN.*
(ii)	*1-11-2023*	*Payment of fee for technical services of ₹ 25,000 and Royalty of ₹ 20,000 to Mr. Shyam who is having PAN.*
(iii)	*30-06-2023*	*Payment of ₹ 25,000 to M/s X Ltd. for repair of building.*
(iv)	*01-01-2024*	*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.*
(v)	*01-01-2024*	*Payment made ₹ 1,80,000 to Mr. Bharat for compulsory acquisition of his house as per law of the State Government.*
(vi)	*01-02-2024*	*Payment of commission of ₹ 14,000 to Mr. Y.*

Solution:

(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 30.06.2023 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.

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'. **Further, Section 194Q is also not applicable here.**

(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 @5% 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.

2. State 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 27.09.2023.

(b) Fee paid on 01.12.2023 to Dr. Srivatsan by Sundar (HUF) ₹ 35,000 for surgery performed to a member of the family.

Solution:

(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 x 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 form 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 1.12.2023 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. 2023-24.

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.

3. What are the provisions relating to tax deduction at source in respect of:
(a) ABC and Co. Ltd. paid ₹ 19,000 to one of its Directors as sitting fees on 1-01-2024.
(b) Mr. X sold his house to Mr. Y on 01-02-2024 for ₹ 60 lacs?

Solution:

(a) 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 x 10% = ₹ 1,900

(b) Section 194-IA requires every person, being a transferee, responsible for paying any sum as consideration for transfer of any immovable property (other than agricultural land), **to deduct tax@1% of such sum *or SDV of such property (whichever is higher),*** at the time of credit of such sum to the account of the resident transferor or at the time of payment of such sum to a resident transferor, whichever is earlier.

Such tax is required to be deducted at source where the consideration for transfer of immovable property ***or Stamp Duty Value of such property*** is ₹ 50 lakhs or more.

In this case, since the consideration for transfer of house exceeds ₹ 50 lakhs, Mr. Y is **liable to deduct tax at source@1% under section 194-IA** on the consideration of ₹ 60 lakhs payable for transfer of house to Mr. X.

4. Ashwin doing manufacture and wholesale trade furnishes you the following information :
Total turnover for the financial year

Particulars	*₹*
2022-23	*1,05,00,000*
2023-24	*95,00,000*

State whether tax deduction at source provisions are attracted for the below said expenses incurred during the financial year 2023-24:

Particulars	*₹*
Interest paid to UCO Bank on 15.08.2023	*41,000*
Contract payment to Raj (2 contracts of ₹ 12,000 each) on 12.12.2023	*24,000*
Shop rent paid (one payee) on 21.01.2024	*2,90,000*
Commission paid to Balu on 15.03.2024	*7,000*

Solution:
As the turnover of business carried on by Ashwin for F.Y. 2022-23, **has exceeded ₹ 1 crore**, he has to comply with the tax deduction provisions during the financial year 2023-24, 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 under section 194-I as the rental payment exceeds ₹ 2,40,000.

Commission paid to Balu –
No, tax has to be deducted under section 194-H in this case as the commission does not exceed ₹ 15,000.

5. State the concessions granted to transport operators onwards in the context of cash payments under section 40A(3) and deduction of tax at source under section 194-C.

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.

6. ***Mrs. Indira, a landlord, derived income from rent from letting a house property to M/s Vaibhav Corporation Ltd. of ₹ 1,00,000 per month from 01.06.2023. She charged GST @ 15% on lease rent charges. Calculate the deduction of tax at source (TDS) to be made by M/s Vaibhavi Corporation Ltd. on payment made to Mrs. Indira and narrate related formalities in relation to TDS.***

Solution:

(1) As per CBDT Circular, there will be no TDS on GST components in any Section. Therefore, tax deducted at source under section 194-I would be required to be made on the amount of rent paid or payable excluding the amount of GST.
(2) **Tax is deductible @ 10%** under section 194-I.
(3) Hence, in the given case, TDS under section 194-I would amount to ₹ 10,000 to be deducted every month.
(4) Tax deducted should be deposited within prescribed time i,.e. on or before seven days from the end of the month in which the deduction is made and upto 30th April for the month of March.

7. ***Examine the obligation of the person responsible for paying the income to deduct tax at source and indicate the due date for payment of such tax wherever applicable in respect of the following item:***

MSP Manufactures Ltd., the employer credited salary due for the financial year 2023-24 amounting to ₹ 12,00,000 to the account of Q, the employee, in its books of account on 31.3.2024. Q has not furnished any information about his income/loss from any other head or proof of Investments/payments qualifying for deduction under Section 80C.

Solution:

Sec 192 of the Income Tax Act warrants deduction of tax at source in respect of payment of salary to employees. The Section is casting responsibility on the employer to deduct tax at source at the time of making payment of salary to the employee. In case credit entries are passed in the books of the employer for salary due to employees, the liability to deduct tax u/s.192 does not arise. Accordingly, in the given case, MSP Ltd is not liable to deduct tax on salaries. Non- furnishing of information relating to investments, deductions etc of the employee is not relevant to the given situation.

8. ***X is a sole proprietor. His annual turnover is more than ₹ 100,00,000 since last 5 years. During the financial year 2023-24, he makes the following payments –***
   1. ***Brokerage paid to a broker for arranging purchase of a residential property for his personal use (amount of brokerage paid on March 1, 2024: ₹ 5,00,000)***
   2. ***Commission paid to salesman for selling goods manufactured by X (amount of brokerage paid on March 21, 2024: ₹ 6,00,000)***

   U/s 194H, tax is deductible on brokerage or commission. Discuss whether the aforesaid payments are covered by this provision.

Solution:

X, the payer, is an individual & ***turnover of his business exceeds ₹ 1 crore*** in preceding financial year. Consequently, tax is deductible on commissioner or brokerage u/s 194H. Section 194H is applicable in such a case regardless of the fact whether payment of commission or brokerage is for personal purpose or business purposes. Tax will be deductible on ₹ 5,00,000 as well as ₹ 6,00,000 **at the rate of 5%**

9. ***X is sole proprietor. His annual turnover is more than ₹ 100,00,000 since last 5 years. During the financial year 2023-24, he makes the following payments of rent-***
   1. ***Rent paid to A Ltd. for a residential property for his personal use (amount of Rent paid on March 1, 2024: ₹ 5,00,000)***
   2. ***Rent paid to B Ltd. for taking a machinery on rent (amount of Rent paid on March 21, 2024): ₹ 6,00,000).***

   U/s 194-I, tax is deductible on rent payment. Discuss whether the aforesaid payments are covered by this provision.

Solution:

X, the payer, is an individual & **turnover of his business exceeds ₹ 1 crore** in preceding financial year. Consequently, tax is deductible on payment/credit of rent u/s 194-I. Section 194-I is applicable in such a case regardless of the fact whether payment of payment/credit of rent is for personal purpose or business purposes. Tax will be deductible on ₹ 5,00,000 as well as ₹ 6,00,000. ***TDS rate is 2% of rent for use of machinery, plant or equipment. It is 10% of rent for use of land, building, furniture or fixture.***

10. X is sole proprietor. His annual turnover is more than ₹ 130,00,000 since last 5 years. During the financial year 2023-24, he makes the following payments:

1. ***Payment of royalty for business purpose: ₹ 20,00,000 on January 2024.***
2. ***Payment of professional fees to an architect for construction of a residential building for his own use: ₹ 6,00,000 on January 3, 2024.***
3. ***Payment of professional fees to an advocate for filing an appeal in the Bombay High Court pertaining to a business transaction: ₹ 7,00,000 on January 10, 2024.***
4. ***Payment of technical fees to an engineer for preparation of a project report (which will be set up in a backward area in Jharkhand): ₹ 8,00,000 during August 2023.***

Discuss the TDS Deductibility.

Solution:

X, the payer, is an individual. **Turnover of his business exceeds ₹ 1 Crore** in preceding financial year. In such case, u/s 194J, tax is deductible by an individual/HUF as follows-

1. Tax is deductible on payment/credit of technical fees (whether it is for business purpose or otherwise).
2. Tax is deductible on payment/credit of professional fees **only when it is for business purpose**.
3. Tax is **not deductible** at all on payment/credit of royalty by an individual/HUF.

Consequently, in the given problem tax will be deductible as follows –

	Amount of TDS
1. Payment of royalty for business purposes (no TDS by an individual/HUF u/s 194J)	Nil
2. Payment of professional fees for personnel purposes (no TDS by an individual/HUF u/s 194J on professional fees for personal purposes)	Nil
3. Payment of professional fees for business purposes (tax is deductible)	70,000
4. Payment of technical fees (tax is deductible) @ 2%	**16,000**
Total	**86,000**

Note:

TDS provisions under section 194M are also not applicable in this case, since the payment does not exceed the threshold of ₹ 50 lakhs.

11. M, an individual, had let out his building on a monthly rent of ₹ 25,000. The tenant deducted tax u/s 194-I from the Rent paid to M, but did not remit such tax to the credit of the Central Government. M filed his return of income for the Assessment Year 2024-25 including therein the Rental Income from the said building and paid the balance tax on his total income after taking credit for tax deducted at source by the Tenant. The AO has called upon M to pay the tax to the extent of TDS. Is the AO justified

Solution:

Section 205 provides that where tax is deductible at source, under the provision of the Act, the assessee shall not be called upon to pay the tax himself to the extent to which the tax has been deducted from that income. In view of the above specific provisions, Mr. M cannot be held liable to pay tax to the extent TDS. Hence, the action of AO is not justifiable.

12. Bharathi Cements Ltd. purchased jute bags from Raj Kumar & Co. The latter has to supply the jute bags with the logo and address of the assessee, printed on it. From 01.09.2023 to 20.03.2024, the value of jute bags supplied is ₹ 8,00,000, for which the invoice has been raised on 20.03.2024. While effecting the payment for the same, is the assessee bound to deduct tax at source, assuming that the value of the printing component involved is ₹ 1,10,000. You are informed that the assessee has not sold any material to Raj Kumar & Co. and that the latter has to manufacture the jute bags in its plant using raw materials purchased by it from outsiders.

Solution:

As per the definition under section 194C, "work" shall not include manufacturing or supplying a product according to the requirement or specification of a customer by using raw material purchased from a person, other than **such customer or associate of such customer**. This is regardless of the quantum of expenditure incurred towards printing or processing comprised in the bill amount.

The problem clearly states that Raj Kumar & Co. has to manufacture the jute bags using raw materials purchased from outsiders and that the assessee Bharathi Cements Ltd has not sold any material to them. Therefore, in this case, it is a contract of sale.

Hence, the provisions of section 194C are not attracted and no liability to deduct tax at source would arise.

13. Alap Ltd. has made following payments on various dates in financial year 2023-24 to Vilambit Ltd. towards work done under different contracts:

Contract Number	*Date of payment*	*Amount (₹)*
1.	*31.5.2023*	*20,000*
2.	*6.6.2023*	*15,000*
3.	*8.8.2023*	*25,000*
4.	*10.12.2023*	*25,000*
5.	*29.01.2024*	*17,000*

Alap Ltd. claims that it is not liable for deduction of tax at source under section 194C. Examine the correctness of the claim made by the company. What would be the position if the value of the contract no. 5 is ₹ 14,000 only and there was no further contract during the year?

Solution:

As per section 194C, tax has to be deducted at source where the amount credited or paid or likely to be credited or paid to a contractor or sub-contractor exceeds ₹ 30,000 in a single payment or ₹ 1,00,000 in aggregate during the financial year.

Therefore, in the given case, even though the value of each individual contract does not exceed ₹ 30,000, the aggregate amount exceeds ₹ 1,00,000. Hence, Alap Ltd's contention is not correct and tax is required to be deducted at source on the whole amount of ₹ 1,02,000 from the last payment of ₹ 17,000 towards Contract No. 5 on account of which the aggregate amount exceeded ₹ 1,00,000.

However, no tax deduction is to be made if the value of the last contract is ₹ 14,000 as the aggregate amount in such case would only be ₹ 99,000, which is below the aggregate monetary limit of ₹ 1,00,000.

14. ABC Ltd. took on sub-lease a building from J, an individual, with effect from 1.9.2023 on a rent of ₹ 25,000 per month. It also took on hire machinery from J with effect from 1.10.2023 on hire charges of ₹ 15,000 per month. ABC Ltd. entered into two separate agreements with J for sub-lease of building and hiring of machinery. The rent of building and hire charges of machinery for the financial year 2023-24 were ₹ 1,75,000 and ₹ 90,000, respectively, which were credited by ABC Ltd. to the account of J in its books of account on 31.3.2024. Examine the obligation of ABC Ltd. with regard to deduction of tax at source in respect of the rent and hire charges.

Solution:

As per section 194-I dealing with deduction of tax at source from payment of rent, ***the rate of TDS applicable is 2% for machinery hire charges and 10% for building lease rent***. The scope of the section includes within its ambit, rent for machinery, plant and equipment. Tax is required to be deducted at source from payment of rent, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of building and machinery, irrespective of whether such assets are owned or not by the payee.

The limit of ₹ 2,40,000 for tax deduction at source will apply to the aggregate rent of all the assets. Even if two separate agreements are entered into, one for sub-lease of building and another for hiring of machinery, rent and hire charges under the two agreements have to be aggregated for the purpose of application of the threshold limit of ₹ 2,40,000.

In this case, since the payment for rent and hire charges credited to the account of J, the payee, aggregates to ₹ 2,65,000 (₹ 1,75,000 + ₹ 90,000), tax is deductible at source under section 194-I. ***Tax is deductible@10% on ₹ 1,75,000 (rent of building) and @2% on ₹ 90,000 (hire charges of machinery).***

15. 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 1.6.2023. He has purchased the house property and the land in the year 2022 for ₹ 40 lakh and ₹ 10 lakh, respectively. The stamp duty value on the date of transfer, i.e., 1.6.2023, is ₹ 85 lakh and ₹ 20 lakh for the house property and rural agricultural land, respectively. Determine 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 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. 2024-25. 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.
(ii)	**Tax implications in the hands of Mr. Y**
	In case immovable property is received for inadequate consideration, the difference between the stamp value and actual consideration would be taxable under section 56(2)(x), if such difference exceeds higher of ₹ 50,000 **or 10% of the consideration.** Therefore, in this case ₹ 25 lakh (₹ 85 lakh – ₹ 60 lakh) would be taxable in the hands of Mr. Y under section 56(2)(x). Since rural agricultural land is not a capital asset, the provisions of section 56(2)(x) are not attracted in respect of receipt of agricultural land for inadequate consideration, since the definition of "property" under section 56(2)(x) includes only capital assets specified thereunder.
(iii)	**TDS implications in the hands of Mr. Y**
	Since the sale consideration **or SDV** of house property is ₹ 50 lakh or more, Mr. Y is required to deduct tax at source under section 194-IA. The tax to be deducted under section 194-IA would be **₹ 85,000, being 1% of ₹ 85 lakh (as SDV is higher).** TDS provisions under section 194-IA are not attracted in respect of transfer of rural agricultural land.

16. Smt. Vijaya, proprietor of Lakshmi Enterprises, made turnover of ₹ 210 lakhs during the previous year 2022-23. Her turnover for the year ended 31-3-2024 was ₹ 90 lakhs.

Decide whether provisions relating to deduction of tax at source are attracted for the following payments made during the financial year 2023-24:

(i) ***Purchase commission paid to one agent ₹ 25,000 on 13.6.2023 towards purchases made during the year.***

(ii) ***Payments to Civil engineer of ₹ 5,00,000 on 23rd August, 2023 for construction of residential house for self use.***

Solution:

Since Smt. Vijaya's turnover from business was ₹ 210 lakhs **in the immediately preceding financial year** (i.e., F.Y. 2022-23), she is liable to deduct tax at source in the P.Y. 2023-24, irrespective of her turnover being only ₹ 90 lakhs in the F.Y. 2023-24.

(i) **Tax @5% has to be deducted** under section 194H in respect of purchase commission of ₹ 25,000 to an agent for purchases made during the year, since the same exceeds the threshold limit of ₹ 15,000 for non-deduction of tax at source thereunder.

(ii) Tax has to be deducted under section 194C in case of payment to resident contractors. **The rate of tax is 1% if the payee is an individual or HUF and 2% in case of payees, other than individuals and HUFs.**

However, as per section 194C, no individual or Hindu undivided family shall be liable to deduct income tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of the Hindu undivided family.

In this case, since Smt. Vijaya, an individual, makes payment of ₹ 5 lakh to a civil engineer for construction of residential house for self use, she is not liable to deduct tax at source under section 194C from such sum.

Further, Section 194M is also not applicable here as payment does not exceeds ₹ 50 Lakhs.

17. The following issues arise in connection with the deduction of tax at source under this chapter. Examine the liability for tax deduction in these cases:

(a) ***An employee of the Central Government receives arrears of salary for the earlier 3 years. He enquires whether he is liable for deduction of tax on the entire amount during the current year.***

(b) ***A T.V. channel pays ₹ 10 lakh on 1.9.2023 as prize money to the winner of a quiz programme, "Who will be a Millionaire"?***

(c) ***State Bank of India pays ₹ 50,000 per month as rent to the Central Government for a building in which one of its branches is situated.***

(d) ***A television company pays ₹ 80,000 to a cameraman on 6th January, 2024 for shooting of a documentary film.***

(e) ***A State Government pays ₹ 22,000 on 2.7.2023 as commission to one of its agents on sale of lottery tickets.***

(f) ***A Turf Club awards a jack-pot of ₹ 5 lakh to the winner of one of its races on 1.2.2024.***

Solution:

(a) As per Section 192, tax is deductible at source by any person who is responsible for paying any income chargeable under the head 'Salaries'. Further, the employee will be entitled to relief u/s 89 and consequently he will be required to furnish to the person responsible for making the payment, such particulars in the prescribed form (i.e., Form No.10E).

The person responsible for making the payment shall compute the relief and take into account the same while deducting tax at source from salary.

(b) Under section 194B, the person responsible for paying by way of winnings from any card game and other game in an amount exceeding ₹ 10,000 shall at the time of payment deduct income-tax at 30%. Therefore, tax of ₹ 3 lakh has to be deducted at source from the prize money of ₹ 10 lakh payable to the winner.

(c) Section 194-I, which governs the deduction of tax at source on payment of rent, exceeding ₹ 2,40,000 p.a., is applicable to all taxable entities except individuals and HUFs, whose total sales, gross receipts or turnover from the business or profession carried on by him **does not exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession** during the financial year immediately preceding financial year in which such rent was credited or paid, is liable to deduct tax at source.

Section 196, however, provides exemption in respect of payments made to Government from application of the provisions of tax deduction at source.

Therefore, no tax is required to be deducted at source by State Bank of India from rental payments to the Government.

(d) If the cameraman is an employee of the T.V. company, the provisions of section 192 will apply. However, if he is a professional, TDS provisions under section 194-J will apply. **Tax at 10% will have to be deducted at the time of credit** of ₹ 80,000 or on its payment, whichever is earlier.

(e) Under section 194G, the person responsible for paying to any person, stocking, distributing, purchasing or selling lottery tickets shall at the time of credit of the commission or payment thereof, whichever is earlier, amounting to more than ₹ 15,000, **deduct income-tax at source @5%.**

Accordingly, tax @5% under section 194G amounting to ₹ 1,100 has to be deducted from commission payment of ₹ 22,000 to the agent of the State Government.

(f) The TDS on payment by way of winnings from horse race is governed by section 194BB. Under this section, the person responsible for payment shall, at the time of payment, deduct tax at source @ 30%, if the payment exceeds ₹ 10,000.

Accordingly, tax @30% amounting to ₹ 1,50,000 has to be deducted from the winnings of ₹ 5 lakh payable to the winner of the race.

18. Examine and compute the liability for deduction of tax at source, if any, in the cases stated hereunder, for the financial year ended 31st March, 2024:

(i) ***On 20.6.2023, Mr. X, a resident, made three separate transactions for acquiring house property at Mumbai from Mr. Y for a consideration of ₹ 90 lakhs, an urban plot in Kolkata from Mr. C for a sum of ₹ 49,50,000 and rural agricultural land from Mr. D for a consideration of ₹ 60 lakhs.***

(ii) ***On 17.6.2023, a commission of ₹ 50,000 was retained by the consignee 'ABC Packaging Ltd.' and not remitted to the consignor 'XYZ Developers', while remitting the sale consideration. Examine the obligation of the consignor to deduct tax at source.***

(iii) ***Raj is working with AB Ltd. He is entitled to a salary of ₹ 55,000 per month w.e.f. 1.4.2023. He has a house property which is self-occupied. He paid an interest of ₹ 80,000 on loan, during the previous year 2023-24. The loan was taken for construction of house. He has notified his employer AB Ltd. that there will be a loss of ₹ 80,000 in respect of this house property for financial year ended 31.3.2024. Raj has shifted out from section 115BAC.***

Solution:

		Amount of TDS (₹)
(i)	Since the consideration for transfer of house property at Mumbai ₹ 50 lakhs or more, **Mr. X, being the transferee, is required to deduct tax @1% under section 194-IA** on ₹ 90 lakhs, being the amount of consideration for transfer of property, at the time of credit to the transferor account or payment, whichever is earlier. **Mr. X is not required to deduct tax as source under section 194-IA** from the consideration of ₹ 49,50,000 paid to Mr. C for transfer of urban plot, since the consideration is less than ₹ 50 lakhs **(assuming SDV is also less than ₹ 50 lakhs).** **Mr. X is also not required to deduct tax at source under section 194-IA** from the consideration of ₹60 lakhs paid to Mr. D for transfer of rural agricultural land, since the same is specifically excluded from the scope of immovable property for the purpose of tax deduction under section 194-IA. **Note -** Section 194-IA requires every transferee responsible for paying any sum as consideration for transfer of immovable property (land, other than agricultural land, or building or part of building) to deduct tax, **at the rate of 1% of such sum or SDV (whichever is higher)**, at the time of credit of such sum to the account of the resident transferor or at the time of payment of such sum to the resident transferor, whichever is earlier. However, no tax is required to be deducted where the consideration for transfer of an immovable property **and SDV** (both) is less than ₹ 50 lakhs.	90,000 Nil Nil
(ii)	Section 194H requires ***deduction of tax at source @5%*** from commission and brokerage payments to a resident. However, no tax is to be deducted at source where the amount of such payment does not exceed ₹ 15,000. In the given case, 'ABC Packaging Ltd.', the consignee, has not remitted the commission of ₹ 50,000 to the consignor 'XYZ Developers' while remitting the sales consideration. Since the retention of commission by the consignee/agent amounts to constructive payment of the same to him by the consignor/principal, deduction of tax at source is required to be made from the amount of commission. Therefore, XYZ Developers has to **deduct tax at source on ₹ 50,000 at the rate of 5%.**	2,500

(iii)	Section 192 provides that tax is required to be deducted on the payment made as salaries. Tax is to be deducted on the estimated income at the average of income tax computed on the basis of the rates in force for the financial year in which payment is made. The employee may declare details of his other incomes (including loss under the head "Income from house property" but not any other loss) to his employer. In this case, since Mr. Raj has notified his employer AB Ltd. of loss from self-occupied house property, the employer has to take the same into consideration for deduction of tax at source. Therefore, AB Ltd. is required to deduct tax at source on the salary of ₹ 55,000 per month paid to Mr. Raj, in the following manner:		
	Income under the head salaries (₹ 55,000 x 12)	6,60,000	
	Less: Standard deduction under section 16(ia)	50,000	
		6,10,000	
	Income under the head "house property"	(80,000)	
	Gross total income	5,30,000	
	Less: Deduction under Chapter VI-A	Nil	
	Total Income	5,30,000	
	Tax on ₹ 5,30,000	18,500	
	Add: Health and Education cess@4%	740	
	Tax to be deducted at source	19,240	19,240

19. Examine in the following cases the obligation of the person paying the income in respect of tax deduction at source and indicate the due date for payment of such tax, wherever applicable:

(i) ***MNO Ltd., the employer, credited salary due for the financial year 2023-24 amounting to ₹ 3,40,000 to the account of Q, an employee, in its books of account on 31.3.2024. Q has not furnished any information about his income/loss from any other head or proof of investments/ payments qualifying for deduction under section 80C.***

(ii) ***T, an individual whose total sales in business during the year ended 31.3.2023 was ₹ 2.20 crores, paid ₹ 9 lacs by cheque on 1.1.2024 to a contractor (an individual), for construction of his factory building. No amount was credited earlier to the account of the contractor in the books of T.***

(iii) ***BCD Ltd. credited ₹ 28,000 towards fees for professional services and ₹ 27,000 towards fees for technical services to the account of HG in its books of account on 6.10.2023. The total sum of ₹ 55,000 was paid by cheque to HG on 18.12.2023.***

Solution:

(i) Section 192 requires deduction of tax from salary at the time of payment. Thus, the employer is not required to deduct tax at source when salary has not been paid but is merely credited to the account of the employee in its books of account. MNO Ltd. therefore, is not required to deduct tax at source in respect of the salary merely credited to the account of employee Q which is not paid.

If salary has been paid during the year to Q, then, MNO Ltd has to obtain from Q, the evidence/proof/particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in such form and manner as may be prescribed.

If Q has not furnished any information about his income/loss under any other head or proof of investments/expenditure qualifying for deduction under section 80C, then, the employer has to deduct tax without considering any claim for any expenditure or set-off of losses or deduction u/s 80C.

(ii) An individual who has **total sales, gross receipts or turnover from the business carried on by him exceeding ₹ 1 crore** in the immediately preceding financial year 2022-23 is liable to deduct tax at source under section 194C for the financial year 2023-24 in respect of the payment made to contractor exceeding ₹ 30,000 in a single contract and ₹ 1,00,000 in aggregate of contracts during the financial year. Since, turnover of the individual T is ₹ 2.20 crores in the financial year 2022-23 and as the payment during financial year 2023-24 to the contractor has exceeded the limits prescribed in section 194C, tax has to be deducted under section 194C.

The **rate of tax deduction is 1%** as the contractor is an individual.

(iii) The limit of ₹ 30,000 for non-deduction of tax under section 194J would apply separately for fees for professional services and fees for technical services. This means that if a person has rendered services falling under both the categories, tax need not be deducted if the fee for each category does not exceed ₹ 30,000 even though the aggregate of the amounts credited to the account of such person or paid to him for both the categories of services exceed ₹ 30,000. Therefore, BCD Ltd. is not required to deduct tax at source in respect of the fees either at the time of credit or at the time of payment.

20. Examine the liability for tax deduction at source in the following cases for the AY 2024-25:

(i) ***Mr. Anand has been running a sole proprietary business with turnover of ₹ 202 lakhs for the A.Y. 2023-24. He pays a monthly rent of ₹ 15,000 for the office premises to Mr. R, the owner of building and an individual. Besides, he also pays service charges of ₹ 6,000 per month to Mr. R towards the use of furniture, fixtures and vacant land appurtenant thereto.***

(ii) ***By virtue of an agreement with a nationalised bank, a catering organisation receives a sum of ₹ 50,000 per month towards supply of food, water, snacks etc. during office hours to the employees of the bank.***

(iii) ***An Indian company pays gross salary including allowances and monetary perquisites amounting to ₹ 7,30,000 to its General Manager. Besides, the company provides non- monetary perquisites to him whose value is estimated at ₹ 1,20,000. Ignore section 115BAC.***

Solution:

(i) Where the payer is an individual or HUF **whose total sales, gross receipts or turnover from the business carried on by him exceed ₹ 1 crore** during the financial year immediately preceding financial year in which such rent was credited or paid, is liable to deduct tax at source. Since the turnover from business of Mr. Anand was ₹ 202 lakhs for the A.Y. 2023-24, he is liable to deduct tax at source under section 194-I in respect of rental payments during the financial year 2023-24.

Accordingly, Mr. Anand is liable to deduct tax at source under section 194-I on the rental payments made. Section 194-I provides that rent includes any payment, by whatever name called, for the use of land or building together with furniture, fittings etc. Therefore, in the given case, apart from monthly rent of ₹ 15,000 p.m., service charge of ₹ 6,000 p.m. for use of furniture and fixtures would also attract TDS under section 194-I. Since the aggregate rental payments of ₹ 2,52,000 to Mr. R during the financial year 2023-24 exceeds ₹2,40,000, **Mr. Anand is liable to deduct tax at source @10% under section 194-I from rent paid to Mr. R.**

(ii) The definition of "work" under Explanation to section 194-C includes catering services and therefore, TDS provisions under section 194C are attracted in respect of payments to a caterer. As the payment exceeds ₹ 30,000, the **nationalised bank is required to deduct tax at source at 2% on the payments made to catering organisation**. If the catering organization is an individual or HUF, then the tax deduction shall be @1%.

(iii)

	₹
Gross salary, allowances and monetary perquisites	7,30,000
Non-Monetary perquisites	1,20,000
	8,50,000
Less: Standard deduction under section 16(ia)	50,000
	8,00,000
Tax Liability	75,400
Average rate of tax (₹ 75,400 / ₹ 8,00,000 × 100)	9.425%

The company can deduct ₹ 75,400 at source from the salary of the General Manager at the time of payment.
Alternatively, the company can pay tax on non-monetary perquisites as under – Tax on non-monetary perquisites = 9.425% of ₹ 1,20,000 = ₹ 11,310

Balance to be deducted from salary = ₹ 64,090

If the company pays tax of ₹ 11,310 on non-monetary perquisites, the same is not a deductible expenditure as per section 40(a). The amount of tax paid towards non-monetary perquisite by the employer, however, is not chargeable to tax in the hands of the employee as per section 10(10CC).

21. Mr. Vinod Dutta, an Indian resident, won a Tata Indica worth ₹ 6 Lakhs, as the first prize in a lottery. According to Section 194B of the Income Tax Act, 1961, tax has to be deducted at source from the winnings of lottery at the time of payment of the prize money.

Explain the procedure to be adopted before handing over the Tata Indica (the lottery prize) to Mr. Vinod Dutta.

Solution:

Section 194B of the Income Tax Act, 1961 provides that where the winnings are wholly in kind or partly in kind and partly in cash, but the cash part of it is not sufficient to meet the liability for tax deduction at source, in respect of the whole of the winnings, the person responsible shall, before releasing the winnings, ensure that, the tax has been paid in respect of the winnings. Therefore, in the case under consideration, the entire winnings being in kind, a sum equal to the tax to be deducted at source (i.e. ₹ 1,80,000 being 30% of ₹ 6,00,000) must be collected from the assessee, by the agent and remitted to the Government account before releasing the lottery prize to him.

Thus, ₹ 1,80,000 - being 30% of ₹ 6,00,000 must be collected from the assessee, by the agent and remitted to the Government account before releasing the Tata Indica to him.

22. Mrs. Kavita Agarwal, a resident, plans to sell the following properties to residents in India, during the last quarter of 2023-24:

(i) Agricultural lands in urban area for ₹ 55 lacs;

(ii) Agricultural lands in non-urban area (situate in a place which is at an aerial distance of 30 kms from nearby municipality) for ₹ 80 lacs;

(iii) Residential house for ₹ 90 lacs. The valuation for stamp duty purposes is ₹ 110 lacs.

She wants to know whether she would suffer any tax deduction at source (TDS) under the provisions of the Income-tax Act, 1961, and if yes, the applicable rate and the quantum of TDS.

Solution:

TDS on sale of immovable property u/s 194-IA Deduction of tax at source has to be made u/s 194-IA where there is transfer of immovable property for a consideration of ₹ 50 lacs or more. The TDS rate is 1% of the total consideration. "Immovable property" means any land (other than rural agricultural land) or any building or part of a building.

Therefore, the TDS obligation will be:

(i) Agricultural lands in urban area for ₹ 55 lacs: The provisions of section 194-IA are attracted. ***TDS rate is 1%*** and TDS to be deducted is ₹ 55,000

(ii) Agricultural lands in non-urban area for ₹ 80 lacs: The provision of section 194-IA are NOT attracted.

(iii) Residential house for ₹ 90 lacs: The provisions of section 194-IA are attracted. **TDS rate is 1% on actual consideration or SDV whichever is higher** and TDS to be deducted is ₹ 110,000.

23.* Examine *and state the applicability of provisions under Income Tax Act for deductions of Income Tax at source under Income Tax Act/rules on following cases for Asst. Year 2024-25.

(i) Mr. K an employee of Central Government is due to receive arrear of salary for the earlier three previous years that are 2020-21 to 2022-23 during the previous year 2023-24. Whether such arrear salary is subject to deduction of tax during previous year 2023-24.

(ii) MIS X Ltd. enter into an agreement with MIS ABC Consultants for providing engineering services to the Company for a Consideration of ₹ 10,000 per month. MIS ABC Consultants requires MIS X Ltd. to deduct tax at source @2% u/s 194C. Finance department of the view that tax deduction should be 10% u/s 194J of Income Tax Act.

Solution:

(i) Arrear of salary for the previous year 2020-21 to 2022-23 are taxable in the previous year 2023-24 on receipt as not taxed earlier on accrual basis in the hands of Mr. K, an employee. The authorized person of the Central Govt. would be liable to deduct tax at source from such arrear. However Mr. K can claim relief u/s 89(1) of the Income Tax Act provided the employee would produced the details in the prescribed Form 10E to his employer to consider the relief u/s 89 while deducting tax at source.

(ii) The definition of professional service on which tax is to be deductible under section 194J includes engineering services also. So fee of ₹ 10,000 per month paid M/S ABC Consultant represent fee for professional Services & the income tax deduction at source on payment is to be made @ 10% under such section that is 194J. M/S ABC Consultants requirement for deduction of tax at source@ 2% u/s 194C is not correct.

24. State in brief the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the financial year 2023-24:

(i) Payment of ₹ 27,000 made to Jacques Kallis, a South African cricketer, by an Indian newspaper agency on 02.07.2023 for contribution of articles in relation to the sport of cricket.

(ii) Rent of ₹ 1,70,000 paid by a partnership firm for use of plant and machinery.

(iii) Winnings from horse race - ₹ 1,50,000.

(iv) Sitting fees of ₹ 16,000 paid to director of the company on 30.12.2023.

(v) ₹ 2,30,000 paid to Mr. A, a resident individual on 22.02.2024 by the State Government of Uttar Pradesh on compulsory acquisition of his urban land.

(vi) 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 31-03-2024.

Solution:

(i) Under section 194E, where any income referred to in section 115BBA is payable to a non-resident sportsman for contribution of articles relating to any game or sport in India in a newspaper, such income shall be liable to tax @ 20%. Further, since Jacques Kallis is a non-resident, health & education cess @4% on TDS would also be added.

Therefore, tax to be deducted = ₹ 27,000 x 20.80% = ₹ 5,616.

(ii) As per section 194-I, tax is deductible at the time of credit or payment, whichever is earlier @ 2% on payment of rent for plant and machinery, only if the credit or payment exceeds ₹ 2,40,000 during the financial year. Since rent of ₹ 1,70,000 paid by a partnership firm does not exceed ₹ 2,40,000, tax is not deductible.

(iii) Provisions for tax deduction at source under section 194BB @ 30% are attracted in respect of income arising by way of winnings from any horse race at the time of payment thereof, if the winnings exceed ₹ 10,000. Tax to be deducted = ₹ 1,50,000 x 30% = ₹ 45,000

(iv) As per section 194J, the company shall be liable to **deduct tax at source @ 10% on any fees paid to a director**, on which the tax is not deductible under section 192. **The threshold limit of ₹ 30,000 for non-deduction of tax at source under section 194J is not applicable in case of any remuneration or fees or commission payable to director of a company**. Tax to be deducted = **₹** 16,000 x 10% = **₹** 1,600

(v) Tax shall be deducted at source under section 194LA if the consideration or enhanced consideration paid to a resident individual during the financial year exceeds ₹ 2,50,000 in aggregate. Since in this case, the amount paid to Mr. A, a resident individual, on 22.2.2024 does not exceed ₹ 2,50,000, tax is not deductible under section 194LA

(vi) 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.

25. Mr. Sunil sold his house property in Hyderabad as well as his rural agricultural land for a consideration of ₹ 70 lakh and ₹ 20 lakh, respectively, to his friend Mr. Ravi on 11.04.2023. He has purchased the house property and the land in the year 2022 for ₹ 45 lakh and ₹ 12 lakh, respectively. The stamp duty value on the date of transfer, i.e., 11.04.2023, is ₹ 78 lakh and ₹ 22 lakh for the house property and rural agricultural land, respectively. Determine the tax implications in the hands of Mr. Sunil and Mr. Ravi and the TDS implications, if any, in the hands of Mr. Ravi, assuming that both Mr. Sunil and Mr. Ravi are resident Indians.

Solution:

Tax implications on sale of house property and rural agricultural land at a price lower than the stamp duty value

(i) **Tax implications in the hands of Mr. Sunil** As per section 50C, the stamp duty value of house property (i.e. ₹ 78 lakh) would be deemed to be the full value of consideration arising on transfer of property.

Therefore, ₹ 33 lakh (i.e. ₹ 78 lakh – ₹ 45 lakh, being the purchase price) would be taxable as short-term capital gains in the A.Y. 2024-25. 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. Sunil.

(ii) **Tax implications in the hands of Mr. Ravi** In case immovable property is received for inadequate consideration, the difference between the stamp value and actual consideration would be taxable under section 56(2)(x), if such difference exceeds ₹ 50,000 or 10% of sales consideration.

Therefore, in this case ₹ 8 lakh (₹ 78 lakh – ₹ 70 lakh) would be taxable in the hands of Mr. Ravi under section 56(2)(x).

Since rural agricultural land is not a capital asset, the provisions of section 56(2)(x) are not attracted in respect of receipt of rural agricultural land for inadequate consideration, since the definition of "property" under section 56(2)(x) includes only the capital assets specified thereunder.

(iii) **TDS implications in the hands of Mr. Ravi - Since the sale consideration of house property or SDV** ₹ 50 lakh or more, Mr. Ravi is required to deduct tax at source under section 194-IA. The tax to be deducted under section 194-IA would be **₹ 78,000, being 1% of ₹ 78 lakh (as SDV is higher).**

TDS provisions under section 194-IA are not attracted in respect of transfer of rural agricultural land.

26. ABC Ltd. makes the following payments to Mr. X, a contractor, for contract work during the P.Y. 2023-24:

₹ 20,000 on 1.6.2023
₹ 25,000 on 1.8.2023
₹ 28,000 on 1.12.2023

On 1.3.2024, 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. 2023-24 exceeds ₹ 1,00,000 (on account of the last payment of ₹ 30,000, due on 1.3.2024, 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.

27. Siddharth Hospitals Pvt. Ltd. has recently been accorded recognition by several insurance companies to admit and treat patients on cashless hospitalization basis. Payment to the assessee hospital will be made by Third Party Administrators (TPA) who will process the claims of the patients admitted and make payments to the various hospitals including the assessee. All TPAs are corporate entities. The assessee wants to know whether the TPAs are bound to deduct tax at source under section 194J or under section 194C?

Solution:

As per provisions of section 194J(1), any person, who is responsible for paying to a resident any sum by way of fees for professional services, shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, **deduct an amount equal to 10%** of such sum as TDS.

Further, as per clause (a) of Explanation to section 194J "professional services" includes services rendered by a person in the course of carrying on medical profession.

The services rendered by hospitals to various patients are primarily medical services and, therefore, **the provisions of section 194J are applicable on payments made by TPAs to hospitals** etc. Further, for invoking provisions of section 194J, there is no stipulation that the professional services have to be necessarily rendered to the person who makes payment to hospital.

Therefore, TPAs who are making payment on behalf of insurance companies to hospitals for settlement of medical/ insurance claims etc. under various schemes including Cashless Schemes are liable to deduct tax at source under section 194J on all such payments to hospitals etc.

In view of the above, all such transactions between TPAs and hospitals would fall within the ambit of provisions of section 194J.

28. Examine in the context of provisions contained in Chapter XVII-B of the Act and also work out the amount of tax to be deducted by the payer of income in the following cases:

(i) ***Payment of ₹ 5 lakh made by JCP & Co. to Pingu Events Co. Ltd. on 4th September, 2023 for organizing a debate competition on the subject "Preservation of Rural Heritage of Rajasthan".***

(ii) ***KD, a part time director of DAF Pvt. Ltd. was paid an amount of ₹ 2,25,000 as fees which was actually in the nature of commission on sales for the period 1.7.2023 to 30.9.2023.***

Solution:

(i) The services of Event Managers in relation to sports activities alone have been notified by the CBDT as "professional services" for the purpose of section 194J. In this case, payment of ₹ 5 lakh was made to an event management company for organization of a debate competition. Hence, the provisions of section 194J are not attracted.

However, TDS provisions under section 194C relating to contract payments would be attracted and consequently, **tax has to be deducted @2% under section 194C. The tax deductible under section 194C would be ₹ 10,000, being 2% of ₹ 5 lakh.**

(ii) Section 194J provides for **deduction of tax at source @10%** on any remuneration or fees or commission, by whatever name called, paid to a director, which is not in the nature of salary in respect of which tax is deductible at source under section 192.

Hence, tax is to be deducted at source under section 194J @10% by DAF Pvt. Ltd. on the commission of ₹ 2,25,000 paid to KD, a part-time director. The tax deductible under section 194J would be ₹ 22,500, being 10% of ₹ 2,25,000.

29. What is the rate at which the tax is either to be deducted or collected under the provisions of the Act in the following cases?

(i) ***A partnership firm making sales of timber in September 2023 which was procured and obtained under a forest lease.***

(ii) ***A nationalized bank receiving professional services from a registered society made provision on 31-03-2024 of an amount of ₹ 25 lakh against the service charges bills to be received.***

(iii) ***Payment of ₹ 5 lakhs on 8th December, 2023 made to Mr. Phelps who is an athlete by a manufacturer of a swim wear for brand ambassador.***

Solution:

Applicable Rate of TDS/TCS

Situation	TCS/TDS	Rate	Note
(i) Partnership firm selling timber obtained under forest lease	TCS	2.5%	1
(ii) Professional services rendered by a registered society to a nationalised bank	TDS	10%	2
(iii) Payment by a manufacturer of swim wear to its brand ambassador Mr. Phelps, an athlete If Mr. Phelps is a resident If Mr. Phelps is a non-resident	TDS	 10% 20.8%	3

Notes:

(1) As per section 206C(1), tax has to be collected at source@2.5% by the partnership firm, being a seller, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount, whichever is earlier.

(2) Tax has to be deducted at source@10% under section 194J, by the nationalized bank at the time of credit of fees for professional services to the account of the registered society (i.e., on 31.3.2024), even though payment is to be made after that date.

(3) Tax has to be deducted at source @10% under section 194J in respect of income of ₹ 5 lakh paid to Mr. Phelps, an athlete, for advertisement, on the inherent presumption that Mr. Phelps is a resident.

Alternatively, if Mr. Phelps is assumed to be a non-resident, who is not a citizen of India, tax has to be deducted at source @20.8% (20% plus cess 4%) under section 194E in respect of income of ₹ 5 lakh paid to Mr. Phelps, an athlete, for advertisement referred under section 115BBA.

30. Mr. Harish, Vice President of ABC Bank, sold his house property in Chennai as well as his rural agricultural land for a consideration of ₹ 60 lakh and ₹ 15 lakh, respectively, to Mr. Suresh, a retail trader of garments, on 10.8.2023. Mr. Harish had purchased the house property and rural agricultural land in December 2021 for ₹ 40 lakh and ₹ 10 lakh, respectively. The stamp duty value on the date of transfer, i.e., 10.8.2023, is ₹ 85 lakh and ₹ 20 lakh for the house property and rural agricultural land, respectively.

(a) ***Determine the tax implications in the hands of Mr. Harish and Mr. Suresh, if the date of agreement for sale of house property and rural agricultural land is 1.7.2023 and the stamp duty value on the said date was ₹ 75 lakh and ₹ 15 lakh, respectively. On the said date, Mr. Suresh made payment of ₹ 5 lakh by way of account payee cheque to Mr. Harish for purchase of house property. Also, discuss the TDS implications, if any, in the hands of Mr. Suresh, assuming that both Mr. Harish and Mr. Suresh are resident Indians.***

(b) ***Would your answer be different if Mr. Harish is a property dealer and sold the house property in the course of his business?***

Solution:

(a) Tax implications on sale of rural agricultural land and house property representing a capital asset in the hands of Mr. Harish, a salaried employee

(i)	**Tax implications in the hands of Mr. Harish, a salaried employee**
	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. Harish. However, capital gains would arise on sale of house property, being a capital asset. As per section 50C(1), the stamp duty value of house property on the date of agreement (i.e., ₹ 75 lakh) would be deemed to be the full value of consideration arising on transfer of property. Therefore, ₹ 35 lakh (i.e., ₹ 75 lakh – ₹ 40 lakh, being the purchase price) would be taxable as short-term capital gains in the A.Y. 2024-25. It may be noted that as the date of agreement is different from the date of registration and part of the consideration was received on or before the date of agreement by way of account payee cheque, the stamp duty value on the date of agreement is to be adopted as the deemed sale consideration.
(ii)	**Tax implications in the hands of the buyer – Mr. Suresh, a retail trader**
	The house property purchased would be a capital asset in the hands of Mr. Suresh, who is a retail trader of garments. The provisions of section 56(2)(x) is attracted in the hands of Mr. Suresh who has acquired the immovable property, being a capital asset, for inadequate consideration. For the purpose of section 56(2)(x), Mr. Suresh can take the stamp duty value on the date of agreement instead of the date of registration since he has paid a part of the consideration by account payee cheque on the date of agreement. Therefore, **₹ 15 lakh,** being the difference between the stamp duty value of the property **on the date of agreement** (i.e., ₹ 75 lakh) and the actual consideration (i.e., ₹ 60 lakh) would be taxable as per section 56(2)(x) under the head "**Income from other sources**" in the hands of Mr. Suresh, since such difference exceeds the higher of ₹ 50,000 or 10% of consideration. As rural agricultural land is not a capital asset, the provisions of section 56(2)(x) are not attracted in respect of acquisition of agricultural land for inadequate consideration, since the definition of "property" under section 56(2)(x) includes only **capital assets** specified thereunder.
(iii)	**TDS implications in the hands of the buyer, Mr. Suresh**
	Since the sale consideration of house property ***or Stamp Duty Value*** is ₹ 50 lakh or more, Mr. Suresh is required to deduct tax at source under section 194-IA. The tax deduction under section 194-IA would be ₹ 75,000, being 1% of ₹ 75 lakh ***(as SDV is higher).*** TDS provisions under section 194-IA are not attracted in respect of transfer of rural agricultural land.

(b) Tax implications on sale of house property representing stock-in-trade in the hands of Mr. Harish, a property dealer:

(i)	**Tax implications in the hands of Mr. Harish for A.Y. 2024-25**
	If Mr. Harish is a property dealer who has sold the house property in the course of his business, the provisions of section 43CA would be attracted, since the house property represents his stock-in-trade and he has transferred the same for a consideration less than the stamp duty value. For the purpose of section 43CA, Mr. Harish can take the stamp duty value on the date of agreement instead of the date of registration, since he has received part of the sale consideration by an account payee cheque on the date of agreement and it exceeds 110% of consideration. Therefore, ₹ 35 lakh, being the difference between the stamp duty value on the date of agreement (i.e., ₹ 75 lakh) and the purchase price (i.e., ₹ 40 lakh), would be chargeable as **business income** in the hands of Mr. Harish.

(ii)	**TDS implications and taxability in the hands of Mr. Suresh for A.Y. 2024-25**
	There would be no difference in the TDS implications or taxability in the hands of Mr. Suresh, whether Mr. Harish is a property dealer or a salaried employee. Therefore, the provisions of section 56(2)(x) would be attracted in the hands of Mr. Suresh who has received house property, being a capital asset, for inadequate consideration. The TDS provisions under section 194-IA would also be attracted since the actual consideration for house property ***or Stamp Duty Value*** exceeds ₹ 50 lakh.

Deduction to SEZs UNITs [SECTION 10AA]

Assessment Year 2024-25 (Amended with Finance Act 2023)

No Deduction to New SEZ units from "Assessment Year 2021-22" if letter of approval is issued on or after 01.04.2020

A deduction of profits and gains which are derived by an assessee being an entrepreneur **from the export of articles or things or providing any service**, shall be allowed **from the TOTAL INCOME of the assessee**.

(1) Eligible Assessees: All categories of Assessees

(2) Conditions:

i) It has begun or begins to manufacture or produce articles or things ***including computer software*** or provide **any service on or after 1.4.2005 (PY 2005-06) in any SEZ but before the 01.04.2020 (PY 19-20 is the last year)**.

[No Deduction from AY 21-22 to NEW UNITs]

Deduction under Section 10AA can be claimed in PY 2020-21 (AY 2021-22) even if it is First year of production

*In case where letter of approval, required to be issued in accordance with the provisions of the SEZ Act, 2005, has been **issued on or before 31st March, 2020** and the manufacture or production of articles or things or providing services has not begun on or before 31st March, 2020 then, the date for manufacture or production of articles or things or providing services has been extended to 31st March, 2021 or such other date after 31st March, 2021, as notified by the Central Government.*

Important:** If the SEZ unit has received the necessary approval by 31.3.2020 and begins manufacture or production of articles or things or providing services on or before 31st March, 2021, then it **would be eligible for deduction under section 10AA in PY 2020-21.

ii) ***Amendment effective from AY 2024-25**: **The proceeds from sale of goods or provision of services is received in, or brought into, India by the assessee in convertible foreign exchange, within a period of 6 months from the end of the previous year or, within such further period as RBI may allow in this behalf.***

The sale of goods or provision of services shall be deemed to have been received in India where such export turnover is credited to a separate account maintained for that purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

iii) ***Amendment effective from AY 2024-25**: Deduction under section 10AA shall be allowed to an assessee **who furnish a return of income on or before the due date specified under section 139(1).***

(3) New Business / New Plant & Machinery:

i) It should not be formed by splitting up or reconstruction of a existence business

[Provided that nothing contained in this clause shall apply in respect of a business which is formed as a result of re-establishment, reconstruction or revival by the assessee of the business in the circumstances and within the period specified in **Section 33B**]

ii) It should ***not be formed*** by transfer of plant and machinery previously used for any purpose ***exceeding 20% of the total value of machinery and plant*** used in the business. ***[20% old – Allowed]***

For this purpose, any machinery or plant which was used outside India by any person other than the assessee ***shall not be regarded as machinery*** or plant previously used for any purpose if the following conditions are fulfilled:

(a) such machinery or plant was not at any time used in India;

(b) such machinery or plant is imported into India from any country outside India; and

(c) no deduction on account of depreciation has been allowed in respect of such machinery or plant to any person earlier.

(4) Quantum and Period of Deduction:

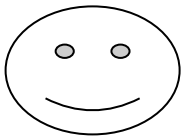
i) For First 5 AYs **:** 100% of the profits derived from exports.

ii) For next 5 Consecutive AYs **:** 50% of such profits

iii) For next 5 Consecutive AYs **: Least of the below two:**

(a) 50% of Such Profits

(b) Reserve credited to SEZ Re-Investment Allowance Reserve Account



Example:

An undertaking is set up in a SEZ and begins manufacturing on 15.10.2018. The deduction under section 10AA shall be allowed as under:

a. *100% of profits of such undertaking from exports from A.Y. 2019-20 to A.Y. 2023-24.*

b. *50% of profits of such undertaking from exports from A.Y. 2024-25 to A.Y. 2028-29.*

c. *50% of profits of such undertaking from exports from A.Y. 2029-30 to A.Y. 2033-34* ***provided certain conditions are satisfied (no such conditions for first 10 years).***

(5) *The amount of deduction under this Section* ***shall be allowed from the Total Income*** *of the assessee computed in accordance with the provisions of this Act, before giving effect to the provisions of this section and the deduction under this section shall not exceed such total income of the assessee.*

"It means Deduction u/s 10AA will be available after deduction under chapter VIA & not under the head PGBP."

(6) Conditions to be satisfied for claiming deduction for further 5 years (after 10 years):

The amount credited to the Special Economic Zone Re-investment Reserve Account is utilized-

a) for the purposes of ***acquiring machinery or plant*** which is first put to use before the expiry of a period of ***three years*** following the previous year in which the reserve was created; and

b) until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking. **However, it should not be utilized for**

i. distribution by way of dividends or profits; or

ii. for remittance outside India as profits; or

iii. for the creation of any asset outside India;

(7) CONSEQUENCES OF MIS-UTILISATION / NON-UTILISATION OF RESERVE:

(a) Mis-Utilised amount shall be deemed to be the ***profits in the year in which the amount was so utilised***; or

(b) Unutilised amount shall be deemed to be the profits ***in the year immediately following the said period of three years***.

(8) Computation of Deduction u/s 10AA:

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

Profits of the Business of the undertaking (Excludes Export Incentives)	**X**	**Export Turnover / Total Turnover**

Note:

1. "Export Turnover" means the **consideration received in or brought into India** by the assessee in convertible foreign exchange ***but does not include*:**
   - **a)** Freight, Telecommunication Charges and Insurance ***attributable to the delivery*** of the articles or things outside India; or
   - **b)** ***Expenses incurred in foreign exchange*** in providing the technical services outside India.
2. Here, profits includes ***profits derived from on-site development of computer software (including services for development of software) outside India*** for the purpose of determining profits derived from export of computer software outside India

CBDT has clarified that *freight, telecommunication charges & insurance expenses* are to be excluded both from "Export Turnover" and "Total turnover" while working out deduction admissible under Section 10AA to the extent they are attributable to the delivery of articles or things outside India.

Similarly, *expenses incurred in foreign exchange for rendering services* outside India are to be excluded from both "Export Turnover" and "Total Turnover" while computing deduction admissible u/s 10AA.

(9) OTHER COMMON POINTS:

a) **AUDIT**: *The deduction under this section **shall not be** admissible for any assessment year unless the assessee furnishes in the prescribed form, the report of an accountant, as defined in the Explanation below sub-section (2) of section 288 **before the specified date referred to in section 44AB (i.e., one month prior to the due date for filing return of income)**, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.*

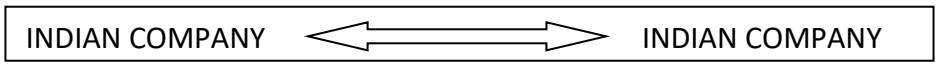
***Example**: An individual, subject to tax audit u/s 44AB, claiming deduction u/s 10AA is required to furnish return of income on or before 31.10.2024 and the report of a chartered accountant before 30.9.2024, certifying the deduction claimed u/s 10AA.*

b) **INTER-UNIT TRANSFER**: Where **any goods or services of eligible business** are transferred to any other business (or vice versa) otherwise than at Market Value on date of transfer, ***then the profits and gains of the eligible business shall be computed as if the transfer was made at market value***.

c) **NO DOUBLE OR EXCESS DEDUCTION**: The deductions claimed and allowed under this section ***shall not exceed the profits and gains of the eligible business***. Further, profits and gains allowed as deduction under this section will not be considered for deduction under any other provisions of the Act.

d) **EXCESSIVE PROFITS**: Where it appears to the AO that the **assessee derives more than ordinary profits** from the eligible business due to close connection between the assessee and any other person, the AO may consider such profits as may be reasonable for the purpose of computing deduction under this section.

e) **AMALGAMATION/DEMERGER**:



In the case of any amalgamation or demerger, **by virtue of which the Indian company carrying on the eligible business is transferred to another Indian company**:

(i) No deduction will be available to the amalgamating company/demerged company, in the year of amalgamation/demerger.

(ii) ***The deduction will be available to the amalgamated/resulting company for unexpired period.***

f) Where a deduction under this section is claimed and allowed in relation to any specified business eligible for investment-linked deduction under section 35AD, ***no deduction shall be allowed under section 35AD in relation to such specified business for the same or any other assessment year.***

(10) Few Points:

A. Section 10AA is a deduction and not an exemption. *Therefore, losses and depreciation of the undertaking to which Section 10AA applies shall be carried forward normally*.

B. In case of LIBERTY India, SC held that EXPORT INCENTIVE like

(a) Cash Compensatory Support

(b) Duty Drawback

(c) Profit on sale of import entitlement licenses

(d) Duty Exemption Pass Book

Shall NOT form part of profit of the eligible undertaking for the purpose of Section 10AA. No deduction is available on these income.

PRACTICAL QUESTIONS – Section 10AA

1) PR Industries Ltd., a unit established in Special Economic Zone, for providing various services furnishes the following particulars of its 5th year of its operation ended on 31.03.2024 (amounts in ₹ Lakhs):

Total receipts from provisions of services	**50**
Receipts from export of services	**40**
Profits of business	**5**

Out of the total export, ₹ 8 lakhs could not be realized on account of death of the Foreign Service recipient. The plant and machinery used in the business had been depreciated @ 25% on SLM basis and depreciation of ₹ 2 lakhs was charged in the P&L A/c. Compute the taxable income of the company.

Solution:

The assessee is eligible for the deduction u/s 10AA for the AY 2024-25.

Thus, its total income shall be calculated as follows –

Computation of taxable income of the company (All amount in ₹)

Net Profit as per P&L A/c	5,00,000
Add: Depreciation as per books	2,00,000
	7,00,000
Less: Depreciation as per IT Rules (15% of 8 lakhs) [Cost of machinery = 2 lakhs / 25%]	1,20,000
Profits and Gains of Business / GTI	5,80,000
Less: Deduction u/s 10AA [100% of {(5,80,000 / 50,00,000) X 32,00,000}]	3,71,200
Taxable Income	**2,08,800**

2) A company is engaged in the development and sale of computer software applications. It has started **a new undertaking in SEZ in PY 2019-20**. **It furnishes the following data and requests you to compute the deduction allowable to it under Sec. 10AA is respect of AY 2024-25**

Particulars	(₹ in lakhs)
Total profit of the company for the previous year	50
Total turnover, i.e. Export sales and Domestic sales for the previous year	**550**
Consideration received in respect of export of software received in convertible foreign exchange in India	250
Sale proceeds credited to a separate account in a bank outside India with the approval of RBI	50
Telecom and insurance charges attributable to export of software	10
Staff costs and travel expenses incurred in foreign exchange to provide technical assistance outside India to a client	40

Solution:

Computation of income of an undertaking in SEZ: AY 2024-25

Particulars	**(₹ in lakh)**
Total profit / GTI	50
Less: Deduction under Sec. 10AA: $50 \times \frac{250}{500}$	25
Taxable Income	25

Note:

Export turnover	**(₹ in lakhs)**
(i) Sale proceeds of software received in convertible foreign exchange	250
(ii) Sale proceed in convertible foreign exchange kept outside India with the approval of RBI	50
	300
Less: (i) Telecom and insurance attributable to export turnover	(-) 10
(ii) Expenses incurred in foreign exchange outside India to provide technical assistance to a client there	(-) 40
Export turnover	**250**

3) From the following particulars compute the deduction u/s 10AA (5th Year of operations) and the taxable profit:

Particulars	A Ltd.	B Ltd.
	₹ in lakhs	
Export Turnover	125	240
Domestic Turnover	68	42
Profits of the business	21	28

Additional information: The export turnover of A Ltd. includes charges received from on site development of computer software outside India to the extent of ₹ 30 Lakhs. B Ltd. has realized only 90% of its Export turnover and the remaining 10% has become irrecoverable.

4) Nathan Aviation Ltd. is running two industrial undertakings, one in a SEZ (Unit S) and another in a normal area (Unit N). The brief summarized details for the year ended 31-3-2024 are as under:

	(₹ in lakhs)	
	S	**N**
Domestic turnover	10	100
Export turnover	120	Nil
Gross profit	20	10
Less: Expenses and depreciation	7	6
Profits derived from the unit	**13**	**4**

The brought forward business loss pertaining to Unit N is ₹ 2 lakhs. Briefly compute the business income of the assessee.

Solution:

Computation of income of Nathan Aviation Ltd.

	Unit S (SEZ)	Unit N (Outside SEZ)
	₹	₹
Profit derived from the unit	13,00,000	4,00,000
***Less**:* Brought forward loss of unit N	Nil	(2,00,000)
Gross Total Income	**13,00,000**	**2,00,000**
***Less**:* Deduction under section 10AA [₹ 13 Lakh × ₹ 120 lakh ÷ ₹ 130 lakh]	12,00,000	Nil
Total Income	**1,00,000**	**2,00,000**

The following assumptions have been made-

a. Unit S satisfies all conditions of Section 10AA **and it was set up on or after April 1, 2019 but on or before 31.03.2020 (100% deduction is available only in first 5 years); and**

b. Brought forward loss of unit N pertains **to the AY 2016-17** (or any subsequent assessment year) (loss can be carried forward only for 8 years).

ALTERNATE MINIMUM TAX (AMT)

Assessment Year 2024-25 (Amended with Finance Act 2023)

Section 115JC(1): Where the regular income-tax payable for a previous year **by a person (other than company)** is ***less than 18.5% of its Adjusted Total Income (AMT),*** *such* ***adjusted total income shall be deemed to be the total income*** of such person and it shall be liable to pay income-tax on such total income ***at the rate of 18.5%.***

NOTE: MAT rate on the company is 15%.

Section 115JC(4):

A. ***In case of a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, AMT Rate is 9%.***

B. **W.e.f. AY 2023-24, in case of co-operative societies, AMT rate is 15%.**

Section 115JC(2): ***Adjusted Total Income*** shall be the ***Total Income as increased by***

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

Section 115JC(5): ***The provisions of this section shall not apply to a person who pays tax as per Section 115BAC, Section 115BAD or Section 115BAE.***

To whom Alternate Minimum Tax shall be applicable [Section 115JEE(1)]
The provisions of Alternate Minimum Tax shall apply to a non-corporate assessee who has claimed any deduction under:
(a) Sections 80-IA to 80RRB *other than section 80P*; or
(b) Section 10AA; or
(c) Section 35AD

To whom Alternate Minimum Tax shall not be applicable [Section 115JEE(2)]

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

a. Individual
b. HUF
c. AOP/BOI
d. AJP;
doesn't exceeds ₹ 20,00,000.

Section 115JEE(3): Notwithstanding anything contained in sub-section (1) or (2), ***the credit for tax paid under Section 115JC shall be allowed in accordance with the provisions of Section 115JD.***

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

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

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

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

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

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

Report from a Chartered accountant [Section 115JC(3)]:

Every person to whom this section applies ***shall obtain a report****, before the specified date referred to in section 44AB (i.e., one month prior to the due date for filing return of income), from a Chartered Accountant, certifying that the adjusted total income and the alternate minimum tax have been computed in accordance with the provisions of this Chapter* ***and furnish such report by that date****.*

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

1. The tax credit of an assessment year to be allowed **shall be** the excess of alternate minimum tax paid over the regular income-tax payable of that year.

2. No interest shall be payable on such tax credit.

3. The amount of tax credit shall be carried forward and set off in accordance with the provisions of this section but such carry forward shall not be allowed beyond 15th assessment year immediately succeeding the assessment year for which tax credit becomes allowable.

4. In any assessment year in which the regular income-tax exceeds the alternate minimum tax, the tax credit shall be allowed to be set off to the extent of the excess of regular income-tax over the alternate minimum tax and the balance of the tax credit, if any, shall be carried forward.

5. **Tax credit is not available if assessee pays tax as per Section 115BAC, Section 115BAD or Section 115BAE.**

PRACTICE QUESTIONS – AMT

1. Monohar & Hari LLP is engaged in multiple business activities. The following information is furnished for the year ended 31.03.2024:

(i) Net profit as per Profit and Loss Account ₹ 52 lakhs.

(ii) Working partner salary debited to profit and loss account ₹ 40,20,000 as authorized by the LLP agreement.

(iii) Interest on capital paid to partners @ 15% ₹ 15,75,000. This is authorized by the LLP agreement.

(iv) Depreciation debited to profit and loss account ₹ 8,10,000.

(v) Eligible depreciation under section 32 ₹ 10,35,000.

(vi) The Net Profit includes profit from under taking located in SEZ (5th year) ₹ 20 lakhs. The total turnover is ₹ 200 lakhs and the export turnover is ₹ 150 lakhs.

You are required to compute the total income of the LLP and also the alternative minimum tax (AMT) and decide the final tax liability of the LLP for the assessment year 2024-25.

Solution

Manohar & Hari LLP
Computation of the Total Income for the Asst. Year 2024-25

As per Normal Provisions			**₹**
Net Profit as per Profit and Loss Account			52,00,000
Add:			
Working partner salary debited to Profit and loss account			40,20,000
Interest on capital in excess of 12% disallowed			3,15,000
Depreciation debited to P&L account			8,10,000
			1,03,45,000
Less:			
Eligible depreciation under section 32			10,35,000
Book Profit			**93,10,000**
Less: Deduction u/s 40(b)			
On first ₹ 3 lakhs @ 90%	2,70,000		
On the balance ₹ 90,10,000 @ 60%	54,06,000	56,76,000	
Restricted to the amount authorized by LLP Agreement			40,20,000
Gross Total Income			**52,90,000**
Less: Deduction u/s 10AA in respect of unit in SEZ			
₹ 20,00,000 × 150 /200 [100%]			15,00,000
Total Income			**37,90,000**
Tax there on @ 30%			11,37,000
Add: Education cess @ 4%			45,480
Total Tax Payable			**11,82,480**

Computation of adjusted total income u/s 115JC

Total income as per normal provisions	37,90,000
Add: Deduction under section 10AA	15,00,000
Adjusted total income	**52,90,000**
Tax thereon @ 18.5%	9,78,650
Add: Education cess @ 4%	39,146
Total Tax Payable	**10,17,796**
	10,17,800

Since the tax payable as per the normal provisions of the Act is more than the alternate minimum tax payable, the total income as per normal provisions shall be liable to tax and the tax payable for A.Y. 2024-25 shall be ₹ 11,82,480.

2. ACHARYA LLP, a limited liability partnership in India is engaged in development of software and providing IT enabled services through two units, one of which is located in a notified Special Economic Zone (SEZ) in Chennai (commenced from 01.04.2013).

The particulars relating to previous year 2023-24 furnished by the assessee are as follows:

Total Turnover: SEZ unit ₹ 120 lakhs and the other unit ₹ 100 lakhs

Export Turnover: SEZ unit ₹ 100 lakhs and the other unit 60 lakhs

Profit: SEZ unit ₹ 48 lakhs and the other unit ₹ 42 lakhs

Amount debited to Profit and Loss Account towards Special Economic Zone Re-Investment Reserve Account ₹ 21 lakhs.

The Assessee has no other income during the year.

Compute tax payable by ACHARYA LLP for the Assessment Year 2024-25.

Will the amount of tax payable change, if ACHARYA LLP is an overseas entity?

Solution

Computation of total income and tax liability of ACHARYA LLP as per the normal provisions of the Act for A.Y. 2024-25

Particulars		₹ (in lakh)
Business income (before deduction under section 10AA)(₹ 48 lacs + ₹ 42 lacs)		90.00
Add: Amount debited to SEZ Re-investment Reserve		21.00
PGBP/GTI		**111.00**
Less: **Deduction under section 10AA**		
= ₹ (48 +21) lacs × ₹ 100 lacs / ₹ 120 lacs = 57.5 × 50% (being the 11th year)	28.75	
Amount debited to SEZ Re-investment Reserve Account	21.00	
Whichever is less is deductible		21.00
Total Income		**90.00**
Tax on total income@30%		27.00
Add: Health & Education cess @4%		1.08
Tax liability (as per normal provisions)		28.08

Computation of Adjusted total income and Alternate Minimum tax of ACHARYA LLP as per the provisions of section 115JC for A.Y. 2024-25

Particulars	₹ (in lakh)
Total income as per the normal provisions	90.00
Add: Deduction under section 10AA	21.00
Adjusted total income	111.00
Tax @18.5% of Adjusted Total Income	20.535
Add: Surcharge @12% as the adjusted total income is > ₹ 1 crore	**2.4642**
Tax after surcharge	22.9992
Add: Health & Education cess @4%	0.9199
Alternate Minimum Tax as per section 115JC	**23.9191**

Since the tax payable as per the normal provisions of the Act is more than the alternate minimum tax payable, the total income as per normal provisions shall be liable to tax and the tax payable for A.Y. 2024-25 shall be ₹ 28.08 lakhs.

There would be no tax credit for ACHARYA LLP to carry forward and set off against income-tax payable in the subsequent 15 assessment years.

The provisions of alternate minimum tax would also be applicable to an overseas LLP. Hence, the tax liability would remain the same even where ACHARYA LLP is an overseas entity.

3. Mr. Prem commenced operations of the businesses of setting up a warehousing facility for storage of food grains, sugar and edible oil on 1.4.2023.

S. No.		Food grains	Sugar	Edible Oil
				₹ in lakhs
1	Profits from business (computed) before allowing deduction under section 35AD/section 32	125	60	30
2	Capital expenditure on land and building purchased exclusively for the business (January 2023 - March 2023) and capitalized in the books of account as on 1st April, 2023	120	90	75
3	Cost of land included in (2) above	75	60	45
4	Capital expenditure incurred during P.Y. 2023-24 on extension/reconstruction of building purchased and used exclusively for the business	30	20	10

Compute Mr. Prem's total income and tax liability for the A.Y. 2024-25, assuming that Mr. Prem does not have any income other than income from the above businesses.

Assessee has shifted out from the provisions of section 115BAC.

Solution

Computation of total income of Mr. Prem for A.Y. 2024-25

Particulars	₹ (in lakhs)	
Profits and gains of business or profession		
Profits and gains from the specified business of setting up a warehousing facility for storage of food grains and sugar [See Working Note below]		60.00
Profit from business of setting up of warehouse for storage of **edible oil** (before providing for depreciation under section 32)	30.00	
Less: Depreciation under section 32		
10% of ₹ 40 lakh, being (₹ 75 lakh – ₹ 45 lakh + ₹ 10 lakh)	4.00	26.00
Total Income		86.00

Computation of tax liability for A.Y. 2024-25

Particulars	₹ in lakhs
Tax liability under the normal provisions of the Income-tax Act, 1961 [30% of ₹ 76 lakhs (₹ 86 lakhs – ₹ 10 lakhs) + ₹ 1,12,500]	23.93
Add: Surcharge @10% (Since total income > ₹ 50 lakhs but does not exceed ₹ 1 crore)	2.39
	26.32
Add: Health and education cess @4%	1.05
Total tax liability	27.37

Adjusted Total Income	**₹ in lakhs**	
Total Income		86.00
Add: Deduction under section 35AD [See Working Note below]	125.00	
Less: Depreciation under section 32 [10% of ₹ 125 lakh]	12.50	112.50
Adjusted Total Income		198.50
AMT @18.5%		36.72
Add: Surcharge@15% (Since adjusted total income > ₹ 1 crore)		5.51
		42.23
Add: Health and Education cess @4%		1.69
Tax liability under section 115JC		43.92
Since the regular income-tax payable is less than the AMT payable, the adjusted total income of ₹ 198.50 lakhs shall be deemed to be the total income of Mr. Prem and tax is payable @18.5% thereof plus surcharge@15% (since adjusted total income exceeds ₹ 1 crore) plus cess@4%. Therefore, the tax liability is ₹ 43.92 lakhs. **AMT Credit to be carried forward under section 115JD** Tax liability under section 115JC Less: Tax liability under the regular provisions of the Income-tax Act, 1961		43.92 27.37
		16.55

Working Note:

Computation of income 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)	125	60	185
	Less: Deduction under section 35AD			
(B)	Capital expenditure incurred prior to 1.4.2023 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2023 (excluding the expenditure incurred on 1.4.2023 (excluding the expenditure incurred on acquisition of land) = ₹ 45 lakh (₹ 120 lakh – ₹ 75 acquisition of land) = ₹ 30 lakh (₹ 90 lakh – ₹ 60 lakh)	45	30	75
(C)	Capital expenditure incurred during the P.Y. 2023-24	30	20	50
(D)	Total capital expenditure (B + C)	75	50	125
(E)	Deduction under section 35AD - 100% of capital expenditure	75	50	125
(F)	Profits from specified business of setting up and operating a warehousing facility for storage of food gains and sugar (A-E)	50	10	60

Notes:

(i) Deduction of 100% of the capital expenditure is available under section 35AD for A.Y. 2024-25 in respect of specified business of setting up and operating a warehousing facility for storage of food grains and sugar.

(ii) Since setting up and operating a warehousing facility for storage of edible oil is not a specified business, Mr. Prem is not eligible for deduction under section 35AD in respect of capital expenditure incurred for such business. **Mr. Prem 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. 2023-24.**

4. M/s. Omega & Co., a partnership firm in India, is engaged in development of software and providing IT enabled services through two units, one of which is located in a notified Special Economic Zone (SEZ) in Noida (commenced operations from 01.04.2013). The particulars relating to previous year 2023-24 furnished by the assessee are as follows:

Total Turnover: SEZ unit ₹ 180 lakhs and the other unit ₹ 120 lakhs

Export Turnover: SEZ unit ₹ 120 lakhs and the other unit ₹ 80 lakhs

Profit: SEZ unit ₹ 60 lakhs and the other unit ₹ 30 lakhs.

Amount debited to Statement of Profit and Loss and credited to Special Economic Zone Re-Investment Reserve Account ₹ 16 lakhs.

Considering that the firm has no other income during the year, compute the tax payable by the firm for the A.Y. 2024-25 by integrating, analysing and applying the relevant provisions of income-tax law.

Solution

Computation of total income and tax liability of M/s. Omega & Co., a partnership firm, as per the normal provisions of the Act for A.Y. 2024-25

Particulars		₹ (in lakhs)
Business income (before deduction under section 10AA) (₹ 60 lakhs + ₹ 30 lakhs)		90.00
Add: Amount debited to SEZ Re-investment Reserve		16.00
PGBP/GTI		106.00
***Less:* Deduction u/s 10AA (₹ 60 lakhs + ₹ 16 lakhs) × ₹ 120 lakhs/₹ 180 lakhs = 50.67 x 50% (being the 11th year)**	**25.33**	
Amount credited to SEZ Re-investment Reserve Account	16.00	
- **whichever is less is deductible**		**16.00**
Total Income		**90.00**
Tax on total income@30%		27.00
Add: H & Education cess@4%		1.04
Tax liability (as per normal provisions)		**28.04**

Computation of Adjusted total income and Alternate Minimum tax of M/s. Omega & Co., a partnership firm, as per the provisions of section 115JC for A.Y. 2024-25

Particulars	₹ (in lakh)
Total income as per the normal provisions	90.00
Add: Deduction under section 10AA	16.00
Adjusted total income	**106.00**
Tax@18.5% of Adjusted Total Income	19.61
Add: Surcharge @12% as the adjusted total income is > ₹ 1 crore	2.35
	21.96
Add: H & Education cess @ 4%	0.88
Alternate Minimum Tax as per section 115JC	22.84

Since the tax payable as per the normal provisions of the Act is more than the alternate minimum tax payable, the total income as per normal provisions shall be liable to tax and the tax payable for A.Y. 2024-25 shall be ₹ 28.04 lakhs.

5. Mr. Anish, carrying on the business of operating a warehousing facility for storage of food grains, has a total income of ₹ 95 lakh for the P.Y. 2023-24. He commenced operations of the business in April, 2023. In computing the total income for the P.Y. 2023-24, he had claimed deduction under section 35AD in respect of investment of ₹ 82 lakh in building (on 1.5.2023) for operating the warehousing facility for storage of food grains.

Compute his tax liability for A.Y. 2024-25. Assessee has shifted out from the provisions of section 115BAC.

Solution:

Computation of tax liability of Mr. Anish for A.Y. 2024-25

Particulars		₹
Tax liability on total income of ₹ 95 lakhs under the normal provisions of the Income-tax Act, 1961 [₹ 1,12,500 lakhs (tax on income upto ₹ 10 lakhs) + 30% of ₹ 85 lakhs (₹ 95 lakhs – ₹ 10 lakhs)]		26,62,500 2,66,250
Add: Surcharge@10% (since total income > ₹ 50 lakh)		29,28,750 1,17,150
Add: Health & Education cess@4%		**30,45,900**
Total tax liability		95,00,000
Adjusted Total Income		
Total Income		
Add: Deduction under section 35AD [100% of ₹ 82 lakhs]	82,00,000	73,80,000
Less: Depreciation under section 32 [10% of ₹ 82 lakhs]	8,20,000	
Adjusted Total Income		1,68,80,000
Alternate Minimum Tax (AMT)@18.5%		31,22,800
Add: Surcharge@15% (since adjusted total income > ₹ 100 lakh)		4,68,420
		35,91,220
Add: Health & Education cess@4%		1,43,649
Tax liability under section 115JC (Rounding off)		37,34,870
Since the regular income-tax payable is less than the AMT payable, the adjusted total income of ₹ 168,80,000 shall be deemed to be the total income of Mr. Anish and tax is payable@18.5% thereof plus surcharge@15% and cess@4%.		
Therefore, the tax liability is ₹ 37,34,870 lakhs.		
AMT Credit to be carried forward under section 115JD		
Tax liability under section 115JC		37,34,870
Less: Tax liability under the regular provisions of the Income-tax Act, 1961		30,45,900
AMT Credit		**6,88,970**

Notes:

(1) Investment-linked tax deduction claimed under section 35AD is within the scope of AMT. Accordingly, section 115JC is provided that total income shall be increased by the deduction claimed under section 35AD, as reduced by the depreciation allowable under section 32, as if no deduction under section 35AD was allowed in respect of the asset for which such deduction is claimed.

(2) The specified business of operating a warehousing facility for storage of food grains is eligible for deduction@100% of capital expenditure under section 35AD.

(3) AMT Credit can be carried forward for a maximum period of 15 assessment years immediately succeeding the assessment year for which the tax credit becomes allowable. Such credit is allowed to be set-off against the tax payable on total income in an assessment year in which the tax is computed in accordance with the regular provisions of the Income-tax Act, 1961, to the extent of excess of such tax payable over the AMT of that year.

6. PQR LLP, a limited liability partnership set up a unit in Special Economic Zone (SEZ) in the financial year 2019-20 for production of washing machines. The unit fulfills all the conditions of section 10AA of the Income-tax Act, 1961.

During the financial year 2022-23, it 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, 2023 and the expenditure of ₹ 75 lakhs was capitalized in the books on that date.

Relevant details for the financial year 2023-24 are as follows:

Particulars	₹
Profit of unit located in SEZ	**40,00,000**
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) payable by PQR LLP for Assessment Year 2024-25.

Solution:

Computation of total income and tax liability of PQR LLP for A.Y. 2024-25
(under the regular provisions of the Income-tax Act, 1961)

Particulars	₹	₹
Profits and gains of business or profession		
Business income of SEZ unit		40,00,000
Profit from operation of warehousing facility	1,05,00,000	
Less: Deduction under section 35AD [See Note (2) below]	65,00,000	
Business income of warehousing facility chargeable to tax		40,00,000
Gross Total Income		80,00,000
Less: **Deduction under section 10AA – SEZ Units [See Note (1) below]**		32,00,000
TOTAL INCOME		48,00,000
Computation of tax liability (under the normal/regular provisions)		
Tax@30% on ₹ 48,00,000		14,40,000
Add: Health & Education cess@4%		57,600
Total tax liability		14,97,600

Computation of adjusted total income of PQR LLP for levy of Alternate Minimum Tax

Particulars	₹	₹
Total Income (as computed above)		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	6,50,000	58,50,000
Adjusted Total Income		1,38,50,000
Alternate Minimum Tax@18.5%		25,62,250
Add: Surcharge@12% (since adjusted total income > ₹ 1 crore)		3,07,470

Tax after surcharge		28,69,720
Add: Health & Education cess@4%		1,14,789
Total Tax		29,84,509
Tax liability under section 115JC (rounded off)		29,84,510

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@12% and cess@4%. Therefore, the tax liability is ₹ 29,84,510

AMT Credit to be carried forward under section 115JEE	**₹**
Tax liability under section 115JC	29,84,510
Less: Tax liability under the regular provisions of the Income-tax Act, 1961	14,97,600
	14,86,910

Notes:

1	**Deduction under section 10AA in respect of Unit in SEZ =** Export turnover of the Unit in X $\frac{\text{SEZ Profits of the Unit in SEZ}}{\text{Total turnover of the Unit in SEZ}}$ = ₹ 40,00,000 X $\frac{₹\ 80,00,000}{₹\ 1,00,00,000}$ = ₹ 32,00,000
2	Deduction@100% of the capital expenditure is available under section 35AD for A.Y. 2024-25 in respect of specified business of setting up and operating a warehousing facility for storage of agricultural produce
3	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. 2022-23 and capitalized in the books of account on 1.4.2023, being the date when the warehouse became operational, ₹ 65 lakhs would qualify for deduction under section 35AD.

7. ABC LLP has income of ₹ 14,00,000 under the head "Profit and Gains of Business or Profession" during the PY 2023-24. One of its businesses is eligible for deduction @100% of profits u/s 10AA for the AY 2024-25. The profit from such business included in the business income is ₹ 7,00,000. Compute the tax payable by the LLP assuming it has no other income during the PY 2023-24.

Answer:

Computation of tax payable under Income Tax of ABC LLP for the A.Y. 2024-25 relating to the P.Y. 2023-24

Particulars	Amount (₹)
Profit and Gains from Business or Profession	14,00,000
GTI	**14,00,000**
Less: Deduction under section 10AA	7,00,000
Total Income	**7,00,000**
Tax Payable (₹ 7,00,000 × 30%)	2,10,000
Add: Health & Education Cess @ 4%	8,400
Total Tax Payable	**2,18,400**

Computation of Alternate Minimum Tax (AMT) of ABC LLP for the A.Y. 2024-25 relating to the P.Y. 2023-24

Particulars	Amount (₹)
Total Income as per the provisions of Income Tax Act, 1961	7,00,000
Add: Deduction u/s 10AA	7,00,000
Adjusted Total Income	14,00,000
Alternate Minimum Tax Payable (₹ 14,00,000 × 18.5%)	2,59,000
Add: Health & Education Cess @ 4%	10,360
Total Tax Payable	**2,69,360**

(i) Since the Income Tax payable as per the provision of the Income Tax Act is less than the Alternate Minimum Tax, the Adjusted Total Income of ₹ 14,00,000 would be deemed to be the Total Income of the LLP and the LLP would be liable to pay tax @18.5% thereof.

(ii) The amount of tax payable by ABC LLP for the A.Y. 2024-25 would therefore be ₹ 2,69,360.

(iii) ABC LLP is eligible for credit to the extent of **₹ 50,960 (i.e. ₹ 2,69,360 – ₹ 2,18,400)** to be set off in the year in which tax on Total Income computed under the regular provision of the Act exceeds the Alternate Minimum Tax. The credit shall be allowed to be carried forward **up to the 15th assessment year** immediately succeeding the assessment year for which such credit is allowable.

8. The following is the profit and loss account for the year ending 31.3.2024 of XYZ (LLP) having 3 partners:

Profit and Loss Account

Establishment & other expenses		*48,00,000*	*Gross profit*	*68,20,000*
Interest to partner @ 15%			*Rent from house property*	*1,60,000*
X	*90,000*		*Interest on bank deposits*	*10,000*
Y	*1,20,000*		*Profit on equity shares sold after*	
Z	*60,000*	*2,70,000*	*10 months through RSE*	*,60,000*
Salary to designated partners				
X	*2,40,000*			
Y	*1,80,000*	*4,20,000*		
Net profit		*17,60,000*		.
		72,50,000		***72,50,000***

Additional information:

1. *Establishment expenses include ₹ 1,20,000 on account of bonus which was due on 31.3.2024.*
2. *The LLP is eligible for 100% deduction under section 10AA.*
3. *Shares were sold through recognized stock exchange and securities transaction tax of ₹ 1000 is included in the establishment expenses on account of the same.*

Compute the tax payable by the Limited Liability Firm.

Solution:

Computation of total income of XYZ (LLP) for the AY 2024-25

	₹	₹	₹
Income under the head house property			
Actual Rent		1,60,000	
Less: Deduction 30%		48,000	1,12,000
Business income			
Net profit as per P&L A/c		**17,60,000**	
Less: Income credited but either exempt or taxable under other head			
Rent	1,60,000		
Interest on bank deposit	10,000		
Profit on sale of shares sold after 10 months	2,60,000	4,30,000	
		13,30,000	
Add: Expenses disallowed			
Bonus as per section 43B	1,20,000		
Securities Transaction Tax	1,000		
Interest to partners in excess of 12%	54,000		
Salary to partners	4,20,000	5,95,000	
Book Profit		**19,25,000**	
Less : Salary as per section 40(b) (See working note)		4,20,000	**15,05,000**
Short-term capital gain on sale of equity shares **[Section 111A]**			2,60,000
Income from other sources			**10,000**
Gross Total Income			**18,87,000**
Less: Deduction **under section 10AA**			15,05,000
Total income			**3,82,000**

Regular income tax payable on total income

(1) Short-term capital gain of ₹ 2,60,000 @ 15% [Sec 111A]	39,000
(2) Balance total income ₹ 1,22,000 @ 30%	36,600
	75,600

Adjusted total income

Total income	3,82,000
Add : Deduction u/s 10AA	15,05,000
	18,87,000

Alternate Minimum Tax (AMT) 18.5% on ₹ 18,87,000 = ₹ 3,49,095

Hence, adjusted total income shall be total income and the tax payable shall be the alternate minimum tax i.e. on ₹ 18,87,000 @ 18.5% ***+ 4% (H&EC).***

Tax payable

Alternate minimum tax 18.5% on ₹ 18,87,000	**3,49,095**
Add : 4% H&EC	13,964
	3,63,059
Rounded off	**3,63,060**

Working Note:

Salary allowed u/s 40(b)

Book profit		**19,25,000**
Maximum salary allowed		
First 3,00,000 of book profit @ 90%	2,70,000	
Balance ₹ 16,25,000 of book profit @ 60%	9,75,000	12,45,000

Salary allowed u/s 40(b) shall be ₹ 12,45,000 or ₹ 4,20,000 whichever is lower i.e. ₹ 4,20,000.