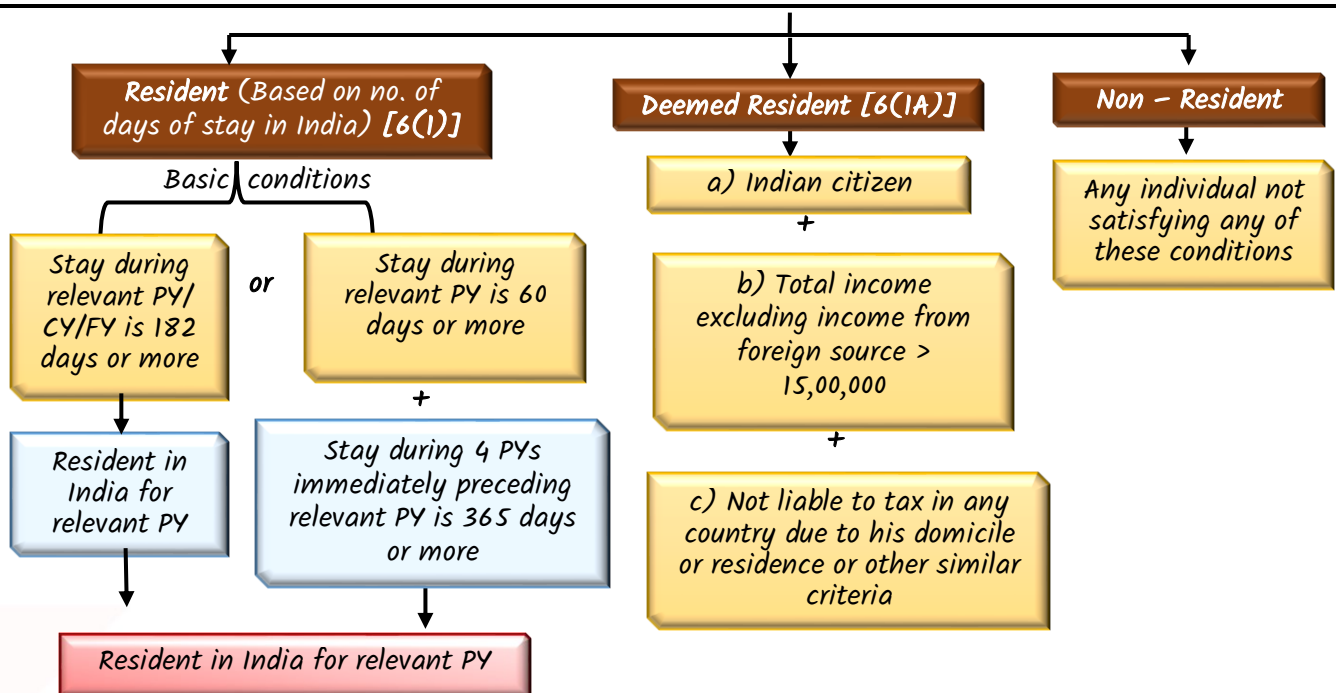


# CHAPTER 1

## RESIDENTIAL STATUS

- The incidence of tax on any assessee depends upon his residential status under the Act.
- The residential status of an assessee must be ascertained with reference to each previous year.
- A person who is resident in one year may become non-resident in another year or vice versa.

### 1. RESIDENTIAL STATUS OF INDIVIDUAL IN A PY [SECTION 6(1) & 6(1A)]



**Note:** An individual is said to resident if he satisfies any one of the basic conditions.

**Note:** Deemed resident u/s 6(1A) is considered only for a person who is not classified as resident u/s 6(1).

**Note:** Under section 6(1A), stay of individual in India is irrelevant.

#### Important Notes:

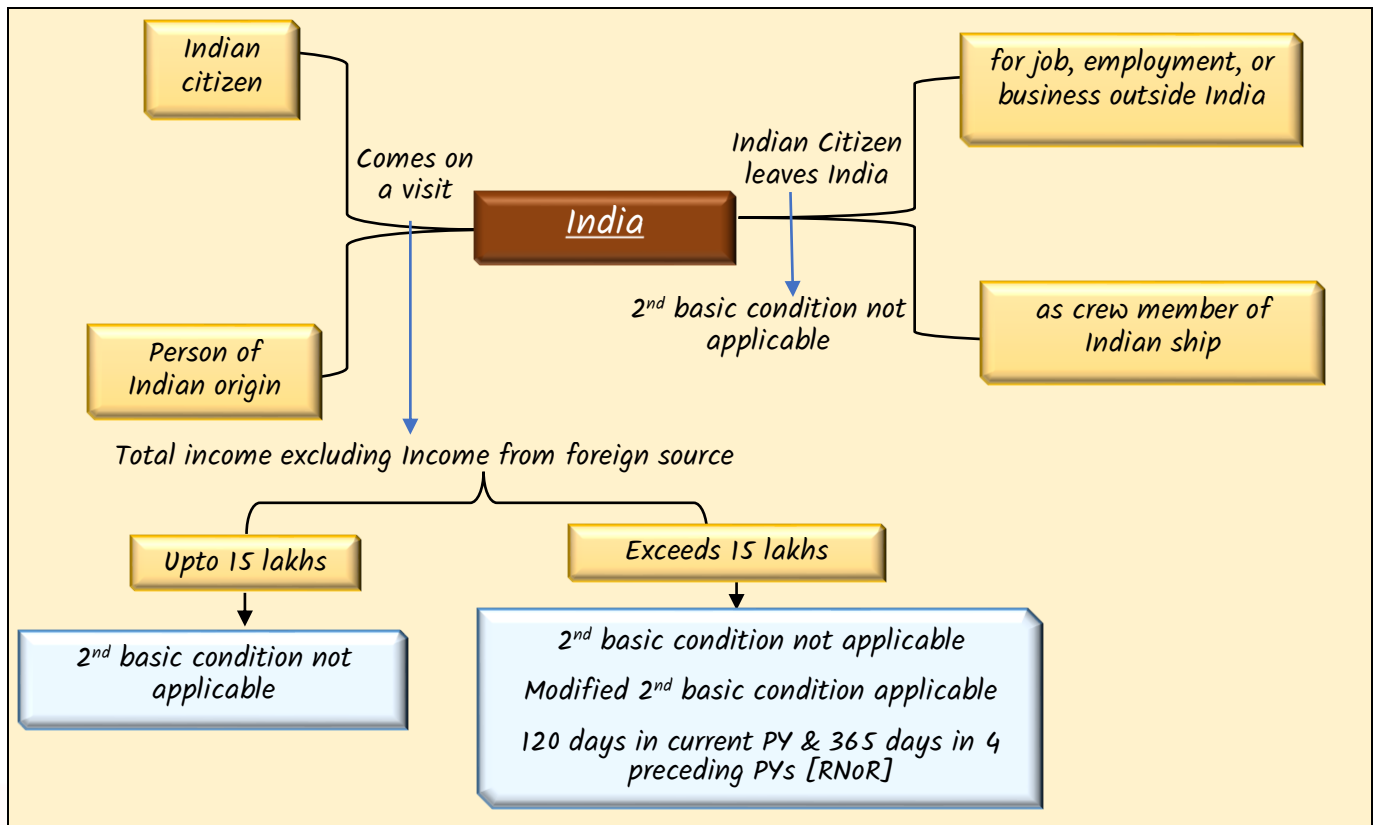
- 1) Total no. of days in PY 2023-24 is 366 days.
- 2) Stay in India need not be continuous.

- 3) Stay in India includes stay in Indian territorial waters (12 nautical miles from coastline).
- 4) Generally, both date of arrival as well as date of departure is included while calculating no. of days of stay.  
If question specifies time as well, each 24 hours shall be treated as 1 day and extra hours are ignored.  
So, 26 hours → 1 day; 23 hours → 0 day.
- 5) Special attention should be paid on “Left India for first time” or “arrived in India for first time”.
- 6) Residential status is not directly dependent on place of birth or citizenship.
- 7) If an Individual is classified as NR; no need to check for ROR and RNOR.

**Ques – What is Indian Income/ Total Income excluding Income from foreign source?**

- a) Income accrued in India or deemed to be accrued in India; &
- b) Income accrued outside India but from business controlled from India or profession set up in India.

**1.1. SECOND BASIC CONDITION OF SEC 6(1) NOT APPLICABLE IN FOLLOWING CASES: RELAXATION**



**Note:** If a person of Indian origin or an Indian citizen comes on a visit to India and his total income excluding income from foreign source exceeds 15 lakhs, 2<sup>nd</sup> basic condition is not applicable.

However, such person shall be considered as Resident if he

- 1) has stayed in India during relevant PY for 182 days or more; or
- 2) has stayed in India during relevant PY for 120 days or more & 365 days or more in 4 PYs immediately preceding relevant PY.

**Illustrations:**

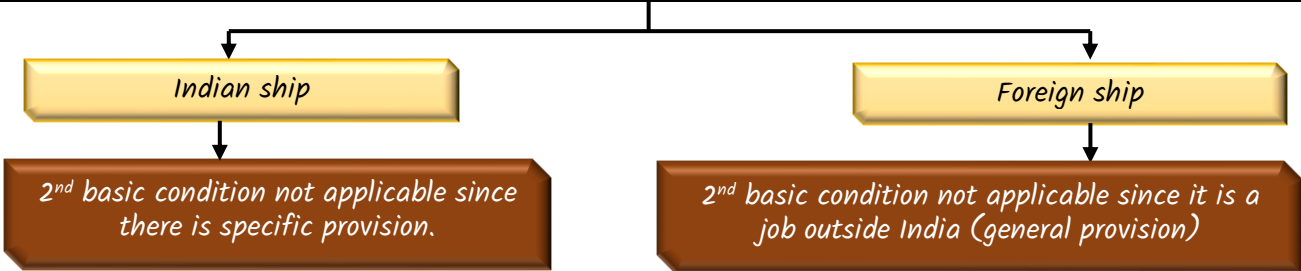
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|--|--|
| 1) Person of Indian origin leaving India for job | No relaxation i.e., 2 <sup>nd</sup> basic condition applicable |
|--|--|

**Illustrations:**

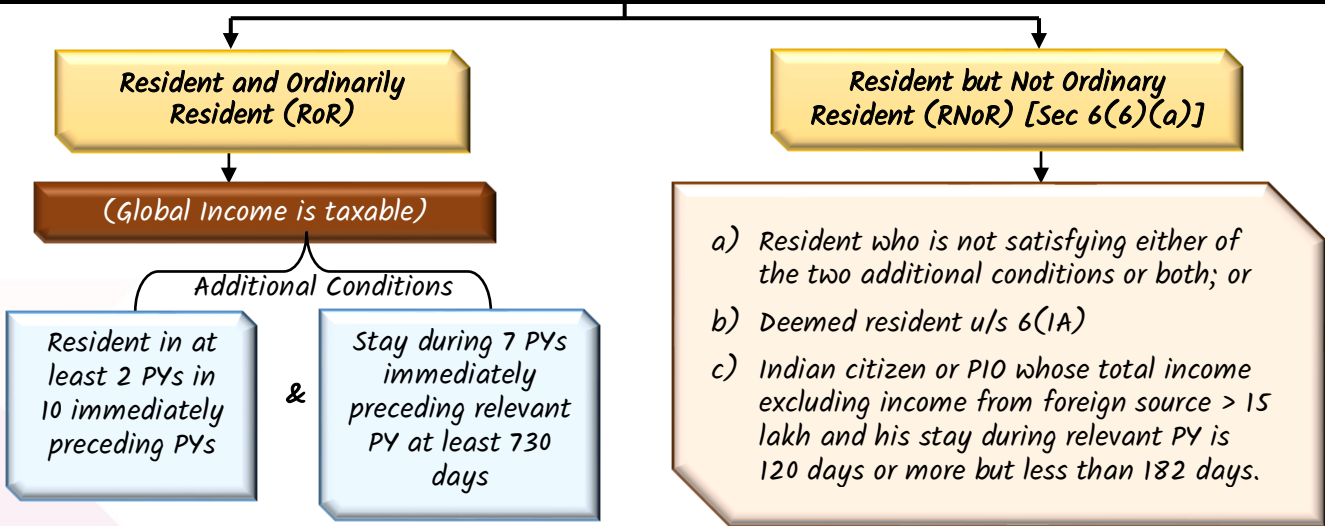
2) Person of Indian origin leaving India for tourism	No relaxation i.e., 2 <sup>nd</sup> basic condition applicable
3) Indian citizen leaving India for job	Relaxation i.e., 2 <sup>nd</sup> basic condition not applicable
4) Indian citizen leaving India for tourism	No relaxation i.e., 2 <sup>nd</sup> basic condition applicable
5) Person of Indian origin coming to India [Indian Income 15 lakhs]	2 <sup>nd</sup> basic condition not applicable
6) Person of Indian origin coming to India [Indian Income 16 lakhs]	2 <sup>nd</sup> basic condition not applicable but condition of 120 days + 365 days applicable

<b>Person of Indian Origin</b>	Any person who, either himself or whose either of parents or either of grandparents, were born in undivided India i.e. prior to 15 Aug, 1947 i.e. India, Pakistan & Bangladesh	
Born in India	Born in USA	Born in India and acquired foreign citizenship
↓	↓	↓
Indian citizen	<del>Indian citizen</del>	<del>Indian citizen</del> ; as India does not allow dual citizenship

**1.1.1. RESIDENTIAL STATUS OF AN INDIAN CITIZEN LEAVING INDIA AS A CREW MEMBER OF**



**1.2 INDIAN RESIDENT**



**1.3. DETERMINING PERIOD OF STAY IN INDIA FOR AN INDIAN CITIZEN, BEING CREW MEMBER OF FOREIGN BOUND SHIP, IN RESPECT OF ELIGIBLE VOYAGE**

Period to be excluded

Period commencing from		Period ending on
------------------------	--	------------------

Date entered into the Continuous Discharge Certificate in respect of joining the ship for the eligible voyage

And

Date entered into the Continuous Discharge Certificate in respect of signing off from the ship in respect of such voyage.

**Note:** Second basic condition is not applicable in this case.

**Note:** CDC is like and identity card and is an official and legal record of Sailor's sea experience.

## 2. RESIDENTIAL STATUS OF HUF (SECTION 6(2))

Under Income tax Act, HUF is treated as separate legal entity and is liable to tax.

**HUF** → Resident in India if control and management\* is wholly or partly in India.

**Control and management\*** of a business is said to be situated at a place where the head and brain of the adventure is situated. It means central control & management and not carrying out day to day activities. Place of control may be different from place of running the business.

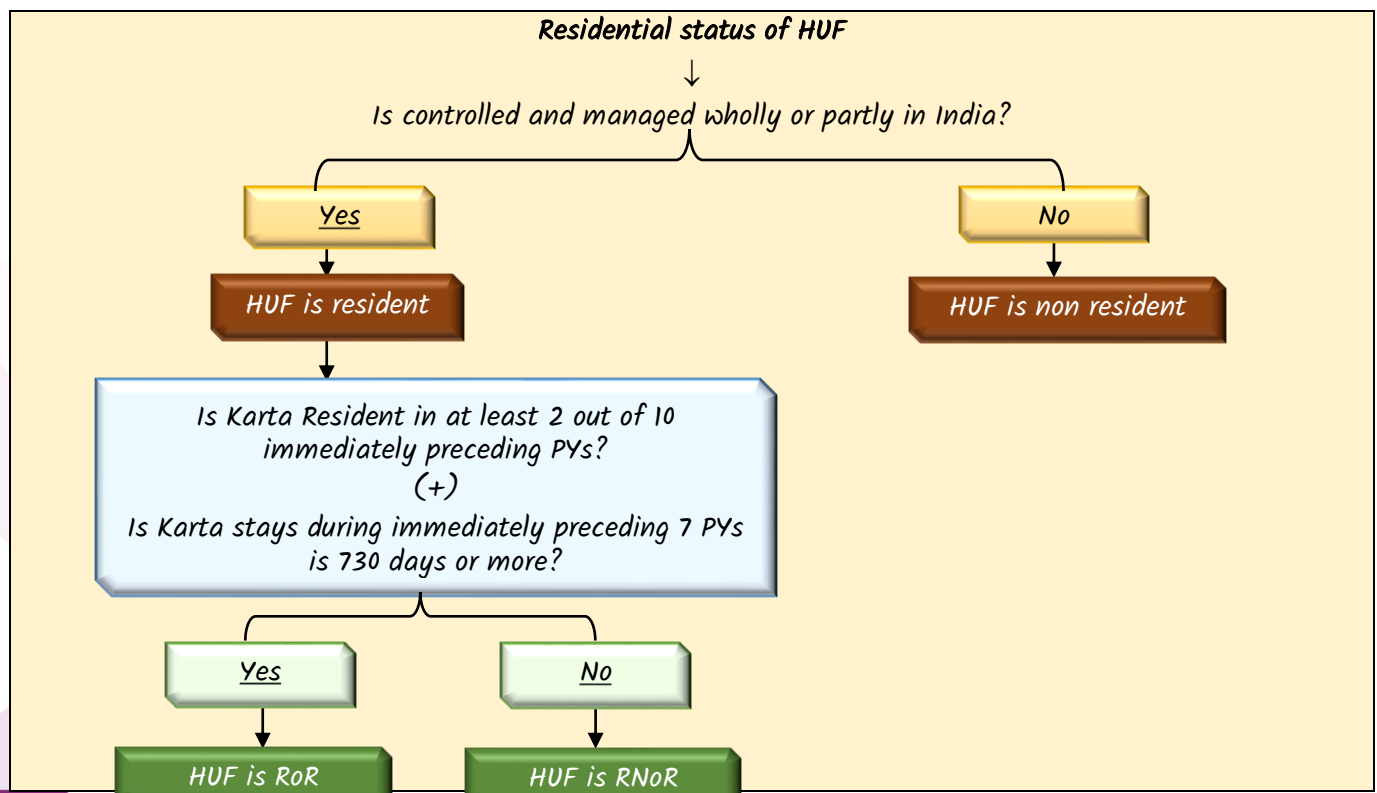
\*Either Question specifies the country where control & management lies, else its determined on the basis of stay of Karta/ manager in India (Actual / De-facto / end of PY).

For HUF to be resident in India, no limit on no. of days karta should stay in India. What matters is that policy decisions should be taken in India (wholly or partly).

**Illustration:** Shyam, karta of Shyam HUF, visits India for 40 days in PY 2023-24

- Shyam is Non-resident in his Individual capacity.
- Shyam HUF is Resident in India because it is presumed that during his stay of 40 days in India, he took business decision for HUF in India.
- However, if Q specifies that all policy decisions are taken outside India, HUF shall be Non-resident.

### 2.1. HOW TO DETERMINE WHETHER A RESIDENT HUF IS RoR OR RNoR? – SAME AS KARTA



**Note:** If HUF is resident and Karta is Non-resident; HUF shall be treated as NoR

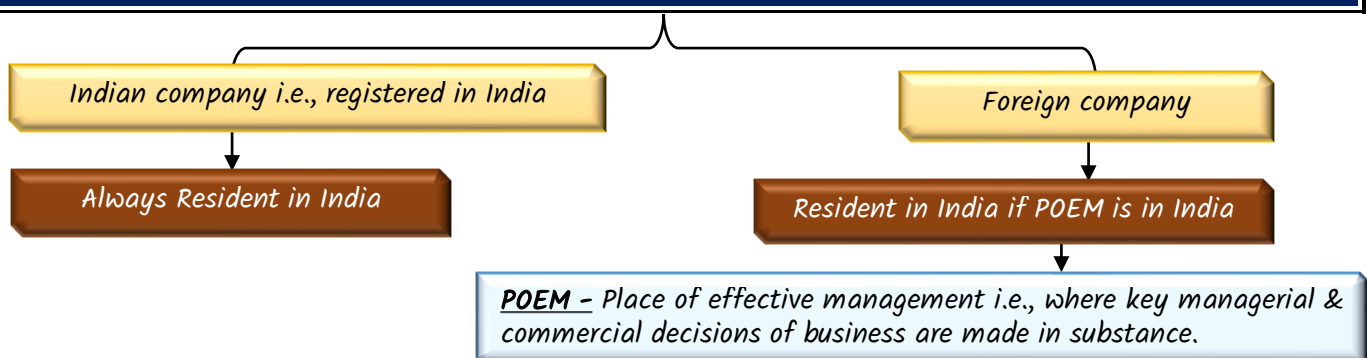
### 3. RESIDENTIAL STATUS OF FIRM/ LLP/ AOP/ BOI

[SEC 6(2)]

- They are considered Resident in India if control and management\* is wholly or partly in India.
- \* Either Question specifies the country where control & management lies, else it is decided on the basis of stay of active partners/ principal officer in India i.e., where policy decisions are made.
- Note:** Residential status of Partners/ Members is immaterial while determining the residential status of a Firm/ AOP and BOI.

a) LLP → Limited Liability Partnership    b) AOP → Association of Persons    c) BOI → Body of Individuals

### 4. RESIDENTIAL STATUS OF COMPANY [SECTION 6(3)]



### 5. RESIDENTIAL STATUS OF EVERY OTHER PERSON

[SEC 6(4)]

- Other Person include Local Authority and Artificial Juridical Person.
- They are Resident in India if control and management\* is wholly or partly in India.
- Artificial juridical person refers to a person who is not natural person but has separate legal entity in the eyes of law. E.g. Deities.

# CHAPTER 2

## SCOPE OF TOTAL INCOME

### 1. SCOPE OF TOTAL INCOME / INCIDENCE OF TAX [SECTION 5]

Income accrue/ arise in India*	Income accrue/ arise outside India								
Source of Income is in India				Received in India**			Received outside India		
	RoR	RNoR	NR	RoR	RNoR	NR	RoR	RNoR	NR
✓	✓	✓	✓	✓	✓	✓	✓	✓	*
* Includes deemed accrue / arise in India. [Section 9] ** Includes deemed received in India [Section 7] ✓ → Taxable in India * → Not Taxable in India							a) Business controlled from India or b) Profession set up in India ✓	Other income like Salary, Rent, Capital gains Interest, Dividends, etc. *	
<b>Note:</b> Unless otherwise mentioned, always assume that Resident means RoR.									
<b>Note:</b> Unless otherwise mentioned, always assume that income is received at the place where it is accrued.									
<b>Note:</b> Investment is not treated a business activity unless mentioned in question.									
<b>Note:</b> While solving question → First classify the Income into one of 3 criteria & then decide taxability. If an Income is classified in one category, no need to check further.									

### 1.1. TAXABILITY OF INCOMES UNDER DIFFERENT RESIDENTIAL STATUS [SECTION 5]

Section 5 provides the scope of total income in terms of the residential status of the Assessee because incidence of tax on any person depends upon his residential status in India.

**Resident and Ordinarily Resident [ROR]**  
 As per section 5(1), a ROR is chargeable to tax in India in respect of following Incomes:  
 a) Income accrue/arise or deemed accrue/arise in India  
 b) Income Received or deemed Received in India  
 c) Income accrue/arise outside India.

Thus, global income of ROR is taxable in India.

**Resident but Not Ordinarily Resident [NOR]**

As per section 5(1), a NOR is chargeable to tax in India in respect of following incomes:

- a) Income accrue/arise or deemed accrue/arise in India
- b) Income Received or deemed Received in India
- c) Income accrue/arise outside India if such income is from a business controlled from India or profession set up in India.

**Example:** Business in Germany controlled from India or Profession in Dubai which was set up in India.

**Non-Resident [NR]**

As per section 5(2), Income of a NR is chargeable to tax in India in respect of following incomes:

- a) Income accrue/arise or deemed accrue/arise in India
- b) Income Received or deemed Received in India.

**2. INCOME RECEIVED IN INDIA**

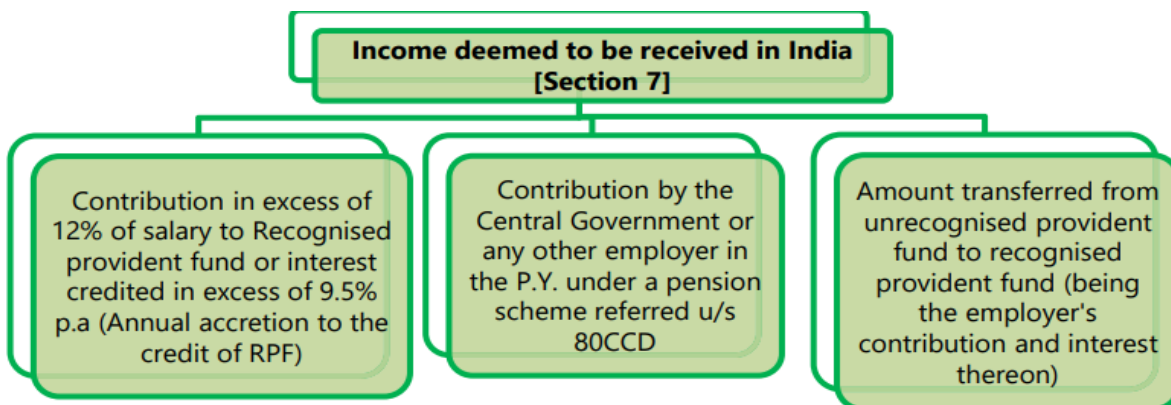
It means first time when money comes under the control of Assessee.

Subsequent remittance/ transmission of an Income already received outside India shall not be treated as 'received in India'.

**Illustrations: Mr. Tata has one house in USA and the rent deposited**

a)	In US bank and subsequently transferred to mother in India →	Income received _____ India
b)	In Indian branch of a Bank in USA →	Income received _____ India
c)	In Indian Bank or directly to Mr. Tata in India →	Income received _____ India

**2.1. INCOME DEEMED TO BE RECEIVED IN INDIA [SECTION 7]**



**Examples:**

Mr. X is getting a salary of 60,000 per month. Both employer & employee have contributed 13% of salary towards RPF during PY 2023-24. Interest of 50,000 is credited to RPF A/c during PY 2023-24 @ 10%.

In this case, amount in excess of 12% of salary contributed by the employer would be taxable in the hands of Mr. X  $(60,000 * 1% * 12 \text{ months}) = \text{INR } 7,200$

Further interest in excess of 9.5% shall be taxable as Salary  $[(50,000 / 10%) * 0.5\%] = \text{INR } 2,500$

Deduction available u/s 80C w.r.t. employee's contribution shall be  $(60,000 * 12 \text{ months} * 13\%) = 93,600$ .

### 3. INCOME DEEMED TO ACCRUE / ARISE IN INDIA [SECTION 9]

Accrue refers to the right to receive income/ source of income.

Due refers to the right to enforce payment of the same.

#### Examples

- a) Interest on Govt. securities is usually payable on specified dates, say 1<sup>st</sup> January & 1<sup>st</sup> July. In such cases, interest would be said to accrue from 1<sup>st</sup> July to 31<sup>st</sup> Dec and on 1<sup>st</sup> January, it will fall due for payment.
- b) Salary for work done in December will accrue throughout the month, day to day, but will become due on the date salary bill being passed on 31<sup>st</sup> December or 1<sup>st</sup> January.

**Note:** Income which has been taxed on due basis cannot be chargeable to tax again on receipt basis.

**An income is deemed to accrue/arise in India if the source of that income is in India. Such income is taxable under all the three residential status.**

#### It Includes:

#### (i) Income from Property, Asset or source of Income in India

- a) Rental Income
- b) Gain on transfer of property/asset in India

Shall always deemed to accrue/arise in India.

**Note:** Asset may be movable, immovable, tangible or intangible.

**Note:** Income from Transfer of Capital Asset situated in India shall be deemed to accrue/arise in India irrespective of whether Place of registration of the document of transfer is in India or not.

#### Examples:

- i) Hire charges/ rent paid outside India for use of the machinery or buildings situated in India is also deemed to accrue/arise in India.
- ii) Deposits with an Indian company for which interest is received outside India etc.
- iii) Mr. X, resident in New York, USA, has a house property situated in India which has been given on rent by him. Rent receivable/ received by Mr. X would be taxable in India whether such rent is received by him in India or outside India as the house property is situated in India.

**Note:** An asset, being share or Interest in a Company incorporated outside India, shall be deemed to be located in India if such share/ Interest derives its value substantially from asset in India.

Thus, any gain earned from transfer of such interest share even outside India shall be deemed to accrue/arise in India.

#### (ii) Dividend paid by an Indian Company outside India

Always deemed to accrue/arise in India.

**Special case: Income from Foreign Company which derives its value from India received by NR**

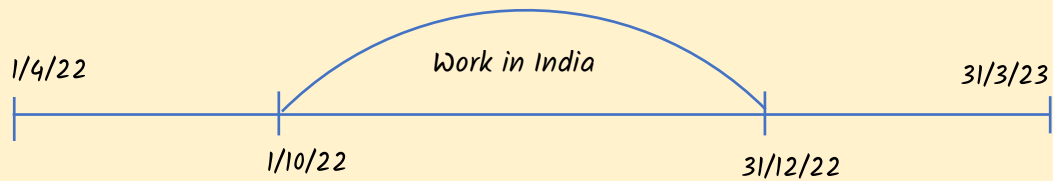
Gain on transfer of shares in such company by NR → Deemed Accrue/Arise in India

Dividend from such company received by NR → Not Deemed Accrue/Arise in India



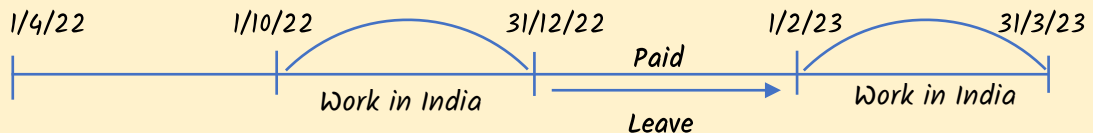
**(iii) Income from Salaries earned for work done in India**

**Case I:**



Salary of NR for Oct- Dec. shall be deemed to accrue /arise in India.

**Case II:**



Salary of NR for Oct 2023 to March 2024 shall be deemed to accrue/ arise in India.

**Points to Note:**

- a) Salary for leave period is deemed to accrue in India if leave is preceded & followed by work in India.
- b) Even if a NR gets Income after retirement, due to work done in India → Deemed A/A in India.
- c) Need to consider standard deduction of upto 50,000 u/s 16(ia).

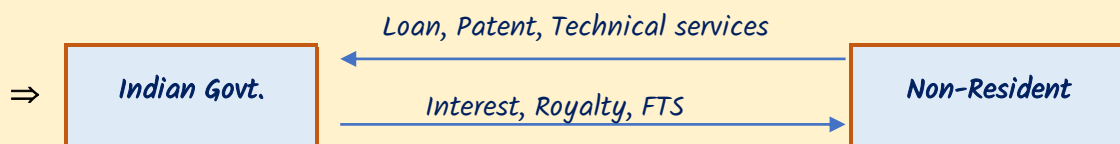
**(iv) Salary payable by Government of India to Indian Citizen for services rendered outside India**

➤ Always deemed to Accrue/ Arise in India irrespective of place of posting.

**Note:** However, all allowance & perquisites to Indian citizen who is Govt. employee outside India is exempt u/s 10(7).

**(v) Taxability of Income of Non-Resident in the form of Interest, Royalty, FTS (Fee for tech. service)**

(a)

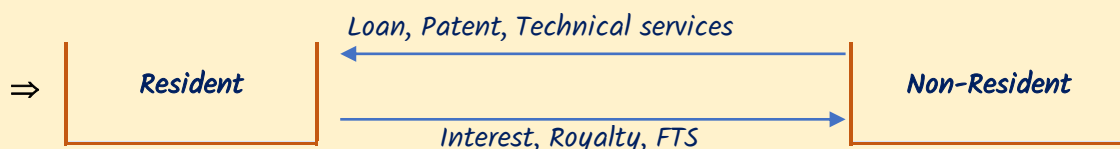


Interest / Royalty / FTS received by a NR from Indian Government outside India is always deemed to accrue/ arise in India irrespective of use of loan/patent/ technical services by Government.

[It is assumed that government always uses loan/patent/ technical services for benefit of India].

Thus, these incomes earned by NR from Indian Government is always taxable in India.

(b)



Interest / Royalty / FTS received by a NR from Indian Government outside India is deemed to accrue/ arise in India in all cases except the following:

- Where Loan, patent or technical service is used
  - a) outside India for Business or profession; or
  - b) outside India for earning any income from any source outside India.

**Examples:**

1. Adani (R) borrowed from John (NR) & invested the money in Australian business.  
Interest earned by NR will \_\_\_\_\_ deemed to accrue/ arise in India.
2. Adani (R) borrowed from John (NR) & invested the money in bonds/house property in India.  
Interest/Rent earned by NR will \_\_\_\_\_ deemed to accrue/ arise in India.
3. Adani (R) borrowed from John (NR) & invested the money in business in India.  
Interest earned by NR will \_\_\_\_\_ deemed to accrue/ arise in India.
4. Adani (R) borrowed from John (NR) & invested the money in building house in India.  
Interest earned by NR will \_\_\_\_\_ deemed to accrue/ arise in India.
5. Adani (R) borrowed from John (NR) & invested money in building own house outside India.  
Interest earned by NR will \_\_\_\_\_ deemed to accrue/ arise in India.
6. Adani (R) borrowed from John (NR) and invested the money in bonds outside India.  
Interest earned by NR will \_\_\_\_\_ deemed to accrue/ arise in India.

(c)



If a Non-Resident takes loan from another Non-Resident, Interest received by lender of loan from receiver of loan shall be deemed to accrue/arise in India if

- such Loan is used in India for
  - a) business/ profession.

**Example**

If a non-resident 'A' borrows money from a non-resident 'B' and invests the same in setting up a factory in India, interest earned by 'B' will be deemed to accrue or arise in India.

If a non-resident 'A' borrows money from a non-resident 'B' and invests the same in shares of an Indian company, interest payable by 'A' to 'B' will not be deemed to accrue or arise in India.

If a Non-Resident takes patent or technical service from another Non-Resident, Royalty/ FTS received by NR shall be deemed to accrue/arise in India if

- Such Patent/ Technical service is used in India for
  - a) business/ profession; or
  - b) for earning any income from any source in India.

**Note:** Royalty includes Consideration received for

- a) Transfer of all or any right related to patent, invention, design, formula or process or trademark etc; or
- b) sale, distribution or exhibition of cinematographic films
- c) use or right to use computer software.

However, lumpsum royalty paid by a resident to a Non-Resident in respect of a computer software supplied along with hardware under Govt. policy shall not be deemed to accrue/ arise in India.

**Note:** FTS means consideration for rendering of any managerial, technical or consultancy services but does not include salary.

**Place of Rendering Service v/s Place of Utilization of Service**

While determining taxability of Interest/ Royalty and FTS, Place of utilization of service is relevant.

Place of utilization of service determines the place where income accrues/ arises.

Territorial nexus i.e., existence of place of business or office of NR in India or place of rendering service is not relevant.

Thus, these incomes of a Non-Resident are taxable in India if it accrues/ arise in India irrespective of territorial nexus.

If question is silent about place of utilization and only mentions place of rendering of service, assume it to be place of utilization as well.

**(vi) Any sum of money paid by a Resident Indian to a Non-Resident or to a NoR [Section 9(1)(viii)]**

Shall be deemed to accrue or arise in India if the same is chargeable to tax u/s 56(2)(x) i.e., if the aggregate of such sum received by the non-corporate non-resident or foreign company exceeds INR 50,000.

This deeming provision applies to only sum of money paid outside India to a NR or to a RNOR, and not in respect of other property, movable or immovable.

**(vii) Business Connection in India [Sec 9]**

Any income of a Non-Resident, directly or indirectly, through any business connection in India shall be deemed to accrue/arise in India and shall be taxable in India.

‘Business connection’ means any business activity carried on by NR or foreign company in India which yields profit and gain.

Thus, Income of a NR attributable to the operations carried out in India shall be taxable in India.

A NR having business outside India may establish Business connection in India by way of having

- a) Branch in India or
- b) Factory in India; or
- c) Subsidiary in India; or
- d) Agent in India working wholly or mainly on behalf of NR.

Agent working on behalf of NR [directly or indirectly] shall be considered to establish B.C. in India if he

- a) Negotiates and finalizes terms of sales
- b) Habitually secures orders
- c) Maintains stock for delivery

Wholly or mainly works on behalf of NR.  
Independent agents working on behalf of NR does not constitute business connection.

**Rohan (R) acting on behalf of John [NR] secures Order for**

John, Non-Resident	Mark, Non-Resident
Business connection is established	Business connection is established if <ul style="list-style-type: none"> <li>➤ John is controlled by Mark or</li> <li>➤ Mark is controlled by John or</li> <li>➤ Mark and John are controlled by a third party.</li> </ul>

**Significant Economic Presence (SEP) [Explanation 2A to section 9 (1)(i)]**

To make New-age Digital Companies pay their fair share of Tax in India, concept of SEP was introduced.

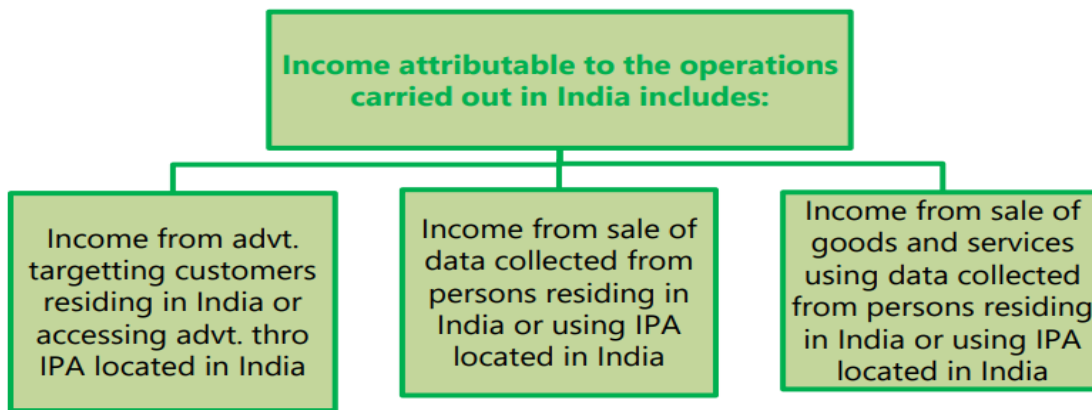
SEP of a NR in India shall also constitute business connection in India irrespective of whether

- a) Agreement for such transactions or activities is entered in India or not;
- b) Non-resident has a residence or place of business in India or not; or
- c) Non-resident renders services in India or not;

**Significant Economic Presence means-**

	Nature of Transaction	Condition	Examples
(a)	Transaction in respect of any goods, services or property carried out by a non-resident with any person in India including provision of download of data or software in India.	Aggregate of payments from such transactions during the previous year exceed 2 crores	Video editing softwares, Online Games, OTT platforms like Netflix, Canva etc.
(b)	Systematic and continuous soliciting of business activities or engaging in interaction with users of India.	Number of users should be at least 3 lakhs	Google, Social Media companies like Meta, Twitter etc.

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



**Exclusions i.e. following shall not be treated as Business connection & Income of NR shall not be taxable:**

- a) Collection of news/views by Non-Resident for transmission outside India.
- b) Shooting of cinematographic films in India by Non-Resident provided it is shown outside India.
- c) Purchase of goods by Non-Resident in India for the purpose of export.
- d) Display of uncut rough diamonds in special notified zones by foreign mining companies without other activities like sale.

#### 4. MISCELLANEOUS

i) Non Resident Seafarer	<p>Salary for service rendered outside India</p> <p>→</p> <p>Crediting such salary is not treated as Receipt in India &amp; is Not taxable if amount is received in</p>	<p>Non-Resident External A/c.</p> <p>As per RBI Guidelines</p>
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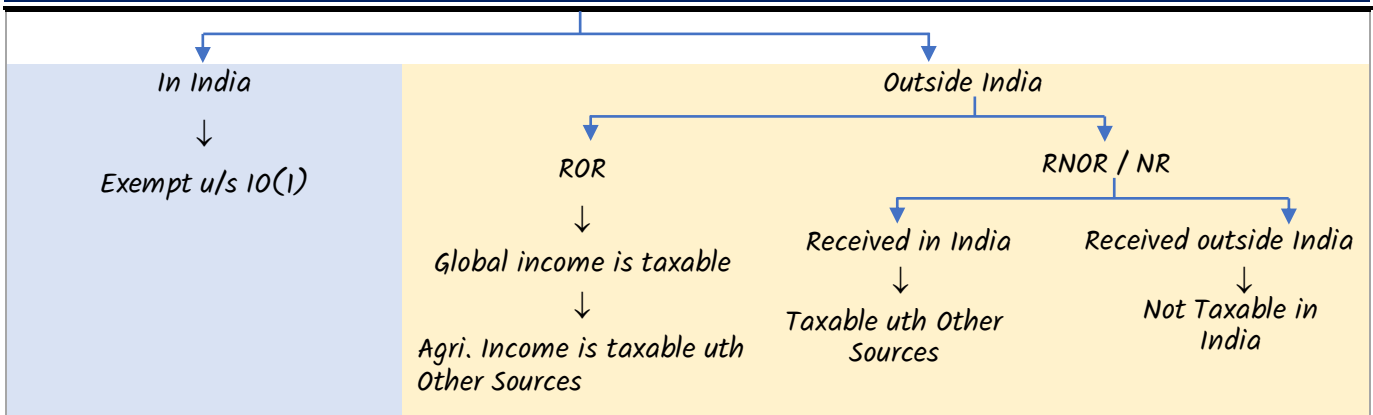
ii) Common relief to all Account holders of NRE A/c → Interest earned on NRE A/c is exempt u/s 10(4).

iii) Past foreign untaxed profit brought to India	<p>→ Not taxable under any status in current FY/PY</p> <p><del>ROR</del>   <del>RNOR</del>   <del>NR</del></p>
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# CHAPTER 3

## AGRICULTURAL INCOME

### 1. TAXABILITY OF AGRICULTURAL INCOME ACCRUING/ ARISING



### 2. PARTIAL INTEGRATION/ AGGREGATION METHOD

#### Illustration:

Mr. A, Resident having following income

PGBP	12,00,000
Agricultural Income	3,00,000 → Exempt u/s 10(1)

Refer discussions in Class:

#### Concept

Agricultural Income in India is exempt u/s 10(1).

However, if an Assessee has agricultural as well as non-agricultural income, partial integration/ aggregation method is applied.

#### Objective of Partial Integration:

To ensure that exemption from agricultural income is allowed from lowest slab.

Step 1: Tax on Aggregate Income [Agricultural + Non- Agricultural income]	XXX
Step 2: Tax on [Agricultural Income + Basic Exemption]	XXX
Tax on Non- Agricultural Income [I -II]	XXX
(-) Rebate u/s 87A or	XX
(+) Surcharge	XX

	XXX
(+) HEC @ 4%	XX
<b>Tax Liability</b>	XXX
<p><b>Note:</b> Whether surcharge on rebate u/s 87A is applicable or not depends on Non- Agricultural Income because agricultural income is an exempt income which does not form part of Total Income. Hence, never use aggregate income for determining applicability of Rebate/ surcharge.</p>	

### Illustration

Ram has PGBP of 5 lakh and agricultural income of 4 lakh. Ram's age is 60 years. Determine tax liability.

### Solution:

A.	Tax on [Agricultural Income + Non- Agricultural Income]	
B.	Tax on [Agricultural Income + Basic Exemption]	
	Tax on Non – Agricultural Income [A-B]	
	Add: HEC @ 4%	

### 2.1. CASES WHERE PARTIAL INTEGRATION/AGGREGATION METHOD IS NOT REQUIRED

a) Where income of Assessee is taxable at flat rate i.e. there is no slab/ basic exemption. Hence, no need of partial integration. Example: Company, Firm/LLP etc.

In such cases:

- Non-agricultural income – Taxable at flat rate
- Agricultural income – Exempt u/s 10(1)

b) Where non – agricultural income is upto basic exemption limit.

In such cases:

- Non-agricultural income – Exempt due to basic exemption
- Agricultural income – Exempt u/s 10(1)

c) Agricultural Income is upto 5000 during relevant PY.

So, we can say, partial integration is needed when all 3 conditions are fulfilled:

- a. Income is taxable at Slab +
- b. Non-agricultural income > Basic exemption limit
- c. Agricultural income > 5000.

### 3. WHAT IS AGRICULTURAL INCOME?

<p>Income from Agricultural operations in India.</p> <ul style="list-style-type: none"> <li>➤ Agriculture Not defined in the Act but as per S.C. ruling in case of Raja Benoy Kumar Saha vs CIT: It means undertaking</li> </ul> <p style="text-align: center;">↓</p> <p>a) Basic operations like Ploughing, Seeding, Planting etc.</p> <p style="text-align: center;">&amp;</p> <p>b) Subsequent operations like Watering, Weeding, Cultivation, Harvesting, Insecticide, etc.</p> <p style="text-align: center;">↓</p> <p>If both operations are done by Assessee, Income shall be considered Agri. Income even if produce is other than food grain.</p> <p>Example: Tea, coffee, Spices, jute, cotton, tobacco etc.</p>	<p>Rent or revenue from letting out Agricultural Land</p> <ul style="list-style-type: none"> <li>➤ in India</li> <li>➤ for agricultural purpose.</li> </ul> <p style="text-align: center;">↓</p> <p>May be in cash or in kind</p> <p style="text-align: center;">↓</p> <p>Ownership is not necessary i.e. rent from sub-letting agricultural Land is also considered Agricultural Income.</p>	<p>Income from farm building in Rural area or urban area classified as Agri. land</p> <ul style="list-style-type: none"> <li>➤ used for storage of agricultural produce/ equipment; or</li> <li>➤ Dwelling/ residence of farmers [in or near agricultural land]</li> </ul> <p style="text-align: center;">↓</p> <p>Income shall be calculated as per provisions of Income from House Property</p> <p style="text-align: center;">↓</p> <p>Such income shall be considered agricultural income.</p>
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- Income from letting out farm house → Income from HP
- Income from Letting out farm building → Agricultural Income.
- Income from sale of seedling and sapling grown in Nursery → Always Agricultural Income irrespective of Basic and subsequent operations.

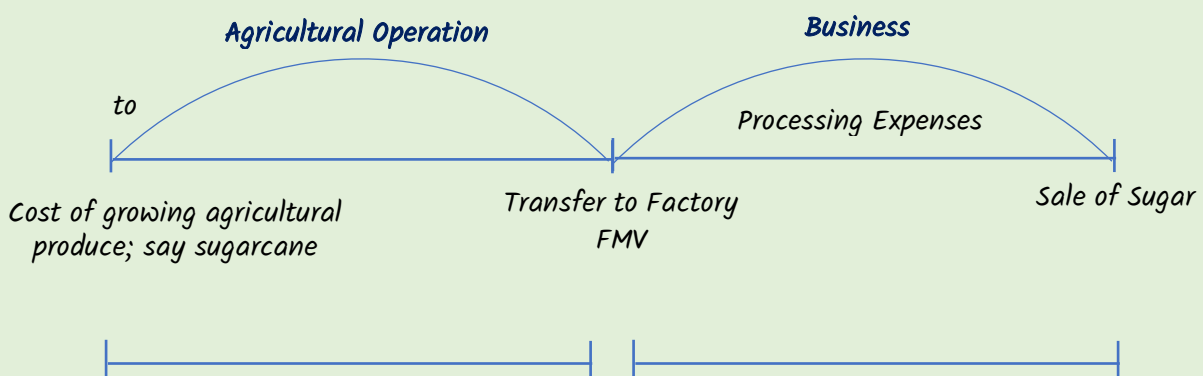
**Note:** Marketing process ordinarily applied to make agricultural produce fit for sale in the market like cleaning, drying, thrashing, grading, waxing etc.

- Income shall continue to be Agricultural Income .

But if these processes change essential character of agricultural produce → Taxable uth PGDP.

### 4. BIFURCATION OF INCOME BETWEEN AGRICULTURAL INCOME AND BUSINESS INCOME

Case: Kishan, a sugar factory owner is also engaged in cultivation of sugarcane.



**Agricultural Income** → FMV on date of transfer – Cost of growing agricultural produce

=

**Business Income** → Sale price of sugar – Processing expense – FMV of agricultural produce

=

### 5. COMPOSITE AGRICULTURAL INCOME (WHERE AGRI. & BUSINESS ACTIVITIES ARE NOT SEGREGATED)

Tea	Coffee		Rubber
Growing & Manufacturing	Growing & Manufacturing	Growing & Curing	Growing & Manufacturing
↓	↓	↓	↓
Agricultural Income → 60%	60%	75%	65%
Business Income → 40%	40%	25%	35%

In case Tea, Coffee & Rubber is grown and manufactured outside India, entire Income is taxable as PGBP.

**Note:** Subsidy received by an Assessee carrying on the business of growing and manufacturing tea, rubber, coffee, or other notified commodity in India from or through concerned Board is exempt.

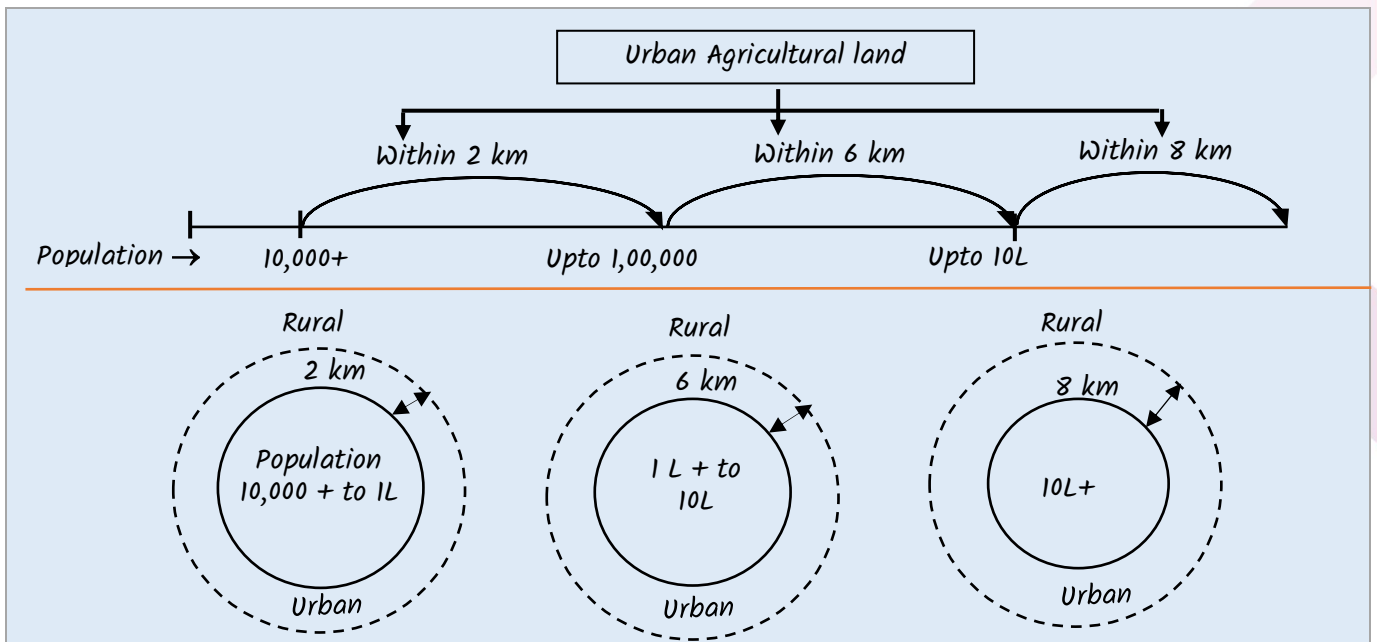
### 6. MISCELLANEOUS

Following are Not Agricultural Income	Following are Agricultural Income
i) Dividend Received from a company engaged in Agricultural business → Taxable uth IFOS	i) Income from sale of Seedling/ Sapling in Nursery
ii) Salary from Agricultural University → Taxable uth Income from Salary	ii) Income from growing of flowers and creepers.
iii) Breeding & Livestock like Poultry farming Annual → Taxable uth PGBP	iii) Income from growing of bamboo.
iv) Leasing of Agricultural land for Non-Agricultural purpose → Taxable uth IFOS	iv) Compensation form Insurance Company on account of damage to crops
v) Sale of Agricultural land ➤ Rural Agricultural land → Not taxable ➤ Urban Agri. land → Taxable uth Capital Gains	v) Remuneration / salary or Interest on capital received by partner from Firm carrying on Agricultural business.
vi) Sale of Trees etc. w/o basic & subsequent operations → Taxable uth IFOS	vi) Rent received from a land used for grazing of cattle required for agricultural Activities
vii) Interest on Arrears of Rent of Agricultural land → Taxable uth IFOS	
viii) Dairy Farming → Taxable uth PGBP	

**Note:** As seen above, non-agricultural income does not become agricultural merely on account of its indirect connection with the land.



Classification of Land into Rural and Urban



S. No.	Area	Shortest aerial distance from the local limits of a municipality	Population according to the last census	Is land situated in this area rural agricultural land?
(i)	A.	1 km	9,000	
(ii)	B.	1.5 kms	12,000	
(iii)	C.	2 kms	11,00,000	
(iv)	D.	3 kms	80,000	
(v)	E.	4 kms	3,00,000	
(vi)	F.	5 kms	12,00,000	
(vii)	G.	6 kms	8,000	
(viii)	H.	7 kms	4,00,000	
(ix)	I.	8 kms	10,50,000	
(x)	J.	9 kms	15,00,000	

## CHAPTER 4

# INCOME FROM SALARY

### I. PROFORMA FOR COMPUTATION OF "INCOME FROM SALARY" AS PER DEFAULT TAX REGIME U/S 115BAC

S No.	Particulars	Amount
(i)	Basic Salary	
(ii)	Fees/ Commission	
(iii)	Bonus	
(iv)	<b>Allowances:</b>	
	a) Dearness Allowance – fully taxable	
	b) House Rent Allowance (HRA) – fully taxable	
	c) Children Education Allowance – fully taxable	
	d) Children Hostel Allowance – fully taxable	
	e) Transport allowance Less: INR 3,200 per month in case of blind/ deaf and dumb/ orthopedically handicapped employee only	
	f) Entertainment Allowance – fully taxable	
	g) Other Allowances inc. overtime allowance, city compensatory allowance etc. – taxable	
(v)	<b>Taxable Perquisites</b>	
	a) Valuation of rent-free accommodation provided to employee	
	b) Value of any accommodation provided to the employee at a concessional rate	
	1) <u>Where the accommodation is provided by Govt. to its employees</u> License fee determined by the Govt. Less: Rent actually paid by the employer	
	11) <u>Where the accommodation is provided by any other employer</u> i) <u>If accommodation is owned by the employer</u> Cities having population > 25 lakh = 15% of salary in respect of the period of occupation (-) rent recovered from employee Cities having population >10 lakh < 25 lakh	

S No.	Particulars		Amount
	<p>= 10% of salary in respect of the period of occupation (-) rent recovered from employee</p> <p><b>In other cities</b></p> <p>= 7.5% of salary in respect of the period of occupation (-) rent recovered from employee</p> <p>ii) <u>If accommodation is taken on lease/rent by the employer</u> Lower of lease rental paid/payable by employer (or) 15% of salary Less: Rent recovered from the employee</p>		
	<p><b>c) Obligation of employee discharged by employer:</b> For e.g., Professional tax paid by the employer</p>		
	<p><b>d) Any sum payable by the employer to effect an assurance on the life of the employee or to effect a contract for annuity:</b> Actual expenditure incurred by the employer</p>		
	<p><b>e) Amount or aggregate of amounts of any contribution made</b></p> <ul style="list-style-type: none"> <li>- in a recognised provident fund,</li> <li>- in NPS referred to in section 80CCD(1)</li> <li>- in an approved superannuation fund</li> </ul> <p>by the employer to the account of the Assessee, to the extent it exceeds 7,50,000 in a P.Y.</p>		
	<p><b>f) Annual accretion by way of interest, dividend or any other amount of similar nature during the P.Y. to the balance at the credit of the recognized provident fund or NPS or approved superannuation fund to the extent it relates to the employer's contribution which is included in total income in any P.Y. u/s 17(2)(vii)</b></p>		
	<p><b>g) Value of use of motor car [Refer chart in class]</b></p>		
	<p><b>h) Any other perquisite: For example,</b></p>		
	<p>1) <b>Provision of services of a sweeper, gardener, watchman or personal attendant:</b> Actual cost to employer by way of salary paid or payable for such services (-) amount paid by the employee</p>		
	<p>2) <b>Gas, electricity, or water supplied by employer for household consumption of the employee:</b> Amount paid on that account by the employer to the agency supplying gas etc. (-) amount paid by the employee</p>		
	<p>3) <b>Provision of free or concessional education facilities for any member of employee's household:</b> Sum equal to the expenditure incurred by the employer (-) amount paid or recovered from the employee</p> <p><b>Where educational institution is maintained and owned by employer:</b> Cost of such education in similar institution in or near the locality (-) amount paid or recovered from employee [However, there would be no perquisite if value of benefit per child is upto INR 1,000 p.m.]</p>		

S No.	Particulars	Amount
	<b>Note:</b> Perquisites at (g) & (h) are taxable only in case of specified employees.	
	4) <b>Interest-free or concessional loan exceeding INR 20,000:</b> Interest computed at the rate charged by SBI as on 1 <sup>st</sup> day of relevant P.Y. in respect of loans for similar purposes on the maximum outstanding monthly balance (-) interest actually paid by employee	
	5) <b>Free food and non-alcoholic beverages through paid vouchers</b>	
	6) <b>Value of gift, voucher:</b> Sum equal to the amount of such gift [If value of gift, voucher is below INR 5,000, there would be no perquisite]	
	7) <b>Use of moveable assets</b> [Refer chart in class]	
	8) <b>Transfer of movable assets:</b> Actual cost of asset to employer – cost of normal wear and tear – Amount paid or recovered from employee	
(vi)	<b>Leave travel concession (fully taxable)</b>	
(vii)	<b>Gratuity</b> a) Received during the tenure of employment (fully taxable) b) Received at the time of retirement or otherwise Less: Exempt u/s 10(10)	
(viii)	<b>Uncommuted pension (fully taxable)</b>	
(ix)	<b>Commutated pension (-) Exemption u/s 10(10A)</b>	
(x)	<b>Leave encashment</b> a) Received during the employment (fully taxable) b) Received at the time of retirement or otherwise Less: Exempt u/s 10(10AA)	
(xi)	<b>Voluntary retirement compensation (-) Exempt u/s 10(10C)</b>	
(xii)	<b>Retrenchment compensation etc. (-) Exempt u/s 10(10B)]</b>	
	<b>Gross Salary</b>	
	<b>Less: Deduction under section 16</b> Standard deduction u/s 16(ia) - amount of salary or 50,000, whichever is less	
	<b>Income under the head salary</b>	

**2. PROFORMA FOR COMPUTATION OF “INCOME FROM SALARY” UNDER THE OPTIONAL TAX REGIME (I.E., NORMAL PROVISIONS OF THE ACT)**

S No.	Particulars	Amount
(i)	Basic Salary	
(ii)	Fees/ Commission	
(iii)	Bonus	
(iv)	<b>Allowances:</b>	
	a) <b>Dearness Allowance</b>	

S No.	Particulars	Amount
	<b>b) House Rent Allowance (HRA)</b> Less: Exemption u/s 10(13A)	
	<b>c) Children Education Allowance</b> Less: INR 100 per month per child upto maximum of two children	
	<b>d) Children Hostel Allowance</b> Less: INR 300 per month per child upto maximum of two children	
	<b>e) Transport allowance</b> Less: INR 3,200 per month in case of blind/ deaf and dumb/ orthopedically handicapped employee only	
	<b>f) Entertainment Allowance</b>	
	<b>g) Travelling Allowance/ Daily Allowance/ Conveyance Allowance</b> Less: Exempt if the amount is fully utilised for the purpose	
	<b>h) Other Allowances inc. overtime allowance, city compensatory allowance etc.</b>	
(v)	<b>Taxable Perquisites</b>	
	<b>a) Valuation of rent-free accommodation provided to the employee</b>	
	<b>b) Value of any accommodation provided to the employee at a concessional rate</b>	
	<b>1. Where the accommodation is provided by Govt. to its employees</b> License fee determined by the Govt. Less: Rent actually paid by the employer	
	<b>II. Where the accommodation is provided by any other employer</b> <b>i) If accommodation is owned by the employer</b> <b>Cities having population &gt; 25 lakh</b> = 15% of salary in respect of the period of occupation (-) rent recovered from employee <b>Cities having population &gt;10 lakh &lt; 25 lakh</b> = 10% of salary in respect of the period of occupation (-) rent recovered from employee <b>In other cities</b> = 7.5% of salary in respect of the period of occupation (-) rent recovered from employee <b>ii) If accommodation is taken on lease/rent by the employer</b> Lower of lease rental paid/payable by employer (or) 15% of salary Less: Rent recovered from the employee	
	<b>c) Obligation of employee discharged by employer:</b> For e.g., Professional tax paid by the employer	
	<b>d) Any sum payable by the employer to effect an assurance on the life of the employee or to effect a contract for annuity:</b> Actual expenditure incurred by the employer	

S No.	Particulars	Amount
	<p><b>e) Amount or aggregate of amounts of any contribution made</b></p> <ul style="list-style-type: none"> <li>- in a recognised provident fund,</li> <li>- in NPS referred to in section 80CCD(1)</li> <li>- in an approved superannuation fund</li> </ul> <p>by the employer to the account of the Assessee, to the extent it exceeds 7,50,000 in a P.Y.</p>	
	<p><b>f) Annual accretion by way of interest, dividend or any other amount of similar nature during the P.Y. to the balance at the credit of the recognized provident fund or NPS or approved superannuation fund to the extent it relates to the employer's contribution which is included in total income in any P.Y. u/s 17(2)(vii)</b></p>	
	<p><b>g) Value of use of motor car</b></p>	
	<p><b>h) Any other perquisite: For example,</b></p>	
	<p><b>1) Provision of services of a sweeper, gardener, watchman or personal attendant:</b></p> <p>Actual cost to employer by way of salary paid or payable for such services (-) amount paid by the employee</p>	
	<p><b>2) Gas, electricity, or water supplied by employer for household consumption of the employee:</b></p> <p>Amount paid on that account by the employer to the agency supplying gas etc. (-) amount paid by the employee</p>	
	<p><b>3) Provision of free or concessional education facilities for any member of employee's household:</b></p> <p>Sum equal to the expenditure incurred by the employer (-) amount paid or recovered from the employee</p> <p><b>Where educational institution is maintained and owned by employer:</b></p> <p>Cost of such education in similar institution in or near the locality (-) amount paid or recovered from employee [However, there would be no perquisite if value of benefit per child is upto INR 1,000 p.m.]</p> <p><b>Note:</b> Perquisites at (g) &amp; (h) are taxable only in case of specified employees.</p>	
	<p><b>4) Interest-free or concessional loan exceeding INR 20,000:</b></p> <p>Interest computed at the rate charged by SBI as on 1<sup>st</sup> day of relevant P.Y. in respect of loans for similar purposes on the maximum outstanding monthly balance (-) interest actually paid by employee</p>	
	<p><b>5) Free food and non-alcoholic beverages: Expenses incurred by employer (-) amount recovered from employee [Free food and non-alcoholic beverages provided during office hours or paid vouchers upto INR 50 per meal is exempt]</b></p>	
	<p><b>6) Value of gift, voucher: Sum equal to the amount of such gift [If value of gift, voucher is below INR 5,000, there would be no perquisite]</b></p>	
	<p><b>7) Use of moveable assets</b></p>	
	<p><b>8) Transfer of movable assets: Actual cost of asset to employer – cost of normal wear and tear – Amount paid or recovered from employee</b></p>	

S No.	Particulars	Amount
(vi)	Leave travel concession (-) Exempt u/s 10(5)	
(vii)	<b>Gratuity</b> a) Received during the tenure of employment (fully taxable) b) Received at the time of retirement or otherwise Less: Exempt u/s 10(10)	
(viii)	Uncommuted pension (fully taxable)	
(ix)	Commutated pension (-) Exempt u/s 10(10A)	
(x)	<b>Leave encashment</b> a) Received during the employment (fully taxable) b) Received at the time of retirement or otherwise Less: Exempt u/s 10(10AA)	
(xi)	Voluntary retirement compensation (-) Exempt u/s 10(10C)	
(xii)	Retrenchment compensation etc. (-) Exempt u/s 10(10B)]	
<b>Gross Salary</b>		
<b>Less: Deduction under section 16</b>		
	a) Standard deduction u/s 16(ia) - amount of salary or 50,000, whichever is less	
	b) Entertainment allowance u/s 16(ii) (only for Govt. employees)	
	c) Professional Tax/ Tax on employment (paid by employer/ employee) u/s 16(iii)	
<b>Income under the head 'Salaries'</b>		

### 3. INCOME UNDER THE HEAD SALARY [SECTION 15 TO 17]

Sec 15 → Charging section	Sec 16 → Deductions	Sec 10 → Exemptions	Sec 17 → Rest of provisions
Any payment by an Employer to an Employee (part time or full time) <ul style="list-style-type: none"> <li>➤ directly or indirectly;</li> <li>➤ monetary or non-monetary;</li> <li>➤ under the contract of employment/ in the course of employment shall be taxable as 'Salary' in the hands of Employee.</li> </ul> Thus, for taxability u/s 15, <b>employer-employee contract is must.</b> For definition of Salary, refer Page 3.19			
<b>Examples</b>			
a) Sujatha, an actress, is employed in Chopra Films, where she is paid a monthly remuneration of 2 lakh. She acts in various films produced by various producers. The remuneration for acting in such films is directly paid to Chopra Films by the different producers. In this case, INR 2 lakh will constitute salary in the hands of Sujatha, since the relationship of employer and employee exists between Chopra Films and Sujatha.			
b) In the above example, if Sujatha acts in various films and gets fees from different producers, the same income will be chargeable as income from profession since the relationship of employer and employee does not exist between Sujatha and the film producers			
c) Salary received by MP/ MLA → Taxable uth Income from Other Source			
d) Emoluments received by a college lecturer for setting question paper by university → Taxable uth IFOS			

- e) Salary received by Director
- In case of employee director like MD/ Whole Time Director / Executive Director → Taxable uth Salary
  - May be Non-employee like Independent Director / Nominee Director / Non ED → Taxable uth IFOS
- f) Salary received by Partner from Firm → Taxable uth PGBP (appropriation of profit)

#### 4. OTHER IMPORTANT CONCEPTS

a) Full-time or part-time employment	If relationship of employer and employee exists, income is to be charged uth “salaries”. It does not matter whether the employee is a full-time employee or a part-time one. Example: An employee works with more than one employer. Salaries received from all the employers should be clubbed and brought to charge for the relevant previous years.
b) Foregoing of Salary	= Application of salary = waiver of salary = wastage of salary = Donation of salary shall have No impact on taxability of salary. Thus, once salary is accrued, it is chargeable to Tax. [concept of 80G is discussed later]
c) Surrender of Salary	If any employee surrenders his salary to the Central Government under the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961, the surrendered salary would not be included while computing his taxable income.
d) Contract of Service	e) Contract for Service
↓	↓
Employer – Employee relationship taxable uth Salary	Principal to Principal
↓	↓
Service receiver i.e., Employer has control over style of work of service provider i.e. employee. Control and supervision vest in the Employer.	Service provider has control over style of work. Such receipts are taxable uth PGBP

#### 5. SECTION 15 → CHARGEABILITY OF SALARY

Salary is chargeable to tax on due basis or receipt basis; whichever is earlier.

##### Tax implications

- a) Salary due but not yet received is still taxable in the month when salary is due. In such case, it is not chargeable to tax again on receipt basis.
- b) Advance salary received is taxable in the month of receipt. In such case, it is not chargeable to tax again on due basis.

##### **Examples**

- a) Ram received salary for month of April, 2024 in the month of March, 2024. In this case, salary for month of April, 2024 shall be taxable in PY 2023-24 on receipt basis. [Receipt is earlier than due]  
Further, it shall not be again taxable in PY 2024-25 on due basis as its already taxed.
- b) Ram did not receive salary for month of Jan, 2024 to March, 2024 till 31/3/2024. In this case, salary for these three months shall be taxable in PY 2023-24 itself on due basis as its earlier than Receipt.

##### When is salary due?

- a. Salary is due on last day of each month [Preferred]  
In this case, in PY 2023-24, Salary is due for April 2023 till March 2024.
- b. Salary is due on first day of next month



In this case, in PY 2023-24, Salary is due for March 2023 till February 2024.

**Conclusion**

Due on last day of month → April to March is taxable in relevant PY

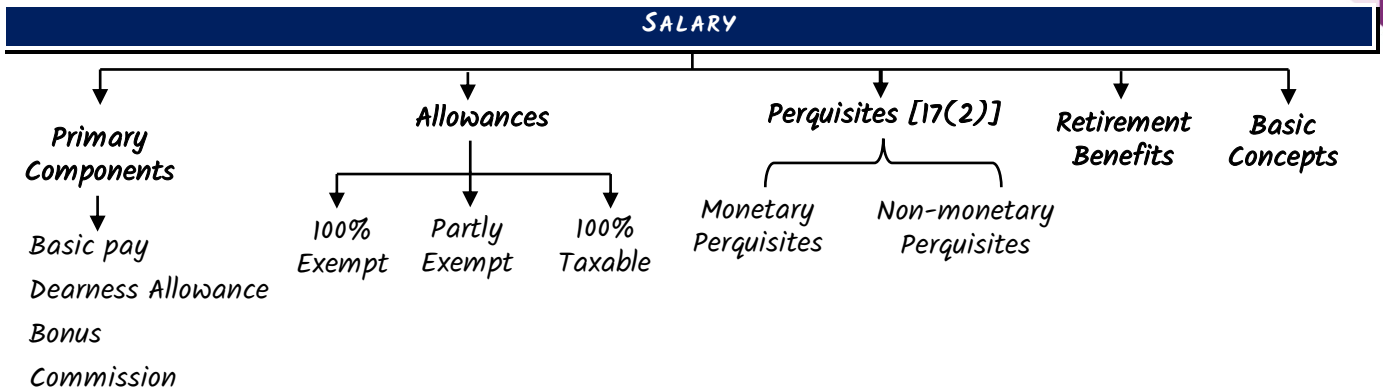
Due on first day of next month → March to Feb is taxable in relevant PY

**Note:** The above concept is significant when there is change in salary during the PY.

**Difference between advance salary and advance against salary**

Advance against salary is similar to loan taken from employer & is different from advance salary.

This advance is generally adjusted with his salary over a specified time period. It cannot be taxed as salary.



**6. BASIC PAY**

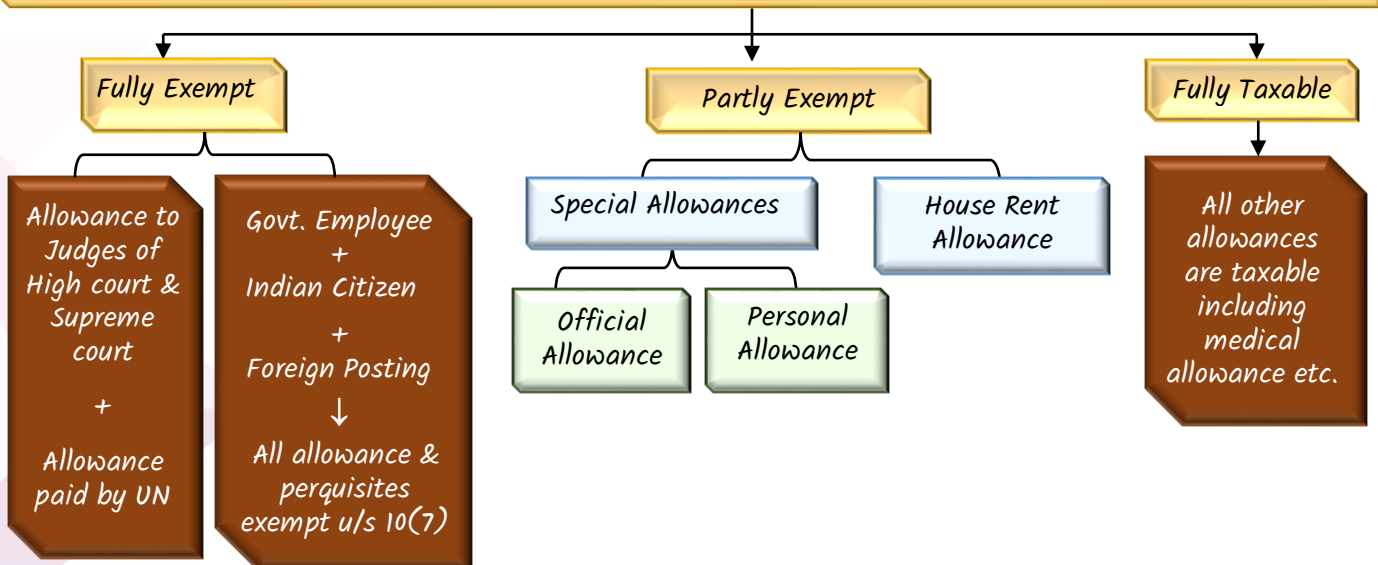
Pay scale → 20,000 – 1,000 – 25,000 – 2,000 – 35,000 – 3,000 – 50,000

The above pay scale means that salary will start at 20,000 p.m. and shall increase annually by 1,000 till it reaches 25,000 p.m. Thereafter, salary shall increase at 2,000 per year till it reaches 35,000 and so on.

**Note:** We need to calculate basic pay for the period 01.04.2023 till 31.03.2024.

**7. ALLOWANCES**

Monetary Payment by Employer to Employee for meeting specific expenditure, whether personal or official



**7.1. OFFICIAL ALLOWANCE [SECTION 10(14)]**

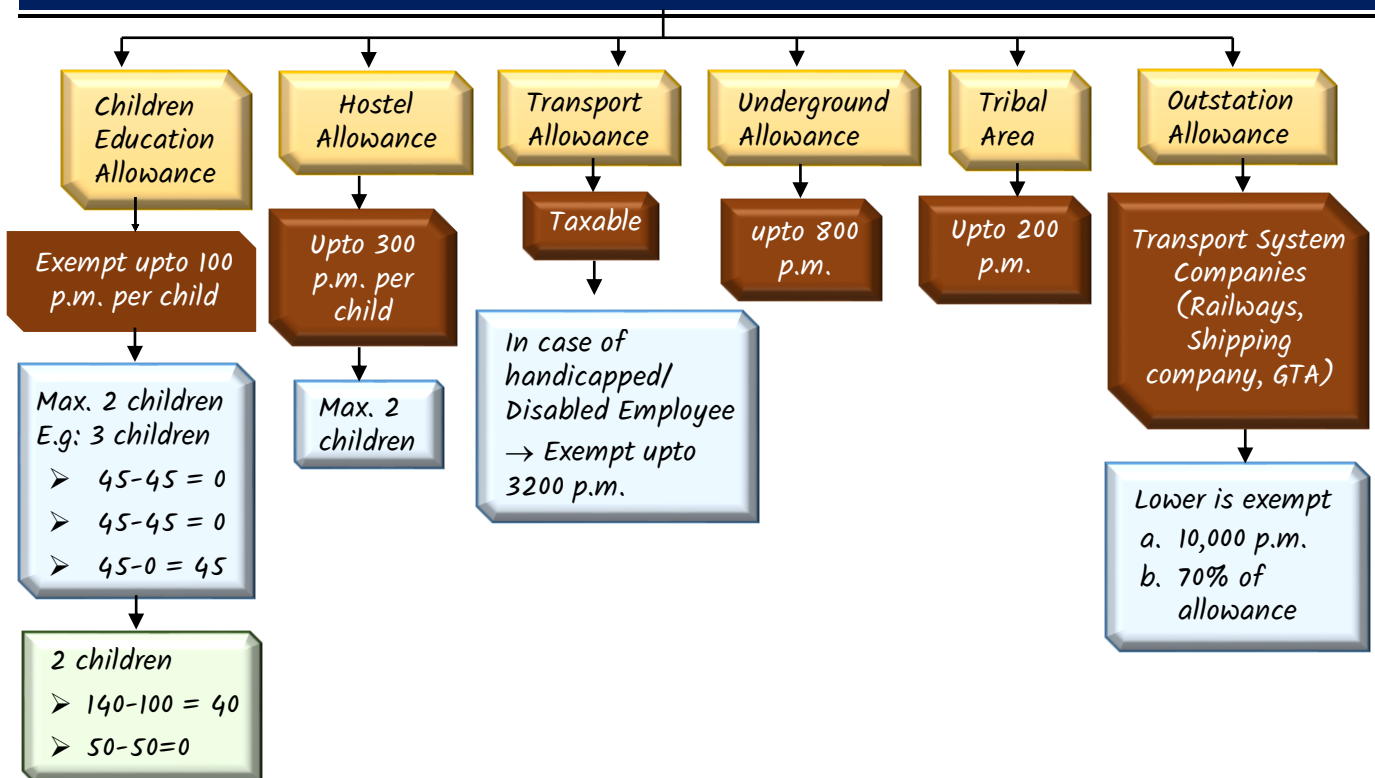
H
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Helper
Uniform
Daily
Academic
Conveyance
Travelling

Fully exempt irrespective of amount of allowance u/s 10(14)  
However, any savings of such allowance is taxable.

**7.2. PERSONAL ALLOWANCE [SECTION 10(14)]**



If employer provides both daily allowance as well as outstation allowance;

- Daily allowance → Fully exempt
- Outstation allowance → Fully taxable

Transport Allowance	Travelling Allowance	Conveyance Allowance
Personal ↓ Home → office ↓ Fully taxable. In case of handicapped employee = Exempt upto 3200 p.m.	Official ↓ Towards cost of official tour Eg: Annual meeting of directors ↓ Fully exempt. Only savings are taxable	Official ↓ Reimbursement of travelling expenses incurred while performing job. Eg: sales personnel ↓ Fully exempt. Only savings are taxable.

**7.3. HOUSE RENT ALLOWANCE [SECTION 10(13A)]**

Least of the following should be exempt:

- a) HRA received
- b) Rent paid – 10% of Retirement Benefit salary,
- c) 40% of Retirement Benefit salary [other than Metropolitan cities]  
50% of retirement benefit salary in Metropolitan cities i.e. Delhi, Mumbai, Chennai & Kolkata

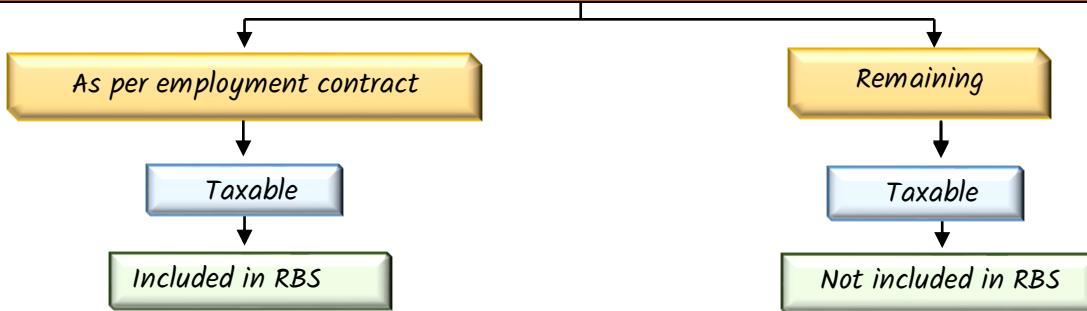
**Note:** In case of any change in above 4 variables, HRA for that period is calculated separately.

**Note:** If Assessee lives in own HP or does not pay rent → No exemption u/s 10(13A)

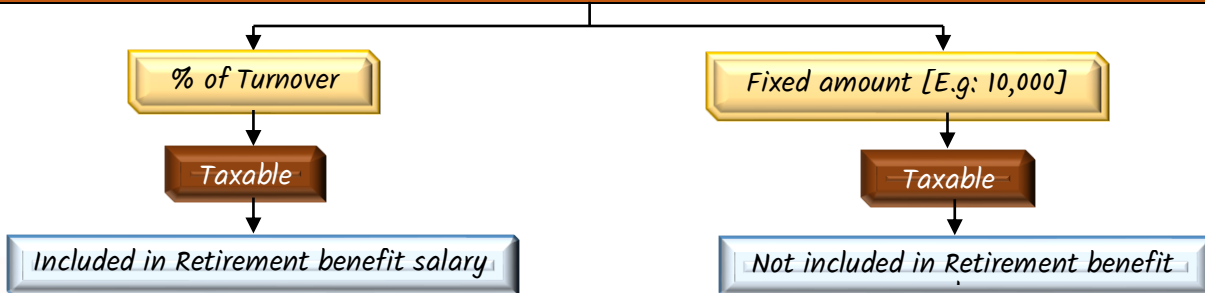
Salary refers to Retirement Benefit salary

- a. Basic pay
- b. Dearness Allowance forming part of employment contract/ retirement benefits
- c. Commission, if expressed as % of turnover.

**Dearness Allowance**



**Commission [100% taxable]**



**7.4. OTHER ALLOWANCES ARE FULLY TAXABLE**

i) Overtime Allowance	ii) Fixed Medical Allowance	iii) City Compensatory Allowance
iv) Interim Allowance	v) Servant Allowance	vi) Project Allowance
vii) Tiffin/ Lunch/ Dinner Allowance	viii) Warden Allowance	ix) Non-practicing Allowance
x) Entertainment Allowance	xi) Any other cash allowance	

**8. DEDUCTIONS FROM GROSS SALARY [SECTION 16]**

Gross Salary	xxx
--------------	-----

Less: Deductions u/s 16	xxx
a) Standard Deduction u/s 16(ia)	
b) Entertainment Allowance u/s 16(ii)	
c) Professional Tax u/s 16(iii)	
<b>Income under the head Salary</b>	<b>Xxx</b>

**a) Standard Deduction u/s 16(ia)**

Up to 50,000 in a PY

Must be deducted in all cases while calculating Income under the head Salary, Gross Total Income, Total Income and Tax liability.

**b) Entertainment Allowance [First Add to Gross Salary]**

Government employee [CG & SG]

Least of the following is deducted

- Amount received
- 5,000
- 20% of basic pay

Other Employee including LAs & PSUs

No deduction from Gross salary

**c) Professional Tax Paid by**

Person having own business/ profession

PGBP – Debit in P/L

Employee

Claim deduction u/s 16 from Gross Salary

Employer on behalf of employee

First add this amount to Gross Salary of Employee & then deduct from gross salary

**Points to Note:**

- If due but not paid → No deduction.
- Total amount of professional tax payable in respect of any one person shall not exceed 2,500 p.a. However, amount paid during the PY can exceed 2,500 as employee may have paid the professional tax of an earlier year during the previous year.

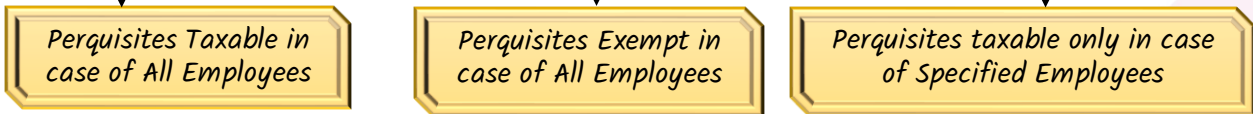
**Illustration:** Mr. Ram is an employee who paid 1,000 as professional tax. His employer also paid 500 on behalf of Ram. His employer also paid 1,800 as professional tax for his own Profession. Discuss tax treatment.

**Solution**

In hands of Employer →

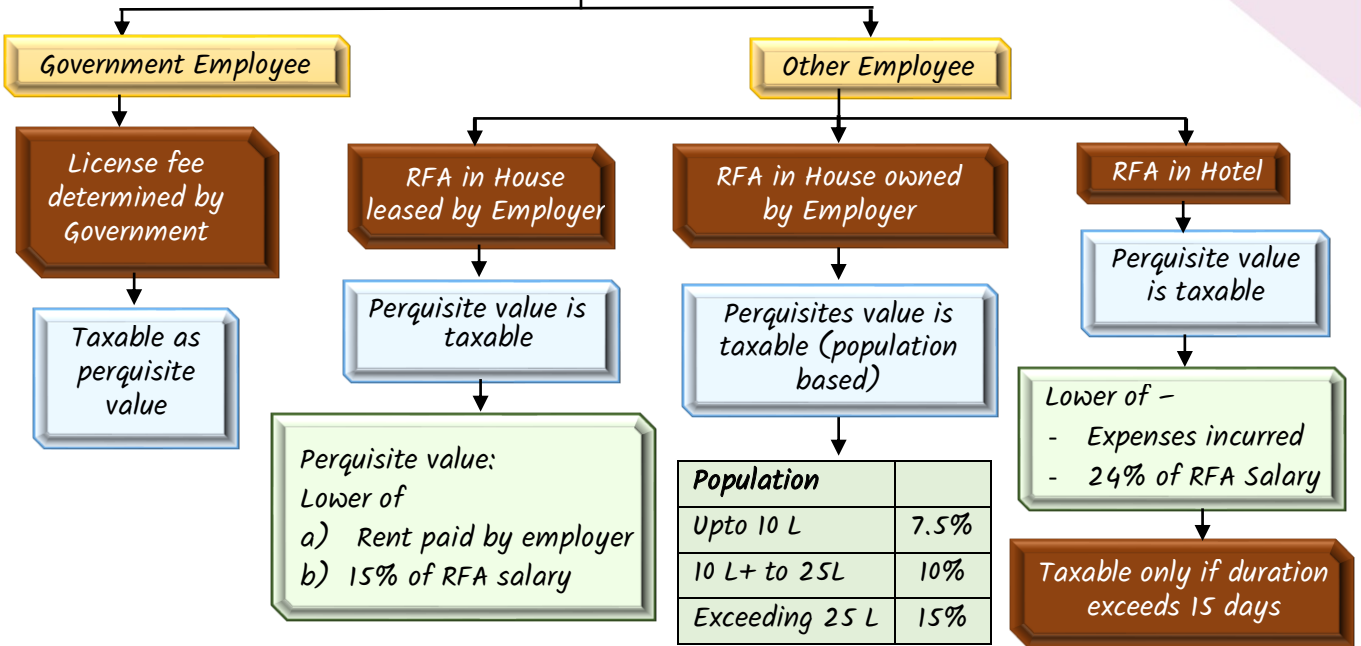
In hands of Employee →

9. PERQUISITES



**Note:** Only those perquisites which the employee actually enjoys shall be valued and taxed in his hand.

9.1. RENT FREE ACCOMMODATION [UNFURNISHED HP + W.E.F. MONTH OF OCCUPATION]



RFA Salary

- a) 4 primary components  
Basic pay + DA (forming part of employment contract) + Commission (any type) + Bonus +
- b) All Taxable allowances (only taxable portion) +
- c) Taxable portion of leave salary encashed during employment.

**Note:** Ideally, perquisite value of RFA should be calculated at last.

Points to Notes:

- I) The above perquisite value is for unfurnished house property.
- II) Perquisite value is taxable only with effect from the period house is occupied by employee.
- III) Any amount from employee w.r.t. such house shall be reduced from the perquisite value.

RFA at Two Places



For first 90 days, only one of the above two perquisite value (lower) shall be taxable.

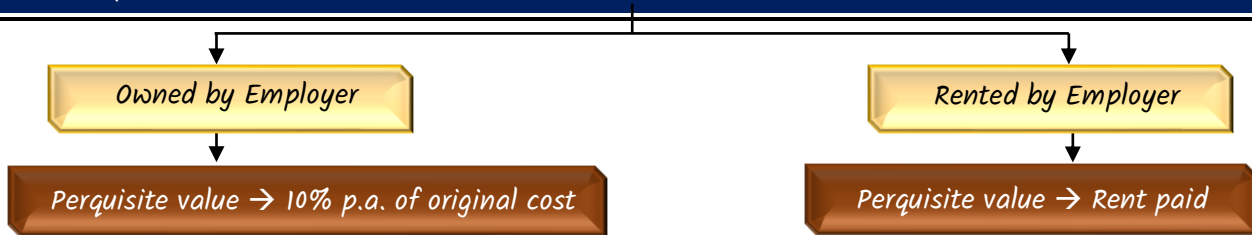
If employee continues to avail RFA at both locations even after 90 days;

- both perquisite values shall be taxable.

Exempt RFA i.e. where perquisite value shall be Nil:

- RFA at remote area; E.g: Mining site, exploration site.
- RFA to political figures or judges.

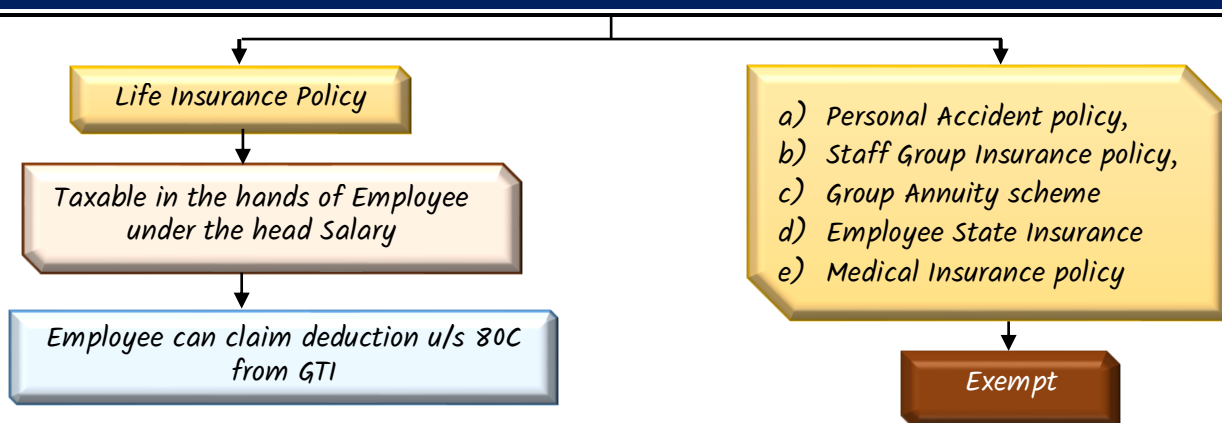
### 9.2. PERQUISITE VALUE OF FURNITURE



**Note:** Furniture includes TV, air conditioner, dining table, sofa etc.

**Note:** Any amount from employee w.r.t. such house shall be reduced from the perquisite value.

### 9.3. PAYMENT OF PREMIUM BY EMPLOYER ON BEHALF OF EMPLOYEE



### 9.4. TAXABILITY OF ISSUE OF SHARES/ SECURITIES BY EMPLOYER TO EMPLOYEE

1000 sweat equity shares  
issued by Employer @ 200

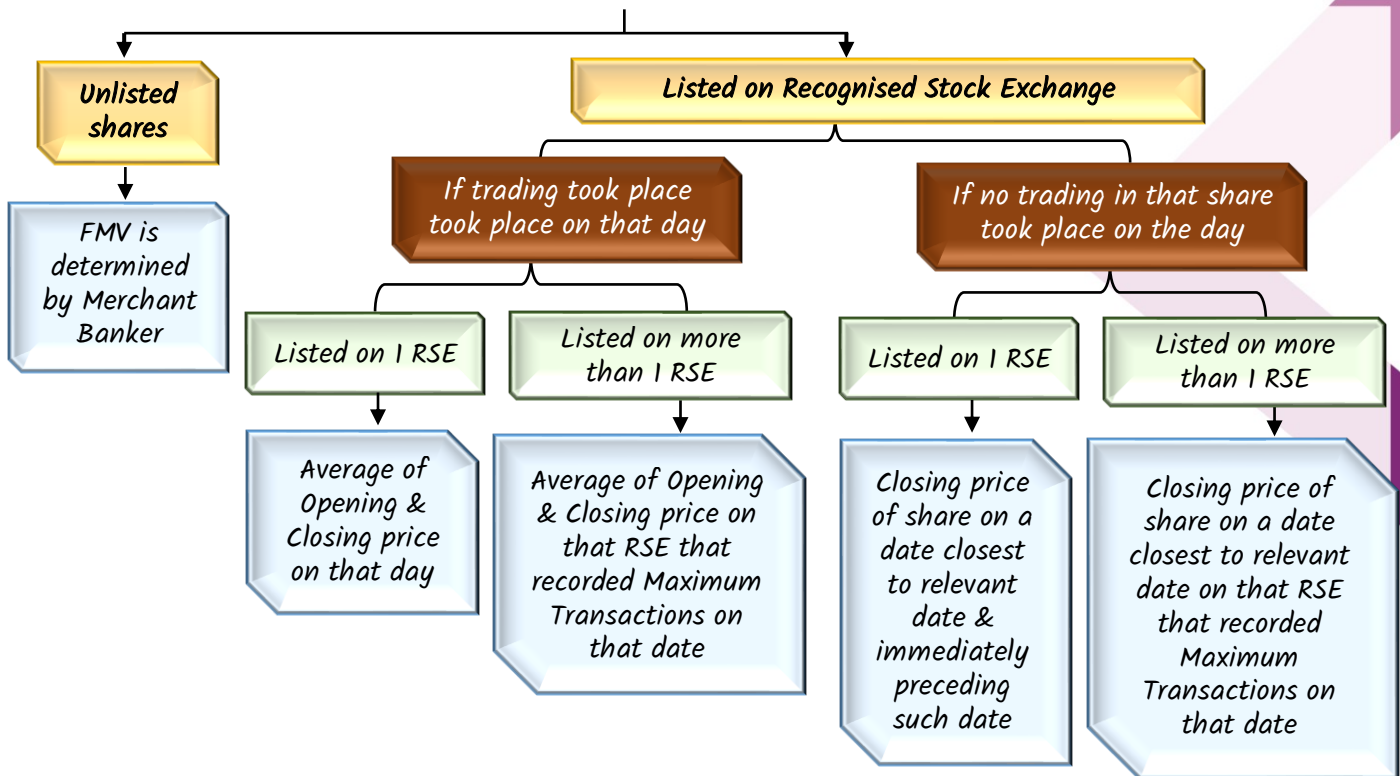
FMV 500

Perquisite value =  
=

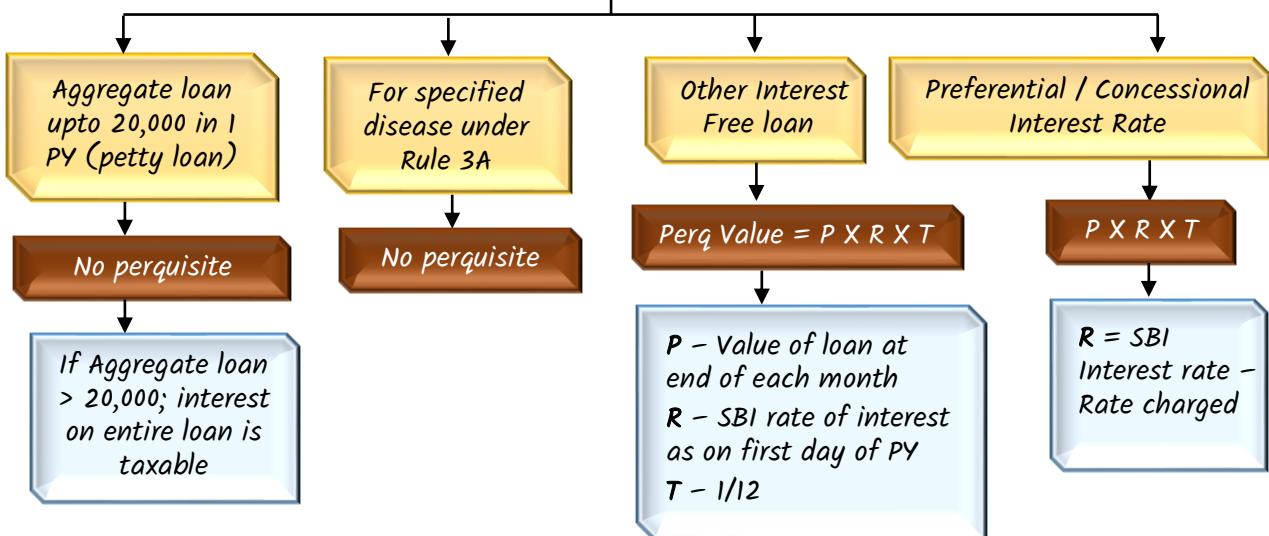
After 9 months

Employee sold 1000 shares @ 600 per share  
S.P.  
Cost  
STCG

### Valuation of Shares



**9.5. PERQUISITE VALUE OF LOAN FROM EMPLOYER TO EMPLOYEE OR ANY MEMBER OF HOUSEHOLD**



**Illustration:** If loan taken on 30/9/2023 and repaid on 31/3/2024;

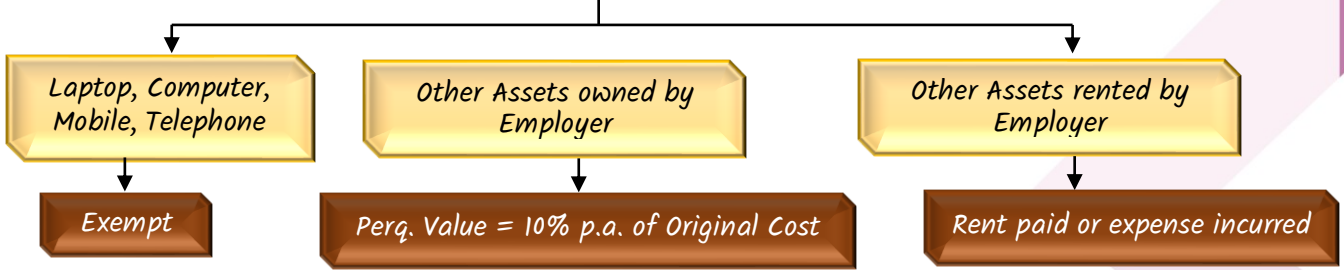
→ Perquisite value shall be calculated for Sep, Oct, Nov, Dec, Jan and February.

**Note:** Value of loan outstanding at the end of each month shall be treated as principal and perquisite value shall be calculated on monthly basis. (Relevant in case of loan repayments)

**Note:** Advance salary ≠ loan to employee

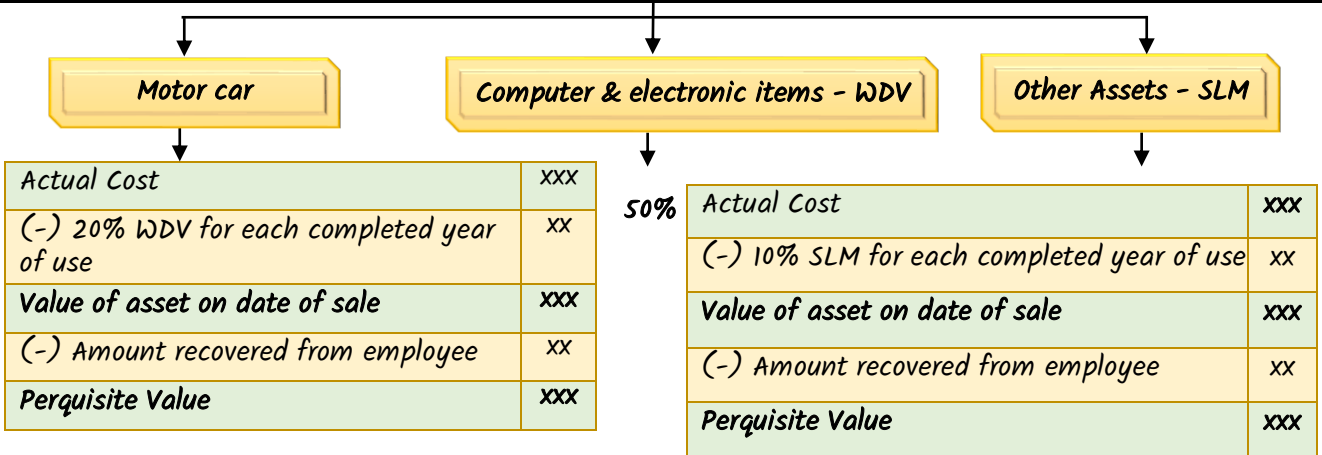
**Note:** Refer illustrations in class.

**9.6. PERQUISITE VALUE OF USE OF MOVEABLE ASSETS BY EMPLOYEE**



**Example:** Mr. X is employed in EY Ltd. and the employer has given him one video camera with original cost INR 2,00,000 for 25 days. In this case, taxable amount shall be  $2,00,000 \times 10\% \times 25/365 = \text{INR } 1,369.86$ .

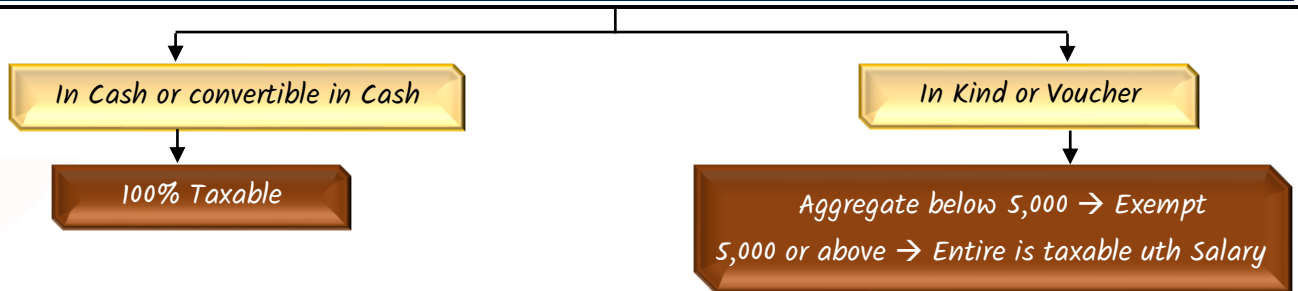
**9.7. PERQUISITE VALUE OF SALE OF ASSET BY EMPLOYER TO EMPLOYEE**



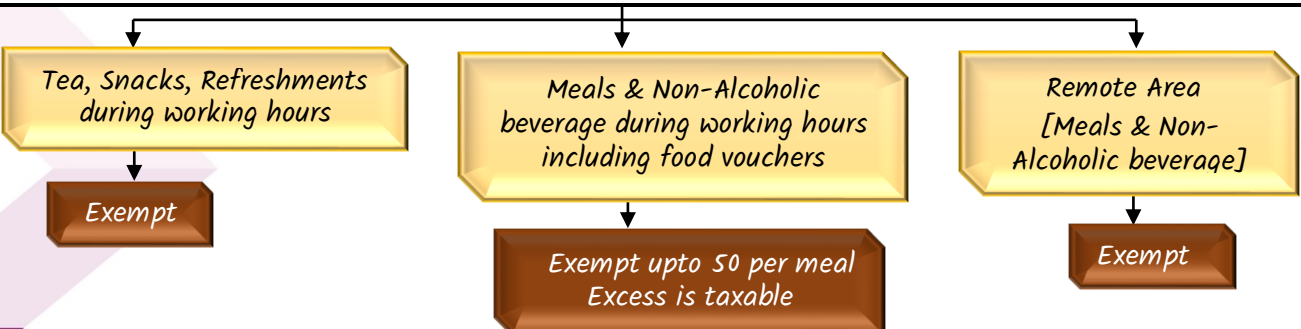
**Points to Note:**

- a) Other assets include motor cycle, furniture, oven, fridge, TV, air conditioner etc.
- b) If perquisite value is upto 5,000; it shall be exempt as Gift. If it exceeds 5,000; entire amount is taxable.

**9.8. GIFT TO EMPLOYEE BY EMPLOYER**

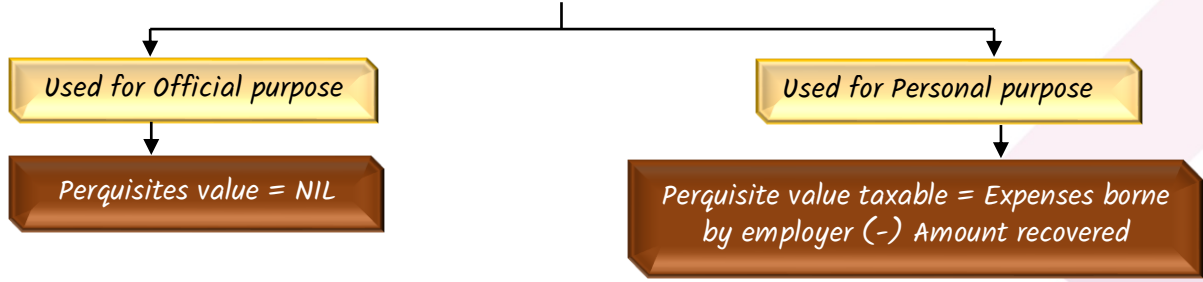


**9.9. PERQUISITE VALUE OF FREE/ CONCESSIONAL FOOD**





**9.10. CREDIT CARD FACILITY PROVIDED BY EMPLOYER**



**Perquisite Value** → Total Bill paid by Employer – Official expenses – Amount recovered from employee

**Illustration:**

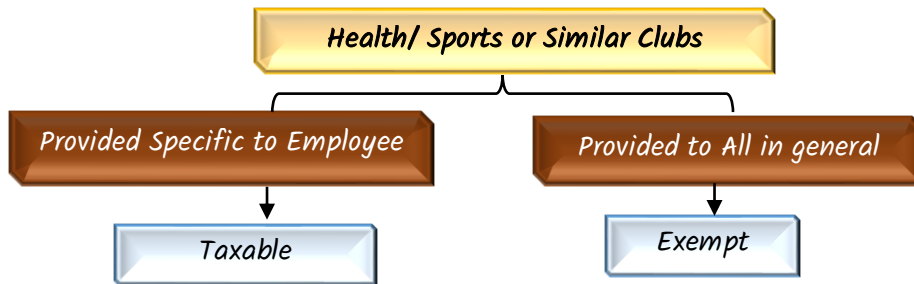
Employee's credit card bill of 60,000 paid by employer. Official expenses were 25,000 & personal expenses of the employee were 35,000.

**Case 1:** Question is silent → Perquisites value →

**Case 2:** Employer recovers 35,000 from Employee towards credit card Bill. Perquisites value →

**Case 3:** Employer recovers 20,000 from Employee. Perquisite value →

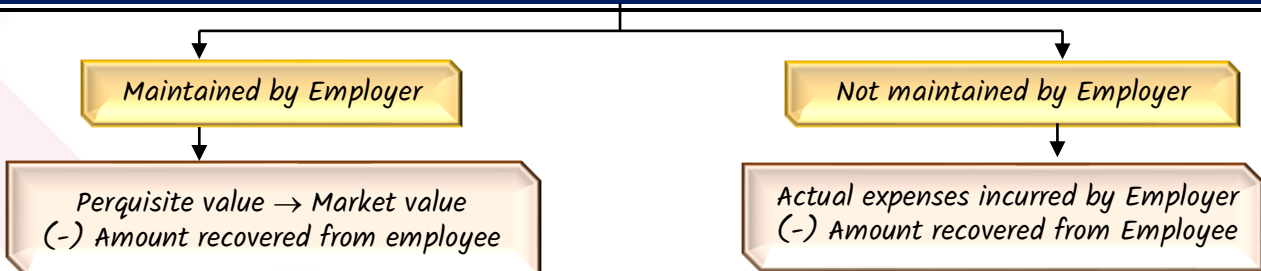
**9.11. CLUB FACILITY TO EMPLOYEE OR FAMILY MEMBER**



**Note:**

- a) Generally, in case of corporate membership of club, Employer needs to pay initial fee. In this case, perquisite value in hands of Employees is Nil.
- b) If such expenditure is incurred wholly & exclusively for business purposes, it would not be treated as a perquisite provided employer maintains complete details about such expense & gives a certificate to employee specifying that the expense was incurred exclusively for performance of official duties.

**9.12. FACILITY OF TRAVELLING, TOURING, ACCOMMODATION [HOLIDAY HOME]**



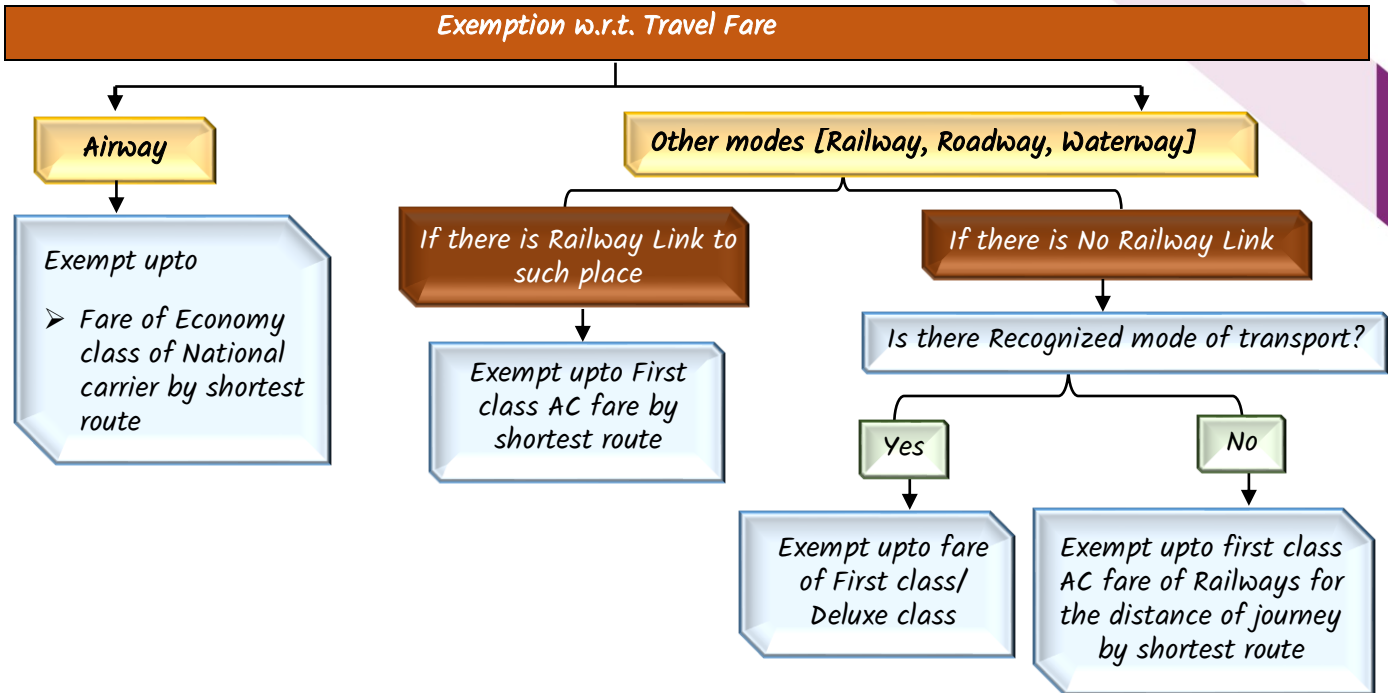
**Note:** If any family member accompanies Employee on his official tour, and the employer has incurred expenditure for such member, the amount so incurred shall be taxable.

**Note:** If an official tour is extended for personal purpose, expenditure for the extended part of tour shall be

the taxable perquisite value.

**9.13. LEAVE TRAVEL CONCESSION/ ALLOWANCE [SECTION 10(5)]**

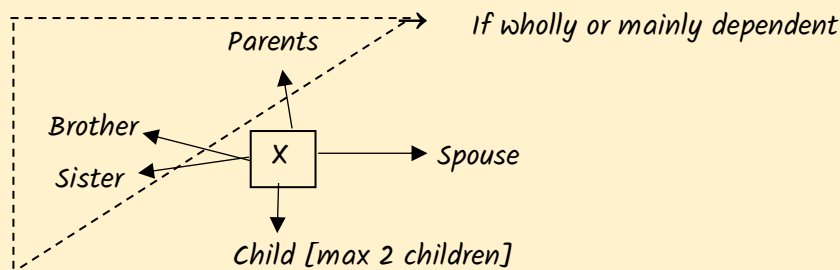
- Available to Individuals (citizen or non-citizen) only for Travel Fare In India.
- Incurred for Employee and Family.



**Example:** Travel from Delhi to Ahmedabad in hired taxi. What is eligible exemption?

**Solution:**

**Family members**



One birth + Multiple birth after 1

1 + 1 → 2 0k

1 + 2 → 3 [Exemption for all 3 children]

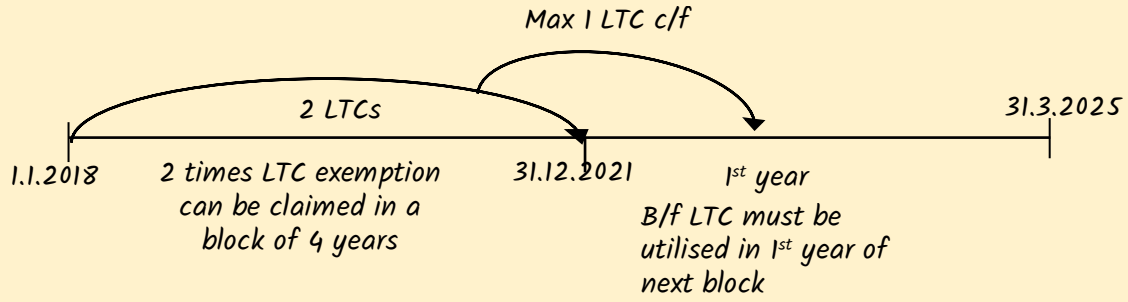
1 + 3 → 4 [Exemption for all 4 children]

2 + 1 → 3 [exemption for elder 2 children]

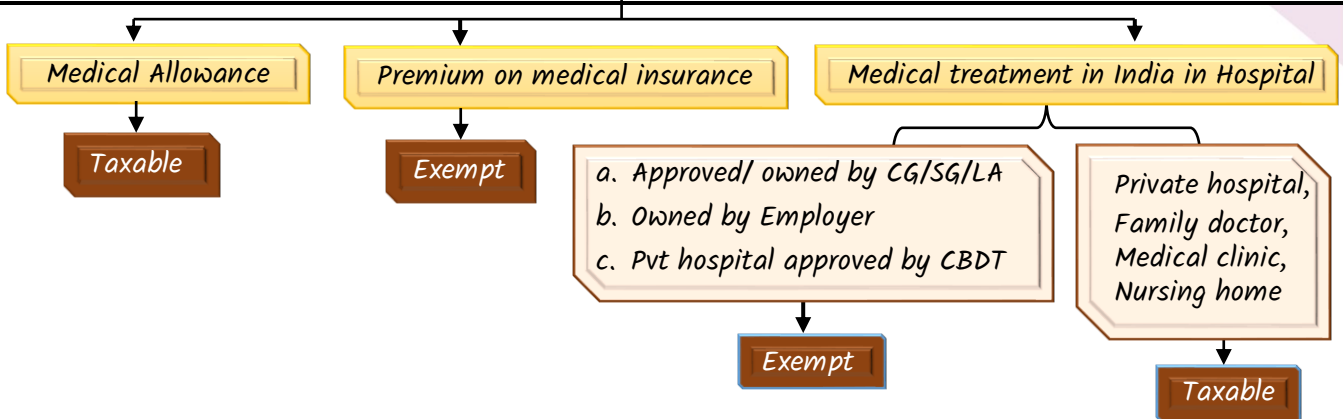
3 + 1 → 4 [Exemption for elder 3 children]

Refer illustrations on Page 5.28.

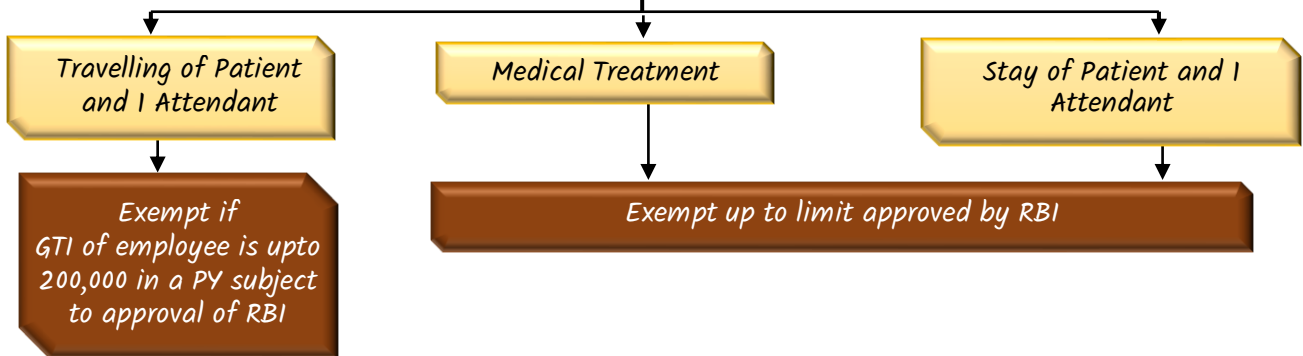
**Ceiling Limit [2 LTCs in 1 block of 4 calendar years]**



**9.14. MEDICAL FACILITY TO EMPLOYEES OR FAMILY MEMBERS BY EMPLOYER**



**MEDICAL TREATMENT OUTSIDE INDIA**



**Example:** Employer reimburses medical expenses of 10,000 → Taxable uth Salary in hands of employee.

**Family Member** → Same as LTC

**Two things to consider** → Whether patient is eligible & whether Treatment is by Approved hospital.

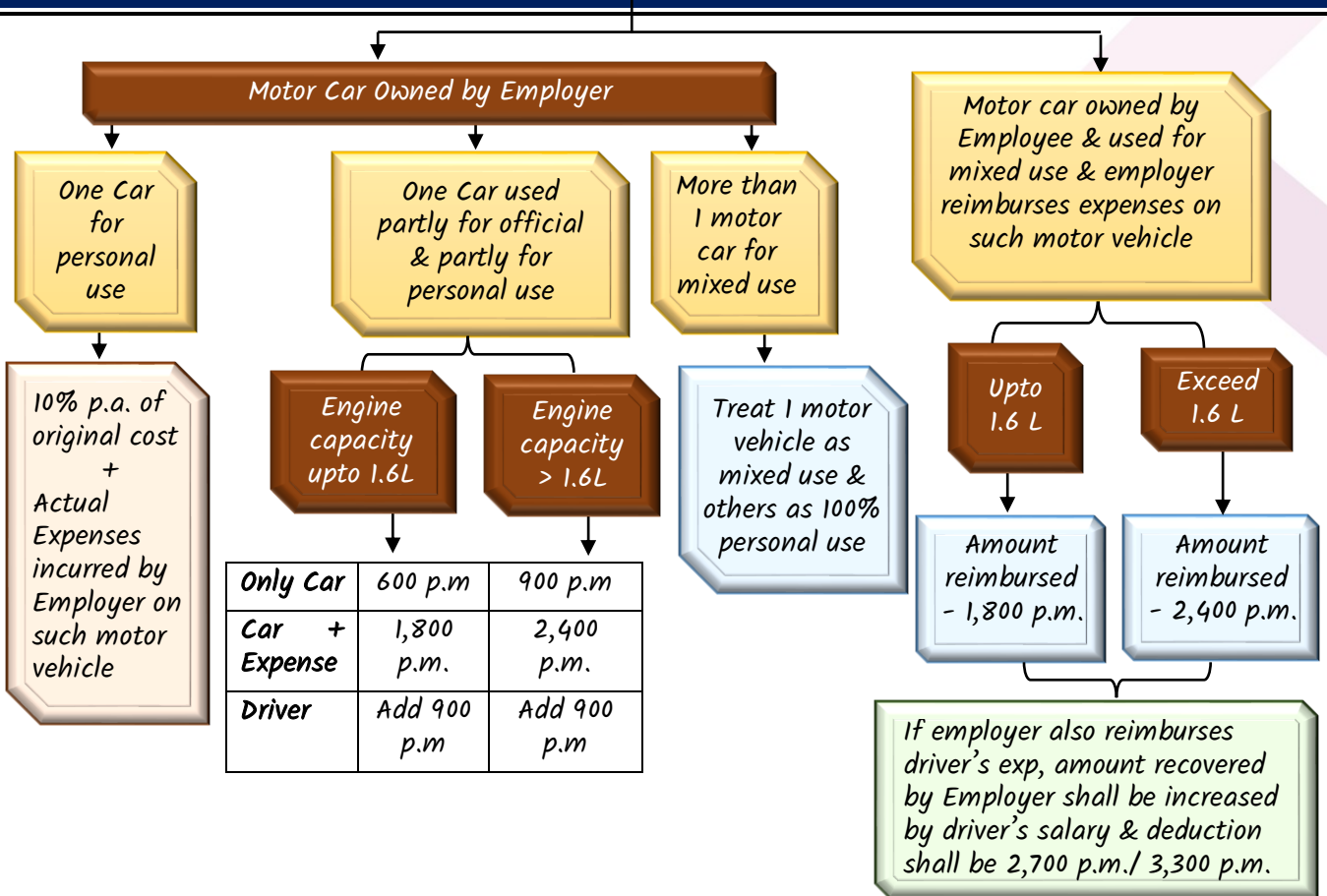
**Covid Related Medical Expenses actually incurred/ reimbursed by Employer on behalf of Employee or his Family member** → Not a perquisite and thus exempt from Tax.

Employee has submitted the following documents to the employer for Exemption:

- COVID-19 positive report of the employee or family member
- documents of medical diagnosis or treatment of the employee or his family member for COVID-19 or illness related to COVID-19 suffered within 6 months from date of being determined as COVID-19 positive
- certification in respect of all expenditure incurred on the treatment of COVID-19 or illness related to

COVID-19 of the employee or of any member of his family.

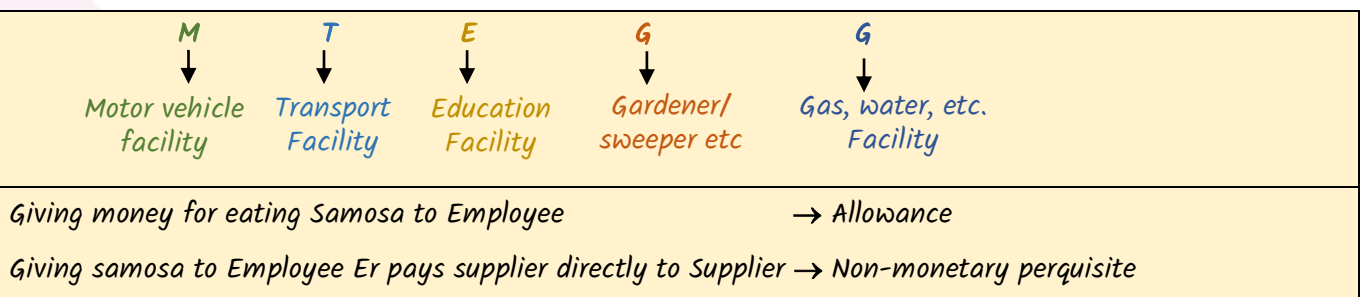
**9.16. PERQUISITE VALUE OF MOTOR CAR**



**Points to Note:**

- i) Part of month is ignored.
- ii) Motor car facility for travel between Home & office → Not a perquisite
- iii) Perquisite value of 2-wheeler vehicle which is owned by employee, used partly for official and partly for personal used and expenses for its running and maintenance reimbursed by employer → 900 p.m.
- iv) Motor vehicle facility provided exclusively for official work → Not a perquisite provided
  - a) Employer has maintained complete details of journey undertaken for official purpose which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon;
  - b) Employer gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

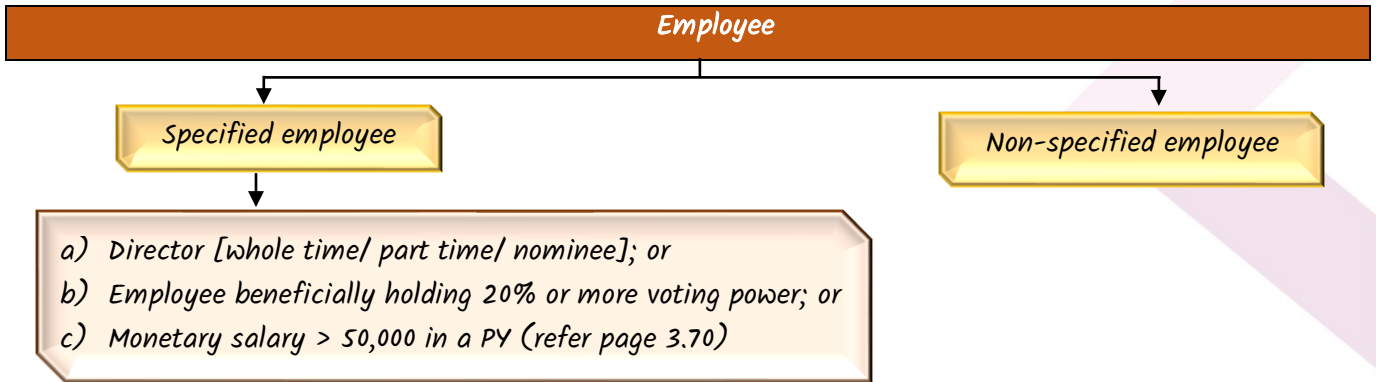
**9.17. PERQUISITES TAXABLE IN CASE OF SPECIFIED EMPLOYEES ONLY**



Employee eats samosa & Employer reimburses it

→ Monetary perquisite

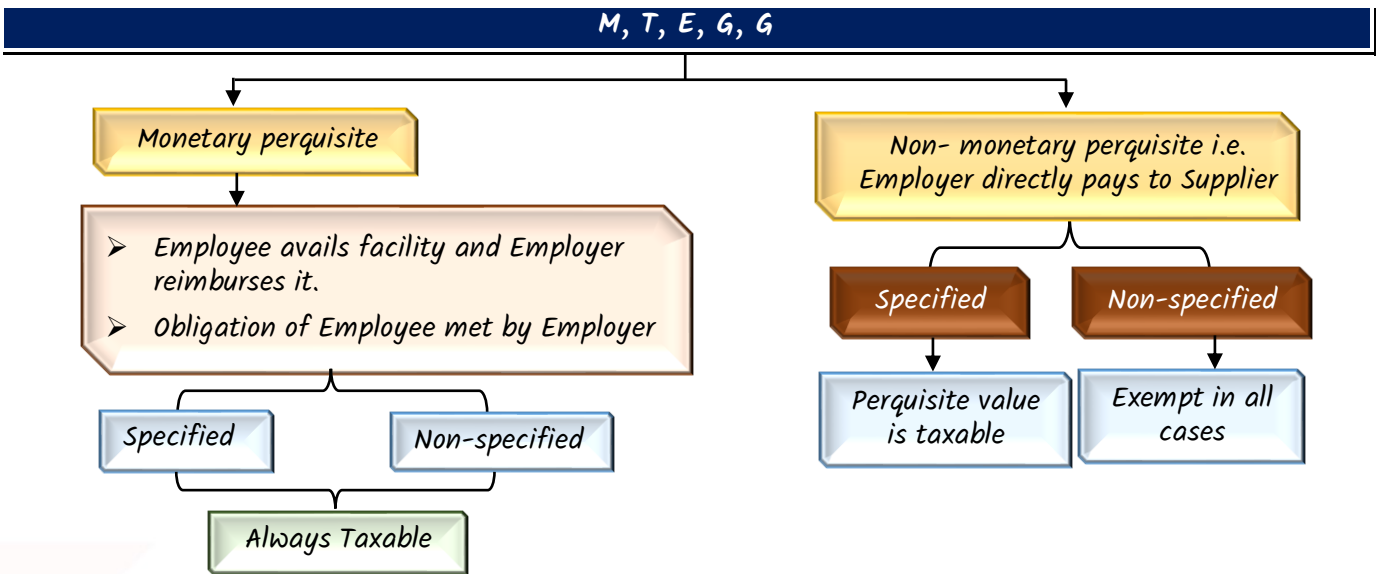
**Note:** If question is silent, Perquisite means Non-monetary perquisite.



**Note:** A, Karta of a HUF, is a registered shareholder of Bright Ltd and also an employee. The amount for purchasing the shares is financed by the HUF. The dividend is also received by the HUF.

In this case, he cannot be called a specified person since he has no beneficial interest in the shares registered in his name. It is only for the purpose of satisfying the statutory requirements that the shares are registered in the name of A. All the benefits arising from the shareholding goes to the HUF.

**Note:** If question is silent, Employee means Specified Employee.



➤ Monetary perquisite → Always 100% taxable irrespective of type of employee

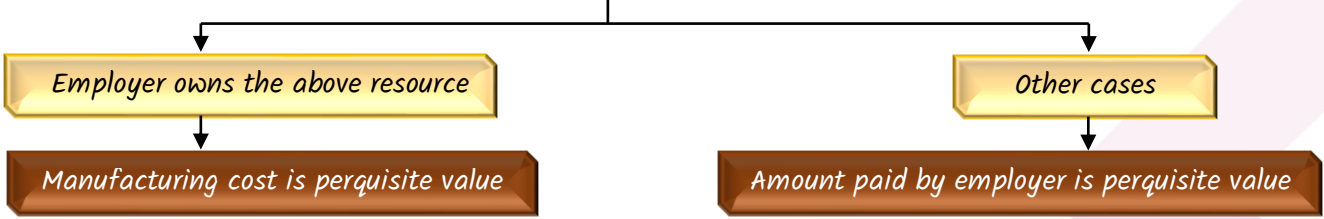
➤ Non - monetary perquisite + Non specified employee → 100% Exempt always

➤ Non - monetary perquisite + specified employee → Perquisite value is taxable

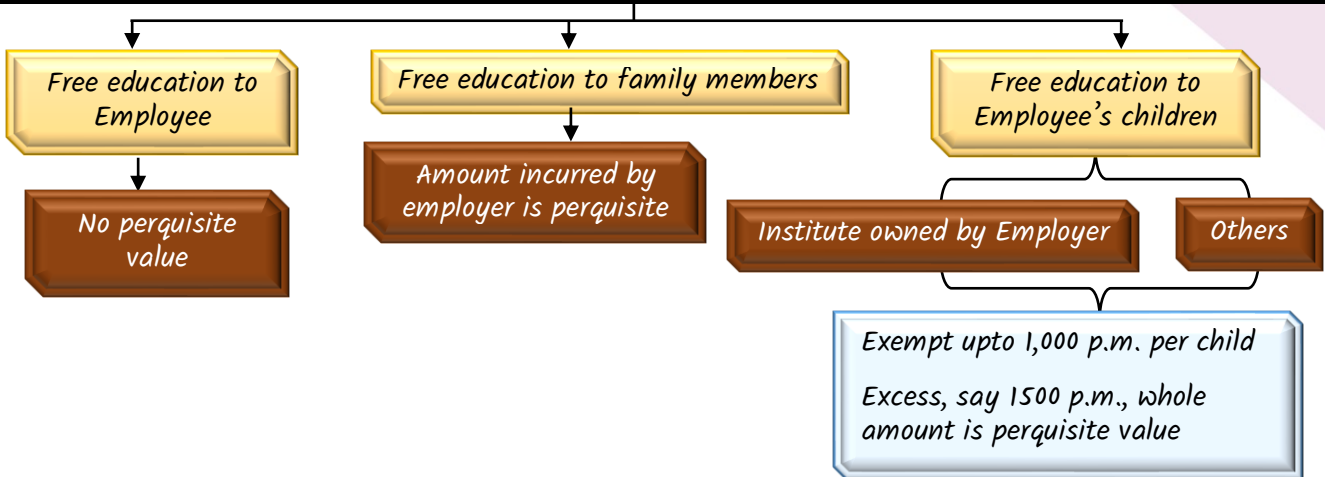
**A. PERQUISITE VALUE OF GARDENER, SWEEPER, WATCHMAN, ETC.**

→ Actual cost to employer taxable

**B. PERQUISITE VALUE OF GAS, ELECTRICITY OR WATER**

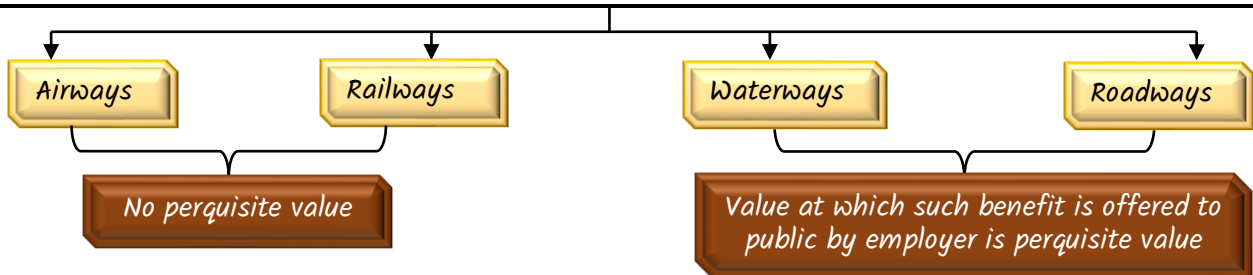


**C. PERQUISITE VALUE OF FREE OR CONCESSIONAL EDUCATIONAL/ TRAINING FACILITY**



**Note:** No limit on number of children.

**D. PERQUISITE VALUE OF FREE OR CONCESSIONAL TICKET TO EMPLOYEE OR FAMILY MEMBER FOR TRANSPORTATION OF PASSENGER OR GOODS BY EMPLOYER ENGAGED IN TRANSPORTATION BUSINESS**



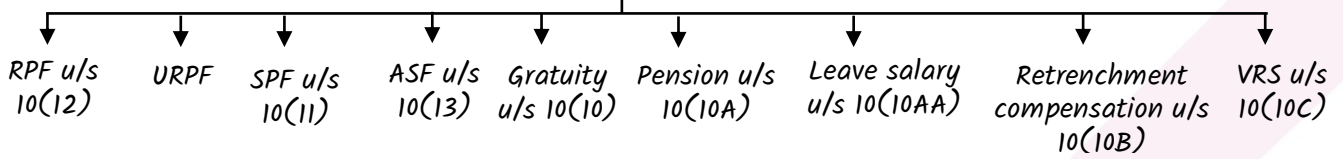
In case of M, T, E, G, G

- First determine whether the perquisite is monetary or non-monetary. If it is monetary perquisite, simple tax it. No need to check further.
- However, if its non-monetary perquisite, then determine whether Employee is specified or non-specified.
- Then decide taxability.

**Any other perquisite**

Perquisite value taxable in hands of employee → Cost to employer under an arms' length transaction as reduced by the employee's contribution, if any.

**10. RETIREMENT BENEFITS**

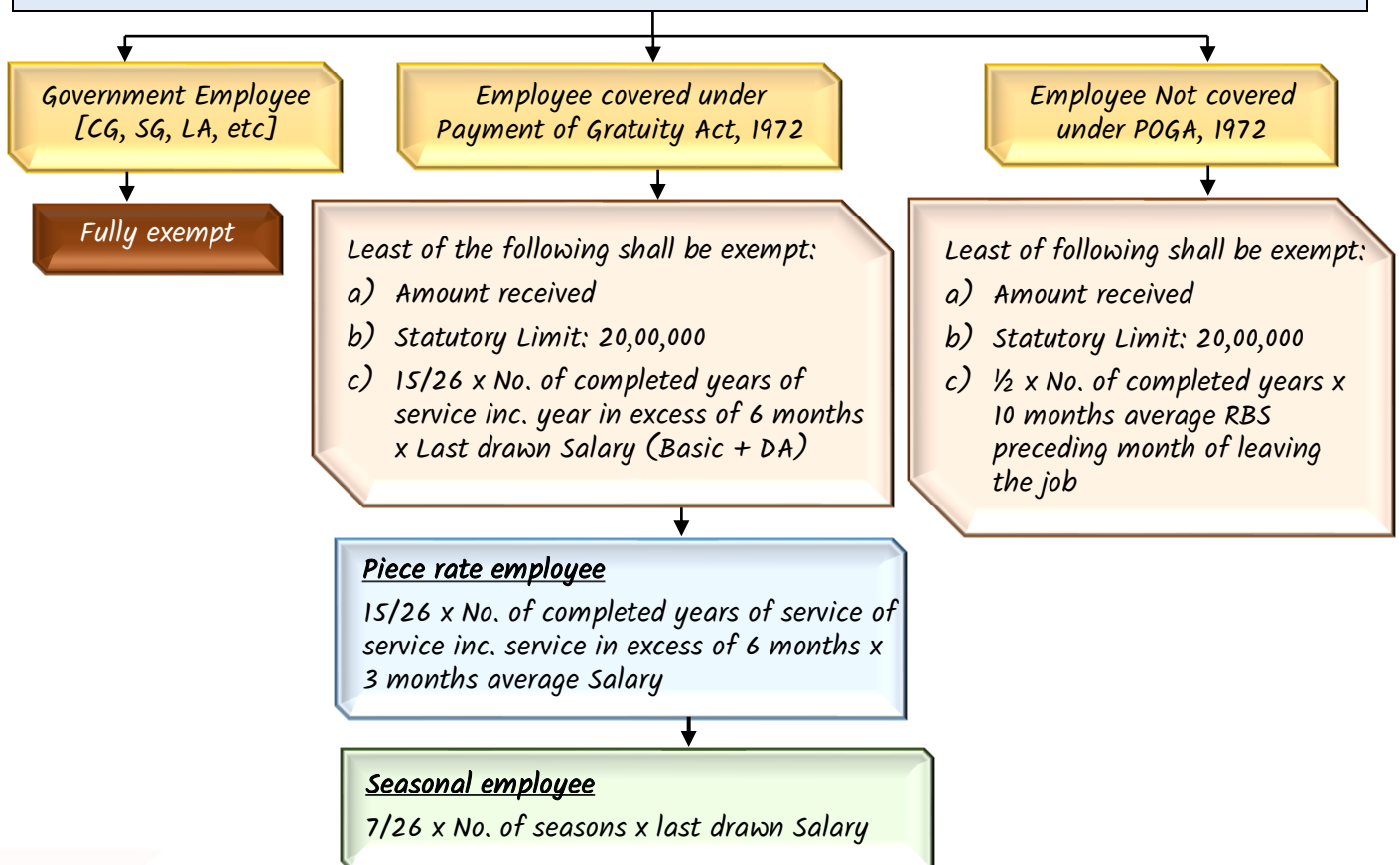


Retirement is a wider term that includes Voluntary Retirement, Compulsory Retirement & Superannuation.

Superannuation means Retirement at a particular age.

**10.1. TAXABILITY OF GRATUITY [RETIREMENT/ RESIGNATION – CUM – DEATH] [SEC 10(10)]**

Payment by Employer to Employee at the time of leaving the job/ retirement after 5 years of continuous service or on death in appreciation of services rendered by the employee.



**Notes:**

a) In case of receipt of Gratuity during the employment → Fully taxable in all cases.

b) PY 2023-24 { Employer 1 – 15,00,000 } Overall limit 20 L.  
                          { Employer 2 – 10,00,000 }

Earlier PY → Exemption allowed u/s 10 (10) → 8 lakhs

PY 2023-24 → Maximum exemption allowable u/s 10(10) → 12 lakhs

Limit of 20 lakhs is not per PY but per Assessee. So, if exemption u/s 10(10) has already been claimed earlier, the maximum exemption allowed in current PY → 20 lakhs – Exemption claimed earlier.

c) If employer – employee relationship does not exist, no exemption. E.g: LIC pays gratuity to its Agent →

it is fully taxable in hands of Agent under the head Other Sources.

d) In case of death of Employee, gratuity received by legal heir is exempt in similar manner.

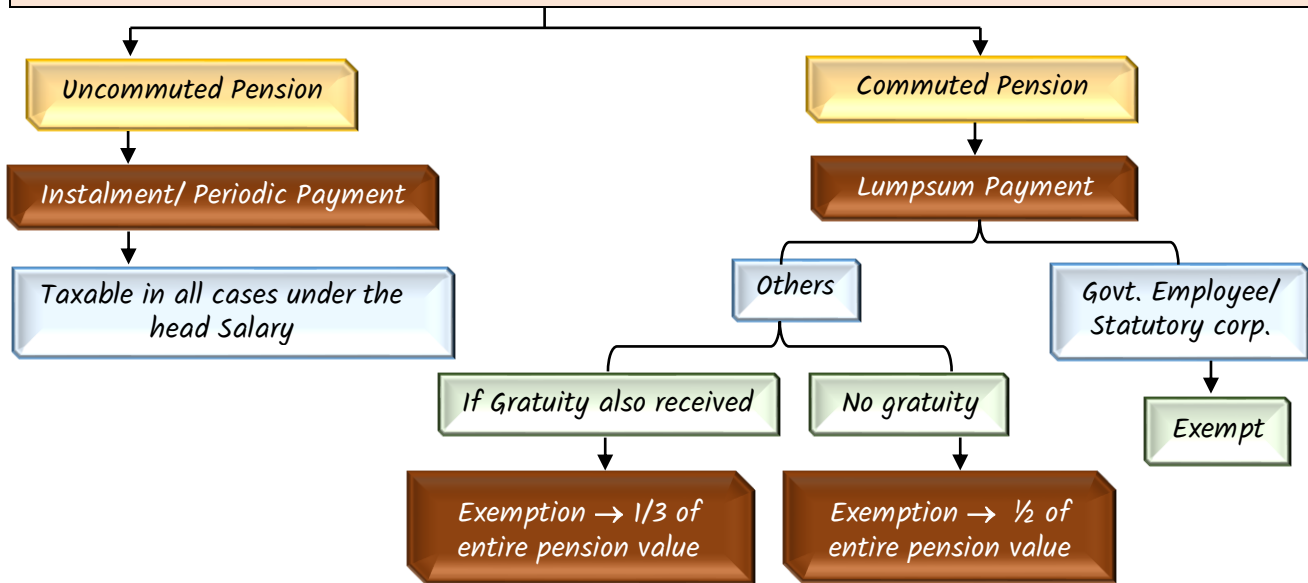
**10.2. ANNUITY OR PENSION [SECTION 10(10A)]**

Annuity is a sum payable in respect of a particular year. If a person invests some money entitling him to receive a series of equal annual sums, such annual sums are annuities in the hands of the investor.

Annuity received

- from a present employer is to be taxed as salary.
- from a past employer is taxable as profit in lieu of salary.
- from person other than an employer is taxable as “income from other sources”.

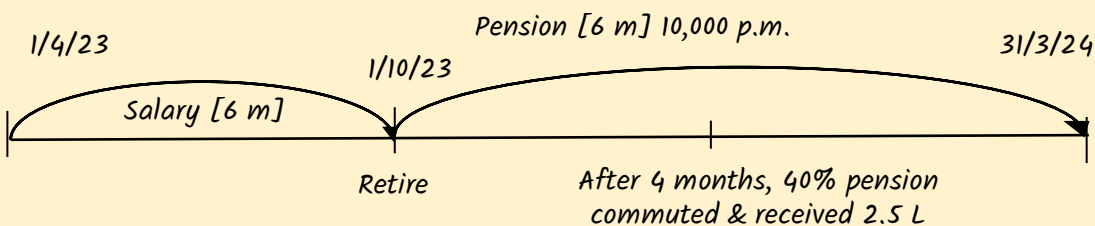
Pension is a periodic payment made by Government or other employers to the employee in consideration of past service payable after his retirement. Types & taxability is as below:



$$\text{Total Pension Value} = \frac{\text{Committed pension Received}}{\% \text{ of Pension Committed}}$$

**Example:** Suppose a person is entitled to receive a pension of say 10,000 p.m. for the rest of his life. He may commute 25% of this amount and get a lumpsum of say 1,50,000. After commutation, his pension will now be the balance 75% of 10,000 p.m. = 7,500 p.m.

**HOW TO CALCULATE SALARY AND PENSION?**





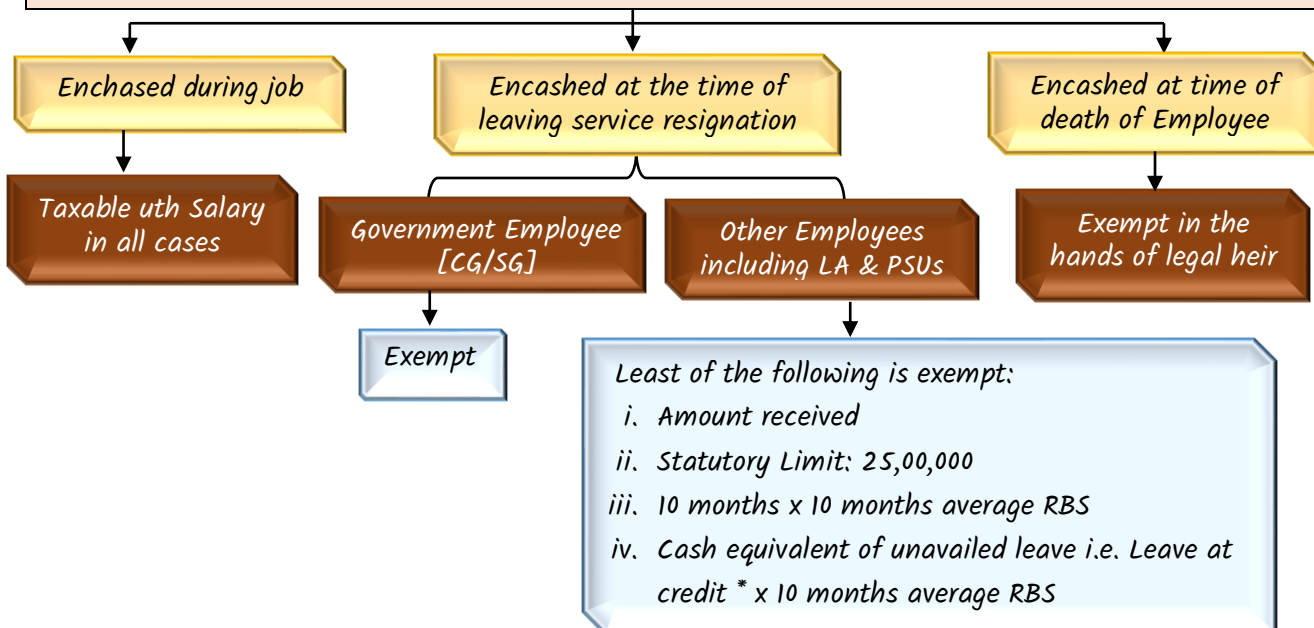
Uncommuted pension is exempt in the following cases:

- Judges of Supreme Court & High Court will be entitled to exemption of the commuted portion u/s 10(10A).
- Pension received by recipient of gallantry award or by his family members. [Sec 10(18)]
- Family pension received by family members of armed forces including para military forces who died in course of operational duty. [Sec 10(19)]

### 10.3. TAXABILITY OF LEAVE SALARY [SECTION 10(10AA)]

Employee may avail leaves allowed or in case the leave is not availed, then the leave may either lapse or be accumulated for future or allowed to be encashed every year or at the time termination/ retirement.

Taxability of the payment received on account of encashment of unavailed leave is as follows:



#### Leave at credit

Total leave entitled during employment [No. of completed years x earned leave allowed per year (max. 30 per year)]	xxx
(-) Leaves encashed during employment	xx
(-) Leave availed during employment	xx
<b>Leave at credit</b>	<b>Xxx</b>

**10 months average salary** → Retirement benefit salary drawn during the period of 10 months immediately preceding date of retirement

**Max. leave salary exemption** → 25,00,000 per Assessee in life time.

### 10.4. RETRENCHMENT COMPENSATION [SECTION 10(10B)]

Refers to compensation on account of termination or due to modification in terms and conditions of employment. It is paid under Industrial Disputes Act, 1947.

Least of the following shall be exempt:

- Compensation received

- b. Statutory Limit: 5,00,000
- c.  $15/26 \times$  completed years of service including year in excess of 6 months  $\times$  3 months average salary (Basic + Entire DA + allowances and perquisites, excluding bonus and retirement benefits)

### 10.5. VOLUNTARY RETIREMENT SCHEME [SECTION 10(10C)]

Refers to Lump sum payment received by an employee at the time of voluntary retirement.

Least of the following is exempt:

- a. Amount received
- b. Statutory Limit: 5,00,000
- c. For each completed years of service  $\times$  3 months  $\times$  Retirement Benefit salary at time of retirement
- d. Remaining job period in months  $\times$  Retirement benefit salary at time of retirement

**Note:**

- i. It applies to an employee who has completed 10 years of service or completed 40 years of age.
- ii. VRS exemption is provided once in lifetime.
- iii. VRS exemption and relief u/s 89 are mutually exclusive.
- iv. VRS exemption is available even if amount is received in instalment.

### 10.6. PROVIDENT FUND

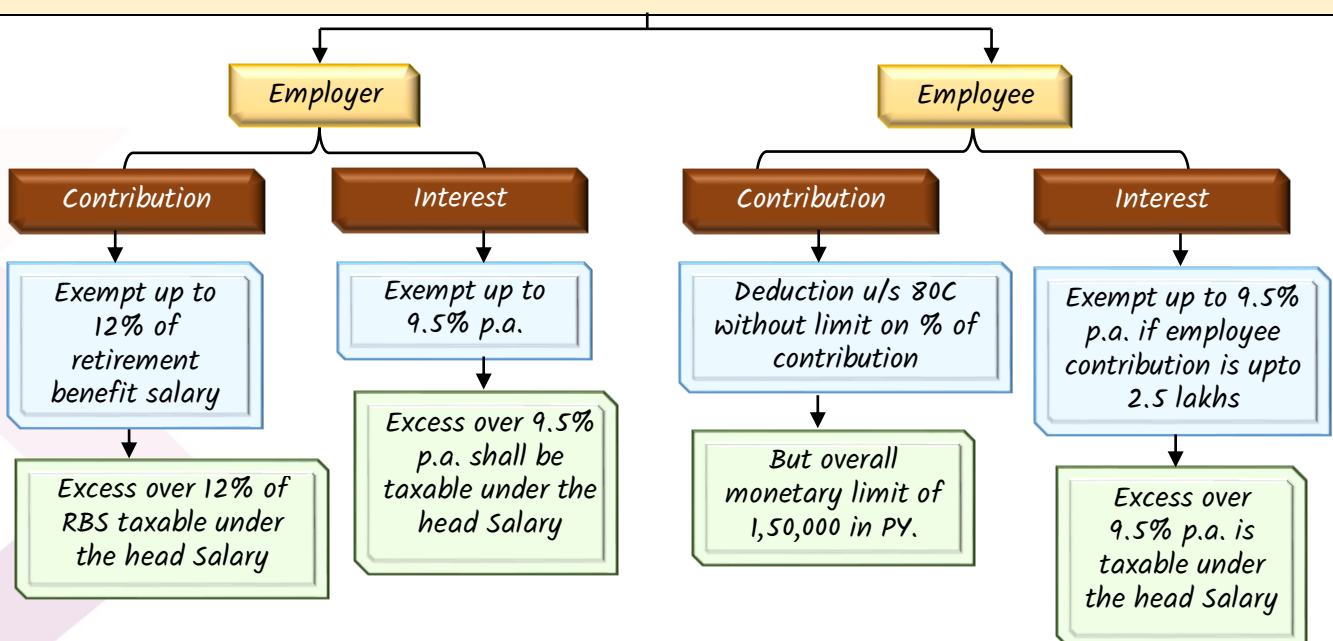
Refers to an investment fund where specified sum is deducted from the salary of the employee each month as his contribution towards the fund. The employer also generally contributes the same amount out of his pocket, to the fund. These contributions are invested in approved securities.

The accumulated balance of contribution and accrues interest is paid to the employee at the time of his retirement or resignation. In the case of death of the employee, the same is paid to his legal heirs.

Types & taxability is as follows:

#### 10.6.1. RECOGNIZED PROVIDENT FUND

Recognized by Income Tax Department/ Employee PF & Miscellaneous Provisions Act, 1952



If employee contribution to RPF/SPF > 2,50,000; Interest on excess employee contribution is fully taxable.

Following Contribution by Employer and Interest on such Contribution shall be taxable as perquisites:

- a) Amount or the aggregate of amounts of contribution made to the account of the Assessee by Employer
  - i) in Recognised Provident Fund;
  - ii) in New Pension Scheme u/s 80CCD; and
  - iii) in Approved Superannuation Fund

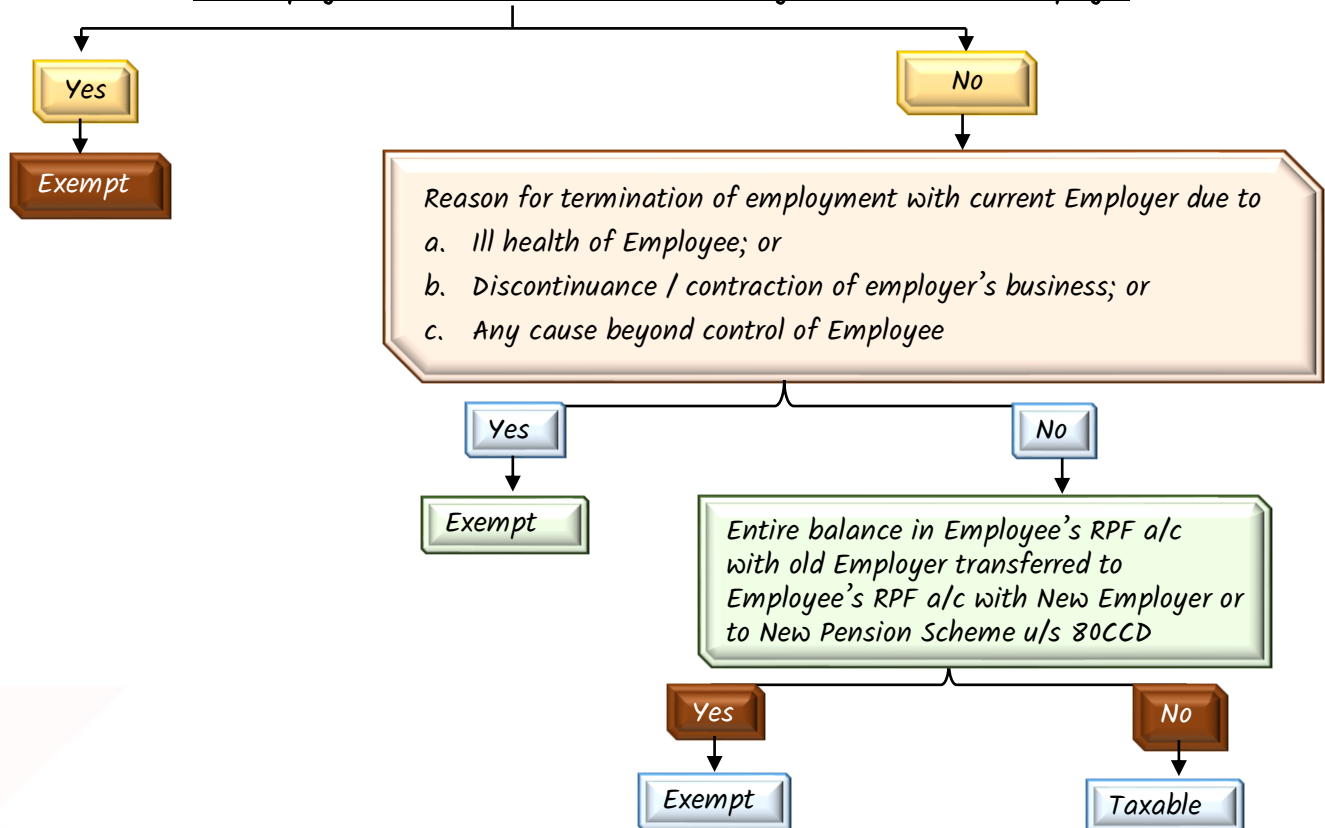
to the extent it exceeds 7,50,000. [Sec 17(2)(vii)]

- b) Annual accretion by way of interest, dividend or any other amount of similar nature on the amount which is included in total income u/s 17(2)(vii) (on account of the same having exceeded INR 7,50,000) would also be treated as a perquisite.

Manner to compute the annual accretion during the previous year – Refer page 3.57

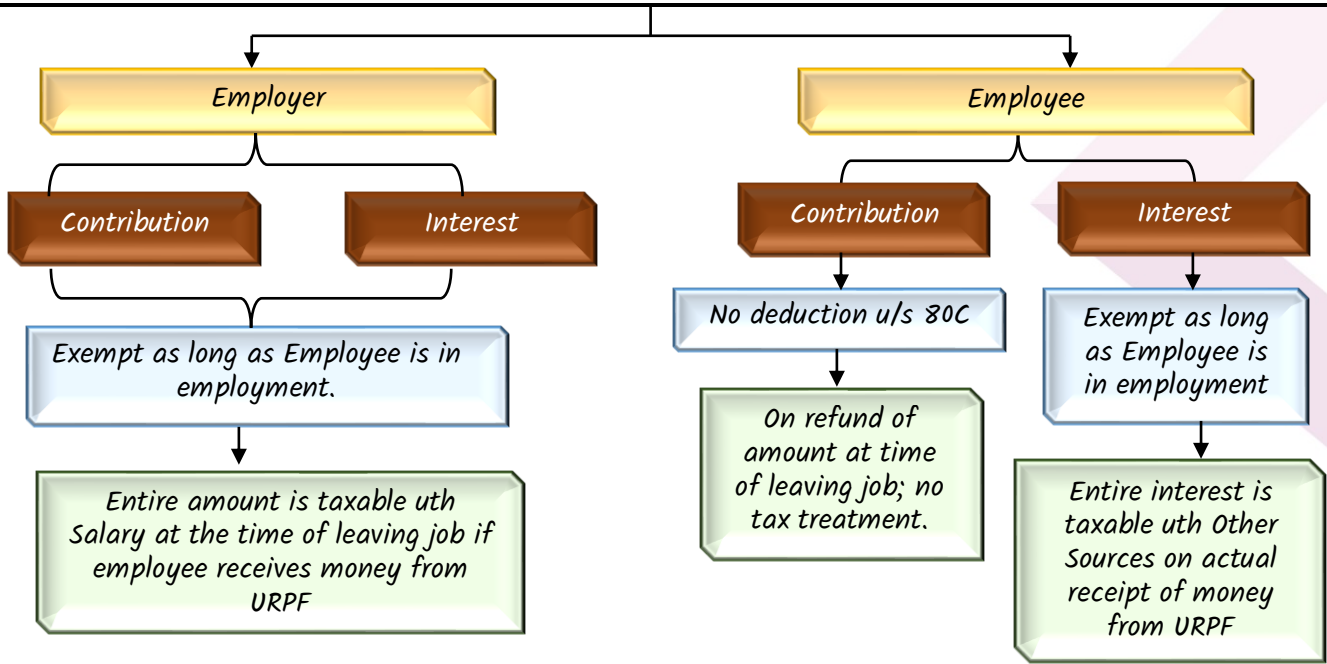
### TAXABILITY OF ACCUMULATED BALANCE OF RPF PAYABLE TO EMPLOYEE [SECTION 10(12)]

**Has Employee rendered continuous service of 5 years or more with Employer?**

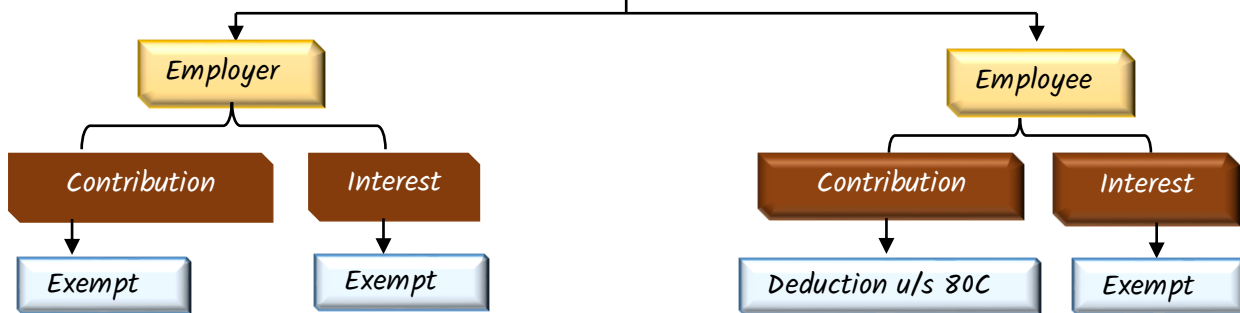


**Note:** If employee resigns from a job & obtains employment with another employer and balance in Employee's RPF Account is transferred to New employer, while calculating total service of employment, his service with former employer shall also be considered.

**10.6.2. UNRECOGNIZED PROVIDENT FUND**



**10.6.3. STATUTORY PROVIDENT FUND [SEC 10(11)]**



**Note:** SPF is governed by Provident Funds Act, 1925 & is applicable to Employee of Government, Local bodies Railways, Universities and all recognised educational institutions.

**Note:** Maturity amount is exempt u/s 10(11).

**Interest on Employee's contribution towards RPF/ SPF in excess of 2,50,000 Taxable w.e.f. 01.04.2021**

Exemption u/s 10(11) or 10(12) shall not be available for interest accrued during the PY to the extent it relates to the contribution made by an employee

➤ exceeding 2,50,000 in any PY in RPF/SPF, on or after 01/04/21.

**Note:** In case, employer has not made any contribution in RPF/SPF, then a higher limit of 5,00,000 would be applicable.

**Note:** Interest accrued on contribution to such funds upto 31/03/21 would be continue to be exempt without any limit, even if the accrual of income is after that date.

**W.e.f. 01.04.2021, Two Accounts is maintained w.r.t. Employee Contribution**

Non-taxable contribution A/c

Taxable contribution A/c

Non-taxable contribution A/c	Taxable contribution A/c
a. Closing balance as on 31.03.2021 + b. Contribution during PY 2021-22 & subsequent PYs which is not included in taxable contribution A/c [upto 2.5 lakhs / 5 lakhs] + c. Interest accrued on (a) + (b)	a. Contribution during the previous year 2021-22 and subsequent previous years, which is in excess of the yearly threshold limit + b. Interest on (a) as reduced by the withdrawal, if any, from such account.

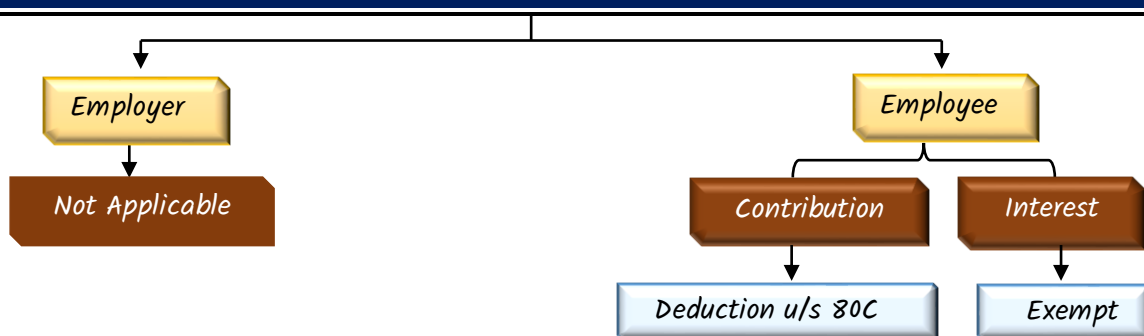
**10.6.4. APPROVED SUPERANNUATION FUND [SEC 10(13)]**



**Note:** Maturity amount is exempt u/s 10(13) in case of

- a) retirement, death or
- b) transfer from approved superannuation fund to New Pension scheme u/s 80CCD.

**10.6.5. PUBLIC PROVIDENT FUND [SEC 10(11)]**



**Points to Note:**

- a) Governed by PPF Act, 1968.
- b) It is open to every individual though it is ideally suited to self-employed people. A salaried employee may also contribute to PPF in addition to the fund operated by his employer.
- c) An individual may contribute to PPF on own behalf & also on behalf of a minor of whom he is guardian.

**10.6.6. CONTRIBUTION MADE BY CENTRAL GOVERNMENT TO THE AGNIVEER CORPUS FUND ACCOUNT OF AN INDIVIDUAL ENROLLED IN THE AGNIPATH SCHEME REFERRED U/S 80CCH.**

Agnipath Scheme is a Central Government Scheme launched in 2022 for enrolment of Indian youth in the Indian Armed Forces as Agniveers for four years to serve the country.

Government has created a non-lapsable dedicated interest-bearing Agniveer Corpus Fund in the interest-

bearing section of the Public Account head.

In this account, fixed percentage of monthly emoluments would be contributed by the Agniveer and matching amount would be contributed by the Central Government.

The consolidated contributions of all the Agniveers and matching contributions of the Government along with interest on these contributions would be held in their respective accounts.

**Central Government's contri. to Agniveer Corpus Fund A/c would form part of salary of employee u/s 17(1).**

However, while computing total income of an individual enrolled in the Agnipath Scheme, being the Assessee, a deduction u/s 80CCH is allowed to the Assessee in respect of his contribution as well as Central Government's contribution under Agniveer Corpus Fund referred therein.

(Deduction u/s 80CCH will be discussed in detail in Chapter "Deductions from Gross Total Income")

## 11. RELIEF U/S 89 FROM TAX LIABILITY OF CURRENT PY

<b>Arrears of salary</b>	<p>Salary arrears must be charged on due basis. However, there are circumstances when it may not be possible to bring the same to charge on due basis.</p> <p><b>Examples:</b></p> <p>a) If the Pay Commission is appointed by the CG &amp; it recommends revision of salaries of employees with retrospective date, the arrears received in that connection will be charged on receipt basis. Here, relief u/s 89 is available.</p> <p>b) If the CG announces increase in HRA in the previous year 2023-24 which is effective from 1.1.2022, then the arrears from 1.1.2022 to 31.3.2023 will be taxed in the previous year in which they are paid because they were never due earlier. Here, relief u/s 89 is available.</p>
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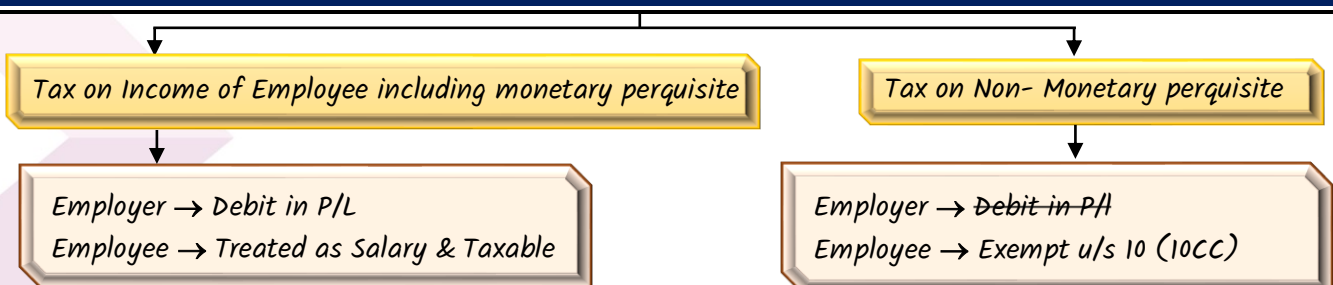
When employee receives arrears of salary or advance salary or family pension and because of this, his tax liability in relevant PY increases; he can claim relief u/s 89.

**Note:** No relief u/s 89 provided in case of receipt of VRS compensation if exemption is claimed u/s 10(10C).

### Steps for Relief u/s 89

<b>Step 1:</b>	Calculate Tax liability in current PY on Total Income Including Arrears & Excluding Arrears. Difference of these two tax liabilities gives Extra Tax payable due to Arrears.
<b>Step 2:</b>	Calculate tax liability of each of earlier PY whose arrear is taxable in current PY on Total Income Including Arrears & Excluding Arrears. Difference of these tax liabilities gives Tax saved in earlier PYs due to non-taxability of Arrears in those PYs.
<b>Step 3:</b>	Relief u/s 89 → Step 1 – Step 2.
<b>Step 4:</b>	Adjust relief from tax liability of current PY to arrive at tax payable. Tax Payable in current PY → Tax including Arrears – Relief u/s 89

## 12. INCOME TAX PAID BY EMPLOYER ON BEHALF OF EMPLOYEE



**Illustration**

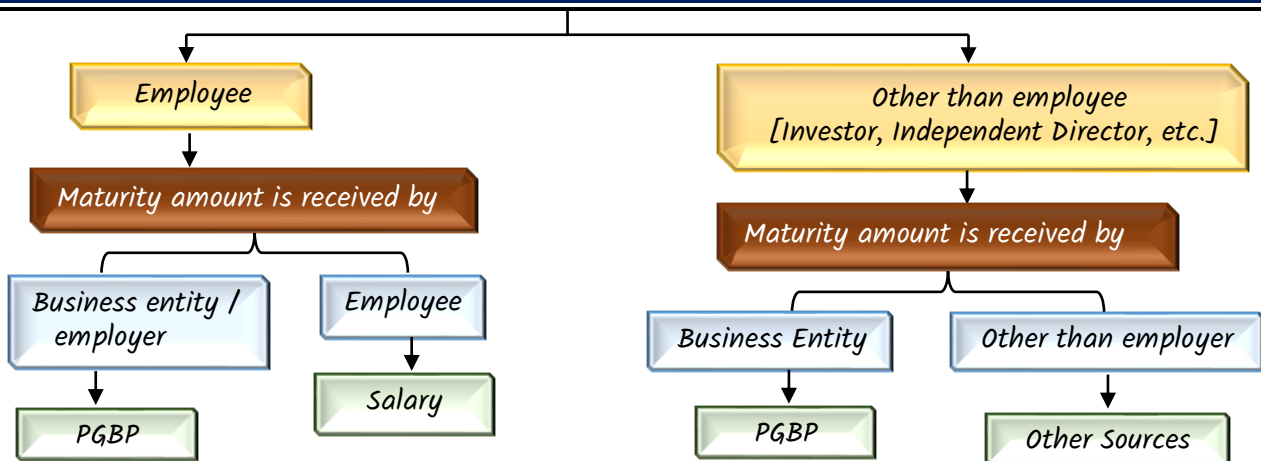
Ram paid 10 Lakh as salary including perquisites to his employees.

Ram also paid 1,00,000 as Tax on salary, 50,000 as tax on Monetary perquisites & 25,000 as Tax on Non-Monetary perquisite.

Tax treatment in hands of

- Employer
- Employee

**13. KEYMAN INSURANCE POLICY TAKEN BY BUSINESS ENTITY ON BEHALF OF**



**Note:** Maturity amount of Key Man Insurance Policy is always taxable.

**14. PROFIT IN LIEU OF SALARY**

Refers to additional payment to Employee apart from Salary and are fully taxable.

Such payments are as given below:

- a) Taxable portion of Retrenchment Compensation or VRS/ on account of termination of his employment
- b) Taxable portion of Gratuity, Commuted Pension and Provident Fund.
- c) Amount received by the employee under Keyman Insurance Policy.
- d) Amount received before taking up the employment or after termination of the employment.
- e) Any other payment notified for this purpose.

**15. TYPES OF SALARY AND THEIR USAGE**

a) Retirement Benefit salary  
→ Basic pay + DA forming part of employment contract + commission (% of Turnover)

1. HRA [Sec 10(13A)]
2. Leave salary [Sec 10(10AA)]
3. VRS [Sec 10(10C)]
4. NPS u/s 80CCD
5. Gratuity (not covered under POGA) [Sec 10(10)]
6. RPF [Sec 10(12)]

b) Basic + DA

1. Gratuity (covered under POGA) [Sec 10(10)]
2. Retrenchment compensation [Sec 10(10B)]

c) RFA salary	RFA
---------------	-----

**16. DIFFERENT TAX TREATMENT OF ITEMS UNDER TWO TAX REGIMES**

S No.	Items	Optional tax regime i.e. Normal provisions of Act	Default Tax Regime u/s 115BAC
1.	Leave Travel Concession u/s 10(5)	Exemption Available	Fully Taxable
2.	House Rent Allowance Exemption u/s 10(13A)	Exemption Available	Fully Taxable
3.	Exemption for Allowances u/s 14	Exemption Available	Fully Taxable
	However, 4 Allowances are exempt under both tax regime: i) Daily Allowance ii) Conveyance Allowance iii) Travelling Allowance iv) Transportation Allowance	Exemption Available	Exemption Available
4.	Exemption in respect of free food and non-alcoholic beverage	Exemption Available	Fully Taxable
5.	Deductions u/s 16		
	➤ Entertainment allowance for Govt. employees	Deduction Allowable	Not allowable
	➤ Professional tax	Deduction Allowable	Not allowable
	➤ Standard deduction	Deduction Allowable	Allowable
6.	Deduction u/s 80C	Deduction Allowable	Not allowable
7.	Deduction u/s 80CCH(1) in respect of employee's contribution	Deduction Allowable	Not allowable
	Deduction u/s 80CCH(2) in respect of Central Government's contribution	Deduction Allowable	Allowable
8.	Rent-free accommodation provided to a Judge of a High Court or Supreme Court	Exemption Available	Fully Taxable
	Allowance to Supreme Court/ High Court Judges including Sumptuary allowance	Exemption Available	Fully Taxable
9.	Allowance received from UNO	Exemption Available	Fully Taxable



# CHAPTER 5

## INCOME FROM HOUSE PROPERTY

### 1. INCOME FROM HOUSE PROPERTY [SEC 22 TO 27]

#### i) Income from Letting out of House Property by

- Owner is taxable under the head Income from House property.

#### ii) Conditions for chargeability of Income uth House Property

a) Property must consist of Building & land appurtenant thereto	b) Assessee must be owner of HP	c) Use of property
Property may be of any kind i.e.  Residential as well as commercial like Factory, office, Garage etc.	Ownership may be freehold or leasehold (12 years or more)  Includes Deemed owner u/s 27.  It is not necessary that Assessee owns land on which HP is built.  Ownership is checked for PY in which Rental Income is accrued. Assessee need not be owner in the year of receipt or AY.  Thus, in case of recovery of unrealized rent and arrears of rent, ownership is irrelevant.	If let out to tenant, taxable uth HP  Tenant may use HP for any purpose i.e. Residential or commercial purpose.  If not let out i.e. used by owner <ul style="list-style-type: none"> <li>➤ in own business/profession – Taxable uth PGBP</li> <li>➤ Other usage – Taxable uth HP</li> </ul>

#### In the following cases, Income from HP is taxable uth PGBP:

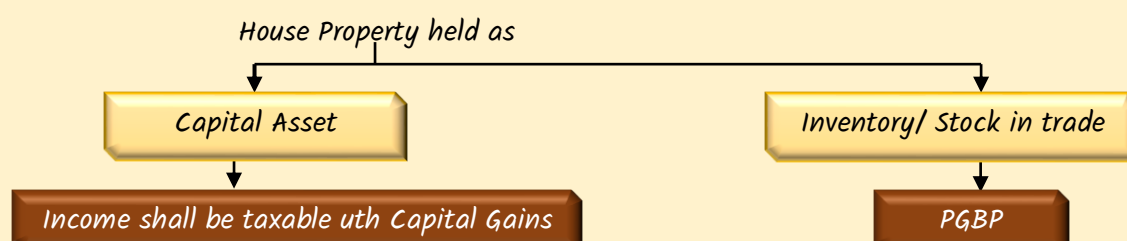
- Assessee / owner uses HP in his own Business Profession
- Assessee is engaged in business of letting out HP [property dealers engaged in renting business]
- Composite Rent, where rent for HP & facilities is not separable.

#### Income from letting out vacant land → House property

Shall be taxable under the head PGBP or Income from Other Sources (IFOS), as the case may be.

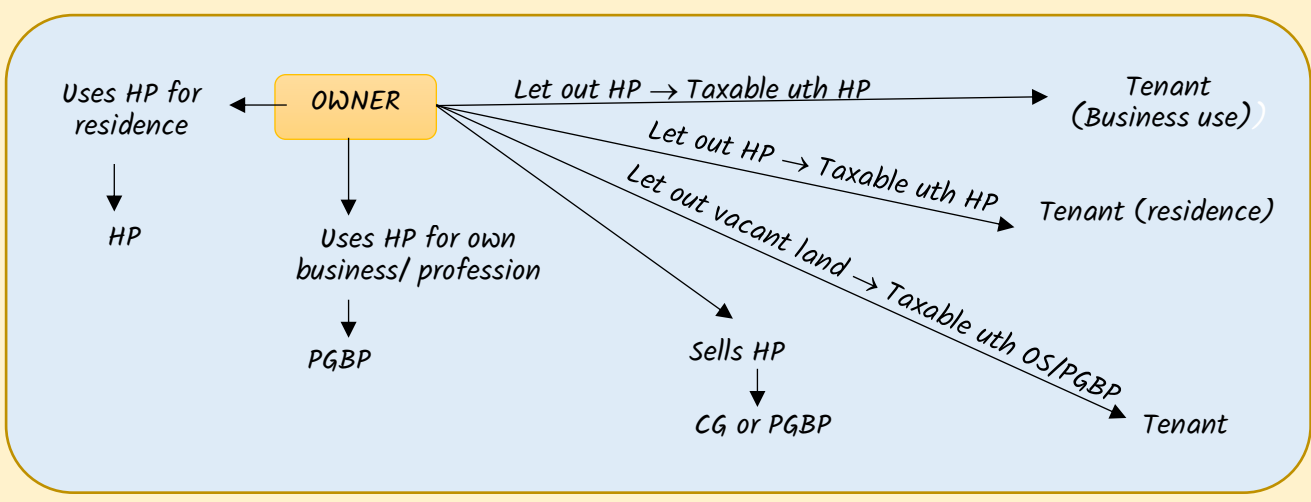
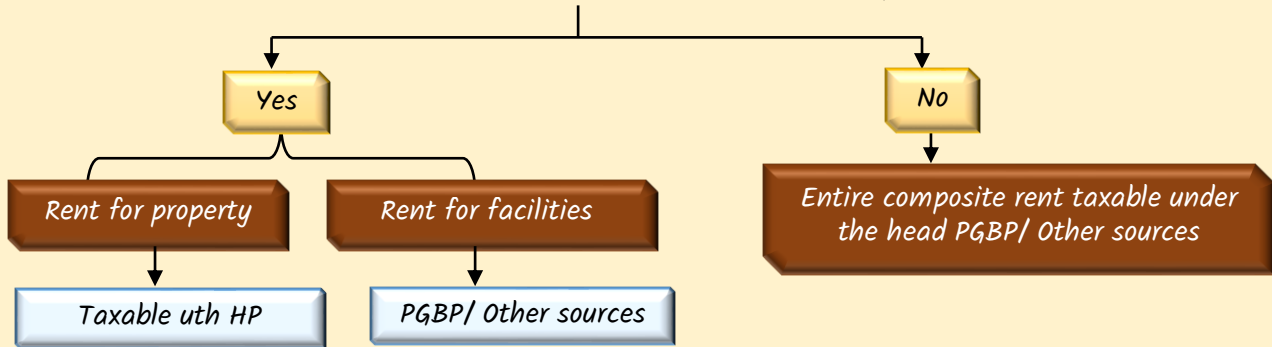
**Note:** IFOS comes into play when Assessee is not engaged in business of doing the relevant activity.

#### iii) What about taxability of Income from Sale of House property



**iv) Composite Rent [Combined rent for HP & Facilities like lift, Power back up, furniture, security etc]**

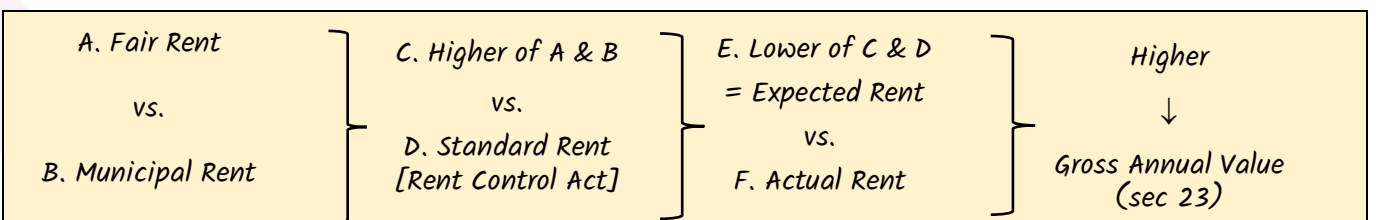
Is Rent for use of HP and Rent for facilities separable?



**2. COMPUTATION OF INCOME UNDER THE HEAD HOUSE PROPERTY**

Gross Annual Value/ Reasonable rent [Section 23]	xxx
Less: Municipal Tax paid by the owner	xx
<b>Net Annual value</b>	<b>xxx</b>
Less: Standard Deduction of 30% u/s 24(a)	xx
Less: Deduction w.r.t. Interest paid/payable u/s 24(b) on capital borrowed for 'ACR'	xx
<b>Income under the head House property</b>	<b>xxx</b>

**2.1. GROSS ANNUAL VALUE → HIGHER OF EXPECTED RENT & ACTUAL RENT RECEIVED/ RECEIVABLE**



**Points to Note:**

<b>Fair Rent</b>	Rent which similar property in the same locality would fetch.
<b>Municipal Valuation</b>	Value determined by the municipality for the purpose of charging municipal tax.
<b>Standard Rent</b>	Highest possible rent as per Rent Control Act. ER cannot exceed Standard Rent.
<b>Expected Rent</b>	Higher of fair rent and municipal value, but restricted to standard rent. Also, known as <b>Annual Letting Value</b> .
<b>Annual Rent</b>	Actual Rent p.m. for 12 months.
<b>Annual Value</b>	Amount for which the HP might reasonably be expected to let from year to year.

**2.2. Municipal Tax**

- a) Levied by local authority for maintaining Town or city. E.g: House Tax, Fire Tax, Sewage Tax, etc.
- b) Deducted from GAV to arrive at NAV.
- c) Allowed as deduction to owner only if it is paid by the owner (strictly on payment basis)  
If due but not paid → Not allowed  
If paid by tenant → Not allowed as deduction
- d) Payment of arrears of Municipal Tax in current PY or payment of advance Municipal Tax in current PY by owner is allowed in current PY.  
Example: Kishan, the owner of HP, paid 50,000 Municipal Tax for PY 2022-23 on 10/4/2023.  
Municipal Tax for PY 2023-24 was 70,000 out of which 10,000 was paid on 10/12/2023.  
The total deduction for PY 2023-24 = 60,000

**Non Allowability:** No deduction for municipal tax paid is allowed in case of self-occupied house property.

**2.3. Standard Deduction u/s 24 (a) @ 30% of NAV**

- a) Deduction is allowed irrespective of the actual expense.
- b) Must be deducted from NAV even if the question is silent.
- c) If NAV is NIL or negative, deduction u/s 24(a) is not allowed even if there are Actual expenses.

Example	Case I	Case II	Case III	Case IV
NAV	1,00,000	1,00,000	1,00,000	Nil
Actual Expense	5,000	40,000	Nil	10,000
<b>Deduction u/s 24(a)</b>				

**2.4. Deduction u/s 24 (b)**

- Interest on borrowed capital/ loan availed **from anywhere** for

A → Acquisition

C → Construction

R → Repair, Renovation, Reconstruction

of HP is allowed on accrual basis.

**Notes:**

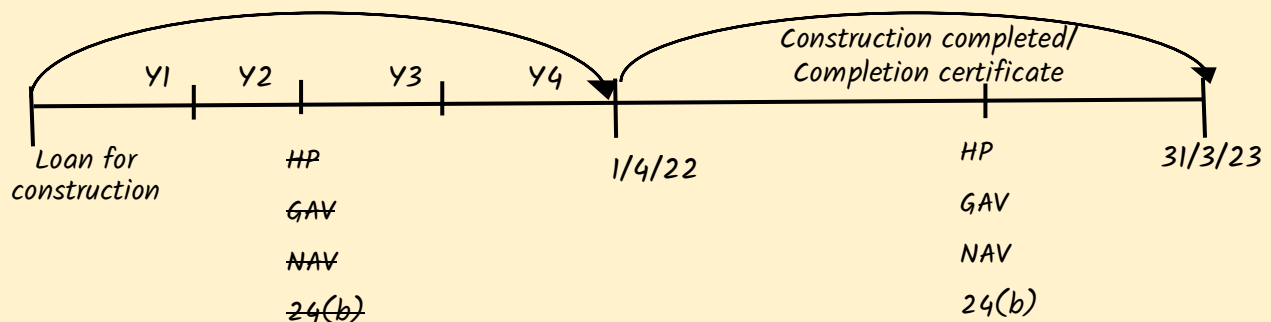
- i) Interest is allowed on accrual basis i.e., interest due but not paid is also allowed.
- ii) Interest on unpaid interest → Not Allowed
- iii) Commission/ Brokerage/ Processing charges/ Handling charges etc. is not allowed

- iv) Assessee can take any number of loans from Anywhere.
- v) Interest on fresh loans taken to repay/ retire old loan is also allowed.
- vi) Interest on loan taken from outside India/ Non resident is also allowed if either
  - a) NR has an agent in India; or
  - b) Assessee has deducted tax at source from interest payable to NR & deposited with Govt.
 If both of the above conditions not satisfied, no deduction shall be allowed u/s 24(b). [Sec 25]
- vii) If Assessee has purchased a HP and there is Unpaid price w.r.t. such purchase, it is considered as capital borrowed by owner from builder and interest paid/payable to builder w.r.t. such unpaid price is allowed u/s 24(b).
- viii) There is no restriction on the allowability of interest u/s 24(b) i.e., the entire interest paid / payable during a PY is allowed u/s 24(b).

**Exception:** In case of self-occupied HP, there is restriction of 30,000/ 2,00,000 per Assessee in a PY.

### 2.4.1. PRE-CONSTRUCTION INTEREST I.E. PERIOD PRIOR TO PY IN WHICH HP IS ACQUIRED/CONSTRUCTED

Interest paid/ payable → Pre construction interest



In case of loan taken for construction of HP, entire interest on loan taken is allowed u/s 24(b)

→ starting from the PY in which construction is completed.

Interest relating to the pre-construction period will be known as pre-construction interest and is allowed in 5 equal annual installments starting from PY in which construction is completed.

**Example:** Loan for construction of HP was taken on 1/10/2020. Construction was completed on 31/3/2024.

In this case,

Year of Completion of construction =

Pre-construction Period =

=

Pre-construction Interest allowed u/s 24(b) during PY 2020-21 to PY 2022-23 →

Interest allowed u/s 24(b) in PY 2023-24 =

**Interest for the year in which construction is completed/ property is acquired:**

- fully claimed in that year irrespective of the date of completion/ acquisition.

### 2.4.2. Deduction in respect of Self-Occupied or Unoccupied HP where Annual Value is Nil

1) Under default tax regime u/s 115BAC

No deduction on account of interest on loan u/s 24(b) is allowed under default tax regime u/s 115BAC in

respect self-occupied or unoccupied property.

**2) Under optional tax regime (normal provisions of the Act)**

In case assessee has exercised the option of shifting out of the default tax regime provided u/s 115BAC(1A), deduction u/s 24(b) (including 1/5<sup>th</sup> of the accumulated pre-construction interest) is allowed as under:

Fully self-occupied HP → Deduction u/s 24(b) → Max Aggregate 30,000 in a PY per assessee.

If following 4 conditions are satisfied → higher deduction limit of 2,00,000 in a PY per assessee is allowed:

- a. Loan is taken w.e.f. 01.04.1999 or later
- b. Loan is taken for purchase, construction or acquisition of house property
- c. Construction completed within 5 years of taking loan
- d. CA certificate w.r.t. interest paid/ payable to lender is submitted with Income Tax department.

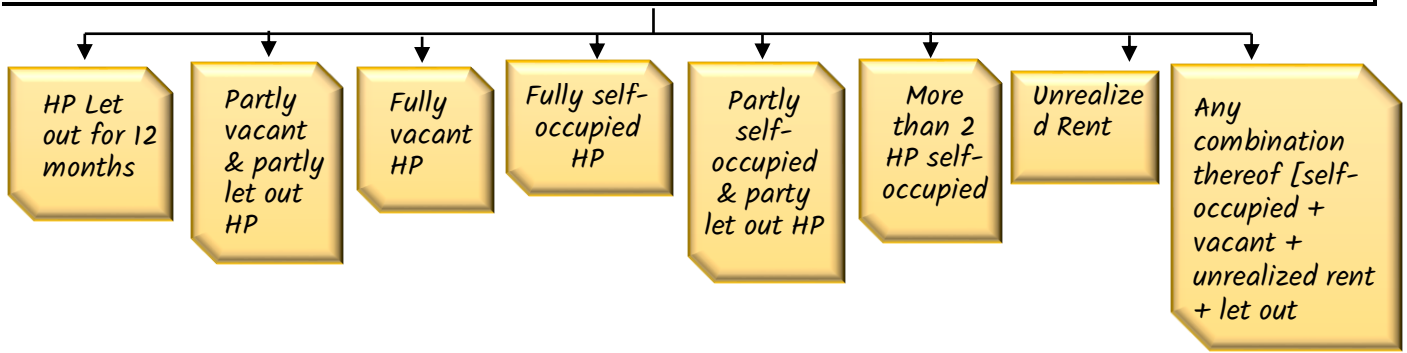
If all 4 conditions are fulfilled w.r.t 1 or both self-occupied HP → Max. aggregate 200,000

If all 4 conditions are not fulfilled w.r.t. both self-occupied HP → Max. aggregate 30,000

Illustrations	Case I	Case II	Case III
House Property 1	4 conditions not satisfied – upto	4 conditions satisfied – upto	4 conditions satisfied – upto
House Property 2	4 conditions not satisfied – upto	4 conditions not satisfied – upto	4 conditions satisfied – upto
Overall limit u/s 24(b)	Upto	Upto	Upto

**Note:** The ceiling limit would not apply to let-out/deemed let-out property/ partly let out property irrespective of the regime under which he pays tax.

**3. COMPUTATION OF GAV UNDER DIFFERENT CIRCUMSTANCES**



**3.1. GAV in case of a HP partly let out and partly vacant during the PY**

Case A: HP let out @ 50,000 p.m. Vacancy during PY = 3 months. Fair rent 40,000 p.m.

Expected Rent =

=

Actual rent received/receivable =

In case of vacancy → अग्नि परीक्षा

**Case B:** HP let out @ 35,000 p.m. Vacancy during PY = 2 months. Fair rent 40,000 p.m.

Expected Rent =

=

Actual Rent received/receivable =

In case of vacancy → अग्नि परीक्षा

**Crux:** Expected Rent calculated → Always for 12 months

Actual rent received /receivable calculated for 12 months – Vacant months

**Case A** → If Actual Rent received/ receivable is less than Expected Rent due to vacancy

GAV = Actual Rent

**Case B** → If Actual Rent received/ receivable is less than Expected Rent not due to vacancy

GAV = Expected Rent

### 3.2. & 3.3. GAV in the following cases:

	Fully vacant (12 months)	Fully self-occupied (12 months)
GAV	NIL	NIL
Less: Municipal Tax	Allowed	Not allowed
NAV	-ve	Nil
Less: Deduction u/s 24(a)	Nil	Nil
Less: Deduction u/s 24 (b)	Fully allowed	30,000/200,000*
Loss uth HP	Xxxx	xxxx

**Note:** Partly self-occupied & partly vacant → Treated as fully self-occupied

↓  
8 months

↓  
4 months

↓  
Municipal tax & 24 (b) with restriction

### 3.4. Tax Treatment in case of an Assessee who owns > 2 HPs & claims more than 2 HPs as self-occupied.

Treat any 2 such HPs as self-occupied at the option of assessee.

↓

Treat remaining HPs as deemed let out.

↓

**How to solve such Question?**

**Step 1:** Calculate Income from each HP as deemed let out.

**Step 2:** Create options and select the option with lowest income or highest loss.

How to calculate Income from a self-occupied HP which is deemed as let out.

- GAV shall be Expected Rent
- Municipal Tax shall be allowed

- Deduction u/s 24(a) allowed.
- Deduction u/s 24(b) allowed without any restriction.  
Limit of 30,000/ 2,00,000 u/s 24(b) shall not be applicable on HP deemed as let out.

### 3.5. GAV in case of a HP partly self-occupied and partly let out

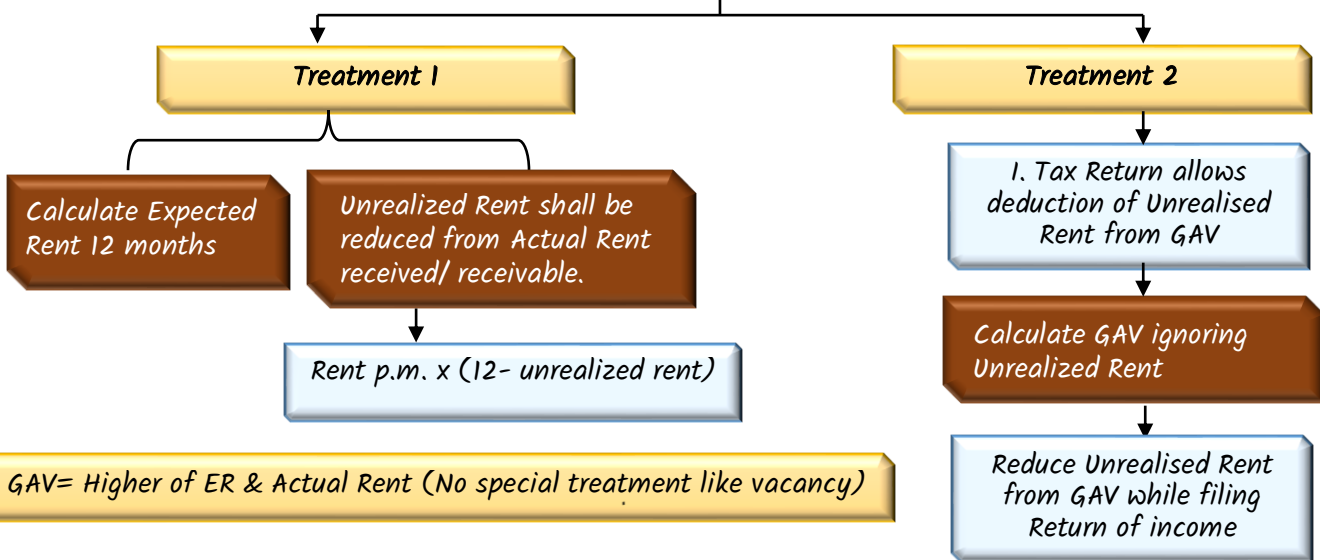
Expected Rent is calculated for → 12 months

Actual Rent is calculated for → 12 months – Self-occupied period

GAV will be higher of Expected Rent and Actual Rent. No special treatment like Vacancy.

### 3.6. Treatment of Unrealised Rent/ GAV in case of Unrealised Rent

Rent is irrecoverable i.e., bad debt [4 conditions to be fulfilled]



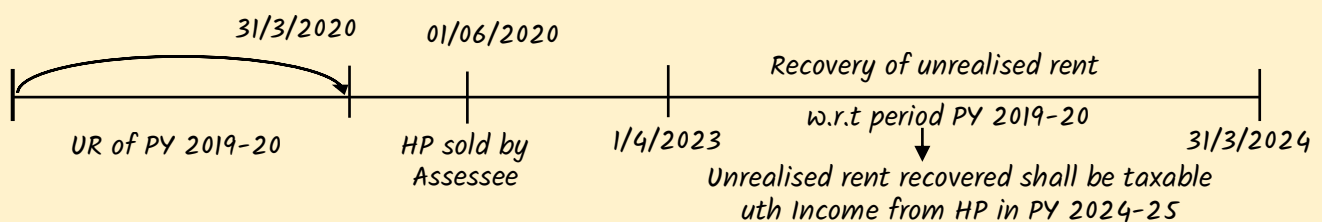
Rent is considered as unrealised rent only if all the following conditions of Rule 4 is complied with:

- Defaulting tenant has vacated, or steps have been taken to compel him to vacate the property.
- Defaulting tenant is not in occupation of any other property of the Assessee.
- Assessee has taken all reasonable steps to start legal proceedings for the recovery of the unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless.
- The tenancy is bona fide (genuine).

### 3.6.1. Recovery of Unrealised Rent/ Arrears of Rent [Sec 25A]

Taxable under the head HP in the PY in which it is received.

It is not necessary that Assessee is the owner of HP in the year of recovery.

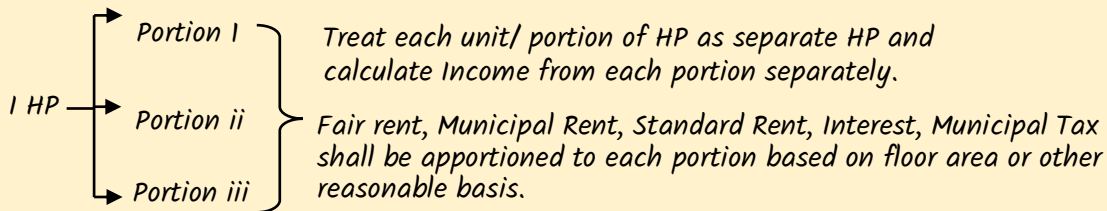


Unrealized Rent/ Arrears of Rent received	xxx
Less: Deduction @ 30%	xxx
<b>Income uth House Property</b>	<b>xxx</b>

If the ex-tenant also pays interest on such amount; interest will be taxable uth Income from Other Source.

**Note:** Hence, in case of recovery of unrealized rent and arrears of rent, ownership of that property is not relevant.

### 3.7. Tax Treatment of one House Property divided into different Units/ Portions



### 4. OWNED HOUSE PROPERTY USED BY ASSESSEE IN HIS BUSINESS/ PROFESSION

- Tax treatment under PGBP [Sec 28 to 44]
- All expenses, including depreciation related to such HP, shall be allowed uth PGBP.
- No deduction of Notional Rent of owned HP used in business/profession is allowed to Assessee.
- Similarly, notional rent of such HP shall not be taxable by Tax Authorities.

**Note:** Provisions of Income from House Property is not applicable in this case.

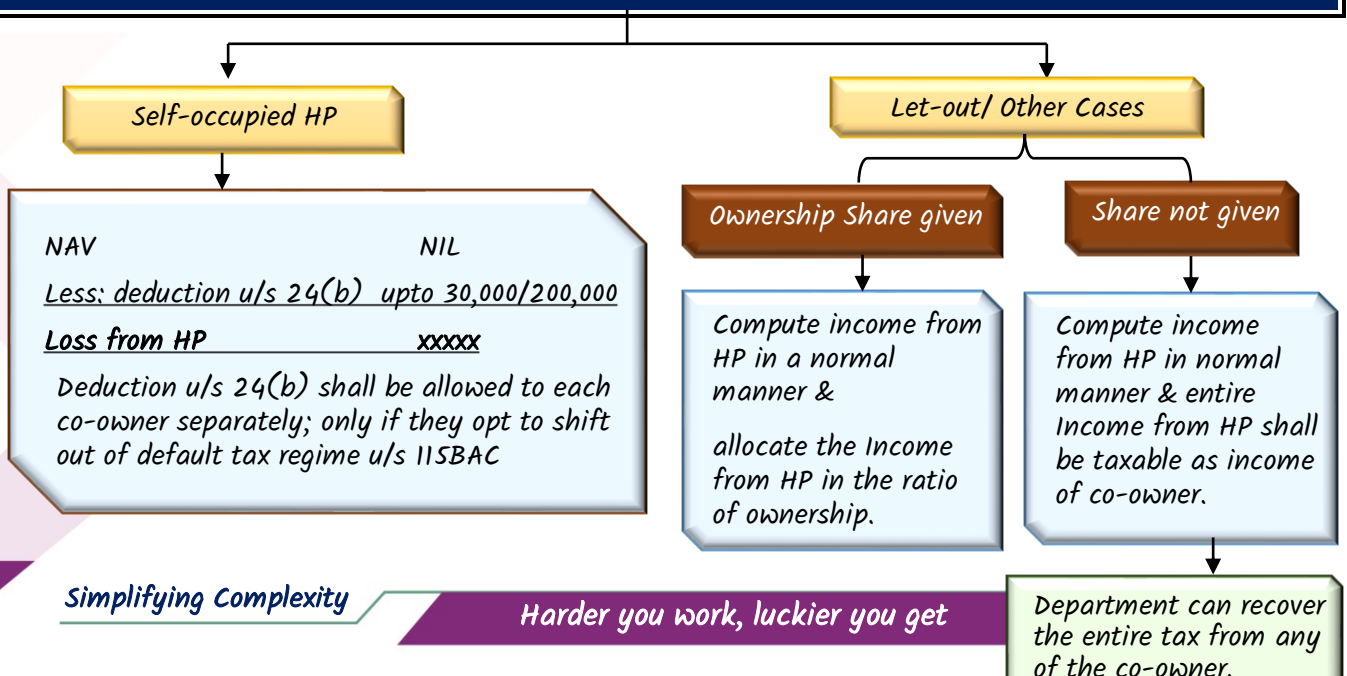
**Income from letting out of HP which is supplementary to the business of the Assessee** i.e. which helps to carry out business more efficiently;

- Rental Income shall be taxable uth PGBP.

**Examples:**

- Rent received by a school from letting out its auditorium for conducting coaching classes.
- If any company has constructed houses for the employees in their premises and it is let out to the employees, rental income is taxable under the head Business/ Profession.

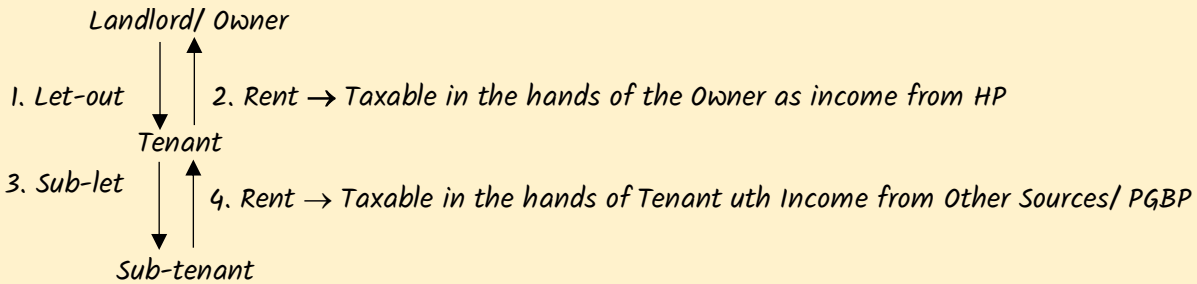
### 5. TAX TREATMENT OF CO-OWNED PROPERTY (SECTION 26)





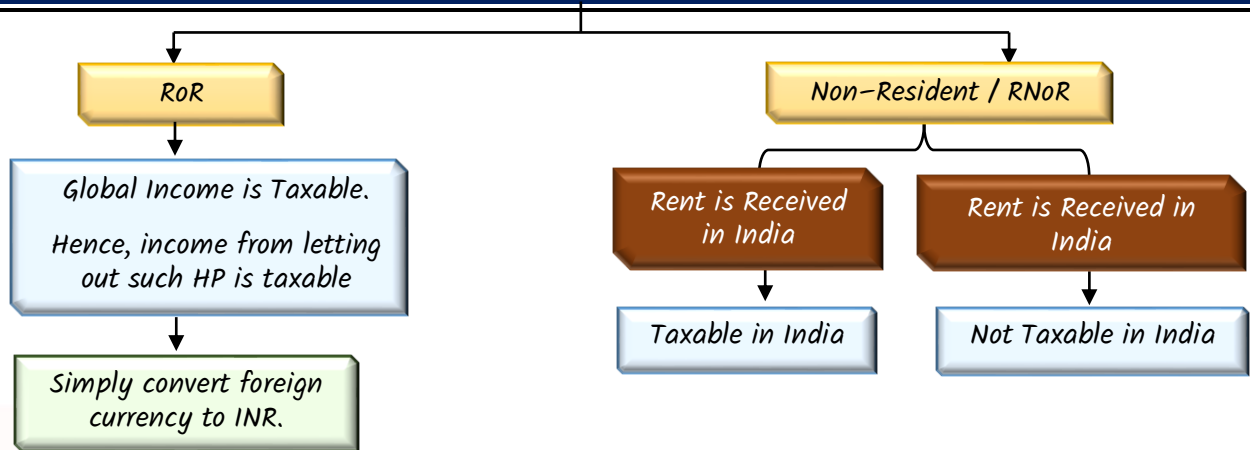
**Note:** If any HP is owned by a Firm or Company, it will be considered to be income of the Company/ Firm and not of shareholders/ partners.

### 6. TAXABILITY OF SUB-LETTING OF HOUSE PROPERTY

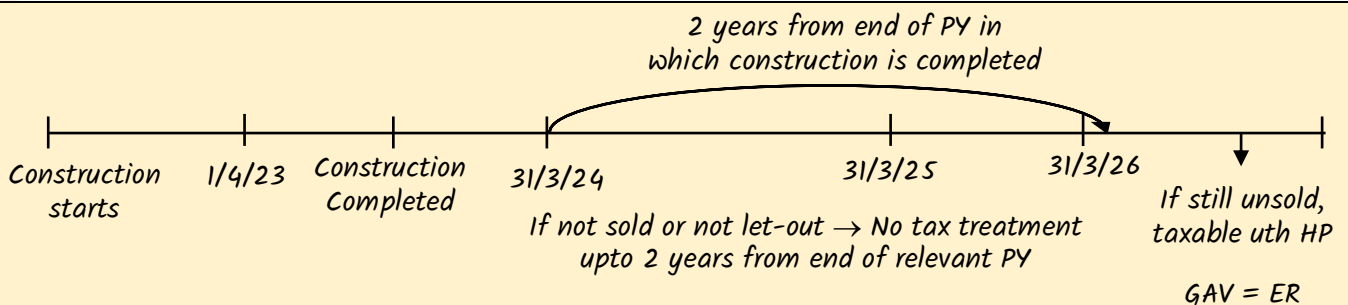


Rent received/ receivable by tenant from sublet property	xxx
Less: Proportionate rent by tenant to Owner of HP	(xx)
Less: Other expenses related to sub letting	(xx)
<b>Income from Other Sources</b>	<b>xxx</b>

### 7. RENT FROM HOUSE PROPERTY OUTSIDE INDIA (ACCUE/ ARISE OUTSIDE INDIA)



### 8. SPECIAL CASE: REAL ESTATE COMPANY THAT HOLDS HOUSE PROPERTY AS STOCK IN TRADE



Assessee engaged in the business of letting out HP → PGBP

Assessee engaged in the business of sale/purchase of HP & earns rent from HP held as stock in trade → GAV shall be taxable with Income from House Property.

However, if a newly constructed HP, being held as SIT, is not let out, Annual Value shall be treated as Nil for 2 years from end of PY in which construction is completed.

But after that, Income from such HP shall be computed on Notional basis taking GAV as Expected Rent.

## 9. DEEMED OWNER (SECTION 27)

Technically & legally, a person is considered owner of a HP only when HP is registered in his name by paying stamp duty to State Government. However, in following cases, a person shall be deemed as owner even if HP is not Registered in his name.

Thus, requirement of registration of the sale deed is not warranted in following cases:

I →	Holder of the <b>Impartible Estate</b> [property not legally divisible]
P →	Holder of <b>Power of Attorney</b> [Used to sell/ purchase HP in unauthorized colony]
L →	Person having rights ( <b>leasing right</b> ) in a HP for a period <b>not less than 12 continuous years</b> → Lessee is deemed owner. <b>Exception:</b> In case the person acquiring any rights by way of lease from month to month or for a period not exceeding one year, such person will not be deemed to be the owner.
M →	Transfer of HP to <b>Minor child except minor married daughter</b> ➤ If HP is transferred to a minor married daughter → MMD is the deemed owner ➤ If HP is transferred to any other minor child → Transferor is the deemed owner
S →	Transfer of HP to <b>Spouse without consideration except under agreement to live apart.</b> ➤ Husband transfers HP to wife without consideration → Husband is deemed owner ➤ Husband transfers HP to wife under an agreement to live apart → Spouse is deemed owner
P →	Person in <b>possession of HP.</b> In case buyer makes full payment to seller & gets possession of HP but registration is pending, Buyer i.e. transferee is the deemed owner.
C →	Co-operative society/ Company/ other Association which allots property to its members → Member is the deemed owner.

**Disputed ownership** – If the title of the ownership is disputed, the income shall be taxable in the hands of recipient i.e., the beneficial owner of house property.

## 10. MISCELLANEOUS

### Expected Rent where complete information is missing

Given	Expected Rent
Fair Rent, Municipal Rent, Standard Rent	Done
Fair Rent, Municipal Rent	Higher
Fair Rent, Standard Rent	Lower
Municipal Rent & Standard Rent	Lower
Fair Rent	Fair Rent
Municipal Rent	Municipal Rent
Standard Rent	Simply consider Actual Rent as GAV.

**Note:** If only Fair Rent or Municipal Rent is given; Expected Rent shall be Fair Rent or Municipal Rent, as the case may be.

**Note:** Expected Rent shall always be for 12 months.

**Exception:** if House property is constructed during the PY, ER for that PY shall be calculated for the period starting from the date of completion of construction till end of the previous year.

## 11. DIFFERENT TAX TREATMENT OF ITEMS UNDER TWO TAX REGIMES

S No.	Items	Optional tax regime i.e. Normal provisions of Act	Default Tax Regime u/s 11SBAC
1.	Deduction u/s 24(b) in respect of self-occupied or unoccupied property where annual value is nil	Allowed	Not allowed
2.	Inter head set off of loss from house property cannot	Can be set off upto 2 lakhs	Can't be set off

## CHAPTER 6

# PGBP

### PROFORMA FOR COMPUTATION OF INCOME UTH “PROFITS AND GAINS OF BUSINESS OR PROFESSION” UNDER DEFAULT TAX REGIME U/S IISBAC

Particulars	Amount	Amount
Net profit as per statement of profit and loss		A
<b>Add: Expenses debited to statement of profit and loss but not allowable</b>		
▪ Depreciation as per books of account	xxx	
▪ Income-tax [disallowed u/s 40(a)(ii)]	xxx	
▪ 30% of sum payable to residents on which tax is not deducted at source or has not been remitted on or before the due date u/s 139(1), after deduction, disallowed under section 40(a)(ia) [The same is allowable in the year in which the tax is deducted and remitted]	xxx	
▪ Any expenditure incurred, in respect of which payment is made for goods, services or facilitates to a related person, to the extent the same is excessive or unreasonable, in the opinion of the A.O., having regard to its FMV [disallowed u/s 40A(2)]	xxx	
▪ Any expenditure incurred in respect of which payment or aggregate of payments to a person exceeding 10,000 in a single day is made otherwise than by way of A/c payee cheque /bank draft/ use of ECS through bank A/c or through such other prescribed electronic mode (debit card, credit card, Net banking, RTGS, NEFT, IMPS, etc.) [disallowed u/s 40A(3)]	xxx	
▪ Certain sums payable by the Assessee which have not been paid during the relevant P.Y. in which the liability was incurred on or before the due date for filing return u/s 139(1) for that P.Y. [disallowed u/s 43B]	xx	
▪ Personal expenses [not allowable as per section 37]	xxx	
▪ Capital expenditure [not allowable as per section 37]	xxx	
▪ Repairs of capital nature [not allowable as per sections 30 & 31]	xxx	
▪ Amortization of preliminary expenditure u/s 35D/ Expenditure incurred under VRS u/s 35DDA [4/5 <sup>th</sup> of such expenditure to be added back]	xxx	
▪ Fine or penalty paid for infringement or breach of law [However, penalty in the nature of damages for delay in completion of a contract, being compensatory in nature, is allowable]	xxx	

Particulars	Amount	Amount
<ul style="list-style-type: none"> <li>All expenses related to income which is not taxable under this head e.g. municipal taxes in respect of residential house property</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Any sum paid by the Assessee as an employer by way of contribution to pension scheme u/s 80CCD exceeding 10% of the salary of the employee</li> </ul>	xxx	<b>B</b>
<b>(A + B)</b>		<b>C</b>
<b>Less : Expenditure allowable as deduction but not debited to Profit &amp; loss A/c</b>		
<ul style="list-style-type: none"> <li>Depreciation computed as per Rule 5 of Income-tax Rules, 1962</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Additional depreciation @ 20% of actual cost of new P &amp; M acquired by an Assessee engaged in the business of manufacture/production of any article or thing or generation, transmission or distribution of power (10% of actual cost, if put to use for less than 180 days in the year of acquisition) [Balance add. depreciation can be claimed in next year i.e., P.Y. 2024-25]</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Balance additional depreciation @ 10% of actual cost of P &amp; M acquired &amp; installed during P.Y. 2022-23 &amp; put to use for less than 180 days in that PY</li> </ul>	xxx	<b>D</b>
<b>(C - D)</b>		<b>E</b>
<b>Less : Income credited in statement of profit and loss but not taxable or Taxable under any other head</b>		
<ul style="list-style-type: none"> <li>Dividend income</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Agricultural income except under section 10(1)</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Interest on securities/ savings bank account/ FD taxable uth “IFOS”</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Profit on sale of capital asset taxable under the head “Capital Gains”</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Rent from house property taxable uth “Income from house property”</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Winnings from lotteries, horse races, etc. taxable uth “IFOS”</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Gifts exempt or taxable under the head “Income from other sources”</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Income-tax refund not taxable</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Interest on income-tax refund taxable uth “Income from other sources”</li> </ul>	xxx	<b>F</b>
<b>(E - F)</b>		<b>G</b>
<b>Add: Income chargeable under this head/ Deemed Income</b>		
<ul style="list-style-type: none"> <li>Salary, remuneration, interest received by a partner from the firm, to the extent it is deductible in the hands of the firm u/s 40(b)</li> </ul>		
<ul style="list-style-type: none"> <li>Bad debt allowed as deduction u/s 36(1)(vii) in an earlier P.Y., now recovered [deemed as income u/s 41(4)]</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Remission/ cessation of a trading liability [deemed as income u/s 41(1)]</li> </ul>	xxx	<b>H</b>
<b>Profit and gains from business or profession</b>	<b>(G + H)</b>	<b>I</b>

**PROFORMA FOR COMPUTATION OF INCOME UTH "PROFITS AND GAINS OF BUSINESS OR PROFESSION" UNDER OPTIONAL TAX REGIME TAKING BUSINESS INCOME COMPUTED UNDER DEFAULT TAX REGIME U/S IISBAC AS THE STARTING POINT**

Particulars	Amount	Amount
Profits and gains from business or profession as per section IISBAC		A
Add: Expenditure allowable as deduction		
<ul style="list-style-type: none"> <li>Additional depreciation @ 20% of actual cost of new P&amp;M acquired by an Assessee engaged in the business of manufacture or production of any article or thing or generation, transmission or distribution of power (10% of actual cost, if put to use for less than 180 days in the year of acquisition)</li> </ul>	xxx	
<ul style="list-style-type: none"> <li>Balance additional depreciation @ 10% of actual cost of P&amp;M acquired &amp; installed during P.Y.2022-23 &amp; put to use for less than 180 days in that year</li> </ul>	xxx	B
Profits and gains from business or profession as per normal provisions of Act (A - B)		xxx

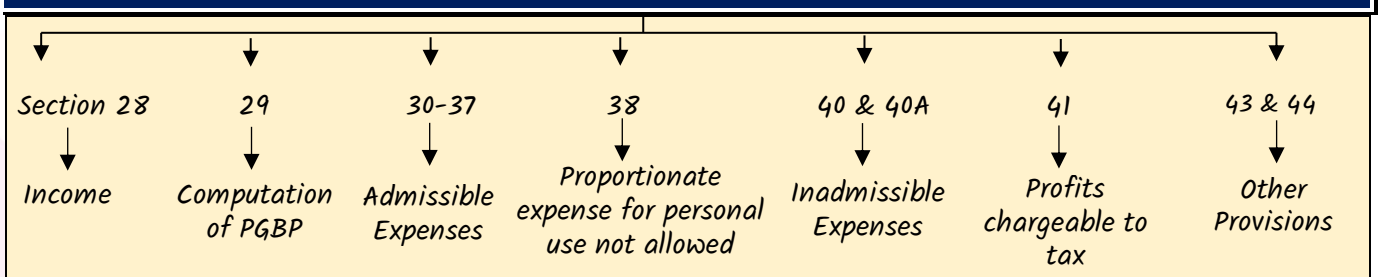
**1. PROFIT & GAIN FROM BUSINESS & PROFESSION [SECTION 28-44]**

- Profit and Gains may be in cash or kind; legal or illegal and includes receipt without consideration.
- Business includes Trade, Commerce, Manufacturing etc.
- Profession includes any work requiring knowledge, training, learning etc. E.g. Doctor, CA, Architect etc. It includes Vocation.
- However, Income from Business, Profession or vocation are all taxable together uth PGBP.

Can a single Transaction constitute business? → Yes. Repetition of transactions is not mandatory.

Computation of PGBP as per section 29	Amount
Gross Receipts / Sales / Revenue/ Turnover [as per section 28]	XX
(-) Expenses [as per section 30 to 43D]	XX
Net Profit / PGBP	XXX

**2. PGBP**



**3. INCOMES UNDER PGBP [SEC 28]**

- Interest on capital & Remuneration, Salary, Bonus, Commission etc. received by Partner from his Firm as per sec 40(b).
- Gift/ Benefit/ Perquisite in connection with Business/ Profession.

**Example:** Tax Ltd. has engaged one Advocate with regard to its legal proceedings. The company has provided him facilities of free travelling, boarding / lodging and has incurred INR 10,000. This will be considered to be professional receipt of the Advocate.

iii) Non-compete fees, Fee for Not pursuing any activity.

**Example:** Tax Ltd. has received INR 5,00,000 for not sharing a particular patent. In this case, it will be considered to be income under the head PGBP.

**Exception:** Transfer of the right to manufacture, produce or process any article or thing or right to carry on any business or profession.

iv) Export Incentives

- Cash assistance
- Duty drawback [Export goods; not taxes]
- Duty entitlement passbook
- Sale of import entitlement license

v) Value of any benefit or perquisite arising from business or the exercise of any profession.

**Example:** If a company provides rent free residential accommodation to a lawyer in consideration of professional services rendered by him to the company, value of such accommodation would be assessable in the hands of the said lawyer as his income under the head "PGBP".

vi) Conversion of stock-in-trade into capital Asset. FMV on date of conversion shall be treated as sale price

vii) Compensation received on termination or modification of business contract [Revenue or Capital nature]

viii) Any sum, whether received or receivable, in cash or kind, on sale/ transfer/ discarding of an Asset on which deduction is claimed under section 35AD.

ix) Maturity received on Keyman Insurance

x) **Speculation Business** → A contract where settlement takes place without actual delivery.

Ram, dealer in gold, entered into a contract with Kishan to buy 1 kg gold @ 50 lakhs after 2 months. After 2 months → Prevailing price of gold is 48 lakhs. There are two options:

Ram makes actual purchase of 1 kg gold @ 50 lakhs

In this case, Kishan will purchase gold from market @ 48 lakhs and sell to Ram @ 50 lakhs.

Loss to Ram → 2 lakhs & Gain to Kishan → 2 lakhs

Ram pays 2 lakhs to Kishan

Settlement of contract without actual delivery

Speculation Contract

### Company Purchasing and Selling Shares of Other Companies

Company whose GTI primarily consists of IFOS, HP or CG.

Non-Speculative

Company whose principal business is

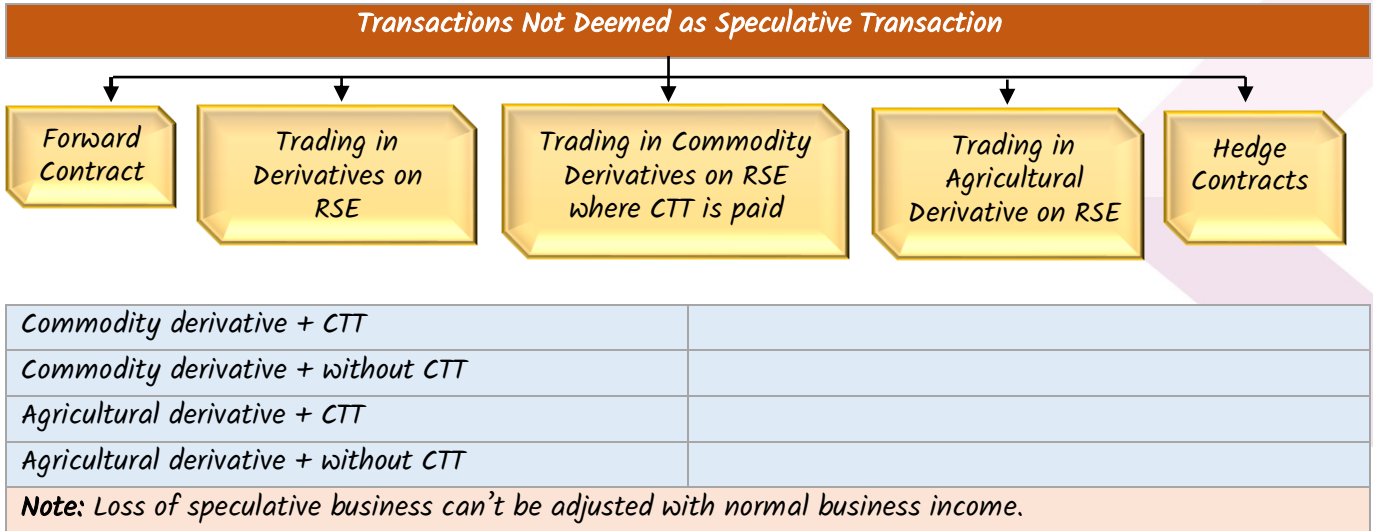
- Trading in shares
- Banking business
- Granting of loan & advances

Non-Speculative

Other companies i.e., Company running normal business

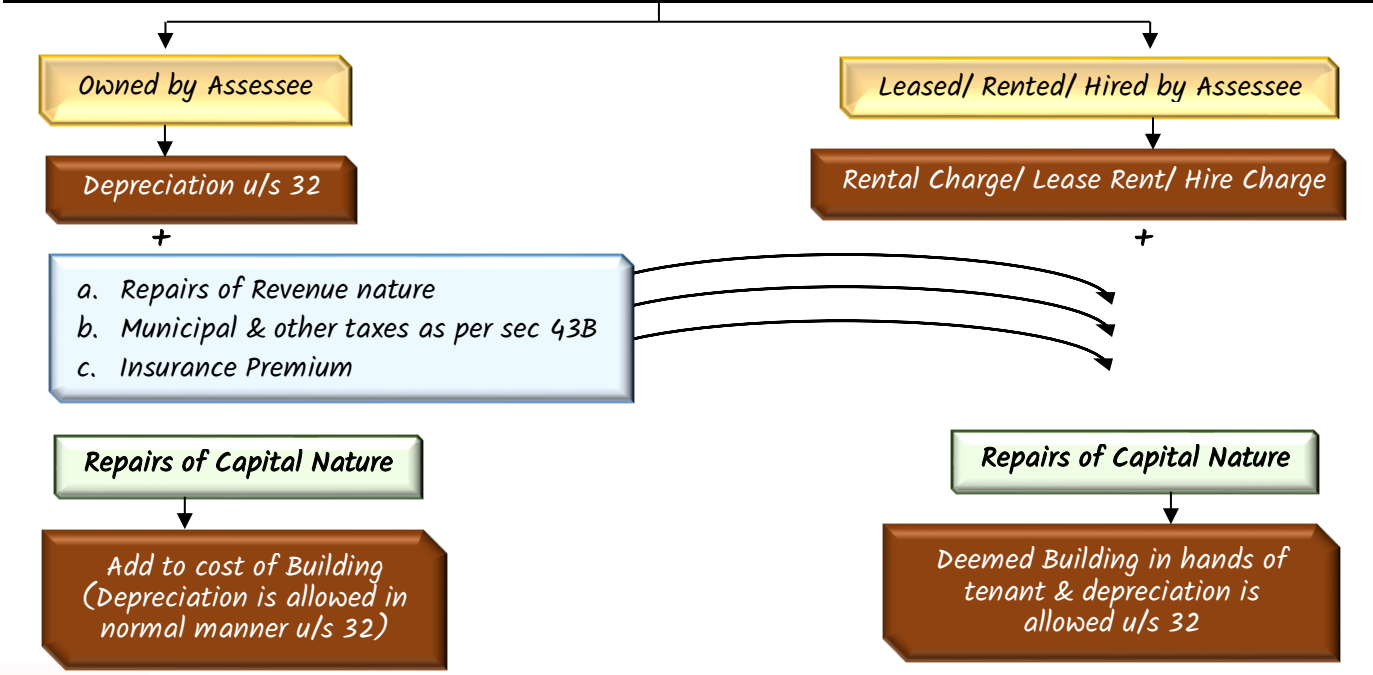
Deemed Speculative Income

Objective: To prevent adjusting loss from share trading from Normal PGBP



**4. ADMISSIBLE EXPENSES [SECTION 30-37]**

**4.1. EXPENDITURE RELATED TO BUILDING USED IN BUSINESS/ PROFESSION [SECTION 30]**



- Points to Note:**
- a) Notional rent of any kind is not allowed to be debited.  
However, where a firm runs its business in the premises owned by one of its partners, the rent payable to the partner will be an allowable deduction to the extent it is reasonable and is not excessive.
  - b) Cesses, rates and taxes levied by a foreign Government are also allowed.
  - c) Provisions of House Property [Sec 22 to 27] not applicable.
  - d) Section 38 is applicable





**Computation of Depreciation**

(1) W.D.V. of the block of assets in immediately preceding previous year [31.03.2023]	
(2) Less: Depreciation actually allowed w.r.t. block of assets in said preceding PY [PY 2022-23]	
<b>Opening balance as on 1<sup>st</sup> April of the current P.Y. [01.04.2023]</b>	
Increased by	
(3) Actual cost of assets acquired during the previous year, <b>not being on account of acquisition of goodwill of a business or profession</b>	
<b>(4) Total (1) - (2) + (3)</b>	
Reduced by	
(5) Money receivable in respect of any asset falling within the block which is ➤ sold, discarded, demolished or destroyed during that previous year together with scrap value. However, such amount cannot exceed the amount in (4).	
<b>(6) W.D.V at the end of PY [31.3.2024] (on which depreciation is allowable) [(4) - (5)]</b>	
<b>(7) Depreciation at the prescribed rate [(6) x rate]</b>	

**Illustration: Case 1: Block: Plant & Machinery [Depreciation @ 15%]**

Value of Asset on 1.04.2023	
Add: Cost of Machinery 1 purchased & put to use on 31.05.2023	
Add: Cost of Machinery 2 ----- 30.11.2023	
Add: Cost of Machinery 3 ----- 30.11.2023	
Add: Cost of Machinery 4 ----- 31.03.2024	
Less: Receipt on sale during PY 2023-24 [Machinery 3 on 31.03.2024]	
<b>Value of Block on 31.03.2024</b>	

Value of asset put to use for less than 180 days

Value of asset put to use for 180 days or more [balancing figure]

Depreciation for PY 2023-24 =

Value of block on 1.04.2024 =

**Conclusions:**

1. Depreciation is allowed only to owner of asset. If asset is leased out (Operating or Finance lease) to lessee; depreciation is still allowed to lessor i.e. owner.
2. Charge of depreciation is mandatory and not optional.
3. Asset is added to block of asset at Actual Cost u/s 43(1)
4. Depreciation is calculated on value of block of assets as at end of relevant PY.
5. If asset is sold anytime during the relevant PY (e.g. on 31.03.2024); No depreciation is allowable.
6. Value of block carry forward to next PY i.e. 01.04.2024:

Value of block on 31.03.2024	XXX
------------------------------	-----

Less: Depreciation for PY 2023-24	XX
Value of block on 01.04.2024	XXX

7. For calculation of depreciation; 2 conditions are required:

- a. Value of block must be there; and
- b. Block should exist physically.

If either or both of the above two conditions are not satisfied, STCG / STCL u/s 50 shall arise.

8. Section 38 is applicable.

9. Date of usage shall be calculated from date of 'put to use' [Active as well as Passive use].

Put to use = Ready for use = Date of installation

= Date on which completion certificate is received

Put to use does not mean purchase date or actual use. However, if question is silent about put to use, purchase date can be considered as 'put to use'

10. Purchase & Put to use for < 180 days → 50% of Normal depreciation allowed [acquired w.e.f. 04.10.22]

Purchase & Put to use for 180 days or more → Normal depreciation allowed.

#### Special case:

Concept of put to use for less than 180 days is adopted when asset is purchased & put to use in same PY.

If asset is purchased in one PY and put to use in subsequent PY; 100% of normal depreciation is allowed in subsequent PY irrespective of the number of days asset is put to use in the subsequent PY.

#### Cases where the Written Down Value reduced to nil

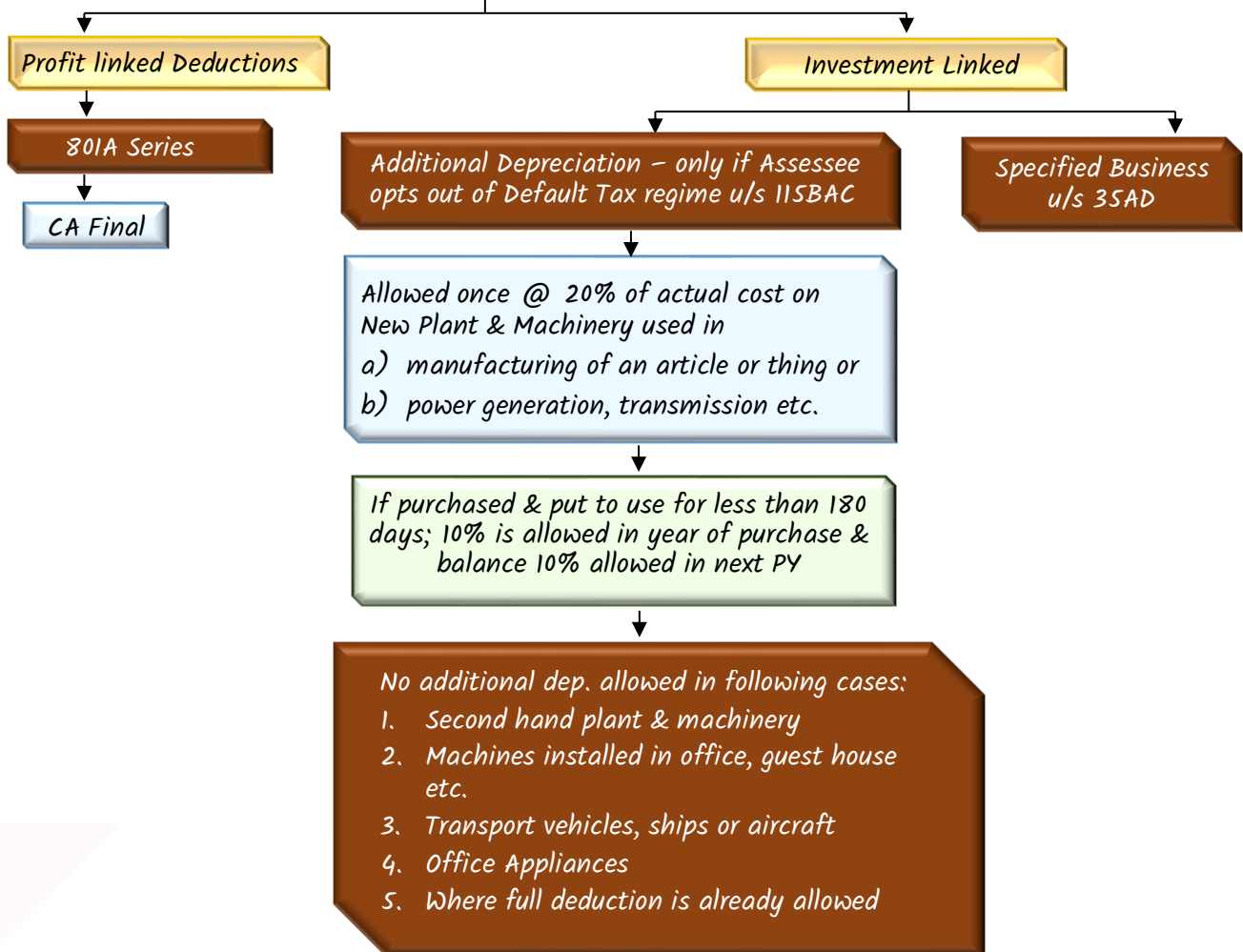
- i) The moneys receivable by the Assessee in regard to the assets sold or otherwise transferred during the previous year exceeds the closing WDV of the block, or
- ii) All the assets in the relevant block may be transferred during the year.

#### Rate of Depreciation

S No.	Asset	Rate
1.	Computer & Computer Peripherals like printer including Computer software	40%
2.	Temporary Erections such as wooden structures	40%
3.	Pollution Control Equipment,	40%
4.	Renewable Energy Saving Equipment like Electrically operated vehicles, Windmills, Electric Generators	40%
5.	Solid waste control equipment and solid waste recycling	40%
6.	Life Saving Medical Equipment	40%
7.	Books (any book including annual publications)	40%
8.	Plant & Machinery used in semi-conductor industry covering all Integrated Circuits (ICs)	30%
9.	Plant and Machinery	15%
10.	Motor car	15%
	Motor car - Acquired w.e.f. 23/8/2019 – 31/3/2020 & put to use up to 31/3/2020	30%
	Motor vehicle running on hire ( Bus, Truck, Lorry, Taxis)	30%

	Motor vehicle running on hire - Acquired w.e.f. 23/8/2019 - 31/3/2020 & put to use up to 31/3/2020	45%
11.	Furniture & fittings including electrical fittings like wire, switches, ceiling fan etc.	10%
12.	Commercial Building (shop, godown, roads, bridges, wells and tube wells)	10%
	Residential Building except hotels and boarding houses	5%
13.	Ship, Speed boats	20%
14.	Aircraft	40%
15.	Intangible being know-how, patents, copyrights, trademarks, licenses, franchises etc.	25%
<b>Note:</b> No depreciation is allowed on land and goodwill under any circumstances.		

#### 4.4. INCENTIVE TO BUSINESS → ADDITIONAL DEPRECIATION

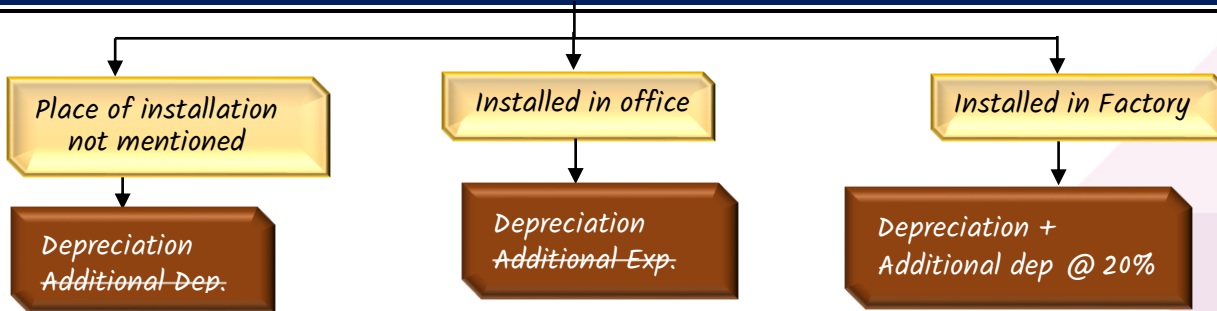


**Note:** Business of printing or printing and publishing amounts to manufacture or production of an article or thing and is, therefore, eligible for additional depreciation u/s 32.

**Note:** Additional depreciation would be allowed only if Assessee exercises the option of shifting out of the default tax regime u/s 115BAC(1A).

It is not allowable when Assessee pays concessional rates of tax under the default tax regime u/s 115BAC.

**4.4.1. COMPUTER, AIR CONDITIONER, ETC.**



**4.5. TAX TREATMENT ON SALE OF ASSET OTHER THAN AS BLOCK OF ASSETS**

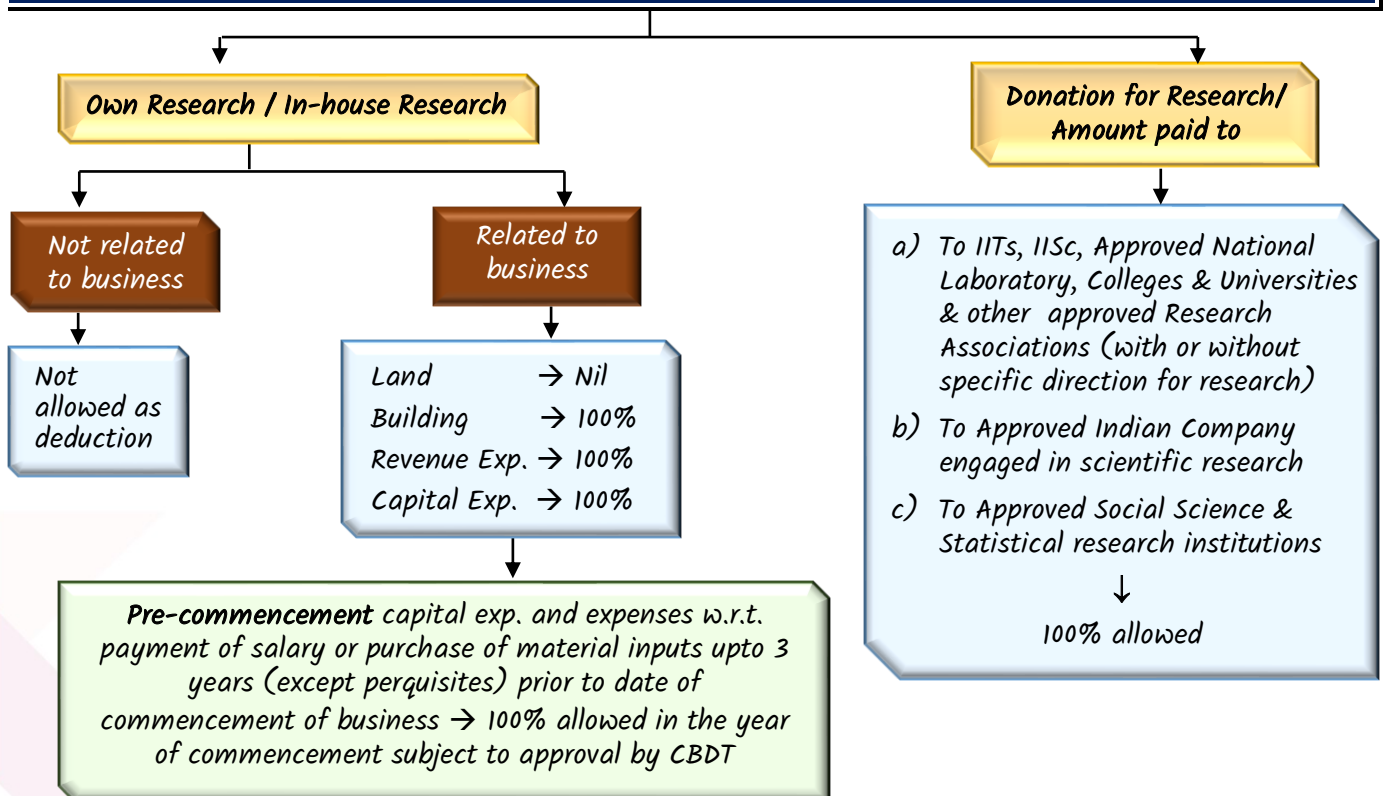
Example: **Option** to power generating units for depreciation at SLM on individual assets.

Such option must be exercised before the due date for furnishing return u/s 139(1) for the AY relevant to the previous year in which it begins to generate power. Such option once exercised shall be final and shall apply to all subsequent assessment years.

- No Additional Depreciation.
- Concept of 180 days is applicable (purchased & put to use for less than 180 days)
- Rate of depreciation as per Income Tax Act

Refer chart in class.

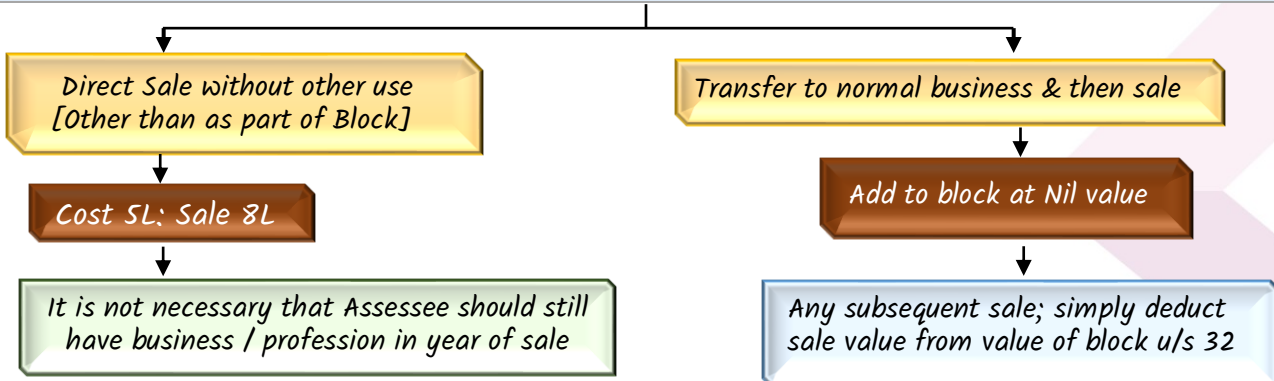
**4.6. EXPENDITURE ON SCIENTIFIC RESEARCH INCURRED BY ASSESSEE ON [SECTION 35]**



**Note:** Deduction u/s 35 related to donation is available only if Assessee opts out of default tax regime.

**Treatment of Transfer of Scientific Asset after Scientific Use**

Deduction already claimed w.r.t. Scientific Asset u/s 35 → 100%. Current Value is Nil.



#### 4.7. SPECIFIED BUSINESS U/S 35AD

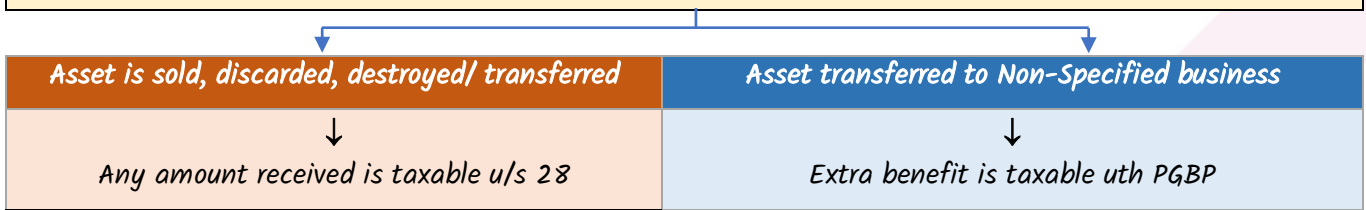
P →	Production of fertilizers Pipeline network for distribution of Natural Gas, Petroleum Products & Iron ore.
W →	Warehousing of agricultural Produce & Sugar
C →	Cold chain facilities for storage of agricultural Produce, meat, poultry and dairy products
S →	Semi – conductor wafer manufacturing unit/ Integrated chips
H →	Hospital with at least 100 beds Hotel of at least 2 star and above → If Assessee builds hotel and transfers operations to others; still deduction allowed. Housing project under affordable housing scheme / slum development.
I →	New infrastructure projects. E.g. Road, Bridge, Water treatment & solid waste management plant. Inland container Depot (ICD)/ Container Freight Station (CFs)
P →	Production of Honey & Bee Keeping

<b>Deduction allowed</b>	100% deduction of capital expenditure (needs to be capitalized in books of account) incurred during the PY or before commencement is allowed. No deduction is allowed for investment in Land, Financial instruments & Goodwill.
<b>Mode of Investment</b>	Investment upto 10,000 → Any mode above 10,000 → Must be done through i) Account payee cheque/ Account payee draft ii) Electronic Clearance System Other prescribed electronic modes like UPI, BHIM, Aadhar Pay, Cards, Net Banking, RTGS, NEFT, IMPS.
<b>Set-off or carry forward and set-off of loss from specified business</b>	<b>Loss from specified business u/s 35AD</b> can be adjusted / set off only from Income of other specified business. It can't be adjusted from Income of Normal Business/ Profession or from any other incomes. Any loss from specified business u/s 35AD not adjustable in current PY is allowed to be carried forward to subsequent PY for indefinite period. In subsequent years, such loss can be adjusted only from income of other specified business.

Note: Any asset on which deduction is claimed u/s 35AD should be held for at least 8 years and used for

specified business only starting from PY of acquisition.

If asset w.r.t. which deduction is claimed u/s 35AD and later, within 8 years:



**Points to Note:**

**a) Non-eligibility for deduction u/s 10AA or Chapter VI-A**

If Assessee has availed deduction u/s 35AD in an AY w.r.t. a specified business, he is not eligible to claim any other profit linked deductions u/s 10AA or Chapter VI-A for the same or any other year & vice versa.

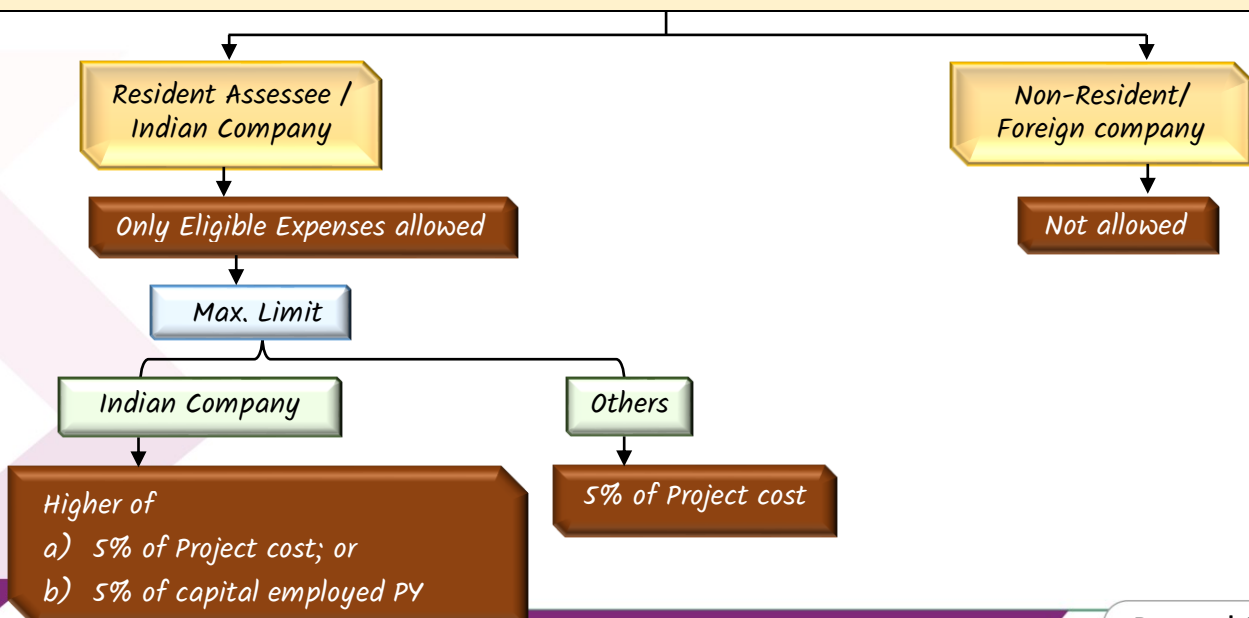
b) Deduction u/s 35AD would be available to Individual/HUF only if they exercise the option of shifting out of the default tax regime u/s 115BAC(1A). If such Assessee is paying concessional rates of tax under the default tax regime u/s 115BAC, deduction u/s 35AD would not be available.

c) If the assessee pays tax under default tax regime u/s 115BAC, neither deduction under section 35AD nor deductions u/s 10AA or under Chapter VI-A under the heading "C.-Deductions in respect of certain incomes" would be available to him.

**Few other conditions:** Refer Page 3.245

**4.8. AMORTISATION OF PRELIMINARY EXPENSES [SECTION 35D]**

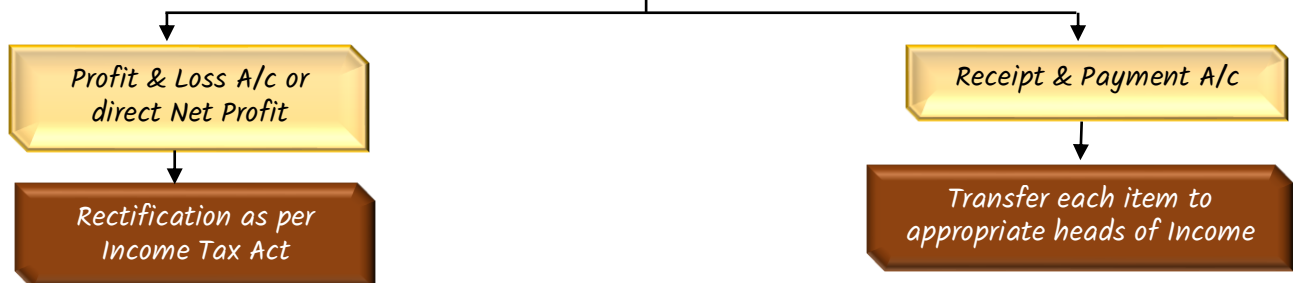
Expenses incurred at or before commencement of Business or Expansion of Existing Business (new unit)



<b>Eligible Expenses*</b> → Expenses in relation to				
a) Market Research	b) Feasibility Research	c) Legal Expenses	d) Engineering Services	e) Company incorporation expenses
*Must be done by self or by a person approved by CBDT.				
<b>Points to Note:</b>				
i) Cost the project refers to actual cost of fixed assets as per books of the Assessee as on last day of the PY in which the business of the Assessee commences or extension of the undertaking is completed.				
ii) Capital employed refers to aggregate of the issued share capital, debentures and long-term borrowings as on last day of the PY in which the business of the company commences or extension is completed.				
iii) Audit of accounts must be done upto 30 <sup>th</sup> September of AY i.e. 1 month prior to due date of ROI (31 <sup>st</sup> Oct of AY) and the audit report is duly signed by auditor and furnished by Assessee by that date.				

Illustration						
	Assessee	Project Cost	Capital Employed	Eligible Expenses	Max Allowed	Ded u/s 35D
I	Ram	10,00,000	15,00,000	70,000	50,000	10,000
II	Ram	20,00,000	25,00,000	80,000	80,000	16,000
III	Ram Ltd	20,00,000	25,00,000	1,80,000	1,25,000	25,000

**HOW TO CALCULATE INCOME UNDER THE HEAD PGBP?**



Net Profit (as per Accountant)	XXX
+ Inadmissible/ Not allowable expenses as per Income Tax Act but debited in P/L account	XX
- Admissible/ allowable expenses as per Income Tax Act but not debited in P/L account	(XX)
+ Income as per section 28 not credited in P/L account	XX
- Income of Other heads of Income credited in P/L account	(XX)
- Exempt Income credited in P/L account	(XX)
<b>Income under the head PGBP</b>	<b>XXX</b>

**4.9. AMORTIZATION OF EXPENSES INCURRED UNDER VOLUNTARY RETIREMENT SCHEME [SEC 35DDA]**

Allowed in 5 equal annual installments

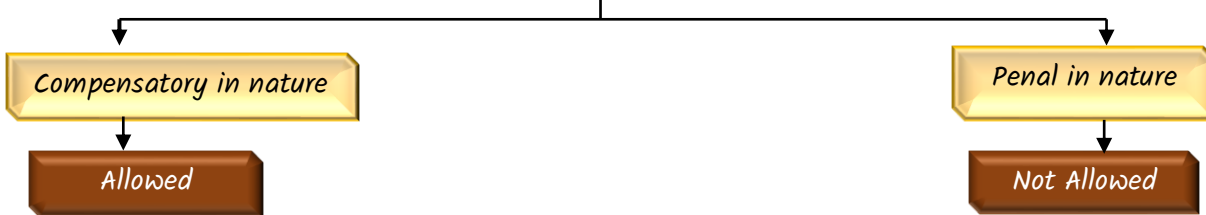
- Starting from the PY in which payment is made to employee. 1/5<sup>th</sup> of amount paid is allowed each year.



**4.10. ALLOWABILITY OF TAX & RELATED EXPENSES**

	Direct Tax	Indirect Tax
i) Tax paid (including surcharge & cess)	Not allowed (Personal nature)	Allowed
ii) Interest on loan taken for payment of tax	Not allowed	Allowed
iii) Interest on late payment of tax	Not allowed	Allowed (Compensatory)
iv) Penalty/ Fine	Not allowed	Not allowed
v) Refund of tax	Not treated as Income	Income uth PGBP
vi) Interest on Refund of Tax	IFOS	IFOS
vii) Legal fee/ Assessment Fee/ Proceeding fee/ Return filling fee	Allowed	Allowed
viii) Tax paid on behalf of employee	Allowed	Allowed
ix) Tax paid on behalf of employee on Non-monetary perquisite	Not Allowed	Not applicable

**Interest on Delayed Payment**

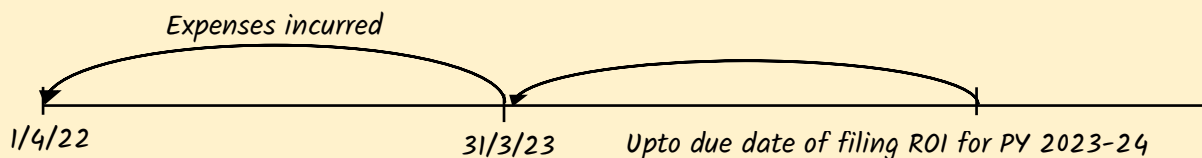


**4.11. DEDUCTION OF CERTAIN EXPENDITURES ON PAYMENT BASIS [SECTION 43B]**

An Assessee following mercantile/ accrual system of accounting for PGBP is allowed to debit expenses on accrual/ due basis i.e., even without actual paying.

However, following expenses are allowed on payment basis:

- a) Tax, duty, cess or fee to Government
- b) Employee related expenses (Salary, Bonus, Commission, Leave salary, Employer Contribution to RPF and other recognised welfare fund)
- c) Interest to Bank/ Financial Institutions/ NBFCs or Co-operative banks, other than a primary agricultural credit society or a primary co- operative agricultural and rural development bank,
- d) Railway Expenses.



If payment is made upto due date of filing ROI of PY in which expense is incurred	→ Expense allowed in the year of incurring expense.
If payment is made after due date of filing ROI	→ Expense disallowed in PY in which it is incurred. → Expense shall be allowed in PY in which payment is made.

### Conversion of Unpaid Interest to Loan [Debt restructuring]

No deduction on such conversion of unpaid interest to loan as interest is not actually paid.

When converted loan is repaid, deduction shall be allowed for interest portion paid.

E.g.: Loan → 1,000 crores

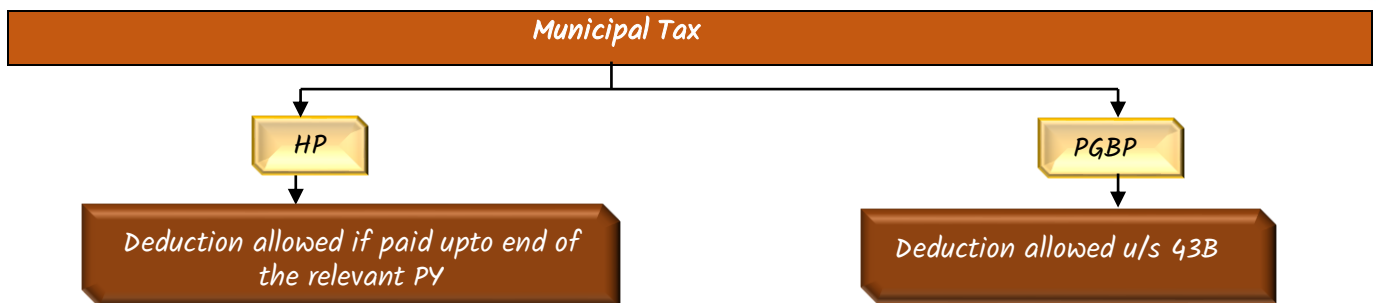
Unpaid Interest → 450 crores

Debt Restructuring → Loan of 1450 crores to be repaid in 10 instalments.

1 Instalment = 145 crores

Suppose 5 instalments paid during relevant PY =  $145 \times 5 = 725$  crores.

Deduction shall be allowed for interest portion of 225 crores.



### Section 43B [Clause (h)]

Any sum payable by the Assessee to a micro or small enterprise (MSE) beyond the time-limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006

Section 15 mandates payment of goods or services to supplier, being a MSE, by the buyer on or before

- the date agreed upon between them in writing i.e., as per the written agreement, (max 45 days from the day of acceptance of goods or services by the buyer; or
- within 15 days if there is no such written agreement

If the sum payable by the Assessee to a MSE is paid as per written agreement (maximum within 45 days) or within 15 days in case of no agreement, the deduction can be claimed on accrual basis if mercantile method of accounting is followed by the Assessee.

However, if the sum payable by the Assessee to a MSE is not paid as per written agreement or within 15 days in case of no agreement, deduction would be allowed in the PY in which it is actually paid.

#### Example:

Mr. A has purchased goods of 10,000 from A & Co., a MSE on 1.3.2024. As per written agreement between them, the payment has to be made by 5.4.2024. Mr. A follows mercantile method of accounting.

(i) If Mr. A paid the sum on 2.4.2024

(ii) If Mr. A paid the sum on 20.4.2024

### Meaning of MSE

Types of Enterprise

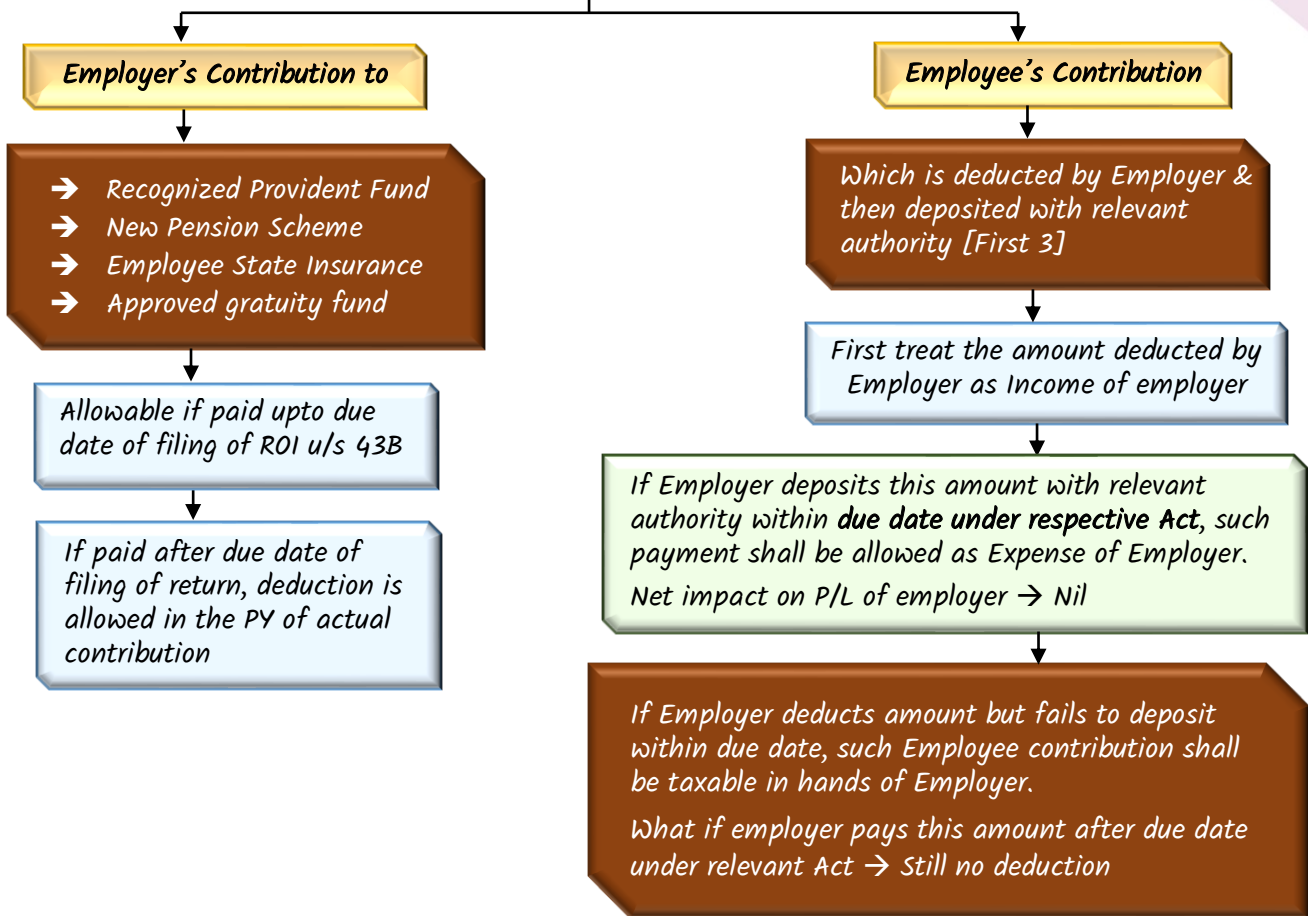
Micro enterprise

Small enterprise

Enterprises engaged in manufacture or production of goods	Investment in plant & machinery $\leq$ 25 lakhs	Investment in plant & machinery $>$ 25 lakhs but $\leq$ 5 crores
Enterprises engaged in providing or rendering services	Investment in equipment $\leq$ 10 lakhs	Investment in equipment $>$ 10 lakhs $\leq$ 2 crores
<b>Note:</b> For calculating investment in plant and machinery, the cost of pollution control, research and development, industrial safety devices and such notified items shall be excluded.		

#### 4.12. OTHER DEDUCTIONS U/S 36

##### 4.12.1. ALLOWABILITY OF CONTRIBUTION



##### Employer contribution towards NPS referred u/s 80CCD [Sec 36 and 40(9)]

- Allowed to the extent of 10% of Salary of any employee.
- Salary includes dearness allowance, if the terms of employment so provide.

Section 40A(9) disallows the sum paid by employer to NPS of employee in excess of 10% of his salary.

##### 4.12.2. ALLOWABILITY OF BAD DEBT

Bad debt is allowed as deduction if

- while booking sales; it formed part of PGBP; and
- it is written off in Books by name.

Bad debt

Bad debt

<p>To party</p> <p>↓</p> <p>Allowed</p> <p>[Such debt should have been taken into account while calculating income of Assessee in earlier or current PY.]</p>	<p>To provision for bad debt</p> <p>↓</p> <p>Not allowed</p>
---	--

**Note:** Unilateral write off by seller is also allowed and no need for seller to prove bad debt.

**Recovery of Bad debt u/s 41(4)**

Bad debt allowed as deduction earlier shall be treated as income under the head PGBP in PY in which it is received.

Even if the Assessee has closed business and recovers the bad debt, still bad debt shall be taxable uth PGBP in year of recovery.

**Illustration**

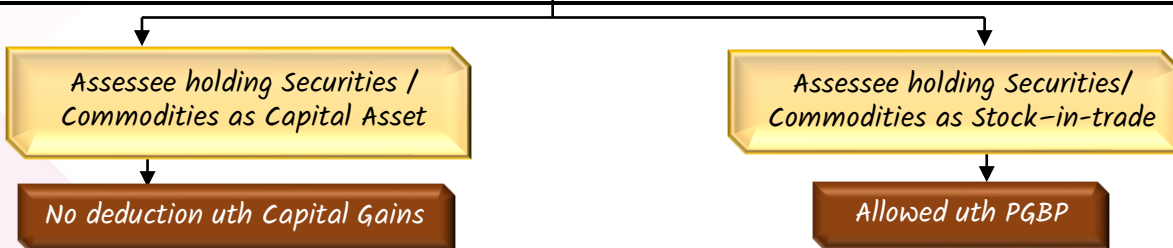
In PY 2022-23, Ram sold Goods worth 1 lakh to John. John paid 20,000 & defaulted on 80,000. Ram wrote off 80,000 as bad debt in PY 2023-24, while John still treats Ram as creditor. John later paid 80,000 in PY 2024-25.

Suppose AO had allowed only 60,000 as bad debt in earlier years.

**Two special points:**

- a) Bad debt w.r.t debtor acquired due to business reorganization like amalgamation etc. is allowed.
- b) If bad debt was allowed to a person & recovered by successor, such recovery is not treated as Income in hands of successor.

**4.12.3. SECURITIES TRANSACTION TAX [STT]/ COMMODITIES TRANSACTION TAX [CTT]**

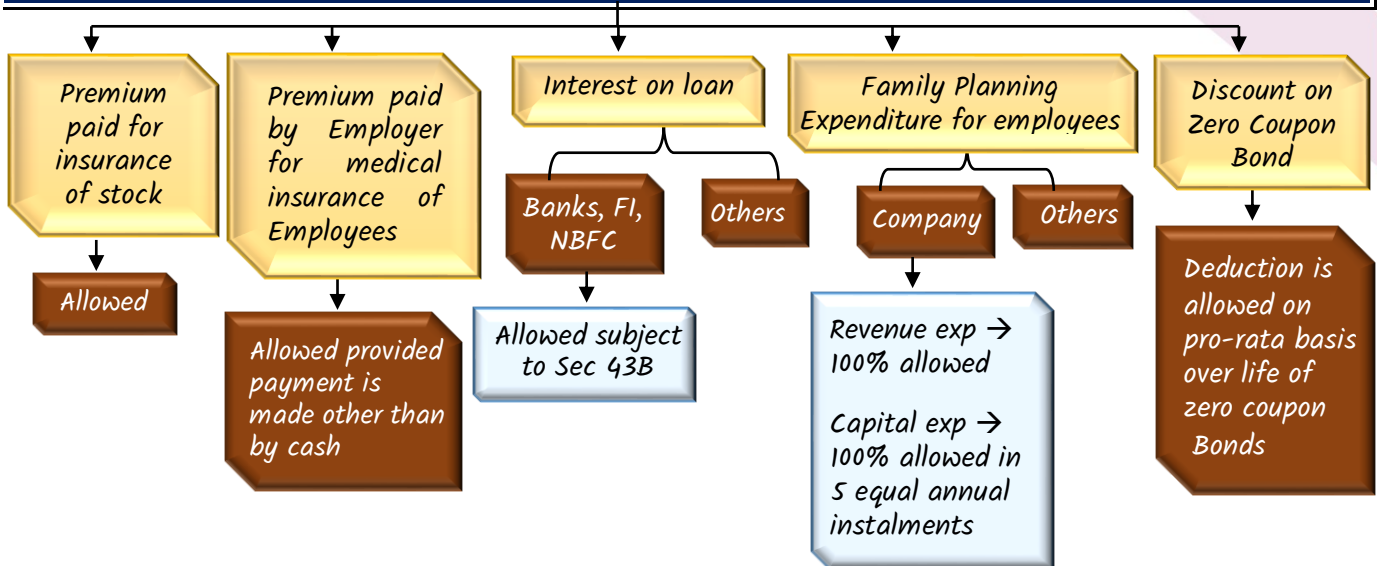


**Illustration**

Mr. KK purchased shares on stock exchange @ 1,00,000. STT paid on purchase 1,000. He sold these shares on stock exchange @ 1,20,000. STT paid on sale @ 1,200

Capital Asset		Stock in Trade	
Sales price	1,20,000	Sales price	1,20,000
Purchase Price	1,00,000	Purchase Price	1,00,000
CG	20,000	STT	2,200
		PGBP	17,800

#### 4.12.4. OTHER DEDUCTIONS U/S 36



**Note:** In case of genuine borrowing, high interest rate can't be basis for disallowance.

**Note:** Zero Coupon Bonds → Issued at discount and redeemed at par/premium

Redeemed price - Issue price

Income for Investor/ Expense for Company

E.g.: Tax Ltd issued Zero Coupon Bonds of 100 @ 90 redeemable after 4 years.

Discount → 10.

Deduction for each PY =  $10/4 = 2.5$  over life of Zero-Coupon Bonds

**Note:** Unabsorbed part of the family planning expenditure is allowed to be carry forward and set off in the same way as unabsorbed depreciation.

#### 4.13. GENERAL DEDUCTIONS/ RESIDUARY EXPENSES [SECTION 37]

Any expenditure related to Business/ Profession incurred after business was set up

+

Revenue in Nature

+

Not specifically allowed or disallowed in any other section is allowed as deduction u/s 37.

**Following expenses are not allowed:**

- i) Personal expense
- ii) Illegal expense like bribe, extortion, ransom, protection money (prohibited by Law in India or outside India) or expenditure incurred to compound an offence under any law in India or outside India

iii) Capital expenditure → Depreciation is allowed

iv) Notional expenses. E.g.: Rent of building owned by Assessee or Interest on capital of sole proprietor

**Tax treatment of few important Expenses:**

a) Expenditure on carpets → Allowed

b) Staff welfare expenses including stipend to Articles or interns → Allowed

c) Cost of abandoned films → Allowed

d) Freebies given by pharmaceutical companies to medical practitioners → Not Allowed

e) Donation to political parties including advertisement in their souvenirs or magazines → Not Allowed

f) Corporate Social Responsibility Expenses → Not Allowed

**What are the other expenses allowed u/s 37 → Refer Book Page 7.26**

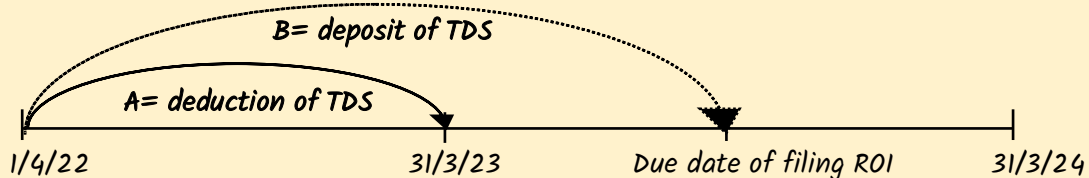
**5. SECTION 38**

In case an expenditure relates to both Business/ Profession as well as personal nature, deduction is allowed only w.r.t Business/ profession (Proportionate).

**6. INADMISSIBLE DEDUCTIONS [SECTION 40]**

**6.1. DISALLOWANCE OF EXPENDITURE ON NON-COMPLIANCE WITH TAX DEDUCTION & TAX DEPOSIT PROVISIONS**

Debit of an Expense incurred by Assessee is dependent on TDS compliance w.r.t. Deduction & Deposit by him.



If A+B is satisfied → Expenses allowed in PY 2023-24 i.e. year of incurring expense.

If either A or B or both is not satisfied →

i) In case of Non-Resident payee or Foreign Company or Payment outside India → [Section 40(a)(i)]

100% disallowed in year of incurring expense i.e. PY 2023-24

100% allowed in PY In which TDS is deposited by Payer with Government.

ii) In case of Resident payee → [Section 40(a)(ia)]

70% allowed in year of incurring expense i.e. PY 2023-24

30% disallowed in year of incurring expense i.e. PY 2023-24

30% disallowed earlier shall be allowed in PY in which Tax is deposited by Payer with Government.

**Illustration: Suppose Due date of filing Return of Income for PY 2023-24 is 31.07.2024**

Case	Amount	Deduction	Deposit on	Non-Resident	Resident
1	1,00,000	10.03.2024	31.07.2024		

II	1,00,000	1.04.2024	31.07.2024		
III	1,00,000	10.03.2024	1.12.2024		
IV	1,00,000	10.03.2024	1.07.2025		
V	1,00,000	10.04.2024	31.03.2026		

**Consequences of Non-deduction or Non-deposit of TDS**

- a) Disallowance u/s 40 (a)(i) and 40(a)(ia)
- b) Interest on TDS
- c) Assessee in default.

**If Tax is Not Deducted by Payer, what is Remedy?**

**Option I**

↓  
Gross up and pay TDS to Govt.

**Option II**

↓  
If following 4 conditions are satisfied:  
a. Payee includes this amount in his total income  
b. Payee pays tax on this amount  
c. Payee files ROI upto due date of filing ROI  
d. Payer submits CA Certificate in this regard  
↓  
It shall be deemed that tax has been deducted & deposited by Payer on the date of filing of ROI by Payee (refer class chart)  
↓  
Payer shall not be treated as Assessee in default

**Example**

Tax Ltd. has paid rent of INR 10 lakhs to XYZ Ltd. in India on 31.12.2023 and company has not deducted tax at source. However, XYZ Ltd. has deposited the tax and filed return on 30.10.2024.

In this case, it will be presumed that tax has been deducted on 31.10.2024 and paid to the Government on 31.10.2024 and 70% expenditure shall be allowed to Tax Ltd. in previous year 2023-24 and balance 30% in PY 2024-25.

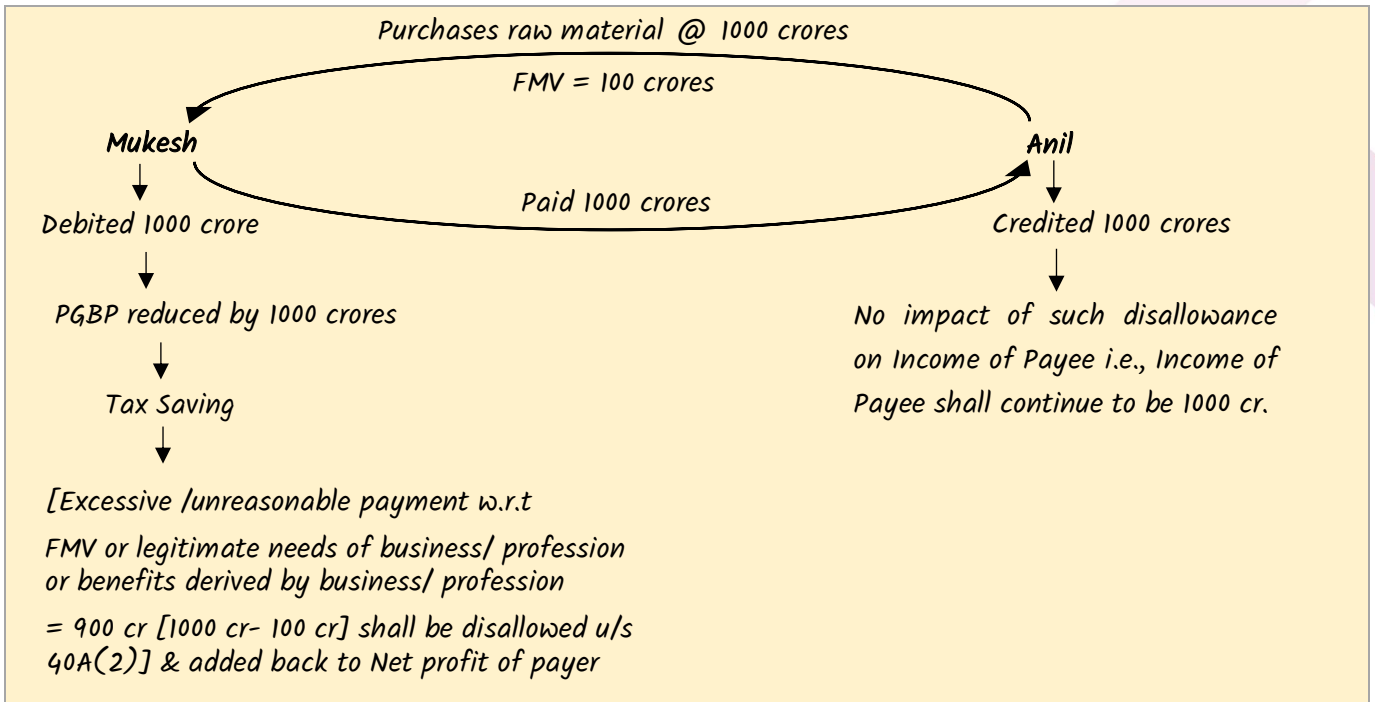
**6.1.1. SECTION 40 (a) (iii)**

Salary



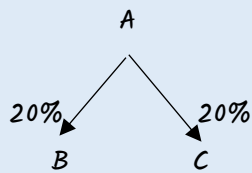
Disallowed if tax is not deducted & not deposited with Govt.  
 If TDS on such salary is deducted but not paid to Govt. → Still allowed.

**6.2. DISALLOWANCE W.R.T PAYMENT TO RELATED PARTIES & ASSOCIATES [SECTION 40A(2)]**



**Who are Relative? [Section 2(41)]**

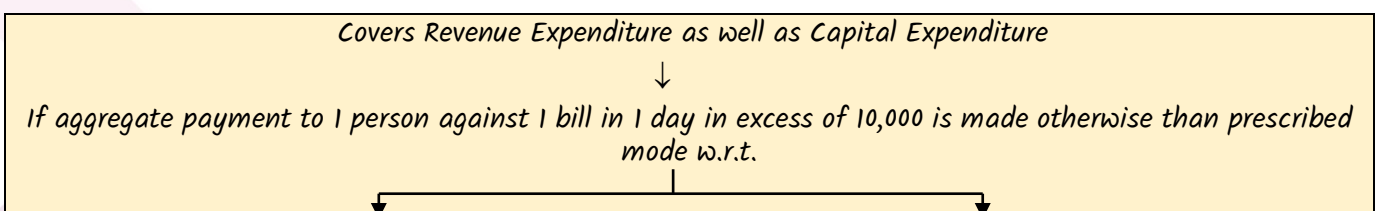
- a) **Individual** → Parents, Lineal ascendant, brother sister, spouse, children & linear descendant
- b) **Company** → Director
- Firm → Partner
- HUF/ APO/ BOI → Member
- } including Relatives of such Director, Partner & member as the case may be
- c) Where Payer has significant interest in business of Payee and vice versa
- d)



A, B and C are related parties.

20% voting Power → substantial Interest → Right to participate in management → Related Party

**6.3. PAYMENT IN EXCESS OF 10,000 MADE OTHERWISE THAN PRESCRIBED MODE [SECTION 40A(3)]**





<p>Revenue Expenditure</p> <p>↓</p> <p>100% disallowed</p>	<p>Capital Expenditure/ Asset purchased</p> <p>↓</p> <p>Does not form part of Actual Cost/ Block of Asset</p> <p>↓</p> <p>No depreciation</p>
--	---

**Prescribed Modes of Payment [Valid for section 35AD, 43(1), 43CA, 44AD, 50C, 56(2)(x)]**

Account payee cheque	Account payee draft	Electronic Clearance systems	Debit Card
Credit Card	BHIM	UPI	NEFT
RTGS	Internet Banking	Aadhar Pay	IMPS

**Payment by bearer cheque/ crossed cheque** → Not prescribed mode. Disallowance is attracted

**In case of GTA (engaged in plying, hiring, leasing of goods carriage)** → Limit is upto 35,000

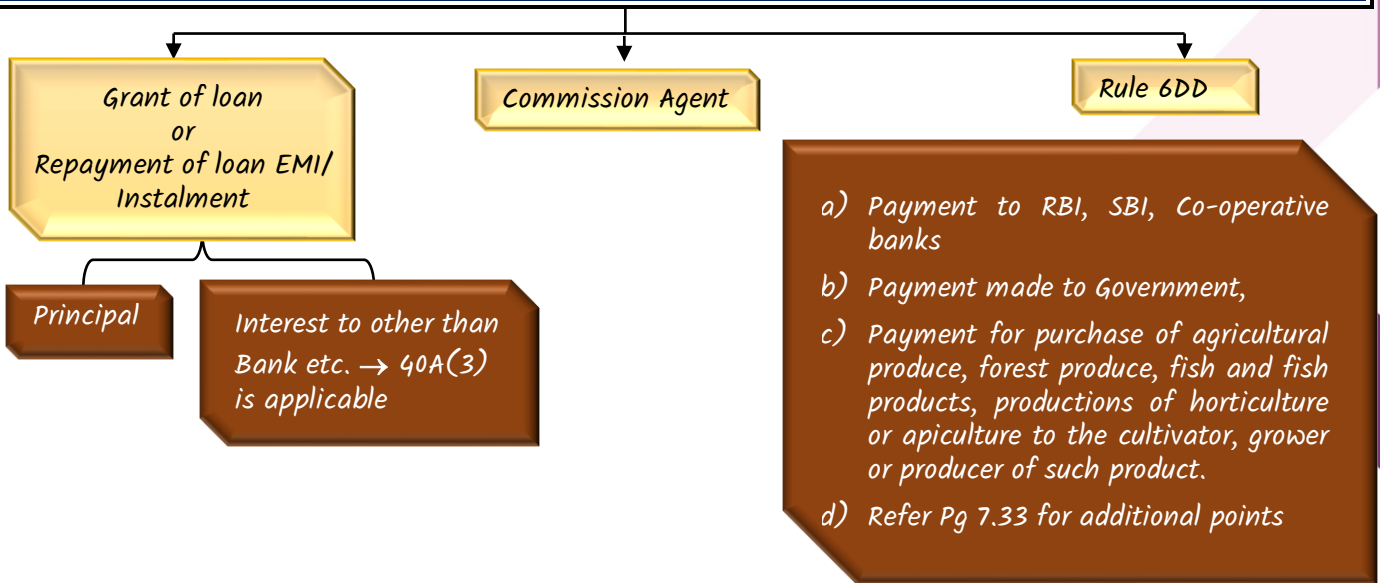
**Examples:**

- i) If Mr. Ram has paid INR 12,000 by a bearer cheque, amount disallowed shall be INR 12,000.
- ii) If Mr. Ram pays a salary to his employee INR 15,000 by crossed cheque, entire expenditure is disallowed.
- iii) If Tax Ltd. has paid INR 30,000 in cash to a GTA for transportation of goods, expenditure is allowed.
- iv) Mr. Ram purchased goods worth INR 75,000 on 01.01.2024 and payment was made INR 60,000 on 03.01.2024 by account payee cheque and INR 5,000 in cash on 03.01.2024 and INR 10,000 in cash on 05.01.2024. In this case, entire expenditure is allowed.
- v) Mr. Ram purchases goods worth INR 8,000 and INR 5,000 against two bills from Mr. Shyam and makes the payment INR 13,000 in cash in a single day. In this case, entire expenditure is allowed.
- vi) Mr. Ram purchases goods worth INR 18,000 from Mr. Shyam against one bill but makes payment of INR 10,000 and INR 8,000 at different times on the same date. In this case, entire expenditure is disallowed.
- vii) Tax Ltd. has purchased one plant for INR 1,00,000 and the payment was made in cash. In this case, Assessee is not allowed to claim depreciation.

**Special Case: Assessee following Mercantile System**

<p>March 2024</p> <p>Incurring expenses other than 43B → 25,000</p>	<p>December 2024</p> <p>The expense of 25,000 is paid in cash.</p>				
<table border="0"> <tr> <td>Expense/ Rent</td> <td>25,000</td> </tr> <tr> <td>To Expense payable</td> <td>25,000</td> </tr> </table> <p>In PY 2023-24; deduction of 25,000 allowed</p> <p>↓</p> <p>PGBP Reduced = Tax saving</p>	Expense/ Rent	25,000	To Expense payable	25,000	<p>Since 40 A(3) has been violated/ contravened; such amount shall be considered as income in PY 2024-25 i.e., in year in which payment in excess of 10,000 in 1 day against 1 bill to 1 party is made other than by A/c payee cheque, draft, ECS and other prescribed electronic mode.</p>
Expense/ Rent	25,000				
To Expense payable	25,000				

**6.3.1. CASE WHERE DISALLOWANCE U/S 40A(3) IS NOT ATTRACTED**



**6.4. DISALLOWANCE OF PROVISION FOR GRATUITY**

[SEC 40A(7)]

General Law → Provision for Expenses not allowed under Income Tax Act.

Exception: However, in following two cases provisions for Gratuity is allowed if provision is made w.r.t.

- a) Gratuity that has become due for payment during the year; or
- b) Provision is made towards contribution to approved gratuity fund.

**Example:** Mr. Ram retired on 28.03.2024 from Tax Ltd. and gratuity of INR 3,00,000 is payable but company has not made the payment till 31.03.2024. In this case, company is allowed to make provision for gratuity.

**6.5. DISALLOWANCE RELATED TO EMPLOYER'S CONTRIBUTION TO VARIOUS FUNDS**

[SEC 40A(9)]

Employer's Contribution to Unrecognized Provident Fund, Unapproved Fund → Not allowed as deduction

Employer's contribution to NPS u/s 80CCD → Contribution in excess of 10% of Salary Not allowed

**6.6. TAX TREATMENT W.R.T. PARTNERSHIP FIRM [ SECTION 40(b) ]**

Salary, Remuneration, Commission, Bonus etc.	Interest on Capital	Share of profit	Interest on Drawings	Capital Contribution or Drawing						
<p>Allowed to firm subject to following conditions:</p> <p>a) Must be paid only to working partners</p> <p>b) Must be evidenced by a deed which authorizes Firm to pay remuneration to working partners</p> <p>c) Max. Remuneration allowed w.r.t. all partners depends on Book profit.</p>	<p>Allowed to firm subject to following conditions:</p> <p>a) May be paid to ANY partner</p> <p>b) There must be a partnership deed</p> <p>c) Max interest allowed is lower of Rate as per deed or 12%</p>	<p>Exempt in hands of partners u/s 10(2A) [Always]</p> <p>This is post tax distribution i.e. tax already paid by Firm once.</p>	<p>Income of firm</p> <p>Not treated as Expense of Partner</p>	<p>Balance Sheet item</p> <p>No impact on PGBP</p>						
<p>Max Remuneration:</p> <p>i. Book Profit upto 3,00,000 [1.5L or 90% of B.P.; higher]</p> <p>ii. Book Profit above 3,00,000 [2.7 L + 60% above 3L]</p>	<table border="1"> <thead> <tr> <th>Rate in Deed</th> <th>Interest Allowed</th> </tr> </thead> <tbody> <tr> <td>15%</td> <td>12%</td> </tr> <tr> <td>10%</td> <td>10%</td> </tr> </tbody> </table>	Rate in Deed	Interest Allowed	15%	12%	10%	10%			
Rate in Deed	Interest Allowed									
15%	12%									
10%	10%									
<p>Remuneration allowed to firm is treated as income under the head PGBP in hands of partners</p>	<p>Interest allowed to Firm is treated as Income of Partner under the head PGBP.</p>									

**Illustrations:**

S No.	Book Profit	Working	Max Allowable to Firm
1.	1,50,000		
2.	1,00,000		
3.	2,50,000		
4.	3,00,000		
5.	Loss/ Nil		
6.	4,00,000		
7.	20,00,000		

**Points to Note:**

- If remuneration paid to non-working partner, no deduction allowed but if interest is paid to non-working partner, deduction allowed as per sec 40(b).
- No deed, No deduction u/s 40(b). A copy of deed must be filed with Department along with first return.
- Deduction for remuneration is allowed to a Firm w.e.f. the date from which the deed is made authorizing payment of remuneration to working partners & not from earlier period [Not Retrospective]

**Example:** If a firm incorporates the clause relating to payment of remuneration to the working partners, by executing an appropriate deed, say, on July 1, 2023 but effective from April 1, 2023 the firm would get

deduction for the remuneration paid to its working partners from July 1, 2023 onwards, but not for the period from April 1 to June 30. No retrospective effect to oral agreements entered into vis a vis such remuneration prior to putting the same in a written partnership deed.

### 6.6.1. BOOK PROFIT

<b>Book Profit</b> → Income of Firm before deducting Salary allowable u/s 40(b)	
Book Profit	XXX
(-) Salary to working partners allowable u/s 40(b)	(XX)
<b>PGBP of current PY</b>	<b>XXX</b>
<b>Computation of Book Profit</b>	
<b>Net Profit as per Profit &amp; Loss account</b>	XXX
+ Inadmissible expenses as per Income Tax Act but debited in P/L account	XX
(-) Admissible expenses as per Income Tax Act but not debited/ less debited in P/L account	(XX)
+ Income u/s 28 not credited in P/L account	XX
(-) Income of Other Heads credited in P/L account	(XX)
(-) Exempt incomes credited in P/L account	(XX)
(-) Brought forward unabsorbed depreciation	(XX)
(-) Interest on Capital allowable to Firm u/s 40(b)	(XX)
+ Remuneration to partners, if already debited in P/L account	XX
<b>Book Profit</b>	<b>XXX</b>
(-) Remuneration allowable to working partners as per Income Tax Act	(XX)
<b>PGBP for current PY</b>	<b>XXX</b>
(-) B/f business loss	(XX)
<b>PGBP</b>	<b>XXX</b>

### 7. PROFITS CHARGEABLE TO TAX [SECTION 41]

<b>Remission / Cessation of trading liability u/s 41(1)</b>	<b>Amount realized on Transfer of an Asset used for scientific research without being used for other business i.e., Direct sale of Scientific Asset.</b>	<b>Recovery of Bad Debt earlier allowed as deduction shall be taxed as Income in the PY in which it is recovered.</b>	<b>Brought forward Business loss of defunct business is allowed to be adjusted from profit chargeable to tax u/s 41</b>
Any recovery in the current PY w.r.t any deduction allowed earlier in respect of loss, expenses or trading liability is treated as Income in the year of Recovery.	Sec 41(3)	Sec 41(4)	
What if Amount is debited by a person & recovered by successor → Successor is liable to pay tax on such amount in the year of Recovery.  Exception → Bad Debt Recovered by successor is not taxable. Other expenses Recovered are taxable			
It does not matter whether Assessee is still engaged in Business/Profession or Not in the Year of Recovery. Even if Business/Profession is closed → Still Income u/s 41 is taxable with PGBP. Also, brought forward business			

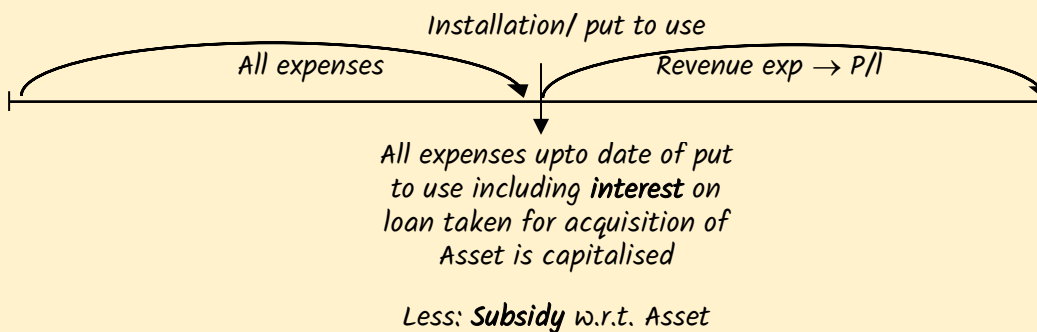
loss, if any, is allowed to be adjusted.

### 8. ACTUAL COST [SECTION 43(1)]

Refers to Value of Asset on which depreciation is calculated i.e. Value at which Asset is added to block of Asset.

Any expense on acquisition of Asset where aggregate payment of exceeding 10,000 in 1 day to 1 person is made otherwise than

- A/c payee cheque/ Draft; ECS and other prescribed electronic mode
- shall not form part of Actual Cost



**Note:** Any subsidy w.r.t asset is reduced from actual cost. General subsidy, not directly related to the asset, is not reduced from actual cost but is taxable u/s 28.

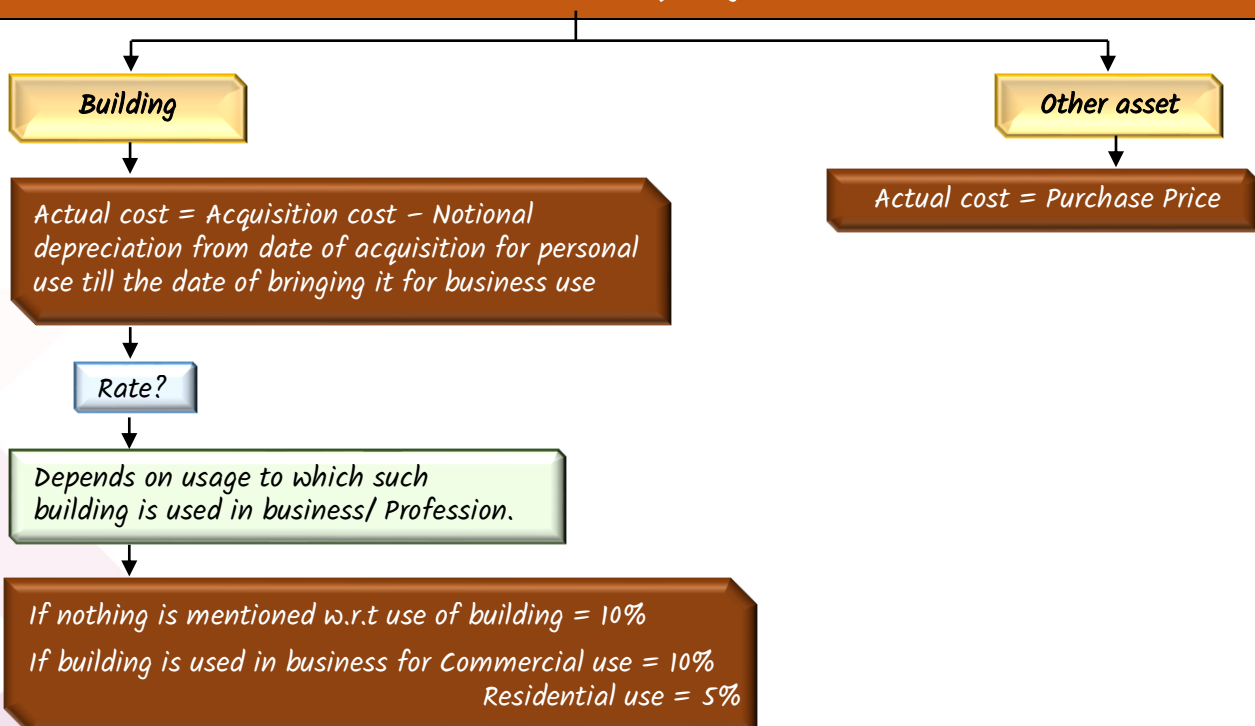
**Note:** If ITC of GST paid is claimed, such input tax does not form part of Actual cost. However, if ITC is blocked u/s 17(5) or the Assessee chooses to not claim ITC, then input tax shall be included in Actual cost.

### 8.1. ACTUAL COST IN SPECIAL CASES

S No.	Cases	Actual Cost i.e. Value at which Asset is added to Block of Asset
i)	Asset used in Business after scientific research use u/s 35	<b>Actual cost</b> → Nil [Purchase Price – Deduction u/s 35]
ii)	Transfer of Asset on which deduction is claimed u/s 35AD to Non-Specified Business by current owner or previous owner	Deduction u/s 35AD/ Original value of Asset <u>(-) Depreciation for period asset was used for specified business</u> Actual cost for further depreciation
iii)	Conversion of stock-in-trade into capital asset and used for business or profession i.e. business asset	<b>Actual cost</b> → FMV on date of conversion
iv)	Asset used partly for personal and partly for business use	E.g.: 1 car → 60% Business use & 40% Personal use  Calculate depreciation in normal manner. However, 60% shall be allowed.  WDV after Depreciation = Value before depreciation - 60% of depreciation.
v)	Composite Income, in the case of Tea, Coffee and Rubber	While calculating composite income, ➤ Depreciation shall be computed in Normal manner ➤ No impact on depreciation.

S No.	Cases	Actual Cost i.e. Value at which Asset is added to Block of Asset
		<p><b>Note:</b> There is impact of section 38 on Depreciation &amp; no impact of composite income on depreciation.</p> <p><b>Example:</b> If the turnover is, say, 20 lakhs, the depreciation 1 lakh and other expenses 4 lakh, then the income would be 15 lakhs. Business income would be 6 lakhs (being 40% of 15 lakh).</p> <p>In this case, 1 lakh, being the amount of depreciation would be deemed to have been actually allowed.</p> <p>Accordingly, the WDV is required to be computed by deducting the full depreciation attributable to composite income i.e., 1 lakh.</p>
vi)	Gift of business asset or inherited asset	<p><b>Actual cost in hands of donee</b> → WDV in hands of donor/previous owner assuming gifted asset to be only asset i.e.</p> <p>Original cost – depreciation allowable if it were only asset in the block.</p>
vii)	Second hand goods	<p><b>Actual cost</b> → Transfer cost /Purchase price.</p> <p>But if AO is satisfied that motive of purchase of second-hand asset is to reduce tax liability by claiming depreciation on enhanced cost; actual cost shall be determined by AO with prior approval of Joint Commissioner</p>
viii)	Re-acquisition of asset	<p><b>Actual cost</b> → Lower of</p> <ol style="list-style-type: none"> <li>Actual price for reacquiring asset; and</li> <li>WDV in hands of Assessee assuming that it is only asset in block i.e. original cost (-) Depreciation</li> </ol>
ix)	Sale and Lease Back	<b>Actual cost in hands of lessor</b> → WDV in hands of seller/ lessee

**(x) Actual cost of Personal Asset subsequently used in Business/ Profession**



**9. TAXATION OF FOREIGN EXCHANGE FLUCTUATION W.R.T. ASSET**

**[SEC 43A]**

Asset acquired from outside India for business/profession + Amount payable in foreign currency



At the time of payment, any change in amount payable in Indian Rupee (gain / loss) due to fluctuation in foreign currency rates shall be deducted/ added to WDV & depreciation shall be calculated on Revised WDV.



No impact on Profit & Loss account

**10. SALES VALUE IN CASE OF TRANSFER OF IMMOVABLE PROPERTY AS STOCK-IN-TRADE [SEC 43CA]**

If Stamp duty value > 110% of Actual Consideration → SDV shall be considered as Sale value.

If SDV is upto 110% of Actual Consideration → Actual Consideration shall be considered as Sale value.

**Illustrations:**

Suppose SDV of a flat in Delhi is 1 crore.

i. DLF sold the flat to a customer @ 1.2 crore.

Sales value in hands of DLF i.e. seller → 1.2 crore

ii. DLF sold the flat to a customer @ 90 lakhs.

SDV > 110% of Actual consideration

1 crore > 110% 90 lakhs

Sales value in hands of seller → SDV i.e. 1 crore

iii. DLF sold the flat to a customer @ 95 lakhs

SDV does not exceed 110% of Actual consideration

1 crore does not exceed 110% 95 lakhs

Sales value in hands of seller → 95 lakhs.

**Note:** Determination of SDV → Already covered under Gift Chapter.

**Examples**

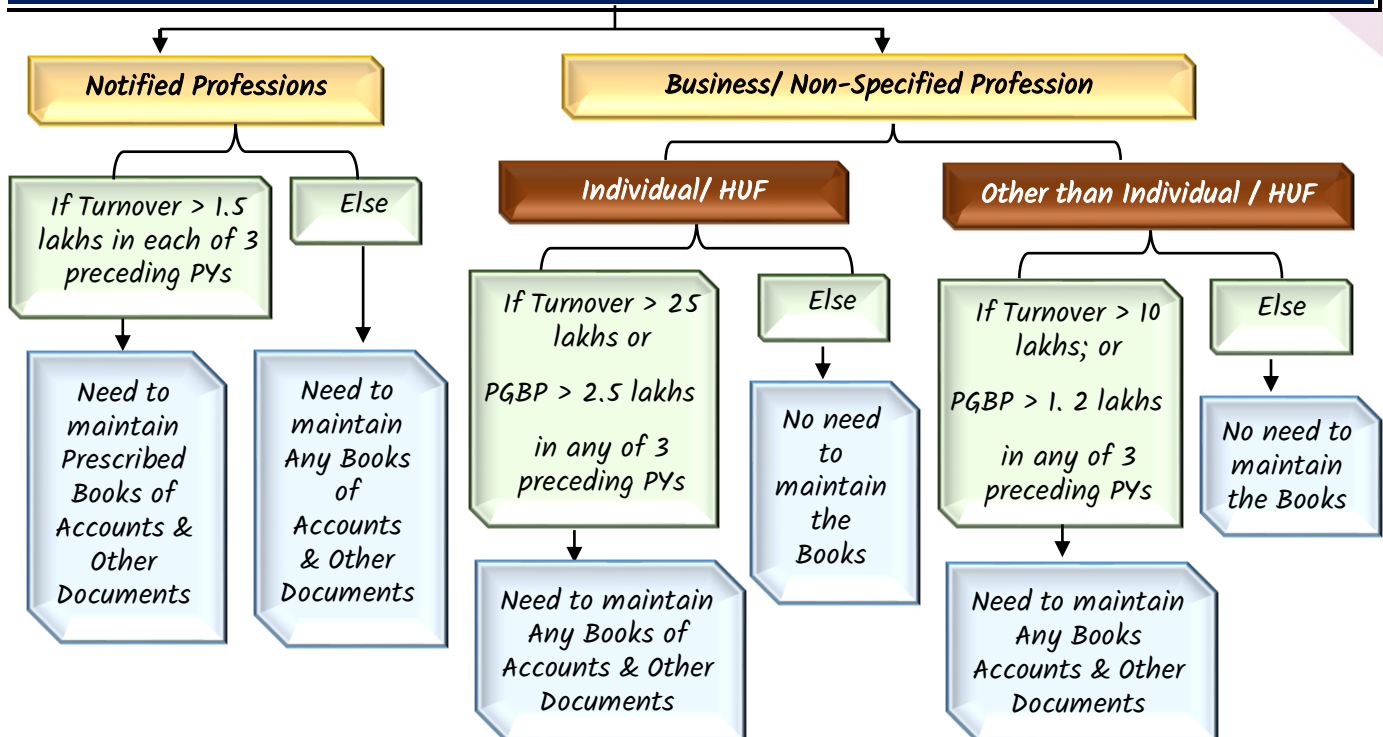
Date of transfer of land/building held as SIT	Actual consideration	SDV on the date of agreement	SDV on date of registration	FVC	Remark
1/9/2023	100 (10 received by A/c payee cheque on 1/7/2023)	120 (1/7/2023)	130 (1/9/2023)		
1/9/2023	100 (10 lakhs received by cash on 1/7/2023)	109 (1/7/2023)	130 (1/9/2023)		
31/1/2024	100 (10 L received by A/c payee cheque on 1/7/2023)	109 (1/7/2023)	130 (31/1/2024)		

**Examples**

Date of transfer of land/building held as SIT	Actual consideration	SDV on the date of agreement	SDV on date of registration	FVC	Remark
31/3/2024	100 (Full amount received in cash on the date of registration)	120 (1/5/2023)	130 (31/3/2024)		

**11. COMPULSORY MAINTENANCE OF ACCOUNTS**

[SECTION 44AA]



**Note:** Any Books means such books of account and other documents as may enable the Assessing Officer to compute Total Income of the Assessee as per the provisions of Income-tax Act, 1961

**Note:** In case of Newly set up business or profession, they need to maintain the Books as stated above if their Turnover/ Income is likely to exceed the limit prescribed above.

**Other Cases where Books are Compulsorily required to be maintained:**

- a) Rejection of the Income as per Presumptive Basis. [discussed later]
- b) Where section 44AD(4) is applicable. [discussed later]

**Notified Professions includes**

i) Legal profession	ii) Medical profession	iii) Engineering profession
iv) Architectural professional	v) Profession of accountancy	vi) Technical consultancy
vii) Interior decoration	viii) Authorized representatives	ix) Company Secretary
x) Information Technology	xi) Film artists*	

\*Includes actor, camera man, director, music director, art director, editor, singer, lyricist, story writer, screen play writer, dialogue writer and dress designer)



**Prescribed Books of Accounts and Other Documents required to be maintained:**

Following books of account and other documents are required to be maintained.

- a) a cash book;
- b) a journal, if accounts are maintained on mercantile basis;
- c) a ledger;
- d) Carbon copies of bills and receipts issued by the person whether machine numbered or otherwise serially numbered, in relation to sums exceeding INR 25;
- e) Original bills and receipts issued to the person in respect of expenditure incurred by the person, or where such bills and receipts are not issued, payment vouchers prepared and signed by the person, provided the amount does not exceed INR 50. Where the cash book contains adequate particulars, the preparation and signing of payment vouchers is not required.

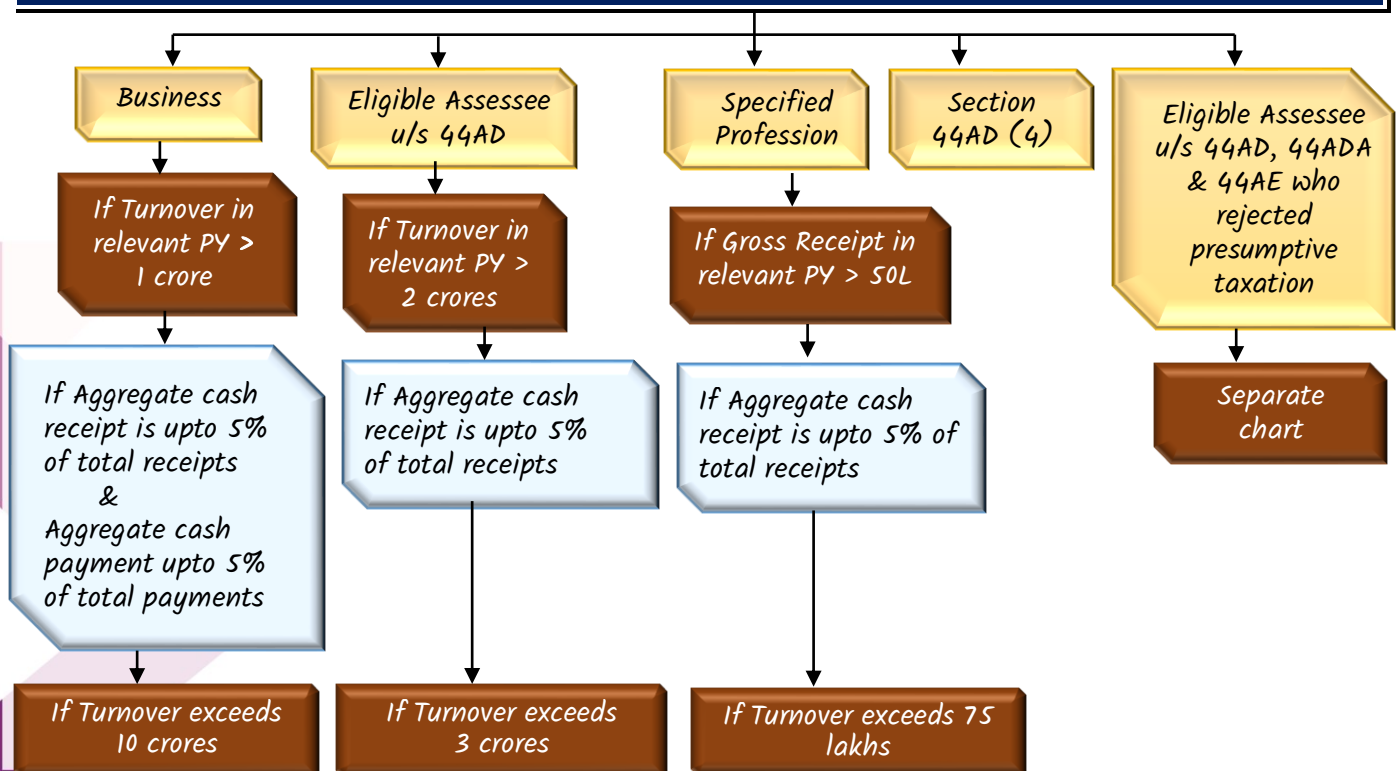
In case of a person carrying on medical profession, he will be required to maintain the following in addition to the list given above:

- i) a daily case register in Form 3C.
- ii) an inventory under broad heads of the stock of drugs, medicines and other consumable accessories as on the first and last day of the previous year used for his profession.

**Other Points**

Where should Books be kept?	Place where the person is carrying on the profession, or where there is more than one place, at the principal place of his profession. If he maintains separate set of books for each place, such books and documents may be kept and maintained at the respective places.
Preservation of the books	→ at least 6 years from the end of the relevant assessment year.
Failure to maintain/retain books of accounts etc.	→ Penalty of INR 25,000.

**12. COMPULSORY TAX AUDIT U/S 44AB BY CA IN PRACTICE**



**Note:** Cash receipt & cash payment includes any cheque or draft other than account payee cheque/ draft.

**Note:** Audit must be done upto 30<sup>th</sup> September of AY i.e. 1 month prior to due date of ROI (31<sup>st</sup> Oct of AY)

**Note:** Audit under any other law; say companies Act, 2013

Audit under Companies Act, 2013  
+  
Tax Audit report } i.e., fresh tax audit need not be done again

**Penalty for violating section 44AB** = 0.5% of Turnover or 150,000; lower

Receipt includes	Payment includes
a) Receipt on sale of SIT / Fixed Asset etc.	a) Payment on purchase of SIT / Fixed Asset etc.
b) Receipt from debtors	b) Payment to creditors
c) Loan taken	c) Repayment of loan
d) Advance from customer	d) Advance to supplier
e) Capital introduced by Partner	e) Drawing by partner

#### Illustration on calculation of % of Cash Receipts – 44AD

Receipts	Non-Cash	Cash	Total
Gross Receipts/Turnover/Sales	2,00,00,000	2,00,000	2,02,00,000
Sale of P&M	18,00,000	1,00,000	19,00,000
Income Tax Refund	2,00,000	-	2,00,000
Receipt of Loan & from debtors	20,00,000	2,00,000	22,00,000
Cash withdrawal from Bank		10,00,000	10,00,000
<b>Total</b>	<b>2,40,00,000</b>	<b>15,00,000</b>	<b>2,55,00,000</b>

**% of Cash Receipt** =  $\frac{\text{Cash Receipt}}{\text{Aggregate Receipt}} \times 100$

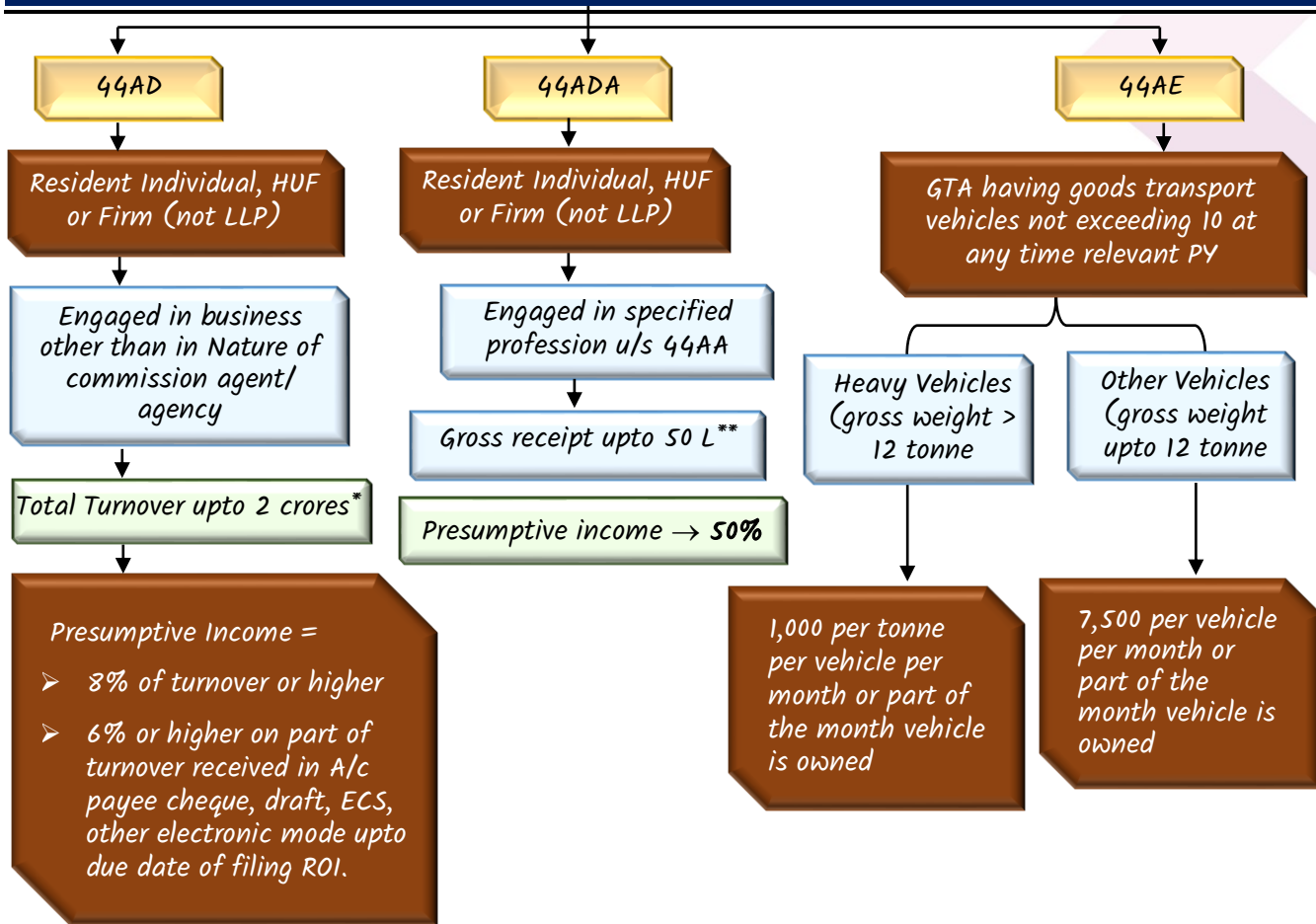
#### Illustration on calculation of % of Cash Payments

Payments	Non-Cash	Cash	Total
Purchase of Inventory	1,50,00,000	13,00,000	1,53,00,000
Purchase of Plant and machinery	14,00,000	4,00,000	18,00,000
Payment to creditors	8,00,000	1,00,000	9,00,000
Repayment of loans	10,00,000	2,00,000	12,00,000
Cash deposit in Bank		10,00,000	10,00,000
<b>Total</b>	<b>1,82,00,000</b>	<b>30,00,000</b>	<b>2,02,00,000</b>

**% of Cash Payments** =  $\frac{\text{Cash Payment}}{\text{Aggregate Payment}} \times 100$

**Conclusion:**

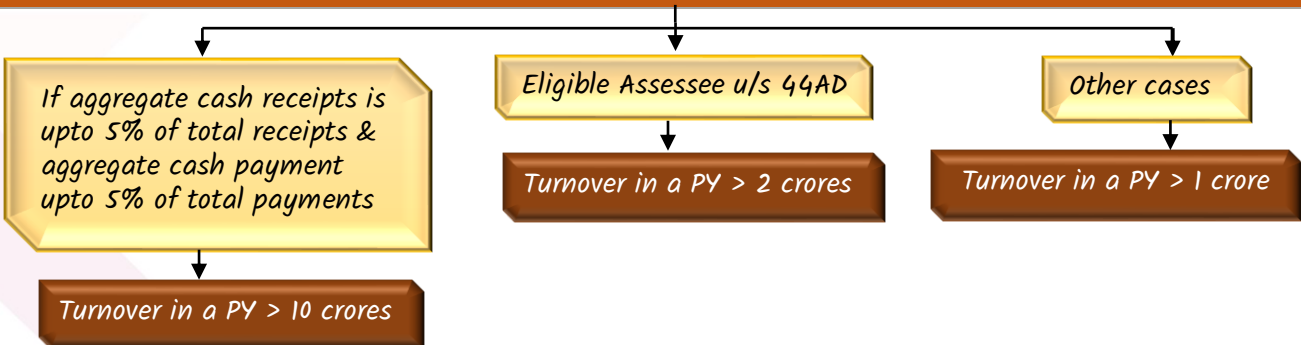
**13. PRESUMPTIVE INCOME TAXATION**



\*Note: In case of eligible Assessee u/s 44AD, if Aggregate cash receipt is upto 5% of total receipts during the relevant PY, Assessee can avail presumptive income benefit upto total turnover of 3 crores.

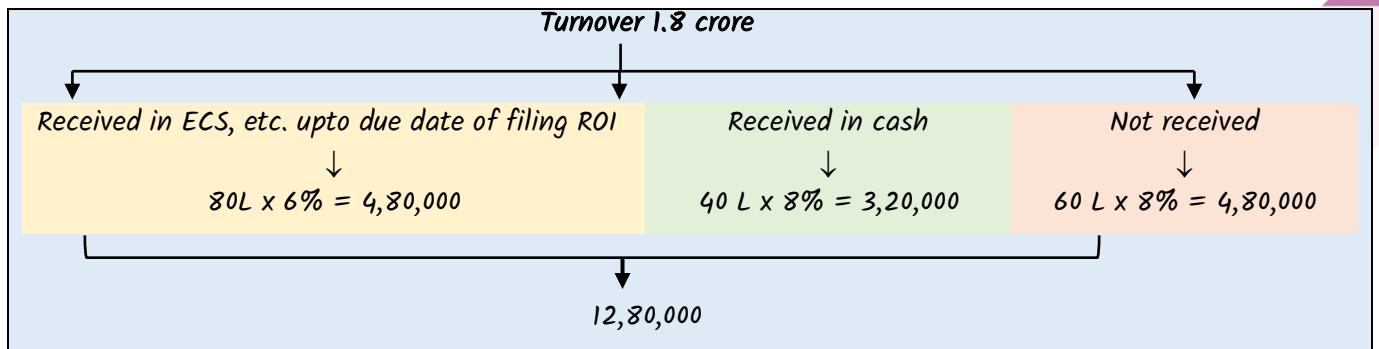
\*\*Note: In case of eligible Assessee u/s 44AD, if Aggregate cash receipt is upto 5% of total receipts during the relevant PY, Assessee can avail presumptive income benefit upto total turnover of 75 lakhs.

**Various Limits u/s 44AB for a Business to get mandatory Tax Audit**

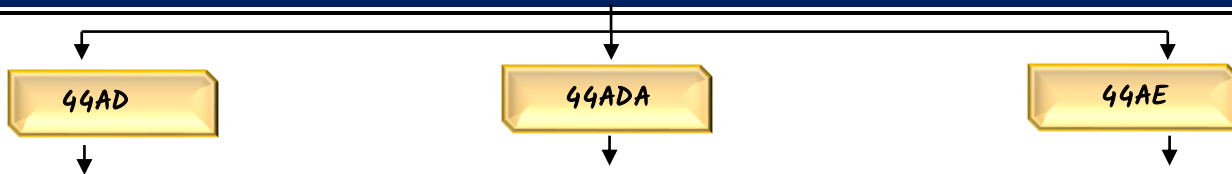


**Illustration**

Turnover of business of Ram during PY 2023-24 is 1.8 crores. Ram received 80 lakhs in ECS and 40 lakhs in cash upto 31/7/2024. Determine PGBP u/s 44AD.



**13.1. TAX AUDIT U/S 44AB & MAINTENANCE OF BOOKS ON REJECTION OF PRESUMPTIVE INCOME**



**Points to note w.r.t. Presumptive Income Taxation**

- 1) All expenses u/s 30 to 38 including brought forward depreciation is deemed to have been allowed as per Income-tax Act.
- 2) In case Firm pays Interest on Capital & Remuneration to its Partners as per section 40(b)
 

↓ 44AD/ 44ADA ↓ Deemed allowed; no further deduction from presumptive income	↓ 44AE ↓ Shall be allowed from presumptive income
---	--
- 3) Brought forward business loss is allowed from presumptive income.
- 4) How to calculate WDV of Asset?  
Deduct depreciation as per Section 32 from value of block of asset as if it is actually allowed.
- 5) No need to maintain books u/s 44AA and get tax audit done u/s 44AB.
- 6) If an eligible Assessee rejects presumptive taxation, need to maintain books u/s 44AA & get the tax audit u/s 44AB done → Refer above chart.
- 7) Due date of filing ROI for Assessee under presumptive taxation → 31<sup>st</sup> July of AY
- 8) Advance tax payment liability

44AD/ 44ADA



100% upto 15<sup>th</sup> March of PY

44AE



In 4 installments

9) If an Assessee opts for section 44AD for first time, he should opt it for next 5 PYs as well. If he rejects 44AD before expiry of 5 years, he cannot opt for 44AD for next 5 PYs. [Sec 44AD(4)]

	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31
Ideal	✓	✓	✓	✓	✓	✓		
Actual	✓	✓	x	x	x	x	x	x
Books u/s 44AA	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Audit u/s 44AB	No	No	Yes	Yes	Yes	Yes	Yes	Yes

#### 44AD (4) read with 44AD(5)

44AD(4) → Can't opt for section 44AD for 5 AYS subsequent to AY of rejecting 44AD by eligible Assessee.

44AD(5) → Need to maintain Books u/s 44AA & get tax audit done if income claimed > basic exemption.

### 14. UNABSORBED DEPRECIATION

Loss under the head PGBP → Can be adjusted from any Income under any head except salary. Unadjusted loss can be carried forward to subsequent 8 AYS & in subsequent AYS, brought forward business loss can be adjusted only from PGBP of that AY.

Depreciation is allowed to be debited while calculating PGBP but only upto the extent of Income u/ PGBP.

There can't be loss under the head PGBP due to depreciation. Any excess depreciation which is more than profit before depreciation shall be known as unabsorbed depreciation.

Net Profit as per P/L account	XXX
+/- Adjustments as per Income Tax Act	XX
<b>Net profit before depreciation</b>	<b>XXX</b>
(-) Depreciation u/s 32	XX
<b>PGBP</b>	<b>XXX</b>

#### Illustrations

	Case I	Case II	Case III
Profit before depreciation	100	100	100
(-) Depreciation	80	100	120
<b>PGBP</b>			

#### Set-off and Carry Forward of Unabsorbed Depreciation

Unabsorbed depreciation can be set off in the current year against any Income except Salary.

Unadjusted unabsorbed depreciation can be carried forward indefinitely and in subsequent AY, it can be adjusted against any income except Salary.

**Question:** If an Assessee has b/f loss and b/f unabsorbed depreciation. What shall be used first?

**Sol:** Rational tax payer shall use b/f PGBP loss first for adjustment against profit as it has Limited Life.

**Example**

Mr. X has business income, before depreciation of INR 10,00,000 for PY 2023-24. He has current year depreciation of 4,00,000. He also has B/F business losses of INR 5,00,000 and B/F unabsorbed depreciation for INR 3,00,000 pertaining to past periods.

In this case, Mr. X shall first adjust current year depreciation of 4,00,000 from current year business income. Net business income for current year will be 6,00,000. Now, b/f business loss would be adjusted first and unabsorbed depreciation would be adjusted subsequently to the extent of INR 1,00,000. Unabsorbed depreciation of INR 2,00,000 would be carried forward to the next AY.

**15. DIFFERENT TAX TREATMENT UNDER OPTIONAL TAX REGIME & DEFAULT TAX REGIME**

S No.	Items	Optional tax regime i.e. Normal provisions of Act	Default Tax Regime u/s 115BAC
1.	Additional Depreciation	Allowed	Not allowed
2.	Deduction u/s 35AD	Allowed	Not allowed
3.	Deduction u/s 35		
	In house research expenditure	Allowed	Allowed
	Contribution to outsiders	Allowed	Not Allowed

**Example:**

Let us consider the case of Mr. X, who carries on business of manufacturing of steel. He has unabsorbed depreciation as on 1.4.2023, which includes amount attributable to additional depreciation u/s 32(1)(ia) of P.Y. 2022-23 or any earlier previous year in respect of block of plant and machinery.

If he is paying tax under default tax regime under section 115BAC for P.Y.2023-24 relevant to A.Y.2024-25, the amount so attributable to additional depreciation of earlier years remaining unabsorbed as on 1.4.2023 would not be eligible for set-off against current year income.

Accordingly, the WDV of the block as on 1.4.2023 has to be increased by the said amount not allowed to be set-off.

# CHAPTER 7

## INCOME FROM CAPITAL GAINS

### 1. CAPITAL GAINS [SECTION 45 TO 55]

Generally capital receipts are not taxable under Income Tax Act. However, certain gains in the nature of capital receipts are specifically made taxable under the head Capital Gains.

Income arising from

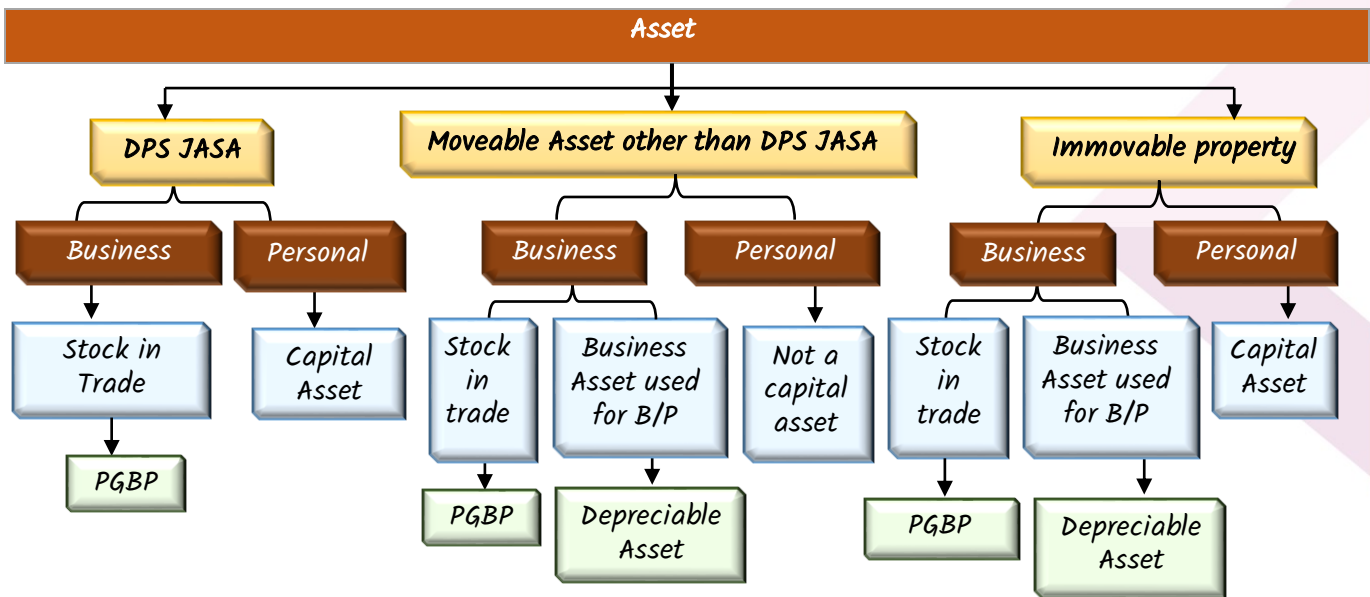
- **Transfer [2(47)] of capital asset [2(14)] is**
- chargeable to tax under the head Capital Gain in the
- PY in which transfer took place. [Charging section 45(1)]

**Exceptions:**

- a) Capital Gains in case of receipt of Insurance claim on destruction of capital asset. [Section 45 (1A)]
- b) Capital Gains in case of conversion of capital asset into stock in trade. [Section 45(2)]
- c) Capital Gains in case of Compulsory Acquisition [Section 45(5)]
- d) Specified Agreement u/s 45(SA)

### 2. CAPITAL ASSET [SEC 2(14)]

Inclusions	Exclusions
D → Drawing	a) Stock in Trade/ Inventory Exception: Foreign Institutional Investors holding shares as SIT are taxable uth Capital Gains. Irrespective of Location of FII/ Foreign Portfolio investors.
P → Painting	
S → Sculpture	
J → Jewellery including bullion [including gold & silver coins & golds utensils]	b) Rural Agricultural Land in India
A → Arts	c) Personal movable assets other than DPS JASA. E.g: Silver utensils, Car, Phone, Laptop etc.
I → Immovable Property [Land, Building, urban agricultural land]	d) Gold Deposit Scheme/ Gold Monetization scheme/ Gold Bonds/ Special Bearer Bonds
S → Shares & Securities	
A → Archaeological collection	



### 3. TRANSFER: WHAT IT MEANS? [SECTION 2(47)]

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

- i) the sale, exchange or relinquishment of the asset; or
- ii) the extinguishment of any rights therein; or
- iii) the compulsory acquisition thereof under any law; or
- iv) Conversion of capital asset into the stock-in-trade; or
- v) the maturity or redemption of a zero-coupon bond; or
- vi) Part-performance of the contract: Where, possession of an immovable property is given in consideration of part-performance of a contract.

**Example:**

A enters into an agreement for the sale of his house. The purchaser gives the entire sale consideration to A. A hands over complete rights of possession to the purchaser since he has realized the entire sale consideration. Under Income-tax Act, the above transaction is considered as transfer.

- vi) Any transaction having the effect of transferring or enabling the enjoyment of an immovable property.

**Example:**

A person may become a member of a co-operative society, company or other association of persons which may be building houses/flats. When he pays an agreed amount, the society etc. hands over possession of the house to the person concerned. No conveyance is registered. For the purpose of income-tax, the above transaction is a transfer.

### 4. STEPS IN CALCULATING CAPITAL GAIN

<b>Step 1:</b>	Determine whether Capital Asset is Long term or Short term. [determined on the basis of period of holding]
<b>Step 2:</b>	Determine (a) Full Value of Consideration (b) Cost of Acquisition (c) Cost of Improvement & Computation of Capital Gains [Sec 48]
<b>Step 3:</b>	Determine the applicable Rate of Tax



**5. STEP 1: DETERMINATION OF LTCA & STCA BASED ON HOLDING PERIOD**

Capital Asset is treated as LTCA if it is held for more than ----- months on the date preceding the date of transfer.

<b>A. Listed shares &amp; Securities on the Recognized Stock Exchange</b> Units of Equity Oriented Mutual Funds Units of Unit Trust of India (UTI) Zero-Coupon Bond (by Infra co, PSU/ Bank)		12 months
<b>B. Unlisted shares</b> Land & Building		24 months
<b>C. Other Capital Asset (Gold, Unlisted securities, bonds, <del>debt oriented MFs</del>)</b>		36 months

**Note:** Market linked debentures & units of a specified mutual fund, being debt oriented fund would always be STCA irrespective of the period of holding. This is provided in section 50AA.

**Illustrations**

No.	Capital Asset	Purchase Date (Included)	Transfer Date (Not Included)	Holding Period	For LT, Applicable Duration	Nature of capital Asset
1.	Listed shares	4/10/2022	4/10/2023			
2.	Zero coupon bonds	4/1/2023	5/1/2024			
3.	Building	16/7/20	20.07.2023			

**Crux:** While calculation holding period date of Acquisition is included & date of transfer Not included.

**6. DETERMINATION OF PERIOD OF HOLDING [SEC 2(42A)]**

S. No.	Circumstances	Period of holding
1.	Where shares held in a company in liquidation	Period subsequent to the date of liquidation of company shall be excluded.
2.	Where asset becomes the property of an assessee by virtue of section 49(1)	Period for which the capital asset was held by the previous owner shall be included.
3.	Where inventory of business is converted into or treated as a capital asset by the assessee	Period from the date of conversion shall be considered.
4.	Where shares in the Indian company (amalgamated company), becomes the property of an assessee in lieu of share/s held by him in the amalgamating company u/s 47(vii).	The period for which the share(s) was held by the assessee in the amalgamating company shall be included.
5.	Where share/s in the Indian company being a resulting company becomes the property of an assessee in consideration of demerger	The period for which the share/s were held by the assessee in demerged company shall be included

S. No.	Circumstances	Period of holding
6.	Right shares	Period from the date of allotment.
7.	Where right to subscribe to any share or security is renounced in favour of any other person	Period from the date of offer of such right by the company or institution shall be reckoned
8.	Where any financial asset is allotted without any payment and on the basis of holding of any other financial asset	Period from the date of allotment of such financial asset shall be reckoned
9.	Conversion of preference shares into equity shares u/s 47(xb)	Period for which the preference shares were held by the assessee shall be included
10.	Conversion of gold into Electronic Gold Receipt as referred to u/s 47(viid). E-Gold Receipt is issued by a Vault Manager in respect of gold deposited	Period for which such gold was held by the Assessee prior to conversion into the Electronic Gold Receipt
	Conversion of Electronic Gold Receipt into gold as referred to in section 47(viid) i.e. gold is released in respect of an Electronic Gold Receipt	Period for which such E-Gold Receipt was held by Assessee prior to its conversion into gold
10.	Specified security or sweat equity shares	Period from the date of allotment or transfer

### 7. STEP 2: COMPUTATION OF CAPITAL GAINS [SECTION 48]

Particulars	Amount
Full Value of Consideration received or accruing as a result of transfer	XXX
(-) Expenditure exclusively in connection with such transfer like Brokerage / Commission	XX
<b>Net consideration</b>	<b>XXX</b>
(-) Cost of Acquisition/ Indexed COA	xx
(-) Cost of Improvement/ Indexed COI	xx
<b>STCG/ LTCG</b>	<b>XXX</b>
Less: Exemption u/s 54/ 54B/ 54D/ 54EC/ 54F	Xx
<b>Income uth Capital Gains</b>	<b>XXX</b>

#### Points to Note:

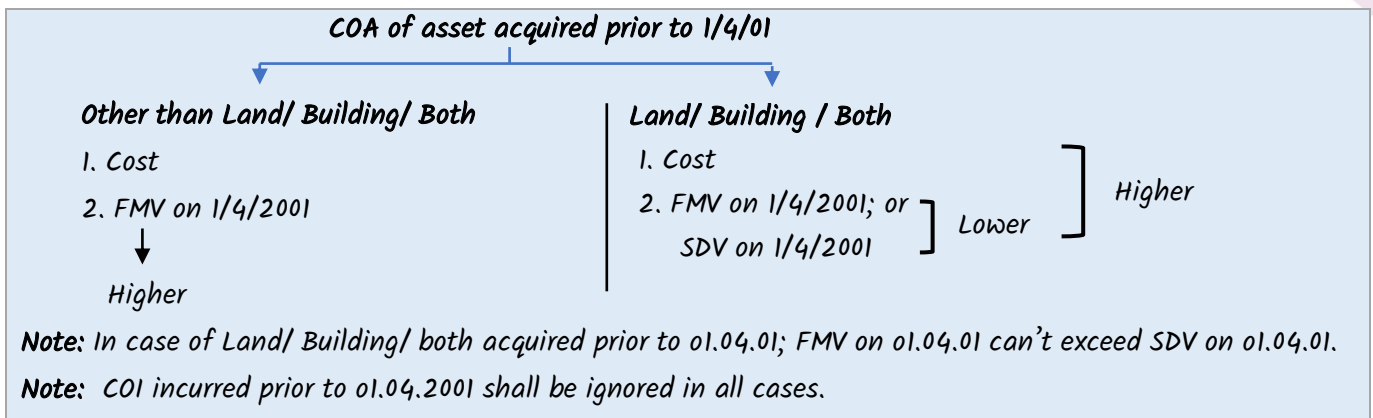
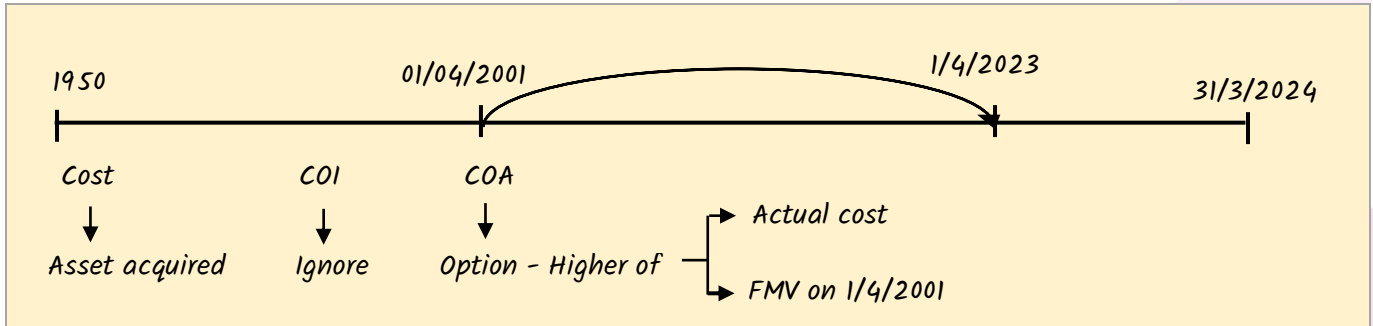
- No deduction is allowed for STT paid in respect of shares held as capital asset.
- Any expenditure which has been allowed under any other head [like interest u/s 24(b)] or under Chapter VIA [like interest u/s 80EE, 80EE) shall not be included in COA/COI.
- Indexation of COA and COI is allowed only in case of LTCA.  
CII → Cost of Inflation Index Notified by Government (refer page 7.29)  
CII for Base Year PY 2001-02 = 100 & CII for current PY 2023-24 = 348

#### Cases where indexation is not allowed

- Depreciable Asset [Always STCG /STCL u/s 50/ 50A]
- Units of marked linked debentures and units of specified mutual funds.
- Bonds or debentures other than capital indexed bonds issued by Govt. & sovereign gold bonds issued by RBI
- Slump sale u/s 50B
- LTCG u/s 112A

## 8. DETERMINATION OF COA IN DIFFERENT CASES

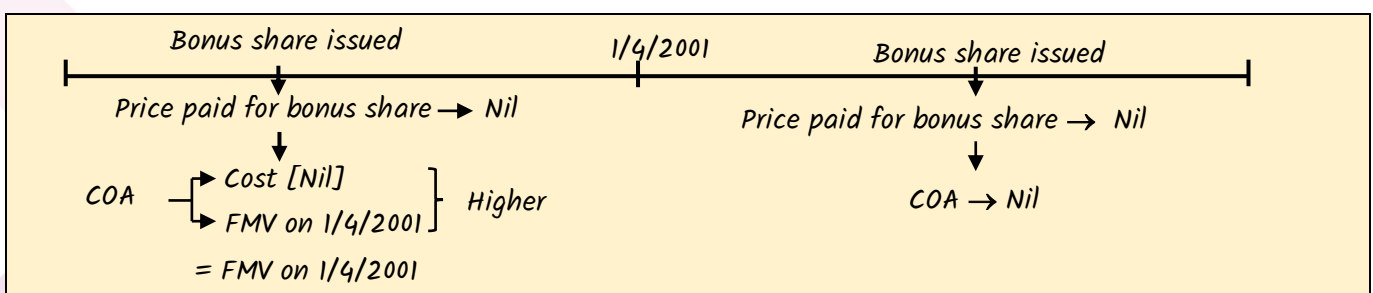
### 8.1. Determining COA of asset acquired prior to 1.04.2001



### Illustration – Land/ Building

	I	II	III	IV
COA on 1/4/1990	10,00,000	10,00,000	10,00,000	10,00,000
COI prior to 1/4/2001	2,00,000	2,00,000	2,00,000	2,00,000
FMV on 1/4/2001	12,00,000	11,00,000	14,00,000	18,00,000
SDV on 1/4/2001	15,00,000	-	12,00,000	8,00,000
FVC on 1/4/2023	15,00,000	11,00,000	14,00,000	9,00,000
<b>Solution</b>				
FVC	15,00,000	11,00,000	14,00,000	9,00,000
Less: Indexed CoA				
LTCG / (LTCL)				

### 8.2. COA OF BONUS SHARES



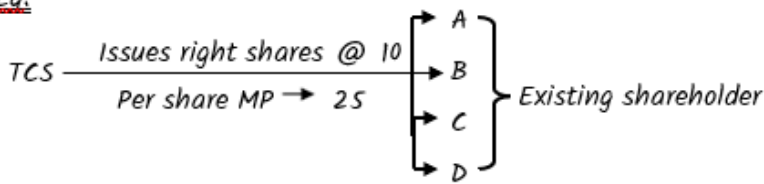
**8.3. COA OF RIGHT SHARES**

Mode of raising additional funds/capital by issuing shares to existing shareholders at discounted price in ratio of holding.



Issued normally at price lower than MP.

Eq:



A and B exercised their right / purchased right shares

COA of right shares → 10

Suppose such right shares are sold in the future @ 18

$$CG = 18 - 10 = 8$$

C ignored → No tax treatment

D renounced right enlightenment in favor of Z for INR 2.

In hands of D: Cost of right enlightenment =

$$STCG \text{ of D} = FVC - \text{Cost of Right} =$$

In hands of Z:

$$\text{Cost of shares} = \text{Amount paid to D to acquire right entitlement} + \text{Amount paid to TCS to acquire right shares}$$

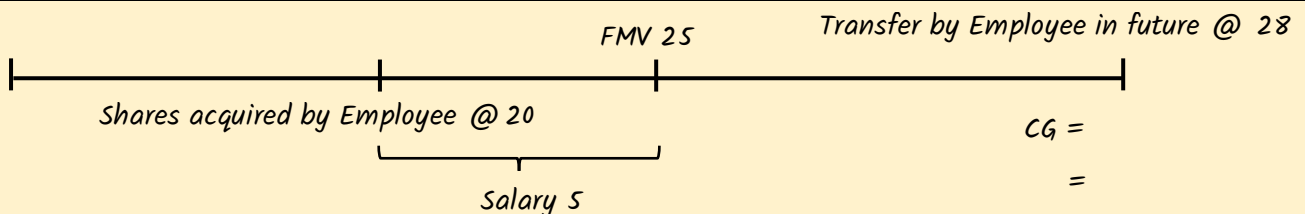
If Z further sells it for 30

FVC

(-) COA

CG

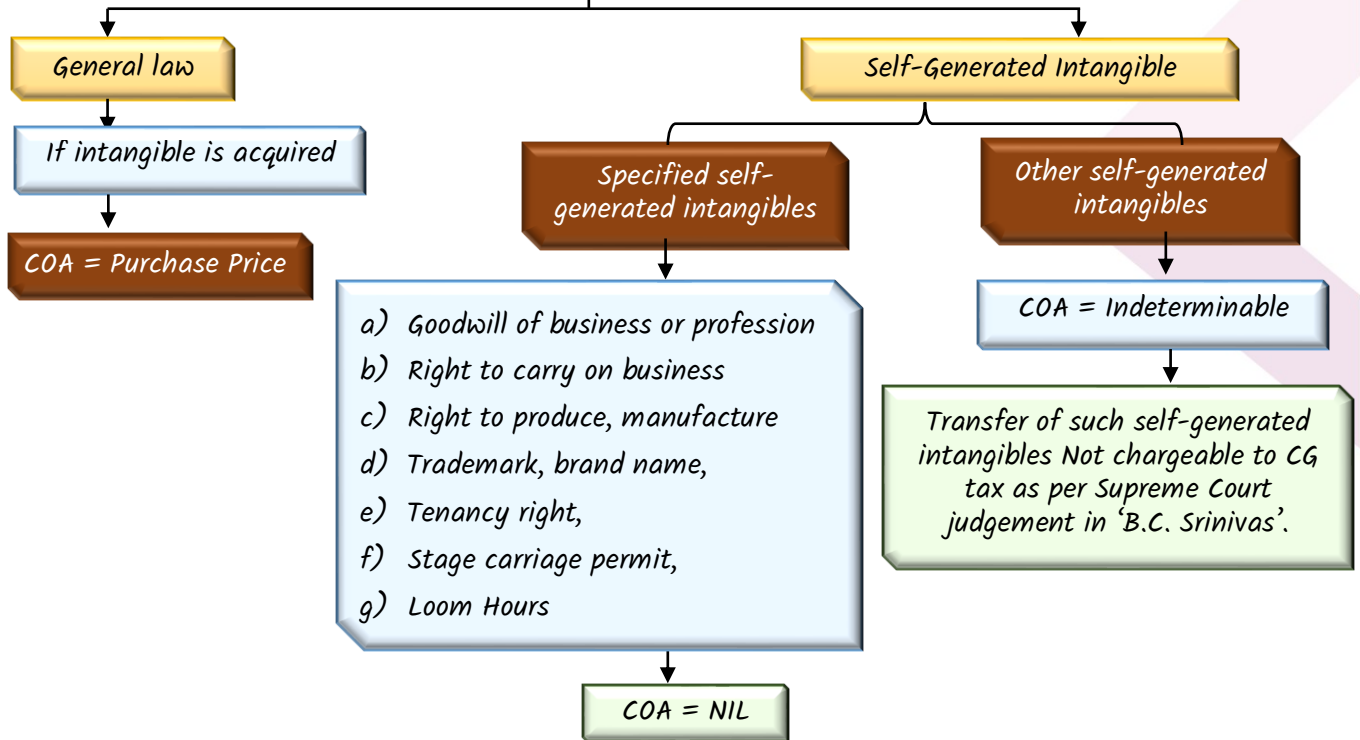
**8.4. COA OF ESOP/ SWEAT EQUITY SHARES**



COA of ESOP / Sweat equity shares = FMV on the date of allotment

Note: ESOP may be in form of shares, debentures or warrants.

**8.5. COA OF INTANGIBLES (PATENT, GOODWILL OF BUSINESS/ PROFESSION, COPYRIGHT ETC.)**



**Note:** The cost of improvement of such assets would be Nil.

**4 other cases for determining COA:**

- |               |                  |                |                 |
|---------------|------------------|----------------|-----------------|
| a) Section 46 | b) Section 47/49 | c) Section 50B | d) Section 112A |
|---------------|------------------|----------------|-----------------|

**9. DETERMINATION OF COST OF IMPROVEMENT [SEC 55]**

S. No.	Nature of asset	Cost of improvement
1	Goodwill or any other intangible asset of a business or a right to manufacture, produce or process any article or thing, right to carry on any business or profession	Nil
2	Where the capital asset is acquired prior to 1-4-2001 by Assessee or previous owner	Nil if COI is incurred prior to 1/4/01
		All expenditure of capital nature incurred w.e.f. 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 <ul style="list-style-type: none"> <li>➤ by the assessee after it became his property; &amp;</li> <li>➤ by the previous owner [in case where assessee acquired the property by modes u/s 49(1)].</li> </ul>
<p><b>Note:</b> Expenses incurred to get the tenant vacate the property is also treated as COI.</p> <p><b>Note:</b> COI does not include any expenditure which is deductible uth "Income from house property", "PGBP" or "IFOS".</p> <p><b>Note:</b> Routine expenses on repairs and maintenance do not form part of COI.</p>		

**10. CAPITAL GAIN IN CASE OF DEPRECIABLE ASSET [SECTION 50]**

Individual depreciable asset is not capital asset but block of asset is a capital asset.

Section 50 is applicable only in the following two cases:

a) All asset of the block of asset is transferred

- At price > value of block & expense w.r.t. transfer of block = STCG u/s 50
- At price < value of block & expense w.r.t. transfer of block = STCL u/s 50.

b) Part of block is transferred at price exceeding value of block & expense w.r.t. transfer of block = STCG

**Note:** No indexation in case of a depreciable asset.

**Note:** Capital gain/ loss u/s 50 shall always be short term.

For illustrations → Refer case V, VI and VII of Depreciation in PGBP

**Cost of acquisition in case of depreciable power sector assets [Section 50A]**

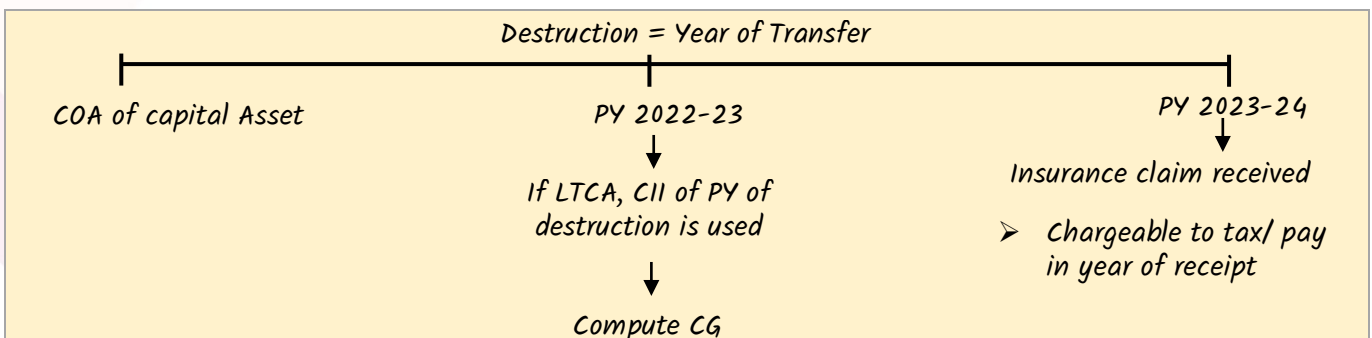
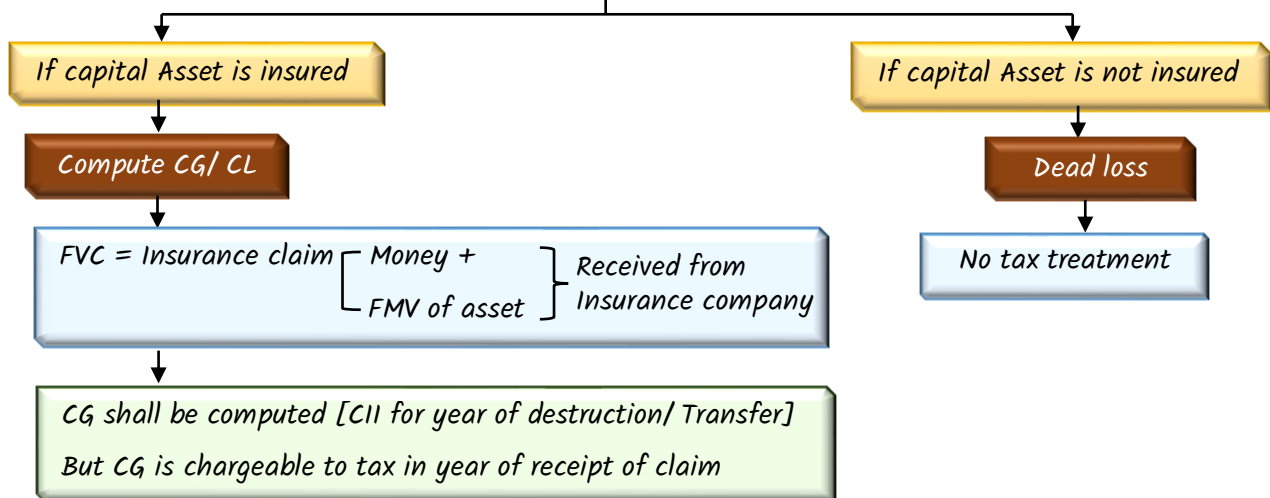
- WDV of the asset shall be taken to be the cost of acquisition.

**Note:** Capital gain/ loss u/s 50A shall always be short term.

**11. STEP 2: DETERMINATION OF FVC IN VARIOUS CASES**

**11.1. CAPITAL GAIN IN CASE OF DESTRUCTION OF CAPITAL ASSET**

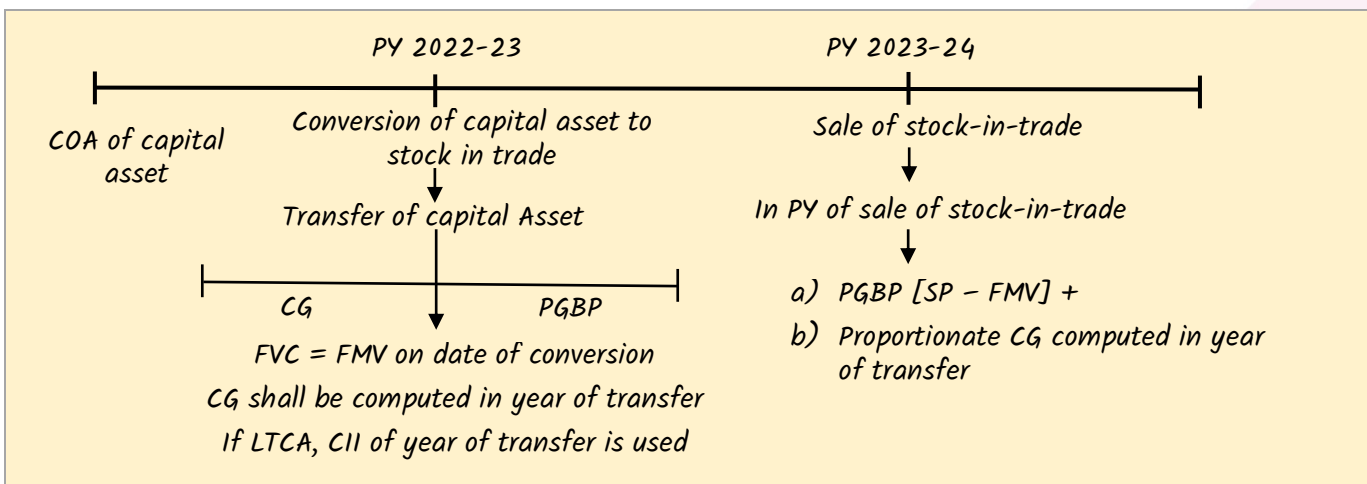
**[SECTION 45(1A)]**



**Note:** Date of transfer for determining holding period → Date of destruction of capital asset.

**Note:** Destruction may be due to riots, fire, natural calamity etc.

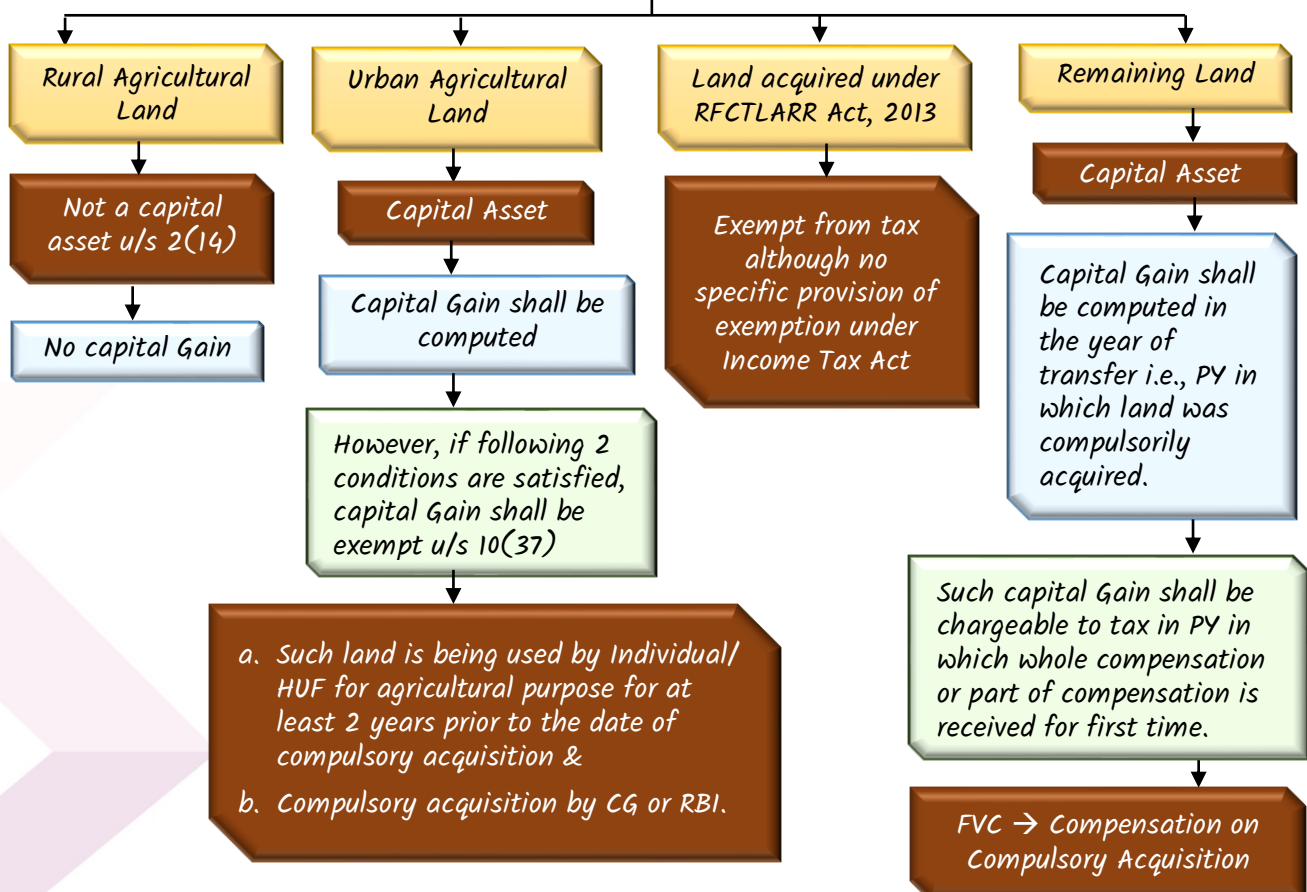
**11.2. CONVERSION OF CAPITAL ASSET INTO STOCK-IN-TRADE [ SECTION 45(2) ]**



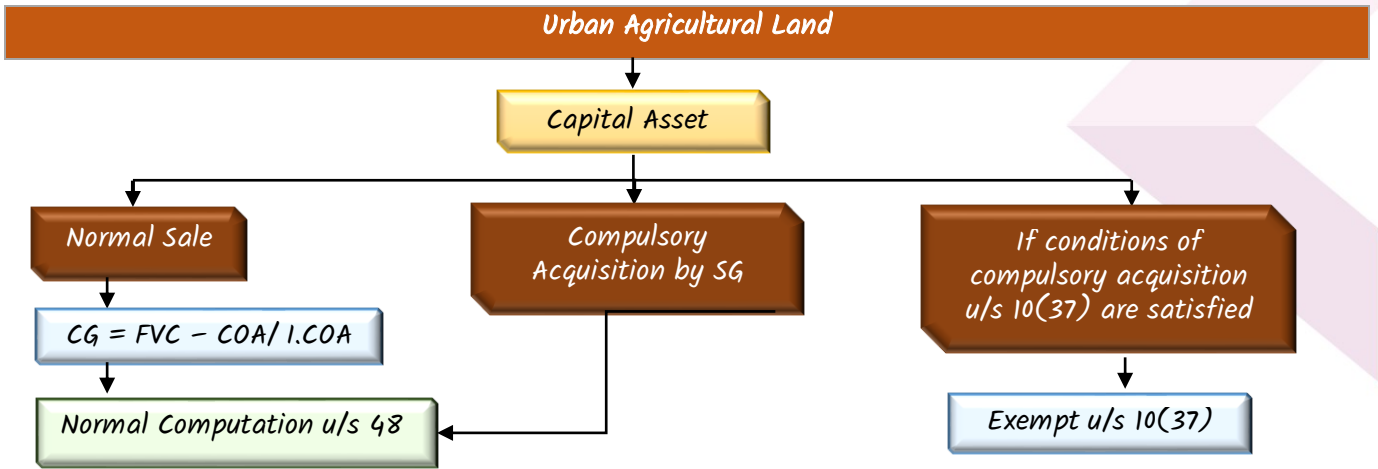
**Notes:**

- CG is computed in the year of transfer i.e. conversion of capital asset into SIT.
- FVC = FMV on date of conversion
- If LTCA, Indexation of PY in which transfer took place i.e. conversion is considered.
- Such CG shall be chargeable to tax in the PY when stock-in-trade is sold [Proportionate]
- In the year of sale of stock-in-trade, Two incomes shall be chargeable to tax:
  - PGBP = Sale price - FMV (proportionate)
  - CG computed in earlier year of Transfer (in proportion of sale of stock-in-trade)

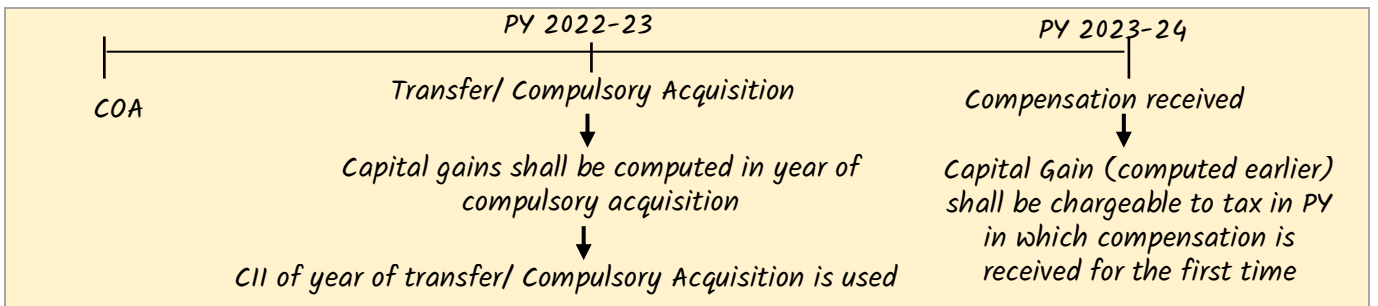
**11.3. COMPULSORY ACQUISITION**



Classification of Land into Rural and Urban → Refer Ch 4 - Agricultural Income



**Compulsory Acquisition**



**Taxability of Enhanced Compensation**

Taxable in the PY when the enhanced compensation is received pursuant to final order & not interim order.



Nature of enhanced compensation [LTCG /STCG] → Same as nature of capital asset transferred.



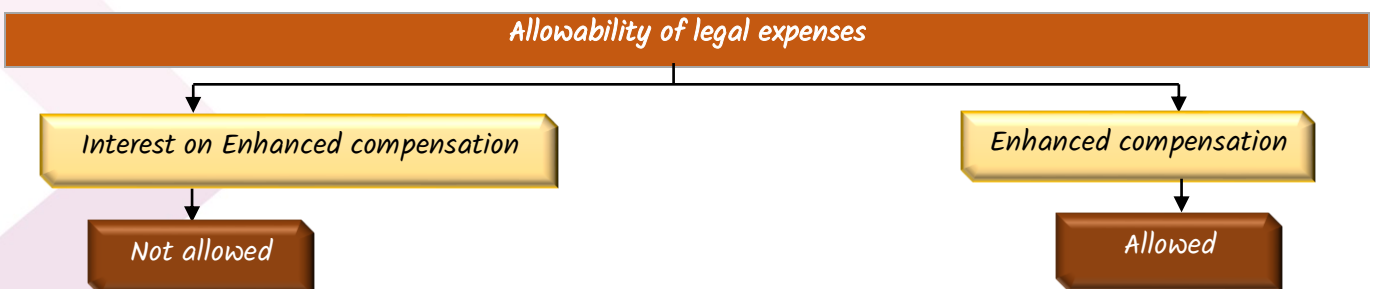
COA/COI = NIL [As it was already considered while computing CG on Acquisition]

**Note:** In case transferor dies before he receives the enhanced compensation & enhanced compensation is received by legal heirs, it will be taxable in hands of legal heir in similar manner.

**Note:** Legal expenses incurred to get enhance compensation is allowed.

**Interest on delay in compensation** → Taxable uth Income from Other Sources u/s 56 in the year of receipt

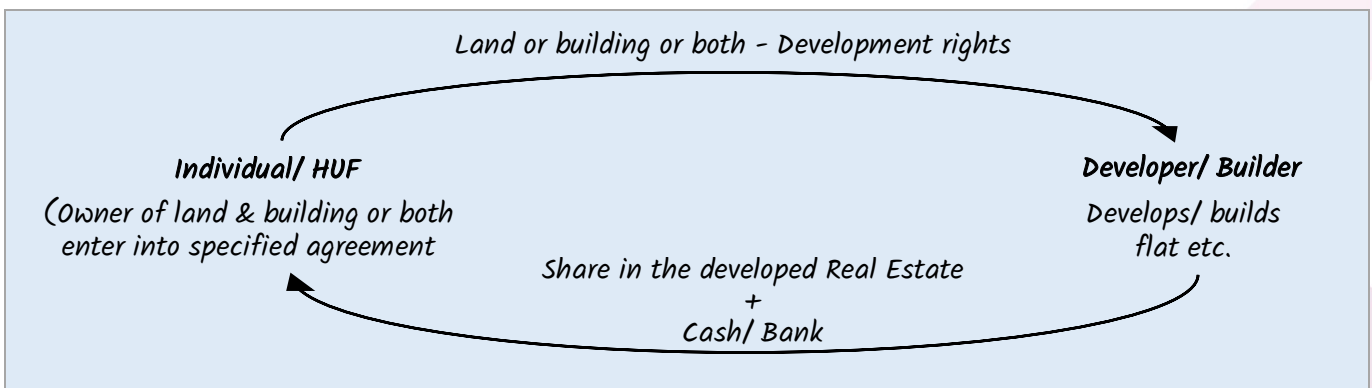
Deduction of 50% is allowed u/s 57.





**11.4. FVC IN CASE OF SPECIFIED AGREEMENT**

[SECTION 45(SA)]



**Tax Implication**

- a. Transfer → PY in which land and building is handed over to developer.
- b. Compute Capital gain in hands of Individual / HUF in PY of transfer.  
FVC → SDV of Assessee's share in developed real estate  
+ Cash/bank received
- c. Capital gain is chargeable to tax in the PY in which completion certificate is received for whole or part of the project.
- d. Non-applicability of the beneficial provision  
Where Assessee transfers his share before the issuance of completion certificate, Capital Gain shall be chargeable to tax in the PY when such share in property is transferred.
- e. TDS u/s 194IC → 10% of cash/cheque portion

**11.5. FVC IN CASE OF TRANSFER OF LAND/ BUILDING/ BOTH [SECTION 50C]**

If Actual Consideration > SDV; FVC = Actual Consideration  
If SDV > 110% of Actual consideration; FVC = SDV  
If SDV upto 110% of Actual consideration; FVC = Actual Consideration

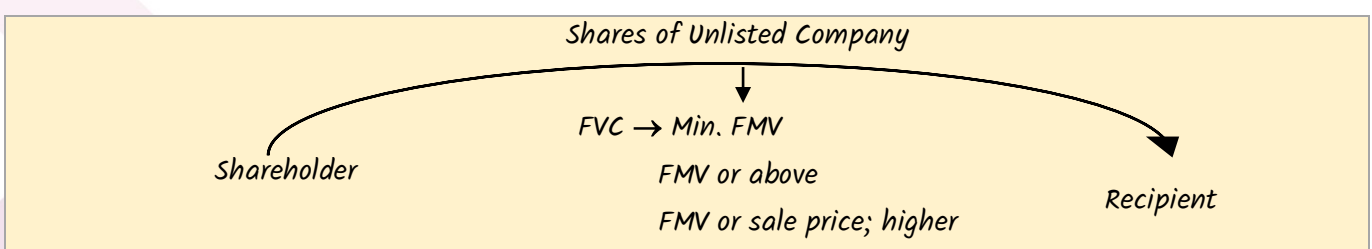
Relevant date for determining SDV → Refer Gift Chapter  
Refer illustrations done in PGBP u/s 43CA.

**Reference to the Valuation Officer**

Value ascertained by Valuation Officer > SDV →	Stamp Duty Value shall be FVC
Value ascertained by Valuation Officer < SDV →	Value ascertained by Valuation Officer shall be FVC

**Note:** Valuation Officer can't determine value higher than SDV.

**11.6. FVC IN CASE OF TRANSFER OF UNLISTED/ UNQUOTED SHARE [SECTION 50 CA]**



Listed shares can be sold through

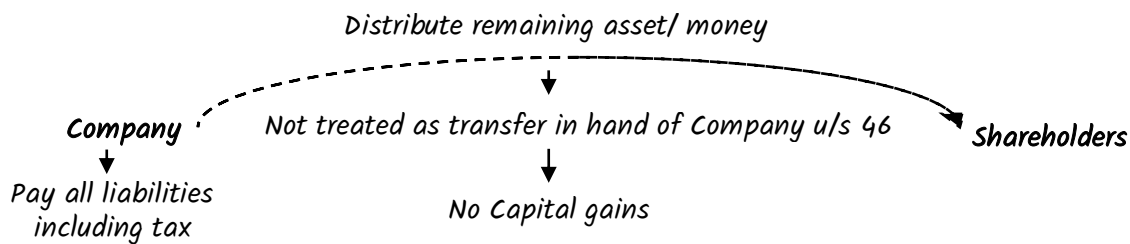
- Stock exchange [STT is payable]
- Other than through stock exchange i.e. Privately.

In both above cases, section 50CA is not applicable as it only applies to transfer of unlisted shares.

In hands of Recipient, section 56(2)(x) applies in case of all types of shares. (listed or unlisted)

### 11.7. FVC NOT DETERMINABLE = FMV DEEMED AS FVC [SECTION 50 D]

### 11.8. DISTRIBUTION OF ASSETS ON LIQUIDATION OF COMPANY (SECTION 46)

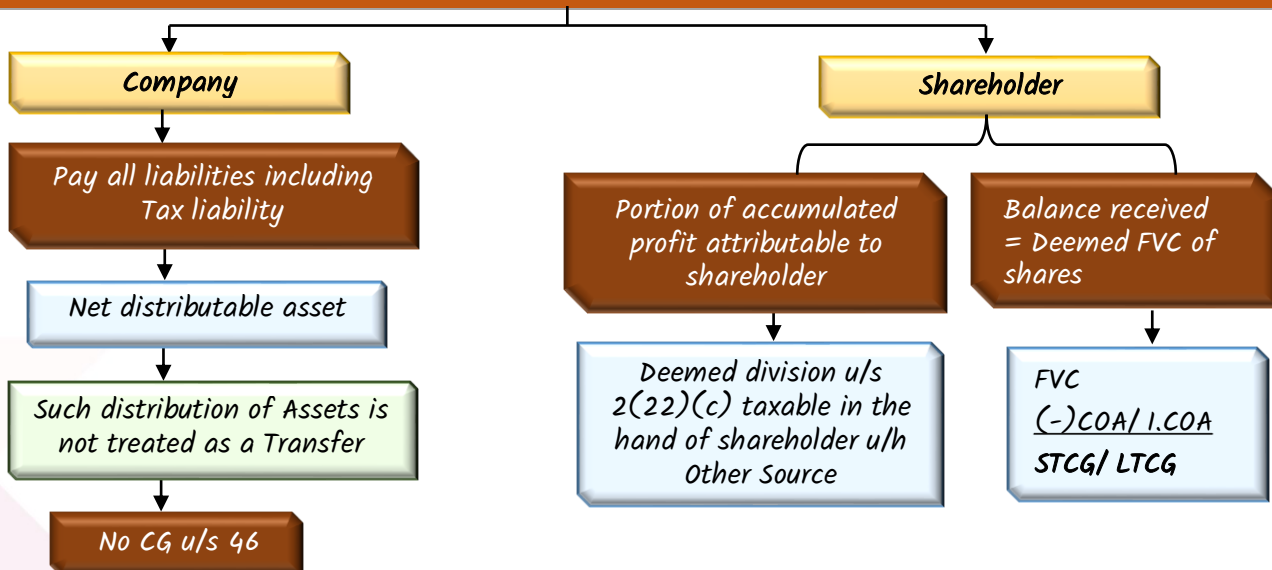


#### Illustration

Tax Limited is under liquidation.

Net distributable assets of the company (after paying all liabilities)	- 60,00,000
Accumulated profit of company	- 20,00,000
Share held by shareholder, say Kishan	- 10%
Indexed COA of shares held by Kishan (acquired on 01.06.2018)	- 1,10,000

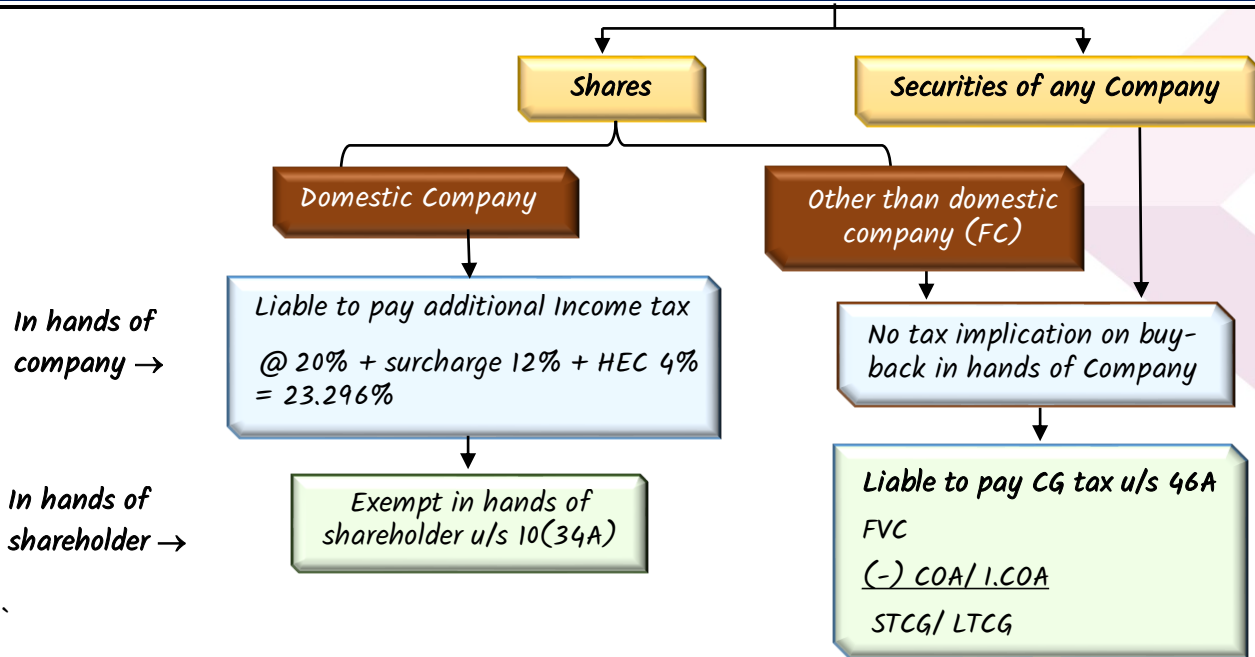
#### On Liquidation of the Company



**Note:** Holding period of such shares → Date of Allotment to Date of Liquidation.

**Note:** If Liquidator of the Company sells assets of the company & pays its shareholders → CG on transfer of capital assets shall be taxable in hands of Company.

**12. TAX PROVISIONS IN RESPECT OF BUY-BACK OF (SEC 46 A)**



**Illustration**

Tax Ltd, a domestic company, bought back 10,000 shares for 10 Lacs & 1500 debentures for 45,000 from Kishan who acquired the shares & debentures for 6 Lacs and 40,000 respectively.

Discuss Tax treatment.

**In the hands of company**

1. No tax treatment on buy-back of debentures
2. On buyback of shares, needs to pay additional Income tax @ 23.296%

**In the hands of Shareholder**

	Shares	Debentures
FVC	10,00,000	45,000
(-) COA	6,00,000	40,000
CG	4,00,000	5,000

**13. CAPITAL GAINS IN CASE OF SPECIFIED MF & MARKET LINKED DEBENTURES**

**[SEC 50AA]**

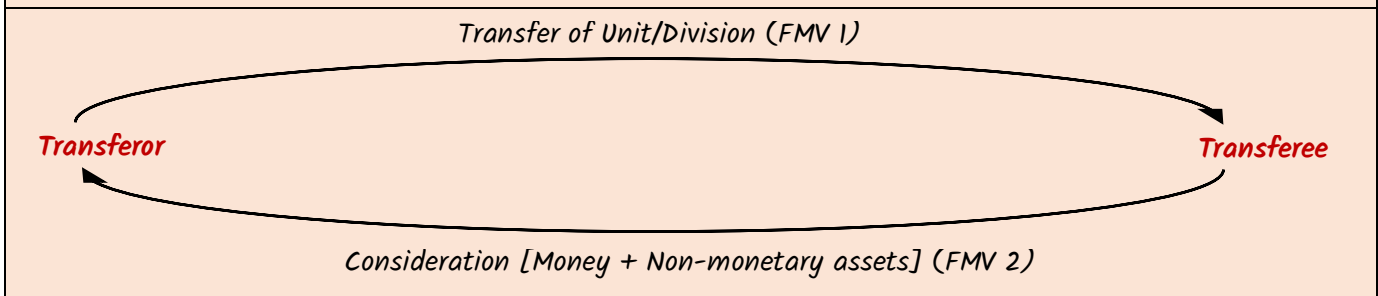
Always short-term capital gains chargeable to tax at normal rate of tax.

Manner of computation of capital gain same as section 48. [FVC - COA = STCG]. Treatment of STT?

<b>Specified Mutual Fund</b>	Mutual Fund where Not more than ➤ 35% of total proceeds is invested in the equity shares of domestic companies.
<b>Market Linked Debenture</b>	A security i) which has an underlying principal component in the form of debt security; and ii) where returns are linked to market returns on other underlying securities or indices.

**14. SLUMP SALE [SECTION 50B]**

Refers to Transfer of entire unit/ division as a going concern for a lumpsum amount.



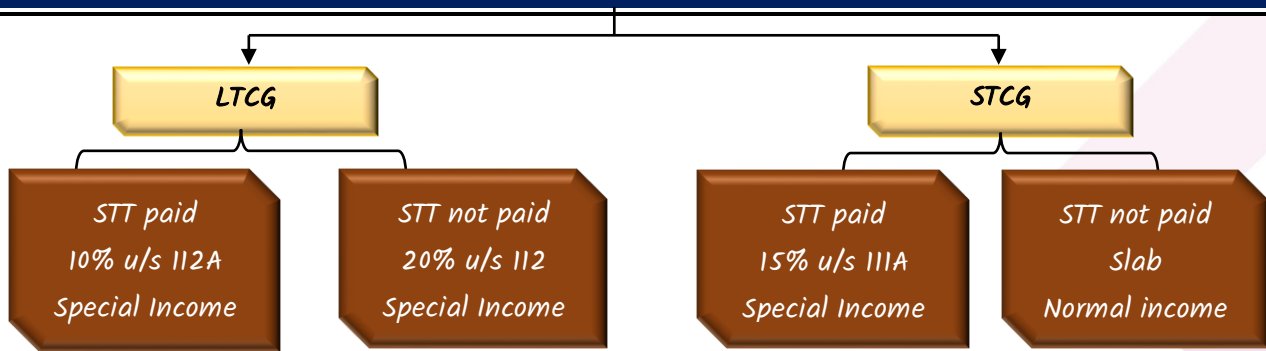
**Points to Note:**

- i) No treatment of individual asset/ liability in such Transfer.
- ii) **Computation of Capital Gain**

FVC	XXX [Higher of two FMVs on the date of transfer]
(-) Selling expenses	XX
<b>Net Consideration</b>	<b>XXX</b>
(-) CoA + CoI	XX [Net worth = All assets (-) All outside Liabilities as per books]
<b>Capital Gain</b>	<b>XXX</b>

- iii) CG may be long term (taxable @ 20%) or Short term (slab). Period of Holding → 36 months.
- iv) No indexation allowed.
- v) FVC = Fair market value of the capital asset as on the date of transfer.  
 FMV of capital assets would be the higher of –
  - a) FMV 1, being the fair market value of capital assets transferred by way of slump sale; and
  - b) FMV 2, being the fair market value of the consideration (monetary and non- monetary) received or accruing as a result of transfer by way of slump sale.
- vi) CoA + CoI = Net worth of unit [All assets (-) All outside Liabilities]
- vii) **Value of assets while calculating net worth**
  - a) Non-depreciable Asset → Book value [Without revaluation]
  - b) Depreciable Assets → WDV on date of transfer
  - c) Self-generated Goodwill → Nil
  - d) Capital assets under section 35AD → Nil
- viii) Revaluation Reserve and its impact is not considered while calculating net worth.
- ix) **Report of a Chartered Accountant** – to be filed on or before 30<sup>th</sup> September of the A.Y. [i.e., the date one month prior to the due date for filing return of income under section 139(1)], indicating the computation of net worth of the undertaking or division and certifying it].

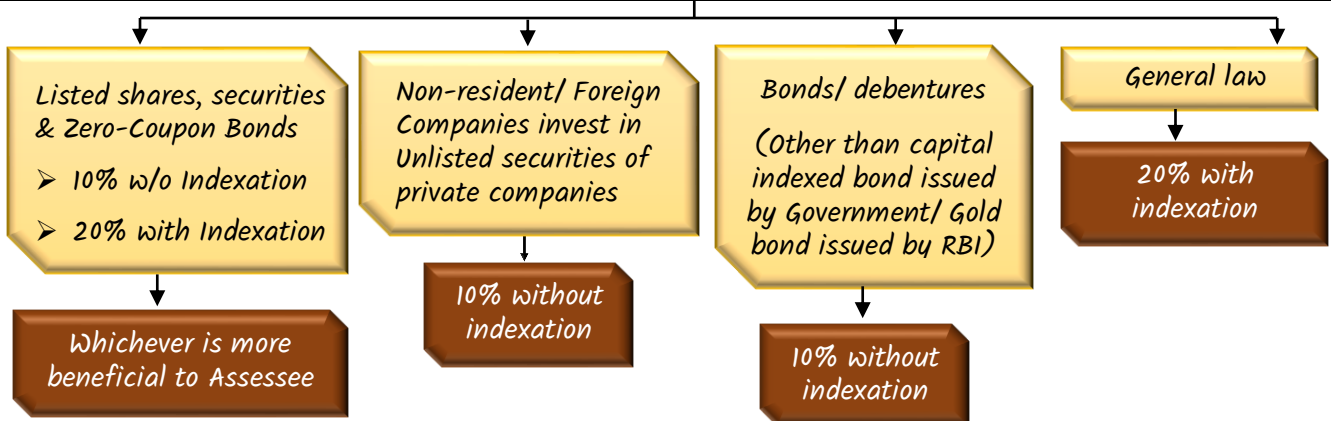
**15. STEP 3: TAX RATES UNDER CAPITAL GAIN**



STT is paid when listed shares are sold through Recognized stock exchange.

Securities → includes shares, Bonds + debentures, stocks, Government Securities.

**15.1. TAX ON LTCG U/S 112 WHERE STT NOT PAID**



**Steps to determine Rate u/s 112:**

- a. Specific Provision
- b. General Provision

**Illustrations**

S No.	Cases	Tax Rate
1.	Resident + Unlisted shares	
2.	Non-Resident + Unlisted shares	
3.	Non-Resident + Listed shares without STT	
4.	Resident + Listed shares without STT	
5.	NR + Unlisted shares of the widely held company	
6.	Gold, Arts, Sculptures, Land, etc.	

**Three special Points in relation to LTCG u/s 112**

- i) No deduction under chapter VIA from LTCG u/s 112
- ii) In case normal income is less than the basic exemption, shortfall/ deficiency is allowed to be adjusted from LTCG u/s 112 [Resident Individual/ HUF].
- iii) Rebate u/s 87A is allowed from Tax u/s 112 [Resident Individual/ HUF].

**15.2. TAX ON LTCG WHERE STT IS PAID [SEC 112A]**

**1. Applicable to specified LTCA**

- a) Equity shares → STT must be paid both at the time of purchase as well as at the time of transfer
- b) Equity oriented fund → STT must be paid at the time of transfer
- c) Units of business trust → STT must be paid at the time of transfer

For LTCA (a) & (b) must be held for more than 12 months & (c) must be held for more than 12 months.

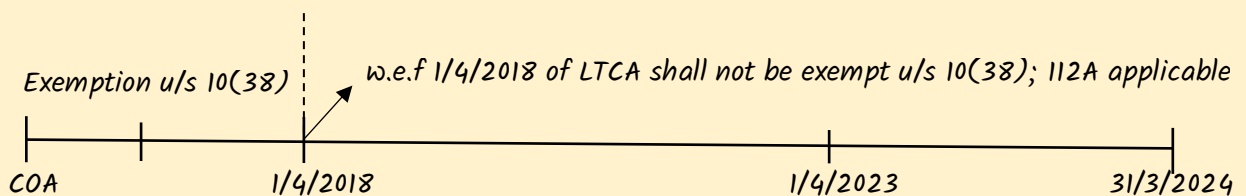
**2. When applicable?** - On transfer of specified LTCA w.e.f. 01.04.2018

**3. LTCG u/s 112A taxable @ 10% without indexation on LTCG exceeding 1,00,000.**

**4. In case specified LTCA is acquired prior to 31.01.2018, Gain accrued up to 31.01.2018 shall be exempt.**

COA for section 112A → Higher of

- a) Cost; and
- b) Lower of FMV on 31/1/18 & Sale price



If section 112A is applicable i.e. LTCA is transferred w.e.f 1/4/18; Any CG accrued up to 31/1/2018 shall be exempt

FVC	xxx
Less: COA	(xx)
LTCG u/s 112A	xxx
Taxable @ 10% on LTCG in excess of 1 lakh.	
No indexation allowed	

**5. How to calculate FMV on 31.01.2018?**

In the case of Equity-oriented fund → Net Asset Value as on 31.01.2018

Equity shares → Highest price quoted on the stock exchange on 31.01.2018

**Illustration**

Purchase on	Actual cost	FMV on 31/1/2018	Sold 1/4/2023	COA for 112A	LTCG u/s 112A
1/1/2017	100	150	250		
1/1/2017	100	200	150		
1/1/2017	100	50	150		
1/1/2017	100	200	50		

**Note:** These can't be loss due to FMV i.e., FMV on 31.01.2018 can't exceed the sale price.

**Benefits [because exemption u/s 10(38) is withdrawn]**

- a) If LTCA transferred up to 31.3.2018 (112A is not applicable)
- b) If transferred w.e.f. 1.04.2018 (112A is applicable)
  - i) Capital gain accrued up to 31.01.2018 is exempt

ii) Concessional rate of tax @ 10% without indexation

iii) No tax on LTCG u/s 112A upto 1,00,000 i.e. 10% tax is levied on LTCG in excess of 1,00,000.

**Special Case I**

LTCG (in excess of 1,00,000) arising from transaction undertaken on a

- recognized stock exchange located in an International Financial Services Centre (IFSC)
- would be taxable at a concessional rate of 10% without indexation,
- where the consideration for transfer is received or receivable in foreign currency,
- even when STT is not paid in respect of such transaction.

**What if specified LTCA are acquired w.e.f. 01.02.2018?**

Ram purchased STT paid equity share on 30/6/2018 for 50,000 & sold it on 1/5/2023 for 1,70,000. Calculate tax liability u/s 112A assuming that other incomes exceed basic exemption.

**Solution**

LTCG u/s 112A =

=

Tax u/s 112A =

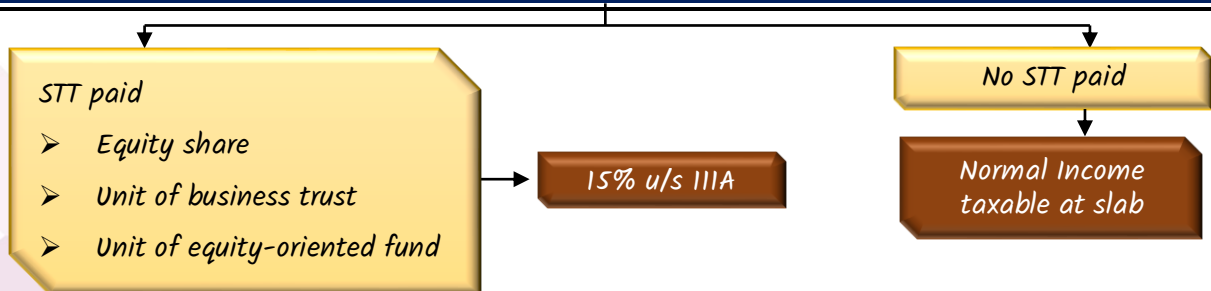
**Comparison between LTCG u/s 112 & LTCG u/s 112A**

Similarity	Dissimilarity
1) No deduction under Chapter VI A	1) No indexation in case of 112A
2) Deficiency of basic exemption is allowed to be adjusted in case of Resident Individual/ HUF	2) Rebate u/s 87A is not available in respect of tax payable @ 10% on LTCG u/s 112A.
3) Set off of loss & carry forward provisions are same	3) Different rates of tax.

Illustration	Case I	Case II	Case III
PGBP	2,20,000	50,000	50,000
LTCG	80,000	50,000	80,000
LTCG u/s 112A	2,00,000	2,00,000	3,70,000
Deduction u/s 80C	20,000	70,000	

**Solution – Refer class discussion**

**15.3. STCG**



**Points to Note:**

a. Same as LTCG u/s 112.

**Special Case**

STCG arising from transaction undertaken in foreign currency on a recognized stock exchange located in an IFSC would be taxable at a concessional rate of 15% even when STT is not paid.

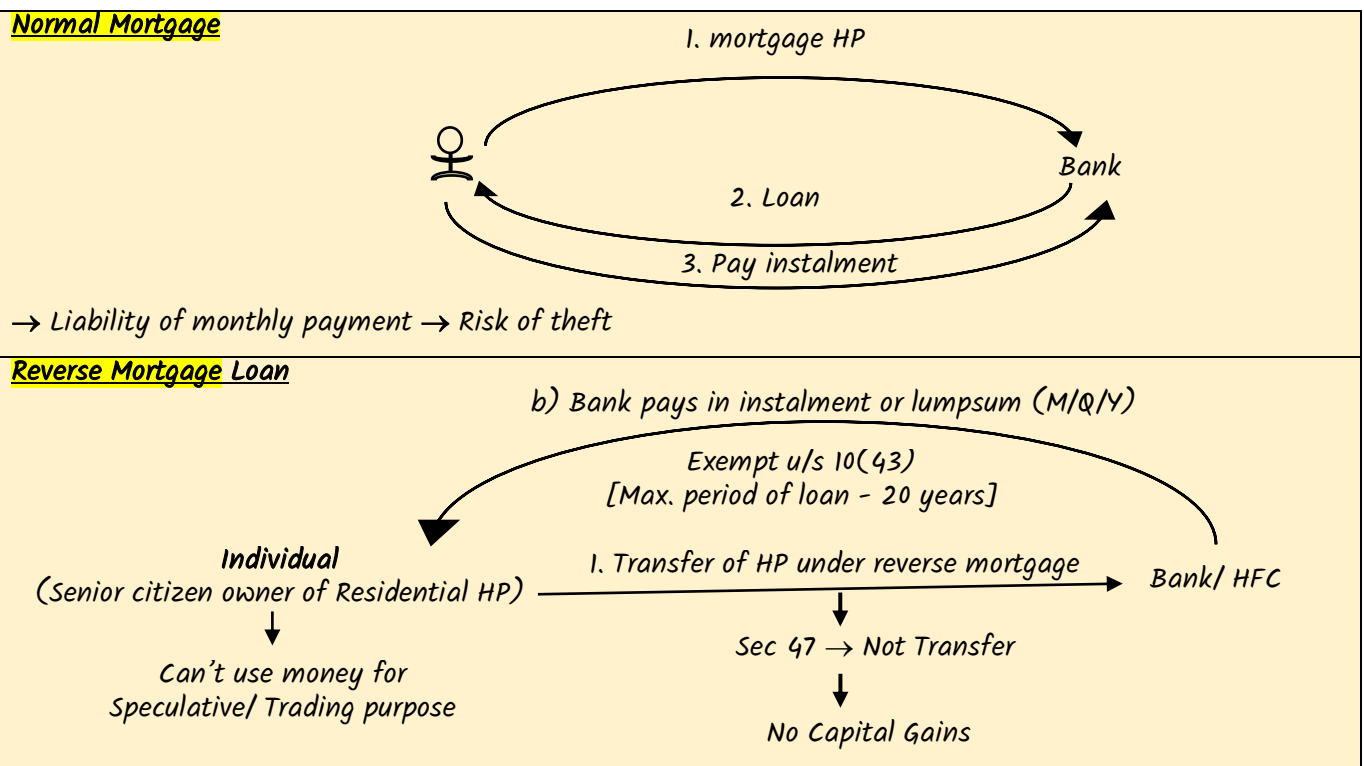
**16. TRANSACTIONS NOT TREATED AS TRANSFER (SEC 47)**

1) Amalgamation ↓ Amalgamating company ↓ Amalgamated company	Merger ↓ 2 companies Merged ↓ Merged Company	Demerger ↓ Demerged company ↓ Resultant company
Transfer of assets from Older Entity to New Entity is not treated as Transfer u/s 2(47) provided New Entity is an Indian Company.		
2) Issue of shares by Amalgamated company/ Resultant company to shareholders of amalgamating/ Demerged company.		
3) Transfer of shares of amalgamating company by a shareholder in a scheme of amalgamation and receiving shares of Amalgamated company. <b>Example</b> A Ltd., an Indian company, holds 60% of shares in B Ltd. B Ltd. amalgamates with A Ltd. Since A Ltd. itself is the shareholder of B Ltd., A Ltd., being the amalgamated company, cannot issue shares to itself. However, A Ltd. has to issue shares to the other shareholders of B Ltd.		
4) Transfer of capital asset between holding company and subsidiary company provided a. 100% shares of subsidiary company is held by holding company; and b. Receiving company is Indian company. The exemption above will not apply if capital asset is transferred as stock-in-trade.		
5) Conversion of bonds, debenture, company deposits into equity shares (debt restructuring scheme)		
6) Conversion of preference shares into equity shares.		
7) Conversion of gold into Electronic Gold Receipt issued by a Vault Manager or vice versa		
8) Transfer of Rupee Denominated Bonds/ Government securities/ Sovereign bonds of RBI outside India by a Non-Resident to another Non-Resident.		
9) Transfer of capital Asset under gift, will, or Irrevocable Trust.		
10) Others a) Partition of HUF (fully or partly) b) Redemption of sovereign Bonds by an Individual c) Reverse Mortgage d) Transfer of specified capital asset to Government, University, National Museum, National Art Gallery, National Archives like photo, art, archaeological collection, book, manuscript, painting etc.		



16.1. TAX TREATMENT (47 AND 49)

16.2. REVERSE MORTGAGE SCHEME MADE & NOTIFIED BY CG



On Maturity/ death of Assessee, Bank shall give option to Assessee/ legal heir to pay its due money

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    graph TD
      A[On Maturity/ death of Assessee, Bank shall give option to Assessee/ legal heir to pay its due money] --> B[If Assessee/ legal heir pays]
      A --> C[If Assessee/ legal heir fails to pay]
      B --> D[Banks shall release HP to them]
      C --> E[Bank shall sell HP/ Alienation of HP by Bank]
      E --> F[CG shall be computed. Banks shall recover its due amount (P + I) & pay CG tax to Government]
      F --> G[Remaining amount shall be paid to legal heir]
    
```



19. SECTION 54 SERIES EXEMPTIONS

Section	Exemption Allowed	Misutilization/ Unused amount in CG Deposit A/c scheme within prescribed time	Withdrawal of Exemption if New asset is transferred within specified period
54, 54B, 54D	100% of Investment made/ amount deposited in CG Deposit A/c scheme upto the due date of filing of ROI, but can't exceed Capital Gains. Maximum Exemption = Lower of a) Amount invested/deposited b) Capital Gains c) 10 crores	Simply tax the amount misused in the PY in which it is misused  In case it is unused, tax the unused amount in the PY in which time limit expires	Reduce the COA of new Asset by the amount of exemption claimed earlier  FVC of New asset                    xxx (-) COA of New asset (-) Ex claimed earlier    xx STCG /LTCG                            xxx
54 EC	100% of Investment made but can't exceed LTCG Maximum Exemption: Lower of a) Amount invested b) Capital Gains c) 50 lakhs	N. A.	<b>Step I:</b> If bonds transferred/converted into cash within 5 yrs., calculate CG on sale of Bonds normally; If sold within 3 yrs. - STCG If sold after 3 yrs. - LTCG <b>Step II:</b> Simply tax the LTCG claimed as Exemption earlier.
54F	Proportionate Exemption = $\frac{\text{Amount Invested}}{\text{Net consideration}} \times \text{LTCG}$ However, If amount invested/ deposited in CGAS exceeds 10 crores, amount exceeding 10 crores would not be taken into account for calculating exemption.	Need to tax proportionate amount = $\frac{\text{Amount unutilized}}{\text{Net consideration}}$ in the PY in which amount in CGAS is misutilised or time period for utilizing it lapses.	3 years <b>Step I:</b> Calculate CG on sale of New residential HP Normally. <b>Step II:</b> Simply tax the LTCG claimed as Exemption earlier.

**Note:** In case of compulsory acquisition of asset by Government; period of Investment shall be checked from the date of receipt of compensation rather than the date of compulsory acquisition. [Sec 54H]

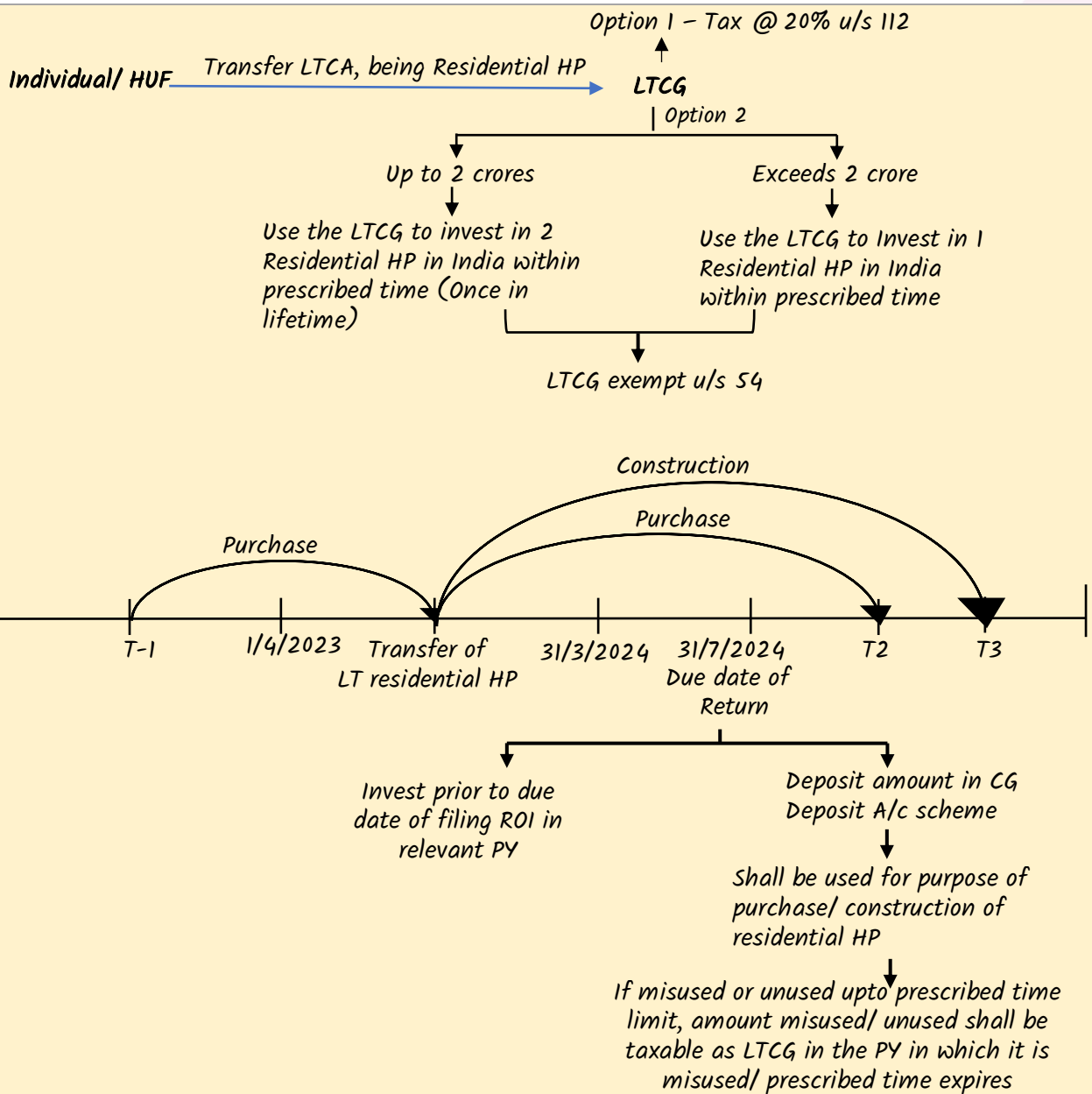
**Note:** In case of death of Assessee, the unutilized amount is not taxable in hands of legal heir.

**Section 54EC**

No tax is required to be deducted at source on Interest payable on Power Finance Corporation Limited 54EC Capital Gain Bonds and Indian Railway Finance Corporation Limited 54EC Capital Gain Bonds.

For non-deduction of TDS on Interest, the transferee needs to inform PFCL/ IRFCL by registered post within a period of sixty days of such transfer.

19.1. SECTION 54



**Note:** New residential HP must be retained for 3 years from the date of purchase. If the new asset is transferred within 3 years, exemption u/s 54 claimed shall be withdrawn.

FVC of new residential HP	XX
(-) COA of New residential HP	xx
Less: Ex u/s 54 claimed earlier withdrawn	
<b>STCG / LTCG</b>	<b>XXX</b>

**Illustration**

An assessee has availed the option of claiming benefit of section 54 in respect of purchase of two residential houses in Jaipur and Jodhpur, say, in respect of capital gains of INR 1.50 crores arising from transfer of residential house at Bombay in the P.Y. 2023-24.

In this case, he will not be entitled to avail the benefit of section 54 again in respect of purchase of two residential houses in, say, Pune and Baroda, in respect of capital gains of INR 1.20 crores arising from

transfer of residential house in Jaipur in the P.Y. 2026-27, even though the capital gains arising on transfer of the residential house at Jaipur does not exceed INR 2 crore.

**Examples:**

- i) If LTCG is 2.05 crore & cost of new house is 3 crores, then, the entire LTCG of INR 2.05 crore is exempt.
- ii) If LTCG is 2.05 crore & cost of new house is 1.55 crore, then, LTCG is exempt only upto INR 1.55 crore. Balance INR 50 lakhs is taxable @ 20%.
- iii) If LTCG is 8 crores & the Assessee has incurred 5 crores in construction of new residential house upto the due date u/s 139(1) i.e., 31.7.2024/ 31.10.2024, as the case may be, then, he can deposit the amount of 3 crores not appropriated by him towards construction of house upto 31.7.2024/31.10.2024, in CGAS for claiming exemption u/s 54.

If the deposits, say, 2 crores, in CGAS on or before the due date u/s 139(1), the deemed cost of the new residential house would be 7 crores (5 crore + 2 crore). The amount exempt u/s 54 would be 7 crores.

- iv) If LTCG is 14 crores & the Assessee has already incurred 7 crores in construction of new residential house upto 31.7.2024/31.10.2024, as the case may be, then, he can deposit the difference of 3 crore (10 crore - 7 crore) in CGAS for claiming exemption u/s 54.

If he deposits, say, 2 crores in CGAS on or before the due date u/s 139(1), the deemed cost of the new residential house would be 9 crore (7 crore + 2 crore). The amount exempt u/s 54 would be 9 crores.

**Examples**

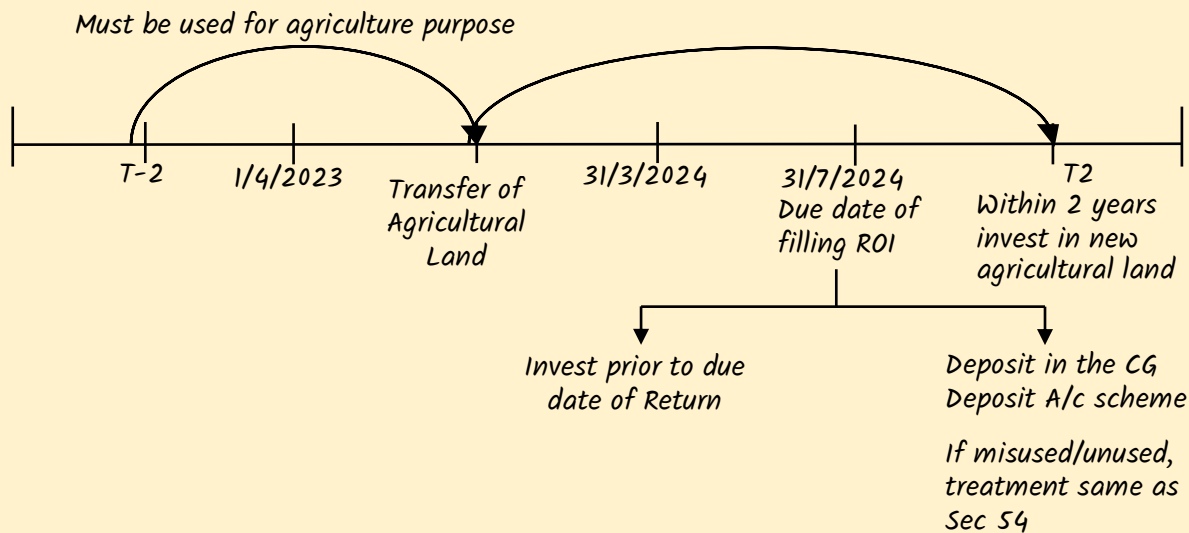
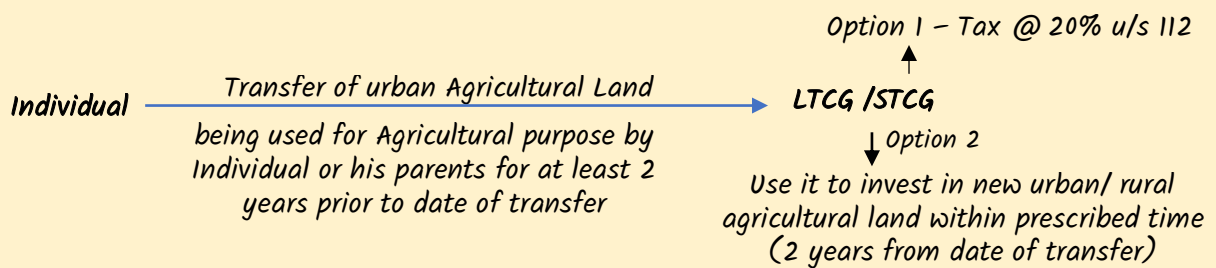
S No.	LTCG computed	Cost of new residential house	Max Exemption u/s 54	Exemption u/s 54
(1)	7 crores	12 crores	10 crores	
(2)	12 crores	14 crores	10 crores	
(3)	11 crores	9 crores	9 crores	
(4)	15 crores	13 crores	10 crores	

**Example on Consequences of transfer of new asset before 3 years:**

LTCG is 2.05 crore & the cost of the new house is 3 crores. In this case, LTCG of 2.05 crore will be exempt. If the new house was sold after 18 months for 5 crores, then, STCG chargeable to tax would be:

Particulars	Amount
Net Consideration	5,00,00,000
Less: COA minus capital gains exempt earlier (3,00,00,000 - 2,05,00,000)	95,00,000
<b>Short term capital gains chargeable to tax</b>	<b>4,05,00,000</b>

19.2. SECTION 54 B

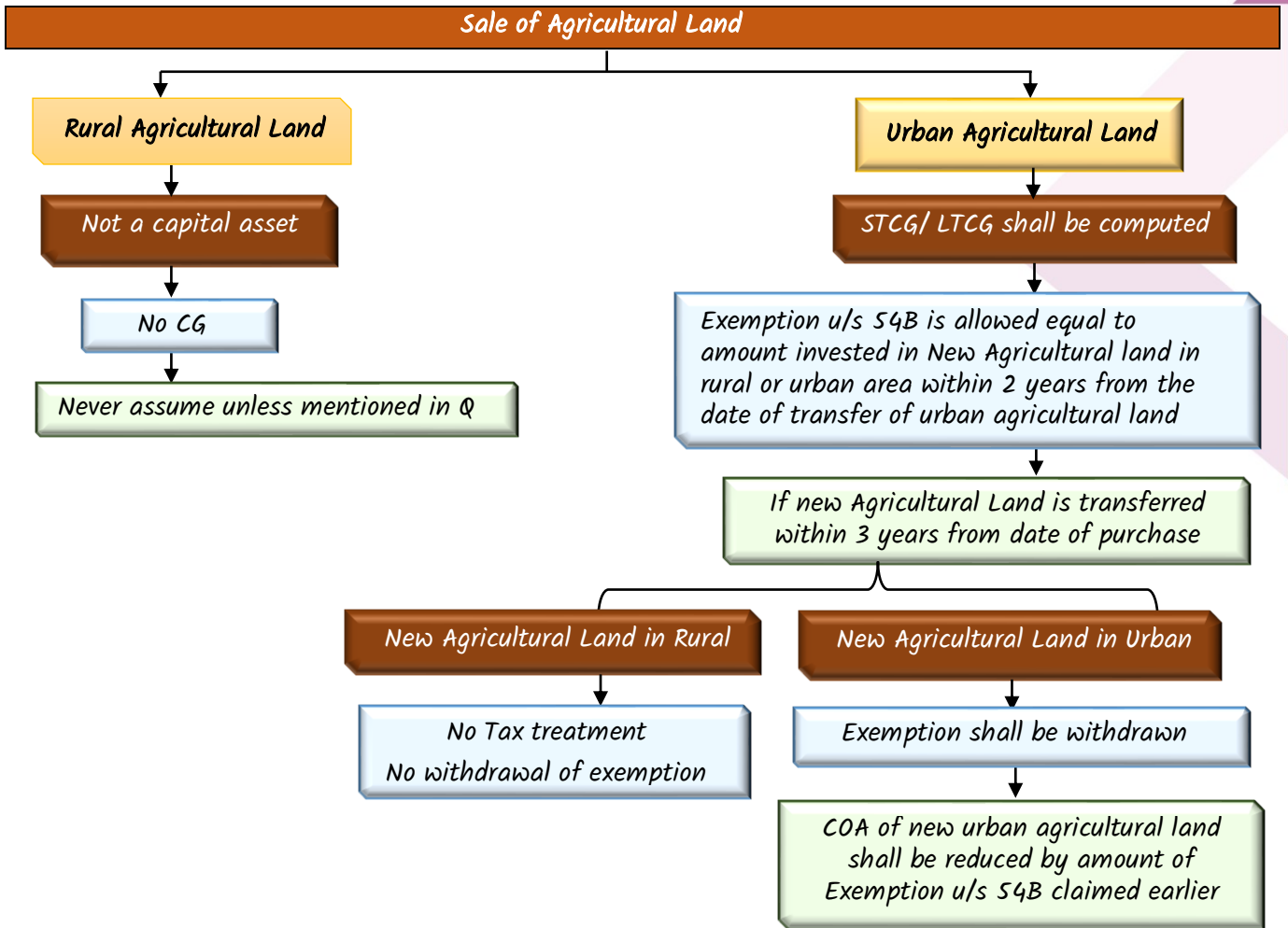


**Note:** New agricultural land must be retained for at least 3 years, else exemption u/s 54B shall be withdrawn by way of reduction of exemption claimed earlier from COA of new urban agricultural Land.

**Example:**

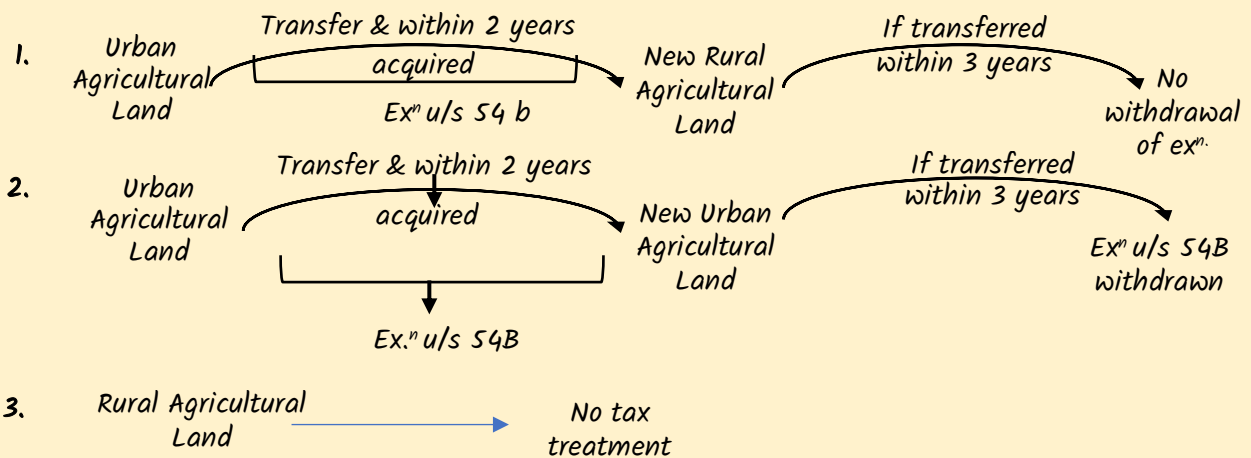
- a) If capital gains is 3 lakhs & cost of new agricultural land is 4 lakhs, then, entire CG of 3 lakhs is exempt.
- b) If capital gains is 3 lakhs & cost of new agricultural land is 2 lakhs, then, CG is exempt only upto 2 lakhs.
- c) Continuing in the above example 1, if the new agricultural land (urban land) is sold after, say, 1 year for 6 lakhs, then STCG chargeable to tax would be -

Particulars	Amount
Net consideration	6,00,000
Less: Cost of acquisition minus capital gains exempt earlier ( 4,00,000 – 3,00,000)	1,00,000
<b>Short-term capital gains chargeable to tax</b>	<b>5,00,000</b>



**Urban Agricultural Land used for agricultural purposes for 2 years prior to the date of transfer**

- ➔ Compulsory agricultural by CG/ RBI ➔ Exemption u/s 10(37)
- ➔ Other cases/ Normal sale ➔ Exemption u/s 54B can be availed

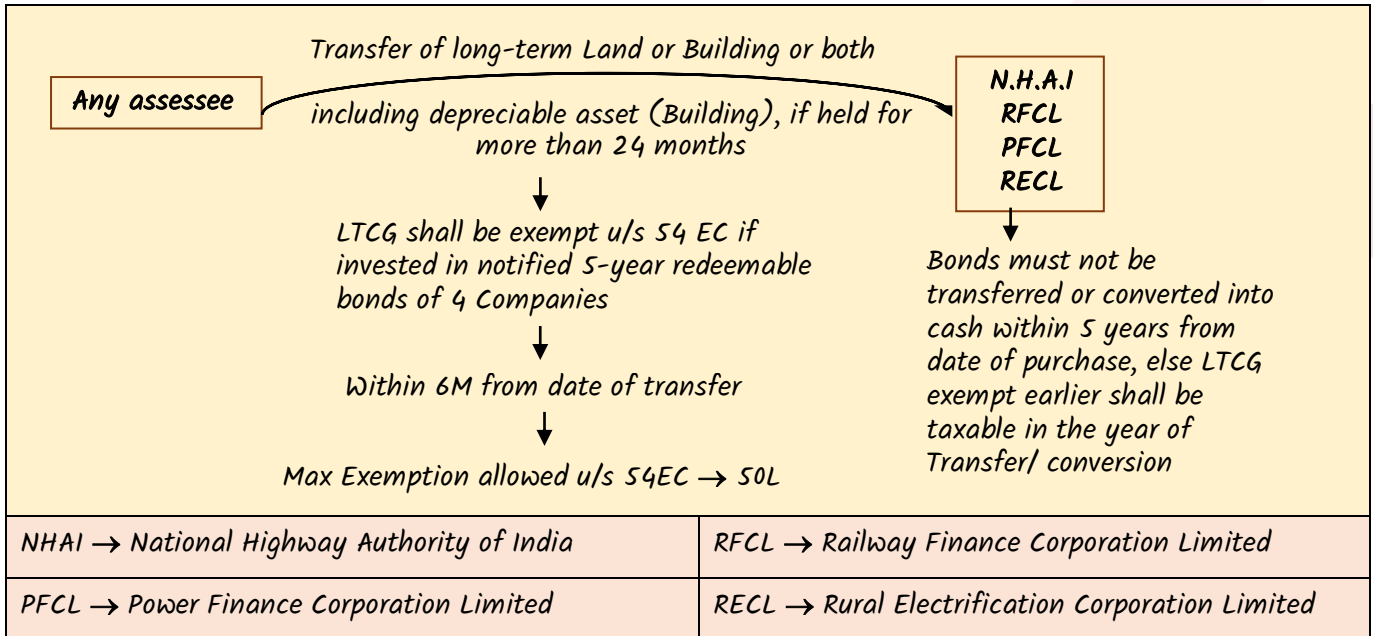


**Tax Implications to be kept in mind between Short Term and Long Term capital gains:**

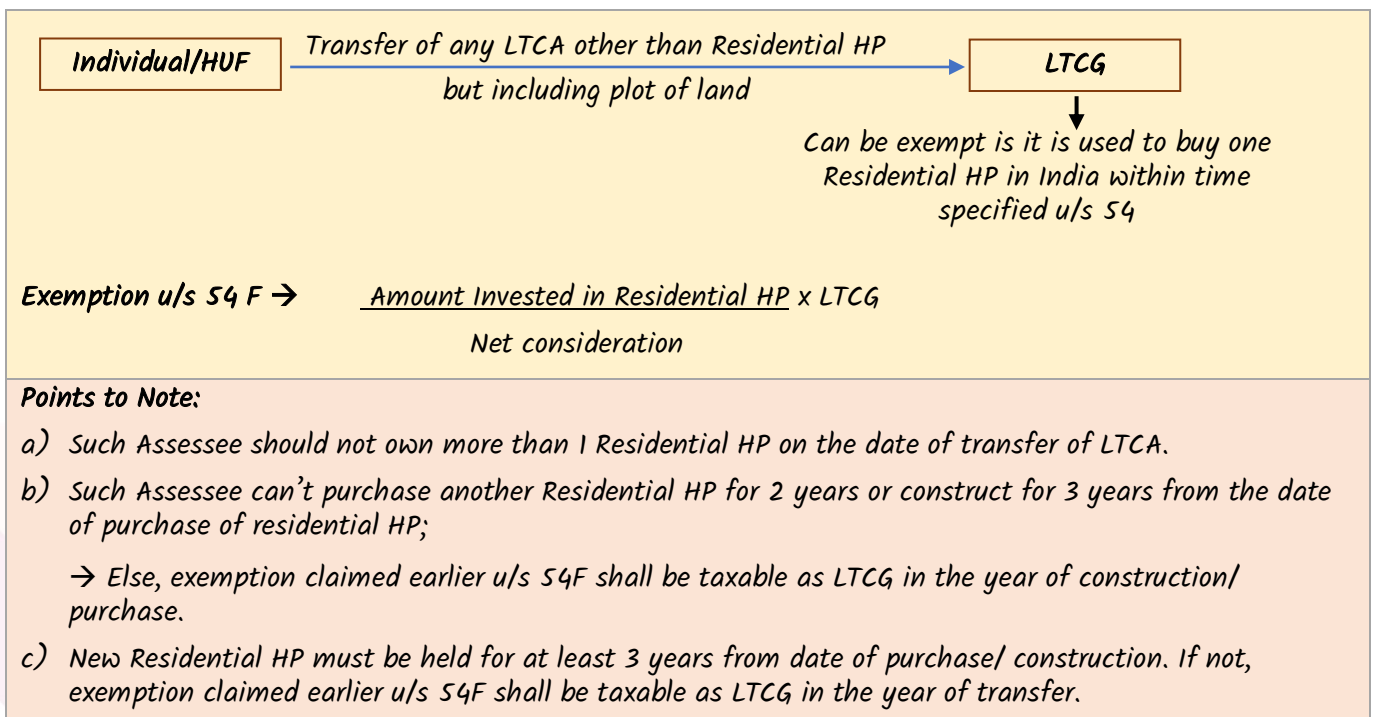
- a) Rate of tax
- b) Deductions u/s 80C to 80U

- c) Adjustment of deficiency of Basic Exemption limit
- d) Set off & Carry Forward of losses
- e) Indexation

### 19.3. SECTION 54 EC



### 19.4. SECTION 54 F



#### Examples

S No.	Net Consideration	LTCG computed	Cost of new residential house	Amount considered for Exemption u/s 54	Exemption u/s 54
(1)	15 crores	7.5 crore	12 crores		



(2)	20 crores	12 crores	15 crores		
(3)	16 crores	12 crores	8 crores		
(4)	10 crores	6 crores	10 crores		
(5)	12 crores	6 crores	12 crores		

### Examples

a) If the net consideration is 9 crores, the capital gain is 4.50 crore & the amount incurred for construction of new residential house upto 31.7.2024/31.10.2024, as the case may be, is 5 crores, then, the Assessee can deposit the amount of 4 crores (i.e., 9 crore – 5 crore) not appropriated towards construction upto 31.7.2024/ 31.10.2024, in CGAS for claiming exemption u/s 54F.

If the Assessee has deposited, say, 3 crores on or before 31.7.2024/ 31.10.2024, the deemed cost of new residential house would be 8 crore (5 crore + 3 crore). The exemption u/s 54F would be 4 crores [i.e., 4.50 crore x 8 crore/ 9 crore].

b) If net consideration is 15 crores, the capital gain is 7.50 crore & the amount incurred for construction of new residential house upto 31.7.2024/31.10.2024, is 6 crores, the Assessee can deposit 4 crores [i.e., 10 crore – 6 crores] on or before 31.7.2024/31.10.2024, in CGAS for claiming exemption u/s 54F.

If the Assessee has deposited, say, 3 crores on or before the due date of filing return u/s 139(1), the deemed cost of new residential house would be 9 crore (6 crore + 3 crore). The exemption u/s 54F would be 4.50 crore [i.e., 7.50 crore x 9 crore/ 15 crore].

Absolute Exemption	Proportionate Exemption
54, 54B, 54D, 54EC	54F
Exemption based on “Amount Invested”	Exemption based on % of net consideration invested
Exemption = Amount Invested subject to maximum CG	Exemption = $\frac{\text{Amount invested}}{\text{Net Consideration}} \times \text{LTCG}$

## 20. COST OF ACQUISITION [SECTION 55(2)]

S No.	Particulars	Cost of Acquisition
1.	Asset acquired before 01.04.2001	Acquisition cost or its FMV as on 01.04.2001, whichever is <b>higher</b> . <i>However, in case of capital asset, being land or building or both, FMV of such asset on 01.04.2001 shall not exceed SDV of such asset as on 1.4.2001.</i>
2.	Asset acquired with effect from 01.04.2001 onwards	Acquisition cost i.e. Expenditure incurred by the Assessee for acquiring the asset.
3A.	Original shares/right shares	Actual amount paid for purchasing the shares.
3B.	Rights entitle renounced i.e., cost for renouncer	Nil
3C.	Renounced rights shares purchased i.e., cost for renounee	Amount paid to the company and to the right holder who has renounced the right.
4A.	Bonus shares issued prior to 01.04.2001	Market value on 01.04.2001
4B.	Bonus shares issued w.e.f. 01.04.2001	Nil
4C.	Bonus shares allotted before 1.2.2018, on which STT has been paid at the time of transfer	Higher of a) cost of acquisition of such asset (i.e., Nil, in

S No.	Particulars	Cost of Acquisition
		<p>case of bonus shares allotted on or after 1.4.2001; and FMV on 1.4.2001, in case it is allotted before 1.4.2001); and</p> <p>b) lower of</p> <ul style="list-style-type: none"> <li>➤ FMV of such asset on 31.1.2018; and</li> <li>➤ the full value of consideration received or accruing as a result of the transfer such capital asset.</li> </ul>
5.	Securities under ESOP/Sweat Equity Shares	FMV on the date of allotment.
6.	<p>Long-term capital assets being,</p> <p>a) equity shares on which STT is paid both at the time of purchase and transfer; or</p> <p>b) unit of equity-oriented fund or unit of business trust on which STT is paid at time of transfer</p> <p>acquired before 1<sup>st</sup> February, 2018</p>	<p>Higher of</p> <p>c) cost of acquisition of such asset; and</p> <p>d) lower of</p> <ul style="list-style-type: none"> <li>➤ FMV of such asset on 31.1.2018; and</li> <li>➤ the full value of consideration received or accruing as a result of the transfer such capital asset.</li> </ul>
7.	Where capital assets became the property of the assessee by way of Transfer u/s 47	<p>Cost to the previous owner or FMV as on 1.4.2001, at the option of the assessee.</p> <p>However, in case of capital asset being land or building, FMV as on 1.4.2001 shall not exceed SDV as on 1.4.2001.</p>
8.	Where cost of the property in the hands of previous owner cannot be ascertained	FMV on the date on which the capital asset become property of the previous owner
9.	Where the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation u/s 46	Fair market value of the asset on the date of distribution

## 21. FULL VALUE OF CONSIDERATION IN CERTAIN CASES

Full value of consideration means the sale price in connection with transfer of a capital asset. However, in the following cases, full value of consideration shall be computed on notional basis:

S No.	Relevant section	Mode of transfer	Deemed full value of consideration
1.	45(1A)	Money/asset received from an insurance company on damage, destruction, etc. of a capital asset	Money/FMV of asset received as on the date of receipt
2.	45(2)	Conversion of capital asset into stock-in-trade	FMV of the capital asset as on the date of conversion
3.	46(2)	Money/ asset received by the shareholders of a company in the event of liquidation of the company	{[Money + FMV of asset as on the date of distribution]} – {Amount deemed as dividend u/s 2(22)(c)}
4.	50B	Slump Sale	Higher of two FMVs as on date of transfer
5.	50C	FVC in connection with land or building	SDV

		<i>claimed by Assessee is less than SDV and difference exceeds 10% of actual consideration</i>	
6.	<b>SOCA</b>	<i>FVC of consideration in connection with unlisted shares claimed by an Assessee is less than the FMV</i>	<i>Fair market value as on date of transfer</i>
7.	<b>SOD</b>	<i>FVC of a capital asset is not determinable</i>	<i>FMV as on date of transfer</i>

## 22. SPECIAL PROVISION FOR NON-RESIDENTS

*In case of non-residents who invest foreign exchange to acquire capital assets, capital gains arising from the transfer of shares or debentures of an Indian company is to be computed in the following manner:*

*COA and FVC are to be converted into the same foreign currency with which such shares were acquired.*

*The conversion has to be done at the average of Telegraphic Transfer Buying Rate (TTBR) and Telegraphic Transfer Selling Rate (TTSR) on the respective dates.*

*The resulting CG shall be reconverted into Indian currency by applying the TTBR on the date of transfer.*

*This computation method provides relief from risk of foreign currency fluctuation to non-residents.*

**Note:** *Benefit of indexation will not be available in this case.*

**Note:** *Non-residents and foreign companies are subject to tax at a concessional rate of 10% (without indexation benefit or currency conversion) on LTCG arising from transfer of unlisted securities or shares of a company in which public are not substantially interested [Section 112].*

## 23. COST INFLATION INDEX

<b>FY</b>	<b>CII</b>	<b>FY</b>	<b>CII</b>	<b>FY</b>	<b>CII</b>
2001-02	100	2009-10	148	2018-19	280
2002-03	105	2010-11	167	2019-20	289
2003-04	109	2011-12	184	2020-21	301
2004-05	113	2012-13	200	2021-22	317
2005-06	117	2013-14	220	2022-23	331
2006-07	122	2014-15	240	<b>2023-24</b>	<b>348</b>
2007-08	129	2015-16	254		
2008-09	137	2016-17	264		

**1. CAPITAL GAINS EXEMPT FROM TAX (SECTION 54, 54B, 54D, 54EC, 54F)**

S N.	Particulars	Section 54	Section 54B	Section 54D	Section 54EC	Section 54F
1.	<b>Nature</b>	Transfer of <b>residential house</b> (buildings or lands appurtenant thereto)	Transfer of urban <b>land used for agriculture purpose</b>	<b>Compulsory acquisition</b> of land and building forming part of <b>industrial undertaking</b>	Transfer of land or building or both. Such asset can also be a depreciable asset held for more than 24 months.	Transfer of long-term capital asset other than house property. <b>Transfer of plot of land is eligible for exemption</b>
2.	<b>Eligible Assessee</b>	Individual, HUF	Individual, HUF	Any Assessee	Any Assessee	Individual, HUF
3.	<b>Nature of CG</b>	Only Long-term	More than 2 years	More than 2 years	Only long-term	Only Long term
4.	<b>Amount Exempted</b>	To the extent of cost of new Residential House or two houses, as the case may be, or Capital Gain, whichever is lower, is exempt.  Cost of new asset = Amount utilized for purchase or construction of new asset & the amount deposited in CGAS  However, maximum exemption that can be claimed is 10 crore.	To the extent of investment in new Agricultural Land or Capital Gain, whichever is lower	To the extent of investment in new asset or Capital Gain, whichever is lower.	To the extent of investment in 5 year redeemable bonds of 4 companies or Capital Gain, whichever is lower.  Maximum permissible investment in any financial year is INR 50 lakhs, whether such investment is made in the current FY or subsequent FY or both.	<u>Cost of New Asset</u> x LTCG Net Consideration  Hence, exemption allowed is in proportion to investment.  Cost of new asset = Amount utilized for purchase or construction of new asset & the amount deposited in CGAS  However, if the cost of new asset exceeds 10 crores, deemed cost of new asset would be restricted to 10 crores for the purpose of exemption under section 54F.
7.	<b>If amount not utilised till Filing of Return u/s 139(1)</b>	Deposit in bank under the capital Gains Deposit A/C Scheme	Deposit in bank under the capital Gains Deposit A/C Scheme	Deposit in bank under the capital Gains Deposit A/C Scheme	Not applicable	Deposit in bank under the capital Gains Deposit A/C Scheme

S N.	Particulars	Section 54	Section 54B	Section 54D	Section 54EC	Section 54F
5.	Conditions	<p>Any residential house property is transferred.</p> <p><b>Reinvestment in one<sup>1</sup> residential house properties in India either</b></p> <p>a) Purchased one year before transfer or</p> <p>b) Purchased two years after transfer or</p> <p>c) Constructed three years after transfer</p> <p>New House property cannot be transferred for 3 years after acquisition or construction</p>	<p>Agriculture land, not in rural areas, used by Assessee or his parents for period of two years prior to date of transfer for agriculture purpose is transferred.</p> <p>Purchase of agriculture (Rural or Urban) land within period of two years from date of transfer,</p> <p>Should not be transferred for 3 years from the date of acquisition of new land.</p> <p>In case of compulsory acquisition of agricultural land, being used for agricultural purpose for a period of at least 2 years, <b>by Central Govt. or RBI</b>, capital gains are exempt from tax u/s 10(37)</p>	<p>Land or building forming part of Industrial Undertaking is transferred and Assessee has purchased/constructed land or building within period of three years from date of payment by Govt.</p> <p>Newly acquired L&amp;B to be used for industrial purpose i.e., shifting or re-establishing or setting up of another industrial undertaking.</p> <p>Should not be transferred for 3 years from the date of acquisition.</p>	<p>Long term investment in bonds, redeemable after 5 years, issued on or after 1.4.2019, by issued by</p> <ul style="list-style-type: none"> <li>➤ National Highways Authority of India;</li> <li>➤ Rural Electrification Corporation Limited;</li> <li>➤ Power Finance Corporation Limited; or</li> <li>➤ Indian Railway Finance Corporation Limited</li> </ul> <p>within six months after the date of transfer</p> <p>Bonds should not be being transferred or converted into cash within a period of 5 years, exemption earlier allowed shall be considered to be long term capital gains of the year in which such asset was transferred or converted into cash.</p> <p>Converting into cash</p>	<p>Any long-term capital asset other than house property is transferred.</p> <p>Assessee owns not more than one other house property on the date of transfer (excluding new house)</p> <p>Exempt if invested in one residential house in India within the time limits specified u/s 54.</p> <p>Assessee cannot purchase for two years or construct for three year any other house property, otherwise Capital Gains exempt will be taxable in year of purchase or construction as LTCG.</p> <p>New house should not be transferred for 3 years from the date of its acquisition.</p>

<sup>1</sup> An Assessee can claim exemption in **TWO residential house properties** under Section 54 once in a life time. The option will be available only if the Capital Gain DO NOT EXCEED INR 2 CRORES.

S N.	Particulars	Section 54	Section 54B	Section 54D	Section 54EC	Section 54F
					means taking a loan on the security of the specified asset.	
6.	<b>Consequences of Transfer of New Capital Asset before Three/Five Years</b>	<p>Exemption given earlier shall be withdrawn.</p> <p>While calculating CG on transfer of new Asset, cost of new asset shall be reduced by the amount of capital gains exempted earlier.</p>	<p><b>New Land being Rural Agri. Land – No Treatment</b></p> <p><b>New Land being Urban Agri. Land –</b></p> <p>Exemption given earlier shall be withdrawn.</p> <p>The cost of the asset shall be reduced by the amount of capital gains exempted earlier.</p>	<p>Exemption given earlier shall be withdrawn.</p> <p>The cost of the asset shall be reduced by the amount of capital gains exempted earlier.</p>	<p>Bonds should not be transferred or converted into cash within a period of 5 years, else exemption earlier allowed shall be considered to be long term capital gains of the year in which such asset was transferred on converted into cash.</p>	<p>Amount of capital gains exempted earlier taxable as LTCG in the PY in which new property sold. (Similar to 54EC)</p> <p>Capital gains on transfer of new residential house shall be computed normally.</p> <p>If it is sold after 2 years, indexation benefit would be available.</p>
7.	<b>If amount not utilised till Filing of Return u/s 139(1)</b>	Deposit in Nationalized bank under the capital Gains Deposit A/C Scheme	Deposit in Nationalized bank under the capital Gains Deposit A/C Scheme	Deposit in Nationalized bank under the capital Gains Deposit A/C Scheme	Not applicable	Deposit in Nationalized bank under the capital Gains Deposit A/C Scheme
8.	<b>If Deposit not utilised within stipulated period of investment in new capital asset</b>	Unutilized amount taxable as LTCG in the PY in which three years the date of transfer of original asset expires.	Unutilized amount taxable as CG (LT or ST as the case may be) in the PY in which 2 years from the date of transfer of original asset expires.	Unutilized amount taxable as CG (LT or ST as the case may be) in the PY in which 3 years from the date of transfer of original asset expires.		Unutilized amount taxable as LTCG in the PY, which three years the date of transfer of original asset expires.

## CHAPTER 8

# INCOME FROM OTHER SOURCES

### I. PROFORMA FOR COMPUTATION OF INCOME FROM OTHER SOURCES

S No.	Particulars	Amount
(i)	Dividend Income	
(ii)	Casual Income (winnings from lotteries, crossword puzzles, races including horse races, card games and other games, gambling, betting etc.)	
(iii)	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)]	
(iv)	Interest received on compensation/ enhanced compensation deemed to be income in the year of receipt [Section 56(2)(viii)]	
(v)	Advance forfeited due to failure of negotiations for transfer of capital asset [Sec 56(2)(ix)]	
(vi)	Sum of money or property received by any person [Section 56(2)(x)]	
(vii)	Compensation or other payment, due to or received by any person, in connection with termination of his employment or the modification of the terms and conditions relating thereto [Section 56(2)(xi)]	
(viii)	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 u/s 10(10D) [Section 56(2)(xii)]	
(ix)	The following income, if not chargeable under the head "PGBP" a) Any sum received by an employer from his employees as contributions to any provident fund, superannuation fund or any other fund for the welfare of the employees b) Interest on securities c) Income from letting out on hire of machinery, plant or furniture d) Where letting out of buildings is inseparable from the letting out of machinery, plant or furniture, the income from such letting e) Any sum received under a Keyman insurance policy including bonus on such policy (if not chargeable to tax under the head "Salaries" also)	
(x)	Any income chargeable to tax under the Act, but not falling under any other head of income	
(xi)	Deemed income u/s 59 – Remission or cessation of a trading liability or receipt of any amount in respect of loss or expenditure allowed as deduction in an earlier P.Y.	
		xxx
<b>Less: Deductions allowable [Section 57]</b>		
(a)	In case of dividends or income in respect of units of a mutual fund or income in respect of	

S No.	Particulars	Amount
	<b>units from a specified company</b> Interest expenditure allowable as deduction subject to a maximum of 20% of such income included in the total income for that year, without deduction under this section	
(b)	<b>In case of interest on securities</b> Any reasonable sum paid by commission or remuneration to a banker or any other person	
(c)	<b>Income consists of recovery from employees as contribution to PF, superannuation fund etc.</b> Amount of contribution remitted before the due date under the respective Acts, in accordance with the provisions of section 36(1)(va)	
(d)	<b>Income from letting on hire of machinery, plant and furniture, with or without building</b> - current repairs to the machinery, plant, furniture or building - insurance premium - depreciation/unabsorbed depreciation	
(e)	<b>Family Pension</b> – 33-1/3% of such income or 15,000, whichever is less	
(f)	<b>Interest on compensation/enhanced compensation received</b> – 50% of such interest	
(g)	Any other expenditure not in the nature of capital expenditure incurred wholly & exclusively for earning such income	
	<b>Income from Other Sources (under DTR as well as OTR)</b>	<b>XXX</b>

## 2. INCOME FROM OTHER SOURCES [SEC 56 TO 59]

Any income, gains or profits chargeable to tax i.e., not exempt; but

- Does not fall under any other head
- Shall be chargeable to tax under the head Income from Other Sources.

## 3. EXPENSES NOT ALLOWED AS DEDUCTION [SECTION 58]

- a) Personal expenses
- b) Opportunity cost/ Implied cost/ Notional expenses E.g.: salary of proprietor; Rent of owned property
- c) Illegal expenses [Ransom money/ Bribe/ Protection money/ Extortion money etc.]
- d) Capital expenditure [Depreciation is allowed]
- e) Disallowance u/s 40(A)(2), 40A (3), 40(a)(i), 40(a)(ia) [covered under Chapter – PGBP]

## 4. METHOD OF ACCOUNTING [SECTION 145]

- |  |   |  |
|--|---|--|
| <ul style="list-style-type: none"> <li>▪ Salary</li> <li>▪ CG</li> <li>▪ HP</li> </ul> | } | Income is taxable on Accrual basis   |
| <ul style="list-style-type: none"> <li>▪ PGBP</li> <li>▪ Other Sources</li> </ul>      | } | Income is taxable on Accrual basis or cash basis, as per choice of Assessee. 2 exceptions<br>Once selected, accounting method must be used consistently.<br>It can be changed but only with permission of Assessing Officer. |

**Note:** Central Government has notified ten income computation and disclosure standards (ICDSS). CA Finals



**5. INCOME FROM OTHER SOURCES**

Already covered	To be covered
1. Letting out Agricultural Land situated outside India	1. Interest Income
2. Keyman Insurance Policy	2. Casual Income
3. Letting out vacant land	3. Income from Owning/ Maintaining Race Horses
4. Composite Rent where bifurcation is possible between rent for HP & Rent for facilities	4. Family Pension
5. Sub-letting of House Property	5. Remuneration of MP/MLA
6. Remission or cessation of a trading liability	6. Director's Remuneration
7. Sum of money or property received by any person without or inadequate consideration	7. Forfeiture of Advance Money
	8. Dividend Income
	9. Income from Specified Mutual Fund/ UTI
	10. Income from Undisclosed Sources
	11. Consideration received in excess of FMV of shares of a closely held company where such shares are issued at a premium
	12. Compensation or other payment, due to or received by any person, in connection with termination of his employment or the modification of the terms and conditions
	13. Miscellaneous Incomes

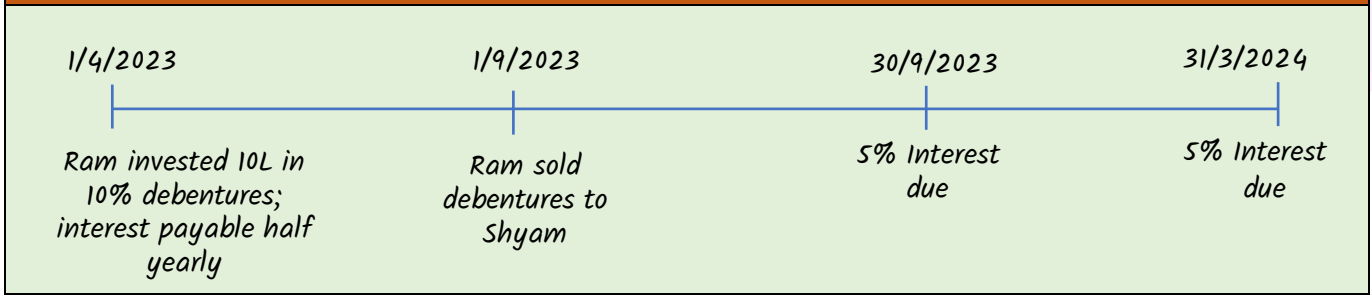
**6. TYPES OF INCOMES TAXABLE UNDER THE HEAD INCOME FROM OTHER SOURCES**

**6.1. INTEREST**

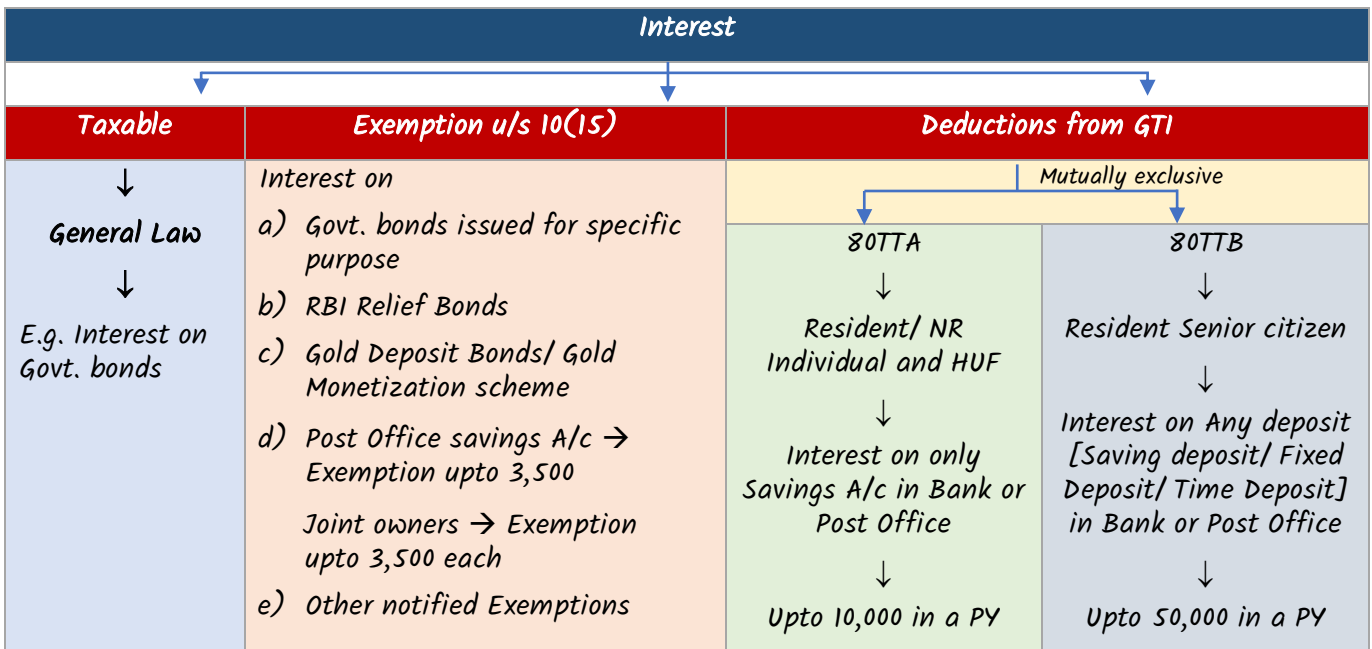
Earned in the course of business	Other cases/ If Question is silent (Depositors, Investors)
<p>Example: Money-lender (Bank, NBFC)</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">PGBP</p>	<p>Example: Interest on deposits with Bank/NBFC</p> <p>Interest on debenture/ deposit certificates</p> <p>Interest on loan given to relative/ friends</p> <p style="text-align: center;">↓</p> <p style="text-align: center;"><b>Taxable uth IFOS u/s 56</b></p> <p style="text-align: center;"><b>Deduction u/s 57 allowed w.r.t</b></p> <p>a. Interest paid on money borrowed to invest in debentures etc.</p> <p>b. Commission, collection charges etc. paid to Bank to earn such interest income.</p>

**Note:** Investment is not treated as business unless mentioned in question.

**Taxability of Interest**



Interest is taxable in hands of the Assessee who holds the security on due date.  
 In this case, entire interest of 1,00,000 [10 lakhs x 10%] is chargeable to tax in the hands of Shyam as he held debentures on both due dates [30.9.2023 & 31.3.2024].  
 Tax liability of Ram w.r.t. Interest → NIL



**Note:** Deduction u/s 80 TTA and 80 TTb is allowed only under Optional Tax Regime and Not under Default Tax Regime.

**Illustrations: Under Optional Tax Regime**

S No	Assessee	Account	Interest	Exemption u/s 10(15)	Deduction	GTI	Total Income
1.	Ram	SBI Savings a/c	800				
2.	Ram	SBI Savings a/c	12,000				
3.	Ram	PO Savings a/c	8,000				
4.	Ram	PO Savings a/c	14,000				
5.	Ram	SBI Fixed Deposit	6,000				
6.	Ram	PO Time deposit	6,000				
7.	Shyam (60 yrs.)	SBI Fixed Deposit	62,000				

**Illustrations: Under Optional Tax Regime**

S No	Assessee	Account	Interest	Exemption u/s 10(15)	Deduction	GTI	Total Income
8.	Shyam (60 yrs.)	SBI Savings a/c	62,000				
9.	Shyam (60 yrs.)	PO Savings a/c	62,000				
10.	Shyam (60 yrs.)	PO Time deposit	62,000				
11.	John (NR, 60 yrs.)	SBI Savings a/c	62,000				
12.	John (NR, 60 yrs.)	SBI Fixed Deposit	62,000				

**Interest on delayed payment of Compensation / Enhanced Compensation from Government [Sec 145B]**

- Taxable under the head Other Sources in the year of receipt.
  - Deduction u/s 57 @ 50%
- No other deduction is allowed. Example: Legal expenses are not allowed.

**6.2. CASUAL INCOME OTHER THAN WINNINGS FROM ANY ONLINE GAME [SEC 115BB]**

Income from Betting, Gambling, Lottery Winning, Card games, Puzzles, KBC, Winning from Horse Races etc.



Casual Income → No Deduction/ Exemption/ Adjustment of any type allowed.



**Note:** Casual Income is taxable @ 30% u/s 115BB under the head Other Sources (always)

**Note:** TDS @ 30% u/s 194B/BB on casual Income if amount exceeds 10,000 in a PY.

**Note:** In case of winning from online games, all above provisions are applicable [sec 115BB]

**6.3. INCOME OWNING & MAINTAINING RACE HORSES**

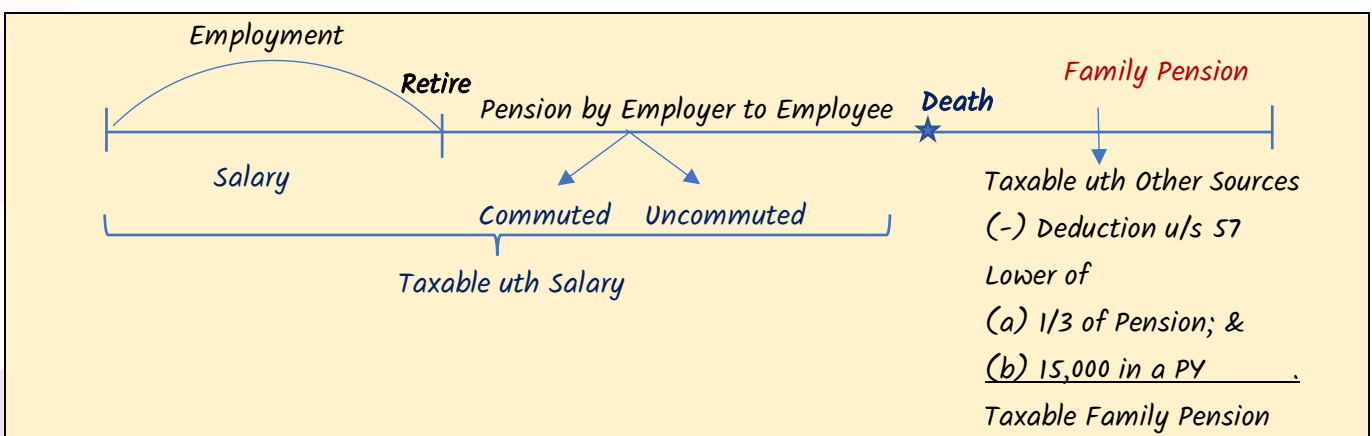
Taxable uth Income from Other Sources → Normal income taxable at slab



Only related expenses are allowed as deduction

**Note:** Income from owning & maintaining of any other animal, say Camel, for race → taxable uth PGBP

**6.4. FAMILY PENSION**



**Exemptions in respect of Family Pension:**

- a) Family Pension received by the widow or children or nominated heirs, of a member of the armed forces (including para-military forces), who died in the course of operational duties [section 10(19)].
- b) Family Pension received by any family member of gallantry award winner like “Param Vir Chakra” or “Maha Vir Chakra” or “Vir Chakra” or other notified gallantry awards [Sec 10(18)].

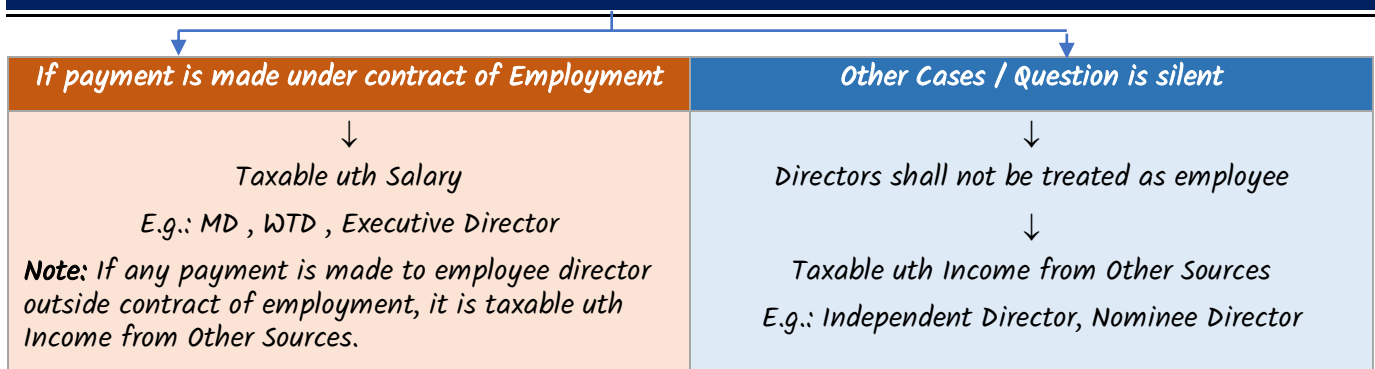
**6.5. REMUNERATION/ SALARY RECEIVED BY MP/MLA**

➤ No employment contract → Taxable under the head Others Sources.

**Note:** Daily allowance & constituency allowance is exempt u/s 10(17).

**Note:** Salary of Minister → Taxable under the head Salary.

**6.6. DIRECTOR’S REMUNERATION INCLUDING SITTING FEE**



Two incomes will always be taxable as income under the head Other Sources:

- a) Causal Income
- b) Dividend Income

**Example:** Mr. Ram is engaged in business of investing in shares & debentures. He earned 1,00,000 as Interest on debentures and 50,000 as dividend on shares. He also earned 20,000 as Interest on FD & 2L on sale of shares and 2,00,000 on sale of jewellery.

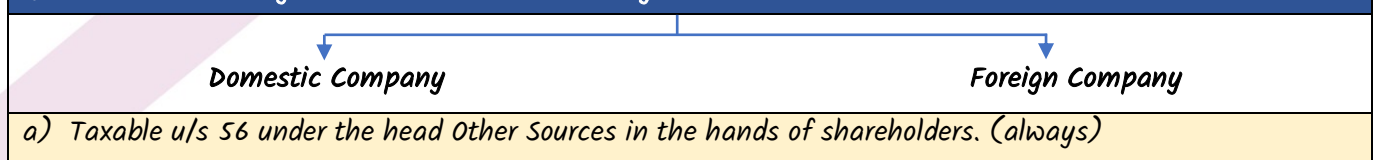
Interest on Debentures	Dividend	Interest on FD	Sale of shares	Sale of jewellery
↓ 1 Lakh ↓	↓ 50,000 ↓	↓ 20,000 ↓	↓ 2 lakhs ↓	↓ 75,000 ↓

**6.7. FORFEITURE OF ADVANCE MONEY W.R.T TRANSFER OF CAPITAL ASSET W.E.F. 1/4/2014**

Taxable under the head Other Sources at slab rate. [Sec 56(2)(ix)]

**6.8. DIVIDEND**

**(i) Dividend including deemed dividend declared by**



- b) Deduction u/s 57 allowed only w.r.t Interest incurred to earn the dividend [Max 20% of Dividend]
- c) Company need not pay Dividend Distribution Tax i.e. no tax liability on the Company on distributing dividend.

**Illustration:**

Ram is an investor who purchased shares of RIL on 1/10/2022. RIL declared dividend of 12 lakhs w.r.t. shares held by Ram on 1/3/2024. He incurred interest expenses of 3 lakhs & commission of 1,000 for earning it.

**RIL** → No tax liability

**Shareholder** → Dividend shall be chargeable to tax under the head Other Sources (slab) in PY 2023-24.

Dividend u/s 56	
(-) Deduction u/s 57	

**Deemed Dividend [Sec 2(22)]**

(a)	(b)	(c)	(d)	(e)
Distribution of Accumulated Profits of Company in the form of cash or kind	Distribution of debentures/ deposit receipts, with or without interest, to shareholders [equity + preference] & Distribution of bonus shares to preference shareholders	Distribution of Asset on liquidation of company to shareholders  Distribution after the date of liquidation is not dividend. It is a repayment towards capital.	Distribution on Reduction of share capital [Sec 66 of CA, 2013]	Loan or Advance by closely held company, directly or indirectly, to its equity shareholder holding beneficial ownership of at least 10% of equity shares.  Rate of interest, repayment by shareholder etc. does not matter

➤ Tax treatment same as normal dividend.

**Note:** In case of dividend distribution in kind, FMV of such asset like shares etc. is deemed as dividend.

**Note:** Unless otherwise mentioned, assume Private Company as Closely held company.

**Note:** Refer Examples discussed in class

**Accumulated Profit [Sec 2(22) (a), (b), (c), (d)]**

Capitalized	Non capitalized / Free reserves [Sec 2(22) (e)]
Can be used for specified purpose only and not for distribution of dividend. E.g. Capital Reserve, Debenture redemption reserve, CRR	E.g. General Reserve, balance in P/L account It can be distributed as dividend.

**Note:** Deemed dividend u/s 2(22) (a), (b), (c), (d) can't exceed accumulated profit (capitalized or non-capitalized)

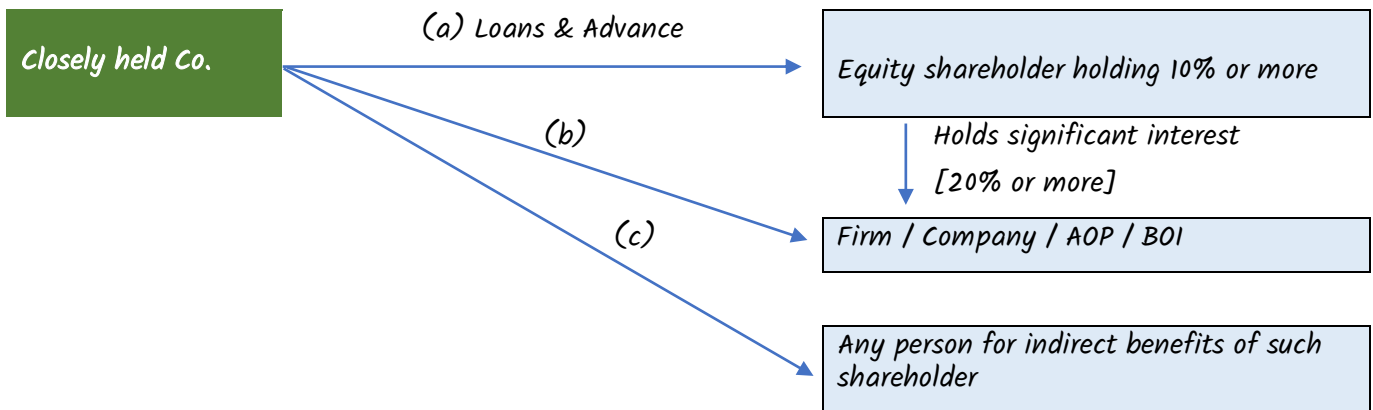
Deemed dividend u/s 2(22)(e) can't exceed non capitalized accumulated profit.

**Note:** If question is silent, treat accumulated profit as Non capitalized.

**Example:** XYZ Pvt. Ltd., has accumulated profits of INR 10 lakhs out of which INR 3 Lakhs have been

capitalized. Mr. A, a shareholder, holds 10% of the total voting power. XYZ Pvt. Ltd provides a loan of INR 8,50,000 to Mr. A. In this case, INR 7,00,000 shall be deemed as dividend u/s 2(22)(e).

Company	
Widely held company/ Public substantially interested	Closely held company
<ul style="list-style-type: none"> <li>a) Company where at least 40% shareholders shall be held by Government or RBI</li> <li>b) Listed company</li> <li>c) Sec. 8 company</li> </ul> <p>Higher burden of compliance &amp; disclosure requirement</p>	<p>Company which is not widely held</p> <p>Lesser burden of compliance and disclosure requirement</p> <p>Unless otherwise specified, Private companies are treated as closely held company</p>



All 3 conditions above are deemed dividend u/s 2(22)(e)

**Exceptions: Following loans/advanced to equity shareholders shall not be deemed as dividend u/s 2(22)(e):**

- a) **Trade Advances** is not covered u/s 2(22)(e).
- b) **Loan granted in the ordinary course of business:** If company is engaged in the business of lending money & gives loan to shareholders in ordinary course of business.
- c) **Dividend paid is set off against the deemed dividend:** Where a loan had been treated as deemed dividend & subsequently, Company declares and distributes dividend to all its shareholders including the borrowing shareholder, and Company adjusts the dividend payable with loan given earlier; in this case adjusted amount will not be again treated as a dividend.
- d) **Payment on buy back of shares:** Any payment made by a company on buy back of its own shares from a shareholder u/s 77A. Covered in Chapter Capital Gains.
- e) **Distribution of shares to shareholders on Demerger by Resulting company:** Refer Chapter Capital Gains.

Basis of charge of Dividend [Section 8]	Deemed to be the income of the shareholder in the
Dividend	Previous year in which it is so declared
Deemed dividend u/s 2(22)(a)/(b)/(c)/(d)	Previous year in which it is so distributed.
Deemed dividend u/s 2(22)(e)	Previous year in which it is so paid.

<b>Interim dividend</b>	Previous year in which such dividend is unconditionally made available by the company to the members
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**6.8. INCOME (INTEREST/ DIVIDEND) FROM SPECIFIED MUTUAL FUND OR UNITS OF UTI**

Taxable uth Income from Other Sources (treatment same as dividend)  
Deduction u/s 57 → Interest upto 20% of Income

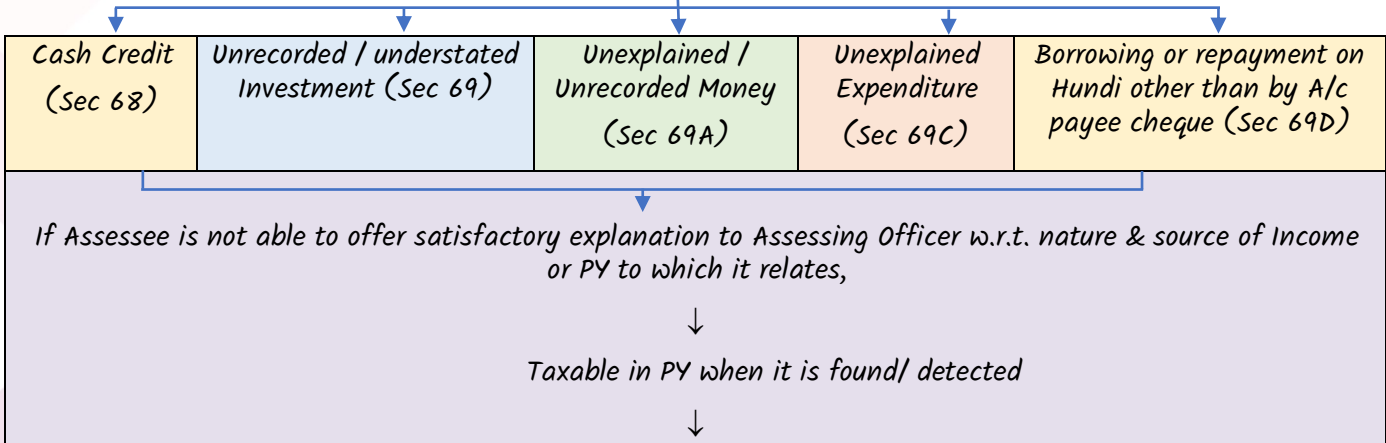
**6.9. SUM RECEIVED, INCLUDING THE AMOUNT ALLOCATED BY WAY OF BONUS, UNDER A LIP OTHER THAN UNDER A ULIP AND KEYMAN INSURANCE POLICY, WHICH IS NOT EXEMPT U/S 10(10D)**

Covered under chapter – Deductions from GTI.

**6.10. MISCELLANEOUS INCOMES**

- 1) Honorarium for giving lectures in college by a person who is not employee
- 2) Fee for setting of exam paper of University received by a college professor
- 3) Stipend under Article ship/ Internship
- 4) Income from agricultural land
  - a) In India from Agricultural operations → Exempt u/s 10(1)
  - b) In India from Non - Agricultural activities → IFOS (movie shooting)
  - c) Outside India from any activity → IFOS
- 5) Royalty earned by author from books.
- 6) Forfeiture of Advance Money w.e.f. 01.04.2014 [Sec 56(2)(ix)] → Detailed discussion in Capital Gains
- 7) Compensation or Other Payment, Due to or Received by Any Person, by whatever name called, in connection with Termination of His Employment or the Modification of the Terms and Conditions Relating thereto. [Sec 56(2)(xi)]
- 8) Interest from non-SLR Securities of Banks: Whether chargeable under the head “Profits and gains of business or profession” or “Income from other sources”?  
Since, such investments by Banks are part of the business of banking. Therefore, income arising from such investments is taxable uth "Profits and Gains of Business and Profession".

**7. TAXABILITY OF INCOME FROM UNDISCLOSED SOURCES/ UNEXPLAINED INCOME**

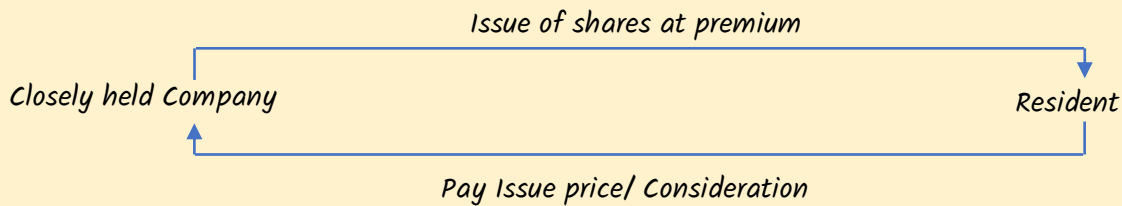


Taxable @ 60% + surcharge of 25% + Health & Education cess of 4% → Effective rate u/s 78% u/s 115BBE

**Note:** No adjustment, deduction or set-off of any kind allowed from such income.

**Example:** If an Assessee is found to be the owner of say 300 grams of gold (market value of which is 25,000) during the financial year ending 31.3.2024 but he has recorded to have spent 15,000 in acquiring it, the Assessing Officer can add 10,000 (i.e., the difference of the market value of such gold and 15,000) as the income of the Assessee, if the Assessee offers no satisfactory explanation thereof.

### 8. SHARE PREMIUM RECEIVED BY CLOSELY HELD COMPANY [SECTION 56(2) (VII b)]



**Step I:** Share issued at premium *खतरे की घंटी* i.e., 56(2) (vii b) is attracted if Issue price > Face value

**Step II:** If issue price > FMV, excess amount is taxable in the hands of closely held company u/s OS.

**Note:** If shares are issued at par or at discount, 56(2) (vii b) is not attracted.

#### 4 cases:

F.V.	Issue Price	FMV	Section 56 (2) (vii b)	Taxability
10	15	18		
10	15	14		
10	8	12		
10	10	6		

**Crux:** Consideration received by a closely held company in excess of FMV is taxable in hands of closely held Company if shares are issued at premium.

#### Non-Applicability of 56(2) (vii b)

a) Shares issued by Widely held    b) Shares issued to Non-Resident    c) Shares issued to Venture Capital

### 9. DEEMED INCOME CHARGEABLE TO TAX [SECTION 59]

Same as section 41 of PGBP



**10. TAX RATE UNDER IFOS**

Income	Casual Income	Unexplained cash credits/ investments/ money, bullion, jewellery/ expenditure, etc.	Net winnings from online games	Other Income
<b>Section</b>	Section 115BB	Section 115BBE	Section 115BBJ	
<b>Tax rate</b>	30% of such winnings (further increased by surcharge, if applicable, & HEC @ 4%)	60% of such income plus surcharge @ 25% of tax (Effective rate of tax is 78%, including HEC @ 4%)	30% of such winnings (further increased by surcharge, if applicable, and HEC @ 4%)	Normal rates of tax
<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 u/s 57 allowable

**11. DIFFERENT TAX TREATMENT UNDER OPTIONAL TAX REGIME & DEFAULT TAX REGIME**

S No.	Items	Optional tax regime i.e. Normal provisions of Act	Default Tax Regime u/s 115BAC
1.	Exemption u/s 10(17) w.r.t. Daily & Constituency Allowance of MP/MLA	Exemption Allowed	Exemption Not allowed
2.	Deduction u/s 80 TTA and 80 TTB	Deduction Allowed	Deduction Not allowed

### Examples on Deemed Dividend

- 1) Tax Ltd., having share capital of INR 50 lakhs and general reserve of INR 25 lakhs, has distributed dividends. One of the shareholders Mr. Shyam has received cash of INR 30,000 and is holding 5% of the shares.

In this case, his share in the accumulated profit is INR 1,25,000. Hence, entire amount of INR 30,000 received by him shall be deemed as dividend.

- 2) XYZ Limited has share capital of INR 60 lakhs and accumulated profits of INR 50 lakhs out of which INR 30 lakh have been capitalized. One of the shareholders, Mr. A who holds 3% of the shares of XYZ limited has received cash of INR 1,20,000.

In this case, Mr. A's share in the accumulated profits (whether capitalized or not) is INR 1,50,000. Hence the entire amount of INR 1,20,000 shall be deemed as dividend u/s 2(22)(a).

- 3) Mr. Ram is holding 1,000 preference shares in Tax Ltd. The company has issued him 100 bonus shares and their market value is INR 1,200. In this case, it will be considered to be dividend but only to the extent of accumulated profits, whether capitalized or not.

- 4) Mr. Ram is holding 1,000 shares in Tax Ltd. of INR 10 each. The Company has paid INR 4 per share in connection with reduction of share capital. In this case, amount so received by the shareholders shall be considered to be dividend but only to the extent of accumulated profits.

- 5) XYZ Pvt. Ltd., a closely held company has accumulated profits of INR 10 lakhs out of which INR 3 Lakhs have been capitalized. Mr. A, a shareholder, holds 10% of the total shares throughout the relevant previous year. XYZ Pvt. Ltd provides a loan of INR 8,50,000 to Mr. A.

In this case, INR 7,00,000 shall be deemed as dividend u/s 2(22)(e).

- 6) Mr. X is the beneficial owner of 10% equity shares in ABC Pvt Ltd. ABC Pvt. Ltd. gives a loan of INR 6,00,000 to a partnership firm XY in which Mr. X holds 20% shares. On the date of loan, the company has accumulated profits of INR 7 lakhs out of which 3 lakhs have been capitalized.

In this case, INR 4,00,000 shall be deemed as dividend u/s 2(22)(e).

In this case, an amount of INR 4 lakhs shall be deemed as dividend in the hands of the partnership firm XY.

- 7) XYZ Pvt. Ltd. a closely held company, has accumulated profits of INR 10 lakh out of which INR 3 lakhs have been capitalized. Mr. A, a shareholder, holds 10% of the total shares throughout the relevant previous year. XYZ Pvt. Ltd. provides a loan of INR 8,50,000 to Mrs. P for the individual benefit of Mr. A.

In this case, INR 7,00,000 shall be deemed as dividend u/s 2(22)(e).

- 8) ABC Pvt. Ltd. has total accumulated profits of INR 8,00,000. ABC Pvt Ltd. has given a loan of INR 5,00,000 to Mr. X, a shareholder holding 15% of the total voting power on 01.08.2022.

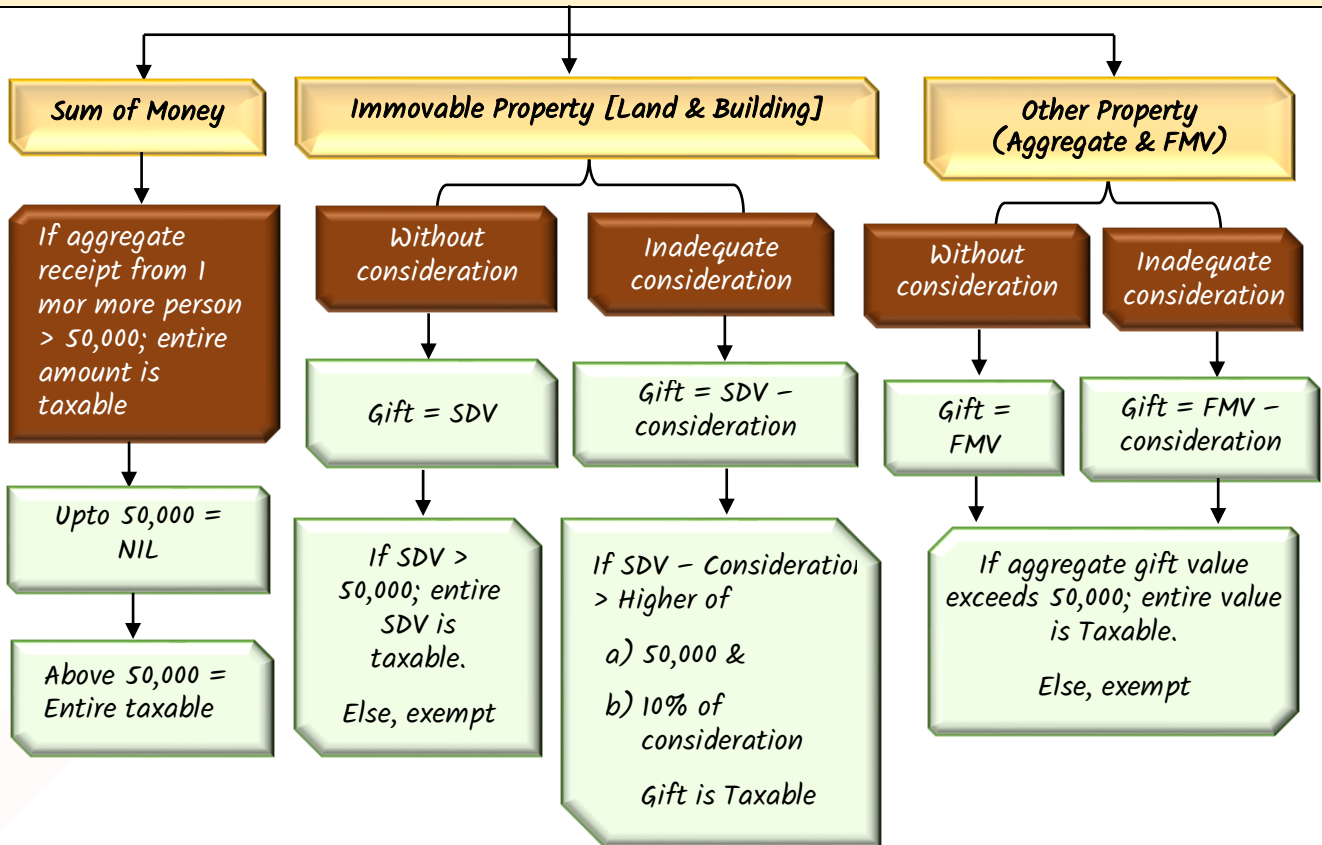
Another loan of INR 7,00,000 was given to Mr. Y, a shareholder holding 20% of the total voting power on 01.09.2022. In this case, amount deemed as dividend would be INR 5,00,000 in case of Mr. X and INR 3,00,000 in case of Mr. Y

# CHAPTER 9

## TAXABILITY OF GIFT

### 1. TAXABILITY OF GIFT/ RECEIPT WITHOUT CONSIDERATION [SECTION 56(2)(x)]

- ❖ Taxable under the head Income from Other Sources
- ❖ We'll talk from the perspective of recipient.



Sum of money includes cash, cheque, fixed deposit etc. including accrued interest.

Immovable property received for Inadequate consideration.

Gift = Inadequate Consideration = SDV - Consideration = Taxable if difference > Higher of  
 a) 50,000  
 b) 10% of consideration.

Illustration:

SDV	Actual Consideration	Gift			Taxable
25,00,000	23,00,000	2,00,000			
25,00,000	22,00,000	3,00,000			

## 2. PROPERTY

D - Drawing	P - Painting	S - Sculpture	J - Jewellery including bullion
A - Arts	I - Immovable property	S - Shares & Securities	A - Archaeological collection

### Tax Implications

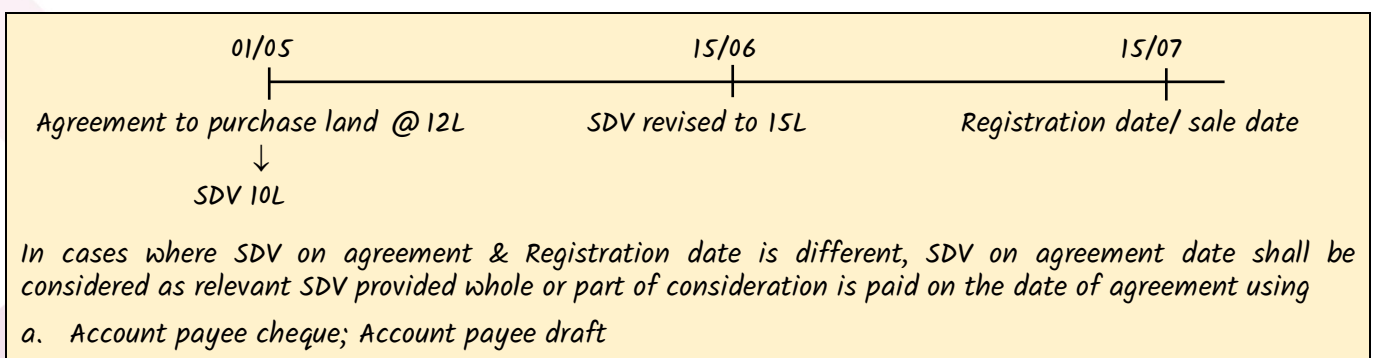
Only sum of money & 'DPS JAISA' is taxable u/s 56(2) (x).

This implies gifting of items other than 'DPS JAISA' shall not be taxable. Examples: Gift of car, Mobile, Laptop is not taxable.

### Illustrations:

Independent Cases	Taxability u/s 56(2) (x)
1) Ram received 51,000 in cheque from his friend	
2) Ram received 26,000 from a friend	
3) Ram received 26,000 from his two friends	
4) Ram received 26,000 each from his two friends	
5) Ram received jewellery by paying 1,50,000. FMV 90,000	
6) FMV of jewellery 3,00,000; purchased for 2,70,000	
7) FMV of jewellery 3,00,000; purchased for 2,70,000 FMV of arts 4,00,000; purchased for 3,60,000	
8) Ram purchased land for 20,00,000; SDV 21,00,000; FMV 25,00,000	
9) Ram purchased land for 10,00,000; SDV 11,00,000	
10) Ram purchased land for 10,00,000; SDV 11,00,100	
11) Ram purchased Rolls Royce of 3 crore for 1 crore	

## 3. RELEVANT DATE FOR DETERMINING SDV [AGREEMENT DATE VS REGISTRATION DATE]



b. Electronic clearance system

c. Other prescribed electronic mode

- BHIM; UPI; Debit card/ credit card; Net Banking; RTGS; NEFT; IMPS; Aadhar Pay.

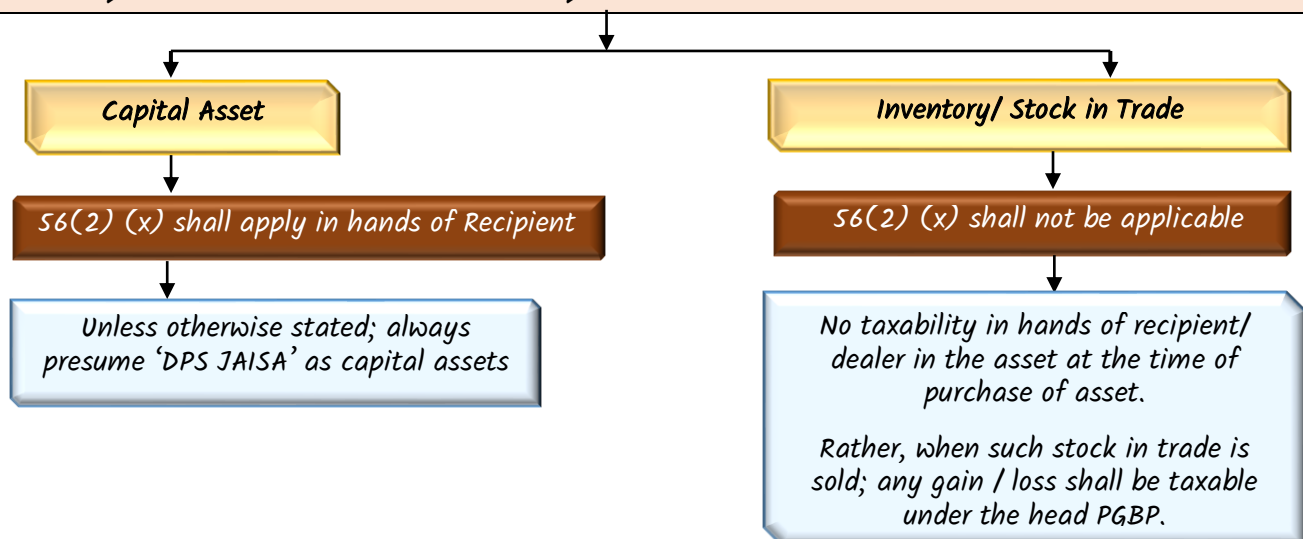
If no payment made on agreement date or payment on the date of agreement is made in cash, bearer cheque, crossed cheque → SDV on registration date shall be considered.

**Note:** If SDV of immovable property is disputed by Assessee, the AO may refer the valuation of such property to a Valuation Officer. If such value is less than the SDV, the same would be taken for determining the value of such property.

#### 4. APPLICABILITY OF SECTION 56(2)(X) ON RECEIPT OF PROPERTY

It would apply only to property which is the nature of capital asset of the Recipient and not stock-in-trade, raw material or consumable stores of any business of the recipient.

Assets acquired Without Consideration or Inadequate Consideration as

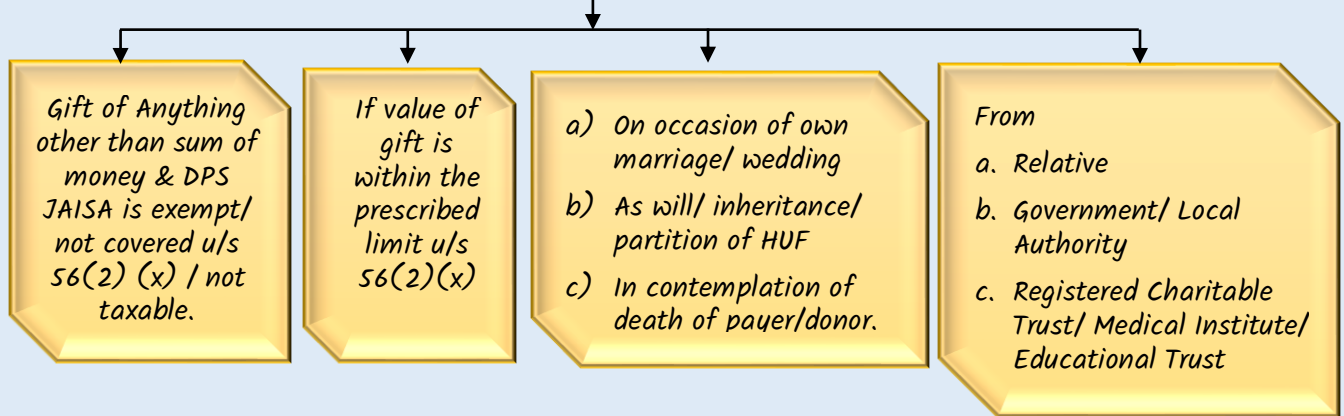


**Illustration:** Ram is a trader in gold. He purchased gold [FMV 15L] for 12L. He further sold this gold @ 19L.

**Illustration:** Mohan, a share trader, purchased gold [FMV 15L] for 12L. Mohan further sold this gold @ 19L.

**5. NON-APPLICABILITY OF SECTION 56(2)(X) / WHEN IS GIFT EXEMPT?**

✚ If a gift is exempt in any of the following criteria, its exempt. No need to check further/other criteria.



**Additional Exemptions**

a) Any receipt by an individual from any person w.r.t. medical treatment of Assessee or any family member for any illness related to COVID.

**Conditions:**

i) Need to keep record of

- COVID-19 positive report of the individual or his family member &
- all necessary documents of medical diagnosis or treatment of the individual or family member due to COVID-19 or illness related to COVID-19 suffered within 6 months from the date of being determined as a COVID-19 positive.

ii) Details of the amount so received in any financial year has to be furnished to the Income-tax Department within 9 months from the end of such financial year.

b) Receipt by a member of the family of a deceased person from

- Employer of the deceased person (without any limit)
- Other persons (exempt upto aggregate receipt of 10 lakhs)
- within 12 months from the date of death of the person due to Covid.

**Conditions:**

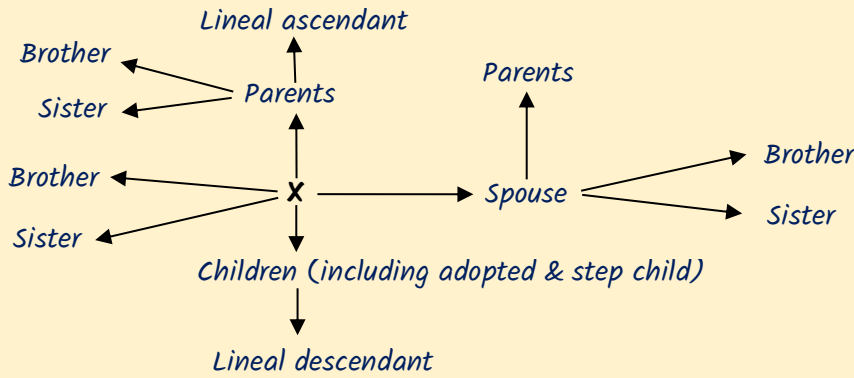
i) Death of the individual should be within 6 months from the date of testing positive.

ii) Family member of the individual has to keep a record of the following documents:

- the COVID-19 positive report of the individual, and
- a medical report or death certificate stating that death of the person is related to COVID-19.

iii) Details of the amount so received in any financial year has to be furnished to the Income-tax Department within 9 months from the end of such financial year.

**Who is Relative as per sec 56(2)(x)?**

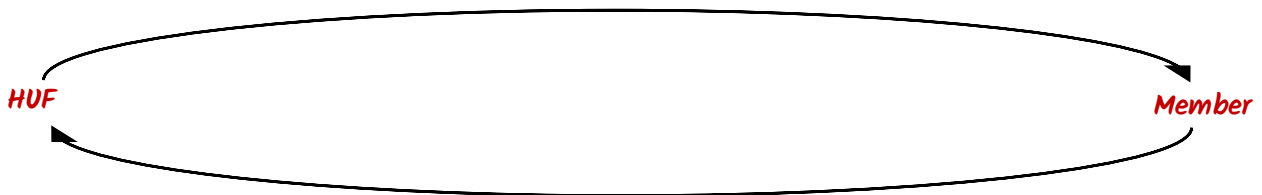


- Includes Spouses of all the above.
- In case of Hindu Undivided Family, any member thereof.
- Following are not relative:

➤ Fiancé	➤ Nephew/Niece	➤ Cousin	➤ Mother in law's brother/ sister
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**6. TAXABILITY OF GIFT IN CASE OF HUF**

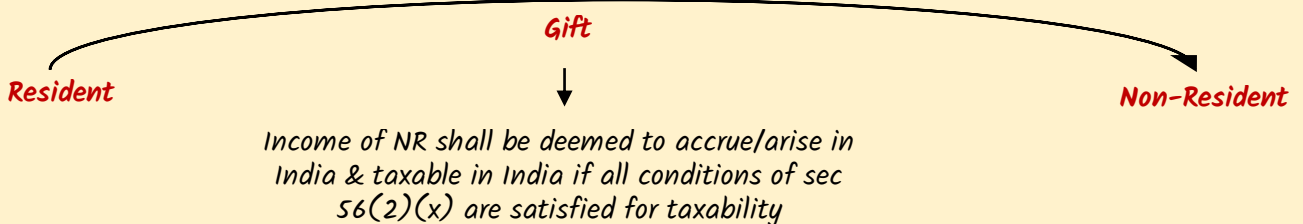
Transfer of HUF property (other than on partition) → Taxable subject to conditions of Sec 56(2)(x)



Transfer of personal property → Always exempt irrespective of Sec 56(2)(x)

**7. SPECIAL CASES RELATED TO GIFT**

**1. Deemed accrual of Gift to NR**

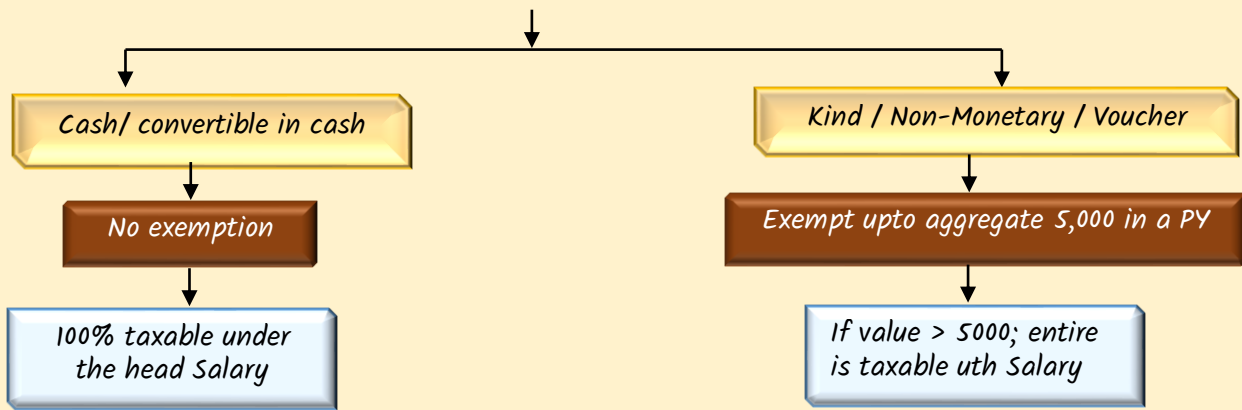


Example 1: Kishan, a resident gifted gold worth 1 lakh to his brother who is Non Resident.

Example 2: Kishan, a resident gifted gold worth 1 lakh to his friends who is Non Resident.

Example 3: Kishan, a resident gifted gold worth 1 lakh to his friend who is Non Resident, on his wedding.

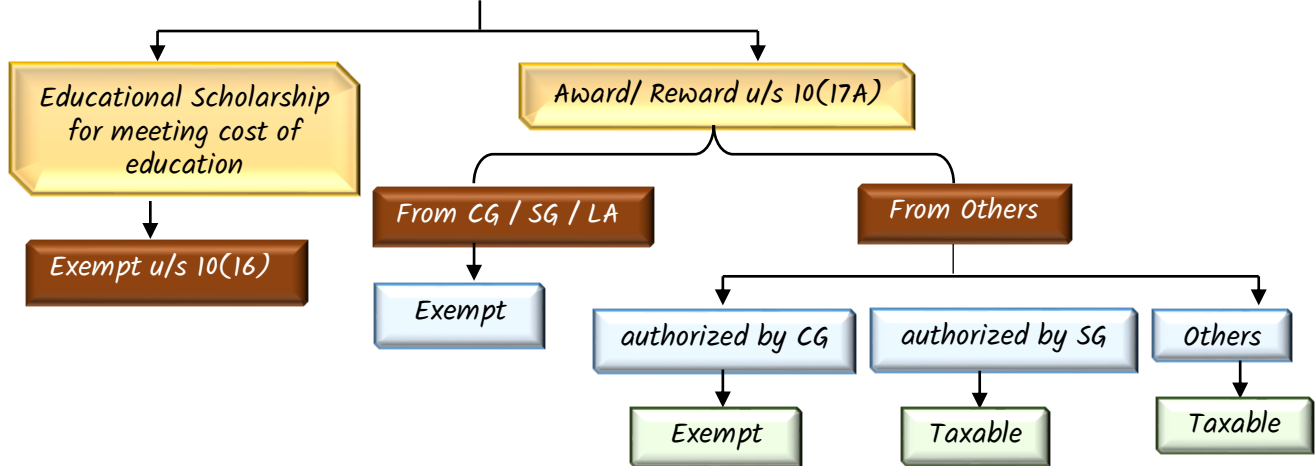
2. Gift from Employer



3. Gift in connection with PGBP

No exemption of any kind. Any gift received of any value is fully taxable u/s 28 under the head PGBP.

4. Scholarship/ Award/ Reward





# CHAPTER 10

## CLUBBING OF INCOME

### INCOME OF OTHER PERSON INCLUDED IN ASSESSEE'S TOTAL INCOME [SEC 60 TO 64]

Persons with higher income try to divert their Income so as to reduce their tax liability. Provisions of Clubbing of Income is designed to prevent such tax evasion.

<b>General provisions</b>	<b>Income of Spouse/ Daughter-in-law</b>	<b>Income of Minor Child</b>
Sec 60, 61, 62	Sec 64(1)	Sec 64(1A)

### 1. GENERAL PROVISIONS

<b>Transfer of income without Transfer of Asset</b>	<b>Income arising from Revocable Transfer of Asset (wholly or partly)</b>	<b>Income arising from Irrevocable Transfer of Asset</b>
↓	↓	↓
Income of transferee shall be clubbed in Income of Transferor u/s 60	Whole Income arising from such transfer be clubbed in Income of Transferor u/s 61 [actual revocation is not necessary. If power to revoke, clubbing applies]	Income arising from such transfer is taxable in hands of Transferee & not Transferor No clubbing

**Note:** Even if part of transfer is revocable, entire income from the transferred asset is includible in the total income of the transferor.

**Note:** Revocable transfer of Asset which can't be revoked during lifetime of beneficiary → Income arising from such Asset is not clubbed in hands of transferor during life time of beneficiary, provided the transferor derives no direct or indirect benefit from such income. [sec 62]

#### Examples:

- Mr. A confers the right to receive rent in respect of his house property to his wife, Mrs. A, without transferring the house itself to her. In this case, the rent received by Mrs. A will be clubbed with the income of Mr. A.
- Mr. Rajesh transfers his house property to a trust for the benefit of Mr. Ramesh till his death. This is a situation of irrevocable transfer till the death of Mr. Ramesh. Hence, till then, the income from house property would be taxable in the hands of the transferee i.e., the trust. However, after the death of Mr. Ramesh, the income from house property would be included in the total income of Mr. Rajesh as on that date, the transfer has become revocable.

**Concept:**

**Risk of Loss of Asset**

Yes	No
↓	↓
No clubbing of income arising from such transferred asset in hands of transferor i.e. taxable in hands of transferee.	Clubbing of Income arising from such Asset in the hands of transferor.
<b>Examples:</b>	<b>Examples:</b>
a) Irrevocable transfer of asset b) Transfer of asset to major child	a) Transfer of Income without Transfer of asset b) Revocable transfer of asset

**2. CLUBBING OF INCOME ARISING TO SPOUSE [SEC 64 (1)]**

**(A) Salary / Remuneration in cash or kind received by Spouse from a concern in which the individual has a substantial interest**

If such salary is received by Spouse from an Entity in which Assessee, alone or along with his relative, has substantial interest:

+

Spouse is not technically qualified

↓

Such salary of spouse shall be clubbed in hands of Assessee. [Standard Deduction shall be considered]

↓

No clubbing of Income if spouse is technically qualified (degree or relevant experience or natural talent)

**Note:** Substantial interest means beneficial ownership of 20% or more voting power in case the concern is a Company and it means entitlement of 20% or more profit in case of other concerns.

**Note:** Relative means spouse, brother, sister and any lineal ascendant and descendant [Sec 2(41)].

**Note:** What if both spouses have substantial Interest?

Income of either of them shall be clubbed in hands of husband/ wife whose total income excluding such income is higher.

**Note:** Where any such income is once included in the total income of either spouse, income arising in the succeeding years shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary to do so.

**(B) Income arising to Spouse from Asset (other than HP) Transferred without adequate consideration**

↓

Such transfer of asset will be exempt in hands of spouse u/s 56(2)(x)

↓

Income from such asset shall be clubbed in hands of transferor in ratio of inadequate consideration.

Cases	Value of asset	Consideration	Income from Asset	Income to be clubbed
I	1,00,00,000	0		
II	1,00,00,000	60,00,000		
III	1,00,00,000	1,20,00,000		

No clubbing of income in hands of Transferor if asset is transferred

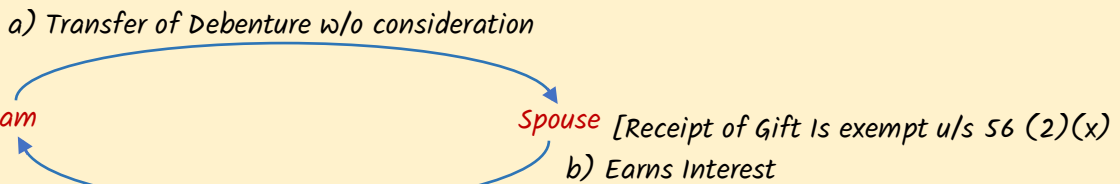
- a) for adequate consideration; or
- b) under agreement to live apart; or
- c) before marriage; or
- d) Income accruing after divorce.

For clubbing provisions to be attracted, Relationship of marriage should exist both at:

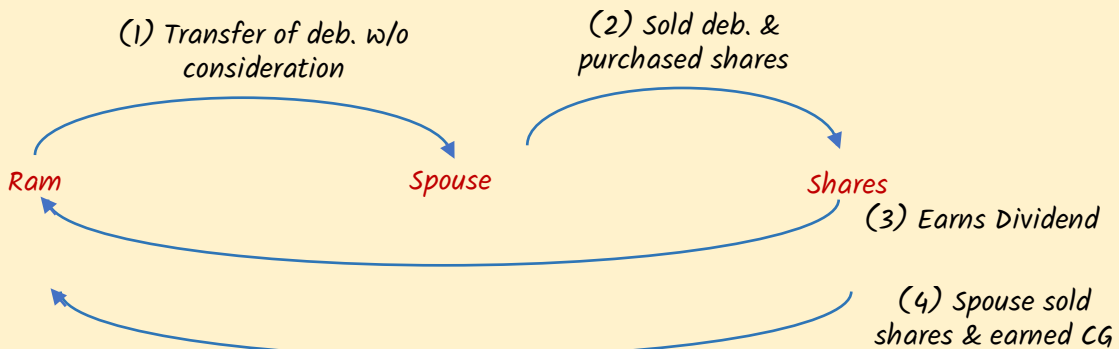
- a) Time of transfer of asset; and
- b) Time of accrual of income.

Cases	Transfer of asset	Accrual of Income	Clubbing of Income
(1)	Spouse	Spouse	
(2)	Fiancé'	Spouse	
(3)	Spouse	After divorce	
(4)	Spouse	Agreement to live apart	
(5)	Agreement to Live apart	Agreement to Live apart	

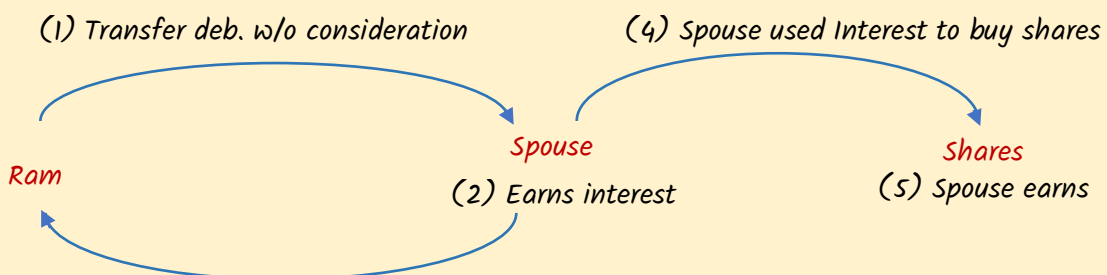
**Illustration 1:**



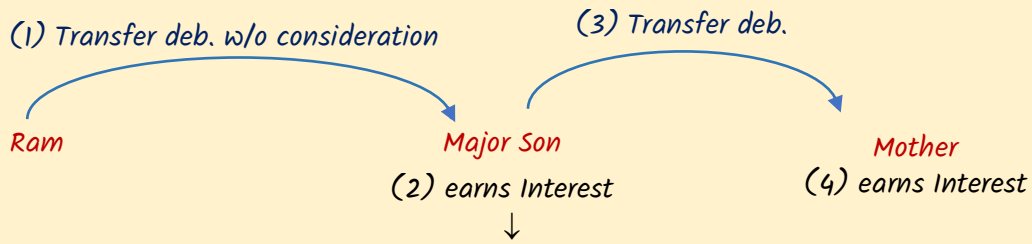
**Illustration 2:**



**Illustration 3:**



**Illustration 4:**



**Conclusions**

1. Income received by Spouse from converted asset acquired after selling transferred asset shall be clubbed in hands of transferor. [Illustration 2]
2. Income from accretion/ increment of transferred asset or income on clubbed income shall not be clubbed as income from transferred asset has already been clubbed once. E.g. Bonus shares on transferred shares. [Illustration 3]
3. All types of income arising from transferred asset shall be clubbed. E.g. Interest as well as CG. [Illus. 2]
4. Clubbing is done in respective heads of income.
5. Exempt income shall not be clubbed.
6. Clubbing of Income is done before applying provisions of Set off and Carry Forward of Losses.
7. Income includes Loss. Thus, loss from transferred asset is also clubbed in the hands of transferor.

**(C) Clubbing of Income in hands of Spouse in case of Investment by Spouse in Assessee's business**

$$\frac{\text{Cap Contri. by Spouse as on first day of PY}}{\text{Total capital of business as on first day of PY}} \times \text{Total Profit for the relevant PY}$$

In case of capital contribution to Firm

- Proportionate profit → Ex u/s 10(2A)
- Proportionate interest shall be clubbed in the manner given above
- Salary/ Remuneration shall not be clubbed

Capital contribution → Clubbing of Income applicable

Loan given → No Clubbing Provisions

**3. CLUBBING OF INCOME ARISING TO SON'S WIFE**

Transfer of Asset, directly or indirectly, without adequate consideration to

Major son

Risk of loss of asset

No clubbing

Major son's wife/ Daughter in Law




No risk of loss of asset

Income from such Asset shall be clubbed in hands of Mother-in-law/ Father-in-law u/s 64(1)(vi)

Note: Any transfer of asset directly or indirectly without adequate consideration

for the benefit of son's wife shall be clubbed in hands of Assessee.

**Note:** If asset transferred is invested in the business, proportionate income shall be clubbed in hands of transferor in same manner as in case of spouse.

Sec. 27 - Deemed Owner of HP	Sec. 64 (1)
<p style="text-align: center;">Transfer of HP without consideration</p> <p>Assessee  Spouse / minor child other than MMD</p> <p style="text-align: center;">↓</p> <p>Assessee remains deemed owner &amp; Income is calculated in hands of Assessee.</p> <p style="text-align: center;">↓</p> <p><b>Example:</b> Ram has three HPs which he claims to be self-occupied. He transferred one HP to his spouse without consideration.</p> <p><b>Solution:</b></p>	<p style="text-align: center;">Transfer of Asset other than HP w/o consideration</p> <p>Assessee  Spouse</p> <p style="text-align: center;">↓</p> <p>Spouse becomes owner of Asset</p> <p style="text-align: center;">↓</p> <p>Income from such Asset is calculated in hands of spouse &amp; then it is clubbed u/s 64(1) in the hands of transferor.</p> <hr/> <p style="text-align: center;">Transfer of Any Asset including HP w/o consideration</p> <p>Assessee  Daughter in law</p> <p style="text-align: center;">↓</p> <p>Daughter in law becomes owner of Asset</p> <p style="text-align: center;">↓</p> <p>Income from such Asset is calculated in hands of Daughter in law &amp; then it is clubbed u/s 64(1) in the hands of transferor.</p>

**Example:** Ram has three HPs which he claims to be self-occupied. He transferred one HP to his Daughter in law without consideration.

**Solution:** As per sec 64(1), Ram is now owner of 2 HPs and Daughter in law becomes owner of 1 HP. In hands of Ram, 2 HPs shall be treated as self-occupied.

In hands of Daughter in law, 1 HP shall be treated as self-occupied and resultant loss shall be clubbed in hands of Ram.

#### 4. INCOME OF MINOR CHILD (INCLUDING STEP & ADOPTED CHILD)

[SEC 64(1A)]

Every taxable income from any source or any type accruing to a minor child is clubbed in the hands of

- Either of parent whose
- Income before such clubbing is higher.

Clubbing of Income provisions u/s 64(1A) is not attract if –

- a) Child is suffering from disease u/s 80DD & 80U; or
- b) Income is attributable to
  - manual work of minor child
  - activities involving skills and talent of minor child.

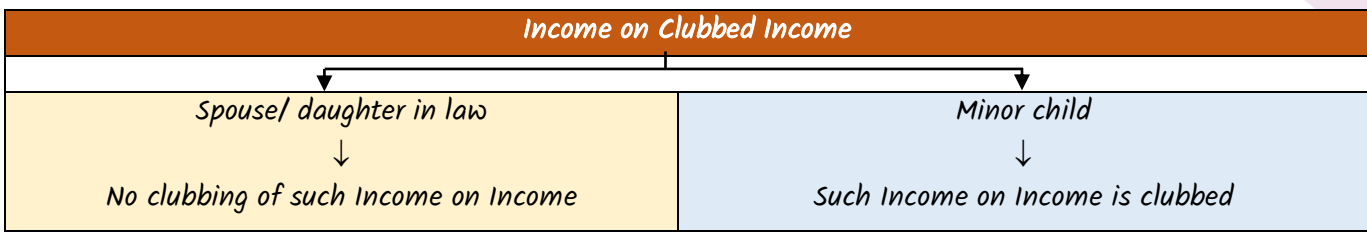
If marriage is over/ does not subsist → Income shall be clubbed into hands of parent who maintains child.

**If parent are no more** → Guardian shall file ROI on behalf of minor child but no clubbing. Income shall be taxable in hands of minor child.

**Note:** In respect of each minor child whose income is clubbed,  
 ➤ exemption upto 1500 per child is allowed u/s 10(32)  
 ➤ if he/she exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A).

**Note:** Investment is not treated as skill/ labour/ talent if minor child.

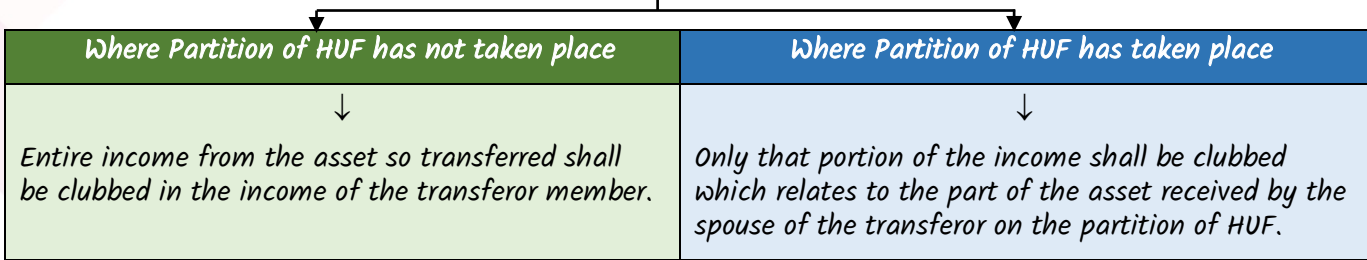
**Note:** Once clubbing of minor's income is done with one Parent, it will continue to be clubbed with that parent only, in subsequent years. AO, may, however, club the minor's income with that of the other parent, if, after giving the other parent an opportunity to be heard, he is satisfied that it is necessary to do so.



Section 27	Sec. 64(1A)

**5. CLUBBING OF INCOME IN CASE OF HUF [SEC 64(2)]**

When a member of a HUF converts his individual property into HUF property, otherwise than for adequate consideration, Income from such property is clubbed in Income of such member in manner given below:



**6. CROSS TRANSFERS**

If there are two transfers which individually do not get covered under the clubbing provisions but are inter connected and the combined effect of these two transfers is to evade the taxes, in such cases clubbing

*provisions would be attracted. This is called cross transfer.*

*These two transfers are so intimately connected that they form part of a single transaction & each transfer acts as consideration for other.*

*Income from such cross transfer is assessed in hands of deemed transferors.*

*Refer discussion in the Class.*

### **7. DISTINCTION BETWEEN SECTION 61 & SECTION 64**

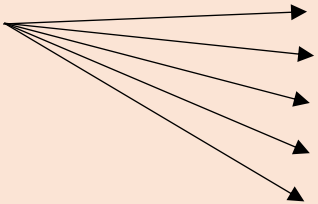
*Section 61 applies only to a revocable transfer made by any person while section 64 applies to revocable as well as irrevocable transfers made only by individuals.*

### **8. RULES FOR CLUBBING OF INCOME [HOW TO CLUB INCOME]**

<b>Step 1:</b>	<i>Calculated Income / loss in the hands of Recipient as if it is the income of Recipient.</i>
<b>Step 2:</b>	<i>Income so computed shall be clubbed in Income of Transferor under same head of Income.</i>
<b>Step 3:</b>	<i>Such clubbed income is the income of the Transferor. Apply provisions of set-off &amp; carry forward of loss to such clubbed income to arrive at Gross Total Income.</i>

# CHAPTER 11

## SET OFF AND CARRY FORWARD OF LOSSES

1. Intra head set off of Losses	2. Inter- head set off of Losses	3. Set off & Carry Forward of Losses
<p>= Within the head set off = Inter Source set off</p> <p>↓</p> <p>Loss from one source within the Head is adjusted against Income from another source under the same head. [Sec 70]</p>	<p>= Between the head set off</p> <p>↓</p> <p>Net Loss from one head is adjusted against Net Income of other head.</p> <p>[Sec 71]</p>	<p>↓</p> <p>If Loss of a Head could not be set off/ adjusted in the A.Y. in which it is incurred, it can be carry forward to subsequent AYs and set off with Income of subsequent AYs.</p>
<p>5 heads of income </p>		
<p><b>Note:</b> Set off and carry forward of loss is mandatory. If there is income. Then loss needs to be mandatorily set off in that year itself, otherwise the option of carry forward is lost.</p>		
<p><b>Note:</b> Loss from an exempt source; for example, share of loss of partnership firm or agricultural loss; cannot be set-off against any other taxable income.</p>		

### 1. LOSS UTH INCOME FROM HOUSE PROPERTY

a) Intra head adjustment / set off	Yes
b) Inter head adjustment / set off	Yes, but maximum set off with income of Other Heads restricted to 2,00,000
c) Carry forward/ set off [Sec 71B]	Yes, for 8 subsequent AYs. However, in subsequent AY, brought forward loss of HP shall be allowed to set off only from Income of HP of that AY.

Illustrations	Case I	Case II
Loss from HP 1	400,000	400,000
Income from HP 2	600,000	100,000
Net Income from HP		



	Case III	Case IV	
	PY 2023-24	PY 2023-24	PY 2024-25
Income uth HP	(3,00,000)	(5,00,000)	2,50,000
PGBP	2,50,000	3,00,000	2,00,000
<b>Solution</b>			

**Note:** Limit of set off of HP Loss to 2 lakhs is applicable only in case of inter head adjustment in the PY in which Loss from HP is accrued.

This limit of 2 lakhs is not applicable in case of brought forward loss uth HP because brought forward HP loss can be adjusted only against Income from HP of current PY (intra head adjustment).

**Note:** Inter head set-off of loss uth House Property is not allowed if the Assessee pays tax at concessional rate under default tax regime u/s 115BAC.

It is allowed only to Assessee who opts out of the default tax regime provided u/s 115BAC(1A).

**Note:** It is not required that house in respect of which loss is carried forward should be owned by the Assessee in the year in which the loss uth House Property is carried and set off.

## 2. LOSS UTH CAPITAL GAINS

	STCL	LTCL
<b>Intra head adjustment</b>	can be adjusted from STCG as well as LTCG	Can be adjusted from LTCG but not STCG
<b>Inter head adjustment</b>	No	No
<b>Carry forward/ set off [Sec 74]</b>	Yes, for subsequent 8 PYs. In subsequent PY, brought forward STCL can be adjusted from STCG as well as LTCG of that PY.	Yes, for subsequent 8 PYs. In subsequent PY, brought forward LTCL can be adjusted only from LTCG of that PY & not STCG.

**Note:** In case of setting off of losses, there is no distinction between LTCL u/s 112 & LTCL u/s 112A. Similarly, there is no distinction between STCL u/s 111A & normal STCL taxable at slab.

## 3. LOSS UTH OTHER SOURCES

	Casual Loss	Loss from Owning & Maintaining Race Horses	Other Losses
<b>a) Intra head adjustment</b>	No	No, but can be adjusted from income of another business of Owning & Maintaining Race Horses	Yes
<b>b) Inter head adjustment</b>	No	No	Yes

c) Carry forward/ set off [Sec 74A]	No	Yes, for 4 subsequent PYs. In subsequent PYs, it can be adjusted only from Income of another business of Owning & Maintaining Race Horses	No
-------------------------------------	----	--	----

*Loss from owning & maintaining race horses = Stake money – revenue expenditure for the purpose of maintaining race horses.*

*Stake money means gross amount of prize money received on a race horse.*

#### 4. LOSS WITH PROFIT AND GAIN FROM BUSINESS AND PROFESSION

	Loss from Speculation Business	Loss from Specified Business u/s 35AD	Normal Business Loss
<i>Intra head adjustment</i>	No, but can be from income of Other Speculative Businesses	No, but can be adjusted from income of Other Specified Businesses	Yes
<i>Inter head adjustment</i>	No	No	Yes; except salary
<i>Carry forward/ set off</i>	Yes, for 4 subsequent PYs. In subsequent PY, can be adjusted only from Income of another speculative business. [Sec 73]	Yes, for indefinite period. In subsequent PY, can be adjusted only from Income of another specified business. [Sec 73A]	Yes, for 8 subsequent PYs. In subsequent PY, can be adjusted from only PGBP income (any 3) [Sec 72]

**Note:** Trading in agriculture commodities is considered as non-speculative transaction. Hence, loss from trading in agricultural commodities can also be set off from other non-speculative business losses. Further, such loss can now be carried forward for 8 AYs instead of 4 AYs.

**Note:** Loss from specified business would not be allowable to be set-off if the Assessee pays tax at concessional rate under default tax regime u/s 115BAC.

It is allowed only to Assessee who opts out of the default tax regime provided u/s 115BAC(1A).

#### 5. UNABSORBED DEPRECIATION [SEC 32(2)]

- There can't be loss with PGBP due to depreciation.
- Depreciation is deducted at end while calculating PGBP.
- If depreciation > PGBP before depreciation; excess is called unabsorbed depreciation.
- Unabsorbed depreciation can be adjusted from any Income of any head except salary.
- It can be c/f for indefinite period. In subsequent PYs, can be set off from income of any head except salary.

**Note:** In case of presumptive income u/s 44AD/ ADA and AE, unabsorbed depreciation is deemed to be adjusted.

For detailed discussion → Refer chapter PGBP

## 6. HOW TO SOLVE QUESTIONS

1. First identify all Incomes and write it down under respective heads of income.
2. Second, take up one loss at a time and set off or carry forward as per provisions of Income-tax Act.
3. Always talk from the perspective of loss.

## 7. EXAMPLES

Cases			
1.			
2.			
3.			
4.			
5.			
6.			

## 8. PRIORITY OF SET OFF

1. Current year Depreciation/
2. Current year Capital Expenditure on Scientific Research & Expenses on Family Planning.
3. Intra head adjustment of current year losses
4. Inter head adjustment of current year losses
5. Brought forward losses adjustment
6. Unabsorbed depreciation adjustment
7. Unabsorbed capital expenditure on scientific research
8. Unabsorbed expenditure on Family Planning.

**Note:** As per section 80, filing of loss return u/s 139(3) within the due date specified u/s 139(1) is mandatory for carry forward of the above losses except loss from HP and unabsorbed depreciation.

## 9. SUBMISSION OF RETURN OF LOSS [SECTION 80]

As per Section 80, filing of return u/s 139(1) within due date is mandatory for carry forward of losses.

If belated return is filed or no return is filed, carry forward of following losses is not allowed:

- a) Loss uth PGBP (non-speculative/ normal business or profession)
- b) Loss from Speculation business
- c) Loss from Specified business, in case the Assessee opts out of the default tax regime u/s 115BAC(1A)
- d) Loss uth Capital Gains
- e) Loss from owning and maintaining race horses.

Following losses can be carry forward even if return is not filed or belated return is filed:

- a) Losses uth HP
- b) Unabsorbed depreciation.

**10. DIFFERENT TAX TREATMENT OF ITEMS UNDER TWO TAX REGIMES**

S No.	Items	Optional tax regime i.e. Normal provisions of Act	Default Tax Regime u/s 115BAC
1.	Inter head set-off of loss uth House Property	Allowed upto 2,00,000	Not allowed
2.	Set-off of loss from specified business	Allowed only from Income of specified business	Not allowed
3.	Brought forward loss from self-occupied house property	Allowed	Not allowed
4.	Brought forward business loss of specified business u/s 35AD	Allowed	Not allowed
5.	Brought forward business loss on account of deduction u/s 35	Allowed	Not allowed
6.	Unabsorbed depreciation attributable to additional depreciation u/s 32(1)(ia).	Allowed	Not allowed

# CHAPTER 12

## DEDUCTIONS FROM GTI

### 1. DIFFERENCE BETWEEN DEDUCTION UNDER CHAPTER VI-A & SECTION 10AA AND EXEMPTION U/S 10

Particulars	Deduction	Exemption
<b>Meaning</b>	Investments/ contributions in certain instruments or Payments made for certain purposes. First included in the Gross Total Income & then deductions will be allowed from GTI.	Exempt Incomes will not be included in computing gross total income.
<b>Relevant Sections</b>	Sections 80C to 80U in Chapter VI-A and section 10AA of the Income-tax Act.	Section 10 of the Income-tax Act.

### 2. SECTION 80C TO 80U [CHAPTER VI-A]

#### Concept 1: Deduction u/s 80C to 80U may be in relation to

Eligible Payments → Expenditure/ Investments	Eligible Incomes
↓	↓
Certain Investments, Donations & Expenditures are allowed to be deducted from GTI subject to fulfillment of conditions.	Certain Incomes are first added to respective heads of Income / GTI & then deduction is allowed from GTI subject to fulfillment of conditions.

#### Concept 2: Deductions under Chapter VI-A can never exceed GTI [Sec 80A]

	Case I	Case II	Case III
GTI	5,00,000	5,00,000	5,00,000
Deduction u/s 80C to 80U	3,00,000	5,00,000	6,00,000
<b>Total Income</b>			

#### Concept 3:

Deductions under Chapter VI-A is allowed only from Normal Income (taxable at slab) i.e., it is not allowed from special income taxable at flat rate. Example: Income u/s 111A, 112, 112A, 115BB, 115BBE etc.

#### Illustration 1:

Case I

Case II

Case III

Illustration I:	Case I	Case II	Case III
Income from PGBP	1,00,000		
LTCG	3,00,000		
Winning from racehorse	1,00,000		
Deduction u/s 80C	1,20,000		
<b>Solution:</b>			
GTI	5,00,000		
(-) Deduction u/s 80C			
<b>Total Income</b>			
Refer class discussion for solution.			

### 3. SECTION 80C

➤ Allowed only to Individuals/ HUF for eligible investments.

#### 3.1. PREMIUM PAID IN RESPECT OF LIFE INSURANCE POLICY

Deduction u/s 80C	Exemption u/s 10(10D)	TDS u/s 194DA
<p><b>Only Risk</b></p> <p>If insured person dies during insurance period → Sum assured is paid by Insurance Company to Nominee</p> <p>If insured person does not die during insurance period → No amount is paid by Insurance Company</p> <p>Annual Premium is very less</p>	<p><b>Risk + Investment</b></p> <p>Annual Premium is higher &amp; part of premium is invested by Insurance Company in market for returns.</p> <p>There is a sum assured which is payable on death of the insured or on maturity.</p> <p>Actual payment on maturity can be higher than sum assured depending on market conditions.</p>	

Government wants Annual Premium as % of Sum Assured to be less → so that LIP is long term.

Date of issue of LIP →	Prior to 1/4/12	w.e.f. 1/4/12	w.e.f. 1/4/13
Annual Premium as % of Sum assured	Max. 20%	Max. 10%	Others → Max. 10%
			80 U/DDB → Max. 15%
Maturity amount received at the time of maturity is exempt u/s 10 (10D) if			
➤ Annual Premium as % of Sum Assured is within the limit [20%, 10%, 15%].			

#### How to solve Question?

**Step I:** Identify date of issue of LIP to determine maximum % of Sum Assured that can be paid as Annual Premium.

**Step II:** Determine whether actual Annual Premium paid is within the prescribed limit or not.

	Annual Premium as % Sum Assured	
	within limit	Exceeds limit
1) Deduction u/s 80C w.r.t Annual Premium paid	100% of annual premium paid is allowed	Deduction allowed only upto the prescribed limit
2) Maturity paid during PY [including Bonus etc.]	Exempt u/s 10(10D)	Taxable
3) TDS	No TDS	TDS by Insurance company @ 5% of Net Income if maturity amount is 1,00,000 or above u/s 194DA.

**Points to Note:**

- If LIP is issued prior to 1/4/12; maximum Annual Premium as % of Sum Assured should be 20%. w.e.f. 1/4/12; it should be 10% of sum assured. w.e.f. 1/4/13; it should be 15% for handicapped person u/s 80U and 80DDB while 10% for others.
- Life insurance policy must be taken for at least 2 years. If it is discontinued before paying premium for at least 2 years; deduction allowed earlier shall be taxable as income of PY in which it is discontinued.
- In case of death of policyholder; maturity amount received by nominee is always exempt.
- Exemption is not applicable to Key Man Insurance Policy and its Always Taxable.
- Exemption u/s 10(10D) is not available in respect of maturity amount received from an insurance policy taken for disabled person u/s 80DD.

**3.2. COMPARATIVE CHART [SECTION 80C]**

	EPF / SPF/ PPF/ ASF	Life Insurance Policy	National Saving Certificate	5-year Term Deposit/ 5-year Time Deposit
<b>Investment</b>	Allowed as deduction u/s 80C			
<b>Return</b>	Exempt subject to conditions	N.A.	Taxable on Accrual basis every PY. Such Interest is allowed to be deducted u/s 80C for all PYs except PY of maturity	Taxable on Accrual basis every PY
<b>Maturity</b>	Exempt	Exempt if Annual Premium is upto prescribed limit	Exempt	Exempt
<b>Investment in name of</b>	Self, Spouse, Any Child	Self, Spouse, Any Child	Self, Spouse, Minor Child	Self
<b>Note:</b> Maximum limit for investment in 5 year term deposit with scheduled Bank is 50,000. No such limit in case of time deposit in post office.				

**3.10. Contribution in Unit-linked Insurance Plan 1971 or Unit-linked Insurance Plan of LIC Mutual Fund**

Plan can be taken in the name of individual, his or her spouse or any child of the individual

**3.11. Premium paid in respect of a contract for deferred annuity or Any sum deducted from the salary payable of a Government employee for securing a deferred annuity**

**3.12. Tuition fee for Whole Time Education in India for max 2 children → Deduction allowed.**

**Note:** Coaching fee, Correspondence course, part time education → No deduction allowed.

**3.13. Sukanya Samridhi Account**

Deduction is allowed for Investment made in this scheme in the name of Girl child by Guardian.  
Interest and Maturity is exempt u/s 10(11A).

Duration → can be closed after the girl attains age of 21 years.  
can be withdrawn for marriage after 18 years

**3.14. Senior citizen scheme in name of self →**

Deduction is allowed for contribution made in this scheme.

Interest is taxable.

**3.15. Investment in Bonds of**

- National Housing Bank [NHB] &
- National Bank for Agricultural & Rural Development [NABARD].

**3.16. Investment in Deposits of Company engaged in long term Infrastructure, Construction and Finance for Construction etc.**

**3.17. Subscription of notified Mutual Funds and units of Unit Trust of India (UTI)**

**3.18. Investment in Equity Linked Saving Scheme [ELSS] [at least 3 years]**

**3.19. Contribution to notified Pension Fund set up by mutual fund or UTI or National Housing Board**

**3.20. Contribution by Employees of Central Govt. to Additional Account (Tier II A/c) of New Pension Scheme referred to u/s 80CCD.**

Tier II account is the additional account under NPS, contribution to which would qualify for deduction under section 80C only in the hands of a Central Government employee and not u/s 80CCD.

**Note:** Maximum deduction u/s 80C in a PY is restricted to 1,50,000.

**3.21. Loan Taken for acquisition of Residential House/ Housing Loan**

Principal	Stamp duty, Registration fee	Other Charges
Deduction u/s 80C allowed w.e.f. PY in which construction is completed. House property may be <ul style="list-style-type: none"> <li>➤ Vacant; Let out or Self occupied.</li> </ul> ↓ Assessee must hold HP for at least 5 years starting from the end of the PY in which construction is completed ↓ Else, deduction allowed earlier shall be treated as Income of PY in which transfer takes place. ↓ No deduction allowed w.r.t loan taken for repairs/ renovation after issue of completion certificate.	Deduction u/s 80C is allowed provided income is chargeable to tax u/s HP or is self-occupied HP.	Documentation charges, Commission, Brokerage etc., ↓ No deduction



**Note:** No deduction is allowed for any principal of Housing Loan repaid during pre-construction period.

**4. PENSION**

From Employer	Family Pension	Section 80C	Section 80CCC	80CCD
↓ Taxable uth Salary	↓ Taxable uth IFOS. Deduction allowed u/s 57	Contribution to Pension Fund setup by Notified MF / UTI ↓ Taxable uth IFOS	Contribution to Pension Fund/ Annuity plan of LIC or other insurer. ↓ Jeevan Suraksha policy Pension/surrendered value received is taxable uth IFOS ↓ Only Self (max. deduction upto 1,50,000)	New Pension Scheme notified by CG ↓ Atal Pension Yojana

**5. CONTRIBUTION TO NEW PENSION SCHEME NOTIFIED BY CENTRAL GOVERNMENT [SEC 80CCD]**

NPS is voluntary contribution retirement saving scheme designed to enable subscribers to systematically save during their working life so that they receive regular income in form of pension after retirement. It is mandatory for Central Government employees and optional for other employees or other Assesseees.

**CONTRIBUTION TO NEW PENSION SCHEME – ATAL PENSION YOJANA [SECTION 80CCD]**

Contribution by Employer [sec 80CCD(2)]	Contribution by Employee
a. Taxable in hands of Employee uth Salary. b. Deduction from GTI to Employee is allowed upto 10%* of Retirement benefit salary. * 14% in case of CG & SG employee c. Outside the limit of 1,50,000.	Max deduction u/s 80CCD(1) a. Upto 10% of Retirement benefit salary + b. Overall limit of 1,50,000 along with 80C & 80CCC <b>Note:</b> In case of Assessee, other than salaried employee → Max. deduction allowed is 20% of GTI.
	<b>80CCD(1B)</b> [ Additional deduction of 50,000 on employee contribution over and above two limits is allowed

**Note:** As per section 80CCE, maximum permissible deduction u/s 80C, 80CCC & 80CCD(1) is INR 1,50,000. However, the limit INR 1.50 lakh u/s 80CCE does not apply to deductions u/s 80CCD(2) and 80CCD(1B).

**In hands of Employer** → Max. deduction uth PGBP w.r.t contribution to National Pension Scheme u/s 36:  
 → 10% of Retirement Benefit scheme  
 → Excess contribution by Employer to NPS is disallowed u/s 40A(9).

Illustration						
	Case I	Case II	Case III			
Deduction u/s 80C	1,00,000	1,00,000	1,00,000			
80CCC	60,000	30,000	30,000			
Employer Contribution to NPS	40,000	40,000	40,000			
Employee contribution to NPS	70,000	80,000	50,000			
<b>Solution:</b>						
Less: Deduction u/s 80CCD(2)						
Less: Deduction u/s 80C						
Less: Deduction u/s 80CCC						
Less: Deduction u/s 80CCD (1)						
Less: Deduction u/s 80CCD(1B)						
<b>Total Income</b>						

**Taxability of withdrawal from National Pension Scheme**

Fully Exempt					Other Cases		
Withdrawal for purchasing NPS annuity plan	Received by nominee on death of Assessee	Regular withdrawal/ Annuity Payment	Partial withdrawal during continuity of NPS [10(12B)]		Permanent withdrawal on closure of NPS account [10(12A)]		
		↓ Fully taxable uth IFOS	Salaried Employee ↓ 25% Exempt 75% Taxable	Other than Employee ↓ Fully taxable uth IFOS	↓ 60% Exempt 40% Taxable		

**Summary of ceiling limits under these sections:**

80C	Investment in LIP, Deposit in PPF/SPF/RPF etc.	1,50,000
80CCC	Contribution to certain pension funds	1,50,000
80CCD(1)	Contribution to NPS of Government	10% of salary/ 20% of GTI
80CCE	Aggregate deduction u/s 80C, 80CCC & 80CCD(1)	1,50,000
80CCD(1B)	Contribution to NPS (outside the limit of 1,50,000 u/s 80CCE)	50,000
80CCD(2)	Contribution by the Central Government or State Government to NPS A/c of its employees (outside the limit of 1,50,000 u/s 80CCE)	14% of salary
	Contribution by any other employer to NPSA/c of its employees (outside the limit of 1,50,000 u/s 80CCE)	10% of salary

**6. DEDUCTION IN RESPECT OF CONTRIBUTION TO AGNIPATH SCHEME [SECTION 80CCH]**

<b>Meaning</b>	CG scheme launched in 2022 for enrolment of Indian youth in the Indian Armed Forces.
<b>Meaning of Agniveer Corpus Fund</b>	a fund in which consolidated contributions of all the Agniveers and matching contributions of the Central Government along with interest on both these contributions are held.
<b>Features of the Agnipath Scheme</b>	Each Agniveer is to contribute 30% of his monthly customized Agniveer Package to the individual's Agniveer Corpus Fund. Further, the Government will also contribute a matching amount to the 'Agniveer Corpus Fund' which will be added to salary. The Government will also pay to the subscriber interest on the contributions standing in his account.
<b>Deduction</b>	<b>80CCH(1)</b> - provides a deduction for the amount paid or deposited by an Assessee, being an individual enrolled in the Agnipath Scheme & subscribing to the Agniveer Corpus Fund. <b>80CCH(2)</b> - whole amount of contribution made by the Central Government to the said account of an Assessee in the Agniveer Corpus Fund, is allowed as a deduction
<b>Note:</b> Any payment from the Agnipath Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee would be exempt from tax u/s 10(12C)	

**7. HEALTH RELATED DEDUCTIONS**

Section 80D	Section 80DD	Section 80U	Section 80DDB						
<p>Medical Insurance Premium</p> <p>↓</p> <p>Separate Chart</p>	<p>Maintenance including medical treatment &amp; rehabilitation etc. of a dependent disabled person or Deposit under scheme of LIC or other insurer for benefit of such disabled person</p> <p>↓</p> <p>Resident Individual/HUF</p> <p>↓</p> <p>Disability (40% or above) - Flat 75,000 Severe Disability (80% or above) - Flat 1,25,000</p>	<p>Independent disabled</p>	<p>Dependent दुखी बीमार</p> <p>↓</p> <p>Resident Individual/HUF</p> <p>Expenses incurred in treatment of specified disease u/r 11 for self or dependent</p> <p>↓</p> <p>On actual basis, max. upto:</p> <table border="1"> <thead> <tr> <th></th> <th>Max. Deduction</th> </tr> </thead> <tbody> <tr> <td>Normal Citizen</td> <td>40,000*</td> </tr> <tr> <td>Senior Citizen</td> <td>1,00,000*</td> </tr> </tbody> </table> <p>Less: Amt Recovered u/s 80D</p>		Max. Deduction	Normal Citizen	40,000*	Senior Citizen	1,00,000*
	Max. Deduction								
Normal Citizen	40,000*								
Senior Citizen	1,00,000*								

**Common Points to Note for 80D and 80DDB:**

- Need to enclose a certificate from prescribed medical authority w.r.t. disability along with Return.
- Disability refers to blindness, hearing impairment, mental retardness, handicap etc.
- Dependent refers to spouse, children, parents, brother or sister who is wholly or mainly dependent on such individual.

**Note:** Deduction u/s 80DD to Individual/ member of HUF in relation to Deposit made under scheme of LIC or other insurer for benefit of dependent disabled person is allowed

- if such scheme provides for payment of Annuity or lumpsum to such dependent disabled person on
- Death of the Individual/ member of HUF; or
- On his attaining age of 60 years & the deposit in the scheme is discontinued.

Thus, no deduction is allowed u/s 80DD for such deposit if the scheme provides for payment of any amount before death of the Individual and before his attaining 60 years of age.

### Taxability of Maturity Amount received from Insurance Policy in case of section 80DD

Lumpsum payment or Annuity received by the dependent disabled from the Insurance Company for his maintenance is exempt if received on

- Death of the Individual/ member of HUF in whose name subscription was made; or
- On attaining age of 60 years or more by such individual/ member of HUF & deposit in the scheme is discontinued.

**Note:** If Dependent disabled person pre-deceases the Individual or the member of HUF in whose name subscription was made, amount received by such Individual or the member of HUF is taxable.

**Example on section 80DD:** Mr. X has incurred 1,05,000 on the treatment of a specified disease for himself. In this case, deduction allowed shall be INR 40,000 but if a claim of INR 10,000 has been received under mediclaim policy, deduction allowed shall be INR 30,000.

If Mr. Karam is a senior citizen, deduction allowed shall be \_\_\_\_\_.

### 8. DEDUCTION FOR PAYMENT OF MEDICAL INSURANCE PREMIUM/ CG HEALTH SCHEME FOR [SEC 80D]

Self, Spouse, Dependent children	Parents [dependent or independent]
↓	↓
Deduction → Actually paid but max. upto 25,000	Actually paid but max upto 25,000 [combined]
↓	↓
If anyone is senior citizen; Max deduction upto 50,000	If anyone is senior citizen, Max deduction upto →
↓	50,000
Payment must be in any mode other than Cash i.e. cheque, draft, ECS etc.	↓
<b>Note:</b> In case of HUF → Family member.	Payment must be in any mode other than Cash i.e. cheque, draft, ECS etc.
<b>Note:</b> Deduction for Preventive Health check-up → There is overall allowance of 5,000 for preventive health checkup included in above limit. This can be paid in cash.	

### Deduction for Medical Expenditure incurred for Resident Senior Citizen

Such Senior Citizen may have Medical Insurance	Such Senior Citizen may not have Medical Insurance
↓	↓
Deduction u/s 80D allowed w.r.t premium paid & not actual expenditure	Deduction u/s 80D allowed w.r.t actual medical expenditure incurred
<b>Note:</b> Overall limit remains unchanged.	

**Deduction where premium is paid in Lumpsum for more than one PY**

$$\text{Deduction u/s 80D in a PY} = \text{Premium paid} \times \frac{1}{\text{Total No. of relevant PYs}}$$

**Relevant previous year** → PY during which such lump sum amount is paid; and the subsequent PYs during which insurance would be in force.

**9. INTEREST ON LOAN TAKEN FOR HIGHER EDUCATION (AFTER CLASS XII) [SECTION 80E]**

from Bank, Financial Institution, Approved Charitable Trust, NBFC on behalf of Self, Spouse, children or for any person for whom Assessee is guardian.



Deduction for interest paid is allowed for 8 consecutive AYs starting from the year of commencement of loan repayment.

**10. INTEREST ON LOAN TAKEN FOR HOUSE PROPERTY**

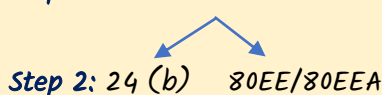
Deduction u/s 24 (b) from NAV		80EE	80EEA
Loan for any HP & from Anywhere		Loan from Bank, Financial Institution, Housing Finance Corporation, NBFC	Bank, Financial institutions Housing Finance corporation, NBFC
Fully self-occupied	Other Cases	First time Home buyer (Individual) of Residential HP	First time Home buyer (individual) of Residential HP
Upto 2 HPs	Let-out, Vacant etc.	Additional deduction of interest → upto 50,000 till repayment continues	Additional deduction of interest → upto 1,50,000 till repayment continues
Aggregate deduction for interest → max. upto 200,000/ 30,000	Deduction for interest paid/ payable → without any limit	<b>Conditions</b> a) SDV of HP upto 50 lakhs b) Loan taken upto 35 lakhs c) Loan sanctioned in PY 2016-17 d) Assessee should not own any HP on date of sanction of loan.	<b>Conditions</b> a) SDV of HP upto 45 lakhs b) No limit on amount of loan. c) Loan sanctioned between 01.04.2019 to 31.03.2022. d) Assessee shouldn't own any HP on date of sanction of loan

**Sanction date of Loan** → used to determine eligibility of deduction u/s 80EE/ 80EEA/ 80EEB

**Date of Disbursement** → used to calculate interest paid/payable.

**Note:** If a person jointly owns HP with spouse and they both paying the instalments of the loan, then both of them can claim this deduction.

**Step 1:** Calculate interest for the relevant PY



**Example:** If interest payable is, say, INR 3,80,000, 2 lakhs can be claimed as deduction u/s 24(b) & 1.5

lakhs as deduction u/s 80EEA.

Even though for let-out property, there is no limit u/s 24, set-off of loss from HP against any other head of income is restricted to 2 lakhs. Hence, excess interest payable can be claimed u/s 80EEA.

If loss u/s HP due to interest > 2 L; excess interest shall be claimed u/s 80EEA.

**11. DEDUCTION FOR INTEREST ON LOAN TAKEN FOR PURCHASE OF ELECTRIC VEHICLE [SEC 80EEB]**

Loan taken by Individual from Bank, Financial Institution, NBFC



Deduction of interest upto 1,50,000 each PY till repayment continues



Loan sanctioned/ taken between 1/4/2019 to 31/3/2023

**12. DONATION OF SUM OF MONEY TO FUNDS [SECTION 80G]**

Controlled by Government (without any limit)		Donation subject to Qualifying Limit	
Deduction = 100% of Donation without any limit	50% of Donation without any limit	Donation to Family planning	Donation to other Charitable/ Religious/ Social Organization/ Trust registered under Income Tax Act
↓	↓	↓	↓
Funds created for purposes like Children, Drug Abuse control, Education, Medical/ Illness, Sports, Army/ Navy/ Air force, Defense, PM & CM Relief Funds, Culture, Swachh Bharat, Namami Gange, PM Cares	Funds created for Drought Relief	100% of Donation subject to Qualifying Amount i.e. maximum permissible deduction	50% of Donation subject to Qualifying Amount
		Qualifying amount = Lower of: a) Amount donated; and b) 10% of AGTI	
AGTI = GTI - LTCG u/s 112 / 112A - STCG u/s 111A - All deductions u/s 80 C to 80U except 80G			
<b>Mode of donation</b>	Upto 2,000 - Any mode	Above 2,000 - Other than cash	

**Note:** Deduction w.r.t. donation made to an institution or fund referred under (IV) will be allowed on the basis of information relating to said donation furnished by the institution or fund to the prescribed income-tax authority, subject to verification as per the risk management strategy formulated by the CBDT.

**Step to solve Question**

<b>Step 1</b>	Calculate GTI
<b>Step 2</b>	Allow all deductions from GTI except 80 G
<b>Step 3</b>	Allow Category I & II of deductions u/s 80G without limit
<b>Step 4</b>	Calculate AGTI
<b>Step 5</b>	Calculate Qualifying Limit → Lower of 10% of AGTI and Amount donated to Category III & IV This is the maximum permissible deduction w.r.t. Amount donated to Category III & IV.
<b>Step 6</b>	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.

**13. DEDUCTION IN CASE OF PAYMENT OF RENT FOR RESIDENTIAL ACCOMMODATION [SECTION 80GG]**

Deduction allowed to Individual (Resident/ Non-resident) who is

- Not receiving House Rent Allowance
- Not having Rent Free Accommodation
- Not having any HP in his name or in the name of his spouse or minor child or HUF at place of residence.

**Note:** Assessee may have HP at any other place, which should not be self-occupied.

**Deduction:** Lower of the following

- a) 5,000 p.m.
- b) Rent paid – 10% of Total Income i.e. [GTI – all Chapter VIA deductions except 80GG]
- c) 25% of Total Income before deduction u/s 80GG.

**Note:** Deduction allowed to employee as well as self-employed/ carrying on PGBP.

**14. DEDUCTION FOR CERTAIN DONATIONS [SECTION 80GGA]**

	Assessee engaged in Business	Other than Business/ Profession
a) Donation for Scientific Research	Sec. 35	Sec. 80 GGA
b) Rural Development Fund or Urban Poverty Eradication Fund	Sec. 35 CCA ↓ 100% deduction	↓ 100% deduction Donation upto 2,000 → Any mode Above 2,000 → other than cash.

**Note:** Deduction in respect of any donation made u/s 80GGA will be allowed on the basis of information relating to such sum furnished by the payee to the prescribed income-tax authority, subject to verification as per the risk management strategy formulated by the CBDT.

**15. DONATION/ CONTRIBUTION TO REGISTERED POLITICAL PARTIES/ ELECTORAL TRUST**

Foreign Company/ Non-Resident	Indian Company [Sec 80GGB]	Other Persons (Resident) [Sec 80GGB]
↓ No Deduction allowed	↓ 100% Deduction without limit w.r.t. ↓ a) Donation/ Contribution; or b) Advertisement in publication of a political party	↓ 100% Deduction without limit w.r.t. ↓ a) Donation/ Contribution

**Note:** No deduction is allowed for donation in cash.

**Note:** Advertisement in magazine or souvenir of a Political Party by Individual is not eligible for deduction.

**Note:** Donation by Local authority & artificial juridical persons funded by the Government is not allowed.

**16. DEDUCTION W.R.T. ROYALTY INCOME FROM**

Copyright in Books [Section 80Q(B)] [Literature, Artistic, scientific novels]	Patent [Section 80RRB]
Resident individual, being an Author or joint author ↓ Max 15% of price; subject to max 3,00,000 ↓ No deduction for text books, school college books, guides, magazine, newspapers etc.	Resident individual, being a patentee Registered as true and first inventor w.r.t. Invention under Patents Act. ↓ Maximum upto 3,00,000
If Royalty is received from outside India → Deduction is allowed if Royalty is brought in India in convertible foreign currency within 6 months from end of PY.	
Note: Limit of 15% of price is not applicable where the royalty or copyright fees is receivable in lumpsum in lieu of all rights of the author in the book.	

**17. DEDUCTION IN RESPECT OF EMPLOYMENT OF NEW EMPLOYEES [SECTION 80 JJAA]**

<p>Assessee covered u/s 44AB having business income</p> <p style="text-align: center;">Deduction = 30% of Additional Employee cost incurred in the PY</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">Deduction is allowable for 3 AYs including AY in which such employment is provided.</p>	<p><b>1) Additional Employee</b> Which has effect of increasing total no. of employees as on last date of preceding PY i.e., PY 2022-23 i.e. 31/3/2023.</p> <p><b>2) Employee</b></p> <ol style="list-style-type: none"> <li>Employee must contribute to Pension Fund. If only Govt. contributes, such employee is not considered.</li> <li>Employee must participate in RPF.</li> <li>Works for at least 240 days in PY (150 days in case of employment in manufacturing of apparel or footwear or leather products)</li> <li>Emolument/ salary upto 25,000 p.m.</li> </ol> <p><b>3) Emoluments</b></p> <ol style="list-style-type: none"> <li>Must be paid in A/c payee cheque, A/C payee draft, ECS &amp; other prescribed electronic mode.</li> <li>Does not include               <ol style="list-style-type: none"> <li>Contribution paid /payable by the employer to any pension fund or provident fund or any other fund for the benefit of employee</li> <li>any lump-sum payment on termination/ retirement/resignation. (retirement benefits)</li> </ol> </li> </ol>
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**Points to Note:**

- Report of accountant should be furnished along with Tax Audit Report upto 30/9 of AY i.e., 1 month prior to date of filing ROI u/s 13/9 (1).



- b) New business → All employees are Additional New employees and entire employee cost is considered.
- c) Such business should not be formed by way of spitting or reorganization of existing business.
- d) If an employee is employed during the previous year for less than 240 days/150 days, but is employed for a period of 240 days or 150 days, as the case may be, in the immediately succeeding year,
  - he shall be deemed to have been employed in the succeeding year.
 Accordingly, the employer would be entitled to deduction of 30% of additional employee cost of such employees for three years from the succeeding year.

**Deduction of Interest income u/s 80TTA & 80TTB along with illustrations done in Chapter Other Sources**

**18. TAX HOLIDAY FOR UNITS ESTABLISHED IN SPECIAL ECONOMIC ZONE (SEZ) [SEC. 10AA]**

A deduction of profits and gains which are derived by an Assessee being an entrepreneur from the export of articles or things or providing any service, shall be allowed from the total income of the Assessee.

The deduction shall apply to an undertaking which fulfils the following conditions:

- i) It begun to manufacture or produce articles or things or provide any service in any SEZ during the previous year relevant to A.Y. 2006-07 or any subsequent assessment year **but not later than A.Y. 2020-21 i.e. upto 31.03.2020.**

However, deduction can be availed in case where

- letter of approval in accordance with the provisions of the SEZ Act, 2005, has been issued on or before 31<sup>st</sup> March, 2020; and
- manufacture/ production of articles or providing services commences upto 31<sup>st</sup> March, 2021.

**Example:** If the SEZ unit has received the necessary approval by 31.3.2020 & begins manufacture or production of articles or things or providing services on or before 31<sup>st</sup> March, 2021, then it would be deemed to have begun manufacture or production of articles or things or providing services during the A.Y. 2020-21 and would be eligible for exemption under section 10AA.

- ii) Assessee should furnish the report of a chartered accountant certifying that the deduction has been correctly claimed one month prior to the due date for furnishing return of income u/s 139(1).
- iii) No deduction u/s 10AA would be allowed to an Assessee who does not furnish a return of income on or before the due date specified u/s 139(1).

**Example:** An individual, subject to tax audit u/s 44AB, claiming deduction u/s 10AA is required to furnish return of income on or before 31.10.2024 and the report of a chartered accountant before 30.9.2024, certifying the deduction claimed u/s 10AA.

**iv) Period of exemptions:**

- i) 100% profit for first 5 years starting from the year of production
- ii) 50% profits for next 5 years
- iii) 50% profits for another 5 years if amount credited to a reserve account i.e. Special Economic Zone Re-investment Reserve Account and utilised in specific manner.

**Example:**

An undertaking is set up in a SEZ and begins manufacturing on 15.10.2009. The deduction u/s 10AA shall be allowed as under:

- a) 100% of profits of such undertaking from exports from A.Y. 2010-11 to A.Y. 2014-15.
- b) 50% of profits of such undertaking from exports from A.Y. 2015-16 to A.Y. 2019-20.
- c) 50% of profits of such undertaking from exports from A.Y. 2020-21 to A.Y. 2024-25 provided certain conditions are satisfied.

If any amount credited to the SEZ Re-investment Reserve Account is mis utilised, it shall be deemed to be the profits in the year in which the amount was so utilised and charged to tax accordingly.

**v) Amount of Exemption**

$$\frac{\text{Profits from business of SEZ unit} \times \text{Export turnover of SEZ unit}}{\text{Total Turnover of SEZ unit}}$$

**Certain Clarifications:**

**a) Export of Computer Software**

Profits and gains derived from on site development & deployment of computer software outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

**b) Meaning of Export turnover:**

Refers to the consideration received in India or brought into India by the Assessee in respect of export by the undertaking. However, it does not include

➤ Freight, telecommunication charges, insurance

attributable to the delivery of the articles or things outside India or expenses incurred in foreign exchange in rendering of services (including computer software) outside India.

**Note:** Above expenses are to be excluded both from "export turnover" and "total turnover", while working out deduction admissible u/s 10AA.

**Points to Note:**

- i) Deduction u/s 10AA would be available to a Unit, if the proceeds from sale of goods or provision of services is received in, or brought into, India by the Assessee in convertible foreign exchange, within a period of 6 months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.
- ii) Business loss u/s 72(1) or loss u/s "Capital Gains" u/s 74(1), in so far as such loss relates to SEZ unit, shall be allowed to be carried forward or set off.
- iii) In case of amalgamation/ demerger, benefit under this section shall be accrued to amalgamated/ resultant company from the PY in which amalgamation/demerger took place.
- iv) If the Assessee pays tax under default tax regime u/s 115BAC, neither deduction u/s 35AD nor deductions under Chapter VI-A under the heading "C.-Deductions in respect of certain incomes" or section 10AA would be available to him.

**Note:** Deduction u/s 10AA would be available only if they have exercised the option of shifting out of the default tax regime provided u/s 115BAC(1A).

Deduction is available only under optional tax regime, where they pay tax under normal provisions of Act.

**19. SECTION 80AC**

In following cases, Assessee must furnish Return within due date u/s 139(1) in order to be eligible to claim deduction under Chapter VI-A under the heading "C. – Deductions in respect of certain incomes" i.e.

a) Section 80IA series	b) Section 80JJAA	c) Section 80QQB	d) Section 80RRB	e) Section 10AA
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↓

Filing belated return shall debar Assessee from claiming the above deductions.

**Note:** If an Assessee has claimed deduction under Chapter VI-A under the heading "C. – Deductions in respect of certain incomes & section 10AA, he is not allowed deduction under any other provision of the Act for such assessment year. [Sec 80A]

**20. DIFFERENT TAX TREATMENT UNDER OPTIONAL TAX REGIME & DEFAULT TAX REGIME**

S No.	Items	Optional tax regime i.e. Normal provisions of Act	Default Tax Regime u/s 115BAC
1.	80CCD(2) [Employer's contribution to pension scheme of Central Government]	Allowed	Allowed
2.	80CCH(2) [Central Government's contribution to Assessee's account in Agniveer Corpus Fund]	Allowed	Allowed
3.	80JJAA	Allowed	Allowed
4.	All other Deductions	Allowed	Not Allowed

# CHAPTER 13

## TDS & TCS

### Section intensive chapter

TDS → Tax Deduction At Source

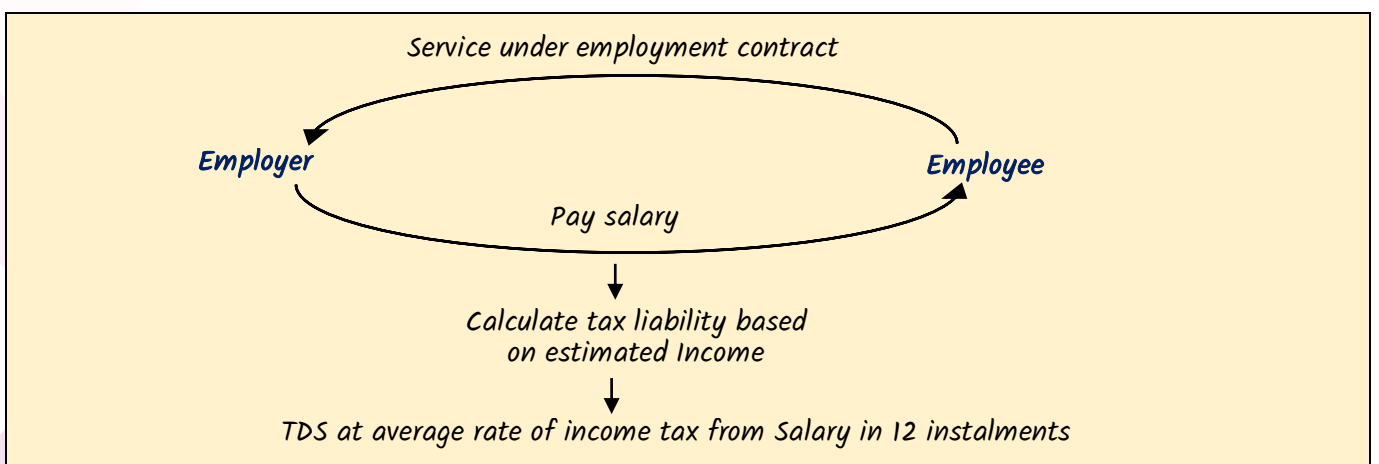
TCS → Tax Collection At Source

Introduction of TDS → Refer discussion in PGBP [Sec 40 (a)(i) and 40 (a)(ia)]

### PART I – TDS

#### 1.1. TDS ON SALARY [SEC 192]

<b>Payment By / Deductor</b>	Employer
<b>Payment To / Deductee</b>	Individual Employee (resident or non-resident)
<b>Nature of Income</b>	Income earned by employee by way of Salary
<b>Time of Deduction</b>	At the time of <b>payment</b>
<b>Threshold Limit</b>	Basic exemption limit (INR 2,50,000/ 3,00,000, as the case may be). This is taken care of in computation of the average rate of income-tax.
<b>Rate of Deduction</b>	Average rate of income- tax computed on the basis of the rates in force. The employer, shall seek information from each of its employees regarding their intended tax regime for each year and upon intimation, the deductor shall compute his total income, and deduct tax at source as per the option exercised. If intimation is not made by the employee, it would be presumed that the employee continues to be in the default tax regime u/s 115BAC.



**Note:** Average rate of income-tax means the rate arrived at by dividing the amount of income-tax calculated

on the total income, by such total income.

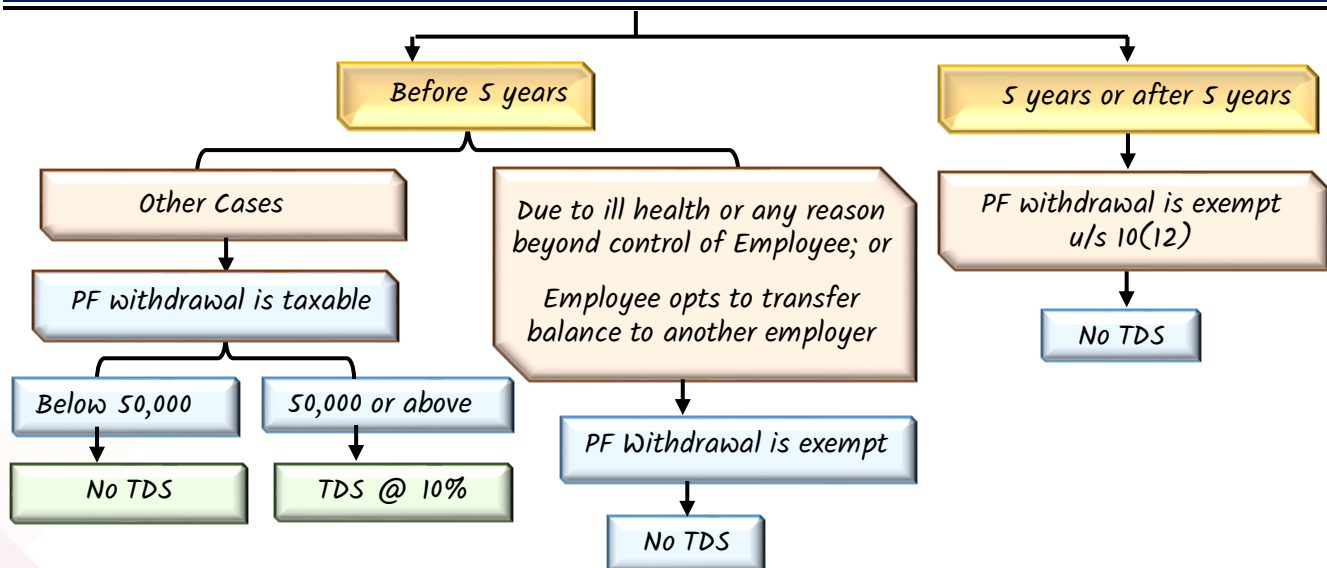
**Note:** As per section 192(1A), an employer may pay tax on non-monetary perquisites provided to employees in lieu of TDS from salary payable to the employee. Such tax will have to be worked out at the average rate applicable to aggregate salary income of the employee and payment of tax will have to be made every month along with TDS on monetary payment of salary, allowances etc.

### Estimated Income Includes:

- Income from other heads of income is included while Loss of only HP to be considered.
- Income from any other employer or previous employer is also considered.
- Deduction available under Income-tax Act is allowed subject to submission of proof.
- Relief u/s 89 is considered.
- The employer shall require the employee to furnish evidence of the following claims for estimating his income or computing the tax deduction of tax at source (only if employee has intimated his employer of his intent to exercise the option of shifting out of default tax regime provided u/s IISBAC:

S No.	Nature of Claim	Evidence or particulars
1	House Rent Allowance	Name, address and PAN of the landlord(s) where the aggregate rent paid during the PY exceeds INR 1 lakh.
2	Leave Travel Concession or Assistance	Evidence of expenditure.
3	Deduction of interest u/s House Property	Name, address and PAN of the lender.
4	Deduction under Chapter VI-A	Evidence of investment or expenditure.

### 1.2. TDS ON PREMATURE PF WITHDRAWAL FROM EMPLOYEE'S PROVIDENT FUND [SEC 192 A]



**Note:** If PAN is not submitted, Employer shall deduct tax at maximum marginal rate (30%+ 37%+ HEC).

### 1.3. TDS ON INTEREST

	On securities (Debenture, Bond)	Other than Interest on Security (FD, Loan)
Section	193	194A
Rate	10%	10%

Limit	Interest payable by widely held company to Resident Individual/HUF by A/c payee cheque	8% saving (taxable) Bond	Other cases (payment in cash or by closely held co.)	Payer is other than Bank	Banks [FIs, PO + HFC]	
					Sr. Citizen	Other
	Exceeding 5,000 in a PY	Exceeding 10,000 in a PY	No limit	Exceeding 5,000 in a PY	Exceeding 50,000 in a PY	Exceeding 40,000 in a PY

**Points to Note in case of section 193**

- a) Interest on Government security + specified purpose → Exempt u/s 10(15)
- b) Interest on Government securities/ bonds → Taxable but No TDS
- c) Interest on other than Government securities/ bonds → Taxable + TDS u/s 193
- d) **No tax shall be deducted at source in the following cases u/s 193:**
  - i) Any interest payable on National Defense Bonds or on 7-year National Savings Certificates.
  - ii) Any interest being paid to Banks including co-operative banks, Insurance Companies or other notified financial organizations.
  - iii) Interest payable on securities held in dematerialized form.
  - iv) Interest payable on PFCL 54EC Capital Gains Bond & IRFCL 54EC Capital Gains Bond.

**Points to Note in case of section 194A**

- a) Deductor in case of 194A is
  - i) individual or HUF if total sales, from business or profession exceed
    - INR 1 crore in case of business or
    - INR 50 lakhs in case of profession
    - during the immediately preceding F.Y., responsible for paying interest.
  - ii) Any person other than individual or HUF.
- b) In case of a bank following Core-branch Banking Solutions (CBS) software, TDS is deducted if total interest paid/credited from all of its branches to a depositor exceeds the prescribed limit.
- c) **Tax shall not be deducted in the following cases u/s 194A:**
  - i) Interest paid by a firm to a partner of the firm.
  - ii) Any interest paid to Bank/ LIC / UTI or other notified financial institutions like HUDCO.
  - iii) Interest paid by a Co-operative society (other than co-operative bank) to their members.
  - iv) Interest on income tax refund.
  - v) Interest paid in relation to Zero Coupon Bond.
  - vi) Income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed INR 50,000.
- d) **Applicability of provisions for deduction of tax at source u/s 194A on interest on fixed deposit made in the name of the Registrar General of Court or the depositor of the Fund on directions of Courts**
  - No TDS till the matter is decided by the Court.
  - However, once the Court decides the ownership of the money lying in the fixed deposit, the provisions

of section 194A will apply to the recipient of the income.

**1.5. TDS ON DIVIDEND/ DEEMED DIVIDEND [INCLUDING DIVIDEND ON PREFERENCE SHARES]**

Section	194		
Rate	10%		
Limit	Payee is Individual + payment other than cash	Payee is Individual + cash payment	Other cases
	Exceeding 5,000 in a F.Y.	No limit	No limit

Note: TDS u/s 194 will not apply to dividend credited or paid to LIC, GIC, subsidiaries of GIC or other insurer.

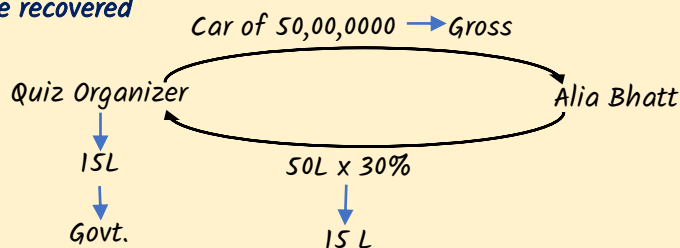
**1.6. TDS ON CASUAL INCOME**

	Winning from any lottery, crossword puzzle or card game or other game of any sort	Winnings from online games	Winning from Horse Race
Section	194B	194BA	194BB
Rate	30%	30%	30%
Limit	Exceeding 10,000 in a F.Y.	On the net winnings in a person's user account as computed in prescribed manner.	Exceeding 10,000 in a F.Y.

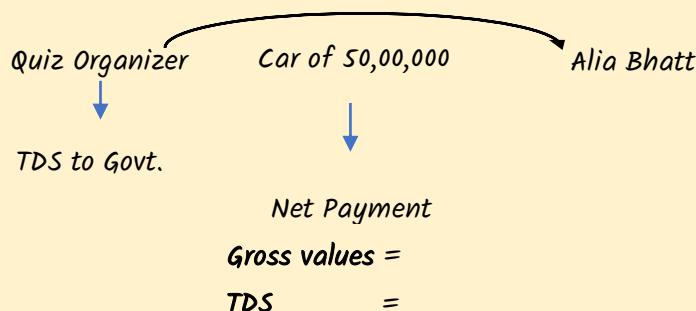
Note: TDS u/s 194AB shall be deducted at the end of the F.Y. In case, there is withdrawal from user account during the F.Y., tax would be deducted at the time of such withdrawal on net winnings. In addition, tax would also be deducted on the remaining amount of net winnings in the user account as computed in prescribed manner at the end of the F.Y.

**Where winning is in kind**

**a. Where TDS is to be recovered**



**b. TDS is not to be Recovered**



**1.7. TDS ON PAYMENT TO CONTRACTOR/ SUB-CONTRACTOR**

**[SEC 194C]**

<p>Deductor</p> <p>↓</p>	<p>2. Makes payment for contract of work</p> <p>3. Amount exceeding 30,000 (single/ one-time payment) 1,00,000 (aggregate payment during PY)</p>	<p>4.</p> <p>Individual / HUF → 1%</p> <p>Other → 2%</p>
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1. Any person, other than Individual/ HUF whose Turnover in preceding PY w.r.t

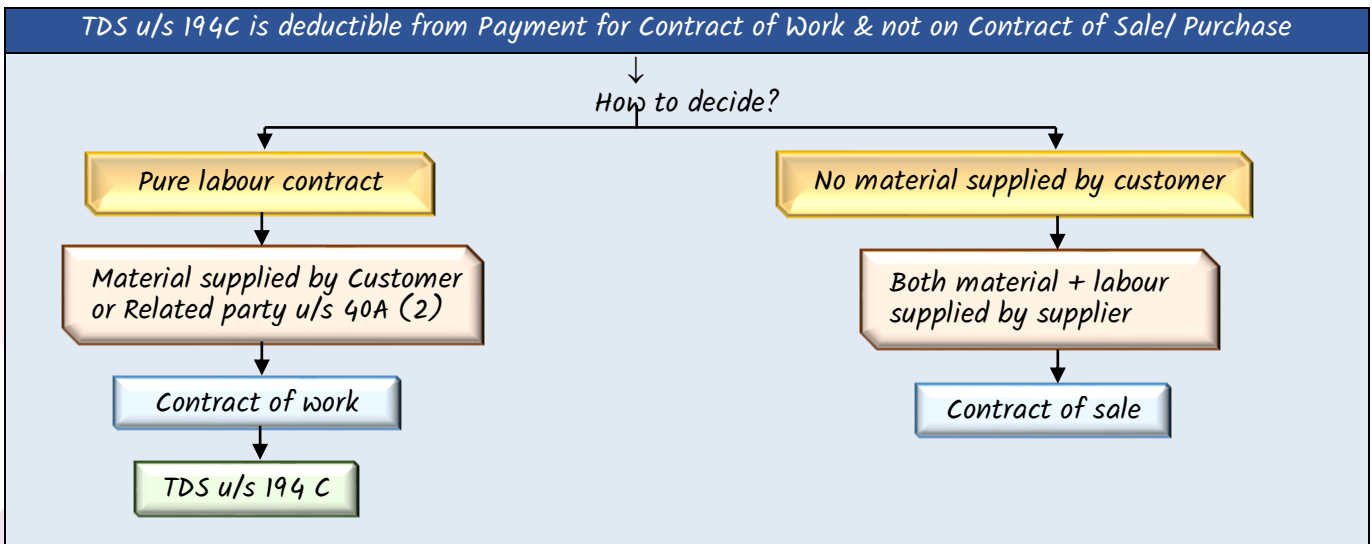
- Business does not exceed 1 crore &
- Profession does not exceed 50 Lakhs.

**Illustrations: Whether following Payers are liable to deduct TDS u/s 194C?**

- a) Firm/ Company → Turnover 20 lakhs →
- b) Individual/ HUF → Turnover 20 lakhs →
- c) Individual/ HUF
  - Turnover 70 lakhs w.r.t. Business →
  - Turnover 70 lakhs w.r.t. Profession →
  - Turnover 1 crore w.r.t. Business →
  - Turnover 1,00,00,001 w.r.t. Business →

**Examples:** Ravi is engaged in a business & turnover of business is 90 lakhs in PY 2022-23 and he has to pay 1 lakh to Shashank in PY 2023-24 in connection with a contract. In this case, amount of TDS shall be Nil. If his turnover in PY 2022-23 was INR 2,20,00,000, amount of TDS shall be 1,000. If payment is to given to Tax Ltd. amount of TDS shall be INR 2,000.

Contract of work includes				
<b>A</b>	<b>B</b>	<b>C</b>	<b>C</b>	<b>C</b>
↓	↓	↓	↓	↓
Advertising	Broadcasting, Telecasting & Production of Programs	Catering	Construction	Carriage of goods and passengers other than railway





Supply of material → Sale

Supply of labour → Contract of Work

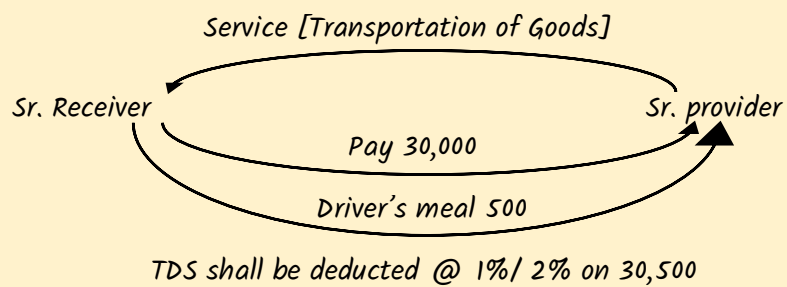
Supply of L + M → Sale

**Points to Note:**

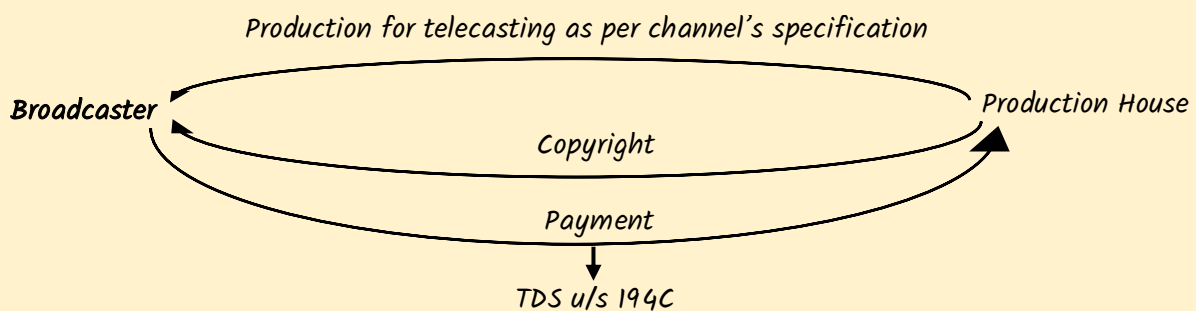
a) No TDS u/s 194C, if the contract is for personal purpose of Individual/ HUF

Catering service of 2 lakhs availed by Ram for  $\left\{ \begin{array}{l} \text{Marriage} \rightarrow 194C \\ \text{Office party} \rightarrow 194C \text{ applicable} \end{array} \right.$   
 Catering of 2 lakhs availed by any person other than Individual/ HUFs → 194C

b) TDS u/s 194C is charged on the Gross Amount paid/ payable including Reimbursements

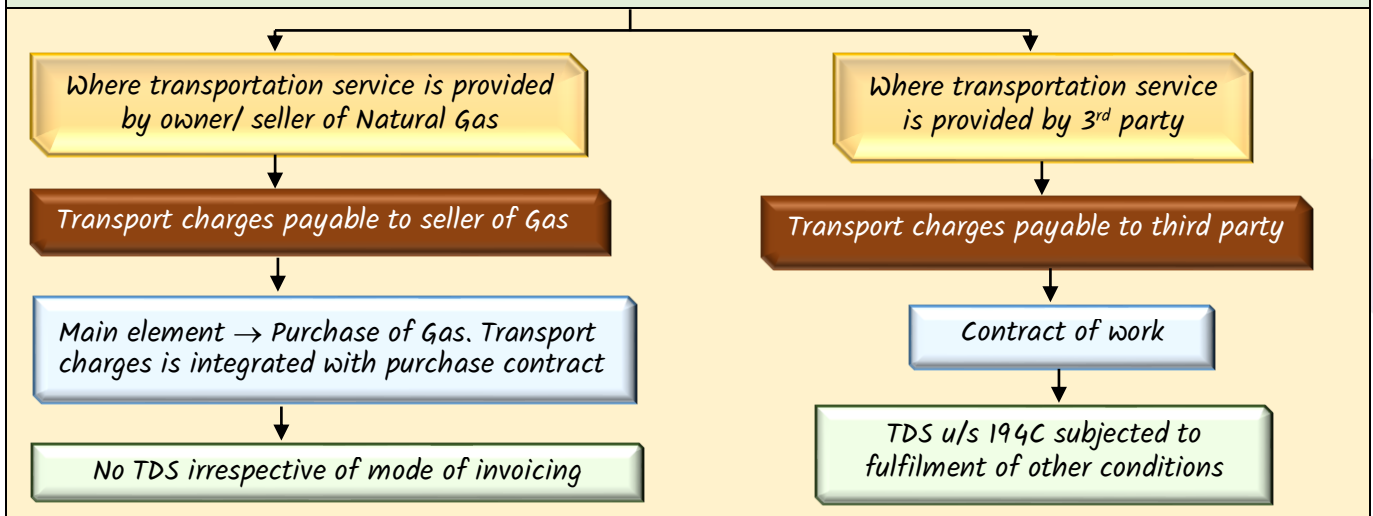


c) TDS on Production for Telecasting as per Channel's specification



d) TDS on Advertisements in Media/ News Industry – Refer class discussion

**e) Gas Transport Charges**



**Benefits to GTA**

1. 40 A(3) → Payment other than prescribed modes  
General Limit → upto 10,000  
GTA → upto 35,000
2. Presumptive Income u/s 44AE
3. No TDS if
  - a. he submits PAN; &
  - b. maximum vehicle owned does not exceed 10 at any time during the PY.

**Note:** If PAN is not submitted by deductee → Tax deducted shall be higher of

- a. Rates in force; and
- b. 20% [sec 206AA]

**1.8. TDS ON COMMISSION**

Section	194H	194G
Nature	Commission or brokerage w.r.t. sale/ purchase of goods or rendering of service	Commission on sale on lottery tickets
Rate	5%	5%
Limit	Exceeding 15,000 in a F.Y.	Exceeding 15,000 in a F.Y.

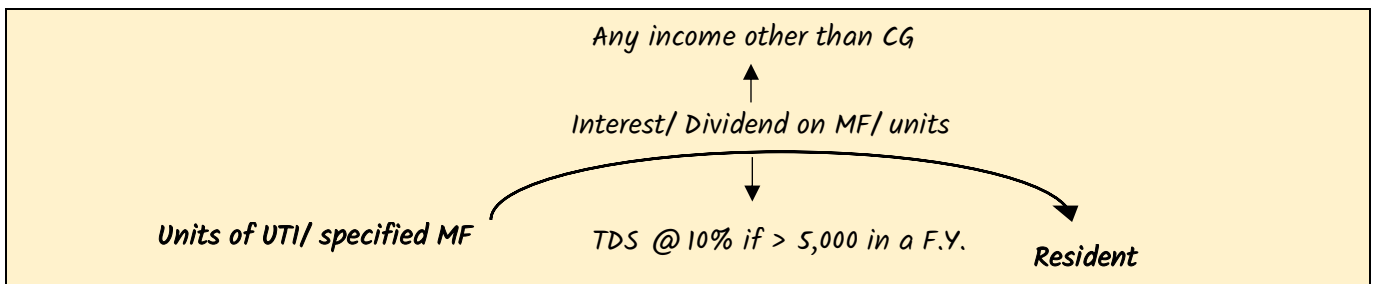
Section	194D	194DA
Nature	TDS on Insurance Commission	TDS on Any sum paid under a Life Insurance Policy not fulfilling the conditions specified u/s 10(10D)
Rate	5% if payee is non corporate resident	5% of net income (Maturity amount paid by Insurance Company – Total premium paid by Assessee over life of

	10% if payee is domestic company	policy)
Limit	Exceeding 15,000 in a F.Y.	Maturity amount is 1,00,000 or more

**Following are not subjected to TDS u/s 194H:**

- Commission to employees → TDS u/s 192.
- Commission for rendering professional services notified u/s 44AA → TDS u/s 194J.
- Commission paid by Company to its directors who are not covered u/s 192 → TDS u/s 194J.
- Insurance Commission → TDS u/s 194D.
- Commission on sale of lottery tickets → TDS u/s 194G.
- Trade discount on sale is not a commission and hence no tax is deductible.
- Bank Guarantee commission.
- Payments by Television Channels to advertising agencies for booking or procuring advertisements.

**1.9. INCOME ON UNITS OTHER THAN IN THE NATURE OF CAPITAL GAINS [SEC 194 K]**



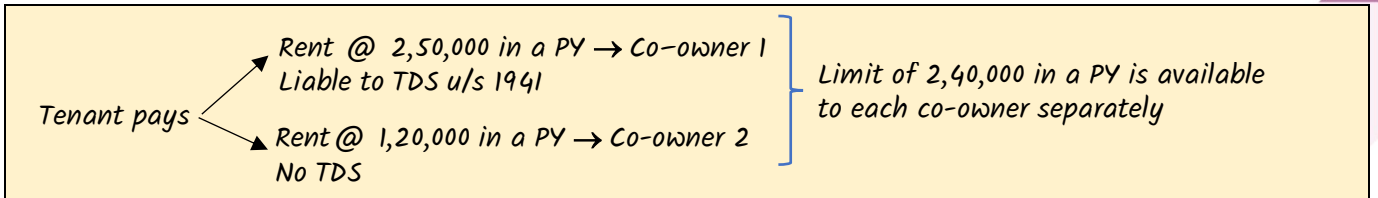
**1.10. TDS ON RENT [SEC 194 I]**



Section	194I	
Limit	Exceeding 2,40,000 in a PY	
Rate	Plant and Machinery	Land, Building, Furniture and fittings
	2%	10%

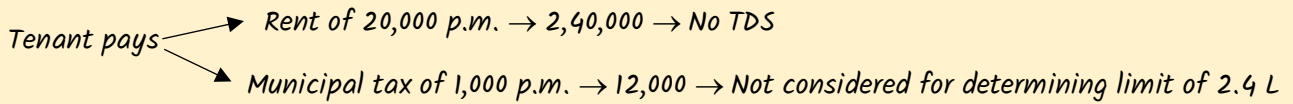
**Points to Note:**

- Co-owners having definite share in HP



**b) No TDS on municipal tax or ground rent borne by the Tenant.**

Ram pays 21,000 p.m. to landlord as rent. This includes 1,000 as municipal tax.



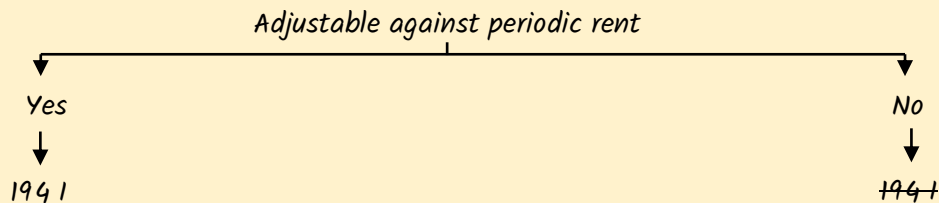
**c) Cold Storage charges / Runway charges or parking charges / Passenger Service Fee**

No TDS u/s 194I.

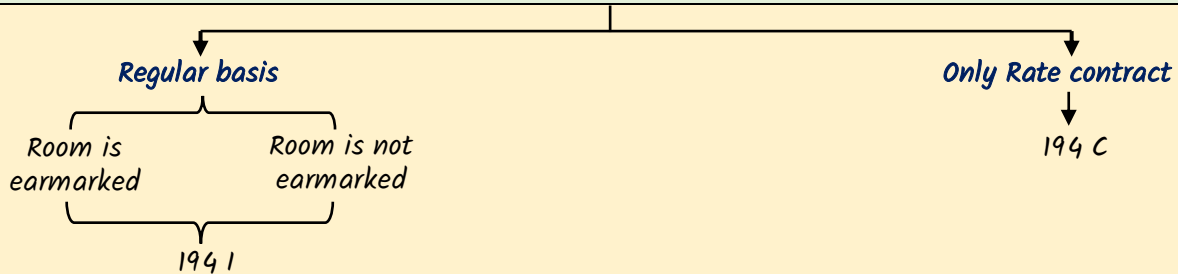
TDS u/s 194C as objective is more than mere renting of Asset. Rather, additional service is provided.

Rent + Add services → Contract → TDS u/s 194C

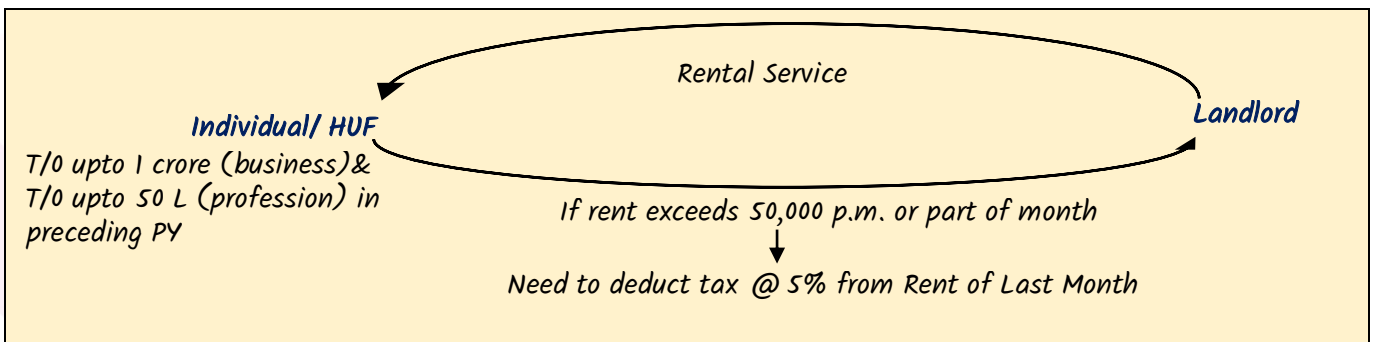
**d) Lumpsum Lease Premium or One-time Advance Upfront Lease Charges**



**e) Renting Hotel Room**



**1.11. PAYMENT OF RENT BY CERTAIN INDIVIDUALS OR HUF [SEC 194 IB]**



**Note:** Maximum TDS u/s 194 IB limited to Rent of last month i.e. TDS can't exceed Rent of last month.

**Note:** Rent of last month if not vacated during PY → March of relevant PY

Rent of last month if vacated during PY → Last month of tenancy.

**Note:** No requirement to obtain TAN. Special compliance procedure discussed later.

### 1.12. TDS ON IMMOVABLE PROPERTY

Section	1941A	194 LA	1941C
<b>Nature</b>	Payment on Purchase of immovable property (Non-Rural Agricultural land)	Payment of compensation* under Compulsory acquisition (except rural or urban Agricultural land)	Specified Agreement u/s 45 (SA)
<b>Rate</b>	1% of actual consideration or SDV, whichever is higher	10%	@ 10% on consideration other than in kind
<b>Limit</b>	50 lakhs & above	Exceeding 2,50,000	No limit
	Includes charges like parking charges, club membership, water & electricity connection charges etc.	If land is acquired under RFLTLARR Act 2013 → No TDS *includes enhanced compensation	Detailed discussion in CG Applicable where 1941A is not applicable.

**Note:** In case of TDS u/s 1941A, No requirement to obtain TAN. Special compliance procedure discussed later.

#### Example on 1941A

Shyam has purchased one building for INR 40 lakhs while SDV is 50 lakhs. In this case, TDS shall be 50,00,00 = INR 50,000.

### 1.13. FEES FOR PROFESSIONAL OR TECHNICAL SERVICES/ ROYALTY/ NON-COMPETE FEES/ DIRECTOR'S REMUNERATION [SECTION 194 J]

	Professional Fee	Fee for Tech. service	Royalty	Non-compete Fee	Director's Remuneration
<b>Deductor</b>	Similar to 194C	Similar to 194C	Any person other than Individual / HUF	Any person other than Indi/ HUF	Company
<b>Limit</b>	Exceeding 30,000 in a PY	Exceeding 30,000 in a PY	Exceeding 30,000 in a PY	Exceeding 30,000 in a PY	No limit
<b>Rate</b>	10%	2%	10%/ 2%*	10%	10%

#### Points to Note:

- \*Payment of Royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films → 2% TDS u/s 194J
- Director's Remuneration means sitting fee or retainership fee to directors who are not employees.
- The above limits are standalone & needs to be checked separately.
- Like 194C, TDS u/s 194J is
  - Levied on gross amount including Reimbursements.
  - Not levied in case of availing services for personal purpose.

**Meaning of "Professional services" – same as notified u/s 44AA.**

Additional Professional services u/s 194 J

Sports Persons	Umpires and Referees	Coaches & Trainers	Team Physicians & Physiotherapists
Event Managers	Commentators; Sports Columnists	Anchors	Recruitment Agency

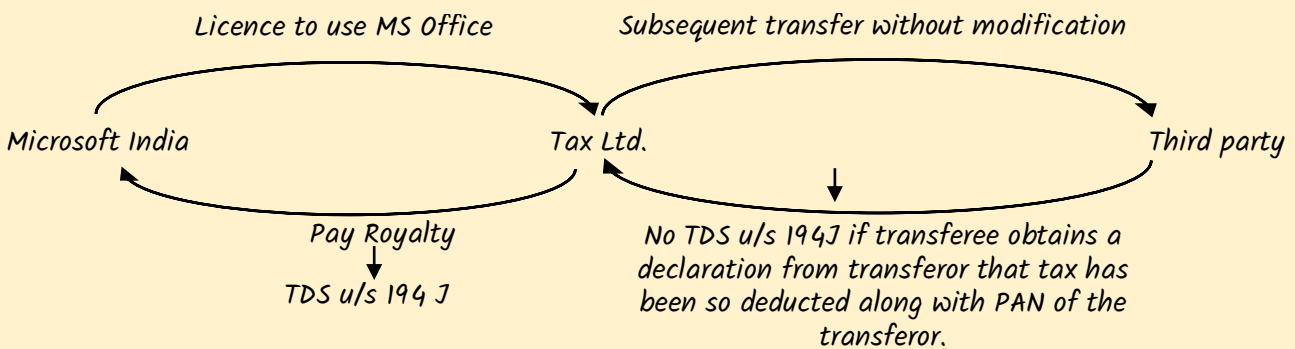
**Note:** This section will not apply to professions of teaching, sculpture, painting etc. unless they are notified.

**Meaning of “Fees for technical services”**

Managerial services	Technical services	Consultancy services
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**Special Cases**

**1) TDS on Royalty for use of Computer Software**

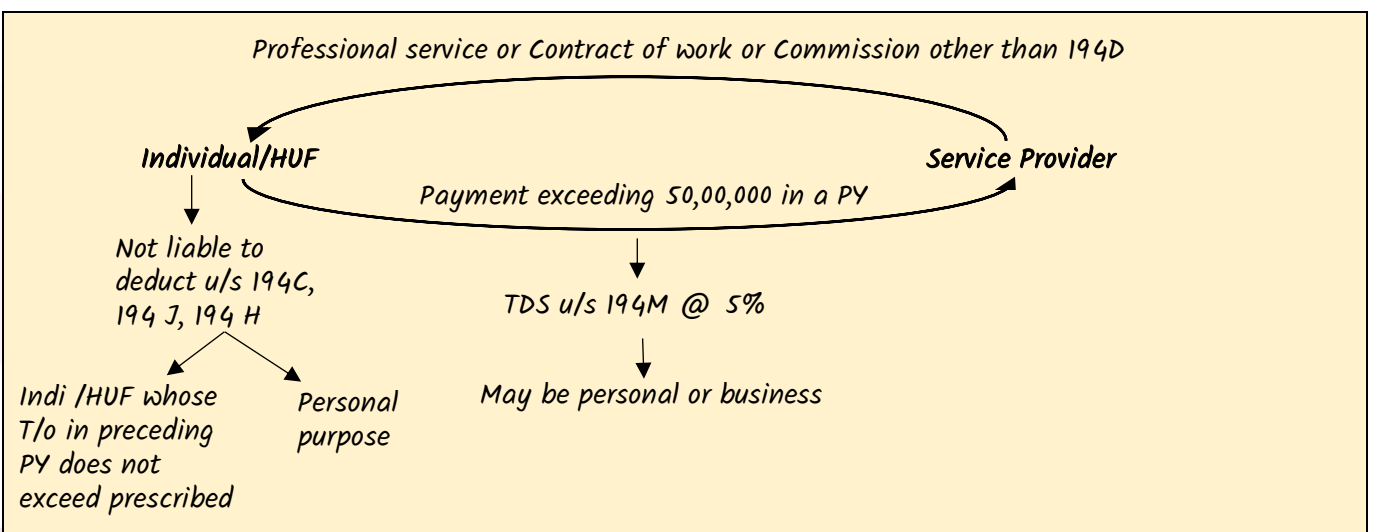


- 2) Payment by Third Party Assurance to hospitals → 194 J is applicable
- 3) Providing mobile cellular services to subscribers is not a technical service → No TDS u/s 194J
- 4) Payee engaged only in the business of operation of call centre → 2% TDS u/s 194J

**Points to Note:**

- 2% TDS rate is for 3 services → Technical Services, Royalty for cinematographic films and business of operation of call centre.
- For all other 4 services u/s 194J → TDS rate is 10%.

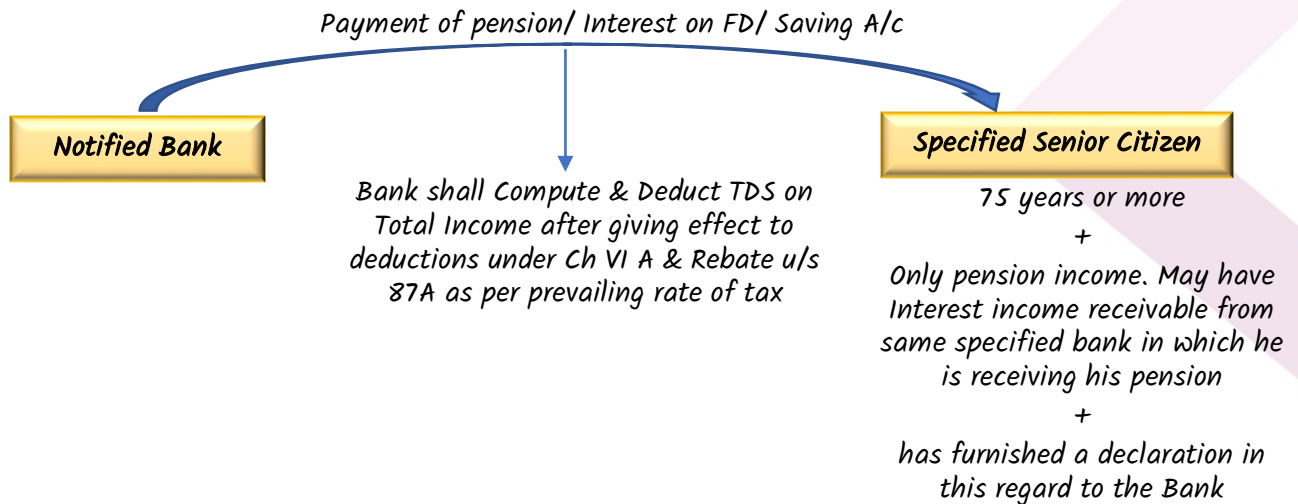
**1.14. PAYMENT MADE BY AN INDIVIDUAL OR A HUF FOR CONTRACT WORK OR BY WAY OF COMMISSION OR BROKERAGE OR FEES FOR PROFESSIONAL SERVICES [194 M]**



**Note:** First check for the applicability of 194C, J, H. If it's not applicable, then only check for 194 M.



**1.16. TDS ON PENSION & INTEREST ON BANK ACCOUNT TO SPECIFIED SENIOR CITIZEN [SEC 194P]**

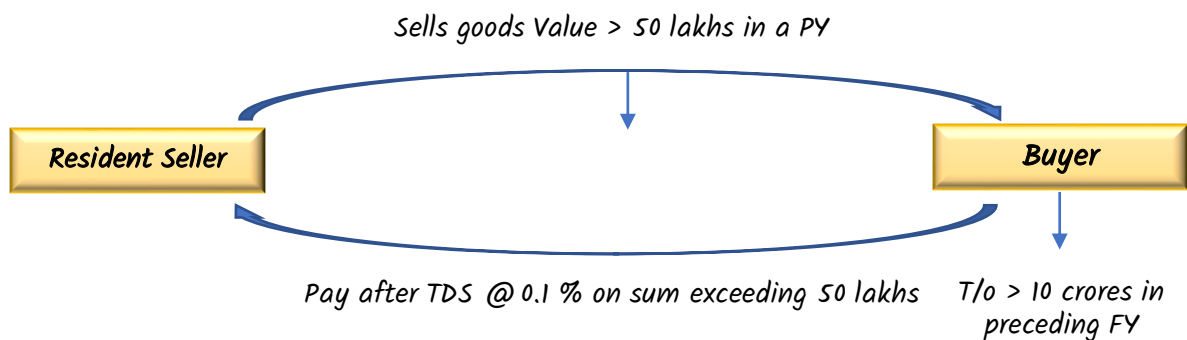


**Note:** If TDS u/s 194P is deducted, Senior citizen is not required to file Return of Income.

**Note:** If the fixed deposit or saving account is with a bank other than the bank from where pension is being credited or the Assessee has some other Income, then, he would not qualify as a “specified senior citizen”. Consequently, Bank paying pension would not be liable to deduct tax u/s 194P.

In this case, Senior citizen would have to file his return of income u/s 139 if his total income (without giving effect to deduction under Chapter VI- A) exceeds the basic exemption limit.

**1.17. TDS ON PURCHASE OF GOODS [SECTION 194Q]**



**Example:**

Amount paid 70 lakhs → TDS = 20 lakhs x 0.1%

If no PAN given by seller, TDS @

- General Law → 20% or prevailing rate; higher
- 1940 & 194Q → 5% or prevailing rate; higher

**Note:** Where the sum is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such creditingshall be deemed to be credit to the account of the payee for the purposes of this section.

**Note:** In case of a transaction to which both section 194Q and section 206C(1H) applies, tax is required to be deducted under section 194Q.

**Note:** In case of a transaction where Tax is collectible u/s 206C, TDS u/s 194Q is not applicable.



**1.18. TDS ON BENEFIT OR PERQUISITE IN RESPECT OF BUSINESS OR PROFESSION [SEC 194R]**

Deductor  $\xrightarrow{\text{Perquisite/ Benefit [Monetary or Non-Monetary] in course of B/ P}}$  Resident

↓

TDS @ 10% if aggregate Value exceeds 20,000 in a PY

Any person, other than Individual/ HUF whose Turnover in preceding PY w.r.t

- Business does not exceed 1 crore &
- Profession does not exceed 50 Lakhs.

**Note:** It does not matter whether the perquisite or gift is service or inventory or capital asset of the Assessee or whether such perquisite/ benefit is taxable or exempt in hands of Recipient.

**Note:** If benefit or perquisite being a product like car, mobile etc. is returned after using for the purpose of rendering service, then it will not be treated as a benefit/perquisite for the purposes of section 194R.

1. How to enforce this Section where benefit or perquisite is wholly in kind or partly in kind and partly in cash but the part in cash is not sufficient to meet the liability of TDS?

↓	↓
If TDS is recovered Form Recipient	If TDS is not recovered from Recipient
↓	↓
Ok	Consider value of perquisite/ benefit given as Net of TDS. Need to Gross up & pay TDS on gross up value. Similar to case in Causal Income

2. How to determine value of Perquisite/ Benefit?

↓	↓
If perquisite / benefit giver purchased the perquisite/ benefit for giving it	If perquisite/ benefit giver manufactures the items
↓	↓
Value shall be the purchase price incurred	Value = Price it charges form its customers for such items

**2. SPECIAL POINTS**

1. TDS on Amount Exceeding the Limit or Equal to the Limit?

Normally, limits for TDS are exceeding the relevant amount. However, in following cases, limit for TDS is the prescribed amount & above:

- a) 192A (50,000 & above)
- b) 194DA (1,00,000 & above)
- c) 194EE (2,500 & above)
- d) 194IA (50,00,000 & above)

### II. When is Tax Deductible at Source?

**General Law** → At time of payment or credit; whichever is earlier.

**Exceptions:** i.e. in following cases, TDS is deductible when amount is paid to the payee:

192	192A	194	194B	194BB	194DA
194EE	194F	194LA	194N		

### III. TDS on Gross Amount or Amount Exceeding the Limit?

**General Law** → If the limit specified for deduction of TDS is reached, TDS is deducted on total amount.

However, in case of section 194N and 194Q, TDS is deducted on amount exceeding the limit.

### 3. BAR AGAINST DIRECT DEMAND ON ASSESSEE

[SECTION 205]

Where tax is deductible at source under any section, the Assessee is not required to pay the tax himself to the extent the tax has been deducted from that income.

### 4. DIRECT PAYMENT OF TAX [SEC 191(2)]

Direct payment of tax, where income of the Assessee includes value of

- specified security or sweat equity shares
- allotted or transferred free of cost or at a concessional rate
- to the assessee by an employer being an eligible start up
- the income-tax on such income has to be paid by the Assessee within 14 days from the earliest of the following dates -
  - after the expiry of 48 months from the end of the relevant assessment year; or
  - from the date of the sale of such specified security or sweat equity share by the assessee; or
  - from the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity shares.

### 5. TAN [SEC 203A]

Every person liable to deduct tax at source is required to apply for -

- tax deduction account number
- within one month from the end of month in which tax was deducted for first time.

**Example:** Ram has deducted tax at source for the first time on April 15, 2023. He needs to make an application for obtaining TAN by May 31, 2023.

Three sections where there is no need of TAN to deduct TDS

- |         |          |          |
|---------|----------|----------|
| a) 194M | b) 194IA | c) 194IB |
|---------|----------|----------|

### 6. NO TDS ON GST

Audit service of 10 L

CA Kishan

Company

Simplifying Complexity

Harder you work, luckier you get

Paid 10 L + out of pocket exp 2L

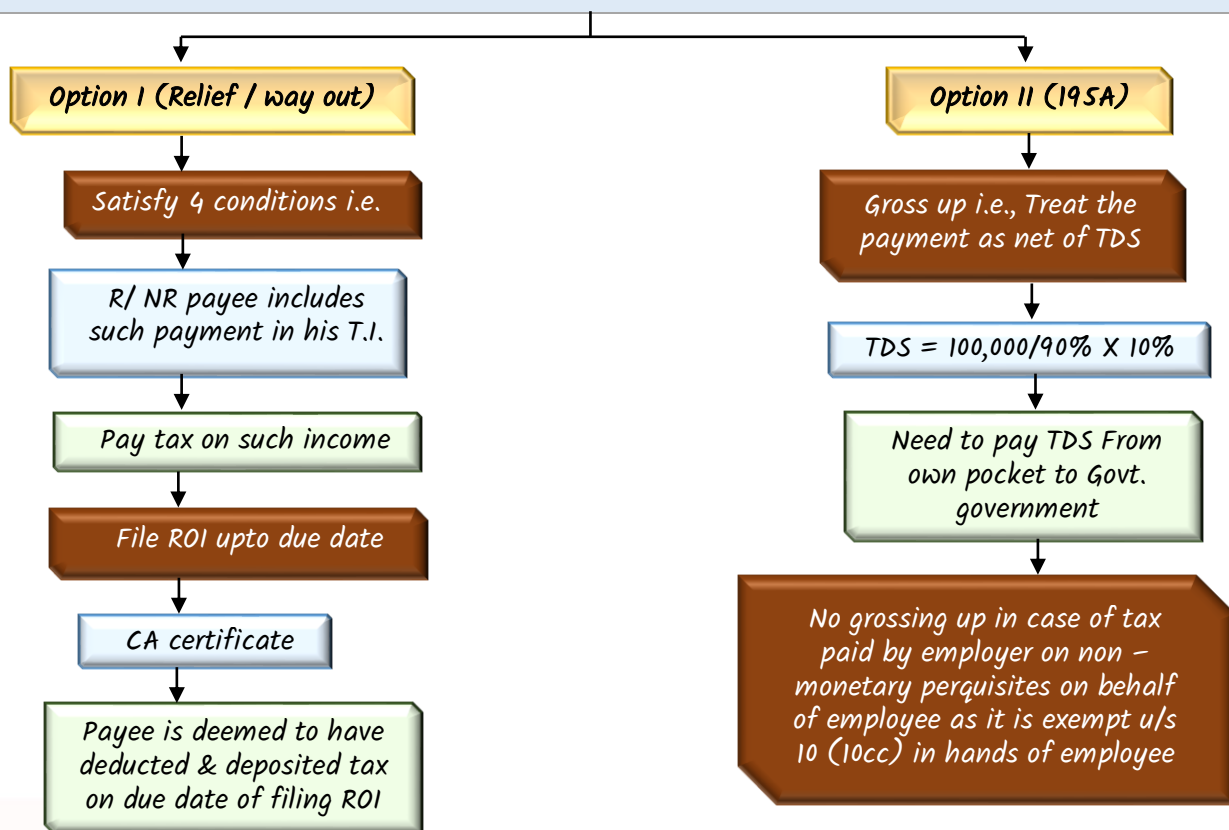
Audit fee	10,00,000
Out of pocket exp	2,00,000
Taxable value as per sec 15 of CGST Act	12,00,000
GST @ 18%	2,16,000
Total	14,16,000

TDS u/s 194J shall be deducted on 12 lakhs i.e., no deduction on GST.

## 7. INCOME PAYABLE NET OF TAX [SEC 195A]

Ram agrees to pay 1,00,000 to CA KK for his audit service. As per agreement, CA KK is paid 1,00,000.

Now what about TDS?



**Note:** No grossing up is required in the case of tax paid u/s 192(1A) by an employer on the non-monetary perquisites provided to the employee as it is exempt in hands of employee.

## 8. CERTIFICATE FOR DEDUCTION OF TAX AT A LOWER RATE [SECTION 197]

In case of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194I, 194J, 194K, 194LA, 194M & 194-O,

➤ Assessee can make an application to AO for deduction of tax at a lower rate or for non-deduction of tax.

If AO is satisfied that Total Income of the recipient justifies the deduction of tax at lower rates or non-deduction, he may give a certificate to assessee in this regard.

Consequently, the person responsible for paying the income shall deduct income-tax at such lower rates

specified in the certificate or deduct no tax, as the case may be, until the certificate is cancelled by AO.

### 9. SELF-DECLARATION FOR NON-DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES [SEC 197A]

A resident individual whose estimated Total Income of the PY is less than the basic exemption limit, can furnish a declaration in Form No. 15G (electronically or in paper form) to the person making following payments and in that case no tax shall be deducted at source.

- i) Payment of premature withdrawal from Employee Provident Fund; or
- ii) Income from Interest on Securities or
- iii) Payments of Dividend; or
- iv) Interest other than “Interest on Securities or Units”; or
- v) Insurance Commission; or
- vi) Payment in respect of Life Insurance Policy; or
- vii) Payments in respect of deposits under National Savings Schemes, etc.; or
- viii) Rent; or
- ix) Income from units;

The declaration shall state that the tax on the estimated total income of the declarant in the relevant PY will be Nil. [197A(1B)]

For a resident senior individual, restriction of sub-section (1B) will not apply.

**Note:** No deduction of tax at source shall be made from any payment to any person for, or on behalf of, the New Pension System Trust.

### 10. TAX DEDUCTED IS INCOME RECEIVED [SECTION 198]

Tax deducted at source is deemed to be income received while computing Total Income.

**Income** = Amount Received/ Receivable + TDS Receivable

However, tax deducted u/s 194N is not deemed as income.

### 11. TDS PROCEDURES & COMPLIANCES

a) Due Date of Deposit of Tax deducted to Govt. (Monthly)	<p>April – Feb → upto 7<sup>th</sup> of next month</p> <p>March → upto 30<sup>th</sup> of April of AY.</p>
b) Due date of filing TDS Statements to DGIT (Systems) → Quarterly	<p>April – June → 31<sup>st</sup> July</p> <p>July – Sep → 31<sup>st</sup> Oct</p> <p>Oct – Dec → 31<sup>st</sup> Jan</p> <p>Jan – March → 31<sup>st</sup> May</p> <p><b>Late Fee for late furnishing of TDS statement [Sec 234E]</b> 200 for every day of delay. However, total late fee shall not exceed TDS.</p>
c) Certificate of Tax Deducted	<p>Deductor provides it to deductee after downloading it from I. Tax website</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> <p>Form 16 (salary)</p> <p>↓</p> <p>Annual certificate</p> <p>↓</p> <p>Upto 15<sup>th</sup> June of AY</p> </div> <div style="text-align: center;"> <p>Form 16A (other than salary)</p> <p>↓</p> <p>Quarterly certificate</p> <p>↓</p> <p>Within 15 days from due date of furnishing TDS</p> </div> </div>

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**12. CONSEQUENCES OF NON-DEDUCTION/ DEPOSIT OF TAX (WHOLLY OR PARTLY) [SEC 201]**

1. **Disallowance with PGBP & IFOS** → Resident Payee [30% disallowed u/s 40(a)(ia)],  
→ Non-Resident Payee [100% disallowed u/s 40(a)(i)].
2. **Deemed Assessee in default** → Penalty → 100% of tax not deduction/ not deposited. [Sec 201]  
However, Assessee is not treated as assessee in default, if 4 specified conditions are satisfied.
3. **Interest u/s 201 on**

↓	↓
<b>Tax not deducted/ Delay in Deduction</b>	<b>Tax deducted but not deposited/ Delay in Deposit</b>
1% p.m. or part of month	1.5% p.m. or part of month

from the date TDS should be deducted / deposited till the actual date of tax deduction / deposit.

**Illustrations**

Tax deduction	Tax deposit	Due date	Interest u/s 201
7/8/2023	7/9/2023		
07/8/2023	8/9/2023		
17/8/2023	7/9/2023		
17/8/2023	8/9/2023		
17/8/2023	17/9/2023		

**13. SPECIAL COMPLIANCE PROCEDURES IN CASE OF 194 IA, 194 IB AND 194 M**

194 IA + 194 IB + 194 M [Individual/HUF who are not frequent deductors of Tax]

↓

No need of TAN

↓

<p>a) Such persons are required to deposit the tax deducted</p> <ul style="list-style-type: none"> <li>➤ within 30 days from end of the month in which deduction is made</li> </ul>	<p><b>Need to submit Challan-cum-Statement in following Form No.</b></p> <p>194IA → 26QB</p> <p>194IB → 26QC</p> <p>194M → 26QD</p>	<p>b) Need to issue TDS certificate in case of</p> <p>194IA → Form 16B</p> <p>194IB → Form 16C</p> <p>194M → Form 16D</p> <p>within 15 days from due date of filing challan-cum-statement.</p>
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**14. MANDATORY REQUIREMENT OF FURNISHING PAN IN ALL TDS STATEMENTS, BILLS, VOUCHERS AND CORRESPONDENCE BETWEEN DEDUCTOR AND DEDUCTEE [SECTION 206AA]**

If PAN is not furnished by deductee to deductor, tax shall be deducted at highest of the following rates:

- a. the rate prescribed in the Act;
- b. at the rate in force i.e., the rate mentioned in the Finance Act; or
- c. at the rate of 20% [5% in case of section 194Q].

**Example:** TDS is to be deducted u/s 194J & deductee fails to furnish his PAN. TDS rate would now be 20%. If TDS is to be deducted u/s 194B & deductee fails to furnish his PAN, TDS rate remain 30%.

**Points to Note:**

- i) No certificate u/s 197 will be granted by AO unless the application contains PAN of the applicant.
- ii) Tax would be deductible at the rates mentioned above also in cases where the taxpayer files a self-declaration in Form 15G or 15H u/s 197A but does not provide his PAN.

**Inter-Changeability of PAN and Aadhaar** → Refer Ch 16 Filing of Return

**15. HIGHER RATE OF TDS FOR NON-FILERS OF INCOME-TAX RETURN [SEC 206AB]**

Tax on amount paid/credited by Payer to a specified person, shall be deducted at higher of the following rates:

- i) at twice the rate prescribed in the relevant provisions of the Act;
- ii) at twice the rate in force i.e., the rate mentioned in the Finance Act; or
- iii) at 5%.

However, section 206AB is not applicable in case of TDS u/s 192, 192A, 194B, 194BB, 194-1A, 194-1B, 194M and 194N.

In case both section 206AA & section 206AB is applicable to a person, then tax shall be deducted

- at higher of the two rates.

**Meaning of “specified person”** – A person who has

- not filed Return of Income for
- the immediately preceding AY relevant to the AY in which tax is required to be deducted, and
- for which the time limit of filing return of income u/s 139(1) has expired, and
- aggregate of TDS & TCS in his case is INR 50,000 or more.

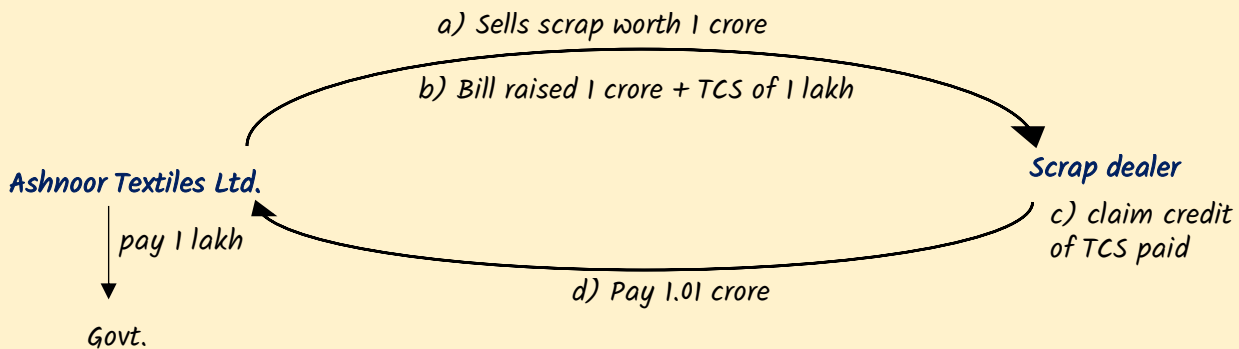
**Note:** Specified person would not include a non-resident who don't have a permanent establishment in India.

## PART II – TCS

### 1. WORKING OF TCS

Ashnoor Textiles Ltd. sold scrap of 1 crore to scrap dealer. In this case, Ashnoor Textiles Ltd. shall raise invoicing of 1 crore + TCS of 1 lakh.

Ashnoor Textiles Ltd. shall collect TCS of 1 lakh & deposit it with Government on behalf of scrap dealer. Such TCS receivable is asset for scrap dealer who can adjust it with his tax liability at end of PY.



In the books of Seller	In the books of Scrap dealer/ buyer
1. Party / Buyer    1.01 crore To Sales            1 crore To TCS payable    1 lakh	1. Purchase            1 crore TCS Receivable    1 lakh To seller            1.01 crore
2. TCS payable            1 lakh To Government/Bank    1 lakh	2. Seller            1.01 crore To Bank            1.01 crore
3. Bank            1.01 crore To party            1.01 crore	3. <b>At end of PY</b> Tax Liability To TDS Receivable To TCS Receivable To Bank (b.f.)

### 2. CASES UNDER TCS

#### 1) TCS on Sale of certain goods [Sec 206 C(1)]

Eligible sellers of certain goods are required to collect tax from the buyers at the following specified rates at

- Time of debiting the amount payable by buyer; or
- Time of receipt of such payment.

Whichever is earlier.

#### Eligible Seller/ Collector

- Company; Firm; LLP
- Individual/ HUF whose Turnover in preceding PY > 1 crore in case of Business; or > 50 lakhs in case of Profession.

Nature of Goods	Rate
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 (c)	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%

**No TCS u/s 206C(1) in case sale is made to**

- Public sector company, Central Government, State Government, Embassy, High Commission, Consulate and Trade Representative of a foreign State, or
- a buyer in the retail sale of such goods purchased by him for personal consumption; or utilized for the purpose of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

**Note:** If items (i) to (vii) are used for manufacturing, processing or producing articles or things or generation of electricity and not for trading purposes, no TCS u/s 206C(1).

However, in such cases if conditions of section 194Q are satisfied, TDS is deductible.

**2) TCS on Lease/ License of parking lot, toll plaza or mine or a quarry [Sec 206C (1C)]**

Lease or License of Parking Lot, Toll Plaza, Mines or Quarry

Any person/ Lessor/ Licensor

Lessee/ Licensee/ Any Person other than PSU

pay value + TCS @ 2 %

**Note:** Tax is collected at earlier of

- Time of debiting the amount payable by buyer; or
- Time of receipt of such payment.

**Note:** Mining and quarrying would not include mining and quarrying of mineral oil. Mineral oil includes petroleum and natural gas.

**3) TCS on sale of a Motor vehicle of value exceeding 10 lakhs by Retail Seller [Sec 206C (1F)]**



**Note:** Eligible Seller to collect TCS is same as in case of 206C(1).

**Note:** TCS is applicable on each sale of motor vehicle & not on aggregate value of sale during the year.

**Note:** No TCS u/s 206C (1F) in case sale is made to



- Central Government, State Government, Embassy, High Commission, Consulate, Trade Representative of a foreign State, or Public sector company engaged in business of carrying passengers.

**Important Case:** In case of sale of Motor Vehicle of

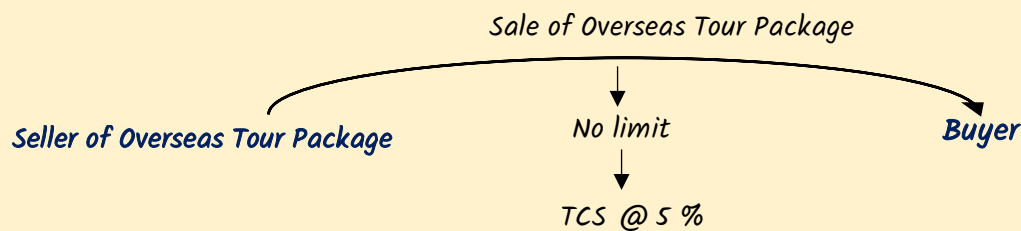
- value exceeding 10 lakhs by manufacturer to dealers/distributors, or
- value of motor vehicle is upto 10 lakhs.

no TCS u/s 20C(1F)

However, if turnover of dealer exceeds 10 crore in the F.Y. 2022-23 and value of motor vehicles purchased from manufacturer in the F.Y. 2023-24 exceeds 50 lakhs, TDS is deductible u/s 194Q.

Further, if dealer is not required to deduct TDS & manufacturer's turnover exceeds 10 crore in F.Y.2022-23 & value of motor vehicles sold to dealer in F.Y. 2023-24 exceeds 50 lakhs, TCS u/s 206(1H) is applicable.

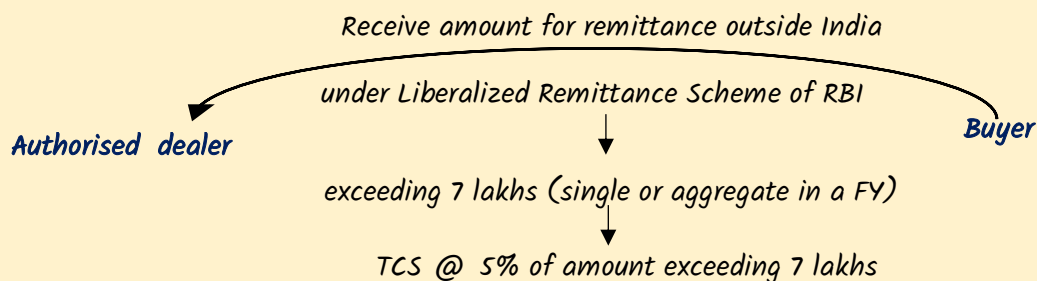
#### 4A) TCS on Sale of Overseas Tour Package [Sec 206C (1G)]



**Note:** It includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

**Note:** W.e.f. 01.10.2023, TCS is collectible @ 5% till 7 lakhs, and @ 20% thereafter.

#### 4B) TCS on Overseas Remittance of Amount exceeding 7 lakhs [Sec 206C (1G)]



**Example:** If overseas remittance for import during the PY is 8 lakhs.

TCS collected by Authorised dealer = 1 lakh x 5% = 5,000

**Note:** Where the amount is remitted for the purpose of education or medical treatment & aggregate amount exceeds 7 lakhs; TCS @ 5% of excess amount.

However, if amount being remitted is for education loan as defined u/s 80E obtained from any financial institution & value > 7 lakhs, TCS @ 0.5 % of excess amount.

**Note:** Where the amount is remitted for the purpose other than education or medical treatment or repayment of educational loan, & the aggregate amounts remitted exceeds 7 lakhs, TCS @ 5 % of excess amount.

However, w.e.f. 01.10.2023, TCS @ 20 % of amount exceeding 7 lakhs.

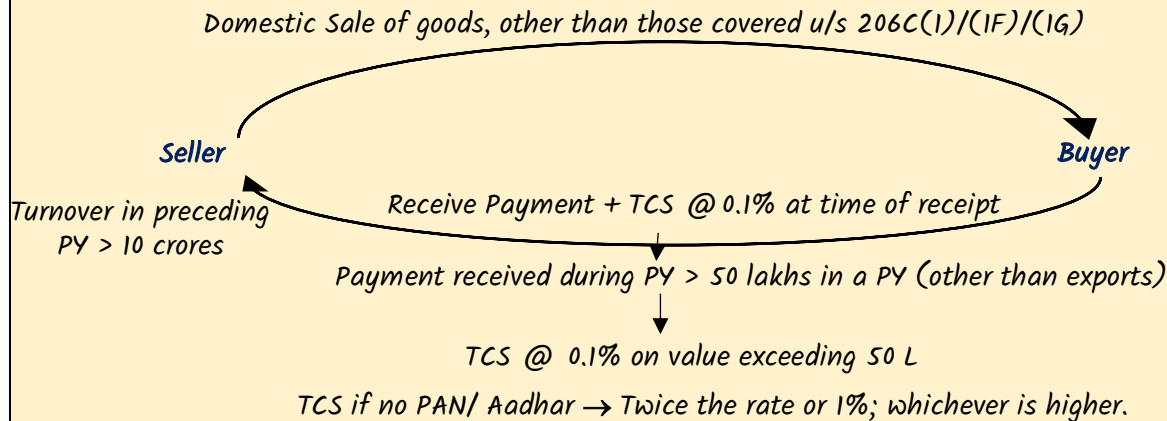
**Note:** TCS is not required to be collected in following cases:

- if the buyer is liable to deduct TDS under any other provision of the Act and has deducted such tax.
- if the buyer is Central Government, State Government, Local Authority, Embassy, High Commission,

Consulate or Trade representative of a foreign State.

**Note:** Provisions of section 206C(1G) is not applicable to a non-resident individual visiting India.

### 5) TCS on Sale of Goods of Value Exceeding 50 lakhs [Sec 206C (1H)]



**Note:** TCS under this section is not required to be collected in following cases:

- if the buyer is liable to deduct TDS under any other provision of the Act and has deducted such tax.
- if the buyer is Central Government, State Government, Local Authority, Embassy, High Commission, Consulate or Trade representative of a foreign State.

**Example:**

- Sale of motor vehicle of 8 lakhs each by a car dealer, whose turnover in preceding PY exceeds 10 crores, to a buyer where total receipt from the buyer exceeds 50 lakhs in a PY, TCS u/s 206C(1H) is applicable.
- Sale of motor vehicle of 8 lakhs each by a car dealer, whose turnover in preceding PY exceeds 10 crores, to a buyer where total receipt from the buyer is upto 50 lakhs in a PY, no TCS u/s 206C(1F) or 206C(1H).
- Sale of motor vehicle of 12 lakhs each by a car dealer, whose turnover in preceding PY exceeds 10 crores, to a buyer where total receipt from the buyer exceeds 50 lakhs in a PY, TCS u/s 206C(1F) is applicable.
- Sale of motor vehicle of 12 lakhs each by a car dealer, whose turnover in preceding PY exceeds 10 crores, to a buyer where total receipt from the buyer is upto 50 lakhs in a PY, TCS u/s 206C(1F) is applicable.

For inter-application of sections 206C(1), 206C(1H), 194Q, 206C(1F) → Refer class discussion.

### 3. HIGHER RATE OF TCS FOR NON-FURNISHERS OF PAN

[SECTION 206CC]

In case of Receipt of Amount from a person who has not furnished PAN, TCS shall be higher of the following rates:

- At twice the rate specified in the relevant provision of the Act; and
- 5% [1%, in case tax is required to be collected at source u/s 206C(1H)]

However, the maximum the rate of TCS under this section shall not exceed 20%.

This section does not apply to a non-resident who does not have a permanent establishment in India.

### 4. HIGHER RATE OF TCS FOR NON-FILERS OF INCOME-TAX RETURN

[SECTION 206CCA]

In case of Receipt of Amount from a specified person, TCS shall be higher of the following rates:

- at twice the rate specified in the relevant provision of the Act;

b) at 5%.

However, the maximum the rate of TCS under this section shall not exceed 20%.

In case section 206CC is 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 u/s 206CC and 206CCA.

#### **5. TIME LIMIT FOR PAYING TAX COLLECTED TO THE CREDIT OF CENTRAL GOVERNMENT**

➤ within one week from the last day of the month in which the collection is made.

#### **6. COMMON NUMBER FOR TDS AND TCS [SECTION 203A]**

Persons responsible for deducting tax or collecting tax at source should apply to the Assessing Officer for the allotment of a “tax- deduction and collection-account number”.

## Let Us Recapitulate TDS

### TAX DEDUCTION AT SOURCE

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
192	Salary	Basic exemption limit (₹ 2,50,000 / ₹3,00,000, as the case may be). 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 computed on the basis of the rates in force.	At the time of payment <sup>1</sup>
192A	Premature withdrawal from Employee Provident Fund	Payment or aggregate payment $\geq$ ₹ 50,000	Trustees of the EPF Scheme or any authorised person under the Scheme	Individual (Employee)	10% [In case of failure to furnish PAN, TDS @ Maximum Marginal Rate]	At the time of payment
193	Interest on Securities	<p>&gt; ₹ 10,000 in a F.Y., in case of interest on 8% Savings (Taxable) Bonds, 2003/7.75% Savings (Taxable) Bonds, 2018.</p> <p>&gt; ₹ 5,000 in a F.Y., in case of 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 A/c payee cheque.</p> <p>No threshold specified in any other case.</p>	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.
194	Dividend (including dividends on preference shares)	> ₹ 5,000 in a F.Y., in case of dividend paid or credited to an individual shareholder by any	The Principal Officer of a domestic company	Resident shareholder	10%	Before making any payment by any mode in respect of any

<sup>1</sup> Except in case of TDS on perquisite of ESOP provided by eligible start-up

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
		mode other than cash > No threshold in other cases				dividend or before making any distribution of dividend.
194A	Interest other than interest on securities	> ₹ 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 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.	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from business or profession do not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for paying interest other than 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.
194B	Winnings from any lottery, crossword puzzle or card game or any other game	> ₹ 10,000	The person responsible for paying income by way of such winnings	Any Person	30%	At the time of payment
194BA	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.

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
						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.
194BB	Winnings from horse race	> ₹ 10,000	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
194C	Payments to Contractors	Single sum credited or paid > ₹ 30,000 (or) 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	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from business or profession do not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the immediately preceding F.Y.)	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.
194D	Insurance Commission	> ₹ 15,000 in a financial year	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.
194DA	Any sum under a Life Insurance Policy	≥ ₹ 1,00,000 (aggregate amount of payment to a payee in a financial year)	Any person responsible for paying any sum under a LIP, including the sum allocated by	Any resident	5% of the amount of income	At the time of payment

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
			way of bonus			
194G	Commission on sale of lottery tickets	> ₹ 15,000 in a financial year	Any person responsible for paying any income by way of commission, remuneration or prize on lottery tickets	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.
194H	Commission or brokerage	> ₹ 15,000 in a financial year	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from business or profession do not exceed ₹ 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 financial year	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from business or profession carried on by him do not exceed ₹ 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.

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194-1A	Payment on transfer of certain immovable property other than agricultural land	$\geq$ ₹ 50 lakh (Consideration for transfer or stamp duty value)	Any person, being a 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)	Resident transferor	1% of consideration for transfer or stamp duty value, whichever is higher	At the time of credit of such sum to the account of the transferor or at the time of payment, whichever is earlier.
194-1B	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 from business or profession carried on by him exceeds ₹ 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 previous year 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
194J	Fees for professional or technical services/ Royalty/ Non-compete fees/ Director's remuneration	$>$ ₹ 30,000 in a financial year, 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 fees for professional or technical services paid or credited, individual/ HUF, whose total sales, gross receipts or turnover from business or profession exceeds ₹ 1 crore in case of business	Any Resident	2% - Payee engaged only in the business of operation of call centre  2% - In case of fees for technical services or royalty, where such royalty is in the nature of consideration for	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier.



Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
			or ₹ 50 lakhs in case of profession during the immediately preceding F.Y., is liable to deduct tax u/s 194J, except where fees for professional services is credited or paid exclusively for his personal purposes.		sale, distribution or exhibition of cinematographic films 10% - Other payments	
194K	Income on units other than in the nature of capital gains	> ₹ 5,000 in a financial year	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 sum to the account of the payee or at the time of payment, whichever is earlier.
194LA	Compensation on acquisition of certain immovable property other than agricultural land	> ₹ 2,50,000 in a financial year	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
194M	Payments to Contractors Commission or brokerage Fees for professional services	> ₹ 50,00,000 in a financial year	Individual or HUF other than those who are required to deduct tax at source under section 194C or 194H or 194J	Any Resident	5%	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier.

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194N	Cash withdrawals	<ul style="list-style-type: none"> <li>&gt; 3 crore if the recipient is a co-operative society</li> <li>&gt; 1 crore in case of others</li> </ul>	<ul style="list-style-type: none"> <li>- a banking company or any bank or banking institution</li> <li>- a co-operative society engaged in carrying on the business of banking or</li> <li>- 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 exceeding ₹ 1 crore during the previous year, to any person from one or more accounts maintained by the recipient</li> </ul>	Any person	<p>@ 2% of such sum</p> <p>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 expired, such sum shall be the amt or agg. of amts, in cash &gt; 20 lakh during the P.Y.</p> <p><b>TDS</b></p> <ul style="list-style-type: none"> <li>- @ 2% of the sum, where cash withdrawal &gt; 20 lakhs but ≤ 1 crore/ 3 crore in case the recipient is a co-operative society</li> <li>- @ 5% of the sum, where cash withdrawal &gt; 1 crore/ 3 crore in case the recipient is a co-operative society</li> </ul>	At the time of payment of such sum
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	Notified specified bank	Specified senior citizen i.e., An individual, being a resident in India,	Rates in force, where the individual has exercised the	

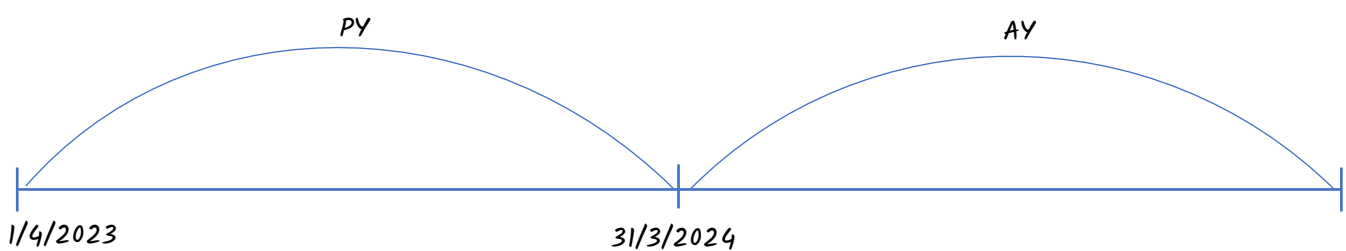
Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
		115BAC), 3,00,000 / 5,00,000, as the case may be, if specified senior citizen has exercised the option of shifting out of the default tax regime providing u/s 115BAC] [i.e., total income 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]		who <ul style="list-style-type: none"> <li>- is of the age of 75 years or more at any time during the PY;</li> <li>- 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; &amp;</li> <li>- has furnished a declaration to the specified bank.</li> </ul>	option of shifting out of the default tax regime. Rates specified u/s 115BAC, where the individual pays tax under the default tax regime.	
194Q	Purchase of goods	> ₹ 50 lakhs in a previous year	Buyer, who is responsible for paying any sum to any resident for purchase of goods. Buyer means a person whose total sales, gross receipts or turnover from	Any resident	0.1% of sum exceeding ₹ 50 lakhs	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier.

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
			business exceeds ₹ 10 crores during the FY immediately preceding the FY in which the purchase of goods is carried out.			
194R	<p><b>Any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession</b></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 financial year	<p>Any person (other than an individual or HUF whose total sales, gross receipts or turnover &lt; 1 crore in case of business or &lt; 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for providing to a resident, any benefit or perquisite.</p> <p>In case of a company, "person responsible for paying" means the company itself including its Principal Officer.</p>	Any resident	10% of value or aggregate of value of such benefit or perquisite	Before providing such benefit or perquisite

# CHAPTER 14

## ADVANCE TAX & INTEREST

### 1. INTRODUCTION



An Assessee is required to estimate his tax liability during the PY and pay advance tax in four instalments during the PY if his advance tax liability is 10,000 or more.

Advance tax is also known as 'Pay As You Earn' i.e., tax is payable by Assessee in PY itself.

Following Assessee are not required to pay advance tax:

- If advance tax liability is < 10,000 (common relief for all). [Sec 208]
- Resident senior citizen not having any income upto PGBP. [Sec 207]

Cases	Advance Tax Applicability
1. Ram, aged 60, has PGBP income of 50 L. His tax liability is 9,000.	
2. Ram, aged 60, has rental income of 70 L. tax liability is 12,000.	
3. Ram, aged 60, has rental income of 70 L. tax liability is 12,000.	
4. Sri, aged 40, has PGBP income of 30 L. Her tax liability is 12,000.	
5. Sri, aged 40, has PGBP income of 30 L. Her tax liability is 9,000.	
6. Sri, aged 40, has rental income of 30 L. Her tax liability is 12,000.	
7. Sri, aged 40, has rental income of 30 L. Her tax liability is 9,000.	

### 2. INSTALMENTS OF ADVANCE TAX AND DUE DATES [SECTION 211]

Due date of instalment	Amount payable
On or before 15 <sup>th</sup> June of PY	Minimum 15% of advance tax liability
On or before 15 <sup>th</sup> September of PY	Minimum 45% of advance tax liability (-) amount paid earlier
On or before 15 <sup>th</sup> December of PY	Minimum 75% of advance tax liability (-) amount paid earlier
On or before 15 <sup>th</sup> March of PY	Whole amount of advance tax liability (-) amount paid in earlier

### 3. HOW TO DETERMINE ADVANCE TAX LIABILITY

#### Returned Income

Total Income as per Return of Income	XX
Tax on Special Income	XX
Tax on balance Normal Income	XX
Tax before surcharge and cess	XX
+ Surcharge	XX
Tax before HEC	XXX
+ Health and Education cess @ 4%	XX
Tax liability	XXX
Less: TDS receivable	XX
Less: TCS Receivable	XX
Less: Relief u/s 89	XX
Less: Tax credit claimed to be set off u/s 115 JD	XX
Advance tax payable/ Tax due on Returned Income (A)	XXX

**Note:** No reduction of 'tax deductible but not deducted' while computing advance tax liability.

### 4. TYPES OF INTEREST

#### 4.1. INTEREST U/S 234C: INTEREST FOR DEFERMENT OF ADVANCE TAX/ DEFAULT OF INSTALMENT OF ADVANCE TAX LIABILITY BASED ON RETURNED INCOME

- For default of first 3 installments → Interest @ 1% for 3 months on shortfall on relevant date.
- For default of last installment → Interest @ 1% for 1 month on shortfall on relevant date.

Due date	Advance tax liability based on Returned Income (1)	Advance tax paid (2)	Minimum payable (3)	Shortfall (4) (1-2) if 2 < 3	Interest u/s 234 C
15/6/22	15% of tax on returned income (A)		12% of A		(4) x 1% x 3 months
15/9/22	45% of tax on returned income (A)		36% of A		(4) x 1% x 3 months
15/12/22	75% of tax on returned income (A)		-		(4) x 1% x 3 months
15/3/23	100% of tax on returned income (A)		-		(4) x 1% x 1 months

#### Advance Tax Payment & Interest u/s 234C in case of Presumptive Income u/s 44AD or 44ADA

- Need to pay whole advance tax liability on or before 15<sup>th</sup> March of the PY i.e. only 1 instalment.
- In case of any shortfall in payment of advance tax upto 15<sup>th</sup> March of the PY

➤ Interest @ 1% on shortfall for 1 month needs to be paid u/s 234C.

- Provisions of section 234B and 234A is same as others.

**Note:** In case of sec 44AE, advance tax needs to be paid as usual in 4 installments.

#### Non-Applicability of Interest u/s 234C in Certain Cases:

Interest u/s 234C shall not be leviable in respect of any shortfall in payment of tax due on returned income, where such shortfall is due to:

- a) Capital Gains;
- b) Casual Incomes like winnings from lotteries, crossword puzzles etc.;
- c) PGBP accruing or arising for the first time.
- d) Dividend income u/s 2(22)(a)/(b)/(c)/(d).

on it is not possible to estimate these incomes.

However, once accrued, Assessee should pay the advance tax installment w.r.t. above incomes as part of remaining instalments.

**Note:** If such accrual is after 15<sup>th</sup> of March, advance tax is to paid upto 31<sup>st</sup> March of pervious year otherwise interest shall be charged under section 234C @ 1% for 1 month.

**Note:** Any amount paid as advance tax on or before 31<sup>st</sup> March shall also be treated as advance tax paid during the financial year for all purposes of the Act.

Hence no interest shall be calculated on such amount u/s 234B or 234A.

#### 4.2. INTEREST U/S 234B: INTEREST FOR DEFAULT (NON PAYMENT OR SHORT PAYMENT) IN PAYMENT OF ADVANCE TAX IF ADVANCE TAX PAID < 90% OF ASSESSED TAX LIABILITY

- Interest @ 1% p.m. or part of month on shortfall in Assessed Advance Tax Liability
  - starting from 1<sup>st</sup> April of AY till the date of payment.
- No interest u/s 234B if Advance Tax paid is 90% of Assessed Advance Tax Liability or above.

Cases	Assessed Tax Liability	Advance Tax paid	Interest u/s 234B
I	1,00,000	95,000	
II	1,00,000	90,000	
III	1,00,000	89,900	

- Assessed Tax refers to Tax assessed u/s
  - a) 143(1) → Summary assessment without calling Taxpayer; or
  - b) Regular assessment u/s 143(4) i.e. Scrutiny assessment or u/s 144 i.e. Best judgement assessment.
- Section 143(1) provides that if any sum is found due on the basis of a return of income
  - after adjustment of advance tax, relief of tax allowed u/s 89, TDS, TCS & self-assessment tax,
  - an intimation wouldbe sent to the Assessee and such intimation is deemed to be a notice of demand issued u/s 156.

If any refund is due on the basis of the return, it shall be granted to the Assessee and intimation to this

effect would be sent to the Assessee.

Where no tax or refund is due, the acknowledgement of the return is deemed to be intimation u/s 156.

- Assessed Tax doesn't include Additional Income-tax, if any, payable u/s 140B → Refer Chapter Return of Income for detailed discussion.

### 4.3. INTEREST U/S 234A: INTEREST FOR DEFAULT IN FURNISHING ROI

- Interest @ 1% p.m. or part of the month on
- shortfall in Assessed Tax Liability [determined u/s 143(1) or determined under regular assessment]
- starting from the date following due date of filing ROI till
  - the date of Furnishing of Return; or
  - In case no return is furnished, the date of Completion of Assessment.

#### Points to Note:

- Unless otherwise mentioned, always assume that tax is paid on the date of filing ROI.
- The interest payable under section 234A shall be reduced by the interest, if any, paid on self-assessment under section 140A towards interest chargeable under section 234A.
- Shortfall in Assessed Tax Liability does not include additional income-tax payable u/s 140B.

**Note:** An assessee who is liable to pay advance tax of less than 10,000 will not be charged interest u/s 234B and 234C for defaults in payment of advance tax. However, interest u/s 234A is attracted.

### 5. MISCELLANEOUS

#### Rounding off of Advance Tax

Fraction of 100 is ignored calculating interest u/s 234C, 234B and 234A.

**Example:** Default in advance tax liability is 8,499 for 3 months and 1 day.

Interest shall be =  $8400 \times 1\% \times 4 \text{ months} =$

**Note:** If the last day for payment of any instalment of advance tax is a day on which the receiving bank is closed, the Assessee can make the payment on the immediately succeeding working day.

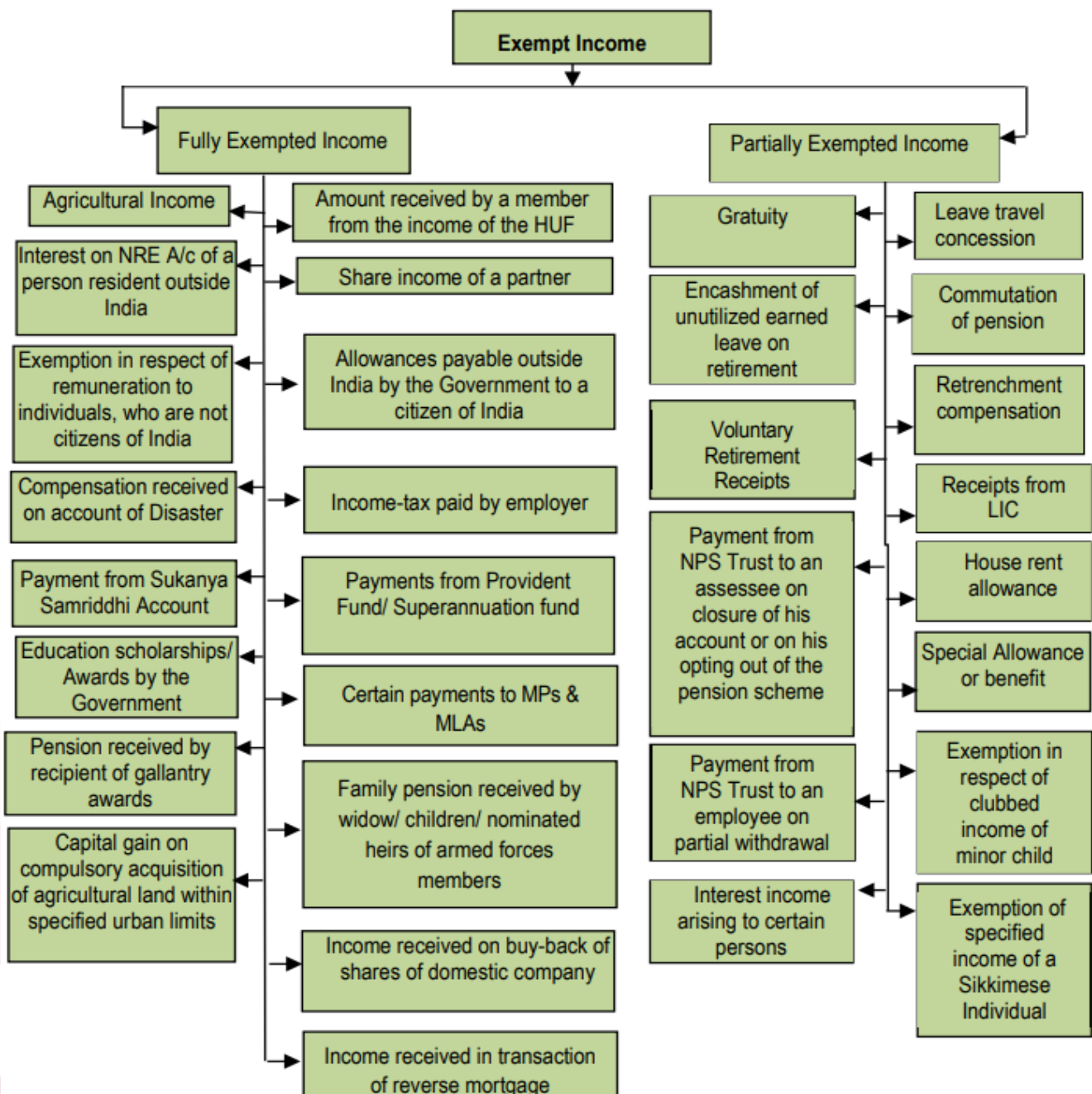
Basis	234C	234B	234A
	Tax due on returned Income	Assessed Tax	Assessed Tax
Principal	Amount of Tax due on returned Income unpaid on due date of instalment	Amount of assessed tax unpaid on 1/4 of AY	Amount of assessed tax unpaid on due date of ROI
If No Advance tax liability	No interest u/s 234C is payable	No interest u/s 234B is payable	Interest still payable as there is default in filing ROI



# CHAPTER 15

## INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

### 1. LIST OF EXEMPTIONS



## 2. EXEMPTIONS COVERED IN RESPECTIVE CHAPTERS

### LIST OF EXEMPTIONS BEING DISCUSSED IN RESPECTIVE CHAPTERS

#### Salaries [Chapter 4 Unit 1]

- Leave travel concession
- Allowance payable outside India by the Government to a citizen of India
- Gratuity
- Commutation of pension
- Leave Encashment
- Retrenchment Compensation
- Voluntary Retirement Receipts
- Income-tax paid by employer on non-monetary perquisite
- Payment from Provident Fund
- Payment from Superannuation Fund
- House Rent Allowance
- Special Allowance or benefit to meet expenses relating to duties or personal expenses

#### Capital Gains [Chapter 4 Unit 4]

- Income received on buy-back of shares of domestic company
- Capital gain on compulsory acquisition of agricultural land within specified urban limits
- Income received in transaction of reverse mortgage

#### Income from Other Sources [Chapter 4 Unit 5]

- Interest income arising to certain persons
- Family pension received by widow/children/nominated heirs of armed forces members

#### Income of Other Persons Included in Assessee's Total Income [Chapter 5]

- Exemption in respect of minor's income included in the hands of parent

#### Deductions from Gross Total Income [Chapter 7]

- Receipts from LIC/ULIP
- Payment from NPS Trust to an assessee on closure of his account or on his opting out of the pension scheme
- Payment from NPS Trust to an employee on partial withdrawal

### 3. OTHER EXEMPTIONS

#### **Difference between Exemption and Deduction:**

Incomes which are exempt u/s 10 or other sections viz. section 11, 12, 13A and 13B are not included while computing Gross Total Income.

However, incomes from which deductions are allowed are first included in Gross Total Income and then deduction is allowed to arrive at Total Income.

We have covered majority of Exemptions in their respective Chapters → Refer discussion in class.

Remaining incomes exempt from Tax are enumerated below:

#### **1. Share received by a Member of HUF from the Income of HUF [Sec. 10(2)]**

- Any receipt by a member of a HUF out of the **family income** or out of the income of the impartible estate belonging to the family is fully exempt.
- Any other income viz. **remuneration** received by a member of HUF as a **partner/director** in a **Company** in which the investment is made **out of funds of HUF** shall be taxable in hands of HUF.

#### **2. Interest on Non-Resident (External) Account [Sec. 10(4)]**

In case a non-resident individual or a resident individual permitted by RBI, any income by way of interest on money standing to his credit in a NRE A/c in any bank in India shall be exempt.

#### **3. Remuneration received by Individuals, who are not citizens of India [Sect. 10(6)]**

##### **(i) Remuneration received by officials of Embassies, High Commission, Consulate etc. of Foreign States or the trade representation of a foreign country [Section 10(6)(ii)]**

**Conditions:**

- a) Remuneration received by our corresponding Government officials or members of the staff resident in such foreign countries should be exempt.
- b) Above-mentioned members or the staff should be the subjects of respective countries represented and should not be engaged in any other business or profession or employment in India.

##### **(ii) Remuneration received by a foreign national as an employee of a foreign enterprise for services rendered in India as an employee of foreign enterprise [Section 10(6)(vi)]**

**Conditions:**

- a) Foreign enterprise is not engaged in any business or trade;
- b) Employee's stay in India does not exceed 90 days during the previous year;
- c) Remuneration is not liable to be deducted from employer's income under the Act.

##### **(iii) Salary received by a non-citizen non-resident for services rendered in connection with employment on foreign ship [Section 10(6)(viii)]**

- is exempt if his total stay in India does not exceed 90 days during the previous year.

#### **4. Compensation received on account of Disaster [Sec. 10(10BC)]**

If it is received by an individual or his legal heir on account of any natural or other disaster from

- Central Government, State Government and Local Authority, it is exempt.

However, exemption would not be available in respect of compensation for covering any damage or loss, which has already been allowed as deduction under the Act.

**Note:** Any compensation from Private Organisations or Charitable Trusts etc. is taxable.

#### **5. Income of a Sikkimese Individual which accrues or arises to him/ her from**

- a) any source in the state of Sikkim or

b) income from dividend/ interest on securities from anywhere in the world. [Sec. 10(26AAA)]

However, exemption is not available to a Sikkimese woman who, on or after April 1, 2008 marries a non- Sikkimese individual.

**4. EXEMPTIONS NOT ALLOWABLE IF ASSESSEE PAYS TAX U/S 115BAC UNDER THE DEFAULT TAX REGIME**

10(5)	Leave travel concession
10(13A)	House Rent Allowance
10(14)	Special Allowances except - a) Travelling allowance b) Daily allowance c) Conveyance allowance d) Transport allowance to blind/ deaf & dumb/ orthopedically handicapped employee.
10(17)	Daily allowance/ Constituency allowance received by any Member of Parliament or of State Legislatures
10(32)	Exemption in respect of income of minor child included in Assessee's total income

# CHAPTER 16

## FILING OF RETURN

Return refers to Declaration of Income and Resultant Tax in prescribed form to Government.

### 1. WHO IS LIABLE TO FILE ROI [SEC 139(1)]

Company / Firm / LLP	Others (Individual/HUF/AOP/BOI)	Every person assessable on behalf of other person	Any ROR, not required to file ROI u/s 139(1) but	Any person not required to file ROI u/s 139(1) but
Must file ROI irrespective of income or loss	Need to file ROI if Total Income before a) Deduction under chapter VI-A & b) Exemption under 54 series exceeds basic exemption.	File ROI if Total Income before a) Deduction under chapter VI A & b) Exemption u/s 54 series exceeds basic exemption.	being beneficial owner or beneficiary of a capital asset (including any financial interest in any entity) outside India  or Has signing authority in any account outside India, whether or not having income chargeable to tax.  If Income from such asset is included in Total Income of beneficial owner, Beneficiary need not file ROI.	a) Deposit of aggregate amount exceeding 1 crore in one or more current accounts in a Bank/ Co-operative bank. b) Expenses on travel to foreign country aggregate exceeding 2,00,000 for himself or for any other person. c) Expenses on electricity exceeds 1,00,000 in a 1 PY.

Case	Prescribed Monetary threshold
(d) A person carrying on <b>business &amp; his turnover</b>	> 60 lakhs during the relevant P.Y.
(e) A person carrying on <b>profession &amp; his total gross receipts</b>	> 10 lakhs during the relevant P.Y.
(f) a) Resident senior citizen whose <b>Aggregate of TDS and TCS</b>	≥ 50,000 or more during the relevant P.Y.
b) Any other person whose <b>Aggregate of TDS and TCS</b>	≥ 25,000 or more during relevant P.Y.
(g) A person having <b>Deposit in one or more savings bank account in aggregate</b>	≥ 50 lakhs or more during relevant P.Y.

Points to Note:

- a) Basic Exemption limit, Deductions & Total Income shall be computed as per the tax regime given in question.
- b) Beneficial owner means an individual who has provided, directly or indirectly, consideration for the asset for the benefit, direct or indirect, of himself or any other person.
- c) Beneficiary means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person, other than such beneficiary.
- d) Filing of ROI & Payment of tax are two different concepts.

**Illustration : Determine whether ROI needs to be filed in following cases:**

	Case I	Case II
Income u/s CG	50,000	2,00,000
PGBP	1,50,000	20,000
Deduction u/s 80C to 80U	10,000	10,000
Exemption u/s 54F	41,000	40,000
Exemption u/s 10(15)	20,000	
Refer discussion in class.		

### 1.1. DUE DATE OF FILING ROI U/S 139(1)

General Law ↓ 31 <sup>st</sup> July of AY	<ol style="list-style-type: none"> <li>a) Company</li> <li>b) Assessee subject to Audit under any Act. E.g. 44AB of Income-tax Act</li> <li>c) Any Partner of a Firm whose accounts is subject to Audit</li> </ol> <p style="text-align: center;">↓</p> <p style="text-align: center;">31<sup>st</sup> October of AY</p>	Transfer Pricing/ International Taxation ↓ Where Assessee is required to furnish report u/s 92E ↓ 30 <sup>th</sup> November of AY
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### 2. RETURN OF LOSS 139(3)

Return of loss is filed in same manner as Return of Income & should be filed within due date u/s 139(1).  
Return of loss, if filed within due date, is treated as Return of Income filed u/s 139(1).

**Note:** Carry forward of Losses depends on filing Return of Loss within due date. Refer section 80.

### 3. BELATED RETURN [SEC 139(4) & REVISED RETURN U/S 139(5)]

**Belated return** can be filed u/s 139(4) upto earlier of

- a) three months prior to the end of the relevant AY (i.e., 31.12.2024 for P.Y. 2023-24); or
- b) completion of the Assessment.

Normal ROI u/s 139(1) & belated ROI u/s 139(4) can be revised u/s 139(5), if the Assessee discovers any omission or any wrong statement, maximum upto earlier of:

- a) three months prior to the end of the relevant AY (i.e., 31.12.2024 for P.Y. 2023-24); or
- b) completion of the Assessment.

Thus, belated return can also be revised.

Previous Year	Date of completion of Assessment	Last date of Revising ROI
2023-24	30/6/2025	
2023-24	30/12/2024	

**Note:** Revised Return replaces original Return & is deemed to be filed on the date of original return.

**How many times a Return can be revised or Can a revised return be again revised?** → Yes; No limit on No. of revision provided it is revised within time limit.

#### 4. DEFECTIVE RETURN [SEC 139(9)]

A return is said to be defective if –

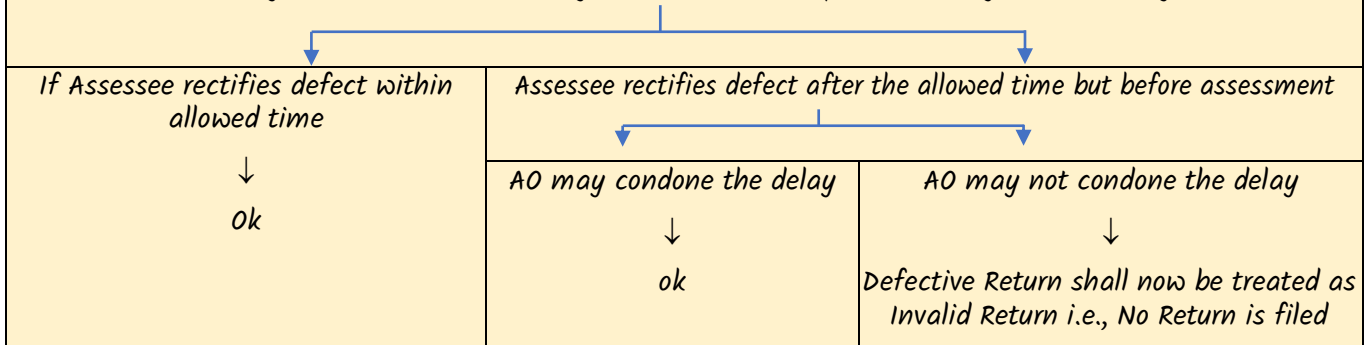
- Statement showing Computation of Tax Payable is not furnished; or
- Audit Report u/s 44AB or under any Act not furnished; or
- Proof of payment of Advance Tax, TDS etc. not filed; or
- Annexures or statements relating to computation of Total Income & tax liability not filed.

↓

AO may intimate the defect to Assessee for rectification.

↓

Assessee shall rectify the defect within 15 days or such extended period as may be allowed by AO:



**Note:** Other details in whose absence a Return is deemed as defective → Refer Page 16.8

#### 5. DETAILS TO BE FURNISHED ALONG WITH ROI [SEC 139(6)]

- Income exempt from tax;
- assets of the prescribed nature and value, held by him as a beneficial owner or otherwise or in which he is a beneficiary;
- his bank account and credit card held by him;
- expenditure exceeding the prescribed limits incurred by him under prescribed heads; and
- such other outgoings as may be prescribed.

#### 6. DETAILS TO BE FURNISHED ALONG WITH ROI IN CASE OF AN ASSESSEE ENGAGED IN BUSINESS OR PROFESSION [SEC 139(6A)]

- The report of any audit referred to in section 44AB.
- the particulars of the location and style of the principal place where he carries on the business or

profession and all the branches thereof.

- iii) the names and addresses of his partners, if any, in such business or profession.
- iv) if he is a member of an association or body of individuals,
  - a. the names of the other members of the association or the body of individuals; and
  - b. the extent of the share of the Assessee and the shares of all such partners or members, as the case may be, in the profits of the business or profession and any branches thereof.

**7. CONSEQUENCES OF DELAYED FILING OF ROI**

- a) Loss u/s 70, Loss from speculation business, Loss from specified business, Loss u/s 71 & Loss from Owning and Maintenance of race horses is not allowed to be carry forward. [Section 80]
- b) Interest u/s 234A
- c) Fee u/s 234F

**8. FEE U/S 234F IN CASE OF FILING BELATED RETURN OR NO RETURN**

Whether Assessee is compulsorily required to file ROI u/s 139(1)

Yes; and filed belated return u/s 139(4) or did not file Return		No
Total Income upto 5,00,000	Total Income > 5,00,000	No fee is payable
↓ Maximum fee 1,000	↓ 5,000	

**9. OPTION TO FILE UPDATED RETURN OF INCOME**

[SECTION 139(8A)]

<b>Option to file updated return of income</b>	<p>A person may furnish an updated return of his income or the return of any other person in respect of which he is assessable, for a previous year at</p> <ul style="list-style-type: none"> <li>➤ any time within 24 months from the end of the relevant assessment year</li> <li>➤ irrespective of whether or not he has furnished a return u/s 139(1) or belated return u/s 139(4) or revised return u/s 139(5) for that assessment year.</li> </ul> <p>Example: Updated return for A.Y. 2024-25 can be filed till 31.3.2027.</p>
<b>Non applicability of the provisions of updated return</b>	<p>However, Updated Return cannot</p> <ul style="list-style-type: none"> <li>i) be a loss return; or</li> <li>ii) have the effect of decreasing the total tax liability determined in return furnished earlier u/s 139(1) or section 139(4) or section 139(5); or</li> <li>iii) result in refund or increases the refund due on the basis of return furnished earlier u/s 139(1) or section 139(4) or section 139(5)</li> </ul>
<b>Updated return can be filed if original return is a Loss return and Updated return is a Return of income.</b>	<p>Example: Mr. X has furnished his return of loss for A.Y. 2023-24 on 31.5.2023 consisting of 5,00,000 as business loss. He can furnish an updated return for A.Y. 2023-24 upto 31.3.2026 if such updated return is a return of income.</p> <p><b>Note:</b> If any brought forward loss or brought forward depreciation or AMT credit gets reduced for any subsequent year as a result of furnishing an Updated Return of Income for a particular year, an Updated Return shall be filed for each such subsequent year.</p>
<b>Circumstances in which</b>	Updated Return for an AY can't be furnished if



<b>updated return cannot be furnished</b>	<ul style="list-style-type: none"> <li>a) Updated return has been already been filed for that AY once; or</li> <li>b) Any proceeding for assessment or reassessment or re-computation or revision of income is pending or has been completed for the relevant AY.</li> </ul>
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**10. TAX ON UPDATED RETURN [SECTION 140B]**

<b>Payment of Tax, Additional Tax, Interest and Fee before furnishing Updated Return of Income</b>	
<b>Where No Return was furnished earlier u/s 139(1)/(4)</b>	<b>Where Return was furnished earlier u/s 139(1)/(4)/(5)</b>
<p style="text-align: center;">↓</p> <p>Before furnishing the updated return, Assessee is liable to pay</p> <ul style="list-style-type: none"> <li>a) Tax payable on the basis of Updated Return; &amp;</li> <li>b) Interest for default or delay in payment of Advance Tax, &amp;</li> <li>c) Fee for not furnishing the earlier Return; &amp;</li> <li>d) Additional tax computed u/s 140B(3),</li> </ul> <p style="text-align: center;">↓</p> <p>The updated return shall be accompanied by the proof of payment of such tax, additional tax, interest &amp; fee.</p>	<p style="text-align: center;">↓</p> <p>Before furnishing the updated return, Assessee is liable to pay</p> <ul style="list-style-type: none"> <li>a) Tax payable on the basis of Updated Return; &amp;</li> <li>b) Interest for default or delay in payment of Advance Tax, &amp;</li> <li>c) Additional tax computed u/s 140B(3), as reduced by the amount of interest paid earlier, before furnishing the updated return.</li> </ul> <p style="text-align: center;">↓</p> <p>The updated return shall be accompanied by proof of payment of such tax, additional tax &amp; interest.</p>
<p><b>Manner of computation of tax payable on the basis of updated return</b></p> <p>The tax payable is to be computed after taking into account the following -</p> <ul style="list-style-type: none"> <li>a) the amount of tax, if any, already paid, as advance tax;</li> <li>b) the tax deducted or collected at source;</li> <li>c) any relief of tax claimed under section 89; and</li> <li>d) any tax credit claimed to set-off u/s 115JD, in case the Assessee has exercised the option of shifting out of the default tax regime provided u/s 115BAC.</li> </ul>	<p><b>Manner of computation of tax payable on the basis of updated return</b></p> <p>The tax payable is to be computed after taking into account the following -</p> <ul style="list-style-type: none"> <li>a) the amount of relief or tax referred to u/s 140A(1), credit for which has been taken in earlier return</li> <li>b) the tax deducted or collected at source which has not been included in the earlier return</li> <li>c) any tax credit claimed, to set-off u/s 115JD, <b>which has not been claimed in the earlier return</b>, in case the Assessee has exercised the option of shifting out of the default tax regime provided u/s 115BAC.</li> </ul> <p>Aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return.</p>
<p><b>Interest u/s 234A if no earlier return was furnished</b></p> <p>Interest payable u/s 234A shall be computed on the amount of the tax on Total Income as declared in the updated return.</p>	<p><b>Interest u/s 234B if earlier return was furnished</b></p> <p>Interest payable u/s 234B shall be computed on the assessed tax i.e. tax on the total income as declared in the updated return u/s 139(8A) .</p>
<p><b>Interest u/s 234A if no earlier return was furnished</b></p> <p>Interest payable u/s 234A shall be computed on the amount of the tax on Total Income as declared in the updated return.</p>	<p><b>Interest u/s 234C if earlier return was furnished</b></p> <p>Interest payable u/s 234C earlier shall be computed again after taking into account the income furnished in the Updated Return as the returned income.</p>

**Additional income-tax payable at the time of furnishing Updated Return [Section 140B(3)]**

Time of furnishing updated return	Additional Income-tax Payable
If such Return is furnished after expiry of the time available u/s 139(4) or 139(5) & within 12 months from the end of relevant AY	25% of aggregate of tax and interest payable, as determined above
If such return is furnished after expiry of 12 months from the end of relevant AY but within 24 months from the end of relevant AY.	50% of aggregate of tax and interest payable, as determined above

**Computation of 'Additional income-tax'**

Tax would include surcharge & cess on such tax.

Interest payable would be interest chargeable under any provision of the Act, on the income as per updated return furnished u/s 139(8A), as reduced by interest paid in the earlier return, if any.

However, the interest paid in the earlier return would be considered to be Nil, if no earlier return has been furnished.

**Note:** An updated return furnished u/s 139(8A) would be regarded as defective return u/s 139(9) if such return of income is not accompanied by the proof of payment of tax as required u/s 140B.

**11. TAX RETURN PREPARER [SECTION 139B]**

In order to facilitate cost effective manner of filing of ROI, Income Tax Department issues TRP certificate and allots unique identification number to Individuals with prescribed qualification to act as TRP.

<b>Objective</b>	To reduce cost of compliance; thus encouraging Assessee to file ROI
<b>Who are Not Eligible to be TRP?</b>	An accountant, Legal Practitioner, Banker of Assessee
<b>Who are Eligible to be TRP?</b>	An individual, who holds a a) bachelor degree from recognised Indian University or Institution, or b) has passed intermediate level examination of ICAI, ICAI or ICSI. c) Employees of companies & persons whose accounts are required to be audited u/s 44AB or any other law.
<b>Who can avail services of TRP?</b>	Individual / HUF (not liable to tax audit) can avail services of TRP
<b>Who can't avail services of TRP?</b>	a) Assessee liable to Tax Audit u/s 44 AB b) Non resident c) Company.

**Note:** Revised Return can be filed by TRP only if original return was also filed by TRP.

**12. VERIFICATION OF RETURN OF INCOME**

**[SECTION 140]**

S No.	Assessee	Circumstance	Authorised Persons
1.	Individual	i) In circumstances not covered under (ii), (iii) & (iv) below	- the individual himself

S No.	Assessee	Circumstance	Authorised Persons
		ii) Where he is absent from India	- the individual himself; or - any person duly authorised by him in this behalf holding a valid power of attorney (Such PoA should be attached to the return of income)
		iii) where he is mentally incapacitated from attending to his affairs	- his guardian; or - any other person competent to act on his behalf
		iv) where, for any other reason, it is not possible for the individual to verify the return	- any person duly authorised by him in this behalf holding a valid PoA from the individual (Such PoA should be attached to the return of income)
2.	Hindu Undivided Family	i) In circumstances not covered under (ii) and (iii) below	- Karta
		ii) Where the karta is absent from India	- Any other adult member of the HUF
		iii) where the karta is mentally incapacitated	- Any other adult member of the HUF
3.	Company	i) in circumstances not covered under (ii) to (vi) below	- the managing director of the company
		ii) a) where for any unavoidable reason such managing director is not able to verify the return; or b) where there is no managing director	- any director of the company or - any other person as may be prescribed for this purpose
		iii) where the company is not resident in India	- a person who holds a valid PoA (such PoA should be attached to the return).
		iv) a) Where the company is being wound up; or b) where any person has been appointed as Receiver of any assets of company	- Liquidator - Liquidator
		v) Where the management of the company has been taken over by the CG or any SG under any law	- the principal officer of the company
		vi) Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.	- insolvency professional appointed by such Adjudicating Authority
4.	Firm	i) In circumstances not covered under (ii) below	- the managing partner of the firm

S No.	Assessee	Circumstance	Authorised Persons
		ii) a) where for any unavoidable reason such managing partner is not able to verify the return; or b) where there is no managing partner.	- any partner of the firm, not being a minor - any partner of the firm, who is not minor
5.	LLP	i) in circumstances not covered under (ii) below ii) a) where for any unavoidable reason such designated partner is not able to verify the return; or b) where there is no designated partner.	- Designated partner  - any partner of the LLP or any other person as may be prescribed for this purpose
6.	Local authority	-	- the principal officer
7.	Political party	-	- the chief executive officer of such party (whether he is known as secretary or by any other designation)
8.	Any other association	-	- any member of the association or the principal officer of such association
9.	Any other person	-	- that person or some other person competent to act on his behalf.

**Any other person in case of company and LLP - shall be the**

- a) person, appointed by the Adjudicating Authority (i.e., National Company Law Tribunal) for discharging the duties and functions of an interim resolution professional,
- b) a resolution professional,
- c) or a liquidator, as the case may be, under the Insolvency and Bankruptcy Code, 2016 and the rules and regulations made thereunder.

### 13. INVALID RETURN

- a) Return filed after 31<sup>st</sup> Dec of relevant AY.
- b) Unverified/ Unsigned RoI.
- c) If Assessee does not rectify defective return or rectifies it after the time allowed by AO & AO does not condone the delay.

**14. SELF-ASSESSMENT [SECTION 140A]**

**Payment of tax, interest and fee before furnishing return of income [Section 140A(1)]**

<b>Tax liability [Tax rate of Total Income + Surcharge + HEC]</b>	<b>XXX</b>
(-) TDS Receivable	XX
(-) TCS Receivable	XX
(-) Relief u/s 89	XX
(-) Tax credit u/s 115JD in case the Assessee has exercised the option of shifting out of the default tax regime provided u/s 115BAC(1A)	XX
(-) Advance Tax	XX
<b>Self-Assessment Tax</b>	<b>XXX</b>
+ Fee	XX
+ Interest u/s 234C, B & A	XX
<b>Aggregate of Self-Assessment Tax, Interest &amp; Fee (payable at the time of filing Return)</b>	<b>XXX</b>

In case amount paid falls short of total amount payable, Order of Adjustment of Amount Paid shall be

Fee (1) ↓  
 Interest (2) ↓ FIT  
 Tax (3) ↓

<b>Illustration</b>	
Tax liability	1,00,00,000
(-) TDS/ TCS/ Relief u/s 89/ AMT credit u/s 115JD	10,00,000
<b>Tax payable</b>	<b>90,00,000</b>
+ Fee	5,000
+ Interest u/s 234A, 234B & 234C	1,00,000
<b>Self-assessment amount payable</b>	<b>91,05,000</b>
Amount Paid → 50,00,000	
<b>Solution:</b>	
Amount Paid	
(-) Adjusted with Fee	
(-) Adjusted with Interest	
<b>Amount adjusted with Tax payable</b>	
Tax still unpaid →	

Before filing ROI, self-assessment tax must be paid in full. Filing return along with part payment is not allowed.

Consequences of Not paying Fee, Interest and Tax → Assessee in default.

15. PERMANENT ACCOUNT NUMBER

[SECTION 139A]

15.1. Introduction

PAN is a 10-digit alphanumeric number on a laminated card, which contains the photograph of the Assessee. It is a unique identification number allotted by the Central Board of Direct Taxes.

The purpose to issue PAN is to have

- better identification of the Assessee and to
- facilitate faster correspondence between the Department and the Assessee and
- to detect concealed income.

The following persons have to mandatorily apply for allotment of permanent account number:

(1)	(2)	(3)
	Persons required to apply for PAN	Time limit for making such application (Rule 114)
(i)	Every person, if his total income or total income of any other person in respect of which he is assessable exceeds the maximum amount which is not chargeable to income-tax	On or before 31 <sup>st</sup> May of the assessment year for which such income is assessable
(ii)	Every person carrying on any business/ profession whose turnover are or is likely to exceed 5 lakhs in any previous year	Before end of that financial year.
(iii)	Every person being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to INR 2,50,000 or more in a financial year	On or before 31 <sup>st</sup> May of the immediately following FY
(iv)	Every person who is a managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of any person referred in (iii) above or any person competent to act on behalf of such person referred in (iii) above	On or before 31 <sup>st</sup> May of the immediately following FY in which the person referred in (iii) enters into financial transactions specified therein.
(v)	Cash deposits aggregating to INR 20 lakhs or more in a FY, in one or more account of a person with a Bank or a Co-Operative Bank or Post Office	At least 7 days before the date on which he intends to deposit cash over the specified limit of 20 lakhs
(vi)	Cash withdrawals aggregating to INR 20 lakhs or more in a FY, in one or more account of a person with a Bank or a Co-Operative Bank or Post Office	At least 7 days before the date on which he intends to withdraw cash over specified limit of 20 lakh
(vii)	Opening of a current account or cash credit account by a person with a Bank or a Co-Operative Bank or Post Office	At least 7 days before the date on which he intends to open it
In case (v), (vi), (vii), A Bank or a Co-Operative Bank or Post Master General of a Post Office is required to ensure that PAN or Aadhaar Number has been duly Quoted & Authenticated.		

Points to Note:

- Every person who has been directed by the Assessing Officer or notified by the Central Government shall also be allotted PAN.
- A person can make an application for obtaining PAN on voluntary basis.
- A Minor who does not have PAN shall quote the PAN of his father or mother or guardian, as the case may be, while entering into a transaction which requires him to quote PAN.
- Any person who does not have a PAN and who enters into any transaction which requires him to quote

PAN shall make a declaration in **Form No. 60** giving therein the particulars of such transaction.

**Example:** CIWPK7697N

### 15.2. Transactions where PAN has to be quoted mandatorily

- a) In all returns to, and correspondence with, any income tax authority.
- b) In all challans for the payment of sum due under the Act.
- c) In all documents pertaining to such transactions entered into by him as prescribed by CBDT:

S No.	Nature of transaction	Value of transaction
1.	Sale or purchase of a motor vehicle or vehicle, other than two wheeled vehicles	All such transactions.
2.	Opening an account [other than a time-deposit referred to at S. No. 12 and a Basic Savings Bank Deposit Account] with any bank.	All such transactions.
3.	Making an application for issue of a credit or debit card.	All such transactions.
4.	Opening of a demat account with a depository registered under Securities and Exchange Board of India Act, 1992.	All such transactions.
5.	Payment to hotel/restaurant against a bill or bills at any one time.	Payment in <b>cash</b> of an amount exceeding INR 50,000.
6.	Payment w.r.t. travel to any foreign country or payment for purchase of any foreign currency at any one time.	Payment in <b>cash</b> of an amount exceeding INR 50,000.
7.	Payment to a Mutual Fund for purchase of its units	Amount exceeds INR 50,000.
8.	Payment to a company or an institution for acquiring debentures or bonds issued by it.	Amount exceeds INR 50,000.
9.	Payment to the RBI for acquiring bonds issued by it.	Amount exceeds INR 50,000.
10.	Deposit with any bank or Post office	Deposits in <b>cash</b> exceeding INR 50,000 during any day.
11.	Purchase of bank drafts or pay orders or banker's cheques from any bank	Payment in <b>cash</b> of an amount exceeding INR 50,000 in one day.
12.	A time deposit with, - a) A bank; b) a Post Office; c) a Nidhi referred to in section 406 of the Companies Act, d) a non-banking financial company.	Amount exceeding 250,000 or aggregating to more than INR 5 lakh during a financial year.
13.	Payment for one or more pre-paid payment instruments issued by Reserve Bank of India under the Payment and Settlement Systems Act, 2007, to any bank or any other company or institution.	Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than INR 50,000 in a financial year.
14.	Payment as life insurance premium to an insurer as defined in the Insurance Act, 1938.	Amount aggregating to more than INR 50,000 in a FY
15.	A contract for sale or purchase of securities (other than shares)	Amount exceeding INR 1 lakh per transaction.

16.	Sale or purchase, by any person, of shares of a company not listed in a recognized stock exchange.	Amount exceeding INR 1 lakh per transaction.
17.	Sale or purchase of any immovable property.	Amount exceeding INR 10 lakh or valued by stamp valuation authority referred u/s 50C at an amount exceeding INR 10 lakh.
18.	Sale or purchase, by any person, of goods or services of any nature other than those specified at SL. No. 1 to 17, if any.	Amount exceeding INR 2 lakh per transaction.

**Consequences of non-compliance with provisions of section 139A or quoting wrong PAN: [Sec 272B]**

Penalty of INR 10,000 for each default.

It is necessary to give an opportunity to be heard to the person on whom penalty u/s 272B is to be imposed.

**Intimation of PAN to person deducting or collecting tax at source & Cases where No need to Intimate PAN:**

Every person subject to TDS or TCS shall intimate his PAN to the deductor/ collector of tax.

Exception: Requirement to intimate PAN and quote PAN not to apply to certain persons

a) If the person does not have taxable income; or

b) If the person is not required to obtain PAN; and

if such person furnishes a declaration under section 197A in the prescribed form and manner that the tax on his estimated total income for that previous year will be Nil.

**16. INTER-CHANGEABILITY OF PAN AND AADHAAR**

PAN and Aadhaar can be used Inter-changeably i.e.

- wherever a person is required to furnish PAN,
- the same will be deemed to be furnished if the person furnishes Aadhaar instead of PAN if he
  - a) has not been allotted a PAN but possesses the Aadhar number; or
  - b) has been allotted a PAN and has intimated his Aadhar number to prescribed authority.

Further, any person, who has not been allotted a PAN but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the PAN,

- shall be deemed to have applied for PAN & he shall not be required to apply or submit any document.

Further, any person, who has not been allotted a PAN but possesses the Aadhaar number may apply for the PAN by intimating his Aadhaar number and he shall not be required to apply or submit any document.

**17. QUOTING OF AADHAAR NUMBER**

**[SECTION 139AA]**

**Mandatory quoting of Aadhar Number**

If any person

- applies new PAN or furnishes return of income
- on or after 1<sup>st</sup> April, 2019,

then he will be required to mandatorily quote Aadhaar number.

**Note:** If an Assessee does not have Aadhaar number at the time of applying for PAN or filing return of income, he must quote 28-digit enrolment ID of Aadhar application form issued to him.



**Intimation of Aadhar Number to prescribed Authority [Sec 139AA(2)]**

Last date of intimating/ linking of Aadhaar Number with PAN is **31.3.2022**.

**Consequences of failure to intimate Aadhar Number****i) Fee u/s 234H**

INR 500; if intimation is made within three months from the prescribed date i.e. by 30.06.2022; & INR 1,000 in all other cases.

**ii) PAN allotted to such person shall be made inoperative w.e.f. 01.07.2023 as per Rule 114AAA.**

However, if such person has intimated his Aadhar number u/s 139AA(2) after payment of fee specified u/s 234H, his PAN would become operative within 30 days from the date of intimation of Aadhar number.

A person, whose PAN has become inoperative, would be liable for following further consequences for the period commencing from the date as specified under (4) below till the date it becomes operative.

- a) no refund of any amount of tax due under the provisions of the Act;
- b) interest would not be payable on such refund for the period PAN is inoperative;
- c) tax is deductible at source at higher rate, in accordance with provisions of section 206AA;
- d) tax is deductible at source at higher rate, in accordance with provisions of section 206CC

In addition to the above, the tax payer might face difficulty at various other fora like banks and other financial portals, as PAN is one of the important KYC criteria for all kinds of financial transactions.

**Effective date of Rule 114AAA:** These consequences would be with effect from **1.7.2023** and continue till the PAN becomes operative. A fee of 1,000 has to be paid to make the PAN operative by intimating the Aadhaar number.

**Provision of quoting Aadhar not to apply to certain persons or class of persons:**

- i) Residing in the states of Assam, Jammu & Kashmir and Meghalaya;
- ii) A Non-Resident as per Income-tax Act, 1961;
- iii) Of the Age of 80 years or more at any time during the previous year;
- iv) Not a citizen of India.

## CHAPTER 17

# COMPUTATION OF TOTAL INCOME AND TAX PAYABLE

### 1. TAX – MEANING AND TYPES

Refers to **compulsory monetary contribution** to the **Government** on the activities, expenditure, income, property, etc., of individuals and organizations which is used to provide public services.

There are two types of tax as explained below:

Basis	Direct tax	Indirect tax
<b>Meaning</b>	Liability to pay the tax to Govt. & burden of payment lies on the same person.	Liability to pay the tax to Govt. lies on one person but the same is recovered from another person i.e. burden of tax falls on another person.
<b>Nature</b>	Progressive in nature → higher income, higher tax.	Regressive in nature → same tax is charged from everyone irrespective of level of income. Hence, more burdensome for poor.
<b>Levied on</b>	Income/wealth of the Assessees.	Purchase/sale/manufacture of goods & provision of services.
<b>Shifting of Burden</b>	There is no shifting of tax burden i.e. it is directly borne by the taxpayer.	Tax burden is shifted to the subsequent user.
<b>Examples</b>	Income Tax, Tax on undisclosed Foreign Income and Assets.	Goods and Service Tax, Custom Duty etc.

### 2. POWERS OF CENTRAL OR STATE GOVERNMENT TO LEVY TAX

The Government derives its powers to levy taxes from the Constitution of India.

Exercised by	Power
Central Government	List I of Seventh Schedule to Article 246 of the Constitution
State Government	List II of Seventh Schedule to Article 246 of the Constitution
Central as well as State Government	List III of Seventh Schedule to Article 246 of the Constitution
Central as well as State Government	Article 246 A of the Constitution [Goods and Service Tax]

#### List I – Union List

Entry No.	Items
82	Income Tax other than Tax on Agricultural Income
83	Customs Duty including export duties

Entry No.	Items
84	Excise Duty on specified goods

**List II - State List**

Entry No.	Items
46	Agricultural Income Tax
54	Taxes on sale of specified goods

**List III - Concurrent List (There is no entry for levy of tax under Concurrent List)**

Entry No.	Items
17A	Forests
25	Education

**3. COMPONENTS/ SOURCES OF INCOME TAX LAWS**

1. <b>Income Tax Act, 1961</b>	<p>a) Levy of Income Tax in India is governed by the Income-tax Act, 1961 (“the Act” or “IT Act”) which came into force w.e.f. 1962.</p> <p>b) The Act contains chapters from I to XXIII, 298 sections and XIV Schedules.</p> <p>c) IT Act provides for determination of Total Income, Tax Liability and Procedure for Assessment, Appeal, Penalties and Prosecutions.</p> <p>d) Provisions of IT Act undergo changes, based on amendments brought about by the Finance Act every year.</p>
2. <b>Finance Act</b>	<ul style="list-style-type: none"> <li>▪ Finance Minister of the Union Government presents the Finance Bill in both Houses of Parliament.</li> <li>▪ Part A of the Budget Speech contains the proposed policies of the Government in Fiscal areas. Part B contains the detailed Tax Proposals.</li> <li>▪ Once the Finance Bill is approved by the parliament and gets the assent of the President, it becomes the Finance Act.</li> <li>▪ The Finance Act brings amendments to Direct tax laws and Indirect Tax Laws</li> </ul> <p>First Schedule to Finance Act contains four parts which specify rates of tax -</p> <p>i) <b>Part I</b> of the First Schedule to the Finance Act specifies the rates of tax applicable for the current Assessment Year. Accordingly, Part I of the First Schedule to Finance Act, 2023 specifies the rates of tax for A.Y. 2024-25.</p> <p>ii) <b>Part II</b> specifies the rates at which tax is deductible at source for the current Financial Year.</p> <p>iii) <b>Part III</b> gives the rates for calculating income-tax for deducting tax from income chargeable with “Salaries” and computation of advance tax.</p> <p>iv) <b>Part IV</b> gives the rules for computing net agricultural income.</p>
3. <b>Income Tax Rules, 1962</b>	<ul style="list-style-type: none"> <li>▪ The administration of Direct Taxes is vested in the Central Board of Direct taxes.</li> <li>▪ CBDT is empowered to frame rules to carry out the objects of Act and for proper administration of the Act.</li> </ul>
4. <b>Circulars/ Notifications</b>	<p>a) <b>Notifications</b> are issued by Central Government or CBDT to give effect to provisions of Act. It is binding on both assessing officers and Assessee.</p>

<p><b>from CBDT</b></p>	<p>b) <b>Circulars</b> are issued by CBDT to clarify doubts regarding the scope and meaning of the various provisions of the Act and act as guidance for officers and Assesses. These circulars are binding on assessing officers but not on Assessee and Courts. Hence, Assessee can take advantage of circulars which are beneficial to them while they may challenge those which are unfavorable.</p>
<p><b>5. Supreme Court &amp; High Court decisions/ Case Laws/ Judicial Pronouncements:</b></p>	<ul style="list-style-type: none"> <li>▪ Supreme Court &amp; High Court can give judgment only on a question of law.</li> <li>▪ Decisions given by the Supreme Court is the law of the land.</li> <li>▪ Decisions given by various High Courts will apply in the respective states in which such High Courts have jurisdiction.</li> </ul>

**4. CHARGE OF INCOME TAX [SECTION 4]**

Section 4 of the Income-tax Act, 1961 is the charging section which provides that:

➤ Income-tax is a TAX levied on the TOTAL INCOME of the PREVIOUS YEAR of every PERSON.

**Note:** Tax shall be charged at the rates prescribed for the year by the Annual Finance Act or the Income-tax Act, 1961 or both.

**Note:** Tax is chargeable on the total income earned during the previous year and not the assessment year. (There are certain exceptions provided by sections 172, 174, 174A, 175 and 176).

**5. INCOME [SECTION 2(24)]**

The definition of “Income” begins as “Income includes .....”. The definition of income is, therefore, inclusive and not exhaustive.

**Income includes:**

- i) Profits and gains of Business or profession.
- ii) Dividend.
- iii) Voluntary contributions received by a Charitable/ Religious trust or University/ Education Institution or hospital / Electoral Trust / Approved Research Association or Institution.
- iv) Special allowance or Benefit specified granted either to meet personal expenses or for performance of duties of an office or an employment of profit.
- v) Export Incentives like duty drawback, cash compensatory support, sale of import Licenses etc.
- vi) Interest, salary, bonus, commissions or remuneration earned by a partner of a Firm from such Firm.
- vii) Profits and gains from the business of banking carried on by a Co-operative society with its members.
- viii) Winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever.
- ix) Sums received by an Assessee from his employees towards welfare fund contributions such as Provident Fund, superannuation Fund etc.
- x) Amount received under keyman Insurance policy including bonus thereon.
- xi) Non-compete fee
- xii) Any advance money received in the course of negotiation for transfer of capital asset which is forfeited.
- xiii) Assistance by way of subsidy/grant/cash incentive/duty drawback etc. by the Government.

The concept of “Income” under the Income-tax Act, 1961 is slightly different from what is generally understood as “Income” in common parlance.

S No.	In Common Parlance	Under Income-tax Act, 1961
1.	Income is understood as a regular monetary return from specified sources.	Income also includes casual income like winnings from lotteries, crossword puzzles etc.
2.	Normally, only revenue receipts are considered as income.	Capital gains on transfer of assets are specifically included in the definition of income.
3.	Income means the actual income i.e. gross receipts less expenditure incurred	Income is also calculated applying a presumptive rate on gross receipts in certain cases.  For example, an individual carrying on civil construction business with gross receipts of, say INR 80 lakhs, can calculate his income by applying presumptive rate of 8% on 80 lakhs even though his actual income may be higher.
4.	Income generally refers to real income.	Even notional income is treated as income if specifically provided under the Act.  For example, annual value of a property which is not actually let out but is deemed to be let out is chargeable to income-tax.
5.	Income means the gross receipts after deducting actual expenditure incurred to earn such receipts	The deductions specifically allowed under the Income-tax Act, 1961 can only be reduced to compute income.  Also, if there is any restriction on the quantum of deduction allowable under the Act, the deduction would be allowed subject to such limits.  For instance, in case of salary income of handicapped employee, transport allowance is allowable as deduction only up to INR 3,200 per month even though the employee may have actually incurred more than INR 3,200 p.m. and may be getting a higher transport allowance.
6.	Income is generally considered to belong to the person who receives the same	The Income-tax Act, 1961 has specific provisions regarding including the income of one person in the hands of the other in certain circumstances like including income of a minor child in the hands of the parent.

## 6. TAXABILITY OF FEW INCOMES

1) <b>Casual receipts</b>	Casual receipts which do not arise regularly are treated as income for tax purposes e.g., Winnings from lotteries, crossword puzzles.
2) <b>Revenue receipt vis-a-vis Capital receipt:</b>	Income normally refers to revenue receipts. Capital receipts are generally not included within the scope of income in general parlance.  However, Income-tax Act has specifically included certain capital receipts within the definition of income e.g., Capital gains i.e., gains on sale of a capital assets like land.
3) <b>Application of Income vis-a-vis Diversion of Income</b>	Application of income means to discharge an obligation (which is self-imposed) after such income reaches the Assessee. In this case, the income would be taxable in the hands of the person who applies it.  Where by virtue of an obligation by overriding title, income is diverted before it reaches the Assessee, it is known as diversion of income. In this case, it is not taxable.
4) <b>Liquidated</b>	Receipt of liquidated damages directly and intimately linked with the procurement of

<b>damages</b>	<p>a capital asset, which lead to delay in coming into existence of the profit-making apparatus, is a capital receipt.</p> <p>The amount received by the Assessee towards compensation for sterilization of the profit earning source is not in the ordinary course of business. Hence, it is a capital receipt in the hands of the Assessee.</p>
<b>5) Compensation on termination of agency:</b>	<p>Where an Assessee has only one agency business being the only source of income</p> <ul style="list-style-type: none"> <li>➤ Such receipt is of capital nature, but taxable under section 28(ii)(c).</li> </ul> <p>Where the Assessee has a number of agencies and one of them is terminated</p> <ul style="list-style-type: none"> <li>➤ Such receipt would be of a revenue nature since taking up an agency and exploiting the same for earning income is in the ordinary course of business.</li> </ul> <p>The loss of one agency would be made good by profit from another agency.</p> <p>Compensation received or receivable in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as business income.</p> <p>Compensation received from the employer or from any person for premature termination of the service contract is a capital receipt,</p> <ul style="list-style-type: none"> <li>➤ but is taxable as profit in lieu of salary u/s 17(3) or as income from other sources u/s 56(2)(xi), respectively.</li> </ul>

## 7. FEW IMPORTANT CONCEPTS

<b>1) Persons [Section 2(31)]</b>	<b>Person includes</b>		
	a) Individual	b) Hindu undivided family	c) Company
	d) Firm	e) Local authority	f) Artificial juridical person
	g) Association of persons (AOP)/ body of individuals (BOI), whether incorporated or not		
<b>2) Assessee [Sec 2(7)]</b>	<p>means any person liable to pay tax or any other sum under Income-tax Act. It includes:</p> <p>a) Every person in respect of whom any proceeding has been undertaken for the assessment of income/loss.</p> <p>b) Every person who is deemed to be an Assessee under the Act.</p> <p>Every person who is deemed to be an Assessee in Default under the Act.</p>		
<b>3) Deemed Assessee</b>	<p>means a person who is treated as an Assessee under Income-tax Act. This includes:</p> <p>a) Trustee of a Trust,</p> <p>b) Legal Representative of a deceased persons u/s 159,</p> <p>c) Representative Assessee of a Non-Resident u/s 160(2) i.e. agent of a Non-Resident,</p> <p>d) Legal Guardian or Manager entitled to receive the Income on behalf of a Minor, Lunatic or Idiot.</p>		
<b>4) Assessee in Default</b>	<p>Assessee in Default includes a person who:</p> <p>a) fails to deduct and remit TDS (Sec. 191),</p> <p>b) fails to pay tax or any other sum demanded (Sec.220).</p>		
<b>5) Assessment Year</b>	<p>Assessment year means the period of 12 months commencing on 1<sup>st</sup> April every year. [Sec 2(9)]</p>		
<b>6) Previous Year</b>	<p>Previous year means financial year immediately preceding the assessment year. [Sec 3]</p>		

	<p><b>Note:</b> The income earned during previous year is taxed in assessment year.</p> <p><b>Note:</b> Previous year of newly established business/profession shall be from the date of setting up of the business/profession to the end of the financial year in which such business/profession was set up.</p> <p><b>Examples:</b></p> <p>i) A is running a business from 1993 onwards. Determine the previous year for the AY 2024-25. The previous year will be 1.4.2023 to 31.3.2024.</p> <p>ii) A CA sets up his profession on 1<sup>st</sup> July, 2023. Determine the previous year for the assessment year 2024-25. The previous year will be from 1.7.2023 to 31.3.2024.</p> <p>Cases where income of a PY is assessed in the PY itself – Refer CP II.</p>								
7) <b>Gross Total Income</b>	means the aggregate of Income computed under the five heads as per provision of the Income Tax Act before making any deductions under Chapter VIA.								
8) <b>Total Income</b>	means the total amount of Income on which income tax liability is computed. It is arrived at by reducing deductions under Chapter VIA from the Gross Total Income. Income-tax is levied on an Assessee's total income.								
9) <b>Rounding-Off Total Income</b>	<p>The Total Income computed under this Act shall be rounded off to the nearest multiple of INR 10. [Sec. 288A]:</p> <table border="1"> <thead> <tr> <th>If last figure (Unit Digit) is</th> <th>Rounded off as under</th> </tr> </thead> <tbody> <tr> <td>5 or more</td> <td>Increased to next multiple of 10</td> </tr> <tr> <td>Less than 5</td> <td>Reduced to next lower multiple of 10</td> </tr> <tr> <td colspan="2">While rounding off, Paise shall be ignored</td> </tr> </tbody> </table>	If last figure (Unit Digit) is	Rounded off as under	5 or more	Increased to next multiple of 10	Less than 5	Reduced to next lower multiple of 10	While rounding off, Paise shall be ignored	
If last figure (Unit Digit) is	Rounded off as under								
5 or more	Increased to next multiple of 10								
Less than 5	Reduced to next lower multiple of 10								
While rounding off, Paise shall be ignored									

8. PERSONS

[SECTION 2(31)]

1) <b>Individual</b>	<ul style="list-style-type: none"> <li>The term 'individual' means only a natural person, i.e., a human being. It includes both males and females.</li> <li>It also includes a minor or a person of unsound mind. But the assessment in such a case may be made on the guardian or manager of the minor or lunatic who is entitled to receive his income.</li> <li>In the case of deceased person, assessment would be made on the legal representative.</li> </ul>
2) <b>Hindu Undivided Family (HUF)</b>	<ul style="list-style-type: none"> <li>Under the Income-tax Act, a HUF is treated as a separate entity for the purpose of payment of tax and assessment.</li> <li>Although, HUF has not been defined under the Income-tax Act, HUF means any family which is Hindu by religion. It comprises of all persons lineally descended from a common ancestor, including their wives and unmarried daughters.</li> <li>The senior-most member of HUF is called Karta. Karta is responsible for control and management of HUF.</li> <li>Note: <ul style="list-style-type: none"> <li>a) HUF is taxed in a manner similar to that of individual.</li> <li>b) Jain undivided families &amp; Sikh undivided families would also be assessed as a HUF.</li> <li>c) Share of members of HUF from income of the HUF is exempt u/s 10(2). However, if a married daughter or widowed daughter receives share from father's income, it is not exempt from income-tax.</li> </ul> </li> </ul>

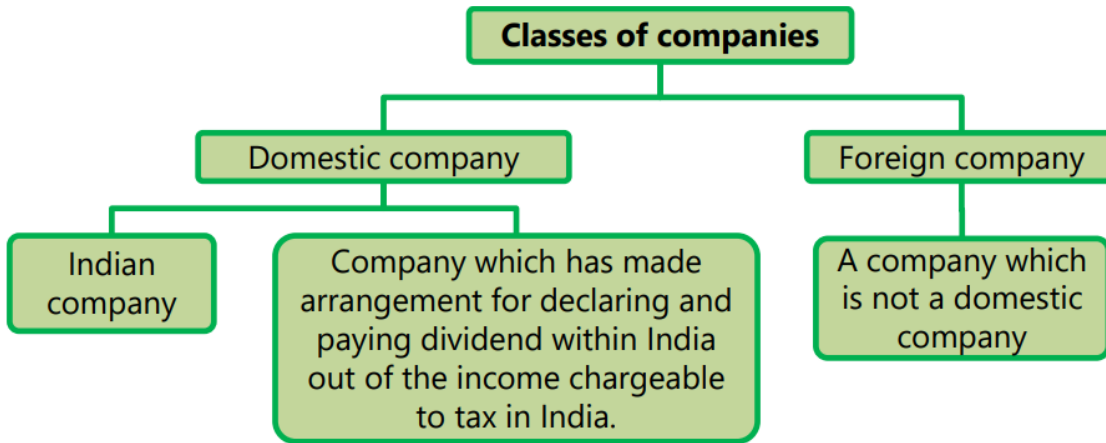
	Two school of Hindu law with regard to succession is as follows:		
	<b>Dayabaga school of Hindu law</b>		<b>Mitakshara school of Hindu law</b>
	a) Prevalent in West Bengal and Assam		Prevalent in rest of India
	b) Nobody acquires the right, share in the property by birth as long as the head of family is living. c) Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property. Hence, the father and his brothers would be the coparceners of the HUF.		One acquires the right to the family property by his birth and not by succession irrespective of the fact that his elders are living. Thus, every child born in the family acquires a right/share in the family property.
<b>3) Firm [Sec 2(23)]</b>	<ul style="list-style-type: none"> <li>Refers to Firm as per Indian Partnership Act, 1932 and shall include a Limited Liability Partnership as defined in LLP Act, 2008.</li> <li>For income-tax purposes, a minor admitted to the benefits of an existing partnership would also be treated as partner.</li> </ul>		
<b>4) AOP vs. BOI</b>	<b>Basis</b>	<b>AOP</b>	<b>BOI</b>
	<b>Creation</b>	Created voluntarily.	Created by operation of Law.
	<b>Members</b>	AOP may consist of individuals or non-individuals.	BOI consists of only individuals.
	<b>Condition</b>	In AOP, members join together for a common purpose and without an intention to form Partnership.	In BOI, such common will may or may not be present.
	<b>Examples</b>	Co-Heirs, Co-Legatees or Co-Donees joining together for common purpose are assessable as AOP.	Mutual Trade associations, member's club etc.
<b>5) Company [Sec 2(17)]</b>	Company means: (discussed subsequently in greater detail) a) any Indian Company, or b) any Body Corporate incorporated outside India under the laws of a Foreign Country.		
<b>6) Artificial Juridical Persons</b>	<ul style="list-style-type: none"> <li>Refers to entities which are not natural persons but are separate entities in the eyes of law. Examples: Deities, Bar Council, Universities etc.</li> <li>This is a residual category could cover all artificial persons with a juristic personality not falling under any other category of persons.</li> </ul>		

### 8.1. TYPES OF COMPANIES

#### a) Indian Company [Sec. 2(26)]

Indian Company means a company formed and registered under the Companies Act. The principal or registered office of the Company should be in India.





**b) Domestic Company vs. Foreign Company**

Particulars	Domestic Company [Sec. 2(22A)]	Foreign Company [Sec. 2(23A)]
<b>Meaning</b>	i) An Indian Company ii) Any other Company which has made prescribed arrangements for the declaration and payment of dividends (including dividends on Preference shares) within India.	A company which is not a Domestic Company.
<b>Rate of Tax</b>	Income is taxed at 30%. Surcharge is – <ul style="list-style-type: none"> <li>▪ 7% if Total Income &gt; INR 1 crore but &lt; INR 10 crores; and</li> <li>▪ 12% if Total Income &gt; INR 10 crores.</li> </ul>	Income is taxed at 40%. Surcharge is– <ul style="list-style-type: none"> <li>• 2% if Total Income &gt; INR 1 crore but &lt; INR 10 crores; and</li> <li>• 5% if Total Income &gt; INR 10 crores.</li> </ul>

**c) Company in which public are substantially Interested [Sec. 2(18)]**

A company is said to be a company in which the public are substantially interested if:

- i) **Government /RBI holding:** It is owned by Govt. or RBI or in which not less than 40% of the shares are held singly or together by the Govt. or RBI or a corporation owned by RBI.
- ii) **Section 8 Companies:** It is a company registered u/s 8 of the Companies Act, 2013.
- iii) **Listed Companies:** It is a Company whose shares are listed and traded on any RSE like BSE/NSE.

**d) Closely held company** means any company not fulfilling any of the above conditions.

**9. STEPS IN COMPUTATION OF TOTAL INCOME AND TAXABILITY**

Steps	Particulars	Amount
Step 1	Determination of Residential Status and incidence of tax [Sec. 6, 5 and 9]	
Step 2	Classification of Income under different Heads – 5 Heads as per IT Act	
Step 3	Computation of Income under each head after deduction under respective heads Exclusion of Income not chargeable to tax	
Step 4	Clubbing of Income of Spouse, Minor Child, etc.	
Step 5	Set-Off or Carry Forward and Set-Off of Losses to Income as per Step 4	
Step 6	<b>Computation of Gross Total Income</b>	
Step 7	Less: Deduction from Gross Total Income [Chapter VI A – Sec. 80C to Sec. 80U]	

Steps	Particulars	Amount
Step 8	<b>Computation of Total Income [Rounded off to nearest 10 u/s 288A]</b>	
Step 9	Application of Rates of Tax on Total Income	
Step 10	Less: Rebates & Relief [Chapter VIII] – [Sec. 87A]	
Step 11	Add: Surcharge on Step 9 (if applicable)	
Step 12	Add: Health and Education Cess on Income Tax [Net of Step 9,10 and 11]	
Step 13	<b>Tax Liability [Net of Step 9, 10, 11 and 12]</b>	
Step 14	<b>Examine applicability of Alternate Minimum Tax (AMT)</b>	
Step 15	Examine the tax liability computed under default tax regime u/s 115BAC and the tax payable under the normal provisions of the Act (including provisions relating to AMT, if applicable). Thereafter, select the option where tax liability is minimum.	
Step 16	Less: Advance Tax and Tax Deducted/Collected at Source [Chapter XVII]	
Step 17	<b>Self-Assessment Tax/ Tax Payable/ Tax Refund [Rounded off to nearest 10 u/s 288B]</b>	
Step 18	Return of Income [Sec. 139]	

Exemptions & deductions is available to an individual depending upon the regime in which he pays tax. Tax regime u/s 115BAC is the default tax regime which provides for concessional rates of tax to individuals / HUFs/ AOPs/ BOLS/ Artificial juridical persons. However, certain exemptions & deductions are not allowed under the default tax regime. Such Assessee have an option to opt out of the said regime and pay tax under normal provisions of the Act.

## 10. RATES OF INCOME-TAX (AY 2024-25)

### 10.1. RATES PRESCRIBED U/S 115BAC OF THE INCOME-TAX ACT FOR DEFAULT TAX REGIME

Individuals/ HUF/ AOPs/ BOLS or artificial juridical persons, other than those who exercise the option to opt out this regime u/s 115BAC, have to pay tax in respect of their total income (other than income chargeable to tax at special rates u/s 111A, 112, 112A, 115BB, 115BBJ etc.) at the following concessional rates:

S No.	Total Income	Rate
1.	Upto 3,00,000	Nil
2.	From 3,00,001 to 6,00,000	5%
3.	From 6,00,001 to 9,00,000	10%
4.	From 9,00,001 to 12,00,000	15%
5.	From 12,00,001 to 15,00,000	20%
6.	Above 15,00,000	30%

#### 10.1.1. CONDITIONS TO BE SATISFIED UNDER DEFAULT TAX REGIME

**1. Assessee paying Tax under Default Tax Regime are not eligible to avail following Exemptions & Deductions:**

Salary	HP	PGBP	Other Exemptions	Deductions
<p>↓</p> <p>a) 10(5) – LTC b) 10(13A) – HRA c) 10(14) – official &amp; personal allowances. However, 4 allowances are still exempt: i) Daily + ii) Conveyance + iii) Travelling + iv) Transportation. d) Free meals &amp; Non-alcoholic drinks e) Deductions u/s 16 being Entertainment Allowance &amp; Professional Tax</p>	<p>↓</p> <p>24 (b) w.r.t. self-occupied HP. In other cases, deduction u/s 24(b) is allowed even in case of default tax regime u/s 115BAC.</p>	<p>↓</p> <p>a) Additional depreciation u/s 32, b) Scientific Expenditure &amp; Donation u/s 35 c) Investment linked tax incentives u/s 35 AD</p>	<p>↓</p> <p>a) Daily &amp; constituency allowance of MP/ MLA u/s 10(17) b) 10(32)</p>	<p>↓</p> <p>a) Deductions u/s 10AA 80 C to 80 U Except ➤ 80 CCD(2) ➤ 80CCH(2) ➤ 80 JJAA Thus, only three deductions of Chapter VI A is allowed in case of Assessee paying tax under default tax regime.</p>

**2. Such Individual / HUF is not allowed to set off**

- Loss u/s HP can't be adjusted against Income of other heads.
- Depreciation or additional depreciation: Depreciation u/s 32 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.
- Exemption or deduction for allowances or perquisite provided under any other Law: Not allowed.

**Additional point:**

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.

**Example:**

Mr. X, carries on business of manufacturing of steel. He has unabsorbed depreciation as on 1.4.2023, which includes amount attributable to additional depreciation u/s 32(1)(iia) of P.Y. 2022-23 or any earlier previous year in respect of block of plant and machinery. If he pays tax under default tax regime u/s 115BAC for P.Y. 2023-24 relevant to A.Y. 2024-25, the amount so attributable to additional depreciation of earlier year remaining unabsorbed as on 1.4.2023 would not be eligible for set-off against current year income and no

further deduction for such loss or depreciation shall be allowed for any subsequent year.

Accordingly, WDV of the block as on 1.4.2023 has to be increased by the amount not allowed to be set-off.

### 3. Time limit for exercising the option to shift out of the default tax regime

i) Assessee Not having B/P	ii) Assessee having Business/ profession
Option to opt out of default tax regime and pay tax under normal provisions is available in each PY at the time of filing ROI u/s 139(1).	Option to opt out of default tax regime & pay tax under normal provisions is available at time of filing ROI u/s 139(1)
↓	↓
He may choose to exercise the option in one year and not to exercise the option in another year and then again exercise the option next year.	Once opted out, Assessee need to pay tax under normal provisions of the Act in subsequent PYs as well
↓	↓
Thus, there is no restriction in this regard.	Assessee may withdrawal from normal provisions of the Act & pay tax under default tax regime only once in lifetime.
	Thus, if Assessee withdraws from normal scheme once, he shall never be eligible to opt it again & shall always pay tax under default tax regime.
	However, where such Assessee ceases to have any business income in future, can opt out of default tax regime again as mentioned in (i).

**Note:** AMT is not applicable to Assessee paying tax under default tax regime u/s 115BAC. Brought forward AMT credit shall also not be allowed to be adjusted from concessional rate of tax u/s 115BAC.

## 10.2. RATES PRESCRIBED BY THE ANNUAL FINANCE ACT UNDER THE OPTIONAL TAX REGIME

Part I of the First Schedule to the Finance Act, 2023, specifies the rates at which income-tax is to be levied on income chargeable to tax for the AY 2024-25.

Total Income (INR)	Tax Rate	Income Tax (IT)
<b>(A) For Individual Other Than (B) and (C) / HUF/ AOP/ BOI/ AJP</b>		
Upto 2,50,000	Nil	Nil
2,50,001 - 5,00,000	5%	$IT = (TI \text{ less } 2,50,000) \times 5\%$
5,00,001 - 10,00,000	20%	$IT = 12,500 + [(TI \text{ less } 5,00,000) \times 20\%]$
Above 10,00,000	30%	$IT = 1,12,500 + [(TI \text{ less } 10,00,000) \times 30\%]$
<b>(B) Resident Senior Citizens of the Age 60 or above till below 80 years</b>		
Upto 3,00,000	Nil	Nil
3,00,001 - 5,00,000	5%	$IT = (TI \text{ less } 3,00,000) \times 5\%$
5,00,001 - 10,00,000	20%	$IT = 10,000 + [(TI \text{ less } 5,00,000) \times 20\%]$
Above 10,00,000	30%	$IT = 1,10,000 + [(TI \text{ less } 10,00,000) \times 30\%]$
<b>(C) Resident Very Senior Citizens of the Age 80 years or above</b>		
Upto 5,00,000	Nil	Nil
5,00,001 - 10,00,000	20%	$IT = (TI \text{ less } 5,00,000) \times 20\%$

Part I of the First Schedule to the Finance Act, 2023, specifies the rates at which income-tax is to be levied on income chargeable to tax for the AY 2024-25.

Total Income (INR)	Tax Rate	Income Tax (IT)
Above 10,00,000	30%	$IT = 1,00,000 + [(TI \text{ less } 10,00,000) \times 30\%]$

**Note:** It may be noted that in case of above Assessee not having income from business or profession, the total income and tax liability (including provisions relating to AMT, if applicable under normal provisions) may be computed every year both in accordance with the regular provisions of the Income-tax Act, 1961 and in accordance with the provisions of section 115BAC, in order to determine which is more beneficial.

Accordingly such person may decide whether to pay tax under default tax regime u/s 115BAC or exercise the option to shift out and pay tax under normal provisions of the Act for that year.

### 10.3. SPECIAL RATE OF TAX IN THE INCOME TAX ACT

The following special rates are fixed by the Income-tax Act, 1961 & applicable to both Default Tax Regime and Optional Tax Regime. (only illustrative list is provided here)

S. No	Section	Nature of Income	Tax Rate						
1.	111A	Short Term Capital Gains on Transfer of Equity Share in a Company or Units of an Equity Oriented funds where securities transaction tax is paid.	15%						
2.	112	Long term capital gains on any asset on which STT is not paid/payable <b>Note:</b> a) For LTCG on listed securities (other than equity shares or units) or zero-coupon bonds, the tax payable shall be the least of – (a) Tax at 20% after Indexation, or (b) Tax at 10% without Indexation. b) For Non-Resident and Foreign Companies, LTCG on transfer of unlisted Securities or shares of a company not being a company in which public are substantially interested, is taxed at 10% without Indexation.	20%						
3.	112A	Long 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> Condition for availing the benefit of this concessional rate is Securities Transaction tax should have been paid– <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>In case of (Capital Asset)</th> <th>Time of payment of STT</th> </tr> </thead> <tbody> <tr> <td>Equity shares in a company</td> <td>Both at the time of acquisition and transfer</td> </tr> <tr> <td>Unit of equity-oriented fund or unit of business trust</td> <td>at the time of transfer</td> </tr> </tbody> </table>	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 > Rs. 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								
4.	115BB	Income in respect of winnings from lotteries, cross word puzzles, races including horse races, card games, gambling or betting. <b>Note:</b> No deduction in respect of any expenditure/allowance or any set off of any loss shall be allowed to the Assessee on amount taxable u/s 115BB.	30%						
5.	115BBJ	Net winnings from online games	30%						

S. No	Section	Nature of Income	Tax Rate
6.	115 BBE	Undisclosed Income referred to in sec. 68, 69, 69A, 69B, 69C and 69D. <b>Note:</b> Effective rate of tax (including surcharge @ 25% of tax & cess @ 4% of tax and surcharge) is 78%. <b>Note:</b> No deduction in respect of any expenditure or any set off of loss shall be allowed to the Assessee w.r.t. these incomes.	60%

**Notes:**

- Tax rates given above are subject to rebate u/s 87A and surcharge (wherever applicable) and health and education cess.
- However, rebate under section 87A is not available in respect of tax payable @ 10% on long-term capital gains taxable under section 112A.
- Rounding off of tax (Sec 288B):** The amount of tax payable by an Assessee or the amount of refund due shall be rounded off to the nearest multiple of INR 10.

**Clarifications regarding attaining prescribed age of 60 years/80 years on 31st March itself in case of senior or very senior citizens whose date of birth falls on 1st April.**

An individual who is **resident in India** and of the age of 60 years or more (senior citizen) and 80 years or more (very senior citizen) is eligible for a higher basic exemptions limit of INR 3 L & INR 5 L respectively.

The CBT has clarified that a person born on 1<sup>st</sup> April would be considered to have attained a particular age on 31<sup>st</sup> March i.e., the day preceding the anniversary of his birthday.

**Illustrations:**

Attaining Age	Birth Date	Age for PY 2023-24	Exemption Limit
60	01.04.2024	60	3,00,000
60	02.04.2024	59	2,50,000
80	01.04.2024	80	5,00,000
80	02.04.2024	79	3,00,000

**Abbreviations used in Tables above:**

Abbreviation	Full Form				
IT	Income Tax	TI	Normal Income	SC	Surcharge
TP	Tax Payable	Cess	Health and Education cess		

**II. RATES OF INCOME-TAX FOR OTHER ASSESSEES (AY 2024-25)**
**(A) Co-operative society**

(i)	Where total income does not exceed INR 10,000	10% of the total income
(ii)	Where the total income exceeds INR 10,000 but does not exceed INR 20,000	INR 1,000 plus 20% of the amount by which total income exceeds INR 10,000
(iii)	Where the total income exceeds INR 20,000	INR 3,000 plus 30% of the amount by which the total income exceeds 20,000

**Note:** Special rates for capital gains u/s 112, 112A & 111A would be applicable to Co-operative society also.  
**Surcharge:** Where the total income exceeds 1 crore but does not exceed 10 crore, surcharge is payable at

➤ rate of 7% of income-tax computed above.

Where the total income exceeds 10 crore, surcharge is payable at the rate of 12%

**(B) For Firm / Limited Liability Partnership/ Local Authority**

Tax Rate – 30%.

**Note:** Special rates for capital gains u/s 112, 112A & 111A would be applicable to Firm/ LLP/ Local Authority.

**Surcharge:** Where the total income exceeds 1 crore, surcharge is payable at the rate of 12% of income-tax computed as above.

**(C) For Domestic Companies (AY 2024-25)**

Total Turnover in FY 2021-22	Tax Rate in FY 2023-24
Upto 400 crores	25% of Total Income
Above 400 crores	30% of Total Income

**Note:** If Company is incorporated after PY 2021-22, assume its turnover to be Nil in PY 2021-22. So, these companies have to pay tax @ 25% of total income for PY 2023-24.

**Note:** Special rates for capital gains u/s 112, 112A and 111A would be applicable to domestic company also.

**Surcharge:** Where the total income exceeds 1 crore but does not exceed 10 crore, surcharge is payable at

➤ rate of 7% of income-tax computed above.

Where the total income exceeds 10 crore, surcharge is payable at the rate of 12%

- In case of a domestic manufacturing company (set up and registered on or after 1.10.2019 & commences manufacture of article or thing including generation of electricity before 31.3.2024) exercising option u/s 115BAB:

➤ 15% of income derived from or incidental to manufacturing or production of an article or thing.

- In case of a domestic company exercising option u/s 115BAA: 22% of total income

➤ Domestic company can opt for section 115BAA or section 115BAB, as the case may be, subject to certain conditions.

**(D) For Foreign Companies**

Tax Rate – 40%

**Note:** Special rates for capital gains u/s 112, 112A and 111A would be applicable to foreign company also.

**Surcharge:** Where the total income exceeds 1 crore but does not exceed 10 crore, surcharge is payable at

➤ rate of 2% of income-tax computed above.

Where the total income exceeds 10 crore, surcharge is payable at the rate of 5%

**Note:** Health and education cess calculated @ 4% of such income-tax and surcharge, shall be added in all the above cases.

**12. SURCHARGE [AS % OF INCOME TAX]**

**12.1. SURCHARGE IN CASE OF INDIVIDUALS/ HUF/ AOP/ BOI/ AJP**

Surcharge is an additional tax payable over and above the income-tax. Income-tax computed under default tax regime or optional tax regime, as the case may be, is increased by surcharge given as under:

Surcharge under Default Tax Regime u/s 115BAC		
S No.	Particulars	Rate of surcharge

		on income-tax
(i)	Where the total income (including dividend & capital gains chargeable to tax u/s 111A, 112 and 112A) > 50 lakhs but ≤ 1 crore	10%
(ii)	Where total income (including dividend & capital gains chargeable to tax u/s 111A, 112 and 112A) > 1 crore but ≤ 2 crore	15%
(iii)	Where total income (excluding dividend & capital gains chargeable to tax u/s 111A, 112 and 112A) > 2 crore but ≤ 5 crore	25%
	Rate of surcharge on income-tax payable on the portion of dividend & capital gains chargeable to tax u/s 111A, 112 & 112A included in total income	Not exceeding 15%
(iv)	Where total income (including dividend & capital gains chargeable to tax u/s 111A, 112 and 112A) > 2 crore in cases not covered under (iii)	15%

Illustrations from ICAI Study Material under Default Tax Regime

	Particulars	Rate of Surcharge	Examples	
			Components of Total Income	Applicable Rate of Surcharge
(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A & 112/112A) > INR 50 lakhs but ≤ INR 1 crore	10%	Dividend - 15 lakhs; STCG u/s 111A - 15 lakhs; LTCG u/s 112 - 25 lakhs; LTCG u/s 112A - 20 lakhs; Other income - 25 lakhs	Surcharge would be levied @ 10% on income-tax computed on total income of 1 crore.
(ii)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A & 112/112A) > 1 crore but ≤ 2 crore	15%	Dividend - 10 lakhs; STCG u/s 111A - 35 lakhs; LTCG u/s 112 - 50 lakhs; LTCG u/s 112A - 35 lakhs; Other income - 55 lakhs	Surcharge would be levied @ 15% on income-tax computed on total income of 1.85 crores.
(iii)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 111A & 112/112A) > 2 crore  The rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A & 112/112A	25%  Not exceeding 15%	Dividend - 51 lakhs; STCG u/s 111A - 44 lakh; LTCG u/s 112 - 42 lakh; LTCG u/s 112A - 55 lakh; Other income - 6 crores	Surcharge @ 15% will be levied on income-tax on: Dividend of 51 lakhs; STCG of 44 lakhs chargeable to tax u/s 111A; and LTCG of 42 lakhs chargeable to tax u/s 112. LTCG of 55 lakhs chargeable to tax u/s 112A. Surcharge @ 25% would be leviable on income-tax computed on other income of 6 crores included in total income
(iv)	Where total income (including	15%	Dividend - 40 lakhs;	Surcharge will be levied



**Illustrations from ICAI Study Material under Default Tax Regime**

Particulars	Rate of Surcharge	Examples	
		Components of Total Income	Applicable Rate of Surcharge
dividend income and capital gains chargeable to tax u/s 111A & 112/112A) > 2 crore in cases not covered under (iii) above		STCG u/s 111A - 35 lakhs; LTCG u/s 112 - 42 lakhs; LTCG u/s 112A - 50 lakhs; Other income - 1.10 crore	@ 15% on income-tax computed on total income of 2.77 crore.

**Note:** In case of default tax regime, maximum surcharge is 25%.

**Marginal Relief under Default Tax Regime u/s 115BAC:**

The purpose of marginal relief is to ensure that the increase in amount of tax payable (including surcharge) due to increase in total income of an Assessee beyond the prescribed limit should not exceed the amount of increase in total income.

Marginal relief in case of such persons referred to in above under default tax regime u/s 115BAC:

S No.	Particulars	Marginal relief
(i)	Where the total income > 50 lakhs but ≤ 1 crore	<p><b>Step 1</b> - Compute income-tax payable on total income; and add surcharge @ 10% on such income-tax (A)</p> <p><b>Step 2</b> - Compute income-tax payable on 50 lakhs</p> <p><b>Step 3</b> - Total income (-) 50 lakhs</p> <p><b>Step 4</b> - Add the amount computed in Step 2 &amp; Step 3 (B)</p> <p><b>Step 5</b> - Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., A) or Step 4 (i.e., B). Consequently, if A &gt; B, the marginal relief would be A - B.</p>
(ii)	Where the total income > 1 crore but ≤ 2 crores	<p><b>Step 1</b> - Compute income-tax on total income; and add surcharge @ 15% on income-tax (C)</p> <p><b>Step 2</b> - Compute income-tax payable on total income of 1 crore + surcharge on such income-tax @ 10%</p> <p><b>Step 3</b> - Total income (-) 1 crore</p> <p><b>Step 4</b> - Add the amount computed in Step 2 &amp; Step 3 (D)</p> <p><b>Step 5</b> - Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., C) or Step 4 (i.e., D). Consequently, if C &gt; D, the marginal relief would be C - D.</p>
(iii)	Where the total income > 2 crores	<p><b>Step 1</b> - Compute income-tax on total income; and add surcharge @ 25% on income-tax (E)</p> <p><b>Step 2</b> - Compute income-tax payable on total income of 2 crore + surcharge on such income-tax @ 15%</p> <p><b>Step 3</b> - Total income (-) 2 crores</p> <p><b>Step 4</b> - Add the amount computed in Step 2 &amp; Step 3 (F)</p> <p><b>Step 5</b> - Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., E) or Step 4 (i.e., F). Consequently, if E &gt; F, the marginal relief would be E - F.</p>

**Note** - It is presumed that the total income referred to above does not include dividend income, LTCG taxable

u/s 112 or 112A and STCG taxable u/s 111A.

In case the total income includes dividend income, LTCG taxable u/s 112 or 112A or STCG taxable u/s 111A, surcharge on tax payable on such dividend income and capital gains cannot exceed 15%. This must be kept in mind while computing marginal relief in cases referred to in (iii) and (iv) above.

Surcharge under Optional Tax Regime		
S No.	Particulars	Rate of surcharge on income-tax
(i)	Where the total income (including dividend & capital gains chargeable to tax u/s 111A, 112 and 112A) > 50 lakhs but ≤ 1 crore	10%
(ii)	Where total income (including dividend & capital gains chargeable to tax u/s 111A, 112 and 112A) > 1 crore but ≤ 2 crore	15%
(iii)	Where total income (excluding dividend & capital gains chargeable to tax u/s 111A, 112 and 112A) > 2 crore but ≤ 5 crore	25%
	Rate of surcharge on the income-tax payable on the portion of dividend & capital gains chargeable to tax u/s 111A, 112 & 112A included in total income	Not exceeding 15%
(iv)	Where total income (excluding dividend & capital gains chargeable to tax u/s 111A, 112 and 112A) > 5 crore	37%
	Rate of surcharge on the income-tax payable on the portion of dividend & capital gains chargeable to tax u/s 111A, 112 & 112A included in total income	Not exceeding 15%
(v)	Where total income (including dividend & capital gains chargeable to tax u/s 111A, 112 & 112A) > 2 crore in cases not covered under (iii) & (iv) above	15%

**Note:** In case of AOP Consisting Of Only Companies As Members → surcharge rates have been capped at maximum 15% in respect of all incomes.

Illustrations: Amount in Lakhs				
S No.	Total Income [inc. 4 items]	Income u/s 112/ 112A, 111A & Dividend	Total Income Excluding 112/ 112A; 111A & Dividend	Surcharge
1.	95	55	40	
2.	185	135	50	
3.	469	169	300	
4.	890	800	90	
5.	890	90	800	
6.	280	170	110	
7.	260	170	90	
8.	540	90	450	

Illustration: Calculate Tax Liability in following cases:

Particulars	Case I	Case II	Case III
LTCG u/s 112A	30,00,000	1,00,00,000	1,00,00,000
STCG u/s 111A	25,00,000	2,00,00,000	1,50,00,000
Normal Income [PGBP / HP/ Salary]	60,00,000	3,00,00,000	60,00,000
<b>Total Income</b>	<b>115 lakhs</b>	<b>600 lakhs</b>	<b>310 lakhs</b>

Illustrations from ICAI Study Material under Optional Tax Regime

	Particulars	Rate of Surcharge	Examples	
			Components of Total Income	Applicable Rate of Surcharge
(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A & 112/112A) > INR 50 lakhs but ≤ INR 1 crore	10%	Dividend - 10 lakhs; STCG u/s 111A - 20 lakhs; LTCG u/s 112 - 15 lakhs; LTCG u/s 112A - 20 lakhs; Other income - 25 lakhs	Surcharge would be levied @ 10% on income-tax computed on total income of 90 lakhs.
(ii)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A & 112/112A) > 1 crore but ≤ 2 crore	15%	Dividend - 10 lakhs; STCG u/s 111A - 40 lakhs; LTCG u/s 112 - 55 lakhs; LTCG u/s 112A - 35 lakhs; Other income - 50 lakhs	Surcharge would be levied @ 15% on income-tax computed on total income of 1.90 crores.
(iii)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 111A & 112/112A) > 2 crore but ≤ 5 crore  The rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A & 112/112A	25%  Not exceeding 15%	Dividend - 51 lakhs; STCG u/s 111A - 44 lakh; LTCG u/s 112 - 42 lakh; LTCG u/s 112A - 55 lakh; Other income - 3 crores	Surcharge @ 15% will be levied on income-tax on: Dividend of 51 lakhs; STCG of 44 lakhs chargeable to tax u/s 111A; and LTCG of 42 lakhs chargeable to tax u/s 112. LTCG of 55 lakhs chargeable to tax u/s 112A. Surcharge @ 25% would be leviable on income-tax computed on other income of 3 crores included in total income
(iv)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 111A & 112/112A) > 5 crore	37%	Dividend - 60 lakhs; STCG u/s 111A - 50 lakhs; LTCG u/s 112 - 42 lakhs; LTCG u/s 112A - 25 lakhs;	Surcharge @ 15% will be levied on income-tax on: Dividend of 60 lakhs; STCG of 50 lakhs chargeable to tax u/s

Illustrations from ICAI Study Material under Optional Tax Regime

	Particulars	Rate of Surcharge	Examples	
			Components of Total Income	Applicable Rate of Surcharge
	The rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A and & 112/112A	Not exceeding 15%	Other income - 6 crores	111A; and LTCG of 42 lakhs chargeable to tax u/s 112.  LTCG of 25 lakhs chargeable to tax u/s 112A.  Surcharge @ 37% would be leviable on the income-tax computed on other income of 6 crores included in total income.
(v)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A & 112/112A) > 2 crore in cases not covered under (iii) and (iv) above	15%	Dividend - 55 lakhs; STCG u/s 111A - 60 lakhs; LTCG u/s 112 - 42 lakhs; LTCG u/s 112A - 35 lakhs; Other income - 1.10 crore	Surcharge will be levied @ 15% on income-tax computed on total income of 3.02 crore.

Marginal relief in case of such persons referred to in above under the optional tax regime (as per the normal provisions of the Act).

S No.	Particulars	Marginal relief
(i)	Where the total income > 50 lakhs but ≤ 1 crore	<p><b>Step 1</b> - Compute income-tax payable on total income; and add surcharge @ 10% on such income-tax (A)</p> <p><b>Step 2</b> - Compute income-tax payable on 50 lakhs</p> <p><b>Step 3</b> - Total income (-) 50 lakhs</p> <p><b>Step 4</b> - Add the amount computed in Step 2 &amp; Step 3 (B)</p> <p><b>Step 5</b> - Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., A) or Step 4 (i.e., B). Consequently, if A &gt; B, the marginal relief would be A - B.</p>
(ii)	Where the total income > 1 crore but ≤ 2 crores	<p><b>Step 1</b> - Compute income-tax on total income; and add surcharge @ 15% on income-tax (C)</p> <p><b>Step 2</b> - Compute income-tax payable on total income of 1 crore + surcharge on such income-tax @ 10%</p> <p><b>Step 3</b> - Total income (-) 1 crore</p> <p><b>Step 4</b> - Add the amount computed in Step 2 &amp; Step 3 (D)</p> <p><b>Step 5</b> - Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., C) or Step 4 (i.e., D). Consequently, if C &gt; D, the marginal relief would be C - D.</p>
(iii)	Where the total income > 2 crores but ≤ 5	<p><b>Step 1</b> - Compute income-tax on total income; and add surcharge @ 25% on income-tax (E)</p>

	crores		<p><b>Step 2</b> - Compute income-tax payable on total income of 2 crore + surcharge on such income-tax @ 15%</p> <p><b>Step 3</b> - Total income (-) 2 crores</p> <p><b>Step 4</b> - Add the amount computed in Step 2 &amp; Step 3 (F)</p> <p><b>Step 5</b> - Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., E) or Step 4 (i.e., F). Consequently, if <math>E &gt; F</math>, the marginal relief would be <math>E - F</math>.</p>
(iv)	Where the income > 5 crores	total	<p><b>Step 1</b> - Compute income-tax on total income; and add surcharge @ 37% on income-tax (G)</p> <p><b>Step 2</b> - Compute income-tax payable on total income of 5 crore + surcharge on such income-tax @ 25%</p> <p><b>Step 3</b> - Total income (-) 5 crores</p> <p><b>Step 4</b> - Add amount computed in Step 2 &amp; Step 3 (H)</p> <p><b>Step 5</b> - Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., G) or Step 4 (i.e., H). Consequently, if <math>G &gt; H</math>, the marginal relief would be <math>G - H</math>.</p>
<p><b>Note</b> – It is presumed that the total income referred to above does not include dividend income, LTCG taxable u/s 112 or 112A and STCG taxable u/s 111A.</p> <p>In case the total income includes dividend income, LTCG taxable u/s 112 or 112A or STCG taxable u/s 111A, surcharge on tax payable on such dividend income and capital gains cannot exceed 15%. This must be kept in mind while computing marginal relief in cases referred to in (iii) and (iv) above.</p>			

## 12.2. SURCHARGE IN CASE OF OTHER ASSESSEES

Assessee	Total Income	
	1 Crore < TI < 10 Crores	TI > 10 Crores
Domestic Companies	7%	12%
Foreign Companies	2%	5%
Co-operative society not opting section 115BAD	7%	12%
Firm and LLP/ Local Authority	12%	12%

## 13. REBATE UNDER SECTION 87A TO RESIDENT INDIVIDUAL

a) Rebate u/s 87A under default tax regime u/s 115BAC	i) Total Income is upto 7,00,000	Rebate allowed equal to lower of a) Tax payable on Total Income; and b) 25,000
	ii) Total Income exceeds 7,00,000 & income-tax payable on T.I. exceeds the amount by which the T.I. is in excess of 7,00,000	Rebate would be as follows: <b>Step 1</b> - Total income (-) 7 lakhs (A) <b>Step 2</b> - Compute income-tax liability on T.I. (B) <b>Step 3</b> - If $B > A$ , rebate u/s 87A would be $[B - A]$
b) Rebate u/s 87A under Optional tax regime	Rebate upto 12,500 is allowed only if Total Income is upto 5,00,000.	

Points to Note:

- a) Rebate u/s 87A is available only to Resident Individuals.
- b) Health and education cess @ 4% shall be charged after the rebate u/s 87A.
- c) Rebate shall be allowed even from tax on LTCG, STCG u/s 111A or Casual Income.  
However, Rebate under section 87A is, however, not available in respect of tax payable @ 10% on long-term capital gains taxable u/s 112A.
- d) Rebate u/s 87A cannot exceed income tax liability.

**14. ALTERNATE MINIMUM TAX**

Income-tax Act contains various profit-linked & investment-linked deductions in order to encourage investment in various sectors and infrastructure facilities.

Taxpayers who are eligible to claim such deductions end up paying no income-tax or marginal income-tax though they are capable of paying higher taxes.

In order to ensure payment of reasonable tax by such zero-tax paying/ marginal-tax paying entities, the concept of AMT has been introduced.

**Alternate Minimum Tax [11S JEE]**

1) Any person other than company [Non-Corporate Assessee] who has availed deduction u/s

35AD	10AA	80 JJAA	80 QQB	80RRB
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+

2) Adjusted Total Income > 20 lakhs

+

3) Shifted out of default tax regime u/s 11SBAC and opted for Optional Tax Regime

↓

**AMT @ 18.5% of Adjusted Total Income is applicable**

**Steps to calculate Tax under AMT**

- a) Calculate Total Income as per Nominal Provisions of Income Tax Act under Optional Tax Regime.
- b) Calculate tax on (a) as per Normal Provisions
- c) Calculate Adjusted Total Income by making suitable adjustments in (a).
- d)  $AMT = ATI \times 18.5\%$  if  $ATI > 20$  lakhs

If Income Tax as per Nominal provision (b) is < AMT (d); Need to pay AMT

**Note:** Surcharge & HEC is applicable on AMT as well. Similarly, Interest u/s 234 C, 234 B, 234 A & provisions of Advance tax is also applicable.

**How to calculate ATI?**

Total Income as per Regular Scheme	xxx
+ Deduction u/s 10AA	xx
+ Deduction u/s 80JJAA, 80QQB ; 80RRB	xx
+ Deduction u/s 35AD	xx
- Deduction u/s 32	xx
<b>Adjusted Total Income</b>	xxx

Total Income as per Regular Scheme	xxx
For AMT to be applicable, ATI should > 20 lakhs	

**Tax credit for AMT [Section 115JD]**

If AMT > Tax as per Normal Scheme and Assessee pays AMT, the excess amount paid is called as AMT credit.

AMT credit can be

- carry forward to subsequent PYs and
- set-off against Tax payable as per Normal Scheme in the later year when
- Tax as per Normal Scheme > AMT.

However, such adjustment of carried forward AMT credit against Income as per Normal scheme can be max. upto AMT of later PY i.e. tax liability of later PY can't be less than AMT of that PY.

AMT credit can be carried forward for set-off upto a maximum period of 15 subsequent assessment years.

PY	Tax as per Regular Scheme	AMT	Tax Assessee is Required to Pay	Amount of AMT credit that can be used	Actual Tax Payable	AMT Credit
2023-24	5,00,000	7,00,000				
2024-25	9,00,000	8,00,000				
2025-26	4,00,000	5,00,000				
2026-27	7,00,000	4,00,000				
2027-28	4,00,000	5,00,000				
2028-29	7,00,000	4,00,000				

<p><b>T<sub>0</sub></b> AMT Credit 10,000.</p>	<p><b>T<sub>1</sub></b> ATI upto 20L. ↓ AMT not applicable → AMT = 0 ↓ Normal Tax 80,000.</p>
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Can AMT credit be adjusted ? → Yes. Tax payable shall be 70,000.  
AMT credit can be adjusted in subsequent PYs even when ATI does not exceed 20L i.e., AMT is not applicable.

**CRUX:**

- Calculate Total Income as per Normal provision & calculate tax liability on such Total Income normally.
- Calculate ATI by adding back 5 deductions & deducting Depreciation from Total Income calculated above.  
If ATI > 20 lakhs; calculate AMT i.e. ATI x 18.5%
- AMT needs to be paid if AMT > Normal Tax.
- Excess AMT paid is treated as AMT Credit & it can be carried forward for upto next 15 PYs. [Sec 115JD]

AMT credit is adjusted from Normal Tax payable if Normal Tax > AMT till the level of AMT.

Net tax payable (after adjustment of AMT credit) can't be < AMT.

- e) AMT credit can be adjusted from Tax as per Normal provisions even if ATI for that PY is upto 20 lakhs.
- f) AMT provisions are not applicable to Assessee paying tax under the default tax regime u/s 115BAC

### 15. TAX PLANNING IN RESPECT OF SALARY INCOME

Under the default tax regime u/s 115BAC, the only deduction available u/s 16 in respect of salary income is the standard deduction of upto 50,000.

However, under the optional tax regime as per normal provisions of the Act, all 3 deductions available u/s 16 are allowed. The following are some of the aspects which can be considered for tax planning in regard to salary income:

<p><b>i) Salary Structure</b></p>	<p>An employer may plan the salary structure of employees keeping in view deductions &amp; exemptions available under the Act. If salary is paid as a consolidated amount, without any break-up, the amount of salary after providing standard deduction of 50,000, would become taxable without any further exemption and deduction.</p> <p>Therefore, employer may structure the salary by including various allowances &amp; perquisites in addition to basic salary, so as to enable the employee to optimise his tax liability.</p> <p><b>Example:</b> Employer may include allowances as part of the salary structure of the employees for which exemption can be claimed if the employee exercises the option to shift out of the default tax regime, e.g. Children education allowance, hostel allowance, house rent allowance. The employer will get a deduction of all the above amounts paid while computing his profits and gains of business or profession.</p> <p>The employer has to make a careful study and fix the salary structure in such a manner that it includes allowances which are exempt.</p>
<p><b>ii) Employees' welfare schemes</b></p>	<p>There are several employees' welfare schemes such as recognised provident fund, approved superannuation fund, gratuity fund. Payments received from such funds by the employees are totally exempt or exempt upto significant amounts.</p> <p>For example, gratuity received by an employee covered under the Payment of Gratuity Act, 1972 is exempt upto 20 lakh. The provident fund received by the employee from recognised provident fund is exempt, subject to limits and conditions.</p> <p>The employer can institute such welfare schemes for the benefit of the employees. Such amount contributed by the employer towards the above funds is deductible.</p> <p>However, such employer contribution should be as per provisions of section 40A(9) which disallows any contribution made to any unrecognized welfare funds.</p> <p>Further, the employer can contribute to recognized provident fund account of the employee upto 12% of salary, and the same would not be taxable in the hands of the employees. The amount or aggregate of amounts of any contribution made in a recognised provident fund, in NPS referred to in section 80CCD(1) and in an approved superannuation fund by the employer to the account of the Assessee, to the extent it exceeds 7,50,000, would be taxable as perquisite in the hands of the employee.</p> <p>Likewise, if an employee's contribution to RPF exceeds 2,50,000 p.a. or 5,00,000 p.a. (on or after 1.4.2021), as the case may be, depending on whether the employer contributes to RPF, then, interest accrued on the amount exceeding the specified threshold would be taxable.</p>
<p><b>iii) Insurance policies</b></p>	<p>Any payment made by an employer on behalf of an employee to maintain a life policy will be treated as perquisite in the hands of the employee. Further, payments received from the employer in respect of key man insurance policies constitute</p>



	<p>income in the hands of the employees.</p> <p>However, any sum reimbursed by the employer in respect of any mediclaim premium paid by the employee to keep in force an insurance on his health or the health of any member of his family under any scheme approved by the Central Government or IRDA for the purpose of section 80D is not a perquisite in the hands of the employee.</p> <p>Further, the payment of premium by the employer on behalf of the employee will not be treated as a perquisite in the case of accident insurance policies. This is due to the fact that the employer has a vested interest in the safety of the life of his employee who is engaged in such dangerous occupations.</p> <p>The amount received from insurance company on accident or death by employee or his dependents will not also be in the nature of income but a capital receipt and therefore the same will not be taxable.</p>
<b>iv) Dearness allowance, dearness pay</b>	<p>The employer should ensure that dearness allowance &amp; dearness pay should form part of “salary”. This is because certain items like employer’s contribution to RPF, commuted pension etc. are calculated on the basis of salary.</p> <p>Therefore, if DA, dearness pay etc. are included in salary, the above benefits will also increase leading to higher terminal benefits in the hands of the employee.</p> <p>Also, for determining the exemption in respect of employer’s contribution to provident fund, house rent allowance etc., dearness allowance forming part of pay for retirement benefits is included within the meaning of “Salary”.</p>
<b>v) Leave travel facility</b>	<p>If the employee exercises the option to shift out of the default tax regime, the employer should extend leave travel facility.</p> <p>As per section 10(5), exemption is provided in the hands of the employee in respect of leave travel concession. Such exemption is available for the employee, spouse, children (upto a maximum of 2 children), dependent parents, dependent brothers and dependent sisters.</p> <p>However, if the employee pays tax under the default tax regime u/s 115BAC, this exemption would not be available.</p>
<b>vi) Rent free accommodation / House Rent Allowance (HRA)</b>	<p>An employee should analyse the tax incidence of a perquisite &amp; an allowance, if he is given an option, in order to choose the one which is more beneficial to him.</p> <p>In the case of RFA vs. HRA, it must be noted that the perquisite of rent free accommodation is taxed as per Rule 3(1) of the Income-tax Rules, 1962 and HRA is exempt to the extent mentioned u/s 10(13A).</p> <p>However, exemption for HRA would be available only if the employee exercises the option to shift out of the default tax regime. The employee should therefore work out his tax liability and net cash flow under both the options and then, decide on whether to receive HRA or choose a rent free accommodation.</p>
<b>vii) Uncommuted/ Commuted pension</b>	<p>Uncommuted pension is fully taxable. Therefore, the employees should get their pension commuted. Commuted pension is fully exempt from tax in the case of government employees and partly exempt from tax in the case of non-government employees.</p>
<b>viii) Provident Fund</b>	<p>Accumulated balance due and becoming payable to an employee participating in a Recognized Provident Fund (RPF) would be exempt, where an employee who is a member of a recognised provident fund and who resigns after completing five years of continuous service.</p> <p>However, if he resigns before completing five years of continuous service, he should ensure that he joins an organisation which maintains a recognised provident fund. The accumulated balance of the provident fund with the previous employer will be exempt from tax provided the same is transferred to the new employer who also</p>

	<p><i>maintains a recognised provident fund.</i></p> <p><i>It may be noted the exemption 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 the employee exceeding 2,50,000/ 5,00,000, as the case may be, in any previous year in that fund, on or after 1<sup>st</sup> April, 2021 and computed in prescribed manner.</i></p>
<b>ix) Other retirement benefits</b>	<p><i>Incidence of tax on retirement benefits like leave encashment, commuted pension, accumulated balance of unrecognized provident fund is lower if they are paid in the beginning of the financial year.</i></p> <p><i>The employer and the employees may mutually plan in such a way that retirement takes place in the beginning of a financial year.</i></p>
<b>x) Tax free perquisites</b>	<p><i>The following are the perquisites which are exempt from tax–</i></p> <ul style="list-style-type: none"> <li><i>a) Use of computers and laptop by employee;</i></li> <li><i>b) Medical facility in employer’s own hospital or a public hospital or Government or other approved hospital;</i></li> <li><i>c) Educational benefit in a school run by employer provided value of benefit does not exceed 1,000 per month per child.</i></li> </ul>
<b>xi) Considerations for salary structuring</b>	<p><i>An employee should calculate his tax liability under Default Tax Regime as well as Optional Tax Regime and decide accordingly where tax liability is lower.</i></p>

# INCOME TAX ADD-ON AMENDMENTS

This Note contains all RELEVANT AMENDMENTS as notified by ICAI in its Statutory Updates applicable for CA Inter May 2024 exams.

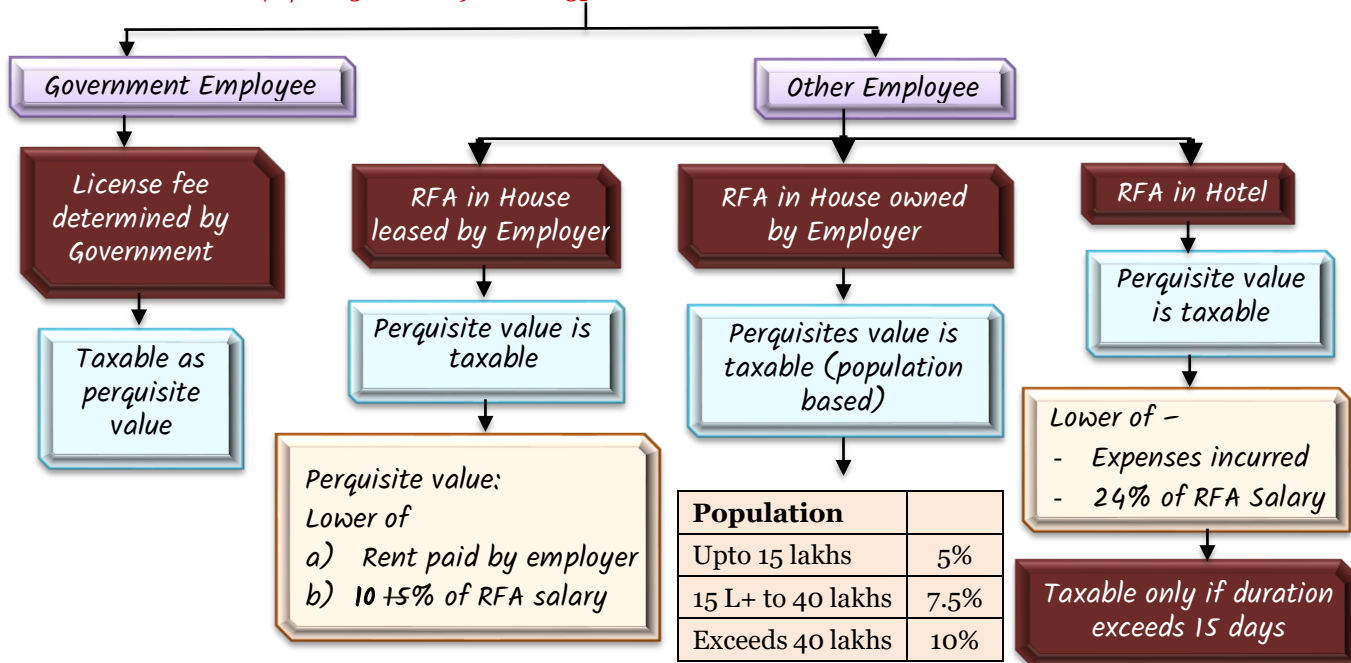
This Notes is prepared assuming that Student has referred our Latest Books based on Finance Act 2023 meant for May/Nov 24 exams.

All the best!!

CA Kishan Kumar

## SALARY

### 1. Determination of value of rent free accommodation [Notification No. 65/2023 dated 18.8.2023 and Notification No. 72/2023 dated 29.08.2023]



**Notes:**

1. RFA salary includes Basic pay, DA forming part of employment contract, Bonus, Commission (any type), taxable allowance and leave salary.

**2. Accommodation provided on account of transfer from one place to another:**

If employee is provided with accommodation [on his transfer from one place to another], at the new place of posting while retaining the accommodation at the other place, the taxable amount shall be determined

- only for one accommodation which has the lower perquisite value, for a period upto 90 days and
- thereafter, the value of perquisite shall be charged for both such accommodations.

**3. Value of perquisite to be restricted to CII:**

Where accommodation is provided to the same employee for more than one PY, the value of perquisite shall not exceed the amount so calculated for first PY, as multiplied by amount which is a ratio of the CII (cost inflation index) for PY for which the value is calculated and CII for the previous year in which the accommodation was initially provided to the employee.

“First PY” means P.Y. 2023-24 or PY in which the accommodation was provided to the employee, whichever is later.

## Profits and gains of business or profession

### 2. Time limit prescribed for furnishing statement of expenditure eligible for amortization under section 35D [Notification No. 54/2023 dated 01.8.2023]

Section 35D provides for the amortization of preliminary expenses incurred by an Indian company or a person other than a company, resident in India.

The Assessee has to furnish a statement containing the particulars of expenditure in connection with -

- a) the preparation of feasibility report
- b) the preparation of project report
- c) conducting market survey or any other survey necessary for the business of the Assessee
- d) engineering services relating to the Assessee's business,

**one month prior to the due date for furnishing the return of income** as specified u/s 139(1).

## Income from Other Source

### 3. Exemption on maturity of Life Insurance Policy [Sec 10(10D)]

Section 10(10D) provides for exemption of the sum received under a life insurance policy (LIP), including the sum allocated by way of bonus on such policy.

**Exceptions:** Following sums received is taxable:

- i) Sum is received from a LIP where **annual premium exceeds the prescribed limit of 10%/ 15%/ 20%** (based on the date of issue of policy) of actual capital sum assured. **(If it is received on death of insured person, then its exempt).**
- ii) Sum is received from a life insurance policy (other than ULIP) issued **w.e.f. 01.04.2023** if the
  - amount of **premium payable exceeds 5,00,000** for any of the previous years during the term of such LIP.

Further, in case where an Assessee has **multiple LIPs (other than ULIPs) issued w.e.f. 1.4.2023** and the

- **aggregate of premium payable** on such LIPs **exceed 5,00,000** for any of the PYs during the term of any such LIP(s),
- exemption u/s 10(10D) would be available in respect of any of those LIPs,
- at the option of the Assessee, whose aggregate premium payable does not exceed 5,00,000 for any of the previous years during their term.

However, to get exemption u/s 10(10D), the condition of annual premium not exceeding 10% of the actual capital sum assured also needs to be satisfied.

**Exemption in case of death of a person** - In case any sum is received on the death of a person, exemption u/s 10(10D) would be available irrespective of the annual premium payable of the LIP.

**Example 1:**

LIP	A
Date of issue	1.4.2013
Annual premium	6,00,000
Sum assured	60,00,000
Consideration received as on 01.11.2023 on maturity	70,00,000
<b>Note:</b> The Assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2023-24.	

**Eligibility for exemption u/s 10(10D)** - The consideration received under LIP "A" would be exempt u/s 10(10D) in A.Y. 2024-25 since annual premium does not exceed 10% of the actual capital sum assured.

Moreover, as the policy has been issued before 1.4.2023, limit of 5,00,000 of amount of premium payable is not applicable, since it is not an eligible ULIP.

**Example 2:**

LIP	A
Date of issue	1.4.2023
Annual premium	5,00,000
Sum assured	50,00,000
Consideration received as on 01.11.2033 on maturity	52,00,000
<b>Note</b> – Assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34.	

**Eligibility for exemption u/s 10(10D)** - The consideration received would be exempt u/s 10(10D) in A.Y. 2034-35, since the annual premium payable on the policy does not exceed 5,00,000 and also does not exceed 10% of actual capital sum assured.

**Example 3:**

LIP	A
Date of issue	1.4.2023
Annual premium	6,00,000
Sum assured	60,00,000
Consideration received as on 01.11.2033 on maturity	70,00,000
<b>Note</b> – The Assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34.	

**Eligibility for exemption u/s 10(10D)** - The consideration received would **not** be exempt u/s 10(10D) in A.Y. 2034-35 since the annual premium payable on the eligible LIP exceeds 5,00,000.

**Example 4:**

LIP	A	B
Date of issue	1.4.2023	1.4.2023
Annual premium	3,00,000	2,00,000
Sum assured	30,00,000	20,00,000
Consideration received as on 01.11.2033 on maturity	32,00,000	21,00,000
<b>Note</b> – The Assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34.		

**Eligibility for exemption u/s 10(10D)** – In this case, the aggregate of the annual premium payable for LIP “A” and LIP “B” does not exceed 5,00,000 during the term of these policies.

Further, annual premium payable in respect of LIP “A” and LIP “B” does not exceed 10% of actual capital sum assured. Therefore, the consideration received under LIP “A” and “B” would be exempt u/s 10(10D) in A.Y. 2034-35.

**Example 5:**

LIP	A	B
Date of issue	1.4.2023	1.4.2023
Annual premium	4,50,000	5,50,000
Sum assured	45,00,000	55,00,000
Consideration received as on 01.11.2033 on maturity	52,00,000	60,00,000
<b>Note</b> – The Assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34.		

**Eligibility for exemption u/s 10(10D)** – In this case, the aggregate of the annual premium payable for LIP “A” and LIP “B” exceeds 5,00,000 during the term of these policies.

However, the consideration received under LIP “A” would be exempt u/s 10(10D) in A.Y. 2034 -35, since its annual premium payable does not exceed 5,00,000 for any previous year during the term of the policy and also does not exceed 10% of actual capital sum assured.

Consequently, the consideration received under LIP “B” alone would **not** be exempt u/s 10(10D) in A.Y. 2034-35.

**Example 6:**

LIP	A	B	C
Date of issue	1.4.2023	1.4.2023	1.4.2023
Annual premium	1,00,000	3,50,000	6,00,000
Sum assured	10,00,000	35,00,000	60,00,000
Consideration received as on 01.11.2033 on maturity	12,00,000	40,00,000	70,00,000
<b>Note</b> – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34.			

**Eligibility for exemption u/s 10(10D)** - The aggregate of annual premium payable for LIP “A”, LIP “B” and LIP “C” exceeds 5,00,000 during the term of these policies.

However, the consideration received under LIPs “A” and “B” would be exempt u/s 10(10D) in A.Y. 2034-35, since aggregate of annual premium payable for these two policies does not exceed 5,00,000 for any previous year during the term of these two policies and annual premium payable in respect of these policies does not exceed 10% of actual capital sum assured.

Consequently, the consideration received under LIP “C” alone would not be exempt u/s 10(10D) in A.Y. 2034-35.

#### Example 7:

LIP	X	A	B	C
Date of issue	1.4.2022	1.4.2023	1.4.2023	1.4.2023
Annual premium	5,50,000	1,00,000	3,50,000	6,00,000
Sum assured	55,00,000	10,00,000	35,00,000	60,00,000
Consideration received as on 01.11.2032 on maturity	62,00,000			
Consideration received as on 01.11.2033 on maturity		12,00,000	40,00,000	70,00,000
<b>Note</b> – The Assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34, except LIP X in P.Y. 2032-33.				

**Eligibility for exemption u/s 10(10D)** - The consideration received under LIP “X” would be exempt u/s 10(10D) in A.Y. 2032-33, since annual premium does not exceed 10% of the actual capital sum assured. Moreover, as the policy has been issued before 1.4.2023, limit of 5,00,000 on amount of premium payable is not applicable, since LIP “X” is not an eligible LIP.

The aggregate of annual premium payable for LIP “A”, LIP “B” and LIP “C” (being LIPs issued on or after 1.4.2023) exceeds 5,00,000 during the term of these policies.

However, the consideration received under LIPs “A” and “B” would be exempt u/s 10(10D) in A.Y. 2034-35, since aggregate of annual premium payable for these two policies does not exceed 5,00,000 for any previous year during the term of these two policies and annual premium payable in respect of these policies does not exceed 10% of actual capital sum assured.

Consequently, the consideration received under LIP “C” alone would not be exempt u/s 10(10D) in A.Y. 2034-35.

#### Example 8:

LIP	X	A	B	C
Date of issue	1.4.2023	1.4.2024	1.4.2024	1.4.2024
Annual premium	4,50,000	1,00,000	1,50,000	6,00,000
Sum assured	45,00,000	10,00,000	15,00,000	60,00,000
Consideration received as on 01.11.2033 on maturity	50,00,000			
Consideration received as on 01.11.2034 on maturity		12,00,000	18,00,000	70,00,000
<b>Note</b> – The Assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2034-35, except LIP X in P.Y. 2033-34.				

**Eligibility for exemption u/s 10(10D)** - The consideration under LIP “X” would be exempt u/s 10(10D) in P.Y. 2033-34, since the annual premium does not exceed 5,00,000 and also does not exceed 10% of actual capital sum assured.

In this case, the aggregate of the annual premium payable for LIP “A”, LIP “B” and LIP “C” along with the premium for LIP “X” exceeds 5,00,000 during the term of these policies.

The aggregate of the annual premium payable for LIP “A” and the premium for LIP “X” also exceeds 5,00,000 during the term of these policies.

Consequently, the consideration received under LIP “A”, LIP “B” and LIP “C” would not be exempt u/s 10(10D) in A.Y. 2035-36.

**Example 9:**

LIP	X	A	B	C
Date of issue	1.4.2023	1.4.2024	1.4.2024	1.4.2024
Annual premium	2,50,000	2,00,000	2,50,000	6,00,000
Sum assured	25,00,000	20,00,000	25,00,000	60,00,000
Consideration received as on 01.11.2033 on maturity	30,00,000			
Consideration received as on 01.11.2034 on maturity		24,00,000	38,00,000	70,00,000

**Note** – The Assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2034-35, except LIP X in P.Y. 2033-34.

**Eligibility for exemption u/s 10(10D)** - The consideration under LIP “X” would be exempt u/s 10(10D) in P.Y. 2033-34, since the annual premium does not exceed 5,00,000 and also does not exceed 10% of actual capital sum assured.

In this case, the aggregate of the annual premium payable for LIP “A”, LIP “B” and LIP “C” along with the premium for LIP “X” exceeds 5,00,000 during the term of these policies.

However, the consideration received under LIPs “A” or “B” (any one) can be claimed as exempt u/s 10(10D) in A.Y. 2035-36.

If the consideration received under LIP “A” is claimed to be exempt as aggregate of the annual premium payable for LIP “X” and “A” did not exceed 5,00,000 for any of the PYs., the consideration received under LIP “B” would not be exempt.

If the consideration received under LIP “B” is claimed to be exempt as aggregate of the annual premium payable for LIP “X” and “B” did not exceed 5,00,000 for any of the PYs., the consideration received under LIP “A” would not be exempt. Exemption for consideration received under LIP “B” is preferred as it is more beneficial to the Assessee.

**Alternative treatment:** If the consideration under LIP “X” was not claimed to be exempt u/s 10(10D) in A.Y. 2034-35 by the Assessee, then, the consideration received under LIP “A” and LIP “B” would be exempt u/s 10(10D) in A.Y. 2035-36 since the aggregate of the annual premium payable for the LIPs “A” and “B” together did not exceed ` 5,00,000 for any of the previous years during the term of these two policies. However, the most beneficial treatment is to claim LIP “X” and “B” as exempt.

It may be noted that in every case, the consideration received for LIP “C” would not be exempt u/s 10(10D).



**Example 10:**

LIP	X	Y	A	B	C
Date of issue	1.4.2023	1.4.2023	1.4.2024	1.4.2024	1.4.2024
Annual premium	2,00,000	2,00,000	2,00,000	3,00,000	6,00,000
Sum assured	20,00,000	20,00,000	20,00,000	30,00,000	60,00,000
Consideration received on surrender as on 1.7.2033	12,00,000				
Consideration received as on 01.11.2034 on maturity		24,00,000			
Consideration received as on 01.11.2035 on maturity			24,00,000	36,00,000	70,00,000

**Note** – The Assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2035-36, except LIP “X” and “Y”.

**Eligibility for exemption u/s 10(10D)** - The consideration under LIP “X” would be exempt u/s 10(10D) in A.Y.2034-35, since the annual premium does not exceed 5,00,000 and also does not exceed 10% of actual capital sum assured.

The consideration received under LIP “Y” would be exempt u/s 10(10D) in A.Y. 2035 -36, since the aggregate of annual premium payable for LIP “X” and “Y” does not exceed 5,00,000 and annual premium payable for LIP “Y” does not exceed 10% of actual capital sum assured.

The consideration received under LIPs “A”, ULIP “B” and ULIP “C” would not be exempt u/s 10(10D) in A.Y. 2036-37, since aggregate of annual premium payable for these three policies and LIP “X” and “Y” exceeds 5,00,000.

**Alternative treatment:** If the consideration on surrender under LIP “X” was not claimed to be exempt u/s 10(10D) in A.Y. 2034-35 by the Assessee, then the consideration received under LIP “Y” would be exempt and the consideration received under LIP “A” **or** LIP “B” (any one) can be exempt u/s 10(10D) in A.Y. 2036-37. If the consideration received under LIP “A” is claimed to be exempt, as aggregate of the annual premium payable for LIP “Y” and “A” did not exceed 5,00,000 for any of the PYs., the consideration received under LIP “B” would not be exempt.

If the consideration received under LIP “B” is claimed to be exempt as aggregate of the annual premium payable for LIP “Y” and “B” did not exceed ` 5,00,000 for any of the PYs., the consideration received under LIP “A” would not be exempt. Exemption for consideration received under LIP “B” is preferred as it is more beneficial to the Assessee.

If the consideration on surrender of LIP “X” and on maturity of LIP “Y” were not claimed to be exempt under section 10(10D) in A.Y.2034-35 and A.Y.2035-36, respectively, then consideration received under both LIP “A” and LIP “B” would be exempt in A.Y.2036 -37 (being LIPs issued on or after 1.4.2023, whose aggregate consideration does not exceed 5,00,000).

It may be noted that, in every case, consideration received under LIP “C” would not be exempt u/s 10(10D).

**Certain Clarifications:**

- Clarification on GST Component:** Premium payable/ aggregate premium payable for a LIP/LIPs, other than a ULIP, issued on or after 1.4.2023, for any previous year, would be exclusive of the amount of GST payable on such premium.
- Clarification on premium of Term life insurance policy:** Limit of 5,00,000 of amount of premium payable would not be applicable in case of a term life insurance policy i.e. where sum under a life insurance policy is only paid to the nominee in case of the death of the person insured during the term of the policy and no amount is paid to anyone if the insured person survives the policy tenure.

Hence, any sum received under a term insurance policy shall continue to be exempt u/s 10(10D), irrespective of the amount of the premium payable in respect of such policy.

Further the premium paid for such policies would not be counted for checking the limit of 5,00,000 of amount of premium payable.

#### 4. Manner of computation of taxable income from LIP u/s 56(2)(xiii) [Notification No. 61/2023 dated 16.08.2023]

Where any sum is received (including the amount allocated by way of bonus) at any time during a previous year, under a LIP, other than the sum

- i) received under a ULIP
- ii) received under a Keyman insurance policy

which is not exempt u/s 10(10D),

- the sum so received as exceeds the aggregate of the premium paid during the term of such life insurance policy, &
- not claimed as deduction under any other provision of the Act,
- would be chargeable to tax under the head "Income from other sources" under section 56(2)(xiii).

**Example:** Ram, Shyam & Mohan purchased a LIP on 1/10/2023. Discuss the taxability based on information given below:

LIP	Ram	Shyam	Mohan
Sum Assured	50,00,000	60,00,000	70,00,000
Annual Insurance Premium	4,00,000	5,50,000	6,50,000
Term of Policy	10 Years	10 Years	10 Years
Deduction claimed u/s 80C every year	80,000	1,40,000	1,50,000
Maturity Amount	52,00,000	77,00,000	80,00,000

**Refer Solution in YouTube class:**

## TDS & TCS

#### 5. Sec 194A: TDS is not applicable in case of interest on "Mahila Samman Savings Certificate, 2023".

No deduction of tax u/s 194A would be made, inter alia, if the aggregate amount of interest paid or credited by post office during the financial year does not exceed 40,000/ 50,000 (in case of a senior citizen), on any deposit made with it under any scheme framed and notified by the Central Government.

Accordingly, Central Government has specified the Scheme "Mahila Samman Savings Certificate, 2023".

"Mahila Samman Savings Certificate, 2023" is a one-time scheme available for two years i.e., from 1<sup>st</sup> April, 2023 to 31<sup>st</sup> March, 2025. It offers a maximum deposit facility of upto 2 lakh in the name of women or a girl for 2 years at a fixed interest rate of 7.5% p.a., compounded quarterly.

Consequently, no tax u/s 194A would be deductible by the post office on interest paid or credited under this scheme since the amount of interest would not exceed 40,000.

#### 6. Guidelines to remove difficulties arising in implementation of the provisions of section 194BA [Circular No. 5/2023 dated 22.5.2023]

New section 194BA has been inserted by the Finance Act, 2023 requiring to deduct tax at source by a by person

responsible for paying to any person (whether resident or non-resident) any income by way of winnings from any online game during the financial year on the net winnings in his user account, computed in the manner as may be prescribed, at the end of the financial year at the rates in force i.e., 30%.

#### **Guideline 1: TDS on insignificant withdrawal**

In order to remove difficulty in deducting TDS for insignificant withdrawal, it is clarified that tax may not be deducted on withdrawal on satisfaction of all of the following conditions:

- i) Net winnings comprised in the amount withdrawn does not exceed 100 in a month;
- ii) tax not deducted on account of this concession is deducted at a time when the net winnings comprised in withdrawal exceeds 100 in the same month or subsequent month or if there is no such withdrawal, at the end of the FY; and
- iii) the deductor undertakes responsibility of paying the difference if the balance in the user account at the time of tax deduction u/s 194BA is not sufficient to discharge the tax deduction liability calculated.

#### **Guideline 2: When the net winnings is in kind how will tax deduction under section 194BA operate?**

**Case I:** Where money in user account is used to buy an item in kind and given to user. It is treated as net winnings in cash only and the deductor is required to deduct tax at source u/s 194BA accordingly.

**Case II:** Where the net winnings are wholly in kind or partly in cash, and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings,

- the person responsible for paying, shall, before releasing the winnings,
- ensure that tax has been paid in respect of the net winnings.

In the above situation, the deductor will release the net winnings in kind after the deductee provides proof of payment of such tax (e.g., Challan details etc.).

In the alternative, as an option to remove difficulty if any, the deductor may deduct the tax u/s 194BA and pay to the Government.

**Note:** It is further clarified that GST will not be included for the purposes of valuation of winnings for TDS u/s 194BA.

## **Provisions for filing Return of Income and Self-Assessment**

As per section 139A(5) quoting of PAN by an Assessee is mandatory, inter alia, in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT.

However, the requirement of mandatorily quoting of PAN is relaxed where a person does not have a PAN and makes a declaration in Form No. 60 giving therein the particulars of such transaction.

The CBDT has, vide this notification, **withdrawn such relaxation for a company or a firm.**

Therefore, w.e.f. 10.10.2023, a Company or a Firm must quote PAN while entering into such transactions and relaxation to make a declaration in Form No. 60 giving therein the particulars of such transaction is available only to a person, not being a company or a firm, and not having PAN.