

# इशरान्देश

Last Mile Referencer for

## DIRECT TAX LAWS & INTERNATIONAL TAXATION



**The Institute of Chartered  
Accountants of India**

(Set up by an Act of Parliament)

**Board of Studies (Academic)**

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## **Saransh – Last Mile Referencer for Direct Tax Laws & International Taxation**

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While due care has been taken in preparing this booklet, if any errors or omissions are noticed, the same may be brought to the notice of the Joint Director, Board of Studies. The Council of the Institute is not responsible in any way for the correctness or otherwise of the matter published herein.

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Published in January 2024 by:

**Board of Studies (Academic)**

**The Institute of Chartered Accountants of India**

**'ICAI Bhawan' A-29, Sector-62,**

**Noida 201 309**

Board of Studies (Academic), the student wing of the Institute, does not leave any stone unturned in providing best-in-class services to its students. It imparts quality academic education through its value-added study materials and other educational inputs. BoS (Academic) also conducts live learning classes through eminent faculty for its students across the length and breadth of the country.

In a pursuit to provide quality academic inputs to the students to help them grasp the intricate aspects of the subjects, the Board of Studies has been publishing crisp and concise capsules in its monthly Students' Journal "The Chartered Accountant Student", wherein the concepts and provisions are presented in attractive colours in the form of tables, diagrams and flow charts for facilitating easy retention and quick revision of topics.

To reach out to its students and members across the nation, the BoS (Academic) has come out with a comprehensive booklet 'Saransh - Last Mile Referencer for different subjects. In continuation, BoS (Academic) is now coming out with Saransh for 'Direct Tax Laws & International Taxation' under the New Scheme of Education and Training. This booklet encapsulates significant provisions of (i) Direct Tax Laws and (ii) International Taxation, by way of diagrams, flow charts, tables and pictorial representation. This one stop repository, thus, consolidates the significant concepts of Direct Tax Laws & International Taxation at one place, by capturing the key points. This would help the readers to appreciate the provisions contained in Direct Tax Laws and International Taxation at a glance.

However, the students are advised to refer the Study material, Income-tax Act, 1961 and Income-tax Rules, 1962 for thorough and comprehensive study of the subject. Further, the students are advised to enhance their ability to address the issues and solve the problems based on Direct Tax Laws & International Taxation by working out the examples, illustrations and questions given in the Study Material, Revision Test Papers and Mock Test Papers.

The subject matter of direct tax laws in this booklet is based on the provisions of the Income-tax Act, 1961 as amended by Finance Act, 2023 and significant notifications and circulars issued till 31.10.2023.

This booklet will facilitate the reader to grasp the significant provisions of Direct Tax Laws & International Taxation and serve as a ready reckoner. This booklet will surely enable the readers in easy retention and quick revision of the subject.

Happy Reading!

## Message of Key ICAI Office Bearers



**CA. Aniket Sunil Talati**

President, ICAI

As part of our ongoing commitment to enhancing the learning experience, the Board of Studies (Academic) has actively pursued various initiatives to cater to the evolving requirements of our students. In line with these efforts, we are excited to introduce the latest edition of "Saransh – Last Mile Referencer" on Direct and Indirect Taxes. Saransh is a series of meticulously crafted booklets that encapsulate key subjects, offering a concise summary of essential concepts covered in the Study Material. This initiative not only serves as a convenient guide for our students but also proves beneficial for our esteemed Members in their professional endeavours.



**CA. Ranjeet Kumar Agarwal**

Vice President, ICAI

At ICAI, our commitment to delivering outstanding educational content remains unwavering. It is with great pleasure that BoS presents Saransh, a meticulously crafted compilation of booklets focusing on Direct and Indirect Taxes. These referencers represent a dedicated effort to provide concise capsules for each subject in the Chartered Accountancy course. These carefully curated resources serve as invaluable tools for efficient revision of concepts before examinations. This series is going to be an indispensable companion in your quest for personal and professional growth.



**CA. Vishal Doshi**

Chairman, Board of Studies (Academic)

It is with immense pleasure that I announce the release of the latest edition of "Saransh – Last Mile Referencer" on Direct & Indirect Taxes. These booklets encapsulate significant provisions of these dynamic subjects based on the provisions of tax laws as amended by the Finance Act 2023. These booklets presented in condensed format effectively convey intricate concepts and provisions through use of tables, diagrams, and flow charts. This approach ensures that the content is not only comprehensive but can also easily be remembered, making these booklets a key tool for students pursuing a career in the field of accountancy.



**CA. Dayaniwas Sharma**

Vice-Chairman, Board of Studies (Academic)

It is with great enthusiasm that I bring in this edition of Saransh booklets, a dynamic addition to our esteemed collection of insightful books, meticulously aligned with the new curriculum. These invaluable referencers are a rich source of knowledge, featuring illustrative flow charts and tables that foster learning. This approach not only strengthens students' comprehension of intricate subjects but also enhances their confidence as they navigate the complexities of Direct and Indirect Taxes. We take pride in presenting these resources, crafted with utmost care and precision, to empower you on your academic journey.





## The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

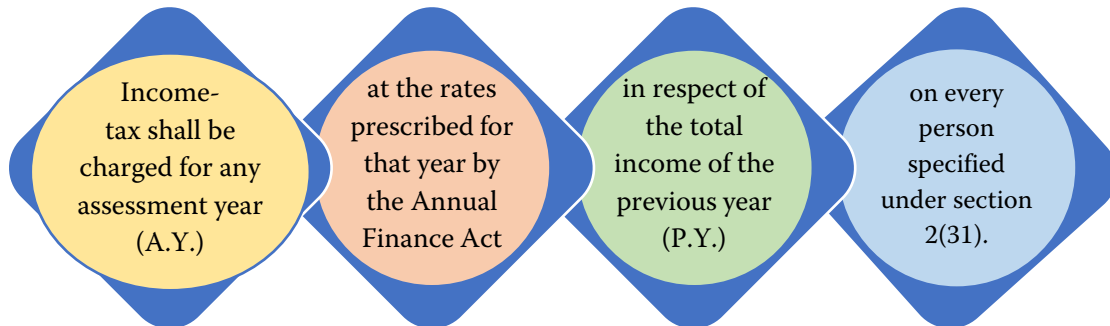
Board of Studies (Academic)

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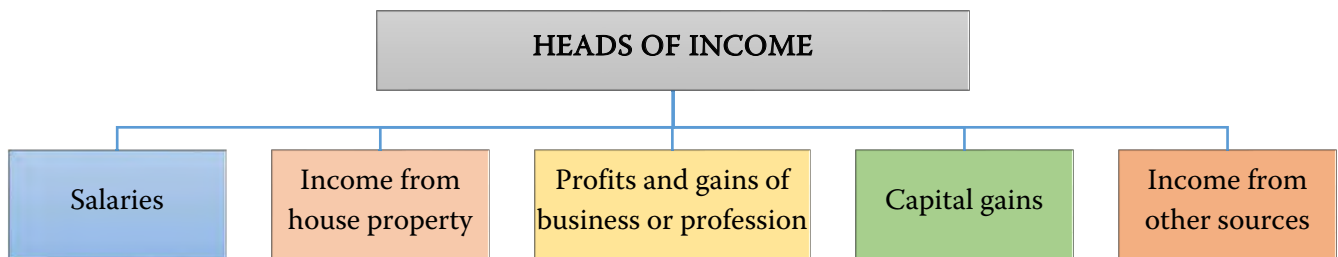
## BASIC CONCEPTS

### SECTION 4 [CHARGING SECTION]



### CLASSIFICATION OF INCOME

The income of an assessee is classified into following five heads of income:



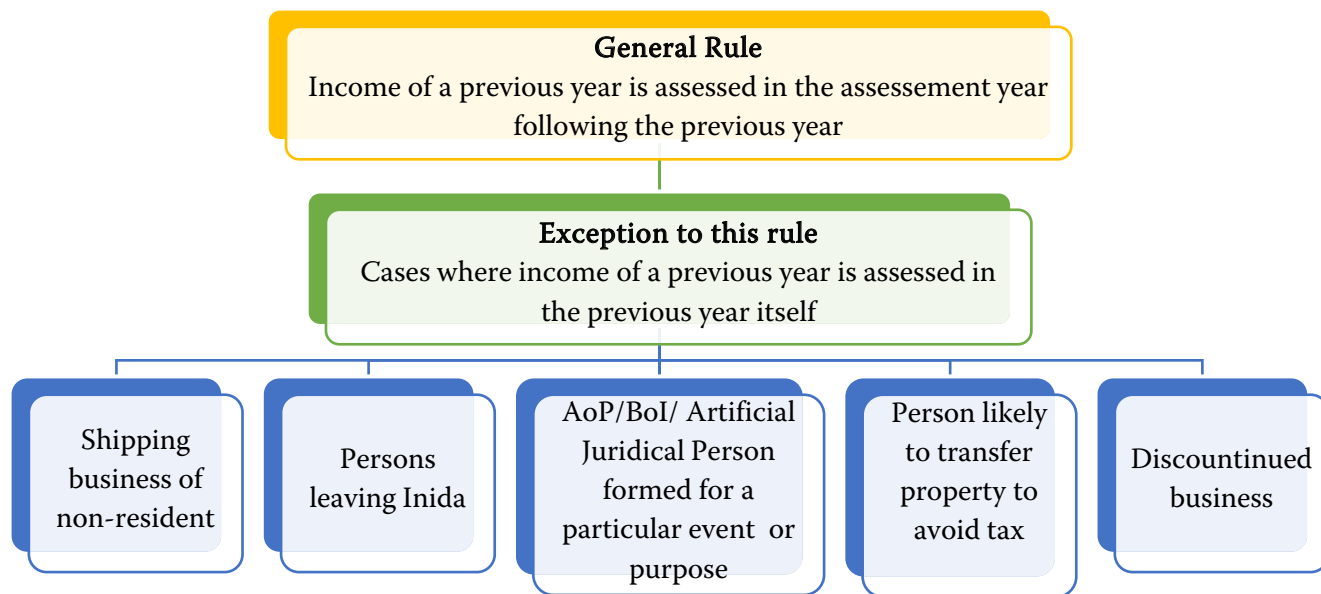
### PREVIOUS YEAR AND ASSESSMENT YEAR

#### Assessment Year

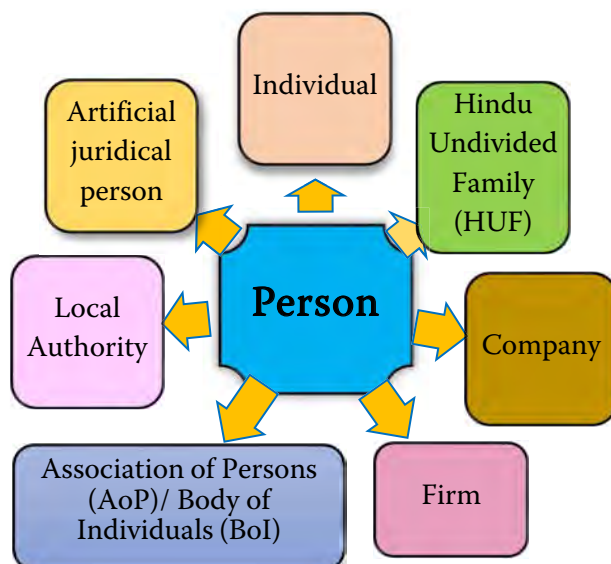
- It means a period of 12 months commencing on 1st April every year.
- The year in which income is earned is the previous year and such income is taxable in the immediately following year which is the assessment year.

#### Previous year

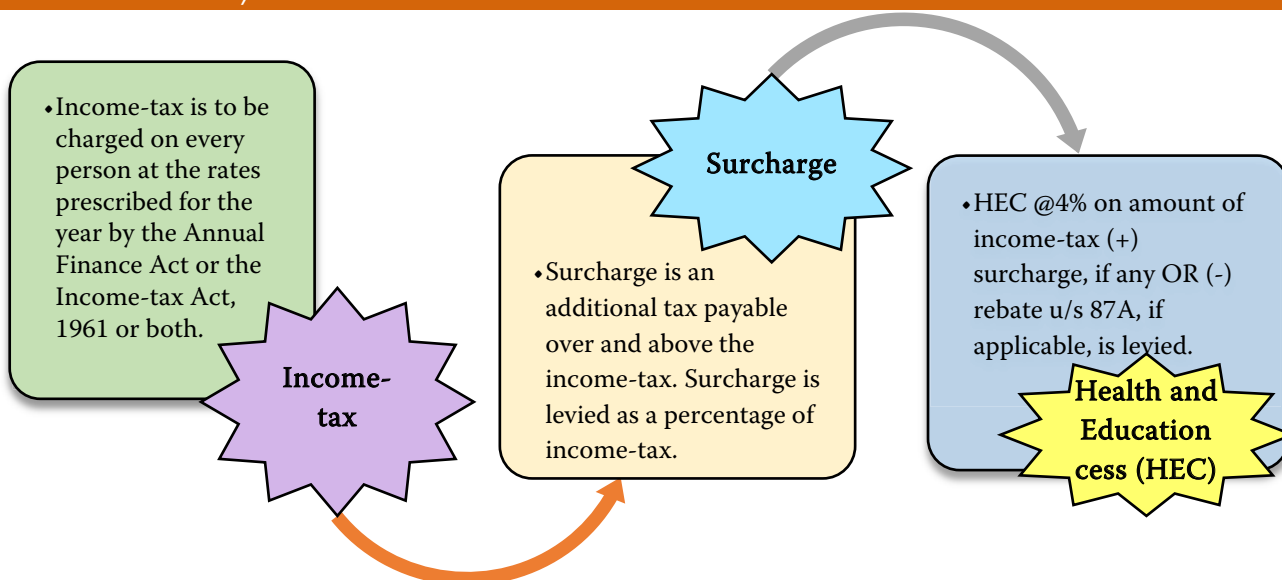
- It means the financial year immediately preceding the assessment year.
- In case of a business or profession newly set up, or a source of income newly coming into existence during the financial year, the previous year shall be the period beginning with the date of setting up of the business or profession 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.



**PERSON [SECTION 2(31)]**



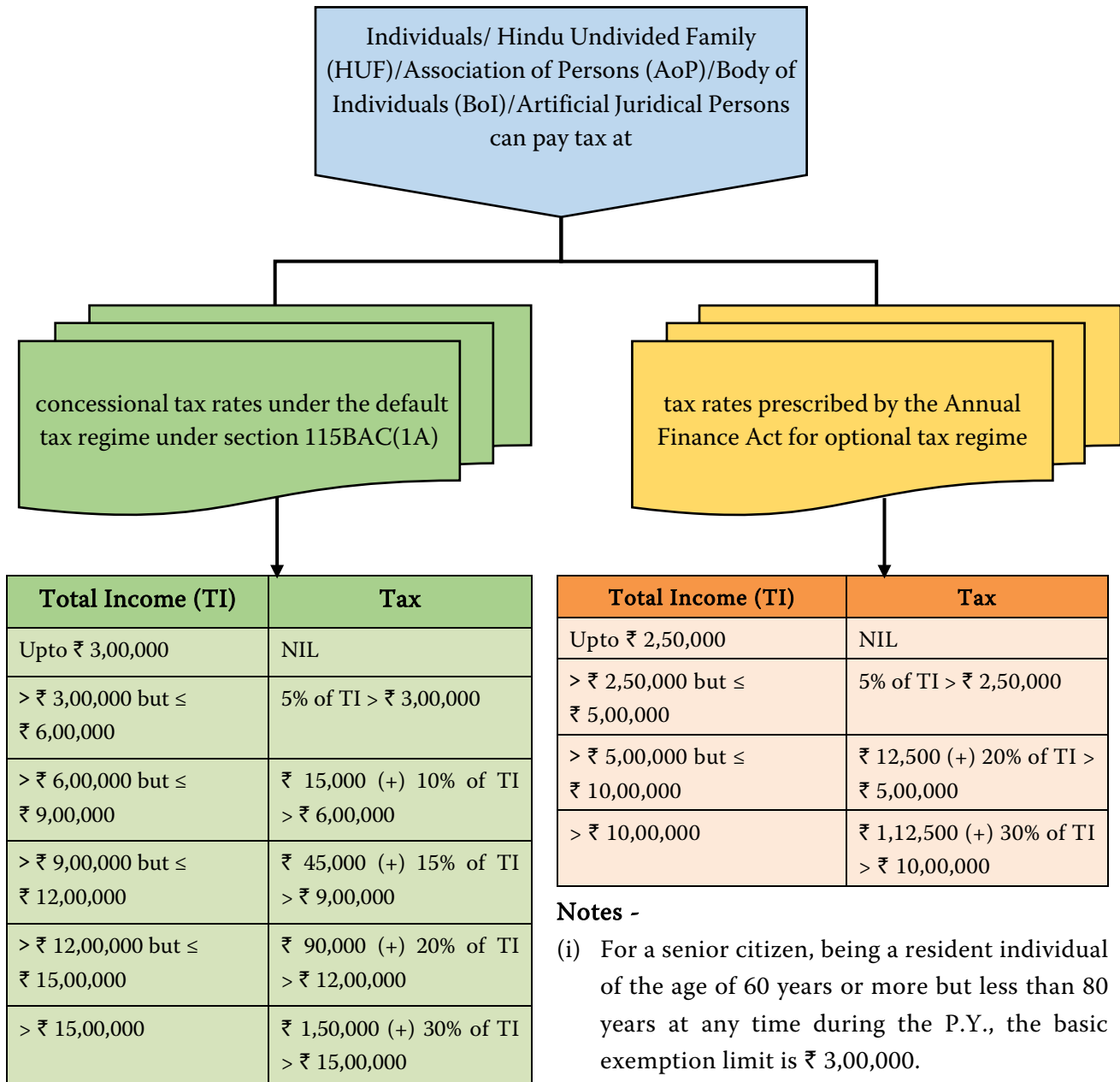
**RATES OF TAX, SURCHARGE AND CESS**



## INDIVIDUAL/HUF/AOP/BOI/ARTIFICIAL JURIDICAL PERSON

### I. INCOME TAX RATES

Individuals/HUF/AoP/BoI and Artificial Juridical Persons can pay tax at concessional rates under the default tax regime under section 115BAC. However, such persons have to forego certain exemptions and deductions under this regime. Alternatively, they can exercise the option to shift out of the default tax regime and pay tax under the optional tax regime as per the regular provisions of the Act at the tax rates prescribed by the Annual Finance Act of that year.



**Note** – Income covered under Chapter XII would be subject to tax at the rates mentioned in the sections specified in the said Chapter.

**Notes -**

- (i) For a senior citizen, being a resident individual of the age of 60 years or more but less than 80 years at any time during the P.Y., the basic exemption limit is ₹ 3,00,000.
- (ii) For a very senior citizen, being a resident individual of the age of 80 years or more at any time during the P.Y., the basic exemption limit is ₹ 5,00,000.

Concessional tax rates under the default tax regime under section 115BAC(1A)**Conditions to be satisfied for availing concessional rates of tax**

The following are the conditions to be satisfied for availing concessional rates of tax:

S. No.	Particulars																																
(1)	<b>Certain deductions/exemptions not allowable:</b> Section 115BAC(2) provides that while computing total income, the following deductions/exemptions would not be allowed:																																
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #c6e0b4;">Section</th> <th style="background-color: #c6e0b4;">Exemption/Deduction</th> </tr> </thead> <tbody> <tr> <td>10(5)</td> <td>Leave travel concession</td> </tr> <tr> <td>10(13A)</td> <td>House rent allowance</td> </tr> <tr> <td>10(14)</td> <td>Exemption in respect of special allowances or benefit to meet expenses relating to duties or personal expenses (other than those as may be prescribed for this purpose).</td> </tr> <tr> <td>10(17)</td> <td>Daily allowance or constituency allowance of MPs and MLAs</td> </tr> <tr> <td>10(32)</td> <td>Exemption in respect of income of minor child included in the income of parent</td> </tr> <tr> <td>10AA</td> <td>Tax holiday for units established in SEZ</td> </tr> <tr> <td>16</td> <td>Entertainment allowance and Professional tax</td> </tr> <tr> <td>24(b)</td> <td>Interest on loan in respect of self-occupied property</td> </tr> <tr> <td>32(1)(iia)</td> <td>Additional depreciation</td> </tr> <tr> <td>33AB</td> <td>Tea/Coffee/Rubber development account</td> </tr> <tr> <td>33ABA</td> <td>Site Restoration Fund</td> </tr> <tr> <td>35(1)(ii)/ (iia)/(iii)/ 35(2AA)</td> <td>Deduction in respect of contribution to <ul style="list-style-type: none"> <li>- notified approved research association/university/college/other institutions for scientific research [Section 35(1)(ii)]</li> <li>- approved Indian company for scientific research [Section 35(1)(iia)]</li> <li>- notified approved research association/university/college/other institutions for research in social science or statistical research [Section 35(1)(iii)]</li> <li>- an approved National laboratory/university/IIT/specified person for scientific research undertaken under an approved programme [Section 35(2AA)]</li> </ul> </td> </tr> <tr> <td>35AD</td> <td>Investment linked tax incentives for specified businesses</td> </tr> <tr> <td>35CCC</td> <td>Deduction in respect of expenditure incurred on notified agricultural project</td> </tr> <tr> <td>80C to 80U</td> <td>Deductions under Chapter VI-A (other than employers contribution towards NPS under section 80CCD(2), Central Government contribution towards Agnipath Scheme under section 80CCH(2) and deduction in respect of employment of new employees under section 80JJAA)</td> </tr> </tbody> </table>	Section	Exemption/Deduction	10(5)	Leave travel concession	10(13A)	House rent allowance	10(14)	Exemption in respect of special allowances or benefit to meet expenses relating to duties or personal expenses (other than those as may be prescribed for this purpose).	10(17)	Daily allowance or constituency allowance of MPs and MLAs	10(32)	Exemption in respect of income of minor child included in the income of parent	10AA	Tax holiday for units established in SEZ	16	Entertainment allowance and Professional tax	24(b)	Interest on loan in respect of self-occupied property	32(1)(iia)	Additional depreciation	33AB	Tea/Coffee/Rubber development account	33ABA	Site Restoration Fund	35(1)(ii)/ (iia)/(iii)/ 35(2AA)	Deduction in respect of contribution to <ul style="list-style-type: none"> <li>- notified approved research association/university/college/other institutions for scientific research [Section 35(1)(ii)]</li> <li>- approved Indian company for scientific research [Section 35(1)(iia)]</li> <li>- notified approved research association/university/college/other institutions for research in social science or statistical research [Section 35(1)(iii)]</li> <li>- an approved National laboratory/university/IIT/specified person for scientific research undertaken under an approved programme [Section 35(2AA)]</li> </ul>	35AD	Investment linked tax incentives for specified businesses	35CCC	Deduction in respect of expenditure incurred on notified agricultural project	80C to 80U	Deductions under Chapter VI-A (other than employers contribution towards NPS under section 80CCD(2), Central Government contribution towards Agnipath Scheme under section 80CCH(2) and deduction in respect of employment of new employees under section 80JJAA)
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(2)	<b>Certain losses not allowed to be set-off:</b> While computing total income, set-off of any loss -																																
	<ul style="list-style-type: none"> <li>(i) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in (1) above or</li> <li>(ii) under the head house property with any other head of income</li> </ul> would not be allowed.																																



(3)	<b>Depreciation or additional depreciation:</b> Depreciation u/s 32 is to be determined in the prescribed manner. Depreciation in respect of any block of assets entitled to more than 40%, would be restricted to 40% on the written down value of such block of assets. Additional depreciation u/s 32(1)(iia), however, cannot be claimed.
(4)	<b>Exemption or deduction for allowances or perquisite:</b> While computing total income, any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being force in India would not be allowed.
(5)	In case of a person having a unit in IFSC referred to in section 80LA(1A), whose income is chargeable to tax under section 115BAC(1A), deduction under section 80LA would be allowed subject to fulfilment of the conditions specified in that section.

**Additional points:**

- (i) An employee whose income is chargeable to tax under section 115BAC(1A) would be entitled for -
  - travelling allowance (i.e., allowance granted to meet the cost of travel on tour or transfer);
  - daily allowance (i.e., allowance granted on tour or for the period of journey in connection with transfer, to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty);
  - conveyance allowance (i.e., allowance granted to meet the expenditure incurred on conveyance in performance of duties of an office or employment of profit, where free conveyance is not provided by the employer); and
  - exemption in respect of transport allowance granted to an employee who is blind or deaf and dumb or orthopedically handicapped with disability of the lower extremities of the body to the extent of ₹ 3,200 p.m.
- (ii) An individual, being an employee paying tax as per section 115BAC, would not be entitled for exemption of perquisite of free food and non-alcoholic beverages provided by an employer through paid vouchers.
- (iii) Total income under default tax regime should be computed without set-off of any loss brought forward or depreciation from any earlier assessment year, where such loss or depreciation is attributable to any of the deductions listed in (1) above. Such loss and depreciation would be deemed to have been already given effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

Where income-tax on total income of the assessee is computed under this section and there is a depreciation allowance in respect of a block of asset from an earlier assessment year attributable to additional depreciation u/s 32(1)(iia), which has not been given full effect to prior to A.Y. 2024-25 and which is not allowed to be set-off in the A.Y.2024-25 due to section 115BAC, corresponding adjustment shall be made to the WDV of such block of assets as on 1.4.2023 in the prescribed manner i.e., the WDV as on 1.4.2023 will be increased by the unabsorbed additional depreciation not allowed to be set-off.

**Time limit for exercising the option to shift out of the default tax regime**

- (i) **In case of an assessee having no income from business or profession:** Where such individual/HUF/AoP (other than a co-operative society)/BoI or Artificial Juridical person is not having income from business or profession, he/it can exercise an option to shift out/opt out of the default tax regime under this section and such option has to be exercised along with the return of

income to be furnished under section 139(1) for a previous year relevant to the assessment year. In effect, such individual/HUF/AoP/BoI or Artificial Juridical person can choose whether or not to exercise the option of shifting out of the default tax regime in each previous year. He may choose to pay tax under default tax regime under section 115BAC in one year and exercise the option to shift out of default tax regime in another year.

**(ii) In case of an assessee having income from business or profession:** Such individual/HUF/AoP/BoI or Artificial Juridical person having income from business or profession has an option to shift out/opt out of the default tax regime under this section and the option has to be exercised on or before the due date specified under section 139(1) for furnishing the return of income for such previous year and once such option is exercised, it would apply to subsequent assessment years.

Such person who has exercised the above option of shifting out of the default tax regime for any previous year shall be able to withdraw such option only once and pay tax under the default tax regime under section 115BAC for a previous year other than the year in which it was exercised.

Thereafter, such person shall never be eligible to exercise option under this section, except where such person ceases to have any business income in which case, option under (i) above would be available.

#### AMT liability not attracted

Individual/HUF/AoP/BoI or Artificial Juridical person paying tax under default tax regime under section 115BAC is not liable to alternate minimum tax u/s 115JC. Such person would not be eligible to claim AMT credit also.



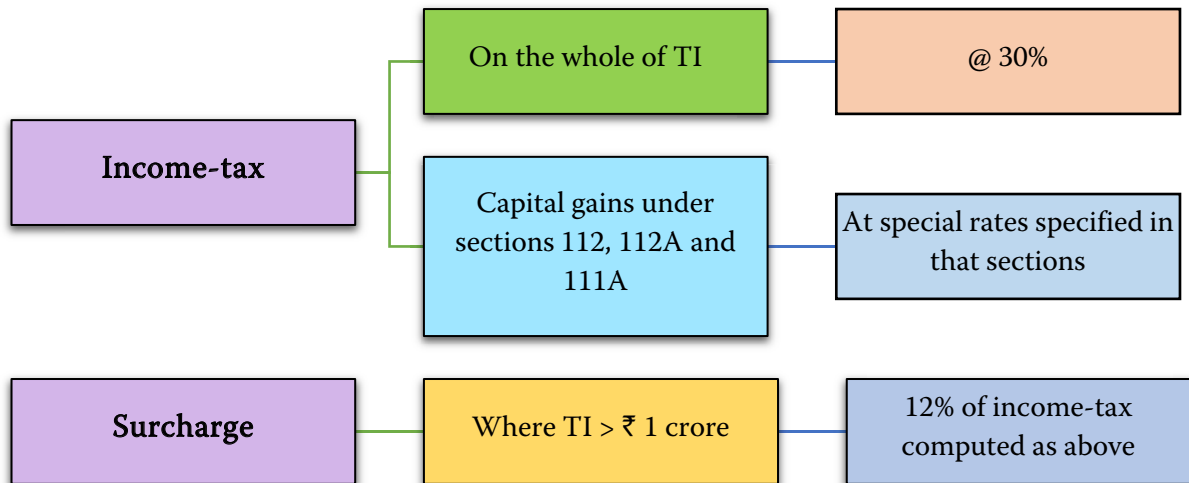
## II. SURCHARGE

Income-tax computed above would be increased by surcharge given under the following table:

Individual/HUF/AoP <sup>1</sup> /BoI and Artificial Juridical Person			
paying tax under default tax regime u/s 115BAC		exercising the option to shift out of the default tax regime and paying tax under the normal provisions of the Act	
	Particulars	Rate of surcharge on income-tax	
(i)	TI [including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 50 lakhs but ≤ ₹ 1 crore	10%	(i)
(ii)	TI (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 1 crore but ≤ ₹ 2 crore	15%	(ii)
(iii)	TI (excluding dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 2 crore	25%	(iii)
	Dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A	Not exceeding 15%	
(iv)	TI (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 2 crore in cases not covered under (iii) above	15%	(iv)
			TI (excluding dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 5 crore
	Dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A	Not exceeding 15%	
	TI (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 2 crore in cases not covered under (iii) and (iv) above	15%	(v)

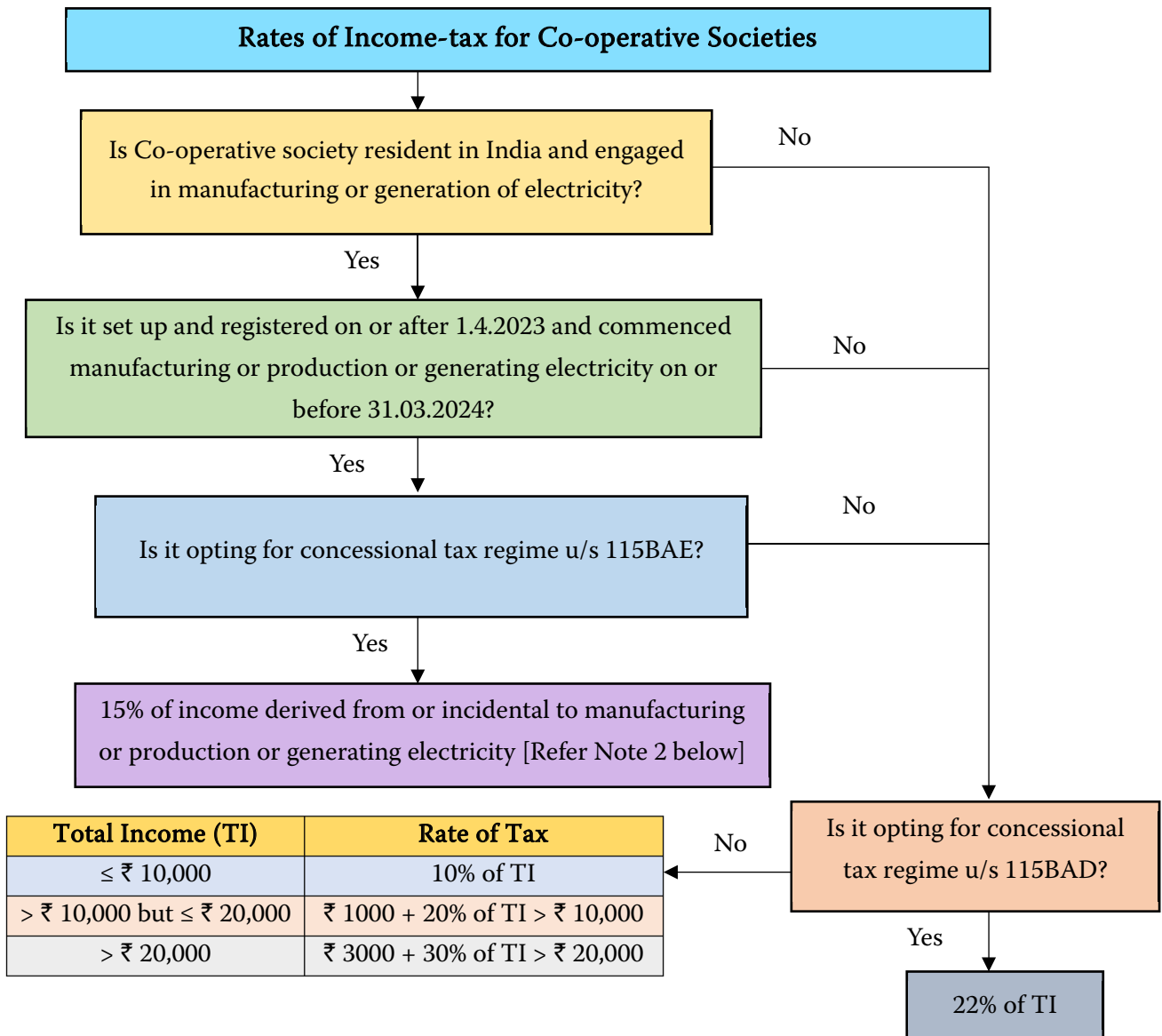
<sup>1</sup> (other than an AOP consisting of only companies as members)

**FIRM/LLP/LOCAL AUTHORITY**



**CO-OPERATIVE SOCIETY**

**Rates of Income-tax for Co-operative Societies**

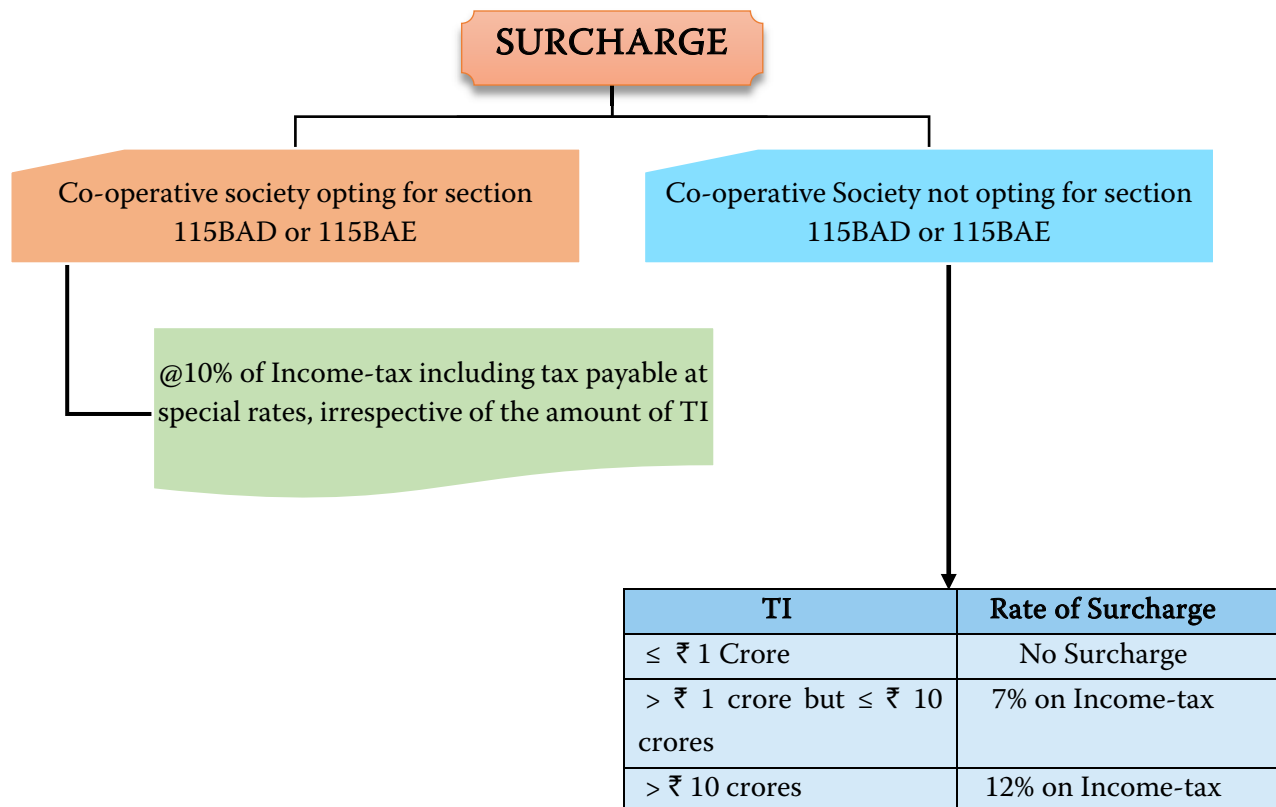


Total Income (TI)	Rate of Tax
≤ ₹ 10,000	10% of TI
> ₹ 10,000 but ≤ ₹ 20,000	₹ 1000 + 20% of TI > ₹ 10,000
> ₹ 20,000	₹ 3000 + 30% of TI > ₹ 20,000

**Notes in relation to sections 115BAD and 115BAE –**

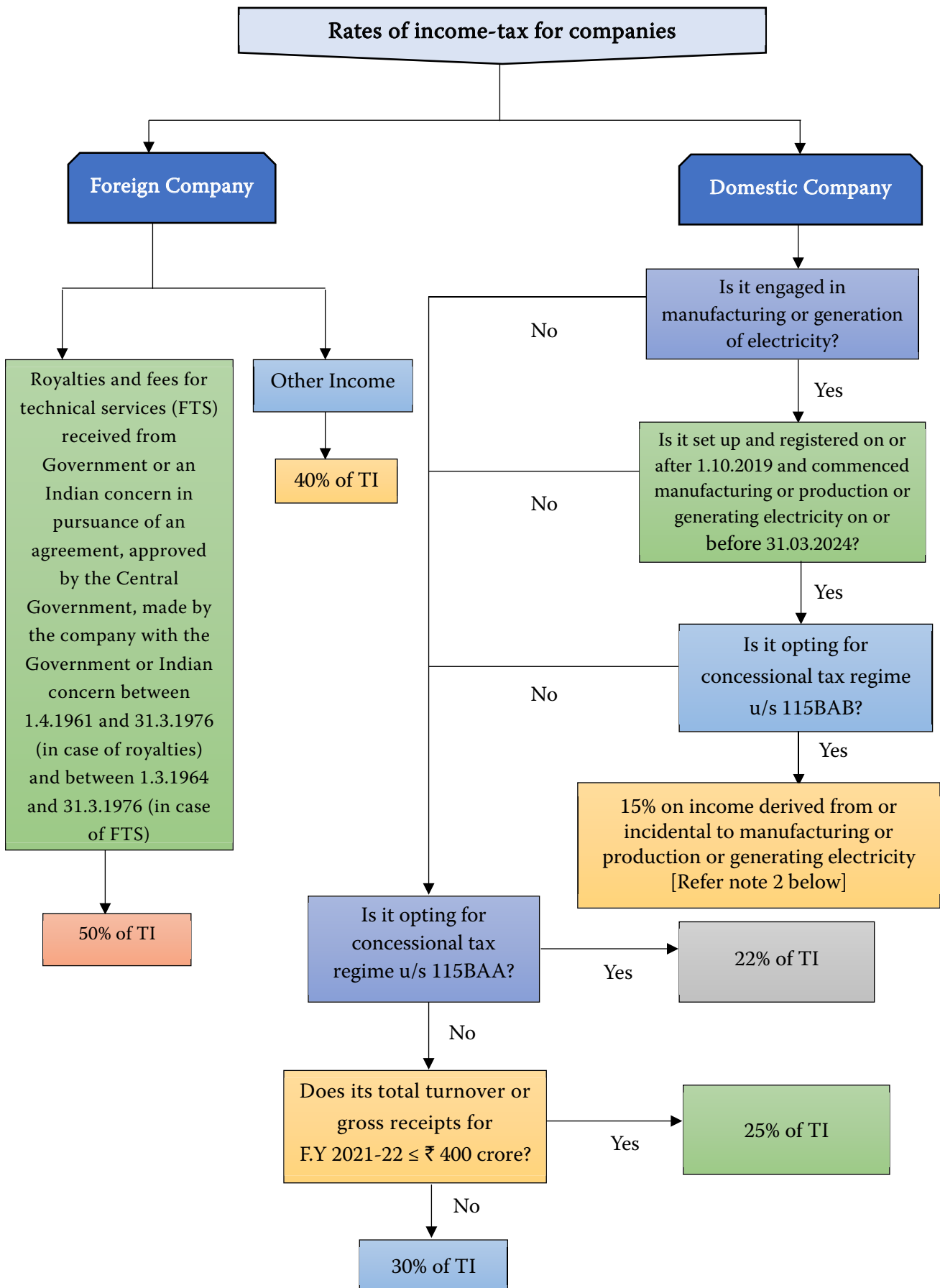
- (1) Co-operative society, resident in India, can opt for concessional rate of tax u/s 115BAD or 115BAE, as the case may be, subject to certain conditions.
- (2) Income other than income derived from or incidental to manufacturing or production or generating electricity, is taxable @22%, if co-operative society is opting for concessional tax regime u/s 115BAE. In respect of such income, no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income. Such Co-operative society should not be engaged in any business other than the business of manufacturing or production.
- (3) Income covered under Chapter XII would be subject to tax at the rates mentioned in the sections specified in the said Chapter.

Please refer the topic “Assessment of Various Entities” covered in the Saransh later on, for detailed discussion on sections 115BAD and 115BAE.





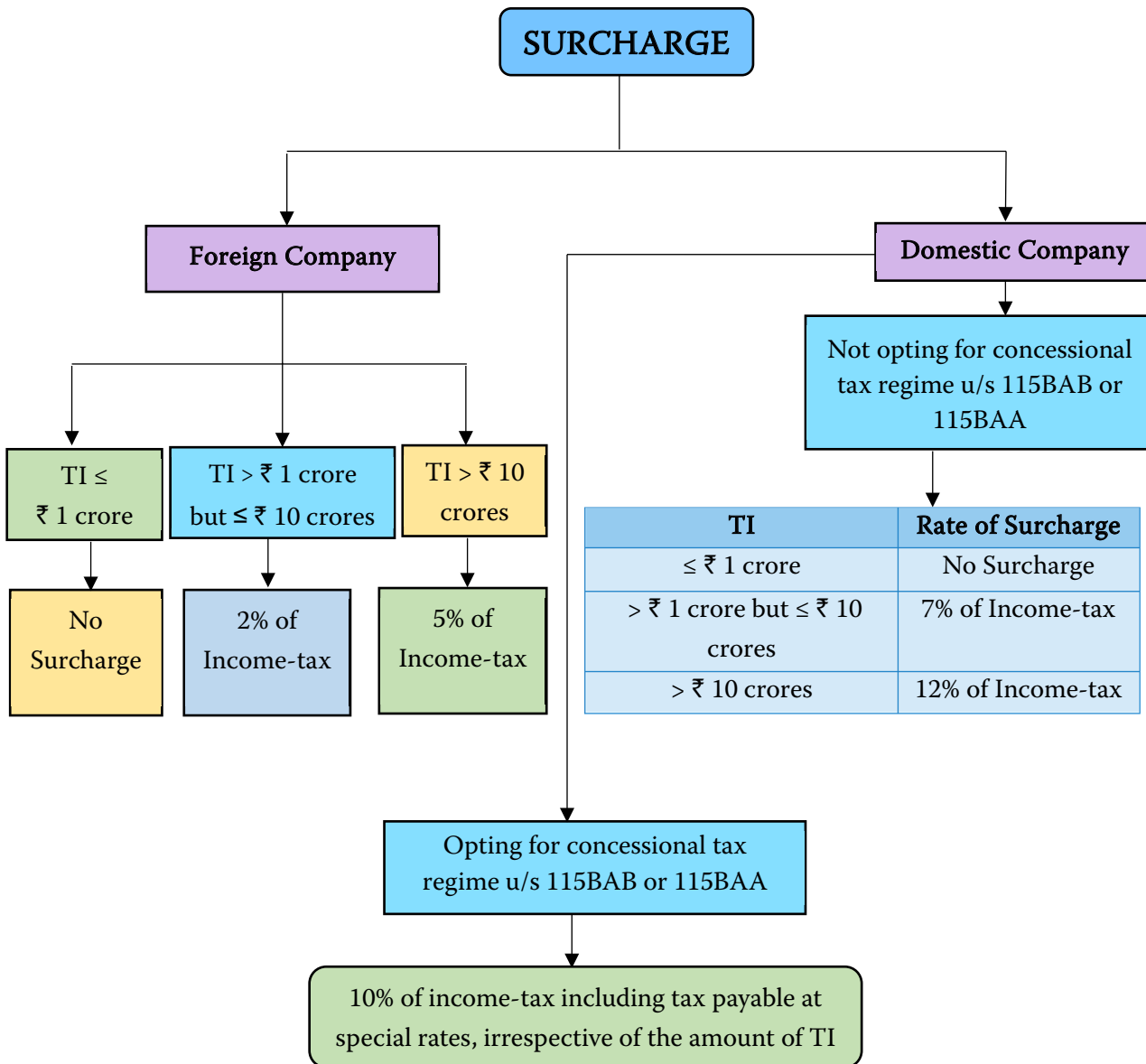
**COMPANY**



Notes in relation to sections 115BAA and 115BAB –

- (1) Domestic company can opt for section 115BAA or section 115BAB, as the case may be, subject to certain conditions.
- (2) Income other than income derived from or incidental to manufacturing or production or generating electricity, is taxable @22%, if company is opting for concessional tax regime u/s 115BAB. In respect of such income, no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income. Such company should not be engaged in any business other than the business of manufacturing or production.
- (3) Income covered under Chapter XII would be subject to tax at the rates mentioned in the sections specified in the said Chapter.

Please refer the topic “Assessment of Various Entities” covered in the Saransh later on, for detailed discussion on sections 115BAA and 115BAB.

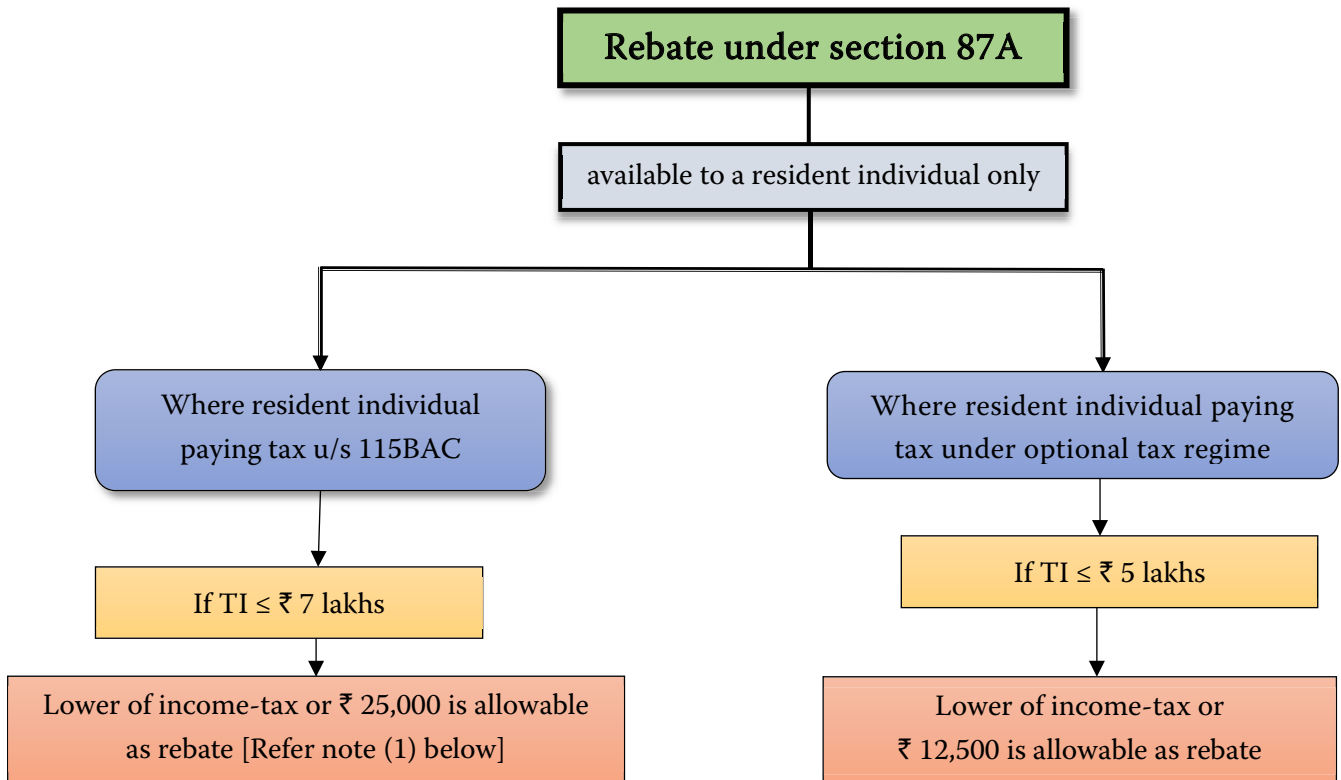


### SPECIAL RATES OF TAX IN RESPECT OF CERTAIN INCOMES

In respect of certain types of income, as mentioned below, the Income-tax Act, 1961 has prescribed specific rates. The special rates of tax have to be applied on the respective component of total income, irrespective of the tax regime and assessee.

S. No.	Section	Income	Rate of Tax						
(a)	112	Long term capital gains (other than LTCG taxable as per section 112A)	20%						
(b)	112A	LTCGs on transfer of – <ul style="list-style-type: none"> <li>Equity share in a company</li> <li>Unit of an equity oriented fund</li> <li>Unit of business trust</li> </ul> Condition for availing the benefit of this concessional rate is that securities transaction tax should have been paid – <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="background-color: #e6f2ff;">In case of (Capital Asset)</th> <th style="background-color: #e6f2ff;">Time of payment of STT</th> </tr> </thead> <tbody> <tr> <td style="background-color: #e6f2ff;">Equity shares in a company</td> <td style="background-color: #e6f2ff;">both at the time of acquisition and transfer</td> </tr> <tr> <td style="background-color: #e6f2ff;">Unit of equity oriented fund or unit of business trust</td> <td style="background-color: #e6f2ff;">at the time of transfer</td> </tr> </tbody> </table> <b>Note:</b> LTCG upto ₹ 1 lakh is exempt. LTCG exceeding ₹ 1 lakh is taxable @10%.	In case of (Capital Asset)	Time of payment of STT	Equity shares in a company	both at the time of acquisition and transfer	Unit of equity oriented fund or unit of business trust	at the time of transfer	10% [On LTCG > ₹ 1 lakh]
In case of (Capital Asset)	Time of payment of STT								
Equity shares in a company	both at the time of acquisition and transfer								
Unit of equity oriented fund or unit of business trust	at the time of transfer								
(c)	111A	Short-term capital gains on transfer of – <ul style="list-style-type: none"> <li>Equity shares in a company</li> <li>Unit of an equity oriented fund</li> <li>Unit of business trust</li> </ul> The conditions for availing the benefit of this concessional rate are – <ol style="list-style-type: none"> <li>(i) the transaction of sale of such equity share or unit should be entered into on or after 1.10.2004; and</li> <li>(ii) such transaction should be chargeable to securities transaction tax.</li> </ol>	15%						
(d)	115BB	Winnings from <ul style="list-style-type: none"> <li>Lotteries;</li> <li>Crossword puzzles;</li> <li>Races including horse races;</li> <li>Card games and other games of any sort;</li> <li>Gambling or betting of any form or nature</li> </ul> (other than winning from any online game)	30%						
(e)	115BBJ	Net winnings from online games	30%						
(f)	115BBE	Unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D.	60%						

## REBATE UNDER SECTION 87A TO RESIDENT INDIVIDUALS

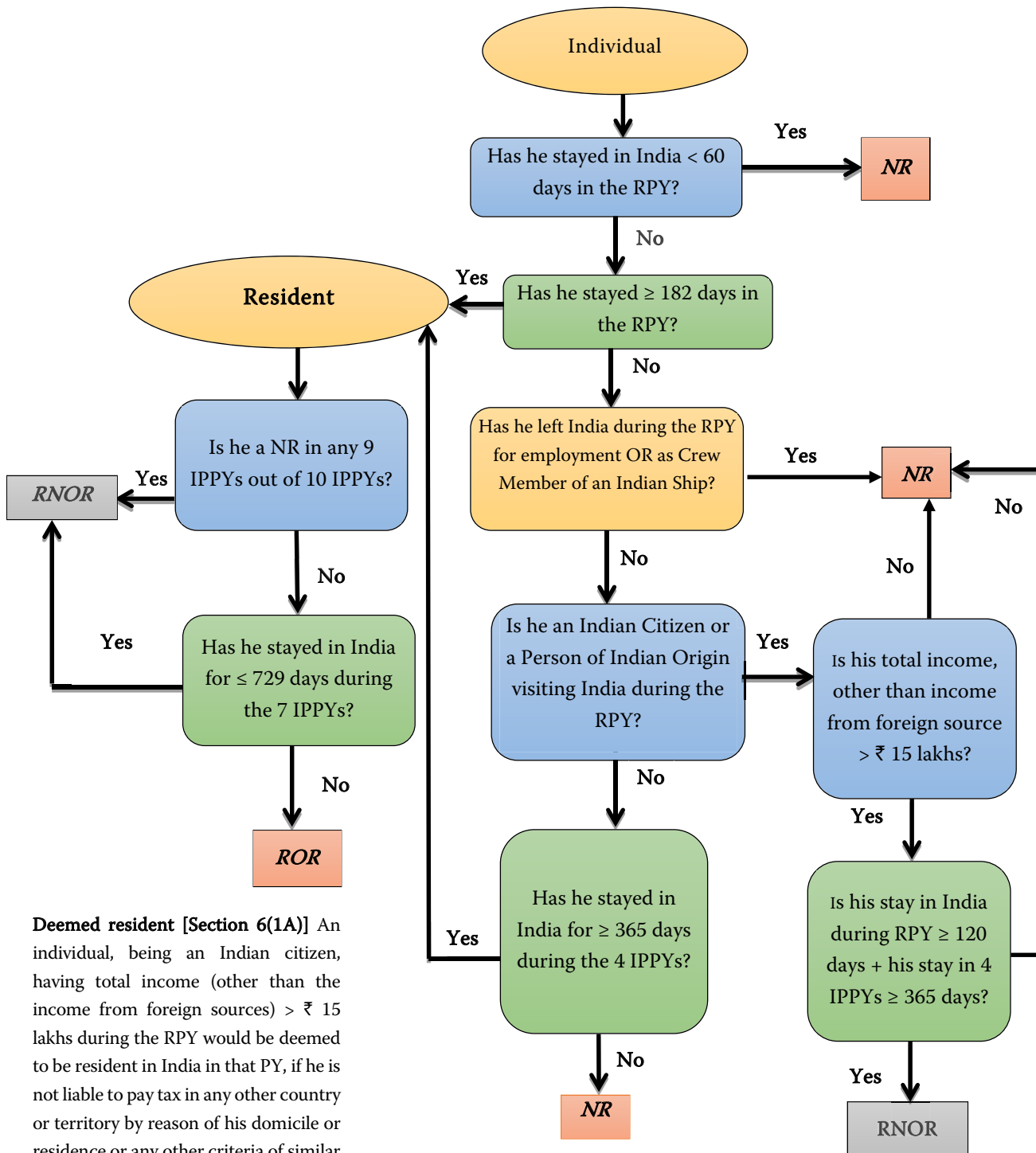


## Notes –

- (1) In case of resident individual paying tax u/s 115BAC and if TI of such individual > ₹ 7,00,000 and income-tax payable on such TI exceeds the amount by which the TI is in excess of ₹ 7,00,000, the rebate would be as follows.
  - Step 1 – TI (-) ₹ 7 lakhs (A)
  - Step 2 - Compute income-tax liability on TI (B)
  - Step 3 - If B > A, rebate under section 87A would be B – A.
- (2) The amount of rebate under section 87A shall not exceed the amount of income-tax (as computed before allowing such rebate) on the TI of the assessee.
- (3) Rebate is allowed from income-tax computed before adding HEC on income-tax.
- (4) Rebate is, however, not available in respect of tax payable @10% on LTCG taxable u/s 112A.

**RESIDENTIAL STATUS AND SCOPE OF TOTAL INCOME**

**RESIDENTIAL STATUS OF AN INDIVIDUAL**



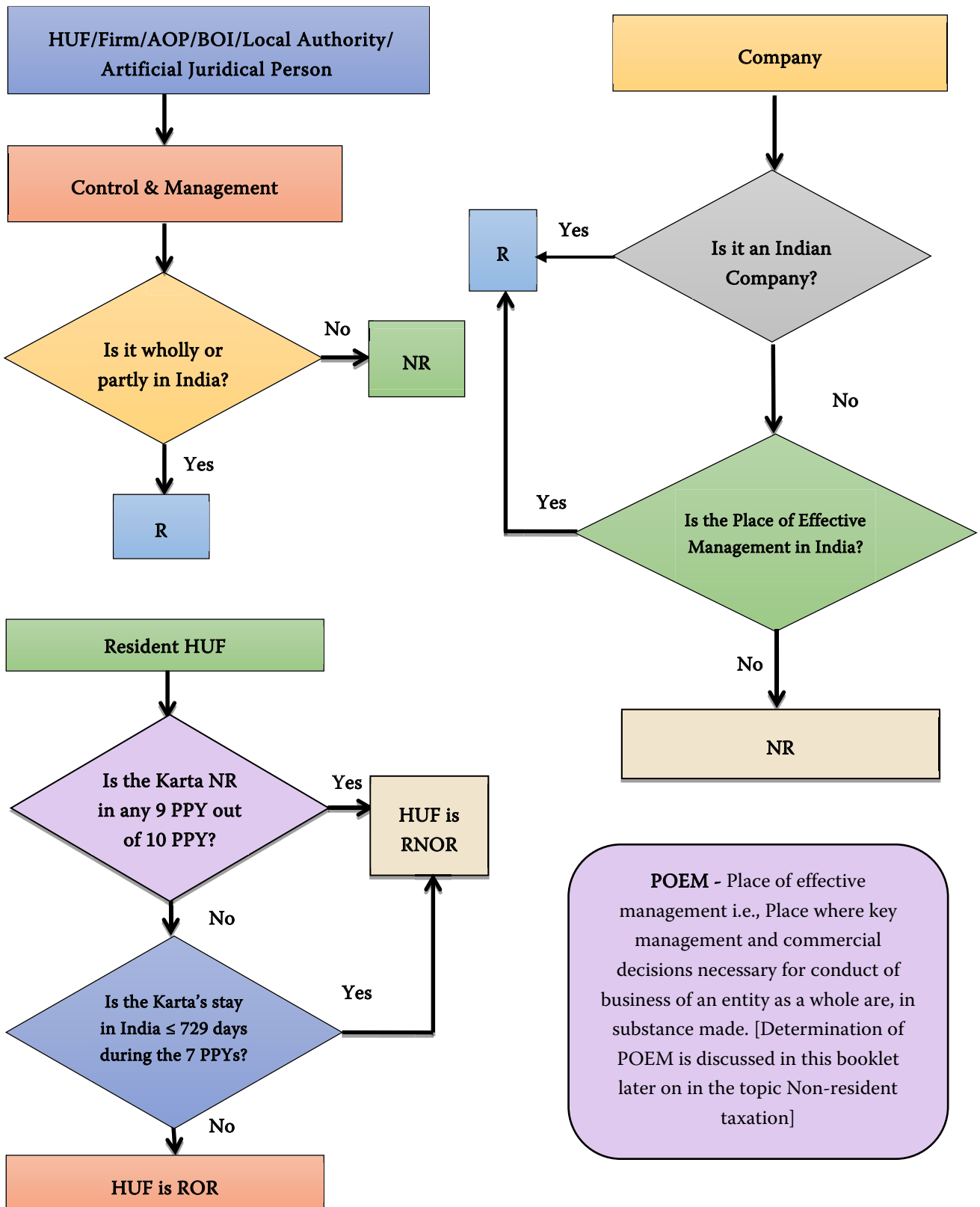
**Deemed resident [Section 6(1A)]** An individual, being an Indian citizen, having total income (other than the income from foreign sources) > ₹ 15 lakhs during the RPY would be deemed to be resident in India in that PY, if he is not liable to pay tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature. A deemed resident u/s 6(1A) would always be a RNOR.

**Note** – If an individual is a resident in India in the PY as per section 6(1), then, the provision of deemed resident u/s 6(1A) would not apply to him.

Abbreviations	
RPY = Relevant Previous Year	NR = Non-resident
ROR = Resident and Ordinarily Resident	
IPPYs = Immediately Preceding Previous Years	
RNOR = Resident but Not Ordinarily Resident	



**DETERMINATION OF RESIDENTIAL STATUS OF HINDU UNDIVIDED FAMILY (HUF)/ FIRM/ ASSOCIATION OF PERSONS (AOP)/ BODY OF INDIVIDUALS (BOI) /LOCAL AUTHORITY/ ARTIFICIAL JURIDICAL PERSON/COMPANY**



**POEM - Place of effective management i.e., Place where key management and commercial decisions necessary for conduct of business of an entity as a whole are, in substance made. [Determination of POEM is discussed in this booklet later on in the topic Non-resident taxation]**

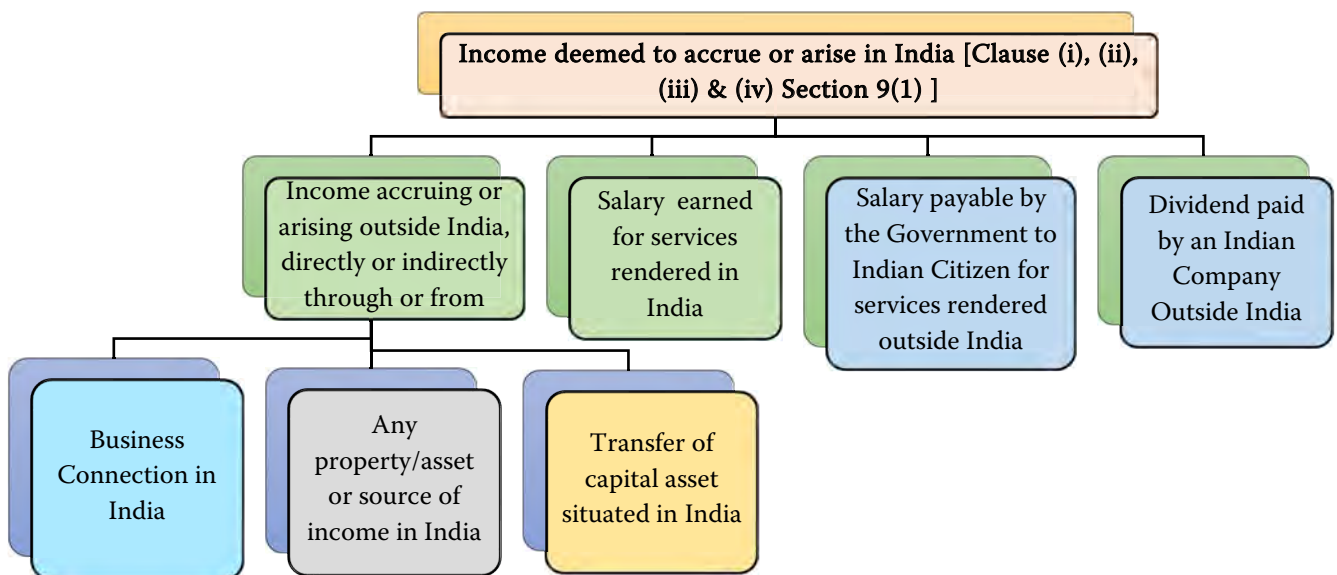
# PPP = Preceding Previous Year

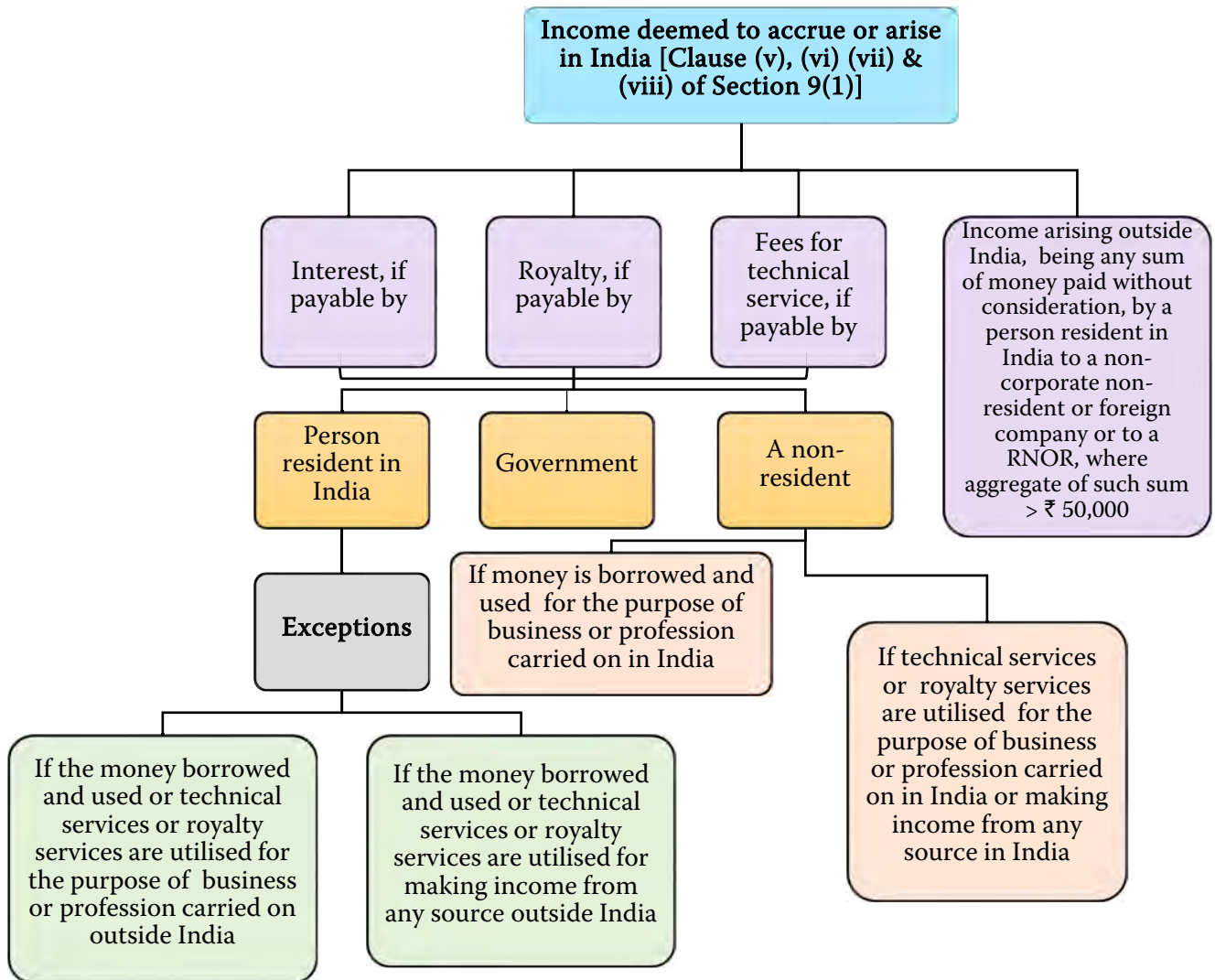
SCOPE OF TOTAL INCOME

Scope of Total Income: Whether the following incomes are to be included in Total Income?

Particulars	ROR	RNOR	NR
Income received or deemed to be received in India during the RPY	Yes	Yes	Yes
Income accruing or arising or deeming to accrue or arise in India during the RPY	Yes	Yes	Yes
Income accruing or arising outside India during the RPY	Yes, even if such income is not received or brought into India during the P.Y.	Yes, but only if such income is derived from a business controlled in or profession set up in India; Otherwise, No.	No

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





## SALARIES

### Income under the head "Salaries"

Chargeability (Section 15)	Meaning (Section 17)	Deduction (Section 16)
- Salary due - Paid or allowed, though not due - Arrears of salary	- Salary - Perquisite - Profits in lieu of salary	- Standard deduction - Entertainment allowance - Professional tax

### BASIS OF CHARGE [SECTION 15]

Salary is chargeable to tax either on 'due' basis or on 'receipt' basis, whichever is earlier.

However, where any salary, paid in advance, is assessed in the year of payment, it cannot be subsequently brought to tax in the year in which it becomes due.

If the salary paid in arrears has already been assessed on due basis, the same cannot be taxed again when it is paid.

### TAXABILITY/ EXEMPTION OF CERTAIN ALLOWANCES

#### HOUSE RENT ALLOWANCE [SECTION 10(13A)]

Least of the following is exempt:

Metro Cities (i.e., Delhi, Kolkata, Mumbai, Chennai)	Other Cities
1) HRA actually received for the relevant period	1) HRA actually received for the relevant period
2) Rent paid (-) 10% of salary for the relevant period	2) Rent paid (-) 10% of salary for the relevant period
3) 50% of salary for the relevant period	3) 40% of salary for the relevant period

#### OTHER ALLOWANCES [SECTION 10(14)]

Children education allowance

• ₹ 100 per month per child upto maximum of two children

Transport allowance for commuting between the place of residence and the place of duty

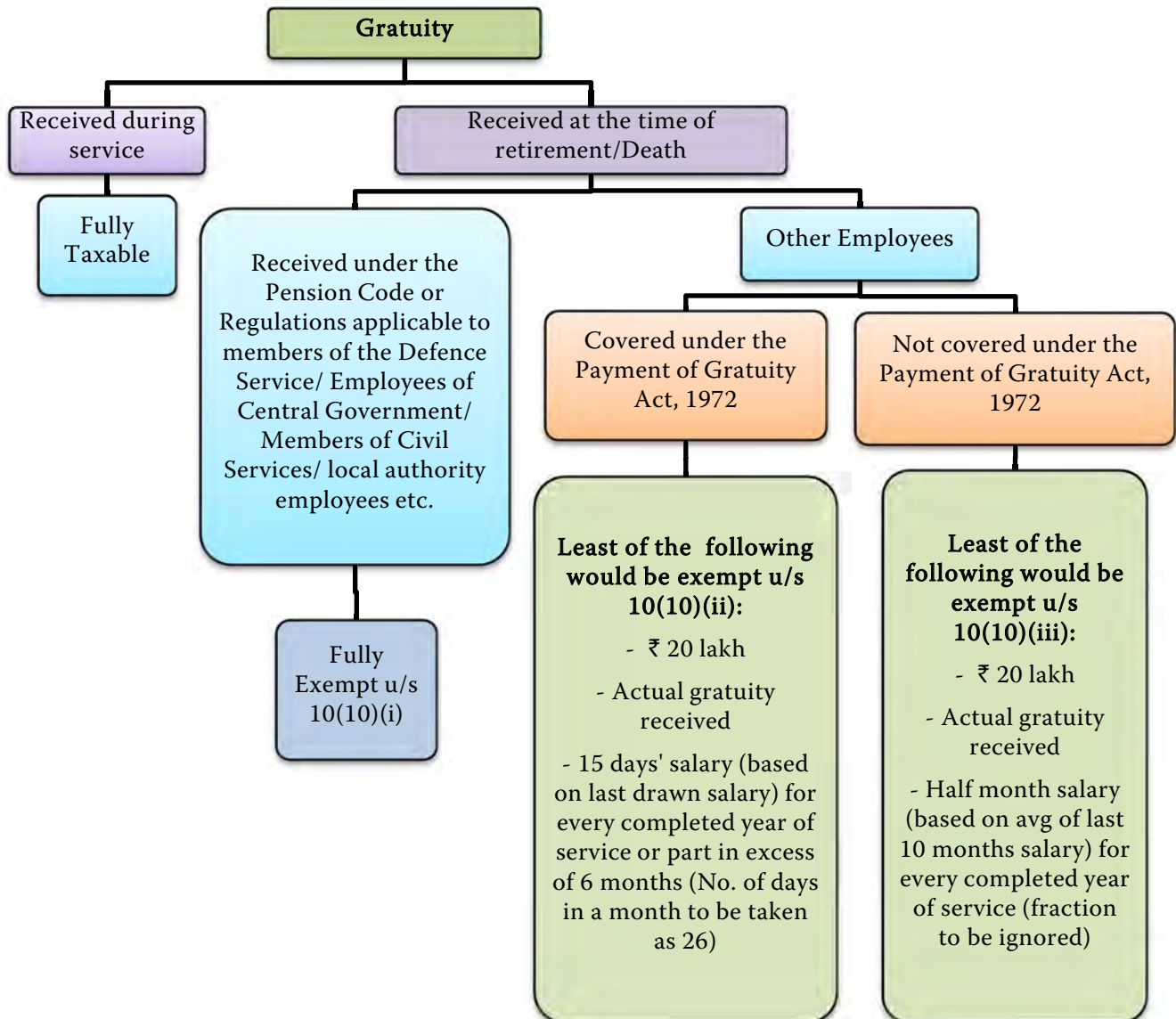
• ₹ 3,200 per month for an employee who is blind or deaf and dumb or orthopedically handicapped

Hostel expenditure of employee's children

• ₹ 300 per month per child up to a maximum of two children

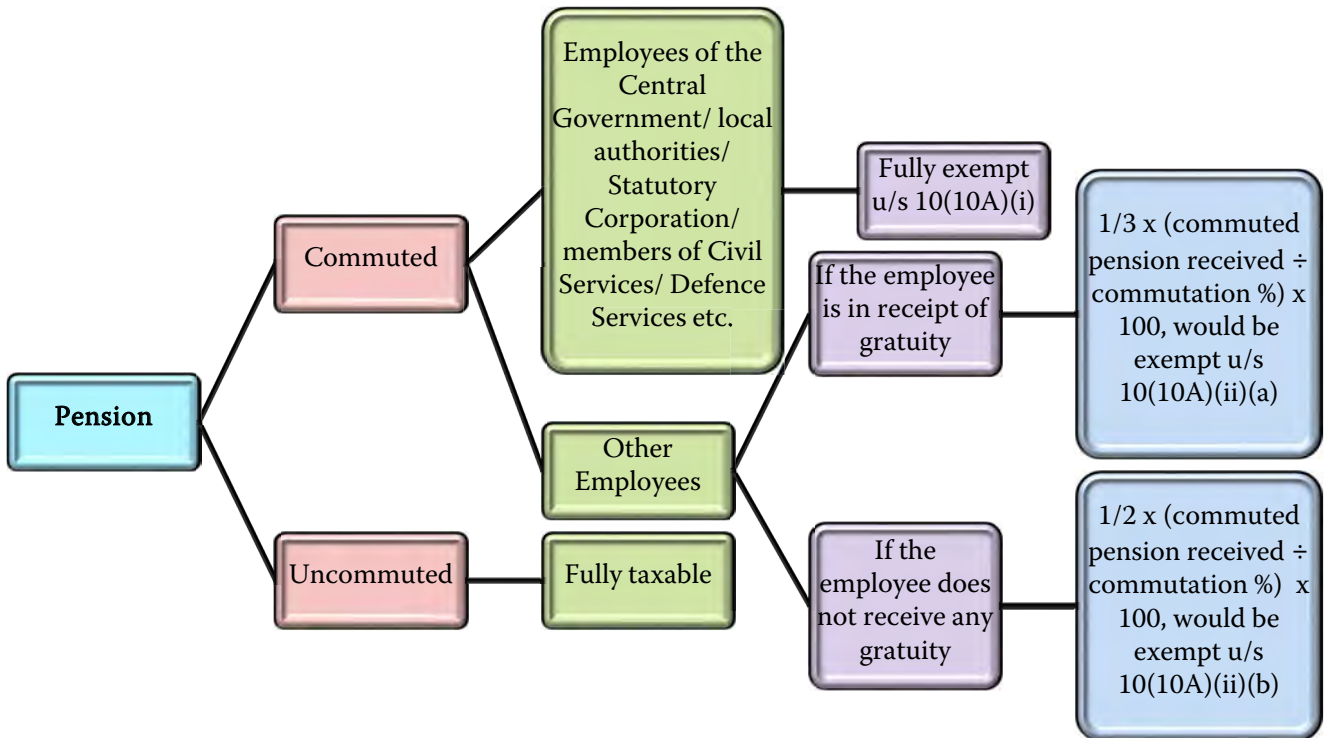
## EXEMPTION IN RESPECT OF TERMINAL BENEFIT

## GRATUITY [SECTION 10(10)]

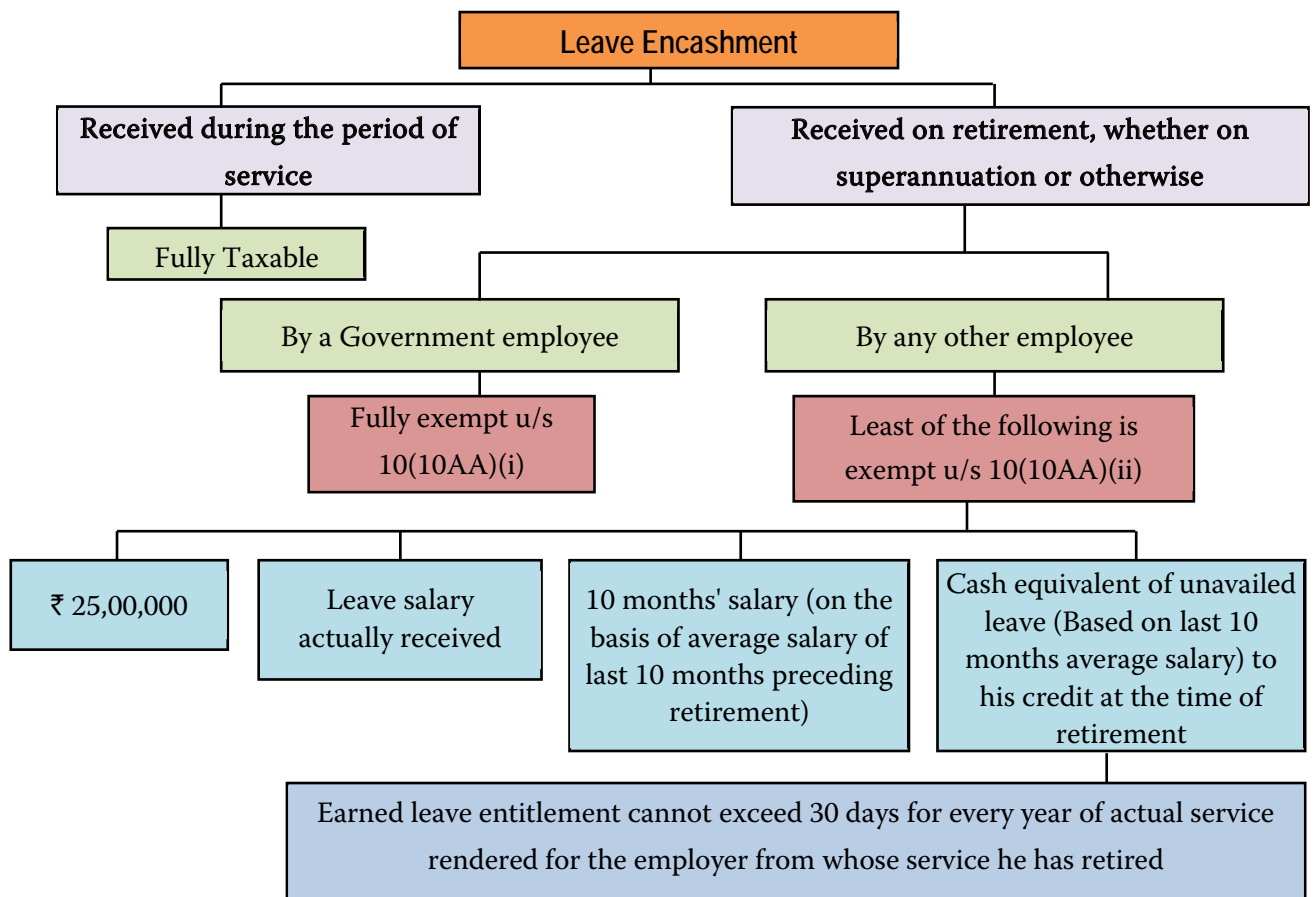




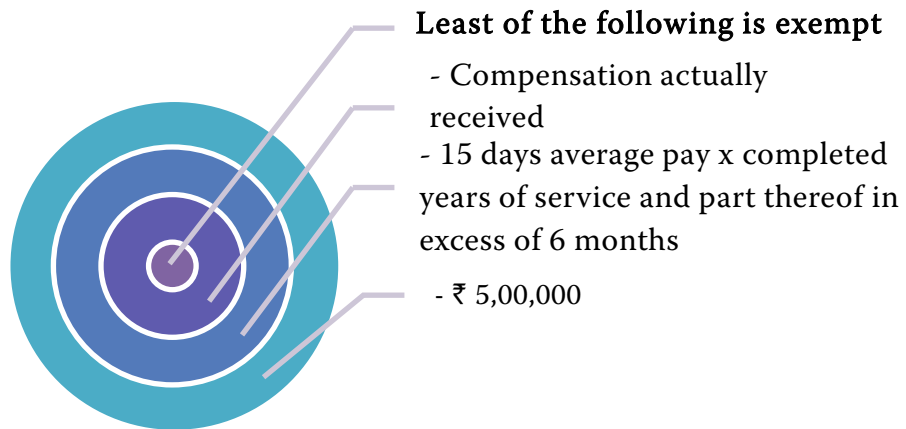
**PENSION [SECTION 10(10A)]**



**LEAVE SALARY [SECTION 10(10AA)]**

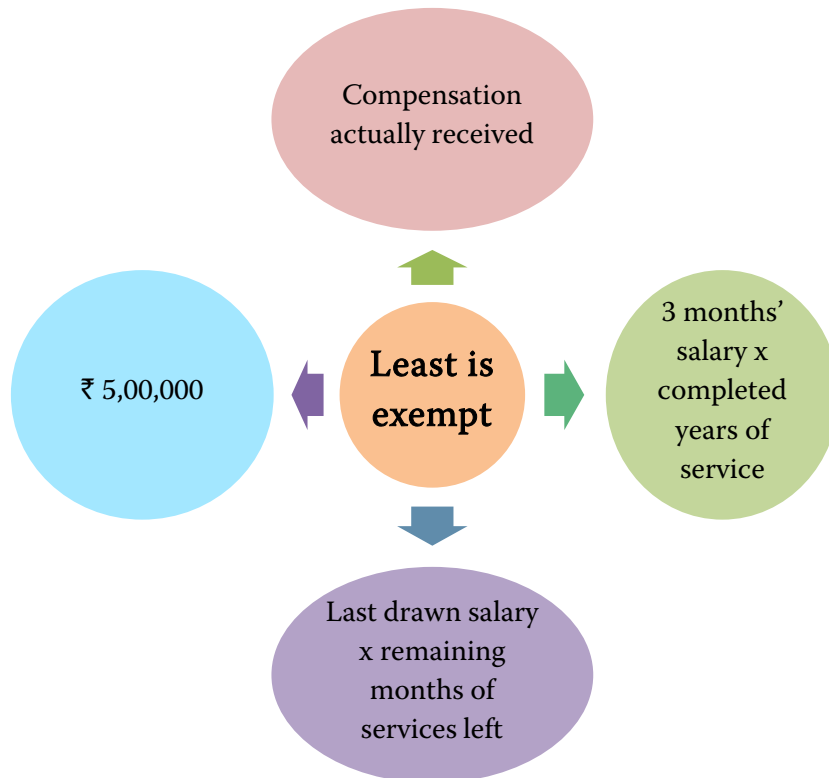


**RETRENCHMENT COMPENSATION [SECTION 10(10B)]**



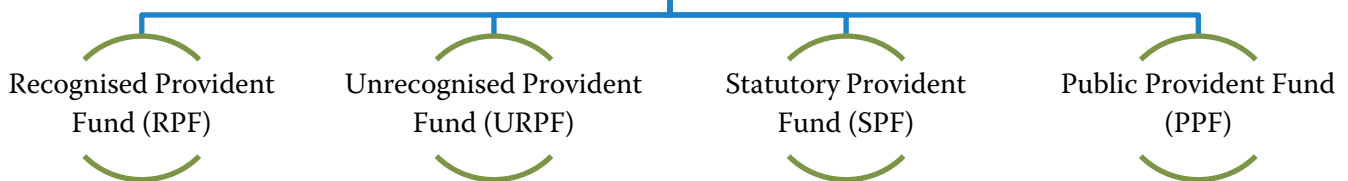
**VOLUNTARY RETIREMENT COMPENSATION [SECTION 10(10C)]**

Exemption is available to employees of Central and State Government, Public sector company, any other company, local authority, co-operative society, IIT etc.



**LEAVE TRAVEL CONCESSION [SECTION 10(10C)]**

S. No.	Journey performed by		Exemption
1	Air		Amount not exceeding air economy fare by the shortest route.
2	Any other mode :		
	(i)	Where rail service is available	Amount not exceeding air-conditioned first-class rail fare by the shortest route to the place of destination
	(ii)	Where rail service is not available	
		a) and public transport does not exist	Amount equivalent to air conditioned first class rail fares by the shortest route, as if the journey had been performed by rail
		b) but public transport exists.	Amount not exceeding the first class or deluxe class fare by the shortest route to the place of destination
Exemption is available for 2 trips in a block of 4 calendar years.			

**PROVIDENT FUNDS - EXEMPTION & TAXABILITY PROVISIONS****Types of Provident Funds**

Particulars	Recognized PF	Unrecognized PF	Statutory PF	Public PF
<b>Employer's Contribution</b>	Contribution in excess of 12% of salary is taxable as "salary" u/s 17(1)	Not taxable at the time of contribution	Fully exempt	N.A. (as there is only assessee's own contribution)
<b>Employee's Contribution</b>	Eligible for deduction u/s 80C	Not eligible for deduction	Eligible for deduction u/s 80C	Eligible for deduction u/s 80C
<b>Interest Credited on Employer's Contribution</b>	Amount in excess of 9.5% p.a. is taxable as "salary" u/s 17(1)	Not taxable at the time of credit of interest	Fully exempt	N.A.
<b>Interest Credited on Employee's Contribution</b>	Amount in excess of 9.5% p.a. is taxable as "salary" u/s 17(1) [See Note below]	Not taxable at the time of credit of interest	Exempt upto certain limit of contribution [See Note below]	Fully exempt

<p><b>Amount withdrawn on retirement/ termination</b></p>	<p>Exempt from tax if</p> <p>(i) employee served a continuous period of 5 years or more; or</p> <p>(ii) retires before rendering 5 years of service because of ill health, contraction or discontinuance of employer's business or reason beyond the control of the employee; or</p> <p>(iii) on cessation of employment, the employee obtains employment with any other employer, to the extent the accumulated balance in RPF is transferred to his RPF account maintained by the new employer.</p> <p>(iv) The entire balance standing to the</p>	<ul style="list-style-type: none"> <li>• Employer's contribution and interest thereon is taxable as salary.</li> <li>• Employee's contribution is not taxable.</li> <li>• Interest on employee's contribution is taxable under income from other source.</li> </ul>	<p>Fully exempt u/s 10(11)</p>	<p>Fully exempt u/s 10(11)</p>
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	credit of the employee is transferred to his NPS account referred to in section 80CCD and notified by the Central Government In other cases, it will be taxable.			
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**Notes:**

- (1) As per section 10(11), any payment from a Provident Fund (PF) to which Provident Fund Act, 1925, applies or from Public Provident Fund would be exempt.
- (2) Accumulated balance due and becoming payable to an employee participating in a Recognized Provident Fund (RPF) would be exempt under section 10(12).
- (3) However, the exemption under section 10(11) or 10(12) would not be available in respect of income by way of interest accrued during the previous year to the extent it relates to the amount or the aggregate of amounts of contribution made by that person/employee exceeding ₹ 2,50,000 in any previous year in that fund, on or after 1<sup>st</sup> April, 2021.
- (4) If the contribution by such person/employee is in a fund in which there is no employer's contribution, then, a higher limit of ₹ 5,00,000 would be applicable for such contribution, and interest accrued in any previous year in that fund, on or after 1<sup>st</sup> April, 2021 would be exempt upto that limit.

**VALUATION OF PERQUISITES [SECTION 17(2) READ WITH RULE 3]****RENT-FREE RESIDENTIAL ACCOMMODATION/ ACCOMMODATION PROVIDED TO AN EMPLOYEE AT CONCESSIONAL RATE**

S. No. (A)	Category of employee (B)	Unfurnished accommodation (C)	Furnished accommodation (D)
1.	Government employee	License fee determined as per Government rules as reduced by the rent actually paid by the employee.	Value determined under column (C) <b>Add:</b> 10% p.a. of the cost of furniture However, if the furniture is hired, then hire charges payable/paid

			should be added to the value determined under column (C), <b>as reduced by</b> charges recovered from employee.								
2.	Non-government employee	<p><b>Where accommodation is owned by employer</b></p> <table border="1"> <thead> <tr> <th>Location</th> <th>Perquisite value</th> </tr> </thead> <tbody> <tr> <td>In cities having a population &gt; 40 lakhs as per 2011 census</td> <td>10% of salary</td> </tr> <tr> <td>In cities having a population &gt; 15 lakhs ≤ 40 lakhs as per 2011 census</td> <td>7.5% of salary</td> </tr> <tr> <td>In other areas</td> <td>5% of salary</td> </tr> </tbody> </table> <p>The perquisite value should be arrived at by reducing the rent, if any, actually paid by the employee, from the above value.</p>	Location	Perquisite value	In cities having a population > 40 lakhs as per 2011 census	10% of salary	In cities having a population > 15 lakhs ≤ 40 lakhs as per 2011 census	7.5% of salary	In other areas	5% of salary	<p>Value determined under column (C)</p> <p><b>Add:</b> 10% p.a. of the cost of furniture</p> <p>However, if the furniture is hired, then hire charges payable/paid should be added to the value determined under column (C), <b>as reduced by</b> charges recovered from employee.</p>
		Location	Perquisite value								
In cities having a population > 40 lakhs as per 2011 census	10% of salary										
In cities having a population > 15 lakhs ≤ 40 lakhs as per 2011 census	7.5% of salary										
In other areas	5% of salary										
<p><b>Where the accommodation is taken on lease or rent by employer</b></p> <p>Lower of the following is taxable:</p> <p>(a) actual amount of lease rent paid or payable by employer or</p> <p>(b) 10% of salary</p> <p>The lower of the above should be reduced by the rent, actually paid by the employee, to arrive at the perquisite value.</p>	<p>Value determined under column (C)</p> <p><b>Add:</b> 10% p.a. of the cost of furniture</p> <p>However, if the furniture is hired, then hire charges payable/paid should be added to the value determined under column (C), <b>as reduced by</b> charges recovered from employee.</p>										

## MOTOR CAR

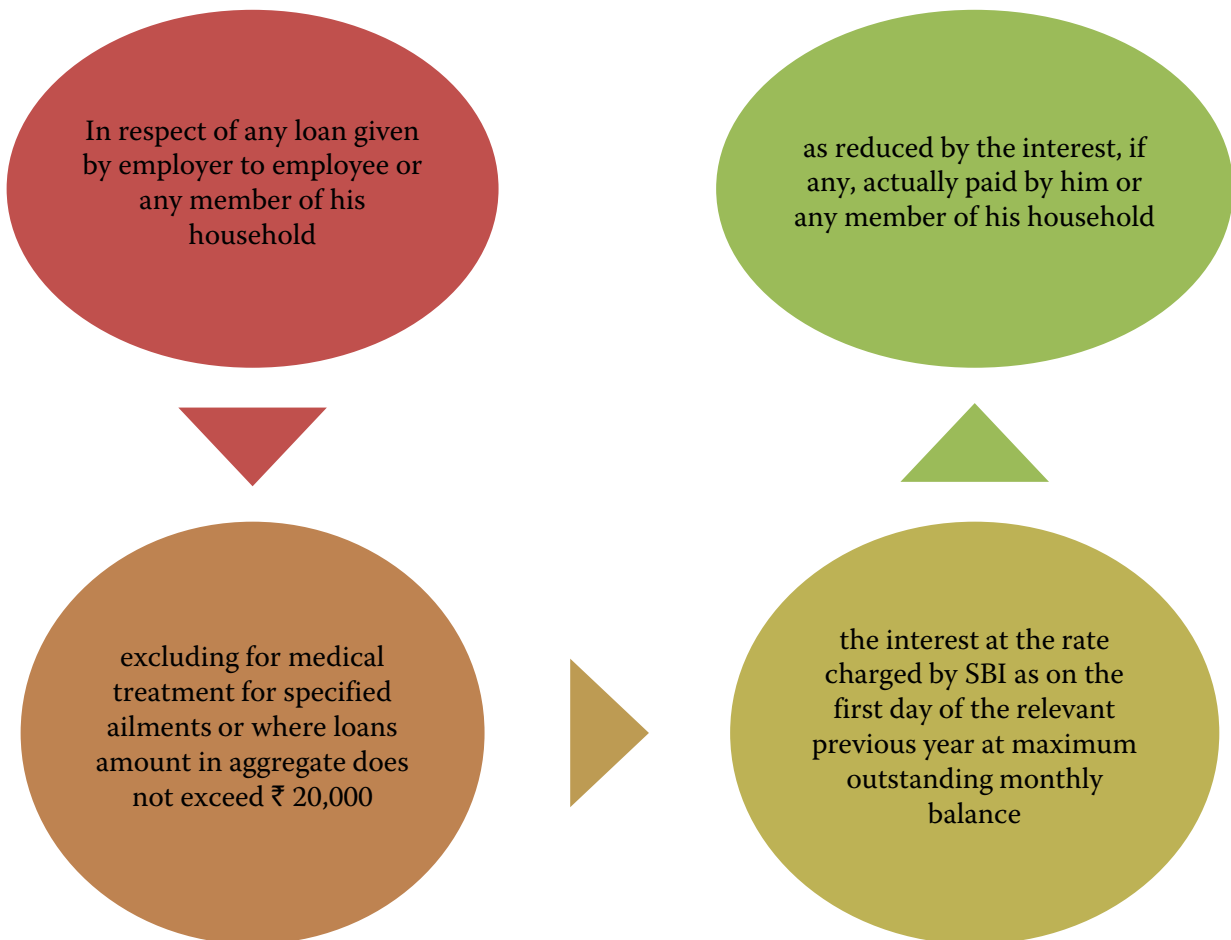
S. No.	Car owned/hired by	Expenses met by	Wholly official use	Partly personal use (c)	
				cc of engine	Perquisite value
1	Employer	Employer	Not a perquisite*	upto 1.6 litres	₹ 1,800 p.m.
				above 1.6 litres	₹ 2,400 p.m.
				If chauffeur is also provided, ₹ 900 p.m. should be added to the above value.	

2	Employee	Employer	Not a perquisite*	Actual amount of expenditure incurred by the employer as reduced by the perquisite value arrived at in (1) above.	
3	Employer	Employee	-	cc of engine	Perquisite value
				upto 1.6 litres	₹ 600 p.m.
				above 1.6 litres	₹ 900 p.m.
				If chauffeur is also provided, ₹ 900 p.m. should be added to the above value.	

\* Provided employer maintains the complete details of such journey and expenditure thereon and gives a certificate that such expenditure are incurred wholly for official use.

*Note: Where car is owned by employer and expenses are also met by the employer, the taxable perquisites in case such car is used wholly for personal purposes of the employee would be equal to the actual expenditure incurred by the employer on running and maintenance expenses and normal wear and tear (calculated @10% p.a. of actual cost of motor car) less amount charged from the employee for such use.*

**INTEREST FREE OR CONCESSIONAL LOAN**





**USE OF MOVABLE ASSETS BY EMPLOYEE/ ANY MEMBER OF HIS HOUSEHOLD**

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

**TRANSFER OF MOVABLE ASSETS**


Actual cost of asset to employer (-) cost of normal wear and tear (-) amount paid or recovered from employee	
Assets transferred	Value of perquisite
Computers and electronic items	@50% on WDV for each completed year of usage
Motor cars	@20% on WDV for each completed year of usage
Any other asset	@10% of actual cost of such asset to employer for each completed year of usage [on SLM basis]

**MEANING OF SALARY**


S. No.	Calculation of exemption of Allowance/Terminal benefit/Valuation of perquisite	Meaning of salary
1	Gratuity (in case of non-Government employees covered by the Payment of Gratuity Act, 1972)	Basic salary and dearness allowance.
2	a) Gratuity (in case of non- Government employee not covered by Payment of Gratuity Act, 1972) b) Leave Salary c) House Rent Allowance d) Recognized Provident Fund e) Voluntary Retirement Compensation	Basic salary and dearness allowance, if provided in terms of employment, and commission calculated as a fixed percentage of turnover.
3	Rent free accommodation and Accommodation provided to an employee at a concessional rate	All pay, allowance, bonus or commission or any monetary payment by whatever name called but excludes –

		<ol style="list-style-type: none"> <li>(1) Dearness allowance not forming part of computation of superannuation or retirement benefit</li> <li>(2) employer’s contribution to the provident fund account of the employee</li> <li>(3) allowances which are exempted from the payment of tax</li> <li>(4) value of the perquisites specified in section 17(2)</li> <li>(5) any payment or expenditure specifically excluded under the proviso to section 17(2) i.e., payment of medical insurance premium specified therein</li> <li>(6) lump-sum payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, leave encashment, voluntary retirement benefits, commutation of pension and similar payments</li> </ol>
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**DEDUCTIONS FROM GROSS SALARY [SECTION 16]**




**Standard deduction upto**  
₹ 50,000



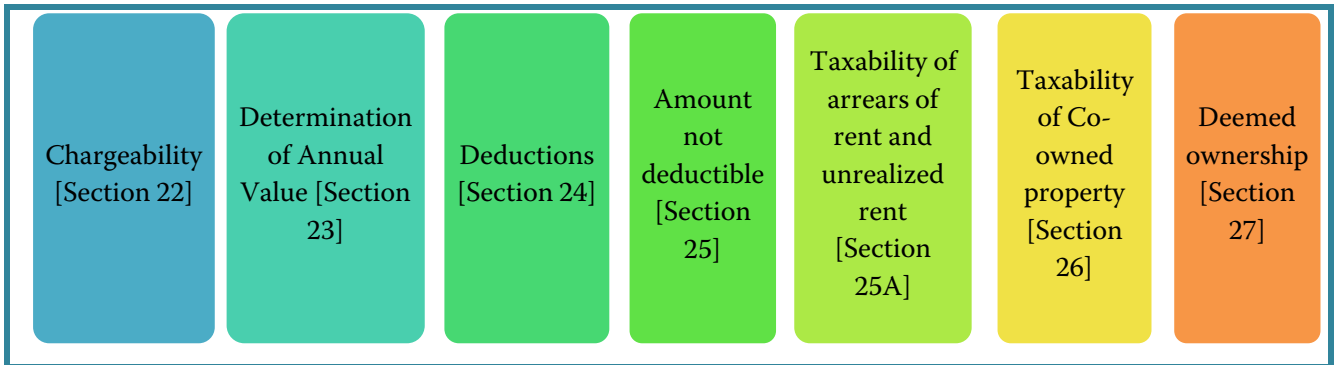
**Entertainment allowance**  
Least of the following is allowed as deduction  
- ₹ 5,000  
- 1/5<sup>th</sup> of basic salary  
- Actual entertainment allowance received



**Professional tax**  
Any sum paid by the assessee on account of tax on employment is allowable as deduction.  
  
In case professional tax is paid by employer on behalf of employee, the amount paid shall be included in gross salary as a perquisite and then deduction can be claimed.



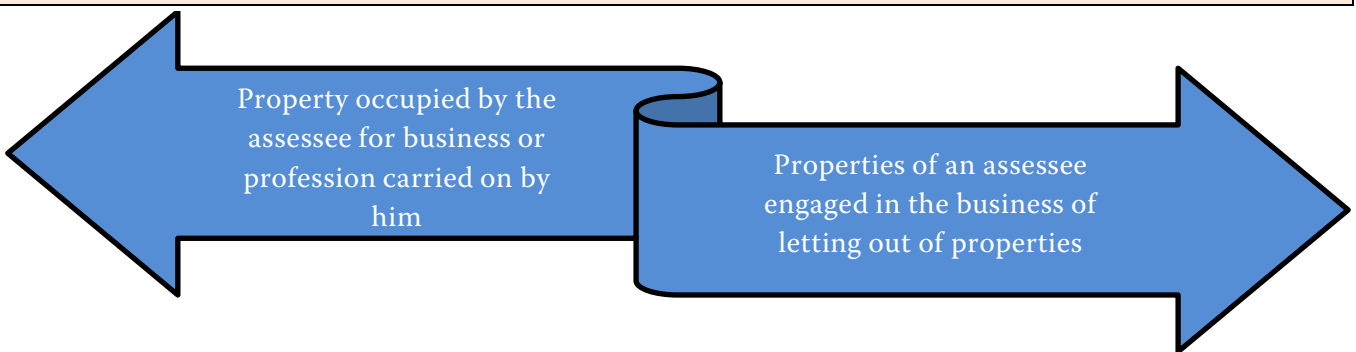
## INCOME FROM HOUSE PROPERTY



### BASIS OF CHARGE [SECTION 22]

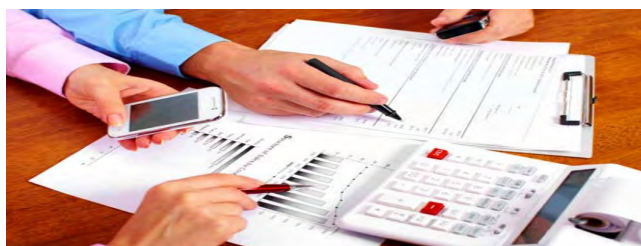
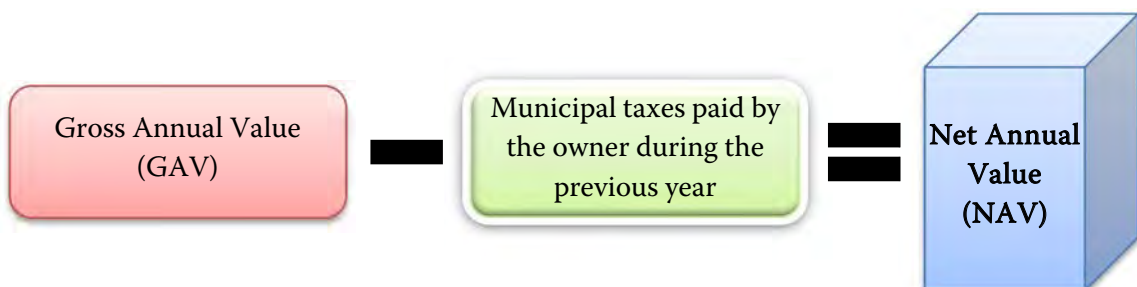
The annual value of any property comprising of buildings or lands appurtenant thereto, of which the assessee is the owner, is chargeable to tax under the head “Income from house property”.

**Exceptions:** Annual value of the following properties are chargeable under the head “Profits and gains of business or profession”-

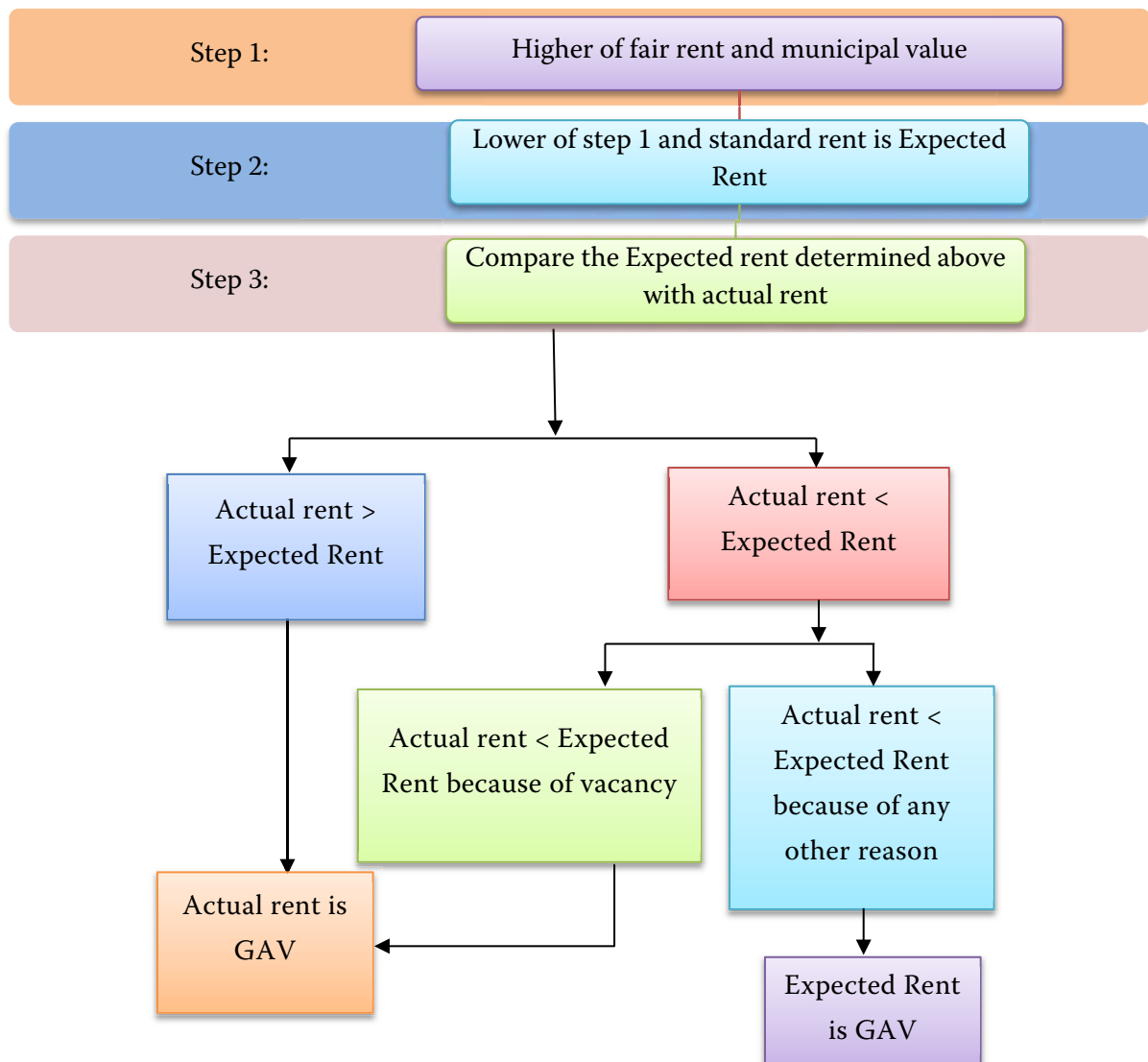


### DETERMINATION OF ANNUAL VALUE [SECTION 23]

**Annual Value of the let-out property [Section 23(1)]**



## Determination of GAV of let out property



**Note** - The Actual rent received/receivable should not include any amount of rent which is not capable of being realized i.e., unrealized rent while determining gross annual value in case let-out property, provided the conditions specified in Rule 4 are satisfied.

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



### ANNUAL VALUE OF ONE SELF-OCCUPIED PROPERTY [SECTION 23(2)/(3)]/ ANNUAL VALUE OF DEEMED TO BE LET OUT PROPERTY [SECTION 23(4)]

Where the property is self-occupied for own residence or unoccupied throughout the PY owing to his employment, business or profession carried on at any other place

its Annual Value will be Nil, provided no other benefit is derived by the owner from such property.

An assessee can claim benefit of "Nil" annual value in respect of one or two residential house properties self occupied by him.

If more than two properties are so self-occupied/unoccupied, the assessee may claim benefit of Nil Annual Value in respect of any two properties at his option.

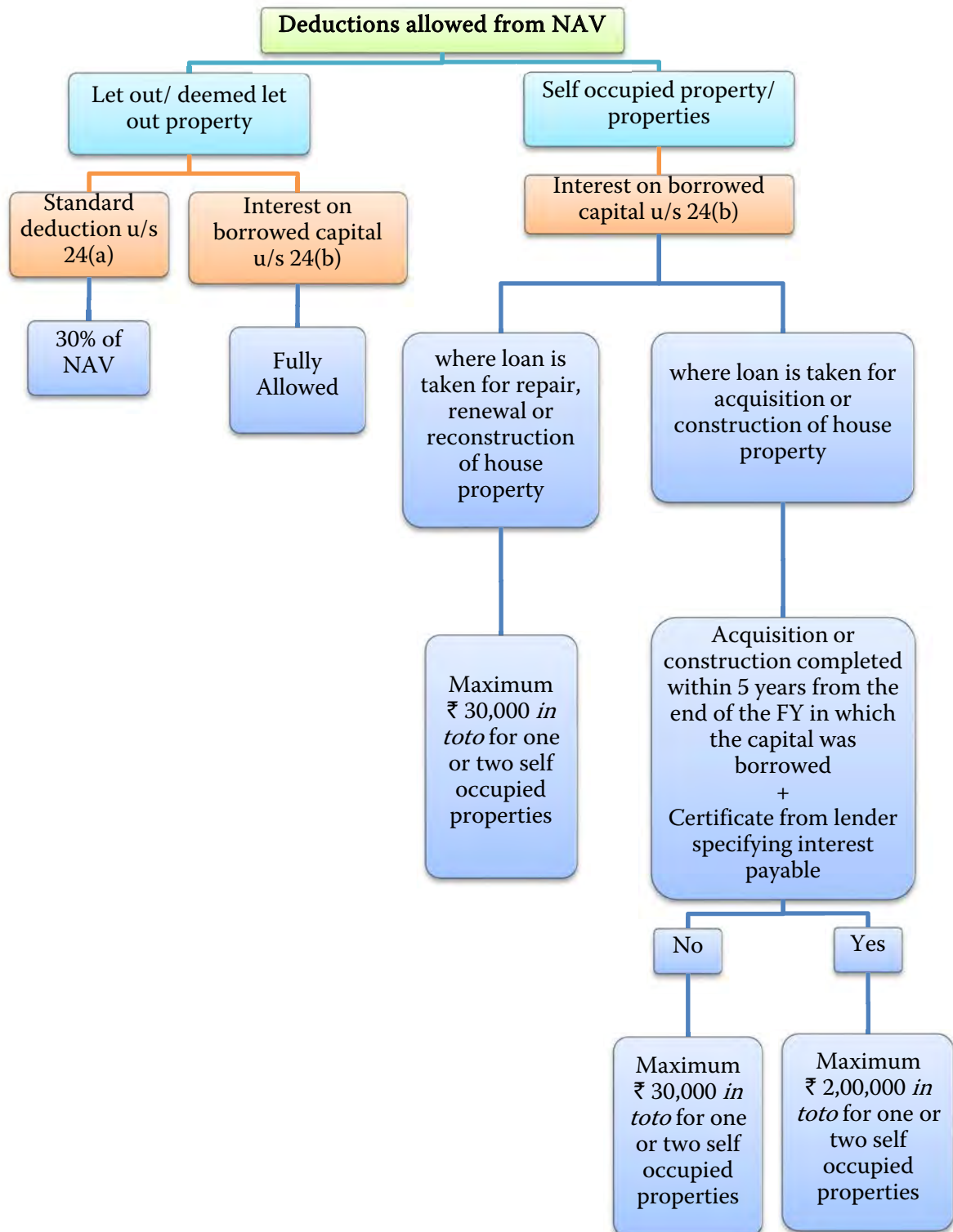
The other property(s) would be deemed to be let out, in respect of which Expected Rent would be the GAV

### ANNUAL VALUE WHERE THE PROPERTY HELD AS STOCK-IN-TRADE ETC. [SECTION 23(5)]

Where property consisting of any buildings or lands appurtenant thereto is held as stock-in-trade and the whole or any part of the property is not let out during the whole or any part of the PY, the annual value of property or part of the property for the period upto 2 years from the end of the F.Y in which certificate of completion of construction of the property is obtained from the competent authority shall be taken as "Nil".



## DEDUCTIONS FROM NET ANNUAL VALUE [SECTION 24]



**Notes:** (1) Pre-construction interest allowable as deduction in 5 equal installments from the P.Y. of completion of construction.

(2) If a portion of property is let out and a portion self-occupied, then, income will be computed separately for let out and self-occupied portion.



**INADMISSIBLE DEDUCTION [SECTION 25]**

Interest chargeable under this Act which is payable outside India shall not be deducted if

tax has not been paid or deducted from such interest

and

there is no person in India who may be treated as an agent

**TAXABILITY OF RECOVERY OF UNREALISED RENT & ARREARS OF RENT RECEIVED [SECTION 25A]**

Arrears of Rent / Unrealised Rent	
(i)	Taxable in the year of receipt/realisation
(ii)	Deduction@30% of rent received/realised
(iii)	Taxable even if assessee is not the owner of the property in the financial year of receipt/realisation.

**CO-OWNED PROPERTY [SECTION 26]**

Self-occupied property	Let-out property
The annual value of the property of each co-owner will be Nil and each co-owner shall be entitled to a deduction of ₹ 30,000 / ₹ 2,00,000, as the case may be, on account of interest on borrowed capital.	The income from such property shall be computed as if the property is owned by one owner and thereafter the income so computed shall be apportioned amongst each co-owner as per their specific share.

**DEEMED OWNERSHIP [SECTION 27]**

The following persons, though not legal owners of a property, are deemed to be the owners:

- Transferor of the property, where the property is transferred to the spouse (not in connection with an agreement to live apart) or to minor child except minor married daughter, without adequate consideration
- Holder of an impartible estate is deemed to be the individual owner of all the properties comprised in the estate.
- Member of a co-operative society, company or other association of persons is deemed to be the owner of the building or part thereof allotted or leased to him under a house building scheme.
- Person in possession of a property in part performance of a contract u/s 53A of the Transfer of Property Act, 1882.
- Person having lease right in a property for a period not less than 12 years.



## PROFITS AND GAINS OF BUSINESS OR PROFESSION

Income Chargeable under the head “Profits and Gains from Business or Profession”

- Profits and gains of any business or profession
- Any compensation or other payment due to or received by a person, at or in connection with termination or the modification of the terms and conditions, of any contract relating to his business
- Income derived by a trade, professional or similar association from specific services performed for its members
- In the case of an assessee carrying on export business, the following incentives –
  - Profit on sale of import entitlements
  - Cash assistance against exports under any scheme of GoI
  - Customs duty or excise duty re-paid or repayable as drawback
  - Profit on transfer of Duty Entitlement Pass Book Scheme or Duty Free Replenishment Certificate
- The value of any benefit or perquisite arising from business or the exercise of profession, whether
  - convertible into money or not or
  - in cash or in kind or partly in cash and partly in kind
- Any interest, salary, bonus, commission or remuneration due to, or received by, a partner of a firm from such firm (to the extent allowed as deduction in the hands of the firm)  
However, the partner’s share in the Total Income of the firm or LLP is exempt from tax [Section 10(2A)]
- Any sum, received or receivable, in cash or kind under an agreement for –
  - not carrying out any activity in relation to any business or profession or
  - not sharing any know-how, patent, copyright, trademark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision of services
- Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy
- Fair Market Value (FMV) of inventory as on date on which it is converted into or treated as a capital asset
- Any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, in respect of which the whole of the expenditure had been allowed as deduction u/s 35AD

**SPECULATIVE TRANSACTION**

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.

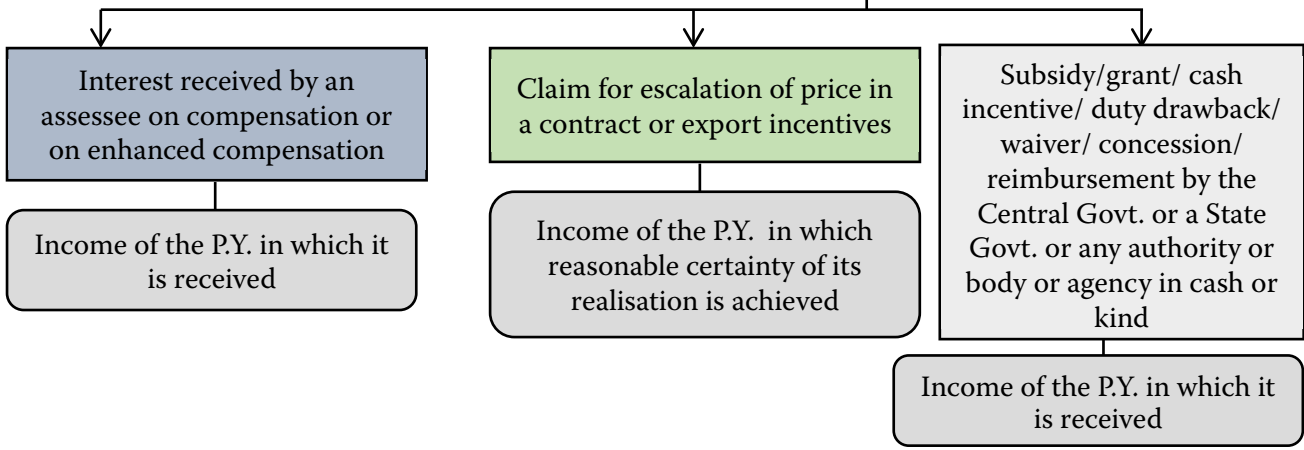
Transactions not deemed to be speculative transactions

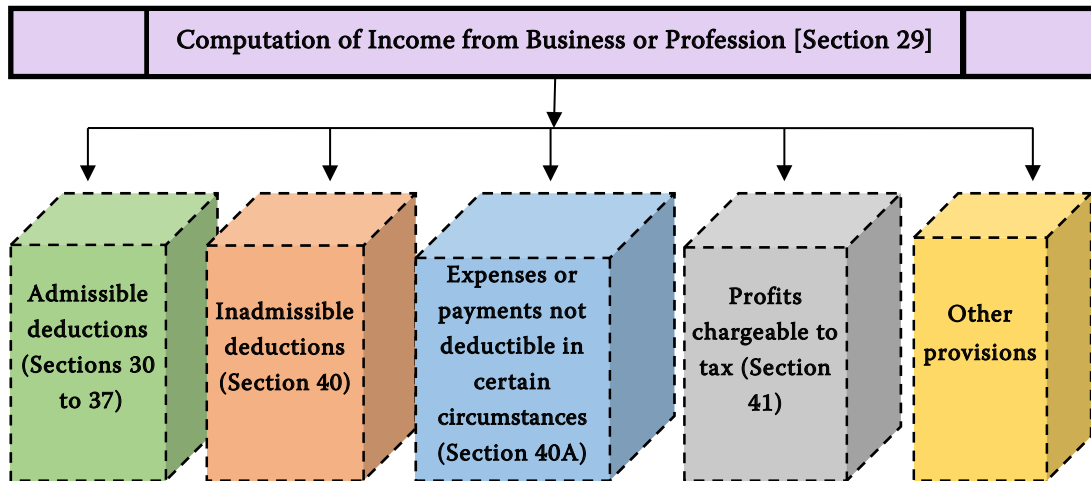
- Hedging contract in respect of raw material or merchandise
- Hedging contract in respect of stocks and shares
- Forward contracts
- Trading in derivatives in a recognized stock exchange
- Trading in commodity derivatives in a recognized stock exchange and chargeable to commodity transaction tax (CTT). Condition of CTT is not applicable in case of trading in agricultural commodity derivatives.

**Method of Accounting [Section 145]**

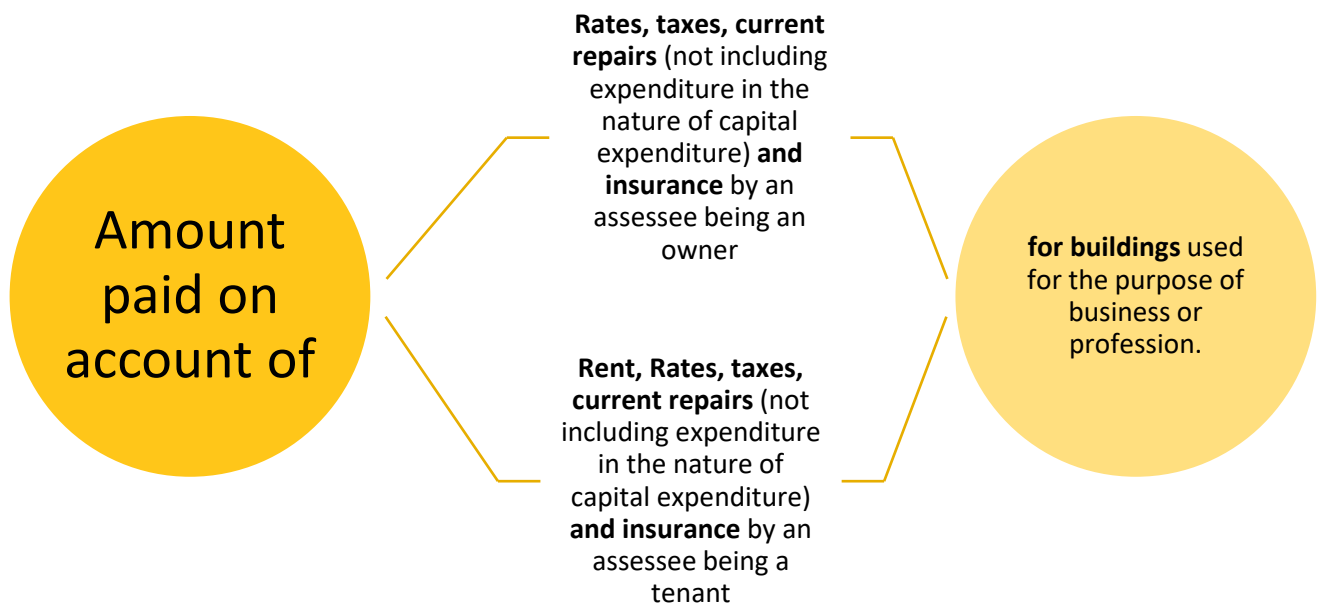
Income chargeable under this head shall be computed in accordance with the method of accounting, either cash or mercantile basis, regularly and consistently employed by the assessee.

**Exceptions u/s 145B**

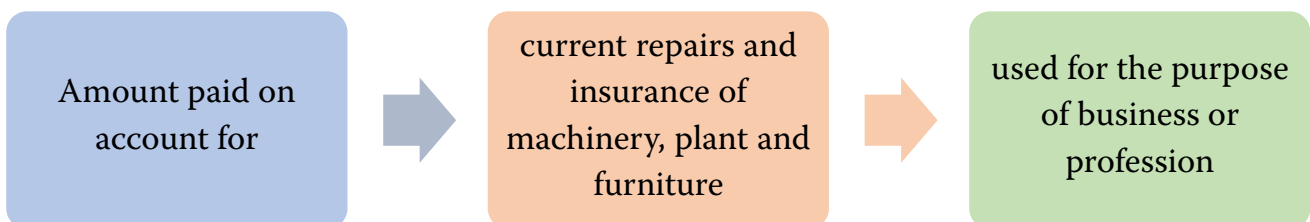




**RENT, RATES, TAXES, REPAIRS AND INSURANCE FOR BUILDING USED FOR THE PURPOSE OF BUSINESS OR PROFESSION [SECTION 30]**



**REPAIRS AND INSURANCE OF MACHINERY, PLANT AND FURNITURE [SECTION 31]**



Premises/building or machinery, plant and furniture used partly for business and partly for other purposes



only a proportionate part of the expenses attributable to that part of the premises or machinery, plant and furniture used for purposes of business will be allowed as a deduction [Section 38(1)/(2)]

### DEPRECIATION [SECTION 32]

Depreciation is mandatorily allowable as deduction

Asset must be used for the purpose of business or profession at any time during the P.Y.

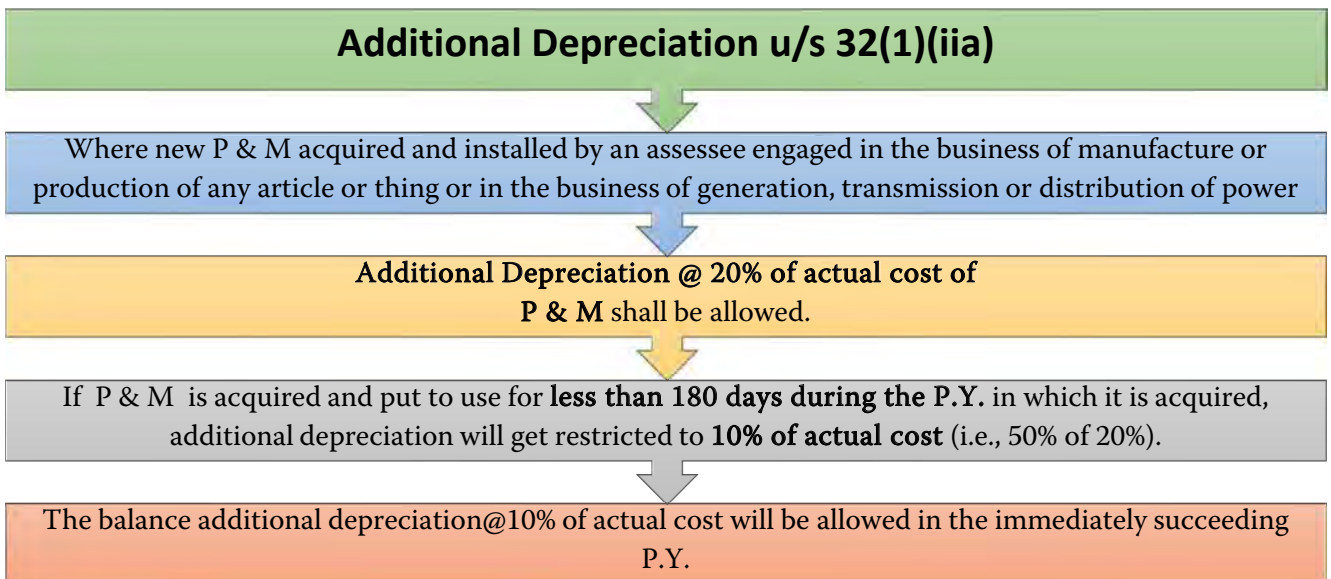
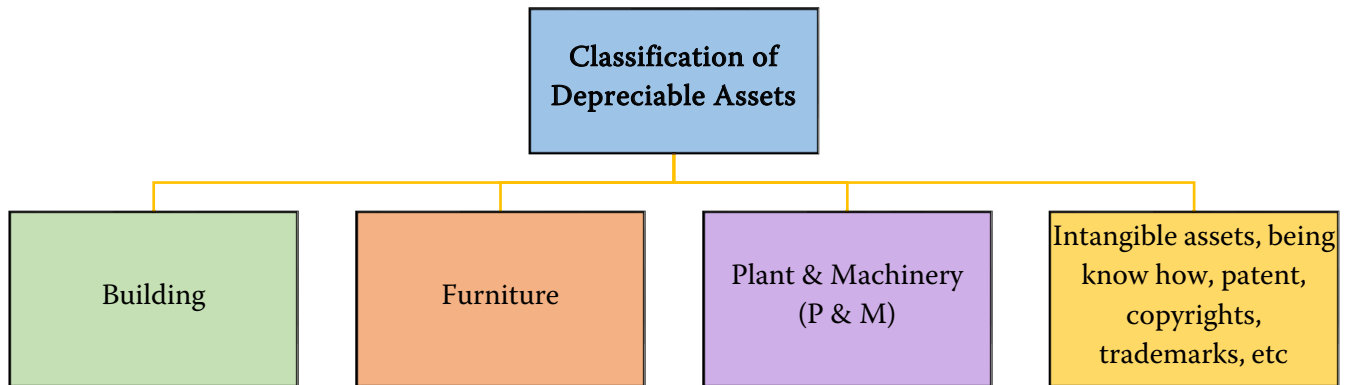
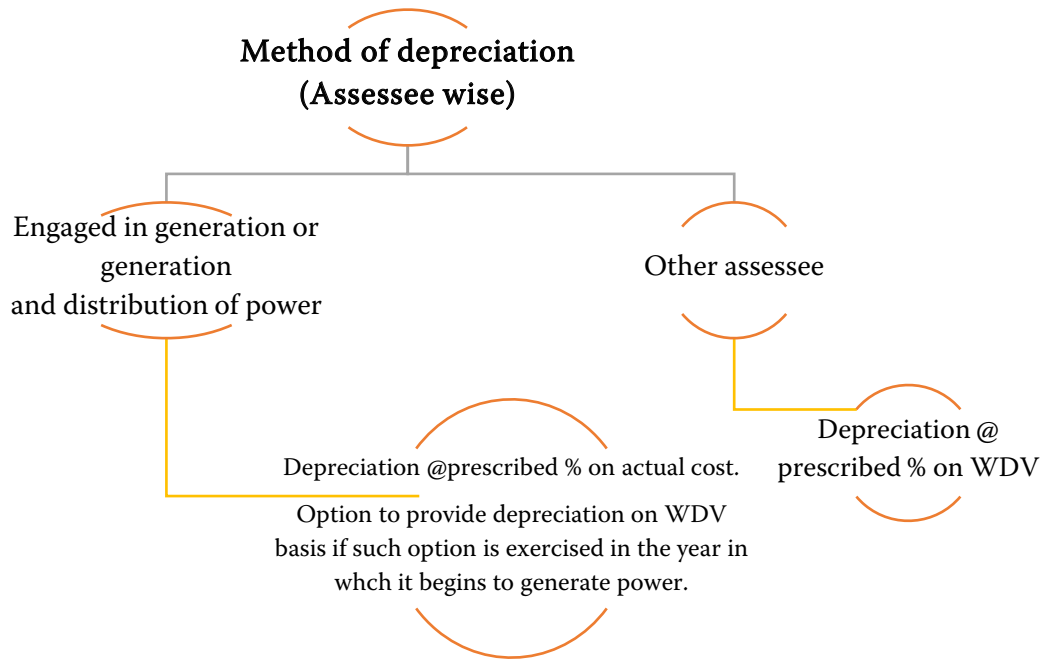
The asset should be owned (wholly or partly) by the assessee.

**Note:** If the asset is acquired during the P.Y. and is put to use for less than 180 days during that P.Y. then, only 50% of the depreciation calculated at the rates prescribed will be allowed.

Capital expenditure incurred by the lessee/tenant on the building

would be treated as deemed building owned by the lessee/tenant

and depreciation would be allowed to the lessee/tenant on that capital expenditure



Additional depreciation will not be allowed on the following plant or machinery:

Ships, aircraft, road transport vehicles, office appliances;

Machinery previously used within or outside India by any other person;

Machinery installed in any office premises, residential accommodation, or guest house;

Machinery in respect of which, the whole of the actual cost is fully allowed as deduction (whether by way of depreciation or otherwise) of any one previous year.

Assessee engaged in the business of printing and publishing, eligible for additional depreciation

Additional depreciation is not allowed to power generation undertakings claiming depreciation as a % of actual cost.

### WRITTEN DOWN VALUE OF ASSETS (WDV) [SECTION 43(6)]

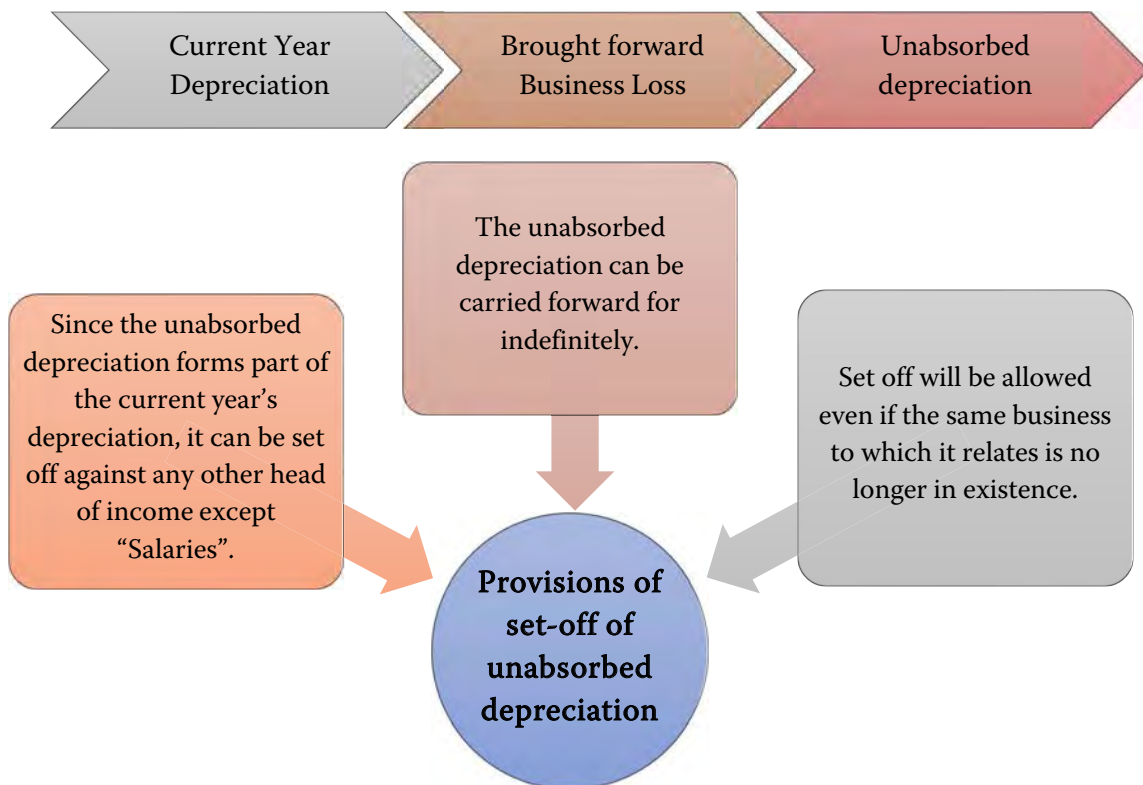
(1)	W.D.V. of the block of assets in immediately preceding previous year	xxx
(2)	Less: Depreciation actually allowed in respect of that block of assets in said preceding previous year	xxx
Opening balance as on 1 <sup>st</sup> April of the current P.Y.		xxx
<b>Add:</b>		
(3)	Actual cost of assets acquired during the P.Y., not being on a/c of acquisition of goodwill of a business or profession	xxx
(4)	Total (1) - (2) + (3)	xxx
<b>Less:</b>		
(5)	Money receivable in respect of any asset falling within the block which is sold, discarded, demolished or destroyed during that P.Y. together with scrap value.	xxx
(6)	In case of slump sale, actual cost of the asset (-) amount of depreciation that would have been allowable to the assessee	xxx

(7)	W.D.V at the end of the year (on which depreciation is allowable) [(4) – (5) – (6)]	xxx
(8)	Depreciation at the prescribed rate (Rate of Depreciation × WDV arrived at in (7) above)	xxx

**Additional points**

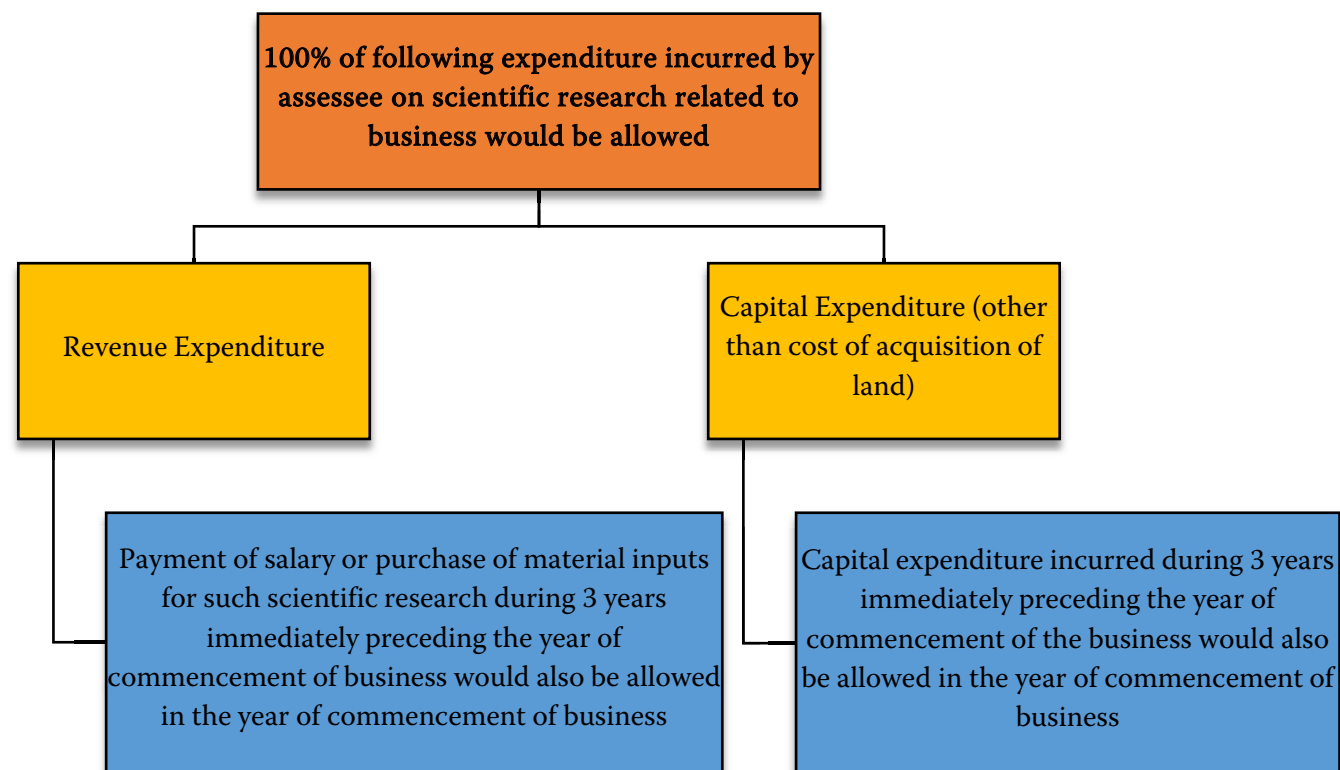
- If the assets are used partly for business and partly for other purposes, only a proportionate part of the depreciation will be allowed as a deduction.
- If the asset is acquired during the P.Y. and is not put to use in the same year, no depreciation would be allowed in that year but asset would be added to the block of asset.
- In case of lease, depreciation would be allowable to the lessor only.
- EPABX & Mobile phone are not computers, hence not eligible for 40% rate of depreciation while computer accessories such as UPS, printers, scanners, etc. are eligible for 40% rate.

**ORDER OF SET-OFF**

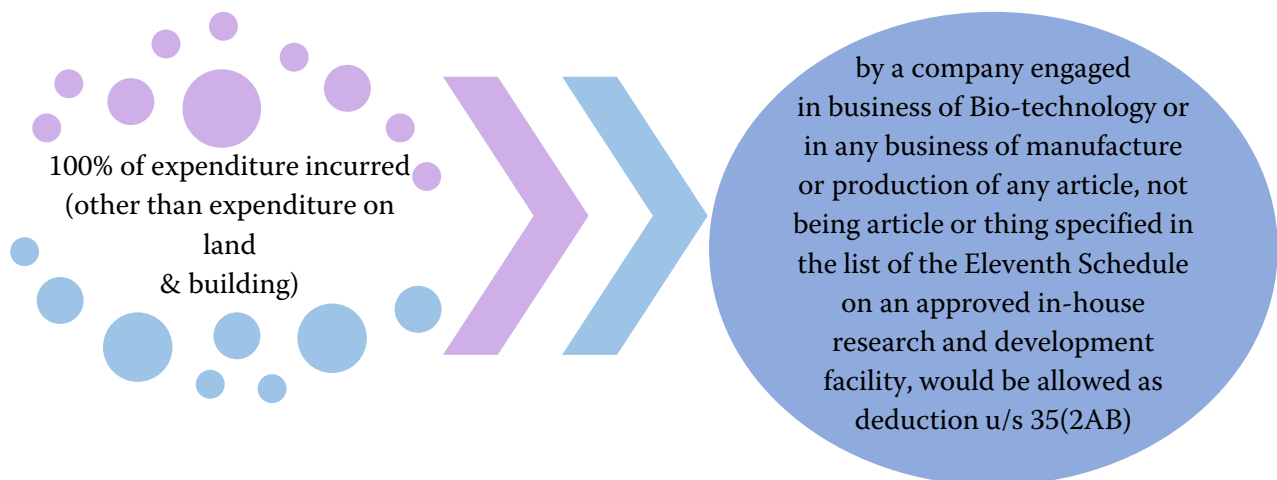
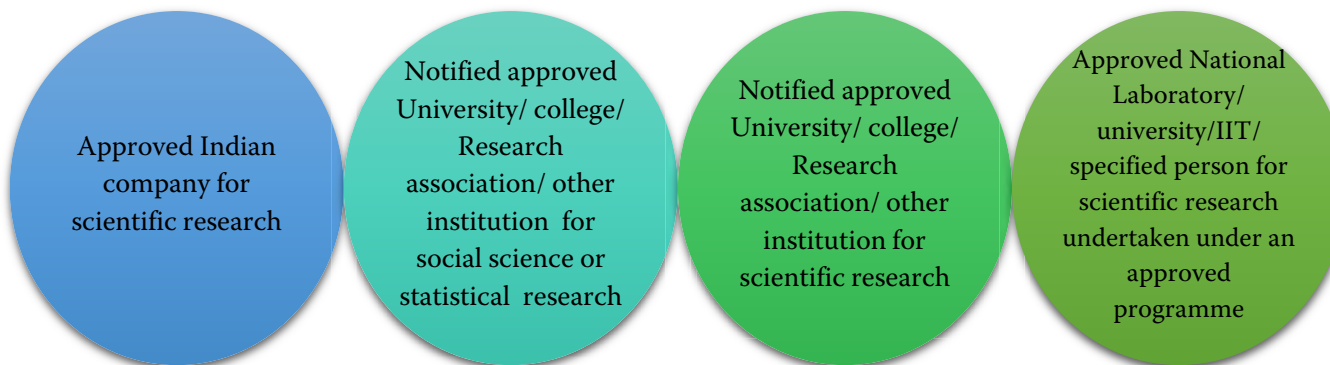




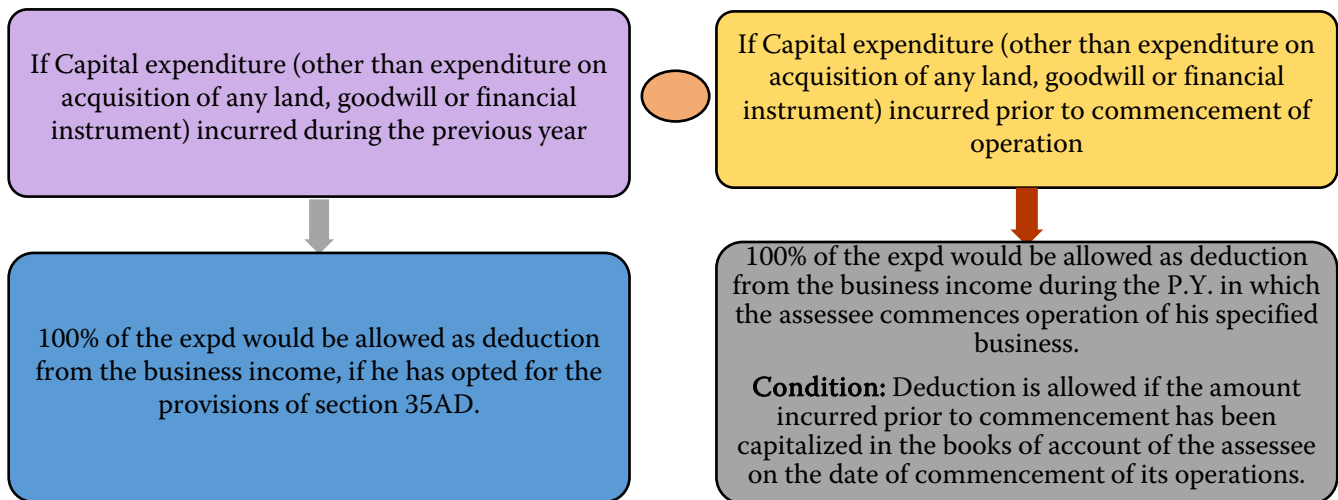
**EXPENDITURE ON SCIENTIFIC RESEARCH [SECTION 35]**



**100% of following contributions to outsiders would be allowed as deduction**



## DEDUCTION IN RESPECT OF THE SPECIFIED BUSINESSES [SECTION 35AD]



## LIST OF SPECIFIED BUSINESS

S. No.	Business	Commenced operations
1	Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network	on or after 1.4.2007
2	Setting-up and operating warehousing facilities for storing agricultural produce	on or after 1.4.2009
3	Setting-up and operating 'cold chain' facilities for specified products	
4	Building and operating a hotel of two star or above category, anywhere in India	
5	Building and operating a hospital, anywhere in India, with at least 100 beds for patients	on or after 1.4.2010
6	Developing and building a housing project under a notified scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government	
7	Developing and building a housing project under a notified scheme for affordable housing framed by the Central Government or State Government	on or after 1.4.2011
8	Production of fertilizer in a new plant or in a newly installed capacity in an existing plant in India	
9	Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962	on or after 1.4.2012
10	Bee-keeping and production of honey and beeswax	

11	Setting up and operating a warehousing facility for storage of sugar	
12	Laying and operating a slurry pipeline for transportation of iron-ore	
13	Setting up and operating a semiconductor wafer fabrication manufacturing unit, if such unit is notified by the Board in accordance with the prescribed guidelines	on or after 1.4.2014
14	Developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility	on or after 1.4.2017

### Other conditions for claiming deduction u/s 35AD

Payment exceeding ₹ 10,000 to be made through a/c payee cheque, a/c payee bank draft, use of ECS or through prescribed electronic modes to qualify for deduction u/s 35AD

No deduction u/s 10AA or Chapter VI-A is allowed in respect of an expenditure for which deduction is claimed u/s 35AD.

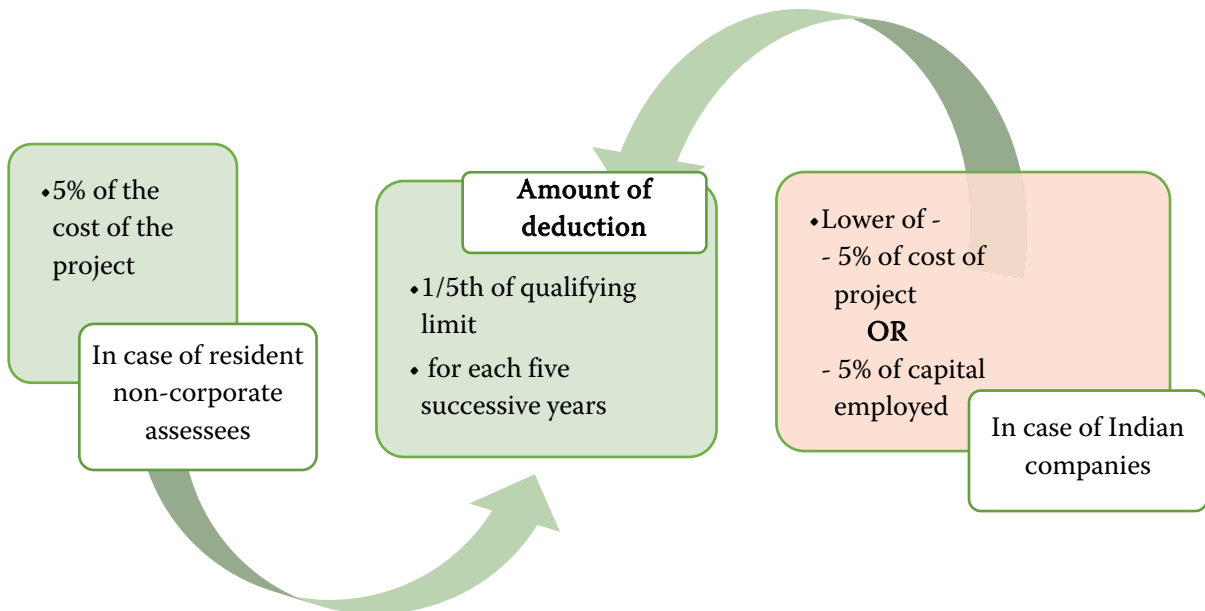
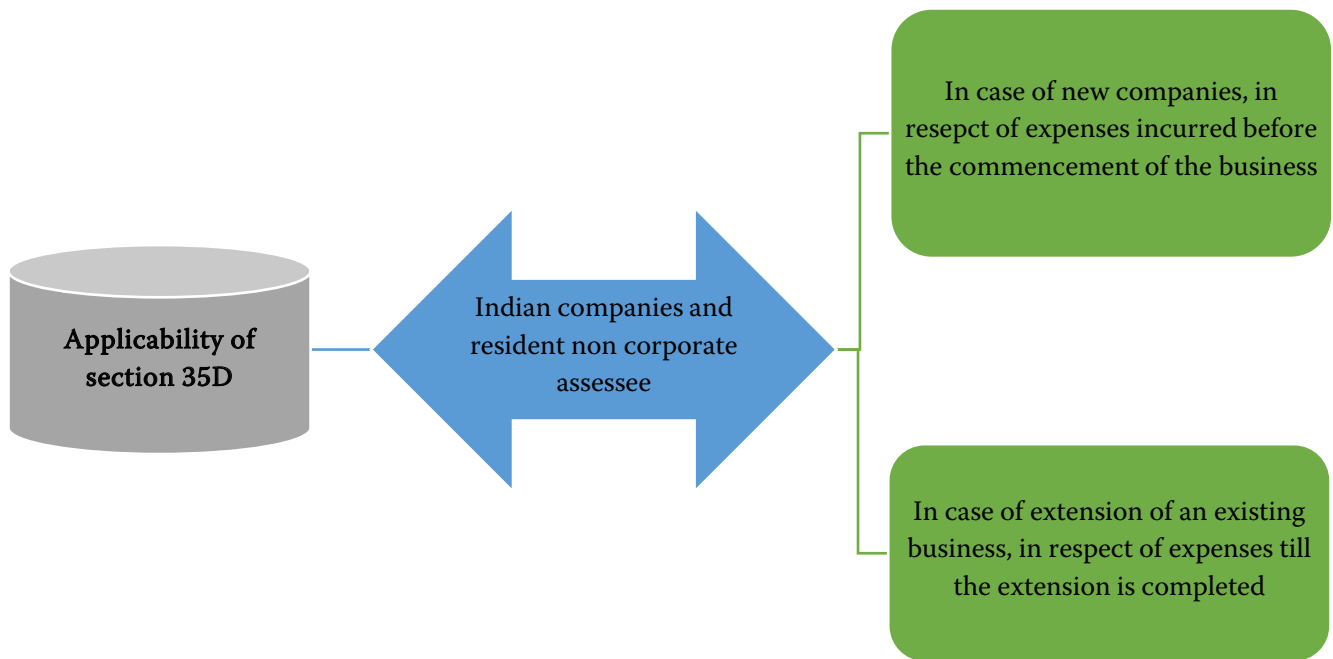
**Asset to be used only for specified business for 8 years.** If such asset is used for any other purpose, **deduction claimed and allowed u/s 35AD** in respect of such asset **less depreciation** allowable under section 32, would be **deemed to be the business income of the assessee** of the P.Y. in which the asset is so used.

## AMORTISATION OF PRELIMINARY EXPENSES [SECTION 35D]

**Examples of Preliminary expenses** – Expenses on preparation of project report, feasibility report, market survey, engineering services, legal charges for drafting agreement.

In case of a Company, preliminary expenses would include, in addition to the above, legal charges for drafting Memorandum of Association (MOA), Articles of Association (AOA), printing of MOA and AOA, fee for registration of Co., expenditure in connection with issue of shares or debentures of Co. (i.e. underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus)





## AMORTISATION OF EXPENSE FOR AMALGAMATION/DEMERGER [SECTION 35DD]

Deduction  
u/s 35DD

Allowed to an assessee, being an Indian company, incurs expenditure, wholly and exclusively for the purpose of amalgamation or demerger

Equal to  $1/5^{\text{th}}$  of such expenditure for five successive P.Ys. beginning with the P.Y. in which amalgamation or demerger takes place.

No deduction shall be allowed in respect of the above expenditure under any other provisions of the Act.

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

Deduction u/s 35DDA

Allowed to an assessee who has incurred expenditure in any P.Y. in the form of payment to any employee in connection with his voluntary retirement, in accordance with any scheme or schemes of voluntary retirement

Equal to one-fifth of the amount paid for that P.Y., and the balance in four equal installments in the four immediately succeeding P.Ys. allowed as deduction

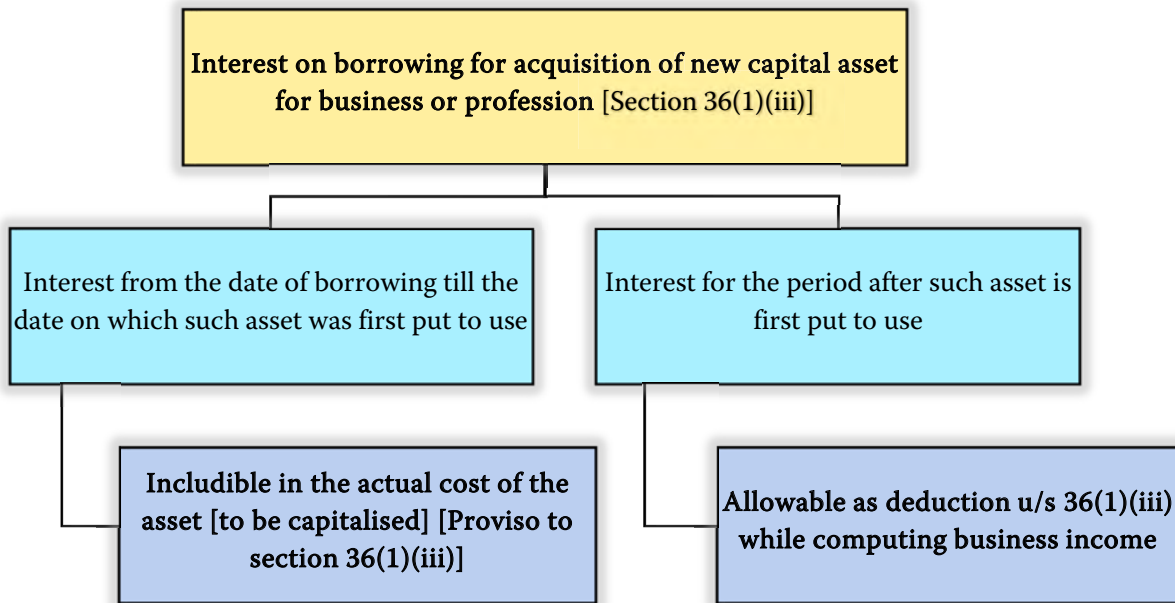




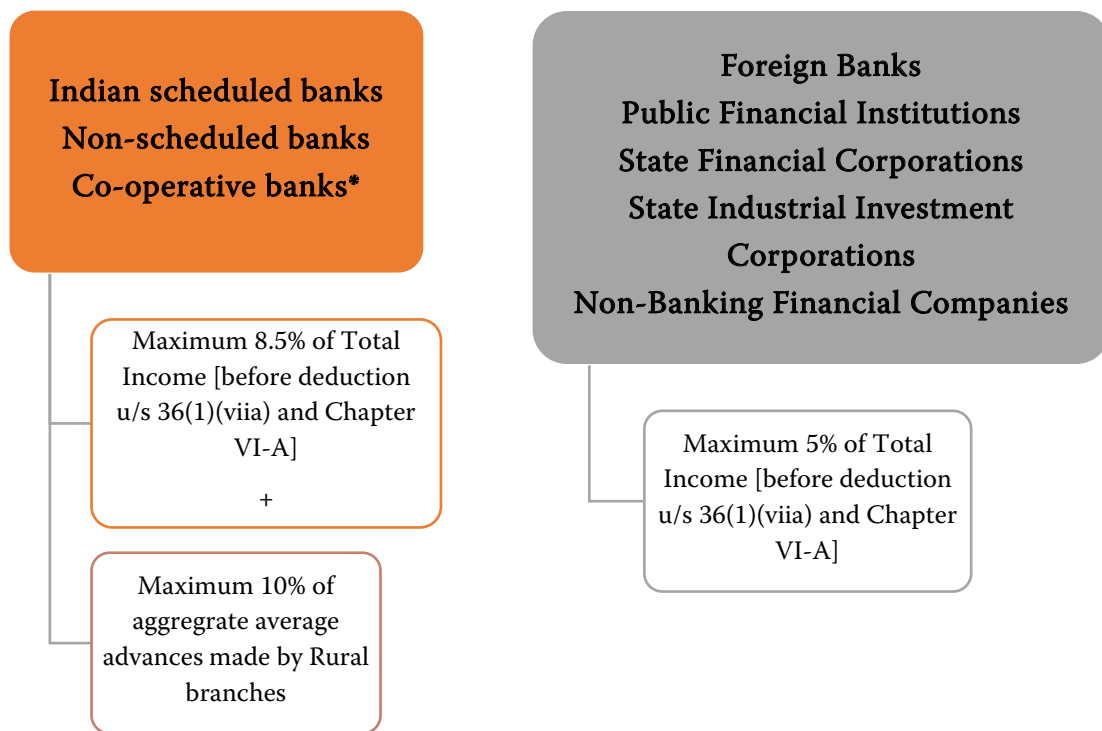
## OTHER DEDUCTIONS [SECTION 36]







**Provision for bad and doubtful debts in case of specified banks [Section 36(1)(vii)]**



\* other than a primary agricultural credit society or primary co-operative agricultural and rural development bank

## Residuary Expenses [Section 37]

Revenue expd for the purpose of business or profession, provided

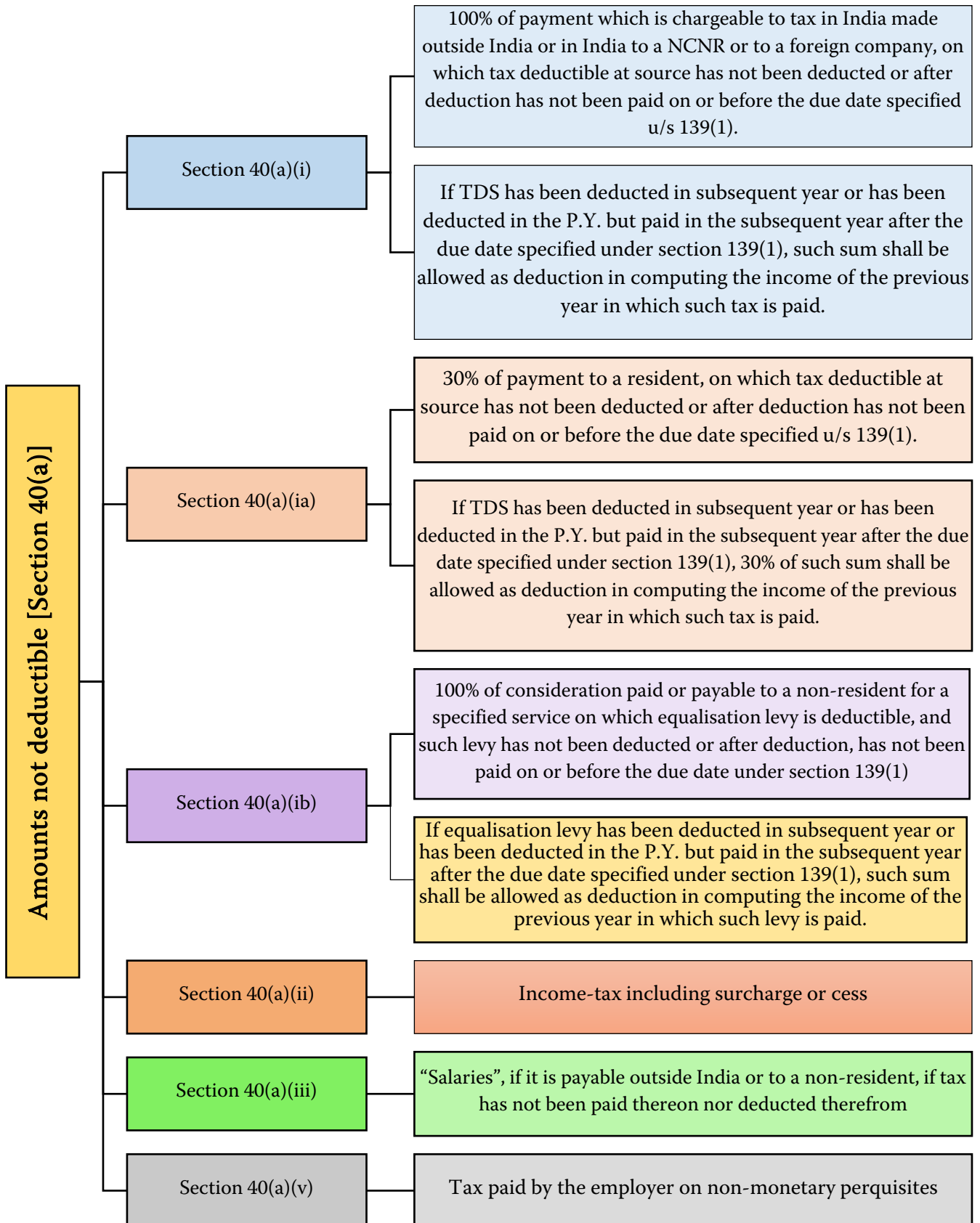
- It is **not** in the nature of expenditure described under **sections 30 to 36**;
- It is **not** in the nature of **capital expenditure**;
- It is **not** a **personal expenditure** of the assessee;
- It is laid out and expended **wholly and exclusively for the purpose of business/profession**;
- It is **not** incurred for any purpose which is an **offence or which is prohibited by law**; and
- It is **not** an expenditure incurred by the assessee on **CSR activities referred to in section 135** of the Companies Act, 2013.

- Advertisement in any souvenir, brochure, tract, pamphlet etc. published by a political party is **not** allowable.

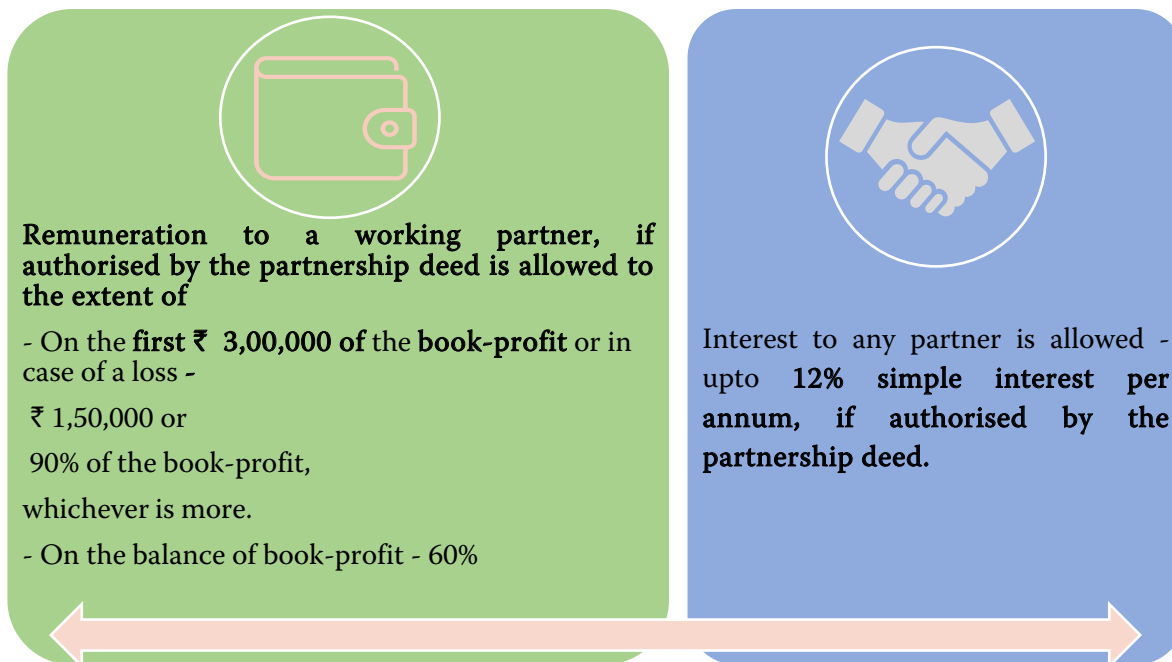


## INADMISSIBLE DEDUCTIONS [SECTION 40]

I. In case of any assessee, the following expenses are not deductible [Section 40(a)]:



II. In case of any firm/Limited Liability Partnership (LLP) the following amounts are only deductible subject to specified limits in computing the business [Section 40(b)]:



#### Meaning of Book profit:

Book profit means the **net profit as shown in the P & L A/c** for the relevant previous year computed in accordance with the provisions for computing income from profits and gains.

The above amount should be **increased by the remuneration** paid or payable to all partners of the firm if the same has been deducted while computing net profit.

### EXPENSES OR PAYMENTS NOT DEDUCTIBLE IN CERTAIN CIRCUMSTANCES

#### Payments to relatives and associates [Section 40A(2)]

- where the assessee incurs any expenditure in respect of which a payment has been or is to be made to a specified person [See column (2) of Table below)
- so much of the expenditure as is considered to be excessive or unreasonable shall be disallowed by the Assessing Officer. While doing so he shall have due regard to:
  - (a) the fair market value of the goods, service of facilities for which the payment is made; or
  - (b) the legitimate needs of the business or profession carried on by the assessee; or
  - (c) the benefit derived by or accruing to the assessee from such a payment.

Assessee	Specified Person						
(1)	(2)						
<b>Individual</b>	<ol style="list-style-type: none"> <li>Any relative of the individual assessee</li> <li>Any person who carries on a business or profession, if <ul style="list-style-type: none"> <li>the individual has a substantial interest in the business of that person <b>or</b></li> <li>any relative of the individual has a substantial interest in the business of that person</li> </ul> </li> </ol>						
<b>Company, Firm, HUF or AOP</b>	<ol style="list-style-type: none"> <li>Any director, partner of the firm or member of the family or association or any relative of such director, partner or member or</li> <li>In case of a company assessee, any individual who has substantial interest in the business or profession of the company or any relative of such individual or</li> <li>Any person who carries on a business or profession, in which the Company/ Firm/ HUF/ AOP or director of the company, partner of the firm or member of the family or association or any relative of such director, partner or member has substantial interest in the business of that person</li> </ol>						
<b>All assessees</b>	<p>The following are specified persons:</p> <table border="1"> <thead> <tr> <th>Person who has substantial interest in the assessee's business</th> <th>Other related persons of such person, who has a substantial interest in the assessee's business</th> </tr> </thead> <tbody> <tr> <td>Company/ Firm/ HUF AOP/</td> <td> <ul style="list-style-type: none"> <li>Any director of such company, partner of such firm or the member of such family or association <b>or</b></li> <li>any relative of such director, partner <b>or</b> member <b>or</b></li> <li>Any other company carrying on business or profession in which the first mentioned company has a substantial interest</li> </ul> </td> </tr> <tr> <td>a director, partner or member</td> <td> <ul style="list-style-type: none"> <li>Company/ Firm/ AOP/ HUF of which he is a director, partner or member <b>or</b></li> <li>Any other director/ partner/ member of the such Company/ Firm/ AOP/ HUF <b>or</b></li> <li>Any relative of such director, partner <b>or</b> member</li> </ul> </td> </tr> </tbody> </table>	Person who has substantial interest in the assessee's business	Other related persons of such person, who has a substantial interest in the assessee's business	Company/ Firm/ HUF AOP/	<ul style="list-style-type: none"> <li>Any director of such company, partner of such firm or the member of such family or association <b>or</b></li> <li>any relative of such director, partner <b>or</b> member <b>or</b></li> <li>Any other company carrying on business or profession in which the first mentioned company has a substantial interest</li> </ul>	a director, partner or member	<ul style="list-style-type: none"> <li>Company/ Firm/ AOP/ HUF of which he is a director, partner or member <b>or</b></li> <li>Any other director/ partner/ member of the such Company/ Firm/ AOP/ HUF <b>or</b></li> <li>Any relative of such director, partner <b>or</b> member</li> </ul>
Person who has substantial interest in the assessee's business	Other related persons of such person, who has a substantial interest in the assessee's business						
Company/ Firm/ HUF AOP/	<ul style="list-style-type: none"> <li>Any director of such company, partner of such firm or the member of such family or association <b>or</b></li> <li>any relative of such director, partner <b>or</b> member <b>or</b></li> <li>Any other company carrying on business or profession in which the first mentioned company has a substantial interest</li> </ul>						
a director, partner or member	<ul style="list-style-type: none"> <li>Company/ Firm/ AOP/ HUF of which he is a director, partner or member <b>or</b></li> <li>Any other director/ partner/ member of the such Company/ Firm/ AOP/ HUF <b>or</b></li> <li>Any relative of such director, partner <b>or</b> member</li> </ul>						
<i>Relative in relation to an Individual means the spouse, brother or sister or any lineal ascendant or descendant of that individual [Section 2(41)].</i>							
<b>Substantial interest in a business or profession</b>							
A person shall be deemed to have a substantial interest in a business or profession if -							
<ul style="list-style-type: none"> <li>in a case where the business or profession is carried on by a company, such person is, at any time during the previous year, the beneficial owner of equity shares carrying not less than 20% of the voting power and</li> <li>in any other case, such person is, at any time during the previous year, beneficially entitled to not less than 20% of the profits of such business or profession.</li> </ul>							

### Payments in excess of ₹ 10,000 made otherwise than through prescribed modes [Section 40A(3)]

Expenditure for which payment made to a person in a single day otherwise than by an A/c payee cheque or A/c payee bank draft or ECS or through such other prescribed electronic modes exceeds ₹ 10,000/₹ 35,000 in case of payments made to transport operator for plying, hiring or leasing goods carriages would not be allowed.

**Exceptions covered in Rule 6DD: For example,**  
 Payment to RBI, SBI, Co-operative banks  
 Payment made to Government, which according to its Rules, has to be made in legal tender  
 Payment for purchase of agricultural produce, forest produce, fish and fish products, productions of horticulture or apiculture to the cultivator, grower or producer of such produce or products.

### Section 40A(3A)

If an expenditure has been allowed as deduction on accrual basis in any P.Y., and payment is made in a subsequent P.Y. otherwise than by A/c payee cheque or A/c payee bank draft or ECS or through such other prescribed electronic modes and such payment is in excess of the limits of ₹ 10,000/ ₹ 35,000 specified above, the payment so made shall be deemed as profits and gains of the business or profession and charged to tax as income of the subsequent previous year.

### DEEMED PROFITS CHARGEABLE TO TAX [SECTION 41]

#### Section 41(1)

•Where deduction was allowed in respect of loss, expenditure or trading liability for any year and subsequently, during any previous year, the **assessee or successor of the business has obtained any amount in respect of such loss or expenditure** or some benefit in respect of such trading liability by way of **remission or cessation** thereof, the amount obtained or the value of benefit accrued shall be **deemed to be income of the P.Y. in which such benefit was obtained.**

#### Section 41(3)

•**Amount realized on transfer of an asset used for scientific research** without being used for other purposes is taxable as business income in the year of sale to the extent of lower of –

- deduction allowed under section 35(1)(iv); and
- sale proceeds

#### Section 41(4)

•Any amount **recovered** by the assessee against **bad debt** earlier allowed as deduction shall be taxed as income in the year in which it is received



**Certain Deductions to be made only on actual payment [Section 43B]**

Certain Deductions to be allowed if actual payment done on or before the due date of filing of return u/s 139(1) [Section 43B]

Tax, duty, cess or fee, under any law for the time being in force; or	Contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees; or	Bonus or commission provided not paid as profits or dividend; or	Interest on any loan or borrowing from any public financial institution or a State Financial Corporation or a State Industrial Investment Corporation; or	Interest on any loan or borrowing from notified class of NBFC; or	Interest on any loan or advance from a scheduled bank or co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank; or	Payment in lieu of any leave at the credit of his employee; or	Any sum payable to the Indian Railways for use of Railway assets.
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However, any sum payable by the assessee to a micro or small enterprise beyond the time-limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 would be allowed as deduction only in the P.Y. in which the sum is actually paid

**STAMP DUTY VALUE OF LAND AND BUILDING TO BE TAKEN AS THE FULL VALUE OF CONSIDERATION IN RESPECT OF TRANSFER, EVEN IF THE SAME ARE HELD BY THE TRANSFEROR AS STOCK-IN-TRADE [SECTION 43CA]**

Circumstance		Deemed Full Value of consideration for computing Business Income
(1)	If Stamp Duty Value > 110% of consideration received or accruing as a result of transfer	Stamp Duty Value
(a)	If date of agreement is different from the date of transfer and whole or part of the consideration is received by way of account payee cheque or bank draft or ECS or through such other prescribed electronic mode (IMPS, UPI, RTGS, NEFT, Net banking, debit card, credit card or BHIM Aadhar Pay) on or before the date of agreement	Stamp Duty Value on the date of agreement



	(b)	If date of agreement is different from the date of transfer but the whole or part of the consideration has not been received by way of account payee cheque or bank draft or ECS or through such other prescribed electronic mode (IMPS, UPI, RTGS, NEFT, Net banking, debit card, credit card or BHIM Aadhar Pay) on or before the date of agreement	Stamp Duty Value on the date of transfer
		However, if the stamp duty value on the date of agreement or the date of transfer, as the case may be $\leq 110\%$ of the sale consideration received.	Actual consideration so received
(2)		Where the Assessing Officer refers the valuation to a Valuation Officer, on the assessee's claim that the stamp duty value exceeds the FMV of the property on the date of transfer and the stamp duty value has not been disputed in any appeal or revision or no reference has been made before any other authority, court or High Court	
	(a)	If Valuation by Valuation Officer > Stamp Duty Value	Stamp Duty Value
	(b)	If Valuation by Valuation Officer < Stamp Duty Value	Valuation by Valuation Officer

### MANDATORY AUDIT OF ACCOUNTS OF CERTAIN PERSONS [SECTION 44AB]

	Category of person	Condition for applicability of section 44AB
I	<b>In case of a person carrying on business</b>	
(a)	In case of a person carrying on business	If his total sales, turnover or gross receipts in business > ₹ 1 crore in the relevant P.Y. <i>Note – The requirement of audit u/s 44AB does not apply to a person who declares profits and gains for the previous year on presumptive basis u/s 44AD(1).</i>
	If in case of such person carrying on business – (i) Aggregate cash receipts in the relevant PY $\leq 5\%$ of total receipts (incl. receipts for sales, turnover, gross receipts); and (ii) Aggregate cash payments in the relevant PY $\leq 5\%$ of total payments (incl. amount incurred for expenditure)	If his total sales, turnover or gross receipts in business > ₹ 10 crore in the relevant PY
	<b>Note –</b> For this purpose, the payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the payment or receipt, as the case may be, in cash.	

(b)	In case of an assessee covered u/s 44AE i.e., an assessee engaged in the business of plying, hiring or leasing goods carriages who owns not more than 10 goods carriages at any time during the P.Y.	If such assessee claims that the profits and gains from business in the relevant P.Y. are lower than the profits and gains computed on a presumptive basis u/s 44AE [i.e., ₹ 1000 per ton of gross vehicle weight or unladen weight in case of each heavy goods vehicle and ₹ 7,500 for each vehicle, other than heavy goods vehicle, for every month or part of the month for which the vehicle is owned by the assessee].
(c)	In case of an eligible assessee carrying on business, whose total turnover, sales, gross receipts ≤ ₹ 200 lakhs, and who has opted for section 44AD in any earlier PY  In case of an eligible assessee carrying on business, whose aggregate cash receipts in the relevant PY ≤ 5% of total turnover or gross receipts and whose total turnover, sales, gross receipts ≤ ₹ 300 lakhs, and who has opted for section 44AD in any earlier PY	If he declares profit for any of the five successive PYs not in accordance with section 44AD (i.e., he declares profits lower than 8% or 6% of total turnover, sales or gross receipts, as the case may be, in that year), then, he cannot opt for section 44AD for five successive PYs after the year of such default. For the year of default and five successive previous years, he has to maintain books of account u/s 44AA and get them audited u/s 44AB, if his income exceeds the basic exemption limit.
<b>II</b>	<b>In case of persons carrying on profession</b>	
(a)	In case of a person carrying on profession	If his gross receipts in profession > ₹ 50 lakh in the relevant PY  <i>Note – The requirement of audit u/s 44AB does not apply to a person who declares profits and gains for the previous year on presumptive basis u/s 44ADA(1).</i>
(b)	In case of an assessee carrying on a notified profession under section 44AA(1) i.e., legal medical, engineering, accountancy, architecture, interior decoration, technical consultancy, whose gross receipts ≤ ₹ 50 lakhs.	If such resident assessee claims that the profits and gains from such profession in the relevant PY are lower than the profits and gains computed on a presumptive basis u/s 44ADA (50% of gross receipts) and his income exceeds the basic exemption limit in that PY.
	In case of an assessee carrying on a notified profession under section 44AA(1) i.e., legal medical, engineering, accountancy, architecture, interior decoration,	

technical consultancy, whose aggregate cash receipts in the relevant PY $\leq$ 5% of total gross receipts and whose gross receipts $\leq$ ₹ 75 lakhs.	
The persons mentioned above would have to furnish by the specified date a report of the audit in the prescribed forms.	
“specified date” means the date one month prior to the due date for furnishing the return of income under section 139(1).	

### PRESUMPTIVE INCOME PROVISIONS

	Particulars	Section 44AD	Section 44ADA	Section 44AE
(1)	<b>Eligible Assessee</b>	Resident individual, HUF or Partnership firm (but not LLP) engaged in eligible business and who has not claimed deduction under section 10AA or Chapter VIA under “C – Deductions in respect of certain incomes”  <b>Non-applicability of section 44AD in respect of the following persons:</b> <ul style="list-style-type: none"> <li>- A person carrying on profession specified u/s 44AA(1);</li> <li>- A person earning income in the nature of commission or brokerage;</li> <li>- A person carrying on any agency business.</li> </ul>	Resident individual or resident partnership firm (but not LLP) engaged in any profession specified u/s 44AA(1), namely, legal, medical, engineering, architectural profession or profession of accountancy or technical consultancy or interior decoration or notified profession (authorized representative, film artist, company secretary, profession of information technology)	An assessee owning not more than 10 goods carriages at any time during the P.Y.
(2)	<b>Eligible business/ profession</b>	Any business, other than business referred to in section 44AE, whose <b>total turnover/ gross receipts in the P.Y. <math>\leq</math> ₹ 200 lakhs</b>	Any profession specified under section 44AA(1), whose <b>gross receipts <math>\leq</math> ₹ 50 lakhs in the relevant P.Y.</b>	Business of plying, hiring or leasing goods carriages
		Any business, other than business referred to in section 44AE, whose <b>total</b>	Any profession specified u/s 44AA(1), whose <b>gross receipts <math>\leq</math> ₹ 75 lakhs in the</b>	

		turnover/gross receipts in the P.Y. ≤ ₹ 300 lakhs in the relevant P.Y., if aggregate cash receipts in the relevant PY ≤ 5% of total turnover or gross receipts.	relevant P.Y., if aggregate cash receipts in the relevant PY ≤ 5% of total gross receipts.	
		In effect, if the turnover of business is > ₹ 200 lakhs ≤ ₹ 300 lakhs, the benefit of section 44AD can be availed only if aggregate cash receipts in relevant P.Y. ≤ 5% of total turnover or gross receipts.	In effect, if the gross receipts from profession is > ₹ 50 lakhs ≤ ₹ 75 lakhs, the benefit of section 44ADA can be availed only if aggregate cash receipts in relevant P.Y. ≤ 5% of total gross receipts.	
		<b>Note:</b> For this purpose, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the receipt in cash.		
(3)	Presumptive income	8% of total turnover/sales/gross receipts or a sum higher than the aforesaid sum claimed to have been earned by the assessee.  6% of total turnover/gross receipts in respect of the amount of total turnover/ sales/ gross receipts received by A/c payee cheque/ bank draft/ ECS through a bank account or through such other prescribed electronic modes (credit card, debit card, net banking, IMPS, UPI, RTGS, NEFT, and BHIM Aadhar Pay) during the P.Y. or before due date of filing of return u/s 139(1)	50% of gross receipts of such profession or a sum higher than the aforesaid sum claimed to have been earned by the assessee.	For each 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;  For each vehicle, other than heavy goods vehicle: ₹ 7,500 per month or part of a month during which such vehicle is owned by the assessee or an amount claimed to have been actually earned from such vehicle, whichever is higher.

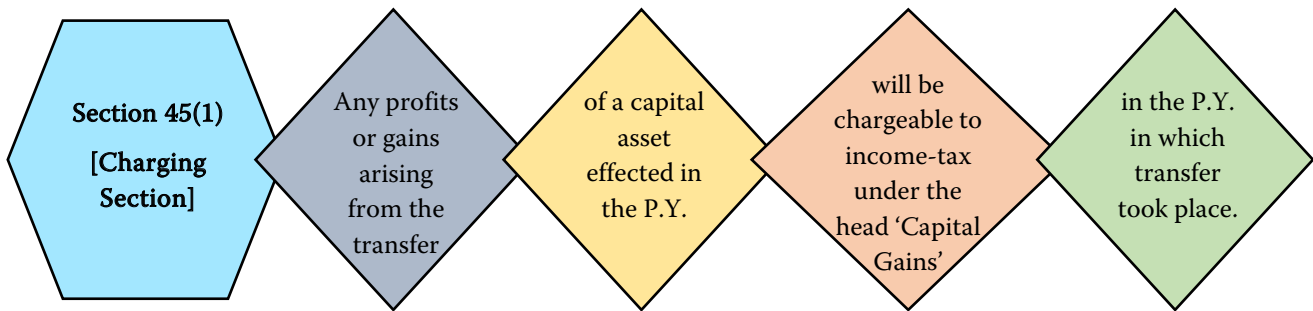
		in respect of that P.Y. (or) such higher sum claimed to have been earned by the assessee.		
(4)	<b>Non-allowability of deductions while computing presumptive income</b>	Deductions allowable under <b>sections 30 to 38</b> shall be <b>deemed to have been given full effect to</b> and no further deduction shall be allowed.		
		Even in case of a firm, salary and interest paid to partners is <b>not</b> deductible.	Even in case of a firm, salary and interest paid to partners is <b>not</b> deductible.	In case of a firm, <b>salary and interest paid to partners is deductible</b> subject to the conditions and limits specified in <b>section 40(b)</b> .
(5)	<b>Requirement of maintenance of books of account u/s 44AA and audit u/s 44AB</b>	<p>If eligible assessee declares profits and gains in accordance with the provisions of section 44AD, he is <b>not</b> required to maintain books of account u/s 44AA or get them audited u/s 44AB.</p> <p>However, if after declaring profits on presumptive basis u/s 44AD, non-declaration of profits on presumptive basis for any of the 5 successive A.Y.s thereafter, would disentitle the assessee from claiming profits on presumptive basis for five successive AYs subsequent to the AY relevant to the PY of such non-declaration. In such a case, the assessee would have to <b>maintain books of account and other documents u/s 44AA(2)</b> and get his accounts audited u/s <b>44AB</b>, if his</p>	<p>If eligible assessee declares profits and gains in accordance with the provisions of section 44ADA, he is <b>not</b> required to maintain books of account u/s 44AA or get them audited u/s 44AB.</p> <p>However, if the assessee <b>claims his profits to be lower</b> than the profits computed by applying the presumptive rate, he has to maintain books of account and other documents <b>u/s 44AA(1)</b> and get his <b>accounts audited u/s 44AB</b>, if his <b>total income &gt; basic exemption limit for that year</b>.</p>	<p>If eligible assessee declares profits and gains in accordance with the provisions of section 44AE, he is <b>not</b> required to maintain books of account u/s 44AA or get them audited u/s 44AB.</p> <p>However, if the assessee <b>claims his profits to be lower</b> than the profits computed by applying the presumptive rate, he has to <b>maintain books of account u/s 44AA(2)</b> and get his <b>accounts audited u/s 44AB</b>.</p>

		total income exceeds the basic exemption limit in those years.		
(7)	Advance tax obligation	The eligible assessee opting for section 44AD is required to pay advance tax by 15th March of the financial year (F.Y.).	The eligible assessee opting for section 44ADA is required to pay advance tax by 15th March of the F.Y.	The eligible assessee has to pay advance tax in four instalments.

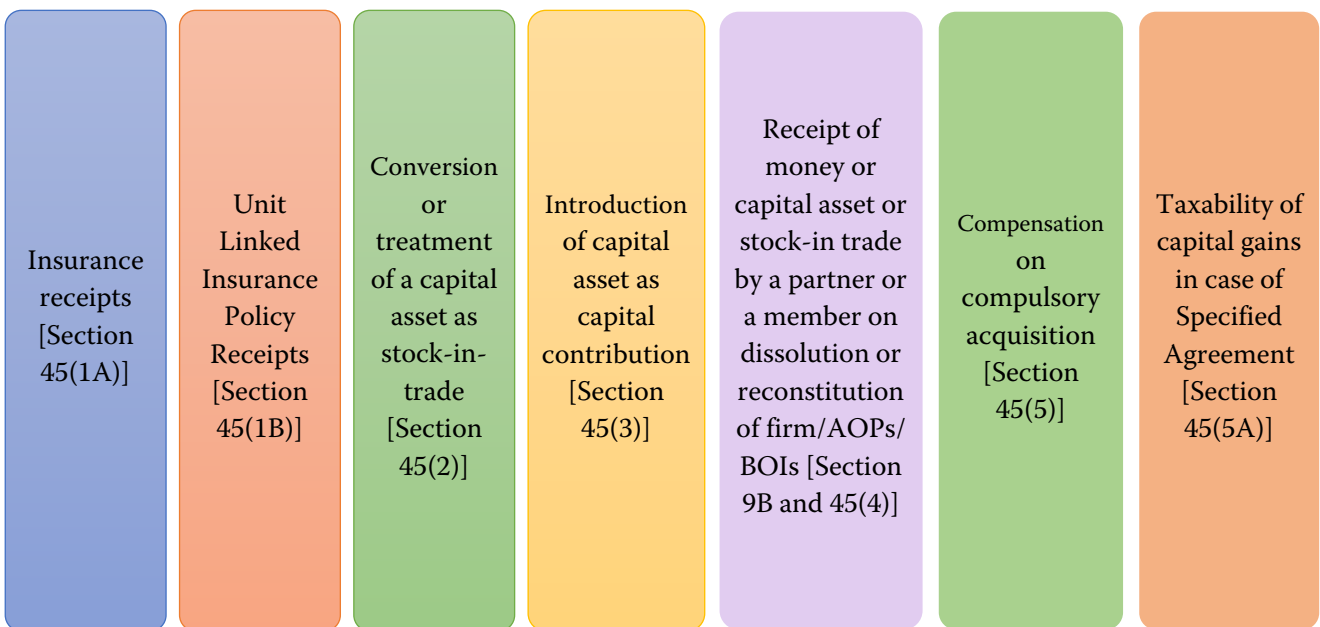
### TAXABILITY IN CASE OF COMPOSITE INCOME

Rule	Nature of composite income	Business income (Taxable)	Agricultural Income (Exempt)
7A	Income from sale of <b>rubber</b> products derived from rubber plants grown by the seller in India	35%	65%
7B	Income from sale of <b>coffee</b> <ul style="list-style-type: none"> <li>- <b>grown and cured</b> by the seller in India</li> <li>- <b>grown, cured, roasted and grounded</b> by the seller in India</li> </ul>	25% 40%	75% 60%
8	Income from sale of <b>tea</b> grown and manufactured by the seller in India	40%	60%

**CAPITAL GAINS**

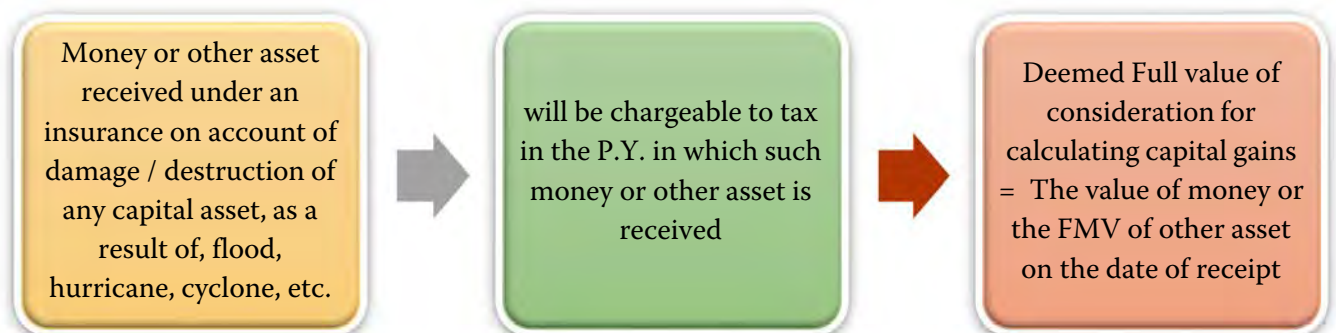


Exceptions where capital gain is not taxable in the year of transfer



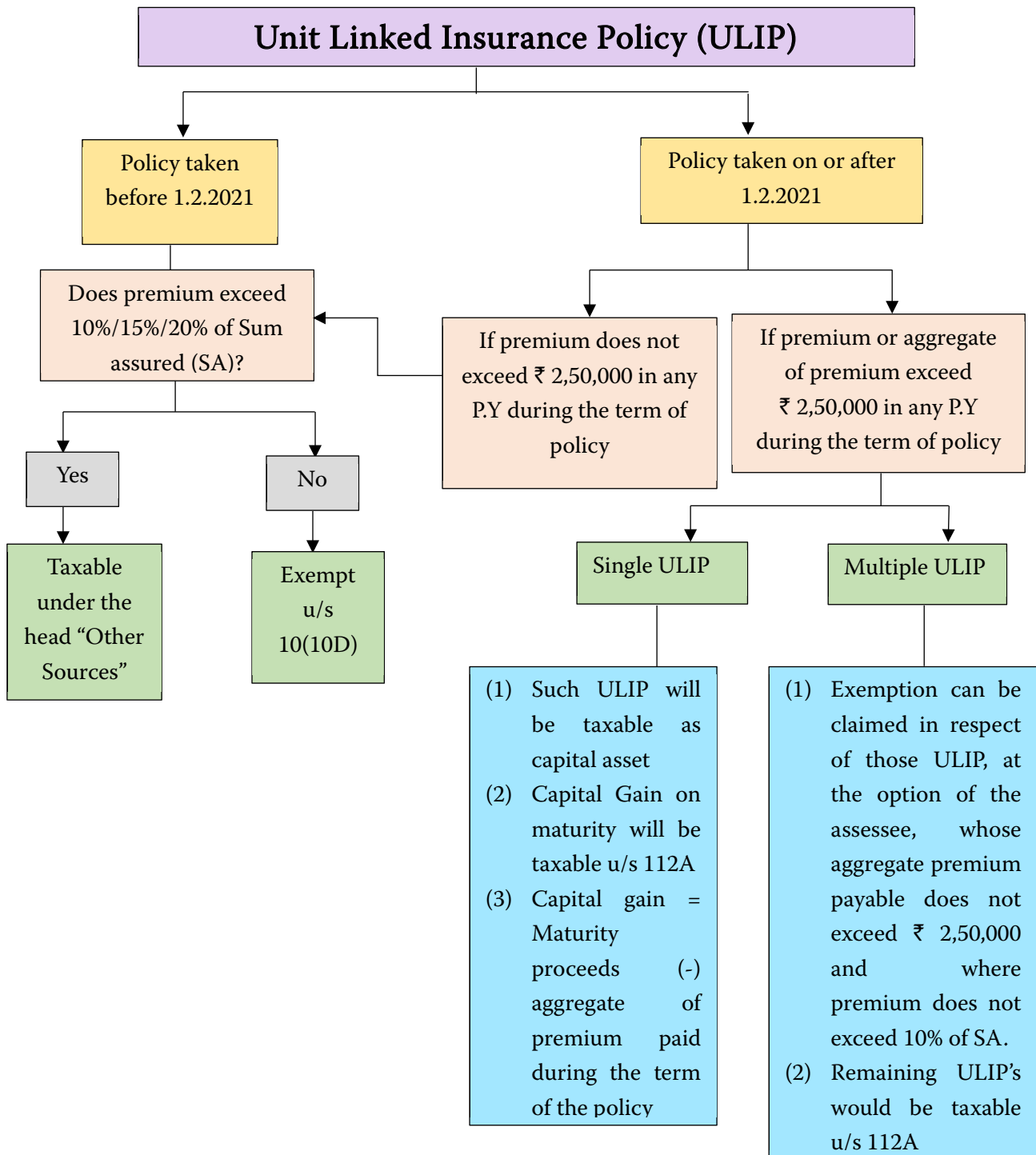
These exceptions are discussed here below:

**INSURANCE RECEIPTS [SECTION 45(1A)]**

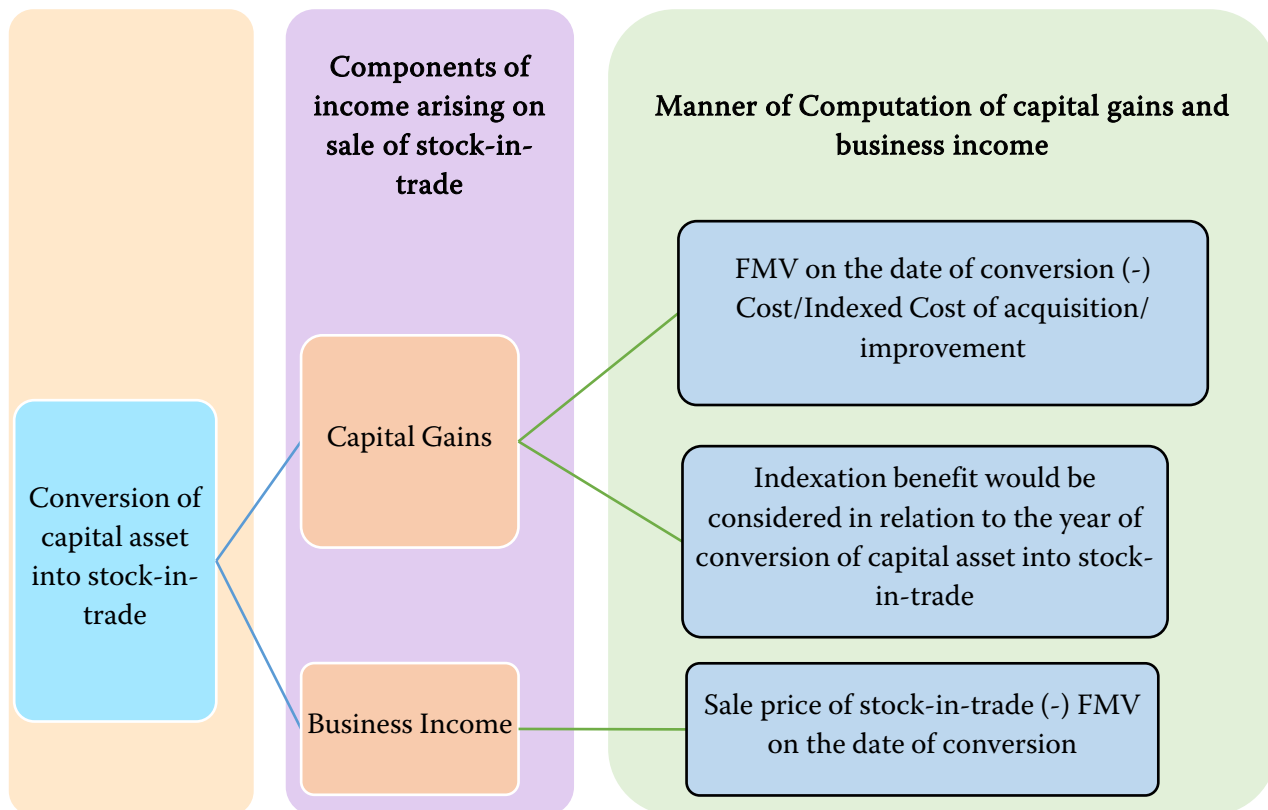




UNIT LINKED INSURANCE POLICY RECEIPTS [SECTION 45(1B)]

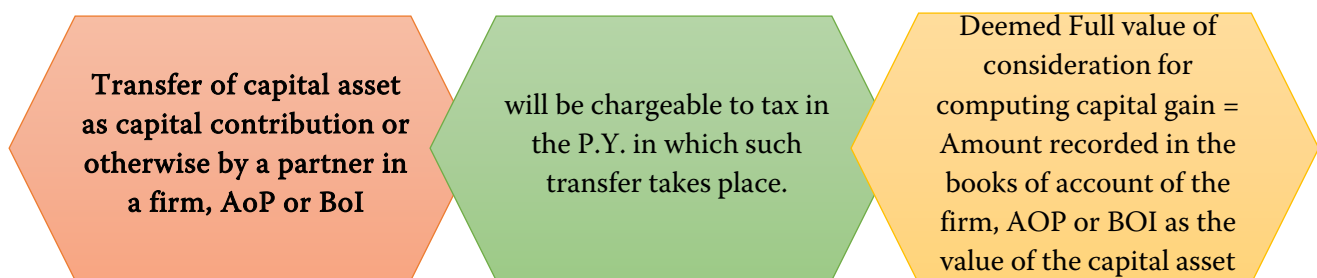


**CONVERSION OR TREATMENT OF A CAPITAL ASSET AS STOCK-IN-TRADE [SECTION 45(2)]**



*Note – Both Capital Gains and Business income are chargeable to tax in the year in which stock-in-trade is sold or otherwise transferred.*

**INTRODUCTION OF CAPITAL ASSET AS CAPITAL CONTRIBUTION [SECTION 45(3)]**



**TAX IMPLICATIONS ON RECEIPT OF MONEY OR CAPITAL ASSET OR STOCK-IN TRADE BY A PARTNER OR A MEMBER ON DISSOLUTION OR RECONSTITUTION OF FIRM/AOP/BOI [SECTION 9B AND 45(4)]**
**I. IN CASE OF DISSOLUTION OF FIRM/AOP/BOI**

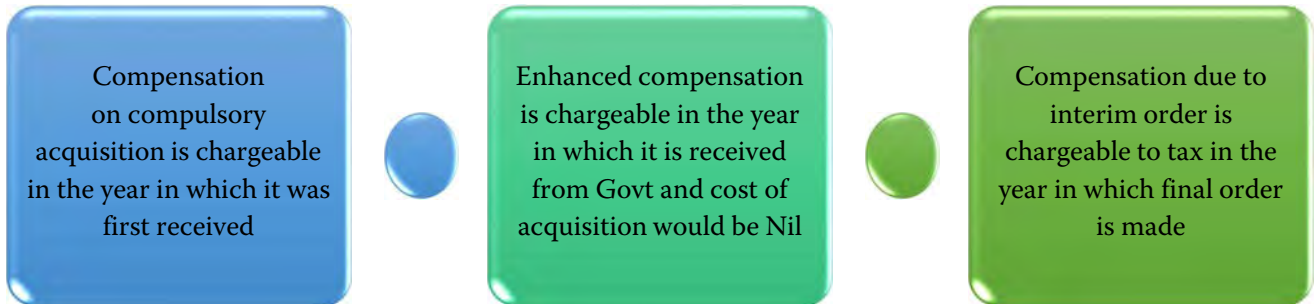
Particulars	Assets received by a partner/member from Firm/ AoP or BoI on dissolution		
	Stock in trade	Money	Capital Asset
Implications of section 9B	√	×	√
Deemed transfer in the hands of the firm/AOP/BOI and taxable in the year in which asset is received by partner/ member	√	×	√
Full value of consideration	FMV of the stock in trade on the date of receipt by partner or member shall be deemed to be full value of consideration	×	FMV of the capital asset on the date of receipt by partner or member shall be deemed to be full value of consideration
Chargeability under which head	PGBP	×	Capital Gains
Implications of section 45(4)	×	×	×

**II. IN CASE OF RECONSTITUTION OF FIRM/AOP/BOI**

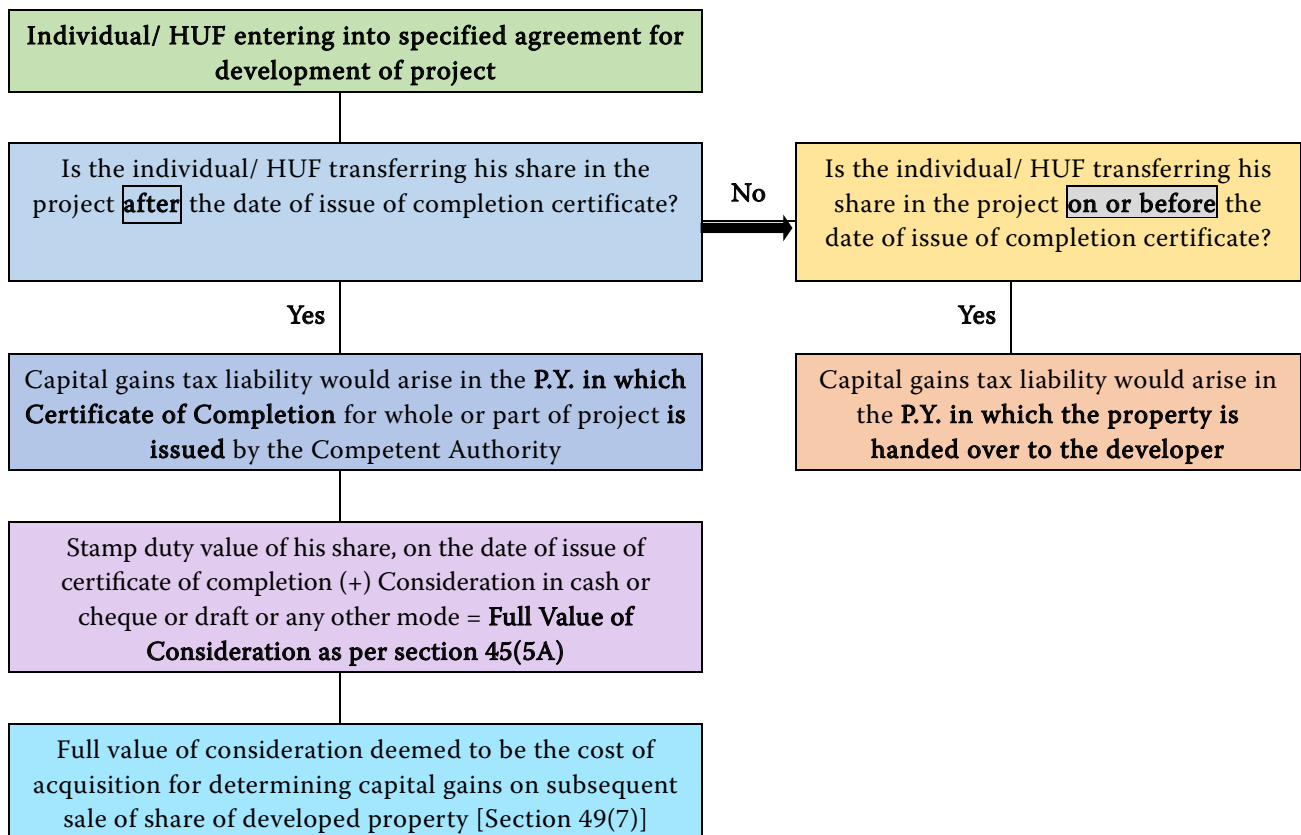
Particulars	Assets received by a partner/member from Firm/ AoP or BoI on reconstitution		
	Stock in trade	Money	Capital Asset
Implications of section 9B	√	×	√
Deemed transfer in the hands of the firm/AOP/BOI and taxable in the year in which asset is received by partner/ member	√	×	√
Full value of consideration	FMV of the stock in trade on the date of receipt by partner or member shall be deemed to be full value of consideration	×	FMV of the capital asset on the date of receipt by partner or member shall be deemed to be full value of consideration
Chargeability under which head	PGBP	×	Capital Gains
Implications of section 45(4)	×	√	√
Deemed income in hands of firm/AOP/BOI, where partner or member receives money or capital asset or both on reconstitution	×	Money received (+) FMV of Capital Asset (-) Balance in capital a/c of partner in the books of the firm on the date of reconstitution	

		(to be calculated without taking into A/c the ↑ in the capital A/c of the Partner due to - - revaluation of any asset (or) - self-generated goodwill (or) - any other self-generated asset)
Chargeability under which head	×	Capital Gains

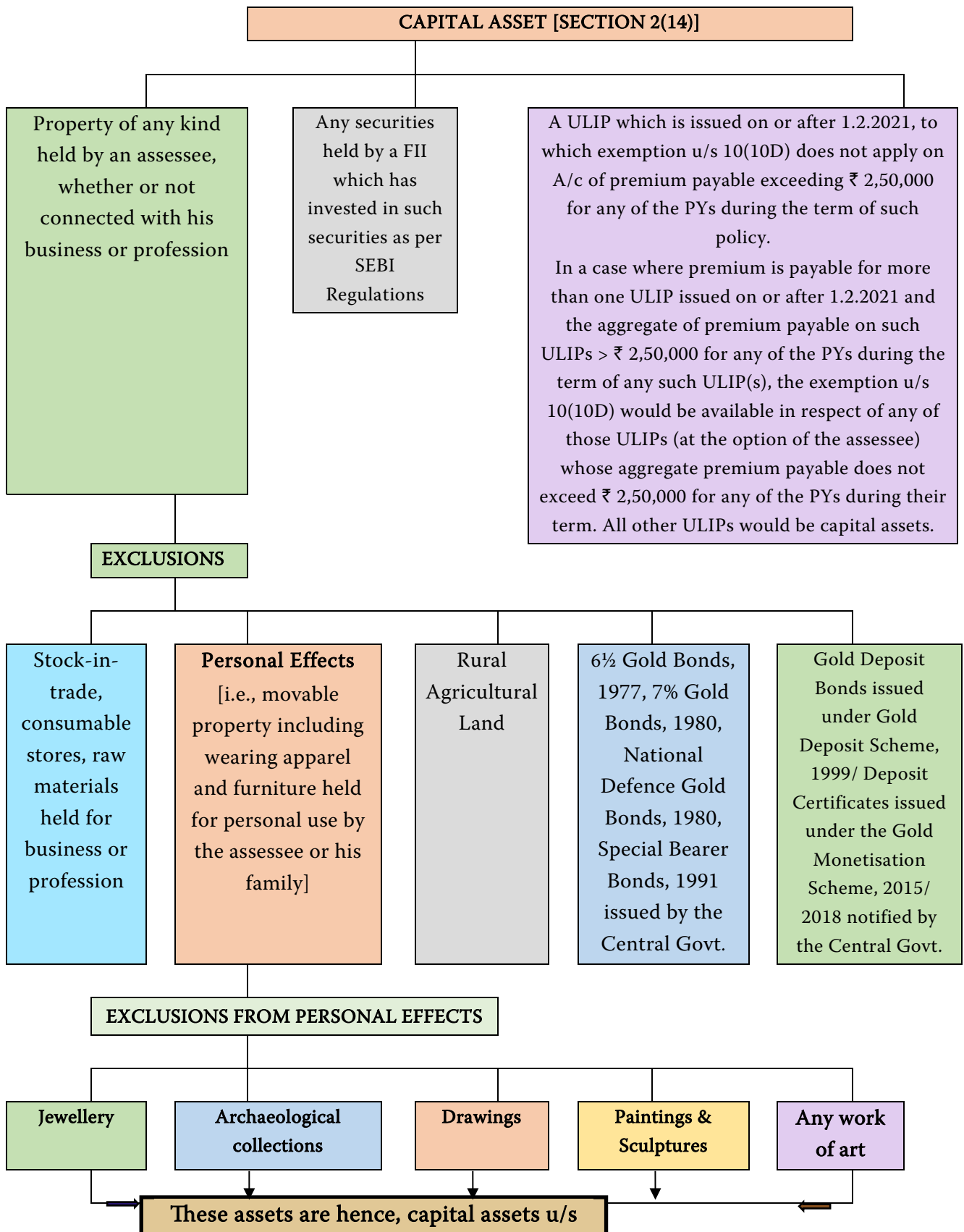
**COMPENSATION ON COMPULSORY ACQUISITION [SECTION 45(5)]**



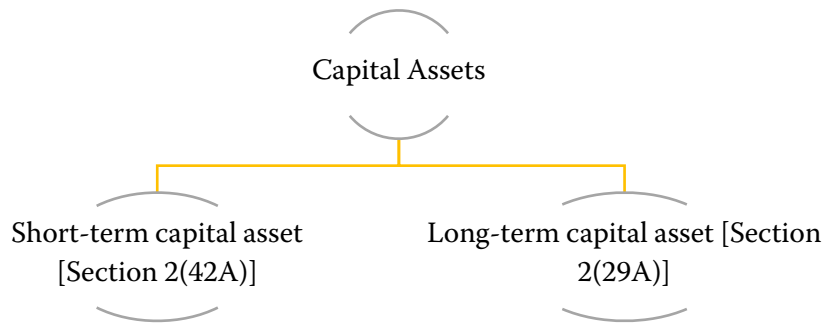
**TAXABILITY OF CAPITAL GAINS IN CASE OF SPECIFIED AGREEMENT [SECTION 45(5A)]**



**MEANING OF CAPITAL ASSET [SECTION 2(14)]**



**TYPE OF CAPITAL ASSET BASED ON PERIOD OF HOLDING**



**PERIOD OF HOLDING**

STCA, if held for ≤ 12 month	<ul style="list-style-type: none"> <li>• Security (other than unit) listed in a recognized stock exchange</li> <li>• Unit of equity oriented fund/ unit of UTI</li> <li>• Zero Coupon bond</li> </ul>
LTCA, if held for > 12 months	
STCA, if held for ≤ 24 month	<ul style="list-style-type: none"> <li>• Unlisted shares</li> <li>• Land or building or both</li> </ul>
LTCA, if held for > 24 months	
STCA, if held for ≤ 36 month	<ul style="list-style-type: none"> <li>• Unlisted securities other than shares</li> <li>• Other capital assets</li> </ul>
LTCA, if held for > 36 months	

*Note – Capital gains arising from transfer of units of a specified mutual fund acquired on or after 1.4.2023 and market linked debentures would always be deemed as arising from transfer of short-term capital assets irrespective of the period of holding of such assets. This is provided in section 50AA.*

**MEANING OF TRANSFER [SECTION 2(47)]**

Transfer in relation to a capital asset includes the following types of transactions

- Sale, exchange or relinquishment of the asset
- Extinguishment of any rights therein
- Compulsory acquisition thereof under any law
- Conversion of a capital asset into stock-in-trade of a business
- Maturity or redemption of a zero coupon bond
- Possession of an immovable property in consideration of part-performance of a contract referred to in section 53A of the Transfer of Property Act, 1882.
- Transactions which have the effect of transferring or enabling the enjoyment of an immovable property.

### Transactions not regarded as transfer [Section 47]: Some Examples

- Any distribution of capital assets on the total or partial partition of a HUF
- Any transfer of capital asset under a gift or will or an irrevocable trust
- Any transfer of capital asset by a holding company to its 100% subsidiary Indian company or by a subsidiary company to its 100% holding Indian company
- Any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company
- Any transfer by a shareholder in a scheme of amalgamation of shares held by him in the amalgamating company
- Any transfer by an individual of sovereign gold bonds issued by RBI by way of redemption
- Any transfer of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold.
- Any transfer by way of conversion of bonds, debentures, debenture stock, deposit certificates of a company, into shares or debentures of that company.
- Any transfer by way of conversion of preference shares of a company into equity shares of that company
- Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the CG

### MODE OF COMPUTATION OF CAPITAL GAINS [SECTION 48]

Computation of Short-term capital gains		
Particulars	Amt (₹)	Amt (₹)
Full value of consideration received or accruing as a result of transfer	xxx	
<b>Less:</b> Expenditure incurred wholly and exclusively in connection with such transfer (for e.g., brokerage on sale) <b>However, cost of acquisition of the asset or the cost of improvement thereto would not include the deductions claimed in respect of interest u/s 24(b) or under the provisions of Chapter VI-A</b> <i>Note: Deduction on account of STT paid will not be allowed</i>	xxx	
<b>Net Sale Consideration</b>		xxx
<b>Less:</b> Cost of acquisition	xxx	
Cost of improvement	xxx	xxx
<b>Short-term capital gain (STCG)</b>		xxx
<b>Less:</b> Exemptions		xxx
<b>Short-term capital gain chargeable to tax</b>		xxx



Computation of Long-term Capital Gains		
Particulars	Amt (₹)	Amt (₹)
Full value of consideration received or accruing as a result of transfer	xxx	
<i>Less:</i> Expenditure incurred wholly and exclusively in connection with such transfer (for e.g., brokerage on sale) However, cost of acquisition of the asset or the cost of improvement thereto would not include the deductions claimed in respect of interest u/s 24(b) or under the provisions of Chapter VI-A <i>(Note: Deduction on account of STT paid will not be allowed)</i>	xxx	
<b>Net Sale Consideration</b>		<b>xxx</b>
<i>Less:</i> Indexed cost of acquisition (ICOA)	xxx	
$\text{Cost of acquisition} \times \frac{\text{CII for the year in which the asset is transferred}}{\text{CII for the year in which the asset was first held by the assessee or P.Y. 2001-02, whichever is later}}$		
<i>Note: Benefit of indexation will, however, not be available in respect of LTCG taxable u/s 112A and LTCG from transfer of bonds or debentures (other than capital indexed bonds issued by the Government and sovereign gold bonds issued by RBI)</i>		
<i>Less:</i> Indexed cost of improvement (ICOI)	xxx	xxx
$\text{Cost of improvement} \times \frac{\text{CII for the year in which the asset is transferred}}{\text{CII for the year in which the improvement took place}}$		
Long-term capital gains (LTCG)		xxx
<i>Less:</i> Exemptions		xxx
<b>Long-term capital gains chargeable to tax</b>		<b>xxx</b>

### COST OF ACQUISITION [SECTION 55]

Sl. No.	Nature of asset	Cost of acquisition
1	<b>Goodwill of business or profession, trademark, brand name or any other intangible asset etc.,</b> - Self generated - Acquired from previous owner However, in case of capital asset, being goodwill of a business or profession, in respect of which depreciation u/s 32(1) has been obtained by the assessee in any P.Y. (upto P.Y.2019-20)	Nil Purchase price Purchase price as reduced by the total amount of depreciation obtained by the assessee under section 32(1).

	<p>- became the property of the assessee by way of distribution of assets on total or partial partition of HUF, under a gift or will, by succession, inheritance, distribution of assets on liquidation of a company, etc. and previous owner has acquired it by purchase</p> <p>However, in case of capital asset, being goodwill of a business or profession which was acquired by the previous owner by purchase and in respect of which depreciation u/s 32(1) has been obtained by the assessee in any P.Y. (upto P.Y.2019-20)</p> <p>The cost of improvement of such assets would be Nil.</p>	<p>Purchase price for such previous owner</p> <p>Purchase price as reduced by the total amount of depreciation obtained by the assessee under section 32(1).</p>
<b>2.</b>	<b>Bonus shares</b>	
	If bonus shares are allotted before 1.4.2001	FMV on 1.4.2001
	If bonus shares are allotted on or after 1.4.2001	Nil
	Bonus shares allotted before 1.2.2018, on which STT has been paid at the time of transfer	<p>The higher of –</p> <p>(i) Actual cost of acquisition (i.e., Nil, in case of bonus shares allotted on or after 1.4.2001; and FMV on 1.4.2001, in case of bonus shares allotted before 1.4.2001)</p> <p>(ii) Lower of –</p> <p>(a) FMV as on 31.1.2018; and</p> <p>(b) Actual sale consideration</p>
<b>3.</b>	<b>Rights Shares</b>	
	Original shares (which forms the basis of entitlement of rights shares)	Amount actually paid for acquiring the original shares
	Rights shares subscribed for by the assessee	Amount actually paid for acquiring the rights shares
	Rights entitlement (which is renounced by the assessee in favour of a person)	Nil
	Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement	Purchase price paid to the renouncer of rights entitlement as well as the amount paid to the Co. which has allotted the rights shares.
<b>4.</b>	<b>Long term capital assets</b> being,	Cost of acquisition shall be the higher of -
	- <b>equity shares</b> in a company on which STT is paid both at the time of purchase and transfer or	<p>(i) cost of acquisition of such asset; and</p> <p>(ii) lower of</p>

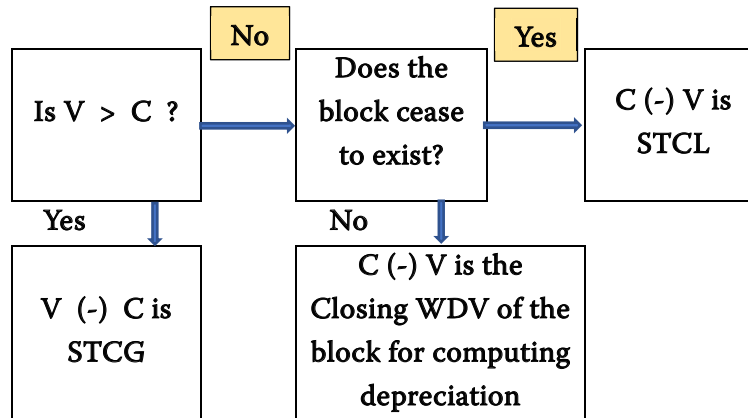
	- <b>unit of equity oriented fund</b> on which STT is paid at the time of transfer. <b>acquired before 1st February, 2018</b>	- the FMV of such asset on 31.1.2018; and - the full value of consideration received or accruing as a result of the transfer of the capital asset.
<b>5.</b>	<b>Any other capital asset</b> Where such capital asset became the property of the assessee before 1.4.2001	Cost of the asset to the assessee, or FMV as on 1.4.2001, at the option of the assessee. However, in case of capital asset being land or building, FMV as on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.
	Where capital assets became the property of the assessee by way of distribution of assets on total or partial partition of HUF, under a gift or will, by succession, inheritance, distribution of assets on liquidation of a company, etc. and the capital asset became the property of the previous owner before 1.4.2001.	Cost to the previous owner or FMV as on 1.4.2001, at the option of the assessee. However, in case of capital asset being land or building, FMV as on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.
	<i>The provisions contained in (5) above shall also apply to the assets mentioned in (2), (3) and (4) above.</i>	
<b>6.</b>	Cost of the property in the hands of previous owner <b>cannot be ascertained</b>	The FMV on the date on which the capital asset become the property of the previous owner would be considered as cost of acquisition.

### COST OF IMPROVEMENT OF CERTAIN ASSETS [SECTION 55]

Sl. No.	Nature of asset	Cost of improvement
1	Goodwill or any other intangible asset of a business, right to manufacture, produce or process any article or thing, right to carry on any business or profession or any other right.	Nil
2	Where the capital asset became the property of the previous owner or the assessee before 1-4-2001	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset on or after 1.4.2001 by the previous owner or the assessee.
3	In relation to any other capital asset	All capital expenditure incurred in making additions or alterations to the capital asset on or after 1.4.2001 – - by the assessee after it became his property; and - by the previous owner [in a case where the assessee acquired the property by modes specified in section 49(1)].

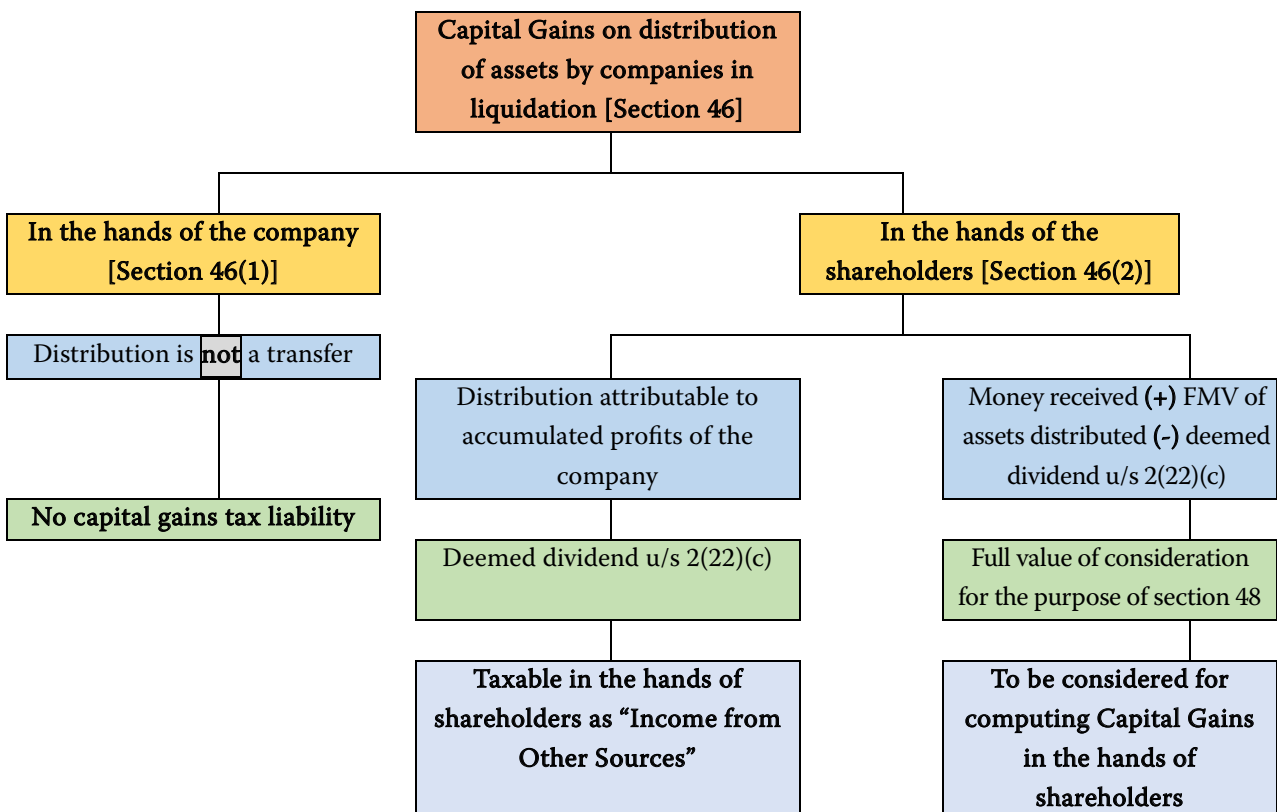
*Note - However, cost of improvement does not include any expenditure which is deductible in computing the income chargeable under the head "Income from house property", "Profits and gains of business or profession" or "Income from other sources". Routine expenses on repairs and maintenance do not form part of cost of improvement.*

**TRANSFER OF DEPRECIABLE ASSETS : TAX CONSEQUENCES**

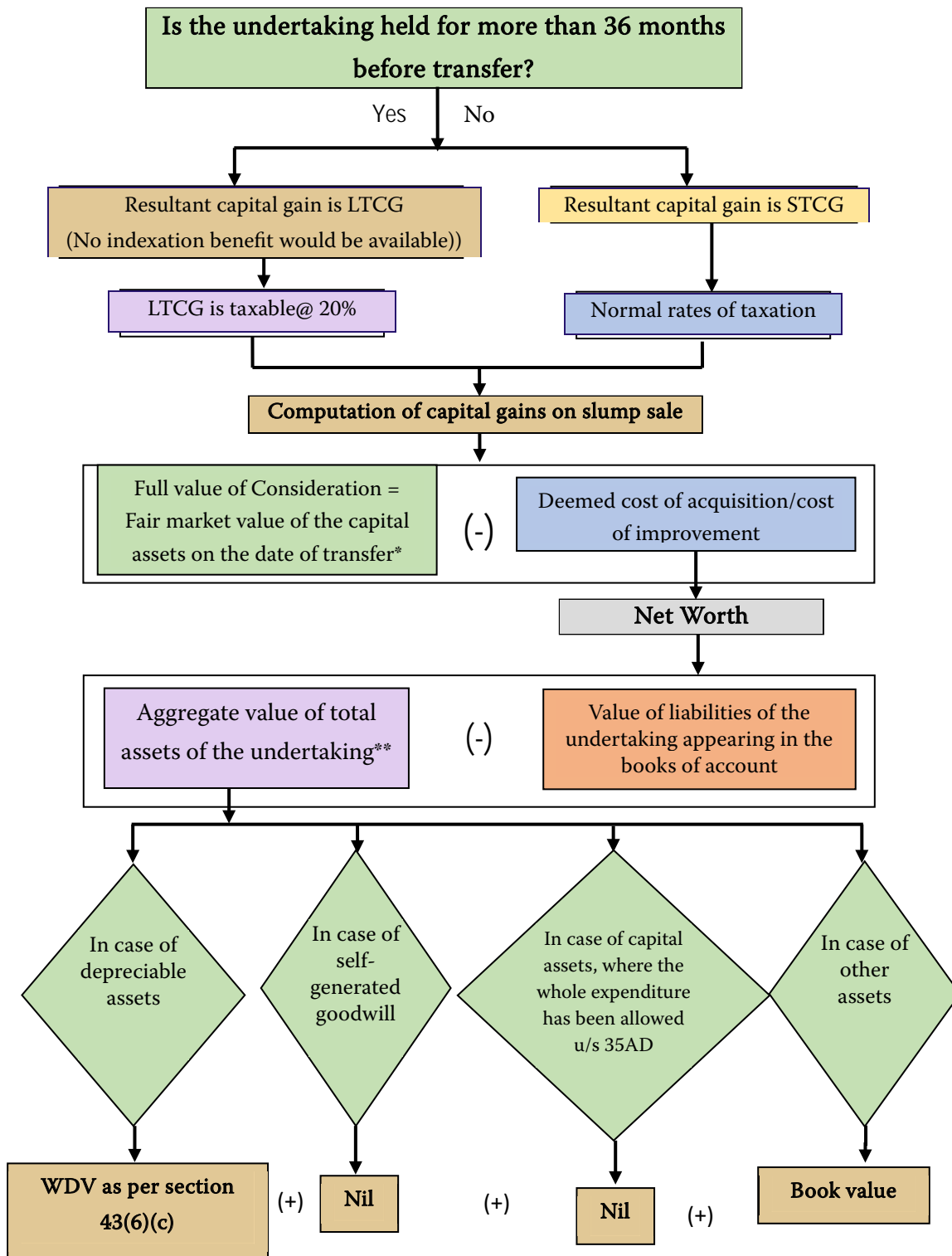


V = Full value of consideration	C = Opening WDV of Block (+) Actual Cost of Asset acquired in the Block during the P.Y. (+) Expenses in connection with transfer of asset
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**CAPITAL GAINS ON DISTRIBUTION OF ASSETS BY COMPANIES IN LIQUIDATION [SECTION 46]**



**CAPITAL GAINS ON SLUMP SALE OF AN UNDERTAKING [SECTION 50B]**



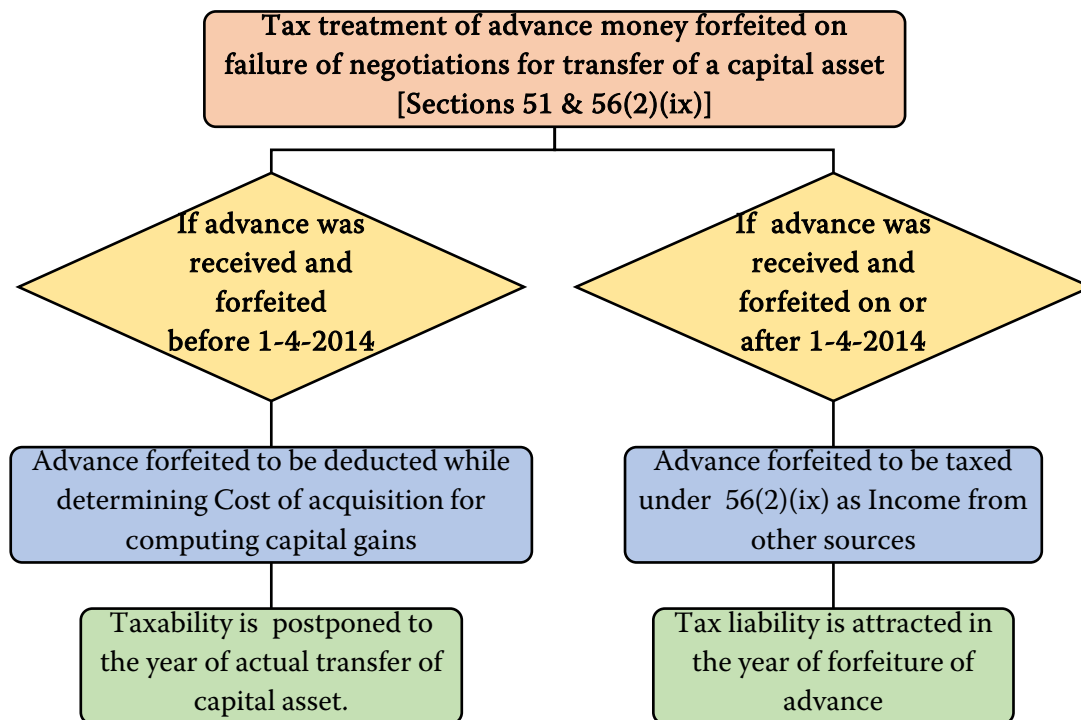
\* Higher of FMV1 and FMV2

\*\*Ignore revaluation effect

**COMPUTATION OF CAPITAL GAINS ON SALE OF LAND OR BUILDING OR BOTH [SECTION 50C]**

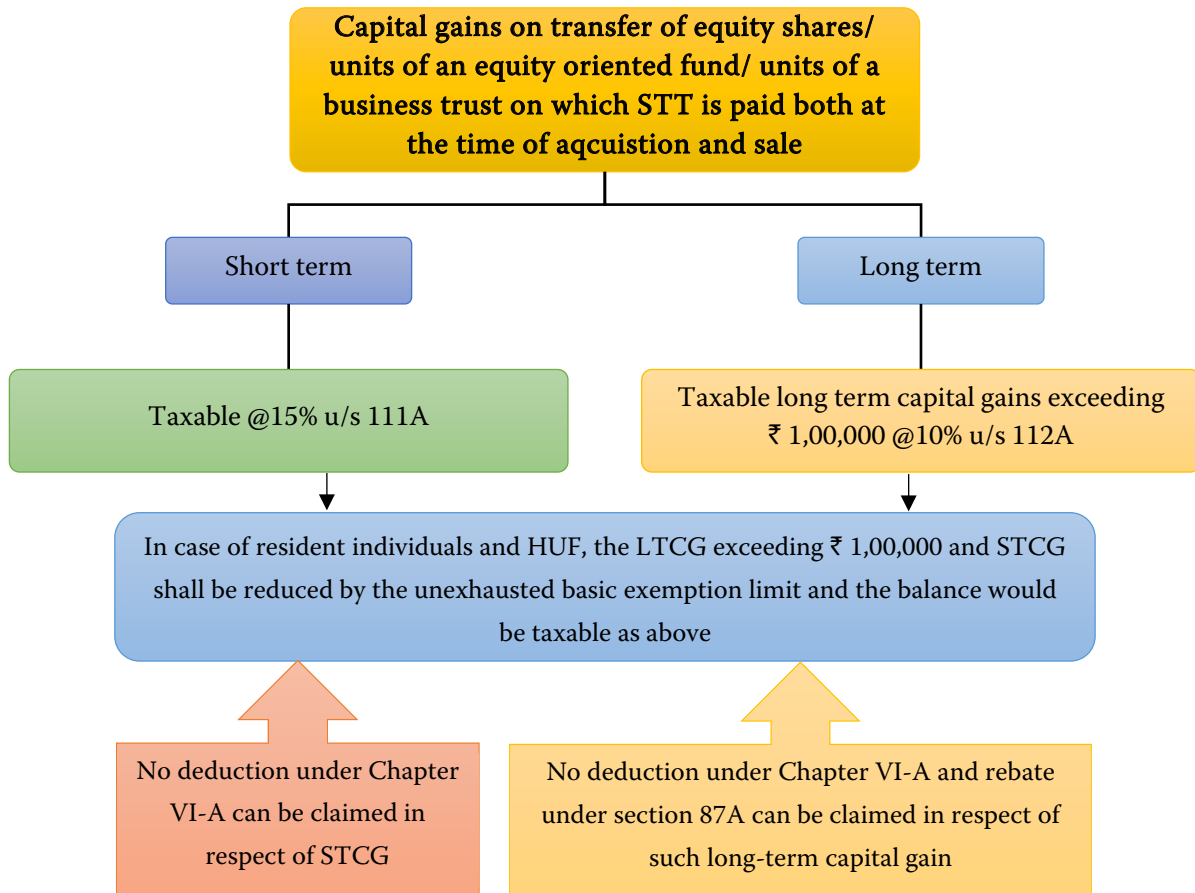
Sl. No.	Condition	Deemed Sale Consideration
1.	<b>Stamp Duty Value &gt; Actual Consideration</b> If Stamp Duty Value > 110% of actual consideration If Stamp Duty Value ≤ 110% of actual sale consideration	Stamp Duty Value Actual sale consideration
2.	Actual Consideration > Stamp Duty Value	Actual Sale Consideration
Where the Assessing Officer refers the valuation to a Valuation Officer, on the assessee's claim that the stamp duty value exceeds the FMV of the property on the date of transfer and the stamp duty value has not been disputed in any appeal or revision or no reference has been made before any other authority, court or High Court.		
3.	Value ascertained by Valuation Officer > Stamp Duty Value	Stamp Duty Value
4.	Value ascertained by Valuation Officer < Stamp Duty Value	Value ascertained by Valuation Officer
<i>Note – If the date of agreement is different from the date of transfer, stamp duty value on the date of agreement can be considered, if whole or part of the consideration is received by way of account payee cheque/bank draft or ECS or prescribed electronic modes (IMPS, UPI, RTGS, NEFT, Net banking, debit card, credit card or BHIM Aadhar Pay) on or before the date of agreement. Otherwise, stamp duty value on the date of transfer has to be considered.</i>		

**ADVANCE MONEY RECEIVED AND FORFEITED UPTO 31.3.2014**





## TAX ON CAPITAL GAINS IN RESPECT OF EQUITY SHARES/ UNITS OF AN EQUITY ORIENTED FUND/ UNITS OF A BUSINESS TRUST



## TAX ON LONG-TERM CAPITAL GAINS [SECTION 112]

	Person	Rate of tax	Particulars	
1.	<b>Resident persons, other than companies</b>			In case of transfer of listed securities (other than units) and Zero Coupon Bonds, LTCG would be taxable at the lower of the following rates – (1) 10% without indexation benefit; and (2) 20% with indexation benefit.
	Resident Individuals and HUF	20%	Unexhausted basic exemption limit can be exhausted against LTCG taxable u/s 112	
	Resident AOPs and BOIs	20%	Unexhausted basic exemption limit cannot be adjusted against LTCG taxable u/s 112	
	Resident Firms and LLPs	20%		
2.	<b>Domestic companies</b>	20%		
3.	<b>Non-corporate non-residents and foreign companies</b>	20%	Capital assets, other than unlisted securities or shares of closely held companies	
		10%	Unlisted securities or shares of closely held companies (without benefit of indexation or foreign currency fluctuation)	

## EXEMPTION OF CAPITAL GAINS [SECTIONS 54 TO 54GA]

S. No.	Particulars	Section 54	Section 54B	Section 54D	Section 54EC	Section 54F	Section 54G	Section 54GA
1	<b>Eligible Assessee</b>	Individual/HUF	Individual/HUF	Any assessee	Any assessee	Individual/HUF	Any assessee	Any assessee
2	<b>Asset transferred</b>	Residential House (LTCA)	Urban Agricultural Land	Land & building forming part of an industrial undertaking	Land or building or both (LTCA)	Any LTCA other than Residential House	Machinery, plant, building or land or any right in building or land used for the business of an industrial undertaking situated in an urban area	Machinery, plant, building or land or any right in building or land used for the business of an industrial undertaking situated in an urban area
3	<b>Other Conditions</b>	Income from such house should be chargeable under the head "Income from house property"	Land should be used for agricultural purposes by assessee or his parents or HUF for 2 years immediately preceding the date of transfer	Land & building have been used for business of undertaking for at least 2 years immediately preceding the date of transfer. The transfer should be by way of compulsory acquisition of the industrial undertaking	-	Assessee should not own more than one residential house on the date of transfer. He should not purchase within 2 years or construct within 3 years after the date of transfer, another residential house.	<b>Shifting</b> of the industrial undertaking <b>from an urban area to any other area other than an urban area</b>	<b>Shifting</b> of the industrial undertaking <b>from an urban area to any SEZ</b>
4	<b>Qualifying asset i.e., asset in which capital gains has to be</b>	One Residential House situated in India/Two residential houses in	Land for being used for agricultural purpose (Urban/Rural)	Land or Building or right in land or building	Bonds of NHAI or RECL or any other bond notified by C.G.	One Residential House situated in India	Purchase new plant and machinery, acquisition of building or land or	Purchase new plant and machinery, acquisition of building or land or

	<b>invested</b>	India, at the option of the assessee, where capital gains do <b>not</b> exceed ₹ 2 crores			(Redeemable after 5 years)		construction of building for the purposes of business of the industrial undertaking, shifting of original asset and incurred expenses	construction of building for the purposes of business of the industrial undertaking, shifting of original asset and incurred expenses
5	<b>Time limit for purchase/construction</b>	Purchase within 1 year before or 2 years after the date of transfer <b>(or)</b> construct within 3 years after the date of transfer	Purchase within a period of 2 years after the date of transfer	Purchase/construct within 3 years after the date of transfer, for shifting or re-establishing the existing undertaking or setting up a new industrial undertaking.	Purchase within a period of 6 months after the date of transfer	Purchase within 1 year before or 2 years after the date of transfer <b>(or)</b> Construct within 3 years after the date of transfer	Purchase within 1 year before or 3 years after the date of transfer	Purchase within 1 year before or 3 years after the date of transfer
6	<b>Amount of Exemption</b>	Cost of new Residential House or two houses, as the case may be or Capital Gain, whichever is lower, is exempt. However, if the cost of new residential house exceeds ₹ 10 crores, the amount exceeding ₹ 10 crores would not	Cost of new Agricultural Land or Capital Gain, whichever is lower, is exempt	Cost of new asset or Capital Gain, whichever is lower.	Capital Gain or amount invested in bonds, whichever is lower. Maximum permissible investment out of capital gains arising in any financial year is ₹ 50 lakhs, whether such investment is made in the current	Cost of new Residential House $\geq$ Net sale consideration of original asset, entire Capital gain is exempt. Cost of new Residential House $<$ Net sale consideration of original asset, proportionate capital gain is exempt. However, if the cost of	Cost of new assets plus expenses incurred for shifting or Capital Gain (STCG or LTCG), whichever is lower, is exempt	Cost of new assets plus expenses incurred for shifting or Capital Gain (STCG or LTCG), whichever is lower, is exempt

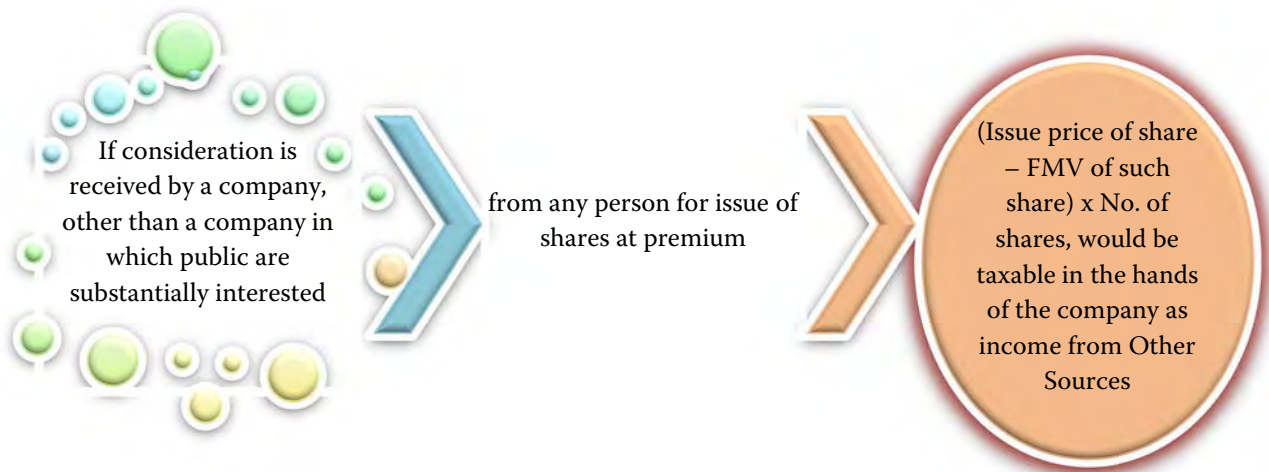
		be taken into account for exemption. The maximum exemption that can be claimed by the assessee is ₹ 10 crores.			FY or subsequent FY or both.	new residential house exceeds ₹ 10 crores, the amount exceeding ₹ 10 crores would not be taken into account for exemption.		
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## INCOME FROM OTHER SOURCES

Income chargeable under the head "Income from Other Sources" [Section 56]: Some example

- Dividend Income
- Casual Income (winnings from lotteries, crossword puzzles, races including horse races, card games and other games, gambling, betting etc.)
- Consideration received in excess of FMV of shares of a closely held company, where such shares are issued at a premium
- Interest received on compensation/ enhanced compensation deemed to be income in the year of receipt
- Advance forfeited due to failure of negotiations for transfer of a capital asset
- Sum of money or property received by any person
- Specified sum received by a unit holder from a business trust during the previous year
- Sum received, including the amount allocated by way of bonus, under a LIP other than under a ULIP and keyman insurance policy, which is not exempt under section 10(10D)
- Interest on securities
- Any income chargeable to tax under the Act, but not falling under any other head of income

### CONSIDERATION RECEIVED IN EXCESS OF FMV OF SHARES OF A CLOSELY HELD COMPANY, WHERE SUCH SHARES ARE ISSUED AT A PREMIUM [SECTION 56(2)(viib)]



**SUM OF MONEY OR PROPERTY RECEIVED BY ANY PERSON [SECTION 56(2)(x)]**

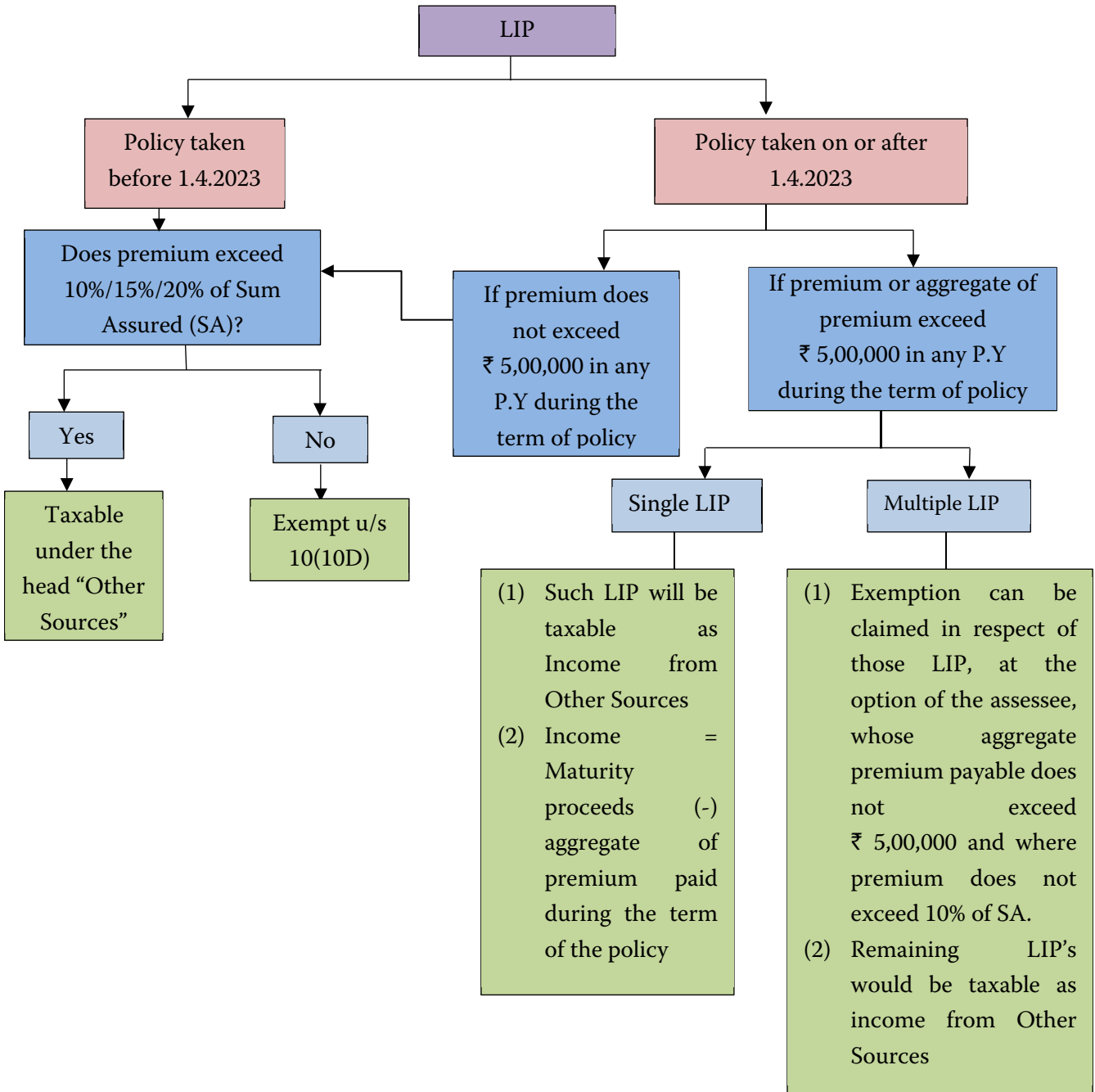
	Nature of asset	Taxable value
1	Money	The whole amount if the same exceeds ₹ 50,000.
2	Movable property	(i) <b>Without consideration:</b> The aggregate fair market value of the property, if it exceeds ₹ 50,000. (ii) <b>Inadequate consideration:</b> The difference between the aggregate fair market value and the consideration, if such difference exceeds ₹ 50,000.
3	Immovable property	(i) <b>Without consideration:</b> The stamp value of the property, if it exceeds ₹ 50,000. (ii) <b>Inadequate consideration:</b> The difference between the stamp duty value and the consideration, if such difference is more than the higher of ₹ 50,000 and 10% of consideration.

*However, any sum of money or value of property received in the following circumstances would be outside the ambit of section 56(2)(x)*

- (i) from any relative; or*
- (ii) on the occasion of the marriage of the individual; or*
- (iii) under a will or by way of inheritance; or*
- (iv) in contemplation of death of the payer or donor, as the case may be; or*
- (v) from any local authority as defined in the Explanation to section 10(20); or*
- (vi) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in section 10(23C); or*
- (vii) from or by any trust or institution registered under section 12A or section 12AA or section 12AB; or*  
*However, where sum of money or property has been received by specified persons under section 13(3), this relaxation is not available and section 56(2)(x) would be applicable.*
- (viii) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in Section 10(23C)(iv)/(v)/(vi)/(via); or*
- (ix) by way of transaction not regarded as transfer under specified clauses of section 47; or*
- (x) from an individual by a trust created or established solely for the benefit of relative of the individual; or*
- (xi) 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 Central Government; or*
- (xiii) by a member of the family of a deceased person from the employer of the deceased person (without any limit); or from any other person or persons to the extent that such sum or aggregate of such sums ≤ ₹ 10 lakhs, where the cause of death of such person is illness related to COVID-19 and the payment is received within 12 months from the date of death of such person; and subject to such other conditions notified by the Central Government; or*
- (xiii) from such class of persons and subject to such conditions, as may be prescribed.*



**SUM RECEIVED, INCLUDING THE AMOUNT ALLOCATED BY WAY OF BONUS, UNDER A LIFE INSURANCE POLICY (LIP) OTHER THAN UNDER A ULIP AND KEYMAN INSURANCE POLICY, WHICH IS NOT EXEMPT UNDER SECTION 10(10D)**



## TAXATION OF CERTAIN INCOMES

Income	Winnings from lotteries, crossword puzzles, races including horse races, card games and other games, gambling, betting etc. (other than winning from any online game)	Unexplained cash credits/ investments/ money, bullion, jewellery etc./ expenditure, etc.	Net winnings from online games
<b>Section</b>	<b>115BB</b>	<b>115BBE</b>	<b>115BBJ</b>
<b>Tax rate</b>	30% of such winnings (further increased by surcharge, if applicable, and health and education cess@4%)	60% of such income <i>plus</i> surcharge @25% of tax (Effective rate of tax is 78%, including health and education cess@4%)	30% of net winnings from online game (further increased by surcharge, if applicable, and health and education cess@4%)
<b>Other conditions</b>	<ul style="list-style-type: none"> <li>➤ No expenditure or allowance can be allowed from such income.</li> <li>➤ Deduction under Chapter VI-A is not allowable from such income.</li> <li>➤ Adjustment of unexhausted basic exemption limit is also not permitted against such income.</li> <li>➤ Set-off of losses is not permissible against such income.</li> </ul>		

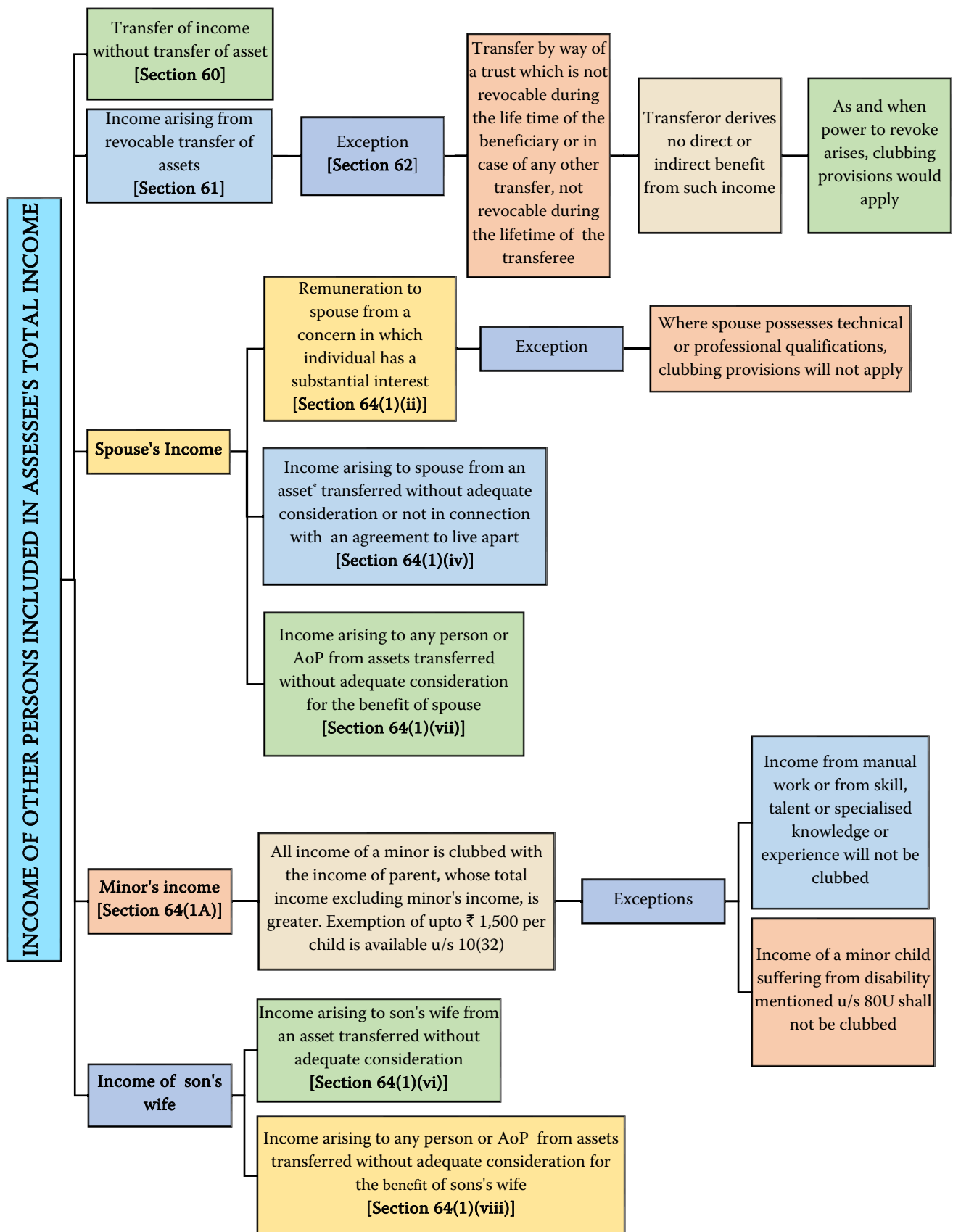
## DEDUCTIONS ALLOWABLE [SECTION 57]

S. No.	Particulars	Deduction
1.	In case of dividend or income in respect of units of mutual fund or income in respect of units from a specified company	Interest expenditure to earn such income. However, such interest expenses cannot exceed 20% of such income included in total income, without deduction under this section.
2.	In case of interest on securities	Any reasonable sum paid by way of commission or remuneration to a banker or any other person.
3.	Income consists of recovery from employees as contribution to any PF, superannuation fund etc.	Amount of contribution remitted before the due date under the respective Acts, in accordance with the provisions of section 36(1)(va).
4.	Income from letting on hire of machinery, plant and furniture, with or without building	Current repairs to the machinery, plant, furniture or building, insurance premium, depreciation/ unabsorbed depreciation.
5.	Family Pension	Sum equal to - 33 1/3% of such income or - ₹ 15,000, whichever is less.
6.	Interest on compensation/ enhanced compensation received	50% of such interest income.

**DEDUCTIONS NOT ALLOWABLE [SECTION 58]**

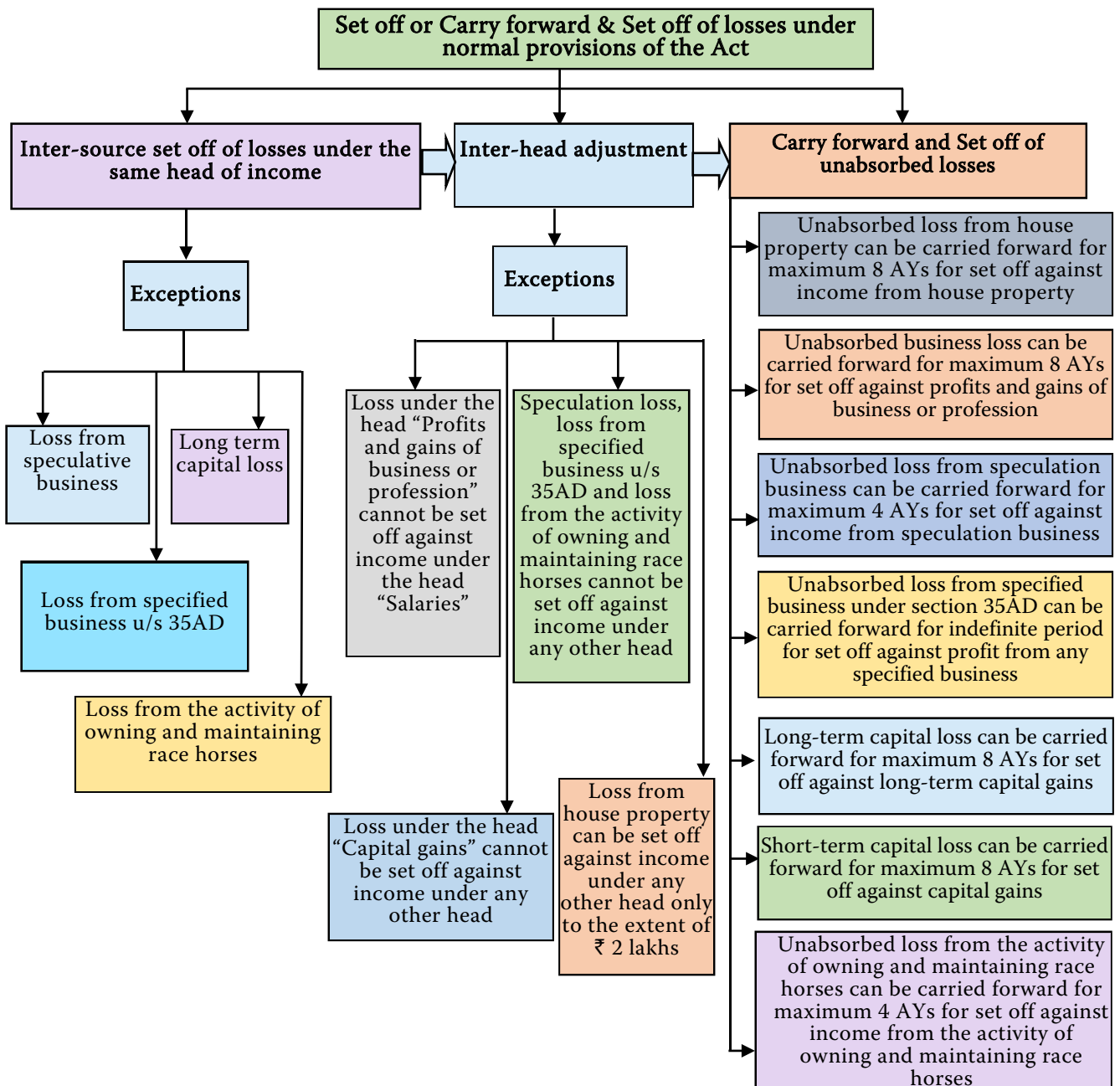
S. No.	Deductions not allowable
1.	Any personal expense of the assessee.
2.	Any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.
3.	Any payment chargeable to tax under the head "Salaries", if it is payable outside India unless tax has been paid thereon or deducted at source.
4.	Any expenditure in respect of which a payment or aggregate payments exceeding ₹ 10,000 is made to a person in a day otherwise than by account payee cheque or draft or ECS through bank account or through such other prescribed electronic mode such as credit card, debit card, net banking, IMPS, UPI, RTGS, NEFT and BHIM Aadhar pay.
5.	30% of expenditure in respect of sum which is payable to a resident on which tax is deductible at source, if such tax has not been deducted or after deduction has not been paid on or before the due date of return specified in section 139(1).
6	Expenditure incurred in connection with casual income.

# CLUBBING PROVISIONS



\* In case of transfer of house property to spouse without adequate consideration, transferor will be deemed as owner of such property as per section 27(i). In such a case, section 64(1)(iv) will not apply.

## SET OFF OR CARRY FORWARD & SET OFF OF LOSSES

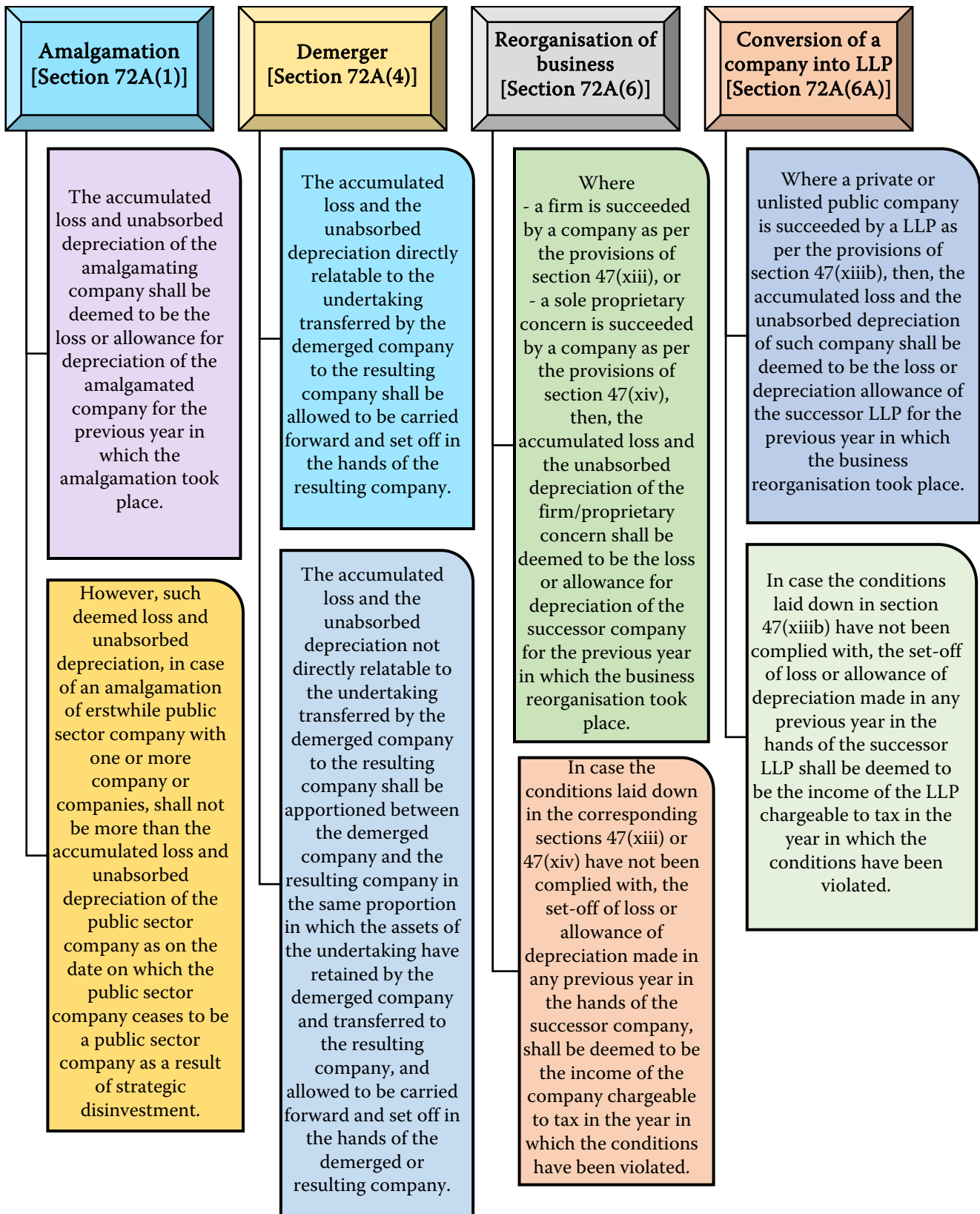


Following brought forward losses/depreciation is not allowed to be set off while computing total income under the special concessional tax regimes under section 115BAA/115BAB/115BAC/115BAD/115BAE -

1. Brought forward business loss of specified business u/s 35AD.
2. Brought forward business loss on account of deduction u/s 35(1)(ii)/(iia)/(iii) or u/s 35(2AA) [or u/s 35(2AB), in case of computation of total income under sections 115BAA/115BAB, applicable to companies].
3. Unabsorbed depreciation attributable to additional depreciation u/s 32(1)(iia).

This is because deductions u/s 35AD, u/s 35(i)(ii)/(iia)/(iii), u/s 35(2AA), u/s 35(2AB) and additional depreciation u/s 32(1)(iia) are not allowable under the special concessional tax regimes. In addition, in case of persons covered under section 115BAC, brought forward loss from self-occupied house property is not allowed to be set-off while computing total income under the default tax regime thereunder.

**CARRY FORWARD AND SET OFF OF ACCUMULATED LOSS AND UNABSORBED DEPRECIATION IN CERTAIN CASES OF AMALGAMATION/DEMERGER, ETC. [SECTION 72A]**





### Section 72A(1) applies where there has been an amalgamation of –

a company owning an industrial undertaking or a ship or a hotel with another company; or

a banking company with a specified bank; or

one or more public sector company or companies with one or more public sector company or companies; or

an erstwhile public sector company (i.e., a company which was a public sector company in earlier previous years and ceases to be a public sector company by way of strategic disinvestment by the Government) with one or more company or companies, if the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said public sector company and the amalgamation is carried out within 5 year from the end of the previous year in which the restriction on amalgamation in the share purchase agreement ends.

#### Conditions to be fulfilled by the amalgamating co.

The amalgamating company should have been **engaged in the business**, in which the accumulated loss occurred or depreciation remains unabsorbed, **for 3 or more years**.

The amalgamating company has held continuously, as on the date of amalgamation, **at least 3/4<sup>th</sup> of the book value of the fixed assets held by it 2 years prior to the date of amalgamation**.

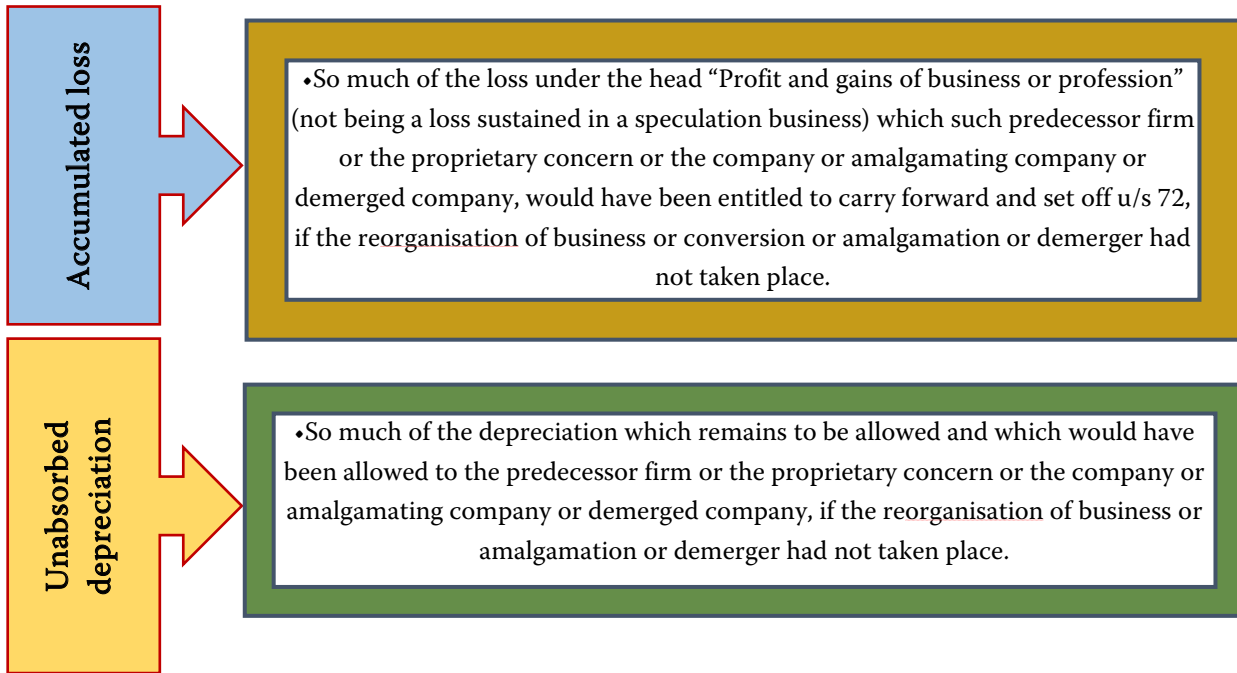
#### Conditions to be fulfilled by the amalgamated company

The amalgamated company should **hold at least 3/4<sup>th</sup> of the book value of fixed assets** of the amalgamating company acquired as a result of amalgamation **for a minimum period of 5 years** from the date of amalgamation.

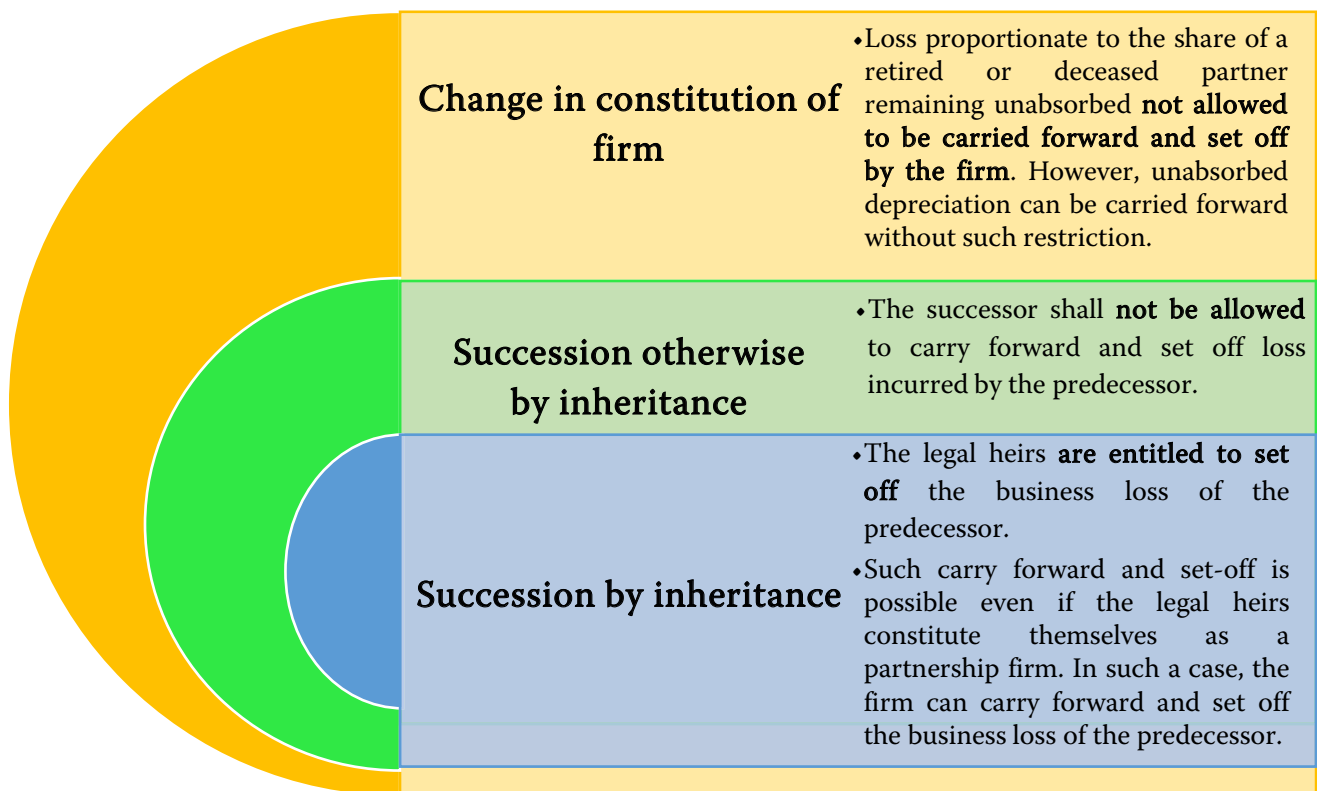
The amalgamated company **continues the business** of the amalgamating company for **at least 5 years** from the date of amalgamation.

The amalgamated company must also fulfill such other conditions prescribed under Rule 9C.

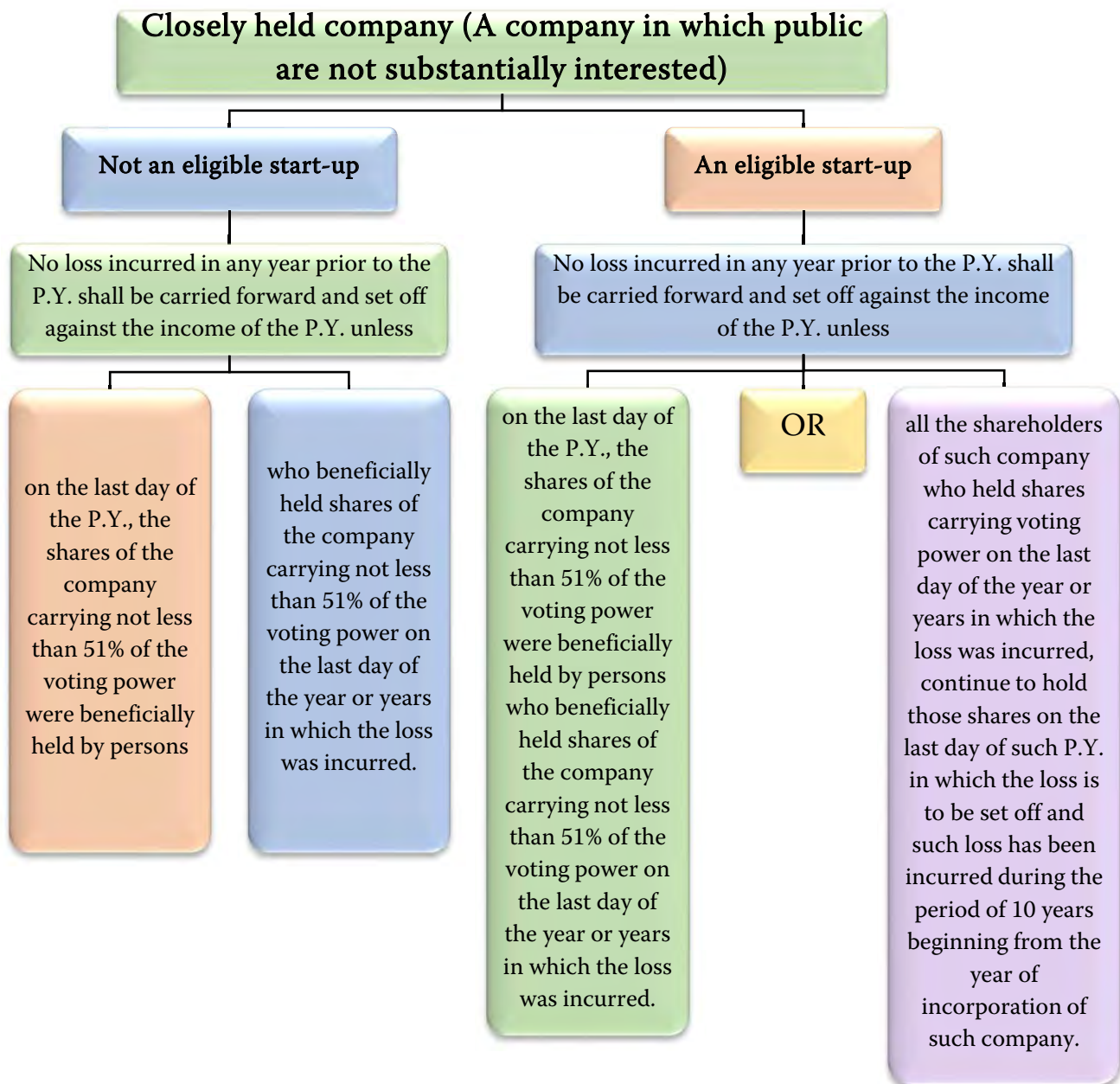
In case the above specified conditions are not fulfilled, that part of accumulated loss and unabsorbed depreciation remaining to be utilized by the amalgamated company shall lapse and such loss or depreciation as has been set off shall be treated as the income of the amalgamated company in the year in which there is a failure to fulfill the conditions.

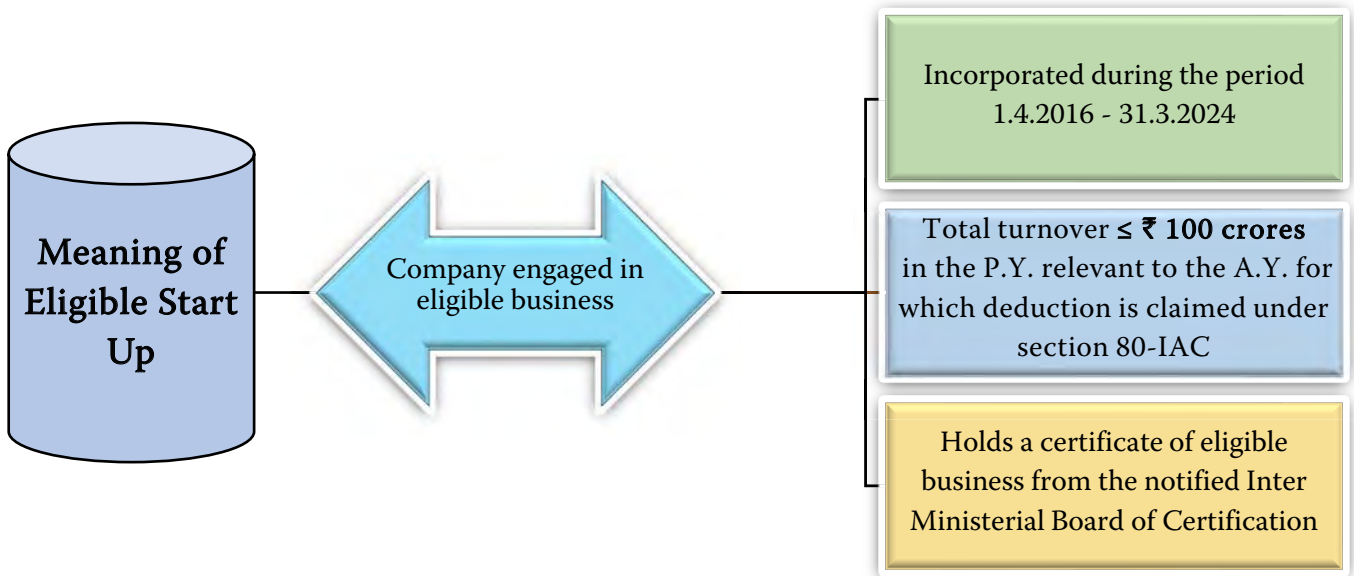


**CARRY FORWARD AND SET OFF OF LOSSES IN CASE OF CHANGE IN CONSTITUTION OF FIRM OR SUCCESSION [SECTION 78]**



**CARRY FORWARD AND SET OFF OF LOSSES IN CASE OF CLOSELY HELD COMPANIES [SECTION 79]**

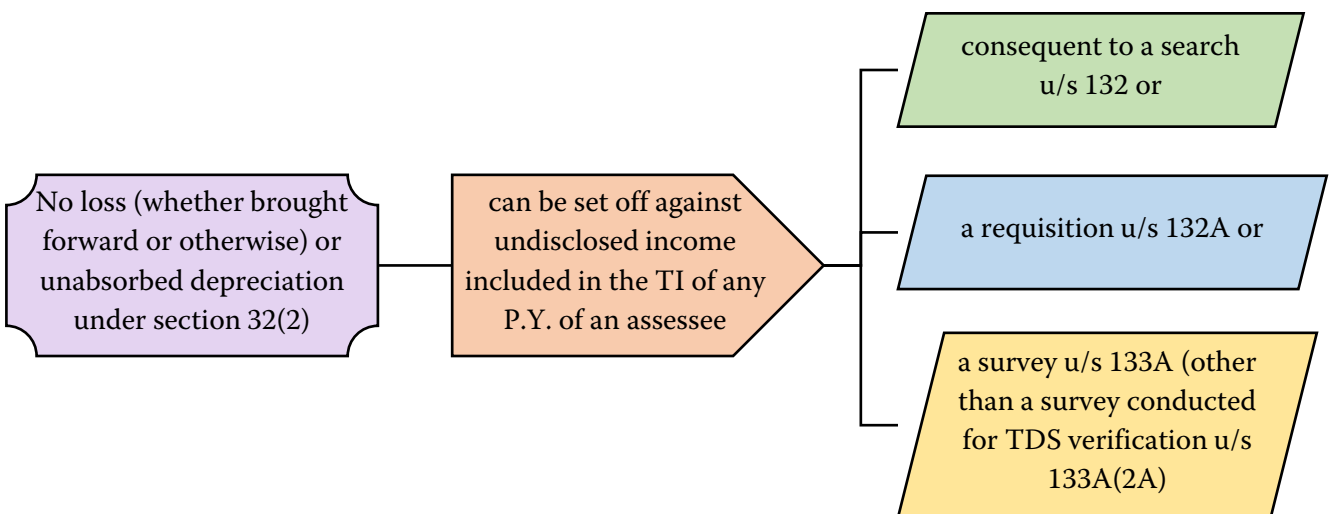


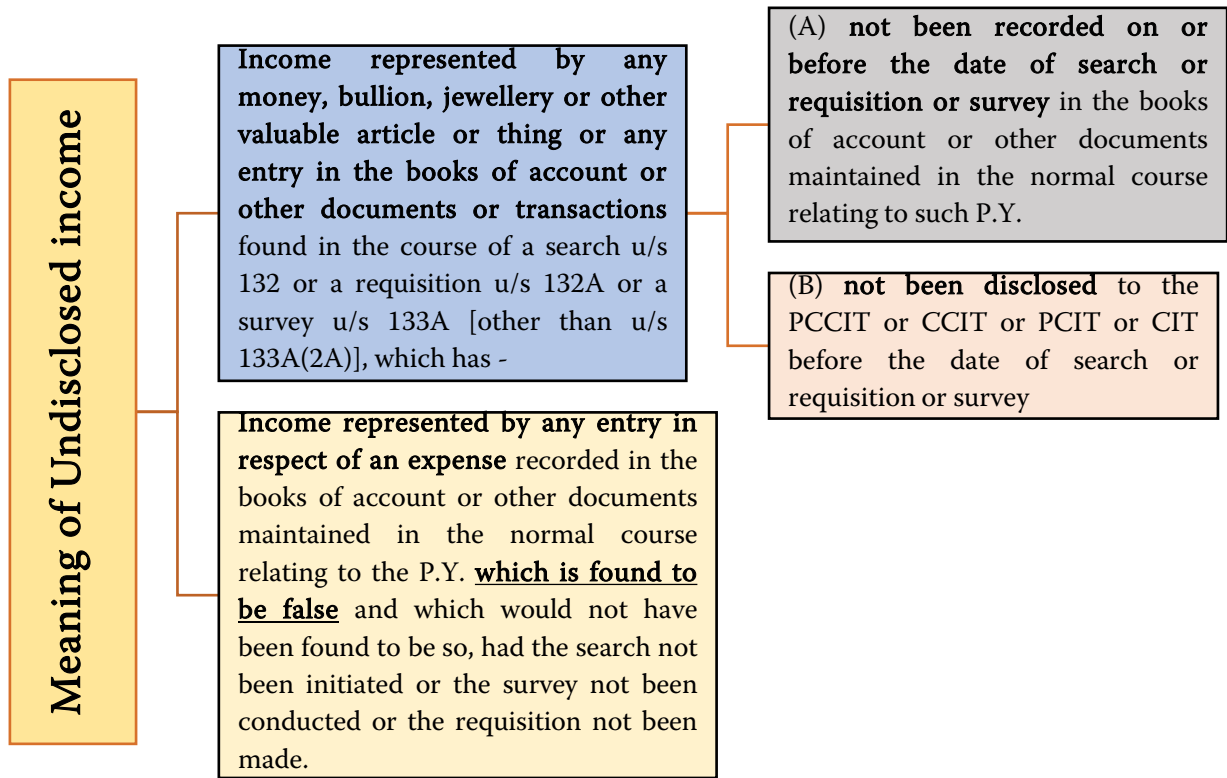


**Meaning of eligible business**

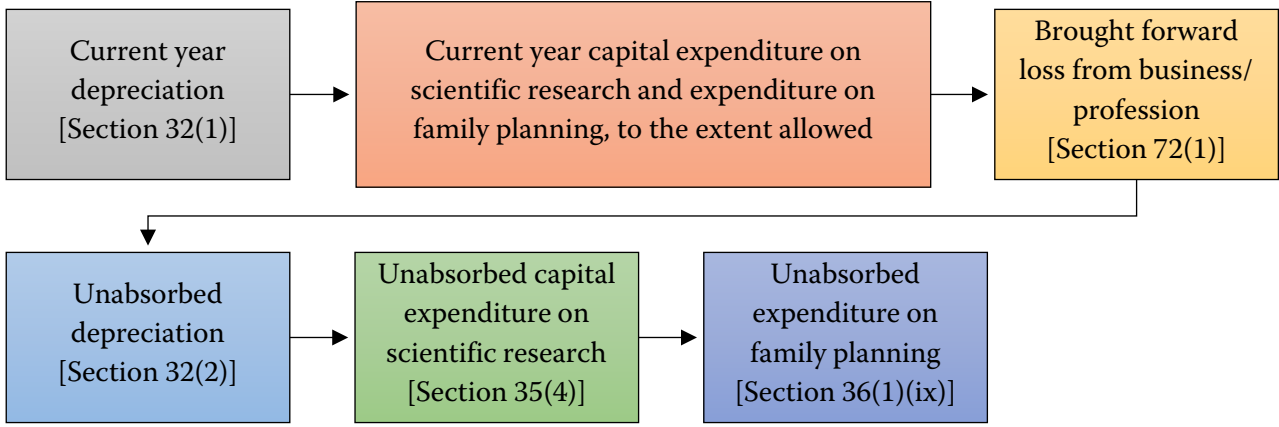


**NO SET OFF OF LOSSES AGAINST UNDISCLOSED INCOME BROUGHT TO TAX CONSEQUENT TO SEARCH, REQUISITION AND SURVEY [SECTION 79A]**



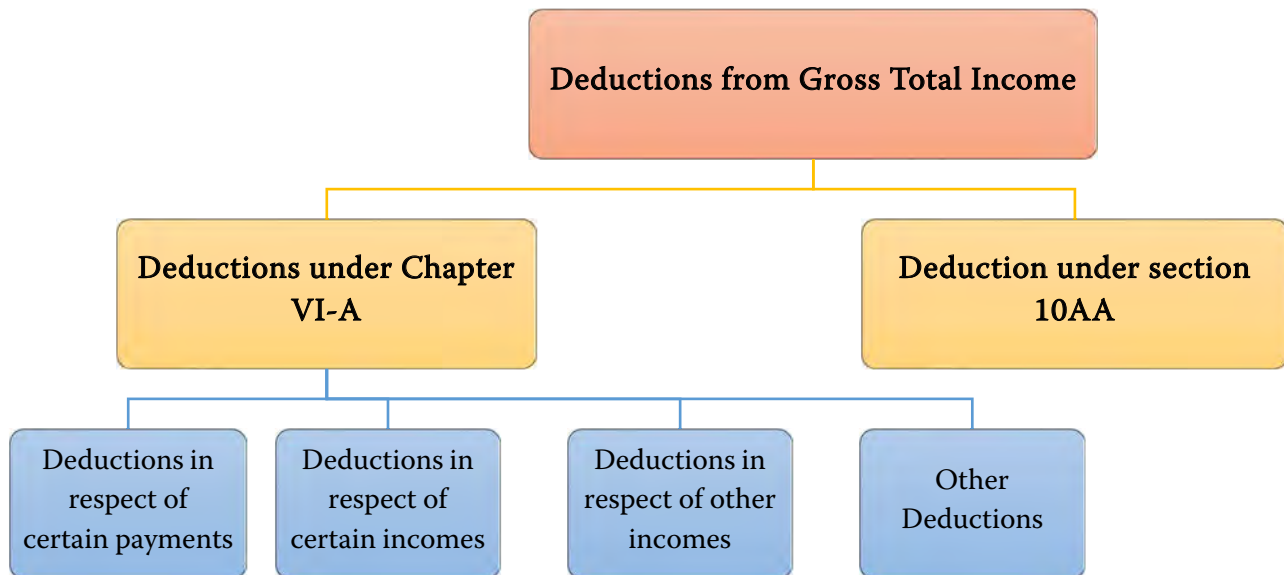


**Order of set off**



As per section 80, filing of loss return under section 139(3) within the due date specified under section 139(1) is mandatory for carry forward of the above losses except loss from house property and unabsorbed depreciation.

## DEDUCTIONS FROM GROSS TOTAL INCOME



### DEDUCTIONS IN RESPECT OF CERTAIN PAYMENTS

Section	Eligible Assessee	Eligible Payments	Permissible Deduction
80C	Individual or HUF	<b>Contribution to PPF, Payment of LIC premium, etc.</b> Sums paid or deposited in the previous year by way of <ul style="list-style-type: none"> <li>- Life insurance premium</li> <li>- Contribution to PPF/SPF/RPF and approved superannuation fund</li> <li>- Repayment of housing loan taken from Govt., bank, LIC, specified employer etc.</li> <li>- Tuition fees to any Indian university, college, school for full-time education of any two children</li> <li>- Term deposit for a fixed period of not less than 5 years with schedule bank</li> <li>- Subscription to notified bonds of NABARD</li> <li>- Five year post office time deposit</li> </ul>	Sum paid or deposited, subject to a maximum of ₹ 1,50,000



Section	Eligible Assessee	Eligible Payments	Permissible Deduction
		<ul style="list-style-type: none"> <li>- Senior Citizen's Savings Scheme Account etc.</li> <li>- Contribution by Central Government employee to additional account (Tier II A/c) of NPS referred to u/s 80CCD</li> </ul>	
80CCC	Individual	<p><b>Contribution to certain pension funds</b></p> <p>Any amount paid or deposited to keep in force a contract for any annuity plan of LIC of India or any other insurer for receiving pension from the fund.</p>	Amount paid or deposited, subject to a maximum of ₹ 1,50,000
80CCD	Individuals employed by the Central Government or any other employer; Any other individual assessee	<p><b>Contribution to Pension Scheme of Central Government</b></p> <p>An individual employed by the Central Government on or after 1.1.2004 or any other employer or any other assessee, being an individual, who has paid or deposited any amount in his account under a notified pension scheme [to his individual pension account [Tier I A/c] under National Pension Scheme &amp; Atal Pension Yojana]</p>	<p><b>Employee's Contribution/ Individual's Contribution</b></p> <p>In case of a salaried individual, deduction of own contribution u/s 80CCD(1) is restricted to 10% of his salary.</p> <p>In any other case, deduction u/s 80CCD(1) is restricted to 20% of gross total income.</p> <p>Further, additional deduction of upto ₹ 50,000 is available u/s 80CCD(1B).</p> <p><b>Employer's Contribution</b></p> <p>The entire employer's contribution would be included in the salary of the employee. The deduction of employer's contribution u/s 80CCD(2) would be restricted to 14% of salary, where the employer is the Central Government or State Government; and 10%, in case of any other employer.</p>
<p><i>Note – As per section 80CCE, maximum permissible deduction u/s 80C, 80CCC &amp; 80CCD(1) is ₹ 1,50,000. However, the limit ₹ 1,50,000 u/s 80CCE does not apply to deduction u/s 80CCD(2) and 80CCD(1B).</i></p>			

Section	Eligible Assessee	Eligible Payments	Permissible Deduction	
80CCH	Individual	<b>Contribution to Agniveer Corpus Fund</b> An individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund on or after 1.11.2022, who has paid or deposited any amount in his account in the Agniveer Corpus Fund	<b>Individual's Contribution</b> Whole of the amount paid or deposited	
			<b>Central Government's Contribution</b> The entire Central Government's contribution to the Agniveer Corpus Fund would be included in the salary of the assessee. Thereafter, deduction u/s 80CCH(2) would be available for the same.	
80D	Individual and HUF	<b>Medical Insurance Premium</b> (1) Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health of—	Maximum ₹ 25,000 (₹ 50,000, in case the individual or his or her spouse is a senior citizen)	
		<table border="1"> <tr> <td>in case of an individual</td> <td>self, spouse and dependent children</td> </tr> <tr> <td>in case of HUF</td> <td>family member</td> </tr> </table>		in case of an individual
in case of an individual	self, spouse and dependent children			
in case of HUF	family member			
		(2) In case of an individual, contribution, otherwise than by way of cash, to CGHS or any other scheme as notified by Central Government. (3) Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health of parents, whether or not dependent on the individual.	Maximum ₹ 25,000 (₹ 50,000, in case either or both of the parents are senior citizen(s))	
		<b>Notes:</b> (i) Any amount paid, otherwise than by way of cash, on account of medical expenditure incurred on the health of the assessee or his family member or his parent, who is a senior citizen and no amount has been paid to effect or to keep	Amount paid subject to a cap of ₹ 50,000 (in case one parent is a senior citizen, in respect of whom insurance premium is paid, and the other is a senior citizen on whom medical expenditure is incurred, the total deduction	

Section	Eligible Assessee	Eligible Payments	Permissible Deduction						
		<p>in force an insurance on the health of such person.</p> <p>(ii) Payment, including cash payment, for preventive health check up of himself, spouse, dependent children and parents.</p> <p>(4) In case where medical premium is paid lumpsum for more than one year</p>	<p>cannot exceed ₹ 50,000)</p> <p>Amount paid subject to a cap of ₹ 5,000, in aggregate (subject to the overall individual limits of ₹ 25,000/ ₹ 50,000, as the case may be)</p> <p>Deduction for each of the relevant previous year = 1/number of relevant previous year</p> <p>Relevant previous year means previous year in which such lumpsum is paid and the subsequent previous years during which the insurance would be in force.</p>						
80DD	Resident Individual or HUF	<p><b>Maintenance including medical treatment of a dependant disabled</b></p> <p>Any amount incurred for the medical treatment (including nursing), training and rehabilitation of a dependent disabled</p> <p><b>and / or</b></p> <p>Any amount paid or deposited under the scheme framed in this behalf by the LIC or any other insurer or Administrator or Specified Company and approved by Board.</p> <p><b>Meaning of Dependant</b></p> <table border="1"> <thead> <tr> <th>(1) In case of</th> <th>(2) Dependant</th> </tr> </thead> <tbody> <tr> <td>An individual</td> <td>Spouse, children, parents, brothers, sisters</td> </tr> <tr> <td>A HUF</td> <td>Any member</td> </tr> </tbody> </table> <p>Persons mentioned in column (2) should be wholly or mainly dependant on the person mentioned in corresponding column (1) for support and maintenance. Such persons should not have claimed deduction under section 80U in computing total income of that year.</p>	(1) In case of	(2) Dependant	An individual	Spouse, children, parents, brothers, sisters	A HUF	Any member	<p>Flat deduction of ₹ 75,000.</p> <p>In case of severe disability (i.e., person with 80% or more disability) the flat deduction shall be ₹ 1,25,000.</p>
(1) In case of	(2) Dependant								
An individual	Spouse, children, parents, brothers, sisters								
A HUF	Any member								

Section	Eligible Assessee	Eligible Payments	Permissible Deduction	
80DDB	Resident Individual or HUF	<b>Deduction for medical treatment of specified diseases or ailments</b> Amount paid for specified diseases or ailment	Actual sum paid or ₹ 40,000 (₹ 1,00,000, if the payment is for medical treatment of a senior citizen), whichever is less, (-) the amount received from the insurance company or reimbursed by the employer.	
		<b>Assessee</b>		<b>Amount spent</b>
		An individual		For himself or his dependant being spouse, children, parents, brothers or sisters, wholly or mainly dependant on the individual for support and maintenance
		A HUF	For any member	
80E	Individual	<b>Interest on loan taken for higher education</b> Interest on loan taken from any financial institution or approved charitable institution. Such loan is taken for pursuing his higher education or higher education of his or her relative i.e., spouse or children of the individual or the student for whom the individual is the legal guardian.	The deduction is available for interest payment in the initial assessment year (year of commencement of interest payment) and seven assessment years immediately succeeding the initial assessment year (or) until the interest is paid in full by the assessee, whichever is earlier.	
80EE	Individual	<b>Deduction for interest on loan borrowed from any financial institution [bank/housing finance company (HFC)] for acquisition of residential house property</b>	Deduction of upto ₹ 50,000 would be allowed in respect of interest on loan taken from a financial institution. <b>Conditions:</b> <ul style="list-style-type: none"> <li>• Loan should be sanctioned during P.Y.2016-17</li> <li>• Loan sanctioned ≤ ₹ 35 lakhs</li> <li>• Value of house ≤ ₹ 50 lakhs</li> <li>• The assessee should not own any residential house on the date of sanction of loan.</li> </ul>	
80EEA	Individual	<b>Deduction in respect of interest payable on loan taken from a financial institution (bank/HFC) for</b>	Deduction of upto ₹ 1,50,000 would be allowed in respect of interest payable on loan taken	

Section	Eligible Assessee	Eligible Payments	Permissible Deduction															
		acquisition of residential house property	from a financial institution for acquisition of house property. <b>Conditions:</b> <ul style="list-style-type: none"> <li>• Loan should be sanctioned during the period between 1.4.2019 to 31.3.2022.</li> <li>• Stamp Duty Value of house <math>\leq</math> ₹ 45 lakhs</li> <li>• The individual should not own any residential house on the date of sanction of loan.</li> <li>• The individual should not be eligible to claim deduction u/s 80EE.</li> </ul>															
80EEB	Individual	Deduction in respect of interest payable on loan taken from a financial institution (bank or certain NBFCs) for purchase of electric vehicle	Deduction of upto ₹ 1,50,000 would be allowed in respect of interest payable on loan taken for purchase of electric vehicle. Loan should be sanctioned during the period from 1.4.2019 to 31.3.2023.															
80G	All assesseees	<p><b>Donations to certain funds, charitable institutions etc.</b></p> <p><b>There are four categories of deductions –</b></p> <table border="1"> <thead> <tr> <th></th> <th>Category</th> <th>Donee</th> </tr> </thead> <tbody> <tr> <td>(I)</td> <td>100% deduction of amount donated, without any qualifying limit</td> <td>Prime Minister's National Relief Fund, National Children's Fund, Swachh Bharat Kosh, National Defence Fund, PM CARES Fund etc.</td> </tr> <tr> <td>(II)</td> <td>50% deduction of amount donated, without any qualifying limit</td> <td>Prime Minister's Drought Relief Fund.</td> </tr> <tr> <td>(III)</td> <td>100% deduction of amount donated, subject to qualifying limit</td> <td>Government or local authority, institution for promotion of family planning etc.</td> </tr> <tr> <td>(IV)</td> <td>50% deduction of amount donated, subject to qualifying limit</td> <td>Government or any local authority to be used for charitable purpose, other than promotion of family planning, notified temple, church, gurudwara, mosque etc.</td> </tr> </tbody> </table>		Category	Donee	(I)	100% deduction of amount donated, without any qualifying limit	Prime Minister's National Relief Fund, National Children's Fund, Swachh Bharat Kosh, National Defence Fund, PM CARES Fund etc.	(II)	50% deduction of amount donated, without any qualifying limit	Prime Minister's Drought Relief Fund.	(III)	100% deduction of amount donated, subject to qualifying limit	Government or local authority, institution for promotion of family planning etc.	(IV)	50% deduction of amount donated, subject to qualifying limit	Government or any local authority to be used for charitable purpose, other than promotion of family planning, notified temple, church, gurudwara, mosque etc.	
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(II)	50% deduction of amount donated, without any qualifying limit	Prime Minister's Drought Relief Fund.																
(III)	100% deduction of amount donated, subject to qualifying limit	Government or local authority, institution for promotion of family planning etc.																
(IV)	50% deduction of amount donated, subject to qualifying limit	Government or any local authority to be used for charitable purpose, other than promotion of family planning, notified temple, church, gurudwara, mosque etc.																

Section	Eligible Assessee	Eligible Payments	Permissible Deduction				
		<p><b>Calculation of Qualifying limit for Category III &amp; IV donations:</b></p> <p><b>Step 1:</b> Compute adjusted total income, i.e., the gross total income as reduced by the following:</p> <table border="1"> <tr> <td>1.</td> <td>Deductions under Chapter VI-A, except u/s 80G</td> </tr> <tr> <td>2.</td> <td>Capital gains taxable u/s 111A, 112 &amp; 112A</td> </tr> </table> <p><b>Step 2:</b> Calculate 10% of adjusted total income.</p> <p><b>Step 3:</b> Calculate the actual donation, which is subject to qualifying limit</p> <p><b>Step 4:</b> Lower of Step 2 or Step 3 is the maximum permissible deduction.</p> <p><b>Step 5:</b> The said deduction is adjusted first against donations qualifying for 100% deduction (i.e., Category III donations). Thereafter, 50% of balance qualifies for deduction under section 80G.</p> <p><i>Note - No deduction shall be allowed for donation in excess of ₹ 2,000, if paid in cash.</i></p>		1.	Deductions under Chapter VI-A, except u/s 80G	2.	Capital gains taxable u/s 111A, 112 & 112A
1.	Deductions under Chapter VI-A, except u/s 80G						
2.	Capital gains taxable u/s 111A, 112 & 112A						
80GG	Individual not in receipt of house rent allowance	Rent paid for residential accommodation	<p>Least of the following is allowable as deduction:</p> <p>(1) 25% of total income;</p> <p>(2) Rent paid – 10% of total income</p> <p>(3) ₹ 5,000 p.m.</p> <p>No deduction if any residential accommodation is owned by the assessee/his spouse/minor child/HUF at the place where he ordinarily resides or performs the duties of his office or employment or carries on his business or profession.</p>				
80GGA	Any assessee not having income chargeable under the head “Profits and gains of business or profession”	Donations for scientific research or rural development	<p>Actual donation</p> <p>[No deduction shall be allowed for donation in excess of ₹ 2,000, if paid in cash]</p>				
80GGB	Indian company	<p><b>Contributions to political parties</b></p> <p>Any sum contributed by it to a registered political party or an electoral trust.</p>	<p>Actual contribution</p> <p>(otherwise than by way of cash)</p>				



Section	Eligible Assessee	Eligible Payments	Permissible Deduction
80GGC	Any person, other than local authority and an artificial juridical person funded by the Government	<b>Contributions to political parties</b> Amount contributed to a registered political party or an electoral trust.	Actual contribution (otherwise than by way of cash)

### DEDUCTIONS IN RESPECT OF CERTAIN INCOMES

Section	Eligible Assessee	Eligible Income	Permissible Deduction
80JJAA	An assessee to whom section 44AB applies, whose gross total income includes profits and gains derived from business	Deduction in respect of employment of new employees	30% of additional employee cost incurred in the previous year. Deduction is allowable for 3 assessment years including assessment year relevant to the previous year in which such employment is provided.
80M	A domestic company	<b>Deduction in respect of inter-corporate dividend</b> The gross total income of domestic company includes in any P.Y., any income by way of dividends from any other domestic company or foreign company or a business trust.	Amount of dividend received from other domestic company or foreign company or business trust or the amount of dividend distributed by such domestic company on or before the due date, whichever is less. <b>Due date means</b> one month prior to the date of furnishing return of income u/s 139(1).
80QQB	Resident individual, being an author	<b>Royalty income, etc., of authors of certain books other than text books</b> Consideration for assignment or grant of any of his interests in the copyright of any book, being a work of literary, artistic or scientific nature or royalty or copyright fee received as lumpsum or otherwise	Income derived in the exercise of profession or ₹ 3,00,000, whichever is less. In respect of royalty or copyright fee received otherwise than by way of lumpsum, income to be restricted to 15% of value of books sold during the relevant previous year.

Section	Eligible Assessee	Eligible Income	Permissible Deduction
80RRB	Resident individual, being a patentee	<b>Royalty on patents</b> Any income by way of royalty on patents registered on or after 1.4.2003	Whole of such income or ₹ 3,00,000, whichever is less.

As per section 80AC, furnishing return of income on or before due date specified u/s 139(1) is mandatory for claiming deduction in respect of certain incomes. Deductions u/s 80-IA to 80-IE are discussed after this table.

### DEDUCTIONS IN RESPECT OF CERTAIN INCOMES: SECTIONS 80-IA TO 80-IE

Section	Eligible Business	Year of commencement of eligible business	Period of Deduction	Quantum of Deduction
80-IA	(1) (i) Developing or (ii) Operating and maintaining or (iii) Developing, operating and maintaining any infrastructure facility	On or after 1.4.1995 but not later than 1.4.2017	<b>Infrastructure Facility of road, or a bridge or a rail system or a highway project or a water supply project:</b> 10 consecutive assessment years out of 20 years beginning from the year in which the enterprise develops or begins to operate the eligible business.	100% of the profits and gains derived from such business for 10 consecutive assessment years
	(2) Industrial parks	<b>Industrial parks:</b> Notified by the Central Government for the period on or after 1.4.1997 & ending on 31.3.2011		
	(3) Power undertakings	<b>Generation or Generation and distribution:</b> Set up between 1.4.1993 & 31.3.2017 <b>Transmission or distribution:</b> Start transmission	<b>Other eligible businesses:</b> 10 consecutive	

Section	Eligible Business	Year of commencement of eligible business	Period of Deduction	Quantum of Deduction
		during the period from 1.4.1999 & 31.3.2017 <b>Renovation and modernisation of existing network:</b> Undertakes substantial renovation and modernisation during the period on or after 1.4.2004 & ending on 31.3.2017	assessment years out of 15 years beginning from the year in which the enterprise develops or begins to operate the eligible business.	
	(4) <b>Undertaking owned by an Indian Company set up for Reconstruction or revival of a power generating plant</b>	Company formed on or before 30 <sup>th</sup> November, 2005 and begins to generate or transmit or distribute power before 31.3.2011 and notified before 31.12.2005 by Central Government		
80-IAB	<b>Development of Special Economic Zones(SEZs)</b>	Develops SEZ, notified on or after 1 <sup>st</sup> April 2005 but before 1 <sup>st</sup> April 2017.	10 consecutive AYs out of 15 years beginning from the year in SEZ has been notified.	100% of the profits and gains derived from such business
80-IAC	<b>A business carried out by an eligible start-up engaged in Innovation, Development or Improvement of products or processes or</b>	The company or LLP is incorporated during the period	3 consecutive AYs out of 10 years beginning from the year in which company	100% of the profits and gains derived from such business

Section	Eligible Business	Year of commencement of eligible business	Period of Deduction	Quantum of Deduction
	services or a scalable business model with a high potential of employment generation or wealth creation	1.4.2016 - 31.3.2024	or LLP is incorporated.	
80-IB	Processing, preservation and packaging of fruits or vegetables or meat and meat products or poultry or marine or dairy products or from the integrated business of handling, storage and transportation of foodgrains	Processing, preservation and packaging of meat or meat products or poultry or marine or dairy products: On or after 1.4.2009  Other eligible businesses: On or after 1.4.2001	10 consecutive AYs beginning with the initial AY	100% of the profits and gains derived from such business for 5 AYs beginning with the initial AY 25% (30% in case of company) for remaining 5 years
80-IBA	Developing and building housing projects or rental housing project	Housing Project referred u/s 80-IBA(1) is approved after 1 <sup>st</sup> June 2016 but on or before 31 <sup>st</sup> March 2022	-	100% of the profits and gains derived from such housing project
80-IE	Undertaking begun or begins, in any of the North-Eastern States (i.e., the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura) - (1) to manufacture or produce any eligible article or thing;	Between 1st April, 2007 and ending before 1st April, 2017	10 consecutive AYs commencing with the initial AY	100% of the profits and gains derived from such business

Section	Eligible Business	Year of commencement of eligible business	Period of Deduction	Quantum of Deduction
	(2) to undertake substantial expansion to manufacture or produce any eligible article or thing; (3) to carry on any eligible business.			

### DEDUCTIONS IN RESPECT OF OTHER INCOME

Section	Eligible Assessee	Eligible Income	Permissible Deduction
80TTA	Individual, other than a resident senior citizen or HUF	<b>Interest on deposits in savings account</b> Interest on deposits in a savings account with a bank, a co-operative society or a post office (not being time deposits, which are repayable on expiry of fixed periods)	Actual interest subject to a maximum of ₹ 10,000.
80TTB	Resident senior citizen (i.e., an individual of the age of 60 years or more at any time during the previous year)	<b>Interest on deposits</b> Interest on deposits (both fixed deposits and saving accounts) with banking company, co-operative society engaged in the business of banking or a post office	Actual interest or ₹ 50,000, whichever is less.

### OTHER DEDUCTIONS

Section	Eligible Assessee	Condition for deduction	Permissible Deduction
80U	Resident Individual	<b>Deduction in case of a person with disability</b> Any person, who is certified by the medical authority to be a person with disability	Flat deduction of ₹ 75,000, in case of a person with disability. Flat deduction of ₹ 1,25,000, in case of a person with severe disability (80% or more disability).

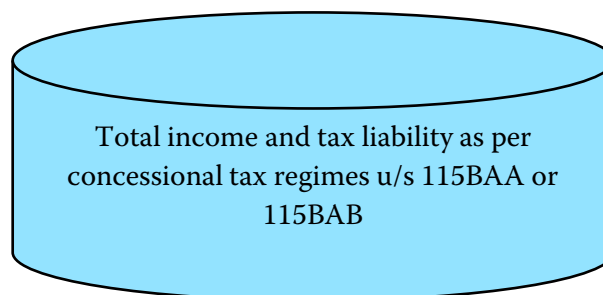
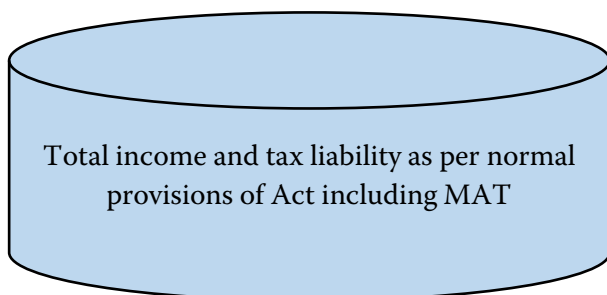
**DEDUCTION UNDER SECTION 10AA**

Section	Eligible Assessee	Eligible Income	Permissible Deduction
10AA	An assessee who derives profits from an under-taking, being a Unit established in SEZ, which begins to manufacture or produce articles or things or provide any service on or after 1.4.2005 but before 1.4.2021	Profits derived from exports of such articles or things or export of services (including computer software). <b>Conditions for deduction</b> 1. Proceeds to be received in convertible foreign exchange within 6 months from the end of the P.Y. or such further period as the competent authority may allow in this behalf. 2. The report of Chartered Accountant certifying that the deduction has been correctly claimed should be furnished before the date specified in section 44AB. 3. Return of income to be filed on or before due date u/s 139(1).	Deduction for 15 consecutive assessment years <b>Amount of deduction =</b> $\text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit SEZ}}{\text{Total turnover of Unit SEZ}}$ <b>Years 1 to 5</b> - 100% of such profits would be exempt in the first five years; <b>Years 6 to 10</b> - 50% of such profits in the next five years; and <b>Years 11 to 15</b> - In the last five years, 50% of such profits subject to transfer to SEZ Re-investment Reserve Account.



## ASSESSMENT OF VARIOUS ENTITIES

### TAXATION OF COMPANIES



### CONCESSIONAL RATES OF TAX IN RESPECT OF CERTAIN DOMESTIC COMPANIES [SECTIONS 115BAB AND 115BAA]

Sections 115BAB and 115BAA provides for concessional rates of tax and exemption from minimum alternate tax (MAT) in respect of certain domestic companies. The provisions of these two sections are tabulated hereunder –

(1)	(2)	(3)	(4)
	Particulars	Section 115BAB	Section 115BAA
1.	<b>Applicability</b>	Domestic manufacturing company/electricity generation company	Any domestic company
2.	<b>Rate of tax</b>	15%	22%
3.	<b>Rate of surcharge</b>	10%	10%
4.	<b>Effective rate of tax (including surcharge &amp; HEC)</b>	<b>17.16%</b> [Tax@15% (+) Surcharge@10% (+) HEC@4%]	<b>25.168%</b> [Tax@22% (+) Surcharge@10% (+) HEC@4%]
5.	<b>Applicability of MAT</b>	Not applicable	Not applicable
6.	<b>Manner of computation of tax liability</b>		
	<b>Income on which concessional rate of tax is applicable</b>	The rate of tax (i.e., <b>17.16%</b> ) is applicable in respect of income derived from or incidental to manufacturing or production of an article or thing or generation of electricity.  [Read with point no. 11 below, wherein the rate of 34.32% (i.e.,	The rate of tax (i.e., <b>25.168%</b> ) is notwithstanding anything contained in the Income-tax Act, 1961, but subject to the provisions of Chapter XII, other than section 115BA and 115BAB.

(1)	(2)	(3)	(4)
	Particulars	Section 115BAB	Section 115BAA
		<b>Tax@30% + surcharge@10% + HEC@4%) would be applicable in specified circumstance]</b>	
	<b>Rate of tax on income covered under Chapter XII</b> [For example, long-term capital gains chargeable to tax u/s 112 and 112A, short-term capital gains chargeable to tax u/s 111A]	Such income would be subject to tax at the rates mentioned in the said sections in Chapter XII. Surcharge@10% would be levied on tax computed on such income. HEC@4% would be levied on the income-tax <i>plus</i> surcharge.	Such income would be subject to tax at the rates mentioned in the said sections in Chapter XII. Surcharge@10% is leviable on tax computed on such income. HEC@4% would be levied on the income-tax <i>plus</i> surcharge.
	<b>Rate of tax on other income in respect of which no specific rate of tax is provided in Chapter XII</b>	The applicable tax rate is <b>25.168%</b> (i.e., tax@22% + surcharge @10% + HEC@4%), if such income has neither been derived from nor is incidental to manufacturing or production of an article or thing or generating electricity (For example, income from house property and income from other sources).  In respect of such income, <b>no deduction or allowance in respect of any expenditure or allowance</b> shall be allowed in computing such income.	The applicable tax rate is <b>25.168%</b> (i.e., tax@22% + surcharge@10% + HEC@4%).  There is, however, <b>no restriction regarding claiming of any deduction or allowance</b> permissible under the relevant provisions of the Act.
	<b>Rate of tax on STCG derived from transfer of a capital asset on which no depreciation is allowable under the Act</b>	The applicable rate of tax is <b>25.168%</b> (i.e., tax@22% + surcharge@10% + HEC@4%).  There is, however, no restriction regarding claiming of deduction or allowance in this regard.	The applicable rate of tax is <b>25.168%</b> (i.e., tax @22% + surcharge @10% + cess@4%).  There is no restriction regarding claiming of deduction or allowance in this regard.
<b>7.</b>	<b>Conditions to be fulfilled for availing concessional rate of tax and exemption from MAT</b>		
	<b>Conditions to be fulfilled for availing</b>	(i) The company should be <b>set-up and registered on or after 1.10.2019.</b>	No time limit specified. Both existing companies and new companies can avail benefit.

(1)	(2)	(3)	(4)
	Particulars	Section 115BAB	Section 115BAA
	concessional rate of tax and exemption from MAT	(ii) It should commence manufacturing or production of an article or thing or business of generating electricity on or before 31.3.2024.	Need not be a manufacturing or a production company.
		(iii) It should <b>not</b> be formed by splitting up or the reconstruction of a business already in existence (except in case of a company, business of which is formed as a result of the re-establishment, reconstruction or revival by the person of the business of any undertaking referred to in section 33B in the circumstances and within the period specified therein).	No similar condition has been prescribed.
		(iv) It does <b>not</b> use any machinery or plant previously used for any purpose [Refer Note at the end of this table].	No similar condition has been prescribed.
		(v) It does <b>not</b> use any building previously used as a hotel or a convention centre [meanings assigned in section 80-ID(6)] in respect of which deduction u/s 80-ID has been claimed and allowed.	No similar condition has been prescribed.
		(vi) It should <b>not</b> be engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it. <i>Note – Business of manufacture or production of any article or</i>	No similar condition has been prescribed.

(1)	(2)	(3)		(4)
	Particulars	Section 115BAB		Section 115BAA
			<p><i>thing does <b>not</b> include business of –</i></p> <p><i>(1) Development of computer software in any form or in any media</i></p> <p><i>(2) Mining</i></p> <p><i>(3) Conversion of marble blocks or similar items into slabs</i></p> <p><i>(4) Bottling of gas into cylinder</i></p> <p><i>(5) Printing of books or production of cinematograph films</i></p> <p><i>(6) Any other business as may be notified by the Central Government in this behalf.</i></p>	
		<p><i>Note - If difficulty arises regarding fulfilment of conditions listed in (iv) to (vi) above, the CBDT may, with the approval of the Central Government, issue guidelines for the purpose of removing difficulty and to promote manufacturing or production of article or thing using new plant and machinery.</i></p>		
8.	<p><b>Common conditions for both sections for availing the concessional rate of tax and exemption from MAT</b></p>	<p>In case of a company opting for either section 115BAA or 115BAB, the total income should be computed -</p>		
		(i)	<p>without providing for deduction under any of the following sections:</p>	
			<p><b>Section</b></p>	<p><b>Provision</b></p>
			<p>10AA</p>	<p>Exemption of profits and gains derived from export of articles or things or from services by an assessee, being an entrepreneur from his Unit in SEZ.</p>
			<p>32(1)(iia)</p>	<p>Additional depreciation @20% of actual cost of new plant and machinery acquired and installed by manufacturing undertakings.</p>

(1)	(2)	(3)		(4)
	Particulars	Section 115BAB		Section 115BAA
		33AB	Deduction@40% of profits and gains of business of growing and manufacturing tea, coffee or rubber in India, to the extent deposited with NABARD in accordance with scheme approved by the Tea/Coffee/Rubber Board.	
		33ABA	Deduction@20% of the profits of a business of prospecting for, or extraction or production of, petroleum or natural gas or both in India, to the extent deposited with SBI in an approved scheme or deposited in Site Restoration Account.	
		35(1)(ii)/(iia)/(iii)	Deduction for payment to any research association, company, university etc. for undertaking scientific research or social science or statistical research.	
		35(2AA)	Deduction of payment to a National Laboratory or University or IIT or approved specified person for scientific research.	
		35(2AB)	Deduction of in-house scientific research expenditure incurred by a company engaged in the business of biotechnology or in the business of manufacture or production of an article or thing.	
		35AD	Investment-linked tax deduction for specified businesses.	
		35CCC	Deduction of expenditure incurred on notified agricultural extension project.	
		35CCD	Deduction of expenditure incurred by a company on notified skill development project.	
		80C to 80U	Deductions from gross total income under Chapter VI-A other than the provisions of section 80JJAA or section 80M.	
		(ii)	without set-off of any loss or allowance for unabsorbed depreciation deemed so u/s 72A, where such loss or depreciation is attributable to any of the deductions listed in (i) above [Such loss and depreciation would be deemed to have been already given effect to and no further deduction for such loss shall be allowed for any subsequent year].	
		(iii)	by claiming depreciation u/s 32 determined in the prescribed manner (i.e., in respect of depreciation of any block of assets entitled to more than 40% shall be restricted to 40% on the written down value of such block of assets). However, additional depreciation u/s 32(1)(iia) cannot be claimed.	

(1)	(2)	(3)	(4)
	Particulars	Section 115BAB	Section 115BAA
		<p><b>Note – Additional points relevant in the context of section 115BAA:</b></p> <p>(1) In case of a company opting for section 115BAA, total income should be computed without set-off of any loss carried forward or depreciation from any earlier assessment year, where such loss or depreciation is attributable to any of the deductions listed in (i) above [Such loss and depreciation would be deemed to have been already given effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year].</p> <p>(2) In the case of a person having a Unit in the IFSC, referred to in section 80LA(1A), which has exercised option for section 115BAA, deduction u/s 80LA would be allowed subject to fulfilment of the conditions specified in that section.</p> <p>(3) Since there is no time line within which option under section 115BAA can be exercised, a domestic company having brought forward losses and depreciation on account of deductions listed in (i) above may, if it so desires, postpone exercise the option under section 115BAA to a later assessment year, after set off of the losses and depreciation so accumulated.</p>	
9.	<b>Failure to satisfy conditions</b>	<p>On failure to satisfy the conditions mentioned in point no. 7 and 8 above in any P.Y., the option exercised would be invalid in respect of the assessment year relevant to that previous year and subsequent assessment years.</p> <p>Consequently, the other provisions of the Act would apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.</p> <p><b>Note – Where option exercised under section 115BAB is rendered invalid due to violation of conditions stipulated in point no.7 [(iv) to (vi)] above, such person may exercise option under section 115BAA.</b></p>	<p>On failure to satisfy the conditions mentioned in point no. 8 above in any P.Y., the option exercised would be invalid in respect of the assessment year relevant to that previous year and subsequent assessment years.</p> <p>Consequently, the other provisions of the Act would apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.</p>



(1)	(2)	(3)	(4)
	Particulars	Section 115BAB	Section 115BAA
10.	Availability of set-off of MAT credit brought forward from earlier years	Since it is a new company, there would be no brought forward MAT credit.	Brought forward MAT credit cannot be set off against income u/s 115BAA. <i>Note - If a company has brought forward MAT credit, it can first exhaust the MAT credit, and thereafter opt for section 115BAA in a subsequent previous year.</i>
11.	Adjustments for transactions with persons having close connection	<p>If the Assessing Officer opines that the course of business between the company and any other person having close connection therewith is so arranged that the business transacted between them produces more than the ordinary profits to the company, he is empowered to take into account the amount of profits as may be reasonably deemed to have been derived therefrom, while computing profits and gains of such company.</p> <p>In case the arrangement referred above involves a specified domestic transaction referred to in section 92BA, then, the amount of profits from such transaction would be determined by considering the arm's length price (ALP).</p> <p><b>The amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the person.</b></p> <p><b>The income-tax on the income so deemed shall be subject to tax @ 34.32% (i.e., tax @ 30% + surcharge @10% +HEC @ 4%).</b></p> <p><i>Note - The scope of "specified domestic transaction" referred to in section 92BA has been expanded to</i></p>	No such requirement to make any adjustment.

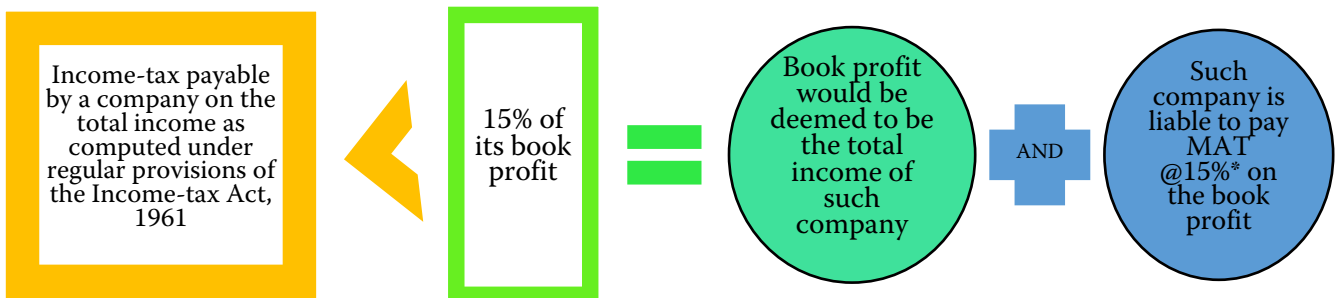
(1)	(2)	(3)	(4)
	Particulars	Section 115BAB	Section 115BAA
		<i>include within its ambit, any business transacted between such persons with close connection, where one such person is a company claiming benefit under section 115BAB.</i>	
12.	<b>Exercise of option by the company within the prescribed time</b>	<p>The beneficial provisions of this section would apply only if option is exercised in the prescribed manner on or before the due date u/s 139(1) for furnishing <b>the first of the returns of income for any previous year</b> relevant to assessment year or any subsequent assessment year.</p> <p>Such option, once exercised, would apply to subsequent assessment years.</p> <p>Further, once the option has been exercised for any previous year, it <b>cannot be subsequently withdrawn</b> for the same or any other previous year.</p> <p><b>Notes –</b></p> <p>(1) <i>The option has to be exercised at the time of furnishing the <b>first of the returns of income</b> for any previous year. If a person fails to so exercise such option, it cannot be exercised thereafter for any subsequent previous year.</i></p> <p>(2) <i>In case of amalgamation, the option exercised u/s 115BAB shall remain valid in the case of the amalgamated company only and if the conditions mentioned in point no. (7) and (8) are continued to be satisfied by such company.</i></p>	<p>The beneficial provisions of this section would apply if option is exercised in the prescribed manner on or before the due date u/s 139(1) for furnishing the return of income for any previous year relevant to assessment year or any subsequent A.Y.</p> <p>Such option, once exercised, would apply to subsequent assessment years.</p> <p>Further, once the option has been exercised for any previous year, it <b>cannot be subsequently withdrawn</b> for the same or any other previous year.</p> <p><b>Note –</b> <i>The option can be exercised even in a later year, but once exercised, cannot be withdrawn subsequently.</i></p> <p><i>Further, where the person exercises option under section 115BAA, the option under section 115BA may be withdrawn.</i></p>

**Note** - For the purpose of point no.7(iv) in column (3) of the above table in relation to a company exercising option under section 115BAB, any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled, namely:—

- (a) such machinery or plant was not, at any time previous to the date of the installation, used in India;
- (b) such machinery or plant is imported into India from any country outside India;
- (c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Income-tax Act, 1961 in computing the total income of any person for any period prior to the date of installation of the machinery or plant by the person.

Further, where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of the machinery or plant or part so transferred does not exceed 20% of the total value of the machinery or plant used by the company, then, the condition specified that the company does not use any machinery or plant previously used for any purpose would be deemed to have been complied with.

**MINIMUM ALTERNATE TAX ON COMPANIES [SECTION 115JB]**



\* In case of a company, being a unit located in IFSC and deriving its income solely in convertible foreign exchange, MAT rate would be 9%.

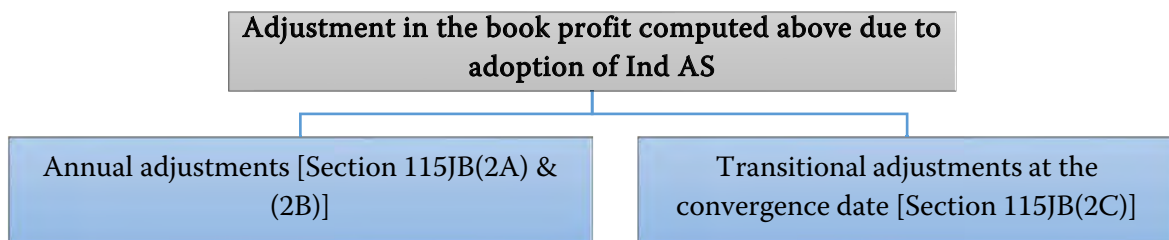
**Computation of book profit [Explanation 1 below section 115JB(2)]**

Particulars		Amount in ₹
Net Profit as per Statement of profit and loss		xxx
<b>Add: Net profit to be increased by the following amounts as per Explanation 1 below section 115JB(2) if such amounts are debited to Statement of profit and loss</b>		
- Income-tax paid or payable (including interest, surcharge and health and education cess) and the provision for income-tax	xxx	
- Amount carried to Reserves	xxx	
- Amounts set aside to provisions made for meeting liabilities other than ascertained liabilities	xxx	

- Provision for losses of subsidiary companies	xxx	
- Dividend or proposed dividend	xxx	
- Expenditure relatable to any exempt income to which section 10 or sections 11 or 12 apply	xxx	
- Expenditure relatable to share of an assessee in the income of an AoP or BoI on which no income-tax is payable in accordance with the provisions of section 86	xxx	
- Expenditure relatable to income accruing or arising to a foreign company from (A) the capital gains arising on transactions in securities or (B) the interest, dividend, royalty, or fees for technical services chargeable to tax at the rates specified in Chapter XII if income-tax payable thereon is at a rate less than 15%	xxx	
- Notional loss on the units of business trust	xxx	
- Expenditure relatable to royalty income in respect of patent chargeable to tax u/s 115BBF	xxx	
- Depreciation	xxx	
- Deferred tax and provision for deferred tax	xxx	
- Amount set aside as provision for diminution in the value of any asset	xxx	
- Amount standing in revaluation reserve relating to the revalued asset on the retirement or disposal of such asset, in case the same is not credited to the profit and loss account	xxx	
- Gain arises on transfer units of business trust acquired in exchange of shares of SPV	xxx	xxx
		xxx
<b>Less: Net profit to be decreased by the following amounts as per <i>Explanation 1</i> below section 115]B(2), if these amounts are credited to Statement of profit and loss:</b>		
- Amount withdrawn from any reserve or provision [However, the amount withdrawn from reserves/provisions shall not be reduced from the book profit unless the book profit of that year has been increased by those reserves/provisions]	xxx	
- Exempted income under section 10 or sections 11 or 12	xxx	
- Depreciation debited to the statement of profit and loss (excluding the claim of depreciation on account of revaluation of assets)	xxx	
- Amount withdrawn from the revaluation reserve to the extent it does not exceed the amount of depreciation on revaluation of assets	xxx	
- Share in the income of an AoP or BoI, on which no income-tax is payable in accordance with the provisions of section 86	xxx	

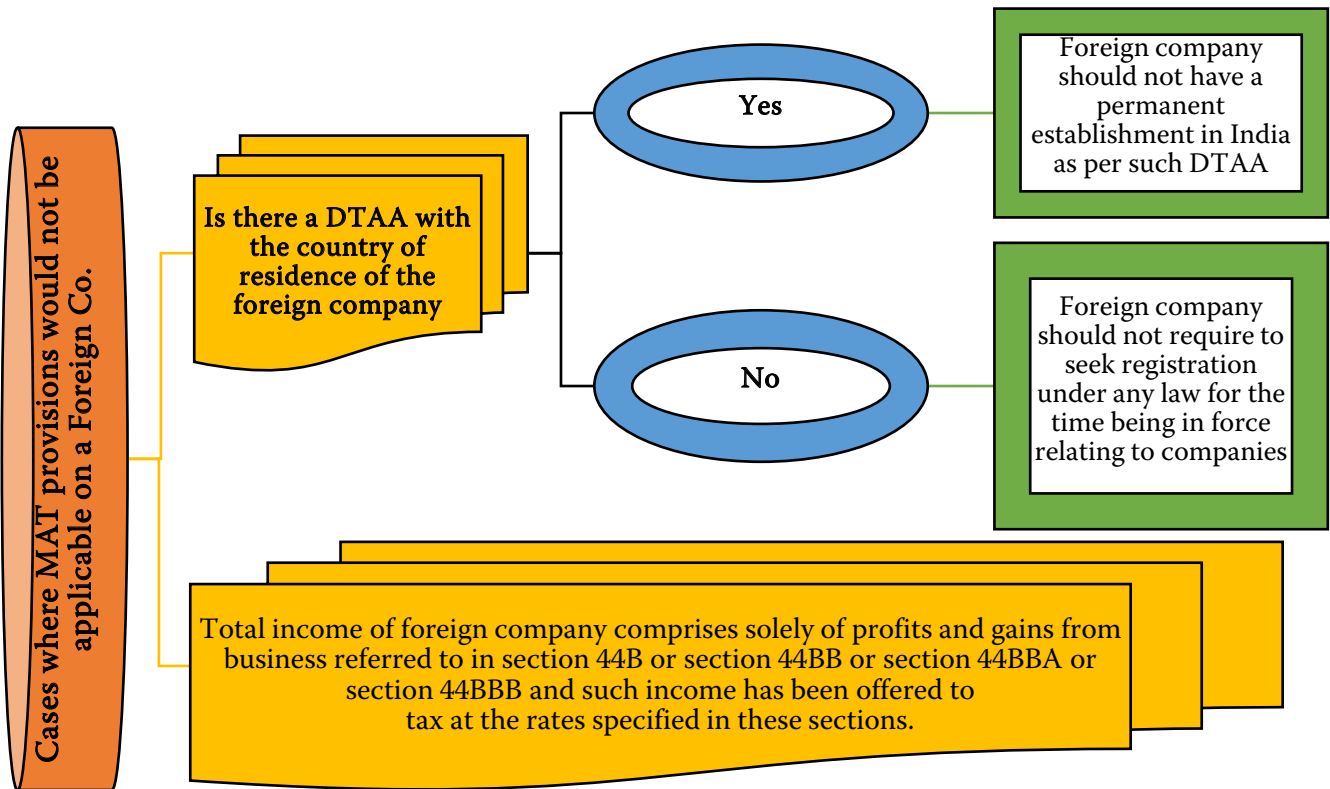
- Income accruing to foreign company from (A) the capital gains arising on transactions in securities or (B) the interest, dividend, royalty, or fees for technical services chargeable to tax at the rates specified in Chapter XII if income-tax payable thereon is at a rate less than 15%	xxx	
- Notional gain on the units of business trust	xxx	
- Loss on transfer of units of business trust acquired in exchange of shares of SPV	xxx	
- Royalty income in respect of patent chargeable to tax u/s 115BBF	xxx	
- Aggregate amount of unabsorbed depreciation and loss brought forward in case of <ul style="list-style-type: none"> <li>• a company, its subsidiary and the subsidiary of such subsidiary, whose Board of Directors has been suspended and new directors nominated by the Central Government has been appointed by the Tribunal, on an application moved by the Central Government</li> <li>• company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016</li> </ul>	xxx	
- Lower of brought forward loss or unabsorbed depreciation as per books of account [No deduction will be allowed from the book profit of the relevant year if either the figure of brought forward loss or unabsorbed depreciation is “NIL”]	xxx	
- Profits of a sick industrial company (BIFR company) commencing from the P.Y. in which the company became sick and ending with the A.Y. during which the entire net worth of such company becomes equal to or exceeds the accumulated losses	xxx	
- Deferred tax	xxx	xxx
<b>Book Profit</b>		xxx

**Computation of Book Profit for Ind AS compliant companies**



### Non-applicability of MAT

- Life insurance business referred to in section 115B
- Company who has exercised the option u/s 115BAA or section 115BAB
- A foreign company in certain cases [cases are given below]



### Set off of credit of MAT paid under section 115JB [Section 115JAA]

MAT credit = MAT as per section 115JB (-) Tax payable under the regular provisions of the Act.  
No interest would be payable on the tax credit allowed.

MAT credit is allowed to be carried forward for 15 AYs succeeding the AY in which the credit became allowable

MAT credit would be allowable to set off in a year when tax becomes payable on the TI computed under the regular provisions of the Act

MAT credit adjustment = Tax on the total income under regular provisions of the Act (-) MAT as per section 115JB



**TAXATION PROVISIONS IN RESPECT OF BUYBACK OF SHARES AND SPECIFIED SECURITIES**

(1)	(2)	(3)	(4)
Taxability in the hands of	Buyback of shares (listed or unlisted) by domestic companies	Buyback of shares by a company, other than a domestic company	Buyback of specified securities by any company
Company	Subject to additional income-tax @23.296% on distributed income	Not subject to tax in the hands of the company	Not subject to tax in the hands of the company
Shareholder/holder of specified securities	Income arising to shareholders exempt under section 10(34A)	Income arising to shareholder taxable as capital gains u/s 46A	Income arising to holder of specified securities taxable as capital gains u/s 46A
Such additional tax should be paid by domestic company to the credit of the Central Government within 14 days from the date of payment of any consideration for such buyback to the shareholder.			

**TAXATION OF OTHER ENTITIES****ALTERNATE MINIMUM TAX (AMT) [SECTIONS 115JC TO 115JF]****Applicability of AMT  
[Section 115JEE(1)]**

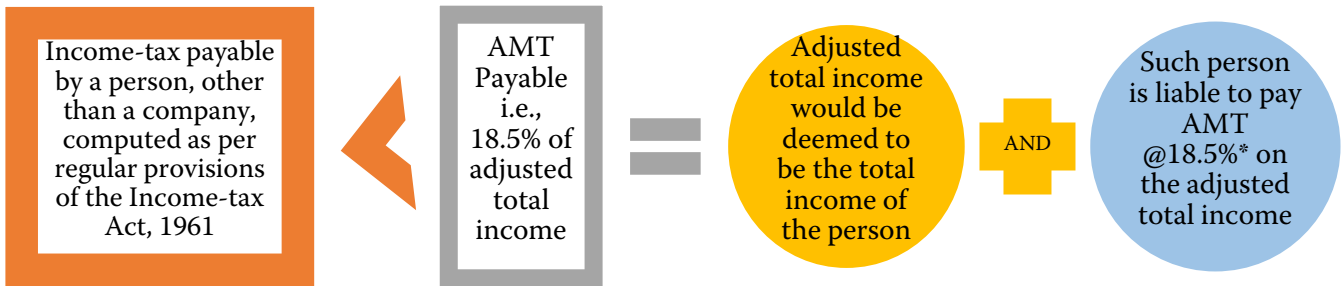
Any person other than a company, who has claimed deduction

- ◆ under any section (other than section 80P) included in Chapter VI-A under the heading “C – Deductions in respect of certain incomes” or
- ◆ u/s 10AA or
- ◆ u/s 35AD

**Non-applicability  
[Section 115JEE(2)]**

The provisions of AMT would not be applicable to

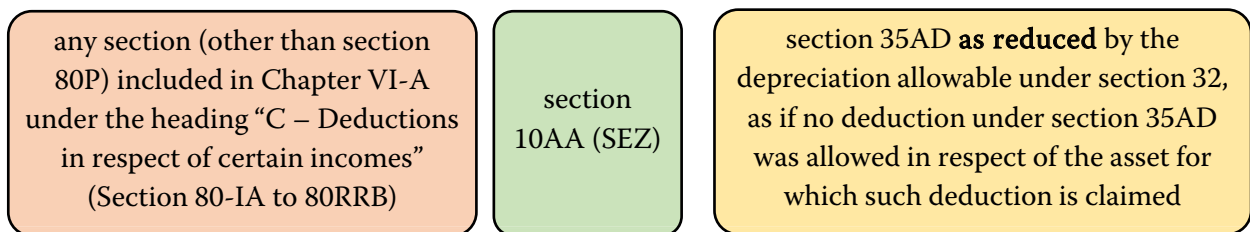
- ◆ an individual, HUF, AoP, BoI or artificial juridical person, if the adjusted total income of such person  $\leq$  ₹ 20 lakhs
- ◆ a resident co-operative society who has exercised the option u/s 115BAD or section 115BAE
- ◆ an individual, HUF, AoP, BoI or artificial juridical person who is paying tax under default tax regime u/s 115BAC
- ◆ a specified fund referred in clause (c) of *Explanation* to section 10(4D)



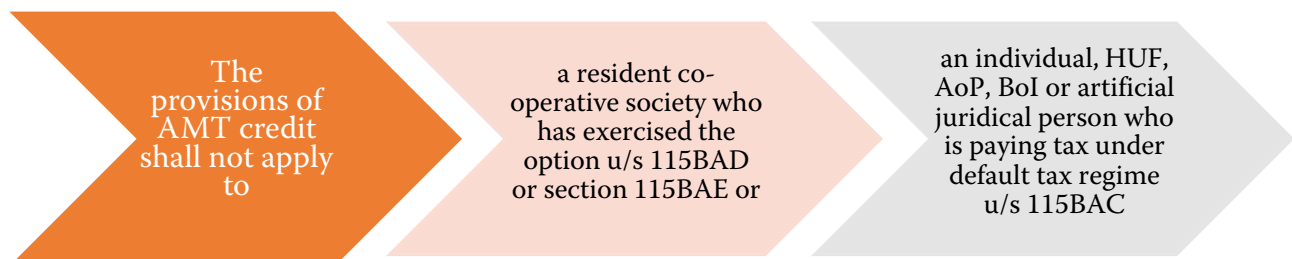
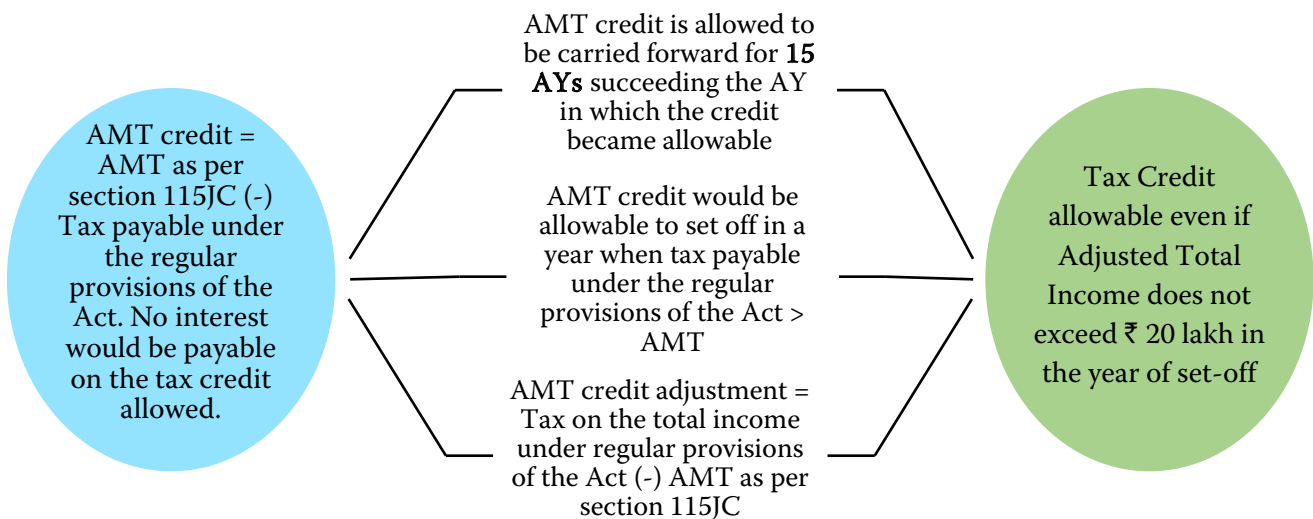
\* In case of a person, being a unit located in IFSC and deriving its income solely in convertible foreign exchange, AMT rate would be 9% and in case of co-operative society, AMT rate would be 15%.

### Computation of adjusted total income

Total income before giving effect to AMT provisions as increased by the deductions claimed, if any, under



### Set off of AMT credit u/s 115JD



**TAXATION OF CO-OPERATIVE SOCIETY**

Sections 115BAE and 115BAD provides for concessional rates of tax and exemption from Alternate Minimum Tax (AMT) in respect of certain resident co-operative societies. The provisions of these two sections are tabulated hereunder -

(1)	(2)	(3)	(4)
	Particulars	Section 115BAE	Section 115BAD
1.	<b>Applicability</b>	Co-operative society resident in India and engaged in manufacturing/generation of electricity	Co-operative society resident in India
2.	<b>Rate of tax</b>	15%	22%
3.	<b>Rate of surcharge</b>	10%	10%
4.	<b>Effective rate of tax (including surcharge &amp; HEC)</b>	<b>17.16%</b> [Tax@15% (+) Surcharge@10% (+) HEC@4%]	<b>25.168%</b> [Tax@22% (+) Surcharge@10% (+) HEC@4%]
5.	<b>Applicability of AMT</b>	Not applicable	Not applicable
6.	<b>Manner of computation of tax liability</b>		
	<b>Income on which concessional rate of tax is applicable</b>	The rate of tax (i.e., <b>17.16%</b> ) is applicable in respect of income derived from or incidental to manufacturing or production of an article or thing or generation of electricity. [Read with point no. 11 below, wherein the rate of <b>34.32%</b> (i.e., Tax@30% + surcharge@10% + HEC@4%) would be applicable in specified circumstance]	The rate of tax (i.e., <b>25.168%</b> ) is notwithstanding anything contained in the Income-tax Act, 1961, but subject to the provisions of Chapter XII, other than section 115BAE.
	<b>Rate of tax on income covered under Chapter XII</b> [For example, long-term capital gains chargeable to tax u/s 112 and 112A, short-term capital gains chargeable to tax u/s 111A]	Such income would be subject to tax at the rates mentioned in the said sections in Chapter XII. Surcharge@10% would be levied on tax computed on such income. HEC@4% would be levied on the income-tax plus surcharge.	Such income would be subject to tax at the rates mentioned in the said sections in Chapter XII. Surcharge@10% is leviable on tax computed on such income. HEC@4% would be levied on the income-tax <i>plus</i> surcharge.

(1)	(2)	(3)	(4)
	Particulars	Section 115BAE	Section 115BAD
	Rate of tax on other income in respect of which no specific rate of tax is provided in Chapter XII	The applicable tax rate is 25.168% (i.e., tax@22%, + surcharge @10% + HEC@4%), if such income has neither been derived from nor is incidental to manufacturing or production of an article or thing or generating electricity (For example, income from house property and income from other sources). In respect of such income, no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income.	The applicable tax rate is 25.168% (i.e., tax@22% + surcharge@10% + HEC @4%). There is, however, no restriction regarding claiming of any deduction or allowance permissible under the relevant provisions of the Act.
	Rate of tax on STCG derived from transfer of a capital asset on which no depreciation is allowable under the Act	The applicable rate of tax is 25.168% (i.e., tax@22%, + surcharge@10% + HEC@4%). There is, however, no restriction regarding claiming of deduction or allowance in this regard.	The applicable rate of tax is 25.168% (i.e., tax @22%, + surcharge @10% + cess@4%). There is no restriction regarding claiming of deduction or allowance in this regard.
7.	Conditions to be fulfilled for availing concessional rate of tax and exemption from AMT		
	Conditions to be fulfilled for availing concessional rate of tax and exemption from AMT	(i) The co-operative society should be set-up and registered on or after 1.4.2023.	No time limit specified. Both existing co-operative society and new co-operative society can avail benefit.
		(ii) It should commence manufacturing or production of an article or thing or business of generating electricity on or before 31.3.2024.	Need not be engaged in a manufacturing or a production.
		(iii) It should <u>not</u> be formed by splitting up or the reconstruction of a business already in existence.	No similar condition has been prescribed.
		(iv) It does <u>not</u> use any machinery or plant previously used for any purpose [Refer Note at the end of this table].	No similar condition has been prescribed.

(1)	(2) Particulars	(3) Section 115BAE		(4) Section 115BAD								
		(v)	<p>It should <b>not</b> be engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.</p> <p><b>Note</b> – <i>Business of manufacture or production of any article or thing does <b>not</b> include business of –</i></p> <p>(1) <i>Development of computer software in any form or in any media</i></p> <p>(2) <i>Mining</i></p> <p>(3) <i>Conversion of marble blocks or similar items into slabs</i></p> <p>(4) <i>Bottling of gas into cylinder</i></p> <p>(5) <i>Printing of books or production of cinematograph films</i></p> <p>(6) <i>Any other business as may be notified by the Central Government in this behalf.</i></p>	No similar condition has been prescribed.								
8.	<p><b>Common conditions for both sections for availing the concessional rate of tax and exemption from AMT</b></p>	In case of a co-operative society opting for either section 115BAE or 115BAD, the total income should be computed -										
		(i)	without providing for deduction under any of the following sections:									
		<table border="1"> <thead> <tr> <th data-bbox="576 1630 778 1682">Section</th> <th data-bbox="778 1630 1465 1682">Provision</th> </tr> </thead> <tbody> <tr> <td data-bbox="576 1682 778 1816">10AA</td> <td data-bbox="778 1682 1465 1816">Exemption of profits and gains derived from export of articles or things or from services by an assessee from unit in SEZ.</td> </tr> <tr> <td data-bbox="576 1816 778 1951">32(1)(iia)</td> <td data-bbox="778 1816 1465 1951">Additional depreciation @20% of actual cost of new plant and machinery acquired and installed by manufacturing undertakings.</td> </tr> <tr> <td data-bbox="576 1951 778 2045">33AB</td> <td data-bbox="778 1951 1465 2045">Deduction@40% of profits and gains of business of growing and manufacturing tea, coffee or rubber in</td> </tr> </tbody> </table>			Section	Provision	10AA	Exemption of profits and gains derived from export of articles or things or from services by an assessee from unit in SEZ.	32(1)(iia)	Additional depreciation @20% of actual cost of new plant and machinery acquired and installed by manufacturing undertakings.	33AB	Deduction@40% of profits and gains of business of growing and manufacturing tea, coffee or rubber in
Section	Provision											
10AA	Exemption of profits and gains derived from export of articles or things or from services by an assessee from unit in SEZ.											
32(1)(iia)	Additional depreciation @20% of actual cost of new plant and machinery acquired and installed by manufacturing undertakings.											
33AB	Deduction@40% of profits and gains of business of growing and manufacturing tea, coffee or rubber in											

(1)	(2)	(3)	(4)
	Particulars	Section 115BAE	Section 115BAD
			India, to the extent deposited with NABARD in accordance with scheme approved by the Tea/Coffee/ Rubber Board.
		33ABA	Deduction@20% of the profits of a business of prospecting for, or extraction or production of, petroleum or natural gas or both in India, to the extent deposited with SBI in an approved scheme or deposited in Site Restoration Account.
		35(1)(ii)/ (ia)/(iii)	Deduction for payment to any research association, company, university etc. for undertaking scientific research or social science or statistical research.
		35(2AA)	Deduction of payment to a National Laboratory or University or IIT or approved specified person for scientific research.
		35AD	Investment-linked tax deduction for specified businesses.
		35CCC	Deduction of expenditure incurred on notified agricultural extension project.
		80C to 80U	Deductions from gross total income under Chapter VI-A other than the provisions of section 80JJAA.
	(ii)	without set-off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions listed in (i) above [Such loss and depreciation would be deemed to have been already given effect to and no further deduction for such loss shall be allowed for any subsequent year].	
	(iii)	by claiming depreciation u/s 32 determined in the prescribed manner (i.e., in respect of depreciation of any block of assets entitled to more than 40% shall be restricted to 40% on the written down value of such block of assets). However, additional depreciation u/s 32(1)(ia) cannot be claimed.	
	<p><b>Note – Additional points relevant in the context of section 115BAD:</b></p> <p>(1) In the case of a person having a Unit in the IFSC, referred to in section 80LA(1A), which has exercised option for section 115BAD, deduction u/s 80LA would be allowed subject to fulfilment of the conditions specified in that section.</p> <p>(2) Since there is no time line within which option under section 115BAD can be exercised, a co-operative society having brought forward losses and depreciation on account of deductions listed in (i) above may, if it so desires, postpone exercise the option under section 115BAD to a</p>		

(1)	(2)	(3)	(4)
	Particulars	Section 115BAE	Section 115BAD
		<i>later assessment year, after set off of the losses and depreciation so accumulated.</i>	
9.	<b>Failure to satisfy conditions</b>	On failure to satisfy the conditions mentioned in point no. 7 and 8 above in any P.Y., the option exercised would be invalid in respect of the assessment year relevant to that previous year and subsequent assessment years; Consequently, the other provisions of the Act would apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.	On failure to satisfy the conditions mentioned in point no. 8 above in any P.Y., the option exercised would be invalid in respect of the assessment year relevant to that previous year and subsequent assessment years; Consequently, the other provisions of the Act would apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.
10.	<b>Availability of set-off of AMT credit brought forward from earlier years</b>	Since it is a new co-operative society, there would be no brought forward AMT credit.	Brought forward AMT credit cannot be set-off against income u/s 115BAD. <i>Note - If a co-operative society has brought forward AMT credit, it can first exhaust the AMT credit, and thereafter opt for section 115BAD in a subsequent previous year.</i>
11.	<b>Adjustments for transactions with persons having close connection</b>	If the Assessing Officer opines that the course of business between the co-operative society and any other person having close connection therewith is so arranged that the business transacted between them produces more than the ordinary profits to the co-operative society, he is empowered to take into account the amount of profits as may be reasonably deemed to have been derived therefrom, while computing profits and gains of such co-operative society.	No such requirement to make any adjustment.



(1)	(2)	(3)	(4)
	Particulars	Section 115BAE	Section 115BAD
		<p>In case the arrangement referred above involves a specified domestic transaction referred to in section 92BA, then, the amount of profits from such transaction would be determined by considering the arm's length price (ALP).</p> <p><b>The amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the person.</b></p> <p>The income-tax on the income so deemed shall be subject to tax @ 34.32% (i.e., tax @ 30% + surcharge @10% +HEC @ 4%).</p> <p><i>Note – The scope of “specified domestic transaction” referred to in section 92BA has been expanded to include within its ambit, any business transacted between such persons with close connection, where one such person is a company claiming benefit under section 115BAE.</i></p>	
12.	<b>Exercise of option by the co-operative society within the prescribed time</b>	<p>The beneficial provisions of this section would apply only if option is exercised in the prescribed manner on or before the due date u/s 139(1) for furnishing <b>the first of the returns of income for any previous year</b> relevant to assessment year or any subsequent assessment year.</p> <p>Such option, once exercised, would apply to subsequent assessment years.</p> <p>Further, once the option has been exercised for any previous year, it <b>cannot be subsequently withdrawn</b> for the same or any other previous year.</p> <p><i>Note – The option has to be exercised at the time of furnishing the <b>first of</b></i></p>	<p>The beneficial provisions of this section would apply if option is exercised in the prescribed manner on or before the due date u/s 139(1) for furnishing the return of income for any previous year relevant to assessment year or any subsequent A.Y.</p> <p>Such option, once exercised, would apply to subsequent assessment years.</p> <p>Further, once the option has been exercised for any previous year, it <b>cannot be subsequently withdrawn</b> for the same or any</p>

(1)	(2)	(3)	(4)
	Particulars	Section 115BAE	Section 115BAD
		<i>the returns of income for any previous year. If a person fails to so exercise such option, it cannot be exercised thereafter for any subsequent previous year.</i>	other previous year. <b>Note</b> – <i>The option can be exercised even in a later year, but once exercised, cannot be withdrawn subsequently.</i>

**Note** - For the purpose of point no.7(iv) in column (3) of the above table in relation to a co-operative society exercising option under section 115BAE, any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled, namely:—

- such machinery or plant was not, at any time previous to the date of the installation, used in India;
- such machinery or plant is imported into India from any country outside India;
- no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Income-tax Act, 1961 in computing the total income of any person for any period prior to the date of installation of the machinery or plant by the person.

Further, where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the co-operative society and the total value of the machinery or plant or part so transferred does not exceed 20% of the total value of the machinery or plant used by the co-operative society, then, the condition specified that the co-operative society does not use any machinery or plant previously used for any purpose would be deemed to have been complied with.

## SCHEME FOR TAXATION OF REAL ESTATE INVESTMENT TRUST (REIT) AND INFRASTRUCTURE INVESTMENT TRUST (INVT)

The scheme of taxability of income in the hands of the business trust, unit holders, sponsors etc. is briefed in the table given hereunder –

	Transaction	Section	Tax and TDS implications
(1)	Transfer of listed units of the business trust by the unit holders		<b>Tax implications in the hands of unit holders:</b>
		2(42A)	➤ STT leviable on trading of listed units on a recognized stock exchange.
		112A	➤ Long-term capital gains upto ₹ 1 lakh would be exempt in the hands of the unitholders; Long-term capital gain exceeding ₹ 1 lakh would be taxable @10% plus surcharge, if applicable, and health and education cess @4%.
		111A	➤ <b>Short-term capital gains</b> would be subject to concessional rate of tax@15% plus surcharge, if applicable, and cess@4%.

	Transaction	Section	Tax and TDS implications
(2)	Exchange of shares in SPV by sponsor for units of Business Trust		<b>Tax implications in the hands of the sponsor:</b>
		47(xvii)	➤ Such exchange is not treated as a transfer. Hence, taxability of capital gains on such transfer deferred to the time of disposal of units by the sponsor.
		112A & 111A	➤ The sponsor would get the same tax treatment on offloading of units under an Initial offer on listing of units as it would have been available had he offloaded the underlying shareholding through an IPO. STT shall be levied on sale of such units of business trust which are acquired in lieu of shares of SPV, under an initial offer at the time of listing of units of business trust in the like manner as in the case of sale of unlisted equity shares under an IPO. The benefit of concessional tax regime of tax @15% on STCG and @10% on LTCG exceeding ₹ 1 lakh under section 112A shall be available to the sponsor on sale of units received in lieu of shares of SPV subject to levy of STT.
		49(2AC)	➤ For computing capital gains in the hands of the sponsor, cost of acquisition of units would be deemed to be the cost of acquisition of shares to the sponsor.
		2(42A)	➤ For computing capital gains in the hands of the sponsor, the period of holding of units to include the period of holding of shares for determining whether the capital gains are long-term or short-term.
(3)	Interest income of business trust from SPV		<b>Tax implications in the hands of the business trust &amp; unit holders and TDS implications in the hands of the SPV &amp; business trust:</b> ➤ Pass-through status for interest received by business trust from SPV.
		10(23FC)	➤ Interest income is not taxable in the hands of the business trust; and
		194A(3)(xi)	➤ SPV is not required to deduct tax at source on interest paid to business trust.
			<b>Tax consequences on distribution of such income by the business trust to the unitholders:</b>
		115UA(3)	The distributed income or any part thereof, received by a unit holder from the REIT, which is in the nature of interest received or receivable from a SPV is deemed as income of unit holder.

	Transaction	Section	Tax and TDS implications
		115A(1)(a) (iiac)	<ul style="list-style-type: none"> <li>▪ Interest income taxable in the hands of the unit holders –               <ul style="list-style-type: none"> <li>○ @5%, in case of unit holders, being non-corporate non-residents or foreign companies; and</li> <li>○ at normal rates of tax, in case of resident unit holders.</li> </ul> </li> </ul>
		194LBA	<ul style="list-style-type: none"> <li>▪ Business trust to deduct tax at source on interest component of income distributed to unit holders at the time of payment or credit of income to the account of the unit holder, whichever is earlier:               <ul style="list-style-type: none"> <li>○ @5%, in case of unit holders, being non-corporate non-residents or foreign companies; and</li> <li>○ @10%, in case of resident unit holders.</li> </ul> </li> </ul>
(4)	Interest payments to non-resident lenders on ECBs by the business trust		<b>TDS implications in the hands of business trust:</b>
		194LC	<ul style="list-style-type: none"> <li>➤ An Indian Company or a business trust paying interest income to a non-resident, not being a company, or to a foreign company is liable to deduct TDS@5% [Such interest would attract tax in the hands of the non-resident lenders @5% as per section 115A].           <ul style="list-style-type: none"> <li>▪ The above concessional rate of TDS@5% is applicable to interest in respect of money borrowed by the Indian Company or the business trust in foreign currency from a source outside India –               <ul style="list-style-type: none"> <li>(i) Under a loan agreement between 1<sup>st</sup> July 2012 and 30<sup>th</sup> June, 2023.</li> <li>(ii) By issuing long term infrastructure bonds between 1<sup>st</sup> July 2012 to 1<sup>st</sup> October 2014.</li> <li>(iii) By issuing long term bond including long term infrastructure bonds between 1<sup>st</sup> October 2014 and 30<sup>th</sup> June, 2023.</li> <li>(iv) By way of issue of rupee denominated bond on or before 30<sup>th</sup> June, 2023.</li> </ul> </li> <li>▪ However, tax is required to be deducted @4% in respect of monies borrowed by it from a source outside India by way of issue of any long-term bond or rupee denominated bond between 1<sup>st</sup> April, 2020 and 30<sup>th</sup> June, 2023, which is listed only on a recognised stock exchange located in any IFSC [Such interest would attract tax in the hands of the non-resident lenders @4% as per section 115A].</li> <li>▪ Further, tax is required to be deducted @9% in respect of monies borrowed by it from a source outside India</li> </ul> </li> </ul>

	Transaction	Section	Tax and TDS implications
			by way of issue of any long-term bond or rupee denominated bond on or after 1 <sup>st</sup> July, 2023, which is listed only on a recognised stock exchange located in any IFSC [Such interest would attract tax in the hands of the non-resident lenders @9% as per section 115A]
(5)	Dividend received by the business trust from SPV		<b>Tax implications in the hands of the SPVs, business trust and unit holders and TDS implications in the hands of the SPV &amp; business trust:</b>
10(23FC)(b)		<p>➤ <b>Pass-through status for dividend received by business trust from SPV:</b></p> <ul style="list-style-type: none"> <li>- Dividend received or receivable from a special purpose vehicle, by the business trust would be exempt in its hands;</li> <li>- Consequently, SPV is not required to deduct tax at source on dividend paid to business trust.</li> </ul>	
115UA(3)		<p>➤ <b>Tax consequences on distribution of such income by the business trust to the unitholders:</b></p> <p>The distributed income or any part thereof, received by a unit holder from the REIT, which is in the nature of dividend received or receivable from a SPV, which has exercised option under section 115BAA, is deemed as income of unit holder.</p>	
10(23FD) 115A(1) (a)(iiac)		<ul style="list-style-type: none"> <li>▪ Dividend income taxable in the hands of the unit holders – <ul style="list-style-type: none"> <li>○ @10%, in case of unit holders, being non-corporate non-residents or foreign companies; and</li> <li>○ at normal rates of tax, in case of resident unit holders.</li> </ul> </li> </ul> <p>(However, in case where SPV has not exercised option under section 115BAA, dividend income distributed by the business trust would be exempt in the hands of the unit-holders).</p>	
		194LBA	<ul style="list-style-type: none"> <li>▪ Business trust to deduct tax at source on dividend component of income distributed to unit holders at the time of payment or credit of income to the account of the unit holder, whichever is earlier, where SPV has exercised option under section 115BAA: <ul style="list-style-type: none"> <li>○ @ 10%, in case of unit holders, being non-corporate non-residents or foreign companies; and</li> <li>○ @10%, in case of resident unit holders.</li> </ul> </li> </ul>

	Transaction	Section	Tax and TDS implications
			(However, in a case where SPV has not exercised option under section 115BAA, no tax is required to be deducted at source by the business trust on dividend income distributed by it to the unitholders).
(6)	Capital gains on disposal of assets by the Business Trust		<b>Tax implications in the hands of the Business Trust and Unit holders:</b>
		115UA(2)	<ul style="list-style-type: none"> <li>➤ Capital gains is chargeable at the applicable rates in the hands of the Business Trust: <ul style="list-style-type: none"> <li>▪ In case of long-term capital gains, the provisions of section 112 would apply;</li> <li>▪ In case of short-term capital gains on sale of listed shares, the provisions of section 111A would apply;</li> <li>▪ Short-term capital gains, other than the gains subject to tax under section 111A, would be subject to maximum marginal rate.</li> </ul> </li> </ul>
		10(23FD)	<ul style="list-style-type: none"> <li>➤ If such capital gains are further distributed to unitholders, the component attributable to capital gains would be exempt in the hands of the unit holders.</li> </ul>
(7)	Rental income arising to REIT from real estate property directly held by it	10(23FCA)	<ul style="list-style-type: none"> <li>➤ <b>Rental income of REIT from directly owned real estate asset</b> Any income of a business trust, being a REIT, by way of renting or leasing or letting out any real estate asset owned directly by such business trust is exempt in the hands of the business trust.</li> </ul>
		194-I	<ul style="list-style-type: none"> <li>➤ <b>Rental income received or credited to a REIT</b> Where the income by way of rent is credited or paid to a business trust, being a REIT, in respect of any real estate asset, owned directly by such business trust, tax is <b>not</b> deductible at source.</li> </ul>
		115UA(3)	<ul style="list-style-type: none"> <li>➤ <b>Distributed income received by unit holder</b> The distributed income or any part thereof, received by a unit holder from the REIT, which is in the nature of income by way of renting or leasing or letting out any real estate asset owned directly by such REIT is deemed as income of unit holder.</li> </ul>
		194LBA	<ul style="list-style-type: none"> <li>➤ <b>Distribution by REIT to unit holders of rental income from real estate assets directly owned by it</b> <ul style="list-style-type: none"> <li>○ TDS@10% in case of distribution to a resident unit holder</li> <li>○ TDS at rates in force in case of distribution to a non-resident unit holder.</li> </ul> </li> </ul>



	Transaction	Section	Tax and TDS implications
(8)	Repayment of debt/Amount paid against redemption of units to unitholders	56(2)(xii)	<ul style="list-style-type: none"> <li>➤ Any sum other than the following components of income –               <ul style="list-style-type: none"> <li>(a) Interest and dividend received from SPV and distributed to unitholders</li> <li>(b) Rental income from real estate assets directly owned by it; and</li> <li>(c) Income chargeable to tax in the hands of the business trust u/s 115UA(2)</li> </ul> </li> </ul> <p>received by a unitholder from a business trust is chargeable to tax in the hands of unit holder under the head “Income from other sources”. It would be computed in the manner specified under section 56(2)(xii).</p>
(9)	Income of business trust [Other than interest and dividend from SPV, rental income from real estate property]	115UA(2)	<p><b>Tax implication in the hands of the Business Trust and Unit holders:</b></p> <ul style="list-style-type: none"> <li>➤ Long-term capital gains chargeable to tax u/s 112 – 20%</li> <li>➤ Short-term capital gains chargeable to tax u/s 111A – 15%</li> <li>➤ Any other income of the trust is chargeable to tax at the maximum marginal rate.</li> </ul>
		10(23FD)	<ul style="list-style-type: none"> <li>➤ The above income distributed to unit holders would be exempt in their hands.</li> </ul>

### SPECIAL TAXATION REGIME FOR INVESTMENT FUNDS AND INCOME RECEIVED FROM SUCH FUNDS [CHAPTER XII-FB] [SECTIONS 115UB, 10(23FBA) & 10(23FBB)]

	Particulars	Investment Fund	Unit holder
(i)	Income under the head “Profits and gains of business or profession” of the Investment Fund	<p>Taxable</p> <p>If investment fund is <b>a company or a firm</b> – Rate or rates specified in the Finance Act of the relevant year (30%/25%, as the case may be, for a company and 30% for firm).</p> <p><b>other than a company or a firm</b> – MMR</p>	Exempt
(ii)	Income, other than profits and gains of business or profession	<p>Exempt.</p> <p>Tax to be deducted on such income distributed to unitholders</p> <p>- @10%, in case of resident payee</p>	Taxable, as if he had directly made the investment.



	Particulars	Investment Fund	Unit holder
		- at rates in force in case of non-resident payee.	
(iii)	Loss under the head "Profits and gains of business or profession" incurred by the investment fund	To be carried forward for set-off as per Chapter VI at the Fund level.	Not passed on to investors.
(iv)	Loss (other than loss referred to in (iii) above) where such loss has arisen in respect of unit which has not been held by the unit holder for a period of at-least 12 months	The Act is silent relating to the permissibility or otherwise of carry forward of these losses in the hands of investment funds.	Not allowed to be carried forward by the unitholder. He cannot set-off such losses against his income.
(v)	Losses (other than losses referred to in (iii) and (iv) above) remaining after set-off against current year income.	Not allowed to be carried forward for set-off by the Investment Fund.	Unit-holder can carry forward and set-off such losses against his income as per Chapter VI.

If income accruing or arising to, or received by, an investment fund, during a P.Y. is not paid or credited to the unit holders, deemed to have been credited to the account of the unit holders on the last day of the P.Y.

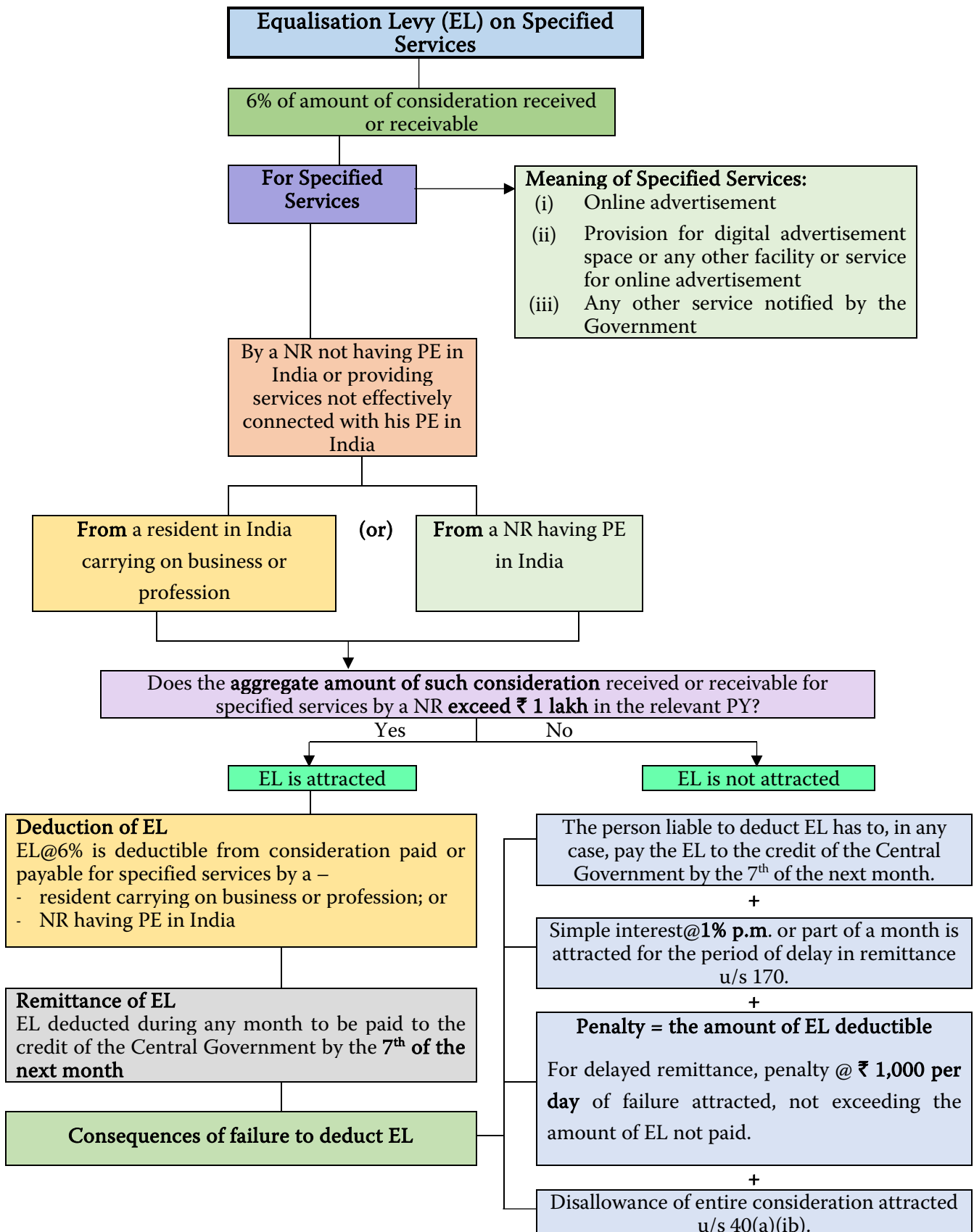
### TAXATION REGIME FOR SECURITIZATION TRUSTS AND ITS INVESTORS

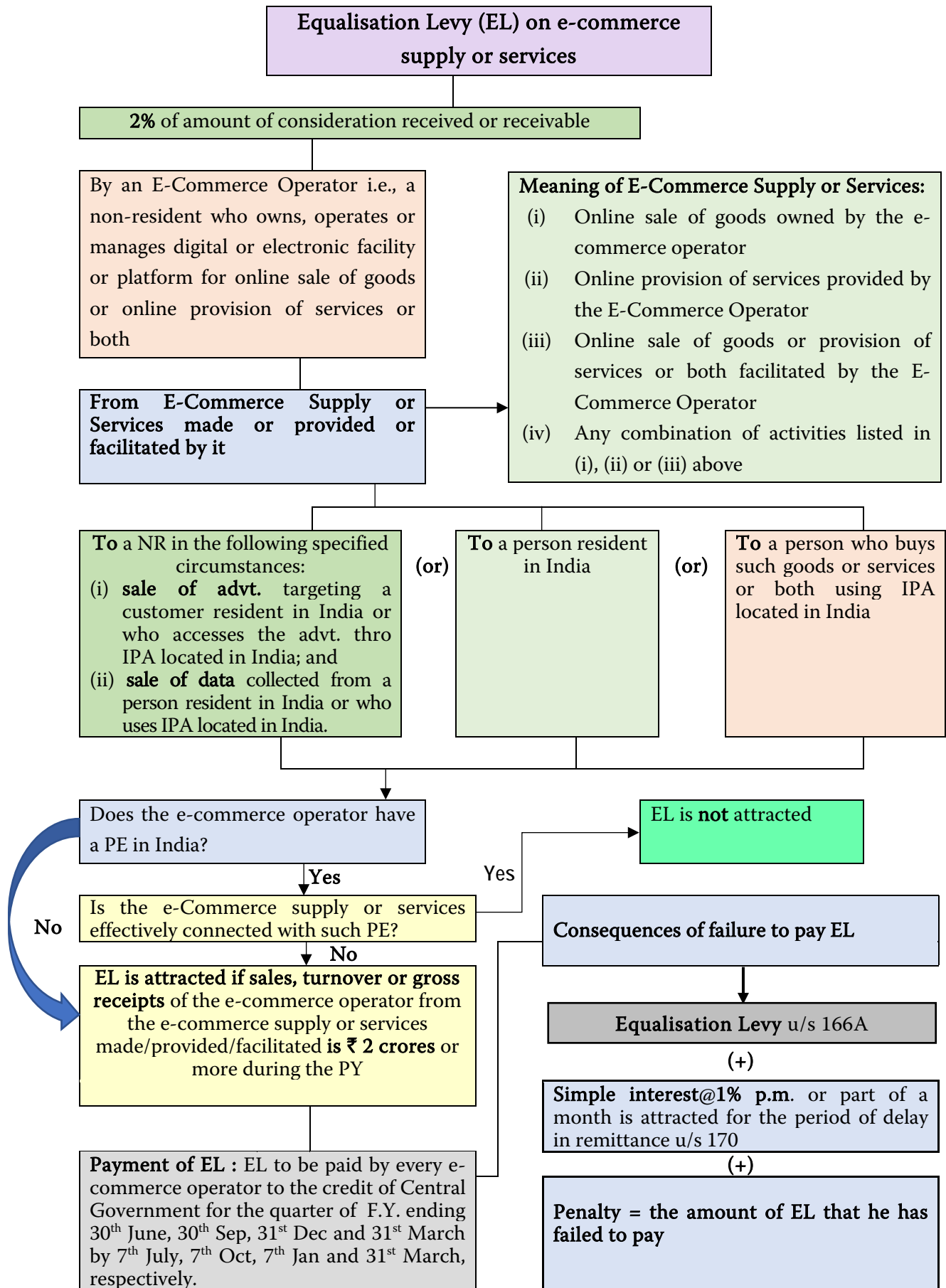
The scheme of taxability of income in the hands of the Securitisation Trust and its investors is briefed in the table given hereunder –

Particulars	Securitisation Trust	Investors
Income from the activity of Securitisation	<p>Exempt in the hands of Securitisation Trust u/s 10(23DA).</p> <p>Tax to be deducted u/s 194LBC on such income distributed to investors by securitization trust –</p> <ul style="list-style-type: none"> <li>- @25%, in case of investor, being resident individual and HUF</li> <li>- @30%, in case of investor, being resident other than individual and HUF</li> <li>- at rates in force in case of non-corporate non-resident or foreign company</li> </ul>	<p>Taxable, as if he had directly made the investment u/s 115TCA.</p> <p>If income accruing or arising to, or received by, a Securitisation Trust, during a P.Y. is not paid or credited to the investors, deemed to have been credited to the account of the investors on the last day of the P.Y.</p>

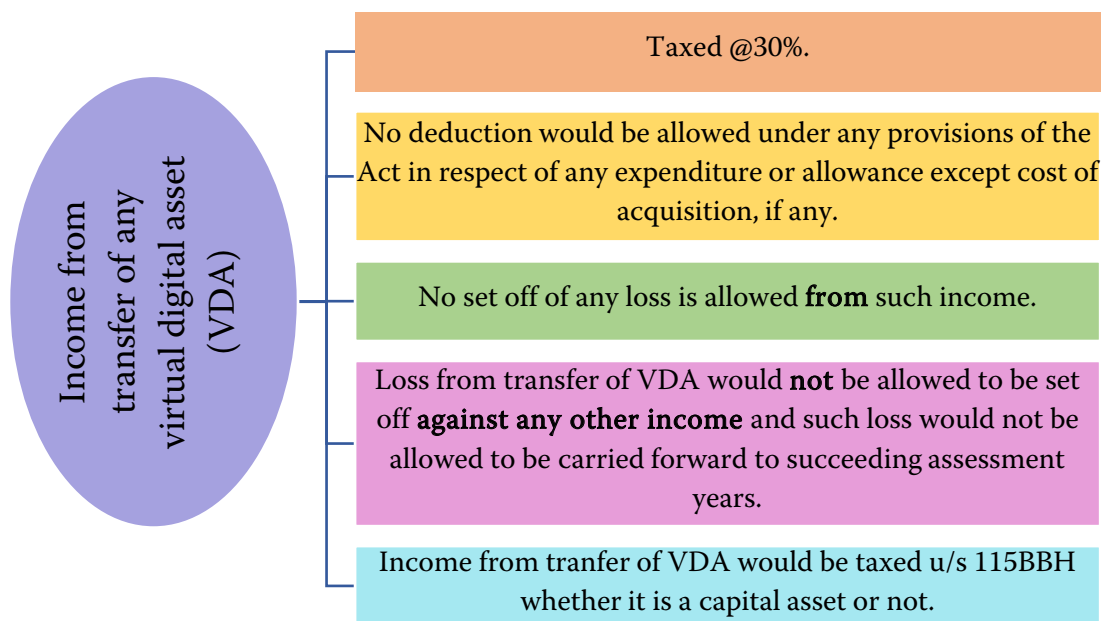
## TAXATION OF DIGITAL TRANSACTIONS

### EQUALISATION LEVY - CHAPTER VIII IN THE FINANCE ACT, 2016

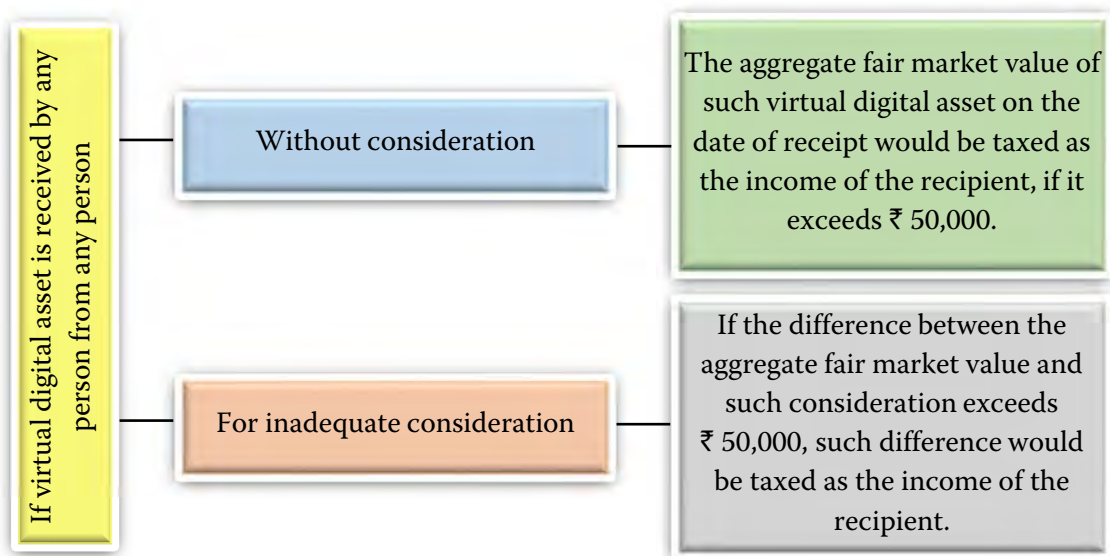




### TAXATION OF VIRTUAL DIGITAL ASSETS [SECTION 115BBH]



### TAXABILITY OF RECEIPT OF VIRTUAL DIGITAL ASSET AS GIFT OR FOR INADEQUATE CONSIDERATION [SECTION 56(2)(X)]



However, the exclusions from the applicability of section 56(2)(x) will apply to gift virtual digital asset also. For example, if virtual digital asset is received as a gift by an individual from his relative, the value of the same would not be treated as income.

**TDS ON PAYMENT ON TRANSFER OF VIRTUAL DIGITAL ASSET [SECTION 194S]**

Any person, paying to any resident, any sum by way of consideration for transfer of a virtual digital asset is required to deduct tax @1% of such sum.

Tax is to be deducted at source at the time of credit of consideration to the account of the resident or at the time of payment of such sum by any mode, whichever is earlier.

**Non applicability of TDS under section 194S** – No tax is required to be deducted where –

S.No.	Consideration is payable by	Value or aggregate value of such consideration
(i)	a specified person, being an individual or a Hindu undivided family <ul style="list-style-type: none"> <li>- whose total sales, gross receipts or turnover from his business or profession <math>\leq</math> ₹ 1 crore in case of business or <math>\leq</math> ₹ 50 lakhs in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred; or</li> <li>- not having any income under the head “Profits and gains of business or profession”.</li> </ul>	$\leq$ ₹ 50,000 in a financial year
(ii)	any person other than specified person mentioned in (i) above	$\leq$ ₹ 10,000 in a financial year

## TDS, TCS AND ADVANCE TAX

### TAX DEDUCTION AT SOURCE

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
<b>192</b>	Salary	Basic exemption limit [₹ 3,00,000 (in case assessee pays tax under default tax regime u/s 115BAC), ₹ 2,50,000/ ₹ 3,00,000 / ₹ 5,00,000, as the case may be, if the assessee has exercised the option of shifting out of the default tax regime providing u/s 115BAC]. This is taken care of in computation of the average rate of income-tax	Any person responsible for paying any income chargeable under the head “Salaries”	Individual (Employee)	Average rate of income-tax	At the time of payment
<b>192A</b>	Premature withdrawal from EPF	Payment or aggregate payment ≥ ₹ 50,000	Trustees of the EPF Scheme or any authorised person under the Scheme	Individual (Employee)	10% on premature taxable withdrawal	At the time of payment
<b>193</b>	Interest on Securities	> ₹ 10,000 in a F.Y., in case of interest on 8% Savings (Taxable) Bonds, 2003/ 7.75% Savings (Taxable) Bonds, 2018. > ₹ 5,000 in a F.Y., in case of	Any person responsible for paying any income by way of interest on securities	Any resident	10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier

		interest on debentures issued by a Co. in which the public are substantially interested, paid or credited to a resident individual or HUF by an account payee cheque > No threshold specified in any other case				
<b>194</b>	Dividend (including dividends on preference shares)	Amount or aggregate amount > ₹ 5,000 in a F.Y., in case of dividend paid or credited to an individual shareholder by any mode other than cash > No threshold in other cases	The Principal Officer of a domestic company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India	Resident shareholder	10%	Before making any payment by any mode in respect of any dividend or before making any distribution or payment of dividend
<b>194A</b>	Interest other than interest on securities	Amount or aggregate amount > ₹ 40,000 in a F.Y., in case of interest credited or paid by – (i) a banking company; (ii) a co-operative society engaged in banking business; and (iii) a post office on any deposit	Any person (other than an individual or HUF whose total sales, gross receipts or turnover ≤ ₹ 1 crore in case of business or ≤ ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible	Any Resident	10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier



		under a notified Scheme. In all the above cases, if payee is a resident senior citizen, tax deduction limit is > ₹ 50,000. > ₹ 5,000 in a F.Y., in other cases	for paying interest other than interest on securities			
<b>194B</b>	Winnings from any lottery, crossword puzzle or card game or other game of any sort or from gambling or betting of any form or nature	Amount or the aggregate of amount > ₹ 10,000 in a F.Y.	The person responsible for paying income by way of such winnings	Any Person	30%	At the time of payment
<b>194BA</b>	Winnings from online games	On the net winnings in a person's user account as computed in prescribed manner	Any person responsible for paying income by way of such winnings from any online game	Any person	30%	At the end of the F.Y. In case there is withdrawal from user account during the F.Y., tax would be deducted at the time of such withdrawal on net winnings comprised in such withdrawal. In addition, tax would also be deducted on the remaining amount of net

						winnings in the user account as computed in prescribed manner at the end of the F.Y.
<b>194BB</b>	Winnings from horse race	Amount or the aggregate of amount > ₹ 10,000 in a F.Y.	Book Maker or a person holding licence for horse racing or for arranging for wagering or betting in any race course	Any Person	30%	At the time of payment
<b>194C</b>	Payments to Contractors	Single sum credited or paid > ₹ 30,000 (or) The aggregate of sums credited or paid to a contractor during the F.Y. > ₹ 1,00,000 Individual/HUF need not deduct tax where sum is credited or paid exclusively for personal purposes	Central/State Govt., Local authority, Central/ State/ Provincial Corpn., company, firm, trust, registered society, co-operative society, university established under Central/ State/ Provincial Act, declared university under the UGC Act, Government of Foreign State or a foreign enterprise, individual/ HUF/AoP/	Any Resident contractor for carrying out any work (including supply of labour)	1% of sum paid or credited, if the payee is an Individual or HUF 2% of sum paid or credited, if the payee is any other person	At the time of credit of such sum to the account of the contractor or at the time of payment, whichever is earlier

			BoI whose total sales, gross receipts or turnover > ₹ 1 crore in case of business or > ₹ 50 lakhs in case of profession during the immediately preceding F.Y.			
<b>194D</b>	Insurance Commission	Amount or aggregate amount > ₹ 15,000 in a F.Y.	Any person responsible for paying any income by way of remuneration or reward for soliciting or procuring insurance business	Any Resident	5%, if the payee is a non-corporate resident 10%, if the payee is a domestic company	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier
<b>194DA</b>	Any sum under a Life Insurance Policy not fulfilling the conditions specified u/s 10(10D)	Amount or aggregate amount ≥ ₹ 1,00,000 in a F.Y.	Any person responsible for paying any sum under a LIP, including the sum allocated by way of bonus	Any resident	5% of the amount of income comprised	At the time of payment
<b>194EE</b>	Payment of deposit under National Saving Scheme	Amount or aggregate amount ≥ ₹ 2,500 in a F.Y.	Any person responsible for paying	Individual or HUF	10%	At the time of payment
<b>194G</b>	Commission on sale of lottery tickets	> ₹ 15,000 in a F.Y.	Any person responsible for paying any income by way of commission, remuneration or prize (by whatever	Any person stocking, distributing, purchasing or selling lottery tickets	5%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier

			name called) on lottery tickets			
194H	Commission or brokerage	> ₹ 15,000 in a F.Y.	Any person (other than an Individual or HUF whose total sales, gross receipts or turnover ≤ ₹ 1 crore in case of business or ≤ ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for paying commission or brokerage	Any resident	5%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier
194-I	Rent	> ₹ 2,40,000 in a F.Y.	Any person (other than an individual or HUF whose total sales, gross receipts or turnover ≤ ₹ 1 crore in case of business or ≤ ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for paying rent	Any resident	For P & M or equipment - 2% For land or building, land appurtenant to a building, furniture or fittings - 10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier
194-IA	Payment on transfer of	≥ ₹ 50 lakh (Consideration	Any person, being a	Resident transferor	1% of consideration	At the time of credit of such

	certain immovable property other than agricultural land	for transfer or SDV)	transferee (other than a person referred to in section 194LA responsible for paying compensation for compulsory acquisition of immovable property other than rural agricultural land)		for transfer or SDV, whichever is higher	sum to the account of the transferor or at the time of payment, whichever is earlier
<b>194-IB</b>	Payment of rent by certain individuals or HUF	> ₹ 50,000 for a month or part of a month	Individual/HUF (other than Individual/HUF whose total sales, gross receipts or turnover > ₹ 1 crore in case of business or > ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for paying rent	Any Resident	5%	At the time of credit of rent, for the last month of the P.Y. or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment, whichever is earlier
<b>194-IC</b>	Payment under specified agreement referred to in section 45(5A)	No threshold specified	Any person responsible for paying any sum by way of consideration, not being consideration in kind, under a registered agreement,	Any Resident	10%	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier

			wherein L or B or both are handed over by the owner for development of real estate project, for a consideration, being a share in L or B or both in such project, with payment of part consideration in cash			
194J	Fees for professional or technical services/ Royalty/ Non-compete fees/ Director's remuneration	> ₹ 30,000 in a F.Y., for each category of income (However, this limit does not apply in case of payment made to director of a company)	Any person, other than an individual or HUF; However, in case of FPS or FTS paid or credited, individual/HUF, whose total sales, gross receipts or turnover > ₹ 1 crore in case of business or > ₹ 50 lakhs in case of profession during the immediately preceding F.Y., is liable to deduct tax u/s 194J, except where FPS is credited or paid exclusively for his personal purposes	Any Resident	2% - Payee engaged only in the business of operation of call centre 2% - In case of FTS or royalty, where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films 10% - Other payments	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier

<b>194K</b>	Income from units other than in the nature of capital gains	Amount or aggregate amount > ₹ 5,000 in a F.Y.	Any person responsible for paying any income in respect of units of a mutual fund/ Administrator of the specified undertaking/ specified company	Any resident	10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier
<b>194LA</b>	Compensation on acquisition of certain immovable property other than agricultural land situated in India	Amount or aggregate amount > ₹ 2,50,000 in a F.Y.	Any person responsible for paying any sum in the nature of compensation or enhanced compensation on compulsory acquisition of immovable property	Any Resident	10%	At the time of payment
<b>194M</b>	- Payments to Contractors - Commission or brokerage - FPS	> ₹ 50,00,000 in a F.Y.	Individual or HUF other than those who are required to deduct tax at source u/s 194C or 194H or 194J	Any Resident	5%	At the time of credit of such sum or at the time of payment, whichever is earlier
<b>194N</b>	Cash withdrawals	> ₹ 3 crore if the recipient is a co-operative society > ₹ 1 crore in case of others	- a banking company or any bank or banking institution - a co-operative society engaged in carrying on the business of banking or	Any person	@2% of such sum In case the recipient has not filed ROI for all the 3 immediately preceding P.Y.s, for which time limit u/s 139(1) has	At the time of payment of such sum



			- a post office who is responsible for paying any sum, being the amount or the aggregate of amounts, as the case may be, in cash > ₹ 1 crore/ ₹ 3 crore in case the recipient is a cooperative society, during the previous year, to any person from one or more accounts maintained by the recipient		expired, such sum shall be the amount or aggregate of amounts, in cash > ₹ 20 lakh during the P.Y. <b>TDS</b> - @2% of the sum, where cash withdrawal > ₹ 20 lakhs but ≤ ₹ 1 crore/ ₹ 3 crore in case the recipient is a co-operative society - @5% of the sum, where cash withdrawal > ₹ 1 crore/ ₹ 3 crore in case the recipient is a co-operative society	
194-O	Sale consideration or consideration for services facilitated through digital or electronic facility or platform	> ₹ 5 lakhs, being gross amount of sales or service or both in a F.Y. to an e-commerce participant, being individual or HUF and such e-commerce participant has furnished PAN or Aadhar number to the e-commerce operator > No threshold in other cases	E-commerce operator, who facilitates sale of goods or provision of services of an e-commerce participant through digital or electronic facility or platform	E-commerce participant	1% of gross amount of sale or service or both [In case of failure to furnish PAN, Maximum TDS@5%]	At the time of credit of amount of sale or services or both to the account of an e-commerce participant or at the time of payment, whichever is earlier

194P	Pension (along with interest on bank account)	Basic exemption limit [₹ 3,00,000 (in case specified senior citizen pays tax under default tax regime u/s 115BAC), ₹ 3,00,000 / ₹ 5,00,000, as the case may be, if specified senior citizen has exercised the option of shifting out of the default tax regime providing u/s 115BAC] [i.e., TI after giving effect to the deduction allowable under Chapter VI-A, if any allowable should exceed the basic exemption limit. Further, in case the individual is entitled to rebate u/s 87A from tax payable, then the same should be given effect to]	Notified specified bank	Specified senior citizen i.e., An individual, being a resident in India, who - is of the age of 75 years or more at any time during the PY; - is having pension income and no other income except interest income received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and - has furnished a declaration to the specified bank	Rates in force, where the individual has exercised the option of shifting out of the default tax regime. Rates specified in section 115BAC, where the individual pays tax under the default tax regime.	
194Q	Purchase of goods	> ₹ 50 lakhs in a P.Y.	Buyer, who is responsible for paying any sum for	Any resident	0.1% of sum exceeding ₹ 50 lakhs [In case of failure	At the time of credit of such sum to the account of the

			<p>purchase of goods</p> <p>Buyer means a person whose total sales, gross receipts or turnover from business &gt; ₹ 10 crores during the F.Y.</p> <p>immediately preceding the F.Y. in which the purchase of goods is carried out</p>		to furnish PAN, maximum TDS @5%]	seller or at the time of payment, whichever is earlier
<b>194R</b>	<p>Any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession</p> <p>The provisions would apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind</p>	Value or aggregate of value of benefit or perquisite > ₹ 20,000 in a F.Y.	Any person (other than an individual or HUF whose total sales, gross receipts or turnover ≤ ₹ 1 crore in case of business or ≤ ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for providing to a resident, any benefit or perquisite.	Any resident	10% of value or aggregate of value of such benefit or perquisite	Before providing such benefit or perquisite
<b>206AA</b>	<p>Section 206AA requires furnishing of PAN by the deductee to the deductor, failing which the deductor has to deduct tax at the higher of the following rates, namely, -</p> <p>(i) at the rate prescribed in the Act; or</p> <p>(ii) at the rate or rates in force; or</p> <p>(iii) at the rate of 20% [5%, in case of section 194-O and 194Q]</p>					

<b>206AB</b>	<p>Section 206AB requires tax to be deducted at source under the provisions of this Chapter on any sum or income or amount paid, or payable or credited, by a person <b>to a specified person</b>, at higher of the following rates –</p> <ul style="list-style-type: none"> <li>(i) at twice the rate prescribed in the relevant provision of the Act;</li> <li>(ii) at twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or</li> <li>(iii) at 5%</li> </ul> <p>However, section 206AB is <b>not</b> applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BA, 194BB, 194-IA, 194-IB, 194LBC, 194M and 194N.</p> <p><b>Meaning of “specified person”</b> – A person who has <b>not</b> furnished the ROI for the A.Y. relevant to the P.Y. immediately preceding the F.Y. in which tax is required to be deducted, for which the time limit for furnishing the ROI u/s 139(1) has expired, and the aggregate of TDS and TCS in his case is ₹ 50,000 or more in the said P.Y.</p> <p>However, the specified person would not include -</p> <ul style="list-style-type: none"> <li>- a non-resident who does not have a PE in India; or</li> <li>- a person who is not required to furnish the ROI for the A.Y. relevant to the said P.Y. and is notified by the Central Government in this behalf.</li> </ul> <p>In case the provisions of section 206AA are also applicable to the specified person, in addition to the provisions of this section, then, tax is required to be deducted at higher of the two rates provided in section 206AA and section 206AB.</p>
<p><b>The threshold limit given in the table is with respect to each payee.</b></p>	

### TAX COLLECTION AT SOURCE [SECTION 206C]

(1)	<p><b>Sellers of certain goods are required to collect tax from the buyers at the rates specified u/s 206C(1). The specified percentage for collection of tax at source is as follows:</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 75%;">Nature of goods</th> <th style="width: 20%;">Percentage</th> </tr> </thead> <tbody> <tr> <td>(i)</td> <td>Alcoholic liquor for human consumption</td> <td>1%</td> </tr> <tr> <td>(ii)</td> <td>Tendu leaves</td> <td>5%</td> </tr> <tr> <td>(iii)</td> <td>Timber obtained under a forest lease</td> <td>2.5%</td> </tr> <tr> <td>(iv)</td> <td>Timber obtained by any mode other than (iii)</td> <td>2.5%</td> </tr> <tr> <td>(v)</td> <td>Any other forest produce not being timber or tendu leaves</td> <td>2.5%</td> </tr> <tr> <td>(vi)</td> <td>Scrap</td> <td>1%</td> </tr> <tr> <td>(vii)</td> <td>Minerals, being coal or lignite or iron ore</td> <td>1%</td> </tr> </tbody> </table> <p>However, no collection of tax shall be made in the case of a resident buyer, if such buyer furnishes a declaration in writing in duplicate to the effect that goods are to be utilised for the purpose of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.</p>		Nature of goods	Percentage	(i)	Alcoholic liquor for human consumption	1%	(ii)	Tendu leaves	5%	(iii)	Timber obtained under a forest lease	2.5%	(iv)	Timber obtained by any mode other than (iii)	2.5%	(v)	Any other forest produce not being timber or tendu leaves	2.5%	(vi)	Scrap	1%	(vii)	Minerals, being coal or lignite or iron ore	1%
	Nature of goods	Percentage																							
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(2)	<p><b>Lease or a licence of parking lot, toll plaza or mine or a quarry [Section 206C(1C)]</b> - Every person who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest in any</p> <ul style="list-style-type: none"> <li>- parking lot or</li> <li>- toll plaza or</li> <li>- a mine or a quarry</li> </ul>																								

	to another person (other than a public sector company) for the use of such parking lot or toll plaza or mine or quarry for the purposes of business. The tax shall be collected as provided, from the licensee or lessee of any such licence, contract or lease of the specified nature, at the rate of 2%, at the time of debiting of the amount payable by the licensee or lessee to his account or at the time of receipt of such amount from the licensee or lessee, whichever is earlier.																												
(3)	<b>Sale of motor vehicle of value exceeding ₹ 10 lakhs [Section 206C(1F)]</b> - Every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding ₹ 10 lakhs, shall, at the time of receipt of such amount, collect tax from the buyer@1% of the sale consideration u/s 206C(1F).																												
(4)	<p><b>Remittance under LRS of RBI or purchase of an overseas tour package [Section 206C(1G)]</b> - Every person,</p> <ul style="list-style-type: none"> <li>- being an authorized dealer, who receives amount under the LRS of the RBI for remittance from a buyer, being a person remitting such amount,</li> <li>- being seller of an overseas tour programme package who receives any amount from the buyer who purchases the package</li> </ul> <p>has to collect tax at the time of debiting of the amount payable by the buyer or at the time of receipt of such amount from the said buyer by any mode, whichever is earlier.</p> <p><b>Rate of TCS in case of collection by an authorized dealer/ seller of an overseas tour programme package</b></p> <table border="1"> <thead> <tr> <th>S. No.</th> <th>Amount and purpose of remittance</th> <th>Rate of TCS upto 30.9.2023</th> <th>Rate of TCS on or after 1.10.2023</th> </tr> </thead> <tbody> <tr> <td>(i)</td> <td>Remittances for the purpose of education [other than (ii) below] or medical treatment;</td> <td colspan="2">No TCS upto ₹ 7 lakhs 5% of the amount or aggregate of amounts in excess of ₹ 7 lakh</td> </tr> <tr> <td>(ii)</td> <td>Remittances out of loan obtained from any financial institution as referred under section 80E, for the purpose of pursuing any education</td> <td colspan="2">No TCS upto ₹ 7 lakhs 0.5% of the amount or aggregate of amounts in excess of ₹ 7 lakh</td> </tr> <tr> <td>(iii)</td> <td>Remittances for purposes other than mentioned in (i) to (ii)</td> <td>No TCS upto ₹ 7 lakhs 5% on the amount or aggregate of amounts in excess of ₹ 7 lakhs</td> <td>No TCS upto ₹ 7 lakhs 20% on the amount or aggregate of amounts in excess of ₹ 7 lakhs</td> </tr> <tr> <td>(iv)</td> <td>Overseas tour programme package</td> <td>5% without any threshold limit</td> <td>5% upto ₹ 7 lakhs and 20% above ₹ 7 lakhs</td> </tr> </tbody> </table> <p><b>Cases where no tax is to be collected</b></p> <table border="1"> <tbody> <tr> <td>(i)</td> <td>No TCS by the authorized dealer on an amt in respect of which the sum has been collected by the seller</td> </tr> <tr> <td>(ii)</td> <td>No TCS, if the buyer is liable to deduct tax at source under any other provision of the Act and has deducted such tax</td> </tr> <tr> <td>(iii)</td> <td>No TCS, if the buyer is the Central Government, a State Government, an embassy, a High</td> </tr> </tbody> </table>			S. No.	Amount and purpose of remittance	Rate of TCS upto 30.9.2023	Rate of TCS on or after 1.10.2023	(i)	Remittances for the purpose of education [other than (ii) below] or medical treatment;	No TCS upto ₹ 7 lakhs 5% of the amount or aggregate of amounts in excess of ₹ 7 lakh		(ii)	Remittances out of loan obtained from any financial institution as referred under section 80E, for the purpose of pursuing any education	No TCS upto ₹ 7 lakhs 0.5% of the amount or aggregate of amounts in excess of ₹ 7 lakh		(iii)	Remittances for purposes other than mentioned in (i) to (ii)	No TCS upto ₹ 7 lakhs 5% on the amount or aggregate of amounts in excess of ₹ 7 lakhs	No TCS upto ₹ 7 lakhs 20% on the amount or aggregate of amounts in excess of ₹ 7 lakhs	(iv)	Overseas tour programme package	5% without any threshold limit	5% upto ₹ 7 lakhs and 20% above ₹ 7 lakhs	(i)	No TCS by the authorized dealer on an amt in respect of which the sum has been collected by the seller	(ii)	No TCS, if the buyer is liable to deduct tax at source under any other provision of the Act and has deducted such tax	(iii)	No TCS, if the buyer is the Central Government, a State Government, an embassy, a High
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	<p>Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority or any other person notified by the Central Government, subject to fulfillment of conditions stipulated thereunder.</p> <p>Accordingly, the CBDT has, vide notification no. 99/2022 dated 17.8.2022, notified that the provisions of section 206C(1G) would not apply to a person (being a buyer) who is a non-resident in terms of section 6 and does not have a PE in India.</p>
(5)	<p><b>Sale of goods of value exceeding ₹ 50 lakh [Section 206C(1H)]</b> - Every person, being a seller, who receives any amount as consideration for sale of goods of the value exceeding ₹ 50 lakhs in a P.Y., other than exported goods or goods covered in (1)/(3)/(4)], is required to collect tax at source, at the time of receipt of such amount, @0.1% of the sale consideration exceeding ₹ 50 lakhs.</p> <p>However, tax is not required to be collected if the buyer is liable to deduct tax at source under any other provision of the Act on the goods purchased by him from the seller and has deducted such tax [Section 206C(1H)].</p>
(6)	<p>In case of non-furnishing of PAN [PAN or Aadhaar number in case of section 206C(1H)] by the collectee to the collector, tax is required to be collected at the higher of –</p> <p>(i) twice the rate specified in the relevant provisions of the Act; or</p> <p>(ii) at 5% [1%, in case tax is required to be collected at source u/s 206C(1H)]. [Section 206CC]</p> <p>However, w.e.f. 1.7.2023, the maximum the rate of TCS under this section shall not exceed 20%.</p> <p>The provisions of section 206CC do <b>not</b> apply to a non-resident who does not have a PE in India.</p>
(7)	<p>Section 206CCA requires tax to be collected at source on any sum or amount received by a person from a specified person, at higher of the following rates –</p> <p>(a) at twice the rate specified in the relevant provision of the Act;</p> <p>(b) at 5%</p> <p>However, w.e.f. 1.7.2023, the maximum the rate of TCS under this section shall not exceed 20%.</p> <p>In case the provisions of section 206CC are also applicable to the specified person, in addition to the provisions of section 206CCA, then, tax is required to be collected at higher of the two rates provided in section 206CC and section 206CCA.</p> <p><b>Meaning of “specified person”</b> – A person who has <b>not</b> furnished the ROI for A.Y. relevant to the P.Y. immediately preceding the F.Y. in which tax is required to be collected, for which the time limit for furnishing the ROI u/s 139(1) has expired, and the aggregate of TDS and TCS in his case is ₹ 50,000 or more in the said P.Y.</p> <p>However, the specified person would not include -</p> <ul style="list-style-type: none"> <li>- a non-resident who does not have a PE in India; or</li> <li>- a person who is not required to furnish the ROI for the A.Y. relevant to the said P.Y. and is notified by the Central Government in this behalf.</li> </ul>

## ADVANCE PAYMENT OF TAX

### Liability for payment of advance tax [Sections 207 & 208]

- Tax shall be payable in advance during any F.Y. in respect of the total income of the assessee which would be chargeable to tax for the A.Y. immediately following that F.Y.

- Advance tax is payable during a F.Y. in every case where the amount of such tax payable by the assessee during the year is ₹ 10,000 or more.
- However, an individual resident in India of the age of 60 years or more at any time during the P.Y., who does not have any income chargeable under the head PGBP, is not liable to pay advance tax.

#### Instalments of advance tax and due dates [Section 211]

#### Advance tax payment schedule for corporates and non-corporates (other than an assessee computing profits on presumptive basis u/s 44AD or section 44ADA) – Four instalments

Due date of instalment	Amount payable
On or before 15 <sup>th</sup> June	Not less than 15% of advance tax liability.
On or before 15 <sup>th</sup> September	Not less than 45% of advance tax liability (-) amount paid in earlier instalment.
On or before 15 <sup>th</sup> December	Not less than 75% of advance tax liability (-) amount paid in earlier instalment or instalments.
On or before 15 <sup>th</sup> March	The whole amount of advance tax liability (-) amount paid in earlier instalment or instalments.

#### Advance tax payment by assessee computing profits on presumptive basis under section 44AD(1) or section 44ADA(1)

An eligible assessee, computing PGBP on presumptive basis in respect of eligible business referred to in section 44AD(1) or in respect of eligible profession referred to in section 44ADA(1), shall be required to pay advance tax of the whole amount on or before 15th March of the F.Y.

However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during the F.Y. ending on that day.

#### Interest for defaults in payment of advance tax [Section 234B]

(1)	Interest u/s 234B is attracted for non-payment of advance tax or payment of advance tax of an amount less than 90% of assessed tax.
(2)	The interest liability would be 1% per month or part of the month from 1st April following the F.Y. upto the date of determination of total income u/s 143(1) and where regular assessment is made, upto the date of such regular assessment.
(3)	Such interest is calculated on the amount of difference between the assessed tax and the advance tax paid.
(4)	<p>“Assessed tax” means the tax on total income determined u/s 143(1) less TDS &amp; TCS, any relief of tax allowed u/s 89, any relief of tax allowed under section 90 or 90A, any deduction of tax allowed under section 91, any tax credit allowed to be set off in accordance with the provisions of section 115JAA or section 115JD.</p> <p>Tax on the TI determined under section 143(1) shall not include the additional income-tax, if any, payable u/s 140B.</p>



- (5) Where self-assessment tax is paid by the assessee u/s 140A or otherwise, interest shall be calculated upto the date of payment of such tax and reduced by the interest, if any, paid u/s 140A towards the interest chargeable under this section. Thereafter, interest shall be calculated at 1% on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

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

- (1) **Manner of computation of interest u/s 234C for deferment of advance tax by corporate and non-corporate assesseees:**

In case an assessee, other than an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1), who is liable to pay advance tax u/s 208 has failed to pay such tax or the advance tax paid by such assessee on its current income on or before the dates specified in column (1) below is less than the specified percentage [given in column (2) below] of tax due on returned income, then simple interest@1% per month for the period specified in column (4) on the amount of shortfall, as per column (3) is leviable u/s 234C.

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

**Note** – However, if the advance tax paid by the assessee on the current income, on or before 15<sup>th</sup> June or 15<sup>th</sup> September, is not less than 12% or 36% of the tax due on the returned income, respectively, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.

**Tax due on returned income** = Tax chargeable on total income declared in the return of income – TDS – TCS - any relief of tax allowed u/s 89 - any relief of tax allowed under section 90 or 90A - any deduction of tax allowed under section 91- any tax credit allowed to be set off in accordance with the provisions of section 115JAA or section 115JD.

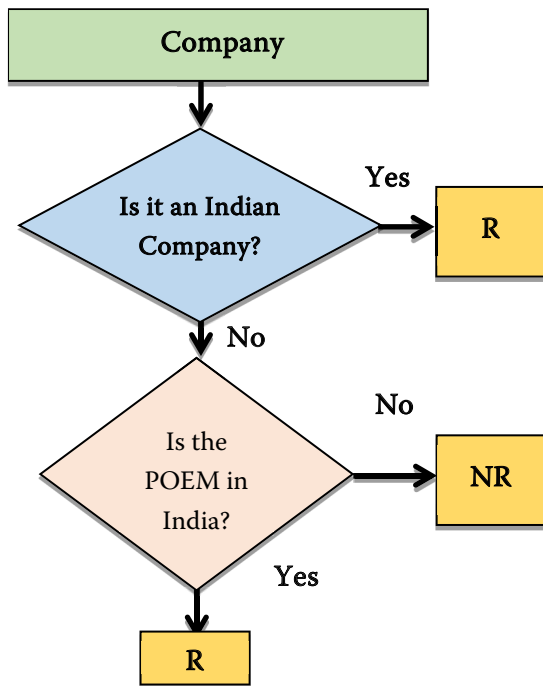
- (2) **Computation of interest u/s 234C in case of an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1):**

In case an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1), who is liable to pay advance tax u/s 208 has

	<ul style="list-style-type: none"> <li>- failed to pay such tax or</li> <li>- the advance tax paid by the assessee on its current income on or before 15th March is less than the tax due on the returned income,</li> </ul> <p>then, the assessee shall be liable to pay simple interest at the rate of 1% on the amount of the shortfall from the tax due on the returned income.</p>
(3)	<p><b>Non-applicability of interest u/s 234C in certain cases:</b></p> <p>Interest u/s 234C shall <b>not</b> be leviable in respect of any shortfall in payment of tax due on returned income, where such shortfall is on account of under-estimate or failure to estimate –</p> <ul style="list-style-type: none"> <li>(i) the amt of capital gains;</li> <li>(ii) income of nature referred to in section 2(24)(ix) i.e., winnings from lotteries, crossword puzzles etc.;</li> <li>(iii) income under the head “PGBP” in cases where the income accrues or arises under the said head for the first time.</li> <li>(iv) the amount of dividend income other than deemed dividend referred u/s 2(22)(e).</li> </ul> <p>However, the assessee should have paid the whole of the amount of tax payable in respect of such income referred to in (i), (ii), (iii) and (iv), as the case may be, had such income been a part of the total income, as part of the remaining instalments of advance tax which are due or where no such instalments are due, by 31st March of the F.Y.</p>

## NON RESIDENT TAXATION

### RESIDENTIAL STATUS OF A COMPANY



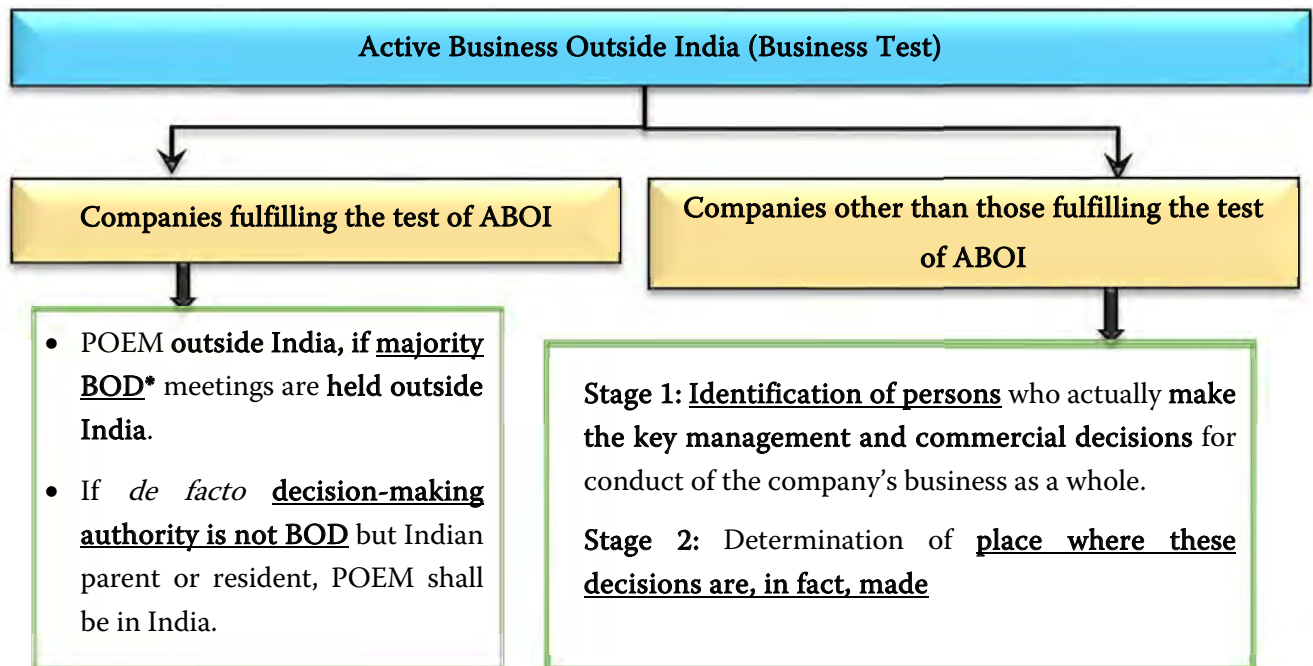
**POEM** - Place of effective management i.e., Place where key management and commercial decisions necessary for conduct of business of an entity as a whole are, in substance made.

#### Determination of POEM on the basis of ABOI Test

What is ABOI test?			
A company is said to be engaged in ABOI, if it fulfills cumulatively the following conditions:			
Its <u>passive income</u> * (wherever earned) is 50% or less of its total income	Less than 50% of its <u>total assets</u> are situated in India	Less than 50% of the <u>total number of employees</u> are situated in India or are <u>resident in India</u>	<u>Payroll expenses</u> incurred on such employees are less than 50% of its total payroll expenditure

\* *Passive income of a company shall be aggregate of:*

- (i) *Income from the transactions where both the purchase and sale of goods is from/to its AEs; and*
- (ii) *Income by way of royalty, dividend, capital gains, interest (except for banking Cos and public financial institutions) or rental income whether or not involving AEs.*



\* BOD – Board of Directors

**INCOME EXEMPTED SPECIFICALLY IN THE HANDS OF NON RESIDENTS [SECTION 10]**

Section	Income	Available to
10(4)(ii)	Interest on moneys standing to the credit in a NRE A/c of an individual in any bank in India as per the FEMA Act, 1999.	Individual resident outside India (under FEMA Act) or an individual who has been permitted to maintain said a/c by RBI.
10(4C)	Interest payable by an Indian Co. or Business Trust in respect of moneys borrowed from a source outside India by way of issue of rupee denominated bond (RDB) during the period from 17.9.2018 to 31.3.2019.	A non-corporate NR or foreign co.
10(4D)	<p>Income accrued or arising to or received by specified fund</p> <ul style="list-style-type: none"> <li>- on transfer of a capital asset, being a bond of an Indian Co. or a public sector company [sold by the Government (Govt.) and purchased by the specified fund in foreign currency], GDR or RDB of an Indian Co. or derivative or any other notified security, on a Recognised Stock Exchange (RSE) located in any IFSC and where the consideration for such transfer is paid or payable in convertible foreign exchange; or</li> <li>- on transfer of securities (other than shares in a co. resident in India); or</li> <li>- from securities issued by a NR (not being a PE of a NR in India) and where such income otherwise does not accrue or arise in India; or</li> <li>- from a securitisation trust which is chargeable under the head "PGBP"</li> </ul> <p>to the extent such income accrued or arisen to, or is received, is attributable to units held by a NR (not being the PE of a NR in India) or is attributable to the investment division of offshore banking unit, computed in the prescribed manner.</p>	A specified fund
10(4E)	Any income accrued or arisen to, or received by, a NR as a result of transfer of	NR

Section	Income	Available to
	<ul style="list-style-type: none"> <li>- non-deliverable forward contracts or offshore derivative instruments or over-the-counter derivatives</li> <li>- distribution of income on offshore derivative instruments,</li> </ul> <p>entered into with an offshore banking unit of an IFSC as referred to in section 80LA(1A), which fulfills prescribed conditions.</p>	
<b>10(4F)</b>	Any income of a NR by way of royalty or interest, on a/c of lease of an aircraft or a ship in a PY, paid by a unit of an IFSC referred to in section 80LA(1A), if the unit has commenced its operation on or before 31.3.2024.	NR
<b>10(4G)</b>	Any income received by a NR from <ul style="list-style-type: none"> <li>- portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such NR; or</li> <li>- such activity carried out by such person as may be notified by the Central Government,</li> </ul> <p>in an a/c maintained with an Offshore Banking Unit in any IFSC as referred to in section 80LA(1A), to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.</p>	NR
<b>10(4H)</b>	Any income by way of capital gains on transfer of equity shares of domestic company, being a Unit of an IFSC, as referred to in section 80LA(1A), engaged primarily in the business of lease of an aircraft which has commenced operations on or before 31.3.2026. The exemption from capital gains on transfer of equity shares of such domestic company is available for a period of 10 A.Ys. – (i) from A.Y. relevant to the P.Y. in which the domestic company has commenced its operations or (ii) from A.Y. 2024-25, where the period of 10 A.Ys. under (i) above ends before 1.4.2034.	<ul style="list-style-type: none"> <li>- NR or</li> <li>- a Unit of IFSC, as referred to in section 80LA(1A) engaged primarily in the business of leasing of an aircraft</li> </ul>
<b>10(6)(ii)</b>	Remuneration received by Foreign Diplomats/ Consulate and their staff	Individual (not being a citizen of India)

Section	Income	Available to
	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>1. The remuneration received by our corresponding Govt. officials/member of staff resident in such foreign countries should be exempt.</li> <li>2. The member of staff should be the subjects of the respective countries and should not be engaged in any other business or profession or employment in India.</li> </ol>	
10(6)(vi)	<p>Remuneration received by a foreign national as an employee of a foreign enterprise for services rendered by him during his stay in India, if:</p> <ol style="list-style-type: none"> <li>a) foreign enterprise is not engaged in any trade or business in India;</li> <li>b) His stay in India does not exceed 90 days in aggregate in such P.Y.; and</li> <li>c) Such remuneration is not liable to be deducted from the income of employer chargeable under IT Act</li> </ol>	Individual - Salaried Employee (not being a citizen of India) of a foreign enterprise
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 P.Y.	Individual - Salaried Employee (NR who is not a citizen of India) of a foreign ship
10(6)(xi)	Remuneration received as an employee of the Govt. of a foreign State during his stay in India in connection with his training in any Govt. Office/ State Undertaking/ corporation/ registered society etc.	Individual - Salaried Employee (not being a citizen of India) of Govt. of foreign State
10(6BB)	Tax paid by an Indian Co., engaged in the business of operation of aircraft, which has acquired an aircraft or an aircraft engine on lease, under an agreement approved (by Central Govt.), on lease rental/income derived (other than payment for providing spares or services in connection with operation of leased aircraft) by the Govt. of a foreign State or foreign enterprise.	Govt. of foreign State or foreign enterprise (i.e., a person who is a NR)
10(6C)	Royalty income or FTS under an agreement with the Central Govt. for providing services in or outside India in projects connected with security of India.	Foreign Co. (notified by the Central Govt.)

Section	Income	Available to
10(6D)	Royalty income from or FTS rendered in or outside India to, the National Technical Research Organisation (NTRO).	Non-corporate NR and foreign Co.
10(15)(iiia)	Interest on deposits made by a foreign bank with a scheduled bank with approval of RBI.	Bank incorporated outside India and authorised to perform Central Banking functions in that Country.
10(15)(iv)(fa)	Interest payable by scheduled bank on deposits in foreign currency where the acceptance of such deposits is duly approved by RBI. [Scheduled bank does not include co-operative bank]	a) NR or b) Individual or HUF, being a resident but not ordinarily resident
10(15)(viii)	Interest on deposit made on or after 01.04.2005 in an Offshore Banking Unit	
10(15)(ix)	Interest payable by a unit located in IFSC in respect of monies borrowed by it on or after 1.9.2019	NR
10(23FBC)	Any income accruing or arising to or received by a unit holder from a specified fund or on transfer of units in a specified fund	Unit holder of specified Fund
10(23FE)	Dividend, Interest, any sum referred to in section 56(2)(xii) or LTCG arising to specified person from an investment made by it in India, whether in the form of debt or share capital or unit, if such investment is <ul style="list-style-type: none"> <li>(i) made between 1.4.2020 and 31.3.2024;</li> <li>(ii) held for at least 3 years</li> <li>(iii) in a business trust, a Co./enterprise/entity in developing/ operating/ maintaining an infrastructure facility or</li> <li>(iv) in a SEBI Category I or II AIF having not less than 50% investment in one or more of the Co. or enterprise or entity referred to in (iii) or in (v) or in (vi) or in an Infrastructure Investment Trust or</li> <li>(v) in a domestic Co., set up and registered on or after 1.4.2021, having minimum 75% investments in one or more of the</li> </ul>	Specified person, being <ul style="list-style-type: none"> <li>(i) A wholly owned subsidiary of the Abu Dhabi Investment Authority</li> <li>(ii) A sovereign wealth fund</li> <li>(iii) Pension Fund</li> </ul> Satisfying the prescribed conditions.



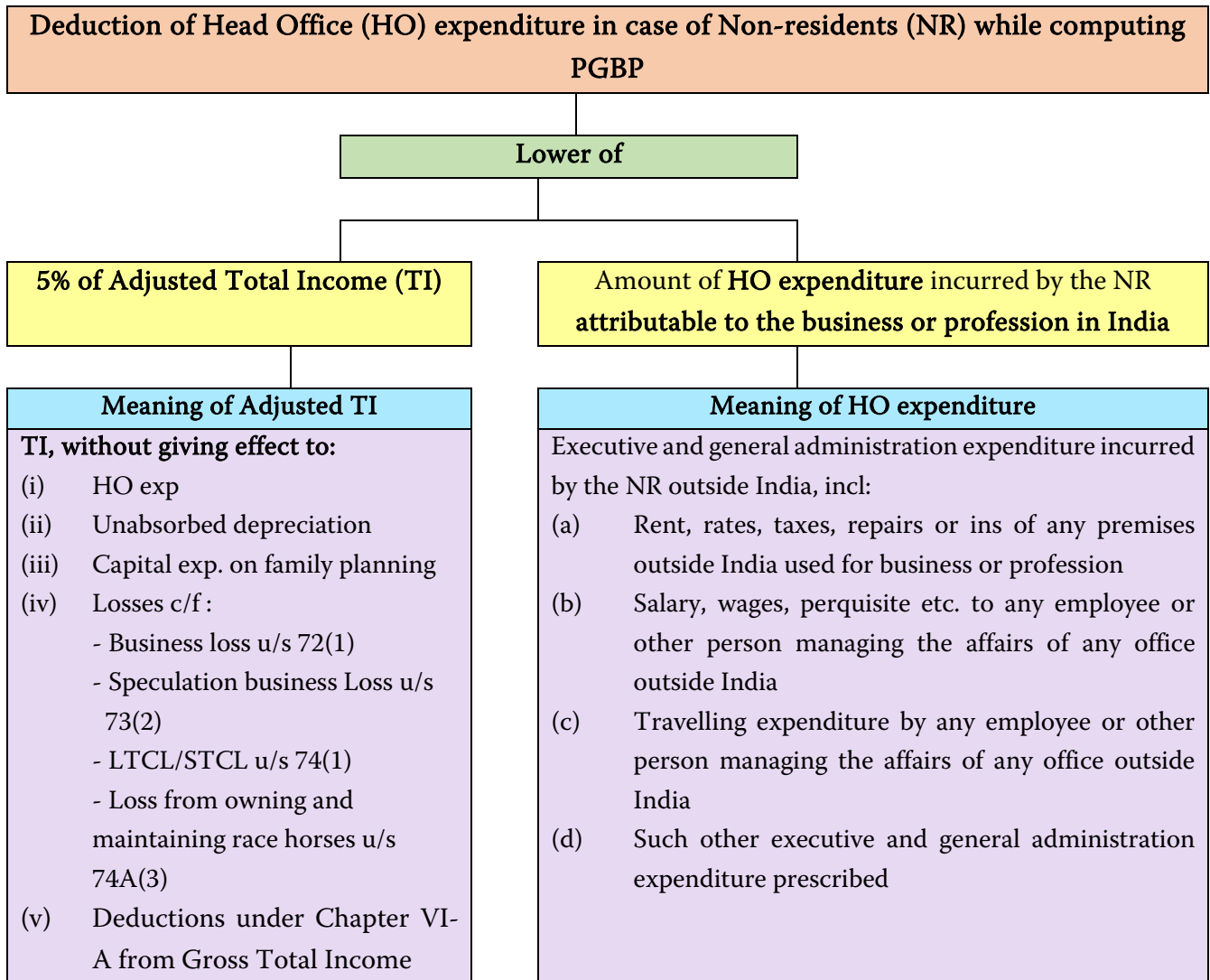
Section	Income	Available to
	companies or enterprises or entities referred to in (iii) or (vi) in a NBFC registered as an Infrastructure Finance Co. or in an Infrastructure Debt Fund, having minimum 90% lending to one or more of the companies or enterprises or entities referred to in (iii).	
10(23FF)	Income of the nature of capital gains on a/c of transfer of share of a Co. resident in India, by the resultant fund or a specified fund to the extent attributable to units held by NR (not being a PE of a NR in India) in such manner as may be prescribed, and such shares were transferred from the original fund, or from its wholly owned special purpose vehicle, to the resultant fund in relocation, and where capital gains on such shares were not chargeable to tax if that relocation had not taken place.	NR or specified fund
10(34B)	Any income by way of dividends from a Co. being a unit of any IFSC primarily engaged in the business of leasing of an aircraft.	Unit of any IFSC engaged in the business of leasing of an aircraft
10(48)	Income received in India in Indian currency on a/c of sale of crude oil or any other goods or rendering of services, as may be notified by the Central Govt. in this behalf, to any person in India. Foreign Co. and agreement should be notified by the Central Govt. in national interest.	Foreign co. on a/c of sale of crude oil, any other goods or rendering of services. It should not be engaged in any other activity in India.
10(48A)	Income accruing or arising on a/c of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India. Foreign Co. and agreement should be notified by the Central Govt. in national interest.	Foreign co. on a/c of storage of crude oil in a facility in India and sale of crude oil therefrom.
10(48B)	Income from sale of leftover stock of crude oil from facility in India after the expiry of agreement or arrangement referred to in section 10(48A) or on termination of the said agreement or arrangement, in accordance with the terms mentioned therein, subject to such conditions notified by the Central Govt.	Foreign Co. from sale of leftover stock of crude oil from the facility in India.

## PRESUMPTIVE PROVISIONS APPLICABLE TO NON RESIDENTS

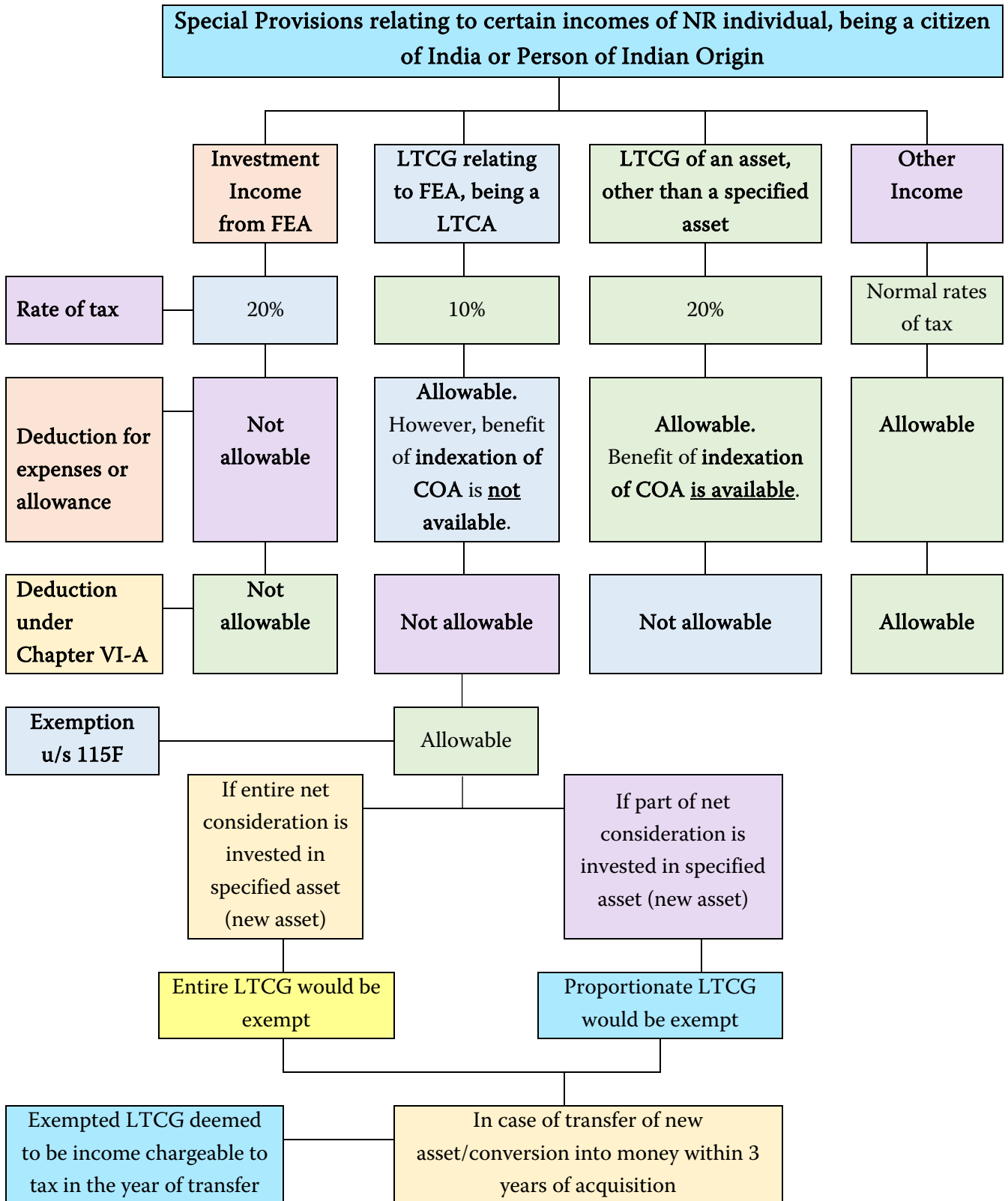
Particulars	44B	44BBA	44BB	44BBB
Nature of business	Shipping business	Operation of aircraft	Business of providing services or facilities in connection with, or supplying P & M on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils	Business of civil construction or the business of erection of P & M or testing or commissioning thereof, in connection with turnkey power projects approved by the Central Govt.
Eligible assessee	NR	NR	NR	Only Foreign co.
Presumptive income	7.5% of specified sum	5% of specified sum	10% of specified sum	10% of specified sum
Specified sum	(i) Amount paid or payable on a/c of carriage of passengers, livestock, mail or goods shipped at/ from any port/place in India; and (ii) Amount received or deemed to be received in India on a/c of the carriage of passengers, livestock mail or goods shipped at/ from any port/place outside India	(i) Amount paid or payable on a/c of the provision of such services or facilities for the aforesaid purposes in India; and (ii) Amount received or deemed to be received in India on a/c of the provision of services or facilities for the aforesaid purpose outside India.	(i) Amount paid or payable on a/c of the provision of such services or facilities for the aforesaid purposes in India; and (ii) Amount received or deemed to be received in India on a/c of the provision of services or facilities for the aforesaid purpose outside India.	Amount paid or payable on a/c of such civil construction, erection, testing or commissioning
Option to declare lower profits	Not available		Lower profits may be claimed u/s 44BB and u/s 44BBB provided the assessee maintains books of account (BOA) u/s 44AA and gets them audited u/s 44AB. No set off of unabsorbed depreciation and b/f loss would be allowed to the assessee in the P.Y. in which he/it declares profits and gains @10% in accordance with the presumptive provisions of section 44BB/ 44BBB.	



**DEDUCTION IN RESPECT OF HEAD OFFICE EXPENSES IN CASE OF NON RESIDENTS [SECTION 44C]**



**SPECIAL PROVISIONS RELATING TO TAXATION OF INVESTMENT INCOME AND LONG TERM CAPITAL GAINS OF A NON RESIDENT [CHAPTER XII-A]**





- in respect of monies borrowed by it from a source outside India by way of issue of any long-term bond or RDB on or after 1.7.2023, which is listed only on a RSE located in any IFSC	9%
(5) Interest to a Foreign Institutional Investor or Qualified Foreign Investor	
- payable between 1.6.2013 and 30.6.2023 on investment made in	
• Rupee denominated bond of an Indian company	5%
• Government security	
- payable between 1.4.2020 and 30.6.2023 on investment made in municipal debt security	
(6) Distributed income referred to in section 194LBA(2),	
- Interest income of a business trust from a SPV, distributed by business trust to its NR unit holders	5%
- dividend income of a business trust received or receivable from a SPV exercising the option to pay tax at concessional rate u/s 115BAA, distributed by business trust to its NR unit holders	10%
However, if the SPV has not exercised the option to pay tax at concessional rate u/s 115BAA, dividend income would be exempt in the hands of unit holders.	
(7) Income received in respect of units purchased in foreign currency of a mutual fund (MF) specified u/s 10(23D) or of the UTI	20%

**(ii) Tax on royalty or fees for technical services in case of non-residents**

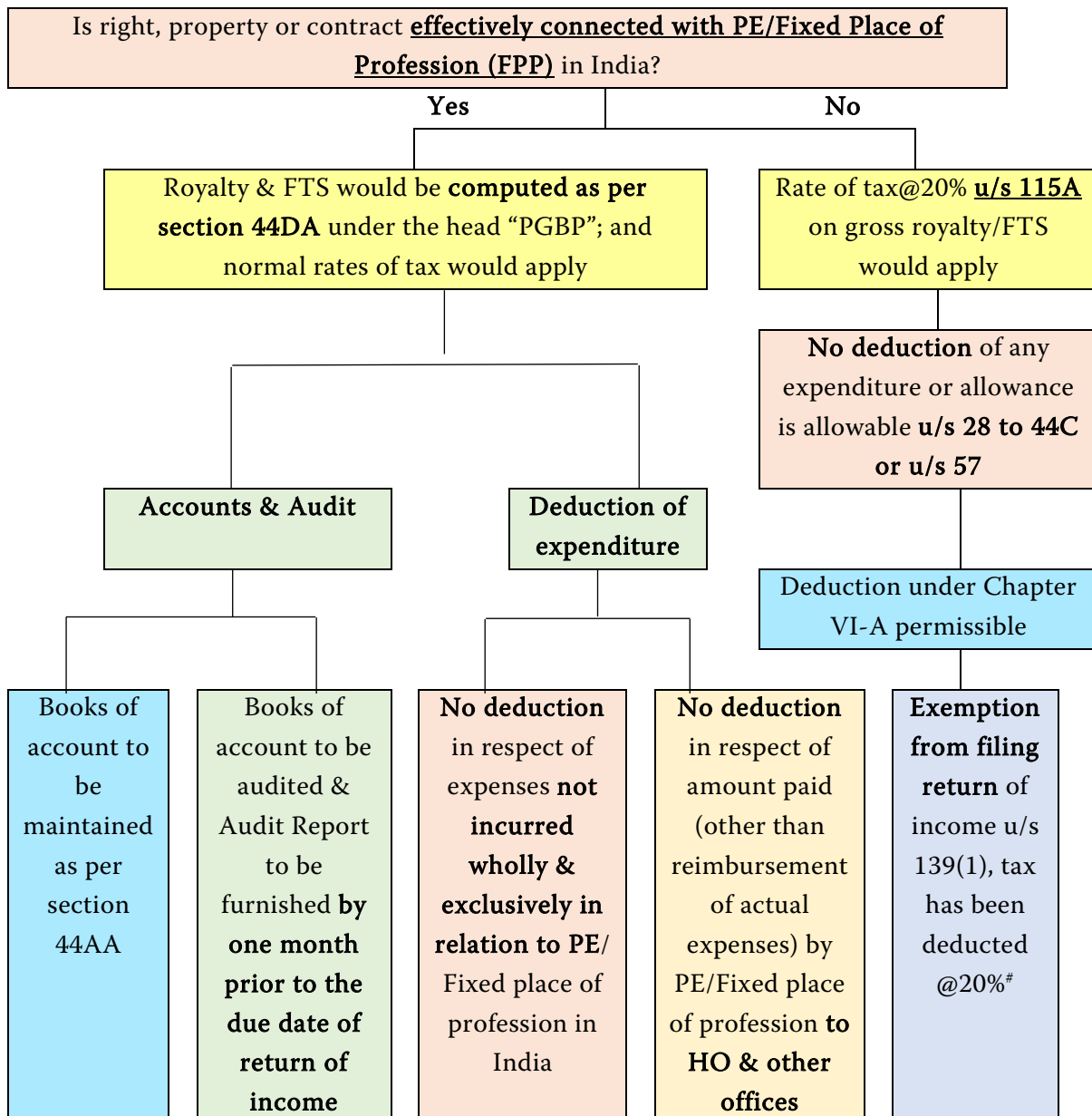
Where the total income of a foreign company or a non-corporate non-resident includes any income by way of royalty or fees for technical services (FTS) other than the income referred to in section 44DA	Applicable Rate of Tax
(1) Received from the Government in pursuance of an agreement made by the non-resident/foreign company with the Government	20% of such royalty or FTS. However, if DTAA provides for a rate lower than 20%, then, the provisions of DTAA would apply.
(2) Received from the Indian concern in pursuance of an agreement made by the non-resident/foreign company with the Indian concern and the agreement is approved by the Central Government or where it relates to industrial policy of Government of India, the agreement in accordance with that policy.	

**Notes:**

1. **Special rate of tax** is applicable on the **abovementioned incomes**. The **remaining income** of the assessee will be chargeable to tax at **normal rates applicable to assessee**.
2. **No deduction** in respect of any expenditure or allowance shall be allowed **u/s 28 to 44C and section 57** in computing the above income.

3. **Deduction under Chapter VI-A is not available** in respect of abovementioned incomes. However, a unit of an IFSC can claim deduction u/s 80LA against abovementioned incomes.
4. **Exemption from filing return** of income u/s 139(1) would be available if total income comprises only of the income referred in (i) and (ii) and **tax has been deducted from such incomes** and the **rate of such tax deduction is not less than the rate specified in the above table.**

### TAX TREATMENT OF ROYALTY & FEES FOR TECHNICAL SERVICES (FTS) RECEIVED FROM GOVERNMENT/ INDIAN CONCERN IN PURSUANCE OF APPROVED AGREEMENT



#If tax has been deducted at a rate lower than 20% by availing the beneficial provisions of DTAA, then, no exemption would be available from filing return of income.



**SPECIAL PROVISIONS FOR COMPUTING TAX ON INCOME OF SPECIFIED FUND OR FOREIGN INSTITUTIONAL INVESTORS FROM SECURITIES OR CAPITAL GAINS ARISING FROM THEIR TRANSFER [SECTION 115AD]**

S. No.	Income	Rate of Tax
(a)	Income received in respect of securities <b>other than</b> <ul style="list-style-type: none"> <li>• income on units referred to in section 115AB i.e., units of Mutual Fund specified u/s 10(23D) or UTI</li> <li>• Interest referred u/s 194LD</li> </ul>	20% in case of FII, 10% in case of specified fund
(b)	Interest referred u/s 194LD	5%
(c)	Income by way of <b>Short term capital gains</b> arising from the transfer of securities ( <b>other than</b> Short term capital gains u/s 111A)	30%
(d)	Income by way of <b>Short term capital gains u/s 111A</b>	15%
(e)	Income by way of <b>Long term capital gains</b> arising from the transfer of securities ( <b>other than</b> Long term capital gains u/s 112A)	10%
(f)	Income by way of <b>long term capital gains u/s 112A</b> exceeding ₹ 1 lakh	10%
(g)	Other income of <b>Specified Fund or FII</b>	At normal rates of tax

**Notes:**

- (1) In case of specified fund, the provision of this section **would apply only to the extent of income** that is attributable to units held by NR (not being a PE of a NR in India) calculated in the prescribed manner.
- (2) Where the specified fund is **investment division of an offshore banking unit**, the provisions of this section would apply to the **extent of income that is attributable to the investment division of such banking units**, calculated in prescribed manner.
- (3) **No deduction** in respect of any expenditure or allowance shall be allowed **u/s 28 to 44C and section 57** from income from securities (referred to in (a) and (b) above).
- (4) **Deduction under Chapter VI-A is not available** in case of income from securities, STCG or LTCG arising from transfer of securities.
- (5) **Conversion to foreign currency and indexation benefit would not be available** while computing capital gains on transfer of securities.
- (6) The provisions of AMT under section 115JEE would not apply to specified fund.
- (7) **Surcharge and HEC would not be applicable to specified fund** in respect of **income received from securities referred to in section 115AD(1)(a) [referred to in (a) and (b) above]**.

### SPECIAL PROVISION FOR COMPUTING TAX ON NON RESIDENT SPORTSMEN OR SPORTS ASSOCIATIONS [SECTION 115BBA]

	Assessee	Income
(a)	A sportsman (including an athlete), who is not a citizen of India and is a NR	Any income received or receivable by way of— (i) participation in India in any game (other than a game the winnings wherefrom are taxable u/s 115BB, being winning from crossword puzzles, races including horse races, card games and other games of any sort of gambling or betting) or sport; or (ii) advertisement; or (iii) contribution of articles relating to any game or sport in India in newspapers, magazines or journals;
(b)	A NR sports association or institution	Any amount guaranteed to be paid or payable to such association or institution in relation to any game (other than a game the winnings wherefrom are taxable u/s 115BB) or sport played in India
(c)	An entertainer who is not a citizen of India and is a NR	Any income received or receivable from his performance in India

#### Notes:

- The **abovementioned incomes would be chargeable to tax @20%**. The **remaining income** of the assessee will be chargeable to tax at **normal rates applicable to assessee**.
- No deduction** in respect of any expenditure or allowance shall be allowed under any provisions of the Act in computing the above income.
- Exemption from filing return** of income u/s 139(1) would be available if his total income during the P.Y. consisted only of the abovementioned income and **tax has been deducted from such incomes**.

### WITHHOLDING TAX PROVISIONS RELATING TO NON RESIDENTS

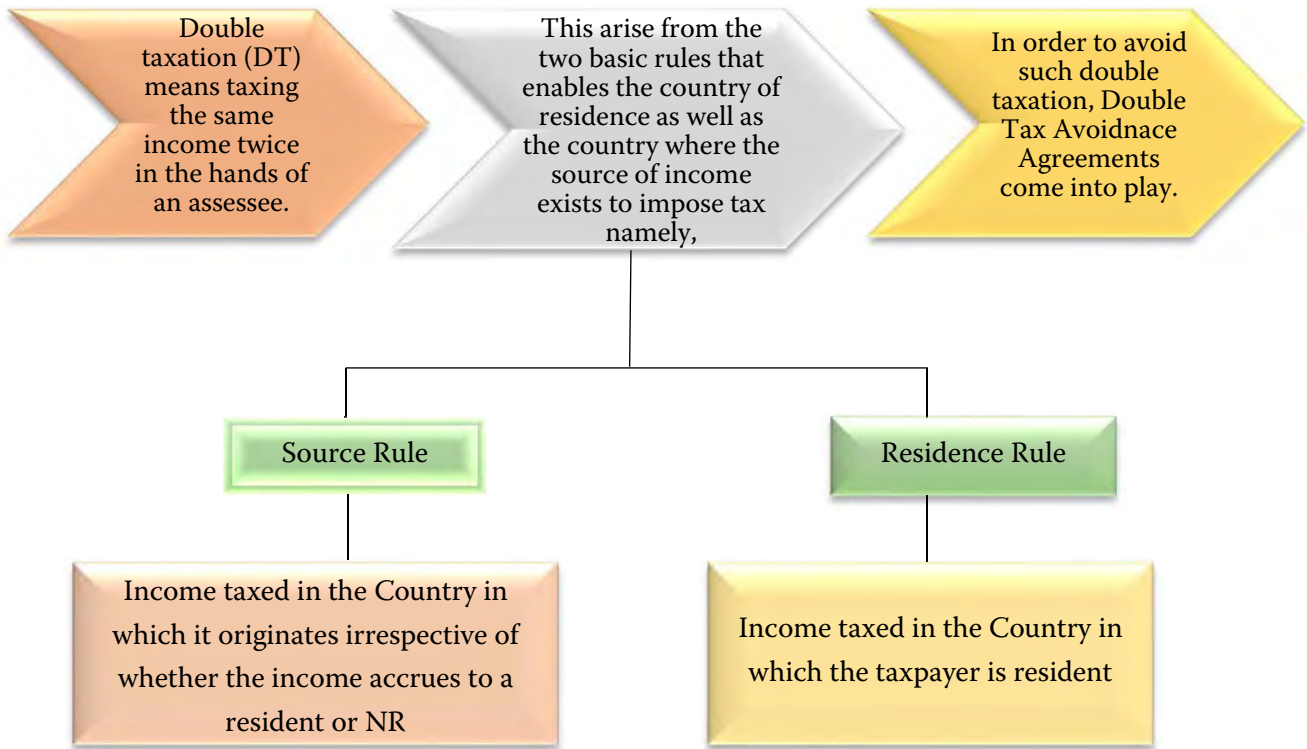
Section	Nature of payment	Rate of TDS
192	Salary	Concessional rate u/s 115BAC/ normal slab rates if the individual has exercised the option to shift out of the default tax regime
192A	Premature withdrawals from EPF, aggregating to ₹ 50,000 or more	10%

194B	Income by way of <b>winnings from lotteries, crossword puzzles, card games and other games of any sort or from gambling or betting of any form or nature whatsoever</b> , where amount or aggregate of amts paid to a person > ₹ 10,000 in a F.Y.	30%
194BA	Income by way of <b>winnings from any online game</b>	30%
194BB	Income by way of <b>winnings from horse races</b> , where amount or aggregate of amounts paid to a person > ₹ 10,000 in a F.Y.	30%
194E	Income <b>referred u/s 115BBA</b> to NR sportsmen/sports association or an entertainer	20%
194G	<b>Commission</b> etc. on the <b>sale of lottery tickets</b> , where amt payable to a person > ₹ 15,000	5%
194LB	<b>Interest payable by infrastructure debt fund</b> to non-corporate NR or foreign Co.	5%
194LBA(2)	<b>Distribution of any interest income</b> , received or receivable by a <b>business trust from a SPV</b> , to its unit holders	5%
	<b>Distribution of any dividend income</b> , received or receivable by <b>business trust from a SPV exercising option</b> to pay tax at concessional rate u/s 115BAA, to its unit holders. However, if the <b>SPV is not exercising the option to pay tax at concessional rate</b> u/s 115BAA, dividend income would be exempt in the hands of unit holders and tax would not be deductible at source	10%
194LBA(3)	Distribution of any <b>income received from renting or leasing or letting out any real estate asset directly owned</b> by the business trust, to its unit holders	At the rates in force
194LBB	<b>Investment fund</b> paying income to a unit holder [other than the income <b>exempted u/s 10(23FBB)</b> ].	
194LBC(2)	<b>Income in respect of investment made</b> in a securitisation trust (specified in <i>Explanation</i> to section 115TCA)	
194LC	<b>Interest payable by an Indian Co. or a business trust</b> to a non-corporate NR or foreign Co.– - in respect of monies borrowed in foreign currency from sources outside India <ul style="list-style-type: none"> <li>• under a <b>loan agreement between 1.7.2012 and 30.6.2023</b> or</li> <li>• by way of <b>issue of long-term infrastructure bonds</b> during the period <b>between 1.7.2012 and 30.9.2014</b> or</li> <li>• by way of <b>issue of long-term bonds</b> including long term infrastructure bonds <b>between 1.10.2014 and 30.6.2023</b></li> </ul> as approved by the Central Govt. or	5%

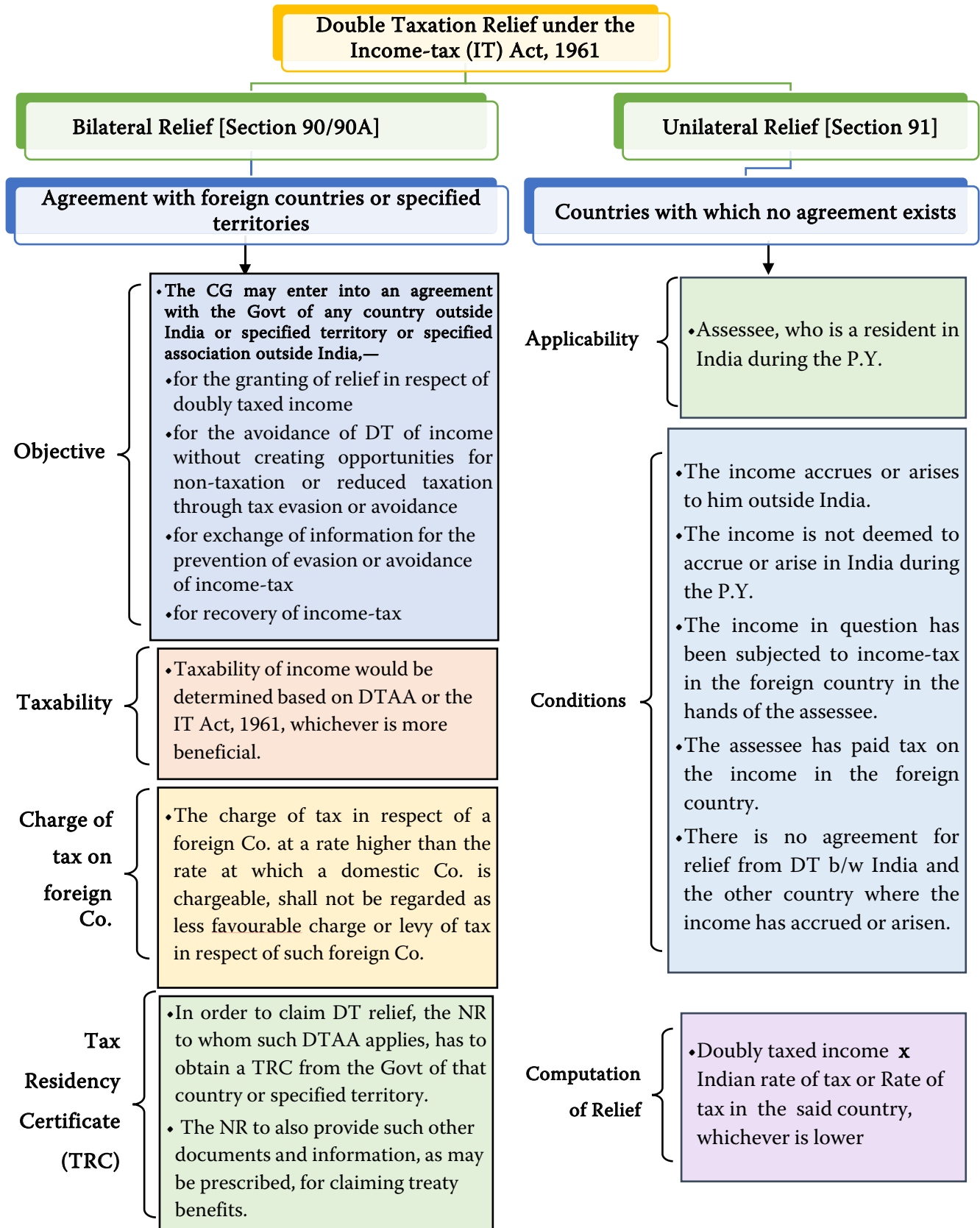
	- in respect of monies borrowed from sources outside India by way of RDB on or before 30.6.2023	
	Interest payable by an Indian Co. or a business trust to non-corporate NR or foreign Co., in respect of monies borrowed by it from a source outside India by way of issue of any long term bond or RDB between 1.4.2020 and 30.6.2023, which is listed only on a RSE located in any IFSC	4%
	Interest payable by an Indian company or a business trust to a non-corporate NR or foreign Co., in respect of monies borrowed by it from a source outside India by way of issue of any long term bond or RDB on or after 1.7.2023, which is listed only on a Recognised Stock Exchange located in any IFSC	9%
	Interest payable by an Indian co. or a business trust to a NR, including a foreign Co., in respect of RDB issued outside India during the period from 17.9.2018 to 31.3.2019	Nil [Since such int. is exempt u/s 10(4C), no tax is deductible u/s 194LC]
194LD	On interest payable - between 1.6.2013 and 30.6.2023 on <ul style="list-style-type: none"> <li>• RDB of an Indian Co. or</li> <li>• Govt. securities or</li> </ul> - between 1.4.2020 and 30.6.2023 on municipal debt securities	5%
194N	On withdrawal of cash in excess of ₹ 1 crore Where the recipient is a co-operative society, the higher threshold limit of ₹ 3 crores is applicable for withdrawals	2% on amt exceeding ₹ 1 crore
	In case the recipient has not filed return of income for all the 3 immediately preceding PYs, for which time limit u/s 139(1) has expired, the sum shall be the amount or aggregate of amounts, in cash > ₹ 20 lakhs during the P.Y.	- @2% of the sum, where cash withdrawal > ₹ 20 lakhs but ≤ ₹ 1 crore (₹ 3 crore, where the recipient is a co-operative society) - @5% of the sum, where cash withdrawal > ₹ 1 crore (₹ 3 crore, where the recipient is a co-operative society)

195	Any other sum payable to NR	At the rates in force
196A	<b>Income on units of a MF specified u/s 10(23D) or from the specified Co.</b> referred to in section 10(35) payable to non-corporate NR or foreign Co. Where a DTAA applies to the payee and if the payee has furnished a tax residency certificate then, tax thereon shall be deducted @20% or at the rate or rates of income-tax provided in such agreement for such income, whichever is lower.	20%
196B	<b>Income from units of a MF or UTI</b> purchased in foreign currency (including LTCG on transfer of such units) <b>payable to an Offshore Fund</b>	10%
196C	<b>Income by way of interest or dividend on bonds</b> of an Indian Co. or Public Sector Co. sold by the Govt. and purchased by a NR in foreign currency or GDRs referred to u/s 115AC (including LTCG on transfer of such bonds or GDRs) payable to a NR	10%
196D	<b>Income of FII from securities</b> (not being income by way of interest referred u/s 194LD or capital gain arising from such securities) Where a DTAA applies to the payee and if the payee has furnished a TRC then, tax thereon shall be deducted @20% or at the rate or rates of income-tax provided in such agreement for such income, whichever is lower.	20%
	<b>Income of specified fund from securities</b> [not being income by way of interest referred u/s 194LD or capital gain arising from such securities or income exempt u/s 10(4D)]	10%
<i>Note - In all the above cases, the rate of tax would be increased by surcharge, wherever applicable, and HEC @4% except in case of deduction of tax at source u/s 196D on income of a specified fund.</i>		

**DOUBLE TAXATION RELIEF**

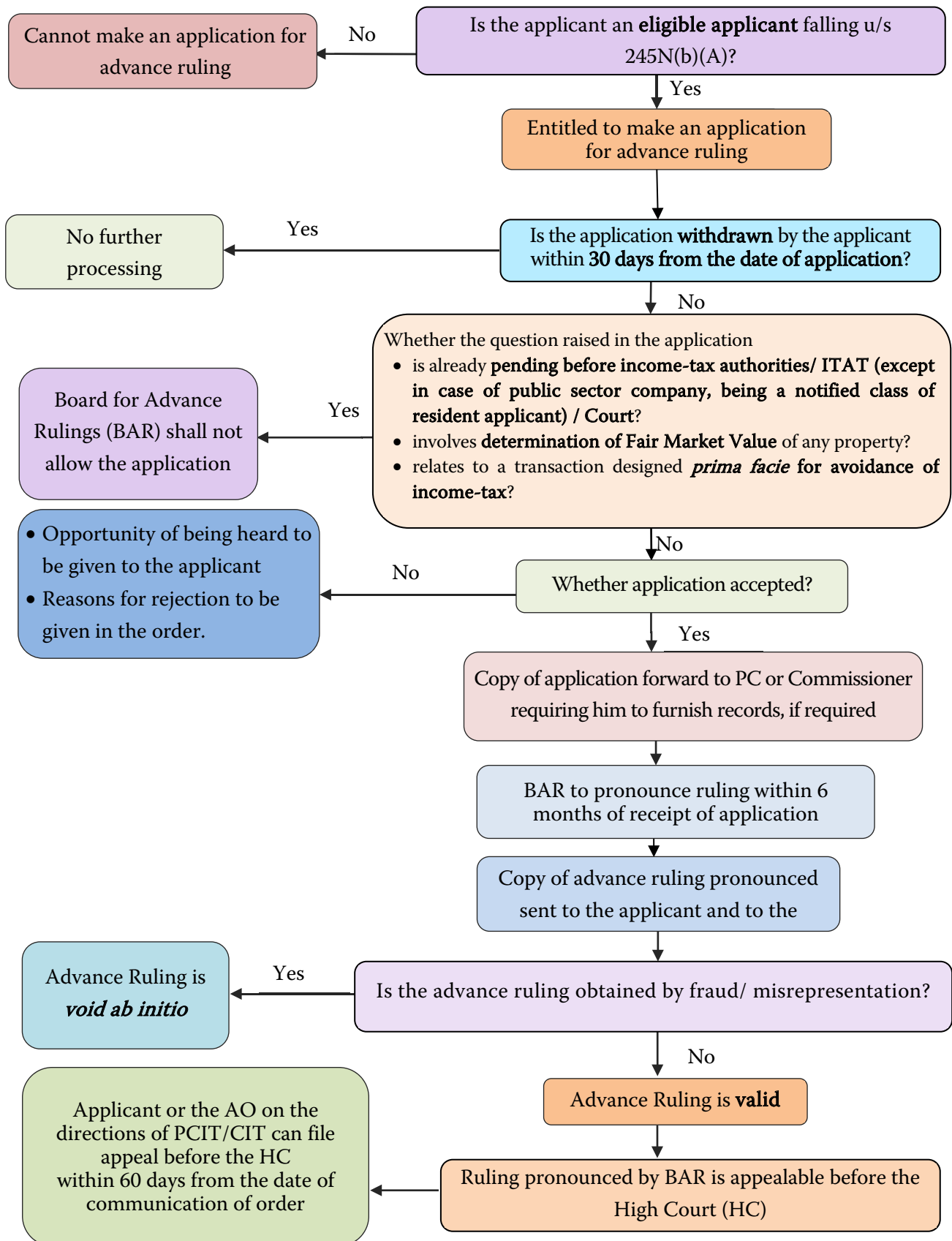








## ADVANCE RULINGS



### WHO CAN BE AN APPLICANT IN RELATION TO DIFFERENT CLAUSES OF SECTION 245N(a) DEFINING ADVANCE RULING?

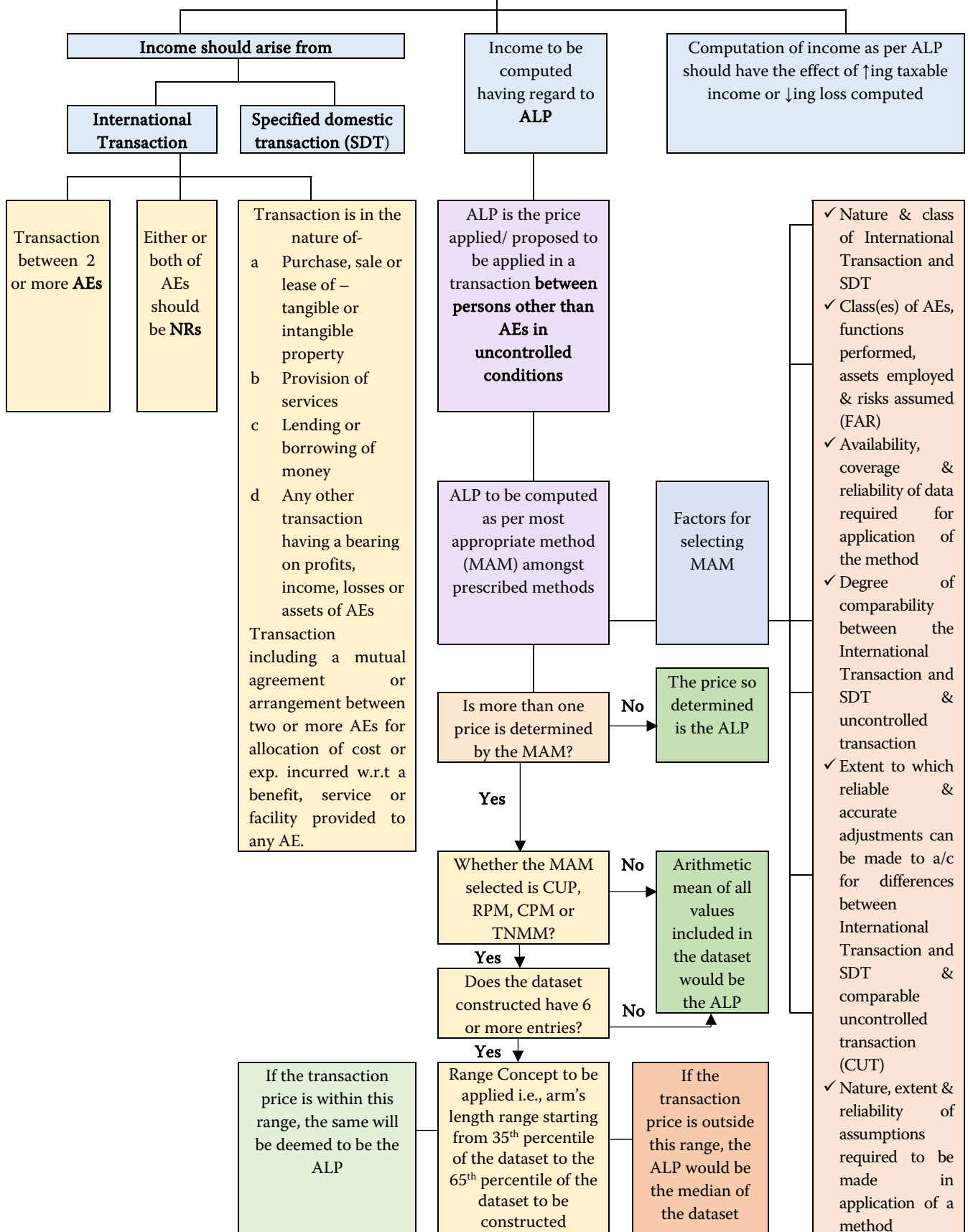
S. No.	Applicant u/s 245N(b)(A)	Advance Ruling u/s 245N(a) means determination by the AAR in relation to
(i)	NR	a transaction which has been undertaken or is proposed to be undertaken by him.
(ii)	Resident	the tax liability of a NR arising out of a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with such NR and such determination shall include the determination of any question of law or of fact specified in the application.
(iii)	Resident of class or category of persons notified by Central Govt.	the tax liability of a resident applicant, arising out of a transaction which has been undertaken or is proposed to be undertaken by such applicant and such determination shall include the determination of any question of law or of fact specified in the application.
		<i>Note: The Central Govt notified a resident, in relation to his tax liability arising out of one or more transactions valuing ₹ 100 crore or more in total.</i>
(iv)	Resident of class or category of persons notified by Central Government	an issue relating to computation of total income which is pending before any Income-tax Authority or the Appellate Tribunal and such determination or decision shall include the determination or decision of any question of law or fact in relation to such computation of total income specified in the application.
		<i>Note: A public sector undertaking has been notified by the Central Govt.</i>
(v)	Resident or NR	an arrangement, which is proposed to be undertaken by any person being a resident or a NR, is an impermissible avoidance arrangement as referred to in Chapter X-A or not.

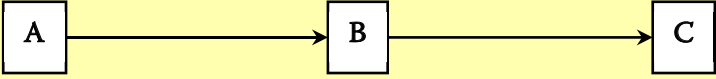
### FEE FOR APPLICATION FOR ADVANCE RULINGS

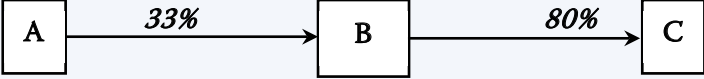
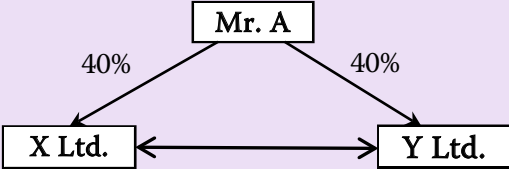
Category of applicant	Category of case	Fee
An applicant referred to in (i) or (ii) or (iii) above	Amount of one or more transaction, entered into or proposed to be undertaken, in respect of which ruling is sought does not exceed ₹ 100 crore.	₹ 2 lakhs
	Amount of one or more transaction, entered into or proposed to be undertaken, in respect of which ruling is sought exceeds ₹ 100 crore but does not exceed ₹ 300 crore.	₹ 5 lakhs
	Amount of one or more transaction, entered into or proposed to be undertaken, in respect of which ruling is sought exceeds ₹ 300 crore.	₹ 10 lakhs
Any other applicant	In all cases	₹ 10,000

**TRANSFER PRICING**

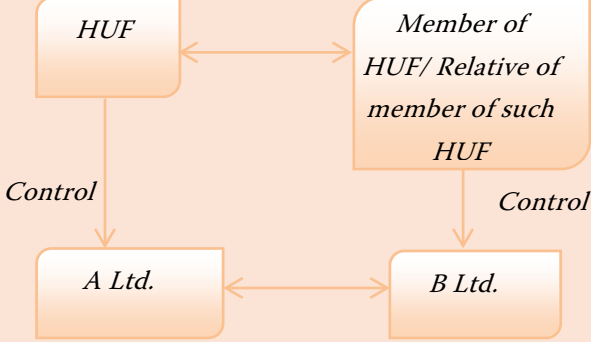
**Chapter X: Special provisions relating to Avoidance of Tax [Transfer Pricing provisions]**



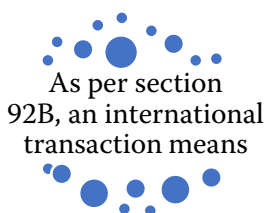
Associated Enterprises (AEs) [Section 92A(1)]		
	Condition	Example
(1)	An enterprise which participates, directly or indirectly, or through one or more intermediaries, in: <ul style="list-style-type: none"> <li>management of the other enterprise, or</li> <li>control of other enterprise, or</li> <li>capital of other enterprise</li> </ul>	<p>Where A Ltd. directly participates in the management of B Ltd. and B Ltd. directly participates in the management of C Ltd. In such situation, A Ltd. has direct participation in management of B Ltd. but has an indirect participation in management of C Ltd.</p>  <p>In such scenario, both B Ltd. and C Ltd. would be AE of A Ltd.</p>
(2)	If one or more persons participates, directly or indirectly, or through one or more intermediaries in: <ul style="list-style-type: none"> <li>management/control/capital of the two different enterprises</li> </ul> Then, those two enterprises are AEs.	<p>Mr. A directly has control in A Ltd. and B Ltd. In such a scenario, both A Ltd. &amp; B Ltd. are associated enterprises since there is a common person i.e., Mr. A, who controls both entities A Ltd. &amp; B Ltd.</p>

Deemed Associated Enterprises [Section 92A(2)]		
Condition	Situation	Example
<b>Substantial voting power</b>	One enterprise holds 26% or more of the voting power, directly or indirectly, in the other enterprise.	<p>A Ltd. holds 33% of Voting Power in B Ltd. and B Ltd. holds 80% Voting Power in C Ltd.</p>  <p>In above situation, A Ltd. holds 26% or more voting power in B Ltd., directly and in C Ltd. indirectly (i.e., through B Ltd.). Therefore, both B Ltd. &amp; C Ltd. are deemed associated enterprises of A Ltd.</p>
<b>Substantial voting power in two entities by common person</b>	Any person or enterprise holds 26% or more of the voting power, directly or indirectly, in each of two different enterprises.	<p>Mr. A holds 40% of voting power in both X Ltd. and Y Ltd. where neither X Ltd. has any holding in Y Ltd. nor Y Ltd. has any holding in X Ltd.</p>  <p>In this situation, since Mr. A directly holds 40% of voting power in both X Ltd. and Y Ltd., X Ltd. &amp; Y Ltd. will be deemed associated enterprises.</p>
<b>Advancing of substantial sum of money</b>	One enterprise advances loan to the other enterprise of an amount of 51% or	<p>Book Value of total assets of Y Ltd. is ₹ 100 crores. X Ltd. advances loan of ₹ 60 crores to Y Ltd.</p> <p>In this case, X Ltd. advances loan of ₹ 60 crores to Y</p>

	more of the book value of the total assets of other enterprise.	<i>Ltd, which is 60% of the book value of total assets of Y Ltd. Hence, X Ltd. &amp; Y Ltd. are deemed associated enterprises.</i>
<b>Guaranteeing borrowings</b>	One enterprise guarantees 10% or more of the total borrowings of the other enterprise.	<i>P Inc. has total loan of 1 million dollars from XYZ Bank of America. Out of that, A Ltd., an Indian company, guarantees 20% of total borrowings in case of any default made by P Inc. In such case, since A Ltd. guarantees 20% of total borrowings of P Inc., P Inc. and A Ltd. are deemed associated enterprises.</i>
<b>Appointment of majority directors of other enterprise</b>	One enterprise appoints more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of other enterprise.	<i>X Ltd. has 15 directors on its Board. Out of that, Y Ltd. has appointed 8 directors. In such case, X Ltd. and Y Ltd. are deemed associated enterprises.</i>
<b>Appointment of majority directors of two different enterprises by same person(s)</b>	More than half of the directors or members of the governing board, or one or more of the executive directors or members of the governing board of each of the two enterprises are appointed by the same person(s).	<i>Mr. A appointed 9 directors out of 15 directors of X Ltd. and appointed 2 executive directors on the board of Y Ltd. In such case, since a common person i.e., Mr. A appointed more than half of the directors in X Ltd. and appointed 2 executive directors in Y Ltd., both X Ltd. and Y Ltd. are deemed associated enterprises.</i>
<b>Dependence on intangibles w.r.t which other enterprise has exclusive rights</b>	The manufacture or processing of goods or articles or business carried out by one enterprise is wholly dependent (i.e. 100%) on the know-how, patents, copyrights, trade-marks, licenses, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other entity is the owner or in respect of which the other enterprise has exclusive rights.	
<b>Dependence on raw material supplied by other enterprise</b>	90% or more of raw materials and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, are supplied by the other enterprise, or by persons specified by the other enterprise, where the prices and other conditions relating to the supply are influenced by such other enterprise.	
<b>Dependence on sale</b>	The goods or articles manufactured or processed by one enterprise, are sold to the other enterprise or to persons specified by the other enterprise, and the prices and other conditions relating thereto are influenced by such other enterprise.	

<p><b>Control by common individual</b></p>	<p>Where one enterprise is controlled by an individual, the other enterprise is also controlled by such individual or his relative or jointly by such individual and his relatives.</p>	<p><i>Mr. A and Mr. B are relatives. Mr. A has control over X Ltd. and Mr. B has control over Y Ltd. Therefore, both X Ltd. and Y Ltd. will be deemed associated enterprises.</i></p>
<p><b>Control by HUF or member thereof</b></p>	<p>Where one enterprise is controlled by a HUF and the other enterprise is controlled by a member of such HUF or by relative of a member of such HUF or jointly by such member and his relative.</p>	 <p><i>A Ltd &amp; B Ltd are deemed associated enterprises.</i></p>
<p><b>Interest in a firm, AoPs or BoIs</b></p>	<p>Where one enterprise is a firm, AoPs or BoIs, the other enterprise holds 10% or more interest in firm/AoPs/BoIs.</p>	
<p><b>Mutual interest relationship</b></p>	<p>There exists between the two enterprises, any relationship of mutual interest, as may be prescribed.</p>	

**INTERNATIONAL TRANSACTION [SECTION 92B]**



As per section 92B, an international transaction means



a transaction between two or more associated enterprises, either or both of whom are non-residents; and



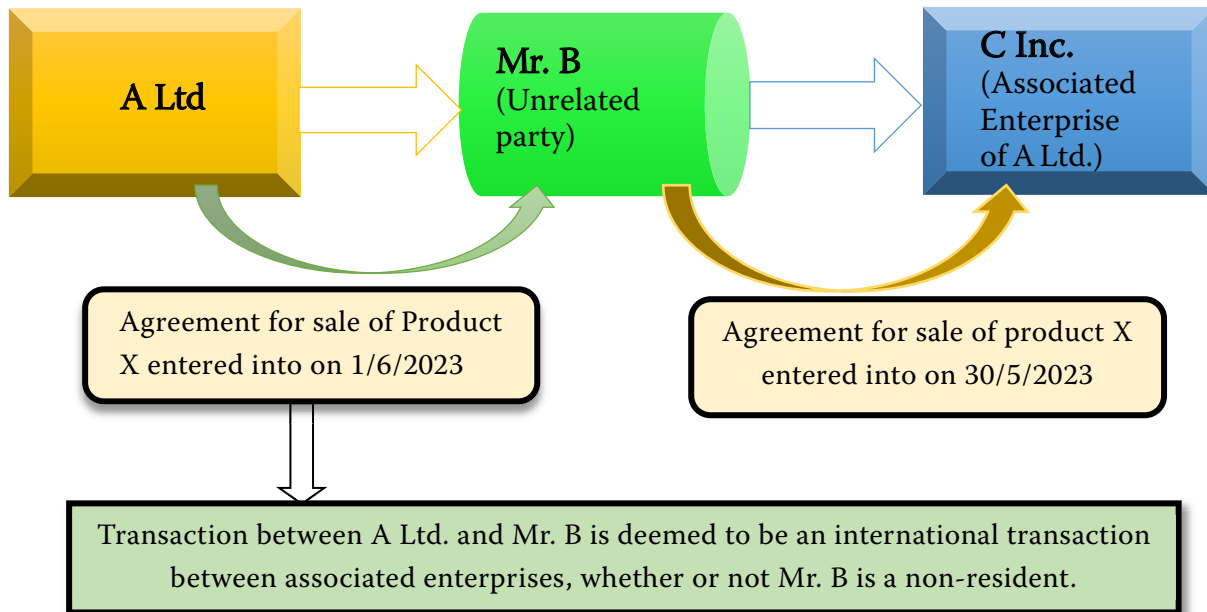
transaction in the nature of:



- sale/purchase/lease of tangible property; or
- sale/purchase/lease of intangible property; or
- provision of services; or
- lending/borrowing money; or
- any other transaction having a bearing on profits, income, losses or assets of such enterprises; or
- mutual agreement or arrangement between two or more associated enterprises for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises.



DEEMED INTERNATIONAL TRANSACTION



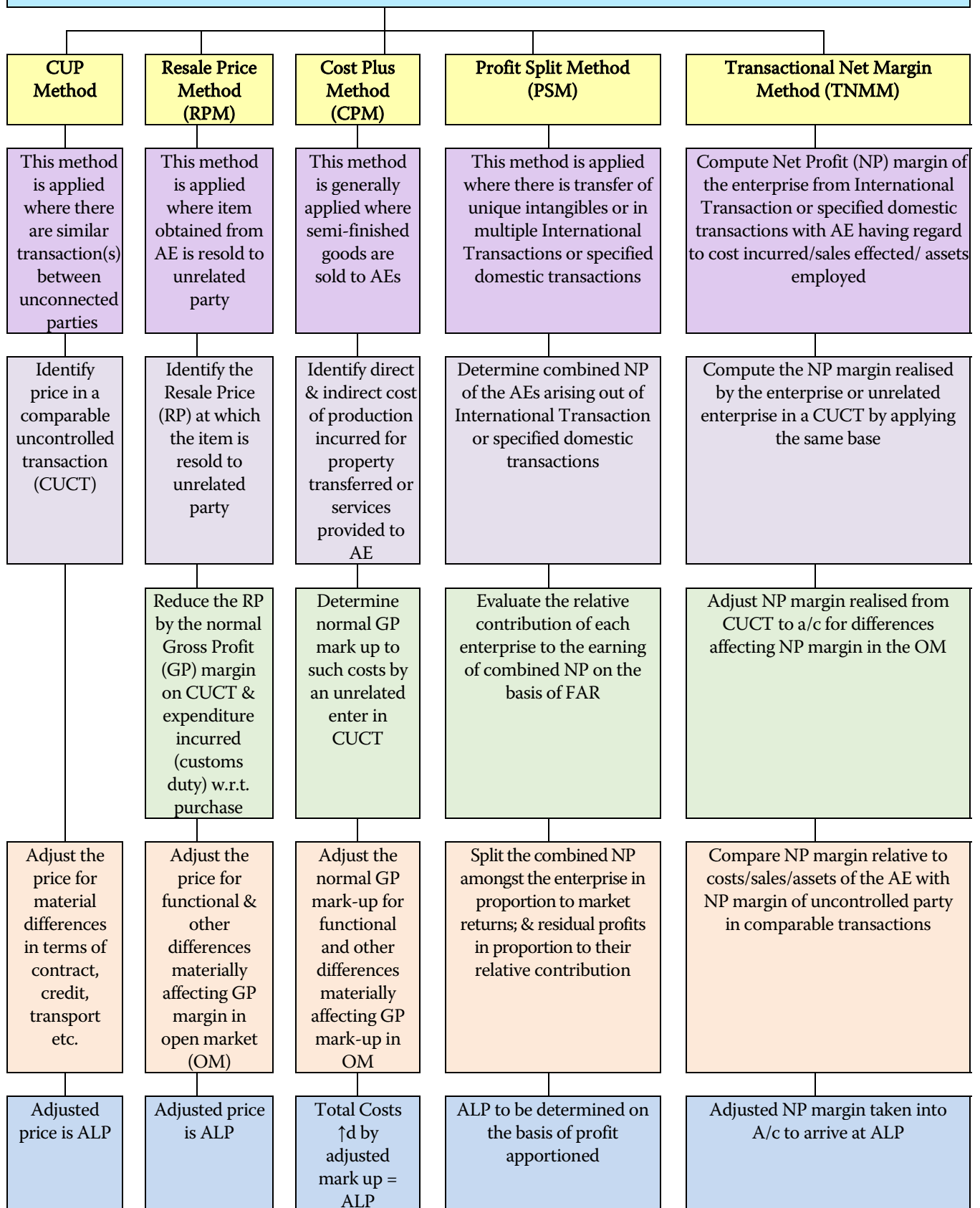
SPECIFIED DOMESTIC TRANSACTION

Specified Domestic Transaction (SDT) shall mean any of the following transactions, not being an international transaction

any transaction referred to in section 80A i.e., inter-unit transfer of goods and services by an undertaking or unit or enterprise or eligible business to other business carried on by the assessee or <i>vice versa</i> , for consideration not corresponding to the market value on the date of transfer	any transfer of goods or services referred to in section 80-IA(8) i.e., inter-unit transfer of goods or services between eligible business and other business, where the consideration for transfer does not correspond with the market value of goods and services	any business transacted between the assessee carrying on eligible business and other person as referred to section 80-IA(10)	any transaction, referred to in any other section under Chapter VI-A or section 10AA, to which provisions of section 80-IA(8) or section 80-IA(10) are applicable	any business transacted between a company opting for section 115BAB and person with whom the company has close connection	any business transacted between a co-operative society opting for section 115BAE and person with whom the co-operative society has close connection	any other prescribed transaction	However, these transactions are not SDT in case the aggregate of such transactions entered into by the assessee in the P.Y. does not exceed ₹ 20 crore.



## METHODS FOR COMPUTING ALP [SECTION 92C]

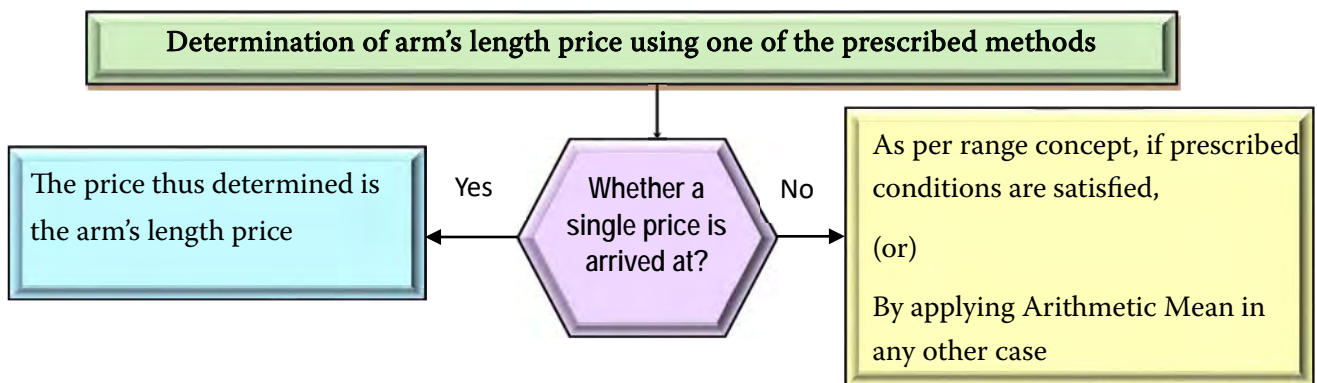


**DETERMINATION OF THE MOST APPROPRIATE METHOD**

<b>Factors for selecting the most appropriate method</b>	(i)	The nature and class of the international transaction or specified domestic transaction;
	(ii)	The class, or classes of associated enterprises entering into the transaction and the functions performed by them taking into account assets employed or to be employed and risks assumed by such enterprises;
	(iii)	The availability, coverage and reliability of data necessary for application of the method;
	(iv)	The degree of comparability existing between the international transaction or the specified domestic transaction and the uncontrolled transaction and between the enterprises entering into such transactions;
	(v)	The extent to which reliable and accurate adjustments can be made to account for difference, if any, between the international transaction or the specified domestic transaction and the comparable uncontrolled transaction or between the enterprises entering into such transactions;
	(vi)	The nature, extent and reliability of assumptions required to be made in application of a method.

**MANNER OF COMPUTATION OF ARM'S LENGTH PRICE [THIRD PROVISO TO SECTION 92C(2)]**

In case of an international transaction or specified domestic transaction undertaken on or after 1.4.2014, where more than one price is determined by the most appropriate method, the ALP would be computed in the prescribed manner specified in Rule 10CA.



**When to apply range concept?**

- Most appropriate method selected is comparable uncontrolled price method, resale price method, cost plus method or transactional net margin method and
- The dataset constructed has six or more entries.

**How to apply?**

- Arrange the values in the dataset in the ascending order.
- Where the actual transaction price falls within 35th and 65th percentile of the dataset, the value of transaction will be accepted to be arm's length price.
- Where the transfer price does not fall within the above range, then median of dataset shall be taken as the Arm's Length price.

**Range concept not applicable [Rule 10CA(7)]**

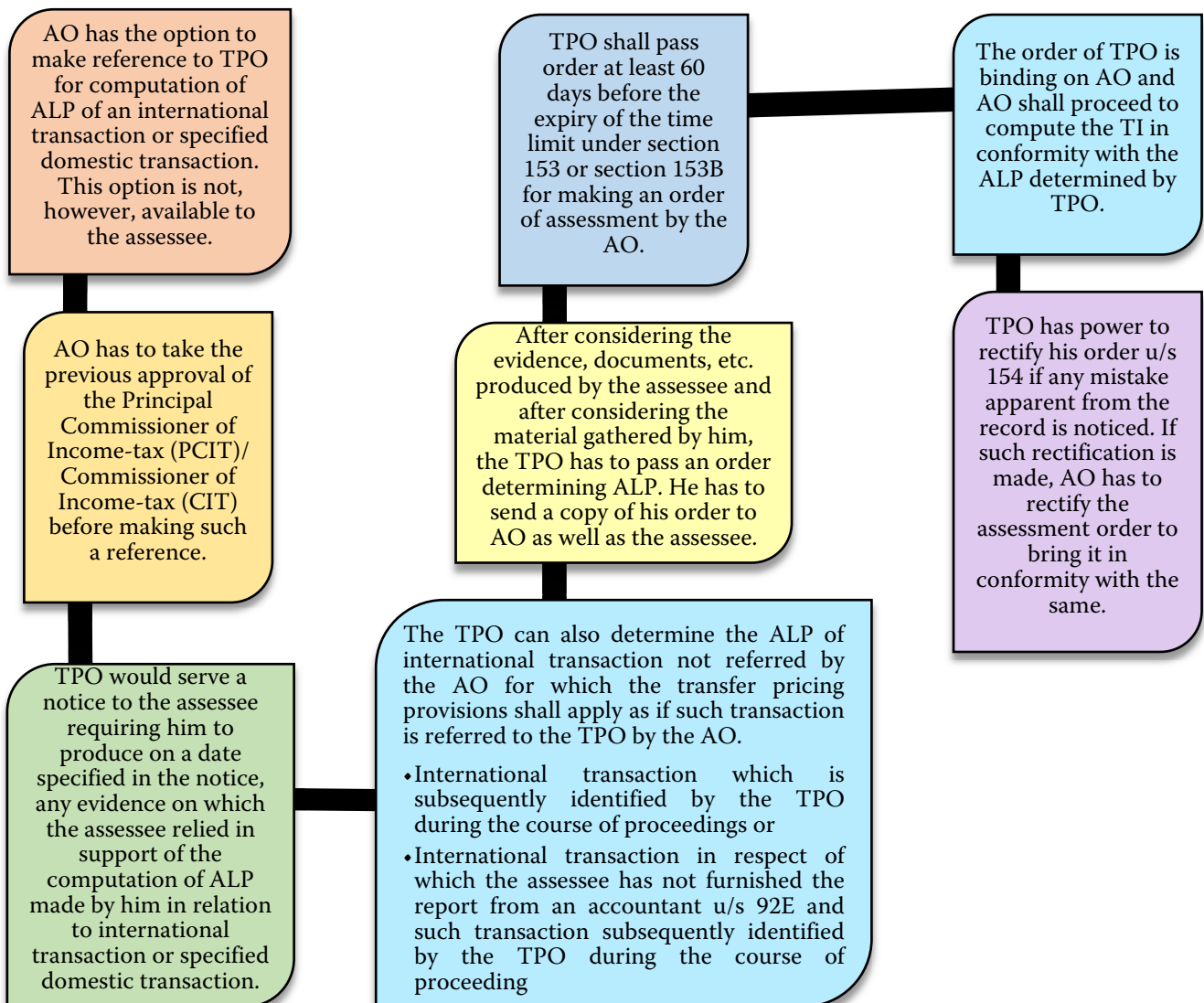
- Where the most appropriate method is profit split method or any other method or the dataset has less than 6 entries,
- the ALP shall be the arithmetical mean of all the values included in the dataset.

**However, if the variation between ALP so determined and price at which the international transaction or specified domestic transaction has actually been undertaken**

- does not exceed such % exceeding 3% of the latter, as may be notified by the Central Government,
- the price at which the international transaction or specified domestic transaction has actually been undertaken would be the ALP

No deduction u/s 10AA or Chapter VI-A would be allowed in respect of the additional income computed by the AO having regard to the ALP determined by him.

**REFERENCE TO TRANSFER PRICING OFFICER [SECTION 92CA]**



## ADVANCE PRICING AGREEMENTS [SECTIONS 92CC &amp; 92CD]

### Advance Pricing Agreement (APA)

An agreement between a taxpayer and a taxing authority on an appropriate transfer pricing methodology for a set of transactions over a fixed period of time in future.

CBDT (with the approval of the Central Government) may enter into an APA with any person determining

ALP or specifying the manner in which the ALP is to be determined of an international transaction to be entered into by that person

income referred to in section 9(1)(i), or specifying the manner in which said income is to be determined, as is reasonably attributable to the operations carried out in India by or on behalf of that person, being a non-resident

#### Provisions of APA to apply

The provisions of the APA shall override the provisions of section 92C (Computation of ALP as per most appropriate method) or section 92CA (Reference to TPO) which are applicable for determination of ALP

#### Validity of APA

The APA shall be valid for such period as specified in the agreement, which shall in no case exceed five consecutive previous years

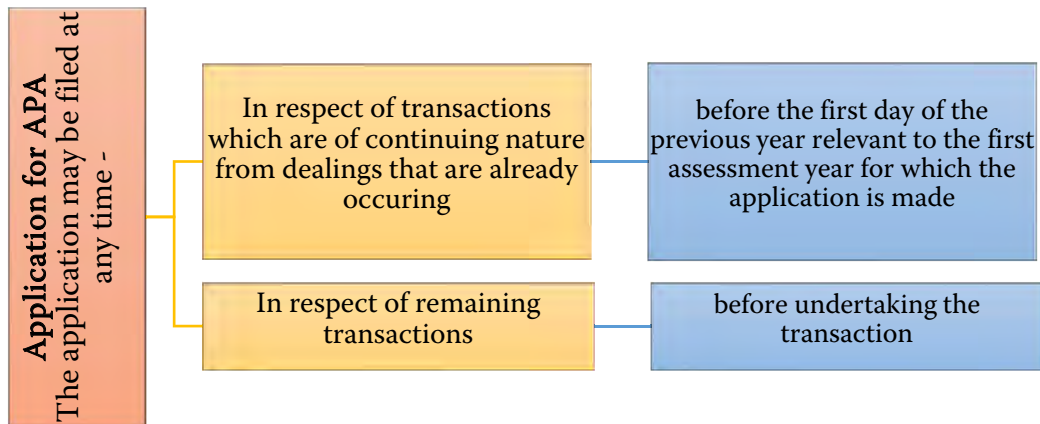
#### Binding nature of APA

The APA so entered into shall be binding on:

- the person in whose case, and in respect of the transaction in relation to which, the APA has been entered into; and
- the the PCIT or CIT and the income-tax authorities subordinate to him, in respect of the said person and the said transaction.

#### Not binding of APA

The APA shall not be binding if there is any change in law or facts having bearing on such APA.

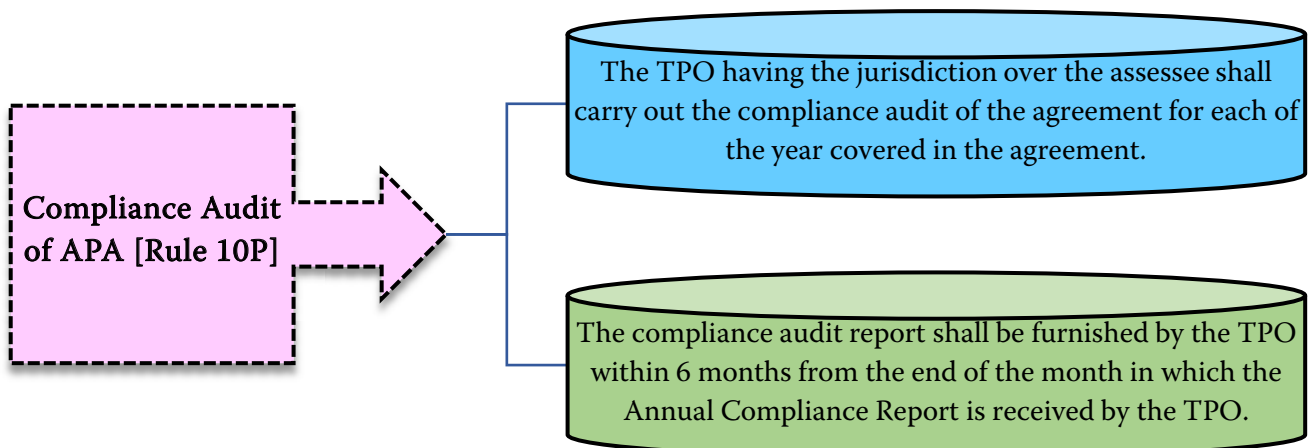


**Applicable Fee for application for APA**

The application has to be accompanied by proof of payment of fees as given below:

Amount of international taxation entered into or proposed to be undertaken in respect of which agreement is proposed during the proposed period of agreement	Fee
Amount ≤ ₹ 100 crores	₹ 10 lakhs
Amount > ₹ 100 crores but not exceeding ≤ ₹ 200 crores	₹ 15 lakhs
Amount > ₹ 200 crores	₹ 20 lakhs

<b>Annual compliance Report</b>	in quadruplicate
	for each year covered in the agreement
The assessee shall furnish an annual compliance report	- within 30 days of the due date of filing income-tax return for that year, or - within 90 days of entering into an agreement, whichever is later.



### Roll back in APA Scheme [Section 92CC(9A)]

APA may provide for determining the

ALP or specifying the manner in which ALP is to be determined in relation to an international transaction entered into by the person

income referred to in section 9(1)(i), or specifying the manner in which the said income is to be determined, as is reasonably attributable to the operations carried out in India by or on behalf of that person, being a non-resident

during any period **not exceeding four PYs preceding the first of the PYs** for which the APA applies in respect of the international transaction to be undertaken

### Meaning of Rollback year

Any previous year, falling within the period **not exceeding four previous years**, preceding the first of the five consecutive previous years for which the APA applies.

#### Conditions for applying for rollback provisions

- ✓ International transaction is same as international transaction to which APA (other than the rollback provision) applies;
- ✓ ROI for the relevant rollback year has been or is furnished before the due date u/s 139(1);
- ✓ Report in respect of international transaction had been furnished u/s 92E;
- ✓ the applicability of rollback provision has been requested by the applicant for all the rollback years and
- ✓ the applicant has made an application seeking rollback.

#### Non-applicability of Rollback provision

- ✓ If the determination of ALP of the said international transaction for the said year has been subject matter of an appeal before the Appellate Tribunal and the Appellate Tribunal has passed an order disposing of such appeal at any time before signing of the agreement
- OR**
- ✓ the application of rollback provision has the effect of reducing the total income or increasing the loss, as declared in the ROI.

### Time limit for filling application for rollback provision

The applicant may furnish along with the application for advance pricing agreement, the request for rollback provision with proof of payment of an additional fee of ₹ 5 lakh.



### Procedure for giving effect to rollback provision of an Agreement

- (i) Furnish modified ROI in respect of a rollback year along with the proof of payment of any additional tax arising as a consequence of rollback provision.
- (ii) Furnish modified return in respect of rollback year along with the modified return to be furnished in respect of first of the previous years for which APA has been requested in the application.
- (iii) Withdraw the appeal filed by the applicant, if any, which is pending before the Commissioner (Appeals), Appellate Tribunal or the High Court for a rollback year, on the issue which is the subject matter of the rollback provision for that year, to the extent of the subject covered under APA before furnishing the modified return.
- (iv) Withdraw the appeal filed by the AO or the PCIT or CIT, if any, which is pending before the Appellate Tribunal or the High Court for a rollback year, on the issue which is subject matter of the rollback provision for that year, to the extent of the subject covered under the agreement within three months of filing of modified return by the applicant.
- (v) The applicant, the AO or the PCIT or the CIT, shall inform the Dispute Resolution Panel or the Commissioner (Appeals) or the Appellate Tribunal or the High Court, as the case may be, the fact of an agreement containing rollback provision having been entered into along with a copy of the same.

### PENALTY FOR FAILURE TO COMPLY WITH TP PROVISIONS

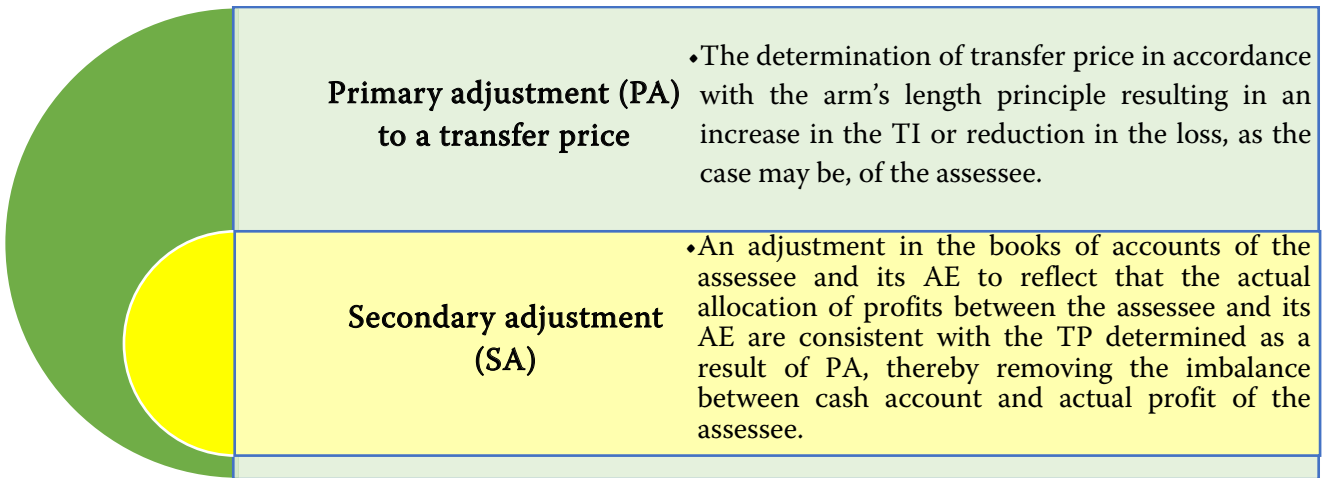
Section	Nature of default	Penalty
<b>270A(9)</b>	Failure to report any international transaction or deemed international transaction to which the provision of Chapter X applies would constitute 'misreporting of income'	200% of the tax payable on under-reported income
<b>271BA</b>	Failure to furnish a report from an accountant as required under section 92E	₹ 1 lakh
<b>271G</b>	Failure to furnish information or document as required by Assessing Officer or CIT(A) u/s 92D(3) within 10 days from the date of receipt of notice or extended period not exceeding 30 days, as the case may be.	2% of the value of the international transaction or specified domestic transaction for each failure
<b>271AA</b>	(1) Failure to keep and maintain any such document and information as required by section 92D(1)/(2); (2) Failure to report such international transaction or specified domestic transaction which is required to be reported; or (3) Maintaining or furnishing any incorrect information or document.	2% of the value of each such international transaction or specified domestic transaction

#### Notes:

- ✓ The penalty u/s 271AA is in addition and not in substitution of penalty u/s 271BA.
- ✓ If the assessee proves that there was reasonable cause for the failure, no penalty would be leviable under section 271BA, 271G and 271AA.



**SECONDARY ADJUSTMENT [SECTION 92CE]**



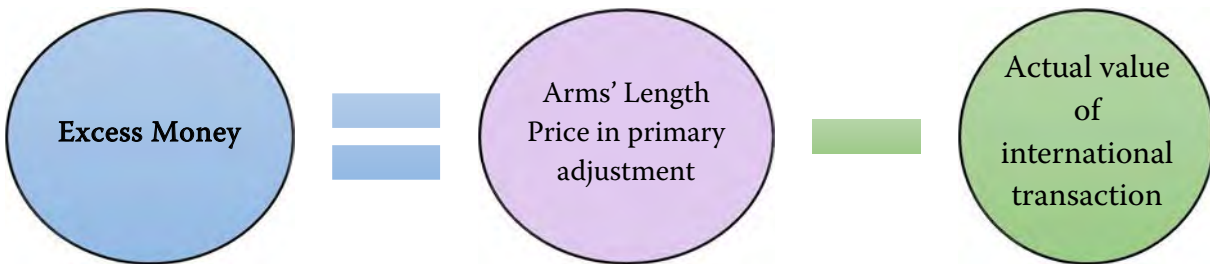
**Cases where secondary adjustment has to be made by the assessee**



- Where the primary adjustment to TP:
- has been made *suo motu* by the assessee in his ROI or
  - made by the AO has been accepted by the assessee; or
  - is determined by an APA or
  - is made as per the Safe harbour rules or
  - is arising as a result of resolution of an assessment by way of the MAP under an agreement entered into u/s 90 or 90A for avoidance of double taxation.

**No requirement of secondary adjustment in certain cases**

If primary adjustment made in any P.Y. does not exceed ₹ 1 crore **OR** The primary adjustment is made in respect of A.Y.2016-17 or an earlier A.Y.



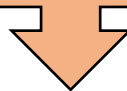
The excess money or part thereof which is available with the AE has to be repatriated to India within the prescribed limit. If not repatriated within such time, it would be deemed as advance to such AE and interest on such advance would be computed in prescribed manner.

## Time limit for repatriation of excess money or part thereof [Rule 10CB(1)]

	Case	Time limit for repatriation of excess money i.e., on or before 90 days from	Period from which interest is chargeable on excess money or part thereof which is not repatriated
(i)	Where primary adjustment to transfer price has been made <i>suo-motu</i> by the assessee in his ROI	the due date of filing of return u/s 139(1)	the due date of filing of return u/s 139(1)
(ii)	If primary adjustment to transfer price as determined in the order of the AO or the appellate authority has been accepted by the assessee	the date of the said order	the date of the said order
(iii)	Where primary adjustment to transfer price is determined by an APA entered into by the assessee u/s 92CC for a P.Y. - <ul style="list-style-type: none"> <li>If the APA has been entered into on or before the due date of filing of return for the relevant P.Y.</li> <li>If the APA has been entered into on or after the due date of filing of return for the relevant P.Y.</li> </ul>	the date of filing of return u/s 139(1)  The end of the month in which the APA has been entered into	the due date of filing of return u/s 139(1)  the end of the month in which the APA has been entered into
(iv)	Where option has been exercised by the assessee as per safe harbor rules u/s 92CB	the due date of filing of return u/s 139(1)	the due date of filing of return u/s 139(1)
(v)	Where the primary adjustment to the transfer price is determined by a resolution arrived at under MAP under a DTAA has been entered into u/s 90 or 90A	the date of giving effect by the A.O. under Rule 44H to such resolution	the date of giving effect by the A.O. under Rule 44H to such resolution

## Rate of interest for the purpose of computation on interest on excess money [Rule 10CB(2)]

Rule 10CB(2) prescribes the rate at which the per annum interest income shall be computed in case of failure to repatriate the excess money or part thereof within the above time limit.



Case	Rate
Where international transaction is denominated in Indian rupee	At the one year marginal cost of fund lending rate of SBI as on 1 <sup>st</sup> April of the relevant previous year + 3.25%
Where international transaction is denominated in foreign currency	At six month London Interbank Offered Rate (LIBOR) as on 30 <sup>th</sup> September of the relevant previous year + 3.00%

**Note** – The rate of exchange for the calculation of the value of international transaction denominated in foreign currency shall be the TTBR of such currency on the last day of the previous year in which such international transaction was undertaken.

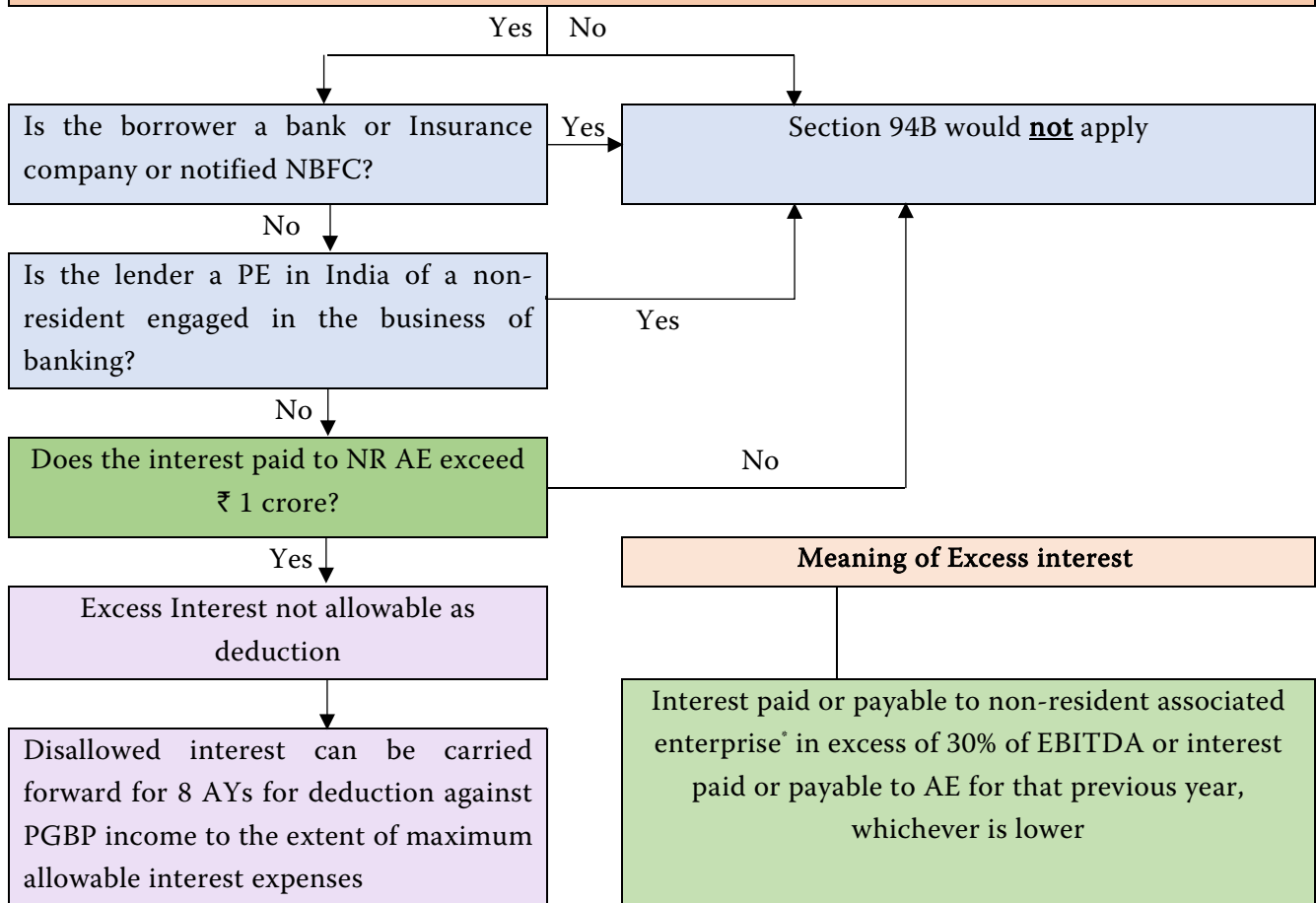
Option to pay additional income-tax, if the excess money not repatriated

Where the excess money or part thereof has not been repatriated within the prescribed time, the assessee has the option to pay additional income-tax @ **20.9664%** (i.e., tax@18% plus surcharge@12% plus cess@4%) on such excess money or part thereof.

Where additional income-tax is so paid by the assessee, he will **not** be required to make secondary adjustment and compute interest from the date of payment of such tax.

Limitation of interest deduction [Section 94B]

Is the borrower an Indian company or a PE of a Foreign company?



**Meaning of Excess interest**

Interest paid or payable to non-resident associated enterprise\* in excess of 30% of EBITDA or interest paid or payable to AE for that previous year, whichever is lower

\*"Total interest paid or payable" may be interpreted as interest paid or payable to non-resident associated enterprise as per the intent expressed in section 94B(1) and also the Explanatory Memorandum to the Finance Bill, 2017.

## FUNDAMENTALS OF BEPS

<b>ACTION-1</b> Addressing the tax challenges of the digital economy	<b>ACTION-2</b> Neutralise the effects of hybrid mismatch arrangements	<b>ACTION-3</b> Strengthen CFC Rules	<b>ACTION-4</b> Interest deductions and other financial payments	<b>ACTION-5</b> Counter harmful tax practices
<b>ACTION-6</b> Preventing treaty abuse	<b>ACTION-7</b> Prevent the artificial avoidance of PE status	<b>ACTION-8</b> Transfer pricing	<b>ACTION-9</b> Transfer pricing	<b>ACTION-10</b> Transfer pricing
<b>ACTION-11</b> Measuring and monitoring BEPS	<b>ACTION-12</b> Disclosure of aggressive tax planning arrangements	<b>ACTION-13</b> Re-examine transfer pricing documentation	<b>ACTION-14</b> Making dispute resolution more effective	<b>ACTION-15</b> Developing a multilateral instrument

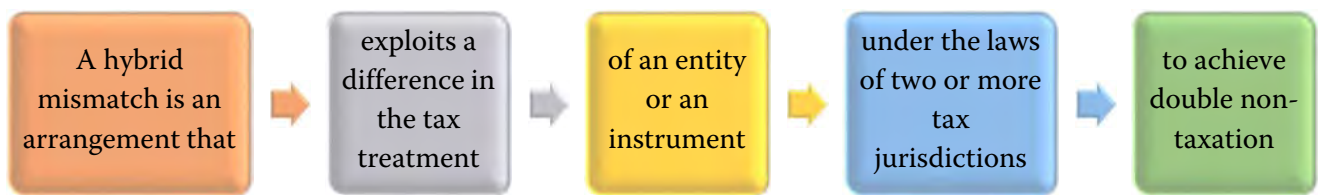
*Note – Some of the significant BEPS Action plans are discussed herein below:*

### ACTION PLAN 1: ADDRESSING THE CHALLENGES OF THE DIGITAL ECONOMY

OECD Recommendation	Provisions incorporated in Indian Tax Laws
(i) Modifying existing Permanent Establishment (PE) rule to provide whether an enterprise engaged in fully dematerialized digital activities would constitute a PE if it maintained significant digital presence in another country's economy	<b>Equalisation Levy</b> Equalisation levy@6% is attracted on the amount of consideration for specified services received or receivable by a non-resident not having PE in India or providing services not effectively connected with PE in India, from: <ul style="list-style-type: none"> <li>a resident in India who carries on business or profession or</li> <li>from a non-resident having PE in India.</li> </ul> The resident or non-resident having PE in India has to deduct equalisation Levy@6% from consideration for specified services paid to non-resident and remit the same to the Central Government within the prescribed time. Equalisation levy@2% would be chargeable on the amount of consideration received or receivable by an e-commerce operator from e-commerce supply or services made or provided or facilitated by it -
(ii) A virtual fixed place of business PE when the enterprise maintains a website on a server of another enterprise	(i) to a person resident in India; or (ii) to a non-resident in the following specified circumstances - <ul style="list-style-type: none"> <li>(a) sale of advertisement, which targets a customer, who is resident in India or a customer who accesses the advertisement through internet protocol address located in India; and</li> </ul>

	located in a jurisdiction & carries on business through that website.	(b) sale of data, collected from a person who is resident in India or from a person who uses internet protocol address located in India; or (iii) to a person who buys such goods or services or both using internet protocol address located in India									
(iii)	Imposition of a final withholding tax on certain payments for digital goods or services provided by a foreign e-commerce provider.	Further, section 194-O provides that where sale of goods or provision of services of an e-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform, such e-commerce operator is liable to deduct tax at source @1% of the gross amount of such sales or services or both. <b>Significant economic presence</b> Significant economic presence of a non-resident in India shall also constitute business connection in India. Significant economic presence means-									
(iv)	Imposition of an equalisation levy on consideration for certain digital transactions received by a non-resident from a resident or non-resident having PE in the other contracting state.	<table border="1"> <thead> <tr> <th></th> <th>Nature of transaction</th> <th>Condition</th> </tr> </thead> <tbody> <tr> <td>(a)</td> <td>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</td> <td>Aggregate of payments arising from such transaction or transactions during the previous year should exceed ₹ 2 crores.</td> </tr> <tr> <td>(b)</td> <td>systematic and continuous soliciting of business activities or engaging in interaction with users in India</td> <td>The number of users should be atleast 3 lakhs.</td> </tr> </tbody> </table>		Nature of transaction	Condition	(a)	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 should exceed ₹ 2 crores.	(b)	systematic and continuous soliciting of business activities or engaging in interaction with users in India	The number of users should be atleast 3 lakhs.
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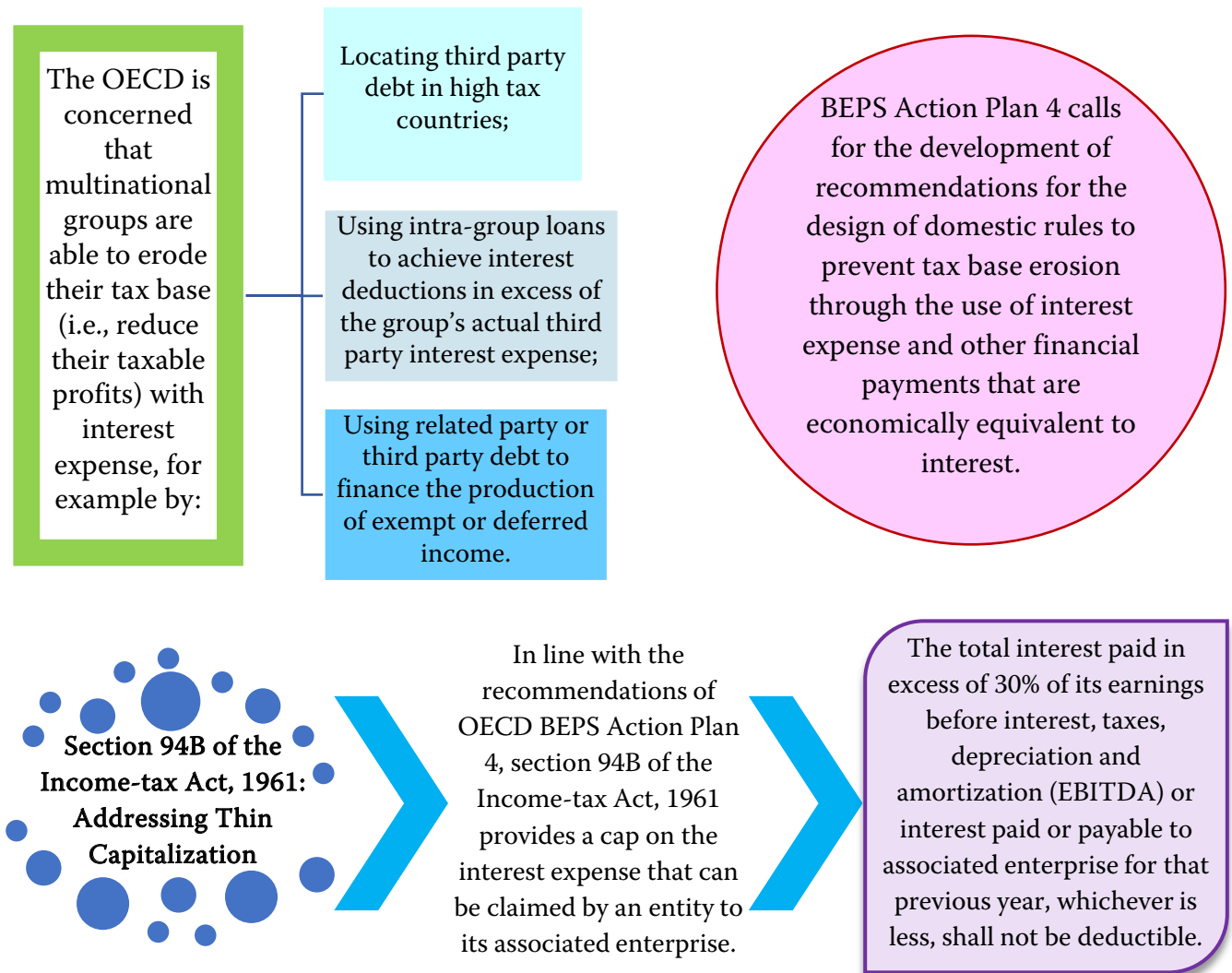
**ACTION PLAN 2 - NEUTRALISE THE EFFECTS OF HYBRID MISMATCH ARRANGEMENTS**



Hybrid mismatch arrangements are sometimes used to achieve unintended double non-taxation or long-term tax deferral in one or more of the following ways -

- Creation of two deductions for a single borrowal
- Generation of deductions without corresponding income inclusions
- Misuse of foreign tax credit
- Participation exemption regmies

## ACTION PLAN 4: INTEREST DEDUCTIONS AND OTHER FINANCIAL PAYMENTS



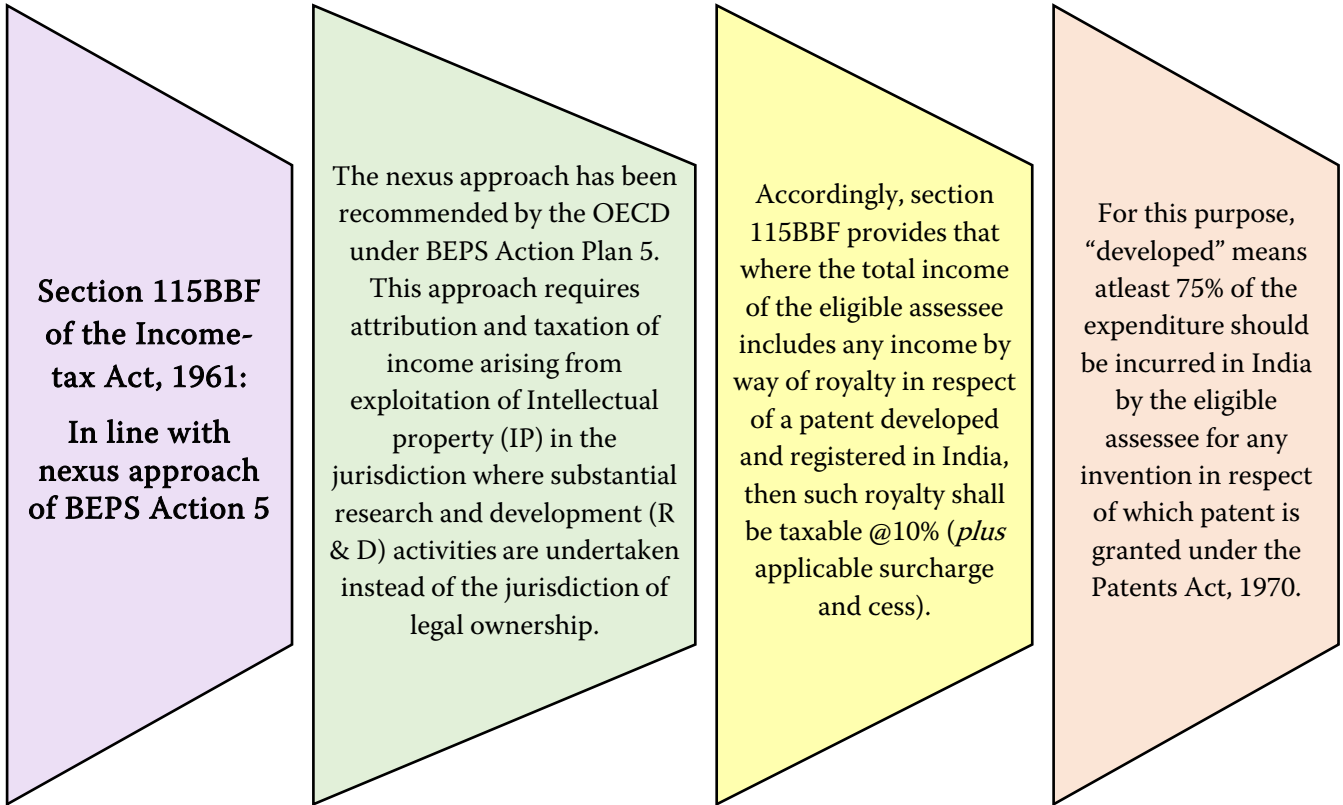
## ACTION PLAN 5 – COUNTER HARMFUL TAX PRACTICES

The Action 5 Report is one of the four BEPS minimum standards. The minimum standard of the Action 5 Report consists of two parts.

One part relates to preferential tax regimes, where a peer review is undertaken to identify features of such regimes that can facilitate base erosion and profit shifting, and therefore have the potential to unfairly impact the tax base of other jurisdictions.

The second part includes a commitment to transparency through the compulsory spontaneous exchange of relevant information on taxpayer-specific rulings which, in the absence of such information exchange, could give rise to BEPS concerns.





**ACTION PLAN 6: PREVENTING TREATY ABUSE**

OECD Minimum Standard	LoB clause incorporated in Indian Tax Treaties
<p>Given the risk to revenues posed by treaty shopping, countries have committed to ensure a minimum level of protection against treaty shopping by including in their treaties:</p> <p>(i) the combined approach of <b>Limitation of Benefits (LOB)</b> and <b>Principal Purpose Test (PPT)</b> rule,</p> <p>(ii) the <b>PPT rule</b> alone, or</p>	<p><b>LoB clause in India-Mauritius Tax Treaty</b></p> <ul style="list-style-type: none"> <li>On 10.5.2016, the India-Mauritius tax treaty was amended and for the first time, it has been provided that gains from the alienation of shares acquired on or after 1.4.2017 in a company which is a resident of India may be taxed in India.</li> <li>The tax rate on such capital gains arising from 1.4.2017-31.3.2019 should, however, not exceed 50% of the applicable tax rate on capital gains in India.</li> <li>LOB clause provides that a resident of a Contracting State shall not be entitled to the benefits of 50% of the tax rate applicable in transition period if its affairs are arranged with the primary purpose of taking advantage of concessional rate of tax.</li> <li>A shell or a conduit co. claiming to be a resident of a Contracting State shall not be entitled to this benefit.</li> <li>A shell or conduit co. is any legal entity falling within the meaning of resident with negligible or nil business operations or with no real and continuous business activities carried out in that Contracting State.</li> </ul>

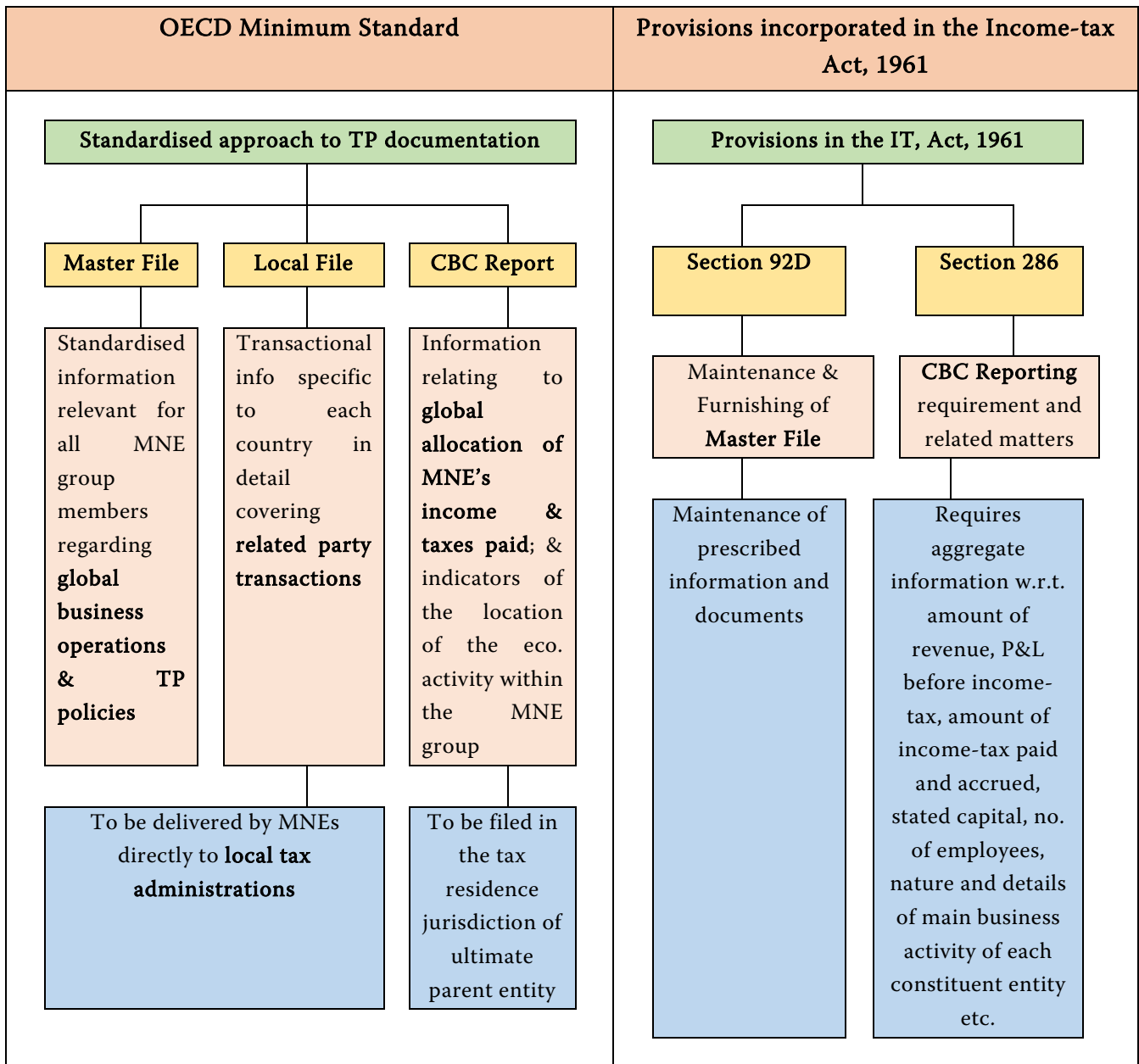


(iii) the LOB rule supplemented by a mechanism that would deal with conduit financing arrangements not already dealt with in tax treaties.	<b>LoB clause in India-Singapore Tax Treaty</b> <ul style="list-style-type: none"> <li>Capital gains on sale of shares of an Indian company by a resident of Singapore was taxable only in Singapore, if such shares were acquired before 1.4.2017.</li> <li>The India-Singapore tax treaty has been amended to provide that capital gains on alienation of shares acquired on or after 1.4.2017 would be taxable in a similar manner as laid out in India-Mauritius tax treaty, subject to LoB clause.</li> <li>The transition period benefit is also similar to that contained in India-Mauritius Tax Treaty.</li> </ul>
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**BEPS ACTION PLAN 7: PREVENT THE ARTIFICIAL AVOIDANCE OF PE STATUS**

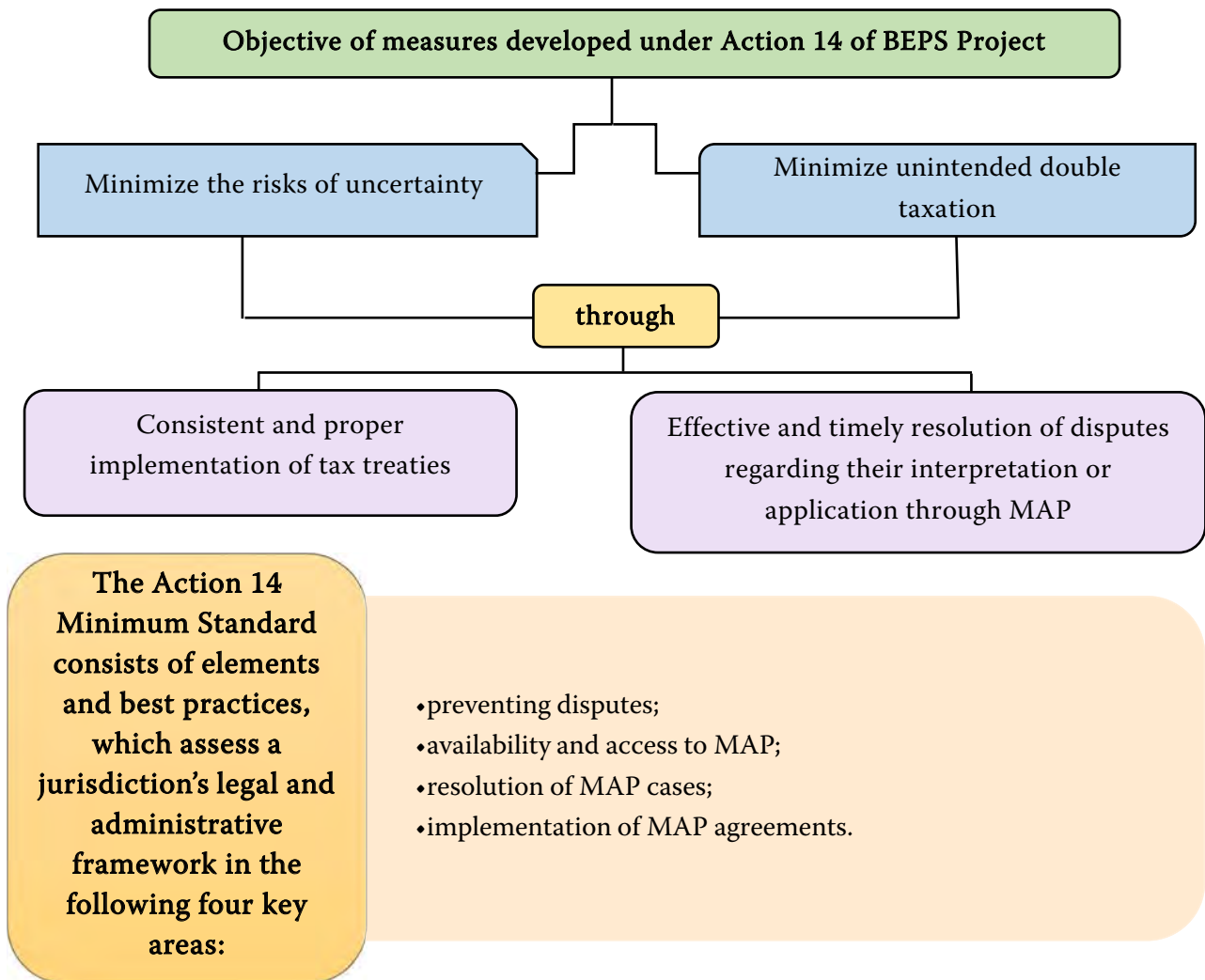
OECD Recommendation	Provisions incorporated in the Income-tax Act, 1961					
<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; background-color: #d4edda;">Review of definition of PE</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; background-color: #fff3cd;">To prevent tax avoidance</div> <div style="display: flex; justify-content: space-around;"> <div style="border: 1px solid black; padding: 5px; background-color: #d1ecf1; width: 45%;">                     By way of <b>Commissionaire Arrangements</b> </div> <div style="border: 1px solid black; padding: 5px; background-color: #d1ecf1; width: 45%;">                     By way of <b>Fragmentation of business activities</b> </div> </div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="border: 1px solid black; padding: 5px; background-color: #d1ecf1; width: 45%;">                     Modification of Article 5(5) to <b>include a person who habitually plays a principal role leading to conclusion of contracts</b> in the definition of agent                 </div> <div style="border: 1px solid black; padding: 5px; background-color: #fff3cd; width: 45%;">                     Introduction of anti-fragmentation Rule to <b>prevent fragmentation of functions</b> which are otherwise a whole activity to avail benefit of exemption                 </div> </div>	<div style="border: 1px solid black; padding: 5px; background-color: #d4edda; margin-bottom: 5px;">Expanding the scope of business connection (BC) u/s 9(1)(i) of Income-tax Act, 1961</div> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #fff3cd;">Upto A.Y.2018-19</th> <th style="background-color: #fff3cd;">From A.Y.2019-20</th> </tr> </thead> <tbody> <tr> <td style="background-color: #d1ecf1; vertical-align: top;">                     BC is established, <i>inter alia</i>, where a person acting on behalf of NR has and habitually exercises the authority to conclude contracts on behalf of the NR.                 </td> <td style="background-color: #d1ecf1; vertical-align: top;">                     BC also includes any business activity carried through a person who, acting on behalf of the NR, habitually concludes contracts or <b>habitually plays the principal role leading to conclusion of contracts</b> by the NR. Such contracts should be -                     <ul style="list-style-type: none"> <li>(i) in the name of the NR; or</li> <li>(ii) for transfer of ownership of, or for the granting of right to use, property owned by that NR or that the NR has the right to use; or</li> <li>(iii) for provision of services by that NR</li> </ul> </td> </tr> </tbody> </table>		Upto A.Y.2018-19	From A.Y.2019-20	BC is established, <i>inter alia</i> , where a person acting on behalf of NR has and habitually exercises the authority to conclude contracts on behalf of the NR.	BC also includes any business activity carried through a person who, acting on behalf of the NR, habitually concludes contracts or <b>habitually plays the principal role leading to conclusion of contracts</b> by the NR. Such contracts should be - <ul style="list-style-type: none"> <li>(i) in the name of the NR; or</li> <li>(ii) for transfer of ownership of, or for the granting of right to use, property owned by that NR or that the NR has the right to use; or</li> <li>(iii) for provision of services by that NR</li> </ul>
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**BEPS ACTION PLAN 13 RE-EXAMINE TRANSFER PRICING (TP) DOCUMENTATION**



**ACTION PLAN 14 – MAKING DISPUTE RESOLUTION MORE EFFECTIVE**

The BEPS Action 14 Minimum Standard seeks to improve the resolution of tax-related disputes between jurisdictions. Inclusive Framework jurisdictions have committed to have their compliance with the minimum standard reviewed and monitored by its peers through a robust peer review process that seeks to increase efficiencies and improve the timeliness of the resolution of double taxation disputes.



## ACTION PLAN 15 DEVELOPING A MULTILATERAL INSTRUMENT (MLI)

The MLI helps fight against BEPS by implementing tax treaty-related measures developed through the BEPS Project in existing bilateral treaties in a synchronized and efficient manner to –

- **prevent treaty abuse,**
- **improve dispute resolution**
- **prevent the artificial avoidance of PE status**
- **neutralize the effects of hybrid mismatch arrangements.**

### Structure of the MLI

Just as bilateral tax treaties are agreements, the MLI is also a similar instrument and its interpretation will be governed by the principles laid down by VCLT. Following are the 7 parts and 39 articles in the MLI. Articles 3 to 17 are recognised as substantive provisions.

Part	Particulars	Article
Part I	Scope and Interpretation of terms	Article 1-Article 2
Part II	Hybrid Mismatches	Article 3-Article 5
Part III	Treaty Abuse	Article 6-Article 11

<b>Part IV</b>	Avoidance of PE Status	Article 12-Article 15
<b>Part V</b>	Improving Dispute Resolution	Article 16-Article 17
<b>Part VI</b>	Arbitration	Article 18-Article 26
<b>Part VII</b>	Final Provisions	Article 27- Article 39

### Key organs

Covered Tax Agreement	Compatibility Clause	Reservation Clauses	Minimum Standard
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### Covered Tax Agreements

The MLI is flexible instrument which modifies tax treaties that are “**Covered Tax Agreements**”. A Covered Tax Agreement is an agreement for the avoidance of double taxation that is in force between Parties to the MLI and for which both Parties have made a notification that they wish to modify the agreement using the MLI.

### Compatibility Clauses – Bridge between the DTAA and the MLI

- The compatibility clause is to ensure that there is no conflict between the two treaties i.e. the DTAA and the MLI. This is because of the uniqueness of the MLI, which is not a standalone treaty as it operates alongside the bilateral tax treaties.
- If there is a possible conflict that may arise between the two treaties i.e., the DTAA and the MLI, the compatibility clause would resolve this conflict.
- Further, the compatibility clause also gives options to parties to leave an existing provision of the DTAA undisturbed, if the existing provision serves the desired objective with which a particular provision of the MLI was placed to.

### Reservation Clauses – ‘Opt-Out’ Mechanism

- The reserved provisions of MLI shall not apply to a CTA if either of the parties makes a reservation.
- Reservations under treaties, introduce flexibility in treaty negotiations, so that States come forward to be a signatory to such multilateral conventions.
- The general rule of multilateral instrument is that its parties are bound by the entire instrument unless the parties make a reservation.
- The MLI enables states to opt-out of the provisions, either entirely or partially, by introducing a mechanism of reservations.
- However, reservations concerning minimum standard provisions under the MLI can be made only on limited situations and subject to satisfying certain conditions.

### Mandatory Minimum Standards

The objective of the minimum standard provisions is to ensure that these anti-abuse provisions will help eliminating the treaty shopping mechanism and consequentially the elimination of double non-

taxation scenarios by tax-evaders. The minimum standards under the MLI, therefore, achieve certain consistency amongst the existing tax treaties. These minimum standard provisions, which have to be incorporated in the tax treaties, help in combating tax avoidance.

Out of the four minimum standards prescribed under the BEPS action plan i.e.

Action 5 - Countering Harmful Tax Practices

Action 6 - Treaty abuse prevention mechanism

Action 13 - Country by Country Reporting

Action 14 - Effective Dispute Resolution Mechanism

Action 6 and Action 14 solutions are specifically provided as a minimum standard provision under the BEPS MLI. With regards to Action 5 and Action 13, the solutions are to be incorporated under domestic laws.

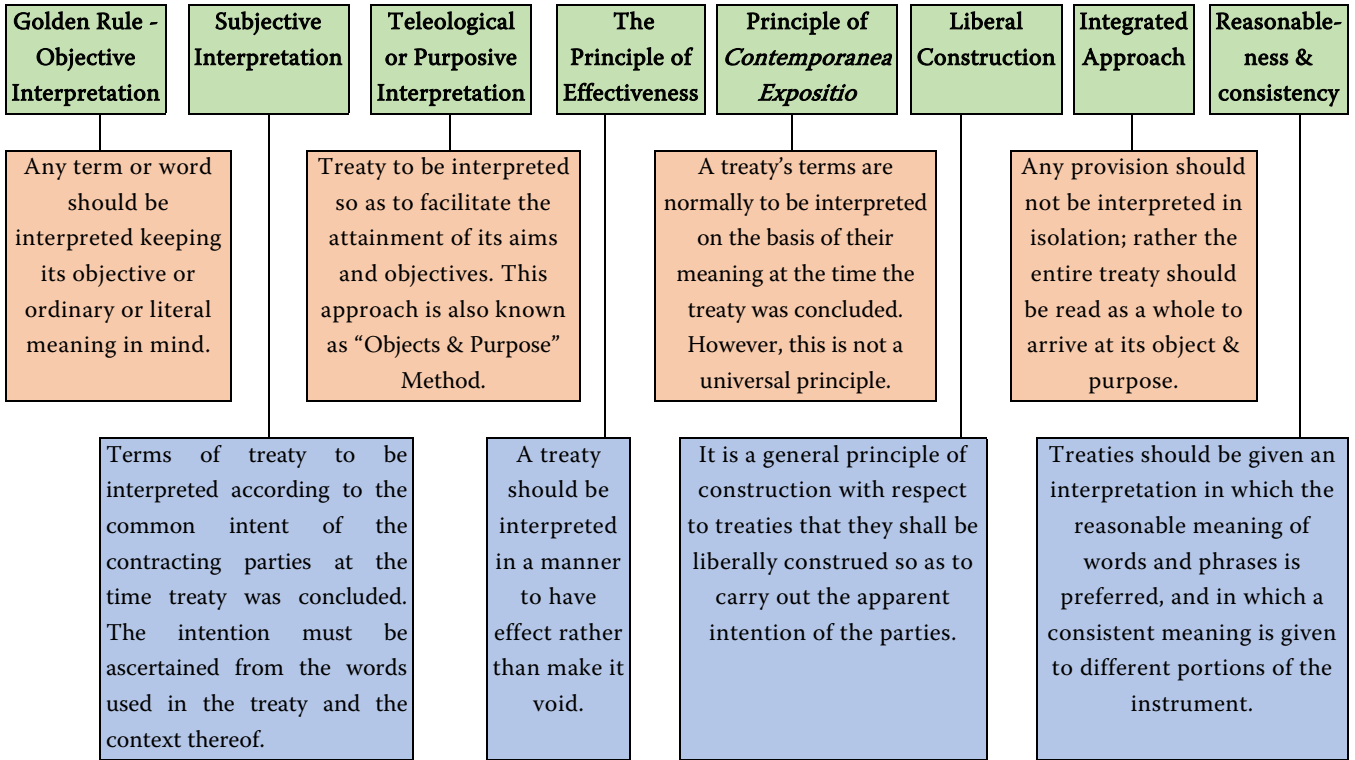
However, in a case where the Contracting States together agree to reflect the minimum standard provisions specified under the MLI into their existing DTAA, then, such treaty partner may opt-out of the minimum standards under the MLI.

#### Entry into Force of MLI

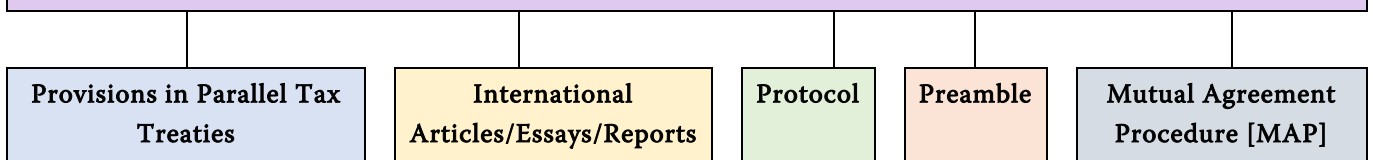
- The Multilateral Convention to implement tax treaty related measures to prevent Base Erosion and Profit Shifting (BEPS) was signed by India at Paris, France on 7<sup>th</sup> June, 2017.
- India had ratified the said Convention and had deposited the instrument of ratification along-with the list of Covered Tax Agreements, reservations and notifications (India's Position under the said Convention) to the Depositary on 25<sup>th</sup> June, 2019.
- The date of entry into force of the said Convention for India is 1<sup>st</sup> October, 2019, being the first day of the month following the expiry of a period of three calendar months beginning on 25<sup>th</sup> June, 2019, being the date of deposit by India of the instrument of ratification.
- The earliest date when the provisions of this Convention can take effect in India is 1<sup>st</sup> April, 2020 (six months from 1<sup>st</sup> October, 2019, the date of entry into force for India)

# APPLICATION AND INTERPRETATION OF TAX TREATIES

## BASIC PRINCIPLES OF INTERPRETATION OF A TREATY



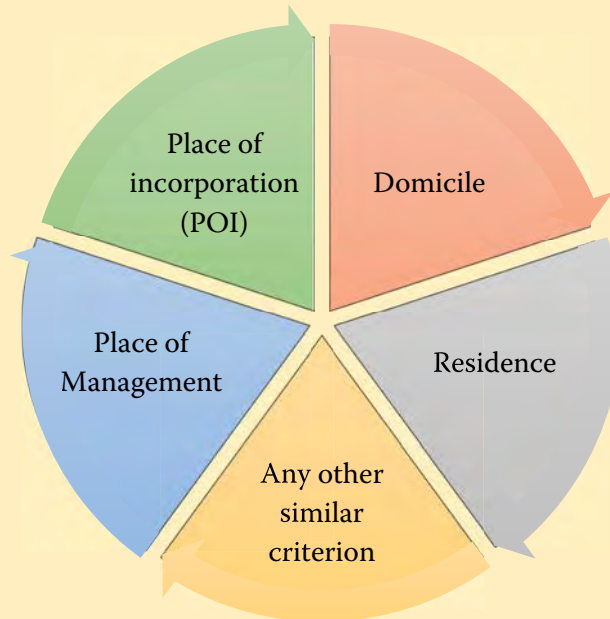
### Extrinsic Aids to Interpretation of a Tax Treaty



## OVERVIEW OF MODEL TAX CONVENTION

Article	OECD Model Convention <i>vis-à-vis</i> UN Model Convention Common paras & Significant differences					
<b>Chapter I : Scope of the Convention</b>						
<b>1</b>	<b>Persons covered</b>	<div style="display: flex; justify-content: space-around; align-items: flex-start;"> <div style="border: 1px solid black; border-radius: 15px; padding: 10px; background-color: #e0f0e0; width: 30%;"> <p style="text-align: center;"><b>Resident of CS -</b> For application of treaty, a person has to be a resident of one or both of the Contracting States (CSs).</p> </div> <div style="border: 1px solid black; border-radius: 15px; padding: 10px; background-color: #e0f0ff; width: 30%;"> <p style="text-align: center;"><b>Fiscally transparent entity -</b> Income derived by or through a fiscally transparent entity under the tax law of either CS to be considered to be income of a resident of a CS, to the extent such income is treated, for purposes of taxation by that State, as the income of a resident of that State.</p> </div> <div style="border: 1px solid black; border-radius: 15px; padding: 10px; background-color: #fff9c4; width: 30%;"> <p style="text-align: center;"><b>Collective investment vehicles -</b> Provision dealing with the application of the UN Model Convention to "Collective investment vehicles".</p> </div> </div>				
<b>2</b>	<b>Taxes covered</b>	<ul style="list-style-type: none"> <li>❖ <b>Taxes on income and capital</b> - The Model Conventions apply to taxes on income and on capital imposed on behalf of a CS or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.</li> <li>❖ <b>Coverage of taxes</b> - Taxes on income and on capital covers: <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr style="background-color: #ffffcc;"> <th style="width: 50%;">Taxes imposed</th> <th style="width: 50%;">Taxes included</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;"> <ul style="list-style-type: none"> <li>• on total income</li> <li>• on total capital</li> <li>• on elements of income or of capital</li> </ul> </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> <li>• taxes on gains from alienation of movable or immovable property</li> <li>• taxes on total amounts of wages or salaries paid by enterprises</li> <li>• taxes on capital appreciation</li> </ul> </td> </tr> </tbody> </table> </li> </ul>	Taxes imposed	Taxes included	<ul style="list-style-type: none"> <li>• on total income</li> <li>• on total capital</li> <li>• on elements of income or of capital</li> </ul>	<ul style="list-style-type: none"> <li>• taxes on gains from alienation of movable or immovable property</li> <li>• taxes on total amounts of wages or salaries paid by enterprises</li> <li>• taxes on capital appreciation</li> </ul>
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<b>Chapter II: Definitions</b>						
<b>4</b>	<b>Resident</b>	<ul style="list-style-type: none"> <li>❖ <b>Resident of either CS</b> - A taxpayer has to demonstrate that he is a resident of one or both CSs to be able to gain access to a tax treaty and avail benefits thereunder.</li> <li>❖ <b>Meaning of "Resident of a Contracting State"</b>- Any person who, under the laws of that State, is liable to tax therein by reason of that person's:</li> </ul>				





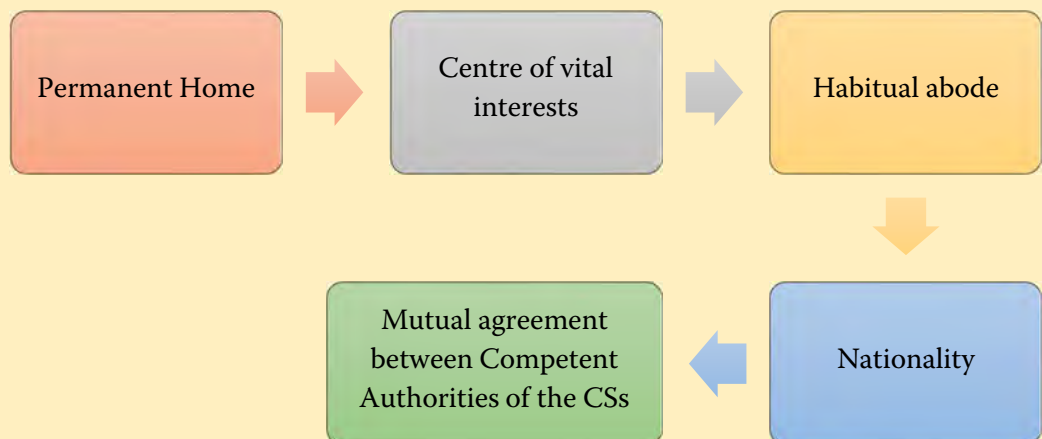
This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

*Note - OECD MC does not contain reference to place of incorporation.*

#### ❖ Tie-breaker Rule

##### In case of individuals

Where an individual is a resident of both CSs as per domestic tax laws of that CS, then, his residential status shall be determined by applying the tie-breaker rule in the following sequence:



##### In case of companies

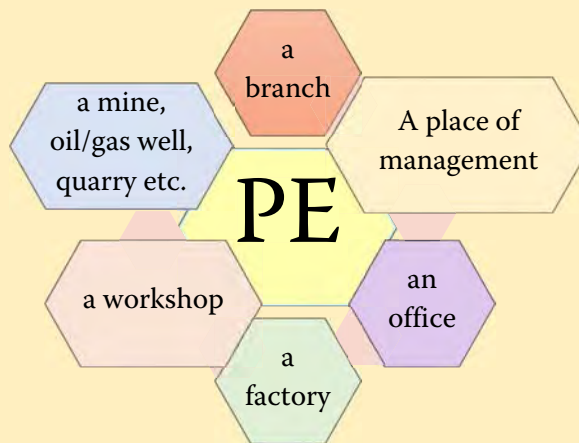
- Dual residence arises where one CS attaches importance to POI and the other CS to the POEM.
- The tie-breaker test involves a case by case approach considering the number of tax avoidance cases involving dual resident companies.
- Request has to be made by the tax payer through Article 25 (MAP).
- Competent Authorities will rely on range of factors to resolve the question of dual residency.

5 Permanent establishment (PE)

- ❖ **Meaning of PE [Article 5(1)]**
  - There should be an “enterprise”.
  - Such enterprise should be carrying on a “business”;
  - There should be a “place of business (POB)”;
  - Such place of business (POB) should be at the **disposal of the enterprise** (may be owned/rented but must be one which the enterprise has the effective power to use);
  - The POB should be “fixed”, i.e., it must be established at a distinct place with a certain **degree of permanence**.
  - The business of the enterprise is carried on wholly or partially through this fixed POB.

A PE does not exist unless all the aforesaid conditions are satisfied.

❖ **Specific inclusions in the meaning of PE [Article 5(2)]**



- ❖ **Expansion of scope of Agency PE**
  - Agency PE targets activities done by a dependent agent of the enterprise in the Source State (SS).
  - Dependent agent PE now includes instances when an agent habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts routinely concluded without material modification by the enterprise.
  - In UN Model Convention, PE is constituted even if the person does not habitually conclude contracts nor plays the principal role leading to the conclusion of such contracts, but habitually maintains in that State, a stock of goods or merchandise from which that person regularly deliver goods or merchandise on behalf of that enterprise.

❖ **PE of an Insurance Enterprise**

UN Model Convention	OECD Model Convention
UN MC has an additional Article 5(6) relating to insurance. An insurance enterprise of a CS is deemed to have a PE in the other CS if it collects premiums in the territory of that other CS or insures risks situated therein through a person.	In the absence of similar Article in the OECD MC, a PE of an insurance enterprise is to be determined in accordance with Article 5(1) or 5(2).

Chapter III : Taxation of Income								
7	Business profits	<p>❖ Right of CS to tax business profits (BPs)</p> <table border="1"> <thead> <tr> <th>OECD Model Convention</th> <th>UN Model Convention</th> </tr> </thead> <tbody> <tr> <td colspan="2">BPs of an enterprise can only be taxed by the Residence State (RS). Right of Source State (SS) to tax BPs of an enterprise only exists if a PE exists in its jurisdiction.</td> </tr> <tr> <td>Once a PE is proven, the SS can tax only such profits as are attributable to the PE</td> <td> <p>❖ The attribution principle is amplified by a <b>limited</b> Force of Attraction rule (FOA).</p> <p>❖ The FOA rule implies that when a foreign enterprise sets up a PE in SS, it brings itself within the fiscal jurisdiction of that State to such a degree that profits that the enterprise derives therefrom, whether through the PE or not, can be taxed by it (i.e., the SS).</p> <p>❖ Accordingly, if the enterprise carries on business in the other CS through a PE, the profits of the enterprise may be taxed in the other CS but only so much of them as is attributable to:</p> <p>(a) that PE;</p> <p>(b) sales in that other CS of goods or merchandise of the same or similar kind as those sold through that PE; or</p> <p>(c) other business activities carried on in that other State of the same or similar kind as those effected through that PE.</p> </td> </tr> </tbody> </table>	OECD Model Convention	UN Model Convention	BPs of an enterprise can only be taxed by the Residence State (RS). Right of Source State (SS) to tax BPs of an enterprise only exists if a PE exists in its jurisdiction.		Once a PE is proven, the SS can tax only such profits as are attributable to the PE	<p>❖ The attribution principle is amplified by a <b>limited</b> Force of Attraction rule (FOA).</p> <p>❖ The FOA rule implies that when a foreign enterprise sets up a PE in SS, it brings itself within the fiscal jurisdiction of that State to such a degree that profits that the enterprise derives therefrom, whether through the PE or not, can be taxed by it (i.e., the SS).</p> <p>❖ Accordingly, if the enterprise carries on business in the other CS through a PE, the profits of the enterprise may be taxed in the other CS but only so much of them as is attributable to:</p> <p>(a) that PE;</p> <p>(b) sales in that other CS of goods or merchandise of the same or similar kind as those sold through that PE; or</p> <p>(c) other business activities carried on in that other State of the same or similar kind as those effected through that PE.</p>
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		❖ <b>Specific inclusions in the definition of interest as per OECD &amp; UN MCs</b> <ul style="list-style-type: none"> <li>• income from government securities</li> <li>• income from bonds or debentures</li> <li>• premiums and prizes attaching to such securities, bonds or debentures.</li> </ul> <i>Note - Interest does not include penalty charges for late payment.</i>		
12	Royalties		<b>OECD Model Convention</b>	<b>UN Model Convention</b>
		<b>Right of CS to tax royalty income</b>	Royalty arising in SS and beneficially owned by resident of the RS is taxable only in RS. Thus, <b>RS has exclusive right to tax royalty income.</b>	Royalty <b>may also be taxed in the SS.</b> However, if the beneficial owner is a resident of the RS, the tax charged by SS $\leq$ the specified %, (to be established through bilateral negotiations) of gross royalty.
		<b>Definition of Royalty</b>	Definition of Royalty does not include: (a) rentals for films/tapes used for radio/ TV broadcasting; and (b) rentals for industrial, commercial or scientific equipment.	Royalty includes: (a) rentals for films or tapes used for radio or TV broadcasting and (b) equipment rentals like rentals for industrial, commercial or scientific equipment.
12A	FTS	The UN MC has a specific article pertaining to Fees for Technical Services (FTS). There is no specific reference to FTS in OECD MC.		
		❖ <b>Right of CS to tax FTS [UN Model]</b>		
		<b>Para of Article</b>	<b>Right of CS to tax FTS</b>	
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		2	Establishes the right of the SS to tax FTS in accordance with its domestic law, subject to limitation on the max. rate of tax on gross amount of fees, to be established through bilateral negotiations, if the beneficial owner is a resident of the other CS.	
❖ <b>Meaning of FTS [UN Model]</b>				
FTS means payments for managerial, technical or consultancy services				
<b>Exclusions from the meaning of FTS:</b>				
i	payment to an employee			
ii	payment for teaching in an or by an educational institution			
iii	payment by an individual for services for personal use			

12B	Income from Automated Digital Services	<p>Article 12B was added to the United Nations Model Tax Convention in its 2021 update to preserve the domestic law taxing rights for States from which payments for automated digital services are made. There is no article in the OECD MC corresponding to Article 12B.</p> <p>❖ <b>Right of CS to tax income from automated digital [UN Model]</b></p>																		
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viii	cloud computing services																			
ix	standardized online teaching services																			
13	Capital gains	<p>This Article provides for the taxation of income arising from transfer of a capital asset, including transfer of shares.</p> <p>❖ <b>Right of CS to tax income from Capital Gains</b></p> <ul style="list-style-type: none"> <li>• The right to tax capital gains may be exclusively with the RS, or shared between the RS and SS.</li> <li>• The Article does not specify what is a capital gain and how is to be computed, this being left to the applicable domestic law.</li> <li>• The Article contains rules for taxation of gains from alienation of different assets such as immovable property, immovable property forming part of a PE, ships &amp; aircrafts, etc.</li> <li>• In respect of shares, OECD and UN MCs are identical. Rights are conferred to the SS if more than 50% of the value of shares during the preceding 365 days is</li> </ul>																		

		<p>derived directly or indirectly from immovable property in such SS. Otherwise, the Residence State would have the exclusive right to tax.</p> <ul style="list-style-type: none"> <li>• UN MC allows a State to tax gains from the alienation of rights granted under the law of that State as long as these rights allow the use of resources that are naturally present in that State and that are under the jurisdiction of that State.</li> <li>• Both UN and OECD Model convention gives exclusive right to Residence State in case of gains from the alienation of any property other than covered in the other paragraphs of this Article.</li> </ul>												
14	<b>Independent personal services</b>	<p>This Article present only in the UN MC deals with the taxation of income derived by a person for professional or specified services which are offered in the SS through some presence.</p> <p>❖ <b>Right of CS to tax income from professional services (IPS) [UN MC]</b></p> <table border="1"> <tr> <td><b>Right of RS</b></td> <td colspan="2">Income derived by a resident of a CS in respect of professional services or other activities of an independent character is taxable only in the RS.</td> </tr> <tr> <td rowspan="3"><b>Right of SS</b></td> <td colspan="2">In the following circumstances, however, IPS may also be taxed in the other CS (i.e., the SS):</td> </tr> <tr> <td><b>Circumstance</b></td> <td><b>Extent of income taxable in SS</b></td> </tr> <tr> <td>If he has a fixed base regularly available to him in the SS for the purpose of performing his activities</td> <td>Only so much of the income as is attributable to that fixed base may be taxed in the SS.</td> </tr> <tr> <td>If his stay in the SS is for a period &gt; 183 days in any 12 month period commencing or ending in the fiscal year concerned</td> <td>Only so much of the income as is derived from his activities performed in the SS may be taxed in that State</td> </tr> </table> <p>❖ <b>Definition of “Professional Services” [UN MC]</b></p> <p>The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.</p> <p><i>Note – OECD MC does not contain a separate article on IPS. The same is dealt with as “Business Profits (Article 7)” under the OECD MC.</i></p>	<b>Right of RS</b>	Income derived by a resident of a CS in respect of professional services or other activities of an independent character is taxable only in the RS.		<b>Right of SS</b>	In the following circumstances, however, IPS may also be taxed in the other CS (i.e., the SS):		<b>Circumstance</b>	<b>Extent of income taxable in SS</b>	If he has a fixed base regularly available to him in the SS for the purpose of performing his activities	Only so much of the income as is attributable to that fixed base may be taxed in the SS.	If his stay in the SS is for a period > 183 days in any 12 month period commencing or ending in the fiscal year concerned	Only so much of the income as is derived from his activities performed in the SS may be taxed in that State
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21	<b>Other income (OI)</b>	<p>This Article deals with taxation of items of income which are not specifically taxable under any other specific Article [i.e., upto Article 20].</p>												



		OECD Model Convention	UN Model Convention													
	<b>Right to tax OI</b>	Exclusive right to tax is with the RS.	Contains an additional para, Article 21(3), which provides that SS may also tax other income.													
	<b>Right to tax income [other than income from immovable property] effectively connected with PE</b>	Article 21(2) of both OECD and UN MC provides that for income effectively connected with a PE maintained in a CS by a resident of the other CS, taxation is governed by the provisions of Article 7 (Business Profits).														
			Additionally, UN Model provides that if the aforesaid income is effectively connected with a fixed base situated in a CS by a resident of the other CS, taxation would be governed by the provisions of Article 14 (IPS).													
<b>Chapter V : Methods for the Elimination of Double Taxation</b>																
<b>23A/23B</b>	<b>Exemption method/ Credit Method</b>	<p>In many cases, the application of tax treaty may result into double taxation (DT) for tax payers. In such a case, Articles 23A and 23B provide for the mechanism through which tax credit/exemption may be available in the RS for taxes deducted in the SS.</p> <p>❖ <b>Two approaches for elimination of DT under MCs:</b></p> <table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 50%;"><b>Exemption method (Article 23A)</b></th> <th style="width: 50%;"><b>Credit method (Article 23B)</b></th> </tr> </thead> <tbody> <tr> <td>Tax exemption may be available in the RS for taxes deducted in the SS.</td> <td>Tax credit may be available in the RS for taxes deducted in the SS.</td> </tr> </tbody> </table> <p>These methods are not mutually exclusive and there may be cases where a treaty may adopt exemption method for certain types of income and credit method for other incomes.</p> <p>❖ <b>Juridical DT and Economic DT:</b></p> <table border="1" style="width: 100%;"> <thead> <tr> <th></th> <th style="width: 50%;"><b>Juridical DT</b></th> <th style="width: 50%;"><b>Economic DT</b></th> </tr> </thead> <tbody> <tr> <td><b>Meaning</b></td> <td>The same income or capital is taxable in the hands of the same person by more than one State</td> <td>Two different persons are taxable in respect of the same income or capital</td> </tr> <tr> <td><b>Example</b></td> <td>FTS may be taxable in the hands of the recipient both in the RS as well as in SS, based on the domestic laws of the CSs.</td> <td>In respect of dividend distributed by a Co., DDT may be payable by the Co. in SS, whereas the dividend may be taxable in the hands of the shareholder of the other CS, on the basis of his residence.</td> </tr> </tbody> </table>		<b>Exemption method (Article 23A)</b>	<b>Credit method (Article 23B)</b>	Tax exemption may be available in the RS for taxes deducted in the SS.	Tax credit may be available in the RS for taxes deducted in the SS.		<b>Juridical DT</b>	<b>Economic DT</b>	<b>Meaning</b>	The same income or capital is taxable in the hands of the same person by more than one State	Two different persons are taxable in respect of the same income or capital	<b>Example</b>	FTS may be taxable in the hands of the recipient both in the RS as well as in SS, based on the domestic laws of the CSs.	In respect of dividend distributed by a Co., DDT may be payable by the Co. in SS, whereas the dividend may be taxable in the hands of the shareholder of the other CS, on the basis of his residence.
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	Type of DT addressed by Article 23A & 23B	Articles 23A & 23B address Juridical DT.	The Articles do not address Economic DT. If two States wish to solve problems of economic DT, they must do so in bilateral negotiations.	
<b>Chapter VI : Special Provisions</b>				
25	<b>Mutual agreement procedure (MAP)</b>	Where a tax payer believes that the treatment accorded by either or both CSs is not in accordance with the provisions of the tax treaty, this Article provides for dispute resolution through bilateral negotiations between competent authorities (CAS) of both CSs.		
			<b>OECD Model Convention</b>	<b>UN Model Convention</b>
		<b>Request for MAP</b>	The taxpayer may make a request to either CS	<b>Alternative A</b> - Taxpayer has to approach RS or the country of his nationality <b>Alternative B</b> - Reference to an arbitration process as part of MAP. The decision arrived at through the process is binding unless a person directly affected does not accept it.
		<b>Time limit</b>	Stipulates a time limit of 2 years from the date when all the information required by the CAS in order to address the case need to be provided to both CAS.	An arbitration may be initiated if the competent authorities (CAS) are unable to reach an agreement on a case within 3 years from presentation of that case [Alternative B]
		<b>Who can request for Arbitration?</b>	Arbitration must be requested in writing by the person who initiated the case	Arbitration must be requested by the CAS of one of the CS. Once such a request is made, the taxpayer will be notified [Alternative B]
	<b>Departure from arbitration by CAS</b>	No specific provision for departure from arbitration.	The CAS may depart from the arbitration decision if they agree to do so within 6 months after the decision has been communicated to them [Alternative B]	
26	<b>Exchange of information (EOI)</b>	<b>❖ Purpose of Article 26</b> In order to complete tax cases, a country may require certain info which may be available with the treaty partner. Article 26 provides for: <ul style="list-style-type: none"> <li>the info which may be exchanged</li> </ul>		

- the manner in which such a request has to be made.
- ❖ **Importance of Article 26:**
  - facilitates effective exchange of information between CSs.
  - curtails cross-border tax evasion and avoidance,
  - curtails the capital flight that is often accomplished through tax evasion & avoidance. This is particularly relevant in the perspective of developing countries.
- ❖ **Similar provisions contained in OECD and UN MCs**
  - A CS cannot be expected to provide confidential financial info to another CS unless it has confidence that the info will not be disclosed to unauthorized persons.
  - A CS can avoid the EOI obligations by showing that the info pertains to communication between an attorney and his client which is protected from disclosure under domestic law.
  - Lack of interest or use in such info cannot, however, form the basis for a CS to not co-operate with the EOI obligations.

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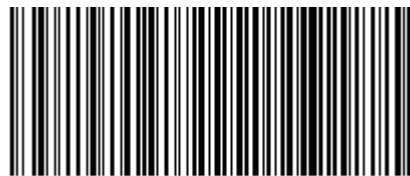
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