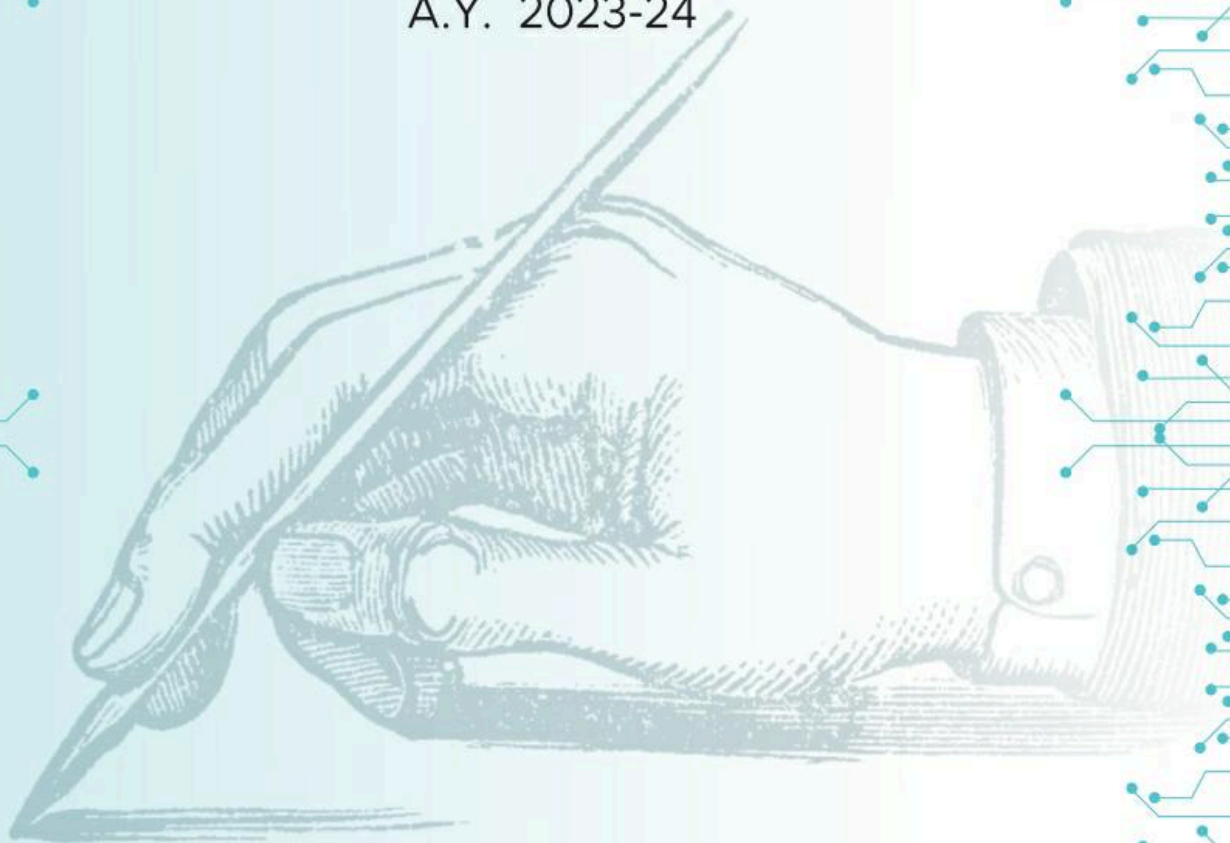


Handwritten Notes

CA | CMA INTERMEDIATE DIRECT TAX
May | June & Nov | Dec 2023

All New Revised Edition
A.Y. 2023-24



CA BHANWAR BORANA

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“COMPACT” is a Color- coded book for easy understanding

- *Black-Headings*
- *Blue – Main Content*
- *Red – Important Point & Words*
- *Green – Amendments*

*Thanks to **Aadil Sayyed** for Design this Book*

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Happy reading.
Regards,*

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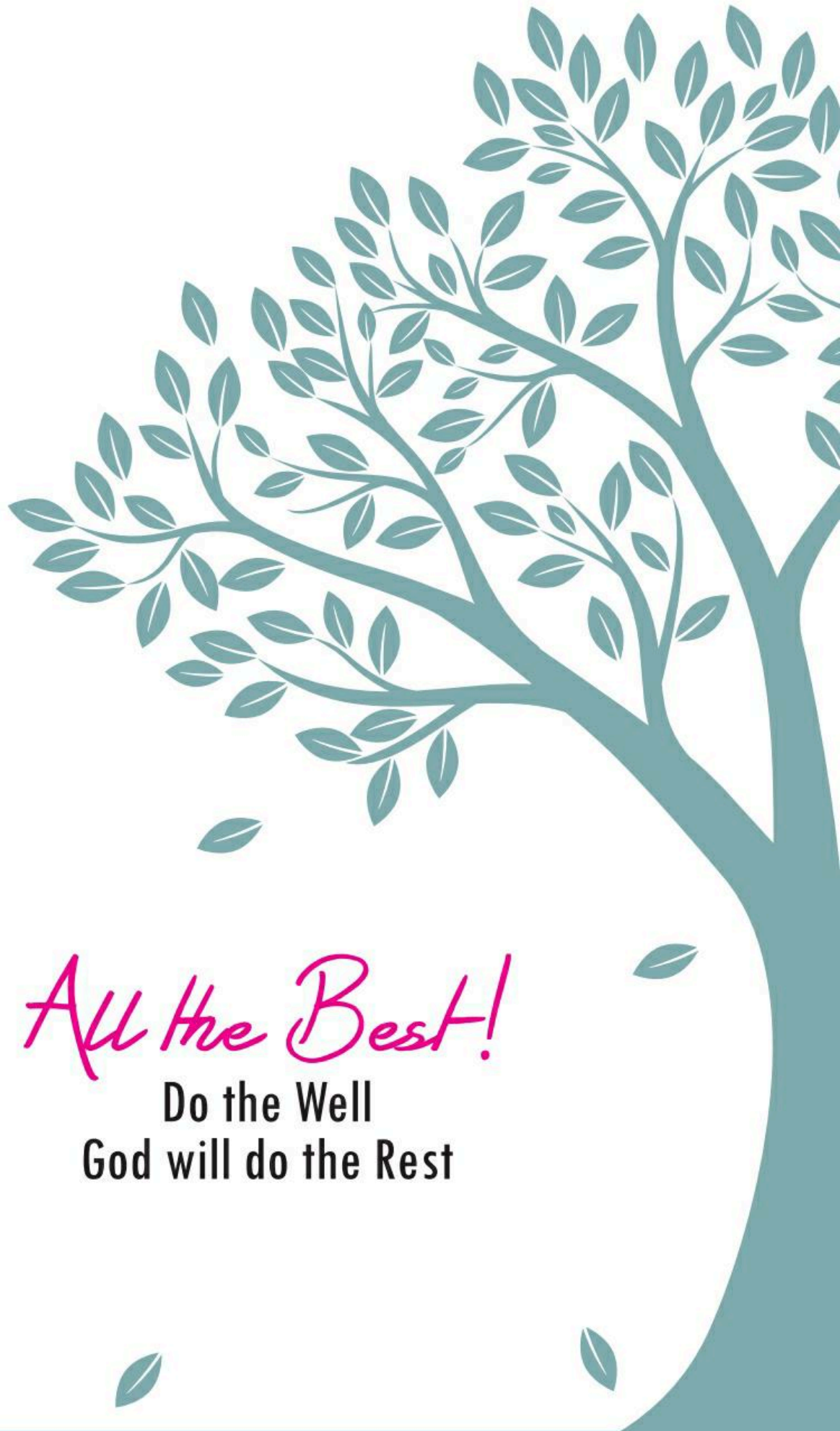
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INTERMEDIATE COMPACT

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All the Best!

**Do the Well
God will do the Rest**

Power to levy Tax:

Income-tax is the most significant direct tax. **Entry 82 of the Union List** i.e., List I in the Seventh Schedule to Article 246 of the Constitution of India has given the power to the Parliament to make laws on taxes on income other than agricultural income. Entry No. 46 of state list has gives power to State Govt. to levy tax on Agriculture Income.

Sources of Income Tax Law

1. Income Tax Act, 1961

IT Act is the main source of Income tax law. It's provide determination of Total Income, Tax Liability & Procedure of assessment etc.

2. Income Tax Rules, 1962

IT Act empowered Central Board of Direct Tax (CBDT) to make rules. All Forms, procedure, principles of Valuation of perquisites are provided in the Rules.

3. Finance Act

a) Presenting the Bill: Every year, the Finance Minister presents a Finance Bill in the parliament, which contents various amendments proposed to be made in the direct and indirect taxes. Finance Bill 2022 presented by Nirmala Sitharaman on 1st Feb. 2022.

b) Approval & Assent of Bill: As soon as the Bill passed by both the houses of the parliament and thereafter receives the assent of President, in becomes the Finance Act. Finance Bill 2022 became Finance Act 2022 on 30th March 2022 after receive assent of president.

c) Amendments: The amendments proposed therein are then incorporated in the Income Tax Act. The FA brings amendments to Direct Tax Laws & it provides Tax rates also.

d) The First Schedule to the Finance Act contains four parts which specify the rates of tax -

→ Part I of the First Schedule to the Finance Act specifies the rates of tax applicable for the current Assessment Year.

- Part II specifies the rates at which tax is deductible at source for the current Financial Year.
- Part III gives the rates for calculating income-tax for deducting tax from income chargeable under the head "Salaries" and computation of advance tax.
- Part IV gives the rules for computing net agricultural income.

4. Circulars/Notifications from CBDT

Circulars are issued by the CBDT to clarify the meaning & scope of certain provisions contained in the Act. Notifications are issued by Central Govt./CBDT to give effect to the provision of The Act.

Circulars are binding to Assessing officer but not on Assessee and Courts. However Assessee can take advantage of Circulars which are beneficial to them.

5. Supreme Court & High Court Decisions

Various issues which arise out of the provisions of the Act are decided by HC/SC.

Charge of Income Tax Sec: 4

-Income Tax is charged for every **Assessment Year**

-It is charge on **every person** as define u/s 2(31).

-It is charge on the total income earned by the person during **Previous Year**.

-The tax is levied at the rates prescribed by Finance Act.

Assessment Year Sec: 2(9)

A.Y. means the period of twelve months commencing on the 1st day of April every year.

Income earned in Previous year is taxed in Assessment year. The A.Y. 2023-24 is a period of 12 months commencing from the 1st April 2023 and ending on 31st March 2024.

Previous Year Sec: 3

P.Y. means the financial year immediately preceding the assessment year.

For A.Y. 23-24, the PY shall be period from 1st April 2022 to 31st March 2023 & the total income earned in PY 22-23 is assessed in the AY 23-24

Provided that, in the case of a business or profession newly set up, or a source of income newly coming into existence, in the said financial year, the previous year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and ending with the said financial year.

- # Income of a previous year is assessed in the assessment year following the previous year
 Exceptions: Cases where income of a previous year is assessed in the previous year itself
1. Shipping business of non-resident (Section 172)
 2. Persons leaving India and he has no present intention of returning to India (Section 174)
 3. AOP/ BOI/ Artificial Juridical Person formed for a particular event or purpose (Section 174A)
 4. Persons likely to transfer property to avoid tax (Section 175)
 5. Discontinued business (Section 176)

- # Person Sec: 2(31)
 Person includes
- Individual
 - Hindu Undivided Family (HUF)
 - Company
 - Firm (Includes LLP)
 - Association of Person or Body of Individual (AOP/BOI)
 - Local Authority
 - Artificial juridical person

- # Assessee Sec: 2(7)
 It means any person who is liable to pay any tax or any other sum under IT Act,61
 It includes-
- Every person in respect of whom any proceeding under the Act has been taken for the assessment of :-

- a. his income; or
 b. the income of any other person in respect of which he is assessable ; or
 c. the loss sustained by him or such other person ; or
 d. the amount of refund due to him or to such other person.
- Every Person who is deemed to be assessee under any provision of this Act. (Trustee of Trust are representative assessee
 - Every person who is deemed to be an assessee-in-default under any provision.

General Tax Rates for A.Y. 2023-24

#	Individual, HUF, AOP, BOI, Artificial Juridical Person	Tax Rate
A.	For Individual, HUF, AOP, BOI, AJP (Resident or Non-resident)	
	Total income upto ₹2,50,000 (Basic Exemption Limit)	Nil
	> ₹2,50,000 upto ₹5,00,000	5%
	> ₹5,00,000 upto ₹10,00,000	20%
	> ₹10,00,000	30%
B.	For Senior Citizen (Resident Individual age 60 years or more in P.Y.)	
	Total income upto ₹3,00,000 (Basic Exemption Limit)	Nil
	> ₹3,00,000 upto ₹5,00,000	5%
	> ₹5,00,000 upto ₹10,00,000	20%
	> ₹10,00,000	30%
C.	For Super Senior Citizen (Resident Individual age 80 years or more in P.Y.)	
	Total income upto ₹5,00,000 (Basic Exemption Limit)	Nil
	> ₹5,00,000 upto ₹10,00,000	20%
	> ₹10,00,000	30%

- # Circular No 28/2016 dt 27.07.2016
- Any Resident Individual whose 60th/80th birthday falls on 1st April 2023 shall be treated as having completed the age of 60/80 years on 31st March 2023 i.e. PY 2022-23 (AY 2023-24) and hence would be eligible for the higher basic exemption limit of ₹3,00,000 & ₹5,00,000.

#	Surcharge for Assessee being Individual, HUF, AOP, BOI and AJP:		
	Condition		Surcharge - % of tax on
(i)	Total Income	upto ₹50 Lakhs	Total Income Nil
(ii)	Total Income	>₹50 Lakhs but upto ₹1Cr.	Total Income 10%
(iii)	Total Income	> ₹1Cr. but upto ₹2Cr.	Total Income 15%
(iv)	Dividend, Capital gain u/s 111A, 112A & 112	> ₹2Cr.	Dividend, Capital gain u/s 111A, 112A & 112 15%
(v)	Remaining Total Income (Total Income excluding Dividend, Capital gain u/s 111A, 112A & 112)	> ₹2Cr. but upto ₹5Cr.	Dividend, Capital gain u/s 111A, 112A & 112 15% Remaining Total Income 25%
(vi)	Remaining Total Income (Total Income excluding Dividend, Capital gain u/s 111A, 112A & 112)	> ₹5 Cr.	Dividend, Capital gain u/s 111A, 112A & 112 15% Remaining Total Income 37%

In other words:

- In any case, surcharge on Dividend and Capital gain u/s 111A, 112A & 112 shall not exceed 15%.
- Assessee will never be hit with surcharge of 25% merely because such dividend & capital gains push his total income into "exceeding ₹2 Crores but upto ₹5 Crores" brackets but the remaining total income is less than ₹2 Crores.
Assessee will be hit with surcharge of 25% on his remaining total income only if the remaining total income exceeds ₹2 Crores.
- Likewise, Assessee will never be hit with surcharge of 37% merely because such dividend & capital gains push his total income into "exceeding ₹5 Crores" brackets but the remaining total income is less than ₹5 Crores.
- Assessee will be hit with surcharge of 37% on his remaining total income only if the remaining total income exceeds ₹5 Crores.

→	Examples			" ₹ in Lakhs"	
	Total Income	Specified Income	Total Income	Surcharge applicable on Tax	
	excluding Specified Income	(CG u/s 111A/112A /112 & Dividend)		Calculated on	
				Specified Income	Other Income
1	20	25	45	NIL	NIL
2	45	50	95	10%	10%
3	45	70	115	15%	15%
4	45	300	345	15%	15%
5	45	600	645	15%	15%
6	60	30	90	10%	10%
7	60	70	130	15%	15%
8	60	300	360	15%	15%
9	60	700	760	15%	15%
10	150	45	195	15%	15%
11	150	250	400	15%	15%
12	150	500	650	15%	15%
13	300	100	400	15%	25%
14	300	250	550	15%	25%
15	600	100	700	15%	37%

For Company

A. Domestic Company

(1) Total Turnover or Gross Receipt of P.Y. 2020-21

Tax Rates

upto ₹ 400 Crore

25%

(ii) Otherwise

30%

B. Foreign Company

40%

Surcharge:

Domestic Co.

Foreign Co.

Total Income (NTI)

> ₹ 1 Crore but upto ₹ 10 Crore

7%

2%

> ₹ 10 Crore

12%

5%

For Partnership Firm / LLP / Local Authority

Tax Rate : 30%

Surcharge: @ 12% of Tax if NTI > ₹ 1 Crore

Note : In all the above cases, Health & Education Cess is applicable @ 4% of Tax (includes surcharge)

#	For Co-operative societies	Tax rate
	Total Income upto ₹10,000	10%
	Total Income > ₹10,000 but upto ₹20,000	20%
	Total Income > ₹20,000	30%

Surcharge : @ 12% of tax if Total Income > ₹ 1 Crore

→ Example: 1

Mr. Hari is a resident, aged 42 years. His income details for PY 2022-23 are as follows:

- (i) Capital gains u/s 112A - ₹ 25,00,000
- (ii) Capital gains u/s 111A - ₹ 20,00,000
- (iii) Other income - ₹ 70,00,000

Calculate his tax liability for AY 2023-24

Solution:

Particular	Tax Rate	Income	Tax
LTCG 112A (in excess of 1,00,000)	10%	25,00,000	2,40,000
STCG 111A	15%	20,00,000	3,00,000
Balance NTI	Normal Tax Rate	70,00,000	19,12,500
	Total	1,15,00,000	24,52,500
Add: Surcharge on LTCG 112A & STCG 111A @15%			81,000
Add: Surcharge on Balance Tax @15%			2,86,875
			28,20,375
Add: Health & Education Cess @ 4%			1,12,815
Net Tax Payable			29,33,190

→ Example: 2

Mr. Jay is a resident, aged 32 years. His income details for PY 2022-23 are as follows:

- (i) Capital gains u/s 112A - ₹ 1,00,00,000
- (ii) Capital gains u/s 111A - ₹ 2,00,00,000
- (iii) Other income - ₹ 1,00,00,000

Calculate his tax liability for AY 2023-24

Solution :

Particular	Tax Rate	Income	Tax
LTCG 112A (in excess of 1,00,000)	10%	1,00,00,000	9,90,000
STCG 111A	15%	2,00,00,000	30,00,000
Balance NTI	Normal Tax Rate	1,00,00,000	28,12,500
	Total	4,00,00,000	68,02,500
Add: Surcharge on LTCG 112A & STCG 111A @15%			5,98,500
Add: Surcharge on Balance Tax @15%			4,21,875
			78,22,875
Add: Health & Education Cess @ 4%			3,12,915
Net Tax Payable			81,35,790

→ Example: 3

Mr. BB is a resident, aged 31 years. His income details for PY 2022-23 are as follows:

- (i) Capital gains u/s 112A - ₹ 2,00,000
- (ii) Capital gains u/s 111A - ₹ 4,00,000
- (iii) Dividend ₹13,00,000
- (iv) Other income - ₹ 3,34,00,000

Calculate his tax liability for AY 2023-24

Solution :

Particular	Tax Rate	Income	Tax
LTCG 112A (in excess of 1,00,000)	10%	2,00,000	10,000
STCG 111A	15%	4,00,000	60,000
Balance NTI	Normal Tax Rate	3,47,00,000	1,02,22,500
	Total	3,53,00,000	1,02,92,500
Add: Surcharge on LTCG 112A & STCG 111A @15%			10,500
Add: Surcharge on tax on dividend income @15%			57,446
(Note=1 Tax on Dividend)			
Add: Surcharge on Balance Tax @25% (9839524 x 25%)			24,59,881
			1,28,20,327
Add: Health & Education Cess @ 4%			5,12,813
Net Tax Payable			1,33,33,140

Note : Tax on dividend = $1,02,22,500 / 3,47,00,000 \times 13,00,000 = 3,82,976$

→ Example:4

Mr. Aadil is a resident, aged 26 years. His income details for PY 2022-23 are as follows:

- (i) Capital gains u/s 112A - ₹ 2,90,000
- (ii) Capital Gain u/s 112 - ₹ 30,00,000
- (iii) Other income - ₹ 2,50,00,000

Calculate his tax liability for AY 2023-24.

Particular	Tax Rate	Income	Tax
LTCG 112A (in excess of 1,00,000)	10%	2,90,000	19,000
LTCG 112	20%	30,00,000	6,00,000
Balance NTI	Normal Tax Rate	2,50,00,000	73,12,500
	Total	2,82,90,000	79,31,500
Add: Surcharge on LTCG 112A & LTCG 112 @ 15%			92,850
Add: Surcharge on Balance Tax @ 25%			18,28,125
			98,52,475
Add: Health & Education Cess @ 4%			3,94,099
			1,02,46,574
Net Tax Payable			i.e. 1,02,46,570

Marginal Relief.

It is applicable in case of **All Assessee** where surcharge is applicable. You have to check marginal relief concept when the total income is little bit more than ₹50 Lakhs/ 1 Crore / 2 Crore/ 5 Crore (in case of Ind/HUF/AOP/BOI/AJP) or ₹1Crore (in case of Company /Firm/local Authority/ Co. op. society) or ₹10 Crore (in case of Company).

Example 1 : Total income of Shree Ltd. =	₹	1,01,00,000
(Indian Co.)		
Tax on Total income **		30,30,000
(+) surcharge @ 7%		2,12,100
<u>Restricted to</u>		32,42,100
Tax on ₹ 1 cr + (NTI -1 cr)		31,00,000
(₹ 30,00,000 + ₹ 1,00,000)		
		31,00,000

← Marginal relief of ₹ 142100

(+) Health & Education cess @ 4%	1,24,000
----------------------------------	----------

Tax Payable	<u>32,24,000</u>
-------------	------------------

In above Example: Income over ₹ 1 cr	= ₹ 1,00,000
---	--------------

Tax	= ₹ 2,42,100
-----	--------------

If extra tax is more than extra income then difference will be marginal relief.

** Assume Tax rates of 25% NOT Applicable.

→ Example - 2 :

Total income of Tree Ltd (Indian Co.)	₹ 10,02,30,000
---------------------------------------	----------------

..Tax on Total income**	3,00,69,000
-------------------------	-------------

(+) surcharge @ 12%	<u>36,08,280</u>
---------------------	------------------

<u>Restricted to</u>	3,36,77,280	← Marginal relief
----------------------	-------------	-------------------

Tax on ₹ 10 crore + (NTI - 10 Crore)	<u>3,23,30,000</u>	← of ₹ 13,47,280
---------------------------------------	--------------------	------------------

(3,21,00,000 + 2,30,000)	
--------------------------	--

₹3,23,30,000

(+) Health & Education cess @ 4%	₹ 12,93,200
----------------------------------	-------------

Tax Payable	<u>₹3,36,23,200</u>
-------------	---------------------

** Assuming 25% rate is not applicable

→ Example: 3

Total Income of Mr. Sam, a Non-resident (age 62 years) is ₹ 1,01,00,000

Tax on Total Income	₹	₹
---------------------	---	---

Upto 2,50,000	Nil
---------------	-----

>2,50,000 upto 5,00,000	12,500
-------------------------	--------

>5,00,000 upto 10,00,000	1,00,000
--------------------------	----------

>10,00,000 upto 1,01,00,000	<u>27,30,000</u>	28,42,500
-----------------------------	------------------	-----------

Add: Surcharge @ 15%	<u>4,26,375</u>
----------------------	-----------------

32,68,875	← Marginal Relief
-----------	-------------------

<u>Restricted to</u>	
----------------------	--

Tax on 1 Crore + (NTI - 1 crore)	<u>31,93,750</u>	← D75,125
----------------------------------	------------------	-----------

30,93,750 + 1,00,000	31,93,750
(28,12,500+10%)	
Add: Health and Education Cess@4%	<u>1,27,750</u>
Tax Payable	33,21,500

→ Example: 4

Total Income of Mr.Devam a resident individual (Age 49 years) is ₹5,07,20,000

Tax on Total income	₹	₹
upto ₹2,50,000	Nil	
> 2,50,000 upto 5,00,000	12,500	
> 5,00,000 upto 10,00,000	<u>1,00,000</u>	
>10,00,000 upto 5,07,20,000	1,49,16,000	1,50,28,500
Add: Surcharge @ 37%		<u>55,60,545</u>
		2,05,89,045
<u>Restricted to</u>		
Tax on 5 Crore + (NTI - 5 Crore)		
1,85,15,625 + 7,20,000		<u>1,92,35,625</u>
		1,92,35,625
Add: Health & Education Cess @4%		<u>7,69,425</u>
Tax Payable		2,00,05,050

Marginal Relief
₹13,53,420

Rebate u/s 87A - For Resident individuals having NTI upto ₹ 5,00,000.

a.) 100% of tax payable, or

b.) ₹ 12,500

Whichever is Lower

This rebate shall be reduced before adding education cess.

→ Example: 1

	₹
Total income (NTI) of Mr. BB, aged 28 Years	4,40,000
Tax on ₹4,40,000	9,500
Less; Relief U/s 87A	

(i) Tax Amount

OR

(ii) ₹12,500

9,500

Nil

Add: Health & Education Cess @ 4%

Nil

Net Tax Payable

Nil

→ Example: 2 Total income of Mr Ravi, aged 35 years is ₹5,07,000

Tax on 5,07,000

13,900

Add: Health & Education Cess

556

Net tax Payable

14,456

Note : In above example rebate is not available since Total income is more than ₹5,00,000.

Important Note : Rebate u/s 87A available against all types of Income except LTCG u/s 112A.

Note : Net Taxable income (NTI) and Tax Amount should be Rounded Off to the nearest ₹ of 10.

Deemed Income

Sec 68: Cash Credit

Where any sum is found credited in the books of the assessee and assessee offers no explanation about the nature and source or the explanation offered is not

satisfactory in the opinion of the AO, the sum so credited may be treated as income of the assessee of that PY.

However, where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by the assessee shall not be deemed to be satisfactory, if, the person in whose name such credit is recorded also offers no explanation about the nature and source or explanation not satisfactory.

→ Further, any explanation offered by a closely held company in respect of any sum credited as share application money, share capital, share premium or any such amount, by

→ whatever name called, in the accounts of such company shall be deemed to be not satisfactory, if, the resident person, in whose name such credit is recorded in the books of such company also not explains about the nature and the source of such sum or explanation not satisfactory.

These additional conditions would not apply if the person, in whose name the sum is recorded, is a Venture Capital Fund or Venture Capital Company registered with SEBI.

Sec 69: Unexplained Investments

Where in the PY, the assessee has made investments which are not recorded in the BOA and the assessee offers no explanation about the nature and the source of investments or explanation not satisfactory in the opinion of the AO, the value of the investments are taxed as deemed income of the assessee of that PY.

Sec 69A: Unexplained money, asset etc.

Where in any PY, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and the same is not recorded in the BOA and the assessee offers no explanation about the nature and source of acquisition of such money, bullion etc. or .

the explanation not satisfactory in the opinion of the AO, the money and the value of bullion etc. may be deemed income of the assessee of that PY

Sec 69B: Amount of investments etc., not fully disclosed in the books of account

Where in any PY, the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article and the AO finds that the amount spent on making such investments or in acquiring such articles exceeds the amount recorded in the BOA by the assessee and he offers no explanation for the difference or the explanation is unsatisfactory in the opinion of the AO, such excess may be deemed income of the assessee of that PY.

Example: If the assessee is found to be the owner of say 300 gms of gold (market value of which is ₹ 15 lakhs) during the PY ending 31.3.2023 but he has recorded to have spent ₹ 5 lakhs in acquiring it, the AO can add ₹ 10 lakhs (i.e., the difference of the FMV of such gold and ₹ 5 lakhs) as the income of the assessee, if the assessee offers no satisfactory explanation thereof.

Sec 69C: Unexplained expenditure

Where in any PY, an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or the explanation is unsatisfactory in the opinion of the AO, AO can treat such unexplained expenditure as the income for such PY. Such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as deduction under any head of income.

Sec 69D: Amount borrowed or repaid on hundi

Where any amount is borrowed on a hundi or any amount due thereon is repaid other than through an account-payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying for the PY in which the amount was borrowed or repaid, as the case may be.

However, where any amount borrowed on a hundi has been deemed to be the income of any person, he will not be again liable to be assessed in respect of such amount on repayment of such amount. The amount repaid shall include interest paid on the amount borrowed.

Note : Income mentioned u/s 68 to 69D taxable @60% (+25% Surcharge+4% HEC i.e. 78%).

#	Sec 115BB: Taxon winnings from lotteries, card game, horse race etc. (Refer sec 194B/BB)		
	-Tax Rate @ 30%		
#	Sec 115BBE: Deemed Income u/s 68 to 69D		
	- Tax Rate @ 60% (surcharge 25% and HEC @ 4%) effective rate 78 %		
	Notes:		
1.	No basic exemption or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act 1961 in computing such deemed income.		
2.	Further, no set off of any loss shall be allowable against income brought to tax u/s 68 or 69 or 69A or 69B or 69C or 69D.		
#	Section- 115BAC: Tax on Income of Individual & HUF (Added by FA-20 w.e.f. AY 21-22)		
	Assessee	Individual & HUF	
	Tax rate	Total income	Tax rate
		Upto ₹ 2,50,000	Nil
		₹2,50,001 to ₹ 5,00,000	5%
		₹ 5,00,001 to ₹ 7,50,000	10%
		₹ 7,50,001 to ₹ 10,00,000	15%
		₹ 10,00,001 to ₹12,50,000	20%
		₹12,50,001 to ₹15,00,000	25%
		> ₹15,00,000	30%
	→	Special Income (u/s 111A, 112, 112A etc.) shall be taxable @ Special rates.	
	Surcharge & cess	» Surcharge will be @ 10%/15%/25%/37% depending on Total Income of assessee.	
		» Health & Education cess (HEC) shall be @ 4% always.	
	AMT	» Assessee opting for sec. 115BAC is not required to pay AMT.	
		» B/F AMT credit cannot be set off against income u/s 115BAC.	
		Therefore, if assessee has b/f AMT credit, it should first exhaust the AMT credit and thereafter opt for sec 115BAC.	
	Conditions	1. Assessee does not claim following deductions / exemptions :	
		HP	» Interest u/s 24(b) for Self-occupied property

		» Set-off of HP loss (Let out /Deemed to be let-out property) against other head (HP loss shall be allowed to be carried forward as per law).
	Salary	» Standard deduction of 50,000, Entertainment allowance and Professional tax u/s 16. » Leave travel concession u/s 10(5). » HRA u/s 10(13A). » Allowance u/s 10(14) (except: DTDC) D. Travel allowance to a Divyang employee for commuting between the place of residence and place of duty. T. Travelling or tour allowance - to meet the cost of travel on tour or on transfer. D. Daily allowance: to meet the ordinary daily charges incurred by an employee due to absence from his normal place of duty. C. Conveyance allowance: to meet the expenditure on conveyance in performance of duties of an office.
	PGBP	Sec. 10AA Sec. 32(1)(iia), Sec. 35(1)(ii),(iia),(iii), 35(2AA) Sec. 35AD
	IFOS	» Allowance for income of minor u/s 10(32). » Allowance to Mps / MLAs u/s 10(17). » Deduction form Family pension u/s 57.
	Deduction	Deduction under Chapter VI-A Except : deduction u/s 80JJAA, 80CCD(2)
		2. Assessee cannot set-off any b/f loss or unabsorbed depreciation attributable to deduction referred above.
		3. HP loss cannot be set off against other head.
		4. No deduction or exemption for allowance or perquisite provided under any other law for the time being in force.

	<ul style="list-style-type: none"> » On failure to satisfy any of the forgoing conditions- option of concessional rate will be invalid and normal provisions of the Act shall apply- <ul style="list-style-type: none"> - in respect of relevant AY - in case of Individual/HUF not having business income. - in respect of relevant AY and subsequent AY - in case of Individual/HUF having business income.
Exercising the Option	<p>The option has to be exercised in FORM 10-IE along with ROI to be furnished u/s 139(1)</p> <ul style="list-style-type: none"> » In case of Individual/HUF not having business income: assessee may choose whether or not to exercise the option in each PY. Therefor assessee can choose any of the two-tax regime every year depending on their tax liability. » In case of Individual/HUF having Business income: Once the option is exercised it can't be withdrawn except assessee ceases to have PGBP.
Other points	<ul style="list-style-type: none"> » Rebate u/s 87A is available even if assessee opt for sec. 115BAC. » Clarification For the purpose of TDS, the CBDT has clarified that an employee not having income u/h PGBP and intending to opt for the concessional rate u/s 115BAC, is required to intimate to the employer of such intention for each PY and upon such intimation, the employer shall deduct TDS as per section 115BAC. If such intimation is not made by the employee, the employer shall make TDS without considering the provisions of section 115BAC. <p>It is also clarified that the intimation so made to the employer shall be only for the purposes of TDS during the PY and cannot be modified during that year. However, at the time of filing of return, employee may take different option.</p> <p>Further, in case of employee having income u/h PGBP shall also intimate to his employer. However, the intimation to the employer in his case for subsequent PYs must not deviate from the option u/s 115BAC once exercised in a PY.</p>

Note

If assessee opted section 115BAC then maximum depreciation allowed @ 40%.

Ex. : Mr Devam (32 years) is a salaried employee, employed by BB Pvt Ltd. as tax advisor. His income and tax incentives for the previous year 2022-23 are as follows -

Particulars	₹
Basic Salary	40,00,000
House rent allowance [₹ 60,000 is exempted u/s 10(13A)]	90,000
Leave travel concession (LTC) [₹ 1,80,000 is exempt u/s 10(5)]	1,95,000
New Pension Scheme contribution(NPS) by BB Pvt. Ltd. (12% of basic salary)	4,80,000
Payment of professional tax by Devam	2,000
Income from Property A (self-occupied)	(-) 1,05,000
Income from Property B (let out)	60,000
Income from Property C (let out)	(-) 80,000
Savings bank A/c interest received by minor son of Devam	800
Savings bank A/c interest received by minor daughter of Devam	2,000
Interest on saving bank account of Devam	28,000
Interest on public provident fund credited on March 31, 2023	55,000
Deduction under section 80D, 80E, 80EEA and 80EEB and 80G	2,81,000
NPS contribution by Devam	4,00,000
PPF contribution by Devam	20,000

Devam wants to know whether he should opt for alternative tax regime from the AY 2023-24

Solution :

Mr. Devam

PY 22-23 AY 23-24

Computation of Total Income & Tax Liability

Particular	Normal Provisions		Section 115BAC	
	₹	₹	₹	₹
Basic Salary		40,00,000		40,00,000
HRA	90,000		90,000	
Less: Exempt u/s 10(13A)	60,000	30,000	N/A	90,000
LTC	1,95,000		1,95,000	
Less: Exempt u/s 10(5)	1,80,000	15,000	N/A	1,95,000
NPS contribution by BB Ltd.		4,80,000		4,80,000
Gross Salary		45,25,000		47,65,000
Deduction u/s 16				
(i) Professional Tax		(2,000)		N/A
(ii) Standard Deduction		(50,000)		N/A
Net Salary		44,73,000		47,65,000
Income from House Property				
Self-Occupied Property - A		(1,05,000)		
Let-out Property- B	60,000			
Let-out Property- C	(80,000)	(20,000)	(20,000)	N/A
				Set-off not allowed so carry / forward
		43,48,000		47,65,000
Income from other sources				
SB Interest of Minor Son	800		800	
Less: Exempt u/s 10(32)	800	-	N/A	800
SB Interest of Minor Daughter	2000		2,000	
Less: Exempt u/s 10(32)	1500	500	N/A	2,000
SB Interest of Devam		28,000		28,000
Interest on PPF	55,000		55,000	
Less: Exempt u/s 10(11)	55,000	-	55,000	-

Gross Total Income		43,76,500		47,95,800
Less: Deductions u/c VI-A				
Sec. 80C : PPF	20,000		N/A	
Sec. 80CCD(1) EE cont. to NPS	3,50,000		N/A	
	3,70,000			
Sec. 80CCE Max. deduction u/s	1,50,000	1,50,000		
80C+80CCC+80CCD(1) is 1,50,000		50,000		
Sec. 80CCD(1B) EE cont. to NPS			N/A	
Sec. 80CCD(2) ER cont. to NPS				
(i) ER Cont. 4,80,000				
(ii) 10% of Salary 4,00,000		4,00,000		4,00,000
Lower of above				
Sec. 80D, 80E, 80EEA, 80EEB, 80G		2,81,000		N/A
Sec. 80TTA Interest on SB A/c		10,000		N/A
Total Income/ Net Taxable Income		34,85,500		43,95,800

Computation of Tax Liability

Tax as per Normal Provisions			Tax as per Sec 115BAC		
Particular	Rate	Tax Amount	Particular	Rate	Tax Amount
Upto 2,50,000	Nil	-	Upto 2,50,000	Nil	-
> 2,50,000 upto 5,00,000	5%	12,500	> 2,50,000 upto 5,00,000	5%	12,500
> 5,00,000 upto 10,00,000	20%	1,00,000	> 5,00,000 upto 7,50,000	10%	25,000
> 10,00,000 upto 34,85,500	30%	7,45,650	> 7,50,000 upto 10,00,000	15%	37,500
	-	8,58,150	> 10,00,000 upto 12,50,000	20%	50,000
Add: HEC @4%		34,326	> 12,50,000 upto 15,00,000	25%	62,500
Net Tax Payable		8,92,476	> 15,00,000 upto 43,95,800	30%	8,68,740
					10,56,240
			Add: HEC @ 4%		42,250
			Net Tax Payable		10,98,490

Conclusion : Since in the present question tax as per normal provision is lower so Mr. Devam should not opt 115BAC provisions for AY 23-24

Total income of an assessee cannot be determined without knowing his residential status. Scope of Total income is based on Residential status. If any person become Resident then his whole world income is taxable in India but if person become Non-Resident then only Indian Income is taxable for that person. Residential status shall be determined for every person for each previous year independently.

A. Residential Status of Individual

	Basic Conditions Section 6(1)	No. of Days	Satisfied
		stay in India	Not-Satisfied
1.	Stay in India for 182 days or more in P.Y. (Current Previous Year)		
	OR		
2.	Stay in India for 60 days or more in P.Y. and 365 days or more in Last 4 P.Y.'s		
#	Additional Conditions Section 6(6)		
1	Resident for 2 P.Y. or more in Last 10 P.Y.'s		
	AND		
2.	Stay in India for 730 days or more in Last 7 P.Y.'s		

If any individual satisfies **any One Basic condition** (at least one) then he is treated as Resident in India otherwise Non-Resident in India. If any individual become **Resident in India** then we have to check that such person in **Resident and ordinarily resident (R-OR)** in India or **Resident but Not ordinarily (R but NOR)** Resident in India. If the assessee satisfy **Both the additional conditions** then he is treated as **R and OR** otherwise **R but NOR**.

Notes:

- The day on which he **enters India**, as well as the day on which he leaves India, shall be taken into account as the **stay of Individual in India**.
- In the following cases only Basic condition no. 1 is applicable for Determination of residential status (**2nd Basic condition should be Ignored**).

- a. **Indian Citizen, Leave India** during the P.Y. for an **employment outside India**.
- b. **Indian Citizen** being a **crew member** of Indian Ship, **leave India** during the P.Y.
- c. **Indian Citizen or Person of Indian origin** engaged outside India in any employment or a Business or Profession, and **Visiting India** during P.Y. & **his total income** (excluding income from foreign source) is **upto ₹15 Lakhs in P.Y**

Note : Person of Indian Origin means, he or either of his parents or either of his grandparents were born in undivided India.

- # In case of Indian citizen or person of Indian origin having total income (other than foreign source income) of **more than ₹15 lakhs** then **2nd** basic condition applicable and instead of **60 days in PY, 120 days are considered**.

(Amended by FA, 20 w.e.f. AY 21-22)

- # **Indian Citizen or a person of Indian origin**, having total income, (other than foreign source income) **exceeding ₹15 lakhs** during the PY, who has been in India for a period or periods amounting in all to **120 days or more but less than 182 days** then he will be treated **as resident but not ordinary resident**. (In this case no need to check additional conditions)

(Amended by FA, 20 w.e.f. AY 21-22)

- # How many days an Indian Citizen or a Person of Indian origin visits in India during PY

Less than 120 days	120 days or more but upto 181 days	182 days or more irrespective of Total Income
NR in India	If he satisfied both the conditions then R but NOR otherwise NR (i) Stay in India for 365 days or more in last 4 PY, and (ii) His Total Income (other than foreign source income) more than ₹15 Lakhs.	If he satisfied both the conditions then R&OR otherwise R but NOR (i) Resident in India for 2 PY or more in last 10 PY's, and (ii) Stay in India for 730 days or more in last 7 PY's

- # Section 6(1A): Deemed Resident (Added by FA, 20 w.e.f. AY 21-22)

Not with standing anything contain in section 6(1), in case of Indian citizen, having total income (other than foreign source income), exceeding ₹15 lakhs during the PY shall be deemed to be resident in India in that previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature & he is always treated as R but NOR.

However, this provision will not apply in case of an individual who is a resident of India in the previous year as per section 6(1).

» **Liable to tax means** that there is an **income-tax liability on such person** under the law of that country for the time being in force. It also **includes a person** who has subsequently been **exempted from such liability** under the law of that country.

→ Note : Income from foreign sources means income which accrues or arises outside India except income derived from a business controlled in or a profession set up in India.

Example : 1 Mr Ali is a Indian Citizen, working in USA with Facebook Inc. During the PY 21-22 and PY 22-23 he visited India for 177 days and 145 days respectively. His stay in India for PY18-19, PY19-20, PY20-21 - 120days, 100 days & 155 days respectively.

His income for PY 22-23 is as follows:	₹
Income from Salary, Rent & Interest earned in USA	25,00,000
Income from Business in USA (Controlled from USA)	21,00,000
Income from Business in USA (Controlled from India)	8,00,000
Interest on Bank FD with YES Bank in Mumbai	11,00,000
LIC Premium Paid in India	2,60,000

Determine his residential status for AY 23-24.

Answer

For AY 23-24

Mr. Ali is in India for 145 days & his Total income (other than foreign source Income) is ₹ 17,50,000 [11,00,000+8,00,000-1,50,000 (80C)] & also his stay in India in last 4 PY's is more than 365 days [120+100+155+177=552] so he will be treated as R but NOR for AY 23-24

Example: 2

Would it make any difference in example 1 is US citizen but his grandfather was born in a village near Peshawar in 1943 ?

Answer: No, as above provisions are applicable for Indian citizen as well as person of Indian origin. In this case Ali is treated as person of Indian origin.

Example: 3

Suppose in example 1 Mr. Ali's Bank Interest is ₹8,40,000 instead of ₹11,00,000. What will be your answer ?

Answer: For AY 23-24 he will be treated as NR in India as his total income other than

foreign source income is upto 15 lakhs i.e. ₹ 14,90,000 [8,40,000 + 8,00,000 - 1,50,00(80C)]

Example: 4

Mr. Kabir is an Indian Citizen. Currently he is in employment with an entity in Dubai. During the PY he is visited India for 55 days. During the PY 22-23 Mr Kabir is not taxable in Dubai or any other country by reason of his domicile or residence. Determine his residential status for AY 23-24, if his Total Income other than foreign source income is;

Case:1 - ₹ 20,00,000

Case:2 - ₹ 14,00,000

Answer : Case: 1

Mr Kabir in India for only 55 days in PY 22-23 so he is not satisfying basic condition of section 6(1) but he satisfied following conditions of section 6(1A);

(i) Mr. Kabir is a Indian Citizen;

(ii) His Total Income (other than foreign source income) is more than ₹15,00,000; and

(iii) He is not liable to pay tax in any other country by reason of his domicile or residence

So he is treated as deemed to be resident in India but not ordinary resident. (R but NOR)

Case: 2

He does not satisfy conditions of section 6(1A) so he is treated as NR for PY 22-23.

Example: 5

Suppose in example: 4 (case: 1) Mr Kabir is a Foreign citizen but his grandparents was born in undivided India. Is your answer change ?

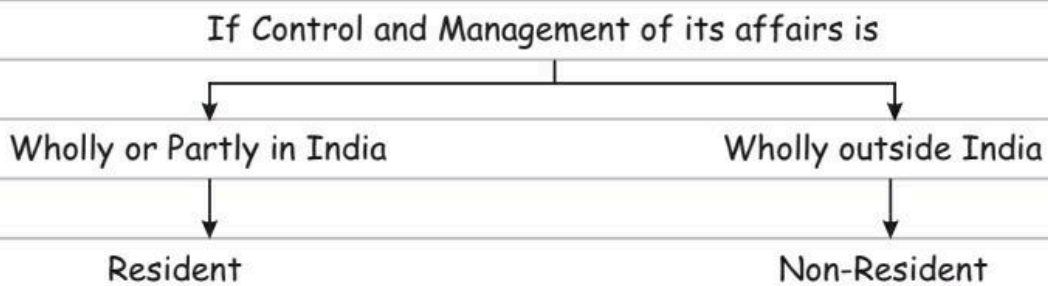
Answer

Yes, as section 6(1A) apply only to Indian Citizen, since he's not a Indian citizen so NR for PY 22-23.

3. Period of stay in India for an Indian citizen, being a member of the crew of a foreign bound ship leaving India [CBDT Notification]

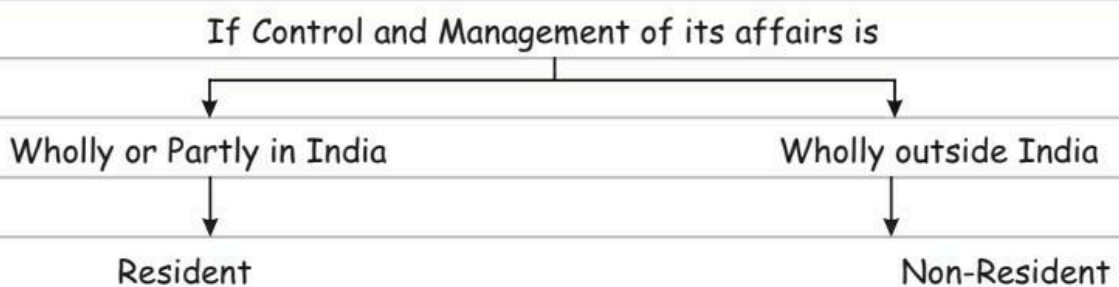
For computation of "No. of days stay in India" following time limit shall be excluded: -
"From the date entered into the continuous discharge certificate is respect of joining the ship & ending on the date entered into continuous discharge certificate in respect of signing of the ship."

B. Residential Status of Hindu Undivided Family Sec 6(2)



Note: If Karta of HUF is satisfying both the additional Conditions as per sec 6(6) the HUF is treated as R and OR otherwise R but NOR.

C. Residential Status of FIRM/AOP/BOI/Local Authority/AJP Sec 6(2)



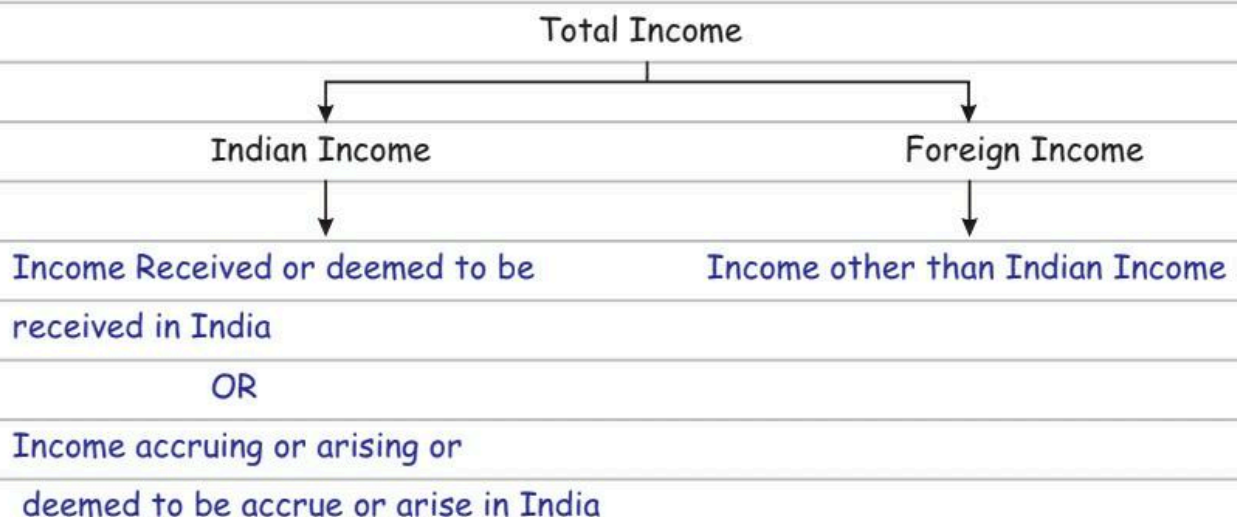
D Residential status of Company

a. Indian co. - **Always resident**

b. Other Co.-- If its "**place of effective management**" [POEM] is in India in that year then resident otherwise Non resident.

POEM means a "place where key management & commercial decisions that are necessary for the conduct of the business of an entity as a whole are in substance made".

Scope of Total Income



Taxability of Income for Individual & HUF

S. No.	Income	R & OR	R but NOR	NR
1.	Indian Income	Taxable	Taxable	Taxable
2.	Foreign Income			
	- Income from Business or Profession Controlled / setup from India.	Taxable	Taxable	Not Taxable
	- Other foreign Income.	Taxable	Not Taxable	Not Taxable

Taxability of Income for other Assessee

S. No.	Income	Resident	NR
1.	Indian Income	Taxable	Taxable
2.	Foreign Income	Taxable	Not Taxable

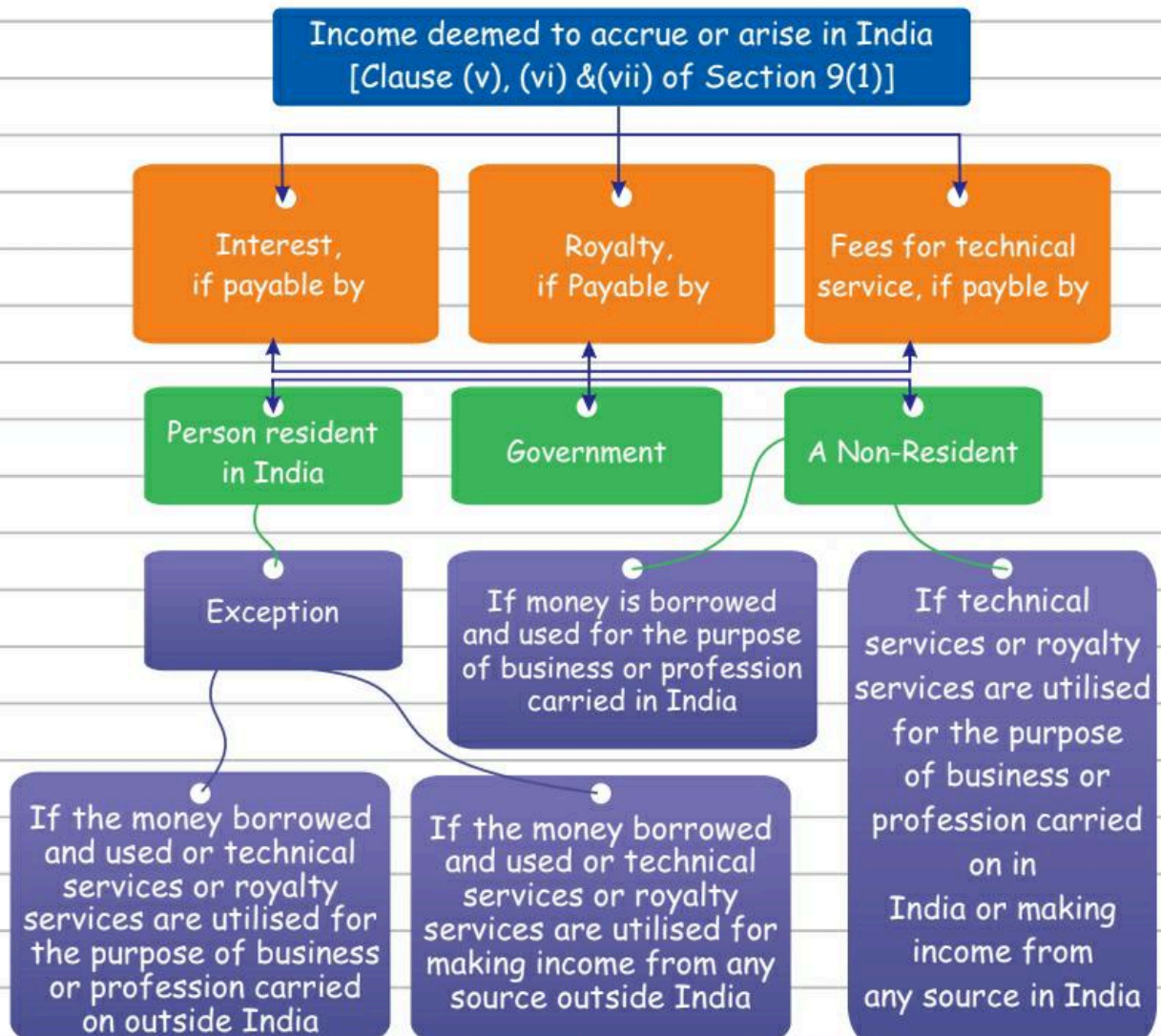
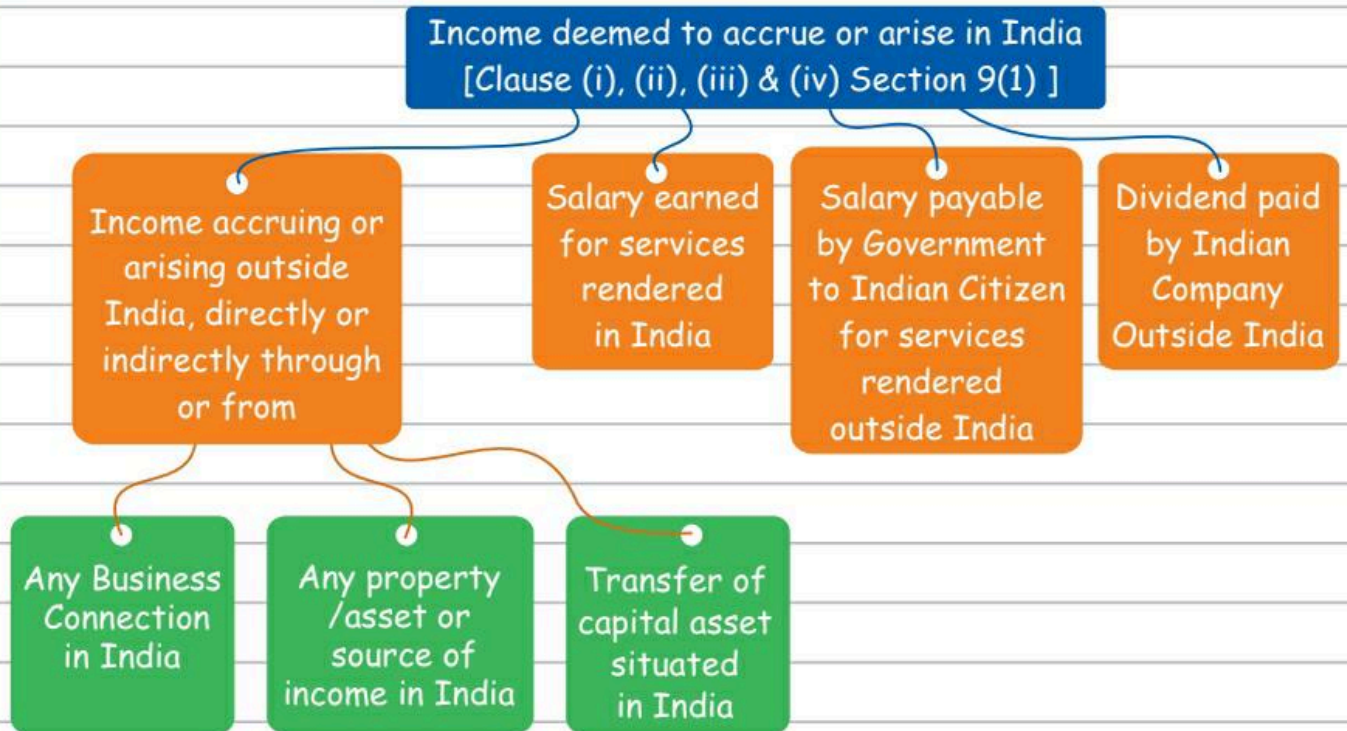
Notes:

- Income received means, **received** for the **first time**. After receiving income outside India, subsequently if it is remitted into India, it cannot be treated as Receipt of Income.
- Income may be in **Cash or in Kind**.
- Any income already taxed on accrual basis, consequently remitted to India, is not chargeable to tax at the time of remittance irrespective of the residential status.
- Income **accrual** in India means, income **generated in India** or **source of Income** situated in India.

Sec 7: Income deemed to be received in India

- Contribution in excess of 12% of salary to Recognised provident fund or interest credited in excess of 9.5% p.a (Annual accretion to the credit of RPF).
- Contribution by the Central Government or other employer under a pension scheme referred u/s 80CCD.
- Amount transferred from unrecognised provident fund to recognised provident fund (being the employer's contribution and interest thereon).

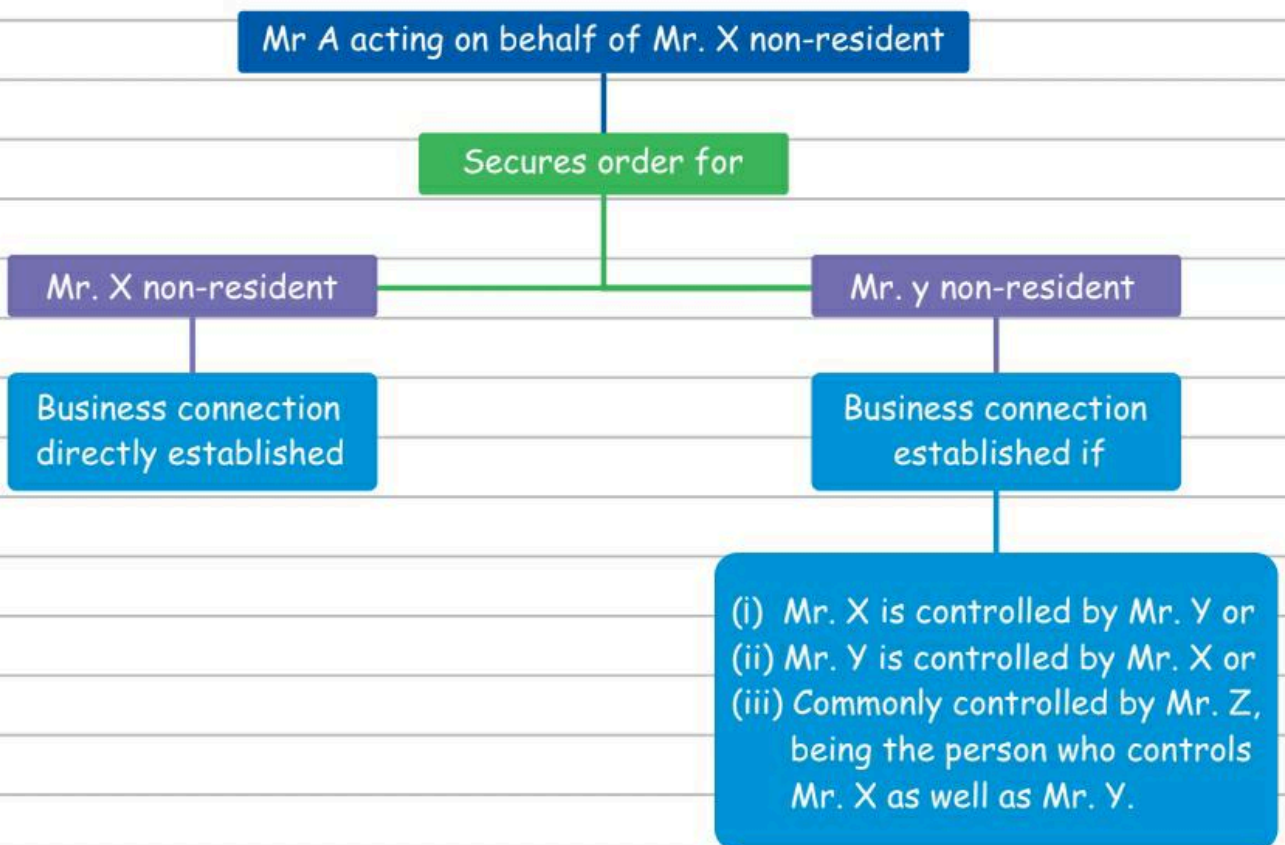
Sec 9: Income deemed to accrue or arise in India.



1. Through or from any business connection in India [Sec 9(1)(i)]
 Business Connections means a **person acting on behalf of NR :-**
 - a. Must have an **authority**, which is **habitually** exercised in India, to **conclude contracts** on behalf of the non-resident or habitually concludes contracts or plays the principal role leading to conclusion of contracts by that non-resident and such contracts are
 - in the name of the non-resident; or
 - for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that non-resident has the right to use; or
 - for the provision of services by that non-resident.
 - b. **Habitually maintain a stock** from which he regularly delivers on behalf of NR
 - c. **Habitually secure order** in India mainly or wholly for NR.

Further in following case Business connection also establish:

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



Agents having independent status are not included in Business Connection:
Business connection, however, shall not be established, where the non-resident carries on business through a broker, general commission agent or any other agent having an independent status, if such a person is acting in the ordinary course of his business.
A broker, general commission agent or any other agent shall be deemed to have an independent status where he does not work mainly or wholly for the non-resident.
He will, however, not be considered to have an independent status in the three situations explained above, where he is employed by such a non-resident.
Where a business is carried on in India through a person referred to in (a), (b) or (c) of (i) above, (other than SIP) only so much of income as is attributable to the operations carried out in India shall be deemed to accrue or arise in India [Expl. 3 to section 9(1)(i)].

Significant economic presence [Explanation 2A to section 9(1)(i)]
Significant economic presence of a non-resident in India shall also constitute business connection in India

Significant economic presence means-

No.	Nature of Transaction	Condition
1.	Transaction in respect of any goods, services or property carried out by a non-resident with any person in India including provision of download of data or software in India,	Aggregate of payments arising from such transaction or transactions during the previous year exceeds 2 crores.
2.	Systematic and continuous soliciting of business activities or engaging in interaction with users in India	The users should be atleast 3 Lakhs.

Further, the above transactions or activities shall constitute significant economic presence in India, whether or not-

- (i) The agreement for such transactions or activities is entered in India;
- (ii) The non-resident has a residence or place of business in India; or
- (iii) The non-resident renders services in India:

However, where a business connection is established by reason of significant economic presence in India, only so much of income as is attributable to the transactions or activities referred to in (a) or (b) above shall be deemed to accrue or arise in India.

#	Explanation 3A added by FA 20 w.e.f. AY 21-22
	For the removal of doubts, it is hereby declared that the income attributable to the operations carried out in India, shall include income from—
	(i) such advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;
	(ii) sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and
	(iii) sale of goods or services using data collected from a person who resides in India or from a person who uses internet protocol address located in India.
	Provided that the provisions contained in this Explanation shall also apply to the income attributable to the transactions or activities referred to in Explanation 2A (SEP)
#	Following shall not be treated as Business Connection in India
a.	Purchase of goods in India for export.
b.	Collection of news and views in India for transmission out of India.
c.	Shooting of cinematograph films in India if such NR is Individual, who is not a citizen of India or a firm which does not have any partner who is a citizen of India or who is resident in India or a company which does not have any shareholder who is a citizen of India or who is resident in India.
d.	In case of a foreign company engaged in the business of mining of diamonds, from the activities which are confined to display of uncut and unsorted diamonds in any special zone notified by the CG.
2.	Income from property, Asset or source of Income is situated in India, then it is treated as deemed to be accrued or arise in India
3.	Income through transfer of Capital asset situated in India Capital gain from transfer of capital asset situated in India shall be treated as deemed to be income accrued or arise in India. Whether registration of documents of transfer in India or outside India or consideration received in India or outside India.

#	Sec 9(1)(ii): Salary Income for service rendered in India, whether such Income before or after service rendered like Gratuity, Pension, Profit in lieu of Salary.
#	Sec 9(1)(iii): Salary received by Indian Citizen from Govt. for service rendered outside India. As per section 10(7) perquisite & allowances are Exempt .
#	Sec 9(1)(iv): Dividend paid by Indian Company Outside India
#	Sec 9(1)(v): If interest is payable by: - <ul style="list-style-type: none"> a. Government b. Resident person [Exception: where money borrowed and used, for the purposes of a business or profession carried on by him outside India or for the purposes of earning any income from any source outside India] c. A NR when money borrowed used for the purpose of business or profession carried on in India by him <p>▶ then such interest is treated as deemed to be accrued or arise in India.</p> <p>Example : If a non-resident 'A' borrows money from a non-resident 'B' and invests the same in shares of an Indian company, interest payable by 'A' to 'B' will not be deemed to accrue or arise in India.</p> <p>Note:</p> <p>Interest payable by PE of NR engaged in Banking Business, to head office or any PE or any other part of such non-resident outside India, shall be deemed to accrue or arise in India.</p> <p>HCBC Bank Hongkong ←————— HSBC Branch in India</p> <p>Interest received by HCBC Hongkong from HCBC Branch in India Shall be deemed to be Accrue or arise in India.</p>

#	Sec 9(1)(vi): If royalty payable by:
	a. Government
	b. Resident person [Exception : Where it is payable for the transfer of any right or the use of any property or information or for the utilization of services for the purposes of a business or profession carried on by such person outside India or for the purposes of earning any income from any source outside India]
	c. A NR in respect of transfer of any right, use of any property or information or utilization of service for purpose of business or profession carried in India or earning any Income from any source in India
	▶ then such Royalty is treated as deemed to be accrued or arise in India.
	Notes:
1.	Lumpsum Royalty by resident to NR for supply of computer software along with computer hardware under the scheme approved by CG shall not be treated as deemed to be accrued or arise in India.
2.	If transfer of property is already taxable under the head Capital gain then it is not covered under the definition of Royalty.
3.	Consideration for use or right to use of computer software is covered under Royalty.
	Explanation 2 : "royalty" means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains") for—
(i)	the transfer of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property;
(ii)	the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property ;
(iii)	the use of any patent, invention, model, design, secret formula or process or trade mark or similar property ;
(iv)	the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill ;
(iva)	the use or right to use any industrial, commercial or scientific equipment but not including the amounts referred to in section 44BB;

(v)	the transfer of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting , but not including consideration for the sale, distribution or exhibition of cinematographic films; or (omitted by FA.-20)
(vi)	the rendering of any services in connection with the activities referred to in sub-clauses (i) to (iv), (iva) and (v)
#	Sec 9(1)(vii): If fees for technical service (FTS) payable by: - <ul style="list-style-type: none"> a. Government b. Resident person [Exception : Where the fees is payable in respect of technical services utilised in a business or profession carried on by such person outside India or for the purpose of earning any income from any source outside India.] c. A NR in respect of Technical service utilised in business or profession carried on by such person in India or such service utilise for earning any income from any source in Indian, <p>▶ then such FTS is treated as deemed to be accrued or arise in India.</p> <p>FTS means: any consideration (including any lumpsum consideration) for the rendering of any managerial, technical or consultancy services (including providing the services of technical or other personnel). However, it does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head 'Salaries'.</p>
#	Section 9(1)(viii) : Deemed accrual of gift made to a person outside India Gift of any money made by resident to NR or foreign company on or after 5th July 2019 shall be deemed to be accrued or arise in India.

Exemption under section 10 vis-a-vis Deduction under Chapter VI-A

Exemptions u/s 10 : The incomes which are exempt under section 10 will not be included for computing total income.

Deductions under chapter VI-A Incomes from which deductions are allowable under Chapter VI-A will first be included in the gross total income (GTI) and then the deductions will be allowed from GTI.

Sec 10(1) : Agriculture Income

- It is **exempt u/s 10 (1)**

- Meaning of agriculture income-

As per section 2(1A), Agriculture income means -

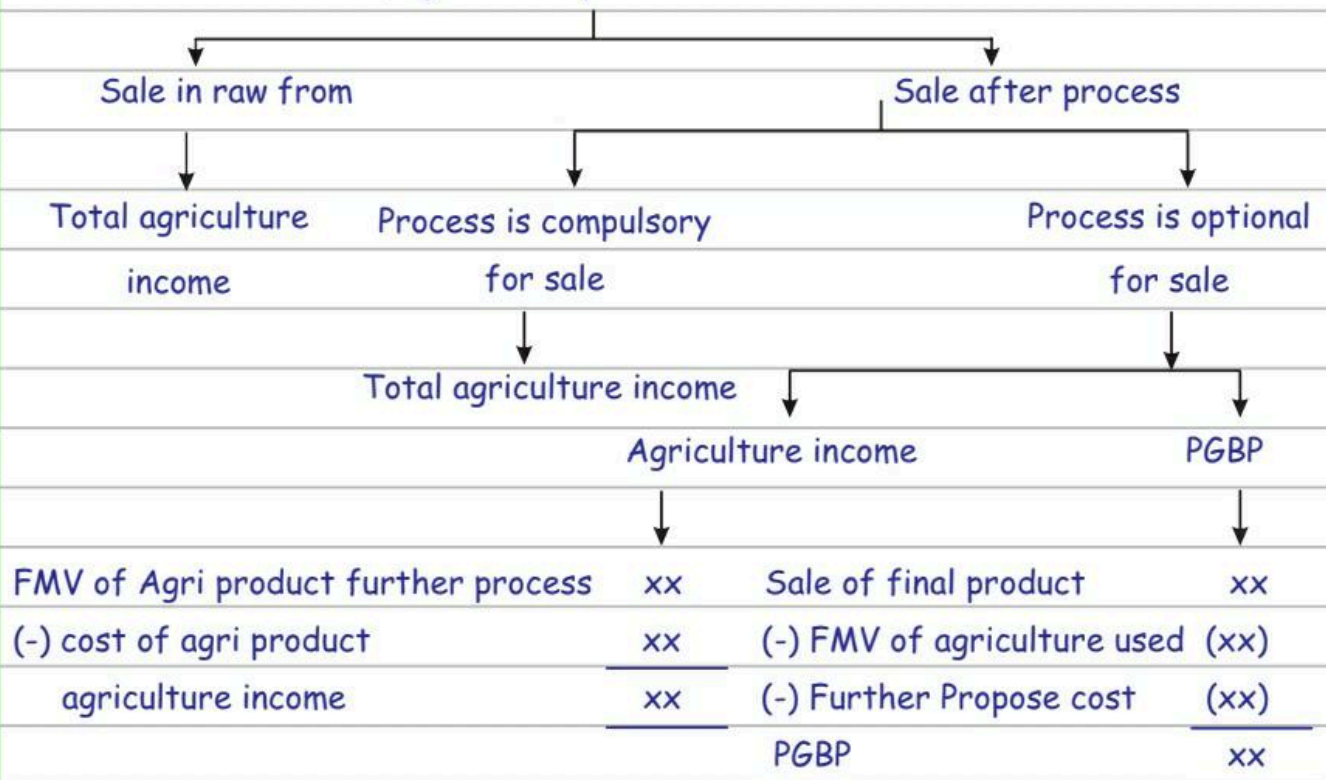
a) Rent from agriculture land (**used for agriculture purpose**).

b) Income from sale of agriculture produce. (**Note 1**)

c) Rent from house (**use as dwelling house, store house**).

d) Income from nursery.

Note 1 : Rule 7- Sale of agriculture produce



Special Rules for tea, coffee & Rubber

		Agriculture Income	Business Income
Rule 8:	Growing and Manufacturing of Tea.	60%	40%
Rule 7B:	Income from growing & manufacturing of Coffee		
	(a) Grown & cured	75%	25%
	(b) Grown, cured, roasted, grounded	60%	40%
Rule 7A:	Income from growing & manufacturing of rubber	65%	35%

Remember :- Higher % represents income from Agriculture

Notes :

1. Bifurcation should be done after claiming PGBP deduction like depreciation etc.
2. If income of assessee partly from Business & partly from agriculture then, depreciation has to be calculated on assumption that total income of assessee is from business only. Depreciation calculated shall be deemed to be allowed to assessee. (Total Depreciation shall be reduce from WDV of Block)

Partial Integration in case of Agricultural Income

Agriculture income is exempt from tax but for computation of tax it shall be considered if following conditions are satisfied

- (i) Assessee is Individual, HUF, AOP, BOI, AJP.
- (ii) Agriculture income more than ₹ 5,000.
- (iii) Non-agriculture income more than Basic exemption.

Computation of Tax Liability

₹

Non-Agriculture Income (Total Income)	A	xxx
Agriculture Income	B	xxx
Total	C	xxx
Tax Payable on "C"	D	xxx
Aggregation of "B" and Basic Exemption	E	xxx
Tax payable on "E"	F	xxx
Net Tax payable "D-F"	G	xxx

Exempt Income		
Section	Income	Eligible Assessee
10(2)	Income share received by member from HUF	Member of HUF
10(2A)	Income share received by partner from FIRM	Partner of FIRM
10(4)(ii)	Interest on money standing to the credit in a Non-resident (External) account in India	Person resident outside India (under FEMA Act) or a person who has been permitted to maintain said a/c by RBI
10(6)(ii)	<p>Remuneration received by Foreign Diplomats/ Consulate and their staff</p> <p>Conditions</p> <p>(a) The remuneration received by our corresponding Government official's resident in such foreign countries should be exempt.</p> <p>(b) The above-mentioned officers should be the subjects of the respective countries and should not be engaged in any other business or profession or employment in India.</p>	Individual (not being a citizen of India)
10(6)(vi)	<p>Remuneration received as employee of a foreign enterprise for services rendered by him during his stay in India, if:</p> <p>a) Foreign enterprise is not engaged in any trade or business in India;</p> <p>b) His stay in India does not exceed the aggregate a period of 90 days in such PY; and</p>	Individual - Salaried Employee (not being a citizen of India)

	c) Such remuneration is not liable to deducted from the income of employer chargeable under this Act	Individual - Salaried Employee (not being a citizen of India)
10(6)(viii)	Salary received by or due for services rendered in connection with his employment on a foreign ship if his total stay in India does not exceed 90 days in the PY.	Individual (Non-resident who is not a citizen of India)- Salaried Employee
10(6D)	Income arising by way of royalty from or fees from technical services rendered in or outside India to, the National Technical, Research Organisation (NTRO)	NR & Foreign Company
10(10BB)	Payments to Bhopal Gas Victims	Any Person
10(10BC)	Compensation received on account of disaster from CG, SG or Local Authority "Disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or manmade causes, or by accident or negligence	Any Person
10(11A)	Payment from Sukanya Samriddhi Account (Interest also)	Any Person
10(16)	Educational scholarships	Any Person
10(17)	Payments to MPs & MLAs Daily & Constituency allowance is exempt	Any Person
10(17A)	Awards for literary, scientific and artistic works and other awards by the Government	Any Person

10(18)	Pension received by individual who has been in service of Central or State Government and has awarded "ParamVir Chakra" or "MahaVir Chakra" or "Vir Chakra" such other gallantry award as the Central Government notifies is exempt from tax	Any Person
10(26AAA)	The following income, which accrues or arises to a Sikkimese individual, would be exempt from income-tax - (a) income from any source in the State of Sikkim; or (b) income by way of dividend or interest on securities. However, this exemption will not be available to a Sikkimese woman who, on or after 1st April, 2008, marries a non-Sikkimese individual.	Specified income of a Sikkimese Individual

Sec 10AA : Special Economic Zone

1. In computing Total income of an undertaking, which begins to manufacture or produce article or things or computer software in any SEZ, deduction allowed as follows:-

- a. For First 5 A.Y.s → 100% of Export Profit
- b. For Next 5 A.Y.s → 50% of Export Profit
- c. For Next 5 A.Y.s → Amount debited to P&L Alc & credited to SEZ Reinvestment Allowance Reserve Alc
Or
50% of Export Profit
(whichever is lower)

2. Export Profit

$$\text{PGBP of unit located in SEZ} \times \frac{\text{Export Turnover}^*}{\text{Total Turnover}}$$

#	Export Turnover means the consideration in respect of export brought into India in convertible foreign currency within time permitted by RBI .
	Notes :
1.	Sales proceeds deemed to have been received in India if such amount is credited to a separate A/c maintained by assessee outside India with approval of RBI.
2.	Amount credited to SEZ Re-invest allowance reserve A/c should be utilized for acquiring new P&M& put to use within 3 years from the end of P.Y. in which reserve was created. If amount mis-utilised or un-utilised then deduction claimed earlier shall be taxable as PGBP.
→	Deemed Income If Reserve has been utilized for non-specified purpose: of the year in which wrongly utilized. If Reserve has not been utilized till the expiry of time limit: of the year immediately following the period of 3 years
3.	Export T/O does not include freight, telecommunication charges, Insurance or expenses for providing service outside India. Further export T/O shall not include cash compensatory support, Duty drawback and profit on sale of import entitlement licenses.
4.	Total T/O shall not include freight, telecommunication charges, insurance or other similar expenses. Further it shall not include CCS, DD and profit on sale of import entitlement licenses. Total T/O includes Export T/O and Domestic T/O and it further includes even that portion of export T/O which is not received in convertible foreign exchange.
5.	Deduction under this section available only if SEZ unit received approval up to 31/03/20 and manufacturing started till 31/03/21.

#	Sec 14A : Expenditure incurred in Relation to Exempt Income
#	Sec 14A : For computing total income under the five heads of income, No deduction shall be allowed in respect of expenditure incurred by assessee in relation to income which do not form part of total income (exempt Income) under the Act.
#	Manner of computation of disallowance: Rule 8D.
1.	Where A.O, is satisfied with the correctness of the claim of expenditure - No action is required.
2.	Where A.O. is not satisfied with correctness of the claim - expenses attributed to exempt income shall computed with Rule 8D of income tax rules.
	Rule 8 D: Expenditure relating to exempt Income. ₹
a.	Amount of expenses directly relating to exempt income xxx
b.	Amount equal to 1% of this annual average of the monthly average of the opening & closing balance of investment, income from which is exempt. <u>xxx</u>
	Total amount dis-allowable u/s 14 A <u>xxxx</u>
#	Note 1 : Provided that amount referred in (a) and (b) shall not be more than total expenditure claimed by assessee. Note 2 : Section 14A read along with Rule 8D provides for disallowance of expenditure even where the taxpayer has not earned any exempt income in a particular PY.
Q.	Mr. BB invested in securities & expenditure related to such investment is ₹2,00,000. Out of above securities, income from some securities is exempt & from other securities taxable. Expenditure directly attributed to exempt securities is ₹ 30,000. Investment Value in securities from which income is exempt: ₹ 60,00,000 (Monthly Avg. of opening and closing & after that annual average)
	Answer:
	Expenditure related to Exempt Income: ₹
(i)	Directly related to Exempt Income : 30,000
(ii)	1% of Exempt Income (60,00,000 × 1%): 60,000
	Disallowed Expenditure 90,000
	Conclusion: So in this question ₹1,10,000 expenditure is allowed as deduction.

#	Alternate Minimum Tax	
	AMT is applicable to all assessees except company.	
#	Sec 115JC : Income tax payable by any person Higher of	
	↑ i) Income tax payable as per Normal provision of Income tax	
	↑ ii) 18.5% of Adjusted Total income (ATI)	
	(surcharge (if applicable) + 4% cess)	
	Note :	
1.	Calculation of ATI	₹
	Total Income (NTI) as per Normal provision of Income Tax	xxxx
	Add: i) Deduction u/s 10AA (SEZ)	xxx
	ii) Deduction u/s 35AD (14 Business)	xxx
	iii) Deduction u/s 80QQB , 80RRB, 80JJAA	xxx
	Less: Depreciation allowable as per Sec. 32 assuming that deduction u/s 35AD was not allowed on the assets on which deduction u/s 35AD is claimed	(xxx)
	ATI	<u>xxx</u>
2.	AMT shall not be applicable if ATI (Adjusted Total income) is up to ₹ 20 lakhs in case of Individual / HUF / AOP / BOI / Artificial Judicial Person.	
3.	The provision of AMT apply only if assessee is claiming deduction u/s 10AA, 35AD, 80QQB, 80RRB, 80 JJAA.	
#	Sec 115JD : AMT Credit	
a.	If AMT > Normal Income tax then excess shall be treated as AMT credit .	
b.	AMT credit can be C/F and setoff for 15 years.	
c.	Credit can be set-off in the year in which regular tax is more than AMT .	
d.	The credit allowed to be set off will be restricted to the difference between the regular Income tax computed under normal provision of IT & the AMT.	
e.	Assessee can claim AMT credit in such subsequent P.Y. even if AMT is not applicable in subsequent P.Y.	

Notes

- # Section 15:-Charging Section
- Income is taxable under the head salary if there is **Employee - Employer relationship**. (master - servant relation).
 - Salary is taxable even in case of part time job like employee work with 2 employer's simultaneously.
 - Salary is taxable on the basis of **due** or **received** whichever is **earlier**.
 - Salary received by partner from partnership firm shall be taxable under the head **PGBP**.
 - Salary received by MP, MLA, MLC shall be taxable under the head **IFOS**.
 - Contract **of service salary**.
Contract **for service PGBP**.
 - Salary forgone is always taxable since it is merely application of income. Salary surrendered to central Govt, shall not to be treated as salary.
 - Any amount received before joining employment or after cessation of employment with that person is treated as "**Profit in lieu**" of salary & it is taxable.
 - In this topic we have to find out salary income of employee.

Statement of salary. Name of the Assessee _____ P.Y. 2022-23 A.Y. 23-24

Computation of salary.

Particulars	₹
Basic Salary (Note-1)	xxx
Dearness Allowance (D.A.) (Note - 2)	xxx
Commission (Note-3)	xxx
Bonus (Note-4)	xxx
Advance Salary / Arrears salary (Note-5)	xxx
Gratuity (Note-6)	xxx
Pension (Note-7)	xxx
Leave salary (Note-8)	xxx
Allowances (Note-9)	xxx
Provident Fund (Note-10)	xxx

Voluntary Retirement Compensation (VRS) (Note-11)	xxx
Super Annuation fund (Note -12)	xxx
Retrenchment Compensation (Note-13)	xxx
Perquisite (Note-14)	xxx
Gross Salary	xxxx
Less: Deductions 16 :	
1. Professional Tax (Note-15)	(xxx)
2. Entertainment Allowance (Note-16)	(xxx)
3. Standard deduction (Note-17)	(xxx)
Net Salary	xxxx

Note 1 : Basic salary

It is fully taxable.

Note 2 : Dearness Allowance (DA)

DA is fully taxable whether it is 'in terms' or 'not in terms'.

DA in terms means DA which is forming part of retirement benefit calculation. In all the formulas, DA is considered only if it is 'in terms'. If nothing is given about DA then assume it is 'not in terms.'

Note 3 : Commission - Commission is fully taxable whether it is Turnover commission or any other commission.

Note 4 : Bonus - It is taxable on receipt basis. If only declared is given then it should be ignored.

Note 5 : Advance & Arrears Salary

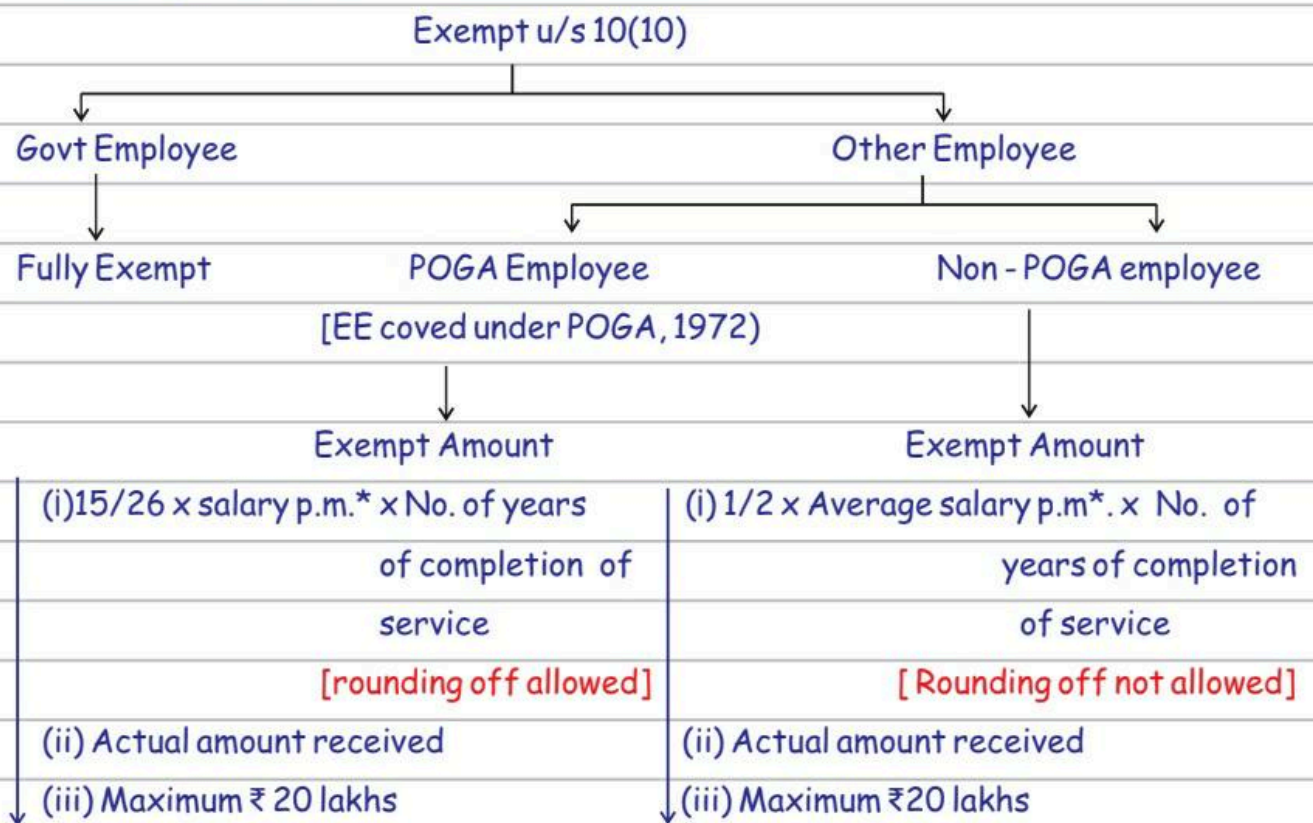
(A) Advance Salary : Advance salary is taxable on receipt basis. If advance against salary is given or only advance is given then it should be ignored because it is treated as loan.

(B) Arrears Salary : It means salary under dispute or increase of salary retrospectively. It is taxable in the year in which it is received.

Note 6 : Gratuity

(A) Gratuity received during the employment - fully taxable for all employees (Government as well as non-government employees).

(B) Gratuity received at the time of retirement-



#	Salary p.m*	Average Salary p.m*
		(Don't include month of retirement)
	Latest Basic salary p.m xx	Avg Basic salary of last 10 months xxx
	(+) Latest D.A (both) <u>xx</u>	(+) Avg DA(T) of last 10 months xxx
		<u>xx</u> (+) Avg T/O comm of last 10 months <u>xxx</u>
		<u>xxx</u>

Notes:

- In case of POGA employee if fraction is more than 6 months, it should be rounded off.
e.g. 30 years 4 months = 30 years
30 years 6 months = 30 years
30 years 9 months = 31 years
- In case of Non-POGA employee fraction should be ignored.
eg: 30 years 3 months = 30 years
30 years 11 months = 30 years

Note 7 : Pension

- Uncommuted pension (monthly pension) - Taxable for All employees

- Commuted pension (lumpsum pension)

Exempt u/s 10 (10A)

Govt. Employee

other Employee

Fully Exempt

Gratuity also received

Gratuity not received

$$\text{Exempt amount} = \text{Total pension} \times \frac{1}{3}$$

$$\text{Exempt amount} = \text{Total pension} \times \frac{1}{2}$$

Total Pension = Full value of pension.

Note -8: Leave Salary

It means en-cashment of un-utilised leave.

1. Leave salary during employment - Fully taxable for all employees.

2. Leave salary at the time of retirement,

Exempt u/s 10 (10AA)

Govt. Employee

Other Employee

Fully Exempt

Exempt amount

(i) Leave credit x Avg. salary p.m.

(ii) 10 months x Avg. salary p.m.

(iii) Actual amount received

(iv) Maximum ₹ 3,00,000

(whichever is lower)

[Avg of last 10 months upto date of Retirement]

Average salary p.m

Avg. Basic salary of last 10 months xxx

Avg. DA (in terms) of last 10 months xxx

Avg. Turnover Commission of last 10 months xxx

xxx

Leave Credit
 Leave credit = Leave allowed - Leave taken
 ↓
 [Max. 30 days for every completed year]

Note 11 : VRS - Exempt u/s 10(10C)
 (i) Salary p.m. x 3 months x No. of years of completion of service.
 (ii) Salary p.m. x No. of remaining months of service;
 (iii) Actual amount received.
 (iv) Maximum ₹ 5,00,000
 (Fraction IGNORED)
 Salary p.m. = Basic + DA(T) + T/O Commission.

Note 13: Retrenchment Compensation.
 Exempt u/s 10 (10B)
 (i) * Compensation as per Industrial Disputes Act.
 (ii) Maximum ₹ 5,00,000

$$* \frac{15}{26} \times \text{Avg salary of last 3 months} \times \text{No. of years of completion of service (if fraction is more than 6 months, then round off)}$$
 (Basic + DA(T) + T/O Commission)

Note - 9: Allowances

	Allowance	Exempt u/s 10 (14)
1.	Commutation / Transport allowance (office ↔ Ghar) (Ghar ↔ office)	Max ₹ 3200 p.m (in case of blind/deaf & dumb or handicapped)
2.	Children Education Allowance	Max ₹ 100 p.m. per child (Max 2 child.)
3.	Children Hostel Allowance	Max ₹ 300 p.m. per child (Max 2 child.)
4.	Underground Allowance (Mines)	Max ₹ 800 p.m.
5.	Tribal area Allowance	Max ₹ 200 p.m.
6.	Allowance to employees of Transport undertaking	Amount received x 70% OR ↓ 10000 P.m

Income From Salary

- 7. Traveling or Tour allowance
- 8. Conveyance allowance
- 9. Uniform allowance
- 10. Daily allowance
- 11. Helper allowance (for office Purpose)
- 12. Research allowance/ Academy allowance

Exempt amount = Amount spent

13. HRA - House Rent Allowance

Exempt u/s 10(13A)

(i) 40% / 50%* of salary [BS + DA(T) + T/O Commission]

(ii) Actual Amount received

(iii) Rent paid - 10% of salary [BS + DA (T) + T/O Commission]

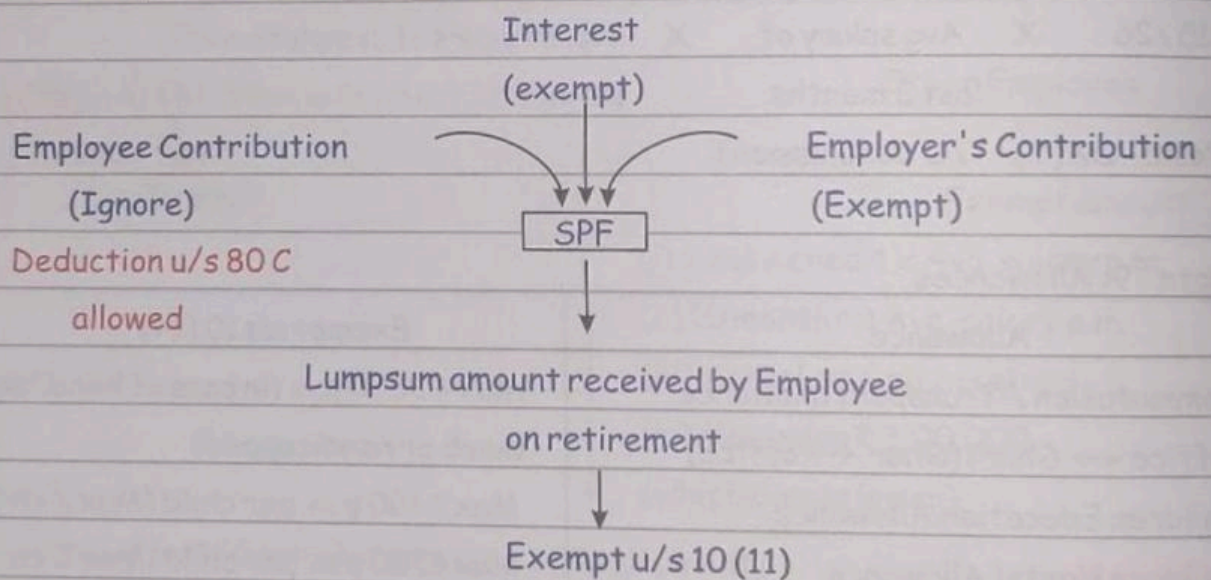
*50% if metro cities (Mumbai/Delhi/Chennai/Kolkata), 40% for other cities.

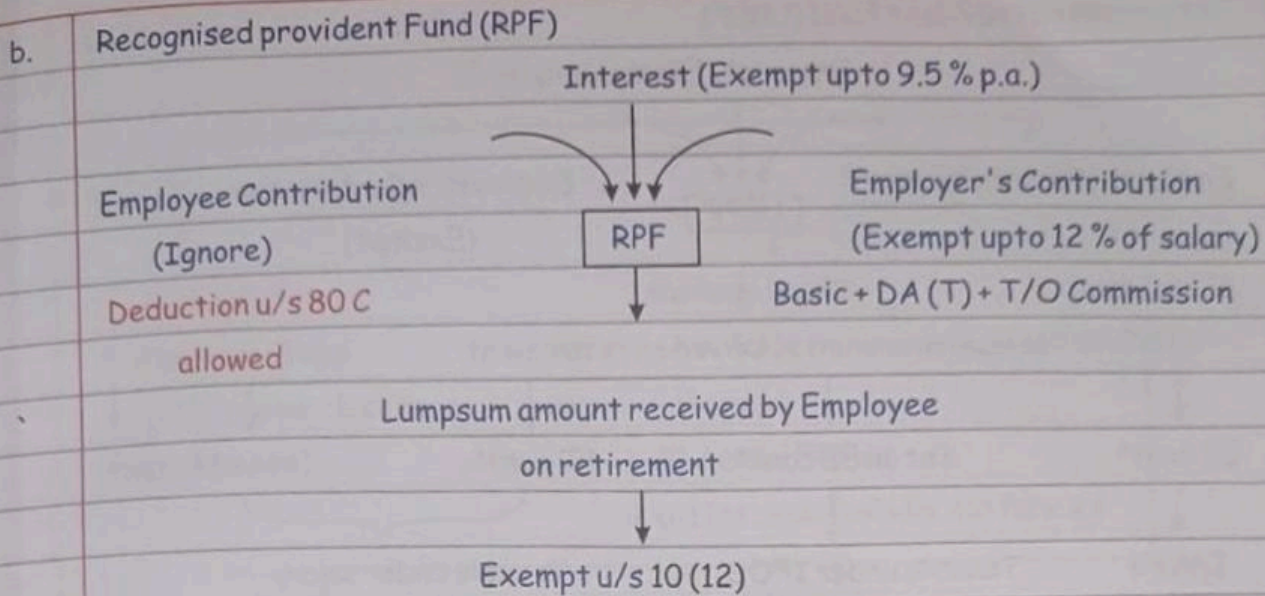
14. All other allowances are fully taxable.

*[Entertainment allowance explained separately in Note-16]

Note 10: Provident Fund

a. Statutory Provident Fund (SPF)





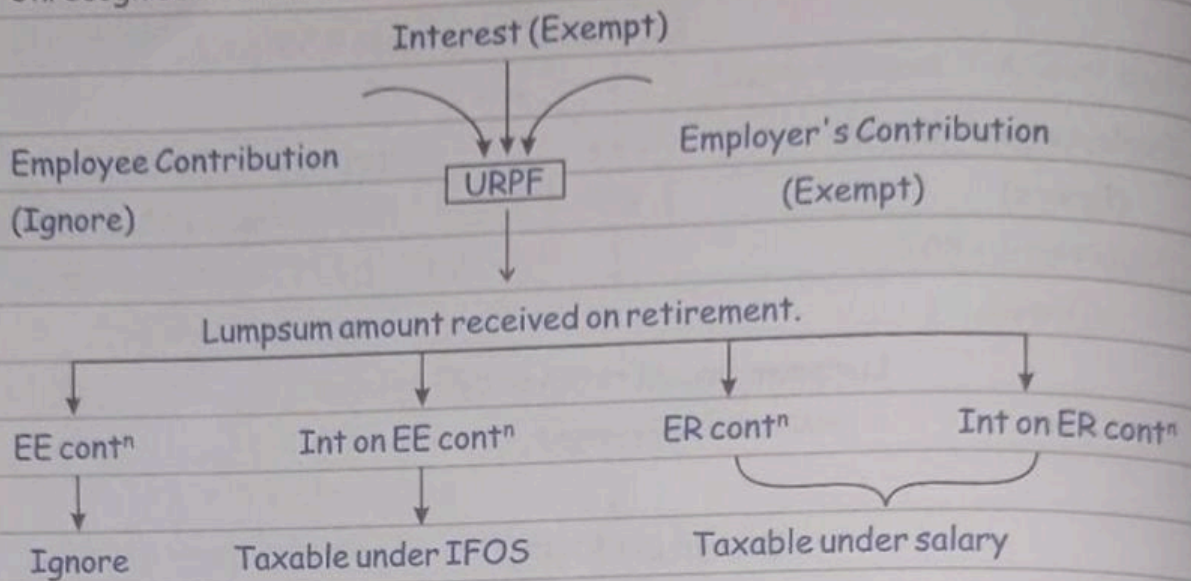
Note: Lumpsum amount received from RPF is exempt u/s 10(12) if employee has rendered service of 5 years or more, If employee rendered service less than 5 years then exemption allowed in respect of employer's contribution and interest shall be withdrawn. However in the following 3 cases exemption shall not be withdrawn even though service is less than 5 years:

1. Employee retired due to ill health
2. Employee retired due to shut down of employer's business.
3. Employee has retired with the instruction that his balance in RPF should be transferred to new employer, or to NPS A/C referred u/s 80CCD

Amendment by FA-21: Interest on EE's Contribution towards SPF/RPF

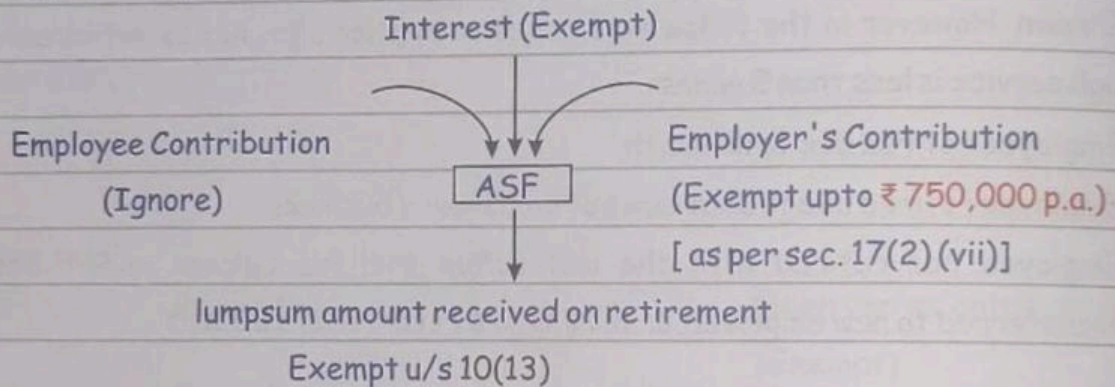
- Exemption u/s 10(11) or 10(12) not available for interest accrued during the PY to the extent it relates to the contribution made by that person/employee exceeding ₹ 2,50,000 in any PY in that fund, on or after 01/04/21.
- If in that fund employer not made any contribution, then, a higher limit of ₹ 5,00,000 would be applicable.
- It may be noted that interest accrued on contribution to such funds upto 31/03/21 would be exempt without any limit, even if the accrual of income is after that date.

C. Unrecognised Provident Fund (URPF).



Note 12: Super annuation Fund

a. Approved super annuation fund



b. Unapproved super annuation fund - **Treatment same as URPF.**

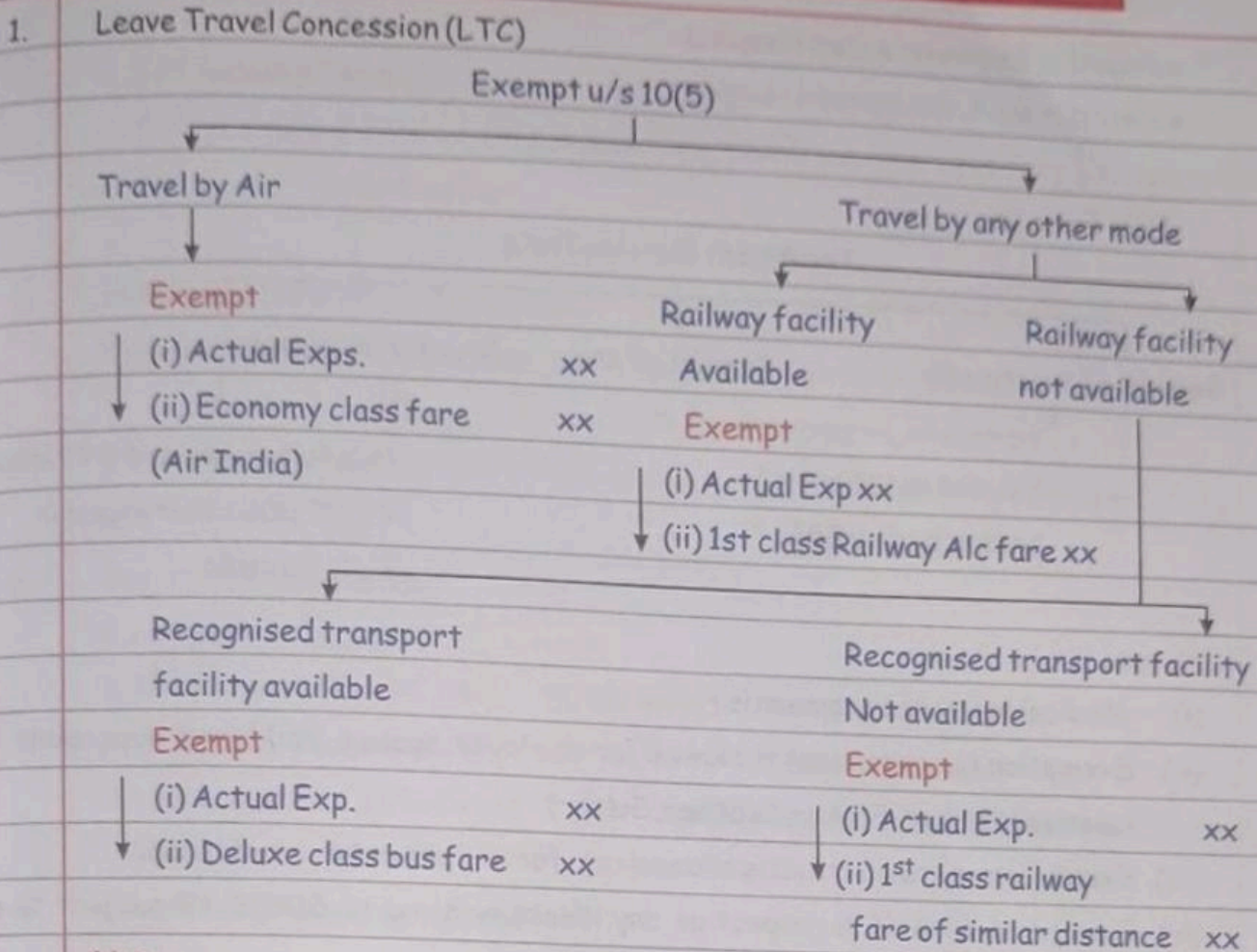
Note 14: Perquisites sec 17(2)

It means extra benefit offered by employer to employee. It may be monetary or non-monetary.

Difference between allowance & perquisites.

a. Allowance - It means monthly fixed amount received by employee from employer whether actual expenditure is incurred or not. It is part of salary, e.g. HRA, Medical Allowance etc.

b. Perquisites - It means benefits or facility provided by employer. It is received when actual expenditure is incurred e.g. Medical facility, car facility etc.



Notes:

1. LTC exemption is available for the travel of employee, his spouse, children* & dependent relative - (Mother, Father, Brother, Sister)

* Exemption of LTC is available only for 2 children born on or after 1/10/1998.

1) 1st time = 1 child 2nd time = Twins

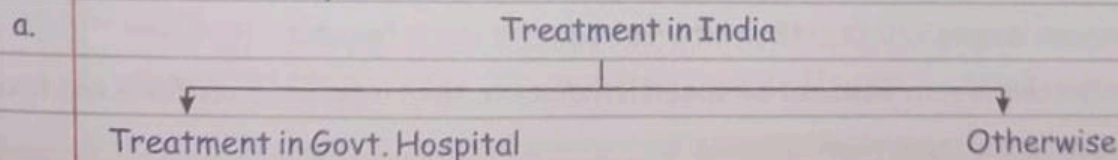
Total 3 children = Exemption Allowed to all 3 children.

2) 1st time = Twins 2nd time = 1 child

Total 3 children = Exemption allowed to only 2 children.

2. LTC exemption is available for 2 years during the block of 4 years (current block is 2022-25)

2. Medical Facility



Treatment in Employer's Own Hospital
Treatment in Govt. Recognised Hospital

Fully Taxable

Fully Exempt

b.

Treatment Outside India

Benefit of treatment

Benefit of stay

Benefit of Travel

Exempt upto limit
prescribed by RBI

It is fully exempt if GTI is up
₹ 2,00,000 otherwise it is
Fully Taxable

Notes:

- (i) Medical insurance premium is **fully exempt**.
- (ii) Exemption for treatment is allowed for employee, spouse, children & dependent relative (Mother, Father, Brother, Sister)
- (iii) Exemption of stay & travel is allowed **only** for **one** patient & **one** attendant.
- (iv) Exemption allowed in respect of any illness relating to COVID-19 subject to conditions as the CG may notify.

The employee shall submit the following documents to the employer, -

- (i) The COVID-19 positive report of the employee or family member;
- (ii) all necessary documents of medical treatment of the employee or his family member for COVID-19 or illness related to COVID-19 suffered within 6 months from the date of being determined as COVID-19 positive; and
- (iii) a certification in respect of all expenditure incurred on the treatment.

3. "Loan" given by Employer to Employee at concessional rates of interest or without rate of interest.

Taxable amount = Loan amt. x (SBI Interest rate - Actual Interest rate)

Notes:-

- (i) Loan amount is upto ₹20,000 then interest benefit is **not** taxable.
- (ii) If loan is taken for treatment of specified disease then interest benefit is not taxable even loan amt is more than ₹20,000

4. Gift

a. Gift in cash = Taxable

b. Gift in kind = if FMV of Gift is less than ₹5000 p.a. then it is fully exempt otherwise fully taxable.

5. ESOP: Employee stock option plan

It means Company offers shares to employee at concessional rates.

Taxable amount: - FMV of shares - Issue price

FMV should be taken on the date on which option is exercised by employee.

6. Use of Moveable asset

a. Computer / Laptop - Fully exempt

b. Other asset (TV, AC, etc)

Owned by Employer

Taxable amount = 10% of cost

Hired by Employer

Taxable amount = Hire charges paid by Employer

7. Transfer of Movable Assets

Computer / Laptop

Car

Any other asset

Taxable amount

= WDV - Consideration

Depⁿ @ 50% on

WDV Method

Taxable amount

= WDV - Consideration

Depⁿ @ 20% on

WDV Method

Taxable amount

= WDV - Consideration

Depⁿ @ 10% on

SLM Method

Note: Depⁿ should be computed for every completed for year.

8. Lunch Facility

It is exempt upto ₹50 per meal, if lunch is provided in office premises or through Paid voucher.

NOTE: (i) Tea, coffee, or breakfast provided in office - Not taxable.

(ii) Lunch is provided in remote area is Not taxable

9. Sec 17(2)(vii) : Employer contribution towards Recognized Provident Fund (RPF), Pension Scheme (NPS) referred u/s 80CCD, Approved Super annulation Fund (ASF) excess of 7,50,000 is treated as perquisite in hands of EE and Taxable.

10. Sec 17(2)(viii): Annual Accretion by way of Interest/dividend/similar amount contribution of more than 7,50,000 by ER also treated as perquisite in hands of EE and Taxable. (Added by FA-20 w.e.f. AY 21-22)

Calculation of Annual Accretion of Interest, dividend etc in PY

$$TP = (PC/2)*R + (PC1 + TP1)*R$$

TP : Taxable perquisite under section 17(2)(viii) for the current PY.

PC : Amount or aggregate of amounts of ER's contribution in excess of ₹ 7.5 lakh RPF, NPS and ASF during the PY.

PC1: Amount or aggregate of amounts of ER's contribution in excess of ₹ 7.5 lakh RPF, NPS and ASF for the PY or years commencing on or after 01/04/20 other than the current PY.

TP1: Aggregate of taxable perquisite u/s 17(2)(viii) for the PY or years commencing on or after 01/04/20 other than the current PY.

R : I / Favg

I : Amount or aggregate of amounts of income accrued during the current PY in RPF, NPS and ASF.

Favg : (Amount or aggregate of amounts of balance to the credit of RPF, NPS and ASF on 01/04/22 + Amount or aggregate of amounts of balance to the credit of RPF, NPS and ASF on 31/03/23)/2

Note : Where the amount or aggregate of amounts of TP1 and PC1 exceeds the amount or aggregate of amounts of balance to the credit of the specified fund or scheme on 01/04/22, then, the amount in excess of the amount or aggregate of amounts of the said balance shall be ignored for the purpose of computing the amount or aggregate of amounts of TP1 and PC1.

Example: Mr. Bala is appointed as a CFO of ABC Ltd. in Mumbai from 1.5.2021. His basic salary is ₹ 5,50,000 p.m. He is paid 10% as D.A. He contributes 11% of his pay and D.A. towards his RPF and the company contributes the same amount. The accumulated balance

in RPF as on 1.4.2022 and 31.3.2023 is ₹15,35,000 and ₹33,55,000. Compute the perquisite value chargeable in the hands of Mr. Bala u/s 17(2)(vii) and 17(2)(viii) for the P.Y. 2022-23.

Solution:

1. Perquisite value taxable u/s 17(2)(vii) = ₹7,98,600, being employer's contribution to RPF during the P.Y. 2022-23 - ₹7,50,000 = ₹48,600

2. Annual accretion on perquisite taxable u/s 17(2)(vii) = $(PC/2)*R + (PC1 + TP1)*R$
 $= (48,600/2)*0.091 + 0 = ₹2,211$

PC : ABC Ltd.'s contribution in excess of ₹ 7.5 lakh to RPF during P.Y. 2022-23 = ₹48,600

PC1 : Nil since employer's contribution is less than ₹ 7.5 lakh to RPF in P.Y. 2021-22.

TP1 : Nil

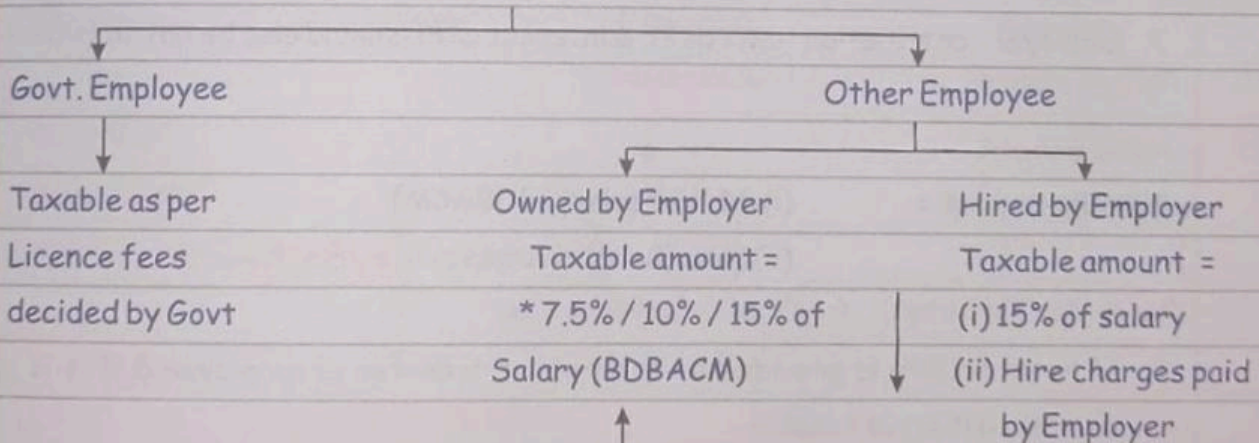
R : $I/Favg = 2,22,800/24,45,000 = 0.091$

I : RPF balance as on 31.3.2023 - employee's and employer's contribution during the year - RPF balance as on 1.4.2022 = ₹2,22,800 (₹33,55,000 - ₹7,98,600 - ₹7,98,600 - ₹15,35,000)

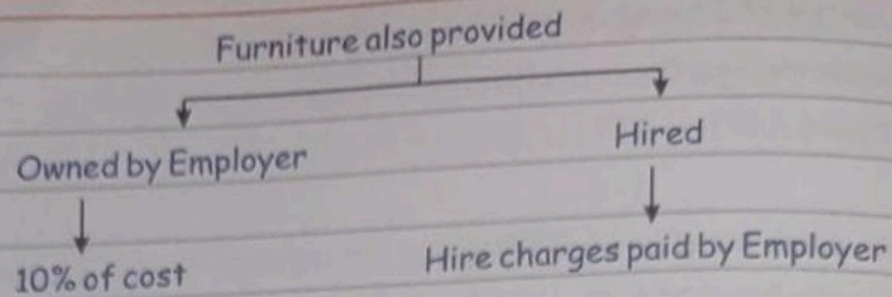
Favg : $\text{Balance to the credit of RPF as on 1 April, 2022} + \text{Balance to the credit of RPF as on 31 March, 2023} / 2 = (₹15,35,000 + ₹33,55,000) / 2 = ₹24,45,000$

Note - Since the employee's contribution to RPF exceeds ₹2,50,000 in the P.Y. 2022-23, interest on ₹5,48,600 (i.e., ₹7,98,600 - ₹2,50,000) will also be chargeable to tax.

10. Rent Free Accommodation (House Facility)



↑
Furniture also provided



Notes:

- | | | |
|-----------------------------|---|------|
| 1. Population upto 10 lakhs | = | 7.5% |
| > 10 Lakhs upto 25 lakhs | = | 10% |
| > 25 Lakhs | = | 15% |

2. Meaning of Salary - BDBACM

B - Basic salary

A - Taxable Allowances

D - Dearness Allowance (T)

C - Commission (All)

B - Bonus

M - Other monetary income excluding perks.

3. For computing BDBACM perks should not be considered.
4. BDBACM should be calculated on due basis, means salary of current period should be considered. Advance salary, arrears salary should be ignored.
5. For computing BDBACM, retirement benefit should not be considered i.e. gratuity, Pension, leave salary, VRS, Retrenchment compensation, lump sum amount from PF etc.
6. BDBACM should be considered for the time for which assessee had occupied house.
7. Employer contribution towards PF & interest on PF should also be not considered.

11. Hotel Benefit

- Taxable amount =
- (i) 24% of salary (BDBACM)
 - (ii) Hire (Rent) charges paid by Employer.

Notes:

1. If hotel facility is provided at the time of transfer of employee & if it is upto 90 days, then it is not taxable.
2. In house facility & hotel facility if employer recover any rent from employee then such rent should be deducted from above taxable amount.

12. Car Facility

a. Car is used for fully office purpose - Fully Exempt.

If Employer maintains record of each journey & Employer issue a certificate that car is used exclusively for office purpose.

b. Car is used for fully personal purpose.

Car is owned by Employer = 10% of cost

OR

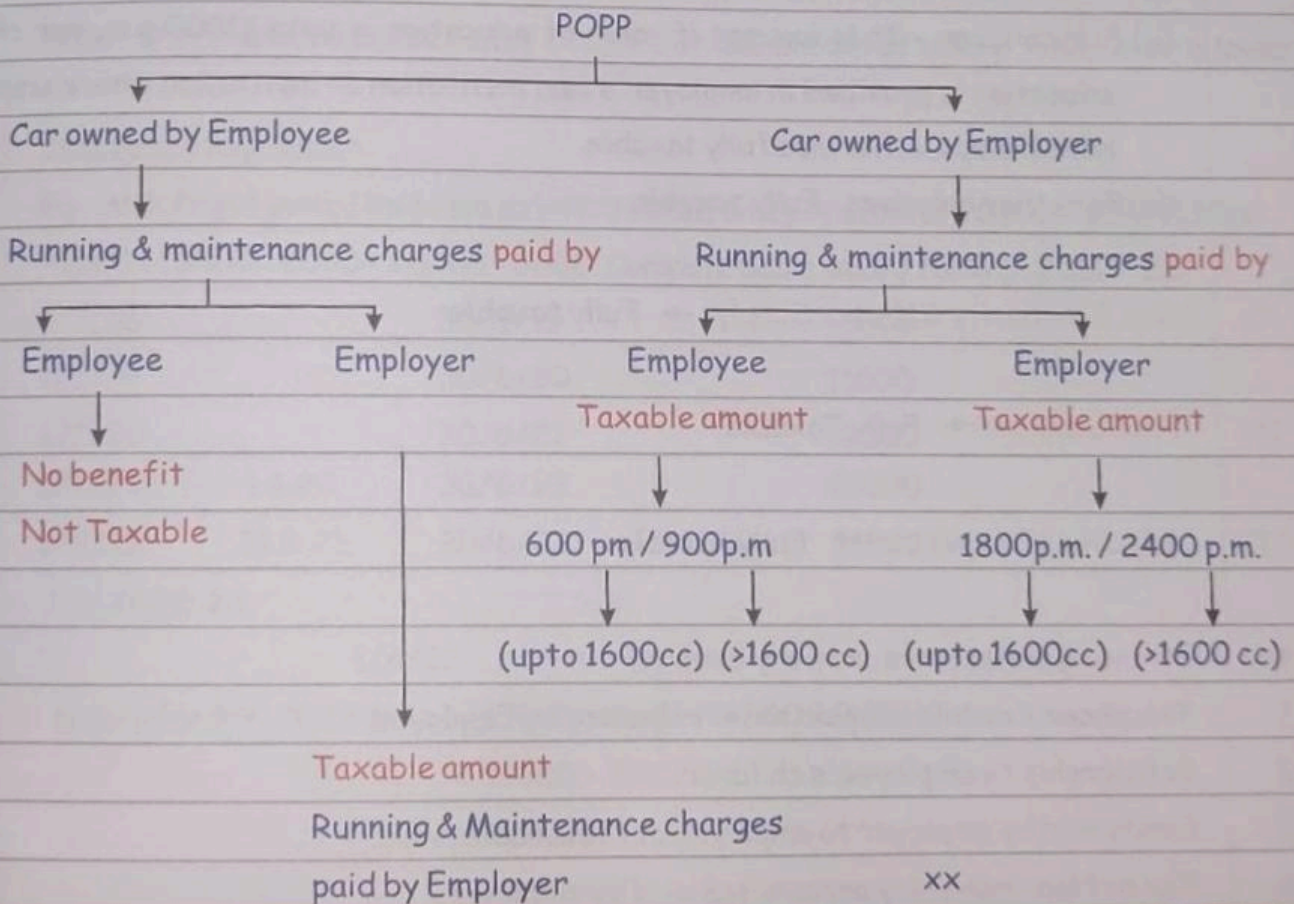
Hired by Employer = Hire charges paid by Employer

+ Driver's salary (If paid by Employer) = xxx

+ Running & maintenance charges (If paid by Employer) = xxx

xxxx

c. Car is used for partly office & partly personal purpose (POPP).



(-) 1800 p.m. / 2400 p.m.	(xx)
[upto 1600cc] [>1600cc]	xx

Notes:

1. If employer also provided driver, then ₹900 pm, should be added to above taxable amount.
2. If more than one car is provided for POPP then one car is taxable according above standard amount & other car shall be taxable on the assumption that it fully used for personal purpose.

13. **Transport facility for Transport Employee (Free tickets)**

- (i) For airlines & railway employee - Airlines & Railway facility is fully exempt fully.
- (ii) For other employees - It is fully taxable

14. **Education Facility**

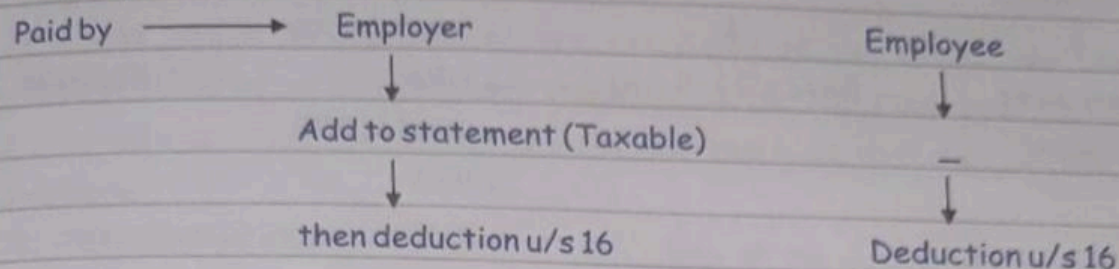
- (i) For employee - Fully exempt
- (ii) For children - It is exempt if value of education is upto ₹1000 p.m. per child education is provided in employer's own institution or institution where employ have tie-ups, otherwise fully taxable.
- (iii) For other relatives - Fully taxable.

15. **Gas, Electricity & Water Supply** → Fully taxable16. **Free Servant** → Fully Taxable17. **Any other Perquisite** → Fully taxable# **Following perquisites are Fully Exempt :**

1. Telephone / mobile bill paid or re-imbursed by Employer.
2. Scholarship to employee's children.
3. Goods sold by employer to employee at reasonable price.
4. Tax on Non- monetary perquisites paid by employer.

Note 15: Professional Tax.

It means tax on employment. If it is paid by employer on behalf of employee, then first it should be taxable and there after deduction allowed u/s 16. If it is paid by employee then only deduction is allowed.



Note 16: Entertainment allowance

It is fully taxable for all employees. But deduction is allowed to government employees u/s 16 as follows:

- (i) 20% of Basic Salary
- (ii) Actual amount received
- ↓ (iii) Maximum ₹ 5000

Note : 17 A standard deduction of ₹50,000 or the amount of salary , whichever is lower.

Concept of Pay Scale*

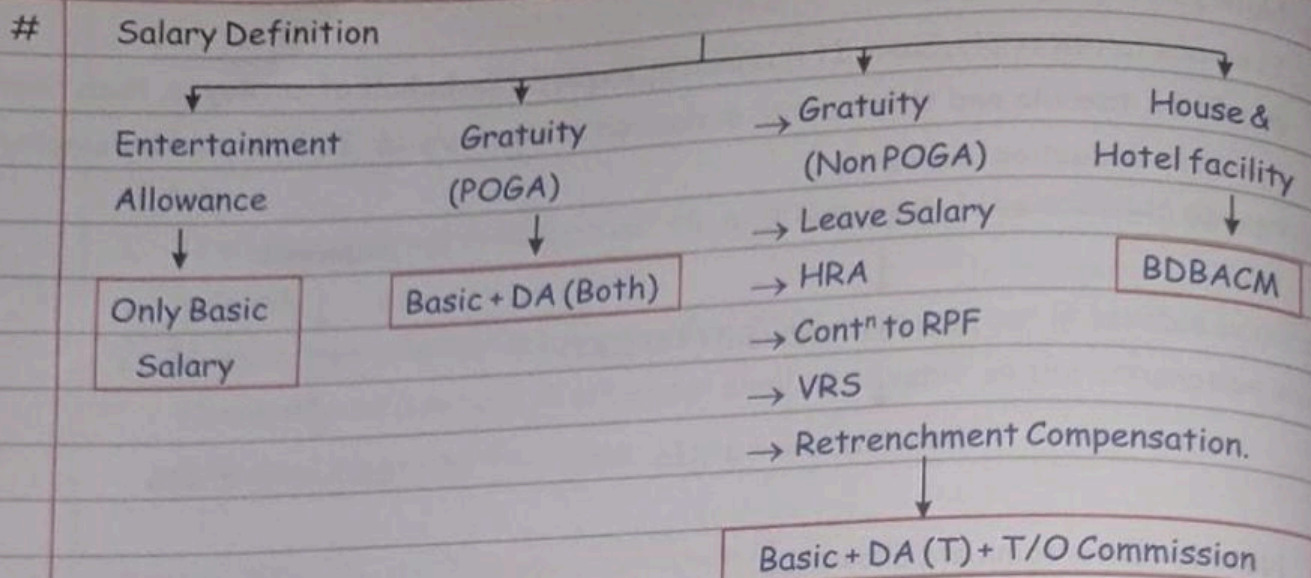
Eg:- MS. Priyal joined Railways as on 1/7/2018 on a pay scale of 10000 - 1000 - 13000 - 1500 - 16000 - 2000 - 20000 - 3000. Compute basic salary for A.Y. 2022 - 23

1/7/18	→	30/6/19	10000
1/7/19	→	30/6/20	11000
1/7/20	→	30/6/21	12000
1/7/21	1.4.22 →	30/6/22	13000
1/7/22	31.3.23 →	30/6/23	14500
P.Y. 2022-23			

1/4/22 → 31/3/23

$$\begin{aligned}
 \text{Salary for P.Y. 2022-23} &= (13000 \times 3m) + (14500 \times 9m) \\
 &= 39000 + 130500 \\
 &= 169500
 \end{aligned}$$

Income From Salary



Rebate u/s 89 for Arrears of salary

To calculate the relief, the following steps should be taken:

Step 1 : Firstly, calculate the tax due in the current year by including the arrears your total income.

Step 2 : Now calculate the tax due in the current year by excluding the arrears from your total income.

Step 3 : Compute the difference of the two figures of Step 1 & 2 and let's call the difference as 'X'.

Step 4: Now Calculate your tax due in the year for which the arrears have been received by including the arrears in your total income.

Step 5 : Then Calculate your tax due in the year for which the arrears have been received by excluding the arrears from your total income.

Step 6 : After that compute the difference of the two figures of Step 4 & 5 and let's call the difference as 'Y'.

Step 7: Lastly subtract X (Step 3) from Y (Step 6) and you will get the relief amount.

Perquisite Taxable

As per section 17(2) ESOPs or sweat equity shares are taxable as perquisite in hand of employee in the year in which shares allotted to employee.

Taxable Amount =	FMV of shares on the date on which option Exercised	Minus	Amount paid by Employee for ESOP's
------------------	---	-------	------------------------------------

Calculation of FMV as per Rule 3(8)

- (i) In a case where, on the date of the exercising of the option, the share in the company is listed on a recognized stock exchange, the FMV shall be the **average of the opening price and closing price** of the share on that date on the said stock exchange.

Provided that where, on the date of exercising of the option, the share is listed on more than one recognized stock exchanges, the FMV shall be the **avg. of opening price and closing price of the share on the recognised stock exchange which records the highest volume of trading in the share.**

Provided further that where, on the date of exercising of the option, there is no trading in the share on any recognized stock exchange, the fair market value shall be—

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

- (ii) In a case where, on the date of exercising of the option, the share in the company is **not listed** on a recognised stock exchange, the FMV shall be such value of the share in the company as determined by a **merchant banker** on the specified date.

Sale of Shares by Employee

At the time of sale of shares capital gain applicable in hands of employee as follows

Computation of Capital Gain

Full Value of Consideration	Sale Value
Less: Cost of Acquisition	FMV of shares as per rule 3(8)
LTCG / STCG	xxxx

In this case POH shall be consider from the date of Allotment of ESOPS till the date of Transfer of shares by Employee.

- # Taxability of ESOPS in case of Start-ups referred u/s 80-IAC
Amendment in section 192 : TDS on Salary (w.e.f. AY 21-22)
Eligible Start-up require to deduct TDS in case of ESOPS within 14 days from:
- (i) after the expiry of 48 months from the end of the relevant AY; or
 - (ii) from the date of the sale of such specified security or sweat equity share by assessee; or
 - (iii) from the date of the assessee ceasing to be the employee of the start-up, 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 to employee.

Similar amendments also made in following sections:

191: Assessee paid tax directly (If TDS not deducted)

156: Demand Notice by Department

140A: Reduction of Tax paid u/s 191 for calculation of self-assessment tax

Example : 1 Mr. Sudeep (age 34 years) is an employee of Gupme Foods Pvt. Ltd. (eligible start-up as per section 80-IAC).

Salary income of Mr. Sudeep as follows for PY 22-23

Basic Salary	₹50,00,000
DA	₹5,00,000
Leave Travel Concession	₹3,00,000 (assume Fully Exempt)

Company allotted 5,000 shares @10 per share as ESOPS to Mr. Sudeep in the month of Dec. 22. FMV on the date on which option exercised is 6500 per share. Calculate TDS to be deducted for AY 23-24 assume employee not opted section 115BAC.

Solutions:

Computation of Total Income & Tax Liability

PY 22-23 AY 23-24

Particular	Amount
Basic Salary	50,00,000
DA	5,00,000
LTC [Exempt u/s 10(5)]	-
ESOP Perquisite [5000 x 6490(6500-10)]	3,24,50,000
Gross Salary	3,79,50,000
Less: Standard deduction u/s 16	50,000
Net Taxable Salary (Total Income)	3,79,00,000
Tax on Total Income	
Upto 2,50,000	Nil
>2,50,000 upto 5,00,000	12,500
>5,00,000 upto 10,00,000	1,00,000
>10,00,000 upto 3,79,00,000	1,10,70,000
	1,11,82,500
Add.: Surcharge @ 25%	27,95,625
	1,39,78,125
Add.: Health & Education Cess	5,59,125
Net Tax Payable	1,45,37,250
Average Tax Rate for AY 23-24 (1,45,37,250/3,79,00,000)	38.357%
Tax to be deferred as per section 192(1C) [38.357% of 3,24,50,000]	1,24,46,800
Tax to be deducted as per section 192 in PY 22-23 (AY 23-24)	20,90,450

Example: 2

Suppose in above example Mr. Sudeep transfer 2,000 shares for 9,000 each on 20/07/2024. What will be tax treatment?

Solution:

Computation of capital gain in hands of Sudeep

PY 24-25 AY 25-26

Particular [POH : Dec. 22 to 19/07/24]	Amount
Full Value of Consideration (2,000 x 9000)	1,80,00,000
Less: Cost of Acquisition (2,000 x 6500)	1,30,00,000
STCG	50,00,000

TDS on perquisite to be deducted by Gupme Foods Pvt Ltd upto 03/08/24 (20/07/24 + 14 days) as follows

$$1,24,46,800 \times 2000 \text{ Shares} / 5000 \text{ Shares} = 49,78,720$$

Note : Remaining amount (1,24,46,800 - 49,78,720) i.e. 74,68,080 (3000 shares) deducted as TDS within 14 days from

- (i) after the expiry of 48 months from the end of the relevant AY (i.e. 14.04.28); 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 start-up, whichever is the earlier.

BB's Comment : In simple words we can say that in case of ESOPS of eligible start-up perquisite is Taxable in the year in which shares allotted to employee but Tax on such perquisite shall be paid to government within 14 days of ;

- (i) after the expiry of 48 months from the end of the relevant AY; 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 start-up, whichever is the earlier.

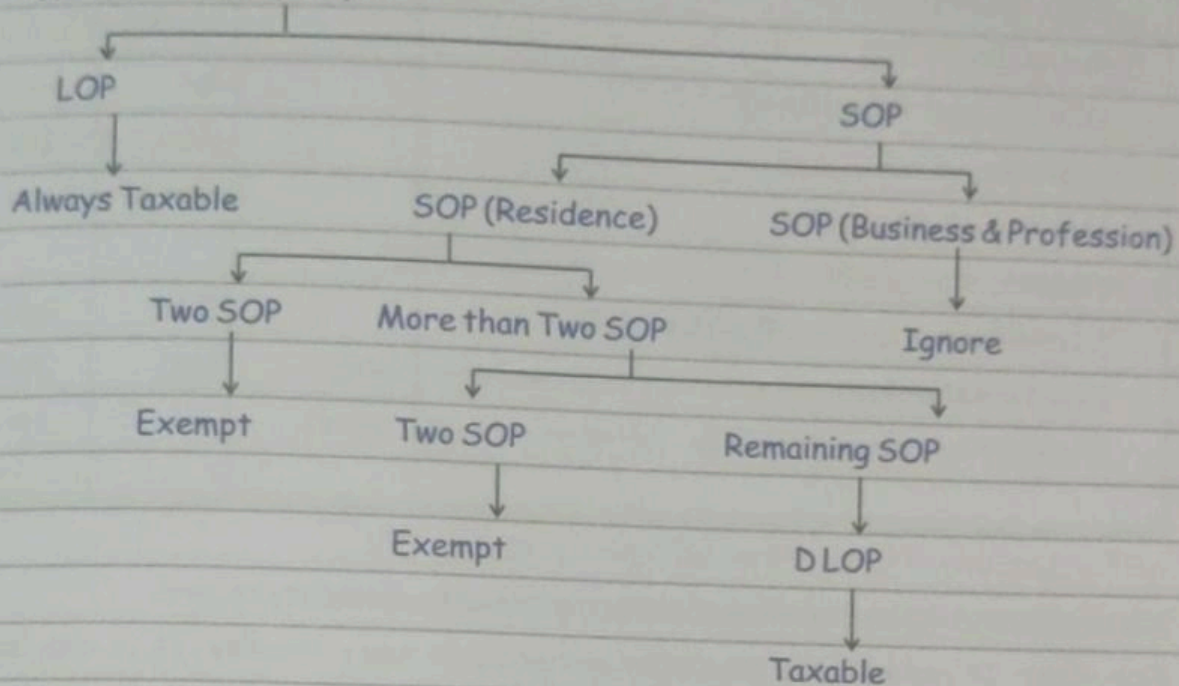
Sec 22 : Charging Section

Rental income (Annual value) is taxable under the head income from house property if following **two** conditions are satisfied:

1. There should be **House property** **
2. Assessee should be **owner** of that house property.

** House property means building or land appurtenant thereto

Type of house property.



LOP : Let Out Property.

SOP : Self Occupied Property.

DLOP : Deemed to be Let Out Property.

Amendment by F.A. 2019

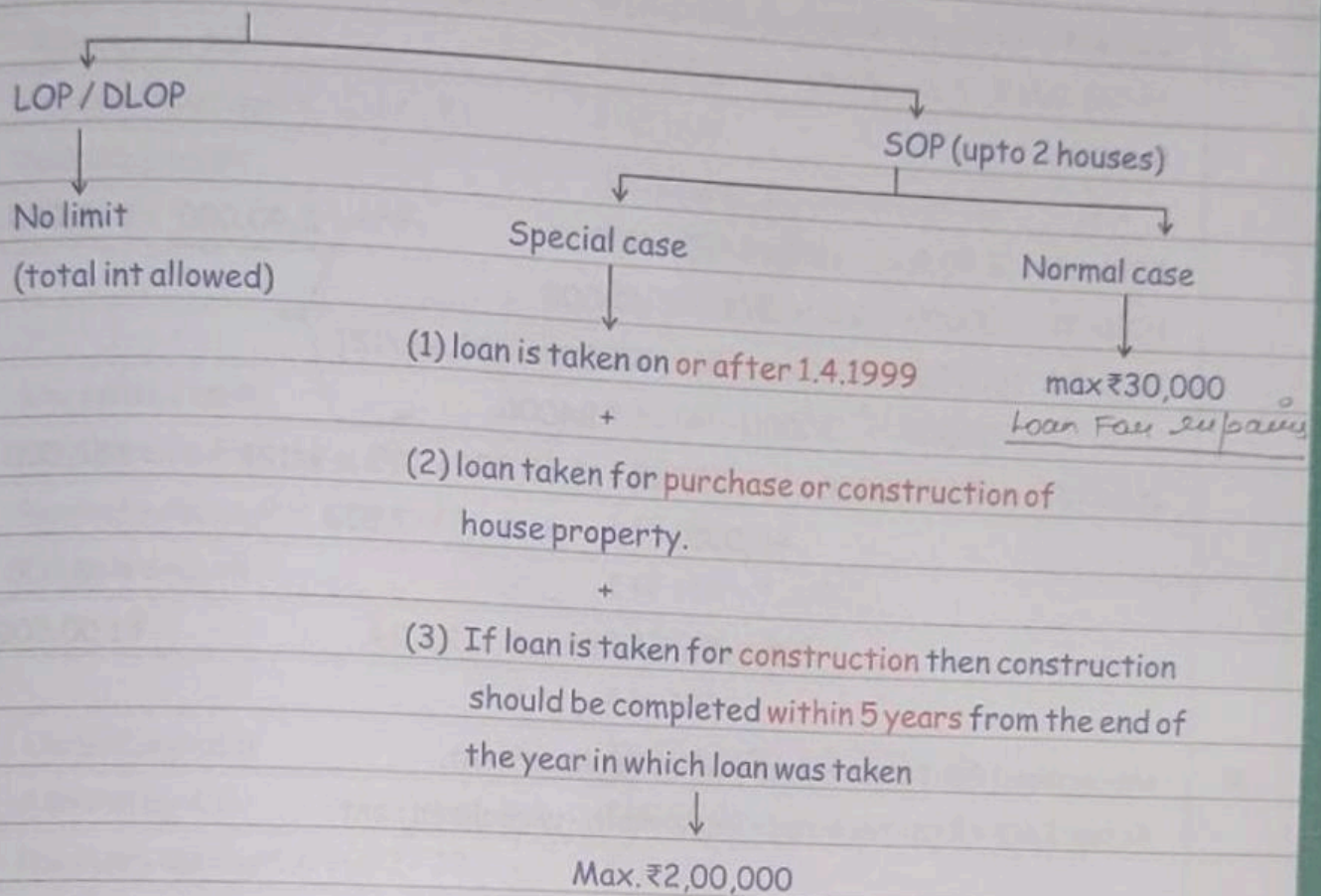
Where the house property is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to Two Years from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be NIL.

#	Computation of income from House property	P.Y. 2022-23		A.Y. 2023-24
		SOP (Res)	LOP	DLOP
	↑ Municipal value	-	xx	xx
	↑ Fair Rent	-	xx	xx
	whichever is higher	-	xx	xx
	↓ Standard Rent	-	xx	xx
	↑ Expected Rent	-	xx	xx
	↑ Actual Rent	-	xx	-
	Gross Annual Value (GAV)	-	xx	xx
	(-) Municipal taxes paid	-	(xx)	(xx)
	Net Annual value (NAV)	-	xx	xx
	(-) Deduction u/s 24			
	(i) standard deduction @ 30% of NAV	-	(xx)	(xx)
	(ii) interest on loan	(xx)	(xx)	(xx)
	Income From house property	-/(xx)	xx	xx

1. Municipal value: It means value of property as per municipality record.
2. Fair Rent: It means rent of similar property in same locality. It is also known as reasonable rent/reasonable letting value.
3. Standard Rent: It means rent as per rent control Act, It is the maximum amount of rent that can be legally recovered by **Owner from tenant**.
4. Actual Rent: Actual Rent = Rent received (+) Rent receivable (-) unrealised rent
5. Municipal Taxes.
 - a. It means tax which is recovered by Municipality, local Authority, gram panchayat
 - b. It is also known as house Tax, property tax, local tax etc.
 - c. It is allowed on **payment basis** [paid - Allowed; o/s - Not allowed]
 - d. It is allowed only if it is paid by **owner**.
 - e. If municipal taxes are given on % age basis then it should be calculated on municipal value.

6. Interest on Loan.

- a. Interest on loan is allowed as deduction, if loan is taken for the purpose of house property i.e. purpose, construction, repair, renovation.
- b. Loan may be taken from banks, financial institutions trusts, friends, family etc.
- c. Interest is allowed on **due basis** [paid - Allowed; o/s - Allowed]
- d. Interest on Interest (Penal interest) is not allowed as deduction
- e. Limit:



6. Any fresh loan is taken for repayment of earlier loan & earlier loan was taken for the purpose of house property then interest of fresh loan shall be allowed as deduction.
7. Interest paid **outside India** shall **not be allowed** as deduction if **TDS not deducted** on such interest.
8. **Pre-construction/Acquisition interest** : It means interest paid before the **year** in which construction was completed. It is allowed in **Five equal instalments** from the year in which construction was completed.

Example: Tanzila taken a loan from SBI Housing Ltd, for ₹12,00,000 on 1/12/2019. She made principal repayment as follows:

1.4.2020	3,00,000
1.10.2021	4,00,000
1.1.2023	2,50,000

Calculate interest deduction u/s 24 for P.Y. 2022 - 23. Construction completed on 14/02/2023. Rate of interest @ 12%.

Solution:

P.Y.	Interest Calculation	Interest Amount
2019-20	$12,00,000 \times 12\% \times 4/12 = 48,000$	48,000
2020-21	$9,00,000 \times 12\% \times 12/12 = ₹ 1,08,000$	1,08,000
2021-22	$[9,00,000 \times 12\% \times 6/12] + [5,00,000 \times 12\% \times 6/12]$ $= 54,000 + 30,000 = ₹ 84,000$	84,000
2022-23	$[5,00,000 \times 12\% \times 9/12] + [2,50,000 \times 12\% \times 3/12]$ $= 45,000 + 7,500$	52,500
		48,000
		1,00,500
	Total interest for A.Y. 23-24.	₹ 1,00,500

Un-realised Rent and recovery of un-realised Rent.

Actual Rent = Rent received + Receivable - unrealised rent.

Unrealised rent: It means rent which is not recovered by owner from tenant. It is like **Bad debts** of rent, it is deductible while calculating actual rent if following **four conditions** of Rule 4 are satisfied.

1. Tenancy should be **bonafide**.
2. Tenant should have **vacated** that house property.
3. Such tenant should **not occupy** any other house property of same assessee.
4. Reasonable step should have been taken for recovery of unrealised rent.

Note: As per ITR FORM unrealised rent can be reduced from Gross Annual Value.

Arrears of rent: It means rent under dispute.

Sec 25A : Recovery of un-realised rent & arrears of rent.
 Recovery is taxable in the year in which it is recovered, under the head house property, whether the assessee is the OWNER of the property or not is that Financial year. Any expenditure incurred for such recovery shall be Ignored
 Taxable Amt = Recovery x 70% [30% std deduction].

Example:

1)	Unrealised rent	=	₹ 60,000 (for P.Y. 2010 - 11)
	Allowed by AO	=	₹ 35,000.
	Recovery during P.Y. 2022 - 23	=	₹ 52,000
	Taxable amount	=	Recovery - Disallowed earlier
		=	52,000 - 25,000
		=	27,000 x 70%
		=	₹ 18,900/-
2)	Unrealised rent	=	₹ 50,000 (for P.Y. 2010-11)
	Disallowed earlier by A.O.	=	₹ 22,000
	Recovery during P.Y. 2022 - 23	=	₹ 45,000
	Taxable amount	=	₹ 45,000 - ₹ 22,000
		=	₹ 23,000 x 70%
		=	₹ 16,100/-
3)	Unrealised rent	=	₹ 50,000 (for P.Y. 2010-11)
	Allowed by A.O.	=	₹ 20,000
	Recovery during P.Y. 2022 - 23	=	₹ 18,000
	Taxable amount	=	NIL

Other Expenses.

Repair & Maintenance

Society charges

Parking charges

Insurance charges

Electricity & water charges

Lift charges, etc

Not allowed because 30 %

Standard deduction on NAV

is allowed

Concept of Vacancy
 $ER \leq AR + VR$
 \downarrow
 GAV

$ER > AR + VR$
 \downarrow
 GAV

Example:

1) Monthly Rent = ₹ 20,000 p.m.
 Expected Rent = ₹ 1,92,000
 Vacancy = 3 months.
 $ER \leq AR + VR$
 $\text{₹ } 1,92,000 \leq \text{₹ } 1,80,000 + \text{₹ } 60,000$
 \downarrow
 $\text{₹ } 2,40,000$
 GAV

2) Monthly Rent = ₹ 3,000 p.m.
 Expected Rent = ₹ 1,95,000
 Vacancy = 2 months
 $ER > AR + VR$
 $\text{₹ } 1,95,000 > \text{₹ } 30,000 + \text{₹ } 6,000$
 \downarrow
 GAV

3) Expected Rent = ₹ 3,00,000
 Monthly Rent = ₹ 25,000 p.m.
 Vacancy = 3 months
 $ER \leq AR + VR$
 $\text{₹ } 3,00,000 \leq \text{₹ } 2,25,000 + \text{₹ } 75,000$
 \downarrow
 $\text{₹ } 3,00,000$
 GAV

Concept of Partly Let out property (Area wise)

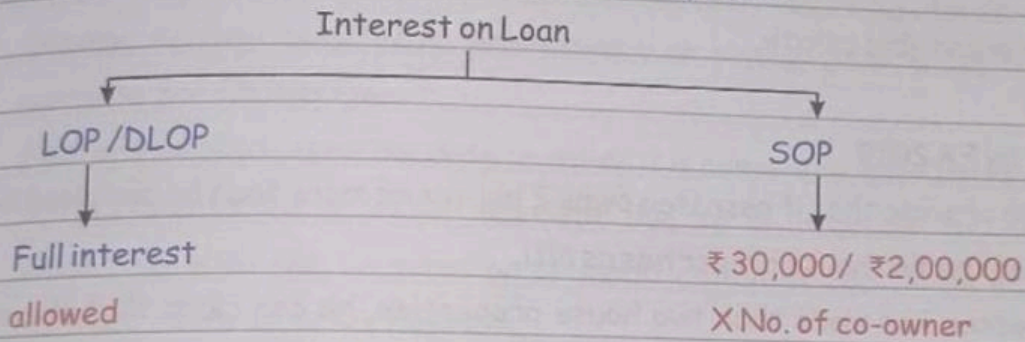
If some area of House property is let out & remaining is self occupied then let out portion is treated as LOP & self occupied portion is treated as SOP. In this case, Municipal value, fair rent, standard rent, municipal taxes, interest on loan should be divided between SOP & LOP on area basis.

Actual rent should never divided because it is always for LOP.

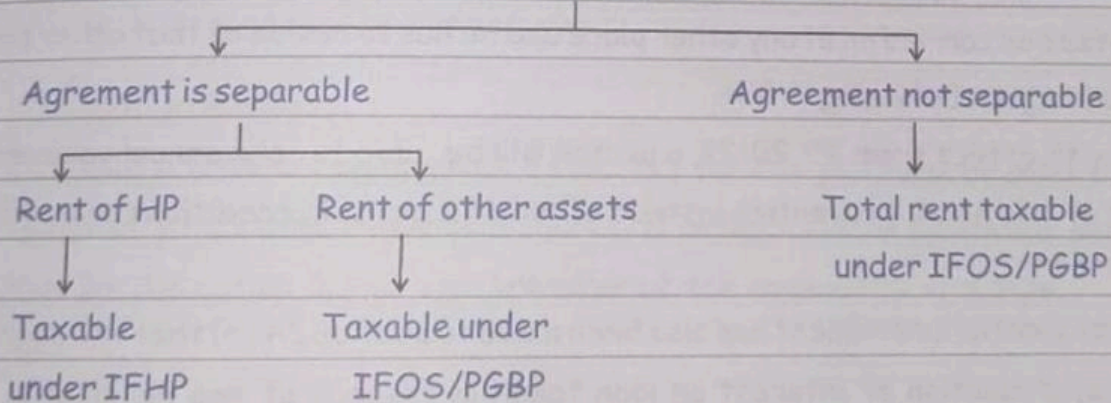
Concept of Partly Let out property (Time wise)
 If property is let out for some period of time & self-occupied for remaining time then such property is treated as LOP only. If property is let out for even 1 day then, also that property is treated as LOP.

Assessee owns more than Two SOP.
 Two of such house properties (at the option of Assessee) treated as SOP & remaining be treated as DLOP.

Concept of Joint ownership.
 Joint ownership (co-ownership) means property is owned by more than one owner, in this case, income from house property is calculated normally & thereafter it should be divided between co-owners in their ownership ratio.



Concept of composite Rent
 Composite rent = Rent of House property + Rent of other assets & amenities.



Note : If let out of property not feasible without other asset then total rent is taxable under the head income from Business / Profession or income from other sources whether agreement is separable or not. Eg. Hotel.

- # Section 27 : Deemed owner
1. If any individual transfers any house property to his / her spouse for without consideration or inadequate consideration then such individual is treated as Deemed owner of such property.
Exception : Transfer in connection of live apart.
 2. If any individual transfers any house property to a minor child (other than minor married daughter) for without consideration or inadequate consideration then such individual is treated as deemed owner.
 3. In case of a co-operative society, shareholder is treated as deemed owner of such property.
 4. Holder of an impartible estate.

Amendment by FA 2019

Section 23 to provide that if assessee owns 2 houses or more than he can claim annual value of any of the two house properties as NIL.

Thus, if assessee has more than two house properties, he can claim that the annual value of any two house properties shall be nil which:

- (a) are in occupation of the owner for the purpose of his own residence; or
- (b) cannot actually be occupied by the owner owing to his employment, business or profession carried on at any other place and he has to reside at that other place in a building not belonging to him.

Hence, with effect from AY 20-21, a person will be able to take annual value as nil in respect of two house properties instead of one if aforesaid conditions are satisfied.

The consequential amendment has also been made to section 24 (b) that the aggregate amount of deduction of interest on loan taken in respect of two residential house properties, whose annual value is treated as nil as per section 23(2), shall not exceed ₹30,000 or ₹2,00,000, as the case may be.

Section 28 : Charging Section

- # Following income shall be taxable under the head PGBP.
1. Any profit or gain of any Business/Profession.
 2. Profit on sale of import entitlement licence.
 3. Cash compensatory support or duty drawback.
 4. Profit on sale of DEPB [duty entitlement pass book scheme] or Duty Free Replenishment certification [DFRC].
 5. Any amount received under Key-Man insurance policy.
 6. Any gift/ benefit/perquisite arising due to business or profession.
 7. Any **interest**, salary, bonus, commission received by partner from partnership firm [to the extent allowed u/s 40(b) to firm].
 8. Non-compete Fees [not carrying out any activity in relation to any business or profession or not sharing any know-how, patent, copyright, trade-mark etc.].
 9. Income derived by a trade, professional or similar association from specific service perform for its member.
 10. FMV of inventory as on the date on which it is converted into Capital asset.
 11. Any compensation or other payment due to or received by, any person, at or in connection with the termination or modification of the terms and conditions, of any contract relating to his business.

Accordingly, any compensation received or receivable, whether revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as business income

→ **Speculation Business**

It means a transaction in which a contract for the purchase or sales of any commodity including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips.

- Transaction not deemed to be speculative transaction
- a. Hedging contract in respect of raw materials or merchandise or stocks and shares
 - b. Forward contract
 - c. Trading in derivatives through recognised stock exchange.
 - d. Trading in commodity derivatives through recognized association, which is chargeable to commodities transaction tax (CTT) However, the requirement of chargeability to commodities transaction tax is not applicable in respect of trading in agricultural commodity derivatives from A.Y. 2019-20.

Note: Speculative business shall be treated as **separate and distinct business**.

Section 29: How to compute PGBP

PGBP are to be computed in accordance with the provisions contained in sections 30 to 43D.

Section 30 : Rent , Rates, Taxes, Repairs & Insurance of Building

	Rent	Rates & Taxes	Insurance	Revenue Repair	Capital Repair
Owner	Not Allowed	Allowed	Allowed	Allowed	Not allowed
Tenant	Allowed	Allowed	Allowed	Allowed	Not Allowed

()
Added to cost of Asset

Section 31: Insurance & Repair of Plant & Machinery & Furniture

	Rent	Insurance	Revenue Repair	Capital Repair
Owner	Not Allowed	Allowed	Allowed	Not allowed
Tenant	Allowed	Allowed	Allowed	Not Allowed

[as per Sec. 37] ()
Added to cost of Ass

Note : 1. Expenses u/s 30 & 31 allowed only if asset used for business or profession
 2. Capital repair by tenant is treated as **Deemed Building** & depreciation allowed to **Tenant**.

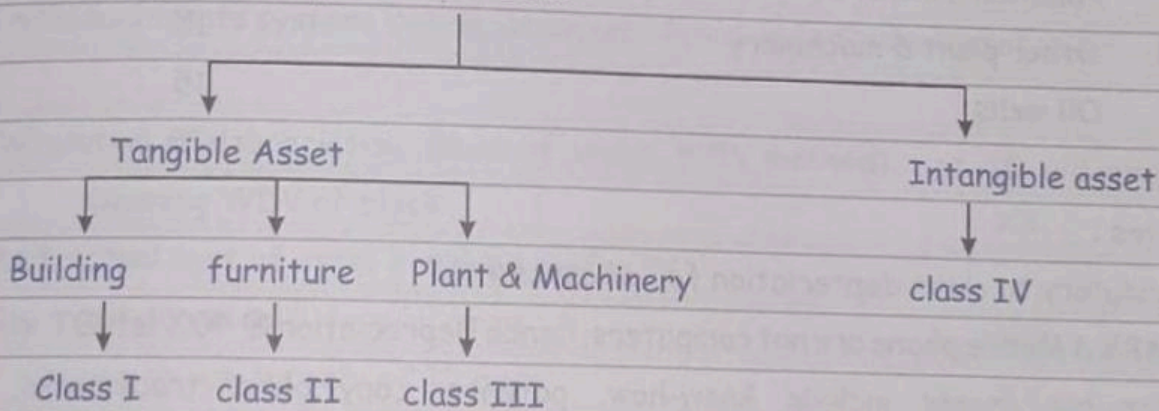
Section 32: Depreciation

A. Conditions to claim depreciation

- i) Asset should be **used** for business / profession purposes (active or passive)
- ii) Assessee should be **Owner** of such asset (wholly or partly)

- Note:
1. Depreciation is allowed if assessee is **beneficial owner**.
 2. In case of Lease, Depreciation is always claimed by lessor whether it is Financial lease or Operating lease [CBDT circular].
 3. In case of Hire Purchase, assessee gets the ownership only after payment of last instalment but he can claim depreciation from beginning, assuming assessee is the owner from beginning.
 4. Depreciation on asset partially owned by the assessee shall be allowed to him to the extent of his share in asset.
 5. In case of stand by machinery and emergency spares, the depreciation shall be allowed even if they are ready for use & not put to use.

B. Classification of Depreciable assets



C. Rates of Depreciation

Assets	Rate (%)
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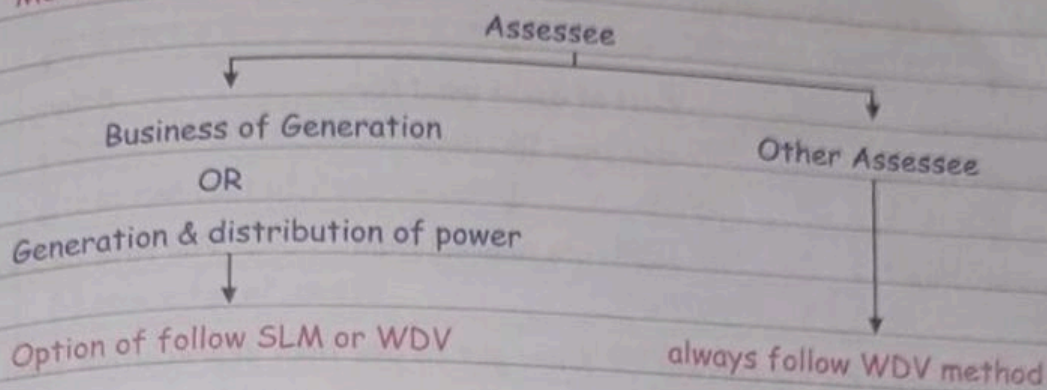
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|----|---------------------------------|----|
| 1. | Building | |
| | i. Residential | 5 |
| | ii. General | 10 |
| | iii. Temporary Structure | 40 |
| 2. | Furniture & Fittings | 10 |

3.	Plant & Machinery	
i.	Motor Vehicles	
	a) Used in a business of running them on Hire	30
	- Acquired & put to use between 23.08.19 to 31.03.20	45
	b) Other motor vehicles	15
	- Acquired & put to use between 23.08.19 to 31.03.20	30
		20
ii.	ships	40
iii.	Aircraft	40
iv.	Computer / Laptop	40
v.	Books	
	a) owned by assessee carrying on a profession (annual publications or other than annual publications)	40
	b) Libraries business	40
vi.	Windmills & its equipments.	
	a) Installed before 01/04/2014	15
	b) Installed on or after 01/04/2014	40
vii.	Pollution control equipments	40
viii.	Other plant & machinery	15
ix.	Oil wells	15
		25
4.	Intangible assets	

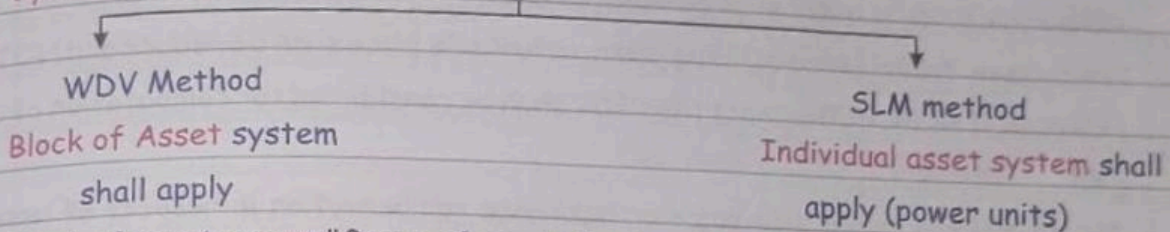
Notes :

1. Mandatory to claim depreciation for all assessee.
2. EPABX & Mobile phone are not computers, hence Depreciation @ 40% is NOT eligible.
3. Intangible assets include know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature but other than goodwill of business and profession.
4. Depreciation rate for computers accessories is 40% i.e. UPS, printer, scanners.
5. Depreciation allowed when asset actually put to use & not ready to use.
6. As per Sec. 43(3) plant includes ships, vehicles, books, scientific apparatus, surgical equipment used for business or profession but does not include Tea bushes, stock, building, furniture & fitting.

D. Method of Depreciation



E. System of depreciation



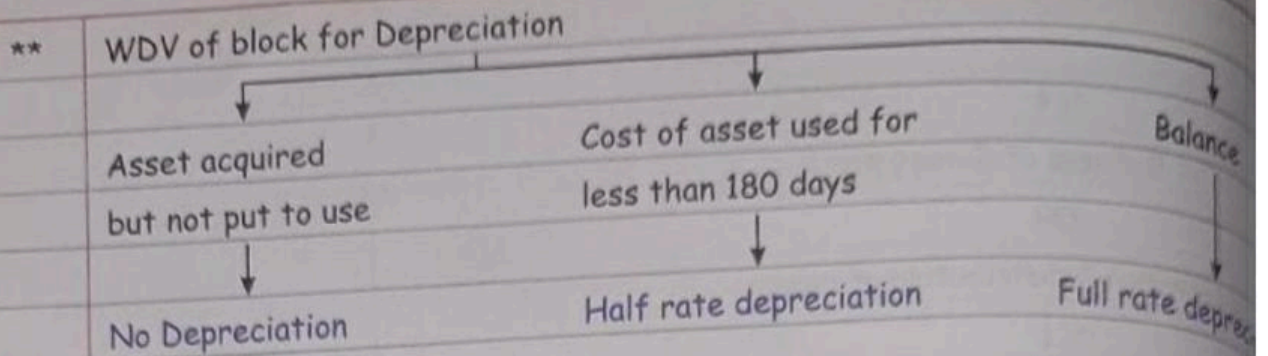
→ Block of asset means "Group of assets having Same Rate of dep within the Same Class Of Asset"

Block Of Asset = Same Rate + Same Class

→ Individual assets system: Depreciation calculated on Individual asset - Same as Accounts

F. Calculation of depreciation (Block of asset/ WDV method)

	₹
Opening WDV of block	XX
Add: actual cost of asset acquired during PY	
* put to use 180 days or more	XX
* put to use less than 180 days	XX
* acquired but not put to use	XX
	XX
Less: Money payable (selling price of asset]	(XX)
Less: WDV of assets transferred in Slump sale (compute WDV of asset assuming this is only asset in block)	(XX)
** WDV of block for Depreciation	XX
Less: Dep actually allowed	(XX)
Closing WDV of block	XX



Notes:

1. If asset acquired during current PY & not put to use then depreciation shall not be allowed for such asset but that asset should be added to Block of asset.
2. Actual sale price of asset shall be reduced and not the FMV of asset sold.
3. If assessee transferred Building then actual sale price shall be reduce and NOT FMV. However, if section 50 attract then SDV shall be considered for computation of gain.
4. Money payable means sale price or insurance compensation in respect of asset discarded, demolished or destroyed during the PY and the amount of scrap value.

Proviso to Sec. 32(1)

Depreciation is restricted to 50% if asset put to use for less than 180 days in the year of acquisition, Restriction applies only in the year of acquisition,

Year of acquisition	Year of put to use less than 180 days	Depn allowed	Rate
P.Y. 2021-22	P.Y. 2021-22	P.Y. 2021-22	Half Rate
P.Y. 2021-22	P.Y. 2022-23	P.Y. 2022-23	Full Rate

6. Section 50: sale of asset / capital gain in case of depreciable assets [block of asset]
 a) Where a **Block of assets** ceases to exist [all asset transfer]

	₹	No.	₹	No.
Opening WDV of block	6,00,000	5	6,00,000	5
(+) actual cost of Asset acquired	2,00,000	2	2,00,000	2
	8,00,000	7	8,00,000	7
(-) sale value of assets	(5,20,000)	7	(8,00,000)*	7
Capital loss	2,80,000		-	
Sales price	5,20,000	7	9,30,000	7
* WDV can be nil but Never negative	Assets	No	Assets	No
	WDV	Yes	WDV	No
	Dep ⁿ	No	Dep ⁿ	NO
	Cap. Gain	Yes	Cap. Gain	Yes
Computation of capital gain	₹		₹	
FVOC	5,20,000		9,30,000	
(-) opening wdv + asset acq. during PY	(8,00,000)		(8,00,000)	
	(2,80,000)		1,30,000	
	STCL		STCG	

Note: In case of Depreciable assets there is always STCG.

b) where **Some assets** of block are transferred

	₹	No.	₹	No.
Opening WDV of block	6,00,000	5	6,00,000	5
(+) actual cost of asset acquired	2,00,000	2	2,00,000	2
	8,00,000	7	8,00,000	7
(-) sale value of asset	8,00,000	4	6,20,000	4
	x	3	1,80,000	3
sale price	9,10,000		6,20,000	
	Asset	Yes	Asset	Yes
	WDV	No	WDV	Yes
	Depn	No	Depn	Yes
	Cap Gain	Yes	Cap Gain	No

Computation of capital gain

FVOC	9,10,000
(-) Opening WDV + asset acquired	(8,00,000)
STCG	<u>1,10,000</u>

Normal depreciation
will be allowed

H Section 32(1) (iia) Additional Depreciation

Assessee - engaged in the business of manufacture of any article or generation or transmission or distribution of power.

Additional depreciation @20% allowed on plant & machinery

Excluding following:

- i. Second hand P&M.
- ii. Any p&m installed in office premises or residential accommodation.
- iii. Ships, aircraft & transports vehicles
- iv. P & M on which 100% deduction allowed

Additional depreciation is allowed Only in the First year in which it is put to use. If put to use for less than 180 days then 10% depn shall be allowed [20% x 50%

Notes:

1. If additional depreciation allowed at Half Rate [asset used less than 180 days then balance half rate depreciation shall be allowed in Next year.
2. Forklift Truck used in factory is not treated as transport vehicle so it is eligible for additional depreciation.
3. Business of printing or printing and publishing amounts to manufacture or production of an article or thing and is, therefore, eligible for additional depreciation (Circular)
4. Additional depreciation is allowed only if assessee follow WDV method. It is not allowed to Power units if they follow SLM method.

Sec. 43(1): Actual cost

Actual cost of asset means

	₹
Cost of asset (purchase price)	xxx
(+) Installation charges	xxx
Transportation expenses for asset	xxx
Trial run/test run expenses	xxx
Taxes & duties (if ITC not available)	xxx
Interest on loan taken for acquisition of asset (upto the date of asset put to use)	xxx
	xxx
(-) Amount recd. on sale of trial run product	(xxx)
	xxx
(-) Subsidy / Govt Grants recd. for acquisition of assets	(xxx)
Actual cost	(xxx)

Where an assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, other than by an alch payee cheque or alch payee DD or use of electronic clearing system, exceeds ₹ 10,000, such expenditure shall not form part of actual cost of such asset.

Govt Grant / Subsidy	If related to any asset then reduce from actual cost.
Asset brought into India by NR for use in his Business or Profession	Actual Cost xx -Dep. Calculated at the rate in force as if the asset was used in India from date of acquisition (xx)
Actual Cost allowed as deduction u/s 35AD and capital asset transferred to non-specified business after 8 years from the year of acquisition or transfer by way of transactions referred in section 47.	xx Actual cost for transferee shall be NIL

Explanation 7 of Section 43(6)

in cases of 'composite income', for the purpose of computing written down value of assets, the total amount of depreciation shall be computed as if the entire composite income of the assessee is chargeable under the head "PGBP". The depreciation so computed shall be deemed to have been "actually allowed" to the assessee

Example

As per rule 8 income derived from the sale of tea grown and manufactured by seller shall be computed as if it were income derived from business, and 40% of such income shall be deemed to be income liable to tax. If the turnover is, say, ₹ 20 lakh, the depreciation ₹1 lakh and other expenses ₹4lakh, then the income would be ₹15 lakh. Business income would be ₹6 lakh (being 40% of ₹15 lakh). As per earlier Court decisions, only the depreciation "actually allowed" i.e., ₹40,000, being 40% of ₹1 lakh, has to be deducted to arrive at the written down value but as per this explanation total 1 lakh shall be reduce to compute WDV.

K. Depreciation for Power Generating undertaking / Sale of Assets / SLM method / Individual asset system.
 If power units follows SLM method then they are subject to individual asset system profit & loss is calculated on every sale.

For better understanding lets take an example:

Actual cost of asset = ₹100 Rate of depn = 10% SLM

In 3rd year suppose asset sold for a) 72 b) 89 c) 117

Calculation of depreciation for 2yrs

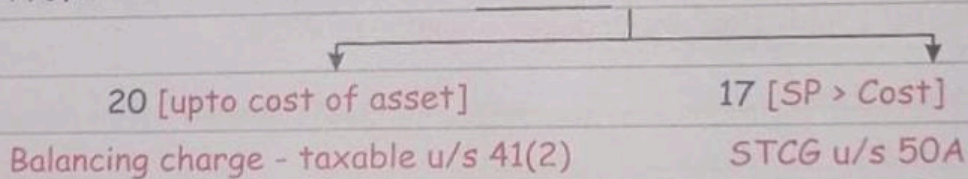
Actual cost	100
(-) dep ⁿ for 1 st year	(10)
	90
(-) dep ⁿ for 2 nd year	(10)
Opening WDV in 3 rd year	80

Tax treatment in the year of sale (3rd year)

a) Sale value	72	
(-) WDV	(80)	
Loss - P&L (Dr side)	(8)	→ Terminal depn allowed as deduction u/s 32(1)(iii)

b) Sale value	89	
(-) WDV	(80)	
Profit - P&L (Cr side)	9	→ Balancing charge taxable as income under PGBP u/s 41(2)

c) Sale value	117
(-) WDV	(80)
Profit	37



Taxation of Grants/Subsidies from Govt
 Any subsidy, grants, cash incentive, duty drawback, waiver etc by CG or SG or any Authority or Body [other than referred in explanation 10] shall be treated as Income. Sec. 2(24)(xviii).

Notes

1. If subsidy received for acquiring an asset, it shall be deducted from Actual cost of asset.
2. Any other subsidy / waiver of loan / Govt. Grant from Govt's. / any authority / body will be taxable under PGBP
3. Any subsidy / grant received by trust or institution (established by CG/SG) as a Corpus fund from Central Govt shall not be treated as income.
4. Above provision Not applicable on LPG subsidy or any other subsidy which is for the welfare of the individual.

Treatment of interest on loan taken for acquiring asset
 Interest upto the date of asset first put to use : **add to actual cost.**
 Interest after the date of asset first put to use : **allowed as revenue exp.**

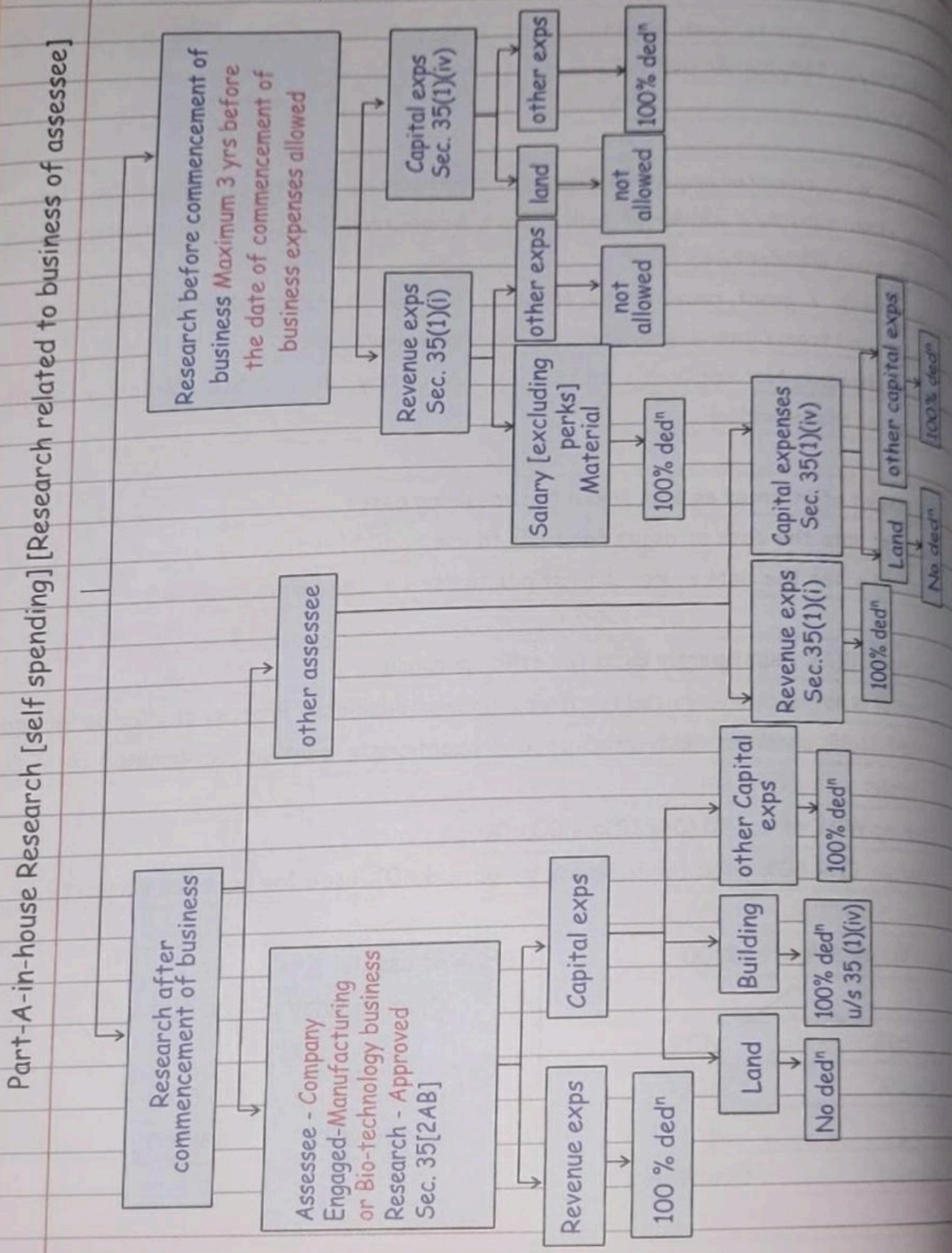
Section 38(2): Asset partly used for other purpose
 If asset is not exclusively used for the purpose of Business / Profession then deduction u/s 30,31,32 shall be restricted to a proportionate part as determined by A.O.
 Example:

Opening WDV of car(01/04/20)= 4,00,000

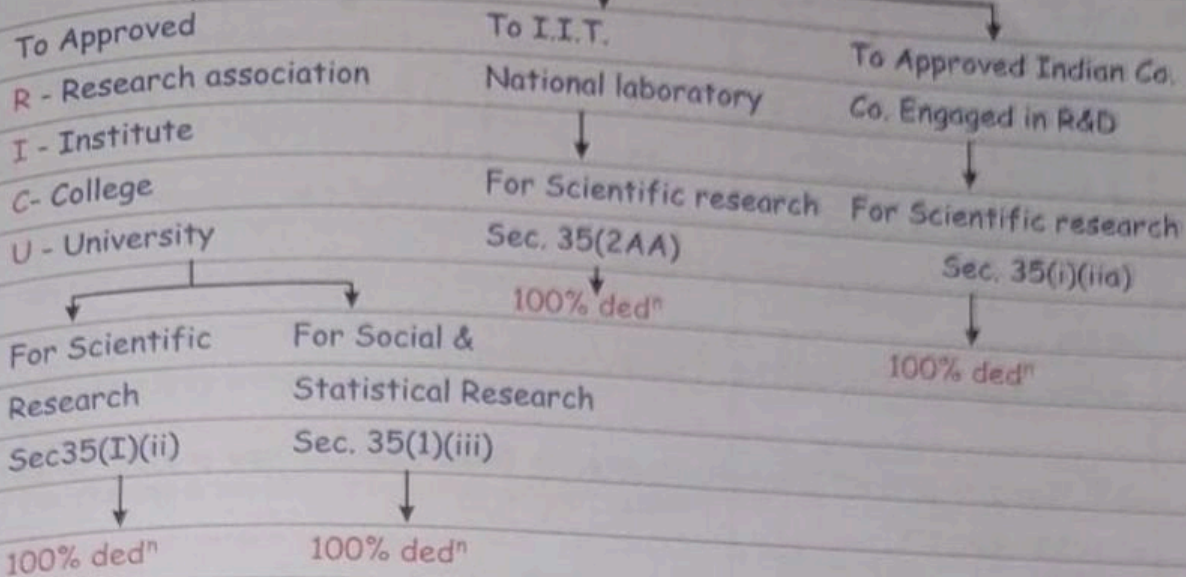
Suppose, CAR 60% used for business purpose & 40% used for personal purpose

Dep@ 15% = ₹60000 	Block of asset ₹ Opening WDV = 4,00,000 (-) Dep ⁿ actually allowed = (36,000) Closing WDV <u>3,64,000</u>
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Section 35: Expenditure on Scientific Research.



Part B : Contribution to outsiders

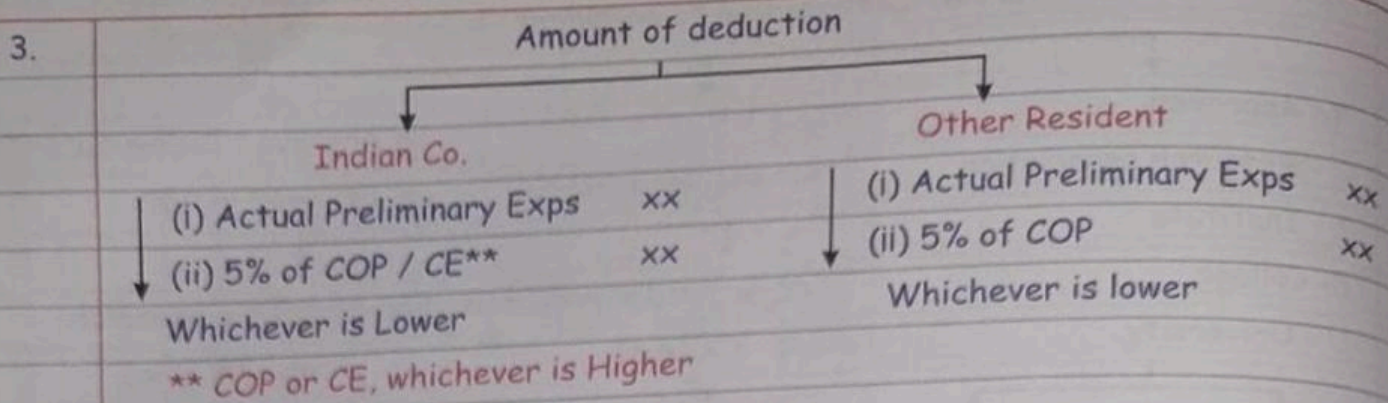


Notes :

1. The deduction u/s 35(1)(ii)/(iii)/35(2AA) shall not be denied if approval of such institution has been withdrawn after payment of sum by assessee.
2. No depreciation allowed on assets if deduction u/s 35 claimed.
3. If L&B purchased through a composite agreement then the cost of L&B shall be bifurcated on the basis of FMV because cost of land is not allowed as deduction.
4. Unabsorbed research capital expenditure can be set off & carried forward same as un-absorbed depreciation.
5. Deduction u/s 35(1)(ii), 35(2AA) & 35(2AB) earlier was 150% upto AY 20-21

Section 35D: Preliminary expenses

1. Meaning:
 - a) Preparation of feasibility study / project report
 - b) Market survey
 - c) Engineering services
 - d) Drafting & printing of MOA/AOA.
 - e) Legal fees
 - f) Expenses related to public issue of shares & Debenture
 - g) other expenses may be notified by CBDT
2. Deduction allowed to **resident assessee** who incurs preliminary exps **before Commencement of business** or after commencement for **extension** or for **setting up a new unit**.



Notes :

1. Above deduction is allowed in 5 equal instalments.
2. COP = Cost of project [Amount invested in fixed asset of new project or extension or setup new unit.]
3. CE = Capital employed [share capital + debentures + long term borrowing for new project or extension or setup new unit]
4. Reserve and surplus (including security premium) shall not be part of COP.
5. Audit is mandatory for the year in which such expenses incurred except companies and co-operative society.

Sec. 35DDA: Expenditure on Voluntary Retirement Scheme

Assessee : All Assesses

Deduction allowed in 5 equal instalments.

Notes :

35D & 35DDA

1. If there is Amalgamation / Demerger, then remaining Deduction shall be Allowed to Amalgamated Company / Resulting Company.
2. U/s 35DDA remaining deduction allowed to successor in case of succession referred u/s 47(xiii)/(xiv)/(xiiib).

Sec 35AD : Specified Business (This Sec is optional for Assessee)

# No.	Business	Commencement on or after	% of dedn
1	Setting up & operating a cold chain facility.	01.04.2009	100
2	Setting up & operating a warehousing facility for agricultural produce.	01.04.2009	100
3	Laying & operating cross country pipeline for distribution of petroleum oil, natural gas.	01.04.2009	100
4	Building & operating a Hotel of 2 star or above	01.04.2010	100
5	Building & operating a Hospital with minimum 100 patient beds.	01.04.2010	100
6	Developing & building a Housing project under Slum development scheme.	01.04.2010	100
7	Developing & building a housing project under affordable housing scheme.	01.04.2011	100
8	Production of Fertilizers in India	01.04.2011	100
9	Setting up & operating inland container depot or container freight station.	01.04.2012	100
10	Bee keeping and production of bee's honey & wax.	01.04.2012	100
11	Setting up & operating a warehousing facility for sugar.	01.04.2012	100
12	Laying & operating a slurry pipeline for transportation of Iron ore.	01.04.2014	100
13	Setting up & operating a Semi - conductor wafer fabrication manufacturing unit.	01.04.2014	100
14	developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility (Note)	01.04.2017	100

- | # | Conditions / Notes |
|-----|--|
| 1. | Not formed by splitting or reconstruction of existing business means business should be New. |
| 2. | P&M should be New
Exception: (1) Imported old P&M (P&M on which dep, not claimed under IT Act.)
(2) 20% of total P&M can be old (Second Hand) |
| 3. | If assessee is in the business of Laying cross country Pipeline then some portion of pipeline should be made available for use of others on common carrier basis |
| 4. | Deduction allowed on all Capital expenses except (a) Land (b) Goodwill (c) Financial instruments.
Further, any expenditure in respect of which payment or aggregate of payments made to a person of an amount exceeding ₹ 10,000 in a day otherwise than by payee cheque or an alch payee DD or use of electronic clearing system through bank account would not be eligible for deduction. |
| 5. | Depreciation not allowed if deduction claimed u/s 35AD. |
| 6. | Loss of specified business can be carried forward indefinitely. As per FA 2016 assessee has to file ROI upto due date of ROI for c/f of losses. |
| 7. | If asset (on which deduction claimed u/s 35AD is allowed) sold, then the entire price shall be taxable as PGBP [Section 28] |
| 8. | loss of specified business can be set off only against specified business irrespective of whether the latter is eligible for deduction under section 35AD
Example: A assessee can therefore, set-off the losses of a hospital or hotel which begins to operate after 1/04/2010 and which is eligible for deduction section 35AD against the profits of the existing business of operating a hospital (with atleast 20 beds for patients) or a hotel (of two-star or above category) started before 1/04/2010 even if the latter is not eligible for deduction under section 35AD. |
| 9. | If deduction u/s 35AD is claimed then deduction u/s 80IA to 80RRB & 80EEA deduction shall not be allowed. |
| 10. | In case of Hotel (2 star or more) if assessee transfers operation to another person, the assessee shall be deemed to be carrying on the specified business. |

11. Infrastructure facility means:
- A road including toll road, a bridge or a rail system.
 - A highway project including housing or other activities being an integral part of the highway project.
 - water supply project, water treatment system, irrigation project, sanitation and sewage system or solid waste management system.
 - A port, airport, inland waterway, inland port or navigational channel in the sea.
12. Business of cross-country pipeline and new infrastructure facility should be owned by Indian Company or consortium of such companies or by an authority or a board or corporation or any other body established or constituted under any Central or State Act.
13. Business of cross-country pipeline should be approved by the Petroleum and Natural Gas Regulatory Board and notified by the Central Government. Under New infrastructure facility entity should have entered into an agreement with the CG/SG/Local Authority or any other Govt body.
14. Asset (on which deduction claimed u/s 35AD) should be exclusively used for specified business for minimum 8 yrs. from the year of acquisition.
- If it is used for non-specified business within 8 yrs. then following shall be taxable under PGBP.
- | | |
|--|-------|
| Amount of deduction claimed u/s 35AD earlier | xxx |
| (-) depreciation that would have been allowable if Sec. 35AD not there | (xxx) |
| PGBP | xxx |

Notes:

- The above amendment is not applicable if Company becomes sick industrial Company
- If asset is transferred from specified business to non-specified business within 8 years then Actual cost for non-specified business shall be-

Cost of such asset	xxx
Less: depreciation allowable if such asset used for non-specified business from acquisition	(xxx)
	xxx

Asset of specified business u/s 35AD

Transfer to another business

To Specified business

No treatment

To non-specified business

Within 8 year

PGBP shall be:

Amt of deduction claimed u/s 35AD earlier	xxx
(-) Notional dep allowable as if sec 35AD is not there	xxx

Actual cost (added to Block) shall be:

Cost of such asset	xxx
(-) Notional dep allowable to non-specified business	(xxx)
	xxx

After 8 years

No PGBP

Actual cost = Nil
[expln 13 to sec 43(1)]

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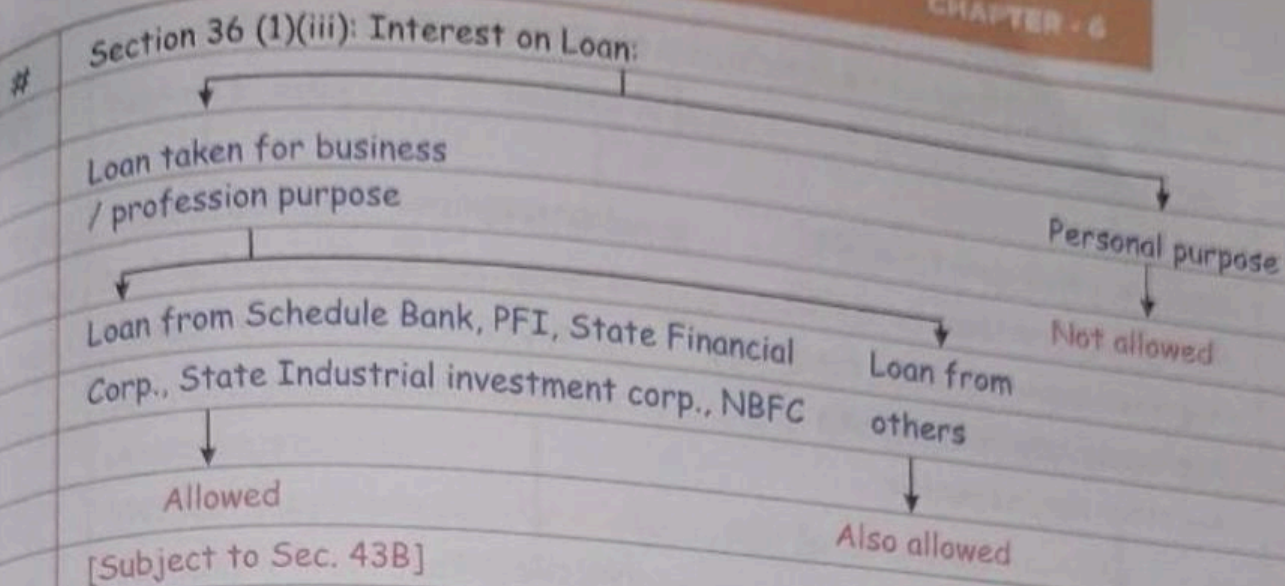
Cost

Section 36 : Certain deduction u/s 36

Section 36(1)(i): Premium for insurance of stock -in-trade
It is *allowed* as deduction.

Section 36(1)(ib): Health insurance premium for employees
it is *allowed* as deduction if premium paid in any mode other than cash.

Section 36(1)(ii): Bonus or commission to employees
It is *allowed* as deduction subject to Sec. 43B.
There is no restriction on the amount of bonus and it may exceed the bonus payable under the Payment of Bonus Act, 1965



Section 36(1)(iiia): Discount on Zero Coupon Bonds (ZCB)
 Pro-rata amount of discount shall be amortized over the life (calendar months) of ZCB.

Example:

KRK Ltd issued 1,00,000 ZCB on 06/12/22 @ ₹80. Face value of bond is ₹100. ZCB redeemable after 10 months. Compute deduction allowed for P.Y. 2022-23.

Solution: Total Discount = $1,00,000 \times 20 = ₹ 20,00,000$

$$\text{Monthly Discount} = \frac{20,00,000}{10 \text{ months}} = ₹ 2,00,000 \text{ p.m}$$

$$\text{Discount for P.Y. 2022-23} = 200000 \times 4 \text{ months} = ₹ 8,00,000$$

(Dec-22 to Mar-23)

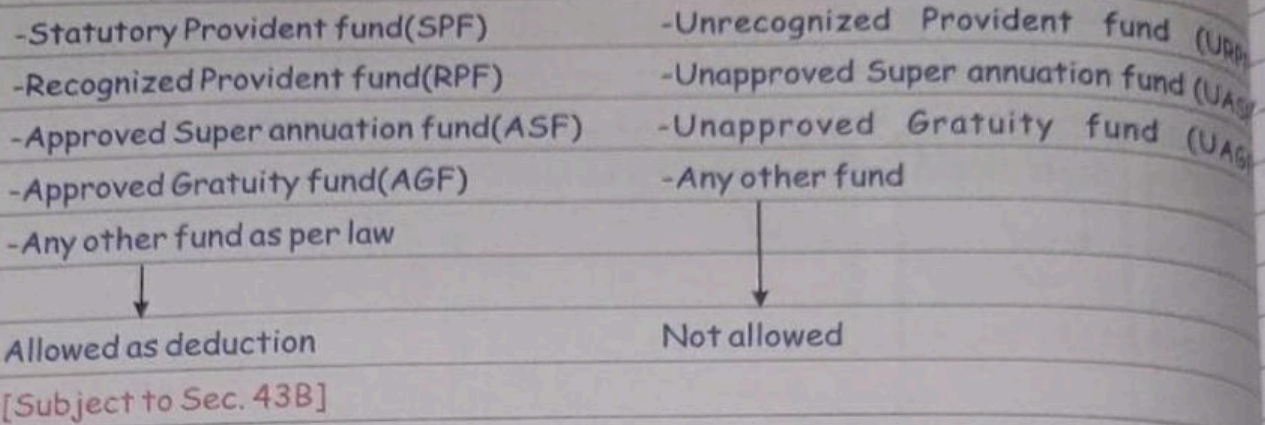
Note:

If any calendar month part is 15 days or more, it shall be increased to one calendar month & if such part is less than 15 days it shall be Ignored. Suppose in above example if ZCB issued on 16/12/22 then we will take 11 calendar months because period is 15 days, or more in the month of issue and redemption

$$\text{Monthly discount} = \frac{20,00,000}{11 \text{ months}} = 1,81,818$$

$$\text{Deduction for PY 22-23} = 1,81,818 \times 4 \text{ months} = 7,27,273$$

Sec. 36(1)(iv)/(v) Employer's contribution for the benefit of the Employee.



Sec. 36(1)(iva) : Employer contribution towards Pension scheme referred us 80CCD Deduction allowed to employer [subject to sec 43B]

- (i) Actual contribution
 - (ii) 10% of salary [Basic + DA (Terms)]
- whichever is lower

Sec. 36(1)(va): Employees contribution towards welfare fund.

Any sum received by Employer from Employee as contribution to PF, super annuation fund, ESI etc. is deemed to be PGBP if such sum is not deposited in respective fund up to the due date to such fund.

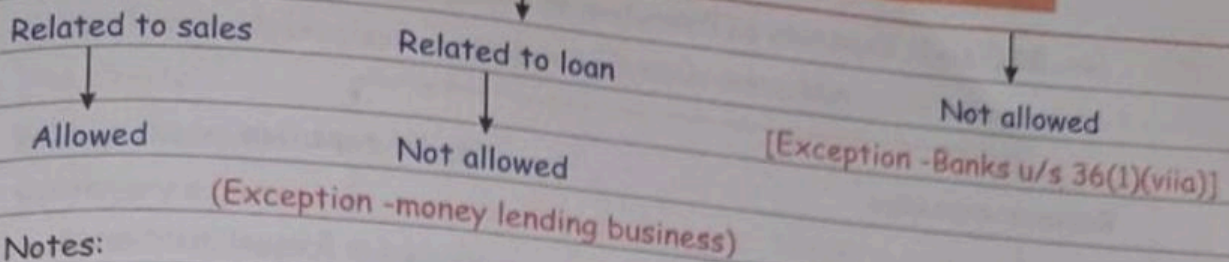
- Notes
1. PF due date is 15th of next month.
 2. If any amount deposited after due date of fund, then it will be treated as income of employer and never be allowed to employer.
 3. As clarified by FA 21, here due date means due date of Fund & not a due of ROI as per section 43B.

Sec. 36(1)(vii)

Bad debts

Actual Bad Debts

Prov. for Bad debts



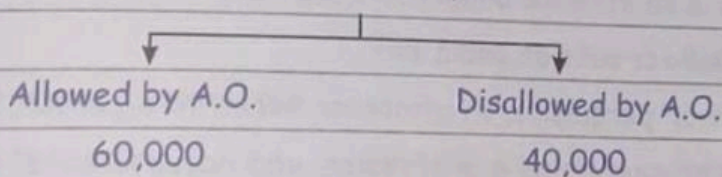
Notes:

1. Bad debts should be written off in the books of A/c's of Assessee in the P.Y. in which deduction is claimed.
2. The debt should have been taken into account for computing income for P.Y. or earlier P.Y.
3. No need to prove that the debts have become bad
4. Where the amount of such debt has been taken into account in computing the income for PY or earlier PY (on the basis of ICDSs without recording the same in the accounts), Such debt shall be allowed in the previous year in which such debt becomes bad and It shall be deemed that such debt has been written off as irrecoverable in the accounts.

Sec. 41(4): Bad-Debts Recovery

Where deduction has been allowed in respect of bad debts, recovery shall be taxable as PGBP in the year of recovery This shall apply even if the business or profession is not in existence in the previous year in which recovery

1. Example Bad debts: 1,00,000



Recovery of Bad debts during PY 22-23 : 62,000

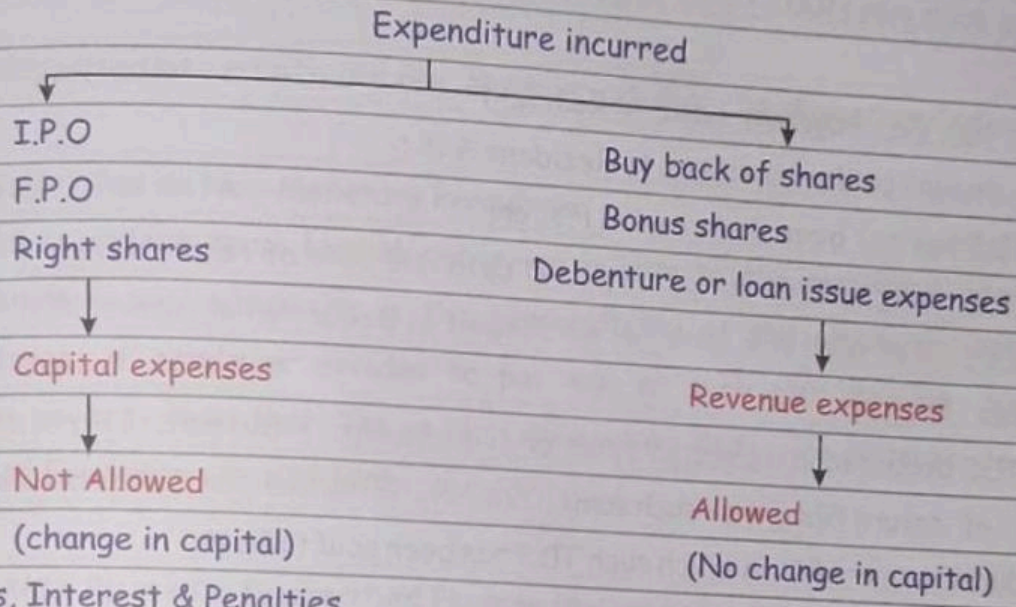
Taxable amount = Recovery - disallowed earlier

$$22,000 = 62,000 - 40,000$$

2. Firm claims bad debts- Firm dissolved- Partner recovered bad debts- Section 41(4) NOT applicable because it is applying only if assessee who claims the bad debts and assessee who recover is same.

#	Sec. 36 (1)(ix) : Expenses on Promotion of Family Planning of employees. Assessee : <i>Only Company</i>
	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p>Revenue expenses</p> <p>↓</p> <p>100% Deduction allowed</p> </div> <div style="text-align: center;"> <p>Capital expenses</p> <p>↓</p> <p>allowed in 5 equal instalment</p> </div> </div>
#	Sec. 36(1)(xv)/(xvi) : Securities Transaction Tax (STT)/Commodities Transaction Tax (CTT) It is allowed as deduction if assessee held shares /Units/Commodities <i>as stock-in-trade</i>
#	Sec. 37: General Deduction Any expenditure [other than covered u/s 30 to 36] shall be allowed as deduction if following conditions are satisfied:
1	Expenses should be incurred <i>wholly or exclusively</i> for the purpose of <i>Business or Profession</i> .
2	Expenses <i>should be revenue</i> in nature.
3	Expenses should be <i>Legal</i> (It should not be illegal like Hafta, Bribes, Secy commission, etc.)
	Explanation —Following expenses treated as illegal and not allowed as deduction.
(i)	For any purpose which is an offence under, 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 guideline as the case may be, for the time being in force, governing the conduct of such person
(i)	To compound an offence under any law for the time being in force, in India or outside India.
	(Explanation added by FA 2013)
#	Corporate social Responsibility (CSR) expenses. It is not treated as Business expense, so <i>not allowed</i> .

- # Allowability of some expenses -
- a Advertisement in brochure, souvenir, newspaper, pamphlet published by political party - **Not allowed**
 - b Gift to employee - **Allowed**
 - c Customary expenses (Puja at the time of new year, Diwali) - **Allowed**
 - d Expenses incurred by CA's for attending CPE seminars - **Allowed**.
 - e Dividend - **Not Allowed**.
 - f Provision for loss of subsidiary, Provision for deferred tax, Provision for diminution in value of asset, Provision for un-ascertain liability - **Not Allowed**.
 - g Shares / Debentures issue expenses



h. Taxes, Interest & Penalties

	Tax	Interest	Penalty
Direct taxes (Income tax, surcharge, cess,.)	Not allowed	Not allowed	Not allowed
Indirect taxes (GST etc.)	Allowed	Allowed	Not Allowed
	[subject to Sec. 43B]		
Penalty - Breach of law -	Not Allowed		
Breach of Contract (Contract of Revenue Nature) -	Allowed		

- i. Freebies (gifts, cash, travel facility provided by Pharmaceutical company to doctors - **illegal expenses - Not allowed**
- j. Interest on loan taken for payment of income tax - **Not allowed**

- k. Tax audit fees or litigation exp in relation income tax cases - Allowed
- l. premium paid by the firm on the Keyman Insurance policy of a partner- Allowed

Sec. 40: Amount specifically Not deductible

Sec. 40(a)(i): Payment made to Non-Resident

Amount paid or credited to Non-resident or foreign Co. & if:

- a. TDS has not been deducted in P.Y. or,
- b. TDS deducted but not paid to Govt up to due date of return filing,
-then such sum (100%) shall not be allowed as deduction in current P.Y.

Sec. 40(a)(ia): Payment made to Resident

Any amount paid or credited to Resident & if :-

- a) TDS has not been deducted in P.Y. or,
- b) TDS deducted but not paid to Govt upto due date of return filing,
-then 30% of such sum shall not be allowed as deduction in current P.Y.

Notes

1. If TDS deducted in subsequent year or deducted in P.Y. but paid to Govt. after due date of return filing then such sum (100% NR)/(30% Resident) shall be allowed as a deduction in the P.Y. in which such TDS has been paid to Govt.
2. Exception to Sec. 40(a)(ia)/ Sec40(a)(i)
 - If any amount paid /credited to payee without deduction of TDS but such payee
 - Furnishes his ROI.
 - Takes into account such amount in total income.
 - Has paid the tax due on such income
 - Payer furnishes a certificate from CA to this effect then it shall be deemed that the payer has deducted TDS & paid to Govt on date of furnishing of return by payee & deduction of such expenditure shall be allowed accordingly. [30% / 100% disallowed in current year and will be allow in the year in which payee file his ROI]
 - However payer has to pay interest u/s 201(1A) @ 1% p.m or part of the month on the amount of TDS not deducted from the date on which the TDS was set deductible till the date on which payee furnish his ROI.

Sec. 40(a)(iib) : Royalty, fees etc charged by State Govt.
 If any royalty, Fees, service charge etc is exclusively collected by state Govt from state govt undertaking then such expense is not allowed to such state Govt undertaking

Sec. 40(a)(iii) TDS on salary payable outside India or NR
 Any salary payable outside india or to NR in India and if :
 a) TDS not deducted or,
 b) TDS deducted but not paid to Govt upto due date of TDS payment,
 - then such sum shall not be allowed as deduction

Note:

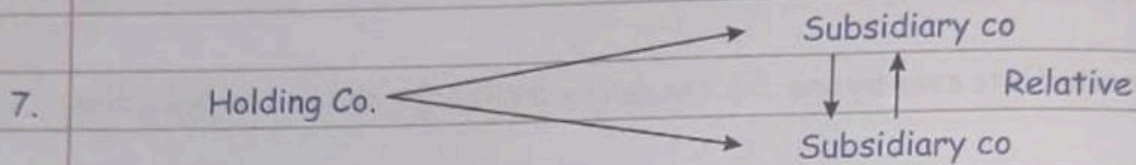
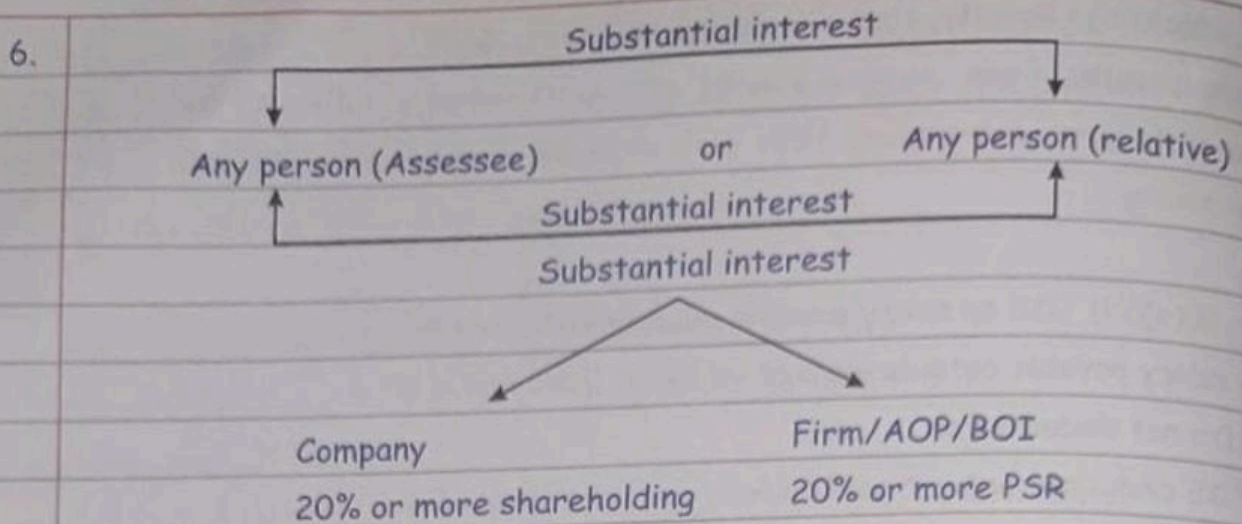
If TDS deposited late even by one day, the salary shall not be allowed as deduction

Sec. 40(a)(v) Tax on Non-Monetary Perquisite
 If employer offers some Non-Monetary perquisite to the employee, then tax on such Non-Monetary perquisite is the responsibility of the employee. But instead of employee, if employer decides to pay tax on such Non-Monetary perquisite from his pocket, then that Tax is Not Allowed as deduction because its Exempt in hand of Employee u/s 10(10CC).

Sec. 40A(2): Payments to specified Persons (Relatives)
 If payment of expenditure made to relative then A.O can disallow excessive or unreasonable amount.

Specified Person (Relative) for Sec. 40A(2)

Assessee	Relative Individual
Individual	S, M, F, B, S, LA, LD
HUF	Member & their relatives
Firm/LLP	Partner & their relatives
Company	Director & their relatives
AOP/BOI	Member & their relatives



Sec. 40A(3) Cash payment > 10,000 to single person in a single Day
 If assessee makes payment for any expenditure to any person otherwise by A/C Payee Cheque or Demand Draft or use of electronic clearing system from a bank account or any other mode as may be prescribed which is more than ₹ 10,000 in a single day then such expenditure shall be disallowed.

Note:

1. If payment made to transporter then limit is ₹ 35,000.
2. If the expenditure is claimed as deduction in earlier year on accrual basis & if expenses is subsequently paid in cash or bearer cheque then deduction allowed shall be withdrawn & taxable as PGBP.
3. If expenditure paid by Cross cheque then also deduction not allowed.
4. This sec shall not apply to any payment made by a commission agent to receive goods for sale on commission basis (as commission treated as income of agent). However commission agent purchase goods on his own account, then provisions of this sec shall apply.
5. Where any payment in respect of any expenditure is required to be made by any mode other than cheque/DD etc. in order that such expenditure may not be disallowed u/s 40A(3), then payment may be made by such mode. No person is allowed to raise, in any suit or other proceeding, a plea based on the ground that the payment was not made in cash.

Exceptions of Sec. 40A(3) [Rule 6DD]

1. Payment made to RBI / LIC / Banks / Govt.
2. Payment made through NEFT / RTGS / Debit card / ECS / credit card / UPI / BHIM
3. Payments by book entry (adjustment).
4. Payment of producers of agriculture product, forest product, poultry product, fish product, live-stock etc.
5. Payment of Retirement benefits, provided such payment is up to ₹ 50000.
6. Payment of salary to an employee who is posted to any other place or ship for 15 days or more other than his normal place of duty.
7. Payment made where Banking facility not available.
8. 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.
9. 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
10. Payment for purchase of product manufactured or processed without aid of power in a cottage industry, to the producer of such product.

Sec. 40A(7): Provision of Gratuity - Not Allowed

Only payment to Approved Gratuity Fund or provision for gratuity actually become payable during the P.Y. (due basis) is allowed as Deduction

Sec. 43B: Expenses allowed on Payment Basis

Following expenses are allowed only if they are PAID up to the due date of return filling as per Sec. 139(1).

- a) Any tax, Duty, Cess
- b) Employer's contribution towards SPF, RPF, Approved Gratuity Fund, Approved Super Annuation Fund, New pension scheme, any fund as per Law
- c) Bonus or Commission to Employees
- d) Interest on loan to any PFI, State Financial corp, state industrial Investment Corp, scheduled Banks [scheduled bank include co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank]

- e) Leave encashment (Leave salary) to employees
- f) Any sum payable to Indian railways for use of railway assets.
- g) Interest on any loan or borrowing from a deposit taking non-banking financial company or systemically important non-deposit taking NBFC.

Note: If payment made after due date of return filing then such expenses shall be allowed in the year of actual payment.

Notes:

- (i) "deposit taking NBFC" means a NBFC which is accepting or holding public deposits and is registered with the RBI.
- (ii) "systemically important non-deposit taking NBFC" means a NBFC which is not accepting or holding public deposits and having total assets of not less than 500 crore rupees as per the last audited balance sheet and is registered with the RBI.
- (iii) Where the interest payable on loans has been converted into a loan or borrowing, it shall not be deemed that the interest is paid off. Interest shall only be allowed as deduction in the PY in which such instalments are paid.
- (iv) If interest payable on loan is converted into debenture or any other instrument by which the liability to pay is deferred to a future date shall not be treated as actual payment.

(Added by FA 22, w.e.f. AY 23-24)

Sec. 43A: Asset acquired from foreign

If any asset is acquired from a foreign country through a loan in foreign currency or foreign suppliers credit, any loss/gain arising at the time of payment shall be adjusted with the Block of asset.

Notes:

1. Adjustment is made only at the time of actual payment of foreign loan or supplier's credit.
2. If there is gain then reduce from block of asset & if there is loss then added to block of asset.
3. Profit or Loss on hedging contract for meeting out the loss in foreign currency payment towards asset acquired from outside India shall also be reduced or added to cost of asset.

Sec. 41: Deemed PGBP:

Sec. 41(1) Recovery against any deductions already claimed

If Assessee was allowed a deduction in a earlier P.Y. by way of expenditure, loss, trading liability & now during the current P.Y. Assessee has obtained a refund of such liability or there is remission /cessation of such trading liability, then such refund /reimbursement shall be taxable under PGBP.

Example: a) Sales Tax Refund b) stock in trade is destroyed by fire & allowed as trading loss & later on insurance compensation is received by assessee.

Note: Sec. 41(1) will be attracted in case of waiver of working capital loan (Principal).

Sec. 41(3): sale of Scientific Research Assets

Sale without use in Business

- (i) sale price
 - (ii) Deduction already claimed u/s 35(1)(iv)
- whichever is lower

Taxable as PGBP

If $SP > Cost$ then capital gain also arise.

Sale after use in Business

- Add to Block of asset
- Actual cost = Nil
- Explⁿ 1 of Sec. 43(1)

at the time of sale Sec. 50 will arise
[full block /part block sold]

Sec. 41(2): Balancing charge

Already discussed with the power units depreciation

Sec. 41(4): Recovery of Bad debts.

Recovery amount shall be taxable in the year in which it is recovered.

Sec. 44AA: Compulsory maintenance of Books of accounts

Part A: Specified /notified Profession

In case of specified profession, if gross receipt is more than ₹ 1,50,000 in all 3 years preceding the previous year or likely to exceed if the profession is newly setup then, assessee is required to maintain books of accounts as per Rule-6F, otherwise he is

required to maintain such books of accounts or documents from which AO is able to complete the assessment.

Specified Professions

- | | | |
|--|-----------------------|--------------------------|
| 1. Medical | 2. Legal | 3. Accountancy |
| 4. Film Artist | 5. Engineering | 6. Technical consultancy |
| 7. Architectural | 8. Interior decorator | 9. Company secretary |
| 10. Any other profession which may be notified by CBDT | | |

Specified books as per Rule 6F

- | | | |
|--|------------|------------|
| 1. Cash book | 2. Journal | 3. Ledgers |
| 4. Carbon copies of bill exceeding ₹25/- | | |
| 5. Original bill for expenditure exceeding ₹50/- | | |

In case of Medical Practitioner (profession) additional books i.e. daily case register, medical inventory register has to be maintained.

Part B: Other Assessee (business)

In case of other assessee, if PGBP is more than ₹ 1,20,000/- or Total Sales / Gross Receipt is more than ₹ 10,00,000/- in any of the 3 years preceding the previous year, then Assessee is likely to exceeding in case of newly setup business/ profession, then Assessee is required to maintain any books of accounts or documents from which AO is able to complete the assessment otherwise the assessee is not required to maintain any books of accounts

However, in case of individual & HUF, limit will be ₹2,50,000 for total income from business or profession and ₹25,00,000 for Turnover or Gross Receipts.

Note: As per Sec. 271A, If the assessee fails to maintain books of accounts as per Sec. 44AA then penalty of ₹ 25,000 may attract.

Sec. 44AB: Compulsory audit of books of accounts

Following persons are required to furnish audit report by specified date in a prescribed form (3CA/3CB/3CD):

A Specified profession	B Business	C Special Cases
G.R > ₹ 50 Lac	T.O./G.R. > ₹ 1 crore Amendment by FA-21 w.e.f. AY 21-22 In case of business, T.O. Limit shall be ₹ 10 crores instead of ₹ 1 crore if: i) Cash receipts out of total receipts is upto 5% during the PY and ii) Cash payment out of total payments is upto 5% during the PY.	<ul style="list-style-type: none"> • Assessee claiming lower income u/s 44AD or 44ADA and NTI > Basic exemption • Assessee claiming lower income u/s 44AE

Non-applicability of Sec 44AB:

→ Person declaring income u/s 44AD & his turnover/ gross receipts is upto 2 crore.

Specified Date : One month before the due date of filing ROI u/s 139(1).

Penalty u/s 271B : if assessee fails to get accounts audited:

- (i) 0.5% of T.O. or G.R. or
- (ii) ₹ 1,50,000

Whichever is lower.

Presumptive Taxation

- # Sec. 44AD: Profit & Gains of Business on Presumptive Basis
- a) Eligible Assessee : Resident Individual/Resident HUF / Resident firm (excluding LLP) who has not claimed dedn u/s 10AA or 80IA to 80RRB
- b) This Section is applicable for any Business except
 -Sec. 44AE Business
 -Agency Business
 -Commission & Brokerage business
 and Turnover / Gross Receipts is up to ₹2 crore.
- c) Presumptive PGBP income = Turnover / Gross receipt x 8%
 "If Turnover/ Gross Receipts realized by Account Payee Cheque/DD/ Electronic payment through Bank Account or any other electronic mode as may be prescribed upto due date of Return Filing then PGBP = T/O x 6%"
- d) If assessee declares income as per Sec. 44AD or higher income and whose T/o is up to ₹2cr then assessee is not required to maintain books of account & get it audited.
- e) If assessee declares income for any P.Y as per 44AD & he doesn't declare income as per 44AD in any of the five consecutive P.Y.s, then he shall not eligible to claim benefit of sec. 44AD for 5 years subsequent to the year in which assessee did not declare income as per Sec. 44AD.
- f) If point (e) is applicable & NTI of assessee is more than basic exemption then assessee is required to maintain books of accounts & get it audited.

Example : Let us consider the following particulars relating to an 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. 2017-18 to A.Y. 2019-20.

	A.Y 2017-18	A.Y 2018-19	A.Y 2019-20
Gross receipts (₹)	1,80,00,000	1,90,00,000	2,00,00,000
Income offered for Taxation(₹)	14,40,000	15,20,000	10,00,000
% of gross receipts offered incomes as per 44AD	8%	8%	5%
	YES	YES	NO

In the above case Mr. A an eligible assessee, opts for presumptive taxation u/s 44AD for A.Y. 2017-18 & A.Y. 2018-19 and offer income of ₹ 14.40 lakh & ₹ 15.20 lakh on gross receipts of ₹ 1.80 crore & ₹ 1.90 crore respectively. However, for A.Y.

2019-20, he offers income of only ₹ 10 lakh on turnover of ₹ 2 crore, which amounts to 5% of his gross receipts. He has to maintain books of accounts u/s 44AA & gets the same audited u/s 44AB. Since he has not offered income in accordance with the provisions of Sec. 44AD, for five consecutive A.Y. after A.Y. 2017-18, he will not be eligible to claim the benefit of Sec. 44AD for next five AY succeeding A.Y. 2019-20 i.e. from A.Y. 2020-21 to 2024-25.

Sec. 44ADA : PGBP on presumptive basis for professional

a) Eligible Assessee: Resident Individual or resident firm (excluding LLP) engaged in profession as referred in Sec. 44AA

b) This section is applicable if Gross Receipt is upto ₹ 50 lakhs.

c) PGBP Income = Gross receipt \times 50%.

d) If assessee declares income as per Section 44ADA or higher then, he is not required to maintain books of accounts & get it audited.

e) If assessee declares income lower than 50% & his NTI is more than basic exemption he is required to maintain books of A/cs & get it audited.

→ Common notes for 44AD and 44ADA

1. Deduction u/s 30-38 shall not be allowed (Assume its deemed to be already allowed).
2. WDV is to be calculated considering notional dep every PY.
3. Partners' remuneration & interest are not allowed from deemed PGBP.
4. 100% Advance Tax can be paid by 15th march of PY.

Sec. 44AE: Presumptive Taxation for Transporters

IF assessee engaged in the business of plying, hiring, leasing such goods carriage then PGBP will be-

Heavy goods Vehicle : ₹ 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a month

Other Vehicle: ₹ 7,500 for every month or part of a month

The assessee can also declare a higher amount in his return of income. In such case, the latter will be considered to be his income

Notes :

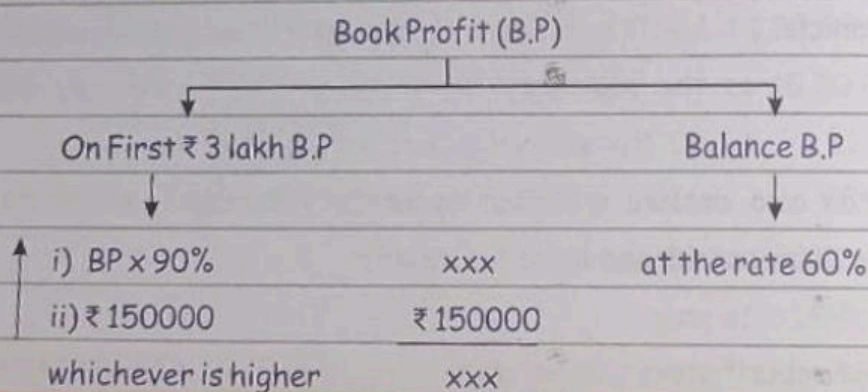
1. This section is applicable if assessee owns Max 10 vehicles. If assessee owns more than

- 10 vehicles at any time during the P.Y. then this section shall not apply.
2. Income calculated even vehicle not put to use but own by assessee.
3. Partners remuneration, salary, interest etc as per 40(b) shall be deductible while computing income u/s 44AE
4. Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kilograms (12 tons)
5. As per CBDT clarification we have to consider gross vehicle weight for calculating income however if gross vehicle weight not available then we have to consider unladen weight like tractor.
6. Assessee's opting for presumptive taxation are not required to maintain books of account as per Sec 44AA or get them audited u/s 44AB. However, where an Assessee wishes to declare income lesser than as computed u/s 44AE, he is required to mandatorily maintain books of account and get the same audited.
7. Deduction u/s 30-38 shall not be allowed (Assume its deemed to be already allowed)
8. WDV is to be calculated considering notional dep every PY.

Sec 40(b): Payment of Interest, Bonus, Commission or Remuneration.

Interest & Remuneration paid by Firm/LLP is allowed as deduction if following conditions are satisfied:

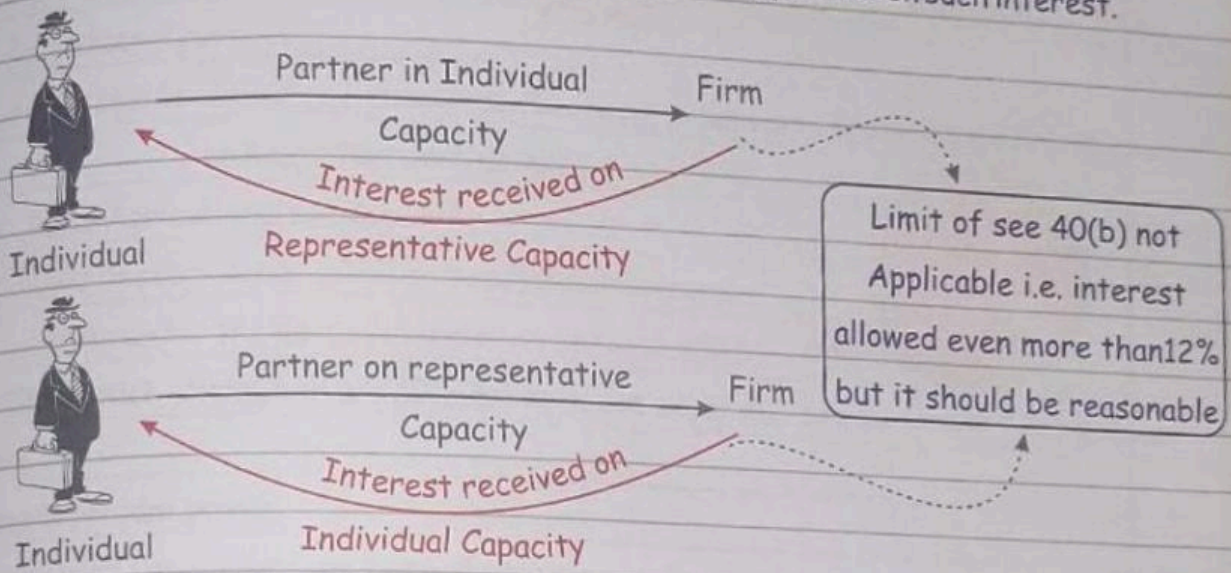
1. Remuneration paid to only Working Partner.
2. Remuneration & Interest should be authorised by Partnership deed.
3. Remuneration & Interest should relate to period falling after the date of Partnership deed. That means it should not be retrospective.
4. Interest on partner's capital & loan allowed max@ 12% p.a. simple interest.
5. Remuneration allowed on Book profit basis.*



	₹
Meaning of Book Profit	
Net Profit under PGBP	xxxx
(-) Current year + b/f depreciation	(xxx)
(+) Remuneration (if it is debited to P&L A/c)	xxxx
Book Profit	xxx
	xxxx

In simple terms: Book Profit means PGBP before Remuneration.

- Explanation to see 40(b)
- (1) if any individual is a partner in a Firm on **individual capacity** & receiving interest on **Representative's capacity**, then sec 40(b) not applicable on such interest.
 - (2) If any individual is a partner in a Firm on **Representative's capacity** & receiving interest on **individual capacity**, then sec 40(b) not applicable on such interest.



Note:

The above explanation is applicable only for **Interest**. If any individual is partner on **representative capacity** or **individual capacity** and received any remuneration then on such remuneration limit of **section 40(b)** shall apply.

Sec 40(ba): Interest, salary, bonus, commission paid by AOP/BOI while computing PGBP Shall be disallowed.

Note: If any interest is recd. from the member to whom any interest is paid then only the **Net Interest** shall be disallowed.



Individual

Member on Individual
Capacity

AOP/BOI

Interest on representative
Capacity



Individual

Member on representative
Capacity

AOP/BOI

Interest on individual capacity
Capacity

Section 40(ba) Not
Applicable. Mean Full
interest is allowed to
AOP/BOI

Section 45(1): Charging Section

Any profit and gain arising from Transfer of a Capital Asset shall be chargeable under the head capital gain in the P.Y. in which transfer took place

Section 2(14): Definition of Capital Asset

Capital Asset means-

A) Property of any kind held by assessee, whether or not connected with business or profession.

B) Any Securities held by a Foreign Institutional Investor (FII) but Capital Asset does not include (excludes)

(i) Stock in trade (RM/ WIP/FG)

(ii) Movable personal property (used by assessee or his dependent family member for personal purpose)

But Excludes: Jewellery, Drawings, Paintings, Sculpture, Archaeological Collection or Any other work of Art,

(iii) Rural Agricultural Land in India

(iv) Gold Deposit Bonds, 1999 or Deposit Certificates issued under the Gold Monetisation Scheme, 2015.

Interest on such bonds & deposit certificates also exempt u/s 10(15)

C) ULIP to which exemption u/s 10(10D) does not apply due to fourth and fifth proviso thereof.

Some important points.

1. Assets used for personal purpose of assessee

T.V., Car, Mobile etc - Not a Capital Asset - CG not Applicable

Jewellery, Drawings, Paintings - Capital Asset - CG Applicable

2. Gold Utensils, Silver Bars, Silver Coins were held not to be Consider as Personal Effect - Capital Gain Applicable (Maharaja Rana Hemanth Singh)

3. Silver Utensils held to be Personal Effect - No Capital Gain (Benarshilal Kataruka)

4. Car used in the business treated as capital asset.

5. Jewellery means:

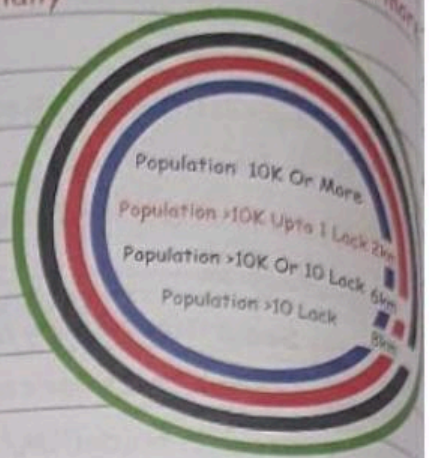
a.) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing such metals

b.) precious stones whether or not set in any furniture, utensil or other article

Capital Gain

6. Definition of Urban Area
- a) any area (municipality, cantonment board etc) which has a population of 10000 or more
 - b) in the following area within the distance, measured aerially

shortest distance from area referred in point (a)	population according to last census
upto 2kms	>10,000 upto 1,00,000
upto 6kms	>1,00,000 upto 10,00,000
upto 8 kms	>10,00,000

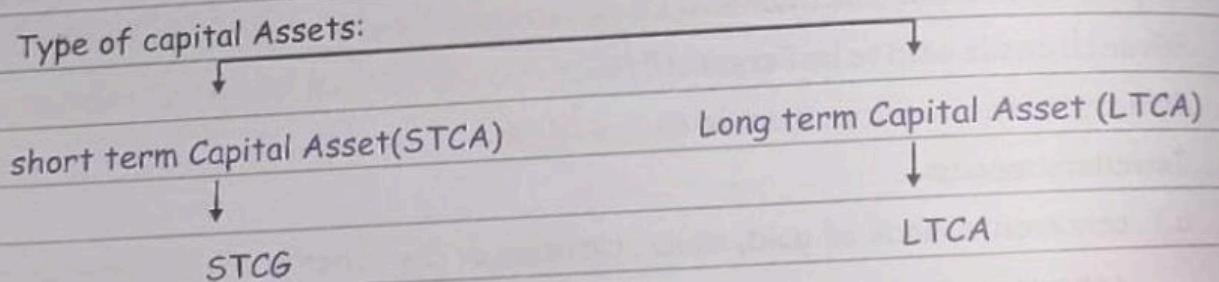


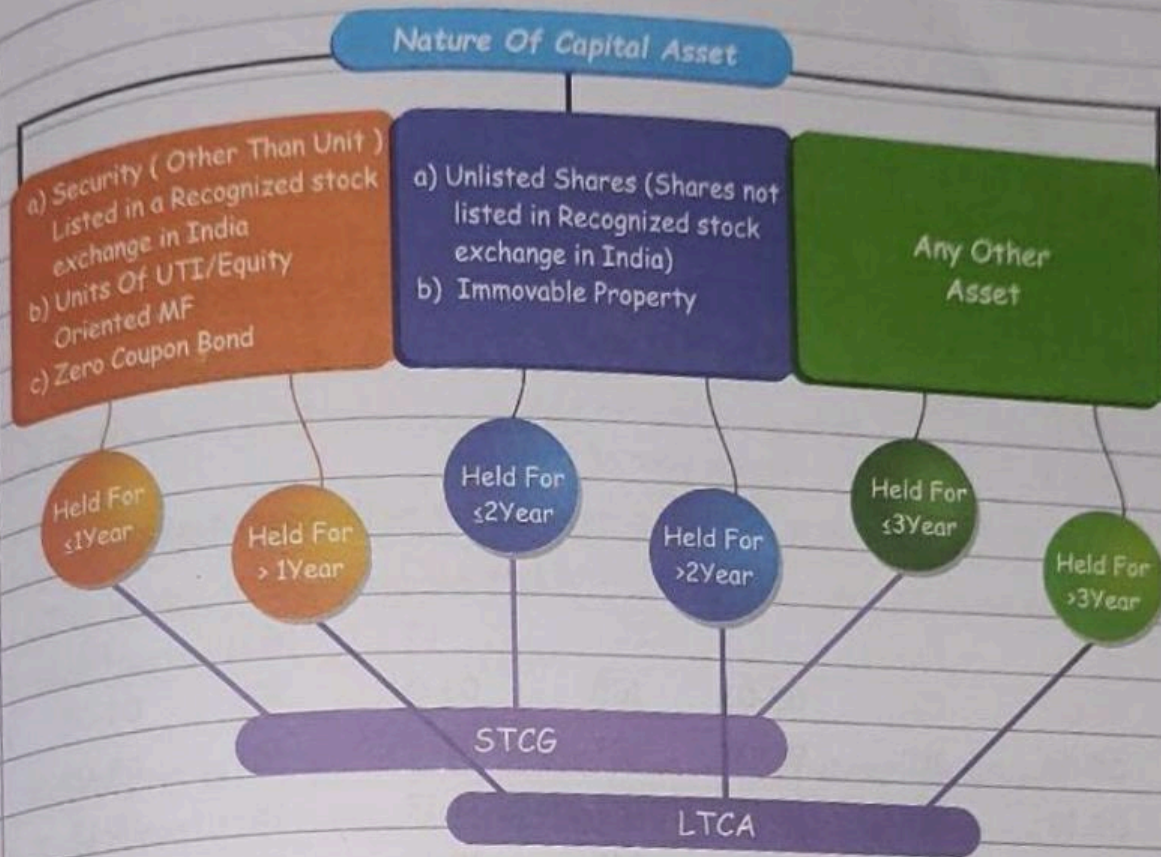
Rural Area Means Area Which is Not a Urban Area.

Section 2(47): Definition of Transfer

- 'Transfer' includes
- I. The sale, exchange or relinquishment of the asset, or
 - II. The extinguishment of any right there in, or
 - III. Compulsory acquisition there of under any law, or
 - IV. Conversion of capital asset into stock in trade, or
 - V. Allowing the possession of any immovable property to be taken or retained in part performance of a contract.
 - VI. Any transaction (like becoming a member of, or acquiring shares in a Co. operative society) which has the effect of transferring or enabling the enjoyment of immovable property.
 - VII. The redemption of zero coupon Bonds (ZCB)

Type of capital Assets:





Section 48: Computation of Capital Gain

Particulars	₹
Full value of consideration (FVOC)	xxx
(-) Expenses incurred in connection of transfer	(xxx)
Net Consideration	xxx
(-) Cost of Acquisition (COA)	(xxx)
(-) Cost Of Improvement (Col)	(xxx)
Capital Gain	xxx

Note : Site and Building are separate assets for the purpose of capital gain. If site acquired before 2 years and building constructed within 2 years then we have to calculate separate capital gain for both the assets. Capital gain on land is treated as LTCG and on building treated as STCG.

Capital Gain

- # Second proviso (exception) to section 48: Indexation
- # in case of LTCA (long term capital asset), COA & COI should be indexed.

(a) **ICOA**
 COA X CII for the year of transfer
 CII for the first year in which asset was held by assessee or for the year 2001-02, whichever is later

(b) **ICOI**
 COI X CII for the year of transfer
 CII for the year in which the improvement to the asset took place

Cost Inflation Index (CII)

F.Y.	CII	F.Y.	CII	FY	CII	FY	CII
01-02	100	02-03	105	03-04	109	04-05	113
05-06	117	06-07	122	07-08	129	08-09	137
09-10	148	10-11	167	11-12	184	12-13	200
13-14	220	14-15	240	15-16	254	16-17	264
17-18	272	18-19	280	19-20	289	20-21	301
21-22	317	22-23	331				

- (c) Asset acquired before 1/4/2001
 COA = Actual cost or FMV as on 1/4/01, whichever is higher
- (d) improvement done before 1/4/2001- Should be ignored.

First proviso to section 48: Capital Gain in case of Non-Resident
 In case of -
 -Assessee who is a Non Resident (includes foreign company)
 -Asset should be shares or debentures of Indian company, &
 -Such asset was acquired in foreign currency by way of purchase or re-investment
 then capital gain shall be calculated in foreign currency & after that it shall be reconverted into Indian currency

Rule 115A : Method of conversion

COA

Transfer expenditure

Sale consideration

CG into Indian currency

avg of TTBR & TTSR

avg of TTBR & TTSR

avg of TTBR & TTSR

TTBR

on the date of acquisition

on the date of transfer

on the date of transfer

on the date of transfer

Notes:

1. Assessee should be NR in the year of sale

2. Index benefit not available where first proviso applies

Third Proviso to Section 48 : First and second proviso NOT Applicable for computation of LTCG in case of Equity shares, Equity oriented units, units of Business Trust Referred under section 112A.

Fourth proviso to section 48: No indexation in case of Debentures & Bonds

Index benefit **not allowed** in case of bonds / debentures except Capital Indexation Bonds and Sovereign Gold Bonds issued by RBI

As per section 47, NO Capital Gain will arise in case of Individual on Redemption of Sovereign Gold Bond issued by RBI

Individual → Redemption on Maturity → NO CG due to Sec 47

Individual → Transfer before Maturity → CG Apply (Index Available)

Other Assessee: Capital gain applicable on transfer or maturity and index benefit available

Fifth proviso to section 48 : Foreign Exchange Fluctuation gain on RDB in case of NR assessee-

Any gain arising on rupee appreciation against foreign currency at the time of redemption of RDB (Rupee denominated bonds) of Indian company, shall be ignored for the purpose of computation of full value of consideration

Sixth proviso to section 48 : Will discuss with section 47

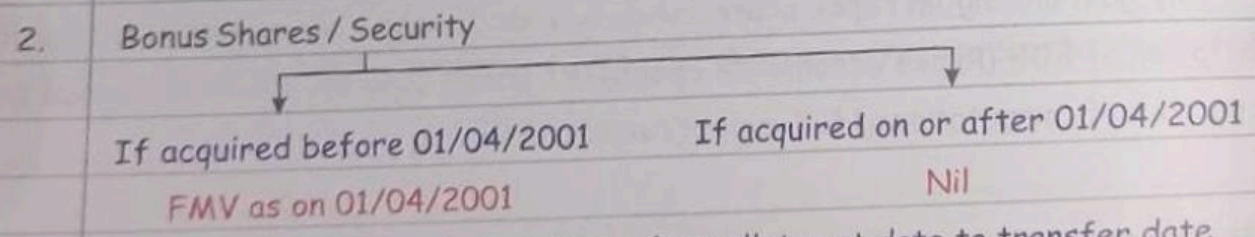
Seventh proviso to Section 48: Security Transactions Tax (STT) not Allowed
 STT paid on sale/ purchase of shares/unit shall not be allowed under capital gain
 if it is paid at the time of Sale - not treated as transfer expense
 if it is paid at the time of Purchase - not added to the cost of acquisition

Section 55: Cost of Acquisition and improvement
 Cost Of Acquisition (COA)

1. In case of
- Goodwill of Business or Profession,
 - Trademark or Brand name associates with a business or profession
 - Right to manufacture, produce, process any article or things (patent & copyright),
 - Right to carry on any Business or Profession,
 - Tenancy right,
 - Loom hours,
 - Route permits.
- | | | | |
|---------------------|---------------------|---|----------------|
| Cost of Acquisition | a) Self - Generated | = | Nil |
| | b) Purchased | = | Purchase Price |

Notes

1. Benefit of FMV as on 01/04/2001 NOT available in case of above assets
2. Capital gain on transfer of self-generated goodwill of a profession or self-generated trade mark/ brand name associated with a profession, is not chargeable to tax up to the AY 20-21.
3. In case of goodwill of a business or profession, in respect of which depreciation u/s 32(1) has been obtained by the assessee in any PY (upto P.Y.19-20), the cost of acquisition of such goodwill would be the amount of the purchase price as reduced by the total amount of depreciation (upto P.Y.19-20) obtained by the assessee u/s 32(1).



POH Case of Shares / Securities - from allotment date to transfer date

Right Shares / Security

If acquired by shareholder

COA = Amount paid to Company

[POH = From Allotment Date]

Renouncement of Right

CG Applicable

FVOC = Renouncement Price

COA = Nil

STCG = XXX

[POH = From offer date to renouncement date]

In hands of purchaser of right

COA = Amount paid to Company for shares + Amount paid for purchase of right

POH = from date of allotment of shares

In relation to other Capital Assets

Asset acquired before 01/04/2001

↑ (i) cost of acquisition	xxx
↑ (ii) FMV as on 01/04/2001	xxx

whichever is higher

Asset acquired on or after 01/04/2001: Cost of acquisition

In case of immovable properties if SDV as on 01.04.2001 available then FVM as on 01.04.2001 should not be more than SDV as on 01.04.2001 (Added by FA 20, w.e.f. AY 21-22)

Example:1

Mr BB acquired a House property on 16.07.1992 for ₹ 2,00,000. FMV as on 01.04.2001 is ₹ 4,50,000 & SDV as on 01.04.2001 is ₹ 3,60,000.

In this case COA of property is ₹ 3,60,000.

Capital Gain

Example:2

Mr BB acquired a House property on 16.07.1992 for ₹ 2,00,000. FMV as on 01.04.2001 is ₹ 4,50,000 & SDV as on 01.04.2001 is ₹ 7,60,000.
In this case COA of property is ₹ 4,50,000.

Example:3

Mr BB acquired a House property on 16.07.1992 for ₹ 2,00,000. FMV as on 01.04.2001 is ₹ 1,50,000 & SDV as on 01.04.2001 is ₹ 1,20,000.
In this case COA of property is ₹ 2,00,000.

Example:4

Mr BB acquired a House property on 16.07.1992 for ₹ 2,00,000. FMV as on 01.04.2001 is ₹ 4,50,000 & SDV as on 01.04.2001 Not available,
In this case COA of property is ₹ 4,50,000.

Cost of Improvement [COI]

1. in case of goodwill of business, patent, copyright, right to carry on any business or profession → always NIL

2. In case of other assets : capital expenses incurred on improvement on or after 01/04/2001

Improvement done before 01/04/2001 should be IGNORED in all cases.

Exception Of Section 45(1)

As per section 45(1), capital gain is chargeable to tax in the year of transfer but in the following 4 cases capital gain is not taxable in the year of transfer

Section 45(2): Conversion of capital Asset into Stock in Trade

Conversion of capital asset into stock-in-trade is treated as transfer, capital gain shall arise where an assessee converts capital asset into stock in trade.

capital gain shall be taxable in the year in which such stock in trade is sold.

Capital Gain		PGBP	
FVOC (FMV on date of conversion)	xxxx	Sale Price of stock in trade	xxxx
(-) cost of Acquisition	(xxx)	(-) FMV of Asset on date of conversion	(xxx)
STCG/ LTCG	xxxx	PGBP	xxxx

Amount recorded in books of accounts - Not Relevant

FMV as on date of conversion - Relevant

Note

1. If any part of stock in trade is sold then only part capital gain shall arise in the year in which part stock-in-trade is sold.

2. In case of conversion of capital asset into stock and subsequent sale of stock, the period of 6 months shall calculate from date of sale of stock in trade for the purpose of exemption u/s 54EC (CBDT Circular)

- # Conversion of Stock in Trade into Capital Assets
Section 28(via): PGBP
The FMV of Inventory as on the date on which it is converted into, or treated as, a capital asset shall be Taxable under PGBP.
- # Section 2(24)(xiia): Income
The FMV of inventory referred to in clause (via) of section 28.
- # Section 49(9): Cost of Acquisition
For the purpose of computing capital gain COA of such asset shall be FMV Referred in section 28(via).
- # Section 2(42A): Period of Holding
POH Shall be reckoned from the date of conversion or treatment into Capital Asset.

Example : Yatish trading company acquired 10,000 shares BB Ltd. @20 each on 14/05/2021 as stock in trade. SIT not sold upto 31/03/2022 and NRV on 31/03/2022 is 22 per share. Inventory of 10,000 shares converted into Capital asset on 10/07/2022 and FMV on such date is 26 per share. Assessee transfer 2,000 shares on 19/03/2023 @ 45 each & balance 8,000 shares on 14/08/2023 @ 36 per share. Compute PGBP and Capital Gain.

Solution :-

Computation of PGBP

PY 21-22

AY 22-23

Particular	₹	₹
Opening stock	-	
Add: Purchase of Stock	2,00,000	
Less: sale		-
Closing Stock (10,000 x 20) (Cost-20 or NRV-22, Lower)		2,00,000
PGBP	Nil	
	2,00,000	2,00,000

Computation of PGBP

Particular	PY 22-23	AY 23-24
	₹	₹
Opening stock		
Add: Purchase of Stock	2,00,000	
Less: FMV of stock on the date of conversion into As per section 28(via)		
Closing Stock		2,60,000
PGBP	60,000	
	2,60,000	2,60,000

Computation of Capital Gain

(assume shares are unlisted)	PY 22-23	PY 23-24
	AY 23-24	AY 24-25
Period of Holding	(10/7/22-18/3/23)	(10/7/22-13/8/23)
Full value of Consideration	₹ 90,000	₹ 2,88,000
-COA (FMV on the date of conversion into capital asset)	(52,000)	(2,08,000)
STCG	38,000	80,000

Note : In this case the PGBP taxable in the year of conversion of SIT into Capital asset and capital gain taxable in the year in which capital asset transferred but in section 45(2) conversion of capital asset into stock in trade, capital gain and PGBP both taxable in the year in which stock sold.

- # Section 45(5): Compensation on compulsory Acquisition under any Law
Normally capital gain is taxed in the year of transfer but in case of compulsory acquisition of capital asset, capital gain will be taxable in the year in which compensation is received.

		Enhanced Compensation	
Initial compensation		FVOC (Enhanced Compensation)	xxx
FVOC (Initial compensation)	xxx	(-) Litigation Expenses	(xxx)
(-) COA/ICOA	(xx)	STCG/LTCG	xxx
(-) COINCOI	(xx)		
LTCG / STCG	xxx		

The CBDT has clarified that compensation received in respect of any award agreement which has been exempted from levy of income-tax vide section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR) shall also not be taxable under the provisions of Income-tax Act, 1961 even if there is no specific provision for exemption of such compensation in the income - Tax Act, 1961

If compensation received in instalment

Initial compensation	Enhanced Compensation
It will be taxable in the year in which first instalment is received	It will be taxable as & when received

If any enhanced compensation is received due to the interim order of any court, then such compensation shall not be taxable in the year of receipt but shall be taxable in the year in which final order is passed by such court or other authority

Notes:

- Any interest received on late compensation shall be taxable under IFOS in the year of receipt & 50% deduction will be allowed u/s 57.
- If compensation is reduced by any court or authority then rectification has to be made to give effect of the same (Sec. 155)

Section 45(1A): Insurance Claims for Damage or Destruction of Capital Asset

- Normally capital gain is taxed in the year of transfer but in case of destruction of capital asset, Capital gain will be taxable in the year in which insurance claim is received.

ii) Where capital asset is destroyed due to fire, flood, earthquake, tsunami, riot, civil disturbance, enemy action or any other natural calamity and insurance claim is received then capital gain is applicable

If no claim received, no capital gain shall arise

iii) Computation of capital gain -

iv) FVOC [insurance claim (Money / FMV of asset received as claim)]	xxx
(-) COA / ICOA	(xxx)
(-) COI / ICOI	(xxx)
STCG / LTCG	<u>xxxx</u>

Section 45(5A): Capital Gain in case of Joint Development Agreement (JDA)

-In case of an assessee being Individual or HUF,

-who entered into a specified agreement for development of project, the capital gain on transfer of Land or Building or Both, shall be taxable in the year in which Certificate of Completion (CC) for the whole or part of project issued by Competent Authority.

- Year of Transfer = Year in which possession of immovable property is transfer in JDA
- Year of Tax = Year in which CC issued by Competent Authority
- FVOC = SDV on the date of issue of CC of his share in project + Consideration received in Cash

Note: Above provisions not apply if assessee transfer his share in project on or before the date of issue of CC and capital gain will be taxable in the year in which transfer took place i.e. possession transfer in JDA.

Section 49(7): COA of share received in JDA

$$COA = \text{Amount Deemed as FVOC u/s 45(5A)}$$

Meaning of Specified Agreement (JDA)

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.

Example: 1

Mr. BB purchased a plot for ₹5,00,000 in PY 01-02. On 16/07/2018 he entered into a JDA with Omkar Builders & handover the possession of plot to Builder on 16/07/2018. F.V.M. of plot on such date is ₹32,00,000. As per JDA, BB is to receive 2 flats in developed project along with ₹40,00,000. Mr. BB received money of ₹40,00,000 in PY 20-21. Completion certificate (CC) of project issued on 10/12/2022 & SDV on such date is ₹50,00,000 per flat. Mr. BB got possession of 2 flats on 30/06/2023. Compute Capital Gain.

Solution:

MR. BB	PY 2022-23	AY 2023-24
Computation Capital Gain		₹
FVOC [(50Lacs x 2 Flats) + 40 Lacs]		1,40,00,000
Less: ICOA [POH 01-02 to 15/7/2018]		14,00,000
5,00,000 x 280 (18-19)		
100 (01-02)		
	LT CG	<u>1,26,00,000</u>

Example: 2 Suppose in above example if Mr. BB transfer 1 Flat for ₹ 92,00,000 on 14/02/2024. Compute capital gain.

Solution:

MR. BB	PY 2023-24	AY 2024-25
Computation Capital Gain		₹
FVOC		92,00,000
Less: COA [POH 30/06/23 to 13/02/24] Sec. 49(7)		<u>50,00,000 (Note-1)</u>
	STCG	<u>42,00,000</u>

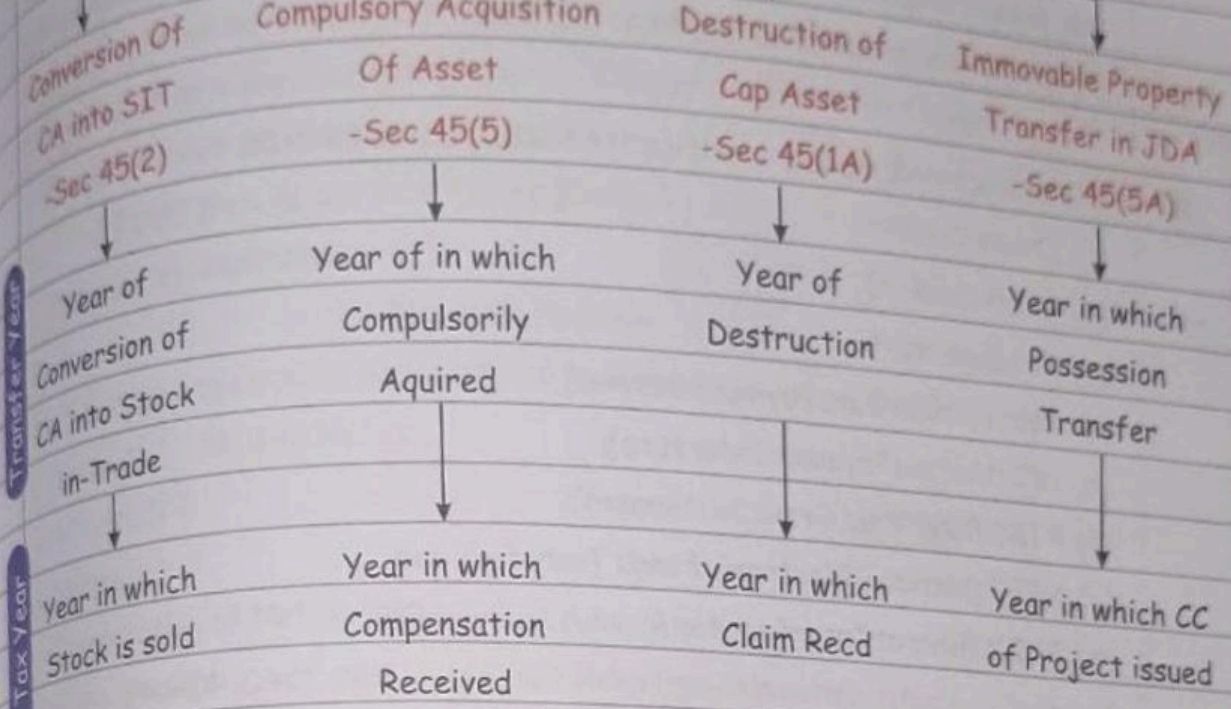
Note-1: Alternative view

If we take rigid interpretation of section 49(7) then COA will be ₹ 70,00,000 (₹1,40,00,000/2 Flats) because as per section 49(7) COA shall be FVOC u/s 45(5A) but if we take logical interpretation then COA should be ₹50,00,000.

Summary

Normally, Year of Tax = Year of Transfer

Exceptions:

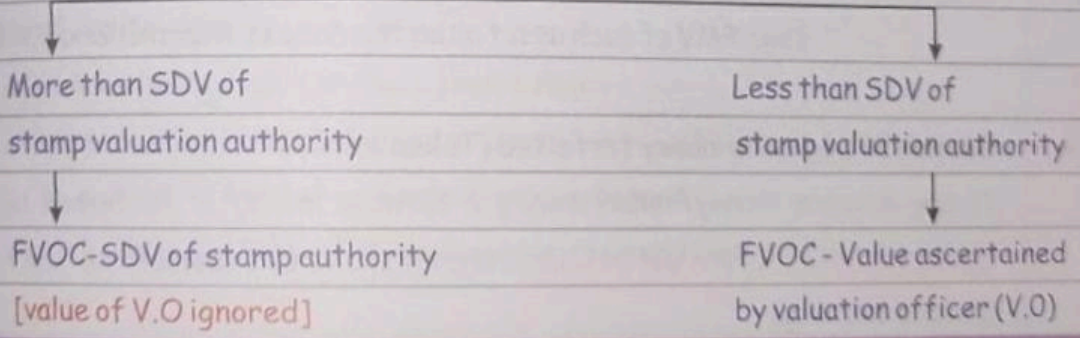


Section 50C: Stamp Duty value shall be treated as FVOC

In case of land or building or both (immovable property) held as capital asset, if sales consideration less than SDV (assessed / assessable by stamp valuation authority) then such SDV shall be deemed to be full value of consideration (FVOC). However, Where the SDV does not more than 110% of Consideration, then Sale Consideration shall be treated as FVOC

Where assessee claims that SDV is more than FMV of the property & such SDV has not been disputed in any appeal then the A.O. may refer the valuation to valuation officer (VO)

Value ascertained by V.O.



Normally SDV considered on date of registration is considered but u/s 50C if date of agreement & registration are not same, then assessee can take SDV on the date of agreement if he received consideration or part thereof upto the date of agreement in the form of Alc payee cheque/ DD, use of electronic clearing system through a bank account or any other electronic modes as may be prescribed.

Other electronic modes - Notification 8/2020 dated 29-1-20.

(a) Credit Card;

(b) Debit Card

(c) Net Banking;

(d) IMPS (Immediate Payment Service);

(e) UPI (Unified Payment Interface);

(f) RTGS (Real Time Gross Settlement);

(g) NEFT (National Electronic Funds Transfer), and

(h) BHIM (Bharat Interface for Money) Aadhaar Pay

Note: Above notification also applicable for section 13A, 35AD, 40A, 43, 43CA, 44AD, 56, 80JJAA, 269SS, 269ST, 269T.

Section 50CA: FMV of Unquoted Shares shall be Treated as FVOC

In case of shares of a company (other than Quoted shares) held as capital Asset, if Sale Consideration is less than FMV, then such FMV shall be treated as FVOC

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

Section 50D: where sales consideration is not ascertainable or cannot be determined. Then FMV of such asset as on the date of transfer shall be FVOC

Section 51: Advance money forfeited (Token money)

If any advance money/token money / earnest money is forfeited by the assessee (present owner) before 01/04/2014, then it shall be reduced from "cost of acquisition" (before indexing)

Any advance money forfeiture on or after 01/04/14 shall be charged to tax in the year of forfeiture under the head "income from other sources (IFOS)" u/s 56(2)(ix)

#

Section 50B: Slump sale

Slump sale means assessee transfers the entire undertaking / division for lumpsum consideration without assigning value / selling price of individual asset.

Computation of capital gain

	₹
FVOC (Fmv as per Rule 11UAE)(Note-7)	xxxx
(-) Transfer expenses	(xxx)
Net consideration	xxxx
(-) cost of acquisition [net-worth of undertaking)	(xxx)
[Note-1] No Indexation	
STCG/LTCG	<u>xxxxx</u>

Notes:

1. Computation of Net-worth

Assets

Depreciable Asset = Value (WDV) as per income Tax

Add: Other Assets = Book Value

xxxxx

Less: Liabilities = (Book Value)

Net Worth xxxxx

2. Revaluation of asset shall be **ignored**

3. If Net-worth comes negative then, COA = Nil

4. No Profit under PGBP shall arise even if stock is transferred in slump sale.

5. For computing net worth, if asset (on which deduction u/s 35AD was claimed) is transferred, value shall be taken as nil.

6. Nature of capital gain

a. If undertaking held for **More than 3 Years** → LTCG

b. if undertaking held for **3 Year or Less** → STCG

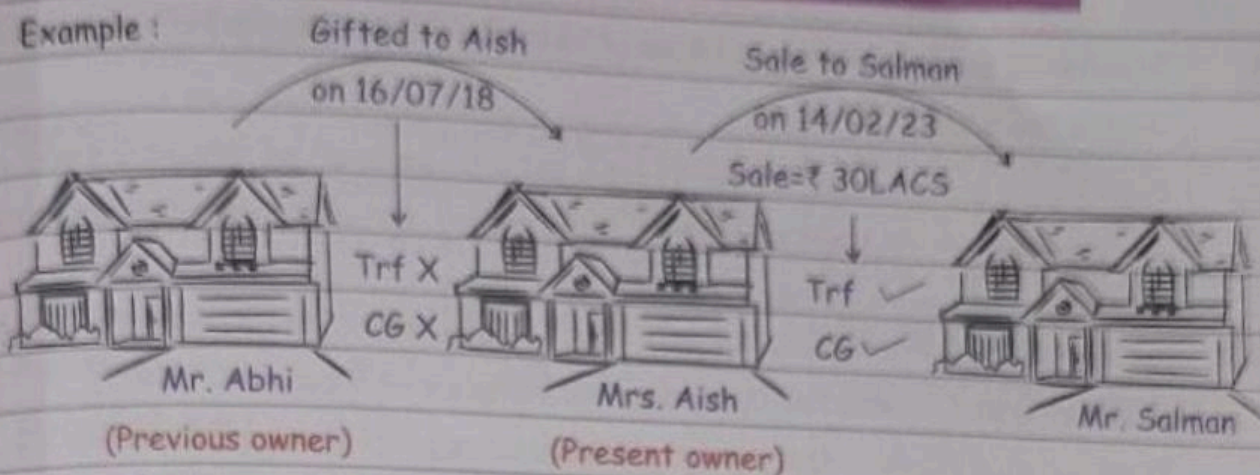
7. FVOC = ↑ FMV-1: FMV of undertaking transferred
 FMV-2: FMV of Consideration received (monetary + non-monetary)

Capital Gain

- # Summary - In the following 4 cases, index benefit is not available even if there is a LTCG
1. First proviso to Sec. 48 : Capital gain in case of NR
 2. Fourth proviso to Sec. 48 : Capital gain in case of debenture & bond
 3. Sec. 112A : Listed equity Shares, Equity Oriented Units, Units of Business Trust
 4. Sec. 50B : Slump sale
- # Section 47: Certain Transaction not regarded as Transfer (Exempt transfer)
- Following transactions are not regarded as transfer. Therefore, no capital gain will arise
1. Distribution of capital asset on the partial or total partition of HUF - Sec. 47(i)
 2. Transfer of capital asset under gift, will, irrevocable trust - Sec. 47(ii)
- Note: This clause shall not apply to transfer under gift or an irrevocable trust of share, debenture or warrants allotted by company to employee under ESOPS.
- As per sixth proviso to section 48 FMV on the date of transfer (date of GIFT or irrevocable trust) shall be treated as FVOC of such shares, debentures or warrants
3. Transfer under amalgamation, by amalgamating Co. to amalgamated Co. provided amalgamated Co. is an Indian co., - Sec. 47(vi)
- 4&5 Transfer of capital asset by holding Co. to its subsidiary Co. or subsidiary Co. to its holding Co. provided following conditions are satisfied: Sec. 47(iv)/ Sec. 47 (V)
- a) Holding Co. holds 100% shareholding of subsidiary Co.
 - b) Transferee Co. should be Indian Co.
- # in Above cases
- a) Cost of acquisition Sec. 49 (1): Cost of acquisition to the transferee shall be cost to the Previous Owner.
 - b) Cost of improvement : incurred by previous owner & present owner shall be considered.
 - c) Period of holding : POH of previous owner shall also be considered.
 - d) Indexed cost of Acquisition : Manjula J. Shah (Bombay H.C)

$$\text{COA of Previous owner} \times \frac{\text{CII of the year of Transfer}}{\text{CII for the year in which asset first held by Previous Owner}}$$
 - e) Benefit of FMV as on 01/04/2001 - Available

Example :



P.Y. 2001-02

COST = ₹ 2 Lac

-No capital gain in hands of Abhi due to Sec. 47

-Capital gain applicable in hands of Aish

-COA to Aish = COA to Abhi

-POH = P.Y. 2001-02 to P.Y. 2022-2023 (13/02/23).

$$\text{ICOA} = ₹ 2,00,000 \times 331 [2022-23] = ₹ 6,62,000$$

$$100 [2001-06]$$

Mrs. Aish

P.Y. 2022-23

A.Y. 2023-24

Computation of capital Gain

Full value of Consideration

30,00,000

(-) Transfer expenses

-

Net consideration

30,00,000

(-) index cost of acquisition

(6,62,000)

LTCG

23,38,000

6. Transfer of capital asset being shares of amalgamating company by a shareholder in a scheme of amalgamation, Provided : Sec 47(vii)
 - a) Amalgamated company is an Indian Company
 - b) Consideration of allotment to him is shares in amalgamated company
7. Transfer of capital asset by demerged Co. to resulting Co. in a scheme of demerger, provided Resulting Co. is an Indian Co. Sec. 47 (vib)
8. Issue of shares by resulting Co. to the shareholder of the demerged Co. will not be regarded as transfer of shares of demerged Co. in the hands of such shareholders Sec. 47(vid)

Capital Gain

9. Transfer of Rupee Denominated Bond of an Indian Company by one NR to Another NR outside India Sec 47 (vii a)
10. Transfer of a Govt Security (carrying a periodic payment of interest) made outside India by one non-resident to another non-resident, through an intermediary dealing in settlement of securities Sec. 47 (vii b)
11. Any transfer of sovereign Gold Bonds issued by RBI under Sovereign Gold Bond Scheme 2015, by way of redemption by an assessee being an individual. Sec. 47 (vii c)
12. Transfer of a capital asset being any work of art, archaeological / scientific / art collection, book, manuscript, drawing, painting/photograph / print to the Govt, university, national museum, national art gallery, national archives any public museum or notified institution: Sec. 47 (ix)
13. Conversion of bonds / debentures / deposit certificates of a Co. into debentures or share of that Co. Sec. 47 (x)

Notes:

- i) COA of shares / debentures received on conversion shall be cost of that part of debenture / bond / deb stock / deposit certificate, which is so converted Sec. 49(2A)
- ii) POH of shares or debentures shall also include the period for which deb / bonds / deb stock / deposit certificate held by assessee.

14. Conversion of Preference shares of Company into Equity shares of that Co.

Notes:

- i) COA of Equity shares received on conversion shall be cost of that part of preference shares, which is so converted Sec. 49(2AE)
- ii) POH of Equity shares shall also include the period for which pref. shares are held by assessee Sec. 2(42A)

15. Transfer of capital asset in a transaction of Reverse Mortgage (under a scheme made & notified by central govt) Sec. 47 (xvi)

→ Any amount received by senior citizen under this scheme is fully Exempt u/s 10(43).

Exemption available only to Individual and /or HUF

Provisions	Capital gain on sale of Residential property & used for Residential purpose [section 54]	Capital gains on sale of urban agricultural land & used for another agricultural land [Section 54B]
1. Assessee	Individual / HUF	Individual / HUF
2. Nature of asset	LTCA	LTCA / STCA
3. Assets transfer	Residential house property being building & land appurtenant there to	Agricultural land use by Individual or his parents for agri purpose during 2 yrs. before the transfer
4. New assets to be purchased or constructed	One Residential HP in india (Refer Note-5)	Agricultural land (in rural or urban area)
5. Time limit of purchased or constructed	Purchase: within 1 yr. before or 2 yrs after the date of transfer; and Construction : complete construction within 3 yrs after date of transfer	Purchase : within 2 yrs after the date of transfer
6. Deposit scheme	Applicable	Applicable
7. Amount of exemption	↓ (1) Capital gains ,or ↓ (2) CNA** / deposit amt	↓ (1) Capital gains ↓ (2) CNA/Deposit amt
8. Transfer of new assets	New Asset transferred within 3 yrs from date of purchase or construction, then cost of acquisition of new asset reduced by exempted capital gain	New Asset transferred within 3 yrs from the date of Purchase then cost of acquisition of new asset reduced by exempted capital gain
** CNA:	Cost of New Asset	

Exemption available to Any Person

Provision	Compulsory acquisition of Industrial Land & Building [Section 54D]	Investment in certain bonds [Section 54EC]
1. Assessee	Any person	Any person
2. Nature of asset	STCA / LTCA	LTCA
3. Assets transfer	Compulsory acquisition of land or building which was used by assessee in the business of industrial undertaking during 2 yrs prior to date of transfer.	Land, Building or Both
4. New assets to be purchased or constructed	New land or buildings for the industrial undertaking	Bonds redeemable after 5 years issued, by (a) National Highway Authority of India or (b) Rural Electrification Corp. (c) Power finance corp. Ltd. (d) Indian Railway finance Corp. Ltd.
5. Time limit of purchased or constructed	Within 3 years from date of receipt of compensation	Maximum exemption limit being ₹50 lakhs within prescribed time limit. Within 6 months from the date of transfer of original asset
6. Deposit scheme	Applicable	Not applicable
7. Amount of exemption	(1) capital gain (2) CNA/deposit amt	(1) capital gains (2) CNA
8. Transfer of new assets provisions	new asset is transferred within 3yrs from date of purchase construction then cost of acquisition of new asset is reduced by exempted CG	new asset is transferred or converted into money within 5 years from date of acquisition then exempt LTCG will be taxable in year of transfer / conversion.

Provisions residential house	Capital gain on sale of LTCA not to be charged in case of investment in [Section 54F]
1. Assessee	Individual/HUF
2. Nature of assets	LTCA
3. Assets transferred	Any capital assets not being residential house property
4. New assets to be purchased or constructed	One residential house in India i.e. building & land appurtenant thereto.
5. Time limit of purchased or constructed	Purchase within 1 year before or 2yrs after the date of transfer and construction : complete construction within 3 years from date of transfer
6. Deposit scheme	Applicable
7. Amount of exemption	$\frac{\text{cost of new asset}}{\text{Net Consideration house}} \times \text{Capital Gains}$
8. Transfer of new asset	New asset trf. within 3 yrs from date of purchase / construction then exempt CG taxable in P.Y. of trf. of new asset & treated LTCG

Special points:

1. Non-utilization of balance in capital gain Alc scheme.
 - a) Amount deposited is not utilized wholly or partly for specified purpose in specified time.
 - b) Amount not so utilized is taxable as capital gain of P.Y. in which specified time expires.
2. Section 54F: Additional conditions to be satisfied for availing exemption
 - a) On the date of transfer of LTCA, assessee should not own more than one residential house
 - b) Should **not purchase** any other house within **2 years** or **construct** within **3 years** after the date of transfer.
 - c) If above conditions not satisfied then exempt CG taxable in PY in which such other residential house is purchased / constructed.

3. Section 54H: Extension of time for acquiring new asset, where transfer of capital asset is by compulsory acquisition under any law, then, Time limits for acquiring new assets & for depositing in CGAS shall be computed from date of receipt of compensation & not from the date of compulsory acquisition.

4. Section 54EC

If assessee takes any loan or advance on the security of bonds/ units, he shall be deemed to have converted into money on the date on which such loan or advance is taken & capital gain exempted earlier shall be taxable,

5. If LTCG is upto 2 Crore then Assessee can acquire Two Residential house properties in prescribed time limit. This benefit of 2 HP is available only once in life time.

Section 10(37): Exemption of capital gain in case of Urban Agricultural land
LTCG / STCG on **compulsory acquisition** of Urban Agricultural land shall be exempt if following condition are satisfied -

- a) Assessee should be are individual / HUF
- b) Such agricultural land should be used for agricultural purpose for 2 yrs before date of transfer by assessee or his parents
- c) Consideration is determined or approved by RBI or CG.

Tax Rates for Capital Gain

A Section: 112A: Tax on LTCG of certain Asset [Added by FA18-Applicable from AY 19-20]

1. LTCG on transfer of

- equity shares, or
- equity oriented units, or
- units of Business Trust,

in excess of 100,000 shall be taxable @ 10% if following conditions are satisfied

- (i) STT Paid on acquisition & transfer of equity shares.
- (ii) STT Paid on transfer of equity Oriented Units & Units of Business Trust

Example: From following information calculate tax liability.

PGBP	=	3,00,000
IFOS	=	60,000
LTCG(112A)	=	<u>2,50,000</u>
GTI/NTI	=	<u>6,10,000</u>

Calculation of tax liability

	₹
a) Tax on LTCG @ 10% in excess of 1,00,000	15,000
b) Tax on balance NTI	
Up to 2,50,000	-
> 2,50,000 up to 3,60,000 5%	5500
	<u>20,500</u>
Add : Health & education case @4%	820
Net Tax Payable.	<u>21,320</u>

- LTCG arising from transaction under taken on a recognised stock exchange located in an international financial service centre (IFSC) would be taxable at concessional rate of 10% where the consideration is received or receivable in foreign currency, even though **STT Not Paid in respect of such transaction.**
- Deduction Under Chapter VI-A Not Allowed Against Capital Gain referred u/s 112A.
- Rebate u/s 87A is not Available against LTCG taxable u/s 112A.
- C.G. May notify certain made of acquisition of **equity shares** where condition of payment of STT on acquisition would not be applicable.
As per CG Notification if
 - Any equity shares acquired before 1/10/2004 eligible for benefit of sec 112A (as there was no STT before 1/10/2004).
 - Any equity shares acquired on or after 1/10/2004 eligible for benefit of sec 112A where STT were not chargeable

Capital Gain

Section: 55: Cost of Acquisition
 In case of equity shares or unit of equity oriented fund or unit of Business Trust referred in section 112A acquired before 1/2/2018, COA shall be:

Higher of step 1 & 2

Step - 1	(i) Cost of acquisition		xxxx
Step - 2	(ii) Lower of		
	a) ↓ FMV as on 31/01/2018	xxx	
	b) ↓ Sale value (FVOC)	xxx	xxxx
			xxxx

Example: From following information Compute Capital Gain

Case	i	ii	iii	iv	v
Cost of acquisition 16/09/2017	410	710	900	800	30
FMV on 31/01/2018	730	780	300	1000	100
Selling Price on 10/12/2021	760	650	910	825	400

Computation of Capital Gain

FVOC	760	650	910	825	400
Transfer exps	-	-	-	-	-
Net consideration	760	650	910	825	400
(-)COA (wn-1)	730	710	900	825	100
LTCG u/s 112A	30	(60)	10	-	300

Losses can be set off & c/f

WN-1	COA	Case	i	ii	iii	iv	v
↑ (i)	Cost		410	710	900	800	30
↑ (ii)	a) FMV on 31/01/2018		730	780	300	1000	100
	b) FVOC		760	650	910	825	400
			730	710	900	825	100

Note: As per third provision to section 48 Indexation not available for computation of capital gain u/s 112A

Computation of FMV on 31/01/2018.

(i) Listed shares/Units on recognised stock exchange on 31/01/2018:
 FMV = Highest price Quoted on 31/01/2018.

Note: If no trading on 31/01/2018 then the highest price on such stock exchange on a date immediately preceding 31/01/2018 when such share /units was traded on such exchange.

(ii) Unit / shares not listed on 31/01/2018.

In case of Units

FMV = NAV on 31/01/2018

In Case of Share Not Listed on 31/01/2018 but Listed on Date of transfer

FMV = COA \times $\frac{\text{CII of FY 17-18 i.e. 272}}{\text{CII of the year in which the share were first held by assessee or 01-02, whichever is later.}}$

B. Sec 111A: Tax on STCG of certain Asset.

1. STCG on transfer of equity shares or unit of equity oriented fund or unit of business trust shall be taxable @ 15% if STT paid on transfer of such assets.

2. Benefit of concessional rate of 15% available on transaction under taken in foreign currency on recognised stock exchange located in IFSC even though STT not paid in respect of such translation.

3. Deduction under chapter VI-A not available against STCG taxable u/s 111A

C. Capital Gain (other than referred in 112A & 111A above)

LTCG - 20% u/s 112

STCG - Normal tax rate

Proviso to Sec. 112

In case of LTCG on listed securities (other than units) & Zero Coupon Bonds, assessee can pay tax

(i) 10% (without indexation)

(ii) 20% (with indexation)

whichever is lower

In case of NR or Foreign Company 10% Tax on LTCG from Unlisted securities or shares without First & Second Proviso to Section 48

Benefit of Basic Exemption against LTCG / STCG 111A/LTCG 112A
 In case of Resident individual / HUF, if balance total income (other than LTCG u/s 112A & STCG 111A) is less than basic exemption then unexhausted (unutilised) basic exemption can be used against LTCG u/s 112, LTCG 112A & STCG 111A.

Example:
 Total income (NTI) of Mr. Ram is ₹ 4,20,000 (it include LTCG on sale of land ₹ 2,50,000)
 Now tax liability of Ram,
 $[2,50,000 - 80,000] \times 20\% = ₹ 34,000 + \text{HEC @ } 4\%$

Section 55A : Reference to Valuation officer (V.O.)
 A.O May Refer Case to Valuation officer in the following circumstances

- i) FMV Claimed by assessee as per registered valuer :- A.O. is of Opinion that the Value claimed is at variance with its FMV
- ii) In any other Case
 - a) FMV as per A.O. Opinion more than value claimed by assessee by
 - i) 15% of value claimed by assessee, OR
 - ii) 25000/-

↓
whichever is lower
 - b) having regard to nature of asset and other relevant circumstances, it is necessary so to do.

Taxation in Case of Amalgamation & Demerger

Sec. 2(1B): Definition of amalgamation
 Merger of one or more companies with another company or the merger of two or more companies to form one company, in such a manner that -

- (i) All the asset & liabilities of amalgamating company becomes the asset & liabilities of amalgamated company.
- (ii) Shareholders holding minimum 75% in value of shares in amalgamating company become shareholder of amalgamated company.

→ Taxation of shareholder

- a) As per Sec. 47, there will be no transfer & hence no capital gain when shareholder allotted shares of amalgamated Company in exchange of share of amalgamating Co.

b) COA of the shares in the Amalgamated Company = COA of the shares in the Amalgamating Company [Sec. 49(2)]

c) POH = Period for which shares held in Amalgamating Company + period in Amalgamated Company

→ Taxation of Amalgamating company

As per Sec. 47, there will be **no capital gain** on transfer of capital asset by amalgamating Company to amalgamated company.

→ Taxation of Amalgamated Company

a) As per Sec. 49(1) COA of asset becomes property of amalgamated Company = COA of amalgamating Company [cost of previous owner]

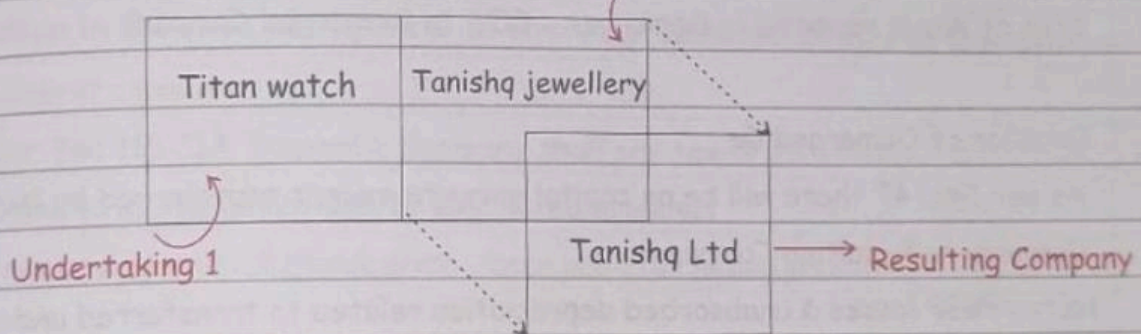
b) POH of asset = Period of Amalgamating Company as well as Amalgamated Company

Note: PGBP losses & unabsorbed depreciation of amalgamating Company can be carried forward & set off by amalgamated Company [refer set off & c/f topic]

Meaning of Demerger

Demerged Company → Titan Ltd.

Undertaking II



Sec. 2(19AA): Demerger means transfer by demerged Co. of its one or more undertaking to any resulting Company, all the following conditions are fulfilled:

- i) **All the assets & liabilities** of undertaking (tanishq) transferred by demerged Company become the asset & liabilities of resulting Company (tanishq Ltd)
- ii) All assets & liabilities should be transferred at **Book value** [Revaluation is to be ignored]
- iii) The resulting Company (tanishq Ltd.) issues, its **shares** to the shareholder of demerged Company (titan Ltd.) on **proportionate basis** except when the resulting company itself is a share holder of the demerged Company.

- iv) The shareholders holding minimum 75% value of shares in the demerged Company becomes the shareholder of resulting Company.
- v) Transfer of undertaking on a going concern basis.

Taxation of shareholder

a) Sec. 47 : there will be no capital gain in hands of shareholders of demerged Company When they receive share of resulting Company.

b) POH of shares of resulting company : Period for which shares were held in demerged Co. shall also be considered Sec. 2(42A)

c) Sec. 49(2C) COA of shares of Resulting Company

$$= \text{COA of shares held in demerged Company} \times \frac{\text{Net Book value of assets transferred in demerger}}{\text{**Net worth of demerged Company before demerger}}$$

**Net worth = Paid up share capital + General reserve

d) Sec. 49(2D): COA of shares in the Demerged Company

COA of originals shares in demerged Company xxxxx

(-) COA of shares in resulting Company (point c) (xxxx)

xxxxx

Taxation of Resulting Co.

COA of Asset received in Demerger = COA to Demerged Company

Taxation of Demerged Co.

As per Sec. 47 there will be no capital gain when asset transferred by Demerged Company to Resulting Company.

Note : PGBP losses & unabsorbed depreciation related to transferred undertaking can be carried forward & set off by resulting Company

Taxation in the Case Liquidation

1. In hands of company.

As per sec 46(1): Where asset of Co. is distributed on its liquidation, such distribution shall not be treated as transfer. Hence, capital gain shall not apply in hands of company

2. In hands of shareholder.

a. Distribution shall be treated as Deemed dividend u/s 2(22)(c)

Where shareholder, on liquidation, receives any money or other assets from company then capital gain is applicable in hands of shareholder.

Computation of capital Gain

Money received	
(+) FMV of asset recd, on date of Distribution	xxx
	xxx
(-) Amount assessed as dividend u/s 2(22)(c)	xxx
Sales consideration / FVOC	(xxx)
(-) COA / ICOA of shares	xxx
SLCG / LTCG	(xxx)
	xxx

POH of shares : Date of acquisition to date of liquidation.

Capital gain is applicable in the hands of shareholder in the year in which he received assets under Liquidation.

Cost of acquisition of assets received under liquidation is FMV of such asset on the date of distribution. (Section 55)

Taxation in the case of Buy Back of share by domestic company (Listed Unlisted Both)

a) In hands of company

As per Sec 115-QA, Domestic Company shall pay tax @ 23.296% (20%+12%+4%) on distributed income which shall be calculated as under:

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

b) In hands of shareholder

The amount received by shareholders on Buyback of unlisted shares shall be exempt u/s 10(34A). No tax treatment in hands of shareholders.

Issue price will be determined in the manner as may be prescribed (as per Rules)

Note : Redemption of the preference shares also amounts to buy back of shares.

Sec 115QB/QC : Interest @ 1% p.m. or part of the month applicable from 15th day. Assessee will be treated as assessee in default if tax not paid.

Income From Other Sources

8

Sec. 56(1) Any Income which not taxable under Salary, IFHP, PGBP or Capital gain, shall be chargeable under IFOS.

Sec. 56(2) Income taxable u/h IFOS, in particular:

1. Dividend;

2. Winning from lotteries, puzzles, card game etc.

3. Any sum received from the employee toward contribution for any staff welfare fund (like PF or ESI), if it is not chargeable under PGBP;

4. Interest on securities, if it is not chargeable under PGBP;

5. Rent from letting out of P&M or furniture with or without building, if not chargeable under PGBP;

6. Any sum received under keymen insurance policy if not chargeable under PGBP or Salaries;

7. Interest received on compensation of compulsory acquisition of capital asset.

8. Gift.

Other income taxable under IFOS:

» Amount received under family pension.

» Interest on bank deposit & loan given.

» Interest on Income tax refund.

» Income from sub-letting of house property.

» Royalty income.

» Agriculture income.

» Director setting fee.

» Salary of MP/MLA/MLC etc.

Note: Interest from investment in Non-SLR Securities of Banks : CBDT clarified that the investments made by a banking concern are part of the business of banking.

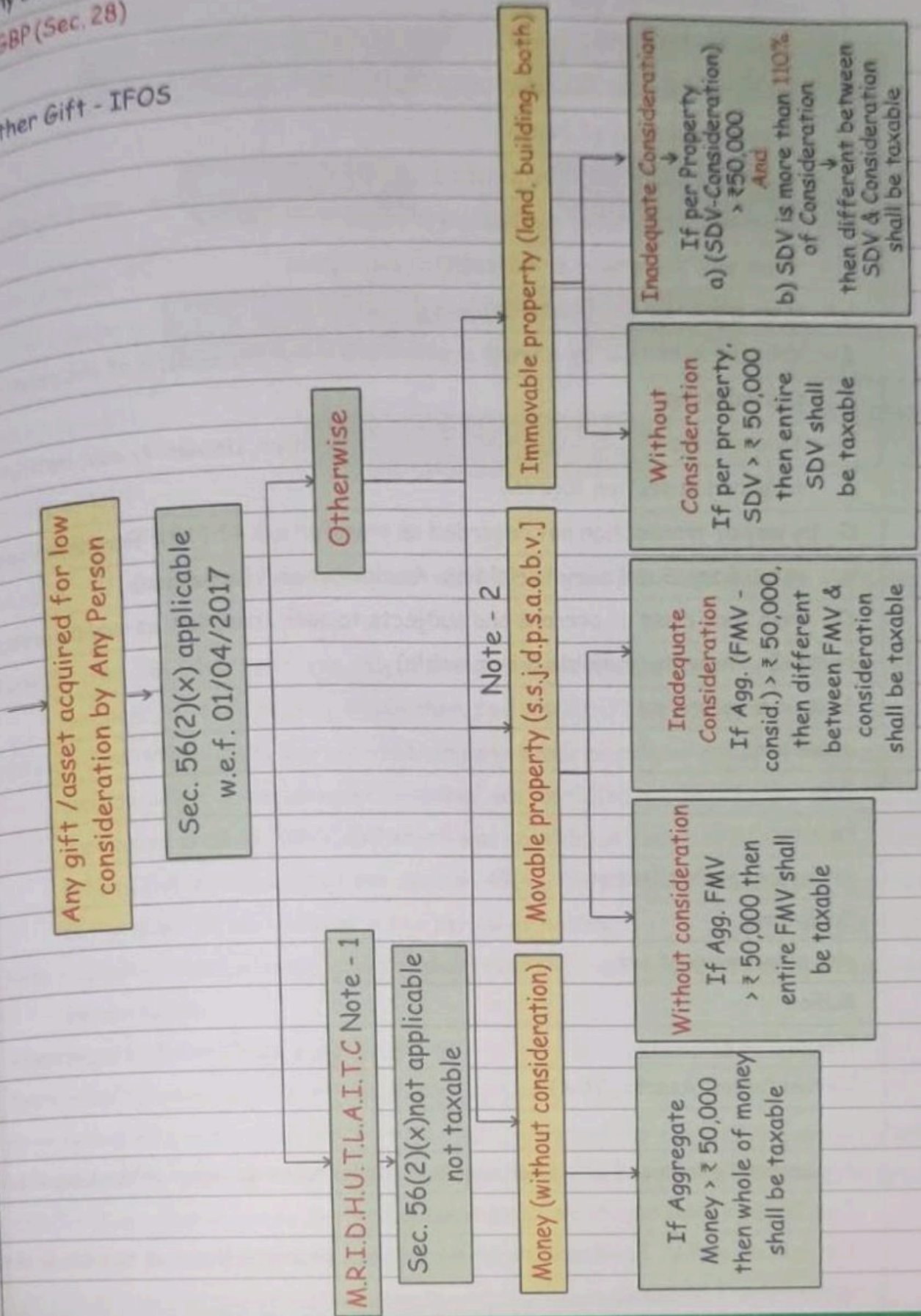
Therefore, the income arising from such investments is attributable to the business of banking and chargeable under PGBP and not under IFOS.

Taxation of Gift

1. Any gift received by employee from employer due to employee - employer relationship **always taxable [even if received on marriage] under income from salary**

Any benefit / gift / perquisite arising due to business or profession - always taxable under PGBP (Sec. 28)

Other Gift - IFOS



- # Note-1: money / property **Not Taxable** if it is received,
- M - on the occasion of **Marriage**,
 - R - from any **Relative** (note-3)
 - I - under will or way of **Inheritance**
 - D - in contemplation of **Death**
 - T - from or by any **Trust** registered u/s 12AA
 - H - from any **Hospital** or medical institution
 - U - from any **University** or educational institution
 - LA - from any **Local Authority** defined u/s 10(20)
 - I - from an individual by a trust created solely for the benefit of the relative of the individual
 - T - by any **Fund, Trust, Hospital, medical Institution, University edu, institution** referred in section 10(23C)
 - C - by way of transaction not regarded as transfer u/s 47 (HUF Partition, Holding to Subsidiary, Subsidiary to Holding, Amalgamation & Demerger)
 - O - from such class of persons and subjects to such condition, as may be prescribed

Note -2 : Property (movable & immovable)

Shares & securities

Jewellery

Drawing

Painting

Archaeological collection

Sculptures

Any other work of art

Bullion

Immovable property

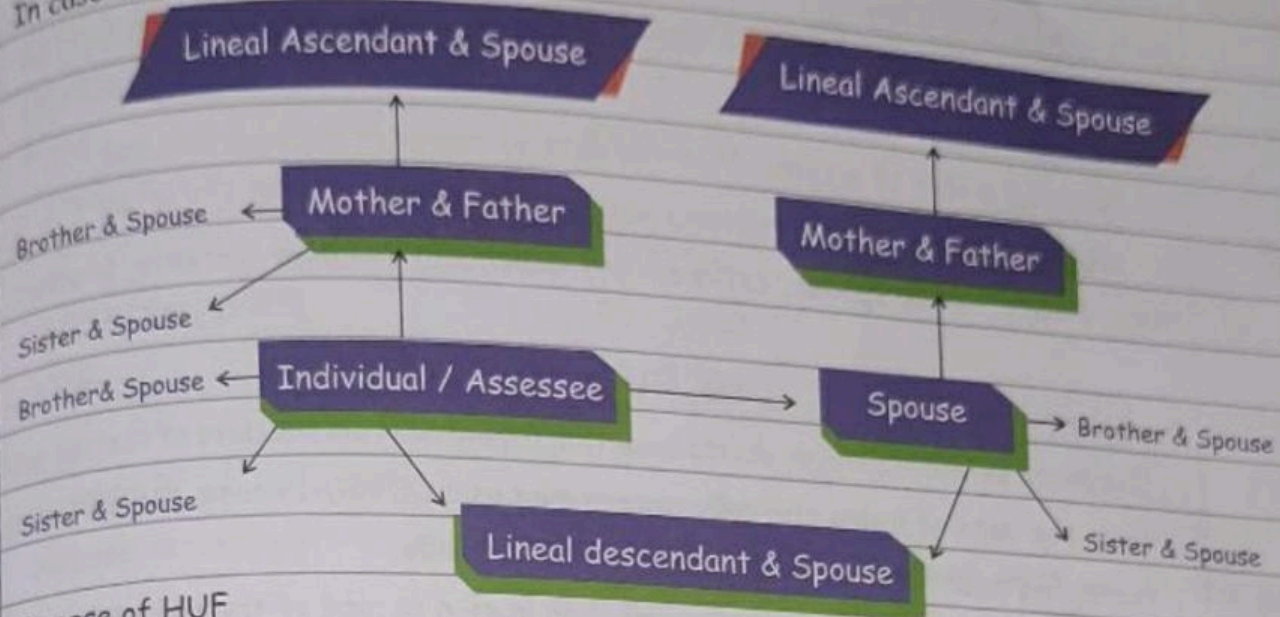
Virtual Digital Assets (VDA)

Any property received as gift or acquired for low consideration other than above,
 Sec. 56(2)(x) Not applicable - Not taxable.

Car, iphone-x, T.V., Furniture, Wrist Watch, etc. received then not taxable even value is more than ₹ 50,000/-

Note 3 : Meaning of Relative

In case of individual



b) in case of HUF

Any member of HUF

Note 4 : if assessee is not satisfied with SDV then his case may be referred to Valuation Officer (same as sec, 50C)

Note 5 : Sec. 56(2)(x) applicable only if property is in the nature of capital asset of the recipient, if it is Stock-in-trade then Sec. 56(2)(x) **Not applicable** (CBDT circular)

Note 6 : Sec. 49(4): if any person receiving any asset as gift or acquires for inadequate consideration & he already assessed u/s 56(2)(x) on FMV/SDV then COA of such asset shall be FMV/SDV which was considered under IFOS u/s Sec. 56(2)(x) When COA is computed as per section 49(4), the period of holding of the previous owner shall not be included in the period of holding,

Note 7 : Section 56(2)(x) is applicable even gift (money) made outside India by Residence Person to NR

Amendment by FA 2022 w.e.f. AY 20-21

Section 56(2)(x) not applicable in the following cases; -

- (i) By an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19 subject to conditions notified by the CG.
- (ii) By a member of the family of a deceased person -
 - (a) from the employer of the deceased person (without any limit); or

- (b) from any other person or persons to the extent that such sum or aggregate of such sums \leq ₹ 10 lakhs, where the cause of death of such person is illness related to COVID-19 and payment is—
- received within 12 months from the date of death of such person; and
 - subject to such other conditions notified by the CG.
- Note: Family means spouse, children and dependent relative (parents, brother, sister, etc.)

Conditions

- The death of the individual should be within 6 months from the date of testing positive from the date of being clinically determined as a COVID-19 case, for which any sum of money has been received by the member of the family;
 - The family member of the individual shall keep a record of the following documents:
 - The COVID-19 positive report of the individual, or medical report if clinically determined to be COVID-19 positive through investigations in a hospital or an inpatient facility by a treating physician;
 - A medical report or death certificate issued by a medical practitioner or a Government registration office, in which it is stated that death of the person is related to corona virus disease (COVID-19).
- Statement of any sum of money received by a member of the family of a deceased person from the employer of the deceased person or from any other person or person in account of death due to COVID-19 shall be verified and furnished in Form A.

Example-1 : Mr. Ram acquired a house property for ₹3 lakh during PY 2001-02. He gifted such property to his friend Lakhan on 16/07/2022 [SDV on date of gifting - ₹40 lakh]. Lakhan sells such property to Hari on 16/02/23 for ₹ 83 Lakhs discuss tax treatment.

In hands of Ram

Gift not treated as transfer - No Capital Gain due to Section 47

In hands of Lakhan

He received immovable property without consideration & SDV $>$ ₹ 50,000, so total SDV of ₹ 40 lakh shall be taxable u/s 56 (2) (x) in hands of lakhan for AY 2023-2024.

Capital Gain applicable on transfer of asset

Computation of capital gain

	PY 2022-23	AY 2023-24
[POH 16/07/22 to 15/02/23]		₹
FVOC	83,00,000	
(-) Transfer expenses	-	
	83,00,000	
(-) COA [Sec. 49(4)]	40,00,000	
STCG	43,00,000	

Example-2:

suppose in example : 1, Ram & Lakhan are relative (brother) what will be the tax treatment.

In hands of Ram

Gift not treated as transfer - No Capital Gain due to Section 47

In hands of Lakhan

Sec. 56(2)(x) not applicable, since asset received from relative.

Capital gain applicable on transfer of such property

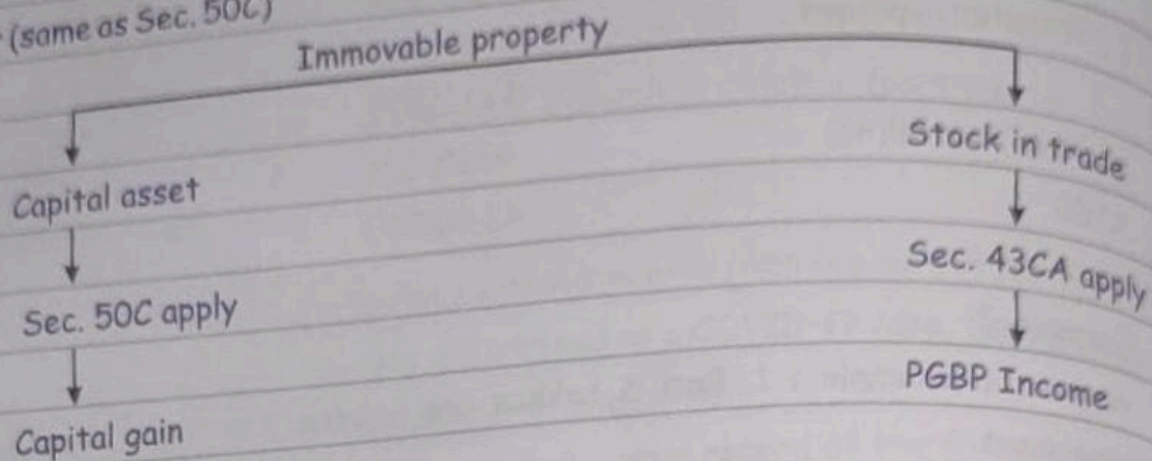
Computation of capital gain

	PY 2022-23	AY 2023-24
[POH 2001-02 to 15/02/23]		₹
FVOC		83,00,000
(-) Transfer expenses		-
		83,00,000
(-) ICOA Sec. 49 (1)		
	$300000 \times \frac{331 [22-23]}{100 [01-02]}$	(9,93,000)
LTCG		73,07,000

Section 43CA : SDV shall be treated as sales consideration

In case of immovable property held as stock - in trade, if sales consideration is less than

SDV then such SDV shall be deemed to be sales consideration for computing PGBP. However, where the SDV does not more than 110% of sale consideration, then sale consideration shall be treated as FVOC. If assessee not satisfied with SDV then his case may be transferred to a valuation officer (same as Sec. 50C)

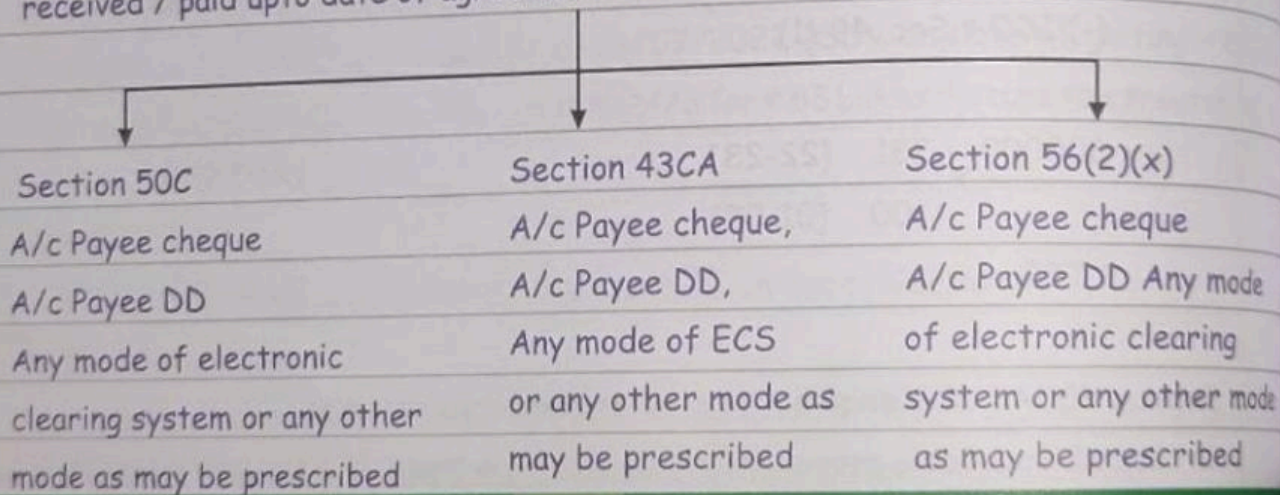


Note : If date of agreement & registration are not same, SDV on the date of agreement can be considered u/s 50C/43CA/56(2)(x), if full or part consideration received or paid by A/c Payee cheque, A/c Payee DD or any mode of electronic clearing system, through bank account or any other electronic modes as may be prescribed.

SDV - Date of Agreement or Registration ?

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

SDV on date of agreement can be considered, if full or part consideration received / paid upto date of agreement in



Section 56(2)(viib) : Shares issued on Premium

If any closely held company issues shares to any resident share holder on premium then - [Issue price of share - FMV of such shares] shall be taxable in hands of company under IFOS

Example : Mr. Ramesh acquired a house property on 16/7/21 for ₹40,00,000. He entered into an agreement to sell on 14/02/22 with Mr. Suresh for ₹70 lakhs & SDV on that date is ₹80 lakh. Suresh paid ₹7,00,000 by cheque on 14/02/22 & the cheque was cleared on 18/02/22. The possession is given to Mr. Suresh on 10/12/22 when Suresh paid balance amount of ₹ 63 lakh & property registered in the name of Mr. Suresh on 10/12/2022, SDV on the date of registration is ₹110 lakhs. Discuss tax treatment in hands of Ramesh & Suresh if property is held as Capital asset or Stock-in-trade.

Solution : PART A: Property held as capital asset (in both Hands)

In hands of Mr. Ramesh		In hands Mr. Suresh.
Computation of capital gain		P.Y. 2022-23 AY 2023-24
P.Y. 2022-23 A.Y. 2023-24		Sec. 56(2)(x) applicable
	₹	because difference between SDV &
FVOC [50C]	80 lakhs	Consideration is more than ₹50,000
		& SDV is >110% of Consideration
(-) COA	40 lakhs	[₹80 lakhs - ₹70 lakhs) = ₹1000000
[POH 16/07/21 - 09/12/22)		Taxable under IFOS in hands of
STCG	40 lakhs	Suresh for A. Y. 2023-24

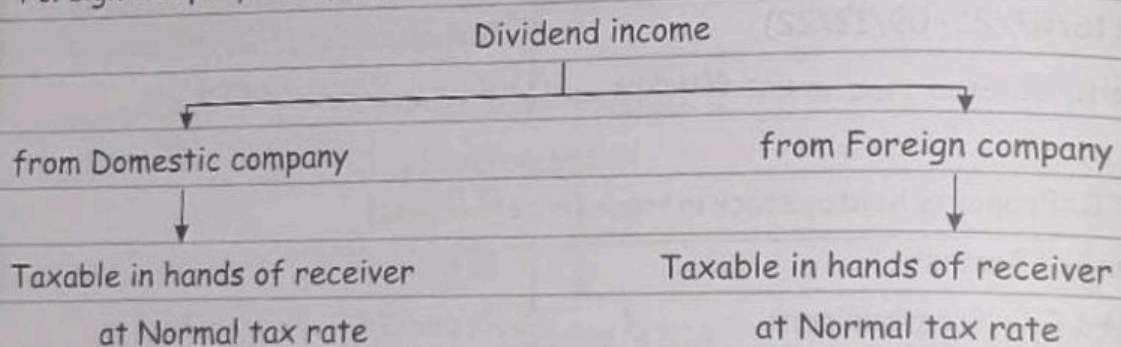
PART B : Property held as stock in trade (in both Hands)

In hand of Ramesh		In hands of Suresh
Profit & Gain from business	₹	As per CBDT circular if asset
Sale price of stock [43CA)	80 lakhs	received by any person as stock in
(-) cost of stock	40 lakhs	trade then Sec. 56(2)(x) Not applicable.
PGBP	40 lakhs	

- # Section: 56(2)(xi): Compensation on termination of Employment
Any compensation or other payment, due or received by any person in connection with termination of his employment (or modification of terms of employment) is treated as income under section 56(2)(xi)
This section is applicable only if compensation is received from a person other than employer.
However, if it is received from employer, then it is taxable as profits in lieu of salary under section 17(3)(i) under the head "Salaries".

Taxation of Dividend & Deemed Dividend

- # Indian Company: Company formed and registered under Companies Act, 1956/2013 or any law of state/union territory.
- # Domestic Company: Indian Company or any other company (foreign company) who made prescribed arrangements for the declaration and payment of dividend within India. Thus, all Indian Company are treated as Domestic Company but all Domestic Company are not Indian Company.
If a Foreign Company makes prescribed arrangements for payment of dividends in India it shall be treated as Domestic Company.
- # Foreign Company: Company which is not a Domestic Company.



Deemed Dividend

In reality the payments are not dividend but for the purpose of income tax they are treated as dividends. The objective is to plug the loopholes in the tax provision & to check avoidance. The following payments / distributors are deemed as dividend to the extent of Accumulated profits.

Accumulated profits in section 2(22)(a), (b), (d) and (e) include all profits of the company up to the date of distribution or payment of dividend and u/s 2(22)(c) all profits up to date of liquidation.

In the case of an amalgamated company, the accumulated profits, whether capitalised or not, or loss, as the case may be, shall be increased by the accumulated profits, whether capitalised or not, of the amalgamating company on the date of amalgamation.

Sec 2(22)(a): Any distribution of assets

Any distribution of **Assets** by a company to its shareholders to the extent the company possesses **accumulated profit** (Capitalised or not).

Notes:

1. In case of Bonus shares, there is no release of assets hence, issue of bonus shares is not deemed as dividend.
2. When assets are distributed us 2(22)(a)/(c)/(d), the FMV of the asset on the date of distribution has to be taken for computing the dividend.

Sec 2(22)(b): Distribution of Debentures, etc.

a) Any distribution to its shareholders by Co. of debentures, debentures stock or deposit certificates, and

b) Any distribution to its preference shareholders of shares by way of Bonus,

to the extent to which Co. possesses accumulated profit (capitalised or not).

Sec 2(22)(c) Distribution of assets on liquidation

Any distribution of **assets** by company on liquidation extent to which company possesses **accumulated profit** (capitalised or not).

Sec 2(22)(d): Reduction of share Capital.
Any **distribution** to its shareholder by company on **reduction** of its capital to the extent to which company has **accumulated profit** (Capitalised or not).

Some differences between 2(22)(a)/(b)/(c)/(d)&(e).

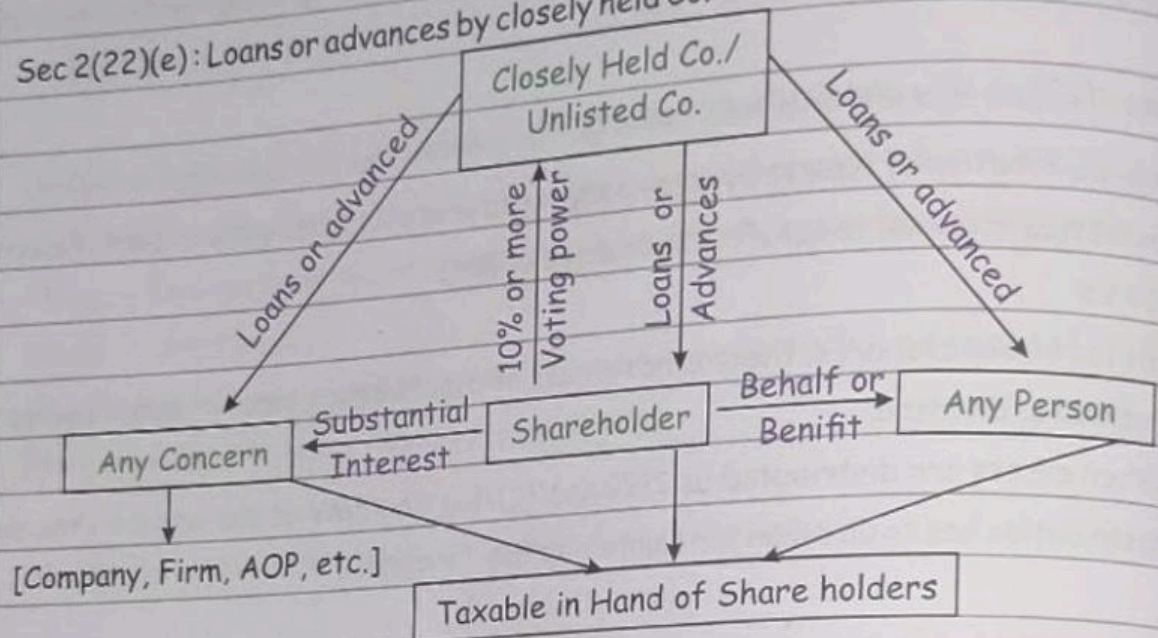
1. Sec 2(22)(a)/(b)/(c)/(d)
Treated as Deemed dividend to the extent accumulated Profit (capitalised or not).

Sec 2(22) (e)
Treated as deemed dividend to the extent **accumulated profit**,

2. Applicable to all Companies

Applicable to only closely held Companies

Sec 2(22)(e): Loans or advances by closely held Co.



Notes:

1. Loan or advances is treated as deemed dividend to the extent to which company possesses **accumulated profit**.
2. Concern means HUF, Firm, Company, AOP/BOI
3. Substantial interest means **20% or more voting power /share** in profit at any time during the P.Y.
4. Loan is repaid or Company charges market rate of interest **doesn't make any difference** in the applicability of sec 2(22)(e).
5. Accumulated profit means profit as per Company Act (means accounting profit) Not Assessable profit.

Section 2(22)(e) is **Not Applicable** in case of trade advances means advance which is in the nature of commercial transaction. [CBDT Circular 19/2017]

Example: advance made by company to sister concern for job work, Advance was made by a company to its shareholder to install plant and machinery at the shareholder's premises to enable him to do job work for the company so that the company could fulfil an export order etc.

Dividend shall not include -

1. Any Advance or Loans given by Company in the ordinary course of its business of money lending, where money lending is substantial part of the business

2. Any dividend paid by a company, which is set off by Company against the loan which has been deemed as dividend u/s 2(22)(e).

3. Buy back of shares.

4. Shares allotted to shareholder of demerged Company by resulting Company under scheme of Demerger.

5. Any distribution made u/s 2(22)(c) / 2(22)(d) in respect of preference shares.

Sec. 57 : While calculating Income under IFOS following deductions allowed

1. In the case of dividend or income on units of MF/UTI: only interest expenses is allowed as deduction subject to maximum 20% of such dividend or income from MF/UTI.

2. In the case of rental income from machinery, plant or furniture: amount paid on current repair & Insurance and normal depreciation allowance on such P&M and furniture;

3. In case of income under family pension, deduction shall be lower of 1/3rd of family pension or 15,000 p.a.

certain exemption in respect of family pension :

- The family pension received by the widow or children or nominated heirs, of a member of the armed forces (including para-military forces) of the Union, where the death of such member has occurred in the course of operational duties, in specified circumstances would, however, be exempt u/s 10(19).
- The family pension received by any member of the family of an individual who had been in the service of Central or State Government and had been awarded "Param Vir

- Chakra" or "Vir Chakra" or Mahavir Chakra" or other notified gallantry awards would be exempt u/s 10(18)(ii).
4. In case of interest on compensation of compulsory acquisition, amt equals to 50% of such income shall be allowed as deduction and no deduction shall be allowed under any other clause of this section.
 5. Any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income.

Sec. 58 : Expenses Not allowed as deductions under IFOS

1. any personal expenses of the assessee.
 2. any interest chargeable under this Act which is payable outside India on which TDS has not been paid or deducted.
 3. any payment which is chargeable under the head "Salaries", if it is payable outside India, unless TDS has been paid thereon or deducted.
 4. Cash Expenditure exceeding 10,000. Provisions of section 40A(3) shall apply.
 5. 30% of any sum payable to a resident on which TDS has not been paid or deducted at source. Provision of section 40(a)(ia) shall apply.
 6. any expenditure incurred in connection with casual income:
- However, this prohibition will not apply in respect of the income of an assessee, being the owner of race horses, from the activity of owning and maintaining such horses. Any expenses incurred in respect of such activity shall be allowed even in the absence of any stake money earned. Such loss shall be allowed to be carried forward u/s 74A.

Section 64 (1A): Income of a minor child

Income of a minor child is taxable in hands of the parent whose income is more before clubbing minor's income.

Exception:-

In the following 3 cases minor's income is taxable in the hands of minor only.

1. Income is due to manual work.
2. Income is due to skill & talent.
3. Minor child suffering from disability.

Notes :-

- (i) If minor child's income is clubbed in the hands of parent then exemption u/s 10 (32) of ₹1500 p. a. per child is allowed to parent.
- (ii) 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.
- (iii) Where the marriage of the parents does not subsist, the income of the minor will be includible in the income of that parent who maintains the minor child in the relevant previous year.
- (iv) It may be noted that the clubbing provisions are attracted even in respect of income of minor married daughter.
- (v) Child in relation to an individual includes a step-child and an adopted child of that individual.

Section 64(1)(iv): Asset transferred to spouse

If any individual transfers any asset to his or her spouse without consideration or for inadequate consideration then income from such asset is received by spouse but tax on such income is paid by transferor (Assessee)

Note :-

1. The above provision is applicable only if relationship of husband & wife should exist at the time of transfer of asset as well as at the time of generating the income.

2. The above provision is not applicable if asset is transferred in connection with agreement to live apart.
3. If a House property is transferred by an individual to his spouse or minor child (Not being a minor married daughter) for without / inadequate consideration then such individual is treated as **Deemed owner** as per sec 27 & sec 64 shall not apply.

Section 64(1)(vi) Asset transferred to son's wife
 If any individual transfers any asset to his / her son's wife without consideration or for inadequate consideration, then income from such asset is received by son's wife but tax on such asset is paid by transferor.

Note:

The above provision is applicable only if the relationship of mother/ father - in law & daughter - in - law exists at the time of transfer of asset as well as at the time of generating the income.

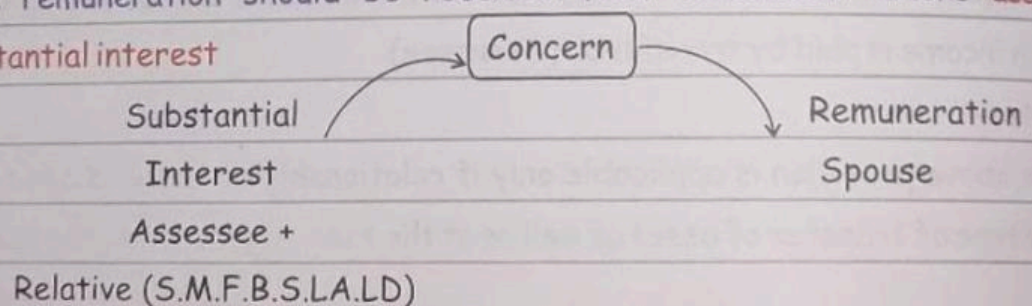
Section 64(1)(vii/viii) : Asset transferred to any person for the benefit of spouse / son's wife. (indirect transfer)

If an individual transfers any asset to any person without consideration or for inadequate consideration for the benefit of son's wife / spouse then income from such asset is received by any other person (transferee) but tax on such income is paid by transferor.

Section 64(1)(ii): Income of spouse from a concern where assessee has substantial interest

Income of spouse is taxable in hands of assessee if following conditions are satisfied.

1. Income should be in the nature of salary, commission, bonus (remuneration).
2. Such remuneration should be received from a concern where assessee has substantial interest



Substantial interest

Company ▶ 20 % or more share holding

Firm/AOP/BOI ▶ 20 % or more PSR

Exceptions:

If remuneration received by spouse due to technical & professional qualification & such remuneration is attributed to such qualification then the above provision is **not applicable**.

Note:

Where both husband and wife have substantial interest in a concern and both are in receipt of income by way of salary etc. from the said concern, such income will be includible in the hands of that spouse, whose total income, excluding such income is higher. 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 AO is satisfied, after giving that spouse an opportunity of being heard, that it is necessary to do so.

#

Section 60: Income transfer without transfer of asset

If an **individual** transfers any income without **transfer of asset** then such income is taxable in the hands of **transferor**.

#

Section 61: Revocable transfer

In case of revocable transfer, income is received by transferee but tax is paid by **transferor**.

Exception:

If transfer is revoked after the death of beneficiary or transferee then the above provision is **not applicable**.

#

Section 64 (2): Asset transfer to HUF

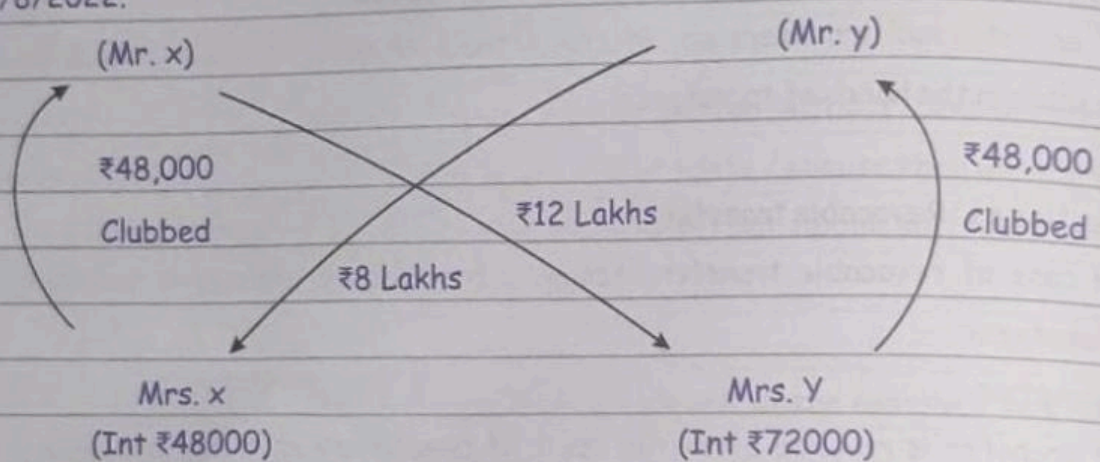
If any individual transfers any asset to his HUF without/for inadequate consideration, then income from such asset is received by HUF but taxable in hands of transferor (member)

After partition of HUF, Income from such asset recd, by spouse shall be clubbed in hands of transferor.

Notes:

1. Income includes loss, Therefore, if there is loss then also clubbing provisions are applicable.
2. Where an asset transferred is converted into other form, income derived from such converted asset shall be clubbed.
3. Natural love & affection may be a good consideration but its not adequate consideration for the purpose of Sec 64.
4. If the asset transferred is sold by the transferee then capital gain is treated as income & shall be clubbed.
5. If there are two transactions and they are inter-connected and part of same transaction, it shall be considered to be a device for evasion of tax and therefore clubbing provision shall apply. (Cross Gifts).

Example: Mr. X gifted 12 Lakhs to his brother's wife (Mrs. Y) & his brother (Mr. Y) gifted ₹8 Lakhs to Mrs X (Mr. X's wife). Gifted amount deposited in Banks @ 9% on 1/8/2022.



Clubbing provisions will be applicable only to the extent of income on the matching amount of cross gifts, in the above example, ₹8 Lakhs is matching amount.

6. Where any asset is transferred by individual to his spouse / son's wife & such amount is invested in Business by transferee then proportionate profit of such business shall be clubbed as per following formula :

Income from business \times $\frac{\text{Gifted by Assessee}}{\text{Capital of Business on first day of P.Y. (Opening Capital)}}$

Clubbing shall be applicable only if gifted money is included in opening capital.

Example: -	Capital as on	1.4.2021	=	₹ 7,00,000
	Gifted by husband	10.4.2021	=	₹ 3,00,000
	Total			₹ 10,00,000
	Profit for P.Y. 2021-2022		=	₹ 4,00,000
	Capital as on	1.4.2022	=	₹ 14,00,000
	Profit for P.Y. 2022 - 2023		=	₹ 6,30,000

Solution :-

For P.Y. 2021-22 clubbing shall **not apply** because the gifted amount is not included in **opening capital**. Total ₹ 400,000 taxable in hands of wife.

For P.Y. 2022-23 clubbing shall apply $6,30,000 \times \frac{3,00,000}{14,00,000} = ₹ 1,35,000/-$

Profit of ₹ 1,35,000 taxable in hands of husband & remaining profit ₹ 4,95,000 taxable in hands of wife.

7. All the clubbing provisions are **not applicable** to **second generation income** i.e. income from accretion of transferred asset.

Mr. Borana $\xrightarrow{\text{Gifted } ₹10 \text{ lakhs}}$ Mrs. Borana (invested in FD)

FD Interest = ₹ 1 lakh
@ 10%

↓
clubbed with Mr. Borana

Next year-FD (10L + 1L) = ₹ 11 lakhs
FD interest = ₹ 1,10,000

in this case, int of ₹ 1 lakh clubbed in hands of Mr. Borana & ₹ 10,000 taxable in hands of Mrs. Borana.

Notes

Section: 70 Intra head adjustment

It means loss from one source of income can be set off against income from another source of income but in the **same head of income**.

Exceptions:

1. Speculative business loss can be set off against only speculative business income.
2. Specified business loss (sec 35AD) can be set off against specified business income.
3. Long term capital loss (LTCL) can be set off against long terms capital gains.
4. Loss from owning & maintaining race horses can be set off against income from owning & maintaining race horses.

Section 71: Inter-head adjustment.

It means loss under one head of income can be set off against income from another head of income but in the **same previous year***.

Exceptions :-

1. Speculative business loss can be set off against only speculative business income.
2. Specified business loss (sec 35AD) can be set off against specified business income.
3. Long term capital loss (LTCL) can be set off against long term capital gain.
4. Loss from owning & maintaining race horses can be set off against owning & maintaining race horses income.
5. short term capital loss (STCL) can be set off only against STCG & LTCG.
6. Loss from Business cannot be set off against salary.

* For carry forward losses Inter-head adjustment Not Allowed

Summary

(i) Income From Salary

Loss not possible

(ii) Income From House Property → Loss from HP.

a) Intra head adjustment

b) Inter head adjustment (Max 2,00,000 from AY 2018-19)

c) clf

(iii) PGBP

(i) Loss from speculative business

a) Set off against speculation business income

b) clf

(ii) Loss from specified business

a) Set off against specified business income

b) clf

(iii) Any other business loss

a) Intra head adjustment.

b) Inter head adjustment **except salary.**

c) clf

(iv) Capital Gain

(i) STCL

a) Set off against STCG & LTCG

b) clf

(ii) LTCL

a) Set off against LTCG

b) clf

(v) IFOS.

(i) Loss from Owning & Maintaining race-horses

a) Set off against same income

b) clf

(ii) Other loss under IFOS

a) Intra - head adjustment

b) Inter - head adjustment

c) c/f **Not Allowed**

Notes:

1. The maximum loss from house property which can be set-off against income from any other head is ₹2 lakhs.
2. It is to be remembered that 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 & Set-off of Losses.

Section	Losses to be carried forward	Brought forward losses set off against	Time Limit	Mandatory filling of return on time
71B	Loss from HP	House Property income	8 years	No
72	Normal business Loss	Business income	8 years	Yes
73	Speculative business loss	Speculative business income	4 years	Yes
73A	Specified business loss	specified business income	Unlimited	Yes
74	Short term capital loss	STCG & LTCG	8 years	Yes
	Long term capital loss	LTCG	8 years	Yes
74A	Loss from owning & maintaining race horses	Income from owning & maintaining race horse	4 years	Yes
32(2)	Unabsorbed depreciation	Any income other than Salary	Unlimited	No

- Notes:-
1. Whenever income is exempt then losses does not have any tax treatment means it should be ignored.
 2. Loss from any lottery, card games, races, etc are **Not Eligible** for set off & c/f. & Losses cannot be set off against the income referred u/s 115BB i.e lottery income, crossword puzzles, income in TV show, etc.
 3. B/f losses from a business can be set off even if such business is **Not continued**.
 4. Order for set off of losses.
 - a. Current year depreciation
 - b. B/f losses from Business or profession
 - c. Unabsorbed depreciation
 5. If there is income under any head & eligible losses under any other head, such loss shall be first set off against the income before set off & c/f of losses (**CBDT circular**).
 6. Set off of losses not permissible against unexplained income, investment, money etc. chargeable u/s 68 / 69 / 69A / 69B / 69C / 69D [sec 115BBE].
 7. **Stock & Commodity market**
 1. Transactions in shares where delivery effected
 - **PGBP** if shares held as **Stock in trade**
 - **Capital Gain** if shares held as **Capital Asset**
 2. Transactions in shares where delivery not effected i.e., Intraday
Always Speculative Business Income
 3. Transactions in Derivative i.e. futures, options etc. & currency futures at recognised stock exchange
Always Normal Business Income

#	Sec 115BB: Taxon winnings from lotteries, card game, horse race etc. (Refer sec 194B/BB)		
	-Tax Rate @ 30%		
#	Sec 115BBE: Deemed Income u/s 68 to 69D		
	- Tax Rate @ 60% (surcharge 25% and HEC @ 4%) effective rate 78 %		
	Notes:		
1.	No basic exemption or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act 1961 in computing such deemed income.		
2.	Further, no set off of any loss shall be allowable against income brought to tax u/s 68 or 69 or 69A or 69B or 69C or 69D.		
#	Section- 115BAC: Tax on Income of Individual & HUF (Added by FA-20 w.e.f. AY 21-22)		
	Assessee	Individual & HUF	
	Tax rate	Total income	Tax rate
		Upto ₹ 2,50,000	Nil
		₹2,50,001 to ₹ 5,00,000	5%
		₹ 5,00,001 to ₹ 7,50,000	10%
		₹ 7,50,001 to ₹ 10,00,000	15%
		₹ 10,00,001 to ₹ 12,50,000	20%
		₹ 12,50,001 to ₹ 15,00,000	25%
		> ₹ 15,00,000	30%
	→	Special Income (u/s 111A, 112, 112A etc.) shall be taxable @ Special rates.	
	Surcharge & cess	» Surcharge will be @ 10%/15%/25%/37% depending on Total Income of assessee.	
		» Health & Education cess (HEC) shall be @ 4% always.	
	AMT	» Assessee opting for sec. 115BAC is not required to pay AMT.	
		» B/F AMT credit cannot be set off against income u/s 115BAC.	
		Therefore, if assessee has b/f AMT credit, it should first exhaust the AMT credit and thereafter opt for sec 115BAC.	
	Conditions	1. Assessee does not claim following deductions / exemptions :	
		HP	» Interest u/s 24(b) for Self-occupied property

		» Set-off of HP loss (Let out /Deemed to be let-out property)against other head (HP loss shall be allowed to be carried forward as per law).
	Salary	<ul style="list-style-type: none"> » Standard deduction of 50,000, Entertainment allowance and Professional tax u/s 16. » Leave travel concession u/s 10(5). » HRA u/s 10(13A). » Allowance u/s 10(14) (except: DTDC) D. Travel allowance to a Divyang employee for commuting between the place of residence and place of duty. T. Travelling or tour allowance - to meet the cost of travel on tour or on transfer. D. Daily allowance: to meet the ordinary daily charges incurred by an employee due to absence from his normal place of duty. C. Conveyance allowance: to meet the expenditure on conveyance in performance of duties of an office.
	PGBP	Sec. 10AA Sec. 32(1)(ia), Sec. 35(1)(ii),(ia),(iii), 35(2AA) Sec. 35AD
	IFOS	<ul style="list-style-type: none"> » Allowance for income of minor u/s 10(32). » Allowance to Mps / MLAs u/s 10(17). » Deduction form Family pension u/s 57.
	Deduction	Deduction under Chapter VI-A Except : deduction u/s 80JJAA, 80CCD(2)
		2. Assessee cannot set-off any b/f loss or unabsorbed depreciation attributable to deduction referred above.
		3. HP loss cannot be set off against other head.
		4. No deduction or exemption for allowance or perquisite provided under any other law for the time being in force.

		<p>» On failure to satisfy any of the forgoing conditions- option of concessional rate will be invalid and normal provisions of the Act shall apply-</p> <ul style="list-style-type: none"> - in respect of relevant AY - in case of Individual/HUF not having business income. - in respect of relevant AY and subsequent AY - in case of Individual/HUF having business income.
Exercising the Option		<p>The option has to be exercised in FORM 10-IE along with ROI to be furnished u/s 139(1)</p> <ul style="list-style-type: none"> » In case of Individual/HUF not having business income: assessee may choose whether or not to exercise the option in each PY. Therefor assessee can choose any of the two-tax regime every year depending on their tax liability. » In case of Individual/HUF having Business income: Once the option is exercised it can't be withdrawn except assessee ceases to have PGBP.
Other points		<ul style="list-style-type: none"> » Rebate u/s 87A is available even if assessee opt for sec. 115BAC. » Clarification For the purpose of TDS, the CBDT has clarified that an employee not having income u/h PGBP and intending to opt for the concessional rate u/s 115BAC, is required to intimate to the employer of such intention for each PY and upon such intimation, the employer shall deduct TDS as per section 115BAC. If such intimation is not made by the employee, the employer shall make TDS without considering the provisions of section 115BAC. <p>It is also clarified that the intimation so made to the employer shall be only for the purposes of TDS during the PY and cannot be modified during that year. However, at the time of filing of return, employee may take different option.</p> <p>Further, in case of employee having income u/h PGBP shall also intimate to his employer. However, the intimation to the employer in his case for subsequent PYs must not deviate from the option u/s 115BAC once exercised in a PY.</p>

Note

If assessee opted section 115BAC then maximum depreciation allowed @ 40%.

Ex. : Mr Devam (32 years) is a salaried employee, employed by BB Pvt Ltd. as tax advisor. His income and tax incentives for the previous year 2022-23 are as follows -

Particulars	₹
Basic Salary	40,00,000
House rent allowance [₹ 60,000 is exempted u/s 10(13A)]	90,000
Leave travel concession (LTC) [₹ 1,80,000 is exempt u/s 10(5)]	1,95,000
New Pension Scheme contribution(NPS) by BB Pvt. Ltd. (12% of basic salary)	4,80,000
Payment of professional tax by Devam	2,000
Income from Property A (self-occupied)	(-) 1,05,000
Income from Property B (let out)	60,000
Income from Property C (let out)	(-) 80,000
Savings bank A/c interest received by minor son of Devam	800
Savings bank A/c interest received by minor daughter of Devam	2,000
Interest on saving bank account of Devam	28,000
Interest on public provident fund credited on March 31, 2023	55,000
Deduction under section 80D, 80E, 80EEA and 80EEB and 80G	2,81,000
NPS contribution by Devam	4,00,000
PPF contribution by Devam	20,000

Devam wants to know whether he should opt for alternative tax regime from the AY 2023-24

Solution : Mr. Devam PY 22-23 AY 23-24

Computation of Total Income & Tax Liability

Particular	Normal Provisions		Section 115BAC	
	₹	₹	₹	₹
Basic Salary		40,00,000		40,00,000
HRA	90,000		90,000	
Less: Exempt u/s 10(13A)	60,000	30,000	N/A	90,000
LTC	1,95,000		1,95,000	
Less: Exempt u/s 10(5)	1,80,000	15,000	N/A	1,95,000
NPS contribution by BB Ltd.		4,80,000		4,80,000
Gross Salary		45,25,000		47,65,000
Deduction u/s 16				
(i) Professional Tax		(2,000)		N/A
(ii) Standard Deduction		(50,000)		N/A
Net Salary		44,73,000		47,65,000
Income from House Property				
Self-Occupied Property - A		(1,05,000)		
Let-out Property- B	60,000			
Let-out Property- C	(80,000)	(20,000)	(20,000)	N/A
				Set-off not allowed so carry / forward
		43,48,000		47,65,000
Income from other sources				
SB Interest of Minor Son	800		800	
Less: Exempt u/s 10(32)	800	-	N/A	800
SB Interest of Minor Daughter	2000		2,000	
Less: Exempt u/s 10(32)	1500	500	N/A	2,000
SB Interest of Devam		28,000		28,000
Interest on PPF	55,000		55,000	
Less: Exempt u/s 10(11)	55,000	-	55,000	-

Gross Total Income		43,76,500		47,95,800
Less: Deductions u/c VI-A				
Sec. 80C : PPF	20,000		N/A	
Sec. 80CCD(1) EE cont. to NPS	3,50,000		N/A	
	3,70,000			
Sec. 80CCE Max. deduction u/s	1,50,000	1,50,000		
80C+80CCC+80CCD(1) is 1,50,000		50,000		
Sec. 80CCD(1B) EE cont. to NPS			N/A	
Sec. 80CCD(2) ER cont. to NPS				
(i) ER Cont. 4,80,000				
(ii) 10% of Salary 4,00,000		4,00,000		4,00,000
Lower of above				
Sec. 80D, 80E, 80EEA, 80EEB, 80G		2,81,000		N/A
Sec. 80TTA Interest on SB A/c		10,000		N/A
Total Income/ Net Taxable Income		34,85,500		43,95,800

Computation of Tax Liability

Tax as per Normal Provisions			Tax as per Sec 115BAC		
Particular	Rate	Tax Amount	Particular	Rate	Tax Amount
Upto 2,50,000	Nil	-	Upto 2,50,000	Nil	-
> 2,50,000 upto 5,00,000	5%	12,500	> 2,50,000 upto 5,00,000	5%	12,500
> 5,00,000 upto 10,00,000	20%	1,00,000	> 5,00,000 upto 7,50,000	10%	25,000
> 10,00,000 upto 34,85,500	30%	7,45,650	> 7,50,000 upto 10,00,000	15%	37,500
	-	8,58,150	> 10,00,000 upto 12,50,000	20%	50,000
Add: HEC @4%		34,326	> 12,50,000 upto 15,00,000	25%	62,500
Net Tax Payable		8,92,476	> 15,00,000 upto 43,95,800	30%	8,68,740
					10,56,240
			Add: HEC @ 4%		42,250
			Net Tax Payable		10,98,490

Conclusion : Since in the present question tax as per normal provision is lower so Mr. Devam should not opt 115BAC provisions for AY 23-24

1. Deduction under chapter VI-A is restricted to Gross Total income & deduction cannot be carry forward.

2. Deduction under chapter VI-A is Not Allowed against LTCG, LTCG u/s 112A, STCG u/s 111A & special rates of tax income.

Part : A Payment Related Deductions

Sec 80C : Specified investments

a. Eligible Assessee : Individual & HUF

b. Amount of deduction : ₹1,50,000 [Maximum Limit]

c. Eligible Investments :

i. Life Insurance Premium

(For : Self, Spouse, Children - In case of Individual)

(For: Any member of HUF - In case of HUF)

If policy issued before 01/04/2012

↓ i) Premium paid xx

↓ ii) 20% of Policy value (sum assured) xx

If policy issued on or after 01/04/2012

↓ i) Premium paid xx

↓ ii) 10% of policy value xx

If policy issued on or after 01/04/2013 for person with disability (u/s 80U) or person suffering from specified disease (u/s 80 DDB).

↓ i) Premium paid xx

↓ ii) 15% of policy value xx

ii. Amount deposited in Public Provident Fund (PPF)

(For : Self, Spouse, Children - In case of Individual)

(For: Any member of HUF - In case of HUF)

iii.	Employee's contribution to Statutory provident fund, Recognised Provident fund or Approved Superannuation Fund (SPF, RPF & ASF).
iv.	Amount invested in NSC as well as interest accrued on NSC.
v.	Repayment of Loan taken from banks or financial institution for purchase or construction of House.
vi.	Fixed Deposit in a scheduled Bank or Post office for 5 years or more.
vii.	Tuition fees paid for education of children. [Max 2 children for full time education in India]
viii.	Deposit in Notified bonds of NABARD.
ix.	Deposit in Senior citizen Saving Scheme.
X.	Contribution towards Unit Linked Insurance Plan (ULIP).
xi.	Notified units of Mutual Funds or UTI.
xii.	Notified Pension scheme of UTI or MF.
xiii.	Deposit in Sukanya samridhi scheme A/c. [for any girl child of individual or girl child for whom such individual is a legal guardian].
xiv	Stamp duty, registration fee for acquisition of house property.
xv.	By employee of CG as a contribution to a specified account of the pension scheme referred to in section 80CCD for a fix period of Three years or more (NPS Tier 2).
xvi.	Contribution to National Housing Bank (Tax Saving) Term Deposit Scheme, 2008.
	Note:
	If in any PY, an assessee:
	» Terminates his LIP or has not paid premium after 2 years,
	» Terminates ULIP or has not paid any premium for atleast 5 years,
	» Transfers House before 5 years from the end of FY in which possession is obtained,
	» Amount withdraw from FD or Senior Citizen Saving Scheme before 5 years,
	then all deductions allowed earlier will be deemed to be income in the year of violation /withdrawal.
#	Sec 80CCC: Contribution to Pension Fund of LIC or other Insurance company.
a.	Eligible Assessee : Individual
b.	Amount of Deduction Maximum ₹ 1,50,000

#	Section 80CCD : Contribution to Pension scheme of Central Govt. / New Pension Scheme / Atal Pension Yojna												
a.	Eligible Assessee : Individual												
b.	Amount of deduction - sec 80CCD(1)												
	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; text-align: center; border: none;">↓</td> <td style="width: 50%; text-align: center; border: none;">↓</td> </tr> <tr> <td style="text-align: center; border: none;">Salaried Employee</td> <td style="text-align: center; border: none;">Other Individuals</td> </tr> <tr> <td style="text-align: center; border: none;">↓</td> <td style="text-align: center; border: none;">↓</td> </tr> <tr> <td style="border: none;"> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">↓ (1) Employees Contribution xx</td> <td style="width: 50%; border: none;">↓ (ii) Assessee's contribution xx</td> </tr> <tr> <td style="border: none;">↓ (1) 10% of salary xx</td> <td style="border: none;">↓ (ii) 20% of GTI xx</td> </tr> </table> </td> <td style="border: none;"></td> </tr> </table>	↓	↓	Salaried Employee	Other Individuals	↓	↓	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">↓ (1) Employees Contribution xx</td> <td style="width: 50%; border: none;">↓ (ii) Assessee's contribution xx</td> </tr> <tr> <td style="border: none;">↓ (1) 10% of salary xx</td> <td style="border: none;">↓ (ii) 20% of GTI xx</td> </tr> </table>	↓ (1) Employees Contribution xx	↓ (ii) Assessee's contribution xx	↓ (1) 10% of salary xx	↓ (ii) 20% of GTI xx	
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↓ (1) 10% of salary xx	↓ (ii) 20% of GTI xx												
#	<p>Sec 80CCD(1B) : Additional deduction up to ₹50,000 shall be allowed other than contributions covered u/s 80CCD (1)</p> <p>Example: Assessee's contribution - ₹140,000 towards NPS & GTI is ₹5,50,000, in this case, assessee can claim ₹1,10,000 (20% of GTI) u/s 80CCD (1) & remaining ₹30,000 u/s 80CCD (1B) or He can first claim u/s 80CCD(1B) of ₹50,000 & remaining ₹90,000 u/s 80CCD (1).</p>												
#	<p>Section 80CCD(2): Employer's contribution to NPS for the benefit of Employee. Employer's contribution is first taxable under the head salary in hands of Employee & then he gets deduction u/s 80CCD(2)</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 80%; border: none;">(i) Employer's Contribution</td> <td style="width: 20%; border: none; text-align: center;">xx</td> </tr> <tr> <td style="border: none;">(ii) 10% / 14% of Salary</td> <td style="border: none; text-align: center;">xx</td> </tr> </table> <p>* 14 % where such contribution made by C.G. & S.G.</p> <p>Notes:</p> <ol style="list-style-type: none"> 1. For the purpose of Sec 80CCD(1) & (2), Salary means = Basic salary +DA (In terms) 2. As per sec 10(12A) any payment received by Assessee on closure of his account is exempt to the extent of 60% (40% is taxable) of total amount payable to him at the time of closure . In case of employee or Non-employee, any amount received from NPS by the nominee legal heir on death of an assessee is Fully Exempt. 3. The subscribers from recognised Provident Funds and Super-annuation Funds would be able to transfer their corpus from these funds to National Pension System (NPS) without any tax implication. 	(i) Employer's Contribution	xx	(ii) 10% / 14% of Salary	xx								
(i) Employer's Contribution	xx												
(ii) 10% / 14% of Salary	xx												

4.	In case of partial withdrawal from NPS by an employee, payment shall be exempt upto 25% of contributions made by him (Fully taxable for non-salaried employee) [Sec 10(12B)].			
#	Sec 80CCE : Aggregate deduction u/s 80C + 80CCC + 80CCD(1) is restricted to Maximum ₹1,50,000.			
#	Sec 80D : Deduction in respect of Medical Insurance Premium, Central Govt. Health Scheme, Preventive Health checkup & Medical Treatment.			
a.	Eligible Assessee : Individual & HUF			
b.	For whom :			
	Individual - Self, spouse, Parents & dependent children.			
	HUF - Any member of HUF.			
c.	Mode of Payment			
	Any mode other than Cash , but payment of preventive health checkup can be made in Cash .			
d.	Amount of Deduction :	Individual		HUF
		Self, spouse, Dependent Children	Parents	Members
A.	i) Medical insurance Premium	yes	yes	yes
	ii) CG Health scheme	yes	x	x
	iii) Preventive Health check up	yes	yes	x
	General deduction i+ii+iii	Max ₹25,000	Max ₹25,000	Max ₹25,000
	+ Additional deduction (when medical insurance policy taken on the Life of senior Citizen)			
	Age 60 or more	Max ₹25,000	Max ₹25,000	Max ₹25,000
B.	Medical Expenditure of Senior citizen (Age 60 or more) & Mediclaim premium not paid for Such person.	Max ₹50,000	Max ₹50,000	Max ₹50,000
	Maximum Deduction (A+B)	Max ₹50,000	Max ₹50,000	Max ₹50,000
	Notes : Aggregate payment for preventive health checkup of self, spouse, dependent children & parents cannot exceed ₹5000/-			

#	Where the medical insurance premium is paid in lumpsum for more than 1 year, deduction for each year shall be : $\frac{\text{Lumpsum premium}}{\text{PY's in which Insurance in force}}$						
	Example : Mr. BB paid health insurance premium to star health of ₹60,000 for 5 years on 01/11/22. Policy tenure is 5 years i.e. from 01/11/22 till 31/10/27. Calculate deduction to be allowed in PY 22-23.						
	In this case deduction allowed in 6 PY's i.e., from PY 22-23 till PY 27-28, so deduction for PY 22-23 is $60,000/6 \text{ years} = ₹10,000$.						
#	Section 80DD: Deduction in respect of Medical treatment & Maintenance of Handicapped dependent relative						
a.	Eligible Assessee ; Resident Individual & HUF						
b.	Amount of deduction:						
	<table style="border: none;"> <tr> <td style="padding-right: 10px;">↓</td> <td style="padding-right: 10px;">(i) Normal disability = ₹ 75,000</td> <td rowspan="2" style="font-size: 2em; padding: 0 10px;">}</td> <td rowspan="2">Flat deduction</td> </tr> <tr> <td>↓</td> <td>(ii) Severe disability = ₹ 1,25,000</td> </tr> </table>	↓	(i) Normal disability = ₹ 75,000	}	Flat deduction	↓	(ii) Severe disability = ₹ 1,25,000
↓	(i) Normal disability = ₹ 75,000	}	Flat deduction				
↓	(ii) Severe disability = ₹ 1,25,000						
	Notes :						
1.	Assessee should incur expenses on medical treatment or deposit any amount for maintenance of such handicapped dependent relative.						
2.	Relative Individual - spouse, brother, sister, children, mother, father. HUF - Any member of HUF						
3.	Under this section deduction will be reversed if dependent handicapped relative received annuity before the death of assessee or before attaining age of 60 years of assessee.						
#	Section 80DDB : Deduction in respect of Medical treatment of specified Disease						
a.	Eligible Assessee : Resident Individual / HUF						
b.	Amount of deduction :						
	₹						
	(i) Actual Expenses on treatment	xxx					
	(ii) Maximum * ₹ 40,000/ 1,00,000	xxx					
	(whichever is lower)	xxx					
	Less: Insurance claim	(xxx)					
	Amount of deduction	xxx					
*	Normal case - ₹ 40,000						
	Senior citizen patient - ₹ 1,00,000						

c.	Notes: Assessee should incur expenditure on the treatment of specified diseases for: Individual : Self, dependent relative (spouse, children, parents, brother, sister) HUF: Any dependent member.
#	Section 80U: Deduction for handicapped Assessee
a.	Eligible Assessee : Resident Individual
b.	Amount of deduction : Normal disability : ₹ 75,000 } Flat Severe disability : ₹ 1,25,000 } deduction
#	Section 80E : Deduction in respect of Interest on loan for higher education in India or abroad [any course after XII th].
a.	Eligible Assessee : Individual
b.	Amount of Deduction: Interest amount for a period of 8 consecutive years starting from the year in which assessee starts paying interest.
	Note : Deduction is allowed if loan taken for the education of self, spouse, children, and any student from whom assessee is a legal guardian.
#	Section 80 EE : Deduction in respect of interest on housing loan
a.	Eligible Assessee : Individual
b.	Amount of dedn : Max ₹50,000
c.	Condition : i. Loan should be taken from bank or financial institution for acquisition of residential property. ii. Purchase price of house upto ₹50 Lakh. iii. Loan should be sanctioned between 1/4/2016 to 31/3/2017. iv. Loan amount up to ₹35 lakh. v. Assessee does not own any residential house on the date of sanction of loan. vi. First deduction should be claimed u/s 24(b) of house property (up to ₹2,00,000) & remaining int deduction u/s 80EE.

#	Section 80EEA : Deduction in respect of interest on housing loan
a.	Eligible Assessee : Individual (other than covered in 80EE)
b.	Amount of Deduction : Max. ₹1,50,000
c.	Conditions:
	i. Loan should be taken from banks or financial institutions for acquisition of residential house property.
	ii. Stamp Duty Value of house property should be upto ₹45 lakhs.
	iii. Loan should be sanctioned between 1/4/2019 to 31/3/2022 .
	iv. Assessee does not own any residential house property on the date of sanction of loan.
	v. Where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other assessment year.
	vi. First deduction should be claimed u/s 24(b) of house property and remaining interest deduction u/s 80EEA.
#	Section 80EEB : Deduction in respect of interest on Electric Vehicle loan
a.	Eligible Assessee : Individual
b.	Amount of Deduction : Max. ₹ 1,50,000
c.	Conditions:
	i. Loan should be taken from banks or financial institutions including NBFC for purchase of electric vehicle.
	ii. Loan should be sanctioned between 1/4/2019 to 31/3/2023 .
	iii. Where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other assessment year.
→	"Electric vehicle" means a vehicle which is powered exclusively by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle and has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy.

#	Section 80G: Donations		
a.	Eligible Assessee : All Assessee		
b.	Eligible Donations :		
	Part A : Unlimited Category		
1.	Jawarlal Nehru Memorial fund	}	
2.	Indira Gandhi Memorial Trust		
3.	Rajiv Gandhi Foundation	50%	
4.	P.M. Drought Relief fund	Unlimited	
5.	National Defense fund	}	
6.	P.M. National Relief fund & P.M. Care fund		
7.	P.M. Armenia Earthquake Relief fund		
8.	C.M. Relief fund & Lieutenant Governor Relief fund		
9.	Zilla Saksharta Samiti		
10.	National sports fund		100%
11.	National children fund		Unlimited
12.	National cultural fund		
13.	Swachh Bharat Kosh		
14.	Clean Ganga Fund		
15.	The National Fund for control of Drug abuse		
16.	Fund for Army, etc		
	Part B: Limited Category		
	Code : FOHTC Mobile		
1.	Donation to Government or Local Authority or approved Institution for promoting Family (F) Planning.		}
2.	Donations by company to Indian Olympics (O) Association or any other institution for development of infrastructure for sports in India,		
		100% Limited	
3.	Donation to Housing (H) development authority	}	
4.	Donation for renovation or repair of temple (T), gurudwara, mosque or church, etc.		
5.	Donation to any public Charitable (C) Trust		
6.	Donation for promoting minority (MOBILE) community in India,		
		50% limited	

Under limited category, there is limit of Eligible donation,

F xxx

O xxx

H,T xxx

C xxx

Mobile xxx

Total Donation xxx

10% of ATI* xxx

Eligible Donation xxx

*ATI - Adjusted Total income

₹

GTI (exclude Income Taxable at special Rate)

xxx

(-) All deductions (except 80G)

(xx)

ATI

xxx

Note : Deduction under this section is not allowed if donation made in cash is more than ₹ 2000.

Example:

₹

F, O 25,000

HTC Mobile 40,000

Total Donation 65,000

↓ 10% of ATI (4,50,000) 45,000

45,000

F.O. (100%)

(50%) BAL (HTC MOB)

25,000 x 100% = ₹ 25000

20,000 x 50% = ₹ 10,000

Notes:

1. If doner made donation to any Trust/Institution then deduction shall be allowed only if such trust/institution is registered u/s 80G(5).
2. Doner shall be entitled to deduction u/s 80G only if;
 - (i) the donee Trust/institution prepares a statement in Form No.10BD and submitted to PDGIT(System) upto 31st May of next FY, and

	(ii) the donee Trust/institution furnishes a certificate to the donor in Form No. 10BE upto 31st May of next FY. (Applicable w.e.f. 01/04/21)
3.	Donations paid in kind are not eligible for deduction u/s 80G.
4.	Deduction under this section not allowed if it is made in cash of more than ₹ 2,000.
5.	Employees make donations to the PM National Relief Fund, the CM Relief Fund or the LG Relief Fund through their respective employers, EE's shall be eligible for deduction u/s 80G even certificate issued in the name of ER. ER will issue certificate to EE's about such donation.
#	Section 80GG : Rent paid of House Property (HRA not recd)
	a. Eligible Assessee: Individual
	b. Amount of deduction;
	(i) ₹ 5000 p.m.
	(ii) 25 % of Adj. GTI
	(iii) Rent Paid -10% of Adj. GTI
	Note : The assessee or his spouse or minor child or HUF should not own any house at the place of his duty. Adjusted GTI = GTI - All deductions u/c VIA (Except u/s 80GG)
#	Section 80GGA : Deduction in respect of Donation for scientific research or rural development
a.	Eligible Assessee: All assessees (except assessees having income under the head PGBP.)
b.	Amount of deduction : 100% of donation.
c.	If donation amount is more than ₹2,000 then should be made other than Cash.
#	Section 80GGB; Donation to Political Parties or Electoral Trust
a.	Eligible Assessee: Indian company
b.	Amount of deduction : 100% of donation.
#	Section 80GGC: Donation to Political Parties or Electoral Trust
a.	Eligible Assessee: Any person (other than Indian co.)
b.	Amount of deduction : 100% of donation
	Note : No deduction us 80GGB/80GGC, if donation made in CASH.

#	Section 80JJAA : Deduction in respect of Employment of new employees
a.	Eligible Assessee: Any Assessee engaged in Business & to whom Sec 44AB applies [i.e. T/O > ₹ 1 cr/10 cr].
b.	Amount of deduction : 30% Additional employee cost (deduction allowed for 3 consecutive years.)
c.	Additional employee cost : Total emolument paid or payable to Additional employees employed during the P.Y.
	1. In case of existing business, Additional employee cost shall be NIL, if # There is no increase in the Total number of employees. # Emoluments paid otherwise than by A/c payee cheque / draft / NEFT / RTGS or any other electric mode as may be prescribed. (means paid in CASH). Example : Suppose total employee as on 31/3/21 were 100 and during P.Y. 2021-22, 15 employees left the job & 15 new employees joined, then there will be no deduction under this Section, suppose in above example 20 new employees joined then deduction will be allowed on emolument paid to 5 employees,
	2. In case of New Business - Additional employee cost shall be emoluments paid / payable to employees employed during that P.Y.
d.	Additional employees do not include- - employee whose emoluments > ₹ 25,000 p.m. - employee employed for less than 240 days in P.y. (in case of manufacture of apparel or footwear or leather products then 150 days) - employee does not participate in RPF . - employee for whom the entire contribution is paid by Government under Employees' Pension scheme notified in accordance with the provision of the Employees Provident funds & Miscellaneous Provision Act, 1952.
	Note - 1 If an employee is employed during the previous year for less than 240 days or 150 days, as the case may be, but is employed for a period of 240 days or 150 days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year. Accordingly, the employer would be entitled to deduction of 30% of additional employee cost of such employees in the succeeding year.

Note - 2

Deduction under this section allowed only if BOA is audited of assessee and audit report should be submit upto date given u/s 44AB.

Section 80QQB: Royalty from Books of **literacy, artistic, scientific** nature

a. Eligible Assessee: Resident individual

b. Amount of deduction: ₹

↓ (i) Eligible Royalty received xx

↓ (ii) ₹ 300000 xx

(whichever is lower)

Eligible Royalty

→ lump sum royalty - Amt recd as Royalty

→ Not lump sum - up to 15% of the value of Books sold.

Section 80RRB: Royalty from Patents

a. Eligible Assessee: Resident individual

b. Amount of deduction: ₹

↓ (i) Royalty received xx

↓ (ii) Max ₹ 300,000 xx

whichever is lower

c. Notes: If Royalty is earned outside India, then deduction is allowed only if such royalty amount is brought in India in convertible foreign exchange within **6 months** from the end of the P.Y. or time allowed by RBI [For see 80QQB & 80RRB].

Section 80TTA: Interest on Savings Account.

a. Eligible Assessee: Individual & HUF

b. Amount of deduction: ₹

↓ (i) Interest amount xx

↓ (ii) ₹10,000 xx

whichever is lower

c. Savings account with **Banking Company, Co-op Banks or Post office.**

Note : Deduction under this section would, however, not be available to a resident senior citizen eligible for deduction under section 80TTB

#	Section 80TTB: Deduction in respect of interest on deposits in case of Senior Citizens	
a.	Eligible Assessee: Resident Senior Citizen whose GTI includes interest on Deposit with Bank, Co op Bank or post office	
b.	Amount of Deduction	₹
	↓ (i) Interest Amount	xx
	↓ (ii) ₹50,000	xx
	whichever is lower	

Note for 80TTA & 80TTB : Where interest income is derived from any saving account or deposit held by, or on behalf of, a firm, an AOP or a BOI, the partner of the firm or member of AOP/BOI would not be allowed deduction in respect of such income while computing their total income

1. Advance tax means tax paid in the financial year immediately preceding the A.Y. (i.e. P.Y.)

2. Advance shall be calculated by estimating the current year income then applying tax rates. TDS / TCS & MAT credit shall be deducted to arrive at Advance tax liability.

3. Assessee is required to pay Advance tax if his liability for **advance tax is ₹ 10,000 or more.**

Exceptions: Resident Senior citizen not having income under the head "PGBP".

4. Due dates of Advance tax for **all Assessee**

Due Dates	Amount of Advance Tax
upto 15 th June of P. Y.	upto 15 % of advance tax liability
upto 15th Sept of P. Y.	upto 45 % of advance tax liability
upto 15th Dec of P. Y.	upto 75 % of advance tax liability
upto 15th Mar of P. Y.	upto 100 % of advance tax liability

Note: Tax paid upto 31st March of P.Y. is treated as advance tax.

If Assessee opts for Sec 44AD/ADA (Presumptive PGBP) then **due date of Advance tax is 15th March of P.Y. (only one instalment).**

5. Payment of Advance Tax in pursuance of order of A.O (Section 210)

If Assessee has not paid or short paid the advance tax then A.O. may make order u/s 210 and ask assessee to pay advance tax in the installment/ installments due after the date of the order, A.O. can pass order upto last day of feb. of P.Y. The Assessing Officer shall compute the advance tax by taking:

- (i) the total assessed income of the latest PY for which assessment has been made or
- (ii) the total income declared in the return of income of any subsequent P.Y. (i.e. subsequent to the previous year for which assessment has been made)

whichever is higher

#	Sec 234A: Interest for delay in Return filing.		
	Tax as per ROI	x Rate	x Period
	[After Adjustment of TDS / TCS / Advance tax/ MAT credit / Relief (include relief u/s 89)]	[1% per month or part of a month]	[from next day after due date of ROI till date of Actual return filling]
	i.e. Tax remaining unpaid on 1st April of A.Y.		
	Note : However as per supreme court decision in Dr. Pranoy Roy, credit will be given of self Assessment tax, if it is paid upto due date of return filing.		
#	Sec 234B: Interest for non / short payment of advance tax		
	This interest is not applicable if assessee paid 90% or more of Advance tax payable.		
	Advance Tax		
	Short paid as per ROI	X Rate	x Period
		[1% per month or part of a month]	[from 1 st April of A.Y. till Actual date of payment]
#	Sec 234C: Interest for deferment of Advance tax instalments		
	Deferred amount	x 1% per month or part of a month	x 3 months for all instalments except last instalment.
			[for last instalment, Int is applicable always for 1 month] [16/3 → 31/3]
	Notes :		
1.	No interest u/s 234C shall be levied if Assessee paid Advance tax upto 12 % in 1 st instalment, upto 36 % in 2 nd instalment.		
2.	Advance tax in case of capital gain & winnings		
	Assessee is not able to estimate capital gains and winnings or income under PGBP accrues first time or dividend so advance tax on such income shall be paid in remaining instalment by assessee after receipt of such income. If no instalment is due [income recd. during 16/3 to 31/3] then Advance tax shall be paid upto 31/3 of P.Y		

#	<p>Sec 234E: Fee for default in furnishing TDS / TCS Statements</p> <p>For delayed filing quarterly statement, assessee shall be liable to a mandatory fees of ₹200 per day during which default continues. The fees cannot exceed the amount of TDS deductible. The fees shall be paid before filing of quarterly statement.</p>
#	<p>Sec 234F: Fee for default in furnishing return of income</p> <p>Where a person, who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit u/s 139(1), he shall pay, by way of fee, a sum of ₹ 5000.</p> <p>However, if the total income of the person does not exceeds ₹5 lakhs, the fees payable shall not exceed ₹ 1,000.</p>
#	<p>Sec 234H: Fees for default in Linking Aadhar with PAN</p> <p>If assessee link Aadhar with PAN on or after 01/04/2022 then he is required to pay following fees-</p> <ul style="list-style-type: none">» Link between 01/04/22 till 30/06/22 - ₹ 500» Link on or after 01/07/22 - ₹ 1000

1. Tax is deducted only if amount is **taxable** in hands of receiver.
2. TDS requirement arise :
 i. at the time of **payment** OR
 ii. at the time **crediting the A/c of payee** [whichever is **earlier**]
 But in following cases TDS deducted **only at the time of payments**:
 a. **Salary** b. **EPF Payment** c. **Winnings**
 d. **Maturity of life insurance policy** e. **Compensation on compulsory acquisition of**
 f. **Cash withdraw from bank** **property.**
 g. **Dividend**
3. All TDS rates are **FIXED** rates i.e. 1%, 2%, 5%, 10%, etc.
 But if payment made to **NR / Foreign Co. or payment of salary**, surcharge & HEC shall be considered.
4. Tax is required to be deducted, not only from payments for commercial purposes, but also in case where the payment is for personal purpose (Subject to certain exceptions)
5. If payee does not furnish his PAN to the payer, the TDS rate shall be - [Sec 206AA]
 ↑ (i) Rate as per respective section OR
 (ii) Rate @ 20%* [whichever is **higher**]
***For sec 194-O/194-Q rate is 5% instead of 20%**
6. If the payment is made by payer without TDS, then payee shall be responsible to make payment of tax directly. However, if the tax has been deducted by payer, but not deposited with Government, then payee cannot be called upon to pay that much tax.

Section	Nature of Payment	Payer	Payee	Rate
192	Salary	Any Person	Employee (R/NR)	Slab Rate

Additional Points

- Employer required to deduct TDS only at the **time of Payment**.
- If employee intend to opt section 115BAC & submitted declaration to employer then employer shall deduct TDS considering provisions of sec 115BAC.
- Employer shall **consider** details of other **income & deduction** of employee if furnished by Employee. Employee has to submit evidences of such deductions, exemptions & losses.
- Employer shall **not consider losses** of employee except loss under the head house property.

5. If employer bear the tax on **non-monetary perquisites**, then this need not be deducted from the salary of the employee. Amount borne shall not be allowed to employer u/s 40(a)(v) and the same will be **exempted in the hands of employee u/s 10(10CC)**. Also, the tax so borne will be treated as TDS in the hands of employee and **credit of the same can be availed by employee**.
6. Where the employee has worked with more than 1 employer during the year or employee changed the job during the year, he may furnish the details of his salary & TDS deducted by one employer to other/current employer.
7. Where firm pays salary to partner, section 192 is NOT attracted as it is taxable in hands of partner under the head Business/Profession.

Section	Nature of Payment	Payer	Payee	Rate
192A	Accumulated balance of PF	Any Person	Employee (R/NR)	10%

Additional Points

1. TDS required to be deducted only at the **time of Payment**.
2. No need to deduct TDS if aggregate amount of payment is **less than ₹50,000**.
3. If the Employee does not furnish his PAN, TDS should be deducted at **MMR**.

Section	Nature of Payment	Payer	Payee	Rate
193	Interest on Securities	Any Person	Resident Person	10%

Additional Points

No TDS if interest is paid:

- » For Debenture issued by a public company to Individual/HUF if **interest does not exceed ₹ 5,000** during the PY and the same is paid by a/c payee cheque.
- » To LIC, GIC or other insurers.
- » Listed D-MAT Securities.
- » National Development Bonds.
- » 7 Year National Savings Certificate (IV-Issue).
- » 54EC Capital Gains Bonds issued by **Power Finance Corp. Ltd.** or **Indian Railway Finance Corp. Ltd.**
- » Individual holding 6.5% Gold Bonds, 1977 or 7% Gold Bonds, 1980 provided that the nominal value of bonds does not exceed ₹ 10,000.

- » On Govt. Security [exception- interest on 8% Savings (Taxable) Bonds, 2003 or 7.75% Savings (Taxable) Bonds, 2018, if interest is more than ₹ 10,000 during the PY then TDS applicable]

Section	Nature of Payment	Payer	Payee	Rate
194	Dividend	Domestic Company	Resident Person	10%

Additional Points

1. TDS required to be deducted only at the **time of Payment**.
2. **No TDS** if payment made to **Individual** by any mode other than cash and payment **is upto ₹ 5,000 in a PY**.
3. No TDS if dividend to LIC, GIC or any other insurer provided the shares are owned by them, or they have full beneficial interest in such shares.

Section	Nature of Payment	Payer	Payee	Rate
194A	Interest other than Security interest	Any Person other than Individual & HUF [Ind/HUF required to deduct TDS, if last year T/O > 1 Cr in case of business or G/R > 50 Lakhs in case of profession]	Resident Person	10%

Additional Points

No TDS in following cases

1. Interest by Bank / Post office / **Co. Op. Bank** on **time deposit upto ₹40,000** (₹ 50,000 for Resident senior).
2. Interest by **any other person Co. Op. Bank upto ₹5,000**.
3. Interest on **saving Bank Account**.
4. Interest by **Firm to Partners**.
5. Interest on **Income Tax Refund**.

6.	Interest on Zero Coupon Bonds .
7.	Interest to Banks, Co-op. banks, Financial Corporations, LIC, Insurance Co., UTI, National Skill Development Fund, Housing and Urban Development Corporation.
8.	Interest by a Co-operative Society (other than Co. op. Bank) to another Co-operative Society or to any of its Members.
9.	Interest by a Co-operative Society being bank to another co-op. society.
10.	Interest on deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank Note : In case of point 8 to 10 TDS required to be deducted if T/O or G/R of Co-op. Society in last year more than 50 Crores and interest paid/credited is more than ₹ 40,000 or in case of senior citizen ₹ 50000.
11.	Interest Credited on the compensation amount awarded by the Motor Accidents Claims Tribunal (MACT).
12.	Interest on the compensation amount awarded by the MACT paid during the FY does not exceed ₹ 50,000.
13.	In case of banks following CBS Software, NO TDS should be made on Interest which is credited to a provision account on a daily or monthly basis only for the purpose of macro monitoring by CBS software since no amount is actually credited to depositor's a/c. Thus, TDS is to be made at the time of actual credit given to depositor's a/c and Further, the limit of 40,000 shall be check bank-wise not branch-wise.
14.	Interest income accrued to minor child, where both the parents have deceased [N/N. 05/2017] : TDS is required to be deducted and reported against PAN of the minor child unless a declaration is filed that credit for tax deducted has to be given to another person.
15.	Interest on Capital Gains Accounts Scheme A/c, where depositor has deceased;- a. TDS on interest accrued upto the death of the depositor is required to be deducted & reported against PAN of the depositor, and b. TDS on int accrued for the period after death of the depositor is required to be deducted and reported against PAN of the legal heir, unless a declaration is filed that credit for tax deducted has to be given to another person.

Section	Nature of Payment	Payer	Payee	Rate
194B	Winnings from lotteries, crossword puzzles etc.	Any Person	Any Person	30%
194BB	Winnings from horse races	Any Person	Any Person	30%

Additional Points

1. TDS required to be deducted only at the **time of Payment**.
2. No TDS if winning is **upto ₹ 10,000**.
3. If the winning is wholly in kind or it is partly in kind & partly in cash and the cash balance is not sufficient enough to meet the TDS liabilities, then Payer shall release the prize only after ensuring that tax on such wining is paid to Govt.
4. In cases where the book-maker paying the winnings, credits such winnings and debits the losses to the the punter, tax has to be deducted @30% on winnings before set-off of losses. Thereafter, the net amount, after deduction of tax and losses, has to be paid to the winner.

Section	Nature of Payment	Payer	Payee	Rate
194C	Contracts & sub-contracts [carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract]	Any Person other than Individual, HUF, AOP, BOI [Ind/HUF/AOP/BOI required to deduct TDS, if last year T/O > 1 Cr in case of business or G/R > 50 Lakhs in case of profession]	Resident Person	Payee:- Ind/HUF 1% Other 2%

Additional Points

1. No TDS if :-
 - » Single contract is **upto 30,000** or
 - » Aggregate of contract in PY is **upto 1,00,000**.
2. No TDS if contract is for **personal purpose of Individual/HUF**.

3. Work includes:
- » Advertising, Broadcasting, Telecasting (including production of programmes),
 - » Carriage of goods or passengers by any mode other than by railways,
 - » Catering,
 - » Manufacturing or supplying a product as per specification of customer using material supply/sale by such customer or its associate of customer covered u/s 40A(2) (Job Work).
4. No TDS if payment made to transporter owning not more than 10 vehicles at any time in the PY and who furnishes a declaration to this effect along with his PAN.
5. In case of Job Work, TDS shall be applied on the invoice value excluding the value of material purchased from the customer/associate, provided bifurcation is given in the invoice. If no bifurcation is give, then TDS shall be applied on the entire amount.
6. Payments by client to Advt. agency - It is treated as work and TDS applicable u/s 194C.



7. Payments by broadcasters or Telecasters (TV channels) to production houses for production of content for broadcasting / telecasting

Where the content is produced as per the specifications of broadcaster/telecaster and the copyright of the content is also transferred to them (e.g. Production of New Ramayan)

Where telecaster / broadcaster, acquires only the telecasting/ broadcasting rights of the content already produced by the production house (getting right of original Ramayan)

Such contract is covered by the definition of the term 'work' u/s 194C and

there is no contract for carrying out any work, as required u/s 194C

subject to TDS u/s 194C

No TDS u/s 194C

8. Payment for transportation of gas [Circular 9/2012]
If Seller sells as well as transports the gas to the buyer till the point of delivery, nature of such contract which remains 'contract for sale' and not a 'works contract' irrespective of fact whether the transportation charges are included in the cost of gas or shown separately.
However, if transportation charges paid to a third-party transporter, then TDS shall be made u/s 194C.
9. Cold Storage charges, which involves providing of refrigeration facility as well as storage facility, shall also be subject to TDS u/s 194C as a contract charge only and not u/s 194-I (Rent).

Section	Nature of Payment	Payer	Payee	Rate
194D	Insurance Commission	Any Person	Any Resident Person	5%

Additional Points

No TDS if commission is upto ₹15,000 in FY.

Section	Nature of Payment	Payer	Payee	Rate
194DA	Maturity of Life Insurance Policy	Any Person	Any Resident Person	5%

Additional Points

1. TDS required to be deducted only at the **time of Payment**.
2. No TDS if maturity amount is **less than ₹1,00,000**.
3. No TDS if maturity amount **exempted u/s 10(10D)**.
4. In this section TDS applicable on **income component** i.e. maturity amount minus premium paid.

Section	Nature of Payment	Payer	Payee	Rate
194E	Payment to NR sports person/ Sports Association/ Entertainer	Any Person	NR Sport person or NR entertainer (who is not a citizen of India) or NR sport association	20.8% (20% + HEC @4)

Additional Points

- Income received by NR Sportsmen (who is not a citizen of India) by way of:
 - » Participation in any game or sport in India.
 - » Advertisement.
 - » Contribution of article in newspapers, magazines, journals relating to game or sports in India.
- Guarantee Income received by NR sports association or institution in relation to any game or sports played in India.
- Income received for performing in India by NR entertainer (who is not a citizen of India).

Section	Nature of Payment	Payer	Payee	Rate
194G	Commission on sale of lottery tickets	Any Person	Any Person	5%

Additional Points

- No TDS if commission is upto ₹15,000 in FY.

Section	Nature of Payment	Payer	Payee	Rate
194H	Commission & brokerage	Any Person other than Individual & HUF [Ind/HUF required to deduct TDS, if last year T/O > 1 Cr in case of business or G/R > 50 Lakhs in case of profession]	Resident Person	5%

Additional Points

- No TDS if commission or brokerage is upto ₹ 15,000 in FY.
- No TDS on Payments by BSNL or MTNL to their public call office franchises.
- No TDS if commission or brokerage related to security like commission to underwriter, brokerage on public issue etc..

Section	Nature of Payment	Payer	Payee	Rate
194-I	Rent of P&M, equipment's, Building, Furniture, Land	Any Person other than Individual & HUF [Ind/HUF required to deduct TDS, if last year T/O > 1 Cr in case of business or G/R > 50 Lakhs in case of profession]	Resident Person	P&M, equipment- 2% Land, Building, Furniture -10%

Additional Points

- No TDS if rent is upto ₹ 2,40,000 to a person in F.Y.
- No TDS on 'Refundable Deposits'. However, 'Non-Refundable Deposits' shall attract TDS under this section.
- Arrears of Rent received during the current year shall also be considered for the purpose of deducting TDS u/s 194I.
- Even Advance Rent shall also be subject to TDS in the year of payment.
- Warehousing charges shall also be subjected to TDS under this section.
- It is not necessary that the Payee must be the owner of any of the above-mentioned assets.
- CBDT circular- Lumpsum lease premium or onetime upfront lease charges which are not adjustable against periodic rent and which are paid for acquisition of long term lease rights - are not in the nature of rent within the meaning of sec 194-I, therefore NO TDS.
- Passenger Service fees (PSF) paid by Airline's Company to Airport Operator is not treated as rent so TDS not applicable u/s 194-I [Circular No. 21/2017].

Section	Nature of Payment	Payer	Payee	Rate
194-IA	Transfer of Immovable property (other than rural agriculture land)	Any Person (Buyer)	Resident Person (Seller)	1% of Consideration or SDV whichever is higher

Additional Points

- TDS is applicable only if Consideration or SDV is ₹50,00,000 or more.
- Consideration for transfer of immovable property includes club membership fees, car parking fees, electricity or water facility fees, maintenance fees, advance fees or any

other similar charges incidental to transfer of immovable property.

Section	Nature of Payment	Payer	Payee	Rate
194-IB	Rent of Immovable Property	Individual/HUF (Not covered u/s 194-I)	Resident Person	5%

Additional Points

1. **No TDS** if rent is **upto ₹50,000 per month** or part of the month.
2. In this section **TDS required** to be deducted only at the time of credit or actual payment **of the last month** rent, whichever is earlier. [Here last month of year or tenancy as the case may be]
3. Where the payee fails to furnish his PAN, TDS shall be deducted at the rate of 20%. However, in any case, such deduction cannot exceed the rent of the last month.

Section	Nature of Payment	Payer	Payee	Rate
194-IC	Consideration under Joint development agreement (JDA)	Any Person	Resident Person	10%

Additional Points

In this case TDS applicable only for cash/money consideration u/s JDA as specified u/s 45(5A).

Section	Nature of Payment	Payer	Payee	Rate
194J	a) Fees for professional Service (FPS)	Any Person other than Individual & HUF [Ind/HUF required to deduct TDS, if last year T/O > 1 Cr in case of business or G/R > 50 Lakhs in case of profession]	Resident Person	10% (refer point 1)
	b) Fees for Technical Services (FTS)			
	c) Remuneration to directors			
	d) Royalty			
	e) Non-compete fees (NCF)			

Additional Points

1. In following cases TDS rate is 2% instead of 10% :-
 - » Payment to any call centre.
 - » Fees for Technical service (not being professional service).
 - » Royalty paid for sale distribution or exhibition of cinematographic film.
2. No TDS if amount is upto ₹ 30,000 p.a., limit of ₹ 30,000 p.a. is applicable separately for each nature of payment (i.e. ₹ 30,000 each for FPS, FTS, Royalty, Non-compete)
No limit for director fees (TDS to be deducted mandatorily).
3. No TDS on FPS by Individual/HUF if made exclusively for personal purposes.
4. Individual/HUF, if last year T/O > 1 Cr or GR > 50 Lakhs, are required to deduct TDS only from FPS and FTS. No need to deduct TDS on royalty or NCF even last year TO/GR more then prescribed limit.
5. CBDT Notification: Payments made to Sportsperson, Sports Columnist, Umpire, Commentator, Referee, Physiotherapist, Team Physician, Anchor, Event Manager will also be regarded as FPS and accordingly be liable to TDS u/s 194J.
6. Consideration paid for acquisition of software falls within the definition of royalty and hence, would be liable for TDS u/s 194J. However, no TDS would be attracted in cases of subsequent transfers if the transfer is made without any modification and TDS has already been deducted u/s 194J or 195 in the earlier transfers & transferor submit declaration along with PAN for same.
7. CBDT Circular: Third Party Administrators (TPA) making payments on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. are liable to deduct TDS u/s 194J.

Section	Nature of Payment	Payer	Payee	Rate
194-K	Income in respect of Units	Any Person (UTI/MF)	Resident Person	10%

Additional Points

No TDS if payment is upto 5,000 in a P.Y.

Section	Nature of Payment	Payer	Payee	Rate
194LA	Compensation on compulsory acquisition of immovable property	Any Person	Resident Person	10%

Additional Points

1. TDS required to deduct only at the **time of payment**.
2. **No TDS** if payment is upto **₹2,50,000** in a P.Y.
3. **No TDS** u/s 194LA, if the Immovable Property is an 'Agricultural Land', as Capital Gain arising on compulsory acquisition of an Agricultural Land in urban area is exempt from tax u/s 10(37) and Agricultural Land in Rural Area is not a Capital Asset within the meaning of Sec. 2(14).

Section	Nature of Payment	Payer	Payee	Rate
194M	Work pursuance contract, Commission / brokerage, Fees for professional service	Individual/HUF (other than required to deduct TDS u/s 194C, 194H, 194J)	Resident Person	5%

Additional Points

1. **No TDS** if amount is upto **₹50,00,000**.
2. TDS u/s 194C & 194H in case of Ind/HUF payer applicable only if last year TO/GR more than prescribed Limit and u/s 194C & 194J TDS not applicable in case of personal nature contract or FPS so in those cases TDS required to be deducted u/s 194M if amount more than 50 lakhs.
3. Note for Sec 194-IA, 194-IB, 194M: In these sections payer not required to opt TAN numbers and TDS required to deposit online to Govt. along with TDS return in Form 26QB, 26QC and 26QD within 30 days from the end of the month in which TDS was deducted.

Section	Nature of Payment	Payer	Payee	Rate
194N	Cash withdraw from Bank, Co.op. Bank, Post office	Bank, Co.op. Bank, Post office	Any Person	2% [Refer point 3]

Additional Points

1. TDS is required to be deducted only at the **time of payment**.
2. **No TDS** if cash withdraw is **upto ₹ 1 Crore** in a PY. If cash withdraw more than ₹ 1 crore than TDS applicable only on excess amount over ₹ 1 crore.
3. If payee has **not filed return for all 3 preceding PY's** for which due date u/s 139(1) already expired before starting of current PY then TDS shall be deducted as follows:
 - » **2%** on cash withdraw in excess of ₹20 lakhs upto ₹1 crore and
 - » **5%** on cash withdraw in excess of ₹1 crore.

Note: Here we will check return of PY 18-19, PY 19-20 & PY 20-21 for the TDS liability in PY 22-23.
4. No TDS if cash withdrawal by :
 - » Government (SG/CG),
 - » Banks, Co-op. Bank, Post office and their business correspondent,
 - » White label ATM operator of Banks or Co-op. Bank,
 - » Cash Replenishment Agencies (CRA's) and franchise agents of White Label ATM Operators in respect of withdrawal made from a separate bank a/c maintained only for replenishing cash in ATM,
 - » Registered Commission agent/trader operating under Agriculture Produce Market Committee (APMC) and certifies that withdrawal is made for the purpose of making payments to farmers,
 - » Authorised dealer, Full Fledged Money changer (FFMC), their franchise agent and sub-agent in respect of withdrawal made for purchasing foreign currency from NR/ foreign tourist visiting India or resident Indians on their return to India or for disbursement of inward remittances to recipient beneficiaries in India in cash under Money Transfer Service Scheme.

Section	Nature of Payment	Payer	Payee	Rate
194-O	E-Commerce (Sale of Goods/Service)	Any Person (E-com. operator who owns, operate or manage E-Facility or platform) Example - Amazon, Flipkart etc.	Resident Person (E- com. participant who selling goods or service through E-com. operator facility or platform)	1% (Gross amount of sale i.e., Price collected from Customer by E-com. operator)

Additional Points

- No TDS** if ALL the following conditions are satisfied:
 - » The e-com. Participant is an **Ind or HUF**.
 - » The gross amount of such sale or services or both during the PY **upto ₹ 5 lakh**.
 - » The e-com. participant has furnished his **PAN or Aadhaar** to the e-com. operator.
- Any payment made by a purchaser of goods or services **directly to an e-com. participant** but sale facilitated by e-com. operator, shall deemed to be the amount paid/credited by e-com. operator to e-com. participant and shall be **included in gross amount** for the purpose of TDS.
- If **TDS deducted** u/s 194-O (or not deductible due to 5 lakhs limit), **TDS cannot be deductible** under any other section. However this rule is not applicable if amount received by e-commerce operator for hosting advertisement or providing any other services which are not related to sale of goods/services.
- This section include sale of **goods as well as service** and service includes fees for professional and technical service also. If any professional service or technical service provided through online mode then this section applicable.

CBDT Clarification:

- Payment gateway will not be required to deduct tax u/s 194-O, if the tax has been deducted by the e- com. operator u/s 194-O of the Act, on the same transaction.
Example : BB Virtuals sales **COMPACT Books** through **makemydelivery.com** a E-Com. operator. **MMD** using payment gateway of **CcAvenue**. Now in this case **MMD** is required

to deduct TDS of BB Virtuals and CcAvenue not required to deduct TDS of MMD provided CcAvenue takes undertaking from MMD regarding deduction of tax by MMD.

2. Applicability of on insurance agent or insurance aggregator: In years subsequent to the first year, if the insurance agent or insurance aggregator has no involvement in transactions between insurance company and the buyer of insurance policy, he would not be liable to deduct tax u/s 194-0 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.

Example: ICICI Lombard sales insurance policy through PolicyBazaar.com. Suppose in current year policybazaar.com collected insurance premium of ₹2 Crores for first year of insurance so in this case policybazaar.com required to deduct TDS of ICICI Lombard. In subsequent years policy holder directly making payment to ICICI Lombard then PolicyBazaar.com not required to deduct TDS however ICICI Lombard required to deduct TDS u/s 194D on commission paid to Policybazaar.com.

Examples: BB Virtuals Pvt. Ltd. (e-commerce participants) selling Books (COMPACT) through Amazon.in (e-commerce operator), wants to know about TDS implication in following cases:

Case : 1 During the PY 22-23 Amazon.in sold books of ₹32 Lakhs and transferred ₹25.60 lakhs to BB Virtuals on 31.03.23 (after deduction commission @20% on sale).
Sol.: In this case Amazon is required to deduct TDS @1% on gross sale amount of ₹32 Lakhs i.e. ₹32,000 on 31.03.23.

Case : 2 Suppose in above example gross amount is only ₹4.5 Lakhs instead of ₹32 Lakhs and paid/credited on 31/03/23.

Sol.: Exception of TDS apply only in case of Ind/HUF e-commerce participant, here BB Virtuals Pvt Ltd is a company so TDS apply @ 1% of ₹4.5 lakhs.

Case : 3 Suppose in case-2 assessee is MR BB instead of BB Virtuals Pvt. Ltd. & BB furnishes his PAN/Aadhar to Amazon.

Sol.: In this case TDS not applicable.

Case : 4 Suppose in case-1 Amazon sold books of 32 lakhs but amount of ₹15 lakhs directly received by BB Virtuals Pvt. Ltd from customers and remaining received from Amazon ₹ 10.60 lakhs (after commission of 20% on ₹32 lakhs).

Sol.: In this case Amazon is required to deduct TDS @1% on gross sale amount of ₹32 Lakhs i.e. ₹ 32,000.

Section	Nature of Payment	Payer	Payee	Rate
194P (Added by FA-21)	TDS by Bank in case of senior citizen	Specified Bank	Resident Individual age 75 years or more in P.Y	Slab Rate

Additional Points

1. This section applicable only if individual having income of the **nature of pension** and no other income except the income of the **nature of interest** 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 form 12BBA and verified in such manner, as may be prescribed.
2. Once the declaration is furnished by senior citizen, the bank would be required to compute the income of such senior citizen. For computing total income deduction u/s 80C to 80U should be given along with rebate u/s 87A. The bank shall deduct income-tax on such total income on the basis of slab rate after considering any TDS deducted on pension.
3. "Specified bank" means a schedule bank which has been appointed as agent of RBI u/s 45 of RBI Act, 1934.

Example: Mr. Joy, a resident Indian aged 77 years, gets pension of ₹52,000 per month from the Delhi Govt. The same is credited to his savings account in SBI, Delhi 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 5-year FD made by him on 1.4.2022. Interest on savings bank credited to his SBI savings account for the P.Y.22-23 is ₹ 9,500.

- (1) From the above facts, compute the total income and tax liability of Mr. Joy for the A.Y. 2023-24, assuming that he has not opted for section 115BAC.

Solution:

Computation of Total Income and Tax Liability

Particular	₹	₹
Income from Salary		
Pension Income (52,000 × 12 months)	6,24,000	
Less: Standard deduction u/s 16(ia)	50,000	
Net Salary		5,74,000
Income from Other Sources		
Interest on FD	1,60,000	
SB Interest	9,500	1,69,500
Gross Total Income		7,43,500
Less: Deduction u/c VI-A		
80C : 5 Years FD (Max 1,50,000)	1,50,000	
80TTB: Interest on FD & SB (Max 50,000)	50,000	2,00,000
Net Taxable Income		5,43,500
<u>Tax Liability</u>		
Upto 3,00,000	Nil	
More than 3,00,000 upto 5,00,000 - 5%	10,000	
More than 5,00,000 upto 5,43,500 - 20%	8,700	
	18,700	
Add: Health and Education Cess	748	
	19,448	i.e. 19,450

- (2) What would be the amount of tax deductible at source by SBI, assuming that the same is a specified bank? Is Mr. Joy required to file his return of income for A.Y. 23-24, if tax deductible at source has been fully deducted? Examine.

Solution: 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 CG. In such a case, Mr. Joy would not be required to file his return of income u/s 139.

- (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: 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. Joy 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. Joy would have to file his return of income u/s 139, since his gross total income 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% u/s 194-A on interest on fixed deposit, since the same exceeds ₹50,000.

Section	Nature of Payment	Payer	Payee	Rate
194-Q	Purchase of Goods more than 50 Lakhs in a PY	Any Person (Buyer) whose last year T/O more than 10 Crore	Resident Person (Seller)	0.1% of sum in excess of ₹ 50 Lakhs

Additional Points

- In this section TDS required to deduct only on **excess amount over ₹50 lakhs**.
- TDS is not required** to be deducted under this section, if -
 - » TDS is deductible under any other section;
 - » TCS is collectible u/s 206C [other than section 206C(1H)].
- In case of a transaction to which both **section 206C(1H) and 194Q applies**, TDS to be deducted u/s **194Q**.
- In case of a transaction to which both **section 206C(1)/(1F)/(1G) and 194Q applies**, TCS to be collected u/s **206C(1)/(1F)/(1G)**.

5. In case of a transaction to which both **section 194-O and 194Q** applies, TDS to be deducted u/s **194-O**.
 6. If **PAN of payee is not available**, tax will be deducted under section 194-O & 194Q at the rate of **5%**.
- # CBDT Clarification:
1. Applicability on transactions carried through various Exchanges: The provisions of section 194-O, 194Q & 206C(1H) shall not apply in relation to transactions in securities, and commodities which are traded through recog. stock exchanges or cleared and settled by the recog. clearing corp., including RSE or RCC located in IFSC or transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges.
Example: Mr. BB purchased 10,000 shares of Bajaj Finance Ltd @ ₹3800 through ICICI Direct Broker at BSE. In this case section 194-O, 194Q or 206C(1H) not applicable.
 2. If any goods mentioned u/s 206C(1) purchased and used by buyer for manufacture of any product or power generation and buyer submit declaration for same then TCS not applicable but TDS u/s 194Q may apply if other conditions of 194Q are satisfied.
 3. GST/VAT/Sales tax/CST/Exise Duty (IDT) : TDS u/s 194Q NOT applicable on IDT amount if it is separately indicated in invoice but if advance payment is made then TDS should be deducted on total advance payment as we are not aware that what will be IDT amount in invoice.
 4. Purchase Return : TDS deducted at the time of crediting the party or payment, whichever is earlier, so at the time of purchased TDS already deducted by Buyer. In case of purchase return there is no need to return TDS amount and it can be adjusted against future purchase from same seller. In case of replacement of Goods, No adjustment required.
 5. Non Resident Buyer : Section 194Q NOT applicable in case of NR buyer except where NR having PE in India and purchased relates to that PE.
 6. Exempt Income of Seller : If seller whole Income is exempt under IT Act [like 10(23A),10(44)], then TDS u/s 194Q NOT applicable. Similarly if Buyer whole income exempt then TCS u/s 206C(1H) NOT applicable.

7. First year of Incorporation : In section 194Q TDS required to be deducted only if buyer's last year T/O more than ₹ 10 Crores. Since in case of first year of incorporation last year T/O is nil so this section NOT applicable in first year of Incorporation.
8. Last Year T/O : While checking last year T/O of buyer it should include only Business T/O or G/R and it should be more than ₹10 Crores. Non-Business T/O not to be counted.
9. CG or SG shall not be considered as 'seller' and no tax is to be deducted by the buyer, in cases where any Dept. of Govt. are seller of goods. Any other person, such as a PSU or corp. established under Act or any other such body, authority or entity, shall be required to comply with the provisions of 194Q & TDS applicable.

Section	Nature of Payment	Payer	Payee	Rate
194-R (Added by FA 22 w.e.f. 1/7/22	Any benefit or perquisite, whether converted into money or not, arising from business or profession	Any Person other than Individual & HUF (Ind /HUF required to deduct TDS, if last year T/O > 1 Cr in case of business or G/R > 50 Lakhs in case of profession)	Resident Person	10%

Additional Points

1. No TDS if amount of benefit or perquisite provided to a person is upto ₹20,000 in PY.
2. If the benefit or perquisite is wholly in kind or it is partly in kind & partly in cash and the cash balance is not sufficient enough to meet the TDS liabilities, then Payer shall release the benefit or perquisite only after ensuring that tax is paid on such benefit or perquisite by way of -
 - (a) He has collected the amount equivalent to TDS amount from the Payee, or
 - (b) He paid TDS from his own pocket, or
 - (c) He insists the Payee to make the payment of TDS on his own by way of advance tax & submit the proof to the Payer.

CBDT Guidelines

1. The payer is not required to check that the benefit or perquisite is taxable in the hands of recipient or not. Thus, the deductor is required to deduct tax u/s 194R of the Act in all

	cases where benefit or perquisite (of whatever nature) is provided so even if capital nature benefit is provided like car or land etc. then also TDS is applicable.
2.	Sales discount, cash discount and rebates: No TDS on sales discount, cash discount and rebates allowed to customers.
3.	Kohinnor Garments shop having ongoing offer to buy units 10 get 2 units free offer on the occasion of Diwali. Price of each unit is ₹15,000. In this case total selling price of seller would be ₹1,50,000 for 12 products. In this case it is difficult for seller to deduct TDS on benefit or perquisite so TDS NOT applicable but in case of free samples TDS applicable.
4.	TDS required to be deducted u/s 194R in following cases (i) Incentives in the form of cash or kind such as car, TV, computers, gold coin, mobile phone etc. (ii) Sponsors a trip for the recipient and his/her relatives upon achieving certain targets. (iii) Provides free ticket for an event. (iv) Medicine samples free to medical practitioners. If receiver use such asset for his business or profession purpose then Actual cost of asset shall be FMV on which he already paid taxes. Depreciation can be claimed on such FMV.
5.	Free Samples by Pharmaceuticals Company to Dr/Hospitals Situation-1: Cipla Ltd provided free sample worth ₹50,000 to Dr. Bin who is employee of M/s Bharti Hospitals Mumbai. In this case benefit/perquisite is provided to the doctor on account of him being the employee of the hospital so Cipla required to deduct TDS u/s 194R of Hospital. Hospital may subsequently treat this benefit/perquisite as the perquisite given to its employee's u/s 17 & deduct tax u/s 192 of the Act thus ultimately its taxable in hands of Dr. Bin. Situation-2: Suppose in above situation Dr. Bin is a consultant of hospital instead of an employee - In this case Cipla will deduct TDS u/s 194R of Hospital and Hospital will deduct u/s 194R of Dr. Bin. Alternatively, Cipla can directly deduct TDS of Dr. Bin u/s 194R. Situation-3: TDS u/s 194R shall not apply if the benefit/perquisite is being provided to a Government entity, like Government hospital, not carrying on business/profession.
6.	Calculation of value of benefit/perquisite; - (i) Provider has purchased the benefit/perquisite before providing it to the recipient - Purchase Price.

(ii) Provider manufactures such items - **Price that it charges to its customers for such items.**

(iii) In any other case - **FMV of benefit/perquisite.**

Note: GST will **not be included** for the purposes of valuation for TDS purpose.

7. Samsung India Pvt Ltd., on 24/04/2022, had given a Phone (Valuing ₹ 16,000) to Mr. Ashish Chanchlani (social media influencer) for advertising. Further on 16/10/2022, Mr. Ashish was given another one costing ₹ 18,000.

In this case, If the products are: -

(a) Retained by Ashish - **TDS applicable u/s 194R.**

(b) Return to Samsung after marketing - **TDS not applicable as it's not a benefit.**

Assume products retained by Ashish, since the total benefit (16000+18000= ₹ 34000) in a PY exceeds ₹ 20,000, TDS is required to be deducted. In this case TDS applicable only on benefit provided on or after 1/7/2022.

TDS to be deducted = ₹18000 × 10% = ₹ 1800.

8. AB & Associates (Kolkata), Auditor of BB Ltd. (Mumbai) goes to client's place for audit (12/11/2022). Travelling expenses (not invoiced in Client's name) invoicing ₹ 32,000 are paid by the client.

In this case BB Ltd required to be deducted TDS u/s 194R on the Travelling Expenses borne i.e; TDS= ₹32000 × 10% = Rs. 3200

There would have been **no requirement** to deduct TDS if-

(i) The client had **not borne** this expenditure or,

(ii) **Invoice was in the name of the client** and expense was paid directly or re-imbursed by it.

Notes:

1. If out of pocket expenses (reimbursement) are already part of the consideration and TDS deducted u/s 194C/194J on total consideration then TDS not applicable u/s 194R on such out-of-pocket expenses reimbursed by client.

2. If any expenditure is incurred by "Pure Agent" on behalf of any "other person" and GST credit also availed by such "other person" then it is not treated as benefit/perquisite to "Pure Agent".

9. The expenditure pertaining to dealer/business conference **would not be considered as benefit/perquisite**, in case conference is for:
- New product being launched
 - Discussion as to how the product is better than others
 - Obtaining orders from dealers/customers
 - Teaching sales techniques to dealers/customers
 - Addressing queries of the dealers/customers
 - Reconciliation of accounts with dealers/customers.
10. In following cases expenditure on dealer/business conference **would be treated as perquisite/benefit**:
- Expense attributable to **leisure trip or leisure component**, even if it is incidental to the dealer/business conference.
 - Expenditure incurred for **family members accompanying** the person attending dealer/business conference.
 - 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.
- Note: It is 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. If he decides to opt so, he will not be required to deduct TDS u/s 194R and therefore he will not be treated as assessee in default u/s 201 of the Act.
11. In case of waiver or settlement of loan by Schedule bank, Co. op. Bank, PFI, NBFC, SFC, SIIC, Public company engaged in long term loan or asset reconstruction company is not treated as benefit/perquisite for the purpose of section 194R and not require to deduct TDS.

- | | |
|-----|---|
| 12. | An embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign state not required to deduct TDS under this section. |
| 13. | TDS u/s 194R not required in case of Bonus shares issued by any company to all the shareholders and in case of Right shares by widely held company to all shareholders also out of scope from this section. |

Miscellaneous Provisions

- | | |
|---|--|
| # | Sec 196 : TDS not applicable if payee is Government, RBI, Statutory Corporation, Mutual Fund, New Pension Trust. |
| # | CBDT Circular : TDS NOT applicable in case of "GST on services" separately indicated in Invoice. |
| # | Sec 197 : Lower Deduction Certificate: Where assessee's Total Income or receipts of income is not liable to tax or taxable at lower rate in current year (it may be due to b/f losses) then assessee can apply to AO for issue of certificate for No Deduction or Low deduction of TDS. If AO satisfied with application of assessee then he may issue such certificate. In this case assessee 's TDS will be deducted as per rate given in certificate. |
| # | 197A: Declaration in Form 15G/15H |
| → | Where the total income of the Resident Assessee (other than company & firm) is below basic exemption limit during the year, no TDS shall be deducted u/s 192A, 193, 194A, 194D, 194DA, 194-I, if Assessee furnishes a self-declaration to the deductee in Form 15G.
Exception: Benefit will not be available, if the incomes referred to in the above sections itself is beyond basic exemption limit. |
| → | However, in case of Resident Senior Citizen, he may furnish Form-15H requesting for non-deduction as long the tax payable during the year is NIL (even by way of rebate u/s 87A).
Example: Rent received by Mr Kunal is ₹3,60,000 and he has invested 1,20,000 u/s 80C. Now his NTI is less than basic exemption then also Kunal can't furnish 15G but suppose he is Senior Citizen then he can furnish 15H. |
| # | Sec 198: TDS shall also be deemed to be the income of the Payee, except TDS paid by Employer on Non-monetary perquisite or TDS deducted u/s 194N. |

- # Sec 199: TDS credit available to a person from whose income deduction is made except:-
- In case of clubbing credit available to a person in whose hands the income is ultimately taxable.
 - In case of tax paid by employer from own pocket on Non-monetary perquisite employee can take credit.

Due date of payment of TDS and TCS

TDS deducted/ TCS collected month	TDS Due date	TCS Due date
During April to February months	7 th of Next month	7 th of Next month
March month	30 th April of next FY	7 th April of next FY

Note: If TDS deducted u/s 194-IA, 194-IB or 194M then it should be deposited to Govt. withing 30 days from end of the month in which deducted along with return in Form 26QB, 26QC, 26QD.

Due date of TDS/TCS Returns/Statements

Quarter Ended	TDS Return	TCS Return
30 th June	31 st July	15 th July
30 th September	31 st October	15 th October
31 st December	31 st January	15 th January
31 st March	31 st May	15 th May

Notes:

- » Fees of ₹200 per day of default u/s 234E applicable if TDS/TCS return after due dates.
- » If TDS/TCS return filed after 1 year of prescribed date the penalty u/s 271H ranging from a min. of ₹10,000 to a max. of ₹1,00,000 shall also applicable.

Sec 200A/206CB: Processing of TDS/TCS Returns (Intimation by CPC)

1. TDS/TCS returns filed shall be processed electronically and the following adjustment can be made:
 - (a) Rectification of any Arithmetical errors;
 - (b) Incorrect claim apparent on record.

2. An Intimation will be prepared specifying the amount of demand/refund along with interest, fees (if any) and sent to the deductor /collector within 1 year from the end of the FY in which return was filed.
- # Sec 201 : Assessee in default: If payer not deducted TDS or after deduction not paid to Govt. then such person is treated as assessee in default and required to pay penalty u/s 221 and that can be maximum 100% of TDS amount.
- Exception: Payer shall not be treated as assessee in default if payments made / credited to Payee without TDS, if such Payee fulfills all the following 4 conditions:
- » He has furnished his ROI u/s 139;
 - » Such sum has been taken into account by him, in such ROI;
 - » He has paid the tax due on income declared by him in his ROI; and
 - » Payer has furnished a Certificate in this regard from a CA in Form 26A.
- # Sec 201(1A): Interest on Late deduction or Late payment of TDS
- » Late Deduction: Interest @ 1% per month or part of the month on amount of TDS from the date on which TDS was deductible till the date on which TDS actually deducted.
 - » Late Payment: Interest @1.5% per month or part of the month on amount of TDS from the date on which TDS actually deducted till the date on which such tax actually paid.
- # Sec 206AB/206CCA: TDS/TCS rate in case of Non-Filer (Amended by FA 22)
- In case of TDS / TCS if payee / collectee has not filed return of income for last year for which due date u/s 139(1) already expired before the current PY and TDS deducted & TCS collected in that year was ₹50,000 or more, then TDS/TCS in current year shall be applicable at following rates:-
- a) Twice the TDS/TCS rate, or
 - b) 5%
- Whichever is higher.

Notes:

1. This section not applicable in case of TDS deductible u/s 192, 192A, 194B, 194BB, 194-IA, 194-IB, 194LBC and 194N.
2. This section not applicable in case of NR payee/collectee not having PE in India.
3. If payee/collectee has not furnished PAN/Aadhar also then TDS/TCS shall be deducted /collected at rates higher of this section and section 206AA in case of TDS and 206CC in case of TCS.
4. For applicability of this section in current year we have to check that return was filed for PY 20-21 or not.

Tax Collected at Source (TCS)

Section	Nature of Transaction	Rate	Collector (Seller)	Collectee (Buyer)
206C(1)	Sale of Goods		Any Person other	Any person other than :
	» Tendu Leaves	5%	than Individual and	1. Buyer who buys such
	» Timber & other forest products	2.5%	HUF [Ind/HUF required to collect	goods for his personal consumption;
	» Alcoholic liquor for human consumption	1%	TCS, if last year T/O > 1 Cr in case of	2. Public sector Co;
	» Scrap	1%	business or G/R > 50 Lakhs in case of	3. CG, SG, Embassy, High comm., legation, consulate, trade representation and clubs.
	» Minerals being Coal, Lignite, Iron ore	1%	profession]	

Additional Points :

1. **No TCS if resident buyer** furnishes a declaration to the seller that "goods" are to be **utilized in manufacturing/production** of any article or for the purpose of **generation of power**.
If buyer T/o of last year more than ₹ 10 crores then Buyer required to deduct TDS u/s 194Q.
2. Scrap means waste from the manufacture or mechanical working of materials & which is definitely **not usable as such** because of breakage, cutting up, wear and other reasons.

Section	Nature of Transaction	Rate	Collector (licensor)	Collectee (licensee)
206C(1C)	Leasing or licensing or transferring any right or interest in any- - Parking lot or - Toll plaza or - Mine or quarry for the purpose of business	2%	Same as section 206C(1)	Any person other than public sector company

Note: For the purpose of this section "mining and quarrying" shall not include mining and quarrying of "mineral oil" includes petroleum and natural gas..

Section	Nature of Transaction	Rate	Collector (Seller)	Collectee (Buyer)
206C(1F)	Sale of a motor vehicle of the value exceeding 10 lakhs	1%	Same as section 206C(1)	Any person other than mentioned in Note-1

Notes:

1. Public Sector Co engaged in the business of carrying passengers, CG, SG, Embassy, High comm, legation, consulate, trade representation, Local authority.
2. TCS will apply only in case of **sale of motor vehicle at retail level**. No TCS under this section on sale by manufacturers to dealers/distributors.
3. Threshold limit of **₹ 10 lakhs** has to be looked at on each **individual purchase** and not on aggregate purchases made during the year.

Section	Nature of Transaction	Rate	Collector (Seller)	Collectee (buyer)
206C(1G)	Foreign remittance of money more than ₹ 7 lakhs under Liberalised Remittance Scheme (LRS) of RBI	5% of amount in excess of ₹ 7 lakhs	Authorized dealer	No TCS if buyer is : 1. Deducted TDS under any section; 2. CG, SG, Embassy, High comm., legation, consulate and trade representation, Local authority.
	Sale of overseas tour program package (OTPP)	5% of sale value	Seller of OTPP	

Additional Points :

- In case of LRS if remitted amount is out of **Educational Loan** taken from Financial Institution then TCS rate shall be **0.5% instead of 5%**.
- "OTPP" means 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.
- The Authorised dealer shall not collect TCS on an amount in respect of which TCS has been collected by the seller.
- This section shall not apply to an individual who is not a resident in India as per section 6(1) and 6(1A), and who is visiting India.

Example:1

Case: 1- On 10/12/2022 Mr. BB wants to transfer ₹10 lakhs to USA through AB Ltd. (an authorized dealer) under LRS scheme of RBI.

Sol.: In this case AB Ltd require to collect TCS from Mr. BB at the rate of 5% of ₹3,00,000 i.e. ₹15,000 on 10/12/2022.

Case: 2 Suppose in Case-1, Mr. BB wants to transfer only ₹5 lakhs instead of ₹10 lakhs.

Sol.: In this case TCS NOT applicable as it applies only if amount is more than ₹ 7 lakhs.

Case: 3 Suppose in Case-1, Mr. BB not submitted PAN/Aadhar to AB Ltd.

Sol.: In this case TCS applicable at the rate of 10% of ₹ 3,00,000 i.e. ₹30,000

Case: 4 Suppose in Case-1, Mr. BB takes an Education loan from IDFC First Bank for his son's higher education outside India, ₹10 lakhs remitted through AB Ltd. on 10/12/22.

Sol.: In this case TCS applicable at the rate of 0.5% of ₹ 3,00,000 i.e. ₹ 1,500.

Case : 5 Suppose in Case-1 Mr. BB remitted ₹ 5 lakhs through AB Ltd. (dealer) and ₹ 5 lakhs through JJ Ltd (dealer).

Sol.: In this case TCS not applicable as dealer not received amount of more than ₹7 lakhs.

Example : 2 Mr. Devam purchased Singapore tour package from Thomas Cook for ₹2,50,000 on 16/01/23.

Sol.: In this case Thomas cook required to collect TCS @ 5% of ₹ 2,50,000 i.e. ₹ 12,500.

Example: 3 Suppose in example 2 Devam deducted TDS of Thomas Cook u/s 194C.

Sol.: If TDS deducted under any provisions of IT then TCS not apply u/s 206C(1G).

Section	Nature of Transaction	Rate	Collector (seller)	Collectee (Buyer)
206C(1H)	Sale of Goods [other than export and covered u/s 206C(1) / (1F) / (1G)]	0.1% of consideration in excess of ₹ 50 lakhs	Any person whose last year T/O is more than ₹ 10 Crore	Any person other than mentioned in Note-1

Notes:

1. CG, SG, an embassy, High Commission, legation, commission, consulate, the trade representation of a foreign State, a local authority or a person importing goods into India or any other notified person.
2. If buyer **deducted TDS** under any section then **TCS not applicable** under this section.
3. If buyer **not submit PAN** or Aadhar then **TCS rate is 1%** instead of 0.1% in this section.
4. Under this section TCS collected only at the time of **receiving consideration** in excess of ₹ 50 lakhs in PY.

CBDT Clarification:

1. In case of Motor vehicle if section 206C(1F) not applicable (like manufacturer to distributor) then section 206C(1H) applicable if other condition of this section satisfied.
2. In case of sale of fuel to NR Airlines companies at Indian Airport not liable for TCS under this section.
3. No need of any adjustment for GST or sale return as TCS under this section applicable on receipt of consideration.

Example: Navneet Motors, Mumbai is an authorised dealer of BMW & KIA Motors. T/o of last year is 25 Crores.

Case-I Sale of a car Kia Seltos to Mr Ravi for ₹ 9,60,000 (including GST) - In this case TCS u/s 206C(1H) & (1F) not applicable.

Case-II Sale of a 7 cars Kia Seltos to Mr Ravi for ₹9,60,000 each (including GST) & received ₹67,20,000 by dealer - In this case TCS u/s 206C(1F) not applicable but TCS u/s 206C(1H) is applicable dealer will collect TCS @ 0.1% of amount in excess of ₹50,00,000 i.e. ₹17,20,000.

Case-III Sale of a car BMW GT to Mr Kavi for ₹92,00,000 (including GST) - In this case TDS u/s 206C(1F) applicable & dealer will collect TCS @ 1% of ₹92,00,000.

Case-IV BMW India Ltd. sold 200 cars to Navneet Motors in PY 22-23 and total consideration received is ₹150 Crores. - In this case BMW India Ltd. will deduct TDS of Navneet motors @0.1% in excess of ₹50 Lakhs u/s 194Q

Case-V Navneet Motors sold a Kia Carnival to MR Devam and consideration is as follows:

Base Price	:	23,00,000
Add. Luxury Tax	:	4,60,000
Add. GST 28%	:	6,44,000
Total	:	<u>34,04,000</u>

In this case Navneet motors will collect TCS u/s 206C(1F) on ₹34,04,000.

Miscellaneous Provisions:

- # Time of Collection TCS: TCS has to be collect at the time of debiting the party or receiving the consideration, whichever is earlier but in case of section 206C(1F) & (1H) it has to collected only at the time of receive the consideration.
- # Sec 206C(7) Interest on late collection/deposit TCS: In case of any delay, interest shall be calculated @ 1% per month or part thereof from date on which TCS was collectible to date on which TCS is actually paid.
- # Sec 206CC: If the collectee has not provided PAN or Aadhaar to the collector, then TCS rate shall be
- » Twice of the rate or
 - » 5% [1% in case of sub-section (1H)]
- Whichever is higher
- Example:
- Mr. Goyal, a resident Indian, is in retail business and his turnover for F.Y.2021-22 was ₹12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler, and the aggregate payments during the F.Y.2022-23 was ₹ 95 lakh (₹ 20 lakh on 1.6.2022, ₹25 lakh on 12.8.2022, ₹ 22 lakh on 23.11.2022 and ₹28 lakh on 25.3.2023). Assume that the said amounts were credited to Mr. Agarwal's account in the books of Mr. Goyal on the same date. Mr. Agarwal's turnover for F.Y.2021-22 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. Goyal's turnover for F.Y.2021-22 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. Goyal's turnover for F.Y.2021-22 exceeds 10 crores, and payments made by him to Mr. Agarwal, a resident seller exceed ₹50 lakhs in the P.Y.2022-23, 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 1.6.2022 and 12.8.2022, 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 23.11.2022 [₹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 25.3.2023.

Note - In this case, since both section 194Q and 206C(1H) applies, tax has to be deducted u/s 194Q.

- (2) If Mr. Goyal's turnover for the F.Y.2021-22 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.2021-22 and his receipts from Mr. Goyal exceed ₹ 50 lakhs.

No tax is to be collected u/s 206C(1H) on 1.6.2022 and 12.8.2022, 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 23.11.2022 (₹ 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 25.3.2023.

- (3) In case (1), if PAN is not furnished by Mr. Agarwal to Mr. Goyal, then, Mr. Goyal 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. Goyal u/s 194Q on 23.11.2022 and 25.3.2023, respectively.

In case (2), if PAN is not furnished by Mr. Goyal 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 23.11.2022 and 25.3.2023, respectively.

#	Sec 139(1) : Filing of return of income (ROI)
a.	For company & Partnership Firm (including LLP) - Return filing is compulsory .
b.	For other Assessee -if GTI (before claiming exemption u/s 54, 54B, 54D, 54EC, 54F, 54G, 54GA, > Basic exemption) , then return filing is compulsory.
c.	Following persons compulsory required to file the return.
1.	Resident Individual → Resident (other than R but NOR)
	<pre> graph TD A[Resident Individual] --> B[Resident other than R but NOR] B --> C["(A)"] B --> D["(B)"] C --> E["- Beneficial owner of any asset (including financial interest) located outside India - has signing authority in any Account outside India"] D --> F["- Beneficiary of any Asset (including financial interest) located outside India"] </pre>
Note:	If income already included in the income of person "A" then person "B" not required to file return.
→	Beneficial Owner - Individual providing consideration for the asset directly or indirectly for the immediate or future benefit for himself or any other person.
→	Beneficiary - Individual deriving benefit from the asset, consideration for which has been provided by any other person.
2.	<p>(i) Assessee has deposited an aggregate amount exceeding ₹ 1 crore rupees in one or more current accounts maintained with a bank or a co-operative bank or deposited ₹ 50 lakhs or more in one or more savings accounts.</p> <p>(ii) Assessee has incurred foreign travel expenditure of an aggregate amount exceeding ₹ 2 lakhs for himself or any other person.</p> <p>(iii) Assessee has incurred expenditure of an aggregate amount exceeding ₹ 1 lakh towards consumption of electricity.</p> <p>(iv) Assessee's total sales, turnover or gross receipts, as the case may be, in the business exceeds ₹ 60 lakhs during the PY or total gross receipts in profession exceeds ₹ 10 lakhs during the PY.</p> <p>(v) Assessee's aggregate of TDS and TCS during the PY, is ₹ 25,000 or more (in case of senior citizen ₹ 50,000).</p>

#	Due dates of Return Filing	
	Assessee	Due dates
1	Person require to furnish Transfer Pricing Audit report u/s 92E including the partners* of the firm	30 th Nov. of AY
2	Every other company, other than above	} 31 st Oct. of AY
3	Every person whose Books of Accounts are required to be audited under any law	
4.	Every person who is a partner* of a firm, where firm's Books of Accounts are required to be audited under any law	
5.	For every other person other than the above	31 st July of the AY
	* or the spouse of such partner if the provisions of section 5A applies to such spouse. Note: As per section 5A if individual govern by Portuguese Civil Code of 1860 in Goa, Dadra and Nagar Haveli and Daman and Diu then Income shall be equally distributed between husband and wife except Salary.	
#	Sec 139(1C): Central Govt may exempt class of person to file ROI Central Government may by notification specify such class or classes of persons who will be exempted from the requirement of filing of return .	
#	Sec 139(3): Loss return As per sec 80, assessee required to file the return upto due date u/s 139(1) for carry forward of following losses:	
»	Business loss u/s 72(1) » Speculation business loss u/s 73(2)	
»	Loss from specified business u/s 73A(2)	
»	Loss under the head "Capital Gains" u/s 74(1)	
»	Loss from the activity of owning and maintaining race horses u/s 74A(3)	
Notes:	1. Loss can be set off even if return filed after due date. 2. House property losses & unabsorbed depreciation can be c/f even if return late filed. 3. The condition stipulated/ enumerated in sec. 80 applies only for the year in which the loss was sustained/ incurred. It does not apply to the ROI of the year in which carry forward is claimed.	

#	Sec 139(4): Belated Return
	If Assessee fails to File return within due date then he can file belated return with in following time limit
a)	Before the three months prior to end the of the relevant AY (31 st dec. 23 for AY.23-24)
or b)	Before completion of Assessment
	Whichever is earlier,
	Note: Consequences of belated return
»	No carry forward of specified loss as per sec 80.
»	No deduction of certain Income u/c VI-A as per 80AC.
»	Interest u/s 234A i.e. 1% pm or part of the month.
»	Late filing fees u/s 234F i.e. 5,000/1000.
#	Sec 139(5): Revised Return
	Any person Filed returns u/s 139(1) or 139(3) or 139(4) , if discover any omission or a wrong statement in such ROI Filed earlier, then such person can file revised return within Following time limit,
a)	Before the three months prior to end the of the relevant AY (31 st dec. 23 for AY 23-24)
or b)	Before completion of Assessment,
Notes: 1.	Belated return filed u/s 139(4) can be revised u/s 139(5).
2.	The revised return substitutes original return from the date the original return was filed
3.	Assessee can revise return any no. of times within time limit.
#	Sec 139(9): Defective Return
	Return shall be considered as defective, if -
a)	Return not Filed in prescribed form
b)	Proofs of tax not attached with return
c)	Report u/s 44AB not submitted
	If return treated as defective, A.O. shall intimate the defect to assessee & give him an opportunity to rectify the defect within 15 days or extended time if assessee does not rectify the defect then return shall be treated as invalid return (void-ab-initio)

#	Sec 140: Verification of Return	
	In case of	Verified by
1.	a. An individual	- Himself
	b. Individual not present in India or Mentally incapacitated	- Competent to verify on behalf of individual
2.	a. HUF	- Karta
	b. Karta not present in India or karta mentally incapacitated	- Any adult member HUF
3.	a. A partnership firm	- Managing Partner
	b. If there is no managing partner	- Any adult Partner
4.	a LLP	- Designated Partner
	b. If there is no designated partner	- Any Partner or *any other person may be prescribed
5.	a. Company	- MD
	b. No MD	- Any other Director or *any other person may be prescribed
	c. Co. under liquidation	- Liquidator
	d. Application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under the IBC, 2016	- Insolvency professional appointed by such Adjudicating Authority
6.	Political Party	- CEO
7.	Local Authority	- Principal officer
8.	Any other person.	- Person competent to verify
*Person, appointed by the Adjudicating Authority for discharging the duties and functions of an interim resolution professional, a resolution professional, or a liquidator, as the case may be, under the IBC, 2016		

#	Sec 139AA : Aadhar Number	
A.	Every person who is eligible to obtain Aadhaar number shall, on or after the 1st, July, 2017, quote Aadhaar number -	
	(i) in the application form for allotment of permanent account number;	
	(ii) in the return of income	
	If Aadhar No not available then that person should quote application-id of Aadhar.	
B.	Every person already holding PAN on 1 st July 2017, shall link Aadhar with PAN till 31/03/2022 otherwise PAN shall be made inoperative.	
→	Note : As per C.G Notification, provision of section 139AA Not apply to an individual who does not possess the Aadhar number or Enrolment ID and is :	
	(i) residing in the states of J&K, Meghalaya and Assam	
	(ii) a non-resident as per income tax act, 1961	
	(iii) of the age of 80 years or more at any time during the P.Y.	
	(iv) Not a citizen of India.	
→	Where a person fails to link his Aadhaar No. with PAN upto 31 st March, 22, the PAN of such person shall become inoperative w.e.f. 1 st April, 22 till the same is linked and until such date it shall be deemed that the person has not quoted his PAN in any transaction, thus becoming liable for penalty u/s 272B.	
→	If assessee link Aadhar with PAN on or after 01/04/2022 then he is required to pay fees as per section 234H (given in interest topic)	
→	As per this section if assessee fails to link till 31/03/22 then PAN will be inoperative but as per CBDT negative consequences of not quoting or not furnishing PAN shall be applicable from 01/04/23.	
→	Pan No. will be operative from the date on which its liked with Aadhar.	
#	Sec 139A : Permanent Account Number (PAN)	
	Following persons, who have not been allotted a PAN, to apply to the AO for the allotment of a PAN within following time limit	
	S.No.	Persons required to apply for PAN
		Time limit for making such application
	1.	Every person, if his total income or the total income of any other person in respect of which he is assessable
		on or before 31st May of the AY

	under the Act during any PY exceeds the Basic exemption.	
2.	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 PY	before the end of that previous year
3.	Trust required u/s 139 (4A)	before the end of the P.Y.
4.	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 FY	on or before 31st May of the immediately following FY
5.	Every person who is a MD, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of any person referred in (4) above or any person competent to act on behalf of such person referred in (4) above	on or before 31st May of the immediately following FY in which the person referred in (4) enters into financial transaction specified therein.
6.	Person intends to enter into following transactions	At least seven days before the date on which he intends to enter into the said transaction.
a.	Cash deposits aggregating ₹20 lakhs or more in a FY, in one or more a/c with a Bank or a co-op. bank	
b.	Cash withdrawals aggregating ₹ 20 lakhs or more in a FY, in one or more account with a Bank or a co-op. bank	
c.	Opening of a current a/c or cash credit a/c with a Bank / co-op. bank	

Cases where PAN to be quoted in Transactions

S.No.	Nature of transaction	Value of transaction
1.	Sale or purchase of a motor vehicle, other than two-wheeler	All such transactions.
2.	Opening an account [other than a time-deposit referred to at Serial No.12 and a Basic Savings Bank Deposit Account] with a banking company or a co-operative bank.	All such transactions.

3.	Making an application to any banking company or a co-operative bank or to any other company or institution, for issue of a credit or debit card.	All such transactions.
4.	Opening of a D-Mat account.	All such transactions.
5.	Payment to a hotel or restaurant against a bill or bills at any one time.	Payment in cash of > ₹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 > ₹50,000.
7.	Payment to a Mutual Fund for purchase of its units.	Amount > ₹50,000.
8.	Payment to a company or an institution for acquiring debentures or bonds issued by it.	Amount > ₹50,000.
9.	Payment to the RBI, for acquiring bonds issued by it.	Amount > ₹50,000.
10.	Deposit with a banking company or a Co-operative bank or post office.	Deposits in cash > ₹50,000 during any one day.
11.	Purchase of bank drafts or pay orders or banker's cheques from a banking company or a Co-operative bank.	Payment in cash > ₹ 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 (iv) a NBFC.	Amount > ₹ 50,000 or aggregating to more than ₹ 5,00,000 during a FY.
13.	Payment for one or more pre-paid payment instruments, as defined in the policy guidelines for issuance and operation of pre-paid payment instruments issued by RBI or a banking company or a Co-operative bank or to any other company or institution.	Payment in cash or by way of a bank draft or pay order or banker's cheque of a amount aggregating to > ₹ 50,000 in a FY.
14.	Payment as life insurance premium to an insurer	Amount aggregating to > ₹ 50,000 in a FY.
15.	A contract for sale or purchase of securities (other than shares).	Amount > ₹ 1,00,000 per transaction.

16.	Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange.	Amount > ₹ 1,00,000 per transaction
17.	Sale or purchase of any immovable property.	Amount > ₹ 10,00,000 or SDV > ₹ 10,00,000
18.	Sale or purchase, by any person, of goods or services of any nature other than those specified at S. No. 1 to 17 of this Table, if any.	Amount > ₹ 2,00,000 per transaction

→ Following person not required to obtain PAN:

Minor not having any income taxable in his own hands, can enter into the above transactions by quoting the PAN of his parents or guardian.

PAN & Aadhar Interchangeable

1. Every person who is required to intimate/quote his PAN may quote his Aadhaar if he:

- » has not been allotted a PAN but possesses the Aadhaar (PAN will be allotted automatically by dept. without any documents & Fees), or
- » has been allotted a PAN and has already linked Aadhaar & PAN.

2. Every person entering into prescribed transaction (point 6 of sec. 139A) shall be required to authenticate the PAN or Aadhaar quoted. Also, every person receiving such documents should ensure that PAN or Aadhaar is quoted on the documents and authenticated.

Ex.: Suppose Mr. BB deposited cash of ₹25 lakhs with HDFC Bank and BB submitted his PAN/Aadhaar then BB require to authenticate that PAN/Aadhaar belongs to him. In this case HDFC Bank also require to authenticate that PAN/Aadhaar belongs to BB only.

Note : Provided that the provision of above point 2 shall not apply where the person, depositing or with drawing money or opening a current a/c or cash credit a/c, is the CG, SG or the Consular Office.

Sec 139B: Tax Return Preparer (TRP)

(1) CBDT to frame a scheme whereby a specified class of persons can file their ROI through TRPs.

(2) A TRP means an individual who is authorised to act as TRP by CBDT, other than following persons:

(a) A Chartered Accountant;

	(b) A Legal Practitioner
	(c) An Officer of Scheduled Bank with which assessee maintains an account;
	(d) Employee of specified class of person.
(3)	Specified class of persons means any persons who is required to file ROI, other than the following persons:
	(a) A Company
	(b) Any other person whose, Books of Accounts are required to be audited under sec. 44AB or under any other law.
#	Sec 139C: Annexure-Less ROI
	CBDT to make rules providing for a class or classes of persons who shall not be required to furnish any Certificate, Audit Report, any Document or a Receipt etc. along with their ROI. Empowers CBDT to make rules for the followings:
(a)	A class of person or classes of person who shall be required to furnish their ROI mandatorily on a computer readable media (i.e., e-filing of ROI)
(b)	The terms and the manner and the form in which such ROIs can be filed electronically
(c)	CBDT may require the persons who are not required to attach any documents along with ROI, to furnish such documents whenever required by an AO.[Sec. 139D]
#	Sec 140A : Self-Assessment Tax
	Assessee is required to pay taxes before Filing of return {after considering advance tax, TDS, TCS, MAT, AMT credit, relief (include relief u/s 89) any tax, interest payable u/s 191(2)} along with interest & Fees.
	If there is short payment then the amount so paid is first adjusted towards Fees, there after towards interest & balance towards taxes.
#	Section 139(8A): Updated Return (Added by FA 2022 w.e.f. 01/04/2022)
→	Updated return: Any person may furnish an updated return of his income (or the income of any other person in respect of which he is assessable). The provisions of this section are applicable from 1st April, 2022.
→	Time-limit: Updated return u/s 139(8A) can be submitted at any time within 24 months

from the end of the relevant AY. For instance, updated return for the AY 22-23 can be submitted on or before 31st March, 2025.

→ Who can submit updated return: Updated return can be submitted by any person whether (or not) he has furnished a return u/s 139(1)/(4)/(5) for an AY.

→ Other points: The following points should be noted:-

1. If a person has sustained a loss for any PY and he has already submitted return of loss for that year within due date u/s 139(1), he can furnish an updated return for that year u/s 139(8A) where such return is a return of income.

2. If as a result of submitting updated return u/s 139(8A), the quantum of carried forward loss (or unabsorbed depreciation or MAT/AMT credit) is to be reduced for any subsequent year, then an updated return shall be furnished for each such subsequent year.

→ When updated return cannot be submitted: In the following cases updated return **cannot be submitted** :-

1. If updated return is a **return of a loss**.

2. If updated return has the effect of **decreasing the total tax liability** determined on the basis of return furnished u/s 139(1)/(4)/(5) or results in refund or increases the refund due on the basis of return furnished u/s 139(1)/(4)/(5), of such person for the RAY.

3. A person shall **not be eligible to furnish an updated return**, if -

(a) **search** has been initiated u/s 132 or books of account, 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 TDS/TCS survey**] of that section in the case of 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**.

Note: This provision is for the AY relevant to the PY in which such search is initiated, or survey is conducted or requisition is made and any AY preceding such AY. For instance, if search is initiated on 10th May, 25, then updated return cannot be submitted for the AY 26-27 or any preceding AY.

4. **No updated return** shall be furnished by any person for the RAY, where, -
- an **updated return** has been **furnished** by him u/s 139(8A) for the RAY, or
 - any proceeding for assessment/reassessment/re-computation/revision of income is **pending or has been completed** for the RAY in his case, or
 - the AO has **information** in respect of such person for the RAY in his possession under the Prevention of Money Laundering Act, 2002 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 or the Prohibition of Benami Property Transactions Act, 1988 or The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 and the **same has been communicated to him, prior to the date of his filing of return** u/s 139(8A), or
 - Information for the RAY has been received under an agreement **u/s 90 or 90A** in respect of such person and the same has been **communicated to him, prior to the date of his filing of return** u/s 139(8A), or
 - any **prosecution** proceedings u/c XXII have been **initiated** for the RAY in respect of such person, prior to the date of his filing of return u/s 139(8A), or
 - he is a person or belongs to a class of persons, as may be notified by CBDT.

→ Updated return to be accompanied by proof of payment of tax and additional income-tax - updated return cannot be submitted unless it is accompanied by proof of payment of tax u/s 140B (ie, tax and additional income-tax).

→ How to calculate tax on updated return [Sec. 140B]- Mode of computation of tax (including additional tax) is given by section 140B as follows:-

→ Where assessee has not furnished return earlier- Where no return of income u/s 139(1)/(4) has been furnished by an assessee, he shall before furnishing updated return u/s 139(8A) is liable to pay the tax due together with interest and fee payable under any provision of the 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. The tax payable shall be computed after considering the following :-

- the amount of advance tax (already paid);
- any TDS/TCS;

- any relief of tax claimed u/s 89/90/90A/91;
- any AMT/MAT credit u/s 115JAA/115JD.

Such updated return shall also be accompanied by proof of payment of such tax, additional tax, interest and fee u/s 234F.

→ Where assessee has furnished return earlier-If an assessee has furnished return u/s 139(1)/(4)/(5) (referred to as earlier return), he (before submitting updated return) is liable to pay the tax due together with interest payable under any provision of the Act for any default or delay in payment of advance tax, along with the payment of additional tax, as reduced by the amount of interest paid in the earlier return. The tax payable shall be computed after considering the following:-

- the amount of relief or tax, referred to in section 140A(1), credit for which has been taken in the earlier return;
- TDS/TCS 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 claimed in the earlier return;
- any relief of tax or deduction of tax claimed u/s 90/90A/91 which has not been claimed in the earlier return;
- any MAT/AMT credit claimed, to be set off which has not been claimed in the earlier return.

The aforesaid tax shall be increased by the amount of refund, if any, issued in respect of earlier return. The updated return shall be accompanied by proof of payment of such tax, additional tax, interest and fee.

→ Computation of Additional Tax - The additional tax payable at the time of furnishing updated return calculated as follows -

If updated return is furnished after expiry of time available u/s 139(4)/(5) but before completion of 12 months from the end of the RAY	25% of aggregate of tax (+SC+ HEC) and interest as computed above
If updated return is furnished after the expiry of 12 months but before completion of 24 months from the end of the RAY	50% of aggregate of tax (+SC+ HEC) and interest as computed above

→	<p>How to calculate interest u/s 234B where an earlier return is furnished :- Where an earlier return has been furnished, interest payable u/s 234B shall be computed on an amount equal to 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 the total income as declared in updated return after considering the following:-</p> <ul style="list-style-type: none"> - the amount of relief or tax, referred to in section 140A(1), the credit for which has been taken in the earlier return; - TDS/TCS on any income declared in updated return and which has not been claimed in the earlier return; - any relief/deduction u/s 90/90A/91 which has not been claimed in the earlier return; - any AMT/MAT credit u/s 115JAA/115JD, which has not been claimed in the earlier return. <p>The aforesaid tax shall be increased by the amount of refund, if any, issued in respect of such earlier return.</p>
	<p>Other points - The following points should be noted</p>
1.	If no earlier return is furnished, interest payable u/s 234A shall be calculated on the basis of tax on total income as declared in the updated return.
2.	If earlier return is furnished, interest payable u/s 234C shall be computed after considering the total income furnished in the updated return as the returned income.
3.	For the purpose of additional tax, interest payable shall be interest chargeable under any provision of the Act on the income as per updated return, as reduced by interest paid in earlier return. However, the interest paid in the earlier return shall be considered to be nil if no earlier return has been furnished.
	<p>Example :</p> <p>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</p> <p>(i) as on 31.3.2023</p> <p>(ii) as on 28.2.2024</p>

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.

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 can not 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.

- (i) Accordingly, Mr. X is liable to pay additional income-tax in case he furnished his updated return as on (1) 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 of 1,42,500 [50% of 2,85,000, being tax of 2,50,000 plus interest of 35,000]